CHAPTER 2

The Place of Divine Law in the Qurʾan's Moral Theology

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1 Introduction[1]

The present chapter is an attempt to explore how Qurʾanic legislation fits into the Qurʾan's wider ideas about moral norms and about the relationship between humans and God. To get one important clarification out of the way immediately, I owe my working definition of Qurʾanic 'legislation' or 'law' to Joseph E. Lowry. Lowry proposes to demarcate legislative passages in the Qurʾan as those that 'impose obligations on the qurʾānic audience to engage in specific, repeatable physical (i.e., not purely mental) conduct'.[2] Lowry thus insists on three criteria in order for a Qurʾanic statement to count as 'legal' or 'legislative': 'it (1) enjoins specific, repeatable behaviour that (2) could plausibly be undertaken by the Qurʾanic audience and that (3) is not purely mental.'[3] In accordance with this proposal, I would be reluctant to class as legislative Qurʾanic verses that, say, warn against oppressing orphans (e.g. Q. 93:9) or utter generic demands to pray to God (e.g. Q. 108:2). Nor would I class as legislative a passage like Q. 2:10–13, where a group accused of being 'sick of heart' are prohibited from 'wreaking corruption on earth' and are commanded to 'believe like the people believe'. By contrast, verses that I would consider to fall under the category of Qurʾanic law are the commandment, in Q. 2:144, that the Qurʾanic recipients are to orient themselves towards the Meccan sanctuary when praying (on which see further below), or the prohibition of consuming

1 This chapter was produced in the framework of the research project "Qurʾanic Commentary: An Integrative Paradigm" (*QuCIP*), funded by the European Research Council under the European Union's Horizon 2020 research and innovation programme (grant agreement no. 771047). I am grateful to Joe Lowry for miscellaneous comments and corrections on a draft version.

2 Joseph E. Lowry, 'Law, Structure, and Meaning in Sūrat al-Baqarah', *Journal of the International Qurʾanic Studies Association* 2, no. 1 (2017): 118.

3 Joseph E. Lowry, 'A Guide to the Legal Material in Sūrat al-Nisāʾ', in *Unlocking the Medinan Qurʾan*, ed. Nicolai Sinai (Leiden: Brill, 2022), 424–25n5.

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carrion, blood, or pork in Q. 2:173 and elsewhere.[4] In these latter two cases, all of Lowry's criteria are sufficiently met: the Qur'an's contemporary audience is given specific, repeatable, and not purely mental behavioural instructions. It merits noting that Lowry's proposal has the distinct advantage of not defining the classifiers 'legal' or 'legislative' in terms of a stipulation of 'practical sanctions enforceable by human agencies', to employ a formulation by Noel Coulson.[5] As Coulson rightly observes, the Qur'an frequently omits to specify this-worldly sanctions for infringing upon a given Qur'anic commandment or prohibition.[6]

My preceding endorsement of Lowry's working definition of Qur'anic law prompts an important caveat. Evidently, if the distinction between legislative and non-legislative is drawn in accordance with Lowry, it will not be a sharp line. Rather, it will span an inevitably ill-defined transitional spectrum. This is so because Lowry appeals to the contrast between general and specific, which plainly admits of gradation. For instance, are calls to invoke God *in the morning and the evening* (Q. 3:41, 33:42, 76:25) sufficiently specific in order to count as legislative? Yet this is just what philosophers call a 'sorites paradox': how many grains of sand does it take to constitute a heap? How many residual hairs are still compatible with being bald?[7] There are no hard and fast answers to these questions; yet the inherent vagueness of concepts like baldness or constituting a heap, or indeed of the general contrast between generality and specificity, does not entail that they are vacuous and should (or indeed could) be avoided. Still, the inevitable vagueness of discriminating between what is legal in the Qur'an and what is not, in addition to the frequent lack of this-worldly sanctions noted above, are perhaps important enough in order

4 On the Qur'anic dietary taboos, see Nicolai Sinai, 'The Qur'ān's Dietary Tetralogue: A Diachronic Reconstruction', *Jerusalem Studies in Arabic and Islam* 46 (2019): 113–46.

5 Noel J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 12.

6 Of course, the Qur'anic wording can sometimes offer sufficient grounds for some basic inferences about the this-worldly consequences of certain actions or omissions. But in general, the vanishing point of normative demands imposed by the Qur'an is an eschatological one, which tends to overshadow the need for a detailed stipulation of penalties in the present world. See, for example, Q. 2:278–81, which prohibits 'usury' (*ribā*) and exhorts the addressees to be lenient with debtors who experience hardship. While the passage is not concerned to define in any detail the financial practices deemed to constitute usury or to specify what a reasonable extension to a repayment deadline might look like, the concluding verse is entirely dedicated to reminding the hearers of the need to 'fear a day on which you shall be returned to God'.

7 See Dominic Hyde and Diana Raffman, 'Sorites Paradox', *The Stanford Encyclopedia of Philosophy* (Summer 2018 edition), ed. Edward N. Zalta, https://plato.stanford.edu/archives/sum2018/entries/sorites-paradox/.

for a Qur'anic interpreter to make occasional use of the more hesitant adjective 'quasi-legal', rather than 'legal' or 'legislative' *simpliciter*, when seeking to capture the particular register of Qur'anic discourse under consideration.[8] The category of Qur'anic law is certainly not an unproblematic one, and there is no reason to assume that the Qur'an itself is drawing an impermeable boundary between two normative domains, that of the merely moral and that of the properly legal.[9]

As has been noted before, the ultimate reason for the fact that there is no cleanly demarcatable legal sphere in the Qur'an is the fact that the Qur'an's overriding concern is to instruct its addressees how to evade eschatological damnation and merit paradise.[10] I shall return to this general issue below, but it will be useful to confront the impact that this eschatological horizon has on Qur'anic (quasi-)legislation right away. Consider Q. 2:280, which demands that debtors who are in difficulty are to be given 'respite until a time of ease' (*wa-in kāna dhū ʿusratin fa-naẓiratun ilā maysaratin*). This might look like a legally enforceable claim similar to a tenant's protection against a no-fault eviction, and a legally trained mind would no doubt have all sorts of follow-on questions about the degree of difficulty that triggers a debtor's right to an extension of the term of payment and the minimum delays that must be granted

8 Thus e.g. Nicolai Sinai, 'The Unknown Known: Some Groundwork for Interpreting the Medinan Qur'an', *Mélanges de l'Université Saint-Joseph* 66 (2015–16): 66, 71.

9 Cf. Karen Bauer and Feras Hamza, *Women, Households, and the Hereafter in the Qur'an: A Patronage of Piety* (Oxford: Oxford University Press in association with the Institute of Ismaili Studies, 2023), 24, who note that 'there is no separation of law from ethics in the Qur'an'. See also Nora K. Schmid, 'From Ethico-religious Exhortation to Legal Paraenesis: Functions of Qur'anic *Waʿẓ*', *Islamic Law and Society* 28 (2021): 342: 'Legal discourse framed as *waʿẓ* in the Medinan period is an outgrowth and articulation of Qur'anic ethics.' For further remarks on the importance of Schmid's article, see the final section of this chapter. The fact that the Qur'an does not deploy a terminologically well-established distinction between the legal and the moral could give rise to another objection against talk of 'legal' or 'quasi-legal' material in the Qur'an: if the text that we are interpreting does not make the distinction, who are we to impose it? However, it would be methodologically dubious to insist that an interpreter of the Qur'an is not entitled to introduce analytic descriptors that are not present in the Islamic scripture itself. In fact, in studying documents from other historical periods or other cultural contexts we routinely invoke distinctions that are not explicitly made in the documents we endeavour to interpret, and this can be perfectly legitimate and illuminating. For example, the Qur'an itself does not have an explicit terminological equivalent for, say, 'inclusio' (meaning a literary bracket structure), yet this is nonetheless an eminently useful concept to apply to the Qur'an. Finally, it is also not entirely correct to say that something like our distinction between the legal and the moral is entirely untranslatable into Qur'anic Arabic; see what follows in the main text.

