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## THE LEGAL FOUNDATIONS OF LAS CASAS'S WARNINGS ON THE DESTRUCTION OF SPAIN

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In his 1564 letter to his fellow Dominicans in Chiapas and Guatemala, Las Casas drew their attention to the approval that his arguments against the encomienda system had received among the distinguished theologians of Salamanca; he also mentioned that his arguments had been read and discussed at the universities of Salamanca and Alcalá (Las Casas, *Cartas* 355). This claim regarding his intellectual impact could be corroborated by recognizing the close dialogue with Las Casas's ideas found in the arguments on baptism that Domingo de Soto was elaborating for his unfinished *De ratione promulgandi Evangelium*, in Melchor Cano's demonstration of the Indian right to dominium, and also in the collective approval of Las Casas's confessional and *Tratado comprobatorio* signed by Bartolomé Carranza de Miranda, Mancio de Corpus Christi, Pedro de Contreras and master Venegas, among others (Soto 272; Cano 112-119, 120-127; Las Casas, *Tratados* 854-855; Cárdenas, "Manuscript" 82n.4).

Along with the extensive discussion of his ideas by Juan de la Peña, the thorough annotation of his manuscripts by Alonso de la Veracruz, and the recognition of his doctrine at the University of Coimbra, Las Casas's solid theoretical arguments had become the common opinion on the conquest of the Indies held by many intellectuals, and they certainly constitute an important part of his legacy among his peers and among the next generation of thinkers on matters related to the Indies.

Another aspect of his legacy relates to his warning on the pouring of God's wrath over Spain; this admonishment was quickly taken up and interpreted in historical and eschatological terms by Las Casas's early readers. The Dominican bishop repeatedly thought of this apocalyptic

motif as he was drafting the final appendixes to all of his works. After completing his *De Thesauris* [1563] and his *Tratado de las doce dudas* [1564], Las Casas penned two pieces that brought to a close his intellectual career: a short letter to Pope Pius V and a memorandum addressing the members of the Council of the Indies appended to his *doce dudas* both written in 1566 (Wagner and Parish 238; Iglesias Ortega 621). The latter contains a summary of his persistent denunciation of the unjust wars of conquest against Native Amerindians, the illicit status of the encomienda system, the possession in bad faith of ill-gotten gains, the pervasive commission of mortal sins by most Spaniards and the political tyranny established in the Indies. It also included a warning on the intervention of God and the pouring of his wrath upon Spain (Las Casas, *Doce dudas* 217).

Echoing the authority of Italian jurist Bartolus of Sassoferrato in his commentary to the Justinian Codex, Las Casas advised his readers to found all arguments with the support of laws, to the point of blushing for speaking without it; but as opposed to his display of authorities in building his juridical thesis, Las Casas's appeal to his eschatological admonishment does not present his customary legal apparatus (Las Casas, *Tratados* 365; Bartolus ad C.6.20.19). In this study, I will address this apparent absence and try to answer the following question: How is this final apocalyptic tone related to the rest of Las Casas's legal arguments? When and why did Las Casas decide to warn Philip II, and later the rest of his readers, about the imminent pouring of the god's wrath upon Spain? In what follows I will argue that Las Casas's appeal to the wrath of God is closely connected to his attempts to exercise his episcopal authority in Chiapas and to enforce the New Laws, the reformist legislation passed by Charles V with Las Casas's advise in 1542, with the assistance of the Audiencia de los Confines. The authoritative legal support that Las Casas assembled for reversing the refusal of the Audiencia to assist him with the enforcement of the New Laws mediates between his legal arguments and the invocation of divine wrath against Spain. In his later writings, the development of this warning became a channel between the legal and the eschatological implications of his legal proposals, thus offering important insights into the mechanisms underlying Las Casas's conceptualization of his writings and his reformist agenda.

Alain Milhou has studied this eschatological component in Las Casas's thoughts. When analyzing this language, Milhou has linked this warning to the Spanish historiographical tradition that viewed the Muslim conquest of the Iberian Peninsula — customarily called the destruction of Spain — as the historical landmark that articulates a repetitive scheme of destruction and restoration. This historiographical trend informs the title of the *Brevísima relación de la destrucción de las Indias* [1552] (Milhou, "Destrucción" 48). Denglos has interpreted Las Casas's

reiteration of the Spanish destruction motif in the dedication of his *Doce dudas* to a theological adaptation of the eye-for-an-eye principle (Denglos 114; *Biblia Sacra* Mt 5:38). These important scholars focus, though, on the final issuances of this apocalyptic warning; nevertheless, its first instance, included in the 1545 letter to Philip II, contains precious information that enables us to connect this eschatological monition to its legal frame. This article departs from this first unexamined expression of the warning, and proceeds to a sequential reassessment of other iterations of Las Casas's cautionary statement and of the contexts in which he advanced them. Thus, the accurate recognition of the underlying set of ecclesiastical norms underneath this apocalyptic stance and its reflection in Las Casas's arguments unpacks the connections of the different layers of legal, theological and eschatological implications of Las Casas's ideas. Las Casas conceived his admonition on the Spanish destruction as an appeal to the highest transcendental authority to persuade earthly authorities to install his sweeping reforms in the face of the failure of human authorities to honor justice; and, more importantly, it signals the expression of his full episcopal authority and its defense in the ensuing years.

## **2. The Enforcement of the New Laws and the Destruction of Spain (1544-1545)**

After his presentation to the Chiapas bishopric, Las Casas proceeded to take possession of his see by strictly adhering to the canonical steps leading to his acceptance, consecration and installation (Parish, *Las Casas*, XI-XIV). Aiming at securing "the conservation of the Indians," Las Casas requested from Charles V many concessions to enlarge his bishopric's territory and to facilitate the exercise of his episcopal power. Some of these petitions translated into executorial for the Royal Audiencia de los Confines, the Royal court established by the New Laws in the Guatemalan city of Gracias a Dios, ordering its officials to recognize the newly established bishopric's limits, to assist Las Casas in implementing the New Laws, and to honor his ecclesiastical authority that carried jurisdictional rights and duties to protect the natives (Fabié II: 92; Parish, *Las Casas* 3-13).

