

Contents—Summary

I. Introduction	1
II. Hard Natural Law	40
III. The Voluntarist Critique of Hard Natural Law	90
IV. Soft Natural Law	123
V. Conclusion	189
<i>Bibliography</i>	207
<i>Index of Names</i>	219
<i>Index of Concepts</i>	221

Contents

I. Introduction	1
Between History and Legal Philosophy: A Note on Methodology	4
What is Natural Law?	7
Why Natural Law?	9
What Does Islamic Natural Law Contribute to Our Understanding of Shari‘a and Reason?	11
Muslim Debates on Shari‘a and Reason	13
Scholarly Debates on Shari‘a and Reason	18
Islamic Natural Law Theories: An Overview	24
Theory I: Hard Natural Law	25
The Voluntarist Critique of Hard Natural Law	27
Theory II: Soft Natural Law	31
Soft Natural Law and Practical Reasoning	33
After Islamic Natural Law	37
II. Hard Natural Law	40
The Presumption of Permissibility in the Hard Natural Law of Abū Bakr al-Jaṣṣāṣ (d. 370/981)	45
The Hard Natural Law of Qāḍī ‘Abd al-Jabbār (d. 414 or 415/1025)	50
The Theory of <i>Rizq</i> : Fusing Fact and Value	54
Human Dispositions (<i>Lutf</i>) and the Construction of a Natural Teleology	57
Desire and Natural Reasoning	62
Reasoning to Obligations from a Just God	66
The Natural Law Epistemology of Abū al-Ḥusayn al-Baṣrī (d. 436/1044)	73
<i>Ḥusn</i> and <i>Qubh</i> as a Discourse on Obligation Theology, Permissibility, and the Authority of Natural Reason	75
Al-Baṣrī’s Paradigm of Naturalistic Reasoning	78
Conclusion	84
	88

III. The Voluntarist Critique of Hard Natural Law	90
Toward a Theory of Knowledge	91
<i>Husn and Qubh</i> : Moral Agency Amidst Fallibility	101
The Fallacy of Fusing Fact and Value	110
Conclusion	120
IV. Soft Natural Law	123
Reason, Authority, and Scope	125
Abū Ḥāmid al-Ghazālī (d. 505/1111)	131
The Authority of <i>Maṣlaḥa</i> -Reasoning: al-Ghazālī's Natural Law Theory	132
<i>Maṣlaḥa</i> , <i>Maqāṣid</i> , and Practical Reasoning	134
From <i>Maṣlaḥa</i> to the <i>Ratio Legis</i> of a Rule	144
Fakhr al-Dīn al-Rāzī (d. 606/1209) and Shihāb al-Dīn al-Qarāfi (d. 684/1285)	146
The Authority of <i>Maṣlaḥa</i> —Reasoning: al-Rāzī's Natural Law Theory	147
Authority and the Limits of Reason	151
<i>Munāsib</i> , <i>Maqāṣid</i> and Practical Reasoning	154
Najm al-Dīn al-Ṭufī (d. 716/1316)	159
Abū Ishāq Al-Shāṭibī (d. 790/1388)	165
A Work of General Jurisprudence	165
The Purpose of Sharī'a	168
Determinacy in the Sharī'a: <i>Maṣlaḥa</i> and the Limits of Knowledge	170
Humanity, Nature, and Obligations	174
Conventions, Soft Natural Law, and Practical Reasoning	179
<i>Maṣlaḥa Mursala</i> and Practical Reasoning	182
Conclusion	184
V. Conclusion	189
<i>Bibliography</i>	207
Arabic Sources	207
English Sources	211
<i>Index of Names</i>	219
<i>Index of Concepts</i>	221