10 The common eschatological horizon that ties together Qur'anic law and Qur'anic ethics is stressed, for instance, in Bauer and Hamza, *Women*, 23–24.

in response to different levels of hardship. Yet the verse simply continues by saying that 'being charitable is better for you (*wa-an taṣaddaqū*), if you have knowledge'. This probably means that creditors are told to do more than just giving a struggling debtor extra time to repay and instead ought to charitably write off the debt itself, or at least part of it. Thus, rather than providing crucial legal detail the verse morphs into a moral appeal to its addressees to do as much as they can, in the hope that their divine judge will eventually take this into due account when determining their fate in the afterlife. Quite obviously, the relatively firm distinction that secular legal systems make between minimum standards of acceptable behaviour that are codified in law and are penally enforced, on the one hand, and more ambitious ethical ideals, such as generosity and fair-mindedness, on the other, which citizens are free to espouse or not, is not present here to the same degree. What the Qurʾan has to offer in the way of behavioural regulations therefore doubly transcends a preoccupation with spelling out precise legal circumstances and consequences in the here and now: human actions are placed against the transcendent horizon of an eschatological reckoning followed by an eternity of consequences; and human agents are frequently enjoined to transcend a minimum threshold of well-defined lawfulness. This is why passages like Q. 2:178, 2:237, 2:280, 4:92, or 5:45 all exhibit a palpable concern with encouraging the Qurʾanic addressees to charitably forego certain entitlements, such as the right to proportionate retaliation or timely repayment of a debt. Nonetheless, despite everything just said it is not the case that the general contrast between the legal and the ethical is completely unilluminating when it comes to the Qurʾan: after all, the present paragraph could not have been written without invoking it. Moreover, it would seem that the Qurʾan itself has an expression for what I have just called 'minimum standards of acceptable behaviour', namely: 'God's boundaries' (*ḥudūd allāh*).[11]

11 References to 'God's boundaries' conclude certain behavioural rules in Q. 2:187 (permission to have intercourse with a spouse during 'the night of the fast' but not during the day and a rule for determining the time when the day is considered to commence), Q. 2:229–30 (on the maximum number of revocable divorce pronouncements), Q. 4:13–14 (following an allocation of minimum shares of inheritance in vv. 11 and 12), Q. 58:4 (atonement for breaking an oath of *ẓihār*), Q. 65:1 (on divorce and a divorced wife's residence during her waiting period or *ʿidda*). There are further general references to God's 'boundaries' in Q. 9:97 and 9:112. For recent comments on the term, see Bauer and Hamza, *Women*, 230 (where the authors similarly understand the *ḥudūd* as a 'minimum for proper action'), 258, 284 ('an outer limit of bad behaviour' that implies 'that there is a moral space in which good people behave in ways that go nowhere near these limits').

Having duly problematised, but hopefully also to some degree defended, talk of 'Qur'anic law', I can now go on to explain my primary interest in thinking about Qur'anic legislation in this chapter, namely, to arrive at a better understanding of the relationship between the Medinan suras of the Qur'an and the earlier Meccan ones. For the purposes of the present discussion, I am assuming,

– first, that scholars have at least some reliable sense of the relative date of Qur'anic suras and are able to draw a reasonably sound dividing line between the Meccan and Medinan parts of the Qur'an;
– and secondly, that virtually all legislative material in the Qur'an is Medinan, i.e. belongs to a chronologically secondary layer of the Islamic scripture.[12]

Therefore, like many other readers of the Qur'an, I discern a palpable shift towards legislation in the Medinan suras. It is ultimately my interest in capturing this difference in tonality between different parts and, diachronically speaking, stages of the Qur'an that makes it seem expedient to me to use descriptors like 'legal' or 'quasi-legal', in spite of the reservations just noted.

What the present chapter aims to elucidate, then, is the Medinan shift towards what is, minimally, a tangibly greater quantity of legal or quasi-legal statements. In particular, I am interested in the question whether this shift amounts to a rupture, to a doctrinal discontinuity. In order to appreciate the pertinence of the problem just posed, it may help to recapitulate here an earlier attempt of mine to describe the change under discussion: the Meccan suras, I wrote,

> do not seem particularly concerned to provide detailed instruction about how to behave; rather, they seem concerned to enjoin and motivate their hearers to abide by a set of previously familiar moral norms, such as solidarity with the poor and the marginalised. The problem seems to be less that the audience does not know how to behave but that they are not properly motivated to behave as they know they ought to. Medinan texts, on the other hand, are keen to provide detailed behavioural instructions pertaining to a wide range of human activities that stretches far beyond the sphere of religious ritual.[13]

12 For my general views on Qur'anic chronology, see Nicolai Sinai, *The Qur'an: A Historical-Critical Introduction* (Edinburgh: Edinburgh University Press, 2017). On the Medinan Qur'an in particular, see the contributions to Nicolai Sinai, ed., *Unlocking the Medinan Qur'an* (Leiden: Brill, 2022), with numerous references to earlier scholarship.

13 Sinai, 'The Unknown Known', 67.

This statement at least hints that the transition from the Meccan to the Medinan suras involves a fundamental transformation of the Qur'anic understanding of the reach of human practical reason: in the Medinan Qur'an, it might seem, the crucial moral task confronting human agents shifts from the domain of *doing* – i.e. from the challenge of implementing what deep down most humans know, or could easily know, they ought to do – to the domain of *knowing* – i.e. to the challenge of attaining an adequately specific understanding of how God expects humans to behave, such knowledge not being available via ordinary moral intuitions and deliberations and therefore needing to derive from revelation. It is, in other words, tempting to view the transition from the Meccan to Medinan suras in terms of a shift from a Muʿtazilī-type insistence that human agents have substantial extra-revelatory access to valid norms of behaviour to an Ashʿarī-adjacent insistence that humans need to be informed about such norms by divine revelation.

Indeed, one might be tempted to go even further and to view the Medinan suras as organically paving the way towards the seminal claim of al-Shāfiʿī (d. 820 CE) that 'nothing befalls any adherent of God's religion (*fa-laysat tanzilu bi-aḥadin min ahli dīn illāhi nāzilatun*) without there being in God's scripture an indication (*al-dalīl*) of the path of guidance concerning it'.[14] What al-Shāfiʿī posits is that scripture – at least when supplemented by the Prophet's *sunna* – points to a legal system that is comprehensive and exhaustive, containing a normative assessment of all conceivable courses of action that might present themselves in response to particular circumstances in the world.[15] So when the Medinan suras offer guidance on how to conduct a divorce (e.g. Q. 65:1–7), how to divide up inheritances (e.g. Q. 4:7–12, 4:176), or how to record loans (Q. 2:282), this may well appear not only as the emergence of a novel, revelation-centred moral epistemology but also as the momentous beginning of a trend towards the idea of a comprehensive divine law as eventually explicated by al-Shāfiʿī.

14 See al-Shāfiʿī, *The Epistle on Legal Theory*, ed. and trans. Joseph E. Lowry (New York: New York University Press, 2013), 12–13 (§16; translation modified).

15 See David R. Vishanoff, *The Formation of Islamic Hermeneutics: How Sunni Legal Theorists Imagined a Revealed Law* (New Haven: American Oriental Society, 2011), 34 (al-Shāfiʿī 'imagined law as a comprehensive and coherent set of rules … dictated entirely by God and accessible to humans through the textual record of Prophetic revelation') and 38–39 (on the passage cited in the main text). For other scholars who have remarked on the crucial premise of legal comprehensiveness, see A. Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (Albany: State University of New York Press, 1995), 16–17, commenting on Ibn Surayj's view that 'Revelation spoke to all human activity', and Sohaira Z.M. Siddiqui, *Law and Politics under the Abbasids: An Intellectual Portrait of al-Juwaynī* (Cambridge: Cambridge University Press, 2019), 106, 187n3, employing the notion of 'scriptural universalism'.

Now, I do think that the plausibility of al-Shāfiʿī's epoch-making claim does to an important degree rest on the form and content of the Medinan suras; if one were to counterfactually imagine a Qurʾanic canon consisting only in the Meccan suras, al-Shāfiʿī's claim would have had significantly less prima facie credibility.[16] Yet I will nonetheless argue that there is no reason to consider the Medinan suras' legislative shift to entail a fundamental theological or epistemological rupture with earlier parts of the Qurʾan. Rather, Medinan law remains tightly and coherently embedded in the Qurʾan's basic worldview.

2 The Qurʾan's Moral Theology

I commence with a summary outline of what I take to be the Qurʾan's fundamental moral framework, shared by Meccan and Medinan texts alike. In explicating this framework, I would accord axiomatic significance to the notion that God's creation of the world serves the basic purpose of 'testing' moral agents, as explicitly stated in several verses (e.g. Q. 11:7, 67:2).[17] The idea that God's creation aids His supreme objective of moral testing is in fact operative throughout the entire Qurʾan, resonating well into the Medinan period (Q. 3:191, 5:48). The cosmos is therefore an environment in which God has placed moral agents in order to subject them to a discriminating assessment of their individual moral performance. It is in accordance with their individual moral track record that these agents will eventually be punished and rewarded in the hereafter,[18] culminating in an eternal state of festive communion with God or, alternatively, one of agonising torture and separation from Him.[19] Thus, one may think of the Qurʾanic cosmos as being a sort of examination hall that presents moral subjects with various problems and challenges to which they can respond correctly or incorrectly.[20] For instance, humans might find themselves blessed with wealth yet fail to be duly grateful to God or fail to make charitable use of

16 Of course, it is also entirely feasible for exegetes of a scriptural canon to go against what is prima facie plausible and persuade a substantial audience that they are right.

17 See in more detail Nicolai Sinai, *Key Terms of the Qurʾan: A Critical Dictionary* (Princeton: Princeton University Press, 2023), 138–41. For other recent publications that underline the importance of the Qurʾanic notion of testing, see Bauer and Hamza, *Women*, 3–4, 21–23, 59, and elsewhere; and Julien Decharneux, *Creation and Contemplation: The Cosmology of the Qurʾān and Its Late Antique Background* (Berlin: Walter de Gruyter, 2023), 18, 40–43.

18 While the Qurʾan insists on God's justice, there is a complementary theme of divine mercy: righteous believers will receive their reward several times over, and God will compassionately pass over or efface their moral slips. See Sinai, *Key Terms*, 23–24, 610–11.

