THE WORD OF ISLAM

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Cover and title page calligraphy by Mohamed Zakariya: the Islamic profession of faith, "There is no god but God, and Muhammad is the Messenger of God."
Sura 2:106. . . God did not mean to say that He proposed to bring a verse superior to the first. No part of the Quran is superior to another. He meant to state that He would bring a ruling superior to the first, in the sense of its being easier to perform, or richer in terms of reward. (Ghazali, Mustasfa 1:125) [Cited by Burton 1977: 57]

20. The Case of the Woman Taken in Adultery

This issue of abrogation leads us back to one of the more celebrated incidents recorded in the Gospel of John, that of the woman who was seized in an adulterous act and was then brought to Jesus as a test case.

Jesus bent over and began writing with his finger on the ground. When they continued to press their question, he stood up straight and said, “The one of you who is sinless shall throw the first stone.” Then once again he bent over and continued writing on the ground. When they heard what he said, one by one they went away, the eldest first.

And Jesus was left alone with the woman still standing there in front of him. Jesus stood up and said to the woman, “Where are they? Has no one condemned you?” She answered, “No one, sir.” Jesus said, “Nor do I condemn you. You may go; do not sin again.” (John 8:6–11)

There is a somewhat similar incident that is told of Muhammad, though here a very different point is being made. The story occurs in a tradition going back to Umar and is preserved in Bukhari’s collection of sound traditions.

(According to Umar): “They brought to the Prophet, on whom be God’s blessing and peace, a Jew and a Jewess who had committed fornication. He said to them, ‘What do you find in your Book?’ They said, ‘Our rabbis blacken the faces of the guilty and expose them to public ridicule.’ Abdullah ibn Salam [a Jewish convert] said, ‘Messenger of God, tell the Jews to bring the Torah.’ They brought it but a Jew put his hand over the verse which prescribes stoning and began to read what came before and after it. Ibn Salam said to him, ‘Raise your hand,’ and there was the verse about stoning beneath his hand. The Messenger of God gave the order and they were stoned.” Ibn Umar added: “They were stoned on the level ground and I saw the man leaning over the woman to shield her from the stones.” (Bukhari, Sahih, 4:300–309)

As we have already seen in chapter 3 above, one of the recurrent charges leveled by Muhammad against the Jews, and echoed in the Quran, was that of the falsification of Scripture, and in the example just cited the Prophet shows his fidelity to the Torah-prescribed penalty of stoning, despite the Medinene Jews’ attempt to conceal it. The Quran too is explicit on the matter of adultery and fornication, though in a somewhat unexpected way.

The adulterer and the adulteress should be flogged a hundred lashes each, and no pity for them should deter you from the law of God, if you believe in God and the Last Day, and the punishment should be witnessed by a body of believers. (Quran 24:2)

Stoning, then, as a penalty for adultery is nowhere mentioned in the Quran, though the punishment is prescribed by the Torah and was apparently enforced by Muhammad. The reconciliation was effected through an already cited Prophetic tradition related on the authority of Ubada, and in this case the divine inspiration for Muhammad’s utterance is carefully underlined.

The descent of inspiration was troublesome to the Prophet. His face would go ashen in color. One day inspiration came down upon him and he showed the usual signs of distress. When he recovered he said: “Take it from me! God has appointed a way for the women: the non-virgin with the non-virgin and the virgin with the virgin. The non-virgin, one hundred strokes and death by stoning; the virgin, one hundred strokes and banishment for a year.” [Burton 1977: 74]

Put in this fashion, a Prophetic tradition would simply have abrogated the Quran. But some at least must have had reservations since another set of traditions, this time reported of Muhammad’s companion and the second Caliph of Islam, Umar ibn al-Khattab, suggested that a stoning penalty actually had been revealed as part of the Quran, though it was not in the present copies. According to Umar:

God sent Muhammad with the truth and revealed him the Book. Part of what God revealed was the stoning verse. We used to recite it and we memorized it. The Prophet stoned and we have stoned after him. I fear that with the passage of time some will say, “We do not find stoning in the Book of God,” and will therefore neglect a divine injunction which God revealed. Stoning is a just claim. [Burton 1977: 77–78]

Why then did not Umar add it to the text of the Quran?

