THE CORRELATION OF ISLAMIC LAW BASICS AND LINGUISTICS

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Abstract: Any domain of science in Islam derives its basic concepts, theories, methodology, and terminology within an Arabic language context. The language certainly benefited from Islamic science, particularly with respect to methodology. However, Arabic linguistics added more than it took from "Islamic law basics."
This article considers the correlation of Islamic law basics and Arabic language linguistics, alongside similarities in the study of the two fields. This analysis compares the scientific-methodological basics resulting from applying linguistic-semantic principles in Arabic language with shariat norms given by Muslim legal experts to resolve different real-world cases. Chief among the comparisons made are the differences noted between the Hanafi school of law, a very early understanding of Islamic law basics (usul al-fiqh), and principles of the majority of modern legal experts.
Keywords: linguistics, Arabic language, tafsir (interpretation), hadith, fiqh.

Introduction

One of the most important branches of usul al-fiqh is the study of language. Linguistics includes principles relating to the way in which words convey their meanings, and to the clarity and ambiguity of words and their interpretation. The knowledge of these principles is essential to the proper understanding of the authoritative texts from which the legal rulings of Islamic law are deduced. Unless these texts are correctly understood no ruling can be deduced from them Linguistic principles are especially important when a given text is not self-evident, or when an apparent conflict between texts appears. From these principles a mujtahid may distinguish the speculative from the definitive texts and categorise clear and unclear texts (meanings). In cases of disagreement, the preference is for clearer or less ambiguous texts (meaning). Therefore, understanding the rules of grammar and their application is one use of the Arabic language in Usul al-Fiqh. The need to understand Arabic language in order to understand Islamic law basics. As read from the verse of the renowned linguist al-Kisa'i, "Grammar is the singular element upon which all sciences depend," [1, Al-Maruazi, 1982, 53]. It is difficult to imagine Islamic science without Arabic language. Like experts in Quran, tafsir, or exogenesis, and Muslim theologians, the scholars who study Islamic law exert great effort toward perfecting their understanding of their field of study. They adopt Arabic grammar principles and norms as the basis of their investigation in order to clearly perceive the words presented in the Quran, because this holy book, which has served as the fundamental source for all Islamic sciences, was revealed in that language. The sunnah, or "well-trodden path" (tradition), for understanding the words transmitted by the Prophet requires reading them in the language in which they were given to him. The Arab speakers who have mastered even the most ancient literature developed from the Quran, the pinnacle of Muslim oratory, naturally developed a strong command of linguistics, grammar, and oratory to accompany their religious studies. It would not be an exaggeration to call Islamic culture a "language-based culture." However, the study of Arabic linguistics as a separate subject from the Quran and Islamic sciences was

established only in recent centuries. Scholars like the renowned Persians Abd al-Qahir al-Jurjani and al-Zamakhshari, both of whom were recognized as early experts in Arabic linguistics, learned the language by poring over numerous religious documents. Indeed, many significant scholars of that time, the fifth century by the Islamic calendar, in such fields as tafsir (interpretation), hadith (prophetic traditions), and fiqh (jurisprudence), were also significant contributors to the understanding of Arabic linguistics.Pronouncing a verdict or defining legal precedent based on the content of religious texts naturally requires cognizance of those texts. This requires investigating not only the words, but the structure and the way of narrating. For this reason, all works covering the subject of Islamic law basics ("usul al-fiqh"), or the methods of legal interpretation and analysis of divine law, address linguistic topics. These basic studies range from simple Arabic grammar to more advanced linguistic matters that have not been fully studied by earlier linguists. Being described as an expert in this field insinuates an ability to bring into use the delicate linguistic concepts, not normally included in grammatical research, the type that requires special investigative means that apply logic and the scientific method. If logic is the grammar of thinking, then grammar is the logic of language.As such, it has been the general consensus of all scholars of Islam that it is not possible to come up with any legal verdict without knowing the morphological, lexical-semantic structures of linguistic units (words, word combinations, sentences, etc.) found in religious texts.

