NATURAL LAW IN THE *ENCYCLOPÉDIE*

*(1751-1772)*

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LIST OF ABBREVIATIONS

The following abbreviations are used in the footnotes to the main body of this thesis. When the abbreviation is for a book or journal, the place of publication remains in the original language; dates originally in Roman numerals, however, have been replaced with Arabic for ease of reference. For those works which continue to be published all information is correct at the time of submission in 2014.

ARTFL The American and French Research on the Treasury of the French Language. ARTFL is a cooperative enterprise of the Laboratoire ATILF (Analyse et Traitement Informatique de la Langue Française) of the Centre National de la Recherche Scientifique (CNRS), the Division of the Humanities and Electronic Text Services (ETS) and of the University of Chicago. &lt;http://encyclopedie.uchicago.edu/&gt;.


BUH Bibliothèque universelle et historique, 26 vol. (Amsterdam: chez Wolfgang, Waesberghe, Boom et van Someren, 1686-1693).


PDG Principes du droit de la nature et des gens. Extrait du grand ouvrage Latin de Mr De Wolff. Par Mr. Formey (Amsterdam: chez Marc Michel Rey, 1758).


SVEC Formerly Studies on Voltaire and the Eighteenth Century, (Oxford: The Voltaire Foundation, 1955- ). For consistency and ease of reference I have named each volume SVEC irrespective of the publication date. Volumes 1-381 are referenced by their volume number; those published since 2000 are classified by the year of publication, followed by the month (e.g.: the volume published in January 2006 is designated as 2006:01). SVEC became Oxford University Studies in the Enlightenment in 2014.


LIST OF ILLUSTRATIONS

The following illustrations feature in this study. In this list and in the captions used in the body of the thesis I have abbreviated *Recueil de Planches, sur les Sciences, les Arts libéraux, et les arts méchaniques avec leur explication* (Paris: 1762-1772) as ‘Ency. Planches’, followed by the volume number in Roman numerals and the publication date of the volume in parentheses.

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ABSTRACT

Despite long-standing recognition that the constellation of ethical and political ideas developed by the seventeenth-century Natural Law School played an important part in the development of Enlightenment thought, the relationship between the two remains a fertile area of research in intellectual history. Filling a lacuna in existing scholarship, this thesis contends that central tenets of the ethical and political philosophies developed by the Natural Law School were appropriated by the more liberal and progressive contributors to the *Encyclopédie ou Dictionnaire raisonné des Sciences, des Arts et des Métiers* (1751-1772); which is frequently considered to be the *summa* of Enlightenment thought, and emblematic of the conflict between the new ‘philosophical spirit’ and the traditional hierarchies, institutions, and values of the *ancien régime*.

It argues that by establishing the *loi naturelle* and natural rights of the individual as the foundation of both ethics and politics in many of its articles, the *Encyclopédie* questions the certainty and validity of Catholicism as the basis for both, and that it therefore played an important role in undermining the moral authority of the Church as well as the political authority of the State. In particular, it asserts that the more liberal and humanitarian contributors to the project put the central tenets of Natural Law thinking into practice, in order to tackle and propose reform of what they perceive to be some of the worst injustices in contemporary society, namely with regard to the related questions of slavery and luxury. For those *encyclopédistes* who believe in universal rights and the *loi naturelle*, both the slave trade and the attitude of their contemporaries to luxury seem to embody values very different to those they wanted to promote; in their eyes both are representative of a society in which self-interest and the satisfaction of individual passions are valued over and above any consideration for the needs, welfare, and rights of others.
DECLARATION

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DEDICATION

To my family and the memory of my father, John Frederick Kirby (1949-2006)
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I would like to thank the staff of The University of Manchester’s School of Arts, Languages and Cultures, particularly my colleagues in the French department, for the undergraduate and postgraduate courses I have undertaken with them. Thanks go especially to my doctoral supervisors; Professor David Adams, Doctor Peter Cooke, and Doctor Vladimir Kapor, without whose guidance, encouragement and persistence this thesis would not have achieved completion. I am indebted to them enormously.

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The John Rylands Library (Special Collections), Manchester
The Bodleian Library, Oxford
The Taylarian Institute, Oxford
La Bibliothèque nationale française (BNF), Paris
La Bibliothèque serpente, Université de Paris IV: La Sorbonne, Paris

Lastly, and by no means least, I would like to thank my family and friends for their never-ending support throughout this process. Thank you.
THE AUTHOR

Joshua Kirby graduated from The University of Manchester in 2006 with a B.A. (Hons) in French Studies. In 2008 he graduated again from The University of Manchester with an M.A. in European Languages and Cultures (Literature and Ideas in Eighteenth- and Nineteenth-Century Europe).
INTRODUCTION

1.1. THE AIMS AND CONTEXT OF THIS STUDY

This study advances our current understanding of the development of Natural Law thinking in the eighteenth century by examining the presence of ideas central to Natural Law theories in the *Encyclopédie ou Dictionnaire raisonné des Sciences, des Arts et des Métiers* (1751-1772), the vast philosophical *machine de guerre* produced under the editorship of Denis Diderot (1713-1784) and Jean-Baptiste le Rond d’Alembert (1717-1783).¹

The central thesis of this study is that principles derived from Natural Law thinking inform the ethical content of many of the articles in the work, the presence of which constitutes a hitherto understudied aspect of the project. It is further contended that new interpretations of Natural Law put forward by certain contributors to the *Encyclopédie* prompted proposals for societal reforms, especially in respect of contemporary attitudes to colonial slavery and luxury.

The *Encyclopédie* is now widely regarded as encompassing many of the values today viewed, for better or worse, as characteristic of the Enlightenment.² That notoriously incoherent period had its origins in the intellectual and social upheavals of the seventeenth century; particularly 1) the collapse of the religious consensus in Europe caused by both the Reformation and the Scientific Revolution, and 2) the ever-increasing contact which European peoples had with cultures and societies with values very different to their own.³ It is now accepted that many of the

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key ideas which dominated the eighteenth century were already to be found in embryonic form if not already fully-developed by the latter decades of the seventeenth century. In the 1930s Paul Hazard moved the scholarly focus to the final three decades of Louis XIV’s reign (1685-1715) – the period in which what he called ‘la crise de la conscience européenne’ took place – and, more recently, Jonathan Israel has gone further back, to the middle of the seventeenth century itself. Of all the ideas which gained prominence during the mid-seventeenth century and which flourished throughout the Enlightenment period, few are more contentious today than that of human rights. An analysis of Natural Law thinking in the Encyclopédie therefore furthers our understanding of how attitudes to human rights changed and developed in mid-eighteenth-century France.

Although the publication of the Déclaration des Droits de l’Homme et du Citoyen (1789) formalised the idea that societies consist of individuals who are the bearers of natural rights by virtue of their humanity alone, and which in turn reflect their equal dignity, this idea was not a product of the revolutionary period itself. Rather, it was the result of a long process by which the ideas of what is often referred to, rather homogenously, as ‘the seventeenth-century Natural Law School’ – ‘l’école du droit naturel’ – were appropriated into the French consciousness over the century which followed. Yet the names of some of the most influential jurists and philosophers associated with ‘the Natural Law School’ are absent from some of the most authoritative recent scholarship on the Enlightenment period, which tends to neglect the presence of Natural Law thinking as a central feature of eighteenth-century French thought.

Jonathan Israel, for example, argues that philosophers in seventeenth- and eighteenth-century Europe fell into either of two broad philosophical camps – one with ‘moderate’ or ‘mainstream’ tendencies, the other a more ‘radical’ and

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combative tradition in which the role of the Dutch philosopher Benedict de Spinoza (1632-1677), and the development of what the French called ‘Spinosisme’, was crucial. In particular, recent scholarship has emphasised the influence ‘Spinosisme’ had on the development of the type of radical materialism which later found its expression in the works of Julien Offray de la Mettrie (1709-1751) and Diderot, the co-editor of the Encyclopédie. 8 Israel’s central thesis is that during the period with which we are concerned ‘[…] no one else […] rivalled Spinoza’s notoriety as the chief challenger of the fundamentals of revealed religion, received ideas, tradition, morality, and […] divinely constituted political authority’. 9

Indeed, the publication of Spinoza’s works and the implied ethical consequences of his thought caused a ‘shockwave’ in France, as elsewhere in Europe, which led to a passionately-argued debate about free will, determinism, and fatalism which lasted for much of the following century: ‘Spinozism’ acted as ‘un écran sur lequel chacun projette ses angoisses et ses idées’. 10 There has also been a tendency of late to regard the Encyclopédie as a vehicle primarily used to promote ‘Spinozist’ ideas, a point recently made by both Jonathan Israel and Yves Citton. 11

This study therefore redresses this emphasis on the role of ‘Spinosisme’ in the development of eighteenth-century French ethical thought and the reputation of the Encyclopédie as a vehicle primarily used to promote radical ‘Spinozism’ by emphasising the concurrent presence of ethical ideas developed in Natural Law thinking at odds with Spinoza’s principles. In this respect, this thesis builds on recent scholarship carried out with the aid of new digital research methods into the authorial practices utilised by some of the contributors to the Encyclopédie. According to the findings of this recent research, the assertion that the work promotes ‘Spinozism’, whilst not wholly incorrect, needs to be modified to some

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9 cf. Israel, Radical Enlightenment, p. 159.


To see the *Encyclopédie* as primarily a vehicle for ‘Spinozist’ ideas is detrimental to the notable influence of the group of (sometimes quite diverse) thinkers known as ‘the Natural Law School’ – whose principles also did much to undermine the intimate links between theology and politics on which the dominant doctrine of divine right absolutism rested and, more importantly for this study, to promote a secular foundation for moral philosophy.\(^\text{13}\)

Divine right, embodied in the *Politique tirée des propres paroles de l’Écriture Sainte* (1709) by Jacques-Bénigne Bossuet (1627-1704), stipulated that the King had a divinely-ordained mandate to rule, was accountable to God alone for his actions, and able to be judged only by Him.\(^\text{14}\) Consequently, in this prevalent view, God and the King were the sole arbiters of justice. The commands of the King were akin to those of God Himself. Whatever His temporal representative decreed was therefore just, right, and, in theory, beyond reproach.\(^\text{15}\)

By contrast, the jurists and philosophers associated with ‘the Natural Law School’ argued that political authority was based not on a divine right, but on the rights of the individual. Moreover, in contrast to Spinoza, the majority of the ‘School’ believed that there are universal moral principles of justice derived from human nature which hold weight above and beyond the laws and values of any one political or religious community. In this Natural Law view, the existence of immutable, objective, and universal rules of human behaviour meant the laws and values of any one political society could, and should, be judged according to the extent to which they embody that natural order of justice.\(^\text{16}\)

Despite its absence from Israel’s recent works and his emphasis on ‘Spinosisme’, the role played by Natural Law thinking in the formation of eighteenth-century French ethical thought remains a fertile area of research in intellectual history. Over recent decades there has been a significant renewal of interest in the writings of the seventeenth- and eighteenth-century Natural Law theorists. Their divergent ethical and political philosophies have begun to be re-

\(^{12}\) cf. Dan Edelstein, Robert Morrissey, and Glenn Roe, ‘To Quote or Not to Quote: Citation Strategies in the *Encyclopédie*’ in *Journal of the History of Ideas* 74, no. 2 (Philadelphia: 2013), pp. 213-236 (henceforth designated as ‘Edelstein, Morrissey, and Roe, ‘Citation Strategies in the *Encyclopédie*’).

\(^{13}\) cf. Derathé, p. 39.


\(^{16}\) cf. section 1.2 and 1.4.3 below.
appraised, and have proved particularly fecund with respect to providing the philosophical bases for some of the most controversial, vocal, and abiding debates of the early modern period: according to one authority, Natural Law ‘has a real claim to being the key organising principle of the early Enlightenment era’.

This development in the history of ideas has re-emerged following a change in academic focus in recent decades from the development of Enlightenment thought in individual ‘national’ contexts (French, German, Scottish, et cetera), to the idea that ideas evolved in an ‘international’ or ‘European’ context: developing through a complex process of intellectual osmosis across national and cultural boundaries by the broad network of men and women which constituted the ‘Republic of Letters’ in the long eighteenth century. The Natural Law works of Hugo Grotius (1583-1645) and Samuel Pufendorf (1632-1694) in particular were embraced by jurists and moral and political philosophers alike on a European-wide scale throughout the eighteenth century.

Knud Haakonssen, for example, has demonstrated that the moral philosophies developed by eighteenth-century Scottish thinkers such as Francis Hutcheson (1694-1746), David Hume (1711-1776), and Adam Smith (1723-1790), were all heavily influenced by the broad constellation of ideas associated with Natural Law theories developed on the continent. Focusing particularly on the theory developed by Pufendorf and his followers, and the attitudes adopted to it by Gottfried Wilhelm Leibniz (1646-1716) and Christian Wolff (1679-1754), Timothy Hochstrasser has similarly analysed the development, importance, and predominance of Natural Law in German-speaking states during the same period.

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A recent volume edited by Hochstrasser along with Peter Schröder has further built on the resurgence of scholarly interest in Natural Law and its impact on the development of ethical and political thought in the eighteenth century – particularly emphasising the rich diversity of the modern doctrine as it was appropriated by thinkers of the time with different philosophical objectives and perspectives.\textsuperscript{22}

Nonetheless, the role played by Natural Law thinking in the development of eighteenth-century French ethical thought remains relatively marginalised. By analysing how Natural Law thinking permeates articles in the *Encyclopédie*, then, this study also adds to our understanding of the European scope of Natural Law thinking during the period with which we are concerned, demonstrating that it also prompted a re-evaluation of ethical principles and contributed to a shift in sensibilities in France, where Natural Law thinking was formally banned from the curricula of universities in the eighteenth century.\textsuperscript{23}

The appeal of Natural Law thinking to what Hochstrasser and Schröder have called ‘groups and individuals operating outside conventional educational and political structures’ as well as their role in disseminating and popularising ideas associated with the doctrine in the eighteenth century has long been acknowledged.\textsuperscript{24} This is particularly the case in respect of some of the diasporic Huguenots who fled France following Louis XIV’s decision to revoke the Edict of Nantes in 1685, and who settled throughout Protestant northern Europe in the decades which followed.\textsuperscript{25} Although, as we shall see, detailed divergences served to differentiate the main figures, the ethical and political principles central to Natural Law thinking and the emphasis on equality and individual rights in particular, played an important role in the evolution of political theories developed by some Huguenots with which to oppose and, in their more radical forms resist, Louis XIV’s attempts to impose religious conformity.\textsuperscript{26}

\textsuperscript{22} cf. Hochstrasser and Peter Schröder.
\textsuperscript{24} cf. Hochstrasser and Peter Schröder, p. ix and Hazard, *La Crise*, I, pp. 51-56.
In the writings of the Protestant polemicist Pierre Jurieu (1637-1713), for example, ideas central to modern Natural Law theories formed the basis of his radical political ideas regarding the origins and nature of sovereignty, the right to resistance, religious persecution and toleration. Later, the ideas of both Grotius and Pufendorf were popularised in France by the diasporic Huguenots Jean Barbeyrac (1674-1744) and Jean-Jacques Burlamaqui (1694-1748); it was they who, as translators and editors of their works, were chiefly responsible for the dissemination of Natural Law thinking which developed in Protestant Europe throughout Catholic France.

As the eighteenth century wore on and as historical circumstances evolved, many of the ideas central to Natural Law thinking were appropriated by thinkers beyond the French Protestant community who had ideological axes to grind against the authorities and the establishment. Montesquieu (1689-1755), for example, whose ideas on slavery were, as we shall see, to play a large part in the thinking of some of the contributors to the Encyclopédie, was undoubtedly influenced by the ideas of both Grotius and Pufendorf, and used their ideas to promote progress and reform in a number of different areas. As well as contributing to our developing understanding of the European-wide scope of Natural Law principles in the eighteenth century, this study also sheds further light on the Encyclopédie itself.

Existing scholarship on Natural Law thinking and the Encyclopédie has shown that many of the ideas put forward in the politically-oriented entries in the work owe a debt to Grotius and Pufendorf in particular. That Natural Law thinking exercised a considerable influence on the social and political thought of the contributors to the Encyclopédie has therefore already been recognised, but in general existing scholarship has tended to focus on individual contributors or articles – and usually the prominent ones at that – rather than on the project as a whole.

For example, it is now agreed that many of the concepts which formed the basis of Diderot’s political ideas during and after the period of the Encyclopédie’s compilation, and which form the substance of his politically-oriented entries to the work, owe a significant debt to the Natural Law theories developed by Grotius and

Both Robert Wokler and Anthony Strugnell, for example, have suggested that Diderot’s political thought during the period of the *Encyclopédie*’s compilation in particular was largely unoriginal. For the most part, existing scholarship has also tended to focus on the influence of Natural Law thinking on Diderot’s article ‘*DROIT NATUREL (Morale.*)’ (V, pp. 115-116), in which he first elaborated his concept of the volonté générale. Even then, it has been argued that the particular importance of Diderot’s political contributions to the *Encyclopédie* predominantly lies in the impression they made on Jean-Jacques Rousseau (1712-1778), another philosopher who reacted profoundly to the central tenets of Natural Law thinking in his *Discours sur l’origine et les fondements de l’inégalité parmi les hommes* (1755) and *Du Contrat social* (1762) in particular.

It is now also known that the secular and liberal political ideas of Louis, chevalier de Jaucourt (1704-1779) also owed a debt to Natural Law principles. His entries in the *Encyclopédie* – to which frequent references will be made in this study – played an important role in disseminating the ideas of Grotius and Pufendorf in particular into French society; a task first begun by the diasporic Huguenots Barbeyrac and Burlamaqui. More recently, David Diop has furthered our understanding of how modern Natural Law theories influenced the *Encyclopédie* as a whole; arguing that the ideas of the seventeenth-century jurists provided the contributors to the project with the notion of the primacy of the loi naturelle of self-

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preservation which, he argues, is the overriding principle which forms the basis of the political ideas in its pages.\textsuperscript{33}

The localised conclusions generally derived from existing scholarship are insufficient if we are to fully understand the development of Natural Law thinking in eighteenth-century France and in the Encyclopédie in particular. Moreover, existing scholarship tends to focus only on the political aspects of Natural Law thinking. This study therefore expands on this existing research by exploring the presence of concepts and ideas central to Natural Law thinking in the Encyclopédie as a whole. In particular, in contrast to most existing scholarship, it focuses primarily on the ethical ideas central to Natural Law thinking which for the most part remain unexamined. Furthermore, the second half of this study highlights how some contributors to the work used Natural Law thinking to develop a critique of what they perceived to be the ills of their own time and to propose societal reforms, using as case studies the separate yet related questions of slavery and luxury. Why, then, use these two topics as case studies?

There has been a growing trend in recent years to analyse how the thinkers of the eighteenth century confronted the increasingly globalised world in which they lived.\textsuperscript{34} The choice of slavery and luxury as case studies by which to examine the development and deployment of Natural Law thinking in the Encyclopédie therefore also provides us with a richer understanding of how some contributors to the work confronted the challenges of living in an increasingly connected world. Natural Law thinking is a particularly apt prism through which to examine how the contributors to the work approached these issues. The increasing interconnectedness of individuals encouraged by the proto-globalisation of the seventeenth and eighteenth centuries led to a growing conviction that people have the same fundamental drives, emotions, and needs, as well as an increasing awareness that a secure and secular foundation to ethics would need to be established in order to accommodate the competing needs of different individuals in their day to day interactions.

Moreover, recent scholarship by Lynn Hunt and Paul Friedland has done much to promote the idea that a shift in cultural sensibilities took place during the


\textsuperscript{34} cf. Sankar Muthu, Enlightenment Against Empire (Princeton: 2003).
eighteenth century, whereby an increase in empathy meant individuals began to react unfavourably to the suffering of other people. 35 Both colonial slavery and luxury were issues associated with a huge amount of suffering – in respect of African slaves in the former and the poor in eighteenth-century France in the latter. The contributors to the Encyclopédie are often claimed to have been blind to the suffering of such institutions and the values which underwrote them. However, again, the localised conclusions made in existing scholarship about the attitude of the contributors to the Encyclopédie to both colonial slavery and luxury fail to take into account the presence of Natural Law thinking in the work and, by focusing on individual contributors to the work or a select choice of articles, fail to take into account the broad spectrum of attitudes present in the project.

Furthermore, the questions of colonial slavery and luxury are frequently claimed to be approached from an economic standpoint in the Encyclopédie, and not an ethical one. This, I argue, is an unsatisfactory conclusion if we are to fully understand the intellectual and ethical thrust of the Encyclopédie as well as the tensions inherent in it.

For example, Madeleine Dobie has recently argued that colonial slavery is effectively ‘silenced’ in the Encyclopédie and that there is an ‘absence of representation’ in many of its articles in which one would expect to find a discussion of it. 36 According to Dobie, slavery is discussed primarily as a representation for human oppression in general or as an Oriental phenomenon; not a contemporary issue related to the wider colonial enterprise and all the human suffering that institution involved. 37 Highlighting the absence of moral condemnation of colonial slavery in the Encyclopédie in particular, according to Dobie, in the 1760s ‘[…] the field of political economy […] had become the primary discursive context within which the colonies and slavery were discussed’. 38

Although Dobie recognises that colonial slavery did pose something of a moral quandary for mid-eighteenth-century French thinkers in general and the contributors to the Encyclopédie more specifically – stating that the institution is condemned on the basis of Natural Law in Jaucourt’s entry ‘TRAITE DES NEGRES

37 cf. ibid., p. 50.
commerce et du commerce des Européens dans les deux Indes (1770-1780) but who does mention the Encyclopédie in her analysis, has argued that attitudes to the slave trade were in fact more ambivalent in the mid-eighteenth century than is commonly supposed. Contrary to Dobie, Terjanian contends that the ‘commerce in man’ is a very real object of criticism in the Encyclopédie.42

If the attitude of French thinkers to slavery during the period with which we are concerned continues to garner scholarly interest, so have their responses to the eighteenth-century debate on luxury. It is now well-known that in the eighteenth century French society underwent what would now be referred to as a ‘consumer revolution’.43 The rapid expansion of global trade in the seventeenth and eighteenth centuries facilitated the influx of ‘material novelties’ from the Far East and the New World into French society – many of which, of course, were produced by slave labour in French Caribbean colonies.

39 cf. ibid., pp. 299-301.
40 cf. Outram, p. 43 and Hunt, p. 20.
These luxury goods became available to a wider section of society than ever before: the debate about luxury was centred on ‘the birth of the […] individualist, consumerist, liberal, capital society we now live in’.\textsuperscript{44} Terjanian, for example, has claimed that at the time of the \textit{Encyclopédie}’s compilation luxury not only ‘became the site of a wide-reaching and lively contest about the shape, scope, and effects of commercial society’ but the locus of ‘an evaluation of French colonialism and the imperial enterprise’ as well.\textsuperscript{45}

Whilst the contributions of eighteenth-century thinkers such as Hume, Mandeville, Montesquieu, Rousseau, Adam Smith, and Voltaire to the eighteenth-century debate on luxury have received ample scholarly attention,\textsuperscript{46} the role of the \textit{Encyclopédie} has been more or less marginalised, with most discussions of luxury in the work focusing on Saint-Lambert’s entry ‘LUXE’ (IX, pp. 763-771) and Diderot’s references to the quarrel in ‘*ENCYCLOPÉDIE (Philosop.)’ (V, pp. 635-648).\textsuperscript{47} Moreover, the conclusion usually drawn from these analyses is that the \textit{Encyclopédie} promotes a positive view of luxury.\textsuperscript{48} This prevalent view has also begun to be revised. Terjanian, for example, argues that in the eighteenth-century responses to globalisation there was a marked tension between ‘a triumphalist discourse of commerce and a foreboding sense of its destructive potential’.\textsuperscript{49}

Moreover, similarly to the question of colonial slavery, whilst scholars have focused on many different aspects of the luxury debate, its relationship to moral philosophy had, until recently, been relatively understudied. This is somewhat surprising given the fact that in most contemporary discussions of the subject the relationship between \textit{luxe} and the passions – and therefore human behaviour and morality – were central.\textsuperscript{50} Istvan Hont, for example, who has provided a summary various arguments and counter-arguments central to the luxury debate up until 1748

\textsuperscript{45} cf. Terjanian, p. 28.
\textsuperscript{46} cf. Ellen Ross, ‘Mandeville, Melon, and Voltaire: the origins of the luxury controversy in France; in SVEC 155 (Banbury: 1976), pp. 1897-1912 (henceforth designated as ‘Ross’).
\textsuperscript{49} cf. Terjanian, pp. 1-2 and pp. 11-12.
(and who, therefore, does not include the *Encyclopédie*), has emphasised the fact that luxury was not just an economic concern, but a moral one too.\(^{51}\) Nonetheless, the relationship between the luxury debate and moral philosophy has begun to be reassessed. Felicia Gottmann, for example, has re-appraised Voltaire’s (very central) role in the debate. She has also argued that the luxury debate had a significant influence on the development of moral philosophy in eighteenth-century France, particularly in literary texts which on the surface of things have little to do with the subject.\(^{52}\) It is now recognised, then, that perceptions of luxury were changing in mid-eighteenth-century France, and that the debate about *luxe* was instrumental in prompting reflection on what constitutes ethical behaviour. Nonetheless, the question of how luxury is approached from a moral standpoint in the *Encyclopédie*, and from a Natural Law perspective in particular remains to be uncovered.

In the first part of this study, then, I outline the theoretical principles of Natural Law thinking as they are expounded in the articles contained in the *Encyclopédie*. In the second part of the study I examine how the principles of Natural Law thinking developed in the first part are put into practice in respect of the two case studies of slavery and luxury. Thus some of the contributors to the *Encyclopédie* sought to support their calls for political, social, and economic reform with ideas derived from Natural Law thinking. Indeed, according to one commentator, in the eighteenth century the central tenet of Natural Law – that there exists a natural moral order of justice – meant it was ‘[…] a potentially devastating critic of existing laws and institutions’.\(^{53}\) However, more does need to be said about the central ideas associated with Natural Law thinking before turning to our analysis of those ideas in the *Encyclopédie*.

**I.2. WHAT IS NATURAL LAW?**

Providing a succinct and all-encompassing definition of the phrase ‘Natural Law’ is a difficult task given the ambiguity and multiplicity of meanings with which the two words which constitute the phrase have been attributed throughout history.\(^{54}\) However, it is important to make a particular distinction at the outset. The principal

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\(^{51}\) cf. Hont, p. 379.


concern of this study is with the ethical ideas contained in the Encyclopédie. Therefore, when I use the capitalised phrase ‘Natural Law’ I am referring to it as a *moral theory* – referred to as ‘droit naturel’ or ‘la science des mœurs’ by eighteenth-century jurists – albeit one with important legal and political implications. The phrase ‘Natural Law’ in this study refers not just to that moral theory, but also to its normative content, to the rules or prescriptions of human conduct imposed by that moral law. When referring to ‘Natural Law’, then, I am not referring to the physical ‘laws of nature’ in the Newtonian and scientific sense – called ‘les lois de la nature’ in eighteenth-century France – but to a *moral law*, belief in which had important ethical and political implications.

It is also important at this stage to mark the difference between two different but related ideas which became merged in the eighteenth century, when Natural Law theories were secularised and became divorced from theology at the hands of the seventeenth-century Natural Law theorists: the idea of a ‘natural law’ as a certain order of events as they occur in the physical universe, and which is therefore empirical and descriptive (*a posteriori*) (what *is*); and ‘natural law’ conceived of as a moral order of justice which should govern and regulate human behaviour and which is rational and normative (*a priori*) (what *should be*) – later referred to as the *loi naturelle* and *droit naturel* respectively. Whilst the former conception traditionally impacted on the natural and physical sciences and the latter on ethics and politics, during the seventeenth and eighteenth centuries the descriptive and prescriptive meanings merged together once the concept was secularised in the seventeenth century: from then on Natural Law was both prescriptive and descriptive; a statement of what *should be*, but also a statement of what *is*, based on human nature.

Despite the number of different interpretations of the phrase, when referred to as an ethical theory as it is in this study there are some general characteristics which can be said to feature in most theories accruing around the notion. As it stood in the eighteenth century, Natural Law thinking relied on the idea that there exists a natural, objective, and universal moral order of justice derived from human nature, and which therefore exists prior to and independently of the civil laws of any one

55 cf. ibid., pp. 79-80.
58 cf. ibid., pp. 16-19 and Waddicor, pp. 2-3.
political community – referred to by French thinkers as ‘la loi naturelle’. Since this moral law and its prescriptions are derived from human nature, the loi naturelle is not created or enacted, but discovered; its prescriptions are immutable and universal rules of justice which apply to all people – unlike civil laws which only apply to members of one particular society. Natural Law or the ‘science of morality’ was ‘le système, l’assemblage, ou le corps de ces mêmes lois [naturelles]’. Indeed, there is common agreement amongst scholars as to the convictions central to most Natural Law theories developed during the seventeenth and eighteenth centuries.

As Anthony Pagden defines it, the central tenet of Natural Law as a moral theory during the period with which we are concerned was ‘[…] the idea that there existed in nature – and thus available to all rational beings […] – a set of rules by which all human conduct was ultimately judged’. Mark Waddicor, for his part, defines it as ‘[…] the conviction that there are certain basic rights and laws, discovered by reason, which must be preserved and observed in relations between a man and his fellows, between men and their government[…]’. In this respect his definition allies closely to that of Frederick Pollock, whom he quotes at the start of his work on Montesquieu’s attitude to the doctrine: to adhere to Natural Law thinking is to believe that there exists ‘[…] an ultimate principle of fitness with regard to the nature of man […] which is, or ought to be, the justification of every form of positive law’. Hence Natural Law was taken to be an ideal law, what should be not just the basis of ethics, but also politics.

Consequently, those who adhered to the central tenets of Natural Law thinking outlined above argued that positive laws should conform to the prescriptions of the loi naturelle if they are to promote justice, and to fulfil their purpose of making people act virtuously through their commands. Finally, to take one further example, Lester Crocker defined the central tenet of Natural Law thinking to be: ‘[…] an intuitive belief, rationally conceived or not, […] that there is an objective right and wrong in the very nature of things and their relationships,'

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60 cf. Derathé, pp. 151-152.
61 cf. Burlamaqui (PDN, II, I, §II).
62 cf. Pagden, p. 37, my emphasis.
65 cf. d’Entrèves, p. 93.
66 cf. ibid., p. 82.
divorced from general utility, self-interest, or emotional preference’. There exists general agreement, then, on what was meant by the term ‘Natural Law’ in the eighteenth century, but we should not give the impression that it sprang, fully formed, from the works of seventeenth- and eighteenth-century writers. Whilst it is not our purpose here to provide a comprehensive history of the theories of Natural Law, a brief overview of the topic will help to show how the idea developed from Ancient times to the eighteenth century.

I.3. THE DEVELOPMENT OF NATURAL LAW THEORIES PRIOR TO THE ENCYCLOPÉDIE

When it came to establishing their ethical and political principles, the contributors to the Encyclopédie had a large repository of Natural Law thinking to draw upon, dating back to Antiquity. As we shall see in the main body of this study, the contributors to the Encyclopédie who adhere to the central tenets of Natural Law thinking outlined above draw upon ideas from Antiquity as well as those developed by during the seventeenth century. The purpose of this section, then, is to provide a brief outline of how Natural Law theories developed prior to the Encyclopédie, and in particular to outline the ideas central to the works of the seventeenth-century theorists, from which its contributors derive the majority of their ideas.

I.3.1. NATURAL LAW FROM ANTIQUITY TO THE MIDDLE AGES

Belief in a natural and universal moral order of justice which exists prior to and independently of the positive laws of any one State goes back to Antiquity, and subscribers to this idea included many of the period’s prominent thinkers, such as Socrates (470-399 B.C.), Plato (427-348 B.C.), and Aristotle (384-322 B.C.). Perhaps the most famous proponents of this idea in Ancient Greece, however, were the Stoics, whose thought thereafter had a large influence on Roman law, and in particular on the writings of later Roman thinkers such as Marcus Tullius Cicero (106-43 B.C.) and Lucius Annaeus Seneca (ca. 4 B.C.-A.D. 65).

68 For an historical overview of the development of Natural Law theories see, for example, d’Entrèves, Waddicor, pp. 1-9, and Haakonsen, pp. 15-58.
69 cf. Waddicor, pp. 3-4.
Because classical sources were so influential in shaping French culture at many levels, especially from the Renaissance onwards, it is not surprising that these authors played a large part in the thinking of French jurists in the period with which we are concerned. The following passage from Cicero, for example, was frequently cited with admiration by seventeenth-century Natural Law theorists and by diasporic Huguenots such as Burlamaqui, who did much to popularise the discipline in eighteenth-century France:

There is […] a true law – namely right reason – which is in accordance with nature, applies to all men, and is unchangeable and eternal […] calling all people to their duty by its commands and deterring them from wrong-doing by its prohibitions […]. This law cannot be countermanded, nor can it be in any way amended, nor can it be totally rescinded. […] There will not be one such law in Rome and another in Athens, one now and another in the future, but all people and all times will be embraced by a single and eternal and unchangeable law; and there will be, as it were, one lord and master of us all – the god who is the author, proposer, and interpreter of that law. Whoever refuses to obey it will be turning his back on himself. Because he has denied his nature as a human being he will face the gravest penalties for this alone, even if he succeeds in avoiding all the other things that are regarded as punishments […]\textsuperscript{70}

This short but insightful passage contains many of the essential features of Natural Law thinking. As Cicero defines it, Natural Law is 1) the expression of a divine will (whence it derives its eternality, immutability, and universality); 2) its precepts are discovered by the use of human reason (hence it is conceived of rationally, \textit{a priori}); and 3) all people, because of their rational nature, are obliged to obey its commands – Natural Law obliges all human beings as such, irrespective of religious affiliations or beliefs, historical epoch or geographical area in which they live(d).

As this passage from Cicero demonstrates, to believe in the existence of a natural and universal moral order of justice is to believe that humankind belongs to a universal society, or cosmopolis. It is to believe that there is something which binds us together as human beings, and which establishes absolute and general standards of ethical behaviour which exist above and beyond the will of any one individual and the values of any one political community.\textsuperscript{71} This quotation, then, serves as a basis from which to further examine the core tenets of Natural Law thinking as they stood

\textsuperscript{70} cf. Cicero, \textit{The Republic}, book III, §XXXIII; see Cicero: \textit{The Republic and The Laws} (Oxford: 1998), pp. 68-69. The authority Cicero in particular is frequently evoked by both Grotius and Pufendorf, for example, and this passage is directly quoted by Burlamaqui (PDN, II, V, §XI).

\textsuperscript{71} cf. d’Entrèves, pp. 25-26.
for the *philosophes* of eighteenth-century France, particularly as they were understood by the contributors to the *Encyclopédie*.

However, the rational and prescriptive sense of Natural Law used by Cicero in this quotation and inherited to him by the Stoics was not the only conception of Natural Law in Antiquity. In early Greek philosophy the ‘law of nature’ meant the law which governed the behaviour of all living things in the world; thereby applying to the behaviour all beings whether rational or not.\(^72\) In the writings of the Roman jurist Ulpian (170-228 A.D.), Natural Law again became something not unique to humankind and apprehended through the use of their reason, but an *instinct* common to both animals and humans.\(^73\) Ulpian’s idea, which would later be widely renounced before being once again adopted, had the consequence of suggesting that there was a Natural Law which was both prescriptive and descriptive at the same time – in this view there is one ‘Natural Law’ which governs the world of physical nature and human behaviour at the same time.\(^74\) This view was thoroughly rejected by the theologians of the medieval period when Natural Law was incorporated into Christian theology, and became once again something unique to humankind, since it acted as their link to God.

In the traditional Christian view of the world there were three sources of human moral judgements – three types of law which governed all aspects of human behaviour, ranked in a hierarchical order according to their perfection.\(^75\) Since the existence of God is the fundamental basis of Christian theology and therefore its ethics, ‘divine law’ – the rules and precepts about how one should live revealed to human beings by God – occupied the first and privileged slot in the hierarchy. Third in the hierarchy was man-made or ‘positive law’ – the rules and laws created and enacted by individual political communities, and generally referred to as ‘civil law’. Somewhere in between divine and positive law, and occupying the second slot in the hierarchical structure of the sources of moral judgements, was the ‘law of nature’ or ‘Natural Law’ – the law which governed every action in the natural and physical world.\(^76\)

\(^{72}\) cf. Pagden, p. 37.
\(^{74}\) cf. Oakley, pp. 38-39.
\(^{76}\) cf. Pagden, pp. 36-37.
It is St. Thomas Aquinas (1225-1274) who is generally credited with providing the doctrinal account of Natural Law as it was incorporated into Roman Catholic theology, in his *Summa Theologica* (written c. 1265-1274). The view of Natural Law developed by the Thomists – the ‘disciples’ of Aquinas – in the centuries which followed was notably dependent on the concept of theistic origins. From this point on the Christian God was considered to be the ‘author’ of Natural Law, having inscribed ‘first precepts’ in the human mind at the moment of the Creation which constituted ‘innate ideas’ by which humankind, through the use of their rational faculties, could recognise His existence, distinguish between good and evil, right and wrong, virtue and vice, and then act accordingly. However, this convenient and dominant view was challenged at the end of the Middle Ages and on into the seventeenth century by developments over which the Church could not exercise full control, try as it might.

**I.3.2. NATURAL LAW IN CRISIS: THE SEVENTEENTH-CENTURY SHIFT IN WORLD-VIEW**

One of the factors which the Church was unable to control and which had a radical impact on the traditional understanding of Natural Law, and, consequently, on the direction of Natural Law thinking as it later developed during the seventeenth and eighteenth centuries, was the amount of information which flooded into Europe regarding the inhabitants of the New World following European expansion there during the ‘age of discovery’. The ‘strange’ and ‘exotic’ peoples Europeans encountered in the accounts of explorers, travellers, and traders in the centuries which followed had a fundamental effect on the prevailing conception of Natural Law at the time, reliant as it was on God-given innate ideas of justice. According to the portrayal of them in much of the writing of the period, the ‘savages’ of the New World were unaware of the God-given Natural Law and incapable of acting virtuously – social practices such as cannibalism, for example, were shocking in the extreme to most European eyes.

The existence of supposedly universal moral principles was now on very shaky ground indeed. The essential consequences of all this was therefore an increasing scepticism about the universality of moral values and an acceptance of

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relativism. The usual example given of this is the essay *Des Cannibales* (1580) by Michel de Montaigne (1533-1592). The overwhelming message of the essay, famous for its depiction of the ‘cannibals’ not as barbaric, but dignified, was that how people behaved in purportedly ‘civilised’ European societies was not so ‘civilised’ after all.\(^{80}\) Moreover, the number of travel accounts sent back to France recounting the lives and values of societies very different to those in Europe continued unabated throughout the seventeenth century and well on into the eighteenth.

The central tenet of all Natural Law theories – that there exists a natural moral order of justice prior to and above the positive law of any one State – naturally leads to a distinction between what is natural and what is cultural, or civilised: between what *ought to be* and *what is*; between the ideal and the actual or real.\(^{81}\) In eighteenth-century France a growing corpus of philosophical works used the accounts provided to them of the ‘savages’ of the New World and the differentiation between nature and culture with polemical and philosophical effects; usually as a means by which to criticise their own society.

Importantly, as I have implied elsewhere, all of this was also happening against a background of intellectual ferment; particularly as many of those who helped develop and secularise Natural Law thinking were living in the middle of the period when what is now known as the ‘Scientific Revolution’ was taking place. To put the matter briefly, during the seventeenth century Galileo, Descartes, Newton, Boyle, and others established that nature operated by universal, timeless laws which could be understood and analysed by the human mind, and which existed independently of any contrary doctrines upheld and enforced by the Catholic Church. This cumulative proof of the rational and comprehensible workings of nature did much to encourage the belief that a similarly demonstrable set of principles could be known and applied in respect of the moral law.\(^{82}\)

That a set of rational, demonstrable, and universal moral principles could be established without needing to make reference to God proved particularly appealing to Grotius and Pufendorf, arguably the two most influential seventeenth-century Natural Law theorists, both of whom were horrified by the confessional violence

\(^{80}\) cf. Pagden, pp. 43-44.

\(^{81}\) cf. d’Entrèves, p. 93.

which characterised the post-Reformation Europe in which they lived.\textsuperscript{83} They sought a basis for both ethics and politics which would hold weight over religious or political affiliation, and allow them to establish a stable set of moral rules which would bind people together, and consider them primarily as human beings and not identified by their religious tribalism. In the works of Grotius, Pufendorf, and many of their successors, human reason alone became the source of Natural Law, and the standard of its applicability and validity.\textsuperscript{84}

I.3.3. NATURAL LAW IN THE SEVENTEENTH CENTURY

A word of caution is advisable here about what is often referred to by twentieth- and twenty-first-century scholars as ‘the seventeenth-century ‘Protestant’ or ‘modern’ Natural Law tradition’ or ‘the ‘modern’ or ‘secular’ Natural Law School’. Phrases such as these are primarily taken to refer to the seventeenth-century jurists Hugo Grotius and Samuel Pufendorf and their theories, although they are also sometimes extended to include others who contributed to the development and popularisation of their works and Natural Law thinking more generally; such as Barbeyrac and Burlamaqui, as well as John Locke (1632-1704), Christian Thomasius (1655-1728), Christian Wolff, and Emer de Vattel (1714-1767).

Referring to these jurists and philosophers as a ‘School’, their ideas as a ‘tradition’ or ‘doctrine’, or referring to their ‘theories’ as if they are a homogenous bloc, of course, runs the risk of implying a strict continuity in the development of their ideas and a deadening uniformity of opinion amongst them. It has variously been claimed, for instance, that the theories developed by ‘the Natural Law School’ were united in their rationalism, individualism, and radicalism,\textsuperscript{85} or that what unites these thinkers is that their theories are not those of law truly-speaking, but of rights.\textsuperscript{86} ‘Modern Natural Law’ was far from a coherent ‘tradition’ or ‘doctrine’ – all of these writers differed, albeit sometimes subtly, in their approach to the question of Natural Law, and to the related questions of moral and political obligation.\textsuperscript{87}

\textsuperscript{84} cf. Grotius (\textit{DGP}, I, I, §X), Pufendorf (\textit{DHC, Préface de l’Auteur}, §II) and Burlamaqui (\textit{PDN}, I, I, §I).
\textsuperscript{85} cf. d’Entrèves, p. 52, Grotius (\textit{DGP}, I, I, §IV), Pufendorf (\textit{DNG}, I, I, §XX), Burlamaqui (\textit{PDN}, I, VII, §II), and Leo Strauss, \textit{Natural Right and History} (Chicago: 1953), p. 183 (henceforth designated as ‘Strauss’).
\textsuperscript{86} cf. ibid., pp. 61-62, Crocker, \textit{Nature and Culture}, pp. 11-12 and Duncan Ivison, \textit{Rights}, (Stocksfield: 2008), pp. 7-8 (henceforth designated as ‘Ivison’).
\textsuperscript{87} cf. Hochstrasser and Schröder, p. xi and Waddicor, p. 134.
Another related question regards the place of Thomas Hobbes (1588-1679) and Spinoza in relation to the ‘School’. Although often bracketed together with other seventeenth-century Natural Law theorists because of their emphasis on rights, as we shall see, the ethical principles established by Hobbes and Spinoza are decried by certain contributors to the *Encyclopédie*. Nonetheless, both philosophers are included in articles about Natural Law and moral philosophy and Jaucourt, who, despite the remarks here, does seem to project a broadly linear development in Natural Law thinking from Grotius (via the aberrations of Hobbes and Spinoza) to Pufendorf, Barbeyrac, and Burlamaqui. If anything does unite these various thinkers it is a desire to establish a (broadly) secular and stable foundation for ethics, and to answer the question of how it is possible to live morally without God. In their responses to that question, however, they were far from unanimous.

In contrast to the traditional Catholic understanding of it noted above, the Natural Law thinking which developed in seventeenth- and eighteenth-century Europe had little to do with theology; it was solely a rational construct, and the self-evidence of its first principles seemed to many to suggest that the ‘existence of God [was] perfectly superfluous’.88 The man widely-credited with making this decisive break and reputed by many of his successors to be the ‘father’ of ‘modern’ Natural Law thinking is the Dutch diplomat and jurist Grotius, in his *De Iure Belli ac Pacis* (Paris: 1625). Widely-read in Enlightenment Europe, the definitive version of Grotius’ *magnus opus* for the wider eighteenth-century public and the contributors to the *Encyclopédie* was the translation *Le Droit de la Guerre et de la Paix* published in Amsterdam in 1724, by the Huguenot Jean Barbeyrac, Professor of Natural Law at the universities of Lausanne (1711-1717) and Groningen (1717-1744).89 According to Barbeyrac, it was Grotius ‘qui a rompu la glace’ and who purged Natural Law thinking of ‘le langage de barbare & les subtilitez ridicules des Scholastiques’.90

Grotius’ reputation in the eighteenth century, was, as it is today, largely due to his claim that human reason alone is capable of ascertaining moral rules without needing to be validated by God’s will or revealed religion. In the preliminary discourse to *Le Droit de la Guerre et de la Paix* Grotius makes the bold and

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88 cf. ibid., p. 55.
89 On the number of editions and translations of the work in the seventeenth and eighteenth centuries, see Jacob Ter Meulen and Pieter J.J. Diamanse ed., *Bibliographie des écrits imprimés de Hugo Grotius* (La Haye: 1950), pp. 280-287.
(in)famous assertion that Natural Law would retain its validity and authority even if there were no God – although he took great care to show that this was not his own belief.91 Influenced by the mathematical sciences as were the majority of seventeenth-century rationalists, Grotius argued that since *droit naturel* was a dictate of ‘right reason’ and dependent only on rational and sociable human nature, God was powerless to alter it, just as He was unable to make two multiplied by two equal any number other than four.92 By claiming a mathematical certainty to moral principles which would remain authoritative even if there were no God, Grotius paved the way for the prescriptive and descriptive meanings of Natural Law to merge. Following this remarkably bold idea put forward by Grotius, Natural Law could be both prescriptive and descriptive; a statement of what *should be*, but also a statement of what *is*, based on human nature.93

Nonetheless, many of the jurists who developed Natural Law thinking in his wake continued to ascribe a role to God in their theories. The role He played, however, was significantly diminished in comparison to the traditional Catholic conception of Natural Law found in Aquinas or the writings of the Thomists, and they placed an almost autonomous role to human reason in deducing the correct principles of right conduct and morality. Both Pufendorf and Burlamaqui, for example, followed from the Grotian hypothesis about the existence of God and His relationship to Natural Law; they emphasised that it was necessary to construct an ethical and political system which began with strong premises not about God, but nature – and, more specifically, human nature.94

Grotius is also important in respect of the second feature of modern Natural Law theories emphasised by Alexander Passerin d’Entrèves – their individualism. For Grotius, the basis and origin of political authority lay not in God and His will, but in the human individual, and the contractual transference their rights.95 For Grotius, then, as for those who followed him, individuals are the bearers of rights. In his view, rights must be understood in relation to justice – they are moral qualities of people, enabling them to have or to do something *justly*.96 The primary right which

95 cf. d’Entrèves, p. 57.
Grotius ascribes to people in *Le Droit de la Guerre et de la Paix* is the right to self-preservation.

Since human beings possess rights, for Grotius they can legitimately be surrendered or transferred in some circumstances similarly to other possessions. It is this view which underlies his (in)famous explanation of how individuals could transfer or surrender their right to self-preservation through the analogy of slavery; arguing that if it were legitimate for an individual to transfer their right(s) and give themselves up to the authority of a master and become a slave in order to guarantee their self-preservation – which, he argues, it is – then it were equally possible for a people to collectively do the same, and transfer their natural rights to form a political authority absolute in nature.97

Despite his apparent support for absolutism, Grotius believed human societies to be composed of individuals who are the bearers of rights, and who – as sociable beings – are capable of living in relative harmony and respecting each other’s rights in accordance with the duties prescribed by Natural Law. However, his view that a set of rational and universal moral principles exist in nature and act as a limit on the exercise of one’s rights did not gain currency without a struggle. Two of the major opponents standing in its way were the English philosopher Thomas Hobbes, and the Dutch philosopher Benedict de Spinoza to whom reference has already been made. Although both Hobbes and Spinoza are often grouped together with the other seventeenth-century Natural Law theorists because of their similar emphasis on the rights of the individual as the basis of political authority, their ethical ideas were in fact very different.

One of the most devastating seventeenth-century attacks on the orthodox Catholic view of Natural Law came from the undermining of one of its foundational ‘first principles’ – that of human sociability. It was from this principle that Natural Law’s primary precept – that one should love one’s neighbour as oneself or treat others as one would want to be treated – was traditionally deduced.98 It was also from this principle that political and social theorists traditionally derived their ideas about human nature and, consequently, about how societies should be managed and organised. Hobbes destroyed the idea of natural sociability with his depiction of

humankind in the state of nature – that is, a pre-social phase in human development before the institution of any form of political authority or positive law.

In his two works *De Cive* (1642) and *Leviathan* (1651), Hobbes denies the existence of a natural moral order of justice. According to Hobbes, human nature exists in a godless, immoral or even amoral world. It is not natural sociability which draws people together, but fear of a violent death at one another’s hands. Until human beings are subject to an absolute and arbitrary power which can constrain their violent instincts, the life of man is one of ‘continuall feare, and danger of violent death’ and, consequently, ‘solitary, poore, nasty, brutish, and short’ (*Leviathan*, XIII). Mankind’s capacity for inhumanity was such that they were like wolves (ibid.). Before the establishment of any positive laws enacted by the State ‘[…] nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice there have no place’ (ibid.). This depiction of human nature in this pre-social state of nature – which he says still existed amongst the peoples of the Americas (ibid.) – as solely concerned with their own self-preservation, avoiding pain and death, and dominated entirely by a desire to satisfy their own passions at the expense of others was implicitly linked to Catholic views of Fallen Man, although Hobbes himself was by no means a doctrinaire believer in any religious creed (indeed, he was frequently reputed to be an atheist).

Before the seventeenth century the state of nature was a theological concept rather than a political one. It described the ‘pure’ and ‘virtuous’ state of humankind untainted by the ramifications of original sin which occurred with the Fall. In their depraved post-lapsarian condition, human beings were still in the state of nature, but were considered to have alienated themselves from God; they were inherently sinful and selfish and needed to be redirected to God’s will through the reception of divine grace. Whilst Christian theology usually stressed the need for divine grace to remedy the evils of human nature, Hobbes maintained that it was only through a joint rational decision motivated by self-interest that human beings could decide to join together and erect an absolutist State and achieve that end.

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100 For the Scriptural bases of original sin see Genesis and the writings of Paul the Apostle in Romans 5:12-21 and 1 Corinthians 15:22.
In *Leviathan*, what had previously been conceived of as the ‘law of nature’, or ‘natural law’ was reduced instead to a subjective right – consequently, it is not duties or obligations to others which are given the prominent place in his ethical thought, but the individualistic exercise of one’s rights.\(^{102}\) This change in emphasis relied on the crucial distinction which Hobbes made between a ‘law of nature’ (*lex*) and a ‘right of nature’ (*ius*); with the former being a constraint on human behaviour and the latter a freedom to act:

> The Right of Nature[...] is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgement, and Reason, hee shall conceive to be the aptest means thereunto (*Leviathan*, XIV).

> A Law of Nature, (*Lex Naturalis*), is a Precept, or generall Rule, found by Reason, by which a man is forbidden to do that which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved (ibid.).

It is Hobbes’ emphasis on the single right to self-preservation from which the ‘laws of nature’ are derived which was at the heart of the new subjective meaning of rights and the theory of the social contract he helped to develop.

To ensure that the violent state of nature came to an end, all people in that state agreed to surrender their natural right(s) to self-preservation and enter by means of rational deliberation into a ‘social contract’ by which everyone agreed to surrender their right(s) and create the ‘Leviathan’ State (*Leviathan*, XVII). Whilst for Grotius it was possible for people to alienate their right(s) to self-preservation, for Hobbes it was not only possible, but imperative that they be surrendered in their entirety.\(^{103}\) Whilst this made human interactions more sociable – with the fear of punishment from the State for any wrong-doing acting as a constraint on human behaviour – it did not ultimately change the nature of human beings, who remained easily capable of acting with inhumanity towards one another; still concerned above all with their own self-preservation and ruled by the passions.\(^{104}\) This negative view of human nature was later echoed in the works of Spinoza, with whom Hobbes shared many ideas.

\(^{102}\) cf. Oakley, p. 92.

\(^{103}\) cf. d’Entrèves, pp. 48-63 and Tuck, p. 160.

\(^{104}\) cf. Pagden, pp. 51-52.
Spinoza was another thinker who helped to stimulate reflection on the idea of Natural Law, and who was also highly influenced by the Scientific Revolution and the Cartesian view of a mechanistically-determined world of nature. Renowned for his atheism and materialism, his philosophical theory was one of absolute physical and moral determinism which, allied with his critical attitude to the Bible, challenged all forms of Christian doctrine as well as ‘the mainstream of the western philosophical tradition since the end of Antiquity’. Ultimately, as was the case with Hobbes, with whom he shared many ideas, what Spinoza’s system did was present human nature in a negative light – a reputation which, as we shall see, was clear to those contributors to the Encyclopédie who adhered to the central tenets of Natural Law thinking.

