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Reason in Islamic Law

Emma Gallegos

The idea that certain meanings will get lost in translation from one culture to another has been nearly reduced to cliché. But that doesn't make the experience of being stuck in the gap between cultures any less real or frustrating. And it doesn't mean that the gap isn't worth exploring. This certainly applies to studying classical Islamic law from an American perspective. When doing so, it is important not only to recognize that certain meanings will be difficult if not impossible to translate correctly but also to notice what exactly these gaps are, for even the smallest gaps can have great implications if they serve as the foundation of something as important as a society's law. In his book *The Spirit of Islamic Law*, Bernard G. Weiss takes pains to highlight the key values in Islamic society that form the foundation of law. If we are to make a dedicated effort to understand Islamic law, we must not only pay attention to these key concepts but also note the major and minor ways that they differ from our own frames of reference- which in this case will be a modern American frame of reference. This certainly applies to key ideas such as reason, belief and knowledge.

To better understand reason's place in Islam, it is important to take note of what Muslim jurists consider to be the conceptual starting point of law: the existence of God. Here the line between jurisprudence and theology (kalam) blurs. "Indeed, many of the Muslim jurists regarded their jurisprudence as logically grounded in kalam; from kalam it drew its most fundamental postulates, among which the existence of God was primary. These postulates were the starting point of jurisprudence; without them jurisprudence could not proceed (Weiss 25). This statement says something interesting about the purpose of reason in law. The jurist sets off to prove something, with the assumption that it must be true in order to do the business that is law. In fact, since many classic jurists were ruling after Islamic law had been put into practice (even if only shortly after), proofs were being created to justify a system already in place. Reason then serves as a conceptual starting point, not

necessarily a tool to create a law system from scratch. In other words, a jurist would not necessarily be stalled in making rulings without the exact philosophical basis for law. The Muslim jurist by definition already believed in the God of the Qur'an as dictated to Muhammad. If the jurist and the people who went to him for rulings already believed in the God of the Qur'an, then there must be another purpose for going through the exercise of creating proofs for the existence of God. I would propose two purposes for the emphasis on reason. The first is that the process of reasoning is intricately related to the nature of belief in Islam, whose tradition goes all the way back to the Qur'an. The second related purpose is that the highly rational nature of Islamic law demands a strong rational foundation.

I will deal first with the nature of belief in Islam and how crucial reason is to belief. Right from the beginning, if we're going to talk about Islamic "belief," Weiss points out the linguistic gap that will hinder an English-speaker's understanding- a gap that will help us to understand better the importance of reason.

The word "belief" in English does not necessarily imply that one has arrived at a conclusion using strictly rational means. In fact, it is often used to mean exactly the opposite- belief is the category of ideas held to be true that have not been arrived at using reason or empirical evidence. This definition of belief is used in counterpoint with the notion of knowledge, which is the category of ideas held to be true that *have* been arrived at using reason and empirical evidence. In this sense, belief and knowledge are inextricably tied to one another since they represent opposite ends of the spectrum in the realm of ideas held to be true. This is not to say that belief and knowledge are black and white categories or that they're even always used in this exact sense, but this division in English is common enough to create confusion when discussing Islamic "belief," since that rather than "knowledge" is the word often used in English when discussing ideas that we assign to the realm of religion and God.

This creates problems, however, because as Weiss points out, "In Islam, belief is holding something to be true and one holds a thing to be true (*tasdiq*) only because one knows it to be true. Belief and knowledge are thus closely interrelated if not identical" (27). Belief has not been divorced from reason in Islam. It is not viewed as a threat. In fact the opposite is true.

Reason does not just support belief but is crucial part of belief. This idea presents difficulties for students steeped in western thought as Weiss notes, "In classical Islam there is no place for the modern, largely existentialist idea of the 'leap of faith.' Nothing as foundational to Islam as God's existence is to be taken 'on faith' in the meaning ordinarily given to that phrase in contemporary English" (26-27). Reason is not considered something that can just be used to augment one's previously held belief in God. It is not a tool that can be used to prove the existence of God and tucked away until one comes across, say, an atheist or polytheist. Reason is not extraneous but woven into the very fabric of belief, which presupposes that one already has support and evidence for this idea held to be true. The emphasis on reason then is an outgrowth of the Islamic notion of belief. It is thought of as a necessary part of belief, rather than a tool one uses in response to the challenges of skeptics.

The importance of pursuing reason as an important feature of Islamic thought is further confirmed by historical phenomena. Proofs of God's existence were important not only for jurists who already believed in God and were part of a system that presupposed his existence but also for theologians who carefully crafted proofs in a world where atheists were rare (27). However, this leads us to wonder where this tradition of rational belief comes from.

We turn no longer to history or linguistics, but the central text of Islam: "¯theological reflection was inspired by the Qur'an itself, which alludes repeatedly to the 'signs of God' in the nature world and calls upon humans to ponder them" (Weiss 26). That the central text of Islam encourages reflection on the connection between the natural world and its causes is noteworthy, because up until this point we have been caught up in a chicken-and-egg circle of logic, wondering which came first- the belief or the proof? Many jurists set about to prove the existence of God, because there can be no law without God. Before the proof was completed, the jurists had to believe in his existence enough to care enough to set about proving it, yet the notion of belief in Islam is that one believes only when one rationally knows something. But how can one believe before one begins to use logic to prove that belief? Qur'anic tradition

provides a way out of this vicious circle of logic that has no true starting point- chronologically or logically.

