

FROM SLAVE DRIVER TO ABOLITIONIST:  
BARTOLOMÉ DE LAS CASAS  
ON AFRICAN SLAVERY

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The life and works of Bartolomé de Las Casas were accompanied by controversy, both during his lifetime and after his death. One subject, which served to obscure his reputation in particular, was his demand for the rights of slaves in order to preserve the dwindling Taino population in the Antilles. In his letter of 1516, as Clayton has correctly noted, Las Casas suggested importing black and white slaves from Castile to release Native Americans from forced labor<sup>1</sup>.

Despite Las Casas' endless efforts to liberate Native Americans from Spanish bondage, his involvement with the Atlantic slaves has served to create a black legend that Las Casas promoted the treaty for African slaves. In this work, as paradoxical as it appears, I intend to prove that Las Casas' exalted defense of the liberty of the Indians does not contradict his acceptance of African slavery since the Africans brought to America were already a people in bondage. In other words, Native Americans (as was evident to Las Casas) had lived free and in peace with the Christians until the arrival of the Spaniards and, thus, should have been treated as free men according to *ius naturale* and *ius gentium*, but the opposite could be said of the Africans who arrived in America. If, therefore, it could be proved that they were already in bondage in their societies, or they had acted as enemies of the Christian faith, they could legally be considered slaves.

In this work, I will first try to define the concept of slavery in Las Casas' times. My intention is to show that Las Casas' frequent demands for slaves were not only attempts to save the Indians from the abuses of the *encomenderos*, but also an effort to make the Spanish colonies in America economically viable. Secondly, I will make a comparison between the cases of the Native Americans and the Black Africans. Finally, I will try to explain Las Casas' later criticism of his own position on African slavery and all forms of slavery.

<sup>1</sup> Cfr. L. A. Clayton, *Bartolomé de Las Casas and the Conquest of the Americas*, Willey-Blackwell, United Kingdom, 2011, p. 135.

## 1. How Las Casas Understood the Institution of Slavery

In Las Casas' times, as Andre Saint-Lu has pointed out, the principles of slavery were fully allowed by sixteenth-century philosophers, jurists and Thomist theologians linked with the Church<sup>2</sup>. The precedent, set centuries before the "discovery of America", saw a boom in the commerce of slaves as a result of the conflict between the Christians and Muslims. Indeed, the legality of this forced labor was unquestioned in the sense that they came from areas under Arab and Muslim rule. In this way, the enterprise and commerce made by the Portuguese were considered by the Saint Site as a Crusade, and the people captured, part of a just war<sup>3</sup>.

In Spain, the regulation of slavery was recognized in *Las Siete Partidas*. This code explained the legal circumstances in which a slave was considered a free man and those that deemed him the subject of others. *Las Siete Partidas* defined rights and obligations for masters and slaves related to, for example, the protection of life and the immunity of slaves when they married a free person. Moreover, this code contemplated several provisions for slaves to regain their liberty<sup>4</sup>.

In 1516, Las Casas began his petitions to bring slaves to America, in which, as his *memorial* shows, there was no racial criterion. Las Casas, however, was driven by the interest of liberating the Indians, seen as poorly equipped for hard physical labor, and hoped, in this way, to stop abuses against them. There were no philosophical argument in this letter in favor of slavery, nor did he attempt to define the notion of slavery. On the contrary, even if Las Casas abandoned his *encomienda* in 1516, he seemed more moved by the economic interests of the Spanish colonists in America. As Sánchez Godoy has noted, two points are noticeable: (a) The introduction of slaves would prevent the abuses against the Indians and preserve the economic interests of the Castilian king; (b) Las Casas did not make any racial remark about the slaves. They could have been African or white; Las Casas was thinking about people taken in bondage in the war against the Saracens<sup>5</sup>.

Que su Alteza no tenga indios señalados ni por señalar en las comunidades, ni parte alguna, porque no haya ocasión de corromperse, porque alegando muchos el servicio de Su Alteza, diciendo que pierde algo de su parte, o porque se le acreciente, tendrán buen achaque para hacer que trabajen más

<sup>2</sup> Cfr. André Saint-Lu, "Bartolomé de las Casas et la traite des nègres", *Bulletin Hispanique* 94:1 (1992) 42.

<sup>3</sup> Id., *ibid.*

<sup>4</sup> Cfr. R. L. Brady, "The Role of Las Casas in the Emergence of Negro Slavery in the New World", *Revista de Historia de América* 61-62 (1966) 46.

