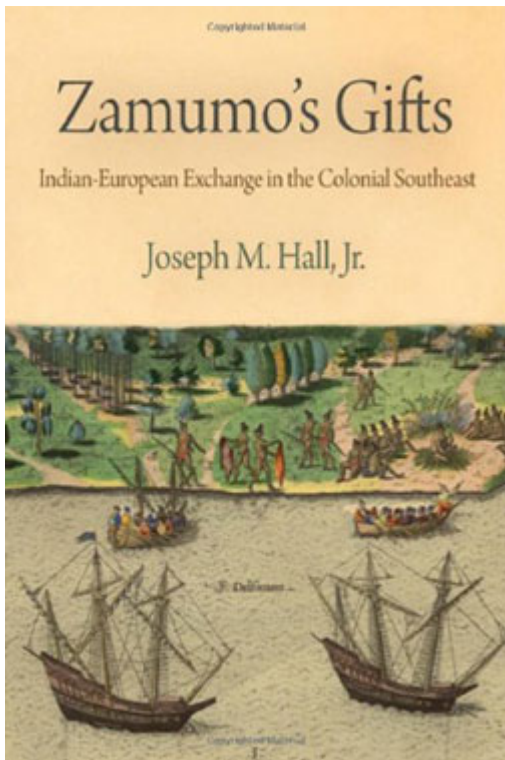


# Vying for Sovereignty: Exchange, Negotiation, Law



The books under review here all concern power, its loss and its consolidation. They each take as their subject relations between indigenous populations and European colonizers. *Zamumo's Gifts* focuses on material exchange, *Revolutionary Negotiations* on the political culture of diplomacy more broadly, and *Settler's Sovereignty* on law and jurisdiction. They each share an abiding interest in issues of sovereignty—its meanings, its practices, and its theorization.

In *Zamumo's Gifts: Indian-European Exchange in the Colonial Southeast*, Joseph M. Hall Jr. ambitiously traces the importance of gifts and trade to the exchange networks in what is now the southeastern United States. Hall takes his title from an encounter between a Native leader, Zamumo of Altamaha, and a large party lead by Hernando de Soto. As that title announces, Hall offers an analysis that foregrounds Indian protagonists and practices as he convincingly argues that for much of the period we have come to call colonial, “Indians continued to insist on practices that were both older than and distinct from European logics of the market” (5).

Hall begins his book by introducing his readers to Zamumo in the spring of 1540 in the Oconee Valley (today's central Georgia), aware of a party of foreigners a two-day's journey away. The view from the mound atop his township included the homes, fields, and granaries of his followers, together comprising the largest town in the river valley. As Hall describes the panorama, he also describes Zamumo's power and its limits, the world beyond Altamaha, and the

proximity of Ocute, a more prominent chief. The view also afforded Zamumo sight of the approaching group of strangely armed men, the absence of women potentially signaling aversion to peace.

Drawing on Spanish chronicles, Hall describes the objects exchanged and makes clear that at first meeting Zamumo and de Soto are already familiar enough with each other's expectations to engage in meaningful gift exchange. De Soto and his party receive food and an offering left unspecified in the record. In turn, Zamumo receives a single silver feather. Hall's interpretative feat is to unpack the spiritual and cultural meanings of the feather and its place in the local cosmology: a powerful symbol of lightness, purity, and power; originating from creatures of the sky (or the heavens); and recalling bird effigies that decorated the headdresses and graves of Zamumo's predecessors.

