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NATURAL LAW MORAL EPISTEMOLOGY: NATURALIST, INTUITIONIST OR BOTH?*

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I. Introduction

The subject of this paper is the epistemological background of the natural law theory (hereafter "NLT"). My main concern is to contribute to the recent discussion in explaining the knowledge of natural law (hereafter "NL"). I will understand "theories of NL" as including basic human goods, principles of practical reasonableness and moral norms. I shall argue that a naturalist and intuitionist moral epistemology can account for the knowledge of all of the mentioned aspects of NL. Moreover, I shall argue that a sound moral epistemology for the NL can explain the self-evident knowledge of all of those aspects. This is, I concede, a controversial claim, and by affirming it I am going beyond of what NL theorists have said on the subject.[1] However, I think that, armed with some recent developments on metaethics, we can achieve this goal.

The theories of NL that I have in mind are those developed by philosophers like John Finnis, Germain Grisez, Timothy Chappell, Robert George, David Oderberg, Mark Murphy and Alfonso Gomez-Lobo.[2] All these writers have developed substantive accounts of NL, including several lists of what are the goods that are basic for human beings, and which are the principles from which practical reason operates.

Before introducing the problem of the knowledge of NL, some comments are necessary. First, all those theories recognize the existence of a finite set of values or goods that ground our practical insight and constitute the core of hu-

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1 This is because first principles, but not specific moral norms, have been considered self-evident. See *Robert P. George,* In Defense of Natural Law, Oxford 1999, ch. 2.

2 The main works of this writers on the topic are: *John Finnis*, Natural Law and Natural Rights, Oxford 1980, *Germain Grisez*, The Way of Lord Jesus, Vol. 1: Christian Moral Principles, Chicago 1981; *Timothy Chappell*, Understanding Human Goods. A Theory of Ethics, Edinburgh 1998; *George* (note 1); *David Oderberg*, Moral Theory, Oxford 2000; *Mark C. Murphy*, Natural Law and Practical Rationality, Cambridge 2001; *Alfonso Gomez-Lobo*, Morality and the Human Goods. An introduction to Natural Law Ethics, Washington D.C. 2002.

man wellbeing. This is what I call – following these writers – the *basic human goods*. Second, these authors also hold the existence of basic principles that are grounded in those goods. For example, there is a consensus on the basic good of knowledge.[3] For any basic good, there is a practical principle that states that such basic good is to be pursued. So, for the good of knowledge, there is a basic practical principle that states that "knowledge is to be pursued".[4] These basic principles are called first order reasons for action. As such, they ground second-order reasons which are the specific moral norms that govern a concrete situation. The process of integrating both types of reasons is done through intermediate principles, which integrate the basic goods into various specific acts and projects. These principles have different names according to the author. Finnis speaks of "principles of practical reasonableness",[5] while Grisez speaks of "modes of responsibility".[6] Gómez-Lobo calls them "prudential guidelines for the pursuit of basic goods".[7] The need for these intermediate principles is that basic goods, as such, do not have a "moral" dimension in the sense that "no moral attributes can be attached directly to them (to be alive or to be sick, as such, is neither morally right nor morally wrong), but morality will be seen to refer back to them".[8] The second reason why they are necessary lies in the absence of an absolute good or a fixed hierarchy of basic goods.[9] Therefore, the moral agent must take into account a number of aspects of the specific field that will allow, in their knowledge and these intermediate principles, to make the best decision in order to perform one or more basic goods in one's life. It is necessary to bear in mind that these principles, as mentioned, are prudential and not merely formal or procedural, since they constitute a substantive dimension of moral reasoning and of the good life. Therefore some authors include this dimension that includes the intermediate principles between basic goods.[10]

The debate about the knowledge of NL has been focused in the self-evidence of basic human goods and those principles that follows from its recognition. Following Mark Murphy,[11] we find two main approaches for explaining the

3 See *David Oderberg*, The Structure and Content of the Good, in: id./Timothy Chappell (eds.), Human Values. New Essays on Ethics and Natural Law, London 2004, p. 129.

4 Finnis says that "the proposition that knowledge is a good worthy of being pursued is a proposition of a kind so foundational and original that it can be called a practical principle, indeed a practical first principle". *John Finnis*, Reason in Action. Collected Essays, Vol. V, Oxford 2011, p. 4. Murphy explains it in same lines: see *Murphy* (note 2), p. 40.

5 See *Finnis* (note 2), pp. 100–117; *John Finnis,* Fundamentals of Ethics, Washington D.C. 1983, pp. 66–78.

6 See *Grisez* (note 2), pp. 189–226.

7 See *Gomez-Lobo* (note 2), pp. 141–147.

8 Ibid., p. 41.

9 See ibid.

10 As *Finnis* (note 2), p. 88.

11 See *Murphy* (note 2), ch. 1.

knowledge of basic goods and first practical principles: derivationist and inclinationist. While the first holds that we can get this knowledge through a derivation from theoretical knowledge, the second affirms the self-evidence of the first principles, without a process of inference from speculative or theoretical knowledge. Murphy says that the derivationist stance is "the popular image of NLT"[12], and has been defended by Anthony Lisska[13] and others[14]. The inclinationist account is offered by John Finnis and his associates[15] and hold essentially that the first principles of natural law are known from non inferential acts of understanding.

Of these two accounts of NL epistemology, I think we have more arguments for supporting inclinationism.[16] Murphy has argued for a "middle way": the speculative propositions about facts of human nature and the practical propositions which indicate the goods that have to be pursued are made true in virtue of the same states of affairs.[17] However, Murphy accepts the core of the inclinationist stance (i. e. self-evidence) and rejects the fact that practical propositions are derived from speculative knowledge (i. e. derivationism). His approach is, in my opinion, more an ontological thesis that an epistemological one, because his is trying to *ground* NL in human nature, and making a relation between the truth values of this two types of proposition in terms of grounding.[18] But this is – though related – a different problem.

I assume that self-evidence is a well established epistemological thesis of NLT. In what follows I will reflect upon the nature of this self-evidence. I will also reflect in what sense we can say that NLT is a naturalist account of morality, as some have said.[19] This must be done within the metaethical framework.

In metaethics there are two main approaches: realism and anti-realism. Realism holds the existence of both moral properties and moral facts, while anti-realism denies its existence. I shall assume (i) the true of realism and (ii) that

12 *Murphy* (note 2), p. 6.

13 See *Anthony Lisska*, Aquinas Theory of Natural Law. An Analytic Reconstruction, Oxford 1996.

14 We can think that, though no explicitly, the critics of self-evidence in the knowledge of NL hold this view. See, for example: *Russell Hittinger*, A Critique of New Natural Law Theory, Notre Dame 1987, and *Lloyd Weinreb*, Natural Law and Justice, Harvard 1987.

