In presenting this dissertation as a partial fulfillment of the requirements for the degree of Doctor of Philosophy from Emory University, I agree that the Library of the University shall make it available for inspection and circulation in accordance with its regulations governing materials of this type. I agree that permission to copy from, or to publish, this dissertation may be granted by the professor under whose direction it was written, or, in his absence, by the Dean of the Graduate School when such copying or publication is solely for scholarly purposes and does not involve potential financial gain. It is understood that any copying from, or publication of, this dissertation which involves potential financial gain will not be allowed without written permission.

_____

David R. Vishanoff

Early Islamic Hermeneutics:
Language, Speech, and Meaning in Preclassical Legal Theory

By

David R. Vishanoff
Doctor of Philosophy

Graduate Division of Religion

_____
Richard C. Martin
Adviser

_____
Gordon D. Newby
Committee Member

_____
Devin J. Stewart
Committee Member

Accepted:

_____
Dean of the Graduate School

_____
Date

Early Islamic Hermeneutics:
Language, Speech, and Meaning in Preclassical Legal Theory

By

David R. Vishanoff
B.A., Gordon College, 1990
M.A., University of Colorado, 1997

Adviser: Richard C. Martin, Ph.D.

An abstract of a dissertation
submitted to the Faculty of the Graduate School of Emory University
in partial fulfillment of the requirements for the degree of
Doctor of Philosophy

Graduate Division of Religion

2004

ABSTRACT

The opening chapters of Islamic legal theory manuals offer extended discussions of the language of the Qurʾān, and principles for its interpretation. This discourse takes the form of detailed analyses of specific verbal constructions – for example, when a command has the form "if A then do B," must one do B every time condition A is met? Taken as a whole, this discourse constitutes a sophisticated theory of language and hermeneutics addressing basic linguistic issues such as ambiguity, reference, scope, the classification of speech acts, and verbal implication.

This dissertation tentatively reconstructs the emergence of this theory, in relation to the various theological models of divine speech that informed it, during the formative period of debate that preceded the crystallization of classical Sunnī legal theory in the late 5th/11th century. Chapter 2 identifies early discussions of key hermeneutical concepts in early exegetical, theological, and legal discourses, and then shows how al-Shāfiʿī (d. 204/820) integrated these concepts into a hermeneutical theory that reconciles conflicting revealed texts and laws by systematically exploiting the ambiguities of Arabic, thus making it possible to ground Islamic law in revelation. Chapter 3 shows how Muʿtazilī theologians such as ʿAbd al-Jabbār (d. 415/1025) resisted al-Shāfiʿī's emphasis on the ambiguity of revealed language, and formulated an alternative legal hermeneutics based on the principle that all God's speech functions as a perfectly clear,

created indicator of the intrinsic goodness or badness of human actions. Chapter 4 interprets the work of al-Bāqillānī (d. 403/1013) as a theoretical vindication of al-Shāfiᶜī's hermeneutics of ambiguity, based on the Ashᶜarī doctrine of the uncreatedness of the Qurʾān.

This dissertation demonstrates that the fierce debates of early Islamic legal hermeneutics were not mere quibbles about the fine points of interpretation; they were a central part of an interdisciplinary struggle over the nature of the Islamic canon and its role as a source of knowledge and practice for the Muslim community. In addition to providing the first historical overview of this arcane discourse, the dissertation seeks to make it accessible to students of hermeneutics in contemporary Islamic thought and in other religious traditions.

Early Islamic Hermeneutics:
Language, Speech, and Meaning in Preclassical Legal Theory

By

David R. Vishanoff
B.A., Gordon College, 1990
M.A., University of Colorado, 1997

Adviser: Richard C. Martin, Ph.D.

A dissertation
submitted to the Faculty of the Graduate School of Emory University
in partial fulfillment of the requirements for the degree of
Doctor of Philosophy

Graduate Division of Religion

2004

ACKNOWLEDGEMENTS

I owe my first confrontation with the subject of this study to Idrīs Ḥammādī, professor of legal theory at the College of Letters in Fez, whose lectures on the analysis of revealed language collided with my search for Islamic hermeneutical theory. The subsequent task of reassembling my shattered conception of hermeneutics, to accommodate both the questions posed by Muslim legal theorists and the problems of Euro-American hermeneutics, was guided and encouraged by Emory professors Gordon Newby and Vernon Robbins, who resolutely believed that a comparative and interactive study of these disparate discourses would generate new insights into both. This stage of my work was generously supported by a George W. Woodruff fellowship from Emory University's Graduate School of Arts and Sciences, and by a Washington University in St. Louis fellowship for study in Fez.

Even the very tentative and partial attempt made here at reconstructing the early history of Islamic legal hermeneutics would not have been possible without the years afforded by a Harvey fellowship from the Mustard Seed Foundation, or without the help of the Chester Beatty Library staff, of Hikmat Faraj in Emory's Woodruff Library, and especially of Marie Hansen and the rest of Emory's Interlibrary Loan staff. At this stage it was Emory's Devin Stewart who constantly spurred my aspiration to historical precision. Emory law professor Abdullahi an-Naᶜim challenged me to make history

relevant to the concerns of contemporary Muslim thinkers. My adviser Richard Martin provided judicious, attentive, light-handed guidance at each step, and especially encouraged me to develop the theological dimensions of the project. I am also grateful to Michael Cook for his encouragement, and for sparing me from several historical inaccuracies. I have no doubt, however, that innumerable errors remain. I will be very grateful if those who read this first effort will communicate to me any problems that they find, so that I may correct as many as possible in a revised and augmented publication.

If I can now look back over the growth of this dissertation as a memorable period of intellectual and personal delight, this is in no small measure thanks to the courageous, dedicated, and loving partnership of my wife Beth, and the resilient affection of the two small children with whom we dared to undertake this venture. The final product is dedicated to my father, whose unflagging interest in each step of the process has been like an extension of my childhood home.

CONTENTS

I INTRODUCTION 1

Islamic Legal Theory as Hermeneutic 2

The Muslim Rediscovery of Legal Theory as an Islamic Hermeneutic 6

This Project in the Context of Western Scholarship on Islamic Legal Theory 10

II DIVERGENT PROOFS OF A COHERENT LAW: AL-SHĀFIᶜĪ AND THE BIRTH OF LEGAL HERMENEUTICS 17

Varieties of Early Hermeneutical Discourse 18

Qurʾānic exegesis 19

Early theological debates 22

Early legal thought 25

Other relevant discourses 28

al-Shāfiᶜī's Hermeneutical Reconciliation of the Two Canons 31

1) Clarity and ambiguity 34

2) Modes of reference 38

3) Scope of reference 39

4) Modes of speech 41

5) Verbal implication 42

al-Shāfiᶜī's Impact on the Development of Legal Hermeneutics 44

III CLEAR SIGNS OF GOD'S WILL: ᶜABD AL-JABBĀR AND THE MUᶜTAZILA 49

Historical Context 49

The Muᶜtazilī theologians 49

The Ḥanafī jurists 54

The Legal Hermeneutics of ᶜAbd al-Jabbār 58

1) Clarity and ambiguity 59

2) Modes of reference 60

3) Scope of reference 61

4) Modes of speech 62

5) Verbal implication 65

The Interdependence of Meaning and Will 66

The Clarity Requirement 69

The Moral Indicative 71

The Relevance of the Muᶜtazilī Doctrine of God's Created Speech 75

Conclusion 79

IV AMBIGUOUS EXPRESSIONS OF DIVINE MEANING: AL-BĀQILLĀNĪ AND THE ASHᶜARIYYA 82

Historical Context 83

Origins of the Ashᶜarī theory of God's speech 83

al-Ashᶜarī's disputed stance 84

Subsequent Ashᶜarī theorists 86

Traditionalists and the Shāfiᶜī project 88

al-Bāqillānī's Legal Hermeneutics 90

1) Clarity and ambiguity 91

2) Modes of reference 95

3) Scope of reference 96

4) Modes of speech 97

5) Verbal implication 99

The Ambiguity of Arabic as Hermeneutical Key 103

Interpretation must remain within the range of attested Arabic usage, and by default within the domain of ordinary usage 104

Much ordinary usage is ambiguous, and cannot be interpreted without appeal to additional evidence 106

Broad suspension of judgment theoretically gives the jurist great flexibility in determining the intertextual relationships that are the key to the Shāfiᶜī interpretive method 111

The Relevance of the Ashᶜarī Doctrine of God's Eternal Speech 114

Conclusion 122

V CONCLUSION 125

APPENDIX 1: KEY TO TRANSLATION 132

APPENDIX 2: ANALYTICAL OUTLINE OF AL-SHĀFIᶜĪ'S *RISĀLA* 136

The Three Books 137

Composition 138

Outline 142

NOTES 150

BIBLIOGRAPHY 263

To my father, P. Stephen Vishanoff

I

INTRODUCTION

In their ongoing struggle to position Islam in relation to modernity, Muslim intellectuals have rediscovered the classical discipline of legal theory *(uṣūl al-fiqh)* as a distinctively Islamic hermeneutic: a unique and original mode of reasoning, based not primarily on universal *a priori* knowledge, but on the Muslim community's recollection and interpretation of a particular historical event. In the opening chapters of standard works in this discipline one may find, couched in the terminology of the medieval jurists, an extended discussion of how to interpret the spoken words that were so central to that revelatory event. These chapters address basic hermeneutical issues such as ambiguity, reference, scope, the classification of speech acts, and verbal implication. Yet they have been largely passed over, in favor of non-linguistic topics in legal theory, by historians of Islamic thought as well as by scholars engaged in constructing a new Islamic hermeneutics. This dissertation attempts a preliminary historical reconstruction of the emergence of this analysis of revealed utterances, in relation to the various theological models of divine speech that informed it, during the formative period of debate that preceded the crystallization of classical Sunnī legal theory in the late 5th/11th century. It seeks to present this discourse in terms that will be meaningful to non-specialists, in order to uncover its significance for contemporary debates on Islamic law and

interpretation, and so as to make it available as a comparative point of reference for scholars of other scriptural canons and hermeneutical traditions.

Islamic Legal Theory as Hermeneutic

Islamic legal theory has been contested since its inception in the 2d/8th century,[1] and it remains so today; but at least since the 5th/11th century the overall aims, organization, and vocabulary of Sunnī works on the subject have been sufficiently stable that it is possible to give a general sketch of the hermeneutic that the discourse represents.[2]

The science of law *(al-fiqh)* is to know the legal values of human actions.[3] Every human action, performed by a specific person at a certain time under a given set of circumstances, has one of five legal values: obligatory, recommended, permitted, disapproved, or proscribed.[4] It is helpful to think of the law as something like a mathematical function that maps the set of all act-person-time-circumstance combinations onto this set of five legal values. This function is fully known only to God, but human beings can know it, at least approximately, through inference from the sources that partially reveal it *(uṣūl al-fiqh,* the roots of law), which include most notably the Qurʾān and the Sunna (the words, actions, silences, and omissions of the Prophet). The aim of legal theory *(ʿilm uṣūl al-fiqh,* the science of the roots of law) is to show how, in principle, the entire legal function can be inferred from the community's memory and interpretation of the historical (and largely verbal) event of revelation. Legal theory thus

constitutes a hermeneutic, in the broad sense of a theory about interpreting the traces of historical events.

By the time a comprehensive legal theory was formulated in the 3d/9th or 4th/10th century, the broad outlines and many of the details of the law that it was designed to support had already become fixed, in the form of several distinct but comparable legal systems that came to be associated with the several schools of law.[5] One of the principal concerns of the legal theorists was to avoid the further multiplication and modification of these legal systems. On the other hand, the legal theorists required a hermeneutic flexible enough to show how the many divergent texts of the Qurʾān and Sunna could be interpreted so as to yield a coherent law. Islamic legal theory is therefore torn between the demands of flexibility and conservatism.

The interpretive flexibility needed to ground the law in revelation was achieved primarily through a multifaceted analysis of speech. Meaning was considered to reside in a speaker's intent to perform a certain type of verbal act, referring to specific extra-linguistic entities, using an established sign system. On this view, the goal of interpretation is to determine the speaker's intent; but since Arabic grammar and lexicography leave the meaning of some verbal expressions indeterminate, many utterances do not fully reveal the speaker's intent, and so must be deemed ambiguous. By classifying one revealed utterance as ambiguous, and then interpreting another seemingly conflicting passage as a clarification of that ambiguity, the legal theorists were able to interpret divergent texts as expressions of a coherent law. This was made possible

by an analysis of speech that will be discussed in this dissertation under five headings: 1) clarity and ambiguity, 2) modes of reference, 3) scope of reference, 4) modes of speech, and 5) verbal implication. (The specific terms in which these questions were discussed at various times in different schools will be considered in subsequent chapters; at this point we will only sketch the general structure of the discourse as a hermeneutical system.) Theorists developed several ways of classifying expressions on a continuum from self-evidently clear to utterly obscure, and required different types of evidence for the resolution of each type of ambiguity (1). They devoted their greatest effort to the problem of ambiguous reference; indeed it might be said that the single most important focus of legal theory is to determine the precise set of things to which each expression in revelation refers, so as to determine the precise range of act-person-time-circumstance combinations to which each text assigns a legal value. Toward this end they analyzed non-literal and indirect modes of reference (2), and paid special attention to the problem of scope (3) – the question of when a general or unqualified term refers to all that it linguistically denotes, and when it refers to only part of its range of denotation.[6] They sought to define the precise set of referents that each type of ambiguous expression should be assumed to have, and the types of evidence that might modify that default interpretation. They also categorized the types of act that a speaker might intend to perform by an utterance (4), paying special attention to commands and prohibitions and the legal valuations that they convey. Finally, they recognized that some utterances

implicitly convey more than they explicitly say (5), and they sought to define the boundary between what an utterance verbally implies and what it rationally entails.

This analysis of speech, which fills the opening chapters of classical legal theory manuals, constitutes a hermeneutical theory in the narrow sense of a theory of the interpretation of texts (texts being considered in this discourse as recorded speech). The subsequent chapters of legal theory manuals take linguistic meaning for granted, and move on to non-linguistic factors involved in the task of inferring legal valuations from the texts. They provide some additional, non-linguistic means of dealing with conflicting texts: one text may override another if it is known to have been revealed at a later date,[7] or if its historical authenticity is established by a more trustworthy chain of transmitters.[8] They also establish the authority of scholarly consensus, which in effect makes the jurists' interpretations part of the text of revelation; and through the method of reasoning by analogy they provide a means of extending the reach of revelation to act-person-time-circumstance combinations to which it does not linguistically refer. Although this dissertation focuses on the linguistic dimension of legal theory, which I am calling Islamic legal hermeneutics, the discourse of Islamic legal theory as a whole also constitutes a hermeneutic, in the broader sense of a theory of reasoning based on a particular event and on the history of its effects on the community that interprets it.

While the linguistic dimension of the theory provides much of the flexibility needed for the task of grounding the law in revelation, the discourse as a whole constitutes a highly conservative hermeneutic because of the many ways in which it seeks

to normalize and freeze the interpreter's horizon of understanding. It fixes the semiotic framework of interpretation as that which was current among the Arabs of Quraysh at the time of the Prophet's mission, modified somewhat to accommodate some of the technical vocabulary of the jurists. It defines the contours of the canon of revelation through the science of Prophetic reports *(ḥadīth),* and thus fixes the intertextual domain in relation to which each passage must be interpreted. It neutralizes the effect of any change in the social or cultural or interpersonal context of interpretation, by making the meaning of a text as independent as possible from the context of its revelation.[9] Through the canonization of the consensus of the jurists it limits interpretation to the narrowest range of opinions ever held by a generation of jurists. And it fixes the educational background and institutional location of the interpreter, so that new questions may be asked and answered only from within the horizon of the jurists' concerns and training. Critics and historians of the discourse have discussed some of these conservative features, as well as the possibility of fresh reasoning based on the presumed meaning of revealed speech; but with very few exceptions, they have not addressed the nature and function of speech itself.

The Muslim Rediscovery of Legal Theory as an Islamic Hermeneutic

Provoked by their encounters with the modern West, unsettled by rapid social change, and chafing at the rigidity of the established legal schools, Muslim thinkers of many persuasions have called repeatedly over the last two centuries for a renewal of the

practice of legal inquiry *(ijtihād)*.[10] These calls have reignited discussion of legal theory, which previously functioned primarily as a theoretical legitimation of existing law, but has now come to be regarded by many as a positive method for producing and authorizing new laws.[11] Whereas some reformers have jettisoned legal theory altogether and have sought to ground their reforms directly in the Qurʾān and Sunna, without appealing to any formal interpretive method, more traditional scholars have sought to bring about a renaissance of the classical discipline. Many regard it as a comprehensive philosophical method applicable not only to religious law, but to all intellectual inquiry. It has been heralded as an original and purely Islamic way of thinking that can hold its own against Western canons of reason and scientific method, and that holds out the promise of a social order adaptable to modern conditions but richer than Western materialism.[12] A surge of effort has been devoted to recovering the earliest remnants of this uniquely Islamic heritage. Prominent Muslim intellectuals have undertaken the editing and publishing of manuscripts,[13] and a new generation of modern textbooks has emerged, offering new constructions of traditional theory and combining ideas from all the Sunnī schools.[14]

Those who aspire to reform Islamic law, while keeping it grounded in Muslim scriptures by means of a formal hermeneutical theory, have sought to do so in several ways: through a fresh application of selected principles of legal theory, through reforms of specific principles, or through a radical critique of classical assumptions about the location of meaning.[15]

Many of the more conservative reformers have called for vigorous employment of analogical reasoning as a tool for extending the law to address new questions. Some have foregrounded the principle of the public interest *(maṣlaḥa)* – which played only a minor role in classical theory – as a basis for legal reform.[16] Some have drawn inspiration from the idiosyncratic Mālikī theorist al-Shāṭibī (d. 790/1388), who inductively culled from the Qurʾān several unstated overarching goals of the law (including most notably the protection of religion, life, intellect, lineage, and property) with which specific legal rules must accord.[17] I am not aware of any modern attempt, however, to champion one of the principles of linguistic analysis as the key to reform.

Some who are less sanguine about the capacity of the classical discourse to adequately adapt Islamic law to modern conditions have questioned specific principles that restrict interpretation.[18] Some have challenged the limiting role of scholarly consensus;[19] others have objected to the institutional limitations on the horizon of the interpreter[20] and the exclusion of those without a traditional education.[21] One influential current of thought has rejected the classical principle that the meaning of a clear text is independent of the context in which it was revealed; these critics have sought to recover the original context of revelation and to extract, from its situation-specific meaning, an abiding meaning that can be reapplied in the modern world.[22] I am not aware, however, of any modern attempt to critique the specific principles by which linguistic meaning is determined.

The modern critics who come closest to addressing the subject matter of this dissertation are those who challenge classical views of the relationship of meaning to texts. These critics have not directly challenged specific points of the classical analysis of speech, which aims at discerning the speaker's intent; instead they have followed much of Western hermeneutics in dissociating meaning from authorship, locating it instead in the relationship between texts and their interpreters.[23] For example, Naṣr Ḥāmid Abū Zayd has made this move by insisting on regarding the Qurʾān as a text. He has argued that whereas direct speech communicates immediately, a text can only be understood through human reasoning,[24] and admits of ongoing reinterpretation. God's speech itself is beyond human knowledge, but when it was revealed as a message encoded in the linguistic and cultural forms of the Prophet and his environment, it became a historical and literary text, which means that its meaning must be decoded in relation to its original context, and then recoded in terms of the reader's context.[25] Another example is Hassan Hanafi, who has developed the implications of his teacher Ricoeur's distancing of texts from their authors by transposing the entire discourse of legal theory from a theological frame of reference into a phenomenological one. He has taken the interpretive categories of classical legal theory, which are defined in terms of the ascertainment of divine meaning, and redefined them in terms of the human production and implementation of meaning. Hanafi has focused his interpretive theory on the task of bringing the linguistic meaning of a text into active engagement with the social problems and commitments that the reader brings to the text; but in so doing he has left the

specific principles of the classical analysis of linguistic meaning largely unchallenged.[26] Critics such as Abū Zayd and Hassan Hanafi have made interpretation not a matter of recovering a speaker's intent to refer to things in his or her extra-linguistic world, but rather of constructing the meaning of a text in relation to the life situation and interpretive horizon of the reader. Their approaches therefore represent a shift from the classical view of the Qurʾān as God's speech to a postmodern view of the Qurʾān as the Muslim community's text.[27] This move has met with stiff resistance,[28] for the notion that the Qurʾān is first of all speech, and that its meaning resides in God's intent, is deeply rooted in Islamic thought.

This dissertation will not enter into these modern critiques, but will confine itself to the history of the linguistic analysis of the Qurʾān as God's speech in preclassical legal theory. By drawing out the hermeneutical significance of this discourse, however, it will show that there is considerable interpretive leverage to be gained from a fresh examination of this neglected dimension of legal theory, whether or not Muslim intellectuals retain the classical assumption that the meaning of the Qurʾān is governed by the intention of the divine speaker.

This Project in the Context of Western Scholarship on Islamic Legal Theory

The study of legal theory has also undergone something of a revival among Western Islamicists in the last few decades, taking center stage at more than one symposium[29] and in the careers of several scholars, including most prominently Robert

Brunschvig, Bernard Weiss, Marie Bernand, and Wael B. Hallaq. This wave of scholarship has skirted the edges of the present study both topically and historically; for although the modern West has been fascinated by both language and origins, Western scholars have paid scant attention to the analysis of revealed speech in Islamic legal theory, nor have they yet ventured to reconstruct the developments that took place during the discipline's formative period, from which few sources survive.

Topically, Western studies have focused mostly on non-linguistic dimensions of legal theory, such as the role of *ḥadīth* (reports about the Prophet or his early followers),[30] abrogation,[31] consensus,[32] reasoning by analogy,[33] and juristic reasoning in general *(ijtihād)*.[34] Some very interesting work has been done on abstract models of language and communication in later Islamic thought;[35] but such abstract semiotic theory is scarcely even hinted at in the preclassical and classical works studied here, whose principal concern is rather the interpretation of actual utterances. Of the five topics that make up the classical analysis of revealed utterances, only verbal implication has received much attention, and that only because of its close relationship to analogical reasoning.[36] Otherwise Western scholarship on legal hermeneutics is still in its infancy. There has been some discussion of the general notion of *bayān* (revelation or clarification);[37] Wael Hallaq has written briefly on contextual indicators that affect the meanings of utterances;[38] and Sherman Jackson has written on one late medieval theorist's analysis of unqualified and general expressions.[39] One dissertation has collated classical views and arguments on generality and particularization, without attempting to explain the

hermeneutical significance of this device.[40] The only work that addresses the emergence of one of the topics of utterance analysis in the formative period has been done by Wolfhart Heinrichs, on the meanings of the term *majāz* (transgressive or figurative usage),[41] and by Joseph Lowry, on al-Shāfiᶜī's legacy regarding commands[42] and general expressions.[43] To my knowledge, nothing at all has been written on what I take to be the principal hermeneutical key of most legal theory since al-Shāfiᶜī: the analysis of ambiguity.[44]

Fortunately, the main points of the classical analysis of utterances, and the examples with which they are customarily illustrated, have been faithfully reproduced in several comprehensive English works on legal theory,[45] so it is not necessary to give a complete survey of them here. The standard topics will reappear in each chapter, and will be explained in just enough detail to reveal some connecting themes. My purpose in this dissertation is to offer what the surveys have not provided: a historical and conceptual picture of how the several facets of utterance analysis functioned together as elements of a coherent hermeneutic, and how philosophical and theological premises about speech shaped competing versions of that hermeneutic, during the formative period of the discourse.

This dissertation also aims to complement previous Western scholarship historically. The recent flurry of work on legal theory among Islamicists has so far concentrated on theorists of the classical (later 5th/11th century[46]) and postclassical periods: al-Ghazālī (d. 505/1111), ᶜAlā' al-Dīn al-Samarqandī (d. 539/1144), al-Āmidī

(d. 631/1233), al-Qarāfī (d. 684/1285), and others.[47] Until recently, the only earlier figure to receive significant attention was al-Shāfiᶜī (d. 204/820),[48] and the gap in the extant sources between his *Risāla* and the classical texts was a source of some bewilderment.[49] Western scholars have now started to fill this gap, as works from the late 4th/10th and early 5th/11th centuries have become more accessible,[50] and as a few scholars have begun to use citations in extant sources to reconstruct the outlines of a thriving 3d/9th- and 4th/10th-century discourse.[51] The present study contributes to this task by offering a new interpretation of the hermeneutical significance of al-Shāfiᶜī's *Risāla,* by analyzing the hermeneutical contributions of two major works of the late 4th/10th century that have so far attracted little attention in Western literature (al-Bāqillānī's recently discovered *al-Taqrīb wa-l-irshād,* and volume 17 of ᶜAbd al-Jabbār's theological opus *al-Mughnī),* and by using these and other early sources to tentatively reconstruct the principal features of the historical context that connects the very different hermeneutical visions of these three great preclassical legal theorists.

Such reconstruction is not without its dangers, as the extant sources often cite the views of earlier theorists very imprecisely. A highly regarded figure may be cited as authority for a principle an author is defending, even if that figure never stated such a principle explicitly, but only gave a legal opinion that might be construed as resulting from that interpretive principle.[52] Thus it sometimes occurs that opposite views are attributed to the same person in different sources, and it is not always possible to discern whether that person held both views at different times or with regard to different issues,

or whether one or both of the views has been incorrectly imputed.[53] In other cases classical writers have reinterpreted the views of earlier theorists in terms of their own categories. Except when there is specific cause for doubt, I have chosen to assume that reports of earlier theorists' views are correct in their basic content, if not in their vocabulary or their framing of the questions. This approach is necessary for a preliminary sketch of developments in the formative period, but it is entirely likely and desirable that this sketch be modified in light of further insights into the critical use of these sources. Furthermore, this study relies only on preclassical and some classical sources; but the vast literature of later theory contains many references to the formative period, and it is to be expected that these may yet be used, cautiously, to modify the historical reconstruction presented here. It should also be kept in mind that since this study is limited to questions about the interpretation of revealed speech, it cannot be taken as representative of the early history of legal theory as a whole. Nevertheless, I will point out in the Conclusion several ways in which this study contributes to solving some of the broader historical puzzles that have plagued Western scholarship on Islamic legal theory.

If the writing of history is to help readers understand a past discourse, it must translate. This dissertation attempts to translate part of the preclassical discourse of Islamic legal theory, not into the jargon of modern Western hermeneutics, but into terms and concepts that are at once faithful to the sources, and meaningful to scholars familiar with general issues in contemporary hermeneutics. I will attempt to closely mirror the

thought and expression of my sources (including their gender bias[54]) when speaking from the perspective of the legal theorists. The body of the dissertation will use English terms chosen to express the roles that the Arabic terms play within the discourse. (Transliteration will be used in the notes, and wherever knowledge of the Arabic seems especially important; those wishing to determine the Arabic behind any English term may consult the key to translation in appendix 1.) At the same time, I will attempt to go beyond the relatively straightforward (and very valuable) translation into English that has characterized existing surveys of Islamic legal hermeneutics, by making explicit some premises, projects, and theories that are operative but not always expressly stated in the sources.[55] Previous translations[56] have formulated the classical topics of utterance analysis as general answers to the interpretive questions of the jurists, such as "does this word refer to all livestock, or all wealth, or all Muslims, or only some?" or "what legal value may one infer from this command or this prohibition?" I will attempt to tease out the answers to some meta-interpretive questions that appear to have motivated at least the more speculative legal theorists, such as "what is an utterance?" "how do its words relate to its meaning?" "how may one claim to know its meaning?" and "how can law be grounded in revealed utterances?" This involves a more interpretive kind of translation; but if the result proves useful in helping other historians to make sense of the early sources; if it provides a comparative perspective that generates new insights for students of Western hermeneutics; and if it helps those engaged in contemporary debates over

Islamic law to see problems and possibilities that had been rendered invisible by classical legal theory – then it will have fulfilled the proper role of a historical study.

In order to keep this translation as lucid as possible, I have relegated many historical details and uncertainties to the notes, which complicate more than they clarify. The reader is therefore invited to read through the body of the text first, without being distracted by the notes, so as to gain a sense of the broad historical and conceptual sketch that is here very provisionally put forward.

II

DIVERGENT PROOFS OF A COHERENT LAW: AL-SHĀFIʿĪ AND THE BIRTH OF LEGAL HERMENEUTICS

Theorizing about God's speech was sparked by linguistic and substantive puzzles in the Qurʾānic text. Muslim exegetes split over whether to explain problematic expressions as rhetorical embellishments and metaphors, or to deny such ambiguities and insist that God's speech was always a transparent linguistic reflection of reality. Among theologians, the problem of defining the boundaries of the Muslim community prompted hermeneutical reflection on the scope of Qurʾānic references to believers and wrongdoers. In the field of law, the analysis of language was initially concerned with human legal pronouncements such as contracts and oaths; but as it became accepted that law should be explicitly based on revelation, legal hermeneutics began in earnest, and by the 5th/11th century legal theory could boast the most sophisticated interpretive theory of any Islamic discipline.

This chapter surveys the emergence of hermeneutical reflection in several early discourses, and then focuses on one seminal work that harnessed these interpretive theories in the service of law. We will see that al-Shāfiʿī (d. 204/820), in his *Risāla,*[57] not only defined the hermeneutical problem of reconciling the divergent prescriptions of the Qurʾān and Sunna with each other and with existing law, but also put forward what

would become the classical solution to that problem. al-Shāfiᶜī argued that the ambiguities that characterize revealed language do not detract from its revelatory value. On the contrary, they make it possible for one who knows the subtleties of Arabic to interpret seemingly conflicting texts as indicators of a coherent legal system. His systematic exploitation of ambiguity was resisted by those who claimed that revelation must be taken at face value; but we will see in this and the following chapters that these more literalist hermeneutical schools did not survive. Ultimately al-Shāfiᶜī's approach to legal hermeneutics, and many of his specific hermeneutical devices, became paradigmatic for classical Sunnī legal theory.

Varieties of Early Hermeneutical Discourse

I am unable to give a chronological account of the development of hermeneutical reflection prior to al-Shāfiᶜī, or to determine precisely which of his ideas were inspired by previous thinkers. It is possible, however, to sketch the range of hermeneutical issues that were being discussed, in a variety of interrelated discourses, at or around the turn of the 3d/9th century. This survey introduces early exegetical, theological, and legal discussions of language and interpretation, and touches on several other relevant discourses, in order to establish some features of the context in which the *Risāla* was composed and received, and within which the discipline of legal theory was developed. It will become apparent that al-Shāfiᶜī was not the only scholar of his era to be concerned with those issues that I have called the five major topics of legal hermeneutics.

Qurʾānic exegesis

The Prophet's revelations were challenged in a general way by his adversaries during his lifetime, and it was not long after his death before skeptics began to question specific sayings that appeared problematic.[58] Some early reciters rectified perceived linguistic and substantive problems in their versions of the Qurʾān;[59] but as the text of the Qurʾān came to be regarded as an unchanging given, it became necessary to explain such puzzles.[60] This became the focus of a significant body of exegetical literature devoted to problems in the Qurʾān.[61] Many exegetes accounted for these linguistic irregularities and substantive implausibilities by arguing that the Qurʾān, although revealed in "a clear Arabic tongue" (Q 16:103, 26:195), is not always a transparent linguistic reflection of the reality it expresses. The principal debates in early hermeneutical reflection concern whether this is a legitimate claim to make about Qurʾānic language, and if so, how far one should go in attributing less-than-obvious meanings to the Qurʾān.

The Qurʾān itself states (Q 3:7) that some of its verses are *mutashābih* (literally "mutually similar"), which in classical legal theory came to mean "equivocal." Early exegetes disagreed, however, as to whether or not the term indicated any kind of obscurity in Qurʾānic language, and if so, whether it was the business of scholars to elucidate it.[62] Some piety-minded scholars were very reluctant to search for meaning that God had not made verbally apparent.[63] On the far end of the theological spectrum, a literalist hermeneutic was championed for more theoretical reasons by some of the Muʿtazila, most notably the idiosyncratic al-Naẓẓām (d. ca. 221/836).[64] But on the whole the discipline of exegesis witnessed the emergence of an explicit discourse about

ambiguity during the 2d/8th century. Several scholars made a special study of words that have different meanings in different Qurʾānic contexts;[65] and some leading exegetes reportedly compiled lists of the great variety of linguistic phenomena – some more transparent than others – that must be taken into account in interpreting the Qurʾān.[66]

By the turn of the 3d/9th century, efforts to explain the language of the Qurʾān had spawned the ancillary disciplines of lexicography and grammar.[67] The grammarians of Baṣra, whose school came to dominate the discipline, posited a direct correlation between the words and structures of Arabic on the one hand, and the reality that they express on the other. Every word and verbal form is established to express a specific idea, and for every idea there is a normal form of verbal expression. As a corollary to this theory, it was necessary to account for speech that did not remain within the parameters of normal expression.[68] Abū ʿUbayda (d. ca. 210/825) took up this challenge with respect to the Qurʾān in a work entitled *Majāz al-qurʾān.* He argued that certain ways of transgressing *(majāz)* the boundaries of normal expression are legitimate, and explained them by translating them into equivalent normalized expressions.[69] The transgressions Abū ʿUbayda identified and approved include a broad range of irregularities such as disagreement in number and gender, ellipsis, redundancy, inverted word order, and various other incongruities between meaning and verbal form.[70] This approach to linguistic irregularities in revealed language gained broad but not universal acceptance,[71] and was championed by – among others – al-Shāfiʿī.

Theologians were more concerned with substantive puzzles in the Qurʾānic text. The Muʿtazila, many of whom were actively engaged in promoting Islam in the face of anti-Muslim polemics, were especially concerned to avoid the charge that the Qurʾān describes God in absurdly anthropomorphic terms. They applied the term *majāz* to one special type of linguistic transgression: figurative language, especially metaphor.[72] By the end of the 3d/9th century they had instituted a clear binary opposition between literal *(ḥaqīqa)* and figurative *(majāz)* usage,[73] which they employed in discussing how human language applies to God,[74] and in reinterpreting *(taʾwīl)* anthropomorphic passages in the Qurʾān.[75] This application of the concept of *majāz* met with stiff resistance from defenders of traditionalist doctrines such as al-Ashʿarī (d. 324/935),[76] and *taʾwīl* eventually became a term of opprobrium for fanciful exegesis. Some scholars of the 3d/9th and 4th/10th centuries – most notably the Ẓāhiriyya and some of the Ḥanbaliyya – went so far as to deny that the Qurʾān employs any figurative or transgressive language at all; they argued that revelation can only be interpreted in accordance with its apparent *(ẓāhir)* meaning.[77] This denial of *majāz* did not long remain influential, though it was resurrected much later by the great Ḥanbalī thinker Ibn Taymiyya (d. 728/1328).[78] At the other extreme, there were reportedly some thinkers who put figurative interpretations on an equal footing with literal ones.[79] Mainstream interpreters, however, following the lead of Abū ʿUbayda and the Muʿtazila, accepted the idea of figurative and transgressive usage, but kept it in check by assuming literal or apparent meaning by default, and by requiring specific evidence before going beyond it.[80]

Thus Qurʾānic exegetes, spurred by linguistic and substantive criticisms of the Qurʾān, broached the fundamental problems of reference (how verbal form relates to meaning) and ambiguity (the disjuncture between verbal form and meaning). They addressed these problems by elaborating a theory of transgressive and figurative usage. Despite some opposition, this solution was taken up during the 4th/10th century by mainstream legal theorists, who adopted the Muʿtazilī dichotomy between *ḥaqīqa* and *majāz,* and incorporated figurative language into a broad concept of transgressive usage. The relatively sophisticated discourse of the legal theorists may have in turn inspired exegetes to formulate their own sets of formal hermeneutical principles,[81] and it was later drawn upon by literary theorists in their analysis of figures of speech.[82]

Early theological debates

The explanation of anthropomorphic verses was not the only interpretive concern of theologians. The fiercest debates in early theology revolved not around God but around the Muslim community, and the question of who had the right to lead it.[83] These disputes hinged on questions of language. Defining who should and who should not be considered a believer required a definition of faith. The Murjiʾa (a broad term for those who refused to question the faith claimed by individual Muslims, and thus did not challenge the legitimacy of the ruling Caliphs[84]) claimed that linguistically faith means simply belief with the heart (which, some added, must be confessed with the tongue); they therefore recognized anyone who made a verbal profession of faith as a legitimate member of the community, and left judgment of the heart to God. The Khārijiyya and

the Muᶜtazila, however, held that one's actions could impugn one's faith. To support this claim, the Muᶜtazila argued that when God promised in the Qurʾān to reward faith with paradise, he used the word faith not in its basic linguistic sense of professed belief, but in a special religious sense that involves both belief and action. They thus raised again the problem of reference (how words relate to meaning), and proposed that in addition to their established linguistic meanings, words could also be given new meanings through the act of revelation itself.[85] Classical legal theorists would later adopt this notion to explain how certain terms came to have special legal significance beyond their ordinary linguistic sense, as for example *ṣalāh,* though linguistically denoting any kind of prayer, in revelation refers to a very specific ritual form of prayer.[86] al-Bāqillānī, who took the minority position against this theory, was quick to point out its basis in Muᶜtazilī theology.[87]

A theological question closely related to the definition of faith was the interpretation of Qurʾānic verses that threaten those who commit certain grave sins (such as adultery) with eternal hellfire. Most of the Muᶜtazila argued that such threats, which are phrased in general terms such as "the adulterers," must be assumed to clearly reflect the speaker's intent, and thus should be interpreted as literally applying generally to all adulterers, including those who make a profession of faith.[88] Some of the Murjiʾa countered that such general expressions are ambiguous,[89] and can be used to refer to either all or only some of their range of denotation; one must therefore suspend judgment as to whether they are meant to apply to all grave sinners or only to unbelieving

ones. This can only be decided on the basis of other evidence, such as other verses that promise paradise to all believers and thus imply that a believer who commits a grave sin will not be punished eternally in hell.[90] This debate gave rise to an abstract discussion of the scope of general expressions,[91] which was then taken up in legal theory. Among legal theorists there came to be a fairly broad agreement that general expressions should be interpreted as general by default, but there was also sharp debate over the kinds of evidence that can override that default reading to "particularize" an apparently general expression. To particularize a general expression is to show that it is intended to have a narrower scope than its verbal form suggests, just as some Murjiʾa argued that the promise of paradise for believers shows that the threat of eternal hell for grave sinners is not intended to apply to all grave sinners. In legal theory the Ḥanafiyya generally upheld the Muʿtazilī stance by making it difficult to particularize general expressions, whereas the Shāfiʿiyya allowed general expressions to be modified more easily.

Early theologians thus raised several of the major topics of classical legal hermeneutics: the basis of verbal reference, the special problem of the scope of general references, and the broader issue of clarity and ambiguity. The positions enunciated in their disputes about the boundaries and leadership of the Muslim community laid the groundwork for[92] al-Shāfiʿī's legal-hermeneutical discourse about particularization, for the Muʿtazilī principle of clarity, and for the Ashʿarī suspension of judgment on ambiguous expressions, all of which we will examine in detail in this and subsequent chapters. Additionally, some theologians seem to have feared that to question the

universal applicability of general expressions might undermine the force of legal prescriptions, so in their interpretation of general expressions they distinguished between two different modes of speech, statements and commands.[93] They also debated whether an imperative constitutes a command, and whether a command to perform an act constitutes a prohibition against omitting it, in the context of philosophical discussions about language and actions.[94] These questions would later be revived in great detail by legal theorists anxious to determine whether imperatives entail absolute obligations, and what they might imply about acts they don't explicitly mention. Yet another point of early theological dispute, the question of the eternity or createdness of the Qurʾān, likewise came to have great hermeneutical significance, as we will see in chapters 3 and 4.

Early legal thought

The Islamic legal tradition prior to al-Shāfiʿī does not appear to have produced an explicit hermeneutical theory, perhaps because law in the 1st/7th and 2d/8th centuries was not primarily a matter of textual interpretation, but rather of integrating local precedent, good judgment, a specifically Muslim tradition of principles and practices, and a limited body of revealed injunctions, to address actual problems.[95] There was certainly conflict over the proper grounds for legal decisions, but not, apparently, over the nature and function of the language of revelation (except perhaps with respect to the question of implied meaning[96]). There exist some traces of an early Qurʾānic exegetical tradition focusing on law,[97] and it is possible that further study of such legal commentary, or of juridical texts stemming from the first two centuries,[98] will reveal some discussion of

hermeneutical theory; but from the perspective of present scholarship it appears that the analysis of revealed language in early legal exegesis was limited to lexicological and historical questions: interpreters were concerned to determine the meanings of obscure words, and the historical referents of specific passages.[99] Intertextual conflicts were apparently addressed not through an analysis of language, as in al-Shāfiᶜī's *Risāla,* but by appeal to the principle that later revelations abrogate earlier ones.[100]

There is, however, one form of early legal discourse that may be regarded as constituting a kind of theoretical analysis of language – not the language of revelation, but the human language of contracts and oaths. Ḥanafī works of legal theory often cite the views of the school's eponym Abū Ḥanīfa (d. 150/767) and his two most famous disciples, Abū Yūsuf (d. 182/798) and Muḥammad al-Shaybānī (d. 189/804), on specific hypothetical legal cases, as evidence that they took positions on many of the questions of classical legal hermeneutics.[101] The technical vocabulary in which those questions are posed cannot be taken as representative of the vocabulary of Abū Ḥanīfa and his disciples,[102] but if there is any historical validity to claims about their opinions on specific legal questions,[103] then it may be acknowledged that they were engaged in a kind of theoretical discourse about some of the very issues that would become central to classical legal hermeneutics, albeit with respect to human rather than revealed language. Their discourse proceeded not by the formulation of abstract principles, but by the invention and solution of hypothetical legal cases designed to test the limits of the jurists' assumptions about language. For example, it is reported that the founding fathers

disagreed as to what should be done if someone wills a ring to one person, and then later wills the stone in the ring to a second person. Abū Yūsuf held that the stone goes to the second person, and the ring minus the stone to the first. al-Shaybānī held that half the stone (or half its value) goes to the second person, while the ring with half the stone go to the first. This discussion of human language was later brought to bear on a major debate in legal hermeneutics: do conflicting revelations, one of which is more general than the other, stand in contradiction to one another, or does the particular always modify the general?[104] The Ḥanafī founding fathers also discussed hypothetical cases bearing on the implications of figurative[105] and indirect[106] reference, and the importance of speaker's intent,[107] in human oaths and divorce formulas; such issues were later addressed by legal theorists with reference to revealed speech, under the rubrics of *majāz* and *kināya* and *qaṣd,* respectively. The early Ḥanafī jurists were concerned with the legal effects of human speech rather than the legal implications of God's speech, and they may not have employed the same terminology that al-Shāfiᶜī introduced into legal hermeneutics; but they do appear to have been engaged in a deliberately theoretical discussion of linguistic reference and scope already in the 2d/8th century.[108] In subsequent centuries Ḥanafī legal theorists picked up and advanced the Shāfiᶜī project of analyzing the language of revelation, but they freely integrated into their discourse the insights into human language that had been implicitly formulated by early jurists of the Ḥanafī tradition, retrospectively portraying them as exponents of a Shāfiᶜī-style hermeneutical theory.[109]

Other relevant discourses

A sketch of the relevant background to the emergence of Islamic legal hermeneutics should include not only the distinctly Islamic discourses of exegesis, theology, and law, but also Greek logic and rhetoric, Arabic grammar, and Jewish law. At present there is no convincing indication that any of these discourses contributed specific tools or categories to the preclassical development of Islamic legal hermeneutics, but some of their most basic assumptions about thought and language were shared by the Muslim legal theorists. For instance, the assumption that speech is essentially a means of conveying propositional truths, which was promoted by the dominant interpretation of the Aristotelian *Organon,*[110] is also deeply ingrained in Islamic legal hermeneutics, as we will see in chapter 3.[111] This is not necessarily a sign of direct influence, however, for a similar assumption is also to be found among the Arabic grammarians, who considered predicative statements the most basic form of speech.[112] Another aspect of Arabic grammatical thought, the assumption of a pre-linguistic meaning lying behind every verbal utterance,[113] resembles the Ashᶜarī model of speech that we will discuss in chapter 4. There is also considerable terminological overlap between grammatical and legal-hermeneutical texts, and this has been taken as a sign of influence; but on closer examination many parallels turn out to be spurious. Although legal theorists often analyzed the same verbal structures as grammarians, and therefore employed many grammatical terms, they were engaged in a fundamentally different project: grammarians assumed an intended meaning and investigated the range of forms available for expressing it, while legal theorists started with given verbal forms and

investigated their possible meanings. The most systematic interdisciplinary borrowing appears to have been done by grammarians, who in the 4th/10th century began to formulate a set of theoretical principles *(uṣūl al-naḥw)* modeled after those of legal theory (*uṣūl al-fiqh*).[114] Finally, it has also been pointed out that Rabbinic law, and in particular Talmudic principles of exegesis, have certain points in common with Islamic legal theory, such as rules for the interpretation of general and specific texts.[115] It has been suggested that al-Shāfiʿī may have drawn his innovations directly from the first tractate of the Talmud.[116] Again, closer examination reveals that many parallels are spurious.[117] It is possible, and indeed likely, that the intellectual milieu shared by some Jewish and Muslim legal thinkers fostered the development of some common perspectives; but clear evidence of direct appropriation of Jewish legal hermeneutical concepts by Muslim legal theorists has yet to be adduced.[118] The clearest instances of borrowing go rather in the opposite direction, from Muslim to Jewish (especially Karaite) thinkers.[119]

Although it is important to continue to investigate the interaction of these diverse discourses about language within the intellectual ferment of 3d/9th and 4th/10th centuries, it is not historically necessary to posit extra-Islamic sources for the categories introduced by al-Shāfiʿī and developed in classical legal hermeneutics. All five of the major topics of classical legal hermeneutics were raised in the discourses of the Muslim exegetes, theologians, and jurists, before or approximately around the turn of the 3d/9th century. The problem of clarity and ambiguity (1) was raised by Qurʾānic exegetes in

their explanations of problematic Qurʾānic language. Murjiʾī theologians formulated suspension of interpretive judgment as a methodological acknowledgment of ambiguity. The problem of reference (2) – of the relation between verbal form and meaning – was addressed by the theories of normative (or literal) and transgressive (or figurative) usage developed by exegetes and theologians, by the Muʿtazilī theory that ascribed special revealed meanings to words such as faith, and by Ḥanafī jurists' analysis of indirect references in divorce formulas. The concepts of general and particular language (3) were employed by Ḥanafī jurists in analyzing human legal formulas such as wills, and by theologians in debating the interpretation of Qurʾānic threats against grave sinners. This latter discussion led some to formulate distinct interpretive principles for different modes of speech (4) such as commands and prohibitions. Finally, the category of implied meaning (5) seems to have been discussed by early jurists,[120] as well as by theologians debating whether or not commands constitute prohibitions of opposite acts.

It remains difficult to determine precisely which formulations of which hermeneutical concepts would have been accessible to al-Shāfiʿī, but it is clear that his writing took place in the context of a vibrant and interdisciplinary discussion of language. al-Shāfiʿī's principal contribution, therefore, seems to have been not to invent hermeneutical concepts from scratch, but to bring them together in the service of law, and thus to launch the specifically legal hermeneutical discourse that would eventually become the most sophisticated hermeneutical theory in Islamic thought.

al-Shāfiᶜī's Hermeneutical Reconciliation of the Two Canons

By the end of the 2d/8th century much of the content of classical Islamic law had been formulated. Debates over specific points continued both between and within the rival traditions that eventually became institutionalized as schools, but the principal topics and rules of law were too widely recognized to be seriously modified by any new theory. The law was already a canon – a standard rule. al-Shāfiᶜī's *Risāla* instigated (or reflected[121]) a movement to ground that canon in revelation. The main objective of Book 1[122] of the *Risāla* was to show that all of the law stems from the Qurʾān.[123]

The Qurʾān itself does not explicitly address every detail of the law, but al-Shāfiᶜī proposed that it is nevertheless the basic source of every legal obligation, and that it prescribes the methods to be followed in determining those details that it leaves unspecified. Where the Qurʾān's prescriptions are too summarized and vague to be considered a statement of the existing law, the Prophet's Sunna is to be regarded as explaining them. Where the Qurʾān appears to say nothing about a topic addressed by the law, reports about the Prophet's Sunna on the matter are to be regarded as an elaboration of the all-encompassing Qurʾānic injunction to obey the Prophet. Where even the vast corpus of Prophetic reports does not address a topic, one must follow the Qurʾān's injunction to reason *(ijtihād)* from natural (as opposed to revealed) evidence that God has provided. Thus every rule, even if it is known only from the Sunna or by reasoning from natural evidence, is actually imposed by the Qurʾān itself.[124]

In principle al-Shāfiᶜī's theory focused on the Qurʾān, but in effect, because it assigned a key interpretive role to the Prophet's Sunna while virtually ignoring reports from the Prophet's companions and from early jurists, it set apart the Qurʾān and Prophetic reports as uniquely authoritative, and thus defined a new canon of revelation as the basis for the existing canon of law. al-Shāfiᶜī himself maintained a clear conceptual distinction between these two types of revelation, arguing that the Sunna serves only to confirm or clarify the Qurʾān,[125] and thus cannot abrogate it.[126] His successors in the field of legal theory, however, blurred this boundary. They made the canonical equivalence of the Qurʾān and Sunna explicit, arguing that while the Qurʾān is accorded special reverence, Prophetic reports that are transmitted with the same degree of certainty as the Qurʾān actually have the same epistemological function and status.[127]

Because much of the contents of the twin canons of revelation and law were already widely (if not uniformly) established before al-Shāfiᶜī defined an epistemological relationship between them, his theory engendered the task of correlating these two canons. That this task was even imaginable indicates that some relationship, however loosely defined, already existed between the law and the words and example of the Prophet; but by formalizing that relationship al-Shāfiᶜī made the task of correlation a logical necessity. It was not a simple project. Existing law was far more complex than the few legal provisions outlined in the Qurʾān; and among the wide array of Prophetic reports in circulation were many that conflicted with each other or with widely accepted legal rules.[128] al-Shāfiᶜī made it necessary to show that revelation could be interpreted as

perfectly consistent both with itself and with one version or another of existing law.[129] Western scholars have called this the "hermeneutical task" of "documenting" the law.[130]

What makes al-Shāfiʿī's contribution to legal theory so significant is that he did not merely create this problem; he also began to solve it by proposing the broad outlines and some of the specific principles of what was to become classical legal hermeneutics.[131] To show how the Qurʾān's few legal injunctions could be regarded as encompassing all of Islamic law, he further developed the exegetes' and theologians' claim that Qurʾānic language is ambiguous, particularly with his concept of summary speech *(jumla).* To deal with topics on which the Qurʾān and/or Sunna contained conflicting evidence, he proposed a multifaceted approach to intertextual reconciliation. Part of his solution involved claiming that one of two conflicting texts was incompletely or unreliably transmitted,[132] or was earlier and therefore superceded (abrogated) by the other;[133] but his preferred method was to identify some linguistic ambiguity in a text, and then show how some other apparently conflicting evidence could be taken not as contradicting it, but as clarifying which of its possible meanings the ambiguous text was intended to have.[134] This method is illustrated again and again throughout the *Risāla.*

To claim that ambiguity is at the heart of al-Shāfiʿī's hermeneutics is ironic, since the central term in Book 1 of the *Risāla,* where he laid out his hermeneutics, is *bayān* (making clear).[135] The work begins, following a formal introduction, by claiming that the Qurʾān is, despite all appearances, a uniformly clear statement of the law.[136] This does not mean that God's speech is never ambiguous; on the contrary, the text goes on to list

the varieties of ambiguity that it contains, including general expressions, transgressive usage, implicit meaning, and polysemous words.[137] It argues that because such ambiguity is part of the richness of Arabic, God's use of ambiguous language makes his speech appear unclear only to those who are ignorant of Arabic.[138] In fact God's speech is a clear and comprehensive and consistent statement of the law, when it is read in light of the clarifications God has provided, by one who knows the language of the Arabs.[139] The vagueness and the contradictions that trouble the ignorant are illusory, and the way to see this is to recognize the ambiguities of Qurʾānic language. Books 1 and 2 therefore set out to show how conflicts within revelation, and between the canons of revelation and law, may be resolved principally through an analysis of ambiguity, in such a way that all of revelation is found to support a coherent legal system. In the process they touch upon all five topics of classical legal hermeneutics, though not always in those terms that would be employed by the classical discourse.

