

JACQUES MARITAIN AND NATURAL RIGHTS: THE PRIORITY OF METAPHYSICS OVER POLITICS

David Klassen

Much of the discussion in recent years among philosophers about the rights of the person has been framed by the “liberal-communitarian debate” which became the subject of anthologies beginning in the 1980s, and which traces its origins to questions arising out of the publication of John Rawls’s *A Theory of Justice* in 1971.¹ The main tenets of “liberalism,” as represented by thinkers such as Rawls and Ronald Dworkin, include the importance of individual rights and a belief that the individual is the originator and ultimate bearer of value. In contrast, the term “communitarianism” has been applied to the views of those who stress the importance of communal and public goods, and who hold that values are rooted in the customs and traditions of communities.² Within that framework of contemporary discourse, some commentators – for the most part Catholics who are sympathetic to communitarianism – have claimed that Jacques Maritain’s theory of the natural rights of the human person, put forward decades earlier in works such as *The Rights of Man and Natural Law (RMNL)*, *The Person and the Common Good (PCG)* and *Man and the State*

¹ See Michael Moreland, “Jacques Maritain, Thomism and the Liberal-Communitarian Debate,” *The Failure of Modernism: The Cartesian Legacy and Contemporary Pluralism*, ed. Brendan Sweetman (Washington, D.C.: The Catholic University of America Press, 1999), pp. 141-54. Note 4 at p. 142 gives a brief summary of the debate and cites some major contributors and anthologies.

² See *The Oxford Companion to Philosophy*, s.v. “communitarianism” and *The Routledge Encyclopedia of Philosophy*, s.v. “community and communitarianism” for more detailed discussion of the meaning of “communitarianism” and “liberalism” in the contemporary context. I have chiefly relied upon *The Oxford Companion* for the definitions given. According to the *The Routledge Encyclopedia*, those who have been described as “communitarians,” such as Alasdair MacIntyre, Charles Taylor and Michael Sandel, “for the most part avoid the term.”

(M&S),³ is a liberal aberration that is in conflict with his otherwise communitarian political philosophy.

I intend to show how Maritain's doctrine of natural rights is supported and justified by his philosophical understanding of the person and to answer those who have accused him of inconsistency in advocating both personal rights and the importance of the community and the common good. If I am correct, Maritain's critics of recent years have failed to appreciate his metaphysics of the human person, and hence they have not understood the way in which his doctrine of natural rights transcends the purely political categories of communitarianism and liberalism. For Maritain, the individual person is not the originator of value, as is the case for liberalism; nor is value relative to the community or bestowed upon a person by the community, as is the case for communitarianism. A person's value, according to Maritain, is derived primarily from having a spiritual personality in the image of God and from being in relation to the absolute and divine order.

I. Criticism of Maritain

A seminal work in a line of articles in which Maritain has been criticized for failing to present a coherent view of person and society is Frederick J. Crosson's "Maritain and Natural Rights" (1983). Crosson contends that Maritain's attempt to defend democracy and human rights led him to "assertions which were internally inconsistent as well as inconsistent with the basic context of political philosophy in which

³ Quotations from Maritain's works are cited in the text with the abbreviations listed below, and the works are referred to in the text by the same abbreviations:

RMNL: *The Rights of Man and Natural Law* (New York: Charles Scribner's Sons, copyright 1943, publication 1949).

PCG: *The Person and the Common Good* (Notre Dame, IN: University of Notre Dame Press, 1966; copyright 1947 by Charles Scribner's Sons, copyright 1946 by *The Review of Politics*).

M&S: *Man and the State* (Chicago: University of Chicago Press, 1951; Washington, D.C.: The Catholic University of America Press, 1998).

he worked.”⁴ Michelle Watkins and Ralph McNerny, in an article entitled “Jacques Maritain and the Rapprochement of Liberalism and Communitarianism,” cite both Crosson and Alasdair MacIntyre to support their case that “Maritain sought to synthesize two inherently incompatible political doctrines.”⁵ According to Watkins and McNerny, such liberal concepts as freedom and human rights are “at the theoretical level in serious tension, if not inconsistency, with his overall communitarian framework.”⁶ Similarly, Deborah Wallace agrees with Crosson’s critique insofar as she says that Maritain is not faithful to Thomas Aquinas’ theory of natural law when Maritain proposes rights that are said to exist prior to community bonds.⁷

Although the issue of Maritain’s fidelity to Aquinas has been raised by some critics and will arise incidentally in this essay, I do not intend to focus on it. I am more interested in the internal consistency and plausibility of Maritain’s own thought, and in examining the way in which his doctrine of natural rights is supported and justified by his philosophical understanding of the person.