As with both Grotius and Hobbes, Spinoza founded his political philosophy not by reference to divine right, but from the starting-point of human nature as he considered it to really be. The materialistic one-substance theory he postulated, however, negated the idea that human behaviour was governed by its own set of moral laws, but rather emphasised that people, and their wills, consisted only of matter and were therefore solely governed by the scientific laws of nature which regulated the rest of the natural world. Since human beings are determined to act out of physical necessity, they are ‘slaves’ to the passions and unable to behave otherwise than they do. The ethical consequences of his materialist philosophy caused a scandal – in the eyes of many of his contemporaries and successors, his system denied human beings free will and moral responsibility.

For Spinoza, as for Hobbes, in the state of nature there is no natural moral order of justice which limits what people could or could not do to each other; people’s natural rights were only limited by their physical ability to act. Similarly to the depiction provided by Hobbes of that natural state, for Spinoza it was a non-moral condition of natural enmity with a constant potentiality for conflict due to the overwhelming influence of the passions and ultimately self-interested nature of...

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105 cf. Waddicor, p. 8, and Israel, Radical Enlightenment, p. 163.
106 cf. Israel, Radical Enlightenment, p. 231. Spinoza ‘[…] eliminated all notions of a normative world created by God with the intention that it should function in one way or another’, Israel, Enlightenment Contested, p. 46. cf. also Crocker, An Age of Crisis, pp. 109-110 and Ann Thomson, Bodies of Thought: Science, Religion and the Soul in the Early Enlightenment (Oxford: 2008), p. 52 (henceforth designated as ‘Thomson, Bodies of Thought’).
107 cf. Thomson, Bodies of Thought, p. 52.
humankind. His depiction of the state of nature not only caused an outcry because it negated the existence of any justice by reference to the divine, but precisely because it equated right with might and undermined the very idea of any natural moral law.\(^{110}\)

All of these developments, from Grotius, Hobbes, to Spinoza, presented a disconcerting view of human nature and society to conservatives: for them it was ‘[…] a profoundly unsettling vision of the human condition’ which left humankind alone in the world, with only their reason to guide them.\(^{111}\) Indeed, it was not only entirely conservative minds which found this state of affairs disturbing. The legacy of the Hobbesian-Spinozist state of nature in particular, their corresponding view of human nature and the ethical consequences they drew from it, led to them having a reputation for presenting a negative view of the human essence and condition. Indeed, as Pagden remarks in regard to Hobbes: his reputation in the eighteenth century was one of having developed a philosophy which reduced humankind ‘[…] to little more than rationalising, maximising, and […] ‘selfish’ automata’.\(^{112}\) The essential problem for many, then, with the emphasis placed on self-preservation in the works of Grotius and, to a greater extent Hobbes and Spinoza, was that it portrayed humankind – especially in the works of the latter two thinkers – as incapable, or unwilling, to demonstrate any compassion for the desires, needs, welfare, or rights of others.

This, as it stood, simply would not do, as it seemed to many to ignore the actual facts of human behaviour as they were commonly experienced. For many, what was needed was a basis for morality which would accept the darker side to human nature and the passions, but provide a richer account of human behaviour than that of Hobbes and Spinoza in particular: hence a new emphasis on the ‘sentiments’ or feelings began to emerge.\(^{113}\) This developing emphasis on ‘sensibilité’ and on the sensitivity of people to the suffering of others began to be seen, in the latter decades of the seventeenth century, not just as a desirable characteristic of human nature, but a natural one.\(^{114}\) As Isaiah Berlin once put it, there was a growing consensus during the eighteenth century that: ‘[…] in matters of ethics and politics every man was his own expert; […] whilst not everyone could be


\(^{111}\) cf. Pagden, p. 52.

\(^{112}\) cf. ibid., p. 49. On the scandalous reputation of the ethical consequences to be drawn from Spinoza’s materialist philosophy, see Citton, *L’Envers de la liberté*, pp. 261-266.

\(^{113}\) cf. ibid., pp. 54-57.

\(^{114}\) cf. Friedland, p. 154.
a good mathematician, all men by inspecting their own hearts could know the
difference between good and evil, right and wrong [...]'.

The first thinker to attempt this was the German jurist and statesman Samuel Pufendorf to whom
reference has already been made.

‘Modern Natural Law’ was inaugurated as an academic discipline in 1661,
when Pufendorf was appointed Professor of Natural Law at the University of
Heidelberg. It was there that he composed his major work on the subject, De Iure
Naturae et Gentium (1672), which was translated into French by Barbeyrac as Le
Droit de la Nature et des Gens (Amsterdam: 1706). Its abridgement – De Officio
Hominis et Civis – was also translated for the French public by Barbeyrac, as Les
Devoirs de l’Homme et du Citoyen (Amsterdam: 1707). Both texts underwent
numerous re-printings throughout the eighteenth century, and their popularity even
provoked counterfeit editions published on the back of their success. As we shall
see in the main body of this study, Pufendorf’s understanding of Natural Law was to
have a profound impact on some of the more notable contributors to the
Encyclopédie.

Pufendorf attempts to reconcile the more benign picture of human nature put
forward by Grotius with the realism of Hobbes. Indeed, Pufendorf clearly accepts
the passions as a natural part of human nature, albeit one which needed to be tamed.
As he remarks, ‘the science of morality’ presupposes human beings to be subject to
the influence of the passions and to ‘seethe with evil desires’ – if they did not, there
would be no need for moral philosophy in the first place. His works are also
important for this study because of the differences he outlines between Natural Law
and moral theology. The latter, he argues, only concerns one’s internal thoughts,
whereas the former is directly concerned with external behaviour. Moreover, for
Pufendorf, if the loi naturelle is known to all people, it does not necessarily mean
that it is ‘inherent in their minds’ from the moment of their birth – it simply means

117 For a list of editions, their place of publication and their dates, see Philippe Meylan, Jean
Barbeyrac (1674-1744) et les débuts de l’enseignement du droit dans l’ancienne Académie de
editions of DNG (Amsterdam: 1712 and Basle: 1732), see the review of the third edition of DNG
(Amsterdam: 1734) in BROS, XI (1733), pp. 5-36.
118 cf. Pagden, p. 52.
that its precepts can be discovered by reason, and that its prescriptions are so self-evident that they become ‘ingrained in our minds’ over time.\textsuperscript{121} On this view, then, although God is the ‘author’ of human nature, having made humankind as He did, morality is a particularly human creation.\textsuperscript{122}

For Pufendorf the \textit{loi naturelle} is both descriptive and prescriptive.\textsuperscript{123} In order to discover the \textit{loi naturelle} and its precepts, he emphasises that one should look to human nature – which he presents as Janus-faced. Human beings are, as they had been for both Hobbes and Spinoza, ‘animals’ concerned above all with their own self-preservation, but they are also presented as naturally sociable, as they had been for Grotius.\textsuperscript{124} The \textit{loi naturelle} prescribes duties which all people are obliged to fulfil in their relationships with God, themselves, and with others. The foundational duty prescribed by the \textit{loi naturelle} for Pufendorf is to live in a sociable manner – that is, in a way in which one’s behaviour conforms to the prescriptions of the \textit{loi naturelle}, and respects the rights of others.

Pufendorf also emphasises that human beings are the bearers of natural rights – people are free and equal in rights in the state of nature.\textsuperscript{125} However, when it comes to the purpose of rights he disagrees with Hobbes and Spinoza, for Pufendorf, rights as Hobbes and Spinoza conceived them are not rights in the proper sense of the word, since any true right requires a duty or obligation prescribed by the \textit{loi naturelle} to be fulfilled on the part of others.\textsuperscript{126} Rights are the foundation of justice, and justice therefore consists in respecting the rights of others.\textsuperscript{127} When it comes to the absolute duties prescribed by the \textit{loi naturelle} in respect of others, he lists three: 1) to do no harm, 2) to treat others as equals, and 3) to act not just in pursuit of one’s own interest, but with consideration for the needs of others.\textsuperscript{128}

The \textit{loi naturelle} therefore prescribes that everyone should treat others as creatures of the same worth, and dignity, as themselves. If human beings are animals concerned primarily with their own self-preservation, for Pufendorf they are also endowed with a sense of ‘self-worth’ or ‘self-esteem’ which can be damaged by the

\begin{itemize}
\item \textsuperscript{121} cf. Pufendorf (\textit{DHC}, I, III, §XII).
\item \textsuperscript{122} cf. Haakonssen, p. 38.
\item \textsuperscript{123} cf. Waddicor, p. 8 and Pufendorf (\textit{DNG}, II, III, §XIV) and (\textit{DNG}, I, VI, §IV).
\item \textsuperscript{124} cf. Pufendorf (\textit{DHC}, I, III, §§I-IX).
\item \textsuperscript{125} cf. Pufendorf (\textit{DHC}, II, I, §§II-V).
\item \textsuperscript{126} cf. Pufendorf (\textit{DNG}, III, V, §III).
\item \textsuperscript{127} cf. Pufendorf (\textit{DHC}, I, II, §XV).
\item \textsuperscript{128} cf. Pufendorf (\textit{DHC}, I, VI-VIII).
\end{itemize}
slightest insult. The important point is that all human beings are equal in dignity, and should therefore be treated as such:

Le seul mot d'Homme emporte, dans son esprit, une idée de grandeur & de dignité; de sorte que, pour rabattre l’insolence d’une personne qui nous insulte avec mépris, on a toujours cette dernière ressource toute prête, que l’on croit fournir d’ailleurs un argument sans réplique: Après tout, je ne suis pas un Chien; je suis Homme aussi bien que toi.129

Pufendorf also explains the institution of society by the means of a series of conventions or contracts between individuals free and equal in rights in the state of nature in order to ensure their safety and happiness.130 As they were for both Grotius and Hobbes, for him the rights of the individual are alienable. Though sovereignty was instituted by a contractual agreement amongst men, it did not mean that it was limited. Given the religious conflicts which characterised his lifetime, Pufendorf remained convinced of the need for absolute sovereignty.

However, a more liberal approach to rights and the social contract was developed in the works of the English philosopher John Locke, who is also particularly important for this study because of the role he played in demolishing the bases of the traditional conception of Natural Law. As we have seen, such an understanding of Natural Law was based on a particular view of human nature: human beings were considered to be endowed with God-given innate ideas, or first principles, from which reason could deduce how to act. Although both Grotius and Hobbes had threatened this understanding of Natural Law by reducing it to the basic urge for self-preservation, and for emphasising the sufficiency of reason alone as the arbiter of justice, neither of these thinkers rejected the concept of innate ideas on which it fundamentally relied, although, as we have seen, Pufendorf suggests that if people can apprehend the loi naturelle it is not because it is ‘inherent in their minds’, but because it is discovered by reason and ‘ingrained’ over time.131

The rise of empirical psychology at the turn of the eighteenth century, founded, as was Newtonian physics, on observation and experience, and spearheaded by the works of Locke, also had a large critical impact on the traditional conception of Natural Law, and consequently upon the understanding of human nature and its place in the world.132 Locke’s major philosophical work, An Essay Concerning

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131 cf. Pagden, p. 63.
132 cf. ibid., p. 65.
*Human Understanding* (1690) was brought to attention of the French reading public by his friend, the eminent Huguenot journalist Jean Le Clerc (1657-1736), who published an extract of it in the *Bibliothèque universelle* in 1688. It was not published in its entirety until translated by Pierre Coste (1668-1747), as the *Essai philosophique concernant l’entendement humain* (Amsterdam: 1700).

Locke’s insistence that all human knowledge – and, therefore, by extension, our knowledge of right and wrong, justice and injustice – comes from the senses, and his depiction of the human mind as a *tabula rasa* was seen by many of his contemporaries and successors to have as its objective not ‘to demolish Descartes, but instead the ‘Scholastic’ basis of Natural Law’. According to Barbeyrac, for example, the concept of innate ideas had been weakened in the first instance by both Richard Cumberland (1631-1718) and Pufendorf, but it was Locke who fully realised the task. The problem with the Lockean view of human nature and the human mind, however, for many, was that it reduced humans to the same status as other animals; rather than beings endowed with reason which gave them elevated status, observation and experience showed that the source of human knowledge and human motivation for acting were the same physical sensations to which animals are subject; that is, factors such as pleasure and pain: humans were viewed as being guided solely by sensations. Moreover, it seemed to suggest that morality was relative, and an emphasis on the pleasure-pain principle seemed to lead, ultimately, to a utilitarian ethics.

As well as being well-known in eighteenth-century France for his rejection of the concept of innate ideas, Locke’s major political work *The Two Treatises of Government* (1689) was also translated into French by Huguenots of the diaspora, as *Du gouvernement civil, où l’on traite de l’origine des fondemens, de la Nature, du pouvoir, et des fins des societez politiques* (Amsterdam: 1691). The political ideas and conception of rights contained in this work were enthusiastically adopted by Barbeyrac and Burlamaqui in particular – to whom frequent reference will be made

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133 cf. *BUH*, VIII (1688), pp. 49-142.
135 cf. ibid.
throughout this study. As for both Hobbes and Pufendorf, Locke begins with an analysis of human nature and the effect of Natural Law on it in the state of nature.\(^{138}\) As for his predecessors, he considers individuals to be free and equal in rights in that state.\(^{139}\) However, his depiction of the state of nature is the antithesis to that of Hobbes and owes more to that of Pufendorf – there is a natural moral order of justice at work in it.\(^{140}\)

Consequently, for Locke, the state of nature is one of peace, in which Natural Law acts as a moral brake on the exercise of one’s rights. Nonetheless, as for Pufendorf, Locke does not consider there to be a complete absence of conflict in the state of nature – hence the decision taken by individuals in that state to erect a form of political authority. The central difference for Locke in comparison to Grotius, Hobbes, and Pufendorf, however, is that the rights of the individual are inalienable – they are maintained in their entirety in society, and act as a brake on the exercise of sovereignty at all times.\(^{141}\)

To sum up what we have seen so far: the thinkers of ‘the modern Natural Law tradition’ placed the emphasis not on God as the starting-point for their ethical and political ideas, but on the individual – with an examination of human nature, and the impact (or otherwise) of Natural Law on it. The jurists and philosophers who did much to prompt thinking about Natural Law in the seventeenth century differed in many important respects – with Hobbes and Spinoza standing out as anomalies in particular. This is particularly true in respect of their moral philosophies. Much of the Natural Law thinking in the period with which we are concerned centred on the relationship between rights and duties prescribed by Natural Law.

The denial of a natural moral order of justice by Hobbes and Spinoza was scandalous to many of their contemporaries, seen to entail moral subjectivism and equate right with might, and provoked a long-lasting controversy lasting well into the eighteenth century.\(^{142}\) Grotius, Pufendorf, and Locke, on the other hand, as well as Barbeyrac and Burlamaqui later on, believed in the existence of a natural moral order of justice and consequently took a different view: for them, rights are not

\(^{139}\) cf. Locke (\textit{DGC}, I, §I).
\(^{140}\) cf. Locke (\textit{DGC}, I, §§I-III).
\(^{141}\) cf. Locke (\textit{DGC}, I, §I).
antithetical to duties, but rather they are correlative. In their view, having rights places a correlative duty on the part of others to respect that right: ‘[…] rights are conceived of in relation to a power or a liberty of an individual to act, but act in a certain way, in relation to a particular conception of moral and political order’. This view, as we shall see, is echoed at length in many of the articles in the *Encyclopédie*.

I.4. CONCLUSION

The constellation of ethical and political ideas developed by seventeenth-century Natural Law theorists is recognised as having been important in the formation of eighteenth-century ethical thought, but an examination of the central tenets of Natural Law thinking in the *Encyclopédie* as a whole remains under-examined. Existing research covers disparate articles predominantly relating to how seventeenth-century Natural Law theories influenced the political philosophies developed by individual contributors to the project or in specific articles rather than the work in its entirety, thereby drawing only localised conclusions about the development and deployment of Natural Law thinking in the work. This study therefore breaks new ground by analysing how ethical principles central to Natural Law thinking manifest themselves throughout the *Encyclopédie* as a whole, and in particular how Natural Law principles are put into practice in order to propose reforms of contemporary society’s attitude to slavery and luxury in particular; thereby emphasising the connection between Natural Law thinking and the *Encyclopédie*, and the aims attributed to it by its editors.

145 Ivison, *Rights*, p. 47, my emphasis.
Figure 1: The title page to the Encyclopédie’s first volume (1751).  

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146 cf. ARTFL: <http://encyclopedie.uchicago.edu/node/33>.
PART ONE

NATURAL RIGHTS AND NATURAL LAW IN THE

ENCYCLOPÉDIE
CHAPTER ONE

THE ENCYCLOPÉDIE (1751-1772)

1.1. INTRODUCTION

The purpose of this chapter is not to provide an overview of the long and complicated publishing history of the Encyclopédie ou Dictionnaire raisonné des Sciences, des Arts et des Métiers (1751-1772), although certain aspects of it are relevant here. Rather, its primary purpose is to demonstrate the close connection between the goals of the project and the central tenets of Natural Law thinking outlined in the introductory chapter, and why key ideas developed by the seventeenth-century Natural Law theorists in particular appealed to some of the more notable contributors to the work.

In particular, it is argued that the aims attributed to the Encyclopédie by its editors – both publicly and privately – suggest a direct link between their aspirations for the work and the objectives of earlier adherents to Natural Law thinking, and those of the seventeenth- and eighteenth-century Natural Law tradition especially. It is contended that this is above all the case in respect of the reformist tendencies accredited to the project by its editors which, as we shall see, are particularly prevalent in the approach of those of the work’s contributors who believed in natural justice and natural rights to the related questions of both slavery and luxury.

The chapter goes on to highlight certain problems faced by anyone studying the Encyclopédie, and which necessarily have to be borne in mind in respect of the following analysis of Natural Law thinking in that work. It also justifies the choice of the two case studies which make up the second part of the study.

1.2. THE ENCYCLOPÉDIE, ITS AIMS, AND THE APPEAL OF NATURAL LAW THINKING

Initially conceived as a French translation of the Cyclopaedia, or a Universal Dictionary of Arts and Sciences (London: 1728) by Ephraim Chambers (1680-1740), after d’Alembert and Diderot became its editors in 1747, the Encyclopédie soon took on a different hue, and became much more than just a work of translation.\textsuperscript{147} As

René Hubert later put it in a remark which exemplifies much of existing scholarly opinion of the work:

L’Encyclopédie ne serait ainsi qu’une vaste machine de guerre destinée à saper les abus de l’Ancien Régime, voire les fondements de toute institution sociale.\(^{148}\)

This study argues that the broad constellation of ethical and political ideas developed in seventeenth-century Natural Law theories, which are reflected in the content of many of the Encyclopédie’s articles, played an important role in this undermining of the status quo, and formed the basis of many of their proposals for social and political reform in particular. In this regard and in several others, then, the Encyclopédie differs wildly from the translation of the Cyclopaedia which it started out as.

The marked difference in scale and scope between the two works is particularly evident. The Cyclopaedia consists of two folio volumes. In the Prospectus to the Encyclopédie published in 1750, it was declared that the French project would be made up of ten.\(^{149}\) By the time Diderot concluded his involvement in the project in 1772, however, and in spite of censorship and attempts at interrupting and suppressing the work in its entirety, the Encyclopédie consisted of seventeen folio volumes of text, and eleven of plates (see Tables 1 and 2). This was not the end of the matter either – five further volumes of the accompanying Supplément were published in 1776-1777, and a two volume Table analytique, or ‘Index’, also appeared in 1780.\(^{150}\) The significant difference in scale between the Cyclopaedia and the Encyclopédie is largely due to the scope of the latter and the particular aims attributed to it by its editors.

In the Discours préliminaire to the work, d’Alembert confirms that as both an ‘Encyclopédie’ and a ‘Dictionnaire’, the project had two principal objectives:

L’Ouvrage […] a deux objets: comme Encyclopédie, il doit exposer autant qu’il est possible, l’ordre & l’enchaînement des connaissances humaines: comme Dictionnaire raisonné des Sciences, des Arts & des Métiers, il doit contenir sur chaque Science & sur chaque Art, soit

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\(^{149}\) cf. Proust, p. 46.

\(^{150}\) Table analytique et raisonnée de matières contenues dans les XVIII volumes in-folio du dictionnaire des sciences, des arts et des métiers, et dans son supplément 2 vol. (Paris: 1780).
libéral, soit mécanique, les principes généraux qui en sont la base, & les
détails les plus essentiels, qui en font le corps & la substance (I, p. i). 151

The objectives of the work outlined here by d’Alembert, and the long exposition of
human knowledge and the sciences which constitutes a significant part of the
Discours préliminaire, confirm the reputation of the work as emblematic of the
values of the Enlightenment – the editors saw the project as a means of combatting
the intellectual authority and supremacy of the Church, and promoting rational,
empirical, scientific, and progressive values at its expense. 152

Diderot places a similar emphasis on knowledge and the sciences in his entry
**ENCYCLOPÉDIE** and ascribes much the same objectives to the work as
d’Alembert does in the earlier Discours préliminaire (V, p. 635). Moreover, he goes
on to assert that the work had a more noble purpose than just providing a
compilation of all existing knowledge. If that were not enough of a worthy and
gargantuan task, the editor also indicates the reformist tendencies of the work – as
well as being a compilation of knowledge, the purpose of an Encyclopédie, he writes,
is also to make people happier and more virtuous:

> En effet, le but d’une Encyclopédie est de rassembler les connaissances
éparse sur la surface de la terre; d’en exposer le système général aux
hommes avec qui nous vivons, & de le transmettre aux hommes qui
viendront après nous; afin que les travaux des siècles passés n’aient pas
été des travaux inutiles pour les siècles qui succéderont; que nos neveux,
devenant plus instruits, deviennent en même temps plus vertueux & plus
heureux, & que nous ne mourions pas sans avoir bien mérité du genre
humain (ibid.).

If the reader were still in any doubt, he re-emphasises the point later in the same
article:

> Comme il est au moins aussi important de rendre les hommes meilleurs,
que de les rendre moins ignorans, je ne serois pas fâché qu’on recueillit
tous les traits frappans des vertus morales. Il faudroit qu’ils fussent bien
constatés: on les distribueroit chacun à leurs articles qu’ils viviferoient
(ibid., p. 645).

It is clear from these two passages that Diderot saw the role of the project not just to
‘enlighten’ people, but also to correct the behaviour of his contemporaries, as well as
to provide a blueprint for future conduct.

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151 cf. Hubert, p. 3.
152 cf. ibid., p. 4 and Henry Vyverberg, Human Nature, Cultural Diversity and the French
Given these aims, and from the substance of the rest of this study, it is, I think, fair to say that when Diderot declares in the same article that ‘nous avons eu […] des contemporains sous le siècle de Louis XIV’, the jurists and philosophers associated with the seventeenth-century Natural Law tradition can be included in this remark (ibid., p. 636). Moreover, further indications of the appeal of seventeenth-century Natural Law theories to the editors of the Encyclopédie are also evident in this article, particularly in its emphasis on the human individual as the starting point for philosophical discussion and, consequently, principles of both moral and political philosophy.

The particular appeal of modern Natural Law theories to some of the contributors to the Encyclopédie lay in the fact that they were primarily secular ethical and political systems. Consequently, ideas central to modern Natural Law thinking provided some of the work’s contributors with a humanist alternative to the prevailing ethos of their own society; indeed, more than just being an alternative to the values of their own society, they were in many cases emphatically incompatible with them.

The philosophes who contributed to the Encyclopédie were, in general, hostile to the Catholic Church, its morality, and the values it promoted and upheld. As for many of their progressive contemporaries the primary objection was that Christianity ‘[…] ignored, or attempted to suppress, our natural needs and drives, in favour of some unreal and unrealisable image of what man should be’.153 By contrast, the seventeenth- and eighteenth-century Natural Law theorists began their ethical and political systems not with theological premises, but an assessment of human nature and the ‘basic goods’ they considered to be the object of the human will. They began by establishing why it is that human beings act as they do, what drives them to seek some things and to avoid others – they ‘[…] emphasise[d] the individual and the empirical reality of his actual experience, needs and claims’.154 That an approach to both ethics and politics which began not with God but with the human individual appealed to the editors of the project is clear from two further statements made by Diderot in *ENCYCLOPÉDIE*.

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Firstly, in a remark which clearly reflects the preoccupations of seventeenth-century Natural Law theorists, he states that ‘la Philosophie ne connoit que les règles fondées dans la nature des êtres, qui est immuable & éternelle’ (V, p. 636) – the implication being, that when it comes to moral philosophy, or ethics, its rules (i.e. ‘laws’) should be derived from human nature, and not theological premises. The following sentence suggests that he could well have had the seventeenth-century Natural Law writers in mind and the relationship of the Encyclopédie to them: ‘c’est au siècle passé à fournir des exemples, c’est à notre siècle à prescrire les règles’ (ibid.). Secondly, if there were any remaining doubt as to the starting point for any philosophical inquiry, Diderot reiterates that it is not to God that one should look, but to humankind: ‘L’homme est le terme unique d’où il faut partir, & auquel il faut tout ramener […]’ (ibid., p. 641). This repeated insistence on humankind rather than God as the starting point for philosophy – and, consequently, moral philosophy – demonstrates both the appeal of seventeenth-century Natural Law thinking to the editors of the project, and implies their dissatisfaction with the bases and prevailing values of their own society.

Reform of society and its institutions was an increasing concern amongst the eighteenth-century French *philosophes*: ‘nothing could be more mistaken than the idea that the eighteenth century was an age of abstract thought. It was, on the contrary, […] one of intense interest in practical reform’.155 This fact was not lost on the editors of the Encyclopédie – as d’Alembert writes in the Discours préliminaire: ‘il est vrai que notre siècle […] se croit destiné à changer les lois en tout genre’ (I, p. xvii). If this remark refers to the century as a whole, this study argues that it can also be said to refer to certain attitudes expressed throughout the Encyclopédie itself – particularly in those of its entries which examine contemporary society, its institutions, and its values from a Natural Law perspective. There is, however, an important distinction to be made at this stage between reform and revolution. In the Discours préliminaire d’Alembert emphasises the preoccupation of his century with change (i.e. reform) of laws; few eighteenth-century thinkers, at this stage at any rate, did want to overthrow the existing régime.156

156 There has been significant debate as to the extent to which the Encyclopédie, and Diderot in his relationship to it in particular, helped to undermine the social and political structures of the ancien régime and pave the way for the French Revolution more generally; cf. Daniel Mornet, *Les origines intellectuelles de la Révolution française, 1715-1787* (Paris: 1933) and Chartier.
Nevertheless, when discussing the aims of the work in relation to the mind-set and behaviour of his contemporaries in his private correspondence, Diderot goes further in his language than d’Alembert in the *Discours préliminaire*. In a letter to Sophie Volland (1716-1784) from 1762 he writes that he wants the project not to encourage *change* of laws, but a *revolution* in the way people think: the *Encyclopédie*, he writes, ‘[…] produira sûrement avec le temps une révolution dans les esprits […]’.\(^{157}\) Moreover, in the following remarks from the same letter he clearly demonstrates the connection between the project and the ideals of Natural Law theorists such as Grotius and Pufendorf, as well as those of Barbeyrac and Burlamaqui who did much to popularise Natural Law thinking in eighteenth-century France. Diderot goes on to confirm the purpose of the work in relation to his perception of contemporary society: ‘[…] les tyrans, les oppresseurs, les fanatiques et les intolérants n’y gagneront pas. Nous aurons servi l’humanité’.\(^{158}\)

As well as reflecting his wish in the article ‘*ENCYCLOPÉDIE*’ that the project should make people ‘better’ and ‘more virtuous’, the sentiments contained in this private letter are also reiterated in a later piece of correspondence which even further demonstrates the appeal of Natural Law thinking to Diderot as well as his desire that its principles should be incorporated into the work and constitute one of its core elements. The revolution which Diderot earlier says he wants the work to affect in the mind-set and behaviour of his contemporaries demonstrates an evident agreement with the and the central tenets of all Natural Law moral theories going back to Antiquity – the work will, he argues, bring people together:

> […] à s’aimer, à se tolérer et à reconnaître enfin la supériorité de la morale universelle sur toutes les morales particulières qui inspirent la haine […], et qui rompent ou relâchent le bien général ou commun.\(^{159}\)

This aim attributed to the *Encyclopédie* by Diderot in his private correspondence clearly sums up, in a nutshell, the basis of Natural Law thinking which we examined in the introductory chapter. Clearly, on the evidence of things, for Diderot, as it was for seventeenth- and other eighteenth-century adherents to the doctrine such as Barbeyrac, for example, or Montesquieu, Natural Law thinking had very real and practical applications.\(^{160}\)

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\(^{158}\) cf. ibid.


Proposals for reform, of course, imply that there is something wrong which needs addressing. From these quotations taken from Diderot’s private correspondence it is clear that what Diderot in particular perceived to be wrong and in need of reform was the conduct of his contemporaries, and the institutions, and values of contemporary society which permitted and upheld such behaviour. Contemporary society, its institutions, and values apparently did not, in his eyes, ‘serve humanity’ – they are clearly implied to be ‘oppressive’ and ‘intolerant’, to inspire not love between people but hate, and to promote ‘les morales particulières’ over and above ‘la morale universelle’. For those of its contributors who adhered to the central tenets of Natural Law thinking, then, amongst whom Diderot and Jaucourt in particular must be counted, the Encyclopédie acts as a vehicle through which they propose reform of this state of affairs. As we shall see, it is in this spirit in particular that those contributors who believe in the loi naturelle engage with the questions of both slavery and luxury. Before turning to why the two case studies of slavery and luxury which constitute the second part of this study were chosen in particular, it is necessary to highlight certain factors which have influenced the approach taken to this study, and which should be borne in mind by anyone undertaking a study of the Encyclopédie.

1.3. METHODOLOGICAL CONSIDERATIONS AND PROBLEMS OF COHERENCE WHEN STUDYING THE ENCYCLOPÉDIE

There are four main issues faced by anyone undertaking the study of any particular subject in the Encyclopédie and which must therefore be taken into consideration before proceeding any further. These issues are: 1) the number of editions and counterfeit versions of the work; 2) the number of different contributors to the project, and their different intellectual inheritances and divergent viewpoints; 3) the alphabetical structure of the Encyclopédie itself; and 4) the period of the Encyclopédie’s compilation. As the following chapters show, on many points the articles in the Encyclopédie offer different arguments and interpretations of key points associated with the apprehension of Natural Law, its scope, practical application and implications which are difficult to reconcile into a single coherent ‘doctrine’. That this is the case can largely be attributed to some of the problems raised in this section.
1.3.1. THE DIFFERENT EDITIONS OF THE ENCYCLOPÉDIE

As stated above, several commentators have already paid attention to the fact that the Encyclopédie had a turbulent and complicated publishing history. Therefore an important factor to take into account before starting the analysis proper is the number of editions which it went through in the eighteenth century as well as the counterfeit copies made of it. The particular focus of this study is an analysis of the central tenets of Natural Law thinking in the first and ‘original’ ‘Paris’ edition of the Encyclopédie (1751-1772) only, and not its subsequent non-Parisian editions.

The ‘original’ Encyclopédie was followed in eighteenth-century Europe by the Genevan folio edition (1771-1776), the Lucca folio (1758-1776), the Leghorn folio (1770-1778), the Geneva and Neuchatel quartos (1777-1779) and, finally, the Lausanne and Bern octavos.161 It should also be noted that the Encyclopédie itself was already considered to be out of date in many respects by the time its two principal editors, d’Alembert and Diderot, died in 1783 and 1784 respectively. By then, work had already begun on the enormously ambitious Encyclopédie méthodique (1782-1832), the project which aimed to further the scope and content of the mid-eighteenth-century work.162 Whilst an examination of Natural Law thinking in these non-Parisian editions of the Encyclopédie remain to be examined in other studies, they are not, then, the object of this one. This is the case for two principal reasons. Firstly, the ‘Paris’ edition remains the authoritative version of the work, and is often considered to be representative of Enlightenment values. Secondly, it is also the edition which is most easily accessed and navigated in its entirety by the twenty-first century reader.

Access to the entirety of the Encyclopédie was facilitated in the late 1960s and early 1970s with the publication of a microprint edition of the first ‘Paris’ edition of the work,163 as well as the conclusion of the Inventory of Diderot’s Encyclopédie published by the Voltaire Foundation.164 The biggest changes in

accessibility to the Encyclopédie, however, have been the digital editions which have appeared over recent decades; the ARTFL project, the CD-ROM version, and, most recently, the iPad application.\footnote{cf. ARTFL <http://encyclopedia.uchicago.edu/>. The CD-ROM version is as follows: L’Encyclopédie de Diderot et d’Alembert (Paris: Éditions Redon, 2000), and, for the iPad application, released in spring 2013, see <https://itunes.apple.com/us/app/encyclopedie/id616158118?mt=8>.} More than just facilitating access to the whole of the Encyclopédie, these digital editions of the work allow one to ‘realise in a spectacular way the creative connections and justifications [between articles] envisioned in the article “*ENCYCLOPÉDIE”’.\footnote{cf. Daniel Brewer and Julie Candler Hayes ed., Using the Encyclopédie: Ways of knowing, ways of reading, p. ix (henceforth designated as ‘Brewer and Hayes’). On the advantages of the electronic versions of the Encyclopédie, see Philip Stewart, ‘The Encyclopédie on-line’ in ibid., pp. 173-185 and RDE, n.31-32, ‘L’Encyclopédie en ses nouveaux atours electroniques: vices et vertus du virtuel’ (Paris: 2002).}

These electronic versions of the work pose certain unsurprising problems, however, namely in respect of terminology. As is the case for any such digital repository, a search for terms relating to the central tenets of Natural Law thinking must take into account the variation of expressions, such as, for example, between ‘loi naturelle’, ‘lois naturelles’, and ‘loix naturelles’, as well as between ‘droit naturel’, ‘droit de la nature’, and ‘droits naturels’. One must also pay attention to the spelling of different names – a search for ‘Pufendorf’, for example, returns results on the ARTFL site, but so do searches for both ‘Puffendorf’ and ‘Puffendorff’.

On the whole, the use of digital editions of the Encyclopédie allows one to navigate the work with greater ease than previously, but one must still steer one’s own path through the numerous articles. In this regard not much has changed, and there is still a place for traditional scholarship in that respect. Moreover, whether one uses the original or digital editions of the work, the arguments put forward in the entries – the actual content of the Encyclopédie – remain the same. However, herein lies another problem, namely the number of different contributors to the work; many of whom had different outlooks and expressed them in their entries, no matter how hard the editors might try to impose a certain uniformity of intent and purpose.

1.3.2. THE CONTRIBUTORS TO THE ENCYCLOPÉDIE

The Enlightenment was a period of constant debate rather than overwhelming consensus, and in many respects the content of the Encyclopédie reflects this.\footnote{cf. Todorov, L’Esprit des Lumières, p. 4.} As the front matter and title page to the work indicate, it was written by a ‘société de
Gens de Lettres’ (see Figure 1) who, as Diderot remarks in ‘*ENCYCLOPÉDIE*, were linked only ‘par l’intérêt général du genre humain, & par un sentiment de bienveillance réciproque’ (V, p. 636). This ‘society’ was necessary given the magnitude and scope of the project, which consequently required cooperation and contributions from many different people with different areas of expertise (ibid., p. 634). This inevitably caused problems for both d’Alembert and Diderot, as it does for anyone wishing to interpret the work’s many articles today.

Indeed, as Diderot writes in the article ‘*ÉDITEUR (Belles-Lett.)’ (ibid., p. 396), one difficulty arising from this fact that is that: ‘[…] chacun a une manière de penser & de dire qui lui est propre […]’ (ibid.). Although Diderot is reflecting on the difficulties faced by an editor of such a vast undertaking as the Encyclopédie, his comment could well be applied to the difficulties faced by anyone studying the work. With over one hundred contributors with different theological, philosophical and political viewpoints, it is rare to find a unanimous view in its pages on any one subject. Even between the two co-editors there were differences as to philosophical method. D’Alembert left the project in 1759 having courted controversy with his article ‘GENÈVE (Hist. & Politiq.)’ (VII, p. 578), and was replaced as co-editor at least informally by the indefatigable polymath Jaucourt, whose fanatical work ethic produced personal contributions stretching to around 17,000 articles. Although many of his contemporaries – and subsequent commentators – regarded him as primarily a ‘compiler’ of articles rather than a ‘writer’ of any great originality, Jaucourt plays an important role in this study. That Jaucourt did much to disseminate ideas developed by Grotius, Pufendorf, Barbeyrac, and Burlamaqui into French society through his entries in the Encyclopédie has been recognised by most scholars who have studied his articles. The Scion of a Protestant noble


family, he was educated primarily in the Protestant universities of northern Europe, and was intimately familiar with the intellectual environment in which the ideas of Barbeyrac and Burlamaqui in particular were fostered.

Moreover, Jaucourt is the author of many of the articles in the *Encyclopédie* with the *catégories de connaissance* ‘Droit naturel’ and ‘Morale’, and thereby plays an important role in presenting ‘les vertus morales’ viewed as necessary to the work by Diderot in his entry ‘**ENCYCLOPÉDIE**’. Jaucourt’s familiarity with Natural Law thinking and his importance for this work can be attested to by the fact that it is he who was charged with compiling the *Encyclopédie* entry ‘MORALE (*Science des mœurs*)’ (X, pp. 699-702) to which frequent references will be made elsewhere in the chapters which follow.

In this article, which is largely drawn from the ‘history of morality’ which constitutes a significant part of Barbeyrac’s *Préface* to his translation of Pufendorf’s *Le Droit de la Nature et des Gens*, Jaucourt follows Barbeyrac in disparaging Scholasticism and by claiming that it was Grotius who was the first to establish ‘un système de morale, & de droit naturel’ (ibid., p. 701). Likewise, Pufendorf is particularly praised by him in this entry for having established ‘les principaux devoirs de l’homme & du citoyen en quelque état qu’il se trouve’ (ibid., p. 702). Similar assertions and praise for the seventeenth-century Natural Law theorists can also be found in the entries to the work by another of its Protestant contributors who compiled many of the work’s entries on jurisprudence – Antoine Gaspard Boucher d’Argis (1708-1780).

It is Boucher d’Argis who compiled the *Encyclopédie* entry ‘DROIT DE LA NATURE ou DROIT NATUREL’ (V, pp. 131-134). Again, according to Boucher d’Argis it was Grotius who was ‘le premier qui ait formé un système du droit naturel’ which is nothing more than ‘la science des mœurs qu’on appelle morale’ (ibid., p. 132). In this entry Boucher d’Argis demonstrates his intimate knowledge with the writings of other Natural Law theorists apart from Grotius – he criticises the ideas of both Hobbes and Spinoza as a ‘système pernicieux […] dont on apperçoit aisément les erreurs’ (ibid., p. 133), and writes that after Grotius it was Pufendorf who was next to create ‘un système du droit de la nature & des gens’ by following ‘l’esprit &la méthode’ of his Dutch predecessor (ibid.). As well as other lesser names

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associated with the development of Natural Law thinking in the eighteenth century, Boucher d’Argis also goes on to reference both Barbeyrac and Burlamaqui – the latter of whom he claims to have provided ‘l’ouvrage le plus récent, le plus précis, & le plus méthodique […] sur le droit naturel […]’ (ibid.) – as well as Montesquieu (ibid., p. 134).

The familiarity of both Jaucourt and Boucher d’Argis with the central tenets of Natural Law thinking is clear from the content of the two articles referenced here; the ideas contained in both of which will feature prominently elsewhere in this study. Their familiarity with the works of Grotius, Pufendorf, Barbeyrac, and Burlamaqui therefore goes some way to explaining the sheer prevalence of ideas associated with Natural Law thinking in the work, particularly in the many entries compiled by Jaucourt which reflect their ideas or quote their works, often following the ‘non-citation’ strategies frequently employed elsewhere throughout the work.173 However, as the two case studies which focus on the attitude of the contributors to the work to both slavery and luxury show, adherence to the central tenets of Natural Law thinking was by no means adopted by all of the contributors to the Encyclopédie – many of its articles reflect more utilitarian outlooks than those of Boucher d’Argis and Jaucourt in particular, and appear, at least implicitly, to accept the institutions and values of contemporary society.

Moreover, the recognition that the core tenets of Natural Law philosophy and the works of thinkers such as Grotius, Pufendorf, Barbeyrac, and Burlamaqui feature prominently in the articles by both Boucher d’Argis and Jaucourt in particular does not solve the question of how one is to find those articles and their references to the loi naturelle and universal rights. Neither does that recognition mean that their ideas constitute a coherent doctrine or body of thought. This leads us to a further issue which must be overcome by anyone studying the Encyclopédie – its alphabetical structure.

1.3.3. THE ALPHABETICAL STRUCTURE OF THE ENCYCLOPÉDIE AND THE SYSTEM OF RENVOIS

As well as the number of different contributors to the work and their different intellectual inheritances, the alphabetical structure of the Encyclopédie can also explain the lack of any coherent body of thought in the work. Articles dealing with

the same subjects are spread out over the full seventeen folio volumes of text published over the course of fourteen years (see Table 1). This meant that any subscriber to the Encyclopédie was forced to wait for the publication of other volumes before discovering what else it had to say on a particular subject.\footnote{cf. Adams, ‘Cosmopolitan Book Publishing: The Case of the Encyclopédie’, pp. 73-92. For information regarding the social status, number of subscribers and the price of subscriptions, see Proust, pp. 53-61 and Darnton, pp. 33-37.}

They could see, for example, what d’Alembert said regarding ethics and politics in the Discours préliminaire, but would have to wait for the publication of volumes ten and twelve fourteen years later, if they were still alive to do so, in order to read Jaucourt’s article ‘MORALE’ and the anonymous ‘POLITIQUE (Philosophie)’ (XII, pp. 917-920) and to make any links – if indeed there were any – between treatments of the subjects. The alphabetical structure of the Encyclopédie and the fact that volumes dealing with different letters of the alphabet were published over a long period of time can be problematic in trying to find if there was ever a coherent and unanimous view on any one subject contained in its pages.

Similarly, many articles given the catégorie de connaissance ‘Droit naturel’, or one of its many derivatives, are spread throughout the volumes, as are those which treat ideas central to Natural Law thinking but which have, for example, the catégorie de connaissance ‘Morale’, ‘Science des mœurs’ or ‘Philosophie morale’.\footnote{cf. Stephen Werner, ‘The Encyclopédie ‘Index’ in Brewer and Hayes.} The Table analytique or ‘Index’ to the Encyclopédie, published in 1780 allowed the reader to see which disparate articles across the many volumes dealt with the same subject.\footnote{cf. ‘Nouvelles littéraires’ in the Journal des Sçavans (Paris: 1665-1792), ‘Septembre 1780’, p. 1897. For an examination of the relationship between the Encyclopédie and the written press in general, see Proust, pp. 61-70.} According to the Journal des Sçavans it is ‘[…] indispensablement nécessaire pour ceux qui ont ce grand ouvrage et qui veulent le consulter’.\footnote{cf. ‘Nouvelles littéraires’ in the Journal des Sçavans (Paris: 1665-1792), ‘Septembre 1780’, p. 1897. For an examination of the relationship between the Encyclopédie and the written press in general, see Proust, pp. 61-70.} The ‘Index’ was useful to those consulting the work in 1780 and the years that followed, but it did not facilitate navigation of the vast project for those readers to whom it was not yet available. How, then, without the aid of an ‘Index’ was a reader of the Encyclopédie supposed to make links between disparate articles spread over numerous volumes?
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Table 1: The publication dates of the *Encyclopédie*’s seventeen volumes of text (1751-1765).\(^{179}\)

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Table 2: The publication dates of the *Encyclopédie*’s volumes of plates, the *Recueil de Planches, sur les Sciences, les Arts libéraux, et les arts méchaniques avec leur explication* 11 vol. (Paris: 1762-1772).\(^{180}\)

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\(^{178}\) The volume is dated 1751.

\(^{179}\) This information is taken from ARTFL: <http://encyclopedie.uchicago.edu/node/102>.

\(^{180}\) Ibid.
That the editors of the *Encyclopédie* wanted the reader to make links between apparently disparate articles and subjects is clear. The quotation from Horace’s *Ars poetica* (l. 242-243) included in the *Prospectus* to the *Encyclopédie* and on the title page of the first volume: ‘*Tantùm series juncturaque pollet, Tantùm de medio sumptis accredit honoris!*’ is not coincidental (see Figure 1).181 Its sentiments were later echoed by Diderot in the article ‘*ENCYCLOPÉDIE*.’ Here Diderot alludes to the apparent ‘failure’ of the alphabetical structure of the work and urges the reader to employ the system of cross-references included in it – the *renvois* – in order to associate ideas contained in separate articles.

Whilst *renvois* were not in themselves a new idea – both Pierre Bayle (1647-1706) and Chambers had previously used them in the *Dictionnaire historique et critique* (Rotterdam: 1697) and *Cyclopaedia* respectively – their novelty in the *Encyclopédie* lay in the subversive, critical, and creative role in which they were supposed to be employed; according to Diderot they would give the work its ‘[…] force interne & […] utilité secrète, dont les effets sourds seroient nécessairement sensibles avec le tems’ (V, p. 642). Moreover, the types of *renvois* to be used were not just those explicitly signposted. The individual reader was also encouraged by the editors to make creative and imaginative links between the articles by reading between and across the lines (ibid.).182

If the *renvois* allow one to navigate through the different volumes of the *Encyclopédie* and overcome the alphabetical structure of the work, they also, according to Diderot, allow one to discover its hidden and subversive philosophical and social agenda. That the editors to the project wanted to keep that agenda hidden is related to the considerable hostility demonstrated to the project and the values it sought to promote from both the religious and secular authorities. This in turn, is related to another important factor which should be considered; the temporal compilation of the project. For during the two decades in which the work was being compiled, the status quo in French society became ever more closely scrutinised and critically-debated and the moral authority of the Church and political authority of the State were being assailed from all sides; a role in which the *Encyclopédie* – and

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181 ‘Such is the force of arrangement and combination/such is the splendour that commonplace words acquire’.
182 cf. Patrick Coleman, ‘‘Figure’ in the *Encyclopédie*: discovery or discipline’ in Brewer and Hayes, p. 63.
particularly the Natural Law ideas contained in it – had, as we shall see, a significant part to play.

1.3.4. CLAMOURS FOR REFORM: THE COMPILATION OF THE ENCYCLOPÉDIE IN ITS SOCIAL CONTEXT

Although the Encyclopédie’s first volume of text was published in 1751, its last volumes did not appear until 1772 (see Table 1 above). With regard to the volumes of text, which are the main focus of this study, there was a difference of some fourteen years between the first of seven volumes and the last ten. This is a long period of time to have elapsed between the first and last volume of one work. The delay was caused, as has already been implied, by censorship and numerous attacks against the editors and the project itself from the religious and civil authorities. French society in 1772, not to mention 1780 when the Table analytique was published, was a very different place than it had been in 1751. In particular, it is important for the context of this study to note that the period of the Encyclopédie’s compilation saw the beginnings of clamours for reform in many aspects of contemporary society. This was especially the case in respect of the increase in demands for specific rights.

For example, whilst the Huguenot Pierre Jurieu used ideas central to Natural Law thinking to criticise the actions of the French monarchy and to highlight the plight and rights of French Protestants during the latter decades of Louis XIV’s reign, concerns about the rights of religious minorities had increased in French public opinion more generally by the time of the Encyclopédie’s compilation. In particular, there were several causes célèbres during the 1750s and 1760s which provoked philosophical and polemical engagement with the question by many of the philosophes.¹⁸³

The debate about freedom of conscience which took place during the decades during which the Encyclopédie was being compiled was occasioned in part by growing economic concerns; many advocates of religious toleration and the right to freedom of conscience took their starting-point from what they perceived to be the very real financial benefits that according toleration to French Protestants would bring. It is well-known that the financial situation of the French State had been

depreciating since the end of Louis XIV’s reign. At the time of the Encyclopédie’s compilation, and the costly involvement of French forces in the Seven Years War (1756-1763) and the ensuing defeat in the face of Protestant opposition, the State was hurtling ever further down the road to irrevocable bankruptcy. This, in turn, provoked wider debates in French society about its economic problems.

Moreover, there was a growing sense of dissatisfaction with the injustices of French society, and an increasing recognition that the means by which the French State sought to alleviate its economic woes demonstrated that contemporary society was not founded on the rights of all of its members, but with the interests of only a few in mind. There was a growing sense too of the injustice of a situation in which the satisfaction of individual passions of the few – ambition, greed, pride, sensuality, and vanity, for example – took precedence over the needs, welfare, and rights of others. It is in this vein that the contributors to the Encyclopédie who adhere to the central tenets of Natural Law thinking propose reform of contemporary society’s attitude to both the slave trade and luxury.

1.4. THE ENCYCLOPÉDIE AS A VEHICLE FOR ADVOCATING REFORM: THE TWO CASE STUDIES OF SLAVERY AND LUXURY

As we have seen, some of the principal aims which Diderot attributes to the Encyclopédie in his private correspondence demonstrate a clear relationship between the values which he wanted the work to promote and those central to Natural Law theories. In particular, as shown, he wanted the project to encourage people to be more virtuous and to recognise the importance of ‘la morale universelle’ and ‘le bien général’ which exist over and above the will of any one individual. In the chapters which follow, I argue that some of the contributors to the Encyclopédie – chief amongst them Jaucourt – primarily see society as consisting of individuals naturally free and equal in rights. In many of the Encyclopédie’s articles rights are conceived not just as a political concept, however, but a moral one too – they are allied to the loi naturelle and should therefore be exercised in accordance with it. Moreover, in the Natural Law view expounded in its pages, the contributors who believe in the loi

argue that positive laws should embody it if they are to promote justice, respect the rights of the individual, and to encourage virtuous behaviour.

The fertility of the Natural Law theories developed in the seventeenth and eighteenth centuries is reflected in the number ideas central to them used by different thinkers during the period with which are concerned. Mark Waddicor, for example, in his work on Montesquieu’s attitude to Natural Law, has shown how the works of both Grotius and Pufendorf influenced proposals for reform put forward in the *Esprit des Loix* on a number of topics, ranging from suicide, self-defence, criminal law, property, international relations, and slavery.\(^{185}\) Indeed, as Boucher d’Argis notes in the *Encyclopédie* article ‘DROIT DE LA NATURE ou DROIT NATUREL’ in regard to Grotius’ *Le Droit de la Guerre et de la Paix*, the content of that work alone which directly relates to *droit naturel* includes:


This list demonstrates the wide number of subjects which must necessarily have been left out of this study; given the size and scope of the *Encyclopédie* and the wide-ranging coverage of Natural Law it would have been impossible given temporal and spatial limits to analyse the attitude of the contributors to the *Encyclopédie* to all of those questions in this one study. Indeed, as we have seen, Jaucourt praises Pufendorf for establishing the duties prescribed by the *loi naturelle* for man ‘en quelque état qu’il se trouve’ (X, p. 702), again reflecting the scope of Natural Law thinking and the broad potential for its application in a work as vast as the *Encyclopédie*. Given the size of the project, any study must necessarily be selective. In choosing the two topics of slavery and luxury as case studies with which to examine how the contributors to the *Encyclopédie* who adhered to the central tenets of Natural Law thinking advanced in its pages put their ideas into practice, then, I

\(^{185}\) cf. Waddicor, pp. 134-176.
have not exhausted the analysis of Natural Law thinking in the work. Why, then, focus on slavery and luxury?

David Boucher has recently argued that the revival of interest in the principles of Natural Law philosophy tends to occur in periods ‘when man’s inhumanity to man is apparent’ – it is in such times that adherents to the central tenets of Natural Law thinking ‘[…] call our attention to our common humanity and the rights and duties that are correlative with it, and appeal to which transcends particularistic community based moralities’. As we saw in the ‘Introduction’, this assertion is certainly true of both Grotius and Pufendorf, who developed their theories in response to the religious warfare characteristic of post-Reformation Europe. This was also the case for Montesquieu, whose arguments against colonial slavery in particular reflect a belief that it is objectively unjust for one individual to satisfy their individual passions at the expense of the rights of others. As the two case studies chosen for the second part of this study also demonstrate, several notable contributors to the Encyclopédie who were similarly motivated by humanitarian sentiments.

Approaching the subjects of both slavery and luxury from a Natural Law perspective, Jaucourt and the other contributors to the Encyclopédie who do so are clearly concerned by the inhumanity of their contemporaries and the institutions of ancien régime society. Despite treating these two issues separately as two different case studies, there are links between the two topics. To be an owner of slaves or an investor in the slave trade meant one lived in a certain amount of luxury. Slaves, in turn, produced many of the luxury products enjoyed by the wealthy members in French society itself, at a time when the majority of people had very little in terms of private property. The central connection between the two case studies, and a point which is made clear by Jaucourt in particular in his treatment of them in the Encyclopédie, is that both are issues in which the values of the French State, the Church, and contemporary society in general, are clearly at odds with the duties prescribed by the loi naturelle which we are obliged to fulfil in all human interactions – causing no harm, treating others as equals, and acting not just in the

pursuit of self-interest, but with consideration for the needs, welfare, and rights of others.

1.5. CONCLUSION

Given the exposition of the ideas central to Natural Law thinking in the introductory chapter and the analysis in this chapter of the aims attributed to the Encyclopédie by its editors, it is clear that there is a close connection between the two. In particular, the objectives attributed both publicly and privately to the project by Diderot show that he wanted the project to promote values very similar to those which were commonplace in most Natural Law moral theories developed in the seventeenth and eighteenth centuries.

