

The Metaphysical and Epistemological Foundations of Natural Law in Jacques Maritain

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1. Introduction: Challenges to Natural Law

Ethical theory today (at least in the English-speaking world) is dominated by utilitarianism and by deontological theories (which draw on the work of Kant). We also find, though to a much lesser extent, virtue ethics, feminist ‘care’ theories (e.g., from Carol Gilligan and Susan Sherwin), social contract theories, and rights-based theories.

But often missing from the discussion – and from most ethics textbooks - is natural law theory.

Natural law theory has a long history, starting with the Stoics. It is influential outside of the Anglo-American world (though, admittedly, less so than it once was), and it has its powerful defenders today (e.g., Germain Grisez, Joseph Boyle, and John Finnis¹). But nevertheless it is virtually absent from most contemporary studies in ethics and, even when it is mentioned, it is often quickly rejected.

Why is this theory so widely ignored or rejected? There are a number of reasons that have been given. Some raise the problem of the distinction between ‘is’ and ‘ought’ – that is, that contrary to a basic claim of natural law theory, one cannot infer a moral statement of what one ‘ought’ to do from a descriptive statement of the kind of being one ‘is.’ Some attack the theory because it is a ‘naturalistic’ theory, and it commits (what the British philosopher G.E. Moore called) ‘the naturalistic fallacy’ – that moral properties (like ‘good’

¹ See, for example, Germain Grisez, Joseph Boyle, and John Finnis, “Practical Principles, Moral Truth, and Ultimate Ends in Natural Law” in *American Journal of Jurisprudence*, vol. 32 (1987): 99-151 reprinted in *Natural Law: Volume I*, ed. John Finnis (Dartmouth; Aldershot; New York University Press, 1991), pp. 102-115.

or 'bad') are 'simple,' and cannot be defined in terms of something that is natural (such as "happiness")². Some critics reject the theory of natural law because they hold that all laws are merely generalizations or conventions – and so there cannot be any universal moral laws. Others say that a natural law theory presupposes that there is a human nature – but that there is no reason to believe that there is any such thing. (Some existentialist philosophers, for example, hold that there is no human essence, and that our 'nature' is something we 'create' ourselves.) And there is today a widespread scepticism that questions whether there are such things as objective, universal moral standards - i.e., standards which apply to all human beings, regardless of the culture from which they come or the time in which they live. In any case, even if there are such standards, we might still ask Where do they come from? Can we know what they are? And can we be certain that they are legitimate?

Many, if not most of these questions were, however, addressed by Jacques Maritain. In this paper, I want to outline Maritain's distinctive account of natural law and its metaphysical and epistemological dimensions. This account not only provides a more sophisticated understanding of natural law, but gives us good reason to challenge the marginalization of it in contemporary moral philosophy.

² See G.E. Moore, *Principia Ethica* (Cambridge: Cambridge University Press, 1903), section 12.

2. Maritain and Natural Law

In a series of essays and books published in the 1940s and 1950s³, Jacques Maritain provides a defence of a natural law theory – one which, he believes, is faithful to the view of St Thomas Aquinas. but which is also able to address some of the concerns and criticisms raised against many natural law accounts. Maritain’s defence was no doubt motivated by his general interest in applying the thought of St Thomas to the contemporary world. But he also held the view there are objective, universal moral standards and, as a philosopher, he needed to show what these standards are, what justified them, and how they could be known. Maritain argued as well that there are universal human rights, that these rights were not simply the product of conventions and agreements, and that these rights therefore needed a foundation. The source of these standards and the foundation of these

³ The most extensive statement of Maritain’s account of natural law appears lectures 1 and 2 of *La loi naturelle ou loi non écrite: texte inédit*, établi par Georges Brazzola (Fribourg, Suisse: Éditions universitaires, 1986). His views here repeat, often identically, his discussion in other published work. See Chapter 2 of *Les droits de l’homme et la loi naturelle* (New York: Éditions de la maison française, 1942). (This, in turn, incorporates the text of an earlier lecture, later published as “The Natural Law and Human Rights,” in *Christianity and Culture*, ed. S. Murphy [Baltimore: Helicon Press, 1960].) See also two short essays published in the 1950s: Chapter IV of *Man and the State* (Chicago: University of Chicago Press, 1951) and an article entitled “Natural Law and Moral Law” (in *Moral Principles of Action: Man’s Ethical Imperative*, ed. Ruth Nanda Anshen, New York and London: Harper & Brothers, 1952, pp. 62-76.) The latter is a translation of “Quelques remarques sur la loi naturelle,” published in *Oeuvres complètes [de] Jacques et Raïssa Maritain*, 15 vols., Fribourg (Switzerland): Éditions universitaires, 1982–, Vol. X, pp. 955-974.

