

have been better suited for Part III). Chapters 7 and 8 focus on introducing an economic contextualisation of Islamic finance in Europe: Chapter 7 examines the impact of Islamic finance on four central economic concerns in Europe – financial stability, banking efficiency, competition and access to finance; Chapter 8 considers the issue of migration to Europe, migrant banking and the prospects of Islamic banking in this respect. Despite its valuable contents, Chapter 9 stands at odds with the other chapters. Deborah Scolart addresses women’s empowerment and Islam in the Arab world and Europe; however, her subject is not thoroughly linked to the main theme of the book. It would perhaps have been preferable for the chapter to focus on women’s empowerment and the role that Islamic finance and its institutions could play in this context.

Part III examines the application of Islamic finance in a number of jurisdictions within Europe. While Chapter 10 considers the application of Islamic banking within the overarching European legal framework, Chapters 11, 12, 13, 14 and 15 focus on specific national jurisdictions. Chapter 11 looks at the UK experience, highlighting some of the legal challenges such as taxation and deposit guarantee; Chapter 12 examines the Luxembourg legal framework for Islamic finance; Chapter 13 highlights the potential legal challenges faced by Islamic finance in France; Chapter 14 provides a critical analysis of the slow development of Islamic finance in Germany; finally, Chapter 15 provides some insights into the legal and regulatory framework of Islamic finance in Turkey in the light of the political and economic environment.

Overall *Islamic Finance in Europe* makes an interesting contribution to the literature concerning Islamic finance.

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Pope Benedict XVI’s Legal Thought: A Dialogue on the Foundation of Law

Edited by MARTA CARTABIA AND ANDREA SIMONCINI

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In his warm commendation of this series of significant essays exploring Pope Benedict XVI’s contribution to legal thought, Giorgio Napolitano, the former President of Italy, speaks both of the warm relationship he had with Pope Benedict and of his own conviction that ‘the social and political dimensions of

the religious fact must be objectively recognized' (p xii). In a series of important addresses during his pontificate, Pope Benedict sought to underline the place of religion in the public square. The first of these addresses was that given at Regensburg in 2006 on 'Faith, reason and the university'. It was sadly an address which became notorious because of the media attention given to Benedict's quotation of the fourteenth-century Byzantine emperor Manuel II, who had defended the place of reason in religion and who maintained that Islam's placing of God above reason had disastrous consequences – an opinion of Islam which Benedict did not share. The other significant addresses were those given to the United Nations (2008), at the Collège des Bernardins in Paris the same year, in Westminster Hall (2010) and in the Bundestag in Berlin (2011).

Although each of these addresses was crafted with the particular audience and milieu in mind, all were addressed to institutions rooted in the legal and political principles of Western liberal democracies and together they form a coherent exposition of the foundation of law in 'non-negotiable values'. Benedict quotes with approval the words of St Augustine: 'without justice what else is the State but a great band of robbers' (p 12). He is clear that 'there are things that are right and never become wrong' (p 13), instancing not killing innocent people, the right to be treated as human and the right to live a way of life appropriate to that. Human rights are grounded in an ethical and rational domain, and charters and declarations are insufficient without that recognition. There is a consistent critique of a 'positivist' understanding of reason which confines reason to the measurable. A true and sufficient 'ecology of humanity' (p 21) reaches beyond this so that it is not pointless to wonder whether the objective reason that manifests itself in the human spirit does not presuppose an ever-creative reason, a Creator Spiritus (p 23). It is the idea of a Creator God, he suggests, that gave rise to the idea of human rights.

Benedict emphasises that the culture of Europe was born of the encounter between Jerusalem, Athens and Rome, and a scientific and legal positivism which ignores that, alongside the West's aversion to the questions which underlie rationality, leads to a destructive relativism. Reason and religion need each other. The Catholic God is a logos god not an arbitrary god, thus in historical Christian terms rejecting the voluntarism of Duns Scotus. We need to be freed from the dictatorship of a relativism which, like Pontius Pilate, rejects the search for truth, and to seek the definitive behind the provisional. The atomised subjectivity of much contemporary culture is deeply destructive of what it is to be human. Abstract human rights, and ideals of the good and the good society depend on the vision and values of human communities to give them content, and that vision and those values cannot flourish if the entire public sphere is emptied of God and religion is simply a private matter.

These major and important themes are explored in this book in a series of essays grouped under three headings: ‘Law, reason and religion’, ‘Fundamental rights and freedom of religion’ and ‘Democracy in a society of “others”’. The largest number of contributors are from Italy, but there are also writers from America, Germany, Egypt (Wael Farouq evaluating Benedict’s stance from an Islamic perspective), Spain and Northern Ireland. Among the topics covered are ‘Reality and transcendence: more than a religious issue’; ‘Human dignity without God?’; ‘The secular state, democracy and, natural law’; ‘Benedict’s legacy: human rights, human dignity, and the possibility of dialogue’; “‘To serve rights and to right wrong’: Why religion, human rights, and human dignity need each other’; and ‘Acting contrary to reason is contrary to God’s nature’.

There are challenges in all of this, not only for lawyers but also for theologians and politicians. To take but one example, Weiler reminds us that ‘freedom of religion includes freedom *from* religion’ (p 94) and comments that when Pope Benedict ‘stipulates freedom of religion as being the most fundamental [human right] it is precisely because it stands as proxy to the very ontology of the human condition: What it is to be human’ (p 95).

By gathering together these significant responses to Pope Benedict’s major public addresses, the editors – whose own introductory essay highlights many of the important issues – have produced an important and valuable book. The publishers are also to be congratulated on a detailed and helpful index enabling many of the significant themes to be followed up easily. Although it would have considerably enlarged the book, it would also have been helpful to have actually had the texts of Benedict’s public addresses printed, as well as these stimulating responses to them.

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