

# HUELLAS

SPANISH JOURNAL ON SLAVERY, COLONIALISM,  
RESISTANCES AND LEGACIES



## PRESENTACIÓN

Texto de coordinación editorial



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El fantasma del colonialismo y sus voces

- Del atardecer en el Támesis a la espesura de la selva. “Salvajismo” y “civilización” como categorías de dominio en *Heart of Darkness* de Joseph Conrad. Lucía Martí Mengual
- La narrativa hispanofilipina gótica y sobrenatural de Adelina Gurrea Monasterio: Espíritus, naturalezas vivas y tensiones postcoloniales desde la nostalgia. Jorge González del Pozo
- “*Is It Licit to Eat Human Flesh?*”: Vitoria and the Politics of Disgust in the Making of the Colonial Order. Ever E. Osorio
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- Pasen y vean. La intertextualidad literaria afroespañola en *No es país para negras* (2016) de Sílvia Albert Sopale. Alfonso Bartolomé



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## **PRESENTACIÓN**

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Marx y Engels arrancaron aquel breve texto que conmovió el mundo, El Manifiesto Comunista, con la evocación de un fantasma que recorría Europa. Hoy otro fantasma recorre no ya Europa sino el mundo entero. Es notable cómo, también en este caso, lo reprimido retorna: no deja de ser significativo que tantas décadas después de la abolición de la esclavitud y de las emancipaciones coloniales, se dé un urgente análisis crítico en numerosas disciplinas que se ocupan de estos dos hechos históricos cruciales, de cómo configuraron nuestro mundo, de la variedad de resistencias que suscitaron, y de sus legados en el presente. Quizá en nuestro ámbito -amparada por la Universidad de Valencia, si bien con voluntad de trascender sus límites- la revista que inauguramos, Huellas: Spanish Journal on Slavery, Colonialism, Resistances and Legacies, sea también un síntoma de ese fantasma que recorre como culpa nuestra conciencia histórica pública. Por ello, este primer número está dedicado a explorar diversas perspectivas y acercamientos que confluyen en ese malestar moral y político, sí bien es cierto que con cierta primacía de los análisis literarios. Sea como fuere, la óptica de la revista tiene voluntad multidisciplinar y pretende en los números sucesivos que este inaugura contribuir a una cartografía teórica y crítica que coadyuve a trazar nuevas rutas en el estudio de la esclavitud, el colonialismo, las resistencias que suscitaron y los legados de todo ello, que configuran el mundo que habitamos. La Historia, la Antropología, la Filología, la Sociología y la Teoría Política, sin olvidar la Filosofía, habida cuenta de las distintas ramas y especificaciones que hoy las vertebran, constituirán nuestra caja de herramientas. Desde esta perspectiva, en la medida de sus posibilidades, esta revista también tiene la voluntad de convocar una variada pertenencia internacional y académica de sus colaboradores que esperamos ir ampliando.



## **EN EL FOCO**

**El fantasma del colonialismo y sus voces**

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## “Is It Licit to Eat Human Flesh?” Vitoria and the Politics of Disgust in the Making of the Colonial Order

Ever E. Osorio. DOI: 10.7203/huellas.1.27060

The disparity between our experience of reality and the language we have available for representing both this reality and this experience is what infuses the concept of history with the realization that history is an open-ended process rather than a closed science and a fatality.<sup>1</sup>

–Hayden White

### Introduction

*Is It Lawful to Eat Human Flesh?* Francisco de Vitoria asked this question to his students in 1538.<sup>2</sup> The early modern jurist at the School of Salamanca, who has been acknowledged as one of the fathers of international law decided to give a *relection* on this manly habit that Thomas de Aquinas had already aimed to answer less than three hundred years earlier. The anxiety of assessing the subject matter was rather different this time. By 1538 major epistemological, political, and philosophical reconfigurations were taking place in European thought, since explorers and scholars had documented and historicized their contact with the “new world.” For instance, by this year hundreds of pages about the “exploration” and tribulations for settling in the Americas had been written and read by tradesmen, government officials, monarchs and scholars. A vast number of these testimonies reported the custom of anthropophagy by Amerindian groups. *Cannibalism*,<sup>3</sup> as the practice became to be referred to, was in many scholars and jurists point of view a savage, barbarian, and immoral behavior. Therefore, an imaginary of this practice was created as if it were a generalized practice and a fundamental principle of Amerindian societies. This view was built by the proxies of private and commercial interests –such as

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<sup>1</sup> Hayden White “Introduction.” In *The Practice of Conceptual History: Timing History, Spacing Concepts*. By Reinhart Koselleck. Stanford, California: Stanford University Press, 2011.

<sup>2</sup> There are many opinions on this matter since some legal scholarship and practice consider Hugo Grotius as one of the fathers of international law although he was heavily influenced by Vitoria's writings. It would be worthy exploring to what extent the contemporary fame of Grotius over Vitoria has to do with the way knowledge formations and Anglo-Saxon cultural imperialism in the 19th and 20th centuries hierarchized and negated the importance of these thinkers and their Spaniard contemporaries. Recent interventions in philosophy and political theory have claimed the importance of Vitoria, Bartolomé de las Casas and Francisco Suárez in the creation of modern political thought. See Enrique Dussel, “Origen de la filosofía política moderna: Las Casas, Vitoria y Suárez” (2005) and Amaya Amell, *Francisco de Vitoria and the Evolution of International Law: Justifying Injustice* (2021).

<sup>3</sup> This distinction is not crucial for this analysis of Vitoria's work. However, it is important to note that he never referred to anthropophagy as cannibalism in the original Latin text. It is intriguing that he did not use the word cannibal, since by 1537 it was an already widely used term in letters and reports on the new world.

*encomenderos*—<sup>4</sup> with the objective of building a solid argument for “just war”, and for the enslavement of Indians (Whitehead 1985).

