Maritain’s Theory of Natural Law

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Abstract. As moral standards, natural law and the notion of properly functioning human nature have persisted in Western cultures from the dawn of civilization. Medieval Christians developed it in their theologies. However, Enlightenment criticism of medieval thought undermined the credibility of natural law and its authority for modern man. Jacques Maritain (1882–1973) developed a rational foundation for natural law and sought to provide objectivity to natural law precepts. His theory also reestablishes the divine authority of natural law for a world without faith. Maritain locates the primary disclosure of natural law in the conscience’s moral reflection in a controversial act of pre-conceptual or non-conceptual knowledge called connatural knowledge. National Catholic Bioethics Quarterly 15.4 (Winter 2015): 649–655.

Ancient authorities attest to a persistent awareness of the natural law from the dawn of civilization. Medieval Christian thought developed a cosmic vision in which the world is understood to have been divinely created and ordered and given a comprehensive system of law for the ordering of human life in accordance with divine wisdom and its natural law. Enlightenment thinking strove, however, to banish God from the mind of man—in part by replacing the order, purpose, and divine origin of nature with concepts of matter in motion. These attacks effaced reliance on the divine for the authority of natural law. Natural law is now neither well understood nor respected.

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The French Catholic philosopher Jacques Maritain (1882–1973) believed that modern culture manifests—in its inhumane political philosophies, ideologies, and conflicts—the absence of an awareness of natural law.\(^2\) Maritain, himself an earnest friend of natural law, made it his business both to discover the origin of natural law and to bring it back into the public square. He sought guidance in this endeavor in the thought of St. Thomas Aquinas (1225–1274), whose contributions to natural law theory are widely acknowledged.

What did Maritain learn from Aquinas? Aquinas tells us in his *Summa theologiae* that it is man’s substantive and facultative inclinations that reveal the natural law.\(^3\) His hierarchical theory of law acknowledges that natural law owes its content and authority to the Creator and his eternal law. Aquinas’s natural law has many precepts, but his theory does not clearly elucidate how we acquire them.

Maritain, as a philosopher, wanted to present a rational foundation for natural law. He did not want it to be dismissed as merely so many subjective opinions or leftovers of medieval mythology. Yet how does one initially grasp the laws of human nature? Philosophy’s theory of knowledge has much to say about how intelligence abstracts essential concepts from sensible things, but it does not suggest that intelligence abstracts precepts from, say, voluntary choices or concrete actions.

Maritain’s work attempts to account philosophically (not theologically) for a theory of natural law that is both rationally valid and divinely authoritative. His presentation begins with the much misunderstood notion of connatural knowledge. Connatural knowledge is unlike knowledge acquired through abstractive and discursive mental actions: it is a kind of pre-conceptual or non-conceptual knowledge, but it is still, Maritain maintains, knowledge—both informative and useful.

**Knowledge through Connatural Knowledge**

Maritain finds connatural knowledge throughout the range of human cognitive activities. He finds it in poetic, mystical, and moral experience. Reflective moral experience is especially rich in connatural knowledge, and everyone experiences it even if not explicitly aware of doing so. Connatural knowledge typically plays a role during the acting person’s reflective evaluation of possible goals and of means to those ends. Over time, this reason-impregnated region of moral experience becomes familiar. In this realm, the intellect is aware of the soul’s powers, habits of virtue or vice, and their objects.

How does this understanding develop? Habits of abstinence or gluttony, and the concupiscible appetite itself, respond to the solicitations of a pleasurable object. These are commonly experienced—for example, while eating—in pondering the pressing question of whether one might have more. Reflection centers on the inclinations of the concupiscible appetite, the appetite’s habits, and the appetible object. My reflection is

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\(^2\) Jacques Maritain, *Natural Law: Reflections on Theory and Practice*, ed. William Sweet (South Bend, IN: St. Augustine’s Press, 2001). Hereafter, page numbers are given in parentheses in the text. All emphases are original.

\(^3\) Thomas Aquinas, *Summa theologiae* (New York: Benziger Brothers, 1947), I-II.94.2.
aware of a consonance or dissonance between the underlying concupiscible faculty and my usual and habituated inclination. A pang of appetite that is consonant with the underlying facultative inclination may be taken as proper, while an emotion that is dissonant may be taken as improper (20).

The inclination of my concupiscible appetite, on the one hand, manifests my nature’s normal range of satisfaction, which one may characterize as nature’s satisfaction without inflammation, or satisfaction within the limits of my own natural capacity or nature. Juxtaposed to the “natural” inclination of my concupiscible appetite is the acquired inclination of my habit, which on the other hand manifests my virtue or vice.