19 Ibid., 194–95, and also 341 (on Q. 57:13).

20 This idea is further developed in my forthcoming 'Social Hierarchy and Inequality in the Qurʾan'.

their wealth; or they might find themselves subject to dire straits but nonetheless respond to these in the manner of Job, who despite his suffering did not doubt God's supreme mercy (Q. 21:83).[21]

By way of a philosophico-theological addendum to the preceding, it may be helpful to make two further remarks. First, despite the Qur'an's recurrent emphasis on divine omnipotence, the Islamic scripture can in my view generally be read as accepting what philosophers call the 'liberty of indifference', meaning that the Qur'an credits humans (and also the jinn) with a real ability to select between different courses of action: sinners could in principle have acted righteously (though perhaps at some point inveterate sinners will forfeit the possibility of repenting) and the righteous could in principle have sinned.[22] Secondly, I hold that the Qur'anic notion of moral testing implies the epistemological indeterminacy of future human actions. As Daud Rahbar has shown in detail, Qur'anic assertions of divine omnipotence should therefore not be deemed to entail that God has advance knowledge of everything that human agents will go on to do.[23]

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21 When I speak of 'moral agents', my primary intent are humans, though the Qur'an views the jinn, too, as moral agents who may either do right or wrong and who will accordingly be subject to eschatological recompense. See Sinai, *Key Terms*, 180–90.

22 See e.g. Daud Rahbar, *God of Justice: A Study in the Ethical Doctrine of the Qur'ān* (Leiden: E.J. Brill, 1960), 67–90; Sinai, *Key Terms*, 445–50; Bauer and Hazma, *Women*, 21–23. On the distinction between liberty of spontaneity (being able to do what one wants to do) and liberty of indifference (being able to do something different than what one actually does), see Roy C. Weatherford, 'Spontaneity and Indifference', in *The Oxford Companion to Philosophy*, 2nd ed., ed. Tod Honderich (Oxford: Oxford University Press, 2005), www.oxfordreference.com.

23 See Rahbar, *God of Justice*, 51–66. As Rahbar notes, some Qur'anic verses state rather clearly that the trials and challenges with which God confronts humans will enable Him to 'know who are the believers' (Q. 3:140: *wa-li-yaʿlama llāhu lladhīna āmanū*) or that God 'does not yet know … who will prove to be steadfast' (Q. 3:142: *wa-lammā yaʿlami llāhu lladhīna jāhadū minkum wa-yaʿlama l-ṣābirīn*). It follows that at least normally God only comes to know the ethical qualities of human agents in real time, as it were: as these humans make decisions and act on them. In other words, God does not harbour such knowledge from all eternity. There is admittedly a tension here with Q. 17:4, according to which God did have advance knowledge that the ancient Israelites would 'twice wreak corruption on the earth'; cf. Rahbar, *God of Justice*, 99–101, who among other things highlights the exceptional character of this statement. Discounting Q. 17:4, therefore, it would seem that when the Qur'an says that God 'has knowledge of all things' (*huwa bi-kulli shay'in ʿalīm*), this should be taken to mean that He has full awareness of all of the states of entities existing at a given moment in time, including 'what is in people's chests' (Q. 3:154), and also that God has an unfailingly accurate memory of all past events. I do not think it would be correct to say that in denying God foreknowledge of morally relevant human actions the Qur'an is placing a *limitation* on God's knowledge. Clearly, from

In thinking about the world as akin to a divine examination hall, it must be borne in mind that the Qur'an unmistakably maintains that the cosmic habitat in which humans have been placed provides them not only with moral tests but also with significant resources for tackling the moral challenges with which they are confronted. This is foregrounded by the Qur'an's extensive discourse on the many 'signs' or *āyāt* that it claims riddle the natural world. In highlighting various natural phenomena like rain and vegetation or even the existence of rivers and mountains, the Qur'an is concerned to demonstrate that the world is designed to enable human flourishing, thus evidencing God's wisdom, generosity, and power.[24] The point is not just that the cosmos is factually set up in such a way as to ensure that vital human needs are met; the cosmos is also set up in such a way as to enable humans to *take cognisance* of this fact and to invite some fundamental theological inferences, namely: that the world has a creator who is supremely wise and powerful, who has certain moral claims on humans, and who is therefore both motivated to reward and punish them according to their moral performance and capable of posthumously resurrecting them in order to face precisely such a reckoning. As for the role of revelation within this veritable 'natural theology',[25] it is very frequently presented as aiming to 'remind' (*dh-k-r*) humans of, and draw their attention to, theological insights that are writ large across the cosmos.[26] Overall, the Qur'an does not give grounds for assuming that the expectation, however rarely fulfilled, that humans understand (*'aqala*) God's signs (e.g. Q. 2:164, 16:12, 16:67) and that they be grateful (*shakara*) to their creator (e.g. Q. 45:12, 67:23) becomes incumbent upon them only from the moment when they have been accosted by a divinely sent messenger or prophet.

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the Qur'anic vantage point God could have created a world in which every occurrence is fully predictable to a divine mind. Instead, I am suggesting, the Qur'an takes God to have created a world marked by a quantum of indeterminacy, due to the existence in this world of moral agents. In other words, it is something of a tautology that once God has created moral agents, defined by their ability to choose between alternative courses of action, it is not fully predictable even to God what an individual will or will not do in a given situation. To say that this is an infringement upon divine omniscience would be rather like saying that it is an infringement upon divine omniscience that God is unable to compute the greatest positive number or that He is unable to create a square circle.

24 See Sinai, *Key Terms*, 38–42, with further references.

25 See Julien Decharneux, 'The Natural Theology of the Qur'ān and Its Late Antique Christian Background: A Preliminary Outline', in *The Study of Islamic Origins: New Perspectives and Contexts*, ed. Mette Bjerregaard Mortensen, Guillaume Dye, Isaac W. Oliver, and Tommaso Tesei (Berlin: Walter de Gruyter, 2021), 177–99.

26 On the Qur'anic root *dh-k-r* and its various derivatives, see Sinai, *Key Terms*, 306–18.

From the Qur'anic vantage point, therefore, an unbiased contemplation of the cosmos not only ought to lead humans to conclude that a creator exists but also to realise that they have certain obligations towards Him. To unpack this further, on my reading the Qur'an is committed to two basic assumptions about normative propositions, that is, about statements involving the word 'ought' (e.g. 'humans ought to be grateful to God'). One of these assumptions concerns the ontology of such norms, that is, their nature and basis in reality, while the other one concerns their epistemology, that is, the manner in which human subjects can come to have knowledge of them.[27] Specifically, I would take the Qur'an to be implicitly committed to the following two propositions:

(1) At least the normative principle that one ought to be grateful to a benefactor (traditionally expressed as the duty of *shukr al-munʿim*)[28] is valid objectively, that is, regardless of whether it is declared to be so by textual revelation. Hence, in the Qur'anic worldview there is at least one fundamental norm whose validity is not contingent upon a positive divine decree.

(2) Humans are in principle capable of appreciating the validity of this principle, in addition to their assumed ability to understand that they are inhabiting a cosmos whose design is such that its creator is in fact a benefactor. That is to say, even without being accosted by revelation, the Qur'an takes humans to be capable of realising the truth of at least one fundamental normative proposition (regardless of whether more than a minority of humans are actually likely to do so).

It is true that the Qur'an is under no illusion that many humans will be prone to overlook and forget what the cosmos ought to tell them. This is why they require revelatory reminders – *dhikr* – of God's existence and of His claims upon humans. But it is not, I think, the case that textual revelation is considered to be that which *grounds* God's claims upon humans to begin with, or that textual revelation is understood to *inform* humans of something of which they had absolutely no prior inkling.[29]

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27 For the same distinction between the ontology and epistemology of values, see George F. Hourani, *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985), 23.

28 See Reinhart, *Before Revelation*, 107–23 and *passim*. The term *shukr al-munʿim* as such is of course not Qur'anic, but there are some Qur'anic verses that combine the roots *sh-k-r* and *n-ʿ-m* in such a manner as to betray the assumption that the bestowal of grace engenders an obligation of gratitude; see Q. 5:6, 16:114, 16:121, 27:19, 31:31, and 46:15.