<sup>5</sup> Cfr. R. A. Sánchez Godoy, *Mercancía, gentes pacíficas y plaga: Bartolomé de Las Casas y los orígenes del pensamiento abolicionista en el Atlántico Ibérico*, Pittsburg University (Doctoral Thesis), Pittsburg, p. 77.

los indios de lo que será razón, por lo que a tales cumple y porque crezcan sus provechos, y este es su celo; pero en lugar de los indios que había que tener en las dichas comunidades, sustente S.A. en cada una de ellas veinte negros o otros esclavos en las minas, de comida la que hobiere menester, y será mayor el servicio para Su Alteza y ganancia, porque se cogerá mucho más oro que se cogerá teniendo doblados indios de los que se habían de tener en ellas<sup>6</sup>.

In this early period of Las Casas' life, his position on slavery was no different from other colonists: He wanted the most tiresome jobs in the Colony—for example, the work in the mines and the harvest of the sugar cane—to be done by slaves imported from Europe. On this last point, there has been discussion on how Las Casas understood slavery. For scholars like Clayton and Brady, Las Casas could not bear the infamous consequences of this institution, since Las Casas was probably thinking of slavery as he knew it from his childhood: a form of mild urban serfdom, in which slaves were “rarely used in agriculture and eventually absorb[ed] into local society, becoming members of Christian brotherhood”<sup>7</sup>.

The slavery in Spain, within the framework of the *Siete Partidas*, was “both humane and terminable [and] was regulated by laws based on Christian principles”<sup>8</sup>. However, as early as 1516, it is possible to observe Las Casas, tacitly agreeing that the slave would substitute for the Indians in the harshest of activities in the Indies. Of course, this opinion was shared by other members of the clergy<sup>9</sup>. Along with these clerics, Las Casas wanted to prevent the extinction of the Taino and other Caribbean people<sup>10</sup>, but he did not want to interrupt the economic life of the colonies. For

<sup>6</sup> Cfr. Bartolomé de Las Casas, *Memoriales* apud R. A. Sánchez Godoy, *Mercancia, gentes pacíficas y plaga: ...*, pp. 27-28.

<sup>7</sup> Cfr. L. A. Clayton, “Bartolomé de Las Casas and the African Trade”, *History Compass* 7:6 (2009) 1529.

<sup>8</sup> Cfr. R. L. Brady, “The Role of Las Casas Brady...”, op. cit., 46.

<sup>9</sup> This recommendation was fully supported by the Hieronymites in their report of 1517. They proposed to take the Indians from the Spanish and promoted, instead, the importation of female and male slaves capable of doing the hard jobs and boosting the economy of the Spanish colonies. They advised: “de que Vuestra Señoría Reverendísima mande dar licencia general á estas Islas, en especial á la de San Juan, para que puedan traer á ellas negros bozales; porque por experiencia se ve el gran provecho de ellos, así para ayudar á estos indias, si por caso hubiesen de quedar encomendados para ayuda de los castellanos, no habiendo de quedar así, como por el gran provecho que á Sus Altezas dellos vendrá; é esto suplicamos á Vuestra Señoría Reverendísima tenga por bien conceder, ó luego, porque esta gente nos mata sobre ello, é vemos que tienen razón”. Cfr. J. F. Pacheco y F. Cárdenas (cords.), *Colección de documentos inéditos relativos al descubrimiento, conquista y colonización de América y Oceanía sacados en su mayor parte del Real Archivo Indias*, Manuel B. Quiroz, Madrid, 1864, p. 284.

<sup>10</sup> Cfr. L. Rivera Pagán, “Bartolomé de Las Casas y la esclavitud africana”, in G. Meléndez (ed.), *Sentido Histórico del V Centenario*, DEI (Colección Histórica de la Iglesia y Teología), Costa Rica, 1991, p. 6.

this reason, even though slavery would be transplanted to the New World, Las Casas hoped that the importation of Africans and other men in selfdom would serve to free the Indians. As Brady correctly pointed out, Las Casas picked up the lesser of two evils: By choosing the slavery of the African, the Spanish colonist would replace the abusive *encomienda* system<sup>11</sup>.

Las Casas, as is pointed out by Rivera Pagán, did not deny the existence of certain types of slavery<sup>12</sup>. He recognized the existence of 'natural' slaves or individuals who were incapable of guiding themselves or others due to their "mental" capacities and, therefore, needed assistance to survive. Las Casas described these creatures as "sturdy and ugly, only appropriate to the physical work<sup>13</sup>". They existed in isolated places, however, and these cases were 'exceptional'<sup>14</sup>.

