FRANCISCO DE VITORIA ON THE *IUS GENTIUM* AND THE AMERICAN *INDIOS*

Victor M. Salas, Jr., Ph.D.[†]

INTRODUCTION

In reading through the relections[1] of Francisco de Vitoria (c. 1483–1546), one easily conjures up the image of an author who is quintessentially Scholastic—an even-tempered and dispassionate intellectual who treats all questions with equanimity and is swayed only by the exigencies of reason itself.[2] Yet, in a letter sent to his religious superior that addresses the Spanish confiscation of Peruvian property, a clearly disgusted and horrified Vitoria reacts passionately against the Spaniards' actions and urges his superior, Miguel de Arcos, O.P., to have nothing to do with the matter. The calm and serene mood characteristic of Vitoria's relections is replaced with fury and outrage. "I must tell you, after a lifetime of studies and long experience," the Dominican writes, "that no business shocks me or embarrasses me more than the corrupt profits and affairs of the Indies. Their very mention freezes the blood in my veins."[3] Registering his contempt of the situation in the New World, Vitoria came to the defense of the American Indians in the only way he could, as a

---

† Victor Salas received a Ph.D. in philosophy from Saint Louis University. He has special research interests in medieval and renaissance philosophy. Thanks are due to Robert Fastiggi for his kind invitation to present this Article at the "The Foundation of Human Rights: Catholic Contributions Conference" held at Ave Maria University, March 3–4, 2011.

1. FRANCISCO DE VITORIA, O.P., RELECTION ON HOMICIDE & COMMENTARY ON SUMMA THEOLOGIAE IIA-IIAE, Q. 64, at 14–15 (John P. Doyle trans., Marquette Univ. Press 1997) (1557). A relection was an academic practice of professors at Salamanca in which they would prepare a speech, usually of some topic they had covered in lecture during the course of the previous academic year, and present it in an event open to the entire university community. The relection was thus not unlike the medieval quodlibetal question and could, in many ways, be seen as a natural evolution of the latter. More formal than the quodlibetal question, however, the relection was read aloud from a manuscript in the space of two hours without any interaction between the lecturer and students.

2. *See* BRIAN TIERNEY, THE IDEA OF NATURAL RIGHTS 272 (1997).

3. Letter from Francisco de Vitoria, O.P. to Miguel de Arcos, O.P. (Nov. 8, 1534), *in* VITORIA: POLITICAL WRITINGS 331, 331 (Anthony Pagden & Jeremy Lawrence eds., 1991) [hereinafter VITORIA] (emphasis omitted).

Scholastic, as an academic wielding the rich resources of the Catholic intellectual tradition in an effort to identify the intrinsic dignity of *all* peoples, a dignity that, in the territories of the New World, was being grossly and unjustly violated. Central to the Salamancan theologian's defense of the native peoples would be a theory of rights spelled out against the backdrop of the "natural law" and guaranteed to all persons according to the precepts of the "law of nations" or *ius gentium*. In this Article, I shall examine the picture of the *ius gentium* that emerges in Vitoria's relections and argue that, despite his appeal to traditional understandings or accounts of the *ius gentium*, Vitoria marks a significant development in human rights and international law as occasioned by the situation in the New World.

Perhaps the most salient works in which Vitoria's account of the *ius gentium* comes to light vis-à-vis the plight of the American Indians are his *De Indis* and *De iure belli*. In both works, Vitoria's arguments clearly come down on the side of the natives, highlighting their intrinsic dignity precisely as persons and consequently their right to *dominium*, that is, the right to self-governance, ownership of property, and moveable goods, etc. The first work, *De Indis*, develops an account of personal rights based on natural law that, by means of the law of nations, could be extended even to the Amerindians. These rights, as Vitoria understands them, follow upon the natives' human nature such that neither the Spanish crown nor the Papacy could suppress those rights except under the circumstances of a just war, and even then only with restraint and moderation.[4] The second work, *De iure belli*, picks up where the former relection leaves off and identifies the conditions under which a war could be justly waged, conditions that, relatively limited in themselves, are, according to Vitoria, wholly lacking in the Indies. In short, despite the subtlety and complexity of Vitoria's arguments, their conclusion is a relatively simple one: the Spanish conquest of the New World, at least as it was being realized at the time, was morally unjustifiable, and the evangelical counsel to "[g]o, therefore, and make disciples of all nations,"[5] far from being advanced, was being egregiously compromised.

