

BOOK REVIEW

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Jonathan L. Milevsky. *Understanding the Evolving Meaning of Reason in David Novak's Natural Law Theory*. Leiden: Brill, 2022. 146 pp.

There are two main subjects of this focused and thoughtful book. The first is the contemporary Jewish philosopher and theologian David Novak (b. 1941). The second is natural law. Their coming together is the concept of Jonathan Milevsky, whose interest is in the way the idea of natural law has evolved across Novak's writings and what that can ultimately tell us about specific concepts in philosophy and theology, especially those of revelation and redemption. Milevsky's contribution has been to write a nuanced and convincing analysis of the thought of an important contemporary theologian, and to do so in a way that opens up numerous subjects for continued scholarly discussion. For those versed in Novak's thought, this book is a welcome attempt to understand his philosophy of reason within his covenantal theology. For those outside the field, it offers a window into one attempt to solve an ongoing, difficult, and at times deeply antagonistic debate in the philosophy of halakhah: Is Jewish legal morality part of universal morality, or is it something separate? (For those

who, for example, follow debates over circumcision and *kashrut* in Europe, this is a very live question indeed.)

To the many scholars outside the philosophical discussion at the heart of Milevsky's book, a brief overview is warranted. (Something of this nature would have benefited the book's readers as a whole, since an appreciation of the issues at stake is more or less presumed.) Milevsky's discussion of Novak hinges on a peculiarity of how law works in the Torah (and therefore in Judaism more generally). On the one hand, the Torah seems to assert a set of moral codes incumbent on all human beings (called "the Noahide laws"). On the other hand, its commanded laws ("And the LORD said to Moses, saying..."), which are understood as specific and particular to Israel (the Jewish People), sometimes recapitulate those law already assumed as "basic" or "universal" (i.e., natural). For example, Judaism assumes, as a Noahide/natural law, a prohibition against incest, equally forbidden for all humans across all societies. Yet the Torah also commands a prohibition against incest specifically for Israel (Lev. 18). How, then, are we to understand the relation of these two laws, the "natural law" against incest and the "revealed law" against incest? Are they the same law, conveyed in different forms? Are they different laws, which have overlapping content? Does the necessity for the revealed law imply that Israel is exempt from the natural law? (An exemption which in the case of incest would simply have no content, since the Torah's commands forbid more than the Noahide laws do.) Would such an exemption apply only in the specific case of doubly enumerated laws (laws that have both a natural and revealed source) or to all natural law, such that Israel is never responsible for observing ethics derived from natural law sources but only those that are derived from its own unique revealed law?

These questions have enormous ethical and social implications. To show how, let us return to our example of circumcision in Europe. According to many American doctors in the twentieth century, circumcision resulted in greater physical health outcomes and was therefore recommended across the board as the moral choice for parents of infant males. As ethical arguments based in a philosophical notion of

natural law have changed, the practice is now often depicted as a violence enacted upon children and therefore immoral—so much so that several European Parliaments have suggested banning the practice entirely. For halakhah-observant Jews under the current paradigm, the logical reasoning accounting for the practice, whether positively or negatively articulated by medical science or social activists, is a moot point. Circumcision is a revealed commandment from God and therefore must be observed. Its correspondence with some sort of natural law is irrelevant. Yet if such a halakhic paradigm were wrong, and natural law and revealed law are consanguineous, Jews would be *theologically* required to take medical science and social activism seriously, not just in the case of circumcision but in a host of other issues. Evidently, the issue of natural and revealed law is of very great relevance indeed.

