

# THE NATURE OF NATURAL LAW IN ISLAM

## A hidden but efficient principle

### Introduction

Understanding Islam and the Muslim's way of life is not only an academic activity for me but one of these fruitful ways of cooperating with the Church's will and responding to the Second Vatican Council's wonderful recommendations when it declares particularly in its pastoral Constitution of the Church in the modern world:

Now that the second Vatican Council has deeply studied the mystery of the Church, it resolutely addresses not only the sons of the Church and all who call upon the name of Christ, but the whole of humanity as well, and it longs to set forth the way it understand the presence and function of the Church in the world of today.<sup>1</sup>

I believe that it is highly important to grasp the teachings of the second great religion of the world as well as the people who share the code of life it brings in order to carry out the task of the Church in the modern world. I equally believe that the knowledge of Islam paves the way sincere collaboration with the Muslims.

Law is one of those Islamic tenets, if not the most important, due to the place it occupies in understanding Islam and the Muslims. Inasmuch as we talk about law in Islam, someone might expect to get, perhaps, a short treatise on Shar'ia law but this is not at all our concern here. Instead, we attempt to reflect on the hidden presence and effectiveness of the natural law in the shaping and implementation of Shar'ia in Islam. Still, our main concern in this text, as we intend to limit our scope as much as possible, is neither a presentation of an account of quantitative and external tenets observed when someone comes in contact with natural law in Islam nor to give in words the picture of the outcome of what is observed because we do not have a clear vision of what it is. Thus our belief on the natural law in Islam may not correspond to what is observed by many Muslims and non-Muslims. Perhaps this text is not even an analysis of the constituted parts and their examination, which could bring forth its nature. Although this might reveal the components of the reality and render our experience intelligible but many Africans who have met Muslims have not yet encountered Islam, so Islam is still strange or scary to the

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<sup>1</sup> *Vatican II Council, pastoral Constitution of the Church in the modern world, no. 2.*

majority of Africans. Our central point, therefore, is an attempt to reflect on the nature of natural law in Islam; that is to state what it is, to make known its distinctive functions and to illustrate how it has influenced the Muslims up-to-date. In other words, to know whether Muslims recognize the reality of an unwritten law beside the written one is not our first task. Taking as granted that homo, *vir* or *mulier*, possesses a nature and he possesses ends, which correspond to his natural constitution<sup>2</sup>, our primary and greatest task is to examine the nature of the natural law that governs human beings, particularly the Muslims. We need to keep in mind what Aristotle thinks of nature. In his philosophy of nature, matter, that is the elements with which a thing is made- as well as form, that is the composition of things- constitute the nature of things, including human beings.<sup>3</sup> It is this nature, especially for the human being that is in motion not by chance but moves according to which human will must act in order to attune itself to the necessary ends of the human being.<sup>4</sup>

We know and we know quite well that “Natural law in Islam” is a phrase easier said than done because “law in Islam” is generally qualified by the adjective “religious” or “revealed” or “brought down”. It is well known that law is strictly religious as Islam is concerned. What could mean, therefore, the expression “natural law in Islam”? Could it mean that there is another law beside Shar`ia or are Muslims governed by another law? Does this mean that there is a law in Islam that was not revealed by Allah? Thus, we cannot claim straightaway that a discourse on natural law in Islam is an easy task because of its nature, which, in many ways, conflicts with the belief in religious (Islamic) law. The complexity, the sacredness and the extension of Islamic law do not allow Muslims to develop an outstanding theory or clear understanding of natural law. Prominent scholars of Islam are very much aware of the role and the authority of the Islamic law (Shar`ia), for it is an all-embracing body that regulates both private and community life of the Muslims. Generally speaking, not a single aspect of Muslim life stands out or above its control; everything ought to be regulated in the strict limits of what Allah revealed to Muhammad and what Muhammad transmitted or rendered over to the entire *Umma* (Muslim community) up-to-date. However, it seems that Islamic law that Muslims consider as a revealed law, therefore divine and sacred, follows, to a large extent, the principles of a religion that eliminates the human element in the shaping of the Qur`an and *ipso facto* all forms of philosophical ethics in Muslim

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<sup>2</sup> Cf. Jacques Maritain, *The rights of man and the natural law* (New York: Charles Scribner’s sons, 1947), p.60.

