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The Person, Natural Law, and the Good of Pluralist Societies: Some Thoughts from Maritain's Political Philosophy

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Introduction

I have spent the academic year 2007-2008 on sabbatical, which included reading fifty-four of Maritain's works and taking over eighteen hundred pages of notes. I undertook this task as most of Maritain's works in English are devoid of a subject index. Contemplative as this exercise was, it confirmed a suspicion I had many years ago when writing my doctoral thesis that the expansiveness and breadth of Maritain's thought is difficult to synthesize as it is to isolate his major themes and to develop them independently. His intellectual corpus constitutes one philosophical mountain.

Pluralism and multiculturalism are topical, both philosophically and democratically, and much has been written about them. "Human Equality," Chapter One of Maritain's *Ransoming the Time*, written well before pluralism and multiculturalism became popular, cuts through this great jungle of literature. The universality of human nature becomes Maritain's sticking place where democracy cannot fail. For his part, Pierre Trudeau in his essay "The Values of a Just Society," says that federalism is "a superior form of government; by definition, it is more pluralist than monolithic and therefore respects diversity among people and groups."¹ What Trudeau does not develop and what Maritain does is to lay the foundation to understand

¹ Thomas Axworthy and Pierre Elliott Trudeau. Eds. *Toward A Just Society: The Trudeau Years*. Translations into English by Patricia Claxton. (Markham Ontario: Viking, 1990), p. 360.

diversity: the primacy and unity of human nature. Canadian pluralism and multiculturalism, as they stand, appear to lack the intellectual backbone of a political philosophy. What's more, the rise and prominence of religion as a source of primary identity is calling into question the liberal agenda of the celebration of diversity for its own sake. While cultural, religious, ethnic, political, social, and educational differences have existed in Canada in varying degrees, they were, by and large, united by a tradition and a canon generally called Western, and I say that with the necessary qualifications to the First Nations of this country. However, this unity no longer exists; in addition, diversity, pluralism, and multiculturalism as an end in itself appear to be less convincing to recent immigrants bound by a prior religious identity.

The state, says Trudeau, exists for its citizens and not the other way around. It exists in order to make it "easier" for its citizens "to attain some of their common objectives" while the legal system endeavours to "safeguard the development of its citizens."² Western democracies are finding it increasingly difficult to unite their citizens through even a minimal set of common objectives. And while Canada is justly proud of its record of multiculturalism, the demographics show an increasing move towards a religious and ethnic ghettoization. Indeed, the fundamental question as to why live in society seems to be unanswered. Is not the state's assurance of rights and duties equally an assurance for citizens to live private or even ethnically and religiously communal but democratically private lives? Human identity, Charles Taylor reminds us, is not worked out in isolation, but negotiated through dialogue, "partly overt, partly internal, with others....My own identity crucially depends on my dialogical relations with others."³ Maritain, for his part, argues convincingly of the need of some prior clarity, some first principles in order for a pluralist society to move forward. He would heartily agree with Joseph Pieper that political life becomes "empty agitation if it does not aim at something which is not political."⁴

I have divided this paper into three sections: first, the person and political society; second, the natural law and the common good; and the third, pluralism and the perfection of the citizen.

1. The Person and Political Society

In the heart of *The Person and the Common Good* Maritain devotes a chapter to the distinction between the materiality of individuality and the metaphysics

² Pierre Elliott Trudeau, *Federalism and the French Canadians* (Toronto: Macmillan of Canada, 1968), xxii.

³ Charles Taylor, *Multiculturalism and the Politics of The Recognition*, with commentary by Amy Gutman, ed. by Steven C. Rockefeller, Michael Walzer and Susan Wolf (Princeton, New Jersey: Princeton University Press, 1992), p. 34.

⁴ Josef Pieper, *An Anthology* (San Francisco: Ignatius Press, 1989), p.122.

of personality, a distinction made without apology or the distraction of practical political concerns. Accordingly, knowledge and intelligence, good will and love⁵ are the means by which human personality is manifested in the context of the social:

The person is a whole, but it is not a closed whole, it is an *open* whole. It is not a little god without doors or windows, like Leibnitz's monad, or an idol which sees not, hears not, speaks not. It tends by its very nature to social life and to communication.⁶

The being that is called to do good and to avoid evil, and to apply this concretely to life and living, is a being that possess a nature that Maritain takes for granted:

...I have not space here to discuss nonsense (you will always find very intelligent philosophers to defend it more brilliantly) I am taking it for granted that you admit that there is human nature, and that this human nature is the same in all men. I am taking it for granted that you also admit that man is a being gifted with intelligence, and who, as such, acts with an understanding of what he is doing, and therefore with the power to determine for himself the ends which he pursues.⁷

What is important to note in the context of Canadian multiculturalism and pluralism is that Maritain's stress on the role of intelligence, a spiritual intelligence, in political society places a great responsibility and ennobles the person as a citizen. For their part, modern pluralist democracies have narrowed the political arena thereby narrowing the function of intelligence. The person in political community is ennobled by a prior spiritual and transcendental dignity, and while a secular society may not agree as to the source of this dignity, Maritain's stress on the role of intelligence in furthering the development of political society becomes the metaphysical principle that binds citizens in achieving a common practical end. To use his image from another context, a practical end that is "...bathed in intelligence and in an intelligence set free."⁸ Human beings are metaphysical beings, who must deliberate their own ends, both personally and communally, and guided

⁵ See Jacques Maritain, *Education at the Crossroads* (New Haven and London: Yale University Press, 1943), pp.7-8. See also, Jacques Maritain, *Scholasticism and Politics*, translation edited by Mortimer J. Adler (London: Geoffrey Bles, 1954), pp. 50-51.

⁶ Jacques Maritain, *The Rights of Man and Natural Law*, tr. by Doris C. Anson (New York: Charles Scribner's Sons, 1947), p.5.

⁷ *Ibid.*, p.60.

⁸ Jacques Maritain, *Ransoming the Time*, tr. by Harry Lorin Binsse (New York: Gordian Press, 1972), p.229.

by reason and intellect.⁹ The stress that modern society lays upon freedom is also stressed by Maritain but with a different emphasis and hoped for outcome: "...this metaphysical root [free will] must grow and develop in the psychological and moral order. We are called upon to become in action what we are already in the metaphysical order: a Person."¹⁰ Maritain takes it for granted, in spite of the evidence of sin and strife, that civilizations and cultures do strive for virtue and perfection,¹¹ individually and collectively, and that this striving is secured upon the metaphysical order of the root of the person.

Behind Maritain's political philosophy lies the conviction that human persons, particularly through the freedom of autonomy and independence, rather than only through the freedom of choice, are, through the unity of the spiritual faculties, "co-workers with God in history."¹² But objections as to the introduction of God into political philosophy are met by Maritain by his distinction of the levels at which human beings live their personal as well as their social and communal lives, distinctions that illustrate the metaphysical differences at the heart of human beings and which have "their source and origin in potency and act that go to constitute created being[s]."¹³ Personality seeks social life on its way to a society of Divine Persons, but, and again before the wringing of hands by the secular critic as to the exclusivity of theological language, Maritain in his *Philosophy of History* introduces the following remarkable clarification:

...the natural end of the world, though it is not the absolute supreme end, is nevertheless, a real end; it is not a mere means. This is a point which is, in my opinion, quite important for the philosopher of history, or of culture in general. In other words, temporal things are not mere means with respect to the attainment of the supernatural end. Of course, they are ordained to it, but not as a mere means ordained to an end. I would say that they are intermediate or *infravalent* ends – they are possessed of an intrinsic merit and goodness in themselves...¹⁴

While modern society, Maritain says, can be justly proud of its devotion to the rights of the human person, the loss of the "sense of purpose or finality" in

⁹ See Jacques Maritain, *Freedom in the Modern World*, tr. by Richard O'Sullivan (New York: Gordian Press, 1971), pp.14-15 & p.6.

¹⁰ *Ibid.*, p.30

¹¹ See, *Ibid.*, p.44.

¹² *Ibid.*, p.136.

¹³ *Ibid.*, p.51.

¹⁴ Jacques Maritain, *On the Philosophy of History*, ed. by Joseph W. Evans (New York: Charles Scribner's Sons, 1957), p.131.

human history and society has led to a confusion of these distinctions.¹⁵ This loss can be prevented by remaining faithful to a primary distinction of political philosophy that the person is both inferior and superior to political community, a superiority based upon the metaphysical root of personality and an inferiority based upon the needs and requirements of material individuality alone.¹⁶ With the advent of an anthropocentric humanism, however, the “center of gravity in the human being has sunk so low that, properly speaking, we no longer have any personality, but only the fatal movement of polymorphous larvae in the subterranean world of instinct and desire.”¹⁷ Doing good and avoiding evil are not only difficult in such a context but the very nature of good and evil are determined through the lens of instinct and desire.

In spite of his stress upon the spiritual nature of the person and the person's calling to share in the Divine Life, Maritain makes a bold statement as to the end of political society, one which has profound implications in doing good and avoiding evil:

The end of political society is not to lead the human person to his spiritual perfection and to his full freedom of autonomy, that is to say, to sanctity, to a state of freedom which is properly divine because it is the very life of God living then in man. Nevertheless, political society is essentially destined, by reason of the earthly end itself which specifies it, to the development of those environmental conditions which will so raise men in general to a level of material, intellectual, and moral life to accord with the good and the peace of the whole, that each person will be positively aided in the progressive conquest of his full life as a person and of his spiritual freedom.¹⁸

The end of political society is intricately linked to the unfolding of history, which is fashioned by a combination of uncreated and created freedom; but the error is to envisage created freedom, human freedom, solely as freedom of choice. Rather, freedom of choice is a stepping-stone to freedom of autonomy, and it is through the individual and collective realization of the freedom of autonomy that the state achieves its goals and realizes its ends.¹⁹ Maritain's historical concerns were focused on three extreme positions with regard to political freedom: the first was a communist-totalitarian position

¹⁵ Jacques Maritain, *The Range of Reason* (New York: Charles Scribner's Sons, 1953), p.188.

¹⁶ See Maritain, *Scholasticism and Politics*, pp.60-61.

¹⁷ Jacques Maritain, *Integral Humanism: Temporal and Spiritual Problems of a New Christendom*, tr. by Joseph W. Evans (Notre Dame: University of Notre Dame Press, 1973), p.29.

¹⁸ *Ibid.*, p.134.

¹⁹ See Maritain, *Freedom in the Modern World*, p.28ff.

which determined that the purpose of the social whole was the “industrial domination of nature,” the second, a totalitarian-racist position which led to the “political domination” of others.²⁰ But it is his third distinction that should concern us today, a “bourgeois-individualistic” conception of freedom devoid of a common work and hence communion. As Maritain says, “each one asks only that the State protect his individual freedom of profit against the possible encroachments of other men’s freedoms.”²¹ The state simply exists as a referee monitoring between the protection and encroachments of the individual’s freedom; it becomes the guarantor of freedom of choice, circumscribed by the law; there is neither a need nor a common vision to strive for the freedom of autonomy. Doing good and avoiding evil are no longer related to the person; they are both private and individual. An integral political society in being comprised of persons who manifest themselves by doing good and avoiding evil is ordered to a common good which is more than a collection of private goods. Human persons can only strive to do good and avoid evil in political society in so far as such a society is comprised of a communal and personal dimension, though not exclusively personal or communal, as there is “a reciprocal subordination and mutual implication.”²²

In order for history to be truly human and to be the record of virtuous progress, human persons must move from the freedom of choice to the freedom of autonomy. Accordingly, history becomes the “ceaseless effort of reason and of will, of imagination and of virtue, rescuing from the evil of the time and fashioning from the tools that are at hand things consonant with the temporal and the eternal good of the human beings.”²³ Earthly community is not ready-made, but realized through virtue and manifested in the common work to be done.²⁴ In the opening paragraph of the first chapter of the *Range of Reason*, Maritain sets out the enormous task and responsibility of freedom with regard to history:

History is not a mechanical unfolding of events into the midst of which man is simply *placed* like a stranger. Human history is human in its very essence; it is the history of our being...inhabited and enlightened by the spirit and endowed with the dangerous privilege of freedom.²⁵

²⁰ See, Maritain, *Rights of Man and Natural Law*, p. 42.

²¹ *Ibid.*, p. 39.

²² Jacques Maritain, *The Person and the Common Good*, translated by John J. Fitzgerald (Notre Dame, IN: University of Notre Dame Press, 1966), p. 65.

²³ Maritain, *Rights of Man and Natural Law*, p. 81.

²⁴ See Maritain, *Scholasticism and Politics*, p. 66.

²⁵ Maritain, *The Range of Reason*, p. 3.

And then at the close of this same work, its author says the following about the “natural energies of human history”:

Human history moves in a definite direction. It depends on both natural and spiritual energies, and among all kinds of conflicts it tends to the natural fulfillment of mankind – namely the progressive manifestation of the essence and potentialities of man, the progressive development of the structures of his knowledge, his moral conscience, and his social life, mankind’s progressive conquest of unity and freedom.²⁶

Maritain would agree with those who have said that the more we know about ourselves and our relationship to the order of created freedom, the more we will learn about the natural law.²⁷ However, as Charles Taylor reminds us in *The Malaise of Modernity*, liberal society tends to be neutral on what the good life consists of in the first place.²⁸ Rather, liberal society, secured on what Taylor calls a “culture of authenticity,” encourages a purely individual understanding of “self-fulfillment.”²⁹ This reality complicates Canadian political culture with its stress upon pluralism and multiculturalism which emphasizes differences, cultural and other differences, without the corresponding foundation needed to hold these differences together in political community. Taylor reminds us, as does Maritain that if men and women are equal it is not because they are different but because there is something that overrides these differences. Certain values and beliefs must be held in common to supersede these differences and bind us within political society.³⁰ We may have moved from the bourgeois individualism that Maritain speaks of to a tribal pluralism and multiculturalism based upon the differences of race, creed, and ethnicity and secured only by a common material thirst for all that a capitalistic economy provides and wrapped with the ribbon of rights and privileges guaranteed by the state. Pluralism and multiculturalism armed with all the principles of political correctness has greatly narrowed the public political arena where the good must be done and the evil avoided, and it has seriously fragmented the communal political need in agreeing as to what the good and evil of political society are and indeed why they must be pursued and avoided respectively. Not only have our politics of difference, whether based on creed, language, culture or religion, or based upon the differences of sexual identity, ideologies, and all the other

²⁶ *Ibid.*, p.203.

²⁷ *Natural Law and Modern Society*, introduced by John Cogley (Cleveland and New York: The World Publishing Company, 1963), p.23.

²⁸ Charles Taylor, *The Malaise of Modernity* (Concord, Ontario: Anansi, 1991), p. 17.

²⁹ *Ibid.*, p.43.

³⁰ See *Ibid.*, pp.51-52.

expressions that we house under the term secularism, this politics of difference has diminished our understanding of the common good and its relationship to the natural law. For Maritain, striving for the common good is based upon its corresponding relationship to the natural law, and it is to that topic that I now turn.

2. The Natural Law and the Common Good

Maritain's slim volume *The Rights of Man and Natural Law* is devoted largely to the relationship to and growth of the person in society in general and pluralist political society in particular. He warns that the natural law is not a ready made code which can simply be unfurled and applied in society. Rather, the injunction to do good and avoid evil must be realized in every age according to its particular circumstances and context; it must be determined through human reason and experience.³¹ Accordingly, the ages of culture and civilization should see a growth and accumulation of the precepts and application of the natural law.³²

In his writings on the natural law, Maritain takes one fundamental position for granted that human beings possess a nature, one that is universal and transcends all particularities, including culture, ethnicity, and religion, formative as they are. This nature is manifested through reason and intelligence, with particular implications for society:

The whole order of human life is not ready-made in nature and in things; it is an Order of Freedom; it is not just to be discovered and accepted: it has also to be made.³³

Human nature is the very foundation and means through which the person comes to knowledge of the natural law. And it is here that Maritain introduces his theory of knowledge through inclination or connaturality, a knowledge that lies beyond words and concepts. The natural law is known through the normal functioning of human nature, but through connaturality or inclination and not through conceptual knowledge or by way of reasoning.³⁴

My contention is that the judgments in which Natural Law is made manifest to practical Reason do not proceed from any conceptual, discursive, rational exercise of reason; they proceed from that *connaturality or*

³¹ Jacques Maritain, *Ransoming the Time*, p. 39.

³² See *Ibid.*, p.40.

³³ Maritain, *Freedom in the Modern World*, p.80.

³⁴ See Maritain, *The Range of Reason*, p.26ff.

congeniality through which what is consonant with the essential inclinations of human nature is grasped by the intellect as good; what is dissonant, as bad.³⁵

However, he follows it up with some necessary clarifications. First, he distinguishes this sense of inclination and instinct from animal instincts. These human inclinations and instincts are “reason-permeated inclinations; they are inclinations refracted through the crystal of reasoning its unconscious or pre-conscious life.”³⁶ Second, because the human person is a historical animal, these inclinations of human nature have developed and been manifested in time; thus human knowledge of the natural law continues to develop. There are three implications: first, natural law, as distinct from positive law; deals with principles “*immediately known* (that is known through inclination, without any conceptual or rational medium) of human personality.” Second, because the precepts of the natural law are known through inclination, they are known in an “*undemonstrable* manner.” However, being unable to give an account or rationally justify our most fundamental moral beliefs is not an indication of their irrationality or invalidity, but rather of their “*naturality*, and therefore of their *greater* validity, and of their *more than human* rationality.” This is so, and this is his third point, because human reason does not intervene in providing knowledge of the natural law; it neither causes it to exist nor does it cause it to be known. Rather, “uncreated Reason, the Reason of the Principle of Nature, is the only reason at play not only in *establishing* the Natural Law (by the very fact that it creates human nature), but in *making natural law known*, through the inclinations of this very nature, to which human reason listens when it knows the Natural Law.” It is precisely because natural law is dependent on Divine Reason that it posses a sacred character and binds us in conscience.³⁷

The natural law requires that whatever is undetermined be completed by reason and experience. Reason possesses a “boundless liberty,” but it is reason in turn which gives this boundlessness form and character in society and time.³⁸ A civil society actualizes this boundless liberty by moving beyond the mere collection of freedom of choice, for such a society would have no identifiable common good. The common good is both material and moral, and always is in reference to the person;³⁹ and persons truly manifest themselves when they move beyond freedom of choice to freedom of autonomy. Thus, the common good is “not only a collection of advantages

³⁵ *Ibid.*, p.27.

³⁶ *Ibid.*

³⁷ See, *Ibid.*, pp.27-28.

³⁸ See Maritain, *Ransoming the Time*, p.45.

³⁹ See *The Person and the Common Good*, pp.29-30.

and utilities, but also rectitude of life, an end good in itself,...the intrinsically worthy good.”⁴⁰

The natural law in political society is realized insofar as there is a common good, a good that is distinct from the good of the individual citizen. The aim of civil society is the common good, one that is essentially human and that leads to the improvement of the person. Such a good is personal and it is communal, but not entirely; it is communal insofar as the citizen is a member of a political society; it is personal insofar as the aspirations of the citizen rise above the boundaries of the state. The common good “is at once material, intellectual, and moral, as man himself is; it is a common good of human persons.”⁴¹

In his book *The Trouble With Democracy*, William Gairdner introduces two terms “hyperdemocracy” and the “hyperdemocratic individual,” and they have a bearing on what has been said thus far. He says:

In retrospect we can track the locus of sovereignty...as it cascades down from God to kings to aristocrats and elites, to the people as divine....But this downward movement could not be stopped, and there is surely some irony in the fact that just as the mystical sense of God has descended since the Reformation to take up residence in the individual soul, so the democratic right, the final resting place of sovereignty under modern hyper democracy, has moved beyond the *demos* or the people, and come to rest deep within the autonomous individual...the modern seeker of democratic rights says, “Whatever I choose is right.”⁴²

We have, for sometime, been trying to understand what the shift from modernity to postmodernity entails. We have been told that while modernism dealt with epistemological orientation, postmodernism deals with modes of being.⁴³ For the hyperdemocratic citizen, the mode of being takes precedence over the modes of knowing. Gairdner says that hyperdemocracy is supported by features such as “self-exaltation, materialism, atheism, moral relativism, social determinism,...the elevation of individual rights over social and moral responsibilities, and the rejection of any common good or standard of virtue as an *obstruction to personal freedom*,”⁴⁴ thus making it increasingly difficult to form or sustain political community. Charles Taylor has similar concerns in the emergence of a “culture of authenticity.” This culture, like theories of

⁴⁰ Maritain, *Scholasticism and Politics*, p.56.

⁴¹ Maritain, *Range of Reason*, p.142.

⁴² William D. Gairdner, *The Trouble With Democracy: A Citizen Speaks Out* (Toronto: Stoddart, 2001), pp.144-145.

⁴³ See Hans Bertens, *The Idea of the Postmodern: A History* (London: Routledge, 1995), p.31.

⁴⁴ Gairdner, *The Trouble With Democracy*, p.146.

individualism, centers upon the self and "...encourages a purely personal understanding of self-fulfillment, thus making the various associations and communities in which the person enters purely instrumental in their significance."⁴⁵ In the environment of authenticity and self-fulfillment, the state is left to care for the citizens' external needs alone. There is enough evidence to suggest that we do live in a hyperdemocratic environment where the language of rights, equality, and choice has replaced a vocabulary that was rooted in the collective. It would seem that the common good has collapsed into a collection of private goods or the good as determined by ethnicity, religion and race. Trudeau, as noted above, spoke about the state making it possible for citizens to attain some common objectives. But given the emergence of a hyperdemocratic environment, why live in society at all? Is not the state's assurance of safeguarding rights and monitoring the observance of duties an invitation to live individually private lives? And given the surge in a form of pluralist tribalism, is this not a license to live democratically isolated lives? Hyperdemocracy changes both the nature of the citizen and the nature of the common good, and all these lead to an inevitable change in understanding the natural law. All this moves to the final section of this paper:

3. Pluralism and the Perfection of the Citizen

Maritain's thoughts on the nature and role of pluralist societies has enormous implications for Canadian pluralism and multiculturalism. But unlike the Canadian variety, Maritain offers a philosophical foundation for his theory rooted in the nature of the person. We should pay particular attention when he says that religious differences have not "pacified" human society, in fact, they have "fed and sharpened" conflicts.⁴⁶ However, he is unwilling to leave the matter of religious identity confined to doctrinal or dogmatic differences. He says, rather, that "it is not religion that helps to divide men and sharpen their conflicts; it is the distress of our human condition and the interior strife of our hearts."⁴⁷ A sobering thought indeed.

Maritain wonders as to why God permits religious divisions; his answer: for the "education of mankind and to prepare the way for final religious unity."⁴⁸ In taking religious differences as a condition of modern pluralist societies, Maritain goes on to say that the search for a common doctrinal or creedal minimum uniting these faith traditions is a futile exercise. The immediate object of temporal society is not "divine life and the mysteries of

⁴⁵ Taylor, *Malaise of Modernity*, p.43.

⁴⁶ Maritain, *Ransoming the Time*, p.115.

⁴⁷ *Ibid.*, p.129.

⁴⁸ *Ibid.*, p.139.

grace.”⁴⁹ Rather, the aim of political society is a work to be done in common.⁵⁰ Maritain takes it for granted that followers of different religions will remain faithful to their spiritual convictions, and yet they are called to live in communion with one another across religious lines and called to develop political and civic friendship. Rather than seek for doctrinal similarity and complementarity, Maritain urges the development of a “*secular faith*,” to deal with practical not theoretical tenets; he calls for the very “sanctification of secular life.”⁵¹

However, Maritain is not leaving the citizen, the person, to the slings and arrows of practical expediency. Rather, he wraps this secular society with its secular faith in a richer fabric. He says that in the context of pluralist society, he prefers the word “fellowship” to “tolerance” for it connotes something “positive in human relationships;”⁵² a choice that should be of particular interest in the Canadian political square with its over-emphasis on “tolerance” as a basis of multiculturalism. The civic friendship that Maritain is encouraging, while steeped in his Christian tradition of what he refers to as the “friendship of charity,” enables diverse citizens to come together in mutual friendship, one that is not “supradogmatic” but “suprasubjective,” and enables us not to “go beyond our faith, but beyond ourselves. In other words it helps us to purify our faith of the shell of egotism and subjectivity in which we instinctively tend to enclose it.”⁵³ He is anxious to present a personalism that is rooted in the metaphysics of the person and not simply upon the materiality of the individual and private good.⁵⁴ Care must be paid to prevent diversity splintering into the multiplicity of individuality or a communal ghettoization; instead diversity must be secured upon the mystery of personality and freedom for, as Maritain says, “it is in this very mystery of freedom and personality that genuine tolerance and fellowship take root. For the basis of good fellowship among men of different creeds is not the order of the intellect and of ideas, but of the heart and of love”⁵⁵ He laments how in spite of their various beliefs in God, citizens in pluralist societies are more often bound by their “sociological prejudices” and are slow to cooperate with one another.⁵⁶ For though Maritain sees this cooperation to be of a secular

⁴⁹ Maritain, *Rights of Man and Natural Law*, p. 24.

⁵⁰ *Ibid.*, p.39.

⁵¹ Jacques Maritain, *Man and the State* (Chicago: The University of Chicago Press, 1951), p. 63.

⁵² Maritain, *Ransoming the Time*, p.116.

⁵³ *Ibid.*, p.125.

⁵⁴ See Maritain, *The Person and Common Good*, p.13.

⁵⁵ Jacques Maritain, *On the Use of Philosophy: Three Essays* (Princeton, New Jersey: Princeton University Press, 1961), p. 35.

⁵⁶ See, Maritain, *Ransoming the Time*, p.127.

variety, the individual citizen, however, draws strength from those inner resources “rooted in the depths of each one’s individual options and personality.”⁵⁷

Maritain’s thoughts on the unity of secular society are a further elucidation on the role of the secular in perfecting the citizen’s nature:

The unity of...a [pluralist] civilization no longer appears as a unity of an essential or constitutional character guaranteed from above by the profession of the same doctrine and the same faith. Though the unity is less perfect, and material rather than formal in character, it is nonetheless real; it is a unity of becoming or of orientation which springs from a common aspiration and gather elements of heterogeneous culture (of which some may indeed be very imperfect) into a form of civilization which is fully consonant with the eternal interests of human personality and with man’s freedom of autonomy.⁵⁸

The distinction between the natural end of the world and the absolute ultimate end of the world enables Maritain to affirm the natural end as a real end; the things of matter and time are not mere means.⁵⁹ It is in the context of the natural end that human persons need community to develop their material, intellectual and moral life. The “person cannot be alone. It wants to tell what it knows, and it wants to tell what it is – to whom, if not to other people?”⁶⁰ Society fulfills a need of human nature, a need that is manifested through reason and the will. Without society, human nature, the person, would remain in a latent state; personality needs dialogue with others.⁶¹ Furthermore, the human person is not born free, and as we have seen, persons manifest themselves insofar as they move from the freedom of choice to the freedom of autonomy.

Man is not born free, except in the basic potencies of his being: he becomes free by warring upon himself and enduring many hardships. Through the work of spirit and virtue, by exercising his freedom he wins his freedom...⁶²

Insofar as our political society has lost direction as to its end and purpose, it becomes very difficult to situate even the broadest injunction of the natural law to do good and avoid evil. How does the modern state deal with Maritain’s claim that the human person, a political animal, (political in so far

⁵⁷ Maritain, *Range of Reason*, p.169.

⁵⁸ Maritain, *Freedom in the Modern World*, pp.70-71.

⁵⁹ See Maritain, *On the Philosophy of History*, pp.130-131.

⁶⁰ See Maritain, *Rights of Man and Natural Law*, pp.5-6.

⁶¹ See Maritain, *Scholasticism and Politics*, p.57 & p..51.

⁶² Joseph W. Evans and Leo R. Ward eds., *The Social and Political Philosophy of Jacques Maritain* (New York: Charles Scribner’s Sons, 1955), p.18.

as the person is a reasonable animal⁶³) “craves political life?”⁶⁴ The ancients, says Maritain, understood the active life to include two distinct dimensions: “exterior activity in the midst of men and the effort to attain perfection in the virtues.”⁶⁵ Political life ideally includes both exterior activity and the perfection of the virtues, those real practical virtuous decisions that makeup the exterior actions of political society. Without this, the “good becomes perverted” if it is not related to the “development and improvement of human persons.”⁶⁶

However, in affirming the integrity of the secular order, Maritain is not diminishing the spiritual nature and end of the human person; quite the contrary. Even though civil society is not the final end of the human person, men and women do attain a level of perfection in working and striving within society, one which is intimately related to their final end. The political task is essentially a “task of civilization and culture,” of helping men and women to conquer their “genuine freedom or expansion of autonomy.”⁶⁷ And culture has a vital role to play in the perfection of the nature of the citizen.⁶⁸ This task of civilization and culture is constituted by undertaking a task in common, and more than simply attending to the practical tasks and projects of communal life, this common task is the “conquest of freedom.”⁶⁹ In using the terms culture and civilization synonymously in *Integral Humanism*, Maritain says:

...culture or civilization is the expansion of the properly human life, including not whatever material development may be necessary and sufficient to enable us to lead an upright life on earth, but also and above all moral development, that development of speculative activities and of practical (artistic and ethical) activities which is properly worthy of being called a human development.⁷⁰

Human personality grows insofar as the person moves from the “closed world of material individuality” to the “boundlessness of truth,” a growth that occurs on the moral level, “produced out of the anguish of each one’s free

⁶³ Maritain, *Scholasticism and Politics*, p.55.

⁶⁴ Maritain, *Rights of Man and Natural Law*, p.6.

⁶⁵ Jacques Maritain, *The Things That Are Not Caesar’s*, translated by J.F. Scanlan, (London: Sheed & Ward, 1939), p.111.

⁶⁶ Maritain, *Rights of Man and Natural Law*, p.7.

⁶⁷ Maritain, *Man and the State*, p.55.

⁶⁸ See *Ibid.*, p.127.

⁶⁹ *Ibid.*, p.207.

⁷⁰ Maritain, *Integral Humanism*, pp.95-96.

choice.”⁷¹ The power of truth and the responsibility of free choice liberate the political arena, for in itself, this arena is intrinsically weak, and Maritain makes the following startling observation: “the role of the instincts, of the irrational is even greater in social and political than in individual life.”⁷² Human society is not the last end of the human person, and these instincts and irrational forces are felt when the temporal common good is viewed in exclusively material terms.⁷³

In political society, the natural law is situated in the context of human nature and the natural ends of the world. And though the impetus of the natural law is rooted in faith and belief – democratic faith cannot be nurtured or strengthened without “philosophical or religious convictions”⁷⁴ – there is a real sense of perfecting one’s nature in society. This perfection is twofold: first, a perfection that arises from one’s own religious and philosophical convictions, and second, a perfection that is realized in actively pursuing the common good.

Conclusion

There is a wonderful intellectual comfort in reading through the sophisticated levels of Maritain’s political philosophy, and while I have only skimmed the surface of his thought, I have attempted to refer to the deeper solid foundation that secures the life of the person within political society. Whatever the many and often conflicting views as to the nature of political society, Maritain’s foundation of human nature secures the purpose and end of such a society. And while pluralism and multiculturalism have further complicated our ability to secure human nature as a first-principle of society, Maritain’s readiness to acknowledge the end and goal of political and temporal life as a real end is an enormous contribution in providing some philosophical muscle to Canadian political society.

The rise of religious and political fundamentalism seem to be in conflict with the more liberal positions of pluralism and multiculturalism, but neither camp, the political and religious fundamentalists nor the pluralists and multiculturalists seem to be willing to acknowledge the complexity of human nature, particularly with regard to existence and freedom in common. Much is said about freedom, but on closer examination this freedom is either relegated to the private sphere in matters of faith and morality, or it is interpreted in a manner that gives prominence only to the materiality of the

⁷¹ Jacques Maritain, *Moral Philosophy: An Historical and Critical Survey of the Great Systems* (London: Geoffrey Bles, 1964), p.150.

⁷² Maritain, *Rights of Man and Natural Law*, p.55.

⁷³ See, Maritain, *The Things That Are Not Caesar’s*, p.140.

⁷⁴ Maritain, *The Range of Reason*, p.169.

individual ignoring the complexity of the person. This sense of freedom is also referred to as secularism. Early in his monumental work *A Secular Age*, Charles Taylor says that we have moved from understanding the “fullness” of human life to have been secured “outside or “beyond” human life to a conflicted age in which this construal is challenged by others which place it (in a wide range of different ways) “within” human life.”⁷⁵ He goes on to say that the modern understanding of secularism offers us, for the first time, a “self-sufficient humanism.”⁷⁶ In such a world, and given the injunction of the natural law, the communal living of life is reduced to “growth and prosperity” and a “morality of mutual respect and an ethic of self-improvement.”⁷⁷ Suddenly, however, in our day, the rise of religious fundamentalism has openly and often violently countered this position.

Maritain’s understandings of the human person, the ends of political society, the nature of freedom, the perfecting of the citizen’s nature by pursuing the common good, are all powerful principles in securing an understanding and the striving to implement the natural law. Everything that prevents this perfection, and there is a great deal, is summed up by Maritain in two sections in his book *Moral Philosophy*, and they are entitled “the temptation to refuse the human condition,” and “the temptation to accept purely and simply the human condition.”⁷⁸ It is between this Sylla and Charybdis that the injunction of the moral law to do good and avoid evil is to be realized in political society.

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⁷⁵ Charles Taylor, *A Secular Age* (Cambridge, Massachusetts, and London, England: The Belknap Press of Harvard University Press, 2007), p. 15.

⁷⁶ *Ibid.*, p.18.

⁷⁷ *Ibid.*, p.129.

⁷⁸ See Maritain, *Moral Philosophy*, pp. 453-457.

Application of the Natural Law in the Thought of St. Thomas Aquinas

David J. Klassen

The primary concern of this paper is not with any particular issue in applied ethics, such as just war, the environment or abortion. It is with how St. Thomas Aquinas explains the way in which the general principles of the natural law come to be applied in diverse situations, and with what he would have to say about the relationship of the natural law to the study of applied ethics. I shall for the most part restrict my discussion to the application of natural law as it is known by unaided human reason. I will have less to say about the supernatural or infused virtues, although they are arguably a more important part of Thomas's ethical theory.

St. Thomas viewed ethics as a science, and recognized it as a subject to be taught to students, although only after they had already learned some logic, mathematics and physics, but before learning metaphysics.¹ Today, when we speak of *applied* ethics, we usually mean an academic discipline that studies the application of ethical principles or ethical theory to particular situations. Thus, there are university courses in biomedical ethics, business ethics and environmental ethics. We have good reason to believe that Aquinas's moral science (*scientia moralis*) extended to the types of situations that today we

¹See English translations of texts on the order of learning the sciences from *In Librum. de causis*, lect. 1 and *In VI Eth.* lect. 7, in *The Division and Methods of the Sciences*, 4th ed., tr. by Armand Maurer (Toronto: Pontifical Institute of Medieval Studies, 1986), pp. 99-102. Also, see Kevin L. Flannery, *Acts Amid Precepts: The Aristotelian Logical Structure of Thomas Aquinas's Moral Theory* (Washington, D.C.: The Catholic University of America Press, 2001), on the structure of Aquinas's moral theory as an Aristotelian science.

include within the ambit of applied ethics. In a text to be considered later in this paper, he speaks of moral science as enabling those learned in it, even if they lack virtue, to judge rightly about virtuous acts.² Elsewhere, he says that “some sciences are of the contingent things, as the moral sciences, the objects of which are human actions subject to free-will” (*ST* I, q. 86, a. 3, s.c.). In another text, he says that practical sciences, including ethics, become less certain the more they draw close to particulars because of the many factors to be taken into account and their variability.³ Inasmuch as contingent human actions, which are the objects of moral science, can be called particulars, Aquinas’s moral science concerns itself with particulars.⁴

In what follows, I will first examine what Thomas means when he speaks of the natural law and of first principles, conclusions and determinations of the law. Later on, I will consider the way in which the natural law is said to be applied by a virtuous agent in real-life situations, and how that differs from what Thomas calls moral science. Moral virtue and moral science both have a role to play in Thomas’s theory of human action. If I am correct, each in a sense depends upon the other.

What is the Natural Law?

Thomas uses two different terms, *lex naturalis* or natural law, and *ius*

²*ST* (*Summa theologiae*) I, q.1, a. 6, ad 3. Citations will hereinafter refer simply to the part of the *Summa theologiae*, e.g. I, I-II, or II-II, unless for the sake of clarity it is necessary to use the abbreviation *ST*. Except where otherwise indicated, quotations are from the *Summa Theologica*, trans. Fathers of the English Dominican Province (New York: Benziger Brothers, 1948).

³Commentary on the *De Trinitate* of Boethius, q. 6, a. 1, co. 11; trans. Armand Maurer, in *The Division and Methods of the Sciences*, p. 68.

⁴Cf. *Sententia libri Ethicorum* lib. 6, lect. 7, n. 20, in *Commentary on the Nicomachean Ethics*, trans. C.I. Litzinger, O.P., vol. 2 (Chicago: Henry Regnery Company, 1964), p. 578, no. 1214: “Yet there is no scientific knowledge [*non est scientia*] of the singular ultimate, for it is not proved by reason; there is, though, sensitive knowledge of it because this ultimate is perceived by one of the senses.” However, in *ST* I, q. 86, a. 3, Thomas says that the contingent singular is indirectly the object of the intellect as well as being directly the object of the senses. It is therefore possible for some sciences, including the moral sciences, to be of contingent things: “Hence if we consider the objects of science in their universal principles, then all science is of necessary things. But if we consider the things themselves, thus some sciences are of necessary things, some of contingent things.” In regard to application of practical science to singulars or particulars see also *Commentary on the Nicomachean Ethics*, vol. 1, p. 18, no. 35 and *Summa contra gentiles* III, c. 75, n. 12 in *On the Truth of the Catholic Faith*, Book Three, Part I, tr. by Vernon Bourke (Garden City, NY: Image Books, 1955): “So, in practical science, he is much more perfect who directs things to act, not only universally, but also in the particular case.” I am grateful to Fr. Lawrence Dewan for his critical comments and for bringing the last-mentioned text to my attention.

naturale or natural right. In his “Treatise on Law,”⁵ he uses those terms interchangeably. There is, however, a difference between them when each is used in its strictest sense.⁶ Insofar as it is the rule and measure of action, Thomas says that *lex* is found only in reason (I-II, q. 90, a. 1, co. & ad 1). Therefore, the *lex naturalis*, strictly speaking, is proper to a rational being and is characterized by the fact that it can only be apprehended by reason or intellect. The *ius naturale*, in its strictest sense, is characterized not by how it is known, but by its content. It refers to the content of natural right that is common to all animals including humans.⁷ Humans know it by the use of reason and non-rational animals know it by instinct, inasmuch as nature is said to command each animal according to the mode proper to its species.⁸ When Thomas refers to sins that are against the nature we have in common with all animals, as well as being against reason which is proper to humans (I-II, q. 94, a. 3, ad 2), he refers to violations of the *ius naturale* in this strict sense. Such sins include violations of the inclinations to self-preservation and to rearing of offspring referred to in I-II, q. 94, a. 2. Other sins, such as extra-marital relations between a man and a woman, are not considered by Thomas to be violations of the *ius naturale* that is common to all animals, but are nevertheless violations of the rule of reason. (II *Sent.*, d. 40, q. 1, a. 1, ad 4). There is also another, somewhat different, sense of *ius naturale*, which is less relevant to ethics. It refers to a state of nature prior to human art or ingenuity, such as the naked state of the human body prior to the invention of clothing

⁵*ST (Summa theologiae)* I-II, qq. 90-108.