Las Casas also accepted the definition of slavery of the *ius gentium*: Free men could be enslaved due to a just war. In this sense, the Europeans recognized two types of slaves among the African people: (a) prisoners of war considered enemies of the Christian faith; (b) those who were already in bondage when bought by the Portuguese. In contrast, Native Americans did not act as enemies of Christianity or of the Spanish. The war against them had been illegal and unjustly deprived them of their liberty. Since the Indians were free men, Las Casas agreed with Vitoria that the Spaniards should have regulated their relations with Native Americans according to international law, since they had also proved to be

<sup>11</sup> Cfr. R. L. Brady, "The Role of Las Casas...", op. cit., 47.

<sup>12</sup> Cfr. L. Rivera Pagán, "Bartolomé de Las Casas...", op. cit., p. 8.

<sup>13</sup> Cfr. Bartolomé de Las Casas apud Silvio Zavala, *La filosofía política de la conquista*, Fondo de Cultura Económica, México, 1993, p. 82: "Las señales que tienen los siervos de natura por las cuales se pueden y se deben conocer, son que la Naturaleza les dio cuerpos robustos y gruesos y feos, y los miembros desproporcionados para los trabajos, con los cuales ayuden, que es servir, a los prudentes; y las señales para conocer los que son señores o personas para saberse gobernar a sí mismos y a otros, la Naturaleza se las dio, y éstas fueron y son los cuerpos delicados por la mayor parte, y los órganos de los miembros bien dispuestos y proporcionados".

<sup>14</sup> Cfr. Bartolomé de Las Casas, *Apología*, Editora Nacional, Madrid, 1975, p. 129: "Habiendo Dios bueno y omnipotente creado todas las cosas para utilidad del hombre [...] protegiéndole, como dijimos, con particular voluntad y cuidado después de dotarle de todas clases de cualidades, dirigiendo sus actos, iluminando el entendimiento de cada individuo [...] al tener la naturaleza racional la fuerza de Dios, es necesario que, como ocurre generalmente, tal naturaleza produzca hombres perfectos dotados de las mejores cualidades del ingenio y rara vez bárbaros imperfectos".

<sup>15</sup> Cfr. Bartolomé de Las Casas, *Tratados*, Fondo de Cultura Económica, México, Vol. 2, 1997, pp. 873, 875: "[...] todas las cosas que han hecho los españoles en todas estas Indias, así en la entrada de los españoles en cada provincia de ella como la sujeción y servidumbre que pusieron a esas gentes, con todos los medios y fines y demás [...] ha sido contra todo derecho natural y derecho de gentes [...] y por tanto, es injusto, inocuo, tiránico, y digno de todo fuego infernal, y, por consiguiente, nullo, inválido y sin ningún valor y momento de derecho [...] y por consiguiente sean obligados a la restitución de todo ello".

rational beings<sup>15</sup>. In this sense, using the *ius gentium* to deny Indian slavery, Las Casas tacitly accepted the legality of this institution by the same law<sup>16</sup>.

The allegations of Las Casas in favor of slavery randomly continued for at least three decades. In 1531, he continued calling for the importation of black and other slaves to America. It is important to highlight that Las Casas always requested small numbers of slaves<sup>17</sup>. Secondly, as Bataillon has pointed out<sup>18</sup>, the institution of slavery had already existed in America since 1501, long before Las Casas' proposal. In this sense, the Dominican could not be blamed for the massive importation of African people to America.

Las Casas wanted Africans to be substituted for the Indians in many of the hardest jobs; however, he also recommended that the social and economic base of the Spanish colonies be composed of Spanish peasants<sup>19</sup>. The number of slaves demanded by Las Casas would provide complementary services to the Spanish colonist<sup>20</sup>. The social project of Las Casas in the Indies contemplated the use of black slaves in some specific areas, such as the mines or sugar mills<sup>21</sup>, in order to help the immigrant labor from Spain.

Por tener tanto cuidado de abreviar en esta carta, aunque no he podido, dexo muchas cosas harto necesarias de dezir en ella. E una es que en las fortalezas que se han de fazer se pueden también hazer pueblos de los cristianos que allí quisiesen ir a bibir, no por sueldo del rey, sino de las granjerías de la tierra, e podrían llevar esclavos negros o moros de otra suerte, para servirse, o bibir por sus manos, o de otra manera que no fuese por perjuizio de los indios<sup>22</sup>.

