

The White Legend Revisited: A Reply to Professor Hanke's "Modest Proposal"

*BENJAMIN KEEN

IN A RECENT NOTE on the Black Legend¹ I called attention to a certain paradox in the writings of Lewis Hanke. "The central figure in Hanke's studies on intellectual history," I wrote, "the figure whose greatness as a humanist, historian, and anthropologist he has so ably and amply documented, is Las Casas, the supposed source of the Black Legend. Yet Hanke's views on Spain's colonial policies have a striking affinity with the attitudes of Las Casas' foes, who championed a 'white legend' of Spanish altruism and tolerance." I proceeded to document this point by reference to several of Hanke's studies.

Hanke's extended comment² on my note does not dispel the ambiguity to which I referred. On the contrary, it sharpens the paradox, for it moves him closer to an outright White Legend position. Although he advises writers on the Spanish Conquest to stop striking off generalizations and to enter the archives for further research, he repeats his own large generalization concerning the uniqueness of the Spanish struggle for justice. In support of his claim he cites another generalization by Edward G. Bourne that has Philip II stretching out his long arm "to protect the weak and the helpless from oppression and error." Neither statement has much probative value.

Hanke correctly notes in passing that I, like other writers, have praised Bourne. A very gifted historian, Bourne achieved a landmark of revisionist historiography with his *Spain in America* (1904). In my introduction to a new edition of his work (1962), I wrote that

Bourne brought to his work a rare erudition and a mastery of the art of historical criticism perhaps unequalled by any of his contemporaries. To these sources of strength we may add a talent for synthesis that enabled Bourne to compress into a few

* The author is a Professor of History at Northern Illinois University.

1. "The Black Legend Revisited: Assumptions and Realities," HAHR, XLIX:4 (November, 1969), 703-719.

2. "A Modest Proposal for a Moratorium on Grand Generalizations: Some Thoughts on the Black Legend," HAHR, LI:1 (February 1971).

pages the elements of a problem as complicated as the Vespucci controversy; and a clear simple style, ideal in a work designed for the general reader.

But my admiration for the skill displayed by Bourne in the solution of technical historical problems did not extend to his views on Spain's Indian policies. On the contrary, I clearly cautioned against his bias in this area when I wrote:

Bourne's time also saw the rise, amid great public debate, of an American empire in the Caribbean and the Pacific, attended, in the case of the Philippines, by violent suppression by the United States of native rebels unwilling to accept her rule. It cannot be doubted that the new imperialist climate of opinion, America's new status as a colonial power, influenced Bourne's historical judgments and disposed him to view with greater sympathy the Spanish colonial process.

Noting that Bourne had initiated a scholarly reaction in the United States against the Black Legend, I asked whether the wheel had not turned full circle, "whether a *leyenda blanca*, a 'white legend' of Spanish altruism and tolerance, is not beginning to emerge from the writings of such scholars as Lewis Hanke."³

What lends a certain irony to Hanke's reliance on Bourne is that Bourne's work, almost immediately become a classic, gave a large impetus to the movement to discredit Las Casas as a source of historical information. Bourne deplored the fact that Las Casas' *Very Brief Account of the Destruction of the Indies* with "its pictures of terrible inhumanity, its impassioned denunciations of the conquerors, and its indictment of the colonial officials became the stock material of generations of historical writers."⁴ A disciple of Bourne's, Lesley Byrd Simpson, elaborated this theme in *The Encomienda in New Spain* (1929), a book that helped to shape the thinking of a generation of United States specialists in Latin American history. Bourne used the introduction to his work for a vitriolic attack on Las Casas, declaring that the whole social history of the Spanish colonies must be rewritten "because the violent partisanship of the Las Casas tract [the *Very Brief Account*] has had a vicious effect upon the historians of the Spanish conquest." Simpson even revived the ancient canard linking Las Casas to the beginnings of the African slave trade to America. "It is idle to deny," he wrote, "that Las Casas,

3. Introduction to Edward G. Bourne, *Spain in America, 1450-1580* (New York, 1962), pp. viii-x.

4. *Ibid.*, pp. 256-257.

more than any one person, fomented the introduction of Negro slavery in America"⁵—a curious statement for a social historian who should have been aware of the impersonal economic forces that generated modern plantation slavery!

The anti-Lascasian seeds sown by Bourne and Simpson fell on fertile ground. John Tate Lanning, in his review of Simpson's book in the HAHR, found that its high point was "the penetrating and brilliantly written analysis of the unmerited influence of Las Casas upon historians of the Indies."⁶ Simpson's book also met with an enthusiastic response from Charles E. Chapman, who announced in his popular text, *Colonial Hispanic America* (1933), that "no one has given a sounder judgment with respect to Spanish 'cruelty' than Simpson."⁷ Examples of such anti-Lascasian fervor could be multiplied.

In this time of reaction against Las Casas, Lewis Hanke began (1930) his study of the Dominican and his role in the struggle over Spain's Indian policy. This is not the place for a detailed assessment of Hanke's numerous studies of Las Casas and the intellectual history of the Conquest. It is enough to say that Hanke's exploration of Las Casas' varied career as humanist, historian, and anthropologist amounted to a re-discovery of the man. Hanke's writings gave a decisive check to the campaign to discredit Las Casas in the United States. By no coincidence, perhaps, in the second (1950) edition of his *Encomienda in New Spain* Simpson omitted his introduction, with its slashing attack on Las Casas, merely observing that "his influence on many generations of historians is proved and accepted and need not detain us again."⁸

This brings me back to the central paradox in Hanke's writings on Spain's Indian policy. The historian who more than any other has established the reliability of Las Casas as a source of historical information advances conclusions concerning that policy that are diametrically opposed to those of Las Casas.