As we have seen, however, the fact that Diderot clearly wanted to give the work a unified purpose did not mean that this was entirely possible. The number of different contributors to the project and the length of time taken to compile it, coupled with attempts at censorship and suppression on the part of the authorities, meant that many entries are at least implicitly in agreement with the values of contemporary society, and not those associated with Natural Law thinking. Nonetheless, despite all this, the sheer prominence of ideas derived from the writings of Grotius, Pufendorf, Barbeyrac, and Burlamaqui—whether the reader is made aware of it or not—demonstrates a concerted campaign on the part of some of its contributors to disseminate ideas and values frequently at odds with those prevalent in contemporary French society. This is particularly the case for those contributors such as Jaucourt who believed in moral equality and natural rights. Let us turn, then, to how natural rights are presented in the Encyclopédie.
CHAPTER TWO

NATURAL RIGHTS IN THE ENCYCLOPÉDIE

2.1. INTRODUCTION

It is commonplace to see a fundamental schism occurring in Natural Law thinking in the seventeenth century whereby what was stressed, by thinkers such as Grotius, Hobbes, and Locke, was not duties and obligations imposed by a natural order of justice, and which were therefore given the primary role in their ethical theories, but rights – in the subjective sense of personal entitlements, faculties or powers possessed by the individual. Before turning to how certain contributors to the Encyclopédie proposed reform of the slave trade and of French society’s attitude to the related question of luxury on the basis of natural rights, it is therefore necessary to outline their attitude to that concept.

Hence the aim of this chapter is to demonstrate that one of the primary ways in which ideas central to seventeenth-century Natural Law thinking influenced some of the contributors to the Encyclopédie was in their view of human beings as the bearers of natural rights, which exist both in the state of nature as well as in society. This aspect of the moral and political philosophies developed by seventeenth-century Natural Law theorists and its emphasis on equality in particular therefore provided the contributors to the project with an alternative vision of the bases and limits of political authority to those which prevailed in contemporary French society. Moreover, rights as several articles in the Encyclopédie conceive them are not just a political concept, but a moral one – they are a moral feature of human beings, and are allied to a natural moral order of justice, or loi naturelle.

The majority of thinkers associated with the development of Natural Law thinking in the seventeenth century did not believe as Hobbes did that rights and duties are antithetical, but emphasised that the two are correlative. In their view rights produce corresponding duties, and the exercise of one’s rights is constrained by moral obligations imposed by the loi naturelle. Locke, for example, when discussing the natural right to liberty, stressed that we have the right to act freely, to

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188 cf. Grotius (DGP, I, I, §IV), Pufendorf (DNG, I, I, §XX) and Burlamaqui (PDN, I, VII, §II); see, for example, Strauss, Tuck, and Freeman, Human Rights: An Interdisciplinary Approach, p. 17.
do what we like with our persons or possessions as long as we do not contravene the prescriptions of the *loi naturelle*. Many articles in the *Encyclopédie* echo this view. In those compiled by Jaucourt, for example, rights are said to exist both in the state of nature and society and, since they are allied to the *loi naturelle*, they should be exercised *in a certain way*; with consideration for the way in which one’s actions affect or impact on the equal rights of others. Since, in this Natural Law view, rights define justice, as long as one does not violate or infringe on the rights of others, then one is acting in a manner that is equitable and just. Justice is a virtue by which we render each their due, and one that applies to both individuals and the State and its institutions – what both individuals and the State therefore have a duty to ensure is that the rights of others are not violated or infringed upon in any way.

These ideas are central to how some of the contributors to the *Encyclopédie* – and Jaucourt in particular – engage with the questions of both slavery and luxury which are examined in the second part of this study.

The jurists and philosophers associated with the development of Natural Law thinking in the seventeenth century often turned to the state of nature in order to ‘examine human nature, and in order to give a realistic foundation to […] [their] moral and political theories’. Several contributors to the *Encyclopédie* similarly derive their ideas regarding human nature and the universal moral norms that govern it from the state of nature, and it is their attitude to that concept which I first address.

### 2.2. THE STATE OF NATURE IN THE *ENCYCLOPÉDIE*

The popularity of ideas relating to the transition of humankind from a state of nature to civil society at the time of the *Encyclopédie*’s compilation is both an indication of the popularity of Natural Law thinking in eighteenth-century France, and of a growing dissatisfaction with the religious, political, and social status quo.

The appeal of the state of nature to contributors to the *Encyclopédie* such as Jaucourt lay in the fact that it was a means by which human nature could be examined ‘properly’, stripped from the culturally-imposed artifices of society, and

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because, in opposition to divine right absolutism, it allowed them to emphasise the natural freedom and equality of all people and, consequently, assert the human rather than divine origins of society. It not only enabled them to assert what natural rights individuals have before or outside membership of any political community, but also to examine how they exercised them. Consequently, it could be used as a tool with which to highlight what they perceived to be wrong with contemporary society.

The number of works employing the concept by the 1760s was significant – indeed, according to Diderot and Étienne Noël Damilaville (1723-1768), the authors of the Encyclopédie entry ‘VINGTIÈME, IMPOSITION (Econ. pol.)’ (XVII, pp. 855-890), ‘[…] c’est la chose du monde dont on parle le plus & qu’on entend le moins’ (ibid., p. 856). As well as attesting to the contemporary popularity of the concept, the Encyclopédie also bears witness to the different interpretations of the state of nature adopted by seventeenth-century writers, most notably Hobbes and Locke.

As we have seen, Boucher d’Argis labels the ideas of both Hobbes and Spinoza on the matter ‘pernicious’ (V, p. 133). Whilst Diderot takes a more moderate tone in his entry ‘*HOBBISME, ou PHILOSOPHIE D’HOBBES’ (VIII, pp. 232-241) when he calls the Hobbesian state of nature a ‘fable’, he also acknowledges that it led to the English philosopher’s reputation as ‘l’agresseur de l’humanité & l’apologiste de la tyrannie’ (ibid., p. 233). Locke, on the other hand, who took an opposite view of the state of nature to both Hobbes and Spinoza, is praised in the Encyclopédie for having exposed ‘l’injustice & les inconvénients du despotisme & de la tyrannie’ (IX, p. 626). Given these respective reputations attributed to their political philosophies, it is perhaps not surprising that rather than Hobbes, it is predominantly to Locke and, to a lesser extent, Pufendorf that the more progressive contributors to the Encyclopédie turn for their ideas on the state of nature.

The article ‘ÉTAT DE NATURE (Droit nat.)’ (VI, pp. 17-18) by Jaucourt which, despite what the Encyclopédie says elsewhere, must be taken as the ‘official’ view that the editors of the project wished to expound on the subject given its title, is largely derived from Huguenot translations of Pufendorf and Locke, although this is

195 ‘LOCKE, PHILOSOPHIE DE, (Hist. de la Philosoph. moder.)’ (IX, pp. 625-627).
not made clear in the article itself. Jaucourt’s definition of the state of nature is taken from the former, as a condition which contrasts to political society:

[... ] l’*état de nature* est celui des hommes, entant qu’ils n’ont ensemble d’autres relations morales que celles qui sont fondées sur la liaison universelle qui résulte de la ressemblance de leur nature, ce sont ceux qui ne sont ni soumis à l’empire l’un de l’autre, ni dépendants d’un maître commun: ainsi l’*état de nature* est alors opposé à l’*état civil* [... ] (VI, p. 17).

As this definition suggests, Jaucourt emphasises that the advantages of the state of nature over society come from the former being a state of *equality and liberty* – a point that is also made elsewhere in the work. Consequently, the state of nature provided him with an alternative vision of human nature to that of Catholic political theorists and apologists for absolutism such as Bossuet, who argued that people were neither naturally free nor equal. This principle, of course, was reflected in the very social fabric of contemporary society and its institutions, based as they were on a hierarchical structure and an assumption of inequality.

Jaucourt also follow the majority of seventeenth-century Natural Law theorists by insisting on the historical reality of the state of nature – it is not, for him, simply an abstract hypothesis by which the transition from the state nature could be assessed. In ‘ÉTAT DE NATURE’, for example, he quotes Locke to the effect that though there may well be few – if any – records in history books recounting the lives of people living in the state of nature, this does not mean it was never so; for anyone living in that state would soon recognise the expediency of civil society, and, besides, the absence of historical detail should not be taken for a lack of concrete existence:

Le gouvernement précède toujours les registres; rarement les Belles-Lettres sont cultivées chez un peuple, avant qu’une longue continuation

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Following on from the ideas of Hobbes and Montesquieu as well as Locke, Jaucourt adds that the state of nature is the situation in which the indigenous populations of the New World – ‘dans la plus grande partie de l’Amérique, dans la Floride & dans le Brésil’ – still lived (ibid.). The contrast between those societies and that of contemporary France could not be clearer; in such societies as these ‘il n’est question ni de roi, ni de communauté, ni de gouvernement’ (ibid.). For Jaucourt, then, the state of nature primarily contrasted with the conditions in contemporary society because in it individuals are free and equal in rights.

2.2.1. EQUAL RIGHTS: THE STATE OF NATURE AS A CONDITION OF EQUALITY IN THE ENCYCLOPÉDIE

For Jaucourt and other contributors to the Encyclopédie, ascribing individuals with natural rights was one means of reflecting their belief that at a fundamental level all people are morally equal; in their view every human being is entitled to be treated with equal respect and as of equal worth. As noted above, this central idea of the seventeenth-century Natural Law theorists was antithetical to the hierarchical ideas and inequalities which provided the foundations for the doctrine of divine right and French society as a whole. Several articles in the Encyclopédie are explicit in their agreement with Natural Law thinking on this point.

Unsurprisingly given its sources, Jaucourt’s entry ‘ÉTAT DE NATURE’ is unequivocal in staking a claim for the equality of all individuals in that state. Jaucourt follows Locke by arguing that since all people are equal and have the same equal and, it should be said, inalienable rights, no one individual has a natural right to command over others (ibid., p. 17). He further adds that it is the principle of

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201 cf. Locke (DGC, VII, §VIII). See also Hobbes (Leviathan, XIII) and Locke (DGC, V, ‘De la Propriété des Choses’).
202 cf. the articles mentioned in footnote 198 above.
203 cf. Locke (DGC, I, §I). As Dan Edelstein suggests, the decision taken by Jaucourt not to reproduce the content of Locke’s argument that follows this point is not coincidental. What follows in the original and translated text is a passage in which Locke posits the idea, which he later rejects, that someone might have forfeited their rights to freedom and equality by an act of volition. By removing (or, rather, but not reproducing) the passage in which Locke discusses this possibility, Jaucourt rejects the idea that natural rights can ever be forfeited or alienated – by physically cutting this part of Locke’s argument, and also by refusing to even present the idea to the Encyclopédie’s readers; after all, he could have later rejected such an idea as Locke himself did. See ‘Humanism, l’Esprit
natural equality which is the basis of the duties of humanity that we owe to others (ibid.). A renvoi to ‘ÉGALITÉ’ published in the preceding volume is then provided – which, if one follows it, in turn leads to Jaucourt’s entry ‘ÉGALITÉ NATURELLE’, the Encyclopédie’s ‘official’ article on moral equality; the contents of which are a summary of Pufendorf and Burlamaqui’s views on the matter. 204

As was the case for Pufendorf, for example, when Jaucourt asserts the natural equality of all individuals, he does not mean that all human beings are physically and intellectually equal – the evidence to prove this was plain for anyone to see. Rather, similarly to Natural Law thinkers such as Pufendorf and Burlamaqui, he believes all people to be morally equal. 205 Indeed, the entry ‘ÉGALITÉ NATURELLE’ makes it clear that there is a natural inequality of fact which exists between all people: individual members of the human race are not equal in physical strength, intellect or talents (V, p. 415). 206 This does not entail, however, that the right that people have to be treated as equals is abrogated by these natural and physical realities of life.

To reinforce this view Jaucourt quotes Pufendorf to the effect that irrespective of any differences that exist between us, according to droit naturel we should treat others as morally equal – that is, as beings who have the same rights as us, and who are worthy of the same respect and consideration as ourselves:

L’égalité naturelle ou morale est […] fondée sur la constitution de la nature humaine commune à tous les hommes, qui naissent, croissent, subsistent, & meurent de la même maniere. Puisque la nature humaine se trouve la même dans tous les hommes, il est clair que selon le droit naturel, chacun doit estimer & traiter les autres comme autant d’êtres qui lui sont naturellement égaux, c’est-à-dire qui sont hommes aussi bien que lui (ibid.). 207

Jaucourt further follows Pufendorf’s argumentation when five main consequences that stem from the principle of moral or natural equality are listed as follows: 1) all people are naturally free; 2) any inequalities introduced into human relationships in society do not negate the fundamental moral equality of all; 3) unless an individual has a specific right that trumps those of others, all should be allowed enjoyment of their equal rights; 4) everyone has an equal right to things that are ‘in common’; and


204 cf. Pufendorf (DNG, III, II, §§I-IX), see also Burlamaqui (PDN, II, IV, §XVI) and Wolff (PDG, I, I, §§XXIX-XXX).


5) moral equality is the foundation of the duties of charity, humanity and justice (ibid.). In a remark that is not drawn from Pufendorf, however, Jaucourt adds that it is the violation of the principle of moral equality which establishes ‘l’esclavage politique & civil’ (ibid.). In the following sentences the allusions to the inequalities in French society of the 1750s and 1760s would have been clear to an ‘enlightened’ contemporary reader:

[...] dans les pays soumis au pouvoir arbitraire, les princes, les courtisans, les premiers ministres, ceux qui manient les finances, possèdent toutes les richesses de la nation, pendant que le reste des citoyens n’a que le nécessaire, & que la plus grande partie du peuple gémit dans la pauvreté (ibid.).

Nonetheless, a certain amount of pragmatism comes across in the following sentences; Jaucourt does not want to be considered to be advancing a chimerical society of absolute equality – he ends by saying that inequalities of some kind are necessary for society to function as it should (ibid.). The essential point of the argument, as it was for Pufendorf, is that these material and social inequalities do not and should not override the fundamental moral equality of all individuals.

Consequently, on this Natural Law view, the recognition of the natural equality of all people is one of the fundamental moral precepts which should be observed by individuals in the state of nature as well as in society: ‘Tous les hommes, en supposant ce principe de l’égalité qui est entre eux, doivent y conformer leur conduite […]’ (XV, p. 253). Whatever social differences or inequalities may exist between individuals by dint of positive law, in the last analysis all human beings are equal in rights and worth (ibid.). Several important articles in the Encyclopédie therefore agree with modern Natural Law thinking about the natural and moral equality of all individuals in the state of nature. Moreover, others agree about their freedom in that state too.

2.2.2. THE NATURAL RIGHT TO FREEDOM: THE STATE OF NATURE AS A CONDITION OF LIBERTY IN THE ENCYCLOPÉDIE

Most writers generally accredited with prompting new understandings of Natural Law in the seventeenth and eighteenth centuries, including Hobbes and Spinoza, agreed that individuals in the state of nature were equal in rights. Their views on the consequences of natural equality differed, however, according to whether they

209 ‘SOCIÉTÉ (Morale)’ (XV, pp. 252-258).
accepted or rejected the existence of a natural moral order of justice being at work in that state. As a result, they differed in their analysis of the state of nature: as a state of war (as it had been for Hobbes and Spinoza) or one of peace (as it had been for Locke and Pufendorf). This comes from their insistence on the state of nature being not only a condition of equality but also freedom – and with freedom comes the potential for conflict to occur in human interactions. Again, there are several entries in the Encyclopédie which reflect ideas central to Natural Law thinking in this respect and which assign human beings the natural right to freedom.

Diderot’s article “AUTORITÉ POLITIQUE” (I, pp. 898-900), for example, opens with a confident declaration of such a natural right:

Aucun homme n’a reçu de la nature le droit de commander aux autres. La liberté est un présent du ciel, & chaque individu de la même espèce a le droit d’en jouir […] (ibid., p. 898).

The idea that people have a universal natural right to freedom (it belongs to all members of the same species, according to Diderot) is not, however, confined to this article alone, but is reiterated elsewhere in the Encyclopédie in a similarly Lockean manner. The two most obvious examples are the articles ‘ÉTAT DE NATURE’, to which reference has already been made, and ‘LIBERTÉ NATURELLE (Droit naturel)’ (IX, pp. 471-474), both of which were compiled by Jaucourt and are predominantly drawn from Locke’s work. In the former, the state of nature is defined as one of freedom:

[…] un état dans lequel, sans dépendre de la volonté de personne, les hommes peuvent faire ce qui leur plaît, disposer d’eux & de ce qu’ils possèdent comme ils jugent à-propos, pourvu qu’ils se tiennent dans les bornes de la loi naturelle (VI, p. 17, my emphasis).

The latter article also opens by asserting, as Diderot does in his earlier entry, that freedom is a right ‘[…] que la nature donne à tous les hommes’ (IX, p. 471; my emphases). In both these entries Jaucourt maintains that yes, all individuals do have a natural right to freedom, to do as they see fit with regard to their persons and their possessions, but, as for Locke, this right is limited by the norms of a moral order of

210 Pufendorf’s depictions of the state of nature (DNG, II, II) (DHC, II, I) owe an intellectual debt to both Grotius and Hobbes – like the latter he stresses the constant potentiality for conflict though on the whole he declares the state of nature to be one of peace, albeit an uneasy one (DNG, II, II, §§V-VIII).


Consequently, for Jaucourt, the state of nature is a Lockean condition in which all people are free and equal in rights; because of the existence of a natural moral order of justice, however, it is far from being a Hobbesian-Spinozist state of complete licence and all-out-war between self-preserving individuals who exercise their natural rights without care and consideration for the equal rights of others. Rather, the state of nature is one of peace, where people are able to, and do, exercise their right(s) to freedom in line with the prescriptions of the loi naturelle (VI, p. 18). Nonetheless, as was the case for Pufendorf in particular, human interactions in the state of nature are not considered to be entirely harmonious; that state is not presented as a utopian idyll in which there is no conflict between human interests whatsoever.

As Jean-François de Saint-Lambert (1716-1803) – the author of the article ‘LÉGISLATEUR’ – notes, despite, and indeed because of, the advantages of equality and liberty, the state of nature had some ‘inconveniences’ which the institution of society remedied – namely, fear, the potential for violence, and a shortage of mutual assistance (IX, p. 357). Again, several articles in the Encyclopédie reflect this view, which is an important aspect of Natural Law thinking as it developed in the seventeenth and eighteenth centuries: in the state of nature all people are free and equal in rights, but certain inconveniences accompany that freedom and equality – hence society was instituted, not from God’s will or divine decrees, but from a collective decision taken by individuals in the state of nature to come together and form a political society and eradicate the ‘inconveniences’ of their natural state.

Amongst the modern exponents of Natural Law thinking there was some disagreement about the motivational factors behind the decision on the part of naturally free and equal individuals to form a political society. This disagreement is reflected in the Encyclopédie’s response to that question too.

213 cf. ibid. The same point is also made in ‘ÉTAT DE NATURE’ and ‘LÉGISLATEUR’.
216 cf. ibid.
2.3. FROM THE STATE OF NATURE TO SOCIETY: THE ORIGINS OF SOCIETY AND POLITICAL AUTHORITY IN THE ENCYCLOPÉDIE

If every individual in the state of nature is free and equal in rights, with no one person having a natural authority over another, the Natural Law writers of the seventeenth century deduced from this that any form of authority must have been created by means of a contract by which individuals in the state of nature agreed to renounce or transfer their rights and institute a form of authority over them. The social contract, central to most but not all seventeenth-century Natural Law thinking, is the logical conclusion to the concept of the state of nature. The motivation which lay behind the decision to establish some kind of political authority, however, was a point of some contention amongst Natural Law thinkers – a fact also reflected in the Encyclopédie.

There are three main arguments put forward in the Encyclopédie as to why it was that individuals who were free and equal in the state of nature decided to create a political society, each of which is derived from the political ideas developed by Natural Law theorists in the seventeenth century. Each explanation also provides some clues as to the views of the Encyclopédie’s contributors on human nature and the challenges faced with reconciling that nature with the co-existence of others in society. Equally important is that these three main arguments reject the traditional Catholic – and therefore dominant – idea that society exists because God has willed it to be so. Rather, in opposition to the doctrine of divine right, and in line with Natural Law thinking, the emphasis is firmly on the individual and their rights. In the first instance, however, it should be noted that many articles in the Encyclopédie follow Grotius, Pufendorf, Locke and Barbeyrac in rejecting the bases of political authority maintained by Catholic theorists such as Bossuet and other defenders of absolutism, who argued that political authority developed out of paternal power.

2.3.1. THE DIFFERENTIATION BETWEEN PATERNAL AND POLITICAL POWER IN THE ENCYCLOPÉDIE

The profound result of the state of nature as it is portrayed by Jaucourt in the Encyclopédie in particular is that of freedom and equality – no one individual has a natural right to govern or be placed in a position of authority over others. Nevertheless, despite the state of nature being one of freedom and equality, in some of the articles in the work, as for Natural Law thinkers such as Grotius and
Pufendorf, one form of subordination did exist in it; that of children to their parents. The content of these articles differed, then, from the view of Catholic political theorists such as Bossuet who emphasised that there was no such thing as parental power in the family, only paternal.

Familial relationships and particularly those of the father to his children were important and potentially sensitive in the context of contemporary thinking. Firstly, since the father-child relationship was likened to that of a king to his subjects, it had important political consequences. The paternal origins of absolute monarchical power were frequently stressed by apologists of political absolutism: since, they argued, paternal power is by nature absolute, and political authority is ultimately derived from it, political power should, by nature, be absolute too.\footnote{It was also important when it came to establishing thinking about rights, since it raises the question of whether those people who are less than fully rational (i.e. children, in their state of infancy) are the bearers of rights and whether one is bound to act towards them in accordance with the duties prescribed by the loi naturelle.}

There are vestiges of this traditional and absolutist view of paternal authority as the basis and origin of political authority in the Encyclopédie.\footnote{Notably in the conservative article ‘AMOUR PATERNEL’ (I, pp. 369-370): ‘On compare les Rois à des pères de famille, & l’on a raison […] cette comparaison est fondée sur la nature & l’origine même de la royauté’ (I, p. 370).} In general, though, the articles which discuss the power relationships between children and their parents follow the ideas put forward by Grotius, Pufendorf, Locke, and Barbeyrac on the matter.\footnote{The Encyclopédie makes ample use of the views of Grotius (DGP, II, V, §§III-VII) which had in turn been appropriated by Pufendorf (DHC, II, III). Neither Filmer’s Patriarcha nor Locke’s refutation of its arguments in his First Treatise were translated into French in the eighteenth century, though Barbeyrac outlined the main arguments of both, in favour of Locke (his arguments are largely derived from DGC, V), in his notes to Pufendorf (DNG, VI, II, §X, n.II and DNG, IV, IV, §IV, n.III). According to Locke, paternal power and filial subordination were akin to ‘swaddling clothes’; necessary in the period of extreme infancy and ignorance but which are eventually cast aside (TT, II, VI, LV).}

The distance between the content of many of the Encyclopédie’s articles and the writings of Catholic theorists of divine right such as Bossuet regarding the similarities between paternal and political power can be ascertained from the remarks made by Rousseau on the subject in his entry ‘ECONOMIE ou ECONOMIE (Morale & Politique)’ (V, pp. 337-349). In it, the Genevan contributor...
clearly differentiates between paternal and political power. The seventeenth-century English political theorist Robert Filmer’s central thesis regarding the similarities between the two is condemned as an ‘odious system’ and the difference in nature and scope between paternal and political power is outlined at length (ibid., pp. 337-338).\(^\text{220}\)

Such a view of paternal power therefore had potentially subversive consequences in ethical and political thought because, as the article ‘AMOUR PATERNEL’ attests: ‘un Roi pouvant être comparé à un père, on peut réciproquement comparer un père à un Roi, & ainsi déterminer les devoirs du Monarque par ceux du chef de famille […]’ (I, p. 370). This would not be a problem for the civil and religious authorities in eighteenth-century France if paternal power was conceived of as absolute, but for several articles in the Encyclopédie this is not the case; hence the author of the article ‘PÈRE (Droit naturel)’ (XII, pp. 338-339) later states that the question of the origin and extent of paternal power was a ‘delicate matter’ (ibid., p. 339). In general, the arguments put forward in the Encyclopédie in respect of paternal power can be summarised thus: 1) familial authority is parental rather than paternal; 2) paternal authority is not the source and basis of political authority, and, even if it were, that authority would not be absolute, but limited; 3) it is transitory; 4) contractual; and 5) limited by duties prescribed by the loi naturelle, which also gives rights to the children under that authority.

This attitude can be found in the opening remarks to Diderot’s article ‘*AUTORITÉ POLITIQUE*. Having asserted that all individuals are born free, Diderot states that if there were any form of natural authority then it is that of a father over his children (I, p. 898).\(^\text{221}\) Importantly, however, paternal power is not absolute, but naturally limited, and it ceases to be effective once the children are in a condition to think for themselves and direct their own behaviour – in short, once they have acquired enough reason to exercise their rights without needing the guidance of an authoritative figure to guide them (ibid.). This view is derived from the ideas of Grotius, and is also favoured elsewhere in the Encyclopédie by Jaucourt.\(^\text{222}\)

\(^{220}\) cf. Pufendorf (DNG, VII, III, §VI).

\(^{221}\) cf. ‘SOUVERAINS’.

\(^{222}\) The article ‘ENFANT, fils ou fille (Droit nat. Morale)’ (V, pp. 652-654), for example, quotes directly from Grotius (DGP, II, V, §§III-VII) regarding the three stages of infancy that a child’s development goes through; from one of complete vulnerability and ignorance to when they finally leave the family household as mature adults in their own right; with paternal authority diminishing correspondingly in each stage of the child’s physical and moral development.
Whilst not quoting Grotius or Pufendorf directly, the later articles ‘POUVOIR PATERNEL (Droit nat. & civ.)’ (XIII, pp. 255-256) and ‘PUISSANCE PATERNELLE’ (ibid., pp. 560-563) both express similar ideas to theirs too. The title of this last article and the content of it contradict in one important respect: though allegedly about paternal power, it is really about parental power; over and again in this article, as well as in the entries ‘ENFANT, fils ou fille’ and ‘POUVOIR PATERNEL’, it is stated that both father and mother have authority over their children in the family; they, have, in other words, equal rights. Furthermore, paternal authority, as well as being limited by the equal right of the mother in the family, is also limited, according to these entries in the Encyclopédie, because the relationship between a father and his children is essentially contractual, with certain rights and duties active between the contracting parties.

Similarly to both Grotius and Pufendorf, several articles in the Encyclopédie argue that both parents are obliged to care for and educate their children. In return the children must honour their parents, obey their commands – in so long as they do not dictate anything that is contrary to ‘religion and the law’ – and express their gratitude and respect for the care they have received from them even once they have left the family. Should the parents neglect their duties and abuse their rights, however, their authority ceases: their rights have been accorded to them by nature, as ‘guardians’ or ‘governors’ of their children, and extend no further than that (XIII, p. 255). These contractual and reciprocal arguments about parental and paternal power provide a strong indictment of the hierarchies inherent in eighteenth-century French society and the bases of divine right absolutism. They also had implications for the wider justifications of colonial slavery.

As we will see in the second part of this study, many Europeans felt justified in their actions in the colonial sphere because their interventions in the lives of others were dominated by paternalist notions: African slaves were considered intellectually and morally inferior to Europeans, and therefore needed to be guided by them. Since, in the eyes of many of the apologists for slavery, paternal authority was absolute, this justified the same power of a master over a slave. Several articles in the Encyclopédie follow the seventeenth-century Natural Law theorists, then, most notably Grotius, Pufendorf, and Locke, in rejecting the paternal origins of society

223 cf. ‘ENFANT, fils ou fille’.
and political authority. They also follow those seventeenth-century thinkers in emphasising the human rather than divine origins of society and political authority: they are derived not from God, but from the rights of the individual.

2.3.2. INDIVIDUAL SELF-PRESERVATION AND THE ORIGINS OF SOCIETY IN THE ENCYCLOPÉDIE

The first reason advanced in the Encyclopédie as to why it was that people left the state of nature and entered into a civil society was to ensure their self-preservation; an idea that had clearly been articulated by Hobbes in his depiction of the state of nature and the social contract. This idea is put forward most forcefully by d’Alembert in the Discours préliminaire, but traces of it can also be found in the anonymous articles ‘ÉTAT (Droit polit.)’ (VI, p. 19) and ‘SOUVERAINS’.

In the Discours préliminaire d’Alembert emphasises the human rather than divine origins of society. In his view human beings united to form political societies because of the overwhelming concern that they had for their own self-preservation; without society, their lives and existence could not be ensured. Making reference to Hobbesian ideas regarding pain, or the fear/threat of it, as the primary human motivation, d’Alembert argues that it was their susceptibility to pleasure and pain – and a distinct desire to avoid the latter and ensure the former – which led individuals in the state of nature to recognise the common humanity they shared with their fellows and to form a society:

La nécessité de garantir notre propre corps de la douleur & de la destruction, nous fait examiner parmi les objets extérieurs, ceux qui peuvent nous être utiles ou nuisibles, pour rechercher les uns & fuir les autres. Mais à peine commençons-nous à parcourir ces objets, que nous découvrons parmi eux un grand nombre d’êtres qui nous paraissent entièrement semblables à nous, c’est-à-dire, dont la forme est toute pareille à la nôtre, & qui, autant que nous en pouvons juger au premier coup d’œil, semblent avoir les mêmes perceptions que nous: tout nous porte donc à penser qu’ils ont aussi les mêmes besoins que nous éprouvons, & par conséquent le même intérêt de les satisfaire; d’où il résulte que nous devons beaucoup d’avantage à nous unir avec eux pour démêler dans la nature ce qui peut nous conserver ou nous nuire […] telle est l’origine et la formation des sociétés […] (I, p. iii).

A similar point is later made in the entry ‘ÉTAT’; society and the State were formed in order to ensure the lives of individuals whose existence was precarious in the state of nature:
Il fallait pour former cet état, qu’une multitude d’hommes se joignissent ensemble d’une façon si particulière que la conservation des uns dépendit de la conservation des autres […] (VI, p. 19).

However, as the author of the entry ‘SOUVERAINS’ attests – the ideas of which are predominantly drawn from Pufendorf – people soon recognised that if everyone were to continue to exercise their rights which they had in the state of nature – that is, freely, without any external constraint on their actions apart from the dictates of the loi naturelle, then the situation in the newly formed ‘society’ would in fact be the same, if not worse, than the state they had supposedly left behind (XV, p. 423). Therefore it was recognised that people should partially renounce some of their natural liberty, or rights, in order to submit themselves to a will that represents all of society:

[…] on sentit qu’il fallait que chaque homme renonçât à une partie de son indépendance naturelle pour se soumettre à une volonté qui représentât celle de toute la société, & qui fût, pour ainsi dire, le centre commun & le point de réunion de toutes ses volontés & de toutes ses forces. Telle est l’origine des souverains (ibid., pp. 423-424). 224

The essential point, as it had been for Grotius and Pufendorf, is that sovereignty is not founded on a divine right, but from the consent and the rights of the people (ibid., p. 424). Moreover, as the author of this entry states, the reason that people instituted a sovereign was to ensure not just their self-preservation, but also their happiness (ibid.). Though it is noted by the author of this entry that people could choose any of a number of forms of political authority when they instituted sovereignty, whatever form it took the principal aim was to ensure the happiness and rights of the individual which could never be fully renounced:

En quelques mains que soit déposé le pouvoir souverain, il ne doit avoir pour objet que de rendre heureux les peuples qui lui sont soumis; celui qui rend les hommes malheureux est une usurpation manifeste & un renversement des droits auxquels l’homme n’a jamais pu renoncer (ibid.).

If, as the content of the article ‘SOUVERAINS’ suggests, it is considered impossible that people should renounce their right to self-preservation entirely, the same point is made in respect of the natural right to property elsewhere in the work’s many volumes; it was not just their self-preservation which led people to leave the state of nature according to several entries in the Encyclopédie, but also for the preservation of their property and possessions.

2.3.3. THE PRESERVATION OF PROPERTY AND THE ORIGINS OF SOCIETY IN THE ENCYCLOPÉDIE

The Lockean definition of natural liberty provided by Jaucourt in the articles ‘ÉTAT DE NATURE’ and ‘LIBERTÉ NATURELLE’ includes the right to do what one wishes in respect of our persons, our possessions, and our property in the state of nature, as long as one did so within the bounds prescribed by the loi naturelle. As had been the case for most Natural Law theorists in the seventeenth century, several important articles in the Encyclopédie see property as a natural right. The natural right to property and its role in the formation and origin of societies is stressed most notably in the work by Rousseau and Jaucourt, particularly the latter. Though the ideas of these two contributors differed in many other respects, both of them saw the natural right to property as an important factor in why it was that people left the state of nature, and, in society, as a limit upon the exercise of sovereignty.

The natural right to property and its importance in the formation of societies is stressed by Rousseau in his article ‘ECONOMIE ou ÉCONOMIE’. According to him, ‘le droit de propriété est le plus sacré de tous les droits des citoyens […] parce que la propriété est le vrai fondement de la société civile’ (V, p. 344). Despite the importance accorded by Rousseau to property in this entry, however, it is in the contributions by Jaucourt that one finds the most sustained appeals to that natural and inalienable right.

His entry ‘ÉTAT DE NATURE’ for example – mostly drawn, as we have seen, from the writings of Locke – emphasises that it was to maintain their right to property that societies were instituted at the behest of individuals in the state of nature: there was a perpetual fear amongst individuals in that state that any property they may have legitimately acquired would be lost to others (VI, p. 17). According to Jaucourt in this article, the natural right to property is both the source of political authority, in that it is this right which is transferred by individuals to form a government, and its limit – in his Lockean view any form of political authority must limit itself to the maintenance and preservation of that natural and inalienable right (ibid.). The same argumentation serves as the basis of Jaucourt’s later entry.

226 cf. ‘ÉCONOMIE ou ÉCONOMIE’ by the former, and ‘ÉTAT DE NATURE’; ‘GOUVERNEMENT (Droit nat. & polit.)’ (VII, pp. 788-791), and ‘PROPRIÉTÉ (Droit naturel & politique)’ (XIII, p. 491) by the latter.
‘GOUVERNEMENT’ the sources of which Lough attributes to Locke, Burlamaqui and to a lesser extent Montesquieu. 228

Jaucourt is also the author of the entry ‘PROPRÉITÉ’ which, similarly to those articles mentioned above, stresses that protection of the right to property was one of the principal reasons why societies were formed. According to Jaucourt, once formed, individuals agreed to forfeit a portion of their property to the State in the form of taxation since this would contribute to the security of all society’s members (XIII, p. 491). Nevertheless, he emphasises that the right to property was not alienated completely upon the institution of society – individuals never claimed to give those in whom they invested political authority an absolute and unlimited power over their possessions: ‘ils n’ont jamais compté se mettre dans la nécessité de ne travailler que pour eux’ (ibid.). Consequently, for Jaucourt any government which violates or infringes upon the individual’s natural right to property should be considered despotic. 229 By contrast, any societies that were to follow the ‘rules of reason’ would in turn respect the rights of the individual (ibid.).

The Hobbesian emphasis on self-preservation and the Lockean emphasis on property are countered, however, by the third, and predominant, view advanced across numerous articles in the Encyclopédie as to why human beings came to live together in societies, and which is also derived from the central tenets of Natural Law thinking; that of natural sociability. This is the idea that human beings are naturally inclined to live together in societies, a fact that results from, and a recognition of, their similarity in biological and physical constitution – and, of course, rights. The idea of natural sociability was a prominent aspect of the writings of Grotius, Pufendorf, Barbeyrac, and Burlamaqui, and there are several instances of note where entries in the Encyclopédie follow them regarding this aspect of human nature.

2.3.4. THE NATURAL SOCIABILITY OF HUMAN BEINGS AND THE ORIGINS OF SOCIETY IN THE ENCYCLOPÉDIE

Rousseau did not always hold views such as those outlined in ‘ÉCONOMIE ou ÉCONOMIE’ discussed above regarding the right to property, which echo the ideas of Grotius and Pufendorf: in the Discours sur l’origine et les fondements de

228 cf. Lough, p. 281.
229 cf. ‘DESOTISME (Droit polit.)’ (IV, pp. 886-889).
l’inégalité parmi les hommes (1755) and elsewhere, he insisted, in contrast to Grotius and Pufendorf, that human nature was not naturally sociable, but solitary.  

By contrast, other contributors to the Encyclopédie such as Diderot and Jaucourt follow the seventeenth-century Natural Law theorists and assert that human nature is endowed with a natural capacity for sociability. This optimistic view of human nature had, of course, been temporarily ruptured by Hobbes with his depiction of the state of nature in the seventeenth century, and it was also cast into doubt by Rousseau’s portrayal of the state of nature and contemporary society in the mid-1750s. Both Rousseau’s view of human nature as fundamentally isolated in the state of nature and Hobbes’s as solely motivated by self-interest are both directly refuted in several places in the Encyclopédie.

The natural sociability of human nature is hinted at by d’Alembert in the Discours préliminaire: individuals in the state of nature recognised that other people had similar needs to each other, and so were naturally drawn to live together in order to ensure their self-preservation (I, p. iii). The idea is most forcefully put forward, however, in the entries ‘SOCIABILITÉ (Droit nat. & Moral.)’ (XV, pp. 250-251) and ‘SOCIÉTÉ’ not published until 1765. The content of both these articles is primarily derived from the works of Grotius, Pufendorf, and Burlamaqui.

According to both these entries, it is a result of the human physical constitution (i.e. their susceptibility to pain and suffering; their corporeal vulnerabilities) that outside of society, in the state of nature, people would be unable to preserve themselves, or develop and perfect their faculties and talents; in short they would

230 cf. Rousseau (OCR, III, DSI, p. 151); his depiction of the state of nature owes a significant debt to Hobbes: in the state of nature people are solitary and above all attentive to their own instinctual concerns, see, for example, Graeme Garrard, Rousseau’s Counter-Enlightenment: A Republican Critique of the Philosophes (Albany, N.Y.: 2003), pp. 41-44 (henceforth designated as ‘Garrard’).

231 cf. Aristotle, Cicero and most notably the Stoics in Antiquity and amongst the Natural Law theorists Grotius (DGP, Discours préliminaire, §§V-VIII), Pufendorf (DNG, II, III, §XVIII), Barbeyrac (DGP, Discours préliminaire, §VI, n.II) and Burlamaqui (PDN, II, IV, §§XI-XVII). Diderot derived his ideas about the natural sociability of humankind from both Grotius and Pufendorf, cf. Strugnell, p. 6.

232 cf. Rousseau (OCR, III, DSI); for Rousseau society was a Hobbesian state of war and competition that resulted from the development of divisive human passions which emerged from ever-increasing human relationships, cf. Garrard, pp. 41-42.

233 As Diderot notes in the concluding section to his article ‘*HOBBISME ou PHILOSOPHIE D’HOBBES’, in his eyes the philosophies of Hobbes and Rousseau were opposites: ‘L’un croit l’homme de la nature bon, & l’autre le croit méchant. Selon le philosophe de Genève, l’état de nature est un état de paix; selon le philosophe de Malmesbury, c’est un état de guerre. Ce sont les lois & la formation de la société qui ont rendu l’homme meilleur, si l’on en croit Hobbes; & qui l’ont dépravé, si l’on en croit M. Rousseau’ (VIII, pp. 240-241).
remain unhappy and unfulfilled as human beings (ibid., p. 252). Not only this, the heart makes people seek out the companionship of others:

[...] si nous consultons notre penchant, nous sentirons aussi que notre cœur se porte naturellement à souhaiter la compagnie de nos semblables, & à craindre une solitude entière comme un état d’abandon & d’ennui (ibid.).

It is therefore society which allows human nature to satisfy its corporeal, intellectual and emotional needs and which allow the virtues of Natural Law to develop fully:

[...] c’est dans la société que l’homme trouve le remède à la plûpart de ses besoins, & l’occasion d’exercer la plûpart de ses facultés, c’est-là, sur-tout, qu’il peut éprouver & manifester ces sentiments, auxquels la nature a attachée tant de douceur, la bienveillance, l’amitié, la compassion, la générosité: car tel est le charme de ces affections sociables, que de-là naissent nous plaisirs les plus purs (ibid.).

This view of the natural sociability of human nature, then, contrasts sharply with that of Rousseau, and instead reflects the views of Grotius, Pufendorf, and Burlamaqui on the question. Worthy of further mention is Jaucourt’s short article ‘SOLITUDE, ÉTAT DE (Droit naturel)’ (XV, p. 235), which neatly sums up the views of the contributors to the Encyclopédie in terms hostile to those of Rousseau and which echoes the ideas of Pufendorf and Burlamaqui in particular:

Cet état est celui où l’on conçoit que se trouveroit l’homme s’il vivoit absolument seul abandonné à lui-même, & destitué de tout commerce avec ses semblables. Un tel homme seroit sans doute bien misérable, & se trouveroit sans cesse exposé par sa foiblesse & son ignorance à périr de faim, de froid, ou par les dents de quelque bête féroce. L’état de société pourvoit à ses besoins, & lui procure la sûreté, la nourriture & les douceurs de la vie (ibid.).

In many respects the articles referenced above repeat the point made in the entry ‘ŒCONOMIE POLITIQUE (Hist. Pol. Rel. anc. & mod.)’ (XI, pp. 366-383), in which it is said that societies were formed as a result of human needs and, because of the similarity of human needs, human nature is naturally sociable (ibid., p. 369). According to the author(s) of this article, society was formed by a contract between individuals with the same needs which though tacit at first, soon became formalised when the individuals decided to submit themselves ‘aux lois écrites, & à une subordination civile & politique’ (ibid.). Similarly, the article ‘SOCIÉTÉ’

236 cf. Pufendorf (DNG, II, III, §XV) and Burlamaqui (PDN, I, IV, §IV) (PDN, II, IV, §§XII-XVI).
paraphrases Locke’s ideas regarding the social contract, which sets out the reason people formed societies and the limits of those invested with the executive power:

Les hommes en instituant la société civile, ont renoncé à leur liberté naturelle, & se sont soumis à l’empire du souverain civil: or ce ne pouvoit pas être dans la vûe de se procurer les biens dont ils auroient pu jouir sans cela; c’étoit donc dans la vûe de quelque bien fixe & précis, qu’ils ne pouvoient se promettre que de l’établissement de la source civile; & ce ne peut être que pour se procurer cet objet qu’ils ont armé le souverain de la force de tous les membres qui composent la société, afin d’assurer l’exécution des décrets que l’état rendroit dans cette vûe […] (XV, p. 256).

This, then, is the ‘official’ view that the editors of the Encyclopédie wanted to portray as to the origins and formation of civil society. That this is case can be attested to by the following evidence: 1) the title of the article itself; 2) the fact though the Encyclopédie does not contain an article with the headword ‘CONTRAT SOCIAL’ there is an entry entitled ‘CONTRAT DE SOCIÉTÉ’ (IV, p. 127) which contains no information except a renvoi to the article ‘SOCIÉTÉ’ – which suggests that it was in this article that the Encyclopédie would discuss the contractual origins of society; and 3) the article ‘HOMME (Morale)’ (VIII, pp. 274-278) similarly contains renvois to the articles ‘SOCIABILITÉ’ and ‘SOCIÉTÉ’. Its author also states that though the purpose of that article is not to discuss the origins of society, the reader should examine the content of these two latter articles in order to satisfy their curiosity on the matter (ibid., p. 275).

The social contract, of course, was not just a matter of establishing how it was that societies came into being, but about establishing the nature and limits of political authority. The article ‘SOUVERAINETÉ (Gouvernement)’ (XV, pp. 425-426) confirms the point: ‘[…] l’autorité souveraine […] résulte immédiatement des conventions mêmes qui forment la société civile, & qui donne naissance au gouvernement’ (ibid., p. 425). What else, then, does the Encyclopédie say about the social contract?

**2.3.5. THE SOCIAL CONTRACT IN THE ENCYCLOPÉDIE**

The idea of a social contract could not have been developed if the ‘modern’ theories of Natural Law had not provided its basis; since all social contract theories of the period began by assessing the individual, or, rather, the impact of Natural Law on human nature, the concept is the ‘distinctive mark of the political theory of
individualism’. There were different interpretations of the social contract and the consequences of it which derived from different interpretations of Natural Law, its impact on human nature, and the concept of the state of nature in which these ideas were hypothetically examined. The views of Hobbes and Locke, for example, provide two extreme views of the state of nature and consequently of the social contract which, as we have seen, entries in the Encyclopédie view as abhorrent and exemplary respectively. The social contract was also one of some contention between Diderot and Rousseau, with the former relying on a theory of the social contract that owed much to Grotius and Pufendorf, and the latter on Hobbes and Spinoza.

These differences in interpretation of the social contract were, essentially, a debate as to whether the rights that human beings possess in the state of nature are maintained in their entirety upon the institution of society, or whether the exercise of those rights is limited in some way by the social contract: it is a debate about how to balance the issue of personal freedoms, or rights, with the need for public security and order; should the rights of the individual be limited by and transferred to the State or should they, on the other hand, be preserved as they had been in the state of nature?

As implied already, the view of the social contract in the Encyclopédie is distinctly anti-Hobbesian, although, similarly to the other jurists and philosophers associated with the development of Natural Law thinking in the seventeenth century, its contributors do agree with the English theorist that it is the rights of the individual that produce political authority. The first consequence of the social contract as it is conceived in the Encyclopédie is that consent on behalf of the ruled is the true foundation of legitimate political authority. The point is made by Diderot in the article ‘*AUTORITÉ POLITIQUE’ when he states that any form of political authority is either derived from force/violence or from the consent of the ruled who submitted to that authority via a contract, with an emphasis on the latter (I, p. 898). The same idea is expressed in several important articles throughout the work. As the source of all legitimate political authority resides originally in the people:

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239 cf. section 2.2 above.
241 cf. ‘POUVOIR (Droit nat. & politiq.)’ (XIII, p. 255) and ‘SOUVERAINS’.
[...] il résulte que c’est le transport & la réunion des droits de tous les particuliers dans la personne du souverain qui le constitue tel, & qui produit véritablement la souveraineté (XV, p. 425, my emphasis).

Secondly, however, in opposition to Hobbes and the doctrine of divine right, political authority is not, and can never legitimately be, absolute, but must always be limited by the rights of the individual and the duties prescribed by the loi naturelle. Diderot, for example, in ‘*AUTORITÉ POLITIQUE’ stressed that subordination to a political authority was a necessary result of the social contract, but that individuals in the state of nature did not agree to renounce their rights entirely in the Hobbesian manner (I, p. 898). As it is later reiterated in the article ‘SOUVERAINS’, legitimate sovereignty always has ‘natural limits’ (XV, p. 424). In the article ‘SOCIÉTÉ’ the same idea is advanced; for the public good to be achieved it is necessary that the ruled obey the rulers, but the same public good demands that those invested with political authority must preserve the rights of the individual (i.e. they existed previously – in the state of nature) (ibid., p. 253).

For Diderot and Jaucourt in particular the rights of the individual exercised in the state of nature are inalienable; they are not surrendered in their entirety when society and the State are instituted via the social contract. The inalienability of rights is confirmed elsewhere in numerous places in the Encyclopédie, and not just in respect of the relationship of the individual to the State, but in relation to other individuals. In ‘*AUTORITÉ POLITIQUE’, for example, Diderot asserts that ‘l’homme ne doit ni peut se donner entièrement & sans réserve à un autre homme [...]’ (I, p. 898); a Lockean idea that is also reiterated in Jaucourt’s articles ‘ÉTAT DE NATURE’ and ‘LIBERTÉ NATURELLE’ to which reference has already been made.

According to the content of these entries, then, individuals possess natural rights, but, contrary to the views of Grotius, Hobbes, and Pufendorf, their rights cannot be treated like other material possessions and be transferred or surrendered in their entirety. Rather, in the entries by Jaucourt, the more liberal attitude of Locke and Huguenots such as Barbeyrac and Burlamaqui manifests itself; the right to freedom, for example, is said to be something that can neither be exchanged, nor sold, nor lost (IX, p. 471). Hence Jaucourt, the author of the article ‘LIBERTÉ NATURELLE’, asserts that in society the right to freedom is to be maintained; it is a natural right, having existed in the state of nature and not having been surrendered or
modified in any way via the social contract; a point reiterated in the article ‘POUVOIR’:

[...] ils n’ont jamais prétendu se livrer sans réserve à des maîtres arbitraires, ni donner les mains à la tyrannie & à l’oppression, ni conférer à d’autres le droit de les rendre malheureux (XIII, p. 255).

Following in this line of thought, the author of the article ‘SOUVERAINS’ states that the cause of the unhappiness of a people is an open violation of their inalienable natural rights: ‘les chefs des nations contens de travailler au bonheur de leurs sujets, ne chercheroient point à envahir leurs droits’ (XV, p. 424). In the eyes of some of the contributors to the *Encyclopédie*, then, respect for the rights of others is therefore fundamental for both human happiness and for society to flourish as it should.

Hence, the presence of Natural Law thinking in the *Encyclopédie* manifests itself in the repeated conviction that human beings are the bearers of equal natural rights which exist both in the state of nature and, after the social contract, in society. Moreover, since society consists of individuals endowed with equal and inalienable rights, those rights act as a brake on the exercise of sovereignty – the State and its institutions have a fundamental duty to ensure that the rights enjoyed by individuals in the state of nature are maintained and preserved. The different reasons listed in the *Encyclopédie* as to why human beings left the state of nature and formed civil societies imply that some of its contributors saw an essential dualism to human nature. The emphasis on the natural sociability of human nature, derived from Grotius, Pufendorf and Burlamaqui in particular, however, and on the existence of the *loi naturelle* in the state of nature, suggests that some contributors to the project saw human beings as being naturally capable of living together in relative harmony, despite all of them being free and equal in rights. The ability of people to act in a sociable way therefore derives from their ability to apprehend the *loi naturelle* and exercise their rights in accordance with it.

Such an outlook as this intimates that certain contributors to the work saw human beings as occupying a privileged place in the world of nature, being not just subject to the physical laws of nature as Hobbes and Spinoza maintained, but to a universal moral law – by acting in accordance with which they are capable of acting in a way that respects the rights of others. However, before turning to a more detailed analysis of the *loi naturelle* in the *Encyclopédie*, it should be noted that

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when it comes to the question of the relationship of human beings to other animals and the physical world of nature, the approach of the contributors to the project is not clear cut.

2.4. AN ANIMAL LIKE ANY OTHER? HUMANKIND’S PLACE IN THE WORLD IN THE *ENCYCLOPÉDIE*

The depiction of human nature, the state of nature and the social contract in the *Encyclopédie* differs, then, for the most part, from that advanced by Hobbes and other supporters of political absolutism. The existence of the *loi naturelle* in the state of nature which acts as a moral brake on the exercise of an individual’s rights implies, too, that certain contributors to the *Encyclopédie* held a very different view of human nature from that of Hobbes. The supposed existence of the *loi naturelle* implies that in the eyes of some contributors to the project human beings are set apart from animals and the rest of the physical world of nature – in contrast to Hobbes, Jaucourt and others who discuss the concept in the work argue that humans are not solely material beings like all other animals, and therefore subject only to the physical ‘laws of nature’, but are subject to the prescriptions of the *moral* law.

Therefore one aspect of human nature that remains to be resolved before turning to the analysis of attitudes to the *loi naturelle* in the *Encyclopédie* in more detail is the question of where human beings stood in relation to the rest of creation. In the works of the seventeenth- and eighteenth-century Natural Law theorists this question was primarily a matter of demonstrating that human beings are not just corporeal creatures, but are endowed with a spiritual soul.

2.4.1. HUMAN BEINGS, BODY AND SOUL? THE ‘GREAT CHAIN OF BEING’ IN THE *ENCYCLOPÉDIE*

The question of the work’s attitude to whether human beings occupy a privileged place in the world of physical nature is not as easy to answer as might be thought, for the contributors to the *Encyclopédie* provide a number of divergent responses to it, not all of which are easily reconciled into a single coherent doctrine. If mankind were not unique in the realm of physical nature, but mechanistically-determined as Spinozists and eighteenth-century radical materialists claimed, then it followed that human beings were only subject to the same physical ‘laws of nature’ as the rest of physical nature, they were not placed above the rest of creation and subject to a
moral law. If, on the other hand, mankind was considered to occupy a unique place in the world, it could be argued that part of his uniqueness lay in the fact that he was subject to a moral law that animals and plants were not.

