JUAN GINÉS DE SEPÚLVEDA ON THE NATURE OF THE AMERICAN INDIANS

Juan Ginés de Sepúlveda epitomizes in many ways, both personally and intellectually, the cosmopolitanism of Spanish political thought in the sixteenth century. Educated in Italy, disciple of Pomponazzi, translator of Aristotle, chronicler of the Emperor and mentor of his son Philip, Sepúlveda is best known—and often misunderstood as the defender of the more unsavory aspects of the Spanish conquest and colonization in America—for his bitter controversy with Bartolomé de las Casas. To that debate Sepúlveda brought a humanist’s training and outlook anchored in his devotion to Aristotle, but strongly tempered by his attachment to Saint Augustine. It is the purpose of this paper to examine Sepúlveda’s ideas on the nature of the American natives, particularly the question of whether the Indians are natural slaves. Considerations of space, of course, rule out the possibility of undertaking here a detailed scrutiny of the foundations upon which those ideas rest. It can be said, however, that they are typically Renaissance views, a blend of traditions characteristic of the composite nature of the age’s intellectual milieu.

If we reflect for a moment upon the conditioning and limiting nature of the religious presuppositions which define the character of European

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1 Sepúlveda’s political ideas are fundamentally embodied in four tracts: Cohortatio ad Carolum V ut bellem suscipiat in Turcas (Bologna, 1530), Democrats primus (Rome, 1535), Democrats alter (1545), De Regno (Lérida, 1571). In parenthesis are indicated the places and dates of publication; except for the Democrats alter. Sepúlveda was denied official permission to publish this treatise completed ca. 1545. It saw the light in 1892, and then only in a defective edition based on an incomplete manuscript. The definitive edition is that of A. Losada, Democrats segundo o de las justas causas de la guerra contra los indios (Madrid, 1951). For details concerning the life and works of Sepúlveda, see A. Losada, Juan Ginés de Sepúlveda a través de su Epistolario y nuevos documentos (Madrid, 1949). Also T. Andrés Marcos, Los imperialismos de Juan Ginés de Sepúlveda en su Democrats alter (Madrid, 1947); A.F.G. Bell, Juan Ginés de Sepúlveda (Oxford, 1925); J. Beneyto Pérez, Ginés de Sepúlveda, humanista y soldado (Madrid, 1944).

2 See the letter in which Sepúlveda dedicates the Democrats alter to Luis de Mendoza, Count of Tendilla. “It is a transcendental problem to ascertain whether the war waged against the Indians by the kings of Spain in order to subject them to our dominium is just or unjust, and upon what juridical grounds our imperium over these peoples is founded.” This was also the subject discussed at Valladolid in 1550–51, when Sepúlveda and Las Casas appeared before a junta of theologians to defend their views.

3 The four principal traditions supporting Sepúlveda’s scheme are: the universalism of the StoA, the Aristotelian political theory of the Greek city-state, Augustinian Christianity, and the civic humanism of the Italian Quattrocento. Their influence on Sepúlveda is discussed in my forthcoming paper, “Juan Ginés de Sepúlveda: A Spanish Humanist’s Eclectic Blueprint for a Universal Society.”
society in Sepúlveda’s age, it is not difficult to understand the importance of the obstacle to be surmounted when attempting to bring into accordance a social and political framework molded by the doctrine of Christianity and the Indian commonwealths. Strictly speaking, medieval experience offered no sure guide to those who sought to blend into an harmonious whole European society with the universe recently discovered beyond the Ocean Sea; an important consideration in an age when the authority of the past—be it that of pagan antiquity for the humanists, or the redoubtable example of the Fathers and of tradition for orthodox thought—counted for so much. Sepúlveda soon discovered, however, that the means of solving the riddle were at hand if only he would tacitly admit for this particular instance the superiority of the Old Testament over the New. In this manner and with a single stroke, he removes the barrier standing in the way of that universal society that the discovery of America had made mandatory in the eyes of the Spanish theologians and jurists of the sixteenth century.

Rejecting the standards offered by the New Testament to cope with the novelty of the problem in question, Sepúlveda finds instead a universally and eternally valid canon of conduct given by God Himself to man—the law with which those of the Christian persuasion are acquainted through the testimony of the Old Covenant. The Mosaic interpretation of the teachings contained in this Law product of the divine will is both sound and truthful. But it is not the only valid one, for “even though its precepts were given to the children of Israel, God Himself declared that they are not only divine law, but natural law as well and applicable to all peoples.” And Aristotle is another venerable and competent interpreter—for the Greeks as Moses was for the Hebrews—of the self-evident truths and comprehensible commands of the one universal God. Implicit here is obviously the assumption that if the Hebrews had their Moses and the ancient pagans their Aristotle, there is no reason to assume a priori that the American Indians cannot have their own sage to instruct them in the meaning of those eternal truths. In other words, the Indians are to be measured by a rod other than Christianity; a rod that Sepúlveda is convinced is handy and infallible: natural law which, as the Old Testament proves, can be comprehended by all men at all times. Knowledge of, and obedience to, natural law, then, suffices for the creation of a perfect-

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4 This superiority derives from Sepúlveda’s discussion of the traditionally fundamental question which debates the relative merits of the *vita activa* and the *vita contemplativa*. Its importance is examined in “Juan Ginés de Sepúlveda: A Spanish...”

ly valid and viable society. The teachings of Christ, the New Covenant, on the other hand, only improve (making it utterly perfect) this wholesome society, and only for those who want it so. There is no denying, of course, that in Sepúlveda’s mind Christian society is the apex of human accomplishment; but it is equally true that the Spanish humanist willingly admits that those societies which, while lacking its degree of perfection, still rest their foundations upon the solid rock of natural law, are worthy of existing side by side with Christian society.

