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Aristotle and Maimonides on Virtue and Natural Law

Abstract: This essay examines connections between two related clusters of issues. The first set concerns fundamental matters of moral psychology and moral epistemology as treated by Aristotle and Maimonides. It explicates crucial differences in their conceptions of self-determination, virtue, the plasticity of character, and moral knowledge. The second cluster of issues concerns natural law. Are there grounds for regarding Maimonides’ understanding of Judaism as involving elements of natural law? How are we to understand the relationship between natural law and reasons for the commandments? What would be the merits of Judaism having a natural law dimension, and how should that dimension be characterized? I suggest respects in which Maimonidean moral thought (and Jewish moral thought more generally) indicates an approach to underwriting the objective validity and universal applicability of moral thought without involving natural law elements. This connects the question of natural law with issues of moral psychology and epistemology in the earlier portions of the essay.

This essay will examine connections between two related clusters of issues. The first concerns some key issues in moral psychology and moral epistemology as treated by Aristotle and Maimonides. That portion of the discussion will concern the ways in which Judaism makes crucial differences to moral psychology, the conception of self-determination, and conceptions of virtue and practical wisdom. Maimonides employed a good deal of Aristotle’s idiom of habit and virtue, and the like, but used

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it to elaborate some quite un-Aristotelian views, both in the Guide of the Perplexed and in other works, such as “Eight Chapters,” “Laws concerning Character Traits,” and “Laws of Repentance.”

The second cluster of issues concerns natural law. Are there good grounds for regarding Judaism—as reflected in Maimonides’ thought—as involving elements of natural law? What would be the merits of Judaism having a natural law dimension, and how should that dimension be characterized? What is the relationship between natural law and virtue? Does the ethical content of Judaism require natural law to “underwrite” it? Can the particularism of a religious tradition contribute to educating agents in universal values and ideals?

The explication of the key differences between Aristotle and Maimonides on the first cluster of issues will supply an avenue of approach to the second group. The discussion’s primary purpose is not comparative; the comparative study is a way to begin to critically explore some fundamental issues of moral philosophy exhibited in the thinking of two key figures. Aristotle and Maimonides have left vital and enduringly relevant inheritances. Those inheritances can be important elements in ongoing debates and reflection upon the place of ethics in Jewish thought and the place of Jewish thought in ethics.

I.

There are ways in which one could argue that Maimonides’ ethical thought is a kind of Jewish Aristotelianism or Aristotelian Judaism. But there are several crucial respects in which Maimonidean moral psychology and ethics differ quite significantly from Aristotle’s.

While Maimonides and Aristotle shared an intellectualist conception of man’s final and best end, Maimonides’ conception of imitatio dei differs fundamentally from Aristotle’s conception of contemplative activity. Ethical activity, concerning the full range of details of Jewish life—life in accord with the Law—should issue from intellectual activity in a way that is not found in Aristotle’s intellectualist ideal. The latter does not exclude practical activity, but in being as much like the divine as possible, it distances us from the concrete contingencies of living. Moreover, a crucial epistemological difference is that there is a role for revelation in regard to ethical knowledge and perfection that is simply absent from Aristotle’s ethics. In Aristotle’s ethics, practical wisdom is the action-guiding intellectual virtue, and it is crucial to the genuineness and unity of the ethical virtues overall. Maimonides’ thought does not include practical wisdom as a virtue.

Also, there is a role for repentance in Maimonides’ moral anthropology that is not found in Aristotle’s. In Maimonides’ view, a person with
vices can repent and ethically self-correct in a fundamental way. He also held that a virtuous agent is able to sin. Aristotle’s account of the acquisition of a second nature and the fixity of character is part of a view that holds that mature character has little capacity to be reformed, for better or worse. Maimonides’ view clearly departs from that. Accordingly, there is a role for critical self-consciousness in Maimonides’ ethical philosophy that does not have a counterpart in Aristotle’s. The latter does not ignore the issue, but he does not discuss self-examination as having the kind of searching and urgent role that Maimonides assigns it.

We shall discuss these matters and their interrelations. In turn, that discussion will be a base from which to address the question of whether Maimonides’ ethical philosophy is or could be a version of natural law theory.

II.

At the end of the Guide, having spent several pages characterizing man’s highest and most complete end as intellectual activity, Maimonides closes the work with an endorsement of imitation of God in a life of ethical activity. “The way of life of such an individual, after he has achieved this apprehension, will always have in view loving-kindness, righteousness, and judgment, through assimilation to his actions, may he be exalted, just as we have explained several times in this treatise.”

In making the case, Maimonides says of God:

But he says that one should glory in the apprehension of myself and in the knowledge of my attributes, by which he means his actions, as we have made clear with reference to its dictum: “Show me now thy ways,” and so on. In this verse he makes it clear to us that those actions that ought to be known and imitated are loving-kindness, judgment, and righteousness. He adds another corroborative notion through saying, in the earth—this being a pivot of the Law.

The practical turn at the end of the Guide is pronounced and explicit. In book 10 of the Nicomachean Ethics, Aristotle argues that contemplative activity and intellectual immortality are our best end, but also that we are human beings in need of political life and the ethically virtuous activity that is part of our perfection. There is a bit of oscillation between urging

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2 Ibid., p. 637.
us to transcend our humanity and reminding us of it and its needs and excellences; the interpretive difficulties are well known. However we resolve them, it is plain that Maimonides' view does not oscillate in quite the same way. Instead, there is a clear—if abrupt—transition from what seems a purely intellectualist ideal to an *imitatio dei* that is strikingly ethical.

Perhaps the transition is somewhat less problematic for Maimonides on account of his conception of God as creator and as providentially ordering the world. On that ground, it is understandable that imitation of God should require practical activity as well as intellectual actualization. One clear, crucial aspect of this difference is covenant. With Noah, with Abraham, with the people of Israel, the Lord enters into a covenant that indicates essential elements of the providential order of the world and God's promises for the future. The covenant itself indicates God's love and guardianship, and this is something quite foreign to Aristotle. The Noahide and Sinai covenants clearly involve human responsibilities. They impose obligations whose fulfillment is crucial to human flourishing. The Sinaitic covenant makes a people whose life is shaped by the Law and which has a single, shared history of nationhood, even if it lacks the form of a political entity.

In Aristotle's metaphysics and theory of intellect, the activity of actualized intellect has no bodily organ and exists immortally without any essential connection with the individual, the self, in which it was actualized. The immortality is more a matter of assimilation to thought than a matter of this or that individual human being surviving bodily death and immaterially perduring as a conscious subject, a self. Granted, Maimonides seems to have much the same view, except (and this is a considerable exception) that the immortal intellect is bound to God, who has created and ordained the world. As in Aristotle's view, the individual understood as a self-conscious "I" with its own personal history does not survive. However, its teleological perfection involves a relation to the God of creation and covenant. That providential element, not found in Aristotle's philosophy, imposes significant practical, community-grounded requirements as elements of complete human perfection. Redemption concerns the people, not just this and that individual.