4. *See* FRANCISCO DE VITORIA, O.P., DE IURE BELLIE, Q. 3, *reprinted in* VITORIA, *supra* note 3, at 293, 314–27 [hereinafter DE IURE BELLIE]; FRANCISCO DE VITORIA, O.P., DE INDIS, Q. 3, Art. 1, *reprinted in* VITORIA, *supra* note 3, at 231, 278–84 [hereinafter DE INDIS].

5. *Matthew* 28:19 (Revised Standard, Catholic Edition).

I. THE *IUS GENTIUM*: HISTORICAL BACKGROUND

Interestingly—and perhaps somewhat ironically—the only justification to be had for a war against the American Indians, according to Vitoria, would be that provided by the *ius gentium*, the violation of which could be grounds for war.[6] What, then, is this *ius gentium* or "law of nations"? What are its precepts and contents? How is it derived, and what serves as its ground? In his relections, Vitoria is none too clear about any of these questions and, apart from frequent allusions to the "law of nations," he never articulates an explicit or fully worked out account of the *ius gentium* but instead, takes it as a given. Still, this is no great or even minor oversight on his part. If Vitoria does not answer the questions *we* now pose to him, it is because in actuality he is answering an entirely different set of questions arising from his own time, questions such as: how (if at all) can the *ius gentium* be deployed to address the situation in the New World, and what would such a deployment imply about personal rights?

The questions that we are asking had already been answered in one form or another within the long tradition of legal theory that reached back through Thomas Aquinas, Gratian's *Decretum*, Isidore of Seville, Roman jurists such as Gaius, and even more remotely to Greek antiquity, a massive tradition to all of which Vitoria was heir. Considering Gaius, for instance, and his foundational *Institutes*, we find one of the great cornerstones of this tradition. Gaius opens the *Institutes* with a distinction that would run in one fashion or another throughout all medieval and scholastic accounts of law, namely, the distinction between the law of nations—taken in its broadest sense to refer also to *ius naturale*—and civil law. He writes:

> The rules established by a given state for its own members are peculiar to itself, and are called *jus civile*; the rules constituted by natural reason for all are observed by all nations alike, and are called *jus gentium*.[7]

---

6. *See* DE INDIS, *supra* note 4, Q. 3, at 277–92.

7. GAIUS, INSTITUTES OF ROMAN LAW, Bk. I, § 1(Edward Poste, M.A. trans., E.A. Whittuck, M.A., B.C.L. ed., 4th ed. 1904) [hereinafter INSTITUTES] (emphasis added).

> *Omnes populi qui legibus et moribus reguntur partim suo proprio, partim communi omnium hominum iure utuntur; nam quod quis*| que populus ipse sibi ius constituit, id ipsius proprium est uocaturque ius ciuile, quasi ius proprium ciuitatis; quod uero naturalis ratio inter omnes homines constituit, id apud omnes populos peraeque

Important for our purposes, we see that Gaius identifies the *ius gentium* with reason's proper function in the realization of its own human nature, a nature that exists universally in every state or nation. As such, the *ius gentium*, on Gaius's view, is distinct from civil law since the latter responds only to the particularities of diverse customs and civic traditions. Though the headings under which the medievals located different forms of law would differ from Gaius, the basic division of law into that which follows from nature and that which stems from civic custom or practice would still be fundamentally retained.

This distinction is precisely what one finds in Isidore of Seville's encyclopedic *Etymologies*. There, the *Doctor Hispalensis* tells us, "All laws are either divine or human. Divine laws are based on *nature*, human law on customs."[8] Thomas Aquinas follows suit and argues that "*ius*" is fittingly divided into "*ius naturale*" and "*ius positivum*."[9] Of those laws determined by nature (*ius naturale*), their scope is universal, and thus, they are "common to all nations" and do not result from any "regulation" but from a kind of "instinct of nature."[10] While not explaining the exact relation between the *ius naturale* and the *ius gentium*, Isidore does make clear that the *ius gentium*, like the *ius naturale*, is in effect among all peoples and then identifies the content of that law:

> The law of nations concerns the occupation of territory, building, fortification, wars, captivities, enslavements, the right of return, treaties of peace, truces, the pledge not to molest embassies, the prohibition of marriages between different races. And it is called

---

custoditur uocaturque ius gentium, quasi quo iure omnes gentes utuntur. populus itaque Romanus partim suo proprio, partim communi omnium hominum iure utitur. quae singula qualia sint, suis locis proponemus.