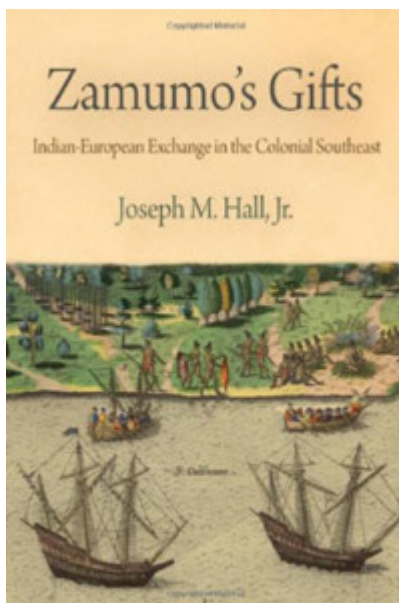
The chronicles record that Zamumo asked de Soto whether he should offer him the tribute he usually sent to Ocute and note this moment as one of submission. Hall, however, reads the same moment and supplies a less transparent account: Zamumo performs a kind of subservience motivated by the hope that de Soto and Ocute would vie for his friendship and in so doing leverages his position. Gifts thus emerge as objects of power that foster and seal human relationships. This initial sketch fills in effectively over the pages of the introduction and intermittently over the course of a well-researched and beautifully written book. We gradually come to learn more about the world Zamumo occupies and shares, about its past and future.

In order to provide a long history of the politics of Mississippian exchange, *Zamumo's Gifts* takes readers back to 950 C.E., about 600 years before Zamumo's encounter with de Soto. The book ends by taking measure of the eighteenth-century re-calibrations necessary after the Yamasee War (1715-17), particularly the rise of the Creek nation. One of the volume's particular contributions is to provide a history of what other scholars have called "the forgotten century," the slightly documented and understudied period between the mid-sixteenth and late seventeenth centuries. *Zamumo's Gifts* remains engaging and does not become unwieldy in part because the book is firmly grounded in a particular geographic territory, but also because the exchange of gifts between Zamumo and de Soto remains a touchstone and an emblem. That anecdote anchors Hall's study of the material exchanges between and among native peoples and the Spanish, French and English in the piedmont region of Georgia and Alabama and in the colonies of Florida, Louisiana, and Carolina. Hall illuminates the southeast as a place shaped more profoundly by exchange than by warfare and slave raiding.

Rather than a story of growing dependence or acquiescence, Hall stresses instead Indian agency, autonomy and a continuity of cultural practice. Relying on archeological evidence to examine exchange during the pre-contact era ending at about 1500, Hall reconstructs webs of social connection that privilege bonds between giver and receiver over profit or particular commodities. Drawing from Marcel Mauss' theoretical model of gift giving in which social networks are

formed and structured by exchange, the trade networks which emerged did not signal the economic or political subordination of native peoples to Europeans, but rather the integration of Europeans into a political economy ordered by the “spirit of giving” (32). Thus over the course of the sixteenth century, St. Augustine becomes “the center of a new network of exchange that linked [Indian] town squares to the Atlantic outpost” (34). Crucially, this is not a story of stasis or of an older world staving off change. Hall painstakingly demonstrates that the logic of gift exchange and that of trade interpenetrate each other, changing the thinking of all trade partners in the region.

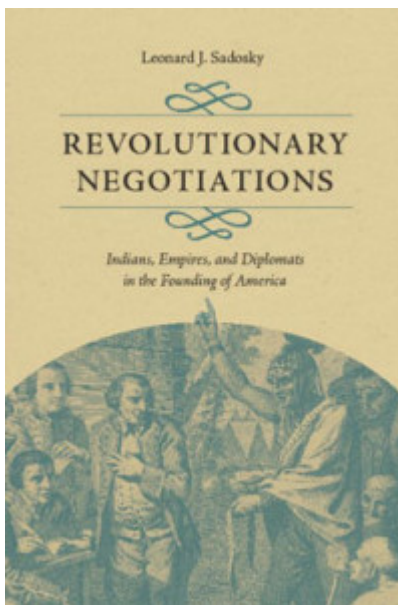
Hall narrates a dynamic history as the Mississippian southeast accommodates the Spanish in the sixteenth century as well as an increase in trade that introduces objects into wide circulation outside the rituals of diplomatic exchange; as it copes with seventeenth century English-sponsored slave raiders from the north through intertown alliances created to safeguard security and autonomy; and as communities reorganize after the Yamasee War into a new multilateral order by which towns reassert autonomy and prevent the Spanish, English, and French from enjoying any distinct advantage in the region. He also offers an account of the emergence and rise of *talwas* (Indian towns); of the *talwa* as the locus of cultural identity and cohesion; and of the networks of alliance and trade that interconnected towns across and beyond the southeast. Gift exchange linked southeastern Indian towns to each other (creating “bonds that held their town together” and “in turn influenced exchanges between towns”) and native peoples to Europeans (22). The maps of the region that Hall provides as the narratives proceeds chronologically are invaluable, as is a glossary of place names that often delineates the groups of towns that form confederations better known as the Choctaw, Creek, Cherokee, Chickasaw, or Catawba.