Between 1516 and 1542, references such as these gave hints of Las Casas' opinion in favor of slavery. Unfortunately, besides the economic advantages and concern for the life and liberty of Indians, there is no effort on the part of the Dominican to justify theoretically the institution of slavery.

<sup>16</sup> Cfr. L. Rivera Pagán, "Bartolomé de Las Casas...", op. cit., p. 8.

<sup>17</sup> Id., ibid., p. 9.

<sup>18</sup> Cfr. Marcel Bataillon, *Estudios sobre Bartolomé de Las Casas*, Península, Barcelona, 1976, p. 135.

<sup>19</sup> Cfr. R. A. Sánchez Godoy, op. cit., p. 86.

<sup>20</sup> This was recommended in the memorial of 1531, cfr. Bartolomé de Las Casas, *Memoriales* apud R. A. Sánchez Godoy, op. cit., p. 109: "El remedio de los cristianos es este, mui cierto, que S. M. tenga por bien prestar á cada una de estas islas quinientos ó seiscientos negros, o lo que pareciere que al presente vastaren para que se distribuyan por los vecinos, é que hoy no tienen otra cosa sino Yndios; é lo que más vecinos vinieren, á tres, é á cuatro, é á seis, según pareciere à la persona que lo iviere hacer, se los fien por tres años [...]".

<sup>21</sup> Cfr. R. A. Sánchez Godoy, op. cit., p. 92.

<sup>22</sup> Cfr. Bartolomé de Las Casas, *Memoriales* apud R. A. Sánchez Godoy, op. cit., p. 100.

There was also (even if this is not present in Las Casas himself) a racial bias implied by the suggestion to substitute the Indians for African slaves. Since the Middle Ages, scholars had exaggerated the physical appearance, strength and mental simplicity of the black race in comparison to the weakness of Europeans and Indians in America<sup>23</sup>. It is quite possible that Las Casas shared these common prejudices when he made his first request for slaves<sup>24</sup>. However, as soon as the economy of the Indies began to rely on activities such as mining and the harvest of sugar cane, Las Casas regretted his early prejudice about supposed African strength and understood their rebellion against the Spaniards<sup>25</sup>.

Las Casas could not anticipate the transformation of slavery in the 16th century due to the economic need of the European colonies in America. The massive importation of Africans to America converted slavery into an activity degrading to humanity and began to be identified with the black population<sup>26</sup>. More important, the medieval code that prohibited the taking of Christians into servitude was abandoned. In fact, the evangelization of black pagans became a powerful incentive to continue with the Atlantic slave trade<sup>27</sup>.

## 2. Some Differences Between the Legal Status of Native Americans and Black Africans

<sup>23</sup> The other justification was found in the biblical eschatology: the black race was cursed since the malediction of Cam. For example, the Dominican Francisco de la Cruz expressed "Que los negros son justamente captives por justa sentencia de Dios por los pecados de sus padres, y en señal de eso Dios les dio aquel color y que no es la causa que dan los filósofos, sino de la dicha, y que son de la tribu de Aser, de quien dijo el patriarca Jacob anssinos fortes etc. Y que demás desto la condición de los negros no es conveniente para la libertad porque son indómitos y belicosos y se inquietarían a otros y a otros si fuesen libres"; cfr. Marcel Bataillon, op. cit., p. 135.

<sup>24</sup> Cfr. Bartolomé de Las Casas, *Historia de las Indias*, Miguel Ginesta, Madrid, Vol. III, 1876, p. 432: "Antes que los ingenios se inventasen, algunos vecinos [...] deseaban tener licencia para enviar comprar a Castilla alguno negros esclavos, como veían que los indios se les acababan [...] prometían al Clérigo Las Casas, que si les traía o les alcanzaba licencia para poder traer á esta isla una docena de negros, dejarían a los indios en libertad [...] entendiendo esto el dicho Clérigo[...] alcanzo del Rey, que para que se pudiesen libertar los indios se concediesen a los españoles de estas islas que pudiesen llevar de Castilla algunos esclavos".