Id. *See also* ARISTOTLE, NICOMACHEAN ETHICS, Bk. V, Ch. 7 (Martin Ostwald trans., The Bobbs-Merrill Co. 1962) (marking an earlier, similar distinction: "What is just in the political sense can be subdivided into what is just by nature and what is just by convention. What is by nature just has the same force everywhere and does not depend on what we regard or do not regard as just.").

8. ISIDORE OF SEVILLE, ETYMOLOGIES, Bk. V, § 2, *reprinted in* THE ETYMOLOGIES OF ISIDORE OF SEVILLE 117 (Stephen A. Barney et al. trans., 2006) [hereinafter ETYMOLOGIES] (emphasis added) (author's translation).

9. ST. THOMAS AQUINAS, SUMMA THEOLOGICA, Pt. II-II, Q. 57, Art. 2 (Fathers of the English Dominican Province trans., 2d ed. 1920) (1911) [hereinafter SUMMA THEOLOGICA].

10. ETYMOLOGIES, *supra* note 8, Bk. V, § 4, at 117; *see also* SUMMA THEOLOGICA, *supra* note 9, Pt. II-II, Q. 57, Art. 3.

> the "law of nations" (*ius gentium*) because nearly all nations (*gentes*) use it.[11]

It is worth noting that, unlike Gaius, Isidore marks a distinction between natural law and the law of nations even though both have a universal scope. Does this distinction between the two imply, then, that the basis for their universality is also distinct? Isidore's text leaves us guessing. Indeed, it is not at all clear how Isidore arrives at the enumeration of the contents of the *ius gentium* or even whether this list is meant to be exhaustive or only partial. No doubt, some of the provisions mentioned within that passage have an origin in the Roman legal tradition. Gaius, for instance, mentions that the laws governing slavery, which Isidore identifies in the text quoted above, are a function of the *ius gentium*.[12] It seems plausible to suggest, then, that, given the encyclopedic character of the *Etymologies*, Isidore's ambition appears to be a modest one in that it aims only to draw upon lived custom and tradition so as to be able to describe the *ius gentium*; indeed, one would look in vain for some philosophical derivation of the law of nations or the deduction of its particular elements. In many ways, Vitoria himself seems to adopt a similar approach to the legal tradition in which he situates himself. For example, when discussing the assumption of unclaimed property—a feature of the *ius gentium* as Vitoria tells us—the Dominican does little more than appeal to "[*f*]*erae bestiae*," which had already been addressed in the *Institutes*.[13] Similarly, when describing citizenship as a feature of the *ius gentium*, Vitoria is satisfied with citing the Codex of civil law and then letting the matter rest.[14] Both of these appeals, it is worth noting, are certainly not to the derivation of the *ius gentium* from reason or natural law but to specific practices and traditions.

II. *IUS GENTIUM* AND THE NATURAL LAW

In noting distinctions between and among different forms of law, the question arises as to what relationship each form bears to

---

11. ETYMOLOGIES, *supra* note 8, Bk. V, § 6, at 118.

12. INSTITUTES, *supra* note 7, Bk. I, § 52. Gaius does mention slavery as an element of the *ius gentium* such that all nations recognize that slaves are bound to the authority of their masters. *See id.* "In potestate itaque sunt serui dominorum. quae quidem potestas iuris gentium est: nam apud omnes peraeque gentes anim*a*dvertere possumus dominis in seruos uitae necisque potestatem esse; et quo*d*cumque per seruum adquiritur, id domino adquiritur." *Id.*

13. *See* DE INDIS, *supra* note 4, Q. 3, Art. 1, at 280.

14. *See id.* Q. 3, Art. 1, at 281.

one another. True enough, natural law may be said to be a "participation," and thus likeness, of the divine eternal law;[15] however, the more salient question for us is: what is the status of the *ius gentium*? This question is nothing short of an inquiry into the basis for the law of nations itself. For the medievals, the *ius gentium* seems to occupy a median position between natural law and positive law. So, on the one hand, for Isidore of Seville, Aquinas, and also Vitoria, the law of nations is, as we have already seen, rooted firmly in the precepts of reason. On the other hand, though grounded in reason, the *ius gentium* flourishes, is cultivated in, and adapted to the particularities and various traditions of diverse peoples. Aquinas notes the intermediate character of the *ius gentium* when he writes:

> The law of nations is indeed, in some way, natural to man, in so far as he is a reasonable being, because it is derived from the natural law by way of a conclusion that is not very remote from its premises. . . . Nevertheless it is distinct from the natural law, especially it is distinct from the natural law which is common to all animals.[16]

In a similar fashion, Vitoria maintains, "[W]hat natural reason has established among all nations is called the law of nations,"[17] and also, "there are certainly many things which are clearly to be settled on the basis on the law of nations . . . , whose derivation from natural law is manifestly sufficient to enable it to enforce binding rights."[18] Yet, these claims are somewhat tempered by Vitoria's acknowledgement that "even on the occasions when [the law of nations] is not derived from natural law, the consent of the greater part of the world is enough to make it binding, especially when it is for the common good of all men."[19]

How does one account for this liminal status of the *ius gentium* as somehow venturing simultaneously on the threshold of both natural and positive law? Aquinas offers a helpful explanation. He notes that the derivation or application of laws to meet concrete situations, which derivation is an act of moral reasoning, follows the same structure as theoretical reasoning proceeding from principles to

---

15. SUMMA THEOLOGICA, *supra* note 9, Pt. I-II, Q. 91, Art. 2.

16. *Id.* Pt. I-II, Q. 95, Art. 4.

17. DE INDIS, *supra* note 4, Q. 3, Art. 1, at 278 (citing INSTITUTES, *supra* note 7, Bk. I, § 1).

18. DE INDIS, *supra* note 4, Q. 3, Art. 1, at 281. Vitoria also makes an oblique reference to the relation between *ius gentium* and *ius naturale* in FRANCISCO DE VITORIA, O.P., DE USU CIBORUM, SIVE TEMPERANTIA, Q. 1, Art. 5, *reprinted in* VITORIA, *supra* note 3, at 217.

19. DE INDIS, *supra* note 4, Q. 3, Art. 1, at 281.

conclusions. Yet, unlike theoretical reasoning, moral reasoning concerns itself with that which is particular and contingent. Accordingly, while the natural law itself might proscribe general (i.e., universal) maxims such as "do good and avoid evil," the manner in which that law is applied or realized to the particulars of an ever-changing and fluid situation will be variegated. "Wherefore," Aquinas notes, "human laws cannot have that inerrancy that belongs to the demonstrated conclusions of sciences."[20] Nevertheless, since the law of nations does have its origin in nature or moral reasoning, its derivation from the *ius naturale* carries along with it the same force and efficacy as the *ius naturale* itself. In other words, the law of nations, though not identical to the natural law, cannot be reduced entirely to civil or positive law. The reason is clear: civil law pertains to a particular state's self-legislation, which legislation is subject to the same variance of customs and practices of that state. The law of nations, however, while an adaptation of the natural law in an effort to safeguard the needs of human society, holds good universally or near universally. Its jurisdiction, as it were, reaches beyond the particularities of various nations. Vitoria writes:

> The whole world, which is in a sense a commonwealth, has the power to enact laws which are just and convenient to all men; and these make up the law of nations. . . . No kingdom may choose to ignore this law of nations, because it has the sanction of the whole world.[21]

In short, unlike positive civil law, the *ius gentium* is truly international in character.

III. THE *IUS GENTIUM* AND BEARERS OF RIGHTS

If the *ius gentium* flows from nature—more specifically human nature—as a font, and if the law of nations retains its force wherever human culture and civilization exists, then should not this same law also extend to the natives of the New World so as to make manifest and guarantee their rights? The answer to this question, one notes immediately, turns upon the further question—one that no doubt

---

20. SUMMA THEOLOGICA, *supra* note 9, Pt. I-II, Q. 91, Art. 3; *but see* JAMES BROWN SCOTT, THE SPANISH ORIGIN OF INTERNATIONAL LAW: FRANCISCO DE VITORIA AND HIS LAW OF NATIONS 164 (The Lawbook Exchange, Ltd. 2008) (1934).