Another point of divergence from Aristotle concerns Maimonides' view of the possibility, nature, and obligatory character of repentance. In Aristotle's ethics, a full-fledged virtuous action is that which (a) is done knowingly, (b) is chosen for its own sake (as fine or just, not merely as a means to something), and (c) reflects a fixed and unchanging character. Jointly, these constitute an ideal. Aristotle does not explicitly claim that we can know if a person's character is so fixed that the virtuous agent is incorruptible and the vicious agent is incorrigible. But he does argue that
character states tend to become firmly established—second nature—and that it is very difficult to alter mature states of character. It is the mark of a fool to fail to see that activities of a given kind will lead to certain dispositions, certain states of character. The fact that our acts are voluntary does not mean that we have act-by-act control over the ways in which they shape character. (We cannot tell just what effect on our character this or that particular act will have.) Still, we are responsible for our states of character because of our role in their formation. And we act no less voluntarily once states of character have become established in us. It is not as though we were responsible for them, but not for the acts that we perform because our character is such.3

The ideal indicated by Aristotle's three conditions presumably has a vicious counterpart. The agent settled in vicious states of character chooses acts on the basis of what he takes to be good, worthwhile, and desirable. This isn't someone who knows better but makes concessions to, or is distracted by, strong desires or passions in deliberating on an action or in the moment of acting. Rather, this is someone with wrong or perverse conceptions of good doing what he understands to be good things to do. The vicious agent is different in just that respect from the incontinent agent.

An important merit of the soundly virtuous agent is that he or she is minimally attracted to what is base or unjust. Those things have no resonance for the virtuous person and may simply go unnoticed. Or, if they are suggested as action-guiding considerations, the virtuous agent may respond along the lines of “What are you talking about? I can't do that,” where the aversion to the act is a matter of the agent’s character, not a matter of circumstances, opportunity, logic, or natural causality. The considerations that weigh as reasons in favor of the vicious agent's doing X weigh as reasons against the virtuous agent's performing such an act. The latter would take no pleasure and would see no point in acting for those reasons.

One of the vicious agent's flaws is that he probably will not be motivated to undertake the sort of reflection that would result in the judgment—and then the resolve—to ethically self-correct and work at acquiring different and better habits. Or he may come to the realization that his character is poor in ways that he regrets, but it is so entrenched

that he can’t get beyond regret and all the way to ethical reformation. Perhaps he can see what is wrong, but he cannot change—“he can’t do that”—where, again, the impossibility of change is grounded in character. This is not to say that no circumstance and no effort could overcome this person’s vices. However, we might find that, given what we know about a particular person, it would not be reasonable to expect that person to change for the better. The agent’s corrupt understanding and ill-ordered affect and appetites can make it very unlikely that he or she will recognize right reason as such. He may be unreachably alienated from the virtuous person’s understanding.

III.

Revelation and covenant alter the moral-psychological and moral-epistemological landscape in a fundamental way. If people are to be able to do what the Law requires, they must have the relevant powers of agency. This is a key reason Maimonides assigns to volition a power that is different from the capacities for self-determination in Aristotle’s theory of the soul, action, and ethics. The giving of the Law is associated with significant claims about freedom of the will and the scope of agency’s power in regard to shaping character. The giving of the Law is an act of God’s grace, of crucial assistance to man. Perhaps without it, numerous ethical requirements could be ascertained by reason. But without the Law, not only would we have a great deal less guidance, we would also lack the assurance—the guarantee—that we are guided by what can lead us to perfection. In regard to (a) the rightness of what is required, (b) the motivation for acting in accord with what is required, and (c) the knowledge that a life led by the Law puts us on a path to our highest end, there are crucial differences between Aristotle and Maimonides. In Maimonides’ view, revelation ensures the presence and transmission of correct moral requirements if only people respond to what has been revealed. There is no situation of moral abandonment, of being so remote or so fully estranged from what is ethically required that an orientation toward virtue might be practically impossible.

The Law is a discipline of perfection. We need it in order to attain our most complete and perfect end, and were we in a covenant we found it impossible to fulfill, that would be a profound injustice. Whether or not Maimonides’ conception of free will is cogent, it is plain that it is crucial. If we did not have very robust freedom of will—a power to act against even our most firmly established states of character—the requirements of the Law and the reward that comes through following it would be at least potentially out of reach for some (perhaps many) people. Those with
characters fixed in vice would not be able to reorient themselves. They would not be able to restore their souls. And yet, “As [the psalmist] who knew it testified about it: The Law of the Lord is perfect, making wise the simple, restoring the soul.”

Correspondingly, each person has the volitional power to engage with what virtue requires. Maimonides does not include in his moral psychology a category of agent who cannot overcome the momentum of vicious dispositions. A person can genuinely repent, even in the final, waning moments of a life of sin. This is a real turning of the will and not just an expression of fear or a dawning and painful realization of how badly led one’s life has been. It may come late in life, but it still is more than regret; it is also authentic ethical self-correction. Maimonides wrote:

Repentance atones for all transgressions. Even if a man was wicked all the days of his life and repented at the end, nothing of his wickedness is recalled to him, as it is said, “And as for the wickedness of the wicked, he shall not stumble thereby in the day that he turns from his wickedness” (Ezekiel 33:12).

And:

What is perfect repentance? It is so when an opportunity presents itself for repeating an offense once committed, and the offender, while able to commit the offense, nevertheless refrains from doing so, because he is penitent and not out of fear or failure of vigour.

In one form of repentance, the person so distances himself from the wrongful act that he gives charity according to his means; keeps far away from that wherein he sinned; changes his name, as much as to say: “I am another individual and not the one who committed those deeds”; changes all his activities for a better course, for the righteous way; and exiles himself from his former place of residence, since exile atones for iniquity, inducing, as it does, humility, meekness, and lowliness of spirit.

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6 Ibid., ch. 2:1, p. 82b.

7 Ibid., ch. 2:4, p. 83a.
This aspect of Maimonides’ view helps highlight why the hardening of Pharaoh’s heart and his refusal to repent was a difficulty for Maimonides. In hardening Pharaoh’s heart, God was disabling Pharaoh for repentance. And that seems to violate some of the most fundamental principles of Maimonides’ conception of free will and repentance. Freedom of will is something we always have, and repenting is something we can always do—except in this case. There is little more he can say than

No disgrace need be attached to us because of our saying that God may punish an individual for not repenting, even though He leaves him no choice about repentance. For He, may He be exalted, knows the sins, and His wisdom and justice impose the extent of the punishment.⁸

God prevented Pharaoh from repenting as punishment for prior evil. When Pharaoh could have repented, he chose not to. The punishment for that is to deny Pharaoh the choice to repent, and in this way ensure that Pharaoh gets his just deserts for his oppression. To just abolish one’s free will would be inconsonant with Maimonides’ conception of human nature and human agency; we have free will. But to prevent someone from repenting, when repenting would have been a free act, can be indicative of God’s justice, if preventing repentance is what is suited to the evil the agent freely committed. Whatever one makes of this argument, it is clear that some such argument is needed to take on the issue of Pharaoh’s lacking the freedom of will to repent. Such freedom, Maimonides believed, is essential to our humanity. At the same time, it was “part of God’s wisdom, to teach [Pharaoh] that if God wanted to abolish his choice he would do so.”⁹

There is a point of comparison to Thomas Aquinas that is worth noting. He argued that any sin is performed voluntarily; the person could have done otherwise, even though, given the fallen state of human nature, no one escapes sin altogether. Each of us will sin, though none of our sins is unavoidable.¹⁰ In his discussion of free will and omniscience in “Laws of Repentance,” Maimonides wrote:

Did he not decree that Israel should worship idols? Why then did he punish them? [The answer is] that he did not decree concerning any particular individual that that individual should be the one to

⁸ Maimonides, “Eight Chapters,” ch. 8, p. 90.
⁹ Ibid., p. 91.
go astray. Any one of those who went astray and worshipped idols, had he not desired to commit idolatry, need not have done so.\textsuperscript{11}

This is a way to preserve the freedom that is exercised in sinning—and in virtuous and pious action. Sin may be inevitable, but no particular sin is inevitable And God may justly punish us for the misuse of our freedom.