As noted above, these texts are largely repetitive and, at times, identical. For example, the discussion on pages 79-90 of *Les droits de l’homme et la loi naturelle* (DH) is clearly the basis for the discussion on pages 81-100 of Chapter IV of *Man and the State* (MS); indeed, pages 81-84 and 88-93 of DH are virtually identical to MS 89-90 and 97-100, respectively. Similarly, MS pages 87-93 and 97-100 cover many of the same issues in the same order as “Natural Law and Moral Law” (NL) pages 62-65 and 72-76. Chapter IV of MS spends more time on the epistemological dimension (but less on an enumeration of particular rights) than the earlier DH or than NL. NL provides a lengthier discussion of the *droit des gens* and the positive law than MS. Lecture 1 of *La loi naturelle ou loi non écrite* is virtually identical to Chapter IV of MS (pp. 81-94, English original) and Lecture 2 of *La loi naturelle ou loi non écrite* is largely repeated in NL, pp. 64-76; the differences are minimal.

My edition of Maritain, *Natural Law: Reflections on Theory and Practice* (ed. William Sweet) (South Bend, IN: St. Augustine’s Press, 2001), collects and cross-references these various texts, and is the most complete statement of Maritain’s writings on natural law.

rights are to be found, Maritain believed, in a theory of natural law. Maritain recognized that there were problems with many accounts of natural law, but he believed that such a theory was still possible, providing we give a correct statement of its metaphysical and epistemological foundations.

Maritain is not just repeating the views of St Thomas; as we will see, he develops certain aspects of Aquinas's views rather significantly. Nor is he motivated simply by purely philosophical interests in carrying out this task. He recognizes that natural law is contested by some, that there are the problems noted above, and that many different theories of natural law are rightly criticized. And he recognizes that it is therefore important to defend the claim of objective, universal standards in a world marked by cultural diversity and history. But I would suggest that the key to Maritain's interest in natural law is that he wishes to provide a foundation for universal human rights. Following the gross abuses of human rights and human dignity during the Second World War, the threats of totalitarianism and communism in many countries, and the political, economic, or social oppression of people throughout the world, the mere conviction or belief that there were human rights was not enough. Such a conviction required a rational foundation.

But before looking at Maritain's arguments for natural law, it is important to understand what he means by the term 'law.'

3. The Nature of the Law

What is law? Maritain adopts the classical definition of law – a definition found also in Aquinas (see *Summa theologiae*, I-II, q. 90, a. 4): that law is an ordinance of reason, for the common good, made by one who has care for the community (e.g., the political leader), and that has been promulgated. It is, in other words, a rational command (not advice, counsel or a suggestion) that can be known by all who are subject to it, that issues from a competent authority, and which aims at the well being of the community as a whole (or else it is merely an order). The laws of physics are laws, on this view, because they were traditionally understood to be the product of a cosmic lawgiver.

Natural law, however, is only one type of law. In fact, Maritain distinguishes four types of law: the eternal law, the natural law, the "common law of civilisation" (*droit des*

gens or ius gentium), and the positive law (droit positif). A law is a “natural law” so far as it is focused on the essence of a being – i.e., being the kind of creature that that creature is – and, therefore, it is a law that is common to all beings of the same nature. In this respect, it is immanent in nature and has an ‘ontological’ character; it does not have to be written [down](#).⁴

The key concept here is ‘nature.’ Following Aquinas, Maritain maintains that there is a teleological dimension to nature, and argues that it is in terms of the specific end of a thing – the “normality of its functioning”⁵ – that one knows what it (descriptively) ‘ought’ to be or what it ‘should’ do. All natural things are therefore subject to a natural law, and the specific rules depend on the specific characteristics, attributes, and ends of the kind of thing it is.

But the natural law for human beings is natural in more than this descriptive, ontological or metaphysical sense. Maritain adds that it is ‘natural’ because of how it is known – i.e., that it is known naturally or, more precisely, connaturally.

There are, then, two dimensions to natural law – the metaphysical and the epistemological – and Maritain’s discussion and defence of both of them is distinctive.

4. The Metaphysical Dimension

What arguments can Maritain give to prove the existence of such a natural law for human beings, that says what human beings ought – both descriptively and morally – to do? Maritain provides two arguments – though, in some cases, these arguments appear in different versions – to support his view that there is a natural law for human beings that has an obligatory character.