15 Within the works on the topic, I think the most relevant are *Finnis* (note 2) and *George* (note 1).

16 A summary of these arguments in *Murphy* (note 2), pp. 6 – 17.

17 See ibid., pp. 17 – 21

18 On the grounding relation in metaphysics, see *Fabrice Correia/Benjamin Schneider* (eds.), Metaphysical Grounding. Understanding the Structure of Reality, Cambridge 2012.

19 See *Hittinger* (note 14), p. 8, and *Lisska* (note 13) on naturalism.

the NLT is a realist moral theory. So, for the sake of the argument, I will not and I need not pursue anti-realism here.[20]

Within realism, there are various approaches, and the characterization of all of them as realist is a matter of dispute. I follow Terence Cuneo in defining realism as a theory that claims the following thesis:

a) Some moral discourse is assertoric.[21]

b) The content of some predicative moral claims are true and, if contents of such claims are true, then, they are true in a realist sense.[22]

c) There are irreducible moral facts.[23]

Some comments: (i) Thesis (A) claim that the moral discourse is, generally speaking, propositional in structure. There are, of course, other uses of language that can be called "moral" and not having this structure. Imperative claims could be one example. (ii) Thesis (B) affirms a cognitivist thesis of moral knowledge, in the sense that, given the propositional structure of moral language, these propositions have truth values and are made true in virtue of the way the world is. (iii) Thesis (C) states the ontological realism of morality, in the sense that there are facts of the world that are irreducibly moral. For "irreducibly" we have to understand that for *M* being a moral fact entails that we cannot give an explanation of this fact through a reduction to other kinds of facts, like natural facts (understanding here "natural" in a physicalist way, as we shall see below).

The above described is what Cuneo calls "a moral realism of a paradigmatic sort". However, within this scheme we have various variants. It is customary to distinguish between two kinds of moral realism: naturalism and non-naturalism. These are not closed and isolated, but overlapping theories. While some naturalists hold metaethical theories which are incompatible with non-naturalist moral realism, others are compatible. They key to understand this compatibility or incompatibility is in the concept of naturalism, or the notion of a natural fact or property that these philosophers hold. As we shall see below in detail, the physicalist conception of naturalism is incompatible with non-naturalism and with an adequate epistemological framework for the NLT.

20 For an excellent general introduction on metaethics, see *Alexander Miller*, An Introduction to Contemporary Metaethics, Malden 2003. Some recent important realist accounts are: *David O. Brink*, Moral Realism and the Foundations of Ethics, Cambridge 1989; *Russ Shafer-Landau*, Moral Realism. A Defence, Oxford 2003; *Michael Huemer*, Ethical Intuitionism, London 2005; *Terence Cuneo*, The Normative Web. An Argument for Moral Realism, Oxford 2007; *David Enoch*, Taking Morality Seriously. A Defense of Robust Realism, Oxford 2011. Some recent antirealist accounts are: *Allan Gibbard*, Wise Choices, Apt Feelings, Harvard 1990; *Simon Blackburn*, Essays in Quasi-Realism, Oxford 1993.

21 *Cuneo* (note 20), p. 21.

22 Ibid., p. 26.

23 Ibid., p. 29.

Naturalism and non-naturalism are usually considered ontological theories regarding the nature of moral properties. Thus, if one is a metaethical naturalist one would consider the moral properties as natural properties. On the contrary, if one is a metaethical non-naturalist one would understand moral properties as a *sui generis* kind of property.

However, this is not the only characterization of the naturalist/non-naturalist debate in realist metaethics. It is true that it is the most important and most debated topic, but there are, nonetheless, other topics that this distinction addresses: one is the above mentioned question about the ontology of moral facts or properties; the other is related to the *epistemology* of moral facts or properties.

Non-naturalism is usually related to intuitionism. Intuitionism is, roughly, the thesis that affirms that there are moral truths that are self-evident. Here we must understand "self-evident" as the lack of derivation of a proposition from another one considered epistemologically more basic. We shall address intuitionism in detail below and its relation to an epistemologically well grounded NLT.

Naturalism is usually related to physicalism or, more broadly, materialism. Physicalism is the assumption that the spatiotemporal reality is all there is. However, in metaethics, naturalism is understood more narrowly. Metaethical naturalism affirms that the moral properties are natural properties, and natural properties are those studied by the science. And science is here understood in its more liberal sense, including physical, biological and social sciences.[24]

However, naturalism need not be committed to this methodological criterion for identifying natural properties. This criterion has its own weaknesses.[25] We can give an account of a natural property and being neutral on its ontological status. We can give an epistemological account of natural (moral) properties which overlaps with intuitionism, unifying the explanatory power of both theories. Since this is not a paper on (pure) metaethics, my main concern is how this unified theory can explain the knowledge of NL.

In what follows, I will (i) expose the main lines of ethical naturalism; (ii) make a critical approach of these lines; (iii) expose the main lines of intuitionism; (iv) argue for an intuitionist understanding of some epistemological accounts within NLT and finally (v) explain the unified theory and its virtues for grounding the knowledge of NL.

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24 This is – although very roughly – the conception of the so called "Cornell Realism". See *Brink* (note 20).

25 These flanks are identified in *Shafer-Landau* (note 20), pp. 58 – 65.

II. Natural Properties and Naturalism (1): Exposition

As I said before, there are two theses that characterize naturalism and non-naturalism, being one of them an ontological thesis which explains (i) the nature of moral properties and (ii) the relation with these with other kinds of properties. Although this paper reflects upon the epistemological thesis of each of those theories, is necessary to devote some time to explain certain ontological respects of naturalism.

Naturalism holds that moral properties are natural properties. Now, what is a natural property? There are various definitions of what a natural property is. Michael Huemer had said that a natural property is a property which can be characterized using non-evaluative terms. This characterization includes not only physical but also psychological properties.[26] So, we can define a natural property as follows

(N1) *N* is a natural property if and only if (hereafter: iff) *N* can be referred in non-evaluative terms.

Given (N1), for Huemer, naturalism is a reductionist theory and, as such, is closer to subjectivism than non-natural realism.

Other philosophers have argued that a natural property is a property which is studied by natural sciences and by psychology.[27] Some include both natural and social sciences.[28] Taking a wide conception of science, then, we can define a natural property as follows:

(N2) *N* is a natural property iff *N* is studied by science.