While anthropophagy was conveniently addressed as an obvious grievance by Christopher Columbus, Queen Isabella, and Ginés de Sepúlveda, among others, it became a matter of careful reflection and analysis for Vitoria. This difference of opinion on the subject makes for a fruitful exploration of early textual developments of “colonial reason” (Stoler 2016) on global political hierarchy, and of the design process of the legal international system. The *relection* on *Temperantia* is not only a set of scholastic contradictory, yet logical, axioms, but rather an early modern effort to elaborate an emotional order of universal dimensions. By emotional order I refer to the articulation of culturally inflected judgements on human actions that are capable of producing political hierarchy (Stoler 2016). In this way, Vitoria’s election of Aristotle’s *Ethics* to approach anthropophagy suggests an intention to elaborate his view on the subject matter within a system of virtuosity and morality, and within a symbolic order already available to European thought.

In this essay I demonstrate how Francisco de Vitoria interpreted the reports of the practice of anthropophagy by American Indians through the mobilization of the emotional politics of disgust. I argue that, by appealing to Aristotle’s arguments in *Nicomachean Ethics*, instead of resorting to his immediate interlocutor Aquinas, Vitoria’s underlying objective in his *Relectio de Temperantia*<sup>5</sup> was to set the moral grounds for a legal and political order capable of justifying European (Spanish) colonial settlement. For instance, while Aquinas focuses on sin as the principle against which they should guide human action within a Christian telos, Vitoria places all his attention on licitness and legality, as a principle to guide human behavior in the contingency of global encounter. By examining Vitoria’s analyses of anthropophagy as a vicious, unrestrained, and barbaric practice, I show how the making of colonial reason was culturally regulated. Disgust as a political mechanism for producing hierarchy is an ancient emotion which was revisited by Vitoria for the crafting of a legal global order in a historical moment of European conquest. With this approach, I show how the lawfulness and rightness of the colonial project depended not on the abstract formulation and application of international law, but on the emotional structure of the moral system behind it.

I interpret Vitoria’s readaptation of the Aristotelian system as a vehicle through which the recent re-encounter –not only with anthropophagy but also with human sacrifice– would be legally and justly assessed. This evaluation was crucial for making a justification for war against the Indians, which were often referred to as barbarians, a denominator of the “uncivilized” that can be traced back to Aristotle. War against the Indians in this historical context implied the possibility of lawful enslavement, and the occupation of their land (Vitoria [1538] 2010). Although formal enslavement of the Indians did not materialized unlike what happened with African peoples brought over to the Americas, the articulation of an ideology of European superiority in relation to the American Indians took shape. The entitlement to grab Indian lands, to establish a legal and political regime, to Christianize, to “civilize”, and to take care of the child-like Indians or, to put it differently, to colonize, was driven by an ideology that needed to be fed by the documentation of cultural difference and historical distance. Vitoria’s preoccupation spins around the lawfulness of this venture, and the avoidance of moral wrongness.

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<sup>4</sup> *Encomenderos* were privileged Spaniards that were granted Indian labor and tributes.

<sup>5</sup> *Relectio de Temperantia* and relection on self-restraint will be used interchangeably.



## Emotions as Political Sites of Historical Enquiry

This enquiry on anthropophagy, modern law, and disgust is, on the one hand, part of the project of tracing the history of emotion in the making of a political order, which has been called the "emotional turn" (Villaflora, Lipsett-Rivera 2014). On the other hand, it is part of recent scholarly efforts to show how the making of the so-called modern rational norms, laws, and institutions that were aimed to regulate political life and create order, were in fact made of its logical antonym: emotion. My objective is to show that the production of modern international law and early colonial reason were based on the mobilization of emotions. Modern epistemological projects on the categorization of virtue and vice, of rightness and wrongness, were fundamental for the elaboration and implementation of international law, the legal framework that backed the colonial enterprise. These legal and moral formulations were propelled by affective and sensorial descriptions written with a colonial ethnographic grain which produced particular emotions that legitimated and delivered the "reasons" for the materialization of European political projects.

Scholarship on emotions as historical objects of research has shown that these affective experiences are not visceral, unmediated reactions but socially and culturally influenced judgements. For example, a useful definition for sentiment that makes explicit its sociality in relation to cultural norms refers to it as "socially articulated symbols and behavioral expectations" (Lutz 1986: 409). Sentiments assessed as a cultural practice collectively shared allow us to see the social forces that shape human behavior. Furthermore, sentiment as a concept reveals its political dimension, and the need to address the realm of human experiences as historical subjects. This approach opens a fertile field for rethinking political history and the history of ideas beyond formal institutional frameworks. Sentiment and emotions are not given, natural, and visceral human responses but manifestations of cultural and historical specificities.

In the case of the Spanish speaking Americas, scholars Javier Villa-Flores and Sonya Lipsett-Rivera have highlighted the importance of emotion in colonial governance by noting that "tied with state formation and hegemony, emotional control thus becomes the real site for the exercise of power" (Villa-Flores and Lipsett-Rivera 2014: 4). Harnessing emotions –they argue quoting anthropologist Ann Laura Stoler– is central for governance in colonial regimes in both directions. For them, colonial governments have had at their core the mobilization and repression of certain emotions which, they specify, were known as passions in the early modern world, not only towards the peoples to be colonized but also towards their own populations.

The necessity of harnessing passions internally and externally, from metropole to colonies, seems to have been a tool that early modern explorers, captains, priests and scholars intuitively knew, and put to practice, in their writing. For instance, Rolena Adorno has shown how the writing on the Indies, from letters to *relaciones* and reports, was not intended as objective, or neutral. Her close reading of texts written by Vitoria and other contemporaries, such as Ginés de Sepúlveda and Bartolomé de las Casas, confirms that "the writing of the Indies, even those that presumably narrated historical events, are better characterized as polemical or moralistic narratives than as objective history, and also for how they are best studied by examining the persuasive features of their representation, not by attempting to confirm or accept their claims to the truthfulness of the events narrated" (Adorno 2007: 8).

