Theologies of Divine Speech and the Human Exigencies of Law:
A Conundrum for Classical and Contemporary Islamic Legal Hermeneutics

David Vishanoff

Religious Studies Program, University of Oklahoma

Dynamics of Tradition: Islamic Theology and Law in Relation

Institute for Islamic Theology, University of Paderborn, Germany

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Short abstract

This paper considers how theological conceptions of divine speech have shaped legal theory in certain ways, while the practical concerns of legal interpretation have often pushed legal theory in opposite directions. The paper presents examples from classical *kalām* and *uṣūl al-fiqh,* as well as modern thinkers like Aksin Wijaya and Hasan Hanafi. The problem is considered both historically and conceptually, as a problem Muslim thinkers are facing today.

Long abstract

The ideal of a comprehensive and coherent theological vision sometimes comes into productive tension with the practical exigencies of legal interpretation. This tension has shaped and reshaped the discipline of Islamic legal theory (*uṣūl al-fiqh*), and more particularly its analysis of the language of revelation, from its formative period until today. In the fourth/tenth century Muʿtazilī theologians such as ʿAbd al-Jabbār argued that the doctrines of divine justice and God's created speech entailed a minimalist and relatively rigid approach to interpretation (at least in law), while Ashʿarī theologians such as al-Bāqillānī argued for greater ambiguity and flexibility on the basis of their theory of God's eternal speech. Both these approaches, however, complicated the practical task of finding in the language of revelation a secure grounding for the details of law as it existed and evolved on the ground. In the fifth/eleventh century, therefore, a more pragmatic, law-oriented, and theologically less principled approach came to dominate legal hermeneutics across all the Sunni schools of law.

This approach, which still dominates Sunni legal theory today, makes it easier for interpreters to claim that their interpretations, whether conservative or novel, constitute the most obvious and authentic readings of scripture. However, since novel interpretations face higher barriers to acceptance, Muslims desiring to reform the law have revisited some of the basic theological premises of classical legal theory, including its views on the language, meaning, historicity, and theocentrism of revelation. For example, Aksin Wijaya, a creative and prolific thinker little known outside his native Indonesia, has mined classical Ashʿarī views about God's speech and the Illuminationist epistemology of Mulla Sadra, as well as modern European thought, to support a flexible, contextually sensitive, and anthropocentric approach to interpretation that allows him to support his modern liberal reading of Islamic law; but his hermeneutic is not as systematically developed as those of the early theologians, and his theology of revelation appears to be constructed in a somewhat ad hoc manner to suit his hermeneutical goals rather than forming a principled starting point for his hermeneutical reflection. A more philosophically consistent and thoroughly anthropocentric reimagining of the doctrine of revelation and the theory of law was proposed by Hasan Hanafi, who transposed the entirety of classical legal theory into the vocabulary of European phenomenology; but his radical reconceptualization of revelation has encountered stiff resistance, and his revolutionary hermeneutic has not found acceptance as a practical method for legal interpretation. All these historical and contemporary examples illustrate a troubling but productive conundrum still faced by legal hermeneutics today: how can interpretation be grounded simultaneously in a coherent theology of divine speech and the messy human exigencies of law?

Introduction

The ideal of a comprehensive and coherent theological vision sometimes comes into productive tension with the practical exigencies of legal interpretation. This tug of war between theology and law has shaped and reshaped the discipline of Islamic legal theory (*uṣūl al-fiqh*), and more particularly the analysis of language that I will call legal hermeneutics, from its formative period until today. This essay presents examples from classical theology and legal theory, as well as modern thinkers like Aksin Wijaya and Hasan Hanafi, and concludes that constructing a theologically consistent and practically adequate legal hermeneutic is possible but may come at a price that few are willing to pay.

How a Muslim theologian imagines God's speech has (or logically ought to have) crucial implications for how he or she understands and interprets the Qurʾān's legal and ethical injunctions. The practical human concerns of law, however, often lead interpreters to prefer more flexible and powerful hermeneutical theories that seem less than perfectly consistent with their theological premises. This tension between the theological coherence of one's legal hermeneutic and its practical adequacy for the exigencies of lived human experience has been apparent throughout the history of Islamic legal theory, and continues to present a daunting and thrilling intellectual challenge today.

Some contemporary thinkers would question whether theology and metaphysics really need to govern epistemology and hermeneutics, and would suggest instead that practical concerns like justice that drive interpretation, and lived experiences like economic deprivation that shape interpretation, have existential priority over theological reflections on the nature of God and his attributes, and therefore should be given priority, in the search for God's will, over purely theoretical concerns like philosophical coherence. Others would argue that legal theory should indeed follow from theological premises, but that a theologically principled legal theory need not impede the interpretive practice of jurists because legal theory is not what actually constrains the law; the law's adaptability depends not so much on hermeneutics and legal theory as on the maxims and institutional mechanisms by which the law is handed down and applied. Still Muslim intellectuals, however, aspire to a full theoretical convergence between the theology of revelation, legal theory, and legal interpretation; and for them it may be instructive to explore some historical and contemporary examples of the relationship between theories of divine speech and theories of legal interpretation. I will not address the question of how law actually does or should adapt to changing historical circumstances, or the question of whether those adaptations are or should be governed by hermeneutical theories. Instead I will take for granted that some in my audience do believe that some adaptations of Islamic law are required by the circumstances of modern life, and that these should be justified by a principled legal hermeneutic which, in turn, should follow from a coherent conception of divine revelation.