II. Maritain’s arguments for the natural rights of the person

The rights themselves are said by Maritain to be correlative to the person’s obligations to fulfil his or her necessary ends under the natural law, as will be seen in the second argument discussed below. They include rights that belong to the natural law strictly speaking and which are universal and invariable in the nature of things, including

⁴ Frederick J. Crosson, “Maritain and Natural Rights,” *Review of Metaphysics* 36 (June 1983), p. 911.

⁵ Michelle Watkins and Ralph McNerny, “Jacques Maritain and the Rapprochement of Liberalism and Communitarianism,” *Catholicism, Liberalism and Communitarianism*, ed. Kenneth L. Grasso, Gerard V. Bradley and Robert P. Hunt (London: Rowman & Littlefield Publishers, Inc., 1995), pp. 151-72 at 152.

⁶ *Ibid.*, p. 170.

⁷ Deborah Wallace, “Jacques Maritain and Alasdair MacIntyre: The Person, the Common Good and Human Rights,” *The Failure of Modernism*, pp. 127-40 at 137. Cf. Crosson, pp. 903-04, 907, 909, 911.

the rights to existence, to personal freedom in the sense of being an agent responsible for one's acts before God and community, and to the pursuit of perfection in the moral life. A second tier of rights, including the right of private ownership of material goods, belongs to the law of nations or *jus gentium*. Such rights are known through rational knowledge and follow in a necessary manner from the natural law strictly speaking. The third tier of rights, such as the "freedom from want," corresponds to requirements of the *jus gentium*, but such rights are contingent in that they are to be fulfilled by the positive law in particular circumstances that vary in different societies (M&S, 97-101; RMNL, 79-80).

Maritain gives two main arguments in the following passage for concluding that the human person is by nature endowed with rights:

The human person possesses rights because of the very fact that it is a person, a whole, master of itself and of its acts, and which consequently is not merely a means to an end, but an end, an end which must be treated as such. The dignity of the human person! The expression means nothing if it does not signify that, by natural law, the human person has the right to be respected, is the subject of rights, possesses rights. These are things which are owed to man because of the very fact that he is man. The notion of right and the notion of moral obligation are correlative. They are both founded on the freedom proper to spiritual agents. If man is morally bound to the things which are necessary to the fulfillment of his destiny, obviously, then he has the right to fulfill his destiny; and if he has the right to fulfill his destiny he has the right to the things necessary for this purpose. (RMNL, 65)

The first argument is from the nature of the person. Maritain says that the person, who is an end and not a means, and who has dignity, must be treated accordingly. Therefore, according to natural law, the human person is the subject of rights. This argument depends on two main premises: (1) that the person is, in its essential nature, characterized by attributes such as self-mastery, being a whole and not a part, and being an end and not a means, and hence has a high degree

of perfection and dignity;⁸ and (2) that in the nature of things those very attributes entail the possession of rights. In other words, the argument presupposes a high view of the human person, and that in the nature of things the good inherent in the person demands or calls for a fitting response on the part of others, giving rise to rights. In sections III and V of this paper, I will discuss how Maritain arrives at the qualities he attributes to the person. For now, let it be noted that there is an underlying optimism on his part, which is apparent not only in his high view of the person, but also in his belief that there is a natural law wherein the good is respected and personal dignity is accorded rights.

The second argument, based upon the moral obligations of the natural law, specifies that the rights in question pertain to the teleology of the human person. The natural law requires the human person to put itself in tune with certain necessary ends, as Maritain explains several pages earlier:

This means that there is, by very virtue of human nature, an order or a disposition which human reason can discover and according to which the human will must act in order to attune itself to the necessary ends of the human being. The unwritten law, or natural law, is nothing more than that (RMNL, 61).

