

Philosophy and Law in Renaissance Spain

Some historians use the fall of the Byzantine Empire in 1453 to signal the beginning of the European Renaissance; however, the radical changes in culture, art, society and education that characterize the European Renaissance did not occur simultaneously nor consistently throughout Europe, but rather gradually and sporadically. Moreover, the nature of the social, cultural, and intellectual developments varied from nation to nation. The Spanish Renaissance coincides roughly with the rise and fall of the Habsburg Dynasty, from Charles I in 1516 through Charles II in 1700. For our purposes, however, it would be more appropriate to draw the line for the inception of the Spanish Renaissance with the marriage of Queen Isabella of Castile to King Ferdinand of Aragón. The 1469 union of the “Catholic Monarchs”, as Pope Alexander VI called them for their defense of Catholic doctrine, marked the beginning of the end of the unification of Spain in 1492, the rise of Catholicism in Spain, and the commencement of the events that led to the discovery of the New World in 1492. The foregoing historical events were among some of the most influential on the philosophical and legal thought of the time. Much of the philosophical writings are characterized by their theological nature and the legal writings by their concern over the new geo-political situation of Spain as it related to the conquest of the New World.

The nature of the Spanish Renaissance was very different from that in other parts of Europe, particularly insofar as it affected philosophical, political, and legal thought.¹ This is not to say that Spanish philosophical and legal developments during this period did not contribute to the intellectual currents of the day and to the European Renaissance thinking in general; nothing could be further from the truth. For instance, the influence of the philosophical works of the Spanish Jesuit theologian-philosopher Francisco Suárez was widespread. His main philosophical work, published in 1597, *Metaphysical Disputations* (*Disputationes Metaphysicae*) went through

17 editions outside the Iberian Peninsula within the first 40 years of its publication. Suarez's *Metaphysical Disputations* became a standard text for philosophy in the Protestant universities of Germany.²

While the Protestant Reformation, the recovery of Greek classical thought, the rise of humanism, and the scientific revolutions began by Copernicus and Galileo were central positive events that fueled many of the intellectual perspectives throughout Europe and were part of the fabric interwoven into the philosophical movements of the time, in Spain this was not the case. Instead, it was Catholicism and everything it entailed, including a strong mystical tradition and the counter-reformation that promoted the religious culture and the intellectual movements in the major universities throughout Spain. As a consequence, Spanish philosophical and legal thought developed radically differently than in other countries such as England, Germany and France.³ In this essay, I will focus on the philosophical and legal ideas that developed as a result of Spanish Catholicism and Spanish expansionism.

1. PHILOSOPHY IN RENAISSANCE SPAIN

With the unification of Spain came the expulsion of Muslims and Jews and the integration of Catholic religious doctrine and thought. A major factor in this development was the influence of the Catholic religious orders of the time, namely the Augustinian, Dominican, and Jesuit orders. Moreover, Spain's political rise to power in the early 16th century provided the financial resources for new developments in Catholic thought in areas of philosophy and law. The center of Catholic philosophical and legal scholarly work was at the Theological Schools at the Universities of Salamanca, Valladolid, Segovia, Coimbra, and Alcalá. Here theologians created an intellectual environment that led to the development of an impressive body of philosophical writings, mostly on issues related to metaphysics, philosophy of religion, and

moral-political philosophy.⁴ The high volume, excellent quality, and scholastic nature of philosophical works produced during this time in Spain led later scholars to refer to this period as the “second scholasticism,” the first being the high point of all medieval philosophy in the 13th and 14th centuries, which culminated with Thomas Aquinas (1224/25-1275), Duns Scotus (1266-1308), and William of Ockham (1288-1347). It is impossible to present a complete and thorough account of the philosophical treatises written during this era; however, I provide an overview of some of the most prominent issues and philosophical movements that arose during this period focusing on the works of Domingo Bañez, O.P. (1528-1604), Luis Molina, S.J. (1535-1600), and Francisco Suárez, S.J. (1548-1617).

1.1 The Nature of Philosophy during the Spanish Renaissance

Given the nature of the political-religious dimension of the Spanish Renaissance and its strong Catholic agenda, philosophy was done primarily by theologians within Schools of Theology. As a consequence, philosophy never realized its freedom from theology and remained as it had been in the medieval period, a handmaiden to theology. Despite this subservient role, philosophy flourished in regards to its rigor, historical breadth, and quality. Moreover, a prevalent school of thought within the Catholic tradition maintained that the discipline of theology depended on philosophy, and to be a good theologian one first had to be well versed in the discipline of philosophy.

The scholastic style of philosophy practiced by the Spanish theologian-philosophers of the Spanish Renaissance produced two different kinds of works: (1) commentaries and (2) disputations. Commentaries consist of critical elucidation and reinterpretation of both classical pagan authors’ texts -- such as Aristotle’s *Metaphysics*, *Nicomachaen Ethics* and *Politics*, and of authoritative Catholic authors’ texts – such as Thomas Aquinas’ *Summa Theologiae*.