I will begin with three examples from the formative period of Islamic legal theory, starting with the Muʿtazilī Qāḍī ʿAbd al-Jabbār (d. 415/1025), who argued that the doctrines of divine justice and God's created speech entailed a minimalist and relatively rigid approach to

interpretation (at least in law). In contrast, the Ashʿarī Mālikī Qāḍī Abū Bakr al-Bāqillānī (d. 403/1013) argued for greater ambiguity and flexibility on the basis of his theory of God's eternal speech. I will argue that while these hermeneutical approaches were principled and theologically coherent, both of them complicated, in principle, the task of finding in the language of revelation a secure grounding for the details of law as it existed and evolved in legal thought and practice. In the fifth/eleventh century, therefore, a more pragmatic, law-oriented, and theologically less principled approach came to dominate legal hermeneutics across all the Sunni schools of law. This approach, which I will illustrate by reference to the Ḥanbalī Abū Yaʿlā Ibn al-Farrāʾ (d. 458/1066), still dominates Sunni legal theory today. I will argue that this law-oriented hermeneutic makes it easier for interpreters to claim that their interpretations, whether conservative or novel, constitute the most obvious and authentic readings of scripture. However, since novel interpretations face higher barriers to acceptance, many contemporary Muslims who desire to reform the law have not been satisfied with this powerful and flexible hermeneutic, but have instead revisited some of the basic theological premises of classical Sunni legal theory, including its views on the language, meaning, historicity, and theocentrism of revelation, in order to justify novel legal and ethical interpretations. I will offer two principal examples. Aksin Wijaya (b. 1974), a creative and prolific thinker little known outside his native Indonesia, has mined classical Ashʿarī views about God's speech and the Illuminationist epistemology of Mulla Sadra (1572–1640), as well as modern European thought, to support a flexible, contextually sensitive, and anthropocentric approach to interpretation that allows him to support his modern liberal reading of Islamic law; but his theology of revelation appears to be constructed in a somewhat ad hoc manner to suit his hermeneutical goals rather than forming a principled starting point for his hermeneutical reflection, as was the case with the early theologians. A more philosophically consistent and thoroughly anthropocentric reimagining of the doctrine of revelation and the theory of law was proposed by Hasan Hanafi, who transposed the entirety of classical legal theory into the vocabulary of European phenomenology; but his radical reconceptualization of revelation has encountered stiff resistance, and his revolutionary hermeneutic has not found acceptance as a practical method for legal interpretation. All these historical and contemporary examples illustrate a troubling but productive conundrum still faced by legal hermeneutics today: how can interpretation be grounded simultaneously in a coherent theology of divine speech and the messy human exigencies of law?

The Baṣra branch of the Muʿtazila

In a groundbreaking book titled *Divine Discourse: Philosophical Reflections on the Claim that God Speaks,* the Christian philosopher Nicholas Wolterstorff defines speech not as strings of words that convey meaning but as a particular kind of action that puts the speaker into certain moral relationships with others. The idea that God's speech is a speech act has a long and interesting history in Islamic thought. It was developed in one respect, at least, by the Muʿtazila, who famously held the Qurʾān to be created, by which they meant that it was one of God's attributes of action: part of his creation, and thus one of the things that God brings about in time and space. ʿAbd al-Jabbār, the best-known representative of the Baṣran branch of that school, identified the act of speaking with the sentences and words and letters and sounds that are produced by a speaker, and in that respect he differed from Wolterstorff. ʿAbd al-Jabbār regarded this definition of speech as equally applicable to God and humans, since it does not say anything about how these sounds are produced: we produce them with bodily organs like tongue and lips while God produces them without a body, but they all constitute speech. Since sounds and words and sentences, by their very nature, are extended through time, God's speech is necessarily temporal and created.

This view of God's speech did not lead ʿAbd al-Jabbār to treat the Qurʾān as a historical document to be interpreted contextually—though there is one intriguing passage in his monumental work *al-Mughnī fī abwāb al-tawḥīd wa-l-ʿadl* that points tantalizingly in this direction. Neither did it diminish the authority or importance of revelation in Muʿtazilī epistemology, as both opponents and admirers of the Muʿtazila have often too hastily assumed. On the contrary, ʿAbd al-Jabbār argued that it was his Ashʿarī opponents who were undermining the value of revelation by making God's speech eternal, thus putting it beyond the reach of human knowledge and leaving no way to prove its truth and reliability as a source of knowledge. To his mind, to know for sure that God's speech was trustworthy, one had to know that God cannot speak deceitfully or even ambiguously, and we only know that because we know, rationally, that God must be just. But justice is a characteristic of a person's actions, not of a person's attributes. If God's speech were an eternal attribute, it would be a category mistake to say that it was subject to God's justice and therefore must be good and true. That is why, in his *Mughnī,* ʿAbd al-Jabbār discussed God's speech not in the section on *tawḥīd* (God's oneness) but in the section on *ʿadl* (justice). God's speech is only good, beneficial, and

trustworthy if it is an action; and an action is something produced in time. That is why God's speech has to be part of the temporal created realm.

