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1 Introduction

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... for nearly two hundred years men continued stubbornly to deny or misrepresent any fragment of the real world of America which threatened their preconceived social and anthropological notions about what should have been there.

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§ O homem natural em duas perspectivas:
- (o conceito de Rousseau:) The indian savage was, so some believed, capable of seeing the follies and the wickedness of our world more clearly than other because he thought, and acted, according to the natural reason alone .
- (a perspectiva usada por Pagden:) Far from being the enlightened and enlightening child of nature he was merely someone who was compelled to live outside the human community . And all such society-less creatures, unless they were saints, were something less than human , for they had cut themselves off from the means which God had granted to every man that he might achieve his end, his telos .

10 1. The problem of recognition

Os viajantes do século XVI que partiam para a América levavam consigo ideias mais ou menos precisas do que era suposto encontrarem nas novas terras (homens selvagens e gigantes, pigmeus, canibais, amazonas, etc.). Iam à procura da fonte da juventude, de cidades repletas de ouro, de mulheres cujo corpo nunca envelhecia ...

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A América que emerge dos relatos de Colombo e outros viajantes como Vespúcio ou Antonio Pigafetta (que acompanharam Magalhães em 1519) raramente é encarada ou descrita como algo de novo - Colombo morreu recusando-se a acreditar nessa novidade -; é antes meramente vista as an extension into a new geographical space of both the familiar and the fantastic dimensions of the Atlantic world as it was known through the writings of commentators both ancient and modern .
Esta união entre o familiar e o fantástico fez perdurar a ideia de que era possível descrever satisfatoriamente o novo mundo por meio de uma simples analogia directa com o velho mundo. Naturalmente, esta concepção não podia manter-se, e desfez-se à medida que o conhecimento das novas realidades fez surgir questões e necessidades específicas.
A primeira destas foi a necessidade de um sistema de classificação que permitisse a descrição dos novos elementos . A inexistência de vocabulário adequado era um obstáculo: In the first instance he tended to describe things which looked alike as if they were, in fact, identical. ... pumas were lions, jaguars tigers and so on .
... But soon it became obvious that this was not enough, that there were types that were not interchangeable and (/12) forms that were not consistent.
A constatação desta impossibilidade levou vários indivíduos a desistir de encontrar nomes ou uma classificação para os seres e elementos que os rodeavam.
Quando a descrição falhava, o recurso ao desenho ou às amostras era usado.
Confronted by the bewildering varieties of things which the new world seemed to offer, men resorted to the museum and the cabinet.

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The methods of classifying men in use at the end of the fifteenth century depended on a number of general human attributes ranging from supposed physiological characteristics - the subject's size, the shape of his head, his humours and so on - to geographical location and astrological disposition. But the most distinctive human characteristics were always behavioural ones .
O conceito de " bárbaro " era aplicado à maior parte dos não-europeus e a quase todos os não-cristãos , mesmo a povos "avançados" como os Turcos.

15 2. The image of the barbarian

O conceito é aplicado na perspectiva em que Aristóteles o empregara.

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... Cruelty and ferocity, the marks of unrestraint, were from the beginning the distinguishing features of a "barbarous" nature. A man, after all, only becomes a real man (instead of a beast) by actualising what is potential within him, by learning through reason to control his animal nature.

21
... The barbarian, on the other hand, was thought to live in a world where this all-important communicatio was ineffective, where men failed to recognise the force of the bonds which held them to the community, where the language of social exchange itself was devoid of meaning. In most respects the barbarian was another animal altogether. He was one of the sylvestres homines , the wild men of the literary imagination, those creatures who lurked in woodlands and mountain passes ready to seize upon the unwary traveller; and they were an ever-present threat to the civilisation of those who lived in the cities. These wild men and their companions - the pygmies and pilosi, the fauns and the satyrs - belonged to a clearly defined group, the similitudines (/22) hominis , a class of half-man / half-beast creatures. As we shall see, the existence of a category of animal which possessed some, but not all, of the attributes of man created formidable problems.
Indivíduos como Paracelsus, Andrea Cesalpino ou Isaac de la Peyrère acreditavam que humanóides como ninfas, sátiros, faunos, pigmeus e homens silvestres (categoria que incluía os ameríndios) eram homens não dotados de alma, descendentes de um outro "Adão", ou espontaneamente gerados pela terra.

