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Justice

*You are the best community ever raised up for humanity.
You enjoin what is right and forbid what is wrong,
and you believe in God. (3:110)*

This inspiring *aya* or verse from the Qur'an seems to suggest that Muslims are a wonderful group of people, since they behave well, avoid sin, and believe in God. It is not entirely clear, however, since it could be that Muslims are just better than everyone else or perhaps the claim is that if they live up to the standards of Islam they would be, but this is more of a challenge than a report on a fact. It calls on people to think about whether they really pursue justice and avoid evil and believe in God. It is of course very easy to claim such ambitions and beliefs but something quite different to actually embody them in one's conduct. What we do get in this claim though is the idea that the Islamic system as a whole is especially close to morality and also correct religious belief, and that these are all related to each other in some way. But in what way? It is worth pointing out that the Arabic term for ethics, *akhlaq*, is linked with the words *makhluq*, created, and of course to the creator, *khaliq*. To attempt at being a bit more precise on this issue is important since otherwise we are left with some vague platitudes about law and ethics bearing a relationship to each other that really does not tell us anything about either law or ethics. It will be argued here that the relationship, although it clearly exists, is far more complex than is often appreciated.

It is often said that law is very important in Islam, and no doubt it is. Here we are more interested in how law brings out moral ideas and helps us see how they operate in practice. In law there is often a question of how someone ought to behave, and this in turn refers us back to how God expects us to behave, and there is some degree of unclarity about the precise nature of our duty. The various schools of law in Islam provide a variety of views on these issues, and like all religious law they refer us back eventually to the

source of the law, God. It would seem then that the situation is quite clear; we wonder how to act, we refer back to God and His teachings, and we act accordingly. It is not easy to disentangle ethics in Islam from law, or so it is often claimed. Law is certainly very significant in Islam, but then it is in other religions also, such as Judaism, and this leads to a number of problems. Traditionally philosophers have felt it was important to distinguish between certain distinct kinds of language, since often the rules that apply to each kind is itself distinct. Legal language is not ethical language, although each may refer to the other in a variety of ways. Trying to develop an idea of how law and ethics relate to each other in Islam is an important task, and it is the aim of this chapter to move us along in that direction. Commentators often make vague claims about the connection between law and ethics in Islam, and we should be suspicious of many of these. In this book a number of legal issues will be discussed, and since this is not a book on Islamic law but on ethics the obvious assumption is that they are relevant. But why are they relevant? One way of answering this question would be to look at four ways of linking law and ethics. This gets us to what are four fallacies in working out the nature of the link.

Fallacy of basing ethics on law

Religious law, we are often told, comes from God. There is certainly plenty of law in the Qur'an, and that comes from God according to Islam, so law comes from God and is the basis or perhaps part of the basis of informing us how to act. There is much more to it than that, though, since on the basis of the Qur'an and other sources such as the hadith and the teachings of the imams, depending on what sort of Muslim one is, there is a development of a variety of legal doctrines and schools. To actually work out how to act in a particular case one would normally look at the religious sources in the Qur'an and so on, plus make some acknowledgment of the legal school to which one adheres. Of course, normally this is the school of the region or the one to which your family or group belongs. At least within the Sunni tradition there is general acceptance of all the groups, and this has been extended recently even to Shi'a and Ibadi legal schools being accorded the same respect, although this is very much an official policy of governments and not necessarily often followed by most Sunnis.

A problem here is that ethics is about working out how to behave, and law gives us a variety of different kinds of advice. It is not like being given different directions about how to get from A to B. B is the same for everyone, but in the case of law we do not end up in the same place, in the sense that we are often told to do different things. For example, some schools of law regard particular behavior as acceptable, while for others it is not, and there is a whole continuum of views on many issues. Perhaps B is the same because it represents the will of God. But how can God want us to do different

things? He could perhaps value the process of disagreement and debate, and not care especially how people behave, yet this seems far from what we know about how Islam describes human action and its consequences. We do just have to accept that different legal opinions can be given in a particular case, one judge goes in one direction, and others in different directions, so it is not as though one could just read ethical conclusions from legal statements. There are of course different legal schools, and even within one school lawyers differ on the correct judgment. Basing ethics on law would be basing it on a range of theoretical approaches that would tend to go in a variety of directions. How people ought to act ought to be based on something more solid than that. We tend to think there is a right and a wrong here, and we have to work hard to get the right line on the issue. From a religious point of view, ethics is closely linked with God, hence the idea of justice being something objective, yet law is obviously very different, based as it is on the changing perceptions of particular fallible lawyers.

Fallacy of basing law on ethics

A more plausible line might seem to be that law embodies ethical principles, and these are variously interpreted by the different legal thinkers. They can be identified in the Qur'an and other sources, and the point of law is to accord with them. Here we are seen as taking a variety of routes from A to B and B really is the same terminus for all the journeys. B can be seen as justice or mercy or happiness and so on. It is not difficult to argue that in religion the legal rules are aimed at such ends. Islam proves to be an exception here, however. Think of the protracted discussion between Musa and Khidr. Musa, the prophet Musa, seeks to understand what happens in terms of familiar moral categories, and he always gets it wrong. What we should do is a matter of being guided by someone with real knowledge and the ultimate source of such knowledge is of course God. He is presumably the source of both law and ethics, ultimately at least, and it is wrong to see the latter as grounding the former. Only God "has the keys of all that is hidden" (6:59) and the prophets' role is to interpret the signs of God. So, after having interpreted the dreams of Pharaoh's dignitaries, Yusuf adds: "Did I not tell you that God has made known to me things you do not know at all? . . . O my father, this is the meaning (*ta'wil*) of my previous dream; my lord made it true" (12:96-100). God is the truth and He produces the truth both in His various revelations and in the world He created. Our scope for understanding our duties based on what we know prior to or without revelation is limited indeed. Even after revelation our scope for knowing why we need to behave in the way we do is also limited. After all, tradition is no guide since the customs and practices of the past are often based on nothing more than just being old. If we do not understand our moral duties in various situations, basing law on what we do in those situations will be

to base them on something very weak. We just have to accept that without divine guidance we are in very bad shape morally speaking, and even with it there is much about morality that is still obscure to us.