After half a century of struggle in defense of the Indians, Las Casas, who to the last maintained contact with the affairs of the Indies

5. Lesley B. Simpson, *The Encomienda in New Spain* (Berkeley, 1929), pp. 10, 15 n.

6. HAHR, XI:1 (February 1931), 89-91.

7. Charles E. Chapman, *Colonial Hispanic America* (New York, 1933), p. 113.

8. Simpson, *The Encomienda in New Spain* (Berkeley, 2nd ed., 1950), p. x. Simpson's new moderation on the subject of Las Casas may also have been partly due to his joint discovery with Sherburne F. Cook (*The Population of Central Mexico in the Sixteenth Century*, 1948) that the native population of central Mexico had declined between eighty and ninety per cent in the sixteenth and seventeenth centuries—a truly Lascasian finding!

through a large network of correspondents, had no doubts concerning the predatory, exploitative character of Spain's Indian policy. In his testament, notarized on March 17, 1564, the ancient solemnly affirmed that on account of the "great sins and injustices" committed by the Spaniards in the Indies, on account of "the robberies and murders and usurpations of the states and lordships of the natural kings and lords," God must vent upon Spain "His force and wrath."⁹ Another action of his last days suggests the depth of Las Casas' disillusionment with Spain's Indian policy and specifically with Philip II, whom Hanke credits with Lascasian sentiments. The audacity of this action also suggests the desperation with which Las Casas regarded the condition of the Indians. Going over the head of Philip, patron of the Church in America, Las Casas sent Pope Pius V a letter asking the pontiff to order an end to the unjust wars against the Indians and the violent expropriation of their lands on the pretext of their conversion, on pain of excommunication. And he appealed to the Pope to order the bishops in the Indies to intervene on behalf of the Indians, who, "oppressed with incredible toil and tyranny, bear upon their weak shoulders against all law, natural and divine, an intolerably heavy yoke and burden. . . ."¹⁰

We may justly ask, who characterizes Spain's Indian policy more correctly, Las Casas or Hanke, whose principal evidence is a law code that Marcel Bataillon acutely describes¹¹ as an effort "to salvage what could be salvaged from the wreck of Lascasianism?"

I.

Confronting the simplicities of Keen and others, Hanke advises our guild "to declare a moratorium on the striking off of generalizations and to enter the archives for further research." Let us overlook Hanke's disregard of his own advice. Let us also concede that continued and even intensified archival research is altogether desirable. But must we in fact abandon the making of generalizations until every last document in the archives has been studied, until all the evidence is in?

Hanke's proposal seems to involve a misconception of the nature and meaning of generalizations. He notes that the patient researches of Charles Gibson's student, William Taylor, have revealed that in

9. Bartolomé de Las Casas, *Doctrina*, ed. Agustín Yáñez (México, 1951), pp. 169-170.

10. *Ibid.*, pp. 163-164.

11. Marcel Bataillon, "El Parecer de Yucay," in *Études sur Bartolomé de Las Casas* (Paris, 1965), p. 289.

Oaxaca, contrary to what happened in the Valley of Mexico and in northern Mexico, “pueblos and *cacicques* generally retained sizeable holdings, certainly more than sufficient to meet basic needs and escape dependence upon an alien landholder.” Hanke also has found that on a certain Mexican hacienda studied by the Czech scholar Bohumil Badura “the *hacendados* at times owed more to their peons than their peons were in debt to them.” These situations of course contradict the traditional picture of the colonial hacienda. They illustrate the rich variety of institutional and social arrangements that existed within the vast Spanish Empire in America. But do they really require us to suspend judgment concerning the weight and role of the colonial hacienda?

To generalize in history is to derive a principle, pattern, or regularity from particulars. The larger the number of particulars available for study, the more reliable is the generalization. But no historical generalization, to the best of my knowledge, is exempt from the rule of exceptions. The richness, complexity, and fluidity of the historical process ensure that no tendency ever achieves its logical culmination of completeness. It is well known that individual German Nazis befriended the victims of German Fascism. It is also well known that individual slaveholders in the Old South treated their slaves kindly. These exceptions do not invalidate the generally accepted view that Nazism and modern plantation slavery were oppressive, retrograde social systems.

These comments are pertinent to the valuable findings of Taylor and Badura. Provisionally, at least, those findings remain exceptions to the dominant trends and do not invalidate the amply documented generalizations concerning Spanish occupation of Indian lands by usurpation and other means and the parallel growth of Indian debt peonage.¹² It may be that further research will reveal that the re-

¹². I offer a few examples. In a report to Philip II the sixteenth-century *oidor* Alonso de Zorita wrote of conditions in New Spain: “The Spaniards have taken their [the Indians’] lands, pushed back their boundaries, and put them to the endless labor of guarding their fields against the Spaniards’ cattle, yet those cattle continue to eat and destroy the Indians’ crops. . . . That is why some Indian towns already are so diminished and encircled by Spanish farms that the natives have no space in which to plant.” Alonso de Zorita, *Life and Labor in Ancient Mexico* (New Brunswick, 1963), p. 109. Two centuries later (1778) the Franciscan Granados y Gálvez, Bishop of Sonora and Durango, complained that the owners of haciendas had pushed their landmarks up to the very edge of the Indians’ houses and had closed off the roads and paths leading out of their villages so that they could not even take a stick of wood from the hills and forests although the laws expressly granted them that privilege. Joseph Joaquín Granados y Gálvez, *Tardes americanas* (México, 1778), p. 378. In Venezuela, according to the Venezuelan scholar Arcelia Fariñas (who in general

verse of the traditional picture is true; it may reveal to our astonished gaze a sea of prosperous Indian communities surrounding islands of Spanish-held land whose owners were deeply in debt to the Indians. But until more evidence for this attractive picture comes to light we are justified, I believe, in holding on to the present generalizations on these subjects.

