

Rechtsgeschichte Legal History

www.rg.mpg.de

<http://www.rg-rechtsgeschichte.de/rg26>
Zitiervorschlag: Rechtsgeschichte – Legal History Rg 26 (2018)
<http://dx.doi.org/10.12946/rg26/284-297>

Rg **26** 2018 284–297

Marco Toste*

Invincible Ignorance and the Americas: Why and How the Salamancan Theologians Made Use of a Medieval Notion

* Goethe-Universität Frankfurt am Main, martoste@hotmail.com

Abstract

Invincible ignorance is defined as the state in which one cannot overcome his ignorance, despite one's utmost diligence, and hence cannot be blamed for the acts resulting from that circumstance. It is particularly relevant with regard to law and principles that one is bound to know. The main problem with the admission that such a state may occur results from the difficulty of assessing the subjective element present in such a state: How can we know that one applied his diligence to the utmost extent?

This notion emerged in the 12th century. But while medieval theologians elaborated such a notion, they nonetheless stressed that in reality no one could be guiltlessly ignorant of natural and divine law. The arrival of the Spaniards to the Americas triggered the awareness that entire nations could, in fact, be invincibly ignorant of Christianity. The Spanish theologians then started to use this notion, admitting the existence of invincible ignorance of some principles of divine and natural law. Their argumentative strategy rested on emphasising the subjective element of invincible ignorance.

In this article, I examine Vitoria's *Relectio de Indis* against the medieval doctrinal background. I also analyse Vitoria's, Domingo de Soto's and Juan Gil de Nava's unedited lectures on Aquinas's *Summa theologiae* as well as the works by Matías de Paz, Juan López de Palacios Rubios, Juan de Celaya and Bartolomé de Las Casas.

Keywords: invincible ignorance, natural law, diligence, Vitoria, Salamanca



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Invincible Ignorance and the Americas: Why and How the Salamanca Theologians Made Use of a Medieval Notion

1. Introduction

From the perspective of the history of ideas, one of the most striking aspects of the intellectual discussion triggered by the Spanish conquest of the Americas is that 16th-century authors made sense of a totally new reality by drawing on scholastic medieval concepts and theories that, in some cases, had been of secondary importance in medieval philosophy. This is most notably the case when it comes to notions used in the debate between Sepúlveda and Las Casas: both authors rely extensively on Aristotle's *Politics* and on Aquinas, using notions such as barbarian, natural slavery and just war to substantiate their opposing views.¹ The same holds for the Salamanca theologians who addressed the legitimacy of the Spanish colonisation of the Americas. Notions such as *ius gentium*, *dominium* and unbelief (or infidelity) had only occasionally and incidentally been debated in previous centuries; however, in the works produced by Francisco de Vitoria and Domingo de Soto these notions came to the forefront. One of the notions that gained relevance, though to a lesser extent than the aforementioned notions, was that of *invincible ignorance*.

Invincible ignorance can be defined as the condition in which, despite one's most diligent efforts, one's own ignorance cannot be overcome with respect to a given situation or doctrine. It is therefore an involuntary state: not because that person lacks free will, but because he might have chosen to act otherwise had he had full knowledge of the circumstances in which he was in. While ignorance, strictly speaking, may not completely excuse a sinful act, and may even count as an aggravating factor – for instance, I may prefer to remain ignorant as to whether a particular action is sinful so that I can commit that sin more freely – invincible

ignorance excludes any culpability. The person who is in such a state cannot be blamed because there is no negligence, that is, no further amount of diligence would have been possible. Obviously, invincible ignorance becomes relevant only regarding the knowledge that a person is bound to know, such as the knowledge of the laws and moral principles or the knowledge of circumstances in which an illicit act has been committed.

The problem with the practical application of this notion to a given real situation becomes immediately clear: it seems quite difficult to ascertain whether someone has been in a state of invincible ignorance since this would require *assessing* one's degree of diligence or negligence. In this way, a subjective element – the degree of negligence or diligence – is introduced into a situation that needs to be determined objectively, that is, one is either invincibly ignorant or one is not. Therefore, deciding whether one deserves a penalty or exemption from it on account of one's ignorance opens the way to arbitrariness. It is for this reason that, although the notion of invincible ignorance gained ground in both juridical and theological thought, the assumption that it could really occur was always rather limited.

The emergence of the notion of invincible ignorance in the 12th century cannot be dissociated from the juridical and theological medieval discussions on whether ignorance of law (*ignorantia iuris*) and ignorance of fact (*ignorantia facti*) can be permitted, and if so, under which conditions. As early as Roman law, the ignorance of law, and principally of natural law, was excluded as a possible excuse from penalty on the grounds that it is extremely difficult to ascertain whether one was ignorant of the law prior to having committed the crime.² By contrast, the discussion about ignorance of fact gave rise to subtle distinctions about

1 On this, see the classic contribution by PAGDEN (1986).

2 There were some exceptions to this principle: in the case of young sol-

diers, the rustics, women and minors; cf. SWOBODA (1941) 12–13. These exceptions were later found in Gratian; cf. *ibid.*, 38.

different kinds of ignorance (*affectata, crassa, supina* and so on) that, depending on the case, might aggravate, diminish or even completely excuse one's responsibility. Once the discussion on ignorance entered the theological discourse, it focused mainly on the relationship between negligence and ignorance, between guilt and responsibility. More importantly, the theologians started to address the question as whether invincible ignorance of Christian faith could take place, for instance, whether we could apply the notion of invincible ignorance to the case of a child brought up alone in the wilderness or by unbelievers (*infideles*). During the Middle Ages, theologians firmly denied that one can be ignorant of the principles of divine and natural law. The arguments were straightforward. No one can ignore natural law, for it is imprinted in man's own rational capacity; therefore, admitting the ignorance of natural law would mean to deny his own human nature. And no one can ignore divine law, because even if one is raised without any information about Christianity, if he does his best (*facit quod in se est*) and lives according to natural law, at a certain point God will enlighten him with the principles of divine law.³

The discussion about invincible ignorance was not central in medieval philosophy.⁴ *Why* this notion was employed with increasing frequency by Salamancan theologians in the first half of the 16th century is easily explained. For the first time in the history of Christendom, an awareness emerged that entire nations of unbelievers might be in a state of invincible ignorance regarding all aspects of Christian doctrine and that perhaps the medieval belief that the Gospel had been preached to all humankind was not actually valid.

The analysis of *how* this notion was used and transformed by Vitoria and his fellow Salamancan

professors, not to mention the implications thereof, is the aim of this article.

Much research has been devoted to some of the multifarious aspects related to this topic. From the work of Louis Capéran to the recent volume by John Marenbon, the scholarship has principally studied how late Scholasticism dealt with the theological questions linked to the American Indians' salvation, given their ignorance of the Christian faith, including whether they had been saved before the arrival of the Spaniards, whether they could be saved only by *implicit faith* in Christ and by living according to natural law, and whether they could be justified and even reach a state of glory.⁵ My aim here is rather different. In his highly influential *Relectio de Indis*, held in January 1539, Vitoria explicitly opposes the medieval line of thought that contests the possibility of invincible ignorance and refers to his academic lectures on Aquinas's *Summa theologiae* as the place where he dealt with this issue in greater depth. For this reason, a study of the notion of invincible ignorance that includes Vitoria's (still unedited) lectures on the *Summa* – which were intended as a scholastic commentary on a medieval text – can shed light on both how he developed the ideas later used in the *Relectio* and on how (if indeed the case) he drew on the medieval scholastic tradition, which he claims to oppose on this matter. In order to fully grasp Vitoria's impact, I also offer an analysis of the doctrinal context immediately prior to Vitoria's career in Salamanca. Finally, I will dedicate several pages to clarifying how Vitoria's ideas were used by some of the later Salamancan theologians.

3 For the concept of ignorance in Roman and medieval juridical thought, see SWOBODA (1941) 1–81 and ROUMY (2000). For the same notion in medieval theological thought, see LOTTIN (1948); DELHAYE (1965); GRELLARD (2015–2016) 244–250 and ID. (forthcoming a). I want to thank Christophe Grellard for sending me his unpublished articles on this subject and for several of his observations, such as drawing my attention to John Mair's commentary on dist. 37, q. 16 of Book III of the *Sentences*.

