

THE TRANSLATIO STUDII AND THE EUROPEANIZATION OF AMERICA:

Alonso de la Vera Cruz, the university of Mexico and the defense of the Indians

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The first part of this inquiry will describe the character of the academic culture of the colonial universities of Spanish America and suggest its important influence on colonial society; the second part will examine Vera Cruz's academic defense of the rights of the native people in order to demonstrate that some Europeans had come to acknowledge the destructive character of the European encounter with America and, in Vera Cruz's arguments for the just presence of the European in America, were proposing a more hopeful and moderate vision for that society than the one prevailing at that time, a vision, I might add, that included in a significant manner the interests and welfare of the vanquished native people.

Missionaries and the Education of Native Mexicans

Following the heels of the conquistadors, the religious and, to a lesser extent, the secular clergy were also agents of the Crown's policy to pacify and capture the »hearts and minds« of the native peoples.¹ The Franciscans (1523), Dominicans (1528) and Augustinians (1533), who spearheaded missionary activity in Mexico before the coming of the Jesuits in 1572, were quick to establish primary schools for the moral and technical education of Indian boys. There were also schools for Indian girls by 1530. The work done by the Franciscan, Pedro de Gante, in setting up primary schools is well known, but the Dominicans and Augustinians also had active, successful schools.² Indian students learned the fundamentals of Christian doctrine; they were also trained to become blacksmiths, carpenters, painters, sculptors and jewellers; they learned the arts of embroidery, quarrying and stonecutting, mosaics and inlays. What is interesting is that Spanish was not taught in the schools. All instruction was in the native languages which meant that knowledge of native languages was of paramount importance to missionary teachers. The ideological significance of this was that the religious were going to encourage the Indians

¹ R. RICARD, *Conquête Spirituelle de Mexique*, Paris 1933; English trans. by L. B. SIMPSON, Berkeley 1966, 1-38

² Ebd., 207-216; A. CHAVEZ, *Fray Pedro de Gante. El Primero de los Grandes Educadores de la America*, Mexico 1934

to live according to their native customs in matters that were not religious. This indigenous approach to the question of culture was not simply strategic; many were generally disturbed by the excesses of the Spanish colonists and felt that a policy of Hispanization would expose the Indians further to corrupt Spanish practises. In addition, this 'nativist' approach to the Christianization of the Indians would preserve authority of the missionaries.

The establishment of the College of Tlaltelolco in 1536, a school for advanced education for Indians, deserves mention among the early educational institutions in Mexico. Here Indian students studied the seven liberal arts.³ Founded with the objective of being a kind of center for Mexican studies and to produce native clergy, its fortunes rose and fell. It certainly failed to produce a cadre of native priests and was the object of envy and contempt of many colonists. The remarks of the outstanding scholar, Bernardino de Sahagun, who taught Grammar at the College, illustrate this well: »When the [Spanish] laymen and clergy were convinced that the Indians were making progress and were capable of progressing still more, they began to raise objections and oppose the enterprise.«⁴ Yet, there remains a significant testament to the success of the College. Many of its Indian students, like Antonio Valeriano and Pablo Nazareo, were expert in Latin, Nahuatl and Spanish and became translators.⁵ Their most outstanding legacy was their collaboration in the research and writing of Sahagun's monumental works.

Foundation of First Universities

It was the Franciscan, Juan de Zumárraga, first bishop of Mexico, who initiated the idea of establishing a university in Mexico. In 1537 he informed the Crown that Mexico needed an institution of higher learning and reminded the king that he had permitted the foundation of a university in Granada to facilitate the conversion of Muslims to Christianity. This was an interesting precedent because in the clash of cultures between Europeans and native Americans there existed of course the experience of the encounter with Islam as an important example. It ought not be surprising that the works of Thomas Aquinas were popular in the schools of Spanish America. His *Summa contra Gentiles* was designed as a text book for missionaries to Muslim lands to demonstrate the truth of Christianity and refute the »Mahumetistae et pagani«.⁶ It was not until 1553 that the university opened. The idea of founding a university did not originate in Mexico. Not long after the conquest of the Caribbean, initiatives to establish a university in Santo Domingo

³ F. BORGIA STECK, *El Primer Colegio de América, Santa Cruz de Tlaltelolco*, Mexico 1944; J. ESTARELLAS, »The College of Tlaltelolco and the Problem of Higher Education for Indians in 16th Cent. Mexico«, in: *History of Education Quarterly* 2(1962), 234–243.

⁴ R. RICARD, *Conquête Spirituelle de Mexique*, 226.

⁵ Pablo Nazareo translated the Gospels and the Epistles of S. Paul into Nahuatl. He had lived since childhood with the first Franciscans and was well trained in latin, rhetoric, logic, and philosophy. His wife, Doña María, was the daughter of the brother of Moctezuma. Antonio Valeriano, a native of Azcapatzalos, was one of the best latinists at the college. According to Fray Juan Bautista, he was another Cicero or Quintilian. See J. GARCIA ICAZBALCETA, *Bibliografía Mexicana del Siglo XVI*, ed. by A. Millares Carlo, Mexico 1954, 474.

