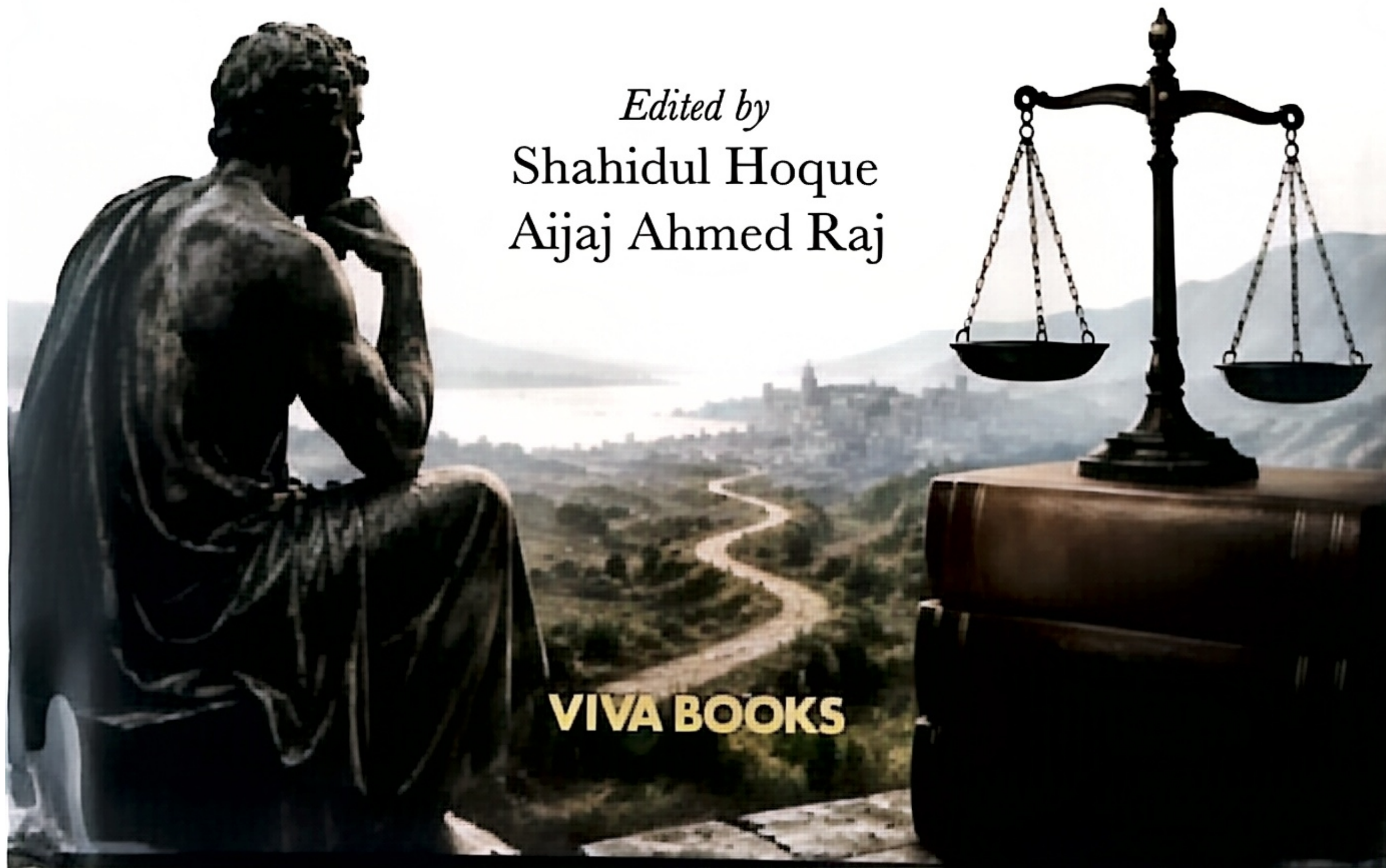


LIVING — THE — NORMS



PHILOSOPHICAL
REFLECTIONS ON
LIFE, LAW AND MORALITY

Edited by
Shahidul Hoque
Aijaj Ahmed Raj



VIVA BOOKS

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New Delhi | Mumbai | Chennai | Kolkata | Bengaluru | Hyderabad | Kochi | Guwahati

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1

The Soul of Law: Moral and Philosophical Foundations of Jurisprudence

Mirza Juned Beg

Jurisprudence deals with important moral and philosophical issues that question how law is connected to morality, first by presenting the main thoughts and ideas present in popular schools of jurisprudence, including natural law and legal positivism. Through examining the core philosophical and ethical principles of law, this chapter looks at how law transcends beyond rules and institutions. Natural law teaches us that law and morality are inseparable. In contrast, legal positivism teaches that there exists a firm separation between the 'is of law' versus the 'ought of law'. The chapter examines the fundamental tension between law and justice. As legal systems, judges, advocates and citizens continue to explore the ongoing struggle to balance order, justice, fairness and ethical responsibility with one another, the chapter finds that they all play a large part in determining the relevant legal norms for all individuals; as well as ultimately determining the moral foundation for today's modern legal theory. Further, the chapter analyses the impact of rights, duties and human dignity on the evolution of modern-day legal thought, as well as the social context of law as it continues to change over time. It also highlights the importance of judicial interpretation as a key example of how principles are made into actions. In the end, this chapter argues that 'law is not just a technical system' but a 'moral endeavour' in reflecting society's values and aspirations towards justice. Therefore, understanding the 'soul of law' is an important step in assessing the role of law and legal systems in creating a just and fair society.

Introduction

Law is generally viewed as a structured set of rules that different authorities (e.g., state, local, tribal) enforce with sanctions. This traditional

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Central to this edited book is an exploration of the evolving perspectives of life, law and morality. Since humans live in a 'polis' or inhabit a shared societal space, it requires norms and principles, rights and legislation for life and living. However, the norms and principles, as well as legal and political definitions, do not exist in isolation from the ideas, values and philosophical frameworks. As human life has evolved from primitive societies to the modern world, norms and principles have evolved in many ways. Hence, the systems of law and morality are neither straightforward nor uncontested. It involves a complex process and interplay between ethical principles, social and cultural values, legal and political ideas and power relations. It implies the dynamic relationship between individuals and societal expectations.

Bringing together academics and researchers from diverse fields, the book offers fresh insights into pressing contemporary issues including marginalization, justice, governance, faith, gender, sexuality, artificial intelligence and moral agency. The book not only provides an intervention into law and morality but also challenges and re-examines existing societal norms and their conceptual frameworks. Each of the eleven chapters of this volume foregrounds a specific issue, continues with a detailed analysis and concludes with a brief assessment. The book will be valuable for students and researchers of law, humanities and social sciences.

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