David Copp has identified at least four distinct conceptions of a natural property, being the first one the reductionist above mentioned. The second is an ostensive conception of natural properties, by which (i) the considered natural objects are defined and (ii) the properties necessary to explain this objects are identified.[29]

(N3) *N* is a natural property iff there is an object *x* that (i) is a natural object, and (ii) *N* is a property which is necessary for explaining *x*'s nature.

The third conception that Copp identifies is a metaphysical conception of the natural, and here we find at least four sub-conceptions. The first sub-con-

26 See *Huemer* (note 20), p. 66.

27 See *Michael Smith*, The Moral Problem, Oxford 1994, p. 17.

28 See *Brink* (note 20), pp. 156 f.

29 *David Copp*, Morality in a Natural World. Selected Essays in Metaethics, Cambridge 2007, p. 37.

ception defines a natural property as factual or descriptive. Copp doesn't go into detail, but we can understand a factual property as a property that an object has "in fact"; here "in fact" could refer to a state of affairs of an object x that obtain.[30] This property, given the above definition, is descriptive; therefore, it has an explanatory role of the object in question. We can, then, define a natural property as follows:

(N4) *N* is a natural property iff (i) *N* can be referred in descriptive terms and (ii) there is an object x such that x actually instantiate *N*.

Therefore, (N4) add to (N1) the condition of being actually instantiated.

The second sub-conception identifies natural properties with properties that are causally efficacious. The third sub-conception defines a natural property as one that can be instantiate in space-time. The fourth identifies a natural property with physical or material properties.[31] The fourth conception[32] of a natural property is epistemological, and holds that a natural property is that which is necessary for give a complete explanation in natural science.[33]

The above mentioned definitions appears to affirm the same meta-philosophical conception, namely, physicalism, which hold that the only entities that exist are those which can study natural science, and specifically, physics as a paradigmatic science. Some philosophers add that such entities are located spatiotemporally. These authors also have argued for the causal efficacy. Considered the latter, we can add all those in an only definition, as follows:

(N5) *N* is a natural property iff (i) *N* is causally efficacious, (ii) *N* is being instantiated in space-time and (iii) *N* is a physical property.

Copp propose an alternative conception of a natural property. For him, natural properties are empirical properties. He proposes to understand the distinction between naturalism and non-naturalism by the epistemological access that we can have to them. His definition of natural property is as follows:

(NE) *N* is a natural property iff any synthetic proposition about its instantiation that can be known, could only be known empirically.[34]

30 This is the classical distinction between states of affairs and facts, being the later states of affairs that obtain. See *Noah Lemos*, Intrinsic Value. Concept and Warrant, Cambridge 1994; *Mark Textor*, States of Affairs, in: Edward N. Zalta (ed.), The Stanford Encyclopedia of Philosophy, Winter 2016 Edition; *Kevin Mulligan/Fabrice Correia*, Facts, in: Edward N. Zalta (ed.), The Stanford Encyclopedia of Philosophy, Spring 2013 Edition.

31 *Copp* (note 29), pp. 37 f.

32 Not to be confused with the fourth *sub*-conception mentioned just earlier.

33 *Copp* (note 29), p. 39.

34 Ibid.

Some comments: (i) the expression "empirical knowledge" refer to knowledge that it's acquired from experience. The notion of "experience" is not an empiricist conception. Empiricism claims that only data from the senses are considered experience properly. He says, for example, that testimony of others counts as experience,[35] and (ii) that the proposition to be synthetic implies that it is to be informative. Naturalist doesn't deny that exist analytic propositions in ethics, and that one can have a priori knowledge from them,[36]

Copp says that the traditional distinction between a priori and a posteriori knowledge could commit the naturalist to deny the synthetic a priori knowledge in ethics, while the non-naturalist would accept such knowledge. However, he says that no empirical knowledge is possible unless we have some synthetic a priori knowledge regarding logical and epistemic fundamental principles.[37] In addition, there is more than one way to understand that empirical knowledge is based in experience. "The naturalist needn't hold that all significant ethical knowledge or warranted belief is based in any *direct* way in experience. Instead, what she ought to say is that all ethical knowledge or warranted belief is 'answereable' to experience".[38] This can be explained from a distinction between two kinds of a priori propositions: weak and strong. The first is a proposition that can be believed independently of experience, but it can't be defeated by experience. "Defeated" means here that it can be empirical evidence against it.[39] Copp, then, proposes that a natural property is a property that the propositions about its instantiation are weakly a priori:

(NE*) *N* is a natural property iff (i) it is possible for *N* to be instantiated and (ii) there are propositions about the instantiation of *N* that are both synthetic and possibly true and (iii) no such propositions is strongly a priori.[40]

A synthetic a priori moral proposition is, on Copp's opinion, a moral generality such as that which affirms that slavery is unjust, or the Kantian thesis that states our duty to treat persons as ends and not merely as means.[41] These generalities can be strongly a priori or weakly a priori. If they can be defeated by experience they are weakly a priori; if, on the contrary, they can't be defeated by experience, they are strongly a priori.

What would be the empirical defeaters which would make some proposition *p* weakly or strongly a priori? Copp gives, to the effect, three requirements for making this distinction: (i) no proposition strongly a priori would admit em-

35 Ibid., p. 44.

36 Ibid., p. 40.

37 Ibid., p. 41. See also *Laurence Bonjour,* In Defense of Pure Reason, Cambridge 1998.

38 *Copp* (note 29), p. 42.

39 Ibid.

40 Ibid., p. 43.

41 Ibid., p. 47.

pirical evidence against it, because any evidence against it would fail to undermine its credibility to an ideal thinker; (ii) any moral generality *M* would be such that would exist some possible experiences that, if actual, would constitute at least prima facie evidence against *M*; (iii) the undermining effect of those experiences on the credibility of *M* for a thinker must no be due to psychological weakness, computing limitations or lack of conceptual repertoire of this ideal thinker. In these circumstances, then, we can affirm that there are no strongly a priori synthetic propositions, this being the central thesis of moral naturalism on Copp's opinion.[42]

An example of an empirical defeater would be moral disagreement with other people, for whom we have no special reason to think that they are in an epistemic position less advantageous than ours:[43]

If it is correct, then moral disagreement can weaken our warrant for our moral beliefs, and since disagreement is an empirical phenomenon, this supports the naturalist's thesis that synthetic moral generalities are not strongly a priori. Moral disagreement qualifies as empirical counter-evidence against our moral beliefs – unless such disagreement would not undermine the credibility of the beliefs to an ideal thinker.[44]

III. Natural Properties and Naturalism (2): Critique

The preceding remarks reflect the ways in which natural properties can be conceived. What remains to be done is to see the compatibility between these definitions with the NLT and to see which of all the compatible definitions is the most adequate to characterize the metaethics of the NL.