Disputations consist of long systematic writings on important philosophical issues relevant to Catholic doctrine, usually presented in the form of questions followed by a set of arguments supporting one position on the issue, objections to those arguments, and replies to these objections. Disputations could be about any matter whatsoever, even articles of faith such as “On the Incarnation of Our Lord”⁵. Disputations had two purposes: (1) to resolve a philosophical issue and to produce an answer supported by and coherent with Catholic teaching; and (2) to explain further the meaning of religious dogmas and to gain a deeper understanding of their relevance to everyday life. In what follows, I discuss two of the most important and relevant philosophical issues of the time, providing insight into the kind of scholastic philosophical work produced during the Spanish Renaissance: (1) the question of God’s foreknowledge and human freedom; and (2) the nature and object of the science of metaphysics, the central branch of philosophy.

1.2 On God’s Foreknowledge and Human Free Will

One of the most important philosophical disputes of the 16th and 17th centuries arose between the Dominican Friar Domingo Bañez, O.P. (1528-1604) and the Jesuit Luis Molina, S.J. (1535-1600), after the latter’s publication of *The Compatibility of Free Choice with the Gifts of Grace, Divine Knowledge, Providence, Predestination and Reprobation* (*Concordia Liberii Arbitrii cum Gratia Donis, Divina Praescientia, Providencia, Providentia, Pradestinatione et Reprobatione*) in 1588.⁶ Molina disputes a perennial philosophical question concerning the relationship between God’s omniscience and human free will.⁷ He resolves the issue in a way that contradicted the Thomistic and Catholic orthodox interpretation of the time.⁸

Catholic theologians accepted the philosophical definition of God as an immaterial, omnipotent, omniscient, and morally perfect being. Moreover, they rejected the doctrine of

double truth that proposed that there is one truth of faith and another of reason. Therefore, propositions accepted on faith had to be consistent with reason. If there was an apparent contradiction between a Catholic dogma and reason, then the philosopher's task was to attempt to reconcile these apparently contradictory truths in a way that would salvage the core religious beliefs and the set of Catholic doctrines of which it was a part.

God's knowledge is perfect in breadth and in certainty; in other words, God knows all things that are true, and it is impossible for God to be mistaken. When theologian-philosophers examined the idea of God's knowledge as all-knowing and perfect, a difficulty concerning human free actions emerged. God's foreknowledge seems to be logically inconsistent with human actions that are performed freely. If one is truly free to perform a given action, then the decision to perform this action cannot be *necessarily* determined by any prior events, and the decision remains contingent on a person's autonomous free will.⁹ However, if God knows today (or from eternity) what someone will freely choose tomorrow, then it seems that this person's decision is already determined. For instance, if God knows today (or from eternity) that 'John will choose a veggie-burger over a hamburger tomorrow,' and God's knowledge of this cannot be false, then it is impossible for John to choose a hamburger instead of a veggie-burger tomorrow. But if John must choose a veggie-burger tomorrow, then John's choice seems to lack freedom in an essential way.

Following Thomas Aquinas, Bañez resolves this apparent contradiction without having to modify the attributes of God and without having to reject the idea of human free will. He holds that God's knowledge should be understood from two separate perspectives: (1) before creation ("natural knowledge") and (2) after creation ("free knowledge").¹⁰ Before God created the universe, God had knowledge of all the possibilities, including the ones that God would and

would not actualize. However, this knowledge was of ideas and of pure potentiality since nothing had yet been created. After creation God had knowledge of the created world in two forms: (A) through a thing's causes, and (B) through the thing itself. For example, knowing a thing *through its causes* is knowing that 'John will get well because he has taken his medicine,' and knowing a thing through *the thing itself* is knowing that 'John will get well because I have seen John recover and in a healthy state'. Bañez refers to (B) as "knowing through vision". He argues that all of God's knowledge of the actual world after creation - past, present and future - is knowledge through vision and through its causes.

Bañez reconciles God's infallible foreknowledge with human freedom by placing God outside of time so that God's knowing is not subject to the temporal stages of human knowing. As a consequence, God can have an eternal vision of all truths (past, present, and future) from one eternal temporal perspective. This view is the standard Augustinian and Thomistic view of reconciling human free will with God's foreknowledge.

Molina rejects this view. He claims that if God knows from eternity a human contingent action, then the contingent action in question must exist throughout all eternity. But if the act is contingent on human action, then it must begin to exist in time, specifically when the human decision to perform the action takes place (i.e., the moment it is actualized). It seems puzzling that one and the same particular contingent action can exist both in eternity and in time. If it exists in eternity, it would necessarily have to exist in time. But if it exists necessarily in time, then it cannot be contingent. Similarly, if we say that the action in question was performed in the way it was performed from all eternity, then it is not possible that it could be performed differently in time; hence, the agent performing the action cannot be said to be acting freely. Molina explains:

But if this was the claim being made by Boethius, St. Thomas, and the others who affirm on this basis that God knows future contingents with certainty, then I must confess that I do not understand it, nor do I think that there is any way in which it can be true. ...For even though at the moment of time when this proposition is uttered the things that are still future would not yet exist in time, nonetheless at the very moment of time they would exist in eternity by virtue of an anticipated existence by which things seem to exist in eternity before they come to exist in time. Yet, though many seem to concede this and are accustomed to using this manner of speaking, I did not concede this in the preceding disputation, nor do I believe it.¹¹

Molina offers a solution different from the traditionally accepted Thomistic solution, causing controversy within the Church. Molina introduces a third way to understand God's way of knowing. If you recall, God knows the world before creation, "natural knowledge," and after creation, "free knowledge".¹² The former entails God's knowledge of all the possibilities before God makes any determination about creation; this form of knowing includes all contingent and necessary possibilities. The latter is God's way of knowing the world after God has created the world; in this way, God knows all the things and states of affairs that exist. Molina posits a third way of God's knowing that lies in-between natural and free knowledge; he refers to this to this form of knowing as middle knowledge (*scientia media*).

God's middle knowledge has characteristics of natural and free knowledge. On the one hand, it is like free knowledge in that it is restricted to the world God has determined through God's free action of creation. On the other hand, it is similar to natural knowledge in that it includes a realm of purely possible states of affairs that are existentially undetermined. Molina holds that God knows how any human being would act within any possible set of circumstances,

whether or not such circumstances ever come to pass. Of course, some will come to pass and humans will respond in particular ways given any set of circumstances. These responsive actions are actualized through free will; however, there are an infinite number of other possible scenarios that never materialize but could have. These are future *counterfactuals* of human free will.

Molina holds that God knows what John would choose tomorrow, if John were presented with the option of choosing between a veggie-burger and a hamburger, *even if john is never presented with such an option*. However, God does not know John's actions from all eternity in the way that the traditional view holds. In the case of future counterfactuals of freedom, the proposition in question refers to an event that depends entirely on a person's free choice *but* the event in question will never be actualized, hence it is a *counterfactual*. These actions never come to pass and are not part of the future and so cannot be part of God's eternal vision of past, present, and future. It remains outside of the realm of actualized reality; thus God cannot know it simply through God's vision of the future. Unlike natural events that could have deterministic qualities, future counterfactuals of freedom cannot because they are wholly dependent on the autonomous decision of a free agent. Therefore, God cannot know them through their causes either. God's knowledge of them is only hypothetical, and, in this sense, it resembles God's natural knowledge.

1.3 On The Nature of Metaphysics

Francisco Suárez's¹³ *Metaphysical Disputation*¹⁴ published in 1597, is one of the most complete and systematic works on philosophy written during the Spanish Renaissance. The *Disputations* provided a comprehensive philosophical treatise that covered the entire subject matter of metaphysics, independent of theology. The work contains 54 *Disputations* in two

volumes.¹⁵ The first 11 disputations focus on the nature of the object of study of metaphysics - being *qua* being - and its properties: truth, unity and good. Disputations 12 through 26 are devoted to the discussions of the causes of being: efficient, final, material, and formal causes. With this, Suárez completes the first of two volumes of the *Metaphysical Disputations*.

In the second volume, Suárez elucidates the three different kinds of beings: finite independent being (i.e., humans and other natural beings), infinite being (i.e., God), and dependent beings or accidents (i.e., quantity, quality, relation, action, passion, time, place, position, and having). He concludes, in disputation 54, with an analysis of the nature of beings of reason.

While the *Disputations* is unique in that it provides a complete and systematic treatment of philosophy and presents original philosophical positions, its overall style and content represents well the nature of the kind of philosophical work that took place during the Spanish Renaissance period. Indeed, we might say this work represents the culmination of philosophy during this period known as the second scholasticism. It effectively combines the two scholastic elements of commentaries and disputations. First, as a commentary it provides an interpretation of historical views that includes 245 different philosophers and theologians and contains a total of 7,709 citations.¹⁶ Second, as a disputation it presents and defends philosophical positions on almost every philosophical subject matter pertaining to the science of metaphysics. Metaphysics was considered the heart of philosophy and as a consequence it seems appropriate to present a brief view of the nature of the science and of the kind of object it investigates.¹⁷

There are six elements Suárez attributes to the science of metaphysics: (1) it is a theoretical science; (2) it investigates ultimate questions; (3) it excludes the use of faith or scripture in its methodology; (4) it is the foundation of all sciences; (5) it is a perfect science; and (6) it is

an *a priori* science. First, the goal of metaphysics is the contemplation of truth in and of itself.¹⁸ Therefore, insofar as its goal is truth itself and not some other end, we say it is a purely theoretical and not a practical science. Second, it investigates first causes and ultimate purposes; that is, it attempts to answer questions concerning the origin and meaning of the universe and all the things it encompasses. Third, it conducts its investigation through the “natural light of human reason” and *not* through scripture or faith. Fourth, metaphysics is the foundation of all the other sciences because its object of study and related principles are the most abstract and general and cannot pertain to any particular science, yet they are principles upon which all other science depend.¹⁹ Finally, metaphysics is a perfect and *a priori* science.²⁰ It is perfect insofar as it is complete and lacks nothing,²¹ and it is *a priori* in that the conclusions are necessary and known through reason alone. While this begins to provide some idea of what is entailed in the study of metaphysics, a more complete picture can be drawn if we understand its object of study.²²