On the basis of these conclusions, Sepúlveda divides the world of nations into two groups. In the first are included the true commonwealths; those nations (both Christian and non-Christian) in which obedience to natural law and civilization flourish. The second group encompasses those republics which, barbaric and uncivilized, shun the precepts of natural law. Thus, in the same universe that contains perfectly mature political entities we also find groups of men living in ignorance of the basic fundamentals of civilized life—barbarians. The next question, once these new standards have been formulated, evidently suggests itself. Are the Indian polities true commonwealths, true states? Sepúlveda’s answer is categorically negative. The barbarian communities of the New World lack even the rudiments of culture and the most basic principles of a monetary economy; they wage war in a most brutal and uncouth manner, the inhabitants go about naked. Above all, the evil and unnatural practices of cannibalism, idol-worship, and human sacrifices are widespread in those commonwealths.

In themselves, these flaws are not excessively unusual; after all, concedes Sepúlveda, many among the civilized commit similar or worse outrages against nature. What is truly significant, however, is that those unnatural practices are sanctioned by the laws and public institutions of those peoples. And since the laws are the truest foundation of civil society, it is inconceivable that the legislation of man should go against the clear and explicit commands of God and still remain laws. Sepúlveda therefore concludes that the laws of “those barbarians” cannot possibly be true laws, and their states are not true states. But since it is equally unnat-

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7 DA, 35 et sqq. In the Apologia pro libro de justi belli causis written in defense of his Democratæ after after the universities of Salamanca and Alcalá had opposed the latter’s publication, Sepúlveda gives the following definition of “barbarian”: “Barbarians, on the authority of Saint Thomas, are those men wanting in reason... such men must obey those who are more civilized and prudent in order that they may be governed by better mores and institutions.” Opera, vol. IV, p. 332.

8 DA, 58. Two important ideas are implied in this passage. First, as long as the laws and the institutions of a people are in harmony with natural law, Sepúlveda will concede their
ural that man should live outside a politically constituted society and the barbarians themselves are unable to create them, only one solution remains: the barbarian nations of the West must be subjected to the rule of a civilized commonwealth.

The significance of these conclusions can hardly be exaggerated. It is not against the complex standards of Christianity that Sepúlveda consciously judges the behavior of the Indians individually and collectively, but against the fundamentally simple and self-evident rule that says that a man shall truly be a man only if he can discriminate between good and evil in their most elementary forms. Sepúlveda, however, insists that the failure of individual men to pass this basic test is not sufficient grounds to warrant a full and sweeping condemnation of an entire society. What is perfectly inadmissible is that the laws of nature should be openly flouted by the institutions—in whose development all members of the commonwealth have presumably participated—of a given society. Such a nefarious act brands that society and all its members as inferior; for then we have irrefutable proof, first, that the social body exists on the basis of a permanent contravention of the divine commands; and secondly, that men living in it are not as enlightened as men should be, for, what man in full possession of his faculties would willingly choose to defy the most fundamental of principles implanted by God in his heart? Two conclusions are evidently inescapable: on the one hand, the Indian societies of the New World are evil and therefore imperfect; on the other, the Indians are of low intelligence and endowed with decidedly inferior attributes. Nature itself, then, and not the Spaniards, has determined the manner of governance to which the barbarians must submit their persons and their goods.9

Clearly, Sepúlveda’s conclusions are not merely the result of his own personal interests, national preferences and pride, or religious prejudice. They are the outcome of careful reflection; the offspring of a rationally systematic assessment of facts which when interpreted on the basis of premises widely accepted as self-evident truths by the age, yield a unique and incontrovertibly valid verdict: the Indian commonwealths are not perfect states, and their inhabitants lack the necessary prerequisites to be considered as fully civil beings.

soundness. It is solely upon this foundation—and its natural derivative, a superior culture—that he bases the Spanish claim to superiority. Secondly, Sepúlveda acknowledges the supremacy of law in social and political life. Only when this supremacy is assured will justice, the highest expression of the Christian political ethic, become an attainable goal.

9 It is important to note that from the very beginning the problem is set on decidedly political foundations. As we shall shortly see, it is the political element that will crucially influence Sepúlveda’s ideas on the status of the Indians.
What, then, is the precise position occupied by the Indian as an individual entity within the universal brotherhood of men? What kind of rule has nature decreed be given to the Indians as a group? Endeavoring to answer these questions Sepúlveda explains that the political status of the American natives is defined—in a very ambiguous manner, as we shall see—by their natural subjection to a form of authority lying somewhere between two extremes: that asserted by the father over his sons, and the power exerted by the lord over his slaves. And it is precisely the nature of these answers that is responsible for Sepúlveda's widespread unpopularity and the unsavory reputation that he enjoys among some historians. His political order stands accused of openly advocating slavery as the system best fitting the nature and condition of the American natives.  

