

Moral Epistemology and the Revision of Divine Law in Islam

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Abstract

This essay explores the relationship between moral epistemology and legal theory in Islamic thought. Reviewing selected works of Khomeini, Maududi, and Qutb, I show that Islamism, drawing upon certain currents of Muslim intellectual tradition, presupposes a rejection of moral rationalism and on that basis opposes the permanent alteration of explicit divine injunctions. Next, I argue that the unwillingness of 'Abduh, Iqbal, and Soroush to articulate a consistent moral rationalism prevents these reformists from offering a tenable theoretical alternative to Islamist legalism. I subsequently consider the moral epistemology of classical Mu'tazili scholar 'Abd al-Jabbar in order to show how a robust moral rationalism justifies the prudential revision of divine law. On that basis, I suggest that moral rationalism is the necessary epistemic basis of any legal theory that stands as a clear alternative to Islamism while still remaining grounded in the most fundamental tenets of Muslim piety.

1. INTRODUCTION

Islam has received considerable attention from political and legal theorists in the last several decades. Much of this scholarship concerns the possibility of legal reform in Islam.¹ Although scholars typically refrain from essentializing Islam in the course of addressing this issue, such a research orientation is not itself wholly unproblematic.² By investigating primarily the extent to which sharia can be updated for the modern world, such studies often presuppose that sharia requires updating. As a result, they neglect the possibility that divine laws retain binding authority despite historical changes since the time of revelation.

Such a legalist position is found in the works of Islamists, for whom the permanently valid character of divine law is a major theme.³ Nor is this putative aspect of their religion regarded as a weakness. Rather, it is taken as a sign of God's providence that he has revealed comprehensive and lasting guidance for humanity.⁴ Of course, the religious interpretation offered by Islamists is hardly representative of the breadth of modern Muslim legal thought. Many liberal-minded religious reformists⁵ have argued for a dra-

matic reconsideration of those elements of Islamic law that appear most inimical to modernity.⁶ For these authors, such elements are the product of a tradition of religious interpretation that had unjustifiably stagnated in Islam's classical era.⁷ The reformist view of Islam, insofar as it recognizes an authoritative, rather than supplementary, role for reason in legislative matters, represents a direct challenge to Islamism.⁸ Liberal Muslims reject the view that Islam requires adherence to divine laws in their original form.⁹

This essay seeks to explore the epistemic basis of legal reform in Islam. My central contention is that the ability of any liberal-minded legal reform in Islam to offer a compelling alternative¹⁰ to Islamist legalism depends, as a necessary condition, on the endorsement of a key epistemological thesis (hereafter referred to as moral rationalism): that the unassisted human mind is capable of attaining sufficient knowledge of good, evil, and the purposes of sharia such that particular divine laws may rightfully be subject to prudential revision as dictated by changing historical circumstances. I attempt to demonstrate that any project of liberal Islamic reform that does not advocate moral rationalism is critically vulnerable to theoretical cooption by Islamism and for this reason does not offer a tenable alternative to it.

The argument proceeds as follows: In Part 2, I discuss the connection between Islamist political theory and epistemology, showing the extent to which the latter draws from certain historical currents of kalām. In Part 3, I review key works by Muhammad 'Abduh, Muhammad Iqbal, and Abdolkarim Soroush, three modern theorists who share the broad goal of vindicating the role of reason in Islam. I argue that the unwillingness of these authors to adopt a consistent moral rationalism prevents them from offering a tenable theoretical alternative to Islamism. In Part 4, I investigate Mu'tazili epistemology as it appears in the works of 10th-century scholar 'Abd al-Jabbar and argue that it provides a coherent basis for legal reform. I also offer a brief discussion of moral rationalism as it is found in the work of two modern scholars: Hasan Hanafi and Mohammed Abed al-Jabri.

Several clarifying remarks are necessary at the outset. First, this essay does not offer a normative defence of legal revision in Islam but rather seeks to

demonstrate that moral rationalism is the necessary epistemic basis for any such defence. Thus, I remain open to the possibility that human beings are incapable of attaining knowledge of right and wrong and attempt to draw out the legal implications of such a claim. This essay is therefore motivated by the belief that it is a worthwhile, and indeed essential, task of scholars to clarify the connections between philosophic positions and political or legal ideologies.

Second, it is simplistic and misleading to dichotomize Mu'tazili and non-Mu'tazili theological currents, praising the former as uniformly rational and denigrating the latter as rigidly obscurantist.¹¹ Such a view overlooks (i) the shifting boundaries among various schools of thought during the historical development of 'ilm al-kalām (dialectical theology, lit. 'the science of speech'), (ii) the extent to which many mutakallimūn (dialectical theologians) in Muslim history do not fall neatly into any single category, even after the relative formalization of such boundaries, (iii) disagreement among various sub-groups of Mu'tazili mutakallimūn, such as the Basra and Baghdad schools, (iv) critical differences among various non-Mu'tazili groups, such as the Ash'ariyya, Maturidiyya, and Hanbali traditionalists, (v) the manner in which even the Mu'tazila abjured the more exacting rationalism of the falāsifa (philosophers), and (vi) the high respect accorded to reason by many mutakallimūn not affiliated with the Mu'tazila. It is not the purpose of the present essay to offer a comprehensive treatment of major theological views found throughout Muslim history, but rather to demonstrate the legal implications of a key epistemic disagreement. Therefore, none of what follows should be interpreted as an attempt to minimize the enormous historical complexity of kalām.

Third, I do not claim that Mu'tazili theologians themselves argued for legal revision of the kind championed by certain modern liberal Muslim scholars.¹² Rather, my argument is that Mu'tazili epistemology, as articulated by 'Abd al-Jabbar, provides the necessary theoretical ground for such revision.

Fourth, although I argue that the Islamist resistance to legal revision depends on epistemic views that enjoyed wide currency throughout the Mus-

lim world at various times, this is not meant to suggest that such views necessarily lead those who possess them towards an Islamist political ideology. No more evidence of this is needed than is provided by the authors reviewed in Part 3, who, despite their inconsistent commitment to moral rationalism, are emphatically not politically aligned with the Islamists discussed in Part 2. Thus, nothing in this essay should be interpreted as attributing Islamist sympathies to ordinary pious Muslims, many of whom are no more familiar with the historical disputes of the mutakallimūn than the average Christian is with the philosophic disagreements between Duns Scotus and Thomas Aquinas.

Finally, there already exists research regarding the relationship among theology, ethics, and legal theory in Islam.¹³ What no previous research to my knowledge has shown, and what therefore constitutes the original contribution of this essay, is (i) the various ways in which reformist projects that do not consistently uphold moral rationalism are too easily appropriated by Islamism to form a tenable alternative to it, and connected to this, (ii) the manner in which revision of divine law depends for its legitimacy on a moral rationalist epistemology. In short, I wish to draw out the legal implications for the modern world of a recurring philosophic debate in Islam. Such a research orientation should appeal not only to scholars of Islamic thought but to all theorists interested in the intersection of religion and law.

2. THE EPISTEMIC BASIS OF ISLAMIST LEGAL THEORY

Islamism refers to a range of politico-religious ideologies that share certain key characteristics. Most fundamentally, Islamists locate solutions for modern social and political problems facing the Muslim community in the foundational texts of Islam, interpreted in a literal fashion.¹⁴ This last qualification is key, since all Muslims may be said to seek in the words of God and his prophet guidance that is applicable to the modern world.¹⁵ What distinguishes Islamists is a reliance on plain interpretation of religious texts and a desire to see these texts applied to the modern era without fundamental revision. This interpretive approach and political agenda are reflective of a particular epistemic attitude, one that emphasizes the insufficiency of rea-

son to guide human affairs and, as a result, our dependence on divinely revealed wisdom. This is not to suggest that Islamism is inherently resistant to legal flexibility of any kind, as will be explored in greater detail below. Rather, I show that the epistemic premises of Islamism place a firm limit on the political or legislative autonomy of the Muslim community.

The connection between Islamist legal theory and epistemology is apparent in the works of Khomeini (d 1409/1989), Qutb (d 1386/1966), and Maududi (d 1399/1979), three figures who collectively offer the most influential argument on behalf of Islamism in the modern world.¹⁶ Although these authors do not agree on all particulars, either in matters of religious interpretation or precise political agenda, a perusal of their political works reveals a shared epistemic foundation as well as a common desire to reshape Muslim society according to the express dictates of revealed law.

Islamists begin from the premise that God alone possesses legislative sovereignty. An Islamic government is one in which 'sovereignty belongs to God alone, and law is His decree and command. The law of Islam ... has absolute authority over all individuals and [even] the Islamic government' itself.¹⁷ The recognition of God's sovereignty (*ḥākimiyya*) by a Muslim community is 'expressed in the supremacy of the divine sharia (*siyādat al-sharī'a al-ilāhiyya*)'.¹⁸ In recognizing that God alone, and not the people, possess the 'authority of absolute legislation', Islam is 'the very antithesis of secular Western democracy'.¹⁹ Under Islamic rule, 'No one has the right to legislate and no law may be executed except the law of the Divine Legislator'.²⁰ The very foundation (*qā'ida*) of Islam is 'acceptance of the Law (*shar'*) of God alone no matter what and abandonment of every other law (*shar'*) no matter what'.²¹

A key practical consequence of God's legislative sovereignty is that divine laws are not subject to alteration by human beings and are therefore permanently valid. Thus, 'the ordinances of Islam are not limited with respect to time or place; they are permanent and must be enacted until the end of time.'²² Islam consists of an eternal (*aṣīl*) method of action, one that 'is not related to any particular phase (*marḥala*) nor environment (*bi'a*) nor spe-

cial circumstances peculiar to the first Muslim community'.²³ Legislative injunctions that 'have been laid down in explicit and unambiguous terms in the Qur'an or the authentic Traditions of the Prophet' have 'a permanent and unalterable character'.²⁴

Divine law rightfully demands our unwavering obedience because it is the product of a wisdom that infinitely exceeds our own. The permanent validity of sharia stands in stark contrast to 'man-made theories and ideologies (naCarīyāt wa madāhib)', which 'become corrupted and distorted (tafsad wa tanḥarīf), since they are based on the knowledge ('ilm) of men—those who do not know and to whom only a little knowledge is given'.²⁵ Reason cannot hope to penetrate the meaning of revelation, since the Qur'an is 'a mystery veiled and enveloped in mystery'.²⁶ Human knowledge is in fact 'the thickest of all veils', and a man who becomes 'preoccupied with rational ... concepts' is hindered from the path of God.²⁷ The proper course of action for man is to submit to God in the 'moral and social' realm just as we cannot help but do in the physical realm. The submission to God's moral rule requires, in part, accepting 'without question, or doubt, His classification of Good and Evil, Right and Wrong, the Permissible and Prohibited'.²⁸

Islamist resistance to legal revision therefore depends on an epistemology that asserts critical limitations upon human wisdom. Were human beings capable of discovering the principles underlying proper legislation, we would presumably be justified in altering even the explicit injunctions of divine law when required by historical circumstance. The Islamist aversion to legal innovation in matters addressed directly by revelation is based on a low appraisal of reason's capacity to guide our worldly affairs. In light of this appraisal, it is far better to trust in God's revealed wisdom than to rely on our all-too-human prudence.