Because the person has the *obligation* to act in accordance with his necessary ends and thereby to fulfil his destiny, Maritain reasons that the person has the *right* to fulfil his destiny and a *right* to the things necessary to do so. He presupposes a rational order in the universe, wherein the person is not burdened with obligations that cannot be fulfilled. As with the first, Maritain's second argument for the existence of rights is grounded in an optimistic view of the nature of things.

⁸ As to perfection of the person, Maritain at PCG, p. 32, note 24, quotes Aquinas: "Person signifies what is most perfect in all nature – that is, a subsistent individual of a rational nature' *Sum. Theol.*, I, 29, 3."

III. The person's direct relationship to the absolute and divine order

The most important reason given by Maritain for the dignity of the person, and thus for the rights of the person according to the first line of argument stated above, pertains to the direct relationship of the person to the order of the divine and of sacred things, which he also calls the "absolute." It is in this aspect of Maritain's thought that we find the strongest statement of his high view of the person, here evidenced near the beginning of *RMNL*:

To say that a man is a person is to say that in the depth of his being he is more than a part and more independent than servile. It is to this mystery of our nature that religious thought points when it says that the human person is the image of God. The worth of a person, his liberty, his rights, arise from the order of naturally sacred things, which bear upon them the imprint of the Father of Being, and which have in Him the goal of their movement. A person possesses absolute dignity because he is in direct relationship with the absolute, [in] which alone he can find his complete fulfillment. His spiritual fatherland consists of the entire order of things which have absolute value, and which reflect in some way, an Absolute superior to the world and which draw our life towards this Absolute (*RMNL*, 4).

In telling us that the dignity of the person, and hence its rights, arise because of the person's direct relationship with the absolute order of sacred things and God, rather than being conferred upon the person by the community or mediated by the community, Maritain argues that rights arise prior to the political community. Some commentators, who are mentioned at the beginning of this paper,⁹ have therefore criticized Maritain for promulgating a doctrine of "pre-political" rights that is contrary to the teachings of Aquinas. Maritain, nevertheless, claims to be following St. Thomas when he says that the dignity of the human person is derived from the person's direct ordination to God as its ultimate end (*PCG*, chap. II, 15-19, notes 7 and 8). Moreover, Maritain's

⁹ For criticism of Maritain's doctrine of "pre-political" rights, see Crosson, p. 909, Watkins and McInerney, pp. 168-69, and Wallace, pp. 136-37.

understanding of rights that arise out of the relationship of the person to the divine might more accurately be called “trans-political” rather than “pre-political,” because he argues for rights that claim a priority of transcendence, rather than a temporal priority over the political order.

IV. Metaphysics of the person

Maritain’s metaphysics of the person, set forth in the third chapter of *PCG*, is based upon the hylomorphic doctrine of Aquinas, according to which “the human soul, together with the matter which it informs, constitutes one substance, which is both carnal and spiritual” (*PCG*, 36). According to Thomistic hylomorphism, human persons and all corporeal beings are individuated by matter. The soul, which Maritain describes as “a metaphysical energy,” is also called the form of the body and is the animating principle which determines the species of the corporeal being. The matter, including already formed matter from what Maritain calls “germinal cells, with all their hereditary content,” makes the corporeal being an individual which has a certain quantity and position in space (*PCG*, 35-37). The human being is a special case of corporeal being with a rational and immortal soul.

The soul and body do not each exist on their own as complete beings, but rather soul and matter are “two substantial co-principles of the same being, of one and the same reality, called man” (*PCG*, 36).¹⁰ Nevertheless, Maritain makes a distinction between the way each of the co-principles finds expression in the human being in his discussion of “two poles.” There is a material pole, which Maritain associates with *individuality* and with Pascal’s teaching that “the self is detestable.” The spiritual pole, on the other hand, is associated with *personality* and with the teaching of St. Thomas that person signifies “what is most perfect in nature.”¹¹ This distinction should not, however, be taken to mean that the soul is the person, which Aquinas himself denies even with respect to the soul in its separated state, on the ground that because it retains its unibility to matter, the separated soul is not truly an

¹⁰ The co-principles are soul (i.e., form) and matter, not soul and body. The body may be understood as ensouled matter.

