

Introduction

Thesis: The emergence of international law is part and parcel of the formation of the capitalist world-ecology across the long 16th century (1450-1648). The transition to capitalism entailed a transformation in the law of nations (*jus gentium*) whereby the Natural Law—which juridically legitimated the dominant mode of production—was no longer overdetermined by canon law, and thus the authority of the Church, but now merchant law. This transformation was made possible by the consolidation of European polities into nation-states to function as the basic units of the world-economy. The *res publica Christiana* which dominated medieval Europe thus became the interstate system we know today.

Method: this project deploys a world-ecological perspective (Moore 2015) towards the study of historical capitalism (Wallerstein 1983). Moving beyond the dualism of Nature and Society, world-ecology argues that capitalism is a way of organizing webs of life around the expanded accumulation of capital. The key question is how states, empires, and classes both produce and are produced by the environments through which they unfold (Lewontin and Levins 1997). I argue that law—both as practice and as doctrine—is a critical nodes through which this takes place. My project thus tracks the way states and empires not only deploy law to appropriate uncaptured webs of life, but also how they revolutionize law to make possible new relations of power, profit, and life.

Res Publica Christiana and Feudal Europe

Between the 5th and 11th century, a Christian civilization emerged across Europe out of the ruins of the western Roman Empire. It was neither a world-empire nor a world-economy. Instead, a class structure took shape centered on a manorial system and premised on a struggle over rent between a military-landowning seigneurial class and a peasant class.

A spatial-legal order arose premised on a personal nexus of rights and obligations between Christian polities, backed by the authority of the Pope. Canon law filled out the content of the law of nations within this spatial-legal order by rooting Natural law in divine law.

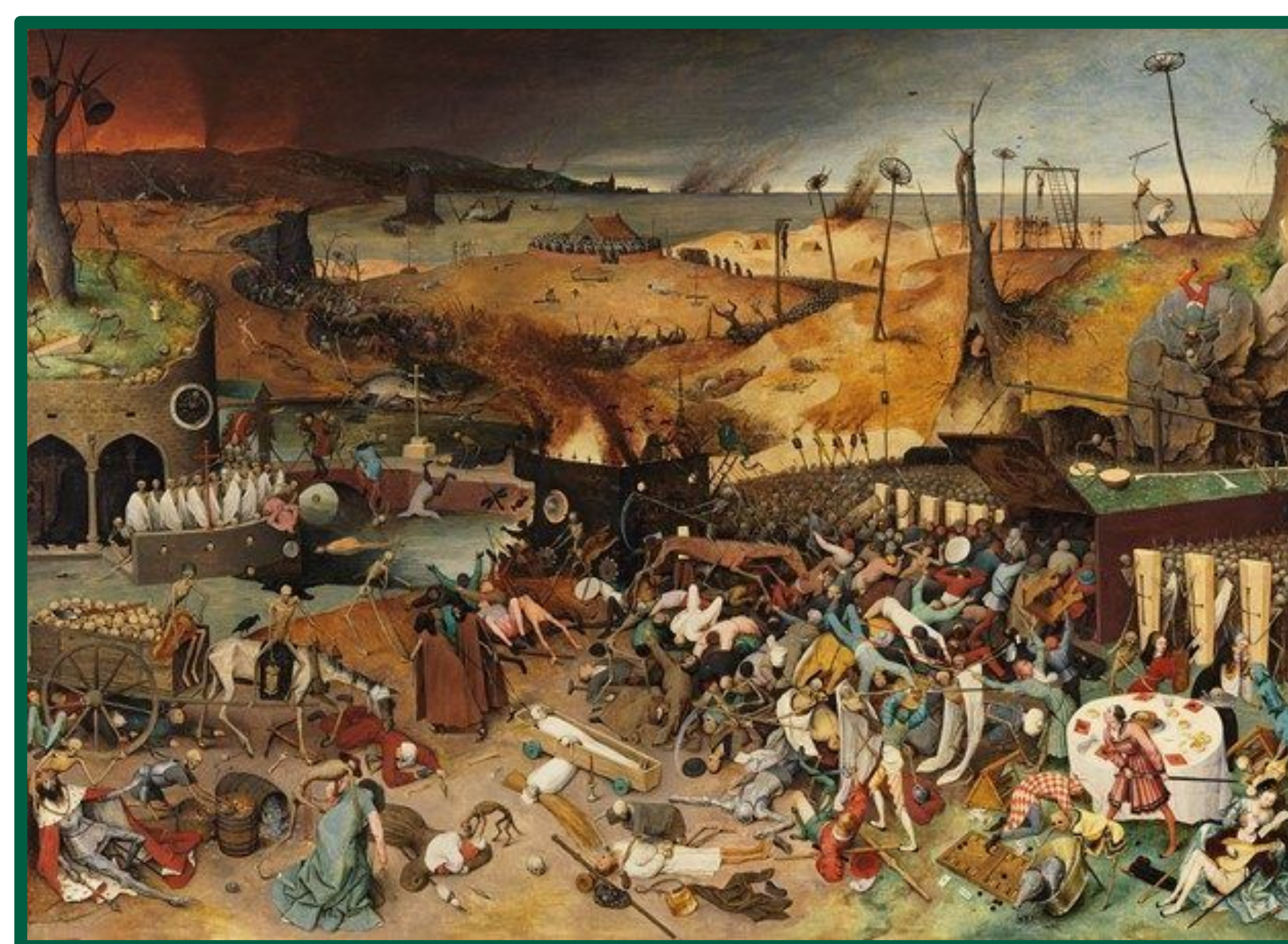
By the 11th century, riding the wave of the Medieval Warm Period, an expense expansion began geographically, economically, and demographically. This was made possible by a transformation in the law of nations: the application of the emerging just war doctrine and Papal universalism to ideologically motivate and juridically legitimate the conquest and conversions of the Crusades. In doing so, the regional economies of Europe were flooded with capital, fuelling commerce and urbanization