The moralistic quality of these narratives is fundamental to the analysis of emotion as a key component in the crafting of the international legal order that Vitoria envisioned and that is, in many ways, current. It is not without meaning that Vitoria discussed the problem of anthropophagy in a *relectio*, a literary academic genre imported from the University of Bologna, via French

universities, to the School of Salamanca, in which a detailed enquiry into specific points of a previously treated topic is pursued (Adorno 2007: 109); it is not accidental either that the subject matter was *De Temperantia*, in which he appeals to moral qualities to make normative claims on the licitness of eating human flesh. The location of this debate as a matter of self-restraint, in which an ethnographic gaze is developed to interpret the behavior of the Indians, is indicative of the deployment of a structure of emotion, already existent in European thought towards their ancient "others", to create political hierarchies and order.

Disgust is the historically and culturally contingent emotion that Vitoria mobilizes and rearticulates in his *relectio* in anthropophagy. Emotion as a category for analyzing the legal writing on the Indies is a concept which differs from sentiment, even when both are part of the same semantic constellation. Legal scholar William I. Miller dedicated a book to the analysis of the *Anatomy of Disgust* (1997). In this treatise, he argues that disgust is an emotion and not a sentiment. For him, emotions are: "feelings linked to ways of talking about those feelings, to social and cultural paradigms that make sense of these feelings by giving us a basis for knowing that they are properly felt and properly displayed" (8). This concept of emotion is compatible with the idea of behavioral expectations, for an expectation needs a basis, the basis for knowing if the adopted behavior was properly displayed and that it was, in fact, the proper behavior. Propriety, and the urgency for defining a basis for guiding behavior, is the question that Vitoria is asking his students, by launching the theme of anthropophagy as uncategorized behavior in a moment of global encounter.

Miller's definition of emotion complements philosopher Robert C. Salomon's elaboration on emotions as an experience constituted by judgments (1998). For the philosopher, judgment is a continuous cognitive activity whose result is the assembling of emotions, therefore emotions are not merely instinctive and visceral reactions but the cognitive process behind them. Salomon further argues that these emotions or judgments are not "construed as momentary intrusions into an otherwise orderly life but rather as dynamic structures of our experience that need to be continually reanimated" (191). Drawing from Salomon's and Miller's thought, I interpret these judgments to be constituted by culturally based behavioral expectations, and these expectations that translate into norms are not universal but historically and geographically situated. This judgment structure is particularly visible in Vitoria's questioning regarding the lawfulness of anthropophagy.

The historical contingency in which Vitoria as a Christian legal scholar finds himself was that of political urgency to classify and therefore judge human habits and practices, both familiar and new. As historian Anthony Pagden notes, contrary to the dynamic of pure contact between the new world and Europe, to settle required "to come to closer grips with the intellectual problems it presented" (1999: 11). These problems refer in part to the sea of arguments around the justification for war and the conquest of the Americas. Within this context, Vitoria saw in the practice of anthropophagy an opportunity to resolve the intellectual and moral problem of defining the basis for expectation and judgment. The problem of recognition, as Pagden names this critical situation, was addressed by Vitoria's through the establishment of a legal order that determined the moral expectations on human behavior.

Such order, the basis for knowing right or wrong, the reason guiding worldly proper and improper behavior, and colonial reason (Stoler 2016: 232), was built through the mobilization of emotions, particularly the sensorial emotion of disgust. Thus, the positioning of emotions as political sites for historical enquiry originates from this knowledge articulation. Vitoria's line recalling that Aristotle held as "abominable" and disgusting the tribes of the black sea that ate human

flesh, was an early modern formulation of a political and moral hierarchy of human practices (and of the very human condition itself). In this sentence, Vitoria associates ancient barbarians, those peoples outside formal political life, with the American Indians. More importantly, the legal scholar was actualizing Aristotelian political thought and teleology, particularly his category and hierarchy-making logic. Therefore disgust, the emotion appealed by Aristotle and invoked by Vitoria, can be understood as an emotion made of judgments and feelings.

In Vitoria's *De Temperantia* this scheme is particularly clear given his use of language and the concepts and arguments he chose for backing his ideas, and the *relection* figures as a rich source for studying the history of disgust. The political capacity of this emotion has been conceptually explored by Miller. In addition to acknowledging disgust as a taught and learned emotion, a recognisable affective experience that serves to different social practices like category-making, he identified three central characteristics of disgust. The first one is the particular aversive character to things that are perceived as dangerous, a danger produced by the capacity the subject has to contaminate and pollute either by proximity or by contact (Miller 1997: 4). These contaminating-polluting capacities are close to –as Miller suggests– the definition that anthropologist Mary Douglas made of dirt “as matter out of place” (Miller 1997: 4, 49). This reference to spatiality is of particular relevance when considering that western geography was suffering major reconfigurations at this historical moment. For instance, Vitoria replaced the former notion of medieval Christendom *universitas christianorum* for *Totus Orbis*, which “was conceived as a community of peoples that recognized God as the basis for order” (Fazio 1998: 82).

The second one is disgust's ability to produce ranks of people and social ordering; by the experience of disgust, hierarchies and categories are produced (Miller 1997: 2). For instance, by feeling disgust by the same thing, practice, or habit, people group themselves together in producing expectations on how someone is supposed to react to different stimuli, either internal or external to the community. The logic of this emotion is that what is found disgusting must be expelled or tamed for the sake of stability. Disgust, is the making of a judgment by acknowledging a smell, an image, or a custom as repulsive. In this dynamic, the “disgusting” person is located outside of the group of people that are disgusted by him. Such is the strategy used by Aristotle's various references to the barbarians and their practice of anthropophagy, which is, in turn, replicated by Vitoria. This dialectic operates for hierarchizing a political order, either by maintaining it or producing claims of superiority. Producing these “outsiders” as disgusting, and the production of a distance for the sake of non-contamination, can be interpreted as the defense, enhancement, or rearrangement of a social position within a new ever changing configuration. This global restructuration, encompassing the intellectual crisis mentioned above that represented the project of colonization, acknowledges the fragility and instability of former categories.