The principle of *facit quod in se est* was first applied in this context by William of Auvergne. On the medieval theological discussion of this principle – *facienti quod in se est Deus, non denegat gratiam* – in the context of the problem of justification, see OBERMAN (1962); McGRATH (1998) 83–91.

4 The medieval discussion on invincible ignorance remained largely confined to the commentaries on Peter Lombard's *Sentences*, more precisely on distinction 22 of Book II, where

original sin is tackled. For the most part, the commentaries merely reproduced well-established arguments.

5 CAPÉRAN (1934); MAREN BON (2015). See also the overview offered in SULLIVAN (1992). Regarding how specifically the Salamancan theologians dealt with the salvation of the unbeliever, see (in addition to the three works just mentioned) MAZORRA (1964); MÉNDEZ FERNÁNDEZ (1993), especially 266–285; O'MEARA (1994); OSBORNE JR. (2010).

2. Vitoria's *De Indis*

Vitoria touches on invincible ignorance in the second part of the *Relectio de Indis*, specifically where he refutes the seven reasons (*tituli*) whereby Spain would have lawful jurisdiction over the *discovered* American territories. The fourth of these reasons claims that Spain would have the right to wage a just war against the American Indians on the grounds that they are unbelievers and ought to be coerced to accept the Christian faith.⁶ Vitoria's refutation consists of five conclusions, of which the first is the most important for our purposes, namely that the American Indians, »before they had heard anything about the Christian faith, were not committing the sin of unbelief«. ⁷ The ground for this conclusion is taken from Aquinas's *Summa theologiae*, IIa-IIae, q. 10, art. 1, dedicated to the sin of unbelief (*infidelitas*). There, Aquinas distinguishes between unbelief that is in resistance or express opposition to faith and unbelief as pure negation (or purely negative unbelief). The latter regards the person who has never heard of Christianity. Unbelief as pure negation bears the character, not of sin, but of punishment, because ignorance of divine things stems from Adam's sin and affects all human beings. The unbeliever who lacks any knowledge of Christ may be damned, not because he has no faith, but only on account of his other sins. Vitoria repeats almost verbatim this article of the *Summa*.⁸ For him, the American Indians are in a state of invincible ignorance or of purely negative unbelief, and they are to be condemned only if, after having heard of and being taught about Christ through persuasion and rational arguments, they remain unbelievers.⁹ In this case, they become unbelievers of the first kind discussed by Aquinas, that is, they will deliberately oppose the Christian faith.

Vitoria proceeds by saying that while he follows Aquinas, »many doctors« disagree with this view. He mentions William of Auxerre, William of Auvergne and Jean Gerson as authors who maintained that no one can be guiltless in a state of invincible ignorance of Christ and of any article of faith, because if one »does his best (*si faciat quod in se est*), the Lord will enlighten him, either through an external teacher or by an inner light«. ¹⁰ Vitoria asserts, however, that another author has qualified this view. This author is Hadrian of Utrecht, who in his fourth *Quodlibet* admits that while there can be no room for invincible ignorance with regard to the articles of faith and the most general commandments of divine law, it may nevertheless occur regarding the most difficult things of scripture and divine law.¹¹ Such a view is naturally useful for Vitoria's purposes, for it admits, though to a limited extent, the possibility of invincible ignorance.¹²

Yet, a few lines later, Vitoria criticises Hadrian. This is because Hadrian defends that »even in a matter of morals where a person displays all due diligence and industry in finding out what he needs to know, this is not sufficient to excuse ignorance, unless he also disposes himself by contrition for his sins to receive enlightenment from God«. ¹³ For Hadrian, if a man is ignorant and concurrently is in a state of sin, and even though he »lays himself open to grace, he will not be enlightened«. ¹⁴

Vitoria derides this view by means of an example. Take the case of Peter and John: both are in doubt regarding the lawfulness of a contract and whether such a contract implies usury or simony. Both display their diligence to the utmost extent, but they are unable to reach any sure conclusion. Now, since Peter is in a state of grace and John is in a state of sin, only Peter, according to Hadrian, will

6 In the following pages I will refer to the English translation of the *De Indis* – VITORIA (1991) – followed by the reference to the recent critical edition VITORIA (2017). The refutation of the fourth *titulus* occurs at VITORIA (1991) 265–272; VITORIA (2017) 612–638.

7 VITORIA (1991) 266; VITORIA (2017) 616.

8 THOMAS DE AQUINO (1895) 78.

9 VITORIA (1991) 269; VITORIA (2017) 616–618.

10 VITORIA (1991) 266; VITORIA (2017) 618.

11 VITORIA (1991) 267; VITORIA (2017) 620. For Hadrian's text, see HADRIANUS (1515) 36rb.

12 Hadrian's *Quodlibet* might have played a greater role in Vitoria's thought than he admits here. The three authors quoted here – William of Auxerre, William of Auvergne and Gerson – as well as in his commentary on the *Summa* – where he adds Hugh

of St. Victor (see section 4) – are already quoted by Hadrian; cf.

HADRIANUS (1515) 36ra–b.

13 VITORIA (1991) 267–268; VITORIA (2017) 622.

14 VITORIA (1991) 268; VITORIA (2017) 622.

be excused. For Vitoria, however, this means that Peter – who was in a state of grace and was invincibly ignorant, and therefore not guilty of his ignorance – by committing a mortal sin (usury), turns into a simple or vincibly ignorant man.¹⁵ In other words, Peter loses his grace and remains then in the same state as John, that is, in mortal sin. Therefore, Peter's ignorance, which was invincible and blameless prior to having committed this sin, is now blameworthy simply because he has lost his grace. Hadrian's position appears absurd since he strictly connects the state of ignorance (or the lack thereof) with the moral state in which one finds himself (either a state of grace or sin).

For Vitoria, as for Aquinas, ignorance is related to sin only when it is accompanied by some negligence. There is sin only if there is »a refusal to listen or ... to believe when one has heard«. ¹⁶ By contrast, for ignorance to be invincible, it suffices that a man has done all the possible diligence to find out the truth, regardless of whether he is in a state of grace or sin.

Vitoria is clearly aware of the motif why medieval authors attempted to exclude the existence of invincible ignorance of divine law. As he writes, »the source of error of these doctors is that they believe that if we allow the existence of invincible ignorance concerning baptism or the Christian faith, it will immediately follow that a man can gain salvation without baptism or the faith of Christ. But this does not follow at all«. ¹⁷ In the case of the Indians, Vitoria says, they will be damned not because of the sin of unbelief, but due to their mortal sins or idolatry. Vitoria still subscribes to the medieval idea that if one does his best (*facit quod in se est*), that is, if one follows the principles of natural law, then God will enlighten him, and he applies this to the Indians. Vitoria is careful, however, to state that from the fact that the Indians live wickedly, we cannot conclude that their ignorance is sinful. In other words, if the Indians do their best and live in accordance with

natural law, God enlightens them. However, if they do not live in accordance with natural law, it does not follow that this is due to their ignorance of Christian faith. Being in a state of ignorance (regarding Christianity) is one thing, and not living according to the principles of natural law is quite another. The one who does not follow the precepts of natural law cannot be accused of ignorance; on the contrary, the one who follows those precepts adopts a behaviour that makes it possible to be enlightened by God. To sum up: Vitoria not only deprives the condition of invincible ignorance from any moral implication, he also admits the existence of invincible ignorance, and that it extends to a great number of human beings who are not to be blamed for their unbelief.

While criticising Hadrian, Vitoria mentions that he has »discussed this matter at length in [his] lectures on the Ia–IIae«, more specifically on the question on ignorance, that is, question 76. ¹⁸ This remark suggests that Vitoria knew that manuscripts containing his lectures were circulating at the time, even beyond the walls of the University of Salamanca, and also that he regarded his unpublished lectures on the *Summa* as important works in their own right, where he dealt more extensively with some topics. With regard to invincible ignorance, the *Relectio de Indis* represents therefore an abridgment of ideas that Vitoria had been elaborating in his academic lectures.