4.1 The first argument

⁴ *La loi naturelle ou loi non écrite*, p. 85.

⁵ *La loi naturelle ou loi non écrite*, pp. 22 and 84.

Maritain's first argument starts with an ontological or metaphysical analysis of human beings, and then attempts to show that such beings must be bound by a natural, moral law.

An early version of this argument appears in a condensed form in "Natural Law and Moral Law,"⁶ but a more elaborate account appears in *Man and the State* and in the posthumously-published, *La loi naturelle ou loi non écrite*.⁷

1. Everything produced by human industry has "a normal way of functioning – the proper way in which, by reason of its specific construction, it demands to be put into action [and that says how it "should" be used]" (Thus, for example, a piano has, as its end, the production of certain attuned sounds.)

2. Moreover (and similarly), "any kind of thing existing in nature has its ... proper way [of functioning] in which, by reason of its structure and its specific ends, it 'should' [i.e., normally does or normally would] achieve fullness of being either in its growth or in its behaviour" – that is, what it should do is determined by its end.

3. [Therefore, from 1 and 2] All things possess ends which necessarily correspond to their essential constitution or nature (e.g., pianos, horses, and so on)

4. There is "a human nature [which...] is the same in all men."

5. [Therefore, from 3 and 4] Man possesses ends which necessarily correspond to his essential constitution and which are the same for all men.

6. Man has the power to determine for himself the specific ends which he pursues (i.e., is free). (While human beings have an 'end' determined by their nature, they can still 'determine' whether they will act for those ends.)

7. There is an order which human reason can discover, and according to which the human will must act in order to attune itself to the essential and necessary ends of human beings. (This is the unwritten law, or natural law, considered in its ontological aspect.)

8. [From 7] This natural law is the proper way in which, by reason of their specific nature and specific ends, men should achieve their fullness of being. (Note: Here, the word 'should' [or 'ought'] has only a metaphysical meaning [as when we say that a good or a

⁶ "Natural Law and Moral Law," p. 62. See also *Natural Law: Reflections on Theory and Practice*, pp. 27-28. See also *Man and the State*, p. 87; *La loi naturelle ou loi non écrite*, p. 22.

⁷ See *La loi naturelle ou loi non écrite*, p. 22.

normal eye 'should' or 'ought' to be able to read letters on a blackboard from a given distance.])

9. [from 6] Man can put himself 'in tune' with the ends necessarily demanded by his nature [unlike horses] – i.e., man can obey or disobey the natural law for men, freely.

10. If a being is free (i.e., can obey or disobey the natural law for men, freely), then “‘should’ or ‘ought’ start to have a moral meaning, that is, to imply moral obligation.” [It is this feature – that a moral principle can follow from a metaphysical claim about human nature – that, presumably, enables Maritain to avoid Hume’s criticism that one cannot move from an ‘is’ to an ‘ought’.]

11. Therefore, there is a natural law for human beings that is a moral law.

4.2 A second argument

Maritain appears to give a second argument to establish that there is an objective natural law that is morally binding on all human beings, though it is one which the reader must ‘piece together,’ as the premises do not appear together in one particular passage. This argument starts with a statement about human beings and their ends, but focuses on the nature of this end (rather than on the attributes of human beings) and on why the natural law is law (i.e., morally obligatory).

1. Human nature does not contain within itself its own ratio (reason or explanation).

2. Therefore (from 1), human nature cannot command or prescribe what it ought to do.⁸

(Maritain does not elaborate why it cannot command or prescribe, though presumably it is because ‘law’ requires a ‘law maker,’ and human nature cannot provide this by itself. [This however, would seem to be an a priori argument.])

(Another possible premise here, consistent with Maritain’s argument but not obviously appealed to by him, could be “If there were no such ‘privileged order’ and end, it is possible that the nature of a being could change or could be arbitrary (which would be inconsistent with the nature of law).”)

⁸ See “Natural Law and Moral Law,” p. 68; Maritain, *Natural Law: reflections on theory and practice*, pp. 43, 45, 47

3. “Human behaviour pertains to a particular, privileged order which is irreducible to the general order of the cosmos and which tends to an ultimate end superior to the immanent common good of the cosmos.”⁹

4. It is from this order that human beings derive “the inclinations through which they tend naturally toward their proper operations and ends.”¹⁰

5. Therefore (from 1 and 3), human nature is dependent on an end that is not purely natural, but transcends the world of experience.¹¹

6. This end is determined by the eternal law (or supernatural order) commanded by God. (So while this end is not purely natural, it is not inconsistent with our nature.)

