

Review of Joshua Neoh, *Law, Love and Freedom: From the Sacred to the Secular* (Cambridge, 2018).

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Joshua Neoh's *Law, Love and Freedom: From the Sacred to the Secular* presents an ambitious, erudite, and challenging account of how contested ideals and modes of law, love, and freedom across the Judeo-Christian tradition track into secular political ideals of both constitutionalism and anarchism.

Neoh is a talented writer, storyteller, and synthesiser of ideas, and as a result the book avoids excluding, confusing, or patronising scholars whom, like this reviewer, are not scholars of law and theology nor philosophy of law and religion. Neoh carefully packages the parts of Christian theology and political thought that he addresses in his analysis, which weaves together an interdisciplinary offering drawn from analytic jurisprudence, ethics and aesthetics, political philosophy, biblical interpretive scholarship, the history of ideas, and moral philosophy.

Notwithstanding Neoh's admirable ability to explain the nuance of the key Christian ideas, debates, and sources that his account works with, the present review should be read as a comment from an outsider to that field to which Neoh's book most directly contributes. The review largely avoids engaging with the ways in which Neoh casts or recasts the undulating and contested Christian responses to the Pauline question: how one could lead a life of law, love and freedom in this world." (42). Instead, the review concentrates on whether that is the right question to ask, and what the question means, in the shift from sacred to secular understandings of community.

### **1. Neoh's Project**

After a particularly helpful introduction, the book's substance begins with an account of the creation myths from the Book of Genesis and the relations between prelapsarian and fallen views of human nature, which Neoh tracks onto Rousseauvian and Hobbesian accounts of the state of nature. Neoh then elaborates what he describes as the tensions and unresolved equivocations of the Pauline dilemma: how to reconcile the human and present need for law while reaching beyond the law to a life of love?

Neoh's chapter two then offers a conceptual framework for exploring what he takes to be messy and conflicting 'bipolar' values of law, love, and freedom. Within each value of law, love, and freedom are opposing points from which to reason, perhaps without any resolution of their inner conflicts. The bipolarity, largely working from Morris Cohen's principle of polarity, is constructive rather than deconstructive (44-46). Neoh argues that law is polarised between authority and resistance; love, between union and attention; and freedom, between identification and independence.

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Neoh steps his way first through law – as a practice but finding value in law’s provision of authority (understood largely as a coordinative instrument) along ground common across Finnis, Hobbes, Hart, Raz, Finnis, and Kant (48-52). On the other side, roughly the side of the subject’s agency, law provides a mode of resistance, found within (an alternative reading of) Hobbes, Fuller and a bundled view of critical legal theory (53-58). Despite being the most familiar part of the book for a general jurisprudence audience, this may also be the most provocative, due to the summative work Neoh must do to position both sides of the bipolar values.

Neoh then turns to love – in search of both its ethical and aesthetic value(s), and again Neoh gives us two poles: first, love leading to a union of persons, and on the side, love leading to attention to distinct persons. For the former, Neoh turns to Nozick and to Arendt’s reading of Augustine, to explain how “love binds the lover to the beloved” (62), while its opposite is a love that strives to grasp persons’ separateness or distinctiveness, a way of “singling out” the beloved. Freedom, finally, is expressed in either/both political and metaphysical debates that Neoh repackages into the opposite poles of freedom as independence (underlying Berlin’s negative freedom, Constant’s modern freedom, and Arendt’s philosophical free will) (68-71) and on the other hand, freedom as identification (underlying Berlin’s positive freedom, Constant’s ancient freedom, and Arendt’s political freedom). (72-76.)

The key contribution of the book then lies in what Neoh does with this map of the bipolarity of his focal values. Neoh first seeks to find each value, and both of their respective poles, in an historical narrative that links practice and value. In defence of his method, Neoh again draws synthesise out of diverse defences of the power of narrative in welding practice and value, e.g., from MacIntyre, from Walzer, and from Taylor (87-91), while attending to the contribution of history as particular narrative. Neoh defends the use of this method for his next task, reporting the meaning that biblical stories and particular Christian beliefs have given to the lives of groups of people, and an effort to understand their lived conceptions of the polarised values of law, love, and freedom. As Neoh puts it, for example, “the monks thought they were free” (94) and to interrogate the value of freedom, requires an effort to understand the role of that belief alongside other monastic practices of value in the overall structure of their lives.

