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Human Rights and Academic Discourse: Teaching the Las Casas-Sepúlveda Debate at the Time of the Iraq War

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The issue of human rights is above any political system and government; it is at the core of human society because it gives meaning to the concept of “human being” at its deepest dimension. Human rights place the individual at the center stage of thought and action—beyond politics, culture and economics—and condemn as intrinsically immoral any expression of discrimination or exclusion based on nationality, race, ethnicity, religion, gender, and sexual preference. It is imperative that we preserve the debate on human rights in our societies as the means to develop the full potential and integrity of every individual. However, the question remains as to how we can inscribe the State and its citizens and non-citizens alike within this framework of mutual respect, where individuals are protected from the excesses of the State (Weissbrodt 15–26). Obviously there continues to be a gap between the ideals proclaimed, the objectives declared, and reality itself. I agree with Hernán Vidal who lucidly states that “the last utopia of Modernity is the human rights movement [. . .] the defense of human rights should be the political referent for Latin American cultural and literary studies” (11). It is precisely within the university where human rights issues can be discussed and debated. And it is in our role as professors that we can promote among our students an academic culture based on the human values of solidarity and mutual respect.

On November 19, 1974, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) promulgated a legal document of international scope, where the general guidelines concerning human rights were outlined for educational institutions. The guiding principles of this Declaration (the UNESCO Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms, 1974), place education at the center of the human rights program. According to UNESCO, the educational policy regarding human rights should follow a global and multicultural perspective that aims to develop a sense of respect, solidarity, and cooperation between peoples and countries. From my

perspective, the central tenet of the declaration is the repudiation of war as a solution to international conflicts that arise among nations. The declaration establishes that peaceful mentality is the main component of the human rights education program, and the best protection against all forms of aggressive behavior among States.

In this context, we must explore the role of professors in the teaching of human rights in the classroom. The first question that must be raised is whether or not we may limit ourselves to a descriptive teaching of human rights. In agreement with Douzinas, I believe that if our duty is to educate, a descriptive approach is not appropriate (177–97). On the contrary, as professors we should neither assume an impartial position concerning human rights, nor must we apply a normative ethics (Dussel, *Etica* 25–32) that will allow us to describe and explain the differences between what is fair and what is unfair.

One of the most difficult tasks facing educators in my field is the negotiation between ancient texts and contemporary demands. This is the case of teaching Colonial Latin American texts that require waging a battle between medieval legal frameworks and modern concerns. Unfortunately, even as a myriad of strategies and approaches have been developed in the field of colonial studies, they have neglected to examine the corpus of laws as cultural production. Nevertheless, it is precisely critical legal theory that can provide an accessible medium for exploring the connection between law and violence. The omission of the cultural element in colonial studies reduces the complex *Laws of the Indies* to a mere set of rules or institutions implemented to govern the colonies. In other words, such an approach does not take into account that the Spanish legislation in America was primarily a set of organized social practices of violence, which served as a general guide prescribing what to do, what to seek, and how to exercise control over newly found people and their territories. In my view, legal thought and practice is at heart an exercise of human dominance. My point is that colonial legislation can be understood in its complexity only when it is understood that legal discourse is not merely conceptual—that is, not reducible to a set of definitions—but also a cultural product. As such, its metaphorical and associative quality derives precisely from the need to address the question of imposing principles of social control, which is at the center of any legislative controversy. In short, legal discourse is both cultural and normative in nature. Neither colonial legislation nor the violence it causes may be understood separately since colonial legislation is an incomplete practice without violence—it relies upon the social practice of human dominance for its efficacy.

For several years I have taught a seminar on Latin American literature and culture with an interdisciplinary approach to the study of the junctures of international law, human rights, and the international justice system in Latin America. The class introduces students to the legal systems of the

region through the study of academic and specialized discourse pertaining to the humanities and the social sciences, combining historical, legal, philosophical, and political perspectives. Topics include the human rights movement in Latin America, the international body of law on human rights, and the international justice system with specific focus on selected human rights cases of the region. The violation of human rights in Latin America is a complex issue, which demands this kind of interdisciplinary approach in order to achieve a more holistic understanding of the social conflicts in the area. In this regard, the course examines the role of human rights organizations and locally-based groups and their connections with international institutions, governments, and non-governmental organizations. By outlining an understanding of the important conflicts and crises that mark the violation of human rights in Latin America, students gain a thorough understanding of development of the international law of human rights in the region, as well as its defense by lawyers, politicians, intellectuals and social movements. The seminar involves a review of substantive law through actual legal cases within their historical context. Besides reading legal documents, political texts and legislation, as well as reviewing the selected cases, students apply different theoretical approaches from the humanities and the social sciences. Requirements include preparation of assigned readings, presentation of analytical and comprehensive tasks, class discussions, case studies, exams, and a research project.