1) Clarity and ambiguity

al-Shāfiʿī asserted that revelation is clear by calling it *bayān* (making clear). He used this term in two overlapping senses: to make known, and to clarify.[140] The first sense applies primarily to the Qurʾān, which he claimed is uniformly revelatory despite its need for clarification. The second sense applies especially to the Sunna, which is essentially a clarification of Qurʾānic language. The term was used in both senses in later legal theory,[141] but it was not given the same central position that it has in the *Risāla*.[142] This was perhaps because the key issue in classical legal hermeneutics was not

clarity per se, but ambiguity. In fact, the same may be said of al-Shāfiᶜī's hermeneutics: his claim that revelation is clear was principally a way to legitimate its ambiguities, which themselves were the focus of his study and the heart of his interpretive method.

al-Shāfiᶜī's most all-encompassing category of ambiguity was "summary speech" *(jumla)*. By this he meant speech that refers to something complex and composite by a simple expression that does not convey the details of what is intended.[143] The classic example is the command to pray. By prayer is meant a very specific sequence of actions performed under specific conditions; but the word prayer does not convey these details; it means only the act of calling. God's command to pray is therefore a summary requirement, whose implementation requires elaboration *(tafsīr)*.[144] This notion of summary speech was the main basis for al-Shāfiᶜī's argument that the Qurʾān is the source of all law: rules that are not stated in the Qurʾān should be considered to be summarily contained in its injunctions (especially in the injunctions to obey the Prophet and to reason by analogy), and to be elaborated by the evidence of the Sunna or, failing that, by the natural evidence that serves as the basis for *ijtihād*. Thus the meaning of the Qurʾān's summary command to pray is elaborated first of all by the example set by the Prophet, and secondarily by natural evidence such as the stars, which indicate the direction to face in prayer when one is out of sight of the Kaᶜba.[145]

Any utterance might conceivably be called 'summary' in some respect. This is what made the notion of *jumla* such a powerful tool for reconciling conflicting texts. al-Shāfiᶜī showed great ingenuity in imagining complexities that are not addressed by

what seem at first glance to be perfectly clear but contradictory injunctions, and then showing that the first injunction applies to one situation and the second to another. Summary speech was al-Shāfiᶜī's most basic category of ambiguity, because every type of ambiguity that he invoked involves some failure to distinguish verbally between aspects of the complex reality that an utterance denotes. For instance, general expressions (which will be considered separately below) are summary expressions in the sense that they fail to specify their intended scope of reference.[146] Indeed any expression which can be imagined to support *(iḥtimāl)*[147] more than one possible interpretation can be regarded as lacking in detail about the reality to which it refers.

al-Shāfiᶜī did not treat all of revelation as summarized, however. Only when an utterance was less detailed than the law it was supposed to impose did al-Shāfiᶜī regard it as summarized. This allowed him to adduce some other evidence (which might even be the law itself[148]) as a clarification, to show that the text did in fact support his view of the law, despite its vagueness or its apparent incompatibility with the law or with other texts. When the apparent meaning of a text (which al-Shāfiᶜī called its *ẓāhir)*[149] matched al-Shāfiᶜī's view of the law, he called it definite *(naṣṣ)*.[150] In that case it was not regarded as ambiguous, but as a proof, not to be challenged by any other form of argument. The concepts of clarity and ambiguity, therefore, were not descriptions of the language of revelation as such, but rather of its relationship to the legal system it was supposed to support. Legal theorists eventually sought to classify language based on its verbal form, but for al-Shāfiᶜī and the preclassical tradition that followed him, the classification of

ambiguity was not so much a description of language as a hermeneutical device for demonstrating that a more or less given legal system could in fact be grounded in the textual corpus of revelation.[151]

al-Shāfiᶜī's terminology both suggests and masks his project's continuity with the broader discourse about ambiguity that we have seen was taking place at or around the turn of the 3d/9th century, and with the subsequent analysis of ambiguity that we will see was central to the development of legal hermeneutics. His terms for expressing clarity *(ẓāhir, naṣṣ, bayān, tafsīr,* and related forms) were presumably already in use, though probably not in any technical sense; subsequent legal theorists developed them as technical terms, but not strictly in accordance with al-Shāfiᶜī's usage.[152] To express ambiguity his predecessors and contemporaries principally employed terms such as *ashbāh* (occurrences of the same word with different meanings), *wujūh* (multiple meanings), *mutashābih* (equivocal), *mubham* (obscured), and *majāz* (transgression);[153] none of these was important as a technical term in the *Risāla*. The term *iḥtimāl,* in various forms, seems to have remained constant as a general and non-technical term for ambiguity.[154] al-Shāfiᶜī also mentioned homonymy,[155] but he did not give it a technical label or exploit it in his hermeneutics; it was left to subsequent generations of legal theorists to formalize polysemy *(isthirāk)* as a basic category of ambiguity.[156] I have found virtually no precedent for al-Shāfiᶜī's use of *jumla* as a technical term for summary speech.[157] This appears to have been his principal innovation in the analysis of ambiguity, and it was pursued and systematically developed by subsequent legal theorists,

although they preferred the related form *mujmal* (summarized), which they defined more narrowly and opposed to *mufassar* (elaborated).[158] In classical legal hermeneutics these terms were embedded in hierarchical classifications of clarity and obscurity. The Shāfiᶜiyya and the other schools that followed their lead developed a four-fold classification, and the Ḥanafiyya an eight-fold classification, of degrees of clarity and ambiguity in revelation. They thus gave a more systematic structure to al-Shāfiᶜī's exploitation of ambiguity, but its purpose remained the same: to justify the interpretive moves necessary for reconciling the twin canons of law and revelation.[159]

2) Modes of reference

al-Shāfiᶜī did not delve into the problem of reference theoretically for its own sake. He did insist that the Qurʾān must be interpreted in accordance with the Arabic lexicon that was already in use at the time of revelation, and thus implicitly rejected the Muᶜtazilī claim that revelation could introduce special new meanings for certain words.[160] Like his contemporaries, however, he does not appear to have had a theory of semantic assignment *(waḍᶜ)* as a basis for linguistic reference, or as a basis for distinguishing normative from transgressive usage.[161] On the other hand, like his contemporaries, he did assume a basic distinction between meaning and verbal form, which he exploited throughout the *Risāla*.[162] We have seen that by the turn of the 3d/9th century there was significant interest in the relation between the normative verbal expression of a meaning, and verbal forms that transgress *(majāz)* that norm. al-Shāfiᶜī did not use the term *majāz* in the *Risāla,* but like his contemporary Abū ᶜUbayda, he

argued that Arabic usage allows certain transgressions of normative rules of expression. His list of ambiguities in Qurʾānic language includes examples of non-normative expressions that would later become stock illustrations of *majāz*.[163] Having established that verbal form does not always mirror meaning, he was then able to argue throughout the *Risāla* that numerous revealed expressions, especially general ones, can be reinterpreted to accord with the law and with the rest of revelation. Thus although he did not contribute to the formal development of the theory of *majāz* in his time, he did show how fruitful it could be for legal interpretation. Later legal theorists explicitly linked his hermeneutical methods to the theory of *majāz,* which helped them to address more sophisticated questions in legal hermeneutics, such as the problem of whether general expressions lose their probative value when they are particularized.[164]

3) Scope of reference

General expressions are the type of summary speech whose ambiguity al-Shāfiᶜī most frequently exploited in order to reconcile contradictions. This is because he used the term generality *(ᶜumūm)* very loosely. The Ḥanafī 'founding fathers' had used the term in the sense of incorporative reference: a thing is referred to generally by an expression that denotes something of which it is a part, as for example a gem is referred to generally by the expression 'ring.'[165] Exegetes and theologians had focused on definite plural nouns (e.g. "the adulterers"), and had been concerned to determine which of the class of people they denote are actually referred to in any given utterance.[166] al-Shāfiᶜī was not concerned with specific words in his texts, but with the overall legal situation to

which a revealed text applies. If he could show that a text appears to assign a legal value to a range of act-person-time-circumstance combinations, then a second text that assigns a different value to some of those same act-person-time-circumstance combinations could be regarded not as contradicting it, but as showing that the first text is not intended to be as generally applicable as it appears.[167] Legal theorists subsequently began to require that this interpretive maneuver (which they called particularization) always restrict the scope of reference of a specific general term in the text;[168] thus if the people to whom a passage applies are not mentioned in a text, the range of people to whom it applies cannot be reduced by particularization. This made generality and particularization strictly linguistic phenomena,[169] with the result that postclassical legal theory came to focus on the verbal forms that express generality. But for al-Shāfiᶜī generality was a function of the reality to which language refers, not a feature of language itself.

al-Shāfiᶜī is usually said to have held that general expressions should be interpreted as general by default, that is, in the absence of particularizing evidence.[170] This is borne out by his interpretive practice and even by specific statements in the *Risāla*;[171] but it was hardly his main point, and indeed it was not a point that encountered much opposition in classical legal theory.[172] His real concern was to show that the default of generality could be overridden by virtually any form of particularizing evidence, whether that evidence be rational, consensual, contextual, Qurʾānic, or from a Prophetic report, and whether it be revealed prior or subsequent to the general text.[173] This was the

issue that later generations fiercely debated. The Muᶜtazila and Ḥanafiyya typically insisted that general expressions are no more ambiguous than particular ones, and can therefore be particularized only by contemporaneous evidence of equal weight. The Shāfiᶜiyya, as well as the Mālikiyya and Ḥanbaliyya who followed their lead in many aspects of legal theory, typically argued for more lenient criteria, allowing particularizing evidence to be revealed before or after a general text, and often admitting particularization by weaker *ḥadīth* or by analogical reasoning. The debate was not inconsequential; at stake was the power and flexibility of al-Shāfiᶜī's most important interpretive device for reconciling revealed texts with each other and with the law.

4) Modes of speech

al-Shāfiᶜī analyzed prohibitions as a special class of speech, offering two ways to reconcile apparent conflicts between prohibitions and evidence of permissibility: by interpreting some prohibitions as entailing less than absolute forbiddance,[174] or by claiming that some prohibitions and permissions are particularized by others.[175] He linked the two questions, proposing that the legal force of a prohibition depends on whether it particularizes a general permission, or particularizes a permission that itself particularizes a more general prohibition. For example, the Prophet's prohibition against eating from the top of a dish is merely instruction in good manners, because eating in general is permitted; whereas the prohibition against a man's marrying a fifth wife makes sexual intercourse strictly forbidden in such an invalid marriage, since the more general permissibility of intercourse in marriage is but a particular exception to the

yet more general forbiddance of all intercourse.[176] He treated commands as similarly ambiguous,[177] but did not discuss them at such length.

By default al-Shāfiᶜī advocated interpreting prohibitions as entailing forbiddance,[178] but his goal was not to establish fixed rules for interpreting commands and prohibitions. Indeed he so conspicuously failed to take a clear position on the legal force of commands that his view on the matter became a major point of contention among his followers.[179] His principal concern was, instead, to provide the interpretive flexibility needed for his overall hermeneutical project of reconciling the two canons of law and revelation. Subsequent legal theorists continued al-Shāfiᶜī's overall project, but beginning with his disciple al-Muzanī (d. 264/877), they shifted the focus of their discussions of different modes of speech toward defining the default legal value implied by prohibitions and, especially, commands.[180] They also developed a plethora of subsidiary questions about the legal implications of commands and prohibitions, on which they sometimes attributed positions to al-Shāfiᶜī. By the late 4th/10th century such questions occupied a major place, alongside the problem of general and particular language, in works on legal hermeneutics.[181]

5) Verbal implication

Finally, al-Shāfiᶜī hinted at the notion of verbal implication in his list of the subtleties of Arabic,[182] but he did not exploit it as a hermeneutical device in its own right. He recognized positively implied meaning (classically *mafhūm al-muwāfaqa,* e.g. the prohibition against insulting one's parents implies one may not beat them); but he did

not consider it part of the linguistic meaning of revealed texts. He treated it instead as inferred from texts through an especially strong form of analogical reasoning.[183] In the *Risāla* he never mentioned or relied on negative implication (classically *mafhūm al-mukhālafa,* e.g. the imposition of tax on certain kinds of livestock implies other livestock is exempt), but most later theorists claimed that he recognized it.[184] He was later credited with formalizing both types of implication.[185]

Verbal implication had already been discussed before al-Shāfiᶜī wrote the *Risāla,*[186] and it is noteworthy that he did not make more use of it. The concept did not offer any obvious means for reconciling conflicting texts, but he might have appealed to it as a device for extending revelation to legal cases it does not explicitly address. This would have supported his project of correlating the canons of law and revelation. But for this purpose he was apparently satisfied with analogical reasoning, to which he assimilated positive implication, and which he argued was a divinely mandated device for clarifying the meaning of revelation. We will see in the following chapters that subsequent preclassical legal theorists, continuing al-Shāfiᶜī's project of correlating law with revelation, sought to define more precisely how much meaning could be considered implicitly contained in the language of revelation, and how much had to be inferred from revelation by human reasoning.

al-Shāfiᶜī's Impact on the Development of Legal Hermeneutics

The *Risāla* does not represent the kind of comprehensive and theoretically grounded discourse about language, organized around standard linguistic topics, that characterizes the opening chapters of classical works on legal theory. This obvious disjuncture between the *Risāla* and the earliest extant comprehensive works on legal theory has led some scholars to question the traditional identification of al-Shāfiᶜī as the founder of the discipline.[187] This is an important advance in charting the history of the discipline, but it must not be allowed to overshadow some important continuities that are especially notable in the areas of language and hermeneutics. The *Risāla* did not introduce much of the structure or the precise terminologically of the classical discourse. For instance, it did not offer a classification of the degrees of clarity and ambiguity. It was, however, the first known attempt to address the basic problem of classical legal hermeneutics, which is to show, through a multifaceted analysis of language, that it is possible to interpret an apparently divergent and conflicting corpus of revelation as the basis of a coherent system of law. al-Shāfiᶜī did not provide an explicit theory of the origin of language or the principles by which it operates; but on the basis of a rudimentary distinction between verbal form and meaning, and drawing on the ideas of exegetes and theologians and other jurists, he established the ambiguity of language as the central concern of legal hermeneutics. His most important contributions in this direction were his notion of summary speech, which became the basis for later

classifications of the relative clarity or ambiguity of revealed language, and his use of particularization, which became a central interpretive device of classical theory.

The interpretive method that al-Shāfiᶜī developed in the *Risāla* cannot be called a set of exegetical rules. He was not interested in prescribing set interpretations for specific verbal forms such as commands or general terms; what emerged instead from his *ad hoc* solutions to concrete interpretive problems was a toolbox of devices for resolving contradictions. It was precisely his freedom from fixed interpretations that allowed him to reconcile conflicting pieces of evidence. His theory, then, was not a set of directions for determining the legal import of any given text, but rather a demonstration that the divergent prescriptions of revelation are, contrary to appearances, capable of serving as the epistemological basis of a coherent Islamic law. His theory was not about constructing the law, but about defining the canon of revelation and its place in Islamic epistemology. Classical legal theorists became much more concerned with defining the correct interpretations of different verbal forms (and they frequently claimed al-Shāfiᶜī's support for their interpretations); but at least for the theologically-minded theorists that will be the focus of the next two chapters, the epistemological problem of defining and explaining the role of revelation seems to have remained the primary motivation for legal hermeneutics.

The gap between the *Risāla* and the subsequent development of legal theory is not only structural and terminological, but also chronological. The earliest extant comprehensive works of legal theory date to the later 4th/10th century. Commentaries

on the *Risāla,* and refutations of it, are not known to have appeared before the beginning of the 4th/10th century.[188] Widespread adoption of the *Risāla's* most famous claim – that reports from the Prophet himself are the only legally authoritative Sunna – has been dated to the later 3d/9th century.[189] That al-Shāfiᶜī died in 204/820 has led some scholars to question whether he could really be the author of a work whose impact was not felt until so much later.[190] Appendix 2 makes the case that the textual evidence of the *Risāla* itself offers no ground for rejecting al-Shāfiᶜī's authorship; it is quite plausibly a record of al-Shāfiᶜī's teaching made by one of his disciples, most likely al-Rabīᶜ Ibn Sulaymān (d. 270/883). At least one citation from the *Risāla* has been traced to a transmission from al-Rabīᶜ in 262/875, but the history of the text before that time remains unknown.[191]

More importantly, however, it is now possible to assert that some of the important ideas of the *Risāla* were being discussed soon after al-Shāfiᶜī's death. It is true that as late as the turn of the 4th/10th century some scholars writing on the reconciliation of conflicts in revelation seem not to have taken into account the arguments of the *Risāla,* even though their project was related to al-Shāfiᶜī's.[192] But among early legal theorists, especially those of a speculative bent, there are traces of both elaborations and rejections of al-Shāfiᶜī's theory beginning fairly early in the 3d/9th century. A Shāfiᶜī-style analysis of revealed language was flourishing among legal theorists by the turn of the 4th/10th century.

Elaborations of al-Shāfiᶜī's ideas are to be found among his first generation of disciples. His pupil al-Muzanī (d. 264/877) developed al-Shāfiᶜī's discussion of

prohibitions into a more systematic categorization of both commands and prohibitions, and also addressed the reconciliation of conflicting Prophetic reports in terms similar to those of the *Risāla*.[193] By about the turn of the 4th/10th century Shāfiᶜī writers were producing commentaries on the *Risāla* and answering others schools' attempts to refute it.[194] Ibn Surayj (d. 306/918) appears to have been particularly involved in developing Shāfiᶜī legal theory,[195] and one of his pupils in law, the theologian al-Ashᶜarī (d. 324/935), is reported to have adopted terms similar to al-Shāfiᶜī's in discussing the language of revelation.[196]

Opposition to al-Shāfiᶜī's hermeneutics began early in the 3d/9th century. The early Ẓāhiriyya criticized his theory of *bayān*[197] and his doctrine of ambiguity,[198] rejected the notion of transgressive usage,[199] disputed verbal implication,[200] and denied al-Shāfiᶜī's cardinal principle of intertextuality – that any text of revelation can modify any other text regardless of when they were revealed.[201] Further opposition came from Ḥanafīs such as ᶜĪsā Ibn Abān (d. 221/836), who rejected al-Shāfiᶜī's view of the ambiguity of general expressions.[202] The Ḥanafiyya remained staunch opponents of the Shāfiᶜiyya's liberal use of the device of particularization, but at least from the time of the early 4th/10th-century Ḥanafī jurist al-Karkhī (d. 340/952) they were fully engaged in the kind of analysis of revealed language that the *Risāla* had launched.

The lines of the debate were not drawn only between schools of law, however. We will see in the next chapter that the Muᶜtazilī theologians of the 3d/9th and 4th/10th centuries – including a prominent Shāfiᶜī – sided with the Ḥanafī jurists in resisting

al-Shāfiᶜī's reliance on ambiguity. Nevertheless, they took up the overall epistemological and hermeneutical problem of grounding the law in revelation, and contributed substantially to the development of classical legal theory. In the fourth chapter we will see how al-Shāfiᶜī's greatest innovation – his exploitation of ambiguity to reconcile the canons of law and revelation – was given a sophisticated theoretical basis by an Ashᶜarī theologian of the Mālikī school of law.

III

CLEAR SIGNS OF GOD'S WILL: ᶜABD AL-JABBĀR AND THE MUᶜTAZILA

al-Shāfiᶜī's project of correlating law with revelation, and the analysis of language that he marshalled in service of that project, were taken up as part of a broader epistemological inquiry by the theologians of the 4th/10th century. This chapter shows how ᶜAbd al-Jabbār (d. 415/1024), guided by the Muᶜtazilī doctrines of God's justice and the created Qurʾān, arrived at the conclusion that God's speech must always function as a perfectly clear indicator of God's will. Chapter 4 will present the rival hermeneutics of al-Bāqillānī (d. 403/1013), who appealed to the Ashᶜarī theory of the eternal Qurʾān to establish the ambiguity of revealed language. We will see that the unflinching consistency with which these theologians applied their principles was first resisted, then tamed, by the jurists' concern with particular interpretive problems.

Historical Context

The Muᶜtazilī theologians

The Muᶜtazila launched Islamic speculative theology in the 2d/8th century. They were initially identified by their intermediate position on the politically sensitive topic of the present and future status of an unrepentant Muslim who has committed a grave sin:

he is neither a believer nor an unbeliever, but simply a 'grave sinner;' and he will be punished eternally in hell, though less severely than an unbeliever. These claims were soon dwarfed by their elaboration of a metaphysics inspired by Greek thought, and a comprehensive theological system whose twin pillars were God's uniqueness and his justice. The principle of uniqueness involved a denial that there exist attributes coeternal with God, such as knowledge and speech, by virtue of which God is said to be knowing, speaking, and so forth. Accordingly, the Muᶜtazila held that the Qurʾān is a created sequence of letters and sounds, not God's eternal attribute of speech, or an expression of it, as their opponents came to insist. The principle of justice encompassed not only the doctrine of human free will, but also the claim that God's acts are always good, purposeful, and beneficial for his creatures – not by some arbitrary standard, but in accordance with what humans naturally know to be good for them. Consequently, God must require only what is both good and humanly achievable, and he must make his requirements known, either through reason or revelation.[203]

Within this theological framework, the Baṣra school[204] of the Muᶜtazila formulated, over the course of the 3d/9th and 4th/10th centuries, a distinctive theoretical account of the nature, function, and interpretation of God's speech.

The Baṣra Muᶜtazila built up their hermeneutical theory around the rule that general expressions in revelation must be taken to refer to the entire range of their denotation, unless specific contemporaneous evidence shows that something less is meant. We saw in the preceding chapter that this was the chief premise of the argument

that God's threat of eternal punishment for grave sinners applies to Muslims as well as non-Muslims. It is therefore not surprising that some version of this principle of generality is attributed to most of the Muᶜtazila all the way back to their founding figure, Wāṣil Ibn ᶜAṭāᵓ (d. 131/748), who reportedly took the extreme position that general statements cannot under any circumstance be interpreted as particular.[205] A minority of the Muᶜtazila sided with the Murjiᵓa on this issue, suspending judgment on the fate of grave sinners, and arguing that general statements such as Qurᵓānic threats of punishment are not necessarily intended as general. This was the origin of the Ashᶜarī theory of suspension of judgment on ambiguous language, which will be presented in chapter 4.[206] But the Baṣra Muᶜtazila upheld the principle of generality, while allowing particularization by rational proof and by explicit revealed evidence that precedes or accompanies a general expression.[207]

The logic behind the principle of generality eventually led the Baṣra Muᶜtazila to formulate a much broader principle of clarity. In keeping with the foundational Muᶜtazilī premise of God's justice, the founder of the Baṣra school, Abū al-Hudhayl (d. 227/841?), reasoned that whenever God causes a legally responsible person to hear a revealed general utterance that is intended as particular, he must see to it that that person immediately hears the revealed evidence that shows it to be particular, if he has not heard it already. It follows that an interpreter may rightly assume that an unqualified general expression is general, as long as there is no rational reason why it cannot be so; for if there were revealed evidence of its particularization, God would have made him

aware of it.[208] Abū al-Hudhayl's successors softened this position by arguing that God does not have to make people aware of evidence, but only make it available to them. On the other hand, they also broadened this claim to cover ambiguous forms of speech other than general expressions. The result was a strict requirement of clarity in God's speech: the meaning of any revealed utterance must be fully knowable based on the evidence available at the time of its revelation.[209]

To know the meaning of an utterance one must be able to discover the speaker's will or intent, according to a theory of meaning introduced by the Baṣra Muᶜtazila during the 4th/10th century. Although grammarians and jurists had long recognized that intent can affect the meaning of an utterance,[210] it was widely assumed that speech is intrinsically meaningful, thanks to the lexical definitions that God taught to Adam.[211] Against this view the Baṣra Muᶜtazila argued that the Arabic lexicon is the product of an arbitrary assignment of words to meanings,[212] and does not in and of itself determine the meaning of a word in actual use. Rather, an utterance has meaning only by virtue of a combination of lexical definition and the speaker's will. Abū ᶜAlī al-Jubbāʾī (d. 303/915) made this claim in differentiating the basic types of speech: an indicative constitutes a statement only if the speaker wills to utter it, and wills thereby to state something about its referent; an imperative is a command[213] only if the speaker wills to utter it, wills thereby to command the person he is addressing, and wills moreover that the commanded act be performed.[214] His son Abū Hāshim al-Jubbāʾī (d. 321/933) applied his own version of this thesis[215] to one of the principal questions of legal hermeneutics,

arguing that God's commands do not entail obligation (as most legal theorists held) but only recommendation, because that is the most that can be inferred from God's willing that an act be performed.[216] The Jubbāʾīs apparently considered the meanings of individual words to be likewise dependent on the speaker's will; this seems to be a premise of their dispute over whether several different lexical meanings of a single word can be conveyed by one utterance, or whether this requires the speaker to repeat the utterance, each time with a different meaning.[217] The explicit thesis that all meaning depends on will or intent was formulated by one of their intellectual heirs, ʿAbd al-Jabbār (d. 415/1024).[218]

The Jubbāʾīs founded a distinctively Muʿtazilī tradition of legal hermeneutics.[219] The earliest exposition of this system that has reached us, however, is that of ʿAbd al-Jabbār, whose monumental *summa* of theology, *al-Mughnī fī abwāb al-tawḥīd wa-l-ʿadl,* contains a volume on legal theory that is mostly extant.[220] ʿAbd al-Jabbār fused the clarity requirement and the theory of meaning developed by the Baṣra Muʿtazila into the principle that God's speech must always function as a perfectly clear indicator of God's will. He envisioned God's speech as a piece of evidence placed by God in the world with the intent that human beings, by reasoning from it, might arrive at a knowledge of God's will, and thus come to know the legal values of those acts whose intrinsic goodness or badness would not otherwise be humanly knowable. Against the emerging challenge of the Ashʿariyya, he argued that the Qurʾān's capacity to give knowledge of God's will depends upon the Muʿtazilī doctrine that God's speech is

created. This culmination of the Baṣra Muᶜtazilī analysis of language will be explored at length in this chapter.

The Ḥanafī jurists

While this distinctly Muᶜtazilī vision was being elaborated, a sympathetic but less theologically inclined circle of scholars developed a more conservative legal hermeneutics that should be identified with the Iraqi Ḥanafī jurists rather than with the Muᶜtazila *per se,* even though its main 4th/10th-century proponents espoused Muᶜtazilī doctrines. Since this tradition grew up in close interaction with the Baṣra Muᶜtazila, and eventually eclipsed or domesticated the Muᶜtazilī contributions, it will be worthwhile to sketch its history here.

The classical Ḥanafī theorists traced their legal hermeneutics to the founders of their school, Abū Ḥanīfa (d. 150/767), Abū Yūsuf (d. 182/798), and Muḥammad al-Shaybānī (d. 189/804). On the basis of these figures' opinions on hypothetical legal cases, later jurists such as al-Dabbūsī (d. 430/1039) reconstructed their theories of the legal effects of human language, and attributed to them answers to many of the questions about revealed language that were posed in classical legal theory. Their analysis of hypothetical cases may certainly be considered a kind of theorizing, but it was focused on the interpretation of human language, not the language of revelation.[221] The first Ḥanafī who is credibly cited as having formally taken up the kinds of hermeneutical issues raised by al-Shāfiᶜī in his *Risāla* was ᶜĪsā ibn Abān (d. 221/836), a pupil of al-Shaybānī who wrote on a number of topics in legal theory, and is held up by later writers as something

of a Ḥanafī counterpart to al-Shāfiᶜī. Although he took a Murjiʾī position on the fate of grave sinners, he is considered a Muᶜtazilī, and he defended the principle of generality against the Shāfiᶜiyya.[222] During the 3d/9th century the Ḥanafī hermeneutical tradition was further developed and refined by Muḥammad Ibn Shujāᶜ al-Thaljī (d. 266/879), and no doubt by others as well, in interaction with al-Shāfiᶜī's early followers.[223]

Around the turn of the 4th/10th century the core of what was to become classical Ḥanafī legal hermeneutics was formulated, in Baghdād, by the great jurist Abū al-Ḥasan al-Karkhī (d. 340/952).[224] Although he and his star pupil, Abū Bakr al-Jaṣṣāṣ al-Rāzī (d. 370/980),[225] aligned themselves with the theology of the Baṣra Muᶜtazila,[226] neither appears to have attempted to integrate the Ḥanafī hermeneutical tradition that they inherited into the framework of the Muᶜtazilī analysis of language. al-Jaṣṣāṣ, for example, upheld a general presumption of clarity, but did not require that all God's speech be clear.[227] He allowed delayed clarification,[228] and softened somewhat the Muᶜtazilī position on general expressions.[229] He assumed some connection between meaning and the speaker's will, but did not follow the Baṣra Muᶜtazila in stating such a theory explicitly, or in concluding from it that commands by default entail only recommendation; he sided instead with the traditionalists of the Shāfiᶜī tradition who held that commands entail obligation.[230] By the time of al-Jaṣṣāṣ's second-generation disciple al-Ṣaymarī (d. 436/1044), such traditionalist views were regarded as Ḥanafī doctrine.[231]

The label of Muᶜtazilī that is usually applied to the Iraqi Ḥanafī tradition of legal theory is therefore misleading. It is true that many Ḥanafī jurists espoused Muᶜtazilī doctrines, and that many Muᶜtazilī theologians gave decisions according to Ḥanafī law,[232] but the two groups took markedly different approaches to legal hermeneutics. Those who were first and foremost theologians seem to have been concerned primarily to locate God's speech within a comprehensive epistemological system, in order to explain how it was possible that law should be known through revelation.[233] Those who were known mainly as jurists (as were al-Karkhī and al-Jaṣṣāṣ) seem to have been more interested in developing a methodology that would justify their school's legal interpretations of specific revealed texts, and consequently were not willing to follow through consistently on all the implications of the Muᶜtazilī theories, when this might undermine a legal argument. Thus while the two groups (which I shall treat as distinct in spite of the overlap between them) shared some important views, such as the principle of generality, they differed very predictably on other questions. The theologians were regarded by the jurists as a fringe element in the Ḥanafī tradition.[234]

While the Baghdād circle of al-Karkhī and al-Jaṣṣāṣ at least superficially acknowledged the ontological and epistemological framework of the Baṣra Muᶜtazila, in far distant Samarqand another Ḥanafī thinker worked out the hermeneutical consequences of a quite different theory of speech – one much more akin to the Ashᶜarī theory that we will explore in the next chapter, than to the Muᶜtazilī doctrine. Abū Manṣūr al-Māturīdī (d. 333/944) is known as the founder of the Māturīdī school of

theology, which like the Ashᶜarī school (but unlike the Muᶜtazila) has come to be recognized as orthodox Sunnī Islam. Like the Ashᶜariyya, this school defined speech not as a sequence of ordered sounds and letters, as did the Muᶜtazila and the traditionalists, but as an inner reality in the mind of the speaker, of which sounds are only an expression.[235] As with the Ashᶜariyya (see Chapter 4), this led to a separation between verbal form and meaning: al-Māturīdī and his followers contended that the language of revelation does not necessarily convey knowledge of the meaning of God's speech, and they suspended judgment on the meaning of some verbal forms. This amounted to a rejection of the Muᶜtazilī clarity requirement: the expression of God's speech may not always clearly give knowledge of his meaning. God's speech is always, however, a sufficient basis for action: one does not suspend judgment in regard to action, but rather one acts in such a way as to be sure of fulfilling God's intent, whatever it may be.[236]

In the 5th/11th century, as Muᶜtazilī doctrine fell out of favor among Sunnī Muslims, the majority of Ḥanafī jurists affiliated themselves with the Māturīdī school of theology, but retained the system of legal theory developed by al-Karkhī and al-Jaṣṣāṣ.[237] Aron Zysow has shown how later exponents of this Māturīdī Samarqandī tradition of legal theory tried in vain to convince the rest of the Ḥanafiyya that they had unwittingly bought into Muᶜtazilī theory. We have seen, however, that the Iraqi Ḥanafī hermeneutics was in fact more traditionalist than Muᶜtazilī in its orientation.[238]

If the Ḥanafī mainstream continued to be regarded as Muᶜtazilī in any sense, perhaps this was because in the 5th/11th century one of ᶜAbd al-Jabbār's disciples

undertook the Herculean task of accommodating the Muᶜtazilī framework to the more practical interpretive requirements of the jurists. Abū al-Ḥusayn al-Baṣrī (d. 436/1044) took the novel step of approaching problems of legal theory through a divide and conquer method of argument inspired by Aristotelian classification. On each question, he started with the ontological and epistemological assumptions of the Baṣra Muᶜtazila, but rather than applying them across the board, he subdivided each problem into nested binary oppositions, distinguishing enough special cases that he could admit many variations from the Muᶜtazilī views, while still claiming that his theory was logically derived from Muᶜtazilī principles. In this way he made Muᶜtazilī legal hermeneutics more conformable to the complexities of actual language use and established legal interpretations, and moved toward traditionalist views on some important points.[239] It is in this form that the Muᶜtazilī theory of language has been endorsed by later generations of Ḥanafiyya, for of all the works of the Baṣra Muᶜtazilī tradition it is only al-Baṣrī's *Muᶜtamad* that has been preserved and used by Sunnī legal theorists. The earlier, more idealistic Baṣra tradition was preserved only among the Shīᶜa, particularly the Zaydiyya of the Yemen, to whom we owe our knowledge of ᶜAbd al-Jabbār's *Mughnī,* and to whom this chapter is therefore largely indebted.[240]

The Legal Hermeneutics of ᶜAbd al-Jabbār

ᶜAbd al-Jabbār wrote a number of works dedicated to legal theory. The most important of these was *Kitāb al-ᶜumad,* about which much can be learned from Abū al-Ḥusayn al-Baṣrī's *Muᶜtamad*. The only work to have survived more or less intact,

however, is volume 17 of *al-Mughnī fī abwāb al-tawḥīd wa-l-ᶜadl,* which covers standard questions of legal theory, beginning with the two principal topics of 4th/10th-century legal hermeneutics, general expressions and commands.[241] In keeping with the theological nature of *al-Mughnī,* this volume aims to provide a general hermeneutical theory applicable in theology as well as law.[242] It falls within the discussion of God's justice *(ᶜadl),* because ᶜAbd al-Jabbār considered God's speech to be one of his acts, and therefore subject to evaluation as good or bad.[243] The author approached hermeneutics not as an interpretive method, but as an epistemological inquiry into how God makes his requirements known to his creatures. This religious epistemology was itself part of a larger discussion of God's obligation to do what is best for his creation. ᶜAbd al-Jabbār insisted that the principle of God's justice governs how God communicates, and therefore also governs how God's speech must be interpreted. Rather than seeking to provide a comprehensive set of interpretive rules, then, volume 17 of *al-Mughnī* aims to establish a few guiding principles that flow from a Muᶜtazilī understanding of God's justice, and that consistently control interpretation. Here I will outline ᶜAbd al-Jabbār's positions on what I have called the five major topics of legal hermeneutics, before turning to the broader ideas about revealed language that governed these views.

1) Clarity and ambiguity

Because ᶜAbd al-Jabbār upheld a broad version of the Muᶜtazilī principle of clarity (which will be discussed in more detail below), he does not appear to have developed a systematic way to classify ambiguity. He recognized that some expressions

stand in greater need of clarification than others, and he employed some of the terminology that other legal theorists had developed to describe this, such as the terms summarized, ambiguous, and polysemous, as well as the Qurʾānic pair of terms *muḥkam* and *mutashābih* (unequivocal and equivocal).[244] To express clarity he used the term *naṣṣ* in the sense of an unambiguous text,[245] and the term *ẓāhir* both for verbal form and for apparent or literal meaning.[246] On the whole, however, his relative inattention to categorizing clarity and ambiguity stands in stark contrast to other legal theorists of his time. We will see in chapter 4 that his contemporary al-Bāqillānī, who stressed the ambiguity of revealed language, developed a complex analysis of the varying degrees to which language does or does not independently convey its meaning.

2) Modes of reference

ʿAbd al-Jabbār accepted the common view that the Arabic lexicon had been established by a primordial act of semantic assignment, though he also allowed that it could be modified by customary usage and by revelation.[247] He defined literal usage as the use of a word in accordance with the sense established for it by its original semantic assignment, customary usage, or revelation. Any other use of a word he regarded as transgressive.[248] In keeping with the Muʿtazilī clarity requirement, he held that whenever God uses a word transgressively he must provide contextual evidence of what it means; in the absence of such evidence God's speech should be understood literally.[249]

3) Scope of reference

The clarity principle was applied especially rigorously to general expressions. Following Abū Hāshim, ᶜAbd al-Jabbār seems to have restricted the range of expressions that he considered to have the verbal form of generality,[250] but for those forms that he did recognize as general he upheld a very strong version of the principle of generality. He held that expressions, regardless of their linguistic form, come to mean generality or particularity in actual usage only by virtue of the speaker's intent.[251] The question of intent does not pose a problem for the interpreter, however, because if God uses a general form to mean something particular, he must give prior or connected and readily apparent evidence of his intent.[252] Hence if one fails to find accompanying evidence that particularizes a general verbal form, one may assume that God intended it to refer to all that it designates, that he addressed it to all whom it linguistically encompasses, and that it applies in any situation compatible with its verbal form.[253] If one does find connected evidence showing that it was not intended to apply to all of its scope of reference or address, one considers that the expression is being used transgressively (but still probatively) to refer to that part of its range that is not specifically excluded by the evidence.[254]

The requirement that particularizing evidence not be delayed beyond the time at which a general expression is revealed undercuts al-Shāfiᶜī's method of reconciling conflicting passages, because it allows the interpreter to posit a relationship of particularization between two passages only if they were revealed, so to speak, in the same breath. If their relative dates are unknown, they cannot be reconciled by

particularization. If a general passage precedes the revelation of a more particular one, the general one is regarded as forever general, and its effect is only modified because it is partially abrogated by the particular one. If a general passage is revealed after a more particular one, it abrogates the earlier verse entirely, so that the particular expression, rather than qualifying the general one, loses all legal force.[255]

Although the principle of generality is identified with the Ḥanafiyya as a whole, few of them held it with the same rigor as ᶜAbd al-Jabbār (himself a Shāfiᶜī) and his Muᶜtazilī predecessors. In Samarqand the Māturīdī Ḥanafī movement suspended judgment on the real meaning of general expressions, and upheld the principle of generality only as a practical measure.[256] Even among the Iraqi Ḥanafī jurists, who are often associated with the Muᶜtazila, a more legally pragmatic version of the principle of generality prevailed. al-Jaṣṣāṣ, for example, so narrowed his definition of particularization that only a small fraction of the interpretive moves envisioned by al-Shāfiᶜī were invalidated by his version of the principle of generality.[257] Thus the profound differences between the approaches of the Ḥanafī jurists and the Muᶜtazilī theologians are evident even in their formulations of the principle of generality, the trademark of Ḥanafī-Muᶜtazilī legal theory.

4) Modes of speech

ᶜAbd al-Jabbār's discussion of commands and prohibitions illustrates well his approach to interpretation, which may be called literalist or even minimalist, in that he

refused to find in commands any meaning that is not strictly included in the lexical definition of the imperative, unless specific evidence shows that it is intended.

ᶜAbd al-Jabbār divided meaningful speech into two categories: commands and prohibitions and similar utterances that convey something about the speaker; and statements, which indicate the state of something other than the speaker.[258] But for ᶜAbd al-Jabbār it makes no difference whether God employs statements or commands. He held that all of God's speech ultimately relates in one way or another to the imposition of God's requirements[259] – a function usually associated with commands; yet all of it functions epistemologically as statements about those requirements – a point that we will return to later in this chapter. The distinction between commands and statements is thus of secondary importance.[260]

Nevertheless, preclassical legal theorists all devoted considerable effort to the analysis of imperatives, and ᶜAbd al-Jabbār joined them in ferreting out the implications of this singularly important mode of speech. He defined command as an imperative directed to an inferior, but did not consider that such an imperative in and of itself constitutes a command. Following Abū Hāshim, he held that an imperative is a command only by virtue of the speaker's intent to utter it as a command to the persons addressed, and by virtue of the speaker's will that they perform the commanded act.[261] He then followed out the implications of this definition of command scrupulously.

From this definition he concluded that in the absence of accompanying evidence, an imperative indicates only the speaker's will that the commanded act be performed,

and nothing else. Since God wills only what is good, what he commands must be good. Moreover, since God is in the position of imposing requirements on his servants, what he commands is not only good, but also has a legal value, which may be either recommended or obligatory. The command itself gives no indication of whether the act is recommended or obligatory. But if God intends obligation, he must give some evidence that omitting the act will be punished (which is the defining characteristic of an obligation). Therefore, if we find no such evidence accompanying the command, we may infer that the act is only recommended.[262]

On a string of subsidiary questions, ᶜAbd al-Jabbār insisted that commands should be taken to mean nothing more than what the definition of command entails, unless there is specific evidence that something more is intended. For example, he held that a command does not in and of itself constitute a prohibition against opposite acts.[263] A command does not require immediate obedience,[264] or more than one act of obedience.[265] A command does not in and of itself constitute evidence that if one fails to obey one will have to make up the duty later,[266] nor for that matter does it indicate that one will not have to make it up if one does obey.[267] On each of these questions ᶜAbd al-Jabbār was willing to give commands no more meaning than what is implied by the speaker's willing the commanded act. This minimalist approach to interpretation was consistent with his theory of meaning, but it laid on the interpreter a great burden of finding evidence for many points that might seem intuitively obvious. The jurists of all

schools, including the Iraqi Ḥanafiyya, were much quicker to find in the imperative form direct evidence of a host of legal implications.

5) Verbal implication

ᶜAbd al-Jabbār's minimalist hermeneutics was carried through in his views on implicit meaning. He departed from the Shāfiᶜī mainstream, in which he was trained, by accepting only the most indisputable forms of implication. He recognized that speech can convey meaning that it does not directly state, as in positive implication,[268] but he joined the Ḥanafiyya in rejecting negative implication, except in one particularly obvious case: where a specific time limit is given for the duration of a legal value, he admitted that one may understand that the legal value must be different beyond that limit.[269]

ᶜAbd al-Jabbār's answers to the standard legal-hermeneutical questions of his day indicate a systematic insistence that specific accompanying evidence be found for every departure from the minimum literal meaning established for any expression. This approach greatly complicates, at least in principle, the task of legal interpretation; but this seems to have been of little concern to ᶜAbd al-Jabbār. The main purpose of his hermeneutical theorizing appears to have been not the facilitation of interpretation, but the construction, within a distinctively Muᶜtazilī ontological universe, of a religious epistemology capable of explaining how it is possible for an eternal and utterly transcendent God to reveal the intricate system of Islamic law through the medium of human language. This is the question that lies behind the theory of language that has

begun to emerge from this overview of ᶜAbd al-Jabbār's legal hermeneutics, and that we will now take up in its own right.

The Interdependence of Meaning and Will

The Baṣra Muᶜtazila considered the meaning of an utterance – its being a statement or command or warning or other type of speech referring to specific things – to be an attribute of that particular act of speaking. It is not an essential attribute of the speech itself, nor is it the kind of attribute that might derive from an accident subsisting in the sounds that make up the utterance; rather, it is one of those attributes that are determined by the will of the agent who produces the thing that is qualified by the attribute. Acts may be qualified by a number of such attributes. For example, an act may be good when performed for a beneficial purpose, but the same act is necessarily bad if it is done for no purpose at all. An act of prostration becomes an act of worship only if it is intended as such. A beating constitutes a punishment only if the one administering it wills that it be given as something deserved by the one who is beaten. In the same way, a grammatically valid sequence of sounds may be uttered by someone who chatters aimlessly, or even by one who is asleep, but such an utterance has no meaning; it can only be a statement if the speaker wills thereby to communicate something about the subject of the sentence; it is a command only if the speaker wills that the commanded act be performed by the person addressed.[270]

As we have seen, the theory that speech constitutes statements and commands only by virtue of the speaker's will was formulated by the Jubbāʾīs. ᶜAbd al-Jabbār

adopted Abū Hāshim's version of this principle,[271] and extended it to every aspect of meaning. He argued that expressions are neither general nor particular except by virtue of a combination of verbal form and speaker's will or intent.[272] Words have no reference apart from the will of the speaker.[273] Speech uttered without any specific purpose is meaningless.[274] A valid verbal form is necessary for speech to fulfill the speaker's communicative intent, but it does not determine meaning. Intent, on the other hand, overrides verbal form. It can transform a sentence with the grammatical form of a statement into a command or warning. It can make an imperative a threat, or a question a rebuke.[275] It can even give an utterance several meanings at once; an expression can be intended both literally and transgressively, as long as these meanings are not mutually contradictory.[276]

The act of the will that makes speech meaningful is not the speaker's intent that his speech have a certain meaning; it is his intent to produce a certain effect in the hearer.[277] What makes an utterance a statement is not the will that it be a statement, but rather the will to inform the hearer of something he did not yet know.[278] What makes an imperative a command is not the will that it be a command, but rather the will that the hearer perform the commanded act. Thus the will that determines the meaning of God's speech is not simply a communicative intent; it is God's will concerning what should happen in the world. The meaning of God's speech is therefore closely tied to God's will for his creatures – his law.

This is particularly evident in the case of commands, which are defined by the speaker's willing the hearer to perform an act. Unlike the traditionalists and the Ashᶜariyya, the Baṣra Muᶜtazila held that actions are good or bad, and consequently obligatory, recommended, permitted, or proscribed, independently of God's declaring them so.[279] But since God is just, he wills only what is good, and abhors only what is bad; his will therefore always correlates with the legal values of acts.[280] It follows that God's commands always constitute evidence that acts are good, and his prohibitions always indicate that acts are bad.[281] Thus the dependence of meaning on will guarantees that God's commands and prohibitions indicate the legal nature of acts.

The same is true of God's statements, for a different reason.[282] A statement requires not God's willing an act, but his willing the hearer to learn something. Now according to ᶜAbd al-Jabbār, there are certain kinds of knowledge that God's speech cannot convey to human beings.[283] It cannot inform them of logical categories, of the natures of things, or of God's existence and basic attributes, for all such knowledge must be arrived at by reason before one can determine that the Qurʾān is God's speech, and that it is a reliable source of knowledge.[284] ᶜAbd al-Jabbār reasoned that God's purpose in speaking to his creatures can only be to inform them of the legal values of certain acts, for although human beings may discover many legal values by reason alone, they cannot know the legal value of those acts (such as rituals) that have consequences that are not evident to them. Since God is just, he must make his requirements known, so that his servants are able to do what will result in their greatest good. This is why God must send

prophets to convey his speech and thus make known those legal values that are not rationally knowable.[285] While ᶜAbd al-Jabbār recognized that the Qurʾān also makes statements about God, past prophets, and the hereafter, he reasoned that all this must ultimately serve to make known and reconfirm God's requirements. Stories of the past, for example, constitute warnings to heed God's law; descriptions of the hereafter indicate God's intent to reward and punish certain acts, and thus point to their legal values.[286] The will that determines the meaning of God's statements, then, is the will to make known his law.

Thus in ᶜAbd al-Jabbār's theology God's will both reflects the law and gives meaning to his speech. It follows that the meaning of God's speech, whether command or statement, is information about the legal values of acts.

The Clarity Requirement

God's speech, then, has meaning only by virtue of his will, and his will is the entire meaning of his speech. This makes interpretation circular: knowing God's will requires understanding God's speech, but the meaning of God's speech depends on his will. As is usual in ᶜAbd al-Jabbār's thought, it is God's justice that ensures a way out of this circle: Just as God must give evidence of what he requires, he must also ensure that those who must obey his speech are able to discern what it means.[287] If it were possible for God to conceal the meaning of even a single utterance, the entirety of his speech would become useless as evidence of his will.[288]

It follows that God must mean what his speech appears to mean, or else give accompanying evidence of another meaning.[289] If God's speech has no single immediately apparent meaning, he must provide clarifying evidence.[290] If he does not provide evidence that points to one specific meaning, then we may infer that he intends all the possible meanings, either additively or as alternatives.[291] There is therefore never any unresolved ambiguity in God's speech; its interpretation is never in doubt, even when a single meaning is not apparent.

This clarity requirement is expressed in the denial of delayed clarification. It was widely acknowledged that God's justice requires that he not delay clarification beyond the time at which his servants need clarification in order to fulfill his commands.[292] But ᶜAbd al-Jabbār also held that God's wisdom requires that he do nothing in vain; hence all his speech must fulfill its purpose (which is to convey his meaning) at the time of its utterance. Therefore its meaning cannot be made clear by evidence that is delayed beyond the time of utterance; any later modifying evidence constitutes an abrogation of the earlier meaning which was, of necessity, already fully knowable at the time of utterance.[293] Clarifying evidence may be provided by the verbal or situational context of the utterance, or by the broader context of all that the listener already knows from reason or revelation;[294] but it must be accessible to the listener at the time of the utterance.

This insistence on clarity was most vigorously contested by the Ashᶜariyya and Shāfiᶜiyya. We saw in chapter 2 that the ambiguity of revealed language was central to the Shāfiᶜī hermeneutical project, and we will see in chapter 4 how the Ashᶜarī

al-Bāqillānī built this ambiguity into his theory of speech. The Shāfiᶜiyya defended the possibility of delayed clarification, which is necessary for the Shāfiᶜī method of arguing that texts are ambiguous and then finding clarifying relationships between them without regard for the order in which they were revealed. The Ḥanafī jurists tended to presume that the language of revelation is clear and should be taken at face value,[295] but they did not uphold the clarity requirement as strictly as the Muᶜtazilī theologians. They denied delayed particularization of general expressions, in keeping with their principle of generality, but they allowed other types of delayed clarification, thus admitting that God's utterances may be ambiguous.[296] The Māturīdī Samarqandī school of Ḥanafī legal theory allowed delayed clarification even of general expressions.[297] Perhaps the closest parallel to the strict Muᶜtazilī clarity requirement was the literalism of the Ẓāhirī theologian Ibn Ḥazm (d. 456/1064).[298] It is noteworthy that the two strands of Islamic hermeneutics that most consistently denied the ambiguity of language – the Muᶜtazilī and the Ẓāhirī – were abandoned by Sunnī jurisprudence.

The Moral Indicative

God's speech, then, depends on God's will for its meaning, and must convey that will with perfect clarity. The theologians of the 4th/10th century were keenly aware, however, that such communication between an utterly transcendent God and his creatures presents some philosophical hurdles. It had long been considered axiomatic that God's speech should be interpreted using more or less the same lexical and grammatical rules that apply to human speech.[299] But it was also obvious that God's

speech differs from face to face human interaction. Muᶜtazilī and Ashᶜarī theologians came up with very different models to explain how God's speech enters the created realm and makes God's will known to humanity.

According to ᶜAbd al-Jabbār, God and the created order are analogous in every respect except materiality. They are subject to the same logical categories and can be discussed in the same terms. Words have the same meaning when applied to God as when applied to humans.[300] Divine and human speech are therefore defined in the same way, as a sequence of two or more letters.[301] God's incorporeality does not affect the definition of speech, which is formulated without reference to its physical production and perception; but it does affect the way in which speech conveys meaning. Human speech, when addressed to someone in accordance with conventional usage in a language the hearer understands, produces in the listener an immediate and necessary knowledge of the speaker's intent. Even if the words of the utterance are ambiguous, the hearer's perception of the speaker's intonation and gestures, together with his awareness of the situation in which the speech is addressed to him, serve as cues that make the intended meaning immediately clear, without the need for any rational process of inference. This knowledge, however, depends on direct perception of the speaker. Since God cannot be perceived, his speech cannot convey immediate and necessary knowledge of his will.[302]

Since God's speech cannot produce necessary knowledge, its meaning can only be inferred.[303] Although God's speech is addressed to his servants, it cannot function as interpersonal address, but only as a basis for rational inference. Human beings must

reason from the words of revelation to their meaning, using all the rational and revealed contextual evidence at their disposal.[304] Like a last will and testament, God's speech must be interpreted in the physical absence of its author.[305] It is a sign, an indicator, a piece of evidence placed by God in the world so that from it his servants might deduce his will, and thus come to know the legal values of human acts.

This epistemological model of God's speech entails a fundamental hermeneutical principle: since God's speech functions only as an indicator of God's will, it should always be interpreted as an indicative statement, regardless of its grammatical form. ᶜAbd al-Jabbār recognized that even indicatives can have a performative effect in human speech, as when a person brings about a new legal situation by declaring that he has freed his slave.[306] God's speech, however, does not bring about the legal values of acts, or anything else; it can only describe what is already true.[307] ᶜAbd al-Jabbār therefore claimed that all of God's speech functions only as an indicative statement to convey information.[308] As we saw earlier, the information it conveys always relates to the law. This implies that the interpreter's task is to take all of the different types of speech found in the Qurʾān – commands and prohibitions, promises and threats, warnings and entreaties, questions, oaths, and narratives – and translate them into indicative statements of the form "this act by this person at this time under these circumstances is obligatory (or recommended, permitted, or proscribed)."

This reduction of all God's speech to its informative dimension does not stem solely from ᶜAbd al-Jabbār's model of God's speech. It is rooted in the Muᶜtazilī

conception of knowledge as knowing the qualities things, and in Arabic grammar, which regards the predicative statement as the basic form of speech, and considers informational content to be the *sine qua non* of a valid sentence.[309] It also seems to be inescapably intertwined with the legal theorists' vision of the discipline of legal science, which they often defined as knowledge of legal values arrived at through rational inference from revealed evidence.[310] This concept of law requires God's speech to be regarded as a piece of indicative evidence. Thus although the traditionalists and Ashᶜariyya considered the legal values of acts to be instituted, rather than merely described, by God's speech,[311] they were constrained by the nature of their legal project, as well as by the ontological gap between God and creation, to interpret the Qurʾān as indicative evidence rather than as performative interpersonal address.[312] The practice of reducing the language of the Qurʾān to indicative statements of legal values therefore does not appear to have been debated.[313] It lies behind all discussions of the legal values entailed by commands and prohibitions, and is deeply embedded in the legal theorists' constant concern to precisely define the scope of reference of terms.[314] This tacit feature of classical Islamic legal hermeneutics is thus not unique to ᶜAbd al-Jabbār, but it found a particularly coherent epistemological justification in his theory that God's speech is a sign placed in the world by God, so that from it his servants might deduce his will and thus come to know the legal values of human acts.

The Relevance of the Muᶜtazilī Doctrine of God's Created Speech

ᶜAbd al-Jabbār argued that in order for God's speech to function in the way he envisioned – as a piece of evidence indicating God's will – it must be part of the created order.