In first place, it is necessary to dispense with the naturalist definitions incompatible with the NLT and then see if, within the compatible definitions, there is one that can ground NL in a better way, because it includes aspects necessary or sufficient to define a property moral according to this theory.

Let us consider primary the incompatible definitions. Of the definitions analyzed, the first that appears incompatible with NLT is (N2). It states that for a property *N* to be natural is to be studied by science. This definition presupposes a prior stipulation about what constitutes a science in this sense. The metaethical authors do not agree on what qualifies, from this perspective, as a science. It would seem that both a broad and narrow definition of science poses a series of problems. On the one hand, if the definition of science is restricted – and by "restricted" I will understand natural sciences (i. e. physics, chemistry, biology, among the most important) then it seems that (N2) is incompatible with NLT. (N2) supposes a reductionist thesis of moral properties, which

42 Ibid.

43 Ibid., p. 48.

44 Ibid., p. 49.

means that, for any moral property *M*, this can be explained by reference to one or more non-moral natural properties *N*. If *M* refers to, for example, the good of friendship, then friendship can be explained from other properties relative to, namely, physiological aspects of those who are the relata of the friendship relationship. Let A be an instance of the value of friendship, and let *x* and *y* be the relata of A, for example, Joseph and John. A is the friendship relationship of John and Joseph. If naturalistic reductivism is true, then A could be explained, among other factors, by the physiological states of Joseph and John when they are together, which are similar to those they have with other subjects of other friendly relations of which they are one of the reports. Thus, there is a similarity between the physiological states of John in his relationship with Joseph, with Peter, with Theodore, with Jacinta, with Josefa, and so on.

It seems highly implausible that a NLT considers that the value of friendship can be reduced to physiological factors of the moral agents that instantiate them. When the NLT proposes that an action acquires intelligibility by reference to a basic good, if the reductionist thesis is true, that would mean that the action acquires intelligibility by the physiological states of the subjects. It seems, however, that the NLT affirms that friendship, as a basic good, cannot be reduced to the physiological states of subjects.

Another example, very similar is that of knowledge. Instantiating the good of knowledge, according to the reductionist thesis, would be the possession of certain types of physiological states, that the process of acquiring knowledge would be an instance of such good by the occurrence of certain neural processes that enable its acquisition. Instantiating the good of knowledge would be *identical* to instantiating a series of natural properties that makes possible a series of physical, chemical and neural processes.

A NLT cannot accept this identity. The NLT would agree that instantiating a certain basic good – for example, knowledge – presupposes series of physiological factors that may well be necessary conditions for its instantiation. However, it would not agree that these conditions *constitute* the good of knowledge as a good. Since these conditions constitute the object of study of science in its "restricted" conception, (N2) is a definition of natural property incompatible with NLT.

And what happens with a broad conception of science? Many moral realists have defined moral naturalism from a broad disciplinary perspective, according to the following argument:

(1) Natural properties are those that science studies.

(2) Ethics is a science

(3) Therefore, the properties that ethics studies are natural properties.

This broad disciplinary conception is accepted by both naturalists[45] and non-naturalists[46]. For Brink, this broad conception of science includes, in addition to the traditional natural sciences, psychology and the social sciences.[47] For Shafer-Landau, this broad conception includes traditional natural sciences such as physics, chemistry, biology, astronomy, and social sciences such as economics and certain forms of anthropology.[48] Shafer-Landau argues, however, that this criterion fails because ethics presupposes the possibility of a priori moral knowledge, which would radically separate the ethics from the sciences mentioned above.[49]

The disciplinary distinction has been established in realist metaethics to distinguish between naturalism and non-naturalism. For naturalism, moral properties are natural properties, and a natural property can be defined in reductionist or non-reductionist terms. For reductionist naturalism, a natural property can be defined either as (N5) (which I analyze below) or as (N2), according to a narrow conception of science, as seen above. For non-reductionist naturalism, a natural property can be defined as (N2), according to a broad conception of science. Now, as Shafer-Landau puts it, there are great similarities between non-reductionist naturalism and non-naturalism, and the only difference is methodological and epistemological.[50] In turn, the non-reductionist naturalist does not have the advantage of the ontological economy, since, strictly speaking, his naturalism is committed to an ontological pluralism very similar to the non-naturalist, since there will be as many types of properties as there are sciences. The most important differences are, as already noted, methodological and epistemological. However, it is possible to build bridges between both positions.

In summary: (N2) is a definition incompatible with NTL, whether we understand science in a narrow or restricted sense or in a broad sense. In the narrow sense, it is incompatible by the reductionism that implies; in the second one, because it is irrelevant to provide a substantive definition.

Finally, there is a more general argument for abandon (N2), and by which the rejection of the methodological criterion regarding the broad concept of science could be better understood. Defining something from a disciplinary perspective, we can say, is like "putting the cart before the horse", since for any object x or property P, if x or P are studied by a science C, they are studied by C because of the very nature of x or P, not the other way around. In other words: C studies x and/or P because the kind of things they are, for being a certain type of entities; this nature determines C and not otherwise. Then, that C studies x or P says nothing of the nature of x or P; but x and/or P

45 As *Brink* (note 20).

46 As *Shafer-Landau* (note 20).

47 *Brink* (note 20), pp. 56 f.

48 *Shafer-Landau* (note 20), p. 59.

49 *Shafer-Landau* (note 20), p. 61.

50 See ibid., p. 64.

say something of the type of science that is *C*. This helps us to understand that the fact that the moral properties are natural because they are studied by a science – namely, ethics – tell us nothing about the nature of these properties or why they would have to be natural or otherwise.

Another definition clearly incompatible with NLT is (N5). This definition states that a natural property is a property that (i) its instantiated in space-time; (ii) has causal efficacy; and (iii) is a physical property.

The first difficulty with (N5) is the physicalistic conception of the world that it represents. Such a conception leaves little or no space for moral facts and, in general, conceives morality in an anti-realist and non-cognitivist fashion. And if it conceives it in a cognitivist way, he opts for reductionist naturalism, as discussed in the previous definition regarding the narrow conception of science. If Michael Huemer is correct, reductionist naturalism would be a kind of anti-realist metaethics.[51] For this reason, physicalism has traditionally been considered as a theory incompatible with a realist conception of morality.