21. FRANCISCO DE VITORIA, O.P., DE POTESTATE CIVILAE, Q. 3, Art. 4, *reprinted in* VITORIA, *supra* note 3, at 40.

strikes those with contemporary sensibilities as outrageous—whether the natives are bearers of rights, whether they are, put simply, truly human? Yet, what sounds outrageous to us rings less dissonantly in the ears of a Scholastic friar trained in the Aristotelian tradition wherein theoretical space existed for chattel slavery. Aristotle opens that space with the claim found in his *Politics*, "That which can foresee by the exercise of mind is by nature intended to be lord and master, and that which can with its body give effect to such foresight is a subject, and by nature a slave . . . ."[22] The difference between slave and master, as Aristotle further explains, is the difference between that which is fully rational and that which is sub-rational. The master enjoys the unimpeded exercise of reason, whereas he who is naturally apt to be a slave only "participates" in reason sufficiently to be able to take orders.[23] Aristotle's theory of natural slavery would become a centerpiece in Juan Gínes de Sepúlveda's justification for the Spanish conquest of the New World. According to Sepúlveda, the Native Indians were virtually subhuman, barely capable of reason, and thus properly subject to the authority of Spanish rule. What is more, since no slave enjoys any right (*ius*) or *dominium*, save that which his master allots him, the Spanish need have no qualms about dispossessing the natives of their property.[24]

Vitoria was clearly aware of such an argument, and, in fact, tackles it straight away in the opening of his *De Indis*. There, the Salamancan anticipates the argument that Sepúlveda would later use in his debate against Bartolomé de las Casas at Valladolid, namely, that if anyone fits the bill of a natural slave as Aristotle describes in the *Politics*, it is surely the Amerindians who "appear to be little different from brute animals and are completely unfitted for government."[25] Vitoria's initial response consists in his pointing out the simple fact that the natives *were* in possession of their own property—both publicly and privately—before the arrival of the Spanish.[26] But how could they be in possession of property without being masters and thus enjoying the right (*ius*) of *dominium*? If the "barbarians" were not true masters, Vitoria argues, this could only be

22. ARISTOTLE, POLITICS, Bk. I, Ch. 2, *reprinted in* THE BASIC WORKS OF ARISTOTLE 1127, 1128 (Richard McKeon trans., 1941).

23. *Id.* Bk. I, Ch. 5, at 1132–33.

24. For more on Sepúlveda and "natural slavery," see PAUL S. VICKERY, BARTOLOMÉ DE LAS CASAS: GREAT PROPHET OF THE AMERICAS 14–15 (2006).

25. DE INDIS, *supra* note 4, Q. 1, Art. 1, at 239.

26. *Id.* at 240.

on account of four possible grounds: (1) they were sinners; (2) unbelievers; (3) madmen; or (4) insensate.[27]

As Vitoria's relection unfolds, he discounts each of these grounds as legitimate titles to Amerindian *dominium* and brings to bear his conviction that human nature retains a fundamental and abiding integrity unto itself. With respect to the first two possible grounds, Vitoria no doubt has squarely in mind the mounting Protestant accounts of the total depravity of human nature, wherein sin or disbelief, rendering the sinner an enemy of God, would result in the forfeit of one's right to *dominium*. Against such reasoning, Vitoria maintains the standard Catholic perspective on nature, namely, that while sin stains, weakens, and distorts nature, it does not destroy it any more than grace changes it into something entirely alien. Here, we recall Thomas Aquinas's claim, "[*G*]*ratia non tollat naturam*, *sed perficiat*."[28] Thus, despite his sin, man remains in the image of God, on account of which he is given dominion over the birds of the air, fish of the sea, etc. While sin distorts that image, it does not eradicate it entirely or destroy the *dominium* one has over his own rational powers, actions, and even control over his own body.[29]

With respect to the last two possible grounds, Vitoria insists that even "'madmen' (those who do not posses the use of reason) can suffer injustice (*iniuria*)" with the implication being that they enjoy rights, that is, *dominium*. Of course, Vitoria is sure to distinguish the *dominium* that follows from a "madman's" nature from *dominium ciuile* or the civil rights of ownership, leaving it to civil lawyers to determine whether the insane also enjoy the latter kind of right.[30] The point remains, however, even were the natives "mad" or insane—which Vitoria finds completely implausible given the order that existed within native society[31]—they would still be possessors of the *dominium* proper to their nature as human and thus could not be despoiled without just cause.

Truly for Vitoria, what is at issue is nothing less than the integrity of human nature, a rational nature on account of which, as Thomas Aquinas had argued following the Boethian tradition, each human enjoys personhood. If the natives are humans and thereby possess personhood, then the case for their own self-determination and the

---

27. *Id.*

28. *See* SUMMA THEOLOGICA, *supra* note 9, Pt. I, Q. 1, Art. 8 (author translates as "grace does not destroy nature but perfects it").

29. *See* DE INDIS, *supra* note 4, Q. 1, Art. 2, at 240–43.

30. *See id.* Q. 1, Art. 6, at 249–50.