This was a thorny issue for many in the eighteenth century, particularly for those thinkers who wished to emphasise, in opposition to Christianity, that human beings were animals like any other, but could not accept the radical determinism of a thinker such as Spinoza or La Mettrie, whose systems they perceived to deny humankind of its free will and any sense of moral responsibility.\(^{243}\) As both Pufendorf and Burlamaqui pointed out, Natural Law thinking and moral philosophy in general must take human beings to be susceptible to direction in their behaviour and as accountable for their actions.\(^{244}\)

This uncertainty is reflected in the *Encyclopédie*. On the one hand, in ‘*HOMME (Hist. nat.*)’ Diderot states quite firmly that ‘L’homme ressemble aux animaux par ce qu’il a de matériel; […] on est forcé de le mettre dans la classe des animaux’ (VIII, p. 257) – an idea that is also reiterated in the article ‘INSTINCT (Métaph. & Hist. nat.)’ (ibid., pp. 795-799), in which the similarity of organs in both animals and humans is attested to (ibid., p. 795). Importantly, in the article ‘ANIMAL (Ordre encyclopédique. Entendement. Raison. Philosophie ou science. Science de la nature. Zoologie. Animal.)’ (I, pp. 468-474), Diderot refers to what is now called the ‘Great Chain of Being’ and states that ‘[…] l’univers est une seule & unique machine, où tout est lié’ and where there are only ‘imperceptible degrees’ of difference between different beings ‘en sorte qu’il n’y ait aucun vide dans la chaine’ (I, p. 468).\(^{245}\) Consequently, given this view of the universe, Diderot states that it is difficult to ‘fixer les deux limites entre lesquelles l’animalité […] commence & finit’ (ibid.). Here, then, Diderot emphasises that human beings like the rest of creation are included in the physical world of nature, they do not occupy a divinely-appointed position by which they are superior to other animals.

At the same time, not all the articles dealing with the nature of human beings are by any means entirely materialist in their views as those outlined here thus far – some reflect a Natural Law perspective. In many articles, the word ‘homme’ signifies, as the article ‘NOM (Méthaph. Gram.)’ (XI, p. 196) makes explicit ‘[…]


\(^{244}\) cf. Pufendorf (*DHC*, I, I, §XVII) and Burlamaqui (*PDN*, I, III, §I)

l’idée entière de la nature humaine’ which is composed ‘de corps vivant& d’âme raisonnable […]’. Human nature is not purely corporeal and mechanistically-determined in a similar way to animals, as it had been for Hobbes, Spinoza or the eighteenth-century French radical materialists, for example, but is also composed of a ‘spiritual’ or non-corporeal substance – the soul which is the principle of human actions. The point is reiterated explicitly in the entry ‘NATURE (Philos.)’ (XI, pp. 40-41): ‘[…] tous les hommes […] ont une ame spirituelle & raisonnable’ (ibid., p. 40).

Even Diderot himself, on occasions, seems to resile from his assertion, noted above, that humans and animals are not fundamentally different. As he notes in his article ‘*HOMME’ (VIII, pp. 256-257), the human being is not just ‘un être sentant’ like all other animals, but also one that ‘reflects’ and ‘thinks’ (ibid., p. 256). The human being is a creature that has ‘une bonté & une méchanceté qui lui est propre’ and which is composed, as the article ‘NOM’ confirms, of both a soul and a body; yet in the same sentence, he goes on to say that man ‘paroît être à la tête de tous les autres animaux sur lesquels il domine’ (ibid.), so that human beings, as this last phrase implies, are fundamentally animals, like any other.

Such a view was fundamentally in opposition to the views of Christianity and Cartesian rationalism, and, indeed, the ideas of most of the seventeenth-century Natural Law theorists on the matter; for them it was the faculty of reason – which

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246 ‘[…] l’idée entière de la nature humaine, qui est indiquée par le nom appellatif homme, comprend les idées partielles de corps vivant& d’âme raisonnable […] La totalité de ces idées partielles […] est la compréhension de l’idée de la nature commune exprimée par le nom appellatif homme’ (XI, p. 196).


was particular to human beings – that allowed one to discover the self-evident precepts of Natural Law by considering God-given principles that pre-exist in the human mind.\(^{251}\) Cartesian rationalism had therefore drawn a sharp dividing-line between animals and humans, and consequently favoured the \textit{a priori} view of Natural Law (\textit{droit naturel}), in which human actions, because human beings are rational and endowed with free will, cannot be compared to the mechanistically-determined actions of animals.\(^{252}\)

It would be wrong however to suppose that the rejection, by most of the contributors, of the distinction between man and animals was peculiar to the \textit{Encyclopédie}. The question of the relationship between animals and humans was particularly pertinent during the decades immediately prior to its compilation and during it, due in part to the developments made in the biological sciences during the 1740s.\(^{253}\) In particular, there was a growing debate about the relationship between the great apes and humankind. This concern manifests itself in the \textit{Encyclopédie}, where the great apes are clearly portrayed as being not so distant from human beings on the ‘Great Chain of Being’.

The article ‘*CHAMPENELLES (Hist. nat.)*’ (III, p. 78) by Diderot, for example, states that these ‘[…] grands singes […] ressemblent si fort à l’homme, qu’on a dit qu’ils n’en différoient que parce qu’ils étoient privés de l’usage de la voix’ (ibid.). Similarly, it is noted in the later entry ‘SINGE (Hist. nat. Zoologie.)’ (XV, pp. 208-210) that the orangutan is the animal that most resembles mankind (ibid., p. 208). In particular, there was a growing belief that human beings closely resembled the ‘jocko’, which is depicted in startling human form in the \textit{Encyclopédie} plates (see Figure 2). In the text accompanying the plate it is said that the ‘jocko’ is the animal ‘qui ressemble le plus à l’homme, non seulement par ses traits, sa taille, mais encore par ses mœurs’ (XXIII, p. 10). The divergent views regarding the relationship between human beings and animals examined thus far in this section, however, differ from one aspect of human nature which is seemingly unanimously agreed on by the contributors to the \textit{Encyclopédie} – its universality.

\(^{253}\) cf. Crocker, \textit{An Age of Crisis}, pp. 79-81.
Despite their apparent disagreements about the place occupied by human nature in the physical universe the majority of articles in the *Encyclopédie* which deal with the matter are clear in their agreement about the universality of human nature. Across and throughout the work’s many volumes its contributors are emphatic in their assertions that 1) there is certainly a complex diversity in human behaviour, morals and conduct – as Diderot exclaims in the article ‘*HOMME (Hist. nat.)’*, after having described the different practices around the globe and the relativism of attitudes: ‘Quel contraste dans les gouts & les mœurs de l’homme!’ (VIII, p. 259) – but also that 2) over and above any apparently superficial differences in behaviour, which are, it is said, the product of external circumstance, at heart, all human beings have the same faculties, desires and needs that stem from their similarity of biological organisation.254

For these contributors to the *Encyclopédie*, then, human nature is universal; there are not, amongst the human community ‘[…] des façons véritablement différentes de penser, de sentir et de désirer’ 255 Just as there appears to be a consistent attitude towards the universality of human nature, there was, amongst many contributors to the *Encyclopédie*, a similarly shared conviction that the moral norms governing human behaviour were in essence invariable – that irrespective of geographical location or historical epoch those norms remain and have remained the same: ‘[…] the affirmation of a universal human nature admitted the possibility of a corresponding uniform conscience and moral law’.256 In short, there is an immutable, objective and universal standard of justice derived from *human nature: the loi naturelle*. This immutable moral law is not just active in the state of nature, but in society too. It is, then, to a more detailed study of that law that we now, at last, turn.

254 cf., for example, ‘HOMME (Exposition anatomique du corps de l’)’ (VIII, pp. 261-274) and ‘*HUMAINE ESPECE’ as well as the articles ‘HOMME (Morale)’ and ‘VOLONTÉ (Gram. & Philosophie morale)’ (XVII, p. 454) which are both, in particular, typical of the *Encyclopédie*’s view: as the latter of these two articles makes clear, as human beings are essentially sentient beings, they all motivated by the same things (ibid.).

255 cf. Hubert, p. 167. As well as the articles discussed here the *Encyclopédie*’s belief in the universality of human nature is also made explicit in the entries ‘ÉTAT MORAL (Droit nat.)’ (VI, pp. 18-19) and ‘ÉCONOMIE POLITIQUE’.

2.5. CONCLUSION

The modern theories of Natural Law and their emphasis on human beings as the bearers of natural rights provided contributors to the *Encyclopédie* such as Diderot and Jaucourt with an alternative vision of the origins and nature of society to those that prevailed in contemporary society. Society, for them, primarily consisted of individuals endowed with equal and inalienable rights which the State has a fundamental duty to maintain and respect.

The importance of ideas relating to the seventeenth- and eighteenth-century theories of Natural Law, however, did not just lie in their particular attitude to the political problem. Certain contributors to the project were, on the evidence of things, clearly concerned by *how* their contemporaries exercised their rights. The belief in an immutable and universal *loi naturelle* derived from human nature therefore enabled those of them who believed in it to pose a critique of the values of their own society, and to argue that neither the dictates of both the Church and State constitute justice. Moreover, both the Church and State are heavily implied to have valorised, in their own different ways, duties and values very different to those of the *loi naturelle*. 
Figure 2: ‘Histoire naturelle Pl. XIX’, ‘Fig.1. le jocko, Fig. 2. le gibbon’ in Ency. Planches vol. VI (1768).
CHAPTER THREE

NATURAL LAW IN THE *ENCYCLOPÉDIE*

3.1. INTRODUCTION

The predominance of concepts such as the state of nature and social contract, and the appropriation of such ideas by contributors to the *Encyclopédie*, reinforce the view that in its ‘modern’ form Natural Law was a political theory centred on the notion of individual rights, in opposition to divine right absolutism. However, as was the case in Antiquity, the Natural Law thinking as it stood in the eighteenth century was not reliant on either of those concepts. Belief in a universal natural moral order of justice, or *loi naturelle*, which exists over and above the laws of any one political community is primarily a question of moral epistemology; of demonstrating how it is that human beings come by their notions of right and wrong, justice and injustice, and how they can be said to establish what a just course of action is in any given situation – independently of any rules decreed by either the Church or State to guide their behaviour.

In this chapter I argue that there is considerable evidence to suggest that several key contributors to the *Encyclopédie* place the source of moral judgements not in the dictates of either the Church or State, but in the individual, and their apprehension of *la loi naturelle*. The *loi naturelle* to which they refer is similar to that conceived by seventeenth-century Natural Law thinking in opposition to the prevalent Catholic doctrine of the time; it is based not on metaphysical or theological suppositions about God and His role in directing human behaviour, but on human nature itself. It is therefore conceived of as both descriptive, a statement of what *is*, based on the empirical reality of human nature, but also prescriptive, what *should be* the basis of both ethics and politics.

The Natural Law thinking expounded in the *Encyclopédie* rejects the traditional Catholic conception of human nature as endowed with God-given innate principles of justice upon which rational reflection could lead one to understanding how to act. However, as what follows demonstrates, though on the whole they reject the view that humankind is endowed with innate *ideas* of justice, several contributors maintain that human beings are not fundamentally immoral or amoral because of this

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fact. Rather, they emphasise that there are innate feelings of justice; in their view the precepts of the *loi naturelle* do not need to be rationally investigated, but simply felt or experienced. The belief in a *loi naturelle* of this kind had important ethical and political consequences, and, as we shall see, it allowed those contributors to the project who believed in it to pose a critique of the values of their own society.

3.2. THE HOSTILITY OF THE *ENCYCLOPÉDIE* TO THE CHURCH AND ITS TEACHINGS

It is well known that the *philosophes* of eighteenth-century France were particularly hostile to the values of the Catholic Church, and in many cases those of all forms of organised religion. In general the contributors to the *Encyclopédie* were no exception to this. As René Hubert put it: ‘[…] il n’est pas douteux que, d’une manière générale, la pensée encyclopédique est dirigée contre l’enseignement traditionnel de l’Eglise’. One way in which hostility to the biblical tradition and Christian morality manifests itself in the work is the way in which some of its contributors discredit both the Old and New Testaments – a common feature of secular eighteenth-century thought. Though there are certainly many entries in the work which are conservative in their attitude, frequently attesting as they do to the authenticity of the Bible and its contents, this should not be too surprising given the circumstances in which the work was being compiled. However, there are also several notable entries which emphasise that the Bible is subject to critical evaluation just like any other work.

On the whole, biblical criticism in the *Encyclopédie* consists in highlighting the lack of consensus about the stories contained in the Bible: about the diversity of opinion regarding, for example, Adam, Eve and their experiences in the Garden of Eden; the nature and existence of original sin; the biblical Flood; the veracity and reliability of biblical chronology in general, as well as the fact that what have been

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258 cf. Hubert, p. 33.
259 cf. Pagden, p. 84.
260 cf., for example, ‘BIBLE (Theol.)’ (II, pp. 222-224), ‘CHRISTIANISME (Théolog. & Politiq.)’ (III, pp. 381-387), ‘EVANGILE (Theol.)’ (VI, pp. 113-118), ‘GENÈSE (Théologie)’ (VII, p. 756), ‘TESTAMENT (Théologie)’ (XVI, pp. 189-190) as well as those regarding the New Testament specifically, which are unoriginal and conservative: see ‘JEAN (Evangile de S. Jean)’ (VIII, pp. 505-506), ‘LUC, EVANGILE DE SAINT (Théol.)’ (IX, p. 710), ‘MARC, EVANGILE DE S. OU SELON S. (Théol.)’ (X, pp. 80-81) and ‘MATTHIEU, EVANGILE DE SAINT OU SELON SAINT (Théol.)’ (X, pp. 207-208).
considered to be the canonical texts of Christianity have not always been the same, and are frequently subject to changes.  

Even the entry ‘ÉCRITURE-SAINTE (Théol.)’ (V, pp. 361-369) by the Abbé Edmé-François Mallet (1713-1755), which was likely to attract the attention of the religious authorities, highlights the fact that the authenticity of the Scriptures, though accepted by Christians, was a point of some dispute amongst them. Moreover, Mallet argues that for the unbeliever the principal problems regarding morality derived from the Scriptures are that its principles are not universally accepted, having only ever been adopted by Jews and Christians, and that the Scriptures themselves are the work of men, not the product of a divine hand (V, pp. 361-362). Furthermore, Mallet is particularly bold when he asserts that Christian dogma ‘révolte […] la raison’ and claims its morality to be ‘contraire à l’humanité’ (ibid.). This, as we shall see, is a point that is stressed at length by many of the contributors elsewhere in the work.

Further direct criticisms of Christianity in the Encyclopédie can be found in the attitudes expressed towards some of the fundamental tenets upon which its teachings were based: towards prophecies, for example – which are said to be unreliable because they involve supernatural ideas (XIII, p. 463) – and the mysteries contained in the Gospel – which are beyond the comprehension of human reason (X, p. 921). Mention should also be made of the attitude of the work to miracles, which are attested to in both the Old and New Testaments. The article ‘MIRACLE (Théologie)’ (X, pp. 560-562), for example, though generally conservative, draws upon the authority of Spinoza who (in)famously argued that ‘les miracles sont impossibles, puisqu’un vrai miracle est contraire aux lois connus & ordinaires de la nature’ (ibid., p. 561). This reference to the scientific ‘laws of nature’ and Spinozist ideas was an audacious one in the context of contemporary society; Spinoza’s reputation as an atheist and materialist was in part down to his rejection of miracles on this very basis.

264 cf. Spinoza (TTP, VI).
265 cf. Israel, Radical Enlightenment, pp. 218-229.
More than any of these things, however, what the more progressive contributors to the *Encyclopédie* saw as the major failing of Christianity was its conception of Natural Law and consequently its morality, for they both rested, in their eyes, on an unacceptable view of human nature.

Catholic theology relied on the notion of original sin – ‘[…] la clé unique de tout le système du Christianisme’ (I, p. 215) – inherited by all human beings from Adam; the effects of which were considered to be the ‘l’ignorance, la concupiscence ou l’inclination au mal’ inherent in human nature ever since, as well as ‘les misères de cette vie & la nécessité de mourir’ (XI, p. 649).266 Hence the requirement of a revealed religion – ‘[…] le plus puissant frein qu’on puisse donner aux hommes’ (III, p. 382).267 In this prevailing view expressed here in the *Encyclopédie*, it was not considered possible to be good, or to act virtuously, without knowledge of the Christian revelation – and, consequently, the God-given first precepts of right conduct, or innate ideas, by which human reason could deduce the correct course of action. This view of human nature, and the need for God-given innate ideas and the necessity of the revelation for producing virtuous conduct was anathema to those contributors to the work who sought to establish a secular and universal basis to ethics.

3.3. THE SEARCH FOR A SECULAR ETHICS AND THE REJECTION OF METAPHYSICS IN THE *ENCYCLOPÉDIE*

Although many of the articles in the *Encyclopédie* are hostile to some of the foundational tenets on which the Christian faith and its morality were built, its editors did not want to give human nature an entirely free rein. Similarly to the majority of eighteenth-century philosophes, the contributors to the work sought a secular ethical system which dispensed with the conception of human nature as endowed with God-given innate ideas of justice, but they were not, for the most part, radical materialists. For many, a counter-point was needed to what they perceived to be the Hobbesian-Spinozist emphasis on, and justification of, self-interested behaviour and the denial of moral responsibility.268 Refuting their conception of justice had been a central concern of Montesquieu prior to the compilation of the *Encyclopédie* – justice, he argued, is eternal and immutable; it is not dependent on

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266 cf. ‘ADAM’, ‘IMPUTATION (Théologie)’ (VIII, p. 640) and ‘ORIGINE’.  
267 ‘CHRISTIANISME’ and ‘RÉVÉLATION (Théolog.)’ (XIV, pp. 78-93).  
human conventions or positive law, but on universal principles derived from human nature.269 As for Montesquieu, belief in the *loi naturelle* allowed some contributors to the *Encyclopédie* to establish a basis for their ethical ideas which was free from theology.

Jaucourt’s entry ‘MORALE’ is important in this respect. In it, Jaucourt follows Barbeyrac in praising secular over religious morality, with the Ancients – Socrates, Plato, Aristotle and the Stoics – receiving deferential treatment (X, p. 700). The morality of the Stoics in particular is said to be superior to all others, especially the Scholastics:

> Il n’y a point de Philosophes qui aient si bien reconnu, & si fort recommandé les devoirs indispensables où sont tous les hommes les uns envers les autres, précisément en-tant qu’Hommes (ibid.).270

Whilst Boucher d’Argis is less flattering towards the ethical ideas of the Ancients in general in his entry of Natural Law – ‘la science des mœurs qu’on appelle *morale*’ – he does praise the works of Cicero, who derived most of his ideas on Natural Law from the Stoics (V, p. 132). As we saw in the first chapter, however, amongst the Moderns it is the seventeenth-century Natural Law theorists – and Grotius and Pufendorf in particular – who are particularly praised by Boucher d’Argis (ibid., pp. 132-134). Jaucourt also takes a similar view, crediting them with having ‘resuscitated’ the ‘science of morality’ following the dominance of the Scholasticism, and Pufendorf is especially praised for having established ‘les principaux devoirs de l’homme & du citoyen en quelque état qu’il se trouve’ (X, p. 700).271

As well as emphasising the importance of secular and universal ethical principles, Natural Law thinkers such as Pufendorf, Barbeyrac, and Burlamaqui argued that in order to understand the morality of one’s actions one need not delve into complicated metaphysical arguments about what constitutes the essence of a being, but only compare one’s actions with a rule or law.272 The two *Encyclopédie* entries by Jaucourt which directly address ethics as a discipline both echo the ideas of Pufendorf and Barbeyrac especially in this regard. In order to ascertain what constitutes ethical behaviour one need only understand that a good action is one that

271 cf. ‘DROIT DE LA NATURE ou DROIT NATUREL’.
conforms to the precepts of an obligatory law, and a bad action is one that doesn’t (ibid., p. 702). Establishing which law was where the real crux of the matter lay.

The editors of the *Encyclopédie* were equally concerned with establishing a clear and simple foundation to morality and rejecting the metaphysical and theological bases of ethics as the Natural Law thinkers of the previous century were. Indeed, as d’Alembert remarks in the *Discours préliminaire*, in his view few people in contemporary society deserved to be called great metaphysicians (I, pp. xxvii-xxviii). The exposition of the history of Western thought which constitutes a substantial part of the *Discours préliminaire* clearly demonstrates d’Alembert’s taste for and affinity with the scientific and experimental methodology of the Moderns, with special praise reserved for Bacon, Newton and Locke in particular. It is in part due to his rejection of metaphysics and his adaptation instead of a Newtonian scientific method in the field of philosophy that Locke is praised by d’Alembert. The English philosopher is said to have created an upheaval in philosophy akin to that made by Newton in the physical sciences: ‘Pour connoitre notre ame, ses idées & ses affections, il n’étudia point les livres […] il se contenta de descendre profondément en lui-même […]’ (ibid., p. xxvii).

The Lockean approach so vaunted by d’Alembert had been embraced by Barbeyrac earlier in the century, in the *Préface* to his translation of Pufendorf’s major work on Natural Law. In particular, when it came to establishing ethical principles he wrote that one need not ‘monter au Ciel’: [...] il ne s’agit point [...] de rechercher les secrets impénétrables de la Nature [...] il n’est pas non plus besoin de s’enfoncer dans des spéculations métaphysiques, de feuilleter un grand nombre de volumes [...] il ne faut presque pas sortir de soi-même, ni consulter d’autre maître que son propre cœur. L’expérience la plus commune de la Vie, et un peu de réflexion sur soi-même et sur les objets qui nous environnent de toutes parts, suffisent pour fournir aux personnes les plus simples les idées générales de la Loi Naturelle, et les vrais fondemens de tous nos Devoirs’ (*DNG*, *Préface*, §I).

This Lockean approach to epistemology is reflected in the *Encyclopédie*, particularly in the emphasis made in many of its articles that in order to establish ethical principles and general rules of human behaviour one need not look to God, but to

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273 cf. ‘MORALE’ and ‘MORALITÉ (*Droit naturel*)’ (X, p. 702).
275 cf. Locke (*Essai*, IV, III, §XVIII) and Hutchison, pp. 59-60.
human beings and their social experiences, and it also manifests itself in the rejection of innate ideas which occurs so frequently throughout the work.

3.4. THE REJECTION OF INNATE IDEAS IN THE ENCYCLOPÉDIE

Locke’s approach to epistemology and his rejection of innate ideas were roundly accepted by the vast majority of forward-thinking *philosophes* in eighteenth-century France. Diderot, for example, in two of his works published shortly before the first volume of the *Encyclopédie*, and which earned him a reputation as a dangerous free-thinker and materialist – the *Lettre sur les aveugles* (1749) and the *Lettre sur les sourds et muets* (1751) – emphasised the impossibility of innate ideas being the source of our knowledge about the world, and therefore consequently about our ideas of right and wrong conduct. Nonetheless, d’Alembert notes in the *Discours préliminaire* that the concept of innate ideas continued to seduce some minds in contemporary society – clearly a reference to conservative views of human nature (I, p. ii). In contrast to such traditional views, there are many articles in the *Encyclopédie* which promote the Lockean view, faithful as they are to his vision of the human mind as a *tabula rasa*.²⁷⁷

In the work’s ‘official’ entry on Locke, the Englishman is credited with having ‘renewed’ the ancient axiom that there is nothing in the human understanding than that which comes to it from the senses – the consequence of which is that we do not have any innate moral ideas (IX, p. 626).²⁷⁸ Locke’s approach is similarly praised in the entry ‘ERREUR (*Philos.*)’ (V, pp. 910-911) – Cartesian rationalism failed in establishing the true origin and generation of human knowledge, whereas Locke succeeded in that task because he started from the senses (ibid., p. 911). In addition, the author of ‘IDÉE (*Philos. Log.*)’ (VIII, pp. 489-494) asserts that to refer to innate ideas is to employ ‘vague terms which mean nothing’ and to destroy the authority of one’s sensory experiences (ibid., p. 490). Elsewhere, it is noted that innate ideas lack any intrinsic evidence; rather: ‘[…] les sensations […] forment toutes nos affections, toutes nos pensées & toutes nos connoissances naturelles & évidentes’ (VI, p.

²⁷⁶ cf. Pagden, p. 65.
²⁷⁷ cf. Hubert, p. 38.
²⁷⁸ cf. ‘LOCKE, PHILOSOPHIE DE’.
Consequently, the only faculties that are innate in human beings are those of feeling and thinking; all the rest is acquired (VIII, p. 754).

The rejection of innate ideas and the Lockean view of the human mind as a tabula rasa promoted in the Encyclopédie entries listed above highlights the difference between the attitude of its contributors to moral judgements and that of the traditional view of the Catholic Church. This difference had in fact been evident from the start of the project, since the entries noted above reflect the hostility demonstrated to the concept of innate ideas by d’Alembert in the Discours préliminaire to the work.

According to d’Alembert, all human knowledge comes from the senses – consequently the first ideas that each human being has do not relate to a higher power or God, but to their own (sensory) existence and to the existence of those around them (I, pp. i-iii). Since the human mind is empty of innate ideas, notions of what constitutes justice and injustice are acquired according to him, said to derive from human social experiences, and accessible to everyone, even ‘savages’ – particularly when they witness the oppression of the weak by the strong:

Delà […] cette loi naturelle que nous trouvons au dedans de nous, source des premières lois que les hommes ont dû former: sans le secours même de ces lois elle est quelquefois assez forte, sinon pour anéantir l’oppression, au moins pour la contenir dans certaines bornes. C’est ainsi que le mal que nous éprouvons par les vices de nos semblables, produit en nous la connaissance réfléchie des vertus opposées à ces vices […] (ibid., p. iii).

On this view promoted elsewhere throughout the Encyclopédie, there are no God-given innate ideas of justice – ideas of justice do not exist already formed in the mind, since all knowledge comes from the senses. As the above quotation suggests, however, according to d’Alembert there still exists this loi naturelle ‘au dedans de nous’ which is a powerful enough brake on human behaviour even without the presence of the first positive laws that human beings created, and it is from experiences of injustice that knowledge of justice, or the loi naturelle, is derived.

If all knowledge – including that of right and wrong conduct – comes from the senses, then the only path left as to how human beings come to know what is right

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279 cf. ‘ÉVIDENCE (Métaphysique)’ (VI, pp. 146-157). For recurrent instances of this idea elsewhere in the Encyclopédie, see the articles ‘CONNOISSANCE (Métaph.)’ (III, pp. 889-898), ‘ENTENDEMENT (Logique)’ (V, p. 718), ‘HOMME (Morale)’, ‘SENS (Métaphysique)’ (XV, pp. 24-27), ‘SENSATIONS (Métaphysiq.)’ (XV, pp. 34-38) and ‘VOLONTÉ’.

280 cf. ‘*INNÉ (Gram. Philosoph.)’(VIII, p. 754).
and wrong is not by looking to God or metaphysical ideas relating to Him, but scientifically, from *observation* and *experience*:

[...] les seules voies que nous ayons aux connaissances, si l'on reconnaît la vérité de l'axiome: *qu'il n'y a rien dans l'entendement qui n'ait été auparavant dans le sens [...]* (XI, p. 314). 281

The point is reiterated clearly in the entry ‘EXPÉRIENCE (*Philosophie*)’:

Nous ne venons point au monde avec la connaissance des causes & des effets; c’est uniquement l’*expérience* qui nous fait voir ce qui est cause & ce qui est effet, ensuite notre propre réflexion nous fait observer la liaison & l’enchaînement qu’il y a entre la cause & l’effet (VI, p. 297).

Moreover, experience is said to be a trustworthy means of establishing how one should behave because:

[...] la nature est uniforme aussi-bien dans l’ordre moral que dans l’ordre physique; ainsi toutes les fois que nous voyons les mêmes causes, nous devons nous attendre aux mêmes effets, pourvu que les circonstances soient les mêmes (ibid.).

The means of getting experience about how one should behave include an examination of history and travel. Travel, in particular should be carried out with a spirit of observation if one is to gain true experience of the world. 282 Moreover, observation – ‘l’examen de tous les effets naturels’ – is said to be the basis of all sciences, and, importantly, the key to understanding human nature:

L’homme [...] est l’objet le plus convenable, le plus noble, & le plus intéressant de l’*observation*, & ce n’est que par elle qu’on peut faire quelque progrès dans les sciences qui le regardent [...] (ibid., pp. 314-315).

Consequently, the *science of morality*, or ethics, should not be based upon metaphysical reasoning, but upon observation(s) and experience(s) of human nature as it is in reality (ibid., p. 315). Such experience will be equally valuable wherever it is acquired, since the moral aspect of human nature – the *loi naturelle* – is universal, and exists independently of the values and laws of any one community.

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3.5. THE BELIEF IN THE LOI NATURELLE IN THE ENCYCLOPÉDIE

There are many instances in the Encyclopédie apart from those in the Discours préliminaire where the existence of an immutable and universal loi naturelle is explicitly attested to. In the short and apparently inconsequential entry ‘LOI IMMUABLE’ (IX, p. 663), for example, the laws that derive from droit naturel are said to be invariable; they have remained and remain the same in all times and places (ibid.). However, more often than not, evidence of a belief in the loi naturelle appears in longer and more provocative entries than this, and, importantly, often manifests itself in articles which directly engage with both the Hobbesian-Spinozist conception of justice, as well as the values which underwrote the doctrine of divine right and contemporary French society. The denial of a loi naturelle which exists above and beyond the divine laws dictated by the Church or the positive laws of the French State was, on the evidence of things, clearly an unacceptable state of affairs for several notable contributors to the Encyclopédie.

As we have already seen, Boucher d’Argis decries the ideas of both Hobbes and Spinoza as a ‘système pernicieux’ in his entry on Natural Law (V, p. 133). Jaucourt’s article ‘MORALE’, which heavily relies on the ideas of Barbeyrac in particular, is similarly hostile to their ideas, particularly those of Hobbes. Jaucourt also notes that the Hobbesian outlook endows sovereigns with absolute power, and that the Englishman ‘claims’ (i.e. erroneously) that the will of the sovereign dictates not only the religion of the political community, but all moral values in society (X, pp. 701-702).283

The errors of such a view implied in this entry in fact build upon the author’s more original contribution ‘INJUSTICE (Droit naturel)’ (VIII, p. 754). In this article Jaucourt explicitly states that ‘Hobbes prétend que toute injustice envers les hommes suppose des lois humaines, & ce principe est très-faux […]’ (ibid.). Despite remarks such as these, however, the most sustained and original discussion of the existence of a natural moral order of justice, or loi naturelle, is found in the articles ‘LOI NATURELLE (Morale)’ (IX, pp. 665-666) and ‘VERTU (Ord. encyclop. Mor. Polit.)’ (XVII, pp. 176-185).

The former of these two entries defines the loi naturelle as ‘l’ordre éternel & immuable qui doit servir de règle à nos actions’ which is founded, according to its

283 cf. ‘DROIT DE LA NATURE ou DROIT NATUREL’. 
Following this opening definition the author argues that despite any difficulties one may have in establishing clear boundaries between virtue and vice, this does not mean that there is not a real and essential difference between the two, and what is just or unjust (ibid.). The arguments contained in both ‘LOI NATURELLE’ and ‘VERTU’ are therefore directed against both the Hobbesian thesis and the basis of divine right absolutism, outlined here in the latter of the two entries:

« la vertu est, dit-on, purement arbitraire & conventionnelle, les lois civiles sont la seule règle du juste & de l’injuste, du bien & du mal; les souverains, les législateurs sont les seuls juges à cet égard; avant l’établissement des sociétés, toute action étoit indifférent de sa nature » (XVII, p. 178).

Such an idea, asserts the author of this article, similarly to both Jaucourt and Boucher d’Argis in the entries cited above, is a ‘noir système’ (ibid.), which undermines all the moral principles on which society rests:

[…] le système dans lequel on fait dépendre des lois tous les sentiments du juste & de l’injuste, est le plus dangereux qu’on puisse admettre, puisqu’enfin si vous ôtez le frein de la conscience et de la religion pour n’établir qu’un droit de force, vous sappez tous les états par leurs fondemens, vous donnez une libre entrée à tous les désordres, vous favorisez merveilleusement tous les moyens d’éluder les lois & d’ètre méchans […] (ibid., p. 179).

The attitude contained in these articles is then made explicit. Drawing on the authority of Montesquieu, the author of ‘VERTU’ attests to the eternality and immutability of justice:

[…] n’est-il pas aussi absurde d’avancer, qu’il n’y a point de lois naturelles antérieures aux lois positives, que de prétendre que la vérité dépend du caprice des hommes, & […] qu’avant qu’on eût tracé de cercle, tous ses rayons n’étoient pas égaux? (ibid.).

In many respects the ideas contained in both ‘LOI NATURELLE’ and ‘VERTU’ are also reflected in the entry ‘JUSTE, INJUSTE (Morale)’ (IX, pp. 86-87). Again, in this article the positivist outlook is denied on the basis that justice exists before the establishment of any positive law: ‘aucune loi n’est par elle-même la source des qualités morales’ (ibid., p. 86). Far from positive laws being the arbiter of what is just or unjust, then, according to these important entries in the Encyclopédie there is a universal moral order of justice which exists prior to them and which is the true source of our moral judgements and by acting in accordance with which, one is acts

284 cf. Montesquieu (EDL, I, I) and Waddicor, p. 37.
virtuously.\textsuperscript{285} This belief is not just consigned to the entries noted here, however, but is recurrent throughout the work. It is particularly reflected in the attitude of many of its entries to the relationship between the \textit{loi naturelle} and positive law indicated thus far.

\textbf{3.5.1. THE RELATIONSHIP BETWEEN THE \textit{LOI NATURELLE} AND POSITIVE LAW IN THE \textit{ENCYCLOPÉDIE}}

Several articles in the \textit{Encyclopédie} make it clear that there are different types of positive law that govern human behaviour in society; divine laws derived from the will of God, and civil laws which are created by the legislator.\textsuperscript{286} In the ‘Introduction’ I quoted Frederick Pollock’s definition of the central tenet of Natural Law philosophy as the belief that there exists ‘[…] an ultimate principle of fitness which […] ought to be the justification for every form of positive law’ (my emphasis).\textsuperscript{287} Both Pufendorf and Montesquieu argued that positive laws should embody the moral \textit{loi naturelle} if they are to fulfil their primary aim of making people act virtuously.\textsuperscript{288} It is clear from the content of several of its articles that some contributors to the \textit{Encyclopédie} subscribe to the same view, and that for them neither type of positive law – civil or divine – is considered to be the true source of one’s moral judgements. Moreover, it is argued that both are able to be, and should be, assessed and evaluated against the extent to which they embody the \textit{loi naturelle}.

Several \textit{Encyclopédie} articles promote the separation between the ‘science of morality’ and moral theology advocated by Pufendorf.\textsuperscript{289} In this respect the content of the entry ‘LOI DIVINE’ by Jaucourt is typical. Firstly, according to Jaucourt, divine laws should not contradict the precepts of the \textit{loi naturelle} in any way (IX, p. 659). Secondly, the observance of divine laws does not exempt one from or allow one to abrogate the \textit{loi naturelle} – the duties prescribed by which therefore take precedence over those of Christianity (ibid.). Thirdly, divine laws are based not on human nature, but on the Christian revelation – therefore, unlike the \textit{loi naturelle}, they cannot be an immutable and universal standard of human conduct, since their

\textsuperscript{285} cf. ‘VERTU’ and ‘VERTUEUX, HOMME, VICIEUX, HOMME (Morale)’ (XVII, p. 185).
\textsuperscript{286} cf. ‘LOI (Droit naturel, moral, divin, & humain.)’ (IX, pp. 643-646), ‘LOI (Jurisprud.)’(IX, pp. 647-649), LOI CIVILE (Droit civil d’une Nation’ (IX, p. 655), ‘LOI DIVINE (Droit divin)” (IX, p. 659) and ‘LOI POSITIVE’ (IX, p. 668).
\textsuperscript{287} cf. 1.2 above.
\textsuperscript{288} cf. Pufendorf (\textit{DNG}, VII, V, §X) and Waddicor, pp. 129-132.
\textsuperscript{289} cf. Pufendorf (\textit{DHC, Préface de l’Auteur}, §§I-VIII).
precepts are not known to everyone and there are significant parts of the world in which people have no knowledge of the revelation (ibid.).

Remarks such as these clearly hint at a belief amongst some of the *Encyclopédie*’s contributors and editors that one’s membership of the human race – by dint of which one is subject to the duties prescribed by the *loi naturelle* – trumps one’s membership of or affiliation to any one religious sect. Moreover, a number of other entries in the *Encyclopédie* explore the important consequences of this view. If the *loi naturelle* and not divine law is the source of our moral judgements, a consequence of this developed in several articles in the *Encyclopédie* is that one’s membership of the human race is more important than one’s religious beliefs. So, Jaucourt asserts that divine law, as one form of positive law, should not be confused with the *loi naturelle* and should not dictate anything contrary to it. It is not divine law but the *loi naturelle* which should be the basis for human conduct. Another idea central to Natural Law thinking advanced in the *Encyclopédie* is that civil laws enacted by the State should also reflect this fundamental principle.

For Jaucourt, positive laws enacted by the State should have some ethical content to ensure that by acting in accordance with their commands people act virtuously, but that content should not be religious, stemming from divine laws, but secular and based on what is natural to human nature. As he remarks in ‘LOI DIVINE’; ‘il ne faut […] point […] statuer par les *lois divines*, ce qui doit l’être par les *lois* humaines’ (ibid.). The attitude of the editors to the project regarding the close association between ethics and politics emphasised in all Natural Law thinking can be ascertained from the following passage written by d’Alembert in the *Discours préliminaire*, where he defines what he means by politics:

[…] la politique, espece de morale d’un genre particulier & supérieur, à laquelle les principes de la morale ordinaire ne peuvent quelquefois s’accommoder qu’avec beaucoup de finesse, & qui pénétrant dans les ressorts principaux du gouvernement des Etats, démêle ce qui peut les conserver, les affoiblir ou les détruire. Etude peut-être la plus difficile de toutes, par les connaissances profondes des peuples & des hommes qu’elle exige, & par l’étendue & la variété des talens qu’elle suppose; sur-tout quand la Politique ne veut point oublier que la loi naturelle, antérieure à toutes les conventions particulières, est aussi la première loi


This idea is not just found in the *Discours préliminaire*, however, but is also scattered throughout the main body of the work.

In his entry on Natural Law, Boucher d’Argis outlines Burlamaqui’s ideas regarding the nature and purpose of positive law: ‘Le but des lois n’est pas de gêner la liberté, mais de diriger convenablement toutes les actions des hommes’ (V, p. 134). Several articles in the *Encyclopédie* adopt the same attitude as the Swiss jurist; arguing that by embodying the *loi naturelle*, civil laws allow the legislator to ensure the freedom and equality that individuals enjoyed in the state of nature, and which had been temporarily lost with the institution of society. Not only that, but they would direct *all human actions* and, consequently, help make people act virtuously.

In opposition to the doctrine of divine right absolutism, and in line with the principles of the Natural Law thinking as they developed in the seventeenth century, several articles in the *Encyclopédie* are also emphatic in asserting that the king should not be above the law, and there is a clear conviction in several entries, apart from those mentioned so far, that civil laws should have a firmer and more objective basis than simply emanating from the will of the legislator: ‘C’est la *loi* & non pas l’homme qui doit régner’ (IX, p. 644). The article ‘LOI’, from which this quotation is taken, further indicates the attitude of some of the project’s contributors to the relationship between the *loi naturelle* and civil laws. For the latter to be considered valid, they should reflect and embody the principles of the *loi naturelle*:

> [...] on ne peut rien ordonner de contraire aux *lois* qui obligent tous les peuples, [...] dès qu’il y a dans les *lois* inférieures des choses contraires aux *lois* supérieures, elles n’ont plus force des *lois* (ibid.).

Again, much of what articles in the *Encyclopédie* say elsewhere regarding the relationship between the *loi naturelle* and positive law is reflected in the article ‘JUSTE, INJUSTE’. For the author of this entry, the primary requirement of positive law is that it should be reasonable and equitable if its commands are to promote justice (IX, p. 86). In the case of a law which does not embody the *loi naturelle*:

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Le fonds fourni par la nature est une base sans laquelle il n’y a point
d’édifice, une toile sans laquelle les couleurs ne sauroient être appliquées
(ibid.).

It is also heavily implied by Jaucourt in the article ‘LOI CIVILE’ that unlike civil
laws based on divine laws, those that embody the precepts of the loi naturelle – ‘le
fonds fourni par la nature’ as the author of ‘JUSTE, INJUSTE’ puts it – have the
advantage of being clear, without ambiguity or contradiction, and easily observable
(IX, p. 655). Moreover, as Jaucourt notes in this entry, should a civil law not be just
or equitable then one has the right, and even the obligation, to refuse to obey it
(ibid.).

The idea that a law decreed by the State can be unjust at all is, of course,
fundamentally in opposition to the views of Hobbes as well as the doctrine of divine
right against which so many of the Encyclopédie’s articles are directed. In the latter
decades of the seventeenth century Pufendorf argued that one should always obey
the commands of positive law, but did so with the rather significant caveat that one
was necessarily bound to do so insofar as the commands of that law are just.295 As
we have seen, this same idea is hinted at by Jaucourt in ‘LOI CIVILE’, but it is also
articulated elsewhere by him.296

In ‘SUJET’ for example, itself largely derived from Pufendorf’s writings, it is
claimed by Jaucourt that the conflict between the dictates of one’s conscience and
the laws of the State is the most important question concerning the duties of subjects
vis-à-vis their sovereigns (XV, p. 643). Though individuals may have promised to
obey the decrees of the sovereign when society was instituted, Jaucourt states that
they certainly did not agree to do so if those commands ran contrary to the precepts
of the loi naturelle (ibid.). Jaucourt similarly appeals to the immutability and
universality of the loi naturelle in ‘DISPENSE’, to argue that though a sovereign can
exempt certain orders of society from their obligations to civil law, they cannot do so
in respect of the loi naturelle, the prescriptions of which hold weight over the laws of
the society in which one lives (XVII, pp. 769-770). In his view, which reflects ideas
contained elsewhere in the Encyclopédie, the individual has the right to decide for
themselves whether a law decreed by the State is just, and therefore, by extension,
whether they have an absolute duty to obey it or not (ibid., p. 769).

295 cf. Pufendorf (DHC, II, XII, §VIII).
296 cf. ‘SUJET (Gouvernement civi)’ (XV, pp. 643-644) and ‘DISPENSE (Droit natur. & polit.)’
(XVII, pp. 769-770).
Across and throughout its many volumes, then, the point is made clear in the *Encyclopédie* – particularly in those of its articles compiled by Jaucourt – that the duties prescribed by the *loi naturelle* do and should take precedence over any duties we may have to enact as a result of divine or civil laws. Before turning to how the contributors to the work approach the question of how it is that human beings come to apprehend the *loi naturelle* and its prescriptions, it is necessary to outline what the work says about the norms imposed by that moral law.

### 3.5.2. RIGHTS AND DUTIES PRESCRIBED BY THE *LOI NATURELLE* IN THE *ENCYCLOPÉDIE*

As Lester Crocker stated, all Natural Law theories contain ‘a common core of prescriptions and rights’, and although their content has always tended to be ‘somewhat vague and imprecise’ their prescriptions generally include acting in accordance with justice.\(^{297}\) Justice was generally taken to mean ‘giving each their due’.\(^{298}\) The anonymous article ‘JUSTICE (Morale)’ (IX, pp. 88-89) in the *Encyclopédie*, for example, testifies to this:

> […] la justice en général est une vertu qui nous fait rendre à Dieu, à nous-mêmes, & aux autres hommes ce qui leur est dû à chacun; elle comprend tous nos devoirs […] (ibid., p. 88).\(^{299}\)

As Boucher d’Argis also notes in his entry on Natural Law, the fundamental precepts of *droit* and *justice* are: 1) to live honestly, 2) to cause no harm or offence to others, and 3) to render each their due (V, p. 131). In the same entry, where he outlines the ideas of Burlamaqui, Boucher d’Argis states that it is the observation of *lois naturelles* which ‘fait le bonheur de l’homme & de la société’ (ibid.). What, then, does the *Encyclopédie* say that we owe to ourselves and to others? What are the moral duties prescribed by the *loi naturelle*?

Rights, in the subjective sense, are the foundation of justice according to several important articles in the *Encyclopédie*. The author of the article ‘JUSTICE’ argues that the first and most considerable human need is to not suffer harm or injury and, consequently, the first duty we have to our fellows is ‘[…] d’en faire aucun à personne, sur-tout dans ce que les hommes ont de plus cher; savoir la vie, l’honneur & les biens’ (IX, p. 88). The idea that the rights of the individual are the foundation

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\(^{298}\) cf. ibid., p. 189.

\(^{299}\) cf. Pufendorf (*DHC*, I, II, §§XII-XV) and ‘*DROIT NATUREL*’. 
of justice is attested to most notably in the related entries ‘JUSTE, INJUSTE’ and ‘INJUSTICE’. The content of the former of these two entries echoes the ideas of Pufendorf in particular: ‘Les noms de justes & d’injustes, d’équitables & d’iniques, donnés aux actions, portent […] sur leur rapport aux droits d’autrui’ (ibid., p. 86). Acting in accordance with justice – or rendering each their due – therefore consists in respecting the rights of others. A violation of another’s rights, on the contrary, is unjust.

Indeed, as Jaucourt notes in his entry ‘INJUSTICE’, it does not matter why it is that we may have violated someone else’s rights – whether it is because of passions such as greed, sensuality, anger or ambition (VIII, p. 754). What matters is that by contravening their rights we have acted unjustly – violating the rights of another is objectively wrong. It is clear from this entry that for Jaucourt the rights that people have are those that accord with their corporeal needs and ultimately stem from their constitution as human beings: ‘une personne innocente […] a droit à la conservation de sa vie, à l’intégrité de ses membres, aux alimens nécessaires’ (ibid.). In short, one has the right to anything which one requires in order to contribute to the advancement of ‘le bien commun’ (ibid.). Therefore, to sum up the ‘official’ attitude of the Encyclopédie given the titles of these entries, an action is unjust, or to put it another way, we commit an injustice, when we act in a way which denies another person their right to that which their constitution demands for the advancement of the common good. Hence,

[…] on lui feroit certainement une criante injustice de lui ôter la vie, de lui retra cher quelque membre, parce que toute atteinte donnée aux droits d’autrui, est une injustice […] (ibid., my emphasis).

As the content of the entries discussed thus far in this section further suggest, several Encyclopédie articles heavily emphasise the correlative relationship between rights and duties underlined in most Natural Law thinking, in opposition to the antithetical relationship stressed between the two by Hobbes and his followers.

For those contributors to the Encyclopédie who adhered to Natural Law thinking, as for Pufendorf and Burlamaqui, rights are conceived primarily as a moral feature of human beings – they are allied to the loi naturelle, the duties of which act

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as a constraint on how one exercises one’s rights. The point is made clear by Boucher d’Argis in his entry ‘DROIT DE LA NATURE ou DROIT NATUREL’. Outlining the ideas of Burlamaqui on the matter, Boucher d’Argis states that ‘droit’ taken in the subjective sense of a faculty or power which belongs to an individual produces a correlative duty or obligation (V, p. 133). The duties prescribed by the loi naturelle, and the ideas of Pufendorf and Burlamaqui regarding them in particular, are outlined most prominently, however, in the entries compiled by Jaucourt.

His article ‘DEVOIR (Droit nat. Relig. Nat. Morale)’ (IV, pp. 915-918), largely compiled from the writings of Pufendorf, is important for this present study since he claims it to be ‘[…] un cours abrégé de la Morale dans un seul article’ (ibid., p. 915). Largely unoriginal in its content, this entry follows the tripartite division of duties imposed by the loi naturelle previously emphasised by Pufendorf and Burlamaqui and also repeated by Boucher d’Argis in ‘DROIT DE LA NATURE ou DROIT NATUREL’: its core prescriptions relate to how an individual should act in their relationships with God, themselves and others (ibid.) or, as Jaucourt puts it in the entry ‘MORALE’, it prescribes ‘les principaux devoirs de l’homme & du citoyen en quelque état qu’il se trouve’ (X, p. 700).

This point is also made by Jaucourt in his later entry ‘NATURELLE, LOI (Droit naturel)’ (XI, pp. 46-47), which, in turn, is drawn from the works of Burlamaqui, Cumberland, Cicero and predominantly Montesquieu. In ‘DEVOIR’, Jaucourt gives a perfunctory nod to God who, as the ‘author’ of the loi naturelle, should take precedence in the fulfilment of our duties (IV, p. 915). His later entry, however, largely derived from the Esprit des Loix, paraphrases Montesquieu to the effect that the first ideas people had were not those regarding an omnipotent or higher power, but their own existence and the preservation of it:

L’homme dans l’état de nature […] auroit plutôt la faculté de connoître, qu’il auroit des connoissances. Il est clair que ses premières idées ne seroient point ses idées spéculatives, il songeroit à la conservation de son être avant que de chercher l’origine de son être (XI, p. 46).

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301 cf. Pufendorf (DHC, I, II, §III) and Burlamaqui (PDN, I, VI, §IX) and ‘OBLIGATION (Droit nat.)’ (XI, pp. 303-304).
303 cf. Pufendorf (DHC, I, III, §XIII) and Burlamaqui (PDN, II, IV, §VI & §XVIII).
304 cf. Pufendorf (DHC, I, IV, §§I-IV) and Burlamaqui (PDN, I, VII, §I and §§IV-V).
305 cf. Montesquieu (EDL, I, II).
Apart from the ‘idea of a Creator’ this entry lists a further four *lois naturelles* taken from Montesquieu: 1) peace, 2) food, 3) sexual relations and 4) a desire to live in society (ibid.). As Waddicor has stressed, whilst on the surface the *lois naturelles* outlined by Montesquieu in this passage – and faithfully reproduced by Jaucourt here in the *Encyclopédie* – appear to be merely descriptive, his – and subsequently Jaucourt’s – use of the conditional tense belies a normativity to these *lois* too. Having outlined these *lois naturelles*, Jaucourt states that one can easily establish their three general principles: 1) religion, 2) *amour de soi*, and 3) *sociabilité*, or ‘la bienveillance envers les autres hommes’ (ibid.).

As for Pufendorf and Burlamaqui, then, for Jaucourt the duties prescribed by the *loi naturelle* in respect of ourselves are derived from the principle of *amour de soi* and have our self-preservation as their object. Consequently, and correspondingly, the *loi naturelle* prescribes an absolute duty to care and cater for our corporeal needs and our physical as well as spiritual well-being (IV, p. 915). Those duties we are obliged to fulfil in respect of other people are derived in turn from the principle of sociability (ibid.). The duties prescribed by the *loi naturelle* in respect of others are of two sorts; they are either absolute or conditional (ibid.) – they are duties we are obliged to fulfil as *men* (*i.e.* human beings) and as *citizens*; ‘les devoirs de l’homme et du citoyen’ as Pufendorf put it towards the end of the seventeenth century. The former are therefore those that we owe to all human beings as such, and the latter are those which require some kind of human establishment of power relationship (ibid., p. 916). These absolute and conditional duties in turn produce correlative ‘perfect’ and ‘imperfect’ rights (ibid.).

Although Jaucourt makes reference to God as the first and foremost object of the duties prescribed by the *loi naturelle* in the entry ‘DEVOIR’, the duties prescribed by it in respect of other people are given the predominant place in the article over and above the duties prescribed in respect of God or to oneself – indicating how he wanted the reader to understand the ‘cours de morale’ that the article apparently constitutes. In situations where conflicts arise between the duties we owe to God (from the principle of religion), to ourselves (from the principle of

306 cf. ibid.
amour de soi) or to others (from the principle of sociability) – it is our duties to others, those we have to each other simply as members of the human race which should prevail. When it comes to listing the duties that the loi naturelle prescribes in respect of others, Jaucourt again turns to the ideas of Pufendorf.

The entry ‘DEVOIR’ lists three absolute duties prescribed by the loi naturelle which we are therefore always obliged to fulfil when interacting with others: 1) to do no harm, and to repair any injury or damage caused by our actions,311 2) to treat others as equals, of the same moral worth as ourselves,312 and 3) to act not just in pursuit of one’s own self-interest, but in such a way as to contribute to the utility of others (ibid.).313 These absolute duties – which apply to all human beings as such – are not the end of the matter, however. The loi naturelle also prescribes those conditional duties – the duties of the citizen – which are said by Jaucourt to render our social interactions ‘more beautiful and happy’ (ibid.). He sums these duties up under the names of ‘humanité’ or ‘charité’ – the general duties we have to treat all human beings with kindness (ibid.).314

These conditional duties, which are also emphasised elsewhere by Jaucourt throughout the Encyclopédie, include compassion, liberality, gratitude and hospitality (ibid.).315 Other duties derived from the absolute and conditional duties named in the entry ‘DEVOIR’ are stressed elsewhere in the Encyclopédie, particularly in those entries also compiled by Jaucourt and which have the catégorie de connaissance ‘morale’. These include 1) the duty to tell the truth,316 2) the duty to be patient,317 3) the duty to keep one’s word,318 4) the duty to commit no acts of violence,319 and, finally, 5) the duty to ease the suffering of others.320 It is duties such as these, then, which should, according to Jaucourt, take precedence over other

311 cf. Pufendorf (DHC, I, VI, §§II-IV) and Burlamaqui (PDN, II, IV, §XVII). The point is also reiterated in the Encyclopédie entries ‘DOMMAGE’ (V, p. 35) and ‘JUSTICE’.
312 cf. Pufendorf (DHC, I, VII, §§I-V) and ‘ÉGALITÉ NATURELLE’ – see section 2.2.1 above.
313 cf. Pufendorf (DHC, I, VIII, §I).
314 cf. ‘HUMANITÉ (Morale)’ (VIII, p. 348).
315 cf. ‘COMPASSION (Morale)’ (III, pp. 760-761), ‘LIBERALITÉ (Morale)’ (IX, pp. 460-461), ‘RECONOISANCE (Morale)’ (XIII, p. 860), ‘SENS MORAL. (Moral.)’ (XV, pp. 28-29), and ‘HOSPITALITÉ (Hist. sacrée & profane, Droit naturel & Morale)’ (VIII, pp. 314-316); the last of these articles takes its content from Burlamaqui (PDN, II, IV, §XVII).
316 cf. ‘MENSONGE (Morale)’ (X, pp. 336-337), ‘SINCÉRITÉ (Morale)’ (XV, p. 207) and ‘VERACITÉ (Morale)’ (XVII, p. 45).
317 cf. ‘PATIENCE (Morale)’ (XII, p. 172).
319 cf. ‘IMPUTATION (Droit politiq. & Moral.)’ (VIII, pp. 636-640).
320 cf. ‘SENS MORAL’.
duties imposed by either divine or civil law. It is the *loi naturelle* and not the Church or State which is the arbiter of justice and injustice and which defines how we should exercise our rights.