On the one hand, Maimonides’ view makes it possible for a person to have another “chance” to live well or at least (if it is near the end of life) end well, but on the other hand, it presents a hard line with respect to responsibility. If one does not follow a path of repentance and redemption, the blame is one’s own; one could have repented. “If one desires to turn towards the good way and be righteous, he has the power to do so.”\textsuperscript{12} And “every person turns to the way which he desires, spontaneously and of his own volition.”\textsuperscript{13} “We always have free choice, and [it] necessarily follows that there can be instruction and learning, as well as everything that involves instruction in, and habituation to, the laws.”\textsuperscript{14}

Repentance is possible, and there is sufficient guidance for it. In light of that, persistence in vice is voluntary and blameworthy. Aristotle agrees. In fact, he holds that even if there is no plasticity of character remaining, the vicious agent is responsible for acting badly. The fact that he “can’t help it” does not diminish his responsibility. Maimonides’ view is yet more demanding, insofar as the vicious agent can always (if not easily) change his ways. “If then the individual believed that this fracture can never be remedied, he would persist in his error and sometimes perhaps disobey even more because of the fact that no stratagem remains at his disposal.”\textsuperscript{15} No one should say, “[H]e has already attained a condition that cannot possibly change, since every condition can change from good to bad and from bad to good; the choice is his.”\textsuperscript{16} We must not succumb to the pessimism of thinking we cannot be redeemed. Nor should we think our virtue is utterly incorruptible. Even of the bad man, “[i]f he wishes to be virtuous, he can be so; there is nothing preventing him. Similarly, if any virtuous man wishes to, he can be bad; there is nothing preventing

\textsuperscript{12} Ibid., ch. 5:1, p. 86b.
\textsuperscript{13} Ibid., ch. 5:2, p. 87a.
\textsuperscript{14} Maimonides, “Eight Chapters,” ch. 8, p. 85.
\textsuperscript{16} Maimonides, “Eight Chapters,” ch. 8, p. 88.
him.” Our souls can be restored through efforts that centrally involve our own free agency.

Restoration of the soul is not a vivid concern in Aristotle’s thought. I have argued that, in his view, mature character becomes more or less fixed, and even the agent who regrets his vices is not likely to be able to genuinely change his settled dispositions. In addition, the issue does not have the reflexive moral resonance that it has for Maimonides. Part of the explanation may be that for Aristotle, virtue and vice do not reflect how one answers to requirements that have God as their source; in acting and living well or badly, we are not answering to God, and we are not being judged by God. For Aristotle, the vicious agent has done a poor job of being a human being, but judgment of that life ends there, so to speak.

The issue of shame illustrates just how different are Aristotle’s and Maimonides’ moral psychologies. Aristotle writes: “It is not appropriate to treat shame as a virtue; for it would seem to be more like a feeling than like a state [of character].” And: “Further, the feeling of shame is suitable for youth, not for every time of life. For we think it right for young people to be prone to shame, since they live by their feelings, and hence often go astray, but are restrained by shame…” “No one, by contrast, would praise an older person for readiness to feel disgrace, since we think it wrong for him to do any action that causes a feeling of disgrace. For a feeling of disgrace is not proper for the decent person either, if it is caused by base actions; for these should not be done.” For the soundly virtuous person, shame is not an issue. This is indicative of just how sound Aristotle takes genuine virtue to be. Moreover, there is no counterpart in Aristotle for the sort of love and fear of God that we find in Maimonides. Aristotle takes wonder seriously, and he regards delight at understanding to be important and marvelous. But there really is no place for awe in his conception of how a person sees and relates to the world.

Shame and awe simply do not figure in for Aristotle in anything like the way they do for Maimonides. This reflects the contrast between anthropologies, one of which is essentially connected to a conception of God as creator, as just and merciful, as searcher of hearts, and the other of which involves no such connection. For Maimonides, there is an ever-present concern for how one stands in relation to God and God’s

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17 Ibid., p. 89.
19 Ibid., 17–20.
20 Ibid., 21–23.
commandments that is simply not an element of Aristotle’s conception. That helps explain why, for Aristotle, repentance has nothing like the moral or phenomenological urgency it has for Maimonides.\textsuperscript{21}

The Law itself includes guidance for repentance. It recognizes the very human tendency to go wrong through valuing the wrong things as well as simply lapsing when one knows the good. It also addresses the need for community and for mutual concern in the cultivation of virtue. “If someone sees his fellow man who has sinned or who follows a way that is not good, it is a commandment to make him return to the good and to make known to him that he sins against himself by his evil actions. As it is said: ‘You shall surely rebuke your neighbor.’”\textsuperscript{22} And “If he does not prevent everything he can possibly prevent, he is ensnared in the sin of all those he could have prevented from sinning.”\textsuperscript{23} “Laws of Repentance” tells the individual what he needs to do so that his reorientation to the good is correct and genuine, and it supplies guidance to the community, so that there is a shared concern to keep people from succumbing to corruption.

Like Aristotle, Maimonides emphasizes the influence exerted on us by those who surround us.

Man is created in such a way that his character traits and actions are influenced by his neighbors and friends, and he follows the custom of the people in his country. Therefore a man needs to associate with the wise continually in order to learn [from] their actions, and to keep away from the wicked, who walk in darkness, so that he avoids learning from their actions.\textsuperscript{24}

Also, “It is a positive commandment to cleave to the wise men in order to learn from their actions.”\textsuperscript{25} Among the ten things that are needed in any city in which a “disciple of wise men” might live, Maimonides includes “a synagogue, a teacher of children, a scribe, a collector of charity, and a court that can punish with lashes and imprisonment.”\textsuperscript{26} These are

\begin{enumerate}
\item The contrast between Aristotle and Maimonides in regard to shame and awe, and Aristotle’s having much less concern than Maimonides with anything like repentance, was (quite properly) emphasized to me by Leon Kass in private conversation.
\item Moses Maimonides, “Laws Concerning Character Traits,” in Maimonides, Ethical Writings, ch. 6, p. 48.
\item Ibid.
\item Ibid., p. 46.
\item Ibid., p. 47.
\item Ibid., ch. 4, p. 41.
\end{enumerate}
quite clearly elements of community needed for moral education and
virtuous activity.

While the Maimonidean view involves a kind of responsibility con-
cerning repentance and ethical self-correction, it also makes concessions
to human nature. “Every human being has merits and iniquities. One
whose merits exceed his iniquities is righteous.”27 And:

When a person’s iniquities and merits are weighed, the first offense
that he committed is not counted, nor yet the second. The reckon-
ing starts from the third offense. And if his iniquities, from the
third onwards, are found to exceed his merits, the first two sins are
also included in the demerits and he is judged for all of them.28

This passage does not specify whether he means “the third offense of
a certain type” or “the third offense of whatever kind.” In either case, the
view reflects the point that an offense may be a lapse rather than an ex-
hibition of an established state of character. If the offending goes on, then
we see that more than just the exceptional lapse is involved. This is why it
is so important in both Aristotle’s and Maimonides’ views that we attend
carefully to what we do, because what we do makes a difference to what
sorts of people we become. In “Eight Chapters,” Maimonides writes:

…the perfect man needs to inspect his moral habits continually,
weigh his actions, and reflect upon the state of his soul every single
day. Whenever he sees his soul inclining toward one of the extremes,
he should rush to cure it and not let the evil state become estab-
lished by the repetition of a bad action—as we have mentioned.29

Compare Aristotle:

We must also examine what we ourselves drift into easily. For differ-
ent people have different natural tendencies toward different goals,
and we shall come to know our own tendencies from the pleasure
or pain that arises in us. We must drag ourselves off in the contrary
direction; for if we pull away from error, as they do in straightening
bent wood, we shall reach the intermediate condition.30

While the mode and point of self-examination matter to both Aristotle
and Maimonides (following tradition), we have seen that the larger, mor-
al-psychological contexts are understood differently.