In point of fact, the problem of ascertaining with any degree of conclusiveness the nature of Sepúlveda's answer to his own twofold question is a rather intractable one seemingly allowing for no solution clearly beyond questioning. Four obstacles are fundamentally responsible for our difficulties, and they must be well understood before we may hope to formulate any tentative conclusions. The first one is not strictly of Sepúlveda's own making, but results instead from the interpretation often given to his use of servus. Sepúlveda's scheme contains important novel elements which make the translation, categorically and without extensive qualifications, of this word into "slave" impossible to justify. Even under the best of circumstances "slave" is a poor term to use because, first, its pejorative implications are difficult to overcome since it calls to mind a system of social and, above all, economic relationships self-evident perhaps with the aid of hindsight to the mind of the twentieth century, but not necessarily present in the doctrines of a sixteenth-century thinker. Most important of all, however, when used in a pure and undiluted Aristotelian context, the word "slave" gives Sepúlveda's pronouncements on the nature of the American natives and the form of government best adapted to their needs a lucidity and sharpness easily belied by the reading of his political works; its deceptive clarity conceals the uncertainties of Sepúlveda's scheme.

And these uncertainties must be clearly noted because they are indispensable evidence bearing witness to the author's efforts aimed at solving a problem for which, strictly speaking, there is no precedent. The

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10 Lewis Hanke maintains that Sepúlveda fully intended to translate servus as slave; an interpretation which seems to derive from Las Casas' reading of Sepúlveda. See L. Hanke, *Aristotle and the American Indians* (Chicago, 1959). This opinion, however, is not universally shared, for other scholars have pointed out that servus may be taken to mean either slave or serf, and it was the latter meaning that Sepúlveda sought to convey. See Robert E. Quirk, "Some Notes on a Controversial Controversy," *Hispanic American Historical Review*, 34 (1954), pp. 357-364.
result of these efforts is the formulation of a socio-political status for the Indians which is new and designed to meet the imperatives suggested by a novel situation. True, it is not radically new, for its novelty does not lie in a complete break with the past or a definite formulation of first principles; rather, it derives doctrinal sustenance from the authority of tradition, and succeeds mostly in unveiling the utter complexity of a situation in which even the terminology available is inadequate. Sepúlveda's conservatism, however, should not come as a surprise if we remember how respectful the age was toward antiquity and early Christian times. But neither should the Renaissance be denied its share of originality; a circumstance having decisive bearing upon the argument—now a commonplace through forceful reiteration—that Sepúlveda, faithfully duplicating Aristotelian doctrine, concludes that the Indians are naturally slaves. And this, Sepúlveda's Aristotelianism, is precisely the second obstacle; for it is essential that we find out the extent of the humanist's faithfulness to Aristotle's theory of slavery.

Thirdly, we have the Augustinian inclinations of Sepúlveda, which shall contribute in no small measure to the ambiguities inherent in his use of the word servus. Lastly, Sepúlveda himself often blurs the perspective of his own scheme by implicitly recognizing the existence of two kinds of Indians: those who peacefully accept Spanish dominium, and those who stubbornly refuse to abide by the decrees of nature. As we shall see, the fate of the former is very different from the latter's. Unfortunately, however, it is often impossible to ascertain conclusively which category Sepúlveda is talking about; the result is added uncertainty. In consequence, the remainder of this study will be substantially devoted to exploring the impact upon Sepúlveda's scheme of the difficulties suggested above, starting with an attempt to find out the nature of the debt owed by Sepúlveda to Aristotle.

To begin with, it is to be noted that Aristotle develops his fundamental ideas concerning slavery within the context of a domestic economy. The slave is the economic pillar of the household—"And so, in the arrangement of the family, a slave is a living possession, and property a number of such instruments." The slave belongs completely to his master, "hence we see what is the nature of a slave: he who is by nature not his own but another's man, is by nature a slave." A slave, therefore, is "a part of property." A slave, however, is an animate entity and consequently an instrument of action, not of production—"But life is action

11 Aristotle, Politics 1. 4. 1253b30. All references are to the Jowett edition and will be cited hereafter as Pol.
12 Ibid., 1. 4. 1254a15.
and not production, and therefore the slave is the minister of action.\textsuperscript{13} It is clear from these ideas that the Aristotelian notion of slavery involves a strongly proprietary concept inseparable from the very existence of the household. But the household exists to satisfy the physical needs of its members, and the slave provides the mechanism indispensable for the fulfillment of those needs.\textsuperscript{14} It is for this reason that there exists no relation of reciprocity between owner and owned.\textsuperscript{15}

Out of these basic economic circumstances and the premise that "there is one rule exercised over subjects who are by nature free, another over subjects who are by nature slaves,"\textsuperscript{16} the Aristotelian household emerges not only as an economic unit, but also as a fully mature political structure ready to be expanded into the state. Two forms of paternal dominion appear within the domestic realm based upon the intellectual sophistication of its members. Slaves have no intellectual capacity whatever and will therefore be subject to a unique kind of dominium.\textsuperscript{17} Over children and wife an entirely different form of authority will be exercised. In the former case it is the paternal authority, justified on the grounds that intellectual capacity exists in a less developed form in children than in adults; while in the latter matrimonial empire is in order because the woman possesses an intellect naturally weaker than that of man.