⁶ M. CHENU, *Introduction a l'étude de St. Thomas d'Aquin*, Paris 1950, 254.

were started. The Dominicans, who had come to Espanola in 1510, established a school of higher education in 1518. In 1538 Pope Paul III granted the charter of foundation making the *studium* in the Dominican convent a university, the first university in America: »... a community of masters and students with the ... customary liberties, exemptions, and immunities that the city of Santo Domingo gain a great reputation. Its inhabitants as well as those from the neighbouring islands will be better instructed in the Christian faith and it will serve as an incentive...to continue the works of charity.«⁷ It was the Dominicans also who were instrumental in getting a university established in Peru. At a meeting of the provincial chapter in Cuzco on May 6, 1548, a resolution was passed to request the necessary authorization for a university. Fray Tomás de San Martín and Fray Jerónimo de Aliaga received the necessary approval from the king and the council of the Indies. In 1553 the inauguration of the University of San Marcos took place in the Dominican convent.⁸ Like the medieval universities of Europe, the first universities in America arose from ecclesiastical institutions and objectives. Moreover, higher education was now on the way to becoming the monopoly of the universities. Faced with the near destruction of the peoples and cultures of the Americas, the Spanish Crown and the Church attempted to construct a new Christian culture, often though not always, with European institutions. The transplantation of the medieval European University to the Americas was of momentous importance in that the universities were to play a major role in the creation of Spanish American colonial culture.

*Academic Culture of the University of Mexico*⁹

In his dialogue on the University of Mexico at its opening on Jan. 25, 1553, the humanist Francisco Cervantes de Salazar, who gave the inaugural address and was later appointed professor of Rhetoric, must have captured the vitality, excitement and significance of that moment. To the question »Can there be a place left for wisdom in this land of greed?«, he answered: »Those who teach so far from their homeland as well as those who study in the midst of the pleasures and opulence of their families deserve more and greater privileges ... with the light of wisdom they dissipated the darkness of ignorance.«¹⁰

⁷ V. BELTRAN DE HEREDIA, *La Autenticidad de la Bula*, Ciudad Trujillo 1955, 17; J. ORTEGA Y FRIER, *El Cuarto Centenario de la Universidad de Santo Domingo*, Ciudad Trujillo 1946; C. DE UTRERA, *Universidades de Santiago de la Paz y Santo Tomás de Aquino y Seminario Conciliar de la Ciudad de Santo Domingo*, Santo Domingo 1932.

⁸ L. A. EGUIGUREN, *Alma Mater: Orígenes de la Universidad de San Marcos, 1551–1579*, Lima 1939, 98; See also D. VALCARCEL, *San Marcos, La más Antigua Universidad Real y Pontificia de América*, Lima 1959.

⁹ A. M. CARREÑO, *La Real y Pontificia Universidad de Mexico*, Mexico 1961, 13; J. TATE LANNING, *Reales Cédulas de la Real y Pontificia Universidad de Mexico de 1551 a 1816*, Mexico 1946; A. ABADIE-AICARDI, »La Tradición Institucional Salmantina de la Universidad de Mexico (1551–1821) en la Tradición Universitaria«, in: *Jahrbuch für Geschichte von Staat, Wirtschaft und Gesellschaft Lateinamerikas* 12 (1975), 1–66.

¹⁰ F. C. DE SALAZAR, *Mexico en 1554. Tres Diálogos Latinos*, ed. by J. GARCIA ICAZBALCETA, Mexico 1875, 19–37.

The University of Mexico structured its academic organization and curriculum in imitation of the University of Salamanca.¹¹ What is of greater interest is the curriculum which exercised a major influence on the academic culture of the university.¹² There seems little difference between the content and method of learning of the great medieval European universities and Mexico. Students were expected to take courses in the faculty of Arts before entering the higher faculties of Theology, Law and Medicine. There were three Chairs of Arts; the *Summulae-Logicales* of Peter of Spain, Logic, and Philosophy. After taking courses for two years, the student took an examination at which he answered nine questions: three on the *Summulae* (one on the first book of the *Summulae*, one on the *Perihermeneias*, and one on the *Predicamenta*), three on Logic (one on the *Predicabilia*, one on the *Predicamenta* and one on the *Posterior Analytics*) and three on Philosophy (one on the *Metaphysics*, one on the *Predicamenta* and one on the *Posterior Analytics*). What is remarkable is the emphasis on the logical works of Aristotle which had revolutionized university learning in the thirteenth century and was still the core of the curriculum in sixteenth century Europe. Its establishment at the universities in America was the first time that this curriculum was used outside of Europe. Lest we lament unduly over this cultural imperialism, we should remember that European academic culture was not purely European and Christian. The classical Greco-Roman world and the great Muslim and Jewish commentators had helped to shape this academic tradition. Take, for example, Peter of Spain, the author of the widely used *Summulae Logicales*. In a later work, *The Science of the Soul*, he combined elements borrowed from Plotinus, Boethius, Alfarabi and Avicenna.¹³ It was Vera Cruz who wrote the first texts on the logical works of Aristotle for his students in the faculty of Arts: the *Recognitio Summularum* (1554), the *Dialectica Resolutio cum textu Aristotelis* (1554) and the *Physica, Speculatio* (1557).¹⁴ The importance of Dialectics can be seen in his preface to the *Recognitio Summularum*: »It is a matter of great urgency to instruct students in the essentials of Dialectics, to point out to them the way to Sacred Theology so that they would not grow old on the shores of the Sirens and be discouraged in their anxiety over the magnitude of their difficulty.«¹⁵ Dialectics was »the art of arts«, the indispensable method for the study of Theology, Law and Medicine.