Once he was in Chiapas, Las Casas, acting in his episcopal capacity, issued an official announcement to his flock requesting them to denounce public sins, disrespect against ecclesiastical jurisdiction and situations disapproved of by canon law —among which he listed abuses against Indians, widows and minors. He justified his request by invoking his role as supervisor of life and customs, which fulfilled part of his duties for the *cura animarum* —the spiritual care of souls— and aiming at preventing

scandals, public unrest and the provocation of God's wrath which was able to destroy peoples (Las Casas, *Cartas* 193-6).

Las Casas appeared before the Royal *Audiencia* to claim jurisdiction over the Indians as *personae miserabiles*, that is, as a group of people in need of special legal protection to be provided by the Church (Las Casas, *Cartas* 199-205; 207-10).<sup>1</sup> Though the official response from the *Audiencia* agreed to other of Las Casas's petitions, local authorities refused to accept his demand to withdraw the Indians from the *encomenderos* and to place them directly under royal jurisdiction through the mediation of the Church (Fabié II: 136; Wagner 130; Las Casas, *Cartas* 209). Dissatisfied, Las Casas informed Prince Philip of the *Audiencia*'s disregard of his episcopal dignity, its refusal to recognize the rights of his jurisdiction and its resistance to the New Laws. In his letter, Las Casas casts the whole situation under the light of a disorderly state of affairs in which the governor, president of the tribunal and other bureaucrats offended the bishop and publicly expressed their desire to replace the king. This chaos led Las Casas to advise Philip to begin a timely examination and to put a remedy to this situation. Otherwise—assures Las Casas—divine punishment would befall and God might even destroy Spain.<sup>2</sup>

In pursuing the enactment of his episcopal authority, Las Casas consistently based his actions on canon law, for this was the legal code that supported his role in society. Thus, he asserted that his mission and actions were intended to conform with the canons he had sworn to obey in his consecration. Among them, the canon *Amministratores* stands out: it is the canon with which Las Casas opened his appeals to the Royal *Audiencia* and the one he quoted in the letter to then prince Philip anticipating the destruction of Spain (Las Casas, *Cartas* 207, 221; *Corpus iuris canonici*, c.26.C.23.q.5). Recalling his attempts to obtain the assistance of the Royal *Audiencia* to exercise his full authority, Las Casas confirms his observance of appropriate legal procedures at every step, and affirms, "I submitted a petition containing three admonitions according to the canon *Amministratores*, 23rd Cause, fifth question, to the president and auditors requesting them to liberate my church which is oppressed and tyrannized, and I cannot exercise the ecclesiastical jurisdiction because the ordinary mayors keep the people rebellious against God and almost against your majesty as far as they are able."<sup>3</sup> Due to Las Casas's repeated reliance on it, this canon constitutes the legal foundation for his actions before the *Audiencia*, which were protected by a long history of jurisdiction that culminated in this canon first issued by Pope John VIII for the treatment of situations in which secular administrators of any rank did not respect ecclesiastical justice:

Certainly administrators of secular dignities who are appointed to the defense of the church, the protection of orphans and widows, and the repression of thieves, whenever they are summoned by bishops or church officials, should listen most attentively to their demands, and according to what necessity requires, they should examine them without negligence and correct them with diligent study. If they are found negligent, not having the fear of God in front of their eyes after the second and third admonition, they will be deprived of whole communion until they recognize the appropriate satisfaction.<sup>4</sup>

Las Casas resorted to this canon both to claim jurisdiction over *personae miserabiles*—included in the canon through the mention of the orphans and widows—and to excommunicate the president and the members of the *Audiencia*. In Las Casas's views, Indian peoples were implicitly included in this group of *miserabiles personae*, which made them eligible to be protected under episcopal jurisdiction.

However, the canon's implications cast a wider net. Canon law mediates between the practical regulation of church authority and the salvation of souls; since its beginnings, it attempted to harmonize this supernatural goal and concrete legal stipulations for the ordinary functioning of the Church (Örsy 163; Kuttner 45). As a consequence of these temporal and spiritual dimensions of the mystical body of Christ, the compilers and interpreters of collections of canon law extensively quoted scriptural and patristic sources to support and substantiate specific legal arguments and establish the standard understanding of these norms (Kuttner 45).

These principles apply to Las Casas's invocation of the canon *Amministratores* and its binding power on lay functionaries to force them to respect the Church's jurisdiction. Its ordinary interpretation, as conveyed in the so-called ordinary gloss, contemplates a further reach that includes the ability to administer a canonical punishment and excommunicate the ruler should he not administer justice for the clergy (glossa ad c.26.C.23.q.5). More importantly, the authorities gathered to buttress the theological standing of this canon connect these legal steps and the wrath of God that Las Casas invokes; the subsequent canon (which in fact forms a unity with *Amministratores*) states that, in addition to those men who are ministers and enactors of God's wrath—"Ira Dei" in the original canonical phrasing—against those that did the wrong, there are also forces that are specifically called the furor and wrath of God (*Corpus iuris canonici*, c.27.C.23.q.5).<sup>5</sup> These contrary forces—*contrarie fortitudines*—refer to cosmic events out of man's control but under God's regulation as the canon asserts, citing Jerome's commentary on the prophet Joel's narration of the plague of locusts on Egypt, which

is presented as a divine punishment aimed at forcing Israel to repent and ask for mercy (*Biblia Sacra*, Ioel 2, 1-32). Thus, in spite of its severity, divine punishment appears as a corrective means of God grace; I will return to this idea later.

