

In Defense of Ambiguity: The Legal Hermeneutics
of Abū Bakr Muḥammad b. al-Ṭayyib al-Bāqillānī (d. 403/1013)

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Some ten years ago, Doctor ‘Abd al-Ḥamīd ibn ‘Alī Abū Zunayd published a very conscientious edition of a quite remarkable text. The manuscript, in a library in India, had been misidentified, and had long remained unnoticed, but Abū Zunayd has now shown, quite convincingly I think, that it is in fact the shortest of several works with the title *al-taqrīb wa-l-irshād*, by Abū Bakr al-Bāqillānī, a Mālikī *qāḍī* and second-generation Ash‘arī theologian who died in Baghdād in the year 403/1013. The text is a manual of legal theory (*uṣūl al-fiqh*), and the three volumes that have been published contain al-Bāqillānī’s preliminaries on knowledge, on speech, and on the nature of *uṣūl al-fiqh*, followed by his discussion of hermeneutical questions about the interpretation of the language of the Qur’ān, which is dominated by the topics of command and prohibition, and the general and the particular. This work represents by far the most detailed treatment of these topics that is known to have survived from the fourth century.

Today I want to highlight what seems to me the single most striking and distinctive overarching feature of al-Bāqillānī’s legal hermeneutics, and then show how it brings together certain Ash‘arī theological premises with the Shāfi‘ī tradition of *uṣūl al-fiqh* (in which al-Bāqillānī, as a Mālikī, may be considered to participate.)

Arguably the dominant concept of al-Bāqillānī’s legal hermeneutics is ambiguity, or *iḥtimāl*.

On the one hand, al-Bāqillānī insists that God’s speech is expressed in the Qur’ān entirely in accordance with established Arabic usage. Revelation does not give words any new, religious meanings (there are no *asmā’ shar‘iyya*

or *asmā' dīniyya*.) Furthermore, the Qur'ān must be interpreted literally, unless specific contextual evidence shows that it is meant figuratively. al-Bāqillānī thus keeps interpretation within very definite bounds.

On the other hand, within those bounds, al-Bāqillānī contends that even ordinary Arabic usage is highly ambiguous. Most legal theorists recognized that certain specific words are ambiguous – homonyms, for example. al-Bāqillānī, however, claimed that entire classes of verbal forms are ambiguous, including two very common types of verbal form that are especially important for law: imperatives (anything of the form *if'al*), and general expressions (which includes a variety of forms such as definite plural nouns, that can be used to refer generally to a whole class of things, such as *al-mu'minūn*, or *al-fujjār*.) Most of his contemporaries acknowledged that these forms could be used in many ways, but nevertheless assigned them default meanings, interpreting imperatives as obligations, for example, or assuming that general expressions are meant to be general unless some evidence shows otherwise. But al-Bāqillānī argued that one must suspend judgment as to their intended meaning until one has found specific clarifying evidence.

Thus a jurist may not decide whether an imperative is meant to express a command, or some other type of speech such as permission or request or warning, without finding specific evidence to support his interpretation. Even if it is proven that a given imperative does express a command, further evidence is still required to determine whether that command is merely a recommendation, or is intended to make obedience obligatory. Without clarifying evidence, a jurist may not decide whether a seemingly general expression is intended to refer to all of the class it denotes, or to only a subset of that class (for example, whether *inna al-fujjāra la-fī jahīm* refers to all evildoers, or all evildoers except believers.) Most jurists, if they found that a particular text contradicted a general one, would understand the former as evidence that the latter was not intended as general; but al-Bāqillānī says that one needs additional evidence even to establish this “particularizing” relationship between the two texts. There are a few verbal forms

that are coined specifically to convey particularization within a single utterance (*taqyīd*, *shart*, and *istithnā'*), but otherwise one must suspend judgment on the relationship between general and particular expressions. To top it all off, al-Bāqillānī says that an ambiguous expression cannot even be assumed to have only one meaning; if it has several possible non-contradictory meanings in ordinary usage, it could be meant to convey any number of them at once, and the interpreter must suspend judgment as to how many meanings it has until he has found specific clarifying evidence.

So, al-Bāqillānī insists that interpretation must remain within the range of established Arabic usage, and by default within the domain of ordinary ('literal') usage; but he also maintains that Arabic is highly ambiguous, and that expressions with more than one ordinary meaning cannot be interpreted without appeal to additional evidence.

Now I want to step back and take a more interpretive look at al-Bāqillānī's defense of ambiguity, and ask what role it might play in the context of fourth-century legal theory. His position is admittedly somewhat unusual. It had some precedent among the Murji'ī theologians, some of whom had suspended judgment on general expressions, in defense of their view that Qur'ānic threats of hell for grave sinners did not necessarily apply to Muslims who committed grave sins. It is usually claimed that al-Ash'arī suspended judgment on both general expressions and commands, although the evidence for this is mixed. But although one finds scattered references to the *wāqifiyya* as a group, al-Bāqillānī writes as though he were something of a lone ranger, arguing against the Mu'tazila on the one hand and his own more conservative colleagues on the other. Over the next few generations, at least through al-Juwaynī, I find no direct evidence that anyone took up his cause even among the Ash'ariyya, though later on a minority, including al-Āmidī, seem to have revived the notion of suspension of judgment.