<sup>3</sup> Athanasius Weisheipl, *Nature and gravitation* (Illinois: Albertus Magnus Lyceum, 1955), p. 15.

<sup>4</sup> *op.cit.*, p. 61.

life. It becomes, therefore, difficult to affirm the presence of natural law and its operations in Islam where nature has nothing to offer to Muslims after the reception of the Shar`ia. However, here is a way forward: since Muslims believe in the creation of the universe by Allah, they have no choice than to know and accept the fact that natural law, which is in man, is ultimately grounded in Allah.

Nevertheless, it is still tricky to establish this fact and equally complex to deny its impact in the history of Islam as a religion, culture and politics; it is almost impossible to deny the force of natural law in the life of the Muslims since reason has ever been present in their acts, actions and deliberations. The impact and the force of natural law in Islam are perhaps hidden but real and current.

It is this complexity that urges us to reflect, in this paper, on the nature of the nature of the natural law in Islam and demonstrate its historical journey as well as its vitality.

## **1. A review of natural law and Islam**

It seems that natural law precedes any revealed religion if we strongly agree that this form of law is right in the nature of man because any revealed religion is indeed revealed to a nature which has a law. Nature is considered here as the intrinsic principle of activity and passion or motion or rest; and this requires a law for its proper perfection.<sup>5</sup> If the proposition –any revealed religion is indeed revealed to a nature which intrinsically has a law- stands as true and if we classify Islam among the revealed religions, then we can affirm, without fear of any contradiction, that natural law precedes Islam and *ipso facto* the Islamic law, which is a revealed law, according to Muslims.

It is important to note that law is first and foremost defined as something laid down; this is an elementary definition, however basic, for it stands as the reference of what is called human or divine law. But natural law is different from these, for it is the ground of the two forms mentioned above This law must be the most universal for it is right in the nature of man and shared by all human beings. What then, will prevent us from asserting that Muslims are not excluded in this fortunate categorization since they also share the nature human nature. Moreover, in view of the fact that Muslims believe in the

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<sup>5</sup> On nature. Cf. Bernard Wuellner, *Dictionary of Scholastic Philosophy* (Milwaukee: The Bruce Publishing Company, 1956).

creation of man by Allah, we should understand that the natural law in Islam which every human nature shares, was created and infused by the Creator. The Qur'an says:

Wa laqad khalaqna al-insana min sulaalatin min tiin, thuma ja`alnaahu nutfatan fi qaraari makiini. Thuma khalaqnaa an-nutfatu `alqatan fakhalaqnaa al-`alqata mudhghatan fakhalaqnaa al-mudhghata `izaaman fakasawnaa al-`izaama lahmaan thuma anshaa-naahu khalqaan aakhara fatabaaraka allahu ahsanu al-khaliqiina.<sup>6</sup> (Q.23, 12-14)

As Creator of man, Allah rules man through law so that he might know what pleases Him. Since we can only give what we have, it is evident that the law that the Eternal Allah gives to man must be eternal. Now this Muslim conception of creation and of the eternity of Allah are similar to the Christian doctrine on creation in many respects. It is this doctrine that Christian philosophers and theologians explain. Here we give the contribution of Thomas Aquinas when he says:

A law is nothing else but a dictate of practical reason emanating from the ruler who governs a perfect community. Now it is evident, granted that the world is ruled by Divine Providence, as was stated in the Part 1, Question 22, Articles 1,2, that the whole community of the universe is governed by Divine Reason. Wherefore the very Idea of the government of things in God the Ruler of the universe, has the nature of a law. And since the Divine Reason's conception of things is not subject to time but is eternal, according to Prov. 8:23, therefore it is that this kind of law must be called eternal.<sup>7</sup>

But Thomas Aquinas continues

As stated above, law, being a rule and measure, can be in a person in two ways: in one way, as in him that rules and measures; in another way, as in that which is ruled and measured, since a thing is ruled and measured, in so far as it partakes of the rule or measure. Wherefore, since all things subject to Divine providence are ruled and measured by the eternal law, as was stated above; it is evident that all things partake somewhat of the eternal law, in so far as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends. Now among all others, the rational creature is subject to Divine providence in the most excellent way, in so far as it partakes of a share of providence, by being provident both for itself and for others. Wherefore it has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal law in the rational creature is called the natural law...It is therefore evident that the natural law is nothing else than the rational creature's participation of the eternal law.<sup>8</sup>