According to Mary Ann Glendon, one of the paradoxes in the history of the human rights movement is the pioneer role played by Latin America as a leader in the promotion of human rights in the United Nations, “in securing a place for human rights in the UN Charter, in providing models for the Human Rights Commission in its drafting process, and in endowing the UDHR with broad cross-cultural appeal” (39). The most important contribution of the region was the implementation of the legal procedures that made possible the enforcement of the rule of law. The unique position of Latin America in the international debate regarding the legal system of human rights constitutes a permanent legacy, and at the same time provided the means to fight against the violations of human rights by the military regimes during the 70s and 80s in the region.

As Paolo G. Carozza has aptly proposed, “[t]he modern idea of human rights had a period of gestation lasting millennia. But it would be fair to say—even if it is not commonly recognized—that its birth was in the encounter between sixteenth century Spanish neo-scholasticism and the New World. If that encounter were embodied in a single person, it would be Bartolomé de Las Casas” (281). Based on that tradition, in my seminar I develop a model for teaching the paradigmatic positions of Bartolomé de Las Casas and Juan Ginés de Sepúlveda in their famous 1550 Valladolid debate regarding the Spanish war of conquest overseas, the nature of Amerindians and their rights to lordship and property, and the legality of

European colonization.¹ This model also allows for incorporating contemporary pressing issues such as the connection between international human rights law and the war in Iraq. Students apply the same arguments and rhetorical structures of the sixteenth-century debate to the present and evaluate the lessons that can be learned from the past.² The final objective is to incorporate debates on international human rights law in the classroom so students will understand that persuasion in its verbal or written forms is intricately linked to political thought and agency.

In order to achieve a better understanding of the cultural background of the debate between Las Casas and Sepúlveda, students are divided into two groups, each representing the different perspectives of the debate. Both discussion groups are assigned a bibliography on the subject, and each team presents an opening statement on behalf of Las Casas or Sepúlveda. One of the students serves as moderator in order to maintain the rules and legal procedures of the debate.

From the readings and arguments that the students present, it becomes apparent that both Sepúlveda and Las Casas wanted the same thing: the conversion of the Amerindians. However, they wanted to achieve this in very different ways; their suggested methods were quite distinct. Las Casas was a proponent of a peaceful approach to conversion, while Sepúlveda believed in a violent method that would force the conversion of the Amerindians. Both sides used the Bible to support their arguments, and they also used sources such as Aristotle and other classical thinkers. As Santa Arias recognizes, Las Casas's writings on the conquest and the natural rights of the Amerindian provide unique insight into sixteenth-century European political culture, especially regarding concerns of history, political discourse, and power (121).

From my perspective, the single most important contribution of Las Casas was to frame the legal foundation of the human rights movement in Latin America. At the center of his intellectual agenda was the defense of the indigenous population in Latin America. As Mariscal maintains, "[o]ne of the characteristics that marked the ethical core of Las Casas's entire career was the militancy with which he confronted his adversaries" (260). In this sense, his fight marked the direction of the legal battles against social injustice in the future.

The reasoning behind waging war against the Amerindians, according to Sepúlveda, was that they had an underdeveloped culture and they were born to obey and serve others like the beasts that they resembled (Hanke 63). He felt that it was necessary to take action in order to "liberate" them from this barbarous condition. His working definition of barbarism was based on the writings of Aristotle,³ who stated that barbarians were those who: 1) Display savage behavior; 2) Have no written language in which to express themselves; 3) Have an evil and wicked character; 4) Practice a false religion; 5) Lack the reasoning abilities and way of life suited to human

beings; and 6) Lack laws which might regulate their affairs. The Amerindians were known for their religious sacrifices, which the Spaniards understood as the killing of innocent people. These barbaric acts went against the natural law of the Spaniards, and naturally categorized the Indians as savage beasts who needed to be conquered.

