

The Anthropological Turn in Islamic Legal Interpretation

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Panel III: Who is applying Islamic law?

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The anthropological turn

Who applies Islamic law? Indeed, who owns Islamic law? Who creates and evaluates it? I want to address that broader question, because I think the answer is changing. It is changing because we are witnessing an anthropological turn in Islamic legal theory and Qur'anic interpretation.

The tree and building metaphors

In his *Kitāb al-Waraqāt fī uṣūl al-fiqh* Imām al-Ḥaramayn al-Juwaynī defines the roots of law as its foundations. “A root,” he says, “is that on which something else is built, whereas a branch is that which is built on something else.” This mixing of an organic metaphor—the roots and branches of a tree—with a building metaphor reflects a tension in al-Juwaynī’s conception of Islamic law. Is it a human construct, built by human *ijtihād* on the foundation of divine revelation? Or is law an organic outgrowth of revelation, its shape determined by the divine DNA contained in the Qur’an and Hadith?

“Islamwissenschaft” vs. “Islamische Theologie”

The western academic study of Islam has treated it as a human construct, a historically contingent cultural product. The belief that it is, instead, revealed by God has long been a principal divider between historical and confessional scholarship, between “Islamwissenschaft” and “Islamische Theologie.”

The anthropological turn

That division is softening, however, as Islamic thought shifts from a theocentric focus on divine authority to an anthropocentric focus on human experience. Christian theology took an “anthropological turn” during the twentieth century, shifting its focus from metaphysical objects to conscious subjects. Now Islamic legal interpretation is likewise gravitating from the metaphysical question “What legal norm does God mean to convey through this Qur’anic verse or Prophetic hadith?” to a new, subjective question: “What legal meaning may I, a historically and culturally located human being, construct out of that verse or hadith?”

Historical precedents

This anthropological turn is not without historical precedent, as Stefan Reichmuth pointed out in his 2012 volume *Humanism and Muslim Culture: Historical Heritage and Contemporary Challenges*. Al-Juwaynī’s depiction of *fiqh* as a building constructed by *ijtihād* is one of many such precedents. Nonetheless, the dominant view among Muslim legal theorists has been that law is discovered in revelation, not constructed by humans.

Hassan Hanafi

It was, therefore, a watershed moment in the history of *uṣūl al-fiqh* when in 1965 Hassan Hanafi published *Les méthodes d’exégèse: Essai sur la science des fondements de la compréhension “ilm uṣūl al-fiqh,”* in which he transposed the entire edifice of classical legal theory into the language of phenomenology: legal *aḥkām* became “active consciousness;” the criticism of *isnāds* became an analysis of “historical consciousness;” consensus became “intersubjective experience;” and analogy became “a reflexive analysis of daily experiences.” He was inverting the entire discourse of legal theory so that it started not with the given of revelation but with the particular experiences and concerns of ordinary human lives, from which individuals could turn to revelation as to a set of parallel experiences that they could make relevant to their own concerns and make true through their own actions. The notion of a metaphysically transcendent God from whom the law flows and toward whom obedience is directed is absent from Hanafi’s system. Everything starts from and aims toward human experiences, intentions, and actions. He made *uṣūl al-fiqh* thoroughly and explicitly anthropocentric.

Aksin Wijaya

Hassan Hanafi's early work is profoundly innovative and deserves a much more careful reading than I have yet given it, but I want to focus for now on an Indonesian thinker, Aksin Wijaya, who likewise advocates a thoroughly and explicitly anthropocentric Islamic hermeneutic. His most recent major work is titled "One Islam, Diverse Epistemologies: From Theocentric to Anthropocentric Epistemology."

Wijaya's history of epistemologies

He characterizes most classical Islamic epistemologies as theocentric, directed toward metaphysical realities, and theoretical rather than practical. The epistemologies of emanationist philosophers like Ibn Sīnā and illuminationists like Suhrawardī, he says, followed a "logic of descent:" truth descends from the higher levels of reality and is received by human beings from above. This, he complains, leaves "unthought" the epistemology of concrete experiences and daily life. But he also finds classical precedent for a "logic of ascent" in the more Aristotelian epistemology of Ibn Rushd: universals are known by abstraction from sensory knowledge of material particulars. And Mulla Sadra's transcendentalist epistemology combines both upward and downward movements.