<sup>25</sup> Id., *ibid.*, pp. 432-433: "Antiguamente, antes que hovies e ingenios, teníamos por opinión en esta isla que si al negro no acaecía ahorcalle nunca moría, porque nunca habíamos visto negro de su enfermedad muerto [...] porque los metieron en los ingenios y por los trabajos que hacen de las mieles de cañas hacen y beben, hallaron su muerte y pestilencia, y así muchos de ellos mueren cada día, por eso se huyen cuando pueden en cuadrillas, y se levantan y hacen muertes y crueldades en los españoles [...]".

<sup>26</sup> Cfr. L. Rivera Pagán, "Bartolomé de Las Casas...", op. cit., p. 4.

<sup>27</sup> Id., *ibid.*, p. 5.

To understand the apparent contradiction in Las Casas' acceptance of African slavery while championing the liberty of the Indians in America, it is necessary to inquire into the differences between these two groups.

There was a critical reaction of Spanish scholars against the enslavement of Native Americans. In their opinion, the Spaniards had not provided enough reason to deprive the Indians of their natural liberty. For Las Casas, Mesoamerican communities qualified as true civil societies because they were formed by rational human beings<sup>28</sup>. Within the Indian societies, for example, there were natural divisions between women and men; the father dominated his wife and children<sup>29</sup>. To sum up, there was nothing in Native Americans different from other men; thus, the Spanish should have treated them as equals and respected their liberty.

It is important to mention, as Saint-Lu remarked<sup>30</sup>, that for Las Casas the existence of institutions, laws and economic organization provided hints of civilization within backward societies. In this sense, Las Casas perceived the apparently sophisticated European nations as equals with the so-called primitive Indian tribes in America. For Las Casas, the only defect of the Indians was their ignorance of Christian religion, though this did not mean they should receive the same treatment as the pagans in the first days of Christianity<sup>31</sup>. More important, according to *ius gentium* and *ius naturale*, since Indians proved to be men of reason, capable of handling *dominium*, they should have been considered free and capable of receiving instruction into the Christian faith<sup>32</sup>. Therefore, their enslavement was highly debatable according to natural, divine and human laws.

In contrast, Las Casas' critiques on African slavery constitute only a fraction of his writings. As this fact became obvious, it is quite possible to affirm that Las Casas, along with the majority of European society and the Church in the 16th century, did not criticize the legality of slavery<sup>33</sup>. In debates with Sepúlveda, Las Casas recognized the existence of natural slaves as individuals that lacked the "mental" capacity to guide themselves or others and depended upon rational individuals for their survival. Las Casas described these creatures as "sturdy and ugly, only appropri-

<sup>28</sup> Cfr. Anthony Pagden, *The Fall of Natural Man*, Cambridge University Press, Cambridge 1999, p. 121.

<sup>29</sup> Cfr. Bartolomé de Las Casas apud Silvio Zavala, op. cit., p. 84: "Que para cumplir con las dos combinaciones o compañías de la casa, que son marido y mujer, y señor y siervo, proveyó la Naturaleza de algunos siervos por natura, errando ella que le faltase el juicio necesario para gobernarse por razón [...]".

<sup>30</sup> Cfr. André Saint-Lu, "Bartolomé de las Casas et la traite des nègres", op. cit., 60.

<sup>31</sup> Cfr. Anthony Pagden, op. cit., pp. 136-137.

<sup>32</sup> Cfr. Silvio Zavala, op. cit., p. 87.

<sup>33</sup> Cfr. L. A. Clayton, "Bartolomé de Las Casas and...", op. cit., 1530.

<sup>34</sup> Cfr. Bartolomé de Las Casas, ut supra, note 13.

ate to the physical work"<sup>34</sup>, but he recognized the exceptional cases of these people.

Nonetheless, Las Casas did not compare the black Africans with the slaves of nature. As I said before, Las Casas did not make any effort to relate slavery to some specific race. This does not mean that the Dominican accepted certain forms of legal slavery. In other words, Las Casas considered it unacceptable to enslave people such as the Indians, who lived free and did not constitute any danger to Christianity, but he accepted the importation of individuals who are legally, according to *ius gentium*, held in servitude.

In fact, in his last critiques regarding the transport of African people into America for commerce, it had become possible to see them in the same light as his defense of the Indians. In their raids of Western Africa, the Portuguese attacked even Muslims with no reason and took people into bondage without justification, except for their own ambition. For Las Casas, it was important to know whether the slaves sold by the Portuguese were already slaves in their own societies and could be purchased without causing damage to their societies<sup>35</sup>. As Las Casas studied the chronicles of the Portuguese in West Africa, he "saw no mitigating circumstance that could assuage the monstrosity of the growing slave trade"<sup>36</sup>.

