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ST. THOMAS AQUINAS, JACQUES MARITAIN, AND LAW

DAVID L. GREGORY*

While St. Thomas and natural law are enjoying a renaissance in certain quarters, neither is exactly in vogue in what passes for the contemporary secular legal academy. My secular "pragmatic" colleagues have appropriated jurisprudence unto themselves at many law schools. St. Thomas and natural law consequently are usually given very short shrift, which explains, at least in part, why the legal academy, and the broader culture, are intellectually incoherent and not in good moral health.

The work of St. Thomas Aquinas, the single greatest philosopher and theologian of the past millennium, can do much to repair and restore us. The Catholic Church has always known and understood St. Thomas' achievements, thanks to the brilliant scholarship of, inter alia, Jacques Maritain, supplemented by the encyclicals of Pope Leo XIII and Pope John Paul II.

This note will discuss "only" the timeless contributions of St. Thomas Aquinas and Jacques Maritain to our understanding (and practice) of law. This note will also offer some reflections on Pope John Paul II's insights into the continuing truth of St. Thomas for law, through the vehicle of the encyclicals Veritatis Splendor¹ and

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¹ POPE JOHN PAUL II, ENCYCICAL LETTER, VERITATIS SPLendor (Aug. 6, 1993) [hereinafter VERITATIS SPLendor].

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St Thomas devoted relatively little of his work, if measured purely in quantity, to issues of law. His legal thoughts, however, were, and are, revolutionary and transformative. If he had written nothing else, Aquinas' work on law, standing alone, would make a compelling case for his well-deserved status as the greatest person of the past millennium. Questions 90–100 and 104–105 of the *Summa Theologiae* are at the center of St. Thomas' examination of law, with important related observations in Questions 10, 11, 19, 40, 42, 57, 58, 60, 64, 66, 71, 77, 78, and 79.

Some of Jacques Maritain's most important work on law, written during the worst decades of atheistic totalitarianism's savagery of the mid-century, includes *Essays in Order*[^3], *Man and the State*[^4], and *The Rights of Man and Natural Law*[^5]. Perhaps most significantly, he was a primary architect of the Universal Declaration of Human Rights at the founding of the United Nations.

Issues of law continue to be among the most important questions in philosophy, and issues of philosophy must continue to inform any jurisprudence worthy of the name. Unfortunately, in law schools in the United States, and, indeed, in the legal profession and in the broader secular culture, natural law and the works of St. Thomas and Jacques Maritain are largely unappreciated, and, more commonly, plainly ignored. Pope John Paul II has performed invaluable intellectual service, as the greatest public intellectual of our time, by calling the world to a renewed and serious intellectual engagement with reason, to St. Thomas, and natural law. St. Thomas is an explicit part of the text of *Fides et Ratio*, and, even more centrally, of *Veritatis Splendor* in 1995. I believe that the themes of Jacques Maritain are also part of the important implications and the (sub) text of these encyclicals. He was so close to the heart of Pope Paul VI as to be seriously considered for the College of Cardinals in life and his thought continues to inform the work of Pope John Paul II.

[^3]: JACQUES MARITAIN, PETER WUST, & CHRISTOPHER DAWSON, ESSAYS IN ORDER (Christopher Dawson & J.P. Burns eds., MacMillan Co. 1940) (1931).
[^4]: JACQUES MARITAIN, MAN AND THE STATE (Univ. of Chi. Press 1951).
Laborem Exercens\(^6\) remains one of the Holy Father's most important social encyclicals, and the one for which he reportedly has continuing and special personal affection. As a professor of labor and employment law, and, occasionally, of constitutional law and jurisprudence, since 1982, I find many of the law-related insights of St. Thomas, and of Jacques Maritain, informing much of the structure of the social encyclicals, especially Laborem Exercens,\(^7\) Sollicitudo Rei Socialis\(^8\) and Centesimus Annus\(^9\).

I. ST. THOMAS AQUINAS (1225-1274)

St Thomas was born in 1225 at Roccasecca, a hilltop castle on the route between Rome and Naples.\(^10\) He lived during intellectually interesting times. The translations of Aristotle's writings into Latin questioned the foundations of faith and reason that had stood for centuries. Intellectual ferment was accentuated by the birth of the universities in Italy, France, and England.\(^11\) St. Francis of Assisi's life transformed Italy, and beyond. In the midst of these dramas, Aquinas endeavored to resolve the apparent conflict between faith and reason, and between Catholic theology and philosophy. He intellectually 'baptized' Aristotle.\(^12\) He transformed Aristotle's work, knowing that Catholic Truth could brilliantly inform Aristotle's understanding of 1500 years earlier.\(^13\) St. Thomas thus revolutionized philosophy and theology, and well deserves to be recognized as the greatest thinker of the past millennium.

