

Os indígenas do Brasil entre a razão de Estado e o Direito Natural: as contribuições de André Thévet e Jean de Léry

The Indigenous Peoples of Brazil between Reason of State and the Natural Law: the contributions of André Thévet and Jean de Léry

Arno WEHLING *

Resumo: Análise da percepção, em André Thévet e Jean de Léry, das questões do estado de natureza, bondade natural e direito natural nos indígenas brasileiros com os quais os cronistas da França Antártica tiveram contato. Indaga-se se já existe nos autores clara consciência dessas questões, ou se foram deduzidas ou mesmo treslidas por autores posteriores, que já partiam de concepção apriorística sobre o assunto. Faz-se referência à trajetória do direito natural de Maquiavel a Locke, com a emergência de um novo *jusracionalismo* e são estudadas as informações dos dois autores. Conclui-se com a avaliação da recepção dos cronistas, do significado por eles atribuído às questões e ao papel do direito natural em seu discurso. Os textos aparecem então como elemento empírico num longo processo de estabelecimento do novo direito natural, o do "direito racional" na classificação de Bobbio, processo que por sua vez se conflita com outra doutrina emergente no século XVI - a da razão de Estado.

Palavras-chave: indígenas; direito natural; razão de Estado.

Abstract: Analysis of perception, in André Thévet and Jean de Léry, of the issues of State of Nature, natural law and natural goodness in Brazilian indigenous peoples with whom the chroniclers of the *France Antarctique* came into contact. Here, we inquire whether the authors already had a clear awareness of these issues, or whether such issues were deduced or backread by subsequent authors who already had an *a priori* view of the subject. This work makes reference to the trajectory of natural law from Machiavelli to Locke, with the emergence of a new natural law, and analyzes the information provided by the two authors. It concludes with an evaluation of the chroniclers' reception, the meaning they assign to these concepts, and the role of natural law in their discourse. The texts are shown as empirical elements in a long process of establishing a new natural law - the "rational law" in Bobbio's classification, a process that conflicts with another emerging doctrine in the 16th century - the Reason of State.

Keywords: indigenous, natural law; reason of state.

* Professor of UFRJ and Professor Emeritus of UNIRIO. President of the Instituto Histórico e Geográfico Brasileiro (IHGB).

The question of *state of nature*, *natural goodness* and *natural law* in terms of their relationship with indigenous Americans, and particularly, the inhabitants of Brazil, has been the subject of important and classic studies, such as those of Gilbert Clinard's *L'exotisme américain dans la littérature française au XVI.ème siècle* and Affonso Arinos de Mello Franco's *O Índio brasileiro e a Revolução Francesa* (CLINARD, 1933; MELLO FRANCO, 1971). Highlighted among these and other works on the theme are the Chapter *Dos Canibais* from Montaigne's *Ensaaios*, which in turn, have their sources in the works of André Thévet's *Les singularités de la France Antartique and Cosmographie Universelle* and Jean de Léry's *Histoire d'un voyage fait en la terre du Brésil* (THÉVET, 1953; LÉRY, 1961)

The consecrated view, based on texts like those of Thévet, Léry, Schmidel, Hans Staden, Lopez de Gomara, Juan de Acosta and other 16th century travelers, is that a new social, cultural and political universe was revealed that went back to the origins of humanity. It was as though the theoretical discussions on the existence of a "state of nature", set against the social organization known since classical Antiquity, on the innate goodness or badness of man or the existence or non-existence of a natural right, had received an immense empirical contribution; a laboratory populated by millions of human beings capable of demonstrating the correctness or incorrectness of the various different opinions.

In fact, for over three centuries, if we include Romanticism, the most significant authors of literature, essayism, law and philosophy have focused on these issues, whether through reading Montaigne, or looking to the actual 16th century sources, which were added to by travelers and chroniclers of subsequent centuries.

Our intention is not to repeat what has been said by these authors, or by historians on the subject, like Affonso Arinos. It is another question that interests us.