¹¹ *Supra*, note 7.

“individual substance.”¹² The person is properly understood to be the whole human being, the unity of soul and matter, as Maritain points out in his discussion of the individual and the person: “One and the same reality is, in a certain sense an individual, and, in another sense, a person. Our whole being is an individual by reason of that in us which derives from matter, and a person by reason of that in us which derives from spirit” (PCG, 43).

Maritain's metaphysics of the person attributes to the human being as individual those traits which can be associated with *individualism* in a negative sense. Most or all of the *positive* traits that might ordinarily be associated with individuality are attributed to the soul, which is the principle of “personality” as opposed to “individuality” in the sense Maritain uses the words. By using those terms as he does, Maritain is able to build upon and develop the Thomistic metaphysical tradition and, in so doing, to emphasize the distance between what he means by *personalism* and any form of narrow *individualism* that would be inconsistent with a communitarian framework. While proclaiming fidelity to the doctrine of individuation by matter, Maritain's metaphysics nevertheless identifies designated matter as the principle of individuation only in a limited sense, primarily with respect to quantity and location.¹³ The soul, as has been pointed out, is the principle of unity and identity which for Maritain determines the human person to be “that which it is.”¹⁴

¹² Aquinas, *Summa Theologiae* (herein cited as *ST*) I, q. 29, a. 1, ad 5: “The soul is a part of the human species; and so, although it may exist in a separate state, yet since it ever retains its nature of unibility, it cannot be called an individual substance, which is the hypostasis or first substance, as neither can the hand nor any other part of man; thus neither the definition nor the name of person belongs to it.”

¹³ PCG, p. 37: “Corporeal beings are individual because of 'matter with its quantity designated.' Their specific form and their essence are not individual by reason of their own entity but by reason of their transcendental relation to matter understood as implying position in space.”

¹⁴ PCG pp. 35-36. “In every being made of matter, this pure potency bears the impress of a metaphysical energy – the 'form' or 'soul' – which constitutes with it a substantial unit and determines this unit to be that which it is.” See

V. The spiritual personality as the basis of human dignity and human rights

Let us now return to Maritain's first argument for natural rights: "The human person possesses rights because of the very fact that it is a person, a whole, master of itself and of its acts, and which consequently is not merely a means to an end, but an end, an end which must be treated as such" (RMNL, 4). In the next few paragraphs, I will examine Maritain's reasons for saying that the person is a whole, a master of itself and its acts, and an end not a means. This examination will show that each of the aspects of the person that is referred to as a reason for dignity and rights relates to the spiritual pole of the human being rather than to material individuality. Most importantly for the purposes of this paper, the reader will see that for Maritain dignity and rights are rooted in a person's ability and ordination to reach out and communicate and to act for the sake of the greater good, thus distinguishing his theory of human rights from any form of individualism that would conceive of the person as a self-enclosed unit whose rights are in tension with the good of the community.

The human person is a *person*, Maritain tells us, "by virtue of the existence of its soul." The spirit is "the root of personality" (RMNL, 3). Not confined to a merely physical existence, the human person has subjectivity, an aspect of what Maritain calls "spiritual superexistence," which is disclosed not only in the person's interiority to self, but also in his "communications of knowledge and love" (RMNL, 3; PCG, 40-41). Through knowledge, the person is a microcosm that encompasses the universe and therefore is a *whole not a part*. Through love, the person can give freely of itself to others who are in a sense "other selves" (RMNL, 3; PCG, 41). Through communications both of knowledge and love, the person is "directly related to the absolute" (PCG, 41-42). The

also PCG, p. 36: "Because each soul is intended to animate a particular body, which receives its matter from germinal cells, with all their hereditary content, from which it develops, and because, further, each soul has or is a substantial relation to a particular body, it has within its substance the individual characteristics which differentiate it from every other human soul."

direct relation to the absolute is, as has been noted, at the heart of Maritain's understanding of the dignity of the person.