A. Legal Flexibility vs Legal Reform

Islamists do recognize a limited jurisprudential role for prudence. For example, dispensation from strict adherence to the law may be required by 'abnormal and extraordinary situations'. More broadly, 'in the field of individual and social affairs', in contrast to matters of ritual,²⁹ Islam allows 'a

limited scope for legislation in matters about which the Qur'an and Sunnah are silent'.³⁰ As a result, sharia is not wholly static, but rather, 'a progressive, evolving ... system of law'.³¹ In thus making room for prudential considerations in abnormal situations or cases where sharia is silent, Islamists evoke a long-standing tradition of flexibility in matters of fiqh (jurisprudence). At least as far back as the ninth century, *maṣlaḥa* (public welfare) served as an important legal principle for Muslim jurists.³² In the absence of direct guidance from sharia, due to the extraordinary or unprecedented character of a given case, jurists proceeded with the understanding that their rulings ought to serve the public interest. However, while considerations of *maṣlaḥa* allowed jurists to grant occasional and temporary dispensations from the letter of the law, they did not permit the indefinite replacement of explicit divine commands on the basis of their purported historical obsolescence.³³

As noted in the introduction, it is not as if Mu'tazili theologians themselves argued for robust legal reform of this kind, either. However, as I argue in Part 4, Mu'tazili epistemology provides the necessary theoretical basis for such reform. Crucially, the same cannot be said for considerations of *maṣlaḥa*. Al-Ghazali (d 505/1111), perhaps the most significant figure in the historical development of *maṣlaḥa* as a legal principle,³⁴ offers insight into why this is the case. As he makes clear in *al-Mustaṣfa min 'ilm al-uṣūl*, we are dependent upon revelation for our very understanding of public welfare. The true welfare of the Muslim community consists in divine reward; thus, what is 'better is what is ... more beneficial to us in the hereafter (*māl*), even though it is more burdensome in the present condition (*ḥāl*)'.³⁵ Serving the public interest may, at times, require adherence to 'burdensome and severe' (*taṭqīl wa tashdīd*) injunctions whose benefits are postponed until the afterlife and, as a result, imperceptible to reason.³⁶

Of course, one may appeal to public welfare as a legal principle without adopting al-Ghazali's epistemology. But this is precisely the point—*maṣlaḥa* offers little justification for legal reform unless it is coupled with the assertion that human beings are capable of independently recognizing true benefit, a position characteristic of Mu'tazili epistemology.³⁷ What *maṣlaḥa* does allow, by itself, is a certain degree of legal flexibility in determining

the best means for carrying out an explicit divine injunction in the face of extraordinary or abnormal circumstances. Furthermore, it condones the attempt to formulate original rulings on the basis of ra'y (personal reasoning) where no explicit divine injunctions exist. But to replace any given divine command with a man-made law for the indefinite future presupposes a rationalist epistemology that Islamists unambiguously reject and that the classical tradition of maṣlaḥa does not supply.³⁸

B. Intellectual Precursors of Islamist Epistemology

Although the political ideology of Islamists is in many ways a reaction to the experiences of colonialism and therefore largely a product of modernity,³⁹ we should not overlook the extent to which Islamist epistemology is continuous with certain strands of Muslim intellectual history.⁴⁰ In the absence of such a discussion, we risk dismissing Islamist epistemology as a merely ephemeral phenomenon, thereby making the theoretical task of liberal-minded Muslim reformists seem simpler than it is in fact.

The formative centuries of Islamic thought gave rise to a rich variety of competing approaches to law and theology. A comprehensive treatment of the various schools and key disputes that defined them is well beyond the scope of this essay. What can be shown with relative brevity is that proponents of both Ash'ari and Maturidi theology place critical limitations on the capacity of the unassisted human mind to attain legally relevant moral wisdom. Two important points from the introduction must be reiterated here. First, the variegated character of any single school of kalām must be always borne in mind. What follows should therefore be understood to reflect theological tendencies rather than rigid catechisms. Second, it is not the purpose of this essay to describe the epistemological or legal views of ordinary Muslims. Thus, the texts upon which I rely in order to illustrate Ash'ari and Maturidi perspectives have been chosen because of the exceptional clarity they offer on the matter of moral epistemology and not because they necessarily reflect the views of a majority or plurality of Muslims today.

The Ash'ari view of human knowledge of good and evil is the very first topic treated in al-Misri's (d 769/1367) 'Umdat al-sālik. The author broaches the

subject in the following manner:

Is it possible for reason ('aql), by itself and without the mediation (wisāṭa) of the messengers of God or His books, to know [the rules of sharia] (al-aḥkām al-sharī'a) such that someone not reached by a prophet's call would be able to know God's rule (ḥukm) concerning his actions with his reason [alone]? Or is this impossible? The doctrine of the Ash'ariyya ... is that it is not possible for reason to know the rule of God concerning the acts of those legally obligated (mukallafīna) except through the mediation of His messengers and books (a1.2–3).⁴¹

Al-Misri goes on to emphasize that 'the measure (miqyas) of good and evil (ḥusn wa qubḥ) according to this school [the Ash'ari] is the Law (shar'), not reason.'⁴² Statements such as these represent an explicit rejection of moral rationalism. We are dependent, for our knowledge of moral action or of the distinction between good and evil, upon divine revelation and the teachings of divinely inspired messengers.⁴³

The Maturidi position is more complex, occupying something of a middle ground between the Ash'ariyya and Mu'tazila.⁴⁴ In his commentary (Sharḥ) on al-Nasafi's *Manār al-Anwār*, Ibn Malak (d 801/1398) states:

According to the Mu'tazila, the judge (ḥākim) of good and evil (ḥusn wa qubḥ) is reason ('aql), because [doing] the best (aṣlah) is obligatory (wājib) for God Most High according to reason, so doing it is good and neglecting it is evil. According to us [the Maturidiyya], the judge of [good and evil] is God Most High, and He is elevated above something other than Him ruling over Him. He created some things as good and some things as evil. He ordered [the good] because it was good in itself, even if the principle of its goodness is concealed (khafīy) from reason. So the Lawgiver (shāri') disclosed [its goodness] by ordering it. (Emphasis added)⁴⁵

This passage suggests that the disagreement between the Ash'ariyya and Maturidiyya is ontological, whereas the disagreement between the Maturidiyya and Mu'tazila is epistemological. Both the Maturidiyya and the Ash'ariyya assert, against the Mu'tazila, that the goodness of an action or

command must be revealed to man by God. However, the Maturidiyya insist that God merely indicates the goodness of a particular action through his command, whereas the Ash'ariyya believe that the very goodness of an action is caused by God's command, a position attributed to that school by, inter alios, Behbehani,⁴⁶ 'Abd al-Jabbar,⁴⁷ and Sabzawari.⁴⁸ The Ash'ari position may therefore be described as theological voluntarism; an action is good because God commands it.⁴⁹ The Maturidi position, in contrast, asserts that God commands an action because it is good. However, this goodness is not consistently recognizable by human beings, who for this reason stands in desperate need of divine guidance. Both the Ash'ari and Maturidi schools therefore agree that reason is dependent on revelation for rules of conduct.

Before the emergence of either the Ash'ari or Maturidi theological approaches, Mu'tazila kalām was opposed by a scholarly (and to some degree popular) movement that largely rejected speculative theology in favour of a more straightforward scriptural literalism.⁵⁰ By far the most significant figure in the early development of this traditionalist approach was Ahmad ibn Hanbal (d 241/855). While it would be misleading to draw any direct line between early Hanbali jurisprudence and modern Islamism, the works of the 14th-century Hanbali scholar Ibn Taymiyah (d 728/1328) are more immediately relevant to figures such as Qutb and Maududi.⁵¹ In the context of the present discussion, I will put aside the complicated question of Ibn Taymiyah's legitimacy as a representative of Hanbali thought and focus instead on the epistemic ground he shares with Islamists.

Ibn Taymiyah is no simple fideist, and his attitude towards the relative status of reason and revelation is complicated. Nevertheless, his epistemic conclusions bear a noticeable similarity to the premises of Islamists. In *Dar' Ta'ārud al-'Aql wa'l-Naql*, a work that is said to 'explain ... how the teachings of someone who gives absolute priority to rational ('aqlīya) argument are shown to be false',⁵² Ibn Taymiyah compares reason to a 'vulgar [man]' ('āmī) who can point the way to a muftī (representing revelation), but whose guidance must be ignored if it conflicts with that of the latter.⁵³ More starkly, in *Al-Aqīda al-Tadmuriyya*, Ibn Taymiyah states that 'it is not possible for

human beings to live without a Law (shar') through which they distinguish between what they should do and what they should renounce.'⁵⁴ Echoing al-Ghazali, Ibn Taymiyah further states, 'knowledge of the end that will be the consequence of actions, whether happiness or misery in the abode of the hereafter, is not known except through the Law (shar').'⁵⁵ The unassisted human mind is not at all a dependable guide towards ultimate bliss, the goal of every Muslim.

The above considerations should be sufficient to make the point that Islamist epistemology cannot be dismissed out of hand as an ephemeral, modern phenomenon. Islamist views on the limitations of the human mind have a basis in at least parts of the rich history of Islamic theology and scholarship. As I argue in the following section, advocates of liberal reform in Islam who do not appreciate the epistemic basis of Islamist legalism are liable to make an insufficient distinction between their own epistemic positions and those described in this section. As a result, they are prevented from offering a compelling theoretical alternative to Islamism.

3. SHORTCOMINGS OF NON-RATIONALIST LIBERAL CRITIQUES OF LEGALISM

Beginning in the 19th century, the Muslim world gave rise to many reformists who sought to demonstrate the compatibility of Islam with the modern world. Although the specific arguments employed by these scholars vary from case to case, a key common feature is the attempt to carve out a more robust role for reason in the interpretation and application of religious texts.⁵⁶ Accordingly, these scholars, in the course of challenging the scriptural literalism characteristic of Islamists, argue for a more flexible approach to matters of law.⁵⁷

It is the purpose of this section to demonstrate that the failure to articulate a consistent moral rationalism leaves even liberal-minded interpretations of Islam critically vulnerable to theoretical appropriation by Islamists. In order to illustrate this point, I rely on an analysis of three major figures of Islamic reform: Muhammad 'Abduh (d 1323/1905), Muhammad Iqbal (d 1357/1938), and Abdolkarim Soroush. Each of these scholars deserves more academic

attention than they have yet received in the West, and the limited space with which they are treated here by no means reflects the breadth of their thought. I merely attempt, in the following paragraphs, to show (i) the precise manner in which they diverge from a moral rationalist epistemology and (ii) the resulting vulnerability of their legal–religious understanding to appropriation by a thoughtful Islamist.

