

Themes in the Study of Bahá'u'lláh's Kitáb-i-Aqdas: Emerging Approaches to Scholarship on Bahá'í Law

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Abstract

A quarter century has passed since the publication of the authorized translation of Bahá'u'lláh's Kitáb-i-Aqdas from Arabic to English. In that time, English language scholarship on the Kitáb-i-Aqdas, especially its legal content, has grown. This essay reviews the emerging body of scholarship surrounding the Kitáb-i-Aqdas and Bahá'í law, identifies core themes and approaches, and suggests directions which future study of this topic might encompass.

Resumé

Un quart de siècle s'est écoulé depuis la publication de la traduction autorisée (de l'arabe à l'anglais) du Kitáb-i-Aqdas de Bahá'u'lláh. Les travaux universitaires en langue anglaise sur le Kitáb i Aqdas, en particulier sur son contenu juridique, ont alors commencé à se multiplier. Dans cet essai, l'auteur passe en revue le corpus émergent de savoir entourant le Kitáb i Aqdas et la loi bahá'íe, en souligne les principaux thèmes et approches et propose

des orientations pour les études à venir sur le sujet.

Resumen

Un cuarto de siglo ha pasado desde la publicación de la traducción autorizada del Kitáb-i-Aqdas de Bahá'u'lláh del idioma Árabe al Inglés. Durante ese tiempo, erudición en inglés sobre el Kitáb -i-Aqdas, especialmente su contenido legal, ha crecido. Este ensayo revisa el cuerpo emergente de erudición rodeando el Kitáb -i-Aqdas y la ley Bahá'í, identificando temas y enfoques céntricos, y sugiere direcciones que un futuro estudio de este tema pudiera envolver.

INTRODUCTION

The year 2017 marks the twenty-fifth anniversary of the publication of the authorized translation from Arabic into English—and subsequently into other languages—of the full text of the Kitáb-i-Aqdas (The Most Holy Book), the central book of scripture of the Bahá'í Faith.¹ Prior to 1992, the full text was accessible only to those who read Arabic or through a few translations of questionable quality that were generally not used by members of the Bahá'í community.²

1 Bahá'u'lláh wrote in Persian and Arabic. Bahá'ís consider His writings to be the revealed word of God. The practice of the Bahá'í community is to translate Bahá'u'lláh's writings from their original language into English and then from English into other languages.

2 For discussion of the reasons for the delay in the translation and dissemination of the Kitáb-i-Aqdas see my article “The

Written while Bahá'u'lláh was in exile in Palestine in 1873, the *Kitáb-i-Aqdas* is a relatively short work comprised of 190 paragraphs in its English translation. Known as the “Mother Book” of the Bahá'í Faith, it is also routinely referred to as Bahá'u'lláh's “book of laws” because it discusses the nature and concept of law and provides some of the foundational laws of the Bahá'í Faith.³

The release of the authorized translation in 1992 was a marked shift in access and availability of the *Kitáb-i-Aqdas* to adherents of the Bahá'í Faith, as well as to scholars and the general public. While portions of the work had been the subject of authorized translation by Shoghi Effendi and a synopsis and codification of the work had been available since 1973, studying excerpts and summaries is significantly different than studying a work of scripture as a whole.

It is worth reflecting on how the *Kitáb-i-Aqdas* has been studied and commented on over the past twenty-five years, what trends have emerged in scholarship, and what patterns might occur in the future study of the

work. In this paper, an examination of the English-language emerging scholarship on the *Kitáb-i-Aqdas* provides a window into contemporary approaches to the academic study of the Bahá'í Faith, as well as into the first wave of scholarly writing on a tradition of religious legal scholarship. Perhaps unsurprisingly, a predominant observation is how dependent this nascent English-language scholarship is on importing constructs from the study of other religious systems—in particular Islam—as well as making relatively unexamined assumptions about the meaning of law in the Bahá'í context that may actually be in tension with indigenous elements of primary Bahá'í legal texts.

THEMES IN THE STUDY OF THE *KITÁB-I-AQDAS*

The publication of the translation of the *Kitáb-i-Aqdas* in 1992 was accompanied by a significant sense of anticipation within the Bahá'í community. The central Bahá'í governing institution, the Universal House of Justice, drew a direct correlation between the accessibility of the text and the evolution of the Bahá'í community itself:

The accessibility to Western readers of the *Kitáb-i-Aqdas* in full authorized text, for the first time in one of their major languages, enormously extends the sphere of its influence, opening wider the door to a vast process of individual and community

Politics of Delay: Social Meanings and the Historical Treatment of Bahá'í Law.”