7. Therefore, there is a “particular, privileged order” (i.e., the natural law) that is determined by this supernatural order (i.e., the eternal law).

4.3 Comments on the arguments

These two arguments should be distinguished.

In both arguments, Maritain supposes that the natural law is immanent in human nature – i.e., in terms of the teleological character of our nature and the “normality of [our] functioning”¹² – although it is not innate.¹³ (The evidence of this law is also consistent with and confirmed by experience. Indeed, Maritain says that it is “promulgated in our reason” by God.¹⁴)

⁹ See *La loi naturelle ou loi non écrite*, pp. 22-23 [emphasis mine]. In *Man and the State*, both the English and the French ‘translation’ suggest that these are two separate reasons here – that it is both human behaviour and this ‘order’ that tends to this final end (see *L’homme et l’état*, trans. “de la version originale en langue anglaise” Robert et France Davril (Paris: Presses universitaires de France, 1953), p. 80; see also *Man and the State*, p. 87).

¹⁰ Maritain, *Natural Law: reflections on theory and practice*, ed. William Sweet, South Bend, IN: St Augustine’s Press, 2001, p. 41.

¹¹ See *La loi naturelle ou loi non écrite*, pp. 84, 109..

¹² *La loi naturelle ou loi non écrite*, pp. 22; 84.

¹³ See Maritain, *Natural Law: reflections on theory and practice*, p. 9..

¹⁴ *La loi naturelle ou loi non écrite*, p. 48 ; NL 70

Nevertheless, even though it has a close relation to human nature – and, indeed, is ‘rooted’ in human nature, Maritain holds that the natural law is not based or founded on human nature, and so requires an external source for its authority.

We notice that, in this second argument, Maritain clearly insists on there being an underlying rational order – the eternal law – to explain the obligatory power of the natural law (i.e., why it is law). The natural law emanates from divine reason and a transcendent order (i.e., it is rooted in the eternal law). The fact that one can find commands or rules present in nature is not sufficient to show that they are (morally) obligatory. Indeed, Maritain writes that “natural law is law only because it is participation in Eternal Law”¹⁵ – i.e., the law that is “the exemplar of divine wisdom insofar as this wisdom directs all the actions and movements of things.”¹⁶

In short, it seems that the first argument alone is not sufficient to show that there is a morally-binding, natural law. Given the presence of the second argument, it seems that we cannot have an argument for natural law unless we refer to an eternal law – and which therefore implicitly depends on the existence of God. This conclusion is consistent with Maritain’s view that the account he provides is distinctively Thomistic. Although natural law theory has often been considered to be ‘Aristotelian-Thomistic,’ Maritain was of the view that Aristotle’s ethics could not provide an adequate statement of natural law because it did not – and, arguably, could not – include a complete description of humanity’s ultimate end¹⁷. But if this is true, then this challenges a common claim about natural law theory – that such a law can be known, independently of one’s knowledge of the existence of God.

Second, both of these arguments claim that we can derive a statement of what a being ‘ought’ to do based on our knowledge of what its end is, And the first argument states

¹⁵ *La loi naturelle ou loi non écrite*, p. 108; see *La loi naturelle ou loi non écrite*, p. 43, *Man and the State*, p. 96, “Natural Law and Moral Law,” pp. 66-67.

¹⁶ “Natural Law and Moral Law,” p. 65; see *La loi naturelle ou loi non écrite*, pp. 37-38.

¹⁷ See *Neuf leçons sur les notions premières de la philosophie morale*, in *Oeuvres complètes*, vol. IX, p. 834 and *La philosophie morale* (1960) (translated as *Moral Philosophy*, ed. Joseph W. Evans), London: G. Bles, 1964, pp. 47-51. For a discussion of this, see the essay by Lionel Ponton, “Le statut de l’éthique aristotélicienne dans la morale ‘adéquatement prise’ de Jacques Maritain,” in *Études maritainiennes - Maritain Studies*, 12, 1996, pp.50-67.

explicitly that this 'ought' becomes a moral 'ought' because human beings are free. It is not obvious, however, that the statement 'Human beings are free' is sufficient to allow one to infer that the natural law for human beings is a moral law. Human freedom may be a necessary condition for the natural law being a moral law, but the metaphysical 'facts' that human beings are free and that freedom or happiness is their end do not show that one is morally obliged to realise that end. (Indeed, if it did, we would have an argument for the obligatory character of natural law based on human nature alone, after all.) In other words, the human telos (as happiness, freedom, or whatever) does not entail that natural law is morally obligatory – unless (and Maritain does not claim this here) being free itself includes a reference to something separate from the natural order.¹⁸