What we will enquire from the reading of Thévet André and Jean de Léry, the chroniclers of the *France Antarctique*, is whether, effectively, they had an awareness of the issues of *state of nature* and *natural law*, or whether these notions were deduced or even backread by subsequent authors, who already had an *a priori* concept of the subject.

Given that this hermeneutic of both texts has not been done before, the question is an appropriate one, especially when placed in a 16th century perspective. This perspective may include a multitude of facets, but our proposal here is to cross-reference two coordinates; the emergence of reason of State and the crisis of the natural right of Ciceronian and/or scholastic

inspiration. Furthermore, based on this cross-referencing, the hypothesis is formulated that texts such as those of Thévet and Léry empirically substantiate what Norberto Bobbio characterized as an axial shift from the medieval concept to the modern, even contemporary, concept of natural law.

The trajectory of natural law from Machiavelli to Locke

First, it is necessary to distinguish a theme with a clear philosophical and ontological characteristic, such as *state of nature*, from one with an eminently legal characteristic, such as *natural law*.

The concept of *state of nature* attributes to man characteristics intrinsic to his very being; we are dealing, here, with the realm of ontology. *Natural law*, meanwhile, which is seen as a consequence of it, would be its legal translation, defining its own territory of jurisdiction. The importance of this theme lies in the fact that put this way, all of the positive law of the people would be subject to the rules of natural law, separating fair rules, in accordance with natural law, from unfair ones, with which it would come into conflict (PIDAL, 1947). To clarify the historical incarnation of the concept, it is important to set it within the context of the 16th century.

Scholastic natural law suffered a marked decline in this century. The theories held in esteem by medieval natural law on the nature of man, the divine natural and human laws, and the limits of human power were in full defensive mode during the violent and passionate period that was the 16th century. It is no coincidence that the Dutch historian Huizinga, referring to the "Autumn of the Middle Ages", speaks of a "violent tenor of life" (HUIZINGA, n.d., p.9ff) when describing the general context of the time, which was certainly extended and even expanded in "quinhentismo" - the term used to describe the initial phase of Brazilian literature during colonial times.

From an intellectual point of view, this questioning of scholastic natural law accompanied the general climate of conflict, violence and war of the latter medieval centuries. Nominalism, based on William of Occam, sought to distinguish theology from science; **sapientia** from **scientia**, contributing to the separation of the two levels to a degree hitherto unheard of, in a culture based on the concept of the absolute predominance of the sacred. The strengthening of the singular, in a purely philosophical approach, to the detriment of the

universals, was increasingly translated, in the generations that followed the nominalists, into an individualism that incisively penetrated political, economic and legal relations (WEHLING, WHELING, 2005, p.30ff).

The strengthening of the inter-regional economy, from the 13th century onwards, the affirmation of urban life and corporate associations, and the concept of the centralizing role of the monarchies, were also undermining the institutions and concepts related to them, such as the papacy, the seigneurial system, the Christian empire, and scholastic natural law. Even the undisputed reputation of Cicero, as a philosophical, legal and historiographical model that would extend throughout the modern era, did not withstand, in this aspect, the question of natural law. Although not entirely rejected, the Ciceronian concept of natural law suffered deep blows, from its stoic premises to its cornerstone, the universalism of the concept. Several examples of this new philosophical, scientific, political and legal spirit can be cited in the work of 15th century authors, such as Marsilius of Padua and Nicholas of Cusa. This, incidentally, constituted the link to the **via modernorum** – an expression that emerged in the same century to define the renewal of the Church – in that it defended the strengthening of the central institutions of the monarchy over the local powers, and even more significantly, the power of the councils over Papal power.

The new social-political entity, thus delineated, and which in the late Middle Ages was still called "monarchy" or "kingdom", came to be known in different languages as "state" (GUENÉE, 1971, p. 60ff). It soon became associated, in the practice of power and in the political and legal doctrines, as the enemy *par excellence* of the "old" forms (in the sense of early medieval) of society and culture. Among these was scholastic natural law: thus, there was a shift to a "new" and different natural law.