Given the abundance and diverse scope of Muslim reformist literature, it must be stressed that these authors do not constitute a representative sample but are rather offered as illustrative examples. A broader survey of reform efforts in Islam would leave no room for anything more than cursory observations about the various scholars who have contributed to this variegated intellectual movement. On the other hand, focusing exclusively on a single author, while allowing for more detailed analysis, would leave open the possibility that the failure to adhere to a strict moral rationalism is merely an idiosyncrasy and in no way reflective of a broader tendency within the literature.⁵⁸ Furthermore, each of the authors chosen for closer analysis departs from moral rationalism for unique reasons: ‘Abduh states that revelation offers suprarational, though not anti-rational, wisdom; Iqbal asserts that the prophetic experience is essentially mystical and therefore beyond the scope of reason to comprehend; and Soroush argues that the human mind is inescapably bound by its cultural/historical context. It is therefore important to focus on each case in turn, in order to better understand the diverse ways in which liberal-minded reformists are tempted to compromise their otherwise strong appraisal of the power of reason. By focusing on these three major figures of Muslim reform, my intention is to steer a middle course between superficial breadth and idiographic depth.

A. Suprarational Wisdom: Muhammad ‘Abduh

A major theme of ‘Abduh’s writings is the dynamic development of historical circumstances, a feature of the world that requires society to regularly adapt to new situations.⁵⁹ As discussed in Part 2, Islamists, too, recognize the need for some degree of flexibility in matters of jurisprudence, though this theme receives far less emphasis in their works than in those reviewed

in the present section. ‘Abduh, for his part, condemns those who deny any ‘concordance (wifāq) between religion (dīn) and reason’, asserting instead that Islam is firmly established on rational grounds.⁶⁰ If adhered to consistently, this religious understanding would provide a theoretical basis for Islamic law to respond dynamically to historical developments in a manner that is precluded by rigid literalism. However, closer investigation reveals that ‘Abduh does not so much harmonize reason and revelation as much as subordinate the former to the latter. Thus, the call for legal flexibility is undermined by an inconsistently rationalist epistemology.

‘Abduh adopts the position that revelation grants insight that is not achievable by the unassisted human mind. However, although revelation thus contains elements that must be accepted on faith (since the mind cannot independently verify their truth), it will never teach that which is simply inadmissible on rational grounds. In other words, ‘though religion may bring something that transcends understanding (ya’lū a’lā fahm), it cannot bring something that reason finds impossible (mā yastahīl ‘inda al-‘aql).’⁶¹ For this reason, although prophets point out the necessary limits to the merely human pursuit of knowledge, they do so in such a way ‘as not to break [man’s] assurance (yashuqq ‘alayhi al-iṭmi’nān) nor to take away his trust (ya’raf thiqatahu) in [reason] as a God-given power (quwwa).’⁶²

Unfortunately, this arrangement in no way refutes the Islamist contention that our social lives ought to be subject to the express and unalterable dictates of revelation. Since the prophets do not ask their followers to accept rational impossibilities,⁶³ ‘reason is obliged to acknowledge all that [a prophet] brings, even though unable to attain the essential meaning within it (wuṣūl ilā kannihi ba’dihi) or penetrate its full truth (nufūḍ ilā haqīqatihi)’ (emphasis added).⁶⁴ Thus, reason is afforded no supervisory power over the particular injunctions of revelation, however strange they may seem from a rational perspective. These injunctions do not impose rational impossibilities or logical contradictions upon those who are asked to accept them.

‘Abduh would perhaps argue that the implementation of divine laws outside of their proper historical context does involve us in a logical contradic-

tion. For if, as he claims, divine law 'leads to worldly and otherworldly benefit (manfa'a duniyawiyya aw ukhrawiyya)',⁶⁵ and evolving circumstances render some particular divine law harmful to our worldly well-being, the strict implementation of such a law would detract from the very purpose of divine law. However, articulating such a view would require 'Abduh to insist that human reason is capable of recognizing what is good for human beings here in this world. But rather than travel down this hopeful avenue, 'Abduh instead repeatedly calls into question this very capacity of the unassisted human mind. In fact, he goes so far as to claim that knowledge of the good (ḥusn) is attained 'only by way of the Law (ṭarīq al-shar')'.⁶⁶ Furthermore, regarding the relationship between our actions in this world and our lot in the next, 'Abduh claims that 'the capacity of the human mind in all individuals is not capable ... of establishing for every kind of act the requital [it receives] in the abode of the hereafter.'⁶⁷ We therefore cannot reject the possibility that it is precisely by following a divine law whose effects are sometimes harmful in this life that we achieve salvation in the next. Like Ibn Taymiyah, 'Abduh doubts the ability of the unassisted human mind to guide man towards his ultimate goal.

For these reasons, the proper attitude for man to adopt is to 'submit and surrender (khasha'a wa khaḍa'a)' to God.⁶⁸ Revelation is a gift that 'requires humility and submission (khuḍū' wa istikāna)'.⁶⁹ The divine command is so overpowering that reason ('uqūl), like a citadel surrounded on all sides, 'has no alternative but to surrender (id'aan) to it'.⁷⁰ Islam, in 'Abduh's view, restores reason to its 'proper dignity, to do its proper work ... in humble submission to God alone and in conformity to His sacred law (sharī'a)'.⁷¹ Reason's dignity is found in its subservience to revelation.

B. Mysticism: Muhammad Iqbal

Iqbal asserts that the Qur'an 'embodies an essentially dynamic outlook on life'.⁷² The few legal principles contained within it thus have great potential for 'expansion and development by interpretation'. This dynamic character, in order to be fully realized, requires that we 'rebuild the laws of sharia in the light of modern thought and experience' (emphasis added).⁷³ The empha-

sis thus given to 'thought and experience' reveals the central importance of reason to Iqbal's project; it is on the basis of a rational and empirical understanding of our modern world that we take upon ourselves the task of reconstructing sharia.

But as Iqbal makes clear, reason is not our only path to knowledge.⁷⁴ In addition, there is the avenue of mystic insight, which differs from rational consciousness insofar as the former 'brings us into contact with the total passage of Reality in which all the diverse stimuli merge into one another and form a single unanalyzable unity in which the ordinary distinction of subject and object does not exist'. Although the mystic experience is by nature incommunicable, it is nevertheless 'highly objective and cannot be regarded as a mere retirement into the mists of pure subjectivity'.⁷⁵ Thus, what is yielded through the mystic experience is true insight into the nature of the world and the human condition.

However, mystic consciousness does not merely sit alongside rational consciousness as a coequal partner, as becomes clear from Iqbal's description of the three stages of religious development. The first stage is characterized by unconditional obedience to religious commands. Eventually, the believer develops a rational understanding of the purpose of divine commands, thus entering the middle stage. Finally, 'the individual achieves a free personality ... by discovering the ultimate source of the law within the depths of his own consciousness'.⁷⁶ Mysticism therefore represents the final state of spiritual evolution to which our rational consciousness can only aspire. Nor, crucially, can this higher level of insight be comprehended by the lower. According to Iqbal, science can do no more than '[discover] the characteristic features of the mystic levels of consciousness'.⁷⁷ The core of the mystic experience must remain, from a strictly rational point of view, mysterious.

Prophetic experience is a subset of mystic experience, distinguished from the latter inasmuch as it 'tends to overflow its boundaries, and seeks opportunities of redirecting or refashioning the forces of collective life'.⁷⁸ This raises an immediate difficulty: since sharia is a product of the prophetic consciousness, which is itself merely a specific type of mystic conscious-

ness, and since mystic consciousness is by its very nature beyond our rational understanding, how can we entrust our rational faculty with the task of reconstructing sharia? Such reconstruction presupposes a rational faculty that is capable of understanding, if not the inner character, then at least the products of the prophetic experience. Perhaps, in Iqbal's defence, the prophetic experience is not so simply mysterious as non-prophetic mystic experience. After all, the prophet, in stark contrast to the mere mystic, removes himself from the 'unitary experience' in order to return to 'the sweep of time with a view to control the forces of history'.⁷⁹ By thus returning to the world of time, history, and human concern, perhaps the prophet simultaneously returns to the world of rational intelligibility.

Iqbal, however, chooses not to pursue this line of argument, instead retreating further into mysterious depths. Immediately after describing the three stages of religious development, he approvingly cites the following words of an unnamed Sufi: 'no understanding of the Holy Book is possible until it is actually revealed to the believer just as it was revealed to the Prophet' (emphasis added).⁸⁰ Thus, the possibility of a rational understanding of the Qur'an, and therefore of sharia, is denied in the strongest terms. Prophetic experience is beyond our rational comprehension, as is the holy text that is produced by such an experience and the divine law contained within it. This being the case, we cannot reasonably expect that particular injunctions of sharia will necessarily conform to intelligible standards.

C. Cultural and Historical Relativism: Abdolkarim Soroush

Soroush's key theoretical contribution is 'the distinction between religion and religious knowledge'. The critical error made by past reformers is that 'They failed to recognize religious knowledge as a variety of human knowledge.'⁸¹ Although scripture is sacred, flawless, and constant, it is necessarily refracted through an all-too-human interpretive lens as soon as we attempt to understand it.⁸² And critically, our understanding of scripture—our religious knowledge—is 'incomplete, impure, insufficient, and culture-bound'; it is nothing short of 'delusion and hubris' to identify our interpretation of religion with religion itself.⁸³ Once we have recognized the necessarily ten-

tative character of our religious understanding, reason assumes its proper role as the governor of our worldly affairs. For it is reason ‘that undertakes the task of understanding the teachings of religion’, by ‘[harmonizing] its comprehension of religion with its other precepts’.⁸⁴ In short, the distinction between religion and religious knowledge leads us to view our interpretation of religious texts as inherently subject to error. We therefore resort to reason as our best (and only) guide to knowledge of what God requires of us, with the understanding that any interpretation at which we arrive may be subject to future revision as our scientific knowledge of nature and society develops over time.