Suárez argues that the appropriate object of metaphysics is “being (*ens*) insofar as real being (*ens reale*).”²³ Real being entails all independent particular beings, including infinite beings, immaterial beings, finite beings, material beings, and dependent beings. However, the object of metaphysics is not any one of these particular beings; instead, it is what all of these have in common. Therefore, the object of metaphysics must be the most universal and abstract concept; it must be the common denominator of all real entities. What do all beings have in common? There are two possible answers to this question: first, that they exist (*esse*) and second that they are beings (*ens*).

Suárez defends the latter notion as the proper object of metaphysics and philosophy. He contends that non-existent possible beings should be considered a part of reality along with existent actual beings. He distinguishes among (1) existent beings, (2) possible non-existent

beings, and (3) impossible beings or beings of reason. Possible beings are beings that could have existed, that God could have created but did not. He explains these possible beings as follows: “The essence of a creature, or the creature of itself, and before it is made by God, has in itself no true real being and in this precise sense of existential being, the essence is not some reality, but it is absolutely nothing.”²⁴ Suárez argues that the possible beings are distinct from impossible beings insofar as they are capable of existing; hence, they are real possible beings. He says in reference to these beings, “the nature is called creatable or possible, inasmuch as in itself it is real and apt for existing.”²⁵ He further elaborates on the distinction between possible and impossible beings as follows:

Capreolus so explains this essential being [an essence before it is created enjoying essential being but not actual being] that, on the part of the creature, before it be produced by God, he does not judge it to be some true thing distinct from God which would be absolutely beyond nothing, but that, on the part of the creature, he would say that there is a certain aptitude or, rather, non-repugnance to being produced by God in such a being. For in this lies the distinction of creatures’ essences from imagined and impossible things such as a chimera. In this sense, creatures are said to have real essences even though they do not exist; however, they are said to possess real essences, not in act but in potency, not by an intrinsic potency but by an extrinsic one by the creator.²⁶

Some essences therefore are objects of the intellect of God but do not exist. The difference between these essences and impossible beings (i.e., beings of reason) is that the former can be created by God and can exist whereas the latter cannot. Therefore, real beings include existent beings and non-existent possible beings.

The study of metaphysics is the study of real being, which is the most general and abstract dimension of reality. The study of real being entails the study of real being's properties: unity, truth, and the good; the study of real being's causes: efficient cause, formal cause, material cause, and final cause; the study of the different kinds of real beings: infinite being; immaterial being; material being; finite being as substance; and, finally, the study of real being as accidents: quantity, quality, relation, action, passion, time, place, position, and having. The study of real being is the study of the entire structure of all of reality.

2. LAW IN RENAISSANCE SPAIN

Spanish expansionism and the conquest of the New World, which began in 1492 with Christopher Columbus on the island of Hispaniola (current day Haiti and Dominican Republic), raised many new political and international issues concerning the rights and obligations of sovereign nations. Some of the most prominent legal and international issues Spain had to deal with during the 16th century regarded property rights, religious freedom, and just war theory.

Specifically, the Spanish were concerned with the right to property in the New World, the right to engage in war with the native Indians, and the right to rule over them on civil, temporal, and religious matters. These practical concerns and realities raised the need for Spanish theologian-philosophers to engage in theoretical studies on the nature of law; the different kinds of laws; the function of law in society and in the world; the relationship between law and the common good; and the relationship among eternal law, natural law, and human laws. Moreover, there were theoretical concerns about just war theory, including but not limited to the following: Under whose authority may war be declared or waged? What are the possible reasons and causes of just war? What and how much may be done in a just war? Whether subjects are required to examine the causes of war? What is to be done when justice of war is undecided? In addition to

these more theoretical concerns, they also addressed the concrete realities concerning Spain's rights and obligations vis-à-vis the American Indians. The Dominican friars Francisco de Vitoria, O.P. (1485-1546) and Bartolomé de las Casas, O.P. (1484-1566) were at the forefront of these issues. While las Casas was more of an activist who went and lived among the Indians, Vitoria was more of a theorist who never visited the New World. However, Vitoria was the first and main Spanish figure responsible for establishing new theoretical ground on these legal issues; therefore, in this essay, I will focus on his work.²⁷

In 1526 Vitoria was elected to the Prime Chair of Theology at the University of Salamanca, and he retained this position for twenty years until his death in 1546. Vitoria never published anything during his lifetime, and his works disseminated from lecture notes of his students at Salamanca. These works were of two kinds: (1) commentaries and lectures on Thomas Aquinas's *Summa Theologiae* and (2) *relectiones* or re-readings, which consisted of investigations of particular contemporary social, moral, political, or economic issues of the time. Some of his most important and significant *relectiones* were *On Civil Power*, *On Law*, *On The American Indians*, and *On the Law of War*.²⁸ Below I expound Vitoria's theory as he dictated it to his students during his lectures.