Finally, disgust has a formidable capacity to generate images (Miller 1997). The approach Vitoria has taken on anthropophagy and human sacrifice as moral offenses, without relativizing similar practices taking place in Europe in the same historical moment, exoticized the Amerindians. By describing non-European customs on anthropophagy and sacrifice, Vitoria displayed notions of viciousness already elaborated in the western canon. The two immediate predecessors in this realm would be Aquinas' lecture on *Temperantia* and Aristotle's *Book Seven*, both on the same matter. This move is not surprising; as Carlos Jáuregui shows in *Canibalia*, there was a pre-existing archive in Europe

that was re-signified and mobilized to understand and interpret the Indies, and Aristotle and Aquinas were part of that archive. For example, he shows how

although the word cannibal itself is a distortion of an indigenous word used for the first time in a European language following the Discovery, its colonial meaning includes the classic archive on otherness, medieval teratology, compendiums and catalogs of knowledge from the Renaissance, histories, popular stories about witches and Jews, travelers' tales, and the cultural fears and anxieties of the late Middle Ages. (Jáuregui 2008: 25)

Vitoria re-constructed and strengthened already existent narratives of despicability and decadence. Disgust was articulated politically by Vitoria through an actualization of the subject matter of the emotion. The making of political community was no longer organized in relation to other European peoples, but vis-à-vis the human flesh eaters, the American Indians.

### **Self- Restraint: Aristotle, Aquinas and Vitoria**

The *Relectio De Usu Ciborum, Sive Temperantia*,<sup>6</sup> translated into English as *On Dietary Laws, or Self-Restraint* (Vitoria, Pagden, Lawrence 2010) was part of the *relectios* that Vitoria gave on the second volume of Thomas Aquinas' *Summa Theologica*. The reading assigned to students for this lecture was question 141 of the *Summa*, which is dedicated to the definition of temperance. The thirteen questions following temperance are part of the same thematic content, and speak to questions of vice, shamefacedness, honesty, abstinence, fasting, and gluttony. As it is widely acknowledged, Aristotelian thought is present in Aquinas opus magna. References to Aristotle are abundant in questions 141 to 154, particularly to his book on *Ethics*, although the medieval scholar's influence of the ancient philosopher is perhaps more evident in his methodological reasoning on causes, means, and ends (Shields 2020).

Even though the differences between Aristotle's and Aquinas' treatment of temperance on the *Ethics* and the *Summa* deserve a separate study, I will limit the enquiry in this essay to two features that are particularly helpful to understand Vitoria's work. The first one is that the subject matter of Aquinas is human behavior in relation to sin, an argument located within Christian religion and beliefs. The specific goal of Aquinas seems to be to define sin and virtue for the sake of the salvation of the soul. Questions such as "whether temperance is a virtue?" and "whether gluttony is a mortal sin?" are intended to clarify what human behavior is acceptable or not within the Christian teleology of redemption. Aristotle, on the contrary, locates virtue and temperance as desirable manly behavior within the telos of the polis, and in relation to the immediate subject outside the polis: the non-Greek person, the barbarian who often overlaps with the figure of the slave (Aristotle, Bartlett, Collins 2011) (Aristotle, Lord 2013).

The second difference is what I identify as the ethnographic component of Aristotle's argument, an elaboration which is absent in Aquinas. The medieval philosopher established logic reasoning mostly based on references to the opinions and lessons of scriptures and other ancient Greek, Roman and scholastic sources. Conversely, some of Aristotle's reflections make reference to

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<sup>6</sup> I am using as primary source Francisco de Vitoria, 1483-1546, and Pierre Landry. *Relectiones Theologicae Tredecim Partibus Per Varias Sectiones: In Duos Libros Divisae*. Lugduni: expensis Petri Landry, 1586. <https://babel.hathitrust.org/cgi/pt?id=ucm.531795129x&seq=346&q1=ciborum> . It is part of the *Relectiones theologicae tredecim partibus per varias sectiones in duos libros divisae. Opus omni eruditione & pietate refertum, novissimè iuxta Ingolstadiensem editionem castigatum & repurgatum*. The publication information refers to Lyon, Expensis Petri Landry, and it was published in 1586, although the first edition is from 1557.

popular proverbs and actual human actions that seem to have been observed by him. The reference he makes to "plucking out one's hair and gnawing on one's fingernails" (Aristotle, Bartlett, Collins 2011: 146), as an unvirtuous behavior that arise from habit and disease, is one of the many observations he makes that reveal his ethnographic gaze.<sup>7</sup> The attention given to manly conduct, the detailed observation and the impulse to describe, would be replicated by Vitoria and his contemporaries at the school of Salamanca as they aimed to categorize, as Aristotle did, human customs and practices in relation to difference. In this particular case, the difference would be embodied not on the barbarians which did not speak Greek, but on the Caribs, the Arawak, on those who became to be known as American Indians and Africans.

The urgent ethical matters of Vitoria's present propelled him to elaborate on the problems raised by the ongoing process of colonization of the Americas. This could explain why, even when Vitoria's duty was to re-lecture on Aquinas's thought on *Temperantia*, he decided to disregard the questions raised in the *Summa* and proceeded to enquire on the contentious topic of anthropophagy.<sup>8</sup> There are no explicit references to the practice of anthropophagy in the *Summa's* *Temperantia*, while there is a minor one made in Aristotle's *Ethics*. Thus, the intimate proximity of these three texts is due not to their interest in anthropophagy but rather for locating human virtuous and vicious behavior within a system or constellation of value, difference, and hierarchy. Vitoria's *Temperantia* is a modern take on its predecessors, to produce difference. While he follows the scholastic method of Aquinas for questioning and assessing the subject matter with arguments and scriptural evidence, he also strategically appropriates Aristotle's imperialist ethnographic gaze to be able to name, explain, and categorize the imminent proximity of cultural difference.

