

Authority in a legal religious society is held by the possessors of meaning. In Islam and Judaism, traditions for which God's legislative revelation is delivered and preserved in language, and indeed in a particular language, meaning is deeply linguistic. In this study of language, and therefore the possession of meaning, in the literature of jurisprudence, I am concerned more

God's Tongue and Collective Memory

Language in Islamic and Jewish Classical Jurisprudence

Nathan Schneider

with the theoretical reasoning of the jurists than with the content of their praxis. The divide between the two is highly ambiguous; as a result, my conclusions speak far more directly to how the jurists see themselves than the historical legal practice that they maintained. Such self-understanding, however, surely was not absent from the dynamics of community life. Rather than any specific text or texts in particular, I examine the abstract construct of language as it was used and applied throughout in Islamic, and for comparison, Jewish jurisprudence. While in doing so I risk being overly broad, a wide scope is useful in finding tendencies that are scattered across a single self-referential tradition, then among traditions, and perhaps finally common to the nature of legal authority itself.

First, I argue that the Islamic language sciences of *usul al-fiqh* depend on the assumptions that underlie the principles that govern the transmission of texts. Both depend on assumptions about the reliability of and necessity for a community's collective memory. As such, the two develop an interplay of authority and responsibility that mediates and defines a relationship between the scholar elite and the wider society. In both Islamic and Jewish contexts, this interplay includes forces of inclusion and exclusion. Through the medium of language, these dual forces serve to create a sensation of both localized scholarly authority and public ownership of the law. Finally, the legal scholarship of both traditions sought to find a balance between these tendencies.

Language Sciences in *Usul al-Fiqh*

Text and Context

For *usul al-fiqh*, the theoretical foundations of Islamic jurisprudence, the problems of both language and transmission begin in large part with the Qur'an, though they extend also to the wider body of sunnaic literature. These discussions begin with fundamental assumptions about the purity of the texts. The seminal 9th-century scholar Shafi'i articulates what became a point of agreement among jurists: "The Qur'an indicates that there is no portion in the Book of God that is not in the Arab tongue." Here he refers to a series of Qur'anic verses that lay out the peculiar linguistic self-awareness of the text. His entire discourse on Qur'anic language, furthermore, centers on a refutation of the argument that any foreign words are present in the Book of God. In several places, the Qur'an refers to the Arabic language specifically as means to the clarity of revelation: "[B]ehold, We have bestowed it from on high as a discourse in the Arabic tongue, so that you might encompass it with your reason." At least two key assumptions are at work in this passage. First, the revelation is in theory understandable as it has been given through Muhammad, encompassable as it is "with your reason." Second, Arabic is the key that renders it so, the particular mediator between the divinity "on high" and human "reason." Accompanying these, the jurists elaborate further assumptions about the special status of Arabic as God's revelatory language of choice. Shafi'i praises its unique characteristics as he continues, "Of all the tongues, that of the Arabs is the richest and the most extensive in vocabulary."

The confidence that the Qur'an itself seems to have about its own clarity in the use of Arabic corresponds to the jurists' understanding of the nature of language itself. Throughout their discourse on the topic, communication in any language occurs by means of *lugha*, the body of fixed correlations between meaning—*madlulat*, or signified—and vocal morphemes—*dallat*, or signifier. A speaker, therefore, does not properly construct meaning in the act of use; meanings are pre-established and clear communication depends on his faithful appropriation of the lexicon. This static concept also allows for a certain range of linguistic versatility through metaphor and implication. A given word may be appropriated by the speaker either in terms of *haqiqa*, its literal meaning, or *majaz*, the use of its literal meaning

suggestively and associatively. To distinguish between these categories of usage, a scholar depends upon indicators in the surrounding context. Such categories provide for flexibility while preserving the rigid core structure of *lugha*. Through the skilled application of the *lugha* lexicon, in the case of the Qur'an that of Arabic, jurists can be confident that the clarity of revelation that the text promises can be grasped.

In linguistic practice, however, the medieval jurists were aware of unsettling realities for any theory that assumes an unchanging lexicon. Over time, they could observe that the meanings of words change in common usage and foreign ones creep in, irrespective of the theoretical consistency of *lugha*. Such instability has practical implications for judicial interpretation; in a dynamic linguistic climate, the original meanings of words in the Sunnaic texts could be lost, and with them access to the intention of the Divine legislator. In the realm of theory, the jurists therefore distinguish between two categories of *lugha*. First is the primordial establishment of Arabic, the *lugha al-wad'*, defined by the formal rules studied in scholarly communities. It is the exclusive linguistic code of the Qur'an and remains generally sufficient for legal and religious communication. Second is that which has come into common use, and a corruption of the primordial *wad'*, the *'urf*. In these categories the jurists establish a distinction that guards the interpretation of foundational texts and separates them from post-primordial language, even among speakers of Arabic. The task, therefore, becomes to develop a culture of scholarship with the linguistic tools to decipher the original meanings of revelation as they are encoded in the static, primordial tongue.

The Making of Language

Throughout the general course of *usul al-fiqh* literature, scholars approach the idea of *wad'*, the original "positing" of language, in many different ways, but the concept itself remains fundamentally constant. A notion of primordial language emerged with the earliest Qur'anic scholarship. From the beginning scholars argued about whether the *wad'* was a divine or human edifice. Alternatively, the 9th-century scholar 'Abbad ibn Sulayman proposed that the sound of a thing's name imitates the thing's nature, but a century later this theory had been generally discarded. Afterward, consideration of divine or human positing continued until roughly the