⁶I have dealt with this issue in more detail in “Le Droit naturel dans la pensée de Thomas d’Aquin,” trans. Xavier Dijon, in *Droit naturel: les réponses de l’histoire* (Namur: Presses universitaires de Namur, forthcoming).

⁷IV *Sent.* (*Scriptum super libros Sententiarum*, lib. 4), d. 33, q. 1, a. 1, ad 4: “Et quia natura contra rationem dividitur, a qua homo est homo; ideo strictissimo modo accipiendo jus naturale, illa quae ad homines tantum pertinent, etsi sint de dictamine rationis naturalis, non dicuntur esse de jure naturali: sed illa tantum quae naturalis ratio dictat de his quae sunt homini aliisque communia; et sic datur dicta definitio, scilicet: *ius naturale est quod natura omnia animalia docuit*” (And because nature is divided against reason, by which man is man; therefore with the most strict way of understanding natural right, whatever belongs to men only, although from what is called natural reason, is not said to be from natural right: but only those things which natural reason dictates concerning those things which are common to man and others; and thus this definition is given, namely: *natural right is what nature has taught all animals*). See also *ST* II-II, q. 57, a. 3: “Now it belongs not only to man but also to other animals to apprehend a thing absolutely: wherefore the right which we call natural, is common to us and other animals according to the first kind of commensuration.”

⁸IV *Sent.*, d. 33, q. 1, a. 1, ad 4: “. . . natura dictat animali cuilibet secundum modum convenientem suae speciei.”

(I-II, q. 94, a. 5, ad 3).

Most important to the discipline of applied ethics is the *lex naturalis* strictly speaking, which Thomas defines as “the participation in the eternal law of the rational creature” (I-II, q. 91, a. 2). It is proper to humans as rational animals; irrational creatures are said not to participate in the eternal law except by way of similitude (*ibid.*, ad 2). It is the rational creature’s participation in the eternal law which I shall henceforth refer to as the natural law.

Principles, Conclusions and Determinations of the Natural Law

Thomas sometimes speaks of the natural law as consisting both of first principles and of certain conclusions that follow immediately from the first principles. In other places, he speaks of the precepts of the natural law in a more restricted sense, which includes *only* the first principles that are self-evident to human reason. For example, he refers to the precepts of the natural law as the “first principles of human action” (I-II, q. 94, a. 1, ad 2) and says that like the first principles of speculative reason they are *per se nota*, i.e. self-evident (I-II, q. 94, a. 2). In other words, they are “naturally known without any investigation on the part of reason” (I, q. 79, a. 12). They are the underived and indemonstrable starting-points from which practical reason’s investigation begins. In contrast to the self-evident precepts, which are the first principles of the *natural* law, Thomas says that conclusions derived from them “are contained in the *human* law ,” although “not as emanating therefrom exclusively, but [as] hav[ing] some force from the natural law also” (I-II, q. 95, a. 2, emphasis added). In addition to derivation of conclusions from principles, there is another type of derivation, called the mode of determination, which Thomas says belongs *exclusively* to the human law. He likens this second mode to the work of a craftsman who determines the general form of a house to a particular shape. An example of such a determination is the lawmaker’s choice of the sort of punishment that is to be meted out in accord with the natural law precept that an evil-doer is to be punished (*ibid.*).

The distinction between the mode of conclusions and the mode of determination is mirrored in the distinction Thomas makes between the law of nations (*ius gentium*) and the civil law (*ius civile*). The law of nations is said to be “derived from the law of nature, as conclusions from premisses, e.g. just buyings and sellings, and the like, without which men cannot live together” (I-II, q. 95, a. 4). The civil law, on the other hand, consists of those things derived from the law of nature by the mode of determination (*ibid.*). In speaking of the law of nations, Thomas says that “it is derived from the natural law by a conclusion that is not very remote from its premisses.” “Nevertheless,” he adds, “it is distinct from the natural law (*a lege naturali*),

especially from that which is common to all animals” (I-II, q. 95, a. 4, ad 1). Here again, Thomas makes a distinction between the natural law in its most strict sense and the conclusions derived therefrom.

In q. 95, a. 2 of the *Prima secundae* of the *Summa theologiae*, Thomas offers an example which illustrates what he means by a conclusion derived from a general principle of the natural law. He says that “*one must not kill* may be derived as a conclusion from the precept that *one should do harm to no man*.” The precepts of the decalogue are therefore not reckoned among the first principles of the natural law, but are said to be conclusions that refer back to the first principles (I-II, q. 100, a. 3, ad 1). Nevertheless, Thomas sometimes speaks of the precepts of the decalogue as belonging to the law of nature (I-II, q. 100, a. 1), and thus refers to the natural law in a less strict sense which includes certain proximate conclusions as well as the first principles.

Identification of the First Principles

What then are these self-evident first principles of the natural law from which all ethical and legal propositions are derived? Be forewarned that Thomas never attempts, either in the practical realm of the natural law and ethics or in the realm of theoretical science, to provide us with a comprehensive list of first principles.

Thomas only ventures to explicitly name a few first principles of the natural law. He says that the first and most general precept of the natural law, upon which all the others are founded, is that good is to be done and pursued and evil avoided (I-II, q. 94, a. 2). At a second level of generality are the commandment to love God and the commandment to love one’s neighbour, which Thomas refers to as the precepts of love (*praecepta dilectionis*) and which are sometimes called the “precepts of charity” in English translation (I-II, q. 100, a. 5, ad 1). The precepts of love correspond to the two aspects of the natural inclination according to the nature of reason mentioned in I-II, q. 94, a. 2: the inclination to know the truth about God and the inclination to live in society. Thomas says of the precepts of love that, “Those two principles are first general principles of the natural law, and are self-evident to human reason, either through nature or through faith. Wherefore all the precepts of the decalogue are referred to these, as conclusions to general principles” (I-II, q. 100, a. 3, ad 1). Moreover, Thomas says that all other moral precepts of the law are “reducible to the precepts of the decalogue as so many corollaries” (I-II, q. 100, a. 11), and that all of the acts of the virtues come under the moral law (I-II, q. 100, a. 2). In other words, according to Thomas, the entire moral law and all acts of the virtues flow from the two precepts of love.

Two important questions follow. One, which arises from Thomas’s statement that the precepts of love are self-evident to human reason either

through nature or through faith, is the question of what can be known by natural reason without faith. The other is whether or not there are other first principles in addition to “Do good and avoid evil” and the precepts of love, and if so what they are.

In answer to the first question, it may be said there are different levels of understanding of the precepts of love, and that the level of faith is above the level of natural reason. Thomas uses several different words for love (I-II, q. 26, a. 3). The broadest and most general is *amor*, which includes all the others. It can refer to any kind of tendency or attraction, including what Thomas calls “natural love,” such as the tendency of a heavy object to move downward, and the “sensitive love” of the appetites we share with other animals (I-II, q. 26, a. 1). A more specific word for love is *dilectio*, which is rational or intellectual love. This is the love that is found in the will or rational appetite. It arises when the intellect apprehends something as good. When Thomas states the two precepts of love in Latin, the word used for love is *dilectio*. Even more specific than *dilectio* is charity or *caritas*. *Caritas* is a further perfection of *dilectio*, where the beloved is dear or of great price (I-II, q. 26, a. 3), and even more specifically it refers to the infused and gratuitous love for which faith is a precondition (II-II, q. 4, a. 7) and which is impossible to possess without God’s grace (I-II, q. 100, a. 10, ad 3). Therefore, someone without faith may have a less complete understanding of the precepts of love. For example, the precept commanding love of God might simply be understood as a commandment to seek happiness in the case of someone who has no more than the general and confused knowledge of God that Thomas says is naturally implanted in everyone (I, q. 2, a. 1, ad 1).⁹ Likewise, the commandment to love your neighbour may be understood in the minimal sense in which Thomas sometimes states it, e.g. “One should do evil to no other” (I-II, q. 100, a. 3).

In answer to the second question, it is quite obvious that the precepts of love are not of themselves sufficient to account for the derivation of the precepts of the decalogue. In order to derive the precepts of the decalogue from the precepts of love, it is necessary to supplement them with another set of first principles that identify specific goods that are to be pursued. For example, in order to logically derive “Thou shalt not kill” from “Love your

⁹Cf. Lawrence Dewan, review of *Acts Amid Precepts: The Aristotelian Logical Structure of Thomas Aquinas’s Moral Theory* by Kevin Flannery, SJ, *Nova et Vetera* 5 (2007): 432-38. Fr. Dewan cites a number of texts of Aquinas which speak of additional knowledge of God that does not depend upon metaphysical demonstrations. For example, in *ST* II-II, q. 85, a. 1 Thomas says that “[n]atural reason tells man [*naturalis ratio dictat homini*] that he is subject to a higher being, on account of the defects which he perceives in himself.” Dewan at p. 435 argues that this knowledge is “seen as universal, that is, pertaining to man by his very nature.”

neighbour” or from “One should do evil to no other,” it is necessary to begin with a precept or principle which states that human life is a good, or what Grisez and Finnis call a “basic human good.” Thomas adverts to these goods when he says that “all those things to which man has a natural inclination are apprehended by reason as being good, and consequently as objects of pursuit” (I-II, q. 94, a. 2).

When Thomas speaks of “those things to which man has a natural inclination,” we ought to keep in mind that reason is the specific difference that defines human nature. An inclination that is natural in the sense of being in accord with *human* nature inasmuch as one is human (*secundum naturam hominis inquantum est homo*) and not merely from nature (*a natura*) is one that is in accord with the order of reason (I-II, q. 71, a. 2, co., ad 1, 2, 3). Nevertheless, some of those things apprehended by reason as goods for humans also belong to the *ius naturale* that is common to all animals. Indeed, Thomas even speaks of an inclination to the good that we have in common with all substances, and says that “by reason of this inclination, whatever is a means of preserving human life, and warding off its obstacles, belongs to the natural law” (I-II, q. 94, a. 2). Keep in mind, however, that inclinations we have in common with other creatures are only in accord with *human* nature, and only belong to the strict sense of the *lex naturalis*, so far as reason apprehends their objects as a good, and so far as they are ruled by reason (*ibid.*, ad 2).

Thomas never does provide us with a complete list of those first principles of the natural law that specify the goods that are to be done and pursued. However, in his discussion of the precepts of the decalogue in I-II, q. 100, a. 5, he helps us to identify a number of the goods which are implicit in the ten commandments. In regard to the first three commandments, which pertain to what is owed to God, Thomas identifies goods of fidelity, reverence and service. In regard to the fourth through tenth commandments, he helps us identify goods for the human person. Those may be said to include the honour and gratitude owed as a debt to parents, the good of personal existence, the goods of marital union and propagation of offspring, the good of material possessions, and the goods of truth in speech and of personal reputation. Other goods are at stake as well, as we learn when Thomas quotes a text from the Decretals in which Ambrose states that “the money that you bury in the earth is the price of the poor man’s ransom and freedom” (II-II, q. 66, a. 7). The good of material possessions is not the only good that comes into play when we say that stealing is wrong; the good of human freedom, which is evidently a higher and more important good, is also involved.

Arguments from Principles to Conclusions and Vice Versa

Thomas says in I-II, q. 91, a. 3, that “the same procedure takes place in the

practical and in the speculative reason: for each proceeds from principles to conclusions.” He continues: “Accordingly we conclude that just as, in the speculative reason, from naturally known indemonstrable principles, we draw the conclusions of the various sciences, the knowledge of which is not imparted to us by nature, but acquired by the efforts of reason, so too it is from the precepts of the natural law, as from general and indemonstrable principles, that the human reason needs to proceed to the more particular determination of certain matters.” He also says that the first principles are known to all (I-II, q. 93, a. 2; q. 94, a. 6) and that we cannot err in our knowledge of them (I, q. 79, a. 12, ad 3). Applied ethics would therefore seem to be primarily a matter of identifying the first principles that everyone already knows naturally, and then drawing the detailed conclusions and determinations that follow from them in any number of particular situations.

However, some have questioned whether we in fact begin with principles and proceed to conclusions. Robert Sokolowski, in an important essay entitled “Knowing Natural Law,” contends that our moral reasoning actually moves in the opposite direction. He says that in reality it is the “moral perception of good men in the thick of things,” and not principles known to all, that are responsible for the emergence of the natural law.¹⁰ Sokolowski speaks of a grasp by the virtuous moral agent of what are said to be “moral facts.”¹¹ This grasp precedes any formulation of principles. Sokolowski provides us with an instructive account of a process that begins with a decision about a particular situation or practice, and from there works upward to an explicitly-stated moral norm and from there to a general principle. And indeed, it may seem that he is right about what actually happens in practice, because Thomas himself does not provide us with a complete list of first principles. We had to move upward from the precepts of the decalogue in order to explicitly identify a number of the first principles.

The truth in what Sokolowski says is, I believe, acknowledged by Thomas where he speaks of a second movement of reason from conclusions back to principles, known as a resolution or analysis in the conceptual order (*resolutio*

¹⁰Robert Sokolowski, “Knowing Natural Law,” *Tijdschrift voor Filosofie* 43 (1981), p. 630: “Sheer speculation will not provide us with principles against which we can criticize established practice. The moral perception of good men in the thick of things is necessary.” At p. 639: “The agent masters his situation not by a cognitive possession of principles but by being himself a kind of light and measure.” My page references are from the originally published version; however, the same essay is reprinted in Sokolowski, *Pictures, Quotations and Distinctions: Fourteen Essays in Phenomenology* (Notre Dame and London: University of Notre Dame Press, 1992), 277-91.

¹¹*Ibid.*, 636-37.

secundum rationem).¹² The analysis follows the initial movement of reason from principles to conclusions, which is known as *inquisitio* or *inventio*, meaning investigation or discovery. In the first part of the *Summa theologiae*, q. 79, a. 8, Thomas says that “human reasoning, by way of inquiry and discovery, advances from certain things simply understood – namely, the first principles; and, again, by way of judgment returns by analysis to first principles, in the light of which it examines what it has found.”¹³ The same process of reasoning, which begins from and then returns to the first principles, applies in the case of practical as well as theoretical reasoning (I, q. 79, a. 12). It is necessary, according to Thomas, for reason to make the subsequent movement which returns to first principles in order for certainty of judgment to be attained.¹⁴ Indeed, it is possible that in the first movement the reasoner will not be manifestly aware of the first principles from which he or she begins. Thomas says in *De veritate*, q. 11, a. 1 that if someone proposes an argument that does not make it clear that the first principles are included (*includi non manifestantur*), “he will not cause knowledge (*scientia*) in the other but, perhaps, opinion or faith, although even this is in some way caused by innate first principles.” Similarly, he says in the foreword to his Commentary on Aristotle’s *Posterior Analytics* that the process of investigation or discovery (*inventio*) described in a dialectical syllogism, which begins from merely probable or provable propositions (*ex probabilibus*) and does not involve a resolution back to first principles, yields only belief or opinion, but not scientific knowledge (*scientia*).¹⁵

¹²See *In De Trin. (Super Boetium De Trinitate)*, q. 6, a. 1, co. 22, in *The Division and Methods of the Sciences*, 4th ed., trans. Armand Maurer (Toronto: Pontifical Institute of Mediaeval Studies, 1986), 72.

¹³Cf. *De veritate*, q. 15, a. 1, in *Truth*, trans. Robert W. Mulligan, James V. McGlynn and Robert W. Schmidt (Chicago: Henry Regnery Company, 1952-54). All quotations in English from *De veritate* are from the aforesaid edition.

¹⁴*Expositio Libri Posteriorum* lib. 1, lect. 1, n. 6, in *Commentary on Aristotle’s Posterior Analytics*, trans. F.R. Larcher (Albany, N.Y.: Magi Books Inc., 1970), p. 2: “Now the part of logic which is devoted to [the process of reason which induces necessity] is called the *judicative* part, because it leads to judgments possessed of the certitude of science. And because effects cannot be obtained except by analyzing them into their first principles, this part is called *analytical*, i.e. resolvent.”

¹⁵*Ibid.*, at pp. 2-3 of the translation: “For investigation is not always accompanied by certitude. . . . For although science is not obtained by this process of reason, nevertheless belief or opinion is sometimes achieved (on account of the provability of the propositions one starts with), because reason leans to one side of a contradiction but with fear concerning the other side. The *Topics* or dialectics is devoted to this. For the dialectical syllogism which Aristotle treats in the book of *Topics* proceeds from premises which are provable.” After the passage just quoted, Aquinas proceeds to

It may seem puzzling that Thomas speaks of beliefs that are caused by innate first principles even when those principles are not clearly manifest. What he refers to can nevertheless be illustrated by commonplace examples.¹⁶ Ralph McInerny gives the example of children who argue whether something is or is not; they assume the principle of non-contradiction as their premise, but the premise is self-evident and taken for granted so that they never have to explicitly state it or identify it.¹⁷ The process of reasoning from it to a conclusion – for example, you did it and therefore I did not – is also implicit. John Henry Newman observed in the nineteenth century that most of our reasoning is informal and implicit, and is never made explicit and formal.¹⁸ He vividly illustrates the process of implicit reasoning with the analogy of a climber: “The mind ranges to and fro . . . and thus it makes progress not unlike a clamberer on a steep cliff, who, by quick eye, prompt hand, and firm foot, ascends how he knows not himself, by personal endowments and by practice, rather than by rule, leaving no track behind him, and unable to teach another.”¹⁹ According to Newman, the analysis which follows the original process of implicit reasoning “is but an account of it; it does not make the conclusion correct; it does not make the inference rational.”²⁰

discuss the even less certain processes of reasoning considered in Aristotle’s *Rhetoric* and *Poetics*.

¹⁶See John F. Wippel, *The Metaphysical Thought of Thomas Aquinas* (Washington, D.C.: The Catholic University of America Press, 2000), 35-49. Wippel refers to an initial implicit knowledge or awareness of existence itself (p. 36), which precedes the judgment that the thing exists, which in turn precedes the resolution or analysis back to the concept of being. At pp. 42-43: “For Thomas resolution is a technical expression which can be expressed in English as analysis. As he explains in his Commentary on the *De Trinitate*, q. 6, a. 1, according to this procedure one may move from knowledge of something to knowledge of something else which is implied by the first but not explicitly contained in it.”

¹⁷McInerny, *Aquinas* (Cambridge, UK: Polity Press/Blackwell Publishing Ltd., 2004), 103-04.

¹⁸See Newman’s Sermon XI, “The Relationship of Faith to Reason,” and Sermon XIII, “Explicit and Implicit Reason,” in *Fifteen Sermons Preached Before The University of Oxford* (London: Longmans, Green and Co., 1898). The theme of implicit reasoning was developed further by Newman in his *An Essay in Aid of A Grammar of Assent* (Notre Dame/London: University of Notre Dame Press, 1979), where he calls the ability to reason informally “the illative sense.” (The publication dates of the editions I have cited are not the dates of writing; the *Grammar of Assent* was completed about 1870 and the sermons were written three decades earlier.)

¹⁹Newman, Sermon XIII, para. 7.

²⁰*Ibid.*, para. 10.

Judgments of Prudence and of Moral Science

The practical reasoner in the thick of things is similar to Newman's climber. He or she is concerned with correct action, not with the science of ethics. Such a person may not have the time or leisure for a fully conscious and explicit analysis back to first principles of the natural law. According to Thomas, the virtuous agent has acquired a *habit* of right reasoning about what is to be done, which is a virtue known as prudence (I-II, qq. 57-58, esp. q. 57, a. 4). Since an acquired habit is said to be "like a second nature" (I-II, q. 53, a. 1, ad 1), a judgment of prudence need not involve an explicit awareness of each step in the reasoning process. Just as mountain climbing, playing the piano or driving a car does not require explicit attention to each step once the skill has been acquired, neither does right reasoning about action once prudence is acquired.

Indeed, Thomas speaks of two ways of judging correctly, one of which involves the habit of virtue. He says:

A man may judge in one way by inclination (*per modum inclinationis*), as whoever has the habit of virtue judges rightly of what concerns virtue by his very inclination towards it. Hence it is the virtuous man, as we read, who is the measure and rule of human acts. In another way, by knowledge (*per modum cognitionis*), just as a man learned in moral science might be able to judge rightly about virtuous acts, though he had not virtue.²¹

Here we must ask what sort of inclination it is that enables the virtuous to judge rightly. Since it belongs to reason to judge in the strict sense of judging,²² it would seem that it is an inclination of reason itself, or at least one closely related to reason. It is not uncommon for Thomas to speak of an

²¹I, q. 1, a. 6, ad 3: "Contingit enim aliquem iudicare, uno modo per modum inclinationis, sicut qui habet habitum virtutis, recte iudicat de his quae sunt secundum virtutem agenda, inquantum ad illa inclinatur, unde et in X Ethic. dicitur quod virtuosus est mensura et regula actuum humanorum. Alio modo, per modum cognitionis, sicut aliquis instructus in scientia morali, posset iudicare de actibus virtutis, etiam si virtutem non haberet." I have altered the English Dominican translation by omitting the articles in front of the three occurrences in English of the noun "virtue." Prudence and the moral virtues in their perfect state are connected (I-II, q. 65, a. 1). The *virtuosus* who is the rule and measure of human acts may be said to have the habit of virtue, not merely of a virtue.

²²A "judgment" involves the discursive movement of reason in composing and dividing: "Moreover, the intellect judges about the thing it has apprehended at the moment it says that something is or is not. This is the role of 'the intellect composing and dividing'" (*De veritate*, q. 1, a. 3; cf. *ST I*, q. 85, a. 5). See also John F. Wippel, *The Metaphysical Thought of Thomas Aquinas* (Washington, D.C.: The Catholic University of America Press, 2000), 3-4.

inclination of reason. For example, the natural inclination by which Thomas in q. 62, a. 3 of the *Prima secundae* says man is ordered to an end connatural to him is in the first place one of reason or intellect, and secondarily one of the will which tends to the good known by reason.²³ If there were a so-called “judgment” by inclination proceeding not from reason but from an instinct that we have in common with other animals, the act flowing from it would not be what Thomas calls a human and moral act, and hence it would not qualify as morally virtuous.²⁴ Virtue, according to Thomas, is in accord with human nature inasmuch as it is in accord with *reason* (I-II, q. 71, a. 2). Therefore, the judgment by inclination of the virtuous agent presumably belongs to reason itself, although it we shall see that it involves other inclinations, guided by reason, which in turn influence reason’s judgment.

Before looking more closely at the difference between a judgment by inclination and a judgment according to moral science, let us consider the distinct roles played by prudence, moral virtue, and the habit of synderesis. Prudence in its essence is a virtue of reason or intellect (I-II, q. 57, aa. 4-5; II-II, q. 47, aa. 1, 2, 5). It has three acts: to take counsel, to judge, and to command (II-II, q. 47, a. 8). Moral virtue, unlike prudence, is found not in reason or intellect but in the appetites, including the will or rational appetite and the sensitive appetites, when those appetites are disposed to act in accord with reason.²⁵ The ultimate goals of a virtuous individual, which Thomas calls the ends of the moral virtues, are given to reason not by prudence but by reason’s natural habit of synderesis, by which we know the first principles of

²³I-II, q. 62, a. 3: “As stated above (a. 1), the theological virtues direct man to supernatural happiness in the same way as by the natural inclination man is directed to his connatural end. Now the latter happens in respect of two things. First, in respect of the reason or intellect, in so far as it contains the first universal principles which are known to us by the natural light of the intellect, and which are reason’s starting-point, both in speculative and in practical matters. Secondly, through the rectitude of the will which tends naturally to good as defined by reason.” As to reason being a subject of inclinations, see also I-II, q. 41, a. 3 and q. 94, a. 2.

²⁴See I-II, q. 1, a. 1 and q. 6, pr.: Human acts (*actus humani*) are proper to man as a free and rational creature who is master of his actions; they are deliberately willed and determined in advance by reason. Acts of a human being (*actus hominis*) are merely instinctive acts that are not properly human; examples given by Thomas are of a man scratching his beard or moving his foot while intent on some other matter. Also, I-II, q. 18, a. 5: “Now acts are called human or moral to the extent they proceed from reason.”

²⁵I-II, q. 58, a. 2: “Accordingly for a man to do a good deed, it is requisite not only that his reason be well disposed by means of a habit of intellectual virtue; but also that his appetite be well disposed by means of a habit of moral virtue. And so moral differs from intellectual virtue, even as the appetite differs from the reason. Hence just as the appetite is the principle of human acts, in so far as it partakes of reason, so are moral habits to be considered virtues in so far as they are in conformity with reason.”

the natural law (I, q. 79, a. 12; I-II, q. 94, a. 1, ad 2; II-II, q. 47, a. 6, ad 1). When the appetites are inclined in accord with reason to the appropriate ends known by synderesis, prudence then regulates the means by which those ends are to be attained (II-II, q. 47, a. 6). In regulating the means, prudence guides a virtuous person in applying the first principles of the natural law in particular situations.

Thomas says that there is no *moral* virtue without the two *intellectual* virtues of understanding of principles (i.e. synderesis) and prudence (I-II, q. 58, a. 4). On the other hand, moral virtue is required for there to be prudence, because if moral virtue is lacking, the passions may run wild and impair the judgment of reason in regard to particular matters (I-II, q. 58, a. 5). Thomas says that, “Prudence not only helps us to be of good counsel, but also to judge and command well. This is not possible unless the impediment of the passions, destroying the judgment and command of prudence, be removed; and this is done by moral virtue” (ibid., ad 3).

Moreover, after reason appoints the end by its habit of synderesis, the appetite disposed by moral virtue moves reason to a second act which is the judgment of prudence, just as the will is said to precede reason in the order of exercise, although reason comes first in the order of determination (I-II, q. 9, a. 1, co., ad 3). Thus, says Thomas, “Reason, as apprehending the end, precedes the appetite for the end: but appetite for the end precedes reason, as arguing about the choice of the means, which is the concern of prudence” (I-II, q. 58, a. 5, ad 1).

Therefore, I understand Thomas to say that in the case of a virtuous person, reason is inclined according to the intellectual virtue of prudence to judge correctly about what is to be done in a particular situation. The same prudential judgment of reason is preceded and moved by an inclination of the appetite. The appetite which moves reason to a judgment of prudence was itself initially moved and determined by reason’s apprehension of the end and is preserved from error by moral virtue. Moreover, the judgment of prudence is followed by a command, also belonging to prudence, which again moves the appetites and initiates action (II-II, q. 47, aa. 8, 16). We are told that, “the moral virtues do depend on prudence, inasmuch as the appetite in a way moves reason, and reason appetite” (I-II, q. 65, a. 1, ad 3). In this way, through habits of reason and appetite, a virtuous person has the ability to think and act quickly and correctly in real-life situations, i.e. “in the thick of things.”

Table 1: Judgments of Prudence and Human Action (the case of a virtuous agent):

Apprehension of the end (first principle) by reason's habit of synderesis
 → Appetite is then inclined to the end in accord with moral virtue
 → Reason moved by appetite and guided by prudence makes a judgment as to the means to the end and issues a command
 → Appetite is moved by the command → Virtuous human action.

Thomas also says, in the passage I previously quoted, that someone who lacks virtue may nevertheless be able to judge rightly about virtuous acts by the way of knowledge. This is where moral science comes in. What Thomas calls moral science may be thought of as an academic discipline that includes what we today call applied ethics. It is a discipline that enables those who might lack virtue to have some certainty of judgment about the right way to act. It involves explicit statements of principles and conclusions, and of the logical relations between them. It might or might not involve an after-reflection on the act of a virtuous person, who is said to be the rule and measure of action. However, if moral science is to attain to the certainty appropriate to a science, as discussed by Thomas in the foreword to his *Commentary on the Posterior Analytics*, it must certainly involve an analysis back to the first principles.

Which comes first, then, the judgment of prudence in the thick of things, or the discipline of moral science? Does either one depend upon the other? If we think of prudence as guiding reason's movement from principles to conclusions, and moral science as what we learn later on after an analysis back to first principles, it would seem that moral science is nothing more than a formal and explicit statement of what was already known implicitly through the virtue of prudence. However, like moral virtue, which is a habit acquired by performing acts ruled by reason (I-II, q. 51, a. 2; q. 63, a. 2), prudence is not innate. Thomas says that, "prudence is in us, not by nature, but by teaching and experience" (II-II, q. 47, a. 15, s.c.). He may thus be taken to suggest that prudence owes a debt to the teaching of moral science. Nevertheless, teaching need not be the formal and explicit teaching of moral science. It may be by way of example and custom. It may be transmitted informally in social settings, and by parents to children. Thomas says that, "Prudence is rather in the old, not only because their natural disposition calms the movement of the sensitive passions, but also because of their long experience" (ibid., ad 2). The emphasis on experience suggests that prudence could be acquired without formal instruction in moral science, although Thomas never denies that such formal instruction may also play a part.

Experience is also said to be a prerequisite for moral science, at least according to Thomas's interpretation of Aristotle. In his Commentary on Aristotle's *Nicomachean Ethics*, we are told that,

[Aristotle] says that since in moral matters we ought to begin from what is better known to us, that is, from certain effects noted about human acts, a man who wishes to be a competent student of moral science must be well-informed and experienced in the ways of human living, that is about external good and just actions or works of virtue, and in general about all civil matters like laws and political affairs and other things of this sort. The reason for this is that in moral matters we must take as a principle that a thing is so. For example, we accept from experience and custom that concupiscence is restrained by fasting.²⁶

Much could be said about the passage just quoted, but I will restrict myself to five points. First, Thomas says that we begin with certain *effects* noted about human acts, not with causes. He thus indicates that, in the situation he has in mind, we begin with an analysis back to causes or principles rather than first proceeding by synthesis from causes or principles to conclusions. Second, the analysis in question is what Thomas a couple of paragraphs earlier calls a demonstration *quia*, which moves from effects to causes or principles. It is not a demonstration *propter quid*, which proceeds from causes to effects. The third point relates to the fact that Thomas here refers to "external good and just actions." The demonstrations he is presently concerned with are in the order of external things (*secundum rem*), rather than in the conceptual order of intrinsic forms (*secundum rationem*).²⁷ The principle that Thomas gives as an example, relating to concupiscence and fasting, is about the effect of an external action. It becomes known through experience, by observing the effect of the action and making an inference, or through custom. It is not an indemonstrable first principle that is self-evident to all and "naturally known without any investigation on the part of reason." Fourthly, unlike the first principles of the natural law, the principle of fasting is, to use Kant's useful terminology, a hypothetical rather than a categorical imperative. For example, a categorical first principle of the natural law is "Do no evil to others." There are no ifs, ands or buts. But the principle of fasting can be expressed in a conditional form: "If you fast, you will restrain concupiscence." The fifth point, which I want to emphasize, is that principles known by custom and experience are employed in the *application* of the

²⁶*Sententia libri Ethicorum* lib. 1, lect. 4, n. 11, in *Commentary on the Nicomachean Ethics*, vol. 1, p. 25, no. 53.

²⁷See *In De Trin.*, q. 6, a. 1, co. 22, trans. in *The Division and Methods of the Sciences*, 72.

natural law, but are not part of the natural law in its strictest sense. Thus, if someone learns that he must restrain his concupiscence, meaning an attraction to sensual pleasures, in order to better love God and his neighbour, the principle of fasting informs him as to the *means* to do so. It does not direct him to the *ends* of action, which is the function of the natural law strictly speaking. The principle of fasting does not belong to the habit of synderesis, although it is relevant to the acquisition of the habit of prudence.

Conclusion

I have discussed four principles of knowledge which pertain to the application of the natural law in the thought of St. Thomas: experience, teaching, moral science and prudence. Experience or teaching, or both experience and teaching, are necessary for the acquisition of prudence and moral science.

It seems that prudence and moral science, both of which depend upon experience and teaching, could be acquired concurrently. One might reinforce the other. The teachings of moral science may assist a person in developing the habit of prudence. Observation of the actions of the virtuous person, who is said to be the rule and measure of human action, may assist the moral scientist in developing an applied ethics. In the realm of human action, however, prudence and moral virtue are more important than moral science, because they enable one to act virtuously, and not just to think about it.

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Seneca and the Old Stoics On Natural Law and Suicide

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1. Suicide in the old Stoa

Among the multitude of practices that the Stoics were heavily criticized for circumstantially endorsing, suicide occupies an important position. This might have to do with the fact that contrary to provocatively unconventional acts such as incest and cannibalism, which the Stoics allowed only as theoretical possibilities that the wise person might pursue under some (extremely rare) circumstances, suicide was actually practiced by some of the Stoic masters, at least according to our ancient biographical evidence. One celebrated such example appears in Diogenes Laertius' recounting of the life of the Stoic master Zeno. According to Diogenes,¹ while Zeno was leaving the Stoa one day, he tripped and fell, breaking a toe. At that point, Zeno hit the ground with his fist and quoted a line from Timotheus' Niobe: "I am coming, why do you call for me?" Then, he died on the spot by holding his breath. This might seem like an exaggeration, if not a flat out myth, given the physical impossibility of holding one's breath to death. But even if one were to concede that such references should not be considered reliable historical evidence, they do tend to show that the Stoics viewed suicide as an acceptable and perhaps commendable practice. This attitude towards suicide, which was present from the very beginning of Stoicism under Zeno, Cleanthes, and Chrysippus, became an important theme in Seneca's version of Stoicism, and

¹ Diogenes Laertius, *Lives of eminent philosophers* 7.28.

a powerful influence on the morals of the whole of the Roman world, well into the Christian era.²

But the Stoics were not the only ones to consider suicide an acceptable practice under certain circumstances, especially if one is to broaden the concept of suicide to include cases of self-sacrifice or self-performed execution, as the Stoics and their contemporaries seem to have done in some occasions.³ Neither did the Stoics offer a blank-check endorsement of suicide. In fact, the Stoics do not seem to be far from common opinions (among both philosophers and lay people) regarding suicide, when they present suicide as something that is generally wrong (in fact, according to the Stoics, most people who have committed suicide should not have done so or did it for the wrong reasons), but acceptable under certain circumstances.

The point of disagreement, therefore, was not the allowance of suicide itself, but rather the Stoics' *reasons* for allowing suicide and their formulation of the *conditions* under which suicide is acceptable. More specifically, the Stoics were criticized for maintaining that a person's moral character is of no relevance to the decision to stay in life or depart from it, and for claiming that the decision to leave life can be made by *both* the virtuous and the non-virtuous solely on the basis of the severity of pains, restrictions, and hardships that a continued existence would imply.⁴

² For an attempt to associate the Stoic, and particularly Seneca's, attitude toward suicide with Apostle Paul's apparent contemplation of suicide in his letter to the Philippians, and for the effect of Stoic reasoning on Christian ideas regarding self-sacrifice in general, see A. J. Droge, "Mori Lucrum: Paul and Ancient Theories of Suicide," *Novum Testamentum* 30.3. (1988): pp. 263-286, J. L. Jaquette, "Life and Death, 'Adiaphora,' and Paul's Rhetorical Strategies," *Novum Testamentum* 38.1. (1996): pp. 30-54. For a reply to Droge's view that Paul considers suicide in his letter to the Philippians, see N. C. Croy, "'To Die Is Gain' (Philippians 1:19-26): Does Paul Contemplate Suicide?" *Journal of Biblical Literature* 122.3 (2003): pp. 517-531.

³ Celebrated examples of such cases included Socrates' self-poisoning, Codrus' self-sacrifice for preserving Athenian freedom during the Dorian invasion, etc. For a discussion of these cases, see A. J. L. van Hoof, *From Autothanasia to Suicide: Self-Killing in Classical Antiquity* (London: Routledge, 1990) – hereafter referred to as *Suicide*.

⁴ See Johannes Stobaeus, *Eclogae* 2.110: "For virtue does not constrain the virtuous to stay alive, nor vice the non-virtuous to depart from it." This position appears, as some scholars have maintained, contrary to the one Plato endorsed, and apparently also rejected by the Peripatetics. For this view, see J. M. Cooper, "Greek Philosophers on Euthanasia and Suicide," *Reason and Emotion* (Princeton, NJ: Princeton UP, 1999), pp. 515-541.

2. The Peripatetic challenge

The bulk of criticism against the Stoics' views on suicide was directed by their philosophical opponents against the Stoic claim that there are circumstances under which it would be appropriate for a virtuous and happy person to commit suicide. Alexander of Aphrodisias, a man of Peripatetic affiliations and, therefore, a believer in the goodness of bodily and external advantages, objects that the virtuous person would *never* want to abandon a perfectly happy life, if the possession or loss of any external advantages makes no difference to his happiness, as the Stoics proclaimed.⁵ According to Alexander, just as it would be wrong to claim that Zeus would ever want to abandon his supremely happy life, it would also be wrong to maintain that the virtuous person would commit suicide, unless one supposes that the loss of advantages such as health and freedom (which is, according to the Stoics, one of the reasons that would lead the virtuous person to suicide) actually results in the diminution or loss of the virtuous person's happiness.

Alexander in this passage seems to have in mind a two-pronged attack against the Stoics, a kind of attack that was often employed by the Peripatetics against the Stoic moral view that external benefits are indifferent with regard to happiness.⁶ The Stoics, Alexander seems to suggest, can retain their view that it is acceptable and sometimes even appropriate for the virtuous person to commit suicide, but would have to accept that, if that is the case, the loss of some external advantage such as health, freedom, or painlessness, poses a limit to the virtuous person's happiness. This is, after all, why the virtuous person would want to kill himself. On the other hand, the Stoics may choose to stand by their claim that external advantages make no difference to the virtuous person's happiness and do not affect his decisions, which are motivated solely by virtue. But in such a case, the decision to kill oneself seems to have no basis, turning the famous suicides of sages, such as Zeno and Cleanthes, the first two masters of the Stoa, into actions that are caused by a mere whim, conflating, therefore, the Stoic

⁵ Alexander of Aphrodisias, *On the soul II (De anima libri mantissa)*, p. 168., *Commentaria in Aristotelem Graeca (CAG) Supplementum Aristotelicum* vol. 2, pt. 1, I. Bruns, ed. (Berlin: Reimer, 1887).