The crucial question is not one of the propriety of making generalizations, but rather of the kind of evidence on which a given generalization is based. Now, it is an elementary principle of historical method that official declarations, law codes, and the like, are relatively frail sources of historical information.¹³ They may reflect the controlling ideology of their time and place or the wishes of the legislator; they may or may not reveal the psychology of a people, as Hanke claims, but their probative value with regard to what really happened is often very small. In this respect, the Ordinances of 1573, which abolished "conquests" on paper, belong roughly in the same category as President McKinley's mystical account of how he received Divine guidance on the need to annex the Philippines, President Johnson's televised report on the conditions which allegedly forced him to intervene in the Dominican Republic in 1965, and the various official explanations for our presence in Vietnam.

is sympathetic to Hanke's point of view), "innumerable" usurpations of land took place; the number of denunciations of acts of this kind to the authorities is *incalculable*. An enlightened Intendant, José de Abalos, wrote the king (1773), lamenting the "abandonment" of the Indians and the fact that they lacked a protector against the "violent spoliations" to which they were subjected. Eduardo Arcila Fariás, *El régimen de la encomienda en Venezuela* (Seville, 1957), pp. 320-325. But the Crown itself was a party to Indian land usurpation on a grand scale through the device of *composición*—royal confirmation of title to usurped land in return for fees—among other means. François Chevalier has abundantly documented this process for New Spain in *La Formation des Grands Domaines au Mexique* (Paris, 1952), pp. 348-363. At the beginning of the eighteenth century in Peru, on the pretext that the lands occupied by the native communities were in excess of their needs, the authorities auctioned off the native lands throughout the sierra at the lowest point of the demographic curve of the native population; when the population began to increase again, the available land proved insufficient. As a result peonage sharply increased. By 1792, for example, the haciendas of the province of Paucartambo had absorbed the majority of the native population of the province. Karen Spalding, "Tratos mercantiles del Corregidor de Indios y la formación de la hacienda serrana en el Perú," *América Indígena*, XXX:No. 3 (July, 1970), 595-608.

13. "Many historians have altogether too respectful an attitude toward government documents and compilations. . . . Laws and regulations may seem to be totally impersonal documents at first glance, but a moment's thought reveals that they are the expression of the hopes, fears, commands, threats, or expectations of some individual or group of individuals." Louis Gottschalk, *Understanding History* (New York, 1950), pp. 105, 108.

It is not primarily a question of the sincerity of the Crown and the legislators who framed the Ordinances and other Indian protective legislation. The conservation of the Indian population—the real wealth of the Indies—was clearly in the Crown's interest. But laws remain mere words unless given effect, and the social reality in America (the presence of a powerful colonial elite determined to preserve its privileges) and the Crown's own narrow short-range interests (its need for revenue to finance wars and diplomacy and support a parasitic nobility) repeatedly made a mockery of the protective legislation. Manuel González Prada masterfully summed up the royal dilemma:

There could be no other result; exploitation was officially ordered; it was proposed to commit inequities humanely, and to consume injustices equitably. In order to eradicate abuses, it would have been necessary to abolish the *repartimientos* and the *mita*—in a word, to change the whole colonial system. Without the toil of the American Indian, the coffers of the Spanish treasury would have been emptied.¹⁴

Here a reminder is necessary. Some historians, fascinated by the frequent gap between Spanish colonial law and its observance, have overlooked the fact that in addition to the protective legislation, often flouted, there was a body of exploitative laws that was effectively enforced. John H. Rowe has done a service by calling attention to this fact:

Apologists of the Spanish colonial regime have claimed repeatedly that the laws themselves were humane and that the native complaints resulted from the failure of local officials to carry them out. Such a claim can only be made by a partisan selection of the laws considered. The laws which required forced labor at inadequate salaries were clearly exploitative, and so was the law which permitted the forced sale of goods at fixed prices. Other laws were, to say the least, discriminatory, like the ones which limited native land ownership to a low maximum figure while permitting the indefinite growth of Spanish estates. The assignment of Indians to forced labor in the mines equated them legally with Spaniards guilty of 'atrocious' crimes, for only the worst criminals were sentenced to this type of labor in Spain.¹⁵

¹⁴ Cited in Benjamin Keen, ed., *Readings in Latin-American Civilization* (Boston, 2nd ed., 1967), p. 379.

¹⁵ John H. Rowe, "The Incas under Spanish Colonial Institutions," *HAHR*, XXXII:2 (May, 1957), 190.

Rowe ends his article on the condition of the Incas under Spanish rule with the terse comment: "No wonder the Incas revolted."

II.

One of the "more obvious simplicities" found by Hanke in my note on the Black Legend derives from the conclusion to Charles Gibson's book on *The Aztecs under Spanish Rule*. Let me quote the pertinent passage textually:

The civilization became infused with Hispanic traits at many points, but it retained an essential Indian character, partly through the conviction of its members, partly because it was depressed to a social status so low that it was given no opportunities for change. One of the earliest and most persistent individual responses was drink. If our sources may be believed, few peoples in the whole of history were more prone to drunkenness than the Indians of the Spanish colony.¹⁶

In the body of his work Gibson attributed the widespread Indian drunkenness and the failure of official efforts to control it more specifically "to the deep-seated distress of native society from which intoxication offered a relief, and to the eagerness of liquor sellers to capitalize on this distress. Pulque production became a major industry of the Spanish haciendas."¹⁷

This explanation strikes me as entirely reasonable. To Hanke, however, it seems inadequate, and he charges Gibson and Keen with oversimplifying the causes of the problem. Hanke cites the eighteenth-century Jesuit Clavigero, who explained Indian addiction to liquor by a strong *propensión* which the severe laws of their ancient rulers repressed but which broke out under the laxer Spanish rule. Now, this notion of an Indian racial or national propensity for strong drink and other vices antedates Clavigero; we find it in various sixteenth-century chroniclers, sometimes associated, as in Sahagún, with a belief that this and other evil impulses were due to the baneful influence of the American climate, soil, and constellations.¹⁸ The notion that a propensity for strong drink is an inherent racial or national trait is both very old and very modern. In modern times the same explanation has been assigned for widespread drunkenness among Irish and Polish immigrants, blacks, and other ethnic groups subjected to severe social disorganization. It hardly merits a rebuttal.