The impact of linguistics on legal attitudes

The essence of religious texts is the hukm shar'ai, or divine rule and guidance from Allah as transmitted through the Prophet. Legal interpretations of this, or verdicts, are called akham (plural of hukm) fiqhi, and these are issued according to the understanding and principles of persons engaged in study of the hukm shar'ai. The divine law incorporates the essential semantics of the will of Allah, while a legal verdict provides meaning or human understanding as comprehended by legal experts taken by observing the linguistic and legal principles involved. The method for legal interpretation was summarized by Imam Abu Ishaq al-Shatibi, a prominent Andalusian (Islamic Spanish) legal scholar in the 14th century CE (8th century by the Islamic calendar), who gave impetus to "usul al-fiqh" by considering semantics from two perspectives: the main semantics that are common to all languages and complementary semantics that are specific to a particular language. Main semantics are the basic, root meanings given to a certain word. Complimentary semantics are the connotative, figurative meaning of that word. According to Shatibi, problems with consolidating a particular verdict generally don't appear when considering main semantics. The main issue generally lies in meanings imposed by the complimentary semantic elements, and the verdicts that are made based on them [2, Al-Shatibi, 1997, 2/163] Therefore, it is a logical expectation that there will be different opinions concerning any particular legal matter resulting in discrepancies in the body of akham fiqhi, or legal verdicts. Whereas the hukm shar'ai is immutable, the akham fiqhi are subject to potential variations resulting from the imperfection of human understanding of the will of Allah.The difference in viewpoints seen in legal verdicts results from the fact that religious texts do not provide concrete and precise meaning to all potential legal matters, and that some verdicts are made not from religious texts, but by ijtihad or best professional judgment. Verdicts can be enunciated precisely and concretely, or inexplicitly, without precision. Everything depends on the text used and its semantics. There could be cases where both the text and the implied (semantic) meaning are implicit or indirect ("zanni" or speculative), or cases where the text is explicit (clear-cut) but implicit in terms of semantics.In general, when the meaning of the text, be it Quranic verse or mutawatir hadith (a saying conveyed by successive narrators, generally accepted as a "truth"), is explicit and precise, the use of ijtihad is not warranted. Quranic verses and hadiths (sayings) attributed to the Prophet account for the majority of cases of explicit texts with implicit semantics. As the majority of religious texts contain meanings, content, and semantics that are multi-layered, they are perceived and interpreted differently between scholars, because direct meaning, derived meaning, figurative meaning, polysemy (ability to have more than one meaning), main meaning, secondary meaning, general and concrete meaning, as well as lexical-phraseological semantics are inherent to a language structure and content-structural system.A good example of this is the fact that it is quite difficult to decipher and determine the figurative, connotative, symbolic, hidden, and implied meanings found in belles-lettres, because the method, way, and approach used to interpret them are not theoretically systematized. That is why each researcher, each reader, and each recipient perceives both the explicit meaning and implicit meaning in belles-lettres differently according to their knowledge and world view. The means for reception (recognition, comprehension, and awareness) of a piece of art was first theoretically reasoned by Aristotle. Since that time,

different theories and trends have been developed. This includes the consolidation by Muslim legal experts and Quranic exegetics experts of a methodological basis for understanding religious texts that have multi-faceted semantic meanings and concepts, in order to use them to render verdicts.

The similarities between the basics of Islamic law and linguistics

The principles of linguistics correspond with those of Islamic jurisprudence in the following ways:

1. Common authors. Imam al-Shafi'i, the Shaykh al-Islam, referred in his renowned book on the principles of jurisprudence "Al-Risala," to the works of influential linguists like Sibawayh. Sibawayh's "Al-Kitab" or "The Book" is regarded as the first book on Arabic grammar ever written, and as such it is the most highly regarded source for linguistic rules in that language. Similarly, Al-Risala is described as the first valuable book written for the study of usul al-fiqh. Influential legal scholars like the rationalist theologian Fakhruddin Razi, Quranic exegete al-Zarkashi, and prolific hadith researcher al-Nawawi were guided in linguistic matters by works of renowned linguists like Sibawayh, grammarians Niftawayh and Ibn Jinni, philologist al-Zajjaj, and the early and enigmatic writer al-Ahfash.

2. Common topics. Legal and linguistic students review many of the same subjects. A good example of this is the fact that topics like command (or order), prohibition ("nahi"), truth ("haqiqa"), metaphor ("majaz"), homonym, synonym, etymology, and semantics are emphasized in the study of both fields.

3. Common terms. There are a number of scientific terms that are widely used in both fields of study. Linguists consider language concepts similar to those of legal scholars: taufiqi (divine commandment), ijtihadi (best judgment), naqli (a study topic learned only by revelation), and qiyas (analogy), are handed down from early documents. Hadiths of both categories, mutawatir (successive) and ahaad (unity), are likewise examined by both, albeit in separation. Linguists frequently use words like uajip (imperative), and forbidden, good, and bad, in terms of linguistic solutions, and these area are also used by legal scholars in reference to verdicts.