On what basis?

The 16th century of religious wars and inter-state conflicts is also the century of Machiavelli and reason of state (MEINECKE, 1955, p.10ff). The concept of autonomy of the political sphere in relation to morality and religion spread quickly, contrary to what had hitherto been advocated by scholars – a speed that was probably due to the brutal reality of the political struggles of that century. The theses of Catholic natural law were belied in practice, and those in power in the Church of the early 16th century – such as Popes Alexander VI, Julius II and Leo X - were the first to separate the Christian ideal from everyday political action.

Machiavelli and Machiavellianism (MOUNIN, 1966, p.147ss; POCCOCK, 1997, p.48-49; SKINNER, 1985, p.276ff), in the different receptions that Friedrich Meinecke, Gaston Mounin and John Pocock analyzed from different perspectives, came to represent very early on, in relation to our theme of interest, anti-escolaticism and anti-natural law, in the name of a bare and raw historicity that was far removed from the theories conceived in the offices of the medieval philosophers and theologians. Even one of our own chroniclers, Jean de Léry, when wanting to refer to the violence practiced by the indigenous Brazilians against their enemies, could find no better analogy than to liken them to the disciples of Machiavelli, hostile to the teachings of Christ (LÉRY, 1961, p.166).

The Iberian Peninsula sought to respond to the decline of scholasticism with the revival of a second scholastic law, and a reaffirmation of natural law (MARAVALL, 1997, p.113ff). However, this was not the predominant trend in Western Europe, which continued to deepen the reason of state and, in the concept of Cardinal Richelieu, the pure and simple "interest of the State"ⁱⁱ (MEINECK, 1955, p.205). Thus, Realpolitik was gradually affirmed, with the historical process increasingly following an immanent reasoning, detached from moral metaphysical limits. While the religious wars of the 16th century were a source of horror for Léry, who protested against their violence more than once in his book, the Thirty Years' War of the 17th century raised cruelty, both in war and outside it, to a previously unheard of paroxysm.

It was this concrete motive, rather than any legal or philosophical discussion, that prompted the search for a new formulation for natural law, a law that should exist, in the well-known expression of Grotius, "even if God did not exist." The abuse of its own strength in war, against essentially human rights, motivated the Dutch jurist to write his classic work "The Rights of War and Peace," in which he states:

Now for my Part, being fully assured ... that there is some Right common to all Nations, which takes Place both in the Preparations in the in Course of War (...) I have observed throughout the Christian World a Licentiousness in regard to War, which even the barbarous Nations ought to be ashamed of: a Running to Arms upon very frivolous or rather no Occasions; which being once taken up, there remained no longer any Reverence for Right, either Divine or Human, just as if from that Time Men were authorized and firmly resolved to commit all manner of Crimes without Restraint. (GROTIUS, 1994, p.51).

The search for this new right common to all peoples during the wars, which logically and necessarily related to a broader human right without obligatorily having a religious or

metaphysical foundation, led towards a post-Grotius mode of legal-philosophical thinking Hobbes would define natural law, in this century, as a "precept, or general rule, established by reason," and not by God (HOBBS, 1953, p.140ff; SKINNER, 2008, p.37ff).

Locke, also in the 17th century, in *Segundo Tratado do Governo*, affirmed not only the existence of a state of nature and the freedom that existed in it. He also made a reference to the indigenous peoples of Brazil, taking as his source the text of José de Acosta (LOCKE, 1953, 5-7, 62-63; BOBBIO, 1997, p.45ff). The cycle of a natural, secular law was completed, divested of a religious basis, for which the empirical existence of the American man (particularly in more primitive cultures like the tribes of Brazil) was a notable reinforcement for the argument.

