POLITICAL ARISTOTELIANISM IN THE DEBATE ON THE CONQUEST OF AMERICA[1]

Dedicated to the great teacher and friend Merio Scattola who introduced me to Political Aristotelianism. In memoriam

1. The (re)discovery of Aristotle's *Politics.*

Aristotle's ethical-political thought remained unknown in medieval Europe until the 13th century[2], when the translation of *Nicomachean Ethics* [3] and *Politics* [4] as part of the rediscovery and assimilation of the *Corpus Aristotelicum*, caused a real epistemological (and political) earthquake[5]. These works were commented on by the *magistri artium*, such as Siger of Brabant and Boethius of Dacia[6] and Thomas Aquinas[7], who was called to Paris precisely to respond to the "radical" interpretation of Aristotle that dominated the Faculty of Arts.

[1] Text originally published in TOSI, G. Aristóteles e o Novo Mundo. A controvérsia sobre a Conquista da América (1510-1573). Rio de Janeiro: Lumen Juris, 2021, p. 125-154.

[2] See AUBONNET, J. *Le destin de l'œuvre*: la place de la *Politique* dans l'histoire des idées. In ARISTOTE, *Politique*, texte établi et traduit pour Jean Aubonnet. Paris: Les Belles Lettres, 1991, Vol. I. See LOHR, C. H. The medieval interpretation of Aristotle. In KRETZMANN, N. - KENNY, A. - PINBORG, J. (ed.) *The Cambridge History of Later Medieval Philosophy.* Cambridge, 1982, p. 81.

[3] See WIELAND, G. *The reception and interpretation of Aristotle's Ethics*. In *The Cambridge History of Later Medieval Philosophy, op. cit.* KNOWLES, D. *L'evoluzione del pensiero medievale.* Bologna: Il Mulino, 1984, pp. 188-191. DODD, B. G. *Aristoteles latinus.* In *The Cambridge History of Later Medieval Philosophy, op. cit.*, 1982, pp. 77-78.

[4] The first Latin translation of Aristotle's *Politics* is due to William of Moerbeke (around 1260) and 107 manuscripts have come down to us. The work of interpreting the book was begun by Albert the Great (1265) and continued by Thomas, whose commentary (realized in two stages between 1269 and 1290 and completed by his disciple Pierre of Auvergne) became a fundamental point of reference for all subsequent interpreters.

[5] The best work on the subject published in Brazil is: BONI. L. A. de. *A Entrada de Aristóteles no Ocidente Medieval.* Porto Alegre: EST Edições; Editora Ulysses, 2010.

[6] Siger of Brabant, *magister artium* in Paris, the leading representative of "Latin Averroism", commented on the *Politics*, basing his teachings on the dual authority of the Philosopher and his Arab commentator Averrois, and professing, like him, the doctrine of the separation between theology and philosophy (or doctrine of the "double truth") which also implied a separation between Church and State. See : AUBONNET, J. *Le destin de l'œuvre. op. cit.* p. CLIX. See LORCA, Andrés Martinez. El lenguaje filosófico de Aristóteles en la versión greco-latina de Moerbeke y árabe-latina de Escoto. In: BONI, LUIZ A. de - PICH, Roberto H. (eds). *A recepção do pensamento Greco-romano, árabe e judaico pelo Ocidente Medieval.* Porto Alegre: EDIPUCRS, 2003, p. 39-53.

[7] TOMÁS D'AQUINO. *In octo libros politicorum Aristotelis expositio*, cura et studio R. Spiazzi. Torino-Rome: Marietti, 1966. In addition to the long commentary on *Politics*, Aristotelian doctrines will find ample space both in the *Summa Theologiae* and in Thomas' political works, *De Regno sive de Regimine Principum*, which Thomas left unfinished and was finalized by his disciple Tolomeo di Lucca. See: AQUINO, St Thomas. *Escritos Políticos.* Translated by Francisco Benjamin de Souza Neto. Petrópolis: Vozes, 1997 (*Questões sobre a Lei* na *Suma de Teologia* e no *Do Reino* ou *Governo dos Príncipes ao Rei de Chipre*).

From Paris, political Aristotelianism spread throughout Europe, especially in England, through the Franciscan theologians from Oxford, Roger Bacon and Richard of Middeltown,[8] and in Italy, through the scholars who attended the University of Paris in the 13th century [9].

Ethics and *Politics* enjoyed an extraordinary diffusion and became a point of reference for most scholars, establishing a community of lexicons, meanings and principles, used to justify a wide and sometimes contradictory series of political proposals, which make up the so-called **political Aristotelianism**[10].