3. Prior to Vitoria

Vitoria was not the first to state that the American Indians might be in a state of invincible ignorance. Two of the men who participated in the codification of the Laws of Burgos in 1512 produced, shortly thereafter, works on the question of the rights Spain might have to colonise the Americas. These works are the *De dominio regum Hispaniae super Indos*, written by Matías de

15 VITORIA (1991) 268; VITORIA (2017) 624.

16 VITORIA (1991) 268; VITORIA (2017) 624.

17 VITORIA (1991) 269; VITORIA (2017) 626.

18 VITORIA (1991) 272, but here the translation is not faithful. See the Latin text in VITORIA (2017) 624: »Fallitur, inquam, in hoc, sicut a me

late disputatum est in Prima Secundae, in materia de ignorantia«. The English translators thought that Vitoria was referring here to Ia–IIae, q. 6 and q. 19, but this is incorrect.

Paz, a Dominican professor in Salamanca,¹⁹ and the *Libellus de insulis Oceanis*, written by the jurist Juan López de Palacios Rubios.²⁰

Like Vitoria later, Matías de Paz invalidates the argument stating that it might be permissible to conquer the American Indians simply because they are unbelievers. And like Vitoria, he draws on the *Ila–IIae* to maintain that the Indians are purely negative unbelievers, that is, they are in a state of invincible ignorance. He still follows John Chrysostom's idea that the Gospel was preached to all nations on earth, but he stresses that the Indians have never heard of Christ, or if they have, they have lost all memory of it.²¹ For Matías, the situation of the Indians bears no character of sin; otherwise, Christian children would also be unbelievers before they are baptised.²² Since they are invincibly ignorant of Christ, they cannot recognise the Spaniards as Christians, but rather as invaders.²³ Matías clearly stresses that the Indians, insofar as they are unbelievers, are to be distinguished from the kind of unbelievers such as Muslims and Jews who explicitly oppose the Christian faith.²⁴

But what separates Matías de Paz from Vitoria is that Matías still frames the Indians' condition somewhat according to William of Auxerre's rigorism. This is couched in the statement that if one does his best upon reaching the age of reason, God will not deny him the possibility of salvation and will enlighten him: either by an inner illumination (*per locutionem internam*) or by sending an angel or a preacher.²⁵ Although Vitoria quotes this same principle, he does not say that the Indians are invincibly ignorant *because* they still have not done their best. Moreover, Matías connects the principle *facit quod in se est* with his contemporary historical

situation. He maintains that some of the Indians seem («ut fertur») to live according to natural law, and he suggests the possibility that God might have inspired the Spanish king to send people to convert the Indians.²⁶ These kinds of statements are completely alien to Vitoria.

The same view is found in the first chapter of the work of López de Palacios Rubios.²⁷ Being a jurist, this author does not advance anything new regarding the theological question of invincible ignorance. Like Matías de Paz, López de Palacios Rubios considers that the Indians (*insulani*) either have never heard of the Gospel or, if so, they have forgotten it and hence they are purely negative unbelievers. And like Matías, he draws his statements on unbelief from Aquinas's *Summa Ila–IIae*, q. 10, art. 1.²⁸ But, unlike Matías, he engages in a discussion as to whether the Indians can be saved, and although he quotes scholastic authors on this topic,²⁹ he explicitly makes use of two works that had been published just a few years earlier: John Mair's commentary on Book IV of the *Sentences* (distinction 3, question 2), published in 1509 (re-published in 1512 with slight changes), and Giovanni Ludovico Vivalda's *De duodecim persecutionis Ecclesie Dei*, published in 1512.³⁰ For López de Palacios Rubios, just like for Mair and Vivalda, the men who are in a state of ignorance regarding the faith can be saved by implicit faith and by their desire to be baptised (*baptimus fluminis*).³¹ And while López de Palacios Rubios and Vivalda both explicitly rely on *Ila–IIae*, q. 10, art. 1, and endorse Aquinas's notion of purely negative unbelief, they nevertheless stress that if those who are ignorant of Christian faith had done their best and had lived in accordance with the principles of natural law, God would have sent them a preacher.³²

19 This work is now available in MATÍAS DE PAZ (2017). On this author and work, see, in addition to the introduction to the edition, BELTRÁN DE HEREDIA (1971) and José Luis Egío's article in this issue.

20 It is published in LÓPEZ DE PALACIOS RUBIOS (2013). See ABULAFIA (2008) 295–299 and Christiane Birr's analysis in this same issue.

21 MATÍAS DE PAZ (2017) 168–174.

22 *Ibid.*, 86–88.

23 *Ibid.*, 174–176. Paz offers the example of two Christian men who bump into one another in the dark of night and

begin to fight because each thinks that the other is a Turk.

24 *Ibid.*, 88–90, 174.

25 *Ibid.*, 88.

26 *Ibid.*, 90–92.

27 LÓPEZ DE PALACIOS RUBIOS (2013) 58–88.

28 *Ibid.*, 86–88.

29 See, for instance, *ibid.*, 88, where he quotes Alexander of Hales, Astesanus, Gerson, Richard FitzRalph and Gabriel Biel.

30 A rather unknown author, Vivalda (also known as Vivaldi) was a Dominican professor of theology in Padua

and Rome. On this author, see Rosso (2009) and the bibliography quoted there in footnote 87, and COMINO (2013). On the *De duodecim persecutionis Ecclesiae*, see COMBA (2013).

31 MAIOR (1519a) 24ra–25rb. Mair touched on invincible ignorance in Book II, distinction 22, question 2, and there he repeats the principle that if one does his best, God will illuminate him; cf. MAIOR (1519b) 110vb. He also deals with it in Book III, distinction 37, q. 16; cf. MAIOR (1528) 108vb–109ra.

32 See VIVALDUS (1512) 98r–99v.

Two significant features are found in the works by Paz and López de Palacios Rubios: they both rely upon Aquinas's definition of unbelief and admit the possibility of invincible ignorance of the Christian faith, but not of natural law. Interestingly, while they apply the notion of invincible ignorance to the case of the American Indians, they seem hesitant as to whether the Indians have done their best or not. Either the Indians have indeed done their best and the Spaniards are the preachers sent by God, or they have not, in which case their ignorance is still blameworthy.

The problem that emerges is precisely how to assess diligence and /or the lack thereof. How can we draw a line between negligence and diligence; in other words, how can we tell that a person (such as an Indian) has not done his best? Invincible ignorance is defined as an involuntary state because, despite one's best will and utter diligence, one nevertheless remains genuinely ignorant. For Aquinas, the state of ignorance in which a person insufficiently applies his diligence to acquire knowledge is regarded a sin,³³ and later scholastics referred to this kind of ignorance as *ignorantia crassa* or *supina*. The problem is precisely that the difference between *ignorantia supina* and invincible ignorance is rather thin: it always depends on an assessment of the diligence necessary for the case at hand. This explains why the Spanish authors left open the possibility that the Indians might not have done their best.

To state that the Indians were in a state of invincible ignorance raised another issue. As this kind of ignorance bears no character of sin, one could argue that many of the acts carried out by the Indians would not be sinful since they would have been carried out under the condition of invincible ignorance or stemming from that condition. The Indians would be therefore in a guiltless state. As we have seen, this is what Vitoria implicitly says in his *Relectio de Indis*: The reason why some authors disapprove of the idea that some men might be in a state of invincible ignorance is because then their state would be equivalent to innocence.

