

5-15-2022

David M. Lantigua. Infidels and Empires in a New World Order: Early Modern Spanish Contributions to International Legal Thought

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Recommended Citation

Luzárraga, Ramón "David M. Lantigua. Infidels and Empires in a New World Order: Early Modern Spanish Contributions to International Legal Thought," *Journal of Hispanic / Latino Theology*. Vol. 24 : No. 1 , Article 10. (2022) :73-76
Available at: <https://repository.usfca.edu/jhlt/vol24/iss1/10>

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David M. Lantigua. *Infidels and Empires in a New World Order: Early Modern Spanish Contributions to International Legal Thought*. Cambridge: Cambridge University Press, 2020. 356 pp. \$110.00 Hardcover. ISBN: 9781108498265.

The 1648 Treaty of Westphalia that ended the Thirty Years' War is commonly viewed by legal, political, and religious scholars in the West as the fount of contemporary universal rights and international law. Here Catholics or Protestants who were judged to be heretics by the other side could enjoy religious, cultural, and political rights in sovereign nation-states who chose which religions to either tolerate or recognize as the official religion within their respective borders.

Lantigua's important book, which brings together political philosophy, theology, and history, contradicts this Westphalian myth by accomplishing three goals. First, Lantigua corrects this flawed history with a detailed exposition of how universal (or natural) rights and international law originated in sixteenth-century Spain. An outstanding example of this tradition was the famous *junta* of Valladolid between the Dominican friar and bishop Bartolomé de las Casas and the philosopher and theologian Juan Ginés de Sepúlveda. From 1550 to 1551, that city witnessed a moderated debate before Charles V and the Spanish court about the legality and ethics of the Spanish conquest of the Americas, which was rooted in the question whether the infidel (in the eyes of the Spanish) Indians possessed natural rights. At the center of the thinking of Las Casas and his brother Dominican theologians was the development of what Lantigua describes as "reliable ethical principles for international thought to chasten empire, repudiate colonial abuses, promote solidarity with non-Europeans, and empower indigenous political agency" (4). This set of principles was centered on the idea of the idolatry of conquest and wealth at the expense of the human natural rights possessed by non-Christian persons, who were

made in God's image as demonstrated by their capacity for rational behavior, which included their capacity for political and social organization and spirituality. All persons therefore possessed rights and freedoms under God that transcended all kingdoms and nations, including their governments and laws, and crucially limited a nation's right to conquer other peoples. The rights of persons, Christian or infidel, would be defended by the Catholic Church, which transcended all nations, based upon a universal judicial order grounded in natural law and rights.

Second, Lantigua traces how over subsequent centuries European Protestant natural law and rights theorists eclipsed these Spanish innovations. Scholars succumbed to anti-Spanish propaganda and either downplayed or rejected the Spanish contributions to the development of natural rights and international law (6). Papal rejection of the Treaty of Westphalia as a response to Protestant incursions on the authority of the Catholic Church and its property did not help matters. By doing so, the Church disengaged from the larger evolving discussions and debates about natural rights and international law. Lantigua demonstrates that in spite of this, the eclipse of the Spanish contribution of natural rights and international law was over the long term a temporary phenomenon. Recent decades have witnessed a gradual rediscovery and a critical retrieval of what has become again a living body of political philosophy and legal theory, and not simply a historical relic. Lantigua's nuanced exposition of Spanish natural rights and legal theory, placed in a constructive dialogue that challenges the Westphalian myth, asserts the Spanish theory's proper place in these discussions and debates.

Third, Lantigua argues that Spanish natural rights and international law theory, because it was born out of the periphery of the debates generated by the Spanish encounter with and subjugation of Indigenous persons, paradoxically qualifies it to speak to how peoples subjugated by the nation-state heirs of Westphalia and their empires can seek their own liberation. The

Spanish legacy of rights and laws carried within itself a contradiction used to justify the political freedom as well as the dispossession of the “infidel other,” often concurrently by Spain toward its subject peoples. However, compared to rival theories of natural rights and international law developed elsewhere in Europe, Spanish theory did include ideas that, when critically retrieved, could liberate subjugated peoples. In sharp contrast, post-Westphalian theories that assumed principles of rights and international order among European powers did not include peoples outside Europe as a matter of course. One example Lantigua gives is Thomas Hobbes’s anarchistic view of international law, which places nation-states in a state of nature. Nation-states are thus left to their own devices to defend their interests, accountable to nothing or no one as they jockey for position and power in the world. This included the drive for empire. Hobbes himself was an investor in English colonial efforts in America, which his theory allows without any restraint.

Because Lantigua’s book is a comprehensive exposition and correction of the historical, philosophical, and theological origins and development of natural or human rights and international law, it is directed to a wide though specialized audience. Scholars and practitioners of law, in particular legal philosophy and history, scholars who work in human rights theory and its practice, political philosophers, historians of the nation-states of the West and their political evolution, theological and philosophical ethicists, and their graduate level students, all will find Lantigua’s book an important, thought-provoking read, connecting together elements of Western political thought, international law, and natural or human rights theory and practice into their proper relationships –currents of thought that have been kept apart too long due to political, religious, and national bias and prejudice.

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