16. Charles Gibson, *The Aztecs under Spanish Rule* (Stanford, 1964), p. 409. 17. *Ibid.*, p. 150.

18. Bernardino de Sahagún, *Historia general de las cosas de la Nueva España*, ed. Angel María Garibay K. (México, 4 vols., 1956), I, 13; III, 159.

Hanke's second point, based on Nathan Wachtel's unpublished study of conditions of Indians before and after the conquest of Peru, is really an expansion of his first point. "An argument may be made," he writes, "that greater access to hitherto denied goods was at least in part responsible for the Indians' addiction to drink under Spanish rule." If one asks the obvious question why the Indians did not employ this "greater access to hitherto denied goods" to improve their standard of living, the equally obvious answer must be that their better judgment was overpowered by the fatal *propensión* for drink. This second argument, whose essence is that the Indians "had it too good," is also quite ancient. The late seventeenth-century Mexican chronicler Vetancourt insisted that the burdens of the Indians were much lighter than they had been before the Conquest; if the Indians were not so lazy and given to drink, they would be rich, better off than the Spaniards.¹⁹ The prestigious late sixteenth-century Jesuit social scientist, Giovanni Botero, fused the *propensión* and the "they-had-it-too-good" arguments in his *Relationi Universali*. Botero, rejecting the view that Spanish mistreatment was the prime cause of the Indian population decline, laid greater stress on the introduction of new Spanish foods like beef, mutton, pork, and wine, more substantial than those to which the Indians were accustomed and therefore injurious to their health; and on the Indian addiction to drinking, gluttony, and lechery. The severe rule of their pagan kings had kept those propensities in check, but the mild Spanish yoke gave them an excessive freedom and leisure. "As a result of excessive eating and drinking, with all their train of harmful consequences, the parents are short-lived and the children acquire frail constitutions."²⁰ Hanke ends his discussion of Indian alcoholism by affirming that "the causes of this phenomenon are complex matters which cannot be adequately explained by sweeping pronouncements."

Hanke makes a mystery of a subject which in its general outlines is very adequately explained by Gibson as an Indian response to stress, abetted by the interest of Spanish *haciendados* and tavern-keepers in encouraging and maintaining Indian alcoholism.²¹ Curiously enough,

19. Agustín de Vetancourt, *Teatro mexicano* (México, 1696), pp. 331-332.

20. Giovanni Botero, *Relationi Universali* (Venice, 1596), Part I, Book 4, pp. 200-201; Part 4, Book 3, p. 66.

21. Zorita's "Brief and Summary Relation of the Lords of New Spain" supplies some interesting material on this point. "Much responsibility for the present excesses in drinking on the part of the Indians falls on those Spaniards and mestizos, men and women, who for love of an easy life have devoted themselves to making the native wine. These people lure the Indians into their homes and keep them there until they have gotten them drunk, for the Indians will pay

Hanke does not mention the specialized sociological and anthropological literature dealing historically with the problem of group alcoholism. An interesting parallel exists, for example, between the plague of alcoholism among the colonial Indians and the similar phenomenon that arose in eighteenth-century Europe as a result of the Industrial Revolution. "The displacement of large numbers of people from quiet rural environments to the factory slums of large cities," writes Chauncey D. Leake, "resulted in appalling misery. . . . Apparently in reaction to this misery, the poor classes had recourse increasingly to cheap and potent alcoholic drinks. . . . The gin mills of London and other big English cities became a national disgrace."²²

A classic anthropological study deals directly with the problem of Indian alcoholism. Ruth Bunzel published in 1940 the findings of her study of two Indian villages, Chichicastenango, in Guatemala, and Chamula, in the state of Chiapas, Mexico. Before the Conquest drinking in this area had been a form of religious worship, controlled and restricted, but under post-conquest conditions widespread secular drinking arose. The Spaniards encouraged the practice as a means of achieving economic domination over the natives. "Alcohol was one thing the Spaniards had which the Indians craved, and for which they would contract debts and sell themselves and their children into slavery." Under the Republic Indian alcoholism became an instrument for securing Indian laborers from highland villages for work in areas of intensive cultivation of coffee, sugar, and other products. Collusion between officials and plantation owners resulted in the imprisonment of Indians and the imposition of heavy fines for drunkenness. The plantation owners would pay these fines and gain the release of the Indians, who had to work off the fines on the plantations. In order to keep the Indians in debt, the plantation owner or his overseer encouraged drinking. As one coffee planter observed, "Take *aguardiente* away from the Indian, and what will become of coffee?"²³ Bunzel's article clearly demonstrates the essential con-

whatever is asked for the wine. . . . The profits of this business are great, for the cost of making the wine is small and they sell it at what price they please." Zorita, *Life and Labor in Ancient Mexico*, p. 133.

²² Chauncey D. Leake, "Good-Will'd Judgment on Alcohol," in Salvatore Pablo Lucia, ed., *Alcohol and Civilization* (New York, 1963), p. 9.

²³ Ruth Bunzel, "The Role of Alcoholism in Two Central American Cultures," *Psychiatry*, III:3 (1940), 361-387. For two theoretical formulations of the causes of alcoholism among primitives, see Donald Horton, "The Functions of Alcohol in Primitive Societies: A Cross-Cultural Study," *Quarterly Journal of Studies on Alcohol*, IV:2 (1943), 199-320; and Peter B. Field, "A New Cross-Cultural Study of Drunkenness," in David J. Pitman and Charles R. Snyder, eds., *Society, Culture, and Drinking Patterns* (New York, 1962), pp. 48-74. Horton

tinity of the problem of Indian alcoholism and its socioeconomic causes from the colonial period down to recent times.