The idea that God's speech is one of his good, just, and beneficial actions had two important consequences for ʿAbd al-Jabbār's legal hermeneutic. First, ʿAbd al-Jabbār reasoned that to be good God's speech must have a purpose. That purpose can only be to benefit human beings, since God himself needs nothing and does not stand to gain anything from his own actions. The only benefit that God's speech can possibly convey to humans, ʿAbd al-Jabbār reasoned, is to inform them of God's law. The Qurʾān cannot really inform people about God's own nature, or about the basic principles of reason, because one has to know all those things before one can be sure that God is just and that the Qurʾān is, therefore, a trustworthy source of knowledge. Consequently, ʿAbd al-Jabbār regarded God's speech as purely informative, as a set of statements about the law, and not as a performative speech act that brings about new moral relationships between people, as in Wolterstorff's theory. This informative view of God's speech has been taken for granted by many Muslim thinkers, but one can also imagine a performative theology of revelation in which the Qurʾān functions primarily to create new moral relationships. After all, the Qurʾān itself presents God's speech as performative and even creative.

A second consequence of God's speech being an action characterized by justice is that it must always be clear. If God's purpose is to communicate his law, he would fail completely—which, of course, is impossible—if he were ever to create words that did not express exactly what he meant. His speech, therefore, is always and necessarily clear. The Ashʿariyya could offer no such guarantee, so ʿAbd al-Jabbār argued that their theology undermined revelation as a source of knowledge. In his eyes the Muʿtazila were the real champions of revelation.

This principle of clarity led ʿAbd al-Jabbār and other Baṣran Muʿtazilī theologians to formulate interpretive rules that were remarkably literalist. In the domain of theology, of course, they were known for metaphorical interpretation; but for ʿAbd al-Jabbār the Qurʾān could not actually be a source of theological knowledge: at best it could only reinforce rational or natural knowledge of God, and must always be reinterpreted if necessary to accord with that prior knowledge. In the field of law, however, the Muʿtazila were not proponents of metaphorical interpretation at all. Modern Muslim reformers looking for a flexible Qurʾānic hermeneutic should not look to the Muʿtazila! In the domain of legal hermeneutics (*uṣūl al-fiqh*) they

expressed a strong preference for taking the Qurʾān literally and at face value. If an expression is general or unrestricted, it must be meant unrestrictedly unless God simultaneously provides clear evidence narrowing its scope. Likewise a command cannot be taken to imply anything more than it linguistically entails, which is that God desires the act to be performed, so commands only entail recommendation, not obligation. Commands do not require immediate obedience, or more than one act of obedience. They do not imply that if one fails to obey one will have to make up the duty later, nor, for that matter, do they indicate that if one does obey one will not have to make it up later as well. A command does not prohibit the opposite of what is commanded, nor does a prohibition make an act legally invalid. If God specifically prohibits an action in a special situation, this does not imply that it is otherwise permitted, as many other scholars held. God can mean only exactly what he says, or else he has to provide clarifying evidence, and he must make that evidence available at the very moment of his speech; he cannot delay clarifying it (*taʾkhīr al-bayān*) as most other legal theorists said he could.

The Baṣra Muʿtazila were not as rigid as the strictest members of the Ẓāhiriyya, a literalist movement that was sparked in part by members of the Baghdād school of the Muʿtazila. The early proponents of Ẓāhirism adhered so literally to the words of revelation that if two revealed texts seemed to conflict one of them would be discarded before either would be reinterpreted. The Ẓāhiriyya did not think there was any coherent moral meaning or rationale behind God's speech or law; they believed that the law consisted solely of the words of God's speech, which must therefore be followed to the letter. That approach was theologically principled, but it turned out to be practically unsustainable: there were too many apparent conflicts between revealed texts, and too many texts that had to be reinterpreted to make practical legal sense. Already by the time of Ibn Ḥazm (d. 456/1064) the Ẓāhiriyya had been slowly giving way to the more flexible interpretive theory of mainstream jurists, and Ibn Ḥazm's own legal hermeneutic ended up looking remarkably similar to that of the Mālikīs around him. Pure Islamic literalism died out long ago.

The Baṣra Muʿtazila were not that strict. They engaged in the mainstream juristic practice of reconciling conflicting evidence through reinterpretation, and of extrapolating from the available evidence by means of analogy when necessary, because they were convinced that God's law must be coherent, reasonable, and good, and that if his speech did not fit what was

known from other revealed evidence and from reason then it must be interpreted to fit the available evidence. In practice Qāḍī ʿAbd al-Jabbār's legal interpretations were presumably not radically different from that of his Shāfiʿī colleagues, notwithstanding the minimalist and literalist tendency of his hermeneutic. But at least in principle, in the chapters on legal theory in his *Mughnī,* ʿAbd al-Jabbār remained quite attached to the plain literal meaning of revelation, and avoided any deviation from it that was not absolutely required by the other evidence God had provided.

This theory of interpretation was principled, and it flowed from ʿAbd al-Jabbār's theological premises, but it was not a very powerful, flexible, or practical legal hermeneutic. It was cautious and even minimalist, assigning to the Qurʾān only those meanings that could be justified by irrefutable evidence. Such certainty is hard to maintain in Islamic law, and ambiguity is hard to avoid, so ʿAbd al-Jabbār's hermeneutic did not survive for long even among the Muʿtazila. By the early fifth/eleventh century even his own pupil Abū al-Ḥusayn al-Baṣrī (d. 436/1044) was shying away from such a theologically grounded legal hermeneutic and adopting the much more pragmatic hermeneutic of those legal theorists, referred to as the *fuqahāʾ,* who were more oriented toward law than theology.