Joseph M. Hall Jr., *Zamumo's Gifts: Indian-European Exchange in the Colonial Southeast*. Philadelphia: University of Pennsylvania Press, 2009. 248 pp., \$37.50.

*Zamumo's Gifts* finds a corollary in Kathleen Duval's *Native Ground* (2006), though that study focuses on the Arkansas River Valley to the west of the territory Hall investigates. They share a methodology that mines an array of archival, archeological, and anthropological materials, a commitment to placing indigenous people at the center of their narratives, and an emphasis on Indian agency. Hall's history of the colonial Southeast does not treat Indian history as distinct or something apart from colonial or imperial history. He sustains an elegant and nuanced accounting of the various players in the Southeast who "fashion the fabric of empires" by insisting throughout on trade as a mutual relationship (5).

Hall's multilateral world becomes Leonard J. Sadosky's international one—"a variety of sovereign polities" that include Christian Europe, the "Barbary Regencies" of Islamic North Africa, and the indigenous peoples of North America (3). While relations between the United States and North Africa receive only passing mention in the volume that follows, Sadosky reminds us of the traditional divide historians have maintained between European diplomacy and the American Indian diplomacy of the United States. In *Revolutionary Negotiations: Indians, Empires, and Diplomats in the Founding of America*, Sadosky ambitiously sets out to consider these relations together, announcing that his book is as much about "how the United States came to be" as it is "about how many of the powerful and independent American Indian nations of eastern North America came to be much less than they had once been" (8). He consistently resists any lingering isolationist strains in the historiography of the new nation and its diplomatic relations.



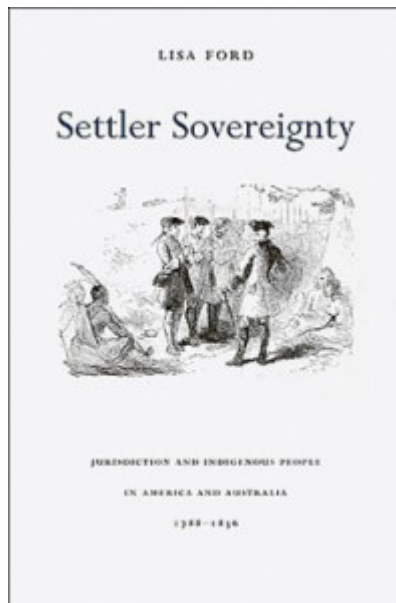
Leonard J. Sadosky, *Revolutionary Negotiations: Indians, Empires, and Diplomats in the Founding of America*. Charlottesville: University of Virginia Press, 2009. 278 pp., \$40.

There is much to admire in Sadosky's examination of the international context

within which the United States emerges. His work locates itself at the intersection of various kinds of historiographies that include that of U.S. diplomacy, American Indian diplomacy, the law of nations, intellectual history, political history, and political science. It also draws on international relations theory. These influences are evident in the language he employs as he balances the overlapping frameworks that organize relations between "nations," whether between European states (the Westphalian system), between Indian nations and European empires (the borderlands system), or between the thirteen American states under the Articles of Confederations as well as the states under the U.S. Constitution (the Philadelphian system).