4. Common source references. Linguists, as with legal scholars, refer to the Quran, hadith (sayings), ijma (expressions of consensus), istishab (presumption of continuity), and istishan (preferences) as their sources. Cited frequently are such books as as-Suyuti's "al-Iqtirah," Ibn Jinni's "al-Khasa'is," and the works of Sibawayh and Ibn al-Anbari.

Further evidence of common source references include qira'at (recitations) of mutawatir readings, or qira'at readings such as "Ahaad" and "As-Shaz" made by linguists [3, Al-Suyuti 1994, 76]. Taking into consideration that most of the hadiths represent original content, linguists generally do not refer to such sayings that are not taken verbatim from an original source. The medieval author as-Suyuti wrote on the subject, "The Prophet's hadiths are usable as evidence if they are narrated word-for-word, but such hadiths are scarcely encountered," [3, 89] Abu al-Hasan ibn ad-Dayig supported this thought, "The fact that hadiths come only with a preserved meaning causes me to refer to the Quran for linguistic matters, and not to refer to hadiths like those of Sibawayh and other linguists."

The reason for this disregard for hadiths is that not all those who delivered hadiths were native Arab speakers. Legal scholars presenting topics related to usul al-fiqh note that in order for the information in a hadith to be accepted as meaningful, the deliverer must be faqih (an expert in fiqh, or law), and proficient in Arabic. Linguists refer to ijma as consensus reached by scholars from both the Kufa and Basra schools in the field of Arabic language studies. "The ijma (consensus) of Arabs serves as a form of evidence," written by as-Suyuti [3, 193]. It is obvious that ijma reached in the field of usul al-fiqh is, like verdicts, consolidated from religious texts.

Linguists act similarly to legal scholars when referring to the use of qiyas (analogy). In this respect, Ibn al-Anbari was influenced by the work of Shirazi, "Kitab al-Luma' fi usul al-fiqh" ("The Book of Heaven illuminating the foundations of understanding law") when he wrote his "Lumagu al-adilla fi usuli al-fiqh" ("Illumination of evidence in the study of grammar basics"). Linguists have also provided their own definition of qiyas and talked about specific types of analogies and their conditions.

5. In the same way that there are similarities between the fields of usul al-fiqh and the basics of Arabic language, the names of some frequently used books are also identical. There are many such similarities between the two subjects.

Comparing the legal-linguistic views of legal schools

The legal basics established during the period of as-Sahabah ("the companions," referring to those who accompanied the Prophet Muhammad) came from unwritten principles that were scientifically systemized by

mujtahid imams, knowledgeable scholars that devised legal rulings through the use of ijtihad, and were further developed by the Hanafiyya and Shafiyya schools of Islamic law. What differentiated these two schools was that the Hanafiyya school applied induction methods to determine legal norms, while the mutakallim scholars, students of kalam (a science of discourse established to defend the Islamic faith from doubters and detractors), prioritized rational logical principles and referred to the method of deduction. Among the latter were such great kalam scholars as Baqillani, Qadi Abduljabbar, al-Juaini, al-Gazali, and ar-Razi.The methodology of the Hanafiyya school extracted and adapted legal basics to its branches of legal thought in a way that reflects such Kazakh principles as, "A sea is known through its drops." This idea is summarized by the well-established rule that the integral is known through the non-integral. It would not be a mistake to say that there is an important philosophical concept in this idea of getting to know a sea from its drops and knowing the value of a single drop from the characteristics displayed by the sea it came from. The essence of the main principles taken from the late and early history of hermeneutical theory is contained in the scope of this singular piece of wisdom upheld by the Kazakh people. According to this and other major characteristics, other differences in legal system basics can be determined between the two schools. Both make verdicts, though, through the use of linguistics basics and principles taken from religious texts that were consolidated and established.Hanafiyya scholars went beyond the work of the mutakallim in determining whether a word applied an explicit meaning, or if it had a hidden or implied meaning. A good example of this is that the mutakallim divided words into two categories, "nass" (textual) and "zahir" (manifest), while Hanafiyya scholars divided them into four categories: "zahir," "nass," "mufassar" (enunciated), and "muhkam" (concrete).Zahir represents a word with a clear meaning that is open to interpretation. Nass represents a word that is not only clear, but also in harmony with its context. As an example, the "zahir" meaning of the ayat (verse), "Allah made trade permitted, but made usury forbidden," is unambiguous – trading is acceptable, but credit is forbidden. Its context was also given in the full text, providing information about the reason for the ayat by highlighting the fact that trade and usury are not the same. It answers the mushriks (non-believers) who regarded trade and usury as identical. Even though the works of Imam al-Shafi'I regarded the above-mentioned word types together, the mutakallim students that followed him considered them separately, as had the Hanafiyya scholars. However, the two groups disagreed whether a zahir meaning and a nass meaning can serve as evidence. Hanafiyya scholars found the meaning of both categories of words worthy of defense if they were supported by religious texts. Meanwhile, scholars like those of the Mu'tazili, a kalam school that regarded reason as the final arbiter in distinguishing right from wrong ("what is obligatory in religion is only obligatory by virtue of reason"), did not find the meaning unequivocal, and kept open the question of whether such verses could be used as evidence.If a word or a text from the period of the Prophet could be negated, but could not be rationalized or solidified, and led to a specific verdict under consideration, it would be categorized as mufassar, or unequivocal. Mufassar text is not subject to interpretation, and as such it is more powerful than ideas categorized as nass or zahir.Sometimes, text fails to provide an assigned meaning, or an inexplicable word blurs the meaning of a sentence. This meaning ambiguity is one of the characteristics of the language. Such literary rhetoric is often found in ancient literature, though it is also used in modern literature. William Empson conducted comprehensive studies in this aspect of linguistics and gave several examples in his book, titled, "Seven Types of Ambiguity." He noted that the ambiguity of a meaning in a poem is reflected in the use of a certain word in an unexpected way, or the use of a word for two or more meanings to attract the listeners' attention – this is usually by design [4, Empson, 1949, 192].