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... from the end of the twelfth century until the beginning of the sixteenth, the term barbarus or whatever vernacular form it might take, had come to acquire two closely related meanings. As a term of classification it applied broadly to all non-Christian peoples , and more loosely might be used to describe any race, whatever its religious beliefs, which behaved in savage or "uncivil" ways . In both cases the word implied that any creature so described was somehow an imperfect human being .
... By and large, for any serious purpose, "barbarian" was a word reserved for those who neither subscribed to European religious views, nor lived their lives according to European social norms .

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§... Broadly speaking, barbarians were thought of as men who had failed to progress . Their societies were primitive ones, their behaviour strikingly reminiscent of the descriptions of Plato, Aristotle and Cicero of the behaviour of the earliest men. Indians might, therefore, be described merely as "backward". But this explanation, though it had the merit of being both simple and obvious and ... ultimately successful, begged a further question. Namely, why were they backward? ... In the sixteenth century, fully persuasive answers to such questions were to be found, not in history but in faculty psychology. It was evident to all who encountered him that it was the Indian's mind, what the colonists referred to as his ingenio or capacidad - words of whose appropriateness they were aware, but of whose full significance they were almost certainly ignorant - that was ultimately at fault.

27 3. The theory of natural slavery

The suggestion that Indians might be slaves by nature - a suggestion which claimed to answer questions concerning both their political and legal status - was first advanced as a solution to a political dilemma: by what right had the crown of Castile occupied and enslaved the inhabitants of territories to which it could make no prior claims based on history? The men who were called in to resolve this dilemma were all either members of, or in some way associated with, the law or theology faculties of the universities, and for them questions about the man's relationship with man and his place in God's universe.

Referência ao papel das universidades e dos seus membros como suporte teórico/ideológico das coroas europeias (nomeadamente da espanhola).

... Consultation between the universities and the crown generally took the form of a junta , an open debate between the representatives of the three branches of learning which had some claim to authority in moral issues - theology, civil law and canon law - watched over by select members of the religious orders and the royal councils.

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... The heightened sense of religious piety which seems to have swept Spain after Isabel's death, and the fact that the queen had stated in her will that the Indians should be "well and justly treated" and compensated for any harm which the Spaniards had done to them, may have prompted Ferdinand to seek an authoritative legal ruling on their status with which to confound any future critic. ... at this point the crown still held firmly to the belief that the bulls of donation granted to Ferdinand and Isabel in 1493 by Alexander VI conceded them the right not only to conquer but also to enslave the inhabitants of the Antilles.

Em 1455, o papa Nicolau V concede a Afonso V, entre outros direitos, o de reduzir à escravatura perpétua os habitantes de todos os territórios africanos a sul do Cabo Bojador. Os Castelhanos exigem, em contrapartida, os mesmos direitos sobre as terras descobertas do Novo Mundo.

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A autoridade do Papa para atribuir semelhantes direitos baseava-se nos poderes temporal e espiritual que se arrogava, tanto sobre os cristãos como sobre os "pagãos". Esta autoridade não era, no entanto, facilmente acatada pelos juristas e teólogos espanhóis.

A situação na América espanhola apresenta características muito diferentes das dos territórios portugueses na costa africana. Estes são essencialmente feitorias, cuja existência depende da aceitação das populações locais face à presença dos invasores. Os africanos escravizados pelos portugueses são-lhes entregues, na sua maioria, por outros africanos. ... and the missionary presence, which might have served as a focus for protest against the slave trade was, because of the sheer physical difficulty of survival in West Africa, slight and despirited.