The claim that the Qurʾān is created had been adopted early in the history of the Muᶜtazilī school, perhaps in the course of debate with Christians, who defended their concept of the Trinity by arguing that the Son, the eternal Word, was none other than God's attribute of speech.[315] The doctrine sparked fierce opposition, however; some contended that the Qurʾān was uncreated or even positively eternal, while others refused to describe the Qurʾān as either created or uncreated.[316] For a time the doctrine of the created Qurʾān was forcefully promulgated by the government, beginning in 218/833 under the caliph al-Maʾmūn. It has been argued that this event was primarily a political maneuver, though the stated motivation was the desire to defend God's oneness against the assertion of a second eternal being.[317] In the end, however, the caliphs succeeded only in galvanizing popular support for the traditionalist position.[318]

ᶜAbd al-Jabbār showed only contempt for the traditionalist view that the very sounds and letters and verses that make up the Qurʾān are eternal. How can something composite and temporally sequential be eternal?[319] He was more concerned with the alternative theory of God's speech that had been developed by non-Muᶜtazilī theologians in defense of the doctrine of God's eternal speech. Ibn Kullāb (d. 241/855?), al-Ashᶜarī (d. 324/935), and their followers argued that the admittedly temporal

sequence of sounds that we hear when someone recites the Qurʾān is not itself God's speech, but only a representation or expression of the eternal meaning *(maʿnā)* that is God's attribute *(maʿnā)* of speech.[320]

ʿAbd al-Jabbār responded that this theory makes God's speech unknowable. In the ontology of the Baṣra Muʿtazila, this type of attribute *(maʿnā,* accident) is not the kind of entity that can be directly apprehended by the mind;[321] it is rather the ground or reason for the actuality of some further attribute *(ṣifa)* of the thing in which it inheres. It is only through this latter attribute, or through some characteristic *(ḥukm)* that makes the attribute manifest, that we know the existence of the *maʿnā*.[322] For example, the accident of life that inheres in every atom of a living body cannot be directly perceived; we infer its existence from characteristics of which it is a necessary condition, such as the body's capacity for autonomous action.[323] Just so God's speech, if it were a *maʿnā* subsisting in his essence, could not be directly known; we could only know it through our knowledge that the speaker has some attribute, such as 'being speaking,' that arises from his speech. But ʿAbd al-Jabbār argued that there is no such attribute or characteristic from which God's speech could be inferred. In his ontology, we know that someone is speaking only if we first know his speech itself; and this is just what we cannot know directly, if it is a *maʿnā* subsisting in God's essence. It follows that if God's speech is a *maʿnā,* we can no more claim to have knowledge of it than we can assert that there is life in a corpse.[324]

The Ashᶜariyya maintained that the words of the recited Qurʾān express, and thus provide knowledge of, the eternal meaning or attribute of God's speech.[325] ᶜAbd al-Jabbār countered that an expression must be the same kind of entity as the thing it represents; one cannot be eternal and the other created; one cannot be simple and the other composite.[326] Even if it were possible for created words to express eternal speech, they would not indicate it reliably, because the verbal expression would not be connected to or dependent on the *maᶜnā;* someone might utter a statement when his inner meaning was a command, or even when he had no inner *maᶜnā* of speech at all.[327] If God's speech is to be accessible to humanity, then, and if it is to function as evidence from which God's servants can come to know his law, it cannot be a meaning or attribute subsisting in God; it must be identified with the created sequence of letters and sounds that we hear when the Qurʾān is recited.[328]

ᶜAbd al-Jabbār also argued that God's speech must be regarded as one of his acts.[329] This is equivalent to calling it created, since in the ontology of the Baṣra Muᶜtazila such an act is not an attribute of the agent; it is the thing that is produced through his agency.[330] Now a thing is considered someone's act precisely when it proceeds from him in accordance with his intention and will;[331] and we say that someone is speaking only when speech proceeds from him in the same way. For example, when a madman speaks, and we realize that his speech is not governed by his own will, we do not say that he is speaking; rather we say that a jinn is speaking through him. Hence if God's

speech does not proceed from him in accordance with his intention and will – that is, as his act – then we cannot say that God is speaking.[332]

ᶜAbd al-Jabbār must insist on this point not only to foil the arguments of the Ashᶜariyya, but also because his own epistemological and hermeneutical model of God's speech rests on its being God's act. Recall his contention that the meaning of an utterance depends on the speaker's will, and that since God's will correlates with the legal values of acts, his speech indicates his law. Now since everything that proceeds from a person in accordance with his will is his act, it follows that if God's speech were not his act, its meaning would not be determined by his will, and so it would not reveal the law.[333] Recall too ᶜAbd al-Jabbār's argument that because God is just he cannot leave the meaning of his speech unclear. If God's speech were not his act, it would not be governed by his justice, and there would be no guarantee that it is clear or even truthful. It therefore could not serve as a reliable piece of evidence from which his creatures could infer the legal values of acts – which is the very purpose of God's speech, and the very thing that makes it a benefit to humanity and hence a good action attributable to a just God.[334]

ᶜAbd al-Jabbār's defense of the doctrine of the created Qurʾān thus served also as a defense of his understanding of how the Qurʾān functions as a source of law. His arguments added an epistemological and a hermeneutical dimension to what had been an ontological debate over God's attributes and unity. To the extent that Muslim and Western scholars have linked the doctrine of the created Qurʾān to Muᶜtazilī

epistemology, they have tended to regard it as symptomatic of a low view of revelation.[335] Here, however, we find a Muᶜtazilī rationalist accusing the more fideistic Ashᶜariyya of undermining the value of revelation as a source of knowledge. As scholars have now begun to appreciate, the Muᶜtazila cannot accurately be characterized as "the free-thinkers of Islam," and their doctrine of the created Qurʾān does not indicate a disregard for revelation.[336] ᶜAbd al-Jabbār's theory of God's created speech was part of a religious epistemology that was rationalist in its approach but made revelation its primary source, at least in the field of law. It was also intimately connected with a hermeneutical theory that focused on speaker's intent, clarity, and propositional content. For ᶜAbd al-Jabbār, the doctrine of the created Qurʾān was a way of planting revelation solidly in the ground where it could serve as a piece of evidence, a signpost erected by God in the midst of his creation, indicating the upright path in plain speech.

Conclusion

The hermeneutical concepts introduced in the previous chapter emerged from specific problems in Qurʾānic exegesis and theology and law, and were marshalled by al-Shāfiᶜī to demonstrate the possibility of correlating law with revelation. In this chapter we have seen that the Baṣra Muᶜtazila, beginning with the Jubbāʾīs and culminating with ᶜAbd al-Jabbār, framed these hermeneutical issues within a comprehensive ontological and epistemological system. Within this framework they began to ask, not how can the language of revelation be interpreted so as to accord with the law, but how is it that the language of revelation makes the law known at all? What

gives an utterance its meaning? How does the meaning of an utterance become known to the listener, particularly when it is ambiguous? And how does God's transcendence affect communication? Their answer was that meaning depends on the speaker's will, which in human speech is conveyed immediately with the help of contextual cues that resolve ambiguity. God's speech is also governed by his will, and therefore reflects his law, but it cannot communicate directly; it can only function as a piece of evidence, the created act of a just God that clearly indicates his law.

This epistemological model of communication entailed two broad hermeneutical principles. First, all God's speech must be interpreted as indicative statements of the legal values of acts. Second, because God is just, his speech must mean what it appears to say, and nothing more, unless additional evidence shows that something else was intended. ᶜAbd al-Jabbār was willing to apply these principles systematically in formulating his hermeneutics. He therefore consistently insisted that the Qurʾān can contain no unresolved ambiguity, no delayed clarification, and no concealed particularization; only its minimum literal meaning may be inferred in the absence of additional evidence. The jurists, however, had inherited a tradition of interpreting the language of revelation more intuitively, determining on a case by case basis what can and cannot be reasonably understood from a given type of expression. Thus even the Ḥanafī jurists, who typically shared the views of the Muᶜtazila on general expressions and the nature of God's speech, were reluctant to follow out rigidly the hermeneutical implications of the Muᶜtazilī epistemological model. They remained committed to a

more pragmatic and detailed analysis of language, one that served to reconcile the specifics of the law with revelation.

The Muᶜtazilī theory was subsequently harmonized to some extent with the fine linguistic distinctions of the jurists by the work of Abū al-Ḥusayn al-Baṣrī, but it had its most substantial impact among the theologians of the rival Ashᶜarī school. In the next chapter we will see how ᶜAbd al-Jabbār's great contemporary al-Bāqillānī combined similar assumptions about speaker's intent and the indicative nature of language with the Ashᶜarī model of God's eternal speech, to produce an equally consistent hermeneutical system built upon the very notion of ambiguity that ᶜAbd al-Jabbār so fiercely rejected.

IV

AMBIGUOUS EXPRESSIONS OF DIVINE MEANING: AL-BĀQILLĀNĪ AND THE ASHᶜARIYYA

Over the course of the 4th/10th century, Ashᶜarī theologians laid a theoretical foundation for the already flourishing Shāfiᶜī hermeneutical method of reconciling contradictions by systematically exploiting the ambiguities of Arabic. The venerable judge, diplomat, and theologian Abū Bakr al-Bāqillānī (d. 403/1013), in a lengthy disquisition titled *al-Taqrīb wa-l-irshād,* demonstrated that an Ashᶜarī view of the nature of God's eternal speech implies that the language of revelation is highly ambiguous. He called for the suspension of judgment on both of what were then the two major topics of legal hermeneutics: without additional evidence, he argued, no general expression should be interpreted as either general or particular, nor should any imperative be understood as either an obligation or a recommendation. Subsequent Ashᶜarī legal theorists shied away from such radical conclusions, but they retained al-Bāqillānī's theological assumptions, approach, and argumentation.

Historical Context

Origins of the Ashᶜarī theory of God's speech

The Ashᶜariyya are famous for using the methods of speculative theology to defend the doctrines of the traditionalists, who themselves abhorred such rational argumentation. For example, the main exponents of speculative theology, the Muᶜtazila, held that to regard God's attributes as real entities distinct from himself was to admit a plurality of eternal beings. The Ashᶜariyya defended the view that God has real eternal attributes such as knowledge and power, but avoided the charge of polytheism by insisting that these are neither identical with God's essence, as some of the Muᶜtazila claimed, nor other than God. One of these attributes was the subject of an especially heated controversy: God's speech, the Qurʾān. The Muᶜtazila argued that as it was composed of chapters and verses and sounds and letters, the Qurʾān could only be regarded as one of God's created acts. The Ashᶜariyya defended the traditionalists' counterclaim that God's speech is uncreated, but in order to thwart the criticisms of the Muᶜtazila they distinguished between God's speech itself, which is an eternal attribute subsisting in his essence, and the created sequences of sounds and letters that give expression to his speech.[337] This distinction between attribute *(maᶜnā,* which also has the sense of meaning[338]) and expression *(ᶜibāra)* came to play a crucial role in al-Bāqillānī's legal hermeneutics because it opened up an interpretive space between the words of revelation and their meaning.

This model of speech was apparently introduced into theological discourse by Ibn Kullāb (d. 240/854), one of several theologians who may in retrospect be called proto-Ashᶜariyya.[339] He claimed that the attribute of speech by which God is eternally speaking is a single, undifferentiated, indivisible *maᶜnā* that is neither identical with God nor other than God. As such, this speech has been heard only by those few whom God has addressed directly, such as Moses. Temporally, this speech is differentiated into commands, prohibitions, and statements, and is expressed by means of created letters in the Arabic recitation of the Qurʾān and in the Hebrew reading of the Torah. That which we recite is God's uncreated speech, but our recitation of it is created.[340]

al-Ashᶜarī's disputed stance

The main points of Ibn Kullāb's theory of speech were reportedly taken up by Abū al-Ḥasan al-Ashᶜarī (d. 324/935), a defector from the Muᶜtazila who eventually came to be regarded as the founder of his own school, the Ashᶜariyya.[341] He is also widely thought to have championed suspension of judgment on whether apparently general expressions should be interpreted as general or particular, and on whether imperatives in revelation entail legal obligation. This suggests that the main theological and legal-theoretical pillars of al-Bāqillānī's hermeneutical system had already been erected by al-Ashᶜarī. But the reports of al-Ashᶜarī's views on these matters are riddled with contradictions, reflecting perhaps his own shifting thought,[342] or perhaps his followers' attempts to claim his sanction on matters that they disputed among

themselves.[343] al-Ashᶜarī was undoubtedly involved in discussions of a number of issues in legal theory, but he may never have formulated a systematic legal hermeneutics.[344]

At the beginning of the 4th/10th century the suspension of judgment on general expressions was strictly a Murjiʾī theological position, and only as such did al-Ashᶜarī embrace it. In the legal theory of his day, general expressions about which there was no particularizing evidence were not deemed problematic; the point of the Shāfiᶜī hermeneutical project was to resolve contradictions where there seemed to be too much evidence, and it was usually assumed that in the absence of such conflicting evidence general expressions should be interpreted as general by default. This assumption was almost certainly shared by al-Ashᶜarī, and it remained the majority position of both traditionalist and Ashᶜarī legal theorists in the Shāfiᶜī tradition.[345]

The dispute over commands was principally a face-off between the traditionalists of the Shāfiᶜī tradition, who generally interpreted revealed imperatives as obligations by default, and the Muᶜtazila, most of whom interpreted them as mere recommendations unless they were accompanied by some indication that failure to comply would be punished.[346] In such a setting, one would expect al-Ashᶜarī to have sided with the Shāfiᶜiyya in his later years, and in fact the conflicting evidence about his views on the issue can best be explained as reflecting different interpretations of a loosely formulated Shāfiᶜī position.[347] Most of his followers continued to uphold the default of obligation, while suspension of judgment was systematically developed, and successfully projected back onto al-Ashᶜarī, by the Baghdād circle of al-Bāqillānī.[348]

It possible that al-Ashᶜarī did argue for suspension of judgment on some questions of legal hermeneutics at some point in his life, as is often claimed; but our evidence does not permit us to attribute to him, or to anyone before al-Bāqillānī, a systematic hermeneutics of ambiguity rooted in Ibn Kullāb's theory of speech.[349]

Subsequent Ashᶜarī theorists

After their founder's death, the Ashᶜariyya quickly divided, in terms of both theological method and legal theory, into two camps. al-Bāqillānī was the first, and also apparently the last, whose writings preserve the daring intellectual endeavors of the Ashᶜarī circle that flourished in Baghdād under the teaching of al-Ashᶜarī's pupil Ibn Mujāhid (d. 370/980). A more conservative group, trained in Baghdād under al-Ashᶜarī and his disciple Abū al-Ḥasan al-Bāhilī (d. 370/980), migrated to Khurāsān, where al-Juwaynī (d. 478/1085) eventually resurrected some elements of al-Bāqillānī's thought.[350]

It was in the Baghdād group that the Shāfiᶜī method of exploiting ambiguity was integrated with Ibn Kullāb's theory of speech, and formulated in terms of the Murjiʾī principle of *waqf* (suspension of judgment). It is tempting to speculate that this began, if not with al-Ashᶜarī himself, then with his student Ibn Mujāhid.[351] But it is only in al-Bāqillānī's monumental work, *al-Taqrīb wa-l-irshād,* that we find this integrated hermeneutical system spelled out. Like his teacher Ibn Mujāhid, al-Bāqillānī was attached to the Mālikī school of law. This means that he shared the Shāfiᶜī hermeneutical project,[352] to which he brought a special interest in issues of language.[353]

On point by point he argued that because words are only an expression of God's actual speech, they do not give immediate knowledge of that speech itself – that is, of the meaning in the speaker's mind. We must find proofs to carry us from verbal expression to inner meaning. Whenever an expression has more than one possible meaning in ordinary Arabic usage, its meaning cannot be determined without appeal to other evidence. al-Bāqillānī presents this as an original argument, with little reference to his predecessors; he constantly criticizes not only his Muᶜtazilī opponents, but also his orthodox colleagues, who, he complains, have all too often been seduced by the Muᶜtazilī understanding of God's speech.

His appeals to his more conservative colleagues seem to have gone largely unheeded, for although the leaders of the Khurāsānī Ashᶜariyya largely accepted the claim that al-Ashᶜarī had advocated suspension of judgment, they did not approve it themselves. We may speculate that this reflects the more conservative leanings of al-Ashᶜarī's disciple al-Bāhilī, whose disciples Ibn Fūrak and Abū Isḥāq al-Isfarāʾinī became the preeminent Ashᶜarī authorities in Khurāsān. Ibn Fūrak (d. 406/1015), although sympathetic to the rationalist theological system and the interpretive principle of suspending judgment that he attributed to al-Ashᶜarī in his *Mujarrad maqālāt al-Ashᶜarī,* took a more traditionalist approach in his own theological argumentation, and preferred to interpret general expressions as general by default.[354] We do not have any of Abū Isḥāq al-Isfarāʾinī's legal-theoretical works, but his intellectual heirs ᶜAbd al-Qāhir al-Baghdādī (d. 429/1037) and al-Juwaynī (d. 478/1085), both of whom knew

al-Bāqillānī's thought, likewise rejected suspension of judgment. Still, al-Juwaynī's landmark work consolidated at least one aspect of al-Bāqillānī's accomplishment: from the 5th/11th century on, for the Ashᶜariyya as for the Muᶜtazila, legal theorists would ground their systems in their theological views about language and the Qurʾān.[355]

Traditionalists and the Shāfiᶜī project

While the Muᶜtazila and Ashᶜariyya pursued their integrations of speculative theology with legal theory, traditionalist jurists of the Ḥanbalī, Shāfiᶜī, and Mālikī schools independently furthered the project of al-Shāfiᶜī's *Risāla*. For example, the Mālikī jurist Ibn al-Qaṣṣār (d. 398/1007) wrote an introduction to legal theory[356] in which he addressed (in the name of the Imām Mālik) the main topics of 4th/10th-century Shāfiᶜī legal theory by means of relatively simple proofs based on the Qurʾān, without engaging the arguments of the theologians.[357] He interpreted commands as obligations,[358] and general expressions as general by default,[359] without differentiating between speech and its verbal expression.[360] That Ibn al-Qaṣṣār should have studied Mālikī law under the same teacher as al-Bāqillānī,[361] yet ended up with such dramatically different interpretive principles, illustrates the degree to which al-Bāqillānī's theology affected his hermeneutics. Ibn al-Qaṣṣār seems to be precisely the kind of person al-Bāqillānī had in mind in his frequent diatribes against his more traditionalist fellow jurists, whose ignorance of the arguments of the speculative theologians led them to err, and sometimes even to inadvertently agree with the Muᶜtazila.

Eventually traditionalist legal theorists did come to grips with the arguments of the Ashᶜariyya. Traditionalist Shāfiᶜī legal theory was championed most prominently by Abū Isḥāq al-Shirāzī (d. 476/1083), who maintained an ongoing rivalry and debate with al-Juwaynī. The Ḥanbalī Abū Yaᶜlā (d. 458/1066) and his student Ibn ᶜAqīl (d. 513/1119) also appear to have seriously engaged with the work of the Ashᶜarī and Muᶜtazilī theologians.[362] The Mālikī school was influenced by both traditionalist and Ashᶜarī versions of the Shāfiᶜī hermeneutical project; for example, the influential al-Bājī (d. 474/1081) followed the traditionalist Shāfiᶜī Abū Isḥāq al-Shirāzī,[363] while ᶜAbd al-Wahhāb ibn Naṣr (d. 421/1030), the last of the great Mālikī judges before the 5th/11th-century decline of the Mālikiyya in Baghdād, studied with both al-Abharī and al-Bāqillānī, and professed an Ashᶜarī theology.[364] The later standard reference works in the Shāfiᶜī tradition of legal theory largely reflect the more conservative views on hermeneutical questions, but they do so in terms that reflect the theological systematization of the Ashᶜariyya.

In this sketch of the main currents surrounding the 4th/10th-century Ashᶜarī systematization of legal hermeneutics, al-Bāqillānī appears a rather isolated figure. In his own day he had to fight on all sides, against his own colleagues as well as the Muᶜtazila. In historical retrospect, his integration of theological and legal-theoretical principles left a permanent mark, but his most distinctive hermeneutical principles were abandoned even by those who relied most heavily on his work. I will focus on his thought

in this chapter because it illustrates important concepts and directions in the Shāfiᶜī tradition of legal hermeneutics, but his specific opinions are not representative of any major school.

al-Bāqillānī's Legal Hermeneutics

The section of al-Bāqillānī's *al-Taqrīb wa-l-irshād* that has been published is precisely the part that deals with questions of legal hermeneutics.[365] It addresses all of the classical topics of legal hermeneutics, but without the hierarchical structure of nested terms and topics that governs later works. The first volume contains prolegomena on knowledge and reasoning, the legal values of human actions, the nature of legal theory, and several aspects of language: the nature of speech, degrees of clarity, literal and transgressive usage, and meaning. The second volume is devoted to the interpretation of commands and prohibitions, a topic that was formulated by al-Shāfiᶜī and al-Muzanī, and that polarized legal hermeneutics around the time of al-Ashᶜarī. The third volume deals with the general and the particular, concepts that were initially employed by theologians and then harnessed in service of the Shāfiᶜī hermeneutical project. This distribution of topics suggests that al-Bāqillānī's work was produced in a polemical environment, in which his first priority was to counter Muᶜtazilī arguments on commands and general expressions. (His diatribes against his traditionalist and Ashᶜarī colleagues mainly concern their failure to stand up to the Muᶜtazila.) By contrast, the later classical discourse, which was less concerned with a substantial Muᶜtazilī challenge, aimed to organize the questions of legal hermeneutics into systematic classifications. This contrast

is also evident at the level of terminology. Whereas the classical discourse constructed unified hierarchies of mutually exclusive terms and definitions, on some matters al-Bāqillānī offered several alternative classifications, each with its own independent set of mutually exclusive terms. The result was a richer and more subtle but also more confusing analysis, which provided a variety of tools that could be selectively employed as the context of debate might require.

1) Clarity and ambiguity

This lack of hierarchical systematization is best illustrated by al-Bāqillānī's many overlapping sets of terms for describing the clarity or ambiguity of language.

Like all interpretive theorists, al-Bāqillānī had to contend with Q 3:7, which cryptically distinguishes between Qur'ānic verses that are *muḥkam* (literally, strengthened or well done), and others that are *mutashābih* (literally, resembling one another) and whose interpretation (or fulfillment) is known only to God (and possibly also to those human beings who "excel in knowledge"). Numerous and diverse explanations of this distinction had been proposed; al-Bāqillānī said that the *muḥkam* is that which conveys meaning in such a way as to leave no doubt as to its interpretation, whereas the *mutashābih* can be interpreted in more than one way because its verbal form does not make its meaning clear.[366] Such obscurity, however, cannot preclude human understanding, for God cannot address people in language they have no way to understand. al-Bāqillānī therefore sided with those who read "those who excel in knowledge" in conjunction with God, so that they too know the meaning of the

mutashābih verses.[367] This implies that ambiguity, for al-Bāqillānī, was never the final resting place of interpretation, but an opportunity for the work of interpretation.

al-Bāqillānī's most sophisticated classification of clarity and ambiguity did not precisely correspond to any specific set of terms. He developed at some length an analysis of the extent to which expressions independently convey the meanings they express, distinguishing three categories of communication.[368] The first, which I will call self-sufficient communication, encompasses instances of address in which the verbal expression fully and unambiguously conveys all of its intended meaning, whether explicitly or implicitly. The second, partially dependent communication, includes address that independently conveys some aspects of its meaning, but cannot be fully understood without recourse to some evidence beyond the verbal expression itself. (This is the type of address that he calls ambiguous, and on which he suspends judgment.) The third category, fully dependent communication, cannot independently convey any aspect of its meaning, because the verbal expression employed is used in a sense for which it was not established. Address can only communicate in this way if some indicator beside the address itself shows that the expression is being used in a transgressive sense, and if yet another indicator reveals what that transgressive meaning is.

This categorization does not precisely align with any of the various terminological distinctions al-Bāqillānī made in *al-Taqrīb.* For example, he tended to place literal usage in the first two categories, and transgressive usage in the third, but there were exceptions. Thus expressions that have only one literal meaning communicate self-

sufficiently. Expressions that have more than one possible literal meaning, while they do give some information about the range of possible meanings the speech may have, cannot be precisely interpreted without appeal to other evidence. Most transgressive usage conveys no meaning at all without the support of additional cues; thus al-Bāqillānī stated that a transgressive interpretation is only permissible if it is supported by evidence that accompanies the expression.[369] Some transgressive usage, however, comes to be so common that it communicates all or part of its meaning independently, yet is still considered transgressive.[370] There were other uses of expressions that al-Bāqillānī did not specifically identify as transgressive, but which he treated as though they were in the third category.[371]

Among the other terms that al-Bāqillānī used to describe clarity and ambiguity, the most important are *naṣṣ* (definite), *ẓāhir* (apparent), *muḥtamil* (ambiguous) and *mujmal* (summarized). Definite communication is explicit and unambiguous,[372] and therefore falls neatly within, but does not exhaust, the category of self-sufficient communication (which can also be implicit). He used *ẓāhir* much more loosely, to mean either a verbal form, or any of its possible literal meanings;[373] the term therefore does not directly describe communication at all, though it may refer to meanings that are conveyed by self-sufficient or partially dependent communication. He sometimes used ambiguous and summarized roughly as synonyms, in opposition to definite, to describe language that does not fully convey its own meaning.[374] On the whole, though, he tended to use summarized to refer specifically to expressions that convey the general sense but

not the precise details of their own meaning; such communication is partially dependent on other evidence. He used the term ambiguous more broadly, to describe any expression that could possibly have more than one meaning. It describes polysemous words,[375] words whose scope of reference is uncertain, summarized expressions, and sometimes even phrases that are susceptible to transgressive use. The term can therefore be applied to expressions used in partially or fully dependent communication, though most often partially dependent communication is in view.[376]

The issues al-Bāqillānī addressed using these terms and categories were, in various ways and using various terms, discussed by his predecessors, and later by the classical theorists. His categorizations reflected a substantial systematization by comparison to earlier Shāfiᶜī discourse, but were still far more fluid and multidimensional than the classical discourse. For example, his use of *mujmal* accorded with al-Shāfiᶜī's use of the related term *jumla;* in the classical discourse *mujmal* became a more precisely defined term nested in a clear system of classification. al-Ashᶜarī was credited by one source with something similar to al-Bāqillānī's three categories of communication, but is also said to have classed speech quite differently.[377] al-Ghazālī offered a comparable analysis of clarity, but linked it to different terms.[378] al-Bāqillānī's distinction between *naṣṣ* (definite, explicit) and *mafhūm* (implicit) communication was developed by later Shāfiᶜī theorists into the distinction between *mantūq* and *mafhūm,* but they used the term *naṣṣ* in opposition to *ẓāhir,* to describe language with only one

possible meaning. al-Bāqillānī's analysis of clarity and ambiguity made a number of issues explicit, but did not provide the kind of classification that later theorists desired.

2) Modes of reference

The terms literal and transgressive describe how verbal expressions are used in specific instances of address. When a word is used to mean that for which it was originally established,[379] its use is called literal. al-Bāqillānī defined transgressive use very broadly, as any use of an expression to mean something other than that for which it was originally established.[380] He showed little interest in categorizing the different types of transgressive usage, as was common in the discourse;[381] he was more concerned with the basic distinction between literal and transgressive, which he used to define the limits of suspension of judgment within the wide field of interpretive possibilities offered by attested Arabic usage. By admitting the presence of transgressive language in the Qurʾān (which some, most notably the Ẓāhiriyya, denied),[382] al-Bāqillānī was acknowledging a wide field of possible interpretations of Qurʾānic language. But against the Muʿtazila, whom the Ashʿariyya accused of rushing too easily into metaphorical interpretations of Qurʾānic descriptions of God, al-Bāqillānī insisted that a figurative interpretation should not even be considered unless it is supported by specific evidence that accompanies the expression.[383] Together, literal and transgressive usage span the whole range of interpretive possibilities for a given expression; but literal usage is to be assumed by default, so it is only among the possible literal uses of an expression, if there be more than one, that the interpreter must hesitate and suspend judgment. With few

exceptions,[384] the ambiguity of revelation is circumscribed by the boundaries of literal usage.

3) Scope of reference

The interpretation of general expressions[385] was of particular concern to both theologians and jurists, since it was the crux of the problem of the fate of the grave sinner, and also a key device of the Shāfiᶜī hermeneutical method. al-Bāqillānī placed the use of such expressions in his category of partially dependent communication: they convey their own meaning with respect to the nature of the class of things they denote, but whether they are intended to refer to all or only a part of that class of things cannot be determined except by appeal to other evidence.[386] The Ḥanafiyya and the Muᶜtazila held that certain verbal forms (such as definite plural nouns) are established specifically to mean generality, and are therefore definite *(naṣṣ)* in their communication of generality. Many traditionalists likewise interpreted general expressions as general in the absence of evidence to the contrary, though without giving them the status of *naṣṣ*. Others held they were established to mean at least three (which is the minimum number represented by the plural form in Arabic).[387] Against all these views, al-Bāqillānī argued that the expression alone does not convey either generality or particularity; its meaning is indeterminate. Only the speaker's will or intent makes his speech an expression of one or the other. Therefore, one must suspend judgment on the interpretation of apparently general expressions, until further evidence is found.[388]

al-Bāqillānī also contended, against the entire current of Shāfiᶜī legal hermeneutics, that when a particular piece of evidence contradicts a general one, it should not be assumed that the particular modifies the general. The usual assumption, traceable to al-Shāfiᶜī's *Risāla,* was that when a particular expression stands in contradiction to a general one, the former particularizes the latter – that is, it proves that the general expression was never intended to refer to all that it denotes. al-Bāqillānī argued instead that one must regard them as contradictory, and suspend judgment regarding that part of the scope of the general expression on which the two pieces of evidence conflict. Without appeal to other evidence, one cannot determine whether the relationship between a general and a particular text is one of particularization or abrogation, and if the latter, which abrogates the other.[389]

4) Modes of speech

God's speech is a single eternal *maᶜnā* (attribute or meaning),[390] yet it eternally[391] consists of four basic kinds of speech: commands, prohibitions, statements, and questions.[392] Each of these is an eternal class of meanings in its own right, completely independent of the many verbal forms that may from time to time be used to express it, and independent even of language itself.[393]

Of these four types, commands have received by far the most attention from legal theorists, because they are the basis of law. (Prohibitions were given more space in al-Shāfiᶜī's *Risāla,* but al-Bāqillānī and those who came after him were for the most part content to state that most of what they said about commands applied, *mutatis*

mutandis, to prohibitions.[394]) al-Bāqillānī defined command as "speech that requires the commanded person to act out of obedience."[395] It may be expressed by imperatives or indicatives – most of the requirements of the law are in fact based on indicatives[396] – but this is irrelevant to its being a command. In this he opposed both the traditionalists, who identified command with the imperative form itself, and the Muᶜtazila, who argued that imperatives constitute commands by virtue of the speaker's willing the commanded act.[397] al-Bāqillānī insisted rather that the imperative form is polysemous, so that unless it is accompanied by additional evidence, one must suspend judgment as to whether it expresses command, request, permission, warning, threat, or even a taunt.[398] Even if one determines that a given imperative (or any other expression) does express a command, one must find further evidence before one can know whether that command is an obligation or a recommendation.[399] Without such evidence, one must suspend judgment, not only in one's legal opinion, but also in one's action, for one can only obey a command either as a recommendation or as an obligation, but if one obeys a recommendation believing it to be an obligation, or vice versa, one has not fulfilled the command.[400] Here again al-Bāqillānī had to argue against both the traditionalists, who interpreted commands as obligations by default, and the Muᶜtazila, who took them to mean recommendation or permission.[401]

al-Bāqillānī's lengthy discussion of commands touches on many subsidiary points, such as whether a command following a prohibition should be interpreted as permission; whether the command to perform an act constitutes a prohibition of the

opposite act; whether a command requires immediate or delayed obedience; whether a single command requires a single act of obedience or repeated obedience; whether the repetition of a command indicates emphasis or a command to repeat the commanded act; whether a command constitutes a command to perform acts that are necessary conditions for performing the commanded act; whether the recommendation to perform an act in a certain way constitutes a command to perform the act; and whether a command is evidence that the performance of the commanded act will fulfill a requirement. Some of these questions will be specifically addressed below as they relate to larger issues.

5) Verbal implication

The Shāfiᶜī project of correlating the canons of law and revelation required some means to extend revelation to apply to legal questions it does not explicitly address. In part this need was met by the device of reasoning by analogy from a known rule to a new case; but this device was contested,[402] and this kind of inference introduced a degree of uncertainty into legal science.[403] An alternative way to extend the language of revelation was to argue that many actions not explicitly discussed in revelation are nevertheless implicitly addressed. Legal theorists drew a fine line between legal values that are expressed by revealed language, even if only implicitly, and those on which revelation is simply silent, and which must therefore be determined by analogy from other known values. The more reasoning they could smuggle into the interpretive process – the more

legal values they could claim to find implicitly contained within the meaning of revealed language – the less they had to rely on post-interpretive reasoning such as analogy.

One might expect al-Bāqillānī to develop a powerful theory of implicit meaning in support of the Shāfiᶜī project. Indeed we will see later in this chapter that his Ashᶜarī model of speech gave him a theoretical basis for packing a great deal of meaning into the language of revelation. This was mitigated, however, by his concern to keep interpretation within the limits of attested Arabic usage. al-Bāqillānī therefore walked a moderate line, accepting certain forms of implicit meaning as part and parcel of the meaning of ordinary language, but rejecting others that he felt were not justified by common usage.

The most widely recognized type of implicit meaning is positively implied meaning (classically called *mafhūm al-muwāfaqa).* This al-Bāqillānī fully accepted, calling it *mafhūm, laḥn,* or *faḥwā al-khiṭāb.* He considered it to be unambiguously and independently conveyed by the utterance that expresses it. The listener understands it directly from the utterance, in the same way as explicit meaning, without having to go through any additional process of inference or reasoning by analogy.[404] al-Bāqillānī sharply distinguished positive implication, however, from negative implication (classically called *mafhūm al-mukhālafa),* which he called *dalīl al-khiṭāb,* and which he utterly rejected as unsupported by Arabic usage.[405] In this he parted company with most of the Shāfiᶜiyya and Mālikiyya, and sided instead with the Ḥanafiyya and a few of the more speculative thinkers from the other schools.[406]

In addition to the classical topics of positively and negatively implied meaning, al-Bāqillānī discussed a number of questions about commands that are relevant to the problem of how much implicit meaning is contained in revealed language. For example, he argued that the command to perform a specific act is, in and of itself, a prohibition against omitting it or performing any opposite act. Conversely, a prohibition constitutes a command to omit the act and to perform an opposite act. By contrast, the Muᶜtazila remained closer to the explicit meaning of language, arguing that a command entails but does not itself constitute a prohibition of opposite acts, and that a prohibition does not necessarily require performance of an opposite act; a process of reasoning is therefore required to deduce one from the other.[407] Along the same lines, al-Bāqillānī argued that the command to perform an act constitutes a command to do whatever else one must do in order to perform that act. The command to pray, for example, is also a command to purify oneself, since purity is a condition of prayer. Once again the Muᶜtazila remained closer to the explicit meaning of language, arguing that the obligation to purify oneself is not contained in the command to pray.[408]

Several other meanings that were sometimes said to be implicit in commands were rejected by al-Bāqillānī. He argued, against everyone but a handful of speculative thinkers such as ᶜAbd al-Jabbār, that the utterance of a command does not necessarily imply that performance of the commanded act will be sufficient fulfillment of the requirement created by the command. Nor does a prohibition imply that the prohibited act cannot fulfill a requirement. For example, most of his contemporaries held that the

prohibition against praying in an unjustly occupied house made such prayer invalid as an act of worship; al-Bāqillānī disagreed, arguing that the prohibition itself forbids such prayer, but implies nothing about its validity, invalidity, or sufficiency as a fulfillment of the command to pray.[409] al-Bāqillānī also contended that a recommendation that an act be performed in a certain way does not imply that the act is itself recommended or obligatory.[410] Nor does a command that makes something obligatory also implicitly make it permissible at the same time.[411] On these questions al-Bāqillānī was not willing to stretch the meaning of language as far as many of his contemporaries, especially the traditionalists.

It is noteworthy that on the whole, the traditionalists claimed that the language of revelation conveyed a great deal of implicit meaning; this supported the Shāfiᶜī project while minimizing the role of discursive reasoning in law. By contrast, the Ḥanafiyya, the Muᶜtazila, and other thinkers of a more speculative orientation tended to stick more closely to the explicit meaning of language, perhaps because they were less reluctant to appeal to post-interpretive forms of legal reasoning. On this point, the traditionalists boasted the more powerful interpretive theory, while the "rationalists" were more literalist (a point that belies the close association that is often assumed in modern usage between the terms "literalist" and "fundamentalist"). al-Bāqillānī walked a middle line between these two tendencies, admitting implicit meaning as a general concept, but recognizing only those implicit meanings that he felt were normally intended by speakers of Arabic.[412]

From this cursory overview of al-Bāqillānī's legal hermeneutics it is evident that he wrote in an environment where a large set of detailed questions had already been posed and were being vigorously debated. al-Bāqillānī organized his discussion of these issues around two central topics: commands and general expressions. On these he put forward an Ashᶜarī alternative – suspension of judgment – to the dominant Muᶜtazilī and traditionalist views. He then worked out the consequences of his approach for the myriad subsidiary questions that make up the bulk of his work. The result was a cohesive and theoretically grounded hermeneutical system.

The Ambiguity of Arabic as Hermeneutical Key

This great body of theory was held together by one guiding principle, which we will now consider in its own right. It may be stated thus: Interpretation must remain within the range of attested Arabic usage, and by default within the domain of what I will call ordinary usage; but Arabic is highly ambiguous, and expressions with more than one possible ordinary meaning cannot be interpreted without appeal to additional evidence. This broad principle of suspension of judgment, I will suggest, theoretically gives the jurist great flexibility in determining the intertextual relationships that are the key to the Shāfiᶜī interpretive method.

Interpretation must remain within the range of attested Arabic usage, and by default within the domain of ordinary usage

Every meaningful expression can be used to convey one or more meanings because it has been established specifically for those meanings. (al-Bāqillānī left open the question of whether these meanings were taught by God to Adam, or were agreed upon by humans, or both.[413]) Literal usage is, by definition, usage in accordance with this original semantic assignment. Transgressive usage, by definition, is to use words to express meanings other than those for which they were originally established, but even transgressive usage is limited to the range of transgressive possibilities attested in previous usage; a speaker is not free to invent unprecedented figures of speech.[414] Some expressions, by force of common use, come to be customarily used and understood transgressively, or as references to only a part of their original meaning;[415] such usage thus comes to be included in what I will call ordinary usage, even if it is not literal.

These three different ways in which expressions come to have meaning may be used to define three nested categories of usage: literal usage, which is defined solely by the original semantic assignment; ordinary usage,[416] which includes both literal and customary usage; and attested usage,[417] which includes all legitimate usage, both ordinary and 'extraordinary' (i.e. non-customary transgressive usage).

There is only one way for us to know the literal, ordinary, and attested meanings of expressions. We cannot know a word's meanings by reason, as some early Muᶜtazila claimed,[418] or by analogy, as was more commonly held,[419] but only by collectively transmitted reports about what it was originally established to mean, or about the non-

literal meanings it is given by those whose usage is definitive of the language. This principle gave al-Bāqillānī one of his favorite dialectical weapons: he denied his opponents the right to appeal to anything except reports of definitive usage in their attempts to prove that commands or general expressions mean one thing rather than another. Since a positive report of one meaning does not preclude the validity of other meanings, al-Bāqillānī left his opponents no way to deny his claims that certain expressions have multiple attested meanings.[420]

God's speech, al-Bāqillānī contended, is expressed entirely in accordance with attested usage. Like al-Shāfiʿī and many others, al-Bāqillānī insisted that the Qurʾān is entirely in pure Arabic.[421] He also argued, against both the Muʿtazila and most traditionalists, that God does not introduce any new meanings through his use of Arabic expressions in the Qurʾān.[422] God's speech is expressed, and must be interpreted, using the same human lexicon that was current in the time of the Prophet.[423]

Thus al-Bāqillānī (largely following al-Ashʿarī[424]) restricted the interpretation of revealed expressions more narrowly than most, limiting it to meanings that are known by collective transmission to have been already attested as Arabic usage before the advent of the revelation. Of this range of possible meanings, non-customary transgressive meanings are excluded unless they are indicated by specific evidence accompanying the expression,[425] so in fact the jurist's range of interpretive options is usually limited to what I have called ordinary usage. This boundary provided a safeguard against fanciful interpretation, but it also engendered the challenge of fashioning an interpretive theory

powerful and flexible enough to ground the entire edifice of Islamic law in a mostly literal reading of revelation.

Much ordinary usage is ambiguous, and cannot be interpreted without appeal to additional evidence

al-Bāqillānī rose to this challenge by classifying some key types of verbal forms as ambiguous in ordinary usage, and by refusing to assign them default meanings. On such expressions, he argued, the interpreter must suspend judgment in the absence of clarifying evidence. We will see that he did not allow this to result in skepticism, but it did in principle allow considerable flexibility in determining the clarifying relationships that interpreters posit between passages.

al-Bāqillānī's categorization of the clarity of communication, and his restrictions on interpretation, allow us to envision three kinds of interpretive scenarios.[426] In the first, the interpreter faces an expression that is accompanied by evidence showing that it is meant transgressively, as well as evidence indicating what that meaning is. This is an instance of fully dependent communication, but it poses no interpretive problem, since the accompanying evidence fully determines its meaning.[427] In the second scenario, there is no evidence of transgressive usage, and the expression has only one meaning in ordinary Arabic usage. This meaning may be customary-transgressive, or even partly implicit,[428] but there can be no doubt about what it is; it is communicated self-sufficiently. In the third scenario – which dominates al-Bāqillānī's discussion of legal hermeneutics – there is no evidence of transgressive usage, but ordinary usage allows more than one

interpretation. Such communication partially depends upon additional evidence. If one can construe some other evidence, such as another passage of revelation,[429] as an indication of which meaning is intended, one may form an interpretive judgment. In the absence of such evidence, however, al-Bāqillānī claimed that the interpreter may not prefer one meaning by default, but must suspend interpretive judgment.[430] He must even suspend judgment as to whether the expression is intended to have only one of its possible meanings, or whether it may have two or more meanings at once.[431] In principle the jurist may not issue an opinion on the basis of such a text, nor can it serve as a basis for action.[432] We will see that in practice al-Bāqillānī did not allow ambiguity to result in indecision or inaction, but the principle of suspension of judgment left wide open the process by which the jurist uses one text as evidence of the meaning of another.

All partially dependent communication, then, is ambiguous in the absence of clarifying evidence. The extent to which the Arabic language is ambiguous will therefore be determined by how many expressions al-Bāqillānī claims have more than one possible ordinary meaning. Most legal theorists recognized that certain specific words are ambiguous – homonyms, for example. al-Bāqillānī, however, declared that entire classes of verbal forms are ambiguous. As we have already seen, these include both imperatives and general expressions, which together account for a large proportion of legal language, and which were in his time the most hotly debated verbal forms in legal theory.

We saw earlier (page 98) that al-Bāqillānī considered imperatives to be doubly ambiguous. First one must suspend judgment on whether a given imperative expresses a

command or some other meaning such as permission or threat; then, once one has determined that a given utterance does express a command, one must suspend judgment as to whether that command constitutes an imposition of obligation, or a recommendation. Only in the first step is one dealing with an ambiguous verbal expression; in the second step a class of meanings (commands) is found to encompass two subclasses (obligations and recommendations). al-Bāqillānī treated these two interpretive dilemmas similarly, however, and called commands ambiguous and polysemous even though they are not verbal forms. Note that this ambiguity extends beyond the imperative form, since many revealed commands are actually expressed by indicative statements.[433]

al-Bāqillānī did not go as far as he might in his claim that commands are ambiguous. On several subsidiary questions he called for default interpretations rather than suspension of judgment. This is not inconsistent with his general principle, however, for in each case his default interpretation is demanded by specific logical considerations that serve as clarifying evidence that removes ambiguity. In principle, one ought to suspend judgment as to whether a command requires immediate obedience, or obedience at some unspecified time; but since God cannot require immediate obedience without simultaneously providing evidence to that effect,[434] the absence of clarifying evidence itself serves as evidence that only delayed obedience is required.[435] The same consideration led him to interpret a single command as requiring only a single act by default, because if God intended it to require repeated obedience at all times (which

would have to begin immediately[436]), he would have to provide evidence to that effect.[437] al-Bāqillānī also argued that while the repetition of a command could be meant either to emphasize the command, or to require repeated obedience, one must assume the latter by default. This does not contradict the principle of suspending judgment on ambiguous expressions; it is rather a question of the nature of commands, which are not verbal expressions but speech-meanings.[438] Since each command has its own object (the commanded act), two commands must be assumed to have two objects unless some evidence shows otherwise.[439]

We have also seen (page 96) that al-Bāqillānī went against the tide by classifying all general expressions as ambiguous, and suspending judgment on them in the absence of clarifying evidence. This made a number of different verbal forms ambiguous: definite plurals (e.g. the believers), definite singular nouns used to refer to a whole class (e.g. humanity), indefinite pronouns (who, what), particles indicating indefinite time or place (when? where? whenever, wherever), and negated singular nouns (no person, nobody). One aspect of this problem received special attention: to whom is God's speech addressed? As a rule, al-Bāqillānī said that one must suspend judgment as to whether speech directed to a named group (e.g. "oh ye who believe . . .") is addressed to all or only some of those to whom that name applies.[440] In keeping with his criterion of ordinary usage, he rejected the view that certain groups are by default to be excluded from the scope of general address, except where there is some linguistic or other evidentiary basis for that exclusion. For example, he assumed that slaves are included

along with free people in the scope of general address, but that women are not included in masculine address, because there exist separate verbal forms established for address to women. These defaults should still be considered subject to his overall position of uncertainty about who is included in address to a named group; they serve not to resolve ambiguity, but to repudiate what al-Bāqillānī feels are linguistically groundless limitations or expansions of the scope of address.[441]

al-Bāqillānī suspended judgment not only on general expressions themselves, but also on the intertextual relationship that should be posited between general and particular texts (see page 97). He assumed that a particular expression particularizes a more general one only when they are related by certain carefully defined verbal structures which were established specifically to mean particularization, and which therefore cannot indicate any other relationship unless this is indicated by accompanying evidence. These verbal structures, all of which express some type of restriction or qualification *(taqyīd),* are condition (which shows that a general expression applies only in some situations), exception (which shows that something is not meant to be included in a more general reference), and adjectival qualification (which limits a class of things to those having a certain quality). In each case, the particularizing expression must occur in the same utterance as the one that it modifies.[442] When considering expressions that do not fit these patterns, or that occur in separate parts of the canon of revelation, al-Bāqillānī rejected the usual Shāfiʿī assumption that the particular modifies the general.

Broad suspension of judgment theoretically gives the jurist great flexibility in determining the intertextual relationships that are the key to the Shāfiʿī interpretive method

Far more than virtually any legal theorist before him or since, al-Bāqillānī claimed that Arabic usage is ambiguous, and refused to give one ordinary meaning preference over another. al-Bāqillānī did not intend, however, for the principle of the suspension of judgment to lead to skepticism about the possibility of basing the law on revelation. He did not believe that God could speak in a way that his hearers had no way to understand.[443] He held it as a matter of principle that God could not delay clarifying his ambiguous speech beyond the time at which the hearer needed to obey it.[444] It was to be expected, therefore, that for the most part, where a text was ambiguous, some other evidence, textual or otherwise, would be available to clarify it. If no evidence could be found to support one interpretation over another, the very absence of evidence would itself indicate that the alternatives were both equally valid and that the jurist was free to choose between them.[445] Or, in the case of general expressions, where there is no one specific alternative to a general interpretation, the jurist would have to rule as though he had determined the expression to be intended as general.[446] This does not constitute an admission that general expressions convey a general meaning by default; that was the very position al-Bāqillānī was determined to oppose. A general expression conveys no information whatsoever about whether it was intended as general. The interpreter has no way to know the intent, and he gives a ruling only because he must, even though he knows he may be wrong. His ruling is legally adequate, however, if he has exercised all

due diligence in his interpretive effort. Practically speaking, therefore, the suspension of judgment could never lead to skepticism about the law.

What then is the hermeneutical import of al-Bāqillānī's systematic suspension of judgment? Moving somewhat beyond al-Bāqillānī's own characterizations of his project, I would like to offer an interpretation of the significance of his theory in the development of Islamic legal hermeneutics. His defense of ambiguity must be considered in the context of the hermeneutical project represented by al-Shāfiᶜī's *Risāla,* which was discussed in chapter 2. Recall that al-Shāfiᶜī's overarching project was to show that the existing legal system could be grounded in the Qurʾān, with the aid of the Prophet's Sunna and the device of reasoning by analogy. This required a hermeneutics that was both powerful enough to extend the language of revelation to address every conceivable legal question, and flexible enough to reconcile all the conflicting texts of the Qurʾān and Sunna with each other and with the law. al-Shāfiᶜī's most formative contribution to this task was his suggestion that it is the ambiguity of the Arabic language that makes possible the integration of all the texts of revelation into a consistent basis for all of Islamic law. Because in Arabic general expressions may be meant to apply to all or only to some of their range of denotation; because something complex may be referred to in summarized fashion; because a word may be meant literally or transgressively – in short because of the ambiguities of Arabic, it is possible to interpret all of revelation as an expression of a single coherent set of legal rules. Given any set of apparently contradictory revealed texts, the ambiguity of their language is such that it is always possible to construct at least

one set of linguistically valid interpretations of all the texts that is internally consistent and indicative of a single legal system.[447]

In this project, it was not the lack of clarifying evidence that posed a problem; that is why al-Shāfiᶜī was not particularly concerned to define the default meanings that expressions should be assumed to have in the absence of other evidence. The problem, on the contrary, was the superabundance of conflicting evidence that resulted from the canonization of a large number of Prophetic *ḥadīth*. This is the problem to which al-Bāqillānī's solution must be applied. He was not concerned that there would be insufficient evidence to resolve the ambiguity of individual expressions. On the contrary, his legal theory may be read as an attempt to give the interpreter the greatest possible flexibility in constructing coherent sets of linguistically valid interpretations indicative of a single legal system. His claim that much of revelation is ambiguous left many or even most revealed passages open to interpretation on the basis of other passages. What is more, we have seen that he also left undetermined the intertextual relationships, such as particularization, by which one passage is understood to modify another.[448] al-Bāqillānī's acceptance of delayed clarification likewise kept intertextual relationships open, since it allowed for the possibility that a later text might clarify an earlier one, something that the Muᶜtazila denied.[449] The theoretical thrust of al-Bāqillānī's hermeneutics, then, was to maximize the number of possible ways to reconcile texts. He did not give the jurist the power to freely choose between interpretations of a single text; but he did in effect give the jurist the power to construct systems of intertextual

relationships in which the interpretation of each text is controlled by the others in such a way that all are found to express parts of a single set of legal rules.

I am not aware of any extant legal writings from which we might determine to what extent al-Bāqillānī applied this theoretical flexibility to his practice of arriving at legal opinions. No doubt al-Bāqillānī's interpretive theory had some effect on how he went about defending his legal opinions in debate, but it may have made very little practical difference in the answers he gave on specific questions of law.[450] These were perhaps shaped more by his Mālikī training than by his idiosyncratic legal hermeneutics. Nevertheless, his work did provide at least a theoretical justification for the hermeneutical method advanced by al-Shāfiᶜī's *Risāla.* In principle, his interpretive theory promised far more flexibility, within the limits of ordinary Arabic usage, than that of his Ẓāhirī, traditionalist, or Muᶜtazilī contemporaries.[451]

The Relevance of the Ashᶜarī Doctrine of God's Eternal Speech

If on the legal plane al-Bāqillānī's defense of the ambiguity of Arabic may be interpreted as a theoretical justification of the Shāfiᶜī legal-hermeneutical method, from a theological perspective it may be regarded as an application of the Ashᶜarī theory of God's eternal speech.

Building on the tradition associated with Ibn Kullāb and al-Ashᶜarī, al-Bāqillānī described God's speech, the Qurʾān, as an eternal attribute of his essence; it is literally heard, recited, written and memorized by God's creatures, but their recitation, writing,

and memorization of it are composite and created. God's speech itself is a single, indivisible entity (a *maʿnā)* eternally consisting of a multiplicity of speech-meanings, while the words of the Qurʾān are but a created expression *(ʿibāra)* of that speech.

The hermeneutical significance of this distinction between speech and its verbal expression becomes apparent if we consider that the term *maʿnā* refers to what in English must be represented by two seemingly unrelated concepts. When speaking of God's speech as one of his attributes, al-Bāqillānī used the term *maʿnā* interchangeably with *ṣifa* (attribute) to refer to that quality which is the reason for God's being called "speaking." In this context *maʿnā* is best translated as "attribute." This is the sense in which the term was primarily used by the theologians, and applied to the problem of God's speech.[452] When speaking of God's speech in relation to the words that express it, however, al-Bāqillānī used *maʿnā* in a way that is best translated "meaning": the words of the human recitation of the Qurʾān express the meaning, or content, of God's speech. This is the sense in which *maʿnā* was used by the grammarians and Ḥanafī jurists.[453] These two translations represent the same entity, considered from two different angles.[454] For example, when a person commands, he finds that there is in his mind *(nafs)* the meaning of command (that is, the demand for action out of obedience), and the presence of this meaning in his mind is the reason that he is truly described as commanding. In other words, the meaning of command that is in his mind is nothing other than his attribute of being commanding. A philosopher will consider this thing an attribute of the speaker, but an interpreter will consider it the meaning behind his utterance of an imperative.

Because al-Bāqillānī kept both of these perspectives on *maʿnā* simultaneously in mind, he was able to draw hermeneutical consequences from the Ashʿarī doctrine of God's speech. Because *maʿnā* is both attribute and meaning, the ontological gap between God's eternal attribute of speech and its created expression is also a gap between meaning and the verbal form that expresses it. The Ashʿarī theory of God's speech thus entails an ontological separation between the primary data of interpretation (verbal forms) and the goal of interpretation (meaning, which determines the legal values of acts).[455] This gap makes it necessary to reason from words to their meaning, and to suspend judgment whenever there is insufficient evidence to uniquely determine meaning. By the same token, this gap provides a hermeneutical space within which a flexible process of interpretive reasoning can take place.