St. Thomas predictably approaches law in his highly structured, organized, and scientific manner. He begins by laying a foundation for his argument: "law is a thing of reason."\(^14\) "Law

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\(^7\) Id.
\(^8\) Pope John Paul II, Encyclical Letter, Sollicitudo Rei Socialis. (December 30, 1987).
\(^12\) See Maritain, supra note 10, at 17
\(^13\) See id.
is a rule and measure of acts whereby man is induced to act or is
restrained from acting . . . . Now, the rule and measure of human
acts is reason."\textsuperscript{15} The ability to reason is the defining intellectual
characteristic of man; therefore, law pertains to reason.

Law is directed to the "Common Good."\textsuperscript{16} This is a necessary
condition. "The last end of human life is felicity or happiness . . . .
Hence, the law must principally look to the ordination to
happiness."\textsuperscript{17} St. Thomas argued that "law must be directed to
the common happiness of the society, i.e., to the Common Good."\textsuperscript{18}
"Law, properly speaking, regards first and principally the order to
the Common Good."\textsuperscript{19} Law is merely a perversion if not ordained
to the common good.\textsuperscript{20}

St. Thomas' insight that human activity is ordered toward the
common good was not new or revolutionary; it is rooted in
Aristotelian philosophy. Aristotle believed that a lawgiver
intends to make men good.\textsuperscript{21} This is where Aristotle and St.
Thomas begin to part. For Aristotle, the goal of human activity is
happiness in this life; for St. Thomas, human action is ordered to
a higher cause: eternal happiness in the presence of God.
"Human law intends to bring men to virtue, not suddenly but
gradually."\textsuperscript{22} Everything is ordered to a supernatural end, and
the law serves this purpose.

St. Thomas provides what remains the single most lucid
definition of law: "[It] is nothing other than a certain dictate of
reason for the Common Good, made by him who has the care of
the community, and promulgated."\textsuperscript{23}

With this foundational definition for examination of law, St.
Thomas studies law's four familiar manifestations: eternal law,
natural law, human law, and divine law.\textsuperscript{24}

Law is the dictate of reason. As the universe is ruled by
divine providence, so law is ruled by divine reason. "[S]ince the

\textsuperscript{15} Id.
\textsuperscript{16} Id. pt. I-II, Q. 90, art. 3, at 139.
\textsuperscript{17} Id. pt. I-II, Q. 90, art. 2, at 131.
\textsuperscript{18} Id. pt. I-II, Q. 90, art. 2, at 133 (comment by R. J. Henle, S.J.).
\textsuperscript{19} Id. pt. I-II, Q. 90, art. 3, at 139.
\textsuperscript{20} See id. pt. I-II, Q. 92, art. 1, at 190 ("A tyrannical law, since it is not in
accord with reason, is not a law in the full sense (simpliciter); rather, it is a
perversion of law.").
\textsuperscript{21} See id. pt. I-II, Q. 92, art. 1, at 190.
\textsuperscript{22} Id. pt. I-II, Q. 96, art. 2, at 313.
\textsuperscript{23} Id. pt. I-II, Q. 90, art. 4, at 145.
\textsuperscript{24} See id. pt. I-II, Q. 91, at 148 (introductory comment by R. J. Henle, S.J.).
Divine reason conceives nothing from time, that conception must be eternal . . . . Hence it is that this sort of law must be called eternal.\textsuperscript{25} The eternal law is a necessary condition of God's act of creation. "Now God, through His wisdom, is the creator of all things . . . . He is also the ruler of all the acts and movements that are found in each single creature."\textsuperscript{26} All of Creation is subject to eternal law, the universal order of things, the unchangeable truth. "[T]he Eternal Law is nothing other than the idea type in Divine wisdom inasmuch as it directs all arts and movements."\textsuperscript{27} Since eternal law represents the dictate of divine reason, it is not subject to change. "The Eternal Law . . . endures without change, owing to the unchangeableness and perfection of the Divine Reason, the Author of nature."\textsuperscript{28} This quality of eternal law one recalls, was among the insights of Cicero, following Plato's last Socratic dialogue on ideal law.

Human beings are imperfect, by original sin, and incapable of fully grasping the rational order of eternal law. We share in the higher order by natural law. "Natural law is a participation in us of the Eternal Law."\textsuperscript{29} A human being's natural inclinations, or reason, shares in the eternal law. Natural reason, whereby we distinguish between what is good and what is evil, is an imprint of "divine light."\textsuperscript{30} Although the human race is imperfect and incapable of fully grasping eternal law, we can approach an understanding of truth through natural law. Natural law is conscience, which guides us toward the correct action.