Just a few years prior to Vitoria's lectures on the Ia-IIae, one of his masters at the University of Paris had addressed this question, namely Juan de Celaya (Joan Salaya), who had lectured on Book II of the *Sentences* in the academic year 1528–1529 (and was by then professor at the University of Valencia). These lectures were published in Valencia in 1531. Celaya had studied under John Mair in Paris, and there both Vitoria and Soto had attended his lectures. Vitoria sometimes refutes Celaya's views in his lectures.³⁴

Commenting on distinction 22 of Book II, Celaya explicitly refers to the case of the American Indians, and like Vitoria, he opposes the medieval tradition that denies the existence of invincible ignorance. He openly criticises William of Auvergne, representing his view as follows: A person in a state of invincible ignorance either does his best or does not. However, if we admit the first case, then this person cannot be truly invincibly ignorant since God will enlighten him; and if we admit the second case, the person cannot be considered invincibly ignorant because he has not done everything that he could have done. Therefore, it can never be invincible ignorance. But this opinion is mistaken (»hec opinio est erronea«), Celaya says.³⁵ Take one of the examples used in this discussion: On the night of his wedding, Jacob did not notice that Laban had substituted Rachel, Jacob's promised wife, for his other daughter, Leah. Medieval authors considered this as a case of invincible ignorance. Jacob could not know that Leah was the woman on his bed and therefore consummated the wedding with the wrong woman. Yet, Celaya argues, Jacob did everything that he should have on that night and God did not enlighten him. What is more, he did not sin.³⁶

Like Vitoria and Hadrian, he admits the possibility of invincible ignorance of divine law but, unlike Vitoria in his lectures on the *Summa*, not of natural law.³⁷ In this context, he mentions the Jews before the promulgation of the Gospel as a case of invincible ignorance of divine law and the Indians

33 THOMAS DE AQUINO (1892) 55 (IIa-IIae, q. 76, art. 3).

34 On this author, see LANZA/TOSTE (2015) 431, 472–474 and the bibliography quoted there.

35 CELAYA (1531) 125vb. Celaya portrays William of Auvergne's position in a

quite similar way to John Mair's depiction of it in his commentary on Book III of the *Sentences*; cf. MAIOR (1528) 108vb–109ra (dist. 37, q 16).

36 CELAYA (1531) 125vb.

37 See section 4 of this article.

as an example of invincible ignorance of canon and civil law (»[...] iuris humani tam pontificij quam cesarij«).³⁸

For Celaya, invincible ignorance excuses one from sin. Explicitly tackling the case of the American Indians (»homo in novis insulis vel in India«), Celaya holds that they are in a state of invincible ignorance, and that if they do their best, making a good use of their natural powers, God will enlighten them by sending them an angel or a preacher.³⁹ While Celaya's conclusions are similar to Vitoria's, their respective reasoning is quite distinct. Celaya does not quote Aquinas's *Summa* IIa-IIae, q. 10, art. 1, and he does not state that the unbelievers will be damned on account of their other sins. Instead, he is more concerned with establishing that those in a state of invincible ignorance – such as the Indians – can still be morally good and do not remain in a state that scholastic authors referred to as *perplexitas* or *perplexio*, that is, when the moral agent cannot decide which side he has to choose. As Celaya writes, it might be argued that if one is in a state of invincible ignorance (thus a state excusing one from sin), then for such a person a given sin would no longer be sinful since it would necessarily be excused. However, as a result, any act carried out by such a person could be neither good nor wicked. It is precisely for this reason, Celaya explains, that the Parisian theologian Martinus de Magistris – another occasional target of Vitoria in his lectures – stated that invincible ignorance eliminates the goodness attributed to every act carried out under that state.⁴⁰ But for Celaya this does not hold: In Jacob's case, the consummation of his marriage with Leah was a morally good act since Jacob, despite his ignorance, did what he was bound to.⁴¹ This means that invincible ignorance does not annul the freedom that every moral agent has to act morally good (and thus to do one's best);

it merely eliminates the freedom to carry out a wicked act, that is, the act is committed because one could not have known that it is wicked.⁴²

Though they used different approaches, two Spaniards educated in Paris – Vitoria and Celaya – came to argue in favour of the existence of invincible ignorance.⁴³

4. Vitoria's Lectures on the *Summa*

In his lectures, Vitoria dealt with this question while commenting on two questions of the *Summa*, namely Ia-IIae, q. 76, art. 2 – the question to which Vitoria refers in the *De Indis* and where Aquinas touches on invincible ignorance – and IIa-IIae, q. 10, art. 1 – the question where Aquinas establishes the two kinds of unbelief and which is quoted by Vitoria, Matías de Paz and López de Palacios Rubios. Vitoria lectured on Ia-IIae, q. 76 in the academic year 1533–1534, and his lectures survive in one manuscript: Città del Vaticano, Biblioteca Apostolica Vaticana, Ottob. lat. 1000. In the following year, his lectures covered IIa-IIae, q. 10; the lectures are found in three manuscripts and were published by Beltrán de Heredia.⁴⁴

In Vitoria's commentary on q. 76, art. 2, on whether ignorance is a sin, we find the same quotations and some of the arguments advanced later in the *Relectio de Indis* (1539). Vitoria quotes William of Auxerre, William of Auvergne, Gerson and Hugh of St. Victor as authors that disallowed the idea that one might be in a state of invincible ignorance with regard to the articles of faith,⁴⁵ and he states that, despite all these authorities, he defended the contrary while he was in Paris.⁴⁶ We also find his criticism of Hadrian's idea that one cannot be in a state of invincible ignorance if he is in a state of mortal sin.

38 CELAYA (1531) 126ra.

39 Ibid., 126vb.

40 Ibid., 127ra. Martinus discusses ignorance in the context of the question whether the sins committed by a person under the state of drunkenness should be imputed to him. This explains why this author argues that ignorance cannot excuse; cf. MARTINUS DE MAGISTRIS (1511) 114v–119r (see principally the first conclusion).

41 CELAYA (1531) 127ra.

42 Ibid., 127rb.

43 It is noteworthy that some of Celaya's arguments bear a resemblance to some of John Mair's lines of reasoning in his commentary on Book II of the *Sentences*, dist. 23, q. 2. This holds for (1) the objection that if invincible ignorance excuses one from sin, then it would render a sin not sinful; (2) the objection that invincible ignorance would remove the voluntary feature of every human act because an invincibly ignorant would not be free

to choose; (3) the statement that Jacob acted morally well because, in Mair's words, he knew the »substantiam actus« but not its circumstances; cf. MAIOR (1519b) 110vb.

44 It is published in VITORIA (1932).

45 Cf. Città del Vaticano, BAV, Ottob. lat. 1000, f. 138v.

46 Ibid., f. 138v: »Ego Parisius defendi opinionem contrariam, non obstantibus omnibus his«.

But there are two important elements in Vitoria's commentary that are absent from the section of the *De Indis* analysed in section 2 and that nonetheless proved influential. The first regards natural law and the second the link between ignorance and diligence.

Like López de Palacios Rubios and Matías de Paz, Vitoria absolutely denies that there can be invincible ignorance of the most basic tenets of natural and divine law: No one can ignore that the good is to be pursued, evil is to be avoided and that we must honour God. Like Aquinas,⁴⁷ Vitoria distinguishes between the propositions that are *per se notae* and the propositions that require some diligence in order to be understood. Examples of the latter include, in the case of natural law, the notion that goods can be bought and sold and, in the case of divine law, baptism or the sin of fornication. Both time and arguments are required in order to persuade the Indians that they need to be baptised and that some precepts of the Decalogue have to be followed.⁴⁸

Vitoria dismisses the idea that God would immediately illuminate the Indians, for the need of such a miracle would imply that God does not provide men with the means necessary to grasp the Christian doctrine.⁴⁹

Although Vitoria concedes that invincible ignorance might occur with regard to some rules of natural law, he qualifies this view. When it comes to the most general principles of natural law, such ignorance cannot last for long, »since while they are not self-evident, they can be easily proved« and with some diligence they can be effortlessly learned. This holds for the precepts of the Decalogue.⁵⁰ For Vitoria, all peoples have attained the knowledge of these principles, no nation being so barbarian that its people cannot recognise that adultery, perjury and the dishonouring of God are wrong.⁵¹ This is not because every single individual acquires the knowledge of the principles, but because, thanks to God's providence, there are always some men in every community – even in a community of unbelievers – that can grasp and teach them to the others. For this reason, the self-evident principles of natural law cannot be ignored without guilt. Vitoria provides here an interesting example (to understand it, we have to bear in mind that natural law comprehends as one of its basic tenets the command of living in society): if one were to carry out a life withdrawn from society, without having previously lived in society, then his hermitical life would involve no guilt.⁵² In other words, Vitoria argues that while