In America, on the other hand, the Spaniards had, even by 1500, seized entire islands, settled them with their own people, made determined efforts to change their ecology and turned the bulk of the population into an enslaved work force. Such behaviour towards a race whom Alexander VI - paraphrasing Columbus's own description - had described as "a people who live pacifically and, it is said, walk about naked and eat no meat ... and believe in a God of creation who is in heaven, and seem to be capable of receiving the Catholic Faith and of being instructed in good customs", could not go unremarked for long.

32

A partir da conquista portuguesa de territórios africanos, os escravos negros tornaram-se os mais numerosos em toda a Europa. Os homens que se insurgiam contra a servidão dos ameríndios não mostraram grandes preocupações com os negros.

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The reason for the radical difference in Spanish opinion on slavery for Africans and slavery for Amerindians is not hard to find. It has nothing to do with the colour of the two races ... or a difference in their social behaviour; it was merely a question of legal status vis-à-vis the Europeans. The slaves sold in Spain, be they black or white, came from regions where the Spanish crown had no political commitments. It was, therefore, possible for the Catholic Monarchs to disclaim any responsibility for the human merchandise sold in their territory.

A situação dos índios americanos era então totalmente diferente pois, sendo os seus territórios pertença da coroa castelhana, tornavam-se seus vassalos.

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Em 1499 Colombo cria a Encomienda , instituição que fornecia a uma comunidade de índios a "protecção" espanhola, instrução religiosa e um pequeno salário em troca de trabalho. Estes campos de "escravatura virtual" forneciam mão-de-obra para as minas e campos das Antilhas.

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The dissolution of tribal unity and of the group's sense of social cohesion which these moves created, together with with crude attempts to impose such things as Christian marriage, with all that that implied ... on a people whose society had some matrilineal features and who may have practised matrilineal residence, contributed, of course, to the dramatic decline of the native population of the Antilles after the Spanish occupation.

37

§In the formulation of Tommaso de Vio, Cardinal Cajetan, to which most of the jurists and theologians of this period refer, pagans may be divided into three broad categories. In the first category are those who live outside the Church but on lands that once formed part of the Roman empire , and thus came within the dominium of the Church; in the second are those who live anywhere in the world, but who are lawfully subject to a Christian prince ; in the third are the true infideles ,men who dwell in the lands which are neither subject to legitimate Christian rule, nor had once been within the bounds of the Roman world . Those who belong to this final category are, obviously, subject to legitimate Christian rule neither de jure (as are those in the first category) nor de facto (as are those in the second).

No-one could seriously claim ... that the Indians had ever been Christian vassals or incorporated into the empire.

38

Os pagãos eram ainda tradicionalmente divididos em duas categorias, de acordo com a origem do seu paganismo :

os "invincibly ignorant" (segundo as palavras de S. Tomás de Aquino): nunca estiveram em contacto com o Evangelho , não sendo assim responsáveis pela sua situação;

os "vincibly ignorant" : homens como os Judeus ou os Muçulmanos, tinham ouvido a palavra de Deus e se tinham recusado a escutá-la.

A maior parte dos comentadores concordavam que os Índios nunca haviam ouvido a palavra de Deus antes da chegada dos espanhóis, não podendo assim ser descritos como inimicos Christi e mantendo, na opinião de muitos, os seus direitos naturais.

39

A aplicação das concepções aristotélicas acerca dos "escravos naturais" aos habitantes da América é usada como forma de justificar a sua sujeição.