Wijaya finds a similar combination of downward theocentric and upward anthropocentric epistemology in several modern thinkers. He rejects the "Islamization of knowledge" project of Naqīb al-ʿAṭṭās and Ismail al-Faruqī because it is "top-down:" it seeks to make divine revelation the arbiter of all knowledge, including empirical observation. He likes Nurcholish Madjid's concept of secularization because it focuses human attention on this-worldly problems, without excluding religion from public discourse as secularism does. But even Madjid was not anthropocentric enough for Wijaya, who suspects that Madjid was actually islamizing secular knowledge, not really secularizing Islam. Wijaya finds a more consistent anthropocentrism in Abdurrahman Wahid's indigenization of Islam, which allows local cultures to govern the changing shape of Islam.

Like several other recent Indonesian thinkers (Kuntowijoyo, Amin Abdullah, Amin Suprayogo) Wijaya calls for an integration of revealed and empirical knowledge. Both,

he says, are directed toward human concerns, so they should complement each other. But he feels his fellow Indonesians have not gone far enough. Their integration leaves empirical science subject to Islamization at the hands of revelation, whereas he wants the Islamic sciences to be modified by empirical knowledge and by particular local cultures. The Indonesian advocates of integration are theo-anthropocentrists, whereas he wants his epistemology to be thoroughly anthropocentric.

Phenomenological epistemology

By that he means (like Hassan Hanafi) that human knowledge about God and God's will is really not about metaphysics—transcendent realities as they are in themselves—but about human experience. Religion is not about God, but about humans and their experiences, concerns, and wellbeing. (In this he goes beyond even the Mu'tazilī 'Abd al-Jabbār, who said that revelation can only teach us about human actions, not about God, but who still made God an object of rational inquiry.) Wijaya is influenced by Mehdi Haeri Yazdi, a twentieth-century Iranian scholar who combines the mystical epistemology of the illuminationists with the empiricism of Ibn Rushd. He speaks of *'ilm al-ḥuḍūr*, knowledge of an immanent object: not the external object as it is in itself, but as it is present to the senses and conceptualized in the mind—in other words, phenomenological knowledge. For the illuminationists such knowledge cannot be true or false; it is not subject to evaluation by the criterion of correspondence with external reality. But Yazdi argues that such knowledge of internal immanent objects can be correlated with knowledge of external objects. This means that human experience, through the senses and intuition, is a “bottom-up” path to knowledge of metaphysical reality, including God. It is interesting that Wijaya here makes God an object of knowledge, even though theology begins and ends with human experience.

Practical epistemology

An anthropocentric epistemology is also practical, not theoretical or metaphysical. The Islamic sciences have the same goal as the secular sciences: human welfare. Today in Indonesia concrete social problems have become the explicit focus of Islamic law and even theology. Wijaya notes approvingly that where Muslims used to ask “What does religion require of me?” they now ask “What can religion do for me?” ('Abd al-Jabbār would also approve: he insisted that law and revelation exist solely to serve human

interests, since God himself cannot benefit from anything.) Wijaya refers sympathetically to pragmatism, the view that knowledge is assessed not by its coherence or its correspondence to reality but by its human utility. Yet he also alludes to some higher value beyond human welfare, arguing that religion must guard the sciences against the pragmatic trap of valuing only that which has a clear human benefit.

Contextual epistemology

Since practical human needs and particular human experiences vary with time and place, Wijaya insists that Islamic thought, law, and epistemology should be characterized by change and diversity. Like Hassan Hanafi, he says that what humans seek and find in the Qur'an will vary with the particular challenges they face. Where 'Abd al-Jabbār held that the meaning and evidentiary value of God's speech depends on the speaker's intent, Wijaya suggests that revelation functions as evidence for whatever problem the reader brings to it. Indonesian legal interpretation is to be governed by the particular concerns of modern Indonesian society, with its religious pluralism, its social and economic struggles, and all the variety of its indigenous cultures. Once again, however, Wijaya alludes to a higher Islam that transcends human culture; diversity and change affect only historical Islam, not the universal ideal Islam that exists in God's mind.