Another of Sepúlveda's main arguments was that the Amerindians committed crimes against natural law, to which all humans are subject. As Alvira and Cruz point out: "Sepúlveda held up natural law as an absolute limit to the variations permissible among the different forms of human life. But when confronted with the fact that the Indians did not obey this law, he did not deduce that the law itself might not be so natural; he did not imagine that it could have been conceived according to cultural parameters" (105). Natural law is a broad concept, but basically refers to generally accepted human activities. Unacceptable activity would include human sacrifice and live burial, both of which the Amerindians practiced extensively. Sepúlveda was appalled at these "savage" acts, especially since he viewed them as a victimization of innocent members of the community. It is precisely in the natural law doctrine where we find one of Las Casas's more vigorous defenses of the indigenous population. Carozza maintains that while Las Casas's ideas were intellectually and morally grounded in the Thomist tradition, his deployment of the discourse of the natural rights of the Indians was an anomaly in his time. Furthermore, by connecting abstract theories to real-life issues, Las Casas's pragmatic approach would go on to influence future theorizations of natural rights (292). But as Beuchot explains: "Although Las Casas never talked of human rights, his defense of the natural law and the law of peoples was also a defense of human rights" (53).

Other unnatural crimes Sepúlveda accused the Indians of committing were idolatry and sodomy. Sepúlveda viewed nearly the entire Amerindian lifestyle as unnatural in the eyes of God and nature, and therefore the Spanish were justified in setting them right—even by force and violence. An additional argument that Sepúlveda made to justify the intervention against the Amerindians was that they oppressed and then killed innocent people in order to sacrifice them to their gods or to eat their bodies. He explained that this only further displayed their animalistic and inhumane behavior. In order to show them the correct way of behaving and how to appropriately treat their fellow human beings, the Spanish needed to teach them Christianity.

Sepúlveda's final argument for the justification of war as a lawful way of spreading Christianity in the Americas was that the Amerindians were infidels, who must first be conquered before they can be Christianized. To him, war was a necessary preparation for "preaching the faith." He based his argument on a biblical parable where God ordered his followers to scan the area and "force them to come in" and celebrate a wedding feast with the Lord's followers. This text demonstrates that the Lord has prohibited such

use of force, if deemed a necessary precursor to rightly introduce the goodness of God to the infidels.

Bartolomé de las Casas believed that there was no race in the world, however rude, uncultivated, barbarous, or almost brutal they may be, that could not be persuaded and brought to a good order and way of life. According to Las Casas, “[a]ll the races of the world are men, and of all men and of each individual there is but one definition, and this is that they are rational. All have understanding and will and free choice, as all are made in the image and likeness of God [. . .]. Thus the entire human race is one” (*Apologética Historia* 165–66). All men are alike with respect to their creation and the things of nature, and none is born already taught. And so we all have need, from the beginning, of guidance and assistance from those who have come before us. He also believed that all the races of the world have understanding and will, which results from free choice. Consequently, all men have the power and ability or capacity to be instructed, persuaded, and attracted to order, reason, laws, virtue and goodness. Contrary to Sepúlveda, Las Casas proposed a method in which the “pagan” would first be subjected, whether they wished to be or not, to the rule of Christian people, and once subjected, organized preaching would follow (Pennington 149–50). His logic was as follows: if the “pagan” was first injured, oppressed, saddened, or afflicted by the misfortunes of war, through the loss of their children, their gods, and their own liberty, how could they be moved voluntarily to listen to what is proposed to them about faith, religion, justice, and truth?

According to Las Casas the one and only method of teaching men the true religion was established by Divine Providence for the whole world, and for all times: that is, by persuading understanding through reasons and by gently attracting or exhorting God’s will. Like Augustine, Las Casas believed that Divine Wisdom moves rational creatures, that is, men, to their actions, and that it operates gently. Therefore, the method of teaching men the true religion ought to be gentle, enticing, and pleasant. Listeners, especially “pagans” should understand that the preachers of the faith have no intention of acquiring power over them. Preachers should be so mild and humble, courteous and good-willed that the listeners would eagerly wish to listen and hold their teaching in greater reverence.