Merio Scattola says:

> If one considers the sphere of academic knowledge produced and transmitted in universities, one could easily observe that the books on *Politics* and the *Nicomachean Ethics* formed a common and widespread language, a kind of conceptual *koiné* recognized by all those who reasoned about the forms of social life.

He adds:

> Even though the language of the great Greek philosopher was recognized as the common code of cultured and academic politics, it was not a homogeneous *corpus*, because within it very different variants were developed, which sometimes came into conflict with each other[11].

For example, in the dispute over the state/church relationship, Aristotle offered arguments both to the curialist theologians - allowing them to elaborate in a more systematic and organic way an absolutist pontifical law[12] - and imperial theologians - allowing them to defend the autonomy and authority of civil power over ecclesiastical power with greater vigour.[13] - but also to the defenders of autonomies against the emperor, who found arguments in Aristotle[14] .

Aristotle's authority also played an important role in the famous internal Church dispute over the powers of the Pontiff, which gave rise to the conciliarist current[15].

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[8] AUBONNET, J. *Le destin de l'*œuvre, *op. cit*.

[9] SKINNER, Q. *As Fundações do Pensamento Politico Moderno,* op. cit. p. 70-74 (*A recepção da Escolástica*).

[10] On political Aristotelianism see: SCATTOLA, Merio: "*Civitas* e *respublica* nell'aristotelismo politico della prima età moderna". *Revista europea de historia de las ideas políticas y de las instituciones públicas*, no. 6 (noviembre 2013), pp. 13-34. "We can define Early Modern political Aristotelianism as the exposition of the contents of Aristotelian politics conducted with a rigorously Aristotelian method, or considered so [...] Aristotelianism and political Aristotelianism, as orientations of method, were responses to a problem of knowledge that was widespread in sixteenth-century European culture".

[11] IDEM, p. 14 (author's translation).

[12] Among them were Tolomeo de Lucca, Giacomo de Viterbo and Egidio Colonna. See AUBONNET, J. *Le destin de l'œuvre, op. cit.*

[13] Among them, Jean de Jandun and Marsilio of Padua, co-authors of *Defensor Pacis* (1324), and William of Ockham, author of *Breviloquim de principato tirannico* (1341-1342). AUBONNET, J. *Le destine de l'Ouvre*, *op. cit*. See the Brazilian editions: PÁDUA, Marsílio de. *Defensor Pacis* (1324). Trad. and notes by José Antônio de Camargo Rodrigues de Souza. Petrópolis: Vozes, 1997. OCKHAM, G. de. *Brevilóquio sobre o principado tirânico.* Translated by Luiz A. de Boni. Petrópolis: Vozes, 1988. OCKHAM,

2. Aristotelianism and political Augustinianism.

Despite this widespread acceptance of Aristotle, the *novitates* introduced by Aristotelianism were not easily reconciled with the tradition of so-called **political Augustinianism**[16]which had dominated Christian thought until the new Aristotelian paradigm.

According to Henri Xavier Arquillière, one of the greatest scholars on the subject: "Augustinianism - a generic term that encompasses a number of theological and philosophical theses - represents a doctrinal current that dominated Christian thought until the 13th century, until St Thomas and subsequent Thomism"[17].

P. Mandonnet, quoted by Arquillière, defines Augustinianism as:

> The absence of a formal distinction between the domain of philosophy and theology, that is, between the order of rational truths and that of revealed truths. [...] The same tendency, too, to erase the separation between nature and grace; a consequence of the absorption of the object of philosophy into that of theology[18].

G. de. *Political Works.* Vol II. Translation, presentation and notes by Antônio de Camargo Rodrigues de Souza. Porto Alegre: EDIPUCRS/USF, 1999.

[14] Like, for example, the great jurist Bartolo of Sassoferrato. "At the same time as reinterpreting the ancient law books, as we have already seen, in order to defend the independence of the city-states (*comuni*), Bartolo wrote a series of political treatises that owe much to Aristotle's *Politics*, both in doctrine and in the style of argumentation". SKINNER, Q. *As fundações do pensamento político moderno, op. cit.*, p. 72.

