

Early Modern Controversies of Mobility within the Spanish Empire: Francisco De Vitoria and the Peaceful Right to Travel

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Abstract : In his public lecture 'On the American Indians' given at the University of Salamanca in 1538-39, Francisco de Vitoria presented an unsettling defense of freedom of movement, arguing that the Spanish had the right to travel and dwell in the New World, since it was considered part of the law of nations [*ius gentium*] that men enjoyed free mutual intercourse anywhere they went. The principle of freedom of movement brought hopeful expectations, promising to bring mankind together and strengthen the ties of fraternity. However, it led to polemical situations when those whose mobility was in question represented a harmful threat or was for some reason undesired. In this context, Vitoria's argument has been seen on multiple occasions as a justification of the expansion of the Spanish empire. In order to examine the meaning of Vitoria's defense of free mobility, a more detailed look at Vitoria's text is required, together with the study of some of his earliest works, among them, his commentaries on Thomas Aquinas's *Summa Theologiae*, where he presented relevant insights on the idea of the law of nations. In addition, it is necessary to place Vitoria's work in the context of the intellectual tradition he belonged to and the responses he obtained from some of his contemporaries who were concerned with similar issues. The claim of this research is that the Spanish right to travel advocated by Vitoria was not intended to be interpreted in absolute terms, for it had to serve the purpose of bringing peace and unity among men, and could not contradict natural law. In addition, Vitoria explicitly observed that the right to travel was only valid if the Spaniards caused no harm, a condition that has been underestimated by his critics. Therefore, Vitoria's legacy is of enormous value as it initiated a long lasting discussion regarding the question of the grounds under which human mobility could be restricted. Again, under Vitoria's argument it was clear that this freedom was not absolute, but the controversial nature of his defense of Spanish mobility demonstrates how difficult it was and still is to address the issue of the circulation of peoples across frontiers, and shows the significance of this discussion in today's globalized world, where the rights and wrongs of notions like immigration, international trade or foreign intervention still lack sufficient consensus. This inquiry about Vitoria's defense of the principle of freedom of movement is being placed here against the background of the history of political thought, political theory, international law, and international relations, following the methodological framework of contextual history of the 'Cambridge School'.

Keywords : Francisco de Vitoria, freedom of movement, law of nations, *ius gentium*, Spanish empire

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