

CHAPTER 1

INTRODUCTION

This is a book about a controversy in Muslim religious thought. Muslim law assesses all acts against the norms of Revelation, and judges them to be Proscribed, Permitted, or Obligatory.¹ The problem that concerns us, because it so manifestly concerned Muslim jurists, is: What is the assessment (if any) for a useful and beneficial act before Revelation comes to assign it value? Are pre-Revelational useful acts Proscribed, Permitted, Obligatory, or something else? The problem is one that on the face of it would seem irrelevant precisely to those who argued most passionately about it, since Muslims live after the era with which they are here putatively concerned. Moreover, it is the sort of problem we moderns have been taught to disregard or at least not to take seriously; it is the sort of question we moderns do not find productive to pose.

Muslims argued heatedly about this question for 400 years, and they subsequently included discussions of it in their compendia for another 800 years. Evidently it was a useful question to discuss. The first question that strikes us is—why? Why would Muslims long after Revelation had come find it interesting and important to argue about acts that took place before Islam, in the usual sense of the term, existed? To answer this question fruitfully, it is useful to look at it in a way different from the way theological controversies have usually been studied.

METHOD OF APPROACH

The study of Islam is littered with accounts of Islamic debates. These detail the minutiae of positions taken, catalog the disputants, and, usually, pigeon-hole the controversialists—often as “rationalists” or “traditionalists” (sometimes traditionalists). Nonetheless, the “why” of these arguments among sincere and piously motivated scholars seems usually to escape most monographs and articles. Islamicists seem often to forget that most topics debated were “things to think with,” or *camerae obscurae* by means of which a delicate or a sensitive

matter could be regarded indirectly, and without fear of injury. Muslim scholars cultivated these controversies like special strains of plants bred to study some anomaly or disease. Predestination, the createdness of the Qur'ān, and many other religious controversies must be understood in this way if they are to be *understood* at all, and it should be clear that a study of a controversy must ask what was truly being asked before it can be understood. What is needed is a work of interpretation.

Muslim scholars, it is obvious, did not care and were not arguing about “acts before Revelation” *per se*. Rather, when someone first posed this problem in debate it was eagerly seized upon and elaborated, we suppose, because through it Muslim intellectuals could examine notions too amorphous and sometimes too disturbing or unnerving to state baldly. Perhaps, also, through these “thought experiments” they could discuss issues too profound to think about directly. If a student of these controversies does nothing more than to state the argument and catalog its participants so as to press and mount it into the book of Muslim opinions, the point of these fierce discussions is missed, and students of Muslim thought become no more than taxonomists.

To begin: This debate was about “assessing acts,” but the backdrop for the argument is the notion that assessing acts is the quintessential activity of the Islamic religious tradition.² Yet there is a tension in thinking about the assessment of acts: On the one hand, it is God alone who establishes assessments, and God alone who is Assessor (*hākim*). Yet God has nonetheless delegated a large domain of assessment to His bondsmen. By a vow, an act ordinarily assessed as Recommended can be made Obligatory, and a man may establish nearly anything to be the occasion for a divorce or manumission, thereby making divorce or manumission Obligatory when it is not otherwise so according to Revelation. Similarly, God has entrusted a group distinguished by their scholarship and probity with the assessment of acts in general—these are the judges and jurisconsultants who constitute the canonical Islamic religious elite, and they assess acts as Proscribed, Obligatory and so forth, just as God does.³

Furthermore, the process of assessing is fraught with uncertainty and tension. Humans are at once licensed to make assessments and guided only by an uncertain knowledge of what it is God commands in the circumstances. While mortals attempt to assess in parallel with God's assessments, it is recognized that they can do no more than *suppose* that the assessment arrived at conforms to the transcendent assessment of the act or thing under consideration.⁴ Interpreting the texts of Revelation is at least sometimes a speculative enterprise, and the uncertainty of Islamic Revelational assessments led scholars to try to ground the valuations in something more certain than textual hermeneutic. However, they needed also to safeguard the unique position of the Qur'ān as the source of moral knowledge. To discuss these conflicting intentions, we believe, scholars elaborated the problem-complex that we study here. To concentrate only on this discussion is to watch only the foreground and ignore the

background. By attending to more than just “who said what” we hope to demonstrate how the controversy was about much more than the question, Are useful acts forbidden until Revelation comes?

When Muslim scholars in the foreground were asking about acts before Revelation, I believe they were also reflecting upon important epistemological questions in the background. They were asking about the importance of Revelational knowledge over against other sources of knowledge; they were asking, What constitutes religious knowledge?; they were also asking questions about moral categorization and its relation to being itself: Does the goodness of gratitude or the badness of a lie come from some characteristic innate to the nature of gratitude and prevarication?; Can lies ever be good or gratitude wicked? They asked also, What is it that makes something good? Does its goodness reside in the structure of the created world or in the ungrounded determination of God?

