

The New World: an Introduction

In 1493, Pope Alexander VI issued a Papal Bull granting a protectorate of the New World to Spain. The subsequent attempt to rationalize and justify administrative dominance in lands with complex indigenous cultures (Inca and Aztec) led to much debate and to attempts to reconcile European political ideas with "new world" social and economic conditions. The trans-Atlantic encounter gave impetus to the development of international law, comparative ethnology, and theories of cultural development. By 1520, "New Spain" comprised two viceroyalties, in Mexico City and Lima. Meanwhile, *encomiendas* or feudal fiefdoms had been established on the conquered soil by the colonizers. In 1542, the Spanish "New Laws" decreed the indigenous peoples to be unenslaveable freemen (slaves from Africa had begun arriving in the 1530s).

It was in this context that **Bartolomé de las Casas** and **Juan Ginés de Sepulveda** debated the issue of supposed Indian inferiority and the concomitant right to enslave them at a session convoked by Emperor Charles V at Valladolid, in North-central Spain, in 1550-51. The touchstone of the debate was Aristotle and his ideas on "natural slavery;" as early as 1512, Aristotle had been deployed as a theoretical justification for slavery. Ginés de Sepulveda (1490-1574) was a neo-Aristotelian humanist who translated Aristotle's *Politics*; his *Democrates Alter*, written in 1544 and excerpted below was the most strident argument for Indian inferiority in its day. His argument is two-fold: the "cultural barbarian" is subject to the "civilized man" by nature; and slavery is a punishment for sin.

De las Casas (1474-1566), a Dominican friar who had arrived in the West Indies in 1502, had by 1514 become an advocate for the Indians. Indeed, with the publication of the *Apologetic History of the Indies*, written in 1527 (and excerpted below), he acquired the epithet "Protector of the Indians." In this work, and in the *Thirty Very Juridical Propositions* (published in 1552), De las Casas argues for the full humanity of the indigenous populations by reinterpreting Aristotle's criteria for "natural slavery," and concludes that evangelization rather than rule should be the basis of the relationship between the two peoples.

Excerpts from Democrates Alter
Or, on the Just Causes for War Against the Indians

Juan Ginés De Sepulveda

To His Excellency Don Luis de Mendoza, Count of Tendilla and Marquis of Mondejar

Whether the war by means of which the rulers of Spain and our countrymen have brought and are attempting to bring under their domination the barbarian inhabitants, commonly known as Indians, of the lands to the west and south is just or unjust and upon what legal right the domination of these peoples is based is, as you know, noble Marquis, a most important question.... And since I have said several things pertaining to this question in another dialogue, entitled *Democrates I*, . . . I thought it convenient to have the same characters carry on a discussion in my orchard on the banks of the Pisuerga, so that by repeating such opinions as are necessary they might cap the controversy which we have begun concerning the rights of waging war. One of these disputants, the German
10 Leopold, somewhat contaminated by Lutheran errors, begins to speak in this manner:

L. I shall tell you a thousand and one times, Democrates, that there is no argument strong enough to convince me that war is lawful, much less among Christians. You surely remember that we have already argued this point for three long days in Rome, at the Vatican....

D. Then, what new questions relating to this matter of the right to wage war do you wish to ask me?

L. Very few, but certainly not without merit. A few days ago, while I was strolling with some other friends in the palace of Prince Philip, Hernan Cortes, the Marquis del Valle, happened to pass, and upon seeing him, we began to speak at length about the deeds
20 which he and others of the Emperor's captains had accomplished in those lands to the west which were completely unknown to the ancient inhabitants of our world. These events surprised me mightily because of their grandeur and novelty and for being so unexpected; but thinking about them further, I was seized by a doubt, to wit, whether it was congruous with justice and Christian charity that the Spaniards should have made war on those innocent mortals who had caused them no harm. I wish to know, therefore, what you think about this and other similar wars which are waged without any reason or aim except for mere whim and greed. And I also want you to explain succinctly, with the clarity peculiar to your outstanding mind and subtle understanding, all the possible causes for a just war, and then to resolve the question in a few words.