3 There is not a large number of laws in the *Kitáb-i-Aqdas*. While numbers may vary depending on what one considers a “law” to be, it is reasonable to conclude that there are fewer than a hundred of them in the book. Further, as is noted later, it has been argued that the *Kitáb-i-Aqdas* presents a very distinct concept of law.

development which must certainly exert an increasingly powerful, transformative effect on peoples and nations as the Book is translated further into other languages. (Letter dated 5 March 1993)

The Universal House of Justice also emphasized the unique status of the Kitáb-i-Aqdas within the canon of Bahá'u'lláh's writings:

A Book of such indescribable holiness is itself a symbol of the incomparable greatness of the Revelation of Bahá'u'lláh and is, indeed, a potent reminder of the high respect which is due to all that has flowed from His prodigious, truth-bearing pen. May the friends of God ever be mindful of its exalted rank among the sacred texts of the Faith; treasure it as the bread of life; regard possession of it as a sacred honor, as a priceless legacy from the Pen of the Most High, as a source of God's greatest bounty to His creatures; place their whole trust in its provisions; recite its verses; study its contents; adhere to its exhortations; and thus transform their lives in accordance with the divine standard. (Letter dated 5 March 1993)

At various levels within the Bahá'í community, the release of the translation was accompanied by dialogue and study. In some local communities, study sessions took place both before

and after the release of the text so that members could explore together the significance and meaning of the book. In various countries, Bahá'í schools held special study sessions on the text. During its conference in Montreal in 1993, the Association for Bahá'í Studies held a special one-day symposium at McGill University on the Kitáb-i-Aqdas.⁴ Parallel to these opportunities for study and dialogue, some initial commentaries on the work were made accessible to the broader Bahá'í population. For example, in 1993 the Bahá'í World Centre produced and distributed the monograph "The Kitáb-i-Aqdas: its place in Bahá'í Literature," which placed the book in a broader social and historical context while commenting on main themes of justice, government, law, liberty, belief, learning, family, and the advancement of civilization. Importantly, the release of the translation and these early commentaries was accompanied by reminders to the Bahá'í community of the critical fact that the laws of the Kitáb-i-Aqdas were explicitly written by Bahá'u'lláh to envision a social order for the future and were not, in many instances, designed for immediate use and application.

Around this time, the growth of scholarship on the Kitáb-i-Aqdas

4 See Martha L. Schweitz's "The Kitáb-i-Aqdas: Bahá'í Law, Legitimacy, and World Order" and John S. Hatcher's "Unsealing the Choice Wine at the Family Reunion," both of which proceeded from this symposium.

began to accelerate. While there had been some scholarly work prior to 1992—particularly in Persian, but also in other languages—one sees an increase and a broader diversity of works appear following the English translation and publication. To give but a few examples, in addition to broad commentaries⁵ and descriptions or explanations of rules,⁶ works have been published on the style of language,⁷ on organizing themes and key concepts,⁸ on the Bahá'í concept of law,⁹ and on its associated philosophical themes.¹⁰ As well, there have been a growing number of commentaries on the book in academic journals other than those focused on Bahá'í, Islamic, or Middle Eastern studies.¹¹

5 See John Walbridge's *Sacred Acts, Sacred Space, Sacred Time*.

6 See Baharieh Rouhani Ma'ani and Sovaida Ma'ani Ewing's *Laws of the Kitáb-i-Aqdas*.

7 See Suheil Bushrui's *The Style of the Kitáb-i-Aqdas: Aspects of the Sublime*.

8 See Nader Saiedi's *Logos and Civilization: Spirit, History, and Order in the Writings of Bahá'u'lláh*.

9 See Martha Schweitz's "The Kitáb-i-Aqdas: Bahá'í Law, Legitimacy, and World Order" and my essay "Some Reflections on the Concept of Law in the Bahá'í Faith."

10 See John S. Hatcher and William S. Hatcher's *The Law of Love Enshrined: Selected Essays*.

11 For example, the *Journal of Law and Religion* has published three articles on Bahá'í law: Udo Schaefer's "An Introduction to Bahá'í Law: Doctrinal Foundations,

Six emerging trends may be identified based on a review of the secondary literature on the Kitáb-i-Aqdas since 1992: (1) the Kitáb-i-Aqdas has primarily, though not exclusively, been considered for its legal content; (2) the legal content of the Kitáb-i-Aqdas has been approached in a multiplicity of ways reflecting different perspectives on the nature of Bahá'í law; (3) analogies between the Kitáb-i-Aqdas and the Qur'an or shari'a law have been common; (4) there has been very limited consideration of the Kitáb-i-Aqdas from scholars who are not members of the Bahá'í community; (5) there are challenging issues with some of the legal content of the Kitáb-i-Aqdas with which scholars have not yet widely grappled but which will likely become an increasing area of study; (6) and reflecting the priorities of the Bahá'í community, the relationship between law and social change from a Bahá'í perspective will become an increasing area of focus in analyses of the text.