Against the charge that such a view assumes the primacy of reason, Soroush would respond that we have no choice—any interpretation of revelation is refracted through a human mind with all its attendant limitations. But this response sits uneasily alongside Soroush’s recognition that the Qur’an is emphatically not ‘receptive to just any interpretation’.⁸⁵ Indeed, the difficulty under consideration is greatly magnified by the existence of verses with apparently unambiguous practical import, such as criminal punishments or inheritance laws. Why should a pious believer not humbly accept such verses in their most straightforward sense, even when they appear unreasonable? Scriptural literalism only becomes more attractive upon recognizing the limitations of mind to which Soroush himself repeatedly points. Against the dark backdrop of our inherently defective religious knowledge, divine revelation shines all the brighter. The inherently flawed character of religious understanding is a weapon that fits as comfortably the hands of Islamists as it does those of liberals.⁸⁶

Soroush’s case would be strengthened if human beings possessed knowledge of justice. As he makes clear, ‘In the opinion of believers, justice is at once a prerequisite for and a requirement of religious rules. A rule that is not just is not religious.’⁸⁷ This confidence that God’s rulership must be just, coupled with knowledge of justice, would provide a standard by which to measure divine legal commandments. If any particular commandment is found wanting, this would not be because God is unjust, but rather because circumstances have changed such that the original intention of the

law has been frustrated. In such a case, adapting divine law to the needs of the time would presumably be justified; our knowledge of religion, which is 'neither complete nor flawless',⁸⁸ would rightfully give way to a knowledge of justice that is both.

However, Soroush denies that such knowledge has been discovered, or at least that it has been published: 'no one has proposed a clear definition of justice and injustice.'⁸⁹ Even more fundamentally problematic, Soroush seems at times ambivalent about the independent status of reason as such. It is positivism that denies 'the historicity of science and reason', and as Soroush makes clear, 'Positivism should be defeated.' The author immediately adds that this defeat should not come 'at the expense of overthrowing science and reason'.⁹⁰ But once we accept (i) that science and reason are historically determined, (ii) that 'each group looks at an event from its own viewpoint—which immanently defines the limits of what it knows',⁹¹ and (iii) that 'people always accept the cast of their culture',⁹² it is not at all clear what meaning science and reason retain. The claim that liberal religious understanding is superior to Islamist religious understanding must remain theoretically suspect as long as it is made by someone who is a product of a liberal culture and therefore intellectually restricted and determined by it. Cultural relativism thus brings us face-to-face with the attractiveness of the Islamist position, of submitting wholly to revelation as our only salvation, insofar as it, by Soroush's own admission, 'originates in a realm beyond time and space'.⁹³ By undermining our confidence in the human capacity to attain knowledge, Soroush simultaneously casts doubt upon the legitimacy of legal revision. We are faced with mutually exclusive options: either knowledge is culturally and historically contingent, inconclusive, and conjectural, or we are justified in subjecting revelation to prudential considerations of the age; both cannot be true.

D. Synopsis

Despite differences of approach, 'Abduh, Iqbal, and Soroush each argue that reason has a far more fundamental place in Islam than has been appreciated by non-Muslims and certain elements of the Muslim community.

On this basis, the legal theory offered by these scholars differs in critical respects from that of the Islamists reviewed in Part 2. In contrast to the latter's rigid legalism, 'Abduh, Iqbal, and Soroush wish to emphasize the inevitably robust role of prudence in social and legal matters. However, this liberal understanding of divine law is undermined by the critical limitations placed upon reason by the authors themselves. If we are indeed dependent upon revelation for knowledge of the good, if the prophetic experience and the law produced by it are beyond rational comprehension, and if our minds are inescapably bound by circumstances of time and place, then revelation, in its most straightforward sense, has a tenable claim on our obedience. A coherent alternative to Islamist legalism must therefore be built on an epistemic foundation that affirms our ability to attain reliable ethical knowledge unassisted. It is precisely such a foundation that is provided by 'Abd al-Jabbar, to whom we turn in the following section.

4. THE MORAL RATIONALIST ALTERNATIVE IN ISLAMIC TRADITION

This section will first investigate the moral rationalism of 'Abd al-Jabbar (d 415/1025), a major Mu'tazili theologian whose death in the eleventh century roughly corresponds to the beginning of the 'aqīda's (creed's) decline.⁹⁴ I will subsequently discuss the implications of Mu'tazili epistemology as they pertain to the question of legal revision. My primary objective is to demonstrate that moral rationalism is the necessary epistemic foundation of any legal theory that can stand as a tenable alternative to Islamist legalism while nevertheless remaining grounded in the Muslim faith. Next, I will address the primary objection to moral rationalism from the perspective of mainstream piety—that asserting such an epistemology renders revelation superfluous. Finally, I will briefly discuss the work of two modern authors whose approach to legal reform in Islam presupposes the moral rationalist epistemology articulated by 'Abd al-Jabbar: Hasan Hanafi and Mohammed Abed al-Jabri.

One preliminary clarification is required. The Mu'tazili creed was historically characterized by a set of positions on controversial theological issues and

not merely the assertion of a moral rationalist epistemology. Nevertheless, it is exclusively this latter aspect of Mu'tazili theology, along with its legal implications, that is the focus of this section. Such a focus is justifiable as long as moral rationalism is theoretically separable from other uṣūl typically addressed by the Mu'tazila, such as the ontological status of God's attributes, the createdness of the Qur'an, or the eschatological destiny of sinners.⁹⁵ Since it is beyond the scope of the present essay to discuss this question at length, I must restrict myself to making my position on this matter clear: I proceed on the assumption that adherence to a moral rationalist epistemology in no way necessitates any particular answer to these controversial questions in Islamic theology. Thus, I do not seek to provide a defence of Mu'tazili theology as a whole, but rather to explore the link between Mu'tazili epistemology and the revision of divine law.

A. The Epistemology of 'Abd al-Jabbar

The prime importance of reason is emphasized in the opening section of 'Abd al-Jabbar's *Kitab al-Uṣul al-Khamsa*.⁹⁶ Contemplation (*naẓar*) is identified as 'the first duty that God imposes',⁹⁷ since 'knowledge of God Most High cannot be obtained except by speculating with rational arguments (*naẓar fī ḥujja al-'aql*)'.⁹⁸ This knowledge is, in turn, a prerequisite for obeying the divine law. As 'Abd al-Jabbar states, 'the stipulates of revelation (*sharā'i*) concerning what [we should] say and do are no good until after there is knowledge of God'. In the absence of such knowledge, we cannot rule out the possibility of inadvertent disobedience.⁹⁹

Rational speculation leads to the knowledge that God is eternal, all-powerful, all-knowing, all-perceiving, immaterial, and utterly singular.¹⁰⁰ Furthermore, God is perfectly just, being 'far beyond and elevated above every evil (*subhāna wa ta'āla 'an kul qabīḥ*)'.¹⁰¹ It is therefore possible for human beings to assert with confidence that God will never act immorally by, for example, '[imposing] upon a human what he is unable to do' or '[punishing] anyone for someone else's sin (*ḍanb*)'.¹⁰² But although God will unfailingly exhibit justice in this manner, morality should not be understood as a limitation placed upon him from without, a circumstance that would com-

promise his omnipotence. Rather, in acting justly, God is simply operating in accordance with his own essence. As ‘Abd al-Jabbar makes clear, ‘[God] does not deviate (yajūr) from His rule (ḥukm)’.¹⁰³

Beyond the assertion that God’s actions are just, a robust moral rationalism requires two further claims. First, contra the Ash‘ariyya, Abd al-Jabbar must claim that good and evil have an ontological status independent of God’s actions. That is, God’s actions must be good or just¹⁰⁴ in the sense that they conform to independent standards of justice and not merely in the trivial sense that God’s actions themselves define justice. Second, contra the Maturidiyya, ‘Abd al-Jabbar must assert that the standards of justice to which God adheres are themselves intelligible. It is entirely possible that human beings may know that God is just without knowing how, just as a medical patient may know that continuing treatment is beneficial without understanding the science at work.

Both of these claims are found in Volume 6 of *Al-Mughni fi Abwāb al-Tawhīd wa-l-‘Adl*.¹⁰⁵ It is therefore in this work that the distinctive character of Mu‘tazili epistemology comes through most clearly. In section 10, Abd al-Jabbar explicitly rejects Ash‘ari theological voluntarism, stating, ‘it is not admissible that what makes an act evil (qabīḥ) is prohibition (nahy)’, nor is it ‘admissible that what makes an act good (ḥasan) is command (‘amr)’. Similarly, an act of God is not good merely because he is ‘lord, master, prohibitor, commander’, etc.¹⁰⁶ In contrast, ‘Abd al-Jabbar describes the Mu‘tazili view of revelation in the following way: ‘we say that revelation (sam‘) does not necessitate the evil of something, nor its goodness; rather, it discloses the status (yakshif ‘an al-ḥāl) of the act by the method of indication (ṭarīq al-dalāla) as does reason’.¹⁰⁷ Just as reason does not cause the considered act to become good or evil but rather discloses its moral character to us, so too does revelation merely indicate an independent moral truth.

Crucially, however—and this is what distinguishes the Mu‘tazila from the Maturidiyya—revelation is not necessary for discovering the moral character of an act, since for this task human wisdom is sufficient. For example, we know intuitively (bi-iḍṭirār)¹⁰⁸ that deception and harm are evil, and with

respect to this knowledge, 'rational people do not differ ... as they do not differ about the knowledge of perceptible objects (mudrakāt) and all those which are necessary for reasoning'.¹⁰⁹ Evil acts 'are evil on rational grounds (li-wujūh ma'qūla)',¹¹⁰ just as good acts 'are good on rational grounds'.¹¹¹ Against the objection that 'acts that are evil according to their conditions (aḥwāl) are good according to the Law (shar')', 'Abd al-Jabbar asserts that no such divergence between reason and revelation is possible, stating, 'what is evil according to the Law (qabīḥ al-shar'ī) is the same as what we assert [is evil] rationally ('aqlī)'.¹¹² These intelligible ethical categories also apply to the actions of God, since the goodness or badness of any action does not depend on the agent.¹¹³ For this reason, 'the acts of the Eternal Most High are judged (ḥukima) in the manner that our actions are judged'.¹¹⁴ This claim represents the ultimate expression of moral rationalism, asserting as it does that divine actions adhere to the same principles of justice that apply to human actions. Not only may we be confident that God adheres to standards of justice, but we may also furthermore have confidence in our rational access to those standards.

B. Legal Implications of Moral Rationalism

As discussed in Part 3, the claim that divine law may justifiably be revised in order to meet the dynamic needs of the Muslim community is undermined when critical limitations are placed on reason vis-à-vis revelation. Such limitations have no place in the epistemological understanding of 'Abd al-Jabbar, who asserts that good and evil may be recognized as such by the unassisted human mind and that the actions of God necessarily abide by an intelligible moral framework. This understanding of the relationship between human and divine wisdom provides a theoretical basis for legal revision and therefore allows the construction of a legal theory that stands as a tenable alternative to Islamist legalism.