Some argue that we can work out our duties by using reason alone, since reason will enable us to decide how we ought to behave. This is very far from the view of the Qur'an, though, which is full of comments on the need for guidance through revelation. It might be suggested, and some philosophers made this argument, that while most people need guidance, philosophers can do it by themselves. We will consider this view in due course, but even these thinkers did not think that law could be based entirely on reason. Law clearly has a public function and needs to engage with the entire community, and although it clearly has a rational structure, it has a complexity that makes it distinct from ethics. There is much in it that has no apparent reason apart from the fact that God advocated it, and we shall see how pervasive this theme is in the Qur'an.

Fallacy of separating ethics from law

We might feel like throwing up our hands in the air and giving up on linking ethics with law, and saying they are entirely distinct. But they are not at all, the Qur'an refers time and again to the ethical import of what it urges us to do. It is not just a matter of what God wants us to do, although this is clearly how we are expected to acquire our information about our duties. Law would embody that ethics in practice in some way. Not all rules are ethical although their rationale might be. Prayer is an example that is often used. It is obvious that we should pray but the manner in which we should pray is not at all obvious. This is what is often said, but it is not entirely clear why we should be grateful for something that is not necessarily something we wanted. It may be that we would prefer never to have been born. In any case, since the creation is something we did not request why should we be grateful for it? Someone who asks for something might want to thank his or her benefactor, but someone who receives help they did not request may or not like to thank their benefactor. After all, in the case of God he creates out of pure grace—it is not a transaction of any kind and he might feel embarrassed to be thanked. It is a bit like someone going to a café and buying two coffees, one for herself and one for someone else she does not know who cannot afford a coffee but would like one. She neither expects nor wants to be thanked and similarly for many acts of virtue of a similar nature. Many people who give to charity and do not give to beggars and panhandlers do it because they do not want to receive the unctuous thanks of those they assist. They want to do good without that personal contact, and we would normally say that was a superior form of doing good. It seems strange that God should seem so intent on being thanked.

We are told that “were it not for God’s grace and His mercy for you in this world and the hereafter, you would have suffered a great punishment for what you did” (24:14, see also *ayat* 10, 20 and 21 of the same sura, and 2:64, 4:83, 113). There are many references to *fadl* or grace in the Book and the central theme is that God is far kinder to everyone than they deserve, and that this happens without any expectation or even scope for a return. The Qur’an often reads superficially as a rather grim text, with its emphasis on justice and punishment in the next world, yet really in the idea of grace we do receive what it calls “good news” at 33:47 (see also 10:60). The idea is that on the whole people do not deserve to be treated well, but they are, and this has obvious implications for how we should treat each other. Justice is certainly important and should underlay the basic rules of morality, doing good and urging against evil. There is a higher morality though where we put up with people who go wrong on occasion and forgive them, or forgive them in general, as we hope God will do with us. Would this not suggest that we do not need to bother to try to act well, since God may well forgive us whatever we do? He may, of course, but He might also be critical of our having this sort of motive behind our behavior, and this could have serious consequences for us. The point is that our eventual fate looks quite arbitrary if we could be rewarded even though we do not really deserve it. Yet this might be taken to be a rather realistic angle on morality. We do not know how we are going to end up in our daily affairs, we may plan for one thing and get something else, we may deserve a particular result and someone entirely undeserving gets it, and we get nothing. It is often said that this is a problem of evil-type issue, and there is no such problem in Islam. The problem is only a problem if we think that justice should prevail in the world. When we see that it does not we could hope that it will take place in the next world, and so balance out what happens in this world, as the Mu’tazilites suggest. On the other hand, we might prefer to live in a fairly unpredictable world, one where God is always ready to forgive us even when we slip up, and we have to cope with the idea of evil people being eventually successful on occasion.

The Qur’an does seem to value some kinds of diversity, and one kind is where people do different things and have to try to work out what they ought to do and what they should avoid. Although God has given us this information at every time through his messengers and prophets, some people perhaps do not get the message or understand it or even want to obey it. We do not after all always do what is in our interests. For example, we should all be careful crossing the road, we should stop, look, listen, and think, but we do not all do this and that makes life for drivers and pedestrians more interesting. As pedestrians we do not know if drivers will always obey the law, sometimes they just do not stop when they are supposed to, and accidents may result. It is very unpleasant to be involved in such an incident, but on the positive side it does make life much more interesting. We never know when we leave the house if we are going to get to where we want to

go, and of course we never know even if we stay at home whether we shall be safe. When something goes wrong we are naturally upset, yet a society in which everything ran smoothly and without anyone breaking the rules, a society of angels, would be a poor place to live. Some people would no doubt prefer it, but they would be wrong, since such a society would lack flavor and excitement, and these are aspects of what counts as a valuable life for human beings.

If prayer is required by religion, as it is by Islam, it is for some reason that has nothing to do with what God needs or wants and much more about what is helpful to us. Presumably, if God creates effortlessly, as He presumably does since He is omnipotent, it is difficult to argue we should be grateful for what he does, since it did not cost Him anything, no effort was involved at all. This view is only given support by our description as slaves or servants, since despite the suggestion of some recent apologists for colonialism, and especially Islamic systems of slavery, slaves are often not treated well. The Qur'an claims we are treated fairly, taking into account both this and the next world. Perhaps that is something we should be grateful for, since our normal experience is that often we are treated very differently. But the evidence before us is very different. We do not appear to be treated well, nice people get sick and die young, leaving their children to fend for themselves, while evil people live for a long time and seem to encounter few problems in life. It could of course be sorted out more equitably in the next world, but right now we have no evidence that it is. Religious law, the law established by God for our conduct, must be designed to help us flourish in some way, if God is benign, as we are told He is, and so it must be connected to our behavior, to ethics. But how close is the connection?