[15] IDEM, p. 393-413. Just to mention the most prestigious names who intervened in this dispute, we recall: OCKHAM. W., *Breviloquio de Potestate Papae* (1339-1342); GERSON, J. *De potestate ecclesiastica*; MAIR, J. *De potestate Papae in temporalibus*; ALMAIN, J. *Quaestio resumptiva de dominio naturali, civili et ecclesiastico.* The link between this tradition and the Spanish theologians of the 16th century, apart from John Mair, who taught in Paris when Francisco de Vitoria was studying there, is Pierre Crockaert, "One of John Mair's disciples at the College of Montaigu at the beginning of the 16th century was Pierre Crockaert (*c.* 1450-1514), who had come from Brussels at a relatively mature age to attend the University of Paris. Crockaert began studying and teaching the *via moderna*, but in 1503 there seems to have been a turning point in his scholarly interests: he abandoned reading Ockham, turned to the *via anticua* of Thomism, joined the Dominican order and moved to the College of Saint-Jacques. Crockaert was the maestro of Francisco de Vitoria, with whom he published a new annotated edition of the last part of the *Summa* (*Secunda Secundae*)". SKINNER, Q. *As fundações do pensamento político moderno, op. cit.* p. 413 (*O ressurgimento do Tomismo*). See also: TIERNEY. B. *The Idea of Natural Rights*. Studies on Natural Rights, Natural Law and Church Law (1150 - 1625*).* Emory: Emory University, 1997 p. 207-254 (*Gerson. Conciliarism, Corporatism and Individualism. Almain, Mair, Summenhart*).

[16] ARQUILLIERE, Henri Xavier. *L'augustinisme politique. Essai sur la formation des théories politiques du Moyen-âge.* Paris: Vrin, 1955. See also: BRANDÃO, Ricardo Evangelista – COSTA, Marcos Roberto Nunes. Agostinismo político: a apropriação dos textos agostinianos no *De ecclesiastica potestate* de Egídio Romano. *Perspectiva Filosófica*, Vol. 2, nº 40, 2013, p. 99-115.

[17] ARQUILLIERE, H. X. *L'augustinisme politique, op. cit.*

[18] MANDONNET. P. *Siger de Brabant et l'averroïsme latin.* Louvain : Institut Supérieur de philosophie de l'Université, 1908, p. 55-56.

Arquillière also quotes the great scholar of medieval philosophy, Etienne Gilson, who emphasizes the differences between Thomas and Augustine:

> Under the name of nature, Augustine describes the de facto state determined by sin and everything that, in this state, authorizes the hope that man can emerge from it. St Augustine reduces the history of the world to that of sin and Grace, because he thinks of the cosmic drama in terms of the drama unfolding in his soul. [...] From this it follows that, between two possible solutions to the same problem, Augustinian doctrine spontaneously inclines towards the one that is more in agreement with God than with nature[19].

Political Augustinianism is the application of these principles to politics, which results in a theocratic conception of power, as Arquillière states: "What constitutes what we call *political Augustinianism* is the tendency to absorb natural law into supernatural justice, the law of the state into the law of the Church".[20]. This tendency can already be found in St Augustine, as an "inclination of the spirit", but it only becomes a "political doctrine" in the heirs of his political thought[21].

> But here is the point at which those we call Augustinians separate themselves from St Augustine [...] The tendency of Augustinian thought to quickly transpose the stages of nature, of natural law, of natural virtues to be pleased and absorbed in supernatural justice, gradually became a confusion in his disciples. They tended to identify the domain of the Church and the domain of the State, one and the other dominated by the concern for the salvation of souls[22].

Among Augustine's medieval followers were Henry of Susa (*Hostiensis*) (+1271) and Egidio Romano (+1316),[23] whose positions will be the subject of the controversy over the Conquest of America in the discussion of theories that defended the full power of the Pope and Emperor over the world (*plenitudo potestatis*), such as Juan Ginés de Sepúlveda, and the scholastics of Salamanca, such as Francisco de Vitoria, who criticize it.

The introduction of Aristotle's *Politics* and *Ethics* into the medieval debate provoked a questioning of this identification between nature and grace, State and Church, and introduced new political ideas that it was not always possible to harmonize or reconcile with the traditional system and which gave rise to a debate of great consequences.

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[19] GILSON, E. *Introduction à l'étude de saint Augustin.* Paris, 1929, p. 299-300.
[20] ARQUILLIERE, H. X. *L'augustinisme politique, op. cit.*
[21] IDEM, p. 55.
[22] ARQUILLIERE, H. X. *L'augustinisme Politique, Op. Cit.*, p. 55.
[23] For a detailed account of medieval theocratic thinkers and their opponents, see CARRO, V. *La teología y los teólogos-jurístas españole ante la conquista de América.* Salamanca, 1951, p. 216-221. See: ROMANO, Egidio. *On ecclesiastical power.* Translated by Cléa Pitt B. Goldman, Vel Lejmnan and Luis A. de Boni. Petrópolis: Vozes, 1989.

The initial reaction of the ecclesiastical authorities was very cautious, but ended in a firm condemnation of all those aspects of the Stagirite's philosophy that had already aroused the perplexity and opposition of the Church Fathers, who had realized that it was easier to "Christianize or baptize" Plato than Aristotle. In 1277, several propositions taken from Aristotle's works were condemned by the Bishop of Paris Etienne Tempier[24].