Along with urbanization came a growing merchant and lawyer class who together transformed feudal law and class structures, carving out small jurisdictions—often with the support of the state—subject to merchant law where production could be organized based on expanded accumulation. With this tenuous alliance between lawyers, merchants, the church, and the state, geographic expansion ensued, enabling the seigneurs to assert control over the peasantry.

The Crisis of the Long 14th Century

Beginning in 1300, the *res publica* went into crisis. Seigneurial revenues collapsed. Peasants revolted. Famine became widespread, paving the way for deadly diseases. The states became weak. The merchants and financiers became insolvent. War broke out across the *res publica*.



What caused the crisis?

Inscribed into Feudalism's juridical organization of land was a socio-ecological contradiction that undermined the ability of the seigneurial class to raise revenue by fettering productivity. Peasant customary rights and the Seigneurs indirect relationship to production limited reinvest and improvement of agricultural production. Over time, this gave rise to soil exhaustion—amidst demographic growth no less.

Attempts to increase land productivity—such as the three-field rotation—only increased demands for fertilizers and reduced land for pasturage, depriving the soil of the livestock necessary to replenish its nutrients.

Internal and external expansion could ameliorate, but not resolve the contradiction. Land reclamation and deforestation made new land available for pasturage, but pasture was quickly converted to arable land, demanding more forest clearance, giving rise to severe flooding which further exhausted the soil. Furthermore, the external frontiers opened by the crusades came to a close by the 14th century as the Christian armies were pushed out of the Levant and Eastern trade with it.

Urbanization also accentuated the contradiction. As the Urban workforce grew, so did the demand for agricultural products, increasing demand upon the soil and necessitating greater geographic expansion.

What made it epochal?

Climatic shifts and epidemics put the nails in Feudalism's coffin. Feudalism's "golden age" was only possible because of the Medieval Climate Anomaly (c. 800-1300), an unusually warm period conducive to agriculture. As it came to a close, crops failed and famines ensued. This created the optimal conditions for epidemic diseases—most notably the Black Death (1348)—which depopulate Europe en masse, depressing seigneurial revenues and weakening their class power.

As the seigneurs attempted to regain control, most importantly through repressive legislation, they spark peasant revolts on a hitherto unimaginable scale. The strength of the peasantry across western Europe allowed them to break the back of feudalism..

