

## **Islamic Natural Law Theories**

*Anver M. Emon*

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Emon's *Islamic Natural Law Theories*, is an excellent source of research for specialists in Islamic jurisprudence. It is not for the general public. Emon divides his work into five chapters: Introduction, Hard Natural Law, The Critique of Hard Natural Law, Soft Natural Law, and Conclusion. Both his style and his usage of words are fascinating. His understanding of the premodern works on Islamic jurisprudence (*usul al-fiqh*) reflects his in-depth research and comprehension of classical works. His rendering of jurisprudential terms (*alfaz usuliyyah*) into English language also marks his great familiarity with Islamic sources. This work is an excellent addition to the literature on Islamic law.

Emon's work focuses on the ontological authority of reason in the Shari'ah. He investigates the use of reason in establishing a rule of law alongside the source texts. He explicates the meanings of natural law as understood by premodern jurists and explains to what extent, in the absence of source texts, can good and bad (*husn and qubh*) assume sufficient normative authority, which will result in Shari'ah obligation.

Emon affirms that the use of reason in Shari'ah has been debated extensively by Muslim jurists. While many scholars rejected the authority of reason in legislation, others endorsed it. However, in practice, all scholars resort to it in one form or another. From chapter one to the end, Emon successfully explains with lucidity the concept of good and bad. He analyzes this concept from the perspectives of major Muslim scholars from different schools of Islamic jurisprudence. He selects leading scholars from each school – like Qadi Abdul Jabbar, Abu Husayn al-Basri, Abu Bakr al Jassas, al-Ghazali, al-Qarafi, al-Shatibi, Ibn Hazm al-Zahiri, and others.

He focuses on two major groups: the Hard Natural Law and Soft Natural Law theorists. According to Emon, the Hard Natural Law theorists hold that reason can be a source of Islamic law (Shari'ah). The Soft Natural Law theorists argue that reason cannot be a source of law by itself. Reason cannot constitute a legal injunction which may lead to obligation of permission and prohibition. What makes an act lawful and unlawful is the will of God expressed in the revealed texts or their derivatives. Emon elaborates the opinions of these two schools, discusses their views, and critically analyzes their responses.

The Hard Natural Law theorists argue that reason can be a source of law on the basis that everything is naturally permissible until the source text condemns it. Through reason, one can recognize that truthfulness is a good virtue, and lying is evil. The natural permissibility grants authority to reason to determine Shari'ah obligations. Abu Husayn al-Basri, an advocate of Hard Natural Law, insists that the judgment about good and bad (*husn* and *qubh*) is not merely a human assessment, but it actually reflects the will of God. Thus, attachment of reward and punishment to it is legitimate.

Soft Natural Law theorists, the voluntarists, critique the opinions of Hard Natural Law theorists by arguing that nature by itself cannot provide a basis for establishing obligation since nature cannot determine God's will. While the voluntarists believe that reason can guide us to decide what is beneficial or harmful, they think that these determinations lack the authority to grant Shari'ah obligations, which will bind God in any way because God is free to do whatever He wants when He wants. Al-Ghazali, an advocate of voluntarism, suggests that we cannot move from a description of the good to a normative claim that such good must be pursued. That some actions are good does not necessitate their commission or omission because only God, through the revelation, can determine their obligations. God created the natural law of good and bad through His mercy and grace (*tafaddul*) and not because of any theological imperative that limits God's scope of action. God is not bound to any particular action be it good or bad. God can change His mind and make the world good or bad, if He wants. The authority of reason, al-Shatibi argues, is justified by recourse to source texts.

Emon concludes that the Soft Natural Law theorists rely on *maslahah* (legal theory of public good) and *maqasid* as the foundation upon which they fuse fact and value in nature just as the Hard Natural Law theorists depend on permissibility (*ibahah*) to fuse fact and value in nature. The voluntarists opine that the totality of Shari'ah shows that the law is designed to uphold five basic purposes of law: the preservation of life, family, property, reason, and religion. To them, these aims (*maqasid*) are what any legal system strives to uphold. While the Hard Naturalists obligate God to do good because He created everything for the benefit of human beings, the Soft naturalists insist that God is free to do what He wants. Nothing can be imposed upon Him. God acts out of Grace to benefit humanity and not out of necessity. Since He can change His mind as He wishes, only He can prescribe reward or punishment for any action.

In conclusion, the Hard Natural Law theorists hold that we can enact Shari'ah law through the use of reason because it can detect the good and the bad. The Soft Natural Law theorists believe that reason cannot be recognized as a source of law because God's law can only be determined through revelation. However, reason can help us determine the evidences of what is good or bad, but by itself, it does not constitute a source of law. The debate on whether reason can be a source of law has little effect in practice because as al-Qarafi carefully points out, "there is recognition of the authority of reason by all Sunni schools despite considerable anxiety about limiting its scope" (124). It is impossible to apply God's law (Shari'ah) or enact new laws where the revelation is silent without the recourse to reason.

Emon should be congratulated for his good research, lucidity of expression, and excellent analysis of a complicated subject, which only the specialists in Islamic jurisprudence dare to approach.

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