It is clear that Aristotle views the institution of slavery as essential to the existence of the household, and as one more example of the hierarchical order of nature. However, when he passes from the study of the household into that of the ideal state, the clarity that characterized his statements on slavery vanishes giving way to uncertainty. Thus, we are

\textsuperscript{13} Ibid., 1. 4. 1254a5-10.

\textsuperscript{14} "The rule of a master, although the slave by nature and the master by nature have in reality the same interests, is nevertheless exercised primarily with a view to the interests of the master..." Ibid., 3. 6. 1278b30-35. Such, it will shortly become clear, is not the case in the relations between peaceful Indian and Spaniard as advocated by Sepúlveda.

\textsuperscript{15} "Again, a possession is spoken of as a part is spoken of; for the part is not only a part of something else, but wholly belongs to it; and this is also true of a possession. The master is only the master of the slave; he does not belong to him, whereas the slave is not only the slave of his master, but wholly belongs to him." Ibid., 1. 4. 1254a5-13.

\textsuperscript{16} Ibid., 1. 7. 1255b15-20.

\textsuperscript{17} Natural slaves, however, are not quite like animals because although lacking reason they are nevertheless capable of apprehending rational principles. Ibid., 1. 5. 1254b20, et seq. "Yet he [the slave] possesses a kind of moral virtue—the kind which enables him to do his work in subordination to his master—the moral virtue, in fact, of a subordinate confined to humble functions, and itself of a humble type. How any form of moral virtue can subsist in the absence of the deliberative faculty, Aristotle does not explain... There are, indeed, other indications that it was not possible for Aristotle wholly to reconcile the two aspects of the slave, as a man and as an instrument or article of property." W. L. Newman, The Politics of Aristotle (2 vols., Oxford, 1887), vol. I, p. 149. See also C. H. McIlwain, The Growth of Political Thought in the West (New York, 1932), pp. 70 et seq.
told that states “are composed, not of one, but of many elements,”\textsuperscript{18} and those elements number eight, from husbandmen to magistrates. But although “serfs and labourers” are included as the fourth class comprising the state, no mention is made of slaves. In Book III, Chapter 5, however, Aristotle had already suggested that those performing “necessary services” within the commonwealth may be “either slaves who minister to the wants of individuals, or mechanics and labourers who are the servants of the community;” an idea which receives its final form when in Book VII, Chapter 10, he expresses his willingness to substitute serfs for slaves in the performance of farming tasks. The distinctions thus far suggested between Aristotelian domestic and state slavery are important because Sepúlveda will radically alter Aristotle’s order. With the Spanish humanist the emphasis is not on slavery as an economic institution, but upon the political nature of the servus.

Sepúlveda retains the Aristotelian political nexus binding the household to the state.

Royal rule, as the philosophers teach, is very similar to the administration of the household because, according to them, the household is like the realm formed by a single house and, conversely, the kingdom is a household administrative unit consisting of one city or many.\textsuperscript{19}

This is not to be taken necessarily as evidence of an unusually strong devotion toward Aristotle on Sepúlveda’s part, for it was commonplace in the sixteenth century to discuss the nature of the state on the basis of the family as the former’s fundamental block. The important point to remember, however, is that Sepúlveda does not retain Aristotle’s emphasis on economics; rather, the Spanish humanist remains exclusively concerned with political matters.

Just as the father holds sway over a large and complex household, the king (in this case the king of Spain) must exercise various forms of authority over his different subjects. In the household we find the sons, and “servi seu mancipia,” as well as servants (“ministri conditionis liberae”). Just and humane, the father lords it over them all; nor, however, in the same manner, but in accordance with the class and condition of each. So shall a good and just king rule. The Spaniards, who are naturally free, deserve the kind of rule that the father reserves for the sons (“regium imperium”), while “those barbarians,” being servi natura, shall

\textsuperscript{18} \textit{Pol.}, 4. 4. 1290b35-40. Mechanics and laborers are not citizens, “they may be described as necessary conditions of the state. But the answer varies from one kind of constitution to another: in an aristocratic constitution, mechanics and labourers cannot be citizens; in an oligarchy, a rich mechanic may.” E. Barker, \textit{The Politics of Aristotle} (Oxford, 1946), p. 107.

\textsuperscript{19} \textit{DA}, 120.
be governed as free servants ("ranquam ministros, sed liberos") with a mixture of herile and paternal authority as their condition and circumstances demand. Sepúlveda, then, is fundamentally concerned with the various forms of dominium arising as a consequence of the appearance of the state.

Dominium is not always exercised in the same manner. Thus, the authority of the father over the sons, the husband over the wife; the power that the lord enjoys over his slaves, the magistrate over the citizens, the king over his realms and the individuals subject to his empire, are of different juridical origin.

This passage clearly emphasizes the differences suggested by Sepúlveda between the authority exercised by the king over his subjects and the power that the master enjoys over his slaves. It is therefore necessary to bear in mind that the author invariably sees the Indians as subjects of the king of Spain; a point which is again strongly brought home when, toward the end of the Democrates alter, he discusses the role of the multitude in the affairs of the republic. Sepúlveda begins by pointing out how pleased he is that "the great philosophers who wrote about politics" should have taught that in a perfectly constituted republic not only prudent men of known probity, but the multitude also should be considered for political office. The reason is a simple and empirical one: good men are always few, while the numbers of the multitude are invariably great and against their will the rule of the former cannot maintain itself for long. "It is wise and advisable, therefore, to grant to the mob the privilege of occupying minor posts." The Spanish sovereigns, concludes Sepúlveda, would do well to bear in mind the wisdom of these Aristotelian observations.