28 Ibid., ch. 3:5, p. 84a.
29 Maimonides, “Eight Chapters,” ch. 4, p. 73.
IV.

Like Aristotle, Maimonides holds that ethical perfection is a condition for intellectual perfection, but in one respect, for Maimonides, the former is “merely” a condition for the latter. It is not that ethical life is not important, but it is a virtue to the extent to which it subserves intellectual perfection. Aristotle saw the ethical virtues as virtues, full stop. He viewed them as perfections of capacities that are partially constitutive of us, and they would have that normative significance even if virtuous practical activity did not also contribute to or partly constitute happiness, our most final and self-sufficient end. In Aristotle’s view, every human capacity has a proper ordering and operation. So, there is a norm proper to each capacity, and well-ordered disposition and activity are better than the state in which they are absent, whether or not realizing the norm serves a further end. But, according to Maimonides, “this species of perfection is likewise a preparation for something else and not an end in itself.”

In his view,

For all moral habits are concerned with what occurs between a human individual and someone else. This perfection regarding moral habits is, as it were, only the disposition to be useful to people; consequently it is an instrument for someone else. For if you suppose a human individual is alone, acting on no one, you will find that all his moral virtues are in vain and without employment and unneeded, and they do not perfect the individual in anything; for he only needs them and they again become useful to him in regard to someone else.

While ethical virtues are subordinate to intellectual virtues at this place in the *Guide*, a few paragraphs later there is the culminating claim that

The way of life of such an individual, after he has achieved this apprehension, will always have in view loving-kindness, righteousness, and judgment, through assimilation to his actions, may he be exalted, just as we have explained several times in this treatise.

This is more than encouragement not to forget ethical life while contemplating God. It reflects the fullest comprehension of God, and it says

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32 Ibid.
33 Ibid., p. 638.
that with regard to the thirteen attributes (Exodus 34:6–7). Knowledge of God involves, to the extent to which each is capable, apprehension of “His providence extending over His creatures as manifested in the act of bringing them into being and in their governance as it is.”

On the one hand, for Maimonides, ethical virtue is fully subordinated to intellectual virtue, while, on the other, we are at our most excellent in activity that imitates God in just the practical ways indicated above. God is the living ideal of virtue. Of course, it is correct to say that Aristotle’s notion of perfection, too, has divine activity at its center. However, (a) for Aristotle, the activity of intellectual virtue in a pure form, unmixed with practical activity, seems to be the most complete perfection; (b) with regard to ethics, Aristotle’s measure of perfection is the practically wise man, while for Maimonides that measure is God; and (c) Maimonides’ conception of complete perfection—though grounded in an intellectualist ideal—involves ethical activity. This reflects the fact that law is indispensable to Maimonides’ thought. It also complements his view that practical wisdom is not a master virtue in the way that it is for Aristotle’s ethics. The highest ethical perfection flows from loving knowledge of God rather than from practical wisdom. It is the ultimate, guiding focus.

“Man needs to subordinate all his soul’s powers to thought, in the way we set forth in the previous chapter, and to set his sight on a single goal: the perception of God (may he be glorified and magnified), I mean, knowledge of him, insofar as that lies within man’s power.”

This is so even to the point that for man, “the goal of his health [is] that he attain knowledge.”

“On the basis of this reasoning, the art of medicine is given a very large role with respect to the virtues, the knowledge of God, and attaining true happiness.” This is a more unitary and transcendent focus for virtuous activity than we find in Aristotle.

At both the level of detail and the level of overall conceptual structure, there are important differences between Aristotle’s and Maimonides’ ethics. Chief among them are the significance of revelation and providence in Maimonides’ thought. They change everything. Moral epistemology is altered, moral psychology is altered, and what is required for human nature to be perfected is changed.

34 Ibid.
35 Maimonides, “Eight Chapters,” ch. 5, p. 75.
36 Ibid.
37 Ibid.
V.

What has all this to do with natural law? This is an enormously complicated matter, in part because there are several different conceptions of natural law. Maimonides does not employ a “natural law” idiom, but both the Noahide covenant and the revelation at Sinai have been interpreted by some as reflecting the presence of natural law elements in Judaism. We will look at what is being disputed in this debate and whether and how it matters. Much of the debate concerns the relations between revelation and reason, and reason and moral requirement.

Maimonides speaks of ethical requirements that rational agents would have been able to recognize as such even had they not been revealed. These are:

the things generally accepted by all the people as bad, such as murder, theft, robbery, fraud, harming an innocent man, repaying a benefactor with evil, degrading parents, and things like these. They are the laws about which the Sages, peace be upon them, said: If they were not written down, they would deserve to be written down.\(^{38}\)

However, he did not mean that they are self-evident or that they can be demonstrated. Indeed, he harshly criticizes those who hold that they are “rational laws.” But it should be remembered that the denial that these matters are demonstrable does not undermine their being ascertained by reason rather than, say, being merely conventional or stipulated. As a point of comparison, Aristotle did not hold that what is required by practical wisdom and ethical virtue is demonstrable, though he did argue that those requirements are ascertained and understood by reason. Prudence is an action guiding intellectual virtue, and it is an achievement of rationality without the demonstrative form of geometry and astronomy. It is not somehow rationally “lesser” for that.

This question of the rationality of ethics has motivated some controversy that may be based upon misunderstanding. It is an error with regard to ethics to conclude that if a matter is not demonstrable it is a strictly conventional matter. In his Treatise on the Art of Logic, Maimonides says that one kind of proposition that is known without proof of its validity is that of “generally accepted opinions, such as our knowing that uncovering the genitals is base and that compensating a benefactor generously is noble.”\(^{39}\) Also, “[w]hen one or both of the

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\(^{38}\) Ibid., ch. 6, pp. 79–80.

\(^{39}\) Moses Maimonides, Treatise on the Art of Logic, in Maimonides, Ethical Writings, p. 156.
premises of a syllogism is based on what is generally accepted, we call it a dialectical syllogism.” There is no indication that on account of something’s being generally accepted in the relevant sense, a proposition is not supported by reason. If it is objected that something like the ethical claims mentioned in the passage could be arrived at only on the basis of experience—that it is certainly conceivable that in other circumstances some alternative proposition would be correct—that still does not drain the proposition of its rational character. It may be about something based upon experience without rational necessity in its very conception, but it is experience that is comprehended and organized by reason. Demonstrative reasoning is not the only kind of reasoning, and a priori self-evidence is not the only way to acquire premises to reason from.

Marvin Fox argues that Maimonides’ notion of convention clearly takes morality out of the realm of being known and justified by reason, and he says that “a correct understanding of Maimonides will show why he could not affirm a theory of natural law.” Fox argues that man’s grasp of pre-Sinai morality could not have been through reason. He writes:

However, even the pre-Sinaitic generations are considered to have been directly commanded by God, through Adam and Noah, to observe these precepts. Of particular interest is that Maimonides deliberately excludes the validity of any claim that these laws are known through reason or that they bind us because of purely rational considerations.

Fox argues that “Maimonides knew his Aristotle well” and surely would not have confused matters of taste or convention with demonstrable matters. This distinction between demonstrable by reason and understood by reason indicates a third element between demonstrable and conventional. At the least it shows that there is a difference between conventional as merely stipulative, on the one hand, and conventional as in accord with reasoned judgment, on the other. If morality has its ground in commandments for which we can, in many cases, ascertain the reason—and which are rationally justified even when we cannot ascertain the reason—then it seems that moral requirements are, if conventional, conventional in the more strongly rational sense. Fox’s view may be lacking

40 Ibid., p. 157.
42 Ibid., p. 132.
43 Ibid., p. 137.
a clear distinction between “reasoned” and “based upon demonstrative reasoning.” Something may fail to belong to “the class of the intellecta”\textsuperscript{44} without failing to be known by reason. In fact, Fox goes on to say, “Maimonides’ categorical rejection of natural law does not entail holding that divine moral rules are irrational or opposed to nature. He is affirming only that moral precepts are not known by way of reason and are not capable of demonstration.”\textsuperscript{45} This passage seems to reflect both what is correct in Fox’s view and what is mistaken in it. In Maimonides’ view, moral requirements are rationally grounded even if not demonstrable. There can be rational underwriting that amounts to more than just being consistent with reason while also not attaining the status of being a necessary implication of something necessarily true.