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<sup>6</sup> Cf. Q. 23, 12-14. Here is the translation from *The Holy Qur'an. English translation of the meanings and commentaries*, revised and edited by the Presidency of Islamic Research, IFTA, call and guidance, 1411 H. Man we did create from a quittance of clay; then we placed him as a drop of sperm in a place of rest, firmly fixed; then we made the sperm into a clot of congealed blood; then of that clot we made a foetus lump; then we made out of that lump bones and clothed the bones with flesh; then we developed out of it another creature. So blessed be Allah, the best to create.

<sup>7</sup> Thomas Aquinas, *Summa Theologiae*, par II, Question 90, Article 1.

<sup>8</sup> *Ibid*, art.2

Thomas Aquinas is not talking about Christians solely but man who was created by God. As Muslims believe that they were created by God, they share, to a large extent, the explanation of Thomas Aquinas. Hence we can assert that natural law in Islam could be understood as the Muslim's participation to the eternal law given to him by Allah who is the creator of all things. Still more, the Muslim, as any rational being, ought to act according to reason in conformity to his nature. So the exercise of acting according to reason is the work of the natural law. Rene Descartes wrote:

Good sense is of all things in the world the most equally distributed, for everybody thinks himself so abundantly provided with it, that even those most difficult to please in all other matters do not commonly desire more of it than they already possess. It is unlikely that this is an error on their part; it seems rather to be evidence in support of the view that the power of forming a good judgment and of distinguishing the true from the false, which is properly speaking what is called Good sense or Reason, is by nature equal in all men.<sup>9</sup>

We cannot deny Muslims from acting according to the natural law, which is appointed by reason shared by all people. Natural law in Islam is therefore, the principle of the rational act performed by the Muslims and the measure of their activities. Muslims get to know certain propositions that are universally self-evident to all through natural law. For instance, it is natural for a Muslim mother to feed her child because that is good. It is through natural law that Muslims know that to commit unchaste acts, to kill, to destroy somebody's properties is wrong; it is through natural law that Muslims will come to know that it is good to be kind, just and peaceful, to hate what is hateful and to love what is good.

As illustrations, let us know that the Arabic word *fitra* means nature or disposition or innate character, *fitrii* means natural or native, *futira* means natural disposition and *futuur* means breakfast.<sup>10</sup> All these words generate from root *fatara*, which means to break or to make or to create or have a natural disposition. This indicates that Muslims understand not only the meaning but also the place of natural law or disposition. They know that it is good to eat before and after the fast otherwise those who fast will all die and they will be nobody again to fast. Whether they are told through their religion or not, they know that it is good to take breakfast for strength to carry out any activity. In additionally, in many verses, the Qur'an uses nature to communicate a message that man understands, through his natural law in order to grasp the religious meaning. Surat-al-baqara says:

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<sup>9</sup> Rene Descartes, *Discourse on method*, part 1.

<sup>10</sup> Cf. J. Milton Cowan (ed), *A dictionary of modern written Arabic* (Beirut: Library du Liban, 1980).

Uulaa'ika al-adhina-starawus-dalaalata bil-huda famaa rabihat bijaaratuhum wa ma kaanuu muktadiina. Mathaluhum kamathalil-ladhi 'astauqada naaran falammaa 'ada'at ma haulahu dhahaba l-allahu biruurihim wa tarrakahum fi zulamaatin la yubsiruuna. Ssumun buqmun `umyun fahum la yarjihuuna. Aw kasattibin mina-s-samaa'i fiihi zulumatuun wa rahdun wa barqun yajhaluuna 'asaabi`ahum fi 'adhabihim min s-sawa`iqqi hadhara l-mauti wa-l-allahu muhitun bi-l-kafiruuna.<sup>11</sup> (Q.2, 17-20)