The kings of Spain and their advisers must remember the precepts of these philosophers because the nature of their governance over the barbarians must be such that the latter will not be given, through the granting of a degree of freedom unwarranted by their nature and condition, the opportunity to return to their primitive and evil ways; on the other hand, they must not be oppressed with harsh rule and servile treatment, for, tired of servitude and indignity, they may attempt to break the yoke to the peril of the Spaniards.

Consequently, the Spanish rulers must at all costs avoid the error of the Thessalians and Spartans who, having treated the Penestae and Helots dishonorably and used them "almost as servi, to cultivate their fields,"

20 Ibid.
21 Ibid., 20.
22 Ibid., 121.
23 Ibid.
were rewarded with formidable rebellions. In short, “it is clear that it would be unjust, as well as dangerous to treat those barbarians as slaves (barbaros istos ut mancipia tractare), except those who by their perfidy, cruelty, and pertinacity in waging war become worthy of such penalty and misfortune.”

From all this it may be fairly inferred that the word servus should not be understood in the economic sense stressed by Aristotle, for Sepúlveda’s servus is far more than a chattel; he is, at times, even homo politicus, although not in the perfect civil sense reserved for those fated by nature to rule. Hence, Sepúlveda’s Indians, by virtue of their limited rational capacity seem to be the laborers, the amanuenses, the servants (but conditionis liberae) of the community, destined by nature (although not totally deprived of political rights) to perform those purely physical tasks essential to the continued existence of the commonwealth. This does not necessarily give them the character of slaves, any more than in a modern industrial society the labor force is ex necessitate rei a slave contingent. Even when their toil ministers to the needs of the individual encomendero it is in the latter’s role as a public official, not a private lord.

This last point becomes clear when we read in De Regno, a treatise already removed in time from the author’s feud with Las Casas, that a herile form of government is imposed by those chosen by nature to command, not for the benefit of the governed but for the profit of the rulers. In other words, the members of herile societies shall work and labor for the benefit of those whose nature makes them civil beings. But such is not exactly the position of the Indians (those of peaceful inclinations, that is), for Sepúlveda’s servi receive important benefits in

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24 Ibid., 122. See also Pol., 2. 9.
25 D.A., 122. The exception mentioned by Sepúlveda is an essential part of my argument and will fully be dealt with when Sepúlveda’s ideas on war are examined.
26 In time, when the Indians have mended their ways and adopted the Christian religion, their governance, mixture of paternal and herile authority, shall give way to a “freer and more liberal treatment.” Ibid., 120. The political nature of the relationship binding Indian and Spaniard is again stressed when, in the context of the just war, Sepúlveda likens the dominion of Spaniards over Indians to the “imperium of the Romans over all the other peoples.” Ibid., 31 et sqq. It is clear, however, that even if the Indians willingly accept the Christian religion and the suzerainty of the Spanish monarch, they must not be admitted to the same rights enjoyed by “other Christians and even Spanish subjects” of the king. For “there is nothing more opposed to the so-called distributive justice than giving equal rights to unequal people, and to equate in favors, honor, or rights those who are superior in dignity, virtue, and merit to those who are inferior.” Ibid., 119. But it must be understood that this is not proposed for the benefit of the Indians alone. It is widely accepted among political thinkers in the sixteenth century that although men are born free, they are not created equal; an idea which explains the general distaste for democracy as a system of government.
27 Dr., 98.
return for their efforts in behalf of the state which are incompatible with an unqualified herile (servile) status. Sepúlveda postulates, as the indispensable background governing the relations between Indians and Spaniards, a political compact of mixed nature which unmistakably implies obligations equally binding to both sides. The mutual dependence embodied in such a system bears little resemblance to Aristotle's conclusion, arrived at when discussing the nature of master-slave relations, that "a possession may be defined as an instrument of action, separable from the possessor." Sepúlveda, on the contrary, is at pains to emphasize the reciprocal character of the unwritten compact established by nature between Indian and Spaniard.

True, he concedes, the Spaniards take gold and silver from the Indians but, in return, they give them "iron and bronze," metals which are of far greater intrinsic value to the needs of mankind. And this is not all. In exchange for those precious metals of no use to the natives—and of very relative value to civilized societies—, the latter receive goods of far greater import: "wheat . . . , horses, mules, sheep, goats, hogs, vines, and many kinds of trees . . . " Above all, however, the Spaniards bring with them what Sepúlveda—good humanist and better Christian—prizes above everything else: the elements of European civilization, excellent laws and institutions, and the "knowledge of God and of the Christian religion."

These inseparable twins, European culture and the Christian faith, which shall more than amply compensate the Indian for the loss of his gold and silver, are the strongest and most important part of the bond which unites the Spanish Crown, through its officials, to its charges, the Indians. And this is indeed what has no parallel in the relations between master and slave as described by Aristotle, for the nature of the covenant requiring to give the Indians a Christian education inevitably lifts them above the level of mere chattels, and establishes between native and Spanish administrator the important nexus of Christian caritas.