Communications of knowledge and love not only give evidence of the person's subjectivity, but they also show the person to be *master of itself* and of its acts and to exercise existence for itself (i.e., to be *an end, not a means*). Maritain's account of how the capacity to bestow oneself in love implies a subsisting spiritual being that exists for itself and which is endowed with freedom and self-mastery, is as follows:

To bestow oneself, one must first exist; not indeed, as a sound, which passes through the air, or an idea, which crosses the mind, but as a thing, which subsists and exercises existence for itself. Such a being must exist not only as other things do, but eminently, in self-possession, holding itself in hand, master of itself. In short, it must be endowed with a spiritual existence, capable of containing itself thanks to the operations of intellect and freedom, capable of super-existing by way of knowledge and love (PCG, 39-40).

In Maritain's understanding, self-mastery does not arise from or give rise to the right of an individual to exercise instrumental control over its environment or over other persons. It exists by virtue of and for the sake of bestowing oneself in an act of love. Self-mastery in this sense is intimately related to the person subsisting and exercising existence for itself. If the self were merely a relation to others, to the community, or even to God, as sound is related to the air or an idea to the mind, and did not subsist and exercise existence for itself, then it would have nothing of its own to master and nothing to bestow in love. This is part of what Maritain means when he says that the person is an end and not a means. He also quotes Aquinas to support his contention that each human person is willed and governed by God for its own sake:

For the individual that is governed only for the sake of the species is not governed for its own sake, whereas the rational creature is governed for its own sake.... Accordingly, rational

creatures alone are directed by God to their actions for the sake, not only of the species, but also of the individual.¹⁵

It should be noted, however, that Maritain says that being willed and governed for its own sake does not prevent the individual person from being made first for God, secondly, for the order and perfection of the created universe, and only thirdly for itself. He says that being made for its own sake means that the person is made “for the action (immanent and spiritual) by which it perfects itself and accomplishes its destiny” (PCG, 17, note 7).¹⁶ He therefore does not suggest that the person is willed for its own sake in the sense of being made for the arbitrary exercise of its freedom, without regard for the common good. Here Maritain parts company with contemporary liberalism. The individual human person is an end, not a means, created for its own sake, but *not only* for its own sake. In Maritain’s view, the person is willed and governed for its own sake – and therefore has rights – in order that it may freely bestow itself in love for the sake of God and for the perfection of the created community. The view that the person is willed, governed, and has rights in order to bestow itself in love reminds us of the argument for rights based upon the existence of obligations and of the correlation of rights and obligations. It also illustrates Maritain’s contention that there is no conflict between human rights, as he conceives them, and the common good of the community, because those human rights exist insofar as they enable the person’s contribution to the common good.

VI. Political philosophy

Recall that at the beginning of this essay I referred to articles which criticize Maritain for an alleged inconsistency between the basic communitarian framework of political philosophy and the supposedly liberal notion of “pre-political” rights of the person. In addressing that criticism, one might first emphasize that although Maritain does present the reader with a political philosophy, it is not *only* a political philosophy. Everything that Maritain says in regard to natural law,

¹⁵ *Summa Contra Gentiles* (herein cited as SCG) III, 113; as quoted at PCG, p. 19, note 8.

¹⁶ Maritain in his footnote 7 cites ST I, q. 65, a. 2, and Cajetan’s commentary.

natural rights, politics, society and the common good is built upon his metaphysics of the person and upon his understanding of the person's direct relationship to the absolute and the divine. His critics, insofar as they consider him to be a communitarian, mistakenly attribute to him the view that a person's humanity and dignity are derived from the political community and that the natural law is ordered to the community rather than the community to the natural law.¹⁷ But Maritain himself emphasizes that it is our common human nature, not society, the community or the individual will, that determines the content of the natural law. "I am taking it for granted," he says, "that there is a human nature, and that this human nature is the same in all men" (RMNL, 60; M&S, 85). After citing the precept that "we must do good and avoid evil," which he calls "the preamble and principle of natural law," Maritain says, "Natural law is the ensemble of things to do and not to do which follow therefrom in *necessary* fashion, and *from the simple fact that man is man*, nothing else being taken into account" (RMNL, 62-63). For Maritain, as for Aquinas, natural law is "a participation in Eternal Law," which manifests the order of Divine