As for the higher faculties, Theology consisted mainly of the study of the Bible, the theological questions systematized in the *Sentences* of Peter Lombard and the works of Thomas Aquinas.¹⁶ In the faculty of Law, the texts used in the courses on Canon and Civil Law were the traditional ones — the *Decretum*, the *Decretales* and the *Corpus Iuris Civilis*, consisting of the *Digest*, the *Codex*, the *Institutes* and the *Novellae*. The study of Law was very popular in Spanish America. It was the *Letrados* or men of law who or-

¹¹ V. BELTRAN DE HEREDIA, *Bulario de la Universidad de Salamanca*, Salamanca 1960; E. ESPERABÉ ARTEAGA, *Historia Pragmática e Interna de la Universidad de Salamanca*, Salamanca 1914–1916, 139–356.

¹² J. TATE LANNING, *Academic Culture in the Spanish Colonies*, Oxford 1940.

¹³ E. GILSON, *History of Christian Philosophy in the Middle Ages*, New York 1955, 319–322.

¹⁴ The *Recognitio Summularum* and the *Dialectica Resolutio* were published in Mexico in 1554, the *Physica, Speculatio* in 1557.

¹⁵ *Recognitio Summularum*, folio 2f.

¹⁶ J. JIMÉNEZ RUEDA, *Las Constituciones de la Antigua Universidad de Mexico*, Mexico 1951, tit. VI; O. ROBLES, »El Movimiento Neoescolástico en Mexico«, in: *Filosofía y Letras* 23 (1946), 108.

ganized the empire. The *Audiencia*, the major political and administrative body in Spanish America, was comprised almost entirely of *Letrados*.¹⁷ The first Chair of Medicine in Mexico was not established until 1582 and the texts used were drawn from the Greco-Arabic tradition, that is, the works of Hippocrates, Galen and Avicenna. This did not mean that there was no research activity in medicine until the establishment of the Chair of Medicine. The office of *Protomédico* was created in 1527. The holder of this office was a naturalist who collected information on plants, trees and herbs and sent back reports to Spain. He acted as controller of the practice of medicine, examining candidates for medical practice, testing drugs and disciplining violators of medical regulations.¹⁸

These texts in the Arts and higher faculties constituted the core of academic learning. The truth lay in the text, not experimental research. This traditional European academic culture arose and developed in a world that had a single vision of reality. How ironical that Europeans were trying to impose this reality and culture on peoples who had such a radically different culture just at that moment when the unity of Christian culture had been shattered by the rise of Protestantism! One can even speak of multiple ironies. In 1492, with the defeat of the Muslims and the expulsion of the Jews, Spain abandoned its plural cultural traditions and visions in favor of a single, and in their minds, purer Christian tradition.

Revival of Thomism

The texts and philosophy of Thomas Aquinas were enormously popular in the universities. It is no exaggeration to say that the philosophy of Thomas Aquinas formed the core of the theological curriculum. The advice Vera Cruz gave to his students after his course in Theology is an excellent illustration of the significance of Thomism in the academic culture of Spanish America: »No day should go by without reading an article by S. Thomas. In reading any book, they should note whatever was novel and useful, comparing it with what S. Thomas had said on that subject ... whatever was not clear, they were to jot it down and then consult S. Thomas.«¹⁹ Why had Thomism regained its influence when it was eclipsed in the middle of the fourteenth century by Nominalism and when the entire scholastic system was debunked by humanists as persuasive as Erasmus and Vives? For the most part, the explanation for its resurgence lies with the influence of Francisco de Vitoria and the University of Salamanca school of jurists and theologians who shaped the minds of many who came to America in the sixteenth century.²⁰

¹⁷ J. MALAGÓN BARCELÓ, »The Role of the Letrado in the Colonization of America«, in: *The Americas* 18 (1961), 1–72.

¹⁸ F. OCARANZA, *Historia de la Medicina en Mexico*, Mexico 1934; J. TATE LANNING, *Academic Culture in the Spanish Colonies*, 102.

¹⁹ J. GRIJALVA, *Crónica de la Orden de San Agustín en las Provincias de la Nueva España*, Mexico 1624, 492–496.

²⁰ L. PEREÑA VICENTE, *La Universidad de Salamanca, forja del Pensamiento Español en el Siglo XVI*, Madrid 1954; ders., *Misión de España en América*, Madrid 1956.

Vitoria was a student at the University of Paris between 1507 and 1523 and witnessed the revival of Thomism which arose from the dissatisfaction with the existing character of scholastic philosophy and the reform of the Dominican college at Paris.²¹ Vitoria's master, Peter Crockaert, inspired his students with love for the philosophy of Aquinas by using the *Summa Theologiae* as the basis of his teaching; he taught them to edit the texts of Aquinas. In 1512 Crockaert with the assistance of Vitoria published the *Secunda Secundae*, a moralistic work of Aquinas. The new Thomists found in his works certain ideas that were useful in understanding the troubled, transitional world of the sixteenth century. The revival of Thomism as formulated and applied by scholars like Vitoria and Vera Cruz was not a reaction against the general humanistic movement of the age, but a part of it. Vitoria returned to Spain in 1523 to become professor of Theology at Valladolid and then Salamanca. At Salamanca, he used the *Summa Theologiae* as his main text for his courses on Theology and discussed many of the burning issues of his day like the colonization of America, papal or conciliar supremacy and Henry VIII's divorce of his Spanish wife. The Salamanca school of theology came to be associated with the application of the principles of Thomist philosophy to contemporary ethical issues.²²