Las Casas gave a detailed rebuttal of each of Sepúlveda’s arguments, beginning with Sepúlveda’s statement that Indians are barbarous. Sepúlveda believed that since the Indians displayed barbarous tendencies, they were natural slaves and the Spanish had the right to claim superiority. This broad statement made it easy for Las Casas to defend the Indian; he examined the three facets of Aristotle’s definition of barbarism which included savage behavior and a lack of a written language. In his explanation he demonstrated how this declaration of the Indians as savages was untrue, and therefore did provide sufficient reason for Spanish domination of the

Indians. Las Casas easily rebuts the first two statements by showing how the Spanish also commit barbarous behavior in their treatment of the Amerindian, and how the indigenous language had been described as beautiful and intricate by some scholars. Regarding the last issue, which states that one is a barbarian if one has no laws and acts similarly to animals, Las Casas explained that no one race could be deemed insufficient because God had created all men. Therefore, this third statement does not apply to the Amerindian population. Las Casas spoke very highly of the Amerindian culture, while pointing out areas in which the Christians may be perceived as barbarians through their violent acts.

In response to Sepúlveda's argument that war against the Amerindian may be justified as punishment for the crimes they commit against natural law, Las Casas made several key rebuttals. First, Las Casas noted that "punishment presupposes jurisdiction over the person receiving it, but Spaniards enjoy no jurisdiction over the Amerindians, and hence they cannot punish them" (Hanke 87). He then continued to explain that people who profess a faith other than Christianity but live in a Christian kingdom are under jurisdiction of the Christian prince of that kingdom, but not concerning spiritual matters. More specifically, he goes on to argue, "Jews, Muslims, and idolaters who do not live in a Christian kingdom are not under jurisdiction of the church" (Hanke 88). This is clearly the case in the New World given that prior to its conquest, the people had never heard the teachings of Christianity, and thus were even less sinful than Jews and Muslims in the Christian perspective, who had heard the teachings of Christianity, yet still chose to practice their own beliefs. Finally, Las Casas claimed that the violence forced upon the Amerindians by the preaching of Christianity had been "contrived by the devil in order to prevent salvation of men and the spread of true religion" (Hanke 89). Christians did not have a right to engage in war based on the act of sacrifice and this long-standing practice is not to be "up-rooted" overnight.

Las Casas also contested Sepúlveda's third argument claiming that Amerindians oppressed and killed innocent peoples. Sepúlveda justified the Spaniards' killing of Amerindians by the fact that the Amerindians killed innocent people for sacrifices. On the other hand, Las Casas said that "the Indians did not commit such acts, and that, if they did worship idols or engage in human sacrifices to their gods, these acts could be justified" (Hanke 89). First, Las Casas maintained that any man who would be willing to die for his own god should be honored. If his sacrifice is wrong in the eyes of God, then God will punish him. Las Casas also argued that Christian men are obligated to help others who are being harmed. This aid to people in danger should never result in moving against a multitude. This was the case of the Spaniards. The gospel instructs Christians to "preach the word to the nations;" however, "what does the gospel have to do with armed thieves?"

(Hanke 91). Christians are not supposed to force their religion on others, especially in a violent manner.