Moving from the know to the unknown, the Qur'an employs what is known through natural law to know what is revealed. This appears clearly in many sayings and deeds of Muhammad (Sunna or Hadith). For instance in the Book of Good manners (al-Adab), Bukhari reports this:

Narrated Abu Huraira: A man came to Allah's Messenger and said, O Allah's messenger! Who is entitled to be treated with the best companionship by me? The Prophet said, your mother. The man said who is next? The Prophet said, your mother. The man further said, who is next? The prophet said, your mother. The man asked for the fourth time, who is next? The Prophet said, your father.<sup>12</sup>

Again in An-Namawi's Hadith, Muhammad invites his followers to be good, particularly after they have believed in Allah. He related:

On the authority of Abu Huraira, that the Messenger of Allah said: Let him who believes in Allah and the Last Day either speak good or keep silent, and let him who believes in Allah and the last day be generous to his neighbours, and let him who believes in Allah and the Last Day be generous to his guest.<sup>13</sup>

These few Hadith texts and many non-revealed statements prove that Muhammad use his natural law – reason- to enlighten his followers. Again in order to protect his son from irrational events that occurred in the Umma and advising him on the conduct a good Muslim, the Sufi `Attar stated: Though you may know Abu Bakr and 'Ali, my boy, you are ignorant of the God of your reason and soul. Abandon all these foolish events, and like Rabe'ah, day and night be a man of God!<sup>14</sup>

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<sup>11</sup> Translation Cf. *op.cit.* These are they who have bartered guidance from error; but their traffic is profitless, and they have lost true direction, their similitude is that of a man who kindled a fire; when it lighted all around him, Allah took away their light and left them in utter darkness. So they could not see. Deaf, dumb and blind, they will not return. Or another similitude is that of a rain-laden cloud from the sky: in it are zones of darkness, and thunder and lightning: they press their fingers in their ears to keep out the stunning thunderclap, the while they are in terror of death. But Allah is ever round, the rejecters of faith.

<sup>12</sup> Sahih Al-Bukhari, *On the Book of Manners.*

<sup>13</sup> *An-nawawi's Forty Hadith. An anthology of the sayings of the Prophet Muhammad* (Beirut: The Holy Koran Publishing House, 1976) p. 60.

<sup>14</sup> Javad Nurbakhsh, *Sufi women* (New York:Khaniqahi-Nimatullahi Publications, 1983), p. 15.

Here stands a call to reason, to natural law for any Muslim who is willing to understand revelation and act accordingly. Is there anything greater a man can offer to his fellowman than to bring his or her attention to use reason, which is naturally in every being that he or she may fully participate in the eternal law?

## **Natural law in Islam and Islamic law**

### **Shar`ia or Islamic Law**

It is not easy to examine Shar`ia and Islamic law separately but for a suitable understanding and more appropriate evaluation of the whole Islamic law system, we ought to put forward the distinction made by a good number of Orientalists (Kenneth Cragg, Joseph Schacht, Bernard Lewis, Ignaz Goldziher) between the two expressions. With less prejudice, I personally believe that Shar`ia is distinct from the Islamic law, for the fact that Shar`ia is a revealed law and Islamic law is its development. Commonly, Shar`ia is referred to as Islamic law, but this is wrong, as only a small part is indisputably based upon the Qur'an. Thus the phrase "Muslim law" or "the law system of the Muslims" could be more fitting as we try to comprehend the Islamic juridical system.<sup>15</sup>

Commenting on the development of law in Islam, Ignaz Goldziher wrote:

Religious ideas as well were contained in the Qur'an only in germ, with their growth yet to come as wider horizons opened. The great events that brought Islam into contact with other spheres of thought threw open, for thinking believers, doors to reflection on religious issues, which had been shut in Arabia itself. Moreover, there were questions of how everyday life was to be lived in the spirit of the religious law, what were the lawful forms of ritual? Only the barest essentials of these things were regulated; they were uncertain and unstable. The unfolding of Islamic thought, the fixing of the modalities of Islamic practices, the establishment of Islamic institutions, all these resulted from the work of subsequent generations.<sup>16</sup>

Shar`ia, which means etymologically path to be followed, is the holy law ordained by Allah. Its origin is Allah. Shar`ia is thought of being not a product of human effort but divine law to guide mankind which has gone astray. "Verily man is in loss" (Q. 103,2) Shar`ia is immutable, therefore, the ulama