42

§Aristotle's natural slave is clearly a man ..., but he is a man whose intellect has, for some reason, failed to achieve proper mastery over his passions. Aristotle denies such creatures the power to deliberate but he does allow them some share in the faculty of reason. This, however, is only "enough to apprehend but not to possess true reason". Esta distinção serviu como argumento aos que defendiam a escravatura dos índios, mostrando as limitações intelectuais dos índios ao afirmar que " ... for them there is no tomorrow and they are content that they have enough to eat and drink for a week, and when that is finished they search for [the provisions for] the next. "

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... The natural slave is not, however, the only psychologically defective (/44) creature in Aristotle's human hierarchy. For occupying similar positions are both the woman and the child. Like the natural slave both are, in a sense, incomplete men .

... Comparisons between Indians and women , though they found expression in such simple-minded legal equations as Philip II's decree "that in every case, two Indians or three women presented as witnesses are worth one Spanish man", were not, for obvious reasons, much explored by later commentators.

Idealmente, o "escravo natural" de Aristóteles seria dotado de grande força física e de um corpo muito vigoroso, enquanto que o homem livre era de constituição mais delicada.

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Este meio de distinção entre os homens "inferiores" e "superiores" não se mostra, obviamente, satisfatório, e o próprio Aristóteles admitira já que acontecia terem os escravos alma e corpo de homens livres.

The suggestion that the physique of the American Indians provided the necessary proof that they were natural slaves was not one that could be either corroborated or refuted with any satisfaction.

Las Casas afirma que os Índios ... "by reason of the good composition of their bodily parts, the harmony and proportion of their exterior sense (/46) organs, the beauty of their faces or gestures and their whole vultu , the shape of their heads, their manners and movements, etc., naturally of good reason and good understanding."

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Aristóteles identifica "escravos naturais" e barbaroi .

... It was only this identification of the natural slave with the barbarian that made the theory of natural slavery of any use in the discussion over the nature of the American Indian. For the fact that the Indian was, in some sense, a "barbarian", that his culture and the societies in which he lived were insufficient, inferior to those of white men, seemed evident to all those who encountered him.

... The first time that Aristotle's theory was employed in Spain was in 1512. In that year, Ferdinand, evidently in response to continuing pressure from the Dominican order ...

summoned another junta to meet at Burgos and decide on the legitimacy of the conquest and the employment of native labour.

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§... Underlying Palacios Rubios's critique of Amerindian sexual life was the tacit assumption, made by all Europeans at the time, and for centuries to come, that the origins of civil society were to be found in the family and, furthermore, in a family whose natural ruler was the father. Any community where, because there was no marriage, there was no proper family structure, and where women ruled over such loose unions as did exist (in the crucial sense that they were responsible for the education of the children), was not only guilty of sanctioning unnatural practices, it was no community at all but a mere horde.

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4. From nature's slaves to nature's children

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... Between 1522 and 1535 all the major texts (with the exception of López de Gómara's *Historia General de las Indias*, which did not appear until 1552) that were to be cited as empirical evidence in the ensuing debates over the nature of the Indians had been printed.

... The peoples who inhabited these places, the Circum-Caribbean tribes as they are known, lived, for the most part, in loose-knit communities with no real leaders, no technology, no personal property and frequently no clothes. The Europeans who encountered them found very difficult to take seriously as human beings creatures whose social presence and personal appearance was so strikingly unfamiliar. By 1532, however, the great Amerindian "empires" of Mexico and Peru had both been discovered. The conquests of Hernán Cortés in 1519-22 and of Francisco Pizarro in 1531-2 revealed to Europeans, for the first time, the existence of highly developed native American cultures.

O crescimento dos territórios conquistados pelos Espanhóis na América conduziu a um aumento dos excessos cometidos sobre as populações e a um consequente aumento dos protestos por parte dos missionários. Mais cedo ou mais tarde, os debates que se faziam in camera desde 1513 passariam à praça pública.

§There was also another and very different reason for the new wave of intellectual speculation on the nature and the status of the Amerindian (/60) which began in the mid-1530s. The years around 1520-30 mark the beginning of a major change in direction in the intellectual life of Spain. For these were the early years of a new movement in theology, logic and the law, whose cradles have come to be known as the "School of Salamanca".