THE KITÁB-I-AQDAS HAS PRIMARILY, THOUGH NOT EXCLUSIVELY, BEEN CONSIDERED FOR ITS LEGAL CONTENT

As one would expect, a particular focus of the study of the Kitáb-i-Aqdas to date has been its legal content. In this regard, secondary literature mirrors

Principles, and Structures" and my articles "Internationalism and Divine Law" and "Church and State in the Bahá'í Faith: An Epistemic Approach."

the emphasis on the legal dimensions of the work made explicit in Bahá'í primary literature. For example, as the Universal House of Justice describes:

The Law of God for this Dispensation addresses the needs of the entire human family. There are laws in the Kitáb-i-Aqdas which are directed primarily to the members of a specific section of humanity and can be immediately understood by them but which, at first reading, may be obscure to people of a different culture. Such, for example, is the law prohibiting the confession of sins to a fellow human being which, though understandable by those of Christian background, may puzzle others. Many laws relate to those of past Dispensations, especially the two most recent ones, those of Muḥammad and the Báb embodied in the Qur'án and the Bayán. Nevertheless, although certain ordinances of the Aqdas have such a focused reference, they also have universal implications. Through His Law, Bahá'u'lláh gradually unveils the significance of the new levels of knowledge and behaviour to which the peoples of the world are being called. He embeds His precepts in a setting of spiritual commentary, keeping ever before the mind of the reader the principle that these laws, no matter the subject with which they deal, serve the manifold purposes of

bringing tranquility to human society, raising the standard of human behaviour, increasing the range of human understanding, and spiritualizing the life of each and all. Throughout, it is the relationship of the individual soul to God and the fulfilment of its spiritual destiny that is the ultimate aim of the laws of religion. “*Think not*”, is Bahá'u'lláh's own assertion, “*that We have revealed unto you a mere code of laws. Nay, rather, We have unsealed the choice Wine with the fingers of might and power.*” His Book of Laws is His “*weightiest testimony unto all people, and the proof of the All-Merciful unto all who are in heaven and all who are on earth.*” (Introduction 2–3)

This focus follows a long tradition in the Bahá'í Faith of associating the Kitáb-i-Aqdas with its legal content, while another book of Bahá'u'lláh—the Kitáb-i-Iqan (The Book of Certitude), written in 1861—is viewed as His central doctrinal work.

Within this context, the secondary literature presents a mix of both descriptive and analytical works. Most of the full monographs examining the Kitáb-i-Aqdas have concentrated on descriptions of the legal content of the book, sometimes comparing it to other religious texts.¹² Shorter pieces

¹² See, for example, Walbridge's *Sacred Acts, Sacred Space, Sacred Time* and Ma'ani and Ma'ani Ewing's *Laws of the Kitáb-i-Aqdas*.

have also tended to offer a range of analytical and critical perspectives on legal aspects of the work including, for example, its treatment of equality.¹³

At the same time, the *Kitáb-i-Aqdas* is not merely a book of laws but reveals a complex spiritual universe. As the term “Mother Book” suggests, the *Kitáb-i-Aqdas* may be thought of as encapsulating core concepts and themes that run throughout Bahá'u'lláh's revelation. From this perspective, it contains fundamental teachings on theological, epistemological, and social themes. Some of these themes are expressed through legal statements, and others are communicated through spiritual exhortation, ethical precepts, messages to rulers and leaders, and descriptions of the nature of God, the Manifestation, and human reality. For example, the *Kitáb-i-Aqdas* opens with five short paragraphs discussing the nature of God, the station of the Manifestation of

God, the spiritual nature of human beings, and the relationship between human beings and the Divine. This is immediately followed in paragraphs 6 to 19 by a discussion of how to live the spiritual life—which includes the laws regarding prayer, meditation, and fasting—as well as the foundations for social relations, such as the importance of not speaking or acting in ways that are harmful to others.

It is worth highlighting this broad content of the *Kitáb-i-Aqdas* because the focus placed on the legal dimensions of the book necessarily results in a concentration on the place of law within the Bahá'í revelation that may limit the scope of its analysis. Certainly, as in past scriptures, law does have a central role. But the role of law in the Bahá'í Faith has distinct elements as well. These include (1) the sharp break from the legal traditions in Islam that emphasized the primacy of rules covering all aspects of life and the necessity for blind obedience (*taqlid*); (2) the historical pattern of application of law, which in the case of the Bahá'í Faith involves the conscious and purposeful delay in the application of the law; (3) the role of individual knowledge and love in relation to obedience to the law; and (4) the emphasis on law in practice as a dynamic and contextual phenomenon (Danesh, “Some Reflections” 29–35, 39–44; Danesh, “Imagining Bahá'í Law” 97–105).

It should be expected that broader approaches to the study and consideration of the *Kitáb-i-Aqdas* will be encouraged and continue to emerge.

13 Examples of studies of gender equality in Bahá'í law include the following: Linda Walbridge and John Walbridge's “Bahá'í Laws and the Status of Men”; Susan Stiles Maneek et al.'s “A Question of Gender: A Forum on the Status of Men in Bahá'í Law”; John S. Hatcher's “The Equality of Women: The Bahá'í Principle of Complementarity”; Schweitz's “Of Webs and Ladders: Gender Equality in Bahá'í Law”; Bahiyyih Nakhjavani's “Exemption”; Seena Fazel's “Inheritance”; and Sen McGlinn's “Some Considerations Relating to Inheritance Laws.”