In *On Civil Power*, Vitoria makes a case for the inherent sovereign authority of the native American Indians. Following Aristotle, he argues that human beings are by nature political animals, and thus communities, cities, and commonwealths are a natural evolutionary product of human life. This is true according to natural law and is necessary for the survival of our species. As a result, communities enjoy an inherent sovereignty that provides the foundation and justification for a *prima facie* right to exist and a *prima facie* right to control their own political affairs. This right includes the right not to be interfered with by foreign nations. This view has

interesting consequences for the Spanish treatment of the American Indian nations. First, it determines that Spain has no legitimate justification over the lands of the American Indians or over their political affairs; second, that Spain should acknowledge and respect the American Indian nations' sovereignty and authority as legitimate commonwealths with the right to exist and with power to govern over themselves.²⁹

In *On the American Indians*, Vitoria addresses the specific concerns of the rights of the American Indians in more detail. He presents the issues to be resolved as follows: (1) What right have the Spanish to rule the Indians? (2) What powers does the Spanish monarchy have over the Indians on civil and temporal matters? and (3) What powers does the Spanish monarchy or the Church have over the Indians in religious matters?³⁰ Vitoria holds that the Indians possessed legal dominion over their properties and political affairs before the Spanish arrived. Moreover, he argues that the Indians' sinful state of being, lack of religious faith, and rejection of the Catholic religion are not sufficient ground upon which to justify any form of Spanish intervention into Indian affairs.³¹ In essence, Vitoria condemns Spanish unjustified confiscation of Indian property, unjustified intervention into Indian civil matters, and coercive religious conversions and baptisms.

In addition, Vitoria argues that the Spanish Emperor cannot justify his power or authority over the Indians on civil and temporal matters. He maintains that the Spanish do not have good justification to override Indians' natural rights of self-government, property, and freedom. Vitoria also maintains that the Spanish Emperor has no jurisdiction over the Indians or over the Indians' properties. Even if the Spanish Emperor claims to be acting on behalf of the Supreme Pontiff, this would not improve the argument against the Indians, because the Pope's authority is restricted and limited to spiritual matters and does not extend over civil affairs. Vitoria also holds

that these lands were not idle when the Spaniards arrived; instead they were legally inhabited and occupied by the Indians.

The argument that the Indians voluntarily submitted themselves to the authority of the Spanish, an unlikely scenario to say the least, is also fraught with difficulties. On the one hand, Vitoria points out that a decision to submit oneself to another's rule must meet a number of conditions for it to be legally valid and enforceable. For instance, the Indians must have full knowledge of the circumstances and consequences of their submission (e.g., the rights they are renouncing and conditions under which they are doing so). The decision to submit must be genuinely voluntary and not made under duress or motivated by fear. Finally, the submission would have to be carried out within the laws and procedures of the Indians, and a submission undertaken solely by Indian rulers might not have sufficient authority over all the subjects of the kingdom.³²

In *On The Law of War*, Vitoria discusses the rights of nations to go to war and to rule over other nations. He also examines what kinds of actions are morally permissible in war. Here I will briefly summarize his view of what constitutes a just war. There are three moral justifications for war: (1) self-defense, (2) defense of a nation's legitimate rights as sanctioned by the law of nations (*ius gentium*), and (3) defense of the legitimate rights of allied nations.³³

Vitoria claims that the sole purpose of all war should be the advancement and fulfillment of security and peace.³⁴ With this in mind, he argues that it is lawful "to resist force with force,"³⁵ and therefore any nation has a lawful right to defend itself if it is attacked and if its stability, peace, and security are compromised. As a consequence, if the Spanish are attacked by the American Indians in the New World, they have a right to defend themselves and enter into war with the Indians. Therefore, if a sovereign nation threatens the safety and peace of another

sovereign nation, the latter has a lawful right to secure their safety and peace through the use of force.

In addition to defensive wars, Vitoria also argues that offensive wars can be justified as well. In the pursuit of justice, peace, and security, one nation may justify an offensive war as punishment for a past wrong, as vengeance for past injury, and as deterrence from future injustices. He says, “[A] further proof concerning offensive war is that even defensive war could not conveniently be waged unless there were also vengeance inflicted on the enemy for the injury they have done, or tried to do. Otherwise, without the fear of punishment to deter them from injustice, the enemy would simply grow bold about invading a second time.”³⁶ It is important to remember that an offensive war presupposes a past harm or injury, and Vitoria stresses that “the sole and only cause for waging war is when harm has been inflicted.”³⁷ In both defensive and offensive wars, Victoria qualifies the use of force by adding that the amount and severity of force used ought to be measured and constrained; and should not exceed what is considered proportional to the force required for self-defense, punishment, or deterrence in the particular circumstances.