⁶ Perhaps the most characteristic case of such an attack against the Stoics appears in connection with the Stoic description of virtue as a "stochastic" craft that aims at the acquisition of external advantages, but whose success does not depend on their actual possession. For a discussion of this view from the Stoic and Peripatetic points of view, see G. Striker, "Antipater, or the Art of Living," *The Norms of Nature. Studies in Hellenistic Ethics*, M. Schofield, G. Striker, eds. (Cambridge: Cambridge UP, 1986), pp. 185-204.

position with the paradoxical Cynic view that the wise person may at any time and for no particular reason choose to kill himself.⁷

3. The Stoic reply: appropriate actions and suicide

The Stoics' reply to such accusations focused on providing a criterion that could serve as the basis for deciding whether to stay in life or depart from it, while, at the same time, retaining the view that happiness is not at all influenced by the gain or loss of external benefits (to which the Stoics included life itself).⁸ With this goal in mind, the Stoics maintained that the virtuous person will choose to cut short a life that is fraught with pain and disease because she believes that it is *natural* for her to avoid such disadvantages even at the cost of her life, the same way that she considers things such as nutrition and a good physical constitution to be things that should naturally be sought, and not because she thinks that pain and disease in any way diminish her happiness.

The reference to basing one's actions on what is natural (*kata phusin*) occupies a central position in the Stoic account of appropriate actions (*kathêkonta*).⁹ These, according to the Stoics, are actions that all living beings are naturally inclined to perform, when their development is not restrained from following its natural course. The Stoics believed that all living beings are equipped from birth with impulses towards the pursuit of certain things that are suitable to their particular nature (e.g. a certain kind of nutrition, procreation and the raising of one's offspring, etc.), and the avoidance of their

⁷ For a discussion of the Cynics' attitude toward suicide and its relationship to the Stoics' views, see W. Englert, "Stoics and Epicureans on the Nature of Suicide," *Proceeding of the Boston Area Colloquium in Ancient Philosophy* 10 (1994): pp. 67-98 – hereafter referred to as "Stoics and Epicureans."

⁸ The debate regarding the goodness of external advantages between the Stoics and their philosophical rivals of the Academy and the Peripatetics, to which Alexander of Aphrodisias seems to be alluding in his comments on suicide, apparently reached its height during the tenure of Antipater of Tarsus and Diogenes of Babylon, leaders of the so-called Middle Stoa. Yet the Stoic ideas to which I will refer throughout this section are firmly grounded on the doctrines of the early masters Zeno, Cleanthes and Chrysippus.

⁹ For a comprehensive account of appropriate actions and the Stoic theory of action in general, see B. Inwood, *Ethics and Human Action in Early Stoicism* (Oxford: Oxford UP, 1985). As I think will become clear, the Stoics did not think of suicide as an action that requires any special treatment, but rather saw it as an action whose character and appropriateness follows the same general principles as all other actions (from the mundane, such as eating and sleeping, to the exceptional, such as marrying and serving as king). Looking at suicide from this general framework of appropriate actions will reveal, I believe, that the Stoic claims regarding suicide were neither inconsistent with their other views, nor implausible in general.

opposites.¹⁰ By acting according to these natural impulses, living beings are able to perform actions that are appropriate (*kathêkon*) to their particular nature and environment. Furthermore, in the case of rational living beings, the consistent performance of such appropriate actions results in a life that is progressing towards virtue and happiness, although it has not reached them yet.

The Stoics associated appropriate actions with reason by proclaiming that *kathêkonta* are actions that “once they have been done, have a reasonable account (*eulogos apologia*).”¹¹ This reasonable account or justification, according to the Stoics, contained a reference to what is most naturally suited to the survival and the overall good constitution and well being of every animal. Thus, Cicero mentions in his exposition of Stoic ethics, in *De finibus* 3.20, that “the first appropriate action (*officium*) – this is my [Cato’s] term for *kathêkon* – is to preserve oneself in one’s natural constitution; the second is to seize hold of the things that accord with nature and to banish their opposites.” The “things that accord with nature” (the *kata phusin*) include external advantages, such as health, strength, proper nutrition, etc. These are things that both the non-virtuous and the virtuous can properly identify, and things that they both aim at pursuing (of course, with varying success).

The repeated Stoic reference to suicide as an action that can, at times, be appropriate for a non-virtuous person (a point that was not disputed by the Stoics’ philosophical opponents) indicates that they considered suicide to belong to the class of *kathêkonta*, which can be performed by both the virtuous and the non-virtuous, and in fact, by all living beings. As such, it appears that suicide could be justified through a reasonable account that mentions how some of the natural advantages, such as painlessness or freedom from a tyrant’s oppression, are secured through it. And, in fact, most of our surviving evidence on suicide in the Old Stoa refers to suicide as an action that aims at securing these advantages and nothing further.¹² But, at

¹⁰ The Stoics referred to this process of acquiring impulses toward what is most appropriate to each living being’s particular nature in their theory of appropriation or familiarization (*oikeiôsis*). The theory of *oikeiôsis* occupies the starting point in two out of the three extensive surviving accounts of Stoic ethics, Cicero’s *De finibus* and Diogenes Laertius’ seventh book of the *Lives of eminent philosophers*. For a discussion of the theory of *oikeiôsis*, see G. Striker, “The Role of *Oikeiôsis* in Stoic Ethics,” *Oxford Studies in Ancient Philosophy* 1 (1983): pp. 145-67, and R. Radice, *Oikeiosis. Ricerche sul Fondamento del Pensiero Stoico e sulla sua Genesi* (Milan: Vita e Pensiero, 2000).

¹¹ Stobaeus 2.85. Similar definitions appear in Diogenes Laertius 7.107 and Cicero, *De finibus* 3.20.

¹² See Cicero, *De finibus* 3.61: “Therefore, the reasons for both remaining in life and departing from it are to be measured entirely by the primary things that are in

this point, a note of caution is needed. The fact that the early Stoics considered suicide an acceptable practice does not mean they believed it to *always* be a reasonable, justifiable, and appropriate choice.¹³ After all, the purpose of *kathêkonta* is, at first, to ensure one's survival, and, following, to secure a natural life, i.e. a life that is adapted to one's natural constitution, activities, and purpose. Suicide might appear, in principle, to be an option that relieves us of some hardship, either actual or potential, at *any* point, and, thus, an action that would secure the natural advantage of painlessness at any time, especially when one considers possible *future* pains, such as those of old-age, or of a life without a beloved person. But the Stoics did not consider any such general justification of suicide to be reasonable by itself. After all, staying alive is also a reasonable option that aims at a natural advantage, namely life itself.

The Stoics, I believe, tried to qualify their claim about the appropriateness of suicide by thinking about suicide as an action that is appropriate *only* under certain circumstances. According to Diogenes Laertius 7.109, the Stoics made a distinction between *circumstantial* and *non-circumstantial* appropriate action, defining the two as follows: "Some appropriate actions do not depend on circumstances, but others do. The following do not depend on circumstances: looking after one's health and one's sense organs, and the like. Appropriate actions which do depend on circumstances are mutilating oneself and disposing of one's property."¹⁴ The difference between these two kinds of

accordance or contrary to nature." Englert, "Stoics and Epicureans," p. 70 ff. adds to these reasons the obligations one has to family, friends and country (obligations that result in the appropriateness of self-sacrifice, and the "avoidance of being forced to do or say immoral or shameful things"). Both of these extra reasons for committing suicide appear very rarely in our sources (as Englert notices, only twice in the case of duties to others and once in the case of avoiding shameful and immoral acts; moreover, the only text where they are both mentioned is an unnamed collection of philosophical excerpts whose origin and reliability are uncertain, quoted in *Stoicorum Veterum Fragmenta (SVF)* 3.768). Leaving aside questions of interpretation regarding the *SVF* 3.768 passage (these are discussed in F. H. Sandbach, *The Stoics* (Indianapolis: Hackett, 1975), p. 50, and M. T. Griffin, *Seneca: a Philosopher in Politics* (Oxford: Clarendon Press, 1976), pp. 379-383 – hereafter referred to as *Seneca*), I think it is clear that the Stoics intend to include suicide in the general framework of *kathêkonta*, and the selection of things in accordance with nature. In this account of *kathêkonta*, the Stoics included duties towards others, which arise from the natural concern for the well-being of those close to us (on this, see the accounts of *oikeiôsis* mentioned in footnote 10).

¹³ Compare this with Seneca's claim that we are always free to exit life whenever we want to, discussed in the section 6.

¹⁴ Diogenes Laertius presents the account of circumstantially appropriate actions as standard Stoic doctrine, without attributing it to any particular Stoic master. The founder of the Stoa is mentioned as the first one to introduce the concept of appropriate

appropriate actions seems to be that, while generally appropriate actions can be justified by merely pointing at the naturalness and, therefore, choiceworthiness of the advantage they aim at bringing about (for example, taking care of one's health is always appropriate because health is a natural advantage), circumstantial *kathêkonta* need to refer to their circumstances in order to be justified. Their justification, therefore, should include a reference to *why*, given the circumstances, forgoing one of the natural advantages (for example, the use of one's limb, in a case of amputation due to a gangrene infection) is the appropriate thing to do, by reference to some other, more valuable, natural advantage, which can *only* be gained by the loss of the first advantage (in the case of amputation, one's health, and consequently life).

As our sources indicate, the Stoics considered suicide to be one of the actions that are circumstantially appropriate.¹⁵ This means that, for the Stoics, one can offer a reasonable justification of suicide, under special circumstances in which the natural advantages that are gained by killing oneself (such as painlessness, the escape from servitude, or the survival of one's offspring or country) outweigh the value that being alive possesses. Contrary to the Cynics, the Stoics did not present suicide as something one should do whenever he thinks he had enough of this life. Rather, they presented a framework, that of the balance of value among natural advantages, on which the decision to end one's life can be based. This does not mean that the Stoics had any exact set of conditions under which suicide is appropriate (especially in the case of the virtuous person, whose life is fully under his discretion).¹⁶ But there are some general guidelines. And, most

action a bit further up in the text, at 7.107. It might be that the notion of circumstantial *kathêkonta* also originated with Zeno. One can only speculate about the motivation behind introducing the notion. But it seems clear that the kinds of actions included in circumstantial *kathêkonta* were those that the Stoics, and more so the Cynics, were criticized for endorsing (Crates the Cynic, for example, presumably disposed of his property and became a philosopher). It appears that the Stoic placing of such actions within the account of appropriateness is an attempt to offer a justification and purpose to them, while introducing restrictions to their actual performance (in contrast to the Cynics, who thought that such extreme acts can *always* be appropriate).

¹⁵ This is not explicitly mentioned on any of our surviving sources. But it is reasonable to think of suicide as belonging to the same class as mutilation, both of which involve a self-inflicted harm, as an extreme solution to some adverse circumstance (at least in the cases where mutilation or suicide is not the product of some psychological imbalance).

¹⁶ Our ancient sources on the Stoa provide almost no specific lists of the conditions under which suicide is acceptable. And even the few lists that we have, such as the one appearing in *SVF* 3.768, entitled "The five ways of reasonably leading oneself out of life," should be handled with care, since they come from collections of excerpts that do not name any Stoic philosopher in particular and provide no philosophical justification

importantly, these guidelines do not make any reference to the good or happiness. The Stoics' theory of action and account of *kathêkonta*, therefore, seems to provide a justification for the appropriateness of suicide that is based only on the naturalness of the externals brought about by suicide, under some exceptional circumstances.

4. Old Stoa: the appropriateness of virtuous suicide

Apart from finding a criterion for deciding when suicide is acceptable, the view of suicide as a circumstantially appropriate action also seems to have provided the Stoics with a defense of *virtuous* suicide against criticism stemming from the Academy and the Peripatetics. As our ancient sources indicate, the early Stoic masters devoted a large part of their moral theory to describing the actions of the virtuous person and the benefits that virtue's exercise brings.¹⁷ Correspondingly, the Stoic account of suicide seems to have appeared mostly within the context of virtuous action. After all, as the passage from Alexander of Aphrodisias mentioned earlier indicates, it was the appropriateness of *virtuous* suicide that was under debate.

For the most part, the surviving Stoic accounts of virtuous suicide concentrate on its *appropriateness*, by focusing on the natural advantages that the virtuous person secures through his self-inflicted death. So, Diogenes Laertius 7.130 mentions that, according to the Stoics, "the wise person will reasonably lead himself out of life for the sake of country and friends, or if he suffer intolerable pain, mutilation, or incurable disease," while Stobaeus 2.110 presents the Stoic view that "the virtuous will lead themselves out of life *appropriately* in many ways" (emphasis mine). Correspondingly, Plutarch, *De Stoicorum repugnantiis* 1042D, presents the Stoic view that "it is sometimes *appropriate* for the happy people to lead themselves out of life, and for the unhappy to remain in life," as does Cicero, in *De finibus* 3.60, where the appropriateness of virtuous suicide is associated with the view that the reasons both for remaining in life and for departing from it are to be

for the conditions for suicide mentioned. Compare this with Plato's *Laws* 873c-d, which mentions explicitly the conditions under which suicide is acceptable.

¹⁷ Characteristically, Arius Didymus (appearing in Stobaeus' *Eclogues* 2.57-116 in the Wachsmuth edition) devotes about half of his *Summary of Stoic Ethics*, which discusses mostly doctrines of the old Stoa, to the actions and attributes of the virtuous person. For a detail account of Arius' topical division in the *Summary*, see A. A. Long, "Arius Didymus and the Exposition of Stoic Ethics," *On Stoic and Peripatetic Ethics. The Work of Arius Didymus*, W. W. Fortenbaugh, ed. (New Brunswick: Transaction Books, 1983), pp. 41-65. Compare this with the tendency of Roman Stoics to focus more on the discussion of practical rules of conduct that even the non-virtuous could follow. I discuss this tendency in relation to Seneca's views on suicide in sections 6 and 7.

measured entirely by the balance of things in accordance with nature, in the case of *both* the virtuous and the non-virtuous.

This justification of virtuous suicide seems to be in line with the Stoic description of *right actions* (*katorthômata*, or *recte facta*), which only the wise and virtuous are able to perform, as perfect appropriate actions (*kathêkonta*).¹⁸ Since they belong to the larger group of appropriate actions, one would expect right actions to be directed toward the same things that appropriate actions aim at, namely attaining the greatest amount of natural advantages, although that might not be *all* right actions aim at. This thought seems to be suggested in Cicero, *De finibus* 3.61, where the Stoic Cato maintains that “the primary objects of nature, whether they are in accordance with it or against it, fall under the judgment of the wise person, and are as it were the subject and material of wisdom.” It also appears to be present in the Stoic view that virtue’s exercise consists in “living continually selecting what is in accordance with nature and rejecting what is contrary to nature.”¹⁹ A virtuous person, therefore, *could* justify the decision to take his own life by referring to the natural advantages gained by his action and to the fact that performing a virtuous action is nothing other than gaining these advantages in the proper (i.e. perfect) manner. So, according to the Stoics, there is nothing paradoxical about presenting virtuous suicide as an action that is sometimes appropriate, if it is to be an acceptable practice in the case of the non-virtuous (something that the Stoic’s philosophical opponents were willing to grant).

5. Old Stoa: the goodness of virtuous suicide

Although most of our surviving evidence on the early Stoics’ view of virtuous suicide discusses its *appropriateness*, the Stoics thought that the virtuous person’s decision to take his own life is not only appropriate (when it occurs), but also *morally right*, and that the wise man’s self-inflicted death is a source of benefit and goodness. Furthermore, according to the Stoics, the appropriateness and the goodness of virtuous suicide are based on two different features of virtuous suicide, and not reducible or comparable to one another. According to the Stoics, the Peripatetics, such as Alexander of Aphrodisias, failed to see this difference between appropriateness and goodness.²⁰ For this reason, the Peripatetics assumed that the goodness of

¹⁸ See Stobaeus 2.86: “of appropriate actions some they [the Stoics] say are perfect – these are also spoken of as right actions.”

¹⁹ This is the definition of the overarching goal (*telos*) of human life that has been attributed to the Stoic master Antipater in Stobaeus 2.76. Antipater is not one of the Old Stoics, but his definition of the *telos* seems to be in line with the orthodoxy of the old Stoa.

²⁰ This is a complaint that the Stoics often voiced against the Peripatetics, even outside the context of virtuous suicide. A similar Stoic reaction appears in Cicero, *De finibus*

virtuous suicide (if one were to accept that there is such a thing),²¹ must lie in its securing some natural advantage, such as painlessness, for the virtuous person. But, while the securing of a natural advantage renders virtuous suicide appropriate, it is not what makes virtuous suicide a right action, and a source of goodness and benefit, according to the Stoics. Rather, the goodness of virtuous suicide lies exclusively in the *manner* it is performed, that it lies exclusively in the virtuous person's proper choice of time, and, most importantly, his *reasons* for deciding to depart from life.²²

Contrary to the non-virtuous who believes that his escape from pain, old-age, imprisonment, disgrace, or whatever else suicide relieves him of, is a (regrettable) escape from real evils that were making his life unhappy, the virtuous person does not view the possession of any external disadvantage, or death itself, as something that can affect her happiness. Of course, the value of natural advantages does enter the virtuous person's deliberation regarding the appropriate course of action. But, unlike the non-virtuous, and contrary to Alexander of Aphrodisias and his Peripatetic colleagues, the Stoic virtuous person does not pursue the freedom from pain and slavery with the thought that these are real goods. Rather she pursues them with the thought that it is *natural* for her to do so, or, more appropriately, because this is what nature's law, i.e. the will of god, as it is expressed through fate, commands her to do.²³

3.41 ff., where the Stoic Cato argues that the Peripatetics mistake the preferred indifferents (which determine an action's appropriateness) for real goods (which constitute part of one's happiness).

²¹ As the Peripatetics and the Stoics would both agree, if virtuous suicide were to be appropriate under some circumstances, it would also have to be good, since *every* action of the virtuous person is good. The points of contention, therefore, were the appropriateness of virtuous suicide and the identity of the causes of its appropriateness and its goodness.

²² For this distinction between right actions and appropriate actions in general, see Cicero, *De finibus* 3.59: "If it is a right action (*recte factum*) to return a deposit in the just manner, to return a deposit should be counted as an appropriate action (*officium*). It becomes a right action by the addition 'in the just manner,' but the act of return just by itself is counted an appropriate action." For a similar thought, see Sextus Empiricus, *Adversus mathematicos* 11.200.

²³ Although the Stoics seem to have thought of their account of natural law and natural theology as an indispensable part of their ethics, the scope and size of this essay makes impossible any substantial discussion on this topic. The relationship between Stoic ethics and Stoic natural theology is a topic that has drawn considerable attention in contemporary scholarship, leading to a variety of often diverging views. For some lucid and comprehensive discussions, see J. M. Cooper, "Eudaimonism, the Appeal to Nature, and 'Moral Duty' in Stoicism," *Reason and Emotion* (Princeton, NJ: Princeton UP, 1999), pp. 427-448 – hereafter referred to as "Eudaimonism," G. Striker, "Following Nature: a Study in Stoic Ethics," *Essays on Hellenistic Epistemology and Ethics* (Cambridge: Cambridge UP, 1996), pp. 221-280, and A. A. Long, "The Logical

Correspondingly, the benefit that the Stoic virtuous person aims at when committing suicide is not the avoidance of pain and slavery itself, but being in agreement with nature, i.e. obeying the natural law, which at the given point demands that the Stoic virtuous person seeks freedom from pain and tyranny by departing from life.

According to the Stoics, the world is created and governed by a supremely rational, benevolent, and providential god. The Stoics did not envision god as a distant creator and arbitrator of the universe, or as a remote prime mover. Rather, they proclaimed that god permeates the whole of the creation, and is, in fact, identical with universal nature. God, or nature, has providentially predetermined and intelligently arranged the cosmos so that it functions in the best possible way. Moreover, by permeating the whole of the creation, god is always causally responsible (without, though, being the only cause) for every event that takes place in the world, unfolding the perfectly rational and benevolent divine plan of the cosmos by acting through Fate.²⁴ The wise and virtuous person, according to the Stoics, is aware of these divine attributes, and, in the course of his moral development,²⁵ comes to acquire a conception of the good as being in agreement (*homologia*) with nature.

The Stoics understood agreement with nature to be a state of “engaging in no activity wont to be forbidden by the universal law, which is the right reason pervading everything and identical to Zeus, who is the director of the administration of existing things.”²⁶ Natural law, as the Stoics envisioned it, does not contain only general precepts of conduct.²⁷ Rather, natural law, which the Stoics identified with god’s, or nature’s will, determines even the minutest detail of everything that occurs in the cosmos in accordance with god’s perfect providential plan. The virtuous person’s obedience to nature’s

Basis of Stoic Ethics,” *Proceedings of the Aristotelian Society* n. s. 71 (1970): pp. 85-104.

²⁴ The most extensive reports of the Stoic views on natural theology appear in Cicero, *De natura deorum* 2, and Sextus Empiricus, *Adversus mathematicos* 9.4-194. An account of Stoic theology and physics also appears in Diogenes Laertius 7.137-149. My comments here are limited to a minimal outline of the Stoics’ account of god and nature.

²⁵ On how this comes about, see Cicero, *De finibus* 3.20-22. The Stoics viewed the process of moral development that leads to the knowledge of the true good, i.e. agreement (*homologia*) with nature, as a continuation of the process of familiarization (*oikeiōsis*).

²⁶ Diogenes Laertius 7.89, quoting Chrysippus’ first book of *On ends* for a similar account, see Stobaeus 2.75-77.

²⁷ Compare this with later conceptions of natural law, such as that of St. Thomas Aquinas. For an enlightening discussion of the two models of natural law, see P. A. Vander Waerdt, *The Stoic Theory of Natural Law* (Princeton University Dissertation, 1989).

law, according to the Stoics, consists in having the right kinds of thoughts about what is the goal in life (fulfilling nature's plan by obeying its law) and why this is so (because nature, or god, is rational and providential, and its plan is, therefore, perfect). These thoughts, in turn, constitute a disposition of the human soul, which the Stoics identified with virtue.

At the heart of this virtuous disposition is the embracing of nature's universal perspective, which leads to the abandonment of the thought that external advantages are good. Unlike the non-virtuous, who mistakenly believes that *his* good is *his* possession of some external advantages, the Stoic virtuous person comes to view all external advantages as mere instruments for the fulfillment of nature's rational plan, and as nothing more than a guide to action that nature provides to all living beings (in the sense that none of the external advantages is good, or a good). As the Stoic virtuous person comes to realize, what is good about the world is not that living beings are alive, and sometimes experience pleasure in it, or even that living beings exist at all. Rather, the world's goodness lies in the fact that everything that happens in it obeys the law of nature, and, as a result, demonstrates an immense rational coherence, regularity, proportionality, and, therefore, beauty.²⁸ The Stoic virtuous person, who has gained full knowledge of the perfection and goodness of nature and its law, comes to adopt this coherence as his own good. As a result, he comes to see the natural advantages as things whose role is *only instrumental* in achieving a harmonious and rationally coherent world (by helping living beings decide and pursue what is most suitable to their particular nature), while he values only virtue and agreement with nature as the real good.

This Stoic description of virtue and the good as following nature's law also illuminates the distinction between virtuous and non-virtuous suicide. The suicide of the virtuous person is a perfect and right action not because it aims at the relief of some pain or hardship, but because it takes place at the right time, for the right reasons, and in a way that promotes the well being of the whole of the cosmos, which, at the given point, requires that the wise person depart from life. In a way, according to the Stoics, the virtuous person who commits suicide willingly performs himself what the natural law, i.e. the will of god expressed through Fate, requires at that point, namely his death. It is this fulfillment of natural law *only* that the virtuous person aims at, according to the Stoics, and the thing that he always succeeds in achieving. As a result of his adoption of nature's universal perspective and his conscious and active fulfillment of nature's divine plan, the wise person does not only

²⁸ On the regularity and beauty demonstrated by the universe and its perfect functioning, see Cicero, *De natura deorum*, which provides the most extensive account of Stoic theology, and Cleanthes, *Hymn to Zeus*, quoted in *SVF* 1.537.

benefit himself, by saving himself from any future hardships (as the non-virtuous do through suicide), but also provides benefit for the whole of the cosmos. This benefit extends, on the one hand, to providing an example to other people by dying bravely in battle, freeing his relatives from the obligation to take care of the aging virtuous person, etc. On the other hand, the benefit from virtuous suicide extends even further, encompassing the whole of the world and becoming identical to the benefit from god's providence, since it is through the virtuous person that providence is bestowed.

This position sounded undoubtedly radical, not only to the Stoics' philosophical opponents, but probably also to philosophically untrained people, who sought some practical guidance on how to lead their lives from the proclaimed experts of the "craft of life."²⁹ Perhaps the Stoics intended their views to be perceived in such a way, as a means to shaking people's settled beliefs, the way Socrates did before them. But they also thought that their view of virtuous suicide as an act that follows nature's divine law and bestows benefit upon the whole of the world was both consistent with their other moral views, and plausible in general.

The Stoic understanding of virtuous suicide as an act of following nature's law, rather than an act whose goal is the possession of external advantages, can also explain suicides like that of Zeno, where the natural advantages gained are unclear and apparently negligible. By being motivated only by his will to follow nature and its law, the Stoic virtuous person does not see old age, pains, etc. not as evils that one needs to be freed from, but rather, as *signs* that point toward the exit, and nothing else.³⁰ Zeno, who killed himself after breaking his toe, clearly did not suffer unbearably and was not incapacitated by his accident. The pains and difficulties that his suicide freed him of, therefore, were only trivial, and obviously not enough to counterbalance the value of Zeno's life. So, Zeno did not commit suicide to free himself from pain. Rather, he saw his accident as a sign from god, whom he addressed right after his accident, a sign that Zeno interpreted as the command to depart from life.³¹

As the Stoic account of the good as following nature's law reveals, *every* gain or loss of an indifferent by the virtuous person is seen by him as a sign that indicates what he should do, and not as something that is good or bad in

²⁹ Contrast this with the practical-minded philosophical orientation of Seneca, discussed in the following sections.

³⁰ This is the view that Rist also adopts in J. M. Rist, *Stoic Philosophy* (Cambridge: Cambridge UP, 1969), pp. 242-43. For a response to Rist, see Englert, "Stoics and Epicureans," p. 74.

³¹ For the Stoic account of signs, and the virtuous person's unfailing ability to interpret them, see Cicero, *De divinatione* 1.82, 117, Philodemus, *On signs* 1.2, 6.1.

itself. Thus, hunger, pain, or sickness, although indifferent with regard to happiness, serve as a guide to the actions of the virtuous person's life, leading him to proper and timely nutrition, avoidance of harmful activities, and rest when required. Correspondingly, the Stoic virtuous person would treat both major and minor external misfortunes, such as debilitating disease, slavery, or even a broken toe, as signs that reveal nature's divine plan, which demands that the virtuous person depart from his life. And this is exactly what the Stoic sage does willingly and appropriately, according to the account of the Old Stoa of Zeno and Chrysippus. In these cases, then, suicide becomes more than an acceptable solution to mounting external disadvantages. It becomes a vehicle for the virtuous person's fulfillment of the law of nature, which has fated him to depart life at a particular point. It becomes yet another (last) act of following nature and nature's command.

6. Seneca: suicide and freedom

When one moves to Seneca and his attitude toward suicide, a number of striking differences from the early Stoics become immediately apparent. A first difference has to do with the mere frequency of Seneca's references to suicide. For the most part, the older Stoics seem to have treated suicide as just another case of balancing the value of external indifferents, and not as an action that required particular justification, or an action that had any particular moral weight. For this reason, the surviving old Stoic references to suicide are few, despite the fact that the Stoic views on suicide seem to have stirred quite some controversy. In Seneca, on the other hand, the references to suicide are numerous, either in the form of presenting suicide as an option that one should always keep in mind when faced with external difficulties, or in the form of presenting the suicides of famous men, such as Socrates and Cato, or lowly servants and prisoners, as paradigms of liberation and fortitude. In one form or another, references to suicide and discussions of death in general spread through the whole of Seneca's work.³²

A second, related, uniqueness of Seneca concerns his seeming fascination with suicide. This is not an attitude in direct correlation with Seneca's life. Seneca did famously kill himself in a prolonged manner, but only after being more or less ordered to do so.³³ And in *Letters* 78.1, Seneca admits of having thought of suicide as a solution to his ailments only to reconsider, presumably because of his concern for his aged father. Yet, Seneca's rhetorical fervor and

³² For an extensive list of these references, see N. Tadic-Gilloteaux, "Sénèque face au suicide," *L'antiquité classique* 32 (1963): pp. 541-551.

³³ Seneca's death is described in Tacitus, *Annals* 15.62-64, and Dio Cassius 62.25. For an account of the possible relationship between Seneca's life and his views on suicide, see M. T. Griffin, *Seneca*, p. 367 ff.

moral praise reach their heights when he refers to illustrious suicides, as, for example, in *De providentia* 2.9, where the suicide of Cato is presented as a spectacle worthy of god's attention and as an exemplar of moral fortitude in confronting ill-fortune.³⁴ Such portrayals of acts of suicide have led scholars, such as J. M. Rist, to argue that "fundamentally Seneca's wise man is in love with death."³⁵ This characteristic, Rist notes, is absent from the discussions of suicide in the old Stoa, where choosing to remain alive or to kill oneself is a matter of indifference.

Was this apparent fascination with suicide the result of some personal idiosyncrasy, an obsession of Seneca that surfaced over and over again? Or was it the result of a different philosophical position? If the latter is the case, was Seneca aware of his deeper philosophical disagreement with the former masters of the school he proclaimed to adhere to, and if yes, was that a disagreement that Seneca wished to bring to the foreground?

In answering a similar question, Rist notes that Seneca himself does not advocate a schism from Stoic orthodoxy. Yet, according to Rist, Seneca "has abandoned the old view which made life and death matters of indifference," or, at the very least, has introduced a "new emphasis in Stoicism."³⁶ This, Rist seems to think, might have roots in Seneca's pessimistic personal attitude, which viewed life as a continuous struggle with Fortune, rather than a serene life of contentment with what fate brings one's way. But, whatever Seneca's personal idiosyncrasy, Rist notices a significant rift between Seneca and the old Stoa, centered on Seneca's fascination with suicide, which at times, according to Rist, Seneca himself recognizes as un-Stoic.

This much might be true, i.e. Seneca might have had a personal fascination with suicide which at times took the better of him. But it also appears clear that, at least formally, Seneca does not challenge Stoic orthodoxy regarding suicide.³⁷ For one thing, Seneca's undeniable fascination with people such as Cato, who managed to take Fate into their hands and unhesitatingly chose to end their own lives rather than be disgraced, is often coupled with the sobering realization that staying alive and choosing to fight

³⁴ In this passage, Seneca remarks: "Here is a spectacle worthy of the regard of god as he contemplates his work! Here a contest worthy of god, a brave man matched against ill-fortune! ... I do not know what nobler sight Zeus could find on earth, should he wish to turn his attention there, than the spectacle of Cato." The poetic language is indicative of Seneca's seeming fascination with suicide.

³⁵ Rist, *Stoic Philosophy*, p. 249. For a discussion of Rist's account of Seneca's treatment of suicide, see Griffin, *Seneca*, pp. 374-376, and Englert, "Stoics and Epicureans," p. 76.

³⁶ Rist, *Stoic Philosophy*, p. 249.

³⁷ The Stoic orthodoxy of Seneca's views on suicide, *contra* Rist, is also advocated by Griffin, *Seneca*, and Englert, "Stoics and Epicureans."

one's battles may be equally (if not more) appropriate to taking one's own life. For example, in *Letters* 24.24, Seneca declares that "we need to be warned and strengthened in both directions, not to love or to hate life too much. Even when reason advises us to make an end of it, the impulse is not to be adopted without reflection or at headlong speed."³⁸ Similarly, in *Letters* 70.11, where suicide is explicitly discussed, Seneca mentions: "No general statement can be made with regard to the question whether, when a power beyond our control threatens us with death, we should anticipate death, or await it. For there are many arguments to pull us in either direction." Even Seneca's most characteristic idea in his sponsorship of suicide, the view that what matters is not the length of our life but the manner of our death,³⁹ is wholly within the framework of views on life and death that the old Stoic masters seem to have held. Seneca might appear to be more fascinated by the idea of suicide than the Stoics before him but, so far, there seems to be no reason to assume a philosophical rift.

The idea that seems to strike one as novel, and inevitably reaches the foreground in any discussion of Seneca's views on suicide, is the idea of suicide as an exercise of one's freedom. In *Letters* 26, Seneca maintains that bidding one to think of death is bidding him to think of freedom.⁴⁰ Also, in *Letters* 70.14, which explicitly deals with suicide, Seneca maintains that forbidding one to do violence to oneself is "shutting off the path to freedom."

³⁸ See also *Letters* 58.36, where Seneca argues that it is not appropriate to commit suicide due to illness, for as long as the illness is curable, since "he who dies just because he is in pain is a weakling, a coward."

³⁹ See *Letters* 77.4: "At whatever point you leave off living, provided you leave off nobly, your life is a whole."

⁴⁰ Seneca, *Letters* 26.10: "'Think of death.' In saying this, he [Epicurus] bids us think of freedom." The mentioning of Epicurus, the main philosophical opponent of the Stoics, might seem rather odd, or even outright unacceptable, for a proponent of Stoicism, such as Seneca. Seneca himself notices his apparently odd choice of quoting Epicurus in a number of passages where he adopts this practice. For example, in *Letters* 12.10, Seneca uses an Epicurean quotation ("It is wrong to live under constraint; but no man is constrained to live under constraint") to bolster his view that we are always free to choose to abandon life whenever we think that life's difficulties and pains become unbearable. Immediately after this, he responds to the apparent inconsistency of mixing the Stoic views with those of Epicurus by saying that "what is true is mine." Apparently, Seneca sees nothing wrong with quoting Epicurus, when Epicurus is in line with the Stoic position. But this does not mean that Seneca espouses the Epicurean point of view, or is influenced by it. After all, Seneca fundamentally disagrees with Epicurus in viewing this freedom of choice as a product of nature's supremely intelligent and benevolent eternal law (on this, see *Letters* 70.14), and not a product of a random collision of atoms. We are free, Seneca thinks, not because there is no law (as Epicurus believes), but because god, and divine law, has made it so.

Moreover, Seneca seems to view suicide as the free act *par excellence*, and as the *only* thing over which all of us have exclusive control. Again, in *Letters* 70.12, Seneca says: “There is no occasion when the soul should be humored more than at the moment of death. Let the soul depart as it feels itself impelled to go. [...] The best form of death is the one we like.” It is at the moment of death, when it is of our choice, that we are the most free, according to Seneca.

As commentators have correctly, I think, pointed out,⁴¹ this view of suicide as the supreme free act is absent in early Stoicism. According to the old Stoa, whether an act is free or not is determined by the moral character of the person who commits it. All the acts of the virtuous person are supremely free because they stem from her reason alone and all the acts of the non-virtuous are, correspondingly, constrained because they are always led by the appeal of external advantages, which the non-virtuous mistake for real goods.⁴² Does Seneca contradict the old Stoic doctrine of freedom and autonomy by introducing his notion of suicide as an act of freedom/autonomy that can be performed by both the virtuous and the non-virtuous? Does he envision suicide as an act that instantly transmutes the unwise to a Stoic sage? This seems to be the view that Rist wants to assign to Seneca’s “wholly novel” conception of suicide. But I think one need not go that way.

On the one hand, it does not seem that Seneca is unaware of the fact that suicide can be either virtuous (and, therefore, free and autonomous) or the opposite, depending on who performs it. Seneca’s praise for the choice of common, non-virtuous people to kill themselves when faced with insurmountable external adversities is fully in line with the orthodox Stoic view that suicide can be appropriate for both the virtuous and the non-virtuous. The non-virtuous people in Seneca’s examples are praised for doing what is appropriate, given the circumstances. But this does not mean that Seneca mistakenly thinks of non-virtuous suicide as a perfect action, a *katorthôma* that can be performed by both kinds of people. This is why he never praises the suicides of young men, slaves, and barbarians, as cases of virtuous action. Rather, Seneca presents them as examples that other non-virtuous people (the recipients of Seneca’s letters and readers of his moral essays) could follow.⁴³

⁴¹ For this, see Rist, *Stoic Philosophy*, p. 248.

⁴² See Diogenes Laertius 7.121: “Only he [the wise man] is free, but the inferior are slaves. For freedom is the power of autonomous action, but slavery is the lack of autonomous action.”

⁴³ In fact, it would seem *necessary* for Seneca to present the actions of the *non-virtuous* as paradigms, since Seneca’s non-virtuous audience would be *by default* unable to follow the example of the virtuous, whose actions are motivated by a state of mind that is unavailable to the non-virtuous. Seneca in this case seems to be pointing his audience

I believe that much of the confusion regarding Seneca's attitude towards suicide and the supposed philosophical rift with the earlier Stoic tradition stems from the mistaken thought that Seneca fails to distinguish between virtuous suicides, which are perfect actions (*katorthômata*), and non-virtuous suicides, which are mere appropriate actions (*aplôs kathêkonta*). But there is no evidence to support this. Despite the (often high) praise of the decision of a non-virtuous man to kill himself when appropriate, Seneca does not maintain that suicide can ever raise one to the level of the Stoic sage, or provide one with anything beyond freedom from pain and slavery. Also, Seneca does not give us any indication of conceiving suicide as leading to ennoblement, although he does repeatedly present suicide as being an *expression* and *demonstration* of the noble character of illustrious people. When referring to cases of virtuous people taking their lives, Seneca views these actions as commensurate with the moral greatness of the agent (such are the descriptions of the death of Socrates and Cato). On the other hand, when he presents numerous cases of slaves, gladiators, barbarians, etc. (i.e. the vulgar and unwise) killing themselves he only refers to the *non-moral* gains secured by suicide: the suicide dies quickly and sometimes painlessly, the suicide does not have to continue an existence that he dreads, and cannot be used to further ills such as the gladiatorial thirst for blood. Whatever liberating effect the suicide of the non-virtuous has, it is not an effect that leads to happiness in any way.⁴⁴

Equally wrong, I believe, would be to claim that Seneca prescribes suicide merely on its merit of being an act of freedom. After all, the person who chooses to let nature decide the proper time for his death, according to Seneca, is no less free than the one who kills himself.⁴⁵ Rather, they are both equally free to choose what they want. The lofty prose of Seneca when extolling the suicide of even the lowest of people might incline one to think that Seneca conceived of even non-virtuous suicide as an act of transcending the body's desire to cling to life at any cost,⁴⁶ or even as an act that falls

towards *appropriate* actions, assuming, perhaps, that virtuous action is beyond their reach, at least in their current state.

⁴⁴ For this distinction, see also Seneca's *De providentia* 2.8. There, Seneca makes a clear distinction between noble acts of sacrifice and mere acts of bravery, only the former being worthy of god's attention and admiration. For a distinction between virtuous and non-virtuous suicide and an extensive discussion of the Greek and Roman common views on the causes and significance of these two kinds of self-killing, see van Hoof, *Suicide*.

⁴⁵ See *Letters* 70.15.

⁴⁶ As a matter of fact, the suicide of the Stoic virtuous person would never be such an act of transcending, since she is not bound by any desire to stay in life at any cost to

outside the necessity that binds all events in the cosmos. In other words, one might be inclined to think of Seneca's suicides as some sort of (very peculiar and heterogeneous) martyrs.⁴⁷ But the picture we get when reading Seneca's account of non-virtuous suicides and their beneficial effects is quite different. Although Seneca clearly indicates that most cases of suicide require quite some bravery and strength to overcome the natural fear of death and break free from the desire to remain alive, the freedom that suicide brings is of a practical (rather than moral or spiritual) kind. Non-virtuous suicide, therefore, does not bring about any moral accomplishment or ennoblement, but simply liberates one from the pains or dishonor that a continued existence would require. In the case of a healthy person who is not facing enslavement or disgrace, then, suicide provides no freedom at all, and this is why it is inappropriate.