Natural law can change by addition; an aspect of the eternal law that was not previously clear becomes so, 'adding' to our understanding of natural law. While eternal law does not thereby change, our understanding of it thereby does. Natural law is an imprint of the eternal law on our hearts. That imprint can grow with time, as our understanding grows. St. Thomas makes clear, however, that natural law cannot change by deletion. As revelation of eternal law, it is subject to divine reason and therefore inviolable.

It is possible to understand the change in the Natural Law.

\textsuperscript{25} Id. pt. I-II, Q. 91, art. 1, at 154.
\textsuperscript{26} Id. pt. I-II, Q. 93, art. 1, at 205.
\textsuperscript{27} Id.
\textsuperscript{28} Id.
\textsuperscript{29} Id. pt. I-II, Q. 91, art. 2, reply 1, at 156.
\textsuperscript{30} Id. pt. I-II, Q. 91, art. 2 at 160.
as a subtraction, that is, that something ceases to belong to the Natural Law which was formerly according to the Natural Law, and, in this sense, with regard to the first principles of the Natural Law, the Natural Law is altogether unchangeable.31

St. Thomas also analyzes human law.32 Human law is more “particular determinations” of certain matters which are “devised by human reason.”33 These are common, everyday rules and regulations promulgated by man. When the lay person not trained in philosophy or law normally thinks of ‘the law’, he conjures up: traffic regulations, the department of motor vehicles, and (maybe, even) Judge Judy, an admittedly banal and insipid witches’ brew of the popular contemporary “culture.” Human laws (for better or worse) are derived according to our fallible reason.34 This is the major distinction between human and natural law.

But there is also a deep connection between the two, since human law is also derived from natural law. As Aquinas writes,

Now, in human affairs, a thing is said to be just from the fact that it is right according to the rule of reason. Now the first rule of reason is the law of nature... Hence every human positive law has the nature of law to the extent it is derived from the Natural Law.35

While much of human law is derived from natural law, there are also points of departure: “[i]f, however, in some point it [human positive law] conflicts with the law of nature it will no longer be a law but rather a perversion of law.”36 In this sense, all authentic and true human laws are derived from natural law. Where they depart from natural law, they no longer have the force of law as manifestations of rational thought. Recall the definition of the law given by St. Thomas: an ordinance of reason for the common good.37 Aquinas’ definition of the law therefore takes on many subtleties. A law is not a law simply because it is enacted by a governmental authority in the regulation of human affairs.

31 Id. pt. I-II, Q. 94, art. 5, at 269.
33 Id. pt. I-II, Q. 91, art. 3, at 165.
34 See id. pt. I-II, Q. 91, art. 3, at 163–64.
36 Id. pt. I-II, Q. 95, art. 2, at 288.
37 See supra note 14–20 and accompanying text.
Even the most mundane positive law can serve a higher purpose: bringing man closer to God through virtue. Where an ordinance subverts this, it is not considered just law.

A tyrannical law, through not being according to reason, is not a law, absolutely speaking, but rather a perversion of law, and yet insofar as it is something in the nature of a law, it aims at the citizens being good. All a tyrannical law has in the nature of a law consists in it being an ordinance made by a superior to his subjects and aimed at being obeyed by them.38

When a law is not ordained for the common good, it is unjust and therefore does not carry the force of law.39 “Positive human laws are either just or unjust. If they are just, they have the power of binding in conscience, a power which comes from the Eternal Law from which they are derived . . . .”40 “[L]aws of this sort . . . are acts of violence rather than laws, as Augustine says, ‘A law that is unjust seems not to be a law’.”41

With regard to human law, St. Thomas does not foresee a regulatory scheme that prohibits all vices. 42 Whereas the sins of murder and theft must be universally forbidden in accordance with natural law, vices of a less grave moral defect need not be.43 This is because St. Thomas regards law as gradually moving man toward greater virtue. Lesser men are not immediately capable of abstaining from all evil, and, if forced to do so, may rapidly deteriorate into even deeper evils.44

Divine law is given to man by God; for example, the Ten Commandments.45 How is this different from eternal law or natural law? The divine law is God’s law in writing, whereas natural law is our participation in the eternal law, which is inherently known to us.46 The divine law serves an important purpose as the guiding light of reason.47

St. Thomas thus envisions transcendent, transformative

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38 SUMMA THEOLOGIAE, supra note 14, pt. I-II, Q. 96, art. 2, at 324.
39 See id. pt. I-II, Q. 96, art. 4, at 326.
40 Id. pt. I-II, Q. 96, art. 4, at 324.
41 Id. pt. I-II, Q. 96, art. 4, at 327.
42 See id. pt. I-II, Q. 96, art. 2, reply 2, at 313.
44 See id. pt. I-II, Q. 96, art. 2, at 313.
47 See id. (noting that men need directive of reason from a divinely given law to achieve eternal happiness).
purposes for law, well beyond (although certainly including) the regulation of human affairs. Through law, man can participate in eternal truths about his nature and the nature of the universe. Where mankind's laws are unjust, law can pervert virtue and subvert understanding of universal truths. Where mankind's laws are just, law can bring us closer to an understanding of the universal order and closer to God.