Canon law and theology provide a basis for understanding the legal reflection of the notion of *Ira dei* —the wrath of God— included in the ecclesiastical norm, and follow in a long interpretative tradition initiated with the Church fathers. Lactantius, for instance, characterized God's wrath as being radically different from human wrath; this Church father defines the latter as a perturbation of the soul towards vices and virtues, and the former as part of God's wise providential actions worthy of divine power such as charity towards the good, compassion towards the afflicted and wrath against the bad (Lactantius, columns 0125b-0126b). In the body of canon law, the section called *De poenitentia* echoes this tradition, stating the difference between divine and human wrath and equating God's wrath with a tranquil dispensation of punishment that in some occasions could affect an entire community, as would be the case in the destruction of Spain, about which Las Casas warned Prince Philip (*Corpus iuris canonici*, c.7.D.3. De poenitentia).<sup>6</sup>

Thus, Las Casas's repeated references to the pending collective punishments of Spain rely on the canons with which he justifies his claims before the *Audiencia*. These Church laws compose the framework for the concrete procedure that Las Casas observes in his quest to enact his episcopal attributions before the *Audiencia* officials. Also, these norms contemplate the canonical penalties and the eventual expression of God's wrath; they translate into legal terms the scriptural interventions of God's justice in specific historical episodes such as the plague of locusts delivered against Egypt, maintain that these actions complement the work conducted by human ecclesiastical justice and offer the assumptions upon which Las Casas's admonishments on the eventual destruction of Spain are based. However, the particular mechanisms for the administration of God's wrath are not fully determined. Both the scope of God's wrath against an entire community and the general regulation of his justice preoccupied Las Casas. The bishop of Chiapas entertained these considerations in his future enunciations of his warning on the destruction of Spain. Thus, the second instance in which he forecasts this destruction clarifies its reach and its theological implications.

### 3. The proportionality of the destruction of Spain (1552)

According to Dávila Padilla's biographical account (405-6 [bk. 1, chap.103]), Las Casas pronounced his earliest admonition on the destruction of Spain in the midst of his reformist efforts to suppress the

encomienda system in 1542. If such was the case, it was not disclosed to the public until the 1552 publication of his eight treatises in which he embedded his admonishment along with his arguments in support of his eight remedies, advocating for the full suppression of the encomienda system and as a somber epilogue to his account of the decimation of the Indies (Bataillon, "Las Casas" 283; Milhou, "Las Casas, profeta" 183-6). On many occasions, Las Casas drew his readers' attention to his certainty that God would punish or even completely destroy Spain because of its collective sins against God's faith and honor (Las Casas, *Tratados* 195, 673, 767, 849).

Las Casas depicts a pervasive crescendo of evils that followed unjust warfare and the encomienda system; he also remarks on their pernicious effects in preventing Indian conversion, and expresses his certainty regarding the emperor's and people's ignorance of this situation, since otherwise the emperor would have felt offended and his subjects would have been amazed that God had not destroyed Spain yet (Las Casas, *Tratados* 673).

These warnings worked along with a powerful legal backdrop that Las Casas carefully developed in his collection of short treatises which, collectively considered, present their reader with an interrelated sequence of juridical demonstrations seeking reform for the situation in the Indies. In the *Brevísima relación de la destrucción de las Indias*, Las Casas intentionally omits the individual names of the conquistadors in order to focus on the unjust wars that Spaniards waged everywhere in the Indies. In his treatise on Indian slavery, Las Casas takes the implications of the *Brevísima* as a point of departure and examines the wars that led to the enslavement of many Indians whose *de facto* status as slaves cannot be justified by the *Ius belli* and, thus, is contrary to the basic legal tenet that asserts that freedom is a priceless asset (Las Casas, *Tratados* 557). At the same time, these wars produced the *encomienda* system, a colonial institution that granted Spaniards an allotment of Indian forced labor.<sup>7</sup> As Las Casas demonstrates in his treatise on how to suppress the *encomienda*, the system had no valid juridical foundation, given that it violates the 48<sup>th</sup> rule of canon law, which decrees that nobody should enrich himself through the harm of others (Las Casas, *Tratados* 739; Catholic Church, *Corpus* r 48.V.12 in VI). In his role as Bishop of Chiapas, Las Casas included a confessional among his 1552 treatises so that he could exercise spiritual authority over the reforms that he was proposing. The central contention of the tract is that the repentant conquistadors should make a full restitution to the Indians as a condition for obtaining religious absolution on the basis of the canon-law rule: "Sin is not released unless what has been taken away is restituted" [Peccatum non dimittitur nisi restituatur ablatum] (Catholic Church, *Corpus*, r.4.V.12 in VI; Las Casas, *Tratados* 537).



The idea that the Indians had important legitimate rights was the basis of all of these proposals for reform. Las Casas undertakes a demonstration of this legitimacy in a short pamphlet titled *Principia Quaedam* in which he argues for the Indian right to *dominium* or control over their own territory, jurisdiction or the power to make legal decisions, and political self-determination on the basis of natural law and the *Ius gentium* (Las Casas, *Tratados* 1234-73). Finally, in the *Tratado comprobatorio*, Las Casas thoroughly glosses the 1493 Bull of Donation and discusses the limits of papal and royal jurisdiction, pointing out their compatibility with the natural, lawful jurisdiction of native communities and their rulers over themselves (Cárdenas, "Consent" 795-7).