Vitoria argues that commonwealths have rights derived from natural law just as individuals have natural rights. The violation of these rights commits an injustice. A commonwealth therefore is morally permitted to defend its power to exercise its basic natural rights. Vitoria argues that nations have a *prima facie* right to travel in and through another country’s territory, to carry on trade with other nations, and to use public land, such as rivers and roads, even if they are within a foreign nation. For instance, if the Spanish have a right to travel and trade within a foreign nation, then they must also have a right to use certain territories, such as roads and rivers, in that land. Vitoria also holds that the Spanish have the right to preach the

gospel in an honest and non-coercive manner. He reasons that if a nation is denied any of its basic rights without good justification, then they have a legitimate claim to defend them. Moreover, as a last resort, when a nation has exhausted all other possible diplomatic avenues, it has the option of using force and thus entering into war to defend its legitimate rights.

Vitoria also holds that a commonwealth could justify war against another commonwealth, if the latter's ruler is a tyrant and his treatment of his subjects is excessively cruel, brutal, and oppressive. He argues that in order to protect innocent human beings a foreign nation can intervene to depose an oppressive authority and ruler and set up a new government in its place. Moreover, in cases where the majority of the subjects of a commonwealth are against its ruler, a foreign nation might have justification to intervene to protect and defend the will of the masses. For instance, Vitoria argues that if there is a free election in which the majority of the Indians elect the Spanish Emperor as their ruler, then the Spanish can intervene to depose the standing ruling body and govern the Indians legitimately.

Finally, Vitoria argues that the security and peace of the entire world requires that nations have international authority to secure world justice and peace. Therefore, if one nation enters into a just war with another nation and its struggle is properly based on self-defense, it can call upon another nation to help it in its war effort. Similarly, if one nation is unjustly attacked, other nations can justifiably enter into war to protect and defend it against unjustified aggression. Vitoria explains:

The world could not exist unless some men had the power and authority to deter the wicked by force from doing harm to the good and the innocent. Yet those things which are necessary for the governance and conservation of world belong to natural law. What other argument than this can we use to prove that the commonwealth has the authority in

natural law to punish those of its own members who are intent in harming it with execution or other penalties? If the commonwealth has these powers against its own members, there can be no doubt that the whole world [a united nations] has the same powers against any harmful and evil men.

Thus, in the case of Spain, it is possible that it could enter into a just war in the New World if it does so in defense of an Indian community that has been unjustly attacked by another Indian community.

The Spanish discovery of the New World raised international political issues that were without precedent. Vitoria's critical study and response to these issues set the foundation not only for a Spanish school of international law but also for the eventual development of modern international law and just war theory. Vitoria concluded his lecture with three canons of just war theory: first, those with the power to wage war "should strive above all to avoid provocations and causes of war"³⁸; second, if a just war cannot be avoided the purpose should never be the destruction of one's enemy but rather self-defense and a just resolution; and third, after the war, the victorious nation should treat the defeated nation with moderation and humility; it should act as an impartial judge and not as a prosecutor.

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NOTES

¹ For histories on philosophy and law during the Spanish Renaissance see José Luis Abellán, *Historia Crítica del Pensamiento Español: La Edad de Oro (Siglo XVI)* (Madrid: 1979); Paul

Oskar Kristeller, *Renaissance Thought and Its Sources* (New York: 1979); Kristeller, *Renaissance Thought: The Classic, Scholastic, and Humanistic Strains* (New York: 1961); Carlos G. Noreña, *Studies in Spanish Renaissance Thought* (The Hague: 1975); Charles B. Schmitt et al, eds. *The Cambridge History of Renaissance Philosophy* (Cambridge: 1988); Antonio Truyol Y Serra, *Historia de la filosofía del derecho y del estado: Del renacimiento a Kant* (Madrid: 2007); Kevin White, ed. *Hispanic Philosophy in the Age of Discovery*, Washington, DC: 1997).

² J. Iriarte, “La proyección sobre Europa de una gran metafísica, o Suárez en la filosofía en los días del Barroco,” *Razon y Fe, número extraordinario* (1948): 229-265.

³ Jose Luis Abellan, *Historia Critica Del Pensamiento Espanol: La Edad de Oro (Siglo XVI)*, Tomo II, (Madrid: 1986).

⁴ Here is a short list of some of the most prominent theologian-philosophers of the era: Martín de Azpilcueta (1491-1586), Francisco de Vitoria O.P. (1492-1546), Domingo de Soto O.P. (1494-1560), Alfonso de Castro (1495-1558), Melchior Cano O.P. (1509-1560), Bartolomé de Medina O.P. (1527-1580), Pedro de Fonseca S.J. (1528-1599), Domingo Bañez O.P. (1528-1604), Francisco de Toledo S.J. (1532-1596), Benito Pereiro, S.J. (1535-1610), Luis de Molina S.J. (1535-1600), Francisco Suárez S.J. (1548-1617), Gregorio de Valencia S.J. (1549-1602), Gabriel Vázquez S.J. (1549-1604), and Juan Martínez de Ripalda S.J. (1594-1648).

⁵ Cf. Francisco Vitoria, in *On the American Indians*, in *Francisco De Vitoria Political Writings*, edited by Anthony Pagden and Jeremy Lawrance (Cambridge: 1991), 238.