29 Or perhaps one should say: that which grounds God's normative claims upon humans and informs them of these claims is indeed revelation – but it is God's cosmic revelation-through-creation rather than textual revelation. See Daniel Madigan, 'Themes

What I have just said aligns with the argument of an article first published in 1980 by George Fadlo Hourani. Based on a survey of Qurʾanic ethical language, Hourani finds that the Qurʾan 'frequently refers to objective values, which cannot be analysed completely in terms of commands and obedience. This conclusion coincides with that of the classical Muʿtazilites.' Hourani also concludes that 'the Muʿtazilites were right in their interpretation of the Qurʾān as allowing some scope for rational ethical judgements by believers and unbelievers' (although Hourani simultaneously stresses his view that revelation is nonetheless considered to be the 'chief source of ethical knowledge').[30] Hourani's carefully argued conclusion that the Qurʾan's ontology of values and its moral epistemology have a fundamental affinity with Muʿtazilī theology should not be dismissed as theological partisanship. It certainly does not entail that the Ashʿarī preoccupation with divine omnipotence and majesty is an alien projection onto the Qurʾan, only that there are good reasons for a historical interpreter of the Qurʾan to hold the themes of divine power and of the pervasive presence of divine agency in the world in balance with other ideas. Nor is Hourani's judgement problematically anachronistic. As Kevin Reinhart has remarked, 'Muʿtazilism represents an archaic form of Muslim thought carrying forward earlier ideas formed in a missionary, that is to say a minoritarian context.' This readily explains some fundamental continuities with the Qurʾan, 'itself at its beginning a product of a minoritarian missionary environment'.[31]

3 Religious Law in the Meccan and Medinan Suras

I shall now attempt to take a closer look at the place of what one might call religious law in the general picture just sketched, with the category of 'law' being used with all the caveats set out earlier. By speaking of 'religious law' in the Qurʾan, I mean in the first instance legislatively specific norms that are based on divine revelation, such as those that are imposed by the Qurʾanic

and Topics', in *The Cambridge Companion to the Qurʾān*, ed. Jane Dammen McAuliffe (Cambridge: Cambridge University Press, 2006), 83: 'God's first revelation, then, is in creation. Just as the creative activity of God is continuous and not merely confined to an initial moment, the Qurʾān insists that God is constantly providing "signs" … that manifest all we need to know about God and about our rightful place in relationship to God.'

30 George F. Hourani, *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985), 37, 45. I am inclined to be somewhat less cautious with regard to the Qurʾan's acceptance of rational ethical knowledge than Hourani, in part based on the use of the phrase *bi-l-maʿrūf* in Qurʾanic legislation (see below).

31 Reinhart, *Before Revelation*, 178.

proclamations themselves or those that the Qurʾan takes to have been contained in previous scriptural revelations (e.g. Q. 5:45, attributing to the Torah a version of the law of talion). In a secondary and broader sense, I would expand the category of 'religious law' to mean any legislatively specific norms that are anchored in a worldview, a comprehensive vision of how human individuals and societies fit into the cosmos. In this broader sense, various taboos around crops and livestock that appear to have been observed by the Qurʾan's pagan opponents (Q. 6:136, 6:138–39) will also qualify as 'religious law', though not of course as religious law observed by the Qurʾanic believers but rather as the religious law of their 'associating' antagonists. I should note here that I consider the Qurʾan to be deploying at least two approximate equivalents of the modern category of 'religion', consisting in the Arabic terms *dīn* and *milla*, which in the Qurʾan function as umbrella categories encompassing diverse beliefs about deities and practices of worshipping them, both monotheistic and non-monotheistic.[32]

The most salient feature of the Meccan view of religious law seems to be an assumption that humans have an innate tendency to tie themselves up in unnecessary ritual rules and prohibitions: humans, it appears, have a penchant to subordinate themselves to gratuitous and needlessly onerous taboos, rather than – as one might have expected the Qurʾan to insist – displaying the opposite tendency of wanting to evade inconvenient prohibitions. It is true, of course, that the Meccan Qurʾan does amply criticise human selfishness and humans' flouting of basic moral principles. But specifically with regard to what one may call ritual matters, what the Qurʾan criticises is a contrary predisposition to 'proscribe' (*ḥarrama*) many of the 'good things' (*al-ṭayyibāt*) that God has generously conferred on humans.[33] A case in hand would be the above-mentioned pagan taboos to do with crops or livestock that are criticised in some detail in Q. 6 (vv. 136ff.).[34] While it is difficult to reconstruct these taboos in detail, the Qurʾanic assessment of them is very clear: according to Q. 10:59, to divide up God's 'provision' (*rizq*) into permitted (*ḥalāl*) and forbidden (*ḥarām*) is to 'fabricate' (*iftarā*) egregious lies about God.[35] The idea seems to be that inventing unwarranted and onerous prohibitions that allegedly restrict the human consumption of the world's resources is tantamount to a denial of God's generosity.

32 See Sinai, *Key Terms*, 293–300 (on *dīn*) and 645–50 (on *milla*). For example, Q. 40:26 implies that the term *dīn* applies to the religion of the Egyptians, and in Q. 38:7 the expression 'the contemporary *milla*' (*al-milla al-ākhira*) appears to refer to Meccan polytheism.

33 See Sinai, *Key Terms*, 218–23.

34 In addition to the previous note, see also Joseph E. Lowry, 'When Less Is More: Law and Commandment in *Sūrat al-Anʿām*', *Journal of Qurʾanic Studies* 9, no. 2 (2011): 22–42.

35 Sinai, 'Dietary Tetralogue', 124–25.

Clearly, a matter of ritual practice is here treated as having significant (and flatly objectionable) theological purport.[36]

From verses like Q. 10:59, it would appear that the Meccan attitude to dietary prohibitions is basically antinomian: humans ought to gratefully and unreservedly accept the manifold blessings that the creator liberally bestows upon them; there is nothing inherently illicit or impure in what nature has to offer.[37] Of course, this position is substantially qualified in the Medinan suras, which do lay down a number of unequivocal dietary taboos, such as the prohibition to consume blood or carrion (Q. 2:172–73, 5:3, 6:145, 16:114–15).[38] The Qur'anic position on dietary taboos thus constitutes a particularly conspicuous illustration of the Medinan suras' legislative shift. Yet Medinan passages containing dietary taboos also exhibit a noticeable attempt to display theological continuity with the permissivist attitude of the Meccan suras. This is achieved, for example, by reiterating that God munificently provides humans with 'good things'.[39] All four passages, moreover, supplement their dietary taboos with a hardship clause that permits exceptions in cases of emergency and, in one instance, with the concession that animals killed by hunting beasts may be consumed, meaning that they do not count as carrion (Q. 5:4).[40] The conspicuous exceptions and concessions at hand can be understood as concrete exemplifications of the explicit insistence in one Medinan verse that God 'desires ease for you, not difficulty' (Q. 2:185: *yurīdu llāhu bikumu l-yusra wa-lā yurīdu bikumu l-ʿusra*) and related statements elsewhere.[41] This stress on legislative ease also expresses itself in the frequency with which Qur'anic legislation

36 For a potential Medinan echo of this theme of gratuitous human self-denial, see Q. 3:93 (cited in n. 44 below).

37 The qualifier 'antinomian' is introduced in Sinai, 'Dietary Tetralogue', 124–27. Lowry speaks of 'legal minimalism'; see Lowry, 'When Less Is More', 22 (including n. 1).

38 See in more detail Sinai, 'Dietary Tetralogue' (defending the claim that all four relevant passages are Medinan).

39 E.g. Q. 2:172: 'O believers, eat of the good things with which We have provided you and be grateful to God, if it is Him whom you worship.'

40 Sinai, 'Dietary Tetralogue', 136. Q. 5:5, too, may well have an alleviating thrust; see Sinai, 'Dietary Tetralogue', 137; as well as Sinai, *Key Terms*, 112 (including n. 8).

41 See Joseph E. Lowry, 'Exculpatory Language in the Qur'an: A Survey of Terms, Themes, and Theologies', *Mélanges de l'Université Saint-Joseph* 66 (2015–16): 107–8. For an excellent monograph-length study of the nexus between exceptions and special dispensations in Qur'anic legislation, on the one hand, and the Qur'an's general insistence on the feasibility of God's normative demands, on the other, see now Johanne L. Christiansen, *The Exceptional Qur'ān: Flexible and Exceptive Rhetoric in Islam's Holy Book* (Piscataway: Gorgias Press, 2021), which I only managed to peruse after the present chapter had been written.

resorts to what Lowry has aptly termed 'exculpatory' phrases.[42] Finally, the motif of the Qurʾan's legislative ease in comparison with earlier, in particular Jewish, law is probably also reflected in the closing verse of the second sura, Q. 2:286, which caps off a composition containing a significant proportion of legislative material with a prayer by the community not to be 'burdened by what we cannot bear', like 'those before us' (*wa-lā taḥmil ʿalaynā iṣran ka-mā ḥamaltahū ʿalā lladhīna min qablinā*).[43]

As intimated by the verse just quoted, the counterfoil to the Qurʾan's presentation of its own legislation as easy is Jewish law, which is portrayed as punitively harsh: it is due to Jewish wrongdoing, one Medinan passage (Q. 4:160–61) says, that God 'forbade' to the Jews certain 'good things that had [previously] been permitted to them' (Q. 4:160: *ḥarramnā ʿalayhim ṭayyibātin uḥillat lahum*; cf. also Q. 6:146 and 16:118, which, by using the first-person verb *ḥarramnā*, likewise identify God as the originator of Jewish prohibitions).[44] Such cursory Medinan comments on Jewish law could be animated by a concern to forestall the impression that the Medinan suras' incorporation of legislative material amounts to a sort of reversal to Jewish law, assumed to be notoriously burdensome. I would venture the conjecture that the Qurʾan is here seeking to anticipate potential objections by Christians, who might have been minded to view the Medinan suras as an anachronistic throwback to the caricature of Old Testament legalism that Christian polemicists liked to think their own religion had decisively overcome.