The position of Sepúlveda is once again reinforced by his fourth argument, that “war may be waged against infidels in order to prepare the way for preaching the faith” (Hanke 95). Las Casas had many responses to this, although Sepúlveda even attested that the Bible supported his argument in the parable of the wedding. Las Casas refuted this by summarizing Sepúlveda’s argument: “the gospel (which is the good and joyful news) and the forgiveness of sins should be proclaimed with arms and bombardments, by subjecting a nation with armed militia and pursuing it with the force of war” (Hanke 96). The contrast articulated here by Las Casas speaks volumes on the hypocrisy of Sepúlveda’s biblical reference and is a powerful statement. Las Casas reminded his listeners of the words of Saint Paul: “Treat each other in the same friendly way as Christ treated you” (Hanke 96). The forcing of religion on pagans is not the Christian way; Las Casas recognized this and pointed out that Christ never advocated torturing the nonbelievers. The horrid maltreatment of Amerindians to convert them, to the way of Christ’s love is illogical. Las Casas’s last (and perhaps most tangible) rebuttal of Sepúlveda referenced the use of force by the Romans to gain their empire and convert the world to Christianity. Las Casas argued that the words of Augustine and Thomas Aquinas had been twisted by Sepúlveda to his advantage and that in no way does the despotism of the Romans at the height of their reign validate the use of cruel treatment toward the Amerindians. Las Casas showed that the Roman Empire no longer exists because God has punished it for its malicious actions, and Spain should by no means follow its example, for it too will perish. In this manner, Las Casas refuted the argument that war is justifiable to spread Christianity. Eduardo Andújar has pointed out the “colonialist mentality” of Las Casas’s, stating that the Lascasian perspective was “affirmative and to some extent optimistic,” but with some limitations (84). Las Casas considered the conquest and colonization of Latin America a factual reality that had to be accepted by the indigenous population of the region. His fight with the Crown was to revise the interpretation of the conquest, but not to question the presence of the Spanish Empire in the New World. Another point made by Andújar is that the insistence on religious conversion was the central tenet of his intellectual endeavor. This point is the negative element of Lascasian thought, which marks another kind of violence, one that anticipated modern forms of colonial domination. Andújar’s legal criticism to Las Casas is similar to Enrique Dussel’s philosophical theory of the Other. Based on some of the arguments developed by Las Casas, Dussel elaborated on the category of the Other in his analysis of the conquest of America. He concluded that for Las Casas the inhabitants of the Americas constituted the Other, “a rustic mass discovered in order to be civilized by the European being (ser) of occidental culture. But this Other is in fact covered over

(encubierto) in its alterity” (*Invention* 36). Dussel’s argument rests on the notion that the Other is a socio-historical subject, since it is related to a particular period of time and to a specific geographical space. Dussel goes on to argue that the economic elements permeate all the relations between individuals in a society, and for that reason the Amerindian as the Other cannot be fully conceptualized outside the economic system. According to Mignolo, Dussel’s position coincides more with a “Geopolitics of Christianity” similar to the Amerindian movement in Latin America than with any Eurocentric ideology (178).

Las Casas-Sepúlveda Debate and the War in Iraq

But what are the connections between the Las Casas-Sepúlveda debate and the Iraq War? For Carozzo, Las Casas’s ideas are at the foundation of the Latin American human rights tradition and are as applicable today as they were 400 years ago, since most of the indigenous population in Latin America is still searching for legal rights and human dignity. Carozzo also reminds us that while today’s reader can identify elements of twentieth-century human rights discourse in Las Casas’s sixteenth-century texts, this recognition has been criticized as anachronistic. However, he offers compelling reasons to include Las Casas in the trajectory of the development of human rights, particularly Las Casa’s ability to recognize cultural integrity and self-determination as central elements in the rights of the Amerindians (295–296). In this sense, we should not read Las Casas’s writings only as part of a distant past but also as a permanent contribution to the struggles for a better world and more just society.⁴ The progressive elements in Las Casas’s thinking have become a central component in the human rights movement, and in particular in the peace movement against the war in Iraq. There are many interesting connections between Las Casas and Sepúlveda’s debate and the ongoing war in Iraq. First, it is clear that the debate offered by Las Casas is much more humanistic in nature and is structured around four main arguments that have been discussed earlier. There are however several commonalities between these two cases. The greatest concern of Las Casas was the inhumane treatment and killing of a group of people he considers to be victims (Pereña 109–110). Since the U.S. invaded Iraq in 2003, thousands of innocent Iraqi civilians have been killed and even more have been mistreated. Take for example the Iraqi prisoner abuse scandal at Abu Grahیب. Like Sepúlveda who reduced the status of the Amerindian to “beast and fierce animals whom they resemble” (Hanke 63), U.S. soldiers viewed Iraqi prisoners as animals and abused them not only physically, but sexually and mentally as well.