D.... In the first place, one must keep in mind a principle which is the basis of this and many other questions: everything which is done in the name of natural rights or laws can also be done by virtue of divine rights or evangelical laws. When Christ tells us in the Gospels not to resist the evil-doer and, if someone strikes us upon one cheek, to turn the other . . ., we should not believe that he was attempting to do away with the laws of

nature which permit one to resist force with force within the limits of a just defense.... Those words from the Bible are not laws in the obligatory sense of the word, but rather advice and exhortation which do not belong so much to everyday life as to apostolic perfection....

40 I wish to make it clear that one should search not only in Christians and in the writings of the New Testament, but also in those philosophers whom we judge to have dealt most wisely with nature and the customs and governments of all societies, especially in the writings of Aristotle, whose precepts, except for a few opinions referring to matters beyond the capacity of human understanding, and which man can understand only through divine revelation, have been received by posterity with such unanimous approval that they no longer seem to be the words of a single philosopher, but the decisions and opinions held in common by all wise men.

L. Let us return, then, to the business at hand. Now show me the reasons, if there are any, by which you believe that war can be undertaken and waged in a just and pious manner.

50 **D.** A just war requires not only just causes for its undertaking, but also legitimate authority and upright spirit in whoever declares it and a proper manner in its conduct....

L.... But what happens if a ruler, moved not by avarice or thirst for power, but by the narrowness of the borders of his state or by its poverty, should wage war upon his neighbors in order to seize their fields as an almost necessary prize?

D. That would not be war but theft. For a war to be just, the causes must be just.... Among the causes of a just war the most important, as well as the most natural, is that of repelling force with force when it is not possible to proceed in any other fashion.... The second cause of a just war is the recovery of things seized unjustly.... It is licit to recover not only one's own things which have been unjustly stolen, but also those of friends, and to defend them and keep them free from harm as much as if they were one's own. The
60 third cause of a just war is to punish evil-doers who have not been punished in their own cities, or have been punished with negligence, so that . . . they will take heed and not commit their crimes a second time, and others will be frightened by their example. It would be easy to enumerate here the many wars waged by the Greeks and Romans for this reason, with much approval from the people, whose consensus must be considered to be a law of nature....

70 There are other causes of just wars less clear and less frequent, but not therefore less just or based any less on natural and divine law, and one of them is the conquest by arms, if no other way is possible, of those who by natural condition must obey others and refuse to do so. The greatest philosophers state that this type of war is just according to the laws of nature....

L. And who is born under such an unlucky star that nature condemned him to servitude? What difference do you find between having nature force one under the rule of another

and being a slave by nature? Do you think that judges, who also pay much attention to natural law in many cases, are joking when they point out that all men since the beginning were born free, and that slavery was introduced contrary to nature and as a law of mere humans?

80 **D.** I believe that the jurist speaks with seriousness and great prudence, but this word slavery means quite a different thing for the jurist than for the philosopher. For the former slavery is an accidental thing, born of superior strength and from the laws of peoples, sometimes from civil laws, while philosophers see slavery as inferior intelligence along with inhuman and barbarous customs....

90 Those who surpass the rest in prudence and talent, although not in physical strength, are by nature the masters. Those, on the other hand, who are retarded or slow to understand, although they may have the physical strength necessary for the fulfillment of all their necessary obligations, are by nature slaves, and it is proper and useful that they be so, for we even see it sanctioned in divine law itself, because it is written in the Book of Proverbs that he who is a fool shall serve the wise... If they reject such rule, then it can be imposed upon them by means of arms, and such a war will be just according to the laws of nature. Aristotle said, "It seems that war arises in a certain sense from nature, since a part of it is the art of the hunt, which is properly used not only against animals, but also against those men who, having been born to obey, reject servitude: such a war is just according to nature..."

L. If, by the laws of nature, the reign is to be reserved for the more prudent and virtuous men, suppose that the kingdom of Tunis (I wish to seek examples of misfortune among the infidels and not among our own peoples) were to fall, by virtue of patrimony and by rights of age, into the hands of a prince less prudent and virtuous than his younger brothers. Do you not think, according to your doctrine, that the kingdom should be given to the best of all of them and not to the least worthy?