Indeed, such a broadening of perspective would aid in the understanding of the book as a legal text because it would deepen our knowledge of the distinct nature of the Bahá'í concept of law itself. Too often a legal orientation to the text translates into a narrow focus on rules and a discourse about the book as being a set of rules. As has been discussed in some secondary literature, appropriate consideration given to the social and political theory elements, in addition to the theological and ontological ones, helps inform a more nuanced understanding of the concept of law itself in the Bahá'í Faith, highlighting some of its distinctive elements while correcting the tendency to be overly focused on rules.¹⁴

THE LEGAL CONTENT OF
THE KITÁB-I-AQDAS HAS BEEN
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OF BAHÁ'Í LAW

The approach to the translation and dissemination of the *Kitáb-i-Aqdas* has created significant space for diverse discourses about Bahá'í law to

emerge organically and begin to develop in terms of their sophistication and complexity. This, in turn, has encouraged a dynamic in the Bahá'í community where there does not appear to be overly rigid or fixed notions of the law, its meaning, and its application. Generally, Bahá'í community life has not adopted a particularly rigid and legalistic focus.

When the Universal House of Justice released the translation of the *Kitáb-i-Aqdas* in 1992 it was made clear that the release did not indicate a change in the applicability of the laws (*Kitáb-i-Aqdas* 7). As well, the release of the *Kitáb-i-Aqdas* was not accompanied by an increase in legislative activity by Bahá'í institutions (Universal House of Justice, Introduction 7). The Universal House of Justice has authority to determine if or when laws in the *Kitáb-i-Aqdas* may come into force and to devise and enact new laws to supplement them. There has been no demonstrable or measureable increase in the use of that authority over the past quarter century. Similarly, there has not been any significant change in the roles and responsibilities of other Bahá'í institutions regarding their legal functions. For example, the range of laws and the scope of the role of Bahá'í institutions currently remains somewhat limited.¹⁵ At the same time,

14 Examples of connections to social and political theory can be seen in my article "Imagining Bahá'í Law." For an example of the connection between ontology and law as a form of analysis, see William S. Hatcher's "The *Kitáb-i-Aqdas*: The Causality Principle in the World of Being."

15 An example of an area of law where Bahá'í institutions currently play an active role is the application of Bahá'í laws regarding marriage and divorce, such as the consent of parents for marriage and

guidance on how these roles are to be fulfilled has maintained a focus on flexibility and the importance of context.¹⁶

As a result, a number of distinct narratives and approaches to understanding and using Bahá'í law have emerged in the scholarly literature on the Kitáb-i-Aqdas. This, in some ways, reflects Bahá'u'lláh's own encouragement for individuals to seek out their own study and understanding of the text:

In such a manner hath the Kitáb-i-Aqdas been revealed that it attracteth and embraceth all the divinely appointed Dispensations. Blessed those who peruse it! Blessed those who apprehend it! Blessed those who meditate upon it! Blessed those who ponder its

the need for a year of patience prior to divorce.

16 For instance, the Universal House of Justice recently gave the following guidance on how Bahá'í institutions might apply Bahá'í laws regarding sexual ethics:

They [Bahá'í institutions] do not pry into the personal lives of individuals. Nor are they vindictive and judgmental, eager to punish those who fall short of the Bahá'í standard. Except in extreme cases of blatant and flagrant disregard for the law that could potentially harm the Cause and may require them to administer sanctions, their attention is focused on encouragement, assistance, counsel, and education. (Letter dated April 19, 2013)

meaning! So vast is its range that it hath encompassed all men ere their recognition of it. Ere long will its sovereign power, its pervasive influence and the greatness of its might be manifested on earth. (Kitáb-i-Aqdas 16)

In terms of the various discourses that have developed (though all are in their relative infancy), Bahá'í law has been analyzed from the following perspectives:

- as a religious law building upon previous scriptures;¹⁷
- as a set of rules for individual conduct and social organization that are critical for human salvation;¹⁸
- as a distinct concept of law that challenges predominant religious and secular concepts of law;¹⁹
- and as having a particular role in social change.²⁰

This focus on the legal dimensions of the text and the diversity of

17 See Ma'ani and Ma'ani Ewing's *Laws of the Kitáb-i-Aqdas* and Brian D. Lepard's *Hope for a Global Ethic*.

18 See John S. Hatcher's "Unsealing the Choice Wine at the Family Reunion."

19 See my essay entitled "Some Reflections on the Concept of Law in the Bahá'í Faith," especially pages 39–44.

20 For varying perspectives on this subject see Schaefer's "An Introduction to Bahá'í Law: Doctrinal Foundations, Principles, and Structures" and my article "Imagining Bahá'í Law."

approaches is not without some tensions. For example, some of the scholarly discourse reflects the differences between textualist approaches that emphasize how the Kitáb-i-Aqdas establishes new sets of rules and other approaches that, instead, underscore the importance of how Bahá'í law has been used in practice and the implications of this for our understanding of law, legal processes, and legal structures. In some respects, this debate mirrors elements of the next trend regarding analogies between Bahá'í and Islamic law.

