Rationalist Disciplines and Postclassical Islamic Legal Theories

Introduction

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This thematic volume of *Oriens* grew out of text-based workshops held between 2015 and 2017 at the University of California, Berkeley, in partnership with the University of Exeter. Scholars of Islamic legal theories have long recognized the central role of reason and of rationalist modes of derivation—such as the *argumentum e contrario*, *argumentum a fortiori*, the principle of induction, etc.—in the articulation of the discipline. Yet there has been no systematic evaluation of how the naturalization of the rationalist disciplines into the fabric of postclassical Islamic scholarship impacted various aspects of Islamic legal theories. The aforementioned workshops brought together several scholars whose presentations allowed a glimpse into this significant theme. The articles collected here are a sampling of our colleagues’ contributions on those occasions and include also the submissions of some others who joined the endeavor at a later date.

A few basic comments about our usage of certain terms are in order. First, by the expression “postclassical” we do not mean to designate hard and fast chronological boundaries. We understand that periodization is fraught with various conceptual and discipline-specific difficulties. The usage of this expression, in the case of this collection, is to designate the continuity and significance of certain pedagogical modes (e.g., the *madrasa*), systems of patronage (e.g., the princely court), texts (e.g., the *Shamsiyya* of al-Kātibī), scholarly networks (e.g., the Farangī Maḥallīs), modes of scholarly production (e.g., commentaries), etc. Different regions in the Muslim world displayed these features of the “postclassical” to a greater and lesser extent roughly between the early seventh/thirteenth and early fourteenth/twentieth centuries.
Secondly, by “rationalist disciplines” we mean to translate the expression “maʿqūlāt”. Generally speaking, the latter category included those disciplines that relied neither for their principles and methods nor for their conclusions on a received textual corpus. In other words, these disciplines were contrasted historically from the transmitted disciplines, the manqūlāt, whose validity did depend on the reception of authentic received knowledge. Now it is of course understood that the various classification schemes within texts of Muslim intellectual history do not agree on what should be included and excluded from either class. Nor indeed is it the case that the disciplines included in one class do not manifest (sometimes rather strongly) symptoms of those in the other. This overlap is a major feature of postclassical scholarship in Islam. However, it is of course granted by the tradition that certain disciplines would always be classified under one rubric, as opposed to the other (ḥadīth, for example, is always among the manqūlāt and falsafa is always among the maʿqūlāt).

Finally, by “legal theory” we mean to allude to a broad theory of law. Specific theoretical discussions of law are certainly found in various loci of textual output, including in works of fiqh, fatāwā and even, occasionally, in the far-mān. Yet, these moments of theoretical engagement are often instrumentalist and are difficult to place within a systematic framework. Regardless of the specific sets of texts that the contributors have engaged, our aim in this collection has, therefore, been to think of theory either as system or insofar as it relates to some system, uṣūl or otherwise.

Six articles have been collected in this thematic volume. In the first, “From Legal Theory to Erkenntnistheorie: Ibn Taymiyya on Tawātur as the Ultimate Guarantor of Human Cognition,” Carl Sharif El-Tobgui argues that Ibn Taymiyya developed a general epistemological theory on the basis of tawātur. The latter concept is generally deployed in uṣūl as a means to claim the certainty of concurrent reports per se and of unit-traditions per accidens. El-Tobgui demonstrates that Ibn Taymiyya not only expanded the epistemic functionality of tawātur to a broader range of religious, transmitted knowledge, but that he also posited it as the foundation of all human cognition. El-Tobgui makes two broader and connected points on the basis of the meticulously-researched details: Ibn Taymiyya displayed a propensity for identifying a few core ideas that may serve as starting points and bases for complex systems of knowledge; and his synthetic approach allowed him to press and modify the distinctions and apparatus in one discipline in the service of others. In the case at hand, a key concept in uṣūl al-fiqh is dislocated from its natural disciplinary environment and rendered serviceable to a broader theory of knowledge.

Walter E. Young’s article, “Al-Samarqandi’s Third Masʿala: Juridical Dialectic Governed by the Ādāb al-Baḥṭh,” brings the highly technical and formal aspects