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<sup>15</sup> Cf. <http://lexicorient.com/e.o/sharia.htm>

<sup>16</sup> Ignaz Goldziher, *Introduction to Islamic Theology and Law* (New Jersey: Princeton University Press, 1981), pp. 31-32.

can only function as interpreters and the political authority can do no more than provide the conditions by which the sacred law is preserved and extended to all men and women. Islamic theology tells us that it is Allah who is the only sovereign authority and it is he who has the authority to ordain a path for the guidance of mankind. This guidance is solely found in the Qur'an as we read it in sura 2, verse 2: "dhaalika-l-kitaabu la rayba fiihi hudan lilmutaaqina"<sup>17</sup> and in sura 45, verse 18: "thuma jahalnaaka `ala shar`iati mina-l-amri fatabi`ha wa la tattabi`a ahwaa`a-l-ladhina la ta`lamuuna"<sup>18</sup> Here Shar`ia –the way– is taken as the religion of the people. Who can, therefore ordain a religion if not Allah. Fazlur Rahman wrote: The correlate of Shar`ia is Din, which literally means "submission", "following". Whereas Shar`ia is the ordaining of the way and its proper subject is God, Din is the following of that way and its subject is man. It is in this correlative sense that the Qur'an says: "God had ordained for you a way to be followed"...One may, therefore, so far as the Qur'anic goes, speak of Shar`ia and Din interchangeably so far as the content of religion is concerned.<sup>19</sup>

In other words, Shar`ia is considered as the way to God or sometimes the religion (Inna-l-diina `inda Allahi al-Islaa: the religion before Allah is Islam) (Sura 3:19) revealed to Muhammad from 610 to 632. But since Muhammad's thought was always occupied, first and foremost, with the immediate conditions of the moment<sup>20</sup>, we should ask what happened after his death. We should equally enquire on the regulations that were put down as the community continued to grow and new lands were conquered, especially as non-Arabs became full members of the Umma (The Muslim Community). In the spirit of the Shar`ia, all the regulations that were made, the definitions of rules that were given, the local customs and conventions of ancient civilizations that were carefully considered, the guiding principles of the conquered lands that were vigilantly borrowed make up the Islamic law. Ignaz Goldziher said:

The unfolding of Islamic thought, the fixing of the modalities of Islamic practice, the establishment of Islamic institutions- all these resulted from the work of subsequent generations. These things did not come about without internal struggle and compromise. It is still often thought today that in all these respects Islam enters the world as a rounded system. Nothing could be further from the truth. The Islam of Muhammad and the Qur'an is unfinished, awaiting its completion in the work of generations to come.<sup>21</sup>

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<sup>17</sup> Translation Cf. *op.cit.* This is the book; in it is guidance sure, without doubt, to those who fear Allah.

<sup>18</sup> Translation Cf. *op.cit.* Then we put thee on the right way of religion: so follow thou that way and follow not the desires of those who know not.

<sup>19</sup> Fazlur Rahman, *Islam* (Chicago: University of Chicago Press, 1979), p. 100.

<sup>20</sup> Ignaz Goldziher, *op.cit.*, p. 31.

<sup>21</sup> *Ibid.*, p. 32.

We can assert that Shar`ia inspired and continues to inspire the Islamic law. Thus, it could be more correct to talk about “Muslim law” or “law system of the Muslims” which comprises both Shar`ia and Islamic law.

### **Natural law and Islamic law**

What has been said above prevents us to describe again what could be called “Muslim law” but helps us to identify, recognise and appreciate the human factor in the making of the law of Islam. This is the work of natural law as Thomas said:

To the natural law belongs those things to which a man is inclined naturally: and among these it is proper to man to be inclined to act according to reason. Now the process of reason is from the common to the proper. The speculative reason, however, is differently situated in this matter, from the practical reason. For, since the speculative reason is busied chiefly with the necessary things, which cannot be otherwise than they are, its proper conclusions, like the universal principles, contain the truth without fail. The practical reason, on the other hand, is busied with contingent matters, about which human actions are concerned: and consequently, although there is necessity in the general principles, the more we descend to matters of detail, the more frequently we encounter defects. Like other people of the planet, Muslims, are inclined to accept or refuse some ideas and facts, to translate some principles as circumstances suggest, to interpret some laws, to adapt some situations, to find consensual agreements when there is discordances, to choose what is convenient and to plan for a better future when they are directed by reason.<sup>22</sup>