Rational grounding is not automatically the same thing as having the status of natural law. In the handling of this issue of whether Maimonides can or should be interpreted as a natural law theorist, there are quite understandable intellectual motivations on both sides in the dispute. One is that denying that Maimonides is a natural law theorist preserves and highlights the unique particularity of the revelation of Torah to the Hebrews. On the other side, interpreting Maimonides as a natural law theorist helps show that Judaism includes fundamental elements of ethics that apply universally. Jewish morals are not confined to Jewish life; they are expressive of some of the fundamental elements of a morality for all humankind. There is the question of whether Maimonides is a natural law thinker and also the question of the importance of whether he is. The division over whether he is a natural law thinker involves this other question because of the implications of its answer for the issue of the status, so to speak, of Jewish moral thought.

In addition, in discussing whether or not Maimonides should be interpreted as a natural law thinker, we need to indicate which conceptions of natural law are being considered. Some of the most influential ones were developed centuries after he lived. If Maimonides is a natural law thinker, he is so in a manner that is quite different from the ways in which, say, Hobbes, Grotius, and Locke—who were explicit in the use of natural law—are. This is not to say that those theorists gave no role to God, revelation, nationhood, and covenant. Rather, the ways in which they focused on rights, liberties, political legitimacy, and obligation led to formulating the fundamental issues of politics and morality differently from what Maimonides had in mind. It is hard to see them

\textsuperscript{44} Maimonides, \textit{Guide}, 2:33, p. 364.

\textsuperscript{45} Fox, \textit{Interpreting Maimonides}, p. 141.
along with him as participants in a single, ongoing debate or project. Moreover, Maimonides was not a natural law thinker in the way that the Stoics were, for instance. Nor is he a natural law thinker in the manner of some contemporary theorists for whom there are rationally evident first principles of practical reason not inferred from theoretical truths about nature or human nature. One possibility is that the Hebrew Bible had, through various angles of approach and development, an important role in the development of certain currents of natural law theorizing, even if it itself is not properly interpreted as containing such theorizing. What might be a basis for attributing natural law to Maimonides’ thinking?

VI.

David Novak has argued that Judaism does indeed include natural law elements and that they are essential. In particular, they are features of Maimonides’ thought. He believes this both with regard to the Law revealed at Sinai and with regard to rabbinic elaboration and development of law.

Rational choice presupposes intelligent judgment (*nihil volitum nisi praecognitum*). Therefore, it seems to me that the best reason for the choice of the Jewish people to enter into the covenant with God, as we saw before, was their judgment that God’s knowledge of their needs and his concern for them was sufficient reason for them to choose to accept his authority, to accept laws as continually binding obligations, for the keeping of these laws itself is man’s active participation in the same divine concern first manifest in Egypt.… In order for people to know that God’s commandments are right for them, they obviously have to possess some knowledge of what is right in general. This precondition is simply unavoidable.

(Compare Aquinas’ saying, “[T]he rational creature is subject to divine providence in a more excellent way… by being provident both for itself and for others… this participation of the eternal law in the rational creature is called the natural law.”)

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48 Aquinas, *S.T.*, Q. 91, art. 2.
Novak adds, “[T]he greater bulk of the halachic system is not from direct scriptural revelation but from human reason, ultimately operating for the sake of the covenant.” 49

And:

Positive rabbinic law, precisely because it is humanly ordained, involves natural law factors in its very initiation, in the setting forth of its grounds. In divinely revealed positive law, natural factors are immediately present only in the conditions for human response to the commandments of God. 50

This is a systematic interpretation, addressing the issue in several relevant dimensions. The main theme of Novak’s view is that natural law is constituted out of ethical theory. It consists of the principles that moral rules presuppose and which offer guidance as to how these rules are to govern human relationships in a historical community. Natural law reasons for certain commandments, specifically those that govern most interhuman relationships, are those reasons that are assumed to have normative validity universally. 51

And “If humans could not discover at least some of God’s law for themselves before revelation, how could they possibly accept the fuller version of God’s law that comes with historical revelation in the covenant?” 52 Without that, there would be no rational basis for recognizing the normative point of what is revealed.

Earlier in that work, Novak argued that “[e]thics, as we have now defined it, is the reflective formulation of general principles of interhuman relations rather than the specific rules that apply to them, that is, what today is called normative ethics. It might be called the theory of Jewish praxis.” 53 And “natural law (which, to be sure, is a term Maimonides does not use, but which can be applied to his legal theory) means the most general law God has decreed for human creatures.” 54 And “Natural law, then, is the recognition of the normative significance of the limits of nature.” 55

50 Ibid., p. 52.
52 Ibid., p. 177.
53 Ibid., p. 72. Italics in original.
54 Ibid., p. 119.
55 Ibid., p. 147.
Natural law emerges when humans realize that all their historical acts have limits just as human life itself has an outer limit. Only with this recognition can the world be cosmos. Since leaving the Garden of Eden, our mortality and all that it entails is part of our continuing process of the definition of ourselves in the world.\textsuperscript{56}

Novak refers to the Noahide laws in particular as evidence for a natural law element in Judaism. Those are (a) laws for all mankind; and (b) as he says, “Noahide law functions more as a system of principles than it does as an actual body of rules.”\textsuperscript{57} That is important, because Novak does not intend natural law as a systematic body of specific moral requirements. Rather, the project of fashioning positive law is a project of specification, rendering natural law more fully determinate in a way that has application to the actual circumstances of people’s lives. In Novak’s view, natural law is best seen as “the precondition of the covenant.”\textsuperscript{58} Reason enables human beings to recognize the ethical soundness of what is revealed and what is comprised by the covenant originating in God. Without natural law, human entry into covenant with God would be either a matter of coercion by God or capricious decision by us, and both of those are fundamentally at odds with Jewish ethical thinking.

Novak argues that “[n]atural law emerges from the Jewish attempt to discover the ‘reasons of the commandments.’”\textsuperscript{59} In this view, if human reason can discover the reasons of the commandments (consider Saadia’s efforts, and Maimonides’), there are grounds for understanding many of the main moral elements of Judaism as natural law elements. “The discovery of natural law by means of this inherent Jewish rationalism enables political philosophy to become part of a Jewish search for truth rather than making the search for truth and the affirmation of Judaism to be some sort of antinomy.”\textsuperscript{60}

Novak points out that natural law theory has generally been developed on the basis of metaphysics, and he argues that it is better grounded in “a religious tradition itself, specifically out of a theological constitution of the doctrine of creation.”\textsuperscript{61} “The task for Jewish thinkers, then, is to recover the doctrine of natural law from within the Jewish tradition

\textsuperscript{56} Ibid., p. 148.
\textsuperscript{57} Ibid., p. 151.
\textsuperscript{58} Ibid., p. 186.
\textsuperscript{59} Ibid., p. 184.
\textsuperscript{60} Ibid.
\textsuperscript{61} Ibid., p. 26.
itself.” 62 And “Torah is the point from which we look for our irretrievable past, which is creation, and for our unattainable future, which is redemption.” 63 He also argues that in seeing all of the commandments in terms of the relation of body and soul, Maimonides articulated a view according to which “all of the commandments of the Torah are natural law.” 64 Yet, this need not mean “that one can give a rational explanation for every one of the details of every law.” 65 Many of the ritual laws, for example, are not apt for rational explication in any evident way.