Milevsky's main claim in this book is that Novak's thinking—or really, Novak's evolving thinking—grants insight into this broader debate “over the role of natural law in Judaism” (7). Further, Milevsky argues that Novak's changing understanding of the place of natural law in Judaism (from what he calls a “stronger presentation” to a “somewhat weaker” one [8]) is related to Novak's assertion in his more recent writings of the importance of redemption in Jewish theology. As Milevsky writes, in Novak's later theology (wherein natural law is “somewhat weaker”), justice, “which is represented by the moral law, and which humans can only conform to rather than produce, will be carried into redemption. That feat will not be accomplished by humans, however, but by God” (110). In other words, in Novak's late thought, the distinction between revealed law and natural law is primarily about our perception of the extent of our own reason, and that redemption is the ultimate revelation of the divine basis of all ethical law. For Novak, Milevsky says, “universality only becomes a reality through God” (112). While Milevsky notes that Novak never completely cedes the distinction between revealed and natural law in this world, in his early thought (the “stronger presentation”), natural law is “autonomous” to Jewish revealed law, existing on its own as something discovered/discoverable through reason, while in his late

thought, it becomes subsumed within the discourse of redemption, where all law ultimately meets again: in God, creator of both law and humanity.

Milevsky traces this development in Novak's thought over three hefty chapters. Chapter 1, "The Changing Content of Natural Law," is a comprehensive treatment of Novak's works, from his earliest mentions of natural law to his most recent writings. From the beginning, says Milevsky, there is a tension in Novak's treatment of the subject, "between that at which one arrives through reason and that which is learned through one's community" (16). Novak, Milevsky argues, has always been somewhat evasive on the question of how much rationality humans really have, or have access to. This means that, though Novak argued early in his career that there is rational law in Judaism, and that most of the Torah's moral laws are based in a rational understanding of human nature, Milevsky sees cracks already forming in that position. From the beginning, Milevsky shows, Novak admits that some foundational ethical points are grounded in "God's law," such as "the absolute sanctity of human life" (34) or the "prohibition of murder" (35). This close reading of Novak's early writings proves Milevsky's broader point, that "if what Novak has written up to this point gradually incorporates metaphysical content into his natural law...his theory cannot be fully understood without it" (70), that is, without metaphysics, without revealed law.

Chapters 2 ("The Context of Novak's Natural Law Theory") and 3 ("The Theological Impact of a Changing Natural Law Theory") turn, first, to Novak's Jewish sources on natural and revealed law, then to searching for an explanation of the development of his thinking about the place of natural law by examining his writings on redemption. Chapter 2 is perhaps the most accessible for those looking to understand the Jewish context for this discussion, especially as it concerns the long-running discussion of the relation between the Noahide and Mosaic (Torah/revealed) laws. In a detailed analysis, Milevsky demonstrates that Novak never fully embraced the position that natural law is a complete product of human reason. Rather, as Milevsky writes, Novak characterized (and appeared to agree with) a rabbinic position that understands the Noahide laws as a "chronological precondition" (91) to

the Mosaic law, that is, something which exists independently of Torah until the Sinai Revelation, after which it is “incorporated [within revelation]...tak[ing] on the form of ‘obedience,’ rather than simple lawfulness” (91). Chapter 3 is Milevsky’s explanation as to why Novak takes the positions toward natural law that he does, a reason Milevsky roots in the growing importance of redemption in Novak’s late thought. “It is not enough,” Milevsky writes, that Novak would have us “recognize that the political existence made possible by natural law is itself enabled by God; it is also necessary to recognize that God has a purpose for political existence” (113). And such a purpose, “the culmination of a divine project” (121), is redemption, which, while not abrogating the distinctive elements of natural law, will nonetheless prove them to have simply been the elements of divinity approachable through human reason. “In the end,” writes Milevsky, “Novak is suggesting that human beings will not arrive at the law through their moral intuitions but rather through God’s authority” (125).

While Milevsky’s book is targeted at scholars already deeply enmeshed in this discourse and might have benefited from a more general introduction of the themes, anyone with a university education in Judaism and philosophy will find much here that is of great interest. His reading of this thoughtful and influential contemporary thinker is a benefit as much for its form as its content: a deep reading that untangles the hidden nuances already simmering in Novak’s early work and develops their implications if brought out into the open. As much as the question of natural and revealed law will continue to remain of interest to philosophers of religion, this book will find its many readers going forward.