ANALOGIES BETWEEN THE KITÁB-I-AQDAS AND THE QUR'AN OR SHARÍ'A LAW HAVE BEEN COMMON

It is worth highlighting the particular insistence of much of the secondary literature on drawing analogies between the Quran or shari'a law and the Kitáb-i-Aqdas. There are some foundations in the primary literature for drawing such a comparison. For example, in regard to the nature of divine revelation generally, Shoghi Effendi states:

the Qur'an should be to some extent studied by the Bahá'ís but they certainly need not seek to acquire a mastery over it, which would take years, unless they really want to. All Divine Revelation seems to have been thrown out in flashes. The Prophets never composed treatises. That is why in the Qur'an and our own Writings

different subjects are so often included in one Tablet. It pulsates, so to speak. That is why it is "Revelation." (*Unfolding Destiny* 453–54)

A number of works discuss how the structure of the Kitáb-i-Aqdas is apparently similar to that of the Qur'an and how the articulation of laws is analogous to the way shari'a law is expressed. For example, John Walbridge writes:

In style and content the Aqdas is to be compared to the Qur'an, a work in which legislation is often alluded to rather than expounded and in which disparate topics are placed together without obvious logic. In the case of the Qur'an, this might be because it is pieced together from many distinct relations, some very short. The Aqdas follows the stylistic conventions of the Qur'an, and thus is not bound to a rigid outline, but it may also have been shaped by similar factors....It seems possible that the text grew gradually from a nucleus of the initial section....According to this theory, Baha'u'llah would gradually have added material, probably often in answer to specific questions asked by believers. ("Kitáb-i-Aqdas")

Other studies observe stylistic analogies between the Qur'an and the Kitáb-i-Aqdas. For example, Bushrui comments on these similarities and the

fact that they are perhaps more pronounced in the *Kitáb-i-Aqdas* than in some of Bahá'u'lláh's other writings.²¹

Another example of using the Qur'an as a reference point is the effort to understand the laws of the *Kitáb-i-Aqdas* through comparisons to shari'a law or, more broadly, Islamic legal traditions.²² In some respects this is a necessary part of uncovering some of the meanings and implications of the work, as Bahá'u'lláh makes both explicit and implicit references to the Islamic context in which He lived and in which the *Kitáb-i-Aqdas* was revealed. For example, Bahá'u'lláh uses Quranic allusions and metaphors from the outset of the text—from the story of Joseph to the meaning of “wine” (23). Moreover, a number of the laws are specifically expressed in contrast to Islamic traditions, such as His statement that He has “relieved” the faithful from the more onerous obligatory prayer requirements that existed in previous dispensations (23). Thus, explanations of this context are vital to understanding aspects of this work. This is reflected in Shoghi Effendi's

21 Bushrui has written and spoken much on this topic. Notes regarding his perspectives can be found at http://bahai-library.com/wilmette_kitab_aqdas_style. A fuller treatment of the subject is found in his book *The Style of the Kitáb-i-Aqdas*.

22 This is seen in a wide range of works. One example is Schaefer's “An Introduction to Bahá'í Law: Doctrinal Foundations, Principles, and Structures.”

injunction that the *Kitáb-i-Aqdas* be heavily annotated when translated and published (viii), thus resulting in the “notes” that accompany the text, many of which concern Quranic or Islamic context.

Concurrent to this Quranic line of focus in the secondary literature is the emergence of some scholarship that points to the significant limitations of using Quranic and Islamic touchstones for the study of the *Kitáb-i-Aqdas*. For example, I have argued elsewhere that the Bahá'í concept of law represents a fundamental deviation from the Islamic one and, indeed, a radical rejection of predominant Islamic legal traditions.²³ This includes an explicit rejection of the tradition of development of law by scholars (*usul al-fiqh*), a new emphasis on conscious knowledge and love as the rationale for adherence to the law, and a contextual imperative for the application of divine laws in human lives and communities. From this perspective, rather than relying upon an Islamic analog, Bahá'u'lláh's intent is to transform conceptions of law. He does this both by speaking explicitly to His most immediate audience familiar with the Qur'an and by addressing more broadly and generally—through religious, philosophical, social, and historical references—humanity's understanding, use, and experience of law. This line of reasoning suggests

23 See my article entitled “Some Reflections on the Concept of Law in the Bahá'í Faith.”

that, perhaps inadvertently, elements of the legalistic orientation found in predominant Islamic traditions are being imported into the study and analysis of Bahá'í law, a tendency that should be challenged.