4.4 Summary of the metaphysical dimension

According to Maritain, all beings are governed by a natural law that is objective, universal, and rests on principles that are true and certain. It is natural because it is related to the nature of what that thing is (i.e., in terms of its functioning and human ends). By extension, then, there is a natural law for human beings, that is an objective, true, but unwritten law that does and ought to serve as a standard for human behaviour. This natural law is not deduced from human nature – though it is immanent in and reflects human nature – and it is dependent upon the eternal law. And Maritain holds that this law can be proven to exist and that we can arrive at principles of this natural law, using our reason.

If what Maritain says is true, it provides a response to the criticism that it infers an 'ought' from an 'is,' by saying that these descriptive or metaphysical oughts can be derived from our knowledge of what is conducive to the end of a thing, and that moral oughts can be derived when a human being can choose to pursue or ignore the ends of human beings.

¹⁸ One could suggest that the very exercise of freedom (as distinct from random action or licence) implies a reference to law or to a 'rational order' – i.e., acting in a genuinely free way implies obedience to a law – and that, if we wish to act 'freely,' we ought to obey the law. But then the law is not itself authoritative; its authority seems to depend on what we wish – a desire to act freely. So such a solution does not explain why law is authoritative.

In any event (despite what Maritain says), it is not immediately obvious that the exercise of freedom implies law and, moreover, even if it did, would people have to know of that law before they could say that they are acting freely?

It is true that Maritain supposes that there is a human nature, but he takes this to be virtually self-evident. For Maritain, the metaphysical dimension of natural law is easy to demonstrate.

Nevertheless, Maritain is aware of a strong criticism of natural law theory that comes from epistemology – concerning our knowledge of the natural law – and I will turn to this issue now.

5. The Epistemological Dimension

Maritain's discussion is not limited to metaphysical arguments to show that there is a natural, moral law. As we saw above, Maritain holds that this natural law is (or can be) known naturally – specifically, connaturally.

Maritain's remarks here are particularly important given the frequent objection that natural law theory is implausible because it assumes that there is a universal objective moral law – something for which there is no evidence. If there were such a universal, natural moral law (this objection goes), then we would expect that it has been discovered in a wide range of cultures and that it would be known wherever there were reasonably intelligent, perceptive beings. But even a quick survey of history reveals that there are no laws that have been universally recognized – and, even today, we do not find any moral laws that hold, without exception, in all cultures. And thus, the critic concludes, the existence of a natural, moral law is simply implausible.

What is Maritain's response? He takes a strong position on this matter. According to Maritain, there are basic moral principles that are indubitable and, starting with these principles, we can arrive at other moral rules through a procedure which is fundamentally rational. Nevertheless, it is a mistake to think that these basic principles of morality are “a priori deduced by conceptual and rational knowledge”¹⁹; reason cannot provide basic, foundational principles. Still, they are able to be known naturally

¹⁹ *The Range of Reason* (New York: Charles Scribner's Sons, 1952), p. 28.

5.1 Moral knowledge

How can we know what morality demands of us? How can we know that there are universal and objective moral rules? Maritain starts by drawing our attention to the analogous character of the concept of knowledge.²⁰ We can learn about moral virtue, the divine reality, and the nature of the world in one of two ways, Maritain writes: “through science” or “through inclination.”

The former sense involves the intellect alone; it is a conceptual, discursive, and purely rational knowledge, starting from first principles and from the evidence of our senses, employing careful judgement and reasoning well, we can come to know a good deal about the world.

The latter sense – knowledge through inclination (which Maritain also refers to as connatural knowledge, and knowledge through union, connaturality or congeniality²¹) – involves none of the above; it is “immediate” and “without any conceptual and rational medium.”²² Yet, although it is not rational, connatural knowledge is still knowledge and an “objective means of knowing.”²³ It has a role in mystical experience, poetic knowledge and in moral feeling or experience – but not in metaphysics. Indeed, knowledge of basic moral principles is the paradigm of connatural knowledge.

Thus, when it comes to the matter of moral knowledge, we may possess “moral science, the conceptual and rational knowledge of virtues” – this involves the intellect alone.²⁴ It involves an awareness of the first principles of natural law, our knowledge of the world, and observation of human nature, our ability to draw particular conclusions based on this information, and so on.

However, Maritain writes, “the judgements in which Natural Law is made manifest to practical Reason do not proceed from any conceptual, discursive, rational exercise of

²⁰ *Range of Reason*, p. 22.