Throughout *al-Taqrīb* al-Bāqillānī argued his case for the indeterminacy of meaning against those, both Muʿtazilī and traditionalist, who identified certain meanings with certain verbal forms (for example, commands with imperatives). They made this mistake, al-Bāqillānī implied, because they identified God's speech with its verbal expression: the Muʿtazila held that the words and letters and sounds of the Qurʾān are created, while the traditionalists said that they are eternal, but they all agreed that the words themselves are God's speech.[456] Against this grave error, al-Bāqillānī championed the Ashʿarī doctrine that God's speech is an eternal attribute, a *maʿnā* eternally consisting of statements, commands, and other classes of *maʿānī,* or types of speech. Accordingly, he insisted that commands and prohibitions, as well as generality

and particularity, are meanings in the mind of the speaker *(maʿānī fī nafs al-mutakallim);* or, more precisely, classes of meanings. They are not verbal forms, and therefore cannot be identified with specific verbal forms without proof that those verbal forms were established to express those meanings and no others. Consequently, al-Bāqillānī's arguments for suspension of judgment frequently focused on Arabic usage, in order to show that certain expressions have more than one possible meaning; but behind all his arguments lay the premise of the Ashʿarī theory of God's eternal speech.[457]

For al-Bāqillānī, then, a word has no necessary connection to its meaning. Meaning resides in the mind of the speaker, and is completely independent of language.[458] The speaker has at his disposal certain signs which, by virtue of their having been established to convey certain ranges of meaning, he may use to express and make known his speech.[459] What a given expression means in any given utterance is determined not by its verbal form, but by the speaker's intent to convey a certain meaning.[460] The original semantic assignment of words limits the range of meanings a speaker may intend to convey through the use of a given expression, but semantic assignment in no way determines the speaker's meaning, except in the sense that some words, being established for only one meaning, can be used to express only that meaning. This basic indeterminacy of meaning has greater consequences for divine than for human speech, because in human speech contextual cues compensate for ambiguity. When one human being speaks directly to another in his own language, al-Bāqillānī believed, the

hearer can have immediate and necessary knowledge of the speaker's meaning. If the expressions used are unambiguous, they convey their meaning independently; if they are ambiguous, certain other cues (such as gestures, intonation, or aspects of the setting or context) give immediate understanding of what is meant. Such cues, however, can give necessary and immediate understanding only to one who directly perceives the speaker, or who has necessary knowledge of them through multiply attested transmission. When we hear the human recitation of God's speech, we do not perceive the divine speaker, nor do we have multiply attested transmission from a group of people who have directly perceived him; therefore we cannot have necessary or immediate knowledge of the meaning God intends to convey through the words of the Qurʾān. We can know that meaning only through a process of inference in which verbal expressions serve as the primary evidence. If a Qurʾānic expression has only one possible meaning in ordinary language, we may infer that this is what God's speech means. If, however, ordinary Arabic usage allows several possible interpretations, we must reason from some evidence to support any interpretation we might make. Hence if we do not find sufficient clarifying evidence, we must suspend interpretive judgment. This, you will recall, is al-Bāqillānī's cardinal interpretive principle.

Thus the Ashʿarī theory of God's eternal speech, applied by al-Bāqillānī to the questions of legal hermeneutics, yielded the methodological principle of suspension of judgment. Along the way, it also generated a number of epistemological and legal-theoretical corollaries, of which I wish to highlight four.

First, as we have just seen (page 117), meaning depends primarily on speaker's intent, and only secondarily on the Arabic lexicon and the precedent of Arabic usage. This thesis was opposed to that of the traditionalists, but it was, in effect, shared by the Muᶜtazila, who identified speech with verbal expression but argued that only by virtue of the speaker's intent did it mean one thing rather than another.[461] The focus on speaker's intent did not necessarily lead to ambiguity or suspension of judgment, however, for the Muᶜtazila did not advocate suspension of judgment, and as we saw in chapter 3, al-Bāqillānī's great Muᶜtazilī contemporary ᶜAbd al-Jabbār refused to recognize any unresolved ambiguity in revelation.

Second, the Ashᶜarī theory of God's eternal speech led al-Bāqillānī to deny that divine address communicates in the same way as human address (page 117). Although he insisted that God strictly abides by the human Arabic lexicon, he concluded that the words of the Qurʾān can only function as a piece of evidence, a trace, like a last will and testament that must be deciphered without the benefit of immediate understanding that characterizes direct interpersonal address.[462] We saw in chapter 3 that ᶜAbd al-Jabbār reached a similar conclusion about the epistemological function of God's speech, which he regarded as a created sign placed by God in the world so that humans might reason from it to a knowledge of God's will. For al-Bāqillānī, God's speech was itself constitutive of law, and was itself the thing to be known through the interpretation of its created expression, whereas for ᶜAbd al-Jabbār, God's speech was the created evidence

from which one must seek to know God's will (which reflects the legal values of acts); both, however, treated the words of the Qurʾān as evidence rather than as direct address.

Third, the Ashʿarī theory of God's speech supported the extension of revealed language to apply to issues it does not explicitly address, as the Shāfiʿī project required. The gap between *maʿnā* and *ʿibāra* gave al-Bāqillānī a theoretical framework for verbal implication. Because God's speech is the meaning *(maʿnā)* that is understood *(mafhūm)* from the words of the Qurʾān, anything that is correctly understood from a revealed utterance, whether explicit *(naṣṣ)* or implied *(mafhūm),* is necessarily part of the meaning that is God's speech. This would seem to support al-Bāqillānī's theory of positively implied meaning, although he did not himself offer this justification for it.[463] He did explicitly make this connection when he claimed that the command to perform a specific act is, in and of itself, a prohibition against omitting it or performing any opposite act. He specifically linked this claim to his view on the eternal nature of the Qurʾān, and correlated the doctrine of the created Qurʾān with the opposite view that commands do not constitute prohibitions of their opposites. The Muʿtazila, he reasoned, could not identify a command with a prohibition because they equated speech with verbal expression, but the verbal forms of commands and prohibitions are different.[464] According to al-Bāqillānī, however, a command is not a verbal expression, but what we might call a meaning or idea *(maʿnā)* that is part of, or rather identical to, that single eternal attribute *(maʿnā)* of speech that encompasses all God's commands and prohibitions.[465] Hence the prohibition against opposite acts, which is understood from a

command, does not have to be deduced from it by any exercise of reason, because it is identical to the command itself.[466] As we noted earlier, al-Bāqillānī did not use his theory of speech to justify every conceivable type of implicit meaning, because he was also concerned not to attribute to verbal forms more meaning than they could be claimed to have in ordinary usage. This is why he joined the Muᶜtazila and the Ḥanafiyya in rejecting negatively implied meaning, for example.[467] Thus while he admitted more implicit meaning than the Muᶜtazila, he did not go as far as many traditionalists, who were willing to find a great deal of implicit meaning in revelation even though they did not ontologically separate meaning from verbal form.

Fourth, the Ashᶜarī theory of God's speech provided a theoretical and theological basis for the interpretive flexibility required by the Shāfiᶜī project. As we have seen, it led al-Bāqillānī to dissociate meaning from verbal form, and hence to leave the meaning of many verbal forms undetermined in the absence of clarifying evidence. This consideration is reflected in his suspension of judgment on imperatives[468] and on general expressions.[469] At the same time, defining types of speech as classes of speech-meanings rather than verbal forms allowed him to argue that some types of speech (most notably commands) are themselves divisible into subclasses of meanings. For example, his theory of speech allowed him to argue that the class of commands encompasses both recommendations and obligations, not because of any ambiguity in verbal expression, but because the definition of command is itself too broad to determine a precise legal value.[470] al-Bāqillānī's theory of speech thus gave him two ways to argue for ambiguity:

by claiming that a verbal form is established for several possible meanings, or by claiming that a class of speech-meanings encompasses several subtypes. In both cases, the requirement to reason from evidence to meaning makes room for the jurist to engage in a substantial rational process in correlating law with revelation, while still maintaining that his conclusions are not based on reason itself, but only on revealed texts.[471] This space for interpretive reasoning provided, at least in theory, the flexibility required by the Shāfiᶜī hermeneutical project.[472]

These consequences of the Ashᶜarī theory of God's eternal speech illustrate that in the 4th/10th century, at the hands of al-Bāqillānī (and perhaps to some degree those of al-Ashᶜarī before him), the discourse of speculative theology was systematically brought to bear on legal theory. al-Bāqillānī's most radical conclusions about ambiguity would not be retained by most of the subsequent Ashᶜariyya, but his model of an integrated hermeneutics, grounded in theology and applied in legal theory, proved formative. Henceforth works of legal theory, even if they eschewed specifically theological questions, would reflect the terminology and assumptions of the theologians.

Conclusion

This overview and interpretation of al-Bāqillānī's legal hermeneutics allows us to sketch his location and retrospective significance in the development of the discipline. It is evident, even from this cursory and selective presentation of his work, that he was speaking within a discourse already structured by a wide range of detailed questions, standardized answers, predictable objections, and known counterarguments. The brunt

of the polemics apparently revolved around a plethora of questions concerning commands and general expressions. The principal lines of dispute fell not between legal schools, but between traditionalist jurists, Muᶜtazilī theologians, and other speculative theologians such as the Ashᶜariyya.[473] Into this fray al-Bāqillānī inserted his argument for methodological suspension of judgment, a proposal that may have been prefigured by al-Ashᶜarī, but whose systematic development was original and unique to al-Bāqillānī. This proposal died with him, but his works seem nevertheless to have exerted considerable influence, in one way or another, on all the major legal schools, particularly the Shāfiᶜiyya. Perhaps his most lasting influence was his integration of legal theory with speculative theology, which subjected the theory of interpretation to theological assumptions about knowledge and language, and made legal hermeneutics part of a larger epistemological inquiry. One of the most notable aspects of this integration was his use of the Ashᶜarī theory of God's eternal speech to support the Shāfiᶜī hermeneutical method. Although al-Bāqillānī was himself a Mālikī, his work showed that the Shāfiᶜī tradition was compatible with, and even stood to benefit from, the Ashᶜarī theological tradition. This suggests that the historical association between Ashᶜarī theology and the Shāfiᶜī legal school, which gradually gained acceptance over the course of the following centuries, was not completely fortuitous or artificial, but had a substantive intellectual basis.[474] It may be that the eventual acceptance of Ashᶜarī theology by the mainstream community of jurists was made possible in part by

al-Bāqillānī's demonstration of its capacity to legitimate the flexible and powerful interpretive theory that the jurists required.

V

CONCLUSION

In the course of presenting the distinctive hermeneutical visions of al-Shāfiᶜī, ᶜAbd al-Jabbār, and al-Bāqillānī, we have perforce constructed a tentative historical sketch of the discourse about revealed speech and language to which these three thinkers made such prominent contributions. Two features of the development of this discourse seem particularly worthy of emphasis here.

First, the discourse was interdisciplinary. In the 5th/11th century classical theorists attempted to wrest legal theory free from its obvious connections to speculative theology; but in the preclassical period studied here, concepts and examples were drawn from exegesis, theology, and law. The analysis of language was not a merely juridical concern; indeed the hermeneutical discourse we have examined seems less concerned with defining the law than with defining the nature and epistemological function of the canon of revelation. Legal hermeneutics developed as part of a larger debate among Muslim scholars about how the community should relate to its sacred book and to its collective memory of its Prophet.

Second, although all of the major issues of classical legal hermeneutics were raised and addressed in some form by the early 3d/9th century, the discourse of the 3d/9th and 4th/10th centuries did not employ all of the same terms, and did not have the

same structure, as those great classical works of the later 5th/11th century whose terminology and organization have shaped legal theory ever since. The problem of clarity and ambiguity was arguably the driving concern of legal hermeneutics from the time of al-Shāfiʿī, but there was no consensus on how to classify clear and ambiguous language until systematic and exhaustive dichotomous classifications were devised by classical writers such as al-Bazdawī (d. 482/1089). The question of reference – the relationship between language and meaning – was addressed early on under the rubrics of transgressive or figurative usage, and direct and indirect reference; but it was not discussed in terms of a theory of the origin and basis of linguistic reference until about the 4th/10th century. The question of verbal implication, and its relationship to analogical reasoning, was raised very early on by jurists, and additional questions about the implications of commands were addressed during the preclassical period; but it was not until the classical period that a formal discussion of the "ways of indicating" *(ṭuruq al-dalāla)* sought to classify explicit and implicit meaning. The two questions that were developed most fully during the preclassical period were the issues of scope of reference and imperatives; these continued to play key roles in the classical discourse, where they no longer structured the entire discourse of legal hermeneutics, but were integrated alongside other issues into a more systematically organized framework. The classical theorists often cited the views of earlier figures in support of points in their systems, but often these citations reinterpreted specific interpretive or argumentative moves as general principles, or quoted old principles as answers to newly formulated questions.

The classical authors have remained influential because they gave the discourse of legal hermeneutics a clear and logical structure and terminology; the preclassical theorists that have been examined here were influential rather because they identified and pursued the key linguistic questions on which depended the adoption of revelation as the epistemological basis of law.

The tentative progress that has been made here in reconstructing some of the early history of Islamic legal hermeneutics allows us to advance the discussion of two questions that have occupied recent Western studies of legal theory: the significance of al-Shāfiᶜī, and the relationship between law and theology.

This dissertation, together with other recent publications,[475] shows plainly that there was not in fact a dearth of legal-theoretical inquiry in the period between al-Shāfiᶜī and the 4th/10th century, as it had previously appeared;[476] the great systematic treatises that have survived from the 4th/10th century grew out of vigorous debates that had been ongoing since the turn of the 3d/9th century. Furthermore, by focusing on the oft-neglected linguistic dimensions of legal theory, this dissertation has highlighted the continuity between al-Shāfiᶜī's *Risāla*, which is not so much a legal theory manual as an essay in hermeneutics,[477] and classical theory. It is now possible to assert that while al-Shāfiᶜī was certainly not the "master architect of Islamic legal theory,"[478] in that he did not design the structure of the discipline as a whole, he did formulate what became its driving concern: to show, through the exploitation of ambiguity as well as by non-linguistic devices, that it is possible to interpret an apparently divergent and conflicting

corpus of revelation as the basis of a coherent system of law. He also brought to bear on this task concepts, drawn from existing hermeneutical discourses, that would make up the principal topics of classical legal hermeneutics. His most distinctive contributions in this regard were his analyses of summary and general expressions.

Several aspects of the relationship between law and theology have troubled Western scholars of Islamic legal theory. First, following Ibn Khaldūn, it has become customary among both Muslim and Euro-American scholars to distinguish between two approaches to legal theory, that of the jurists and that of the theologians. The former is identified with the Ḥanafiyya, who are said to have inferred their legal theory from concrete legal opinions; the latter is identified with the Shāfiʿiyya and the other legal schools who followed their lead, all of whom are regarded as starting from theoretical considerations.[479] This distinction is based on the Ḥanafī theorists' practice of citing the legal opinions of their school's early figures in support of points of legal theory, a practice which is not as common among theorists of other schools. It is a misleading distinction, however, in that it gives the impression that the Shāfiʿiyya were more interested in theory while the Ḥanafiyya were concerned only to justify their legal views. In fact the Ḥanafī legal opinions that are cited reflect a highly speculative discipline of theorizing about human language and other legal issues.[480] Furthermore, we have seen that already by the time of al-Karkhī (d. 340/952) the Ḥanafī theorists were fully engaged in a Shāfiʿī-style analysis of revealed language, though they continued to cite legal opinions as part of their arguments. Thus even before the classical period Ḥanafī and Shāfiʿī

theorists were engaged in a common discourse. We have seen that the more important divide, at least in matters of language, was between theologians from all legal schools (such as the Shāfiᶜī ᶜAbd al-Jabbār, the Mālikī al-Bāqillānī, and the Ḥanafī Abū al-Ḥusayn al-Baṣrī) who looked upon their theory as an epistemological and theoretical enterprise, and were therefore willing to state very general hermeneutical principles; and those jurists of all schools (such as al-Shāfiᶜī, the Mālikī Ibn al-Qaṣṣār, and the Ḥanafī al-Jaṣṣāṣ) who were more concerned with the task of correlating individual texts with specific rules, and who therefore took a less rule-bound and more intuitive and *ad hoc* approach to interpretation, and nuanced their theory to accommodate the complexities of the actual content of revelation.

This leads to a second observation: differences between theological schools often affected theorists' views on language more deeply than differences between legal schools. Western scholars are divided over whether Islamic legal theory is primarily a legal or a theological enterprise. Muslim legal theorists themselves, at least from the 5th/11th century, have often tried to keep theology out of legal theory.[481] This dissertation has shown, however, that in the preclassical period theological views were major factors in the formulation of at least the hermeneutical dimensions of legal theory.

Third, Western scholars have recently been engaged in a lively debate over whether Islamic legal theory is a constructive interpretive method, or a post-facto justification of the law.[482] This dissertation does not rule out the possibility that legal theory may at some point have served as a constructive method, but it does make clear

that especially for the more theologically inclined preclassical theorists, the point of linguistic theory was not interpretation but epistemology. Legal hermeneutics was not so much about the law as about the canon of revelation and its role as a source of human knowledge.

In addition to its tentative historical reconstructions, this dissertation has also sought to offer a fresh synchronic understanding of the larger significance of the detailed arguments that make up the discourse of legal hermeneutics. Texts that on first reading seem buried in hairsplitting distinctions between different forms of command or fine shades of ambiguity, when seen in a broader light turn out to embody passionate claims about how the Muslim community should relate its sacred memories to its knowledge of and action in the world. ᶜAbd al-Jabbār regarded the verbal traces of the Prophetic event as one of many types of evidence created by God so that all rational human beings might be able to discover what actions are naturally in their best interest. al-Bāqillānī envisioned the words of the Qurʾān as dim and partial reflections of an inscrutable divine command, from which humanity must infer and extrapolate God's requirements. A third vision, which we have left unexamined, was proposed by the Ẓāhirī Ibn Ḥazm (d. 456/1064) who made the verbal data of revelation the axioms of a closed system of legal theorems, without positing any coherent moral reality behind that linguistic system. In what was perhaps the most widespread conception of revelation, vividly put forward by al-Shāfiᶜī and tacitly embodied in the interpretive theory and practice of many of the less theologically-inclined jurists, the language of revelation constitutes a vast verbal puzzle

which a class of legal specialists must somehow piece together to form the familiar picture of Islamic law.

These profoundly different conceptions of language, speech, and meaning, and of the relation between revelation and law, were all formulated in conjunction with a remarkably uniform set of legal rules. All of the figures studied here were jurists, and all gave opinions in accordance with one or another of several legal systems whose disagreements pale by comparison to such glaring philosophical differences. Thus at least during the formative period of legal hermeneutics, the debates we have examined may have had little practical effect, being more a matter of conceptualizing revelation than of constructing law. As the questions and concerns of Muslim intellectuals have changed, however, the significance of legal theory has also changed. Today, as Muslim intellectuals continue to rediscover and reconceptualize legal theory as a constructive method for legal reform, the analysis of language in Islamic legal hermeneutics may yield practical consequences unimagined by its authors.

APPENDIX 1:

KEY TO TRANSLATION

In order to make the body of the dissertation readable for non-Arabists, I have minimized the use of untranslated technical terms. For the benefit of the specialist, this alphabetical list identifies the concept or specifies the Arabic term(s) represented by my English terms. Some English terms represent multiple Arabic terms, and many Arabic terms have multiple translations.

abhor (opposed to will)	*karaha* (opposed to *arāda)*
abhorrence (opposed to willing)	*karāha* (opposed to *irāda)*
abrogation	*naskh*
accompanying (evidence)	*muqārin (dalīl)*
act	*fiʿl*
action	*fiʿl*
address	*khiṭāb*
allowed	*ḥalāl*
ambiguity	*iḥtimāl*
ambiguous	*muḥtamil*
analogical reasoning	*qiyās*
analogy	*qiyās*
apparent (meaning)	*ẓāhir* (referring to a meaning)
attribute	*maʿnā, ṣifa*
bad	*qabīḥ*
clarification	*bayān*
clarified	*mubayyan*
collectively transmitted	*mutawātir*
command	*amr*
condition	*sharṭ*
connected	*muttaṣil*
consensus	*ijmāʿ*
context (verbal)	*siyāq*
contextual indicator	*qarīna*
convention	*iṣṭilāḥ, muwāḍaʿa, muwāṭaʾa, tawāḍuʿ*
customary	*ʿurfī*

customary usage	*ᶜurf*
definite (in meaning)	*naṣṣ* (as opposed to *ẓāhir)*
delayed clarification	*taʾkhīr al-bayān*
diligent inquiry	*ijtihād*
direct (reference)	*ṣarīḥ*
disapproved	*makrūh*
disconnected	*munfaṣil*
elaborated	*mufassar*
elaboration	*tafsīr* (as a hermeneutical category)
ellipsis	*ḥadhf*
equivocal	*mutashābih*
establishment (of language or of a word's meaning)	*waḍᶜ*
evidence	*dalīl*
exegesis	*tafsīr* (as a scholarly practice or discipline)
explicit	*manṭūq, naṣṣ* (as opposed to *mafhūm)*
expression	*ᶜibāra*
figurative (meaning, usage)	*majāz* (in its narrow sense)
forbiddance	*taḥrīm*
forbidden	*ḥarām*
general	*ᶜāmm*
generality	*ᶜumūm*
good	*ḥasan*
imperative	*amr, (ṣīghat) ifᶜal*
implicit	*mafhūm*
implied	*mafhūm*
imposition of requirements	*taklīf*
indication	*dalāla*
indicative	*khabar*
indicator	*dalīl*
indirect (reference)	*kināya*
individually transmitted report	*khabar al-wāḥid*
intent	*qaṣd*
intention	*niyya*
legal hermeneutics	Those topics of legal theory that deal with the analysis of the language of revelation; sometimes called *al-qawāᶜid al-lughawiyya.*
legal science	*fiqh*
legal theory	*uṣūl al-fiqh*
legal value	*ḥukm*
linguistic	*lughawī*
literal (usage, meaning)	*ḥaqīqa*
meaning	*maᶜnā*

modes of speech	*aqsām al-kalām*
natural knowledge	*ᶜaql*
naturally known	*ᶜaqlī*
negative implication	*dalīl al-khiṭāb, mafhūm al-mukhālafa*
normative (usage)	opposite of *majāz*, before *ḥaqīqa* became its standard opposite
obligation (i.e. the act of making something obligatory)	*ījāb*
obligatory	*wājib*
obscure(d)	*mubham*
particular	*khāṣṣ*
particularization	*takhṣīṣ*
permission (i.e. the act of granting permission)	*ibāḥa*
permitted	*mubāḥ*
polysemous	*mushtarak*
polysemy	*ishtirāk*
positive implication	*faḥwā al-khiṭāb, laḥn al-khiṭāb, mafhūm al-muwāfaqa*
practice	*sunna*
prohibition	*nahy*
proscribed	*maḥẓūr*
public interest	*maṣlaḥa*
qualification	*taqyīd*
qualified	*muqayyad*
rational	*ᶜaqlī*
rational inquiry	*naẓar*
reason	*ᶜaql*
reasoning by analogy	*qiyās*
recommended	*mandūb*
report	*ḥadīth*
revealed	*samᶜī, sharᶜī*
revelation	*bayān, sharᶜ*
roots of law	*uṣūl al-fiqh*
science of law	*fiqh*
semantic assignment	*waḍᶜ*
social good	*maṣlaḥa*
speculative theology	*kalām*
speech	*kalām*
statement	*khabar*
summarized	*mujmal*
summary (speech)	*jumla*

suspension of (interpretive) judgment	*waqf*
text	*naṣṣ* (as opposed to non-textual evidence)
transgression	*majāz* (in its broad sense)
transgressive (meaning, usage)	*majāz* (in its broad sense)
unambiguous	*naṣṣ*
unequivocal	*muḥkam*
unqualified	*muṭlaq*
valid	*ṣaḥīḥ*
valuation (the assignment of a legal value to a human act)	*ḥukm*
value (specifically, the legal value of an act, or more generally, any quality that a thing is determined to have)	*ḥukm*
verbal form	*lafẓ, makhraj, ṣīgha, ṣūra, ẓāhir*
verbal implication	*mafhūm*
will	*irāda*

APPENDIX 2:

ANALYTICAL OUTLINE OF AL-SHĀFIʿĪ'S *RISĀLA*

This appendix offers some remarks on the structure and composition of the *Risāla,* followed by an analytical outline which, it is hoped, will assist readers of the work to discern a purposeful train of thought in a text whose structure is not always obvious.

Previous attempts to find a single organizing principle in the *Risāla* have produced rather awkward outlines of the work. Majid Khadduri, in his translation, artificially broke up the text into sections corresponding as closely as possible to standard topics of classical legal theory; to do so he resorted to a rather severe reordering of the text.[483] Joseph Lowry proposed only one very simple and elegant reordering, which is, however, unnecessary.[484] Less convincing is Lowry's attempt to organize the entire work around five possible combinations of Qurʾān and Sunna – even though one of these ('neither Qurʾān nor Sunna') is not actually a combination of Qurʾān and Sunna, and another ('Qurʾān alone') is not substantially discussed in the *Risāla*.[485]

It is somewhat easier, however, to trace a clear and purposeful train of thought in the text, without reordering it, if one approaches the text not as a single book, but as a sequence of three related books, each with its own internal organization, and each taking the previous book as its point of departure.

The Three Books

Book 1 appears to have been composed as an independent text some time before Books 2 and 3. It offers a coherent but fresh and unsystematic argument about the ambiguity of Qurʾānic language and the role of the Sunna in clarifying it. It takes the form of a continuous monologue placed in the mouth of al-Shāfiʿī *("qāla al-Shāfiʿī"),* with only occasional references to a hypothetical interlocutor *("in qāla qāʾilun").*[486] It is impossible to prove, but tempting to speculate, that this might be some version of the "old *Risāla"* that al-Shāfiʿī is said to have written in Baghdād, which reportedly dealt with abrogation and general and particular language within the Qurʾān, as well as with the Sunna.[487] This description matches the content of Book 1 quite well.

Book 2 is in the form of a narration by the author of Book 1, relating a discussion he had with and an interlocutor who had just heard him read Book 1.[488] The interlocutor's questions (introduced by *"qāla lī qāʾilun,"* a phrase that does not occur in Book 1) sometimes serve to set up the author's statements, but sometimes reflect a lack of comprehension that frustrates the author; this suggests that the author is not merely inventing the discussion for reasons of presentation,[489] but that some such discussion actually took place and is being paraphrased here as a device for structuring Book 2. The opening question is asked in direct response to Book 1, and raises a topic it did not address: conflicts within the Sunna. The author first gives a detailed synopsis of Book 1, which he refers back to frequently as to a previous work, yet also as the prolegomenon to the present discussion.[490] He once very aptly refers to Book 1 as *kitāb al-sunna maʿ*

al-qurʾān.[491] He then moves on to address at length the interlocutor's question about conflicts within the Sunna.

Book 3 opens with a new question from the interlocutor, which opens a new subject: the degrees of legal knowledge. This could be regarded as merely a continuation of the discussion from Book 2, but formally it is more strongly characterized by the style of a live interaction (though it is still regarded as a book[492]). Because it takes up a new topic,[493] and follows a new outline that is not laid out in Books 1 or 2, it is best regarded as a separate book, though there is no reason to think it was not dictated immediately after Book 2. Book 3 moves on from the interpretation of the Qurʾān and the (well-established) Sunna to address the problem of how to arrive at legal rulings when those two sources do not provide sufficient evidence to ensure a true knowledge of the law.

Composition

The three books fit logically together, and are quite plausibly the work of a single primary author, composed in stages and in interaction with students and opponents, and intended to form a written sequence. There is no compelling reason to doubt that the primary author or lecturer was al-Shāfiʿī.

Norman Calder, in an early essay, described the *Risāla* as a coherent work and treated it as al-Shāfiʿī's;[494] but more recently he argued that the *Risāla*'s canonization of the Prophetic Sunna as a principal source of law, and its deployment of hermeneutic techniques to reconcile that Sunna with the law, reflect developments that appear in

other legal texts only in the late 3d/9th century.[495] He also interpreted repetitions, redundancies, and "apparent failures of organization" in the text as signs of "organic growth and redaction."[496] More recently Christopher Melchert has argued that several factors – the relatively mature discussion of abrogation in the *Risāla,* its assumption that Sunna and *ḥadīth* mean only Prophetic Sunna and Prophetic *ḥadīth,* its sustained argument against the presence of non-Arabic words in the Qurʾān, the lack of 3d/9th-century works devoted to legal theory, and the fact that 3d/9th-century authors writing on related topics seem conspicuously unaware of the *Risāla* – all point to its having been composed in the later part of the 3d/9th century, or perhaps more narrowly sometime between 256/869 and 262/875.[497]

None of these arguments, however, is decisive. First, recall from chapter 2 that the *Risāla* did not aim to establish the Prophetic Sunna as an independent source of law alongside the Qurʾān; this was the direction taken by subsequent legal theorists, but the *Risāla* focused on grounding all law in the Qurʾān, with the Prophetic Sunna in an important but carefully defined secondary role. The *Risāla* thus does not quite match the late-3d/9th century canonization of the Prophetic Sunna as authoritative in its own right. Second, this dissertation confirms and adds to Joseph Lowry's finding that the hermeneutic techniques of the *Risāla* were not without parallel during the 3d/9th century.[498] Third, the outline below (like Lowry's somewhat different outline[499]) shows that the repetitions and redundancies in the *Risāla* do not represent a "failure of organization," but form an orderly progression of thought. Furthermore, the main

arguments of the *Risāla* read like fresh and original initiatives, not like accommodations to an existing trend, as is the case with the other early legal texts that Calder analyzed in detail.[500]

It is undoubtedly true that the present textual form of the work is due to a later writer, possibly al-Shāfiᶜī's disciple al-Rabīᶜ ibn Sulaymān (d. 270/883), who is reported to have authorized the copying of the work in 265/878.[501] But the final redaction may have involved little more than the insertion of the phrase *"qāla al-Shāfiᶜī,"* which is interspersed throughout the text, and possibly the addition of the headings. Most likely the headings in the text are later than what I suppose to have been al-Rabīᶜ's redaction, though they were already included in the 4th/10th-century manuscript that Aḥmad Shākir overzealously attributed to al-Rabīᶜ himself.[502] This is suggested by the marked disjuncture between the headings and the text itself. The terminology used in the headings is sometimes conspicuously absent from the text that follows them.[503] The headings sometimes use terms in ways the text does not,[504] and sometimes break up examples that the text says illustrate one and the same point.[505] It is difficult to rule out the possibility of more substantial redaction beyond the addition of the phrase *"qāla al-Shāfiᶜī"* and of the headings; but I have found no internal evidence of such activity.[506] As I hope the outline below will demonstrate, it is possible to read the text as a series of coherent and well ordered (though not rigidly outlined) arguments by a single individual, and it is therefore unnecessary to posit significant redactional changes to the text. That the manuscript's headings sometimes fit the text so poorly suggests that the redactor or

copyist who inserted them did not modify the text to fit his or her understanding of it, but rather sought to reproduce it faithfully while trying to find some order in it (as scholars have struggled to do ever since).

Given these considerations, it is possible to offer a hypothesis about the composition of the text. One hypothesis that makes sense of the reports, the internal evidence, and our current understanding of the historical context, without positing greater complexity than the evidence requires, is as follows: al-Shāfiʿī composed some form of Book 1 in Baghdād, before he moved to Egypt in 199/814. This became known as the "old *Risāla*." There was very likely some discussion in Baghdād about the ideas he expressed in that book concerning the role of the Sunna in clarifying and especially particularizing the Qurʾān, for both the issue of reliance on *ḥadīth* and the device of particularization seem to have been part of ʿĪsā ibn Abān's disagreement with al-Shāfiʿī.[507] This is consistent with later reports about the contents of the "old *Risāla*."[508] The present text of Book 1 may represent a fresh rewriting or dictation, in Egypt, of the ideas of the "old *Risāla*." Books 2 and 3 may then represent two additional series of dictation sessions following the reading of Book 1 in Egypt, in which al-Shāfiʿī summarized and responded in an organized fashion to some of the discussion that his presentation of the "old *Risāla"* had generated in Baghdād. All three books were recorded, perhaps already with the phrase *"qāla al-Shāfiʿī"* added on to al-Shāfiʿī's own *"qultu,"* by a pupil – most likely al-Rabīʿ ibn Sulaymān al-Murādī (d. 270/883), who is widely regarded as a faithful transmitter of al-Shāfiʿī's teaching. Finally, it is very

possible that al-Rabīʿ did not disseminate the text as a book attributed to al-Shāfiʿī until late in his life. This would help to explain the absence of specific references to the work during much of the 3d/9th century. It is not until the 260's/870's that we have any evidence of the text itself, as a book, becoming available. Around this time it appears that al-Rabīʿ transmitted some of the *Risāla* to Ibn Abī Ḥātim al-Rāzī (d. 327/938),[509] and that he authorized its copying.[510] The work was certainly known to Ibn Daʾūd al-Ẓāhirī (d. 297/910), whose criticism of al-Shāfiʿī's theory of *bayān*[511] was undoubtedly directed at the famous "definition" of *bayān* in paragraphs 53-54 of the *Risāla.*

There is no way to prove such a hypothesis, and indeed the reality is presumably more complex than any attempt to find the simplest explanation of the limited data available. This hypothetical scenario is offered here only to illustrate that recent advances in reconstructing the history of 3d/9th-century legal thought have not ruled out the traditional ascription of the *Risāla* to al-Shāfiʿī.

Outline

Because the *Risāla* tends to follow a sequential flow of thought rather than a strictly hierarchical structure of nested topics and subtopics, the following division into different levels of headings is inevitably somewhat artificial. The sequence of ideas is more important than the relative levels of the headings, and breaks between topics are often more fluid than this outline would suggest. al-Shāfiʿī's example problems serve principally to illustrate the theoretical points named in the outline, but frequently they illustrate other points as well.

I have given the most detail for Books 1 and 2, which are the most relevant to this dissertation. All references are to the page and paragraph numbers of the edition of Aḥmad Shākir. For brevity the Qurʾān is represented by Q, and the Sunna of the Prophet by S.

ANALYTICAL OUTLINE OF AL-SHĀFIʿĪ'S *RISĀLA*	page	paragraph
BOOK 1: *Kitāb al-sunna maʿ al-qurʾān*	7-210	0-568
The Qurʾān as the basis of all law, and the Sunna's role in explaining it. Book 1 claims that if we understand the ambiguities of the language of Q, and employ the means prescribed by Q (S and *ijtihād)* for resolving its ambiguities, we will be able to recognize that Q is a comprehensive and clear statement of the law. It then explores the different ways in which S functions to clarify various ambiguities in Q.		
A) Introduction: The centrality of Q.	7-20	1-52
- Praise and seeking refuge and *shahāda*.	7-8	1-8
- God sent Muḥammad when there were two kinds of people:	*8-12*	*9-24*
People of the book (Q verses about them).	8-10	10-14
Idolaters.	10-11	15-20
Both groups unbelievers.	11-12	21-24
- M sent with Q as favored warner to the best of people.	*12-18*	*25-42*
When the Book's time had come God sent the best of creation (Muḥammad) to warn his own people in particular (¶35 and the rest of creation after them).	12-15	25-36
Explanation of *dhikr* of Muḥammad; blessings on Muḥammad.	16-17	37-39
God sent down His Book upon Muḥammad with *ḥalāl* and *ḥarām,* reward and punishment, and narratives of past peoples as a warning.	17-18	40-42
- Q the essence of God's guidance.	*19-20*	*43-52*
Knowledge of the Book *(naṣṣan wa-istidlālan / istinbāṭan)* is the essence of knowledge. (¶47 mentions Sunna secondarily.)	19-20	43-47
"Nothing befalls one of the people of God's religion but that God's Book contains the indicator of the way of guidance concerning it."	20	48
Qurʾānic passages about the Book.	20	49-52

B) Understanding ambiguities allows us to recognize Q as a comprehensive and clear statement of the law.	21-91	53-297
al-Bayān: Q, read by one who knows Arabic in the light of its injunctions to obey the Prophet and reason by analogy, is a comprehensive and uniformly clear statement of the law.	*21-40*	*53-126*
Bayān (making clear, revelation) can take different forms, some of which seem less clear than others to those who do not truly know Arabic, but to one who truly knows Arabic they all equally constitute *bayān*.	21	53-54
God's revelation *(bayān)* of his law in Q takes four forms.	21	55
Four types of *bayān* (four ways in which Q reveals the law):		
1) God reveals a requirement through an unambiguous text *(naṣṣ)* of Q.	21	56
2) God imposes a requirement through Q, while the Prophet explains how to fulfill it.	22	57
3) the Prophet sets a precedent concerning something that God imposes not through a specific text in Q, but only through Q's injunction to obey the Prophet generally.	22	58
4) God imposes through Q the requirement that his creatures themselves determine a requirement by *ijtihād*.	22	59
Defense of the requirement of *ijtihād.*	*22-25*	*60-72*
Q on God testing people.	22-23	60-62
Requirement to face the Holy Mosque. God guides people's *ijtihād* in finding the *qibla* by the *ʿaql* that he gave them and the signs that he set in place for them (the stars).	23-24	63-68
People are not left free to choose a position *(istiḥsān)* without *istidlāl* in such matters.	25	69-72
Five types of *bayān* (five ways in which Q is clarified):	*26-40*	*73-126*
1) Clear Q is clarified (by Q) redundantly, for the sake of emphatic clarity.	*26-28*	*73-83*
Fast 3 plus 7 days, that is, 10.	26	73-75
30 days plus 10, that is, 40.	27	76-78
Fast the month of Ramaḍān, that is, a certain number of days.	27-28	78-82
2) Sufficiently clear Q is clarified by Q or S in a way that changes its application.	*28-30*	*84-91*
Wuḍūʾ and *ghusl*	28-29	84-88
Waṣiyya	29-30	89-91
3) Summary Q is clarified by S. E.g. *ṣalāh, zakāh, ḥajj*.	31	92-95
4) Q's general injunction to follow S is elaborated by S (statement only; no examples).	32-33	96-103
5) Q's injunctions requiring *ijtihād* are clarified by the signs God creates as bases for *ijtihād.*	*34-40*	*104-126*
Q's command to face the Sacred Mosque is a command to perform *ijtihād* when it is not visible, and the signs God has created (stars) and the human capacity to know them *(ʿuqūl)* constitute a clarification of that command.	34-38	104-114

Choosing witnesses.	38	115-116
Estimating equivalents of game animals.	38-39	117-119
Such *ijtihād* is not arbitrary; it is a kind of *ʿilm* (namely *qiyās,* which can be based on a shared *maʿnā* or on similarity) in which *ikhtilāf* is possible.	39-40	120-126
Summary of what one needs to know to understand Q:	*40-41*	*127-130*
Q is in Arabic (expanded ¶¶131-213).	40	127
Q's abrogating and abrogated verses.	41	128a
Q's degrees of legal force: *farḍ, adab, irshād, ibāḥa.*	41	128b
The Prophet's role in elaborating Q's requirements, specifying their scope, and expanding on Q's requirement to obey the Prophet (expanded ¶¶214-297).	41	129
Q's exhortative parables	41	130
Q is in Arabic and is therefore ambiguous. (Expands on ¶127.)	*41-64*	*131-213*
Q is entirely in Arabic. No one person except a prophet knows the entire language, but all of it is known to someone (just like the Sunna).	41-49	131-168
It is good to point out that Q is only in Arabic, because no one can know the clarification of Q's summarized content without knowing the breadth and ambiguity and subtlety of Arabic; but knowing this relieves confusion.	50-51	169-172
Q employs the whole breadth of Arabic, so it includes:	*51-52*	*173-176*
ʿĀmm that means *ʿāmm*	52	173
ʿĀmm that means *ʿāmm,* but is partly *khāṣṣ*	52	173
ʿĀmm that means *khāṣṣ*	52	173
Ẓāhir that means something other than its *ẓāhir* [transgressive usage]	52	173
(Any part of an utterance can clarify (or differ from) other parts.)	52	173-174
Implicit reference	52	175
Synonyms and polysemous words	52	176
All these ambiguities are clear to those who know Arabic, but are denied by those who do not know it.	52-53	177-178
Examples of some of these ambiguities in Q	*53-64*	*179-213*
ʿāmm that means *ʿāmm*	53-54	179-180
ʿāmm that means *ʿāmm* and *khāṣṣ*	54	181-182
ʿāmm that means *khāṣṣ*	54-55	183-186
There are other such examples in Q, and in S.	55	187
More examples of general Q that is at least partly particular.	56-58	188-196
Examples from Q in which "the people" is always particular; some examples seem clearer than others to those who do not know Arabic, but to those who know Arabic they are all equally clear.	58-62	197-207
Examples of transgressive usage.	62-64	208-213
The Prophet's role in elaborating Q's requirements, specifying their scope, and expanding on Q's requirement to obey the Prophet. (Expands ¶129, and leads into section C.)	*64-91*	*214-297*
Examples of Q clarified (especially particularized) by S.	64-73	214-235

Proof that S must be followed, even when there is no specifically relevant Qurʾānic text.	73-91	236-297
C) The relationship between S and Q.	91-210	298-568
The three hermeneutical S-Q relationships:	91-105	298-309
1) S merely confirms *naṣṣ* in Q.		
2) S clarifies *jumla* in Q.		
3) S not corresponding to any *naṣṣ* in Q (this is disputed).		
Varieties of S-Q relationship that will be illustrated	105	310-311
0) S determines abrogating and abrogated verses in Q. (A non-hermeneutical type of clarificatory relationship.)		
1) S confirms Q.		
2a) S elaborates how and when to perform a duty that is *jumla* in Q.		
2b) [S shows that] a general expression in Q is meant as general. [General expressions are one type of *jumla*.]		
2c) [S shows that] a general expression in Q is meant as particular. [General expressions are one type of *jumla*.]		
3) S not corresponding to any *naṣṣ* in Q.		
Illustrations of varieties of S-Q relationship	*106-210*	*312-568*
0) S determines abrogating and abrogated verses in Q.	*106-146*	*312-417*
Claim that Q abrogates only Q, and S abrogates only S.	106-113	312-335
Illustrations of S indicating abrogation within Q (mixed with other types of clarification).	*113-145*	*336-415*
Supererogatory prayer: Q1 abrogated by Q2, then S showed that Q3 abrogated Q2.	113-117	336-345
Conditions of prayer:	117-126	346-370
Purity: no abrogation involved.		
Sobriety: involves abrogation.		
Facing the *qibla:* abrogation of *qibla* in Q was announced in S.		
Fighting a superior force: Report from companion shows Q abrogated Q; this was already clear from Q.	127-128	371-374
Punishment for immorality: S shows abrogation within Q.	128-137	375-392
Inheritance and bequests: S shows abrogation within Q.	137-145	393-415
Closing comment	145-146	416-417
Transitional comment on S-Q relationships of types 1-3, with an illustration (concerning *liʿān)* exhibiting several different S-Q relationships. This introduces the remaining illustrations.	146-150	418-432
1) Citation of previous discussion (see ¶58, ¶¶96-103, ¶¶236-297) of S merely confirming Q, without illustration.	150	433
2a) Illustrations of S elaborating duties that are *jumla* in Q.	*157-166*	*434-465*
Fasting: Q states month, so no one bothers to report month; but they report things that are not elaborated in Q, and discuss matters that even S does not elaborate.	157-159	434-440
Remarriage after divorce: S clarifies ambiguous word.	159-161	441-447
Ablutions and washing: S shows that Q means only its *ẓāhir,* and also adds details.	161-166	448-465

[2b) is not illustrated, perhaps because it is just an instance of 1. Or perhaps ¶¶448-465 are intended to represent 2b, since they largely have S confirming Q without modifying it.]		
2c) Illustrations of S showing that a general expression in Q is meant as particular.	*167-175*	*466-485*
Inheritance (particularization).	167-173	466-480
Tangential argument for (3) – the possibility of S not corresponding to any *naṣṣ* in Q.	172-173	478-480
Sales (particularization and elaboration).	173-175	481-485
2&3) Further illustrations and argument for 2a, 2c, and 3.	*176-210*	*486-568*
General statement on *ṣalāh, zakāh,* and *ḥajj*	176-177	486-490
Ṣalāh (2a).	176-186	491-516
Zakāh (2c).	186-196	517-534
Ḥajj (2a, and tangential argument for 3).	197-199	535-541
ʿIdda (2c).	199-200	542-545
Forbidden women (2c). (The particularizing report is omitted here because it is taken for granted, but it is cited when this problem is repeated in ¶¶627-635.)	201-206	546-554
Forbidden foods (2c).	206-208	555-562
Abstention during *ʿidda* (2a or 3).	209-210	563-568
BOOK 2: Resolving conflicts within the Sunna	210-355	569-960
A) Opening question: The interlocutor recalls the three hermeneutical S-Q relationships presented in Book 1, and then raises the problem of conflicting reports, and of the author's different treatment of different reports.	210-212	569
B) Summary answer:	212-219	570-599
Summary of S-Q relationships.	212	570-571
Summary of S-S relationships.	212-219	572-599
C) Review of S-Q relationships, with examples from Book 1.	219-234	600-653
Request for examples, starting with abrogation in S.	219-220	600
Abrogation is only within Q or within S. (Example of the change of *qibla.*)	220-223	601-613
Review of ambiguity of language, and relationships of particularization and elaboration. S always accords with and/or clarifies Q.	222-223	613-614
Example: S elaborates *jumla* in Q *(ṣalāh, zakāh, ḥajj* – cf. ¶¶486-541).	223	615
Example: S particularizes general Q.	223-224	616
Two reports about the authority of S *vis-à-vis* Q.	224-226	617-623
Illustrations of S particularizing Q.	*226-233*	*624-646*
Forbidden women (cf. ¶¶546-554).	226-229	627-635
Wuḍūʾ.	230	636-640
Forbidden foods (cf. ¶¶555-562).	231	631-643

Sale (cf. ¶¶481-485).	232	644-646a
Marriage.	232-233	646b
Without these S-Q relationships, S might be entirely neglected in favor of Q.	233-234	647-653
D) S-S relationships: conflicts resolved through appeal to:	234-355	654-960
Abrogation	*234-259*	*655-709*
Meat after three days.	235-240	658-673
Fear prayer.	242-245	674-681
Penalty for immorality.	245-251	682-695
Prayer with *imām* sitting.	251-256	696-706
Closing statement.	258-259	707-709
Transmission issues.	*259-281*	*710-773*
Manner of performing fear prayer.	259-267	711-736
Tashahhud.	267-276	737-757
Ribā.	276-281	758-773
Ambiguity (the hermeneutical solution, which is preferred). (Examples move into prohibitions, leading into abstract discussion of hermeneutical reconciliation of prohibitions.)	*282-355*	*774-960*
Examples:	*282-341*	*774-922*
Time of dawn prayer (conflict resolved by appeal to multiple meanings of the word *isfār).*	282-291	774-810
Direction for relieving oneself (report transmitted *jumlatan).*	292-297	811-822
Killing women and children (reconciles permission with prohibition by distinguishing different situations).	297-302	823-837
Friday *ghusl* (S shows command in S was *ʿalā al-ikhtiyār).*	302-306	838-846
Marriage proposals (a prohibition in S is particularized by another report).	307-313	847-862
Underselling and outbidding (prohibitions in S are particularized to correlate with actual practice).	313-316	863-871
Prayer at sunrise and sunset (a prohibition in S is particularized by several reports).	316-330	872-905
Muzābana (a prohibition is particularized by a narrower permission).	331-335	906-911
Sale of absent goods (a prohibition is particularized or clarified by a permission).	335-341	912-922
Principle: General S interpreted as general by default.	341	923
Principle: Conflicting reports must be reconciled if at all possible.	341-342	924-925
Discussion of degrees of prohibition: Interpreting different prohibitions as having different legal force is justified by sorting prohibitions and permissions (in Q and S) into nested layers of generality and particularity.	*343-355*	*926-960*

Prohibitions are of two types:	343	926-929
1) General prohibitions, particularized only by permission in revelation. Such general prohibitions entail forbiddance, as do prohibitions that further particularize the particularizing permissions.		
General forbiddance of sexual intercourse is particularized by permission in case of marriage or ownership; permission based on marriage is further particularized by prohibition against certain marriages.	343-348	930-942
General forbiddance of using the property of others is particularized by permission in case of sale; this is particularized by prohibition against certain types of sale (which entail forbiddance).	348-349	943-944
2) General permission, particularized by prohibition based on a specific *maʿnā*. Such prohibition is not as strong as forbiddance, because the action was not generally forbidden, as in type 1; but violating it is still disobedience.	349-355	945-960
BOOK 3: Procedures for arriving at formally correct rulings when Q and S do not provide definite answers	357-600	961-1821
A) Opening question and answer about knowledge:	357-360	961-971
All are obligated to know what Q and well-established S reveal with certainty; arriving at rulings which cannot be known conclusively from Q and S is incumbent on specialists collectively but not individually.		
Analogy of other collective duties.	360-369	972-997
B) Procedures for arriving at formally correct rulings where true knowledge is impossible, in order of descending certainty:	369-600	998-1821
1) Individually transmitted reports.	369-471	998-1308
2) *ijmāʿ*.	471-476	1309-1320
3) *qiyās / ijtihād.*	476-561	1321-1680
4) Conflicting views reported from the Companions may usually be evaluated by reference to Q or S or *qiyās*.	561-597	1681-1806
5) Where only a single Companion's view is reported, it is followed in the absence of evidence from Q or S or *ijmāʿ* or *qiyās*. But this is rare.	597-598	1807-1811
The descending hierarchy of certainty of procedures 1-3.	598-600	1812-1821

NOTES

[1] The question of when Islamic legal theory "began" is complex, and depends in part on one's criteria for the existence of a discipline. Traditionally Muslim scholars assert that the principles of legal theory were tacitly operative from the time of the Prophet's Companions, but that formal rules were required only later, and were written down in the 2d/8th century by al-Shāfiᶜī in his *Risāla.* (Ahmad Hasan, though himself critical of al-Shāfiᶜī's role in this process, gives a typically vague statement of this claim in his *Early Development,* xiv-xv; cf. Ḥasab Allāh, *Uṣūl al-tashrīᶜ al-islāmī,* 6-7; Khallāf, *ᶜIlm uṣūl al-fiqh,* 16-17; Kamali, *Principles,* 3-5.) Wael B. Hallaq ("Was al-Shāfiᶜī the Master Architect;" *History,* 30ff.) has questioned the role of al-Shāfiᶜī as the founder of the discipline, and pointed to the lack of extant works from the 3d/9th century as evidence that legal theory did not become established as a discipline until the 4th/10th century. Devin Stewart, however, has recently made use of citations in later sources to argue that a genre of writing on legal theory was already well established in the 3d/9th century (see note 51). This dissertation is not concerned with the emergence of a literary genre, but with the development of the discussion of certain concepts. Chapter 2 will show that many of the concepts employed in the classical analysis of utterances were discussed in other disciplines, and put to the service of the law by al-Shāfiᶜī (d. 204/820) in his *Risāla,* which may thus rightly be regarded as a *terminus ad quem* for the beginnings of legal hermeneutics.

Citations in these notes will use shortened titles; the bibliography provides full titles and explains abbreviations.

[2] The following sketch provides only a bird's eye view of Islamic legal theory, intended to show the functional interrelation of its parts. A clear but ahistorical English introduction to the subject is Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (rev. ed., Cambridge: Islamic Texts Society, 1991). A thorough exposition based on the work of one theorist is Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (Salt Lake City: University of Utah Press, 1992). An insightful and historically detailed overview, paying special attention to Central Asian Ḥanafī theory, is Aron Zysow, "The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory" (Ph.D. diss., Harvard University, 1984).

[3] One widely used definition of *fiqh* is "knowledge of the revealed legal values of actions that are deduced from specific evidence" ("العلم بالأحكام الشرعية العملية المستنبطة من الأدلة التفصيلية"). al-Juwaynī defined *fiqh* as "knowledge of the revealed legal values that are arrived at by diligent inquiry" ("معرفة الأحكام الشرعية التي طريقها الاجتهاد") (al-Juwaynī, *al-Waraqāt,* 5). It is sometimes pointed out, however, that in ordinary usage *fiqh* means understanding *(fahm)* or knowing a speaker's intent (see e.g. Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 4). Accordingly, al-Ashᶜarī defined *fiqh* as an interpretive science: "understanding the meanings of the Book of God (he is exalted) and of the practices of his Prophet (prayers and peace be upon him) with regard to the legal values that they entail for events that befall those under the law." " الفهم لمعاني كتاب الله تعالى و سنن رسوله صلى الله عليه وسلم فيما يتعلق بها من الأحكام للنوازل التي تنزل بالمكلفين" (Ibn Fūrak, *Muğarrad maqālāt al-Aš*ᶜ*arī,* 190). Here *fiqh* is not to know legal values, but to understand the speech that reveals those legal values.

[4] These are the five primary legal values that in classical theory are defined in terms of whether an act or its omission is rewarded or punished. See for example al-Juwaynī, *al-Waraqāt,* 5; also the preclassical Mālikī theorist ᶜAbd al-Wahhāb Ibn Naṣr (d. 421/1030), *al-Muqaddima, passim,* and *al-Maᶜūna,* 237-242. Some theorists define primary legal values in terms of whether an act or its omission deserves praise or blame (e.g. al-Jaṣṣāṣ, *al-Fuṣūl,* 1:293; ᶜAbd al-Jabbār, *al-Mughnī,* 17:247; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:4; cf. al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:280). Some secondary sets of values are also commonly defined, such as the validity of an act, or its being a condition for another value; but the main purpose of these secondary values is to determine the primary values of other acts. (For example, the point of determining whether a sale is valid is to determine whether the buyer's making use of the property is permitted, etc.) Many other terms are also used as primary legal values, and the terminology appears to have been quite fluid in early law (see Zysow, "Economy," 181-182 note 70; Hasan, *Early Development,* 33-39; Lowry, "Legal-Theoretical Content," 178). The category of disapproved *(makrūh)* acts seems to have been formalized relatively late (see al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:287, 299-302); some preclassical theorists did not employ it (e.g. al-Jaṣṣāṣ, *al-Fuṣūl,* 1:333; ᶜAbd al-Jabbār, *al-Mughnī,* 17:133-134; Ibn Fūrak, *Muğarrad maqālāt al-Aš*ᶜ*arī,* 190, 199.6-9).

[5] See for example Schacht, *Introduction,* 69-72.