47 THOMAS DE AQUINO (1892) 170 (Ia-IIae, q. 94, art. 2).

48 Città del Vaticano, BAV, Ottob. lat. 1000, f. 139r–v: »notandum quod etiam circa mores aliquod est per se notum, ut quod Deus est honorandus, [...] bonum est faciendum, malum fugiendum [...]. Sed aliquae propositiones sunt ita per se notae, quas quilibet auditas probat [...], aliae sunt quae sunt quasi propositiones [*scripsit* petiones] non omnino per se clarae et notae, licet non egeant demonstratione, sed ad illas sufficit parua diligentia. [...] circa omnem aliam materiam circa quam potest esse dubium, potest cadere ignorantia invincibilis, et circa fidem et circa mores. Probatur quia, postquam talis materia vel propositio non est per se nota, sequitur quod est dubia [...]. Si ergo possunt dubitari tales propositiones, ergo requirunt probationem et tempus, ut ista »quilibet tenetur baptizari non est per se nota, [*sed*] indiget probatione et persuasione apud Indos et similes, nec [*isti*] mererentur mortem propterea quod

non crederent statim. Item etiam aliquis potest habere ignorantiam invincibilem quod fornicatio sit peccatum; eodem modo circa alia praecepta Decalogi. [...] circa aliqua quae sunt juris naturalis potest cadere et perseverare ignorantia invincibilis, puta utrum emere redditus redimibiles ex utraque parte, quod est juris naturalis, sed quia non ad omnes sed ad paucos spectat, ideo non opus est [quod] omnes sciant; quae autem sunt necessaria omnibus clariora sunt«.

49 Ibid., f. 139r–v: »Deus facienti quod in se est non deest [*scripsit* deficit] in necessariis, sed non statim illuminat interius, ut putant multi: nam illud esset miraculum. Sed Dominus non permittit quod pereat, sed naturali modo providebit illi. Non enim statim infundit scientiam omnium quae necesse habet scire, sed indiget tempore [...].«

50 Ibid., f. 139v: »circa praecepta universalis juris naturalis non potest diu perseuare in homine ignorantia invincibilis. Probatur quia, licet illa non

sint per se nota, tamen facile possunt probari, qualia sunt praecepta Decalogi. Nam, si adhibeat diligentiam, licet parvam, statim docebitur«.

51 Ibid.: »Ista praecepta apud omnes nationes fuerunt cognita. Nulla est natio tam barbara apud quam non damnaretur perjurium, adulterium, inhonoratio Dei«. A similar sentence is found in Vitoria's *Relectio de eo ad quod tenetur homo cum primum venit ad usum rationis*; cf. VITORIA (2017) 90–92.

52 Città del Vaticano, BAV, Ottob. lat. 1000, f. 139v: »non sunt ita per se nota quod aliquis sine doctore vel diligentia cognoscat, sed hoc spectat ad providentiam Dei in toto orbe quod semper sint aliqui in republica qui intelligerent et docerent populum, etiam apud infideles, et sic numquam ignorantur [ista principia] sine culpa. Et sic, si quis vult ducere vitam haeremiticam, hoc [*scripsit* non] faciet sine culpa, si prius non est edoctus et exercitatus in societate humana«.

one single individual might be ignorant of natural law, this cannot occur with an individual living within a society.

Medieval authors refused that ignorance of natural law might occur since it would contradict the idea that natural law is inscribed in man's rational capacities. While Aquinas conceded that not all men reach the same degree of knowledge regarding some conclusions of natural law,⁵³ Vitoria seems to emphasise the necessity of time and of other's help in attaining such knowledge.

What is arguably the most important aspect of Vitoria's commentary on Ia-IIae, q. 76, art. 2, is the answer he gives to the question as to whether a person has to do everything he can so that his ignorance is invincible. Significantly, his reply to this question is negative. Mentioning the example so often quoted in this context – that on Jacob's wedding night he was in a state of invincible ignorance – Vitoria simply remarks that Jacob could have lighted a candle to see Leah, but he did not.⁵⁴ For Vitoria, one does not have to do his very best so that his ignorance is invincible; it suffices that he does what is usually required to a *bonus vir* and applies the diligence that can normally be assumed to hold – in Jacob's case, he limited himself to do what any man would have done under the same circumstances.⁵⁵ Take the case of a Jew who did not go to Jerusalem during the Pentecost and did not hear anything of Christ. He did not do everything that he should have; however, he is in a state of invincible ignorance and therefore is not blameworthy.⁵⁶

Vitoria does not say it, but this example, and the idea that one does not have to do everything that he should, are taken from chapter 4 of Jacques Almain's *Opuscula moralia*.⁵⁷ Applied to the context of the American Indians, it takes on far greater

significance. In Vitoria's hands, the overcoming of invincible ignorance can take time and does not require a degree of diligence that goes beyond what is required of any other common person.

When commenting on IIa-IIae, q. 10, art. 1, Vitoria reiterates, against some *moderni*, that negative unbelief (or invincible ignorance) does not stem from a voluntary sin. He, again, attacks Hadrian's argument, which he represents as follows: If one does his best, he will be illuminated; *ergo* if one is in a state of invincible ignorance, he has not done his best. But, again, for Vitoria, the state of invincible ignorance is not sinful since it is involuntary.⁵⁸

5. Salamanca after Vitoria

Later Salamancan professors did not add significant thoughts to this framework, but instead limited themselves to systematising all the lines of reasoning provided by Vitoria. For instance, in his commentary on IIa-IIae, q. 10, art. 1, Pedro de Aragón reproduced verbatim considerable portions of Vitoria's *Relectio de Indis*,⁵⁹ and Bartolomé de Medina clearly follows the same *relectio* in his commentary on Ia-IIae, q. 76, art. 2.⁶⁰ After 1547, when the Council of Trent started to debate the question of justification and grace, the Salamancan professors started to pay more heed to these aspects as well, and invincible ignorance came to occupy a secondary place in their lectures. To assess Vitoria's impact, however, it might be worthwhile to spend a few lines on the commentaries that came immediately after Vitoria, that is, the unedited lectures by Domingo de Soto and Juan Gil de Nava, who occasionally substituted for Vitoria in the classroom. Soto's lectures are of further interest, for

53 Cf. THOMAS DE AQUINO (1892) 172 (Ia-IIae, q. 94, art. 4).

54 Città del Vaticano, BAV, Ottob. lat. 1000, f. 138r: »Dubitatur an, ad hoc quod ignorantia sit invincibilis, oporteat facere totum quod quis potest. Respondetur quod non, et probatur quia ignorantia Jacob fuit invincibilis secundum omnes, et tamen non fecit totum quod potuit, quia potu[er]it petere lucernam ad videndum Lyam«.

55 Ibid., f. 138r: »Sit ultima conclusio quod, ad hoc quod ignorantia sit in-

vincibilis, sufficit quod faciat totum id quod solent facere boni viri et quod communiter solet sufficere. Sic Jacob, quia non solent viri boni adhibere lucernam ad cognoscendum an uxor sit sua, jam cognoverat illam de facie, et illud fuit satis, quia illud communiter sufficit«.

56 Ibid., f. 138r: »respondeo [...] quod non tenetur facere totum quod tenetur. Probatur: ponamus quod aliquis Judeus non venit ad festum Pentecostes in Jherusalem et nihil audivit de Christo; illa ignorantia est invin-

cibilis, et tamen non fecit totum ad quod tenebatur, quia tenebatur ire ad festum ut sic posset audire apostolos praedicantes et credere«.

57 Cf. ALMAIN (1512) 12v.

58 Cf. VITORIA (1932) 162.

59 Cf. PETRUS DE ARAGON (1584) 253–256. Aragón even reproduces the example of John and Peter used by Vitoria to criticise Hadrian.

60 Cf. MEDINA (1580) 399–405.

in the case of Ia–IIae, q. 76, Soto is undoubtedly the source – whether direct or via another Salamanca commentary – of Bartolomé Medina’s commentary.

