The Spirit of Islamic Law: Introduction

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Both a brief biography of Bernard Weiss (BW), and a bibliography of his scholarship are found elsewhere in this volume. It remains our task to describe Bernie’s contribution to the study of Islamic law and his place in the field, as well as to sketch out the contents of this volume honoring Bernard Weiss, and to link our work to his.

The trajectory of Bernard Weiss’s scholarship follows a line less possible today; the depth of his work *inter alia* suggests the value of that venerable model. BW spent the first part of his career mastering the issues of language—of *Lugha* as he came to call it—in Islamic theology and speculative jurisprudence. Having grasped from this tightly-focused study how medieval Islamic scholastics pursued their craft, he then spent more than a decade carefully reading through al-Āmidī’s *summa* in the field of Islamic jurisprudential theory (*uṣūl al-fiqh*)¹ and the author’s other major works—the précis of the *Iḥkām*, the *Muntahā*, and the *Abkār al-Afkār* in speculative theology (*kalām*). Rather than attempt a premature overview of *uṣūl*, BW spent much of his scholarly life in intense conversation with the *uṣūlī* whom he found most congenial. By awling his way into al-Āmidī’s work over a long period of time, BW could engage in scholarly conversation and even dispute with al-Āmidī—confident that his interlocutor was real and not simply a projection of BW’s present scholarly concerns; in this way he could be confident too that he was doing full justice to al-Āmidī and thereby to the discipline to which both al-Āmidī and Bernard Weiss himself dedicated their academic careers.

BW’s masterwork, consequently, was a magisterial study of the *Iḥkām*, which provided an anchor for all students of the field (especially after the 2nd edition with its index!). Unmatched in its scope, depth, and above all reflective precision, *The Search for God’s Law* provided English technical terminology—much of which has become standard—but more significantly, it provided a lodestone to orient readers in the subject of *uṣūl*

¹ For a ruminative and extremely helpful discussion of this term, see *Search* 2nd edition pp. 23–6. All references in this introduction are to the 2nd revised edition (2010). The references in individual essays will vary according to the edition at hand to the authors.
al-fiqh without the, often speculative, interpretation that had characterized the more recent works in uṣūl preceding BW’s search. Other Weiss scholarship-articles such as “Knowledge of the Past…” (on tawātur) (1985), “Language and the Law” (1986), and “Interpretation in Islamic Law” (1996)—were also timely interventions in the development of uṣūl studies. His deceptively modest The Spirit of Islamic Law is in fact a masterful distillation of all he had learned in Islamic law and of his profound Mitdenken with many of Islamic jurisprudence’s great minds.

Indeed, BW himself describes his enterprise as to come “in contact with the world of ideas inhabited by my author Sayf al-Dīn al-Āmidi (d. 631/1233) and to [become] capable of expounding those ideas accurately and faithfully in relatively clear English”;2 and further, “to know well [his] mind and the complex dialectic in which he was involved.”3 BW’s work is less exposition than conversation, and consequently the reader engages with not just the doctrines, but the world-view, of uṣūl discourse to a degree unusual in Islamic textual studies.

Two features of BW’s work stand out. (1) His concern with language and (2) his apprehension of the truth that uṣūl and fiqh are religious enterprises—notwithstanding BW’s decision to focus on the ‘positive law’ rather than the ‘morality’ aspect of shari‘ah-studies.4

BW’s scholarly career began with a dissertation on language, and his first articles came from that dissertation. They concern the arcane yet central problem of whether language is mere human convention or instead rests on a substratum of divine prediction. Perhaps he was convinced by the latter position given his own fastidious attention to language—both that of the uṣūlīs and his own. Throughout his work BW spends pages patiently picking apart the knots of language—phrases, technical terms, underlying linguistic assumptions. All who have read The Search have remarked on how felicitous they find his English representations of the uṣūlī technical terms. This is no accident. All of us have spent many happy hours with BW discussing terminology, and in the process discovered how much reflection, effort, and research ought to go into every English attempt to convey the Arabic.

The title of BW’s magnum opus reflects his unwavering recognition of the religious standpoint from which Islamic jurists operated. Notwithstanding

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2 Search xxiii.
3 Ibid.
4 Search 4–5; 8.