THERE HAS BEEN VERY LIMITED
CONSIDERATION OF THE
KITÁB-I-AQDAS FROM SCHOLARS
WHO ARE NOT MEMBERS OF THE
BAHÁ'Í COMMUNITY

The scholarship produced on the Kitáb-i-Aqdas has almost exclusively been the fruit of work by members of the Bahá'í community, and, as such, much of it has the tenor of apologetics. There are some references to aspects of the Kitáb-i-Aqdas in literature by non-Bahá'í scholars—particularly from the disciplines of Iranian, Middle Eastern, and Islamic studies—but there has been little in-depth analysis or commentary.²⁴

²⁴ In some respects, the more extensive commentary appears in works that are openly adversarial to the Bahá'í Faith, such as Francesco Ficicchia's *Der Bahá'ismus: Weltreligion der Zukunft? Geschichte, Lehre und Organisation in kritischer Anfrage* (Bahá'ism: World Religion of the Future? A Critical Inquiry into Its History, Teachings, and Organization), which drew highly critical conclusions about the dissemination of the Kitáb-i-Aqdas, the functioning of the Bahá'í administrative order, Bahá'í laws, and other topics. Ficicchia's assertions were soundly rebutted by Udo Schaefer, Nicola Towfigh, and Ulrich

It is perhaps surprising that in a quarter century the central written work of the Bahá'í religious system has not garnered broader scholarly attention outside the Bahá'í community. From one perspective this lack of attention might be considered symptomatic of the fact that the study of the Bahá'í Faith generally remains in its infancy. It reflects a range of demographic and contextual factors, including the fact that the Bahá'í community is relatively small and generally does not attract significant attention from, nor is a source of public conflict with, the state—outside of its Iranian homeland, where the Bahá'í community is subject to ongoing persecution—since its teachings enjoin adherence to domestic laws and pose serious limitations to seeking political roles and power.

From another perspective, this lack of attention could also be partially accounted for by the general pattern of backgrounding, or giving limited attention to, the application of Bahá'í law within the Bahá'í community, which has been evident since the founding of the religion and is a reflection of the Bahá'í concept of law, among other things. As has been documented in detail elsewhere, the rationale for this backgrounding includes the commitment to the establishment of certain social contexts and forms of both individual and shared

Gollmer in their volume *Desinformation als Methode* (published in English as *Making the Crooked Straight*).

knowledge and understanding before the coercive force of law becomes applicable.²⁵ For example, there are laws (such as those related to dowry and length of engagement before marriage) that currently apply to Bahá'ís of Iranian heritage—the majority of whose families have been part of the Bahá'í community for multiple generations—but not to Bahá'ís of non-Iranian heritage. Further, Bahá'u'lláh Himself raised caution about how the laws are used and advised that they must be observed with “tact and wisdom” so that “nothing might happen that could cause disturbance and dissension” (qtd. in Universal House of Justice, Introduction 6).

The delay in making the *Kitáb-i-Aqdas* widely accessible, as well as the delay in the application of the laws, are reflections of this pattern of back-grounding. With such a pattern in place, it is no surprise that the small amount of secondary literature by scholars outside the Bahá'í community would focus on matters other than Bahá'í law.

One might expect that, at some point, the study of the central text of the Bahá'í religion will attract more scholarly interest as the study of the Bahá'í Faith continues to grow and evolve. Specific to Bahá'í law, we might anticipate that the growth of scholarly attention to Islamic societies and the increasing interest in the political,

religious, and social trends that have led to contemporary realities may eventually engender some interest in the Bahá'í Faith and its particular legal tradition. Setting aside the specifics of theological claims, the Bahá'í Faith historically, culturally, and socially represents a distinct religious movement that emerged from within an Islamic society at a time of great significance to the understanding of geopolitical trends and currents today. The Bahá'í Faith's commitment to democratization and globalism, rejection of religious fanaticism and clerical power, and system of grassroots governance focused on empowerment of local communities further adds to its contemporary relevance. The shift one sees in the Bahá'í legal imagination from the predominant strands of thought and practice within Islamic legal orthodoxy is a central element and expression of the distinctive Bahá'í response to political, social, and cultural challenges of the day. It can be said that the study of the Bahá'í Faith, and the place of law within the Bahá'í order, will increasingly provide a unique perspective that is valuable for understanding current realities, challenges, and opportunities.

However, there are, as suggested in the next section, issues that may give rise to tensions with public and legal discourses. Also, it remains uncertain when the study of the *Kitáb-i-Aqdas* will broaden into a subject matter of scholarly interest beyond the Bahá'í community itself.

²⁵ See my article entitled “The Politics of Delay: Social Meanings and the Historical Treatment of Bahá'í Law.”

THERE ARE CHALLENGING ISSUES WITH SOME OF THE LEGAL CONTENT OF THE KITÁB-I-AQDAS WITH WHICH SCHOLARS HAVE NOT YET WIDELY GRAPPLED, BUT WHICH WILL BECOME AN INCREASING AREA OF STUDY

One result of the lack of an extensive culture of study of and inquiry into the Kitáb-i-Aqdas is that significant potential challenges and flashpoints with the content of the book have not yet been explored, analyzed, or understood in much depth. The most well-known of these issues involve Bahá'í standards of sexual morality (in particular, though not solely, related to homosexuality),²⁶ gender equality (especially concerns that some elements of the text might be interpreted as reinforcing male dominance),²⁷ and harsh

26 Bahá'í laws on sexuality, which are applicable only to members of the Bahá'í community, emphasize that sexual relations should be between members of the opposite sex and within the institution of marriage.