In the history of natural law theorizing there are several different approaches to the question “What makes it natural law?” Several of the early modern contract theories found “the natural” in fundamental concerns, tendencies, and capabilities of human beings, understood as a basis for rationally warranted obligations, protections, and requirements. The Stoics could be credited with natural law thinking insofar as they regarded following reason as a way of following the principles of order and intelligibility of the cosmos. There is a long tradition of Catholic natural law theorizing in which a teleological anthropology is joined to a Christian theology of salvation. Additionally, a number of theories of natural law have been developed in the current setting. Robert George, for example, argues that “objective practical knowledge (including moral knowledge) is in fact possible, and it is possible precisely because of our intellective grasp of truly basic, undervided, practical principles.” 66 It is central to his view that there should be “goods that are intrinsically valuable for human beings (‘basic human goods’) and, precisely as such, provide intelligible (non-instrumental) reasons for action....” 67 And “The practical intellect itself grasps certain ends as reasons for action that require no further reasons. They are intelligible as ends in themselves.” 68

In a remark having an affinity with Novak’s view, George says, “[O]ur intelligent grasp of human goods is what makes moral questions possible.” 69 (Recall Novak’s arguing that natural law principles are ascertained by rational reflection on ethical matters and their rational justification.) Characterizing Germain Grisez’s important interpretation of Aquinas,

62 Ibid., p. 182.
63 Ibid., p. 143.
64 Ibid., p. 134.
65 Ibid., pp. 134–135.
67 Ibid., p. 24.
68 Ibid., p. 38.
69 Ibid.
George writes, “[T]he determinations of the first principle of practical reason refer to the intrinsic goods that render human choices intelligible.”  

“These determinations thus serve as first practical principles—the most basic precepts of natural law.” Like Novak, but without directly appealing to Scripture as its basis, George argues that morality needs natural law, for the latter supplies rational foundations for the former, in the form of justifying grounds as well as broad principles through whose specific determinations we can ascertain moral requirements. There is an intelligible basis in reason for moral requirements. And within the sphere of Jewish natural law thinking it is probably safe to say, as David Hartman puts it, “Mishpatim express Jewish particularity as it embodies universal understanding of the nature of man. Hukim reflect Jewish particularity in isolation from reason.”

Some natural law theorists, both within the Christian tradition (mainly Catholic) and outside it, make extensive use of Aristotle’s philosophy in building their cases. We discussed above some of the key points of comparison and contrast for Aristotle and Maimonides. Below I will remark briefly on some reasons why it is not clear to me that Aristotle is properly regarded as a natural law thinker, even though resources in his philosophy can be used in several ways by natural law theorists. It has significant points of overlap with such theorizing, but it has a standing and a character that are independent of it.

We should note that the fact that Judaism involves revelation and providence does not count against its having a natural law ethic. Indeed, some of the most influential natural law theories are explicitly and fundamentally theistic in just that way. That fact is not the main evidence against the case for Maimonidean natural law. There are other reasons.

In the Guide, discussing human diversity and the extraordinary knowledge of the differences between individuals needed in order to perfect them, Maimonides writes, “It is a part of the wisdom of the deity with regard to the permanence of this species of which he has willed the existence, that he put into its nature that individuals belonging to it should have the faculty of ruling.”

The most excellent ruler both understands the diversity of individuals and

prescribes actions and moral habits that all of them must always practice in the same way, so that the natural diversity is hidden.

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70 Ibid., p. 45.
71 Ibid.
through the multiple points of conventional accord and so that the community becomes well ordered. Therefore I say that the Law, although it is not natural, enters into what is natural.\textsuperscript{74}

It is not evident that the final sentence is a Maimonidean repudiation and disqualification of natural law, though critics of the view that there is natural law in Maimonides (for example, Fox) read it that way. Even if the Law cannot be read from nature, that does not entail that it fails to be natural, if among the meanings of “natural,” we include a notion of “that which can be comprehended in terms of its end.” That, I think, is an aspect of Novak’s view. He draws attention to Maimonides’ insistence that all the commandments must have reasons, even if we cannot discern them. “For to assume otherwise would be an affront to the wisdom of the divine lawgiver.”\textsuperscript{75} And “by seeing the reasons of the commandments (\textit{taâåmei hamitzvot}) as their purposes, Maimonides’ teleology is built upon solid rabbinic precedent.”\textsuperscript{76}

One way to formulate the interpretive issue is as follows. The Law is revealed and at the very least contains a great deal that reason would not have ascertained—no less understood as obligatory—on its own. Moreover, in at least some places, Maimonides argues that following the Law is less than fully meritorious unless it is done because God has revealed the commandments. However, Maimonides (like Saadia) argues that there are reasons for the commandments; that none of the commandments fall outside God’s wisdom—not all of the details of which are attainable by us—but the latter is not in conflict with reason. Moreover, in order to recognize commandments as truly for the good of humankind, there needs to be sufficient receptivity on our part, grounded in rational comprehension and disposition. The teleology of the commandments (if not in every detail) is graspable by a kind of moral understanding presupposed by them. That is a crucial basis for our appreciating the ways in which the Law is a discipline of perfection.

These latter points may seem to jointly build a case for interpreting Judaism as involving natural law elements. Novak, for instance, wants to show that “the introduction of the term \textit{nature}, hence \textit{natural law}, into a Jewish theology of law is an improvement over the more vague term rational commandments (\textit{mitzvot sichliot}) used earlier.”\textsuperscript{77}

\begin{itemize}
  \item \textsuperscript{74} Ibid.
  \item \textsuperscript{75} Novak, \textit{Natural Law in Judaism}, p. 96.
  \item \textsuperscript{76} Ibid., p. 97.
  \item \textsuperscript{77} Ibid., p. 125.
\end{itemize}
On the relation between ethical thought and natural law, Novak argues that natural law

consists of the principles that moral rules presuppose and which offer guidance as to how these rules are to govern human relationships in a historical community. Natural law reasons for certain commandments, specifically those that govern most interhuman relationships, are those reasons that are assumed to have normative validity universally. Accordingly, the “nature” in natural law must be seen as an essentially normative concept, one immediately connected with the demands made upon humans in their various historical communities.78

As noted earlier, one reason to press this line of thought is that it overcomes the particularity of the Jewish people through what is presupposed by the moral validity and bindingness of revealed law. The conflict between Fox’s view and Novak’s view could be explicated as the difference between an insistence on the uniqueness of the Law, the Jewish people, and God’s providence for them, on the one hand, and the fundamental and universal character of key contents of the Law and their moral intelligibility to rational agents, on the other.

VII.

We saw that Aristotle and Maimonides agree that virtue and the understanding of the rightness of requirements need habituation and regular practice, with a view to virtuous activity becoming second nature. Bad practices and poor character will occlude and distort one’s comprehension of moral matters. This is a reason both Aristotle and Maimonides put so much weight on law and on what we might call the “ethical culture” of a society. Habituation and development of virtue occur through participation in the practices and circumstances of a concrete social world. The cultivation of justice, generosity, fortitude, and forgiveness, to select just a few virtues, depends upon the shaping of practical rationality and sensibility in some definite circumstances including certain prevailing expectations and levels of concern on the part of others.