To reiterate, I do not argue that 'Abd al-Jabbar makes an explicit case for the historical obsolescence of particular aspects of sharia or the need to revise outdated laws on rational grounds. Rather, I contend that 'Abd al-Jabbar provides the necessary epistemic basis for any such project of legal revi-

sion. Since legislative reform is a common desideratum of ‘Abduh, Iqbal, and Soroush, these authors and those who share their goals would be better served by adopting a more robust moral rationalism. Doing so would allow these scholars to avoid the inherent theoretical difficulties, discussed in Part 3, of attempting to establish rational-legal approaches on suprarational, mystical, or relativist epistemological grounds.

If human beings indeed have rational access to standards of good and evil, as well as knowledge that God adheres to these same standards, then a cogent case can be made for prudential revision of divine laws. We know, according to ‘Abd al-Jabbar, that all of God’s acts are good¹¹⁵ and that a good act is one that causes benefit.¹¹⁶ Furthermore, God’s speech is an act,¹¹⁷ and in addition to being necessarily beneficial, it may be judged according to the same standard by which human actions are judged.¹¹⁸ Since revelation is nothing other than the speech of God communicated to the Prophet (and through him, the human race at large),¹¹⁹ we are justified in applying rational standards of judgement to it. On this basis, we can understand ‘Abd al-Jabbar’s injunction to ‘judge that which accords with rational proof (dalīl al-‘aql) [in the Qur’an] to be true (ṣiḥḥa), and bring that which contradicts [reason] into accord (yuwāfiq) with it’.¹²⁰

Subjecting the particular injunctions of revelation to prudential supervision would not, of course, do away with legal controversy. Spirited disagreement would still remain—as it should in a healthy religious regime—regarding how best to interpret divine law in light of reason. Nevertheless, such an approach to religious matters represents a critical break with Islamism, dramatically shifting the grounds of debate. If reason is capable of recognizing the goodness of specific divine commands, then the mere scriptural presence of a legal injunction is not sufficient to establish its permanently binding character. Instead, it becomes necessary to show that obedience continues to benefit the community or at least not cause active harm. Islamists will, of course, argue that scriptural injunctions regarding criminal punishments, the societal role of women, or the institution of slavery, if implemented faithfully, do benefit the Muslim community.¹²¹ But on the basis of moral rationalism, such claims are subject to empirical investigation; it

is not enough to assert that human beings must simply accept them as products of divine wisdom. When Islamist epistemology is challenged in this way, an alternative emerges. If historical circumstances have changed such that obeying any particular divine injunction brings harm rather than benefit, we would be justified in setting aside that law and replacing it with one that maintains the original purpose of benefiting the Muslim community, which we may confidently assert was God's intention all along.

Let us examine how, precisely, this method of proceeding differs from the methods implicitly pointed to by 'Abduh, Iqbal, and Soroush, as doing so will clarify the way in which a moral rationalist epistemology is more adequate to the task of legal reform than the alternatives. As was just said, a rationalist framework insists that God's commands are beneficial and may be judged according to rational standards. Such an approach to divine law is not inherently resistant to the revision of even explicit scriptural injunctions, provided that the once apparent benefits of these injunctions have been undermined by historical changes since the time of revelation. It may be the case, for example, that the practice of punishing thieves with amputation, while necessary to protect property rights in seventh-century Arabia, ought to be modified in light of the much higher rates of criminal apprehension that characterize the modern world. The same benefit would, in this way, be achieved with less harm.¹²² To use another example, the institution of restricted polygamy may very well have protected and elevated the status of orphaned and widowed women in an environment that was otherwise intolerably negligent of their welfare. Nevertheless, if, in a modern society, women are free economic agents such that polygamy is no longer necessary for nor conducive to their welfare, it may be reasonable to enforce monogamy.¹²³ As a final illustration, the prohibition of interest may have effectively reduced certain predatory lending practices characteristic of pre-Islamic Arabia. But if interest rates are prerequisite for the success of modern economies, their utter proscription should perhaps be reconsidered lest the Muslim world as a whole suffers the consequences of comparative underdevelopment.

To reiterate, in none of these illustrative cases does a moral rationalist frame-

work allow legal decisions to escape controversy—this is not the point. Rather, an insistence on the suitability of applying rational standards to divine injunctions simply makes room for the indefinite revision of those injunctions when circumstances make it prudent to do so. Nor should such revision be dismissed peremptorily on the basis that it replaces divine sovereignty with human sovereignty. In each of the above example cases, revision serves an essentially conservative function inasmuch as it aims to preserve the original intention of the law—benefitting the Muslim community—in a changing world.¹²⁴ Indeed, in this view, those who refuse to revise the law, on the basis of a belief in its essentially mysterious character, may be more justly accused of legal nullification than those who strive to maintain its applicability through the exercise of prudence.

In contrast, it is precisely the suitability of applying rational standards to divine injunctions that, for different reasons, ‘Abduh, Iqbal, and Soroush deny, or at least do not consistently defend. As ‘Abduh makes clear, the human mind cannot attain independent knowledge of the good; for such knowledge we are dependent on the law.¹²⁵ Therefore, any merely human understanding of the good can never serve as an authoritative standard against which law may be measured. Iqbal, in turn, unambiguously states that the source of the law within the mystical consciousness of the prophet is beyond rational comprehension.¹²⁶ And while he does not deny that mystical insight may be attained by any Muslim, he asserts that in the absence of such suprarational wisdom, no understanding of scripture is possible.¹²⁷ Finally, Soroush suggests that human thought is necessarily bound by the historical–cultural context of the thinking subject and thus denies the independent status of reason as such.¹²⁸ If this is correct, then revising apparently outdated divine laws equates to subjecting our sole source of timeless wisdom¹²⁹ to the baseless prejudices of our particular age.

In short, due to epistemological assumptions that cast doubt upon the capacity of the rational mind to perceive and act upon the intended purposes of sharia, ‘Abduh, Iqbal, and Soroush lead us, in roundabout fashion, to the very legalist perspective they seek to criticize. With respect to the examples discussed above—amputation as punishment for theft, the institution of

polygamy, and the prohibition of interest—these authors offer no epistemic grounds on which the authoritative statements found in the Qur’an may be set aside, regardless of whatever dramatic social changes may have transpired since the time of Muhammad. If we cannot recognize the good independently of revelation, if the divine law in its mystical character escapes our rational grasp, or if we—in stark contrast to God—are the prisoners of time and place, our most hopeful path through the darkness in which we thus find ourselves must involve obedience to the straightforward commands and proscriptions found in scripture.¹³⁰

C. The Importance of Revealed Wisdom

The assertion that reason is capable of attaining knowledge of good and evil faces at least one major objection from the standpoint of ordinary piety: if the human mind requires no divine assistance in order to determine right action, how is revelation not rendered entirely superfluous?¹³¹ Since the superfluity of revelation is unacceptable from the standpoint of mainstream piety, this issue must be addressed in order to show that a moral rationalist epistemology is not *prima facie* inadmissible on religious grounds.

His high appraisal of the capacity of the human mind notwithstanding, ‘Abd al-Jabbar does not go so far as to claim that revelation may be dispensed with. The unique benefits of revelation become clear when he distinguishes acts that are evil in themselves from those that are evil only because of what they lead to. ‘Abd al-Jabbar has already stated that acts of the former type, such as wrongdoing and lying, are intuitively recognized as evil. But as he now makes clear, there is another type of act that is ‘evil due to what it leads to, such as evil known by sharia since it leads to rational evil (*qabīḥ ‘aqlī*) or neglect of some obligations (*wājibāt*).¹³² Sharia therefore warns us away from actions that are not themselves rationally evil, but nevertheless lead to evil outcomes. Although ‘Abd al-Jabbar does not provide any examples in this context, the Islamic prohibition of alcohol would presumably fall into this category. Intoxication does not itself constitute wrongdoing or deception, but may lead to both. Revelation offers humanity a boon by forbidding intoxicating substances altogether, an issue about which there would

be too much controversy if settled merely on the basis of reason. Similarly, certain acts are good 'only because they are a grace (luṭfan), as in slaughtering of animals and their like.'¹³³ Unlike actions that have a clear benefit, and are thereby intuitively recognized as good, certain ritualistic aspects of religion represent a grace from God that our rational minds cannot arrive upon independently.

Given that 'Abd al-Jabbar allows that the goodness or badness of certain acts can only be known through sharia, what remains to be addressed is how he does not thereby fall into the same difficulty as 'Abduh. As discussed in Part 3, the assertion that revelation contains suprarational wisdom threatens to undermine any rational reformist project, since the mind must submit to laws whose meaning it cannot hope to penetrate. Indeed, this is the epistemic challenge to rationalism presented by Maturidi theology broadly.¹³⁴

However, 'Abd al-Jabbar's discussion of these matters displays a fundamental difference from that of 'Abduh. 'Abd al-Jabbar insists that even in those cases in which revelation teaches something that the unassisted human mind could not determine on its own, reason is capable of recognizing the truth towards which revelation points it. It is for this reason that he speaks of divine law (shar') as 'disclosing matters confirmed by reason (kāshifan 'an al-umūr al-thābita fī al-'aql), but not varying (mukhālif) from it.'¹³⁵ In other words, although sharia is indispensable for recognizing the moral character of certain (ritual) actions, it reveals nothing that reason does not subsequently recognize as true.¹³⁶ 'Abduh, in contrast, is unwilling to go this far, stating, 'There may be among deeds those whose goodness cannot be discerned, and among forbidden things those whose evil aspect cannot be recognized. In this case, [a deed] has no goodness except [due to] command, nor any badness except [due to] prohibition.'¹³⁷ Thus, 'Abduh flatly contradicts 'Abd al-Jabbar, who, as we have seen, explicitly denies that good and evil are determined by command and prohibition.¹³⁸ This critical difference between the two theorists lends 'Abd al-Jabbar's epistemology a resilience in the face of Islamism that 'Abduh's lacks.

Although these considerations are not sufficient to dispel all controversial

aspects of moral rationalism, it is most important to describe the precise manner in which Mu'tazili epistemology allows revelation to exist as a necessary supplement to reason and therefore weathers the most critical challenge from mainstream piety. What I hope to have demonstrated in the foregoing account is that moral rationalism alone serves as a tenable basis for an alternative to Islamist legalism that is nevertheless grounded in the fundamental tenets of Islam.