Let see (N5) more in detail. NLT would agree with (i), since NL theorists constantly refer to the concrete good of moral agents, although they are neutral as to whether these properties are necessarily instantiated in space-time (this would lead us to a conception of immanent properties), or they may exist without necessarily being instantiated (this would lead us to a conception of transcendent properties). With regard to (iii), NLT could not admit, partly from the arguments given regarding (N2), that the basic goods are physical properties. Identifying, for example, the good of friendship with a series of properties of a physical order would fall under the already criticized reductionism with respect to (N2). So, if we want to define a moral property as a natural property, and if we want to give an account of a natural property compatible with a NLT, natural properties cannot be physical properties.

The NLT, however, could be compatible with (ii). It is necessary to distinguish, previously, three ideas that are related and that can be easily confused. For a certain fact *S*, a property *N* can be causally explanatory of *S* if: (a) it is causally *efficacious* in the production of *S*; or (b) is causally *relevant* in the production of *S*. Jackson and Pettit[52] have argued that a property *N* can be causally explanatory of a fact *S* in either of the two senses previously mentioned. Thus it can be said that Hitler's depravity explains his behavior[53] or that Mother Teresa won the Nobel Peace Prize for her goodness.[54] Sayre-

51 He thinks that the only way we can be moral realists is embracing non-naturalism or intuitionism. See *Huemer* (note 20), pp. 7 f. However, *contra* Huemer we shall see that non-naturalism is not, strictly speaking, the same as intuitionism.

52 See *Frank Jackson/Philip Pettit*, Program explanation: A general perspective, in: Analysis 50 (1990) pp. 107 – 117.

53 See *Nicholas Sturgeon*, Moral Explanations, in: Geoffrey Sayr-McCord (ed.), Essays on Moral Realism, Ithaca 1988, pp. 232, 245 f.

54 See *Geoffrey Sayr-McCord*, Moral Theory and Explanatory Impotence, in: id. (note 53), p. 275.

McCord has asserted that moral properties are explanatory of certain regularities such as that honesty engenders trust, justice imposes loyalty, or that friendship favors kindness.[55] These authors, such as Sturgeon, Sayre-McCord and Brink, propose a conception of moral properties as non-reducible. The problem with this approach is that it would exclude, in principle, a priori knowledge. These authors propose a naturalist realism, in part, by the similarity that would exist, from an epistemological and methodological point of view, between ethics and science. However, it would seem that in our usual conception of science – i. e. natural science – a priori knowledge plays no role in the determination of scientific truth. It could be argued that one can establish a weakened conception of a priori knowledge, as Copp does. However, such a maneuver would make the compatibility between moral and scientific knowledge very vague.

Second, there are insufficient definitions. Among them we have (N1), (N3) and (N4). (N1) is included in (N4), so we will analyze it next to (N4).

Let's begin with (N4). This definition states that a property is natural if and only if (i) it can be referred to in descriptive terms only and (ii) it is currently instantiated in an object. Recall that (N1) corresponds to condition (i) of the definition. The NLT would agree that (ii) it is a necessary condition for valuing a certain state of affairs as good to the extent that it is the instance of a basic good. He would also agree with (i), to the extent that one can refer descriptively to basic goods as "aspects of well-being".[56] However, it is possible to apply to this definition the same counter-argument as for the previous case: it should be clarified how this definition of natural property accommodates a priori knowledge. It would seem that the possibility of referring to it in purely descriptive terms implies a description that operates a posteriori. Therefore, it is not an adequate definition for a natural moral property.

Finally, consider (N3). This definition states that a property is natural if it is a property necessary to explain the nature of a certain natural object. This definition allows us to include certain properties, within the nature of certain indisputably natural objects, some properties of a moral kind. However, if moral properties are natural in this sense, it seems that there is no space for natural objects that do not possess moral properties as part of their nature. The above definition supposes to distinguish, previously, between objects that instantiate natural non-moral properties of those who also instantiate natural moral properties. This distinction, necessary for recognizing that there are objects that may not be properly moral objects, would lead us to non-naturalistic dualism. It would seem, then, that a definition of natural property that is compatible with both monism and dualism would have more systematic merits to qualify as a natural moral property, and in our case would be more appropriate to characterize a conception of natural property for the NLT.

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55 See *Sayr-McCord* (note 54), p. 276.

56 See *Murphy* (note 2), ch. 1.

Another objection against (N3) is that it seems to imply a reductionist conception of moral properties. To give meaning to (N3), it is necessary to know, previously, what a natural object is. A natural object can be defined as an object with which we have some usual interaction, or it can be defined indexically as referring to a class of objects that undoubtedly has the characteristic of being natural[57]. In both cases, it would seem that the paradigm of a natural property would be essentially a physical property. A "natural" moral property – in this sense of "natural" – implies a reductionist conception of moral properties, which are understood as reducible to physical properties.

And now the last definition of natural property is to be analyzed, (NE*). Recall this definition:

(NE*) *N* is a natural property iff (i) it is possible for *N* to be instantiated and (ii) there are propositions about the instantiation of *N* that are both synthetic and possibly true and (iii) no such propositions is strongly a priori.

This definition of natural property does not imply any specific commitment to the nature of such properties (i. e. to its ontology) but rather establishes certain epistemological requirements for considering a property as natural: they may be particular or universal; they may belong to one ontological realm (monism) or several (pluralism). It combines the a priori knowledge requirement of ethics but, at the same time, it gives a prominent role to the experience. For this reason, it is compatible with a non-reductionist conception of moral properties, with naturalism and non-naturalism, and with intuitionism, since, as Copp puts it, this conception is compatible with intuitionism conceived as the thesis that states certain moral truths are self-evident.[58]

In addition, it is necessary to see if this definition of natural property can defeat the arguments given against the previous definitions and after defeated, it is necessary to see why it would be the best option to characterize the nature of the basic goods for the NLT. The latter presupposes, first, to argue why it is at least desirable to conceive basic goods as natural properties.

I shall briefly summarize the arguments against the above definitions. I distinguished between incompatible definitions and insufficient definitions. The former, I claimed, could not be accepted by a NLT. Within the incompatible definitions we identify a (N2) and (N5). (N2) was incompatible with TLN because, first, it does not explain the nature of natural properties but stipulates what natural properties are those that science studies. Whether we understand science in a narrow or broad sense, neither option provides a substantive definition. With regard to (N5), the physicalist conception of the world it represents is incompatible with NLT. With regards to the insufficient definitions, (N1), (N3) and (N4), I concluded that (N3) leaves no room for non-natural objects, and that its intelligibility presupposes a prior understanding of what a natural object is. Such an understanding, moreover, seems to lead to reductionist naturalism. Concerning (N1), we said that it is understood

57 See *Copp* (note 29), p. 37.

58 Ibid., pp. 93 ff.

within (N4). With respect to (N4), there is an argument that, moreover, was raised with respect to one of the conditions of (N5) (i. e., that condition that demanded causal relevance of moral properties): it does not give space for a priori knowledge.