Sadosky takes as a given the Westphalian system (what others have called the international system or the community of nations), and it structures many of his arguments. Sadosky concisely explains that in the wake of the Thirty Year's War and with the 1648 treaty of Westphalia that formally ends the conflict, early modern European nation-states organized themselves into a system rooted in the inviolability of state sovereignty, in territorial integrity, and in the (legal) equality of states. The Westphalian system encourages cooperation and solutions to conflict through negotiations that would follow a set of rules meant to protect the sovereignty of each state. This legal fiction is at the heart of the law of nations under which all states agree to negotiate with each other as equals regardless of the inequalities of power that do in fact exist. It is in essence a gentleman's agreement that under pressure risks being abandoned. Challenges to the order imposed by the law of nations thus tend to come in the form of "raison d'état," which pits self-preservation against the good of the whole.

Sadosky outlines how in the process of colonization in the Americas, Europeans attempt to extend the Westphalian system to govern their putative new domains. When the United States seeks recognition of its new sovereign status, it too seeks a place within the Westphalian system (not its rejection or even reform). When the thirteen American states combine into a union, the result is a subsystem of the Westphalian system. It is a capacious model capable of assimilating a great deal. Sadosky calls differences from the Westphalian model deviations, signaling that he too cedes to the normalizing rhetorical power of the law of nations (7). Yet the terms "the borderlands system," and "the Philadelphian system" suggest difference as much as affinity. They reflect the resilience of regional customary norms, of divergent ways of understanding sovereignty and power, and of resistance to absorption into a universal model.



Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836*. Cambridge: Harvard University Press, 2010. 313 pp., \$49.95.

Sadosky is at his best offering a history of how the “United States are made,” and of the central and in many ways determining role that diplomacy plays in the founding and establishment of the United States and its government. The bulk of the book is dedicated to the process of securing recognition of the federal union as a sovereign member of the community of nation (acceptance into the Westphalian system); to outlining the limitations of the Articles of Confederation in the international context; and to the new solutions and problems posed by the Constitution to the federal union, to the thirteen individual states, and to relations with Europe and Native America. The ways in which sovereignty remains contested and divided between the federal government and each of the individual states is at the fore of Sadosky’s analysis. He does not allow his readers to forget the frailty of the federal union.

The final two chapters take up the consequences of U.S. independence for Native American nations in the administrations of Washington and Jefferson particularly. Here, Sadosky amplifies and refines the claims he makes in the introduction, that as the United States sought acceptance into the Westphalian system, the U.S. also sought the exclusion of Native American nations from it, desiring an end to the borderlands system that implicitly recognized the sovereignty of indigenous peoples. The emphasis on the shared, divided, and contested sovereignty between the federal and state governments resonates as Sadosky makes clear that in matters concerning relations with the Creeks for example, Georgia commissioners demanded a voice along with that of the federal commissioners, and that each group of commissioners made arguments about with whom the treaty-making prerogative lay (171). Commerce and consumption of “European goods and American Indian lands” come to dominate the diplomacy of the Jefferson administration after the Louisiana Purchase and the incorporation of the Mississippi River. Proposals for programs of voluntary Indian removal

("exchange of territory") begin to emerge, giving the history Sadosky tells a sense of regrettable inevitability (192).

*Revolutionary Negotiations* begins in 1729 with an anecdote about a Cherokee village chief made "Emperor of the Cherokee" by Sir Alexander Cuning, a minor Scots nobleman who proceeds with no formal authority in the province of South Carolina (13). It ends with an epilogue entitled "The Cherokee Lawyer," about the Baltimore attorney William Wirt, perhaps best known as federal prosecutor in Aaron Burr's 1807 treason trial, hired by the Cherokee to defend their nation's sovereignty in *Cherokee Nation v. Georgia* (1831). That trial resulted in the Supreme Court decision designating the Cherokee nation a "domestic dependent nation," stripping it of legal status as a foreign state. Key in the developing relations between the Cherokee and those who settled among them, both are episodes filled with indigenous actors. Yet, in this account they remain animated by dramatic personae neither of whom is Cherokee.