By Him who holds my soul in His hand! Except that men would say “Umar has added it to the Book of God” I would write it in with my own hand. “The married man and the married woman, when they fornicate, stone them outright.” [Burton 1977: 78]
The principle that one verse of the Quran may abrogate or cancel another, for all its intrinsic interest to the theologian, was not the crucial point with regard to Islamic law, however. For the lawyers the more troublesome question was whether a tradition reported from and attributed to the Prophet could replace a Quranic prescription. At first there was resistance to the notion that one of the Prophet’s sayings could invalidate a Quranic prescription, as appears in what Shafi’i says next.

God has declared that He abrogated revelations of the Book only by means of other revelations in it; that the Prophetic tradition cannot abrogate the Book but that it should only follow what is laid down in the Book, and that the Prophetic tradition is intended to explain the meaning of a revelation of a general nature set forth in the Book. For God said:

“When Our clear messages are recited to them, those who do not hope to meet Us say: ‘Bring a different Quran, or make amendments in this one.’ Say: ‘It is not for me to change it of my will. I follow only what was revealed to me. If I disobey my Lord, I fear the punishment of an awful Day.’” (Quran 10:15)

Thus God informed men that He had commanded His Prophet to obey what was revealed to him but that he did not empower him to alter (the Book) of his own accord. (Shafi’i, Treatise) [Shafi’i 1961: 123–124]

And what of the Prophetic tradition itself? May it too be abrogated? Shafi’i replies:

In like manner the tradition of the Prophet states: Nothing can abrogate it except another tradition of the Prophet. If God were to address to His Messenger a revelation on a matter on which Muhammad had provided a tradition different from what God had addressed to him, the Prophet would (then) provide a tradition in conformity with whatever God had revealed to him, and thus he would make clear to men that he was providing a tradition that abrogated one earlier or contrary to it. (Shafi’i, Treatise) [Shafi’i 1961: 125]

But lawyers know that neither life nor law is so simple.

Someone may ask: It is possible to assume that there was a transmitted tradition which was abrogated, while the abrogating tradition was not transmitted?

Shafi’i replied: That is impossible. . . . Were this possible the entire Prophetic tradition might be abandoned by men, for they would then say, “Perhaps it was abrogated.” No duty has ever been abrogated unless it was replaced by another. The abrogation of the prayer-direction toward Jerusalem by another in the direction of the Ka’ba is a case in point. (Shafi’i, Treatise) [Shafi’i 1961: 126]

But the importance given to those divinely certified traditions by legal scholars—and Shafi’i was chief among them—eventually prevailed, and what passed into Muslim orthodoxy was the principle that the Quran could be abrogated by both the Quran and the tradition of the Prophet. The argument is laid out with great clarity by Ghazali (d. 1111 C.E.).

There is no dispute concerning the view that the Prophet did not abrogate the Quran on his own authority [cf. Quran 10:16: “And when Our clear revelations are recited to them, they who look not for the meeting with Us say: Bring a Quran other than this, or change it. Say (O Muhammad): It is not for me to change it of my own accord. I only follow that which is inspired in me . . .”], He did it in response to revelation [cf. Quran 53:3–4: “Not does he speak of his own desire. It is nothing but an inspiration that is inspired”]. The abrogating text in such cases is not worded in the Quranic style.

Even if we consider the Prophet capable of abrogating the Quran on the basis of his own reflection, the authority to exercise his discretion derived from God. Thus God does the actual abrogating, operating through the medium of His Prophet. Consequently, one should hold that the rulings of the Quran may (also) be abrogated by the Prophet, rather than solely by (another verse of) the Quran. Although the inspiration in these cases is not Quranic inspiration, the word of God is nonetheless one, and God’s word is both the abrogating and the abrogated. God does not have two words, one in the Quranic style which we are bidden to recite publicly, and called the Quran, while the other word is not Quran. God has but one word which differs in the mode of its expression. On occasions God indicates His word by the Quran; on others, by words in another style, not publicly recited, and called the Prophetic tradition.

Both are mediated by the Prophet. In each case the abrogator is God alone who indicates the abrogation by means of His Prophet, who instructs us of the abrogation of His Book. Thus none other but the Prophet is capable of manifesting; none other but God of initiating. Were God in this manner to abrogate a verse by the instrumentality of His Prophet, and subsequently to bring another verse similar to the one that had been abrogated, He would have made good His promise (in
be found except in regions inhabited (by them). The books of the Shi'a are thus found in Shi'ite countries and wherever Shi'ite dynasties exist, in the West, the East and in the Yemen. The same applies to the Kharijites.