Moreover, when Seneca repeatedly presents the moment of taking one's life as the moment when one is most free, he bases his view on concrete practical advantages and not on any moral difference between suicide and other acts. It is *always* possible to kill oneself, sometimes in the most creative of ways, and Seneca is more than willing to give many unusual, and somewhat grotesque, examples of suicide.⁴⁸ And, although one's suicide does not escape the fatalistic necessity by which nature governs the cosmos, the choice to put an end to our life is always under our complete control, even when we think that we are utterly helpless and defenseless against fortune's ills.⁴⁹ Circumstances might make it impossible to keep on living or to avoid slavery, but they cannot make it impossible to kill oneself.

I believe that Seneca's emphasis on the freedom from fortune's adversity that suicide brings does not constitute a philosophical disagreement, but a different strategy regarding *practical advice* than the one used by the old Stoa. The old Stoic strategy in giving advice about how to deal with the hardships of life was to maintain that one should not see the external advantages as things whose loss can make us any unhappier, but should rather view them as indifferents. This, in any case, is what the virtuous person does, the Stoic masters would say. Seneca's target group, the recipients of his letters and readers of his exhortations, are people who are not sages and will

begin with (all bodily desires of the Stoic virtuous person have been placed firmly under the control of reason and virtue).

⁴⁷ This conception of Seneca's suicides as some sort of martyrs seems to have been at least part of the motivation behind the often drawn parallels between Seneca and early Christian thinkers, especially Paul.

⁴⁸ In some cases, these suicides are also committed in a manner that is at least disagreeable, if not revolting. For some such examples, see *Letters* 70.20 ff.

⁴⁹ In some perhaps more familiar Stoic terms, Seneca maintains that ending our life is "up to us" (*eph'hemin*).

never become sages. So, telling them that all the things they value are worthless is not very convincing, and even harder to wholeheartedly follow, no matter how noble it sounds.⁵⁰ Still, these non-sages need some practical advice. And Seneca offers this, by showing how one is not completely powerless against fortune (quite the contrary), and how easy it is to evade all of one's problems, without this being something cowardly when done appropriately (keeping in mind Seneca's repeated view that one should not leave life too early, just as one should not cling to it for too long). Therefore, given Seneca's target group, one can see why he chooses to approach suicide in a way that differs significantly from that of the old Stoa, without, at the same time, presenting any philosophical objection or rift.

7. Seneca: suicide and arbitrariness

This leaves us with one last seeming inconsistency between Seneca's views on suicide and the corresponding views of the old Stoic masters. This is the *arbitrariness* that Seneca seems to attach to the decision to take one's life. Such an arbitrariness has been noticed, among other places, in *Letters* 70.16, where Seneca says: "Live *if you so desire*; if not, you may return to the place whence you came" (emphasis mine). This phrase might be (and has been) taken to capture the essence of Seneca's view on suicide. Whatever force Fortune has on us, it cannot force us to stay alive. We are all free to take our life whenever we want, even at the face of all external circumstances.

But, by presenting suicide as an act of freedom, Seneca seems to contradict the old Stoic view that suicide is sometimes appropriate and sometimes inappropriate, depending on the reasons on which it is based. This is most clearly so in the case of the virtuous person. As we have seen, the Stoics saw the sage's decision to commit suicide as another example of following nature's law. This is exemplified in the presence of a divine sign, which prompts the Stoic sage to see that his time has come.⁵¹ As Rist notes,⁵² the reference to divine signs is largely absent in Seneca's recounting of

⁵⁰ A similar complaint about the early Stoics' rhetorical shortcomings in convincing people to adopt their moral positions is voiced by Cicero in *De finibus* 4.7.

⁵¹ This reference to the sign or divine permission to commit suicide is part of a greater philosophical tradition that goes back to Socrates and his claim in the *Phaedo* that one should not commit suicide but rather wait to be summoned by god. Clearly, Socrates thought of his conviction as a summoning that he gladly accepts in the *Phaedo*. As Cooper, "Eudaimonism," p. 523 notes, Socrates' reference to divine summoning seems to provide a qualification to his otherwise quite direct prohibition of suicide. This qualified version of Socrates' view is similar to the Stoic view of suicide as a *circumstantially* appropriate action that the wise person could choose based on a divine sign.

⁵² Rist, *Stoic Philosophy*, p. 246.

famous suicides. Did Seneca view suicide as an act that falls outside the maxim of following nature, and revert to something similar to the Cynic view that the wise person will kill himself whenever he feels like it? This is the view that Rist wants to attribute to Seneca,⁵³ seemingly based on comments such as the one appearing in *Letters* 77.5: “Often, one must leave off bravely, and our reasons therefore need not be great; for neither are the reasons which hold us here great.” But Rist attributes this seeming arbitrariness of Seneca’s version of suicide without going into the philosophical implications that such a “Cynic-like” view of suicide would have on the notion of autonomy. For the old Stoics, killing oneself on whim is not acting autonomously; quite the contrary. Autonomous action implies rational thought and decision based on what is best, i.e. it implies reasoning based on nature’s law and the signs that it provides. Does Seneca want to contradict this Stoic view, or is he not aware that his glorified image of suicide as the ultimate act of freedom is in contrast with the Stoic notion of autonomy?

I think, once again, the answer to this requires that we pay attention to the audience that Seneca addresses. Philosophically, there seems to be no indication that Seneca intends any rift with the old Stoic notion of autonomy. Nature for Seneca is providential in its arrangement of the cosmos and the execution of its divine plan through Fate. And, for Seneca, this image of nature is the one that the wise person recognizes and willingly follows. The virtuous person’s suicide, therefore, falls within the framework of acting in agreement with nature. This is what Cato does in *De providentia* 2.9 ff. where Seneca says that instead of asking for death after his defeat, Cato took matters into his own hands and killed himself. Nature, acting through Fate, prescribed that Cato was to lose and die, and that Caesar was to open a new chapter in Roman history. Cato recognized that and decided to bring about himself what would inevitably come through Fate, namely his death. With or without a sign, the wise man, according to Seneca, does what nature prescribes, and this is not a matter of whim.

But the majority of Seneca’s numerous examples of suicide do not come from the cases of virtuous and revered people, such as Socrates and Cato. They come from anonymous slaves, gladiators, and war prisoners. Clearly, Seneca wants to prescribe suicide as an option that everyone (including the non-virtuous) should consider, and this is in full agreement with the old Stoic placing of suicide within the realm of circumstantially appropriate actions.⁵⁴ In Stoic terms, Seneca is primarily concerned with suicide as a mere

⁵³ *Ibid.*, p. 247.

⁵⁴ See, characteristically, *Letters* 70.19: “You need not think that none but great men have had the strength to burst the bonds of human servitude; you need not believe that this cannot be done except by a Cato.”

appropriate action (*kathêkon*), rather than suicide as a perfect virtuous action (*katorthôma*). His emphasis, therefore, is the opposite of that of the old Stoics, who seem to have been mostly concerned with virtuous suicide.

Contrary to the virtuous, who view nature and Fate as providential and as a guide to action, the non-virtuous have a different (mistaken) image of Fortune, through which nature's law is executed. For them, Fortune is a negative force, the source of hardships that continuously challenge them. Seneca repeatedly mentions in his essays that the negative view of Fate is mistaken, and that nature's providence can become apparent once one acquires the universal perspective that the virtuous possess. At the same time, though, he seems willing to follow the popular conception of Fortune and try to draw from it some practical advice that is consistent with the orthodox Stoic moral views. For the most part, Seneca seems to think, we can live with Fortune's power over us. But when this power is too heavy to carry, the best thing to do is to escape it. As he mentions in *Letters* 70.7, "fortune has no power over the one who knows how to die." This solution to the hardships of life does not require that one becomes a sage. Yet it seems to bring a totally new perspective to the way a non-virtuous person can look at life and its hardships, by emphasizing the power of freedom one has when faced with Fortune.

In taking for granted the popular view of Fortune as an overwhelming power that needs to be resisted, Seneca seeks to give practical advice to people who feel overwhelmed by life's hardships. His account of suicide as a path to freedom that is always open is tailored to such an audience. I would be therefore inclined to attribute Seneca's "unorthodox" seeming treatment of suicide, not to any deeper philosophical disagreement with the old Stoic doctrine, nor simply to Seneca's personal attitude towards death, and his fascination with it, but to the practical motivation and constraints that exist in his writings.

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Maritain, Machiavelli, and the Problem of Machiavellianism: Maritain's Challenge to Political Leaders

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Writing at the height of World War II, Jacques Maritain knew that enemies exist who are unjust and immoral, and that these enemies present political leaders who desire to maintain their moral integrity with a seemingly insurmountable challenge: how do you fight an enemy who respects none of the values which you do? Are Christian political leaders “obliged, in order to conquer it [absolute Machiavellianism] and to maintain themselves, to adopt not only its material weapons, but also its own spirit and philosophy? Will they yield to the temptation of losing for the sake of life their very reason for living and existing?”¹ This challenge to resist what Maritain calls absolute Machiavellianism remains a pressing concern for democratic nations in the post 9-11 world. The players have changed – Al Qaeda and a variety of foreign and domestic extremists may have replaced the Nazis and fascists, as have the responses of democracies under siege. Instead of intentionally targeting civilians (bombing entire cities such as Dresden with conventional weapons and Hiroshima and Nagasaki with nuclear weapons) and placing Canadian and American citizens of Japanese ethnicity in internment camps, democracies have resorted to violating human rights en masse via Guantanamo Bay and rashly invading Afghanistan and Iraq. Clearly, Maritain’s question remains as relevant as ever and demands a reply.

However, despite the passion of his critique, Maritain’s assessment of Machiavelli remains problematic. This is largely because it is based on a

¹ Jacques Maritain, “The End of Machiavellianism,” *Review of Politics*, 4 (1942), pp. 1-33, p. 13 – hereafter referred to as “End.”

surprisingly shallow reading of Machiavelli's most famous texts, *The Prince* and the *Discourses*, and ignores Machiavelli's other relevant writings. The consequences of such a selective and cursory reading is a series of errors and mischaracterizations: Maritain incorrectly claims that Machiavelli is concerned only with immediate success as defined by the temporal span of a prince's life, and while he rightly accuses Machiavelli of relying on a double standard of morality, he ignores the fact that Machiavelli acknowledges this double standard and offers a solution to remedy its effects. These misguided critiques detract from the one argument that Maritain offers which does pose a serious, and perhaps intractable problem for both thinkers, namely that once a leader dirties their hands, they have begun an irreversible descent down the slippery slope from Machiavelli's actual teachings, which Maritain describes as the use of violence and deception for the common good when no other options are feasible, to Machiavellianism, the unabashed use of violence and deception in all political situations.

Even more curious, and perhaps a result of Maritain's derisory reading of Machiavelli, is that Maritain's position on the problem of dirty hands comes surprisingly close to the advice that Machiavelli offers to the prince. In fact, the differences between the advocacy of evil sponsored by Machiavelli and the ideal Christian politician Maritain trumpets as well as the just war theory he alludes to are largely ones of emphasis and attitude. Far from suggesting that Maritain may be a crypto-Machiavellian as others have done,² I argue that Maritain is in agreement with Machiavelli so far as both suspend conventional morality in times of crisis. The purpose of this paper, in part, is to reveal this common ground they share. Elucidating this connection is important, because Maritain seems unaware of his affinity with Machiavelli and underestimates the difficulty of the challenge with which both he and Machiavelli present the politician: wielding violence without losing their humanity. Understanding how similar the two are on this central tenet also illuminates the different source each takes to guide the use of deception and violence in politics. Maritain argues that only the leader who grounds his decisions in faith can employ these means without becoming a Machiavellian, even though history has shown that there is no evidence that men of faith are any wiser in the application of these means.³ Machiavelli, however, is devoid

² James V. Schall, S.J. "Was Maritain a Crypto-Machiavellian," in *The Failure of Modernism: The Cartesian Legacy and Contemporary Pluralism* (Mishawaka, IN.: American Maritain Association, 1999), pp. 87-100.

³ See Maritain, "End," p. 20. Maritain's exemplar of Christian politics is the United States, which he claims has been founded upon and is the embodiment of Christian politics. Yet, a mere three years after Maritain's "The End of Machiavellianism" was published, the United States intentionally targeted civilians with nuclear weapons at Hiroshima and Nagasaki.

of such faith, and thus relies upon a characterization of human nature which he admits is unlikely to use these tools properly for any length of time. The futility inherent in Machiavelli's position – advocating a course of action that no one can successfully fulfill for long – also sheds light on why he adopts a cyclical conception of history.

Machiavelli contra Aquinas: The Prince's Life vs. His Eternal Destiny

Maritain's first criticism of Machiavelli is rooted in a clash of perspectives. He conceives of Machiavelli as having separated politics from ethics, and rejects a political order independent of morality as "a corpse of political wisdom and political prudence,"⁴ in favor of a broadly Thomistic account of humanity and politics where the source of morality stems from the positing of an extra-historical destiny of persons. As Maritain claims:

[B]ecause good life on earth is not the absolute ultimate end of man, and because the human person has a destiny superior to time, political common good involves an intrinsic though indirect reference to the absolutely ultimate end of the human member of society, which is eternal life, in such a way that the political community should temporally, and from below, help each human person in his human task of conquering his final freedom and fulfilling his final destiny.⁵

On the surface, this is not so much a criticism as it is a mere incompatibility between two world views; Machiavelli's politics is clearly limited to the temporal realm, whereas Maritain's political vision includes reference to a final destiny of humanity that is located outside this temporal sphere.

Maritain explains the difference at length, and in doing so, mischaracterizes much of Machiavelli's thought. Machiavelli's conception of the good, Maritain claims, is limited to the temporal horizon of the prince's life. "Machiavelli's prince is a bad political man... because he measures the time of maturation of the political good according to the short years of his own personal time of activity."⁶ However, Machiavelli never advocates such short-sighted power politics. A Florentine patriot who longed to see his beloved city restored to a position of respect, Machiavelli has little time for those who are slavishly devoted to acquiring power only for their own gain. In *The Prince*, Machiavelli makes it clear that successful leaders must be concerned for the welfare of their domain, and he is quick to chastise those leaders who neglect the welfare of their citizens for their own personal

⁴ *Ibid.*, p. 8.

⁵ *Ibid.*, p. 10.

⁶ *Ibid.*, p. 19.

aggrandizement.⁷ Still, Machiavelli knows his audience well and has no delusions about the prince or any other ruler being altruistic. In order to motivate leaders, he uses the lure of glory and fame. Thus, in his ranking of states the greatest states are those that last the longest, and obviously any state to count as great must have outlasted the earthly life of its founder or any particular ruler who acquired or governed it. Machiavelli elaborates on this argument in two other works. In the *Discourses*, he comments that a ruler who wants to be remembered for establishing a great state needs to instill his virtù – his special blend of the cunning of the fox and the strength of the lion – into the society through carefully constructing social institutions which will outlast his life so that “even after he dies it can be maintained”⁸ by others. And in *The Life of Castruccio Castracani of Lucca*, Machiavelli places a lamentation in the dying Castruccio’s mouth – a regret for not leaving a more secure state with fewer enemies for his son to rule.⁹

If a leader successfully creates and infuses social institutions with their virtù, then these social institutions will effectively continue to rule as they would have for generations, possibly for centuries, even if subsequent leaders are of lesser virtù. Corruption and degradation of these institutions is inevitable, and Machiavelli deals with this issue in his cyclical account of history and the renewal of states.¹⁰ Therefore it is important to recognize that Machiavelli’s conception of the good is not limited to the temporal horizon of a particular ruler’s life, but to all of history, and while history falls short of eternity, it cannot be equated with the immediate success observable within a prince’s life.

The Double Standard: Christian Virtue contra Machiavelli’s Virtù

Maritain’s second major criticism of Machiavelli’s philosophy is that it contains an internal principle of instability. A double standard pervades Machiavelli’s thought, Maritain argues, for on the one hand Machiavelli calls for “the complete eradication of moral values in the brain of the political artist” but still requires “the actual existence and actual vitality of moral

⁷ Machiavelli, *The Prince*, pp. 45-46. Specifically, he ranks Pope Julius as superior to Pope Alexander VI, not because the former built on the latter’s temporal legacy, but because Julius “did it to exalt the Church and not any individual.” All future references to Machiavelli’s texts are from *Machiavelli: The Chief Works and Others*, 3 vol., trans. by Allan Gilbert (Durham, NC.: Duke University Press, 1965).

⁸ Machiavelli, *Discourses*, I, 11, p. 226.

⁹ Machiavelli, *The Life of Castruccio Castracani of Lucca*, pp. 553-554.

¹⁰ Machiavelli’s cyclical account of history is articulated in book five of *The History of Florence*, 1232-1233, and his account of the necessary rejuvenation of a state in order to secure its survival can be found in *Discourses*, III, 1, pp. 419-423.

values and moral beliefs in all others,”¹¹ in order to prevent a slide into total chaos. Maritain argues that this double standard cannot exist stably for long, and that it will quickly and inevitably cause “a progressive lowering and degeneration of moral values and moral beliefs in the common human life, a progressive disintegration of the inherited stock of stable structures and customs linked with these beliefs,” until all levels of society are morally bankrupt.¹² Simply put, the prince needs a certain amount of virtue – Christian virtue at that – within the populace if he is to rule, and his own flouting of moral norms erodes this virtue.

Machiavelli is aware of the effect the prince’s conduct will have on his people; his sensitivity to this issue can be seen in *Discourses* III, 29, where he rebukes leaders who “complain about any sin committed by the people they have in charge, because such sins of necessity come either from a prince’s negligence or from his being spotted with like faults.”¹³ Machiavelli goes beyond merely identifying the problem, however, and offers counsel to avoid this degradation of the population’s morality. Specifically, he advises that the prince always *appear* to uphold conventional morality, and *appear* to be “all mercy, all faith, all integrity, all humanity, all religion.”¹⁴ He insists that the prince only violate conventional morality when compelled to do so by necessity and when there is “proper justification and a clear case,”¹⁵ and then, if possible, have the act “attended to by others” so as to maintain the appearance that the evil was not sanctioned by him or his office.¹⁶ This “other” can then be eliminated as a sign of the consequences of violating serious moral codes. Such was the case when Cesare Borgia needed to apply extraordinarily bloody measures to reign in the lawless populaces of the Romagna. He employed the zealous and bloodthirsty Remirro de Orco to perform the unsavory tasks, and then to put forth an appearance that he was displeased by the cruelties and moral outrages perpetrated by his commander, Cesare had him killed, and his body “laid in two pieces in the public square with a block of wood and a bloody sword near him. The ferocity of this spectacle left those people at the same time gratified and awe-struck.”¹⁷ Through such maneuvering, Cesare returned the rule of law to the Romagna and appeared a friend of the people, while instilling in them respect for the law and fear of him, for he displayed the ability to slay evil monsters.

¹¹ Maritain, “End,” p. 9.

¹² *Ibid.*

¹³ Machiavelli, *Discourses*, III, 29, p. 493. See also *Discourses* I, 45, pp. 288-289 where Machiavelli criticizes Savonarola for violating laws pertaining to due process.

¹⁴ Machiavelli, *The Prince*, p. 66.

¹⁵ *Ibid.*, p. 63.

¹⁶ See *Ibid.*, p. 70.

¹⁷ *Ibid.*, p. 31.

While Maritain is correct to suggest that there is a troubling relationship between the morality of the prince and the morality of the citizen, his insistence that the ruler's morality will have a trickle down effect on the morality of the population oversimplifies the relation between the ruler and ruled. As John Plamenatz observes, the characteristics Machiavelli associates with the virtù of the good leader (courage, energy, fortitude, intelligence and resourcefulness, prudence, strength of mind and insight, the ability to spot and capitalize on opportunities, and a sense of vision that enables one to conceive grandiose plans) are not the same as the ones he associates with the virtù of the good citizen (a readiness to perform one's duties as a citizen, respect for the rule of law, self-restraint, courage and devotion to the community), although there is considerable overlap.¹⁸ It is clear that Machiavelli understood that if the prince was not the source of this civic virtù, at the very least the prince exerts a powerful influence over it. His example serves as role model for his civic counterparts; if he is obviously corrupt and self-serving, the civic virtù will decay, if he is devoted to his city and its inhabitants and appears law abiding or always has sufficient justification for breaking the law, the civic virtù will remain strong and respect the law. The two are different, yet are closely related and depend on one another, and what Maritain overlooks is Machiavelli's counsel designed to ensure that the former has a positive, not a degrading, effect on the latter.

The Slippery Slope from Machiavelli to Machiavellianism

Maritain's third major criticism of Machiavelli is that the clever Florentine distorts the reality of politics and ethics, in effect presenting the prince with a false dilemma: failure through Christian virtue or success through amorality. As Maritain observes, Machiavelli unfairly portrays the political figure that adheres to Christian morality "as a feeble-minded and disarmed victim, occasionally noxious, of the beautiful rules of some Platonist and separate world of perfection."¹⁹ No doubt, Maritain has in mind Machiavelli's verdict on Savonarola.²⁰ Clearly, Machiavelli makes a sweeping and unsubstantiated generalization about Christian politics, for it can easily be argued that one naïve monk is far from representative of the range of political figures and their characteristics which Christianity can produce. In response, Maritain sponsors a tough-minded conception of Christian politics that is refreshingly realistic; he labels blind advocacy to morality in the face of evil

¹⁸ John Plamenatz, "In Search of Machiavellian Virtù," *The Political Calculus: Essays on Machiavelli's Philosophy*, ed. by Anthony Parel (Toronto: University of Toronto Press, 1972), pp. 157-178, p. 158.

¹⁹ Maritain, "End," p. 5.

²⁰ Machiavelli, *The Prince*, p. 26.

hypermoralism, and decries it as equally destructive to the political soul and material conditions of a nation as Machiavellianism. He states:

The purity of means consists in not using means morally bad in themselves, it does not consist in refusing pharisaically any exterior contact with the mud of human life, and it does not consist in waiting for a morally septic world before consenting to work in the world, nor does it consist in waiting, before saving one's neighbor, who is drowning, to become a saint, so as to escape any risk of false pride in such a generous act.²¹

However, in this criticism, Maritain glosses over two important points made by Machiavelli. The first is that while Machiavelli despises the likes of the unarmed prophet Savonarola as naïve and ineffective, he does pay homage to religious leaders who exercise sufficient prudence and cunning, and who are willing to employ violence and break with conventional morality when necessary. Thus, Moses, a leader who violently purged his own people in order to make them more manageable, is held up by Machiavelli not just as a holy person, but as an exemplary ruler as well.²² In fact, in Machiavelli's estimation, Moses is one of the greatest types of rulers: one who founds a religion.²³

The second point Maritain fails to acknowledge sufficiently is that Machiavelli never counsels rulers to contravene morality without cause, viz., unless doing so is necessary to the health of the state. Although overlap is unavoidable, it is political – not personal – success that justifies the use of violence and deception for Machiavelli. *The Prince* is filled with lists of prohibitions that limit when and how the prince can break with conventional morality. For example, Machiavelli never cautions the prince to simply not keep his word, but allows the prince to do so given the likelihood of being betrayed and only if breaking a promise is in the interest of his state and the obligating reason no longer exists;²⁴ Machiavelli advises the prince to eliminate his enemies when necessary, but never sanctions killing without sufficient cause, and likewise Machiavelli warns the prince to never touch his subject's female relations (which are always invested with the honour of a male relation) or property for the simple reason that doing so does not serve

²¹ Maritain, "End," p. 28.

²² Machiavelli, *The Prince*, p. 25. See also John H. Geerken, "Machiavelli's Moses and Renaissance Politics," *Journal of the History of Ideas*. 60.4 (1999): pp. 579-595. Geerken provides a fuller discussion of Moses's "political" career on pp. 580-582.

²³ Machiavelli begins his hierarchy of leaders with: "Among all famous men those are most famous who have been heads and organizers of religion. Next after them are those who have founded either republics or kingdoms." *Discourses*, I, 10, p. 220.

²⁴ See Machiavelli, *The Prince*, pp. 69-70.

the state and done once, the prince will always be tempted to do so again and will become hated for these repeated and unnecessary violations of conventional morality.²⁵ This retelling of Machiavelli's conditions is not exhaustive, however. Machiavelli never advocates breaking moral codes without offering conditions that govern when and how such moral violations should occur. Failure to carefully respect these lists will amount to either the prince's political undoing or an historical condemnation such as the case of Agathocles, who while successful, can never be considered great according to Machiavelli because of his excessive cruelty.²⁶

Despite not having examined Machiavelli's many restrictions, Maritain is certain that following the teachings of Machiavelli leads to Machiavellianism. The existence of the Nazis, fascists, and the Vichy regime of his day convince him of this. Yet a subtle sympathy for Machiavelli is evident when he distinguishes between moderate and absolute Machiavellianism. The former he gently calls "a kind of more or less attenuated, dignified, conservative Machiavellianism using injustice within 'reasonable' limits,"²⁷ and argues that those who employed such means "preserved in some way, or believed they preserved, regarding the *end* of politics, the concept of common good."²⁸ This moderate Machiavellianism is closer to what Machiavelli actually offered as advice than is commonly thought. The problem however is that for a variety of reasons rulers can rarely limit themselves to simple moderate Machiavellianism, and "they frankly used Machiavellianism regarding the *means* of procuring this common good"²⁹ which in time led to a "perversion of the ideal of common good itself, which became more and more a set of material advantages and profits for the state, or territorial conquests, or prestige and glory."³⁰ The fear is that such an absolute "demonical Machiavellianism" will employ "*boundless* injustice, *boundless* violence, *boundless* lying and immorality"³¹ as normal political tools in all situations, not only those where necessity calls for the use of such measures. Maritain is certain that once on this slope, there are no stops, and even the best-intentioned moderate Machiavellian will slide into the mire of absolute Machiavellianism and be consumed by it.³²

However, the advice Maritain offers to political leaders is not altogether incompatible with what Machiavelli counsels – both acknowledge that

²⁵ *Ibid.*, pp. 62-63.

²⁶ *Ibid.*, p. 36.

²⁷ Maritain, "End," p. 11.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*, p. 12.

³² *Ibid.*, p. 31.

deception and violence are necessary in politics. Where they differ is in the guidance they see as informing the use of these tools. The claim that Maritain occupies common ground with Machiavelli in his overall stance regarding the use of deception and violence in political matters may seem counter-intuitive, after all, Maritain is a man of faith who wants to see politics guided by religion. Yet one merely has to look at the view he rejects to see his affinity with the clever Florentine. “I believe in the effectiveness of the methods of Gandhi,” Maritain claims, “but I think that they are suitable only in certain limited fields of political activity. Especially in the case of war, other means must be used.”³³ Gandhi’s *satyagraha* – an idea Maritain dismisses as ineffective – calls not just for non-violent resistance to oppressions (a mere tactic), but a total attitude of love towards all sentient beings, even those enemies that do not respect any of the values one holds. Gandhi describes the countenance of a *satyagrahi*, one who practices *satyagraha*, when confronted with enemies:

[H]is faith shines resplendent like the midday sun and he does not despond. With truth for his sword, he needs neither a steel sword nor gunpowder. Even an inveterate enemy he conquers by the force of the soul, which is love... When love is bestowed on the so-called enemy, it is tested, it becomes a virtue and requires an effort, and hence it is an act of manliness and real bravery.³⁴

The sympathy Maritain has for Machiavelli’s perspective is especially poignant in the above passage. For Maritain, like Aquinas before him, has already placed the true measure of success in the eternal realm, where God’s justice reigns supreme. So why does he stop short of loving one’s enemies unconditionally, as Gandhi and the founder of Christianity would? In such a move, Maritain reveals that within his religious commitments there is a healthy dose of the Old Testament God who takes sides in disputes between nations. What Maritain overlooks is that this is the same God which Machiavelli appeals to in the final chapter of *The Prince*.³⁵

The real problem for Maritain is absolute Machiavellianism, and he is quick to show that the tough-minded Christian politics he envisages can hold its ground against this threat. Maritain concedes that the pursuit of justice may require virility, fortitude, or the toleration of an evil which cannot presently be overcome, but insists that this does not require giving into vengeance, cruelty, or complicity in evil. At other times, contravention of

³³ *Ibid.*

³⁴ Mahatma Gandhi, “Satyagraha – Not Passive Resistance,” in *Mahatma Gandhi: Selected Political Writings*, ed. by Denis Dalton (Indianapolis, IN: Hackett, 1996), p. 55.

³⁵ Machiavelli, *The Prince*, pp. 102-105.

morality itself can be justified, as Maritain argues that it would “not be moral, but foolish, to open up one’s heart and inner thoughts to whatsoever dull or mischievous fellow. Stupidity is never moral, it is a vice.”³⁶ Maritain is quick to defend such skirting of the moral rules, and argues that if used as sparingly as possible and only as a last resort, against only those bent on hurting us, such actions do not amount to the “fox’s wives,” but are “intellect’s legitimate weapon.”³⁷ He is equally frank about how difficult it can be “to mark exactly the limits between cunning and lying, and even some great Saints of the Old Testament... did not take great care of this distinction – this was a consequence of what may be called the twilight status of moral conscience in the dawn-ages of mankind.”³⁸

Assumedly, the “other means” Maritain prefers over Gandhi’s *satyagraha* is the violence sanctioned by just war theory. Endorsed by Aquinas, just war theory attempts to justify and limit the use of violence perpetrated by moral leaders along two lines of thought. The first, *jus ad bellum*, requires in its most basic form that the cause or end be just. This typically means that the violence cannot be an act of aggression and must be done as a last resort. The second, *jus in bello*, requires that innocents never be intentionally targeted in acts of war, and that the action be in proportion to the goal and avoid any unnecessary collateral damage. In short, the ends justify the means. The same utilitarian logic that Machiavelli is so often accused of employing lies at the heart of just war theory; the latter merely places greater restrictions on the application of violence.

The Difference between Machiavelli and Maritain:

The Answer to Maritain’s Challenge

A large part of the difference between Machiavelli and Maritain lies in their tone. Machiavelli, as a result of circumstance and his personality, is ultimately a Renaissance shock-jock. In order to catch the attention of the Medici he had to find a way to stand out from the numerous other advisors courting the rulers of Florence. Part of this was reinventing the language of republican politics, as Maurizio Viroli persuasively argues,³⁹ but an equally important part is Machiavelli’s flare for being provocative. When one carefully reads past his notorious statements about human nature and his outlandish advice to princes, one quickly discovers that his account of human nature is merely that people are driven largely by egoism but are capable of

³⁶ Maritain, “End,” p. 6.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ Maurizio Viroli, *From Politics to Reason of State: The Acquisition and Transformation of the Language of Politics 1250-1600* (New York: Cambridge University Press, 1992), pp. 126-177.

acting virtuously if governed properly. Maritain's condemnation of this view as "merely animal"⁴⁰ is not compelling, for Machiavelli's conception of human nature is more optimistic than that espoused by the Church Father St. Augustine, who argues that humanity is so fallen that it is incapable of being virtuous, even in the temporal realm, without the grace of God.

To be sure there are many differences between Machiavelli and Maritain, such as the former's endorsement of expansionist policies in the *Discourses*, something which Maritain would never condone. However, they are in agreement on the central point that there are times when cunning and violence can and must be used in politics. The question remains, what should guide the use of these political tools? Maritain's answer is faith: "It is... difficult for a man of politics, even for a just and wise one – who works at an earthly work that is the most arduous and the highest among temporal works – the common good of the multitude – and whose failures are the failures of an entire people and of a dear country. He must live on hope. Is it possible to live on hope without living on faith?"⁴¹ Ironically, Maritain's solution of living on faith must be accepted on faith, for the historical record does not indicate that men of faith are able to dirty their hands without slipping into some form of absolute Machiavellianism any less than those who do not rely on faith.

What should guide the use of violence and deceit in politics is an issue of the gravest importance for Machiavelli, because an unrestrained prince is not good for the health of the state. However, Machiavelli's conception of religion is largely a form of social control, and so faith is not a viable option for him. The answer that Machiavelli does offer is a series of caveats, warnings, and restrictions which the successful ruler must heed. Yet Machiavelli is a realist and his account of human nature is such that the likelihood of any one person being able to satisfy all these conditions for any significant stretch of time is highly unlikely. In the *Tercets on Fortune* Machiavelli laments, "you cannot change your character nor give up the disposition that Heaven endows you with... to attain this is denied by the occult force that rules us..."⁴² and then in *The Prince* he provides an additional, albeit more mundane explanation, arguing that one's ability to change is limited by not only what "nature disposes" us to, but by an unwarranted faith in courses of action that were successful on previous occasions.⁴³ By extension, leaders who commit evil will either find it agreeable to their natures and want to commit such acts again, or they will be

⁴⁰ Maritain, "End," p. 4.

⁴¹ *Ibid.*, p. 19.

⁴² Machiavelli, "Tercets on Fortune," p. 747.

⁴³ Machiavelli, *The Prince*, p. 91.

convinced that having been successful using such tactics once, they can rely on them again in the future. On a more metaphysical level, Machiavelli articulates the prince's predicament in the *Tercets on Fortune* as one of trying to keep pace with the changing whims of Fortune; anyone who can do so will succeed, but only for so long as they can adapt their course of action to Fortune's plans. The problem, however, is that no one person's mode of thought is sufficiently flexible enough to allow them do so for any significant length of time.

Machiavelli and Maritain share the same basic concern. The issue is not Machiavelli's teachings, for both agree that deception and violence are at times necessary. Rather, the issue is how to use deception and force without becoming, as Maritain classifies it, a Machiavellian. Being Machiavellian, for Maritain, means sliding from employing deception and violence for the common good when no other effective options are available to employing them at will for personal gain or unnecessary reasons, resulting in "boundless injustice, boundless violence, boundless lying and immorality"⁴⁴ being used as normal political tools in all situations. Yet it is unclear how faith transforms the cunning of the fox into intellect's legitimate weapon, or violence into just war, or how faith guarantees or even improves the chances that a political leader will use these tools in a manner which would garner Maritain's approval.

Likewise, it is unclear how the combination of sage advice and inflexible, short-sighted human nature that Machiavelli offers can prevent the slide into Machiavellianism. In fact, the penultimate political realist appears to be an idealist, and his solution is as problematic as Maritain's. He summons a leader to rise from the fractured Italian peninsula of the Renaissance in order to restore order to the land by any means necessary, knowing full well that such a leader will succeed only so long as they can exercise a super-human discipline that prevents them from degenerating into absolute Machiavellianism and is able to adjust their methods to the dictates of Fortune, but Machiavelli knows that it is impossible to do either indefinitely. His primitive account of human nature and psychology make such self-discipline and continued fluidity of thought and behavior all but impossible. The consequence is Machiavelli's cyclical conception of history, in which states rise and fall, oscillating between periods of chaos and order.⁴⁵ A great

⁴⁴ Maritain, "End," p. 12.

⁴⁵ The full cycle is described at the beginning of book five of the *Florentine Histories*: "So always from good they go to bad, and from bad rise up to good. Because ability brings forth quiet; quiet, laziness; laziness, disorder; disorder, ruin; and likewise from ruin comes order; from order, ability; from the last, glory and good fortune. Therefore the discerning have noted that letters come after arms, and that in countries and cities generals are born earlier than philosophers. Because, after good and well-disciplined

leader will take a state that is in crisis and restore it to order by returning it to its beginnings (if it had been great) or by amalgamating it with a state that is great, and structure its social institutions to rule as he would when his life ends. However, social institutions are just as vulnerable to degradation as is the prince's body, and they too will grow corrupt and cease to work properly, at which point the cycle begins anew. Machiavelli's teaching will eventually give way to Machiavellianism, his writings show that he knew this to be inevitable.

Conclusion

Maritain's critique of Machiavelli is indeed problematic, largely because he has fallen for the controversial envelope in which Machiavelli packaged his ideas. As a closer reading of Machiavelli's works demonstrate, the standard for success is not the temporal span of the prince's life, but all of history; and Machiavelli has a remedy for the moral double standard that his political theory requires. Regarding the slide from Machiavelli's teachings to Machiavellianism, both Machiavelli and Maritain are surprisingly similar. Both maintain that the methods of Savonarola and Gandhi are at best effective in a limited sphere, and that in times of crisis a political leader must respond to their opponents with what Machiavelli calls the cunning of the fox and the force of the lion, which Maritain transforms through religious faith into "intellect's legitimate weapon" and just war theory. The difference lies not in their responses to such a daunting challenge, but in what they see as grounding the leader in the use of these tools. For Maritain, a spiritual grounding in faith (but not in *hypermoralism*) is the only solution, and all the more needed in times of crisis:

[T]he more forceful and even horrible the means required by justice, the more perfect should be the men who use them. The world requires, for the affirmation to the end, and the application without fear, of the terrible powers of justice, men truly resolved to suffer everything for justice... Men truly certain of preserving within themselves, in the midst of the scourges of the Apocalypse, a flame of love stronger than death.⁴⁶

For Machiavelli, whose conception of religion is largely a form of social control, he can rely only on a flawed human nature, which commits the prince to a project which is by definition doomed to failure. This explains, in part, why his vision of history is that of a cycle that fluctuates between order and

armies have brought forth victory, and their victories quiet, the virtue of military courage cannot be corrupted with a more honorable laziness than that of letters...." p. 1232.

⁴⁶ Maritain, 32.

disorder, and which despite the efforts of great leaders to slow or prolong the periods of order, is doomed to repeat itself throughout all of history.

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John Brown and the Morality of Sedition

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In the township of North Elba, at the edge of the village of Lake Placid, NY, is the grave of John Brown. The National Parks Service maintains the site. Tall conifers and mountain peaks encircle a neatly cleared area with a replica of a farmhouse near a pond. The scene's tranquility belies the man whose attack upon a federal arsenal to gain arms for a guerrilla war against slaveholders convulsed a nation into civil war. His oracular pronouncement on the day of his execution in December of 1859 proved true. "I am now quite certain that the crimes of this guilty land will never be purged, but with blood."¹

Brown's plan was to raid plantations, ignite a slave uprising, and create a territory with its own provisional government and base of operations within the Virginia mountains. Even if the attempt failed, it would provoke a crisis, perhaps a civil war that would end slavery forever. The moral justification for this violent action was the wrong of slavery and the punishment that unconverted Southerners deserved.² Brown seemed free of any selfish, vindictive, or vainglorious motive. He was one for whom a principle could override all feelings for particular persons. "It is infinitely better that this generation should be swept away from the face of the earth, than that slavery shall continue to exist,"³ he once said.

While in confinement before his trial Senator James Mason of Virginia asked Brown, "How do you justify your actions?" Brown answered,

¹ Stephen Oates, *To Purge This Land with Blood* (New York: Harper and Row, 1970), p. 351 – hereafter referred to as *Purge*.