The political barrier with which Sepúlveda surrounds the status of the Indians in society when he insists that the only authority over the natives is that of the Spanish Crown, and the emphasis on Christianity which so strongly conditions the manner in which the Crown (or its officials) may rightfully exercise this authority over its wards, give the relations between Indian and Spaniard a complexity and significance far beyond anything implied in the Aristotelian concept of slavery.

Under the circumstances, if we are to grasp correctly the full meaning

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28 Pol. i. 4. 1254a15 et sqq.
29 DA, 78.
30 Ibid., 79.
31 Ibid., 118-121.
and breadth of Sepúlveda's scheme, it is imperative to remember that although an Aristotelian scholar whose mind is steeped in trust in the efficacy of reason, Sepúlveda is also a faithful disciple of Saint Augustine. It is nowadays fashionable to treat skeptically whatever moral strictures or ethical pronouncements may happen to be included in a political treatise, endeavoring instead to find the "real" intentions of the writer. While such a general outlook may be an understandable trait of the twentieth century, it is not at all clear that the inherent destructiveness of that standard may be validly loosened against Sepúlveda and his age. Granted that the encomienda system, which in some passages Sepúlveda seems to advocate, became in the hands of unscrupulous opportunists an oppressive institution aimed at the ruthless exploitation of the natives. Granted, moreover, that the fervent evangelical humanitarianism of Las Casas appears to contrast favorably with Sepúlveda's cold and measured intellectualism. Still, there is no reason to doubt the latter's sincerity when he repeatedly asserts that it is not his aim to condone or sanction the actions of a few reprobates who break human and divine law; or to question the strength and sincerity of his beliefs when he reaffirms the Christian nature of the bond linking Indian and Spaniard. Indeed, the strength of Sepúlveda's commitment to Christianity will shortly become apparent, for it is at this point, when distinguishing between warlike and peaceful Indians, that the shift toward Saint Augustine becomes most marked.

It is no easy task to determine with precision what the official position of the Early Church was in regard to slavery; what is certain, however, is that Saint Augustine did not view slavery as natural but, instead, as a result of sin. Moreover, private property and the political order, two of the fundamental institutions that Christianity was forced to accept upon becoming the official religion of the empire, are also of unnatural origin, intimately bound to slavery, and frequently involve the use of the same word, serfus. It therefore follows that it should be often difficult to ascertain whether manumitted servitude, slavery, or political subjection is the correct meaning involved in a given passage. This is a handicap common to texts boasting a Latin of classical origin and certainly present throughout Sepúlveda's political treatises. Tracts written in the vernacular, however, are often free from these ambiguities, and more accurate

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32 "It is only another of the institutions ordained by God to cope with man's wickedness. As such, however, it must be considered as an outward status and must never obstruct the effects of God's grace; it does not deprive the slave of the character of a man nor reduce him to the level of an 'animate instrument' as Aristotle thought. Masters and slaves are fellow men and by the grace of God may become brothers in Christ, equal before God though necessarily unequal under human law while sojourners in this 'earthly city'". Quoted in Mcllwain, op. cit., 161.
distinctions are made between the various meanings of servus and its derivatives.\textsuperscript{33} Be that as it may, the significance of Saint Augustine’s legacy to Sepúlveda amply transcends the boundaries of terminological uncertainties. To give substance and solidity to his scheme, Sepúlveda turns to the Bishop of Hippo, and it is in the latter’s theory of the just war that he will find the means of justifying, supporting, and enforcing his political doctrines.\textsuperscript{34}

After explaining the nature and object of the just war, Sepúlveda proceeds to consider under what conditions a war is said to be just. In the *Democrates alter* he appeals to the authority of Isidore of Seville who, while emphasizing that “the causes for a just war must in themselves be just,” accepts three fundamental reasons for waging a just war. First, it is natural to ward off violence with violence when no other recourse remains. Secondly, it is just to employ force to recover property which has been unjustly taken away from its rightful owner. Finally, the third cause lies in the imperious need to punish the offender should the proper authorities in the commonwealth of which he is a member fail to do so.\textsuperscript{35} This threefold formula, the encapsulated heart of the medieval theory of the just war, although acceptable to Sepúlveda, is clearly insufficient for his present purposes. He therefore hastens to add that “other reasons may also justify the waging of a war;” reasons which although perhaps of not so frequent application as those hallowed by tradition, are nevertheless “just and founded upon divine law.”\textsuperscript{36} And one of them, perfectly applicable to “those barbarians commonly called Indians,” demands that “those whose natural condition commands that they obey others, shall be subdued by force of arms should they refuse the latter’s imperium, and should no other recourse be left.”\textsuperscript{37}

\textsuperscript{33} An interesting case in point is the Spanish Trinitarian monk, Alonso de Castrillo. When discussing in his *Tractado de República* the obedience that the citizens owe their king, Castrillo cites Book XIX, Chapter 15, of the *City of God*, where Saint Augustine writes on man’s freedom and servitude; and he interprets the passage as explaining the origin of political authority and translates the key word *servitutis* as *servidumbre*. The same Castrillo, however, when describing the dismal and evil manner in which in his own corrupt world greed keeps justice, faith, peace, and virtue in bondage, he uses the word *servitius*. In the same vein, compare Book I, Chapter V of Bodin’s *République* in the Latin (Paris, 1586) and French (Paris, 1583) versions, and the English translation of 1606 by Richard Knolles (ed. K.D. McRae, Cambridge, 1962). On the problem of expressing sixteenth-century ideas in Latin see L. Fevre, *Le problème de l’incroyance au XVIIe siècle: La religion de Rabelais* (Paris, 1947).