Against a deep-seated Christian reflex to think of law as onerous and punitive, Medinan law is thus presented as compatible with, and indeed as a major

42 Lowry, 'Exculpatory Language.'

43 Lowry, 'Law, Structure, and Meaning', 140. Note that the word *iṣr* also occurs in Q. 7:157, a verse that is very likely Medinan (Sinai, *Key Terms*, 97). This verse invokes the legislative activities of Muhammad (here styled as the 'prophet of the scriptureless', *al-nabī al-ummī*, on which see Sinai, *Key Terms*, 94–99) with verbs like 'to prohibit' (*ḥarrama*) or 'to permit' (*aḥalla*) and then says that Muhammad relieves people – or perhaps the recipients of the Torah and the *injīl* in particular – of 'the burden and the fetters that used to be upon them' (*wa-yaḍaʿu ʿanhum iṣrahum wa-l-aghlāla llatī kānat ʿalayhim*). Q. 7:157 thus provides support for the hypothesis that the word *iṣr* in Q. 2:286 connotes burdensome legal norms in particular. This is, of course, also made likely by the reference to 'those before us' (*alladhīna min qablinā*).

44 On Q. 4:160, see Holger M. Zellentin, *The Qurʾān's Legal Culture: The Didascalia Apostolorum as a Point of Departure* (Tübingen: Mohr Siebeck, 2013), 144–54. By contrast with the Qurʾanic verses just cited in the main text, Q. 3:93 speaks of Jewish self-prohibition: 'All food was permitted to the Israelites, except what Israel prohibited to himself (*illā mā ḥarrama isrāʾīlu ʿalā nafsihi*), before the Torah was sent down.' Here, the name *isrāʾīl* refers to the ancestor of the Israelites (in biblical terms, Jacob; cf. Q. 19:58).

vehicle of, divine mercy and lenience.[45] In this way, Medinan legislation is retrospectively tied to prominent aspects of established Meccan theology, mitigating the prima facie impression of significant doctrinal discontinuity. In what remains, I would like to supplement this basic insight of previous scholarship (most notably Lowry's) by some additional observations about the function and character of Medinan law, hoping to illuminate in further detail why and how the Medinan suras are casting Qur'anic law as expressive of God's mercy and leniency.

4 Religious Law as Community-Relative

My key propositions with regard to the wider question just posed are three: (i) the Qur'an is explicit that legislative prescriptions have the function of governing the life and defining the identity of a community; (ii) the Qur'an accepts an irreducible diversity of religious communities, and of the legal frameworks governing them, as divinely intended; and (iii) the Qur'an does not limit the prospect of salvation to members of the Qur'anic *umma* alone.

One important Qur'anic passage in which all of the three claims just set out can be glimpsed is the Medinan verse Q. 5:48. Its second half runs as follows:

> For each of you [plural] we have instituted a normative practice and a custom (*li-kullin ja'alnā minkum shir'atan wa-minhājan*). Had God willed, He would have made you a single community (*umma*); but [He did not do so] in order to test you with regard to that which He gave you. So race with one another towards good works (*fa-stabiqū l-khayrāti*). To God you will all return, and He will inform you about that with regard to which you were in disagreement.[46]

45 I am entirely sympathetic to the view that this polemical Christian cliché ought to be questioned with regard to rabbinic law as well; but this chapter is exclusively concerned with the Qur'an, and the small number of Qur'anic allusions to rabbinic law just referenced are indeed continuous with Christian presuppositions about the onerousness and harshness of Jewish law.

46 That *istabaqa* can mean 'to race one another' is clear from Q. 12:25 (Joseph and the wife of his Egyptian owner *istabaqā l-bāba*). The latter verse also illustrates that the accusative object of *istabaqa* is that towards which the parties are racing. As for the noun *khayr* (literally, 'something good'), this can of course refer to wealth, but in the context of Q. 5:48 'good deeds' is clearly the more suitable rendering. This meaning is, for example, clearly in evidence at Q. 21:73, where *fi'l al-khayrāt* is 'doing good deeds'. See also A. Kevin Reinhart, 'What We Know about Ma'rūf', *Journal of Islamic Ethics* 1 (2017): 58. Finally, to those familiar with Lessing's *Nathan the Wise*, Q. 5:48 is bound to be reminiscent of the parable of the three rings. There is in fact a historical link between the two texts; see Jan Loop, 'Islam and

The statement comes towards the end of a passage (Q. 5:41ff.) discussing God's revelation of the Torah, the *injīl* (conventionally rendered as 'the Gospel'),[47] and the Qur'an. All three of these scriptures are said to have been revealed in order to govern a particular religious community: Jews, Christians (here called the 'people of the *injīl*'), and Qur'anic believers are all expected to 'adjudicate according to' (*ḥakama bi-*) the scriptural revelations they have received (Q. 5:44, 5:47, 5:48). Interestingly, it is implied that even the Christian scripture, the *injīl*, has legislative content to which Christians can be expected to adhere (Q. 5:47): however much Christians are wont to insist that they are not under the yoke of the law anymore, the Qur'an is here applying to Christianity, too, the general assumption that *any* human community requires legislatively specific prescriptions, and that a community defined in *religious* terms ought to have legal prescriptions that are *religiously* based.[48]

Given the context, the expression 'for each of you' (*li-kullin … minkum*) in Q. 5:48 may be supposed to range not just over a certain set of human individuals but rather over human communities – or, specifically, over human communities defined in terms of their allegiance to a scriptural revelation: Jews, Christians, and Qur'anic believers. This is supported by Q. 22:67, where a similar statement is unequivocally formulated as referring to *communities* (sing. *umma*).[49] The Qur'an accordingly recognises the diversity of existing legislative behavioural norms – or, in the language of Q. 5:48, of 'normative practices and customs' (*shirʿatan wa-minhājan*) – among Jews, Christians, and Qur'anic believers as divinely willed.[50] By virtue of such an appeal to God's will, Q. 5:48

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the European Enlightenment', in *Christian–Muslim Relations: A Bibliographical History*, vol. 13, *Western Europe* (*1700–1800*), ed. David Thomas and John A. Chesworth (Leiden: Brill, 2019), 17.

47 For more detail, see Sinai, *Key Terms*, 103–7.

48 If one equates the *injīl* with the Gospels or with the New Testament as a whole, Q. 5:47 will of course seem curious. However, I have suggested elsewhere that perhaps the *injīl* is to be identified with the Christian Bible as a whole (Sinai, *Key Terms*, 105–7). But quite apart from the question of how the Qur'an and/or its recipients imagined the Christian canon and its contents, the charitable way of reading the Qur'an here would be to construe it as saying that Christian communities evidently do require legal norms in their daily existence and that therefore these norms ought to be in some sense informed by the Christian canon, whatever form the latter might take concretely.

49 The relevant segment of Q. 22:67 runs, 'For every community We have instituted a rite to which they adhere' (*li-kulli ummatin jaʿalnā mansakan hum nāsikūhu*). It is possible that *mansak* refers specifically to rituals to do with a sanctuary and/or sacrifice here, in view of the other Qur'anic occurrences of the word in Q. 2:128, 2:200, and 22:34.

50 On the terms *shirʿa* and *minhāj*, see Sinai, *Key Terms*, 406 (including n. 34). It is conceivable, of course, that the Qur'an assumes considerable legal overlap between the Torah, the *injīl*, and the Qur'an. However, the context of Q. 5:48 undoubtedly requires that the

goes beyond the observation that one of the principal effects of Medinan law was a demarcation of the Qur'anic *umma* from the pagan 'associators' and from the Medinan Jews.[51] In fact, an accurate understanding of Q. 5:48 requires an awareness that each of the three legal frameworks that figure in Q. 5:41ff. allows for a genuine prospect of attaining eschatological salvation, for a number of Qur'anic verses make it clear that it is by no means only members of the Qur'anic *umma* who will qualify for paradise if they 'believe in God and the final day and do righteous deeds' (Q. 2:62, 5:69; see also 3:199).[52] The Qur'an does of course insist that there are certain factually held Jewish or Christian beliefs – such as belief in the divinity of Jesus (e.g. Q. 5:17, 5:72) – that violate Qur'anic theology. Yet this is undoubtedly not taken to preclude that there can be a theologically valid type of Christianity that conforms to the requirements of Qur'anic monotheism.

The preceding interpretation is confirmed by the parallel of Q. 5:48 in Q. 2:148 (also Medinan). This latter verse comes towards the end of a passage extending from Q. 2:142 to 2:152, whose thematic focus is a change of the Qur'anic community's direction of prayer (*qibla*) towards the Meccan sanctuary. Q. 2:142–52 therefore deal with one particular example of the 'normative practices and customs' from Q. 5:48, namely, with a case belonging to the general domain of ritual. In Q. 2:148, the parallel just noted, the divine voice offers a meta-commentary of sorts, explaining that 'everyone has a direction towards which he turns (*wa-li-kullin wijhatun huwa muwallīhā*); so race with one another towards good works (*fa-stabiqū l-khayrāti*)'. The phraseological overlap with Q. 5:48 (*li-kullin*, *fa-stabiqū l-khayrāti*) is obvious, making it certain that the assertion that 'everyone has (*li-kullin*) a direction towards which he turns' is again to be understood in a communal rather than an individualistic sense: every *community* has a direction towards which they turn. Also implicit is the disavowal of any claim to absolute validity for the Qur'anic community's direction of prayer (in Q. 2:148), just as for its 'normative practices and customs' in general (Q. 5:48): other communities may have different practices

divinely intended diversity of different religious communities goes hand in hand with a real diversity of divinely mandated 'practices and customs'.