The new natural law, as opposed to Thomistic natural law, as Norberto Bobbio concluded, was characterized by the "movement from an ontological and metaphysical concept of nature to an empirical concept" and by the replacement of the idea of reason as adaptation to the order of the universe with the idea of a set of intellectual procedures with which man resolves the problems related to his position and his affirmation in the world" (BOBBIO, 1997, p.48). In the medieval concept, the norm was imposed on the conduct by its transcendent nature, while in the modern concept, the norm is derived from the "nature of things", i.e. the mechanical regularity of the Universe (BOBBIO, 1997, p.48).

While on one hand, the concrete material conditions led to a distancing of the scholastic jurisdictionalist matrix – which would end up having to be replaced by another, of immanent origin, due primarily to the problems caused by the war in Europe - on the other, we can ask what role the *anthropological opening* of Renaissance man to other cultures - some already superficially known, like those of Africa and the Far East, others unknown, like those of the Americas – played in this reformulation of ideas about the state of nature, natural goodness and natural law (WEHLING, WHELING, 2005, p.31).ⁱⁱ

It seems clear that this *anthropological opening* caused various cultural shocks - conflicts and decimation of the indigenous peoples, protests by Las Casas against the violence of the Spaniards, the *Veritas ipsa* bull of Pope Paul III, which attributed a soul to the Indians, and Montaigne's text on cannibals. It is also clear that the majority of authors who gave a new inflection to the natural law associated the hypothetical "state of nature", a being of reason without historical identity, with the empirical world of the American man, not of the high cultures, but of the natives perceived by contemporaries as more primitive, like the Tupi or

Guarani, of which they had obtained more knowledge through reading the works of the chroniclers, including those of *France Antarctique*.

We return, then, to our original question: what did André Thévet and Jean de Léry have to say in relation to these issues - state of nature and natural right?

Thévet and Léry's information

Andre Thévet's writings on the issues of interest to us can be classified into four aspects: religion, marriage, war and leadership.

In relation to the first aspect, his focus was drawn to the Indians' belief in the eternity of the soul, distinguishing between those who had fought bravely from those who had not. The first "would go with many other spirits, to nice places, with beautiful woodlands, gardens ..."; while the others, "the souls of those who had not fought well, would be taken by Aygnan, which is what they call the evil spirit" (THÉVET, 1953, p.84-85)

In regard to marriage, he recorded - contrary to the view of those who believed in the promiscuity of the Indians - a respect for the ties of kinship and the consequent existence of family relationships. These aspects were highlighted in *Singularidades da França Antártica*, written in 1557, and in *Cosmografia Universal*, written in 1575.

In relation to adultery, Thévet states in his final work: "If a woman should sin and become pregnant, the child is buried alive at birth and the mother is either butchered or abandoned to the young men" (THÉVET, 1953, p.934).

War was decided in a meeting, respectfully hearing the elders - and they did this, Thévet says, as though they were senior senators of Venice. The elders reclined, while the others remained seated, in deference to the superior wisdom of the elders, "and it is as though they learned this philosophy from the school of Aristotle, or another of the ancient sages" (THÉVET, 1953, p.178-179).

In making this statement, did Thévet look for some genealogical link between the indigenous peoples and the European peoples of antiquity? Did he attempt to draw a cultural parallelism based on a common nature or was he merely making a discursive analogy? In light of the information available to us, we cannot choose any of these options, but only admit a similarity when we recall that in the case of the first option, Varnhagen, in the second half of the 19th century, also studied the "Turanian" origin of the Tupi-Guarani or, to justify the second, that among anthropologists of the 20th century, the possibility of cultural parallelism

was used to explain cultural similarities, without the slightest thought of ever basing them on "state of nature".

The question of leadership, in turn, was associated with the Catholic war chronicler. Leaders emerged as a result of war. Thévet records the existence of some "kings" with warlike characteristics, but emphasizes that in general, "there are no kings among them and they all have the same quality ... (...) The principals of these barbarians and the chief among them, those who hold authority, and who talk about going to war, are the heads of everyone else and are the ones who should be responsible for the provisions of war" (THÉVET, 1953, p.252).

The information given by Jean de Léry is similar to that of Thévet, although the Calvinist was more explicit and direct in the issues of interest to us here, in regard to state of nature.