Soto’s commentary on Ia–IIae, q. 76, the product of his teaching in the academic year 1538–1539,⁶¹ is based on Vitoria’s lectures and the arguments are pretty much the same. He admits that the easiest precepts of the Decalogue might be unknown to some men, but he says that this state of ignorance can only last for a very short time since no man can ignore commandments such as »Thou shalt not kill« and »Thou shalt not steal« (Medina gives as an example the golden rule).⁶² As to the precepts that derive from the Decalogue as consequences, Soto says that it is possible to remain in a state of invincible ignorance for quite some time⁶³ (Medina writes instead »for a long time« and offers as examples the validity of holding more than one wife and that one should not take justice into his own hands).⁶⁴ Soto also dismisses the idea that one has to do everything in his power – it suffices that he does what a *vir probus* usually does –⁶⁵ and also Hadrian’s claim that one has to dispose himself to grace so that his ignorance might be invincible. He gives the example of the Indians, who are invincibly ignorant and nevertheless do not dispose themselves to grace.⁶⁶

In his lectures on q. 10 of the IIa–IIae, Soto allocates more attention to the questions related to grace and to the necessity of explicit faith of Christ for salvation.⁶⁷ Like Vitoria, his main aim is to eschew that purely negative unbelief might be a sinful condition. As we have seen, in the *De Indis*, Vitoria stated that the Indians would be damned

not for their unbelief, but on account of the sins of idolatry and cannibalism. Of course, one might object that idolatry implies belief in one or more gods, and therefore anyone who incurs in the sin of idolatry has to be considered an unbeliever who opposes the Christian faith (and not purely a negative unbeliever). Soto’s answer, which was later taken up again by Báñez and presented in a more straightforward fashion, is that the worship of idols or of nature deities, such as the Sun, goes against faith; however, in the case of the Indians, their beliefs only go against natural reason (and not faith), which dictates reverence to just one god – of whom the idolater has never heard.⁶⁸

While the Salamanca theologians excluded idolatry from the scope of invincible ignorance, another author outside Salamanca used Vitoria’s and Soto’s idea that invincible ignorance might occur with regard to some principles of natural law (or to use Soto’s terminology, the precepts that derive from the Decalogue). This author was Bartolomé de Las Casas, who in his *Apología* included idolatry and cannibalism in the range of invincible ignorance and purely negative unbelief. For Las Casas, while to sacrifice to God is one of the most basic commandments of natural law and therefore not something one can be ignorant of – which Vitoria would agree with – the way in which the sacrifice is carried out is not determined by natural law.⁶⁹ This means that the Indians can be invincibly ignorant of the way in which they should sacrifice to God, and therefore they are blameless for their human sacrifices to God.

Interesting as well is that, like Vitoria and Celaya, Las Casas refutes the medieval rejection

61 For the manuscripts of Soto’s lectures in this year, see BECKER (1966); TOSTE (2013) 182–192. I have used the manuscript: Madrid, Archivo Histórico Nacional, Sección universidades, lib. 1198. Article 2 of question 76 occurs at ff. 246v–252r.

62 Ibid., f. 251r. The same is found in MEDINA (1580) 403b.

63 Madrid, Archivo Histórico Nacional, Sección universidades, lib. 1198, ff. 251v–252r.

64 Cf. MEDINA (1580) 403b.

65 Madrid, Archivo Histórico Nacional, Sección universidades, lib. 1198, f. 250r.

66 Ibid., f. 250r. He also provides the example of the Jew who did not go to

Jerusalem in the Pentecost, but unlike Vitoria, he indicates Almain as the source of this example.

67 For an analysis of Soto’s commentary on q. 10, art. 1 of IIa–IIae, see BECKER (1967) 42–52. I have used the manuscript Città del Vaticano, Biblioteca Apostolica Vaticana, Ottob. lat. 782. This article is found in ff. 70r–72r.

68 Ibid., f. 71r: »ydolatria universaliter est peccatum nec potest excusari per ignorantiam, quia in lumine naturali potest cognosci unitas Dei et quod Sol non est deus«; BAÑES (1586) 559: »Nam idolatra qui putat esse plures Deos habet errorem sufficientem destruere fidem semel susceptam, et tamen ille non peccat infidelitatis

peccatum, quia, quamuis peccet contra naturalem rationem et naturalem religionem uni Deo debitam, non tamen peccat repugando fidei, de qua nihil audiuit«.

69 LAS CASAS (2000) 121–124, 134, 240–242. Las Casas also uses the argument that the American Indians are not bound by the new law since they have no knowledge of its promulgation, which according to Aquinas is an essential requisite for the binding force of any law. On this, see CORNISH (1996) 110.

of invincible ignorance. He rules out the argument that no one can be invincibly ignorant, because if one does his best, God will enlighten him. God's enlightenment is neither a necessity nor, so to speak, occurs automatically. God may not wish to enlighten a person who has done his best, and God is not obliged to do so; in this case, such a person has done his best, has not sinned and nevertheless remains ignorant.⁷⁰ Moreover, since the sin of idolatry is committed within an exclusive relationship between the sinner and God, and it is difficult to establish exactly which acts are excused by invincible ignorance, no human court can punish the sin of idolatry.⁷¹

The Salamanca professors did not integrate Las Casas's view into their lectures on the *Summa theologiae*. The focus of their attention was, just as for Vitoria, to establish that invincible ignorance does not stem from guilty behaviour. This led them to stress, perhaps even more than Vitoria, the subjective element of such a state. This is clear in Juan Gil de Nava's comments on Ia-IIae, q. 76, art. 2, probably composed in 1541–1542.⁷² Heavily based on Vitoria's lectures – Gil de Nava repeats Vitoria's examples of Jacob and the Jew during the Pentecost – Gil de Nava touches on the heart of the question: How can anyone be sure that he is in a state of grace? Furthermore, no one could be absolutely sure that he had fully displayed his utmost diligence. If we were to follow Hadrian's thesis that no person who is in a state of mortal sin

can be invincibly ignorant, then no one in a state of grace would be ignorant and therefore everyone would possess the same degree of knowledge. In order to be in a state of invincible ignorance, it suffices that a person display the same reasonable diligence that is required of any *probus vir* and, in cases in which men ignore on account of a wicked behaviour, a certain inward disposition.⁷³

The theories on invincible ignorance did not undergo changes within the walls of the University of Salamanca until the publication of the *Collegium Salmanticense* (which nevertheless comes to include the Chinese among the people who are in a state of purely negative unbelief).⁷⁴ Perhaps the most significant impact of some of the ideas advanced by Vitoria were found later in a different context. In a forthcoming article, Jean-Luc Solère has brought the later Jesuit commentators on the *Summa* Gabriel Vázquez and Rodrigo Arriaga closer to Pierre Bayle, who used the notion of invincible ignorance to advocate a full toleration of religious beliefs. For Bayle, anyone brought up in a given religion could be in a state of invincible ignorance regarding other religions. Solère has highlighted how both these Jesuits and Bayle draw on the idea that one does not have to do everything in his capacity in order to be in a state of invincible ignorance.⁷⁵ This idea was first applied in the discussion of the American Indians and only later in the context of the opposition between Catholics and Protestants.

70 LAS CASAS (2000) 131–133. That one can do his best without necessarily being enlightened by God is already asserted in Mair's commentary on Book III of the *Sentences* (distinction 37, q. 16); cf. MAIOR (1528) 109ra.

71 LAS CASAS (2000) 134.

72 For the date of Gil de Nava's lectures, see TOSTE (2013) 192–199, which includes an analysis of the manuscripts in which they are transmitted. I have used the manuscript El Escorial, Real Biblioteca de San Lorenzo, Cód. lat. P.III.28. Article 2 of question 76 occurs at ff. 233r–234v.

73 El Escorial P.III.28, f. 234r–v: »Sed sit conclusio nostra tenenda quod ignorantia invincibilis est quam non potest quis vincere moraliter apponendo non [totam] diligentiam possibilem, sed illam quam apponeret quis in re gravi et magni momenti, et ista est secundum beatum Thomam. [...]