In key passages of his treatises, Las Casas adds that the current unjust situation in the Indies has provoked God's wrath, whose effects he traces in the economic crisis afflicting Spain, thus interpreting current events as signs of divine commutative intervention to amend injustice. In particular, Las Casas points to the scarcity of the royal treasure that stands in stark contrast to the ill-gotten influx of riches flowing from the Indies; his interpretation projects onto current economic affairs and events a sentence contained in the Book of Wisdom determining that those who steal from others are always in need. More broadly, it reflects a rule of God's justice according to which the punishment mirrors the sin, "per quae peccat quis per haec torquetur" (*Biblia sacra*, Sp 11: 17; Las Casas, *Tratados* 815). The ordinary gloss's explanation of the relevant passage in the Book of Wisdom mediates between the meaning of this verse and its legal implications, considering it an affirmation of the proportional correspondence between a sin and its punishment (Kolarcik 34).<sup>8</sup> This proportional principle informs Las Casas's thoughts as he reiterates it in his *Historia de las Indias* when referring to the adverse result of Roldán's rebellion against Columbus. Las Casas interprets its failure as an effect of God's providential rule that everyone be punished by that which — and in the manner which — he sins and damages his fellow men.<sup>9</sup> On this basis, Las Casas further expounds the proportional measure of the divine commutative justice by pointing that God chastises pride with defeat, avarice with loss, death with death, and so forth (Las Casas, *Tratados* 813-815).<sup>10</sup>

Backed by scriptural authority, Las Casas's warning on the destruction of Spain allows him to detect the proportional principle in action in the current economic crisis and to anticipate a drastic, destructive event to come if the illegal situation of the Indies persists. His complex arguments operate on the assumption of proportionality. This relational notion implies a comparison between two events which in Las Casas's writings correspond to the actual destruction of the Indies and the potential destruction of Spain.<sup>11</sup> Seen under the light of the Book of Wisdom's

sentence that Las Casas invokes, the gravity, severity and correspondence of these two destructive events makes Las Casas's comparison and warning appropriate.

These ideas operate in tandem with a conception of the king's power as an attribute bestowed to edify, not to destroy either people or the faith (Las Casas, *Tratados* 759). Thus, if events in the Indies had taken such a destructive turn without kingly intervention, then providential intervention would be required to correct such situation. But the proportional intervention that Las Casas anticipates is the destruction of Spain. Alain Milhou has anchored Las Casas's appeal to the destruction of Spain in the medieval historiographic tradition that evokes the long separation between the Muslim conquest or "destruction" of the Iberian Peninsula from its long recovery actualized in the so-called Reconquista (Milhou, "De la destruction" 28-9; "De la 'Destruction' de l'Espagne" 915-9). In addition, Milhou points out that Las Casas is the only Spanish thinker that linked the destruction of Spain to the destruction of the Indies (Milhou, "Las Casas, profeta" 184). Las Casas distances his usage of 'destruction' from an economic meaning as it appears in phrases such as "this kingdom is destroyed," which refer to a broken treasury that renders a kingdom unable to meet its maintenance and obligations.<sup>12</sup> Rather, Las Casas's usage of 'destruction' alludes to a complete devastation of the people, a total human decimation after which only buildings and walls remain (Las Casas, *Tratados* 799-801).

In different writings, Las Casas explores the legal, historical and human dimensions of such a calamity. The *Brevísima relación de la destrucción de las Indias* describes this destruction in terms of the decimation of the Indian population and in unjust warfare and the rise of tyranny. Las Casas consistently suppresses the names of the conquistadors while offering to the reader the ranks of every leader in the military entries in order to depict a strong canvas of tyranny (Cárdenas, *Escritura* 121-6).

In the years following the publication of the *Brevísima*, Las Casas expanded the historical recording of the facts in his *Historia de las Indias* that he presents as the basis from which the law should emanate (Las Casas, *Historia* I:9). Though unfinished, Las Casas's history included its grand conclusion that summarizes events in the Indies following the arrival of the Spaniards, and presents them in the form of four mirroring parallel states or 'estados'.<sup>13</sup> According to Las Casas, Spaniards in the Indies conducted their affairs and evolved their positions through four states, namely as 1. agents of unjust war that kill and destroy Indian peoples, 2. illegal owners of Indian slaves, 3. ill-acquirers of riches or higher social positions, and finally 4. eternal damnation in the afterlife due to their sins; it follows from Las Casas's glosses that all this process has no legal ground whatsoever and therefore is thoroughly tainted by its

inherent illegality (Las Casas, *Historia* III:401 [bk.3, chap.164]). Conversely, the Indians have undergone four parallel detrimental states as 1. victims of unjust wars and killings, 2. illegal slaves in the *encomienda* system, 3. sufferers of the depopulation of their towns and destruction of their societies, and finally 4. a state of eternal damnation because many of them had not been properly initiated into the Christian faith (Las Casas, *Historia* III:401 [bk.3, chap.164]). Las Casas lays the groundwork for this conclusive statement of his *Historia de las Indias* not only by scrupulously charting the historical events but also by incorporating into the very fabric of his text the procedures of the legal gloss and by furnishing for himself a voice that relies on the principles of canon and civil law and their theological implications (Cárdenas, *Escritura* 234-45).

As previously noted, Las Casas assumes that the communities and political formations that existed in the Indies prior to the arrival of Europeans were a product of natural law, and thus their collapse and induction into these four states contrary to their natural pursuit of happiness represents a radical disruption of a natural formation that should have been preserved and respected. The *Apologética Historia Sumaria* offers a comprehensive overview of these Indian polities and indicates that they were mostly organized as monarchical regimes (Las Casas, *Apologética* 2:211 [Cap.197]). Beyond the destruction of this political fabric, the *Apologética* also traces the impact of the conquest on a personal level. Indian peoples had been perfectly tuned to their lands, and the temperance of their air, heaven, location and fertility of the soil created the appropriate conditions for them to reproduce and multiply (Las Casas, *Apologética* 1:65 [chap.20]). Their bodily constitutions and healthy complexions derived from these favorable conditions, which tended to develop happy, benign dispositions. However, the violent conquest turned these natural tendencies into fear of fierce attacks and the sadness of living deprived of their natural freedom and imagining worse events to come. The negative effects created a widespread sense of desperation that led to increasing waves of suicides, an environment favorable for plagues, a degeneration of their natural vigor into pusillanimous characters, and drastic deaths (Las Casas, *Apologética* 1:125-6 [chap.37]). Thus, the illegal wars, the *encomienda* system, Indian slavery and the rest of the colonial system had destroyed the social, personal and historical fabric of the Indies. In Aristotelian terms, these events disrupted the regular functioning of distributive justice as it has been settled in each of the Indian polities and backed by natural law. Thus, these disturbances merit a proportional act of divine commutative justice to repair the damage. Within Las Casas's elaboration of divine justice according to the Book of Wisdom (*Biblia Sacra*, Sp 12, 1), the visible signs of God's commutative justice in present events such as the needy state of the royal treasury