What I believe was also being determined through reflection on such topics as these was the relation between morality and culture: Was morality to be understood as something innate within humans, and so, universal across denominational lines, or were humans so corrupted by individual and collective interest as to be incapable of dispassionate moral knowledge? Were the moral commands of Islam congruent with human capacity to know the good from the detestable, or were the commands of God utterly transcendent of human capacity, and therefore reliably true and objective?

It is clear that such questions are so grand as to be unanswerable on their face and almost so grand as to be unaskable. It was, initially at least, more productive to ask: Are useful acts good without Revelation to tell us so, and if so, how do we know?

THE PROBLEM POSED

By way of introduction, here is an example of how the problem was posed in a fifth-century juristic source:

Scholars disagree concerning things from which it is possible to benefit, before the arrival of the *shar'*. Among them there are those who say that [these acts] are Proscribed, so that it is not licit to benefit from them, nor to perform them. Among them are those who say that [these useful things] are Permitted, since whoever believes a thing allowed for him may use it and possess it. And among them are those who say that they are something In Suspension (*'alá l-waqf*): it may not be determined that they are either Permitted or Proscribed.⁵

The text is typical in its seeming plainness. The author states the problem and admits three possible answers. Nearly every textual discussion of this prob-

lem does the same. This text is typical also in what is unsaid but lies implicit in this simple formulation.

First, why should a Muslim living in a post-Revelational age care about acts before Revelation? The author does not say. Second, the author does not indicate whether the discussion is about the status of the acts, or the status of our knowledge about the acts. That is, is the question about the being of the act (an ontological question) or is it about our knowledge of the thing (an epistemological question)? The author does not specify. Third, the phrase used (*qabla wurūd 'il-shar'*) here translated as “before the arrival of the *shar'*” —can mean “before the *shar'* arrives,” “before it is met with,”⁶ or “before it takes effect.”⁷ Is it that useful acts are Proscribed before Muḥammad’s Revelation?; or before someone living in North Africa, for example, knows of Revelation?; or before some Revelational command comes into effect, by a Muslim’s attaining puberty, for example?; or are useful acts Proscribed when, indeed, there is effectively no Revelational command at all? Is the question “Are non-Muslim acts ever good?” or is it “Do acts of which Revelation has not spoken have religious assessments appropriate to them?” The author never clarifies.

THE ANSWERS

Fortunately, not all authors are so terse—other discussions are lengthier and easier to decode. It becomes clear that each of the answers proposed—that acts before revelation are Proscribed, Permitted, Un-assessable—has a series of ramifying implications. These can be summed up as follows:

1. Those who Proscribed the use of things before the coming of the *shar'* argue that “all created things are God’s property because He created them and established them; it is not Permitted to use the property of another without His permission.” Therefore, for the Proscribers it is God’s permission that makes something Permitted, and God’s command that makes something Obligatory. When there is no information as to God’s command, it should be assumed that everything is Proscribed. The subtext here is that the world before, and outside of, Revelation is to be mistrusted on principle, and God’s sovereign assessment alone makes acts and things licit. For the Proscribers, the pre-Revelational world is radically discontinuous from the post-Revelational world, in which useful acts are, by God’s grace, Permitted.

2. Those who Permitted the use of things before Revelation said that “God created [these acts or things] and brought them into existence, obviously, either for some purpose, or without purpose. Creation cannot have been purposeless, for God cannot act futilely. It must be that He created them for a purpose, and that purpose must be either to cause harm or benefit. It is not possible to suppose that it is to cause harm; it must be that [He created them] for benefit.” The Permitters believed acts to be of three sorts. Some acts such as grati-

tude were good and Obligatory before Revelation, and scripture merely confirmed their goodness. It could not have done otherwise. Some acts, such as lies, were similarly detestable⁸ and Proscribed whether or not Revelation had come. Acts that appear useful comprise the third category. They are Permitted or Indifferent⁹ before Revelation, but Revelation may reveal them to be Proscribed, as with pork, or Permitted, as with beef. It is their usefulness that, until Revelation comes to reveal hidden harm, justifies the Permittedness of these acts. Hence usefulness, and reasoning that recognizes usefulness, is a source of moral knowledge alongside Revelation. In this way, for the Permitters, there is a kind of continuity between the pre- and post-Revelational worlds since in both, usefulness is a ground for Permittedness.

3. Those who held the third position, that acts cannot be assessed at all without Revelation, justified their position by defining the Permitted as "that of which the Master of Stipulations (*ṣāhib al-shar'*) has informed [us]: there is no reward for doing it and no punishment for neglecting it. . . . Its assessment therefore awaits the arrival of Revelation, whereupon it is assessed according to what the *shar'* arrives with concerning it." On such an account, acts before Revelation simply can have no moral quality, No Assessment (*lā ḥukm^a lahu*),¹⁰ whatsoever. Morality does not exist outside of Revelation and neither the nature of the act, nor our own intellectual powers, can provide moral assessments to acts without Revelation's command. The world is amoral before Revelation and morally assessable only after it comes.