These pairs, or “couplets,” of natural appetite-and-its-satisfaction and habit-and-its-satisfaction are natural law principles (or building blocks) but not natural law precepts. Here is the reflective milieu where I come to know what is good and bad for me as well as what my character is (20). In reflection on my natural and habituated appetites, I glimpse connatural data and experience the primary and primordial instance of moral knowledge through connaturality, which I may subsequently and reflectively capture in concepts and express in precepts. The movement from pre-conceptual or non-conceptual knowledge to conceptual knowledge is real and significant. However, this knowledge in its “raw” connatural form is where nature is disclosed and is material to my daily selection of pleasurable goods. Turning to Maritain’s treatment of natural law, we see that he distinguishes an ontological element and a gnoseological one.

The Ontological Element of Natural Law

As a metaphysician, Maritain begins his analysis with the reality called “human nature,” which is the constellation of properties and dispositions that make us the rational animals that we are. Maritain refers to this nexus of necessary or essential dispositions as the “ontological” aspect of natural law since it involves a metaphysical component of man, namely, his essence (27–28). The functioning of the essence is significant. Maritain writes, “The first basic element to be recognized in natural law is, then, the ontological element; I mean the normality of functioning which is grounded on the essence of that being: man” (29). The human essence or nature thus provides the “connatural data” that Maritain characterizes as the nature’s “normality of function.” This normality is the proper way in which man should achieve fullness of being in his behavior.

Maritain also characterizes this normality as an “ideal order.” He writes, “Natural law in general (as we have just seen) is the ideal formula of development of a given being. It might be compared with an algebraic equation according to which a curve develops in space. Yet with man, the curve has freely to conform to the equation. Let us say, then, that in its ontological aspect, natural law is an ideal order relating to human actions, a divide between the suitable and the unsuitable, between what is proper and what is improper to the ends of human nature or essence” (29). Natural law is ontological because it is realized in the human essence, and it is ideal inasmuch as it is a projection of the essence’s unchangeable structure and necessities—for example, to provide for a person’s material needs, to form a family, and so forth. Yet
such an expression of the normality of functioning plays a role in measuring human acts. In analyzing the function of law in practical reason, Maritain also identifies a gnoseological element in his theory of natural law (32–33).

The Gnoseological Element of Natural Law

Maritain, having in mind Aquinas’s definition, understands that law is “an ordinance of reason for the common good, made by him who has care of the community, and promulgated.” What does it mean for the natural law to be “promulgated”? Is it a posting on a highway sign saying “STOP” or “55 mph”? No, it is no such posting. It is promulgated when, in the unfolding of a voluntary action, it becomes available to our reason to facilitate the completion of a voluntary action. In the run-up to choosing, we deliberate means-to-ends with regard to their goodness and practicality. Maritain continues, “The second basic element contained in the natural law—I mean, the natural law as known, and thus as measuring in actual fact human practical reason, which is the measure of human acts—is not the ontological element, but the gnoseological element” (32).

So natural law is truly law when it is applied, that is, when the practical reason uses it to measure an action, such as when deliberating over a possible action. This function of natural law, as practical reason’s rule or measure, is called the gnoseological element of natural law. But Maritain observes something more: “So the law and the knowledge of the law are two different things. Yet the law has force of law only when it is promulgated. It is only insofar as it is known and expressed in assertions of practical reason that natural law has force of law. The gnoseological element is therefore fundamental in natural law” (33). The law exists in our nature and is known connaturally through awareness of our inclinations, but it is morally effective when it is involved in our practical reason (or “promulgated”), where it manifests the “force of law” in the evaluation of means to ends.

Having seen that natural law facilitates deliberation and choice, can this connatural knowledge come to be known and expressed in precepts and commands of the natural law? Returning to our illustration of eating food, where an acquired habit of intemperance craves more while an underlying facultative inclination signals the ideal already attained, practical reason expresses nature’s wisdom in the rule “Eat in moderation.” I might follow moderation, ending further consideration. However, if I ignore nature and this rule, eat more, and experience discomfort, then practical reason, again reflecting on the passions and their distress, may express the negative rule “Do not eat to excess.” Reflection on the connatural data thus supports the expression of the natural law in concepts and precepts.

The First Principle of Practical Reason

Following Aristotle, Maritain divides reason into the practical and the speculative. The kind of thought that does things and makes things is called “practical reason,”

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4 Ibid., I-II.90.4.
whereas the kind of thought that simply knows things is called “speculative reason.” There is a principal or maxim in practical reason with which we are all familiar, namely, that one is to “Do good and avoid evil.” This principle is one whose truth is affirmed by everyone who understands its terms. No proof demonstrates it. It is said to be self-evidently true. It is used to demonstrate other principles, which in a sense proceed from it, and it is for this reason called the first principle of practical reason.