### 3. "All Men Are Free": Las Casas' Critique to African and Indian Slavery

The last memorial submitted by Las Casas in favor of bringing African slaves was written in 1542<sup>37</sup>. From this year until his death, it was possible to find some regret of his former opinions and recognition of the injustice of the slave trade. There is some divergence, however, among scholars as to the actual moment that Las Casas began to change his view

<sup>35</sup> Cfr. L. A. Clayton, "Bartolomé de Las Casas and...", op. cit., 1531.

<sup>36</sup> Cfr. L. A. Clayton, *Bartolomé de Las Casas and the Conquest of the Americas*, p. 140.

<sup>37</sup> Cfr. Bartolomé de Las Casas, *Memoriales* apud R. A. Sánchez Godoy, op. cit., p. 129: "[...] el 14º remedio es, que por una de las cosas principales que ha destruido y destruyen y matan aquellas gentes, es echar cargas los cristianos a los indios y usar dellos como de bestias y no ha bastado ni basta poner leyes ni limitaciones ni penas, es necesario que Su Magestad Prohiba por su real constitución y muy solene por graves penas, que por ninguna via, ni color, ni neçesidad, ni en ningún tiempo, sea osado español ninguno de echar carga a indio, chica ni grande, por dábida ni promesa, ni paga que le prometa, porque se escusarán grandes y muchas perdiciones y muertes y despoblaciones de tierras. Para esto mandar sea, que se adoben luego los caminos que más se tratan en todas las Indias, cada ciudad villa o lugar de españoles, especialmente los caminos de las minas y los de los puertos, sin que entiendan ni trabajen los indios en el adobo dellos, porque allí los matarán y vexarán, sino que los adoben con esclavos negros a costa de las dichas ciudades, para que puedan andar carretas y recuas como allá las hay, y puede aver mejor que acá de cavallos" ..



on slavery. For some, it was the encounter with slaves and with their suffering. For others, it was the reading of the Portuguese chronicles in Western Africa. I will not enter into this debate but will point out some of the philosophical development in Las Casas' thought in which liberty was seen as the inherent and universal right shared by all of humanity. To understand this, it is necessary to examine the texts in which Las Casas criticizes African slavery, for example, the *History of the Indies*.

On examining the methods of the Portuguese in Africa, Las Casas became convinced that the majority of Africans were unjustly enslaved, since they were not enemies of the Christian faith. For this reason, in the *History of the Indies*, Las Casas made an act of constraint and acknowledged his early mistakes with regard to slavery, explaining that he was unaware of the injustices and bad treatment of Africans by the Portuguese and the Spanish<sup>38</sup>.

Este aviso, de que se diese licencia para traer esclavos negros a estas tierras, dio primero el Clérigo Las Casas, no advirtiendo la injusticia con que los portugueses toman y hacen esclavos, el cual, después, cayó en ello, no lo diera por cuanto había en mundo, porque siempre los tuvo en injusta y tiránicamente hechos esclavos, por la misma razón es de ellos a los indios<sup>39</sup>.

In the last paragraph, Las Casas criticized the methods of the Portuguese and questioned the legal status of black slaves, contending that, even if many of them were Muslim, they had not acted as enemies of the Christians. More important, Las Casas started to view the black Africans enslaved by Portugal in line with how he viewed the Indians taken in bondage by Spain<sup>40</sup>.

Las Casas did not attempt to define the legal and ontological status of Africans, as he had done with the Indians. In general, this class of barbarians was considered to be in full possession of their intellectual faculties, but without the knowledge of revealed Christian truths<sup>41</sup>. For this

<sup>38</sup> Cfr. L. Rivera Pagán, "Bartolomé de Las Casas...", op. cit., p. 10.

<sup>39</sup> Cfr. Bartolomé de Las Casas, *Historia de las Indias*, Miguel Ginesta, Madrid, Vol. 2, 1875, p. 370.

<sup>40</sup> Cfr. Bartolomé de Las Casas, *Historia de las Indias*, Miguel Ginesta, Madrid, Vol. 1, 1877, p. 172: "Y esta es la ceguedad, como arriba tocamos, que ha caído en los cristianos mundanos, creer que por ser infieles los que no son bautizados, luego les he lícito saltarlos, robarlos, cautivarlos y matarlos; ciertamente, aunque aquellos eran moros, no los había que cautivar, ni robar, ni saltar, pues no eran los de que las partes de la Berbería y Levante, infestan y hacen daño a las Cristiandad, y eran otra gentes éstas, diferentes de aquellas provincias y en condición muy distante, y bastaba no tener nuestras tierras, como no lo eran las de Etiopía, ni hacernos la guerra, ni era posible hacerla [...]"