III.

Hanke asserts that "Keen's own attempt to clarify and resolve the issues relating to the Black Legend introduces a number of doubtful generalizations of the 'Let the laws be obeyed, but not enforced' interpretation which I thought had been decently interred long ago." This assertion merits a detailed response.

To begin with, it must be reiterated that not all Spanish laws relating to the Indians were laxly enforced. On the contrary, the exploitative laws dealing with the *repartimiento* were pitilessly enforced until made obsolete by the emergence of a new mechanism of exploitation (debt peonage). There is much evidence, on the other hand, that the protective legislation was systematically flouted or "generally unimplemented" to use the expression in my note to which Hanke takes strong exception. Moreover, the Crown itself often closed its eyes to the non-observance of these laws. These facts are confirmed by the statements of colonial officials and by modern studies based on archival investigations.

Let me continue with a classic statement of the problem in a report to Philip II by Alonso de Zorita, a judge who retired to an honorable poverty in 1566 after nineteen years of administrative activity in Española, New Granada, Guatemala, and Mexico:

The wishes of Your Majesty and his Royal Council are well known and are made very plain in the laws that are issued every day in favor of the poor Indians and for their increase and preservation. But these laws are obeyed and not enforced, wherefore there is no end to the destruction of the Indians, nor does anyone care what Your Majesty decrees. How many decrees, *cédulas*, and letters were sent by our lord, the emperor, who is in glory, and how many necessary orders are sent by Your Majesty! How little good have all these orders done! Indeed, the more laws and decrees are sent, the worse is the condition of the Indians by reason of the false and sophistical interpretation that the

stresses the causal role of anxiety produced during acculturation, and regards the severity of acculturation by contact with Western civilization the best predictor of drunkenness. Field emphasizes the eventual disorganization and destruction of a tribe's social structure through prolonged, intensive contact with Western civilization. Neither study mentions a supposed native "propensity" for drink nor assigns any importance to "greater access to hitherto denied goods" as a causal factor in drunkenness among primitives.

Spanish officials give these laws, twisting their meaning to suit their own purposes.²⁴

Some may feel that Zorita's testimony is suspect because he belonged to "the Las Casas-Fuenteal-Mendieta anti-*encomendero* school of thinking."²⁵ Let me cite, therefore, the testimony of a jurist of great authority, Juan Solorzano y Pereira, who is certainly not open to such suspicion. Writing on the *mita* and the numerous grave evils associated with it, Solorzano observed that "the many laws and ordinances that have been made for the relief and defense of the Indians, and for the mitigation (*suavizar*) of the forced labors known as the *mitas*, have not sufficed to remedy those evils."²⁶

A commonplace of the modern literature on the colonial period of Latin American history is the gap between Spanish colonial law and its observance. "An interesting feature of Spanish imperial law," writes Charles Gibson, "is that it was so often disobeyed. . . . One of the most intriguing paradoxes of Spanish American history involves the straight-faced repetition of legal rules in conjunction with the persistent, and expected, violation of them."²⁷ John Phelan sees this gap as inevitable, given the conflict of goals and standards inherent in the system.

The distance between observance and nonobservance was a necessary component of the system. Given the ambiguity of the goals and the conflict among the standards, all the laws could not be enforced simultaneously. The very conflict among the standards, which prevented a subordinate from meeting all the standards at once, gave subordinates a voice in decision making without jeopardizing the control of their superiors over the whole system.²⁸

The conflict of goals and standards found its most acute expression in the clash between the Crown's protective Indian legislation and the drive of colonial elites for maximum profits. No wonder, therefore, that noncompliance with the laws was most common in this area.

By way of example let me briefly survey the fate of the protective legislation dealing with the *obraje*, one of the worst scourges of the colonial Indian population and repeatedly prohibited or regulated by the Crown. Bourne himself conceded that the prohibition of forced

²⁴ Zorita, *Life and Labor in Ancient Mexico*, pp. 216-217.

²⁵ Simpson, *The Encomienda in New Spain* (1950 ed.), p. 152.

²⁶ Juan de Solorzano y Pereira, *Política indiana* (Buenos Aires, 5 vols., 1930), I, 166.

²⁷ Charles Gibson, *Spain in America* (New York, 1966), p. 110.

²⁸ John L. Phelan, "Authority and Flexibility in the Spanish Imperial Bureaucracy," *Administrative Science Quarterly*, V (1960), 63-64.

labor in *obrajes* “would seem to have been a dead letter in Peru.”²⁹ Phelan devotes a chapter to the subject in his recent book on Quito in the seventeenth century. It is a melancholy tale of heartless exploitation and the use of the “I obey, but do not execute” formula by officials caught between the Crown’s efforts at reform and the pressure of the *obraje* owners, who included the Church, religious orders, merchants, Spanish nobles, and officials.³⁰ The latest scholar to study the *obraje*, Richard Greenleaf, concludes:

Sweatshop working conditions prevailed throughout three centuries of Spanish domination in Mexico. Indian slavery, debt peonage, harsh treatment, child labor, and bad food, clothing, and shelter—all of these were characteristic of the Mexican colonial *obraje*. . . . No matter how much humanitarian reformers and mercantile monopolists might complain, the royal government had to tolerate abuses, because *obrajes* were useful and necessary to the economy.³¹

A final comment on the history of protective Indian legislation and its enforcement: Hanke cites the New Laws of 1542 to show that the colonists did take the laws seriously. “Those who rebelled against the New Laws of 1542 designed to protect the Indians did so because they feared their enforcement, and they did not rest until they managed to get some of the more stringent ones watered down.” I do not question that the colonists took seriously Indian legislation which threatened their interests. But Hanke seems to overlook the prime significance of the New Laws and their defeat. The first modern editor of Las Casas’ *Very Brief Account*, the Mexican insurgent leader Servando Teresa de Mier, a figure of considerable intellectual distinction and learning, understood that meaning well. In his prologue to an 1821 edition of the *Very Brief Account* Mier observed that what distinguished the New Laws from previous reform legislation was the determination of the Crown to secure enforcement through the dispatch of judges who should execute the laws without admitting appeals or other delays which had frustrated such efforts in the past. In the sequel, however, the resistance of the colonists caused the partial repeal of the laws; and the *encomenderos* launched