The Ashʿariyya

Before turning to the *fuqahāʾ,* however, it is worth describing the alternative hermeneutic of Abū al-Ḥasan al-Ashʿarī (d. 324/935) and his second-generation follower al-Qāḍī Abū Bakr al-Bāqillānī (d. 403/1013), whose theology supported a more flexible but still impractical hermeneutic. They shared ʿAbd al-Jabbār's concern to ground hermeneutics in the theology of revelation, but they believed God's speech to be eternal, so their hermeneutic was necessarily quite different. Al-Bāqillānī in particular developed very explicitly the hermeneutical implications of the Ashʿarī doctrine that God's speech is an eternal attribute subsisting in God's essence, while the letters and words that make up the Qurʾān are just a created expression of that eternal attribute. That attribute, technically called a *maʿnā,* is also the meaning that is expressed by the words of the Qurʾān. God's speech is both an eternal attribute and an eternal command, prohibition, statement, and all the other meanings that make up God's revelation.

This theory of speech introduced an ontological gap between God's speech itself, which consists of meanings, and the words of the Qurʾān that express those meanings. Al-Bāqillānī

made of that ontological gap a hermeneutical gap. The goal of interpretation is to know the Qurʾān's meaning, but that meaning does not reside in words; it resides in God. All we have access to is words, so we have to use those words as evidence from which to infer the hidden meaning of God's speech. In ordinary human speech we can often grasp the speaker's meaning immediately, without any reflective process, because contextual cues like facial expressions, tone of voice, and the physical setting make it obvious what the speaker is trying to say; but since we cannot perceive God directly we do not get those same contextual cues along with his speech, so we have to sit down and think: if God chose these words to express his meaning, then he must have meant such and such. Interpreting divine speech requires a process of rational deliberation to move us from the words the speaker utters to the inner meanings the speaker intends to express.

Our knowledge of the Arabic language, of course, gives us a lot of clues about what meanings each word might be used to express, but al-Bāqillānī said that many important words and verbal forms, including, for example, the imperative form of a verb, can express many different meanings. Interpreting an imperative verb, therefore, requires more evidence than just the word itself. Unless we can find additional evidence from which to infer what was meant by a particular imperative—a command or an authorization, an obligation or a recommendation—we have to suspend judgment and admit that we do not know the word's meaning. Al-Bāqillānī and the few legal theorists who followed him were therefore known as the *wāqifiyya,* the suspenders of interpretive judgment.

This appears to leave the meaning of revelation woefully underdetermined, and to leave interpreters in a quandary. Uncertainty, however, presents an opportunity. The biggest interpretive challenge in Islamic law is not usually a lack of evidence but a superabundance of evidence that often seems to point in several directions at once. The groundbreaking legal theorist Muḥammad Ibn Idrīs al-Shāfiʿī (d. 208/820) showed how that superabundance of evidence can be reconciled into a coherent picture of the law: some evidence can be designated as unclear, and other conflicting evidence can then be used to reinterpret it. Al-Bāqillānī's hermeneutic justifies this solution by making it possible to claim that almost any evidence is unclear, and that virtually any other evidence, no matter how weak, can be used as evidence from which to infer its intended meaning. The pieces of revelation can therefore be fitted together in nearly endless combinations to produce almost unlimited interpretive

possibilities. For al-Shāfiʿī and for al-Bāqillānī ambiguity was not a problem but an opportunity that gave interpreters great flexibility in determining the hidden meaning of God's speech.

Nevertheless, in principle al-Bāqillānī's hermeneutic called for an enormous amount of interpretive labor. Very little could be taken for granted; many crucial interpretations had to be justified by appeal to additional pieces of evidence. Like ʿAbd al-Jabbār's hermeneutic, al-Bāqillānī's was theologically principled but practically unwieldy. It offered numerous avenues for exploring alternative interpretations in response to social changes and the variable pressures of daily life, but it complicated the task of giving those interpretations the sanction of divine revelation. His hermeneutic was laudably consistent with his theology of divine speech, but it left a daunting task to any interpreter who wished to show that his chosen interpretations followed naturally from the application of his hermeneutic to God's speech.

The Jurists

Few legal theorists, therefore, followed either al-Bāqillānī or ʿAbd al-Jabbār beyond the early fifth/eleventh century. Most adopted a more pragmatic hermeneutic that retained the flexibility of the Ashʿariyya but also provided the interpretive power to claim that certain interpretations were obvious without having to justify them by appeal to evidence beyond the words themselves. They might say, for example, that imperative verbs have a strong and definite default meaning—they impose an obligation of immediate and repeated obedience and simultaneously prohibit and render invalid any action contrary to the commanded act—but that this default meaning can easily be set aside in favor of a less stringent meaning on the basis of the slightest evidence. I call this hermeneutic the law-oriented hermeneutical paradigm because it was adopted across the Sunnī schools of law by legal theorists whose main concern was the elaboration or justification of law, not philosophical coherence or theological consistency. Many of these thinkers did not make any attempt to articulate explicitly the theological conception of divine speech that lay behind their hermeneutic, but I want to introduce briefly one particularly strong proponent of this hermeneutical paradigm, the Ḥanbalī Abū Yaʿlā Ibn al-Farrāʾ (d. 458/1066), whose definitions and arguments reveal that his powerful and flexible hermeneutic came at the cost of theological coherence.