Ignaz Goldzher underlines some historical facts that explain this truth. He said, for instance, that

Continued war and increasing conquests demanded the establishment of legal criteria for the conduct of war. Statutes were needed to deal with the conquered people: to clarify their position in the state, as well as to regulate the economic situation created by the new conditions...Concerning Muslim and non-Muslim relations, forbearance and moderation were to have the force of law in the treatment of non-Muslims in the areas of civil and economic relations. The believers condemned oppression of non-Muslims under the protection of Islam as a sinful excess. Moreover, Muslims needed well-defined rules for ritual obligations and for all contingencies that might arise in connection with such obligations. Finding the truthfulness of a Hadith, we discover that transmission from generation to generation continued down to the latest periods but conduct and judgement were considered correct and their legitimacy was established if the a chain of reliable transmission ultimately traced them back to a companion who could testify that they were in harmony with the prophet’s intention.<sup>23</sup>

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<sup>22</sup> S.T, Part II, q.94, art. 4

<sup>23</sup> *ibid*, pp. 32-37.

Besides, the definition as well as the classification of the canonical sources of Islamic law testifies to the good use of natural law in Islam. In his kitab al-Muqaddimat al-Mumah (the book of introductory explanations), Ibn Rushd, the father of the philosopher Ibn Rush, shows the way to knowledge of the ordinances of law. Muslims realised that it was preferable to determine hierarchical references, which could serve as the background and the ruling principle of their legal system. The Book of God comes first (the Qur'an), secondly the Sunnah (the example or the sayings and deeds of Muhammad and his companions) of the prophet, then the Ijma (Consensus or the unanimous opinion of the community or of reputed scholars), and lastly the Qiyas (the deductive reasoning).<sup>24</sup>

But perhaps this inclination to natural law in Islam finds its highest expression in Umayyad regulations or administrative law mainly in the field of the law of war and of fiscal law, the building of schools of law, in the systematisation of reasoning (individual reasoning) in the sphere of law in the second century, in the early legislation of the first Abbasids and in the later schools of law. The four classical schools that still regulate the legislation of Muslims up-to-date differ in understanding and perception. The first is the school of Abu Hanifa that is built on Qiyas (the application of reason as a tool of judging and choosing the most equitable law when people are faced with two or more regulations attributed to Muhammad); the second is the Malik ibn Anas School, which is based on the customs of Madina; the third, the As-Shafii school appeals for a systematisation of the principles of law with a consensual agreement; and the fourth is the school of Ibn Hanbal which accepts reason but with some restrictions.<sup>25</sup>

With the coming of the Ottoman leaders, the Hanafi School became the only reference for the understanding and application of shar'ia. Some institutions such as the offices of the Kadi and of the Mufti were created to regulate all administration of justice on the shar'ia with more commitment. As time went on, particularly in modern Turkey, the shar'ia was not abandoned but reduced to matters of personal status.<sup>26</sup> Likewise, from the proceedings of the seminar on Islam in Kenya held at Mombasa in April 1994, we perceive modifications and adjustments concerning the application and development of

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<sup>24</sup> Cf. Kenneth Cragg and Marston Speight, *Islam from within. Anthology of religion* (California: Wadsworth Publishing Company), p.p. 101-103.

<sup>25</sup> Cf. Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1982), pp.58-68.

<sup>26</sup> *Ibid*, pp. 89-93.

shar'ia in Kenya because shar'ia regulations before and after the independent Kenya are quite diverse both in personal and public matters.<sup>27</sup>

### **Natural law: a hidden but efficient principle of Islam**

Knowing that natural law in Islam is a reality does not necessary mean knowing what that law is. From what we have stated above, we can conclude that natural law is also a might principle in those who profess the religion founded by Muhammad since it is the unwritten law or written in the heart of each man. However, to know how it is manifested in the life of the Muslims and in the building of Islam is a complex issue. This issue is more complex, especially as Muslims believe that all their legal and social transactions as well as personal conduct, are guided by the Shar'ia –the revealed law-. Unfortunately, this simple distinction is so neglected, perhaps forgotten that the affirmation of natural law in Islam appears to be a negation of the divine law; this could only be an unhappy fault.