The main methods of instruction were lectures and disputations. The lecture was essentially a reading of a prescribed text of the appropriate faculty with a commentary on the text. The disputed question was a very important practice at the University of Mexico as at the medieval universities. A thesis was chosen by the professor; objections to the thesis could be raised at this point; a junior professor then defended the thesis and answered the questions. The senior professor then gave the final summing up, restating the thesis, presenting the arguments against, and replying to objections. There was also Quodlibet questions, which could be raised and answered by anyone and were public disputations. The question was therefore the favorite mode of teaching and expressing personal thought. Disputations helped to train the young academician in the elements of logical exposition and to develop a sharp and responsive mind.²³ Applicants for office often included the number of disputations in which they had participated. The dialogue of Cervantes de Salazar presents us with two pictures of the student caught in the act of disputation:

»Gracious! How loudly and pointedly that fat student disputes with the thin one.«

»The other is doing the same thing and is defending himself quite vigorously too. Nevertheless, as I observe, they are disputing over a bagatelle even though they seem to be arguing over a very serious matter.« And later in the dialogue:

»What does that paper fixed on the door contain?«

»Conclusions in Physics and Theology. Some problematic, some affirmative, others negative which, as the notice says, will be defended in the theology room on Tuesday.«

»Are those who defend the conclusions attacked vigorously?«

²¹ R.G. VILLOSLADA, *La Universidad de Paris durante los Estudios de Francisco de Vitoria* (Analecta Gregoriana, XIV), Rome 1938.

²² V.D. CARRO, *La Teología y Los Teólogos-Juristas Españoles ante la Conquista de América*, 2 Bde., Madrid 1944.

²³ E. GILSON, *History of Christian Philosophy in the Middle Ages*, 246–250; G. LEFF, *Paris and Oxford Universities in the 13th and 14th Centuries*, New York 1968, 166–168.

»Yes, the struggle ... is such that it seems to be a matter of life and death. On an elevated seat one of the masters presides over the disputation and clarifies any doubts.«²⁴

For how long did this scholastic system endure? The prologue to the 1775 constitution of the University of Mexico offers us valuable insights into the academic culture not long before the movement for independence. The author boasted that its graduates had occupied important secular and ecclesiastical positions in Mexico and the Philippines. In the faculty of Law, Dr. Andres Llanón y Valdés, professor of Civil Law, defended a thesis of twenty-four titles while still a student and could recite by heart any paragraph of the *Institutes*; in Theology, Juan de Díos Lozano de Valderas offered to lecture on any point of the *Master of the Sentences* at his bachelor's degree examination; in 1771 Gregorio Lorenzana and Clemente Velasco defended one hundred and fifty articles of the first part of the *Summa Theologiae* and one hundred and fifty articles of the first part of the *Secunda Secundae* of St. Thomas.²⁵ The prologue is evidence of the pervasive influence of scholasticism throughout the colonial period.

The transplantation of the European university and its scholastic system to America would tend to support the argument that it was just another institution whose objective was to consolidate the Christianization and Europeanization of America. It is difficult to deny that the purpose of the Church, the missionaries and the university was to assist in the spiritual conquest of the Americas. But the history of these institutions during the first century after the conquest was not predictable and showed that some Spaniards were critical of the victors and their actions and struggled to present the point of view of the vanquished as the Crown began to formalize its system of justice. Antón de Montesinos, Bartolomé de Las Casas, Pedro de Gante, Bernardino de Sahagún and Domingo de Santo Tomás, among others, had all contributed significantly to the movement to defend the native peoples and cultures, but it boggles the mind that Vera Cruz selected as his topic for the first course on Theology at the University of Mexico in 1553 the defense of the Indians.²⁶ Surely Bartolomé de Las Casas' defense of the Indians at the great debate in Valladolid in 1550–51 against Sepúlveda and the course entitled *De Dominio* given by Vera Cruz in 1553 are among the most eloquent testimony of the commitment to human rights in history.²⁷

The De Dominio of Alonso de la Vera Cruz

Born around 1507 in Caspueñas, a town in the diocese of Toledo, Vera Cruz received his Bachelor of Arts degree from the University of Alcalá and then went to Salamanca to study Theology where his professor was the famous Francisco de Vitoria. When the Au-

²⁴ F. C. DE SALAZAR, *Mexico en 1554. Tres Diálogos Latinos*, 39–43.

²⁵ *Constituciones de la Real y Pontificia Universidad de Mexico*, Mexico 1775, preface.

²⁶ E. J. BURRUS, »Alonso de la Vera Cruz's Defense of the American Indians (1553–1554)«, in: *The Heythrop Journal* IV (1963), 225–253.

²⁷ Ders., »Las Casas and Vera Cruz: Their Defense of the American Indians compared«, in: *Neue Zeitschrift für Missionswissenschaft* XXII (1966), 201–212; See also M. BEUCHOT et al., *Homenaje a Fray Alonso de la Vera Cruz en el Cuarto Centenario de su Muerte (1554–1984)*, Mexico 1986.

gustinian procurator, Francisco de la Cruz, went to Salamanca in 1535 to recruit missionaries for Mexico, Vera Cruz already had the reputation of being an outstanding instructor. He was also tutor to the children of the Duque del Infantado, an important Spanish nobleman. What would motivate a young scholar to leave such a promising career to undertake a new life as a missionary in a strange land among such diverse peoples and cultures? One cannot discount Francisco de la Cruz's idealistic appeal to his sense of a mission to civilize, but the intellectual climate at Salamanca that was inspired by Vitoria must have been the significant influence in his decision. Having professed as an Augustinian in 1537 shortly after his arrival in Mexico, he was named Master of Novices of his order. Prior to his appointment as professor of the Chairs of Sacred Scripture and Theology, Vera Cruz achieved several distinctions. Mastering the Tarascan language, he founded several colleges in Michoacan and in 1542 substituted for Vasco de Quiroga as Bishop of Michoacan. He had in the course of his experiences come to know intimately the Tarascan and Aztec peoples.

