

Table of Contents

<i>Series Editors' Preface</i>	vii
<i>Acknowledgements</i>	ix
Introduction	1
1. Tradition vs. Reason or Traditions of Reason?	4
2. The Constraint and Contingency Model of Tradition-Based Rationality	18
3. Comparison: Medieval Islamic and Modern Western Treatments of Coercion and Responsibility	22
4. Overview of Chapters	27
1. Compulsion and Moral Agency in Mu'tazilism	31
1. Introduction	31
2. Divine Justice as Internal Constraint in Mu'tazilite Theology	33
2.1 A Conception of Moral Agency Constrained and Inspired by Divine Justice	36
2.2 Constructing a Mu'tazilite Psychology	38
2.2.1 Types of Motivations	39
2.2.2 Substantiating a Just Psychology of Free Choice and Action: Conflict of Motivations	40
3. What Is Compulsion?	42
4. What Does Compulsion Do to Responsibility?	50
4.1 Compulsion Does Not Negate Basic Capability (<i>Qudra</i>) or Choice	50
4.2 Compulsion Negates Praise and Blame	51
4.3 Compelled Harm Merits Restitution	56
4.3.1 Compelled Harm to the Agent or to Someone Else	56
4.3.2 Harm Caused by God's Command or Compulsion	57
5. Internal Constraints vs. External Constraints: the Curious Case of Lying and 'Abd al-Jabbār's Ingenious Solution	59
6. Conclusion: a Reprisal of Divine Justice and Moral Objectivism as Internal Constraints and Comparison with Anglo-American Philosophy	62
2. Coercion and Moral Agency in Ash'arism	67
1. Introduction	67
2. Physical Agency in Ash'arism: the Doctrines of Acquisition (<i>Kasb</i>) and Simultaneous Capacity (<i>Istiṭā'a</i>) as Internal Constraints	69
2.1 Ash'arī	69
3. Moral Agency and Coercion	76
3.1 Bāqillānī: Extension of Ash'arī's Ideas to Coercion and Moral Agency	76

3.2 Tradition in Motion: Imām al-Ḥaramayn al-Juwaynī’s New Arguments for Old Positions	82
3.3 Ghazālī: Continuing and Consolidating Juwaynī’s Teachings	88
4. Conclusion: Externally Motivated and Internally Justified Change in Ash‘arism	94
3. Defining Coercion in Ḥanafism	97
1. Introduction	97
2. The Sources for Ḥanafite Coercion Jurisprudence	101
3. Shaybānī’s Legal Formulation of Coercion	106
4. Internal Constraint: Ḥanafite Coercion Laws	109
5. Defining Coercion Empirically and Scripturally Substantiating Its Legal Effects in Light of Ḥanafite Internal Constraints	115
6. The Psychology of Coercion, Moral Agency, and Choice: the Culmination of a Classical Synthesis	121
7. Reaching for Coherence: the History of the Instrument Test	124
8. Conclusion: the Explanatory Power of Internal Constraints and Organic Development over Time	127
4. Defining Coercion in Shāfi‘ism	129
1. Introduction	129
2. Shāfi‘ī: Defining Coercion and Its Effects	130
3. Māwardī and Shirāzī: the Flexible Contextualist Approach of Iraqī Shāfi‘ism	132
4. Juwaynī, Ghazālī, and Khurasani Shāfi‘ism on the Legal Definition of Coercion	140
5. Conclusion: the Empiricist and Rationalist Approach of the Independent-Minded Classical Shāfi‘ites on Defining Coercion	145
5. Coerced Speech Act Jurisprudence in Ḥanafism and Shāfi‘ism	149
1. Introduction	149
2. Ḥanafite Proof Texts for the Validity of Coerced Divorce	152
3. Shāfi‘ite Proof Texts for the Invalidity of Coerced Divorce	155
4. Ḥanafite Treatment of Shāfi‘ite Proof Texts and Shāfi‘ite Responses	156
4.1 “Mistaken acts, forgetful acts, and what one is forced to do are lifted from my community”	156
4.2 “Actions are [judged] by intentions”	160
4.3 “No divorce in the case of closure”	161
5. Ḥanafite Case Arguments	162
5.1 The Speech Acts of Minors and the Shāfi‘ite Intention Principle	164
5.2 Coerced Acknowledgments (<i>Iqrārāt</i>)	167
5.3 Acknowledgments and the Case of Breast Milk Relationships (<i>Riḍāʿ</i>)	169
5.4 Coerced Commercial Transactions	171

Table of Contents

xiii

6. Shāfi‘ite Case Arguments	173
7. Why Did the Ḥanafites Not Simply Change Their Minds?	174
8. Conclusion: the Power of the Contingent Feature of Region in Explaining Traditions’ Rationality on Coerced Speech	179
9. The Yields of Comparison: Ḥanafite Coerced Speech and American Coerced Marriages, Adoptions, and Plea-bargains	183
6. Coerced Harm Jurisprudence in Ḥanafism and Shāfi‘ism	185
1. Introduction	185
2. Rape	186
2.1 Ḥanafites on Rape	186
2.2 Shāfi‘ites on Rape	196
3. Murder	198
3.1 Ḥanafites on Murder	199
3.2 Shāfi‘ites on Murder	209
4. Conclusion: Domain-Specific Constraints in the Problem of Coerced Murder—Comparison with Anglo-American Philosophy and Law	222
Conclusion	227
1. Technicality and Plurality of Traditions	227
2. A Reprisal of the Constraint and Contingency Model of Tradition-Based Rationality	229
3. Traditions in Motion	233
4. The Yields of Comparison	237
4.1 Coercion in Islamic Political Thought	238
4.2 Domain-Specific Constraints and Comparative Ethics	241
<i>Bibliography</i>	243
<i>Index</i>	253