II. JACQUES MARITAIN (1882-1973)

Jacques Maritain was born more than 600 years after the death of St. Thomas Aquinas. His philosophy is a natural extension of Thomistic thought. Born in Paris, on November 18, 1882, the world of Maritain was very different from that of St. Thomas. While St. Thomas thrived in an era of great intellectual spiritualism, Maritain was immersed in a French philosophical tradition that embraced secular humanism and rejected Catholic thought in the name of "modernism." Maritain's rejection of desolate contemporary thought defined much of his intellectual career. Maritain sought a return to the best of Platonic thought, and lasting resolution of the false conflict between faith and reason. Maritain believed, as did St. Thomas, that the existence of God could be logically demonstrated, as a matter of reason. They directly challenged the "Enlightenment." For Maritain,

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49 See Evans, supra note 48, at ix.

50 See JOHN M. DUNAWAY, JACQUES MARITAIN 14–16 (G. K. Hall & Co. 1978) (noting that late nineteenth century France was an atmosphere of "liberal Protestantism" which, while encouraging free thinking and skepticism, was the "sine qua non of the intellectual elite"). This distinction is not meant to suggest that they can be so easily compartmentalized. They are dependent, living doctrines that draw upon one another. It is only for purposes of clarification that they are separate. See WALLACE FOWLE, JACOB'S NIGHT: THE RELIGIOUS RENASCENCE IN FRANCE 56 (Sheed & Ward 1947) (noting the spirit of the era and its influence on Maritain).


52 See id.

one either accepted "the true God or radical irrationality." Maritain's adherence to the essential demonstrability of faith by process of deduction from self-evident principles lies at the core of Thomism. Maritain spent his career in the service of Thomistic thought, examining its subtleties and applying it substantively to contemporary problems.

Maritain agreed with St. Thomas that Aristotelian ethics, while essentially sound, suffered from fundamental flaws. The rational end of human action is not happiness in this life, as Aristotle incorrectly and incompletely surmised, but eternal happiness with God. The main vehicle for attaining happiness lay in man's participation in the eternal law, i.e., through natural law. Maritain considered this a considerable improvement on the work of Aristotle, and, quite literally, one of the most important insights in the history of human thought.

Like St. Thomas, Maritain acknowledged the existence of natural law that governed all of Creation. Natural law thus represents man's participation in God's eternal ordering of the universe. While man could never achieve ultimate understanding of eternal law, he could better approach God through natural law. Maritain held that such law is imprinted on nature and imprinted on mankind; it is known to us naturally. How, therefore, can man be cognizant of the natural law, and still commit acts of ferocious inhumanity? Maritain's answer was that all humans do not comprehend natural law equally; disposition is dependent on each individual's abilities and dedication to growth. This distinction flows from Thomistic thought on natural law, and allowed Maritain to counter the criticism that the existence of natural law would imply universal understanding. Maritain defines natural law as "an order or a

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54 Maritain, supra note 51, at 191.
55 See Understanding Maritain, supra note 53, at 163.
56 See Evans, supra note 48, at x–xi (noting that Maritain turned to study the writings of St. Thomas Aquinas around 1909 and that his thoughts are based primarily on the principles of Aristotle and St. Thomas).
57 See Maritain, supra note 51, at 53–55.
58 See Understanding Maritain, supra note 53, at 297.
59 See id.
60 See id. at 303.
61 See id. at 305.
62 See id. at 303.
disposition which human reason can discover and according to which the human will must act to attune itself to the essential and necessary ends of the human being.64

Perhaps most important, Maritain sought the practical application of Thomism to contemporary problems. In his preface to St. Thomas Aquinas, Maritain states, “it is not a medieval Thomism . . . but a perennial and ‘actual’ Thomism” that he has in mind.65 “There is a Thomist philosophy, there is no neo-Thomist philosophy. We make no claim to include anything of the past in the present, but to maintain in the present the ‘actuality’ of the eternal.”66 Maritain saw as his duty the revival of Thomism as a doctrine for all ages, not just the Middle Ages. Critics, meanwhile, panned Maritain’s adulation for that “thirteenth-century author.”67 Maritain’s response was one of disbelief. Of what relevance is time to metaphysics? Ideas transcend time and space.