Vitoria's *Temperantia* needs to be analyzed within the context of being a reflection on a historical moment of radical contingency. The general global contingency I find draws from Moses Finley's observation on Aristotle's theory of slavery, and its relation to notions of bestiality and barbarism as being part and parcel of a moment of reconfiguration of the Greek world-empire (Finley 1998). There is a historical parallel in Aristotle's and Vitoria's political juncture; they were both observing a major systemic transformation of the world they lived in. By the middle of the sixteenth century, the organization of European and American polities were evolving towards a world-system made of still-developing nation-states and colonies. Vitoria certainly intended to express an opinion, and produce a legal principle for just war and the process of conquest and colonization of the "New World."

The success of the envisioned world order, and the necessity of tools of governance that the colonial expansion required, was accompanied by the development of an international legal system and its jurisdiction. Vitoria's proximity to Aristotle is latent in his appealing to natural law and to the doctrine of *ius gentium* –or the law of peoples–, and it was crucial for the birth of the modern system of international public law. His thought on the morality and abominableness of anthropophagy and human sacrifice as a practice of a contemporaneous social group on the other side of his world reveals the emotional components of modern colonial reason, and the parochial force behind it. As Jáuregui clearly observes on the figure of the anthropophagites and later the cannibal: "(they) initially evoke the cyclopes and the cynocephalians,

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<sup>7</sup> I find in this characteristic of the Aristotelian method or science a fertile space for reflection, particularly in relation to what Anthony Pagden refers to as the birth of ethnology with these early modern treatises. My overall suggestion is that Aristotle and Vitoria experienced a moment of historical contingency that invited them to observe and read information of the world with an ethnographic detail.

<sup>8</sup> The editors explain that this *relection* was part of the revisiting of Aquinas.

and then appear to be –in accordance with the Admiral's first etymological speculation– soldiers of the Khan; they quickly become brave Indians and their location coincides with that of the sought-after gold; Cannibals are also defined because they can be made slaves, or because they live on certain islands. Cannibalism becomes the product of a tautological reading of the savage body: cannibals are ugly and the ugly are cannibals" (Jáuregui 2008: 14).<sup>9</sup> By producing disgust and images of ugliness that were not original at all, Vitoria's *Temperantia* is central for the discursive and legal creation of political otherness, an equation in which anthropophagy is "the master signifier of colonial alterity" (Jáuregui 2008: 14).

The specific contingency in which Vitoria was addressing anthropophagy was the great influence that the School of Salamanca had in this moment in the interpretation and drafting of the emerging legal global order,<sup>10</sup> and the ongoing debates on colonial policy regarding the treatment of the Indians. This question was central because it was in tension with the interests of the *encomenderos*, "privileged Spanish colonists" (Adorno 2008: 100) to whom a consigned group of Indians were granted to receive their labor and tributes. According to Charles Gibson (quoted by Adorno), the *encomienda* "was a possession, not a property, and it was per se inalienable and non-inheritable." The lack of clarity of the distinction of this form of labor from slavery, its ongoing practice and the clash of private interest with the already legally acknowledged freedom of the Indians had a discursive climax in the debate in Valladolid in 1550-1551. The subject matter of the debate was not originally the morality and character –the *temperantia*– of the Indians, but how they should be treated by the crown in accordance to the Spanish and Catholic legal code. However, this turn in the conversation was introduced by Ginés de Sepúlveda in opposition to Bartolomé de las Casas.

Vitoria's view aligns with Sepúlveda's vision, because of the simple fact that he dedicated and entire *relectio* to question and elaborate on the character of the Indians, an epistemic position and an argumentative mode that served private interests, to discuss not how to licitly treat the Indians, but the existence of this text was a validation of the question that Sepúlveda and his followers were aiming to put to the front. For this reason, although in *De Temperantia* Vitoria did not argue in favor of slavery, or the enslavement of the Amerindians, he elaborated a moral theory of just war based in his opinion of the injustices that a cannibal society does to its victims. Two lectures that he delivered in 1539,<sup>11</sup> explicitly named *De Indis* and *De Iure Belli*, show some continuity of the thought elaborated on the *Relectio de Temperantia*; they can therefore be approached as a preamble to these matters, in which he pre-established a moral ground for the logic and reason of the law by mobilizing emotions around foreign, yet familiar, practices.

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<sup>9</sup> The admiral refers to Christopher Columbus, whose Diary was transcribed by Bartolomé de las Casas.

<sup>10</sup> According to Rolena Adorno "The Spanish university of those years was an influential institution, with its independent prerogatives, exemptions, and rights governed and guaranteed by its internally elected professoriate and rectorship. As a result, the Castilian monarchs frequently called upon its most illustrious thinkers, such as Vitoria and his colleagues Domingo de Soto and Melchor Cano, to offer their counsel on such matters as the justice of the wars of conquest and the pastoral issue of the appropriateness of the mass baptism of adults without prior instruction. However, the influence of these theologian-jurist teachers as judges and arbiters of royal policy came to an end at Salamanca after Vitoria and, in general, with the Las Casas–Sepúlveda debate of 1550–1551, when it was deemed that the complex, academic consideration of such issues, and the counsel provided, presented more problems than they resolved" (2008: 109).

<sup>11</sup> As I mentioned above, the primary source I have consulted to write this essay is the Latin 1586 edition, in which the elections are organized by number but not in chronological order. Vitoria's *Political Writings* edited by Anthony Pagden and translated by Jeremy Lawrance are organized chronologically, and they indicate that *De Temperantia* was delivered in 1537 and *De Indis* and *De Iure Belli* in 1539. Yet, in the 1586 edition, they are *relectio* number V and number VI respectively.