Notwithstanding the interpretive disagreements with Novak, his view includes similar points. He says, “Instead of an attempt to find some universal phenomenon to ground natural law, it seems more authentic and more useful to see it as the constitution of a universal horizon by a

78 Ibid., p. 123.
thinker in a particular culture for his or her own culture.” We do not start with universal principles and then apply them to the setting and circumstances we happen to be in. We start from within a community, from within a certain kind of social and cultural life, and in developing moral awareness and moral thought, we can progressively abstract from that to humankind universally.

We can ask here if there are important differences between a view of morality in which certain virtues are of fundamental importance, such that the agent who has them acts well overall (for himself, in relation to others, and in relation to people generally), and a morality grounded in natural law. Natural law won’t make people good (and won’t cause them to regret their vices or motivate them to repent and reform) on its own, unless one builds into the theory a strong natural disposition to effectively pursue good and avoid evil or includes in one’s morality the necessity to cultivate sound moral judgment and action through the development of the relevant virtues. Even if one includes in his view something like the synderesis in Thomistic natural law theory, it needs to be exercised and developed, and there is plenty of contingency involved. That there is natural law is one thing; ensuring that agents will care to know the truth concerning morality and will care to enact true values is another, and without the latter, the former will not be effective.

Natural law theorists can accept this, of course. But there is still a difference between a morality based upon rationally evident principles and a morality based upon covenantal commitment to the specifics of a certain quite textured form of life.

A crucial putative gain of the natural law interpretation of Judaism is that it shows how (as stated in a chapter subheading in Novak’s book)

79 Ibid., pp. 189–190.

80 For an illuminating discussion of Aquinas’ theory of natural law, especially as it concerns justice, see James Ross, “Justice Is Reasonableness: Aquinas on Human Law and Morality,” Monist, Aquinas issue (1974), pp. 86–103. Ross argues that “natural law principles, although functioning as first principles of practical reason, do not function as universally true generalizations which are to be applied through universal instantiation; rather, they function as policies” (p. 91). He explains that in addition to natural law principles that are derivable on their own from first principles of natural law, there are secondary principles, the derivation of which depends upon “additional contingent but not per se premises” (p. 94). And “it is only the primary principles which need apply to all men in all societies and environments; the secondary principles, which are derived through merely contingent premises, may vary with the truth of those contingent premises” (p. 94). Ross’ discussion shows how the Thomistic conception of natural law’s place in morality is not to be understood as a system of first principles, with secondary principles simply being derived from them in a network insulated from empirical and contingent considerations. In that respect, it brings it somewhat closer to the Maimonidean view of ethics. But substantial differences remain.
“Natural law is that which makes Jewish moral discourse possible in an intercultural world.” Natural law, he argues, is “the precondition of the covenant.” Human reason is a precondition for covenant and enables us to discern what justice requires and why it is so fundamentally important. “First, we ourselves [human beings] have not made all of our laws. Second, all of our laws are not valid for ourselves alone, but some very essential laws are valid for all humans in general.”

If that is correct, why not identify the core elements of Maimonides’ view as reflecting natural law? For one thing, those core elements, though rational, are given as commandments in revelation. Thomistic synderesis is given to human nature by God, but that is not a parallel case. Synderesis is part of the constitution of a human being, and that differs from something disclosed to human beings by revelation. That is one respect in which synderesis is more apt for assimilation into natural law theory than is Torah. Both approaches involve an essential role for God, but in the Thomistic approach, the metaphysics of nature has supplanted revelation and covenant in this regard, at least if one is eager (as a number of influential contemporary theorists are) to show that a broadly Thomistic conception of natural law can be grounded in reason without essential connection to theistic theses. That separation may be unfaithful to Thomism, but it is, I believe, clearly unfaithful to the Jewish conception of law. That difference makes a considerable difference. There are other reasons as well to doubt whether Judaism fundamentally includes natural law elements, and to doubt whether Maimonides thought that it included them.

J. David Bleich’s argument that Judaism “cannot admit a fully developed system of natural law” complements the argument I have been making concerning Maimonides’ view in particular. One of the main reasons Bleich gives is that, in Maimonides’ view, while there are reasons for the commandments, in many cases those reasons are not transparent to us (or even more or less confidently discernible), but we are

81 Novak, Natural Law in Judaism, p. 178.
82 Ibid., p. 186.
83 Ibid., p. 58.
capable of an appreciation of the commandments that motivates reason to incline toward them. As noted above, they are not in opposition to reason. Moreover, reason can tell us—with certainty—that God’s commandments are to be obeyed. Punishment is morally required by the Noahide commandments, and we can know this, whatever the source of the commandments, because without punishment, a body of law (at least for human beings) is futile and pointless. One could argue that the principle is itself a reflection of natural law, but it is not clear how that offers any gains over simply saying it is something reason can grasp as a rational matter. (We should note that the relation between retributive sanction and obligation was an explicit and fundamental element of legal theorizing, including natural law theorizing, in the early modern period. See Selden, Grotius, and Hobbes, for example.)

Also, on the question of obligation, Bleich writes:

> Yet obedience to a law whose authority is established on other grounds is compelled by reason alone: otherwise law would be devoid of meaning. Law can be successful in achieving its legitimate goals only if transgressors are punished; otherwise law would be honored solely in the breach with the result that the world would “become corrupt.”

Even if a law has its source in revelation, reason tells us that if it is indeed a law, the accompaniment of sanction is necessary to ensure the motive to obey. This can be disputed, but it does seem to be an element of Maimonides’ view, at least, and it helps explain why he insists that the Gentile who accepts the Noahide commandments must do so because they are God’s commandments and their being God’s commandments is essential to their sanction.

Bleich argues that at most, as a matter of substantive Jewish ethics, only the prohibition of murder could have natural law status. “This is because in a system of moral judgments the admonition ‘Thou shalt not kill’ is the equivalent of the propositions of logic.” In the context of his larger argument, I take the comparison to be that “Thou shalt not kill” is a rational certainty that is more compellingly evident than moral judgments toward which reason “merely” inclines. My own view is that the comparison to logical truth is not helpful and, in fact, is problematic. The point of the comparison seems to me to concern how sure we can be of the claims, rather than the claim about killing being true in the same way that a truth of logic is true. If the point is that “Thou shalt not

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86 Ibid., p. 17.
87 Ibid., p. 20.
kill”—suitably qualified—is so sure an ethical matter that it can be taken as conclusively known to be true, Bleich’s point goes through. And it seems right to say that “Other moral rules may not be established with certainty but are indeed rational in the sense that it is reason which inclines toward their acceptance.”

Moral laws, in Maimonides’ view, can be both rational and matters of convention. Bleich writes:

Moral propositions may be commended to the intellect by reason but their binding validity cannot, in most cases, be known with compelling certainty. Reason certainly “inclines” toward their acceptance, but rational inclination falls short of final determination. Thus the intellect of a wise man will incline strongly toward acceptance, but the same wise man will recognize that, epistemologically, even strong inclination cannot be equated with *hechra hada’at* or absolute certainty of determination.88 [*Hechra hada’at* is translated by Bleich as “a final, conclusive determination of the intellect.”]

As we saw above, convention, in the way Maimonides uses the notion, is closer to “rational, though not demonstrably certain,” than it is to “stipulative, or merely reflecting a social norm.”

Typically, a theory of natural law explicates moral universality either through a conception of an intrinsic end for human nature (and related principles of right action or conceptions of intrinsic human goods) or through rational principles that can be ascertained by any rational agent (with basic principles being fully evident upon consideration), even if the account does not involve a *telos* of human nature. Universality is, as it were, built-in, in one of those ways or the other. For instance, for Aquinas (on one interpretation) it is built-in through a teleological anthropology including practical rationality, while for George it is built in through what is rationally evident concerning good. Maimonides’ anthropology is teleological but not in a way that involves grounding natural law conceptions. Teleology does not in itself entail natural law. But it is not automatically a defect of a conception of morality if universality is not built-in in either of those ways. Universality could come “through” objectivity. That is, we could come to see certain considerations as having objective status and, for that reason, also find them to have universal applicability.