In the Qur'an, the proof of God's existence is part of the text. Listeners and later readers of the text are encouraged to use their natural faculties to observe the world around them and conclude that God does indeed exist. This proof embedded within the text does two things. First, it provides the foundation or starting point for the belief/knowledge required for Islam. One could theoretically come to the text without belief or knowledge of God, and find the foundation for faith within the text. This proof then is a means to knowledge of/belief in God. Second, the proof in the text sets an important precedent in Islamic thought in its emphasis on determining the meaning of signs using reason. This is less important for the purposes of logic than for understanding from a cultural perspective why there is such an emphasis on reason in a belief system. The answer here is that the process of reasoning is an integral component of Islamic belief from the beginning- the seminal texts. Tracing the importance of reason in Islam to the Qur'an is enough for our own purpose, which is to distinguish why this happened in Islam while it did not necessarily develop this way in other traditions, such as western thought where reason and belief came to be seen as opponents in certain arenas. It is important to note that, as with any idea of great social importance, we could try and trace the roots of the tradition of reasoning and looking for proof to the time before the Qur'an, the prophet and Islam as it came to be known, but we would trap ourselves unnecessarily in an infinite regression back to the beginning of man. It is enough to trace the origins of an Islamic tradition back to the Qur'an, since it is such a central text. We can say now with confidence that we have found both conceptual and historical starting points for the importance in using reason to prove the existence of God in Islamic tradition.

We return to law and the Muslim jurist who found it absolutely necessary to prove God's existence in order to have law. We determined already that many of the jurists who engaged in this type of theological reflection were doing so in a time and society where belief in/knowledge of God was already a given. Now we turn to the nature of law itself and why this demanded such as strong rational foundation, even among schools of law

which believed that God's instructions, rather than human rationality should be used to create law.

To do this, we can first take a look at what Islamic law would be without a rationally grounded belief in God. Let's pretend that we're existentialists who have decided to make a jump and accept that there is one God, Muhammed is his prophet and the Qur'an is the word of God as revealed to the prophet. "Given that God exists, it follows by an inexorable monotheistic logic that he is the one to whom mankind must first turn as a source of law, for he alone is the ultimate sovereign, the possessor of all original rights" (24). Even if jurists could follow this line of logic starting with a presupposed belief in the existence of God all the way to belief that his laws could be found in the words of the Qur'an, there was not yet a usable form of law. The words of the Qur'an and also the Sunna needed interpretation- a basis that is more difficult to determine without a rational basis for belief.

The bulk of Weiss' book explores this process and the different ways that schools of thought accomplished this, from the use of analogy to the problem of uncertainty in interpretation and the philosophical bases of the approaches to these problems. For instance, when a jurist had to make a decision about a case regarding a situation not outlined exactly in the Qur'an or Sunna, there were several different approaches that he could take. He could draw principles from several situations and apply the principle to the new situation or he could use one specific case and interpret what the general rule behind the case was and then apply the general rule to the new situation. These different strategies could not just be used haphazardly; even if different schools took different approaches, they had to be rationalized and shown to be a part of the greater intention of God. Mere human reason was not enough to build a system of law. Nor was mere human interpretation. "Between human reason and the law of God there stretched an essentially unbridgeable gap" (37). As a part of their occupation, jurists attempted to bridge this gap as best they could, but they found that it was not enough to interpret the text that they had been given, for their were many possible routes. To do the best job possible, they found it necessary to rationalize the entire system and consider the context of the laws that have been given. Again, the Qur'an serves

as a starting point for a tradition of reasoning. "The law always, for Muslim jurists without exception, has its primary original setting in the encounter between a divine addressor and a human addressee¯the terms of the covenant discussed in the Qur'anic commentaries" (33). The Qur'an encourages believers to go back to the beginning and consider how law emanates from divinity. For a Muslim jurist, to go back to the beginning is to reason that God exists, that he is the creator of all, including man, who as a part of creation is subject to the creator's will or as Weiss states it, "Given that God exists, it follows by an inexorable monotheistic logic that he is the one to whom mankind must first turn as a source of law, for he alone is the ultimate sovereign, the possessor of all original rights" (24). Here we find ourselves reaching the greater basis of law. Only when God and the basis of law had been rationally conceived, was it possible for a Muslim jurist to move forward in the work of determining what divine law is based on divine text. The rational basis for the text provides the necessary context to discover the intention of divine law- without having to make any unnecessary existential leaps of judgment.

We started out with an acknowledgement that different words and concepts in cultures do not necessarily always translate perfectly or adequately to others. This truism provides a perfect starting point to attempt an understanding of classical Islamic law. In trying to understand the different concepts of reason, belief and knowledge in that realm, we have come to understand something that would vex many Americans given their own definitions of these concepts: that the law of Islam held to be divine by its practitioners puts an incredible amount of stress on its rational basis. In trying to understand a seeming paradox, we have discovered how closely interwoven rationality is with Islamic belief and how this affects the practical application of divine will to earthly law.