Vitoria estuda em Paris entre 1507 e 1522. Regressa depois a Salamanca onde ocupa a cátedra principal de Teologia de 1529 até à sua morte (1546).

When Vitoria returned to Spain in 1523 he came with a wide knowledge of the "new" theology of the Paris schools; and it was the injection of this in the moribund body of the theology faculties of Salamanca, and later of Alcalá and Coimbra, which gave the "School of Salamanca" both its creative energy and its intellectual cohesion.

... Vitoria was far from being the "humanist" that many historians have attempted to make of him - Pagden realça o facto de Vitoria ter contribuído, por exemplo, para a condenação, em 1527, das obras de Erasmo.

61

A "escola de Salamanca" como "escola" na medida em que os seus membros partilham a mesma preocupação com a descrição e explicação do mundo natural, do papel desempenhado neste pelo homem, feitas nos mesmos termos racionalistas de Tomás de Aquino.

... their principal task, as they saw it, was to provide an exegesis of the law of nature - the *ius naturae*.

Esta "lei" é entendida, não como um corpo codificado de preceitos, mas como um sistema de ética, uma teoria em parte teológica, em parte sociológica, acerca dos mecanismos que permitem ao homem tomar decisões de âmbito moral.

Na sua forma mais simples, consiste num conjunto de ideias simples e claras, os *prima praecepta*, de origem divina. São uma forma de iluminação concedida a todos os verdadeiros homens (pagãos e cristãos), um instrumento racional que permite "ver" o mundo tal como ele é, distinguir entre o bem e o mal para agir da maneira desejada.

... it could plausibly be argued that any creature which did not manifest an awareness of it was not a man.

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Ideia de que todas as leis e normas humanas entroncam mais ou menos directamente nos *prima praecepta* - This applies not only to such obvious laws, as those against killing, theft or adultery, but also to simple customary behaviour: the way a man eats, the mode of address he uses with other members of his group, the clothes he wears and so on.

... The method used for discovering the first principles of the natural law as it applies to man depends, in the first instance, upon a consensus, this being the efficient cause of the whole social body ...

63

Permanência de uma atitude negativa face à inovação e à diferença; aceitação do que é "normal", i. e. comum à maioria, consensual.

Para os Tomistas, todos os homens (cristãos ou não) são humanos. O conceito de *humanitas* aplica-se tanto ao *homo renatus* (cristão) como ao *homo naturalis* (pagão).

In a world where all men are thought of as citizens of the same (/64) global polis, "man" becomes a term which can only be defined as a set of behavioural norms.

... If the American Indians were men as Europeans were, then their presence was an obvious challenge to such a view, because their unstructured, often aberrant behaviour was obviously no mere local variant of some well-known pattern. In many respects it was simply "unnatural". And a man who, regularly and with no sense of being at fault, acted against nature, could make no unassailable claim to being fully human.

§ A teoria da lei natural influenciou o decurso da polémica na escola de Salamanca.

65

§ As questões acerca da natureza do Índio Americano, a sua sociedade, e a possibilidade de as conquistas espanholas terem sido injustas foram pela primeira vez levantadas por Vitoria, na disciplina que leccionava sobre a *Secunda secundae* (1526-9). Pôs a hipótese de a prática de antropofagia por parte dos habitantes das Antilhas justificar que os espanhóis os tomassem como escravos, mas concluiu que não.

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1539: Vitoria compõe a *relectio De indis*: esta obra, apesar de ser dada à estampa apenas em 1557 (onze anos depois da morte do autor), circulou amplamente na sua forma manuscrita, tanto dentro como fora da universidade, e reflectiu-se longamente sobre a discussão das coisas de Índias.

De Indis pretendia solucionar o problema de saber que razões justificavam a conquista da América.

Vitoria: "The matter of the barbarians ... is neither so evidently unjust that one may not question whether it is just, nor so obviously just that one may not wonder whether it might be unjust - but seems rather to partake of both justice and injustice."