To consider Thomism as a garment worn in the thirteenth century and now no longer fashionable—as though the value of a metaphysical system were to be appraised by some standard of time—is a specifically barbarous way of thinking....What I assert against it is that truth does not pass, does not flow away with history; that the spirit does not disintegrate, that there are stabilities not of inertia but of spirituality and life; intemporal values; eternal acquisitions; that time is in the eternal like a gold piece in the clutch of the hand; and that the mind is above time.68

What was it about St. Thomas that appealed most to Maritain? For Maritain, Thomism “is the only philosophy whose peculiar characteristic is that it is peculiar to nobody, strictly impersonal, absolutely universal.”69 Maritain resisted the criticism that Thomism was only narrow Catholic philosophy, dogma without practical value. He responded that it is not

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64 MARITAIN, supra note 4, at 86.
65 MARITAIN, supra note 10, at vii.
66 Id. at ix. While the philosophical climate in France at the turn of the century impacted Maritain, one cannot ignore the political state of the world at the time. During Maritain’s life, he would witness, again and again, the depths of human cruelty. The horrors of World Wars I and II would strain Maritain’s belief in the inherent rationality of mankind.
67 Id. at xiii.
68 Id. at xii–xiii, xiv.
69 Id. at 18.
Catholicism which is Thomist, but rather it is Thomism which is Catholic; and it is only Catholic because it is universal.\(^{70}\) Truth is truth; it has no boundaries. But his affection for St. Thomas clearly extends beyond an appreciation for the clarity of Aquinas' vision. Maritain writes of St Thomas as a teacher, a friend, but always in awe of the power of St. Thomas' intellect and his soul. Martin said:

He had only one thing to do and he did it well. Look for him, Thomas, the son of Landulf and Theodora, where was he to be found? Obliterated, lost in the light. A sign so pure that it disappeared before it was pointed out—you looked at him and you saw what he showed you, that, and the radiance of the face of God.\(^{71}\)

Through his dedication to authentic humanism in continuity with Thomistic thought, Maritain lived his words, and, in the process, left his greatest legacy. Maritain was closely involved in the drafting of the United Nations Universal Declaration of Human Rights of 1948.\(^{72}\) He served as French ambassador to the Vatican until 1948, during a particularly tumultuous time in France following the war.\(^{73}\) Maritain was later appointed President of the French delegation to the UNESCO Conference in Mexico City.\(^{74}\) His work influenced countless persons, not the least of whom was Pope Paul VI, who referred to himself as a disciple of Maritain and even cited Maritain in one of his encyclicals.\(^{75}\) For Maritain, philosophy was nothing if it was not practical. He lived and wrote through the worst totalitarian atheist genocide of Hitler and Stalin. Reintegration of living Thomism into daily lives of men and of governments was an important part of Maritain's proposed solution, for example, through the Universal Declaration of Human Rights.

Maritain remained humble. He saw his work as carrying on the tradition of intellectual spirituality. Maritain summarized his life:

\(^{70}\) See id.

\(^{71}\) Id. at 14.

\(^{72}\) See UNDERSTANDING MARITAIN, supra note 53, at 163.


\(^{74}\) See id. at 212

\(^{75}\) See DUNAWAY, supra note 50, at 23 (noting that Maritain's influence on the Pope was so profound that he considered himself to be a disciple of Maritain).
They would realize finally that my purpose is not ‘to proclaim order’ but rather, to the limit of my strength and as long as my voice holds, to summon workers who will devote themselves under the guidance of the Angelic Doctor, to ‘making order’ in accordance with the truth. In the sphere of philosophy this task has long since been begun; yet it can hardly be said to have begun, because the work to be done is so enormous, so difficult, to do. As far as I am concerned, I consider that I have done nothing as yet.76

III. POPE JOHN PAUL II (1920-PRESENT)

Theologians continue to struggle to explain relationships between body and soul, reason and faith. The flesh and the spirit, it has been said, are entirely separate entities, whereby the body follows that which governs biological nature. This law is entirely subjective and is completely outside the realm of eternal law, which guides the immortal spirit toward salvation. Under this theory, natural law is entirely created by man, for man. In this distorted view, man purportedly has absolute freedom, as the shaper of his own morality. This results in the absurdity of the Supreme Court’s infamous “mystery” language in the Casey abortion decision in 1992.77 St. Thomas Aquinas disagrees; and, as Pope John Paul II notes in his encyclical Veritatis Splendor, the “body and soul are inseparable... they stand or fall together.”78 True natural law, as understood in Thomistic thought, is the unity of the body and soul, whereby the latter guides through God’s divine providence, and the former acts based on that guidance. The body is the conduit through which man acts and the spirit is the moral barometer of that action. The result is the formation of a human conscience guided by the imprint of God’s law on our heart, which we are to follow to an end. That end, of course, is eternal salvation. The Pope highlights the continuing worth of St. Thomas in his two greatest and most enduring encyclicals, Veritatis Splendor79 and Fides et Ratio.80 Pope John Paul II is a formidable, trained philosopher.