As happens in such cases, these condemnations were unable to stop or hold back the progress of the new ideas, which found their center of irradiation in Paris, initially through the Faculty of Arts and then of Theology.

Skinner writes:

> It was soon realized that Aristotle's moral and political philosophy profoundly questioned Augustinianism, which at the time predominated in the conception of what a Christian political life would be. Augustine represents political society as an order determined by God and imposed on fallen men as a remedy for their sins. Aristotle's *Politics*, on the other hand, treats the polis as a purely human creation, designed to fulfil strictly worldly ends. Furthermore, in Augustine, the theory of political society is subordinated to an eschatology, which considers the life of the pilgrim on earth to be little more than a preparation for the life to come. Aristotle, on the other hand, states in book I of *Politics* that the art of "living and living well" in the polis is a self-sufficient ideal, which does not need any ulterior purpose to acquire its full significance[25].

If political Augustinianism tended to absorb the spiritual into the temporal, the more radical version of Aristotelianism tended not only to denounce the abusive intrusion of the spiritual into the temporal, but to absorb the spiritual into the temporal, as in the works of Marsilio of Padua. The "middle way" between the curialist and imperial theologians will be that proposed (and later imposed) by Thomas Aquinas, who, "by amalgamating the theses of *Politics* and those of the *City of God*, will realize that fusion of essential principles of the *polis* and the *Cosmopolis*, which constitute one of the foundations of the Church's social doctrine"[26].

The influence of Aristotle and in particular his *Politics* was also immense in the debate about the conquest of the New World: all the authors appealed to the authority of the *Philosopher* to defend their theses[27]. Aristotle was the philosopher of reference for all the and all of them were deeply influenced by the categories, language, concepts and questions that the philosopher had left behind. But in this, as in other cases, the Aristotelians, starting from the same presuppositions, ended up drawing radically different consequences from them, especially about the doctrine of natural slavery.

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[24] AUBONNET, J. *Le destin de l'œuvre, Op. Cit.* 1991, p. CXLVIII. The *Politics*, however, escaped the condemnation of the Bishop of Paris and remained largely preserved in the debate on Aristotelianism.

[25] SKINNER, Q. *The Foundations of Modern Political Thought, op. cit.* p. 71.

[26] AUBONNET, J. *Le destin de l'*œuvre, *op. cit.*

[27] On political Aristotelianism in the debate on the conquest of America, see SCHÄFER. La política de Aristóteles y el aristotelismo político de la conquista. *Ideas y valores* Revista colombiana de filosofia. 119 - August 2002, p 137-144.

3. Middle Ages: *Servi* and *barbari*.

With the dissemination of Aristotle's *Politics* in the 13th century, the theory of natural slavery once again circulated in the academic circles of the time and became the object of an interpretative *querelle* of the medieval authors, who dedicated themselves to *glossing over* the Aristotelian text and who wrote the numerous political treatises inspired by the philosopher's work. However, the doctrine faced two serious obstacles: theoretically, it was contrary to the original natural equality of all men preached by Christianism, but even when it was accepted, it was not easy to find a concrete historical reference for it.

Aristotle's great fame meant that the theory, or at least some aspects of it, found great acceptance among the glossators, introducing different and discordant elements to the traditional doctrine that limited slavery to the realm of *jus gentium* or jus *positivum*, and clearly excluded it from *jus naturale*[28]. If for Aristotle and the ancient authors, including Augustine, slavery was a concrete and real phenomenon that they could experience, for the medieval authors there was the problem of finding an empirical referent for the Aristotelian category, since ancient slavery had been dissolved and replaced by feudal serfdom.

As Fioravanti states:

> Accepting the legitimacy of *servitus naturalis*, overcoming, through more or less coherent solutions, the contrast with the stoic-patristic tradition of a purely legal *servitus* and a primordial and natural *libertas ("in prima aetate nullus erat servus a natura, ut patet per omnes morales*" summarizes Buridan) the problem of giving this concept an empirical referent remains open[29].

The dissolution of ancient slavery had led to the various forms of feudal servitude that the scholastics knew very well how to identify, exercising their peculiar penchant for distinctions and classifications. While the Aristotelian distinction was limited to the binomial "slave by law and by nature", the scholastics identified other types of *serfs*: "some by nature, others by malice (*malitia*), others by their spontaneous will (*benivolentia), others by* necessity (*indigentia),* others only by domination and violence"[30].