Sadosky investigates diplomacy in the twilight of the imperial world that Daniel Richter's *Facing East from Indian Country* convincingly demonstrated made "the coexistence of Indians and European colonials possible" on the North American continent. Lisa Ford's *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836*, covers, in part, similar historical territory. Ford's emphasis, however, is comparative, focusing on settlers in the state of Georgia and the British colony of New South Wales in Australia. Such comparative work is still relatively rare. Ford offers a parallel analysis of these two disparate places and a novel model for thinking about Anglophone settler colonies.

Acknowledging distinctions between Georgia and New South Wales, Ford narrows in on their striking similarities as she argues for a new form and practice of sovereignty that emerges in both places at about the same time. Before 1830, settlers in both places accepted the persistence of customary law that had evolved through the kinds of negotiations and exchanges described by Hall and Sadosky. After legal cases in 1830 and 1836, settler (local) authorities asserted a new jurisdiction, over space rather than subjects, which circumvents and denies native sovereignty. In this account the law trumps diplomacy and becomes a mechanism for dispossession. It also weakens the authority that the nation or federal government, in the case of Georgia, or the British empire in the case of New South Wales, exercises over distant settlers and quickens the pace of territorial expansion.

The term "perfect settler sovereignty" describes the condition in which states exercise jurisdictional control over all peoples living within a defined territory. It effectively ends the possibility of a middle ground, legal or otherwise, that the first half of the book describes by making it difficult for federal or imperial mediation between settlers and indigenous peoples. The moment arrives definitively in 1830 when a convention of judges in Georgia ruled that George Tassell could be tried and executed by the state for the murder "of another Cherokee on Cherokee land within the territorial boundaries

of Georgia" (1).

Ford's great contribution to settler studies and to early American studies is to reconstruct the moment in which sovereignty is re-imagined through a redefinition of acts of indigenous violence as crime, and a strict delineation of jurisdiction (sites of legal authority) within territorial boundaries. The first part of *Settler Sovereignty* describes the plurality that presided into the nineteenth century in both locales. Incidents of violence were subject first to shared codes of reciprocity and retaliation. The most egregious acts of violence were resolved, when they could be resolved, through diplomacy. Tensions increased between the state of Georgia and the federal government, and between officials in London and in Sydney, over sovereignty and jurisdiction. By the 1820s and '30s, local courts increasingly treated indigenous theft and violence as crime and not, as it were, as a diplomatic incident.

Ford's innovative study, like Sadosky's, is richly archival and skillfully wields the evidence she finds about settler communities in Georgia and New South Wales in order to examine their intensely local histories. The book's much more encompassing subtitle, "Jurisdiction and Indigenous People in America and Australia," however, encourages generalization from the local to the whole, an extrapolation that seems unwarranted. *Settler Sovereignty*, a predominantly legal story, and *Revolutionary Negotiations*, Sadosky's more traditional diplomatic history, complement each other well. William Wirt, Sadosky's Cherokee lawyer, is in fact the attorney who takes up George Tassell's appeal in 1830. Ford's story does not simply pick up where Sadosky's ends. In many ways Sadosky's study provides an expansive context to Ford's tightly disciplined assessment of the law as an exercise of power. In order to convey a sense of what his diplomats were compelled to negotiate, Sadosky must take measure of geopolitics, of economic demands, and of the explosive demographic shifts that drove the confiscation of land, the dispossession of the Indian nations in the southeast and the assault on indigenous rights. When Ford takes full measure of economic, social and geographical factors (in the section "Federal Roads in Indian country"), and when she confronts the brutality of colonialism and its simultaneous recourse to the law and to violence (in, for example, the killing of two aboriginal boys by a local constable in the section "Tales of Peril on the Hawkesbury"), her analysis is riveting (67-73; 97-103).