29. Bourne, *Spain in America*, p. 264.

30. John L. Phelan, *The Kingdom of Quito in the Seventeenth Century* (Madison, 1967), pp. 66-85.

31. Richard E. Greenleaf, “Viceregal Power and the *Obrajes* of the Cortés Estate, 1595-1708,” HAHR, XLVII:3 (August, 1968), 365-379.

a counter-attack designed to "feudalize" America forever. Las Casas, wrote Mier, "courageously opposed this feudalism."³²

In effect, the partial repeal of the New Laws represented a turning point, a decisive victory for the creole "feudalism" that was arising in the Indies. Never again would the Crown risk a bloody confrontation of the kind that had occurred in Peru with the *encomendero*-conquistadors. Under Philip II the Lascasian movement, which supplied the principal impetus for a policy of enforcing the Indian protective laws, sank into disfavor and discredit. The conquistador-*encomendero* had won hands down. Henceforth, as illustrated by the case of the *obraje*, total or partial retreat followed every major Crown effort to enforce Indian protective legislation. The creole aristocracy no longer had to brandish arms or the threat of arms. The mobilization of its considerable economic and political resources, the dispatch of procurators to Court, pressure on pliant local officials faced with the conflict of goals of which PheLAN speaks, sufficed to achieve its ends.

IV.

Hanke objects to my "simplistic" conclusion that the Ordinances of 1573, which according to Hanke put the ideas of Las Casas on the law books, did not put a stop to "war by fire and sword" and slave-hunting against the Indians. In support of his thesis of the effectiveness of "the post-1573 policy on peaceful conquest" he cites the studies of Spanish border warfare in New Spain and Chile by Powell and Korth.³³ I should add parenthetically that neither study refers to the ordinances to which Hanke attaches such decisive importance.

The two principal theaters of frontier war and slavehunting in the Spanish Empire in America in the sixteenth and seventeenth centuries were its two extremities, northern New Spain and Chile. As late as the middle of 1585, twelve years after the adoption of the Ordinances of 1573—surely time enough for Philip's long arm to stretch out to save the Indians on New Spain's frontiers "from oppression and error"!—Indian war and enslavement continued undiminished in that area. Indeed, according to Powell, the Indian slave system "seems to have reached its height in the period 1575-1585," that is, after the

32. "Discurso Preliminar del Doctor Don Servando Teresa de Mier," in Las Casas, *Breve relación de la destrucción de las Indias Occidentales* (Philadelphia, 1821), pp. xii-xiii.

33. Philip W. Powell, *Soldiers, Indians, and Silber. The Northward Advance of New Spain, 1550-1660* (Berkeley, 1952); Eugene H. Korth, S. J., *Spanish Policy in Colonial Chile* (Stanford, 1968).

promulgation of the famous ordinances which substituted "pacification" for "conquest." Powell goes on to observe that in general "the wide gap existing between official policies—based on the antislavery objectives of the New Laws (and others)—and the interests of those on the frontier who believed in the necessity of Chichimeca enslavement (or wished it as a means of profit) was not lessened before the accession of Villamanrique in 1585."

Now, under Viceroy Villamanrique, to be sure, the liquidation of the long Chichimeca War was begun by methods which had been urged upon Philip II by the Franciscans and Alonso de Zorita as early as 1561—the methods summarized by Hanke as "peace by purchase (supplies of food, clothing and all the paraphernalia of sedentary living) and 'peace by persuasion' (diplomacy and missionary effort)."³³ Did this change come about because of a principled desire to make Spanish practice conform to the ideals of the Ordinances of 1573? Powell stresses rather the futility and immense financial burdens of the old method. "Increased soldiery and the '*guerra a fuego y sangre*,' did not bring peace in the 1580s. Rather, the Chichimeca hostility and damage continued to increase during those years. . . . Pacification by the sword had proven inefficient and largely ineffective, and changes were necessary." Or, as Viceroy Villamanrique pointed out in a letter to the king, the old method "had done nothing but spend—fruitlessly—many thousand pesos from the royal treasury."³⁴

In Chile, on the other hand, the long Araucanian war dragged on almost uninterruptedly till the beginning of the eighteenth century. According to Professor Korth, the principal cause of the war was "the harsh treatment that the Indians experienced at the hands of the whites, many of whom looked upon the war as a convenient way of solving the labor problem and of acquiring slaves for their farms and *haciendas*." Here, as elsewhere, protective Indian legislation "was frequently a dead letter."

In 1573—the year of the ordinances abolishing conquests in the Indies!—Philip II appointed Rodrigo de Quiroga as governor of Chile. The new governor, says Korth, firmly believed in obligatory personal service for the Indians and the use of force to solve the Indian problem. The strategy he devised and executed in 1577 is in such startling contrast with the mellifluous language of the ordinances just promulgated that it is worth quoting Korth's summary:

The plan Quiroga intended to follow in pacifying the frontier called for penetration into enemy territory, the execution of

34. Powell, *Soldiers, Indians, and Silver*, pp. 109-111, 181-184.

prominent chiefs, the forced deportation of prisoners of war, and their reduction to slavery in the gold mines of the north. These strategies were not unusual in the sixteenth century, but Quiroga's plan had an additional feature: the captured rebels were to be 'disabled' in order to minimize the chances of escape. Had the Araucanians been aware of what this implied, it is doubtful whether any of them would have surrendered, for 'disablement' left the victims permanently maimed. With a chisel or sharp machete, a foot was hacked off around the ankle, after which the mutilated stump was thrust into a cauldron of boiling tallow to stop the bleeding. The wonder is that any of the victims was expected to survive.