In the debate over natural law and in the debate over moral rationality more generally, the range of positions in which reason has a central place

88 Ibid., p. 21.
89 Ibid., p. 20.
is sometimes improperly limited to those in which (a) reason ascertains principles of right action on the basis of the human telos; (b) reason ascertains evident, foundational goods; or (c) reason has a more Kantian, transcendental role, supplying criteria of moral rationality through a priori conditions or a fundamental principle or criterion of right action. But it is not as though the only other options were conventionalism, subjectivism, or relativism. One important rival view that has already been mentioned is Aristotelian practical wisdom, in which reason attains objective understanding but not through a grasp of evident first principles. There may be fundamental human goods and fundamental principles of right action, but they are understood through possession and exercise of the virtues—knowledge of them is attained through moral thought, judgment, and experience, rather than being prior to them or a condition of them. Another important view is the Maimonidean conception of the Law and the attendant moral epistemology. This is related to an important matter there is not space to discuss here, namely, the role of the tradition of commentary, argument, dialectic, and criticism in elaboration and explication of the Law. This is a tradition of rational articulation.

In both cases, moral judgment and reasoning aim at truth—at what is objectively correct—though in neither case is there some fundamental principle or criterion that shapes all such judgments. Nor are there a priori conditions of moral judgment, though there are rational capacities that are necessary for it. In both cases, there is a project of moral understanding that is not subordinate to conventional norms.

This has an important connection with the issue of moral education. Maimonides and Aristotle agree that moral education is largely a process that occurs in and through the details and circumstances of social life. It depends upon developing a more or less reflective appreciation of moral considerations through being encouraged to act, judge, and reason in certain ways rather than others. It is also desirable that an articulate understanding of why one should reason in those ways should develop along with the development of states of character. For those who do not engage in such reflection, at least the laws provide guidance about how to act, and they can motivate by threat of sanction. It is to be hoped that what begins as action in accord with the guidance of others becomes one’s own rational self-determination. For those who acquire virtue, the objective ethical soundness of one’s developing dispositions and understanding reflects what is ethically universal, even if it is not originally learned under that description.

An agent can develop the relevant modes of attention, perception, sensibility, and judgment within a certain cultural setting and in accord with specific traditions without that cutting him off from the world
outside that setting. The cultural particularism of moral education does not exclude the objectivity or universality of ethical considerations. It can form a pathway to it. It is true that moral education can encourage seeing others as culturally and morally distant and as less than fully part of a common moral world. Yet the details of living in one's own cultural world can also supply the bases for enlarged moral concern and for, of course, seeing oneself and others as fully part of one common, moral world. In such cases the particularity and cultural setting shape significant kinds of moral awareness and concern that are not confined in their application to one's own people, faith, or community. The deep resonances of one's own cultural or religious milieu need not trade that depth for breadth.

This is not the place to enter fully into the debate over whether it is correct to interpret Aristotle as a natural law theorist. But I will say the following. The particularism of Aristotelian moral judgment and the way that moral rules or principles are abstractive generalizations from them seems to push the view away from, rather than toward, natural law. For Aristotle, the correctness of moral judgment is prior to its universality. Practical reason learns what it comes to know through coming to a comprehension of objective considerations rather than through a grasp of universal principles. There are some such principles, and there are important generalizations concerning virtue. But what is primary for Aristotle is the soundness of the considerations making for correct judgment. The intelligibility of the world and the intelligibility of human good are not quite apt for formulation in the idiom of law in Aristotle's conception. Even the teleology and eudaimonism of Aristotle's view don't imply or presuppose natural law on their own. We all aim at what we take to be good, but that is a principle of human nature, not a substantive, action-guiding principle of deliberation and praxis.

If in natural law theorizing, no more is claimed than what is claimed in theorizing that employs Aristotelian objectivity, it is not clear that it is a distinct view, and furthermore, it is not clear that it uniquely illuminates or explains anything that requires a distinct notion of natural law. Moreover, the covenants in the Hebrew Bible are different from the covenants or contracts often found in early modern natural law theory. For one thing, the contracts of early modern theory were “backed” by divine sanction, but they were not contracts with God and from God. The covenant at Sinai was unique and strongly particularized to a certain people, though in fulfilling that covenant, those people would acquire virtues and understanding with universal ethical import.

Maimonides and Aristotle share a strong emphasis on practical moral education in the concrete, social world. They differ on fundamental
matters of moral epistemology, and they differ in their conceptions of
human perfection. But they are comparable in that neither seems to be a
natural law theorist. The ways in which context-dependence (the giving
of the Law to the Hebrews) and the uniqueness of that revelation figure in
Maimonides’ ethical thought do not disqualify it from containing objective
and universally valid moral considerations and judgments, though they
are not made objective and universal by natural law considerations.

Conclusion

It is possible that the questions of whether Judaism includes natural law
and whether Maimonides was a natural law thinker are not fundamental,
in the sense that their answers do not make a significant, substantive
difference to Jewish ethical thought. And it is possible to expand and con-
tract the limits of natural law in some quite flexible ways. But I do think
there need not be a worry that if Judaism does not include natural law, it
is disqualified from having universal ethical significance. This is related to
a second point, namely, that for any plausible conception of ethics, moral
education will occur in and through the details of the business of living.
One does not acquire ethical commitments and effective ethical concern
and motivation through grasping principles or knowing their grounds.
Those are acquired in ways governed and informed by many particular
circumstances. We become virtuous (or not) in highly particular ways,
no matter how universally applicable ethical principles might be. Then, if
we are virtuous, we also attain an understanding of ethics that shows the
rational ground for what is in fact ethically right, and we attain a more
general comprehension of ethical values and ideals.

Maimonides has done a great service in showing how the distinctive
life of a specific national community with unique commitments and re-
sponsibilities can develop and encourage kinds of moral development
and understanding that are universally applicable. That development in-
volves reason in its role in reflection, inference, reasoning by analogy,
the testing of hypothetical claims, extrapolation, and so forth. Jointly, the
rational capacities developed in moral education and the training of sen-
sibility that must attend that development are crucial to ethical perfection
of a sort that is not exclusive to one community. Its horizon can extend
to all human beings. Perhaps the way to put the point is to say that what
ethically perfects a Jew makes that individual an excellent human being.
In that respect, the absence of natural law from Maimonides’ understand-
ing of morality does not hobble it for being general in its reach.

For Maimonides, aspiring toward human perfection is part of the
project of perfecting the world. This project has a role in a larger moral
universe than the polis; it has a place in what we might call “a providence of cosmic justice.” (“[S]hall not the Judge of all the earth do justly?” Genesis 18:25.) In that regard, the contribution from Jerusalem is a deep, resolute moral aspiration, though it has its origin in a particular revelation and covenant.

The key contribution of Athens—at least as a place of sojourn if not citizenship for Aristotle—is Aristotle's important articulation of fundamental elements of moral psychology and ethical life. In particular, his account of the distinctively human virtues and how they are acquired, and how virtuous activity contributes to a well-led life, has enduring significance.

The key contribution of Jerusalem here—at least as a spiritual home if not a place of residence—is Maimonides' account of what it is to lead a Jewish life and what that indicates about human good in general. The account he develops shows the way in which a highly particularized form of life in a distinctive, covenanted community can articulate and explicate a discipline of human perfection, with “human” understood in the broad sense; the perfected human being is a perfected human being, not just an excellent Jew. The knowing love of God that is the life activity of an actualized intellect is not confined just to those who happen to have a certain heritage. Those specific aspects fall away as perfection is actualized.

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