⁶ Luis de Molina, *On Divine Foreknowledge* (Part IV of the *Concordia*), trans. Alfredo J. Freddoso (Ithaca: 1988).

⁷ Cf. Lane Craig, *The Problem of Divine Foreknowledge and Future Contingents from Aristotle to Suárez* (Leiden: 1988); Mirko Skarica, “The Problem of God’s Foreknowledge and Human Free Action in Spanish Philosophy,” *Hispanic Philosophy in the Age of Discovery*, ed. Kevin White (Washington DC: 1997).

⁸ Cf. Aquinas, *Summa Theologiae*, Pt.1 Q. 14, A. 13.

⁹ Molina observes that this kind of necessity rules out both necessity of a thing’s nature and fatalistic extrinsic necessity. Molina, *On Devine Foreknowledge*, 86.

¹⁰ Cf. Skarica for more thorough explanation of Bañez’s view.

¹¹ Cf. Molina, *On Divine Foreknowledge*, 123.

¹² Cf. Molina, *On Divine Foreknowledge*, 168ff.

¹³ Suárez was born on January 5, 1548 in Granada, Spain. He came from a prestigious family in Granada. At the early age of thirteen, Suárez left for the University of Salamanca to study Canon Law. After three years at Salamanca, he entered the Novitiate of the Jesuits. He began a teaching career that would last over fifty years. Suárez traveled and taught at the most prestigious institutions of his time: Segovia (1572 and 1575), Valladolid (1574 and 1575), Avila (1575), Rome (1580-1585), Alcalá (1585), Salamanca (1593), and Coimbra (1597-1616). Suárez died in Lisbon on 25 September 1617. He was 70 years of age. For a biography of Suárez see Joseph H. Fichter, S.J., *Man of Spain: Francis Suárez* (New York: 1940); R. De Scorraile, S.J., *Srancois Suarez de la Compangnie de Jesús* (Paris: 1911); Carlos Noreña, “Suárez and the Jesuits,” *The American Catholic Quarterly* 65 (1991): 267-266; and Jorge J.E. Gracia, “Francisco Suárez: The Man in History,” *American Catholic Philosophical Quarterly* 65 (1991): 259-266.

¹⁴ All references of Suárez’s work will be from English translations when available, and when not available from *Disputationes Metaphysicae in Opera Omnia* ed. Vives (Paris: 1856-77) vols

25-26. In addition to the English translation I will provide the Latin text in the notes. For a Spanish translation see *Disputacione Metafisica*, vols 1-7, trans. Sergio Rabade Romero, Salvador Caballero Sanchez and Antonio Puigcerver Zanon (Madrid: 1960).

¹⁵ The following disputations have been translated into English: 5, 6, 7, 10, 11, 15, 17, 18, 19, 31, and 54): *Individual Unity and its Principle* (disp. 5), translated with an introduction by Jorge J. E. Gracia, (Milwaukee: 1982); *On Formal and Universal Unity* (disp. 6) translated by James F. Ross, (Milwaukee: 1964); and *On the Various Kinds of Distinction* (disp. 7), *Concerning Transcendental Good or Goodness*, (disps 10-11), translated with an introduction by Jorge J.E. Gracia and Douglas Davis, (Munche: 1989); *On the Formal Cause of Substance* (disp. 15), translated by John Kronen & Jeremiah Reedy, (Milwaukee: 2000); *On Efficient Causality* (disp. 17, 18, and 19), translated with an introduction by Alfred J. Freddoso, (New Haven: 1994); *On The Essence Of Finite Being As Such, On The Existence Of That Essence And Their Distinction* (disp. 31), translated with an introduction by Norman J. Wells (Milwaukee: 1983); translated by Cyril Vollert, (Milwaukee: 1947); *On Beings of Reason* (disp. 54), translated with an introduction by John P. Doyle, (Milwaukee: 1995)

¹⁶ Cf. Iturrioz, Jesus. S.J. “Fuentes de la Metafisica de Suarez” *Pensamiento* 4 (1948) 37.

¹⁷ For an excellent and concise explanation of Suárez’s conception of metaphysics see Jorge Gracia, “Suárez’s Conception of Metaphysics: A Step in the Direction of and Mentalism?” *American Catholic Quarterly* 67 (1991): 287-309.

¹⁸ “*finem huius scientiae esse veritatis contemplationem propter seipsam.*” Suárez, *Disputationes Metaphysicae*, disp. 1, sec. 4, no 2, vol. 25, 26.