51 See on this function of Medinan law Sinai, *The Qur'an*, 202–5.

52 See Mun'im Sirry, *Scriptural Polemics: The Qur'ān and Other Religions* (Oxford: Oxford University Press, 2014), as well as Sinai, *Key Terms*, 340–41, 404–5. Although it is by no means the case that the Qur'an deems one particular communal affiliation to be soteriologically necessary, one specific Qur'anic community – i.e. the Qur'anic 'associators' or *mushrikūn* – is indeed treated as irredeemably beholden to doctrines and customs that violate fundamental Qur'anic teachings. Associators who would qualify for paradise will therefore need to convert.

or observe a different direction of prayer, but these are not therefore necessarily invalid – provided, one may surely add, that these practices have not just arisen from the lamentable human penchant for gratuitous self-prohibition that is castigated in verses like Q. 10:59, discussed above. The performance of good works (*khayrāt*) is clearly assumed to be possible within more than one legislative framework.[53] The upshot, in any case, is that the *qibla* comes across as 'community-relative', to borrow an expression by Lowry.[54]

This disavowal of the *qibla*'s absolute validity is further reinforced later in Q. 2, in v. 177. It seems clear that this verse refers back to, and is meant to put in context, the *qibla* passage in Q. 2:142–52, with which it shares the collocation of *wallā* and *wajh* (Q. 2:144, 2:149, 2:150; cf. 2:142). Q. 2:177 unequivocally relativises the importance of turning one way or another in prayer by expressly distinguishing such details of ritual praxis from a more fundamental tier of moral and religious norms:

> Righteousness (*al-birr*) does not consist in turning your faces (*an tuwallū wujūhakum*) to the east or to the west. Rather, righteousness is [exhibited by] someone who believes in God, the final day, the angels, the scripture, and the prophets; who gives away property, however beloved (*ʿalā ḥubbihi*), to relatives, orphans, the indigent, wayfarers (*ibn al-sabīl*), beggars, and with regard to slaves; who performs prayer and gives alms; and [righteousness is exhibited by] those who fulfil their covenant when they concluded one; and those who are steadfast (*al-ṣābirīn*) in hardship and adversity and in times of violent fighting. Those are the ones who are truthful (*alladhīna ṣadaqū*) and those are the ones who are God-fearing (*al-muttaqūn*).

The verse is bookended by references to righteousness (*birr*) and fear of God, two comprehensive virtue terms that are clearly credited with paramount importance.[55] Whether or not somebody exhibits them is said to be

53 Conversely, it is manifestly also the case that adherence to a particular legislative framework does not *guarantee* the performance of good works. For example, the Qur'an condemns charitable spending or prayer that is undertaken 'in order to be seen by people' (see Q. 2:264 and 4:38 on charity, and 4:142 and 107:6 on prayer).

54 Lowry, 'Law, Structure, and Meaning', 124. Note that Lowry employs this expression in connection with Q. 2:177 (treated immediately below in the main text) and that his phrasing is much more circumspect than mine ('leaves open the possibility that the prayer direction is community-relative').

55 On *birr*, see Reinhart, 'What We Know about Maʿrūf', 56–58 (including a discussion of Q. 2:177 that makes similar points to my comments in the main text). On fear of God (*taqwā*), see Sinai, *Key Terms*, 719–14.

determined by his commitment to fundamental beliefs having to do with God, the eschatological reckoning, and God's revelatory communication with humans as well as by his performance of certain basic forms of moral action such as the charitable sharing of one's possessions, prayer (which must here be intended in a general sense that transcends the execution of a precise set of ritual movements and utterances that would, for instance, involve a particular direction of prayer), honest compliance with prior agreements, and steadfast patience (*ṣabr*).[56] It is surely these fundamental beliefs, virtues, and types of moral comportment – which jointly define the high-level virtue terms 'righteousness' (*birr*), 'truthfulness', and 'fear of God' – that furnish the criteria by which the divine judge will eventually assess humans at the final judgement, as a host of Qur'anic parallels make clear (see e.g. Q. 2:62 and 5:69, discussed below). By contrast, the precise modalities of where to face in prayer are relegated to secondary importance. Structurally, Q. 2:177's distinction between *birr* and 'turning one's faces' in a particular direction resembles Q. 5:48's contrast between 'good works' (*al-khayrāt*), on the one hand, and 'normative practices and customs', on the other.

The secondary importance of the Meccan direction of prayer (which is clearly not taken to contradict the basic stipulation, in Q. 2:144, that the believers are to face Mecca in prayer) is sufficiently important for the sura to anticipate it even prior to the *qibla* passage, in Q. 2:115:

> To God belongs the east and the west (*li-llāhi l-mashriqu wa-l-maghribu*), so wherever you turn (*tuwallū*), there is God's face (*wajh*). God is indeed all-encompassing (*wāsiʿ*) and knowing.

Once again, the combination of the verb *wallā* and the noun *wajh* (even if the latter does not here function as the accusative of *wallā*) signals an evident link to the *qibla* section in Q. 2:142–52, as does the reprise of the phrase 'To God belongs the east and the west' (*li-llāhi l-mashriqu wa-l-maghribu*) later on in Q. 2:142. Thus, even before the recipient of Q. 2 has reached the *qibla* passage, she is already primed to understand that the question of where to turn in prayer is of decisively subordinate significance, however urgently the issue is then broached in v. 142, alluding to opponents criticising the Qur'anic community for discontinuing their previous *qibla* (*sa-yaqūlu l-sufahāʾu mina l-nāsi mā wallāhum ʿan qiblatihimu llatī kānū ʿalayhā*).

As shown above, Medinan passages assume a close link between communal identity and divinely mandated legislative norms, as exemplified by (but

56 On *ṣabr*, see Sinai, *Key Terms*, 464–66.

not necessarily limited to) ritual commandments, such as the commandment that the Qurʾanic believers are to pray towards the Kaʿba. This nexus between community and law, when combined with the Qurʾan's general recognition of the possibility of salvation outside the Qurʾanic *umma*, entails a relegation of the importance of legal norms to secondary position, plainly expressed in Q. 2:177 and 5:48. It is worth adding that apart from such specific proof-texts, the general nexus between community and law is also borne out by the macrostructure of Q. 2 as a whole. According to Lowry, the text may be construed, 'from a certain altitude, primarily as a retelling of biblical narratives' – including prominently various misdeeds of the Mosaic Israelites in Q. 2:40ff. – 'and then the presentation of a set of "biblical" laws to govern the neo-biblical or neo-covenantal qurʾānic community'.[57] Lowry thus proposes a compelling answer to the question of how the miscellaneous legislative passages that are concentrated in the second half of Q. 2 cohere with the narrative and polemical material that dominates its first half: the law of Q. 2 is meant to govern and serve as a quasi-covenantal framework for the Qurʾanic *umma*, who have their negative counterfoil in the Mosaic Israelites. This proposed focal point for Q. 2 as a whole matches the fact that programmatic statements in Q. 2 and 3 comment on the world-historical role of the Qurʾanic *umma* (Q. 2:128, 2:143, 3:104, 3:110).[58] The Qurʾan thus attaches demonstrably vital importance to the Medinan emergence of an independent community defined by allegiance to Muhammad and the Qurʾanic revelations, which in practical terms entails adherence to Qurʾanic law.

5 Legislative Norms as Divine Responses to Human Needs

It is worth juxtaposing the Qurʾan's communitarian angle on religious law with the radical moral individualism that generally pervades the Islamic scripture.[59] It is a consistent Qurʾanic theme that at the final reckoning everybody will be judged exclusively on the basis of his or her own moral track record (e.g.

57 See Lowry, 'Law, Structure, and Meaning', 148. Cf. ibid., 141.

58 On my understanding of the Qurʾanic term *umma* and its role in Q. 2 and 3, see Sinai, *Key Terms*, 86–94. Other important publications on the topic are Frederick M. Denny, 'The Meaning of *Ummah* in the Qurʾān', *History of Religions* 15, no. 1 (1975): 34–70; and Hamza M. Zafer, *Ecumenical Community: Language and Politics of the Ummah in the Qurʾan* (Leiden: Brill, 2020).

59 This individualism is manifest, for instance, in the way in which the Qurʾan frames the notion of a divine–human covenant; see Sinai, *Key Terms*, 710–11.

Q. 53:38). In Q. 5:48 and 2:177, the basic ethico-religious criteria governing this eschatological assessment of human moral performance are signalled by terms such as 'righteousness' (*birr*) or 'good works' (*al-khayrāt*). By contrast, the 'normative practices and customs' from Q. 5:48, of which the *qibla* is one particular instance, constitute a secondary tier of norms.