<sup>41</sup> Cfr. Felipe Castañeda Salamanca, *El Indio: Entre el Bárbaro y el Cristiano. Ensayos sobre la Conquista en Las Casas, Sepúlveda y Acosta*, Alfa Omega - Ediciones UniAndes, Bogotá, 2002, p. 20.

<sup>42</sup> Cfr. Marcel Bataillon y André Saint-Lu, *El Padre Las Casas y la Defensa de los Indios*, Península, Barcelona, 1976, p. 127.

reason, they were in possession of dignities and rights held by natural law, and one of these rights was their natural liberty. In Las Casas' words, liberty was defined as an inherent right, shared by all mankind<sup>42</sup>. Las Casas based his notion of liberty on juridical literature such as the *Digestum*, *De iustitia et iure*, *Manumissiones* and *Las Siete Partidas*. But he also, as Tierney has correctly noted, tried to ground his concept in Aquinas' theory of natural law<sup>43</sup>.

Todo hombre, toda cosa, toda jurisdicción y todo régimen o dominio, tanto de las cosas como de los hombres [...] son, o, por lo menos, se presume que son, libres, si no se demuestra lo contrario [...]. Pruébese, porque desde su origen todas las criaturas racionales nacen libres, y porque en una naturaleza igual Dios no hizo a uno esclavo de otro, sino que a todos concedió idéntico arbitrio; y la razón es que a una criatura racional no se la subordina a otra [...]<sup>44</sup>.

For Las Casas, a rational creature should not be ordered by or live in bondage to others. However, Las Casas could not take this definition from Aquinas since the Italian philosopher never advanced the idea of liberty as an inalienable right<sup>45</sup>. This mistake might be due to the imprecise use of sources and scholastic authorities by Las Casas. However, Las Casas had an impressive knowledge of scholastic and juridical literature; therefore, this mistake would be something quite unprovable. In contrast, as Tierney has remarked, it is important to understand the political and social context of the Spanish conquest in America. If Las Casas changed the meaning of many scholastic texts, it was in order to deploy them in a more effective way in his defense of Native Americans<sup>46</sup>.

The above-mentioned definition of liberty—a right invested in all rational creatures from the day they are born—is noteworthy for its proximity to the definition in medieval juridical literature. The same can also be said of Las Casas' notion that in no case can slavery, whether produced by accident or bad fortune, be considered an ontological state for rational men. In this way, Las Casas emphasized that the natural and inalienable character of liberty<sup>47</sup> is to deny the existence of natural slavery. The eclectic nature of Las Casas' work itself is reflected in this definition, which was supported not only by scholastic literature, but also by definitions taken from Roman and Canon law<sup>48</sup>. This could have only one explanation: In his defense of the natural rights of Indians, Las Casas could not

<sup>43</sup> Cfr. Brian Tierney, *The Idea of Natural Rights*, Emory University Press, Atlanta, 1998, p. 276.

<sup>44</sup> Cfr. Bartolomé de Las Casas, *Tratados*, p. 1249.

<sup>45</sup> Cfr. Richard Tuck, *Natural Right Theories: Their Origin and Their Development*, Cambridge University Press, Cambridge, 1979, p. 20.

<sup>46</sup> Cfr. Brian Tierney, *op. cit.*, p. 280.

<sup>47</sup> *Id.*, *ibid.*, p. 278.

<sup>48</sup> *Ibid.*

<sup>49</sup> Cfr. Bartolomé de Las Casas, *Tratados*, p. 1255: "Porque la libertad es un derecho ingerido en los hombres por necesidad y por sí desde el principio de la criatura

rely on Aristotle since the philosopher had an explicit acceptance of the existence of slavery. Las Casas, therefore, had to resort to Roman law in order to maintain his criticism of the forced labor of Indians and Africans<sup>49</sup>.

For Las Casas, liberty was the most precious thing that men can have, superior to all temporal goods<sup>50</sup>. In this way, all people were born free<sup>51</sup>, and even the most primitive and wild pagans could neither be considered slaves *a priori* or forced to accept the Christian faith<sup>52</sup>. On the basis of the above-mentioned notion of liberty, Las Casas started to compare the illegal wars against the Indians with the raids of the Portuguese on the Western African coast.