Medieval people, however, found it difficult to identify the concrete referents of the *servitus naturalis* of which Aristotle spoke. Servants by nature were identified either as domestic servants, or as manual labourers (*artifices*), *or* as peasants (*rustici),* or as the various types of barbarians[31].

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[28] Thus, for example, Egidio Romano, translator of the *Politics* and author of *De Regimine Principum* (1280), identifies Aristotelian slaves in the *servants of* his time and admits the existence of beings destined, by virtue of their muscular strength, to be servants of the most prudent and wise men. Johannes Buridano, in his *Quaestiones super octo libros Politicorum* (1360), also accepts the theory of the existence of men who, by virtue of their superior intelligence, have the right to command their fellow men. See: AUBONNET, J. *op. cit.*, p. CLVIII.

[29] FIORAVANTI, G. *Servi, rustici, barbari: interpretazioni medievali della* Política *aristotelica.* Annali della Scuola Normale di Pisa, serie III, XI, 2 (1981), pp. 399-429, p. 404 (author's translation).

The latter category seemed the most suitable for giving empirical content to the Aristotelian *phúsei doulos,* because it comprised a varied and complex set of meanings, all of which tended to be negative, indicating inferiority, diversity and otherness, which medieval people could easily find in ancient authors, and which were still alive and well in the collective imagination of the time.

In a first, rather generic sense of the term, which referred to the etymology of the term, "barbarians" were considered to be all those peoples whose language was not understood and, therefore, Christian peoples could also treat each other as barbarians: "just as the Germans (*theutonici*) are barbarians to the Italians and the Italians to the Angles (*anglicis*)".[32].

In a more precise and restricted sense, barbarians were peoples who lacked writing, who were ignorant and uneducated (*gens indocta et sine litteris*) *in* relation to the great ancient civilisations[33].

Barbarians were also all those peoples who had customs that were considered uncivil or repugnant and that brought them closer to wild animals who lived "outside the law and following *ferocious* customs" (*exleges et more ferarum*), outside the norms of civilization; Aristotle had also mentioned them in the *Nicomachean Ethics*[34].

Finally, in a more precise and political sense, barbarians were those peoples who, by virtue of their intrinsic and natural characteristics, were governed by despotic regimes, as Aristotle had stated in *Politics*[35].

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[30] IDEM, p. 405.
[31] IDEM, *passim.*
[32] IDEM, p. 422/23.
[33] IDEM, p. 422.
[34] ARISTOTLES, *Nicomachean Ethics*, VII, 1, 11145a 28-33; VII, 6, 1148a 18-25; VII, 6 1149a 7-12.

In the commentaries that medieval authors devoted to the argument, these various meanings of barbarian coexisted, but there was a tendency to emphasize certain elements of barbarism, in particular *bestiality (teriotés)* which, in the Aristotelian text, merited only a vague reference. Although Aristotle spoke of the bestial customs of some barbarian peoples in the region of Pontus Eusinus or, more generally, in "distant places", the discourse on bestiality referred above all to individual and rare characters, produced by disease or habit.

Medieval authors, on the other hand, tended to extend these characteristics to entire populations:

> Using the words of Thomas Aquinas, if it is true that "by the term 'barbarians' is meant something strange (*extraneum*)", now a relative or specific strangeness (*extraneitas secundum quid*), was replaced by an absolute strangeness (*extraneitas simpliciter)*; the *barbarian* became a stranger to the human race (*extraneus humano generi*) and, from a defect of communication, became a defect of reason[36].

From a purely linguistic characteristic, they moved on to an ethnological-anthropological characterization: barbarians in the proper and absolute sense (*proprie et simpliciter*) then became those peoples who practiced monstrous customs (such as eating human flesh), lived in distant (*iuxta aequinoctialem)* and inhospitable (*intemperies aereis)* regions, in which, because of the rigours of the climate (*propter persistatim ratione frigoris circumstantis)*, they acquired physical characteristics (*generatur multus sanguis grossus circa cor et turbulentus)* that deprived them of reason (*et sic intellectus in illis deficit in judiciis suis*), as Johannes Buridano, Albert the Great, Peter of Auvergne and Thomas Aquinas himself affirmed:

> [...] they are to be considered as naturally irrational, not because they do not possess any kind of reason (*nihil habeant rationis*), but because what they apprehend is almost entirely limited to sense, so that they live only according to the senses. And they are such that they are bestial almost by *nature (et tales sunt quasi secundum naturam bestiales)*. This is especially true of those barbarians who dwell "at the end of the world" (*Quod precipue accidit circa quosdam bárbaros in finibus mundi habitantes)*, where, due to the inclemency of time, their bodies suffer from a malaise; disposition that prevents them from using their reason (*ubi propter intemperiem aeris corpora sunt malae dispositionis ex qua impeditur usus rationis in eis*)[37] .