Can we say more about the purpose of this secondary, legislative tier of norms, beyond the preceding observation that they somehow serve to demarcate and ensure the cohesion of religious communities? If what matters eschatologically is only one's individual moral performance, does this not ultimately make the secondary tier of 'normative practices and customs' entirely expendable? It is probably not coincidental that quite a few legislative passages in the Qur'an are cast as divine responsa to audience queries addressed to the Prophet (Q. 2:189, 2:215, 2:217, 2:219, 2:220, 2:222, 4:127, 4:176, 5:4, 8:1). A functioning human community, the Qur'an seems to presuppose, must be governed by authoritative legal norms, by 'normative practices and customs'; accordingly, human agents will themselves demand such norms, rather than merely suffering (or rejecting) their imposition from outside.[60] This being the case, it is in keeping with God's mercy to supply the Medinan *umma* with the sort of authoritative revelatory guidance that is required for the cohesion of a community defined in religious terms: the Qur'an's general portrayal of God as mercifully responsive to the needs of humans in general, and to the needs of those who believe in Him in particular, gives rise to an expectation that the deity will not simply tell bewildered believers to work out by themselves how to divide up inheritances or when and how to purify themselves for prayer or where precisely to draw the boundary between night and day, an issue that is crucial for the Qur'anic fasting regime (see Q. 2:187).[61]

In this sense, the Medinan suras' exposition of legal norms is in line with core features of the Qur'anic conception of God. Both Q. 5:48, discussed above, and the response formulae just noted indicate that the Qur'an considers Medinan law to meet concrete human needs, as does God's provision of rain or of vegetation, rather than amounting to a catalogue of arduous demands imposed for their own sake. Indeed, the *qibla* passage in Q. 2 signals much the same: the crucial verse that first mandates the Meccan *qibla*, Q. 2:144, opens with a

60 It is tempting to link this Qur'anic assumption to its critique of an ingrained human tendency towards excessive prohibitions, as described above: humans are creatures who will inevitably operate with the categories of permitted (*ḥalāl*) and forbidden (*ḥarām*; cf. Q. 10:59); in the absence of divine guidance on such matters, humans are therefore bound to fabricate dubious pseudo-proscriptions.

61 On divine responsiveness, see Sinai, *Key Terms*, 77 (which is indebted to Usman Shaikh).

description of the Qurʾan's prophetic addressee casting about for a direction of prayer: 'We certainly see how your [singular] face moves about in the sky, so We will turn you in a prayer direction (*qibla*) that will satisfy you.' It is the fact that a prayer direction needs to be authoritatively decreed that occasions the divine commandment to pray towards the Kaʿba rather than any immanent numinous quality possessed by the latter. Parenthetically, this is also in line with the fact that Qurʾanic comments on the Kaʿba's sacred status consistently foreground the human interests that are realised by God's establishment of the Meccan sanctuary and by the *ḥajj* pilgrimage. Thus, according to Q. 22:28 and 22:33, the *ḥajj* confers 'benefits' (*manāfiʿ*) upon its participants.[62]

I believe that the preceding observations warrant a generalising step, namely, to view the miscellaneous legislative norms expounded in the Medinan suras, covering such diverse domains as ritual or family law, as being generally understood to play a facilitating role with regard to the more fundamental ethico-religious virtues invoked by terms such as 'righteousness' (*birr*) and 'fear of God' (*taqwā*), and also with regard to certain basic aspects of material human flourishing (such as a measure of physical safety[63]) that are prerequisites of all further ethical and religious aspirations. From the Qurʾanic vantage point, Medinan law thus provides a communal framework of concrete rules within which an individual believer is well placed to live up to the ethico-religious demands that will determine God's verdict on the day of judgement; but legislative norms do not *themselves* form the criteria against which humans will be eschatologically assessed. This is hardly a novel insight: not only is the account just given broadly reminiscent of the post-Qurʾanic

62 See also Q. 3:97, 28:57, and 29:67, all of which underscore the divinely established security (*ʾ-m-n*) of the Meccan sanctuary. Q. 5:97 more opaquely states that God established the Kaʿba *qiyāman li-l-nāsi*. Ambros cautiously proposes that this should be taken to mean 'as a means of support for the people', in line with the use of *qiyām* in Q. 4:5; see Arne A. Ambros with Stephan Procházka, *A Concise Dictionary of Koranic Arabic* (Wiesbaden: Reichert, 2004), 232. This interpretation is further corroborated by Q. 14:37, according to which Mecca is located in an uncultivated valley whose inhabitants are provisioned by outsiders. It is true that Q. 3:97 says that 'pilgrimage to the house is an obligation that people owe to God' (*li-llāhi ʿalā l-nāsi ḥijju l-bayti*), which stresses that the pilgrimage has the character of a duty rather than appealing to its contribution to human welfare. Yet the statement just cited can be harmonised with the textual data previously catalogued by noting that after God has charged Abraham with instituting the pilgrimage rites (see Q. 22:26–27), these rites are of course mandatory. It should be noted that even though I have conveniently lumped the Kaʿba and the *ḥajj* together, the two are very likely to have been originally separate, as shown by Wellhausen (see Sinai, *Key Terms*, 208–11, with further references).

63 On the matter of safety, see the comments on Q. 3:97, 28:57, and 29:67 in the preceding note.

notion that the Sharīʿa realises certain fundamental objectives (*maqāṣid*), it also has rather specific affinity with the (equally post-Qurʾanic) Muʿtazilī construal of the revealed law as a 'specification' (*tafṣīl*) or a concretisation of universally valid moral principles,[64] such that the basic rationale of adherence to the revealed law becomes an instrumental one: 'Follow this law (*sharīʿah*), so as to fulfil what is known by the intellect.'[65] Incidentally, when a Muʿtazilī theologian expressly allows that revealed laws may differ in accordance with particular circumstances,[66] this resonates with the observation above that the Qurʾan recognises more than one legal framework that is in principle conducive to passing eschatological scrutiny.

My contention, then, is that Medinan legislation should be conceptualised as a divine benefaction serving independently intelligible human interests rather than as a catalogue of demands that are imposed for their own sake, as a set of demands that go above and beyond the general ethico-religious claims voiced in the Meccan suras.[67] In a way, Medinan legislation may therefore be grouped together with God's 'signs' (*āyāt*) in nature as belonging to the resources that are made available to moral agents in God's cosmic examination hall. Indeed, it is telling that there are some Medinan passages, such as Q. 2:187, 2:219, 2:221, in which the term *āyāt* is applied to legislative norms.[68]

A final corroboration for the preceding interpretation emerges from Q. 22:36–37, a passage rationalising why God exacts animal sacrifices in spite of the obvious fact that He does not require physical nourishment.[69] The explanation provided is that sacrificial rituals enable humans to give outward expression to God's majesty: God has made sacrificial animals 'subservient to you [plural] so that you may magnify God for the guidance He has granted you' (*sakhkharahā lakum li-tukabbirū llāha ʿalā mā hadākum*). Here again the Qurʾan puts forward the idea that the cultic institution of sacrifice meets a human need, not a divine one. This point is also made in the immediately preceding verse Q. 22:36 with its insistence that there is 'good' (*khayr*) for the

64 George F. Hourani, *Islamic Rationalism: The Ethics of ʿAbd al-Jabbār* (Oxford: Clarendon Press, 1971), 135.

65 Sophia Vasalou, *Moral Agents and Their Deserts: The Character of Muʿtazilite Ethics* (Princeton: Princeton University Press, 2008), 49 (orthography modified). This instrumental function of the law was compared to medical advice; see Hourani, *Islamic Rationalism*, 135.

66 Vasalou, *Moral Agents*, 51.

67 As the Qurʾanic comments on Jewish law briefly mentioned above show, the Qurʾan assumes that revealed law can also be a punishment rather than a benefaction.

68 Sinai, *Key Terms*, 128 (crediting Binyamin Abrahamov and Mohsen Goudarzi).

69 On this passage, see in more detail Sinai, *Key Terms*, 305–6, as well as Sinai, 'Dietary Tetralogue', 135–36n68.

addressees in sacrificial observances (*shaʿāʾir*). Also pertinent to the present discussion is the fact that Q. 22:37 contrasts the meat and blood of sacrificial animals, which are said not to reach God, with the sacrificer's 'fear of God' (*taqwā*), which is presumably taken to be expressed in and cultivated by the act of sacrifice and which *will* reach the deity. We can discern here the same structural distinction between two normative tiers that we also saw in Q. 5:48 (normative customs and practices vs good works) and in Q. 2:177 (turning one's faces in a particular direction vs righteousness). What is distinctive about Q. 22:36–37, however, is that the latter passage suggests more clearly that the second-tier ritual of sacrifice is there to give expression to and cultivate the first-tier virtue of *taqwā*. Falling back on Muʿtazilī terminology, animal sacrifice in the context of the pilgrimage rites can perhaps quite aptly be described as a specification or concretisation of *taqwā*.