The treatise, *De Dominio*, was therefore the fruit of considerable experience and reflection of life in Mexico during his stay.²⁸ The ideas he illuminated must have seemed to him particularly urgent in the early 1550s. We know that during the following academic year (1554–55) the topic for his course was *De Decimis*, the question of the ecclesiastical tithes that the Indians had to pay. The New Laws of 1542, the first severe epidemic between 1545 and 1548, major silver strikes in Zacatecas in 1546 and Guanajato in 1550 and the labor legislation of 1549 (*Repartimiento*) made the 1540s in Mexico eventful and turbulent.

Vera Cruz presented his treatise in the scholastic manner. He organized it in eleven doubts or questions, each doubt following the same pattern—presentation of the arguments opposed to his, followed by the defense of his own argument with »propositions« and »conclusions«. The content of the treatise follows two main lines of argument: a criticism of the *Encomienda*, expanding the discussion to include the question of land, and the question of the legitimacy of the Spanish conquest.

Why did Vera Cruz link the two questions? After all, the major conquests had come to an end. Spanish settlement and the establishment of an imperial system were the main issues. For Vera Cruz, Indian dominion over their labor, tribute and land was legitimated and resided in their community. This dominion could not be removed by force. If the seizure of dominion took place during the conquest, he argued that the war would have to be just. But, »from an unjust cause of war dominion cannot originate, since it is characteristic of tyranny to exert unjust oppression. But if he comes into possession not through violence but peacefully, then it must be by the will of the ruler or the community. But no such will has authorized his action.«²⁹ Although these arguments seem logical and measured, Vera Cruz could also be harsh in his denunciations. He charged that *encomenderos* who did not have proper title to their *encomiendas* were »maintaining their possession through force and violence.« They were »robbers«, »thieves« and »kidnappers«.

²⁸ For the history of the texts of the *De Dominio* and the *De Decimis* see the introduction of E.J. BURRUS to the texts in: *The Writings of Alonso de la Vera Cruz*, II, St. Louis 1968, 56–60.

²⁹ *De Dominio*, ed. by E.J. BURRUS, 103–105.

Vera Cruz kept insisting that religion was not a factor in determining lawful ownership. So, Indians could not be deprived of their land and other property because they were not Christian. Concluding this question, he maintained that if they were given a fair hearing, »they would protest against the tyranny and the oppression they are suffering, not from the emperor but from some of those to whom the custody of the natives was committed 'who devour them as they eat bread', who plunder, torture them ... of all this I am an eyewitness.«³⁰ He returned to the issue of tribute in the fourth question, arguing that the exaction of tribute was not of itself unjust if the ruler had just dominion and used the tribute for the welfare of the community. But, from the very beginning the colonists kept demanding tribute in the form »of gold or silver, precious stones, vases or other objects, and the more so, those who demanded slaves or servants or even free men.« In his opinion, they possessed no right to the tribute. He passionately pleaded: »I beg you, good reader, to put aside all prejudice and reflect by what law, by what right did the Spaniard who came to these regions, and armed to the teeth, attac these people subduing them as though they were enemies and occupying lands not their own, seeking out arbitrarily with force and violence all their valuable possessions and robbing the people.« For Vera Cruz, it was force, not freedom that was the principle at work in the exaction of tribute. There is little question that he has a pro-Indian perspective: »Their cup of suffering was filled to the brim when the Spaniards gave clear evidence of their intention by cruelly killing and most greedily plundering.« Referring to the *encomendero* practice of increasing the quota of tribute even when the Indians were too poor to pay, he wrote: »My heart bleeds at the thought of how inhumanly such tribute is exacted with the consequence that the native leaders ... are thrown into prison and are coerced with such punishment to plunder other Indians ... until they make up the excessive quota.«³¹ He recalled another horrible illustration of women being coerced to weave cotton shawls as tribute: »I saw more than once the following take place: women worked day and night at these tasks. They were violently forced into one place and locked up there with the children they nourish as if condemned to a prison and from such seclusion it follows that if they are pregnant, an abortion results from the excessive exertion, and if they are nursing mothers, because of too much work, wretched food and the irregular schedule, the milk they give their young is poor and thus the children die.« Or, take the example of the Spanish nobleman whose Indians had completed their term of work in the mines. Wishing to have them continue to work for him, he flattered the Indian leader by embracing him and showering him with gifts. Instead of hearing the usual: »you dirty dog«, he now hears, »O, Sir John, do honor me with your company.« Vera Cruz insisted that the consent of the people was necessary. Moreover, tribute was to be imposed in accordance with the ability to »easily« pay it. He remarked that even poor farmers in Spain were better off than the Indians. The consequence of this exorbitant and unjust tribute was that the native people could not look after their own needs and interests.

On the question of the Spanish purchase of Indian lands, he argued that the purchase was commonly illegal and often unjust in that Indians sold their land out of fear or cajo-

³⁰ Ebd., 109.