It is important to underline that al-Bāqillānī's goal was not to make life difficult for jurists. One might imagine that the requirement to find specific additional evidence to support one's interpretation of any command or general expression, might lead to an impasse. But al-Bāqillānī concedes that if a jurist is unable to find the needed evidence, he is free to choose an interpretation, or if interpreting a general expression, to rule as though he had determined that it was intended as general. This is but a limiting scenario, however, for al-Bāqillānī did not believe that God could leave his speech unclear, and he expected that for the most part, where a text was ambiguous, some other evidence would be available to clarify it.

What, then, is the point of insisting that the language of revelation is ambiguous? I think that to understand the import of al-Bāqillānī's defense of ambiguity, we need to place it in the context of the hermeneutical project that was launched, or at least reflected, in the *Risāla* of al-Shāfi'ī. Let me ask you to grant me, for now, the following description of the project of the *Risāla*: al-Shāfi'ī sought to show that the entire edifice of Islamic law could be grounded in the Qur'ān, if it was allowed that the Prophet's *sunna* and *qiyās* constitute extensions of the Qur'ān's authority. This entailed the canonization of a large body of prophetic *ḥadīth*, and this, as others have pointed out, gave rise to the truly Herculean project of reconciling all the seemingly conflicting data of the Qur'ān and the *ḥadīth* with each other, and also with the existing body of Islamic law. al-Shāfi'ī proposed that one key tool for achieving this reconciliation was the ambiguity of the Arabic language. You will recall that at the beginning of the *Risāla*, al-Shāfi'ī spends quite a few pages insisting that the Qur'ān is entirely in Arabic. He goes on to point out why this is significant: if one understands all the subtleties and ambiguities of Arabic, he says, one will not be troubled by apparent inconsistencies and contradictions. Throughout the remainder of the *Risāla*, then, al-Shāfi'ī takes sets of conflicting verses and *ḥadīth*, and, largely by exploiting their various ambiguities, he shows that it is possible to interpret

them in such a way that each passage is consistent with all the others, and all of them indicate aspects of the same coherent set of legal rules.

It seems to me that al-Bāqillānī's defense of ambiguity represents an extension and a theoretical legitimation of al-Shāfi'ī's method of exploiting ambiguity. In principle, at least, the more narrowly determined the meaning of language, the harder it is to resolve a verbal contradiction. The more the meaning of the language is left ambiguous, the easier it is to interpret several apparently conflicting texts as expressions of a single meaning, without overstepping the bounds of established Arabic usage. Suspending judgment on ambiguous expressions maximizes the jurist's freedom to posit clarifying intertextual relationships between passages that appear to conflict, because it puts all possible meanings of individual texts, and all possible intertextual relationships, on the same footing. The jurist never has to overcome a presumption that an expression is general, for instance, but can use each passage as evidence about how another passage on the same topic should be interpreted.

al-Bāqillānī's defense of ambiguity, therefore, gives theoretical support to al-Shāfi'ī's hermeneutical method. My final point is that al-Bāqillānī achieves this by appealing to a specifically Ash'arī theological premise. Throughout the *Taqrīb* he is arguing against those, both Mu'tazilī and Traditionalist, who identify certain meanings with certain verbal forms (for example, commands with imperatives.) They make this mistake, he implies, because they identify God's speech with its verbal expression: the Mu'tazila held that the words and letters and sounds of the Qur'ān are created, and the Traditionalists said that they are eternal, but they all agreed that the words themselves are God's speech. Against this grave error, al-Bāqillānī emphasizes the Ash'arī doctrine that God's speech is an eternal attribute, of which the words of the Qur'ān are but a created expression. This *ma'ná* eternally consists of statements, commands, and other classes of *ma'ānī*, or types of speech. Accordingly, al-Bāqillānī insists that commands and prohibitions, generality and particularity, are *ma'ānī fī nafs*

al-mutakallim; or, more precisely, classes of *ma‘ānī*. They are NOT verbal forms, and therefore cannot be identified with specific verbal forms without proof that those verbal forms (imperatives, definite plurals, etc.) were coined to express those meanings (command, generality, etc.) and only those meanings. Much of al-Bāqillānī’s argument therefore focuses on Arabic usage, in order to show that certain expressions have more than one possible meaning; but behind all these arguments lies the premise of the Ash‘arī theory of God’s eternal speech. The separation between speech and its expression, or between meaning and verbal form, in effect opens up an interpretive space between the language of revelation and its meaning. Within this gap, a process of interpretive reasoning can and must take place. The Ash‘arī doctrine of God’s speech, then, becomes the basis for the ambiguity and interpretive flexibility that are required by the Shāfi‘ī hermeneutical project. This is a concrete illustration of the kind of integration of theology and legal theory that, as we know from later works, must have been taking place during the fourth century.