The communitarian and instrumentalist construal of legal norms just outlined makes it possible to account for the legislative shift taking place in the Medinan suras in a way that does not require positing a radical rupture in the Qurʾan's epistemology or moral vision. The emergence of a sizeable body of Qurʾanic legislation in Medinan texts, despite constituting a notable expansion of the Qurʾan's thematic scope, is rationalised in a way that coheres with rather than disrupts the fundamentals of Meccan theology, specifically the Qurʾan's basic understanding of moral norms and of humans' grasp thereof. This is so because legislatively specific norms are repeatedly presented as a second-tier concretisation of first-tier values and virtues, which latter form the ultimate benchmark of God's eschatological judgement. Legislatively specific norms operate as one among a number of equally valid communal frameworks provided by God that are meant to aid humans in living up to first-tier norms. Since legislative norms do not have first-tier status, the fact that they involve a significant portion of positive divine legislation does not mean that what humans are ultimately judged by is a plethora of divine decrees that are in principle inaccessible to human moral common sense.

It seems to me that the community-relative, functionalist understanding of religious law just reconstructed sheds useful light on the Qurʾanic theme of the easiness of its legislation that I have highlighted earlier. Qurʾanic law is not an end in itself, like the divine demand for righteousness, but rather a communal framework meant to realise certain objectives, in the least burdensome manner possible, which includes the function of *communally concretising* fundamental ethico-religious norms. This status of being a means to an end is precisely what opens up the possibility of exceptions, mitigations, and hardship clauses of the kind that are an important concomitant of Medinan law, just as this status gives rise to general statements stressing the easiness

of Qur'anic legislation or highlighting the structural distinction between two tiers of behavioural norms.

6 Medinan Law and Moral Common Sense

As the preceding sections have tried to argue, Medinan law is viewed as the communal concretisation of more fundamental ethico-religious values. Earlier in this chapter, I also insisted that the Qur'an envisages humans as endowed with at least some degree of pre-revelatory normative insight, enabling them to appreciate that they ought to be grateful to their divine benefactor. How, then, does such moral common sense interact with divine legislation? In principle, it might be the case that moral common sense is envisaged as playing a rather limited role with regard to revelatory legislation, one that is purely propaedeutic (our realisation that we owe gratitude to our divine benefactor leads us to execute whatever commandments He imposes on us) or at most reconstructive (our moral common sense enables us to appreciate that God's commandments, once communicated to us, realise or advance certain fundamental values that are morally intelligible to us). In both cases, the role of our moral common sense would not necessarily be normatively productive, at least in those domains that are subject to explicit scriptural legislation.

Yet there is some evidence that Qur'anic legislation at times accords a more substantial role to humans' ability to make some valid distinctions between right and wrong. First, despite the fact that the Qur'an contains important legal or quasi-legal material, Qur'anic legislation by itself – i.e. without being supplemented by generous amounts of *ḥadīth* – is quantitatively far too small in order for it to be able to operate as a comprehensive divine code of the sort that was envisaged by al-Shāfiʿī (probably not entirely independently of pre-existing rabbinic conceptions of God's Torah).[70] This provides a clue that perhaps the human ability to engage in practical reasoning based on valid pre-revelatory normative intuitions is being assumed as a means of plugging the gap – at least if one is both reluctant to accept the claim that Qur'anic legislation was only ever intended to function in symbiosis with a much more extensive corpus of legal norms retrievable from the prophetic *sunna* and unwilling to consider the comparatively limited size of Qur'anic legislation as being due merely to

70 Al-Shāfiʿī's postulate of legal comprehensiveness is of course not a descriptive account of the factual reach of overt Qur'anic legislation but a programmatic statement of hermeneutical intent.

an ambitious legal project having been disastrously stunted by the death of Muhammad.[71]

A stronger and more textual piece of evidence, however, are the provisos of conformity with existing moral intuitions that are often appended to Medinan legislation, previously highlighted by Reinhart.[72] For example, the payment of compensation for a slain person and bequests are to be made 'in line what is recognised to be right' (*bi-l-maʿrūf*; Q. 2:178, 2:180). It seems quite clear that such *bi-l-maʿrūf* riders mean that the respective prescriptions are to be applied in accordance with the pre-existing and extra-scriptural moral common sense of the Qurʾanic addressees. A similar role is played by the qualifier 'in line with the requirements of good conduct' (*bi-iḥsān*) in Q. 2:178 and 2:229.[73] The resulting impression is that even the Medinan suras by no means seek to furnish a closed legislative system that does not rely on antecedent moral principles and preconceptions. The relative degree of vagueness that can characterise Qurʾanic law (cf. the discussion of Q. 2:280 at the beginning of this chapter) may accordingly be at least to some degree systemic and intentional. To be sure, the general admonition to 'make a bequest to parents and relatives in line with what is recognised to be right' in Q. 2:180 appears to have been subsequently superseded, in Q. 4:11–12 and 4:176, by far more precise rules about the minimum shares of an estate to which certain categories of surviving relatives are entitled. But this does not in itself settle the question whether the development towards numerical precision and a concomitant sidelining of the inherently imprecise ethical qualifier *bi-l-maʿrūf* that can be seen in the case of Qurʾanic statements on inheritance should be considered paradigmatic of

71 This is not to deny the fact, much stressed by al-Shāfiʿī, that the Qurʾan portrays Muhammad as an object of obedience (e.g. Q. 4:80) and of practical emulation (Q. 33:21), like Abraham (Q. 2:124, 60:4, 60:6); see Sinai, *Key Terms*, 86 (including n. 1). The Qurʾanic form of legal responsa noted above certainly supports the claim that Muhammad functioned as an authority who was consulted when specific normative quandaries arose.

72 See in more detail Sinai, *Key Terms*, 518–19. A very similar point is also made in Reinhart, 'What We Know about Maʿrūf', especially 59–67. On p. 61, Reinhart additionally makes the important point that this scriptural appeal to extra-revelatory moral knowledge may be viewed as having been recognised by al-Shāfiʿī: 'The appeal to extra-textual moral knowledge was recognized, and indeed canonized, as an epistemic principle by al-Shāfiʿī in his *Risāla* when he said that understanding the Qurʾān depended upon grasping the various implications of a Qurʾānic declaration that were apparent to a speaker of the language in which the Qurʾān was revealed, but might not be apparent to a non-native.' But perhaps this is less an appeal to extra-textual moral knowledge than an attempt to implicitly fold the latter into the scriptural text.

73 Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2001), 15.

the Qur'anic understanding of divine legislation. It seems at least as likely that the evolution of Qur'anic inheritance law is an exceptional case responding to a particular need for greater specificity than initially supplied by Q. 2:180. If so, the case of inheritance law would not warrant the supposition that the governing ideal of Qur'anic legislation was to subject ever wider domains of human behaviour to a similar degree of precision. After all, there are quite a few occurrences of *maʿrūf* and *bi-l-maʿrūf* in Q. 4, too (see vv. 5, 6, 8, 19, 25, 114).

By way of a final observation, I should like to draw attention to Nora K. Schmid's recent argument that much of Medinan law is presented in a paraenetic fashion, and that this fact is explicitly articulated by the Qur'an itself, by means of the verb *waʿaẓa* and the related noun *mawʿiẓa*.[74] Schmid's article tallies with many of the features of Qur'anic legislation that have been noted throughout this chapter: not only with the recourse that some Qur'anic legal verse have open-ended ethical qualifiers like *bi-l-maʿrūf* but also with the eschatological horizon of Qur'anic legislation, often driven home by verse-final reminders, and with the claim that Qur'anic law is a behavioural concretisation of more fundamental values and virtues, laid down by a benevolent creator to whom humans owe gratitude. Divine legislation of the sort that the Qur'an portrays God as dispensing – i.e. legislation that appeals to the ethical intuitions of its audience and sometimes properly 'passes the buck' to them[75] – is quite naturally presented in exhortatory or paraenetic discourse, which builds on the existing needs and moral insights of its recipients and aims to shape and refine their internal dispositions. Thus, even the complex inheritance rules in Q. 4:11–12, arguably a peak of legal technicality in the Qur'an, are embedded in an immediate literary context (Q. 4:1–14) that has many paraenetic characteristics, beginning with a programmatic reminder of the descent of all humans from 'a single individual' (*min nafsin wāḥidatin*) and the consequent need to respect kinship ties (*al-arḥām*; Q. 4:1) and ending with a reminder of what is eschatologically at stake in adhering to the 'boundaries' (*ḥudūd*) that God has delineated (Q. 4:13–14). The paradigmatic significance of the literary register of what Schmid calls 'legal paraenesis' in the Qur'an is such that even the Mosaic tablets – surely the archetype of succinct and apodictic divine legislation in the biblical tradition – are in Q. 7:145 cast as paraenetic or hortatory discourse, as containing 'an admonition about everything and an expounding of everything' (*min kulli shay'in mawʿiẓatan wa-tafṣīlan li-kulli*

74 See Schmid, 'Exhortation'.

75 Cook, *Commanding Right*, 15: *maʿrūf* is 'the kind of ethical term that passes the buck to specific standards of behaviour already known and established'.

shay'in).[76] One may, therefore, discern a basic fit between the theology behind Qur'anic legislation, the literary form of Qur'anic legislation, and the Qur'an's own self-referential comments on divine legislation.

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76 Schmid, 'Exhortation', 335–41. My translation of the phrase cited is that given in Sinai, *Key Terms*, 558n2. At Q. 5:46, the term *maw'iẓa* seems to be applied to the *injīl*; see the discussion in Schmid, 'Exhortation', 340–41.

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