The author of the *Encyclopédie*’s entry ‘JUSTICE’ states that for his purposes – and we must take this to be the *Encyclopédie*’s ‘official’ view given the title of the article – justice is ‘[…] un *sentiment* d’équité, qui nous fait agir avec droiture, & rendre à nos semblables ce que nous leur devons’ (IX, p. 88, my emphasis). This remark is particularly pertinent for two reasons. Firstly, there is no mention of God – in the ‘official’ view contained in the *Encyclopédie* justice consists above all in rendering our *fellows* what they are owed, not duties to a higher celestial power. Secondly, in stating that our notions of justice are a *feeling* rather than something discovered by the exercise of reason, the author of this entry in fact alludes to a view which is expressed elsewhere at length in the work and which is hinted at by d’Alembert in the *Discours préliminaire*. This leads us, then, to the question of how it is that people come by their understanding of justice, of how people come to apprehend the *loi naturelle* and the duties it prescribes.

### 3.5.3. THE APPREHENSION OF THE *LOI NATURELLE* IN THE *ENCYCLOPÉDIE*

There are certainly many instances in the *Encyclopédie* where the rationalism of seventeenth-century Natural Law thinkers such as Grotius is reflected in the content of its articles, and reason and the mind are said to be the source of the *loi naturelle*. These references to reason, however, tend to be drawn from prior sources. The article ‘NATURELLE, LOI’, for example, compiled by Jaucourt from the writings of Burlamaqui, Cumberland, Montesquieu, and Cicero, defines the *loi naturelle* – from Burlamaqui – as a law imposed on men by God which is discovered by ‘les lumières de leur raison’ (ibid., p. 46).\(^{321}\) Jaucourt also adds – from Montesquieu – that the *lois naturelles* are ‘simples & à la portée de tout le monde, […] à la portée des esprits les plus médiocres’ (ibid.).\(^{322}\) The emphasis here is clearly on the mind as the seat of the *loi naturelle*.

A similar emphasis on reason can be found in those articles written by Boucher d’Argis on the subject. The definition of the *loi naturelle* taken from

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\(^{322}\) cf. Montesquieu (*EDL*, I, II).
Burlamaqui and used by Jaucourt in ‘NATURELLE, LOI’ is also quoted by Boucher d’Argis in his entry on Natural Law (V, p. 134), as is the Grotian definition of *droit naturel* as ‘certains principes de la droite raison […]’ (ibid., p. 132). Elsewhere he uses language reminiscent of seventeenth-century Natural Law thinking when he states that the *loi naturelle* is nothing other than ‘un rayon de lumière & un principe de la droite raison’ (IX, p. 647). The definition provided by Boucher d’Argis which he says is the most common in ‘DROIT DE LA NATURE ou DROIT NATUREL’ also repeats the common refrain of modern Natural Law thinking. God is removed from His role as the source of Natural Law and the emphasis is put on human reason alone – *droit naturel* is commonly taken to mean ‘certaines règles de justice & d’équité, que la seule raison naturelle a établies entre tous les hommes’ (V, p. 131).

However, this principle turns out to be a good deal less firmly-established in practice than this assertion might lead one to think. Boucher d’Argis qualifies the above statement by saying that a preferable definition of *droit naturel* would be that these rules of justice and equity are those that God has *engraved on our hearts* (ibid.). Whilst Boucher d’Argis prudently makes reference to God in this statement, with his reference to the heart he in fact alludes to the more dominant and radically new way of envisaging Natural Law that is advanced elsewhere in many of the *Encyclopédie’s* volumes, and particularly in those of its entries which are apparently original contributions to the subject rather than being derived from the works of others.

Thus, while reason is said to be the basis of our apprehending the *loi naturelle* in the *Encyclopédie*, the innate God-given ability to do so is admitted apparently on an equal footing. This view raises a question which relates to the consistency of the epistemological and moral doctrines set out in the work. In the first place, while many contributors and the *Encyclopédie’s* editors, as we have seen, take a Lockean view of epistemology and reject innate ideas, others embrace the notion that certain kinds of moral knowledge are God-given, and hence independent of any sensory perceptions. Yet this coexistence of reason and innate knowledge is not the end of the matter either, for several contributors, while accepting that we have an innate moral sense, see it as deriving from *nature*, rather than from God. That is to say, they

324 cf. ‘LOI (Jurisprud.)’ and ‘LOI POSITIVE’.
emphasise just as strongly that the *emotions* and *feelings* which allow us to apprehend the *loi naturelle* are natural, rather than divine, in origin – and therefore universal.

This new way of looking at the source of one’s moral judgements is advanced most notably in the entries ‘LOI NATURELLE’ and ‘VERTU’ to which reference has already been made. Taken together, these two entries constitute a coherent, consistent and original take on the matter which also echoes the ideas expressed by d’Alembert in the *Discours préliminaire*, published some fourteen years earlier.

As we have seen, d’Alembert attributes an *a posteriori* basis to the *loi naturelle* – ‘le cri de la nature’ as he calls it – which is the emotional response engendered in human beings when they *experience* or *feel* the oppression of the weak by the strong, and which was accessible to even the most ‘savage’ peoples (I, p. iii). A similar emphasis on feelings is particularly evident in the latter of the two entries mentioned above, where it is said by its author(s) that ‘[…] il est plus sur de connoitre la *vertu* par sentiment, que de s’égarer en raisonnement sur sa nature’ (XVII, p. 176). In order to discover the true meaning of virtue, the author of this entry follows the advice outlined by Barbeyrac: it is not to books that one should look to discover how to act, but to one’s *heart* and from the emotional response or feelings engendered in us by the suffering of our fellows:

[… ] fermez vos livres & voyez les malheureux: lecteur, qui que tu sois, si tu as jamais goûté les attraits de la *vertu*, rentre un instant dans toi-même, sa définition est dans ton cœur (ibid.).

Or, as the author of the article ‘LOI NATURELLE’ concludes, in order to apprehend the characters of virtue, one need not ‘s’élever jusqu’aux cieux’:

[… ] la *loi naturelle* est écrite dans nos cœurs en caractères si beaux, avec des expressions si fortes & des traits si lumineux, qu’il n’est pas possible de la méconnoître (IX, p. 666).

According to this new way of envisaging the *loi naturelle* it is therefore not to be discovered with reference to God or reason and the mind, but only to the *heart*: it is the *feelings* of our conscience – an almost infallible ‘moral instinct’ – which are destined to allow us to discover moral truths.

Again, this echoes the point made by d’Alembert in the *Discours préliminaire*, where the human conscience is defined as ‘[…] une suite de la loi naturelle & de l’idée que nous avons du bien & du mal’ (I, p. xiv). The same point is made in several places elsewhere in the *Encyclopédie* but the importance of the point
had already been made by d’Alembert: ‘on pourroit le nommer évidence du cœur, parce que tout différent qu’il est de l’évidence de l’esprit […] il nous subjugue avec le même empire’ (I, p. xiv). The *loi naturelle* and its corollary of the conscience are not therefore seen as the locus of primarily religious ideas and beliefs, but the source of all human morality – an idea which is a common feature of most eighteenth-century ethical thought. The idea that *feelings* rather than reason can tell one how to conduct oneself is not just found in these entries, however, but can also be found elsewhere in the *Encyclopédie*, particularly in the remarks pertaining to the ‘moral sense’ and the ‘sensitivity’ of human nature.

The idea that human beings have a moral instinct by which they *feel* what is good or evil, right or wrong and which compensates for the weakness of reason in ascertaining what constitutes ethical behaviour is also particularly stressed in the entry ‘SENS MORAL’ by Jaucourt. This article, taken for the most part from the work of Burlamaqui, outlines the ideas of both Shaftesbury and Hutcheson on the question. The belief that human beings have a moral instinct for what constitutes right and wrong is said to be proved by the response that they have to the suffering of their fellows: ‘[…] à la vue d’un homme qui souffre, nous avons d’abord un sentiment de compassion, qui nous fait trouver beau & agréable de le secourir’ (XV, p. 28).

Whether we take the source of man’s awareness of the *loi naturelle* as deriving from God or from nature, the views set out in these articles in the *Encyclopédie* do argue in favour of a spiritual interpretation of the human essence. As we have seen, it is stated in several places in the work that human beings are not just composed of one material substance as Spinoza and other materialists such as La Mettrie claimed, but that they are endowed with a *spiritual* soul. According to Jaucourt, it is precisely because they have a soul that human beings are considered sensitive to the feelings and well-being of their fellows; it is why they are easily moved and touched by things that occur in the world but which are nonetheless external to them.

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329 cf. section 2.4 above.
Humans, as a result of their soul, are beings naturally sensitive to the needs and welfare of others.

Whilst reflection and reasoning can make a person act with integrity, it is said by Jaucourt in ‘SENSIBILITÉ’ that it is sensitivity and feelings which make a person virtuous (i.e. act in accordance with the loi naturelle). Feelings and emotions, he adds, provide the soul with a kind of wisdom that cannot be reached through the mind alone, and it is they that are the true sources of the social virtues summed up under the name ‘humanité’ (ibid.). Insensitivity – the inability to be emotionally moved by events that occur in the world around us – acts in the opposite way: it closes the heart to friendship, goodwill, gratitude and ‘tous les sentimens les plus justes & le plus légitimes’ (VIII, p. 787). Rather than giving rise to the virtues that are necessary for society to maintain itself, insensitivity destroys ‘humanité’ – or the ‘sentiment de bienveillance pour tous les hommes’ as it is defined in the Encyclopédie (ibid., p. 348).

Insensitivity therefore transforms naturally sociable beings into ‘des monstres’, and makes an insensitive individual ‘un être sauvage & isolé qui a rompu la plupart des liens qui l’attachoient au reste de l’univers’ (ibid., p. 787). In the case of a person who has been rendered insensitive to the suffering of their fellow human beings, the soul is not the source of all social virtues. Rather,

[…] elle est semblable à ces mers glaciales qu’un froid excessif engourdit jusques dans le fond de leurs abîmes, & dont il a tellement durci la surface, que les impressions de tous les objets qui la frappent y meurent sans pouvoir passer pu avant, & même sans y avoir causé le moindre ébranlement ni l’altération la plus légère (ibid.).

Though there will always remain some element of sensitivity for the feelings and well-being of others in all people – since to feel is to be human – those natural feelings are easily overridden by insensitivity: a necessary consequence of the human condition is that we easily maintain feelings for ourselves, and often do so to the detriment of others (ibid.).

As the two articles referenced here further suggest, for Jaucourt sensitivity is the source of our moral judgements and the prescriptions of the loi naturelle. Moreover, there are several instances in the Encyclopédie where the ability of people who live in purportedly ‘civilised’ European societies to be sensitive to the feelings

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330 ‘SENSIBILITÉ (Morale)’ (XV, p. 52).
331 cf. ‘INSENSIBILITÉ (Phil. mor.)’ (VIII, pp. 787-788).
332 cf. ‘HUMANITÉ’.
and well-being of others are in fact suggested to be not as developed as those who live in supposedly ‘savage’ or ‘primitive’ communities.

3.5.4. ‘SAVAGES’ AND THE UNIVERSALITY OF THE MORAL INSTINCT IN THE ENCYCLOPÉDIE

One of the central features of Natural Law thinking is to posit a contrast between nature and culture; an idea that had an influence on the various currents of primitivism developed during the seventeenth and eighteenth centuries. There are several instances of note where some contributors to the Encyclopédie can be said to follow the primitivist attitude, and where those who live in purportedly ‘savage’ societies are shown to be more sensitive to the feelings and emotions of others than those in supposedly ‘civilised’ European ones. The emphasis that some contributors to the Encyclopédie place on feelings and emotions as the source of one’s moral judgements enables them to pose this critique.

Those who live in ‘savage’ and ‘primitive’ societies may not be as sophisticated thinkers as European moral philosophers, but it is claimed by the author(s) of the entry ‘VERTU’ that their moral instinct is in fact much more perceptive – an idea bolstered by the authority of Montaigne:

[...] le vulgaire à cet égard est souvent plus avancé que les philosophes, l’instinct moral est chez lui plus pure, moins altéré; [...] « Les mœurs & les propos des paysans, dit Montagne, je les trouve communément plus ordonnés, selon la prescription de la vraie philosophie, que ne sont ceux philosophes. » (XVII, p. 176).

Here the content of this entry comes very close to valorising primitive societies to the detriment of contemporary society; if the moral instinct is universal, and that of the ‘savages’ or ‘primitives’ is ‘purer’ than that of those who live in contemporary European society, it is implied that this is so because they have been less ‘altered’ by the trappings of civilisation – an idea that is derived from Barbeyrac:

[...] transportons-nous chez les sauvages le plus près de l’état de nature & d’indépendance, que nul commerce, nulle société ne lie, supposons l’un d’entre eux qu’un autre vient arracher à une bête féroce prête à le dévorer; dira-t-on que le premier soit insensible à ce bienfait, qu’il regarde son libérateur avec indifférence, qu’il puisse l’outrager sans remords? (ibid., p. 179).\(^{333}\)

\(^{333}\) cf. Barbeyrac (DNG, Préface, §1).
Remorse, evidence of a conscience and an intuitive sense of what is right and wrong, all demonstrate that these ‘savages’ are capable of acting virtuously, in accordance with the *loi naturelle* – they are sensitive to the needs and feelings of their fellows.

Moreover, these ‘savages’ are capable of acting in this way without the aid of positive law or Christian morality to guide their actions. Feelings such as pity and compassion for others are therefore a natural part of human nature which do not derive from God – further proof, if it were needed, is the fact that animals too are capable of acting compassionately (ibid., p. 178). This corresponds to the view put forward elsewhere in the *Encyclopédie* regarding the unity of nature according to which, as we have seen, human beings are only separated from animals by ‘imperceptible degrees of difference’. If the ‘savages’ closest to the state of nature are said to be able to act virtuously without the aid of a State or Christian morality to guide their behaviour, it is because the precepts of the *loi naturelle* are made known to them, not deduced *a priori* from God-given innate ideas, but felt – they, as is the case for all human beings, are primarily sentient beings, endowed with a sensitive soul through which they can empathise with the lot of others.

The universality of the moral instinct as demonstrated by the ‘savages’ referred to in the passages above raises the question of what factors have an influence on determining how it is that we (mis)interpret the prescriptions of the *loi naturelle*, of why it is that in some cases it has seemingly lost its force. If those ‘savages’ who live in the nascent societies of the New World are capable of acting virtuously, and, on the evidence of things, people in eighteenth-century France are not, the question raised is what factors have influenced the morality of European peoples? If one asserts that our ideas of what is right and wrong, just or unjust are derived not from the will of God, deduced *a priori* from God-given innate principles of good conduct, but *a posteriori*, from the human social experience and from our feelings, then it follows that experience can, and does, modify and alter our ideas of what is right and wrong.334

This leads some entries in the *Encyclopédie* to conclude that moral values can be influenced by the society in which human beings live: natural morality, the prescriptions of the *loi naturelle*, can consequently be corrupted by unnatural (i.e. societal) factors. It is on this basis that the contributors to the project who believed in

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it use the existence of the *loi naturelle* ‘engraved on the hearts of mankind’ to pose a critique of what they perceive to be some of the worst evils and injustices in contemporary society, and contemporary society itself.

### 3.6. THE PROBLEM OF EVIL: IGNORANCE OF THE *LOI NATURELLE* AND THE INFLUENCE OF SOCIETAL FACTORS IN THE ENCYCLOPÉDIE

Many articles in the *Encyclopédie*, then, reject the ‘pernicious’ Hobbesian or Spinozist view of human nature as concerned solely with, and determined by, their own narrow self-interest as well as the Christian view of human nature as being unable to act virtuously without knowledge of God or the revelation. Rather, they follow the central tenets of Natural Law thinking in asserting that human beings are not *naturally* selfish or vicious. Yes, people are self-interested and motivated by *amour de soi* but they are also naturally sociable and endowed with a sensitive soul – they are capable of acting in accordance with the natural order, or *loi naturelle*, ‘engraved in their hearts’ in such a way that it is impossible to misunderstand.\(^{335}\)

Nonetheless, similarly to Pufendorf and Burlamaqui, several articles in the *Encyclopédie* display wariness at the potential human beings have to be susceptible to ignorance and error, and to act in an evil way that does not conform to the *loi naturelle*.\(^{336}\)

For the author(s) of the entry ‘LOI NATURELLE’, there is no human being so heinous and lost that having committed a murder they would not have preferred to have acted in a non-criminal way, and who would not regret their actions and feel no remorse: no one is so endowed with Hobbesian principles to such an extent that they would prefer to achieve their own ends without causing harm or offence to others (IX, p. 665). Even those individuals spoilt by education, those who are accustomed to debauchery and vice by force of habit, those who have followed their passions and those who maintain that there is no objective moral order of justice are all still said to feel inside of themselves the existence of an inviolable rule of justice, or *loi naturelle* (ibid.). Similarly, it is also noted in the entries ‘MORALE’ and ‘VERTU’ that any difficulties in understanding ethical principles or the prescriptions of the *loi naturelle* are limited to ‘remote consequences’ alone, and not the general principles of right

\(^{335}\) cf. ‘LOI NATURELLE’.

behaviour in themselves, or the maxims to be immediately drawn from them (X, p. 700 and XVII, p. 177).

As these examples suggest, some contributors to the *Encyclopédie* were confident and optimistic about the capacity of people to act in a just and equitable way. Yet, this was clearly not the case on the evidence of things in eighteenth-century French society: a recurrent idea that manifests itself throughout the *Encyclopédie*’s volumes is that contemporary institutions and values have failed to foster the right human relationships and ethical behaviour necessary for society to function as it should.

The universality and accessibility of the *loi naturelle* ‘engraved on the hearts’ of humankind therefore brings into question why there are so many instances in the world where people do not act virtuously: why, in many cases, the *loi naturelle* has seemingly become incomprehensible, why it has apparently lost its moral force and sanction, why, in so many instances, has humankind neglected its commands and its feelings, and consequently become cold-hearted and hardened to the suffering of other people? How is it that the lines between just and unjust, right and wrong, supposedly clear and self-evident, have become blurred to the point of erasure? Why are people ignorant of, or in error about, what constitutes morally permissible or impermissible conduct? What is it, then, that changes the natural disposition of human nature to follow the prescriptions of the *loi naturelle* and leads them to violate the equal rights of others? What factors, as Jaucourt puts it, alter the natural human temperament? In other words, why is there so much evil in the world?

Several important entries in the *Encyclopédie* engage vigorously with this bold question, and in doing so pose a damning critique of their own society. Many entries in the *Encyclopédie* ascribe the loss of virtue amongst humankind to the uncontrolled urges of the passions and to the decrees of positive law (both divine and civil) and the inability of the latter to control, or properly manage, the former. What was, in eighteenth-century French society, was not, in the view of some of its contributors, necessarily what should be.

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337 Though the *Encyclopédie* distinguishes between ignorance and error when it comes to morality – with the former meaning being deprived of knowledge and the latter the non-conformity of our ideas with nature and the state of things – it notes that they are frequently confused and, ‘[…] jointes ou non, elles suivent les mêmes règles, & produisent le même effet par l’influence qu’elles ont sur nos actions ou nos omissions’ – cf. ‘IGNORANCE (Morale)’ (VIII, p. 550) and ‘ERREUR’; the ideas of which echo Pufendorf (*DNG*, I, III, §§X-XVI) and Burlamaqui (*PDN*, I, I, §§VII-XII).

An indication of Jaucourt’s attitude to the question of why there was so much evil in the world and why people were seemingly ignorant of the prescriptions of the *loi naturelle* can be gleaned from the article ‘MORALE’, to which several references have already been made. According to Jaucourt, it is easy to see why ethics and the study of it have been neglected throughout history. In making his point he paraphrases the ideas of both Barbeyrac and Burlamaqui on the matter:

[…] les divers besoins de la vie […] les faux intérêts, les impressions de l’exemple & des coutumes, le torrent de la mode & des opinions reçues, les préjugés de l’enfance, les passions surtout, détournent ordinairement les esprits d’une étude sérieuse de la Morale (X, p. 700).339

If this remark refers to the study of ethics as a discipline, it also provides an insight into the thoughts of some contributors of the project regarding the behaviour and values of their contemporaries. The entries in the *Encyclopédie* which draw on the tenets of Natural Law thinking ascribe the same factors to explain why it is that people have neglected the duties prescribed by the *loi naturelle*. Certain contributors to the project were clearly conscious of, and concerned by, the role played in forming people’s behaviour by the society in which they live. Society, its institutions and laws are said to have a profound impact on people’s behaviour, and not always for the better.

One of the first influences said to prove a powerful factor in forming people’s ideas – and by extension their ideas about what is right and wrong conduct – is education.340 Equally as powerful as education in forming people’s ideas about what is morally permissible, and linked to it, are the examples they are provided with by other people with whom they interact according to Jaucourt:

*L’exemple* est d’une grande efficace, parce qu’il frappe plus promptement & plus vivement que toutes les raisons & les préceptes; car la règle ne s’exprime qu’en termes vagues, au lieu que l’exemple fait naître des idées déterminées, & met la chose sous les yeux, que les hommes croyent beaucoup plus que leurs oreilles (VI, p. 235).341

From their education, and from the examples of how other people around them act, human beings acquire new habits: ‘*L’habitude instruit la nature, elle la change […]*’ (VIII, p. 17).342 For Jaucourt it is difficult, under the influence of such powerful

340 cf. ‘ÉDUCATION (terme abstrait & métaphysique)’ (V, pp. 397-403, p. 397), ‘EXEMPLE (Morale)’ (VI, pp. 235-236, p. 235) and ‘NATUREL, LE’.
341 cf. ‘EXEMPLE’ and ‘NATUREL, LE’.
factors, to convince people that they are acting incorrectly, or that their ideas about what constitutes right and wrong conduct are incorrect. This is said to be true for those ‘habits of the body’ as well as for those of the ‘soul’, with the latter in particular proving difficult to correct than the former:

[…] c’est un mouvement qui s’excite involontairement; c’est une idée qui se réveille, qui nous agite, nous tourmente & nous entraîne avec impétuosité vers des objets dont la raison, l’âge, la santé, les bienséances, & une infinité d’autres considérations nous interdisent l’usage (ibid.).

The frenetic language contained in this quotation regarding ‘habits of the soul’ leads us to the influence of the passions to which the human soul is subject, and how the contributors to the Encyclopédie perceived them and the extent to which they are said to influence or alter one’s moral judgements.

Although the thinkers of the eighteenth century are frequently asserted to emphasise mankind’s rational faculties, the passions to which the human soul are subject were by no means rejected in the period with which we are concerned. Diderot’s Pensées philosophiques (1746), for example, opened with a strident defence of them, particularly those capable of ‘elevating the soul’. Diderot’s opinions are echoed in the Encyclopédie article ‘PASSIONS (Philos. Logique, Morale)’ (XII, pp. 142-146), which notes that they are a natural part of human nature and not to be condemned in themselves: ‘ce sont les passions qui mettent tout en mouvement, qui animent le tableau de cet univers’ (ibid., p. 145). All the passions have their uses; those that have ourselves as their object are said to have been provided to us by nature to ensure our existence, and those that relate to others in turn serve the good and the maintenance of society (ibid.). The passions to which human nature is subject are therefore natural, and an inherent part of what it means to be human and not to be condemned in themselves. They are mostly beneficial to society – a view at odds with the predominant virtues emphasised by Christian doctrines of the time – and very few of them are harmful if kept within the bounds of moderation.

343 cf. Hazard, La pensée, I, p. 221.
However, the influence of Natural Law thinking is also evident in the discussion of the passions that takes place in the pages of the Encyclopédie. Although Diderot admits that the passions are a natural and necessary part of human nature, and therefore life in society, and that they are not harmful in moderation, he emphasises that they have the potential to become the dominating characteristic of human nature and therefore have a potentially negative effect on society; an idea clearly expressed earlier by Pufendorf and reiterated by Burlamaqui.346

Indeed, as Pufendorf remarked in the abridged version of his work published at the start of the eighteenth century, modern Natural Law thinking presumed human nature to be torn by the passions; in his view human beings were necessarily corrupt, seething with evil desires that carry the potential to be socially divisive.347 In many respects the attitude to the passions that is put forward in the pages of the Encyclopédie echoes that of the seventeenth-century German jurist.

The opening remarks of the entry ‘PASSIONS’ are indicative of the wider attitude expressed by Diderot and elsewhere in the Encyclopédie. Passions, by their very nature, render people passive: ‘elles vont jusqu’à ôter tout usage de la liberté’ (XII, p. 142).348 When under their excessive influence, people become ‘sick’: ‘les passions sont les maladies de l’ame’ (ibid.).349 This view, which reflects the views of Pufendorf and Burlamaqui in particular, is in fact reiterated throughout the Encyclopédie – the passions, though natural and necessary, can prove to be an obstacle to both knowledge and happiness if left unchecked (ibid., p. 145). The point is made particularly clear in the entry ‘EXPÉRIENCE’: ‘[…] les passions sont des lunettes qui nous font voir ce qui n’est pas, ou qui nous montrent les objets autrement qu’ils ne sont’ (VI, p. 297). Other entries in the work similarly emphasise their capacity to cause error and false judgements in both the mind and soul, to limit the exercise of one’s reason and to create prejudices.350

The overall conclusion derived from all this is that the human mind is easily susceptible to the influence of the passions, and its workings can easily become

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346 cf. Pufendorf (DN, I, IV, §VI) (DHC, I, I, §XIV) and Burlamaqui (PDN, I, II, §II).
confused and distorted under their impact. Once a passion has been excited within
us it is difficult to think of anything else; and so the duties prescribed by the *loi
naturelle*, the natural and universal principles which dictate how one should behave,
become lost from sight:

En un mot, la *passion* nous fait abuser de tout. Les idées les plus
distinctes deviennent confuses, obscures; elles s’évanouissent
entièremen pour faire place à d’autres purement accessoires, ou qui n’ont
aucun rapport à l’objet que nous avons en vue; elle nous fait réunir les
idées les plus opposées, séparer celles qui sont les mieux liées entr’elles,
faire des comparaisons de sujets qui n’ont aucune affinité; elle se joue de
notre imagination, qui forme ainsi des chimères, des représentations
d’êtres qui n’ont jamais existé, & auxquels elle donne des noms agréables
ou odieus, comme il lui convient. Elle ose ensuite s’appuyer de principes
aussi faux, les confirmer par des exemples qui n’y ont aucun rapport, ou
par les raisonnemens les moins justes; ou si ces principes sont vrais, elle
sait en tirer les conséquences les plus fausses, mais les plus favorables à
notre sentiment, à notre goût, à elle-même (XII, p. 146).

It is clear from this passage that similarly to Pufendorf, Diderot was convinced that
the passions to which human nature is subject have the very real potential of blurring
the lines between what is just and unjust, and causing people to lose the precepts of
the *loi naturelle* from sight and neglect their duties to others.

This idea is recurrent throughout much of the work. It is ambition, anger,
greed, sensuality, and vanity – in short the whole gamut of the human passions – that
are said to cause people to ignore the precepts of the *loi naturelle* ‘engraved on their
hearts’ and act in a way that violates the equal rights of others: for Jaucourt in
particular the passions are ‘les sources d’où proviennent ordinairement les plus
grandes injustices’ (III, p. 614). One particular passion condemned on this basis
throughout the *Encyclopédie* is greed, or the unbridled pursuit of wealth, as we shall
see in particular in our analysis of the *Encyclopédie*’s attitude towards colonial
slavery and luxury in the second part of this study.

Jacques-André Naigeon (1738-1810), for example, in his entry ‘RICHESSE
(*Philosophie morale*)’ (XIV, pp. 272-281), echoes many of the ideas put forward by
Diderot in the article ‘PASSIONS’. Naigeon’s entry is heavily-influenced by
Stoicism, and, as in Diderot’s article, he insists that in order for one to act in
accordance with truth and virtue (i.e. in accordance with the *loi naturelle*) the
passions must be silenced. Wealth, and the unfettered pursuit of it, distracts people

352 cf. ‘COLÈRE’ and ‘INJUSTICE’.
from virtue – dampening, and eventually extinguishing entirely, their natural feelings of humanity and pity: ‘les richesses sont pour les bonnes mœurs un écueil très dangereux’ and ‘celui où vont se briser le plus souvent toutes les vertus qui caractérisent un honnête homme’ (ibid., p. 278). Hence his praise for Anaxagoras and Democritus, who, by ridding themselves of their riches, were able to discover both truth and virtue (ibid., pp. 272-273). The wariness expressed by certain contributors to the Encyclopédie about the potentiality for greed and the desire for wealth to extinguish the natural feelings of compassion, however, is equally rivalled by what they perceived to be the nefarious influence of Christianity, especially Catholicism, and all organised religion in general.

As Jaucourt notes, again following the ideas of Pufendorf, societal factors such as education and example never fully extinguish the natural temperament of human beings to do good (i.e. follow the prescriptions of the loi naturelle) (XI, p. 45).353 Rather, that dubious honour goes to religious superstition alone – ‘cette espece d’enchantement ou de pouvoir magique, que la crainte exerce sur notre ame’ (XV, p. 669).354 Superstition, the ‘scourge of humanity’, is the one factor that completely overrides one’s apprehension of the loi naturelle and the duties that we owe to others solely on the basis of our common humanity (ibid.). In particular, similarly to the passions, it is said to attack reason and the workings of the mind: ‘[…] elle est capable d’éteindre les lumières naturelles, & de troubler les têtes les plus saines’ (ibid., p. 670). Not only that, it also extinguishes one’s natural feelings (VI, p. 398).355 Furthermore, in a set of remarkably audacious statements in the context of eighteenth-century France, superstition is said to be more damaging to humanity than atheism, which is incapable of extinguishing one’s natural feelings of compassion and empathy; superstition on the other hand is ‘un tyran despotique qui fait tout céder à ses chimères’ (ibid.). This attitude permeates the Encyclopédie and constitutes one of its more radical elements. Christian morality is not only considered inferior to natural morality, but it has a serious nefarious effect upon human nature and society.

The contributors to the Encyclopédie who promoted a secular form of morality and who believe there is a prescriptive loi naturelle ‘engraved on the hearts

355 cf. ‘FANATISME (Philosophie)’ (VI, pp. 393-401).
of all men’ therefore not only saw Christian morality as unnecessary – because human beings are capable of following the dictates of the *loi naturelle* without the need for the revelations of Christianity – but also because it had a very actual and negative effect on human behaviour. There are numerous instances in the *Encyclopédie* where religious beliefs – and those of Catholicism in particular – are depicted in this way; blamed for having ruptured the natural and universal links that bind humankind together.

Diderot, for example, asks what would become of society if everyone were to devote themselves solely to Christian virtues. The implied answer is that the things that link us together as human beings – our common humanity, our equal rights – will be lost from sight (XVII, p. 858). It is through this line of thinking that most of the contributors to the project – and, it should be stressed, they are nearly unanimous in their attitude – take aim at religious fanaticism and intolerance, and, consequently, the close relationship which existed between the Church and State in contemporary society. Perhaps unsurprisingly, there are places in the *Encyclopédie* where religious intolerance is defended, if not wholly justified. On the whole, however, the practice is roundly condemned. In particular, superstition – the one factor that can completely override the feelings of the *loi naturelle* – is blamed for the development of religious fanaticism, and in turn for making people act in an unnatural way to one another.

Fanaticism makes people not only commit ‘[…] des actions ridicules, injustes & cruelles; […] sans honte & sans remords, mais encore avec une sorte de joie’ (VI, p. 393). Hence numerous condemnations of religious intolerance can be found throughout the work’s many volumes. The important consequence is that the Church and State are viewed to have mismanaged the human passions and have, even, promoted socially-divisive ones by promoting religious intolerance – that ‘passion féroce qui porte à haïr & à persécuter ceux qui sont dans l’erreur’ (VIII, p. 843). By encouraging such a ‘ferocious’ passion, it is the Church and State who are implied to be to blame for rupturing the natural and universal links that bind people together in society, and for having caused the natural feelings of pity,

356 cf. ‘VINGTIÈME, IMPOSITION’.
357 cf. ‘CHRISTIANISME’.
358 cf. ‘FANATISME’.
359 cf., in particular, ‘INTOLÉRANCE’, ‘PERSÉCUTER, PERSÉCUTEUR, PERSÉCUTION (*Droit naturel, Politique & Morale.*)’ (XII, pp. 425-426) and ‘TOLÉRANCE’.
360 cf. ‘INTOLÉRANCE’.
humanity and kindness which the *loi naturelle* prescribes to have become extinguished in considerable parts of society.

As is noted in the short entry ‘RELIGION CHRÉTIENNE’ (XIV, p. 88), the principal aim of Christianity was ‘[…] d’inspirer aux hommes de l’amour, de la douceur, & de la pitié pour les hommes’ (ibid.). Yet empirical observation and experience demonstrated to some contributors to the *Encyclopédie* that this was clearly not the case in reality. Christianity – and all forms of organised religion in general – encouraged and inspired feelings opposite to those it purported to profess and promote; with the paradigmatic case again being the seventeenth-century wars of religion:

Comptez les milliers d’hommes que le monde a vu périr, ou sur les échafauds dans les siècles de persécution, ou dans les guerres civiles par la main de leurs concitoyens, ou de leurs propres mains par des macérations excessives (VI, p. 397).  

The intolerance of Christianity to other religious beliefs is therefore broadly condemned throughout and across the *Encyclopédie*’s volumes for having overthrown the boundaries that distinguish what is just from unjust, what is virtuous from what is vicious and for rendering people barbaric to one another; in short, for having extinguished the feelings of justice and humanity that the *loi naturelle* prescribes from the hearts humankind. Christianity, for the more radical contributors to the *Encyclopédie*, therefore exists as one of a number of ‘corrupting’ influences on human nature and the ability of human beings to practice justice, act in accordance with the precepts of the *loi naturelle*, and thereby recognise the importance of submitting one’s individual passions to one’s wider social responsibilities to others.

**3.7. CONCLUSION**

For several notable contributors to the *Encyclopédie*, then, there exists a *loi naturelle* ‘engraved on the hearts’ of humankind. The universality and immutability of the *loi naturelle* enables those contributors who believe in it to argue that neither the dictates of the Church or State are the arbiters of what constitutes justice. Consequently, in their view, just because the Church or State dictates something to be so, that does not mean that those laws and rules of human behaviour are necessarily right or just. For them –in principle – both divine and civil laws should

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361 cf. ‘FANATISME’.
reflect and embody the *loi naturelle* and the absolute duties it prescribes if they are to promote justice and respect the rights of the individual.

Although those contributors who believed in it are confident in the ability of individuals to apprehend the *loi naturelle* and its prescriptions with ease, and to act virtuously without the influence of the Church or State – as evidenced by the ‘savages’ or ‘primitives’ of the rudimentary societies of the Americas – they were clearly concerned by the ability of unnatural or societal factors and the power of the passions to obscure the *loi naturelle* and to dampen and extinguish the feelings of benevolence, compassion, kindness and humanity which it prescribes. The positive laws of contemporary society – both divine and civil – are heavily implied to have mismanaged the passions to which the human heart is subject and to have promoted values antithetical to those central to Natural Law thinking.

Few social institutions and the laws which underwrote them were more abhorrent to those contributors to the *Encyclopédie* who believed in the existence of the *loi naturelle*, equality and in universal rights than that of slavery and the corollary question of luxury. Both slavery and luxury were social issues which rested on and valorised what those contributors to the *Encyclopédie* who believed in the *loi naturelle* considered to be socially-divisive passions such as greed, vanity, excessive pride and generally-speaking a lack of consideration for the needs, welfare, and rights of others. Values such as these, underwritten by positive law and the concomitant acceptance of them by the Church, appeared to them to be inconsistent with, and, indeed, directly in opposition to, the rights and duties we have to one another simply as human beings and which are prescribed by the *loi naturelle*. Consequently, they believed that reform of those institutions and the values which underwrote contemporary society was necessary as a matter of urgency. Let us turn, then, to how certain contributors put the ideas central to Natural Law thinking examined so far into practice.
PART TWO

NATURAL LAW, RIGHTS AND REFORM IN THE

ENCYCLOPÉDIE
CHAPTER ONE
NATURAL LAW, RIGHTS AND REFORM:
SLAVERY IN THE ENCYCLOPÉDIE

1.1. INTRODUCTION

The reputation of the eighteenth-century philosOPhES has not fared particularly well in regard to the question of colonial slavery. They are often said to have only been concerned with abstract theorising about the practice, and blind or indifferent to the actual injustices involved in the reality of the institution.\(^\text{362}\) In this chapter I argue that this general view of eighteenth-century attitudes to slavery needs to be refined, particularly in respect of those contributors to the Encyclopédie influenced by Natural Law thinking, and who believed in the existence of the loi naturelle and in universal rights.\(^\text{363}\)

As we saw in the first part of this study, the Natural Law thinking expressed at length in the Encyclopédie emphasises that one should exercise one’s rights in accordance with the absolute duties prescribed by the loi naturelle – which include causing others no physical harm or injury, treating them as equals, and acting not just in the pursuit of one’s self-interest but with consideration for the needs and welfare of others. Rights are the foundation of justice, and the greatest causes of injustices are considered to be the passions to which human beings are subject and the inability of positive laws to properly manage them. It is ideas such as these which influence the reformist tendencies in the Encyclopédie.

Those contributors to the project who propose reform of the institution of slavery do so on the basis that it is a practice in which they perceive the values of contemporary society to promote the advancement of self-interest over the welfare and rights of others, the satisfaction of individual passions over the duties prescribed by the loi naturelle, and concerns about economic profit over and above human life. As we shall see, Jaucourt in particular emphasises the causal relationship between


the European desire for luxury commodities and slavery – and the injustice of that state of affairs. Not only that, but he makes direct calls for the institution’s abolition.

1.2. LE CODE NOIR (1685) AND LA TRAITE NEGRIÈRE: SLAVERY AND ITS JUSTIFICATIONS IN THE EIGHTEEN
TH CENTURY

Slavery has not always been seen as the form of harmful exploitation that we in Western democracies see it as today. It has ‘not only existed in almost all human societies, but has historically done so without arousing outrage or abhorrence, or undergoing any radical challenge to its existence’. 364 Although the eighteenth century witnessed a burgeoning shift in attitudes to the institution and practice, it was also a period in which the Atlantic slave trade thrived.365

Whilst slaves were not legally allowed to be owned in France itself in the eighteenth century, wealthy sections of society enthusiastically invested in what is now referred to as the ‘triangular’ or ‘Atlantic’ slave trade, operating between Europe, Africa, and the Caribbean. 366 Although the number of sub-Saharan Africans purchased by French traders is impossible to calculate with exact certainty, what is sure is that in the period with which we are concerned France ‘insatiably requisitioned labour from Africa’.367 It has been estimated, for example, that over the course of the eighteenth century around 1,000,000 black Africans were transported to the French West Indies, of whom some 150-200,000 died en route – in the notorious ‘middle passage’. 368 It need hardly be said, then, that an incredible amount of both money and human suffering were involved in the practice.

The French slave trade and the colonial economy it operated in were developed by Colbert in the latter decades of the seventeenth century, and the management and regulation of that economy were set out in the now infamous Code noir (1685). 369 It was this edict which formally acknowledged and legalised

366 For a general overview of the slave trade, see James A. Rawley, The Transatlantic Slave Trade: A History (London: 1982), (henceforth designated as ‘Rawley’),
368 cf. Rawley, pp. 126-130; on the ‘middle passage’ and the death rates of slaves during the voyage to the West Indies see, pp. 283-306.
therefore legitimised – the ‘political and economic ideology of chattel-based slavery’ and the ‘lubricant of the whole Atlantic system’: the idea that slaves are commodities, things, property to be possessed and exploited solely for economic gain.\textsuperscript{370} In short, it legalised a system in which human life was viewed in purely economic terms.

Yet the stated aim of the \textit{Code noir} was somewhat different to this. As well as outlining how Catholicism was to be propagated in the colonies, it purported to regulate the treatment of African slaves at the hands of their masters, and limit the abuses they suffered. Indeed, the document was later praised by some of the most vocal apologists for slavery precisely because of these aspirations. The French economist Jean-François Melon (1675-1738), for example, lauded it in his \textit{Essai politique sur le commerce} as a piece of legislation aimed at eradicating ‘l’inhumanité, la mort, la mutilation, les tortures & tous les excès arbitraires’ of the plantation owners in the Caribbean.\textsuperscript{371}

Unfortunately, in practice it rarely did so.\textsuperscript{372} Both an ambivalent and inconsistent document, the \textit{Code} contains details about how slaves were to be treated and outlines the legal rights and duties active between them and their master(s). Even when followed ‘to the letter of the law’, however, the edict allowed for a large dose of legalised brutality. Those slaves who crossed or fled their masters, for example, faced a long list of disproportionate sanctions ranging from corporal to capital punishments, and whilst it was wrong for a master to ‘torture’ or ‘mutilate’ their slaves, it was permissible to brand them and place them in irons.\textsuperscript{373}

Despite the legalised cruelty and amount of human suffering involved, rather than being seen as a form of harmful economic exploitation slavery was viewed by many in the eighteenth century as a mutually-advantageous relationship. How, then, could such a practice, which legally reduced human beings to the status of mere


\textsuperscript{372} ‘[…] clauses intended to protect slaves from abusive treatment […] were generally ignored by the planters and unenforced by colonial authorities.’ David Allen Harvey, \textit{The French Enlightenment and Its Others: The Mandarin, the Savage and the Invention of the Human Sciences} (Basingstoke: 2012), p. 157.

\textsuperscript{373} cf. articles XXXIII, XXXVIII and XLII of the \textit{Code noir}. For a detailed exposition of the \textit{Code}, see Stein, pp. 51-53.
commodities to be abused and used at whim, be reconciled with the idea of it being *mutually* advantageous?

Long before Jules Ferry (1832-1893) justified nineteenth-century French colonial expansion in Africa and the Far East under the title of ‘une mission civilisatrice’ in 1885, many French Jesuits in the seventeenth and eighteenth centuries widely professed the same paternalist view. The argument was that black Africans and Amerindians were morally unequal to Europeans – they were ‘sub-human’ at worst and unbelievers at best: they had no knowledge of the revelation, and were considered incapable of acting virtuously without the ‘guidance’ of Europeans. Consequently, as part of the Christian duty to propagate the faith to unsaved souls, colonial activity was justified under the banner of a ‘civilising mission’.

The Jesuits who were at the forefront of most colonial activity drew on arguments from both Aristotle and Hobbes to justify their position. Aristotle’s two primary justifications for slavery were: 1) that some people are *naturally* slaves because of their inferior intelligence or cognitive development—consequently they required guidance from more ‘enlightened’ parts of the human race to counteract these inadequacies, and 2) that enslaving people as a result of the right of conquest was the lesser of two evils: for a conquered populace or prisoners of war it was better to be a slave than to be killed. From Hobbes, the Jesuits took the idea that people in the state of nature deserve and require a strong hand to guide — and ‘civilise’ them.

In the *Lettres édifiantes et curieuses* (1702-1776), for example, it is explicitly stated that the purpose of the French missionary presence in the New World and elsewhere was to ‘civilise’ the indigenous populations there. Reports of the ‘barbarism’ and ‘ignorance’ of the inhabitants of the New World encouraged Europeans ‘non de les subjuger, mais de les éclairer, de les civiliser’. Indeed, as has been recognised, the portrayal of the indigenous societies of the Americas provided by the Jesuits in their writings is very similar to the Hobbesian depiction of the state of nature.

The writings of one Père Gabriel Marest are typical in this respect. In a letter from 1712, for example, Marest describes the populations of the Americas in a

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375 cf. Préface des mémoires de l’Amérique in LEC, VI, pp. iii-iv.
Hobbesian manner: as ‘maîtres absolus d’eux-mêmes, sans être assujettis à aucune Loi’ whose independence ‘les asservit aux passions les plus brutales’. They are, it is said, ‘[…] lâches, traitres, légers & inconsistans, fourbes, naturelle voleurs […], brutaux, sans honneur […]’. \(^{377}\) Far from regarding the indigenous populations of the Americas as human beings of equal status and worth as Europeans, Marest even goes so far as to suggest they are subhuman: ‘il faut d’abord en faire des hommes, & travailler ensuite à en faire des Chrétiens’. \(^{378}\) For the Jesuits, then, of whom this attitude is representative, the indigenous populations of the Americas were far from equal to Europeans, and they deserved and needed to be dominated – just as the people in Hobbes’s state of nature required to be ruled despotically in order to curb their passions and their inability to act in accordance with any form of natural justice. The ‘civilising’ principles which underwrote the wider colonial project were also applied to the institution of slavery with which we are particularly concerned in this chapter.

The vast majority of slaves who were considered property by and for the wealthy members of eighteenth-century French society came from Africa – they were black. Although ‘race alone does not explain the exploitation of black Africans at the hands of white Europeans […] the belief in the superiority of the white race permeated the policies and ideologies of European trading nations’. \(^{379}\) For many wealthy Europeans in the eighteenth century, owning African slaves was justified on the basis that they were beasts, subhuman, and at best a degenerate part of the human race. \(^{380}\) Hence, in much of the ethnographic material available to eighteenth-century readers it was argued that Africans were somehow suited to the conditions of slavery. The Jesuit Pierre-François-Xavier Charlevoix (1682-1761), for example, in his *Histoire de l’Isle Espagnole ou de Saint-Domingue* (Amsterdam: 1730-1734), argued that slavery was befitting for Africans and that the nègre had, in his eyes, been born to occupy such a role. \(^{381}\)

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\(^{377}\) cf. ‘Lettre du Père Gabriel Marest, Missionnaire de la Compagnie de Jésus, au Père Germon, de la même Compagnie […] le 9 Novembre 1712’ in *LEC*, VI, pp. 321-322.

\(^{378}\) cf. ibid.

\(^{379}\) cf. Rawley, p. 434.


Moreover, in the eyes of the institution’s many apologists, slaves were considered to truly benefit from their condition. Again, a letter by a Jesuit, Père Margat, is typical of the wider attitude towards slavery and the black race. In a letter from 1725 Margat expresses the dominant view of the Jesuits with regard to the enslavement of Africans in the Caribbean:

En effet, il semble que la Providence ne les ait tiré de leurs Pays, que pour leur faire trouver ici une véritable terre de promission, et qu’il ait voulu récompenser la servitude temporelle, à laquelle le malheur de leur condition les assujettit, pour la véritable liberté des enfans de Dieu […] \(^3\)

For the Jesuits, and others involved in the colonial process, slavery could therefore be presented as advantageous to the slaves because they were not being exploited in the sense of being treated *unfairly* – their temporal displeasure was counter-weighed by the ‘civilising’ benefits of Christianity.

If Africans were apparently ‘civilised’ by their enslavement and instruction in the Catholic faith, slavery was also considered by many to have ‘civilising’ effects for French society itself. The raw materials cultivated by slaves and the luxury products they helped manufacture in the colonies were imported into France in vast quantities in the eighteenth century, particularly through the Atlantic ports of Nantes, La Rochelle, and Bordeaux. Products such as coffee, cotton, tobacco, and predominantly sugar, were all much sought after by French consumers despite the amount of human suffering involved in manufacturing them. \(^3\) Luxury products such as these were embraced by the wealthier sections of French society – praised for their refinement, and voraciously consumed as markers of social civility and esteem. \(^3\) Moreover, in the context of the worsening financial situation in which the French State found itself as the century advanced, slavery and the products it facilitated access to were considered by many to be not just desirable, but an economic necessity.

One of the central arguments supporting the institution was therefore economic and utilitarian: slaves were considered an essential part of a labour-intensive colonial


\(^3\) cf. Stein, p. 10 and Rawley, pp. 135–140. According to Rawley’s estimates, the value of the commodities imported into metropolitan France from its colonies reached 160,000,000 livres in 1785, of which sugar alone accounted for 90,000,000 livres, p. 142.

economy which sought to maximise production and profits whilst minimising costs, and which, at the same time, supposedly provided wealth and prosperity to French society as a whole.\textsuperscript{385} This attitude can be attested to by the \textit{Dictionnaire universel de Commerce} (1723), for example, compiled by Jacques Savary de Bruslons (1657-1716). In its entry ‘COLONIE’, the existence of far-flung colonies is praised for the facilitation of access to ‘ces précieuses marchandises que l’Europe estime tant’.\textsuperscript{386} Elsewhere in the \textit{Dictionnaire}, the necessity of slavery for producing luxury products is placed alongside the salvation of souls as another factor which ‘softens’ what otherwise appears to be an ‘inhumane’ practice:

\begin{quote}
[…] ces esclaves trouvent ordinairement le salut de leur ame dans la perte de leur liberté; […] l’instruction chrétienne qu’on leur donne, jointe au besoin indispensable qu’on a d’eux pour la culture des sucreries, des tabacs, des indigos, &c. adoucissent ce qui paraît d’inhumain dans un commerce ou des hommes en achetent & en vendent d’autres, comme on ferait des bestiaux pour la culture des terres […].\textsuperscript{387}
\end{quote}

In his \textit{Essai politique sur le commerce}, Melon promotes much the same idea as the \textit{Dictionnaire de Commerce}. For him, the development of international trade is important for the economic and social development of French society because the raw materials and luxury products imported from the colonies were powerful indicators of both progress and civilisation. In many ways Melon’s arguments can be said to sum up the economic arguments in favour of colonies in general, and the slave trade in particular: the use of slave-labour is not contrary to religion or morality since the idea of natural or moral equality is a ‘chimera’ and ‘les Colonies sont nécessaires à la Nation […] & les Esclaves sont nécessaires aux Colonies […]’\textsuperscript{388}

Given this brief outline of the eighteenth-century French slave trade and the justifications which lay behind it, it is clear why the institution was of concern to those contributors to the \textit{Encyclopédie} who believed in the \textit{loi naturelle} and in universal natural rights. Few economic and social institutions seemed more at odds with the values promoted by Natural Law theories than that of slavery, in which the satisfaction of individual passions – greed, ambition, self-interest and sensuality, for example – clearly took precedence over any consideration for the needs, welfare and

\textsuperscript{385} cf. Stein, pp. 5-7 and Rawley, pp. 247-281. On the complex question of the profitability of the trade, see Rawley, pp. 261-262.
\textsuperscript{386} cf. ‘COLONIE’ in \textit{Dictionnaire universel de Commerce: contenant tout ce qui concerne le commerce qui se fait dans les quatre parties du monde} […] 2 vol. (Amsterdam: 1726), I, pp. 812-813. For a list of typical eighteenth-century colonial imports, see I, p. 848.
\textsuperscript{387} cf. ‘NEGRES’ in ibid., II, p. 861.
rights of others. Moreover, since, in the Natural Law view expounded throughout the *Encyclopédie*, it is not divine or positive law which are the arbiters of justice, but the individual and the apprehension of the *loi naturelle* ‘engraved on their hearts’ by nature, it follows for those contributors who believed in it, that even though both the Church and State legitimised the institution, that did not mean that it was *just*.

However, hostility to slavery is not as widely-established in the *Encyclopédie* as one might think given the predominance of ideas central to Natural Law thinking promoted elsewhere in it. There are many articles throughout the work which do not condemn the practice and which, at least implicitly, agree with the established and prevalent values in French society examined already in this section, and those which underwrote the slave trade in particular.

**1.3. EUROPE’S SWEET TOOTH: ECONOMIC PRAGMATISM AND COLONIAL PRODUCE IN THE *ENCYCLOPÉDIE***

Despite the numerous eulogies of ‘le doux commerce’ and its material benefits published during the 1750s and 1760s, the *philosophes* were increasingly aware that there was a ‘dark underbelly’ to international trade and the prosperity it sought to deliver.\(^{389}\) During and in the years preceding the *Encyclopédie*’s compilation a growing number of criticisms began to surface which made reference to the untold suffering caused by the European sweet tooth, and the apparently insatiable demand of the European market for other luxury products imported from the colonies.

Montesquieu, for example, in his famous chapter ‘*De l’esclavage des negres*’ in the *Esprit des Loix*, twisted the more pragmatic and utilitarian attitude of works such as the *Dictionnaire de Commerce* mentioned above when he ironically quoted it to the effect that ‘Le sucre seroit trop cher si l’on faisoit travailler la plante qui le produit par des esclaves’.\(^{390}\) Perhaps the most famous condemnation along these lines, however, came from Voltaire in his novel *Candide* (1762), in which his eponymous hero encounters a mutilated slave in Surinam. When asked by Candide about his condition, the slave replies with the knowing phrase ‘[…] c’est à ce prix que vous mangez du sucre en Europe’\(^{391}\). However, criticisms of this kind are absent from those entries in the *Encyclopédie* which appear cold-hearted to the suffering caused by the institution, and reflect more economically pragmatic and utilitarian

\(^{389}\) cf. Terjanian, pp. 1-16.


arguments about the necessity of slavery; echoing in particular the arguments made earlier in the century by the likes of Savary de Bruslons and Melon.

