

Proposal for the Hank Center for the Catholic Intellectual Heritage International Research Project

Democracy, Culture and Catholicism

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I respectfully submit my proposal in the referenced Democracy, Culture and Catholicism International Research Project which is entitled, *Francis de Vitoria—The Catholic Origin of Human Rights*.

In today's world, given the emergence of new democracies around the globe, questions surrounding the origin and meaning of human rights on a domestic and international level remain, and diverse answers abound. Consequently, there is often confusion within circles of informed individuals about the source and meaning of fundamental human rights. One forum in which this confusion is evident is the United Nations where important discussions and debates about fundamental human rights take place on a continuing basis. Much of the confusion about the meaning and source of these rights pertains to their origin. This confusion often involves ignorance about the role of the natural law in answering these questions about fundamental human rights.

In spite of the awareness of the natural law tradition (long reflected by the Catholic intellectual tradition) by some of the most influential drafters of the Universal Declaration of Human Rights, scholars, public officials, and citizens today have varying degrees of (mis)understanding of the natural law's vital contribution. In a few influential circles where there is some appreciation of the natural law foundation, the Catholic contribution to the natural law tradition is often unknown. The lack of familiarization

with the natural law contribution and the Catholic intellectual tradition is detrimental to the appropriation of a sound understanding of human rights claims that are asserted today.

As a response to this problem, I suggest that a project that considers and evaluates the Catholic contribution to the natural law understanding of human rights is called for. I propose, therefore, to trace this contribution back to the work of the sixteenth century neo-scholastic Spanish philosopher and theologian Francis de Vitoria (1480-1546) who lived and worked during the age of Conquistadores and the Reformation. His familiarization with the then Spanish and European colonization of the world prompted him to consider the actions of Europeans with native peoples through the lens of the natural law. As his work progressed, de Vitoria acknowledged the need to consider the native peoples who were encountered by the European explorers and colonialists as possessors of certain fundamental rights, the claim of which stems from the normative principle of the *sum cuique*, to each his own.

As well understood by de Vitoria, underlying this norm is the concept of justice as an essential building block of the international order. In the natural law tradition espoused by de Vitoria there is an inextricable link between the *sum cuique* and justice. Of course, what is due one individual or group cannot be fully understood without considering what is also due other persons and groups who are in some way connected with the first person or group. This was well articulated by de Vitoria.

Although he did not travel with the Spanish explorers and colonists, he was familiar with their encounters with the native peoples, especially in the New World. This led him to write his magnum opus *De Indis* in which he identified and discussed the right

relation between the indigenous people and the European and thereby established the foundation of what has become the human rights doctrines that were codified in the mid-twentieth century.

Some highlights of de Vitoria's *De Indis* will be noted here. He concluded that the native peoples were rational human beings, like the Europeans, who were unquestionably entitled to their own self-determination. Consonant with this principle was the recognition that the native peoples were the masters of their dominions and the owners of the property they claimed or used. In light of this recognition, de Vitoria asserted that the European could not present himself to the native peoples as the conqueror or master but as a fellow citizen of the world who could engage in commerce and education with the native peoples; moreover, the European could introduce the indigenous to Christianity but could not impose it by force. In identifying these principles, de Vitoria established the foundation to rights involving freedom of religion, travel, property, and engagement.

In developing these thoughts, de Vitoria further understood that there was a universal claim to rights. He found the parable of the Good Samaritan useful in explaining this universality by addressing the question, "and who is my neighbor?" His answer was that all are one another's neighbors, and his writings of many centuries ago provided a sturdy foundation on which to build the remarkable edifice of human rights doctrine we generally acknowledge today.

But as the fledgling institution of universal human rights discussed by de Vitoria was challenged in his time, so it is in the present age. In both the contemporary established and developing democracies, the idea of universal human rights is often misunderstood. But, it is hoped that my contribution to the Democracy, Culture and

Catholicism International Research Project will provide a catalyst to others to understand better the concept of human rights by becoming familiar with its origins as found in the work of Francis de Vitoria.