[6] By reference I mean the relationship between a word used in a specific utterance, and the thing(s) it signifies in that utterance. By denotation I mean the relationship between a word in the Arabic lexicon, and the totality of things to which it is linguistically applicable.

[7] John Burton (*Sources,* 2-4, 184) presents the principle of abrogation as an early device for reconciling contradictory passages, and notes that some of the linguistic distinctions that will be studied here *(al-ᶜāmm wa-l-khāṣṣ, al-jumla wa-l-mufassar, al-muṭlaq wa-l-muqayyad)* served a similar function and thus enabled theorists to reduce their dependence on abrogation.

[8] The Imamī Shīᶜa developed yet another way of reconciling conflicting reports from their Imams: one report may be judged to contain a statement by way of dissimulation *(taqiyya)* to avoid persecution. See Gleave, "Akhbārī Shīᶜī *uṣūl al-fiqh,*" 28-30.

[9] I am referring here to the principle that context is to be considered only insofar as it is absolutely necessary for determining the verbal meaning of an utterance; once that meaning is determined, context becomes irrelevant, and the text is applied as broadly as its verbal form allows: "العبرة بعموم اللفظ لا بخصوص السبب."

[10] A number of prominent examples are listed in Ziadeh, *"Uṣūl al-fiqh."*

[11] There is considerable debate among Euro-American scholars over whether Islamic legal theory plays any role in the formulation of positive law. Wael Hallaq ("Was the Gate of Ijtihad Closed," 4-5; "Was al-Shāfiᶜī the Master Architect," 588, 592) regards legal theory as a methodology for deriving legal rulings from the sources of law. Sherman Jackson ("Fiction and Formalism") has argued that legal theory is not a method for deriving law from the language of revelation, but a set of conventions about how to rhetorically validate the legal doctrines that jurists create in response to their own concerns. See further the record of the group discussion on this subject at the end of Weiss, *Studies,* 398-419. This dissertation will tend to confirm the view that classical legal theory was not so much a practical method for constructing law, as a way to justify established legal systems epistemologically. We will return to this point briefly in the conclusion, page 129. In the contemporary Islamic world, however, legal theory holds out the promise of a method for reformulating Islamic law while keeping it grounded in revelation.

[12] Muḥammad al-Sulaymānī (Introduction to Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* 9-10) calls *uṣūl al-fiqh* "the pure Islamic philosophy that the Muslim mind has created," and cites several who have preceded him in this view.

[13] Marie Bernand ("Les *uṣūl al-fiqh* de l'époque classique," 274-276) lists a dozen important texts edited during the 1980s, most of them by Arab scholars. Many others have been published since, with special priority being given to early texts. This work,

which is part of a larger cultural project of reclaiming Arab intellectual heritage *(turāth),* has involved such prominent figures as Ṭā Hā Ḥusayn, who oversaw the publication of ᶜAbd al-Jabbār's *Mughnī;* Aḥmad Shākir, who edited al-Shāfiᶜī's *Risāla;* and Khalīl al-Mays, who edited Abū al-Ḥusayn al-Baṣrī's *Muᶜtamad.* ᶜAbd al-Ḥamīd Abū Zunayd has also edited several important texts, including al-Bāqillānī's *Taqrīb.* This dissertation would not have been possible without their work.

[14] A number of modern textbooks are listed in the bibliography of Ziadeh, *"Uṣūl al-fiqh."* One interesting contemporary example is Ḥammādī, *al-Khiṭāb al-sharᶜī,* which draws on both Ḥanafī and Shāfiᶜī theory, and reframes the classical discourse in terms of an analysis of the concept of address *(khiṭāb).*

[15] Cf. Hallaq's distinction between religious utilitarians, who seek to adapt the law to modernity by making the minor classical principle of the public interest *(maṣlaḥa)* the centerpiece of their legal theory, and religious liberals, who pursue the same end through the search for a new hermeneutic (Hallaq, *History,* 214).

[16] Ziadeh, *"Uṣūl al-fiqh,"* lists a number of modern writers who have championed the principle of *maṣlaḥa,* often moving beyond the classical notion of *al-maṣlaḥa al-mursala* (unregulated interest, the principle that an act not evaluated by revelation may be legally evaluated based on its value for the public interest) to make the public interest an independent principle of interpretation by which laws based on revelation may be modified. Some such "utilitarian" reform efforts (as Hallaq aptly labels them in *History,* 214-231) have drawn inspiration from the work of the Ḥanbalī Najm al-Dīn al-Ṭūfī (d. 716/1316), who upheld a radical theory of *maṣlaḥa.* See for example the appreciative summary of his views by ᶜAbdallāh M. āl-Ḥusayn al-ᶜĀmirī in his dissertation, "aṭ-Ṭūfī's Refutation."

[17] On al-Shāṭibī, see Hallaq, "Primacy." His thought has recently received much attention even among conservative Mālikī scholars in Morocco. Khurshid Ahmad, a Pakistani economist, has argued along similar lines, calling for interpretation to begin not with individual verses by with "the value-pattern embodied in the Qur'an and the Sunnah," so as to arrive at a more holistic Islamic economics. Esposito and Voll, *Makers of Contemporary Islam,* 48-49.

[18] One exponent of such a point-by-point critique is Ahmad Hasan, a Pakistani pupil of Fazlur Rahman, who has called for a return to the flexibility that he argues characterized legal theory before al-Shāfiᶜī made it rigidly dependent on texts. He claims that in the legal theory of the first two centuries (of which no formal textual record survives) the Sunna consisted not only of *ḥadīth* but also of the practice of the community; analogy was not always closely tied to texts; and consensus was not

unanimous and unchangeable, but a local and dynamic process in which a majority of scholars approved new laws that had been created through analogical reasoning. He also denies that any Qurʾānic verse has been abrogated. See Hasan, *Early Development,* especially chapter 8 and the conclusion.

[19] E.g. Ahmad Hasan; see note 18.

[20] For example, the Iranian modernist Abdolkarim Soroush has argued that while the nature and sources of religion do not change, interpretive method does, and consequently so does human knowledge of religion (Vakili, "Abdolkarim Soroush," 154). He has therefore called for the curriculum of religious schools to be opened up, and ultimately for religious scholarship to be made independent of professional institutions altogether (ibid., 166-169).

[21] Many who do not have the traditional training required by the classical theorists for the practice of diligent inquiry have nevertheless undertaken the reinterpretation of revealed texts that touch on areas of contemporary concern, such as the rights of women.

[22] Fazlur Rahman's "double movement" theory of interpretation (see Rahman, *Islam & Modernity,* 5-8) is a prominent example of this approach. A similar interpretive method is proposed by Naṣr Ḥāmid Abū Zayd; since his proposal involves a more explicit and radical emphasis on the role of the reader in the production of meaning, it will be discussed separately below.

[23] The absence of the author and the primacy of the reader in interpretation have been stressed in various ways by Paul Ricoeur, by deconstructionists such as Roland Barthes and Jacques Derrida, and by exponents of socio-critical and socio-pragmatic hermeneutical theories, especially reader response theory. See Thiselton, *New Horizons in Hermeneutics,* chapters 2-3 and 10-14. Some strands of modern Euro-American hermeneutics, however, continue to analyze speech and even texts as involving a relation between speaker and hearer, and are therefore more directly comparable to the classical Islamic theory; they include the 'hermeneutics of understanding' (Schleiermacher, Dilthey, and Betti) and ordinary language analysis (Wittgenstein, speech act theory, and pragmatics).

[24] Abū Zayd, *al-Imām al-Shāfiʿī,* 18-19. This view of the difference between speech and text was shared by classical theorists, though for them the distinguishing factor was not writing per se, but the impossibility of perceiving the speaker. Abū Zayd's insistence that the Qurʾān has long been treated as a text by Muslim interpreters ("Divine Attributes in the Qur'an," 192, 196-197) will be borne out by the observation, in chapters 3 and 4, that ʿAbd al-Jabbār and al-Bāqillānī in effect treated the Qurʾān as a

text rather than as direct interpersonal address. They held that God's transcendence prevents humans from grasping his meaning immediately; it can only be understood through a rational process.

[25] See Abū Zayd, "Divine Attributes in the Qur'an," 190-201. Abū Zayd has argued that interpretation of the Qur'ān requires a socio-historical analysis and a modern linguistic methodology, as opposed to the strictly philological analysis traditionally employed ("Divine Attributes in the Qur'an," 197). In his *Mafhūm al-naṣṣ* Abū Zayd has taken up a number of the linguistic topics of *uṣūl al-fiqh,* not to rewrite them, I think, but to emphasize how the interpretive role of the reader is already built into the classical discourse. See for example Abū Zayd, *Mafhūm al-naṣṣ,* 205.4-6, where he notes that a text's capacity to refer generally to situations other than the situation in which it was revealed – which is affirmed in classical *uṣūl al-fiqh* – is actually an invitation to reinterpretation in new contexts.

[26] See Hanafi, *Les méthodes d'exégèse;* idem, *"Qirā'at al-naṣṣ."* Hanafi addressed the linguistic topics of classical legal theory in *Les méthodes d'exégèse,* but he did not challenge the classical discourse on its own terms (as Wael Hallaq points out in his *History,* 213 note 8); instead he took the more radical approach of transposing it into a European philosophical discourse.

[27] This summary of their various approaches is inspired by Michaelle Browers' observation ("Islam and Political *Sinn,*" 62), concerning Abū Zayd, Hanafi, and Muhammad Shahrour, that "through asserting the textual character of the Qur'an they affirm the applicability, even necessity, of hermeneutics generally."

One Muslim thinker who has engaged the classical discourse about the Qur'ān as speech is Ebrahim Moosa, who has explored classical theories about God's speech and about language as a semiotic system, asking how these theories have shaped Muslim visions of the law, and how modern theories of language relate to that vision. See his "Allegory of the Rule" and "The Legal Philosophy of al-Ghazālī."

[28] See Abū Zayd, "Divine Attributes in the Qur'an," 192.

[29] The Conference on *Uṣūl al-fiqh* held at Princeton in March 1983 resulted in a thematic issue of *Studia Islamica* (vol. 59, 1984). A September, 1999 symposium in Alta, Utah, resulted in Bernard G. Weiss, ed., *Studies in Islamic Legal Theory,* Studies in Islamic Law and Society, ed. Ruud Peters and Bernard Weiss, no. 15 (Leiden: Brill, 2002).

[30] The authenticity of *ḥadīth* and their role as a source of law were made an enduring issue by the work of Joseph Schacht, particularly his *The Origins of*

Muhammadan Jurisprudence (1950). Ian Edge has surveyed the history of the scholarly dispute over *ḥadīth* in his "Material Available on Islamic Legal Theory in English."

[31] See the Bibliography for titles by Burton and Melchert.

[32] See the Bibliography for titles by Bernand, Calder, Chaumont, Hallaq, and Stewart *(Islamic Legal Orthodoxy).*

[33] See the Bibliography for titles by Brunschvig (including *inter alia* "Pour ou contre la logique grecque"), Carter, Hallaq, and Shehaby.

[34] See the Bibliography for titles by Calder, Chaumont, Hallaq, Jokisch, and Weiss. Chaumont, Jokisch, and especially Hallaq have been concerned to refute the view, expressed by Schacht and others, that the "gate of *ijtihād*" was closed at the beginning of the 4th/10th century. Already in 1969 Meron ("Development of Legal Thought," 90-91) rejected the myth of the closure of the gate of *ijtihād*.

The valuable collection of essays edited by Ian Edge *(Islamic Law and Legal Theory)* is representative of Western scholarship in that it contains essays on all the topics just mentioned (except abrogation), but nothing on linguistic analysis.

[35] Bernard Weiss's dissertation ("Language in Orthodox Muslim Thought") sketches 1) early discussions about the origin of language, 2) the relation of the concept of the establishment *(waḍ^{c})* of language to the linguistic premises of legal theory, 3) and the minor Islamic science of *^{c}ilm al-waḍ^{c},* which flourished mainly in the last three centuries. Weiss interprets the theory of *waḍ^{c}* as an attempt to make every aspect of language (even its ambiguous aspects) given and immutable, so as to provide a stable set of linguistic premises for interpreting the Qur$^{\circ}$ān (rather than leaving interpretation entirely dependent on exegetical traditions). This is insightful as far as it goes, but in his discussion of legal theory Weiss limits himself to setting up the framework for interpretive questions, by showing that the ambiguous features of language are established as given; he does not go on to deal with the interpretive problem of resolving ambiguity, which in my view is the principal concern addressed by the legal theorists in their "linguistic premises." The present dissertation will look at the linguistic topics of legal theory not as a proof of the givenness of language as a system *(langue),* but as a debate over the interpretation of utterances *(parole).*

M. M. Y. Ali has recently taken the important and provocative step of bringing Islamic theories of language into critical dialogue with modern pragmatics. His *Medieval Islamic Pragmatics* combines elements from classical and postclassical theorists of various schools to weave together two competing Islamic theories of communication. On the whole his discussion of abstract models of language and communication is far removed from the interpretive concerns of the preclassical analysis of utterances, but he

does present a postclassical critique of the theory of figurative usage in chapter 4, and in chapter 5 he takes on classical and postclassical theories of implication as though he were one philosopher debating another at a British or North American conference on pragmatics. Both figurative usage and verbal implication will be discussed in the present study, though with respect to an earlier period.

[36] See the Bibliography for titles by Bernand ("Controverses médiévales sur le *dalīl al-ḫiṭāb*"), Brunschvig ("Valeur et fondement," 368-370), and Hallaq ("Non-Analogical Arguments," 289-296). See also chap. 5 of Ali, *Medieval Islamic Pragmatics.*

[37] Marie Bernand recognized the fundamental importance of language analysis in her article *"Bayān* selon les *uṣūliyyūn"* (see especially 151, 154). This posthumously published article, having been left unfinished, brings together material from several early discussions of *bayān* but offers no clear historical conclusion. *Bayān* is also a major focus of Joseph Lowry's "Legal-Theoretical Content."

[38] Hallaq, "Notes on the Term *Qarīna,"* gives an ahistorical overview of a range of uses of the term *qarīna.* The article unfortunately confounds an important distinction between verbal and circumstantial contextual indicators, with an equally important but essentially unrelated distinction between contextual indicators that affect meaning and contextual indicators that affect epistemological certainty.

[39] Jackson, *"Taqlīd,* Legal Scaffolding and the Scope of Legal Injunctions."

[40] Bin ᶜĀrifīn, "The Principles Of *ᶜUmūm* and *Takhṣīṣ."* This work is neither historical nor analytical, but it does provide a detailed list of the disagreements of classical and postclassical theorists (presented in English, but using the theorists' own terms and categories).

[41] Heinrichs, "On the Genesis of the *ḥaqîqa-majâz* Dichotomy," and "Contacts between Scriptural Hermeneutics and Literary Theory in Islam: The Case of *Majāz.*"

[42] See Brunschvig's edition of al-Muzanī, *Kitāb al-amr wa-l-nahy,* and Lowry's forthcoming article on that text in *Law and Education in Medieval Islam,* ed. Devin Stewart (Warminster: Gibb Memorial Trust, 2004). One postclassical theorist's treatment of many of the standard questions about commands has also been summarized in a basic but somewhat confused exposition by Jeanette Wakin ("Interpretation of the Divine Command").

[43] See the insightful discussion of al-Shāfiᶜī's use of the *ᶜāmm / khāṣṣ* dichotomy in Lowry, "The Legal Hermeneutics of al-Shāfiᶜī and Ibn Qutayba," 9-10 and *passim.*

[44] Lowry, "Legal-Theoretical Content," devotes a few pages (99-101) to ambiguity *(iḥtimāl),* and a few more (145-150) to the term *jumla* (summary speech), but does not present them as part of a project of exploiting ambiguity to resolve contradictions. Lowry's more recent work recognizes more clearly, to my mind, the exploitation of ambiguity in al-Shāfiᶜī's *Risāla* (see e.g. Lowry, "The Legal Hermeneutics of al-Shāfiᶜī and Ibn Qutayba," 10).

[45] A helpful but ahistorical overview, with examples, is available in chapters 4, 5, and 6 (2 and 18 are also relevant) of Kamali, *Principles of Islamic Jurisprudence,* rev. ed. (Cambridge: Islamic Texts Society, 1991). A briefer overview is given in Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997), 42-58 and 96-99. The most detailed and sophisticated exposition (based on the work of a single postclassical theorist) is in chapters 3 and 7-10 of Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (Salt Lake City: University of Utah Press, 1992). Weiss also gives a very basic introduction to al-Āmidī's discussion of several relevant topics in "Language and Law: The Linguistic Premises of Islamic Legal Science," in *In Quest of an Islamic Humanism: Arabic and Islamic Studies in Memory of Mohamed al-Nowaihi,* ed. A. H. Green, 15-21 (Cairo: American University in Cairo Press, 1984). These works replicate and explicate the questions the theorists asked, and the answers and arguments they gave, without asking what larger hermeneutical or epistemological concerns motivated them to raise those questions or give those answers. Only Aron Zysow's work, "The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory" (Ph.D. diss., Harvard University, 1984), attempts to show what role the analysis of utterances plays within the larger hermeneutical project of Ḥanafī legal theory, which Zysow insightfully analyzes in terms of epistemological certainty. Zysow also emphasizes the relationship between legal theory and theology, especially in his article "Muᶜtazilism and Māturīdism." This dissertation seeks to further Zysow's vision of a theologically informed analysis of the epistemological concerns that lie just beneath the surface of the analysis of revealed speech.

[46] I will use the term "classical period" to refer loosely to the second half of the 5th/11th century. This is not to deny the vitality of subsequent theory, but only to highlight a watershed period that witnessed the composition of works such as the *Uṣūl* of al-Bazdawī (d. 482/1089) (available with the commentary of al-Bukhārī, *Kashf al-asrār)* and the *Mustaṣfā* of al-Ghazālī (d. 505/1111), both abiding points of reference for subsequent theory.

[47] See the Bibliography for works on al-Ghazālī by Brunschvig and Moosa; on al-Samarqandī by Zysow (whose "Economy of Certainty" treats him extensively); on

al-Āmidī by Weiss; and on al-Qarāfī by Jackson and Ali (whose *Medieval Islamic Pragmatics* relies on him heavily).

[48] See the Bibliography for works by Calder (including his *Studies),* Hallaq, Lowry, Makdisi, and Schacht *(Origins).*

[49] Hallaq has interpreted this gap as evidence that initially al-Shāfiᶜī's work was largely ignored, and that legal theory did not become established as a discipline until the 4th/10th century (Hallaq, "Was al-Shāfiᶜī the Master Architect;" *History,* 30ff.). Calder (*Studies,* chapter 9) proposed a more radical explanation: the *Risāla* was not composed by al-Shāfiᶜī, but is a Shāfiᶜī school text that was given its present form only around the turn of the 4th/10th century.

[50] The *Fuṣūl* of al-Jaṣṣāṣ (d. 370/980) has been the subject of articles by Bernand and Shehaby, and has been edited several times. Other preclassical works used in this study, however, have attracted little interest to date.

[51] Devin Stewart has begun to piece together evidence of an established genre of writing on *uṣūl al-fiqh* in the 3d/9th century; see his "Muḥammad b. Dāʾūd." al-Jubūrī has collected reports of the legal-theoretical views of al-Karkhī (d. 340/952) in his *al-Aqwāl al-uṣūliyya.* See also Bedir, "An Early Response to Shāfiᶜī."

[52] Ibn al-Qaṣṣār (d. 398/1007), in his *al-Muqaddima fī al-uṣūl,* is not atypical when he attempts to give a comprehensive account of the legal theory of the Imām Mālik (d. 179/795). Since explicit views are not reported from Mālik on many questions of 4th/10th-century legal theory, Ibn al-Qaṣṣār is reduced to mining the Imām's arguments on specific points of law for clues as to what his theoretical assumptions must have been. For example, to show that Mālik held that all general statements should be interpreted as general unless there is specific evidence of their particularization, he quotes Mālik's argument that all types of mosques are valid places for *iᶜtikāf* (the supererogatory practice of abiding in a mosque for a period of days) because Q 2:187 mentions mosques generally, and God has not singled out any particular mosques (Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* 54). From Mālik's use of Qurʾānic commands in support of his opinion that the completion of certain rituals is obligatory, Ibn al-Qaṣṣār infers that he held that commands entail obligation (ibid., 58-59). Whereas Ibn al-Qaṣṣār reveals how he has arrived at his reconstructions of Mālik's views, some authors attribute positions to early figures without any indication of whether these were explicitly stated, or have been inferred from other reported statements and recast as legal-theoretical principles. For example, Ibn Fūrak explains in his *Muğarrad maqālāt al-Aš*ᶜ*arī* (339.1-3; see also 202.7-9) that he has not differentiated between direct quotes, paraphrases, and his own inferences when attributing views to al-Ashᶜarī.

[53] See for example the dispute over al-Ashᶜarī's views in chapter 4. As Ibn Rushd noted, the eponyms of legal schools gave opinions that proved difficult to reconcile with any single consistent principle, but this did not keep their followers from trying to expound the principles they had followed. Ibn Rushd, *Bidāyat al-mujtahid wa-nihāyat al-muqtaṣid* (Cairo: Dār al-Fikr, n.d.), 2:103, cited in Jackson, "Fiction and Formalism," 178.

[54] When speaking in my own voice, I will alternate more or less randomly between genders in my use of pronouns and in my creation of hypothetical persons as illustrations. Most of this dissertation, however, is a representation and interpretation of the ideas of scholars whose language is uniformly masculine, and whose examples invariably involve men, except when the topic uniquely concerns women. (Even then their language remains strikingly masculine, since some common words that are applied only to women are masculine in form; e.g. *ṭāliq,* divorced; *ḥāᵓid,* menstruating.) When speaking from the perspective of this system of thought, I will not mask the masculinity of the theorists' language and illustrations.

[55] I am in sympathy with Michel Allard's comment that merely translating works that consist of answers to unasked questions is of little use to the uninitiated; what is required is for the historian to "believe in the existence of a real problem to which [the texts] offer solutions, and to tease from them a statement of the problem. The texts are then analyzed in the light of this problematic." Allard, *Le problème des attributs divins,* 1. I will therefore discuss not only the specific interpretive questions and answers of the theorists, but also the assumptions and intellectual pressures and concerns that led them to adopt and defend their positions on these questions. To this end, I will consider not only the ostensible content of scholars' views, but also their vocabulary, their modes of argument, and the organization of their works.

[56] See note 45.

[57] The question of the authorship of *al-Risāla* is addressed in appendix 2, which offers an analytical outline of the work, and a hypothesis about its composition. Since I conclude there that the work is quite plausibly a record of al-Shāfiᶜī's teaching, I will refer to it here as his work, without assuming that it was disseminated in its present form during his lifetime.

[58] It is reported that already under the second caliph, ᶜUmar, one Ṣabīgh ibn ᶜIsl was flogged for asking provocative questions about obscurities or difficulties *(mutashābihāt, mushkilāt)* in the Qurᵓān. See Goldziher, *Richtungen,* 55-56; Abbott, *Papyri,* 2:107-110. Abbott refutes Birkeland's earlier rejection of this incident as

legendary. Leemhuis' conjecture ("Origins," 16-18) that Ṣabīgh's question concerned spoils of war, and constituted a challenge not to the Qurʾān *per se* but to political authority, reads too much into a comparison drawn by Ibn ʿAbbās between Ṣabīgh and another man.

Watt notes *(Formative Period,* 172-175) that during the early Abbasid period one important source of criticism of the Qurʾān was the Shuʿūbī movement among the Persianized secretarial class, which opposed the *ʿulamāʾ* and the trend toward organizing society around the Qurʾān and the Sunna of the Prophet. By the mid-3d/9th century Ibn Qutayba could cite (*Mushkil al-qurʾān,* 9-11, 22-32) an established tradition of skeptical criticism focusing on the existence of variant readings, substantive implausibilities and contradictions, and linguistic and structural flaws in the Qurʾān. These attacks, which apparently stemmed from doubters among the ranks of the Muslims rather than from Jews or Christians (see *Mushkil al-qurʾān,* 22.3 and 29.11-30.2), were the motivation not only for Ibn Qutayba's analysis of Qurʾānic language in *Mushkil al-qurʾān,* but eventually for a whole genre of literature on difficulties in both the Qurʾān and Ḥadīth (see note 61).

[59] On linguistic corrections, see for example Ibn Qutayba, *Mushkil al-qurʾān,* 51; al-Farrāʾ, *Maʿānī al-qurʾān,* 2:183-184; Goldziher, *Richtungen,* 31-32; cf. Versteegh, *Arabic Grammar,* 37-38, 110-111, 114. Substantive modifications motivated by considerations of theology or piety are discussed in Goldziher, *Richtungen,* 19-31.

[60] When the Qurʾān actually became a stable text is debated; traditionally it is said to have been permanently fixed within a few decades of the Prophet's death by the recension of the third caliph ʿUthmān, whereas John Wansbrough (*Qurʾānic Studies,* 43-45, 49, 52) has argued that it was not collected and standardized as a canonical text until the turn of the 3d/9th century. In any event, it appears that by the turn of the 3d/9th century the practice of amending the text had largely given way to the necessity of explaining it. See Goldziher, *Richtungen,* 31-51; Versteegh, *Arabic Grammar,* 39-40 and 205. Versteegh concludes that while interest in textual variants persisted, especially in the Kūfan exegetical tradition, by the end of the 2d/8th century the ʿUthmānic recension was received as a linguistic authority in its own right, and was no longer considered subject to criticism or correction. Versteegh notes that the influential Baṣran grammarian Sībawayhi (d. 180/796?) turned away from his predecessors' practice of correcting the Qurʾān on the basis of linguistic analogy. Even the Kūfan al-Farrāʾ (d. 207/822), himself well versed in variant readings, said he did not wish to differ from the Book, and preferred to justify a grammatical irregularity rather than accept a proposed correction (see his *Maʿānī al-qurʾān,* 2:183-184).

[61] Semantic and syntactic difficulties were recognized and addressed by early exegetes, particularly in the early 2d/8th century, as discussions of *al-wujūh wa-l-naẓāʾir*

(words whose meaning sometimes varied from verse to verse – see note 65) emerged, and leading authorities such as Muqātil ibn Sulaymān and al-Kalbī reportedly sought to classify linguistic irregularities and types of Qurʾānic discourse (see note 66). Around the turn of the 3d/9th century al-Farrāʾ (d. 207/822; author of *Tafsīr mushkil iʿrāb al-qurʾān wa-maʿānīh,* known as *Maʿānī al-qurʾān*) and Abū ʿUbayda (d. 210/825; author of *Majāz al-qurʾān*) offered more sophisticated explanations of grammatical and semantic puzzles, drawing on a more developed study of Arabic language (see Leemhuis, "Origins," 30). Ibn Qutayba (d. 276/889) adopted an explicitly defensive tone in his *Taʾwīl mushkil al-qurʾān,* and others continued the tradition of writing on *mushkil* or *gharīb al-qurʾān.* Similar works dealing with problems or contradictions in the corpus of *ḥadīth* were composed by Ibn Qutayba (*Taʾwīl mukhtalif al-ḥadīth*), the Ḥanafī al-Ṭaḥāwī (d. 321/933; author of *Mushkil al-āthār*), the Ashʿarī theologian Ibn Fūrak (d. 406/1015; author of *Mushkil al-ḥadīth wa-bayānih*), and others.

[62] Exegetes understood the opposing terms *muḥkam* (literally "strengthened" or "well done") and *mutashābih* in a variety of ways. Ibn ʿAbbās (d. 69/688) reportedly identified the *muḥkamāt* as those verses that one both believes in and acts upon, and the *mutashābihāt* as those that one believes in but does not act upon (such as oaths, and abrogated verses) (al-Ṭabarī, *Tafsīr,* 6:175, #6574). al-Ḍaḥḥāk (d. 114/732) identified the *muḥkamāt* with abrogating verses and the *mutashābihāt* with abrogated ones (Sufyān al-Thawrī, *al-Tafsīr,* 75, cited in Versteegh, *Arabic Grammar,* 72). Many early interpreters distinguished between *muḥkam* and *mutashābih* in terms of content, claiming that the *muḥkamāt* concern points of law or the punishment of grave sinners or proofs of the Prophet's message, or that the *mutashābihāt* are the isolated letters at the beginning of certain chapters of the Qurʾān, or repeated stories about past peoples and prophets (see al-Ashʿarī, *Maqālāt,* 1:293-294; al-Ṭabarī, *Tafsīr,* 6:174-179).

It appears to have been a Muʿtazilī theologian of the Baghdād school, al-Iskāfī (d. 240/854), who focused interpretation of Q 3:7 on the question of ambiguity by defining the *muḥkamāt* as verses with only one possible apparent meaning, while the *mutashābihāt* admit of more than one (see al-Ashʿarī, *Maqālāt,* 1:294). In this he was followed by the influential theologian al-Ashʿarī (d. 324/935) (see Ibn Fūrak, *Muğarrad maqālāt al-Aš*ʿ*arī,* 64, 190) and the influential legal theorist al-Karkhī (d. 340/952) (see al-Jaṣṣāṣ, *al-Fuṣūl,* 1:205). This approach was further developed by the classical legal theorists in their more elaborate classifications of clarity and ambiguity, which served to legitimate the phenomenon of ambiguity and to define its legal significance. In classical Ḥanafī theory *muḥkam* and *mutashābih* represent the furthest degrees of clarity and ambiguity respectively, in an eight-fold classification; in Shāfiʿī theory they designate the broader categories of clear and ambiguous speech, each of which encompasses two subcategories.

Interpreters also disputed whether Q 3:7 leaves the door open for scholars to interpret the *mutashābih,* or reserves its interpretation to God alone. Some, such as Ibn

Qutayba (*Mushkil al-qurʾān,* 98), rejected the idea that God might speak without making his meaning accessible to humans. They read Q 3:7 as "and none knows its interpretation save God and those well grounded in knowledge; they say 'we believe in it …'" Others, however, read "and none knows its interpretation save God. And those well grounded in knowledge say 'we believe in it …'" (see e.g. al-Ṭabarī, *Tafsīr,* 6:201-204).

[63] There has been a long debate among Western scholars over the existence and scope of opposition to the practice of Qurʾānic exegesis, or to certain types of exegesis, during the first two Islamic centuries. See Goldziher, *Richtungen,* 55-62; Abbott, *Papyri,* 2:106-113; Leemhuis, "Origins," 16; Gilliot, "Exegesis," 101-102. It now seems doubtful that there was ever widespread or effective opposition to exegesis as a whole. It was acknowledged that some verses required explanation – if not because of their intrinsic obscurity, then at least because of deficiencies in human knowledge. It was the business of early exegetes to remedy such ignorance, by providing as much humanly accessible information as possible about the meaning of uncommon words and the historical background of individual verses. Thus the earliest Qurʾānic exegesis seems to have consisted mainly of glosses, and then increasingly of background narratives as well (see e.g. Leemhuis, "Origins," 26-29; Gilliot, "Exegesis," 104-107). There does appear to have been significant opposition, however, to the practice of looking beyond the clarifications of apparent verbal meaning that such basic exegesis provided. Among the many exegetical dicta attributed to Ibn ʿAbbās (d. 69/688) is the saying: "obscure what God has obscured" ("أبهموا ما أبهم الله تعلى") (al-Jaṣṣāṣ, *al-Fuṣūl,* 1:45.3-5, quotes this saying in support of his contention that one should follow the apparent meaning of general expressions). Ibn ʿAbbās is also reported to have distinguished between four aspects of the Qurʾān, three of which require different levels of human knowledge, while the last is beyond human inquiry: "exegesis that scholars know; Arabic that the Arabs know; the allowed and the forbidden, of which people may not be ignorant; and interpretation *(taʾwīl)* known only to God." (Muqātil < al-Hudhayl, *Tafsīr,* 1:4-5). This report reflects a reluctance to go beyond the usual exegetical task of supplying glosses and background narratives. See also the story of ʿUmar and Ṣabīgh in note 58, and the other reports of opposition to exegesis quoted in Goldziher, *Richtungen,* 55-57. Even if these reports are not historically accurate, they may at least be taken as indicative of the concerns of their late-1st/7th- or 2d/8th-century transmitters.

[64] We will see below (page 21) that the Muʿtazila were known for metaphorical interpretation of anthropomorphic statements about God in the Qurʾān. But we will also see (page 23) that they insisted on taking general references to grave sinners at face value. This tension, and the characteristic Muʿtazilī insistence that God's speech must be clear and must be interpreted at face value in legal matters, will be discussed in chapter 3.

al-Naẓẓām held an unusual set of views about language that prefigure the views of the Ẓāhirī school. He considered a literal interpretation of the Qurʾān the only basic source of law, rejecting the independent legal authority of analogical reasoning, consensus, and reports from the Prophet and other early Muslims (see van Ess, *Theologie und Gesellschaft,* 3:382-392). He took general expressions at face value in the absence of contemporaneous particularizing evidence (see note 209); and he interpreted Qurʾānic references to divorce-effecting oaths *(īlāʾ;* see Q 2:226f.) and to the divorce formula of *ẓihār* ("you are to me as my mother's back;" see Q 58:2-4, 33:4) so literally that he regarded as invalid any oath that does not mention God *(allāh,* from which he said *īlāʾ* is derived), and any *ẓihār* that does not mention the back *(ẓahr,* from which *ẓihār)* (Ibn Qutayba, *Taʾwīl mukhtalif al-ḥadīth,* 47; van Ess, *Theologie und Gesellschaft,* 3:388-389). His view that prayer in an unjustly occupied house is ritually valid (Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:181) may also reflect a minimalist hermeneutic that refuses to infer ritual invalidity from legal prohibition. Even in his theory of the Qurʾānic miracle he focused not on rhetorical subtleties but on informative content (see van Ess, *Theologie und Gesellschaft,* 3:410).

Also noteworthy is the Muʿtazilī ʿAbbād ibn Sulaymān (d. ca. 250/864) who virtually identified meaning with verbal form. He and his followers claimed that the very sounds of words replicate their meanings, and thus have the ability to evoke those meanings in the mind. See Weiss, "Language in Orthodox Muslim Thought," 14-15; idem, *Search,* 121-122.

[65] Muqātil ibn Sulaymān (d. 150/767), or perhaps his pupil Abū Naṣr, compiled a work (published as *al-Ashbāh wa-l-naẓāʾir,* also called *al-Wujūh wa-l-naẓāʾir* and *Wujūh al-qurʾān)* which lists words that occur in the Qurʾān with more than one meaning, defines each meaning, and cites passages where the word occurs with each meaning. (The meanings are called *wujūh,* occurrences of words with different meanings are called *ashbāh,* and occurrences with the same meaning are called *naẓāʾir.*) Abbott *(Papyri,* 2:100) notes that this specialized type of exegetical study is said to go back to Ibn ʿAbbās (d. 69/688) and his pupil ʿIkrima (d. 105/723 or 107/725), who is credited with the first work in the genre; other early figures reported to have written on the topic are Ibn Abī Ṭalḥa (d. 123/741 or 143/760) and ʿAbbās al-Anṣārī (d. 186/802). This literature represents a 2d/8th-century acknowledgment of the problem of polysemic verbal forms, but it does not discuss the issue theoretically; this would be done later, by legal theorists, under the heading *al-alfāẓ al-mushtaraka.*

[66] To Muqātil ibn Sulaymān (d. 150/767) is ascribed a succinct, lilting enumeration of thirty-two Qurʾānic speech phenomena, including different categories of content, and different ways in which Qurʾānic expressions can relate to their referents or to other expressions (Muqātil < al-Hudhayl, *Tafsīr,* 1:5.2-8). The list includes many terms and concepts that became important in classical legal hermeneutics: *khāṣṣ*

wa-ᶜāmm (particular and general); *mutashābih wa-muḥkam* (on which see note 62); *mufassar wa-mubham* (elaborated and obscure, cf. the classical distinction between *al-mujmal wa-l-mufassar,* summarized and elaborated speech); *iḍmār wa-tamām wa-ṣilāt fī al-kalām* (ellipsis and explicitness and redundancy, cf. the classical categories of *al-majāz bi-l-nuqṣān,* transgression by deficiency, *ḥaqīqa,* proper usage, and *al-majāz bi-l-ziyāda,* transgression by surplus); *taqdīm wa-taʾkhīr* (the reversal of normal grammatical or logical order, sometimes considered a type of *majāz);* and *ashbāh* (see note 65; cf. the classical term *mushtarak).* The list is specifically attributed to Muqātil, but Versteegh notes *(Arabic Grammar,* 151, 157) that some of these terms do not reappear in the body of the commentary ascribed to him. If the list is indeed his, it represents an important precedent to the hermeneutics of al-Shāfiᶜī's *Risāla,* which employs many similar terms and concepts, as we will see below. al-Shāfiᶜī reportedly knew and admired Muqātil's exegesis (Abbott, *Papyri,* 2:100).

A shorter list of Qurʾānic speech phenomena is to be found in a commentary ascribed to al-Kalbī (d. 146/763) (Chester Beatty ms. 4224, 112b.7-9, quoted in Versteegh, *Arabic Grammar,* 106); it includes the pairs *ḥaqīqa wa-majāz* (proper and transgressive usage) and *muḥkam wa-mutashābih.* The list must be considered suspect, however, both because of uncertainty about the attribution of the work (see Versteegh, *Arabic Grammar,* 115), and because the terms *ḥaqīqa* and *majāz* do not recur in the commentary (Versteegh, *Arabic Grammar,* 106, 122) – indeed their use as a pair of opposites is not otherwise known before the mid to late 3d/9th century, and became common only in the 4th/10th century (see below pages 21f., and Heinrichs, "Genesis," 115, 131-132, 135-138). Versteegh notes *(Arabic Grammar,* 122) that one phenomenon that was later classified as *majāz,* namely *al-muqaddam wa-l-muʾakhkhar* (language whose order is reversed), is discussed in al-Kalbī's commentary but is not called *majāz.*

Even Ibn ᶜAbbās (d. 69/688) is reported to have included *al-muḥkam wa-l-mutashābih* and *al-muqaddam wa-l-muʾakhkhar* in short lists of Qurʾānic speech phenomena (Ibn ᶜAbbās → Ibn Abī Ṭalḥa, *Tafsīr* (reconstructed by al-Rajjāl), 119.9-10, 124.4, quoted in Versteegh, *Arabic Grammar,* 106).

[67] Versteegh has argued (in his *Arabic Grammar)* that Arabic linguistics began among reciters and exegetes of the Qurʾān.

By the end of the 2d/8th century Arab poets had become sources of lexicological and grammatical data, quoted by commentators in support of their explanations of Qurʾānic words and constructions. This is characteristic of the works of Abū ᶜUbayda (d. ca. 210/825) and al-Farrāʾ (d. 207/822), but not of commentaries from the early 2d/8th century such as that of Muqātil ibn Sulaymān (d. 150/767). The *Kitāb al-ᶜayn,* a lexicon attributed to al-Khalīl (d. 175/791) and al-Layth b. al-Muẓaffar (d. ca. 200/815), likewise reflects the close relationship between exegesis, poetry, lexicography, and grammar. The exegetical work *Maᶜānī al-qurʾān,* by the Kūfan al-Farrāʾ, illustrates especially clearly how variant Qurʾānic readings prompted grammatical reflection. The

decision by the Baṣran Sībawayhi (d. 180/796?) to account theoretically for the grammatical peculiarities of the Qurʾān, rather than correct them as his predecessors in Baṣra had done, was a milestone in the development of Arabic grammar (see Versteegh, *Arabic Grammar,* 39).

[68] The theory that language originated in a primordial semantic assignment *(waḍʿ)* of words to specific meanings was perhaps not formulated before the later 3d/9th century (see notes 211 and 212), but the broader notion of a direct correlation between verbal form and reality appears to have been current already among the early Baṣra grammarians. Heinrichs ("Genesis," 122-123) refers to their belief in "the mirror character of language." Certainly by the end of the 3d/9th century this idea had been developed considerably. The Baṣran grammarian Ibn al-Sarrāj (d. 316/928) referred to a deep structure of meaning *(maʿnā, martaba,* or *aṣl)* that lies behind every verbal expression *(lafẓ).* This basic meaning may be verbally expressed either explicitly and in normal order, or by certain rule-governed transformations of normal expression, such as concealment *(iḍmār,* e.g. pronominal reference) or inversion of normal word order *(al-taqdīm wa-l-taʾkhīr).* See e.g. Ibn al-Sarrāj, *al-Uṣūl fī al-naḥw,* 2:238.

It was just such transformations of normal verbal forms – such "violations of the mirror character of language" – that formed the basis for some of the criticisms that were leveled at the Qurʾān. Ibn Qutayba *(Mushkil al-qurʾān,* 32) cited critics who pointed to the existence in the Qurʾān of concealment, ellipsis, indirect reference, non-apparent meaning, redundancy, repetition, inversion of word order, and figurative language. Ibn Qutayba, who considered these legitimate linguistic subtleties, referred to many of them as *majāzāt,* literally 'crossings over' (on which see below, especially note 69). Ibn al-Sarrāj *(al-Uṣūl fī al-naḥw,* 2:330) likewise referred to such a transgression or transformation of a normal verbal expression as *majāz.* It thus appears that the notion of *majāz* developed in tandem with the notion of a correlation between verbal form and reality, as a way of accounting for valid Arabic speech that does not directly correlate with the meaning it expresses. Thus when the later Ḥanbalī thinker Ibn Taymiyya (d. 728/1328) denied the establishment of a correlation between words and meanings through semantic assignment *(waḍʿ),* he also rejected the corollary of *majāz* (see Ali, *Medieval Islamic Pragmatics,* chapter 4).

[69] Some scholars (e.g. Almagor, "Early Meaning," 314-315) have noted that Abū ʿUbayda appears to use the term *majāz* to designate both non-normative forms of expression, and the equivalent normalized expressions by which they may be explained. Some (Almagor, 317; Gilliot, "Exegesis," 108) have suggested that he used the term to designate linguistic phenomena that are perhaps unusual but nevertheless permissible *(jāʾiz)* in Arabic, but this does not account for all of Abū ʿUbayda's uses of the term. Heinrichs has shown ("Genesis," 123-128) that it is possible to read Abū ʿUbayda as consistently using *majāz* to refer to the "explanatory re-writing" (normalized equivalent)

of a non-"natural" idiom (non-normative expression), and never to the non-"natural" idiom itself. This, however, raises the problem of how classical writers came to use *majāz* in the opposite sense of non-normative usage, adopting *ḥaqīqa* as their term for normal or proper usage (see Heinrichs, "Genesis," 130-139). This dilemma can be resolved, and Abū ʿUbayda's very broad usage clarified somewhat, if we understand *majāz* in its basic sense of 'crossing over' or 'passing beyond' (that which is crossed being the boundary of normal speech, *ḥadd al-kalām,* on which see Levin, "Sībawayhi's view," 211, cited in Versteegh, *Arabic Grammar,* 8). The term can then be applied to any transformation of an expression: 'transgressing' (crossing) the boundary of normal speech by converting a normal expression into a non-normative one, or 'translating' (transferring) a non-normative expression back into an equivalent normalized expression. Classical legal theory retained only the first of these senses of *majāz,* so I will usually translate *majāz* as 'transgression' or 'transgressive usage' – a broad category that includes figurative as well as other non-normative modes of expression. (The negative connotation that is usually associated with 'transgression' in English should not be assumed here, though certainly transgressive usage was deemed problematic enough to require justification, and was rejected by some parties, as we will see below.)

[70] In the introduction to *Majāz al-qurʾān* (8-16, cf. 18-19) Abū ʿUbayda lists and illustrates from the Qurʾān thirty-nine varieties of transgressive expression that he claims constitute legitimate Arabic usage. The list covers phenomena in which meaning is less than fully expressed, such as ellipsis and pronominal reference; redundant or extraneous words and particles; changes and disagreements in grammatical form, especially with regard to number, person, and gender; lack of agreement between grammatical form and meaning; inverted word order; inconsistencies in the use of particles; and differences in Qurʾānic reading and interpretation that arise from different dialects, traditions of reading, and grammatical theories. Heinrichs ("Genesis," 122-123) summarizes the range of transgressions that Abū ʿUbayda discusses as follows: "additions to the 'natural' sentence (pleonasm), subtractions from it (ellipsis), 'unnatural' word order (hysteron proteron), lack of grammatical agreement, even ambiguities and obscurities." He notes ("Genesis," 119-122) that Abū ʿUbayda gives only minimal attention to figurative usage.

[71] Heinrichs ("Genesis," 129-131) helpfully summarizes Abū ʿUbayda's approach, and discusses others who continued his project of *majāz* exegesis. For example, the Baṣran grammarian al-Mubarrad (d. 285/898) provided *majāz* interpretations of ellipsis, and of homonyms used for the more unusual of their possible meanings. Ibn Qutayba (d. 276/889) explained a host of linguistic irregularities as *majāzāt* in his *Taʾwīl mushkil al-qurʾān.* Heinrichs notes that although some rejected *majāz* exegesis as subject to personal opinion, and although the use of the term *majāz* for an "explanatory re-writing" of an irregular expression was eventually discontinued, Abū

ᶜUbayda's overall approach formed the basis for discussions of *majāz* in preclassical and classical legal theory.

[72] Heinrichs ("Genesis," 134-135, 138-139) traces this Muᶜtazilī narrowing of *majāz* to the 3d/9th century works of al-Jāḥiẓ (d. 255/868-69).

[73] See Heinrichs, "Genesis," 135-137. The *ḥaqīqa / majāz* dichotomy appears to have been part of the vocabulary of Abū ᶜAlī al-Jubbāʾī (d. 303/915) and Abū Hāshim (d. 321/933), who disagreed as to whether a word can have both literal and figurative meanings at the same time (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:300-301).

[74] By the 3d/9th century there was a debate about whether words have the same meaning when applied to God as they do when applied to humans. Some held that certain terms apply literally to humans and figuratively to God; at least one Muᶜtazilī (al-Nāshiʾ al-Akbar, d. 293/906) claimed the opposite. See al-Ashᶜarī, *Maqālāt,* 1:261-262; Heinrichs, "Genesis," 131-132, 135-136.

[75] See Heinrichs, "Genesis," 139. Earlier exegetes had not appealed to *majāz,* but had simply paraphrased difficult passages in such a way as to avoid anthropomorphism (see Versteegh, *Arabic Grammar,* 78).

[76] al-Ashᶜarī held that words have the same meaning whether applied to God or humans (Allard, *Le problème des attributs divins,* 182), and he insisted on taking the language of the Qurʾān in its plain Arabic sense. He rejected Muᶜtazilī attempts to assign special "religious" meanings to certain sensitive terms such as faith (see Ibn Fūrak, *Muğarrad maqālāt al-Aš^{c}arī,* 149-150); and he defined *ḥaqīqa* ontologically (Ibn Fūrak, *Muğarrad maqālāt al-Aš^{c}arī,* 26-27), with the implication that the Muᶜtazilī abandonment of the literal sense *(ḥaqīqa)* was not merely a linguistic matter, but a departure from the reality *(ḥaqīqa)* of things (cf. Heinrichs, "Genesis," 137). He enunciated the principle that only a compelling proof may lead one to depart from the literal or apparent sense of revealed language (see Ibn Fūrak, *Muğarrad maqālāt al-Aš^{c}arī,* 26-27, 191; al-Ashᶜarī, *al-Ibāna,* 139.6-7; al-Ashᶜarī, *al-Lumaᶜ,* 41.3-4; cf. Heinrichs, "Genesis," 135 n. 1). Of course the Muᶜtazila thought they did have rational proofs for their metaphorical interpretations of anthropomorphic verses, and in the long run a number of Ashᶜarī theologians themselves adopted similar interpretations (see Watt, *Islamic Philosophy and Theology,* 80, 83).

[77] In the 3d/9th century al-Jāḥiẓ could cite some who refused to deviate from the apparent meaning of revelation in favor of *"majāzāt"* (see Heinrichs, "Genesis," 135). In retrospect al-Shahrastānī (d. 548/1153) could say of this period that when the traditionalists saw the influence of the Muᶜtazila, they were at a loss as to how to

establish their position concerning the *mutashābihāt* of the Qurʾān and Sunna, but that Ibn Ḥanbal and Dāʾūd al-Ẓāhirī and others succeeded in rejecting *taʾwīl* while avoiding anthropomorphism (see Shiḥāta's introduction to Muqātil <> Abū Naṣr, *al-Ashbāh wa-l-naẓāʾir,* 50-51). This account focuses attention on two groups: the Ẓāhiriyya, whose school position was to explicitly deny the presence of *majāz* in the Qurʾān, and the Ḥanbaliyya, who generally objected to *taʾwīl* but did not uniformly reject *majāz* per se.

It is reported that many of the Ẓāhiriyya, including Dāʾūd al-Ẓāhirī (d. 270/883), his son Ibn Dāʾūd (d. 297/910), and al-Ballūṭī (d. 355/965), denied that there is any *majāz* in the Qurʾān (or even in the Sunna, according to Ibn Dāʾūd). See Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:24; Heinrichs, "Contacts," 264; Ibn Taymiyya, *al-Īmān* (Cairo, 1972), 76-77, cited in Zysow, "Economy," 154; al-Zarkashī, *al-Baḥr al-muḥīṭ* (Paris ms 811), 84a, cited in Zysow, "Economy," 191 n. 196. Zysow ("Economy," 155) mentions some arguments that were used in support of this position, such as the claim that *majāz* is equivalent to lying, or that *majāz* is only resorted to when ordinary usage is found to be constraining, which could never be true for God.

The Ḥanbaliyya apparently disagreed as to the presence of *majāz* in the Qurʾān, with each side in the dispute claiming that Ibn Ḥanbal shared its view. See Heinrichs, "Genesis," 116-117.

A few Mālikī and Shāfiʿī scholars are also reported to have denied the presence of *majāz* in the Qurʾān, among them the conservative Ashʿarī theologian Abū Isḥāq al-Iṣfarāʾīnī (d. 418/1027), who denied *majāz* as a linguistic phenomenon altogether (see Heinrichs, "Genesis," 117; Zysow, "Economy," 155).

[78] On Ibn Taymiyya's rejection of both *waḍʿ* and *majāz,* see Ali, *Medieval Islamic Pragmatics,* ch. 4.

[79] Ibn Fūrak reports *(Muǧarrad maqālāt al-Aš*ʿ*arī,* 26-27 and 191-192) that some of those who suspended judgment on general expressions also suspended judgment on expressions that admit of both literal and figurative interpretations, refusing to assume a literal meaning by default, and insisting on finding specific evidence to support either a literal or a figurative reading.

[80] This was the position of al-Ashʿarī (see note 76), al-Bāqillānī (see chapter 4), and even of the Muʿtazila (see chapter 3). Although the Muʿtazila were noteworthy for their metaphorical interpretations of anthropomorphic expressions, this was because they felt they had good rational evidence for such interpretations; we will see that on other matters where they did not feel there was sufficient evidence, they generally adhered quite strictly to the apparent meaning. ʿAbd al-Jabbār declared *(Faḍl al-iʿtizāl,* 350; cf. *al-Mughnī,* 17:52) that an adherence to the *ẓāhir* in the absence of qualifying contextual evidence was a characteristic trait of all the Muʿtazila.

[81] The development of formal *uṣūl* in exegesis, as in other disciplines such as grammar, may well have been modeled on the discourse of *uṣūl al-fiqh*; but this point requires more careful investigation.

[82] When literary theorists such as al-Jurjānī (d. ca. 474/1081) later took up and developed the legal theorists' notion of *majāz,* they followed the Muᶜtazila by focusing on figurative speech to the exclusion of other linguistic transgressions. See Heinrichs, "Genesis," 140; Heinrichs, "Contacts," 278-279.

[83] For a general presentation of these disputes, see Watt, *Formative Period,* ch. 1 and especially ch. 5.

[84] This is the usual view; but Michael Cook has argued *(Early Muslim Dogma,* 33-43) that there was considerable opposition to the Umayyad Caliphs among the earliest Murjiᵓa.

[85] The definitions of other relevant terms, such as unbelief *(kufr)* and grave sin *(fisq),* were also at stake. See al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:387-391.

[86] I am referring to the classical distinction between *al-asmāᵓ al-lughawiyya* and *al-asmāᵓ al-sharᶜiyya,* discussions of which may be found in comprehensive manuals of legal theory (see e.g. the modern textbook by Ḥasab Allāh, *Uṣūl al-tashrīᶜ al-islāmī,* 205-208).

[87] al-Bāqillānī *al-Taqrīb wa-l-irshād,* 1:391.

[88] See page 50 and notes 205, 206, and 207. Eventually some of the Muᶜtazila expressed this view in terms of their theory of *majāz,* claiming that when an apparently general expression is intended as particular, this constitutes transgressive usage; this was the view of al-Thaljī (d. 266/879) (see al-Jaṣṣāṣ, *al-Fuṣūl,* 1:131; al-Ṣaymarī, *Masāᵓil al-khilāf,* 13b-14a) and of ᶜAbd al-Jabbār (d. 415/1025) (see Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:262).

[89] Muḥammad Ibn Shabīb (fl. early 3d/9th cent.; see further note 206), a Muᶜtazilī who is nevertheless regarded by some later writers as the epitome of Murjiᵓī thinking, is presented (and perhaps caricatured) by ᶜAbd al-Jabbār (*al-Mughnī,* 17:35) as having formulated an especially radical claim of ambiguity: he reportedly claimed that general statements have no apparent *(ẓāhir)* meaning, and do not indicate God's intent; indeed they may not reveal anything at all (that is, they may not contain *bayān*).

[90] See Gimaret, *La doctrine d'al-Ashᶜarī,* 524 n. 18, and the seven different views that al-Ashᶜarī attributes to the Murjiᵓa in his *Maqālāt,* 1:225-228.

[91] The definitions of general and particular cited by al-Ashᶜarī in his *Maqālāt* (2:134) show that by the mid-3d/9th century these categories were discussed abstractly, and not only in the form of debates over verses of threat.