[35] ARISTOTLES, *Politics*, I, 2, 1252b 5-9.
[36] FIORAVANTI, G. *Servi, rustici, barbari, op. cit.*

The barbarians *simply* identified *in* this way remained "*in finibus mundi"*, outside of known society, and the medievalists, despite some attempts, were never able to identify a concrete historical subject to whom they could attribute these characteristics.

Fioravanti says:

> The impression is that the class defined by the concept of barbarian-slave, despite its precise connotations (cannibalism, lack of *humanae litterae*, *intemperies aeris*) remained an empty category in the Middle Ages [...]. However, with the discovery of the New World, in the first contacts with the new populations, it began to function and we can read in Sepúlveda's *Democrates* the *Second*, now pregnant with much heavier implications, the same expressions that we find in the texts of Albert the Great and Thomas Aquinas[38] .

In the debate on the Conquest of the New World, the arguments of the medieval scholastics were used to justify the domination of the newly discovered peoples, identifying in them the *barbarians simpliciter* of Thomas Aquinas and thus giving a concrete reference to this "empty" category.

Bartolomé de Las Casas, who was familiar with the medieval debate on barbarians, took up these issues in an original way to challenge the identification of the indigenous peoples of the Americas with this category[39].

4. The "discovery" of America: Indians and barbarians.

The first theological-legal intervention on the Conquest by an important theologian was that of the Scotsman *Johannes Maior*, who took up Aristotelian theory and, using medieval examples and language, applied it unreservedly to the new peoples and territories discovered:

> These people [*the inhabitants of the Antilles*] live like animals (*bestialiter)* above and below the equator; below the poles they live like wild men (*ferini)*, as Ptolemy states in his *Tetrabiblos*. **And it is precisely in these times that this has been demonstrated by experience** (*et iam hoc experientia compertum est)*; therefore, the first person who subjugates them governs them by right because they are slaves by nature (*natura sunt servi)*. As the Philosopher says in the third and fourth chapters of the first book of the *Politics*, some men are slaves by nature and others are free by nature. And it has been verified that in some men such a disposition [*to slavery*] exists and that they benefit from it. It is right that one man should be a slave and the other free, and it is right that one man should command and the other obey, because the aptitude for command is the same as the aptitude for obedience, innate in those who are masters by nature. In this regard, in Chapter I of the book, the Philosopher states that the Greeks should always be masters of the barbarians, precisely because, by nature, barbarian and slave are the same thing[40].

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[37] Thomae Aquinatis, *In octo libros políticorum*, 7, 5, nn. 1120-1123. In FIORAVANTI, *op. cit.*, p. 427.
[38] IDEM, p. 429.
[39] LAS CASAS, Bartolomé de. *Apologia*. Madrid: Alianza Editorial, 1989 (*Obras Completas*, v. 9).

In this passage, Maior transcribes almost verbatim the pages of Aristotle on natural slavery, adding only the motivation of the preaching of Christianity as a just cause for submission and even war, not only when it was actively opposed by the Indians, but also when the Indians, even allowing the preaching, refused to convert, thus becoming useless to the State and enemies of the Church[41].

This first intervention by a theological *auctoritas* did not go unnoticed and started a series of pronouncements in the same direction. Maior's text of 1510 slightly preceded the *opinions* of the theologians and jurists of the *Junta* de Burgos (1512), who, probably unaware of Maior's opinions, applied Aristotelian theory to the *Indians.*

The Dominican theologian **Bernardino de Mesa** stated in his opinion that the *Indians* were "free subjects and vassals of his Highness and not servants" but admitted that they could be subjected to a certain type of servitude. In fact, they were not serfs by law, because they had not been conquered in a just war, nor could they be considered serfs because of their infidelity, which was not a sin. They were not servants by purchase, nor could they be servants by nature, because all men are naturally free; that's why Queen Elizabeth had always considered them to be such. However, they could be considered servants "in accordance with the natural servitude that came from their lack of understanding and ability, their repugnance to work and their lack of firmness in persevering in the faith". For this reason, he suggested *distributing the Indians* to "qualified" people who would subject them to labour and provide for their education[42]. This began to lay the ideological foundations to justify the *encomienda*, a disguised form of slavery.

The *licenciado* **Gregorio** was more radical in his proposals; he recalled that Thomas himself, following Aristotle, had distinguished between two forms of *dominium*, the first "real", which consists of "ruling free men and subjects for their own ends", benefit and utility", and the second "despotic", which is similar to that between "master and servant".