In relation to the religion of the natives, Léry notes that they had no ritual, or sites for its practice, although they believed in and feared the effects of witchcraft.

He also records, like Thévet, a belief in the permanence of the soul, which he associates with the admission of their immortality and the idea that the souls of the brave warriors would:

(...) go off behind the high mountains where they dance in beautiful gardens with the souls of their forebears. While on the contrary, the souls of effeminate and worthless (...) go with Aygnan (for so they call the devil in their language), by whom, they say, these unworthy ones are incessantly tormented. And here it must be noted that these poor people are so afflicted throughout their lives with this evil spirit (...) (LÉRY, 1961, p.182)

Léry admits the existence, among the Indians he knew, of a "seed of religion" that "germinates in them and cannot be extinguished, despite the darkness in which they live" (LÉRY, 1961, p.189). To demonstrate this, he appeals to findings such as the "immortality of the soul," the "fear of the thunder and evil spirits, and the presence of shamans whom he calls "false prophets." The description of the scene in which the Indians sang religious songs, lamenting their ancestors and consoling themselves in the fact that they will see them after death, is one of the highlights of Léry's account, from an ethnographic point of view (LÉRY, 1961, p. 193), and an important basis for the theme we are addressing here.

The rites of burial did not go unobserved in L ery, who associated them, as in so many other aspects that he described, with biblical passages with which he saw similarities.

Concerning marriage and kinship relations, L ery's work has served as a reference for various anthropological and ethnographic studies. From the perspective that interests us here, the chronicler describes marriage, kinship relations and attitudes towards adultery, taking as points of comparison, biblical texts relating to polygamy and to the French society of his time, reinforcing the idea of the existence of common traits natural to all men. As for adultery, he expressly states that "the wronged man can repudiate his errant wife, sending her away ignominiously, or even kill her, governed by the natural law" (L ERY, 1961, p.202).

In terms of social organization, the descriptions and valuations of L ery led him to the realization that except for war with other tribes, the Indians lived in harmony, "guided by their natural selves", unlike their fellow countrymen, who disdained the divine and human laws (L ERY, 1961, p.207). He therefore affirms the idea of a state of nature, and opens the possibility of going a step further: that of the natural goodness of man. But this is only one possible interpretation, because his observations on war between tribes may, in turn, have formed the basis of Hobbe's theory of the war of all against all. In any event, they ratified Machiavellianism.

Having declared war between any of these nations, everyone claims that since an enemy who has received an injury will resent it forever, one would be remiss to let him escape when he is at one's mercy; their hatred is so inveterate that they can never be reconciled. On this point we can say that Machiavelli and his disciples (with whom France, to her great misfortune, is now filled) are true imitators of barbarian cruelties. (L ERY, 1961, p.166).

First, then, we can ask ourselves about the effective reception of the chroniclers of the *France Antarctique* for the discussion of the theme of state of nature and natural law. There are, without doubt, other 16th century sources on the theme, like the Spanish and Portuguese chroniclers. The first, however, referred mainly to the high cultures, and the information they give about the indigenous peoples within the scope of Portuguese colonization were usually obtained second hand. The Portuguese published very little about Brazil in the 16th century, and the collection of texts on the Portuguese sources, organized by Purchas and published in England, is from the third decade of the 17th century. So, besides Hans Staden, Ulrich

Schmidel and Pero de Magalhães Gândavo – who had against him the fact that his work was published in a lesser known language - Thévet and Léry were important sources for readers of the 16th century and the beginning of the 17th century.

Moreover, they had the good fortune to be read by Montaigne, who based a substantial part of his considerations on the "cannibals". The *Ensaïos*, in turn, which were successful in the 16th century, although little published in the 17th century, once again saw renewed interest in the 18th century, and constituted an important source for the construction of the imaginary on the subject.