The core of the book then offers both a socio-political story about the transformation of practice, and a conceptual story of the transformation of the values of law, love, and freedom; in both cases moving from the sacred to the secular. Here Neoh expressly echoes Schmitt’s accounts of both the genealogical and analogical relations between concepts of theology and concepts of politics. (143-4). Neoh configures each pole of the three values into either a monastic or antinomian (ideal) framework (introduced at 96-97). Both monastic and antinomian structures, Neoh argues, offer ways of stabilising the relations of law, love, and freedom that Paul’s equivocations had left unstable. The chapters respectively generate then track into American constitutionalism and its counter-narrative of resistance, and for each ideal, Neoh makes three claims: i) law constitutes freedom; ii) love is impossible without law; iii) love sets us free.

Chapter four tells the historical narrative, according to Neoh, of monastic approaches to the values of law, love, and freedom, which are traced genealogically through Puritanism

into the practice and value of American constitutionalism. Under the monastic and (American) constitutionalist ideal, law's value lies in authority, love's value in union, and freedom's value in identification. Within this structure, "'We the people' are bound as an entity by a vision of the constitutional order"; and, "just as the Bible defines the Puritan, so the constitution defines the American" (135). The vision of law and freedom becomes bound up into an ideal of love as union among a citizenry. "Law leads to love as union with my fellow citizens..." "If your identity with the law in this way, you have achieved freedom though identification., hence you live in the law." Love as union with the larger whole, is then public, defining a political community and setting its members free by collapsing their opposition or difference from the collective.

Chapter five tells the counter- narrative of the antinomian ideals of law, love, understands law as resistance, love as attention, and freedom as independence; and they are traced, more by analogy than genealogy, into both philosophical and political anarchism. On this understanding, "reliance on the law is a means of support for the weak while resistance against the law is a means of freedom for the strong." (141). Through law, "one becomes the master of oneself". Love, meanwhile, transcends law; "just as the common law is transcended in equity and the criminal law in mercy." (163); while freedom requires the distinctness of the individual from the collective.

Finally, chapter six presents Neoh's grappling with the relation between objective and subjective value or valuing. He focuses upon the subjective effort to lead a coherent life of value, amidst objective value pluralism; arguing that, amidst value pluralism, the choices, and particularities of subjective life lead (most) people to seek such coherence. Neoh's conclusion then posits the necessity of both the nomian and antinomian ideals. These not only correlate so as to lend identity to their opposites but are necessarily in tension and practical counterpoint to one another. Neoh is relatively brief on this point, but draws upon a range of propositions, perhaps belatedly, to embrace a form of dialectical relation between the equivocal ideals that his narrative work has revealed.

## **2. Interrogating Neoh's (Pauline) question: how to lead a life of law, love, and freedom?**

I have set out Neoh's account at some length because the remainder of the review will examine the impact of the grand narratives that Neoh's work contributes. Neoh's effort to draw together structures and counter structures, the internal polarity of values, and their dialectical equivocations, leaves largely unattended the impact these ideas have upon the practice of other values and the persons who practice them. I do not mean to focus unreasonably upon what is unsaid, rather to indicate how the grand narratives drawn out of Neoh's chosen narratives leave little room for a truly alternative set of approaches, or indeed for attention to other persons or ideas outside of its frames. That does not render the frames unhelpful, just confronting – which is perhaps just as Neoh intends.

The review may appear more negative than it is intended to be. The challenges posed below notwithstanding, Neoh's book is an important and enriching read, offering a window into traditions of thinking that often underscore positions in legal philosophy but are not as often directly articulated. For scholars in legal philosophy, it also offers a reading of familiar texts and thinkers that are assembled into arcs of value-commitments and key ideals that might get lost in their more specialised or detailed work. Overall, the book is well placed to

educate and to provoke, which, measured against Neoh's own express aim to avoid hubristic conclusions, marks out its success.

There is, however, much to interrogate. *Law, Love, and Freedom* raises and addresses two compelling but ultimately competing questions. The first is the one with which Neoh opens his introduction: "How does one lead a life of law, love and freedom? If Neoh's question is *how one* could lead a life of law, love, and freedom *in this world*, then we are invited to ask whether and why this is a good question, and how it relates to its opposite, which considers how another might live a life of power, hate and domination. It suggests that a second question, which echoes through the book but is not expressly stood up against the first, asks whether law, or love, makes persons more free. This second question directly worries about how others are treated in one's life of law, love, and freedom, and whether law and love might be reconciled into someone's freedom at the expense of another's domination.

Within that frame, and setting aside smaller points of contention over the readings of scholars highlighted for different bits of the arcs that Neoh builds (around law as authority/resistance; love as union/attention; and freedom as identification/independence), I have three integrated responses to the book. The first interrogates the search for coherence – both in Neoh's grand narratives and in the living/leading of an individual life. The second is a concern for values, and particularly the value of equality, that Neoh's trinity of values appears to omit. The third, which places the first two together, is a worry that in the shift from the sacred to the secular Neoh pays insufficient attention to the impact of diversity, difference, and plurality as demands of secular political communities.