## Law and History: Vitoria's Modern Temporality and Global Hierarchies

Vitoria opened the lecture on *Temperantia* by asking if it was lawful (*licitum*) to eat human flesh. He did not ask if it was a sin but rather located the doubt within a legal framework. I find in this shift, relocating moral principles from the sinful sphere to more secular spaces, of the law in all its civil extension, an early modern gesture. This shift is an inflection, a detour that reveals to the reader paths through which early modern reflections on lawfulness transferred from the theological to the secular, and how notions of universality developed in legal discourse. After stating the major problems that the solution of this enquiry faced, namely the absence of explicit prohibition in divine law and civil law (*lege*),<sup>12</sup> he quotes the Genesis claiming that all "moving thing(s)", things which are alive, should be food for man, and mentions the use of mummified powder for medicinal purposes. Then Vitoria appeals to *ius gentium*, the law of peoples.

The law of nations (*ius gentium*) is a specific legal form that Vitoria (and other early modern and medieval scholars) used as a proto-framework of what came to be international law.<sup>13</sup> This law refers to a "mid-way and highly ambitious position between the natural and the positive law" (Vitoria, Lawrance, Pagden 2010: xv). It was composed of "a set of precepts enacted by the power of 'the whole world, which is a sense a commonwealth' irrespective of the local legislative convictions, beliefs and customs of individual communities, or indeed their place in time" (Vitoria, Lawrance, Pagden 2010: xv). *Ius Gentium* in Vitoria's thought is an expression of natural law because it relies on natural reason (in the Aristotelian sense), while also being positive law because it is established by the consensus of the peoples. On the one hand, the law of peoples is particularly prone to be swayed by the emotional politics of disgust which under-govern the moral structure for virtue and vice. On the other hand, its positive law component of *ius gentium* operates by generating structural difference in the interpretation of peoples through ethnographic and image-charged discourses, since who counts as a people, and whose customs and traditions are more virtuous and reliable might vary.

Given the lack of a systematic and clear answer of an explicit indication against the practice of eating human flesh in Vitoria's sources, he embarks on a quest for moral assessments of social practices, for a norm on which evaluations and judgements of such habit and behavior could be made. This search took him to appeal the ambiguous doctrine of the law of nations, *ius gentium*. Vitoria's invocation of *ius gentium* to address the licitness of eating human flesh enables him to elaborate a narrative based on the construction of radical difference by mobilizing disgust. In this way, anthropophagy "is not only something unfair, but a behavior that under no circumstances can be susceptible to acceptance or understanding; in consequence, the anthropophagite will not be appreciated as a person that merely made a sanctionable mistake (...) but as some kind of madman or savage, or a dehumanized being with whom some form of relationship must mediate that can confront his non-human character, such as, for example, war or some "humanizing" enterprise" (Castañeda 2004: 6).

*Ius gentium* proclivity to be molded by political emotion is palpable in the text itself. In the Latin version of the *relection*, after listing the above-mentioned three problems on assessing anthropophagy (the Genesis, the absence of precepts against the practice, and the use of carne momia as medicine), Vitoria states "In contrarium est ius gentium, apud quas semper fuit abominabile. Item

<sup>12</sup> This is an important note since it indicates the early modern recognition of sources of law and authority different from the Christian ones.

<sup>13</sup> In fact, Vitoria has been named, according to Pagden and other international law scholars, a father of international law, along with Hugo Grotius.

Arist. 7. Ethic. Dicit quod es feritas, vesci carnibus humanis". This line is translated as "But on the other hand the law of nations (*ius gentium*) is against it, since all nations have always held it to be abominable. Aristotle describes the cannibalism of certain Black sea tribes 'as a form of bestiality' (Nicomachean ethics 1148b15-24)" (Vitoria 1586: 319-320). In this formulation there are two argumentative lines that overlap. The first one is the appeal to the law of nations according to which anthropophagy is abominable; this formulation makes the double work of functioning as legal precept and as historical source. The second one is the characterization of the group of people that eat human flesh as *feritas*, meaning bestiality; this expression is already imitating the system of opposition elaborated by Aristotle in the Ethics, which is integral to his theory of slavery.

The first argument is crucial for understanding how the emotion of disgust has the capacity of generating hierarchy and a sense of community around those feeling the emotion. "In contrarium est *ius gentium*, apud quas semper fuit abominabile" (Vitoria 1586: 320) is a statement on recognition of certain peoples, the people that have historically participated in the building of this law. These are the peoples that fall into the natural disposition to understand and live by this moral law. Christian European nations and their peoples, which after reading traveler reports on the Caribs found the consumption of human flesh as abominable, were the group on what the consensus surrounding *ius gentium* was based. All other human groups were peoples set aside in different layers of contrasting opposition to what is naturally good. Those who practiced anthropophagy and human sacrifice were denied, in this sentence, as peoples with a sort of voice or participation in the consensual making of this law.

However, this articulation, while producing a political and legal exclusion, can also be interpreted as a proto-cosmopolitan endeavor. The expulsion of the human-flesh eaters from the system of peoples is a spatial removal not a temporal one. As mentioned earlier, the reference he is making to Aristotle's *Ethics* is not only as a precept of natural law but also as a historical source. Instead of claiming exceptionality and radical difference in this Amerindian custom, he traces the consumption of human flesh by humans back to Herodotus and Aristotle, and locates the practice closer to familiar geographies: The Danube, the Black Sea, and the biblical landscapes. However, this intimation does not come without consequences. For Vitoria, the expenditure of being part of the same history entailed the necessity of being part of the same system of values, of virtues, of ethics, and of law. Therefore, to speak of peoples referred to a possible plurality, to be located and positioned within a temporal and political order, and with a determined hierarchy. This disposition enabled ideas of primitivism and similar concepts, which had at its core the temporal politics of historical development and progress in relation to "pre-political" societies, those which were not western formal states. In this formulation, Aristotle's teleology of the polis as the ultimate end is also present.