In view of its importance, it is worth asking whether the authors that followed Montaigne did not carry the interpretation too far, reading a characterization of the state of nature and natural law where it was not admissible to do so. Herein lies the heart of our investigation: were these questions contained in the actual texts of Thévet and Léry, or were they the result of a free, and possibly exaggerated, reading of someone predisposed to find, in the American Indian, what was already assumed to exist?

Thévet and Léry were not specialists in theological, philosophical and legal matters, although they had some knowledge of all these subjects. In the descriptions they give, the inferences and value judgments are more apparent in the work of Léry than in that of Thévet; the reading of the "cosmographer to the King" is more empirical and descriptive, as befitting an informant who strives to be scholarly and impartial. The work of Léry is more passionate and evaluative, and for our purposes, more explicit than that of the Catholic chronicler. But both authors emphasize the idea of a "state of nature", and Léry makes explicit reference to natural law.

The descriptions of the rules of kinship, religion and social behavior in indigenous peoples in Thévet and Léry refer to a primitive natural state that is common to all men. Despite the attitudes of distancing in relation to religion, war, or customs, it is common in both chroniclers to find that these traits have a similarity with the behavior of their own contemporaries, in regard to what was generally most condemnable.

The negative attitudes that they saw in them – such as conduct in politics and war or corruption of customs - were associated with primitivism, referring not only to a common origin but to common human nature, whose manifestations often revealed the cloak of politeness and civility that Christianity inculcated in men. They were also concerned with comparing these behaviors with biblical or classical situations, as they did on several

occasions, evoking scenes like the marriage of Jacob with Leah and Rachel, or of Circe and Ulysses, which reinforces the idea of similarity despite the cultural differences.

The concern with drawing comparisons with the Judeo-Christian and classical heritage therefore reinforces the hypothesis that both Thévet and Léry admitted the existence of a "state of nature" of man, common to all human beings and cultures – a question, moreover, that precedes the existence of historical ties or cultural parallelism.

As to the existence or not of a natural right, the issue is clearly explained and argued in Jean de Léry.

In chapter 14 of *Viagem à Terra do Brasil*, Léry associates the cruelty of the indigenous peoples in war with the attitude, in identical situations, of the "disciples of Machiavelli," contrary to Christian doctrine. This association could admit that the evil side of men was ultimately common to all, affirming, albeit in the negative, the existence of a common nature, regardless of the existence or otherwise of a primitive "state of nature". For another, the "good side" of man would be represented by peaceful coexistence in their own community. Therefore, whether he unintentionally provided the basis for the future Hobbesian argument, or the Rousseauian one, the premise defined by Léry is of a shared identity between the American man and the European man, the cultural stage varying and assuming a state of nature that, in turn, refers to a natural law.

Next, the Calvinist chronicler appears to cast doubt on the Ciceronian concept that there is an awareness of the existence of God in all peoples and cultures: the behavior of the Indians of Brazil, especially in war, appears to dissuade him of this.

However, he ends up developing a contrary reasoning, listing arguments such as the Indians' perception of the immortality of the soul and the belief in the existence of the devil. And despite the absence of belief in God - evidently referring to the Christian concept – the author emphasizes that they believe in an immortal spirit and in reward or punishment after death. These arguments lead him to state, finally, that Cicero was right, as the indigenous peoples evidenced a common nature - albeit far removed – with the Europeans. The possibility of a natural law therefore followed, based on this nature that was common to all men, and inculcated by the deity.

It can be argued, therefore, that although they were not theologians, philosophers or jurists, the chroniclers of *France Antarctique* had, in relation to the existence and meaning of the indigenous peoples among whom they lived, a similar concept to that of the leading European intellectuals of their time. Strengthened by their experience in America, this concept reinforced the tradition of natural law that in Europe, was undermining Machiavelli's "reason of state"; if, in Iberia, this fact furthered a true "ressourcement" of scholasticism that would extend from Francisco Suarez to the 18th century, mainly via the *Ratio Studiorum*, in northern Europe it moved towards a modern rationalism, with its assertion of a natural right that was identified with reason, and not necessarily with faith.

