

Francisco de Vitoria. *De iustitia: Über die Gerechtigkeit Teil 1.*

Ed. Joachim Stüben. Politische Philosophie und Rechtstheorie des Mittelalters und der Neuzeit 1: Texte 3. Stuttgart-Bad Cannstatt: Frommann-Holzboog, 2013. cxii + 192 pp. €168. ISBN: 978-3-7728-2506-4.

In 1526, after three years in Valladolid, Francisco de Vitoria, OP, was elected to the first chair in theology at the University of Salamanca. Following the model of his professors at Paris, Vitoria declined to lecture exclusively on the *Sentences* of Peter Lombard and focused his regular lectures on the *Summa Theologiae* of Saint Thomas. Over the next twenty years, these regular lectures were punctuated by advanced lectures on special topics, most famously on the natives of the Americas and on just war. While the advanced lectures, or *Relectiones*, were published eleven years after Vitoria's death, the commentary remained extant only in the form of student *reportationes*. These latter were edited in seven volumes, by Vicente Beltran de Heredia, and published between 1932 and 1952. An addition to the series Political Philosophy and Theory of Law in the Middle Ages and Modernity, Stüben's edition of the commentary on *Summa Theologiae IIaIIae, 57-61* complements his earlier editions and translations, but for Anglo-American philosophical types, such as myself, it may prove most important as a guide to the wealth of material on Vitoria and his

thought that has appeared in Continental languages (as well as English) in the last two decades. His eighty-five-page introduction integrates this new literature into discussions of Vitoria's life, the place of the commentary in Vitoria's thought, particularly with regard to his philosophical naturalism, and its reception and contemporary significance.

The methodological and substantive contrasts between Thomism and the legal tradition come out in greater relief in the long section on the interpretation of these five questions (li–xcii). Stuben helpfully opens the discussion by focusing on right as the subject matter of the virtue of justice. Unlike moderns (lvii), Aristotelians believe that there are real goods, the recognition of which requires a firm grounding in the virtues. Getting clear on this is crucial when it comes to understanding and interpreting law. For Aquinas, natural law is short hand for those precepts of action that would present themselves to an agent fully grounded in the virtues and unencumbered by ignorance. Human law, by way of contrast, reflects the rational but imperfect attempts of a community to organize itself in a particular place and time. When it comes to international law, everything turns on where such law stands vis-à-vis human law. For Vitoria, the *lex gentium* is merely an extension of human law, thus it is changeable and subject to correction in accord with justice and right reason. Suarez and Grotius will tend to see it as a proper subset of the natural law, thereby allowing acts and policies that might otherwise appear to be contrary to justice.

The pages on Vitoria's early modern and contemporary impact will be of particular interest to historians of ethics and political thought. Stuben notes the fundamental contrast between those scholars who see Vitoria as one of the fathers of international law and those who find this both hopelessly anachronistic and a gross distortion of Vitoria's attempt to be true to the Aristotelianism of Thomas Aquinas. He doesn't, however, consider Richard Tuck's argument, in his *Rights of War and Peace* (1999), that Grotius is intent on subverting the Thomist tradition on behalf of an adversarial humanist jurisprudence. This is surprising, given the scope of Stuben's learning. Tuck's argument highlights the importance of reading Vitoria as a moral theologian and not a political or legal theorist. Getting this right is key to understanding the dynamics of early modern thought.

The German translation will be helpful to some, but having the Latin is even more of a boon; Beltran de Heredia's edition has very little scholarly annotation and is not widely available. Vitoria's importance in debates about early modern scholasticism, just war theory, and the justice of the Spanish conquest of the Americas demands a comprehensive interpretation of his thought. But this cannot be accomplished by reading the *Relectiones* in isolation from his commentary on Aquinas, for it is there that he clarifies the centrality of the virtues for interpreting current affairs, then and now.

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