² See *Ibid.*, p. 229.

³ *Ibid.*, p. 258.

I think, my friend, you are guilty of a great wrong against God and humanity – I say it without wishing to be offensive – and it would be perfectly right for any one to interfere with you so far as to free those you willfully and wickedly hold in bondage. . . .⁴

Years before the Harpers Ferry raid, Brown had come to the conviction that slavery could not be ended by moral persuasion. Frederick Douglass, the self-educated orator who had escaped slavery in Maryland, recalled his first meeting with John Brown in 1847.

He denounced slavery in look and language fierce and bitter, thought that slaveholders had forfeited their right to live, that the slaves had the right to gain their liberty in any way they could, did not believe that moral suasion would ever liberate the slave, or that political action would abolish the system.⁵

The purpose of this paper is to evaluate Brown's actions on the basis of natural law reasoning concerning a just defense and rebellion against established authority. Brown's own moral views show many elements of this thinking, but his thought was also formed and framed in the Calvinist idea of divine justice. In this view, God's will is inscrutable to human reason. Because the Christian faith in this view is not as well melded with human reason as in the medieval Catholic faith that shaped the natural law tradition, Brown's thinking more often has a religious rather than philosophical formulation. Frederick Douglass's moral reasoning shows more clearly a foundation in natural law, as that was embodied in the intellectual and legal tradition that formed Douglass's thinking. As such, Douglass's comments will be valuable for the enunciation and application of natural law principles concerning the practice of slavery and the morally appropriate response to it.

Purpose of Government and Foundation of Rights

In natural law thinking, the state develops from the family as a natural society where people cooperate for their common good. In contrast with the utilitarian theory in which individuals form together for their selfish interests and in which the common good is an empirical reckoning of the maximal satisfaction of interests,⁶ the common good of natural law theory is a good of persons according to their nature. As Maritain notes, "the common good is

⁴ *Ibid.*, p. 304.

⁵ Frederick Douglass, *Autobiographies* (New York: The Library of America, 1994), p. 717.

⁶ The common good of utility is not truly a *common* good, but the coexistence of a multitude of goods.

not only a set of advantages and utilities, but also integrity of life.”⁷ This “integrity of life” organizes social and political life based on justice and aims to allow each person to flourish within the constraints of social life by the “guarantees of work and ownership, political rights, the moral virtues and the cultivation of the mind.”⁸

Natural law morality is embedded in a metaphysics of nature. Each thing is a particular kind of thing that tends to its end. The order of things in the natural world is governed by physical law; and in the order of rational creatures, by moral law. Possessed of a rational nature, a human being is free and reflective and can compare and evaluate actions as they conform or not with a rule of conduct. Human beings are the only beings that criticize their ways of acting, and that is so because we are obliged to conform ourselves to the ends demanded by our nature.⁹ The driver of a car, for example, has to choose to drive in a morally responsible way, that is, in a way befitting a rational being. The car, by contrast with the driver, will always and automatically conform to the laws of nature.

Human rights are grounded in human nature. A right means a moral power. As such, only persons can have rights. Because human beings are obliged to act according to their proper ends, they possess certain moral powers, which other human beings are obliged to respect. Parents, for example, have the right to command their children to behave appropriately, and their children have the obligation to follow those commands.

Maritain argues forcefully that rights require a metaphysical foundation in the order of essences, which are in turn grounded in an absolute being. A purely empiricist philosophical outlook is powerless to establish human rights that supercede civil law or social agreement. Because of our nature, we are as human beings directed to an absolute and transcendent destiny. This vocation to what is absolute and eternal provides the foundation of human rights that the society must respect and can never supercede.¹⁰

There is no right unless a certain order . . . is inviolably required . . . by what the nature of man is, and is cut out for: an order by virtue of which certain

⁷ Jacques Maritain, *The Person and the Common Good* in *The Social and Political Philosophy of Jacques Maritain*, eds. Joseph Evans and Leo Ward (New York: Charles Scribner's Sons, 1955), p. 83 – hereafter referred to as *Person*.

⁸ *Ibid.*

⁹ See Austin Fagothey, *Right and Reason*, second ed. (St. Louis: C. V. Mosby, 1959), pp. 172-74 – hereafter referred to as *Reason*; and Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951), p. 86, -- hereafter referred to as *State*.

¹⁰ See Jacques Maritain, *The Rights of Man and the Natural Law* in *Natural Law: Reflections on Theory and Practice*, ed. by William Sweet (South Bend: St. Augustine's Press, 2001), p.78 – hereafter referred to as *Rights*.

things like life, work, freedom are due to the human person, as existent who is endowed with a spiritual soul and free will. . . . The fact that things participate in an ideal order which transcends their existence and requires to govern it, would not be possible if the foundation of this ideal order, like the foundation of essences themselves and eternal truths, did not exist in a separate Spirit, in an Absolute which is superior to the world, in what perennial philosophy calls the Eternal Law.¹¹

Without this ideal order, right devolves into might, or what Maritain terms “power” in contrast with “authority.”¹² John Brown and Frederick Douglass continually appealed to such an order of right that is grounded in human nature and divine law. “Slavery can only live by keeping down the undergrowth morality which nature supplies,” Douglass said.¹³ Consider how Douglass showed the contradictions contained in civil laws protecting slavery.

Must I undertake to prove that the slave is a man? That point is conceded already. Nobody doubts it. The slaveholders themselves acknowledge it in the enactment of laws for their government. They acknowledge it when they punish disobedience on the part of the slave. . . . What is this but the acknowledgment that the slave is a moral, intellectual, and responsible being. The manhood of the slave is conceded. It is admitted in the fact that southern statute books are covered with enactments forbidding, under severe fines and penalties, the teaching of the slave to read or write. When you can point to any such laws, in reference to the beasts of the field, then I may consent to argue the manhood of the slave.¹⁴

Two hundred years ago, the pious Doctor Godwin dared affirm that it was “not a sin to baptize a negro,” and won for him the rite of baptism. It was a small concession to his manhood; but it was strongly resisted by the slaveholders of Jamaica and Virginia. In this they were logical in their argument, but they were not logical in their object. They saw plainly that to concede the negro’s right to baptism was to receive him into the Christian Church, and make him a brother in Christ; and hence they opposed the first step sternly and bitterly. So long as they could keep him beyond the circle of human brotherhood, they could scourge him to toil, as a beast of burden, with a good Christian conscience, and without reproach. “What!” said they, “baptize a negro?”

¹¹ Maritain, *State*, pp. 96-97. “Once one accepts that rights have no stronger foundation than the state’s exercise of its sovereign powers, they may be diminished or even abolished by another act of sovereignty.” Samuel Gregg, “Natural Law and Constitutionalism: Towards Ordered Liberty,” in thomasinternational.org/conferences/20040718palermo/gregg_nl_constitutional.htm, p.16.

¹² “Power without authority is tyranny.” Maritain, *State*, p. 126.

¹³ Douglas, *Autobiographies*, p. 451.

¹⁴ *Ibid.*, pp. 432-434.

Preposterous!” Nevertheless the negro was baptized and admitted to church fellowship. . . .¹⁵

When he was about sixteen, Douglass had a change of masters. The new master was stingy in feeding his household slaves, so Douglass began “stealing” from the larder. Since that was not always possible, he began “stealing” from other whites. In justifying these actions to himself, it is notable how Douglass reasoned about the meaning of property and theft.

It was easy to deduce the right to supply myself with what was my own. It was simply appropriating what was my own to the use of my master, since the health and strength derived from such food were exerted in his service. . . . The same reason why I might innocently steal from [my Master] did not seem to justify me in stealing from others. In the case of my Master it was a question of removal—the taking his meat out of one tub and putting it in another; the ownership of the meat was not affected by the transaction. At first he owned it in the tub, and last he owned it in me. . . . It was necessary that the right to steal from others should be established; and this could only rest upon a wider range of generalization than that which supposed the right to steal from my master. It was some time before I arrived at this clear right. To give some idea of my train of reasoning, I will state the case as I laid it out in my mind. “I am,” I thought, “not only the slave of Master Thomas, but I am the slave of society at large. Society at large has bound itself, in form and in fact, to assist Master Thomas in robbing me of my rightful liberty, and of the just reward of my labor; therefore, whatever rights I have against Master Thomas I have equally against those confederated with him in robbing me of liberty. As society has marked me out as privileged plunder, on the principle of self-preservation, I am justified in plundering in turn. Since each slave belongs to all, all must therefore belong to each.” I reasoned further, that within the bounds of his just earnings the slave was fully justified in helping himself to the gold and silver, and the best apparel of his master, or that of any other slave-holder; and that such taking was not stealing, in any just sense of the word. . . . Slaveholders made it almost impossible for the slave to commit any crime If he stole, he but took his own; if he killed his master, he only imitated the heroes of the revolution.¹⁶

These passages from Frederick Douglass are throughout, in foundation and reasoning, exemplars in the meaning of rights in natural law morality and their foundation in human nature as created by God.

In contrast, Brown’s language and thinking suppose the idea that the individual conscience supercedes human law when before God it believes

¹⁵ *Ibid.*, p. 820.

¹⁶ *Ibid.*, pp. 553-554.

itself right. While his thought often showed this Calvinistic/Puritan tonality,¹⁷ he also, though, frequently appealed to reason and to an objective order of right. One of his followers recalled him saying they should not recognize laws of a majority that conscience and reason condemn, for “a minority conscious of its rights, based on moral principles, would, under a republican government, sooner or later become the majority.”¹⁸ His son Owen recorded that one December night on the trail in Iowa, Brown and his followers discussed “the moral right to kill those who forcibly enslave their fellows.”¹⁹ Brown believed himself to be God’s instrument and he quoted Scripture to his purpose, but he also appealed to a moral law above positive law as the basis for his actions.

Paralleling the Declaration of Independence and the Constitution of the United States, Brown had composed “A Declaration of Liberty by the Representatives of the Slave Population of the United States of America” and a provisional constitution that would serve for the government of the freed slaves who, in Brown’s vision, would join the rebellion as it spread throughout the South. I quote the beginnings of these documents.

When in the course of human events, it becomes necessary for an oppressed People to Rise, and assert their Natural Rights, as Human Beings . . . and to assume among the powers of Earth the same equal privileges to which the Laws of Nature, and nature’s God entitle, them²⁰

Whereas, Slavery, throughout its entire existence in the United States, is none other than a most barbarous, unprovoked, and unjustifiable War of one portion of its citizens upon another portion; the only conditions of which are perpetual imprisonment, and hopeless servitude or absolute extermination; in utter disregard and violation of those eternal and self-evident truths set forth in our Declaration of Independence²¹

¹⁷ See David S. Reynolds, *John Brown, Abolitionist* (New York: Alfred A. Knopf, 2005), pp.188-9 – hereafter referred to as *Brown*. Reynolds argues Emerson, Thoreau, and the other transcendentalists were drawn to Brown because his actions showed an individual conscience willing to stand against the majority. It is also true, though, that they supposed an objective standard of right by which the individual could judge the majority to be wrong. “Is it not possible that an individual may be right and a government wrong? Are laws to be enforced simply because they were made? or declared by any number of men to be good, if they are *not* good?” Henry David Thoreau, “A Plea for John Brown,” in *Walden and Other Writings*, ed. by Brooks Atkinson (New York: The Modern Library, 1950), p.705.

¹⁸ Reynolds, *Brown*, p. 188.

¹⁹ Oates, *Purge*, p. 222.

²⁰ Reynolds, *Brown*, p. 302.

²¹ Truman Nelson, *The Old Man: John Brown at Harper’s Ferry* (New York: Holt, Rinehart and Winston, 1973), p.219.

When he spoke of “Natural Rights,” “the Laws of Nature, and nature’s God,” and “those eternal and self-evident truths,” Brown’s thinking supposed the natural law morality and its metaphysical foundations as it had come to him through the American Founding Fathers.

Any breaking of civil law demands the resolution of the apparent conflict between the morally binding force of state authority and the right of conscience to rebel against unjust state force. Everyone is obligated to follow his or her conscience; and the state, for the common good, requires the punishment of lawbreaking. The moral principles involved can be enunciated in these words from Maritain.

Law binds in conscience, yet this is because it is law only if just and promulgated by legitimate authority, not because the majority or the State can be the standard of conscience. . . . The State has the right to punish me if, my conscience being blind, I follow my conscience and commit an act in itself criminal or unlawful.²²

The statements of Brown, Douglass, and other abolitionists of their time show that they were largely working from a natural law understanding of morality. They recognized that the majority used iniquitous and tyrannical power to maintain and protect the system of slavery. They recognized that the civil enactments protecting slavery did not bind in conscience because they violated an objective standard of justice grounded in human nature that could in principle be known by anyone in the light of reason. This thinking is shown simply and clearly in Brown’s statement at his trial when he appealed to the “millions in this slave country whose rights are disregarded by . . . unjust enactments.”²³ He used the term “unjust enactments” instead of “unjust laws,” as though, like a natural law philosopher, he recognized that “unjust laws” would be a contradiction in terms. With this background I now look at whether Brown’s proposed acts fulfill the criteria of a just rebellion and a just defense.

The Criteria of Just Rebellion and Just Defense

A classical reference point for the natural law treatment of rebellion is Aquinas on the question of sedition. Sedition is wrong because it opposes “the unity of law and the common good” (*Summa Theologica*, II-II, Q. 42, A. 2). In his response to the third objection of this article, however, Aquinas notes that rebellion against tyrannical rule is not sedition.

²² Maritain, *Rights*, p. 76.

²³ Reynolds, *Brown*, p. 353.

A tyrannical government is not just, because it is directed, not to the common good, but to the private good of the ruler, as the Philosopher states. Consequently, there is no sedition in disturbing a government of this kind, unless, indeed, the tyrant's rule be disturbed so inordinately that his subjects suffer greater harm from the consequent disturbance than from the tyrant's government. Indeed, it is the tyrant, rather, that is guilty of sedition, since he encourages discord and sedition among his subjects, that he may lord over them more securely; for this is tyranny, being conducive to the private good of the ruler and to the injury of the multitude.

Aquinas also presents the matter in his *De Regno*. The tone here is conservative. Even when rebellion is legitimate, it may not be prudent, since opposing the tyrant may lead to greater harm. "If, indeed, there is not an excess of tyranny, it is more profitable to put up with a milder tyranny for the time being than, by opposing the tyrant, to run into many dangers more grievous than the tyranny itself" (*De Regno*, I,6).

However, the right of rebellion is guaranteed in the nature of the political covenant, as Aquinas states.

If by right a certain community is entitled to provide itself with a king, it is not unjust that the installed king be deposed by that same community. . . . He himself deserved this: since he had not acted faithfully in discharging the royal office, so the covenant made by his subjects might likewise not be kept. (On Kingship, I,6)

I draw on Austin Fagothey to show how this reasoning concerning the community's right to overthrow a tyrant applies to a private citizen when unjustly oppressed.

Active resistance with physical force is allowed against a tyrant attempting to inflict grave personal injury, for the ruler in this case becomes an unjust aggressor. . . . The rules of a blameless self-defense must be observed. If some citizens are unjustly attacked by a tyrannical ruler, others may come to their assistance against him.²⁴

The criteria of a just rebellion, then, suppose and parallel the criteria of a just defense since the tyrant is an unjust aggressor by his abuse of power. These criteria are:

1. The intention is for defense—the intent is not to inflict harm but to protect against harm.
2. The aggression is actual—the unjust attack is in some phase of execution.

²⁴ Fagothey, *Reason*, p. 423.

3. The use of force is the last resort—all peaceful means of defense have been exhausted.
4. There is reasonable hope of success, otherwise the violence is employed for naught.
5. The aggressor is distinguished from the non-aggressor. Only the agency of unjust aggression is targeted.
6. The violence is proportionate to the act of aggression—no more force is employed than necessary to stop the aggression, and there is reasonable hope that the harmful effects will not be greater than the harm inflicted.

I agree with those in the natural law tradition that a just defense is always an application of the principle of double effect. All that is directly intended is stopping the unjust aggression with the inevitable effect of injury or death to the aggressor. Only the evil agency is targeted, not the evil agent.

Within the natural law tradition some, like John de Lugo (against Cajetan), have argued the aggressor temporarily forfeits his right to life.²⁵ John Brown might be said to have held this view when he said that slaveholders had forfeited their right to live. I would argue, rather, that force is permissible in defending human beings against unjust bondage, with the understanding that such use of force can or will result indirectly in the death of the slaveholder.

As an aside, killing someone as an act of capital punishment is not the act of an individual, but of the state acting on divine authority. As such, it is to be evaluated under the natural law criteria of punishment, not of a just defense. Maritain notes that in a completely barbarous society, without law or public order, killing may become “the performance of a judicial function.”²⁶ If John Brown sometimes saw himself as an instrument of divine retribution, he had no such authority as an individual. Whether any of his actions would fit the natural law criteria of just punishment I leave aside and will evaluate his acts only under the criteria of rebellion and just defense.

In *Man and the State*, Maritain mentions John Brown among other candidates who belong to what Maritain terms “prophetic shock-minorities.”²⁷ Such “inspired servants of the people”²⁸ are needed for the improvement of a society. He does not give a detailed analysis of the moral criteria for such action when it involves violence, but he does give broad

²⁵ See *Ibid.*, pp. 289-291.

²⁶ Maritain, *State*, pp. 63-64. In criticism, Maritain does not give any examples of a “completely barbarous social group” where one might legitimately kill “in the performance of a judicial function.” Moreover, he mentions killing in self-defense in the same paragraph as though such defensive killing were in the same category as killing as a judicial function.

²⁷ *Ibid.*, p. 141.

²⁸ *Ibid.*, p. 139.

criteria that correspond with criteria already given for just defense and justified rebellion.

1. The recourse to illegal activity is in itself an exception. . . . It is only justified . . . when it is confronted with some form of tyrannical power.
2. Justice must always hold sway. The use of terror striking the innocent and the guilty indiscriminately is always a crime.
3. The free approval by the people, as soon as the people can express their will, [is required].²⁹

The true prophet will be revolutionary against injustice, but always subordinate to the rule of the moral law.³⁰

The question here concerns not the right in principle of the slaves to throw off by violent means their unjust subjugation and others to aid them in doing so. Our question is whether it was justified, for Brown and his men, in those circumstances, and whether success was likely, and the means, proportionate.

John Brown—Right or Wrong?

In applying natural law reasoning to John Brown's actions, I argue as follows. Brown had just cause and right intention because: 1) slaveholding and its protection in law was a form of tyrannical power and so lacked moral authority, 2) Brown's use of terror was directed only at slaveholders and those who protected them and so was discriminate, 3) Brown's aim was pure: a) to free individual slaves, and b) to make slaveholding so insecure a business that it would become unprofitable, and so he had right intention.

Having met these criteria, the next question is whether all non-violent measures had been exhausted. Were moral persuasion and social/economic change leading to eventual abolition? In the 1840s and '50s arguments for slavery among Southerners moved from the pragmatic to the philosophical. Africans were seen as inherently inferior humans who benefited from the civilizing effects of being controlled by whites. In this view slavery was not an evil to be tolerated for economic reasons but a good for all involved. There was also serious talk of making international slave trading legal again.³¹ Moreover, there was the movement to expand slavery into new territory, such as Kansas. In Brown's time the institution of slavery in the American South was being solidified, not diminished. The matter is discussible, but grant for my argument that non-violent means had largely been exhausted.

²⁹ *Ibid.*, pp. 144-45.

³⁰ See *Ibid.*, p. 144.

³¹ See Reynolds, *Brown*, pp. 439-40.

The most significant questions of the morality of Brown's actions, then, concern likelihood of success and proportionate means. On the first point, Brown had researched prior slave rebellions and he had careful plans to wage guerrilla war. His plan was to raid plantations in Virginia, free the slaves and retreat with them into mountain hideaways. The more timid slaves would be sent north and the others would be armed, and then further raids would be made until slaveholding became untenable. Obviously, violence would be used against all who resisted or pursued them. Again, you can discuss how likely of success such a plan was, but grant for my argument that the plan, if not likely to be wholly successful, would, at least, have freed a number of slaves.

That leaves the criterion of proportionality, i.e., the good to be accomplished must be greater than the harm that will result. Here one can distinguish two levels of harm – 1) the violence – the destruction, injury, and death that would come about, and 2) the damage to the rule of law and the social order. Southern whites would have united in what they perceived as an attack by outsiders on their way of life and their sovereignty. Moreover, slaveholders would have feared vengeance from a slave rebellion. These motives would have made the Southerners defend themselves very forcefully against raids upon their plantations. As the forces of rebellion grew so, too, would have the counter forces.

Secondly, there is the inherently lawless nature of the actions. Though it protected in law an unjust practice, the United States was fundamentally a justly ordered society. Brown's actions were not only to be against slaveholders and their supporters, but also against the military and police forces of the nation whose job it was to protect the public order by the laws of the constituted authority. That authority included protecting the practice of slavery.

I conclude that combined with the uncertainty of success, the moral cost of waging guerrilla war in this case was not proportionate to the protracted violence it would clearly have caused and to the attack upon the forces of authority of a fundamentally just government.

Perhaps, had there been greater support in the North (Brown was virtually alone in his action) and greater force of arms to unite and supply the slaves in rebellion, then the resulting harm might have been proportionate to the good to be accomplished. But given the circumstances at that time, it would have been better for abolitionists to continue to pursue through legislation and moral persuasion a limiting of slavery and a change of attitude while preparing a larger and more coordinated guerrilla war upon slaveholding to be used at a later, more opportune, time.

My concern here is not in arguments about history or military strategy but in the mode of moral reasoning to be followed. Aristotle says no science can

be more exact than its subject matter (See *Nicomachean Ethics* 1094b). The principles are clear, the application of those principles admits of judgment. The application may be moot, but never arbitrary. The question comes down to a judgment about proportionate means. Brown's actions, in my judgment, were not proportionate to the violent response it would have provoked and to the harm it would have done to the rule of law. There would have had to have been a much greater hope of success to have justified those harmful effects.

A Parallel Example

To clarify an issue, it helps to vary the example. In the frame of the natural law criteria of a just defense, a contemporary action that well parallels John Brown's action is the killing of abortion providers for those who believe abortion is the direct killing of a human being. Though in this latter instance there is no issue of rebellion, the instances are parallel because just rebellion is a specification of just defense. If one does not believe the human embryo or fetus to be a human being (at least in the moral sense) then the killers of abortion providers are murderous fanatics who disregard the law because of their deluded religious or moral convictions. However, if one does believe the human embryo to be a human being who by nature possesses certain fundamental rights, then the criteria of a just defense play out. Pro-choice people are naturally outraged by such talk. Pro-life people find themselves in an ambivalent frame of mind that does not always yield clear thinking.

Suppose the reasoning of someone who is convinced that the human embryo is a human being, and in the frame of natural law ethics recognizes the human being by nature has an absolutely inalienable right to existence.³² Anyone who reasons so would recognize that a civil law that establishes a "right" to choose directly to kill such a human being is an unjust enactment without moral force. Obviously, using non-violent and legally recognized means of opposing this civil law presents no moral difficulty. But what of illegal acts of destroying abortion clinics or the more extreme acts of maiming or killing abortion providers?

Statements about violence done to abortion clinics and abortion providers have not always shown clear reasoning. On January 5, 1995, Planned Parenthood of New York City took out a full page advertisement in the *New York Times*, claiming anti-abortion speech incited killing. It stated, "the clearest example occurred when New York's John Cardinal O'Connor issued a backhanded apology for the attackers by stating 'you cannot prevent killing by killing,' thereby labeling abortion providers as killers."³³

³² See Maritain, *State*, p. 101.

³³ *The New York Times*, January 5, 1995, p. A 17.

Cardinal O'Connor's statement is odd on two counts. First, from the physical standpoint, killing someone does prevent that someone from acting. Second, from the natural law standpoint, when the criteria of a just defense are met, one morally may use force to stop an act of unjust aggression that results in the death of the aggressor, which, in the common, unnuanced way of speaking, would be "killing the would-be killer."

Moreover, in their own backhanded way, the authors of the advertisement imply that if abortion providers are killers then it might be permissible to kill them. The advertisement's statement that it is an incitement to kill abortion providers to claim they are killers only makes sense in a philosophical framework that grants there is a just defense and that there is a law above the state by which to claim that certain enactments of the state are unjust. In other words, the authors of the advertisement's quoted statement are only arguing with the cardinal's premise that abortion providers are killers, not with the conclusions that would follow if they were killers.

In 2002, James Kopp was sentenced in a New York State court to 25 years in prison for the murder of Dr. Barnett Slepian. In 2007 in federal court, he was sentenced to life in prison for a related crime. Dr. Slepian performed abortions. At Kopp's New York State trial, the prosecutor compared Kopp's action to the wave of sniper slayings at that time in Washington, D.C. The comparison angered Kopp. "Any reasonable person could see a distinction between me and the D.C. sniper. Why was Dr. Slepian shot? The obvious answer is to save children."³⁴

At his sentencing hearing on May 9, 2003, Kopp explained by natural law morality why he shot Dr. Slepian.

St. Thomas Aquinas said the following: 'Stopping an act of aggression in defense of oneself or another must be with the moral certitude that harm will be inflicted upon that individual if force is not used.' Who is even suggesting Dr. Slepian was not going to work the next day if he was able? He had received a warning just the day before and he decided to ignore it. Many proliferators over many years begged him to stop. Doctors had been shot at for six years before 1998. [He then quoted Bishop Austin Vaughn of New York]. 'The moral law of God does not unequivocally condemn the use of force to stop persons who seek to harm innocent life. The use of violence to protect human life from attack is not intrinsically immoral. Those who take up arms against abortionists cannot be simply condemned, nor are they guilty of murder.'³⁵

³⁴ *The Buffalo News*, November 20, 2002.

³⁵ [Christiangallery.com/Kopp Transcript.htm](http://Christiangallery.com/Kopp%20Transcript.htm), pp. 6-7.

If one believes the human embryo is a human being who should be defended and follows natural law reasoning, the only argument against maiming or killing an abortion provider who is otherwise unstoppable in the concrete circumstances, is that such an action is lawless, and the social order requires the rule of law, even if a certain group of human beings is deprived of their right to life. As in the case with John Brown, it seems all the criteria of a just defense can be met until you come to the criterion of proportionality. Such illegal actions strike against the rule of law. Moreover, they provoke outrage in the general public so as to make reasoned dialogue harder and they invite other fanatics to take violent means in pursuit of their particular causes. A fundamentally justly ordered society is endangered by the lawless, even if justifiable, actions of some, because such actions threaten the common good.

In this particular circumstance, the common good requires that no one maim or kill an abortion provider, even if that doctor kills a few hundred human beings per year (supposing, of course, the viewpoint of one who thinks the human embryo is a human being). As the National Abortion Federation said after Kopp's sentencing in federal court – "we cannot allow people to take the law into their own hands in order to advance their own personal agenda,"³⁶ and I add, even if the personal agenda is just; and the civil law is wrong.

If you grant that the legally protected practice of American slavery was a direct attack upon the basic human rights of those enslaved, and ask if in some circumstance the natural law would permit John Brown's actions, the answer is "yes." If you grant that the legally protected practice of abortion is a direct attack upon the basic human rights of those aborted, and ask if in some circumstance the natural law would permit James Kopp's actions, the answer is "yes." The criteria of a just defense apply in principle to these cases, the question is when they may apply in practice.

It is important to keep in mind that the forcefulness of John Brown's actions was essentially tied to the moral authority with which he spoke. Without the integrity, strength, and clarity of his moral arguments, his actions would largely have been dismissed as lunatic and criminal. Those arguments appealed to an objective standard of right founded in God's law and thus they provoked people's moral sense.

In contemplating the life and actions of John Brown, one experiences a discomforting mixture of admiration and terror.

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³⁶ Prochoice.org/blog/2007-06-01-archive.html

Weber, Maritain and Torture: A Personalist Challenge to Weberian Politics

Paul F. Curry

I. Introduction

Max Weber's political positions are unambiguous, yet his philosophical presuppositions are not. Often times the rationale for his view is difficult to discern. It seems necessary, then, to glean Weber's political philosophy from his various writings and the opinions of some of his most learned commentators. Jacques Maritain, on the other hand, is upfront both about his political philosophy and its philosophical underpinnings.

In this paper I challenge Weber's position presented in "The Vocation of Politics" that only the ethic of responsibility – an ethic which judges right and wrong based on consequences – is fit for politics. I also seek to show that what I call a mature ethic of conviction is short-changed by Weber. To achieve these ends I first offer a critical account of Weber's political value choice and the ethic deemed necessary to reach it. Next, I present and critique Maritain's political philosophy, an example of a mature ethic of conviction. Finally, I briefly consider the implications of each theory on the issue of torture. The goal of this exercise is not to definitively vindicate one theory over the other, but to show that an ethic of conviction can command allegiance as a mature and robust political philosophy.

II. Political Ethics According to Weber

A. Weber's Ultimate Values

In his work "The Vocation of Politics," Weber speaks at length on the proper ethic that a politician should follow, namely an ethic of responsibility, and not of conviction. It is interesting to note, however, that that at the same time

Weber seems to advocate a radical separation of ethics and politics. In a memorandum of 1911 Weber comments “In ethics the pacifists are our better... [but] Policy making is not a moral trade, nor can it ever be.”¹ If the work of politics is not a matter of morality, why should Weber consider what ethic is appropriate for politics? To reconcile this seeming inconsistency let us first consider some of Weber’s claims with respect to this subject.

Weber’s writings reveal that he did not believe that any one morality could show its rational superiority. In “The Vocation of Science” he comments “...life, as long as it is to be understood in its own terms, knows only the unending struggle between those gods... It is thus necessary to *decide* between them.”² Weber, like other thinkers of his day, was challenged by the neo-Kantian dilemma that the very principles which found our thought and science cannot be rationally based. It appeared, moreover, that there were alternative bases that one could choose from. One constant theme and focus throughout Weber’s work is the promotion of the German state, and this seems to be one of his definitive value choices.³

Weber also maintains that an ethic must be proportionate to the relationship it governs. In this view, erotic, family and business ethics will each differ according to the type of relationship each ethic governs. The politician operates with “...power, backed up by the use of violence,”⁴ and this means of the politician undoubtedly shapes the relations between the politician and the people. Weber clarifies that this holds true regardless of who wields this power and what their aims might be. In this light, the Christian saint who lives by the Sermon on the Mount does not hold an ethic fit for political life. To make these precepts universal would require the saint to coerce others, which is of course contrary to her moral code. Moreover, politicians cannot simply turn the other cheek. They must resist evil with force, be willing to strike, revolt and even hide the truth if possible consequences deem this necessary.⁵

¹ H.H. Gerth and C. Wright Mills, Introduction to *From Max Weber: Essays in Sociology* (New York: Oxford University Press, 1970), p. 39.

² Max Weber, “The Vocation of Science,” ed. by Peter Lassman and Ronald Speirs, from *The Essential Weber*, pp. 270-291, ed. by Sam Whimster (London: Routledge, 2004), p. 284. Italics are Weber’s own.

³ Cf. Stephen Turner and Regis Factor, *Max Weber and the Dispute Over Reason and Value* (London: Routledge and Kegan Paul, 1984), p. 43 – hereafter referred to as *Weber*.

⁴ Max Weber, “The Vocation of Politics,” ed. by Peter Lassman and Ronald Speirs from *The Essential Weber*, pp. 257-269, ed. by Willam Whimster (London: Routledge, 2004), pp. 259-260 – hereafter referred to as “Politics.”

⁵ See *Ibid.*, pp. 260-261.

Weber's claim that politics is not about morality suggests that he considers ethics (at least conviction ethics) and politics as two different spheres of values: the one is a lofty ideal which can offer one dignity if practiced fully in personal life; the other is a science to govern the prestige and power of the nation, a rule which copes with the real exigencies of political life.⁶ An ethic of responsibility is better suited for politics than one of conviction because it seems more expedient for the end which Weber chose and advocated – the glory of the fatherland. Politics must rely on an ethic of responsibility – an ethic which cannot be reconciled with an ethic of conviction – if it is to achieve its end of furthering the state.

The crux of Weber's problem lies in the inability to rationally justify ultimate premises by means of deductive reasoning. What Weber neglects is the possibility of non-deductive rational justification such as that advocated by figures such as Mill, Moore and Plato.⁷ Natural law theory, as well, is a conspicuous example of a rational ethic that does not admit of choices for its ultimate presuppositions.

Because of these views many commentators have come to label Weber as a blind power politician – other values readily subordinate themselves to the prestige of the German state. He saw democratic ideals pragmatically, in terms of their worth for the state in selecting able leaders; “For Weber, the universal franchise, the struggle for votes, and the freedom of organization had no value unless they resulted in powerful political leaders....”⁸ Gerth and Wright argue that more than one value among many, nationalism is the founding principle of Weber's political ethics. As Weber claimed in his inaugural lecture at Freiburg: “Our ultimate yardstick of values is ‘reasons of state’”⁹

In “Max Weber and Power Politics,” Raymond Aron likewise claims that Weber's nationalism is prior to all other values, and consequently that Weber chose the German state as his “god.”¹⁰ The prestige of German culture is dependent on the extent of German power and thus power becomes Weber's ultimate goal. As Aron puts it, “once the choice has been made, politics should consult reality at every moment in order to determine what is possible, with a view to reaching the ultimate goal, without caring too much about the morality or immorality of the measures it takes or recommends.”¹¹ If the

⁶ See Raymond Aron, “Max Weber and Power-Politics,” from *In Defense of Political Reason: Essays by Raymond Aron*, ed. by Daniel J. Mahoney (Lanham, MD: Rowman and Littlefield, 1994), p. 41 – hereafter referred to as “Weber and Power.”

⁷ See Turner and Factor, *Weber*, pp. 46-47.

⁸ *Ibid.*, p. 38.

⁹ *Ibid.*, p. 35.

¹⁰ Aron, “Weber and Power,” p. 34.

¹¹ *Ibid.*, p. 37.

power of the nation is one's supreme value, what reason could Weber offer for rejecting means that further this aim, even if he himself found such means naturally repugnant? If the national cause is dependent on eradicating the Jewish presence in Germany, what reason could Weber offer against this?

Fritz Ringer, in his book *Max Weber: An Intellectual Biography*, helps place Weber's nationalism into perspective. At an 1894 meeting of the Protestant Social Congress, Weber argued that social policy should not promote a conception of human happiness, but rather "...that which seems to us of value in human beings, autonomy, the profound drive upward, toward the intellectual and moral goods of mankind..."¹² Weber remains an intense nationalist, guided by the "power-political interests of the nation," but his nationalism has a rationale – to promote the human qualities by means of promoting German culture. Thus, Ringer claims, he was as committed to the values inherent in human greatness as he was to Germany itself.¹³ What sense can we make of these conflicting pictures of Weber? While advocating human autonomy and decrying the 1914 annexation of Belgium he also pushed for a greater Germany with suzerainty over Poland and other neighbouring nations. It seems that Weber would not just support any nation – likely not, for example, Nazi Germany, with its unfounded racist views. But having seen some value in his own state he is ready and willing to do what it takes to further its prestige, including waging the Great War. Weber seems all too ready to subjugate other values to the state, including peace and the free self-determination of other states; "It is not peace and human happiness that we have to hand on to our descendants, but the eternal struggle for the maintenance and cultivation of our national characteristics."¹⁴ This reflects his general consequentialist view in politics. He was willing to advocate a betrayal of some values for the furthering of another – the German state.

B. Weber's Antinomy

According to Weber, political activity can follow two fundamentally opposed ethics: one of principled conviction, or one of responsibility. The former is based on unwavering principles, such as the beatitudes of the Sermon on the Mount; the latter judges action according to the consequences it produces. If evil consequences follow from morally pure acts, the politician of principled conviction is apt to hold anyone to blame but themselves. Weber holds such an ethic to be ill-suited for political life. Reiterating the words of Fichte, he

¹² Fritz Ringer, *Max Weber: An Intellectual Biography*, p. 45.

¹³ See *Ibid.*, p. 52.

¹⁴ *Wirtschaft und Gesellschaft*, part 3, chap. III, pp. 619-630; see Aron, "Weber and Power," p. 38.

claims that no one has the right to presuppose goodness and perfection in human beings.¹⁵

For Weber, the crux of the problem for the politician of principled conviction is the age-old dilemma of discerning how an ethically good end sanctifies questionable means and side effects. Weber holds that the achievement of some good ends is necessarily tied to employing morally suspect or at least morally dangerous means. Politicians make a pact with the means of violence, and thus their ethic must account for the consequences that these means might incur.¹⁶ Ultimately, many proponents of the ethic of conviction resort to an open contradiction, calling for one last wrong (a violent revolution, for example) so as to marshal in the age of good. That only good consequences follow from ethically just action is for Weber an obvious fallacy, contested by the whole of human history and by everyday experience. For one who persists in their disbelief that evil very often follows from good acts, Weber offers the belittling rebuke: “Anyone who fails to see this is indeed a child in political matters.”¹⁷

Despite these remarks, Weber does not suggest a total abandon of the ethic of conviction for the politician. The two ethics are “... complementary to one another, and only in combination do they produce the true human being who is *capable* of having a ‘vocation for politics’.”¹⁸ The good politician feels the weight of conflict between their convictions and the responsible choices they must make.

Bernard Williams concurs with Weber’s view that in politics, because of the large interests involved, a politician must do what a good individual would reject *prima facie*.¹⁹ For Williams, a politician’s golden mean lies between total disregard for morality and failing to see that some morals must cede to political action. There are then, he argues, morally disagreeable acts which are politically justified.²⁰ Furthermore, in such cases a politician is justified in being reluctant to do what is politically necessary because of the dubious moral nature of the acts. Indeed, Williams suggests that we should fear politicians who are all too ready to perform morally disagreeable yet politically justified acts, and prefer those who are reluctant to do them. This would resonate well with Weber who wants a politician who feels the weight of their actions and yet still acts responsibly.

¹⁵ See Weber, “Politics,” p. 262.

¹⁶ See *Ibid.*, pp. 266-267.

¹⁷ *Ibid.*, p. 264.

¹⁸ *Ibid.*, p. 268.

¹⁹ See Bernard Williams, “Politics and Moral Character,” from *Public and Private Morality*, ed. by Stuart Hampshire (Cambridge: Cambridge University Press, 1978), p. 59.

²⁰ See *Ibid.*, p. 64.

Weber, however, presents an oversimplified ethic of conviction in the Christian example which offers him a straw house to bring down, rashly concluding that the saint of moral conviction is ill-equipped for the difficulties and challenges of public life. Perhaps the principal target of his claims is a deontological ethic or a radical pacifism yet his arguments pose problems for any ethic of conviction, and his use of scripture raises a particular challenge to Christian philosophers.

