The Principle of the Defence of the Innocent and the Conquest of America: ‘Save Those Dragged Towards Death’

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Introduction

Human sacrifice and cannibalism were the most morally abhorrent practices encountered by the Spanish in America. It was therefore natural that the killing and eating of innocents would become a distinct topic within the broader discussion about the justice of the conquest of the Americas, that occupied many Spanish intellectuals for the best part of a century. Virtually every one of the Spanish just war theorists¹ who took part in this debate accepted the initial plausibility of the claim that war against the Aztec rulers could be justified as a way of defending the innocent from human sacrifice, cannibalism and tyranny.

¹ ‘Spanish theorists’ is shorthand for the following people: Francisco de Vitoria (1486–1546), Juan Ginés de Sepúlveda (1490–1573), Bartolomé de las Casas (1474–1566), Alfonso de Castro (1495–1588), Domingo de Soto (1495–1560), Alonso de la Veracruz (1507–1584), Melchor Cano (1509–1560), Diego Covarrubias y Leyva (1512–1577), Juan de la Peña (d. 1564), Martín de Rada (1533–1578), Bartolomé de Medina (1528–1580), Domingo Báñez (1528–1604), Francisco Toledo (1534–1596), Luis de Molina (1536–1600), José de Acosta (1540–1600), and Francisco Suárez (1548–1617). The list does not exhaust the theorists who discussed the justice of the conquest, but it includes the most influential contributors to the debate.
Although there is a considerable number of studies on various aspects of the debate on the Americas, and some studies devoted to the connection between just war theory and the moral duty to defend the innocent there are few studies exclusively devoted to the defence of the innocent as a possible just cause for war in the American context. The purpose of this article is, therefore: (i) to trace the genealogy of the defence of the innocent before it was proposed by Vitoria as just cause for war, and (ii) to examine the extension of the set of warranted responses to human suffering allowed by this precept under two different plausible interpretations.

The international duty to defend the innocent is no less relevant today than it was at the time of the conquest. Recent cases of humanitarian intervention are provided by the US intervention in Somalia in 1992 and NATO’s bombardment of former Yugoslavia in 1999. Humanitarian arguments continue to play a part in justifications of the invasion and present occupation of Iraq by the US and its allies (it is suggested that one of the goals of the war was to liberate an oppressed people). The long list of earlier cases of

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