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**THE END OF THE LAW?: LAW, THEOLOGY, AND NEUROSCIENCE** by David W. Opderbeck, *Cascade Books, Eugene, Oregon, 2021, pp. xi + 248, £23.00, pbk*

David W. Opderbeck is Professor of Law at Seaton Hall University Law School, and this book is the result of his PhD research at the University of Nottingham (UK), under the supervision of Conor Cunningham. His main theme is *neurolaw*, and more specifically the reductionist version of it, which we can roughly characterize as the attempt to explain and reform the legal system on the basis of neuroscience. Like the human mind itself and the rest of its products, the law and its study are, from this perspective, reducible to its neurophysiological basis. The very existence and notion of law itself, but also the realities and concepts that surround it, such as jurisprudence or human free will, can be explained from a purely scientific perspective, which includes mainly neuroscience, but may also include sociobiology or other scientific disciplines studying behaviour. Reductive *neurolaw*, of course, implies a reductionist, evolutionary and materialistic view of the human being. According to its most radical advocates, for example, free will would not exist, so the notions of guilt and punishment, which are obviously central to any legal system, would become meaningless. If people commit crimes it is because they are entirely determined by what happens in their brains in terms of neuro-physiology. Then, sentences would not have to be aimed at punishment or penalization, but they would have to be oriented towards treatment or medication that could transform the brain sufficiently so that the person in question would no longer be a criminal. The legal system would then become something like an extension of the national health system.

In order to address this issue, which clearly has many ramifications, Opderbeck begins with a brief historical overview of traditional conceptions of the sources of law. In ancient Greece as well as in the Roman Empire and Judaism, law was conceived as having a transcendent foundation. What we would today call positive law would therefore have its justification in the reference to a natural law that really meant a transcendent foundation for it, since it refers to an order of things superior to nature (since it governs nature itself). With time this transcendent conception of the foundation of law was lost. In nominalism and voluntarism (Duns Scotus and Ockham) we find the decisive steps towards the proto-legal positivism that we will find later in the sixteenth and seventeenth centuries (Grotius, Hobbes).

This process, summarized by Opderbeck with great clarity, replaces the basis of law: we move from the transcendent source and justification of law to an immanent justification, which no longer has to do with a natural

law, but with the legitimate will of the legislator, a will able of wanting everything, given that it no longer conforms to any higher order (and perhaps not even to rationality itself). The theological development behind this process is clear: from a God like that of classical theism, who acted in accordance with reason and therefore, while remaining omnipotent, could not do things contrary to reason (Aquinas), we move to a God whose fundamental characteristic is a will that is not subject to any limit, not even that of reason itself. Once secularization begins, this will from which the law emanates is located in the human person, no longer in the divine person. The source of law, then, is the will of the social body, expressed by appropriate means (think of Rousseau, for example). If we go a little further and add atomization to secularization, we have the social body broken into multiple pieces: there is no longer the general will but the sum of individual wills. Now it is the will of each individual, not even subject to reason (it is, in that sense, pure will) that dictates the law, the sole source of its legitimacy or power. And taking a final step: since neuroscience, according to the scientific interpretation of it, teaches us that the human will is nothing more than a bunch of neurophysiological mechanisms going on in the human brain, we can conclude, therefore, that there is no source of law other than neurophysiology. The reductive neurolaw, therefore, would be something like the last link in the process we have just summarised.

Opderbeck offers a diagnosis, but also criticises the situation we have reached and offers an alternative. The critique, developed from different perspectives and drawing on different authors, comes to say that the normative dimension that law always implies would be lost with a justification of law that has forgotten its transcendent character. Without reference to this transcendent dimension, without a natural law to which to refer, it is impossible to give an account, at the end of the day, of why things should be done this way and not otherwise. Perhaps at the end of a trial, instead of a sentence we should have a treatment for the brain. Perhaps a crime is more like a disease than behaviour that deserves punishment. But even if this were so, why should we want to change that? Why is it better that all behaviour conform to a 'norm' or 'normality' if there is no external limit but only one's own will? At the end, reductive neurolaw refutes itself. Another major difficulty concerns the limits of evolutionary or emergentist explanations, which are manifest in the field of philosophy of mind: can one account for the existence of human consciousness and all that it implies by resorting to a purely material process of evolution or 'emergence'? Opderbeck thinks not.

But let us say something about the solution. Opderbeck draws his inspiration for an alternative from neo-Aristotelianism, which approaches the understanding of science, the human being, nature, the relationship between mind and body (among others) in a promising way, in the sense that it goes beyond reductionist materialism, but does not assume substance dualism either. The notion of 'power' and even 'emergent power' as basic to understanding nature may give rise to a better understanding of what the

human mind is: a set of capacities or powers. But this new Aristotelianism, for Opderbeck, succumbs to the naturalistic fallacy, for it cannot ultimately justify the shift from 'is' to 'ought'. This does not completely discredit the neo-Aristotelian perspective, but it does make a complement necessary. Which one? Theology. We can understand the importance of 'powers' or 'capacities' in nature, but ultimately a transcendent dimension is needed to explain why nature goes beyond itself in human consciousness or why it can transcend itself. What is needed for nature is a *telos* or end that is beyond itself. And that is where classical theism comes in, which, unlike for example process theology, presents a good model for understanding faith and reason, grace and nature, the human and the divine.

In sum, Opderbeck's book is clear and well argued. It offers a survey of the main question of law, which is conceived as an integral part of human nature, and argues for the need for a restoration of the concept of natural law, based on the notions of critical realism (McGrath), neo-Aristotelianism and classical theism (Aquinas). In short, it is an interdisciplinary work (law, theology, philosophy) in which, although neuroscience is not very present, it aims to confront certain contemporary reductionisms, such as that of neurolaw.

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**GOD: EIGHT ENDURING QUESTIONS** by C. Stephen Layman, *University of Notre Dame Press, Notre Dame, Indiana, 2022, pp. xiii + 294, £26.95, pbk*

Stephen Layman's aim in this book is to provide us with the newest and 'best available' arguments for and against the existence of God. He does this by pitting arguments of naturalism (the materialist, scientific view) against those of theism on eight topics: the existence of God, evil, the goodness of God, his hiddenness and relation to morality, free will, the soul, and re-incarnation. At the end of each chapter he comes to a decision about which side, naturalism or theism, has the stronger arguments in each of these areas, often by the principle of favouring the view which presents the least difficulties. In this way, he wants 'gently' to lead the reader or student to his or her own conclusion, for his view is that generally there are few clear-cut or knock-down arguments in the philosophy of religion.

The book is written in a highly logical format, which makes for clarity and conciseness, and Layman is careful to explain his terms. His method, however, also has some limitations. For example, he only presents one part of the cosmological argument, the argument from contingency. There may be other, better views of God's timelessness than the one he presents,