The second argument, which refers to the characterization of the group of people that eat human flesh as *feritas* is also an expression of the double nature of *ius gentium*, since it makes a judgment on anthropophagy: Anthropophagy "is bestial", Vitoria says via Aristotle. While setting a border between bestiality and humanity, and his idea of natural law as moral basis for virtue, he is also reproducing the structure of Aristotle's theory of natural slavery. In fact, Aristotle's book 7, also commonly named *Self-Restraint*, deals extensively with the elements of character which should be avoided. In this book, he establishes dichotomies, and he states that vice, lack of self-restraint, and brutishness should be avoided. Regarding the last one, the translator notes that the word



used is *theriotes*,<sup>14</sup> which is also translated as savagery, bestiality, and brute, all of them terms which have strong relation to the animalistic. The opposite of *theriotes* in this passage is *seios*, which refers to the divine, the god-like. This dualism intersects with his distinction between vicious and virtuous, restraint and the absence of it. It is within this arch of possibilities that Aristotle locates a brief comment on what is pleasant by nature and what is not pleasant by nature "but do become pleasant, some on account on people's defects, others through habits, and still others on account of people's corrupt nature" (Aristotle, Bartlett, Collins 2011: 145).

Right after this, he proceeds to give examples of the brutishly pleasant things, which are within the realm of natural proclivity to bestiality, to being naturally savage. The first case he exposes is:

the human female who, they say, rips open pregnant women and devours the infants; or the sort of things that people assert certain savages living around the black sea enjoy, some of whom eat raw meat, others human flesh, and still others trade their children with one another to feast on them. (Aristotle, Bartlett, Collins 2011: 145)

This description is part of what I refer to as Aristotle's ethnographic gaze. The examples he gives to illustrate his theory of virtue and brutishness are not only geographically located, they also express a material dimension. Furthermore, the descriptions produce images, and invoke a preexisting imaginary to feel repulsion and disgust around these "uncivilized" peoples and their practices. Aristotle's articulation of naturally pleasant things is therefore assembled by the depiction of what is not; this visual and affective description of the brutish legitimates and reinforces the political order of things, and the natural lawfulness for domination. A modern iteration of this passage is precisely what Vitoria presented in his lecture:

True, we read of certain savages around the Black Sea and the Danube who practiced anthropophagy; the Issedones (...) used to invite their whole clan to celebrate the funerals of parents and kinsmen with sacrifice and revelry, then cut the bodies into joints, stewed them with the meat of domestic animals and seasoning, and made a feast of them. So too, the Massagetate of India (Vitoria, Pagden, Lawrance 2010).

This description is introduced by the author as a premise from history. What Vitoria reproduces in this text is a rhetorical strategy that mobilizes disgust by appealing to the senses; it produces images and unleashes imagination. The rhetoric of this text is so unusual in this genre that, for scholars of Vitoria, like Felipe Castañeda, "it is striking this way of arguing that basically focuses on referring to apparently common and generalized uses and customs" (2004: 9). For Castañeda, this line of argumentation centers behavior as an expression of human nature, so that what Vitoria is doing is "making of his own (European) and generalized customs manifestations of essential human nature", with the consequence that "the highlighted cultural difference has to be initially conceived as constation of the bestiality of the other" (2004: 9). The second reference that Vitoria makes of Aristotle in this *relectio* regarding the practice of anthropophagy says that "there are some acts which we cannot be forced to do, but ought rather to face death after the most fearful tortures" (Vitoria, Pagden, Lawrance 2010: 212); it follows this unusual form of argumentation that "does not seem to appeal so much to reasons as to attempts at persuasion. It tends

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<sup>14</sup> I want to thank Dr. Carl Rice for his help in translating these concepts from ancient Greek when we were both taking coursework as graduate students.

more to arouse feelings of repulsion than to refute objections" (Castañeda 2004: 12).

Vitoria places the "new world" savages not only in the same historical temporality but in the same political hierarchy. Since his overall objective is to advance the possible justifications for war, he relaunched and mobilized an emotion with an old history. Once again, as Jáuregui shows in his captivating book on *Canibalia*, all the examples used by writers of the Indies on cannibalism and human sacrifice are pre-Columbian, and are part of European history and myths. Writers and scholars of the time fed their imagination, and compensated the limits of language and the absence of concept with fantastic accounts of anthropophagic practices. Anthropophagy, then, is situated in the text as in close relation to Aristotelian and Christian notions of virtue, and yet it is aimed to be historically distant. The encounter with the American Indians was imagined as the collapse of that temporal distance, by establishing geographical closeness. The assembling of colonial reason is evident in the arguments espoused by Vitoria in this legal logic, and the implications it had for the cohesion of emotional communities that merged and clashed throughout the Atlantic and the Caribbean. These emotions that divided peoples into groups were the major vehicle for the nurturing and consolidation of an ideology of moral superiority, and of the right to colonize.

