It is well known that Arabic grammar and Islamic law enjoy a peculiarly close relationship. The two sciences are united by a common purpose, to control linguistic and general behaviour respectively, and they share a common methodology, namely the inductive derivation of rules from a linguistic corpus and the deductive application of these universal rules to particular acts of the Muslim. Where they differ is in their sources. Grammar relies on the natural, worldly speech of a select range of human speakers (Bedouin), law on the inspired texts of the Qur’ān and the Ḥadīth, which are supernatural in origin and holy in status. All legal systems are linguistic codes of one sort or another, spoken or written, but the total dependence of Islamic law on a finite body of revealed and prophetic language is unique. Its modern secular analogue is the type of law which is derived from a written constitution, and here too, the law has to be discovered by an essentially linguistic process, whereby there is often disagreement over the presumed intentions of those (invariably dead) who framed the document.

The development of a method for interpreting the language of the Qur’ān and Ḥadīth took several centuries, and at risk of oversimplification it can be said that the two sciences of grammar and law, aided by imported Aristotelian logic, leap-frogged each other in an evolutionary series, where the advances of one made further progress possible in the other. This paper will review the general similarities in the approach to language in early grammar and law, especially Sibawayhi’s intuitive pragmatism (here in the non-technical sense) and his awareness of the legal implications of grammatical form. There follows a brief account of some grammatical/legal problems discussed in an intermediate phase in the 3rd–4th/9th–10th centuries, and the paper concludes by listing a number of features of legal methodology which can be linked with ideas first noted in Sibawayhi, but which only acquired their fully developed form after the maturing of ‘uṣūl al-fiqh as a discipline.
Islamic legal hermeneutics proceeds from the axiom that, regardless of its supernatural origin, the language of the holy texts conforms entirely to the principles of human discourse. Two short quotations, one from Sībawayhi (d. ca 180/796) and one from aš-Šāfiʿī (d. 204/820, and probably born about the same time as Sībawayhi) will testify that this notion was well defined at the very birth of the sciences of grammar and law:

God's servants were spoken to in their own speech and the Qurʾān came down in their language and according to what they mean


In almost identical wording from aš-Šāfiʿī (the original Arabic could not be checked: this is from Khadduri 1987, 94, and looks very like a quotation from or paraphrase of the Kitāb):

God has addressed his book to the Arabs in their tongue in accordance with the meanings known to them.

The context in aš-Šāfiʿī's case was the dispute over the possibility of foreign words in the Qurʾān, while for Sībawayhi it was a syntactical issue of indefinite expressions such as salāmun ʿalayka; although a definite as-salāmu would be expected, the indefinite is an old-established Arab usage that must be accepted, especially when it appears in the Qurʾān.

Aš-Šāfiʿī is regarded as the first legal theorist to give proper weight to the linguistic aspects of the law, since which time both grammarians and lawyers have shown themselves to be remarkably strict and uncompromising in subordinating the language of God to the linguistic conventions of ordinary Arabic. The latter, for Sībawayhi, was a dialogue between speaker and listener, both being required to conform to what are basically ethical criteria to speak 'well' (ḥasan) and 'rightly' (mustaqīm). For the lawyers there could be no dialogue with God, only the contemplation of the written record of what he and his Prophet said, but over time they evolved a system of interpretation in which they played the role of silent listeners to a speaker of their own tongue, under the same conditions as natural speech.

For this they constructed an elaborate hermeneutical mechanism (ʿuṣūl al-fiqh) which, as documented by Ali (2000), exhibits an impressive congruence in many details with the modern branch of linguistics