Review of Rumee Ahmed, *Narratives of Islamic Legal Theory*

by David R. Vishanoff
University of Oklahoma

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Rumee Ahmed. *Narratives of Islamic Legal Theory.* Oxford Islamic Legal Studies, ed. Anver M. Emon, Clark Lombardi, and Lynn Welchman, no. 1. Oxford: Oxford University Press, 2012. xii + 176 pp., hb., £50.00 / $100.00, ISBN 978-0-19-964017-1.

This brief and illuminating book compares several representative sections from the writings on legal theory of two prominent members of the Ḥanafī school of Islamic law, Abū Zayd al-Dabūsī (d. ca. 430/1038) and Muḥammad ibn Aḥmad al-Sarakhsī (d. ca. 483/1090). Although they uphold nearly identical answers to standard questions of law and legal theory, Rumee Ahmed argues that the reasons they give for those answers reveal dramatically different conceptions of what Islamic law is and how it should be applied.

The Introduction spells out a basic conundrum in the study of Islamic legal theory: the discourse looks like an attempt to establish principles (ethical and/or methodological—Ahmed seems to conflate the two) that jurists can use to support the specific legal doctrines of their school of law, but in fact both the principles and the laws of the Ḥanafī school were already largely fixed by the eleventh century, and our two authors appear to have simply repeated a body of inherited principles, illustrating it with inherited laws. Ahmed proposes that by looking beyond the specific laws and principles that the two books affirm in nearly identical terms, and by analysing subtle differences in how those laws and principles are explained and justified, we can discern two very different visions of law and its application. Dabūsī thought of God's law as a moral ideal that is to be pursued but can never be definitively known, so that jurists are only required to try to approximate its moral objectives by applying the inherited body of Ḥanafī law in flexible ways, or even by modifying it, to suit specific circumstances. Sarakhsī, on the other hand, regarded Ḥanafī law as a virtually perfect and timeless expression of God's law, which is a

fixed set of ordinances that must be firmly believed and applied in every time and place without regard for circumstances. Some patience is required of the reader at this point, as the Introduction does not divulge Ahmed's conclusion, but only lays out the book's project using innovative terminology that does little to clarify the classical discourse.

Chapter 1 compares Dabūsī's and Sarakhsī's slightly different explorations of three topics: the miraculous inimitability of the Qurʾān, the distinction between clear and ambiguous verses, and the theory of abrogation (later revelations superseding earlier ones). The first two are the least convincing sections in the book. It remains unclear to me, for example, why Dabūsī's view that the precise sequence of words in the Qurʾān is itself inimitable necessarily makes the law vague and tentative, while Sarakhsī's view that only the overall meaning of the Qurʾān is inimitable makes the law fixed and unchanging. One could just as well argue the reverse. Beginning with the topic of abrogation, however, Ahmed builds a clear case for his depiction of the two jurists' attitudes toward the law. His lucid expositions of individual topics are perhaps more lengthy than necessary, but also so readable that they could serve as good introductions for nonspecialists.

Chapter 2 explores the two theorists' ways of grading the reliability or authenticity of Ḥadīth, and their different arguments in support of the Ḥanafī view that the Qurʾān can be abrogated by Ḥadīth. Chapter 3 explores their views of the role of human reasoning in law: how can one determine the rationale behind a ruling on one point of law so as to extend it by analogy (*qiyās*) to another matter that revelation does not address? When may a jurist engage in new interpretive reasoning, and when must he follow (*taqlīd*) the rulings of earlier jurists? Are the interpretations of qualified jurists all equally valid, or is there a single correct interpretation that can be known through the heritage of Ḥanafī doctrine? Dabūsī's and Sarakhsī's discussions of these topics are found to reflect radically divergent views of the nature and application of law, even though both defend the inherited legal doctrines and theoretical principles of the Ḥanafī school.

The Conclusion returns to the question of what legal theory manuals are really trying to say and do. Ahmed astutely suggests that we read them not as informative statements but as performances of an academic ritual—acts of writing in which individual legal theorists perform the standard task of explicating fixed topics using familiar words, while assigning their own idiosyncratic meanings to that ritual. Dabūsī thinks the point of this exercise is to explain how

each jurist can come to a tentative understanding of God's moral purpose and implement it creatively in his own situation, whereas Sarakhsī thinks the point is to defend a particular inherited tradition so that it can be applied unchangingly in all times and places.

This creative way of reading legal theory texts is the book's greatest contribution. Such interpretive reading is necessarily somewhat conjectural; others might discern different assumptions and motivations underlying the deceptively uniform discourse of these two authors. Nevertheless, Ahmed's depiction of how Dabūsī and Sarakhsī imagined law is convincing, or at least heuristically useful, because it helps to make sense of puzzling differences between their arguments. The principal limitation of the book is that it rests on a representative but rather narrow sample—about fifteen to twenty-five per cent—of the material in Dabūsī's and Sarakhsī's legal theory texts. It would have been possible to shorten the presentations of individual topics, and expand the book to cover all the main issues in legal theory. This would have made Ahmed's argument even more convincing, and it would have made the book a lasting reference point for scholars of legal theory and Ḥanafī law, as well as a good introduction to legal theory for non-specialists. I dearly wish that the demands of the academy had not prevented the author from taking the time he needed to expand his dissertation (completed at the University of Virginia in 2008) into a truly comprehensive comparison of these two legal theorists.

Nevertheless, this book is a harbinger of good things to come in the study of Islamic legal theory. Too many dissertations have simply catalogued and expounded the explicit statements of legal theorists. Too much recent scholarship has pursued a sterile debate between those who would unmask Islamic legal theory as a retrospective apology for inherited or preconceived doctrines, and those who seek to defend Islamic law by arguing that it really is constructed from revelation following the methods of legal theory. This book contributes creatively and substantially to a growing literature that looks beneath the surface of legal theory texts to discern the values and motivations, the theological and philosophical concerns, and the many different visions of divinely revealed law that have animated Muslims throughout the centuries. Furthermore, after the first fifty pages, this book is exceptionally clear and accessible to nonspecialists who wish to get a glimpse of the sophistication and diversity that have characterized Muslims' reflections on the law of God.