For Maritain, the first principle is neither a form of connatural knowledge nor a precept of the natural law. Maritain writes, “The only practical knowledge all men have naturally and infallibly in common, as a self-evident principle, intellectually perceived by virtue of the concepts involved, is that we must do good and avoid evil. This is the preamble and the principle of natural law; it is not the law itself. Natural law is the ensemble of things to do and not to do which follow therefrom in a necessary fashion” (32). Connaturally based precepts may be influenced by personal vice and may be good or evil. How can we be certain which? The first principle of practical reason is the criterion by which assertions of practical reason (expressing ways of doing good or avoiding evil) are judged to be good or evil, and it facilitates in this way the articulation of natural law precepts.

**Natural Law and the Eternal Law**

Having outlined the origin and foundation of natural law, Maritain then turns to the question of its authority. Maritain asserts that the natural law itself is given its definitive meaning only when it is shown to derive from and depend on a suitably high authority, namely, the eternal law (40). Aquinas established his notion of the eternal law in the *Summa theologiae* on the basis of theological arguments. But Maritain insists that the existence of eternal law is also philosophically attainable without recourse to revelation. Maritain’s argument, in outline, philosophically establishes the existence of God, whose wisdom governs the entirety of created being in accordance with his eternal law. This eternal law is in turn the source of natural law: “Because every law is a work of reason, at the source of natural law there must be reason: not human reason but Subsistent Reason, the Intelligence which is one with the First Truth itself; there we have the Eternal Law” (40). All natures, including human nature, derive their inclinations through which they tend naturally toward proper operations and ends because all natures are ultimately ruled and measured by the eternal law (40–41).

Maritain denies that God merely guarantees the value of natural law, as was suggested by some modern critics of natural law. He asserts, “We must go further. We must recognize that the natural law, and the authority of reason as the form and measure of human acts, are not simply rooted in God or guaranteed by God (as every active faculty or power of creatures is) but—and this seems to me to be very important—the divine reason alone is the author of natural law, and natural law emanates from it. It alone causes that law to exist, and it alone causes it to be known, insofar as it is the cause of human nature and of its essential inclinations” (42).

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5 See ibid.
Maritain insists that in the case of natural law, “human reason has no share in the initiative and authority establishing the law, either in making it exist or in making it known” (43). All of the authority of the natural law comes from God. One of the inclinations given to human reason is the human desire to understand truths about God, including his authority and authorship of the eternal law.

**The Primacy of Eternal Law over Natural Law**

How does the natural law come to bind voluntary choices? The natural law obliges in virtue of the eternal law. Natural law possesses its rational character from the divine reason and thus possesses its genuine nature as law from the divine reason. (In keeping with Aquinas’s definition of law, since it is God who has care of his creation, God is its lawgiver.) Natural law would not have the power to oblige if the reason from which it emanates were not the divine reason. Positive human law also obliges by reason of the eternal law since the eternal law is the first source of obligation (45).

Hugo Grotius (a seventeenth-century Dutch jurist), who did not perceive the relation between the order of nature and the eternal reason, mistakenly wrote that natural law, even if God did not exist, would continue to exercise its dominion and authority over us. Yet we ask whether this order (of a natural law that does not emanate from the divine reason) could still be rational, wise, and obliging in conscience? Maritain says no. Maritain says that the divine reason, through the eternal law, is the only foundation for the rationality of this natural order.

Maritain criticizes Aquinas’s scholastic successors who simplified the theory. They neglected the importance of knowledge through inclination and the analogy of law. They separated the order of nature from the eternal reason: man still knew conceptually of a natural law but it was a natural law that no longer participated in the eternal law, with the result that God functioned merely as guarantor of this order. The order of nature was said to be sufficient to itself and known by conceptual and discursive reason (46).

This severance of nature from God occasioned for later atheist philosophers the question of why one should be obliged in conscience by a purely factual order. If God did not exist, the natural law lacked obligatory power. If natural law does not involve the divine reason, it is not law; and if natural law is not law, it does not oblige (47). Yet natural law does oblige, and Maritain builds his theory on this obligation despite or even contrary to modern criticisms. That is to say, since natural law obliges, Maritain reasoned that it has authority and, ultimately, a divinely authoritative author.

**Tensions and Challenges**

Some of the properties of Maritain’s natural law, especially the notions of conatural knowledge and divine authority, do not fit well in the broader, contemporary philosophical community of today. What I am aware of in consultation with my nature at any one time, in any one voluntary act, is but one small part of the law. This knowledge is specific and relevant to the matter at issue before me in a way that
a schema of previously acquired precepts may not address. Connatural knowledge
of human nature underlies the validation of deliberation and ultimately free choice.

From this immediate knowledge, the larger scheme of moral understanding
emerges. Knowledge of natural law is obtained in routine moral experience, but
the foundation of natural law in regard to both its existence and its authority lies in
the divine wisdom. Therefore, Maritain’s theory of natural law connaturally known
is cognitively valid and divinely authoritative. The morally earnest person should
enthusiastically explore and virtuously follow natural law insights.