Anthropocentric hermeneutics

In an earlier work titled "A New Direction for the Study of the Qur'anic Sciences" Wijaya spelled out what such an anthropocentric epistemology means for Qur'anic hermeneutics. I have presented his hermeneutic in more detail on prior occasions, including a symposium at Timothy Winter's Cambridge Muslim College and the International Association for the History of Religions meeting last summer in Erfurt, so I will just sketch it briefly here.

Wijaya wants Qur'anic interpretation to be governed by his Indonesian context, not by the Qur'an's Arab cultural baggage, so he distinguishes three aspects of Qur'anic revelation. The first, revelation itself (wahyu), is non-linguistic, completely outside of human culture, and contains the pure divine message. The second, the oral Qur'an (Al-

Qur'an), is fifty percent divine message and fifty percent Arab culture, because the Prophet was commanded to “read” (*iqra'*) his own social context and articulate God's message in terms of Arabic language and culture. The third, the written *mushaf* (Mushaf Usmani), further reduces God's message to the specifically Qurayshī dialect and culture of the Companions, so it contains only thirty percent divine message. Like Naṣr Ḥāmid Abū Zayd, Wijaya regards the Qur'an as a cultural product, and like Abū Zayd he justifies this by appealing to his own version of the Ash'arī distinction between God's eternal attribute of speech and its created, temporal, verbal expression.

Symbolic appeal to transcendent truth

Once again, though, Wijaya's anthropocentrism is undermined by his allusion to a transcendent, supra-historical, trans-cultural divine message, which he says is beyond human language and understanding but which he wants to extract from its Arab cultural baggage and apply to the Indonesian context. That sounds like a top-down theocentric epistemology, an Islamization of the Indonesian experience at the hands of revelation. Is this just another instance of a Muslim scholar reading into the Qur'an his own liberal values, which stem from his particular cultural location, and then concocting a hermeneutic that makes those values absolute and universal?

Wijaya recognizes this danger. During an interview at his home in Ponorogo, East Java, he clarified that he does not claim to be able to isolate the universal divine message behind the Qur'an's cultural trappings. He only claims that human interpreters can discover meanings that lie within the limits of God's intended meaning. (Here he refers to Muḥammad Shahrūr's theory of limits.)

Wijaya is performing a difficult balancing act between his desire for a thoroughly anthropocentric epistemology and hermeneutic, and his desire to retain the notion of a transcendent source of epistemic and legal authority. It is the same balancing act that al-Juwaynī played in his *Kitāb al-Waraqāt*, but today thinkers like Aksin Wijaya and Hassan Hanafi are affirming and valuing the human constructedness of Islam much more explicitly than al-Juwaynī.

Shared discourse on Islamic law

This anthropological turn in the field of Islamische Theologie has given it new common ground with Islamwissenschaft. As a non-Muslim historian of Islamic thought, I find myself welcomed more and more often into the constructive conversations of Muslim thinkers, in Indonesia, at the International Institute of Islamic Thought in Virginia, and at Timothy Winter's own Cambridge Muslim College, where I recently enjoyed one of the most delightful symposia I have ever attended. Islamic law is no longer "owned" solely by Muslims—if indeed it ever was. Just as Jewish, Persian, Roman, and Arabian cultures once contributed to the construction of Islamic law, so non-Muslim intellectuals are now becoming active and recognized participants in the discourses that create and justify the law.

In interactions with Muslim thinkers who oppose the anthropological turn, belief in the transcendent and all-encompassing authority of revelation can still be a "conversation stopper." I once asked Hamza Yusuf, the founder of Zaytuna College in California, what role a non-Muslim scholar like myself might play in his Islamic educational project, and he replied, politely but clearly, "none whatsoever." But the growth of interest in the humanly constructed dimensions of Islam among scholars like Aksin Wijaya suggests that the time is ripe for more fruitful interaction between historical and confessional scholarship on Islam. The creation of the Zentrum für Islamische Theologie here in Tübingen, right alongside the Abteilung für Orient- und Islamwissenschaft, is timely and promising.