Os juristas que abordaram o assunto sentiam a falta de meios para lidarem com ele adequadamente. Vitoria considera que estes bárbaros não estão sujeitos à justiça humana, mas apenas à lei divina; e nesta os juristas não são suficientemente versados.

A questão sai assim do domínio da legalidade para entrar no da Teologia, pois apenas os teólogos estão preparados para lidar com a lei divina.

67

... If the Indian question was to be considered as a part of divine law then it became, by definition, a matter touching on the very nature of man (anthropology) and the metaphysics of the social order.

§ Para Vitoria existem quatro argumentos contra a posse de domínio pelos índios antes da chegada dos cristãos, que justificaria serem privados dos seus direitos naturais: These are "either because they are sinners or because they are infidels; either because they are foolish (amentes) or because they are irrational beings (irrationales)"

68

Vitoria reconhece aos Índios a posse de uma certa ordem racional nas suas coisas, uma ordem que é semelhante à dos outros homens, e que, segundo ele, se manifesta em aspectos como: a existência de cidades organizadas, uma forma reconhecível de casamento, magistrados, governados, leis, indústria (oficinas), comércio, necessitando todos eles o uso da razão. Reconhece-lhes ainda uma forma de religião.

69

Importância da existência de cidades como metonímia da comunidade humana global (como em Aristóteles).

Vitoria, in common with most neo-Aristotelians, thought of the city and the "social body" itself - what we might call the state - as coterminous.

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... The belief that the city was a necessary condition of the civilised life ... had thus a powerful theoretical base. But it was also rooted in experience. Os espanhóis tentam exportar para a América o carácter urbano europeu, construindo cidades e villas para marcar o progresso da conquista. Estas "cidades" tinham frequentemente uma duração muito efêmera. Os outros sinais de civilidade reconhecidos por Vitoria nos Índios decorrem desta capacidade de construir cidades. A família é obviamente encarada como estando na base de todos os grupos sociais.

72

Noção de que o avanço tecnológico de um povo corresponde a um nível superior de civilização e a uma maior nobreza . A noção de uma Idade do Ouro ou Idade da Lei natural contrapõe-se a esta ideia: Nestas épocas quasi-míticas os homens, tal como todos os outros animais, tinham sobrevivido apenas com o que a Natureza lhes fornecia. O mito do "homem natural" fornecia um arquétipo da natureza humana "não aculturada" (uncultured). Para Vitoria o "homem natural" desaparecera com o dilúvio. After the Flood men had to exploit their intellectual resources which, in the age of the natural law, they had no reason to do.

74

To use Victoria's own classifiers, the "age of the natural law" had been an age of vegetarians , the modern age was an age of cooked-meat eaters. Those Indians who appeared to live in primitivist conditions did so not because they lived in some alternative world, but because they had failed to understand this world as it really is .

75

Observações do franciscano Jacobo de Testera (1533) testemunhando a capacidade inata dos Índios Mexicanos - 5 grupos de ideias: The Indians possess developed imitative and speculative skills; they are ... as gifted as any race, in both the mechanical and the liberal arts.

76

The Indians are able to communicate - in the widest possible sense - with their fellow men both through trade and through properly modulated linguistic expressions ("gentility of speech, courtesy and style", etc.). Their social world is articulated in a formal manner ("disputes, feast-days, pleasures, expenses, solemn occasions, marriages") and is controlled by the same means as the civil communities in Europe, that is, by kings and their legal officers. Finally the Indians possess an awareness of the need to manipulate their "social space". The custom of going out to receive a visitor and the existence of regulations governing the precise distance appropriate to men of differing status were common to both Christian and Muslim societies and were consequently regarded as natural to the social man. As semelhanças e paralelismos apontados entre os índios e os ocidentais são apresentadas para afirmar a capacidade que aqueles teriam, se adequadamente ensinados, de viver "como os outros homens" .

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