Fallacy of identifying ethics with law

Although ethics and law are clearly linked, precisely how they are linked is the matter at issue here. As so often, religion is much more subtle in its description of itself than are those who seek to explain it. Ethics is not the same as law. The reasoning processes involved in each are distinct, as the *mashba'i* or peripatetic thinkers often pointed out. Religion is an explanation that resonates with the public at large and explains how we should behave. Law is largely dialectical, it starts with principles that it itself establishes as true and works from there to their implications, the whole process is valid but its demonstrative strength is limited by the scope of the initial premises. This might seem to be wrong since surely law is so important in Islam that we cannot think of Islamic ethics without also thinking about law. One of the objections made to IVF is that the precise identity of the father of the eventual child may remain hazy, yet in Islamic law it is important to know the father of the child, since it is through the father that a child receives his legal identity. If IVF means that the paternity of a child is thrown into doubt,

then it is better avoided. It could be argued that the point about paternity is that in society, especially the societies in the past in which most Muslims lived, being without a father was a source of considerable social stigma. The Prophet himself must have been aware of this from his own experience. So if one is to bring about a child without a father then already a problem is established, the child may have an unfortunate start in life and we should prevent that from happening if we can.

On the other hand, in a society where lineage is not significant this might not be a huge issue, especially when it is balanced with the prospect of having no child at all. This would not work as an argument that the legal significance of lineage was no longer important given societal changes, but it would work as an argument that it no longer had the importance it had in the past. The principle that one should not make someone suffer unnecessarily remains ethically valid universally, but the legal principle that is a means to this can vary from time to time, and probably will. The issue is which kinds of suffering are unnecessary. Some suffering is sanctioned and held to have a purpose. Perhaps not everyone is meant to have children, however much they would like to do so. On the other hand, paternity is no longer such a significant social source of identity as in the past, and it would be difficult to argue that it is always worse to be born without a clear route to a father as compared with not being born at all, even within a predominantly Muslim society. Not having children may be taken to have a point. It may be that God thinks we are not the right people to have children, or He has some other task for us with which children would interfere. It may be that eventually we will have children but through a more difficult process than is the case for most people. There is a reason for this, and it lies with God.

It is often said that Islam is too closely linked with law, a complaint that in the past was made about Judaism. Judaism was seen as far too rule-bound a religion to function well in modern society, and Jesus was taken to have criticized this aspect of the religion in his lifetime. Shylock in *The Merchant of Venice* insists on his pound of flesh since that is what the law demands, or so he thinks, and it would be wrong to go against the law. In some ways that complaint against Muslims provides detractors of Islam a way of attacking the religion that can be framed as an attack on *shari'a* rather than on Islam, as though these are distinct. In the past Jews were often criticized for their dependence on the Talmud, it would hardly have done for Christians to criticize the Bible that is obviously also their Bible. The Talmud is full of law, and lots of other things also, and was often a particular target of those critical of Judaism. There is plenty of religious law in Christianity though, as anyone who has tried to have a Catholic marriage annulled will know, and other denominations in the religion also often have quite comprehensive legislative principles to which their followers must adhere. The recent turmoils in the Anglican church, for example, often take place in attempts to change the law, and the ways of doing this are highly legalistic also. Although Jesus is often taken to be a much more spontaneous

religious leader than those in the Jewish establishment against which he struggled, he did say “I have not come to abolish the law ” (Mt. 5:17). More significantly, the various churches have developed into large bureaucracies and these require rules to follow as do their followers. Law is omnipresent in the Abrahamic religions and should not be identified with only one or two members of that group.

One reason why Islam looks so legalistic is the fact that when ethical issues are discussed they often end up being described legally. That makes it look as though ethics and law are the same. A point worth making is that the law provides ethics with a very useful set of examples and ideas to be used to work out what the moral situation actually is. For example, there are some harsh punishments in the Qur’an and in *shari’a* and so it looks like Islamic morality countenances severe penalties on the whole. It is worth adding that in practice there are governments and groups which call themselves Muslim and they carry out the harshest sanctions for what most people would regard as minor offenses or not offenses at all. They naturally justify what they do on religious grounds. There is also much in Islam about forgiveness and mercy, and indeed the latter is a way in which God is frequently described, and surely if He is merciful His creatures might be expected to learn from this and be the same, in so far as they can. So law and ethics cannot really be identified. Someone may require a sanction legally yet be forgiven ethically, and there is nothing problematic about such a dichotomy.

The source of ethics in Islam

There is one issue that was at the heart of early discussions of the nature of ethics in Islam, and it dealt with the foundation of ethics. One might think that there is no issue here at all since presumably God is the foundation of ethics, in the same way that he is what grounds everything like our world and our fates. But one theological group, the Mu’tazilites, were unhappy with this position. Surely some things just are right and other things wrong, and of course we do depend on God to help us work out what these are, but He does not establish their rightness or wrongness. To give an example here, God is surely better at mathematics than we are, but he does not ground mathematics. The latter is a rule governed system that operates independently of anyone and it is no insult to God to suggest that He is not its cause. We can certainly think of him as the cause of our understanding mathematics, since we are created in a way that makes that possible. We could have been created in some other way, like cats, for instance, who despite their pensive attitudes are probably not thinking about quadratic equations.