Within this concept, which would prove to be a dominant one in Illuminism, there is an arc that sweeps from pantheism to atheism, but underpins the entire "new" natural law, i.e. the "rational law", as Bobbio called it. And the chroniclers of an ultimately secondary and aborted event of 16th century European expansion, the *France Antarctique*, contributed empirically to the foundation of a new vision of man and of the law, something which is so familiar to us, tributaries that we are, despite all the postmodernisms, of the rationalist tradition of Illuminism.

Bibliographic references

BARRETO, L. F. **Descobrimientos e Renascimento**. Lisboa, 1983.

BOBBIO, N. **Locke e o direito natural**. Brasília: UNB, 1997.

CLINARD, G. **L'exotisme américain dans la littérature française au XVI.ème siècle**. Paris: A. Colin, 1933.

GROTIUS, H. **O Direito da guerra e da paz**. v.I. Florianópolis: Fundação Boiteux, 2004.

GUENÉE, B. **L'Occident aux XIVE. et XVe. Siècles**. Paris: PUF, 1971.

HOBBS, T. **Leviathan**. Londres: Dent and Sons, 1953.

J. HUIZINGA. **O declínio da Idade Média**. Lisboa: Ulissea, s/d.

LÉRY, J. **Viagem ao Brasil**. Rio de Janeiro: Bibliex, 1961.

LOCKE, J. **Segundo Tratado do Governo**. São Paulo: Ibrasa, 1963.

- MARAVALL, J. A. **Teoria del estado en España del siglo XVII**. Madri: CEC, 1997.
- MEINECKE, F. **Die Idee des Staatsräson in der neuerer Geschichte**. Munique: Oldenbourg, 1955.
- MELLO FRANCO, A. A. **O Índio brasileiro e a Revolução Francesa**. Rio de Janeiro: José Olímpio, 1971.
- MOUNIN, G. **Machiavel**. Paris: Seuil, 1966.
- MOUSNIER, R. **L'Homme Rouge ou la vie du Cardinal de Richelieu (1585-1642)**. Paris: Robert Laffont, 1994.
- PIDAL, R. M. **El Pe. Las Casas y Victoria**. Buenos Aires: Espasa Calpe, 1947.
- POCCOCK, J. **Le moment machiavélien**. Paris: PUF, 1997.
- SKINNER, Q. **Hobbes e a liberdade republicana**. São Paulo: FEU, 2008.
- _____. **Los fundamentos del pensamiento político moderno**. Mexico: FCE, 1985.
- THÉVET, A. **Les français em Amérique pendant la deuxième moitié du XVIe. Siècle**. ed. De S. Lussagnet e C. A. Julien. Paris: PUF, 1953.
- WEHLING, A. WEHLING, M. J. **Direito e justiça no Brasil colonial – o Tribunal da Relação do Rio de Janeiro, 1751-1808**. Rio de Janeiro: Renovar, 2004.
- _____. **Formação do Brasil colonial**. Rio de Janeiro: Nova Fronteira, 2005.

Notes

ⁱ Even when there existed some type of reconciliation with Christian political philosophy: “the king is above the law, but normally, he must submit to it, because the law is reason and reason is above everything, inspired within by the Holy Spirit and therefore divine in nature. But the kings can change the laws, by obligation of their duty to ensure “the good of their State, the public good and the needs of their subjects”; Roland Mousnier, *L’Homme Rouge ou la vie du Cardinal de Richelieu* (1585-1642), Paris, Robert Laffont, 1994, p. VII-VIII and p. 763.

ⁱⁱ Discussion of the problem of law and justice in the scope of the “meeting of cultures” since the 17th century, Arno Wehling and Maria José Wehling, *Direito e justiça no Brasil colonial – o Tribunal da Relação do Rio de Janeiro, 1751-1808*, Rio de Janeiro, Renovar, 2004, p. 9ff. Luiz Felipe Barreto, *Descobrimientos e Renascimento*, Lisbon, 1983, p. 169.

Received in October/2012.

Approved in November/2012.