\textsuperscript{34} For an extensive analysis of Saint Augustine’s views on war, see H. A. Deane, *The Political and Social Ideas of Saint Augustine* (New York, 1966).

\textsuperscript{35} *DA*, 16-19, *DR*, 146-148. “A just war demands not only just cause and sound intentions, but also that it be waged in the right manner.” *DA*, 27.

\textsuperscript{36} *DA*, 19.

\textsuperscript{37} *Ibid.*, 19, 22. The other three are: “...Secondly, to banish the horrible crime of cannibalism and devil-worship... [Thirdly] to free from serious injury the innocent who are
Just, then, is the war waged upon those Indians who refuse to submit to the authority of the Spaniards. In view of the serious consequences inherent in this conclusion, Sepúlveda suggests a rigid blueprint designed to keep developments tightly under control, both before and after the declaration of war. First, the barbarians must be advised of the need to accept the imperium of the Spanish king, and the great benefits to be derived from their consent. Honesty and truth must rule these preliminaries. Neither threats nor deceit must be used; otherwise, should the outcome be war, its justice would be hopelessly compromised. Secondly, the natives must be given time to deliberate among themselves. Should the Indians then submit in peace, they shall be received within the Christian fold and be given “conditions of just peace in conformity with their nature, so that, as it is written in Deuteronomy, they shall serve as tributaries.” But it must be understood that, in truth, the crimes of the Indians (cult of idols, and human immolations) are so appalling in the eyes of nature that they might, in all justice as taught in the Old Testament, be summarily punished—submission or no submission—“with the death of all sinners and the loss of their goods.” Only the magnanimity of the Spanish sovereigns, born out of their respect for the counsels of the New Testament, is responsible for their desire not to punish the sins of the barbarians, but instead to strive for “the rehabilitation, salvation, and common well-being of the Indians.”

Should the barbarians, however, reject nature’s commands, war must be waged against them and “once defeated, their persons and goods lawfully pass into the hands of the victor; and the latter shall freely decide their fate in accordance with the norms applicable to the treatment of the vanquished.” But, is it not true, questions Leopoldus, the fictional character who in this dialogue plays the role of Sepúlveda’s (Democrats) adversary, that the righteousness underpinning this argument has been undermined beyond repair by the depredations of the Spaniards? Democrats answers that although it is true that many seek in the New World but booty, and that such an aim deprives war of its just character, turning it instead into an “impious and criminal” one, the subject of the discussion “is not the moderation or cruelty of leaders and soldiers, but the nature of this war and its relation to the just king of Spain.”

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yearly immolated by these barbarians… Fourthly, to open the way to the propagation of the Christian faith, and to facilitate the task of its preachers.” Ibid., 83-93. These four arguments constitute one of the themes attacked by Las Casas during his disputation with Sepúlveda at Valladolid.

38 Ibid., 30.
39 (Ibid., 42, 41, 79-80, 90.
40 Ibid., 30.
41 Ibid., 28-29.
The implications of all this are clear: Sepúlveda identifies two entirely different situations growing out of the twofold manner in which the natives may respond to the commands of nature. On the one hand, if the Indians submit willingly to their predestined fate they should be given the political status suggested previously. On the other, those barbarians who refuse to comply with nature’s will shall be reduced to obedience by force of arms. Once recourse to arms has become inevitable, the status of the Indians changes radically and their fate may then be decided in accordance with the laws of war. The reasons, Sepúlveda explains, are manifest. First of all, in their rebelliousness the natives adamantly demonstrate their refusal to abandon those practices which clearly inflict injury upon God. In addition, when the barbarians resist the authority of the Spaniards they violate what, the reason of the philosophers tells us, is the explicit will of nature. Finally, refusal to accept Spanish rule inflicts the sort of injury on the Spanish Crown which, the jurists affirm, is punishable by human law. From all this, concludes Sepúlveda, it necessarily follows that the recalcitrant barbarians are not only serví natura but, as violators of civil law, also subject to those sanctions contemplated by human law and approved by the jús gentium (which Sepúlveda considers to be of natural origin): the rebellious Indians may, upon capture, be subjected to civil slavery and the loss of their worldly goods.42

Leopoldus, however, refuses to be convinced. He is appalled at the prospect of dooming a man, any man, to the loss of liberty and property; after all, “all men are born free.” Answering his friend’s objections. Democrats points out that sometimes two laws of natural origin may appear to be at odds with each other, thereby compelling man to choose between two evils. Such is the source of that universal covenant which, “growing out of reason and natural need sanctioned by the tacit consent of all peoples,” empowers the victor to make his own the defeated and his property.43 The subject of slavery as the result of defeat in battle had traditionally been a delicate one among Christians; for it seemingly was at odds with the most basic tenets of the faith. It is not surprising, then, that Sepúlveda, sharply goaded by Leopoldus, should take pains to explain his conclusions at length and call to his support various and venerable authorities.