When we look at how Abū Yaʿlā defined commands, for example, and how he defended his rules for their interpretation, we can see that he, like Wolterstorff, considered God's speech a

kind of speech act that brings about a moral relationship between God and humanity. In his theological writing he asserted that God's speech is eternal, but in his work on legal theory he asserted just as clearly that a command is a kind of action: an act of verbally demanding or requesting that a person of inferior status perform some action. This conception of commands has profound hermeneutical consequences. If a command were just a word—an imperative verb uttered with a certain intent, as the Muʿtazila held—then its meaning would be closely tied to the linguistic meaning of the imperative. That was why the Muʿtazila ascribed only minimal legal meaning to commands. If, on the other hand, a command is an act of requesting somebody to do something, then it can be imagined to include all sorts of implications that follow from a superior's instructions to a subordinate. If a master asks his slave to bring him a drink, for example, we might normally suppose that he wants the drink now, not at some unspecified time before the slave's death, and that if the slave continues to just sit there he will be punished. These things are not part of the linguistic meaning of an imperative verb, but they are part of the social meaning of a master's instructions to a slave.

This view of speech as a socially embedded act made it possible for Abū Yaʿlā to maximize the legal force of revealed language, and to claim that the strong meanings he assigned to commands and other utterances were obvious from the words of revelation alone, without appeal to additional evidence. At the same time, however, Abū Yaʿlā retained all the flexibility of al-Shāfiʿī's and al-Bāqillānī's hermeneutics, justifying departures from his strong default meanings, whenever these seemed necessary, by appeal to even the weakest of evidence. This was the thrust of the law-oriented hermeneutical paradigm, and that explains why it was adopted so quickly and so widely, even among the theologians and the Ẓāhiriyya, by the middle of the fifth/eleventh century. The law-oriented hermeneutic was practically adequate for dealing with the large and complex body of revealed evidence, and for interpreting that evidence in a way that was responsive to the interpreter's human experience and social context.

This pragmatism, however, came at the price of theological coherence. Would Abū Yaʿlā really have affirmed, if pressed, that God's speech was an eternal action performed eternally upon created beings? I doubt he would, but by the fifth/eleventh century theological grounding was becoming less and less of a concern; theology was being excised from books of legal theory and from the curriculum of the madrasas. Law and legal theory could be based, at least implicitly,

on a notion of revelation that was incoherent or, at best, paradoxical. This lack of attention to theological consistency also seems characteristic of modern Sunnī textbooks on *uṣūl al-fiqh,* which continue to uphold the essentials of the law-oriented hermeneutical paradigm without revisiting the theology of divine speech that undergirds it.

The danger of authoritarianism

This turn from theological principle to interpretive pragmatism is not innocent. It poses the moral danger of what Khaled Abou El Fadl calls authoritarianism: the arrogation of authority that often occurs when an interpreter identifies his or her interpretation as the obvious and indisputable meaning of God's speech, without disclosing her presuppositions, values, or interpretive choices, and thus effectively substitutes her own interpretation for the text of revelation. The law-oriented hermeneutical paradigm embraced by the Sunnī schools of law permitted exactly that, at least in principle, because it allowed jurists to find a great deal of legal meaning in revelation, and to claim that it was the plain literal meaning of the text, while reserving the flexibility to deviate from that default meaning whenever they felt it necessary to do so. The law-oriented paradigm concealed the jurists' interpretive labor, making their conclusions seem more obvious than they were—something that theologians like ʿAbd al-Jabbār and al-Bāqillānī would have denounced.

The jurists were not free to employ their powerful and flexible hermeneutic at will. The constraints of the scholarly tradition limited quite severely their ability to propose whimsical new interpretations and claim revealed authority for them, even if they might have been hermeneutically justifiable. In the modern world, however, where the scholarly tradition no longer controls the framework or the limits of legal interpretation, the law-oriented hermeneutic has become a more powerful and dangerous tool. Modernists, Salafīs, and reformers of all stripes frequently employ the principles and mechanisms of classical legal theory, wittingly or unwittingly, to justify interpretations that would never have been accepted within the classical interpretive tradition. More often than not they do so without any apparent awareness of the theological underpinnings of that hermeneutic.

It is significant, therefore, that some recent and contemporary Muslim thinkers have proposed explicit and creative theologies of revelation. One example is Muḥammad Shaḥrūr (1938–2019), who developed at great length a distinction between a suprahistorical *qurʾān* and a

historical *umm al-kitāb.* That metaphysical distinction had a definite hermeneutical purpose: it allowed Shaḥrūr to classify Qurʾānic teachings that fit his own modern liberal values as eternal and objective, while declaring other parts of the Qurʾān to be historically contingent and subject to human reasoning. His theology appears to have been driven by his hermeneutical objectives, rather than the other way around as with ʿAbd al-Jabbār and al-Bāqillānī. Nevertheless, having formulated his hermeneutic, Shaḥrūr did make a serious attempt to ground it in a coherent theology of revelation.

Aksin Wijaya

Another remarkably elaborate and creative Qurʾānic metaphysics is that proposed by Aksin Wijaya (b. 1974), a professor and director of graduate studies at the State Institute of Islamic Religion (IAIN) in Ponorogo, East Java. Like the Ashʿariyya, he thinks it important to distinguish between God's eternal inner speech and its temporal verbal expression, but then he goes on to draw another sharp distinction between the oral and written forms of the Qurʾān, ending up with a tripartite model of God's speech consisting of revelation, the Qurʾān, and the ʿUthmānic Codex.