THE BEFORE REVELATION COMPLEX

As a final part of this introduction, we wish to explain the phrase *before revelation complex*, which we have used throughout this book. The problem of moral valuation is too complex to encompass with only a single single foreground question. Sometimes spread about, but more often juxtaposed, various set problems have as their ground bass the problem of moral epistemology. These stereotyped problems are united by their underlying theme, and often by textual propinquity but also, if one knows the position of a scholar on one of these issues, his position on the rest can be predicted fairly accurately. It would seem then that all of these discussions form a single complex of questions that can profitably be studied and referred to as a whole. These controversies include the following.

Acts before the Coming of Revelation (Al-Af'āl Qabl^a Wurūd (sometimes Majī') al-Shar' (sometimes al-Sam'))'

This problem is the most practical of the set. It poses the question of what can be said about acts before or more generally in the absence of Revelation.

Specifically this question asks if the categories of legal assessment, especially “Permitted/Indifferent (*mubāḥ*) can be used of acts outside of Revelation’s writ.

Permitted/Indifferent (Mubāḥ)

Legists in particular worked to define the term “*mubāḥ*” used to assess an act: did it refer to a set of acts that were simply not considered by Revelation? If so, there must be an implicit moral continuity between the pre- and post-Revelational world, since silence after, and silence before, Revelation was proof of Permission. Alternatively, perhaps the term refers to acts *explicitly permitted* by Revelation but unconnected to transcendent reward or praise, punishment or condemnation. In this latter view no act could be said to be *mubāḥ* until Revelation could be applied to it.

Declaring “Good”/Declaring “Detestable” (Al-Taḥsīn wa-l-Taqbīḥ)

Metaphysicians in particular exercised themselves with the question of *al-taḥsīn wa-l-taqbīḥ*. At the first level, the problem is this: can humans use their natural faculties to determine the transcendent goodness or detestability of something, such as thanking the benefactor? The debate is therefore about the limitations of human moral-epistemological capacity. The problem is also about the nature of acts themselves—whether goodness or detestability are part of the acts’ ontological natures. Was detestability a part of the being of a lie, the way redness or roundness were parts of the apple’s nature? For the centuries in which theology was at the forefront of technical thought, *taḥsīn* and *taqbīḥ* were the most extensively discussed aspect of the before revelation complex.

Thanking the Benefactor (Shukr al-Mun‘im)

Of the questions in this problem-complex, this sub-question of the metaphysical question is perhaps the most interesting, since it is most distinctively Arab, then Muslim. The question debated was whether we can know of the obligation to thank a benefactor (an Arab virtue par excellence) without Revelation to tell us of the obligation. This is clearly an early question and the answer to it changes as Muslim analogies between God and humankind evolve. What is ultimately at issue is the degree of similarity or difference between this world and the next, and the degree to which that apocalyptic world is immanent in this.

All of these discussions—and more besides—form what we are calling the before revelation complex. Of course Islamic legal thought connects everything to everything else and in hiving off this set of questions we do an injustice to the coherent whole. Nonetheless the value of the discussion that follows is, we hope, that it hints at the interrelatedness of all of Islamic thought, and explains something of its seriousness and subtlety.

CONTEXT

A final note. When these questions have been discussed previously, especially in George Hourani's lucid works, they have been considered as problems in practical philosophy. Here, however, they are seen as questions in the legal sciences, questions with practical implications for jurists. It is the practical concerns that give these questions their edge for practicing jurisprudents, we believe, and so we have preferred jurisprudential to theological sources whenever possible.¹²

This study is organized in three parts. It begins with a doxographic history that shows how these questions developed in the context of the formation of jurisprudential schools. In the process we attempt to re-describe how these *madhhabs* developed and what *madhhab* affiliation meant to adherents of the schools. The second section analyzes each of the three positions (Proscribed, Permitted, No Assessment) at length, along with their implications. In this lengthier chapter, we attempt to picture the kind of Islam that each of these positions assumes. This section includes extensive translations. A chapter on the special problem of *thanking the benefactor* follows. Here certain changes in the social background of Islamic thought are explored, and a hypothesis of the growing discontinuity of metaphysics from social practice is proposed. In the third part we discuss the technique of epistemology and ontology that affected this complex of questions. The purpose there is to show similar Islamic problems shaping a dialog that might seem far removed from any practical consideration. The concluding chapter attempts to gather what has been discovered in the previous chapters, so as to reinterpret some of Islam's formative intellectual history.

Throughout this book the method used is that of a historian of religion. Texts are read to reconstruct not only positions or concealed influences but to find the "unsaid" and the "assumed" that made up the worldview of these different kinds of Muslims. I take for granted that these scholars were not exercising themselves for lack of something better to do, but were engaged in what seemed the most serious of tasks—to determine what God required, so that they might be resurrected with those who had earned eternal reward.

ḥasbunā llāh, wa-na'ima l-wakīl (3:173)