²¹ *Range of Reason*, p. 23.

²² *Range of Reason*, p. 27.

²³ *Range of Reason*, p. 24.

²⁴ *Range of Reason*, p. 23.

reason; they proceed from that connaturality or 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.”²⁵ The natural law, then, is known – or, better, discovered – not by any conceptual process, but “through looking at and consulting what we are and the inner bents and propensities of our own being.”²⁶ Here, the intellect operates “together with affective inclinations and the dispositions of the will, and is guided and directed by them.”²⁷

Maritain (following St Thomas) calls this way of knowing synderesis. It is in this way that we know (or, better, discover) the natural law; it is not by means of conceptual knowledge or reasoning.

Now, what is it that synderesis provides?

On Maritain’s and Aquinas’s view, it gives us the first principles of morality and, specifically, the first principle “Good is to be done and sought after, and evil is to be avoided”; all other precepts of the natural law are based on this (see *Summa Theologiae*, I-II, q. 94, a. 2, resp.). Synderesis serves as a first principle for practical reason – reasoning about how to act – in the same way in which, Aquinas writes, the law of non-contradiction serves as a first principle of speculative reason.

Because these first principles of morality are known directly and “in an undemonstrable manner”, they are indubitable and foundational. And so it should be no surprise that individuals “(except when they make use of the reflective and critical disciplines of philosophy) are unable to give account of and rationally to justify their most fundamental moral beliefs.”²⁸

This is not, however, to say that moral knowledge is innate. (While Aquinas says that synderesis is an innate disposition²⁹, it does not follow from this that what one is disposed

²⁵ *Range of Reason*, p. 27.

²⁶ *Range of Reason*, p. 22.

²⁷ *Range of Reason*, p. 23.

²⁸ *Range of Reason*, p. 27.

²⁹ See D.J. O'Connor, *Aquinas and the Natural Law*, London: Macmillan, 1967, p. 42.

to know is innate. Rather, we ‘pick up’ such knowledge by the experience of living and via self-observation (though direct and immediate awareness).³⁰) Once given these principles, and given the rational character of moral science, we can infer, for example, natural laws.

In short, the natural law is natural because its principle – and, in some cases, parts of the law itself – are known naturally in virtue of our knowledge of our own inclinations. By emphasising the role of connatural knowledge, Maritain extends St Thomas’s view (see *Summa theologiae* I-II, q. 94, a. 2 and *On the Sentences*, II, 24, 2, 3, c). This point also helps to address some of the challenges to natural law theory.

5.2 Comments on the epistemological dimension of natural law

How would Maritain deal with the objection that moral knowledge appears to vary and is not uniform throughout humanity? In other words, how does Maritain deal with the apparent historical and contingent character of moral belief?

Maritain begins by noting that human beings are historical animals. Their knowledge, then, occurs in time and in a social context, but it does not follow that it is reducible to that. It is over time that we have been able to see, for example, what our human inclinations are and what they are not. And so, like our scientific knowledge, our “knowledge of Natural Law progressively developed, and continues to develop.”³¹ Thus, there can be differences in what is known, and there can be progress in moral knowledge.

The fact that there is diversity concerning moral knowledge does not by itself entail that all such claims have equal weight or plausibility. It may simply be that some have, for contingent reasons, come to know certain laws that others have not. For one to fail to have this ‘self-evident’, indubitable and genuine knowledge is not due to any problem in the nature of knowledge or in the nature of the thing known, but is due to some defect in the knower.

Some have objected that, by appealing to synderesis and to connatural knowledge, Maritain is basing moral knowledge on intuition. Since different people have different

³⁰ See Milton A. Gonsalves, *Fagothey's Right and Reason*, 9th ed., Columbus, OH: Merrill Publ. Co., 1985, p. 115.

³¹ *Range of Reason*, p. 27.

intuitions, how can this knowledge – i.e., true for all human beings. Maritain replies, however, that, although moral knowledge—specifically, knowledge of first principles—is not known through discursive reason and is undemonstrable, it is not inconsistent with rationality; “the inclinations in question... are essentially human, and therefore, reason-permeated inclinations; they are inclinations refracted through the crystal of reason in its unconscious or pre-conscious life.”³² Indeed, even though our fundamental moral beliefs are undemonstrable, Maritain insists that their immediacy to the mind is a token of [but not evidence of?] “their essential naturality” and, hence, they have “greater validity” than the products of human rationality.³³