Thomas Aquinas (long since a favoured Church doctor by Weber's time) claims that, more than just good intentions, a good action need have a good end as well as good circumstances and consequences.²¹ Aquinas espouses an ethic of conviction, yet also demands that this ethic be mature enough to consider the consequences of one's actions. Indeed, I believe one could readily envision his theory, coupled with an Aristotelian recognition that the mean of virtue is proportionate to the agent²² (and on this point, Weber and Aquinas would actually concur) and other maxims such as the law of double effect, into a more comprehensive ethical theory of conviction, equipped to cope with the demands of political life. The ethic of the Christian "just war" theory testifies to the comprehensiveness of a "saintly" ethic, and Igor Primoratz points out that both Augustine and Aquinas – while morally opposed – allowed for brothels in lieu of an overbearing and invasive state.²³ This vision of Christian politics is not the naïve and blind picture of conviction ethics that Weber paints in his work.

Weber's oversight, at least vis-à-vis some conviction ethics, is that he fails to recognize that they distinguish between public and private morality. Politics, according to Maritain, "... is distinct from individual ethics as one branch from another branch on the same tree,"²⁴ and is guided by the Gospel maxim: "give to Caesar what is Caesar's, and to God what is God's." Thus, while it might be fit for a Christian to turn the other cheek to an enemy, this is not necessarily so for the statesman representing their nation. The politician in Maritain's view is required to seek justice for their people.

²¹See Thomas Aquinas, *Summa Theologiae*, Ia IIae, q. 18, a. 4, c., tr. by Ralph McInerny; see *Ethica Thomistica* (Washington, DC: The Catholic University of America Press, 1997), p. 81.

²² See Aristotle, *The Nicomachean Ethics*, tr. by David Ross (Oxford: Oxford University Press, 1998), 1106a 17-b 9.

²³ See Igor Primoratz. "What's Wrong with Prostitution?" in *Ethical Issues: Perspectives for Canadians*, ed. by Eldon Soifer (Peterborough, ON: Broadview Press, 1997). Whether the circumstances that led them to this position obtain in today's societies is a further question.

²⁴ Jacques Maritain, "The End of Machiavellianism," from *The Social and Political Philosophy of Jacques Maritain*, ed. by Joseph W. Evans and Leo R. Ward (New York: Image Books, 1965), pp. 283-314, at p. 289.

Raymond Aron claims that Weber confuses two antinomies in his distinction between the ethic of conviction and the ethic of responsibility: political action versus Christian action on one hand, and thoughtful decision versus immediate irrevocable choice on the other. Aron points out, for example, that Christian action is not the same as blind choice, for no Christian has the right to ignore the consequences of their action. Likewise, certain thoughtful decisions will not be purely consequentialist for there are certain exigencies which no one can evade.²⁵ Turner and Factor likewise point out this problem in Weber's antinomy, and claim that political ethics cannot be reduced to either being intentionalist or consequentialist.²⁶ The fact that thoughtful decision in politics is preferable to blind choice does not necessitate an antinomy between political and Christian action.

Most would agree with Weber that we need responsible politicians who are not blindly guided by principles. These criticisms suggest, however, that Weber's portrayal of ethics of conviction is oversimplified and ultimately unfair to more mature conviction ethics. Furthermore, a mature conviction ethic might be as apt or better for political life as Weber's ethic of responsibility. We shall now consider this option in greater detail.

III. Political Ethics According to Maritain

A. Individuality and Personality

In his book *The Person and the Common Good*, Maritain expounds at length on the individuality-personality distinction, which is founded on his hylomorphic (matter-form) metaphysics. It is our material principle that makes us individuals, and the spiritual principle which makes us persons. Individuality and personality are not two separate things, "One and the same reality is, in a certain sense an individual, and, in another sense, a person."²⁷

According to Maritain, humans find themselves caught between the material and the spiritual poles of their nature.²⁸ Matter is our weaker element; it is fundamentally oriented to disintegration, and it determines us to the physical laws. It is not evil in itself, for it is very much a condition of our existence, and serves to distinguish us from other people. Like the members of a team, individuals share a common end, and it is thus opportune to care for the well-being of others who share this nature. Yet in giving disordered priority to the individual, we close ourselves to others, atrophy the generosity of our spirit, and subjugate it to the flesh. According to Maritain, individualism – this overemphasis of our material nature – orients us towards

²⁵ See Aron, "Weber and Power," pp. 43-44.

²⁶ See Turner and Factor, *Weber*, pp. 33-34.

²⁷ Jacques Maritain, *The Person and the Common Good*, p. 43.

²⁸ See *Ibid.*, p.33.

the "...detestable ego whose law is *to grasp* or absorb for itself."²⁹ Personality stems from our spiritual nature, the human form which is common to all people. One who gives preponderance to personality affirms the primacy of their spiritual principle and is naturally open to others who share this nature. Human fulfillment lies in the full development of personality, which emphasizes the virtues and values of our practical reason like freedom, friendship, love, and generosity; "Thus, man will be truly a person only in so far as the life of the spirit and of liberty reigns over that of the senses and passions."³⁰

In the tradition of Aristotle, Maritain holds that humans are by nature political animals. We tend towards life in society because it provides us with the conditions we need to reach human plenitude.³¹ Because of the weaknesses inherent in a corporeal being, the person seeks the terrestrial benefits that society offers them, such as security, or the opportunity for material prosperity. At the same time the person finds in society the opportunity to realize the potential of their rational form in a life of learning and virtue.³² A just society, then, complements both the material and spiritual aspects of our nature, and grants us the opportunity to advance in human excellence.

Maritain argues for a hierarchical order, relating the value of the person to the community. In the order of terrestrial values, the good of one individual is subordinate to that of the common good of the community. Their individuality makes them part of a whole, which, comprised of multiple members of equal value, is greater than them.³³ As persons we have an end in spiritual values beyond the terrestrial order and ultimately, according to Maritain, in God. Thus, in the spiritual order, a person's end grants them a value greater than a community of individuals. For this reason it is essential that the common good, which as individuals we serve, not only flow back upon the members of society, but also support the transcendent life of persons, promoting their good and virtuous life.³⁴

There can arise a degree of tension between the good of the community and the good of the member person. The community can ask and require great sacrifices of its individual members in service to the common good. It can even oblige its citizens to partake in combat and expose their lives if the cause is just.³⁵ At the same time the common good cannot be dissociated from the

²⁹ *Ibid.*, p. 44.

³⁰ *Ibid.*

³¹ See *Ibid.*, p. 48.

³² See *Ibid.*, p. 60.

³³ See *Ibid.*, p. 82.

³⁴ See *Ibid.*, p. 51.

³⁵ See *Ibid.*, p. 68.

life of virtue which it serves. By common good, we do not refer to the good of an abstract state, or the good of the government, but the good and virtuous life of the members of the community. To attempt to serve the state in spite of the requisites of justice and virtue is a betrayal of the true conception of the common good. Indeed, the person does true justice to the common good when despite a spate of social pressures they uphold justice and charity. Thus the Nazi who in conscience refuses to murder helpless Jews in no way forsakes their country and people. "...in these very acts it still serves the common good of the city and in an eminent fashion."³⁶

Thus, in a sense, Maritain's personalism paves a middle ground between the individualism of liberal philosophies and the statism of Marxist social philosophy. The good of the person and the good of the community do not exist in a relationship of competition and opposition. The common good is greater than the terrestrial goods of the individual, and it is fitting that the person be asked to sacrifice himself at times for the good of the community. However this communal good must ultimately serve each person within society, for the person has supernatural ends beyond the community's temporal good. Individuals cannot continually seek their own interests, nor can the person simply be slaughtered on the altar of the state. The role of the politician is to promote the common good of her people and enable them to prosper both materially and spiritually.

B. Critique and Defense of Maritain's Position

A common critique leveled against natural law theories is the apparent cultural dependency of values. The emphasis on individual autonomy versus community, for example, varies widely between western and eastern cultures. At a glance, values are as diverse as the cultures of the earth. Maritain can offer a multi-faceted answer to explain this seeming inconsistency. First, our present knowledge of natural law is not coextensive with natural law itself because our knowledge of human nature is still limited. The fact that the entire natural law is not agreed upon does not imply that it does not exist. Second, though the positive law need reflect the natural law, it is not identical with it. The positive law – a country's promulgated rules and norms – should take into account the social and economic situation of a community in order to appropriately apply the natural law. Western levels of income tax, for example, might be an impossible burden for citizens of third world countries. Finally, there is substantial evidence for the existence of universally recognized norms. The 1948 United Nations Declaration of Human Rights illustrates this point. Indeed it is because some fundamental rights are

³⁶ *Ibid.*, p. 64.

recognized as universal that we believe it legitimate for international bodies such as the UN to regulate the conduct of deviant nations.³⁷

A potentially more damaging criticism of Maritain's political philosophy is to challenge the metaphysical presuppositions on which it is founded: a human nature described by hylomorphic metaphysics and a natural law corresponding to that nature. Maritain in this respect is much more vulnerable than Weber, for he outlines a very specific theory with large claims and implications. The future of natural law theory, I think, is dependent on new voices to meet the challenges and criticisms of modern and contemporary philosophy, as well as building on possible advances made therein. This, however, is not possible here. The wide ranging acceptance of certain fundamental rights, as mentioned in the paragraph above, lends some further credence to natural law theory. The existence of both inalienable positive and negative rights (such as health care and freedom of religion respectively) in the UN declaration supports a theory which steers a middle path between individualism and radical socialism.

IV. Torture

Torture has been very much in the limelight since September 11, 2001, from media reports on Guantanamo Bay, questions of extradition to countries with policies endorsing torture, and accusations that Canadian troops have handed over prisoners to be tortured by Afghan police. It is an issue where consequentialists readily collide with natural law theorists and most conviction ethicists. Weighing against natural repugnance towards acts of torture is a licit concern for the great consequences which could result from torture. Would we have advocated torture, for example, if it resulted in preventing the attacks on the Twin Towers, saving thousands of civilian lives? This question admits of no obvious answer, and it is for this reason that I choose it as a means to compare the political ethics of Max Weber and Jacques Maritain. The mettle of each theory might be best seen when it is tried with a difficult issue. Neither author has written specifically on this issue and thus answers must be constructed from their respective theoretical claims. The matter of when questioning and harsh treatment become interrogation and torture is a difficult one. For present purposes let us leave aside questions of the penumbra and consider torture the intentional infliction of severe pain by legitimate government officials in order to obtain valuable information.

³⁷ See William Sweet. "Jacques Maritain," *The Stanford Encyclopedia of Philosophy* (Spring 2004 Edition), ed. by Edward N. Zalta, URL = <http://plato.stanford.edu/archives/spr2004/entries/maritain/>, section entitled "Moral and Political Philosophy and Philosophy of Law."

A. Max Weber on Torture

Weber, it seems, would advocate the use of torture if necessary for furthering the cause of the German nation. And if he is right, this could be generalized to any nation that sees itself as a bearer of values, be it Iran or the United States. It is true that Weber believed in fostering human autonomy in order to seek the values important to mankind and that he lambasted Germany's decision to annex neutral Belgium. However, he also maintained imperialist aspirations and backed the German cause in the Great War, justifying it as a means to further the prestige of German culture, or a means to offer future generations a cultural option to the decrees of Russian officials and the conventions of the Anglo-Saxons.³⁸ If such reasons allow for a war which claimed the lives of millions, it is not far-fetched to suspect Weber to be a supporter of "justified torture" – torture deemed necessary by a cost-benefit analysis vis-à-vis political power.

What, then, would result from this acceptance? In Weber's favour, this practice could result in great goods, such as saving thousands of lives. In the infamous ticking bomb scenario a football stadium of civilians is spared at the price of torturing a guilty terrorist. Weber's politician, troubled by the disagreeable nature of his acts, finds solace in the great consequences which follow. It may be difficult to intentionally inflict pain on a fellow human being, or even to train people to procure this pain, but it is perhaps equally so to spare a terrorist at the cost of innocent lives. Weber's politician is able to make these difficult decisions.

B. Maritain on Torture

If, as Maritain holds, the state has the authority to use force to promote the common good could it not allow torture to combat the terrorist? I think Maritain would deny this consequence. Though political ethics is not personal ethics the former like the latter can in no way be severed from the natural law which is ordered to the good life of each person. Torture is an intrinsically disordered affront to human dignity, because it treats a person as a means to an end. Furthermore, it is in direct contradiction of a fundamental precept of natural law to conserve and respect human life.³⁹

Aside from respecting this precept, the prohibition of torture also offers many advantageous consequences. It avoids the possibility of torturing innocent people or people who do not have useful information to give. It does not need to be concerned with the reliability of information gathered under

³⁸ See Turner and Factor, *Weber*, pp. 39-40.

³⁹ See Ralph McInerny, *Ethica Thomistica* (Washington, DC: The Catholic University of America Press, 1997), p. 44.

pressure (consider, for example the possibilities represented in popular renditions of the Salem witch trials). A prohibition also prevents the need to train and employ people as torturers – a profession with possibly dire consequences for a person's virtuous life. Furthermore, a prohibition safeguards personal liberty against an overpowering state.

C. Evaluation of the Responses

A Weberian argument in favour of justified torture is at best probable even along consequentialist lines. Arguably, such a policy could undermine respect for the government if it were to mistakenly torture innocent people. The harm to possible victims should not be juxtaposed solely with the harm to guilty terrorists but also with the breakdown of key social institutions. For example, an effective use of torture, even under a theory of exceptions (where in certain extreme cases torture is allowed) would require specialized training for members of police and secret service departments. Because of the difficult nature of the task, and the length of time torture must often be executed over (sometimes for weeks), proper training involves desensitizing individuals to the pain and humility of others; "Training programs use dehumanization and scapegoating of victims to relieve the bad self-image experienced by many torturers."⁴⁰ Allowing torture seems to necessitate a distortion of values for some members of society.

Moreover, the ticking time bomb scenario is very misleading. Terrorist deterrence is a long term affair, and very seldom last minute. Effectiveness often depends on a dragnet method – torturing many possible suspects to gather some information. This widespread use of torture was commonplace in Stalinist Russia and is the type of practice which causes the common distrust and fear of totalitarian regimes.⁴¹

In Weber's defense, one might claim that the type of politician he calls for would know when and how to apply the means of torture. He might advocate a general policy against torture, which allowed for exceptions as dictated by a competent leader. In this way, the good politician avoids the unjust torture of innocents and has a knack for torturing only to the right amount. The very claim that such a politician could exist, however, seems gratuitous. Granted, some people may have a greater sense of intuition for politics than others, but this does not mean that the proper time to torture, or the necessary harshness required, is the result of some magical formula known only to the person with a vocation for politics. If exceptions exist, let possible reasons for them be

⁴⁰ Jean Maria Arrigo, "A Consequentialist Argument Against Torture Interrogation," Joint Service Conference on Professional Ethics, 2003. Accessed December 18, 2005. Available = <http://www.usafa.af.mil/jscope/JSCOPE03/Arrigo03.html>, section III.

⁴¹ See *Ibid.*

given. Moreover, as we have seen, any institutionalization of torture, even as an exception, carries the possibility of dire and unintended consequences for a nation.

Is not Maritain, however, likewise susceptible to criticism on the part of common sense? Indeed, this seems to typify the complaint of Weber against the conviction ethicist, who, out of principled conviction, refuses to break a principle by practicing torture for the sake of their country. As Weber says, “the man who espouses an ethic of conviction cannot bear the ethical irrationality of the world.”⁴² Furthermore, just as combatants on a battlefield consent to the risk of being killed by the enemy, do not terrorists “consent” to the risk of torture by committing an act of terror? Can the natural law theorist merely wash their hands of the horrific consequences which might follow? Again, if the conservation of human life is a concern for natural law why not allow for the conservation of a greater number of lives at the cost of harm to one? These last considerations suggest we at least allow for a theory of exceptions where in the last instance, under extreme circumstances, torture may be used.

By my previous arguments I hope to have shown that any benefits of torture are actually outweighed by the costs it incurs. But even if it is theoretically possible to manage torture in a beneficial way I believe Maritain would reject its use. If torture trespasses on human dignity, then this evil cannot be committed in lieu of some greater goods. Moreover, torture is fundamentally different than war. In the latter the individual is still master of self and freely offers their life in recognition of an obligation. The individual can be asked to risk their own life, “...but never can it be branded like an animal for the slaughterhouse.”⁴³ If we accept natural law theory it seems we must accept that torture is absolutely prohibited, because it is contrary to human dignity.

Furthermore, the Maritainian politician will not simply wash their hands. Rather, the situation would be much like the one described by Weber, where the politician feels the great weight of their acts,⁴⁴ except now it is the potential consequences and not the act itself which bothers them.

Despite a rejection of harsh torture, I suspect that natural law theory would allow for lighter methods of “torture” which have no long lasting effects, such as interrogation or some degree of sleep and food deprivation. Methods such as these put a degree of pressure on a suspected terrorist but do not seem to tread on the dignity of the human person. Harsher methods such as the breaking of bones or electric shock to the sexual organs would be rejected.

⁴² See Weber, “Politics,” p. 263.

⁴³ Maritain, *Person*, p. 69.

⁴⁴ See Weber, “Politics,” p. 268.

Perhaps no fine line can be drawn, but some cases are evidently torture while others are not clearly so (and there we do well to step lightly).

Choosing between a policy of definitive rejection and a policy of exceptions, I admit, is no easy task. Both solutions seem to leave something to be desired as we have seen. At minimum, I hope to have shown that Maritain's response is not like the simplistic conviction ethics that Weber outlines in "The Vocation of Politics." Rather, it is the result of a careful consideration of the role of the state and the dignity of the human person.

V. Conclusion

Weber believed in promoting the German state and in an ethic of responsibility as the politician's means to achieve this. Though to some degree an advocate of liberty and human values he failed to clearly distinguish these as ends in themselves, and often allowed them to be subjugated for the sake of the state. His position on ethics and politics as separate spheres of value, irreconcilable with one another, helped form this skewed hierarchy. Furthermore, Weber's proposed antinomy between an ethic of conviction and responsibility is false in that it fails to consider thicker, more mature ethics of conviction which do not choose blindly, and judge an act by more than its intentions. Maritain's personalism and the theory of the common good provide cogent and mature answers to ethical problems, answers which may be superior to Weber's own.

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Maritain, Just War Theory, and Responding to Campaigns of Terror

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Throughout the twentieth century¹ and into the twenty-first, humanity has witnessed acts of terror, terrorism, and even campaigns of terror, and there has been much debate concerning how one might properly and morally respond. Some have appealed to just law theory for an answer; others have argued that it is inappropriate. In this paper I want to look at Jacques Maritain's accounts of just war theory and of natural law, to see whether they can provide some direction in how to construct a moral response to campaigns of terror. To do so, I begin by reviewing Maritain's comments on what he saw was a clear example of a just war – that of World War II. Next, I consider what lies at the root of Maritain's account of “just war” – partly, to see what he thought were the criteria for “just war,” and partly to see what other principles may be involved. Finally, I want to suggest that, once we see how war may be justified, such a justification might also be used to support “just force” in dealing with terror.²

¹ Of course, campaigns of terror antedate the 20th century. But it appears that the specific phenomenon of terrorism has acquired a particularly important place in contemporary situations of conflict.

² In this paper, I refer to three key texts: the collection of essays published as *De la justice politique: notes sur la présente guerre* (Paris: Plon, 1940); in *Oeuvres complètes [de] Jacques et Raïssa Maritain*, 16 vols., (Fribourg: Éditions universitaires, 1986-2000), vol. VII, pp. 283-425; an essay entitled “Christianity and War” in *The Dublin Review*, Vol. 208, iss. 416, March 1941: pp. 12-19; and *Loi naturelle ou loi non-écrite* (Fribourg: Éditions universitaires; [posthumously published in] 1986). Other texts in which Maritain discusses war include the short essay *Los rebeldes españoles no hacen una guerra santa* (Madrid: Ediciones Españolas, 1937).

I

The instances and campaigns of terror that we have seen throughout the last 100 years have occurred in a broad range of contexts. In some cases, they have been a part of a larger event – for example, a war among nations (e.g., the terror bombings of Dresden during World War II). In other cases, campaigns of terror have been waged by those engaged, “on home soil,” in national liberation movements (e.g., in Israel, Kenya, South Yemen, and Algeria). Or, in still other cases, they are part of civil wars, or of “internal” struggles to eliminate opposition and dissent (e.g., in Sierra Leone, in the late 1990s until about 2002, by both the Armed Forces Revolutionary Council – i.e., the former Sierra Leonean army – and the Revolutionary United Front rebels; or in the Sudan, in the early years of the twenty-first century, by Janjaweed militias, who conducted campaigns of terror against the people of Darfur). Today, we are particularly conscious of those campaigns which take no account of national boundaries. The beheading of innocent hostages in Iraq, and the September 11 attacks on the United States in 2001, are only recent instances in campaigns that have a much longer history than we might at first realise.

What do I mean by “campaigns of terror”? I mean those examples of systematic and sustained acts of extreme violence, carried out in a coordinated way, against civilians – including disfigurement, murder, torture, looting, and rape – *with the intention of* preventing or eliminating resistance to those conducting the campaign.

There is a visceral sense of wrongfulness about such acts and about campaigns of terror. Even if we accept the claim that the acts are acts of desperation, or are motivated by higher ideals, we condemn them, we want to stop them, and we want to respond to them.

Some have, therefore, described these campaigns of terror as “wars,” and have invoked “just war theory” to explain their response.³ But, for many others, just war theory does not seem to be appropriate. In part, this is because it is not clear that the acts are indeed acts of war; they may be acts of extreme violence, but this by itself does not constitute war. This is also because it is often difficult to identify the perpetrators, and to determine where they may be found and how to engage them. And, further, this is because it is not clear that conventional “rules” of war can even apply.

³ Jeffrey P. Whitman, “Just War Theory and the War on Terrorism: A Utilitarian Perspective,” *Public Integrity*, Vol. 9 (2006-7): pp. 23-43; See also Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977) and recent articles, such as “On Fighting Terrorism Justly,” *International Relations*, Vol. 21 (2007): pp. 480-484; For a recent collection of views, see *Intervention, Terrorism, and Torture Contemporary Challenges to Just War Theory*, ed. by Steven P. Lee (Dordrecht: Springer, 2007).

So we are left with the questions: How do we respond to these acts and campaigns of terror (assuming, of course, that we do respond)? And are there any limits on how to respond? Is there *anything* in just war theory that we can draw on here for guidance?

II

In the summer and fall of 1939, Jacques Maritain was in France. The war that he feared, in August 1939,⁴ might break out, soon did. On September 3, 1939, following the invasion of Poland by German forces, Great Britain and France declared war on Germany. In the months before May 12, 1940, when the Germans crossed the French frontier, Maritain wrote a number of short popular articles – indeed, some of his very few articles – on war: among these were: “L’Europe ne périra pas,” “La juste guerre,” “Le renouvellement moral est premièrement nécessaire,” “La guerre et la liberté humaine,” “Vers une solution fédérale,” and “De la justice politique.”⁵

In these short essays, some of which were written almost eight months before the invasion of France, Maritain states that the new war was a *just* war. This might seem to be a rather hasty conclusion; indeed, it was not yet clear who exactly were parties to it and where exactly it was being waged. (When Maritain left France in December 1939 to give his regular lectures in Toronto and New York, he thought that the situation in France might continue to be stable enough so that he would be able to return home the following summer.) Also, Maritain’s response may be thought to be out of character, for he had strongly opposed the 1936-39 Spanish Civil War – for which he was condemned by many.⁶

⁴ In a letter of August 16, 1939, Maritain writes: “Je compte toujours—si les semaines qui viennent n’apportent pas la guerre—m’embarquer en Décembre pour passer à Toronto le mois de Janvier. Dites mes fidèles pensées au Dr Phelan et aux amis de St Michael’s.” See Géry Prouvost, *Étienne Gilson-Jacques Maritain: Correspondance 1923-1971* (Paris: Librairie Philosophique J. Vrin, 1991) letter #54, pp. 133-134.

⁵ See Jacques Maritain, “L’Europe ne périra pas” (in *Oeuvres complètes*, dated 12 sept. 1939; one should note that, in the *Bibliographie* published by the Cercle d’Etudes J et R Maritain, it was published only on 25 oct. 1939 in *La Vie Intellectuelle et la Revue des Jeunes*, serie de guerre, t. I, no. 1), “La juste guerre,” (29 sept. 1939 [and published in *Temps Présent*, 3ieme annee, no. 96]), Le renouvellement moral est premièrement nécessaire” (dated oct. 1939 [and published in *Nouveaux Cahiers*, no. 51, 1 nov. 1939]), “La guerre et la liberté humaine” (*Temps Présent*, 3ieme annee, no. 109, 29 dec. 1939), “Vers une solution fédérale de la crise europeenne” (*Temps Présent*, 3ieme annee, no. 104, 24 nov. 1939), and “De la justice politique” (*Temps Présent*, 4ieme annee, no. 113, 26 janvier 1940).

⁶ For a discussion of Maritain’s reasons for opposing the civil war, see Bruce Duncan CSsR, “The struggle to develop a just war tradition in the West,” in *Compass: a review of topical theology*, Vol. 38, (Winter 2003). See also: Jacques Maritain, “Preface,” in A.

Still, Maritain clearly believed that there can be just wars,⁷ and that this new war was one of them.⁸ Yet he also wrote that just war theory needs reconceiving – “les critères de la juste guerre établis par les théologiens de l’âge classique ont besoin d’être révisés.”⁹

These (perhaps paradoxical) views, then, send us back to look again at just war theory – and this, I think, will be instructive.

III

How is it that Maritain could call the war that had just begun in Europe – long before the invasion of France, and long before the reports of labour camps and death camps had reached the outside – a “just war.” What were his reasons?

Maritain only hints at the basis for his judgement; in “De la justice politique” (1940), he writes that, to have a just war, its determining object and motive must be just, and it must be a last resort [“pour que cette guerre soit juste... elle demande que son motif et son objet déterminants soient eux-mêmes justes, et que l’on soit réduit a cette chose horrible comme a une ultime necessite”¹⁰]. It appears, then, that he would adopt the criteria for just

Mendizabal, *The Martyrdom of Spain: Origins of a Civil War* (London: Geoffrey Bles, 1938) and Bernard Doering, *Jacques Maritain and the French Catholic Intellectuals* (Notre Dame, IN: University of Notre Dame Press, 1983).

⁷ Maritain was sceptical, for example, of strict pacifism. Nicholas C. Lund-Molfese cites Maritain’s *Freedom in the Modern World*: “Apart from the fact that the systematic refusal to render military service, such as is practiced by Conscientious Objectors, is based on an ideology that is shallow and steeped in illusion, it is also of no real effect against the evil of warfare and might well endanger the safety of the community in a case where a just war had to be waged.” [*Freedom in the Modern World*, tr. by Richard Sullivan (New York: Scribner, 1936) p. 180; cited in Nicholas C. Lund-Molfese, “Maritain’s Contribution to the Development of the Magisterium on Means,” in *Reassessing the Liberal State*, ed. by Timothy Fuller and John P. Hittinger (Washington, DC: The Catholic University of America Press, 2001).

⁸ Maritain was scandalized, for example, by the example of those who seemed ready to collaborate with the Vichy puppet government. Bernard Doering notes that [in 1945] Maritain wrote to Abbé Charles Journet, the Swiss theologian and, later, Cardinal, that during the German Occupation of France “intelligent people were scandalized because they heard too many Thomists chanting the litanies of Maréchal Pétain and heard a great theologian whom we know [R. Garrigou-Lagrange, OP] actually declare in Rome that any priest who gave absolution to a supporter of Charles de Gaulle was living in a permanent state of mortal sin.” (*Journet/Maritain Correspondence* [Paris: Éditions Saint-Augustin, 1998] vol. III, p. 812; see Bernard Doering, “Silent Dissenter: Jacques Maritain on contraception,” *Commonweal*, May 18, 2001).

⁹ Maritain, “La juste guerre,” in *De la justice politique*, p. 295.

¹⁰ Maritain, “De la justice politique,” in *De la justice politique*, pp. 324-5.

war given by St Thomas (ST, II-II, q. 40, a. 1¹¹) – i.e., that the war must be declared by the appropriate authority who has the care of the common good, that it is in a just cause, and that there should be “a rightful intention, so that [those who engage in the war] intend the advancement of good, or the avoidance of evil.”¹²

Now, given that “Ce qui fait qu’une guerre est juste ou injuste, c’est essentiellement l’objet et le motif immédiats qui la déclenchent” and that “La guerre contre le national-socialisme allemand a pour objet et pour motif immédiatement déterminants de résister l’agression dont la Pologne a été victime...,”¹³ Maritain draws the conclusion that the war that was beginning in Europe is a just one.

It is worth noting, I think, that in arriving at his judgement about the justice of this war, Maritain rejects any exculpating conditions – e.g., the punitive conditions that had been imposed upon Germany following the First World War.¹⁴

¹¹ According to St Thomas:

First, the authority of the sovereign by whose command the war is to be waged. For it is not the business of a private individual to declare war, because he can seek for redress of his rights from the tribunal of his superior. Moreover it is not the business of a private individual to summon together the people, which has to be done in wartime. And as the care of the common weal is committed to those who are in authority, it is their business to watch over the common weal of the city, kingdom or province subject to them. [...]

Secondly, a just cause is required, namely that those who are attacked, should be attacked because they deserve it on account of some fault. Wherefore Augustine says (QQ. in *Hept.*, qu. x, super Jos.): “A just war is wont to be described as one that avenges wrongs, when a nation or state has to be punished, for refusing to make amends for the wrongs inflicted by its subjects, or to restore what it has seized unjustly.”

Thirdly, it is necessary that the belligerents should have a rightful intention, so that they intend the advancement of good, or the avoidance of evil. [...] For it may happen that the war is declared by the legitimate authority, and for a just cause, and yet be rendered unlawful through a wicked intention. Hence Augustine says (*Contra Faust.* xxii, 74): “The passion for inflicting harm, the cruel thirst for vengeance, an unpacific and relentless spirit, the fever of revolt, the lust of power, and such like things, all these are rightly condemned in war.”

¹² Strictly speaking, these are not “criteria” but conditions which must be met in order to determine whether one has the right to go to war. Whether a state ever has an obligation to go to war is an interesting question, but I cannot enter into this here.

¹³ Maritain, “La juste guerre,” p. 298; see also “L’Europe ne périra pas,” in *De la justice politique*, p. 293.

¹⁴ See Maritain, “De la justice politique,” pp. 324-25; see also “La juste guerre,” pp. 298-99.

To remind us that Maritain did not casually embrace the idea of war, it is important to recognise that he did say that the conditions for a just war were *not* present in the Spanish Civil War¹⁵ – which, Maritain emphasized, was a *civil* war, not a war between governments or nations. (One might also note that Maritain particularly objected to calling the Spanish Civil War – and even what came to be called the Second World War – a “holy war” [une “guerre sainte”¹⁶]. He thought that there was nothing holy about wars at all.) Moreover, Maritain describes war as a “scourge”¹⁷ and says that it is “in itself horrible,”¹⁸ “a monstrous condition of the world, a state of agony and of darkness.”¹⁹

Nevertheless, Maritain consistently affirmed that war can sometimes be justified. Indeed, several years before the war (i.e., in 1936), Maritain had noted that “the carnal means of war are not intrinsically bad” and that “force,” “the use of force,” “violence,” and “terror,” and “the use of all means of destruction” “can be just in certain defined circumstances.”²⁰

Still, were all of the criteria required for calling the war in Europe a “just war” in fact met? And if we suppose that all the criteria for calling the new war a “just” one *had* been met, why does Maritain also note that just war theory needs to be reconceived? Is anything lacking that bears on that war, or on war and the use of violence in general?

The *first* (and only direct) reason Maritain gives for saying that just war theory has to be revised is that he believes that warfare has changed: “la guerre elle-même a foncièrement changé.”²¹

¹⁵ Maritain’s concern here seemed to be that foreigners should not take sides in a civil war, that both sides had engaged in massacres and in terrorism (“terreur blanche”), that “the association of religion with the means of total war” was inappropriate and inconsistent with Christianity, and that one was obliged to work for reconciliation rather than the extermination of one side or the other. (See ‘Avant propos’ to “Mes positions sur la guerre d’Espagne,” in *Cahiers Jacques Maritain*, no. 9 (1986), pp. 50-51.)

¹⁶ See Maritain, “La juste guerre,” pp. 296, 297. See also Duncan, “The struggle to develop a just war tradition in the West.” Duncan describes Maritain’s view as follows: “It was bad enough to have to kill someone in defence of a just cause, he said, but people must not kill in the name of Christ. No ‘holy war’ can serve the Reign of God, for war risks causing blasphemy of what is holy.”

¹⁷ Maritain, “Avant propos,” to “Mes positions sur la guerre d’Espagne,” p. 50.

¹⁸ Maritain, “Christianity and War,” p. 13.

¹⁹ *Ibid.*

²⁰ Jacques Maritain, *Integral Humanism*, tr. by J.W. Evans (New York: Charles Scribner’s Sons, 1968), pp. 246-7.

²¹ Maritain, “La juste guerre,” p. 295.

How? Maritain writes that, in the present case, existing judicial rules and procedures have been rendered inefficacious by the aggressor.²² He also argues that what is involved is not simply (preemptive) self-defence or coming to the aid of an innocent ally, or ideology, or religion, but – especially given the alliance between the Soviet Union and Nazi Germany – “civilization”²³: what is at stake is “the spiritual situation,” respect for the human person and for justice and truth, “les réalités élémentaires sans lesquelles la vie humaine cesse d’être humaine.”²⁴ But most importantly, perhaps, Maritain believes that the new war is one, not just of governments or states, but of *peoples*. And in his description of the response of the French to the German act of war, Maritain draws our attention to the immediate recognition *by the ordinary person* of what must be done,²⁵ which need not wait for any “public declaration by the proper authorities.”

What difference does this make? If war is a conflict of peoples and *not* simply of states, it seems, then, that it is not essential that war be declared by the leader of a state; the justice of the war does not depend on who declares it. While there is certainly a role for the leader in matters of war, Maritain reminds us that *all* justified responses to violence are rooted, not in the authority of the leader who may sanction them, but in the fact that “there exists in the human species a latent power of jurisdiction which, in each one of us, in case of extreme necessity [can...] become actual.”²⁶ Thus, if Maritain is indeed calling into question the necessity of a decision of a particular authority, then it seems that he believes that the conditions for just war should be *less* restrictive.²⁷

If we look closely at Maritain’s essays on war, we find, arguably, a *second* reason for revising the criteria for just war – and that concerns the outcome of war. Maritain writes that it is not just enough to defeat the unjust aggressor and to exact retribution against those who were causes of the war; one must ensure that war have, as its end, a “just peace”: “La paix pour laquelle ils font cette guerre doit être une juste paix.”²⁸ Thus, Maritain speaks often of the solution (to the present as well as to future problems) as involving not just

²² See Maritain, “Christianity and War,” p. 19.

²³ Maritain, “L’Europe ne périra pas,” p. 291.

²⁴ Maritain, “La juste guerre,” p. 296.

²⁵ See Maritain, “L’Europe ne périra pas,” p. 292.

²⁶ Maritain, “Christianity and War,” p. 19.

²⁷ The modification or elimination of this criterion is particularly germane when we consider the case of conflicts where one or more of the combatants are non-state, international bodies, or from religious or cultural, but not national or political, groups; this is relevant to the contemporary situation, where some speak of a clash of civilizations.

²⁸ Maritain, “De la justice politique,” p. 325; also see p. 323.

Germany's defeat, but the creation of a federal *Europe* – which would also be the occasion of a spiritual revival in Europe.²⁹

This point, then, seems to place an additional *constraint* on going to war or on calling a war “just.”

Where do these reasons leave Maritain's view – and us?

When we look at studies on the ethics of war today, we see that, normally, one speaks of just war as having (at least) six necessary criteria – as noted earlier, Aquinas indicates three of them³⁰ – and there may be more besides.

These criteria for just war (in the sense of coming to engage in war, or *ius ad bellum*) are:

1. a public decision of the appropriate authority
2. a just cause (e.g., self defence, but also protection of the innocent – including one's allies, unjustly attacked – and the defence of civilization³¹), because of a violation of a duty by the other party
3. a right intention (i.e., that the war was engaged in only for the sake of a just cause)

But for a war to be just, it must also be that it is

4. a last resort
5. having a probability of success
6. with this “success” being proportionate, given the losses likely involved

Some recent studies press us to go further: that the conduct or carrying out of the war must be compatible with what has been called *ius in bello* (e.g., that those “targeted” are combatants only, and not innocent parties; that methods or means of warfare that are evil in themselves cannot be employed; and that only proportionate force may be used). And some would add further that we must ensure that there is something good and stable following after the conflict, what some have called *ius post bellum*.³² It is this latter “criterion” that Maritain seems to be aiming at in what I have identified as his second reason – that the object or aim of war is not merely victory, or retribution, but peace – a “just peace” and a stable peace – *after* the end of hostilities.

These two reasons, then, suggest that the criteria for a just war need to be revised; that, in order to take account of concerns about “appropriate

²⁹ Maritain thinks that it will be – and already is “la situation spirituelle de l'Europe a complètement changé, et [...] le salut de l'Europe a commencé,” “L'Europe ne périra pas,” p. 289; see “Le renouvellement morale,” pp. 301ff – the occasion for a spiritual renewal.

³⁰ See ST, II-II, 40, a. 1 .

³¹ See Maritain, “Christianity and War,” p. 15.

³² For a recent discussion of this, see Brian Orend, *The Morality of War* (Peterborough, ON Broadview, 2006).

authority” (given the character of the conflict and the stakes involved), but also about the outcome for the victor and the vanquished alike, the classical theory is insufficient.

There is, arguably, a *third* reason suggested by Maritain for revising the criteria for “just war.” The contexts and methods of conducting war have changed, and the “social environment” and the “judicial rules” of a “common law of civilization” that govern political conduct are increasingly abandoned by aggressors, so that the existence or relevance of many of the traditional conditions of “just war theory” may be hard to ascertain or establish. For example, today there is much debate within government, and certainly within a people, about justice (e.g., whether all other options have been exhausted, so that a war is the last resort; the character of the intention behind the decision; and the legitimacy of the cause), about the stakes involved, and even about the possibility of conducting a war justly (given the weapons at our disposal, such as chemical and nuclear weapons). Following classical just war theory in the contemporary world would be, one might hold, simply too cumbersome or naive.

So, again, where does this leave our understanding of Maritain’s account of the justice of the war just beginning, and of just war theory in general? As we have seen, according to Maritain, just war theory needs to be reconceived; warfare has changed – the combatants are not necessarily governments or states, there are often questions about the intention behind the decision to go to war, and the means of engaging in and conducting war have changed. And it would seem that Maritain himself must have reflected on these changes – and does not simply follow the old criteria in coming to the determination that the war which was unfolding was (or, at least, could be) a just war.

Still, one must ask what kind of just war theory are we left with if we take into consideration the preceding three reasons for revisiting the theory? And can this guide us in dealing with campaigns of terror? To answer these questions, we have to go deeper, and consider what lies at the basis of just war theory.