The economic necessity of colonies emphasised by Melon in the *Essai politique sur le commerce* is reiterated in the *Encyclopédie* article ‘COMMERCE’ (III, pp. 690-699) by the economist François Véron de Forbonnais (1722-1800). In this entry Forbonnais argues that the exploitation of French colonial possessions is an economic necessity for the State and society as whole, particularly in respect of the colonial exports and luxury products it provides: ‘Pour s’instruire davantage’, he writes, ‘on peut consulter l’excellent *essai* de M. Melon’ (III, p. 699). As well as the apparent agreement with Melon about the necessity of colonies, several *Encyclopédie* articles also reflect his opinions about the *Code noir*.

There are several references to the *Code noir* in the *Encyclopédie*, most of which express no condemnation of it or the wider colonial enterprise it sought to regulate and uphold. The anonymous and brief article ‘CODE NOIR’ (ibid., pp. 581-582), for example, is factual in content and one will be disappointed if one expects to find any condemnation of slavery in it. It simply confirms that the *Code noir* is ‘le surnom que l’on donne […] à l’édit de Louis XIV […] pour la police des îles Françaises de l’Amérique’ and that its name is derived from the fact that it regards ‘des Negres ou esclaves noirs que l’on tire […] de l’Afrique’ (ibid). The entry concludes by noting that the *Code* contains sixty clauses, most of which concern ‘la police des Negres’, and the content of which outlines ‘les devoirs respectifs de ces esclaves & de leurs maîtres […] & divers autres objets’ (ibid, p. 582). The author of this article clearly felt no need to expand on this information, or take the opportunity to demonstrate any condemnation of the practice to the *Encyclopédie*’s readers.

The *Code noir* is also explicitly discussed in the entries ‘ESCLAVE (Jurispr.)’ (V, pp. 939-943) by Boucher d’Argis and ‘NEGRES, considérés comme esclaves dans les colonies de l’Amérique’ (XI, pp. 80-83) by Jean-Baptiste-Pierre Le Romain. Although, as we have seen, Boucher d’Argis is one of the contributors to the *Encyclopédie* who does much to promote the principles of Natural Law thinking elsewhere in the work, his entry ‘ESCLAVE’ is largely factual and historical in content and there is a distinct lack of condemnation of the practice in it. Boucher d’Argis limits his discussion of contemporary slavery to outlining the content of the *Code noir* – he provides no criticism of that legislation or any condemnation of slavery as being unjust.

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In many respects the exposition of the Code noir by Boucher d’Argis in the entry ‘ESCLAVE’ is not dissimilar from the other Encyclopédie article in which it is discussed. In ‘NEGRES, considérés comme esclaves dans les colonies de l’Amérique’ Le Romain outlines the content of the Code superficially, ‘la longeur de cet édit ne permettant pas de le rapporter dans son entier’ (ibid., p. 82). He also repeats the same arguments made by Melon earlier in the century regarding the purpose of the Code:

[…] il arrive souvent que certains maîtres abusent de leur prétendue autorité, en infligeant des peines trop rigoureuses aux malheureux […] Pour arrêter les cruautés de ces hommes barbares […] les officiers de Sa Majesté, établis dans les colonies, sont chargés de tenir la main à l’exécution de l’édit du roi, nommé code noir, servant de règlement pour le gouvernement & l’administration de la justice & de la police, & pour la discipline & le commerce des esclaves […](ibid.).

The language of this passage clearly shows that Le Romain had some misgivings about the brutality of the conditions in which the slaves in the West Indies found themselves. If, however, as was the case for Melon, Le Romain implies criticism of individual slave-owners and their brutality, he expresses little distaste or moral condemnation of the slave trade or the Code noir in the wider sense. If Le Romain displays no moral condemnation of the institution of colonial slavery per se, it is because he adheres to the dominant view that slave labour was a necessary part of the colonial economy and provided very real benefits to French society. This prevalent and utilitarian view can also be found in many other places in the Encyclopédie.

The entry ‘NEGRES (Commerce)’ (XI, pp. 79-80), for example, is drawn wholesale from the article ‘NEGRES’ in the Dictionnaire de Commerce and repeats many of the attitudes prevalent in French society. Although the article opens with the same quotation from the Dictionnaire de Commerce mentioned above, this section has been doctored in the Encyclopédie to include a reference to the practice not just being ‘odious’ but contrary to droit naturel (ibid., p. 79). However, the general content and tone of the article do not reflect this view – the entry as a whole repeats the arguments made by Savary de Bruslons in the original text and offers no other condemnation of slavery.

The entry emphasises that the institution exists ‘pour soutenir les colonies […] établies dans plusieurs endroits de l’Amérique & dans les Isles Antilles’ (ibid., p. 79). Although on the whole the content of this article is factual, relating as it does
information about the European trading nations, the history of the slave trade and the different Compagnies de Commerce which operated it, the entry also follows the *Dictionnaire de Commerce* in dispensing practical advice to the *Encyclopédie*’s readers about where the ‘best’ slaves are to be purchased; discussing slaves not as fellow human beings, but in material terms – as pieces of property which could bought, sold, and traded (ibid., p. 80).

A similar acceptance of the *Code noir* and the values of French society can also be found in Le Romain’s entry ‘NEGRES, considérés comme esclaves dans les colonies de l’Amérique’ to which reference has already been made. It is in the entries by Le Romain – the work’s ‘expert’ on life in the colonies – that one finds the most constant assertions of the economic necessity of slavery and implied agreement with the values of contemporary society. Former chief-engineer on the island of Grenada in the Caribbean, Le Romain is praised by the editors of the *Encyclopédie* in the *Discours préliminaire* for having provided considerable insights into the workings of the sugar industry (I, p. liv). Generally-speaking, however, Le Romain’s entries borrow their content from existing travel accounts or reports of life in the French colonies, often without making any significant changes to content or meaning, and rarely implying any condemnation of the slave trade. On the contrary, many of the articles written by him for the project demonstrate an implicit agreement with the values of French society. In particular, Le Romain emphasises the economic efficacy and necessity of slavery for producing the kind of luxuries enjoyed by the wealthy.

Despite having had extensive first-hand experience of life in the colonies, Le Romain’s entry ‘NEGRES, considérés comme des esclaves dans les colonies de l’Amérique’ is mostly drawn from the *Nouveau voyage aux isles de l’Amérique* (1722) by the Dominican missionary Père Jean-Baptiste Labat (1663-1738). In this article Le Romain argues that it is because of the oppressive tropical climate of the Caribbean that African slaves have been so instrumental in the establishment of plantations. Europeans are considered unsuitable for working in the colonies because of the tropical heat, the difference in food and their ‘weak temperament’: ‘les terres de l’Amérique […] seroient encore incultes, sans le secours des negres que l’on y fait passer de […] la Guinée’ (XI, p. 80). According to Le Romain it is not just the Caribbean climate which makes slavery necessary, however, but the scale of the

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operations there too: ‘les terres […] ont besoin d’un nombre d’esclaves proportionné à leur étendue pour la culture des plantations’ (ibid., p. 81). Similarly to in ‘NEGRES (Commerce)’, practical advice is also dispensed by Le Romain to the *Encyclopédie*’s readers about the attention which should be paid to slaves from different parts of Africa, again discussing them in material terms:

[…] les maîtres […] ne peuvent trop s’appliquer à bien étudier les caractères, les forces, les dispositions, les talens des esclaves pour les employer utilement (ibid., p. 82, my emphasis).

As well as discussing the various attributes and merits of slaves bought from different parts of Africa, Le Romain also outlines the advantages of employing women and children in a slave workforce. He notes that *les négesses* are capable of plantation duties which include ‘de faire passer ces cannes entre les rouleaux ou gros cylindres de métal’ (ibid., pp. 81-82) – a dangerous job which lost Voltaire’s ‘nègre de Surinam’ his fingers – and he adds that ‘on occupe les négrillons & les négrites à des détails proportionnés à leurs forces’ (ibid., p. 82). The concomitant acceptance of slavery expressed by Le Romain in the entries discussed thus far is also reflected in his attitude to the luxury products manufactured by slaves in the Caribbean.

His entry ‘SUCRERIE (Habitation)’ (XV, pp. 618-619), for example, again taken from the writings of Père Labat, reproduces what Robert Louis Stein has called ‘the classic depiction of a French West Indian sugar plantation’ which, in turn, is replicated in the *Encyclopédie*’s plates (see Figure 3).\(^{393}\) As is the case for his other entries which discuss life in the colonies and the workings of the slave trade, this article is void of any condemnation of the slave-labour employed in plantation settings. This attitude is not just consigned to those entries in the *Encyclopédie* written by him, however, but is in fact commonplace throughout the work.

Despite the slave labour implicit in their production, the *Encyclopédie* certainly attests to the popularity of colonial exports given the sheer number of articles dedicated to them; an indication that the presence of such products in society was considered by many of its contributors to be a symbol not only of technical advancement and innovation, but of civilisation and progress – as was the case for other apologists for slavery such as Melon. Cotton, for example, is said by Diderot to be much sought after in the European market, particularly in the factories of Rouen.

\(^{393}\) cf. Stein, p. 43.
and Troyes. Similarly, Le Romain’s article ‘SUCRE (Hist. nat. Art.)’ (XV, pp. 608-614) attests to the popularity of sugar in French society and elsewhere in Europe: according to him it is ‘fort en usage dans les offices, les cuisines, & même en pharmacie pour la confection des sirops […]’ (ibid., p. 608).

Indeed, the importance and scale of the European sugar industry in the mid-eighteenth century can be attested to by the fact that there are twenty-one entries in the Encyclopédie which have the catégorie de connaissance ‘Sucrerie’ or one related to it; the majority of which reproduce, without any significant changes, sections from Labat, Savary de Bruslons, and, in one instance, the Dictionnaire de Trévoux. Other articles with the same classification do not name any direct sources, but seem to repeat technical details from other anonymous accounts of the manufacturing processes involved. Throughout these articles there is no mention of the fact that it is slaves who undertake the work involved in the cultivation and manufacture of sugar for European consumption; and certainly none of these entries makes any criticism along the lines of those of Montesquieu or Voltaire’s ‘nègre de Surinam’.

Even when articles such as those referred to above do mention the presence of slaves in the colonies and their employment in the labour-intensive cultivation of products there, seldom is there any moral condemnation or indignation at this state of affairs. Diderot’s short article ‘*BAGACE (Sucrerie)’ (II, p. 12), for example, mentions in passing that it is ‘l’ouvrage des négresses’ to remove packets from the cylinders of the sugar mill but offers no more information than that. The article ‘UVAGE ou EUVAGE (Sucrerie)’ (XVII, pp. 564-565) is also fairly typical, mentioning ‘les Negres’ but not in relation to the work undertaken or the plight of their condition – the whole tone is very matter of fact. This approach is common in

394 cf. ‘*COTON (Hist. nat. bot.)’ (IV, pp. 306-315) and ‘COTONNIER (Hist. nat. bot.)’ (IV, pp. 315-316).
Figure 3: ‘Œconomie rustique, sucrerie; Pl. 1ère, ‘Vue d’une habitation et d’une plantation’ in Ency. Planches vol. I (1762).
the Encyclopédie, and it equally applies to other colonial exports too, such as tobacco. Most of the entries in which that luxury product is discussed recognise that it is black slaves who are utilised in the manufacturing process but do not condemn the situation in which they unwillingly find themselves.397

Those articles which discuss the cotton industry follow the same pattern. The article ‘COTONNIER’, for example, does contain a reference to ‘les Negres’ but only in connection with how slaves use the plant, and not in respect of their role in the manufacturing process of the material for European consumption. Diderot’s entry ‘*COTON’ is also, for the most part, no exception to the general features of the articles mentioned throughout this section. However, in the section ‘De l’emballage du coton’ reference is made to ‘un homme’ who undertakes this work and another who assists him (IV, p. 307). What is significant in this passage is that Diderot does not use either of the synonyms ‘nègre’ or ‘esclave’. Either this is a deliberate omission on the part of the Encyclopédie’s editor-in-chief to ignore the fact that it is African slaves used to produce cotton, or it is a declaration of the fundamental humanity of those slaves – an acknowledgement that more than being black or a slave, what really identifies them is their membership of the human race.

The numerous renvois contained in ‘*COTON’ to the Encyclopédie’s plates suggest that the latter attitude is the case. Following the renvoi provided by Diderot to ‘Économie rustique, culture et arsonnage du coton’ (Figure 4), one finds a vignette depicting a cotton plantation. In it is a ‘nègre qui emballe le coton’ – the ‘homme’ to whom Diderot refers in his corresponding article. The plate depicts five slaves in total, four men and one woman. In the accompanying text each man is referred to as a ‘nègre’ and the woman as a ‘négresse’ – in stark contrast to Diderot’s choice of nomenclature. Despite Diderot’s apparent syntactical ‘humanisation’ of the slave, it should be noted that the accompanying plate demonstrates a certain ‘utopianism’ with regard to the conditions and practices of colonial slavery.398

Certainly the slaves are depicted as undertaking arduous work, which we know it was from the lengthy exposition of the process outlined by Diderot in the

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corresponding article, but there is also a marked absence of the chains, whips, scars and welts which would have been the common and harsh reality of plantation life.

A similar instance occurs in the article ‘INDIGO, autrement appelé INDE (Botan. & Comm.)’ (VIII, pp. 679-681) by Le Romain. In contrast to what one would perhaps suspect given the pragmatic use of slaves he advocates elsewhere in the Encyclopédie and his personal experiences of life in the colonies, the entry makes no explicit reference to ‘nègres’ or ‘esclaves’ but refers instead only to ‘ouvriers’ – a rather neutral term which seems to diminish the fact that these ‘workers’ are enforced slaves. Moreover these ‘workers’ frequently perish from inhaling ‘la mauvaise odeur qui s’exhale des cuves’, a situation which is neither challenged nor condemned (ibid., p. 681). Similarly to Diderot’s entry on cotton, this article also directs the reader to the Encyclopédie’s plates. The plates to which the reader is directed from ‘INDIGO, autrement appelé INDE’ attest to the fact that though Le Romain had used the word ‘ouvriers’ rather than ‘esclaves’ or ‘nègres’, he was in fact referring to black slaves (see Figure 5).

There is one further plate in the Encyclopédie in which slaves are represented and which I reproduce here (Figure 6). This plate depicts three slaves, two of whom are women. The man in the vignette at the top of the plate is apparently carrying a load of sugar cane, and at the bottom two women are portrayed working in dangerous conditions in a sugar mill – visually embodying their use advocated by Le Romain in ‘NEGRES, considérés comme des esclaves dans les colonies de l’Amérique’. As for the ‘négresse’ shown in the plate depicting a cotton plantation, the women are shown working topless; something which would have been scandalous if they were a European female at the time.

The articles and plates referred to in this section sum up the indifferent and neutral, if not outright cold-hearted, pragmatic and utilitarian approach of some of the contributors to the Encyclopédie in their appraisal of the manufacturing processes of colonial exports and the working-conditions of slaves in the colonies. The indifference of entries such as these to the plight of the slaves involved demonstrates a concomitant acceptance of the justifications underlying the eighteenth-century French slave trade and the societal values it upheld and embodied. Certainly none of these entries condemn slavery on the basis that it is a practice in which the satisfaction of individual passions eclipses any sense of a wider social responsibility to others or that it violates the rights of the slaves involved.
By contrast, a more humane and progressive attitude to slavery can be found elsewhere in the *Encyclopédie*, particularly in the two entries on the subject, to which one was sure to turn in order to discover information about the practice – ‘ESCLAVAGE (*Droit nat. Religion, Morale.*)’ (V, pp. 934-939) and ‘TRAITE DES NEGRES (*Commerce d’Afrique*)’ (XVI, pp. 532-533) – both of which are written by Jaucourt, and both of which heavily rely on principles associated with Natural Law thinking.
Figure 4: ‘Œconomie rustique, culture et arsonnage du coton’ in Ency. Planches vol. I (1762).
Figure 5: ‘Œconomie rustique, indigoterie et manioc’ in Ency. Planches vol. I (1762).
Figure 6: ‘Œconomie rustique, sucrerie; Pl. II’, ‘Moulins, dont un à l’eau’ in Ency.

Planches vol. I (1762).
1.4. BEYOND THE BOUNDARIES OF RACE: THE CONDEMNATION OF SLAVERY ON THE BASIS OF NATURAL LAW AND NATURAL RIGHTS IN THE ENCYCLOPÉDIE

The economic, pragmatic and utilitarian attitude to slavery exhibited in the entries in the Encyclopédie discussed in this chapter so far are offset by others which approach slavery from a point of view influenced by the constellation of ideas associated with the modern theories of Natural Law. The articles compiled for the project by Jaucourt on the matter in particular argue that it is unjust for Europeans to satisfy their passions (such as greed, wealth, and sensuality) at the expense of the rights and dignity of African slaves. Before turning to how slavery is condemned in the Encyclopédie, however, it is necessary to outline the attitude of its contributors to the question of race. For black Africans to be considered moral equals to Europeans and to have natural or human rights they must be shown to be exactly that – human beings – not ‘sub-human’ as the Jesuits and other less ‘enlightened’ sections of eighteenth-century French society believed.

By the time of the Encyclopédie’s compilation much of the ethnographic information regarding Africans and their purported inferiority to Europeans used by Jesuits and other apologists of slavery – including Le Romain in the Encyclopédie – had begun to be undermined by other works. The Histoire générale des voyages (Paris: 1747-1759), for example, by the Abbé Prévost (1697-1763) – of which several volumes are dedicated to Africa and its inhabitants – provided the contributors to the Encyclopédie with a large amount of information and proved effective in highlighting the frequent contradictions and inconsistencies presented to the French public in the writings of the Jesuits and others. The more progressive contributors to the work also make frequent use of new scientific arguments about the nature and origin of racial variation to argue in favour of the common humanity and, consequently, moral equality, of both Africans and Europeans.

The traditional religious view of racial variation amongst the world’s inhabitants was explained by the divine punishment meted out to Cain and Lamech for their crimes, and rested on the notion that this mark of shame was inherited by their descendants who colonised Africa and the New World. However, as the eighteenth century wore on, this conventional view gradually ceded ground to new

399 On the use of the Histoire générale des voyages as source material for the Encyclopédie, see Duchet, p. 408.
scientific and naturalist explanations. The question of the origin of racial variation was notably the subject of considerable debate from the 1730s onwards, particularly after 1739 when the Académie Royale des Sciences de Bordeaux proposed an essay competition on it.\footnote{cf. Curran, \textit{The Anatomy of Blackness}, p. 2.} By the 1750s and 1760s, one’s attitude to the origin of race was primarily a reflection of which of the competing scientific theories of the time one adhered to. Rather than relying on biblical explanations of racial difference, then, the entries in the \textit{Encyclopédie} which discuss the matter do so from a scientific viewpoint, particularly drawing on the works of Georges-Louis Leclerc, Comte de Buffon (1707-1788) and Pierre-Louis Moreau de Maupertuis (1698-1759).

The progressive attitude of the \textit{Encyclopédie} to the question of race is reflected in the two entries ‘NEGRE (Hist. nat.)’ (XI, pp. 76-79) and ‘PEAU DES NEGRES (Anatomie)’ (XII, pp. 215-217) in particular. The former is taken from Formey’s papers and the latter is compiled by Jaucourt. Both of these entries adopt emerging scientific theories to critique the most influential response to the Académie de Bordeaux’s essay competition, the \textit{Dissertation sur la cause physique de la couleur des negres} (1741) by Pierre Barrère (1690-1755).

Though forward-thinking enough to reject the theological explanations of racial variation, Barrère argued that black skin is the result of darkened bile peculiar to Africans. This idea is directly refuted by Jaucourt in ‘PEAU DES NEGRES’, when he makes recourse to Buffon’s climatic theories: ‘[le] climat est la principale cause de la couleur noire, […] c’est la différence des zones qui fait la différence entre des blancs & des noirs’ (XII, p. 216). The result of such an outlook is made clear to the reader of the \textit{Encyclopédie}:

\begin{quote}
[…] le genre humain n’est pas composé d’espèces essentiellement différentes entre elles: il n’y eu originairement qu’une seule espèce d’hommes qui […] a subi différents changemens par l’influence du climat (ibid.).
\end{quote}

In ‘NEGRE (Hist. nat.)’ and ‘NEGRES BLANCS’ (XI, p. 79) Formey comes to much the same conclusion. Rather than relying on the authority of Buffon’s climatic theories, however, he makes use of \textit{Vénus physique} (La Haye: 1745) – and, more specifically, the second part of it previously published as the \textit{Dissertation physique à l’occasion du negre blanc} (1744) – by Maupertuis, his colleague from the Académie de Berlin.\footnote{cf. ibid., p. 39.}
In ‘NEGRE (Hist. nat.)’ Formey follows Maupertuis in addressing the predominant scientific theories of the day on the question of racial variation, including those of the Italian physician and preformationist Marcello Malpighi (1628-1694) and the Dutch anatomist Frederick Ruysch (1638-1731), who argued black skin was the result of mucus, as well as Barrère’s ideas on the issue. Similarly to Jaucourt in ‘PEAU DES NEGRES’, Formey summarises Barrère’s main arguments and concludes in opposition to him that ‘la couleur des negres ne sauroit être attribuée à la bile’ – despite the fact that the bile of Africans is yellow in colour, it has no effect on the external appearance of the individual (XI, p. 78). Although Formey also follows Maupertuis in noting that from the evidence of the competing theories the question of the origin of racial variation is yet to be fully resolved (ibid.), his entries do much to promote the ideas of his colleague on the matter.

Influenced by the theory of epigenesis developed by the seventeenth-century English physician William Harvey (1578-1657) in opposition to preformationist ideas, in Vénus physique Maupertuis argues that all human life descended from an original prototype and that different races are merely the result of ‘anomalies’ or ‘errors’ in the reproductive and generative processes; which, in turn, produce new physical characteristics in human beings over successive generations.403 Formey’s article echoes this view, but the progressive content of the entry is belied by its opening sentences which on the surface appears to be an expression of the type of racial categorisations popular in the nineteenth century and more at home in the entries by Le Romain discussed above – the physical differences between Africans and Europeans suggests that the former constitute ‘une nouvelle espece’:

[...] non-seulement leur couleur leur distingue, mais ils différent des autres hommes par tous les traits de leur visage, des nez larges & plats, de grosses levres & de la laine au lieu de cheveux (XI, p. 76).404

The idea that Africans are a different species to Europeans is turned on its head however. Whilst noting that different climates suggest a constant and correlative relationship between environmental conditions and race, Formey further follows Maupertuis in arguing that all the different human races come from the same ‘mother’ and that all are descended from an original white prototype (ibid., p. 77).405

405 cf. ibid., p. 132.
This idea could easily be used by less progressive minds to imply the originality, and therefore superiority, of the white race over other races. However, in the Encyclopédie the argument is used with an opposite effect in view. The essential point is that of the fundamental unity of nature and the sameness of all human beings, be they black or white. The profound message is that regardless of race all human beings have a single origin, and are therefore resolutely linked together by the similarity of their biological constitution and their common ancestry – since they have the same ‘mother’, all are members of a brotherhood of mankind. On this view Africans are human just like white Europeans. Consequently, in line with the Natural Law views expressed elsewhere throughout the Encyclopédie they are morally equal to, and the bearers of the same rights as, Europeans.

1.4.1. EQUALITY AND THE INJUSTICE OF SLAVERY IN THE ENCYCLOPÉDIE

As one commentator has said, during the period with which we are concerned ‘the application of demands for ‘rights’ beyond the boundaries of race […] were still seen as deeply problematic […]’. Undoubtedly they were for the majority of people in the eighteenth century. For some of the bolder and more progressive contributors to the Encyclopédie, however, black African slaves are said to have the same equal rights as white Europeans and should, therefore, be treated as equals, in line with the demands of the loi naturelle. This attitude manifests itself in the entries compiled for the project by Diderot and Jaucourt in particular. By emphasising that Africans have the same rights as Europeans, they stress the fundamental equality of both, as well as the resulting injustice of the institution.

By stressing the universality of human nature, the unity of nature and the essential sameness of the human race in the entry ‘HUMAINE ESPECE’, Diderot demonstrates a fervent belief in this article that whatever external and physical differences there may be between black Africans and white Europeans, the former are human beings just like the latter. Consequently, they are equally as ‘sensibles aux bons & aux mauvais traitemens’ as Europeans too (VIII, p. 347). In a passage from the same article which bears more than a little resemblance to Montesquieu’s ironic statements regarding slavery in the Esprit des Loix, Diderot attests to the dehumanisation of black Africans as a result of the economic exploitation inherent in

406 cf. Outram, p. 43.
the institution of slavery, as well as the hypocrisy of Christians being involved in the
practice and their lack of condemnation of it:

Nous les avons réduits, je ne dis pas à la condition d’esclaves, mais à
celle des bêtes de somme; & nous sommes raisonnables! & nous sommes
Chrétien!(ibid.)

Aside from Diderot’s use of the pronoun ‘nous’, which promotes the idea of
collective blame and responsibility for the fate of African slaves, the importance of
this passage is in the idea that Africans are not beasts or subhuman as the Jesuits and
other apologists for slavery maintained. Rather it is the condition in which they find
themselves and the exploitation accompanying it which brutalises them and
degenerates them to the status of ‘beasts of burden’. Thus, as was the case for
Montesquieu, in this entry Diderot is not telling the readers of the *Encyclopédie* that
Africans and Europeans are equal because they have the same biological or bodily
constitution as each other, but because they also have the same *rights*.408

However, believing that all human beings are equal and that they have rights
which reflect their moral equality did not necessarily lead to the conviction that
slavery was unjust. Both Grotius and Pufendorf in the seventeenth century, for
example, argued that individuals have rights, but also that slavery was not in itself an
unjust practice or institution – since there are legitimate circumstances in which the
rights of the individual can be surrendered and transferred in their entirety.409

Nonetheless, Pufendorf in particular was a strong advocate of the humane treatment
of slaves. This rather contradictory attitude of the two stalwarts of seventeenth-
century Natural Law thinking to slavery is reflected in Jaucourt’s article
‘ESCLAVAGE’. In it, Jaucourt makes use of their ideas regarding the common
humanity of master and slave but argues in opposition to them – and instead in line
with the Lockean conception of rights advocated at length by him elsewhere in the
*Encyclopédie* – that since the rights of the individual are inalienable, slavery can
never be a legitimate or just institution or practice.

Slavery is defined by Jaucourt as a right founded not by mutual consent as
both Grotius and Pufendorf implied it could be, but by *force*, which, in turn, ‘rend un

407 cf. Montesquieu: ‘Il est impossible que nous supposions que ces gens-là soient des hommes, parce
que si nous les supposions des hommes, on commencerait à croire que nous ne sommes pas nous-
mêmes chrétiens’ (*EDL*, XV, V, ‘De l’esclavage des negres’).
408 cf. Waddicor, p. 152.
homme tellement propre à un autre homme, qu’il est le maître absolu de sa vie, de ses biens, & de sa liberté’ (V, p. 934). This definition, which reflects the content of the *Code noir*, is shown by Jaucourt to be inherently contradictory since, he writes, ‘le droit de propriété sur les hommes ou sur les choses sont deux droits différëns’ (ibid., p. 937). Taking his line of thinking from Pufendorf and Barbeyrac, he argues that this is the case precisely because of the common humanity of both master and slave. Whereas one’s right to property over a thing is absolute, any form of authority over a fellow human being must necessarily be limited by the absolute duties prescribed by the *loi naturelle* (ibid.).

It is in this same spirit that Jaucourt follows Pufendorf and Barbeyrac by appealing to the duty of ‘humanité’—the duty we have to demonstrate ‘un sentiment de bienveillance envers tous les hommes’ as it is defined in the *Encyclopédie* entry ‘HUMANITÉ’—and to advocate the humane treatment of slaves. According to him, the absolute duties prescribed by the *loi naturelle* forbid a master from reducing their slaves to a condition whereupon no trace of their natural—that is, moral—equality remains (ibid.). Nor does the feeling of humanity which the *loi naturelle* prescribes that every person should have for their fellows allow a master to dehumanise a slave, or treat them ‘comme une bête, dont on est le maître de disposer à sa fantaisie’ (ibid.). It is clear from these remarks that the content of the *Code noir* does not embody the *loi naturelle* and, to sum up his hostility to the values underwritten by the *Code*, he concludes—again from Barbeyrac—that it is ‘[…] absurde qu’un homme ait sur un autre homme un droit de propriété proprement dit sur les personnes’ (ibid., p. 938). Hence, according to Jaucourt in ‘ESCLAVAGE’ no matter what amount of ‘humanity’ is demonstrated by a master for them, slavery can never be a just institution, since it violates the inalienable rights of the slave(s). To reinforce his point, he quotes Locke’s definition of natural and civil liberty:

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410 cf. Pufendorf: ‘l’humanité nous engage à n’oublier qu’un esclave est homme aussi bien que nous’ (*DNG*, VI, III, §VII) and (*DHC*, II, IV, §IV), and Barbeyrac: ‘Il faut toujours se souvenir que ce sont des Créatures humaines’ (*DNG*, VI, III, §VIII, n.1).
412 It is highly probable that the source of this last remark was Barbeyrac’s footnotes to his translation of Pufendorf. In one such note Barbeyrac quotes a ‘Mr. Carmichael’—presumably Gershom Carmichael (1672-1729) who did much to promote and commentate on Pufendorf’s work in Scotland—as saying that ‘il est absurde qu’un Homme ait sur un autre Homme un droit de propriété proprement ainsi nommée […]’ (*DNG*, VI, III, §IX, n, V).
La liberté naturelle de l’homme, c’est de ne connoître aucun pouvoir souverain sur la terre, & de n’être point assujettie à l’autorité législative de qui que ce soit […] : la liberté dans la société est d’être soumis à un pouvoir législatif établi par le consentement de la communauté, & non pas d’être sujet à la fantaisie, à la volonté inconstante, incertaine & arbitraire d’un seul homme en particulier. Cette liberté, par laquelle l’on n’est point assujettie à un pouvoir absolu, est unie si étroitement avec la conservation de l’homme, qu’elle n’en peut être séparée que par ce qui détruit en même temps sa conservation & sa vie’ (ibid., p. 937).

For both Locke and Barbeyrac this definition of freedom clearly had political implications – as evidenced by the reference to a ‘legislative power’. But, for Jaucourt, as for his liberal predecessors, it also refers to ‘la volonté inconstante, incertaine & arbitraire d’un seul homme en particulier’ – therefore implying that this idea of freedom could be used as a basis on which to challenge slavery in the colonial context and the values upheld in the institution and by the Code noir.

For Jaucourt, then, slavery is not a relationship of mutual benefit to both master and slave as many of the institution’s apologists in the eighteenth century claimed and as it is implied to be elsewhere in the Encyclopédie. Rather, it is an unjust institution and, because it violates the natural and universal right to freedom, it puts the master and slave in a ‘state of war’. Moreover, such a condition threatens the very lives and existence of the slaves; a point Jaucourt again reinforces with the authority of Locke:

Quiconque tâche donc d’usurper un pouvoir absolu sur quelqu’un, se met par-là en état de guerre avec lui, de sorte que celui-ci ne peut regarder le procédé de l’autre, que comme un attentat manifeste contre sa vie. En effet, du moment qu’un homme veut me soumettre malgré moi à son empire, j’ai lieu de présumer que si je tombe entre ses mains, il me traitera selon son caprice, ne fera pas scrupule de me tuer, quand la fantaisie lui en prendra. La liberté est, pour ainsi dire, le rempart de ma conservation, & le fondement de toutes les autres choses qui m’appartiennent (ibid.).

Of the things that belong to the individual and which are dependent on their freedom Jaucourt includes that of dignity. From the arguments he outlines against slavery in

413 cf. Locke (DGC, III, (‘De l’Esclavage’) §II). This is precisely the argument put forward by Barbeyrac to oppose Pufendorf’s conception of absolute sovereignty (DNG, VII, VIII, §VI). In his note to Pufendorf, Barbeyrac quotes Locke and states that: ‘Personne ne peut vendre sa Liberté, jusqu’à se soumettre à une Puissance Arbitraire, que le traite absolument à sa fantaisie; car ce seroit vendre sa propre Vie, dont on n’est pas le Maître’ (DNG, VII, VIII, §VI, n.II). Barbeyrac then directs the reader to Locke’s Second Treatise, specifically the fourth chapter – regarding slavery (the third chapter of the Mazel translation). The section of Locke’s work that Barbeyrac directs the reader to (and we can presume that one of those readers was Jaucourt) is, in fact, the full-length section of the work just cited by Jaucourt.

414 cf. Locke (DGC, III, (‘De l’Esclavage’) §II).
the entry ‘ESCLAVAGE’ he concludes that ‘tout concourt à laisser à l’homme la dignité qui lui est naturelle’ (ibid.). Moreover, he adds that since freedom is what constitutes the dignity of a person ‘Tout nous crie qu’on ne peut lui ôter cette dignité naturelle’ (ibid.). He further qualifies this statement with a reference as to why it is objectively wrong to strip someone of their rights and dignity. There exists a natural moral order of justice above and beyond any positive law which may justify or legitimise stripping another individual of their rights: ‘[...] la règle du juste n’est pas fondée sur la puissance, mais sur ce qui est conforme à la nature [...]’ (ibid., pp. 937-938, my emphasis).

The importance of the inalienability of the right to freedom, which is an ‘invincible principle’ according to Jaucourt, therefore lies in that it means no one individual can ever legitimately be considered the property of another person as the Code noir advocated. Neither can slavery ever be a legitimate or just institution as its apologists claimed: ‘rien au monde’, he writes, ‘ne peut rendre l’esclavage légitime’ (ibid., p. 938). Consequently, he goes on to demolish the justifications of the slave trade, the arguments underlying the different means in which slaves were acquired, and the wider ideology of the ‘civilising mission’ promoted by the Jesuits.

Rather than to Locke, or Barbeyrac, it is primarily to Montesquieu that Jaucourt turns to challenge the ‘civilising mission’ promoted by the Jesuits, the Church in general and other apologists of slavery. In contrast to the supposed ‘civilising’ actions of the colonialists and those involved in the slave trade, Jaucourt implies that Europeans are far from ‘civilised’ in their actions. Rather, in a remark aimed at the greed and inhumanity of the plantation owners in the Caribbean which he takes from Pufendorf, those people who dehumanise their slaves and treat them as property are said to be nothing more than ‘barbarians’ (ibid., p. 937).415

Moreover, the religious justifications which formed the backbone of the ‘civilising mission’ are directly refuted on the basis that to enslave another human being under the pretext of religion is ‘contre la nature’ – an idea he derives from Montesquieu:

C’est donc aller directement contre le droit des gens & contre la nature, que de croire que la religion chrétienne donne à ceux qui la professent,

415 cf. Pufendorf (DNG, VI, III, §VII).
As is the case for Diderot in "HUMAINE ESPECE", Jaucourt emphasises the role of the Church in the slave trade and the hypocrisy of its involvement in it. Despite the fact that to believe that Christians have a right to reduce non-Christians into slavery is against nature, he reiterates that this is the very idea which encouraged the colonialists in the Americas – ‘les destructeurs de l’Amérique’ – in their actions:

[…] ce n’est pas la seule fois que l’on se soit servi de la religion contre ses propres maximes, qui nous apprennent que la qualité de prochain s’étend sur tout l’univers (ibid.).

This is also particularly true in respect of the natural and religious principles which render all people equal and which have been constantly ignored by the Church and others involved in the establishment of overseas colonies:

Quoi qu’il en soit, presque dans l’espace du siècle qui suivit l’abolition de l’esclavage en Europe, les puissances chrétiennes ayant fait des conquêtes dans ces pays où elles ont cru qu’il leur étoit avantageux d’avoir des esclaves, ont permis d’en acheter & d’en vendre, & ont oublé les principes de la Nature & du Christianisme, qui rendent tous les hommes égaux (ibid., p. 936, my emphasis).

It is clear from the content of the article that Jaucourt associates the idea of the civilising mission with that of natural slavery which the Greeks – notably Aristotle – had upheld. This idea had been roundly refuted by the Natural Law thinking developed in the seventeenth century as well as by Montesquieu in the eighteenth century on the basis that all humans are naturally equal; and Jaucourt echoes all of their ideas by repeating this point, which, as we have seen is expressed elsewhere at length in the Encyclopédie. According to Jaucourt, if one were to believe as the ancient Greeks had that all ‘barbarians’ – that is, outsiders, people who are in some way different – are naturally slaves then it would be easy to extend this principle to justify the enslavement and submission to European laws of some entire peoples (ibid., p. 938). The implication being that this is exactly what lies behind the supposedly ‘civilising’ arguments used to justify the institution. Moreover, he

416 cf. Montesquieu (EDL, XV, ‘Comment les loix de l’esclavage civil ont du rapport au nature du climat’ IV, ‘Autre origine du Droit de l’esclavage’); ‘J’aimerois autant dire que la Religion donne à ceux qui la professent un Droit de réduire en servitude ceux qui ne la professent pas, pour travailler plus aisément à sa propagation. Ce fut cette manière de penser qui encouragea les destructeurs de l’Amérique dans leurs crimes. C’est sure cette idée qu’ils fondèrent le Droit de rendre tant de peuples esclaves; car ces brigands qui vouloient absolument être brigands & Chrétiens, étoient très dévots’.

417 ‘[…] there are cases if people of whom some are freemen and others slaves by nature’ (Politics, I, II, XIV-XV), quoted in Waddicor, pp. 151-152.

418 cf. Grotius (DGP, III, VII, §1), Pufendorf (DNG, III, II, §II), and Montesquieu (EDL, XV, VII).
indicates that the inhumanity of Christians who partake in the practice is derived
either from ignorance, or the passions – particularly pride, which makes them think
they are somehow superior to their fellow beings (ibid.).

As well as taking aim at the values which underwrote the ‘civilising mission’
and associating them with the Aristotelian idea that some people are naturally slaves,
Jaucourt also follows the arguments put forward by Montesquieu in the *Esprit des
Loix* to argue against the other Aristotelian justification of slavery – that slaves can
legitimately be acquired under the ‘rights of war’ (ibid.).

From this general and historical condemnation, however, he moves on to other means of acquisition more
pertinent to the eighteenth-century colonial context and justified under the wider
‘civilising mission’ and which are embodied in the *Code noir*.

As well as the ‘civilising mission’ and the rights of war, Jaucourt also attacks
the idea that people can become slaves by birth. This principle, originally established
under Roman law, continued to be justified well into the eighteenth century and also
manifests itself in the *Code noir* – in which children born to slave parents are said to
inherit their condition (article twelve). Moreover, as we have seen, elsewhere in the
*Encyclopédie* Le Romain explicitly states that children can be used to advantage in
the context of a plantation setting. Slavery by birth was also legitimised by both
Grotius and Pufendorf. As in the *Code noir*, for them it was considered legitimate
that children born to slaves inherited the condition of their parents. If, they argued,
it is permissible for an adult slave to sell themselves voluntarily into slavery and
surrender their rights in order to ensure their self-preservation, then it is equally
permissible for a parent to sell their children or any potential children they may have
into slavery on the same contractual basis as their own servitude.

Locke refuted this principle on the basis that the rights of the individual are
inalienable and those entries in the *Encyclopédie* compiled by Jaucourt in particular
echo this view. The principle of slavery by birth legalised in the *Code noir* and
justified in the works of Grotius and Pufendorf are both directly refuted by Jaucourt
in ‘ESCLAVAGE’. Such a practice, he says, is ‘illegitimate’, unlike ‘comme
quelques auteurs modernes ont voulu nous persuader’ (ibid.). That this last remark is

419 cf. Montesquieu (*EDL*, XV, ‘Comment les loix de l’esclavage civil ont du rapport avec la nature
du climat’, II, ‘*Origine du Droit de l’Esclavage chez les Jurisconsultes Romains*’).
420 cf. section 1.3 above.
422 cf. Locke (*TT*, II, XVI, §CLXXXII).
aimed at the ideas of Pufendorf in particular is confirmed by the fact that Jaucourt directly quotes his ideas on the matter, if only to refute them as ‘frivolous’:

L’esclavage n’est certainement pas […] fondé sur la naissance; ce prétendu droit tombe avec les […] autres; car si un homme n’a pu être acheté, ni se vendre, encore moins a-t-il pu vendre son enfant qui n’était pas né. […] En vain objecterait-on que si les enfans conçus & mis au monde par une mère esclave, le maître ne leur fait aucun tort de les approprier, & de les réduire à la même condition; parce que la mère n’ayant rien en propre, ses enfans ne peuvent être nourris que des biens du maître, qui leur fournit les alimens & les autres choses nécessaires à la vie, avant qu’ils soient en état de le servir: ce ne sont là que des idées frivoles (ibid.).

However, as we have seen, apart from the ‘civilising mission’, the other underlying principle on which the Atlantic slave trade rested was money; Africans were primarily sold into slavery. Again, this practice is denied legitimacy by Jaucourt on the basis of the inalienability of rights: ‘l’argent, ou tout ce qu’il représente, ne peut donner le droit de dépouiller quelqu’un de sa liberté’ (V, p. 938). This, as we have seen, directly contradicts the ideas of Savary de Bruslons, Melon, and the concomitant acceptance of the practice elsewhere in the Encyclopédie.

A similar argument can also be found in the entry ‘POPULATION (Phys. Polit. Morale.)’ (XIII, pp. 88-103), though not written by Jaucourt and primarily concerned, as the title suggests, with demographic growth and what its author perceives to be the nefarious impact of domestic servitude rather than colonial slavery. The principle it advances, however, is the same as that of Jaucourt in ‘ESCLAVAGE’. References are made to the inalienability of the right to freedom and the ‘absurd’ conditions of an economic market which encourages the use of ‘servants’ and ‘debases’ and ‘degrades’ nature:

[…] nul n’a le droit d’acquérir la possession individuelle d’un autre […] la liberté est une propriété de l’existence inaliénable, qui ne peut se vendre ni s’acheter; […] les conditions d’un tel marché seraient absurdes; […] enfin les hommes n’appartiennent qu’à la nature, & […] ils l’outragent par une coutume qui les avilir & qui la dégrade (ibid., p. 102).

Moreover, it is said by Damilaville, the author of this entry, that those institutions which have abolished such conditions should be praised for having ‘[…] restitué le genre humain dans ses droits’ (ibid.). The phrase ‘genre humain’ here is again pertinent, with the implication being that irrespective of race, gender, or age, all of humankind has the same rights.

423 cf. Pufendorf (DNG, VI, III, §IX).
So far, then, we have seen how ‘ESCLAVAGE’ Jaucourt emphasises the injustice of the institution of slavery and the values which underwrote it in the eighteenth century on the basis that Africans are morally equal to Europeans, having the same inalienable rights as them. Consequently, for him the justifications behind the practice are null and void. In this entry he also clearly advocates reform of how the masters in the Caribbean act towards their slaves, emphasising that – because they have the same rights – slaves are equals and should be treated as such, that is, in a humane way, despite what the Code noir might decree to the contrary. However, Jaucourt goes further in his criticisms of slavery in the second article written by him for the Encyclopédie on the subject.

It is above all in the entry ‘TRAITE DES NEGRES’ that he directly engages with what he clearly perceives to be the real driving force behind the institution in eighteenth-century society – the idea that slavery is an economic necessity and an acceptance that the satisfaction of one’s individual passions, particularly greed and vanity, can legitimately take precedence over the welfare and rights of others.

1.4.2. NASCENT ABOLITIONISM: GREED NOT NECESSITY AND THE REFUTATION OF THE ECONOMIC JUSTIFICATIONS OF SLAVERY IN THE ENCYCLOPÉDIE

In ‘TRAITE DES NEGRES’, Jaucourt goes even further in his condemnation of slavery on the basis of universal and inalienable rights than he does in ‘ESCLAVAGE’. In particular it is in ‘TRAITE DES NEGRES’ that he directly engages with the economic justifications for the Atlantic trade so vaunted by apologists of slavery such as Savary de Bruslons and Melon, and which are implicitly accepted in so many other entries in the Encyclopédie. The ideas of equality and universality are particularly evident in this entry. The rights of the black Africans are the same as those of Europeans since they are an inherent part of what it means to be human:

[…] ce nègre ne se dépouille, & ne peut pas même se dépouiller jamais de son droit naturel; il le porte avec lui, & il peut exiger par-tout qu’on le laisse jouir (XVI, p. 532).

Moreover, Jaucourt even goes so far as to stake a claim to the common humanity of Africans and Europeans on the basis that they too possess a spiritual and sensitive soul, and are therefore capable of acting in accordance with natural justice:
‘c’est leur semblable ayant une ame comme eux’ (ibid.). The majority of this article,
however, is concerned with the economic justifications of slavery, as the entry’s *catégorie de connaissance* ‘Commerce d’Afrique’ would suggest.

Having made these direct appeals to the common humanity, sensitivity and rights of both Africans and Europeans, Jaucourt goes on to challenge the fundamental underlying principle of the colonial economy which underwrote the slave trade and which was legalised and institutionalised by the publication of the *Code noir* – the idea that it is both possible and permissible to purchase a slave for money. As we have seen, in an apparently original remark in the entry ‘ESCLAVAGE’ he states that ‘l’argent, ou tout ce qu’il représente, ne peut donner le droit de dépouiller quelqu’un de sa liberté’ (V, p. 938). In ‘TRAITE DES NEGRES’, however, he is even more explicit in his condemnation of this practice:

[… ] aucun homme n’a droit de les acheter ou de s’en rendre le maître; les hommes & leur liberté ne sont point un objet de commerce; ils ne peuvent être ni vendus, ni achetés, ni payés à aucun prix (XVI, p. 532).

Consequently, on the basis of the argument made above he states that slaves are ‘illicit merchandise’ since the acquisition of slaves by means of purchasing them for money is proscribed ‘par toutes les lois de l’humanité & de l’équité’ (ibid.). This clearly reflects Jaucourt’s belief – echoed, as we have seen, at length elsewhere in the *Encyclopédie* – that there are rules of justice which do, and should, take precedence over the decrees of positive law, and the *Code noir* in particular. Clearly, on his view, just because the State decrees that purchasing another human being is legal and permissible, and the Church seems to turn a blind eye to that practice, that does not mean that it is right or just or to do so – since such a practice goes against the eternal and immutable laws of humanity and equity derived from human nature.

Indeed, as Jaucourt goes on to emphasise, just because it is legal, it does not mean that the practice of purchasing another person is *right* – there are absolute duties that we have to other human beings as such, and which do and should take precedence over any positive law. With the slave trade, however, those eternal moral laws are heavily implied to have been trampled on by those involved in it:

Est-ce que leur déférence à une loi qui ne les oblige en rien, doit leur faire fouler aux pies la loi de la nature, qui oblige tous les hommes dans tous les tems & dans tous les lieux? Y-a-t-il aucune loi qui soit aussi obligatoire que les lois éternelles de l’équité? (ibid., pp. 532-533).

Moreover, the novelty and progressive thinking embodied in this article can be attested to by not just virulent criticism of slavery as an institution, but direct calls
for its abolition. The progressive nature of such a reform is possible, argues Jaucourt, because the economic necessity stressed by thinkers such as Savary de Bruslons and Melon earlier in the century and by Le Romain and elsewhere throughout the *Encyclopédie* is nothing but a justification for the practice which serves to mask the real motivations behind it: the nefarious influence of the passions, and the satisfaction of greed and vanity in particular.

In ‘TRAITE DES NEGRES’ Jaucourt further engages with the purported economic necessity of the slave trade than in his more abstract treatment in ‘ESCLAVAGE’. The efficacy and necessity of the slave trade emphasised by Le Romain and others elsewhere in the *Encyclopédie* is both reported and negated:

On dira peut-être qu’elles seroient bientôt ruinées ces colonies, si l’on abolissoit l’esclavage des negres […] Mais je crois qu’il est faux que la suppression de l’esclavage entraineroit leur ruine (ibid., p. 533).

It is true, says Jaucourt, that international trade would temporarily suffer the effects of the abolition of slavery in the colonies, but that is not deemed a sufficient reason to maintain the institution. On the contrary, he argues that ‘[…] il résulteroit de cette suppression beaucoup d’autres avantages’ (ibid.). In the first instance, Jaucourt argues that the abolition of the slave trade would have positive demographical effects in the colonies. Abolition would, in effect, allow the slaves to go forth and multiply:

C’est cette traite des negres, c’est l’usage de la servitude qui a empêché l’Amérique de se peupler aussi promptement qu’elle l’aurait fait sans cela (ibid.).

In fact, he argues, if one were to abolish slavery and accord the slaves their freedom ‘[…] dans peu de générations ce pays vaste & fertile comptera des habitans sans nombre’ (ibid.). Moreover, the arts and talents would flourish, and the Americas would soon be populated only by industrious people which in turn would have more concrete economic benefits than the existing institution: ‘C’est la liberté, c’est l’industrie qui sont les sources réelles de l’abondance’ (ibid.). Even if this ‘canal of opulence’ – the slave trade – were to be abolished, he re-affirms, it would not necessarily have a negative economic effect:

L’industrie, ainsi que le besoin, est ingénieuse & inventive; elle trouve mille moyens différents de se procurer des richesses; & si l’un des canaux de l’opulence se bouche, cent autres s’ouvrent à l’instant (ibid.).

In effect, here Jaucourt is repeating and elaborating in a more vociferous tone the argument he had earlier made in his article ‘ESCLAVAGE’ where he quotes from...
the authority of Montesquieu to argue that slave-labour is not an economic necessity, and that free people are as capable of economic production as slaves, if not more so:

[...] dans tout gouvernement & dans tout pays, quelque pénibles que soient les travaux que la société y exige, on peut tout faire avec des hommes libres, en les encourageant par des récompenses & des privilèges, en proportionnant les travaux à leurs forces, ou en y suppléant par des machines que l’art invente & applique suivant les lieux & le besoin. Voyez-en les preuves dans M. de Montesquieu (V, p. 937). 424

The link between the two entries is confirmed when Jaucourt adds in ‘TRAITE DES NEGRES’ that ‘sensitive and generous souls’ would applaud and approve of the ‘humanity’ of the arguments its author has made countering the economic justifications of slavery.

Unfortunately, and in this respect Jaucourt appears pessimistic, and, it should be said, unsurprisingly prescient, about his chances of convincing people otherwise because of the overwhelming influence and power of the passions: greed and cupidity dominate the earth, he writes, and therefore the arguments he has advanced negating the economic efficacy and necessity of the slave trade and advocating its abolition will, he adds, inevitably fall on deaf ears (XVI, p. 533). This, then, is the fundamental point that Jaucourt wants his reader to take from his arguments. It is not, in his view, economic necessity which drives the slave trade but European greed and the insatiable appetite of European societies for commodities produced in the colonial setting.

The apparent powerlessness of humane arguments in the face of the passions – and greed in particular – is also displayed by Jaucourt in his article ‘LIBERTÉ NATURELLE’ to which reference has already been made. In this entry Jaucourt not only engages with the supposed economic necessity of slavery, but in particular the role of the Church in the practice. How, he asks, could it be that Christian powers, and the values they expound, have not protested against ‘l’esclavage des negres?’ It is clear from the answer provided in this ‘earlier’ entry that the Church is the primary object of his ire and that the argument of economic necessity negated in ‘TRAITE DES NEGRES’ merely serves to mask the greed and naked self-(financial)interest of

424 cf. Montesquieu: ‘Il faut donc borner la servitude naturelle à de certains pays particuliers de la terre. Dans tous les autres il me semble que, quelque pénibles que soient les travaux que la Société y exige, on peut tout faire avec des hommes libres’ (EDL, XV, ‘Comment les loix de l’esclavage civil ont du rapport avec la nature du climat’ VIII ‘Inutilité de l’esclavage parmi nous’). The rest of this section is a summary of the subsequent paragraphs from Montesquieu.
those involved: ‘[…] c’est qu’elles en ont besoin pour leurs colonies, leurs plantations, & leurs mines. Auri sacra fames!’ (ibid.).

Given the repetition of this point in the entries ‘ESCLAVAGE’, ‘LIBERTÉ NATURELLE’ and ‘TRAITE DES NEGRES’ it appears that this is the real conclusion that Jaucourt wants his readers to take from his arguments: slavery is not driven by economic necessity, but by European greed and the pursuit of wealth – and Jaucourt, as both Montesquieu and Voltaire do, takes great pains to demonstrate the causal relationship between European luxuries and the suffering they cause, unlike those more pragmatic and utilitarian views implied elsewhere throughout the Encyclopédie.

If, he asks, the colonies and, by implication, the French State, would be impoverished without the presence of slave-labour ‘[…] faut-il conclure de-là que le genre humain doit être horriblement lésé, pour nous enrichir ou fournir à notre luxe?’ (XVI, p. 533). Or, as he asks elsewhere in the article, do Europeans have the right to become wealthy by cruel and criminal (i.e. immoral) means? (ibid.); or, as he again poses the question to his readers, ‘A qui est-il permis de devenir opulent, en rendant malheureux ses semblables?’ (ibid.), and, finally, he asks:

Peut-il être légitime de dépouiller l’espèce humaine de ses droits les plus sacrés, uniquement pour satisfaire son avarice, sa vanité, ou ses passions particulières? (ibid).