Arguably, from his definition of natural liberty, Las Casas advanced a stoic-like thesis: All mankind is one; thus, all men, despite their cultural differences, should receive equal treatment<sup>53</sup>. Henceforth, Las Casas recognized the existence of equal rights for all human beings.

La libertad es asimismo común y natural a todos los hombres [...] por consiguiente, los pueblos son libres y sus gobernantes y reyes también son libres, ya que fueron creados originalmente por acuerdo y autoridad de los pueblos, como quedó demostrado<sup>54</sup>.

## Conclusion

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racional, y es por eso de derecho natural, como se dice en la 1<sup>a</sup> distinción, *Ius naturale*, donde se ve que existe una libertad para todos, y que la esclavitud es un acto accidental acaecido al ser humano por obra de la casualidad y de la fortuna [...] en consecuencia, no estando demostrado que alguien o algo sea siervo, nuestro juicio debe ser favorable a su libertad y según su libertad. Hay que presuponer, por lo tanto, que el hombre es libre si no se prueba lo contrario [...] como dice el *Digestum, De usufructu y Si cuius*".

<sup>50</sup> Id., *ibid.*, p. 747: "Manifiesto es que ningún poder hay sobre la tierra que sea bastante deterior y menos libre que el estado de los libres, sin culpa suya, no errante la clave de la justicia, como la libertad sea la cosa más preciosa y superior en todos los bienes temporales deste mundo, y mucho más de las racionales, y por eso es tan favorecida de los derechos como aún de las leyes destos reinos dice, que por ella y no contra ella se debe sentenciar".

<sup>51</sup> Id., *ibid.*, p. 1255: "La libertad es asimismo común y natural a todos los hombres [...] por consiguiente, los pueblos son libres y sus gobernantes y reyes también son libres, ya que fueron creados originalmente por acuerdo y autoridad de los pueblos, como quedó demostrado".

<sup>52</sup> Cfr. L. A. Clayton, *Bartolomé de Las Casas and the Conquest of the Americas*, p. 141.

<sup>53</sup> Cfr. Lewis Hanke, *All Mankind Is One: A Study of the Disputation Between Bartolome De Las Casas and Juan Gines De Sepulveda in 1550 on the Religious and Intellectual Capacity of the American Indians*, Northern Illinois University Press, Chicago, 1994, p. 79.

<sup>54</sup> Cfr. Bartolomé de Las Casas, *Tratados*, p. 1255.

<sup>55</sup> Cfr. Lewis Hanke, *op. cit.*, pp. 103-104.

By arguing for the equality of humanity, Las Casas condemned the enslavement of Native Americans and advanced the possibility that the American Indians could participate in the political affairs of the Spanish *communitas*<sup>55</sup>. But he also was able to condemn the treaty, which had allowed slaves in America, with the same arguments used in the defense of the Indians. At the core, as Clayton affirms, Las Casas blamed the slave commerce and its evil consequences on the sin of greed, which affected the Spanish and the Portuguese equally<sup>56</sup>.

Finally, Las Casas witnessed the initiation of the Atlantic slave trade but only at the end of his life was able to foresee its terrible consequences for Africans and Indians. In this sense, although his first request for slaves remains polemical, it is more important to highlight his regret of this opinion and his final critique of slavery. Las Casas was not only against contemporary ideas of the 16th century, but he pioneered an opinion shared later by the abolitionist movement during the 18th and 19th centuries<sup>57</sup>.

#### RESUMEN

El objetivo de este trabajo es presentar las opiniones de Bartolomé de las Casas sobre la esclavitud alrededor de su vida. Si durante más treinta años Las Casas fue favorable a la importación de esclavos se debía a su deseo de impedir la injusta servidumbre a la que los indios americanos fueron impuestos por los colonos españoles en América, lo cual se explica por su deseo de hacer viable económica-mente las colonias en ultramar de España. No obstante, al final de su vida Las Casas reconoce su error y hace una crítica a todas las formas de esclavitud. Esto implicará estudiar su concepto de libertad y sus fuentes.

<sup>56</sup> Cfr. L. A. Clayton, *Bartolomé de Las Casas and the Conquest of the Americas*, p. 144.

<sup>57</sup> Cfr. Silvio Zavala, *op. cit.*, p. 99.