Is (NE *) free from all these criticisms? In the first place, (NE *) allows the possibility of a priori knowledge, conceived as a knowledge acquired independently of experience, but which can be defeated by it. This allows a certain a priori moral proposition to be, on the one hand, known in a self-evident fashion, and which, on the other hand, can be defeated by, for example, the testimony or other source of knowledge. The conception of experience that is included in (NE *) includes the testimony, and is a rich enough perspective to include all that the NL theorist means when using the concept of *experience*. Second, it provides a substantive definition of natural property; it does not need to refer to more basic definitions, such as that in which a science consists, or that which is a natural object. Finally, it is not reductionist, in the sense of reducing the moral properties to another type of properties, nor it supposes a commitment with a physicalist philosophy.

Some clarifications are in order. Regarding my claim that (NE *) supposes a substantive definition, one might object that this is false, since this definition requires a more basic definition, namely that of experience. Without this definition, (NE *) can not be understood. If (NE *) is not free of a more basic definition, it is not a substantive definition.

The concept of experience included in (NE *) is primitive, inasmuch as it can not be defined by other still more basic definitions. Since, in the definitions given above, in order to understand the definition of natural property as "that which studies science" it is necessary to understand previously that which is science, we have more than one option; in the same way it happens with the definition of natural property as "descriptive referent" or with that which proposes that natural property is that which serves to explain the nature of a natural object. There is more than one option when characterizing a natural object.

This does not happen with (NE *). The conception of experience it requires must be broad enough to contain within itself both the possibility of knowledge strongly a priori and weakly a priori. Therefore, it is not possible to understand experience, according to (NE *), merely as perception. Any other restriction would make the definition inconsistent. For this reason, we can say that the notion of experience that is required is included in the definition.

A final comment on the proposed definition is in order. As we saw above, the Copp model proposes, in the context of the requirements that an empirical defeater of a weakly a priori proposition must have, the idea of an "ideal thinker". This ideal thinker is a subject with no psychological weakness, computing limitations or lack of conceptual repertoire[59]. It is stated that a strongly a priori proposition would fail to undermine its credibility to an ideal thinker. Or

[59] See *Copp* (note 29), pp. 44 f.

in other words: that empirical evidence against a weakly a priori proposition *could* undermine the credibility that the ideal thinker holds in that proposition. It is a question of the a priori proposition apt for moral naturalism *can* be defeated, not that it is.

The introduction of this theoretical mechanism raises two questions concerning the realist nature of Copp's naturalism, since such a mechanism is usually used either by constructivist theories or by anti-realist theories like those of the ideal observer. Despite the question of the realist, constructivist or cognitivist-anti-realist approach of Copp's theory, the demand of an ideal thinker should not be assimilated with a sort of agent or mechanism by which this thinker *determines* what it's good. It may be – assuming a realist approach – a methodological mechanism for distinguishing between the two types of a priori propositions. Thus, both the definition of natural property and the mechanisms that are proposed by Copp as empirical defeaters are perfectly neutral with respect to the aforementioned metaethical perspectives.

IV. Non-naturalism and Intuitionism (1): Exposition

"Intuitionism" is one of the names given to non-naturalism, the thesis that moral properties and facts exist, and that these properties or facts are non-natural.

Non-naturalism differs from naturalism by stating that moral properties are distinct from natural properties, or in other words, that there are at least two ontological orders: the natural and the non-natural. The distinction, then, between naturalism and non-naturalism is ontological. Favoring one or another implies answering the question of how many kinds of facts or properties exist and why. As we have already pointed out, it s not necessary to choose one or another option to characterize a notion of moral property compatible with the naturalistic conception of basic goods.

Huemer argues that non-naturalism is a dualist theory, since it recognizes the existence of two kinds of reality.[60] Shafer-Landau, on the other hand, argues that non-naturalism is compatible with both monism and pluralism.[61] The conception of irreducible natural properties is, as we have seen, compatible with a non-naturalist realism, even if this means abandoning the distinction between naturalism and non-naturalism in order to characterize the ontology of moral realism.

Non-naturalism includes, however, an epistemological thesis which, although traditionally developed within it, is, from the systematic point of view, independent of the ontological thesis. While the ontological thesis ar-

60 See *Huemer* (note 20), p. 8.

61 See *Shafer-Landau* (note 20), p. 92.

gues that moral properties are non-natural, the epistemological thesis argues that these properties can be known by "intuition".

What is, then, the intuition? Let's begin discarding the caricatured ways of conceiving intuition. We can summarize them in two: (i) intuition presupposes a special rational faculty of acquisition of moral knowledge; (ii) intuition implies a non-defeasible warrant, i. e. a warrant which can not be undermined by other considerations. Regarding (i), Audi argues that neither Ross – as paradigmatic intuitionist author – nor other intuitionists are committed to a particular kind of power of reason to apprehend moral truths. With regard to (ii), neither Ross nor other intuitionists have argued that propositions apprehended by intuition have a non-defeasible warrant.[62] With regard to (i), intuition can be explained from the phenomenon of phenomenal conservatism, which states that "it is reasonable to assume that things are the way they appear".[63] Such appearances must possess propositional content, and therefore, generate beliefs.[64] These appearances, in addition, can contrast with other appearances and can be rejected by these. With respect to (ii), having an intuition that p, entails that one is prima facie justified to believe that p.[65] This does not mean that the intuition that p implies irrefutable evidence for p, but that it is reasonable to believe that p in the absence of evidence against it.

For Huemer, an intuition is an intellectual appearance that consists of believing that p, being p not dependent on some kind of inference or other beliefs and which results from thinking about p as opposed to perceiving, remembering or performing introspection. And an ethical intuition is an intuition whose content is an evaluative proposition.[66] This author gives as an example of intuitions the following: "enjoyment is better than suffering"; "if A is better than B and B is better than C, then A is better than C"; "It is unjust to punish a person for a crime he did not commit", among others.[67]

For Audi, there are four requirements that an intuition must satisfy: (i) it must be non-inferential, i. e. it should not be asserted on the basis of premises; (ii) intuition must be a solid or strong cognition; (iii) must be formed in he light of an adequate understanding of its propositional objects; (iv) should not be evidently independent of theory or theoretical hypothesis. Audi calls (i) the non-inferentially requirement; (ii), the firmness requirement; (iii), the comprehension requirement; and (iv), the pre-theoretical requirement. The requirement (i) states that an intuition should not be derived inferentially from other propositions nor be evidently based on other propositions; the requirement (ii) affirm that intuition should not be a mere inclination to believe that p, but must be manifested in a well-established belief that p (Audi uses,

62 See *Robert Audi*, Moral Knowledge and Ethical Character, Oxford 1997, pp. 37 f.

63 *Huemer* (note 20), p. 99.

