

Anver M. Emon

Islamic Natural Law Theories.

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Old questions concerning the grounds of Islamic law have acquired a renewed urgency in parts of the Western world. Whereas previously the predominant narrative was one that had Islamic societies coming to grips with Western-imposed legal frameworks, the question now more often posed is whether Islamic law can coexist on Western soil, either tacitly or as an explicitly recognized alternative tradition of legal reasoning. The conversation so far has understandably revolved around the extent to which liberal societies can accommodate local and/or particular traditions and practices. Yet in the case of Islamic law, in specific, one might wonder whether the issue could also be turned the other way around. To what extent can a scholar working from inside the venerable and mighty tradition of Islamic law recognize legal reasoning that does not take its start from the proclamations and the precedent established by God's Messenger?

This is the question that the book under review sets out to answer, albeit in a historical way and in a somewhat roundabout manner. Its aim is to articulate a cross-section of the history of Islamic jurisprudence in terms of its affinity or otherwise with the natural law tradition. In so doing the author, Anver Emon, has to engage in some creative reconstruction, since the term 'natural law' nowhere appears in the Islamic texts. This should not pose a problem to anyone but the most unreconstructed Skinnerian, but it does reveal the contemporary concerns that underscore Emon's project. What George Hourani once described, more in line with the sources, as the conflict between reason and tradition ('*aql wa naql*') in Islamic ethics Emon transposes into Western legal idiom by talking about natural law and its critics.

Through this interpretive device Emon tackles a broad set of thinkers and theorists and assesses their importance to a central set of contemporary problems. In this, its primary goal, his book must be deemed a success. Emon's pool of primary source texts is admirably broad and covers a good deal of ground from the 9th to the 14th centuries. There are no obvious anachronisms, nor could I detect any serious distortions that would mar the usefulness of the book for its target audience either among scholars or with the many laypeople for whom the resources uncovered by this book might prove thought-provoking or even revelatory. Though he never says as much, I personally have little doubt that what Emon is doing is consciously carving out a space for legal reasoning in the mould of natural law within the Islamic tradition. Still, even if this is his aim, the scholarship rests on solid ground. Emon threads a recognizably accurate story about the rise, then dip, then the rebirth of the notion that reason can come to determine what God's will for humankind is through an examination of nature and human nature.

This is not to say that the work done is impeccable. The book's documentation looks and feels unfinished in places: for instance, notes 9 and 31 in Chapter 1 are largely duplicates, and n. 41 is altogether garbled. Articles that are mentioned in the footnotes go missing from the bibliography, and the system of references as a whole feels slightly shaky. These details hardly matter, nor is the occasional inelegance of the prose more than an annoyance—I lost track of how many times the phrase 'fusing of fact and value in nature' recurs. It does, however, make this short book feel longer than it is, and harder to read straight through.

A more serious question has to do with the very conciseness of the author's expression and his too-tidy way of presenting the materials. To pick one example: Emon's initial characterization of natural law draws heavily on Aquinas as interpreted by John Finnis and Anthony Lisska. Given Aquinas's centrality to 19th- and 20th-century Catholicism, this is understandable, but it does put excessive weight on a single sample that is perhaps not as representative as the author would like it to be. Making a few basic distinctions within the Western natural law tradition would allow Emon to distinguish between strands of reasoning in the Islamic context as well. Distinguishing such strands would do more work than Emon's easy bifurcation between Hard and Soft Naturalism. More comparative history would in this instance result in more systematic insight, too.

Such a line of investigation would, however, steer Emon into some deep metaphysical waters regarding topics such as medieval Islamic epistemology, creation theology, and the hierarchy of the divine attributes (e.g., whether divine power trumps divine wisdom and goodness, or vice versa). These depths he seems unwilling to plumb, with good reason of course. Still, the end result is that some odd scholarly lacunae appear both in the content and the documentation of the book: for example, out of Hourani's many seminal studies on Mu'tazilite ethics only a single article is cited in the bibliography (though another one gets mentioned in the footnotes). There is next to no use of the valuable work done recently on the complex legacy and reception of Mu'tazilism within Ash'arite thought and beyond; and as for assessing Ghazâlî and his legacy, the vast resources provided by Eric Ormsby in his *Theodicy in Islamic Thought* (Princeton 1984) again go unused. More contextualization—whether theological, philosophical, or socio-historical—would go a long way towards allowing the reader to situate the legal reasoning of these scholars in a richer setting: in al-Ghazâlî's case, both his case for divine voluntarism in the *Incoherence of the Philosophers* and the apparently contrary impulses revealed by his *Revivification of the Religious Sciences* would elucidate what Emon says about the *Mustasfâ*. Add a little Richard M. Frank and the reader would certainly be better equipped to understand not only Ghazâlî's legal determinations, but the important ways in which these tie into his thought as a whole.

The same, *mutatis mutandis*, goes for most of the figures reviewed by Emon: more space would allow for more depth. But then of course we would have a very different

book, at least twice as long and nowhere near as easy to navigate. (The crystal clarity with which Emon guides his reader through the developments is one of the book's great virtues.) I would therefore like to close by reiterating that this is a very useful and insightful monograph as it stands. It points to a potentially very fruitful line of investigation, and provides much food for thought.

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