The answer that Jaucourt provides to all these questions in the article is a resounding ‘no’ – in fact he goes on to say that it would be preferable that European colonies be destroyed rather than making any more people unhappy (ibid.). If the slave trade can be justified by any principle of morality, then there is no crime, however atrocious, which cannot be legitimised according to the same principle – in other words, if slavery can be viewed as morally justifiable then anything, or a whole host of similarly exploitative practices, can be justified on the same basis (ibid., p. 532). Jaucourt clearly considers this to be an unacceptable state of affairs in desperate need of reform.

From the content of these two entries on slavery compiled by Jaucourt for the Encyclopédie, then, it is clear that he believed slavery to be an unjust institution and that the primary justifications of the practice – both religious and economic – served only to mask the primary underlying motivation behind a practice which caused so much human suffering and injustice; the greed, pride and vanity of European
peoples. If, today, we do not see slavery as a mutually-advantageous form of non-harmful exploitation, then it is because we are the inheritors of the humane, liberal and progressive attitude contained in these entries in the *Encyclopédie*.

### 1.5. CONCLUSION

The attitude of the contributors to the *Encyclopédie* to the institution of colonial slavery is a contradictory one. On the evidence of things there is a tension which manifests itself in the articles in the work between those of its contributors who imply the slave trade and the luxury products it supplied to French society to be indicators of economic and social ‘progress’ as well as an economic necessity, and those who were increasingly conscious of the ‘dark underbelly’ and the injustice of the amount of human suffering which accompanied the rise in international trade and the colonial economy it relied on.

The more progressive and radical contributors to the *Encyclopédie* were clearly troubled by what they perceived to be the values of their own society and the slave trade in which they were embodied. They approach the question not from the view of its economic efficacy or necessity, but from the standpoint of universal rights and the absolute duties prescribed by the *loi naturelle*. Jaucourt’s entries which deal with the practice conclude that one’s economic interests should not trump the rights – and dignity – of others. In particular Jaucourt emphasises the causal relationship between slavery – and the immense amount of suffering that practice and institution occasioned – and the European desire for the luxury commodities produced in the colonies.

The importation of raw materials and colonial produce of the kind referred to in this chapter, as well as manufactured goods from the Far East – silk and porcelain, for example – and the later *chinoiseries* produced in Europe which those products inspired, constituted ‘material novelties’ in eighteenth-century French society which became accessible to a wider range of people than they ever had before.425 Even products from England, renowned for their ‘refinement’, provoked a vogue for all

things English in eighteenth-century France. Nonetheless, luxury implies exclusivity, and the possession of luxury commodities was beyond the reach of the majority of people. Not every French man or woman could afford to purchase a tapestry from the famous Gobelins factory in Paris, for example, or a piece of Chinese porcelain. Even sugar, the primary French colonial import which, as we have seen, is given an especially prominent place in the *Encyclopédie,* was unavailable to many sectors of society; despite the general increase in consumption the Parisian market’s insatiable sweet tooth meant it was rarely experienced in the poorer rural areas of the realm.

Moreover, if luxury commodities like these remained the domain of the rich, certain contributors to the *Encyclopédie* recognised that the vast majority of people in contemporary society could barely afford the basic goods needed to survive. The question of luxury was therefore linked closely not only to the practice of slavery, but also to the economic problems which, in one way or another, impacted on virtually every member of contemporary French society. It is therefore not surprising that many of the articles in the *Encyclopédie* deal, in one way or another, with luxury and its consequences.

427 cf. Stein, pp. 74-89.
CHAPTER TWO

NATURAL LAW, RIGHTS AND REFORM:

LUXURY IN THE ENCYCLOPÉDIE

2.1. INTRODUCTION

In the last chapter it was shown that whilst the attitude of the Encyclopédie’s contributors to the question of slavery is a contradictory one, the more liberal and progressive contributors to the project approach the institution not from a consideration of its economic efficacy or necessity, but from a Natural Law perspective. The conclusions drawn from this approach are that whatever laws the French State might decree to the contrary, or whatever legitimisation given to the institution by the involvement of the Church, it is unjust for wealthy Europeans to satisfy their passions, enrich themselves, and enjoy luxury commodities at the expense of the equal rights, and dignity, of the slaves involved.

In this chapter it is argued that those contributors who adhere to the central tenets of Natural Law thinking expounded at length throughout the work and who sought social and political reform also adopt a similar approach to the question of luxury in French society itself. In particular, it is argued that the question of luxury from a Natural Law perspective manifests itself in relation to the economic problems experienced by French society at the time of the work’s compilation. This is especially the case in regard to the vast inequalities of wealth between rich and poor, and the behaviour and ostentatious lifestyles of the former in relation to the plight of the latter.

While the wealth of the Church, nobility, and other influential social groups with enough capital to invest in the slave trade and enjoy the luxuries it produced grew in the eighteenth century, the general level of poverty in which the majority of French men and women lived also increased, particularly after 1750. Poverty, and an unequal distribution of wealth, of course, were not just eighteenth-century phenomena – indeed, in many respects the condition of the poor was better than it had been in the preceding century. Nonetheless, their lot was far from a happy one, particularly when compared to those who could afford colonial luxuries:

especially prone to disease, rarely on the point of outright starvation but permanently undernourished, for them ‘the question of how one lived was, above all, a question of how one ate, or more precisely, how much one ate […]’.\textsuperscript{431} Absolute indigence was never far away – occasioned by a bad harvest, for example, illness, or a death in the family.\textsuperscript{432} Those who lived such a precarious and meagre existence at subsistence level were the ordinary ‘working’ people on whom the economic burdens of society fell, and who, consequently, had very little in terms of private property apart from the clothes on their backs and the sabots on their feet.

That some sections of society lived in ostentatious luxury at a time of economic crisis and gross national debt whilst their contemporaries had little beyond the means of the barest existence was upheld and reinforced by the complex and unequal system of taxation which prevailed in the ancien régime and which, ultimately, proved to be the source of many of the grievances against it.\textsuperscript{433} Many sections of society were granted the privilege of tax exemption – though this was most notably the case for the clergy and nobility, who justified their dispensations on medieval notions of hierarchy and social function.\textsuperscript{434} The most remarkable feature of the taille, for example, the main direct tax during the period of the Encyclopédie’s compilation, was ‘the number of individuals who did not have to pay it’.\textsuperscript{435}

Attempts were made by the French monarchy to impose equal and universal forms of taxation but they rarely succeeded, and were often met with vociferous opposition from the privileged parties concerned.\textsuperscript{436} In particular, as it is shown later in this chapter, many grievances against the existing system were aimed at how taxes were collected, especially the behaviour of the royal financiers and tax-farmers charged by the State with the collection of revenues and who frequently enriched themselves in the process.\textsuperscript{437}

In particular, in relation to poverty and increasing economic concerns, from a Natural Law perspective 	extit{luxe} raises questions about the legitimacy or otherwise of self-interested behaviour, about whether it is morally permissible to satisfy one’s

\begin{thebibliography}{9}
\bibitem{431} cf. ibid., p. 44 my emphasis.
\bibitem{432} cf. ibid., p. 20: ‘To be described as \textit{dans un état d’indigence absolue} was as low as one could sink in the scale of destitution’.
\bibitem{433} cf. Kwass and Sonenscher.
\bibitem{434} cf. Kwass, pp. 25-27.
\bibitem{435} cf. ibid., pp. 24-25.
\bibitem{436} cf. ibid., p. 33.
\bibitem{437} The role of royal financiers is discussed in more detail in section 2.4 below.
\end{thebibliography}
passions and live in excess, with superfluous luxuries, when others struggle to satisfy the most basic needs of human existence – whether one is free to pursue one’s own economic interests as long as one does so in such a way that it is legal, and as long as the consequences of one’s actions are ‘good’. Indeed, these points were all central to the ongoing and passionately-argued debate on luxury which took place in France, as elsewhere, during the eighteenth century.

2.2. WHAT IS LUXURY? LA QUERELLE DU LUXE IN EIGHTEENTH-CENTURY FRANCE

The eighteenth-century debate on luxury was one of the central philosophical and social questions of the period, and the amount of contemporary literature dedicated to it is huge. Similarly to the institution of slavery examined in the previous chapter, the topic stimulated contributions from the vast majority of thinkers of the period. Indeed, for many, the presence of luxury in French society appeared to be ‘the most immediate and obvious symptom of an apparently new commercial society teeming with colonial goods’. Exactly why luxury excited so much philosophical dispute needs further clarification, as does the term itself: much of the eighteenth-century debate centred on the problem of defining exactly what ‘luxury’ and the ever-changing category of what constituted a ‘luxury good’ were. Luxe was important during the period with which are concerned because, as throughout history, it was predominantly associated with the satisfaction of the passions – with greed, sensuality, and vanity, for example – and above all with desire and excess.

The Dictionnaire de Trévoux (1721) defines luxe in this way, as excessive consumption and superfluous spending on material goods: ‘Dépense superflu, somptuosité excessive, soit dans les habits, soit dans les meubles, soit dans les tables, &c.’ Luxury was therefore a pressing issue for many thinkers in the eighteenth century, since it raised several important questions, particularly in light of the

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438 Over 100 books on luxury were published in France between 1736 and 1786 alone; cf. Daniel Roche, La France des Lumières, p. 513. The amount of secondary scholarship on the debate is also vast: for general overviews of the debate as it manifested itself in France, cf. Henri Baudrillard, Histoire du luxe privé et public depuis l’antiquité jusqu’à nos jours 4 vol. (Paris: 1881), Berry, pp. 126-139, Ross, pp. 1897-1912 and Hont, pp. 377-418. The most recent survey can be found in Terjanian, pp. 26-67.
439 cf. Terjanian, p. 27.
441 cf. Berry, pp. 3-4.
442 cf. ‘LUXE’ in the Dictionnaire de Trévoux (1721), III, p. 1612.
increasing precariousness of the financial situation in which the French State found itself as the century wore on. The number of works on the subject and the polarised views of those who engaged with it make a fully-comprehensive survey of the various arguments and counter-arguments advanced in respect of these questions difficult. There are, however, certain general trends which have been recognised over the years.

The eighteenth-century debate on luxury was two-tiered. On the one hand, luxury was approached through the lingering presence of the seventeenth-century Querelle des anciens et des modernes. This aspect of the debate pitted those who advocated a total rejection of luxury and a ‘simple’ or ‘frugal’ life against those with a more ‘modern’ attitude and who saw its presence in society as an irrevocable indicator of progress and modernity. This was therefore a debate between those who advocated a return to simpler times, to a ‘Golden Age’ or primitive state, in which the cultural and social trappings of modernity had not yet developed, and those for whom a return to such a time – if indeed it ever existed – was undesirable if not outright impossible.

On the other hand, the second aspect of the debate was amongst the ‘moderns’ themselves. The ‘moderns’ agreed that luxury was an irrevocable part of contemporary life but disputed how it should be harnessed to ensure it was morally and socially advantageous: ‘[…] the issue for the moderns was not whether or not to accept […] economic growth, but to make it morally and politically more benign’. The debate amongst the ‘moderns’ was primarily one about two different types of luxury, the one fatal and the other socially advantageous, and about how to rid contemporary society of the former and promote the latter.

When it came to thinking about luxury, wealth and its acquisition, then, the contributors to the Encyclopédie were confronted by two opposing strains of thought – the most long-standing and traditionally authoritative of which was one of distinct hostility. Animosity to luxury dominated the ideas of both classical Antiquity and Christianity on the matter. In the view of the thinkers of both Antiquity and the Christian era, luxury, sensual desire and excessive consumption of material

443 cf. Hont, p. 380 and Terjanian, p. 32.
445 cf. Terjanian, p. 32.
446 cf. Hont, p. 380.
447 cf. ibid.
possessions were considered pernicious and harmful to both the morality of the individual and the cohesion and well-being of society as a whole.

Both Cynicism and Stoicism, for example, and the key figures associated with those philosophical schools, adopted an austere asceticism on the basis that luxury and the desires of which it is representative constitute powerful factors in distracting people from truth and an obstacle to self-sufficiency.\textsuperscript{448} The links made by the thinkers of Antiquity between luxury, desire, and moral corruption were enthusiastically adopted by Christianity and fed into a long-standing tradition of thought which continued into the eighteenth century. In this view, luxury and the pursuit of wealth were associated with lustful desire, considered sinful and condemned as a factor which distracts human nature from the ends to which God wanted to direct it.

In the Christian view, then, luxury was strongly associated with carnal desire and, consequently, above all with sin – the desire for luxury possessions is an embodiment of the malaise inherent in human nature since the imputation of original sin from Adam to all of humankind. Indeed, in French there is a semantic link between the notion of \textit{luxe} and \textit{luxure}. Although primarily associated with lust, \textit{luxe} came to implicate the other deadly sins along with it: gluttony, avarice, anger, greed, vanity, sloth and pride – a view which is reflected, for example, in the \textit{Dictionnaire de Trévoux}.\textsuperscript{449} Therefore Christianity emphasised that it was wrong to accumulate temporal worldly possessions at the expense of the spiritual pleasures to be enjoyed in the eternal company of the Lord. The biblical ‘Sermon on the Mount’, for example, teaches that it is impossible to serve both God and Mammon. In Christian ethics the virtues of abstinence, charity, and frugality were all valued over and above personal enrichment, commercial profit and the enjoyment of sensual commodities.

If luxury and its associated passions were considered a powerful factor in corrupting individual morality and distancing humankind from God’s grace, it was also, consequently, considered politically and socially nefarious. The paradigmatic example held up as proof of this was ancient Rome. Virtuous and frugal in the times of the Republic, it was only after its period of imperial expansion to the East – and particularly after its conquests in Asia – that Roman society supposedly became

\textsuperscript{448} cf. Sekora, p. 33.
\textsuperscript{449} cf. ‘LUXURE’ and ‘LUXURIEUX’ in the \textit{Dictionnaire de Trévoux} (1721), III, p. 1613.
decadent and corrupted by the pervasiveness of ‘oriental’ luxury, ultimately leading to its downfall.

Yet, despite these classical and Christian precedents of doom, in the eighteenth century it was increasingly recognised that the absolute denial of luxury proposed in Antiquity and by Christianity was in fact powerless when it came to influencing people’s actual behaviour. As Voltaire remarked in the mid-eighteenth century: ‘On a déclamé contre le luxe depuis deux mille ans en vers & en prose, & on l’a toujours aimé’. As René Hubert noted, one might readily assume that the spirit of primitivism to which many of the philosophes subscribed would lead to a systematic condemnation of luxury on their part; this, however, was not necessarily the case. Indeed, there was a growing consensus in the period with which we are concerned that far from being morally repugnant and socially ruinous, luxury and all the desires and passions associated with it were beneficial to society.

The most (in)famous and influential proponent of this idea was the Dutch philosopher Bernard Mandeville (1670-1733), whose poem *The Fable of the Bees, or Private Vices, Publick Benefits* (1714) had an enormous influence in France despite not being translated into French until 1740. The French debate on luxury was in many respects a response to Mandeville’s assumptions about human nature and society which formed the basis of his ideas on luxury. As was the case for Hobbes, and in opposition to Natural Law theorists such as Grotius and Pufendorf, Mandeville denied that human beings are naturally sociable – for him, human nature is dominated solely by the passions, and people ‘[…] naturally follow the bent of their own inclinations, without considering the good or harm that from their being pleased will accrue to others’. As a result of this view of human beings, Mandeville argued that it was natural for people to desire luxury commodities and act with only in accordance with their self-interest, since the possession of such

450 cf. ‘LUXE’ in the *Dictionnaire philosophique* (1765), in OCV, XXXVI, pp. 324-329, p. 324.
objects fulfils the very psychological attributes which are the basis of human nature.\footnote{cf. Berg and Eger, ‘The Rise and Fall of the Luxury Debates’ in Berg and Eger ed., \textit{Luxury in the Eighteenth Century}, p. 10.}

This argument had the effect of rendering Christian morality, and the virtues of frugality and self-denial it promoted, as unsuitable to meet the demands of a modern, commercial society such as that of contemporary France – since its ethics served to keep the passions and the self-serving aspects of human nature from view and under strict control. The Christian denial of luxury and its associated passions was not only unnatural in Mandeville’s view, but also had negative economic, political, and social effects. Primarily utilitarian in his outlook, Mandeville argued that any behaviour destructive to society was ‘bad’ and any conduct which had useful or a beneficial consequence was ‘good’.\footnote{cf. Hont, p. 390.} Passions such as greed and other ‘private vices’ are ‘good’ according to Mandeville, because they procure a ‘public benefit’.

Consequently, he argued that if passions such as greed and vanity were permitted to develop unfettered in society and people were encouraged to pursue their own economic self-interest unashamedly, then the presence of luxury would increase trade, national wealth, and the prestige of a nation in the eyes of its neighbours – consequences considered good in themselves, irrespective of the plight of the poor or the behaviour of the rich. In stark contrast to the Christian outlook, instead of denying and suppressing the passions, then, Mandeville argued that envy, pride, and vanity in particular should all be promoted since they are drivers of economic and social activity – as demonstrated by the ‘public benefits’ resulting from the behaviour of the ‘vicious’ hive:

\begin{quote}
Le luxe fastueux occupoit des millions des Pauvres. La Vanité, cette passion si détestée, donnait de l’occupation à un plus grand nombre encore. L’Envie même & l’Amour-propre, Ministres de l’industrie, faisaient fleurir les Arts & le Commerce.\footnote{cf. Mandeville, \textit{La Fable des Abeilles}, I, p. 11.}
\end{quote}

That Mandeville’s ideas penetrated eighteenth-century French society so pervasively before the translation of \textit{The Fable} into French was due in large part to Jean-François Melon and Voltaire.
Melon dedicated an entire chapter to luxury and its benefits in his *Essai politique sur le commerce*. Similarly to both Hobbes and Mandeville, Melon argued that the passions govern human conduct and that the sole dominating passion to which human beings are subject is the pursuit of their own self-interest. In his view, societies develop economically through three distinct stages, growing in complexity from a state in which people consume only those things considered to be of absolute necessity to one in which contemporary society found itself, where luxuries are consumed and what were previously viewed as luxuries now took on the character of necessities. Indeed, as we saw in the last chapter, Melon saw luxury and the products which came to be representative of it – particularly those commodities imported into France from its overseas colonies – as powerful factors of progress and civilisation.

The idea of the positive and progressive effects of luxury and modernity so vaunted by both Mandeville and Melon was further popularised in contemporary thought in its adoption by Voltaire in two of his poems from the 1730s – *Le Mondain ou l’Apologie du Luxe* (1736) and *L’Homme du Monde, ou Défense du Mondain* (1737) – as well as the later *Dictionnaire philosophique* (1765) to which reference has already been made. The two poems from the 1730s in particular are emphatically anti-primitivist in their outlook, and both are strident apologies for modernity and progress. For Voltaire, happiness should not be sought in a purported ‘Golden Age’ or in the Garden of Eden, but in the here and now of contemporary French society and the consumerism and hedonism characterised by Parisian society in particular: ‘le paradis terrestre est où je suis’.

These optimistic views about luxury and the progress it purportedly represented, however, came under heavy criticism during the early years of the *Encyclopédie*’s compilation. Despite the prevalence of the ‘modern’ attitude to luxury in the eighteenth century, its opponents continued to borrow the arguments made in Antiquity and by Christianity to claim a causal relationship between the acquisition and enjoyment of luxuries and the moral corruption of the individual and the political corruption of society: luxury ‘continued as a moral category with which

460 cf. section 1.2 above.
to condemn those consumers whose practice of consumption was seen as morally wrong, socially useless and politically harmful’. 465

At the time of the Encyclopédie’s compilation the most vociferous attack on luxury and the commercial society it created and relied upon made along these lines was by Rousseau in his Discours sur les arts et sciences (1751) and Discours sur l’origine et les fondements de l’inégalité parmi les hommes (1755). Arguing against the optimism about the progressive and civilising effect of ‘refinement in the arts and sciences’ advanced in much of the writing on luxury, Rousseau ‘[…] elevated the question of luxury into the wider Enlightenment discussion about the moral implications of the progress of civilisation’. 464 The long-standing hostility towards luxury reasserted by Rousseau at mid-century piqued the interest of other contributors to the Encyclopédie amongst whom he was counted as a colleague. So too, however, did the influential ideas of Mandeville, Melon, and Voltaire. The contributors to the project who approach the question of luxury from a Natural Law perspective react to these conflicting viewpoints.

It is indicative of the impasse which the eighteenth-century debate on luxury had reached by the time of the Encyclopédie’s compilation that Diderot chose the word luxe as one that was in desperate need of (re)definition in his entry ‘ENCYCLOPÉDIE’:

[...] nous disons, sans qu’il arrive à aucun de nous de se tromper, d’une infinité d’objets de toute espece, qu’ils sont de luxe; mais qu’est-ce que ce luxe que nous attribuons si infailliblement à tant d’objets? Voilà la question à laquelle on ne satisfait qu’après une discussion que les personnes qui montrent le plus de justesse dans l’application du mot luxe, n’ont point faite, ne sont peut-être pas même en état de faire (V, p. 635). 465

Indeed, the difficulty of the question highlighted by Diderot in this quotation is reflected in the attitude of the work’s contributors to luxe. On the one hand, they disagreed with ‘moderns’ such as Mandeville who argued that luxury and its associated desires and passions should go unchecked, and that this in turn would have utilitarian benefits for society as a whole. In particular, in accordance with the Natural Law view expounded at length elsewhere in the work, those contributors

465 cf. Goodman, p. 75.
who believe in the *loi naturelle* and universal rights demonstrate wariness about the passions to distract people from virtuous behaviour, and to render the rich insensitive to the needs, welfare, and rights of the poor. On the other hand, they agree with the ‘moderns’, against Christianity and its ethics, that luxury and the passions it inspired and embodied were a natural part of human nature and not to be condemned in themselves.

2.3. **LUXE VERTUEUX, LUXE VICIEUX? LUXURY IN THE ENCYCLOPÉDIE**

The acceptance of luxury adopted by the ‘moderns’ is clearly reflected throughout the *Encyclopédie*. In the first instance, as is the case for the colonial produce examined in the previous chapter, the workplaces a great emphasis on luxury trades and the type of products enjoyed by the wealthy, and condemned by Rousseau in such strident terms. This should not be too surprising. As well as being an ‘Encyclopédie’, of course, the project was also a *Dictionnaire raisonné des Sciences, des Arts et des Métiers*. Consequently, luxury trades and the commodities they produced feature prominently in the work.

The Manufacture Royale des Gobelins, for example, which provided elaborate tapestries to the French monarchy and other rich members of society, is the subject of several articles, and Diderot himself wrote the entry on lace, one of the most expensive commodities in eighteenth-century Europe. Similarly, the articles on silk and Chinese porcelain demonstrate a clear fascination on the part of the contributors with the novelty of the technical processes involved in manufacturing those products, as well as their prominence in mid-eighteenth-century France. The *Encyclopédie*’s plates also contain a great deal of information pertaining to the prestigious luxury trades for which mid-eighteenth-century Parisian society in particular was renowned.

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466 cf. *‘DENTELLE’ (IV, pp. 844-847), ‘GOBELINS, LES (Hist. des Arts)’ (VII, pp. 728-729), ‘LISSE-HAUT’ (IX, pp. 578-579), ‘MARQUETERIE’ (X, pp. 137-143) and ‘TAPISERIE DES GOBELINS’ (XV, p. 897)*; the Gobelins factory is also praised in *‘PARIS (Géog. mod.)’ (XI, pp. 944-960)* and the *Manufacture de la Savonnerie* is also exalted in *‘SAVONNERIE, LA (Hist. des manufact. de France)’ (XIV, p. 723) and ‘TAPIS’ (XV, p. 896).*

467 cf. *‘PORCELAINE DE LA CHINE (Art de la poterie.)’ (XIII, pp. 106-122) and ‘SOIE (Gram. & Hist. nat.)’(XV, pp. 268-303).*

468 cf. Sheridan, *Louder Than Words*, pp. 83-124. There are 135 plates dedicated to silk, for example, and the processes involved in its manufacture.
The technicalities involved in producing a Gobelins tapestry are faithfully represented, for example, and the manufacture itself is presented as an imposing building of some grandeur (Figures 7 and 8). Similarly, amongst those dedicated to wig-making and the art of the ‘perruquier’, for example, one finds a lively depiction of the ‘boutique’ of a wig-maker (Figure 9). There are also two whole plates dedicated solely to the different styles of wig available to wealthy consumers of luxuries, one of which I reproduce here (Figure 10). Luxury is also clearly present in those plates that depict the boutiques of a feather-dresser and a furrier, and which do not shy away from portraying people enjoying their wealth, and displaying their ostentation in the manner of the wealthier echelons of French society and at court (Figure 11).

Again, as is also the case for the number of different articles in the Encyclopédie dedicated to the types of colonial produce discussed in the previous chapter, the number of articles and plates devoted to luxury commodities and trades in the work suggests a concomitant acceptance of the ‘modern’ attitude to luxury expounded by Mandeville and Melon, as well as the values of contemporary society. Nowhere in these articles or in the text which accompanies the plates is it suggested that luxury and the types of commodities representative of it constitute a factor in moral or political corruption, nor is there any compassion for the plight of the poor who could not hope to achieve the type of luxury lifestyle associated with them.

The ‘modern’ attitude to the question of luxury is also particularly evident in the Encyclopédie’s ‘official’ entry on the subject, ‘LUXE’ (IX, pp. 763-771), written by Saint-Lambert. It is in this article that Saint-Lambert positions the Encyclopédie in relation to the two major aspects of the eighteenth-century debate on the topic. As most of those involved in the Querelle du luxe did, he recognises the prolonged and continuing nature of the controversy:

Le luxe a été de tout tems le sujet des déclamations des Moralistes, qui l’ont censuré avec plus de morosité que de lumière, & il est depuis quelque tems l’object des éloges de quelques politiques qui en ont parlé plus en marchands ou en commis qu’en philosophes & en hommes d’état (ibid., p. 763).  

As this quotation suggests, Saint-Lambert is clearly dissatisfied with the various arguments and counter-arguments put forward on both sides of the long-standing and

469 cf. ibid., pp. 114-117.
passionately-argued debate which took place throughout the eighteenth century. That this is the case can be further attested to by the long list of different arguments which he puts forward from both camps, all of which, he shows, are contradicted by proofs from history and experience (ibid., pp. 763-764). Nonetheless, given the arguments put forward in this entry as a whole, his outlook is ‘modern’.

The value-free definition of *luxe* which opens the article demonstrates just how far the *Encyclopédie* deviates from the Christian view of luxury. *Luxe* is defined neither as sinful nor as synonymous with excessive consumption, but rather as ‘[…]' l’usage qu’on fait des richesses & de l’industrie pour se procurer une existence agréable’ (ibid., p. 763). Luxury is therefore something more than the necessities needed for life, since it guarantees not merely existence, but an ‘agreeable’ one. If *luxe* is defined as neither synonymous with sinfulness or excess it is because it is, according to Saint-Lambert, a natural and universal aspect of human nature – a product of human instincts and a manifestation of our desire for self-betterment: ‘ce mécontentement de notre état; ce désir d’être mieux, qui est & doit être dans tous les hommes’ (ibid.).

Consequently, according to Saint-Lambert, since *luxe* is an inherent part of what it means to be human, it exists in, and is an irrevocable part of, all human societies – though exactly what constitutes a luxury is relative to the stage of a society’s development:

[...] le sauvage a son hamac qu’il achète pour des peaux de bêtes; l’européen a son canapé, son lit; nos femmes mettent du rouge & des diamans, les femmes de Floride mettent du bleu & des boules de verre (ibid.).

Further demonstrating his affinity with the ‘modern’ outlook of Mandeville, Melon, and Voltaire, Saint-Lambert argues that if the desire to possess luxuries is a fundamental good of the human will, and a result of human nature’s search for self-betterment, it in turn produces benefits for society – rather than being detrimental,
Figure 7: ‘Tapisserie de basse-lisse des Gobelins; Pl. 1ère, ‘Atelier et différentes opérations des ouvriers employés à la basse-lisse’ in Ency. Planches vol. IX (1771).

Figure 8: ‘Tapisserie de haute-lisse des Gobelins; Pl. 1ère, ‘Plan et perspective de l’atelier, des métiers, et différentes opérations’ in Éncy. Planches vol. IX (1771).
Figure 9: ‘Perruquier, barbier; Pl. ières, ‘Atelier ou boutique de perruquier, outils’ in Ency. Planches vol. VIII. (1771).
Figure 10: ‘Perruquier, barbier; Pl. VII’ ‘Perruques’ in Ency. Planches vol. VIII (1771).
Figure 11: ‘Plumassier-panachier; Pl. Ire’, ‘Différens ouvrages et outils’ in Ency. Planches vol. VIII (1771).
luxury and the passions which inspire it are advantageous. Therefore neither should be seen as contrary to morality (ibid., p. 765). He furthers the same point later in the entry – the desire for luxury should not be condemned in itself as morally bad:

[…] puisque le désir de s’enrichir & celui de jouir de ses richesses sont dans la nature humaine […] puisque ces désirs soutiennent, enrichissent, vivifient toutes les grandes sociétés; puisque le luxe est un bien, & que par lui-même il ne fait aucun mal, il ne faut donc ni comme philosophe ni comme souverain attaquer le luxe en lui-même (ibid., p. 770).

If luxe is not morally pernicious in itself, neither is it socially nefarious as Christianity and its detractors claimed it to be. It is therefore not luxury which is the root cause of moral and political corruption in a society, but the nature of society itself and its government:

L’intérêt personnel, sans qu’il soit tourné en amour des richesses & des plaisirs, enfin en ces passions qui amènent le luxe, n’a-t-il pas, tantôt dans les magistrats, tantôt dans le souverain ou dans le peuple fait faire des changemens dans la constitution de l’état qui l’ont corrompu? ou cet intérêt personnel, l’habitude, les préjugés, n’ont-ils pas empêché de faire des changemens que les circonstances avoient rendu nécessaires? N’y a-t-il pas enfin dans la constitution, dans l’administration, des fautes, des défauts qui, très-indépendamment du luxe, ont amené la corruption des gouvernemens & la décadence des empires?’ (ibid., p. 764).

Consequently, given this outlook, Saint-Lambert also sides with the ‘moderns’ when it comes to the question of whether a return to the frugal and simple lifestyles of the past is desirable, or even possible. Echoing the opinion of Voltaire earlier in the century, the primitivist attitude most widely-associated with Rousseau in the 1750s is reported and negated by him:

[…] pour faire éviter à l’homme les inconvéniens du luxe, on a voulu le remplacer dans les bois & dans un certain état primitif qui n’a jamais été & ne peut être (ibid.).

Moreover, for the Saint-Lambert, since luxury is an irrevocable part of life in an economically- and socially-developed commercial society such as those in contemporary Europe, to argue for a return to a simpler time is not only practically impossible, but to do so is to argue against progress – or modernity – itself:

Avec un commerce aussi étendu, une industrie aussi universelle, une multitude d’arts perfectionnées, n’espérez pas aujourd’hui ramener l’Europe à l’ancienne simplicité; ce seroit la ramener à la foiblesse & à la barbarie (ibid., p. 770).

Nonetheless, despite these decidedly ‘modern’ viewpoints examined from the entry ‘LUXE’ so far, the Encyclopédie does not go so far as Mandeville or Melon, both of
whom, as we have seen, promoted unfettered passions and the unbridled pursuit of luxury. When it comes to the second aspect of the eighteenth-century debate on luxury – the debate between the ‘moderns’ themselves, Saint-Lambert clearly seeks to make luxe and the pursuit of it more socially benign, and there are clear indications in the article that contemporary French society and its values are not representative of the ‘paradis terrestre’ that Voltaire indicated it to be some two decades earlier.

Saint-Lambert argues that there are two types of luxury, one good and one bad, the moral value of which is determined by the nature of the society in which they are developed, and the ability or otherwise of a society’s government to correctly manage the passions. In accordance with the Natural Law view expounded at length elsewhere in the Encyclopédie, Saint-Lambert demonstrates wariness about the ability of the passions to distract people from virtue and to blur the distinctions between what is just and unjust. As we saw in the first part of this study, for those contributors to the Encyclopédie who believed in it, acting virtuously consists in acting in accordance with the precepts of the loi naturelle – and virtue consists above all in repressing one’s self-interest and the satisfaction of one’s passions, and putting oneself in the place of others. To act virtuously is to behave empathetically and compassionately, with an understanding of how one’s actions impact on the rights and dignity of others.

It is clear from the distinction made by Saint-Lambert between the two different types of luxury that he too demonstrates wariness at the ability of the passions to distract people from virtuous behaviour, and that a valorisation of the unfettered passions such as that promoted by Mandeville would have, in his eyes, morally and socially harmful consequences. It is on this basis that he argues legislators should pay careful attention to the way in which people accumulate and acquire their wealth and luxuries – the role of the legislator, he argues, is to ensure that the passions which inspire luxury are subordinated to a ‘spirit of community’:

[…] ils doivent avoir attention à la maniere dont les citoyens veulent s’enrichir & à celle dont ils peuvent jouir; il faut que les moyens de s’enrichir contribuent à la richesse de l’état, & que la maniere de jouir soit encore utile à l’état; chaque propriété doit servir à la communauté; le bien-être d’aucun ordre de citoyens ne doit être sacrifié au bien-être de l’autre; enfin le luxe & les passions qui menent au luxe doivent être subordonnés à l’esprit de communauté […] (ibid., p. 766).
This, then, indicates the difference between *luxe vertueux* and *luxe vicieux* that Saint-Lambert seeks to make clear in the entry. The former is achieved when the passions which inspire it are subordinated to a ‘spirit of community’, thereby not destroying other more socially-responsible passions or the comprehension that there is a greater good than the individual will, and that one should act with a sense of wider social responsibility in view:

> Il faut qu’aucune de ces passions ne détruisse les autres, & que toutes se balancent; si le *luxe* avait éteint ces passions, il deviendroit vicieux & funeste, & alors il ne se rapporteroit plus à l’esprit de communauté (ibid., p. 766).

Consequently,

> Le *luxe* est excessif dans toutes les occasions où les particuliers sacrifient à leur faste, à leur commodité, à leur fantaisie, leurs devoirs ou les intérêts de la nation […] (ibid., p. 770).

Moreover, he adds that if this type of *luxe vicieux* manifests itself in a society – when the passions are excited to a point where there remains no ‘spirit of community’ or sense of wider social responsibility – it is not the individuals concerned who are to blame, but the State, or the ‘faults of the administration’ (ibid.). Saint-Lambert clearly has contemporary society in his sights. In the descriptions provided by him of the effects of such a form of luxury, the allusions to French society in the 1750s and 1760s would have been clear to the contemporary reader (ibid., pp. 766-767). Not only that, but it is clear from the content of the article that the status quo does not have to be maintained.

The logical consequence of the differentiation between *luxe vicieux* and *luxe vertueux* advanced in the entry ‘LUXE’, and the corresponding emphasis on the blame which should be attributed to the State, and not the individual, for the promotion and valorisation of either, is that reform of people’s attitudes to luxury is possible. By reforming the administration of the State – the way in which society is governed and organised – one can alter the effects of luxury, and eradicate the pernicious effects of *luxe vicieux* and instead promote a valorisation of *luxe vertueux*, a form of luxury which is ‘retenu dans de justes bornes par l’esprit de communauté’ (ibid., p. 769). Moreover, again clearly referring to the situation in contemporary society, Saint-Lambert argues that the promotion of *luxe vertueux* to the detriment of *luxe vicieux* would have concrete social and moral benefits. Not only would it
encourage developments in the arts and sciences, but it would also help develop virtue, behaviour which conforms to the prescriptions of the *loi naturelle*:

Tous les états sentiront le prix des beaux-arts et en jouiront; mais alors ces beaux-arts ramènent encore l’esprit des citoyens aux sentimens patriotiques et aux véritables vertus […] (ibid.). (769)

It is therefore possible to reform a society which values vicious luxury and create one which promotes the virtuous form:

Le souverain corrigerà les abus qu’on peut en faire & l’excès où il peut être parvenu, quand il réformera dans l’administration ou dans la constitution les fautes ou les défauts qui ont amené cet excès ou ces abus (ibid., p. 770).

It is clear from the entry on *luxe*, then, that although Saint-Lambert adopts a ‘modern’ attitude to luxury, accepting it as an inherent part of human nature which in turn renders it an irrevocable characteristic of social life, the editors to the project did not want to justify or promote behaviour along the lines advocated by Mandeville. The unfettered passions encouraged by Mandeville and other apologists of luxury are said to promote the wrong kind of luxury which, in turn, predominates over the more socially-beneficial and benign passions also inherent in human nature. Evidently, the type of *luxe vicieux* promoted by Mandeville and others is implied in the entry to be widely pervasive in contemporary society. Moreover, the State is said to be to blame for this state of affairs, having allowed certain sections of society to satisfy the passions which lie behind *luxe* – their greed, pride, sensuality, and vanity, for example – to the detriment of any sense of wider social responsibility, or any consideration for the needs, welfare, and rights of others in mind.

This characterisation of contemporary society as embodying this type of *luxe vicieux* is not just consigned to the article ‘LUXE’, however. For those contributors to the project who believed in the existence of the *loi naturelle*, universal rights and the values central to Natural Law theories promoted at such length elsewhere in the work, the presence of *luxe vicieux* and the fact that some sections of society lived in ostentatious luxury whilst others had very little in terms of material property appeared to be a disconcerting symbol of a society in which the satisfaction of the passions took precedence over the absolute and conditional duties prescribed by the *loi naturelle*. One social group particularly portrayed as embodying *luxe vicieux*, and the emphasis on self-interest and the satisfaction of the unfettered passions promoted
by Mandeville, are the Fermiers généraux, whose behaviour is the object of much criticism in the work from a Natural Law perspective.

2.4. THE FERMIERS GÉNÉRAUX AND LE LUXE FINANCIER CODEMNED FROM A NATURAL LAW PERSPECTIVE IN THE ENCYCLOPÉDIE

One section of contemporary society synonymous with luxe in public opinion and whose behaviour and lifestyles began to be criticised at the time of the Encyclopédie’s compilation was the Compagnie des Fermiers généraux – whose members were charged with collecting taxes on behalf of the French State.\(^{473}\) In the process they enriched themselves massively, as they had the right to keep whatever sums they collected in revenue beyond what the State required from each administrative division of the realm.

The behaviour of high-profile Fermiers généraux, such as Étienne-Michel Bouret (1710-1777), for example – a notable member of the Compagnie from 1742-1777 – was particularly prominent in the public consciousness during the period in which the Encyclopédie was being compiled.\(^{474}\) Bouret, for example, a favourite of both Louis XV and Mme de Pompadour – themselves renowned for their luxurious lifestyles – was particularly well-known for his magnificent spending and opulent lifestyle, especially his penchant for building sumptuous Parisian hotels decorated in the new Rococo style in the 1760s.\(^{475}\) Though the Fermiers généraux began to face virulent criticisms during the period of the Encyclopédie’s compilation on the basis of their ostentatious lifestyles and insensitivity to the suffering of others, for many the luxe financier they embodied was simply the most visible manifestation of luxe vicieux – their behaviour was seen to be representative of a pervasive malaise in contemporary society as a whole, and the behaviour of both the clergy and nobility in respect of their attitude to luxe too.

The editors of the Encyclopédie were intimately familiar with the Compagnie and its members, and the early volumes of the work contain several articles

\(^{473}\) The most comprehensive study of the Fermiers généraux in eighteenth-century France remains that of Yves Durand, *Les Fermiers généraux au XVIII\textsuperscript{e} siècle* (Paris: 1971) (henceforth designated ‘Durand’). With regard to terminology it should be noted that the Fermiers were only one type of tax collector in eighteenth-century France, though the general term ‘financier’ and that of ‘fermier général’ were understood and used synonymously; see Durand, p. 46.

\(^{474}\) cf. ibid., p. 116.

\(^{475}\) cf. ibid., pp. 62, 238 and 493-494. On Mme de Pompadour’s reputation for luxe and her magnificent spending, see Baudrillart, *Histoire du luxe privé et public*, IV, pp. 323-328.
‘conspicuously flattering to them’.\textsuperscript{476} Although not involved in the *Encyclopédie*, Claude-Adrien Helvétius (1715-1771) for example, author of *De l’Esprit* (1758) – which caused a public scandal because of its atheistic content – was one of the Compagnie’s wealthiest members between 1739 and 1751 and moved in similar philosophical circles to the editors of the project, particularly Diderot.\textsuperscript{477} The editors even sought advice about salt production from Claude Dupin (1686-1769) according to d’Alembert in the *Discours préliminaire* (I, p. liv), a Fermier général renowned for his ostentatious lifestyle. Charles-Étienne Pesselier (1712-1763), another member of the Compagnie, was even more involved in the project than Dupin – he is the author of six articles in the work under the general rubric ‘finances’.

Unsurprisingly, the general tenor of the entries written by Pesselier is defensive towards the behaviour of the royal financiers and the values they seemed to embody in the wider public consciousness. In ‘FERMIER GÉNÉRAL’ and ‘FINANCIER’, for example, he argues that the profession of financier is an important one which should be cherished, and that the popular perception of those who undertake such work is unjust, since the behaviour of a few of its members is not representative of the Compagnie as a whole (VI, p. 540 and p. 815). Indeed, the diversity of social backgrounds from which the members of the Compagnie were drawn meant in reality there was no stereotypical Fermier général, whatever ‘deformed’ and critical versions of them might have been presented to the French reading public in the late 1750s and early 1760s.\textsuperscript{479} The ‘deformed’ view of the Fermiers généraux does manifest itself in the *Encyclopédie*, however, and it is given a prominent place in several of its notable articles which tackle their behaviour and their *luxe vicieux* from a Natural Law perspective.

There are a number of notable instances in the *Encyclopédie* in which the Fermiers généraux – and other wealthy sections of French society of whom they are representative – are inveighed against in the language of Natural Law thinking for


\textsuperscript{477} cf. ibid., and Durand, pp. 490-491.


\textsuperscript{479} cf. Durand, p. 643. Works such as *L’Anti-financier, ou relevé de quelques-unes des malversations dont se rendent journellement coupables des fermiers-généraux [...]* (Amsterdam: 1763) by Jean-Baptiste Darigrand did much to propagate the ‘deformed’ view of the profession, cf. Riley, pp. 203-205.
their behaviour and the ostentatious luxury in which they lived at a time when the majority of the populace lived at subsistence level. In particular, they are criticised on the basis that their behaviour contradicts the precepts of the *loi naturelle*, and violates the rights of others. Their *amour-propre*, greed, and other similarly socially-divisive passions are said to have rendered them insensitive to the suffering they cause in going about their business and amassing their fortunes – in short, they are condemned for putting their own economic interests over the needs, welfare and rights of others. Consequently, they embody the valorisation of *luxe vicieux* prevalent in French society and the injustice of their actions demonstrates, in the eyes of the more progressive contributors to the *Encyclopédie*, exactly why it was that contemporary society and its institutions needed to be reformed – as Saint-Lambert intimates in the entry ‘LUXE’, for those contributors to the project who believed in the *loi naturelle* and universal rights, French society was far from the ‘paradis terrestre’ that Voltaire had implied it was in the 1730s.

In contrast to the ideas of Mandeville, Melon and other apologists of luxury, several articles in the *Encyclopédie* place a great emphasis on the natural sociability of human nature – as we saw in the first part of this study, on this Natural Law view it was only in society that human nature could meet its needs, develop its faculties and talents, and in short be happy. On the evidence of things, however, this was clearly not the case for the majority of people in contemporary society, particularly the poor and indigent who could barely meet their most basic needs or achieve much in terms of happiness – a fact clearly not lost on the editors and contributors to the project.

Diderot, for example, provides a telling condemnation of French society in the 1750s and 1760s in his entry ‘*INDIGENT (Gram.)*’ (VIII, p. 876). Camouflaged by its innocuous *catégorie de connaissance*, the entry attacks the unequal distribution of wealth in contemporary society and the fact that there is a manifest inequality of condition between those who live in a state of absolute indigence amidst their contemporaries who ‘jouissent avec un faste qui l[es] insulte, de toutes les superfluités possibles’ (ibid.). That this remark is aimed at the situation in mid-eighteenth-century French society is confirmed by the next sentence in the article, in which Diderot states that the division of society into two classes of people – the

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480 cf. section 2.3.4 above.
haves and have-nots, ‘les uns […] dans l’opulence & les autres dans la misère’ – is one of the consequences ‘les plus fâcheuses de la mauvaise administration’ (ibid.).

Another contributor to the *Encyclopédie* who disagreed with the portrayal of mid-eighteenth-century French society as the ‘paradis terrestre’ that Voltaire had implied it was in the 1730s is Jaucourt, who, as we have seen, is one of the contributors to the project who does much to promote principles associated with Natural Law thinking in it. His entries in the work which pass comment on contemporary society and the behaviour of Parisians in particular are invariably negative. In ‘FRANCE (*Géog.*)’ (VII, p. 282), for example, he notes that the wealth of that nation is ‘unhappily distributed’ and also includes a reference comparing contemporary society to Rome:

[...] les richesses immenses de la *France* [...] se trouvent malheureusement réparties, comme l’étoient les richesses de Rome, lors de la chute de la République (ibid.).

Jaucourt also paints an unflattering picture of Paris in particular, the centre of eighteenth-century consumerism and luxury: ‘[…] tout aborde à ce gouffre’, he writes, before blaming the city for the depopulation of the countryside and even the low birth rates of the poor: ‘[…] les provinces se depeuplent excessivement; & […] le laboureur accablé de sa pauvreté, crainte de mettre au jour des malheureux’ (ibid.). Elsewhere he is none the more flattering to Parisian society, comparing the prevalence of the passions in it to that of Athens in his entry ‘PARIS’:


[…] leurs esprits abâtardis par le luxe, ne s’occupoient qu’à avoir autant de connoissances qu’il en faulloit pour en faire parade, & disserter légèrement sur les modes, les objets de gout, les attributs de la Vénus de Praxitèle, ou de Minerve de Phidias (ibid.).

As these quotations suggest, Jaucourt clearly finds Parisian society and its embrace of luxury disconcerting. The behaviour of Parisians is all the more disturbing for him since their conduct is often emulated by the rest of French society as a whole (ibid., p. 956), and, as we saw in the first part of this study, Jaucourt considers ‘example’ to be an influential factor in blurring the lines between virtue and vice, justice and injustice.\(^{481}\)

\(^{481}\) cf. section 3.6 above.
The behaviour of the Fermiers généraux and other wealthy members of contemporary society who lived in ostentatious luxury at a time of economic crisis and when the majority lived in abject poverty is particularly criticised in the Encyclopédie for the manner in which they acquire their luxuries and wealth – how they act on their passions and exercise their rights. In the view of those contributors to the project who adhered to the central tenets of Natural Law thinking, each individual has a natural right to property. For those contributors who believed in it, the loi naturelle prescribes moral constraints on all human actions, and how one acquires and enjoys a vast fortune was no exception. There are, in this view, both morally legitimate and illegitimate means of acquiring property, wealth, and enjoying them both, despite what any positive law might decree on or contrary to the matter. Apart from the absolute and conditional duties prescribed by the loi naturelle emphasised elsewhere in the Encyclopédie, the morally permissible and impermissible means of acquiring wealth are outlined in particular in the entries ‘FORTUNE (Morale)’ (VII, pp. 205-206), ‘PROPRIÉTÉ’ and ‘RICHESSE’.

The first of these articles, attributed to d’Alembert, is a clear indictment of the inequalities of wealth in contemporary society as well as the views of Hobbes and the utilitarian outlook of Mandeville and other apologists for luxury. Defining having a fortune as living in ‘un état d’opulence’ it is evident from the content of this entry that d’Alembert adheres to the central idea of Natural Law thinking advanced elsewhere throughout the work. Just because something is legal it does not mean that it is right and, despite what the State might decree to the contrary, there are morally illegitimate means of acquiring luxuries such as those enjoyed by wealthy members of contemporary society:

Les moyens de s’enrichir peuvent être criminels en morale, quoique permis par les lois; il est contre le droit naturel & contre l’humanité que des millions d’hommes soient privés du nécessaire […] pour nourrir le luxe scandaleux d’un petit nombre de citoyens oisifs (ibid., p. 206).

It is clear from this quotation that d’Alembert believes the wealthy members of contemporary society who live in ostentatious luxury whilst there are others whose most basic of needs could scarcely be met are acting in a morally impermissible way, despite the legality of their behaviour.

Moreover, such a state of affairs is unjust – it violates the rights of the poor – and cannot be justified, according to d’Alembert, under the pretext of economic necessity: ‘Une injustice si criante & si cruelle ne peut être autorisée par le motif de
fournir des ressources à l’état dans des tems difficiles’ (ibid.). It is clear from these remarks that d’Alembert believes that the ‘vicious’ and ‘fatal’ luxury described by Saint-Lambert in ‘LUXE’ has been cultivated in contemporary society under the pretext of providing funds to the State, and that the feelings of humanity and kindness prescribed by the loi naturelle have been extinguished by socially-divisive passions such as amour-propre, greed, and vanity.

Furthermore, he makes the amount of human suffering caused by the luxury of the few evident. The allusions to contemporary society are clear: a ‘monstrous inequality’ exists when ‘les uns périssent d’indigence, tandis que les autres regorgent de superflu’ (ibid.). The influence of Natural Law thinking also manifests itself in d’Alembert’s entry in its emphasis on the role of human labour in the acquisition of property and a vast fortune. Whilst he argues that it is legitimate to acquire a fortune through ‘du talent & de l’industrie’ he condemns as illegitimate those means which do not take into account the common good and do so at the expense of ‘la substance publique’ (ibid.). Concluding with a reference to the behaviour of Newton, d’Alembert implies that the only means by which the rich can reconcile their behaviour with the principles of right conduct is to act charitably and give their wealth – their superfluous property – to the poor (ibid.).

In ‘PROPRIÉTÉ’ Jaucourt defines property as the right that one has over things that one has ‘legitimately’ acquired – with the implication being that there are also illegitimate means of acquiring property and that one does not have a right, properly speaking, to things which have been acquired in the latter manner (XIII, p. 491). A more detailed and sustained discussion of what constitutes right and wrong conduct when it comes to the acquisition of wealth and property can be found in Naigeon’s article ‘RICHESSE’ to which reference has also already been made.

When it comes to establishing moral precepts about how one should not behave when acquiring wealth, Naigeon turns to Seneca: it is illegitimate to acquire wealth 1) at the expense of the well-being of others, 2) by force, and 3) when done in such a way that one’s riches are ‘souillées & teintes du sang d’autrui’ (XIV, p. 278). Again turning to Seneca, Naigeon later argues that by contrast, the legitimate means of acquiring a vast fortune are 1) through agriculture and working on the land, and 2) through trade and industry – that is, through honest human efforts (ibid., p. 280). These morally permissible means of acquiring a vast fortune are said to differ considerably to the way in which royal financiers in contemporary society acquire
theirs: ‘les gains exorbitans de la finance ne sont que le plus pur sang des peuples exprimé par la vexation’ (ibid.). Presumably in a reference to contemporary society given his use of the present tense, Naigeon concludes by saying that few people acquire their wealth by acting in accordance with the rules of justice (ibid.).

As we have seen, acquiring one’s fortune at the expense of ‘la substance publique’ is said to be unjust by d’Alembert in the entry ‘FORTUNE’ and Naigeon emphasises that one should not acquire wealth ‘sullied by the blood of others’ in ‘RICHESSÉ’. It is primarily on these bases that the three social groups of the Church, nobility and the royal financiers are condemned in the Encyclopédie from a Natural Law perspective. In several important articles the manners in which they acquire their vast fortunes and finance their luxury lifestyles are said to embody the morally impermissible means outlined above, and directly contradict the precepts of the loi naturelle.

The most recurrent image portrayed of those who live in ostentatious luxury – whether members of the Church, nobility or associated with social groups such as the royal financiers – at a time when the French State was in the midst of an economic crisis and when the majority of people lived in penury – is as ‘parasites’ or ‘rats de la fable’, who ‘s’engraissent de la substance du corps politique qui les renferme’ (XVII, p. 865). The image of those who live in luxury as ‘parasites’ is particularly favoured by Jaucourt, who uses it in several of his articles in which he presents an especially negative view of royal financiers. Rousseau, for his part, goes even further in ‘ECONOMIE ou ŒCONOMIE’. In his description, those who live in luxury are literally sucking the life-blood from the State:

Comment voudroit-on que pût vivre un homme qui n’auroit que de veines & point d’artères, ou dont les artères ne porteroient le sang qu’à quatre doigts du cœur? (V, p. 347).

That wealthy social groups such as the Church, nobility and royal financiers were considered by those contributors to the Encyclopédie who adhered to the central tenets of Natural Law thinking to be satisfying their own passions to the detriment of the welfare of others and ‘l’esprit de communauté’ so vaunted by Saint-Lambert in ‘LUXE’ is particularly evident when it comes to the discussion of the amount of food they eat.