The thesis that morality is independent of God could be made stronger and it might be suggested that our access to it is also independent of God. That would mean that we could in principle work out how to behave

regardless of revelation. That means that had we not come into contact with a revelation of some kind, we could still know how we should behave. This would be like the mathematics example again, of course we could only think in moral terms if we had been constructed in certain ways, but once we have been, then we can work it out for ourselves. This is important since it means that there is something about rationality that makes it independent of revelation. The debate between the Mu‘tazilites and their enemies looks like a debate about rationality, they value it and their opponents do not, or value it less. We shall come to see that this is an error, however widespread it has become, and it requires examination.

Mu‘tazilites and Ash‘arites

The opponents of the Mu‘tazilites were the Ash‘arites, a group who came to dominate Islamic theology and who argued that morality is based on God. There is no morality without revelation, and earlier revelations are to be replaced by the latest and last, the Qur’an, if we are to grasp our duty. This could mean that it is not possible to be good without divine guidance in some form, or that it is easier to be good with such guidance, generally the thesis was the former. The reason for this is that action itself has no character at all from a moral point of view, it is all a matter of how it is identified by God. Charity (*zakat*) is a good thing, we are told this in the Qur’an, but had we not been told it by a reliable source in this way we would have no reason to think it is a good thing. There is nothing in it that makes it good, its label has to come from without. It is rather like another Ash‘arite theory that supports occasionalism, the idea that causal powers do not reside in things, only in God. We normally link causes with effects, indeed, our lives are based on this but it is a mistake to think that the power to create something new lies in a thing, it lies solely in God who has power over all things. God helps us by creating a world that is lawlike as a reflection of his desire to create an environment in which we can flourish and feel at home. Similarly, in moral life God has established laws and rules that fit in with our propensities, with our nature, but he did not have to do this. He could have done things in any way he wanted, more inconveniently for us perhaps. He is not obliged to create in any way at all, or even to create in the first place. He has created and very kindly provides his creatures with rules of nature and morality and all these fit in with how we are. He did not have to do this, he acts purely out of grace, and so moral and scientific life has to be credited entirely to His decisions.

It is often said that God could do anything He likes with us since we are His possessions, and in the Arabic the phrase often used for a human being is ‘*abd*’ or slave. Right now I am typing on a word processor and it belongs to me, so I could do anything I like with it. I could bang away at the keys with gusto, perhaps risking damaging them. I could be typing relevant

material or just nonsense. On the other hand, just because it is mine does not mean I can do anything at all with it. I am not allowed to hit people over the head with it, for instance. We might even not be impressed were I to destroy it or mistreat it, not that I do not have the right to do so but it is a waste of resources and arbitrary use of an artifact that would have value for others were I to decide not to use it any more. Of course I am not God and I did not create this computer, but I did create the money to buy it and if there are people in the world who would like it and make use of it, for me to destroy it and deny them that opportunity appears to be morally dubious. To take another case where someone has really created something, when writers die they often instruct their executors to destroy their work, work which they themselves exclusively created. Sometimes the executors ignore those instructions and as a result we have some wonderful material by Virgil, Kafka and so on. How do they justify their actions? They sometimes say that although the artist created the work, he does not have the right to destroy it just because he created it. If it has a wider significance to the world as a whole then it might be wrong to go along with the artist's wishes.

This of course is to use the idea of wrong being something independent of the wishes of the Creator, but it is worth examining the idea that just because someone makes something it is then entirely at the maker's disposal. This is not what we say about human beings and the example is often used about human beings and their ability to control what they themselves create. Even in places where slavery was legal owners could not do anything they liked to slaves. Servants also cannot be treated in any way at all, there are rules and regulations, although of course how far they are observed is a valid point. It is an important part of the Ash'arite position that our lack of power with respect to our creator means that we are entirely dependent on Him to tell us how to behave. There are two sides to this and it is important not to conflate them. One is that God determines the meaning of morality, the other is that He determines our access to that meaning. The latter is weaker than the former and seems more plausible from a Qur'anic point of view. After all, we constantly apply moral terms to God as His names, and it is difficult to argue that what we mean by saying that God possesses a virtue is that He possesses what He regards as a virtue, and by default we do too. The Qur'an seems to assume that its audience knows what morality is, what they have problems with is knowing how to apply it.

This is not a good argument, though, since the fact that it is awkward to translate ordinary moral language into language about what God wants merely reflects a difficulty about technical translation. Philosophy is full of arguments that strictly speaking we ought to reformulate ordinary language in order to bring out the logical structure of a sentence, and of course those reformulations do not tend to be very elegant. A utilitarian might unpack a moral claim in terms of its consequences for human welfare, for instance, and some epistemologists would convert ordinary language about objects into language about what can be perceived at a particular time and place.

To the objection that when we use moral language we do not necessarily mean to reflect what God wants comes the response that what we think it means is wrong, and its real meaning is for it to be in line with divine wishes. So when we read, “You who believe! Be upholders of justice, bearing witness for God alone, even against yourselves or your parents and relatives” (4:135), there is no problem in translating justice into something like “the state of affairs that God wishes to prevail.” We can understand something similar from the verse “You who believe! Show integrity for the sake of God, bearing witness with justice. Do not let hatred for a people motivate you into not being just. Be just. That is close to piety (*taqwa*). Fear God. God is aware of what you do” (5:8).

The first quotation reminds people that our conceptions of justice may be at fault, as may those we acquire from others, even those close to us and in authority over us. God is the source of true information about justice and we should not be confused by either tradition or our passions, as in 5:8. This is further emphasized in “And when they do something shameful they say: ‘We found our fathers doing it and God has enjoined it on us’. Say: ‘God really does not command us to do what is shameful.’ Are you saying about God what you do not know?” (7:28). People tend to refer to God as encouraging us to do things that are entirely the reverse of the truth. Muslims often refer to tradition as supporting what they do but we need to recall how critical the Qur’an is of tradition.