¹⁹ “*Sunt enim duplicia principia scientiarum , ut in eodem libro docet, cap. 8: quaedam propria, quae in unaquaque scientia declarantur; alia communia multis, vel potius omnibus scientiis,*

*quia omnes illis utuntur, ut res subjecta postulat, et quatenus ab eis caetera particularia principia pendent, ut ibidem Philosophus ait, et libro 4 Metaph., text 7. Cum ergo omnes scientiae ab his principiis maxime pendeant, necesse est ut per hanc scientiam maxime perficiantur; quia, ut supra dictum est, horum principiorum cognitio et contemplatio ad nullam specialem scientiam pertinere potest, cum ex abstractissimis et universalissimis terminis constet. Sic igitur est haec scientia ad aliarum consecutionem et perfectionem valde utilis.” Suárez, *Disputationes Metaphysicae*, disp. 1, sec. 4, no 5, vol. 25, 27. See also, “*Ex quo tandem appellata est haec scientia, aliarum princeps et domina*, 6 Metaph., c. 1, et l. 11, c. 6, *quod dignitate antecellat, et omnium principia aliquo modo stabiliat et confirmet.*” Suárez, *Disputationes Metaphysicae*, disp. 1, vol. 25, 2.*

²⁰ “*metaphysicam esse vere ac prorie scientiam, ... si sit scientia perfecta et a priori.*” Suárez, *Disputationes Metaphysicae*, disp. 1, sec. 3, vol. 25, 22. Cf. Jorge Gracia, “Metaphysics and Mentalism,” 289.

²¹ Gracia, “Metaphysics and Mentalism,” 289.

²² “*Solent enim a sapientibus unicuique rei nomini imponi, spectata prius cujusque natura et dignitate, ut Plato in Cratilo docuit; uniuscujusque autem scientiae natura et dignitas ex objecto potissimum pendet, et ideo primum omnium inquirendum nobis est hujus doctrinae objectum, seu subjectum.*” Suárez, *Disputationes Metaphysicae*, disp. 1, vol. 25, 2.

²³ “*Dicendum est ergo, end in quantum ens reale esse objectum hujus scientiae.*” Suárez, *Disputationes Metaphysicae*, vol. 25, 11.

²⁴ Trans. Norman J. Wells, *On The Essence Of Finite Being As Such, On The Existence Of That Essence And Their Distinction* (disp. 31), (Milwaukee: 1983). [*seu creaturam de se et priusquam a Deo fiat, nullum habere in se verum esse reale, et in hoc sensu, praeciso esse existentiae,*

essentiam non esse rem aliquam, sed omnino esse nihil. Hoc principium non solum verum est, sed etiam certum secundum fidem. Suárez, *Disputationes Metaphysicae*, vol. 26, 226].

²⁵ John P. Doyle, *On Beings of Reason* (Milwaukee: 1995) 63. [*Dicitur tamen illa natura creabilis vel possibilis, quatenus secundum se realis est et apta ad existendum.*” Suárez, *Disputationes Metaphysicae*, vol. 26, 232]

²⁶ Doyle, *On Beings of Reason*, 58. [*Hoc vero esse essentiae ita postea Capreolus declarat, ut ex parte creaturae, antequam a Deo producat, non existimet esse aliquam veram rem distinctam a Deo, quae sit simpliciter extra nihil, sed ut ex parte creaturae dicat quamdam aptitudinem, seu potius non repugnantiam, ut in tali esse a Deo producat; in hoc enim distinguuntur essentiae creaturarum a rebus fictiis et impossilibus ut chymera, et hoc sensu dicuntur creaturae habere reales essentias, etiamsi non existant; dicuntur autem habere, non actu, sed potestate, non per potentiam intrinsecam, sed extrinsecam creatoris.* Suárez, *Disputationes Metaphysicae*, vol. 26, 229].

²⁷ For a biography of Francisco de Vitoria see L.G. Alonso Getino, *El Maestro Francisco de Vitoria y el Renacimiento filosófico-teológico de siglo XVI* (Madrid: 1914).

²⁸ All three works can be found in *Francisco De Vitoria Political Writings*, eds. Anthony Pagden and Jeremy Lawrence (Cambridge: 1991).

²⁹ Vitoria, *On Civil Power*, 1-44. (Title: Relection of the Very Reverend Father Fr. Francisco De Vitoria *On Civil Power* Delivered in Salamanca, A.D. 1528).

³⁰ Vitoria, *On The American Indians*, 233-292 (Title: Relection of the Very Reverend Father Friar Francisco De Vitoria, Master of Theology and Most Worthy Prime Professor at the University of Salamanca. Delivered in Said University, A.D. 1539)

³¹ Vitoria, *On The American Indians*, 233-248 (Q.1, A. 6). Cf. 271 (Q. 2, A. 4).

³² Vitoria, *On The American Indians*, 251-277 (Q. 2, A.7)

³³ Vitoria, *On The Law of War*, pp. 296-328 (Title: Relection of the learned Master Friar Francisco De Vitoria *On The Law of War* Delivered by him at Salamanca, A.D. 1539)

³⁴ Vitoria, *On The Law of War*, 298 (Q. 1, A. 1).

³⁵ Vitoria, *On The Law of War*, 297 (Q. 1, A. 1).

³⁶ Vitoria, *On The Law of War*, 298 (Q. 1, A. 1).

³⁷ Vitoria, *On The Law of War*, 303 (Q. 1, A. 3).

³⁸ Vitoria, *On The Law of War*, 327.