Drawing a listeners' attention is an oratorical technique. There were even some poets who stopped writing prose and poetry after having been taken aback in encountering the rhetorical perfection of the Quran. The oratory of the Quran is reflected by its ayats, which come in a variety of hidden, ambiguous, implied and collective meanings. Kalam scholars categorized such religious text as either mujmal (collective) or mutashabih (fuzzy), while Hanafiyya scholars divided such thoughts as hafi (hidden), mushkil (difficult), mujmal, and mutashabih. These categories were used to analyze each from the perspective of semantics and law.The classifications used by the Hanafiyya scholars is noteworthy in being more precise about whether an idea is ambiguous rather than the classifications used by the kallam scholars. This is because the Hanafiyya took into account the word's semantics, whether it was concrete or assumptive, general or specific, and other characteristics that facilitate its delimitation more clearly by defining meanings, in case contradictions arise. That, in turn, leads to defining a more solid verdict.However, if taking into account the word "Ayn" (eye) in Arabic, its use in text can easily mean different things. The semantics of some words with ambiguous

meanings can only be deciphered from their context. As an example, in a sentence like "the spring well/eye (resource) has been found in the desert," and "someone's eye was filled with tears," the word "eye" clearly has an ambiguous meaning.Additional controversial viewpoints were established between these two schools about whether the semantics of the above-mentioned texts were clear or implicit, in harmony with the context or not. Consider the case in which a member of both schools contradicted each other in their view concerning the concept of a general and exact meaning, which caused different verdicts to be rendered in different legal matters, the mutakallim scholar considered the meaning of general words to be "presumptive," while the Hanafiyya scholar recognized the words as "concrete evidence." According to the mutakallim principle, "Every general statement is clear," and as a result of studying the words involved with words that have general meanings in text, every general meaning is like to be made clear as clear is invariably implied in a general statement. However, when this is possible, exactness vanishes [5, Al-Mahalli 2005, 317]. Hanafiyya scholars replied, "If every word is assigned to a particular meaning, the general meaning is assigned to a certain word as well. The word and its general meaning remain integral until evidence appears that separates the word with its meaning. This means that the general meaning remains firm proof until there comes more clear and precise evidence," [6, Al-Taftazani, 1995, 1/384]. Imam al-Bazdaui wrote, "The general (amm) in our doctrine (mazhab) makes a clear verdict a single (hass) imperative," (Author's name [7, Al-Signaki, 2001, 2/659]. Hanafiyya scholars said the possible verdict the other school had been discussing was related to the assumptive character they assigned to general statements, which regarded such statements as clear. As a result of these viewpoints, contradictory opinions arise regarding evidence that renders clear a general (amm) text with semantics and text both exact. Thus, the majority of scholars who considered the general (amm) meaning as assumptive (zanni) evidence said that it could be made clear using assumptive evidence, but Hanafiyya scholars who regarded it as clear put forth the opinion that it could not be made clear by assumptive evidence. Al-Sarahsi wrote, "It is not right that Quranic verses and mutawatir sunnah which enunciate a general meaning that is exact both textually and semantically are made clear with assumptive evidences like ahad, hadith, and qiyas," [8, Al-Sarahsi, 1993, 1/142].Likewise, if there is any evidence that the word with an unambiguous meaning (hass) implies a presumed meaning, that is if there is any evidence that another meaning is implied other than the first meaning of the unambiguous word, the unambiguous word is explained by its implied meaning. For example, Hanafiyya scholars interpret the word "sheep" as "sheep itself" or "sheep's value." According to this position, just as "sheep itself" is given as zakat (tithe), "sheep's value" could be given instead. In accordance with the Hanafiyya scholars' view, Allah wanted to satisfy the needs of the poor by ordering the giving of zakat. It could be accomplished by giving "sheep itself" the same as giving "sheep's value" for religion-obligatory