It might be argued that the earlier revelations constitute a process of moral education for humanity, and once we arrive at the final revelation those teachings have prepared the way. It is worth noticing that these *ayat* address believers, with the assumption being that they know something about divine intentions. Piety is precisely not allowing our feelings to overwhelm what we know God wants us to do. Believers could include non-Muslims, People of the Book perhaps also, since they are all in receipt of a revelation and can use it to find out how they are to behave. Muslims thinkers differ on this issue, some like al-Ghazali (d. 1111/505) argue that only people who accept the main points of the Qur’an are really believers. Jews and Christians do not give any sort of religious role to the Prophet Muhammad and so are seriously awry (Leaman 2016: 58–59). There is also the theory of *tahrif* or corruption, according to which the original scriptures have been so corrupted by their users that they are useless in telling us how to behave or what to believe. It would be difficult to argue then that Jews and Christians could be regarded as genuine believers.

The role of revelation

Could people have worked out how to behave without any sort of revelation at all? It is worth pointing out that the position that ethics is linked with knowledge of God has a variety of gradations of strength. They range

from the idea that we can work out our duties by using reason alone to the principle that we have no hope of getting anything right morally if we rely on ourselves to work it out, and everything in between. For instance, it might be that we could use our independent thinking to work out the bare bones of our duty but need revelation to find out about the detail. Or the other way around. It is worth mentioning this continuum here since the bald argument about the link between ethics and the divine really tells us very little about either. We need to know precisely what the link is supposed to be and then we can assess how plausible that claim is.

The Ash'arite claim that there is a problem with making God dependent on a moral system separate from Him is a bit overdone. God is dependent on all sorts of things presumably like the rules of chess. It could be that He would prevent people from developing the idea of such a game, but once it is invented it is what it is, for God as well as for us. It could be changed of course but then perhaps it would not be chess. Morality consists of rules and they apply to all agents, including God. It is not as though He should be troubled by the rules in the sense of finding them hard to follow. Justice is justice, although our understandings of it might differ, of course. When God revealed the Qur'an to the Prophet he followed the rules of Arabic, a language that the text is proud of at least in terms of its style, and with earlier revelations he used the local language. He followed the rules of grammar, since otherwise nothing would have been comprehensible. Saying that He is restricted by being obliged to follow the rules of justice is rather beside the point. It is like saying the Qur'an is restricted by following the rules of Arabic.

If God establishes moral rules, as he does in the Qur'an, we need to ask whether we could have developed such rules by ourselves. Some obviously not: "He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than God. But whoever is forced, neither wishing nor going too far, there is no sin upon him. Indeed, God is forgiving and merciful" (2:173). So we have rules about not eating certain things, hardly an extensive list, and we are told at the very same time that if these forbidden foods are necessary for us, presumably if they stand in the way of our life and death, we can forego the ban on them. This is repeated (16:115 and 5:3) and we can take it that severe circumstances are meant here by looking at the end of the *aya*, "But whoever is forced by severe hunger with no inclination to sin then indeed, God is forgiving and merciful" (5:3). We could not have worked out the list of things not to eat by ourselves, apart maybe from animals sacrificed to other gods. On the other hand, this is hardly a substantial list nor does it seem that important since in the same *aya* in which it is raised circumstances appear which mitigate it. It looks like the major moral rules might be those we have acquired from our upbringing and through our use of rationality. The same qualification does not appear when murder or theft or adultery are mentioned.

An example of an important rule not accessible through reason alone is the obligation to pray and fast. Even fasting is mitigated when it is

mentioned: “O you who believe, fasting is prescribed for you as it was upon those before you that you may become righteous” (2:183). In the next *aya* this is qualified and we are told that the fasting will only be for a fixed number of days and can be postponed by those who are traveling and sick. Verse 2:184 ends with the familiar phrase that this is something that is in our interests, although we may not understand why. We shall take up this passage again in the chapter on nature.

The form of prayer is also not provided in the Qur’an, this along with all the rules that emerged are more the province of the analysis of the hadith and the *shari’a* that developed over the early centuries of Islam. It is sometimes argued that we can derive the significance of prayer from reason, although not its particular form, of course. This is because when someone does us a gratuitous favor, like creating us, we are obliged to thank them. It is sometimes said that the *fatihah*, the first *sura* in the Qur’an, represents the Book as a whole because it makes this point, referring to our need to praise God. It also refers to his showing us the straight path. Yet are we obliged to thank someone for creating us, especially if we did not ask to be created? It may be that we would have preferred not to have been created, some of us at least, and some people are definitely born with so much wrong with them that we often wonder what sort of quality of life they can be said to enjoy if any. God presumably is behind their creation in that particular way, and one wonders if they would really thank him for it. Of course, this is not the case for most people, but a large number of people have a rough time of it in this world, they may be slaves with human masters, they may be very poor or heavily persecuted by others, with lives nasty, brutish and not as short as they would like. Thanking God might appear then to be ironic were it to take place. Most people are not in that position, of course, and yet even for them it is certainly polite to thank someone for helping you, but is it a rational imperative? When gratitude is part of the mutual relations of people it serves the purpose of encouraging gratuitously beneficial behavior, but when it is directed at God one wonders what precisely it means. Of course, we may get something out of being grateful to God, the Qur’an often suggests so, and in that case it is worth doing, but that information could hardly arise without revelation.