Praeterea, quia hoc esset difficillimum et gravissimum dicere, quod omnes ignorantiae sunt vincibiles si sint in homine peccatore, ergo. Praeterea, sequeretur quod quilibet existens in gratia sciret tantum sicut magnus theologus [...]. Praeterea, sequeretur quod nullus esset securus an posuerit diligentiam sufficientem ad sciendum [...], quia, quantumcumque consulat viros peritos, nescit an odio vel amore dignus sit. Ideo sit prima conclusio tenenda: ad hoc quod quis laboret ignorantia invincibili, satis est quod adhibeat diligentiam humanam quam probus vir adhiberet. Secunda conclusio: multotiens non satis est [add. s.l.] ista diligentia humana, sed requiritur dispositio interior. Patet quia quandoque aliqui ignorant ex prava affectione, puta avari multotiens putant et ita tenent quod non est usura vendere

rem maiori iusto praetio por quello dan fiado et etiam aliqui putant quod habere multa beneficia non est licitum, et postquam ipsi habent, tenent quod est licitum, unde hoc communiter habet locum in haereticis et infidelibus«.

74 COLLEGIUM SALMANTICENSE (1750) 64 (Tractatus XX, capitulum 14, punctum 3).

75 See SOLÈRE (forthcoming). I thank the author for allowing me to quote his article before its publication.

6. Conclusions

The use that Vitoria makes of the notion of invincible ignorance – as well as of that of purely negative unbelief – represents a break with the medieval scholastic tradition, which conceived invincible ignorance as a blameworthy state. The principle *facienti quod in se est, Deus non denegat gratiam* blocked any other possible view. Vitoria's strategy to assure that the American Indians were by no means blameable for their ignorance of Christianity is simple: On the one hand, he dissociates the state of invincible ignorance from any moral connotation, and being ignorant of God bears no relationship to acting morally good;⁷⁶ on the other, he stresses the subjective element of the question, namely diligence. It is significant that he plays down both the need for any miraculous intervention, which would solve the question of conversion once and for all, and the idea that if one is ignorant, and therefore lacks divine assistance, this is his own fault. For Vitoria, an ignorant person is just an ignorant person (of course, when it comes to invincible ignorance). He nevertheless carefully restricted any possibility that the Indians might live in a kind of state of innocence.

In order to prevent the situation that the Indians could be unbelievers opposed to the faith – therefore equated with Muslims and Jews – and not as purely negative unbelievers, Vitoria (and all the following professors in Salamanca) stressed that conversion requires persuasion, a peaceful and pious behaviour by the missionaries, and a certain amount of time. Only *multo labore* can the Indians gain the knowledge of certain principles of divine and natural law. For Vitoria and his fellow Salamancan professors, one cannot overcome the state of invincible ignorance merely by listening to a preacher one time; rather, conversion requires the gradual and voluntary work of understanding. This is stated in the same section of the *Repetitio*

de Indis in which Vitoria makes use of the notion of invincible ignorance.⁷⁷

It is worthy of note that Vitoria openly contests the scholastic tradition. Yet, as we have seen, it is doubtful that he had a comprehensive knowledge of the literature and that he read what the authors he mentions wrote on invincible ignorance. His sources were Hadrian of Utrecht and Jacques Almain. Likewise, López de Palacios Rubios used John Mair and Giovanni Vivalda, and Celaya mentioned Martinus de Magistris (and possibly drew on Mair as well). In this specific case, the ideas used by the Spanish authors were taken from recent (early 16th century) theologians writing elsewhere. The fact that Vitoria (and Soto) was trained in Paris is usually overlooked. But if we take this into account, then we might be in a better position to assess the originality of his thought or, at least, to understand how he used the knowledge he brought from Paris and applied it in different contexts.⁷⁸

Nearly twenty years ago, in his volume *Una storia della giustizia*, Paolo Prodi advanced the thesis that it was during the 16th century that the idea of natural law, as a set of objective and rational rules from which positive laws are derived, gave way to the idea of autonomy of the conscience, in which the moral rules pertain to man's inner sphere and are above positive laws. In his book, Prodi assigned a significant role to the Salamancan theologians in this shift.⁷⁹ It is possible to connect the case under study here with Prodi's thesis: the Salamancan authors admit a certain ignorance, albeit rather limited, of natural law, which a man cannot overcome by himself, but only with the help of others. Moreover, they strongly emphasise the role of the subjective element of the question – diligence – to the detriment of the objective condition – whether one is invincibly ignorant. Las Casas is in this regard the most radical author. What for medieval authors was an objective weak-

76 As Vitoria argues in the *Relectio de eo ad quod tenetur homo cum primum venit ad usum rationis*, given in June 1535, one first attains the knowledge of what is good and only afterwards the knowledge that God exists; cf. VITORIA (2017) 158.

77 VITORIA (1991) 269–272; VITORIA (2017) 626–638.

78 A similar position is maintained in GRELLARD (forthcoming b), where

the role of John Mair for Vitoria's and Soto's thought is emphasised.

79 PRODI (2000). I have attempted to further deepen Prodi's thesis with regard to the Salamancan authors in TOSTE (2014), in which I also advance some criticism of his view.

ness – ignorance – is now for these 16th-century authors an uncertain state. They still consider fundamental that one does his best (and repent for his sins), but by stating that this condition cannot be assessed objectively, they betray a conception in which the subjective aspect of man's

inner sphere is far more important. For this reason, their reflections on the notion of invincible ignorance may be seen as part of a normative order that was emerging. ■

Bibliography

Primary Sources

- ALMAIN, IACOBUS (1512), *Moralia optime recognita*, in Id., *Opuscula*, Paris
- BAÑES, DOMINICUS (1586), *De fide, spe et charitate*. Scholastica commentaria in Secundam secundae Angelici Doctoris partem, quae ad quaestionem quadragesimam sextam protenduntur, dicata, Salamanca
- CELAYA, IOANNES A (1531), *Scripta ... secundum triplicem viam diui Thomae, realium et nominalium in secundum librum Sententiarum, quae in Valentino gymnasio die Lunae decimo septimo kalendas Iulij statim a lucalibus ipsis inchoata sunt, anno a Christo nato 1528 ...*, Valencia
- COLLEGIUM SALMANTICENSE (1750), *Cursus theologiae moralis*. Tomus quintus, Venezia
- HADRIANUS FLORENTIUS DE TRAIECTO (1515), *Questiones quodtlibetice*, Leuven
- LÓPEZ DE PALACIOS RUBIOS, JUAN (2013), *De las islas del mar Océano (Libellus de insulis Oceanis)*, Introducción, texto crítico y traducción de PAULINO CASTAÑEDA DELGADO, JOSÉ CARLOS MARTÍN DE LA HOZ Y EDUARDO FERNÁNDEZ, Pamplona
- LAS CASAS, BARTOLOMÉ DE (2000), *Apología, o declaración y defensa universal de los derechos del hombre y de los pueblos*, edición paleográfica y crítica VIDAL ABRIL CASTELLÓ et al., Salamanca
- MAIOR, JOANNES (1519a), *In quartum Sententiarum quaestiones utilissimae*, Paris
- MAIOR, JOANNES (1519b), *Editio secunda. In secundum librum Sententiarum*, Paris
- MAIOR, JOANNES (1528), *In tertium Sententiarum disputationes theologicae denuo recognitae et repurgatae*, Paris
- MARTINUS DE MAGISTRIS (1511), *De temperantia*, Paris
- MATÍAS DE PAZ, O.P. (2017), *Acera del dominio sobre los indios (Libellus circa dominium super Indos)*, edición bilingüe. Introducción, texto crítico y traducción de PAULINO CASTAÑEDA †, JOSÉ CARLOS MARTÍN DE LA HOZ Y EDUARDO FERNÁNDEZ, Salamanca
- MEDINA, BARTHOLOMAEUS A (1580), *Expositio in Primam Secundae Angelici Doctoris D. Thomae Aquinatis*, Salamanca
- PETRUS DE ARAGON (1584), *In Secundam Secudae Divi Thomae Doctoris Angelici Commentaria*, Lyon
- THOMAS DE AQUINO (1892), *Prima secundae Summae Theologiae, a quaestione LXXI ad quaestionem CXIV, cum commentariis Thomae de Vio Caietani (Opera omnia, iussu Leonis XIII P.M., vol. 7)*, Roma
- THOMAS DE AQUINO (1895), *Secunda secundae Summae Theologiae, a quaestione I ad quaestionem LVI, cum commentariis Thomae de Vio Caietani (Opera omnia, iussu Leonis XIII P.M., vol. 8)*, Roma
- VITORIA, FRANCISCO DE (1932), *Comentarios a la Secunda Secundae de Santo Tomás*. Tomo I: de fide et spe (qq. 1–22), ed. VICENTE BELTRÁN DE HEREDIA, Salamanca
- VITORIA, FRANCISCO DE (1991), *Political Writings*, ed. by ANTHONY PAGDEN and JEREMY LAWRENCE, Cambridge et al.
- VITORIA, FRANCISCO DE (2017), *Relecciones jurídicas y teológicas*. Tomo II. Edición crítica usando los manuscritos y con nueva versión española dirigida por ANTONIO OSUNA FERNÁNDEZ-LARGO, Salamanca
- VIVALDUS, JOANNES LUDOVICUS (1512), *Tractatus de duodecim persecutionibus Ecclesie Dei*, Lyon