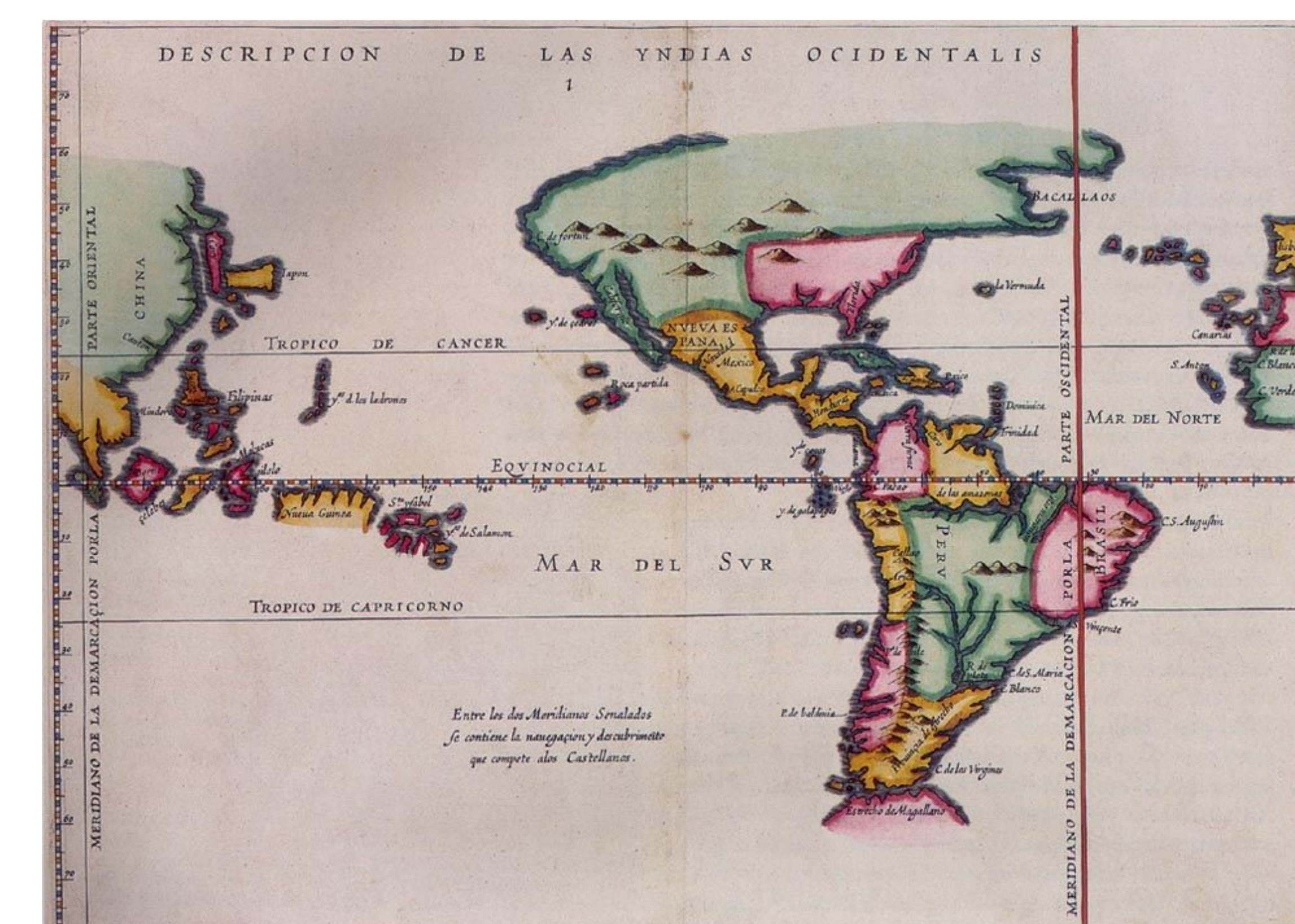
The Formation of the Capitalist world-ecology

The capitalist world-ecology emerged through the unique and newly created geographic area of the Atlantic world. This "capitalist Atlantic" pivoted on commodity frontiers—most importantly sugar and silver—stretching from the Baltic to Brazil. Commodity frontiers pivot on a strategy of *accumulation by appropriation* (Moore 2018): uncaptured webs of life must be extra-economically mobilized to ensure the profitability of commodity production. At this moment in capitalism's infancy this meant deploying a "mode of conquest" that "combined premodern strategies of Holy War and armed trade with a novel emphasis" on Cheap Labor (Moore 2021b, 751).

Portugal illustrates this well. In the 1450s, King Alfonso V obtain the Papal Bull *Romanus pontifex*, granting him the right to invade, capture, and press into slavery all non-Christians and expropriate their land and property. Extending the just war doctrine to the Crusades, the portuguese used their new right to enslave Canarian, and the African peoples and put them to work on sugar plantation across, first, the Atlantic islands, and then, second, the Americas.

On the plantations capitalism's unique logic arose as the Portuguese capitalists combined a novel means of labor control (modern slavery) with a novel means of land management (monoculture). Both moments involve radical simplification and alienation, establishing a model to be universalized across the world-ecology.

As the Iberian kingdoms expanded across the Atlantic, they deployed their newly found concept of simplified land, or abstract space, to territorially divide the world. In the infamous *Treaty of Tordesillas* (1494), they drew a global line of demarcation, a *raya*, extending from the Arctic to the Antarctic poles, located 100 leagues west of the Azores and Cape Verde. In this moment, not only was a line drawn, but it was decided that *there would be lines at all*.



With the territorial division of global space taking shape, a transformation took place in the spatial organization that underpinned the law of nations. Where there was once a large unified body—Latin Christendom—composed of a multitude of small autonomous cells—the seigniories, there came to be a juxtaposition of vast and distinctive territorial sovereignties, marking the first beginnings of the States of modern Europe. In other words, through the formation of the Capitalist world-ecology, a "vast but weak" interstate system took shape (Braudel 1961, 260) whose "distinctive feature" was that economic decisions were primarily oriented toward the world-economy while political decisions were oriented primarily to the smaller structures that have legal control, the states (nation-states, city-states, and empires) within the world-economy (Wallerstein 1974, 67).