The book's focus on criminal jurisdiction clarifies the legal contest over sovereignty between the center and peripheries of nations and empires. Her concern with the increasingly prevalent practice of linking sovereignty to jurisdiction and territory, however, obscures spaces outside the courtroom where Indian and indigenous agency and autonomy may have been practiced in Georgia and New South Wales. Indigenous voices appear and are heard in both Ford's and Sadosky's accounts, but they seldom control the terms of conversation.

Ford's careful and rigorous attention to the establishment of settler sovereignty through an aggregation of court cases and legal arguments can blind



readers to this moment as transitional. However transformative, such a moment opens as well as closes possibilities, and one wonders about residual and new ways of conceptualizing sovereignty. While the three books under review are each important contributions to overlapping as well as disparate fields, taken together they generate questions and provoke thinking about the category of sovereignty. Ford throws "sovereignty" into relief as crucial to both Sadosky's and Hall's work. *Revolutionary Negotiations* is filled with evidence of the challenges posed by the series of Atlantic revolutions, the French Revolution, and the Napoleonic wars to sovereignty as codified in the law of nations and as practiced and protected within the Westphalian system. Nonetheless, sovereignty as such remains relatively unexamined. Sadosky does provide George III's assessment of the attributes of sovereignty: a military force; the right to tax; and legislative, executive, and judicial powers (69). The king's list does not include diplomacy, and it may be that as the putative head of an established state, he takes that power for granted.

Strikingly, the Declaration of Independence is almost solely concerned with diplomatic attributes of sovereignty, as it declares: "that as Free and Independent States, the [United States] have full Power to levy War, conclude Peace, contract Alliances, establish Commerce." Other facets of sovereignty are summarized as "all other Acts and Things which Independent States may of right do." Following Jefferson, it is largely sovereignty as a state's right to practice diplomacy that preoccupies Sadosky. In accounting for the "Foundation of America," Sadosky productively dwells on the divided and competing claims to sovereignty in need of near constant negotiation between the federal and state governments. It matters less whether that sovereignty reflects dominion over citizen-subjects or territory, as it does for Ford. In *Revolutionary Negotiations*, the question is less about what sovereignty is, but rather where and with whom it lies.

"Sovereignty" is a word that seldom appears in *Zamumo's Gifts*, though Hall is deeply concerned with the exercise of authority and the wielding of power. By my count, "sovereignty" appears three times, twice in quotation. The first quotation is taken from the work of Creek literary scholar Craig Womack, who uses the term in relation to creation stories. Womack contends that by telling their own history, Creeks "are setting themselves apart as a nation of people with distinct worldviews that deserve to be taken seriously. This is an important exercise of sovereignty" (31). It is this sense that Hall echoes in his final paragraph where he asserts the "indomitable autonomy of the *talwas*, clans, and the larger Creek nation," explaining that though the "Creek remain colonized, they are still capable of exchanging stories. This exchange, and the sovereignty it asserts, is perhaps Zamumo's greatest gift" (171). Unremarked, but deserving of further reflection, is the redefinition presented here of sovereignty (or rather the refinement of sovereignty) as self-determination. Sovereignty comes to mean the power to insist on an alternate point of view disseminated through the exchange of stories.

More broadly still, the rich archives excavated by Hall, Sadosky, and Ford

might be fruitfully read alongside the recent critical work that responds to or takes up philosopher Giorgio Agamben's writing on sovereignty and biopolitics. Of these works, Mark Rifkin's essay "Indigenizing Agamben: Rethinking Sovereignty in Light of the 'Peculiar' Status of Native Peoples," is most on point (2009). That sovereignty is the subject, implicitly or explicitly, of such meticulous and imaginative projects promises to provoke our critical and historical conversations in new and probing ways.