³¹ Ebd., 175.

lery. Though acknowledging the existence of private property among some individuals and the importance of free consent in the purchase of these lands, Vera Cruz focused on communal Indian lands. Community rights and the good of the community were recurrent themes in the treatise. We stressed that a community possessed legitimate dominion and ownership. Rulers of Indian communities could not sell land because communal lands, even untilled lands, did not belong to the rulers but to the entire community. The sale or the gift of a community's property destroyed the community's integrity. With what logic he argued: »Neither the governor nor the viceroy nor the entire community has the power to work for the destruction of the common good but has only the power to work for its advancement and promotion.«

It is interesting that Vera Cruz linked the issue of land to that of labor and tribute. Strictly speaking, the *encomienda* meant the allocation of labor and tribute but not land. Vera Cruz strongly upheld the traditional view. Individuals and communities retained ownership of their lands. Land was not tribute but the source from which they paid the tribute.³² Vera Cruz did not mince his words: If land was taken »to plant his crops or to set up grapevines or mulberry trees or other fruit trees or to pasture his herds for his own profit, such a Spaniard ... is a robber.« No one should »take over the otherwise cultivated lands of the natives either to plant or to graze cattle or for any other purpose.« This was how he explained his position. Lands were not really abandoned because Indians changed the area of planting every year. By allowing their herds to graze there, in effect they were ruining the land. Vera Cruz concluded this question on the seizure of Indian lands with the reminder that the Indians suffered great losses and continued to do so. Not only were the Indians robbed of their lands but their crops were destroyed causing hunger. Where tribute, labor and land had been excessively and unjustly obtained, Vera Cruz insisted, restitution had to be made to the native people. Why did he urge this radical measure? The call for restitution might have been given to urge the clergy who were his students who were confessors of the colonists to demand restitution as the price of forgiveness. What is more, it would provide moral bite to the laws that already existed to protect Indians but which were honored more in their breach than in their observance.

Was this attack on the *encomienda* justified? It was the preeminent Spanish institution used from the second voyage of Columbus in 1492. Legally, it was the allocation of groups of Indians to privileged colonists. These *encomenderos* were to receive tribute and labor from their designated Indians. In return, they were responsible for the Christian welfare of the Indians. The *encomienda* was therefore many things; it was a system of social relations, a cultural system, and a labor system. It was different from Indian slavery in that the Indians held in *encomienda* were legally free. In the Caribbean, however, there was little difference as the Indians were coerced into providing labor, food and their women for the *encomenderos*. Even Hernán Cortés who had been in the Caribbean for twenty years and had witnessed the human catastrophe caused by the *encomienda* was determined not to introduce it in Mexico.³³ But his men had come to expect these allocations and, upon their insistence, he backed down. The history of the *encomienda* is but

³² Ebd., 139 u. 225; C. GIBSON, *The Aztecs Under Spanish Rule*, Stanford 1964, 58–97 u. 194–299.

³³ L. B. SIMPSON, *The Encomienda in New Spain. The Beginning of Spanish Mexico*, Berkeley 1950, 80.

the history of the tension between laws passed to regulate and control the institution and compromises with the laws. The fact was that the Spanish Crown and individual Spaniards had expected to profit materially from the conquest of the Americas. Simply put, they needed Indian labor. While the importance of the *encomienda* was replaced by the *repartimiento* in Mexico and the *mita* in Peru, systems of rotated labor drafts in the 1550s, no really viable alternative to these essentially forced labor systems was found. The multitude of laws, especially the New Laws of 1542, attested to the recognition of the cruelty of the system. But the rebellions in Mexico and Peru over the New Laws and even the increasing realism of some of the religious demonstrated the importance in the minds of the Spaniards of the labor system to the production of wealth. The need for labor would be made even more dramatic by the drastic decline of the Indian population caused by the waves of epidemics. The response of the twelve Dominicans of the Mexican chapter in 1544 to the inquiry of Tello de Sandoval as to the impact of the New Laws was revealing. In stating that the stability of the Spanish presence in Mexico depended on the continuation of the *encomienda*, they showed a remarkable change of attitude. They made a specious argument that there could not be stability without rich men nor rich men without *encomiendas*. But their last statement was the most telling: »... because without Indians all trade and profit cease.«³⁴ Even moderate religious like Domingo de Betanzos, a friend and supporter of Las Casas, came to accept rather than challenge the system.

But how does one reconcile what is essentially an oppressive economic system with the Christian purpose of the encounter? While Vera Cruz adopted a radical position against Spanish economic institutions and practices, his political position seemed moderate with respect to European military intervention in America. Having defended Indian rights to dominion, property and their own communities, Vera Cruz inquired whether the Spanish conquest and presence in America were just. Seemingly, he was establishing an argument that would form the basis of a new vision of America, a new world which Spaniards and Indians would construct in a cooperative spirit. To those who built their arguments for conquest on imperial or papal supremacy, Vera Cruz argued that neither possessed universal temporal jurisdiction over the whole world and so could not wage war against non-Christians simply because they were not Christian. The emperor therefore did not possess ownership of Indian land and neither he nor his representatives could arbitrarily grant large tracts of land or communal property to Spaniards without the consent of the native people. Vera Cruz, however, did leave open the possibility of intervention »through a concession of the supreme Pontiff, whose duty it is to provide the remedy for the spiritual purpose namely, that the gospel of Christ be preached throughout the whole world.« The pope possessed spiritual power which carried with it the responsibility to teach Christianity everywhere. By virtue of this mission, »he has the right of disposing of the temporal insofar as it is related to the spiritual.«³⁵ Vera Cruz argued that the pope could force non-Christians to receive the teachers of the gospel, although he could not force them to become Christian. It was permitted to send soldiers to defend the missionaries but »it would not be permissible to send them to seize the lands of the natives.« For Vera Cruz, then, it

³⁴ Ebd., 170.