[92] Whether the categories developed in these theological disputes actually informed the early development of legal theory by the likes of al-Shāfiᶜī, or only appear to be related to legal theory because later writers such as ᶜAbd al-Jabbār and al-Bāqillānī cite the early theological disputes in order to link their adversaries' legal-theoretical views to theological heresies, cannot be determined here. In general I see no reason to doubt that the interpretive categories developed in theology were self-consciously employed by the likes of al-Shāfiᶜī; at the very least they must be regarded as important background to his legal thought.

[93] al-Ashᶜarī, *Maqālāt,* 1:228.

[94] See al-Ashᶜarī, *Maqālāt,* 2:85, 135-136, 174.

[95] There is broad skepticism among Euro-American scholars about how much of a role the Qurᵓān and *ḥadīth* actually played in the formulation of law during the first two Islamic centuries. The most important statement of this skepticism is Schacht, *Origins*.

[96] al-Shāfiᶜī's *Risāla* indicates (515-516, ¶1492-1495) that the problem of drawing a line between what is implicitly included in the meaning of a text and what must be inferred from it by analogical reasoning had been explicitly debated by others before al-Shāfiᶜī. Hallaq ("Non-Analogical Arguments," 289-290) suggests that Iraqi (Ḥanafī) jurists were involved in this debate. On the other hand, when al-Dabbūsī discusses negative implication *(Taᵓsīs al-naẓar,* 87-88), he conspicuously fails to mention the founding figures of the Ḥanafī tradition, referring only to "our scholars." This suggests that he did not regard Abū Ḥanīfa and his immediate disciples as having addressed this question directly.

[97] See Gilliot, "Exegesis," 107-108.

[98] Calder *(Studies)* has shown, however, how complicated is the attribution of legal texts to 2d/8th-century authors.

[99] These concerns, which were typical of early exegetical literature in general (see Leemhuis, "Origins," 26-29; Gilliot, "Exegesis," 104-107) seem to have dominated legal exegesis as well (see Versteegh, *Arabic Grammar,* 68, 75).

[100] See Versteegh, *Arabic Grammar,* 70-71; Burton, *Sources,* 1-4.

[101] See for example al-Jaṣṣāṣ, *al-Fuṣūl* (e.g. 1:27-28), and al-Bazdawī, *Uṣūl,* in al-Bukhārī, *Kashf al-asrār,* 590-593.

[102] Abū Yūsuf and al-Shaybānī are both said to have written on *uṣūl al-fiqh,* but there is no reason to think that this refers to works on the classical questions of legal theory; *uṣūl al-fiqh* was sometimes used as a designation even for works on positive law.

[103] Such opinions are cited in other literature besides that of legal hermeneutics; al-Dabbūsī (d. 430/1039), for example, in a work on differences between jurists entitled *Taʾsīs al-naẓar,* discusses the legal views of the Ḥanafī founding fathers not as a theory of revealed language, but as principles for the interpretation of human legal language. It therefore seems likely that specific hypothetical legal problems revolving around language were in fact discussed by Abū Ḥanīfa and his disciples.

[104] al-Bukhārī, *Kashf al-asrār,* 1:590-592.

[105] See al-Dabbūsī, *Taʾsīs al-naẓar,* 103-104; al-Jaṣṣāṣ, *al-Fuṣūl,* 1:27.

[106] See al-Dabbūsī, *Taʾsīs al-naẓar,* 86-87.

[107] See al-Dabbūsī, *Taʾsīs al-naẓar,* 18-19, 86-87.

[108] The Ḥanafī "founding fathers" were perhaps not the only 2d/8th century figures reportedly engaged in such analysis of human language; al-Dabbūsī *(Taʾsīs al-naẓar)* reports views on the same questions from al-Shāfiʿī.

[109] A nice example of the integration of the early analysis of human language with the later hermeneutics of revealed language is provided by al-Jaṣṣāṣ in *al-Fuṣūl,* 1:320, where he illustrates a principle about the hermeneutics of revealed language by giving both his interpretation of a Qurʾānic passage, and a Ḥanafī analysis of a comparable divorce formula.

[110] On the preference among interpreters of Aristotle for apophantic (propositional and logical) discourse, over those non-apophantic discourses dealt with in the *Rhetoric* and *Poetics,* see Black, *Logic.*

[111] See the section of chapter 3 entitled "The Moral Indicative." Another aspect of Greek thought that influenced preclassical and especially classical legal theory in general (and not just legal hermeneutics) was the extensive use of hierarchical, dichotomous classifications; this was introduced most dramatically by Abū al-Ḥusayn al-Baṣrī (d. 436/1044) (see page 58). It has also been suggested that the five legal values (into which legal hermeneutics seeks to convert revealed language) were derived from Stoic philosophy (Schacht, *Introduction,* 20).

[112] It is possible that the grammarians were themselves influenced by Greek thought on this point. See note 309, and Versteegh, *Arabic Grammar,* 25-26.

[113] This notion is evident in the writings of Ibn al-Sarrāj (d. 316/928); see note 114. Fleisch has noted that the grammarians posited "derrière le texte véritable, un autre texte, virtuellement existant et virtuellement agissant" (quoted in Allard, *Le problème des attributs divins,* 130).

[114] Michael Carter considers that *uṣūl al-fiqh* developed hand in hand with the genre of grammatical *uṣūl;* he refers to "strikingly obvious" parallels between the two disciplines (Carter, "Analogical and Syllogistic Reasoning," 109). *Uṣūl al-fiqh* necessarily operated within the context of an understanding of Arabic grammar, but the two projects had quite different orientations. Ibn al-Sarrāj (d. 316/928), considered the first to write on grammatical *uṣūl* (Carter, "Analogical and Syllogistic Reasoning," 109), took in his *al-Uṣūl fī al-naḥw* the perspective of the speaker, not the interpreter. He tended to take for granted a given meaning that a speaker has in mind, and set out to define the acceptable ways of expressing that meaning. His focus throughout was on the range of possible verbal forms, whereas *uṣūl al-fiqh* started with a verbal expression and asked what are its possible meanings.

Some important legal-theoretical concepts and terms appear in Ibn al-Sarrāj's *Uṣūl,* but he used them in ways that suggest he was working quite independently of the developing discipline of *uṣūl al-fiqh.* For example, he used *ẓāhir* (apparent) to distinguish explicit verbal reference from ellipsis and pronominal reference *(iḍmār)* (Ibn al-Sarrāj, *al-Uṣūl fī al-naḥw,* 2:238 and 2:247-254), whereas the legal theorists used it primarily to distinguish an expression's most obvious meaning from its other possible meanings. The legal theorists used the elliptical Qurʾānic phrase "ask the town" (Q 12:82) as a standard example of transgressive usage *(majāz),* but Ibn al-Sarrāj explained it in terms of breadth of meaning *(ittisāʿ),* without any reference to *majāz* (Ibn

al-Sarrāj, *al-Uṣūl fī al-naḥw,* 2:255-256). He did use the term *majāz* elsewhere, in a way that recalls Abū ᶜUbayda's use of the term; for example on 2:330 he described as *majāz* a verbal form that is not strictly proper, but nevertheless conveys the same meaning as the grammatically correct form: "الضاربُ الذي ضربني أنا" (literally "the one who hit the one who hit me is I") is *majāz*; the proper form is "الضاربُ الذي ضربه أنا" ("the one who hit the one who hit him is I"). His definition of indefinite *(nakira)* nouns as "any noun that encompasses two or more [things]" recalls the *uṣūl al-fiqh* category of general *(ᶜāmm)* expressions, but the analogy between the indefinite/definite and general/particular distinctions quickly breaks down, because in *uṣūl al-fiqh* indefinite singular nouns were considered particular *(khāṣṣ),* and definite plural nouns were paradigmatically general (see Ibn al-Sarrāj, *al-Uṣūl fī al-naḥw,* 1:148-150). Perhaps the closest parallel between Ibn al-Sarrāj's terminology and that of *uṣūl al-fiqh* is his distinction between the verbal form *(lafẓ)* that expresses a meaning, and the meaning *(maᶜnā)* itself. The latter has its own logical structure (Ibn al-Sarrāj, *al-Uṣūl fī al-naḥw,* 2:238, appears to assume that word order exists on two levels, that of *maᶜnā* and that of *lafẓ;* the two orders may differ), and corresponds to the speaker's intent (he used the terms *qaṣd* and *niyya* for intent; see for example Ibn al-Sarrāj, *al-Uṣūl fī al-naḥw,* 2:171 and 2:238, respectively). Ibn al-Sarrāj did not offer a theoretical account of these terms, however, because he was concerned not with the relationship of form to meaning, but with the grammatical rules that control verbal form.

Ibn al-Sarrāj's grammatical rules were for the most part independent of the specific content of speech, but some of his rules depended on meaning, and from his discussions of these we may infer his views on the relationship between *maᶜnā* and *lafẓ.* See inter alia Ibn al-Sarrāj, *al-Uṣūl fī al-naḥw,* 1:52, 2:170-171, 2:238, and 3:89ff. Meaning and verbal form are of course related, but they are not strictly correlated. A given meaning may be expressed by a number of verbal forms. For example, the *maᶜnā* of an action may be represented by a verb, or by its *maṣdar* or *ism fāᶜil,* both of which carry the meaning of the action and govern its object in the same way as the verb (1:52). Requests, which are ordinarily expressed by the imperative *(lafẓ al-amr),* may also be expressed by a statement if the meaning of request is clear to the hearer: " قد يجيء الأمر والنهي والدعاء على لفظ الخبر إذا لم يلبس، تقول: أطال الله بقاءه، فاللفظ لفظ الخبر والمعنى دعاء، ولم يلبس، لأنك لا تعلم أن الله قد أطال بقاءه لا محالة" (2:170). The hermeneutical importance of the gap between meaning and verbal expression was later seized upon by al-Bāqillānī, who provided a theoretical basis for it and systematically pursued its implications for interpretation. Ibn al-Sarrāj, however, was not interested in interpretation, but in determining acceptable forms of expression.

These few points of contact between grammar and *uṣūl al-fiqh* show that Ibn al-Sarrāj's concepts and terminology were not developed in close interaction with legal theory. The two disciplines were oriented toward different projects: the production of verbal expression, and its interpretation. The apparent correspondences between a few of their key terms and concepts are for the most part illusory. There are of course other

terms that appear in both grammar and legal theory texts, such as *istithnāʾ* (exception) and *amr* (command), but these are not analytical categories that reflect a common theoretical enterprise; they are merely the names of particular types of verbal construction that grammarians and legal theorists discussed for very different reasons. Ibn al-Sarrāj's discussion of exception, for example, was concerned mainly with its proper inflection *(iʿrāb) (al-Uṣūl fī al-naḥw,* 1:281-306), whereas the legal theorists treated it as one of several verbal forms that can be used to express the central legal-theoretical concept of particularization *(takhṣīṣ).*

"Striking parallels" between grammar and *uṣūl al-fiqh* did appear, however, in the work of Ibn Jinnī (d. 392/1002). This apparently resulted not from any longstanding overlap or interaction between the two disciplines, but from Ibn Jinnī's self-consciously original attempt to do grammar after the model of *uṣūl al-fiqh* and *kalām* (see the opening statement in his *al-Khaṣāʾis).*

[115] Wegner, "Islamic and Talmudic Jurisprudence," especially 47, 61-62; Calder, *Studies,* 233-235; Lowry, "Legal-Theoretical Content," 104-105.

[116] Wegner, "Islamic and Talmudic Jurisprudence," 68-70.

[117] This is amply illustrated in Brunschvig, "Herméneutique normative." See also Lowry, "Legal-Theoretical Content," 256-260.

[118] Calder (*Studies,* 233-235) finds the hypothesis of Jewish influence unconvincing and unnecessary, as does Lowry ("Legal-Theoretical Content," 256-260, 484-485).

[119] Gregor Schwarb is now preparing an edition and translation of a Judeo-Arabic exegetical and hermeneutical work *(Kitab al-tawriya),* by the 5th/11th century Karaite scholar Yeshuah ben Yehudah, which is inspired by and quotes from Muslim works, including Muʿtazilī *uṣūl al-fiqh* works; this text may in fact provide an untapped mine of information for the reconstruction of 4th/10th century Islamic legal theory.

[120] See note 96 above.

[121] If Calder is correct in dating *al-Risāla* to the turn of the 4th/10th century (Calder, *Studies,* 224-226, 229, 241-242), then it must be regarded as representative of an ongoing movement toward grounding law in scripture, rather than as initiating that movement. In appendix 2 I reject Calder's suggestion that poor organization reflects multiple layers in the composition and editing of *al-Risāla;* but in any event the exact origin and date of the work are important only for pinpointing specific developments

historically; they do not affect the overall presentation given here of the general intellectual development instigated by, or reflected in, the *Risāla*.

[122] Appendix 2 contains an analytical outline of the *Risāla,* in which I propose that for reasons of both content and style the work should be regarded as a sequence of three distinct but related "books."

[123] Scholarship on Islamic law (e.g. Schacht, *Origins,* 15, 135; Wansbrough, *Qurʾānic Studies,* 174; Hallaq, "Was al-Shāfiʿī the Master Architect," 592) has typically focused on how *al-Risāla* grounds the law in the Qurʾān and, especially, in the Prophetic Sunna; but see below, especially notes 124 and 125.

[124] See al-Shāfiʿī, *al-Risāla,* 19-40 ¶¶43-125. The final pages of his introduction (19-20 ¶¶43-52) present the Qurʾān as the essence of God's guidance. al-Shāfiʿī states (*al-Risāla,* 20 ¶48) that "there is no event that befalls the people of God's *dīn* but that there is an indicator *in the Book of God* as to the path of guidance therein" (Calder's translation, from *"Ikhtilâf* and *Ijmâʿ,"* 55; emphasis mine). Calder interprets "the Book of God" here to mean all forms of revelation, and takes the following pages to be an exposition of what al-Shāfiʿī means by "the Book of God" (ibid.). But this cannot be, for al-Shāfiʿī clearly distinguishes in what follows between the Book of God (the Qurʾān) and the Prophet's Sunna (e.g. *al-Risāla,* 22 ¶57). (Lowry likewise rejects Calder's interpretation in his "Legal-Theoretical Content," 274 n. 4.) Furthermore, al-Shāfiʿī explicitly states *(al-Risāla,* 21 ¶55, 32-33 ¶¶97-102) that all the forms of *bayān* (revelation or clarification) he is describing are forms of *Qurʾānic* revelation, *even* when a duty is revealed in the Sunna but not directly mentioned in the Qurʾān. Sunna about something not mentioned in the Qurʾān is followed in fulfillment of God's general Qurʾānic command to obey the Prophet (*al-Risāla,* 212 ¶571; see also 221 ¶607). Qurʾānic commands that are not sufficiently clarified by either the Qurʾān or the Sunna (e.g. the command to face the Sacred Mosque even when it is out of sight) are commands to perform *ijtihād,* and the signs God has created as a basis for that *ijtihād* (e.g. the stars), together with the natural capacities *(ʿuqūl)* by which human beings know and reason from those signs, constitute clarification of those Qurʾānic commands *(al-Risāla,* 22 ¶59, 37-38 ¶111-114). It therefore appears to me that al-Juwaynī – a perceptive historian – is correct when he interprets al-Shāfiʿī's five modes of *bayān* as an attempt to link all *bayān* to the Qurʾān (al-Juwaynī, *al-Burhān,* 1:40).

[125] See *al-Risāla,* 79 ¶257, 146 ¶419, and especially 222-223 ¶613. al-Shāfiʿī never, to my knowledge, presented the Qurʾān as elaborating or particularizing the Sunna. This is corroborated by Lowry, "Legal-Theoretical Content," 230; idem, "The Legal Hermeneutics of al-Shāfiʿī and Ibn Qutayba," 10. Euro-American scholarship generally has tended to overlook this distinction, and present the Sunna as at least on a

par with the Qurʾān in the *Risāla*. Even Lowry regards the relationship between Qurʾān and Sunna in the *Risāla* as symmetrical at least in theory, though he recognizes a certain asymmetry in practice, and acknowledges that al-Shāfiʿī regarded the Qurʾān as in some sense superior to the Sunna (Lowry, "Legal-Theoretical Content," 229-230, 273-276, 314).

[126] See *al-Risāla,* 183-184 ¶¶511-512, and note 127.

[127] ʿAbd al-Jabbār (*al-Mughnī,* 17:90) criticized al-Shāfiʿī for denying that the Qurʾān could be abrogated by an epistemologically certain report. ʿAbd al-Jabbār argued that the Sunna must have the same kind of evidentiary function as the Qurʾān. He noted that al-Shāfiʿī's view had been abandoned by his followers. Likewise al-Juwaynī *(al-Burhān,* 1:42) said it was meaningless to distinguish between the Qurʾān and reliable Sunna, because everything that the Prophet said is from God.

[128] The problem of contradictory reports was already felt very keenly in al-Shāfiʿī's time. al-ʿAnbarī (d. 168/784) had taken the position that when reports contradict one another, one is right whichever one follows. al-Naẓẓām (221/836), on the other hand, had cited the contradictions between reports as a reason for rejecting them as a source of law. van Ess, "Ein unbekanntes Fragment des Naẓẓām," 185 and *passim*.

[129] al-Shāfiʿī's examples focus on reconciling conflicting passages in revelation to produce a coherent law; the fact that existing law is not simply the product of his interpretations, but rather a given that controls his interpretations at least as much as the texts do, remains mostly unstated. He does appeal to existing practice as evidence of the meaning of a revealed text in at least one instance *(al-Risāla,* 326 ¶893), but this is exceptional; his goal of reconciling something like *existing* law with his canon of revelation must be inferred from the overall shape of his project. Lowry ("Legal-Theoretical Content," 144) makes a similar point, and cites another instance in which al-Shāfiʿī appeals to existing law in support of his interpretation *(al-Risāla,* 135 ¶386).

[130] These apt expressions are borrowed, respectively, from Calder *(Studies,* vi), and Burton *(Sources,* 16-17).

[131] This has been overlooked in Western scholarship, which has focused on al-Shāfiʿī's canonization of Prophetic reports, and his purported four-source theory of law. Lowry has noted the hermeneutical emphasis of *al-Risāla* (e.g. "Four Sources," 49), but has downplayed its continuity with classical legal theory (on which see note 187). Weiss noted the hermeneutical significance of *al-Risāla* in his dissertation, but interpreted al-Shāfiʿī as seeking to constrict rather than open up the possibilities for interpretation: "The principle that the Koran can be clearly understood through a

mastery of the Arabic language is one of the important contributions of al-Shāfiᶜī. He is often credited with having emphasized the importance of tradition as a source of law, in keeping with the spirit of the traditionist movement. What he is less commonly noted for is his having created a rudimentary system of hermeneutics, based on considerations of language, whereby the Koran itself could be correctly interpreted and the excesses of traditionism checked." Weiss, "Language in Orthodox Muslim Thought," 46.

[132] See e.g. *al-Risāla,* 213-214 ¶¶576-579, 216 ¶588; and Lowry, "Legal-Theoretical Content," 169, 176-177, 195-202, and the passages cited there.

[133] See Lowry, "Legal-Theoretical Content," 122-130, 144-145, and the passages cited there. Burton (*Sources,* 2-4, 27, and *passim)* has examined the development of the concept of abrogation as a device for reconciling contradictions in revelation, and thus for grounding the law in revelation. He notes (ibid., 2-3, 184) that linguistic categories such as general and particular expressions, summary and elaborated speech, and qualified and unqualified expressions, played a similar role; but he does not explore them. al-Jaṣṣāṣ *(al-Fuṣūl,* 1:247) likewise listed abrogation alongside linguistic devices as a mode of clarification.

[134] *al-Risāla,* 222-223 ¶613, expresses succinctly the importance of linguistic ambiguity for reconciling the Qurʾān with the Sunna. Various ambiguities are also listed (213 ¶¶574-575 and 214 ¶580) among al-Shāfiᶜī's devices for reconciling conflicts within the Sunna. The strategy of exploiting ambiguity is most evident, however, in al-Shāfiᶜī's analyses of example problems.

[135] Lowry ("Legal-Theoretical Content," 19-42; "Four Sources," 45-49) has helpfully focused attention on *bayān* as the principal idea of the *Risāla.*

It is perhaps the irony of making ambiguity the *solution* to a hermeneutical problem that has led Euro-American scholars to overlook its significance both in the *Risāla* and in classical *uṣūl al-fiqh.* Ambiguity is ordinarily regarded as a *problem* for hermeneutics. For example, Weiss (*Search,* 448) comments: "Ambiguity is the supreme problem for the one searching for the divine law within the meaning that the authoritative texts carry by virtue of their primordial assignment *(waḍᶜ).* To dispel ambiguity is to set foot upon the path of lucidity. When ambiguity is present, God's law eludes the mujtahid, who is unable to make a presumption regarding intended meaning. When ambiguity is dispelled, God's law has begun to become manifest to him." Lowry ("Legal-Theoretical Content," 333-335) likewise presents the ambiguity of Arabic as an obstacle to knowing the law, though it does have the virtue of justifying a class of experts (ibid., 281). This perspective perhaps results from regarding *uṣūl al-fiqh* as an interpretive method (which would naturally be designed to move beyond ambiguity to determine meaning) rather than as an attempt to reconcile law with revelation (which is

facilitated by the ambiguity of revelation). Such an approach to *uṣūl al-fiqh* is natural, since classical theorists do present the discipline as an interpretive science; but this dissertation will show that at least for al-Shāfiᶜī and the preclassical theorists of theological orientation, *uṣūl al-fiqh* was more an epistemological attempt to establish the possibility of basing law on revelation, than an attempt to define a method for deriving meaning from texts.

[136] al-Shāfiᶜī begins by noting (*al-Risāla,* 21 ¶¶53-54) that *bayān* (making clear, revelation) can take different forms, some of which seem less clear than others to those who do not truly know Arabic, but that to one who truly knows Arabic they all equally constitute *bayān*. He then states (*al-Risāla,* 21-22 ¶¶55-59) that God's revelation *(bayān)* of his law in the Qurʾān takes four such forms: 1) God reveals a requirement through an unambiguous text *(naṣṣ)* of the Qurʾān; 2) God imposes a requirement through the Qurʾān, while the Prophet explains how to fulfill it; 3) the Prophet sets a precedent concerning something that God imposes not through a specific Qurʾānic text, but only through the Qurʾānic injunction to obey the Prophet generally; and 4) God imposes through the Qurʾān the requirement that his creatures themselves determine a requirement by diligent inquiry. This is a complete enumeration of all the ways in which al-Shāfiᶜī believes that God reveals his law; together with ¶¶53-54 it constitutes a claim that all God's requirements are revealed by the Qurʾān with equal clarity, even though the Qurʾān does not state all of them specifically.

[137] *al-Risāla,* 52, ¶¶173-176; general expressions and transgressive usage are then illustrated pp. 53-64 ¶¶179-213. As we will see, these ambiguities are not always described using the classical terminology.

[138] See *al-Risāla,* 21 ¶¶53-54, 40 ¶127, 41-53 ¶¶131-178 (especially 50 ¶169 and 51-53 ¶¶173-177), and 61 ¶206. Lowry ("Legal-Theoretical Content," 279-281) regards al-Shāfiᶜī's long argument that the Qurʾān is entirely in Arabic (41-49 ¶¶131-168) as largely irrelevant to the main purpose of the *Risāla.* But al-Shāfiᶜī explains *(al-Risāla,* 50 ¶169) that the whole point of insisting that the Qurʾān is in Arabic is to establish its ambiguity, which is the key to interpreting its often summarized contents.

[139] See note 136. The fact that some parts of the Qurʾān appear clearer than others is due to ignorance of the language; for the Arabs they are all equally clear, because only the minimum degree of clarity needed for comprehension is necessary *(al-Risāla,* 61 ¶206).

[140] The term *bayān,* in al-Shāfiᶜī's usage, refers most basically to God's making the law known; in this sense it may be translated as 'revelation.' Thus Lowry ("Legal-Theoretical Content," 20) translates *bayān* as the "statement of a particular rule of law."

In accordance with this sense of the word, al-Shāfiᶜī's list of four types of *bayān (al-Risāla,* 21-22 ¶¶55-59) is a list of forms of 'revelation.' But the term also frequently refers to God's provision of additional information that clarifies previous speech. al-Shāfiᶜī's list of five types of *bayān (al-Risāla,* 26-40 ¶¶73-126) is to be taken in this sense, as a list of ways in which God's speech is clarified.

[141] al-Jaṣṣāṣ (e.g. *al-Fuṣūl fī al-uṣūl,* 1:247-249) used *bayān* in both senses. See further Weiss, *Search,* 457-459.

[142] In fact al-Shāfiᶜī's discussion of *bayān* was something of a puzzle to subsequent generations. al-Jaṣṣāṣ *(al-Fuṣūl,* 1:240-246) vehemently criticized al-Shāfiᶜī's famous statement about *bayān (al-Risāla,* 21 ¶¶53-54), insisting on reading it as a definition (which it is not), and pointing out that no one had adopted al-Shāfiᶜī's classification of *bayān.* Marie Bernand (in her unfinished article *"Bayān")* only perpetuated the tradition of misunderstanding. The preclassical legal theorists studied in the next two chapters organized their hermeneutics around general expressions and commands rather than around *bayān;* al-Bāqillānī in his *al-Taqrīb wa-l-irshād* discussed *bayān* as a subtopic in his volume on the general and the particular.

[143] al-Shāfiᶜī's choice of the term *jumla* is something of a puzzle; see e.g. Lowry, "Legal-Theoretical Content," 147-148. I would suggest that the basic meaning behind his use of the term is the idea of composition. See for example *al-Risāla,* 91 ¶298, 146 ¶418, 294-295 ¶817.

[144] See *al-Risāla,* 146 ¶418; 176-186 ¶¶486-516. Lowry has pointed out ("Legal-Theoretical Content," 147) that al-Shāfiᶜī frequently pairs the term *jumla* with *mufassar* in his *Ikhtilāf al-ḥadīth.*

[145] See note 124 and *al-Risāla,* 176-186 ¶¶486-516, and 34-38 ¶104-114.

[146] al-Shāfiᶜī sometimes used *ᶜāmm* as a separate category from *jumla* (e.g. *al-Risāla,* 222 ¶613), and sometimes as interchangeable with it (e.g. *al-Risāla,* 214 ¶580, 295 ¶818). *ᶜĀmm* is best regarded as a subtype of the broader category of *jumla* (see e.g. *al-Risāla,* 91 ¶298, 226 ¶624); *jumla* is sometimes used for the broad category, and sometimes more narrowly for ambiguities other than generality, especially summarily prescribed duties that require elaboration as to the manner of their performance. Cf. Lowry, "Legal-Theoretical Content," 121-122, 162-163.

[147] This is al-Shāfiᶜī's general term for ambiguity itself, not a specific type of ambiguity. See e.g. *al-Risāla,* 222 ¶613, and Lowry, "Legal-Theoretical Content," 99-101.

[148] al-Shāfiᶜī did not formally appeal to existing law as evidence for interpreting revelation, since this would vitiate his claim that all law could be derived from revelation itself; but the law was obviously the controlling factor in his interpretation, and occasionally this became almost explicit, as when he cited the community's practice along with other evidence to particularize a prohibition *(al-Risāla,* 326 ¶893).

[149] See e.g. *al-Risāla,* 52 ¶173, 66 ¶221, 72-73 ¶235, 341 ¶923, 580 ¶1727. In Book 3 (478-479 ¶¶1328-1332) al-Shāfiᶜī introduced another sense of *ẓāhir:* the formal validity, as opposed to metaphysical correctness, of a ruling. See Lowry, "Legal-Theoretical Content," 102, 329-330.

[150] See e.g. *al-Risāla,* 91-92 ¶¶298-300; cf. Lowry, "Legal-Theoretical Content," 146-150. al-Shāfiᶜī sometimes also used *naṣṣ* in a broader sense to mean any revealed textual evidence, whether definite or summarized (e.g. *al-Risāla,* 92 ¶¶301-302). Bernand (*"Bayān,"* 154) recognized only this broader sense of *naṣṣ* in the *Risāla*.

[151] Of course this hermeneutical device was validated by the claim that the Arabic language is ambiguous, but classifications of ambiguity were aimed not at linguistic analysis but at the hermeneutical project. Lowry ("Legal-Theoretical Content," 117-120, 281) has noted that the *Risāla* sometimes treats ambiguities as features of language and sometimes as hermeneutic devices; I would only add that al-Shāfiᶜī's discussion of the linguistic basis of ambiguity is a crucial legitimation of his hermeneutic exploitation of ambiguity.

[152] See for example Kamali *(Principles,* 91-97) on *ẓāhir, naṣṣ, and mufassar* in classical legal theory. *Bayān* was not incorporated into the classical classifications of clarity and ambiguity, but was discussed by, for example, al-Jaṣṣāṣ (*al-Fuṣūl,* 1:238-249).

[153] See e.g. Muqātil < al-Hudhayl, *Tafsīr,* 1:5.2-8; Muqātil <> Abū Naṣr, *al-Ashbāh wa-l-naẓāʾir;* Abū ᶜUbayda, *Majāz,* 8; al-Ashᶜarī, *Maqālāt,* 1:293-294; al-Jaṣṣāṣ, *al-Fuṣūl,* 1:45.3-5; al-Dabbūsī, *Taʾsīs al-naẓar,* 103-104 (re: *majāz;* but cf. Heinrichs, "Genesis," 115-116); Versteegh, *Arabic Grammar,* 106, 157-158.

[154] It was used for example by Abū ᶜUbayda *(Majāz,* 1:8); by al-Iskāfī (d. 240/854) (al-Ashᶜarī, *Maqālāt,* 1:294); by al-Ashᶜarī *(al-Lumaᶜ,* 80-82; Ibn Fūrak, *Muğarrad maqālāt al-Aščarī,* 19.19-20.3); by al-Bāqillānī (e.g. *al-Taqrīb wa-l-irshād,* 1:427); and doubtless by many others.

[155] *al-Risāla,* 52 ¶176.

[156] For the classical concept, see Kamali, *Principles,* 119-121.

[157] Versteegh *(Arabic Grammar,* 102) notes that the term *jumla* was not important as a technical term in *tafsīr* or grammar before the 3d/9th century. al-Shāfiᶜī *(al-Risāla,* 515-516 ¶1492) cites other jurists as using the term in a non-technical sense. ᶜAbd al-Jabbār *(Faḍl al-iᶜtizāl,* 253) cites the 2d/8th century Muᶜtazilī Abū Ḥafṣ ᶜUmar al-Shimmazī as using the term in a sense similar to al-Shāfiᶜī's.

[158] The term *jumla* was reportedly used by al-Ashᶜarī (d. 324/935) in a sense similar to al-Shāfiᶜī's (Ibn Fūrak, *Muǧarrad maqālāt al-Ašᶜarī,* 19.19-20.3). At one point al-Jaṣṣāṣ *(al-Fuṣūl* 1:247) used *jumla* paired with *tafsīr,* but this was unusual in 4th/10th-century and later legal theory. On the classical use of the pair *mujmal / mufassar* see Kamali, *Principles,* 101-102.

[159] The classical systems have the appearance of putting controls on interpretation, because once a text is assigned a level of clarity or ambiguity, it can only be modified by a text of at least equal clarity. But the levels are themselves defined at least partly in terms of how expressions can be modified. For example, in the Ḥanafī system an expression is classed as *mufassar* or *naṣṣ* depending on whether it is susceptible to *taʾwīl* or *takhṣīṣ;* this means that one must decide whether the expression is modified by another text, before one can establish how susceptible the text is to being modified by other texts. The goal of the system seems to be not to predetermine or control intertextual modification, but rather to justify it. The classical analysis of ambiguity is modeled on al-Shāfiᶜī's much more rudimentary analysis in this important respect.

[160] See *al-Risāla,* 51.5-52.1 ¶173. On the Muᶜtazilī position see page 23.

[161] On the origins of the theory of *waḍᶜ,* see notes 68, 211, and 212. Weiss, however, has argued ("Language in Orthodox Muslim Thought," 45-47) that although al-Shāfiᶜī did not use the term *waḍᶜ* technically in the *Risāla,* the notion of *waḍᶜ* is implicit in it.

[162] See e.g. *al-Risāla,* 52 ¶¶173-176, 66 ¶¶221-222, 79 ¶257, 320 ¶875, 370-371 ¶1001, 380-381 ¶¶1039-1040; and Lowry, "Legal-Theoretical Content," 334-335. On the notion of the "mirror character of language" among his contemporaries, see note 68.

[163] See *al-Risāla,* 52 ¶¶173-176, and especially 62-64 ¶208-213. Compare his examples (particularly Q 12:82) with Abū ᶜUbayda, *Majāz,* 1:8; al-Jaṣṣāṣ, *al-Fuṣūl,* 1:199; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:352.

[164] See e.g. al-Jaṣṣāṣ, *al-Fuṣūl,* 1:131-134.

[165] See al-Dabbūsī, *Taʾsīs al-naẓar,* 13-15; al-Bazdawī, *Uṣūl,* in al-Bukhārī, *Kashf al-asrār,* 1:587-592.

[166] See page 23.

[167] al-Shāfiʿī most frequently sought to restrict the range of people to whom a passage applies (see e.g. *al-Risāla,* 41 ¶129, 65 ¶216, 167-172 ¶¶466-477, 199-200 ¶¶542-545). Lowry ("The Legal Hermeneutics of al-Shāfiʿī and Ibn Qutayba," 9-10) regards this as the only form of particularization in the *Risāla,* and indeed most of his examples could be understood that way; but there are cases in which he restricts a range of actions instead *(al-Risāla,* 65 ¶¶217-218, 173-175 ¶¶481-485 and 232 ¶¶644-646). Lowry ("Legal-Theoretical Content," 109-110) finds the first of these problematic because he considers that particularization restricts only classes of people, rather than ranges of act-person-time-circumstance combinations to which texts assign legal values.

Some of al-Shāfiʿī's opening illustrations of general expressions *(al-Risāla,* 53-54 ¶¶179-180) concern things rather than people; and all of them *(al-Risāla,* 53-62 ¶¶179-207) concern specific general words in the texts rather than the overall legal situations to which the texts apply.

[168] See note 257.

[169] Thus al-Bāqillānī insisted *(al-Taqrīb wa-l-irshād,* 2:124) that only speech can be characterized by generality.

[170] al-Juwaynī, *al-Burhān,* 1:112.13-15 (¶229); Zysow, "Economy," 119-120; and Zysow, "Muʿtazilism and Māturīdism," 254-255.

[171] *al-Risāla,* 72-73 ¶235, 196 ¶534, 207 ¶¶557-558, 322 ¶¶881-882, 341 ¶923.

[172] We will see in chapter 4 that al-Bāqillānī was a rare dissenter from this opinion; he suspended judgment on the generality or particularity of apparently general expressions. Classical legal theorists mention a party that interpreted general expressions as particular by default, or as referring by default only to the minimum number denoted by a plural noun (usually considered to be three); but although this position may have had serious adherents during the time of the theological debates over general expressions, by the time of the classical legal theorists this group appears to be something of a straw man.

[173] See e.g. *al-Risāla,* 54-62 ¶¶181-207, 322 ¶¶881-882; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 3:256; Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 2:275. The principle that texts can particularize each other regardless of the order in which they were revealed seems implicit in the *Risāla,* and came to be associated with the Shāfiʿiyya (al-Ṣaymarī, *Masāʾil al-khilāf,* 20a, 102a; Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:256-262).

[174] *al-Risāla,* 211.4-6 ¶569, 217 ¶591, 343-355 ¶¶926-960.

[175] *al-Risāla,* 214 ¶580; see also 343-355 ¶¶926-960.

[176] *al-Risāla,* 343-355 ¶¶926-960. Lowry discusses this section of the *Risāla* in his "Legal-Theoretical Content," 185-189, and notes the "odd link" between the scope of prohibitions and their legal force; but he overlooks the fact that the prohibitions al-Shāfiʿī wants to show constitute strict forbiddance are not the most general prohibitions, but rather those prohibitions that are exceptions to more general permissions that are themselves exceptions to the most general prohibitions.

[177] E.g. *al-Risāla,* 302-305 ¶¶839-844.

[178] *al-Risāla,* 217 ¶591.

[179] Some (al-Muzanī, ʿAbd al-Qāhir al-Baghdādī, al-Juwaynī, and al-Ghazālī in his *Mankhūl)* claimed that by default he interpreted commands as obligations; others said that he interpreted them as recommendations; and yet others (Ibn Surayj, al-Bāqillānī, and al-Ghazālī in his *Mustaṣfā)* held that he suspended judgment on their legal force. See al-Muzanī, *Kitāb al-amr wa-l-nahy,* 153.6-8; ʿAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.13-14; al-Juwaynī, *al-Burhān,* 1:68.9-10; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:26-27, 46-49; ʿAbd al-Jabbār, *al-Mughnī,* 17:106; Zysow, "Economy," 107, 119-121. This confusion suggests that the question of *ḥukm al-amr* had not been formally posed in its classical terms in al-Shāfiʿī's time; this is also evident from al-Muzanī's *Kitāb al-amr wa-l-nahy,* where al-Shāfiʿī's reported view combines issues that would later be distinguished (scope and legal force), and does not use the standard classical terms for legal values. His report responds not to the technical question "what is the legal value entailed by a command," but to a vaguer set of questions: Is this command or prohibition absolute? Are there exceptions to it? Must it necessarily be followed?

[180] See al-Muzanī, *Kitāb al-amr wa-l-nahy,* which is discussed further in note 193. al-Muzanī explicitly posed the question of the legal force of imperatives, and broadened it to include commands alongside prohibitions. He conjoined this question

with that of the scope of imperatives; by the time of al-Ashᶜarī this was dealt with as a separate issue (see notes 93 and 94). On the development of the question of *ḥukm al-amr,* see the sources cited in note 179.

[181] Such questions occupy the entire second volume of the printed edition of al-Bāqillānī's *al-Taqrīb wa-l-irshād.* For an overview of a few such questions, see Kamali, *Principles,* 141-143. For a few views attributed to al-Shāfiᶜī on such issues see al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:94; al-Ṣaymarī, *Masāʾil al-khilāf,* 26b; Zysow, "Economy," 123.

[182] *al-Risāla,* 52 ¶175.

[183] *al-Risāla,* 513-516 ¶1483-1495. See also Lowry, "Legal-Theoretical Content," 215-217, 223-227. On positive implication generally see Hallaq, "Non-Analogical Arguments," 289-296.

[184] This was claimed by al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 3:256, 332; al-Dabbūsī, *Taʾsīs al-naẓar,* 87-88; al-Ṣaymarī, *Masāʾil al-khilāf,* 114a; and al-Juwaynī, *al-Burhān,* 1:165-166. Some, however, were skeptical of this claim; see Zysow, "Economy," 170, and al-Jaṣṣāṣ, *al-Fuṣūl,* 1:165.

[185] al-Juwaynī *(al-Burhān,* 1:165-166) said that al-Shāfiᶜī had explained both positive and negative implication very well in his *Risāla.* I have found no reference to negative implication in the *Risāla;* al-Juwaynī appears to have merely claimed the master's authority for his own lucid explanation and terminology *(mafhūm al-muwāfaqa* and *mafhūm al-mukhālafa),* which became standard in Shāfiᶜī circles.

[186] See note 96.

[187] See Lowry, "Legal-Theoretical Content," 12, 485, 488; idem, "The Legal Hermeneutics of al-Shāfiᶜī and Ibn Qutayba," 40-41. Hallaq has argued, with good reason, that *al-Risāla* is not really a work of *uṣūl al-fiqh;* but he overlooks a central element of the work when he states that "questions of legal language … are virtually absent" from it. Hallaq, "Was al-Shāfiᶜī the Master Architect," 591-592.

[188] Hallaq, "Was al-Shāfiᶜī the Master Architect," 590-591, 595.

[189] Calder, *Studies,* 146 and *passim.*

[190] These arguments are discussed in appendix 2 beginning on page 138.

[191] Melchert ("Qurʾānic Abrogation," 96 and note 58) notes that Ibn Abī Ḥātim (d. 327/938), in his *Kitāb al-jarḥ wa-l-taʿdīl,* accurately quoted a passage (¶1001) from *al-Risāla.* Melchert implies that he would most likely have come to know the passage when he visited Egypt in 262/875-76, toward the end of al-Rabīʿ's life.

[192] Norman Calder *(Studies,* 223-232) has pointed out that neither the *Taʾwīl mukhtalif al-ḥadīth* of Ibn Qutayba (d. 276/889), nor the *Bayān mushkil al-āthār* of al-Ṭaḥāwī (d. 321/933), seems to take account of the systematic hermeneutics of the *Risāla,* although both are engaged in the project of reconciling perceived conflicts within the corpus of Prophetic revelation. My own partial reading of al-Ṭaḥāwī bears this out; see for example al-Ṭaḥāwī, *Mushkil al-āthār,* 1:20, 84-85, 92; and see further note 223. This is particularly striking in light of the fact that al-Ṭaḥāwī *(Mushkil al-āthār,* 1:084.7) quotes *ḥadīth* directly from the principal transmitter of the *Risāla,* al-Rabīʿ ibn Sulaymān al-Murādī. With regard to Ibn Qutayba, however, Joseph Lowry has now shown ("The Legal Hermeneutics of al-Shāfiʿī and Ibn Qutayba") that Calder's argument was overstated, and that differences between the *Taʾwīl mukhtalif al-ḥadīth* and the *Risāla* can be understood to stem from the different purposes of the two works.

[193] See al-Muzanī, *Kitāb al-amr wa-l-nahy,* on which Joseph Lowry has a forthcoming article in *Law and Education in Medieval Islam,* ed. Devin Stewart (Warminster: Gibb Memorial Trust, 2004). This text, edited, translated, and copiously annotated by Robert Brunschvig, is part of a larger compilation of answers to questions that were reportedly posed to al-Muzanī (see Brunschvig's introduction, p. 146). In terms of both form and content it may be divided into three parts:

1) 153.6-156.4: On commands and prohibitions: An opening question *("suʾila al-Muzanī")* followed by a theoretical statement and then by examples of commands and prohibitions (from the Qurʾān and Sunna) that are to be interpreted as general, as particularized, or as indicating merely permission. The section ends with an admonition to seek to understand this for oneself rather than taking it on authority.

2) 156.5-157.3: On prohibitions in the Sunna: A new question *("suʾila al-Muzanī")* on Sunna that entails forbiddance, of which some examples are summarily listed, immediately followed by an abbreviated *"suʾila"* formula introducing the more interesting question of prohibitions in the Sunna that are to be understood as optional. This is followed by examples of prohibitions that entail forbiddance of doing certain things with one's own property, even though owning the property is allowed. The section ends with the same admonition to seek to understand this for oneself rather than taking it on authority.

3) 157.4-:163: On problematic and conflicting reports. A new *suʾila* formula introduces a string of illustrations of different ways of interpreting and reconciling reports. This section deals with commands and prohibitions only incidentally;

presumably it followed the other two sections in the larger compendium of *masāʾil* from which the *Kitāb al-amr wa-l-nahy* was drawn, and the copyist thought it sufficiently relevant to be included.

[194] See Hallaq, "Was al-Shāfiʿī the Master Architect," 595. al-Ṣayrafī (d. 330/941), a student of Ibn Surayj, reportedly wrote a work on *uṣūl al-fiqh*, a commentary on al-Shāfiʿī's *Risāla*, and a refutation of ʿUbayd Allāh ibn Ṭālib's refutation of the *Risāla* (see ibid., and Stewart, "Muḥammad b. Dāʾūd," 130). By the time of al-Jaṣṣāṣ (d. 370/980) the Shāfiʿiyya had long been defending the *Risāla* as their flagship statement on *uṣūl al-fiqh* (as is clear from al-Jaṣṣāṣ, *al-Fuṣūl,* 241, 243).

[195] See Reinhart, *Before Revelation,* 15-16; Hallaq, "Was al-Shāfiʿī the Master Architect," 595-596.

[196] See Ibn Fūrak, *Muǧarrad maqālāt al-Aš^ʿarī,* 19.19-20.3. Ibn Fūrak also reported (ibid., 193.8-9) that al-Ashʿarī agreed, on most points of legal theory, with al-Shāfiʿī's *Kitāb al-risāla fī aḥkām al-qurʾān,* apparently meaning the *Risāla* (as is evident from the context; see also Gimaret, *La doctrine d'al-Ashʿarī,* 517).

[197] Such criticism is attributed to Ibn Daʾūd al-Ẓāhirī (d. 297/910) by al-Juwaynī in *al-Burhān,* 1:40; see also Zysow, "Economy," 178 n. 26.

[198] Zysow ("Economy," 155-156) relates that Dāʾūd al-Ẓāhirī (d. 270/883) denied that the Sunna could be in need of clarification, since its purpose is to clarify the Qurʾān.

[199] Zysow, "Economy," 154, 191 n. 196.

[200] Zysow, "Economy," 161, 169, and 174.

[201] This principle, eventually formalized as the doctrine of the possibility of delayed clarification *(taʾkhīr al-bayān),* was rejected by both Dāʾūd al-Ẓāhirī (Zysow, "Economy," 156) and his son Ibn Dāʾūd (al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 3:387).

[202] See notes 206 and 222.

[203] There were, of course, many variations in Muʿtazilī thought; this summary presents basic theological positions that were generally agreed upon by the end of the 4th/10th century. For an overview of the history and thought of the Muʿtazila, see Gimaret, "Muʿtazila;" and Watt, *Formative Period,* 209-250 and 297-303, or more summarily Watt, *Islamic Philosophy and Theology,* 46-55 and 106-109.

[204] The Muᶜtazila are regarded as divided into two principal traditions. The pupils of Abū al-Hudhayl (d. 227/841?) are associated with Baṣra, though they also became influential in Baghdād, especially in the 4th/10th century; their views have become relatively well known to us through the works of ᶜAbd al-Jabbār. The Baghdād school, traced to Bishr Ibn al-Muᶜtamir (d. 210/825), is less fully known to us today, and will be mentioned only tangentially in what follows. A number of them reportedly wrote on legal theory, but we have no indication that they developed a theory of meaning comparable to that of the Baṣra school, which they rejected (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:43; their most frequently cited representative on this point is al-Kaᶜbī (d. 319/931); see al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:11; al-Ghazālī, *al-Mustaṣfā,* 1:412; Frank, *Beings and Their Attributes,* 140 n. 23).

[205] This is the import of the language related from Wāṣil by ᶜAbd al-Jabbār, *Faḍl al-iᶜtizāl,* 234. Such a strong view may have been common among the early Muᶜtazila, for a similarly unnuanced claim is attributed by al-Ashᶜarī (d. 324/935) to all those Muᶜtazila who upheld the Muᶜtazilī position on the threat (al-Ashᶜarī, *Maqālāt,* 1:336.7-10; lines 11-15 contradict this position, however, by introducing the possibility of particularization under limited circumstances, perhaps reflecting the more moderate stance that the Baṣra school had formulated by the time of al-Ashᶜarī). Note that Wāṣil limited his claim to general statements, thus targeting the theological problem of the grave sinner. There is no indication that he regarded the problem as relevant to legal interpretation, as no mention is made of commands.

[206] A significant minority of the early figures who were later counted among the Muᶜtazila actually held Murjiʾī views, which suggests that the problem of the grave sinner, though it is said to have been the original distinctive basis of the Muᶜtazilī movement, did not long remain at its heart. ᶜAbd al-Jabbār's list of Murjiʾī Muᶜtazila includes the following *(Faḍl al-iᶜtizāl,* pages 253, 270, 271, 284-285, 285, respectively): Abū Ḥafṣ ᶜUmar al-Shimmazī (fl. 2d/8th cent.), Abū Kalada (fl. late 2d/8th cent.), Mūsā ibn Sayyār al-Aswārī (fl. late 2d/8th cent.), and for a time Abū Saᶜīd al-Basanānī (fl. early 3d/9th cent.). To these we may add Abū al-Ḥusayn al-Ṣāliḥī (fl. early 3d/9th cent.) (Ibn Fūrak, *Muǧarrad maqālāt al-Ašᶜarī,* 71a.11ff., cited in Gimaret, "Document majeur," 211), and al-ᶜAttābī (fl. 3d/9th cent.) (Abū al-Qāsim al-Balkhī, *Dhikr al-muᶜtazila,* 74). Others will be mentioned below. Murjiʾī views appear to have died out among the Muᶜtazila around the mid-3d/9th century, although the Zaydī Shīᶜī al-Jushamī (d. 494/1101) accused some of the later Imāmī Shīᶜī Muᶜtazila of leaning toward *irjāʾ* (specifically al-Sayyid Abū Muḥammad al-ᶜAlawī (d. 375/985), and al-Sharīf al-Murtaḍā (d. 436/1044); see al-Jushamī, *Sharḥ al-ᶜuyūn,* 378 and 383, respectively).

One cannot assume that all these figures rejected the principle of generality. The Murjiʾa are known to have taken a variety of positions on the interpretation of general expressions (see especially al-Ashʿarī, *Maqālāt,* 1:225-228; also Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:194). One Murjiʾī who upheld the principle of generality was ʿĪsā ibn Abān (d. 221/836), a Ḥanafī jurist who has been called a Muʿtazilī (Ibn al-Murtaḍā, *Ṭabaqāt,* 129; Zysow, "Muʿtazilism and Māturīdism," 236; but see note 222). He suspended judgment on the punishment of grave sinners, but not because he questioned the principle of generality (al-Jaṣṣāṣ *al-Fuṣūl,* 1:42); on the contrary, in the field of legal theory he staunchly opposed the thesis of his contemporary al-Shāfiʿī that particular revelation (even individually transmitted reports) should be assumed to particularize general revelation (see al-Ṣaymarī, *Masāʾil al-khilāf,* 20a; al-Jaṣṣāṣ *al-Fuṣūl,* 1:19, 74-75, 214, 218-219, 225-226, 232; Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:261-262, 268).

The example of Ibn Abān notwithstanding, rejection of the principle of generality is often associated with the Murjiʾa. al-Jaṣṣāṣ contended *(al-Fuṣūl,* 1:45.19-46.2) that no one ever questioned the principle of generality until some Murjiʾa, struggling to defend their views, resorted to this as a way to avoid the implications of verses of threat. Several specific Murjiʾī Muʿtazilī figures are reported to have suspended judgment on general expressions, arguing that their interpretation cannot be based on their verbal form alone, but must depend on some additional evidence. (Since this undermined the probative value of general verses of threat, it was one way to validate suspension of judgment on the fate of grave sinners.) Such a view is attributed to Abū Shimr (fl. late 2d/8th cent.) and to his disciple Kulthūm ibn Ḥabīb, though we may question whether they formulated it in precisely these terms (ʿAbd al-Qāhir al-Baghdādī, *Tafsīr asmāʾ Allāh al-ḥusnā,* 185a.14-18, cited in Gimaret, *La doctrine d'al-Ashʿarī,* 524 note 18; on Abū Shimr see also Abū al-Qāsim al-Balkhī, *Dhikr al-muʿtazila,* 74; ʿAbd al-Jabbār, *Faḍl al-iʿtizāl,* 268). Some similar principle was reportedly broadened to include not only statements, promises, and threats, but also commands and prohibitions, by Muways Ibn ʿImrān (fl. late 2d/8th – early 3d/9th cent.) (ʿAbd al-Jabbār, *al-Mughnī,* 17:36; see also Abū al-Qāsim al-Balkhī, *Dhikr al-muʿtazila,* 74; ʿAbd al-Jabbār, *Faḍl al-iʿtizāl,* 279), and by Ṣāliḥ Qubba (d. 246/860) (ʿAbd al-Jabbār, *al-Mughnī,* 17:36; see also ʿAbd al-Jabbār, *Faḍl al-iʿtizāl,* 281). This implied extending the principle of suspension of judgment from theology to law.

The most frequently cited exponent of the suspension of judgment on general expressions is Muḥammad Ibn Shabīb (fl. early 3d/9th cent.), who is counted a Muʿtazilī in all respects except as regards grave sinners (Abū al-Qāsim al-Balkhī, *Dhikr al-muʿtazila,* 74; al-Ashʿarī, *Maqālāt,* 1:218; ʿAbd al-Jabbār, *Faḍl al-iʿtizāl,* 279). He upheld something like the Baṣra Muʿtazilī clarity requirement (which will be discussed below), insisting that the apparent meaning of God's speech must reflect his intent; but he argued that general expressions in fact have no apparent meaning *(ẓāhir),* because there are no linguistic expressions established specifically for generality. Therefore

general expressions do not necessarily indicate God's intent; God can intend them as particular without giving evidence to that effect, or he can delay giving that evidence. (See ᶜAbd al-Jabbār, *al-Mughnī,* 17:35 and 54-56; also al-Ashᶜarī, *Maqālāt,* 1:227, and ᶜAbd al-Qāhir al-Baghdādī, *Tafsīr asmāʾ Allāh al-ḥusnā,* 185a.14-18, cited in Gimaret, *La doctrine d'al-Ashᶜarī,* 524 note 18.)

