

# Hugo Grotius, Drama Concordance

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## THE 'ALEXANDROWICZ THESIS' RE-VISITED: HUGO GROTIUS, DIVISIBLE SOVEREIGNTY, AND PRIVATE AVENGERS WITHIN THE INDIAN OCEAN WORLD SYSTEM

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**Synopsis:** This chapter offers a revisionist interpretation of C.H. Alexandrowicz's thesis concerning the Indian Ocean world system as the origin of public international law. Alexandrowicz's seminal 1967 text *An Introduction to the History of the Law of Nations in the East Indies (16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> Centuries)* suggests that two of the central notions of Hugo Grotius' theory of international law, *mare liberum* ('the free sea') and *liberum commercium* ('the free trade'), were in fact plagiarized by the Dutch jurist from Indian legal texts, treaties, and commercial codes. Although this thesis has been rejected by most scholars, I would like to tentatively suggest a new manner with which to re-conceptualize the Alexandrowicz-Grotius connection. Two of Grotius' seminal ideas of his early writings (the juvenilia) are the divisibility of sovereignty, a radically nominalist conception of authority in which legal identity can be appropriated by diverse and contending actors, and 'the private avenger', a non-state actor which may include the natural person, that is able to wage 'just war' against a sovereign state. Throughout his seminal republican text *De iure praedae, or De Indis* (1604-6/9), Grotius provides numerous examples of both divided sovereignties and private avengers, the two legal constructs serving as key signs of Grotius' own republican theory of primitive international law (*ius publicum Europaeum*). The true historical context for *De Indis* was not the European appropriation of Asian legal systems but the penetration of the Indian Ocean world system by the Dutch East India Company. What Grotius describes in his text is not the indigenous legal system of the East Indies but rather the operational logic of the private sovereignty of the Company and its agents, both of which bear remarkable similarities to Southeast Asian actors and state structures. I argue that the correct way of formulating the relationship between Grotius and the East Indies is not in terms of transmission but rather in terms of a discursive transposition.

For the Grotius scholar, the main significance of Charles Alexandrowicz's seminal text<sup>1</sup> lies with what has come to be known as the 'Alexandrowicz thesis': that the 'primitive legal scholars'<sup>2</sup> of early modern Europe, most notably Hugo Grotius (1583-1645), based their theories of public international law upon the indigenous legal texts and customs of the Indian Ocean region that remained largely unacknowledged by their European appropriators. Alexandrowicz states his

<sup>1</sup> C.H. Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies (16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> Centuries)*, Oxford: Clarendon Press, 1967.

<sup>2</sup> D. Kennedy, 'Primitive Legal Scholarship', *Harvard International Law Journal* 27/1, 1986, pp.1-98.

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Passion of Grotius (), A. B. Grosart's ed. of that tragedy in Temple Dramatists, ; and G. Hugo.

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