27 While gender equality is a cardinal principle of the Bahá'í Faith, and one for which it is quite well known, there are some apparent deviations from it, including, most notably, the limitation of service in the Universal House of Justice to men. At the same time, however, gender equality is expressed at multiple levels and ways in both institutional and community life and has been advocated for, including in some groundbreaking ways in nineteenth-century Iran, since the earliest days of the Bahá'í Faith.

punishments (such as the potential for the death penalty for crimes such as murder).²⁸ More generally, to the contemporary reader in many parts of the world, the text can be quite disorienting, with implicit and explicit allusions to a vast range of other scriptures primarily from Islamic and Bábí traditions. One aspect of these references is that the text appears to spend significant time (for a very short work) on seemingly obscure and insignificant matters. This combination of covering vast terrain—including many high-profile issues for both individuals and society—in a condensed style, one that uses an economy of diction within the span of a short book, creates an extremely challenging text to use and understand, particularly with respect to subject matter that is potentially controversial in the contemporary world.

Certainly these and other challenging issues are matters of interest to the broader public discourse within Bahá'í community life and to those who are inquiring about the Bahá'í Faith. Most commonly, they are debated and discussed through the lens of contemporary standards, modes of discourse, and mores.

Having said that, some of the challenging or controversial issues raised in the Kitáb-i-Aqdas have been approached in the secondary literature. For example, the issue of gender

28 The Kitáb-i-Aqdas contemplates capital punishment and lifetime incarceration as valid punishments for murder.

equality in the Bahá'í Faith has received scholarly attention—some of which is on the specific dimensions of gender equality in the Kitáb-i-Aqdas—producing many distinct understandings of the Bahá'í concept of equality and its relationship to contemporary ideas and practices. It is not clear, at this point, whether there is a predominant approach to defining or conceptualizing the Bahá'í understanding of gender equality and how that incontrovertible aspect of Bahá'u'lláh's teachings may be squared with apparent gender preferences in Bahá'í law (such as in the context of Bahá'í inheritance law). At the same time, particularly helpful analyses have been developed about the general approach to equality—such as the vision of complementarity described by John S. Hatcher or the focus on changing legal and institutional structures presented by Schweitz—and about how specific laws might be understood in ways that challenge assumptions that they reflect a form of gender inequality, such as various commentaries on inheritance laws. Bahá'í sexual ethics, including teachings about homosexuality, have received limited scholarly attention, and the majority of the studies remain somewhat descriptive of the teachings instead of being analytical and conceptual in nature.²⁹ Bahá'í concepts

29 While there is substantial discussion on the Internet about the Bahá'í teachings on homosexuality, there are very few works published that look at the subject matter from a primarily theological

of criminal punishment, including the death penalty, have been the subject of only a few commentaries.³⁰

The literature on these challenging topics is minimal, and it is also fair to observe that the modes of inquiry they represent are somewhat limited. As would be expected, there is some focus on how Bahá'u'lláh's writings on these subjects relate to, reflect, or deviate from, norms of the nineteenth-century Islamic context in which the Bahá'í Faith was born, as well as contemporary norms in various societies. Needless to say, there is a need for more analysis of these topics in a way that interprets and locates these issues within the framework of Bahá'u'lláh's teachings as a whole, considering them in relation to His concept of law, how Bahá'í law operates and is understood, and, more broadly, His vision of the future, among other things.

Bahá'u'lláh explicitly envisions many of His laws for a future society that has the understanding and the capacity to apply them and a social

and community practice perspective. See, for example, Hanna A. Langer's *I Don't Want to be Táhirih*. There are some discussions of the topic in general works about Bahá'í law, but, with a few exceptions, detailed analyses of the legal aspects of Bahá'í teachings on the subject are still emerging.

30 See, for instance, Roger Le Lievre's "The Death Penalty: Australian Legal Institutions vs. the Baha'i Faith?" and Schaefer's "Crime and Punishment: Bahá'í Perspectives for a Future Criminal Law."

context that is receptive and conducive to their use. For this reason, He also mandates that the laws contained in the Kitáb-i-Aqdas do not apply unless the Universal House of Justice explicitly states that they do.

In-depth analysis may reveal very different perspectives on how these issues can be coherently located within the overarching and unyielding commitment of the Bahá'í Faith to advancing conditions of social justice, equality, and peace for all citizens of the world, as part of an expression of the central and overarching teaching of the oneness of humanity. Regardless of the specific topic, we can expect that greater attention will be paid by the emerging scholarship to these and other significant and far-reaching issues contained in the Kitáb-i-Aqdas. We can also foresee how some of these topics may lead to conflicts with contemporary perspectives and norms—for example, in societies that recognize full equality for same-sex marriage, provide legal protection from discrimination based on sexual orientation, and safeguard freedom of religion. To better understand these potential areas of tension, there is a need to expand the diversity of approaches to the analysis of the Kitáb-i-Aqdas with respect to these issues, including grounding analysis in the particular and distinct Bahá'í concept of law and its approach to operation and implementation. As noted earlier, this includes considering the implications of having a divine model of law that is contingent on certain social contexts

and environments for its application, as well as the requirement that law be followed out of conscious knowledge and active love. Such a focus may well provide a different understanding of the nature of these teachings, their implications for the daily lives of individuals and communities, and their coherence with other Bahá'í writings and teachings.