D. Moral Rationalism in Modern Muslim Scholarship

In contrast to the authors discussed in Part 3, whose arguments for a more liberal approach to sharia are undermined by an insufficiently rational epistemology, modern scholars Hasan Hanafi and Mohammed Abed al-Jabri (d 1431/2010) offer arguments in favour of legal revision that presupposes the moral rationalism defended by 'Abd al-Jabbar. Precisely for this reason, the approach to divine law advocated by these authors does not display the vulnerability to Islamist cooptation, described in detail above, that characterizes the works of 'Abduh, Iqbal, and Soroush.

Of the two, Hanafi is more explicit in his commitment to moral rationalism, made evident by certain unambiguous statements: 'In Islam, reason and revelation are the same. There is nothing in revelation which contradicts reason'¹³⁹; 'Reason is the way to know good and bad and to distinguish between them in order to permit free will to choose the good and to abandon the bad'¹⁴⁰; 'Revelation and reason are identical. Nothing goes beyond human reason ... There are no mysteries beyond reason, subject to faith alone'.¹⁴¹ On the basis of this high appraisal of reason, Hanafi offers an approach to legal interpretation that assigns utmost priority to public welfare, stating, 'Any and every measure that defends the common welfare and prevents common harm is an Islamic measure'.¹⁴² Furthermore, public welfare is understood by Hanafi in a worldly, rational sense. When he states that 'The law is not an end in itself, but only a means for the realization of individuals' and peoples' welfare', the immediate context makes clear that the welfare spoken of is worldly, characterized as it is by 'the rights of food, clothing, shelter, work, security and peace'.¹⁴³ And because 'public inter-

ests are changing with time', interpreters of the Qur'an must understand 'the original historical circumstance in which the Qur'an was revealed', in order that this model may be 'repeated in all other historical instances'.¹⁴⁴

This emphasis on understanding the historical context of divinely revealed injunctions is also found in the work of al-Jabri, who points to 'the connection of nearly all of the [Qur'anic] rulings with the so-called "occasions of revelation" or the occasion with which the ruling was connected when revealed first'.¹⁴⁵ For al-Jabri, the historical specificity of particular Qur'anic rulings is closely related to the predominant importance of public welfare. Al-Jabri unambiguously states that 'all shari'ah rulings in Islam are regulated by one principle: the public good. They exist either to bring some benefit or avert some harm'.¹⁴⁶ When we understand that 'the [legal] intent of al-shari'ah is ... in consideration of the public good, and that the shari'ah texts themselves aim at such consideration, then the public good becomes the guiding principle, superior to any other'.¹⁴⁷ Furthermore, because 'modern life [is] fundamentally different from what it was like in the past, the application of al-shari'ah requires a reorganization of the origins based solely on a consideration of the public good'.¹⁴⁸ That al-Jabri, too, understands public welfare in a worldly, rational sense is made clear by his assertion that:

Since Islam does not separate religion from worldly affairs, but, on the contrary, links prosperity in religious affairs with prosperity in worldly affairs, it follows that renewal in one is, at the same time, renewal in the other. But as worldly affairs change from time to time, so should the understanding of 'renewal' and its requirements in accordance with conditions and times.¹⁴⁹

Both Hanafi and al-Jabri therefore offer an approach to divine law that assigns the highest priority to public welfare (understood as intelligible) and thus allows for the revision of particular legal injunctions in the face of changing social circumstances. And although al-Jabri, unlike Hanafi, does not make clear and sweeping pronouncements in favour of a rationalist epistemology, such a framework is implicit in his attitude towards law and reason. According to al-Jabri, no less than Hanafi, the unassisted human mind is capable of (i) recognizing that divine law intends our worldly bene-

fit and (ii) discerning what our worldly benefit consists of.

Given the comparatively robust character of Hanafi and al-Jabri's approach to legal reform in Islam, it may be asked what additional utility or insight may be derived from examining the works of a medieval theologian such as 'Abd al-Jabbar. Why should scholars not simply be content to approach the question of sharia's place in today's world through the avenue of modern texts, since these presumably speak more directly to specifically modern concerns? In response, it must be noted that although Hanafi and al-Jabri offer the benefit of historical hindsight and are capable of addressing the dramatic changes in social circumstances occurring since Islam's middle period,¹⁵⁰ they do not explore, in the same depth as 'Abd al-Jabbar, the complex and subtle relationship between theology and epistemology. Although medieval theological texts often seem tedious to modern readers,¹⁵¹ dwelling as they do on minute and seemingly inconsequential distinctions, such 'hair-splitting detail'¹⁵² is often necessary to establish a coherent understanding of man's relationship to the divine. Thus, it is no defect that 'Abd al-Jabbar painstakingly analyses, for example, the differentiae of various ethical categories, the precise relationship between free will and divine omnipotence, and the character of intuitive knowledge—topics that are not the primary focus of modern reformists such as Hanafi and al-Jabri. While it is doubtless helpful to supplement the study of medieval theological texts with the works of recent and still-living authors who may speak more directly to uniquely modern problems, it would be to the detriment of the scholarly community to neglect these older texts, in which epistemological and theological issues most relevant to matters of legal reform are treated as living debates rather than foregone conclusions.

5. CONCLUSION

Islamism, which calls for the straightforward implementation of divine laws in their original form, has its theoretical basis in an epistemology that denies the ability of the unassisted human mind to attain the basic moral knowledge necessary for guiding political affairs. Although Islamist figures such as Khomeini, Qutb, and Maududi depart in significant ways from traditional

schools of Islamic thought, their epistemological attitude is not wholly disconnected from every part of the religion's rich intellectual history. We find—in particular advocates of Ash'ari, Maturidi, and Hanbali thought—support for the basic claim that reason must subordinate itself to the explicit directives of revelation, even or especially when the latter proves impenetrable to our rational minds. Such an understanding of the relationship between reason and revelation lends plausibility to Islamist legalism. As a result, the claim that specific injunctions of sharia have timeless authority over political society is not one that can be rejected *prima facie*.

Intellectual engagement with such claims is obviously precluded by a dismissal of Islamism as being simply violent, regressive, or intolerant and therefore unworthy of consideration. An educative contrast to the essentialist and orientalist tendencies found in some treatments of Islamism is offered by Muslim reformists of the past two centuries. These theorists demonstrate how those aspects of the faith that appear most inimical to modernity may be engaged with in a manner that remains cognizant of the enormous complexity of Islamic intellectual history and respectful of the demands of Muslim piety. However, attempts by these scholars to defend a more liberal approach to jurisprudence are uneven. I contend that 'Abduh, Iqbal, and Soroush, for their part, fail to appreciate the importance of a fully rationalist moral epistemology to their reformist projects and, as a result, cede critical theoretical ground to Islamism. Inasmuch as each of these authors is a key figure of Islamic modernism, their examples are particularly instructive for scholars who remain hopeful for a more defensible alternative to Islamism.

The epistemic basis for such an alternative is found in Mu'tazili theology, according to which reason is capable of discerning between good and evil and the purposes of divine law are intelligible. As an example par excellence of classical Mu'tazili theology, the works of 'Abd al-Jabbar display a consistent moral rationalism, one that does not make concessions to the mysteriousness of divine law, the inscrutable nature of the mystical or prophetic experience, or the historicity of ethical knowledge.¹⁵³ Furthermore, 'Abd al-Jabbar remains firmly grounded in the fundamentals of Muslim piety,

asserting the unicity of God and the indispensability of the divine revelation communicated to Muhammad. This is not to deny the controversial character of Mu'tazili thought,¹⁵⁴ but merely to indicate the most important grounds of agreement among the various theological approaches in Islam. Without resorting to distortionary portraits of the Mu'tazila as enlightenment liberals ahead of their time or the Ash'ariyya as rigid fideists, it can nevertheless be seen that the moral rationalism characteristic of the former allows a case to be made for legal revision.

This essay began by challenging the tendency of popular (and sometimes scholarly) works to assume the superiority of liberalism to its major alternatives. In that spirit, we must avoid the temptation to declare Mu'tazili epistemology correct merely because the political or legal implications of doing so are gratifying. The assertion that God has revealed timeless legal guidance for the human race and that such guidance must be faithfully adhered to must be taken seriously if the preference for rational jurisprudence is to be anything more than arbitrary. Thus, the legal claims of Islamists are not merely of interest to Muslims, but to anyone who recognizes the difficulty of settling once and for all the perennial controversy regarding the worldly authority of revelation. It is one thing to show how moral rationalism allows the construction of a tenable alternative to Islamism, but another thing entirely to demonstrate the superiority of that alternative. This essay has restricted itself to the first objective, a necessary but preliminary step.

While confidence regarding the precise ontological relationship between divine will and the good may always elude our grasp, perhaps a promising avenue for progress amidst this most difficult question involves a closer examination of Islamist claims. If such an examination were to reveal that Islamists themselves make key concessions to moral rationalism, this would suggest an important common ground between Islamists and liberal reformists. Future research would therefore benefit from closer attention to the Islamist insistence, noted above,¹⁵⁵ that following divine law leads to recognizable, worldly benefit for the Muslim community. According to Khomeini, Maududi, and Qutb themselves, it is not enough that divine law bestows wholly mysterious benefits upon the faithful. Rather, the commu-

nity that follows the laws of God is expected to enjoy increased prosperity and happiness in this world in addition to the next. If this expectation of recognizable reward turns out to be a necessary component of faith, then Islamists, too, worship a God who, in some fundamental way, adheres to intelligible standards of justice.

Footnotes

1. Haled Abou El Fadl, *Islam and the Challenge of Democracy* (Princeton University Press 2004) 3; Abdullahi Ahmed, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse University Press 1990) 1; Sayed Khatab and Gary D Bouma, *Democracy in Islam* (Routledge 2007) 7.
2. Talal Asad, 'The Idea of an Anthropology of Islam' (2009) 17(2) *Qui Parle* 7; Abdul Hamid El-Zein, 'Beyond Ideology and Theology: The Search for the Anthropology of Islam' (1977) 6 *Annual Review of Anthropology* 227; Andrew F March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (Oxford University Press 2009) 68.
3. As discussed in Part 2, Islamism refers to a range of politico-religious ideologies. As a result, Islamist theory comprises a diversity of attitudes towards such issues as the best arrangement of an Islamic regime and the appropriate role of violence. Nevertheless, it is the basic assertion that social matters should be ruled in accordance with the express dictates of the Qur'an and prophetic tradition that unites those who fall into this category, as explored in greater detail below. On the distinction between 'Islamist' and 'fundamentalist', see Roxanne L Euben and Muhammad Qasim Zaman, *Princeton Readings in Islamist Thought: Texts and Contexts from al-Banna to Bin Laden* (Princeton University Press 2009) 3; William Shepard, 'Fundamentalistic Phenomena: Christian and Muslim' (2004) 30(3) *Historical Relections/Reflexions Historigues* 364n2; Olivier Roy, *The Failure of Political Islam* (Carol Volk tr, Harvard University Press 1994) 31, 120.
4. Ruhollah Khomeini, *Islam and Revolution: Writings and Declarations of Imam Khomeini* (Hamid Algar tr, Mizan Press 1981) 28; Abul A'la Maududi,

The Islamic Law and Constitution (Khurshid Ahmad tr, Islamic Publications 1960) 46; Sayyid Qutb, Milestones (AB Al-Mehri ed, Maktabah Booksellers and Publishers 2006) 69.