Secondary Sources

- ABULAFIA, DAVID (2008), *The Discovery of Mankind: Atlantic Encounters in the Age of Columbus*, New Haven, Conn.
- BECKER, KARL JOSEF (1966), *Tradición manuscrita de las Prelecciones de Domingo de Soto*, in: *Archivo Teológico Granadino* 29, 125–180
- BECKER, KARL JOSEF (1967), *Die Rechtfertigungslehre nach Domingo de Soto. Das Denken eines Konzilsteilnehmers vor, in und nach Trient*, Roma
- BELTRÁN DE HEREDIA, VICENTE (1971), *El P. Matías de Paz, O. P. y su tratado »De dominio Regum Hispaniae super Indos«*, in: Id., *Miscelánea: colección de artículos sobre historia de la teología española*. Tomo I, Salamanca, 607–625
- CAPÉLAN, LOUIS (1934), *Le problème du salut des infidèles. 1: Essai historique*, Toulouse
- COMBA, RINALDO (2013), *Le difficoltà della Chiesa nel »De duodecim persecutionibus ecclesie Dei« del frate Predicatore Giovanni Ludovico Vivalda*, in: *Bollettino della società per gli studi storici, archeologici ed artistici nella provincia di Cuneo* 149, 99–109
- COMINO, GIANCARLO (2013), *Giovanni Ludovico Vivalda priore del convento di San Giovanni di Saluzzo: prospettive e filoni di ricerca in corso*, in: *Bollettino della società per gli studi storici, archeologici ed artistici nella provincia di Cuneo* 149, 91–97

- CORNISH, PAUL J. (1996), Spanish Thomism and the American Indians: Vitoria and Las Casas on the Toleration of Cultural Difference, in: NEDERMAN, CARY J., JOHN CHRISTIAN LAURSEN (eds.), *Difference and Dissent. Theories of Toleration in Medieval and Early Modern Europe*, Lanham et al., 99–117
- DELHAYE, PHILIPPE (1965), L'«Ignorantia iuris» et la situation morale de l'hérétique dans l'Église ancienne et médiévale, in: *Études dédiées à Gabriel le Bras*, 2 vols., Paris, vol. 2, 1131–1141
- GRELLARD, CHRISTOPHE (2015–2016), Histoire des théologies et des philosophies de l'Occident médiéval, in: *Annuaire de l'École pratique des hautes études*, 124, 241–252
- GRELLARD, CHRISTOPHE (forthcoming a), Que m'est-il permis d'ignorer? La foi, l'ignorance et les limites acceptables de l'orthodoxie, in: GRELLARD, CHRISTOPHE et al. (eds.), *Conviction, croyance, foi. »Pistis« et »fides« de l'Antiquité au Moyen Âge*, Paris
- GRELLARD, CHRISTOPHE (forthcoming b), Theological Context, in: DE BOM, ERIK, HARALD E. BRAUN (eds.), *A Companion to the Spanish Scholastics*, Leiden
- LANZA, LIDIA, MARCO TOSTE (2015), The Commentaries on Peter Lombard's »Sentences« in Sixteenth-Century Iberian Scholasticism, in: ROSEMANN, PHILIPP W. (ed.), *Mediaeval Commentaries on the Sentences of Peter Lombard*, vol. 3, Leiden, 416–503
- LOTTIN, ODON (1948), Le problème de l'«Ignorantia iuris» de Gratien à saint Thomas d'Aquin, in: *Id.*, *Psychologie et Morale aux XII^e et XIII^e siècles*, Gembloux, III.1, 55–96, first published in: *Recherches de théologie ancienne et médiévale* 5 (1933), 345–368
- MCGRATH, ALISTER E. (1998), *Iustitia Dei. A History of the Christian Doctrine of Justification*, 2nd ed., Cambridge
- MARENBO, JOHN (2015), *Pagans and Philosophers. The Problem of Paganism from Augustine to Leibniz*, Princeton/Oxford
- MAZORRA, ENRIQUE (1964), El problema de la salvación de los infideles en las Relecciones teológicas del Maestro fray Francisco de Vitoria O. P., in: *Archivo Teológico Granadino* 27, 205–235
- MÉNDEZ FERNÁNDEZ, BENITO (1993), El problema de la salvación de los »infeles« en Francisco de Vitoria: desafíos humanos y respuestas teológicas en el contexto del descubrimiento de América, Roma
- OBERMAN, HEIKO A. (1962), »Facientibus quod in se est Deus non denegat gratiam«. Robert Holcot, O. P. and the Beginnings of Luther's Theology, in: *Harvard Theological Review* 55,3, 314–342
- O'MEARA, THOMAS F. (1994), The School of Thomism at Salamanca and the Presence of Grace in the Americas, in: *Angelicum* 71, 321–370
- OSBORNE JR., THOMAS M. (2010), Unbelief and Sin in Thomas Aquinas and the Thomistic Tradition, in: *Nova et Vetera* 8, 613–626
- PAGDEN, ANTHONY (1986), *The Fall of the Natural Man. The American Indian and the Origins of Comparative Ethnology*, Cambridge
- PRODI, PAOLO (2000), Una storia della giustizia. Dal pluralismo dei fori al moderno dualismo tra coscienza e diritto, Bologna
- ROSSO, PAOLO (2009), »Fratres omnes bene vadant ad scholas«. Lo Studium conventuale di San Giovanni Battista di Saluzzo fra Tre e Quattrocento, in: COMBA, RINALDO (ed.), *San Giovanni di Saluzzo: settecento anni di storia. Relazioni al convegno, Saluzzo, 21–22 aprile 2007*, Cuneo, 97–131
- ROUMY, FRANK (2000), L'ignorance du droit dans la doctrine civiliste des XII^e–XIII^e siècles, in: *Cahiers de recherches médiévales* 7, online: <http://crm.revues.org/878>
- SOLÈRE, JEAN-LUC (forthcoming), Certitude, Erroneous Conscience, and Heresy: Arriaga, Vázquez, and Bayle, in: LANZA, LIDIA, MARCO TOSTE (eds.), *Summistae: The Commentary tradition on Thomas Aquinas's »Summa Theologiae« (15th–17th Century)*
- SULLIVAN, FRANCIS A. (1992), *Salvation outside the Church? Tracing the History of the Catholic Response*, Mahwah, NJ
- SWOBODA, INNOCENT ROBERT (1941), *Ignorance in Relation to the Imputability of Delict. An Historical Synopsis and Commentary*, Washington D. C.
- TOSTE, MARCO (2013), The Commentaries on Aquinas's »Summa Theologiae« Ia–IIae, qq. 90–108 in Sixteenth-Century Salamanca: A Study of the Extant Manuscripts, in: *Bulletin de Philosophie Médiévale* 55, 177–218
- TOSTE, MARCO (2014), Unjust Laws and Moral Obligation in the Sixteenth-Century Salamanca Commentaries on Thomas Aquinas's »De legibus«, in: CULLETON, ALFREDO, ROBERTO HOFMEISTER PICH (eds.), *Right and Nature in the First and Second Scholasticism. Acts of the XVIIth Annual Colloquium of the S. I. E. P. M.*, Porto Alegre, Brazil, 15–18 September 2010, Turnhout, 93–123