³⁵ *De Dominio*, 317.

was the spiritual purpose that constituted the main reason for European intervention in America.

In the final two questions, Vera Cruz analyzed the just and unjust motives for conquest but they are related to the point he had established earlier, namely, the spread of Christianity as the motive of colonization.³⁶ Repeating his argument that should the right of the Spanish missionaries to preach Christianity be denied, the Indians could be forced by war to open their society to them, he quickly asserted that this was not how the conquests took place: »From the beginning armed soldiers came who frightened and plundered and slew the natives of the New World.« There was no way he could justify the initial conquests. For Vera Cruz, the charges that Indians were intellectually and morally deficient were not valid motives for conquest and the seizure of dominion. The accusations were not true. Not only were they not simple-minded like children, but in their own way they were outstanding and some were even eminent: »Before the arrival of the Spaniards ... they had officials, orderly government and most appropriate enactments; they had their own laws.«

In the long eleventh question where he developed the valid motives for conquest and dominion, his argument was almost identical to that of his master and colleague at Salamanca, Francisco de Vitoria.³⁷ In addition to the right of preaching the gospel, he suggested that Europeans had the right to travel in America, engage in commerce with the native peoples and even the right of access to the mineral wealth of America, provided these activities did no harm to the native peoples. Here Vera Cruz was proposing a new basis for the encounter between different worlds. Its underlying value was freedom. If it seemed unrealistic, it was because the history of the Americas had been already too firmly gripped by force and power to offer hope for a reversal. In criticizing the *encomienda* so vehemently, he was pleading for the freedom of the Indians, a freedom that was based on economic justice; in offering valid motives for Spanish intervention, he was justifying the European presence in America but in a different role — that of civilizers not destroyers. This was his vision of America, a dynamic mix of the two civilizations.

Influence of Vitoria and Las Casas

It remains for us to discuss the possible influences on the thought of Vera Cruz. His treatise, *De Dominio*, bore many similarities with the *De Indis* of Vitoria.³⁸ Vitoria had given his treatise at Salamanca in the 1537–1538 academic year after Vera Cruz had left for Mexico. Still, the views of Vitoria on the colonial question were already well-known by the late 1520s. His *De Potestate Civili* was given in 1527/28 in which he discussed the

³⁶ Ebd., 337–467; B. HAMILTON, *Political Thought in Sixteenth Century Spain*, Oxford 1963, 110–134.

³⁷ For a discussion of the ideas of Vitoria, Soto, Molina and Suarez on the theory of a just war, see B. HAMILTON, *Political Thought in Sixteenth Century Spain*, 135–157; see also the recently published work: H.-G. JUSTENHOVEN, *Francisco de Vitoria zu Krieg und Frieden*, Köln 1991; A. PAGDEN, *The Fall of Natural Man*, Cambridge 1982.

³⁸ F. DE VITORIA, *Relectio de Indis et de Iure Belli*, ed. by E. NYS, Washington 1917, 9–100; E. J. BURRUS, *The Writings of Alonso de la Vera Cruz*, II, 62–72.

valid and invalid motives of the conquest. Vitoria's condemnation of the war in Peru in 1534 and his declaration that the native people were not »foreigners but true vassals of the king« indicated his interest in American affairs.³⁹ Vera Cruz could have been acquainted with the *De Dominio* of Domingo de Soto, a former student and colleague of Vitoria, which was presented at Salamanca in 1534. One cannot be reminded too often, however, of the enormous influence Vitoria had over the intellectual climate at Salamanca, particularly on the issue of colonization. His students continued to explain his views throughout the sixteenth century. Thanks to Vera Cruz, the University of Mexico participated in this intellectual movement. The broad outlines of this movement remain clear, whether defended in Spain by Vitoria, Soto, Carranza or Juan de la Peña or in Mexico by Vera Cruz.⁴⁰ In the face of the destruction of the native peoples and cultures of America, some scholars in Spain and America struggled to make the defense of the native peoples the official policy of the State. They supported the principle of human rights for Indians and the sovereignty of Indian communities and, at the same time, proposed a more benevolent and cooperative European presence in America. In formulating these rights, they came up with the principles of an incipient international law. Vera Cruz and the University of Mexico must therefore receive credit for their contribution to these international principles.

Was Vera Cruz also influenced by Bartolomé de las Casas? Many of the advocates of reform in Spain and America were inspired by Las Casas. The friendship between Las Casas and Vera Cruz during the last years of Las Casas' life is well-known and moving.⁴¹ Arriving in Spain in 1562, Vera Cruz worked closely with Las Casas recording his last writings and activities. It was Vera Cruz who presented to the council of the Indies the final petition of Las Casas, urging to the very end another commission to investigate the suffering inflicted on the Indians. It was Vera Cruz who recorded his death on July 20, 1566, and his farewell words in his last will and testament: »God ... saw fit to choose me as his minister, though unworthy, to plead for all the people of the Indies against the oppressions and injuries suffered from our Spaniards ... and to restore them to the primitive liberty unjustly taken from them.«