Malik ibn Anas was followed by al-Shafi'i. He traveled to Iraq after Malik's time. He met the followers of the imam Abu Hanifah and learned from them. He combined the approach of the Hijazis with those of the Iraqis. He founded his own school and opposed Malik on many points. Malik and al-Shafi'i were followed by Ahmad ibn Hanbal [d. 855 C.E.]. He was one of the highest ranking scholars of the Prophetic traditions. His followers studied with those of Abu Hanifah, notwithstanding the abundant knowledge of Prophetic traditions they themselves possessed. They founded another school. (Ibn Khaldun, *Muqaddima* 6.14) [Ibn Khaldun 1967: 3:4–8]

18. The End of the Age of the Fathers

Just as a consensus developed among medieval Christians that the line of the "Fathers of the Church" had come to an end sometime in the era of John of Damascus (d. ca. 750 C.E.), the Muslims too reflectively closed what was called the "gate of independent judgment" and denied later scholars the same freedom enjoyed by earlier Muslim lawyers to derive fresh legal principles from the data of the Quran and the Prophetic traditions. The phrase "closing the gate" has an ominous ring. However, it should be understood not as the death of an intellectual enterprise but as a herald of the advent of scholasticism, when scholars had to couch their legal speculations in the form of commentary and explication on an established body of masters, in this case the developed doctrine of the canonical schools.

Well into the era of scholasticism, Ibn Khaldun attempts to explain why this had occurred.

These four authorities [that is, Malik ibn Anas, Abu Hanifah, al-Shafi'i, and Ahmad ibn Hanbal] are the ones recognized by tradition in Muslim cities. Tradition-bound people obliterated all other authorities and scholars no longer admitted any differences of opinion. The technical terminology became very diversified, and there are obstacles preventing people from attaining the level of independent judgment. It was also feared that the existence of differences of opinion might affect unqualified people whose opinion and religion could not be trusted. Thus, scholars came to profess their inability to apply independent judg-

Quran, Prophet, and Law

As both Shafi'i and Ibn Khaldun pointed out more than once, there was no more troublesome issue in Islamic law than that of abrogation, the annulment of one divine ordinance and the substitution of another such in its place, "so that what is lawful may become unlawful and what is unlawful may become lawful," asTabari says. The question is in fact raised by the Quran itself:

When we cancel a message [or "verse"] or throw it into oblivion, We replace it with a better one or one similar. Do you not know that God has power over all things? (Quran 2:106)

When we substitute a revelation for another revelation—God knows best what He reveals—[say], you (Muhammad) have made it up. (Quran 15:101)

*This is Shafi'i's view of the passages and the principle behind them.*

God indeed created mankind for whatever His established knowledge desired in creating it and for whatever its destiny should be. There is no reversal at all in His judgment, He being swift of reckoning. And He revealed to them the Book that explains everything as a guide and a mercy. In it He laid down some duties which He confirmed and others which He abrogated, as a mercy to His people so as to lighten their burden and to comfort them in addition to the favors which He began to bestow upon them. For the fulfillment of the duties which He confirmed, He rewarded them with Paradise and with salvation from His punishment. His mercy has included all of them in what He confirmed and what He abrogated. Praise be to Him for his favors. (Shafi'i, Treatise) [Shafi'i 1961: 173]
tory, forbidden, recommendable, disliked, or permissible. These laws are derived from the Quran and the Prophetic traditions and from the evidence the Lawgiver [that is, Muhammad] has established for a knowledge of the laws. The law evolved from the whole of this evidence is called jurisprudence.

And then, as he does for all the sciences under discussion, Ibn Khaldun launches into a capsule history of the discipline.

The early Muslims evolved the laws from that evidence, though unavoidably they differed in the interpretation of it. The evidence is mostly derived from texts; the texts are in Arabic. In many instances, and particularly with regard to legal concepts, there are celebrated differences among them as to the meaning implicit in the words. Furthermore, the Prophetic traditions differ widely in respect of the reliability of the recensions; their legal contents, as a rule, are contradictory. Therefore a decision is needed. This makes for differences of opinion. Furthermore, evidence not derived from texts causes still other differences of opinion. Then there are new cases which arise and are not covered by the texts. They are referred by analogy to things that are covered by the texts. All this serves to stir up avoidable differences of opinion, and this is why differences of opinion occurred among the early Muslims and the religious leaders after them.