5. I use 'liberal' in the sense of Asaf AA Fyzee, 'The Reinterpretation of Islam' in John J Donohue and John L Esposito (eds), *Islam in Transition: Muslim Perspectives* John J. Donohue and John L. Esposito (Oxford University Press 2007), to mean an understanding of Islam that is 'in conformity with conditions of life in the twentieth century' (156). For a defense of this term in spite of possible misunderstandings arising from its use, see Charles Kurzman, 'Liberal Islam and Its Islamic Context' in Charles Kurzman (ed), *Liberal Islam: A Sourcebook* (Oxford University Press 1998) 3.
6. Ali Abdel Razek, *Ali, Islam and the Foundations of Political Power* (Maryam Loutfi tr, Edinburgh University Press 2013); Muhammad Sa'id Al-'Ashmawi, *Islam and the Political Order* (Council for Research in Values and Philosophy 1994); Fatima Mernissi, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam* (Mary Jo Lakeland tr, Perseus Books 1991); Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (University of Chicago Press 1982); Ziauddin Sardar, *The Future of Muslim Civilization* (Mansell Publishing Limited 1987).
7. On the modernist Muslim criticism of taqlīd (conformity to legal precedent), see Euben and Zaman (n 3) 7; Kurzman (n 5) 8.
8. Although, as I discuss in Part 3, this challenge may be undermined by an insufficiently rationalist moral epistemology.
9. Razek (n 6) 101–02; 'Ashmawi (n 6) 36–37; Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam* (Stanford University Press 2012) 118; Sardar (n 6) 15.
10. I mean first and foremost compelling to religious believers, who take seriously the demands made upon them by God and are therefore at least potentially persuaded by the relatively straightforward scriptural literalism characteristic of Islamists.
11. Ali-Reza Bhojani, *Moral Rationalism and Shari'a: Independent Rationality in Modern Shi'i Usul al-Fiqh* (Routledge 2015) 2; Sophia Vasalou, *Ibn*

Taymiyya's Theological Ethics (Oxford University Press 2016) 93; William Montgomery Watt, Islamic Philosophy and Theology (Edinburgh University Press 1985) 46.

12. On the practical traditionalism of the Mu'tazila, see Rahman (n 6) 107.
13. Bhojani (n 11); Frank Griffel, 'The Harmony of Natural Law and Shari'a in Islamist Theology' in Abbas Amanat and Frank Griffel (eds) Shari'a: Islamic Law in the Contemporary Context (Stanford University Press 2007); George F Hourani, Islamic Rationalism: The Ethics of 'Abd al-Jabbar (Oxford University Press 1971); David Johnston, 'A Turn in the Epistemology and Hermeneutics of Twentieth Century Usul al-Fiqh' (2004) 11(2) Islamic Law and Society 233; Vasalou (n 11).
14. Leonard Binder, Islamic Liberalism: A Critique of Development Ideologies (University of Chicago Press 1988) 170; Roxanne L Euben, Enemy in the Mirror: Islamic Fundamentalism and the Limits of Modern Rationalism (Princeton University Press 1999) 17; Euben and Zaman (n 3) 4. A literal interpretation of scriptural texts must be distinguished from a traditional one. Islamists are often critical of reliance on taqlid and in fact share this attitude with many liberal Muslim theorists (Euben and Zaman (n 3) 10); cf (n 6).
15. See Johnston (n 13) 234 for the singular importance (and legal relevance) of sacred text in Islam.
16. Halim Rane, 'The Relevance of a Maqasid Approach for Political Islam Post Arab Revolutions' (2013) 28(2) Journal of Law and Religion 500; Shahram Akbarzadeh, 'The Paradox of Political Islam' in Shahram Akbarzadeh (ed), Routledge Handbook of Political Islam (Routledge 2011) 1; Mahmud A Faksh, The Future of Islam in the Middle East: Fundamentalism in Egypt, Algeria, and Saudi Arabia (Praeger Publishers 1997) 3.
17. Khomeini (n 4) 56.
18. Sayyid Qutb, Ma'alim fil-Tariq (Dar al-Shuruq 1979) 107:24 (citations to Arabic sources always include page and line number). Al-Mehri (2006) offers a translation of Ma'alim, which I have modified where appropriate.
19. Maududi (n 4) 138.

20. Khomeini (n 4) 55.
21. Qutb (n 18) 37:7–8.
22. Khomeini (n 4) 41–42.
23. Qutb (n 18) 42:12–13.
24. Maududi (n 4) 59.
25. Qutb (n 18) 94:21–23; this is a reference to Qur'an 17:85. Vasalou (n 11) 254–60; Griffel (n 13) 55–60, note the presence of certain elements of natural law theory in the works of Qutb. Nevertheless, as both argue, this does not prevent him subordinating reason to revelation in moral matters.
26. Khomeini (n 4) 409.
27. *ibid* 394–95.
28. Maududi (n 4) 47–49.
29. This distinction between matters of social interaction (*mu'āmalāt*) and matters of ritual worship (*'ibāda*) has a longstanding basis in Islamic jurisprudence. However, even with respect to the former, considerations of utility or equity are not traditionally thought to permit more than temporary and occasional dispensations from the law, as discussed in greater detail below. Johnston (n 13) 235 argues that a central feature of mainstream Muslim reform is the restriction of the sacred texts' legal jurisdiction to matters of ritual.
30. *ibid* 83–85.
31. Khomeini (n 4) 30.
32. The discussion that follows applies with equal relevance to related legal concepts such as *istiḥsān* (considering the good), *munāsaba* (suitability), and *ḍarūra* (necessity).
33. Consider, for example, the four distinct models of *maṣlaḥa* described by Felicitas Opwis, 'Maslaha in Contemporary Islamic Legal Theory' (2005) 12(2) *Islamic Law and Society* 193. See also the account given of the controversy and limits of *maslaha* or *istislah* in Johnston (n 13) 245–54.
34. Opwis (n 33) 188.

35. Al-Ghazali, *Al-Mustasfa min 'Ilm al-Usul* (Vol 1, Bulaq Press 1904) 120:10, emphasis added. A partial translation, which I have modified where appropriate, can be found in Ahmad Zaki Mansur Hammad, 'Abu Hamid Al-Ghazali's Juristic Doctrine in *Al-Mustasfa min 'Ilm al-Usul* With a Translation of Volume One of *Al-Mustasfa min 'Ilm al-Usul*' (PhD diss, University of Chicago 1987).
36. Al-Ghazali (n 35) 120:8. That al-Ghazali is referring not exclusively to 'ibaadāt (ritual matters), but to mu'āmalāt (social affairs) in addition, is made clear by his discussion of criminal punishment (118:16ff.).
37. Cf Abu 'l-Hasan 'Abd al-Jabbar, *Al-Mughni fi Abwab al-Tawhid wa-al-'Adl* (Vol 6, Al-Dar al-Misriyah lil-Ta'lif wa-al-Nashr 1961–1974) 11:18, 59:1–3. A modern example of ambivalence toward *maslaha* as a principle of legal interpretation is offered by Fazlur Rahman, *Islam and Modernity* (University of Chicago Press 1982). Although Rahman notes that 'there was nothing inherently wrong with [the principles of 'social necessity' and 'public interest']', the overreliance upon these principles by jurists was 'highly detrimental to the integrity of Islamic law itself' (30). Indeed, Rahman criticizes any appeal to either social necessity or public interest as an independent *ratio legis*. The application of such principles must instead be 'reasoned on the Shari'a bases' (30). Along these lines, Rahman approvingly cites the Maliki jurist al-Shatibi: since 'pure reason divorced from the Shari'a principles is unable to yield religious-moral values, reliance must be placed primarily on Shari'a proofs in deducing law' (21). Thus, with respect to the question of legal reform, Rahman's understanding of *maslaha* takes us precisely as far as al-Ghazali's: public welfare may be a useful, auxiliary legal principle, but only insofar as our understanding of it is refracted through revealed wisdom.
38. On the compatibility of *maṣlaḥa* with a decidedly non-rationalist epistemology, see Majid Khadduri, *The Islamic Conception of Justice* (The Johns Hopkins University Press 1984) 137.
39. Euben (n 14) 8–9, 18; Roy (n 3) 50; Bassam Tibi, *Islamism and Islam* (Yale University Press 2012) 25.

40. Griffel (n 13) 45–46.
41. Ahmad ibn Naqib Al-Misri, *Reliance of the Traveller: A Classic Manual of Islamic Sacred Law* (Nuh Ha Mim Keller tr, Amana Publications 1994) a1.2. I have modified the translation.
42. *ibid* a1.4.
43. Griffel (n 13) 44–45; George F Hourani, 'Islamic and Non-Islamic Origins of Mu'tazilite Ethical Rationalism' (1976) 7(1) *International Journal of Middle East Studies* 62; Johnston (n 13) 236.
44. See Watt (n 11) 67–68; William Montgomery Watt, *The Formative Period of Islamic Thought* (Oneworld Publications 1998) 312 for a summary of basic theological differences between the Ash'ariyya and Maturidiyya. Watt, however, does not discuss differences in moral ontology.
45. 'Abd al-Latif ibn 'Abd al-'Aziz ibn Malak, *Sharh Manar al-Anwar fi Usul al-Fiqh* (Dar al-Kutub al-'Ilmiyah 2004) 48:2. Citation found at <<https://ahlussunnah.boards.net/thread/383/adam-deen-misuse-anaf-school>> accessed 9 August 2020. I have benefited from Zameelur Rahman's discussion, found there, of this passage.
46. Robert Gleave, *Inevitable Doubt: Two Theories of Shi'i Jurisprudence* (Brill 2000) 205.
47. 'Abd al-Jabbar (n 37) 22.
48. Bhojani (n 11) 67.
49. Hourani (n 13) 3; Johnston (n 13) 236; Opwis (n 33) 189.
50. Joel L Kraemer, *Humanism in the Renaissance of Islam: The Cultural Revival during the Buyid Age* (Brill 1986) 60–65.
51. Griffel (n 13) 48; Vasalou (n 11) 254.
52. Ahmad ibn 'Abd al-Halim ibn Taymiyah, *Dar' Ta'arud al-'Aql wa-al-Naql* (Vol 1, (Riyadh: Al-Mamlakah al-'Arabiya al-Sa'udiyah, Jami'at al-Imam Muhammad ibn Sa'ud al-Islamiyah 1979–1981) 22:7–8. This passage is cited and translated by Frank Griffel, 'Ibn Taymiyya and His Ash'arite Opponents on Reason and Revelation: Similarities, Differences, and a Vicious Circle' (2018) 108 *The Muslim World* 32. I have modified the translation.