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[40]Johannes Major, *In secundum librum sententiarum*¸ Paris 1519. *Distinctio* 44, q. 3. Cited in CARRO, V. *La teología y los teólogos-juristas, Op. Cit.* p. 292; and PAGDEN, A. *La caduta dell'uomo naturale. Op. Cit.* p. 39 (author's translation).

[41]Johannes Maior, Lib. I Sent. Dist. 48, q. Unica. In Carro, V. *La teología y los teólogoso-jurístas, op. cit*.

[42] CARRO, V. *La teología y los teólogoso-jurístas, op. cit.*p. 45-47 and 273-5.

This second form "is just when it applies to those who are by nature serfs and barbarians, and who lack judgement and understanding, such as these Indians who, according to everyone's opinion, are like *talking animals*". In addition, they are "full of vices and bad habits, they are idle and have no inclination or dedication to virtue and goodness". These vices deserve punishment, as does idolatry, because while it is true that "neither the Pope nor any other lord can punish the unfaithful for their unfaithfulness", it is also true that "those who commit sins against nature can be punished so that they may receive the natural law [...]; and since idolatry is something against reason and the natural law, because of idolatry they can be punished and chastised". The *repartimiento* and the *encomienda* were the appropriate instruments for punishing the Indians and constituted for them "a much more convenient means [than freedom] for receiving the faith and persevering in it"[43]. These arguments closely resemble those of Sepúlveda.

In the same year, was published the treatise by **Palacios Rúbios** entitled "*Libellus de insulanis oceanis"* or *"De las islas oceánicas"*,[44] which stated that the indigenous people were not servants, but free subjects of His Majesty the King and reaffirmed the theocratic doctrines. Palacios Rúbios was an ardent defender of the King, author of a gloss to the Laws of Tori, which was an impassioned defense of Ferdinand of Aragon's "Holy War" against the Kingdom of Navarre. He also wrote a commentary on Aristotle's *Politics* and perhaps a *Tratado esforzando los indios a la fé católica,* which has been lost. But the fame of Palacios Rúbios is due to the famous (or infamous, according to some) *requerimiento,* which he drafted[45].

More important from a theological-philosophical point of view is the treatise by the *Dominican* priest **Matias de Paz,** a theologian from Salamanca, entitled *De Dominio Regum Hispaniae super Indos*[46]which can be considered the first treatise, albeit brief, to compare positions in favour and against the legitimacy of the conquest and the treatment of the Indians, proposing "considered" solutions. Despite affirming that the American Indians were not slaves by nature, the treatise defended the legitimacy of the King's intervention, including armed intervention, against the Indians, by virtue of the papal mandate, interpreted in the sense of the spiritual and temporal *plenitudo potestatis of* the Supreme Pontiff[47].

[43] IDEM, *ibid.* See also: Gliozzi, G. *Adamo e il nuovo mondo. Op. Cit.*, p. 288-89.
[44] RUBIOS, Juan López y Palácios. *De las islas del mar Océano (Libellus de Insulis Oceanis)*. Navarra: EUNSA, 2013.
[45] See PAGDEN, *La caduta dell'uomo naturale, op. cit*. The *requerimento* was the text in Castilian that was read to the natives before hostilities began.

5. The questions raised by political Aristotelianism.

As we can see from these opinions, the Aristotelian theory of natural slavery - which, until then, even though it had been known and discussed by medieval theologians and jurists, had remained an "empty category" devoid of a concrete historical subject to which it could be applied - now became the central axis of the legitimization of the *Conquest*. Under the mantle of the Philosopher, a simple and convincing solution was found, which provided a powerful theoretical basis for legal decisions.

In 1519, in Barcelona, before Emperor Charles V and the Court, Bartolomé de Las Casas sharply disputed Bishop Juan de Quevedo and the chronicler Gonzalo Fernández de Oviedo about the natural condition of the indigenous people of the New World. To the Franciscan bishop, who had declared that the Indians were *servi a natura* citing the theories of Aristotle, Las Casas replied that "Aristotle was a pagan who will be burning in hell and that his principles should be accepted only if they conformed to our holy religion"[48].

The theory of the *phúsei doulos* was no longer limited to a restricted circle of scholars, it had become a public domain argument that found easy and immediate acceptance and was part of a theological-legal controversy that was decisive for the justification of the entire overseas enterprise.[49]. Las Casas responded to this doctrine that identified the Indians with the *barbari simpliciter of Politics,* through the classification of the different types of barbarians, and so he will once again "empty" this category of historical content, denying that it can be applied to the Indians[50].

Due to its authority, the Aristotelian doctrine of natural slavery left some questions in abeyance that would be the subject of discussion and further development by theologians and jurists, because it had to be made compatible with Christian principles.