provide evidence of the logic of the potential punishment. However, the wrath of God had not yet poured over Spain; it is precisely this fact that makes Las Casas's warnings useful to the ruler and effective to promote his reforms, which, if implemented, might contain the delivery of God's punishment and reveal that its visible signs were designed to encourage political reform rather than representing ultimate sentences of the destruction of Spain. This implicit aspect allows us to grasp the criteria according to which Las Casas wove his final warnings on the destruction of Spain, reiterated in the dedication and epilogue of his *Tratado de las doce dudas* as well as in his final will signed on March 17, 1564 (Wagner 297).

#### 4. Revoking and delaying divine justice (1564-1566)

The final expression of Las Casas' admonishment on the destruction of Spain underscores his intention of preventing such a harsh exercise of justice, reinforces the interconnection of this eschatological menace with his legal arguments, and highlights his final conception of the utilitarian dimension of his writings. Las Casas was thinking about the destruction of Spain as he was closing his intellectual career. After finishing his *Historia de las Indias* and his *Apologética historia sumaria*, his juridical writings transitioned from the complex set of arguments that demonstrated the illegal status of Spanish warfare, Indian slavery and the encomienda system to a proposal for the solution of the legal void created by the illegal situation. Las Casas transformed and revitalized the Roman law concept of voluntary jurisdiction whose founding device is consent and applied it to the Indies (Cárdenas Bunsen, "Consent" 807-11). Thus, while Las Casas in his final authoritative writings insists on the necessity of the Spaniards requesting free consent from all Amerindian peoples in order to govern them, and proves that up to that point the conditions have not favored their free expression of consent, he reiterates that divine providence sought the conversion of the Indians, and that goal provided the legal basis for the papal concession of the jurisdiction to the Spanish monarchs. However, the existing legal vacuum, created by the whole conquest, had created a negative image of Christians and their doctrines, and alienated neophytes from conversion. Therefore, in closing his *De Thesauris*, Las Casas considers that he has provided enough evidence to prove the following:

Due to their nefarious and cruel deeds, Spaniards have defamed the Catholic faith among those nations, they have rendered Christ's name horrible and blasphemous. Also, they were an efficient obstacle to its dissemination throughout that world in a short time, but rather contained

it within small limits. Therefore, hopefully the promulgation of the sentence in the Letter to the Romans 1,18 does not refer to them, "The wrath of God is indeed being revealed from heaven against every impiety and injustice of those who suppress the truth by their injustice"" (Las Casas, *Los tesoros* 452).<sup>14</sup>

By quoting Paul's sentence Las Casas intends to set his conclusions on a firm theological foundation. The *Letter to the Romans* opens with a Pauline reflection on the apostle's duty to preach the gospel among Romans, Greeks and the gentiles of the world (*Biblia Sacra* Rm I: 12-18). In explaining these verses, Nicolaus de Lyra's authoritative gloss maintains that the wrath of God primarily punishes contempt of the cult of God and injustice against one's neighbor, with whom one should live justly (Lyra, ad Rm, I, 18 sub *Ira dei*). This accepted understanding of the passage fits in Las Casas's argument which merges a historical account of the Indies, legal argumentation, and the anticipation of divine punishment with a precise identification of the Spaniards as the recipients of the Pauline sentence for their deeds discouraging Indians from conversion.

After closing his historical works and his *De Thesauris*, Las Casas was once again forecasting the commutative intervention of divine justice against Spain. This anticipation informed two of his final earthly actions, namely the bequest of his papers to the Dominican College in Valladolid and his reiteration of his warning about the destruction of Spain in his very final words. Las Casas bequeathed the documents that he collected and the letters he received from different correspondents in the Indies, which he used for substantiating his arguments and his historical narrative, to the Dominican College of Saint Gregory in Valladolid so that they would be housed in the college's library. There the collection would be available for consultation so that people would comprehend God's anger, should God exercise it over Spain, by reading and learning about the destruction of the Amerindian communities through unjust wars and illegal enslavement, which were likely to be the cause of God's punishment (Las Casas, *Tratado* 220). Nonetheless, in his writings, Las Casas again appeals to the king to right the situation in the Indies as a means to stop God's execution of his justice (Las Casas, *Cartas* 226). At the opening of his response to the twelve doubts submitted by his fellow Dominican Bartolomé de la Vega, Las Casas expressed his confidence that God would inspire Philip II's heart to reform the situation in the Indies in order to cease his spiritual risk of eternal damnation and the concrete danger under which his people could fall because of the persistent provocation of God's wrath (Las Casas, *Doce dudas* 18). A long history of legal reflection informs Las Casas's remarks on the ruler's spiritual health that grew out of the difficult problem of how to oblige a king not

to transgress some legal boundaries in his own domains. In these cases, an appeal to the king's eventual account to God was well established on scriptural precedent (Brundage 110). Within this framework, Las Casas eloquently brought up once again the likelihood of God's enacting his wrath on Spain in the very closing statement of his entire intellectual career in the conclusive appendix to his twelve doubts; but he also decided to indicate the treatise's utility in delaying or even revoking altogether God's decision to destroy Spain:

Another advantage [of these writings] worth remembering is that perhaps divine justice will not pour on all these kingdoms its terrible wrath, and I can revoke or delay it with this plea that I present before your highnesses at the end of my life, and with those conclusions in two short treatises that I offered to his majesty in the past days.<sup>15</sup>

In this final reiteration of his warning on the destruction of Spain, Las Casas does not support it with his customary display of authorities. Nevertheless, the set of canons closely related to the canon *Amministratores* —the canon on which Las Casas based his first warning about the impending destruction of Spain— informs this statement by Las Casas on the useful dimension of his intellectual work almost to the letter. In particular, the canon *Sed illud* underlies the specific formulation of Las Casas's closing statement (*Corpus iuris canonici*, c.17, D.45). This canonical regulation contemplates situations in which the wrath of God rages against an entire community as a means to stop a *status quo* from leading the whole community away from God's justice and commands. In an explanatory section, Gratian, the earliest and most authoritative compiler of canon law, states that such occurrences had taken place in biblical times with the plagues of Egypt, the failure to respect the anathema of Jericho, and Israel's loss of their custody of the Ark of the Covenant and its falling into the hands of the Philistines (*Corpus iuris canonici* c.11.C.1.q.4; *Biblia Sacra*, Ios 7, 1-2; I Sm 3, 13). These collective punishments are united by a common cause, namely disobedience of God's commands, and they show various forms of sin and overt, disrespectful attitudes towards the sacred domain. The very formulation of this crucial canon *Sed Illud* is grounded in Saint Jerome's comments on Jeremiah, on the basis of which text it stipulates that such collective punishments arise when priests fail to speak and preach against public sins. Though the canon recommends an initial brotherly correction, should the situation persist, public denunciation and the expulsion of the guilty from the Church are mandatory due to the public nature of the sins (*Corpus iuris canonici*, c.17, D.45). By applying these considerations in his final statement, Las Casas strengthens the moral platform for his

final plea and also for all of his writings. This same canon also informs his petition to Pope Pius V for the renewal of all canons pertaining to the bishop's tasks, which he had sworn to defend. Among those, the canon *Amministratores* plays an important role according to Las Casas's letter to Prince Philip and to his actions before the Royal *Audiencia*; it codifies the bishop's obligation to protect the poor, widows, minors and all *miserabiles personae* and his equally important duty to not be fearful of defending his flock, as Las Casas repeatedly states in his reflections on the nature of the episcopal office (Las Casas, *Tratados* 611; *Cartas* 231).

In these final petitions, the different lines of Las Casas's concept of his works converge. They signal the interplay between his different intellectual positions and the concrete legal fiber that backed those specific proposals. For instance, Las Casas's active interventions in court, his 1552 publication and his final treatises presented to the king, all engage with these interconnected legal threads. But the prophetic warning that Las Casas intermittently issued since the 1540s also adds an important nuance for a thorough understanding of Las Casas's views. This eschatological dimension reveals another layer of Las Casas's reading of historical events. In fact, it shows his consistent will to pair the events that he directly observes in the Indies and records in his writings with the prophetic figures codified in sacred scripture.<sup>16</sup> The legal lens through which he contemplates and analyzes these unfolding actions is essential to his prophetic, eschatological interpretation since they enable Las Casas both to pursue his intervention before the highest authorities and to pass his judgement that these events are unjust and worthy of urgent reform. Thus, his whole activity at court and his writings are endowed with this moral dimension that not only pertains to the reforms that the Spanish king needed to carry out in the Indies, but also touches the very logic of God's administration of justice in its watch on human affairs.

The admonition about the impending destruction of Spain as a proportional divine response to Spain's destruction of the Indies became one of the most exploited parts of Las Casas's immediate legacy. The earliest account of his life attributes his battles against the offenders of justice and charity in the Indies to "his coming on the spirit of Elijah,"<sup>17</sup> thus linking Las Casas's personality to that of the prophet who championed the will of God, defended the weak and announced the coming of the lord (*Biblia Sacra* Sir 48: 10). In a similar manner, Dávila Padilla's reconstruction of Las Casas's death portrays him as acting according to the canons that regulate the clergy's duty to confront injustice, and reports his final efforts to entrust the defense of the Indians to all the friars (Dávila Padilla 405-407 [bk. 1, chap. 103]). Soon afterwards, interpretations of current historical events incorporated Las Casas's prophetic warning about the destruction of Spain, for instance, Dávila Padilla's vision of Francis

Drake's attacks on the Spanish colonies, and an anonymous translation of Las Casas's ideas into Quechua, whose author advocated a restoration of Incan power as a requirement to prevent the destruction of Spain (Dávila Padilla 405-7 [bk. 1, chap.103]; Cárdenas Bunsen, "Manuscript Circulation" 70-6). These readings of Las Casas's legacy emphasize the strong canonical and theological apparatus on which Las Casas based his different writings and arguments at the very juncture of the law, theology and history, and by virtue of which he expected to influence the highest secular and ecclesiastical authorities of his time.

### NOTES

1 Las Casas seems to be among the first to formally consider for the Indians the legal status of *Personae miserabiles* in order to protect their rights canonically. According to Castañeda (264-5), official legislation might have implicitly considered that Indians hold such status, but only recognized it in 1563.

2 "Remédienlo con tiempo antes que Dios destruya a España, que cierto la anda por destruir" (Las Casas, *Cartas* 226).

3 "...assí hize una petición que contenía tres amonestaciones conformes al capítulo Administratores, vigessima terçia, questione quinta, al presidente y oídores, amonestándoles que me libertasen mi iglesia que está oppressa y tyranizada y la jurisdicción eclesiástica, que no la puedo exercitar, porque los alcaldes ordinarios tienen levantado contra Dios el pueblo y quasi contra su magestad en lo que pueden" (Las Casas, *Cartas* 221).