Moreover, not all the men around Muhammad were qualified to give legal opinions. Not all of them could serve as sources for religious practice; that was restricted to men who knew the Quran and were acquainted with the abrogating and the abrogated, the ambiguous and the unambiguous verses, and with all the rest of the evidence that can be derived from the Quran, since they have learned these matters from the Prophet directly, or from their higher ranking colleagues who had learned it from him. These men were called “readers,” that is, men who were able to read the Quran. (Ibn Khaldun, *Muqaddima* 6.14) [IBN KHALDUN 1967: 334]

17. The Classical Schools

Ibn Khaldun continues his survey of the evolution of Islamic jurisprudence, told, as was usual for him, from the perspective of a social historian.

It continued to be that way at the beginning of Islam. Then the cities of Islam grew, and illiteracy disappeared from among the Arabs because of their constant occupation with the Quran. Now the develop-
obtain it (and perform the consequent obligation), they will be re-
warded.

The classic example of a "collective obligation" is that of the Holy
War (see Chapter 3 above), to which Shafi'i now turns.

God has imposed the duty of Holy War, as laid down in His Book
and uttered by His Prophet's tongue. He stressed the calling to Holy
War as follows:

"God has verily bought the souls and possessions of the faith-
ful in exchange for Paradise. They fight in the way of God
and kill and are killed. This is a promise incumbent on Him,
as in the Torah, so the Gospel and the Quran. And who is
more true to his promise than God? So rejoice at the bargain
you have made with Him; for this will be triumph supreme."
(Quran 9:111)

A number of other Quranic passages on the subject are cited. Then
Shafi'i resumes:

These communications mean that the Holy War, and rising up in
arms in particular, is obligatory for all able-bodied believers, exempting
no one, just as prayer, pilgrimage and ams are performed, and no
person is permitted to perform the duty for another, since performance
by one will not fulfill the duty for another.

They may also mean that the duty of Holy War is a collective duty
different from that of prayer: Those who perform it in a war against the
polytheists will fulfill the duty and receive the supererogatory merit,
thereby preventing those who remained behind from falling into error.

But God has not put the two categories of men on an equal foot-
ing, for He said:

"Such believers who sit at home—unless they have an in-
jury—are not the equals of those who fight in the path of
God with their possessions and their selves. . . . God has
promised the best of things to both, and He has preferred
those who fight to those who sit at home by granting them a
mighty reward." (Quran 4:97)

He asked: What is the proof for your opinion that if some people
perform the duty, the others would be relieved of the punishment?
It is in the communication I have just cited. . . . God said: "Yet to
each God has promised the best of things." Thus God promised "the best

of things" for those who stayed behind and could not go to the Holy
War, although He clearly specified His preference for those who went
to the Holy War over those who stayed at home. If those who stayed at
home were in error, while others were fighting, they would be com-
mitting a sin, unless God forgives them, rather than receiving "the best
of things." (Shafi'i, Treatise) [SHAF'I 1961: 82-86]

16. The Evolution of Islamic Jurisprudence

The early evolution of Islamic law took place in widely scattered centers
across the Islamic world. Not even Shafi'i's attempts at imposing a kind of
order on its development eradicated or even inhibited the continued growth
of different schools of legal interpretation, each of them recognized as
orthodox and legitimate by the others. Thus the Shafi'iite, Maliki, Han-
afite, and Hanbalite schools founded by and named after early masters of
Islamic jurisprudence flourished and continued to flourish among Muslims.
They differ on specific points of theory and practice, but their differences
are not very substantial, nor do their practices much differ from the positive
precepts of Shi'ite law, though this latter has a considerably divergent view
of what lawyers call "the roots of jurisprudence." The four major Sunni
schools recognized, with varying degrees of enthusiasm, the Quran, the
sunnah of the Prophet (as expressed in the hadith), the consensus of the
community, and a measure of personal interpretation (ijtihad) as the basis
of the shari'ah; the Shi'ites, on the other hand, relied heavily upon the
infallible teachings of the Imams and rejected the consensus of the com-
unity out of hand.

All these matters are addressed by Ibn Khaldun, who gave over a part
of his Prolegomenon to History to a description of the origin and evolu-
tion of the various sciences found in Islam. Some of these are what he calls
"speculative," that is, they rely on the unaided use of the human intellect
for their development and understanding. Others, as we have seen, are
"traditioned" and are essentially the elaboration of revealed data given in
the Quran and the Prophetic traditions. The former are by and large the
legacy of Hellenism in Islam, while the latter are an Arab creation and are
indigenous to Islam.

Primary among the "traditioned" sciences is the one called jurispru-
dence (fiqh).

Jurisprudence is the knowledge of the classification of the laws of
God, which concern the actions of all responsible Muslims, as obliga-