Another parallel can be drawn between the false pretenses of justification in both of these situations. The Spanish used the mask of

religion to justify their conquest of America and its inhabitants, whereas the U.S. claimed to be ridding the world of a terrorist regime with Weapons of Mass Destruction, which ironically, were never found. But were Christianity and global security the real motives behind both of these invasions? Or were riches, territory and oil the real driving factors? We will never know the answer, but we do have our suspicions, and these suspicions, unlike the causes for invading these territories, are indeed justified.

As the Spanish tried to impose their faith and did so through cruel and inhumane tactics, so too is the U.S. trying to impose a western tradition and “spread democracy.” In both cases, these societies are seen as inferior societies that must be in one case, saved through Christianity, and in the other, saved from a tyrannical ruler. What is important though are the mechanisms used by both the Spanish in the 1500’s and the U.S. today, in order to “save” and “protect” these people.

While Las Casas firmly denounced the violence and aggression by the Spanish, Sepúlveda stood by the actions of the conquerors and supports their involvement in armed conflict. George Bush viewed Saddam Hussein as a barbaric ruler that had to be taken out using any necessary means of force, and while Saddam is no longer in power, the Iraqi people have suffered and continue to suffer as a result of the violence that occurs on daily basis. Did “Operation Iraqi Freedom” really free the people of Iraq taking into consideration that in both of these cases, violence is the main mechanism used to “save” these people? While the U.S. claims to be winning the war in Iraq and the *encomienda* system was finally abolished in Spanish America, as a result of the unlawful deaths and the inhumane treatments inflicted upon both the Iraqi and Amerindian people, neither the U.S. nor Spain can be seen as successful in their respective endeavors. The lessons from the Las Casas-Sepúlveda debate and the war in Iraq are similar: the respect for human rights is the principal component in the relations among nations and its peoples.

Returning now to the classroom, in pedagogical terms the exercise on the Las Casas-Sepúlveda debate reveals another dimension to the students: the fact that one of the main causes of recent confrontation among States is the failure of politicians to promote the dialogue and exchange of ideas. In the course, I try to enhance cultural understanding by helping students develop the ability to reflect about Latin America. My primary role as a teacher of Latin American literature and culture is to help students be open to new ideas, and to enhance an appreciation of the differences in the customs, beliefs, and value systems of others. My goal is to promote an intercultural dialogue by motivating students to become aware of contrasts and similarities between their own culture and Latin American culture. I use an interactive teaching style in which students become active rather than passive participants in the learning process. Therefore, I try to create conditions in the classroom that promote active involvement between myself

as a teacher and my students, and among students themselves. The benefits of utilizing this interactive teaching style is that it helps students to function both independently and in a team, while providing them with a chance to develop critical thinking skills that will enable them to engage in the class discussions as active thinkers rather than passive consumer of ideas. I incorporate the role of debate in the classroom in order to encourage students to focus in greater depth on a selected topic, while providing them with an opportunity to develop critical thinking skills and increase their motivation for future learning.

One of the lessons from the war in Iraq that is pertinent to our students is that we must begin to understand the roots of the aggressive mentality that prevails in our society. In that sense, the debate is not a futile exercise in argumentation, but a more relevant activity, in fact a fundamental component of any educational program, because it trains individuals to discuss their government's actions and the consequences. I believe that the debate should address not only today's crisis, but also the foundations of society including the patterns of aggression and the causes of violence. In that sense, we need to devote more attention to the ways in which communities create the actual conditions for aggression and violence in everyday life. The debate is not only an antidote to war, but it is also a good exercise in social responsibility that can replace both physical and mental violence. Teaching individuals in advance how to exchange different ideas and points of view is the best strategy to avoid a war. To promote dialogue among individuals is the first step to create a better world where there is no war and confrontation disappears. In today's world, international relations are based on the respect of international law (Coicaud, Doyle, and Gardner, 1–22), and the international criminal justice system as the foundations for global human security.

Notes

1. On the debate see Alvira and Cruz, Andújar, Carriere, Hanke, Losada, Mariscal, and Pérez-Luño.
2. See Mariscal for an excellent analysis of the debate between Las Casas and Sepúlveda and contemporary issues of war, ethics, and use of force.
3. On Sepúlveda's intellectual background see Grabowska, Stam, Losada, and Pérez-Luño, 187–204.
4. For different points of view on Las Casas, see Castro, Dussel, and Gutiérrez.

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