31. *See id.*

rights to self-governance that follow therefrom can more readily be made. Aquinas affirms the traditional definition of the person as an "individual substance of a rational nature."[32] As he explains, a person is specifically a person because of his rational nature, which nature includes both intellect and will. Furthermore, it is precisely because of such a rational nature, Thomas Aquinas tells us, that man is considered the *imago Dei*.[33] What is more, Aquinas argues, persons, in virtue of their intellects and wills, are each a "master of his own actions";[34] but mastery (*dominium*) itself, as Vitoria sees it, implies a right.

According to Vitoria, then, neither the Spanish Crown nor the Papacy advanced just titles over Amerindian *dominium*. In fact, the only legitimate titles that justified aggressive actions against the natives were violations of the law of nations. According to the *ius gentium*, Vitoria tells us, persons have the right to "natural partnership and communication,"[35] which implies the right to travel, trade, prospect in unclaimed territories,[36] and the protection of the innocent from tyranny.[37] Also entailed in the law of nations, Vitoria argues, is the Christian's right to preach the Gospel peacefully[38] and protect converts to Christianity from being compelled to practice idolatry,[39] and the constitution of a Christian prince for native populations who had authentically converted to Christianity.[40] Here, we might briefly take note of the fact that if the Spanish were justified in intervening within the natives' affairs so as to protect sacrificial victims and curtail cannibalism, then this could only be on account of the dignity of the victims—natives themselves—whose dignity and rights were being violated and thus in need of defense. That is to say, the *ius gentium* itself recognizes the rights of *all* nations, native peoples included. Here, we see clearly emerging the picture of Vitoria as one of the principle architects of a new humanism. For Vitoria, Columbus' "discovery" of the New World was not just the encounter of new territories and resources, but the discovery of man

32. SUMMA THEOLOGICA, *supra* note 9, Pt. I, Q. 29, Art. 1.
33. *See id.* Pt. II-I, Prologue (author's translation).
34. *Id.* Pt. II-I, Q.21, Art. 3.
35. DE INDIS, *supra* note 4, Q. 3, Art. 1, at 278.
36. *See id.* at 279–84.
37. *See id.* Q. 3, Art. 5, at 287–88.
38. *See id.* Q. 3, Art. 2, at 284–86.
39. *See id.* Q. 3, Art. 3, at 286.
40. *See id.* Q. 3, Art. 4, at 287.

precisely as such. Marcelo Sánchez-Sorondo explains this discovery well when he writes:

> It was only with the discovery of America and the debate which it aroused in Europe that one became conscious of man as man, while before this the consciousness of man was presented as divided in diverse religious cultural forms; the Greek, the Roman, the European, the East Indian, the African, but man as man, the subject of universal salvation, did not exist.[41]

It is this new humanism that animates Vitoria's vision of rights that reach across borders and cultures, realizing his Christian understanding of man's unique and precious dignity grounded in his relation to God. It is the recognition of that dignity itself that fuels both Vitoria's defense of the natives and subsequent generations of Scholastics, most especially the Jesuit Francisco Suárez, who would further develop the *ius gentium* into a broader doctrine of international law.[42] But, for now, Vitoria's own words as captured in his letter to Miguel de Arcos and cited at the onset of this article are enough to conclude the matter:

> In truth . . . [the Indians] are men, and our neighbours . . . [.] I cannot see how to excuse these conquistadors of utter impiety and tyranny; nor can I see what great service they do to His Majesty by ruining his vassals. Even if I badly wanted the archbishopric of Toledo which is just now vacant and they offered it to me on condition that I signed or swore to the innocence of these Peruvian adventurers, I would certainly not dare do so. Sooner my tongue and hand wither than say or write a thing so inhuman, so alien to all Christian feeling![43]

41. Marcelo Sánchez-Sorondo, *Vitoria: The Original Philosopher of Rights*, *in* HISPANIC PHILOSOPHY IN THE AGE OF DISCOVERY 59, 60 (Kevin White ed., 1997).

42. *See generally* John P. Doyle, *Suárez on Preaching the Gospel to People Like the American Indians*, *in* COLLECTED STUDIES ON FRANCISCO SUÁREZ, S.J. (1548–1617), at 257, 257–313 (Victor Salas ed., 2010) (providing more information on Suárez and his development of Vitoria's account of the *ius gentium*).

43. Letter from Francisco de Vitoria, O.P. to Miguel de Arcos, O.P, *supra* note 3, at 333.