Legal Imagination in Vitoria. The Power of Ideas

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1. A Man’s Ideas

Legal progress is often propelled by concepts first envisioned in academia. In this light, the present article explores the ideas of a fascinating intellectual figure: Francisco de Vitoria (1483-1546), a man broadly recognized as one of the “founding fathers” of international law. The writings and lectures of this 16th century Dominican friar formulated innovative legal doctrines in an age of uncertainty and profound social change; an age that gave birth to the modern States that, with their centralized power, signalled the demise of medieval pluralism, the dismemberment of Christendom, and the erosion of imperial and papal aspirations to universal power.

Medieval Europe, before then, had defined itself as a cultural, political and religious unity: the Res Publica Christiana. The first half of the 16th century witnessed the final breakdown of that order, the emergence of the modern sovereign state and the subsequent development of the European state system. It was also in this age that a singular event transformed conventional conceptions of the world and consolidated anthropocentrism: the discovery of America. A ‘stellar moment’ of literature, political and legal

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thought took place in the Iberian Peninsula: the golden age of Spain. One of the most innovative intellectual movements of that period, the so-called School of Salamanca, was formed under that aegis. This Doctrinal movement sparked a profound renewal of Spanish Scholastic thought.

Francisco de Vitoria, Domingo de Soto and Francisco Suarez are the foremost representatives of this Seconda Scolastica. Their collective effort produced, in essence, a “revamped Scholasticism”, different from that of the early Middle Ages which evokes, to paraphrase Truyol, a preoccupation with trivial distinctions, classifications and the “inflation of abstraction” at the expense of reality. To the contrary, Vitoria and his colleagues developed and disseminated new ideas by guiding and nurturing this academic current with a characteristically direct concern and contact with the issues of the time.

Three basic dimensions are interrelated in the work of Francisco de Vitoria: theology, political power, and the Law of Peoples. To summarize, he adopted a stance typical of classical Natural Law theorists, addressing the major issues of his time by reconciling philosophy and theology on the basis of Christian morality and Natural Law. His ideas are rooted in Thomist and Nominalist doctrines, and exude Catholic influence. Vitoria maintained that there was no contention, issue or dispute that did not fall within the bounds of Theology. This broad conception of theology allowed him to examine a wide range of social issues, which he approached with independent criteria and a critical sense. For this reason, he has occasionally been described as a “theologian confronting power.” Some of his key

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3) For the manuscripts of 21 theologians from this group see Ehrle, F. Los manuscritos vaticanos de los teólogos salmantinos del Siglo XVI, Biblioteca de Estudios Eclesiásticos, 1930.


7) Pérez Luño, A. La polémica … op. cit.


9) Carrillo Salcedo, J.A. “Aportaciones de Francisco de Vitoria a los fundamentos filosóficos de los derechos humanos”, La Escuela de Salamanca y el Derecho Internacional en América.