Wijaya defines the first dimension of God's speech, revelation or *wahyu,* not as an eternal attribute but as an act of communication that took place when the Prophet, by virtue of his extraordinarily spiritual orientation, transcended the physical dimension of his human nature and entered the realm of spirit and divinity. This communication took place, he argues, in a private language or sign system that was not Arabic but was freely chosen by God and was thus independent of any specific culture. This communication involved no intermediary: the stories about Gabriel conveying God's messages were just the Prophet's way of explaining his claim of revelation to an audience who conceived of supernatural inspiration as coming through intermediaries such as *jinn.* Nor did it require any interpretation; rather, it yielded immediate, unreflective, and perfect understanding of the divine message (*pesan*) by the Prophet. It is this original message, which cannot be explained as the product of Arab culture, that constitutes the principal miraculous feature of the Qurʾān and that God has promised to protect from corruption. Because it is free of cultural trappings and is therefore relevant to any social context, only this part of the Qurʾān's message is authoritative for all. It is, therefore, the sole object of the interpreter's quest.

The words of the oral Qurʾān (*al-Qur'an*) Wijaya regards as a second act of communication that took place between the Prophet and his original Arab audience. This required transferring the divine message from the private language in which the Prophet had received it into clear Arabic. The Arabic words of the Qurʾān did not exist in the heavenly realm; they were chosen by the Prophet himself. In his initial prophetic experience in the cave of Ḥirāʾ the Prophet had been commanded to read—not to recite particular words that were given to him, but to read or diagnose the social reality of his time and place in light of the universal revelation he was to receive. He did so using the existing medium of Arabic which, following Naṣr Ḥāmid Abū Zayd (1943–2010), Wijaya regards as a carrier of its own cultural message. The Prophet responded to pagan Arab society in its own terms, mimicking cultural concepts such as the notion of a charismatic figure who receives otherworldly messages through otherworldly intermediaries and expresses them in poetic form. The result was that God's message became "trapped" in an Arabic linguistic and cultural system, so that it could not speak directly to all God's servants across the face of the whole earth. The oral Qurʾān proclaimed by the Prophet carried both a divine message and a human cultural message in approximately equal proportions. Wijaya does not say how he reaches his figure of fifty percent, but by giving a specific number he goes beyond vague assertions about the ability of a language to carry its own implicit message and offers a clear idea of just how radical his interpretive project is: he will consider himself at liberty to dismiss about fifty percent of the Qurʾān's content as Arab cultural baggage that need not be imported into Indonesia.

The third communicative event occurred after the death of the Prophet, when his Companions passed on the Qurʾān's message in writing. In order to avoid conflict over the oral Qurʾān's seven variant recitations (which Wijaya seems to regard as irretrievably lost), they reduced it to a single written text, the ʿUthmānic Codex (*Mushaf Usmani*). In this way God's message was further entrapped, this time by the linguistic and cultural system of one particular tribe, the Quraysh, and also by the act of writing itself. Wijaya argues that the very act of fixing the Qurʾān as a written text broke the direct connection between speaker and hearer that had previously allowed the Companions to understand the oral Qurʾān immediately and unreflectively. The ʿUthmānic Codex, which is the only form in which we now have access to God's message, can be understood only through a process of linguistic analysis, which by its nature tends to highlight the cultural messages that are embedded in the Arabic language.

Equally problematic is the hegemony accorded to specifically Qurayshī language and culture. The seven variant readings were intended to address the linguistic and cultural diversity of the Prophet's Arab audience, but the ʿUthmānic codification further narrowed both the cultural relevance and the cultural message of revelation, so that the message of the text we read today is about twenty percent Qurayshī ideology. That leaves only thirty percent of the text's message that can be attributed to God himself. The task of hermeneutics is to identify and extract that thirty percent from behind the veil of Arab and Qurayshī culture so that revelation can speak to all societies past and present, across the face of the whole earth including Indonesia, without subjecting them to Arab cultural imperialism.

This is a splendid example of an explicit theology of revelation put forward in the service of Qurʾānic hermeneutics. Wijaya reworks the classical Ashʿarī doctrine of God's eternal speech in terms of modern communication theory, and ends up with a justification for a hermeneutic of recovery that sounds like a slightly more sophisticated, Indonesianized version of Fazlur Rahman's hermeneutic. The hermeneutical dimension of Wijaya's project, however, remains underdeveloped in his book on the Qurʾānic sciences. He says that "exegesis" (*tafsīr*), which considers only the language of the text, can only discover the Qurʾān's Arab cultural message, and so calls for it to be supplemented with "hermeneutics" so as to consider both the internal linguistic and external contextual dimensions of the text. He calls for analysis of Qurʾānic vocabulary after the manner of Toshihiko Izutsu (1914–1993), as well as isolation of the divine elements of the Qurʾānic message from its Arab cultural elements along the general lines taken by Fazlur Rahman (1919–1988) and Naṣr Ḥāmid Abū Zayd. Following Maḥmūd Muḥammad Ṭāhā (1909–1985), he suggests that God's universal message is more readily apparent in the Meccan portions of the ʿUthmānic Codex. It remains unclear, however, how the narrowing from seven oral to one written version of the Qurʾān is to be undone in the process of "searching for God's message behind the phenomenon of culture." The sample exegetical problem to which he applies his hermeneutic by way of illustration—the Qurʾānic term *islām*—is even less developed than his hermeneutical theory: he never gets beyond internal vocabulary analysis before leaping to a predictable list of modern liberal values which, he concludes, must be the universal values that form the genuine revealed core of the Qurʾānic message. It is his theology of revelation that is most detailed and suggestive; indeed one hardly needs an explicit statement of hermeneutical method, or a specific example of interpretation,

to see the kinds of interpretive moves that his theory of revelation suggests and supports. His theology allows him to depart radically from the explicit language of scripture, in order to address the concrete particulars of his contemporary Indonesian context, while still claiming to anchor his interpretations in the authority of an imagined suprahistorical act of divine communication. He combines an appeal to transcendent authority with a thoroughly anthropocentric approach to interpretation, which begins and ends with human experience rather than flowing "downward" from a theocentric discourse about God's will.