This strategy had the support of Francisco de Toledo, Viceroy of Peru; Quiroga claimed it also had the approval of Philip II: "His Majesty approved this course of action in a cedula authorizing me to do what I think best in the case."³⁵

By the end of the sixteenth century, writes Korth, "the cost to the Crown in terms of men, money, supplies, border maintenance, and defence had already assumed formidable proportions, with little to show for the investment. Something was clearly wrong. . . ." The Viceroy of Peru consulted Fray Luis de Valdivia and other experts who agreed that "the *servicio personal* was the principal cause of native disaffection and that its abolition was essential to the cessation of hostilities." Valdivia was allowed to initiate negotiations with the Araucanians (1612) that led to a temporary stabilization of the southern frontier. But opposition to the strategy of "defensive warfare" by the Spanish colonists, abetted by the yielding attitude of Philip IV, soon brought this peaceful interlude to an end. Again, "brutality and greed stalked the frontier."

Korth stresses that when relations between whites and Indians began to change perceptibly, after 1700, the basic reason for the change was "the emergence of a *mestizo* laboring class, a product of the miscegenation of the preceding century. With the appearance of this new social and economic force, dependence on Indian labor began to decline and with it one of the basic causes of friction between the two races."³⁶ Clearly, the Ordinances of 1573 and similar legislation had little or nothing to do with the final stabilization of the Araucanian frontier.

V.

Hanke challenges my assumption that the seriousness of the effort

35. Korth, *Spanish Policy in Colonial Chile*, pp. viii, 23, 63-64.

36. *Ibid.*, p. x.

made by Spain in behalf of her Indian subjects should be measured “not by the volume of legislation or of debate on the subject, but by such pragmatic criteria as Indian population trends and living standards.” Striking a relativist posture, he argues that the criteria of desirable living standards vary from century to century and from individual to individual according to one’s values in life, and that the standards of Philip II and his advisers differed from mine. To illustrate the variety of standards among the Indians he tells a pleasant anecdote related by the Spanish chronicler Herrera: one *indio discreto* singled out the Spanish gifts of the egg, the horse, and the candle as most important of all because of the manifold benefits they brought to the Indians. We know nothing more of this *indio discreto* and therefore cannot determine how representative was his opinion. Far more informative, I believe, is the following statement by the distinguished seventeenth-century Mexican *mestizo* historian Ixtlixochitl, who studied at the Franciscan Colegio de Santa Cruz at Tlatelolco and held various posts under the Spanish colonial administration:

So great is their misery that I have read in many books which treat of the tyrannies and cruelties of other nations that neither separately nor all together can these tyrannies compare with the toil and slavery imposed on the Indians. The Indians themselves say they would prefer to be branded slaves, and not live as they do today, for if they were slaves the Spaniards would show some mercy toward them in order not to lose their money. These Indians are so miserable that if one stumbles and falls and complains of his hurt, the Spaniards are as happy as they can be; and on top of that they rain every imaginable curse on him. If an Indian dies, the Spaniards say the Devil should have carried them all away. I say these things because they happen every day and I hear them said, but since God permits it, His majesty must know the why thereof. Therefore let us thank Him for it.³⁷

Other revealing statements occur in a report by the well-educated mestizo nobleman Juan Bautista Pomar, writing in 1582. Particularly valuable are his indications concerning Indian health before and after the Conquest in the area of the former Aztec Empire. With muted sadness, Pomar compared the material and moral condition of the Mexican Indians before and after the Conquest. Before the coming of the Spaniards, he claimed, the Indians enjoyed excellent health; pestilence was unknown. Death came only to the very old or to very young infants. If an Indian died between these extremes

37. *Obras históricas de Don Fernando de Alva Ixtlixochitl*, ed. Alfredo Chavero (México, 2 vols., 1891), II, 301.

of infancy and old age it was regarded as a very strange, evil omen. Their forebears had never seen such epidemics as had struck them since their conversion to Christianity. It was commonly said that only a tenth remained of the Indian population that existed at the time of the Conquest.³⁸

Pomar declared that considerable inquiry into the subject had not given a completely satisfactory answer to the question of why the Indians had previously enjoyed such good health and why they suffered so much from disease at present. But all who gave the matter thought agreed that a principal cause was the excessive labor performed by the Indians on Spanish farms and ranches, and in the mines. Hunger and fatigue weakened the Indians to the point where the slightest illness carried them away. Lack of will to live contributed to this debility. Pomar referred to the "affliction and fatigue of their spirits because they had lost the liberty that God had given them, for the Spaniards treat them worse than slaves."³⁹

A desolate picture of the state of the Peruvian Indians emerges from *El Primer Nueva Corónica y Buen Gobierno* of the Inca noble Felipe Guaman Poma de Ayala, who left his home and estate in 38. "Relación de Texcoco," in Joaquín García Icazbalceta, ed., *Nueva colección de documentos para la historia de México* (México, 5 vols., 1886-1892), III, 53-55. Pomar's testimony agrees closely with the findings of Sherburne F. Cook, "The Incidence and Significance of Disease among the Aztecs and Related Tribes," *Hahr*, XXVI:3 (August 1946), 320-335. Cook concluded: "The archaeological and historical record indicates a race which was remarkably free from devastating epidemics and from generalized chronic endemic ailments. There are few cases of serious or widespread illness in historic times and within at least two hundred years of the conquest; all of these can be classified as secondary to physical exposure and starvation."

Also of interest is Pomar's indication that the Indian population was only a tenth as large in 1582 as it had been in 1519; this closely approximates estimates of a population loss of up to 90 percent by the early seventeenth century for the highland area of New Spain by L. B. Simpson, S. F. Cook, and Woodrow Borah.