53. Ibn Taymiyah (n 52) 138:9–17. Citation found in Griffel (n 52); translation modified.
54. Ahmad ibn ‘Abd al-Halim ibn Taymiyah, ‘Al-‘Aqida al-Tadmuriyya’ in *Majmu‘Fatawa Shaykh al-Islam Ahman ibn Taymiyya*, (Vol 3, Mu‘assasat al-Risala 1997) 114:4. This passage is cited and translated by Vasalou (n 11). I have modified the translation. Malcolm H Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad ‘Abduh and Rashid Rida* (University of California Press 1966) 79; Johnston (n 13) 251, note that Ibn Taymiyah’s approach to legal questions does not allow *ijtihad* to contradict the letter of the law.
55. Ibn Taymiyah (n 54) 115:3–4. Citation found in Vasalou (n 11); translation modified.
56. See Johnston (n 13) 234–35 for the argument that Muslim reformists have embraced an epistemological shift such that they embrace the capacity of reason to discern the principles behind the divinely revealed law.
57. ‘Abduh and Iqbal precede the Islamists reviewed in the prior section. Nevertheless, they seek to challenge the tendency towards scriptural literalism that predated and would eventually come to characterize the Islamist position.
58. It is not my intention to argue that liberal reform efforts from the last century are, without exception, prone to these shortcomings. As will become clear in Part 4, some modern authors assert (at least implicitly) a moral rationalist epistemology, for which reason they are able to offer a more cogent alternative to Islamist legalism.
59. John L Esposito, *Islam: The Straight Path* (Oxford University Press 1991) 130; Kerr (n 54) 140–43; PJ Vatikiotis, ‘Muhammad ‘Abduh and the Quest for a Muslim Humanism’ (1957) 31 *Islamic Culture* 125.
60. Muhammad ‘Abduh, *Risalat al-Tawhid* (Dar al-Shuruq 1994) 149:14, 32:8. A translation of this text, which I have modified where appropriate, can be found in *The Theology of Unity* (Ishaq Musa‘ad and Kenneth Cragg trs, Arno Press Inc 1980).

61. 'Abduh (n 60) 19:19–20:1.
62. ibid 110:12–13.
63. ibid 118:11.
64. ibid 118:8–10.
65. ibid 79:3.
66. ibid 78:19–22.
67. ibid 76:5–9. The only exception made is for those few 'to whom God has given a perfect reason' (76:9–10). But as 'Abduh makes clear, such souls of 'intellectual excellence' remain 'on a lower level' than the prophets, and must therefore be 'faithful retainers' of their law (shar') (106:12–14).
68. ibid 62:4.
69. ibid 100:17.
70. ibid 101:1–2.
71. ibid 142:4–6.
72. Iqbal (n 9) 118.
73. ibid 123–24.
74. Majid Fakhry, A History of Islamic Philosophy (Columbia University Press 2004) 364.
75. Iqbal (n 9) 15–16.
76. ibid 143.
77. ibid 77.
78. ibid 100.
79. ibid 99.
80. ibid 143. The editor notes that the cited speaker is Iqbal's father.
81. Abdolkarim Soroush, Reason, Freedom, and Democracy in Islam: Essential Writings of Abdolkarim Soroush (Mahmoud Sadri and Ahmad Sadri trs, Oxford University Press 2000) 30.
82. Kurzman (n 5) 16–17.
83. Soroush (n 81) 32–34.

84. *ibid* 127.
85. *ibid* 36.
86. Consider, in this context, Kurzman (n 5) 17.
87. Soroush (n 81) 132.
88. *ibid* 37.
89. *ibid* 105, emphasis added.
90. *ibid* 50.
91. *ibid* 187.
92. *ibid* 189.
93. *ibid* 32.
94. On the importance of ‘Abd al-Jabbar and his Mughni, see Hourani (n 13) 7–8; Richard C Martin and Mark R Woodward, *Defenders of Reason in Islam: Mu’tazilism from Medieval School to Modern Symbol* (Oneworld Publications 1997) 33, 46–49; Abdalla I Mohammed, ‘The Notion of Good and Evil in the Ethics of ‘Abd al-Jabbar: A Philosophical Study, With a Translation of ‘The Determination of Justice and Injustice’ (Al-Ta’dil wa-al-Tajwir) Sections 1–12)’ (PhD Diss, Temple University 1987) 16–20.
95. For a discussion of the Mu’tazili position on these and other uṣūl, see Martin and Woodward (n 94) 62–87; Watt (n 11) 48–52; Watt (n 44) 228–49.
96. Abu ‘l-Hasan ‘Abd al-Jabbar, ‘Kitab al-Usul al-Khamsa’ in ‘Les Usul al-Hamsa du Qadi Abd al Jabbar et Leurs Commentaires’ (1979) 15 *Annales Islamologiques* 47–96. A translation of this text, which I have modified where appropriate, is found in Martin and Woodward (n 94).
97. ‘Abd al-Jabbar (n 96) 79:5–6.
98. *ibid* 80:1–2.
99. *ibid* 79:9–12.
100. *ibid* 80:18–81:4.
101. *ibid* 81:6.
102. *ibid* 81:9–14.
103. *ibid* 81:14.

104. For the relationship between justice ('adl) and goodness (ḥusn), see 'Abd al-Jabbar (n 37) 49–51.
105. This volume is entitled *Al-ta'dīl wa-l-tagwīr*. A translation of this volume, which I have modified where appropriate, is found in *Mohammed* (n 94).
106. 'Abd al-Jabbar (n 37) 59:10–14. This position is attributed to the *mujab-bira* (21:12–14), but as Hourani (n 13), points out, this is a reference to the Ash'ari creed (23–24n17).
107. 'Abd al-Jabbar (n 37) 64:17–18, emphasis added.
108. See Hourani (n 13) 20, for an explanation of this term.
109. 'Abd al-Jabbar (n 37) 18:11–12.
110. *ibid* 59:1–2.
111. *ibid* 11:1.
112. *ibid* 53:11–13.
113. *ibid* 59:17.
114. *ibid* 59:17–60:1.
115. *ibid* 14:2–3.
116. *ibid* 12:3–4.
117. *ibid* 4:2; 'Abd al-Jabbar (n 96) 89:9.
118. 'Abd al-Jabbar (n 37) 59:17–60:1.
119. 'Abd al-Jabbar (n 96) 89:9–22.
120. *ibid* 90:17–18.
121. For the claim that obedience to sharia leads to worldly benefit, see Khomeini (n 4) 28, 33–34; Qutb (n 4) 26, 104; Maududi (n 4) 155.
122. The logic underlying this argument must not be confused with a crude utilitarianism. It is important for 'Abd al-Jabbar that actions are just. Thus, amputating the hand of an innocent man who can be plausibly blamed for theft cannot be condoned, even if it were to achieve the desired deterrent effect. The key aspect of the approach outlined above—in contrast to mere utility maximization, which is indifferent to (or denies the exist-

ence of) the inherent moral status of any action—is the preservation of God’s intention to benefit the pious community, which cannot be unjust.

123. Doing so would arguably extend upon Qur’anic indications regarding the superiority of monogamy. Cf Qur’an 4:3, 4:129.
124. The charge that such an approach to law renders revelation superfluous will be addressed in the following subsection.
125. ‘Abduh (n 60) 78:19–22.
126. Iqbal (n 9) 77.
127. *ibid* 79.
128. Soroush (n 81) 50, 187, 189.
129. *ibid* 32.
130. To be clear, a non-rationalist moral epistemology does not, in itself, necessarily lead to religious legalism. But when such an epistemology is combined with faith in any scripture as the direct and unaltered word of God, submission to the literal meaning of that scripture is the only tenable option.
131. Bhojani (n 11) 67; Griffel (n 13) 44; Hourani (n 13) 132; Opwis (n 33) 189; Vasalou (n 11) 93.
132. ‘Abd al-Jabbar (n 37) 58:9–11.
133. *ibid* 58:15–16.
134. Kerr (n 54), notes a fundamental similarity between Maturidi epistemology and the epistemology of ‘Abduh (n 60) (127), although he slightly overstates the moral rationalism of the Maturidiyya.
135. ‘Abd al-Jabbar (n 37) Vol 14, 23:3–4, emphasis added.
136. Hourani (n 13) 131–32; Mohammed (n 94) 75.
137. ‘Abduh (n 60) 79:6–8, emphasis added.
138. ‘Abd al-Jabbar (n 37) 59:10–12.
139. Hasan Hanafi, *Islam in the Modern World, Volume 1: Religion, Ideology and Development* (Dar Kebaa Bookshop 2000) 59.
140. Hasan Hanafi, *Islam in the Modern World, Volume 2: Tradition, Revolu-*

tion and Culture (Dar Kebaa Bookshop 2000) 147, emphasis added.

141. *ibid* 266. Indeed, with statements such as this last one, Hanafi seems to go beyond 'Abd al-Jabbar, who maintains that revelation warns us away from evils and point us toward goods that are not rationally comprehensible as such, as discussed in the previous subsection.
142. *ibid* 113.
143. *ibid* 188, emphasis added.
144. Hanafi (n 139) 489.
145. Mohammed Abed al-Jabri, *Democracy, Human Right and Law in Islamic Thought* (IB Tauris Publishers 2009) 19.
146. *ibid* 19.
147. *ibid* 79, emphasis added. Cf Rahman (n 6) 30; see (n 37).
148. Al-Jabri (n 145) 26, emphasis added.
149. *ibid* 64.
150. In using this term, I follow the periodization of Marshall Hodgson, *The Venture of Islam, Volume 1: The Classical Age of Islam* (University of Chicago Press 1974) 96.
151. See, for example, Rahman (n 6) 37–39, 151–54.
152. *ibid* 37.
153. Consider especially *ibid* 19–21.
154. Martin and Woodward (n 94) 128; Fazlur Rahman, *Islam* (University of Chicago Press 1979) 88–90; Rahman (n 6) 67, 152. The modern sense of a Muslim 'orthodoxy' developed over the course of centuries. Rejection of a particular school of theology as inherently heterodox often requires essentializing members of a diverse religious community.
155. See (n 121).