Of course the principle of generality was questioned not only by dissidents within the Muᶜtazilī camp, but also, and primarily, by non-Muᶜtazila with Murjiʾī views (see al-Ashᶜarī, *Maqālāt,* 1:225-228). These included a diffuse movement of speculative theologians that grew up in opposition to the Muᶜtazila. Zuhayr al-Atharī and Abū Muᶜādh al-Tuʾmanī are listed by al-Ashᶜarī alongside the proto-Ashᶜarī Ibn Kullāb (d. 241/855?) as theologians sympathetic to some traditionalist doctrines *(Maqālāt,* 1:350-351); both are reported to have suspended judgment on general expressions (ᶜAbd al-Qāhir al-Baghdādī, *Tafsīr asmāʾ Allāh al-ḥusnā,* 185a.14-18, cited in Gimaret, *La doctrine d'al-Ashᶜarī,* 524 note 18), though they probably did not express themselves in precisely those terms (for al-Atharī cf. al-Ashᶜarī, *Maqālāt,* 1:351.14-15, in relation to 1:225-228). al-Juwaynī reports (*al-Burhān,* 1:112.5-6) that Muḥammad ibn ᶜĪsā al-Burghūth ("the flea") (fl. late 2d/8th – early 3d/9th cent.), a virulent antagonist of the Muᶜtazila (Abū al-Qāsim al-Balkhī, *Dhikr al-muᶜtazila,* 75; ᶜAbd al-Jabbār, *Faḍl al-iᶜtizāl,* 257), likewise denied that there is any expression established specifically to convey generality. Of greater historical significance was Ibn al-Rāwandī (d. mid-late 3d/9th cent.), a notorious defector from the Muᶜtazila who set about deducing heretical conclusions from Muᶜtazilī premises, and was widely regarded as a heretic himself (see *EI²,* s.v. Ibn al-Rāwandī). He suspended judgment not only on general expressions (al-Juwaynī, *al-Burhān,* 1:112.5-6; ᶜAbd al-Qāhir al-Baghdādī, *Tafsīr asmāʾ Allāh al-ḥusnā,* 185a.14-18, cited in Gimaret, *La doctrine d'al-Ashᶜarī,* 524 note 18), but also on whether the imperative form should be interpreted as conveying command proper (obligation), or merely recommendation (ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.14-16 taken together with 210.2-3; see also 216.8-9). It so happens that he also advanced an anti-Muᶜtazilī theory of God's speech similar to those developed by Ibn Kullāb (d. 241/855?) and Abū ᶜĪsā al-Warrāq (d. 247/861) (see Gimaret, *La doctrine d'al-Ashᶜarī,* 205-206). The conjunction of these views proved to be a fertile basis for argument against the Muᶜtazila; we will see in chapter 4 that they were reportedly taken up again by another Muᶜtazilī defector, Abū al-Ḥasan al-Ashᶜarī (d. 324/935), and developed into a coherent hermeneutical theory by the Ashᶜarī theologian al-Bāqillānī (d. 403/1013).

[207] al-Ashᶜarī, *Maqālāt,* 1:336-337; ᶜAbd al-Jabbār, *al-Mughnī,* 17:27-29, 37, 54-58, 71-73; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:195, 223-230, 262, 331.

[208] al-Ashᶜarī, *Maqālāt,* 1:337; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:331.

[209] Abū al-Hudhayl's position, which was shared by his student Abū Yaᶜqūb al-Shaḥḥām (d. after 257/871) (al-Ashᶜarī, *Maqālāt,* 1:337), seems to imply that God must ensure that the interpreter does not need to search the corpus of revelation for evidence of particularization before assuming that a general expression is meant as general. Another of his students, al-Naẓẓām (d. 221/836), relaxed this requirement, insisting not that God make the interpreter aware of revealed evidence of particularization, but only that he make it accessible (ᶜAbd al-Jabbār, *al-Mughnī,* 17:72; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:331). It follows that one cannot assume generality until one has performed a search for evidence of particularization (al-Ashᶜarī, *Maqālāt,* 1:336).

Abū ᶜAlī al-Jubbāʾī (d. 303/915) converted this restriction on God's use of general expressions into a broad principle of clarity. Concerning God's obligation to make individuals aware of revealed evidence, he is variously reported to have taken the view of Abū al-Hudhayl (ᶜAbd al-Jabbār, *al-Mughnī,* 17:71; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:331) or that of al-Naẓẓām (ᶜAbd al-Jabbār, *al-Mughnī,* 17:72). He also addressed the same issue from another angle, shifting the question from the experience of the interpreter to the form and timing of revelation itself. He formulated the principle that revealed evidence of particularization must be in effect "connected" *(muttaṣil)* to the expression it modifies, even if it is non-verbal (ᶜAbd al-Jabbār, *al-Mughnī,* 17:37, 71); it cannot be provided through a separate piece of revelation. He is also credited with the broad rule that God cannot delay revealing the evidence that clarifies ambiguity (of any kind) in any of his speech (whether statement or command) beyond the end of the ambiguous utterance itself (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:315). (Some reports indicate that he did allow delayed evidence of abrogation, which can be regarded as a type of clarification; but this hardly contravenes his general principle, since abrogation by definition involves delay. Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:315; cf. ᶜAbd al-Jabbār, *al-Mughnī,* 17:71.)

With Abū Hāshim (d. 321/933) the old requirement that God make the interpreter aware of particularizing evidence is finally put to rest, and replaced by the principle that God must without delay make available to those who are to fulfill his requirements whatever evidence is needed to make his speech completely clear. See ᶜAbd al-Jabbār, *al-Mughnī,* 17:37.9-11, 63, 72; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:315, 331.

One cannot be certain that each of these figures formulated his views in precisely the terms reported, since later authors may have interpreted and rephrased their opinions in terms of later questions. But it does seem plain that the early question of when and whether God must make individuals hear particularizing evidence was eventually eclipsed by the broader topic of delayed clarification. ᶜAbd al-Jabbār (d. 415/1025) still mentioned the earlier problem, referring to it as the question of "delayed making clear" *(taʾkhīr al-tabyīn)* (*al-Mughnī,* 17:37, 71ff.); but he focused

mainly on delayed clarification *(taʾkhīr al-bayān),* which he rejected – not simply because God's justice requires that he make his requirements known, but more importantly because his speech is his created act, and therefore must be good; hence his every utterance must fulfill its purpose of indicating his will *(al-Mughnī,* 17:30-38, 65-70). We will examine ᶜAbd al-Jabbār's systematic exposition of the clarity requirement later in this chapter.

[210] The Ḥanafī founding fathers of the 2d/8th century at least implicitly adopted the principle that in the pronouncement of a divorce, a human speaker's intention *(niyya)* governs the legal effect of indirect language *(kināya),* but cannot modify the meaning of clear and direct language *(ṣarīḥ)* (al-Dabbūsī, *Taʾsīs al-naẓar,* 86-87). Abū Yūsuf and al-Shaybānī (but not Abū Ḥanīfa) also allowed that intention can govern the effect of language that is in part legally meaningless; for example, if someone says to a slave and to an animal "one of you is free," it does not follow from the fact that freeing an animal is legally meaningless that the slave has been freed, unless the speaker in fact intended to free the slave (ibid., 18-19). These legal principles are evidence of an early inquiry into the role of speaker's intent, but that role is limited here to the resolution of ambiguity; the meaning of straightforward speech does not depend on intention.

The Ḥanafī jurists used the term *niyya* (intention), but the terms *qaṣd* (intent) and *irāda* (will), which are more common in later literature, were also linked to meaning during the 2d/8th century. This is amply attested by al-Shāfiᶜī's (d. 204/820) *Risāla,* where *arāda* is frequently used with the sense of "to mean" – often in instances when what is actually meant is not the most obvious possible meaning (e.g. 41 ¶129, 79 ¶257, 92 ¶300, 111 ¶332, 168 ¶470, 174 ¶484, 207 ¶¶557-558, 224 ¶616, 321 ¶877, 341 ¶923). This sense of *irāda* is standard in Arabic usage; it is especially natural in the legal context of the *Risāla,* where the meaning that is sought through interpretation is precisely what God wills his servants to do (see 91 ¶298). al-Shāfiᶜī also occasionally used intent *(qaṣd)* as a synonym of *arāda* (e.g. 66 ¶¶221-222, 334 ¶911).

Richard Frank, in his article "Meanings Are Spoken of in Many Ways," has shown that the Arab grammarians of the 2d/8th through 4th/10th centuries likewise considered intent *(qaṣd)* one aspect of meaning. In different contexts they variously identified the meaning of an utterance as either its referent, an abstraction that it expresses, another equivalent utterance, or the speaker's intent (see Frank's summary on pp. 314-315). They distinguished the basic types of speech (statements, questions, commands, prohibitions, etc.) as so many intents or purposes that one may have in speaking (pp. 269-271). But they did not develop a formal theory of meaning (see pp. 260, 314), nor did they differentiate speech from meaning, or meaning from intent, in such a way as to speculate about how they are related. In fact they seem to have regarded meaning as inherent in words, and even referred to words as though they were themselves the things they denote (pp. 277-280).

Ironically, one early figure who denied the significance of intent and tied meaning closely to verbal form was a Baṣra Muᶜtazilī, al-Naẓẓām (d. 221/836). He reportedly held that indirect pronouncements of divorce are ineffective, regardless of intent (Ibn Qutayba, *Taʾwīl mukhtalif al-ḥadīth,* 47).

[211] The traditionalist view of the origin of language that appears to have been common in the 3d/9th century, is that when God taught Adam "the names" (Q 2:31) he was teaching him a complete preexistent lexicon. The principal alternative was proposed by ᶜAbbād ibn Sulaymān (d. ca. 250/864), who held that the very sounds of words replicate their meanings, and thus have the ability to evoke those meanings in the mind (a view reminiscent of the Stoics – see Shehaby, "*ᶜIlla* and *Qiyās,*" 31 n. 30). See Weiss, "Language in Orthodox Muslim Thought," 8-41; idem, *Search,* 121-122. Both of these views of the origin of language suppose some kind of intrinsic or eternal connection between words and their meanings.

[212] The Baṣra Muᶜtazila appear to have been the first to claim that verbal expressions were arbitrarily assigned to meanings in a deliberate primordial act of "establishment" *(waḍᶜ).* Abū ᶜAlī al-Jubbāʾī (d. 303/915) claimed that words were established by God (Weiss, *Search,* 122), and in this he was followed by al-Ashᶜarī (d. 324/935) (Ibn Fūrak, *Muǧarrad maqālāt al-Ašᶜarī,* 41, 149). Abū Hāshim (d. 321/933) ascribed this original establishment of language to humans (Weiss, *Search,* 122). The concept of *waḍᶜ* was widely accepted by Ashᶜarī as well as Muᶜtazilī theologians by the end of the 4th/10th century, though debate continued over whether this semantic assignment occurred by divine instruction *(tawqīf),* human convention *(muwāḍaᶜa, tawāḍuᶜ, iṣṭilāḥ, muwāṭaʾa),* or both, and whether meanings might have subsequently been changed by custom or revelation (see for example al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:319-327, 367-398). (The history of the debates about the origin of language is traced by Weiss, "Language in Orthodox Muslim Thought," 8-41).

[213] Both indicative and statement represent the Arabic *khabar;* imperative and command both translate *amr.* The use of a single Arabic term reflects the identity (in non-Ashᶜarī thought) of speech with verbal utterance; yet the very claim that a *khabar* is not a *khabar* unless the speaker wills it to be one implies a distinction between *khabar* in the sense of a sequence of sounds with the form of a statement, and *khabar* in the sense of a sequence of sounds that really is a statement by virtue of the speaker's will. It is therefore analytically helpful to distinguish these two senses of *khabar,* and two analogous senses of *amr,* in translation.

[214] ᶜAbd al-Jabbār, *al-Mughnī,* 17:22; ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 209.16-18. (Frank, *Beings and Their Attributes,* 127-131, shows how this theory fits into the general theory of attributes developed by the Baṣra Muᶜtazila.)

This theory was apparently original to Abū ᶜAlī, though some related ideas had already been advanced. The grammarians had classified speech types according to the speaker's purpose, but they had not set up intent or will as something distinct from speech without which it has no meaning (see note 211). There had been some discussion in the 3d/9th century about whether speech must by definition constitute one type of speech or another. The proto-Ashᶜarī Ibn Kullāb (d. 241/855?) had held that speech only constitutes command, etc., by virtue of its object (the person commanded), from which it followed that God's speech, which Ibn Kullāb considered eternal, is not eternally command (etc.), since its objects are created (al-Ashᶜarī, *Maqālāt,* 2:132-133, 258; cf. Ibn Fūrak, *Muğarrad maqālāt al-Aš*ᶜ*arī,* 328.10-13). I find no indication, however, that anyone before Abū ᶜAlī made types of speech dependent on will. Abū Muᶜādh al-Tuʾmanī had actually identified God's command with God's will (al-Ashᶜarī, *Maqālāt,* 2:257), but this was not the position of the Baṣra Muᶜtazila, who still considered the verbal utterance itself to be the command (as al-Bāqillānī points out in *al-Taqrīb wa-l-irshād,* 2:10-12).

Abū ᶜAlī's proposal was novel even among the Muᶜtazila. The father of the Baṣra Muᶜtazila, Abū al-Hudhayl (d. 227/841?) did not regard command as even correlating with will, much less depending on it, for he held that whereas God's command to perform an act can be disobeyed, God's will, which is identical to the word "be!" by which he brings things into being, can never be disobeyed (H. S. Nyberg, "Abu 'l-Hudhayl al-ᶜAllāf," *EI²;* see also Bouman, *Le conflit autour du Coran,* 17-18). The Baghdād Muᶜtazilī al-Kaᶜbī (d. 319/931), a rough contemporary of Abū ᶜAlī, held that an imperative is a command by virtue of its own nature (al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:11; al-Ghazālī, *al-Mustaṣfā,* 1:412; see also Frank, *Beings and Their Attributes,* 140 n. 23). This reflects what a appears to have been a widespread assumption, in Abū ᶜAlī's time, that an imperative is (or at least expresses) a command simply by virtue of its verbal form, at least when spoken from a superior to an inferior, unless some evidence shows that it means something else.

Those who opposed the Muᶜtazilī doctrine of human free will, of course, could not accept the Muᶜtazilī theory of commands, because they had to distinguish God's command (which can be disobeyed) from God's will (which cannot be disobeyed because it is the sole determinant of all human actions).

[215] Abū Hāshim applied Occam's razor to Abū ᶜAlī's theory, arguing that one need not posit the speaker's will to produce the utterance, once one has posited his will to state or command something. He therefore required only one willing to make an indicative a statement, and two willings to make an imperative a command. ᶜAbd al-Jabbār, *al-Mughnī,* 17:22; Frank, *Beings and Their Attributes,* 129-130. al-Bāqillānī reports *(al-Taqrīb wa-l-irshād,* 2:10-11) that some Muᶜtazila (whom he does not identify) dispensed altogether with the will to perform any particular speech act, and

required for commands only the will that the act be performed. This is the view taken by Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:43-47.

Abū Hāshim also contended that speech constitutes interpersonal address *(khiṭāb* – speech directed to specific persons) only by virtue of the speaker's will and intent (ᶜAbd al-Jabbār, *al-Mughnī,* 6/2:49, cited in Frank, *Beings and Their Attributes,* 140 n. 23).

[216] Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:51; see also ᶜAbd al-Jabbār, *al-Mughnī,* 17:106. ᶜAbd al-Jabbār later elaborated a similar argument *(al-Mughnī,* 17:107, 113-116), which Zysow ("Economy," 109-110) takes as representative of Abū Hāshim's views, although the text does not purport to be anything but a statement of ᶜAbd al-Jabbār's own position. It is not clear whether Abū ᶜAlī had already drawn this conclusion from his own theory that command depends on will; he is said to have changed his mind about whether or not commands entail obligation (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:50; ᶜAbd al-Jabbār, *al-Mughnī,* 17:106).

[217] Abū Hāshim required multiple utterances to convey different meanings of a word; Abū ᶜAlī required this only for contradictory meanings. Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:300-301; ᶜAbd al-Jabbār, *al-Mughnī,* 17:84.8-12; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:425. Both views assume that the meaning a word conveys in any given utterance depends not only on verbal form, but also on the speaker. It therefore seems reasonable to suppose that the Jubbāʾīs thought of word meaning as related to the speaker's will, particularly since they were apparently responsible for introducing both the question of multiple word meanings, and the theory that commands and statements depend on will. This connection is not explicit in references to the Jubbāʾīs, but later authors' discussions of multiple meanings appeal directly to the dependence of meaning on will or intent (e.g. al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:371, 427-428; al-Ṣaymarī, *Masāʾil al-khilāf,* 112a).

The founding fathers of the Ḥanafiyya are also credited with various views on the question of multiple word meanings in a single utterance, but this cannot be taken as evidence of an early theory that meaning depends on will. The views attributed to them were inferred by later authors from their opinions on specific legal questions, probably in an attempt to legitimate the position of Abū Hāshim, which became the norm among the Iraqi Ḥanafiyya (it was upheld for example by al-Karkhī, Abū ᶜAbd Allāh al-Baṣrī, al-Jaṣṣāṣ, Abū al-Ḥusayn al-Baṣrī, and al-Saymarī). Abū ᶜAlī's stance became associated with other legal schools (notably the Shāfiᶜiyya, including ᶜAbd al-Jabbār; also the Mālikī al-Bāqillānī). See al-Jaṣṣāṣ *al-Fuṣūl,* 1:8-11, 27-28, 204; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:371, 422-428; ᶜAbd al-Jabbār, *al-Mughnī,* 17:83-84; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:299-307, 2:349-353; al-Ṣaymarī, *Masāʾil al-khilāf,* 111b-112b.

[218] ᶜAbd al-Jabbār's formulation of this theory will be presented in detail later in this chapter.

The Baṣra Muᶜtazilī theory of intent was but one challenge to the traditionalist assumption that meaning is determined by verbal form. Another was the Ashᶜarī theory that speech itself is a meaning in the mind of the speaker, of which verbal utterance is but an outward expression. This keeps meaning intrinsic to speech itself, but dissociates it from specific verbal forms (see chapter 4). Since this model of speech was articulated early in the 3d/9th century, it is not impossible that the Baṣra Muᶜtazilī theory aimed to counter it by giving meaning a basis in the speaker's inner thought while keeping speech identified with verbal utterance.

[219] This is not to say that the earlier Muᶜtazila had not contributed to the broader discipline of legal theory. Some Ḥanafī jurists who happen to have held Muᶜtazilī doctrines were engaged in legal-theoretical and even legal-hermeneutical debates as early as the late 2d/8th century, but there is nothing specifically Muᶜtazilī about their views; these jurists will be discussed separately below. A number of prominent early Muᶜtazilī theologians were also involved in debates on various aspects of legal theory. Ahmad Hasan's claim *(Early Development,* 179 and 217 note 5) that the Muᶜtazila formalized legal theory even before al-Shāfiᶜī is not justified: his attribution of a "four sources" theory of *uṣūl* to Wāṣil Ibn ᶜAṭāᵓ (d. 131/748) (ibid., 41 and 58 note 31) is contradicted by ᶜAbd al-Jabbār *(Faḍl al-iᶜtizāl,* 234), and his statement that figures as early as Wāṣil wrote works on legal theory is dubious, since reports that they wrote on *uṣūl al-fiqh* might refer only to specific points of law, or to the kinds of legal principles that the later Ḥanafiyya derived from the legal opinions of their early masters. Subsequent generations of the Muᶜtazila, however, undoubtedly took an interest in legal theory. Abū al-Hudhayl (d. 227/841?) wrote on the authoritativeness of prophetic reports (ᶜAbd al-Jabbār, *Faḍl al-iᶜtizāl,* 301, cited in Stewart, "Muḥammad b. Dāᵓūd," 111-112). His student al-Naẓẓām (d. 221/836) wrote a work rejecting consensus as a source of law, and is reported to have rejected analogy and diligent inquiry as well (al-Jaṣṣāṣ *al-Fuṣūl,* 2:206.12-14; al-Marāghī, *al-Fatḥ al-mubīn,* 1:142; Stewart, "Muḥammad b. Dāᵓūd," 107-109). al-Naẓẓām's pupil al-Jāḥiẓ (d. 255/869) wrote a *Kitāb (uṣūl) al-futyā,* which appears to have dealt at least with consensus, analogy, and diligent inquiry, and may well have been a comprehensive work on legal theory (Stewart, "Muḥammad b. Dāᵓūd," 106-109).

Thus Muᶜtazilī theologians prior to Abū ᶜAlī were involved in the broader field of legal theory, and we have seen that some of them also advanced views on hermeneutical questions – the principles of generality and clarity. Our earliest source (al-Ashᶜarī, *Maqālāt,* 1:336-337), however, attributes these principles to the early Muᶜtazila not as points of legal theory, but only with respect to general statements, in the context of the theological debate over the status of grave sinners (see also notes 205 and

209). Scattered references to other hermeneutical views may be found, but they do not necessarily point to a specifically legal interpretive theory. For example, the Baghdād Muᶜtazilī al-Iskāfī (d. 240/854) distinguished *muḥkam* and *mutashābih* in the same way that later legal theorists did (on the basis of ambiguity; see al-Ashᶜarī, *Maqālāt,* 1:294), but since this was a standard problem in Qurʾānic exegesis (the terms appear in Q 3:7), this is not evidence that he was developing an analysis of clarity for the sake of legal interpretation. In retrospect it is difficult to imagine that these Muᶜtazila did not reflect on the application of their hermeneutical principles to law, and indeed they may have done so in works such as al-Jāḥiẓ's *Kitāb al-futyā.* The principle of generality was being upheld in legal theory by Ḥanafī jurists during the 3d/9th century, and it may be that its legal application was taken for granted among the Muᶜtazila; an argument about general verses of threat that Abū ᶜAlī made against the Murjiʾī Muᶜtazilī Ibn Shabīb, for example, seems to assume that his audience and opponent share the assumption that God cannot conceal evidence that particularizes general commands (ᶜAbd al-Jabbār *al-Mughnī,* 17:55-57). Such hints notwithstanding, I have found no evidence from which to reconstruct the application of Muᶜtazilī hermeneutical principles to legal interpretation before Abū ᶜAlī.

The Jubbaʾīs, on the other hand, are credited with views on specifically legal-hermeneutical topics, such as the legal force of imperatives (ᶜAbd al-Jabbār *al-Mughnī,* 17:106; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:50-51), commands that include several options (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:79), and whether commands require immediate obedience (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:111). In theirs and subsequent generations the Muᶜtazila also continued to contribute to the broader field of legal theory. The Baghdād Muᶜtazilī Abū Sahl al-Nawbakhtī (d. 311/924) wrote a refutation of al-Shāfiᶜī's *Risāla* (Stewart, "Muḥammad b. Dāʾūd," 130). Abū Hāshim is credited with a book on diligent inquiry (al-Marāghī, *al-Fatḥ al-mubīn,* 173), and his student Abū al-Ḥusayn al-Ṭawābīqī (or al-Ṭawāʾifī) al-Baghdādī (d. 365/976) wrote a work on legal theory that was distinctively shaped by his Baṣra Muᶜtazilī theological vision (ᶜAbd al-Jabbār calls it unlike the books of the jurists in *Faḍl al-iᶜtizāl,* 330). Another of Abū Hāshim's pupils, Abū ᶜAbd Allāh al-Baṣrī (d. 369/979), a Zaydī Shīᶜī who studied Ḥanafī law under al-Karkhī, also wrote on legal theory, and refuted al-Jāḥiẓ's *Kitāb (uṣūl) al-futyā* (ᶜAbd al-Jabbār, *Faḍl al-iᶜtizāl,* 326). He is frequently cited on hermeneutical questions in later literature, and influenced the development of legal theory especially through his students, among whom were Ibn Ḥanīf (fl. 4th/10th cent.), who wrote a work on legal theory (al-Jushamī, *Sharḥ al-ᶜuyūn,* 378); al-Shaykh al-Mufīd (d. 413/1022), a founding figure of Imāmī Shīᶜī legal theory; and ᶜAbd al-Jabbār.

[220] ᶜAbd al-Jabbār ibn Aḥmad al-Hamadhānī (d. 415/1025) was a Shāfiᶜī Ashᶜarī who joined the Muᶜtazila during his studies in Baṣra and Baghdād, and later

became chief judge of Rayy. He is considered the leading Muᶜtazilī theologian of his day. Volume 17 of his *Mughnī,* entitled *al-Sharᶜiyyāt,* is on legal theory.

[221] See the section on "Early legal thought" beginning on page 25.

[222] al-Marāghī's compilation of biographical information on Ibn Abān *(al-Fatḥ al-mubīn,* 140) attributes to him works on diligent inquiry *(kitāb ijtihād al-raʾy),* analogy *(kitāb (ithbāt) al-qiyās),* and prophetic reports *(khabar al-wāḥid* and *kitāb al-ḥujaj;* al-Jaṣṣāṣ, *al-Fuṣūl,* 1:74-75, cites a *kitāb al-ḥujaj al-ṣaghīr* and *al-ḥujaj al-kabīr).* He also wrote a refutation against both al-Shāfiᶜī and the Murjiʾī pseudo-Muᶜtazilī Bishr al-Marīsī (d. ca. 218/833), *Radd ᶜalā Bishr al-Marīsī wa-l-Shāfiᶜī fī al-akhbār.*

Ibn Abān appears to have been the principal Ḥanafī champion in an ongoing dispute with al-Shāfiᶜī, who is said to have debated him, and to have ordered his pupils to do the same (Ibn al-Murtaḍā, *Ṭabaqāt,* 129). He was posthumously subjected to a refutation by the prominent Shāfiᶜī legal theorist Ibn Surayj (d. 306/918) (Schacht, "Ibn Suraydj," in *EI²;* this could very well be the Shāfiᶜī refutation of Ibn Abān that al-Jaṣṣāṣ cites in *al-Fuṣūl,* 1:214-217; see also 1:220.7-9). His legal-hermeneutical views are reported by later Ḥanafī authors such as al-Ṣaymarī, Abū al-Ḥusayn al-Baṣrī, and especially al-Jaṣṣāṣ, who sometimes quotes directly from his works (e.g. *al-Fuṣūl,* 1:42, 74-75, and 219). Unlike the Ḥanafī founding fathers, whose interpretive principles are often inferred from their legal opinions, Ibn Abān is usually cited as having formulated his views abstractly himself. On his Murjiʾī views and his defense of the principle of generality, see note 206.

Ibn al-Murtaḍā (*Ṭabaqāt,* 129) claimed Ibn Abān as a Muᶜtazilī, but this should not be given too much weight (he claimed al-Shāfiᶜī as well just a few lines later). He was primarily a jurist and a *ḥadīth* specialist, whom Ibn al-Murtaḍā found it desirable to include in his roll call of all the jurists for whom he could find even the slightest connection with the Muᶜtazila. Cf. al-Marāghī, *al-Fatḥ al-mubīn,* 1:139.

See now also Bedir, "An Early Response to Shāfiᶜī."

[223] al-Thaljī, a Ḥanafī jurist who is considered a Muᶜtazilī, is cited on a broader range of hermeneutical topics than Ibn Abān, including negative implication (al-Jaṣṣāṣ *al-Fuṣūl,* 1:156; Zysow, "Economy," 164) and time-bound commands (al-Jaṣṣāṣ *al-Fuṣūl,* 1:307; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:125). He softened somewhat Ibn Abān's view that general expressions become transgressive when particularized, and therefore no longer have probative value (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:265, 268); al-Thaljī held that this is true only when the particularizing evidence is not connected to the general expression (al-Jaṣṣāṣ *al-Fuṣūl,* 1:131; al-Ṣaymarī, *Masāʾil al-khilāf,* 13b-14a; cf. Zysow, "Economy," 147).

Others who may have contributed to 3d/9th century Ḥanafī legal hermeneutics include Ibn Samāᶜa (d. 233/847), who reportedly wrote an *uṣūl al-fiqh* work (though for this early period one cannot be certain what this means; see Bernand, "Ḥanafī Uṣūl al-Fiqh," 624), and Ibn Abī Mūsā al-Faqīh al-Ḍarīr (d. 330's/940's), who is said to have written eight volumes on *uṣūl al-fiqh* (Stewart, *Islamic Legal Orthodoxy,* 34).

Presumably such Ḥanafī theorists continued Ibn Abān's tradition of debate with the Shāfiᶜī legal theorists, who were quite active in the 3d/9th century (as is attested by the many works written by Ibn Surayj and others; see Stewart, *Islamic Legal Orthodoxy,* 32-33). Some trace of this continuing interaction may be found in the report that Ibn Surayj (d. 306/918) wrote a refutation of Ibn Abān (see note 222); his pupil al-Ṣayrafī (d. 330/941) also refuted an earlier refutation of al-Shāfiᶜī's *Risāla,* written by an otherwise unknown ᶜUbayd Allāh ibn Ṭālib (see Stewart, "Muḥammad b. Dāʾūd," 130), which shows that Shāfiᶜī legal theory was being challenged around the late 3d/9th century. The Ḥanafī jurist al-Ṭaḥāwī (d. 321/933), a second-generation follower of Ibn Abān (al-Marāghī, *al-Fatḥ al-mubīn,* 140), studied with two of al-Shāfiᶜī's most prominent disciples: al-Muzanī (al-Marāghī, *al-Fatḥ al-mubīn,* 156), and al-Rabīᶜ ibn Sulaymān al-Murādī, the principal transmitter of al-Shāfiᶜī's *Risāla* (al-Ṭaḥāwī directly quotes a prophetic report from him in his *Mushkil al-āthār,* 1:84.7). al-Ṭaḥāwī's *Mushkil al-āthār* furthers al-Shāfiᶜī's project of reconciling apparently conflicting revealed texts (compare *Mushkil al-āthār,* 1:21.7-11 with al-Shāfiᶜī, *al-Risāla,* 21.3-8), though it is not devoted to legal theory proper, and does not employ al-Shāfiᶜī's terminology in a technical manner. At the same time it exhibits some characteristically Ḥanafī points of disagreement with al-Shāfiᶜī: for example, where al-Shāfiᶜī employs his preferred method of particularization *(al-Risāla,* 67 ¶¶225-227, 128-132 ¶¶375-382, 223-224 ¶616, 245-248 ¶¶682-688), al-Ṭaḥāwī claims that a prophetic report has abrogated a Qurʾānic verse *(Mushkil al-āthār,* 1:92) – something that al-Shāfiᶜī does not allow *(al-Risāla,* ¶511-512; ᶜAbd al-Jabbār, *al-Mughnī,* 17:90.5-6), but the Ḥanafiyya typically do, at least for collectively transmitted reports (e.g. Ibn Abān, cited by al-Jaṣṣāṣ *al-Fuṣūl,* 1:74; also al-Jaṣṣāṣ *al-Fuṣūl,* 1:252, and Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:393-398).

[224] al-Karkhī wrote a short list of legal principles *(uṣūl)* that has been published, together with examples by Abū Ḥafṣ ᶜUmar al-Nasafī, as *Risāla fī al-uṣūl allatī ᶜalayhā madār furūᶜ al-Ḥanafiyya.* This is not, however, a work on legal theory in the classical sense; it bears more resemblance to the early Ḥanafī discussion of human language. al-Karkhī's contribution to legal hermeneutics must be reconstructed from citations by later authors. This is not difficult, however, as his pupil al-Jaṣṣāṣ, in his extant treatise *al-Fuṣūl fī al-uṣūl,* approvingly cites his view on virtually every question he raises. (These reports may be regarded as faithful to al-Karkhī's own thought, for al-Jaṣṣāṣ alerts the reader when he has some doubt about whether al-Karkhī actually formulated a view the way he is reporting it.) al-Karkhī is a major point of reference for later Ḥanafī

authors as well, including al-Ṣaymarī and Abū al-Ḥusayn al-Baṣrī. Unlike earlier figures from whom we have scattered citations on a smattering of topics, what we know of al-Karkhī's thought constitutes a comprehensive system. Ḥusayn Khalaf al-Jubūrī has collected citations by later authors into what amounts to a reconstructed manual of al-Karkhī's legal theory, which he has published as *al-Aqwāl al-uṣūliyya li-l-Imām Abī al-Ḥasan al-Karkhī*.

[225] al-Jaṣṣāṣ is most famous for his *Aḥkām al-qurʾān,* one of the most frequently cited works of legal Qurʾānic exegesis. He also wrote commentaries on a number of earlier Ḥanafī works. His *al-Fuṣūl fī al-uṣūl* is the earliest full scale treatise on legal theory available to us, yet it shows no sign of great originality; it is rather a presentation of the views of his master al-Karkhī, together with a collection of rather unsystematic arguments drawn, it would appear, from a tradition of debate that was already well established and even somewhat standardized in the mid-4th/10th century.

[226] The Baṣra Muᶜtazila became well established in Baghdād only after 314/926, when Abū Hāshim moved there from Baṣra. His pupil Abū ᶜAbd Allāh al-Baṣrī studied law under al-Karkhī, who in turn visited his lectures and deferred to him in matters of theology, despite his own seniority (ᶜAbd al-Jabbār, *Faḍl al-iᶜtizāl,* 325-328). al-Karkhī is thus generally regarded as a Muᶜtazilī (e.g. Zysow, "Muᶜtazilism and Māturīdism," 236), though later authors apparently tried to clear him of that name (see al-Jubūrī, *al-Aqwāl al-uṣūliyya,* 13). al-Jaṣṣāṣ is likewise regarded as having held Muᶜtazilī doctrines (e.g. Zysow, "Muᶜtazilism and Māturīdism," 236; Bernand, "Ḥanafī Uṣūl al-Fiqh," 624), and his arguments sometimes reflect Muᶜtazilī assumptions (see e.g. al-Jaṣṣāṣ *al-Fuṣūl,* 1:71-72), but he also employs the more traditional method of arguing from the legal opinions of the early Ḥanafī masters, as well as from Arabic usage, the Qurʾān and Sunna.

[227] See al-Jaṣṣāṣ, *al-Fuṣūl,* 1:3-16.

[228] See al-Jaṣṣāṣ, *al-Fuṣūl,* 1:153, 183-186, 259-279. Note that on 1:183-184 he specifically separates himself from "some of our recent colleagues" (presumably he means the Muᶜtazilī theologians) who have denied the possibility of such delayed clarification.

[229] See al-Jaṣṣāṣ, *al-Fuṣūl,* 1:40-67, 74, 131-132. It appears that in discussing positions on *ᶜumūm* he is acknowledging and only tacitly distancing himself from a more strictly Muᶜtazilī Ḥanafī line of thought that will not allow *ᶜumūm* to mean anything but *ᶜumūm* (at least not literally), and insists that if it does not mean *ᶜumūm* the evidence of this must be *muṭṭaṣil*. He himself, however, appears to take a more moderate view on *ᶜumūm:* For him, it seems that *ᶜumūm* remains *ḥaqīqa* for its remaining referent when it

is shown to be *khāṣṣ*. He does not insist that evidence of *takhṣīṣ* be *muṭṭaṣil*, because he does not reject *taʾkhīr al-bayān*. So it would seem to follow that he prefers looking for evidence of particularization before assuming *ʿumūm*, rather than assuming that evidence will necessarily be available at the time of revelation.

[230] See al-Jaṣṣāṣ, *al-Fuṣūl,* 1:161, 280-294, 325.

[231] See al-Ṣaymarī, *Masāʾil al-khilāf,* passim.

[232] The examples of this correlation are numerous, and include many of the most prominent figures in legal theory. Exceptions, during the 4th/10th and early 5th/11th centuries, may be found mostly outside Iraq. Among the Ḥanafiyya there was a Māturīdī movement in Central Asia (see Zysow, "Muʿtazilism and Māturīdism"), and a few adopted Ashʿarī theology, including Abū Sahl al-Suʿlukī (d. 369/979), perhaps his son Abū al-Ṭayyib al-Suʿlukī (d. 398/1007), and Abū Jaʿfar al-Simnānī (d. 444/1052). A handful of Muʿtazila adhered to the Shāfiʿī school of law, including Abū Bakr al-Fārisī (d. ca. 350/961), Abū al-Ḥusayn al-Ṭawābīqī (or al-Ṭawāʾifī) al-Baghdādī (d. 365/976), al-Qāḍī Abū al-Ḥasan al-Jurjānī (d. 392/1001), and ʿAbd al-Jabbār. Some Shīʿī Muʿtazila were prominent in the formation of Imāmī Shīʿī jurisprudence.

I do not wish to obscure this overlap between the Ḥanafiyya and Muʿtazila; I make such a clear distinction between those who were primarily theologians and those who were primarily jurists only in order to correct the identification of Ḥanafī and Muʿtazilī legal theories. The legal and theological views of the two groups largely coincided – except, of course, in those instances when a Muʿtazilī was not a Ḥanafī, or vice versa. What I want to highlight is their different approaches to legal theory, which led to substantial divergences in their hermeneutics.

[233] This will become evident as we examine the thought of ʿAbd al-Jabbār in this chapter, and of al-Bāqillānī in the next; we will return to this point in chapter 5. This is not to say, however, that theologians were never interested in the implications of their hermeneutics for points of law. All were educated in law, and many served as judges. ʿAbd al-Jabbār, for example, served as chief judge in Rayy. As his *Mughnī* is devoted to theology, it is no surprise that his presentation of legal hermeneutics in volume 17 shows little concern with actual legal interpretation; if we had his *Kitāb al-ʿUmad,* we would no doubt find that he was mindful of legal as well as epistemological issues.

[234] al-Saymarī frequently contrasts the views of the theologians with those of the jurists – and consistently sides with the latter. al-Jaṣṣāṣ refers to Baṣra Muʿtazilī views as being held by "some late comers among us" (e.g. *al-Fuṣūl,* 1:183-184).

[235] See Zysow, "Economy," 112.

[236] This description of the Samarqandī Māturīdī movement and its views is entirely dependent on Aron Zysow's important article, "Muᶜtazilism and Māturīdism."

[237] A good example of this is Abū al-ᶜUsr al-Bazdawī (d. 482/1089), whose *Uṣūl* are a standard classical reference point of Ḥanafī legal theory.

[238] See Zysow, "Muᶜtazilism and Māturīdism." Zysow seems to accept the identification of Iraqi Ḥanafī legal theory as essentially Muᶜtazilī. This may be true in other areas of legal theory, but not in the area of legal hermeneutics, except with regard to the certainty of general expressions, which does stem from a Muᶜtazilī position on grave sinners. (Since this is the only language question that Zysow examines in his article, his conclusion is justified with respect to the evidence he includes.) The division between the Iraqi jurists and the Muᶜtazilī theologians that I have emphasized here raises (but does not answer) the question of how deeply the legal theory of the Iraqi Ḥanafiyya was actually influenced by their Muᶜtazilī doctrines. If, as my limited inquiry suggests, this connection was rather superficial, then it is not surprising that the Samarqandī accusations of Muᶜtazilī influence, sincere as they may have been, were not taken to heart by the remainder of the Ḥanafiyya.

[239] For example, he departed from the Muᶜtazilī tradition of interpreting commands as recommendations, and adopted instead the traditionalist view that commands entail obligation. See Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:43-75.

[240] The use of Muᶜtazilī theory among the Shīᶜa warrants investigation in its own right, and would provide important data on the early period discussed here; but the Shīᶜī sources have not been drawn on for this study.

[241] Abū al-Ḥusayn al-Baṣrī's *Muᶜtamad* is a reordering of the material covered in the *Sharḥ al-ᶜumad,* but it omits theological topics and adds some other materials (see *al-Muᶜtamad,* Beirut 1983 p. 3-4). al-Baṣrī's criticism of ᶜAbd al-Jabbār's inclusion of theological topics in his principal work on legal theory shows that the theological orientation of ᶜAbd al-Jabbār's legal hermeneutics was not limited to *al-Mughnī.*

ᶜAbd al-Jabbār also wrote a commentary on his own *Kitāb al-ᶜumad,* a work entitled *al-Nihāya fī uṣūl al-fiqh* (mentioned in *al-Mughnī,* 17:102.6), and perhaps an additional work that he refers to simply as *uṣūl al-fiqh,* as though that were the title of yet another book *(al-Mughnī,* 17:91.18-19, 92.15, 115.1, 125.16, 138.17).

[242] ᶜAbd al-Jabbār says this explicitly in *al-Mughnī,* 17:102-103.

[243] See *al-Mughnī,* 17:30-86.

[244] *al-Mughnī,* 17:39; he also wrote a book on *Mutashābih al-qurʾān.*

[245] *al-Mughnī,* 17:143.

[246] *al-Mughnī,* 17:37, 116-117, 128, 134, 135, 138-139.

[247] See *al-Mughnī,* 17:42.11-13, 80, 84-85; Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:18. al-Bāqillānī bitterly opposed the Muʿtazilī notion that revelation could institute new meanings for words, but it came to be widely accepted; see Weiss, "Language in Orthodox Muslim Thought," 83, and note 422.

[248] Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:13.

[249] See *al-Mughnī,* 17:42.11-13, 84-85. Accompanying evidence of transgressive usage could of course be found in reason as well as revelation; this was the basis for the Muʿtazilī interpretation of anthropomorphic passages in the Qurʾān as figurative.

[250] Abū al-Ḥusayn al-Baṣrī *(al-Muʿtamad,* 1:190) reports that ʿAbd al-Jabbār defined generality as "a verbal form that encompasses all that it can denote according to the original [Arabic] lexicon, without any addition" (العموم لفظ مستغرق لجميع ما يصلح له في أصل اللغة من غير زيادة.) al-Baṣrī comments that this was intended to exclude dual and plural nouns, as well as class nouns, because all of these involve some addition to the basic form of the noun. This recalls the view he relates from Abū Hāshim *(al-Muʿtamad,* 1:227) that definite plurals are not established to encompass all that they denote. These views would seem to eliminate from consideration the most important of the forms that were considered general, including the verbal form that sparked the debate over general expressions in the first place: *al-fujjār.* It seems unlikely that ʿAbd al-Jabbār would have thus emasculated a principle that he spent so much time defending.

[251] *al-Mughnī,* 17:27-29. Note that intent can work both ways, making general expressions particular, and particular expressions general *(al-Mughnī,* 17:25-26, 127-128). I will focus on general expressions that are made particular, because this is the crux of the debate.

[252] See *al-Mughnī,* 17:27-29, 54-58.

[253] At one point *(al-Mughnī,* 17:129) ʿAbd al-Jabbār vaguely urges the interpreter to carefully consult both reason and revelation before assuming that a command is intended as general. This suggests a more moderate version of the principle

of generality than that advanced by Abū al-Hudhayl, who seems not to have regarded a search of the corpus of revelation as a necessary (see notes 208 and 209). On the whole, however, ᶜAbd al-Jabbār argues that revealed evidence of particularization must be verbally connected to the general expression, which would seem to make a search for particularizing evidence unnecessary. See *al-Mughnī,* 17:27-29, 43, 54-58.

The default of generality of course applies to the scope of reference of a word, but in keeping with al-Shāfiᶜī's very broad and loose concept of particularization (see page 39), it also applies to the scope of address of a command: a command applies to all those included in its apparent meaning, whether believers or unbelievers, slaves or free persons, male or female (unless the verbal form is specifically male), and even to those who are not yet under the requirements of the law, or who have not yet been created, as long as they will at some point come under the requirements of the law *(al-Mughnī,* 17:116-117). Furthermore, ᶜAbd al-Jabbār gives the generality of a verbal expression priority over the particularity of the circumstances in which it is uttered; the circumstances *(sabab)* only limit the application of a general pronouncement if the utterance is not independently meaningful *(al-Mughnī,* 17:127). This constitutes an early formulation of the widely accepted principle "العبرة بعموم اللفظ لا بخصوص السبب." (In legal theory *sabab* – when it is not being used technically for a special type of legal value, a *ḥukm waḍᶜī* – usually refers to the circumstances of revelation, but Daniel Gimaret, *La doctrine d'al-Ashᶜarī,* 527, interprets similar statements in ᶜAbd al-Jabbār, *Mutashābih al-qurʾān,* 118.9, and *al-Mughnī,* 6/2:248.14-15, as referring to verbal context rather than the circumstances of revelation; this is a plausible reading of at least *al-Mughnī,* 6/2:248.14-15, which does not use the term *sabab*.)

[254] The question of whether or not a general expression becomes transgressive when it is particularized was linked to the question of whether a particularized expression could still be used as a legal proof concerning that part of its scope not excluded by the particularization. Those who held that it becomes transgressive typically claimed that it is no longer independently probative, and that additional evidence is required before its precise scope can be ascertained (just as additional evidence is required to determine the meaning of a transgressive expression). Those who wanted to preserve the probative value of the remaining scope of a particularized expression typically asserted that general expressions remain literal even when particularized.

ᶜAbd al-Jabbār reportedly held that a particularized general expression may still be used as a proof concerning that part of its scope that was not excluded by the particularizing evidence, as long as the general expression was clear enough to be used as a proof in the first place (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:266). At the same time, however, he considered that particularization made general expressions transgressive, unless the particularizing evidence was a condition or an adjectival qualification *(al-Mughnī,* 17:25-26; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:262).

(Presumably he considered conditions and adjectival qualifications to be parts of the verbal expression that modified its literal meaning rather than rendering it transgressive.)

[255] ᶜAbd al-Jabbār's Muᶜtazilī position on general expressions led him to side with the Ḥanafiyya, against his own legal school (the Shāfiᶜiyya), in claiming that a later general text abrogates a prior particular text (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:258).

[256] See Zysow, "Muᶜtazilism and Māturīdism," 252-257.

[257] Whereas al-Shāfiᶜī was willing to particularize general texts with respect to any aspect of the range of act-person-time-circumstance combinations to which they assign legal values (see page 39), al-Jaṣṣāṣ held that a general expression could only be particularized with respect to the dimension of the act that was actually named by the expression (al-Jaṣṣāṣ, *al-Fuṣūl,* 1:128-130). For example, the command "bathe yourselves!" refers generally to a group of people, so to exclude some people as not commanded would constitute particularization, and thus would be subject to al-Jaṣṣāṣ's restrictions on particularization. On the other hand, to declare that the verse does not apply to some occasions or times or conditions of washing does not constitute particularization, because the occasions and times and conditions are not referred to by a general expression in the verse; such a limitation of the application of the verse therefore would not be subject to al-Jaṣṣāṣ's restrictions on particularization, and might be effected by weaker evidence, such as perhaps *khabar al-wāḥid* or *qiyās,* or delayed evidence. Thus the certainty of generality does not effect as dramatic a reversal of al-Shāfiᶜī's hermeneutical project as one might expect. Since the generality al-Jaṣṣāṣ absolutizes is narrower than the generality al-Shāfiᶜī relativizes, much of al-Shāfiᶜī's hermeneutical method remains unchallenged.

[258] See Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:16.

[259] See *al-Mughnī,* 17:151, where he states that whatever revelation indicates must relate to the legal values of acts, or their dependence on certain times and conditions and causes.

[260] See for example *al-Mughnī,* 17:149, where ᶜAbd al-Jabbār notes that the goodness of an act may be indicated by either statement or command – it makes no difference.

[261] *al-Mughnī,* 17:107.

[262] *al-Mughnī,* 17:107-109, 113-114, 116; al-Juwaynī, *al-Burhān,* 1:68.3-8.

ᶜAbd al-Jabbār did not consider permission to be a form of requirement, and therefore did not include permission among the possible legal values of a commanded act. He allowed that an imperative can express permission, if there is evidence to this effect; but he did not consider this a command *(al-Mughnī,* 17:115). He also allowed that an imperative may be intended as a request or a threat (Frank, *Beings and Their Attributes,* 131), and presumably required that God give evidence of these meanings as well.

We will see in chapter 4 that al-Bāqillānī likewise considered a command to be indeterminate as to recommendation or obligation, but al-Bāqillānī allowed that ambiguity to stand, and suspended judgment on its interpretation, whereas ᶜAbd al-Jabbār's principle of clarity required him to find a default interpretation.

In *al-Mughnī,* 17:149-150, ᶜAbd al-Jabbār adds that the default of recommendation applies to all the types of speech that can indicate the goodness of acts, not just to commands. (Recall that the mode of speech makes no difference in what or how God's speech indicates.) He makes an exception, however, for acts that were rationally known to be proscribed before the advent of revelation, but which are declared good in revelation. Such acts are to be considered only permitted, not recommended. The jurists typically held a broader version of this thesis: if an act is proscribed in any way, by reason or revelation, and is then commanded, the command must be interpreted as a permission.

Note that because ᶜAbd al-Jabbār recognized only one legal value for bad acts (proscribed) *(al-Mughnī,* 17:145-146), he did not apply the same logic to prohibitions; a prohibition indicates disapproval *(karāha),* which can only entail proscription *(al-Mughnī,* 17:113-114, 130-143).

[263] In *al-Mughnī,* 17:112, ᶜAbd al-Jabbār argues that those who say a command is a prohibition of opposite acts are assuming that command entails obligation. Abū al-Ḥusayn al-Baṣrī *(al-Muᶜtamad,* 1:97-98) reports that ᶜAbd al-Jabbār did hold that a command is a prohibition of opposite acts "in meaning" *(fī al-maᶜnā),* but then goes on to acknowledge that this is incompatible with the view that commands entail only recommendation.

[264] ᶜAbd al-Jabbār subscribed to the view that the resolve to obey later can take the place of action, up until the moment at which one believes that the time in which one can obey is running out. *al-Mughnī,* 17:119-121; see also Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:135.

[265] A command requires only a single act, even if the command is tied to a condition that may be repeated *(al-Mughnī,* 17:124-125). Accordingly, ᶜAbd al-Jabbār seems to have held that if a command is repeated, each command requires a separate act, unless there is some linguistic or other indication that the repetition is only for the sake

of emphasis (see Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:160-164). A prohibition, on the other hand, requires continual and enduring avoidance of the prohibited act (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:103).

[266] *al-Mughnī,* 17:121.

[267] See Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:90-91, and also *al-Mughnī,* 17:125-126, where ᶜAbd al-Jabbār apparently refers to a statement he made to this effect in a previous work on legal theory, and qualifies it by saying that if the conditions of proper fulfillment are stated, then the command and the statement of conditions together do indicate that obedience will render it unnecessary to make up the duty later. Similarly, he held that the prohibition of an act does not itself entail that that act will be legally invalid (as a fulfillment of another requirement, or as a basis for other actions) if one does perform it (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:171).

[268] *al-Mughnī,* 17:86, 151-152, 311-312.

[269] Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:142, 145.

[270] See Richard Frank's presentation of the classical (4th/10th- through 5th/11th-century) Baṣra Muᶜtazilī theory of "attributes determined by the agent who causes the existence of the thing" in his *Beings and Their Attributes,* 124-135.

[271] See *al-Mughnī,* 17:107, where ᶜAbd al-Jabbār affirms that a command is a command only by virtue of two willings; cf. note 215 on Abū Hāshim. ᶜAbd al-Jabbār also held that a prohibition requires abhorrence *(karāha)* of the act *(al-Mughnī,* 17:130-143).

[272] *al-Mughnī,* 17:14-16, 27. The term intent *(qaṣd)* is used in ᶜAbd al-Jabbār's writings to refer to will *(irāda)* when it is being considered as determinative of meaning. The expressions 'what is intended' *(al-maqṣūd)* and 'what is willed' *(al-murād)* are used interchangeably to refer the meaning of an utterance.

[273] See Frank, *Beings and Their Attributes,* 141 n. 35.

[274] Frank, *Beings and Their Attributes,* 130-131.

[275] See Frank, *Beings and Their Attributes,* 131.

[276] *al-Mughnī,* 17:84; Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:301, 2:349-350.

[277] Frank, *Beings and Their Attributes,* 128.

[278] Frank, *Beings and Their Attributes,* 130, notes the grammatical basis of this understanding of statements.

[279] The traditionalists and the Ashᶜariyya held that God's speech assigns to human actions legal values that they did not have in the absence of revelation. See e.g. al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:147-164. They held that reason itself cannot establish the legal value of any act; these are established only by revelation. The legal status of actions in the absence of revelation was a standard topic of debate; it has been treated extensively by A. Kevin Reinhart in *Before Revelation*.

The Muᶜtazila held that acts are morally good or bad independent of revelation, by virtue of the circumstances of their occurrence. See Frank, *Beings and Their Attributes,* 132-135; Reinhart, *Before Revelation,* 40-41. See also *al-Mughnī,* 17:141-142, where ᶜAbd al-Jabbār states that God does not choose to assign legal values to acts; he can only describe the values they already have by virtue of the manner of their occurrence. (The logic of the passage seems to apply not only to proscription and permission, which are explicitly mentioned, but also to recommendation and obligation; see 141.16-19.)

[280] Note that the traditionalists and the Ashᶜariyya could not accept this position, because their determinism implied a perfect correlation between God's will and actual human actions – which do not always correspond to the law. The Muᶜtazilī view presupposes a doctrine of human free will.

[281] ᶜAbd al-Jabbār describes the method by which one reasons from God's speech to the legal values of acts as "the method of choice" *(ṭarīqat al-ikhtiyār)*. This means that the legal value of the act does not itself necessitate God's speech, nor is it a condition of God's speech, such that we might reason from the occurrence of the speech to the existence of the legal value. Rather the legal value is like the motivation that leads God to command or prohibit an act; from the speech we infer the value that motivated it. (See *al-Mughnī,* 17:94, and Peters, *God's Created Speech,* 66-67.) This does not mean, however, that God chose which value to assign to an act; ᶜAbd al-Jabbār specifically denies this in *al-Mughnī,* 17:141-142. ᶜAbd al-Jabbār also sometimes treats the method of reasoning from speech to legal value as a separate type of reasoning applicable only to the interpretation of revelation, called "the method of the good" *(ṭarīqat al-ḥasan):* if God commands something, it must be good; if he prohibits it, it must be bad (Peters, *God's Created Speech,* 67, 101 n. 334).

Note that commands do not in and of themselves indicate that acts are obligatory or recommended, but only that they are good. Good acts include the permitted, the

recommended, and the obligatory; but permission does not belong to *taklīf,* and obligation requires evidence that omission will be punished, so one may assume that a commanded act is recommended by default. Since all bad acts are proscribed, prohibitions can only indicate that an act is proscribed. See note 262.

[282] We will see below that ᶜAbd al-Jabbār treated God's commands as reducible to statements, so the logic of the following paragraph in fact applies to all of revealed language, and can be applied indirectly to commands.

[283] Note that ᶜAbd al-Jabbār held that speech itself is incapable of conveying knowledge of the natures of things directly; it can only give knowledge of the speaker's intent to convey such information *(al-Mughnī,* 17:87ff.). But since we know that God does not make false statements, we can infer the truth of the information he intends to convey.

[284] See *al-Mughnī,* 17:93:3 - 94:6; ᶜAbd al-Jabbār, *Mutashābih al-qurʾān,* 1-5.

[285] ᶜAbd al-Jabbār *(al-Mughnī,* 17:101.17-22) distinguished between naturally known legal values *(aḥkām ᶜaqliyya)* and revealed legal values *(aḥkām samᶜiyya)* in terms of the way they are known, but insisted they are the same kinds of values, and are grounded in the same qualities of acts. Human beings know naturally that they are required to do that which leads toward the good and to avoid that which leads toward the bad, but they cannot perceive all the ways in which some actions (such as rituals) lead toward one or the other. God, being just, must therefore reveal the legal values of those acts whose full consequences cannot be known by unaided reason, so that humans are able to completely fulfill his requirements. See *al-Mughnī,* 17:94.10, 119, 126, 148; Peters, *God's Created Speech,* 96-97. It follows that whereas in the absence of revelation one may be uncertain of certain legal values, once God has revealed his will, we know that he has given all the evidence necessary for determining legal values; he must make clear what is forbidden so that his servants can avoid it. Hence if we find that God has given no evidence that something is forbidden, we can be certain that it is not forbidden. See *al-Mughnī,* 17:141-142.