39. Observe Pomar's careful weighing and balancing of the factors responsible for the enormous mortality associated with the Indian epidemics. Recently there has existed a tendency to accept uncritically a fatalistic "epidemic-plus-lack of acquired immunity" explanation for the massive decline of Indian populations, without sufficient attention to the socioeconomic factors (overwork, malnutrition, lack of will to live, and the like) which predisposed natives to succumb to even slight infections.

In the case of the disappearance of the West Indian native population, this explanation simply will not wash. A count made on Española during Columbus' life by his brother the *Adelantado* gave an Indian population of about 1,100,000. In King Ferdinand's time a friar reported at Court that that figure had fallen to about 11,000. Las Casas estimated that 12,000 remained in 1516; three years later the Dominicans of Española gave a figure of from 8 to 10,000 (Marcel Bataillon, *Études*, p. 12). It should be mentioned that there is no record of an

order “to know the needs of, and to redeem the poor Indians, for whom there is no justice in this kingdom,” and who hoped that his book would be read by Philip III. Guaman Poma de Ayala’s painful effort to express himself in the unfamiliar Castilian tongue, the passionate rush of words interspersed with Quechua terms, the melancholy and disillusioned tone of the work, testify to the author’s sincerity and the reality of the abuses he denounces. Spanish soldiers and travelers enter the Indian villages, take what they will, load the Indians down with burdens, *y no hay remedio*; the *corregidores* “are like serpents, ferocious animals who eat people, who strip the Indians of their property and never tire of oppressing them with labor,” *y no hay remedio*; the *encomenderos*, “like ferocious pitiless lions,” exact excessive tribute and toil from the Indians, *y no hay remedio*; some curates and religious, instead of devoting themselves to the cure of souls, hoard up silver, keep concubines, and “skin the poor Indians alive,” *y no hay remedio*. Poma de Ayala contrasts this riot of arbitrary violence and disorder with the peace and good order of Inca times, when doors, locks, and keys were unknown, when two crossed sticks sufficed to make a house safe from entry.⁴⁰

These were the results for the Indians (as reported by three native or *mestizo* informants of considerable authority) of that passionate Spanish attempt “to discover what was the just treatment for the native peoples under [Spain’s] jurisdiction” which arouses Hanké’s admiration. The conclusion is inescapable, even after discounting the inevitable idealizing effect of nostalgia for the “good old days,” that the material and moral condition of the Indians deteriorated under Spanish rule.

epidemic of any kind on Española before December 1518 or January 1519. Alfred W. Crosby, a recent writer on the subject, concedes “there is no record of any massive smallpox epidemic among the Indians of the Antilles for a quarter of a century after the first voyage of Columbus. Indians apparently suffered a steady decline in numbers, which probably was due to extreme overwork, other diseases, and a general lack of will to live after their whole culture had been shattered by alien invasion. . . .” (“Conquistador y Pesteñencia: The First New World Pandemic and the Fall of the Great Indian Empires,” HAHR, XLVII:3 (August, 1967), 326). Nor can all references to epidemics be taken at face value; Juan Friede has found significant discrepancies between chroniclers who report epidemics in certain provinces of New Granada and local archival records which are silent on such an important topic. “Demographic Changes in the Mining Community of Muzo after the Plague of 1629,” HAHR, XLVII:3 (August, 1967), 338-343. For a recent study of colonial epidemics that takes proper account of the relationship between disease and the social environment, see Donald B. Cooper, *Epidemic Disease in Mexico City, 1761-1813* (Austin, 1965).

⁴⁰ Felipe Guaman Poma de Ayala, *Primer Nueva Corónica y Buen Gobierno*, ed. Arthur Posnansky (La Paz, 1944), pp. 899-900, 929, and *passim*.

Basing myself on the testimony of native and Spanish sources, and especially on official replies to the royal questionnaire of December 20, 1553, eight years ago I wrote in my introduction to a relation of Alonso de Zorita:

In spite of the evils that darkened the life of ancient Mexico, it may be affirmed that Indian morale and living standards were higher before the Conquest than after that event. All the available data on population trends and the history of the tribute question in the post-Conquest period force that conclusion on the student of the subject.⁴¹

In the light of Gibson's basic work and other studies of colonial Mexico that have appeared since I wrote those words,⁴² I see no reason to change that opinion.

The conclusion is also inescapable, it seems to me, that the practical essence of Spain's Indian policy was, in the words of Stanley and Barbara Stein, "brutal exploitation of Amerindian masses." I join the Steins in cautioning that to concede this is not to

indict a people but a system. Obviously, only a minority of Iberians profited from the overseas possessions while the mass of Iberians remained oblivious or powerlessly aware of colonial oppression. Nor is it intended to overlook the fact that sensitive Spaniards and Portuguese often denounced exploitation and inhumanity perpetrated by their fellow Europeans in the American colonies.⁴³

The true glory of Spain is not the effort of her kings—who without exception accepted, enforced, and benefited by the system of colonial oppression—to "discover what was the just treatment for the native peoples under [their] jurisdiction," but that small group of Spaniards who vainly fought for the abolition of that system. Among that small minority the most resplendent figure is Bartolomé de Las Casas, who, vaulting the centuries, proclaimed in the sixteenth century the unity of mankind, the principle of self-determination, and the right of all men to the satisfaction of their elementary material and cultural needs. Our time, which is witnessing the liquidation of colonialism, is a time of full vindication of Las Casas and his ideals.

41. *Life and Labor in Ancient Mexico*, p. 72.

42. I should add to the studies previously mentioned the important articles on the Third Mexican Church Council by Stafford Poole, C.M., especially "The Church and the Repartimiento in the Light of the Third Mexican Council, 1585," *The Americas*, XX (July, 1963), 3-36.

43. Stanley and Barbara Stein, *The Colonial Heritage of Latin America* (New York, 1970), pp. 78-79.