64 See ibid.

65 See ibid., p. 106.

66 See ibid., p. 102.

67 See ibid.

like Ross, the term "conviction" as synonymous with an intuition which meets this requirement). The requirement (iii) states that an intuition must be based on an adequate understanding of what is the object of belief. Finally, requirement (iv) states that an intuition should not be the inference of a theory and should not depend epistemically on it, which does not mean that the evidence emanating from a well-formed theory can not undermine or undermine the intuitive justification we have with respect to a proposition, or that an intuition can not evolve into a theory based on a theory.[68]

One of the core elements of intuition is self-evidence. Audi defines self-evidence as follows:

> A self-evident proposition is (roughly) a truth such that understanding it will meet two conditions: that understanding is (1) sufficient for one's being justified in believing it (i. e., for having justification for believing it, whether one in fact believes it or not) – this is why such a truth is evident *in itself* – and (2) sufficient for knowing the proposition provided one believes it on the *basis* of understanding it.[69]

First, for Audi, that p is self-evident does not imply that for a subject S, if S understands that p then S believes that p, since S can fail to understand p, and then capture it in the paradigmatic form of self-evident proposition, i. e. as obvious.[70] Second, the understanding that S has of p must be adequate, i. e. not wrong or partial.[71] Of the two preceding elements, Audi makes a distinction between propositions that are immediately self-evident and those that are self-evident. The difference between the two is that, while the former are understood directly by normal adults, the latter require a reflection on the cases in which they are applied. Reflection may involve making inferences, but only in order to clarify the meaning of the proposition. The proposition in question, as self-evident, need not be inferentially based on any premise to be understood.[72]

From this distinction, Audi proposes a case of immediate self-evidence. It begins by rejecting the Rossian analogy between basic moral truths and the fundamental truths of mathematics and logic, which appears to hold the existence of a category of strongly axiomatic moral truths. For Audi, a proposition can be self-evident without being strongly axiomatic in the following sense: on the one hand – and in a sense similar to axiomaticity – it can be an "unmoved mover", i. e. can be known and provide support for other propositions, without being seen as having a basis in something that constitutes evidence for it; on the other – and in a sense other than axiomaticity – need not, for this, be an "unmovable mover", i. e. it does not require that there should be no evidence for it. This point is important for Audi since a proposition could be self-evident, and yet such property would not imply that it

68 See *Audi* (note 62), pp. 40–42.

69 Ibid., p. 45.

70 See ibid.

71 See ibid.

72 See ibid., pp. 45 f.

could not be evident by other means.[73] One way in which Audi explains this is in the relation between the Kantian categorical imperative and Ross's prima facie duties. On the one hand, the imperative of humanity as an end in itself does not derive these duties axiomatically; however, the imperative of humanity entails the intelligibility of the Rossian principles of duty.[74]

This last point acquires relevance in relation to the self-evident character of the basic goods proposed by the NLT, and the dialectical kind of argument followed by these authors to support the basic character of them.

V. Non-naturalism and Intuitionism (2): Critique

The previous observations on intuitionism will suffice to state an epistemological background for NLT. In this sense, the similarities between intuitionism and NLT in relation to the fundamentals of basic goods should already be evident.

Finnis argues that NLT, at least in his view, cannot be compared with a form of intuitionism. He points out that intuitionism about non-natural properties would be a form of reductionism,[75] that his approach is not a form of intuitionism,[76] and that the insights by which basic goods are known is not an intuition because it does not lack information from experience.[77]

Despite what Finnis thinks, strictly speaking, his approach – like much of the work of his collaborators – has great similarities with intuitionism. Intuitionism is not a reductionist metaethic, as Finnis thinks, as we have pointed out. Moreover, the insight or cognitive act by which the basic goods are known may well be explained as an intuition.

In this sense, Berys Gaut proposes two ways of understanding the intuitionist doctrine:

> On the one hand [the term 'ethical intuitionism'] has been used to denote a moral theory which holds roughly that there is an irreducible plurality of moral principles, a view which I shall term 'moral pluralism' or simply 'pluralism'. On the other, it has been used to denote a theory in moral epistemology, a type of foundationalist theory which holds that all immediately justified moral beliefs are self-evident, a view which I will term 'epistemic intuitionism', or simply 'intuitionism'.[78]

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73 See ibid., pp. 47 f.

74 See ibid., p. 48.

75 See *Finnis* (note 5), p. 4.

76 See ibid., p. 22.

77 See ibid., p. 51.

78 *Berys Gaut*, Justifying Moral Pluralism, in: Philip Stratton-Lake (ed.), Ethical Intuitionism. Reevaluations, Oxford 2002, p. 137.

First, the intuitionism as the pluralist theory that Gaut identifies forms an essential part of a NLT. This irreducible plurality of moral principles refers to the basic goods.

Second, intuitionism as a theory of moral epistemology is a foundationalist theory that holds the self-evidence of "immediately justified beliefs". Foundationalism in general epistemology affirms that all beliefs are based on a small, limited group of beliefs that operate as a foundation of the truth of the rest. The NLT seems to be, according to the description above, a foundationalist theory, in the sense that there is a finite group of first-order moral principles – those principles that states that basic goods are goods worth pursuing – that give intelligibility to, and made true, the second-order moral propositions. In this sense, the NLT has in common with intuitionism, in addition to pluralism, epistemic foundationalism.

However, from the proposed exposition there seems to be a point where intuitionism goes beyond the pretensions of NLT. For NLT, the beliefs that have self-evidence are those related to basic goods; however, according to intuitionism, not only the first-order moral beliefs may be self-evident, but also those second-order beliefs. It should be noted that if intuitionism, at this point, is true, so much the better for TLN. If, as I have said, there are wide similarities between intuitionism and NLT, holding the self-evidence of certain second-order moral beliefs would be a great support for TLN as normative ethical theory.