What was at stake in Vitoria's gesture of putting licitness at the front? The *relection* on *Self-Restraint* questions the legality of anthropophagy, mainly because he wants to explore whether war can be made on the "barbarians" (he calls the Indians by that name, an already heavily charged concept) based on their practice of anthropophagy and human sacrifice (Vitoria, Pagden, Lawrance 2010). The answer is that war is not legitimate, but the overall argumentative exercise is, nevertheless, an attempt to see how far does self-entitled Christian superior hierarchy can be mobilized for the project of colonization.<sup>15</sup> The lectures that followed *De Temperantia* dealt extensively with this problem. The need to understand the "affair of the indies" as a problem is indicative of the tensions and interests at play which had an important role in delimiting the perspectives and categories under which the affair was to be assessed: Unprecedented otherness mediated with Aristotelian politics. The problem, as he would describe it, consisted, first, on the novelty of the situation; the barbarians of the "new world" were "previously unknown" (Vitoria, Pagden, Lawrance 2010: 233) to the Christian world, and there is doubt regarding how should the Spaniard rule ought to treat the Indians. In essence, what Vitoria was troubled about was the lawfulness of the Indians coming under the rule and power of the Spaniards. The way he addressed this problem was both through a colonial imperialist view –by questioning the nature of the Indians– and a cosmopolitan humanist gaze –by locating them in the same universal history of the Europeans. Both contradictory elements are present in *De Temperantia*.

In order to assess this lawfulness, Vitoria will present three questions that result in an attempt to either justify the colonial enterprise or to abandon it, and that are continuations of his doubts, established in the 1537 *relection*. They are as follow:

under what right were the barbarians subjected to Spanish rule? What power has the Spanish monarchy over the Indians in temporal and civil

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<sup>15</sup> For Castañeda (my translation from Spanish) "this characterization of the other does not primarily have to do with any type of strategy to justify wars or enterprises of conquest, but rather as an affirmation of one's own image of the world, in which basically appeal is made to the manifestly horrendous nature of the behavior in question, as well as the manifestly obvious nature of its rejection, that is, to an area where there is hardly any room for argument, but where a suggestive space is opened for persuasion or, if you will, and for speaking in terms of the time"(16).

manners? And what power has either the monarchy or the church with regard to the Indians in spiritual and religious matters? (Vitoria, Pagden, Lawrance 2010: 233).

The formulation of these questions indicate ambivalence and confusion. Vitoria is considering to treat the barbarians as any other non-Christian community with which they have had contact before; as he will later appeal to former cases of dispute of the Christians with the Saracens, the Jews, and the other pagans, a move consistent with his comparison of the American Indians with the tribes of the Black Sea. In doing so, Vitoria adopted Aristotle's theory of natural slavery and his ethnographic gaze to make judgements on a people's human quality by centering alterity in behavior as indicative of being of a different nature.

### Conclusions

What underlies Aristotle's and Vitoria's thought on anthropophagy is an elaboration and categorization of a system of virtue based on judgment and emotion. Law and custom is not an expression of abstract norm, but a series of judgements which are culturally inflected. In this way, legal reason, when dissected, is not made of "pure" logic reasoning, but comes with emotional components, with the distribution and redistribution of worthiness, value, and properness, that give coherence to a system of order and disorder. Vitoria's invocation of Aristotle's *Self-Restraint* shall be understood as something more than a simple gesture to the marginal reference that Aristotle makes to anthropophagy. Rather, it is the system of opposition between political and moral values that Aristotle developed in his *Ethics* that are closely linked to Vitoria's discussion. Virtue and vice, self-restraint and absence of self-restraint, brutishness and god-likeness are the poles of value in which Aristotle locates the only reference he makes to anthropophagy in the *Ethics*. Vitoria aims to produce an overall legal and political world-system just as Aristotle did with the Greek world-empire. Nevertheless, Vitoria's argumentation is still scholastic and his opinions are mostly drawn from biblical scriptures, Greek classics, and notions of natural, divine, and civil law, which he juxtaposes with worldly experience.

By closely analyzing these texts, the aforementioned process of hierarchizing that the making of colonial reason entailed can be grasped. The exploration of the unlawfulness of anthropophagy, as an abominable practice which had already been mobilized as a validation for violent conquest, and which was not-explicitly prohibited by biblical sources, gave Vitoria the space to deploy the structure of a moral and sensorial order, one in which Christian cultures, values, and kingdoms occupied the highest rank. Vitoria produced colonial reason by assembling the visceral, yet unexplored, power of political emotions to make a case against anthropophagy. What is "reason" in this case, if it is not the putting together of judgements around recognition?

An alternative, highly provocative, psychoanalytic reading of this project would ask whether self-restraint is to be read as a demand of virtuous behavior to the European self, vis-à-vis the latent impulse and explicit desire to subjugate and establish dominion over the Indians. Anthropophagy would only be an allegory that expressed the conquistadors desire for the fleshy experience of war. Vitoria seems to realize that to be barbarous or savage is just one step away from the virtuoso Christian self. That step does not necessarily refer to whether eating human flesh or not for survival, but rather to the unrestrained desire for power and lands. To massacre the Indians, to launch war and conquest outside the sphere of the law of peoples, would entail an anthropophagy of the human self as a worldly species. A similar reading has been done by Jáuregui who finds in the palimpsest of cannibalism:

a way of understanding Others, as well as selfhood; a trope that carries the fear of the dissolution of identity and, conversely, a model of appropriation of difference. The Other that cannibalism names is located behind a permeable and specular border, full of traps and encounters with own images: the cannibal speaks to us about the Other and about ourselves, about eating and being eaten, about the Empire and its fractures, of the savage and the cultural anxieties of civilization (2008: 14-15).

The contemporary importance of reading this early modern legal texts responds to at least two projects: One has to do with the role of anthropophagy or cannibalism as one of "privileged indexes through which an inventory of traces can be outlined in the palimpsestic conformation of the Latin American identity" through which current forms of land dispossession and labor exploitation and the manyfold forms of organized resistance to it can be understood and reformulated, to re-educate and to undo the dominant logic of capitalist extraction that reigns in public policy making in the region. The second project, which is not distant from the forms, has to do with the recovery of these early modern texts as fundamental for the history of political theory and philosophy as philosopher Enrique Dussel proposed (2005). The point is not the recovery of the dominant role of Spain as an empire in the fifteenth and sixteenth centuries, but rather to reposition the vastness of the Latin American experience as a vital site to elaborate "new world" histories that engage with our troubled present.

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