In Wijaya's hermeneutic, as in al-Bāqillānī's and Shaḥrūr's, the doctrine of an eternal heavenly message plays a quite substantial role: it is the object of interpretive inquiry. The concept of an eternal Qurʾān is not just a pious affirmation of the transcendent nature of revelation; it is an imagined locus of pure meaning untainted by the processes of human communication and interpretive reasoning. If the Qurʾān is a historical and literary text comparable to other historical and literary artifacts, in a linguistic medium that reflects a particular human society, then the desire to find in it a divinely authoritative norm that transcends human cultures requires the positing of some suprahistorical revelation that transcends the words of the Qurʾān yet is somehow reflected in them. The interpretive mechanisms that would guarantee recovery of that pure divine message may be difficult to define with any precision, or to carry out in any objective manner, but this does not trouble Aksin Wijaya. It is enough to believe that there is gold beneath the dross of Arab culture. This justifies not a certain method but a certain attitude toward the Qurʾān, and toward those who would try to impose its foreign values and customs on Indonesian Muslims.

Indeed, the Indonesian context is crucial for understanding the relationship between Wijaya's theology of revelation and his hermeneutic. The state-supported drive for indigenization or "Indonesianization" of Islam, and of Islamic law in particular, is a driving force behind much Indonesian Qurʾānic hermeneutics. For Wijaya and his circle, the interpretive outcome is not in doubt. Even the historicizing hermeneutic is already largely a given. What is needed is legitimacy: an updating of the Qurʾānic sciences that shows how traditional concepts like the occasions of revelation, the distinction between Meccan and Medinan verses, and above all the Ashʿarī doctrine of God's eternal speech actually support modern historicizing hermeneutical theories. His more recent book on Islamic epistemology undertakes a similar project, drawing on an assortment of western and classical Islamic theories, including the Aristotelean-inflected

"bottom-up" epistemology of Ibn Rushd (1126–1198) and the Illuminationist epistemology of Mulla Sadra, to argue that Islamic epistemology and hermeneutics should be anthropocentric, driven by the particulars of local human needs and experiences, rather than theocentric and governed by a certain conception of God's will or speech, as most of classical theology and legal theory were. As with Shaḥrūr, therefore, I think that Wijaya's theology of revelation, while explicit and creative, is not what drives his legal hermeneutic. Rather, his hermeneutic is motivated by the drive for practically adequate and locally relevant interpretation, and his rather ad hoc theological bricolage is motivated by his need for a contextually sensitive hermeneutic.

Wijaya does not entirely avoid the risk of authoritarianism. Although he does not claim to discover by his method a single divinely intended meaning in the Qurʾān, but only one of several meanings that fall within the range or limits of God's intended meanings, his hermeneutic is such that he could easily use it to foist his own liberal values on the Qurʾān as though they were its only universal, transcultural message. And his hermeneutic itself seems to have been foisted onto his theological reflection on God's speech, for like Shaḥrūr he seems to have started from the hermeneutical imperatives he felt were dictated by the exigencies of his modern context, and then to have mined the history of Islamic theology and philosophy to find notions of revelation that would suit his hermeneutic. Nevertheless, also like Shaḥrūr, Wijaya has at least been explicit about his hermeneutic's theological foundations, however novel and precarious those may be. And he has amply demonstrated that the Islamic intellectual tradition is a rich resource that can be rethought and redeployed in the service of contemporary Qurʾānic interpretation.

Hasan Hanafi

For a more thorough, principled, and theologically consistent rethinking of Islamic legal hermeneutics, I know of no better example than Hasan Hanafi (b. 1935), whose radical reconstruction of the discipline of *uṣūl al-fiqh* was motivated not only by the interpretive exigencies of modern life but also by his encounter with the anthropological turn in modern European theology. His early work, written in French during his time at the Sorbonne, set the course for his life's work by showing how to bring classical Islamic thought into dialogue with the philosophical environment of mid-twentieth-century Europe, which was steeped in the

phenomenology of Heidegger and Husserl. In order to make Islamic thought meaningful in phenomenological terms, and vice versa, he rethought not only the theory of interpretation but also the very notions of revelation and divinity in terms of human experience. In *Les méthodes d'exégèse,* an opaque but brilliant work, he transposed the entire edifice of classical legal theory into the vocabulary of phenomenology.

The result was a completely anthropocentric theory of interpretation in which the quest for meaning begins with the particular experiences of daily life, which are brought into relation with the received truths of revelation. As each person grasps his own experiences in the light of revelation, and brings his interpretation into conversation with the experiences of others, the law—which is to say, human understanding (*fiqh*) of the natural drives and motivations that are the fount of all human action—emerges as an increasingly unified collective grasp of what is most universal about human experience. The goal of interpretation is not to arrive at a knowledge of God's transcendent will, but to bring our actions more and more into alignment with what is most fundamentally, universally, and ideally true about human nature. The process of legal interpretation takes place entirely within the domain of human experience, beginning with particular human experiences and ending with a conceptual grasp and a practical implementation of universal human nature. This hermeneutic meets the need felt by Hanafi, Wijaya, and so many other contemporary Muslims for a law that addresses current human concerns and responds to the particulars of time and place without degenerating into relativism.