Other arguments for the compatibility between NLT and intuitionism are in order. Audi realizes the same distinctions of Gaut's. He proposes the existence of an ethical theory, on the one hand, and a moral epistemology, on the other. Regarding intuitionism as an ethical theory, he says:

> (1) It is an ethical pluralism, a position affirming an irreducible plurality of basic moral principles. (2) Each principle centers on a different kind of ground, in the sense of a factor implying a prima facie moral duty, such as making a promise or noticing a person who will bleed to death without one's help. (3) Each principle is taken to be in some sense intuitively known. (1) and (2) are structural and conceptual; they affirm a plurality of basic principles affecting different kinds of conduct, and they thus deny, against both Kantian and utilitarian theories, that there is just one basic moral principle. (3) is epistemological; it locates the basic principles with respect to knowledge.[79]

With respect to intuitionism as moral epistemology, he says:

> This view is roughly the thesis that basic moral judgments and basic moral principles are justified by the non-inferential deliverances of a rational, intuitive faculty, a mental capacity that contrast with sense perception, clairvoyance, and other possible routes to justification.[80]

Audi and Gaut describe intuitionism in similar lines, holding that such a theory would be a pluralistic theory of basic moral principles, and that

79 *Audi* (note 62), p. 33.

80 Ibid.

such principles are intuitively known. Audi says – in what is a natural consequence of pluralism – that, in recognizing a plurality of basic moral principles, intuitionism arises as an opposing and alternative ethical theory against utilitarianism and Kantianism. Finally, he says that these basic moral principles are the foundation of prima facie duties.

These remarks regarding intuitionism as an ethical theory strikingly resembles NLT, as a theory that recognizes an irreducible and self-evident plurality of basic principles regarding basic goods.[81]

However, it can be objected that my analysis has been too optimistic about the relationship between NLT and intuitionism, because intuitionism is committed to the existence of prima facie duties, which can not simply be correlated with the duties which emanate from the respect and prosecution of basic goods, and because – and this is the point that could generate more resistance – these duties, as prima facie, can be overridden by other considerations.

This is unjustified. The prima facie duties can be, indeed, overridden; but the duty does not cease to exist, but what is overridden is the obligation that this duty generates to the subject in the concrete case. However, the principle underlying duty *can't* be overridden, and therefore is not affected by this condition of prima facie duty. If, as Audi, these first principles are irreducible, they hardly could be affected with the override of prima facie duty.

Now, that duty is, in general, prima facie for intuitionism, does not mean that there are not a few duties which, being prima facie, have an absolute character because there are no conditions that override it. Therefore, intuitionism could be compatible with a conception of moral absolutes, as proposed by NLT.

Let's now examine the compatibility between intuitionism as moral epistemology and NLT. Audi says that not only basic moral principles are justified not inferentially, but also certain basic moral judgments. From the NL perspective, basic goods ground the first principles of the practical reason, and as such, are known – or are justified – in a non-inferential way. Now, intuitionism holds something else: certain basic moral propositions would also be justified in a non-inferential way. This is something *stronger* than what natural lawyers postulate. Now, as Audi and the other intuitionist authors have said, not all moral propositions are justified in a non-inferential way, but only some. Audi holds that they are basic propositions, and that's why we can think that he refers to those that establish the prima facie duties. If

81 A clarification is in order: for every basic good there is a principle that indicates that such basic good must be pursued. Thus, for the good of knowledge, there is a principle that can be stated as "knowledge is a good to be pursued". Basic goods, then, ground basic principles. This is what Finnis means when he says that "the proposition that knowledge is a good worthy of being pursued is a proposition of a kind so foundational and original that it can be called a practical principle, indeed a practical first principle." (*Finnis* [note 4], p. 4) He also points out that the principles of natural law are "a set of basic practical principles which *indicate* the basic forms of human flourishing as goods to be pursued and realized." (*Finnis* [note 2] p. 23, emphasis added).

this is so, we would have, from his perspective, two types of basic propositions justified in a non-inferential way: those which establish prima facie duties, and those which grounds them.

This can be applied to a NLT as follows: there are principles that are grounded on basic goods (hereafter: basic principles), there are propositions that establish the principles of practical reasonableness, modes of responsibility or intermediate principles between specific moral norms and basic principles, and finally there are specific moral norms. The latter are the result of: (i) the observation of the concrete situation; (ii) the identification of the basic goods involved and (iii) the application of the principles of practical reasonableness to (i). It is clear that, for a normal context, the basic goods involved and the duty of respecting them – which constitute one of the intermediate principles[82] – *the moral standards that govern the situation have a self-evidence such that it is even trivial to mention them:* think about a normal day, going to work. When I'm in the subway, the context makes present – or evident, we could say – a set of basic goods such as, for example, the life of the people who travel with me in the train. The context also makes evident a duty of respecting the life – or other basic good that the context indicates with evidence – of the people that travel with me. And I also have, implicitly, a moral norm that requires me not to attempt against their lives. This moral norm meets the requirements set by Audi for being in the presence of a self-evident proposition. The fact that this situation is almost trivial does not obscure the fact that, even at the level of more specific moral norms, there is self-evidence. Of course there may, and essentially are, many situations in which moral norms do not appear with such evidence as in this case. But it does not follow from that fact that there is no self-evidence at the level of norms.

VI. Conclusions: Natural Law as Naturalist and Intuitionist

I have reviewed some naturalistic and non-naturalist theses. I have said also that a substantive statement about the status of moral properties is not necessary to give, at least with respect to the meta-ethical foundation of the NL. From the above distinction between naturalism and non-naturalism, then, I adopted an epistemological definition of naturalism and the epistemological thesis of non-naturalism: intuitionism.

From naturalism I take Copp's definition, which states that a natural moral property is that which can be instantiated, and the propositions about its instantiation are weakly a priori and possibly true. This definition takes the notions of moral property and instantiation, and gives a place to the experience from the defeasible character of the weakly a priori propositions.

[82] See *Finnis* (note 2), p. 118.

Copp's naturalistic conception allows considering NL as an expression of naturalism. NL, has said Russell Hittinger, must be, in some sense, natural.[83] While some natural lawyers have argued that the label "NL" obeys simply historical criteria[84](and therefore, this could be argued as a basis for dispensing with the Hittinger's requirement) it could also give us some systematic criteria to satisfy it, and I believe that this vision of naturalism satisfies this demand. The NLT, in this sense, can be an ethical naturalistic theory.

Fortunately, this does not commit us with a negation of non-naturalism (although it may sound paradoxical, at least if we rely on more common conceptions of those theories) and less with a negation of its epistemological thesis, intuitionism. As we saw, there are great similarities between this approach and the NLT. This epistemological background allows us to ground the self-evidence that the new natural lawyers attribute to basic goods. And even more, it allows us to go a little further, by affirming the self-evidence of certain specific moral norms. The thesis of self-evidence of basic goods is fundamental for a NLT. This thesis requires, demands, an intuitionist epistemology.

83 See *Hittinger* (note 14).

84 See *Mark C. Murphy*, Natural Law in Jurisprudence and Politics (Cambridge 2006), p. 5.