Sin as error

There is a suggestion that people who go in the wrong moral direction make a mistake. Without revelation we are in trouble knowing how to act and are likely to go awry. This is very much a theme of the Qur’an: “Evil as an example are people who rejected our signs, and wrong themselves” (7:177). They get lost, they fall off or were never on the straight path, and they do not know how to get back to it or onto it in the first place. Are these people who deny all revelation, or some, and who seek to use reason alone, or perhaps

they rely on what tradition tells them? We have seen that the latter is not supposed to be a good idea. The suggestion is that revelation is a necessary condition of moral behavior. Does this mean for everyone or for those who cannot use their intelligence to work out their duties at least in general terms by themselves? It is by no means clear although for al-Ghazali the rule applies to everyone. Morality just is not the sort of activity we can work out for ourselves however rational we are, we need to rely on what we learn from others and ultimately from God, since the world is not organized in such a way that it reveals moral truths to us. The Mu‘tazilites are just wrong about this, they ignore the ways in which people may argue and disagree about morality. They do not understand that reason and morality are actually not in contact with each other most of the time since they deal with very different objects, rules of valid argument on the one hand and human action on the other. Sari Nusseibeh claims that “Mu‘tazilism represents the most daring voice of rationalism in Islam” (2016: 78). This is a point which is constantly made, the Mu‘tazilites are rationalists (according to Nusseibeh, more than the philosophers), their opponents are traditionalists or hostile to reason and Islamic culture suffered long-term damage from the fact that in the theological debate between the two groups the latter won and the former retreated into the Shi‘i world or completely disappeared. This familiar claim needs to be questioned.

Ethics and rationality

The first thing to notice is that when al-Ghazali and others challenge the Mu‘tazilite position they are being just as rational as their opponents. This seems wrong, since the Mu‘tazilites give the leading role to reason, so how can anyone who challenges them be as rational? What we need to notice here is that when al-Ghazali produces an argument for his position, he bases it on an analysis of the difference between moral language and other sorts of language. He argues that it is false to see the former as capable of being generated univocally from our experience of human behavior. That is, we can interpret actions in a variety of ways if we have no criterion from elsewhere to help us discriminate between actions we should admire and those we should reject. There are a variety of different legal ways of defining actions and again for that to be possible we need a legal methodology to apply to the action, not a logical methodology. The logic of action and the logic of theoretical statements are distinct from each other, so if we are to talk about action in a way that respects their rule-governed character, we need to apply some sort of rule to them. It does not emerge from them, it needs to be imposed in some way. There is nothing unreasonable about this position, which is not to say that we should agree with it, but we should acknowledge that it is a perfectly well argued and rational argument. Al-Ghazali argues against his opponents, and his arguments are of course

much better than those of the Mu'tazilites. We cannot just read off the moral qualities of actions by observing them as though the qualities were like weight or color, we have to think of morality as applying to the world in a rather different sort of way. Different people may assess the same action distinctly although they have exactly the same facts before them, something with which we are very familiar. Al-Qaradawi makes the point that God "has made permissibility and prohibition dependent upon intelligible grounds which relate to the welfare of human beings themselves. It thus became known in Islam that the prohibition of something is linked with its evil and harmfulness" (1980: 28). Even those linked with Ash'arism seem to see the law and ethics as having a purpose which makes it rational, no one seems to think that God would command absolutely anything He wishes. He could but why would He? When we are told that God has chosen Islam for us as the best religion, one of the things that means is that it fits in with who we are, something that He knows well since He has designed us in that way. Whether we accept this argument is not at present the issue. What is the issue is whether it is an argument at all. It is, and a perfectly rational one. The argument is that the rules of religion have a basis in who we are and what we should do and avoid doing, and these are topics which can be rationally discussed and assessed.

We can see this in much of Islamic law, such as the laws of war, to be discussed in much more detail in the next chapter. Shaybani, for example, provides many restrictions on what a Muslim army is allowed to do to non-combatants, especially Muslim non-combatants. On the other hand, there are instances where they have to be harmed, since they are deliberately put there by the enemy. Besieging a city is a good example, as projectiles are hurled over the walls and the army rushes in it may easily be the case that civilians are harmed, and the enemy uses them to help preserve themselves. In such a case one other is prepared to harm them or just go away, and Shaybani is clear in the acceptability of harming them, using a variety of the law of double effect. One does not have to feel guilty about harming them or pay compensation since it is the fault of the enemy that they are harmed in the first place, they are not the target. It is easy to see the point of flexibility here, it fits in with how we act and try to reach our ends, making allowances for the particular difficulties that stand in the way of general principles.

This approach seems to fail to do justice to the idea of there being some rules that really defy explanation. What is wrong with eating pigs, for example? Plenty of people do it and seem to suffer no ill effects as a result. Here we need to defer to the idea of a lawgiver knowing more than we do and having to advise us on how to act. We do not know everything but our creator does and there are many matters where we have to defer to Him. This is not a challenge to rationality either. It is an acceptance that there are areas of life over which someone else has far better knowledge than we do. Such an attitude is not confined to religion, of course. When drawing up a legal document my lawyer carries out my instructions, I hope,

but the document itself I have little grasp of, which is why I went to a lawyer in the first place. I just sign where I am told. If he made an error then I am in trouble as a result of what I signed, but it is rational for me to trust someone who I have some idea about and whose work in the past I have perhaps examined and approved. How much more trustworthy, one might say, is our creator, the person who with no self-interest brought the world into existence. It is just as rational to argue that reason has limits beyond which it should not go as it is to claim the contrary. So when we read “But it is possible that you dislike a thing which is good for you, and that you love a thing which is bad for you. But God knows, and you know not” (2:216), we can recognize the truth of the first two claims even if we reject the second statement. There are experts in many areas of life but are there moral experts? *The New York Times* column *The Ethicist* suggests there might be, but reading that column will soon disabuse one. The BBC’s radio program *The Moral Maze* is similarly bereft of ideas beyond smug platitudes and self-important posturing. Morality is more than just clichés and lazy reflections of those accustomed to pontificating in public on ethical issues.