76 Maritain, supra note 10, at ix.
78 Veritatis Splendor, supra note 1, at 67.
79 See generally id.
80 See generally Fides et Ratio, supra note 2.
He is usually regarded as, primarily, a phenomenologist, not as a Thomist per se (despite being an alumnus of the Angelicum in Rome). Nevertheless, he does justice to St. Thomas and (implicitly) to law.

Pope John Paul II explains that for man to have absolute freedom, he would have no moral standpoint on which to base his actions, since eternal law would not apply. Man, therefore, does not have meaning until he forms an idea of freedom with which he can ground his morality. One cannot exist independent of the other.

St. Thomas Aquinas, however, dictates that natural law is an imprint of eternal law on our souls. Human laws, which are derived from our ideas of morality, are an imprecise version of eternal law, and we seek to perfect our human law by acting in a way that brings us closer to eternal law, and, thus, to God. As Pope John Paul II writes, “the essential subordination of reason and human law [is] to the Wisdom of God and to [H]is law.” The purpose of our morality is to please God, through whom we attain true freedom in Heaven. Pope John Paul II explains, “The natural law thus understood does not allow for any division between freedom and nature.” Natural law leads to freedom, and both are indisputably intertwined. The Holy Father’s philosophical training as an accomplished phenomenologist, and his deep appreciation of God’s mystery in cultural and human anthropology, are manifest in his encyclical reflections on St. Thomas.

At his core, John Paul II is a priest, and a priest seeks to live as alter Christus and teach others to live on the road to Calvary and the Cross. Pope John Paul II explains the place of God in law. Through natural law, we approach an understanding of divine reason. As such, law is one way for man to follow Jesus.

Through St. Thomas Aquinas’ understanding of natural law, Pope John Paul II explains the relevancy of divine reason in a time when human morality has taken on so many different, distorted shapes that it is often unclear, even to members of the Church, what is right and what is wrong. Abortion is rampant.

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81 See VERITATIS SPLENDOR, supra note 1, at 51-53.
82 Id. at 60.
83 Id. at 68.
84 See Stanley K. Henshaw & Dina J. Feivelson, Teenage Abortion and Pregnancy Statistics by State, 1996, FAMILY PLANNING PERSPECTIVES, Nov. 1,
capital punishment is frequent and unexceptional,\(^5\) and the positions of the Church on sexuality seem completely incredible to many in the secular world.\(^8\) In *Veritatis Splendor*, Pope John Paul II expounds a core understanding of Church teachings; not actual laws, but the basis for law.\(^9\) Who decides what is good and what is evil? For St. Thomas Aquinas and the Pope, the answer is simple and, more importantly, indisputable: God.\(^8\)

Since natural law derives from eternal law,\(^8\) human law must also distinguish between good and evil. Thus the moral dictates and laws of the Church are divine in origin and reflect God's Word. Human law, however, is so varied and contradictory that it seems impossible that the interpretation of God's Word could have created such confusion. Of course, as St. Thomas Aquinas explains, human law is only man's interpretation of God's Word, so, we must expect some degree of human error.

The Pope believes that acting "through blind internal impulse or merely external pressure"\(^9\) is contradictory to Aquinas' understanding of natural law. The conscience guides and the body follows, but it may be easier said than done. Take, for example, Adam and Eve's fall from grace, where man gained knowledge, but lost true freedom. So too, we must choose between good and evil. Since natural law is intended to lead us toward God, we must recognize its importance as a tool for guiding us toward a better society.

Pope John Paul II uses Thomistic thought in *Veritatis Splendor* to explain the proper nature of man.\(^9\) An essential part

\(^5\) Although the recent trend is toward fewer executions, the numbers remain alarming. *See Executioner's Swan Song*, THE NATION, Jan. 8, 2001, at 3 (noting that 2001 could see the end of America's "long love affair with capital punishment").

\(^8\) *See John Cronin, Progressive Ideas are for the Faithful*, BOSTON HERALD, Dec. 25, 2000, at 23 (noting that "[g]ay Catholics who seek to gain recognition as sincerely devout Catholics who wish to present themselves as participants in their church are rebuffed").

\(^9\) *See id. at 51; see also Summa Theologiae, supra note 14, pt. I-II, Q. 93, art. 6., at 227.