This hermeneutic, however, comes at the cost of a complete humanization of revelation. Indeed, Hanafi does not see this as a cost or a drawback; it is his goal to transpose not just legal hermeneutics but the concept of revelation itself onto the plane of human experience—the only plane that phenomenology claims to elucidate. Accordingly, he redefines the four main sources of law: the Qurʾān becomes "anonymous experience," the Sunna "privileged experience," consensus "intersubjective experience," and *ijtihād* "individual experience." In this schema, even the Qurʾān is an articulation of human experience, albeit a generic, idealized, anonymous experience that does not assume the perspective of any particular person or culture but represents what is best and most universal about the experience of all human beings. Hanafi insists that the most fundamental source of revelation is actually the fourth, *ijtihād,* which he understands as the process of grasping one's own personal experience

and relating it (by analogy) to the other sources that have been handed down or agreed upon as universally true of all human experience. In phenomenological terms, *ijtihād* is simply the eidetic process of grasping reality.

This implies—or follows from—the radical theological assertion that the Qurʾān is not the speech of a transcendent God that has been sent down into the human world, but simply an articulation of human experience, at a highly universalized level, by one of those great figures of human history known as Enunciators who include poets, heroes, and in the Qurʾān's case a "prophet" —though Hanafi relegates such religious vocabulary to his footnotes as much as possible. The Prophet did not have an experience of anything transcendent; that is by definition impossible, since the noumenal realm is not the object of phenomenal experience. Rather, the Prophet simply did what all human beings do, seeking to grasp his own experience in light of the handed-down wisdom of the ages that reflects the experience of past generations; that he did so in an unusually incisive and objective way—that is, in a way that reflects what is truly universal about human nature—does not give his "privileged experience" (the Sunna) or the "anonymous experience" (the Qurʾān) that he articulated a qualitatively different character from the experiences (*ijtihād*) of other individuals. Consequently, when discussing *ḥadīth,* Hanafi argues that the most authentic reports are not those that are most reliably attributed to the Prophet but, on the contrary, those that are fabricated, because the spontaneous and undistorted articulation of each individual's own experience is the very essence of revelation.

This radical reconceptualization of revelation leaves God out of the picture, and in fact we may be forgiven for asking (as some of his critics have) whether Hanafi has not become in effect an atheist. Hanafi would respond that this misses the point of his project, which is not to deny God but rather to give him a place in the phenomenological domain of human experience. That his French dissertation largely avoids the religious term "God," and speaks instead of a "universal human consciousness," is not a denial of the claims of Islamic theology but an attempt to make them relevant to the situation of modern Muslims, and also to render them meaningful in the terms of modern European philosophy, which has already transposed Christian theology onto the plane of anthropology. If Islamic discourse about God and revelation is to have any significance in the contemporary social, political, and philosophical context, it must be recast in terms of human phenomenal experience.

This will seem to many Muslims an unacceptable price to pay for the holy grail of a theologically coherent but practically adequate legal hermeneutic. Some would argue that Hanafi has simply given up on the tension between the particular realities and exigencies of legal interpretation in the modern world, on the one hand, and the goal of a theocentric religious discourse and a life lived in submission to a transcendent authority on the other: in his quest for relevance, Hanafi has completely sacrificed transcendence. Others might appreciate the point of a theology articulated entirely in terms of human experience, but might find that Hanafi's notion of universal human experience—which seems to take the place of God in his hermeneutic—is too homogenizing and insufficiently postmodern; it runs the risk of a different kind of authoritarianism in which someone's experience, without claiming any transcendent authority, is nevertheless deemed a human universal and therefore takes on the authority of "revelation" for everyone else. But whatever one's objections to the theology behind Hanafi's reconstruction of Islamic legal theory, it must be admitted that his project has set a high bar for theological consistency in the quest for a practically adequate legal hermeneutic, and that it has illustrated just how great a challenge that quest presents to contemporary Muslim intellectuals working at the interface between theology and law.

Conclusion

Many contemporary Muslim scholars have turned their attention to hermeneutics, seeking a theory of scriptural interpretation adequate for the concrete demands of living faithfully in the modern world. To devise a powerful, flexible hermeneutic is not difficult. Medieval legal theorists did that long ago, inspired by al-Shāfiʿī and building on the insights of Ashʿarī theologians. In so doing, however, the law-oriented theorists lost sight of the theological paradoxes or contradictions that were at least implicitly demanded by their increasingly pragmatic hermeneutic. Perhaps some such theological paradoxes are a necessary part of any religious thought that aspires to adequately capture the complex experience of religious life. Aksin Wijaya and Hasan Hanafi, however, like al-Bāqillānī and ʿAbd al-Jabbār, were willing to make their theologies of revelation explicit, and spell out their consequences for interpretation, rather than just putting forward a hermeneutic and then assuming (or pretending) that it makes theological sense. For those who aspire to theoretical coherence, Wijaya and Hanafi offer two starkly different but equally creative models of explicit reflection, grounded in classical Islamic as well as modern European thought, on the connections between

the theology of revelation and legal hermeneutics. Neither of their models, however, provides an easy solution to the tension between the desire for a comprehensive and coherent theological vision and the practical exigencies of legal interpretation.