REFLECTING THE PRIORITIES
OF THE BAHÁ'Í COMMUNITY,
THE RELATIONSHIP BETWEEN LAW
AND SOCIAL CHANGE FROM A BAHÁ'Í
PERSPECTIVE WILL BECOME AN
AREA OF INCREASING FOCUS IN
UNDERSTANDING THE TEXT

The ways in which law is a force for advancing or inhibiting social change is one common lens through which law is thought about and analyzed. This is true historically in religious contexts—where we see the implementation of new laws as a foundation for engendering religious norms in individuals and societies—and in liberal democracies today where the enactment, implementation, and interpretation of law can be significant factors in struggles around matters of equality, fairness, and justice. Law can be used to shape and bind the actions of individuals, groups, organizations, corporations, and governments, and in various ways it can be a source for reinforcing or changing existing patterns.

While there will always be a relationship between law and social

change, the way law plays this role, and the degree to which law is utilized in this regard, is a matter of choice and design. Law may be the leading driver in ensuring a particular social reality, or it may be a late actor, following the emergence of a particular context or set of understandings. As well, the degree to which we explicitly and consciously consider how laws may shape, impact, or change social realities may vary. Sometimes we may focus quite explicitly on how a particular law may be used to form a specific social condition. At the same time, however, our decision to enact laws may be motivated by a whole host of other interests unconnected to their capacity to shape a particular social reality, from particular and special interests, to otherworldly considerations, to desired collateral objectives.

As noted earlier, in the Bahá'í community, the historic pattern of backgrounding Bahá'í law relates to a particular conception of the relationship between law and social change. In particular, it suggests—unlike, for example, the Islamic legal context—a de-emphasis of the role of law in shaping a spiritualized society. Rather, Bahá'ís focus on systems of knowledge and understanding and systems of social awareness and cohesion, ensuring they are in place before Bahá'í laws have an extensive role to play.

This pattern reflects a broader and increasingly popular orientation in the Bahá'í community to creating the epistemic infrastructure that leads to the emergence of particular social

patterns. This is distinct from the development of sets of laws and the imposition of those laws. For example, a major thrust of Bahá'í activity today is in engagement in social action and participation in influencing and deepening people's understanding of how the principles of unity, equality, and justice may be applied to various public discourses on matters of key interest to the welfare of humanity:

Effective social action serves to enrich participation in the discourses of society, just as the insights gained from engaging in certain discourses can help to clarify the concepts that shape social action. . . . [I]nvolvement in public discourse can range from an act as simple as introducing Bahá'í ideas into everyday conversation to more formal activities such as the preparation of articles and attendance at gatherings, dedicated to themes of social concern—climate change and the environment, governance and human rights, to mention a few. It entails, as well, meaningful interactions with civic groups and local organizations in villages and neighbourhoods. (Universal House of Justice, 2010 *Riḍván Message*)

The Bahá'í focus on influencing and participating in discourses as a mechanism for social change is quite different, for example, than having a religious community advocate for

particular changes in laws that might reflect its social teachings. It is also different from engaging in the world at large for the purpose of achieving converts:

It will be important for all to recognize that the value of engaging in social action and public discourse is not to be judged by the ability to bring enrolments. Though endeavours in these two areas of activity may well effect an increase in the size of the Bahá'í community, they are not undertaken for this purpose. Sincerity in this respect is an imperative. (Universal House of Justice, 2010 Ridván Message)

This particular construction of the relationship between law and social change in the Bahá'í Faith suggests an approach to the study of the Kitáb-i-Aqdas that is largely unexplored. In some respects, the fact that much of the Kitáb-i-Aqdas is aimed at a social order that is in the distant future has perhaps limited exploration into what the text, particularly in its treatment of Bahá'í law, has to say about how change toward new patterns of social order may emerge, including implications for contemporary social debates and how law and its coercive power are employed or withheld on the path of progress.

CONCLUSION

To students of law and religion, a topic of great importance is how a

religious community interacts with its laws, develops modes of legal interpretation and practice, and evolves its understandings of the role of law in religious life.

In the case of the Bahá'í Faith, we are seeing the earliest stages of those processes, with the last quarter century being the first period of time when the Bahá'í community and scholarly attention in the West have turned to the question of Bahá'í law in any demonstrable way. What has emerged to date is an eclectic and diverse set of understandings and approaches to the study of Bahá'í law that reflects a community in which law is still only a gradually emerging preoccupation. At the same time, the upcoming decades will probably see an acceleration of legally focused dialogue and development and the emergence of approaches to understanding Bahá'í law that are more indigenous in character and that uniquely address and contribute to the prevailing, but highly varied, public and legal discourses about the needs of human societies.

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