4 Amministratores plane secularium dignitatum qui ad ecclesiarum tuicionem, pupillorum ac uiduarum protectionem, rapaciumque refrenationem constituti esse proculdubio debent quotiens ab episcopis et ecclesiasticis uiris conuenti fuerint, eorum querimonias attentius audient, et secundum quod necessitas expetierit absque negligentia examinant et diligenti studio corrigant. Quod si Dei timorem prae oculis non habentes negligere post secundam et tertiam ammonitionem inuenti fuerint, omni communione usque ad condignam se nouerint satisfactionem priuatos (*Corpus iuris canonici*, c.26.C.23.q.5).

5 Non solum homines ministri sunt et ultores Dei Irae his qui malum operantur (unde non sine causa gladio portant), sed et contrariae fortitudines que appellantur furor et ira Dei

6 "Ira Dei non est ut hominis, id est perturbatio concitati animi, sed tranquilla iusti suplicii constitutio" (*Corpus iuris canonici*, c.7.D.3.De poenitentia) [God's wrath is not like man's which is a disturbance of the excited mind, but a tranquil order of just punishment].

7 This complex institution took different forms throughout the colonial period. The most thorough examination is still Silvio Zavala 1-20 and 87.



8 Nicolas de Lyra glosses the implication of passage “peccato correspondet poena” [punishment corresponds to the sin] (Lyra, *Ad Sp* 11, 17 sub ut scirent).

9 The original statement reads as follows, “tiene Dios esta regla en su universal e infalible providencia, que cada uno sea punido por lo que y de la manera que peca y le ofende y en aquello que él damnifica a su prójimo” (Las Casas, *Historia de las Indias* II:142 [bk.1, chap.159]).

10 Though Las Casas explicitly cites the Book of Wisdom, his reliance in Aquinas’s theology suggests that Las Casas might have considered the so called *contrapasso*, it is the proportional functioning of divine justice that Aquinas elaborates taking as his foundation Matthew’s gospel, “In quo iudicio iudicaveritis, iudicabimini et in qua mensura mensi fueritis, remetietur vobis” (*Biblia Sacra* Mt 7,2) [For in the same way you judge others, you will be judged, and with the measure you use, it will be measured to you]. It is likely that Las Casas quotation of the *Book of Wisdom* respects the decision of the Council of Trent to include it in the canon of the Old Testament (Larcher 68-9).

11 For a legal formulation of the concept of proportionality, see Uniacke 255-6.

12 “no entienda Vuestra Majestad que lo decimos por manera de encarecer, o que la destrucción sea como cuando se dice comúnmente acá, está destruydo o destruyóse este reino, en lo qual se da a entender que no tiene dineros, o que esté afligido por no poder cumplir con las guerras o necesidades que sobrevienen a la república” (Las Casas, *Tratados* 799).

13 Here I use ‘state’ to translate the complex notion of ‘estado’ < lat. *status*, the temporo-social position of individuals that affects the manners in which people live and obliges them to live virtuously according to the different ‘estados’ —such as male or female, religious or secular, Christian or non-Christian, etc. All these ‘estados’ compose the fabric of the republic (see Cerda 89r; Alfonso 3: 128 [Part.4, tit.23, ley 1,2]).

14 Propter nepharia et crudelia opera hispanorum fides catholica infamis facta est apud illas nationes, et nomen Christi horribile atque blasphemabile reddiderunt. Necnon fuerunt efficaci impedimento ne in brevi tempore per totum illum orbem dilataretur sed potius sub quam paucissimis limitibus arctauerunt, propter quod utinam de illis non intelligatur promulgatio illius sententiae ad Roma. 1. Rebellatur ira Dei de coelo super omnem impietatem et injustitiam hominum eorum qui veritatem in injustitia detinent (Las Casas, *Los tesoros* 452).

15 Otro provecho no digno de olvidar y es que quizá la divina justicia no derrame sobre todos estos reynos su terrible furor y lo revoque o lo retarde con esta suplicación que al cavo de mi vida presento ante Vuestras Altezas y con las dichas conclusiones en dos tratadillos que a su magestad ofresçí los días pasados (Las Casas, *Doce dudas* 217).

16 In this paragraph, I am relying in one of the meanings of ‘figura’ as prophecy that Auerbach (33-4) traces back to the Church fathers.

17 “parece que vino en el espíritu de Elías” (Cruz 220 [lib.4, cap.39]).

## WORKS CITED

Alfonso X, el sabio. *Las siete partidas del rey don Alfonso el sabio*. Madrid: Imprenta real, 1807.

Auerbach, Erich. *Figura*. Translated by Marc André Bernier. Paris: Belin, 1993.

Bartolus of Sasoferrato, *Opera Omnia*. Frankfurt: Vico Verlag, 2007.

Bataillon, Marcel. "Las Casas, ¿un profeta?" *Revista de Occidente* 47:141 (1974): 279-91.

*Biblia Sacra iuxta vulgatam versionem*. Stuttgart: Deutsche Bibelgesellschaft, 1994.

Brundage, James. *Medieval Canon Law*. London: Longman, 1995.

Cano, Melchor. "De dominio indorum." *Misión de España en América 1540-1560*. Edited by Luciano Pereña. 90-147. Madrid: Consejo Superior de Investigaciones Científicas, 1956.

Cárdenas Bunsen, José. *Escritura y derecho canónico en la obra de fray Bartolomé de las Casas*. Madrid: Iberoamericana. Vervuert, 2011.

\_\_\_\_\_. "Consent, Voluntary Jurisdiction and Native Political Agency in Bartolomé de las Casas' Final Writings." *Bulletin of Spanish Studies* 91:6 (2014): 793-817.