100 **D.** If we seek the truth, Leopold, and heed only what is sought by reason and natural order, we shall have to say that sovereignty should always be in the hands of the wisest and most prudent, because the only true realm is one that is always governed by very prudent men and those who look after the welfare of the people.... But the happiness of man is not such that things which are in essence the best can always be accomplished without great inconveniences. According to physicians, it is of prime importance that the good humors dominate in the human body so that it will be maintained in its natural, healthy state, and when the contrary occurs, and the bad and corrupt humors dominate, they do not overlook any available means to remedy this disorder by purging the bad humors; but if there is the danger that in so doing there will be produced in the entire body a greater upheaval, doctors prudently abstain from undertaking so dangerous a cure,
110 not because they are unaware that such a perversion of the humors is evil and contrary to nature, but because they prefer that the man live, even though in bad health, and not perish entirely....

120 **L.** According to your opinion, Democrates, in order for a war to be considered just, a worthy aim and upright conduct are required, but this war against the barbarians, as I understand it, is not even undertaken with good intentions, since those who have started it have no other aim than that of acquiring, by right or wrong, the largest possible amount of gold and silver.... And since the Spanish do not wage this war justly or rationally, but with great cruelty and injury to the barbarians, and in the manner of a theft, there is no doubt that the Spanish are obliged to restore to the barbarians the things which they have seized, no less than must highwaymen what they have robbed from travelers.

D. One who condones the rule of a prince or nation over his or its citizens and subjects, Leopold, must not therefore have it thought that he approves of the sins of all their prefects and ministers.... And indeed it is not certain that everyone has waged war in this fashion if various reports which I have recently read concerning the conquest of New Spain [Mexico] are true....

130 You can well understand, Leopold, if you know the customs and manners of different peoples, that the Spanish have a perfect right to rule these barbarians of the New World and the adjacent islands, who in prudence, skill, virtues, and humanity are as inferior to the Spanish as children to adults, or women to men, for there exists between the two as great a difference as between savage and cruel races and the most merciful, between the most intemperate and the moderate and temperate and, I might even say, between apes and men.

140 You surely do not expect me to recall at length the prudence and talents of the Spanish, since, as I believe, you have read Lucan, Silius Italicus, the two Senecas; and after these St. Isidore, inferior to no one in the field of theology, as in philosophy Averroes and Avempace excelled, and King Alfonso in astronomy, omitting many others who would be too many to enumerate. And who can ignore the other virtues of our people: strength, humanity, justice, and religion? . . . And what can I say of temperance, in greed as well as in lust, when there is hardly a nation in Europe which can be compared to Spain as concerns frugality and sobriety? And if it is true that in recent times I see that through commercial dealings with foreigners extravagance has invaded the tables of the mighty, nevertheless, just as good men reprove this, one must hope that in a short time there will be reestablished the pure and innate parsimony of our native customs. And as for that pertaining to the second part of temperance, even though the philosophers say that warlike men are quite taken with the pleasures of Venus, nonetheless, our soldiers, even in their personal vices and sins, are not accustomed to act contrary to the laws of nature.... And what can I say of the gentleness and humanity of our people, who, even in battle, after having gained the victory, put forth their greatest effort and care to save the greatest possible number of the conquered and to protect them from the cruelty of their allies?

150 Compare, then, these gifts of prudence, talent, magnanimity, temperance, humanity, and religion with those possessed by these half-men (*homunculi*), in whom you will barely find the vestiges of humanity, who not only do not possess any learning at all, but are not even literate or in possession of any monument to their history except for some obscure