If textually the influence of Vitoria and the Salamanca theologians on Vera Cruz's treatise seems clear, Las Casas' is not. There were differences in their ideas. For one thing, Vera Cruz was more moderate in his discussion of the rights of conquest, a moderation, I have argued, motivated strategically, to be sure, but also by the vision of the possibility of cooperation between American Indian and European. Yet, in his treatment of the other major question on the evils of the *encomienda* and the Spanish system of land, labor and tribute, the force of his arguments were not less hostile to the Spaniards. This should not be surprising. The passage of the New Laws in Barcelona on November

³⁹ B. HAMILTON, *Political Thought in Sixteenth Century Spain*, 179; H. R. WAGNER argued that Vitoria's *De Indis*: I could have been given as early as 1532 because Vitoria speaks in the introduction of »Indians who came forty years into the power of the Spaniards.« See WAGNER, *The Life and Writings of Bartolomé de Las Casas*, New Mexico 1967, 227.

⁴⁰ See my article: »Sixteenth Century Scholasticism and the Colonization of America: Francisco de Vitoria and His Influence«, in: *ZMR* 1 (1986), 15–37.

⁴¹ H. R. WAGNER, *The Life and Writings of Bartolomé de Las Casas*, 226–240.

20, 1542, which sought essentially to end gradually the *encomienda* system of private allocations and place all Indians under the Crown set in motion political ramifications that made the intellectual and political tensions of at least the next decade turbulent. For Las Casas, the New Laws and the Clarification of 1543 were too mild because they recommended the gradual abolition of the *encomienda* and slavery; on the other hand, the colonists, perhaps stung by the Mixtón war which almost put an end to Spanish rule in Mexico, feared that Mexico would be lost. Writing in the seventeenth century, the Dominican Remesal commented that Las Casas was »one of the most hated men who had ever been in the Indies.«⁴² The tide of opposition forced the Crown to revoke the Law of Inheritance in 1545, implicitly allowing the continuation of the *encomienda*. Las Casas was bitter when he went to Mexico in 1546 to attend a bishops' conference to discuss matters of an ecclesiastical nature. At Las Casas' urging, a second conference was called, this time attended only by representatives of the religious orders. Vera Cruz was vicar provincial between 1543 and 1546 and it was not unlikely that he was either present at or acquainted with the proceedings of this conference where Las Casas presented his *Confesionario* or »Twelve Rules for Confessors«.⁴³ In this work, Las Casas argued vehemently against the exploitation of the natives and insisted that the colonist had to make restitution of whatever he gained from the unjust labor of the Indians and for any injury done to them before he could be absolved. Is this then the source for the insistence of Vera Cruz on the doctrine of restitution that was so notable a feature of the *De Dominio*?⁴⁴

During the 1554–1555 academic year, Vera Cruz lectured on the question of ecclesiastical tithes (*De Decimis*).⁴⁵ He argued that Indians should be exempt from this inasmuch as they were already burdened by tribute and labor service. This angered the archbishop of Mexico City, Alonso de Montúfar, who left no stone unturned in his efforts to stop the publication of Vera Cruz's works. He sent a copy of the *De Decimis* to the Spanish Inquisition and recommended that the Inquisition be established in Mexico to root out heresy. Neither the Inquisition nor the council of the Indies forbade the publication of his works.

Conclusion: Scholasticism and Human Rights

These two treatises advocating the human rights of the Indians and criticizing Spaniards for violating them illustrate the paradoxical and unpredictable character of the historical process in sixteenth century Mexico. Medieval scholastic philosophy, particularly Thomism, and method proved to be sufficiently flexible and relevant to respond to the

⁴² Ebd., 135.

⁴³ No copy of the *Confesionario* is known. All transcripts were officially destroyed. But the twelve rules Las Casas later published might have been identical. They were meant to apply to Conquistadores, Encomenderos, and slaveowners. H. R. WAGNER, *The Life and Writings of Bartolomé de Las Casas*, 167.

⁴⁴ As an example of the severity of this doctrine of restitution, rules one and five demanded that the confessor draw up a legal document to be signed by the penitent, authorizing the confessor to dispose of property for restitution to the Indians. H. R. WAGNER, *The Life and Writings of Bartolomé de Las Casas*, 170–174.

⁴⁵ E. J. BURRUS, *The Writing of Alonso de la Vera Cruz*, IV.

modern question of human rights for Indians; a decidedly European institution, the university, allowed a university professor to criticize the European conquest and colonization of America. At that moment in the history of intellectual culture of Mexico such polarities as medieval/modern or Eurocentrism/indigenism were disabling. How surprising and ironical that, at a time when the economic stakes of Spain in America were so great, Spanish colonial culture was tolerant of criticism. This was a remarkable moment in history. The motivation and prestige of the first missionaries, the influence of the theologians and jurists from the University of Salamanca, and their favorable impact on the Crown were the principal factors that pushed this movement. But contrary winds were already blowing by the end of the 1550s. Archbishop Montúfar was one of those who became obsessed with heresy. Unable to silence Vera Cruz, he was responsible for the formal introduction of the Inquisition in 1569.⁴⁶ A different spirit was in the air and a new policy of Hispanization of the Indians was pursued. The destructive aspect of the encounter between European and American Indian is often considered as exemplary history with the hope that such horrors would not happen again. This creative period in sixteenth century Mexico, epitomized splendidly by the University of Mexico and Vera Cruz, deserves also to be exemplary.

⁴⁶ R. RICARD, *Conquête Spirituelle de Mexique*, 57–58.