\(^8\) *See Summa Theologiae, supra note 14, pt. I-II, Q. 91, art. 2, reply 1, at 156; see also Veritatis Splendor, supra note 1, at 59.

\(^9\) *See id. at 59.*
of this is recognizing natural law, and, thereby, living God’s Word. With the rise of secularism and the resultant questioning of man’s morality, the Pope believes that now, more than ever, we must return to a fundamental understanding of law’s meaning. Thomism is a call to realize the law’s significance as a higher authority, and to treat it as such, with dignity and humility. Thomistic thought remains an innovative and creative force that is shaping thought and action within the Catholic Church and the secular world.

IV. CONCLUSION

Friar Giacomo di Viterbo, Archbishop of Naples, often said to me that he believed, in accordance with the Faith and the Holy Spirit, that our Savior had sent, as Doctor of Truth to illuminate the world and the universal Church, first the apostle Paul, then Augustine, and finally in these latest days Friar Thomas, whom, he believed, no one would succeed till the end of the world.

Although spoken some 580 years ago, the testimony of Bartolommeo di Capua, at the hearing of the case for the canonization of St. Thomas, resonates today. The world has become more confused since the time of Aquinas. Time for reflection and thinking, and for contemplation and worship, has become very precious. The pressures of contemporary life make extraordinary demands on our time and our integrated humanity. Free moments are often spent recuperating from physical or mental exhaustion, leaving no time for quiet contemplation. This can be true in any vocation, but it is particularly true in the law. Is it any wonder that lawyers, especially young lawyers, have among the highest dissatisfaction rates of any profession? Attrition is enormous. Many lawyers routinely question their purpose, wondering why they went into the law in the first

92 See id. at 51–54.
93 See MARITAIN, supra note 10, at 1 (quoting the testimony of Bartolomeo di Capua at the hearing for the canonization of St. Thomas Aquinas on August 8, 1319).
94 See John Caher, Convocation Aims to Address Problems on Young Lawyers, 224 N.Y. L.J. 91 (noting that the Chief Judge of the New York Court of Appeals, Judith Kaye, expressed her concern over many people leaving the profession).
Many lawyers have become separated emotionally, psychologically, and spiritually from their work. Mired in secular confusion, many fail to understand their higher vocational purpose, and would dismiss summarily the relevance of a philosopher dead for seven centuries. But those searching for some greater purpose in the modern world are precisely those who would most benefit from the clarity of vision that St. Thomas, Maritain, and Pope John Paul II can provide. Through Aquinas’ work, lawyers can avoid secular confusion and see the larger truth—their true role in the development of justice—and find greater and true meaning in life.

St. Thomas’ philosophy of law remains revolutionary, with an important role in the ordering of nature and of man. For St. Thomas, “Law denotes a kind of plan directing acts toward an end.” That end is happiness, and the common good; not happiness in the immediate corporeal sense, but, rather, eternal happiness with God. Law is the vehicle to facilitate these objectives. God makes universal truths evident to man through natural law, and through man’s participation in the eternal law. The purpose of law is to lead man to virtue, and, ultimately, to a better understanding of God and nature. In the introduction to St. Thomas Aquinas, On Law, Morality and Politics, William Baumgarth and Richard Regan crystallize this point by stating “[n]ature inclines us toward good habits, but it is not without our own efforts, the prompting of our parents, and the precepts of the law that we are able to acquire the proper habitual disposition. Success in doing so puts us in possession of moral virtue.” There is a great burden placed on lawmakers, and on those who participate in the law, to serve the ends of justice and virtue. Questions on the interpretation of laws and the justice of laws pervade the daily practice of law, and understanding St. Thomas can guide us as an unwavering beacon of light for the legal profession.

Aquinas’ rational principles can help resolve legal issues. For

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95 See id. at 3.
96 SUMMA THEOLOGIAE, supra note 14, pt. I-II, Q. 93, art. 3, at 214.
97 See id. pt. I-II, Q. 90, art. 2, at 127.
99 See id. pt. I-II, Q. 92, art. 2, at 185–86.
example, in question 64 of the *Summa Theologiae*, St. Thomas addresses the killing of a human being, and, specifically, whether accidentally killing someone constitutes murder and is therefore against natural law. St. Thomas says,

> [C]hance happenings, strictly speaking, are neither intended nor voluntary....Wherefore he who does not remove something whence homicide results whereas he ought to remove it, is in a sense guilty of voluntary homicide....[W]hereas if he be occupied with something unlawful, or even with something lawful,... he does not escape being guilty of murder, if his action results in someone's death.