The problem of evil

It is often said that there is no problem of evil in Islam. The problem of evil is the idea that there is a problem in reconciling an omniscient and omnipotent deity who is also perfectly good with the ordinary events of the world. These often look arbitrary and cruel. If God is in control over everything, why would he allow these things to happen? The Book of Job in the Jewish Bible is a good example of how God’s role is questioned thoroughly and there is a lot of skepticism of the traditional theological responses. Even God at the end of the book wants to punish those who give the traditional theological responses! Job or Ayyub in the Qur’an is very different, he suffers but just prays that his suffering will not change his relationship with God. In the Bible Job’s faith never varies but he does raise some challenging and quite impolite charges about God’s role in our world and how He carries it out. Job’s problems arise due to the actions of Satan, of course, and in the Qur’an Satan is told: “Indeed, over my servants you have no authority. Enough for you is your Lord as the organizer of things” (17:65), and 15:42 goes a bit further and admits Satan will be effective with those who follow him. Satan will have authority over those who do not regard themselves as God’s servants, presumably, they are ripe for temptation and the consequences that has for them in both this and the next life. This does not mean that bad things could not happen to anyone but that if they do they have a purpose and eventually there is reward for those who act in the right way. People are sometimes taken to be free to make their own decisions and if they go awry then they risk punishment, although God is always ready to forgive. We are

assured that everything will be alright in the end, divine justice will prevail, although we may not now understand what that is, evil will not prevail.

Now, this is not a solution to the problem of evil which we might find easy to accept. For example, when it is a matter of innocent people suffering, the classic issue that arises for believers, we have to accept that it will all come right for them in the end, and of course with an afterlife there is scope for this to happen. On the other hand, as al-Ghazali says, the idea that such a consequence would make it alright is like having a king who slaps someone for no reason and then compensates him. It all seems rather futile, and unworthy of him. It is better to be compensated than otherwise, but if it was in the power of the king to avoid the injury in the first place, he should do so. This is a real problem with the Mu'tazilite position, although we are often told how rational it is. The idea that in the next world everyone who suffers unfairly in this world is recompensed, including animals, is banal. It is better than nothing, but not a lot better. A child who is born with many things wrong with her and lives a painful life for a period and then dies cannot really be compensated for that, even an infinity of pleasure and unfettered activity could not make it right. There are some pleasures that are enhanced coming as they do at the end of a period of deprivation, like when we are training for a sport and endure the hardship in order to achieve the final end of being good at the activity. Even not eating and drinking for a bit in order to enjoy the eventual feast makes sense, going out in the cold to appreciate the central heating more, and so on, these are all instances where temporary suffering results in longer term pleasure and are quite comprehensible as activities we might choose. Starving to death or being beaten with electric cable really cannot be followed by a life which would make it all better. That is not to say that people cannot endure terrible experiences and put it all right in the end, sometimes it is possible, but can we really make sense of a deity who could prevent such things happening not doing so?

The Ash'arite complaint that if morality is objective then God is forced to act in accordance with it is overdone. Whatever something is, if anyone wants to get involved with it, they will have to abide by its rules or features. If God wants to play chess he will have to regard the fate of the King as being a serious matter. He is not forced to follow any rules unless he wants to engage in an activity that has rules. Does morality have rules? We have argued so far that it does not in the sense of being a game like chess with clear and distinct rules and working principles. Different people may dispute what is right and wrong, ideas of justice vary widely and this is something that the Qur'an itself seems to hint at is a divinely organized fact: "Don't you see that God sends down rain from the sky? With it We then bring out produce of various colors. . . . They really fear God, among His servants, who have knowledge for He is powerful and often forgiving" (35:27-28). These *ayat* stress the different colors of the things that God produces in the world.

The varieties are considered natural and are called “God’s signs” at 30:20-22:

And from amongst His signs is this that He created you from dust . . . among His signs is this that He created for you mates from among yourselves that you may live peacefully with them, and He has put love and mercy between you. In fact there are signs there for those who reflect. And among His signs is the creation of the heavens and the earth and the variations in your languages and colors, in this are surely signs for those who know. And among His signs are the sleep that you take by night and by day, and your efforts out of His grace; there are certainly signs for those who listen. (30:20-23)

What is the point of this variety? We are told: “O people, We have created you from a male and a female and made you into races and tribes so that you may know each other. Surely the most honored of you in the sight of God is the one who is the most righteous of you” (49:13). There could have been uniformity in creation but

To each among you have We prescribed a law and an open path. If God had so willed, He would have made you a single people, but to test you in what He has given you compete in virtue as in a race. The goal of you all is God; it is He that will show you the truth of the matters on which you disagree. (5:48)

Showing us the truth does not necessarily mean that we will understand it, just some idea of what we are supposed to do.

Different views on how to act

Islam does not consider all viewpoints correct or of equal value. However, there is the suggestion that very often the differences of opinions (*ikhtilaf*) are also evidence of divine mercy. If God had so willed, says the Qur’an, He could have forced people to come together on all important issues, but He did not do so. God did send His prophets and messengers, and imams, according to the Shi’a, from time to time so that the right path might be made clear through them. As regards the final judgment as to who followed the truth and who did not, that will be made known on the Day of Judgment by God Himself. In keeping with this principle, God prevented His prophets and followers from having recourse to coercion in religion: “There is no compulsion in religion” (2:256). It is not a difficult step from here to the idea that there is no compulsion in morality either, in the sense that we can allow differences of opinion to exist and be tolerated. There are limits here of course, we would be ill-advised to allow people to think it is a good idea

to kill others if they were so inclined, but a wide range of other moral issues are in play for many communities and one of the major controversies will be precisely about the notion of justice. Plato discusses this in *The Republic* and comes to the conclusion that everyone has different ideas and they all need to agree that behind their differences there is just one real notion of justice, and once we grasp that the debate is at an end. But of course that one real notion became itself yet another competing notion. The suggestion of 5:48 is that God knows the answer to the problem, and if he knows the answer is he forced to act in accordance with it in his judging us?