IV

How do we justify the criteria for the “just war theory”? For Maritain, what allows us to say that certain criteria are sufficient to determine the justice of a war would not be anything *sui generis* about these criteria but, presumably, an inference from natural law. After all, it is natural law that determines, in temporal matters at least, what is just. But – to my knowledge – Maritain never explicitly provides such an inference, and so we have to try to

reconstruct it. And this may not be easy, as Maritain's account of natural law is more complex than one might think.³³

Maritain's discussion of natural law occurs in a number of texts,³⁴ but what is perhaps his most sustained account appears in the posthumously published *La loi naturelle ou loi non-écrite*³⁵ (based on lectures given in Princeton in 1950, and delivered at L'eau vive, near Paris, in August 1950). There, he argues – as we might expect – that there is an immutable natural law, immanent in human nature, related to the teleological dimension of that nature and the “normality of functioning” of human beings.³⁶ What *exactly* this natural law expresses, however, is not – or not obviously – reducible to a set of universal and necessary moral rules or principles.

Of course, Maritain³⁷ does speak of moral precepts and moral principles; there are three kinds of precepts of the natural law: first precepts, second

³³ In the following paragraphs, I draw on my paper “Persons, Precepts, and Maritain's Account of the Universality of Natural Law” *Maritain Studies*, Vol. 14 (1998).

³⁴ See, e.g., *Éléments de Philosophie I: Introduction générale à la philosophie*. (Paris, Téqui, 1920) [*An Introduction to Philosophy*. (London: Sheed and Ward, 1944)]; *Les droits de l'homme et la loi naturelle*. (New York: Editions de la Maison française, 1942). [*The Rights of Man and Natural Law*, tr. by Doris C. Anson. (London: Geoffrey Bles, 1944; New York: Charles Scribner's Sons, 1943)]; *Neuf leçons sur les notions premières de la philosophie morale*. Collection “Cours et documents de philosophie,” (Téqui, 1951) [*An Introduction to Basic Problems of Moral Philosophy*. (Albany, NY: Magi Books, 1990)]; *La Philosophie morale. I. Examen historique et critique des grands systèmes*. (Gallimard, Bibliothèque des Idées, 1960) [*Moral Philosophy*, ed. by Joseph W. Evans. (London: G. Bles, 1964)]. There are also important discussions in Chapter 4 of *Man and the State*, op. cit., and in an article entitled “Natural Law and Moral Law” in *Moral Principles of Action: Man's Ethical Imperative*, ed. by Ruth Nanda Anshen. (New York and London: Harper & Brothers, 1952), pp. 62-76. (This is a translation of “Quelques remarques sur la loi naturelle,” *Oeuvres complètes [de] Jacques et Raïssa Maritain*, Vol. X, pp. 955-974.)

³⁵ See Jacques Maritain, *La loi naturelle ou loi non-écrite*, An English translation is to appear under the title *Lectures on Natural Law* in *The Collected Works of Jacques Maritain*, (general editor, Ralph McInerney), Vol. VI (edited by William Sweet), Notre Dame, IN: University of Notre Dame Press.

³⁶ See *Natural Law: reflections on theory and practice*, ed. by William Sweet (South Bend, IN: Saint Augustine's Press, 2001), p. 25 and 29; see Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951), p. 88.

³⁷ Cf. *Leçons 5 to 7 of La loi naturelle ou loi non-écrite*. Note that, in *La loi naturelle ou loi non-écrite*, Maritain holds that there is no significant distinction between “principles” and “precepts” (see p. 148). He says that here he is following St Thomas – that St Thomas uses the terms interchangeably. But it is also important to note that he uses both terms in different senses – that Thomas's use of the terms in the *Commentary on the Sentences* and in the Supplement to *Summa Theologiae* is different from the way they are used in *ST I-II* (qq 91-95), composed later.

precepts “in the broadest sense,” and second precepts “in the strict sense.” First precepts are, he says, connaturally known, and treat of human being in a general sense; examples of these first precepts are: “do good and avoid evil” and “act in conformity with reason.”³⁸ Second precepts “in the broad sense” are fruits or “necessary concretions” of these first precepts, also known connaturally; examples of these are: “do not steal,” “return objects held in trust,” as well as “preserve your life.” Finally, second precepts in the “strict” sense require the use of reason and concepts for one to be aware of them – they are “derived” rationally and conceptually from those principles “naturally known.” Examples of these, Maritain writes, are: “do not engage in polygamy” and “do not divorce” and, perhaps, “do not torture,” “care for the bodies of your dead,” and “you may kill the enemy in a just war.”³⁹

Maritain says that there is a priority among these precepts, and this is of particular practical significance as there are situations in which one might argue that precepts conflict and where one need know which precept one should follow.

It is important to note that these first and second (in the broad sense) precepts are known connaturally – i.e., through our non-conceptual knowledge of ourselves – and while this knowledge can increase, it does so only gradually. The form that these first precepts (and second precepts in the broad sense) take, is not really that of principles or rules at all.

Thus Maritain writes: When “human consciousness ... first awakened to the precepts in question,” these “primitive precepts” were “expressed... in the form of: dynamic schemes or polyvalent frameworks.” Maritain continues:

[Here] it is less a statement in the form of an assertive proposition than a sort of warning in the form of an exclamative incomplete sentence, of a signal, as modern language furnishes us with examples of them in certain incomplete sentences, that are more exclamations than statements, like posters [that say] ‘Men working,’ ‘No left turn,’ ‘Danger!’ By this, one does not mean to indicate a particular thing to do – it is not an assertion rationally formed – but the communication of information designed to bring out a certain attitude.

And so, Maritain concludes

³⁸ Maritain, *La loi naturelle ou loi non-écrite*, p. 121. Other ‘first precepts’ he refers to are: ‘act according to what you are’ and ‘act like a man’ [see *La loi naturelle ou loi non-écrite*, Table II, p. 196]. Sometimes Maritain says that ‘do good and avoid evil’ is “the first precept of the natural law” (p. 135). Other times he says that “the absolutely first principle” is “act according to reason” (p. 152).

³⁹ See Maritain, *Man and the State*, p. 73. Maritain’s notes for his Princeton lectures indicate this as well, though this remark does not appear in the transcription of the version of the lectures given at L’eau vive.

it seems to me that at its origin, [such a positive precept] must present itself less as a regulation that ‘You shall be temperate in order to preserve your own being,’ than as an injunction: ‘Sacred life!’. Or again, not as the commandment ‘You shall not commit murder.’ But rather as the warning ‘A man’s life!’, something which releases a certain intellectual attitude but without a strictly determined conceptual content.⁴⁰

Consequently, given the fundamental character of these precepts, we have a basic injunction not to kill. But we also have a primary moral claim – indeed, a right⁴¹ – to self defense – a right that may later be “clearly formulated” in an assertive proposition or in a command, employing clearly-articulated concepts. And this right, in turn, can be extended into criteria of just cause to protect one’s own self – and the state in which one lives – in war.

The precepts, connaturally known, are fundamental. Expressed, as Maritain provides them, they are not simply applicable to our “primitive ancestors” at the beginning of our species, but are available to each one of us, from the beginning of his or her moral awareness, and (as connaturally known) are always present. Moral rules or principles – i.e., the explicitly expressed regulations or imperatives – are formulations of these precepts that are, in some way or other, “derived.”

Now, do these “formulations” *always* apply (as, presumably, the precepts do)? Interestingly, Maritain says, No. These regulations or principles work, as it were, only in “normal” moral situations.⁴² And there are, Maritain recognizes, morally abnormal situations.

What would such a morally abnormal situation be? Maritain has in mind a situation where the social environment has declined or has become “criminal,” where there is no moral background, or where the general moral order is absent, or where there is a broad moral confusion. And Maritain refers to such a situation – that of life in the concentration camps of Nazi Germany. In response to the question of how moral principles applied in such an environment, Maritain writes:

the application of moral rules immutable in themselves takes lower and lower forms as the social environment declines. The moral law must never be given up ... But the moral nature or specification, the moral *object* of the same physical acts, changes when the situation to which they pertain becomes so

⁴⁰ Maritain, *La loi naturelle ou loi non-écrite*, p. 193.

⁴¹ See *Natural Law: reflections on theory and practice*, ed. William Sweet, p. 97; see *Les droits de l’homme et la loi naturelle*, p. 136.

⁴² See *Man and the State* (Chicago: University of Chicago Press, 1951), pp. 73-5; *La loi naturelle ou loi non-écrite*, pp. 160ff.

different that the inner relation of the will to the thing done becomes itself typically different.⁴³

The conditions of “life” in a concentration camp were far from normal, and one could not expect individuals to live according to the kinds of ethical rules that govern ordinary social life. In the camps, the line of demarcation between “good” and “evil” may have often been far from obvious; certainly, it was quite different from what it ordinarily would be. And so Maritain allows that, in such situations, “many things which, as to their moral nature, were fraudulent, or murderous, or perfidious in ordinary life, no longer fall under the same definition and become, as to their moral nature, objectively permissible or ethically good.”⁴⁴ In such cases – situations in which standard moral practices are not possible – Maritain seems to allow that the application of the natural law can be “relative” — that the (second) precepts (in the strict sense) to which we might normally appeal need not apply here. Thus, one could well imagine that, even if individuals in these situations were committed to acting morally, it might not be at all clear what morality required of them.

So where does this leave us? The natural law – in the sense of these fundamental, connaturally known precepts – remains, but certain actions and practices no longer fall unambiguously under the principles or regulations that are normally used to express this law – being, presumably, practices that are not inherently or intrinsically immoral. And so, while in normal circumstances we “default” to these principles or regulations in order to determine how to act, if there is a tension or conflict between one of these fundamental precepts and a conceptually articulated principle, it would seem that, in a morally abnormal situation, the tension is resolved by seeking to follow the precept. For, it is ultimately the precept – and not simply the conceptually expressed principle or regulation – that expresses the obligatory force.

In such situations, then, one determines one’s acts, not by appeal to a written law or to a moral rule – or even by appeal to “precepts” alone (since precepts enjoin no particular act) – *but by conscience*. Maritain writes: “Conscience indeed, conscience applying principles is the actual umpire – not abstract principles seated in a Platonic heaven or in a dictionary of points of law.”⁴⁵

⁴³ Maritain, *Man and the State*, p. 73.

⁴⁴ Maritain, *La loi naturelle ou loi non-écrite*, p. 160; cf. *Man and the State*, p. 73.

⁴⁵ Maritain, *Man and the State*, pp. 73-74. Michael Baxter writes: “Maritain’s lament that immutable moral principles must, in contexts of moral decline, be adapted to meet the unhappy exigencies of resisting barbarism which may call for the use of means that, in other contexts, would be ruled out. Part of his lament is over the difficult position of

V

How do these views on the precepts of natural law, and on abnormal moral situations, help to “reconceptualize” just war theory – to carry out a “revision of the criteria for just war”?

As we have seen, Maritain had written already in 1939 that “war itself had fundamentally changed”⁴⁶; almost 70 years later, it has presumably changed even more, with war being not so much between nations as among peoples, ethnic groups and tribes, and cultures, and with technologies and weapons that expands human power to an almost unimaginable extent. Indeed, it may be argued that “campaigns of terror” – or war *today* – place us in an abnormal moral situation – where the “social environment” is unsettled or degraded, where moral boundaries change, where our standard moral rules seem to be inadequate, and where (as noted above) “many things which, as to their moral nature... no longer fall under the same definition.”⁴⁷

Maritain would certainly not abandon talk of “just war” altogether, and it is plausible that he would want to adapt it to provide a justification for “just force” to respond to the terrorism and campaigns of terror today. And while he did not provide the revision of the criteria for “just war” that he called for, one can, I think, discern the direction of his thought here.

From what we have seen above, one might think that Maritain would be inclined simply to modify the conditions of “just war” – to add that one take account of *ius post bellum*, and to revise the circumstances under which a decision to go to war would be made. But this assumes that the moral environment is such that no further adaptation of the principles would be required – and this, I would argue, is unlikely. I would offer, then, another option, consistent with, although not explicitly proposed in, Maritain’s work.

As we have seen, for Maritain, just war theory rests, not simply on natural law, but, more precisely, on fundamental precepts – and, specifically, the precepts “Sacred life,” “Act rationally,” and “Do good and avoid evil.” Moreover, Maritain recognizes that, in situations of moral decline or confusion, or where moral order is absent, moral principles or rules do not have ultimate moral force, and we have to go back to the precepts. In such cases, Maritain’s view seems to be that we need to re-articulate or re-express what these precepts require of us, and that we must turn to conscience; this

‘moralists’ who, when upholding absolute norms, are charged with inflexibility and when allowing for adapting norms in particular contexts are charged with relativism. Maritain, of course, would have been particularly sensitive to the latter charge.” See Michael J. Baxter, “Just War and Pacifism: A ‘Pacifist’ Perspective in Seven Points,” *Houston Catholic Worker*, Vol. XXIV, No. 3 (May-June 2004).

⁴⁶ Maritain, “La juste guerre,” p. 295.

⁴⁷ Maritain, *La loi naturelle ou loi non-écrite*, p. 160; cf. *Man and the State*, p. 73.

becomes the means of acting on the fundamental precepts to “act reasonably,” avoid evil and do good, to respect life, and so on.

But if this is so, then we have a new way of looking at just war theory. It seems that we could do the same – i.e., use or defer to these same precepts – if we wished to respond to war in the contemporary world, and also to violent situations other than war, such as campaigns of terror. This provides us, then, with a basis for a theory of “just force.”

If we do this, we see that (1) we needn’t focus on satisfying all the standard criteria of just war theory, but also that (2) we needn’t restrict ourselves to just these criteria either – we could add, as it were, more “criteria” (keeping in mind Maritain’s injunction about a “just peace”), providing we can reasonably derive them from these precepts, taking account of the moral and social environment in which one lives. Indeed, given the complexity of the issues today, however, one wonders whether Maritain – or we – should focus on articulating a complete set of general or standard principles or criteria for just war at all. (Maritain himself seems to be sympathetic to such an open-ended approach. For he does insist that there is simply one key condition for just war – i.e., a just cause, for example, the protection of one’s own self; Maritain writes: “nous savons qu’un homme peut défendre une cause juste contre un injuste adversaire.”⁴⁸)

In short, just war theory attempts to formulate the conditions for going to war and conducting war in terms of general criteria or principles. But when the principles become unhelpful or seem not to apply (because of an “abnormality” in the situation or context), Maritain’s view would be that we must then turn to what lies at its root and at the root of the natural law.

Admittedly, we are not in a world akin to the “univers concentrationnaire,”⁴⁹ where there has been a “political regression,” or where the social environment has declined radically. Yet it does seem plausible that the context of international relations and terrorism, the mobility of terrorists and other non-state actors, the (risk of the) use of weapons that have the capacity to destroy all life on the planet, the obscuring of the distinctions between combatants and non-combatants, challenge assumptions we might make about the normalcy of the environment, and about the efficacy of the standard criteria of just war.

And so Maritain’s response might be that, while one could attempt to try to articulate explicit criteria for defining “just war” in the contemporary

⁴⁸ Maritain, “La juste guerre,” p. 298.

⁴⁹ The phrase is that of David Rousset, *Les Jours de notre mort* (Paris: Pavois, 1947), who wrote at length about the “society” within concentration camps. The term is cited by Maritain in his own discussion of what I have called “morally abnormal situations” (see *Man and the State*, pp. 72-5; *La loi naturelle ou loi non-écrite*, pp. 159-161).

world, it may be more productive, when “rules” are insufficient or unhelpful, to focus on respecting the fundamental precepts – e.g., “sacred life,” “act rationally,” “do good and avoid evil,” – and this means acting, *not* by simply following rules, but by acting in conscience – perhaps in the way that a practically wise person would act.

In other words, it is not enough – and it may not even be relevant – to try to determine whether the existing criteria of just war apply in order to determine whether a war is just. And, similarly, it may not be enough to see if we can articulate a set of moral rules to tell us when and how to respond to campaigns of terror. And so we needn’t focus on the formulation of new criteria of just war theory, and on restricting ourselves to these criteria. What *is* required, rather, is describing what the underlying precepts regarding good and evil require of us in the situation we are in, and then acting through conscience – and what we can regard as a general strategy of employing “just force.”

VI. Conclusion

Maritain’s account of just war and natural law provides some suggestions for determining who may respond, and when and how to respond, to campaigns of terror. His position is that just war theory does apply, but that it needs to be revised. But while Maritain hints at aspects of the theory which require revision, he did not provide this revision himself.

I have argued that the absence of such a revision is not, however, fundamentally problematic, and have suggested that, if we look at the bases of just war and natural law theory, we can identify the precepts that are presupposed.

These fundamental precepts, together with a knowledge of the situation, allows one to turn to conscience (or to the insights of the practically wise person) to determine how one might respond, not only to war but to when and how far force is justified in responding to campaigns of terror.

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Empowerment Without Sovereignty: Maritain's Personalist Alternative To Hegemony

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Let us not be deceived: the great dramatic battle of the twenty-first century is the dismantling of empire and the deepening of democracy.

– Cornel West, *Democracy Matters* (2004)

In *Man and the State*, the outgrowth of the Charles R. Walgreen Foundation Lectures which he delivered at the University of Chicago in 1949, Jacques Maritain banished sovereignty from the lexicon of political philosophy: “. . . philosophy must get rid of the word, as well as the concept, of Sovereignty . . . because, considered in its genuine meaning, and in the perspective of the proper scientific realm to which it belongs – political philosophy – this concept is intrinsically wrong and bound to mislead us if we keep on using it . . .”¹

Maritain defines sovereignty and explicates its role in terms of monarchy and the state. In two bold strokes, Maritain defines sovereignty succinctly:

Sovereignty means two things:

First, a right to supreme independence and supreme power which is a *natural* and *inalienable* right.

¹ Jacques Maritain, *Man and the State* (Chicago: The University of Chicago Press, 1966), pp. 29-30 – hereafter referred to as *State*. In keeping with his advocacy of pluralism and a common practical front against all forms of tyranny, Maritain identifies his own position in regard to sovereignty with the earlier and independent work of Harold J. Laski and R. M. MacIver. See footnote 8, p. 29.

Second, a right to an independence and a power which in their proper sphere are supreme *absolutely* or *transcendently*, not *comparatively* or as a *topmost part* in the whole.²

These “rights” establish Maritain’s definition of sovereignty as the essential rendition of the modern, autonomous individual agent, such agency engendering hegemony as a necessary consequence of its radical independence. Maritain reiterates: “Sovereignty is a property which is absolute and indivisible, which cannot be participated in and admits of no degrees, and which belongs to the Sovereign independently of the political whole, as a right of his own.”³ By right, the Sovereign exercises hegemony. This is the case whether sovereignty reside in king or state. Referring to the development of monarchy in the baroque age, Maritain writes:

Once the people had agreed upon the fundamental law of the kingdom, and given the king and his descendents power over them, they were deprived of any right to govern themselves, and the natural right to govern the body politic resided henceforth in full only in the person of the king.⁴

Concerning the Sovereign State, Maritain notes that external sovereignty places it above the community of nations with absolute independence with regard to this community, and internal sovereignty gives it absolute power over the body politic without appeal, thus enabling it to exercise its power without any external or internal accountability.⁵ For Maritain sovereignty is applicable in theology, but this only accentuates the danger of its usage in political philosophy.⁶ The contention here is that in seeking to banish sovereignty from the purview of political philosophy, Maritain intends a very practical and far reaching application, within the very structure and usage of language itself, of his critique of modern individualism and liberalism. Maritain criticizes individualism and aspects of liberalism for establishing a prelude to totalitarianism. His critique is apparent throughout much of his writing, with implications affecting every facet of social intercourse.

For Maritain, individualism and hegemonic power together comprise the correlative elements of the mechanism steering modernity toward repeated derailment, and sovereignty becomes the conceptualization of this destructive

² *Ibid.*, p. 38.

³ *Ibid.*

⁴ *Ibid.*, p. 37.

⁵ See *Ibid.*, pp 50-52.

⁶ Maritain states that God alone is fully sovereign, the pope is sovereign as the vicar of Christ in relation to the Church, and the wise man is sovereign in a merely moral sense. See *Ibid.*, pp. 49-50.

dynamism. As developed within a Euro-American context, and established as modernity from a Euro-American perspective, it becomes ever more apparent that this mechanism contributes in large measure to the failure of mutuality amongst emergent powers within a global context. The recent analysis of modernity and globalization by Michael Hardt and Antonio Negri is of interest here, in that these scholars offer a critique of sovereignty as a way of comprehending what is now a global dynamism toward totalitarianism. Certainly Maritain would welcome the following observation from Hardt and Negri:

The concept of sovereignty dominates the tradition of political philosophy and serves as the foundation of all that is political precisely because it requires that one must always rule and decide. Only the one can be sovereign, the tradition tells us, and there can be no politics without sovereignty. This is espoused by theories of dictatorship and Jacobinism as well as by all the versions of liberalism as a kind of blackmail that one cannot avoid. The choice is absolute: either sovereignty or anarchy! Liberalism, we should emphasize, for all its insistence on plurality and the division of powers, always concedes in the final instance to the necessities of sovereignty. Someone must rule, someone must decide. It is constantly presented to us as a truism, reinforced even in popular sayings. Too many cooks spoil the broth. To rule, to decide, to take responsibility and control, there must be one, otherwise disaster.⁷

Here it will be argued that parallel with Maritain's critique, it is Maritain's positive development of the person, as distinguished from mere individuality, which avoids hegemony and allows for viable empowerment within the body politic as true democracy. It is this empowerment of the person which enables dialogue, and being with and for each other in place of the aggrandizement of hegemony. Likewise, Hardt and Negri seek to undermine totalitarian dynamism and enable democracy through the development of singularities within the multitude:

Political sovereignty and the rule of the one, which has always undermined any real notion of democracy, tends to appear not only unnecessary but absolutely impossible. Sovereignty, although it was based on the myth of the one, has always been a relationship grounded in the consent and obedience of the ruled. As the balance of this relationship has tipped to the side of the ruled, and as they have gained the capacity to produce social relations autonomously and emerge as a multitude, the unitary sovereign becomes ever more superfluous.⁸

⁷ Michael Hardt and Antonio Negri, *Multitude: War and Democracy in the Age of Empire* (New York: The Penguin Press, 2004), p. 329 – hereafter referred to as *Multitude*.

⁸ *Ibid.*, p. 340.

Disavowing sovereignty in 1949, Maritain identifies and challenges the destructive mechanism of modernity undermining democracy. Decidedly favoring democracy as our current ideal, a theme to be developed within the context of this paper, Maritain develops his personalism as an alternative to the hegemonic power of totalitarianism which prevents the development of true democracy in our time. The conceptualization and terminology developed by thinkers like Hardt and Negri indicate the continuing relevance of Maritain's work. As Arif Dirlik, a prominent voice in the growing discussion of globalization, correctly observes: we are in transition from the analysis and critique of a prior modernity, a concept which came wrapped within a Euro-American cover, to the analysis and critique of a plethora of modernities exploding within a decidedly fragmented and multicultural global matrix, which nevertheless retains something common. Dirlik cautions us that since this is a time of transition, even the term globalization itself must remain somewhat provisional, scanning intimations of the common amidst developments which are emergent and not yet clear.⁹ Much of Maritain's work already anticipates and contributes to this transition, in that he strives toward the common by way of a temporal dynamism from within a pluralist context, which he acknowledges as essential for democracy. Current scholarship will be useful here when it corroborates and even advances the insights of Maritain within the admittedly perplexing global context of the 21st century. However, it is not only the similarity of interests and concerns, even the agreement between Maritain and those who come after him, but occasionally the divergence which can be most illuminating concerning the continuing relevance of Maritain's work.

Sovereignty, Egoism, and the Liberal State

In *Man and the State*, Maritain announces that beginning with Jean Bodin, the notion of sovereignty, although not yet complete or absolute, conceptualizes the modern disavowal of hierarchy and proper authority, whereby the ruler governs as vicar of the people and through participation in the common right of the people to govern themselves. Maritain attributes such notions of vicariousness and participation to Aquinas, and the legacy of Aquinas as developed through Cajetan, Bellarmine, and Suarez. Sovereignty, on the other hand, implies the individual's detachment from any hierarchy, and the individual's absolute right to rule when in possession of that right as of any material possession. For Maritain, sovereignty eclipses what he refers to as the moral or spiritual quality of the human right to rule, a right given by God

⁹ See Arif Dirlik, *Global Modernity: Modernity in the Age of Global Capitalism* (Boulder/London: Paradigm Publishers, 2007) – hereafter referred to as *Global Modernity*.

to the people as a whole, and through the people to a specific ruler who remains in relation to the whole as vicar of the people. It is to these mediaeval notions of vicariousness and participation that Maritain returns when discussing representative democracy in *Man and the State*.¹⁰

Continuing his critique of sovereignty in *Man and the State*, Maritain presents Thomas Hobbes as a primary technician of modernity, for whom sovereignty is a basic construct in political philosophy. After introducing lengthy quotations from Jean Bodin, and after undertaking some sparse historical analysis of the transition from mediaeval notions of vicariousness and participation to the modern notion of sovereignty, Maritain focuses on the Hobbesian *Mortal God* as the paradigm of genuine sovereignty in our time.¹¹ What is significant here, is that the Hobbesian anthropology, succinctly summarized in the famous/infamous notion of the war of all against all, conceptualizes the modern move toward the individual. Necessarily, this construction establishes the autonomous atom at the foundation of much Enlightenment and liberal thought. Like the choice between Parmenides and Democritus, we either have a single one or a plurality of ones. However, the Hobbesian atom no longer retains the ability to organize a body through natural compatibility with other atoms, as was the case with the atomic conceptualization of Democritus. If left alone, every individual would strive by nature for hegemony. Hobbes' anthropology requires the *Mortal God* to maintain order in the body politic. For Maritain, it is in large measure the Hobbesian legacy which allows Hardt and Negri to chastise modernity and liberalism for reducing our political choice to sovereignty or anarchy, whereby the establishment of order requires the hegemonic power of the single one. In this sense, Maritain's condemnation of sovereignty intends the foundation of his critique of modern individualism and liberalism for establishing a prelude to totalitarianism.

In *Moral Philosophy*, a later work of the 1960's, Maritain succinctly presents his contention that rather than acknowledging the common right of

¹⁰ See Maritain, *State*, pp. 30-36, and 132-139.

¹¹ See *Ibid.*, pp. 36-40.

Indicative of the ambivalence in modern liberalism detected by Maritain, is the struggle within a thinker like Benjamin R. Barber, who offers a scathing critique of sovereignty as evident in the very modern failure of the Bush administration to appreciate the new global necessity for interdependence – even applauding a recent proposal for a new Declaration of Interdependence in counter-distinction to the at least nationally atomistic American Declaration of Independence, while seeking to work within the framework established by Hobbes, proposing the model of social contract and law for the removal of global hegemonic forces. See Benjamin R. Barber, *Fear's Empire: War, Terrorism, and Democracy* (New York/London: W. W. Norton & Company, 2003).

the people to govern themselves, modern individualism, emerging from the European Renaissance, coalesces in a two pronged fork of rationalism and empiricism.¹² Each prong directs us toward the individual alone, away from all that was held common and shared through participation. Maritain notes that modern reason “. . . assumed the task of organizing human life: a process of emancipation from the rationalist point of view; a process of disintegration from the point of view of the organic unity of culture.”¹³ And in his life-long critique of the Cartesian reform, Maritain explains how the organization and technology fostered by rationalism leaves us defenseless against the material side of our nature, so clearly separated by Cartesian dualism from the spirituality through which we become complete.¹⁴ And it is the empiricism and materialism of Hobbes through which Maritain exemplifies the empiricist prong of modern individualism. Maritain states that for Hobbes “. . . human morality is completely and finally explicable in terms of man’s desire for his self-preservation and his pleasure.”¹⁵ Furthermore, in agreement with what has already been stated by Maritain concerning Hobbes in *Man and the State*, Maritain contends that Hobbes offers us “. . . an Epicureanism controlled by Leviathan or the ‘mortal God’, a political Epicureanism.”¹⁶ In the end, modernity directs the individual will to personal satisfaction through the acquisition and mastery of phenomena. In his early work, *Three Reformers*, Maritain already summarized his conclusion regarding the condition of the modern individual. Criticizing modern rationalism through an attack on Descartes, Maritain observes:

The essence of rationalism consists in making the human reason and its ideological content the measure of what is: truly it is the extreme of madness, for the human reason has no content but what it has received from external objects. That inflation of reason is the sign and cause of a great weakness. Reason defenseless loses its hold on reality, and after a period of presumption it is reduced to abdication, falling then into the opposite evil, anti-intellectualism, voluntarism, pragmatism, etc.¹⁷

¹² See Jacques Maritain, *Moral Philosophy: An Historical and Critical Survey of the Great Systems* (London: Geoffrey Bles, 1964) – hereafter referred to as *Moral Philosophy*.

¹³ *Ibid.*, pp. 92-93.

¹⁴ See Jacques Maritain, *The Dream of Descartes: Together with some Other Essays*, trans. by Mabelle L. Anderson (New York: Philosophical Library, Inc., 1944), pp. 182-183 – hereafter referred to as *Dream*.

¹⁵ Maritain, *Moral Philosophy*, p. 93.

¹⁶ *Ibid.*

¹⁷ Jacques Maritain, *Three Reformers: Luther, Descartes, Rousseau*, Apollo Edition (New York: Thomas Y. Crowell Company, 1970), p. 85.

Clearly, what Maritain actually disparages in the liberalism of modernity arising from the European Enlightenment, is its anthropology, already pre-figured in the Hobbesian war of all against all. It will become clear that the drive for personal rights and freedoms, within the context Maritain appreciates as truly human, is the very attempt to enact what he perceives as the authentic ideal of democracy for our time. This is why, in his *Integral Humanism*, Maritain distinguishes between anthropocentric and theocentric humanisms, striving to reach beyond the modern anthropocentric humanism toward the ideal encapsulated in his notion of theocentric humanism.¹⁸ Maritain is careful to disparage modern individualism, liberalism, and democracy only in what he designates bourgeois, thereby attacking self-interest, concern for image, material acquisition, and the pursuit of pleasure which he perceived as characteristic of contemporary Euro-American culture. As indicated in his analysis of Hobbes and Descartes, such egocentrism is the hallmark of modernity. It involves each of us in what might be called a pervasive hegemonic milieu, of which the notion of sovereignty is expressive within political philosophy. Maritain's disdain is perhaps most pronounced, when in the wake of the devastation caused by World War II, he asserts that modern bourgeois individualism is more "irreligious" than either fascism or communism. In the *Person and the Common Good*, Maritain distinguished three then current forms of materialism: bourgeois individualism, communistic anti-individualism, and totalitarian or dictatorial anti-communism and anti-individualism.¹⁹ Maritain bluntly states:

Of the three, the most irreligious is bourgeois liberalism. Christian in appearance, it has been atheistic in fact. Too skeptical to persecute, except for a tangible profit, rather than defy religion, which it deemed an invention of the priesthood and gradually dispossessed by reason, it used it as a police force to watch over property, or as a bank where anyone could be insured while making money here below, against the undiscovered risks of the hereafter – after all, one never knows!²⁰

For Maritain, the philosophical perception of the individual in modern society and culture becomes the ideological, and necessarily the ontological foundation of the liberal state. Separating the material and spiritual

¹⁸ See Jacques Maritain, *Integral Humanism: Temporal and Spiritual Problems of a New Christendom*, trans. by Joseph W. Evans (Notre Dame: University of Notre Dame Press, 1973) – hereafter referred to as *Humanism*.

¹⁹ See Jacques Maritain, *The Person and the Common Good*, trans. by John J. Fitzgerald (Notre Dame: University of Notre Dame Press, 1966), p. 91 – hereafter referred to as *Person*.

²⁰ *Ibid.*, p. 97.

components of the human composite, the Cartesian obsession with reifying the idea established one aspect of our human nature as the material foundation of all our phenomenal activity, degrading the intellect and inevitably the will to a subservient role. Étienne Gilson, Maritain's friend and colleague, detects the awkward position of reason in the Cartesian bifurcation:

A universe consisting of extension and thought can only be expressed through a specific philosophy, to which corresponds an equally specific science. In the first case we get a pure spiritualism; in the second a pure mechanism. For science, nothing, at first sight, could be more satisfying, and it is all too natural that it should so regard things, since having inspired the method, it is bound to recognize itself in the results. But it is altogether different for philosophy which, having abdicated a right to a method of its own, has to try and gather philosophical results from a method which does not belong to it.²¹

And as already noted in his treatment of Descartes, Maritain acknowledges the abdication of reason, of what Gilson calls "pure spiritualism" and what Maritain himself derides as "angelism,"²² in favor of sheer willfulness directed toward phenomena. For Maritain the final gift, the twentieth century gift of the Cartesian reform is to render us consumers crowned by science.²³

According to Maritain, rationalism and empiricism are related to each other in the cultural experience of modernity. In a significant address, "The Cultural Impact of Empiricism," given at Harvard University and Hollins College, Virginia in 1951, Maritain states: "French Rationalism and British Empiricism were to merge in the Eighteenth Century Enlightenment, and Nineteenth Century Positivism."²⁴ Nevertheless, empiricism tends to be distinguished for its adaptability to the world of commerce. It is ". . . a philosophy particularly appropriate to the rise of a commercially dominated regime of social life. . .;"²⁵ it renders God ". . . a celestial guarantor. . . of man's domination over nature, of a good state of affairs for the commonwealth, and of the moral order necessary to the prosperity of commerce and industry."²⁶ Already emergent in the materialism and

²¹ Étienne Gilson, *Methodical Realism*, trans. by Philip Trower (Front Royal, VA: Christendom Press, 1990), p. 87.

²² See Maritain, *Dream*.

²³ See *Ibid.*, p. 183.

²⁴ Jacques Maritain, "The Cultural Impact of Empiricism," unpublished papers in collection at The Jacques Maritain Center, University of Notre Dame, Notre Dame, Indiana, p. 3 – hereafter referred to as "Impact."

²⁵ *Ibid.*

²⁶ *Ibid.*, p. 5. Marginal notation indicates that Maritain originally planned to say "commerce and industry" for the "commonwealth," and "the ruling classes" for

empiricism of Hobbes, modern empiricism has the odor peculiar to Anglo-American industrialism, although it is indeed present elsewhere. For example, in *Moral Philosophy*, Maritain notes Auguste Comte's remarks concerning a new chivalry of industrial chiefs and bankers to insure our true happiness, which for Comte is domestic satisfaction.²⁷ And as corollary to his treatment of rationalism, Maritain asserts that empiricism is materialistic to the point of contradiction:

. . . the paradox with which we are confronted is that Empiricism in actual fact, uses reason while denying the power of reason, on the basis of a theory that reduces reason's knowledge and life, which are characteristic of man, to sense knowledge and life, which are characteristic of animals.²⁸

And so, with rationalism and empiricism, the harbingers of Euro-American modernity, we are left with the individual's will and animal satisfaction.

In *Freedom in the Modern World*, which appeared a few years prior to *Integral Humanism* in 1932, Maritain condemns the bourgeois notion of autonomy, within the framework of his understanding of the modern individual. In the bourgeois conception of freedom, he argues

. . . culture and society have for their essential office the preservation of something given: the freewill of Man; in such a way that all possible acts of free choice may be available and that men may appear like so many little gods, with no other restriction on their freedom save that they are not to hinder similar freedom on the part of their neighbour.²⁹

The proviso guarding against absolute hegemonic power is contained in the curious final clause of the above quotation: ". . . with no other restriction on their freedom save that they are not to hinder similar freedom on the part of their neighbour." But how is such restriction possible, when the ontology of the liberal state issues from a truncated conception of human nature, ultimately subservient to the material dimension of the human composite? Should we not be in agreement here with Hardt and Negri's reduction of liberalism to a choice between anarchy and a sovereign power, since the hegemony of a sovereign power is always necessary to maintain order? Although we shall come to see how Maritain himself attempts to overcome this dilemma by appealing to a more complete philosophical anthropology

"commerce and industry," perhaps indicative of his leftist temperament seeking balance.

²⁷ See Maritain, *Moral Philosophy*, pp. 342-343.

²⁸ Maritain, "Impact," p. 2.

²⁹ Jacques Maritain, *Freedom in the Modern World*, trans. by Richard O'Sullivan, K.C. (New York: Gordian Press, Inc., 1971), p. 40.

and ontological framework for democracy, it is precisely for this reason, and for Maritain as much as for Hardt and Negri, that bourgeois democracy collapses into its totalitarian twin.

Sovereignty, Hegemony, and the Totalitarian State

Since the atomism of modernity, already expressed in the writings of Hobbes and Descartes, either engenders anarchy or hegemonic sovereignty, any possibility of authentic representative government or the shared right to rule of the people through hierarchy and responsible order, is jettisoned. In *Man and the State*, Maritain argues that just as the power of the absolute monarch exists apart from the true interests of those governed, so the power of the people, as conceived by Jean Jacques Rousseau, exists in the State itself apart from the actual interests of the people:

. . . Rousseau transferred to the people the Sovereignty of the absolute monarch conceived in the most absolute manner; in other terms he made a mythical people – the people as the monadic subject of the indivisible General Will – into a sovereign Person separated from the real people (the multitude) and ruling them from above. As a result, since a figment of the imagination cannot really rule, it is to the State – to the State which, in genuine democratic philosophy, should be supervised and controlled by the people – that, as a matter of fact, Sovereignty, indivisible and irresponsible Sovereignty, was to be transferred.³⁰

What is significant here is the light Maritain's interpretation of Rousseau sheds on what he perceives to be the practical consequences of bourgeois individualism, liberalism, and democracy. Rousseau wants freedom for the particular human being, and paves the way for the absolute hegemonic power of totalitarian dictatorship. But if Maritain uses Rousseau as the paradigmatic explication of the transition from the egoism of the liberal state to the absolute hegemony of the totalitarian state, he cautiously maintains that the Christian leaven is still present in the work of Rousseau and throughout the various strains of liberalism.³¹ Maritain further argues that the Christian leaven is present within Marxism and totalitarian communism, absent only in the various forms of right wing authoritarianism and fascist totalitarianism

³⁰ Maritain, *State*, pp. 129-130.

³¹ See Jacques Maritain, *Scholasticism and Politics*, tr. by Mortimer J. Adler (London: Geoffrey Bles, Ltd., 1954), p. 69 – hereafter referred to as *Scholasticism*. As with Hobbes and Descartes, Maritain maintained a fairly consistent barrage of criticism against Rousseau throughout much of his lengthy career. For his early criticism of Rousseau, see “Jean Jacques Rousseau et la pensée moderne,” *Annales de l'Institut Supérieur de Philosophie de Louvain*, V (1921), and “Deux idées modernes,” *La Revue Universelle*, XIII (May 1, 1923).

which stem from the root of the problem within bourgeois liberalism itself. Fascism, for Maritain, offers us an unparalleled glimpse into the abyss which would claim modernity.