It seems that natural law has *no droit de cite* in Islam but that is a just an appearance perhaps because its effectiveness is hidden. There are many principles or theories or understandings or even positions that support not only the existence but also the value of natural law in Islam. For instance, Mawil Izzi Dien talks about the principle of “the middle way” when Muslims deal with Islamic law. He calls for a balance between reason and moderation against the inherited legacy; he advocates for the principles of balancing the application of law and the understanding of Islam. Dien says that the application of Islamic law cannot be immediate and that legislation must reflect a step-by-step development that follows the initial establishment of the creed.<sup>28</sup> Thus apart from the divine sources of Islamic law, he identifies Ijtihad and Qiyas as human sources of the same Islamic law. He said:

Islamic law is part of textually based faith system. However, a text cannot be sufficient to answer the new questions raised by ever-renewed human life and needs. Perhaps that is why Islamic legal texts provide for individual reasoning, ijihad, which represented by analysis and other further sources of legislation that acknowledge the human mind and experience in the deduction of legal injunctions.<sup>29</sup>

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<sup>27</sup> Mohamed Bakari and Saad S. Yahya (ed), *Islam in Kenya. Proceedings of national seminar on contemporary Islam in Kenya* (Nairobi: Mewa Publications, 1994), pp. 252-259.

<sup>28</sup> Cf. Mawil Izzi Dien, *Islamic Law: From historical foundations to contemporary practice* (Edinburgh: Edinburgh University Press, 2004), pp. 133-134.

<sup>29</sup> *Ibid*, p. 51.

Another example we can highlight is polygamy in Islam as Abdul Rahman I Doi sees it. Abdul Rahman I Doi is for polygamy but, commenting on Surah al-Nisaa (Chapter 4 of the Qur'an) verse 129 (You will never be fair and just as between women, even if it is ardent desire), which Muslims, particularly the modernists quote to defend monogamy in Islam, this famous Muslim Scholar writes: Hence it is a matter of the conscience for the individual husband to provide his wives equal treatment according to his situation. Even in one given society the standard would differ –a businessman will provide to his wives according to his standard, while a labourer, whose income is low, may provide according to his own standard of income.<sup>30</sup> In other words, though the Qur'an, the first source of Islamic law gives clear and precise regulations as polygamy is concerned, I Doi still leaves the final decision to human conscience.

### **Re-Introduction**

Once Edmund Burke said that laws, like houses, lean on one another. We may not explicitly say that all the forms of laws (Eternal law, natural law, Human law and Divine law) lean on one another; we rather state that all these forms of laws are interconnected and have their place and role to play in the universe. Each form has its specific role particularly in man's life. Therefore natural law exists and works in all men and women though some people consider it as inexistent perhaps because of the great value given to other forms; some people deny it due to the lack of knowledge and understanding of its nature and manifestations; and some others regard it as an obstacle to the revealed law for the reason that revealed law is considered as sufficient and that it comprises all others.

Thus from the explanation given above, we can assert that natural law is really present in Islam; it guides the Muslims as individual and as a community. Natural law in Islam accompanied Muhammad and his immediate successors, continued to direct the conduct of the Muslims during the Umayyad, Abbasid as well as Ottoman empires. Natural law still efficiently guides the present Muslims as they submit to the will of Allah and live a honourable life. However, the nature of its nature may not be well known or even accepted because, as we have stated above, natural law in Islam is a hidden principle. We should not think that natural law eliminates or replaces the revealed law. An attempt to cancel out natural law in Islam or in any revealed religion could be taken as a annulment of the nature which is fulfilled as it meets God's will; it is indeed a refusal of the reality "human nature". Who can deny the reality human nature? Who can deny the constituent elements of human Nature?

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<sup>30</sup> Abdul Rahman I Doi, *Shar'ia, the Islamic law* (London: Ta Ha Publishers, 1997), p. 149.