It is difficult to think of a good argument why this should not be the case. If we know something is true then presumably we should act upon it, human or higher. We do often say that we have no choice. Presumably this is true of the deity also. It is no restriction on our freedom to act on the truth, only people who act arbitrarily would base action on anything else, and we should assume that God acts accordingly. To return to a previous couple of *ayat*:

Don't you see that God sends down rain from the sky? With it We then bring out produce of various colors. And in the mountains are areas white and red, of various shades of color, and dark black. And so there are various colors among men and crawling creatures and cattle. Those truly fear God, among His servants, are those who have knowledge since God is powerful and merciful. (35:27-28)

The diversities of races, families and tribes also have a healthy and constructive purpose, that "you may know each other." In the words of the Qur'an: "O people, We have created you from a male and a female and made you into races and tribes so that you may know each other. Surely the most honored of you in the sight of God is the one who is the most righteous of you" (49:13). This *aya* is constantly quoted by those in favor of pluralism. Yet it does not accord with our experience, in many cases diversity leads to disruption and hostility, and religions often have a tendency to emphasize the significance of everyone being the same and doing the same sort of thing. Some religious groups are offended at the behavior of other groups, or other religions, and actually murder them when they can. Some go so far as to murder them through killing themselves. As so often, the Qur'an is arguing for a state of affairs that seems quite distant from our experience of how people behave in the world, (those who call themselves) Muslims included and there is nothing unusual about that. Religions call for humanity to behave in particular ways and often they do not.

The Ash'arite position is surely right in thinking that religion has to leave room for mystery. Islam, like so many other religions, does this often. Insisting that God adheres to just one concept of justice, the Mu'tazilite idea, is to think we can pierce that mystery and it leaves God with a rather banal notion of justice. All He does is watch what we do and eventually

judges us for our actions. When the Qur'an refers to the significance of variety and diversity we might wonder how to square this with the idea of just one notion of justice. One of the interesting things about living in our sort of world is that everyone sometimes seems to have a different view on what justice is. The reference to colors is helpful here and we might wonder what the point of having different colors is. One answer is that it makes life more exciting and of course vivid. The movie *Pleasantville* brings this out nicely. In the movie the main characters are enchanted with an old black and white TV series with that name. In that fictional town this soap takes place in black and white, everything is comfortable and safe, everyone knows their role in society, there are no conflicts and divisions of any major kind. The fathers go off to work in the morning with their briefcases, the mothers stay home with the kids, the fire brigade never has to deal with fires, it just rescues cats from trees. The main characters are transported to that world and at first enjoy the experience but soon it starts to break up, color starts coming in, and it comes in through the introduction of passion. People start to have strong feelings and they interrupt the smooth flow of agreement and ritual. We start to move from a safe and regulated world to a more dangerous and unpredictable place, and the Qur'an suggests that is a good thing for us. That is how God has designed the world for us. At the same time religions have a tendency to try to regulate away those differences and insist on conformity, and Islam is no exception here.

This is not a bad analogy for ethics. We could follow a very simple set of rules, or try to, and leave it at that. Stealing is wrong and will be punished. There are certain things people are not supposed to eat and drink. Lying is a sin and should be avoided. Adultery is evil and is not to be committed. These are among the rules that Muslims are supposed to follow, and they do not only apply to Muslims but to everyone of course. Would this be how a good person would behave? Not necessarily, since there are situations where it might not be appropriate to do these things. If you are starving might you be allowed to steal? In conditions of starvation the penalties for theft were in the past suspended to recognize the difficulty of acting in such a situation of *darura* or necessity. If only the wrong food is available, it would be a mistake to die of malnutrition. And so on. We can often think of situations where we have to vary our behavior to come as close as we can to getting things right, and this often throws up what lawyers call hard cases, examples where we really cannot see what the right line of action is. Or better, where whatever we do seems either wrong or right.

It is difficult to account for this sort of (familiar) moral dilemma on either the Ash'arite or the Mu'tazilite view. Basically, on the former we are trying to think what God would call right, and that is very unhelpful. He has told us in the Qur'an what he thinks about this, and we have assistance from other sources too, the sunna, the hadith, the imams, and so on, but it is not all black and white. These general principles need to be applied and we often do not know how to apply them in particular cases. Hence

the dilemma. We do have some idea of what God would say in general terms but how to use that in a difficult case is often a mystery. Similarly with the Mu'tazilites, the reference to some objective standard of justice tells us almost nothing that can be used. Of course we are trying to work out the most just solution to the problem, but what is it? Often the Qur'an wants to cash this in using utilitarian kinds of language, but we know how problematic that can be in coming to a solution. Whose happiness, whose welfare, how do we measure it, in both this and the next world, or just in this world? How far can future pleasures compensate us for present pains? These are all familiar issues and any moral theory that implies we can easily solve them is just wrong.

The trouble with Ash'arism and Mu'tazilism is that they both see the link between ethics and law in rather crude terms. The Qur'an itself seems to suggest with its emphasis on the significance of diversity and variety that we should not expect a simple link to exist here. Things change all the time, people are all different, the situations that arise in our lives are complex and often themselves different from each other. Any account of Islamic ethics that does not describe this accurately is going to be incomplete and not in line with the Qur'an. The Qur'an emphasizes the significance of balance, there are ethical principles we are supposed to follow but in certain circumstances they need to be qualified, perhaps, and other factors taken into consideration. This is a feature of ethical debate one cannot help noticing, perfectly sincere people can come to different conclusions as to how to act, and how to act in accordance with religion, and we have to respect that fact and not denounce one conclusion and accept the other as the obvious "Islamic" position. Law and morality do not have a clear relationship, although they are obviously related, and the Qur'an itself is very sophisticated on this topic. It is far less interested in specifying a definite link between law and morality than do its commentators, and this is a theme we shall follow in the rest of this book.

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