charity. Likewise, such opinions arose concerning the absolute meaning (mutlaq) and the meaning limiting it (muqayad) as well. It cannot be said that a certain meaning always corresponds to a certain sense or that a certain sense stands for a certain meaning. Though, it must be noted that the practice of conveying of several senses by one meaning has existed from ancient times in oratory. Linguistic methods of conveying one sense also differ. If some texts provide the shades of several meanings and a streak of several senses, a complex metaphorical meaning is formed from the unity of many-sided semantic meanings. The concepts of "metaphor" (majaz) and truth (haqiqa) in Islamic law and theology, which turned to religious texts with metaphorical content, caused different legal verdicts and positions to appear. The above-mentioned words were called according to their peculiarities in conveying lexical-semantic meanings and were classified by members of the two schools of Islamic law. Whether semantics of religious texts become clear or connotatively fuzzy, they could be classified into muhkam and mutashabih categories referring to the ayat of the holy Quran: "He is Allah who sent down the Quran for you. It has ayats with clear meanings (muhkam). They are the foundation of the book. And there are others with similar meanings (mutashabih)," (surah "Ali Imran," year, pp. 7). It means the concepts like zahir, nass, mufassar, and haqiqa, whose meanings came clear and exact, could be classified into muhkam text, while words like mushkil, mubham, mujmal, and hafi stand for hidden, connotative, fuzzy, ambiguous, and indirect meanings in mutashabih texts. The lexical semantics is like raw material; it needs refinement. It is implemented by making systematic logical conclusions that could cover all the semantics of a word. In this direction, we must apply particular semantic methods in researching linguistic meanings using as a guideline-rich resource of Arabic in lexical semantics produced by Arabic linguists. For the understanding of the content of sharii text, the main meaning is determined by using explanatory dictionaries of Arabic, applying induction method. In cases where no reason exists to shift from the linguistic meaning to sharii meaning, linguistic semantics of a word or a text might

be the main meaning assigned by shariat, because in order to understand the meaning of words in religious texts, the following principle applies, "If there is no reason or evidence pointing to the application of indirect meaning of a certain word in Arabic, its main meaning that is established by Arabs will be taken." Ibn Hazym wrote, "Reason or evidence has two types: 'natural' and 'sharii': natural reason is the mind's demand to shift from the word's main meaning to another meaning. For instance, the word 'people' in the ayat "Allazina qala lahum an-nasu qad jamaguu lakum) or "The people said to them: the nation summoned for you," ("Ali Imran",173). is perceived by our mind without evidence. As for shariat reason, taking the word's indirect meaning is advised by the Quran, sunnah or ijma. This means that whether the indirect meaning of a certain text will be taken is determined by another religious text or consensus of scholars," [9, Ibn Hazm, 3/137]. In order to access the main meaning of the noble aims of the shariat, features of an individual and the society must be taken into account when the text imposes lexical semantics. If this principle is observed when controversies take place between texts, the assigned meaning of the text will be clearly accessed.

Conclusion

In conclusion, it needs to be said that linguistics is imperative in acquiring an understanding of Islamic law basics, just as Arabic language is important in understanding Quranic verses, the hadiths of the Prophet, and access to the sciences rooted from these two sources. In accordance with the principle, "Ma laa yatimmu al-uajibu illa bihi fahua uajib" or "The compliment to uajib (obligatory) is also uajib," of utmost importance is knowing Islamic legal verdicts that are meant to advocate welfare of humanity and knowing the sources of those verdicts and the ways of consolidating them from religious texts is also mandatory. It is already a known fact that the undying sources of Islamic legal verdicts are the Quran and sunnah. For certain, no one could understand these two foundations without knowing Arabic. If comprehending verdicts requires understanding its basics, knowing these basics requires knowledge of the Arabic lexis, grammar, and morphology.

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