and vague reminiscences of several things put down in various paintings; nor do they have written laws, but barbarian institutions and customs. Well, then, if we are dealing with virtue, what temperance or mercy can you expect from men who are committed to all types of intemperance and base frivolity, and eat human flesh? And do not believe that before the arrival of the Christians they lived in that pacific kingdom of Saturn which the poets have invented; for, on the contrary, they waged continual and ferocious war upon one another with such fierceness that they did not consider a victory at all worthwhile unless they sated their monstrous hunger with the flesh of their enemies. This bestiality is among them even more prodigious for their great distance from the land of the Scythians, who also fed upon human bodies, and since furthermore these Indians were otherwise so cowardly and timid that they could barely endure the presence of our soldiers, and many times thousands upon thousands of them scattered in flight like women before Spaniards so few that they did not even number one hundred.... Although some of them show a certain ingenuity for various works of artisanship, this is no proof of human cleverness, for we can observe animals, birds, and spiders making certain structures which no human accomplishment can competently imitate. And as for the way of life of the inhabitants of New Spain and the province of Mexico, I have already said that these people are considered the most civilized of all, and they themselves take pride in their public institutions, because they have cities created in a rational manner and kings who are not hereditary but elected by popular vote, and among themselves they carry on commercial activities in the manner of civilized peoples. But see how they deceive themselves, and how much I dissent from such an opinion, seeing, on the contrary, in these very institutions a proof of the crudity, the barbarity, and the natural Slavery of these people; for having houses and some rational way of life and some sort of commerce is a thing which the necessities of nature itself induce, and only serves to prove that they are not bears or monkeys and are not totally lacking in reason. But on the other hand, they have established their nation in such a way that no one possesses anything individually, neither a house nor a field, which he can leave to his heirs in his will, for everything belongs to their Masters whom, with improper nomenclature, they call kings, and by whose whims they live, more than by their own, ready to do the bidding and desire of these rulers and possessing no liberty. And the fulfillment of all this, not under the pressure of arms but in a voluntary and spontaneous way, is a definite sign of the service and base soul of these barbarians. They have distributed the land in such a way that they themselves cultivate the royal and public holdings, one part belonging to the king, another to public feasts and sacrifices, with only a third reserved for their own advantage, and all this is done in such a way that they live as employees of the king, paying, thanks to him, exceedingly high taxes.... And if this type of servile and barbarous nation had not been to their liking and nature, it would have been easy for them, as it was not a hereditary monarchy, to take advantage of the death of a king in order to obtain a freer state and one more favorable to their interests; by not doing so, they have stated quite clearly that they have been born to slavery and not to civic and liberal life. Therefore, if you wish to reduce them, I do not say to our domination, but to a servitude a little less harsh, it will not be difficult for them to change their masters, and instead of the ones they had, who were barbarous and impious and inhuman, to accept the Christians, cultivators of human virtues and the true faith....

200 When pagans are nothing more than pagans, and cannot be accused of anything more than not being Christians, which is what we call disbelief, there is no just reason to punish them or attack them with arms. Therefore, if there were to be found in the New World some enlightened people, civilized and humane, who worshiped not idols but the true God according to the law of nature.... even though they were not familiar with the Gospels or in possession of the Christian faith, it would seem that a war against this people would be illicit....

L. I do not fully understand, Democrates, what you mean in this case by natural law, unless you say that it is observed by those who abstain from mortal sin and other like infamies, no matter how many other grave crimes they may commit. Even in this form you will find very few people who observe natural law....

210 **D.** Do not worry uselessly, Leopold. The gravest sins are doubtless those committed against the law of nature, but be careful of drawing from this rash conclusions about nations in general; if in any of them there are some who sin against natural laws, this is no reason for saying that this nation does not observe natural law, because the public cause is to be considered not individually in each man but in public customs and institutions...

L. Do you think, consequently, that pagans can be compelled to receive the faith in spite of the fact that St. Augustine denies this... ?

220 **D.** If I were so to believe there would be high authorities who would support my views, and I would still maintain that this was a great work of charity, for what greater benefit can one give a man than to communicate to him the faith of Christ? But since the will, as I have to pointed out before, without which there is no room for faith, cannot be forced, it does not please St. Augustine and other great theologians to see undertaken this work, so great but sometimes so pernicious, of demanding the baptism of those who refuse it, or of their children, who, for the most part, are accustomed to follow the will of their fathers. I do not say, then, that they should be baptized by force, but that as far as it rests with us they be brought back from the edge of the precipice and be shown the way of truth by means of pious teachings and evangelical preachings, and as this does not seem possible to accomplish by any other way than first subjecting them to our rule, especially in times such as these, when preachers of the faith and miracles are so rare, I believe that the

230 barbarians can be conquered within the same right which makes them compelled to hear the words of the Gospels.... These apostles are, then, the successors of the other apostles, that is, bishops and priests of the Church and preachers in all that pertains to the duties of preaching, and how can they preach to these barbarians if they are not sent to them, as St. Paul says, and how are they to be sent if these barbarians are not conquered first?