Of more significance for our immediate purpose, however, is Sepúlveda’s acceptance of man’s natural freedom. Democrats, discoursing on the merits of civil slavery, does not refute—thereby implicitly granting—Leopoldus’s sweeping assertions concerning man’s birthright of liberty. A

42 Ibid., 60, 90.
43 Ibid., 90 et sqq.
rather incomprehensible attitude if we interpret Sepúlveda’s ideas on natural servitude as slavery; for, if the subject of the discussion is the Indians and they are naturally slaves, what is the purpose of this elaborate exchange aimed at explaining the juridical circumstances whereby transgressing natives may be lawfully enslaved? The answer is evidently a different one: the American Indians are servit natura, but not natural slaves; only when they refuse to meet their natural obligations do they become outlaws to be justly warred against. Sepúlveda himself fully appreciates the difference between the juridical position of the Indians who submit peacefully and those who resist.

The servitude contracted in a just war is legal, and the booty acquired becomes the rightful possession of the victor. But concerning these barbarians, the plight of the Indians defeated by Spanish arms in formally declared war is very different from the circumstances of those who, through prudence or fear, delivered themselves to the authority of the Christians. Just as in the former case the victorious prince may determine, according to his will and right and bearing the public good in mind, the fate of the vanquished, in the latter both civil laws and jus gentium would rule unjust to deprive the natives of their goods and to reduce them to slavery; it is, however, licit to keep them as stipendiaries and tributaries (stipendiarii et vectigales) as befitting their nature and condition.44

Sepúlveda has thus established the juridical foundations for the treatment of defiant Indians on the basis of the law of nations. But how shall these conclusions be applied in practice? In order to answer this question, Sepúlveda feels compelled to embark upon a preliminary study of the problem of ignorance in war.45 Faithfully, Leopoldus provides the needed cue when he puts forth one of the questions lying at the heart of the theory of the just war: is it possible for justice to lie with both sides? Democrats explains that under no circumstances can the opposing arguments which support the cause of two contending parties be simultaneously just. What may happen, however, is that one of the warring factions, “its understanding obscured by ignorance,” shall be deceived into believing its cause to be just. And this is precisely what has taken place in the

44 Ibid., 117. Clien, stipendiarius, and vectigalis are words frequently used by Sepúlveda to describe the position of the Indians in relation to the Spanish state; an indication of how clearly he keeps in mind the example of the kind of authority Rome exercised over her client states. In a letter to Francisco de Argote before 1552, Sepúlveda reiterates his position on the Indian question, “I do not maintain that the barbarians should be reduced to slavery, but merely that they must be subjected to our dominion; I do not propose that we should hold heretic empire over them, but regal and civil rule for their benefit.” Quoted in T. Andrés Marcos, Los imperialismos... p. 184. See also A. Losada, Epistolario de Juan Ginés de Sepúlveda (Madrid, 1966), Letter 53.

45 DA, 100 et sgg.
case of the Indians; for, "whereas the Spaniards (if their intentions were just) had a just and pious cause to wage war, the Indians also had a probable cause." After all, "[they] knew neither justice nor truth, and could not learn about them merely on the Christians' word, or a few days time, but only after prolonged contact with the reality of both truth and justice." Bearing these circumstances in mind, the behavior of the ruler toward the vanquished foe will be a moderate one, and once victory has been achieved "he will weigh the causes that brought the enemy into the war, and shall not be swayed in his judgment by hatred or greed." Only when the interests of peace and the public welfare demand it, may the prince treat the vanquished with the rigor allowed by the jus gentium. Otherwise, the prince shall treat his enemies with equity and humanity. These, concludes Sepúlveda, are the cardinal principles which in practice must govern the treatment of the defeated natives. After all, "the most important aim of this whole affair is to pacify these barbarians, to introduce them to a more humane mode of life; and to admit them to Christianity; and the more humanity the Christians show the barbarians, the more easily that aim will be fulfilled."

To sum up, the American natives who willingly accept Spanish rule cannot, in justice, be treated as slaves. They are not slaves by nature and must not be subjected to a pure form of herculean rule. Only when their pertinacious rejection of natural law forces the Spaniards to crush them in battle will the Indians (as any other men under similar circumstances) forfeit their juridical status as free men and become lawfully subject to the full rigors of herculean government. Even then, however, the provisions of the law of nations shall be fully complied with only if their enforcement is compatible with the interests of the whole (Indians and Spaniards) commonwealth. To my mind, these are inescapable conclusions borne out by the evidence of Sepúlveda's writings. On the other hand, Sepúlveda seems to tell us clearly only what the Indians are not and must not become—slaves. And when it comes to a positive definition of their political role within the new scheme of things whose birth he is conscious of witnessing, the Spanish humanist wavers and refrains from drawing the conclusions seemingly warranted by his forceful scholarship; a clear indication of the limitations, in the context of sixteenth-century reality, of the intellectual tradition which nourishes him. And it is perhaps this lack of boldness that in the last analysis has prejudiced his case in the eyes of posterity. For Sepúlveda, against his will, was drawn into a controversy with a man whose fiery character and passionate in-

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46 Ibid., 118.
47 Ibid., 94-95.
48 Ibid., 118.
volvement sharply contrasted with his own tempered and academic outlook. It was thus in the nature of things that in a drama so forcefully dominated by Las Casas' heroic visions, Sepúlveda—as he himself recognized in dismay—should have been cast in the role of the devil's (in encomendero garb) advocate.

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