Maritain’s emphasis on connatural knowledge does not, however, mean that this is all there is to moral knowledge. Apart from these ‘first principles’, some moral knowledge is acquired in other ways. For example, our knowledge of particular moral facts – i.e., that the particular action that one is engaging in is right (or wrong) – is not a product of synderesis. It is, rather, obtained through conscience. (It is important to recognize that conscience is not, however, the same thing as moral intuition. It is, Aquinas says “the act by which the reason applies a universal principle of morality to a particular case” (Summa theologiae, I-II, q. 19, a. 5).) Again, our knowledge of complex moral truths appears to be acquired in a deductive fashion; that is, via the ‘operative’ or ‘practical’ syllogism, we are able to deduce what is right or wrong, starting from moral principles together with the facts of the case.³⁴ And, of course, some moral knowledge is acquired through moral philosophy, for it is moral philosophy, Maritain says, that explains and resolves or analyses “a practical truth into its reasons and principles”³⁵ Maritain points out that we must not confuse moral knowledge and moral philosophy. Moral philosophy is a science, whereas moral knowledge falls short of this; moral philosophy comes, as it were, later. But the relation between the two is close. Moral philosophy is a practical science (i.e., it seeks to know for

³² *Range of Reason*, p. 27.

³³ *Range of Reason*, p. 28.

³⁴ See O’Connor, *Aquinas and the Natural Law*, pp. 42-3; 44.

³⁵ Distinguish to Unite: or, *The Degrees of Knowledge*. Tr. under the supervision of G.B. Phelan. New York: Charles Scribner’s Sons, 1959.], p. 315; see p. 326.

the sake of acting³⁶), and it builds on moral knowledge.]

Although Maritain seems to hold that synderesis is infallible³⁷, we can, of course, make errors in moral reasoning. Our reason may be defective, conscience may fail, our analyses and explanations may be inadequate. Moreover, it is an error to use tests or methods appropriate to one type of knowledge in determining another type of knowledge (since knowledge and the kind of ‘knowing’ that we engage in depend on the capacities of the knower and the nature of the object known). This latter point is particularly a failure of some contemporary theories of knowledge.

Nevertheless, on Maritain’s view, if we are attentive to the different ways in which we come to moral knowledge, we can avoid a number of the questions raised concerning the ‘self-evident’ character of moral first principles or about the foundations or evidence for inferred moral claims.

5.3 Summary

The natural law, then, is natural, because it – particularly its first principle, “Good is to be done and sought after, and evil is to be avoided”- is known naturally. This first principle is not innate, but is still indubitable and infallible. We explain a differential knowledge of natural law by recognizing that, like all knowledge, knowledge of natural law is progressive. As we come to know more about the world, we come to know more about ourselves; we discover our inclinations over time. But the fact that moral knowledge is acquired over time does not make this knowledge relative, any more than the fact that our scientific knowledge is acquired over time makes it relative.

6. Conclusion

The object of this short essay has been to present Jacques Maritain’s account of

³⁶ *The Degrees of Knowledge*, pp. 311-2.

³⁷ See Thomas Aquinas, *de Veritate*, 16.3; O’Connor, *Aquinas and the Natural Law*, p.42.

natural law. For Maritain, the ‘natural law’ is “an order or a disposition that the human reason can discover and according to which the human will must act in order to be in accord with the essential and necessary ends of the human being.”³⁸ Such an account proposes not only a description of human behaviour, but a standard of moral action and a foundation for human rights..

Maritain’s adopts the view that this law is not only related to human nature, but is known naturally. He believes that, given his arguments concerning the metaphysical and epistemological dimensions, we have a historically sensitive version of a natural law theory that accords with human experience, that bridges the is/ought gap, and that explains how differences in moral knowledge do not count against a natural law view. If we take this approach – an approach that Maritain believes is rooted in St Thomas – Maritain believes that one can respond to at least some of the major criticisms of natural law theory.

There is, of course, more to a natural law theory than an account of its metaphysical and epistemological dimensions. Clearly, more needs to be said concerning its relation to other kinds of law (e.g., what he calls ‘the common law’ or law of civilizations, the positive law, and the divine law – i.e., to God or divine reason). We also need to specify what exactly we know of natural law. (Do we know the all the precepts of the natural law in the same way? Is there any priority among these precepts? Can there ever be any relativity in the natural law?) And it is also important to see how Maritain’s account compares with other natural law theories, especially the ‘rationalist’ accounts that were popular in the eighteenth century.

Nevertheless, it is clear from the discussion throughout this essay that Maritain’s theory is not one that one should hastily reject – and that it should be included among the major moral theories of today.