Rejecting the erroneous individualism of bourgeois democracy, Marxism seeks to create a more culturally pervasive democratic ideal. This ideal has an atheistic base, and Maritain thinks that for that reason it leads to enslavement rather than to liberation. Without a spiritual orientation, in recognition of the entire human composite, it is material individuality which is served, whether the body of an individual capitalist or the collective body of the proletariat. Disparaging a spiritual orientation, the Marxist, although perhaps motivated by an authentic thirst for communion, abolishes true personality and succumbs to the tyranny of economic necessity. Marxism offers salvation without God, and Maritain argues in *Integral Humanism* that

There is here a thirst for communion, but communion is sought in economic activity, in pure productivity, which, considered as the *locus proprius* and homeland of human activity, is only a world of a beheaded reason, no longer made for truth, engulfed in a demiurgic task of fabrication and domination over things. The human person is sacrificed to industry's titanism, which is the god of the industrial community.³²

With his criticism of Marx and communism, Maritain does not hesitate to assert that Marxism revived that portion of the evangelical leaven acknowledging community which was sorely neglected in the world of bourgeois individualism. This is evident in the pessimistic and prophetic stance of Marxism. Maritain interprets the rebellion of Marx as an action comparable to the rebellion of Kierkegaard against bourgeois smugness.³³ Insofar as he rebels against bourgeois individualism, Marx qualifies as a prophet like Friedrich Nietzsche and Sigmund Freud: “. . . little by little, will spring up the man conformable to the pattern of bourgeois pharisaism, this respectable conventional Man in whom the nineteenth century so long believed, and in whose unmasking Marx, Nietzsche and Freud will glory.”³⁴

On the other hand, in all the varied forms of right wing authoritarianism which come under the sometimes strained rubric of fascism, Maritain sees the triumph of the will and modernity, the unmasking of the egocentrism prevalent throughout bourgeois culture. In the fascist totalitarian state we encounter the philosophical connotations and practical implications of sovereignty, given to the pursuit of absolute hegemonic power through the race, the state, the cult of personality and the solitary dictator. Although

³² *Ibid.*, p. 142. Cf. Maritain, *Humanism*, pp. 46-47; 52-53; and 184-187.

³³ See Maritain, *Moral Philosophy*, p. 214.

³⁴ Maritain, *Humanism*, p. 141.

Maritain detects certain virtues in fascism not present in the smug, coveting of comfort so characteristic of the modern liberal state,³⁵ he clearly denounces every mode of right wing authoritarianism. Maritain rejected Franco's Catholic Spain as a perverse attempt to rekindle the coals of a dead Holy Empire, now surpassed by the pursuit of authentic democratic plurality and freedoms.³⁶ He even condemned the dictatorship of Salazar in Portugal, although he readily acknowledged that Salazar's government was the least offensive of the rightist regimes, never actually becoming a totalitarian state.³⁷ For Maritain, every manifestation of right wing authoritarianism, of which Nazi racism is the most poignant example,³⁸ must be seen as eclipsing the Christian leaven present in our time. As we shall see, for Maritain it is this Christian leaven which establishes a teleology based on the ideal of personal freedom and the pursuit of true democracy. Consequently, the authoritarian right, becoming especially virulent in fascist totalitarianism, abandons every form of democracy. Immediately following the disaster of World War II, in *The Person and the Common Good*, Maritain states quite simply that

The national totalitarian states, whose ideology lives after them, heirs of the ancient antagonism of the pagan Empire against the Gospel, represented an external force arrayed against Christianity to enslave or to annihilate it in the name of the divinized political Power. In the temporal order, they opposed an irrational philosophy of enslavement to both the genuine principle and the parasitical illusions of democracy.³⁹

Sovereignty, Empowerment, and the Human Person

Maritain's insistence on the person, as distinguished from the essentially material individual of bourgeois culture, enables him to establish spirituality as the hallmark of everything truly human. Human spirituality entails a

³⁵ See *Ibid.*, pp. 278-279.

³⁶ See Maritain's introduction to Alfred Mendizabal, *The Martyrdom of Spain: Origins of a Civil War*, trans. by Charles Hope Lumley (London: Geoffrey Bles; The Centenary Press, 1938), pp. 1-48; and *Humanism*, p. 277

³⁷ Maritain asserts that even under the dictatorship of Salazar, Portugal never became a totalitarian state. Furthermore, on a number of occasions Maritain praised the relationship between Church and State brought about by the Concordat between Salazar's Portugal and the Vatican, although he strictly maintained that Salazar's government ought not to be imitated. See Maritain, *Scholasticism*, pp. 47-48; *Humanism*, p. 277, note 11; *State*, p. 163, note 21; and *The Rights of Man and Natural Law*, trans. By Doris C. Anson (London: Geoffrey Bles, 1944), p. 19 – hereafter referred to as *Rights*.

³⁸ See Jacques Maritain, "The Crisis of Civilization," in *Pour la justice, articles et discours (1940-1945)* (New York: Editions de la Maison Française, 1945), p. 144.

³⁹ Maritain, *Person*, p. 98.

transcendent orientation, whereby intellect connects with reality in a manner which transcends animal passion and will directed primarily toward the acquisition and manipulation of phenomena for pleasure and comfort. Inevitably, for Maritain the perennial Thomist, such spirituality attains fulfillment only in eternal friendship with God. And in temporal, practical affairs, such spirituality seeks a theocentric humanism to replace the anthropocentric humanism of modernity. And this humanism beyond modernity in its negative guise aligns the Christian, and, as Maritain would have it, all people of good will with the concrete historical ideal of our time. In his *Integral Humanism*, which promotes theocentric humanism, Maritain acclaims as the concrete historical ideal of our time, “. . . the idea of the *holy freedom* of the creature whom grace unites to God.”⁴⁰

For Maritain, precisely because our temporal goal must remain subordinate to what he perceives as our eternal goal of friendship with God through grace, we are endowed with a “holy freedom,” which, although perfected in beatitude through the confluence of our will and nature as intended by God, nonetheless remains our freedom to acknowledge and achieve in cooperation with the grace of God. The proclamation of our rights and freedoms, to exist and decide, is the consequence of a very natural human development inspired by the foundational experience of Christianity. In his *Christianity and Democracy*, the first French edition of which appeared in 1943, Maritain unabashedly proclaimed that “. . . the democratic impulse has arisen in human history as a temporal manifestation of the inspiration of the Gospel.”⁴¹ Broader in connotation than the acknowledged achievement of the ancient Greeks, Maritain informs us that

. . . the word democracy, as used by modern peoples, has a wider meaning than in the classical treatises on the science of government. It designates first and foremost a general philosophy of human and political life, and a state of mind. This philosophy and this state of mind do not exclude *a priori* any of the ‘regimes’ or ‘forms of government’ which were recognized as legitimate by classical tradition, that is, recognized as compatible with human dignity. Thus a monarchic regime can be democratic, if it is consistent with the state of mind and with the principles of this philosophy. However, from the moment that historical circumstances lend themselves, the dynamism of democratic thought leads, as though to its most natural form of realization, to the system of government of the same name, which consists, in the words of Abraham Lincoln, in ‘government of the people, by the people, for the people.’⁴²

⁴⁰ See Maritain, *Humanism*, p. 163.

⁴¹ Jacques Maritain, *Christianity and Democracy*, trans. by Doris C. Anson (London: Geoffrey Bles, 1945). p. 25 – hereafter referred to as *Democracy*.

⁴² *Ibid.*, p. 22. Cf. Maritain, *Rights*, pp. 29-30; and pp. 46-47.

A democratic government of the people, by the people, and for the people encompasses much more than the negative freedoms of the classical or bourgeois liberal state, championed in our time by liberal thinkers like Robert Nozick. Maritain consistently detests *laissez faire* theory and policy. Instead, he desires government in which are entrenched positive rights securing the opportunity for development of every human person.⁴³ In this respect, although arguing from his own Thomistic and theocentric standpoint, Maritain might agree with some of the practical goals of what some now perceive to be a defunct Rawlsian liberalism. In *Christianity and Democracy*, Maritain notes that democracy is

... a task of civilization and culture; it tends above all to provide the common good of the multitude in such a way that the concrete person, not only within the category of the privileged, but in the whole mass, truly accedes to the measure of independence which is compatible with civilized life and which is assured alike by the economic guarantees of labor and property, political rights, civic virtues and the cultivation of the mind.⁴⁴

For Michael Hardt and Antonio Negri, as it is for Maritain, the space between us where dialogue occurs becomes the common, the linguistic playing field which no one owns and to which all are invited.⁴⁵ And within the current expansion of global communication industries, language entangles daily life and productivity as never before.⁴⁶ Dialogue in the market place builds subjectivities as well as community, and channels the power of productive forces. Here the deliberative democracy of liberal thinkers like Amy Gutmann and Dennis F. Thompson joins the communitarian concerns of a conservative like Michael J. Sandel.⁴⁷ And the recent contention between

⁴³ Maritain clearly favors redistribution and positive rights, maintaining a virtual crusade against *laissez faire*, which protects the atomistic individual and enables the strong to oppress the disadvantaged. See *Person*, pp. 49-51.

⁴⁴ Maritain, *Democracy*, p. 45.

⁴⁵ See Hardt and Negri, *Multitude*, pp. 196-202, wherein it becomes evident that, although not in ways exclusively linguistic, "Singularities interact and communicate socially on the basis of the common, and their social communication in turn produces the common. The multitude is the subjectivity that emerges from this dynamic of singularity and commonality," p. 198.

⁴⁶ See Hardt and Negri, *Empire* (Cambridge, Mass. / London, England: Harvard University Press, 2000), pp. 364-367.

⁴⁷ See Amy Gutmann and Dennis F. Thompson, *Democracy and Disagreement* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1996), and *Why Deliberative Democracy?* (Princeton: Princeton University Press, 2004). See also Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1996), and *Liberalism*

individualists and communitarians is circumvented. For Maritain, difference in dialogue secures subjectivities, self and others, and thereby establishes “the economic guarantees of labor and property” and “political rights,” while the commonality of dialogue, which defines our humanity, establishes “civic virtues and the cultivation of the mind.” Sharing in the common for the common good is the ontological base of true democracy. For Hardt and Negri, as for Maritain, the common good is as much for each person or singularity as it is for the multitude. Such an anthropology denies the validity of the Hobbesian war of all against all as a description of human nature. Hardt and Negri tell us that

The multitude designates an active social subject, which acts on the basis of what the singularities share in common. The multitude is an internally different, multiple social subject whose constitution and action is based not on identity or unity (or, much less, indifference) but on what it has in common.⁴⁸

And in *The Person and the Common Good*, Maritain informs us that

The common good of the city is neither the mere collection of private goods, nor the proper good of a whole which, like the species with respect to its individuals or the hive with respect to its bees, relates the parts to itself alone and sacrifices them to itself. It is the good *human* life of the multitude, of a multitude of persons; it is their communion in good living. It is therefore common to both *the whole and the parts* into which it flows back and which, in turn, must benefit from it.⁴⁹

It is perhaps most significant that Hardt and Negri, as well as Maritain, point to the biblical injunction to love as expressive of the common which establishes our humanity beyond the egocentric perspective of modernity. For Maritain, love and its fruition through intimacy in the family, and its extension into the broader community through civic friendship, secures the self and others within the multitude. Such love is indicative of the ontological shift away from the egocentrism of bourgeois liberalism toward the more complete Thomistic anthropology inclusive of spirituality, whereby the person exists precisely through engagement, interaction, and dialogue with others.⁵⁰ Likewise, in a remarkable passage from *Multitude*, Hardt and Negri

and the Limits of Justice (Cambridge, UK; New York: Cambridge University Press, 1998).

⁴⁸ Hardt and Negri, *Multitude*, pp. 99-100.

⁴⁹ Maritain, *Person*, pp. 50-51.

⁵⁰ For a treatment of Maritain’s view of love in relation to ontology, philosophical anthropology and politics, see Walter J. Schultz, “Freedom for Friendship: Maritain’s

insist upon the political importance and implications of the traditional view of love, albeit in a material context which could omit the metaphysical foundation Maritain deems necessary:

People today seem unable to understand love as a political concept, but a concept of love is just what we need to grasp the constituent power of the multitude. The modern concept of love is almost exclusively limited to the bourgeois couple and the claustrophobic confines of the nuclear family. Love has become strictly a private affair. We need a more generous and more unrestrained conception of love. We need to recuperate the public and political conception of love common to premodern traditions. Christianity and Judaism, for example, both conceive love as a political act that constructs the multitude. Love means precisely that our expansive encounters and continuous collaborations bring us joy. There is really nothing necessarily metaphysical about the Christian and Judaic love of God: both God's love of humanity and humanity's love of God are incarnated in the common material political project of the multitude. We need today to recover this material and political sense of love, a love as strong as death.⁵¹

Moreover, Maritain asserts that it is through the family, not in spite of it, that friendship and personal expansion occur, as he states in *The Person and the Common Good*:

From the family group (which is more fundamental than the State since it touches the generic differences between human beings) man passes to civil society (which affects specific differences between them) and in the midst of civil society he feels the need of clubs and fellowships that will interest his intellectual and moral life.⁵²

And Hardt and Negri, echoing the biblical Paul, tell us that in spite of their chastisement of “the bourgeois couple” and “the nuclear family,” the political dimension of love “. . . does not mean you cannot love your spouse, your mother, and your child. It only means that your love does not end there, that love serves as the basis for our political projects in common and the construction of a new society. Without this love, we are nothing.”⁵³

Sovereignty is a concept available to all within the linguistic playing field which is the common. As a concept in the lexicon of political philosophy, sovereignty contributes to the perpetuation of the Euro-American egocentrism which has come to characterize modernity. Ultimately, sovereignty implies

Christian Personalist Perspective on Global Democracy and the New World Order,” *Études maritainiennes – Maritain Studies*, Vol. XXI (2005), pp. 3-31.

⁵¹ Hardt and Negri, *Multitude*, pp. 351-352.

⁵² Maritain, *Person*, p. 80.

⁵³ Hardt and Negri, *Multitude*, p. 352.

the absolute hegemony of totalitarian dictatorship, and as a concept sovereignty is part and parcel of the intellectual endowment bequeathed to modernity through the rationalism of Descartes and the empiricism of Hobbes. In overt and subtle ways, in ways conscious and unconscious, the use of a concept like sovereignty in the common contributes to the extinction of the common. Sovereignty subverts our human nature as understood by Maritain, and as gleaned from the writings of Hardt and Negri.

Empowerment without sovereignty involves a reciprocal duality in perspective, looking toward the multitude or whole community while acknowledging each person or singularity. Recognition of the political dimension of love augments and then weaves difference or otherness into the collective and common power of the multitude or natural human community devoid of hegemonic control. Maritain expresses this when he refers to the movement from family to fellowship in the wider community, whereby “the generic differences between human beings” and then “specific differences between them” contribute to the development of the “intellectual and moral life” of each person, the family, and the community as a whole.

If there is to be a global community, and not a resurgence of empire and hegemony in one form or another, then one task of the philosopher would be to speak out within the linguistic common, thereby joining in the struggle to secure authentic dialogue free from the tyranny of the one. As the observations of Arif Dirlik and others suggest, the emerging global context now presents us with a wealth of competing, often hostile modernities. It can be argued, as Dirlik does, that Euro-American culture not only defined prior modernity, but gave rise to the global context within which varied modernities now find themselves.⁵⁴ And Hardt and Negri explain how a multi-national empire, which the United States still seeks to control, is already emergent and based on global capitalism and the egocentric, hegemonic orientation of the prior Euro-American modernity.⁵⁵ Perhaps the initiative to clear a road through the common away from the destructive tendencies of this modernity remains primarily within the Euro-American ball park. If any credibility can be given to the Heideggerian notion that language is the house of being, the humble attempt of the philosopher to remove any vestige of domination in our time is certainly justified. Here the Socratic questioning of American hegemony by public intellectuals like Cornel West and Benjamin R. Barber, along with the frequent public excursions of Hardt, Negri, and previously of Maritain himself into the global agora, must be acknowledged and commended by the academy. In Canada, one must applaud the efforts of Lloyd Axworthy, who condemns the imperialist hegemonic

⁵⁴ See Dirlik, *Global Modernity*.

⁵⁵ See Hardt and Negri, *Empire and Multitude*.

tendencies of the United States, and disparages the traditional pursuit of national sovereign interests in favor of protecting individual human rights within a global democratic context, through international interdependence and collaboration.⁵⁶

For Maritain, like sovereignty, democracy is a concept carrying connotations of which we are not always fully conscious; and modern democracy, decidedly Euro-American, owes its inspiration to the Judeo-Christian heritage. True democracy, for Maritain, has no affiliation with the egocentrism promoting itself in a variety of ways through the Euro-American centrism of modernity. True democracy is universal, because it is a legitimate expression of human nature. It is not Maritain's intention to establish what some would call a metanarrative through the subtle introduction of hegemonic conceptualization into the common. The common is common, and keeping it alive invites pluralism, a pluralism progressively diminishing the sway of hegemony.

For Hardt and Negri, the struggle for control of the common by the multitude seems to require the coming together of subjectivities pursuing their own agendas through a common political project, thereby establishing the collective power of the multitude through what they share together within the common. Hardt and Negri refer to the collective action which closed the meeting of the World Trade Organization in Seattle, in 1999, whereby many diverse groups from various locations on the globe, with diverse agendas and modernities succeeded in establishing the power of the multitude.⁵⁷ They also introduce the diversity within the recent Zapatista rebellion in Mexico as another example, but go further here, presenting the very language of the rebellion as an example of arresting the linguistic common from hegemonic tyranny by challenging the very structure of hierarchy itself. In a somewhat amusing, even bizarre analysis of the Zapatista leader referring to himself as Subcomandante Marcos, Hardt and Negri suggest that such language disparages the emergence of hegemony and hierarchy within the common.⁵⁸ Elsewhere, they suggest that modern representative government is an abstraction which alienates the representative from the multitude, thereby engendering a sovereignty which distains true democracy and conspires against it.⁵⁹ Yet Hardt and Negri applaud the rotation of leadership in the

⁵⁶ See Lloyd Axworthy, "Choices and Consequences: In a Liberal Foreign Policy," in *Searching for the New Liberalism: Perspectives Policies Prospects*, ed. by Howard Aster & Thomas S. Axworthy (Oakville, Ontario: Mosaic Press in Canada, 2003), pp. 63-79; and *Navigating a New World: Canada's Global Future* (Toronto: Alfred A. Knopf Canada, a division of Random House Canada Limited, 2003).

⁵⁷ See Hardt and Negri, *Multitude*, p. 215, pp. 217-218, and pp. 268-288.

⁵⁸ See *Ibid.*, p. 85.

⁵⁹ See *Ibid.*, pp. 237-247.

Zapatista organization!⁶⁰ Certainly hierarchy and representation can and all too often has been abused, but need it be inimical to true democracy and the integrity of singularities within the multitude as Hardt and Negri suggest? From his Thomistic base, Maritain acknowledges hierarchy and authority, when promoted as the sharing of the right to rule of the multitude. And what else is implied by a title like “Subcomandante,” if not precisely this sharing of the right to rule of the multitude? According to Maritain, it is Rousseau who promotes the sovereign hegemonic power of totalitarianism and destroys true democracy, and precisely by denying hierarchy and responsible authority!⁶¹

Late in his career, George Grant, a famous/infamous critic of Euro-American modernity and liberal culture, well known in at least some Canadian circles, unabashedly stated in a televised interview that in the final analysis he is quite willing to accept even American liberalism over the two alternatives: communism and fascism.⁶² It appears that Grant, a vehement critic of modernity, fully appreciates the value of free speech for every citizen. As Hardt and Negri promote the adhesion of diverse singularities or subjectivities empowering each other through the collective power of the multitude within the democratic polity, Maritain promotes the need for what he calls “prophetic shock minorities” within the democratic body politic, awakening collective concern for the marginalized in order to secure equal rights for all through education and even acts of civil disobedience as required.⁶³ Always, the goal is to preserve the common. Thinkers like Hardt and Negri are searching for true democracy, disavowing allegiance to any hegemonic power, be it of the left or the right. In *Multitude*, they tell us that the “traditionalist idea of sovereign legitimacy” is rampant throughout socialist practice as it is throughout bourgeois liberal culture and politics. They tell us that maintaining this “. . . traditionalist idea of sovereign legitimacy. . . is how all fundamentalisms are born,” and that “. . . contemporary forms of right-wing populism and fascism are deformed

Like Hardt and Negri, Cornel West acknowledges this tendency as a fear of democracy already evident in the writings of the founding fathers of the American Republic of the United States. On the other hand, which places him more directly in line with the thinking of Maritain, he applauds the wisdom of the founding fathers evident in a procedure for constitutional revision and the Bill of Rights, which ensures a Socratic dimension within government itself. See Cornel West, *Democracy Matters: Winning the Fight Against Imperialism* (New York: The Penguin Press, 2004), pp. 210-211.

⁶⁰ See *Ibid.*, p. 85.

⁶¹ See Maritain, *State*, pp. 47-48.

⁶² George Grant was interviewed by the prominent Canadian journalist, Robert Fulford, on the *Realities* programme with TVOntario in 1983.

⁶³ See Maritain, *State*, pp. 139-146.

contemporary forms of right-wing populism and fascism are deformed offsprings [sic] of socialism – and such populist derivatives of socialism are another reason for which we have to search for a postsocialist political alternative today, breaking with the worn-out socialist tradition.”⁶⁴ Furthermore, although Hardt and Negri, along with Maritain, disclaim any pretense to know the future and final outcome as part and parcel of the hegemonic legacy,⁶⁵ all three pursue true democratic freedom as a universal teleological principle, what Maritain labels the concrete historical ideal for our time. And it is precisely Maritain’s understanding of what he perceives to be the historical implications of the Judeo-Christian heritage of Euro-American civilization, the inspiration behind democracy and liberalism itself, which enables him to see clearly, as he informs us in *Man and the State*, that diverse singularities or subjectivities can converge in the multitude

. . . not by virtue of any identity of doctrine, but by virtue of an analogical similitude in practical principles, toward the same practical conclusions, and can share in the same practical secular faith, provided that they similarly revere, perhaps for quite diverse reasons, truth and intelligence, human dignity, freedom, brotherly love, and the absolute value of moral good.⁶⁶

Maritain would agree with thinkers like Hardt and Negri, that in so far as our words remain free within the common, there is communication and empowerment without hegemony, opportunities abound, and there is hope for our time. Along with its denial in the concept of sovereignty, this hope too is part of the legacy of Euro-American modernity bequeathed to the global community. Herein we find the explanation for the love hate relationship with modernity and liberalism which many, along with Grant, exhibit.

Keeping his “practical secular faith,” Emmanuel Lévinas, approaching the issue from within a philosophical genre other than Maritain’s, offers from his alterity a fine summary of Maritain’s analysis and the intention of this paper:

It is not without importance to know – and this is perhaps the European experience of the twentieth century – if the egalitarian and just State in which the European is accomplished – and which is a matter of founding and, above all preserving – proceeds from a war of all against all – or from the irreducible responsibility of the one for the other, and if it can ignore the unicity of the face and love. It is not without importance to know this so that war does not

⁶⁴ Hardt and Negri, *Multitude*, pp. 254-255. For the full context see pp. 249-255.

⁶⁵ See *Ibid.*, and Jacques Maritain, *On the Philosophy of History*, ed. by Joseph W. Evans (New York: Charles Scribner’s Sons, 1957).

⁶⁶ Maritain, *State*, p. 111.

become the institution of a war with a good conscience in the name of historical necessities.⁶⁷

⁶⁷Emmanuel Lévinas, "Peace and Proximity," (1984), in *Emmanuel Lévinas: Basic Philosophical Writings*, ed. by Adriaan Theodoor Peperzak, Simon Critchley, and Robert Bernasconi (Bloomington: Indiana Press, 1996), p. 169.

Book Reviews

Jazz Age Catholicism: Mystic Modernism in Postwar Paris - 1919 – 1933.

By Stephen Schloesser, Toronto: University of Toronto Press, 2005. 449 pp.
\$89.00 Cloth. ISBN: 0-8020-8718-3

Walter J. Schultz

In what Philip Nord of Princeton University has aptly described, on the dust jacket of the published text, as “an unusual and refreshing cultural history,” Stephen Schloesser is concerned with delineating Catholicism as a form of mystic modernism during the “Crazy Years.” In what he presents within the broader context of the “Jazz Age” in Parisian culture, ostensibly the perplexing 1920’s (specifically 1919-1933 as indicated in the subtitle of the text), Schloesser is clearly involved with an extension and development of a prominent trend in *fin de siècle* Catholic culture. Schloesser highlights the strict adherence to phenomena in the visual arts, literature and music contained within the wider spectrum of modernism in the 19th century. Such adherence is evident in “naturalist realism,” encompassing the academic monopoly of positivism as well as the pervasive materialism of bourgeois culture, but also found flourishing within the graphic symbolism of the decadent movement, morphing into the surrealism and atonality prevalent during the Jazz Age. Schloesser notes the opposition of ultramontane “eternalism,” what might be called the politically correct version of Catholicism in 19th century France (evident artistically in the neo-medievalist concern with the High Gothic and Romano-Byzantine Middle Ages, and academically in neo-scholasticism), to what was perceived as the profanity of modern French culture *tout à fait* (although such “eternalism” itself is said to be modern in that it acknowledges historical context). Schloesser proceeds to

show how many artistically and mystically inclined French converts to Catholicism, from the 19th into the 20th century, sought to displace this binary opposition with a dialectic leading to the synthesis which he designates “mystic modernism,” a form of “naturalist spiritualism.”

Paying tribute to the stars of the *renouveau catholique* in late 19th century France, literati like Barbey d’Aureville, Léon Bloy (the godfather of Jacques and Raïssa Maritain), Paul Claudel, Maurice Barrès, Joris-Karl Huysmans, and Charles Péguy (who, like Bloy, had a profound influence on the Maritains), Schloesser unabashedly depicts the association of many within the *renouveau catholique* then and into the 20th century with the French decadent movement, a cultural movement not palatable to bourgeois ultramontane eternalists, who condemned its often graphic depiction of moral fragility and incontinence as symptomatic of the “naturalist realism” of the age. Schloesser points out that although the realism of a Zola or Flaubert, in league with the positivism and materialism of the age, entails the denial of mystery and the supernatural, the decadents, dwelling on our all too human foibles, offer a virulent symbolism in seeking to escape the mundane confines of the age. One enters Christianity through the back door, as has been said of Charles Baudelaire, who is the ghost behind Schloesser’s account. Everything from sodomy to drug addiction and abject Satanism is at play here. Schloesser maintains that it is precisely within such modernism that the fruitful dialectic between adherence to the phenomena of the period, especially the events of the Great War and its aftermath, and the supernatural emerges. But here Schloesser plays his trump card, the Thomistic hylomorphism and sacramentalism of Jacques and Raïssa Maritain.

Spurred on by the horrific sacrifice of the Great War and the mourning afterwards, France searched for the order which would initiate its convalescence. Given its Catholic heritage, it was perhaps inevitable that many in France, including unbelievers like Charles Maurras, would rally around the Church in defiance of the stale Republicanism which disavowed so much of France’s glorious past. One becomes enthralled with what Schloesser, following Svetlana Boym’s *The Future of Nostalgia* (2001), calls the *off-modern*. Certainly ultramontane “eternalism” and the monarchist revival sought this remedy, but Schloesser argues that it was also a home for the *avant-garde* of modern French culture, offering credibility to the notion of the *ultramodern* as a rebellious voice within modernity which appreciates the riches of French Catholic tradition without abjuring the newness of the current historical moment (the fact that Jacques Maritain stated in his notorious work, *Antimoderne*, that he might just as well be called *ultramodern*, does not go unnoticed by Schloesser). Although at first swept along with the resurgent nationalism of people like Maurras, the Maritains came to appreciate the fully historical merger of matter and form, of

phenomenal existence and spirituality emerging through the most creative and original sectors of French culture. The continuing work of the Incarnation and the Eucharistic Sacrifice meant that Christ was fully present and responsive within every age, and surely His Sacrifice is not loath to embrace human suffering in any guise. The Maritains abandoned neo-scholasticism and what Jacques came to refer to disparagingly as textbook Thomism. They saw themselves as simple adherents of the perennial philosophy of St. Thomas Aquinas and applauded the work of Jean Cocteau and others like him, often notorious homosexuals in whose conversion to Catholicism the Maritains were instrumental. Schloesser even notes that Jacques claimed to have a special vocation to the homosexual (in view of his unusual relationship with Raïssa, a rare marriage devoid of explicit sex and sanctioned by the Church, Schloesser maintains that Jacques argued for the possibility of a higher spiritual union between homosexual lovers as well). Continuing their activity within the Baudelaire Society, the Maritains circulated amongst the avant-garde of French culture. Wherever intelligence, form, and spirit were operative, the Maritains were there to applaud and nurture, ushering all back to the true Sacrament (one is reminded of Jacques' admonition to Jean Cocteau that the Eucharist is far better than opium).

Developing the above matters in the first and second part of his text, in the third and final part Schloesser concentrates on three figures representing the avant-garde in the visual arts, literature and music (Georges Rouault, Georges Bernanos, and Charles Tournemire respectively). Treating each in a tersely argued and highly learned format, Schloesser attempts to show the dialectic at work, synthesizing mystic modernism from the realism of the historical moment and the forever rejuvenating charge of the Spirit.

Much Ado About Nonexistence, By **A. P. Martinich and Avrum Stroll**, Toronto: Rowman & Littlefield Publishers, Inc., 2007. 145 pages. US\$30.95. ISBN: 0742548341

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Sherlock Holmes lived at 221B Baker Street.

As attentive readers of detective fiction, we would intuitively agree with this statement. As responsible philosophers of language, however, we should deny it: Sherlock Holmes could not have lived at 221B Baker Street, since he never lived at all. Holmes is fictional; he does not and has never existed. How can we talk about something that does not exist? In *Much Ado About Nonexistence*, A. P. Martinich and Avrum Stroll want to provide an answer to that question. They argue that we can, and do, speak meaningfully about

nonexistent, fictional entities; indeed, the problem of nonexistence turns out to be nonexistent itself.

By their own admission, the authors eschew the metaphysical implications of nonexistence. Theirs is a book about language, and they want to provide some practical solutions to the puzzle of words with nonexistent referents. Martinich and Stroll are dissatisfied with modern theories of language that neglect a serious treatment of fiction. By dismissing fictive discourse, such theories fail to consider the problem of nonexistence in a comprehensive way and thus expose themselves to criticism. The authors have leapt at this opportunity, mounting convincing critiques of no less than five or six current theories of language. The focal point of their assault is the Axiom of Existence, formulated by Searle as “Whatever is referred to must exist” (101). For the authors, this axiom “is so deeply embedded in contemporary theories of language that it needs to be attacked and from several directions” (2). Any satisfying philosophy of language must consider and enable all the phenomena of fiction, and an uncritical adherence to the Axiom of Existence fails this condition.

The book is divided into two parts. The first, “Fiction and Reference,” primarily discusses theories of fiction. The authors set out their views in chapter 1 and then go on to critique, in turn, Kendall Walton’s pretense theory and Hayden White’s conflation of history and fiction. For Martinich and Stroll, history and fiction share similar tropes and are often interwoven, but they are not the same. They only appear similar because they are both subgenres of storytelling. Nor is fiction a form of pretending, because fiction can be intended to make sincere claims about the world (for example, the first sentence in Jane Austen’s *Pride and Prejudice*).

The second part of the book, “Reference and Nonexistence,” is less wide-ranging and more philosophically intense. Here the authors move from the case of fiction to the more general phenomenon of nonbeing. The authors offer an excellent and highly useful comparison of Russell’s and Frege’s theories of description, which they use to inform their own ideas (but without first warning that Russell’s and Frege’s formal accounts “lack the plasticity and flexibility of ordinary speech” [90]). They go on to dispute the direct reference theory of Ruth Barcan Marcus and Saul Kripke. They argue that the typical metaphor used by philosophers to think of linguistic meaning – that is, some mechanism that directly hooks up words with objects or facts in the world – is erroneous (as they pithily put it, “Meanings are not things” [138]). This amounts to a serious attack on the received understanding of “reference,” and their conclusion minces no words: direct reference theory must go (101).

The fifth and final chapter is an odd supplement to the previous four. It is preoccupied with natural kind terms and argues that Hilary Putnam’s celebrated Twin Earth scenario is meaningless because it misinterprets how

natural kind terms refer to objects. Their argument uses several ideas developed in Part II and is rather convincing, but it contributes little to the main argument of the book.

Nevertheless, the sum result of these five chapters is a powerful account of reference that accords well with both ordinary speech behaviour and formal logic. The simplicity of the authors' conclusion is the book's most refreshing feature. In their own words, they "have not offered a 'theory'... [but] have provided a description of how reference takes place in both fictive and nonfictive contexts" (111). This description is essentially tripartite. Firstly, fiction involves institutional facts; "[i]f a fictional name is accepted by a community, then it has a referent" (28). Secondly, this implies that the Maxim of Quality ("Do not say what is false," one of the four conversational maxims proposed by H. P. Grice) is suspended in fiction. Finally, these premises further imply that fictional objects can be referred to, even though they do not exist. To abandon the Axiom of Existence, then, is the next philosophically responsible step to take. This result, which is ultimately a form of contextualism, will inevitably prove disappointing to some. Nevertheless, it is a conclusion that is appealing in its simplicity, and is as important to the disciplines of linguistic anthropology or sociolinguistics as it is to the philosophy of language.

Martinich and Stroll touch on a stunning array of topics in this book: language, truth, reference, fiction, history, pretense, existence and meaning are only the most crucial ones. But the authors have a charming, accessible style, and the content moves at a smooth, brisk pace. (Of course, the velocity at which the authors traverse their theoretical ground can leave the reader breathless and sometimes longing for more leisurely exploration.) They are thorough in providing examples and show a genuine concern with ensuring that their philosophy remains grounded in the real world at all times.

Martinich and Stroll are not the first authors to discuss fiction in a philosophically interesting way, but they do offer up some new ideas and distinctions (one of the most useful being talk *in* fiction versus talk *about* fiction). They have written a provocative, pugnacious book tailor-made to spark discussion. Indeed, two fruitful avenues of investigation might be through anthropology (how do institutions of fiction arise?) and literary theory (Martinich and Stroll tend to privilege an author's role in the definition of a text; how would Derrida or Barthes respond?). This interdisciplinary relevance should indicate that *Much Ado About Nonexistence* will make a fine addition to the bookshelf of anyone with an investment in the philosophy of language.

The Rise and Fall of the Soul and Self: An Intellectual History of Personal Identity, **By Raymond Martin and John Barresi**, New York, Columbia University Press, 2006. 383 pp.; 24cm. US \$22.95 Paper, \$32.00 Cloth. ISBN 0231137443 (hardcover: alk. paper)

Mark Bronson

Knowledge is the only elegance.

Ralph Waldo Emerson

Emerson might well be correct. Our desire to know ourselves is profound, as evinced in Raymond Martin's and John Barresi's wonderful discourse; and their presentation is indeed elegant; diction, interpretation, and scholarship are each exquisite and erudite. Much time has been spent preparing this text; and its gracious objectivity is refreshing after having read much of "the Brights" eliminativist rants in rejecting both the soul and the self. The text is an excellent addition to classroom efforts at several levels.

Thinking about and reporting on existence has obviously preoccupied philosophers, theologians, psychologists, and scientists for millennia; and for good reason, of course.

Martin and Barresi are both just and generous in offering the stuff of philosophical imagination by employing chronologically the ideas of a good number of humankind's greatest intellects.

The first human reflections might simply have been about life and death and the possibility of a hereafter. Primitives living 20,000 years ago left behind distinct markings that reveal an inspiration familiar to us today: the moving from one existence to another, complete with its fears and fascination. One must consider the spiritual here as one does not move "bodily" but "essentially"; and the authors readily admit that ideas about soul or essence pre-date notions of self, be the self fragmented or unified. One might admit to better understanding a number of theory-based disciplines anthropologically upon completing the text.

Reincarnation and Christian salvation are discussed as foundational to religious idealism; and Greek philosophy inhabits the middle, beginning with Pythagoras' "secure knowledge" and his influence on Plato's *Phaedo*: that we as immaterial psyche or soul endure in a "changeless realm" much the same way as do "geometrical objects." Irony is not lost on the *Meno*'s revealing the "pre-existence" of at least a mathematical knowledge to support Plato's argument for immortality; and as much as Aristotle is unsure of body/soul duality, he has difficulty in dismissing fully the soul. One could never regard the Socratic *Apology* as the "spiritual" ravings of a figure prosecuted, convicted and sentenced to death; and although one might consider St. Paul's intellectualism as fiction, one cannot doubt Paul's Platonism and its

distinguishing between life-after-death and merely living-a-life; both, however, inform two thousand years of Western thought.

The authors are convinced that notions about how one should live establish the need to postulate first the soul, and second, the self, as personal identity references move away from the ideal to the material in a post-Cartesian world; and regardless of how convincing an argument favoring either soul or self, one cannot deny that each fails, especially in view of current neuro-scientific discoveries.

The authors make clear the historical relevance of each commentator. Tensions are made apparent early in the text among universalists, nominalists, and those who combine aspects of both; from the Stoics and Augustine to Ockham and Aquinas, the authors move easily to medieval thought; but interest peaks with subjectivity and substance in the seventeenth century. Hobbes and Berkeley are undoubtedly influential; and Descartes' logic must be reconciled in arguments about personal identity regardless of what one feels about his tacit and perhaps fatal presuppositions, especially those concerning God; both authors concur that arguing the strictly rational, empiric, or subjectively ideal prove too rigorous a challenge. Locke's blending of these notions and Hume's understanding of the futility of certain combined arguments allow for Kant's revelations, a beautiful anti-climax in the text. The authors do not hide their admiration for Kant and agree with Kant in calling into question the enduring difficulties in understanding the noumenal self:

In Kant's view, it is difficult to see what could distinguish two noumenal selves. The difficulty is not due to matter being the principle of individuation but to the fact that noumenal selves, assuming there are more than one, are neither spatially nor temporally extended.

Kant's notions of autonomous agency and meaning introduce Rousseau's romanticism, Coleridge's metaphysical poetry, Hegel's Absolute, Marxist dogma, and Nietzsche as the first great psychologist. Much is made thereafter of Darwinism and William James' brilliant postulations.

Perhaps the critical pivot in the scientific approach to the soul and self is interdisciplinary and involves the dawn of neurophysiology in the 1960s. The authors conclude without bias that there is no turning back or away from work done by Roger Sperry and Antonio Damasio; nor can Analytic philosophy be dismissed. The platform for being human is the body; and one experiences everything through body; knowing, however, remains elusive:

nothing is first in the order of knowing, that is, that there is no single privileged place to begin the development of theory, no single privileged methodology with which to pursue it, and no practical way to unify the theories that result

from starting in places using different techniques. This was not so apparent until recently, but it seems abundantly clear now. In sum, as we have already suggested, if there is unity in sight, it is the unity of the organism, not of the self or of theories about the self.

So, one endures in a void left by the absence of one's elevated status, an elevating one assumes requisite to one's purpose. Paradoxically, that which is elevated, the soul, is first to be dismissed in the text but ultimately becomes the focus of the authors' final statement in which they regard one's need to know the soul as "pride... before the fall"; the text's closing is indeed a beginning; and alluding to Genesis is not lost on this reader; in effect, one might be encouraged by descent's opposite, that is, ascent, and a much-hoped-for destination.