\_\_\_\_\_. "Manuscript Circulation, Christian Eschatology, and Political Reform: Las Casas's Tratado de las doce dudas and Guaman Poma's Nueva Corónica." *Unlocking the Doors to the Worlds of Guaman Poma and his Nueva Corónica*. Edited by Rolena Adorno and Ivan Boserup. 65-86. Copenhagen: Museum Tusulanum Press, 2015.

Casas, Bartolomé de las. *Apologética historia sumaria* [1560]. Biblioteca de Autores Españoles. Madrid: Atlas, 1958.

\_\_\_\_\_. *Los tesoros del Perú* [1563]. Translated by Angel Losada. Madrid: Consejo Superior de Investigaciones Científicas, 1958.

\_\_\_\_\_. *Historia de las Indias* [1527-1561]. Edited by Agustín Millares Carlo and Lewis Hanke. México: Fondo de Cultura Económica, 1990.

\_\_\_\_\_. *Tratados* [1552]. Prologue by Lewis Hanke and Manuel Giménez Fernández, transcription by Juan Pérez de Tudela Bueso, and translations by Agustín Millares Carlo and Rafael Moreno. México: Fondo de Cultura Económica, 1997.

\_\_\_\_\_. *Doce dudas* [1564]. Edited by J.B. Lassegue, O.P; preliminary study of J. Denglos. *Obras Completas de Bartolomé de las Casas*. 11.2. Madrid: Alianza Editorial, 1992.

\_\_\_\_\_. *Cartas y memoriales*. Edited by Paulino Castañeda, Carlos de Rueda, Carmen Godínez e Inmaculada de La Corte. *Obras Completas de Bartolomé de las Casas*. 13. Madrid: Alianza Editorial, 1992.

Castañeda Delgado, Paulino. "La condición miserable del Indio y sus privilegios." *Anuario de Estudios Americanos* 28 (1971): 245-335.

Cerda, Luis de la. Libro intitulado vida política de todos los estados de mugeres: en el qual se dan muy prouechosos y Christianos documentos y auisos para criarse y conseruarse deuidamente en sus estados. Alcalá de Henares: Iuan Gracián, 1599.

*Corpus Iuris canonici*. Edited by Aemilius Friedberg. New Jersey: The Lawbook Exchange, 2000.

Cruz, fray Juan de la. *Corónica de la orden de predicadores desde su principio y sucesso hasta nuestra edad*. Lisboa; Manuel Iuan, 1567.

Dávila Padilla, Agustín. *Historia de la fundación y discurso de la provincia de Santiago de México, de la orden de predicadores, por las vidas de sus varones insignes y casos notables de Nueva España*. Madrid: Pedro Madrigal, 1596.

Denglos, Jacques. "La dedicace a Philippe II du traité des Doce Dudas de fray Bartolomé de las Casas (Manuscrit de Providence)." *Communio* 18.1 (1985): 111-124.

Fabié, Antonio María. *Vida y escritos de don fray Bartolomé de las Casas, obispo de Chiapa*. Madrid: Imprenta de Miguel Ginesta, 1879.

Iglesias Ortega, Luis. *Bartolomé de las Casas. Cuarenta y cuatro años infinitos*. Seville: Fundación José Manuel Lara, 2007.

Kolarcik, Michael. "Sapiential Values and Apocalyptic Imagery in the Wisdom of Salomon." *Studies on the Book of Wisdom*, edited by Géza G. Xeravits and József Zsengellér. 23-36. Leiden: Brill, 2010.

Kuttner, Stephan G. *Harmony from Dissonance. An Interpretation of Medieval Canon Law*. Pennsylvania: The Archabbey Press, 1960.

Lactantius Firmianus. *Liber de Ira Dei ad Donatum*. Patrologia Latina 7: Columns 0077-00148a. Patrologia Latina Database. Alexandria, Va.: Chadwyck Inc, 1996. Online. Accessed on Nov. 25, 2016.

Larcher, C. *Études sur le Livre de la sagesse*. Paris: Librairie Lecoffre, 1969.

Lyra, Nicholas. *Libri Biblie cum postillis et replicis Lyrae*. Nuremberg: Anton Koberger, 1497.

Milhou, Alain. "De la 'destruction' de l'Espagne a la 'destruction' des Indes. (Notes sur l'emploi des termes 'destroyr, détruire, destruyment, destrucción, destroydor, destruidor', de la 'Primera crónica general' à Las Casas)." *Mélanges à la mémoire d'André Joucla-Ruau*. II: 907-19. Aix-en-Provence: Editions de l'Université de Provence, 1978.

\_\_\_\_\_. "De la destruction de l'Espagne à la destruction des Indes: histoire sacrée et combats idéologiques." *Études sur l'impact culturel du nouveau monde*. Tome 1. 25-47. Paris: L'Harmattan, 1981.

\_\_\_\_\_. "Destrucción de España y destrucción de las Indias." *Communio* 18.1 (1985): 31-58.

— “Las Casas, profeta de su tiempo. Profeta para nuestro tiempo.” *Las Casas entre dos mundos*. 177-205. Lima: Instituto Bartolomé de las Casas. CEP, 1993.

Örsy, Ladislás. *Theology and Canon Law. New Horizons for Legislation and Interpretation*. Collegeville: The Liturgical Press, 1992.

Parish, Helen Rand. *Las Casas as a Bishop*. Washington, D.C.: Library of Congress, 1980.

Soto, Domingo de. *In quartum sententiarum commentarii*. Salamanca, 1581.

Uniacke, Suzanne. “Proportionality and Self-Defense.” *Law and Philosophy* 30 (2011): 253-272.

Wagner, Henry Raup and Helen Rand Parish. *The Life and Writings of Bartolomé de las Casas*. Albuquerque: The University of New Mexico Press, 1967.

Zavala, Silvio. *La encomienda indiana*. Madrid: Centro de Estudios Históricos, 1935.