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[46] PAZ, Matias de. *De Dominio Regum Hispaniae super Indos.* In "Archivium Fratorum Praedicatorum", 3, (1933), p. 137-177. See also RODRÍGUEZ, Pedro Fernandez OP. *Los dominicos en la primera evangelización de México*. Salamanca: Editorial San Esteban, 1994, p. 59 ff. URBANO, Francisco Castilla. *The thought of Francisco de Vitoria*. Political Philosophy and the American Indian. Barcelona: Anthropos, 1992, p. 226 ff. REAL, Ricardo José Cuéllar. *Francisco de Vitoria y las cuestiones de India*. Sevilla: Punto Rojo Libros, 2015, p. 168 ff.

[47] See a commentary on Matias de Paz's treatise in CARRO, V. *La teología y los teólogos-juristas, op. cit.* pp. 276-285.

[48] See HANKE, Lewis. *Humanity is One, op. cit.* p. 34.

[49] See: TOSI, G., *La teoria della schiavitù naturale nel dibattito sul Nuovo Mondo (1510-1573): "Veri domini" o "servi a natura"?"*Divus Thomas", Edizioni Studio Domenicano, Bologna 2002. See also:

Temporary or permanent inferiority? Aristotle had affirmed the natural, i.e. permanent, character of the differences between men, since "from birth some are destined to command and others to be commanded"; in other words, the differences between free and slave were qualitative and not quantitative. Despite not having convincingly "demonstrated" this thesis, the consequence of this doctrine was the existence of a species of semi-men situated between man and animal[51]. In the debate on the New World, this would be one of the most discussed aspects, with some defending the total inability of the indigenous people to overcome their state of inferiority (thus initiating the first "proto-racist" theories); others claiming that these differences were determined by historical circumstances that had temporarily impaired their rational faculties, which nevertheless remained potentially intact.

Despotic or paternal domination? For Aristotle, the master/slave relationship is "favourable to both", because the slave, unable to subsist on his own, needs to be governed by the master; however, he admits that the relationship is asymmetrical, because the interests of the master prevail and only accidentally those of the slave. This thesis will also be much debated: on the one hand, it will serve to justify the domination of the Spanish over inferior peoples who are incapable of governing themselves; on the other hand, it will be interpreted in a more benevolent way, showing that this domination is justified only if it is exercised for the benefit of the indigenous people and until they are unable to govern themselves.

Indians: barbarians and slaves? Another relevant aspect is the extension of the concept of natural slavery to all "barbarians". Aristotle limits himself to quoting the common opinion that "ruling over barbarians is the same as ruling over Hellenes", because by nature barbarians and slaves are the same thing. In the debate, this argument will be used to justify the "just subjection" of indigenous peoples by some, while to others it will seem very "strange and absurd" that entire peoples could be considered slaves and inferior by nature, not least because this would contrast with the Aristotelian principle that nature tends towards perfection and does nothing in vain.

Just war. Aristotle had justified war as a legitimate means of acquiring goods, including slaves hunted like wild animals, offering justifications for the just war of the *conquerors* against the barbarians of the New World. The debate in favour or against war would be decisive in establishing the legitimacy of the conquest.

JOSAPHAT, Carlos. *Contemplação e Libertação. Tomás de Aquino, João da Cruz e Bartolomé de Las Casas.* São Paulo: Ática, 1995.

[50] LAS CASAS, Bartolomé de. *Apologia*. Madrid: Aliança Editorial, 1989 (*Obras Completas*, v. 9).

[51] See: TOSI, G. *Aristóteles e a escravidão natural.* Boletim do CPA. *Revista de Estudos Filosóficos e Históricos da Antiguidade.* Ano VIII N.° 15 Jan/Junho 2003.

Political or despotic government? The context in which Aristotle had placed the whole discussion was the distinction between the various spheres of government (*arché*): the private (*oikos)*, which was asymmetrical, in which the man, as a husband, had dominion over his wife, as a father over his children and as a master over his slaves; and the public in which all citizens, obviously men, were free and equal. This will be one of the fundamental aspects of the debate. Las Casas will use this precious Aristotelian distinction between private and public space to defend the recognition of the true not only private but also public domain of the indigenous people (*sunt veri domini publice et privatim sicut christiani as* Vitoria said in *De Indis*) and therefore delegitimize the whole process of conquest[52].

These are the questions that Aristotle's thought leaves for the debate on the conquest of America[1].

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[1] Ver: TOSI, G. *Aristóteles e o Novo Mundo*. A controvérsia sobre a Conquista da América (1510-1573). Rio de Janeiro: Lumen Juris, 2021.

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