Together, these responses impart more normative critique than Neoh's own effort invites. Neoh's trajectories offer a largely uncritical telling or retelling of the narratives that track - in Neoh's terms, from the Edenic narratives through to contemporary practices of citizenry and dissent. The seductive tidiness of Neoh's weaving here belies complexity and critique that cannot be smoothed over within either monastic or antinomian frames. Neoh has raised a rather large normative challenge by inviting the two framing structures to sit together in a relation that, he concludes, is both dialectical and mutually necessary. Those conclusions, in my view, require more critical engagement.

It's not entirely fair for a reviewer to demand normative reflection about a work that has set out to track and trace equivocations and provocations. Yet Neoh further invites that call for evaluation by what he says in his final chapter and conclusion. Neoh's chapter six, on 'value pluralism and the search for coherence,' is advertised as the "theoretical payoff" for the work done throughout the book. (166). There, however, instead of delving further into the political theories that his chapters four and five have opened for analysis, Neoh turns to the ethical questions of how to lead a life. The chapter ultimately shows the hand that has been building throughout, in which the love at issue and predominating ('the greatest of all') is bound up around the self with little space or concern for the other. Neoh's presentation of "the challenge of moral reasoning is to reconcile the one and the many: the one life and the many moral goods" (179); a very different enterprise than the engagement of the one with the many others. The concern of the final chapter, echoing into the conclusion, is about one's own life, one's leading that life, and the search for coherence in which, Neoh suggests, most of us are engaged (173-4).

That search for coherence itself - both in the individual life and in the framed narratives that Neoh tells of communal life – is not defended. Neoh does a great job exploring the internal bipolarities of the values of law, love, and freedom, but does not explore how the tidy binaries might be mixed up, incoherently, into multiple alternative counter-structures. Such messiness plays out into the sort of political practices – with their own appreciation of what is valuable – that polities often design their institutions to house, harness, or process. How, then, can a search for coherence and stability in the structure of law, love and freedom, track (even only by analogy) into the practices of plurality that the contemporary Western political forms typically embrace and make formally conceivable, if not always substantively possible? Moreover, what happens to the tidy frame if we also seek out the narratives of those upon whom both/either the nomian and antinomian structures have been imposed. Some of these narratives might be bent into their own tidy frames to rival Neoh’s two (e.g., there are likely trackable pluralist narratives that assert different poles of the three ideals), but others may not be susceptible to coherent structures.

This leads to the second and related response, which highlights that the trio of values themselves are not comprehensive. (Neoh does not proclaim them to be.) Most immediately and most obviously, however, the values of law, love and freedom leave out, without efforts to subsume, the value of equality. Although both the constitutionalist and resistance ideals can offer versions of persons’ engagements with others, and engagements with the collective, which could include valuing their equality, these are not explored within either frame. There is only very brief attention to critical scholarship, the key disagreements in the book are the internal equivocations of Paul rather than engaging the wider disagreements prevalent in social life and which are so central to theories of law’s role therein; there are few women (after Eve) in the book; and no representation of those upon whom these sacred and the secular forms of the law, love and freedom configurations are imposed. Instead, the emphasis on the coherent leading of one’s own life, as well as the sense that even the most particularistic framing of independence, resistance, and attention, still assumes an egoistic form. To put it simply, political life involves engaging with others and their lives in the law, love, and freedom, too. Value pluralism, in polities, doesn’t generate the ethical challenge of leading a coherent life, so much as it raises our concerns for the lives of others.

That triggers the final and stronger critical response, which is that Neoh’s question, ‘how does one live a life of law, love and freedom’ may be too narrowly focused upon the life or lives of people like Paul. The antinomian values of freedom, law and love point to independence, resistance, and distinctiveness, but none of these may approximately capture difference, and none attend (either as part of that same ideal or as its counterpoint, to equality). How can a secular polity be a polity at all, without attending to otherness? What about the idea and assertions of difference that the pole of distinctive love hints at but does not quite capture; and which cannot be framed as a turn to anarchy?

I raise these queries in the hope of challenging Neoh to give us a follow up volum/e, to contribute an alternative project that interrogates how one’s own life of law, love and freedom impacts on others, how it might differ from others, respond to others, tolerate others, oppress others. In the transition to a secular polity, how do the narratives of the practice and values of law, love and freedom generate, as their consequence, practices, and disvalues of power, hate and domination? So far Neoh has told us part of the story, a powerful and revealing part of the story, and I am hopeful he’ll carry on telling us the rest.

