

Book Note

ISLAMIC NATURAL LAW THEORIES, by Anver M. Emon¹

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ANVER M. EMON SURVEYS classical juridical opinions concerning the role of reason in Islamic law and theology. He delineates how pre-modern Muslim jurists utilized nature as the link between divine will and human reason in fusing fact and value.

The first chapter introduces natural law and its historical place in the Islamic ethos. Emon elucidates three reasons for the usefulness of natural law, namely its malleability into law and theology; its distinctness from rigid legal classifications that place scholars into one school of thought or another; and its multi-dimensional capability of relating to scholars of varying intellectual inclinations. He explains Islamic natural law's contribution to the understanding of reason within *Shari'a* and presents contemporary debates concerning the issue. The chapter concludes with an overview of the Islamic natural law theories that comprise the remainder of the book, termed Hard and Soft Natural Law, the primary difference being that in the former, the natural world is an immutable force created by God for the benefit of humanity, whereas in the latter, nature is mutable by the grace of God (*fadh*). The soft naturalists' critique of Hard Natural Law, termed the Voluntarist critique, centres upon God's omnipotence and aversion to placing value judgments of good or evil upon human beings based on their reasoned judgments.

Chapter two provides a synopsis of Hard Natural Law and the jurists who espoused its tenets. Emon focuses on three individuals and their contributions. First, he discusses Abu Bakr al-Jassas's espousal of the presumption of permissibility concerning all matters unmentioned in sacred texts. Al-Jassas posited that God created the cosmos for the benefit of humanity, and thus reasoned determinations on matters unstated by divine revelation are permissible and to be encouraged.

1. (New York: Oxford University Press, 2010) 222 pages.

Next, Emon discusses Qadi ‘Abd al-Jabbar’s Hard Natural Law theory, which utilized concepts such as sustenance (*rizq*), obligation (*taklif*), divine assistance (*lutf*), and justice (*al-ta’dil wal-tajwir*). Qadi ‘Abd al-Jabbar theorized that “God provides human beings with sustenance, which is an empirically verifiable good that sustains human life.... [S]ince [sustenance] is bestowed by God, it offers a basis for fusing fact and value in nature.”² Lastly, the author discusses the natural law epistemology of Abu al-Husayn al-Basri, who echoed al-Jassas’s theory of the presumption of permissibility but claimed that acts are functions of the “ontological presumption about nature and reason... . Where there is no evidence of evil or corruption in an act, the act is deemed to be good on naturalistic grounds.”³

Chapter three presents the Voluntarist critique of Hard Natural Law, which focuses on the fallibility of human reason and the primacy of divine will. Voluntarists criticized the hard naturalist notion that reason can reflect divine intent, subsequently limiting God’s omnipotence. Emon surveys the various views espoused by eminent jurists including al-Baqallani, ibn Hazm, al-Ghazali, and ibn ‘Aqil on the role and ability of human knowledge to conceive truth. The author then discusses determinations made by reason and the inherent qualities of good (*husn*) and bad (*qubh*) in such human determinations. The chapter ends by explaining the Voluntarist critique of hard naturalists in fusing fact and value. While the latter presumed permissibility in matters not mentioned by divine texts, the former argued for a state of suspended judgment in such instances (*tawaqquf*), thus limiting the role of reason.

Chapter four outlines the precepts of Soft Natural Law, whose adherents relied more heavily on divine texts that emphasize analogical deduction in their hermeneutics to extend the law. They viewed nature as contingent upon a divine change in mind and thus not an independent source of human reason, despite the fact that they accounted for societal benefit (*maslaha*) in their juristic consideration. The author proceeds through this chapter by outlining theories from the most prominent soft naturalists, namely al-Ghazali, al-Razi, al-Tufi, and al-Shatibi.

The conclusion highlights two ironies from the preceding chapters—first, that despite varying theological positions, jurists came to similar conclusions in fusing fact and value in nature and second, that the soft naturalist commitment to reasoned deliberation, used historically as an agent of limitation in legal interpretation, has been utilized by modern reformers as a method of expanding *Shari’a*.

2. *Ibid* at 52.

3. *Ibid* at 82.