What Aquinas is talking about here is negligent homicide and felony murder, both of which remain controversial subjects in criminal law. The essential question here is whether a person, occupied with something unlawful, and who thereby causes death, be guilty of murder? Aquinas seems to say yes. Aquinas also recognizes the existence of negligent homicide, at least in a limited form. These remain real questions facing the contemporary legal community, and the debate would no doubt benefit from an understanding of the rich Thomistic tradition.

Thomism, applied to the contemporary world, can aid us on the grandest scale, resolving, for example, the ideological debate of the last century between communism, socialism, and capitalism. Maritain, in continuity with Thomistic thought, regarded the best political community as one that recognizes that human activity is ordered toward a spiritual end.

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102 Id.


association, including one on the national level, must acknowledge God. Maritain inherently rejects fascism and communism, as they deny God, and degrade spirituality and human rights. Maritain sought a political system that respected the inviolability of human rights as a precept of natural law; hence, the Universal Declaration of Human Rights. Any system of laws that does not accept the existence of 'natural' human rights is not a system of laws, but a perversion of law in rejecting natural reason.

One has only to take a stroll in cyberspace to realize that Thomism is alive and well. Numerous organizations and web sites have dedicated themselves to the exposition of Thomism, and incorporate the work of Jacques Maritain, including, perhaps most prominently, the Maritain Center at the University of Notre Dame. The modern Thomistic revival began with Pope Leo XIII's encyclical *Aeterni Patris* (Of the Eternal Father, 1879). Encyclicals in the years since have assured that Thomism remains a leading school of contemporary thought in the Catholic world. It is Thomism's ability to transcend time, space, and religious boundaries that make his a revolutionary doctrine. As Maritain said, Thomism, as truth, is universal and ageless.

St. Thomas' indispensable contributions to theology and philosophy are timeless and evermore timely. His adaptation and clarifications of the spectrum of law, from the divine and eternal law, to natural law, to positive law, ensures that the insights of Plato, Aristotle, and Cicero remain at the center of any coherent, fair, and good jurisprudence. Pope Leo XIII and Pope John Paul II especially remind the world of the centrality of St. Thomas' thought. Law per se was admittedly not at the heart of St. Thomas' work. While his writing on law is quantitatively only a small portion of the massive corpus of his work, qualitatively it is

105 See id. at 252.
106 See id. at 139-40.
107 Maritain said, "I hope to see restored, in a new world, and for the informing of a new matter, the spiritual principles and the eternal norms of which medieval civilization, in its better periods, presents us but with a particular historical realization." JACQUES MARITAIN, ST. THOMAS AQUINAS (1930), http://www.nd.edu/Departments/Maritain/etext/thomas0.htm.
an important part of his intellectual enterprise.

The same can be said of the work of Jacques Maritain. Perhaps it took the unprecedented mass murders by the atheistic, totalitarian regimes of the twentieth century to demonstrate most convincingly that we ignore St. Thomas’ work on law at civilization’s great peril. Maritain’s maturing political philosophy, examining the relationships among God, man, and the state, developed during the pernicious metastasizing of the Nazi regime. Maritain and the world were witness to the vicious consequences of the repudiation of St. Thomas’ schema on law. The crucible of the mid-twentieth century, 1930-1960, provided Maritain with the world stage view from which to reintegrate St. Thomas’ work on law into the shredded jurisprudential fabric.

The same can be said of the work of Pope John Paul II. Maritain witnessed the Nazi horror and its Stalinist twin as a survivor in exile. Pope John Paul II’s witness was more immediate and face-to-face, pressed into forced labor as a clandestine seminarian and remaining in opposition to atheistic totalitarianism to the present day.

Two of the greatest philosophers of the twentieth century—Pope John Paul II and Maritain—eloquently and poignantly understand the price the world paid in innocent blood when the raw power of atheistic totalitarianism repudiated St. Thomas’ wisdom on the meaning and role of law.

Law continues to inform many, if not most, micro and macro relationships. St. Thomas’ view of law continues to be true. In quantitative terms, law should not consume our lives, or artificially compartmentalize us, in rigid, brittle ways—we need not quibble, for example, over, the “meaning” of “is.” Instead, law should infuse our understanding and our actions with joy, justice, fairness, decency, and goodness. As Jesus taught, He came to fulfill the law, not to destroy the law. Until all is fulfilled, not the least bit of the law will pass away. Concomitantly, the greatest commandment is love—love of God, and love of neighbor—with the essence of the law encapsulated and made manifest in love. As Cardinal O’Connor reminded us with his

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110 See Matthew 5:17 (New American Bible).

111 See Mark 12:31 (New American Bible).
motto, there is “No love without justice.” In the end, as St. Paul reminds us, without love we are nothing.


113 See 1 Corinthians 13:2 (New American Bible).