¹⁷ Crosson, for example, says that "Maritain of course stands with Thomas Aquinas on the ordering of natural law to the community" (Crosson, p. 897). And Crosson asks whether "the concept of pre-political, inviolable rights can be made consistent with the premise that man is by nature a political animal, i.e. that he *becomes human* and can attain fulfillment *only* through the political community" (p. 911; emphasis added). Crosson misunderstands Maritain insofar as he supposes that Maritain, in speaking of man as a political animal, means to say that it is *only* the community and not man's nature that makes him human. Similarly, Watkins and McInerney attribute to Maritain (in speaking of his "communitarian" side), and themselves appear to endorse the view, that it is the "community that granted the person his dignity in the first place" (Watkins and McInerney, p. 167), that "it is the community and the state that enable this person to become human in the first place" (pp. 168-69) and that "human beings are defined by their political and communal interactions" (p. 169).

Reason (*M&S*, 96).¹⁸ The ultimate end of the eternal law is not a human good such as the common good of the community, but "God Himself."¹⁹

While acknowledging that "man is a political animal," by which he means that "the human person craves political life" (*RMNL*, 6), Maritain maintains that human nature, and therefore human dignity and human rights, are prior to political society by being its preconditions. According to Maritain, "society is born, as something required by nature, and (because this nature is *human* nature) as something accomplished through a work of reason and will, and freely consented to" (*RMNL*, 6).

VII. Conclusion

Because it is based upon a metaphysical understanding of the human person and of the person's relation to absolute and divine things, Maritain's doctrine of natural rights avoids the purely political realm of the "liberal-communitarian debate" of the last twenty or thirty years. Critics of Maritain who claim to have found tensions and inconsistencies between his doctrine that the person has "pre-political" dignity and rights and the "communitarian" aspects of his philosophy have, in my opinion, not given sufficient attention to his metaphysics.

Maritain's metaphysics of the person allows him to avoid the alleged inconsistencies and also provides a plausible foundation for his doctrine of natural rights. His affirmation of the spiritual personality, which is the basis of his high view of the person and of the person's dignity and rights, is in turn firmly grounded in experiences of subjectivity and of communications of love and knowledge, which form part of everyday human life. Because the rights he affirms are correlative to obligations to contribute to the common good, and because the common good is defined as the good of persons who are not mere parts, there is no conflict in Maritain's model between the

¹⁸ See *ST I-II*, q. 91, aa. 1-2.

¹⁹ "But the end of the Divine government is God Himself, and His law is not distinct from Himself. Wherefore the eternal law is not ordained to another end" (*ST I-II*, q. 91, a.1, ad. 3).

two. The common good “presupposes the persons, and flows back on them, and, in this sense, is achieved in them” (PCG, 51). If Maritain is correct in claiming that there is no inherent contradiction between rights of the individual person and the common good, then the contemporary “liberal-communitarian debate,” at least with respect to the issues treated in this paper, suffers from a false dichotomy brought on by an inadequate understanding of the person as nothing more than a political actor.

Ralph McInerny, in a tribute published subsequent to the article he co-authored with Watkins, asks whether we have unjustly lost the optimism that was Maritain’s, and he recommends *M&S* as an invitation to rethink the way we pose the basic questions of political philosophy.²⁰ In answer to the question McInerny poses, one might respond that there is no less reason for optimism in our day than in Maritain’s, when Stalin ruled the Soviet Union and Hitler Germany. The invitation to rethink our political philosophy ought to be accepted. It is time once again for political philosophy to seek its roots in a deeper understanding of the human person and of the person’s place in nature and before God. The timeless metaphysical questions addressed by Maritain need once again to be considered.

²⁰ McInerny’s tribute to Maritain is found on the back cover of the 1998 paperback reprint of *M&S*, where McInerny is identified as Director of the Jacques Maritain Center, University of Notre Dame. It reads in part: “He devotes particular attention to the concept of rights, since, historically, rights theories were fashioned to supplant the natural law theory to which Maritain as a Thomist gives his allegiance. Maritain provides an ingenious and profound theory as to how natural law and natural rights can be complementary. For this reason alone, his theory remains a fundamental contribution to political philosophy, but it is filled with other gems as well. Was Maritain too optimistic in his appraisal of modernity? Or have we unjustly lost the optimism that was his? *Man and the State* is an invitation to rethink the way we pose the basic questions of political philosophy.”