

The influence of Arabic language in study of Shariah

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Abstract

Every legal system either English or Islamic must have its medium of instruction, shariah is not an exception. Hence, Islamic religion got its root from Arabian Peninsula, and more importantly the Prophet of Islam, through whom the religion of Islam and Divine law was received is an Arab, which indicates that shariah language is Arabic. Shariah can never be properly understood without vast understanding of Arabic language. This paper discusses the fact that Arabic language has become a very important factor in study of shariah. Therefore, a comprehensive understanding of the shariah legislation can only be attained through a good knowledge of Arabic language.

Keywords: shariah, Arabian Peninsula, Arabic language

Introduction

Every legal system either English or Islamic must have its medium of instruction, shariah is not an exception. Hence, Islamic religion came to us from Arabian Peninsula, and more importantly the Prophet of Islam, through whom the religion of Islam and Divine law was received is an Arab, which indicates that shariah language is Arabic.

Since that is the case, shariah can never be properly understood without vast understanding of Arabic language. However, none can claim to be an expert on shariah law without grasping the meaning of its language. Because to rely on translated work on shariah does not make one to be shariah expert. Therefore, Arabic language has become a very important factor in study of shariah.

Study of Shariah

The study of Shariah in our higher institution has not come by accident. It is as a result of a long struggle to emancipate ourselves from the past colonial subjugation. The received English law lack in understanding our imagination and feelings. It undervalued our laws as Muslims and frequently described them as repugnant to natural justice, equity and good conscience. The tragedy of the situation continued under the shadow of the infamous test of "incompatibility" 'repugnancy' and 'contrariness'.

The situation remains unchanged to this day. It therefore becomes incumbent upon us (Muslims) to make every effort in the course of re-establishing shariah^[1] and for doing so, we must be able to provide sound shariah scholars in order to achieve our aim through correct interpretation of Qur'an and Sunnah.

However, to interpret the Qlorious Qur'an or the Sunnah of the Noble Prophet (SAW) with a view to deducing legal rules from them, it is necessary that the language of the Qur'an and Sunnah be clearly understood, which is Arabic language. To be able to utilize these sources, the Mujtahid must obtain a firm grasp of the words of text and their precise implications^[2]. Nobody can do that unless one knows Arabic language very well. More so, one of the important conditions of being a

Mujtahid is that, He (Mujtahid) should have adequate knowledge of sciences of Arabic language i.e Grammer etymology, balaqah etc. this is because the Qlorious Qur'an and the traditions of the Prophet (SAW) are written in Arabic language, and it would be impossible for one who does not know the Arabic language to deduct the rules of law from its primary sources in their original Arabic language. Any scholar that depends on secondary language will not be able to claim originality of his work and will also not be able to claim that he has access to the primary sources of Shariah because what he has is the translation and the interpretation of translators would definitely be different from the language of legislation^[3]. Allah says: "Verily, we have made it a Qur'an in Arabic that you may be able to understand (its meaning and its admonition)"^[4].

Almighty Allah emphasizes that He had revealed Qur'an in Arabic language to Arab Prophet, I did not know, how one can interpret such Divine book and explain the tradition of the Prophet who is an Arab without understanding their language. For this purpose, the Ulama of Usul-al-fiqh include the classification of words and their usages in the methodology of Usul-al-fiqh. The rules which govern the origin of words, their usages and classification are primarily determined on linguistic grounds and, as such they are not an integral part of the law or religion. But they are instrumental as an aid to the correct understanding of the shari'ah^[5]. So, many difficulties in the law are linguistic origin. This led Cardozo, an American judge, to remark that a good deal of welfare has its origin in the confusion that arises when a single term of broad and ill-defined content is made to do duty for two or more ideas. The tendency is a general phenomenon in all legal systems, even where two or more languages are used in articulation of the law. An example can be drawn from the decision of Egyptian Court of Appeal (30th January, 1929), where inter alia it was said:

The law cannot be (called) law except it is published among the people in two languages of Arabic and French. And if the majority of the people are ignorant of French language it will be compulsory to make valid the Arabic version. And for the

fact that the medium of the discussion of the law is Arabic language it will be invalid to use French version. The appellate Court of Egypt erred in its judgment of 29th December, 1924, in which it stated that French is the original language of the law, because this tantamount to forcing upon people what they cannot understand and speaking to them in one language and ask them to understand it from another language ^[6].

To show the tragic implication of using two languages as medium of legal system like Shariah, we will expatiate on linguistic principles in Usul- al- fiqh. The linguistic principles in al-Mushtarak i.e a word that has more than one meaning, and its intendments, states thus:

If there is a Mushtarak word in the legal text and the word is commonly used for literal and legal meaning at the same time, in this case the legal meaning should be applied. And if it is used for two or more literal meanings it will be necessary to apply one of the meanings which got the support of evidence. It will be invalid to apply the two or more meaning at the same time ^[7].

In light of the above, one can say that a word can simultaneously have more than one meaning both literally and legally. There is no problem if the matter in question is legal, the legal meaning prevail. The problem only comes up where there is no definite legal meaning attached with the word and it has more than one meaning literally.

However, none can give correct interpretation to such word except one is good in Arabic language. Example of this can be seen in: “And Divorce women shall wait concerning themselves for three (Quru) Monthly period ^[8]”.

The word Quru has two distinct meanings namely menstruation, and the purity period between two menstruations. In this respect the Islamic jurist/lawyer will need to exert his Itjihad to fish out the correct and appropriate meaning to the situation in hand. A lawyer cannot do so unless he is perfect in understanding of Arabic language ^[9]. There are many types of this verse in the Glorious Qur’an and Prophetic traditions e.g Q5:38 etc.

Conclusion

Finally, a sound knowledge of Arabic language is essential to comprehend the inherent values of Shariah and its extremely rich literature. None can claim perfect knowledge of Shariah without aid of Arabic language, because it is the bedrock of Shariah. Hence most of our reknown jurist are either Arab or understand Arabic language properly.

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8. Q 2: 228.
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