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³⁸ *La loi naturelle ou loi non écrite*, p. 21; see *La loi naturelle ou loi non écrite*, p. 23, and *Man and the State*, pp. 86 and 88.

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馬里且自然律之形上學與知識論基礎

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內容摘要：今日之倫理學理論 (至少在英語世界之中)，均為功利主義與非存有論理論 (deontological theories) (依康德的作品所畫下的定位) 所主宰。然而我們發現，多少在其後續的發展中演進為，那些鼓勵德性倫理學，女性主義關懷理論，社會契約論與以權利基礎建立的理論。但通常在此討論中所缺乏的 - 由大多數的倫理學教材看來 - 是自然律理論。自然律理論有其很久遠的歷史，起自斯多亞學派，它曾在英美世界以外佔有有力的影響力 (雖然我們必須承認，它已今非昔比)。但在今日它仍有其強有力的辯護者存在 (特別像是葛瑞塞 (Germain Grisez)，若瑟包爾 (Joseph Boyle)，與約翰芬那斯 (John Finnis))。但無論如何它的確缺席於大多數倫理學當代研究之中，甚至當它被提及時，也常是被很快地反對的理論。為何此理論常被忽略或反對？對此我們可給予很多的理由。有些會提起有關是與應然的問題。也即是相反於自然律的基本聲稱所在，一個人不能推論有關應該的道德陳述，以一個人的實際之是的狀態。某些對此理論的攻擊是因它是自然的理論，它穩合於(如英國哲學家墨爾 (G. E. Moore) 所稱的)自然的謬誤，道德資產 (如善或惡) 是「簡單的」，且不可由某個

自然之物加以定義（例如快樂）。某些批評反對自然律理論是因為它們認為所有律則僅只是普通化與習俗，因此無所謂任何普遍道德律的存在。其他人認為自然律理論假設有入性存在，但並無理由可供相信世上有這樣的存在。（例如某些存在主義哲學家，相信並無所謂的人的本質，我們的本性是某種我們對自己的創造。）再次地，有人認為今日有一種廣泛的懷疑論認為無論有此客觀的，普遍道德標準存在與否——也即是說，一種應用於所有人類的標準，無論其文化來源或其所存在的時空。無論如何，即使有此標準存在，我們可能仍可問它們來自於何處？我們可否知道他們是什麼？以及我們可否確定其合法性？本文以馬里且自然律之哲學基礎呈現此成為一種理論的哲學充分理由所在。以提供自然律與道德哲學之間的哲學關係與差異所在。因此自然律是自然的，因它——特別是其第一原理，「善可被作為，惡可被避免。」——是自然地可知的內容。此第一原則並非先天的，但它仍不是天賦的與不可錯誤的。我們可經由所有的知識的認識，解釋對自然律的不同知識，自然律知識是進程的。如同我們對世界知道的更多時，我們亦對自己知道更多；我們發現先天性是超越時間的。但事實上道德知識有超越時間的需求，這一點並不使知識成為關係性的，這一點與科學知識是與時需有的一樣，它是有相關性的。其結論為，此短文的對象已呈現於馬里且對自然律的研究中。對馬里且，自然律是「一傾向的秩序，人可以發現它，並依它人將必須行為以符合人之本質的與必然的目的。」如此的考量提議不僅是對人的行為的描述，亦為對道德行動與人權的基礎標準。馬里且接受的觀念是此律法不僅與人性相關，且自然地被知道。他相信給予其知識論的與形上學的論證面向，我們可有一與人類經驗一致的自然律理論的歷史性地

感知，以作為是與應該的橋樑，且解釋為何在道德知識中之差異性，不是反對自然律的理由。如我們可以採取此進路——馬里且取自植基於多瑪斯的進路——馬里且相信我們至少可以回應對自然律理論的大部份批評。當然自然律理論內有比知識論與形上學更多的考量。明顯地，還有許多關係到其他種律法的需求，(例如，公用法與民法，制定法與神律，——亦即對神或神的理智)。我們同時亦需要標明我們究竟對自然律知道些什麼。(我們是否知道自然律的所有格言？其中有沒有優先性？到底自然律中有無任何關係性？)同時我們可如何比較馬里且的自然律與其他的自然律理論？特別是十八世紀曾一度盛行的理性主義者的想法。雖然如此，很明顯地，通過本文的完整討論，我們不應對馬里且理論完全反對——它應被包含在今日主要道德理論之中。

關鍵詞：自然· 律法· 道德的· 良知· 馬里且