482 cf. ‘MALTOTE, LA (Finances)’ (IX, p. 953), ‘PARTISAN (Finances.)’ (XII, p. 106) and ‘TRAITANT (Finances)’ (XVI, pp. 531-532).
Their greed, gluttony and the ostentation when considered in relation to the plight of the poor who have nothing but the most basic of sustenance is made particularly evident in ‘VINGTIÈME, IMPOSITION’, where just one of these ‘parasites’ is said by the author(s) to consume 1,200 livres worth of bread a week – enough, apparently, to feed 114 households (XVII, pp. 855-856). A similar point is also made by Jaucourt in ‘IMPÔT (Droit politiq. & Finances)’ (VIII, pp. 601-604) in a clear criticism of the existing financial system and its consequences:

Tant que les impôts dans un royaume de luxe ne seront pas assis de manière qu’on perçoive des particuliers en raison de leur aisance, la condition de ce royaume ne sauroit s’améliorer; une partie des sujets vivra dans l’opulence, & mangera dans un repas la nourriture de cent familles, tandis que l’autre n’aura que du pain, & dépérira journellement (ibid., p. 602).

If people who live in such opulence whilst others are on the brink of starvation do so without any sense of remorse, it is clearly implied that it is because their passions – their avarice, greed, and vanity – have rendered them hard-hearted and insensitive to the suffering of their fellows and have led to them acting in a manner contrary to that prescribed by the loi naturelle. Indeed, as we have seen, the ability of the passions to obscure the precepts of the loi naturelle is emphasised at length elsewhere in the Encyclopédie. With regard to wealth in particular, Naigeon makes the same point in ‘RICHESSE’ – vast fortunes are said by him to extinguish one’s natural feelings of compassion and humanity, thereby making the rich hard-hearted and unfeeling to the needs of the poor (XIV, p. 274).

That the natural feelings of humanity and compassion prescribed by the loi naturelle have been extinguished in contemporary society to such an extent that people readily treat each other in an inhumane way and casually disregard any kind of fellow-feeling or empathy with the lot of others is also attested to in the article ‘POPULATION’. The inequalities of status and fortunes which prevailed in contemporary society are said by Damilaville to lead the dehumanisation of the poor by the wealthy:

Il y a tant de disproportion entre leur sort, que lorsqu’ils se considèrent d’un état à l’autre, ils ont peine à se croire de la même espece. On a vu des hommes […] dégrader d’autres hommes au point de les employer à des choses pour lesquelles ils auroient répugné à se servir de leurs animaux; & se persuader que leurs semblables n’étoient susceptibles ni

483 cf. section 3.6 above.
des mêmes biens, ni des mêmes maux que ceux qu’ils pouvoient éprouver (XIII, pp. 96-97).

The same point is made in similar terms in ‘VINGTIÈME, IMPOSITION’ also compiled by Damilaville with the cooperation of Diderot. In it, the ‘inhumanity’ of those people who live in luxury and ‘murderous opulence’ whilst the majority live in poverty and misery is heavily emphasised (XVII, p. 860). Moreover, those who live in luxury are said by the author(s) of this entry to not know the true cost of their lifestyles and the suffering they cause to other people – a situation that the author(s) clearly wanted to rectify:

[...]

Again, the violent and frenetic language of this passage suggests that it is the promotion and valorisation of the type of luxe vicieux described by Saint-Lambert in the entry ‘LUXE’ which is blamed for allowing the amour-propre, greed and vanity of the Fermiers généraux in particular to override and extinguish the feelings of humanity and pity which the loi naturelle ‘engraved on the hearts’ of all humankind prescribes. That the socially-divisive passions have led to the rich members of contemporary society, and the fermiers généraux in particular, being unable to feel the eternal and universal characters of justice and virtue of the loi naturelle is clearly implied to be the root cause of their behaviour. Moreover, the injustice of their behaviour is further condemned on the basis that it leads them to violate the rights of others and satisfy their own economic interests over and above ‘le bien commun’.

As we have seen, it is emphasised at length in several articles in the Encyclopédie that the rights of the individual are not renounced upon the institution of society. As Jaucourt remarks in ‘PROPRIÉTÉ’ individuals never claimed to give those in positions of authority an absolute and unlimited power over their possessions: ‘ils n’ont jamais compté se mettre dans la nécessité de ne travailler que pour eux’ (XIII, p. 491). Yet, for many of the contributors to the Encyclopédie the behaviour of the wealthy in contemporary society, and the Fermiers généraux in particular, seemed to demonstrate that the supposedly inalienable rights of the individual are violated by their actions – the behaviour of the Fermiers généraux in particular is criticised for figuratively ‘enslaving’ the people; depriving them of both
their natural and civil liberty, and putting their lives and possessions under the arbitrary, inconsistent and uncertain will of another individual.

The self-interest and *amour-propre* of the Fermiers généraux is implied to be so prominent a factor in directing their behaviour that there are even those amongst them who assiduously attempt to find legal loop-holes by which they can further extort taxes from the general populace, actions deemed to be representative of their behaviour as a whole (XVII, p. 876). By arbitrarily multiplying the number of taxes in this manner in order to gain profits with which to fund their luxurious lifestyles, the Fermiers généraux are clearly demonstrated to be acting solely with their self-interest and the satisfaction of their own passions in view, contrary to the absolute duties prescribed by the *loi naturelle*. Moreover, the injustice of the social status quo is made evident to the readers of the *Encyclopédie* when the self-interested behaviour of the Fermiers généraux is said to encourage ‘l’esclavage des peuples’ and to violate the (Lockean) rights of the individual, the protection of which was the reason why people formed civil societies in the first place:

Là où sont ces droits [taxes], la guerre civile est perpétuellement avec eux: cent mille citoyens armées pour leur conservation & pour en empêcher la fraude, menacent sans cesse la liberté, la sûreté, l’honneur, & la fortune des autres (ibid., p. 874).

To further illustrate the injustices caused by their greed, the author of the entry provides a further anecdote which condemns the type of behaviour for which the royal financiers were renowned, particularly in respect of their enthusiastic and invasive searches for contraband:

Un gentil-homme vivant en province est retiré chez lui, il s’y croit paisible au sein de sa famille; trente hommes, la bayonette au bout du fusil, investissent sa maison, en violant l’asyle, la parcourant du haut-en-bas, pénétrant forcément dans l’intérieur le plus secret; les enfans éplorés demandent à leur père de quel crime il est coupable; il n’en a point commis (ibid.).

The injustice of situations such as this and the theme of the people having their rights violated – and, consequently, being reduced to the status of figurative slaves – is again reiterated:

[...] si c’est là jouir de la liberté civile, je voudrois qu’on me dise ce que c’est que la servitude: si c’est ainsi que les personnes & les biens sont en sûreté, qu’est-ce donc que de n’y être pas? (ibid.).

484 cf. Darigrand, *L’Anti-financier*, p. 82.
The searches for contraband, which usually consisted of foodstuffs such as salt or wine, for example, are explicitly condemned on the basis that they violate the rights of the people:

[...] tous sont également contraires à leur liberté, à leur sûreté & à tous les droits naturels & civils, par les surveillances, les inquisitions & les recherches aussi oppressives que ridicules qu’ils occasionnent. Ils ont même le malheur de contraindre jusqu’aux sentimens de l’humanité (ibid., p. 875).

If the reader were still in any doubt about the author’s attitude to the behaviour of the royal financiers, ‘VINGTIÈME, IMPOSITION’ provides a further anecdote demonstrating the impact of their conduct on other people. The anecdote involves the case of two neighbours, one of whom has fallen ill. The other, aware that by providing his neighbour with some restorative wine he will inevitably bring himself into disfavour with the Fermiers généraux, who would likely seek recriminations for lost profits, rejects his natural affections for his fellow being, who consequently dies. The moral of the story concludes the anecdote:

Ce n’est pas la meilleure administration que celle où la bienfaisance est réprimée comme le crime, où l’on force la nature à s’opposer à la nature, & l’humanité à l’humanité (ibid.).

It is the promotion of luxe vicieux in contemporary society which has led to the amour-propre and greed of the Fermiers généraux extinguishing their feelings of humanity and pity, but their behaviour also leads others into acting in the same way, either through fear of their recriminations or through a desire to emulate them. Clearly, such a situation needed to be reformed as a matter of urgency, and several important articles in the Encyclopédie make a number of proposals for doing so.

2.5. THE REFORM OF LUXURY PROPOSED IN THE ENCYCLOPÉDIE

The central reform proposed in the Encyclopédie regarding luxury therefore relies on the distinction made by Saint-Lambert in the entry ‘LUXE’ regarding the difference between luxe vicieux and luxe vertueux, the latter particularly embodied in the luxe financier of the Fermiers généraux. As we have seen, in Saint-Lambert’s entry on the subject luxury is not viewed as something to be condemned in itself – luxe and the associated desires and passions are a natural part of the human condition and should not be rejected out of hand. Nonetheless, the desire for luxe and the associated passions should, according to Saint-Lambert, be subordinated to ‘a spirit of
community’, and it is the role of the legislator to make sure that this is the case.485 Moreover, in order to do so, Saint-Lambert argues that the sovereign should reform society, and the ‘faults or defaults in the administration or constitution’ so as to rid it of any of the means by which luxe could be abused (IX, p. 770).

In general, Natural Law thinking places an emphasis on the role of the legislator to encourage people to behave virtuously through properly-enacted laws. As we have seen, in his entry on Natural Law for the Encyclopédie, Boucher d’Argis quotes Burlamaqui to the effect that the purpose of civil law is not just to ensure the rights of the individual, but to ‘diriger convenablement toutes les actions des hommes’ (V, p. 134, my emphasis).486 From a Natural Law perspective, then, the role of the legislator is to ensure that luxe vicieux is devalued and eradicated to be replaced with luxe vertueux. If fostered correctly, luxe vertueux will coexist with and not obliterate the more socially-responsible and beneficial passions and thereby promote sociable behaviour (IX, p. 767). In order to promote a society in which luxe vertueux is valued to the detriment of luxe vicieux, some contributors to the Encyclopédie suggest reforming contemporary society in such a way that socially-divisive passions such as ambition, greed, sensuality and vanity could not be given a free rein and so override the natural feelings of compassion and humanity prescribed by the loi naturelle.

In summary, the means of achieving this consist in stopping certain social groups – namely the Church, nobility and royal financiers – from amassing vast fortunes with which to purchase luxury commodities and finance their ostentatious lifestyles when many of their contemporaries live in penury. This meant proposing reforms of the existing financial and taxation system and proposing the abolition of the Compagnie des Fermiers généraux – although, in reality, this would not come to fruition until the revolutionary period later in the century.

Eradicating society of the Fermiers généraux and establishing an equal and universal form of taxation would result in the freedom of the people – they would no longer be ‘slaves’ to the rich – and a society established on the equal dignity, rights, and worth of all of its members. According to the liberal attitude adopted by some of the work’s more progressive contributors, the wealth of any one particular social group should not be given precedence over any other – all people should be treated

485 cf. ‘LÉGISLATEUR’.
equally and, consequently, all should not only contribute equally to the economic burdens of society, but also have the same equal rights to enjoy its economic benefits. The principles of equality and universality so central to Natural Law thinking should be reflected in ‘political economy’. It is on this basis that several articles in the *Encyclopédie* call for an abolition of financial privileges and tax exemptions enjoyed by the Church and nobility, particularly in respect of the *taille*, the main direct tax.

As Boucher d’Argis attests in the article ‘TAILLE (Jurisprud.)’ (XV, pp. 841-843), the exemption of the clergy from taxation was justified on the basis that it provided a spiritual service to society and that their property was sacred, and therefore not liable to taxation. The exemption of the nobility, in turn, was justified on their provision of military service to the State (ibid., pp. 841-842). The Abbé Mallet defends the clergy’s exemption from the *capitation* on the basis that they make up for it with other contributions in the entry ‘CAPITATION (Finance)’ (II, p. 232). Perhaps unsurprisingly given his vested interests, Pesselier also defends the complex system of financial privileges and tax-exemptions of the social and political status quo in his entry on the subject, ‘EXEMPTIONS’. He defends the exemptions accorded to the first two Estates and other sections of French society – including the royal financiers themselves – on the basis that they are accorded in return for socially-beneficial functions:

Des exemptions fondées sur ces principes, n’auront jamais rien d’odieux; parce qu’en s’écartant à certains égards, de la règle générale, elles rentreront toujours, par d’autres voies, dans le bien commun (VI, p. 238).

This conservative and utilitarian attitude is countered in two important articles, however – ‘POPULATION’ by Damilaville, and ‘VINGTIÈME, IMPOSITION’ also compiled by him with significant contributions from Diderot.

In both these entries the financial privileges and tax-exemptions accepted by Pesselier are criticised. In ‘POPULATION’ Damilaville condemns them on the basis that it is just and right that everyone who benefits from society should contribute to it – consequently, society should not have to suffer such ‘mauvais citoyen[s]’ as the clergy, nobility and financiers:

Comme la société a ses avantages auxquels doivent participer tous les membres qui la composent; elle a ses charges aussi qu’il est juste qu’ils supportent. Chaque citoyen est obligé de lui fournir sa contribution de

travail & sa part des impôts que la conservation commune exige; celui qui se dispense de ces deux contributions est mauvais citoyen, c’est un membre inutile, une charge de plus pour la société qui, en bonne police, ne doit pas y être soufferte (XIII, p. 96).

In ‘VINGTIÈME, IMPOSITION’ the criticism is equally as severe. According to the author(s) the justifications which lay behind the exemptions granted to the clergy and nobility are anachronisms belonging to ‘des siècles de ténèbres & d’ignorance’ and for effectively placing them above the law, which should apply equally to everyone (XVII, pp. 879-880). If the existing system of financial privilege were to be abolished along the lines suggested by Diderot and Damilaville, the question remains as to whether the taxes to be levied equally amongst the citizens should remain those existent in contemporary society or not. The answer provided across many of the Encyclopédie’s substantial articles on the question is a resounding ‘no’.

Whilst there is some contention between the contributors to the Encyclopédie about whether to impose a tax on land or on luxury commodities when reforming the existing taxation system, there is a common insistence in spite of these differences that the economic burdens of society should be felt equally by all members of society. This, in turn, would have the effect of eradicating such vast inequalities of wealth as existed in contemporary society, thereby facilitating the luxury and ostentation in which the rich lived in comparison to the destitution of the poor.

Unsurprisingly the most vocal advocacy of a land tax can be found in those Encyclopédie articles compiled by François Quesnay (1694-1774), the founder of the Physiocratic movement which flourished in French society during the 1760s and 1770s. In his two entries ‘FERMIERS (Econ. polit.)’(VI, pp. 528-540) and ‘GRAINS (Economie polit.)’(VII, pp. 812-831) the situation in contemporary society is diagnosed as being in a dire state, with the ‘arbitrary’ nature of the existing taxation system and the presence of luxury in particular blamed for the depopulation of the countryside and a correlative neglect of agriculture (VI, p. 537). Apart from those entries written by Quesnay, a similar distaste for luxury and an emphasis on agriculture can be found in Diderot’s entries ‘AGRICULTURE (Ordre Encycl.

Aside from these articles in which principles associated with the emerging ‘science’ of Physiocracy are outlined, the imposition of a land tax is advocated most forcefully in the Encyclopédie in the article ‘VINGTIÈME, IMPOSITION’ by Damilaville and Diderot to which several references have already been made. According to the content of this important entry the particular advantages of such a tax over the ‘cruel oppression’ of the existing system would be several in number.

Firstly, it would be a simpler means of collecting taxes than that which currently exists, and would render the existence of such socially-divisive groups as the fermiers généraux moot. Consequently, secondly, none of the profits would be lost to such groups. The third and fourth advantages both follow from the first two: since such bodies as the Compagnie des Fermiers généraux and the existing taxation system – what Diderot calls ‘les monumens, l’appareil & tous les instrumens de la servitude’ (XVII, p. 876) – would have been abolished, the freedom of individuals in society would be guaranteed and the ‘social affections’ or feelings that the existing system and the promotion of luxe vicieux extinguishes from the human heart would return. Finally, since the corrupt nature of the existing financial system would have been reformed along the lines noted above, all the ‘dishonest’ – i.e. morally impermissible – means by which one could enrich oneself at the expense of the feelings, needs, and rights of others would no longer exist (ibid.). There would no longer be any means available by which luxe vicieux could be pervasively adopted.

In contrast to the land tax advocated elsewhere by Quesnay as well as by Diderot and Damilaville in entry ‘VINGTIÈME, IMPOSITION’, the contributions to the Encyclopédie by Rousseau and Jaucourt on the subject instead advocate the imposition of a tax on luxury goods, ‘[…] sur cette foule d’objets de luxe, d’amusement & d’oisiveté, qui frappent tous les yeux’ (V, p. 348) – a tax on the exact types of commodities enjoyed by ostentatiously wealthy social groups influential in Parisian society in particular. In opposition to the existing system, in which the burden of taxation was placed solely on the poor members of society, in his entry ‘ECONOMIE ou ÉCONOMIE’ Rousseau strongly advocates a tax on the superfluous property of the rich (V, p. 347). Although he admits that a land tax of the

490 cf. Elle Marie Strenski, ‘Diderot, for and against physiocrats’ in SVEC 57, pp. 1437-1438.
sort advocated by Diderot and the Physiocrats elsewhere in the *Encyclopédie* would be preferable to the ‘direct’ taxation of the existing system, he considers such a tax to have two significant disadvantages when compared to the tax on luxury commodities he proposes instead.

Firstly, he argues that a land tax would decrease the circulation of wealth and line the pockets of the King and his financiers at the expense of the labourer (i.e. the poor) as well as depopulating and impoverishing the rural areas of the realm (ibid.). Secondly, he argues that a land tax is properly-speaking a tax on the *produce* of that land and, consequently, a tax on things that are of absolute necessity. Moreover, he considers a land tax to be an assault on the individual’s right to property and, therefore, the very foundations upon which the social edifice is built – unless established with the explicit consent of the people (ibid., p. 349).

On the other hand, a tax on the luxury commodities of the type enjoyed by the Fermiers généraux and other wealthy sections of contemporary society would have several tangible benefits over both the ‘direct’ taxes of the existing system and a land tax of the sort advocated by Diderot and Damilaville according to Rousseau. Demonstrating a significant amount of compassion for the plight of the poorer members of contemporary society, Rousseau argues that a reform of this kind would have the advantage of being paid, as is the custom in China, not by the manufacturers of luxury commodities – the poor – but the consumers of luxuries, ‘les gens aisés’ (ibid., p. 348).

The benefits of such a tax would be first and foremost a reduction of inequalities in wealth and a reduction in poverty – clearly something he considers preferable to the conditions in which the majority of people lived in contemporary society (ibid.). Secondly, it would ‘liberate’ a multitude of workers and servants who are ‘slaves’ to the wealth of the rich, Thirdly, it would reduce the ‘idleness’ encouraged by the comforts of modern urban living and, finally, it would halt the depopulation of the countryside and the correlative neglect of agriculture (ibid.).

In his attitude to the question of proposed reforms Jaucourt demonstrates a similar attitude towards the plight of the poor as Rousseau does in ‘ECONOMIE ou ÉCONOMIE’. In his two entries ‘IMPÔT’ and ‘TAXE (*Gouv. politiq.*)’ (XV, p. 847) he also advocates reforming the existing financial system with a tax on the kind of luxury commodities so loathed by Rousseau and enjoyed by the Fermiers généraux and other wealthy members of society – ‘[… sur les laquais, cochers,’
cuisiniers, maîtres d’hôtels, femmes de chambre, carrosses, &c.’ (ibid.). A tax of this sort would, he argues, benefit the countryside, relieve the poor from onerous taxation and in general reduce financial inequalities of the type manifest in contemporary society (ibid.).

It is clear from what precedes that the contributors to the Encyclopédie who adhere to the central tenets of Natural Law thinking outlined elsewhere in the work were unsettled by the presence of luxury in their society and the potential of the passions to distract people from virtuous behaviour. Moreover, as for the question of slavery discussed in the previous chapter, certain contributors to the work propose a number of reforms aimed at eradicating what they perceive to be the injustices of the status quo. Although their attitude to what form and structure those reforms should take is not unanimous, there is an agreement that the institution of the Compagnie des Fermiers généraux and the existing system of royal financiers could not continue in its present form. Moreover, there is agreement that the reforms proposed would promote *luxe vertueux* rather than *luxe vicieux*, thereby ensuring that the rich exercised their rights and accumulated their luxuries with consideration for the needs and welfare of everyone in society in mind.

2.6. CONCLUSION

Luxury and its associated desires are viewed as an irrevocable aspect of modernity in the Encyclopédie, albeit an unsettling one. For those contributors to the Encyclopédie who believed in the *loi naturelle* and in universal rights it was clearly deeply-disturbing that they saw themselves as living in a society in which those with power and influence valued the possession of luxury commodities and an ostentatiously opulent lifestyle over and above the dignity of their fellow human beings who lived around and for them at a precarious level of subsistence.

In the view of the more progressive contributors to the project, a society is composed of human beings of equal worth, dignity and rights whatever their social status or lot in life, all of whom deserve the same respect and happiness. The role of the State and its positive laws is to reflect the natural moral order of justice ‘engraved on the hearts of men’ and to encourage people to act virtuously and in accordance with its precepts; to encourage people to acknowledge their own individual will, their needs, wants and desires, and to pursue them in an ethical way, in a way that takes into account the dignity of others.
By proposing reform of the existing system of tax exemptions and financial privileges and proposing to replace them with an equal and universal form of taxation, some contributors to the *Encyclopédie* sought to establish a society based not just upon the rights of a few wealthy members, but upon the equal rights of all of whom it is composed. Moreover, by reforming the existing system of taxation in lines with the demands of Natural Law, it would eradicate the pernicious *luxe vicieux* prevalent in mid-eighteenth-century society, and promote instead *luxe vertueux* since the morally impermissible means of acquiring wealth and a vast fortune at the expense of others would be eradicated.
CONCLUSION

The *Encyclopédie* is not generally considered to have been as instrumental in the development of Natural Law thinking in the eighteenth century as the works by Grotius, Pufendorf, or Burlamaqui, for example, but central tenets of Natural Law theories are reflected in the ethical principles advanced in many of its articles. In particular, principles associated with Natural Law thinking are deployed by Jaucourt and others in order to propose reforms of contemporary society’s attitude to human rights generally, and especially in respect of the prominent contemporary debates about slavery and luxury. This study therefore offers new insights into the development and deployment of Natural Law thinking in the eighteenth century, demonstrating that its principles are not just discussed theoretically in many entries in the *Encyclopédie*, but that they are also often applied to practical social questions debated in contemporary France.

The preceding analysis not only develops our understanding of the ethical ideas contained in the *Encyclopédie*, but also the incoherence of the project as a whole. Jonathan Israel and Yves Citton have recently emphasised the ‘Spinozist’ bent of the work.491 ‘Spinozist’ and materialist ideas are undoubtedly present in it, albeit often in a hidden form as Israel suggests, but they are not the whole story: the scope and philosophical thrust of the work – particularly when it comes to its ethical content – are in fact broader and more varied than previously assumed. Contributors such as Boucher d’Argis and Jaucourt were clearly concerned by the ethical consequences of the materialist philosophies of both Hobbes and Spinoza. This study therefore confirms the assertion made recently by Dan Edelstein, Robert Morrissey, and Glenn Roe that the emphasis placed on the *Encyclopédie* as primarily a vehicle for ‘Spinozist’ ideas, whilst not wholly incorrect, is to some extent overblown.492 ‘Spinozist’ views of the universe and humankind’s place in it, which Israel claims to be at the heart of the *Encyclopédie*, are clearly placed alongside the presence of ideas central to the writings of Grotius, Pufendorf, Barbeyrac, Burlamaqui, and Montesquieu.

One of the primary tenets of Natural Law thinking appropriated by Diderot and Jaucourt in particular from these writers is the idea that people are the bearers of

natural rights. The emphasis they put on the rights of the individual as the basis and limit of political authority provides an alternative explanation to the origins of society and the bases of sovereignty to those advocated by the defenders of divine right absolutism. Starting with the state of nature, Jaucourt in particular derives his ideas on the matter from Pufendorf and Locke.

For Jaucourt, the state of nature demonstrates that independently of the existence of a political community, all human beings are naturally free and equal in rights. By assigning equal rights to people Jaucourt emphasises the fundamental moral equality of all individuals, irrespective of what status one may have in the political community in which one lives. According to this view, which permeates many articles in the work, it is morally imperative that all people should be treated as equals, as beings whose fundamental humanity and the rights correlative with it constitute their dignity and worth. The state of nature is depicted as a condition of equality and freedom, but not as a Hobbesian-Spinozist state of licence – the manner in which people exercise their rights in that state is constrained by the moral prescriptions of the *loi naturelle*.

Nonetheless, the state of nature is not depicted as a utopian idyll in which human relationships engender no conflict whatsoever. Jaucourt follows Pufendorf in emphasising the potential for conflict in the state of nature where all people are free and equal in rights, as each individual strives to assert them. Several articles in the *Encyclopédie* also follow the Natural Law thinking of Grotius, Pufendorf, and Locke when discussing the rights and duties active in familial relationships. As well as rejecting the familial basis of political authority established by the defenders of divine right absolutism, three different explanations as to how and why people came to leave the state of nature and institute a form of political society are advanced in the *Encyclopédie*.

Drawing on Hobbesian ideas regarding the desire to ensure their self-preservation, Lockean ideas about the preservation of property, and, primarily, the ideas of Grotius, Pufendorf, Barbeyrac, and Burlamaqui regarding the natural sociability of human nature, many of the articles contained in the *Encyclopédie* persistently argue that the basis of political authority is the consent and rights of those who are governed. In many of its articles, then, the idea promoted is that societies consist of individuals who have natural and equal in rights. The emphasis on the natural sociability of human nature made by Diderot and Jaucourt in particular
suggests that they were assured of the ability of people to live together harmoniously; despite them all having the same equal rights.

Further tensions between materialist views and those central to Natural Law thinking also manifest themselves in the *Encyclopédie* when it comes to the attitude of its contributors to the relationship between human beings and the rest of creation. The views presented in the work are not entirely unified in their approach to this question either. Materialist ideas relating to the ‘Great Chain of Being’ and to the unity of nature are placed alongside the view that human beings are more than just corporeal creatures, but are endowed with a spiritual soul.

On the question of the universality of human nature, however, there is an apparent agreement in many of the entries to the work that despite what might appear to the contrary, human nature is universal. In many articles there is also a corresponding conviction that the moral norms which govern human conduct are equally uniform – there exists a universal moral law. Nonetheless, when it comes to the question of how it is that people come to apprehend the *loi naturelle* further tensions again manifest themselves in the work.

There are inconsistencies in the epistemological approaches adhered to and promoted by the contributors to the work, just as there were in works of the seventeenth-century Natural Law theorists, but the emphasis in the *Encyclopédie* is on the moral aspects of human nature. Many entries promote the Lockean rejection of innate ideas and conceive the human mind as a *tabula rasa*, thereby emphasising that people have no innate ideas of justice. Consequently, in this view, ideas of what constitutes right and wrong behaviour are acquired through experience and sense impressions. Since the moral aspect of human nature is universal, such experience is equally valuable wherever it is acquired. The rationalism of seventeenth-century Natural Law thinkers such as Grotius is also evident in the work, however – several articles emphasise the role of reason and the mind in apprehending the *loi naturelle*. On the other hand, the innate God-given ability of people to apprehend the *loi naturelle* is seemingly admitted on an equal footing – thereby positing the idea that there are some kinds of moral knowledge which are God-given, and which exist universally, independently of social experiences and any sense impressions.

These divergent views regarding the coexistence of reason and innate knowledge of justice are also complicated by the presence of other ideas. In several important articles there is an insistence that people have an innate moral sense or
understanding of justice which does not rely on theological suppositions – the innate ability to understand justice is said to derive not from God, but from nature. Hence the insistence in several of the work’s articles that it is the emotions or feelings which allow one to apprehend the *loi naturelle* – feelings which are natural to human nature, and not divine in origin. The new emphasis placed by Jaucourt in particular on sensitivity as the source of the *loi naturelle* and the natural sensitivity of people to the needs and rights of their fellows allows him to counter the Hobbesian–Spinozist view of human nature and the ethical consequences of their systems as well as to pose a critique of the values of his own society by examining what factors influence how the *loi naturelle* is (mis)interpreted.

Jaucourt and other contributors follow Pufendorf in their concern about the potential for people to act unjustly and in a way that does not conform to the precepts of the *loi naturelle*. Societal factors such as education and example, and above all the passions natural to human nature, are blamed for ‘corrupting’ people and for causing them to ignore the prescriptions of the *loi naturelle*. Although the passions are viewed in some of the work’s entries to be a natural part of human nature, Jaucourt in particular argues that if given a completely free rein they will eclipse the *loi naturelle* and blur the lines which separate right from wrong, justice from injustice. In this Natural Law perspective, acting virtuously and in accordance with the *loi naturelle* consists above all in repressing one’s own self-interest and passions, and putting oneself in the place of others. It is on this basis that the passions are condemned by Jaucourt, since they encourage people to act unjustly, to satisfy the demands of their own will, and to not take into account the needs, welfare, and rights of others.

As well as developing our understanding of the multiplicity of viewpoints advanced in the *Encyclopédie*, this study also sheds further light on the authorial practices adopted by its contributors which, in turn, are also related to its subversive character. Recent scholarship on the *Encyclopédie* has emphasised the complexities and subtleties of the citation or, rather, ‘non-citation’ practices of its contributors. New digital research methods suggest that although whole sections from other works are ‘copied and pasted’ into articles in the *Encyclopédie* without referencing the

493 cf. Edelstein, Morrissey, and Roe, ‘Citation Strategies in the *Encyclopédie*’, pp. 213–236.
author of the work concerned, this was more often than not a ‘systematic publishing and philosophical strategy’.\textsuperscript{494}

Whilst Israel primarily attributes the ‘subversive undercurrent’ of the \textit{Encyclopédie} to the presence of ‘Spinozist’ ideas, he also adds that it contains ideas with potentially revolutionary implications – amongst which he includes the undermining of the bases of divine right absolutism.\textsuperscript{495} This study therefore further confirms the recent assertion made by Edelstein, Morrissey, and Roe, who argue that ‘there was more to being subversive than indirectly implying a possible materialist opinion’ and that in the \textit{Encyclopédie}, aside from works expressing a materialist view, there is ‘a much larger mass of unattributed and forbidden citations from works that challenged the political and intellectual limits of Old Regime France’.\textsuperscript{496} The works of the seventeenth- and eighteenth-century Natural Law theorists must therefore also be considered in this ‘mass’.

Sections from works by Grotius, Pufendorf, Locke, Barbeyrac, Burlamaqui, and Montesquieu are all frequently reproduced and quoted verbatim in the \textit{Encyclopédie} entries mentioned throughout this study, often without indicating that this is the case. Natural Law was formally prohibited from being taught on the curricula of eighteenth-century French universities – a regrettable fact according to Boucher d’Argis in the \textit{Encyclopédie} article ‘DROIT DE LA NATURE ou DROIT NATUREL’ (V, p. 133) – and Barbeyrac’s translations of Grotius and Pufendorf were ‘unauthorised’ in contemporary society.\textsuperscript{497} In the case of the works of Pufendorf, Barbeyrac, and Burlamaqui in particular, then, my analysis confirms the view that the contributors to the \textit{Encyclopédie} – and Jaucourt in particular – were ‘smuggling big chunks of contraband books into […] [the \textit{Encyclopédie}], and usually getting away with it’.\textsuperscript{498}

Moreover, the fact that Natural Law principles feature in many apparently innocuously-titled entries, and over the course of the \textit{Encyclopédie}’s long publishing history (1751-1780), demonstrates that, whether they were aware of it or not, the contemporary readers of the \textit{Encyclopédie} were effectively being ‘drip-fed’ ethical principles frequently at odds, and indeed wholly incompatible with, the prevailing

\textsuperscript{494} cf. ibid., p. 214.
\textsuperscript{495} cf. Israel, \textit{Radical Enlightenment}, p. 78.
\textsuperscript{496} cf. Edelstein, Morrissey, and Roe, ‘Citation Strategies in the \textit{Encyclopédie}’, p. 236.
\textsuperscript{497} cf. ibid., p. 221 and Chène, \textit{L’Enseignement du Droit français}, pp. 1-3.
\textsuperscript{498} cf. ibid., p. 236.
values of their own society. Hence although the structure of the *Encyclopédie* means it is difficult to establish a coherent ‘body of thought’ in its volumes, rather than being an unassailable hindrance to the diffusion of Natural Law thinking in its pages, several contributors – especially Jaucourt – use the structure of the work to maintain a concerted campaign to undermine the intellectual and moral authority of the Church, as well as the political authority of the State. This is achieved by repeatedly inserting principles of Natural Law thinking – and sections of the writings of the seventeenth-century Natural Law theorists – into articles throughout its many volumes.

The sheer frequency of concepts relating to Natural Law thinking and the prominent use of *renvois* throughout its many volumes suggest that a curious reader of the *Encyclopédie* would have been more than likely to come across key ideas associated with Natural Law thinking; particularly the belief that human beings are the bearers of natural rights which should be exercised in accordance with the duties prescribed by the universal moral order of justice, the *loi naturelle*. While the use of digital editions of the *Encyclopédie* has facilitated this understanding of the prevalence of ideas derived from Natural Law thinking in the work, the arguments advanced in its pages are the same if one were to consult the original work in isolation. Thus they would equally have been the same for the contemporary reader.

In his recent study, David Boucher has argued that the central tenets of Natural Law thinking and an insistence on the rights and duties we have to one another by dint of our common humanity tend to be revived in periods when man’s inhumanity to man is apparent. The two case studies examined in the second part of this study confirm this idea. Taken from a Natural Law perspective in the *Encyclopédie*, the questions of colonial slavery and luxury are examples of occasions where the rights and duties prescribed by the *loi naturelle* appear to be at odds with the values which underwrote contemporary society. Moreover, both are questions which demonstrate the ability of the passions – greed, pride, sensuality, and vanity, for example – to override the prescriptions of the *loi naturelle* and to convince a person that putting their own needs, welfare, and rights over those of others is morally permissible.

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499 cf. Boucher, p. 43.
This study therefore also develops our understanding about how attitudes to colonial slavery were changing in mid-eighteenth-century France and the role Natural Law thinking played in that change. Madeleine Dobie has recently argued that colonial slavery is effectively ‘silenced’ in the *Encyclopédie*, and that slavery is discussed primarily as a representation for human oppression in the general sense or in relation to other historical periods and cultures, most notably as an Oriental phenomenon.\(^{500}\) Dobie argues that there are many articles in which one would expect to find a discussion of colonial slavery but doesn’t, an absence particularly evident in respect of those entries which discuss colonial commerce and modes of production.\(^{501}\) My own analysis bears out this point; a significant amount of space is dedicated to colonial exports, but entries in which they are discussed tend not to display any moral condemnation of the slave labour involved in their manufacture.\(^{502}\)

Dobie also argues that when colonial slavery is evoked in the *Encyclopédie* the attitude is neutral: slaves are said to benefit from their condition and the institution ‘was legitimised by the perception that it was a necessary evil that enabled the production of valuable commodities’.\(^{503}\) There certainly are many entries in the work which embody the utilitarian view that since slavery has a very real economic benefit for French society and because it was legal, it was not unjust. However, to argue that this is entirely the case for the *Encyclopédie* is to misconstrue the nature of the project, and to underestimate the presence of ideas central to Natural Law thinking in it.

Dobie herself admits that there are instances where the Atlantic slave trade is condemned in the language of Natural Law, although she does not expand on this point.\(^{504}\) For Dobie, Jaucourt’s entry ‘TRAITE DES NEGRES’, although professing some moral condemnation of colonial slavery, mainly objects to the institution on economic terms. According to Dobie, in the 1760s ‘[…] the field of political economy […] had become the primary discursive context within which the colonies and slavery were discussed’.\(^{505}\)

This conclusion underestimates the presence of Natural Law thinking in the article and misconstrues its real message. The theoretical approach to Natural Law

\(^{500}\) cf. Dobie, p. 50.
\(^{501}\) cf. ibid., p. 212, and pp. 299-300.
\(^{502}\) cf. ibid., p. 299.
\(^{503}\) cf. ibid., p. 142 and pp. 300-301.
\(^{504}\) cf. ibid., pp. 299-301.
\(^{505}\) cf. ibid., pp. 214-215.
thinking expounded in the pages of the Encyclopédie examined in the first part of this study and the practical application of those principles to the question of colonial slavery by Jaucourt in particular demonstrate that the real message of Jaucourt’s contributions on the subject are that it is categorically unjust – that is, it violates Natural Law – for one individual to enrich themselves at the expense of the welfare, and rights, of another. The assertion that opposition to colonial slavery in the 1760s primarily rested on economic rather than moral arguments, then, needs to be revised in respect of Jaucourt’s contributions to the Encyclopédie. In this respect, this study draws conclusions similar to those of Terjianian rather than Dobie, the former having recently argued that when reading the Encyclopédie it is clear that the ‘commerce in man’ was clearly an object of criticism.\textsuperscript{506}

There is a tension in the way in which colonial slavery is approached in the Encyclopédie, notably between those of its contributors such as Jaucourt who are clearly concerned by the apparent inhumanity of their fellows, and the values promoted by the society in which they lived, and those such as Le Romain in particular who advocate a more pragmatic and utilitarian attitude to the question.

However, the apparent insensitivity to the plight of African slaves and the economic pragmatism contained in many of the Encyclopédie’s entries is countered by a more humane attitude expressed by those of its contributors who adhered to Natural Law thinking and believed in the loi naturelle and in universal rights. In scholarship dealing with attitudes to colonial slavery in eighteenth-century France it is often claimed that the philosophes were reluctant to assign rights to African slaves.\textsuperscript{507} Lynn Hunt, for example, who is generally favourable to the philosophes, admits that the thinkers of the period particularly struggled to accept the universality of rights.\textsuperscript{508} Dobie has furthered this point, arguing that although the principle of human rights developed during the eighteenth century ‘there were often significant discrepancies between the principle and its extension to all human beings, or between the idea and its implementation’.\textsuperscript{509}

Yet for Jaucourt in particular human rights are exactly that, and black African slaves are said to have, by dint of their common humanity, the same equal and universal rights as Europeans. For Jaucourt colonial slavery can only ever be an

\textsuperscript{506} cf. Terjianian, p. 73.
\textsuperscript{507} cf. Outram, p. 43.
\textsuperscript{508} cf. Hunt, p. 20.
\textsuperscript{509} cf. Dobie, p. 253.
unjust institution since it violates the rights of the African concerned. Consequently in his entries on the subject the prevailing moral and economic justifications for the Atlantic trade are condemned as being unjust and, far from being a marker of a civilised society, colonial slavery is depicted as barbaric and inhumane. Jaucourt, then, does extend the principle of human rights to all people, and does not struggle to implement the idea to practical questions. Moreover, in his article ‘TRAITE DES NEGRES’ he makes the case for the abolition of the slave trade – a remarkably forward-thinking attitude for the time.

Jaucourt makes the link between European greed and the huge amount of suffering caused by the Atlantic slave trade clear in this article. His conclusion is that although it may be legal to do so, it is unjust for Europeans to satisfy their desires to own luxury commodities and their passions – their ambition, greed, sensuality, and vanity – through the harmful exploitation of another person or entire peoples. From this Natural Law perspective the Atlantic slave trade is depicted as a fundamentally unjust institution which dehumanises one’s fellow beings, denies them and violates their rights, and reduces them to nothing more than an economic commodity to be used and abused with abandon.

Jaucourt, as one of the more liberal and humane contributors to the project, was clearly disturbed and troubled by the values of his own society which seemed, in his eyes, to promote the satisfaction of one’s own passions over and above any consideration for the needs and rights of others. Natural Law thinking is not just used by him and others in the Encyclopédie to propose reform of the institution of colonial slavery, but also in respect of the plight of the poorer members of contemporary society who lived a precarious existence at subsistence level amidst the opulent and luxurious lifestyles of their wealthy contemporaries.

This study therefore also develops our understanding of the eighteenth-century debate on luxury and provides new insights into how perceptions of luxury were changing in the mid-eighteenth century. The practical application of principles central to Natural Law thinking to the question of luxe brings new insights into the debate on luxury because although the wide-ranging scope and overarching importance of the debate has long been recognised, the relationship between the quarrel and moral philosophy, or ethics, has been comparatively understudied when considered alongside other aspects of existing scholarship.
In recent years it has been increasingly recognised that the eighteenth-century debate on luxury was also inextricably linked to the expansion of global trade and changing consumer habits prompted by the still relatively new contact between Europeans and the ‘material novelties’ imported from Asia and the New World. Anoush Terjanian, for example, has claimed that at the time of the Encyclopédie’s compilation luxury ‘became the site of a wide-reaching and lively contest about the shape, scope, and effects of commercial society’ as well as ‘an evaluation of French colonialism and the imperial enterprise’. Indeed, as my analysis demonstrates, for Jaucourt in particular there is clear link which is made evident in his article ‘TRAITE DES NEGRES’ in particular between the suffering of slaves in the colonies and the enjoyment of luxury products in Europe. This concern, derived from the central tenets of Natural Law thinking expounded by him and others elsewhere in the work, indicates that the prevalent view of the attitude to luxury in the Encyclopédie needs to be revised.

Existing scholarship on the attitude of the Encyclopédie to the question of luxury has in general tended to focus on the entry ‘LUXE’ to draw the localised conclusion that ‘the Encyclopédie […] upholds the broadly positive view of material refinement […] handed down by […] Mandeville’. Felicia Gottmann, who devotes some space to the Encyclopédie in her analysis of Voltaire’s contributions to the luxury debate, for example, argues that this entry is ‘clear in its defence of luxury’. Whilst my analysis confirms that there are many instances where the ‘modern’ view of luxury is present and exalted, it is hoped that such localised conclusions as these will be revised in light of my findings. The discussion of luxe from the perspective of Natural Law thinking which also takes place in many of the Encyclopédie’s articles demonstrates a clear tension in the work between apologists for luxury and those contributors such as Jaucourt who adhered to the central tenets of Natural Law thinking examined in the first part of the study.

For Jaucourt and others who adhered to the central tenets of Natural Law thinking, the fact that some people lived in opulent luxury whilst others had nothing but the most meagre means of existence was considered to be fundamentally unjust. It is clearly implied in several articles that just because such inequalities of fortune

511 cf. Terjanian, p. 28.
512 cf. Dobie, pp. 111-112.
were legal it did not mean that such a situation was just. Again, as is the case for the question of colonial slavery, those articles in the *Encyclopédie* which discuss the effects of luxury from a Natural Law perspective argue against the competing utilitarian idea that one is free to pursue one’s own economic interests as long as one does so in a way which is legal, and if the consequences of one’s actions are ‘good’.

From a Natural Law perspective the desire to accumulate luxury commodities and satisfy their own passions are blamed for making certain prominent social groups – especially the Fermiers généraux – cold-hearted and insensitive to the amount of human suffering their pursuit of luxury causes. Consequently, there are numerous articles in the *Encyclopédie* in which that state of affairs is shown to be unjust, and a number of reforms are outlined. By reforming the existing financial and taxation system the effects of *luxe vicieux* would, it is claimed by some of the contributors to the work, be negated; people would not only be more virtuous and sensitive to the needs of their fellows but society would be more equal – based not just on the rights of a few of its members, but on the equal rights and dignity of all.

This study has concentrated on how the central tenets of Natural Law thinking are pivotal to many of the reformist tendencies advocated throughout the *Encyclopédie*, most notably in respect of those entries by Jaucourt. Moreover, it has been contended that the more abstract and theoretical discussion of the Natural Law thinking expounded in many of the *Encyclopédie*’s entries examined in the first part of the study are put into practice by some of the work’s contributors in respect of the questions of both colonial slavery and luxury, but also with respect to other questions not considered here due to spatial and temporal limits, such as the position, role, and rights of women in society. If we today value the rights of the individual as the cornerstone of both morality and politics it is because we are, essentially, the inheritors of a long tradition of the type of Natural Law thinking developed and deployed in many articles in the *Encyclopédie.*
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1.1. BOOKS

1.1.1 THE ENCYCLOPÉDIE


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‘PROMESSE (Morale)’ (XIII, pp. 444-445)

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‘PROPHÉTIE’ (XIII, pp. 463-465)

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‘TABAC, CULTURE DU (Comm.)’ (XV, pp. 786-787)

‘TABAC, MANUFACTURE DE’ (XV, pp. 787-790)

‘TABAC, PRESSER LE (Manuf. de tabac)’ (XV, p.790)

‘TABAC, TORQUETTES DE (Manuf. de tabac)’ (XV, p.790)

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‘TOLÉRANCE (Ord. encyclop. Théolog. Morale, Polit. iq.)’ (XVI, pp. 390-395)

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‘VÉRACITÉ (Morale)’ (XVII, p. 45)

‘VERTU (Ord. encyclop. Mor. Polit.)’ (XVII, pp. 176-185)

‘VERTUEUX, HOMME, VICIEUX, HOMME’ (XVII, p. 185)

‘VESOUL (Sucrerie)’ (XVII, p. 205)

‘VINGTIÈME, IMPOSITION (Econ. pol.)’ (XVII, pp. 855-890)

‘VOLONTÉ (Gram. & Philosophie morale)’ (XVII, p. 454)

‘VOYAGE (Éducation)’ (XVII, pp. 476-477)
1.1.2. WORKS ON NATURAL LAW

1.1.2.1. HUGO GROTUIS


Le Droit de la Guerre et de la Paix; Par Hugues Grotius. Nouvelle traduction, Par Jean Barbeyrac, Professeur en Droit à Groningue, & Membre de la Société Roiale des Sciences à Berlin, Avec les Notes de l’Auteur même, qui n’avoient point encore paru en François; & de nouvelles Notes du Traducteur. 2 vol. (Amsterdam: chez Pierre de Coup, 1729)


1.1.2.2. SAMUEL PUFENDORF


Les Devoirs de l’Homme et du Citoien, tels qu’ils sont prescrits par la Loi naturelle. Traduits du Latin de feu Mr. Le Baron de Pufendorf, par Jean Barbeyrac. Avec quelques Notes du Traducteur. (Amsterdam: Chez Henri Schelte, 1707)


Les Devoirs de l’Homme et du Citoien, tels qu’ils sont prescrits par la Loi naturelle. Cinquième edition, accompagnée, comme la précédente, des deux Discours sur la permission & sur le bénéfice des loix, & du Jugement de Mr. Leibniz sur cet ouvrage, avec des réflexions du même traducteur, mais revu de nouveau, & augmentée d’un grand nombre de notes. 2 vol. (Amsterdam: chez la Veuve de P. de Coup, & G. Kuyper, 1734)
Les Devoirs de l’Homme et du Citoien, traduits du Latin par J. Barbeyrac. 2 vol. (Amsterdam: 1735)


1.1.2.3. JOHN LOCKE


1.1.2.4. RICHARD CUMBERLAND

Traité philosophique des loix naturelles: où l’on recherche et l’on établit, par la nature des choses, la forme de ces loix, leurs principaux chefs, leur ordre, leur publication & leur obligation: on y refute aussi les Élêmens de la morale & de la politique de Thomas Hobbes. Par le docteur Richard Cumberland [...] Traduit du Latin par M. Barbeyrac avec des notes du traducteur. (Amsterdam: chez Pierre Mortier, 1744)

1.1.2.5. JEAN-JACQUES BURLAMAQUI

1.1.2.6. EMER DE VATTEL

Le Droit des Gens ou Principes de la Loi Naturelle, appliqués à la conduite & aux affaires des Nations & des Souverains. Par M. de Vattel. 2 vol. (Londres: 1758)


1.1.2.7. CHRISTIAN WOLFF

Principes du droit de la nature et des gens. Extrait du grand ouvrage Latin de Mr De Wolff. Par Mr. Formey (Amsterdam: chez Marc Michel Rey, 1758)

1.1.3. OTHER PRIMARY SOURCES


Dictionnaire universel François et Latin, contenant la signification et la définition tant des mots de l’une & de l’autre Langue, avec leurs différents usages, que des termes propres de chaque État & de chaque Profession. La Description de toutes les choses naturelles & artificielles; leurs figures, leurs espèces, leurs propriétés. L’explication de tout ce que renferment les Sciences et les Arts, soit libéraux, soit méchaniques, avec des Remarques d’érudition et de critique; Le tout tiré des plus excellens Auteurs, des Meilleurs Léxicographes, Etymologistes & Glossaires, qui ont paru jusqu’ici en différentes Langues. 5 vol. (Paris: La Compagnie des Libraires Associés, 1721)

Dictionnaire universel de Commerce: contenant tout ce qui concerne le commerce qui se fait dans les quatre parties du monde […] (Amsterdam: chez les Jansons à Waesberge, 1726)

Essai politique sur le commerce (1734)


Histoire générale des voyages ou nouvelle collection de toutes les relations des voyages par mer et par terre qui ont été publiées jusqu’à présent dans les différentes langues. 15 vol. (Paris: Didot, 1747-1759)
L’Anti-financier: ou relevé de quelques-unes des malversations dont se rendent journellement coupables les fermiers-généraux, & des vexations qu’ils commettent dans les provinces servant de réfutation d’un écrit intitulé: Lettre servant de réponse aux remontrances du parlement de Bordeaux. Précédée d’une épitre au parlement de France, accompagnée de Notes Historiques. (Amsterdam: 1763)


Œuvres complètes de Voltaire, 143 vol. (Oxford: The Voltaire Foundation, 2001-)

Œuvres philosophiques de Mr. de la Mettrie, 2 vol. (Amsterdam: 1753)


Vénus physique par M. de Maupertuis (1745)

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Bibliothèque Impartiale, 18 vol. (Leide & Göttingen: Chez Jean Luzac & Chez Elie Luzac fils, Impr. Libr., 1750-1758)

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Bibliothèque universelle et historique, 26 vol. (Amsterdam: 1686-1693)

Histoire de l’Académie Royale des Sciences et Belles-Lettres de Berlin, 42 vol. (Berlin, chez Haude, Spener & Voss, 1745-1769)

Journal Littéraire d’Allemagne, de la Suisse et des Pays du Nord, 4 vol. (Amsterdam: 1741-1742)

Journal de Berlin ou Nouvelles politiques et littéraires (Berlin: chez Ambroise Haude, Libraire du Roy & de la Société des Sciences, 1740-1741)


Nouvelle bibliothèque, ou Histoire littéraire des principaux Ecrits qui se publient, 19 vol. (Amsterdam: 1738-1744)

Nouvelle Bibliothèque Germanique ou Histoire Littéraire de l’Allemagne, de la Suisse et des Pays du Nord, 50 vol. (Amsterdam: 1746-1759)

2. SECONDARY SOURCES

2.1. BOOKS


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Gagnébin, Bernard, *Burlamaqui et le Droit Naturel* (Genève: Éditions de la Frégate, 1944)


Ivison, Duncan, *Rights* (Stocksfield: Acumen, 2008)


______________, *The Encyclopedists as a group: a collective biography of the authors of the Encyclopédie – SVEC 345* (Oxford: The Voltaire Foundation, 1996)


Lanson, Gustave, *Origines et premières manifestations de l’esprit philosophique dans la littérature française de 1675 à 1748* (New York: Burt Franklin, 1973)


————, *The Contributors to the Encyclopédie* (London: Grant & Cutler, 1973)


Marcu, Eva, *Formey and the Enlightenment* (New York: Columbia University, 1952)


Pagden, Anthony, *European Encounters with the New World from Renaissance to Romanticism* (London: Yale University Press, 1993)


Sauvy, Anne, *Livres saisis à Paris entre 1678 et 1701* (La Haye: Martinus Nijhoff, 1972)


Strauss, Leo, Natural Right and History (Chicago: The University of Chicago Press, 1953)

Strayer, Brian Eugen, Huguenots and Camisards as aliens in France, 1598-1789: the struggle for religious toleration (Lewiston, N.Y.: E. Mellen Press, 2001)


Terjanian, Anoush Fraser, Commerce and Its Discontents in Eighteenth-Century French Political Thought (Cambridge: Cambridge University Press, 2012)


Waddicor, Mark H., Montesquieu and the Philosophy of Natural Law (The Hague: Martinus Nijhoff, 1970)


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2.3. THESIS


APPENDIX

ENCYCLOPÉDIE ARTICLES WITH THE CATÉGORIE DE CONNAISSANCE ‘DROIT NATUREL’

A preliminary search on ARTFL revealed that there are 25 different catégories de connaissance included under the rubric ‘Droit naturel’ which I have listed below with the number of articles for each category noted in parentheses:

- Droit nat. (14)
- Droit nat. & politiq (1)
- Droit nat. & Moral (1)
- Droit nat. & civ (1)
- Droit nat. & civil (1)
- Droit nat. & polit (2)
- Droit nat. Morale (2)
- Droit nat. Relig. nat. Morale (1)
- Droit nat. Religion, Morale (1)
- Droit nat. politique. & moral (1)
- Droit natur (3)
- Droit natur. & polit (1)
- Droit natur. & Droit rom (1)

- Droit natur. & polit (1)
- Droit natur. Morale & Polit (1)
- Droit naturel (15)
- Droit naturel & Morale (1)
- Droit naturel & politique (1)
- Droit naturel & Politique (1)
- Droit naturel & civil (1)
- Droit naturel & Morale (1)
- Droit naturel & Politique (1)
- Droit naturel & civil (1)
- Droit naturel & politiq (1)
- Droit naturel, Morale, &c (1)
- Droit naturel, Politique & Morale (1)
- Droit naturel, civil & politique (1)
- Droit naturel, civil, & canon (1)

The articles which correspond to these respective catégories de connaissance are listed in the table below:
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<th>CLASSIFICATION</th>
<th>ARTICLE</th>
<th>VOL.</th>
<th>PP.</th>
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<td>LIBERTÉ NATURELLE</td>
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