Peters *(God's Created Speech,* 386) notes that for God's speech to be good (which it must be since it is his act and he is just) it must communicate to someone other than God something that it is useful for him to know. We have seen that God's speech cannot indicate basic truths about God and the world; it also cannot indicate legal values that are known by reason, though it can confirm them *(al-Mughnī,* 17:101:17-22), because evidence cannot indicate something that is already known (see Peters, *God's Created Speech*, 60). ᶜAbd al-Jabbār concludes that all God's speech must serve as evidence of the law. See *al-Mughnī,* 17:23-24, 94; see also the discussion of ᶜAbd al-Jabbār's reduction of God's speech to the indicative, below.

It is its value as evidence of legal values that makes God's speech beneficial to humanity and thus a good act, one that may be ascribed to a just God. This is why ᶜAbd al-Jabbār treats God's speech, in *al-Mughnī* and in his *Sharḥ al-uṣūl al-khamsa,* under the larger topic of God's justice. See ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 527, and Peters, *God's Created Speech*, 386-387.

[286] "Statements that do not function as *taklīf* must necessarily relate to the *taklīf* of some kind of social good *(maṣlaḥa)" (al-Mughnī,* 17:23:13-14). "There is nothing mentioned in the Qurʾān that does not relate to *taklīf" (al-Mughnī,* 17:24:18). Promises indicate God's will, and threats His dislike *(al-Mughnī,* 17:24:5-8; on 17:35.17-18 ᶜAbd al-Jabbār notes that the Murjiʾī Ibn Shabīb had held that promise and threat can fulfill their exhortative function without making known God's will). Even implicit promise and threat, such as the Qurʾān's descriptions of heaven and hell, are indications from which we can infer God's will *(al-Mughnī,* 17:24:13-17). Cf. *al-Mughnī,* 17:94.

In *al-Mughnī,* 17:62.3-15, ᶜAbd al-Jabbār says that God may address some people in such a way as to convey knowledge only, rather than to impose a requirement. This seems to imply that some parts of the Qurʾān might make known strictly non-legal information; the context shows, however, that he is not concerned with a certain part of God's speech, but with a certain category of person who is addressed by God's speech only with respect to information, whereas others are addressed concerning action. His point seems to be, therefore, that some people are not obliged to fulfill certain requirements (perhaps because they are incapable of doing so), but are nevertheless made aware of the requirement that is incumbent on others. By default, he says, one must assume that one is addressed concerning action, because speech ordinarily concerns action.

[287] On God's obligation to make his requirements known to those who must perform them, see note 285. From this obligation it follows that he must clarify the meaning of his speech – but only to those who must perform what the speech requires. God does not have to clarify the meaning of a revelation to someone (such as an angel) who merely transmits it, or to someone who follows a later revelation brought by a subsequent prophet. (Abū ᶜAlī al-Jubbāʾī had at one point held the stronger view that God must clarify his speech to all to whom it is addressed, whether or not they have to obey it.) *al-Mughnī,* 17:59-64; see also 17:38 and 78. It follows that someone who does not have to obey a revelation cannot assume that all the evidence necessary for its interpretation is available to him (see Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 2:356).

[288] Whereas a human being may on occasion find it necessary or advantageous to say something without meaning what he appears to say, God can have no need of such dissimulation. ᶜAbd al-Jabbār criticized the Murjiʾī Ibn Shabīb for allowing that God might intend a general expression as particular but conceal his intent, a view which

supported the Murjiʾī suspension of judgment on the fate of grave sinners (see note 206). ᶜAbd al-Jabbār responded that all God's speech conveys knowledge in the same way, by serving as evidence from which intent may be inferred; so if his speech does not indicate his intent in one instance, it can never convey his intent. *al-Mughnī,* 17:32-35, 50, 54-58.

[289] God must mean what his speech was originally established to mean, or has come to mean through customary usage or revelation; otherwise he must provide naturally known or revealed evidence that accompanies *(muqārin)* the speech itself. *al-Mughnī,* 17:37-39, 42.11-13; ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 531. If evidence indicates a non-apparent meaning, that meaning must be related to the apparent meaning *(al-Mughnī,* 17:40).

[290] ᶜAbd al-Jabbār recognized that certain verbal forms are ambiguous *(mujmal),* but he insisted that even these expressions must convey God's intent, hence they must always be accompanied by clarifying evidence. *al-Mughnī,* 17:44, 67.17-20.

[291] ᶜAbd al-Jabbār followed Abū ᶜAlī al-Jubbāʾī in holding that a single utterance may have two intended meanings *(al-Mughnī,* 17:83-84, and see note 217). If God provides evidence that one specific meaning of a polysemous expression is intended, this indicates that no other meanings are intended (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 2:352; but cf. 2:353, where al-Baṣrī reports that ᶜAbd al-Jabbār denied this in his lectures). If there is no indication of which meaning is intended, then one is required to fulfill all the possible meanings, or, if this is impossible, one may choose which of the possible meanings to fulfill *(al-Mughnī,* 17:83-84; cf. Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 2:349, 352).

[292] See *al-Mughnī,* 17:65.

[293] Any speech whose purpose is to indicate something, but that fails to do so, is bad *(al-Mughnī,* 17:31.12-17). We have seen that the purpose of God's speech is always to indicate his will. Thus if any part of God's speech failed to indicate his will, it would be pointless and bad. This would vitiate God's wisdom, without which his speech is not known to be reliable evidence, so all God's speech would lose its evidentiary value. All God's speech, therefore, must clearly indicate his will, either by itself, or in combination with some clarifying evidence that accompanies it. If that clarifying evidence were to come after the speech, the speech itself would be pointless. See *al-Mughnī,* 17:29, 35, 37, and especially 65-70; Peters, *God's Created Speech,* 386-387. ᶜAbd al-Jabbār rejected the explanation that speech that does not fully communicate the speaker's intent can fulfill the purpose of requiring the person addressed to form the resolve to obey once the speech is clarified *(al-Mughnī,* 17:68).

ᶜAbd al-Jabbār therefore rejected any form of delayed clarification, except for delayed indication of abrogation, which may be regarded as a form of clarification that by definition involves delay (Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:315). He did not insist that God's speech had to be so clear that the details of its implementation be immediately evident. He did allow that God could impose an obligation in summary terms and later, before the time of fulfillment, provide additional details. He only insisted that God's speech be immediately clear with respect to those details that it mentions, so that it does not fail in its purpose of conveying all the meaning that God intends to convey by that utterance. See *al-Mughnī,* 17:39, 60.

ᶜAbd al-Jabbār refused to specify a specific time limit beyond which evidence could no longer be considered to "accompany" an utterance *(al-Mughnī,* 17:79). He also allowed that God might clarify his intent via the Prophet, rather than through his own speech *(al-Mughnī,* 17:69.19-70.2). This raises the question of whether all of the Qurʾān and Sunna might not be considered contemporaneous in retrospect, from the perspective of an interpreter working after the definitive compilation of the corpus of revelation, so that in effect any part of revelation could be taken as clarification of any other. ᶜAbd al-Jabbār discussed this question separately, however, under the heading of delayed making clear *(taʾkhīr al-tabyīn);* this is the older form of the clarity question that we discussed above (see note 209). He follows al-Naẓẓām in holding that God can make a person hear a general expression that is intended as particular, as long as the evidence of its particularization is accessible to the listener, either in the corpus of revelation or through rational inquiry *(al-Mughnī,* 17:72-73). Thus from the perspective of the interpreter, all that is required is that the clarifying evidence be available somewhere in the corpus of revelation available to him. ᶜAbd al-Jabbār's discussion of delayed clarification *(taʾkhīr al-bayān),* however, deals with the timing and purposefulness of God's speech, not of the interpreter's becoming aware of it. With respect to the problem of the timing of God's speech, ᶜAbd al-Jabbār appears to hold that evidence cannot be delayed beyond the end of the utterance itself – that is, beyond the end of the sentence, or at most the end of a continuous act of speaking. If later evidence modifies the meaning of an utterance that was previously completed, ᶜAbd al-Jabbār considers this to constitute an abrogation of a previously established provision. See Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 1:258.

[294] *al-Mughnī,* 17:37, 72-73. ᶜAbd al-Jabbār considers that *ᶜaql* (reason or natural knowledge) functions like a preestablished agreement between God and humans that governs how God's speech should be interpreted *(al-Mughnī,* 17:27), just as the Arabic lexicon functions as a convention governing how Arabic speech should be interpreted, and just as a prior agreement can make a certain gesture or word a signal with a private meaning. ᶜAbd al-Jabbār recognized aspects of the situation in which speech is uttered as forms of evidence about meaning *(al-Mughnī,* 17:86); these might include gestures and other visual cues (which do not apply to God's speech), as well as

things that we know to be true about the speaker, such as that God is wise. He also allowed that non-verbal acts could serve as clarifying evidence, but only if their meaning was previously established or explained on the spot *(al-Mughnī,* 17:80). He also allowed that the Prophet's Sunna might serve as evidence of the meaning of God's speech *(al-Mughnī,* 17:69.19-70.2).

[295] al-Jaṣṣāṣ, for example, begins his *al-Fuṣūl* (3-16) with the principle that the apparent meaning *(ẓāhir)* of an utterance should be its default interpretation.

Aron Zysow has noted that "the classical Hanafi *uṣūl* doctrine stands out from that of other legal schools in the consistency with which it defends a view of language that permits confident, secure interpretation" ("Economy," 98). "Historically the Hanafis were partisans of the natural reading of the texts against those who claimed to be pursuing a more sophisticated analysis of language" ("Economy," 100). Zysow finds four postulates undergirding this optimism about language: 1) language is an adequate means of communication about the world outside and within man; 2) language is made up of distinct elements which correspond to significant distinctions in reality; 3) language is a system; 4) language is a public instrument.

[296] See al-Jaṣṣāṣ, *al-Fuṣūl,* 1:100-101, 153, 182-187, 210, 259-279; al-Dabbūsī, *Taʾsīs al-naẓar,* 43; al-Ṣaymarī, *Masāʾil al-khilāf,* 102a, 117a; Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:315.

[297] See Zysow, "Economy," 136.

[298] Zysow ("Economy," 98, 152-157) notes that an emphasis on clarity characterizes both the hermeneutics of the classical Ḥanafī legal theorists and that of Ibn Ḥazm. The similarity of Ẓāhirī doctrine to the literalism of the Khārijiyya and of the early Muʿtazila has been noted by Schacht *(Introduction,* 64).

[299] al-Shāfiʿī (d. 204/820) was claiming nothing new when he emphasized that God addressed humans in their own languages; theological debates and Qurʾānic exegesis were already based in part on study of the language of the Bedouin Arabs. The claim that God sometimes uses words in new senses in revelation was a disputed exception, and only demonstrates how entrenched was the general rule that God addresses his creatures in ordinary human language. (This idea was advanced by the early Muʿtazila in support of their view of who fits the term 'believer,' and it eventually gained wide acceptance. Also *ṣalāh,* which linguistically denotes prayer of any kind, is frequently cited as a term whose meaning was modified by revelation to designate the canonical form of worship.)

[300] See Peters, *God's Created Speech,* 226-227, 408-409.

[301] ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 529. Unlike Abū Hāshim, ᶜAbd al-Jabbār did not define speech as meaningful *(mufīd),* but recognized a category of meaningless *(muhmal)* speech (ibid.). ᶜAbd al-Jabbār argued that God's speech can only be discussed in terms of human speech. See *al-Mughnī,* 7:5. He criticized the followers of Ibn Kullāb for differentiating between this world and the unseen in their definitions of speech, but praised al-Ashᶜarī for applying the same definition of speech to both – even though his definition was wrong. ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 527-528.

[302] "The speech of one of us is a way to the immediate *(bi-ḍṭirār)* knowledge of his intent, like perception which is a way to knowledge. This is only true if [the speaker] is perceived, and his speech is perceived; then his intent can be known. It can be known by pointing just as it can be known by speech; the speaker can choose between the two if he knows that either one of them [conveys his intent] immediately. But this is not the case with His speech (He is exalted), because He is not perceived." *(al-Mughnī,* 17:12.) "This world differs from the other world in that we know the intent of the speaker immediately, whereas this is not true concerning the Eternal (He is exalted)." *(al-Mughnī,* 17:31.18-19.)

Concerning human speech, ᶜAbd al-Jabbār noted that not all good human speech conveys the speaker's meaning immediately – the speaker may need to conceal his meaning to avoid some harm, for example – but this does not prevent human speech from conveying the speaker's meaning in other cases *(al-Mughnī,* 17:32.5-35.2). When, however, human speech fails to give necessary knowledge of the speaker's intent, it then does not give any knowledge at all, but only probable opinion *(ghālib al-ẓann) (al-Mughnī,* 17:58). Thus human speech is never a source of inferred knowledge, whereas God's speech always is, as we will see.

The postmodern reader will note that ᶜAbd al-Jabbār's view that human speech gives immediate knowledge of the speaker's intent is a textbook example of what Jacques Derrida would call a logocentric view of speech.

[303] All knowledge is either necessary and immediate *(ḍarūrī)* or acquired and inferred *(muktasab).* Necessary knowledge is "the knowledge which occurs in us, not from ourselves," a definition that is equivalent to "the knowledge we cannot in any way banish from our soul." Peters, *God's Created Speech,* 54. Acquired knowledge is knowledge humans have to work to acquire, by inquiry or reflection *(naẓar).* Peters, *God's Created Speech,* 55.

God's imperceptibility is not the only reason why his speech cannot produce necessary knowledge. ᶜAbd al-Jabbār held that human beings can only know about the unseen *(al-ghāʾib,* i.e. God) by acquired knowledge, through rational inquiry *(naẓar)* and inference *(istidlāl)* based on indicators placed for that purpose in this world by God. One proof of this is that if knowledge of the unseen were necessary, unbelievers could

only lack this knowledge by God's choice, and so would be excused. Peters, *God's Created Speech,* 56, 59, 227-229, and 405-406. More specifically, knowledge based on the evidence of revelation cannot be necessary, because one can only come to know that revelation constitutes reliable evidence through inquiry, and because further inquiry is often needed to know the meaning of the revealed speech. Peters, *God's Created Speech,* 95.

[304] "[God] (he is exalted) must speak in such a way that his speech is an indicator *(dalāla)* for us, and the legally responsible person must reason from the indicator and [his] knowledge of it." *al-Mughnī,* 17:12.17-18. (See also *al-Mughnī,* 17:35.3-6, 50.) ᶜAbd al-Jabbār also allowed that some of God's speech may serve not as an indicator in its own right, but as confirmation of some other indicator, as long as it strengthens the evidence for what was already known through that other indicator. *al-Mughnī,* 17:12-13.

[305] This analogy, of course, applies to God's speech only in a very limited sense, with respect to the impossibility of perceiving the speaker, and the epistemological consequences that this entails. The Ashᶜarī theologian al-Bāqillānī used the analogy of a last will and testament to illustrate his claim that God's speech could exist before it was addressed to a particular person. (He considered God's speech eternal, but could not claim that it eternally constitutes address *(khiṭāb),* since its being address depends on the existence of a person who is addressed.) al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:336.

[306] See *al-Mughnī,* 17:105.5, 141.6-11.

[307] With regard to the legal values of acts, see *al-Mughnī,* 17:141-142, and note 279 above.

With regard to other possible performative effects, I believe it would be most consistent with ᶜAbd al-Jabbār's position to say that God's speech cannot bring about any performative effect of any kind, but can only convey information. As we saw above in our discussion of the relationship between meaning and will, ᶜAbd al-Jabbār held that the effect God wills his speech to produce is always that human come to know the legal values of acts, and sometimes that they perform those acts. God's speech does not bring about human acts, which are the free creations of human agents according to the Muᶜtazila. Since it also does not bring about the legal values of acts, it cannot have any performative effect whatsoever.

[308] "All God's speech by which he addresses [us] is never anything but a statement." *(al-Mughnī,* 17:23.) "As for that which is not an indicative statement, but resembles command and prohibition in form and function, it only indicates the legal values of acts. Promise and threat are included in what we have mentioned, because they indicate God's choice to do what the person under obligation deserves." *(al-Mughnī,*

17:94.) Commands and prohibitions are virtually equivalent to statements about the obligatory or evil properties of acts, since such statements, like commands and prohibitions, indicate that God wills or abhors the act in question *(al-Mughnī,* 17:23.18-24:5). Promises are statements about future reward *(al-Mughnī,* 17:21.9); promises indicate God's will, and threats his abhorrence *(al-Mughnī,* 17:24.5-8).

ᶜAbd al-Jabbār recognized that indicatives can have a performative effect, but the purpose of an indicative sentence, as understood by the grammarians, was to convey information. Thus when ᶜAbd al-Jabbār said that all of God's speech functions as an indicative statement, he meant that its function is purely informative.

Readers familiar with twentieth-century Euro-American hermeneutics will recognize the notion that language is essentially descriptive and reducible to its informative dimension as the principal target of speech act theory.

[309] Richard Frank states: "For al-Jubbāʾī, as for all the Basrians, knowing is not an intuition of simple essences or "forms" but is to know something about something […] to recognize it or understand it as having certain attributes, certain essential or accidental qualities or characteristics, which it does in fact have. Language expresses *(ᶜabbara)* and reflects what the mind knows, understands, or intends, and statements (i.e., formal statements) are statements about things *(ashyāʾ),* composed of a noun *(ism,* sc., a name) that signifies the thing that is known and a predicate *(khabar)* that indicates what is known about it." Frank, *Beings and Their Attributes,* 14; see also 27.

Michael Carter ("Linguistic Science," 220) attributes to Greek influence the idea that became part of Arabic grammar (beginning as early as al-Mubarrad), that a sentence must contain *fāʾida,* information that can be true or false, in order to be a valid sentence. Without denying Greek influences, Frank prefers to highlight the importance of the Arabic language itself for the thought of the Muᶜtazila *(Beings and Their Attributes,* 4-5 and 10).

[310] al-Bāqillānī defines legal science *(fiqh)* as "knowledge of the revealed (rather than naturally known) legal values of the acts of legally responsible persons, discovered through rational inquiry" (al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:171).

[311] See note 279.

[312] As we will see in chapter 4, al-Bāqillānī agreed with ᶜAbd al-Jabbār that human speech gives immediate knowledge of the speaker's intent, but that God's speech cannot because the speaker cannot be perceived; the meaning of God's speech must therefore be inferred by reasoning from the words of revelation and other evidence. Thus although God's speech itself (that is, the eternal meaning behind the Qurʾān) is performative and essentially command, the temporal expression of that meaning has to be interpreted as indicative evidence. For the Muᶜtazila reasoning proceeds from God's

speech to God's will, whereas for al-Bāqillānī it moves from the verbal expression of God's speech to God's speech itself; but both insist that the Qurʾān is evidence from which one must infer God's will and thus God's law.

[313] At least by the postclassical period, performative speech *(inshāʾ)* was distinguished from speech that correlates (or fails to correlate) with something in the external world (e.g. al-Jurjānī, *al-Taʿrīfāt,* s.v. *al-inshāʾ,* no. 231). Jurists paid special attention to the performative formulas whereby contracts such as marriage are entered into and revoked *(ṣiyagh al-ʿuqūd wa-l-fusūkh)* (see e.g. Abū Jayb, *al-Qāmūs al-fiqhī,* s.v. *al-ʿaqd – ṣīghat al-ʿaqd*, pp. 255-256). These discussions, however, specifically concern the legal effects of human utterances; I have not yet become aware of any attempt in any period to interpret divine speech performatively.

[314] The debate over commands and prohibitions, as well as ʿAbd al-Jabbār's discussions of promises and threats, constitute an explicit translation of various modes of speech into statements of legal values. A focus on the informative dimension of speech is also evident, however, in the view that knowledge of language consists of knowing the referents of words, and that the origin of language consisted in the assignment of names to their referents. See e.g. Roger Arnaldez, *Grammaire et théologie,* 37. Another highly 'referential' feature of Shāfiʿī legal theory is the pervasive concern with determining the scope of reference that a term has in a specific utterance. The entire discussion of general and particular expressions, and of the mechanism of particularization, is dedicated to determining whether a term refers to all or only some of the things it denotes. This reflects a concern with what speech describes rather than what it does.

[315] Watt traces the earliest explicit formulation of the doctrine of the created Qurʾān to Bishr al-Marīsī (d. ca. 218/833); it has also been attributed to al-Jaʿd ibn Dirham (d. ca. 105/723) and his pupil Jahm ibn Ṣafwān (d. 128/746). See Watt, "Early Discussions," 28-29; Bouman, *Le conflit autour du Coran,* 3-5. Patton, *Aḥmed Ibn Ḥanbal and the Miḥna,* 47, traces the doctrine to al-Jaʿd ibn Dirham; he notes (48) that Bishr al-Marīsī reportedly held the doctrine as early as 173/789. The doctrine early became identified as characteristic of the Muʿtazila, though they repudiated the men who reportedly originated it.

The connection to polemics about the Trinity has been emphasized by Wolfson, *The Philosophy of the Kalām*; see also Bouman, *Le conflit autour du Coran,* 67-69. The doctrine of the eternal Qurʾān is compared to the Christian doctrine of the eternity of the second person of the Trinity by al-Maʾmūn in one of his letters regarding the inquisition (Patton, *Aḥmed Ibn Ḥanbal and the Miḥna,* 67). Watt, however, denies the doctrine resulted from debates with Christians, arguing that the problem arose from the inner logic of the Islamic discourse itself (Watt, "Early Discussions," 27-28). Madelung

("Origins," 505-507) suggests that the doctrine was initially intended to avoid the anthropomorphic notion that God speaks: instead he creates the sound of speech.

[316] Watt ("Early Discussions," 36) suggests that the doctrine of the uncreated Qurʾān was first formulated in the circles of men such as Mālik (d. 179/795) and al-Shāfiʿī (d. 204/820). Some suspended judgment on the question because it was not dealt with in revelation. Others took various compromise positions, for example, that the Qurʾān is produced *(muḥdath)* rather than created *(makhlūq)* (see al-Ashʿarī, *Maqālāt,* 1:351; Watt, "Early Discussions," 39-40). Madelung ("Origins," 512-522) states that most traditionalists refused to call the Qurʾān either created or uncreated, until Ibn Ḥanbal declared the Qurʾān uncreated (in the sense of eternal) in response to the inquisition. The claim that the Qurʾān is positively eternal was elaborated more explicitly by the followers of Ibn Kullāb (d. 241/855?).

[317] The idea that the assertion of an eternal Qurʾān would compromise God's oneness seems to have been an important argument for the early Muʿtazila, and is stressed by Madelung ("Origins," 516-517) and Watt ("Early Discussions," 33). The letters of the caliph al-Maʾmūn, by which he instituted the pro-Muʿtazilī inquisition (see Patton, *Aḥmed Ibn Ḥanbal and the Miḥna,* 57-61, 65-69) present the issue as a matter of upholding God's oneness and respecting what God has said about his own speech, though Watt thinks that al-Maʾmūn was motivated entirely by the prospect of gaining Shiʿī support ("Early Discussions," 34-35). Patton *(Aḥmed Ibn Ḥanbal and the Miḥna,* 50-54, 126) presents al-Maʾmūn as a liberal thinker genuinely interested in theology; he acknowledges that al-Maʾmūn's doctrine correlated with his ʿAlid sympathies, but opines that the *miḥna* was for him primarily a religious and not a political matter.

[318] This popular support rallied around the figure of Aḥmad Ibn Ḥanbal (d. 241/855), who was famously imprisoned for his refusal to declare the Qurʾān created. He and his followers are generally regarded as holding the traditionalist position that the words one hears when the Qurʾān is recited are actually eternal, though Patton *(Aḥmed Ibn Ḥanbal and the Miḥna,* 34-35, 102, and especially 184-186) understands him to have held something like the Ashʿarī doctrine: God's word is uncreated and eternal, but its *lafẓ* (the human act of writing or reciting the Qurʾān) is created. Madelung ("Origins," 515-518) says that Ibn Ḥanbal called the Qurʾān uncreated, and implicitly regarded it as eternal.

[319] See ʿAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 527, 531-532.

[320] See chapter 4, where the development of this theory and its hermeneutical consequences will be presented in more detail, and where the two senses of *maʿnā* (meaning and attribute) will be explained.

[321] ᶜAbd al-Jabbār himself defined speech as sound (ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 528-529), which is one of several types of accidents that are directly perceptible. But this type of accident must inhere in a material substrate, whereas the Ashᶜariyya claimed that God's speech subsists in his essence. This is why ᶜAbd al-Jabbār said (see note 324 below) that the attribute of speech that the Ashᶜariyya proposed cannot be directly known or grasped by the mind *(maᶜqūl).* See Frank, *Beings and Their Attributes,* 70, 104-105.

The argument that follows depends on the theory of attributes developed by the Baṣra Muᶜtazila (and more particularly by the school of Abū Hāshim), on which Frank's *Beings and Their Attributes* is the indispensable reference. In this system, a *maᶜnā* is an 'entitative accident' (Frank's term) by virtue of which the thing in which it inheres may be described as having a certain attribute *(ṣifa)* or being in a certain state *(ḥāl).* In such a system the *maᶜnā* that the Ashᶜariyya assert to be God's speech would be distinguished from God's attribute or state of 'being speaking.'

[322] See ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 533; Frank, *Beings and Their Attributes,* 23-24, 27, 60-64, 136.

[323] See Frank, *Beings and Their Attributes,* 61-62, 107.

[324] See ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 532-533, 536-537; Frank, *Beings and Their Attributes,* 135-136.

[325] Ibn Kullāb's thesis that the Qurʾān one hears recited is a representation of God's eternal speech, was superceded in Ashᶜarī discourse by the theory that it is an expression of it. ᶜAbd al-Jabbār deals with both versions similarly in his *Sharḥ al-uṣūl al-khamsa,* 527-528.

[326] ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 527-528; *al-Mughnī,* 7:20.8-10.

[327] *al-Mughnī,* 7:19.21-20.2; 20.14-16.

[328] Recall that ᶜAbd al-Jabbār defined all speech as a sequence of letters (which are themselves sounds). See page 72 above, and ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 528-529. ᶜAbd al-Jabbār's position, then, was that God's speech must be identified with the concrete Qurʾān "that we hear and read today" (ibid., 528). "It is obvious," he remarked, "that one cannot benefit from something eternal" (ibid., 531).

Note that ᶜAbd al-Jabbār did not claim that human recitation of the Qurʾān is produced by God, since he held that human acts are produced by human agents. But the words of the recitation may be literally attributed to God, just as the poems of Imruʾ

al-Qays are rightly attributed to him even when they are recited by someone else. (Ibid., 528.) God's creation of his speech occurred only once, when he created it as an accident *(maʿnā)* in the heavenly Preserved Tablet.

[329] See in particular ʿAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 535-536, where he argues that speech must be considered an act of the speaker rather than an attribute subsisting in the speaker, as the Ashʿariyya claimed.

[330] See Frank, *Beings and Their Attributes,* 135-138. An act (such as the act of knowledge) that is inferred from our awareness of the agent's being in a certain state (his being knowing) is sometimes an accident *(maʿnā)* in the agent; but when we know the agent to be acting (e.g. speaking) only through our knowledge of the act (speech) as produced by the agent, the act itself is not an attribute of the agent, but rather that thing which has come to be through his power of efficient causality. Thus God's act of speaking is not differentiated from his speech, as it might be in English; his act is identical to the sequence of sounds that he creates.

[331] *al-Mughnī,* 7:48:4-5. In addition to will and intent, ʿAbd al-Jabbār also mentions motivations.

Some early Muʿtazila, including Thumāma ibn Ashras (d. 213/828?) and al-Jāḥiẓ (d. 255/869), had argued that a person's will itself is in fact the only act that is strictly attributable to him. Abū al-Qāsim al-Balkhī, *Dhikr al-muʿtazila,* 73.

[332] ʿAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 535:17-536.3:

"That which proves [that the speaker is the doer of his speech] is that when the people of language believe that a [particular] speech depends on its doer, they call him a speaker, but when they do not believe [the speech to depend on him], they do not call him [a speaker]. Accordingly, they attribute the speech of an insane person to a jinn, and they say that the jinn is speaking through his tongue, when they see that the speech does not depend on him in the way that an act depends on its doer. If it were permissible to say that a speaker is not the doer of the speech, the same would be permissible in the case of one who vilifies [another], or strikes [him], or breaks [something], or the like; . . . but we know that this is not the case."

This must be read in light of his definition of "the way that an act depends on its doer" as its proceeding according to the agent's will and intent in *al-Mughnī,* 7:48:4-5.

[333] Indeed if God's speech did not proceed from him in accordance with his will and intent, it could not serve as evidence *(dalīl)* of anything, for according to ʿAbd al-Jabbār speech is not a *dalīl* unless the speaker intends it as such, and reasoning based on it is valid only if it proceeds according to the intent of the speaker. Peters, *God's Created Speech,* 59-60, 65.

[334] ᶜAbd al-Jabbār discussed God's speech under the general topic of God's justice, which concerns his actions. See ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 527.1-4. His principal concern was therefore to show that God's speech is a good act, which is what makes it just. A good act must be beneficial, but since God cannot himself benefit or suffer harm from anything, his speech must benefit someone else, namely his creatures. ᶜAbd al-Jabbār emphasized that it is its function of revealing the law that makes the Qurʾān "one of God's singular blessings, indeed, one of the greatest blessings." *Sharḥ al-uṣūl al-khamsa,* 527, 528.

ᶜAbd al-Jabbār implicitly criticized the Ashᶜarī theory of speech for in effect denying that a speaker is responsible for the goodness or badness of his speech, as an agent is responsible for his acts: "If it were permissible to say that a speaker is not the doer of the speech, the same would be permissible in the case of one who vilifies [another], or strikes [him], or breaks [something], or the like." *Sharḥ al-uṣūl al-khamsa,* 535-536.

[335] al-Ashᶜarī, for example, declared in his *al-Ibāna* that "he who thinks that the Qurʾān is created makes it the word of a mortal" (Klein's translation, p. 69), which puts the Muᶜtazila on the same level as the polytheists of Mecca who rejected the Prophet Muḥammad's message.

Among non-Muslim scholars, W. Montgomery Watt has interpreted the Muᶜtazilī position as a way of upholding the primacy of reason, and identified the doctrine of the Qurʾān's eternity with those who upheld the primacy of revelation. Watt, "Early Discussions about the Qurʾān," 104; see also 99-103.

Kevin Reinhart likewise ascribes to the Muᶜtazila a low view of revelation, though he also recognizes the ontological factors that affected their views on the "before revelation" question. Reinhart, *Before Revelation,* 159, 161, 173-174.

Wael Hallaq takes a similar view, interpreting any compatibility between Ashᶜarī and Muᶜtazilī legal theories as a "concession to revelation" by the Muᶜtazila, necessitated by their declining position *vis à vis* their more conservative opponents. Hallaq, *A History of Islamic Legal Theories,* 32.

This view of the Muᶜtazila may result partly, in Euro-American scholarship, from a tradition of reading Muslim theological texts in terms of the Christian theological problem of the relationship between reason and revelation, which has led scholars to polarize Islamic theology into rationalist and fideists camps in a way that does not do them justice. Roger Arnaldez *(Grammaire et théologie,* 16) has written that this problem is foreign to the Muslim discourse. The Muslim theologians themselves, of course, differed over the relation between *ᶜaql* (reason or natural knowledge) and *samᶜ* (hearing, revelation). But it must be remembered that the logical priority that the Muᶜtazila accorded to *ᶜaql* actually served to affirm rather than deny the epistemological value of revelation. (See e.g. ᶜAbd al-Jabbār, *Mutashābih al-qurʾān,* 1ff.)

Furthermore, while in theology the Muᶜtazila accorded a large role to rational inquiry, in law they relied on revelation quite as heavily as their opponents, because they held that most of the legal values discussed in legal science could not be known by unaided reason. It is as a source of law, ᶜAbd al-Jabbār said, that the Qurʾān is one of God's greatest blessings (see note 334).

[336] Nineteenth-century Western scholars of Islam came to regard the Muᶜtazila as "the free-thinkers of Islam." Walter Patton opined in 1897 that the *miḥna* constituted a fateful struggle between Islamic orthodoxy and rationalist principles of free thought that were ultimately incompatible with the Qurʾān, the Ḥadīth, and Islam *(Aḥmed Ibn Ḥanbal and the Miḥna,* 2). He accepted the label "freethinkers" for the Muᶜtazila (ibid., 48, 190 n. 1), but did not share the enthusiasm of European scholars for the Muᶜtazila because he understood their free thinking as an attempt to avoid the law out of a desire for self-indulgence (ibid., 6).

Michel Allard has argued that although the Muᶜtazilī view of God's attributes "contains the basis for a rejection of revelation," because it denies that God really has attributes that are ascribed to him in the Qurʾān (Allard, *Le problème des attributs divins,* 180), their doctrine that the Qurʾān is created makes it accessible to humans, though it also implies that it cannot really give knowledge of God himself (ibid., 19, 306-307). This expresses well the position of ᶜAbd al-Jabbār, who did not regard the Qurʾān primarily as a source of knowledge about God, but about human acts. Allard notes that the Ashᶜariyya strove to defend the Qurʾān as the basis for our knowledge of God's attributes, and suggests that this required making the Qurʾān an expression of the eternal divine nature itself, rather than a part of the created realm that uses language applicable only to creation.

[337] For much fuller discussions of the variety of positions and arguments on God's attributes, see Allard, *Le problème des attributs divins;* Frank, *Beings and Their Attributes;* and al-Ashᶜarī, *Maqālāt* 1:244-250. On God's speech, see Bouman, *Le conflit autour du Coran;* Peters, *God's Created Speech;* and al-Ashᶜarī, *Maqālāt* 1:267-270 and 2:256-272.

[338] The multiple uses of the term *maᶜnā* will be discussed on page 115.

[339] On Ibn Kullāb's theory of God's speech see al-Ashᶜarī, *Maqālāt,* 2:257-258. Also associated with this proto-Ashᶜarī, anti-Muᶜtazilī theological movement were al-Ḥārith ibn Asad al-Muḥāsibī (d. 243/857), a famous mystic who is said to have been a friend of al-Shāfiᶜī (Chaumont, "al-Shāfiᶜiyya," in *EI²),* and al-Qalānisī (d. early 4th/10th century). All three are discussed by Michel Allard *(Le problème des attributs divins,* 133ff.), who speculates that al-Qalānisī probably studied with both Ibn Kullāb and al-Muḥāsibī, and may have taught al-Ashᶜarī (ibid., 135-139).

[340] al-Ashᶜarī, *Maqālāt,* 2:257-258 and 2:270. See also Ibn Fūrak *(Muğarrad maqālāt al-Aššᶜarī,* 328.10-12), who insists that, contrary to what was reported by al-Ḍabbī, Ibn Kullāb did not regard commands, prohibitions, and statements as themselves produced in time *(muḥdath).* Rather, he held that God's uncreated speech is itself command, prohibition, and statement (Gimaret's proposed correction to the text here may be disregarded), although it was not eternally so. It only became these things when God caused his speech to be heard and understood. This position follows from Ibn Kullāb's view (reported by al-Ashᶜarī, *Maqālāt,* 2:133) that speech constitutes a command, prohibition, or statement only by virtue of its (created) object (the person addressed, the *maʾmūr* or *munhā* or *mukhbar).*

[341] On al-Ashᶜarī see Gimaret, *La doctrine d'al-Ashᶜarī;* McCarthy, *The Theology of Al-Ashᶜarī;* and Allard, *Le problème des attributs divins*.

Joseph Schacht doubted the stories of al-Ashᶜarī's defection from the Muᶜtazila; that some such conversion took place is generally accepted, and is defended by Michel Allard, *Le problème des attributs divins,* 41. He is usually said to have been a Shāfiᶜī in jurisprudence, although there are reports that he was a Mālikī, and perhaps also a Ḥanafī at some point (see Gimaret, *La doctrine d'al-Ashᶜarī,* 517-519). His most noteworthy teachers were the Muᶜtazilī theologian Abū ᶜAlī al-Jubbāʾī (d. 303/915-16), and the Shāfiᶜī jurist al-Marwazī (d. 340/951, a pupil of Ibn Surayj); both were apparently engaged in discussions of legal theory (see Stewart, *Islamic Legal Orthodoxy,* 34 and 37).

It is widely reported that al-Ashᶜarī adopted Ibn Kullāb's model of speech, which eventually came to be identified with the Ashᶜariyya. Gimaret, *La doctrine d'al-Ashᶜarī,* 19; ᶜAbd al-Jabbār, *Sharḥ al-uṣūl al-khamsa,* 527-528. Ibn Fūrak, in his *Muğarrad maqālāt al-Aššᶜarī* (59-69; also 192.4-8), gives a detailed account of al-Ashᶜarī's own version of the theory: God's speech is an eternal attribute subsisting in his essence (59.11-12). Unlike human speech, it is not an action (198.16). It is itself recited, heard, memorized, and written, but our recitation of it is temporally produced *(muḥdath)* (59-62). God's speech is a single indivisible meaning, yet it encompasses an infinity of meanings, including commands, prohibitions, statements, and questions. It has these meanings eternally, by virtue of its own nature, not by virtue of its objects (as Ibn Kullāb held; see note 340), nor by virtue of the verbal expressions that indicate these meanings (65-67).

It is curious that nowhere in his extant writings does al-Ashᶜarī explicitly embrace Ibn Kullāb's theory of speech as his own, though he describes it in his *Maqālāt* (2:257-258 and 2:270). His failure to mention it in his lengthy defense of the doctrine of the uncreated Qurʾān in *al-Ibāna* (63-104, or Klein's English translation pp. 66-82) may reflect a reluctance to flout it before a traditionalist audience, for whom the work was apparently written (Allard, *Le problème des attributs divins,* 51-52; Gimaret, *La doctrine*

d'al-Ashᶜarī, 10-13). Its absence from his very brief statement on the Qurʾān in the *Maqālāt* (1:346, which must be read in light of 1:350.5-6) is not remarkable, but it is surprising that he did not even hint at it in his very substantial discussion of the eternal Qurʾān in *al-Lumaᶜ* (23-30). Still, as Gimaret points out *(La doctrine d'al-Ashᶜarī,* 18-19), this does not disprove Ibn Fūrak's report, for al-Ashᶜarī's extant writings represent only a small fraction of his works.

A few pieces of positive evidence raise some question about how consistently al-Ashᶜarī upheld and applied Ibn Kullāb's theory of speech. First we have al-Ashᶜarī's explicit rejection of *al-qawl bi-l-lafẓ (Maqālāt,* 1:346.17, which must be read in light of 1:350.5-6). The *Lafẓiyya,* in the heresiographical vocabulary of the traditionalists, were those who held Ibn Kullāb's view that the human utterance or recitation of the Qurʾān is created (see al-Ashᶜarī, *Maqālāt,* 2:271.8, and Josef van Ess, "Ibn Kullāb," in *EI²* Supplement). al-Ashᶜarī goes on to say that the human utterance of the Qurʾān *(al-lafẓ bi-l-qurʾān)* cannot be called either created or uncreated *(Maqālāt,* 1:346.17-18, in light of 1:350.5-6). Ibn Fūrak provides two ways of reconciling this passage with Ibn Kullāb's theory *(Muğarrad maqālāt al-Aš*ᶜ*arī,* 60.18-61.21). First, al-Ashᶜarī held that humans cannot properly speaking utter the Qurʾān, though they can recite it. (Note, however, that in his *Maqālāt,* 2:270-271, ¶290, al-Ashᶜarī treats our *lafẓ* and *qirāʾa* of the Qurʾān as a single topic, and links the view that humans cannot utter the Qurʾān to the Muᶜtazila.) Second, he feared that calling our utterance of the Qurʾān created would lead the masses to believe the Qurʾān itself was created. These explanations are not implausible, but at best they leave the impression that al-Ashᶜarī was somewhat reticent in his endorsement of Ibn Kullāb's views.

There have also been several different accounts of what al-Ashᶜarī thought the term 'speech' encompassed. al-Juwaynī reports *(al-Burhān,* 1:61) that although al-Ashᶜarī apparently held that expressions are not really speech, he contradicted this position in his *Jawāb al-masāʾil al-Baṣriyya* when he said that the term speech *(kalām)* literally designates both inner speech *(kalām al-nafs,* which is generally identified with the *maᶜnā* of speech) and its expression. The same is reported by Abū al-Qāsim al-Anṣārī, according to Gimaret, *La doctrine d'al-Ashᶜarī,* 205 n. 7. This does not actually amount to denying the distinction between inner speech and its expression; it only broadens the term speech to encompass both. But a much later report by the Ḥanbalī Ibn al-Najjār (d. 972 AH) relates from al-Ashᶜarī an even richer muddle of views: 1) speech literally refers only to *maᶜnā;* 2) speech literally refers only to *ᶜibāra;* 3) speech literally refers to both *(Sharḥ al-kawkab al-munīr,* 2:11.3-5). The second position is that of the traditionalists and the Muᶜtazila, and is incompatible with Ibn Kullāb's theory. This report may be nothing more than a misinterpretation of al-Ghazālī's *al-Mustaṣfā* (1:100.16-17), and Ibn al-Najjār contradicts it on 2:9.7-9 when he attributes only the third view to both al-Ashᶜarī and Ibn Kullāb; but it illustrates nevertheless that there was some debate or confusion about al-Ashᶜarī's definition of speech.

Another trace of uncertainty comes through Ibn Fūrak himself, who cites (in *Muğarrad maqālāt al-Aš^{c}arī,* 335.15-19) a report that al-Ash^{c}arī held that a command or a statement cannot be what it is solely by virtue of its own nature, because the verbal form *(ṣūra)* that expresses it can also express other meanings. Ibn Fūrak rightly points out that this argument assumes an identity between speech and the verbal form that expresses it; he concludes that it was attributed to al-Ash^{c}arī in error. Indeed, one can imagine that Ibn Fūrak's source (Muḥammad ibn Muṭarrif al-Ḍabbī al-Astarābādī) was attempting to report al-Ash^{c}arī's argument that a command or statement cannot be what it is solely by virtue of its verbal form, but lost sight of his distinction between verbal form and the speech it expresses. Alternatively, rather than dismiss al-Ḍabbī as incompetent, one could speculate that al-Ash^{c}arī did in fact make such an argument before he abandoned his Mu^{c}tazilī views (cf. the arguments of the Mu^{c}tazilī ^{c}Abd al-Jabbār in *al-Mughnī,* 17:14-17); but this would raise the question of why al-Ḍabbī included it in his compendium of al-Ash^{c}arī's views, which was intended, or at least received, as an Ash^{c}arī handbook (see *Muğarrad maqālāt al-Aš^{c}arī,* 323, and Gimaret's French introduction to it, 18-19). Another possibility, which we should not lightly dismiss, is that al-Ḍabbī's report reflects a genuine discrepancy in the way al-Ash^{c}arī spoke about speech, or perhaps a later disagreement about what al-Ash^{c}arī's theory of speech was.

None of this evidence is very persuasive in its own right, but taken together with the conspicuous silence of his own writings, it suggests that al-Ash^{c}arī did not make Ibn Kullāb's theory of speech a central pillar of his thought, and did not consistently apply it to all the subsidiary problems on which it would later be brought to bear by his followers. It may be that Ibn Kullāb's theory was not seriously integrated into the system of the Ash^{c}ariyya until the after the founder's death.

[342] al-Ash^{c}arī is said to have changed his mind on numerous topics, including even some major points (see Gimaret, "Document majeur," 187-188, especially n. 21).

[343] Ibn Fūrak *(Muğarrad maqālāt al-Aš^{c}arī,* 192.18 –193.2) claims that al-Ash^{c}arī wrote in favor of those who suspended judgment on three distinct interpretive problems: whether the Prophet's actions constitute evidence that those acts are good or obligatory for Muslims; whether apparently general expressions should be interpreted as general or particular; and whether revealed commands entail legal obligation. There is no reason for doubt on the first point, on which al-Ash^{c}arī departed from the Shāfi^{c}ī tradition, engaging in widely-followed debates with his teacher Abū Isḥāq al-Marwazī and with Abū Bakr al-Ṣayrafī (both of them students of Ibn Surayj). But this is not strictly a question of language or hermeneutics. On the questions that concern us here – general expressions and commands – the evidence is contradictory. We do not have any statements on these questions, in the context of legal hermeneutics, from al-Ash^{c}arī's own pen; our earliest evidence is to be found in the writings of al-Bāqillānī (d. 403/1013)

and Ibn Fūrak (d. 406/1015). As Gimaret has noted ("Document Majeur," 192-193), later accounts of al-Ashᶜarī's views rely heavily on these second-generation witnesses, rather than on the master's own works. The reports of subsequent authors, therefore, generally should not be considered independent evidence of al-Ashᶜarī's views.

On the whole, I do not question Gimaret's assessment *(La doctrine d'al-Ashᶜarī,* 17-20) that our principal early witness, Ibn Fūrak, is a trustworthy recorder of al-Ashᶜarī's thought. Ibn Fūrak acknowledges, however, that among the views that he has placed in al-Ashᶜarī's mouth are some that he has quoted directly from his books, others that he has reformulated, and others on which he has found no specific statements, but has inferred positions that seem to follow from the master's basic principles. All of these, says Ibn Fūrak, he has attributed to al-Ashᶜarī using the same formula, "he used to say …" *(Muğarrad maqālāt al-Aš*ᶜ*arī,* 339.1-3; see also 202.7-9). Thus for example, when he says on p. 165.2-4 that al-Ashᶜarī "used to say" that general expressions do not indicate generality by virtue of their verbal form in any context, we do not know whether this represents a quote from al-Ashᶜarī, or Ibn Fūrak's judgment of what seems most reasonable and most consistent with al-Ashᶜarī's other views (as is suggested by 165.6-7). When he states the same principle again on pp. 191-198, in the context of legal theory, his illustrations are theological, which suggests that he is inferring a legal-theoretical principle from al-Ashᶜarī's theological works. The only relevant point on which Ibn Fūrak is undoubtedly citing al-Ashᶜarī directly is the meaning of the word "command," on which he reports that the master stated two different views in two different places *(Muğarrad maqālāt al-Aš*ᶜ*arī,* 67.6-8). There is, therefore, no specific point of legal hermeneutics on which Ibn Fūrak gives us an uncontested report that we know to be derived directly from al-Ashᶜarī's own writings. Only a couple of generations later, al-Juwaynī began to suspect that al-Ashᶜarī's views on ambiguous language (such as general expressions) were not being reported correctly, but had been unduly generalized into a systematic position of suspension of judgment. Through his study of the interpretive moves al-Ashᶜarī made in his arguments, al-Juwaynī became convinced that he had suspended judgment on them only when dealing with matters of belief, in which one might aspire to certainty, but had been willing to rely on the apparent meanings of expressions in legal arguments, where it is often necessary to accept mere probability as a basis for action *(al-Burhān,* 1:166.11-19 ¶355).

Even the earliest reports of al-Ashᶜarī's legal-hermeneutical views, then, may reflect the inferences and extrapolations of his followers. These interpretations were not formulated in a neutral environment. Ibn Fūrak's wide-ranging dispute with al-Ḍabbī, the author of a previous compendium of al-Ashᶜarī's views, shows that there was already, by the close of the 4th/10th century, fierce contention over what al-Ashᶜarī's views had been (see Gimaret's "Document Majeur," 198-201, and his French introduction to Ibn Fūrak, *Muğarrad maqālāt al-Aš*ᶜ*arī,* 18-19; Gimaret himself, however, does not give any weight to al-Ḍabbī's rival reports; see *La doctrine d'al-Ash*ᶜ*arī,* 20). Scholars ever since – Muslims and now orientalists as well – have debated whether al-Ashᶜarī was more

akin to the Muᶜtazila or to Ibn Ḥanbal. (See Makdisi, "Ashᶜarī and the Ashᶜarites;" see also the traditionalist defenses of al-Ashᶜarī that follow the 1948 Hyderabad edition of his *Ibāna,* and Gimaret, *La doctrine d'al-Ashᶜarī,* 21-23.) The reports of second-generation and later Ashᶜariyya, therefore, cannot be used uncritically to reconstruct al-Ashᶜarī's legal hermeneutics, but must be read as arguments in a developing conflict over how to interpret and systematize the master's shifting thought. Specific reports about his views on each question will be examined in the following notes.

[344] Considering his training under Ibn Surayj's pupil al-Marwazī (d. 340/951), himself the author of an early work on legal theory, *Kitāb al-fuṣūl fī maᶜrifat al-uṣūl* (Stewart, *Islamic Legal Orthodoxy,* 34, no. 9), one would expect al-Ashᶜarī to have engaged in the legal-theoretical debates of his time. Our evidence for his views, however, is mostly second hand. His *Maqālāt,* which touches briefly upon the major topics of legal theory (2:162 and 172-174), provides a sketch of what he considered the important debates of his day, but does not state his own position on most of them. His other extant works contain statements of his position on the interpretation of general expressions (see note 345), but these are contradictory, and are not made in the context of legal theory. In reconstructing al-Ashᶜarī's legal hermeneutics we are thus mostly dependent on the reports of later scholars, which may reflect the greater systematization of subsequent generations.

[345] The claim that one must suspend judgment as to whether an apparently general expression refers to all or only some of the things it linguistically encompasses was first made by the Murjiᵓa in the context of the debate over whether God's threat of punishment applies to all grave sinners, or only to those who are unbelievers (see above page 23). al-Ashᶜarī made the same claim, in the same context, in his *Kitāb al-lumaᶜ,* 80-82. One of the defining tenets of the Muᶜtazila was that God must punish sinners in hell, as he has threatened in passages such as Q 82:14, "evildoers will be in hell;" here al-Ashᶜarī responded that without additional evidence, it cannot be decided whether verbal forms such as "evildoers" *(al-fujjār)* refer to all those they denote, or to only some of them (in this case, unbelieving evildoers). This precisely corresponds to al-Bāqillānī's suspension of judgment with regard to general expressions, though al-Ashᶜarī states his position without using the term *waqf:* "لما كانت هذه الألفاظ ترد مرة يراد بها الكل وترد أخرى يراد بها البعض لم يجز أن يقضى على الكل دون البعض، ولا على البعض دون الكل إلا بدلالة" *(Kitāb al-lumaᶜ,* 81.7-9). (A few lines later he uses *ᶜāmm* and *khāṣṣ,* corresponding to his usual terms *kull* and *baᶜḍ.*)

Gimaret suggests *(La doctrine d'al-Ashᶜarī,* 522-524) that al-Ashᶜarī arrived at a position of suspension of judgment on all apparently general expressions by systematizing the theological arguments of the Murjiᵓa. I find no indication of this in any of al-Ashᶜarī's extant writings. Later reports offer conflicting evidence, claiming variously that he suspended judgment on all general expressions, or that he interpreted them as

general by default, or as particular by default. Ibn Fūrak paraphrases the statement quoted above from the *Kitāb al-lumaᶜ,* and ties it specifically to verses of promise and threat *(Muğarrad maqālāt al-Aščarī,* 164.9-12), but then goes on to say that al-Ashᶜarī suspended judgment not only on statements of promise and threat, but on general expressions in any context (165.2-5). When presenting al-Ashᶜarī's legal theory (190-202) he again attributes to him a position of *waqf* on all general expressions, including commands as well as statements (191.10-19, 196.4-5, and 197.17-22). This attribution is corroborated by al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 3:51. But Ibn Fūrak also quotes *(Muğarrad maqālāt al-Aščarī,* 165.10-11; see also 325.11-12), from al-Ashᶜarī's *Tafsīr,* the opposite view that apparently general expressions must be interpreted as general unless some evidence indicates otherwise: " إن مذهبي إجراء الكلام على عمومه وظاهره، الا ما خصّه الدليل." al-Ashᶜarī makes a similar statement in his *Ibāna,* 139-140, although in this instance it could perhaps be argued that he is only citing this position, which the Muᶜtazila accept, as a hypothetical premise from which to refute another Muᶜtazilī claim. To further complicate the matter, Ibn Fūrak also quotes (and dismisses) a report by al-Ḍabbī that al-Ashᶜarī interpreted apparently general commands and statements as particular *(Muğarrad maqālāt al-Aščarī,* 325.8-16; cf. 20.2-3; the missing words on 325.9 may be supplied so that the sentence reads " قال في موضع إن الأوامر والأخبار على الخصوص لأنه [حملها على أقلّ الجمع] وهو ثلاثة.")

There are at least two ways to approach this contradictory evidence. The first is to suppose that al-Ashᶜarī changed his mind. We might speculate, for example, that upon breaking with the Muᶜtazila, who interpreted verses of threat as applying generally to all grave sinners, he adopted the stringent Murjiʾī position of interpreting all Qurʾānic texts as particular by default. This is the view reported by al-Ḍabbī; it is also the last of seven views ascribed to the Murjiʾa by al-Ashᶜarī *(Maqālāt,* 1:228.12-17). Later he may have moderated his position to one of *waqf* on all general expressions; this is the stance recorded by Ibn Fūrak and al-Bāqillānī, and reflected in his own interpretation of the verses of threat in the *Kitāb al-lumaᶜ.* Finally, in an attempt to convince the traditionalists of his orthodoxy, he may have affirmed their position that apparently general statements should be interpreted as general by default. This is the view articulated in the *Ibāna* and reported by Ibn Fūrak from the *Tafsīr.* It should be noted that any of these views could be made to support a Murjiʾī position on the status of grave sinners; see al-Ashᶜarī, *Maqālāt,* 1:225-228.

This explanation of the evidence is messy, but it is not inherently improbable, for al-Ashᶜarī is said to have changed his mind on many questions (see note 342). It accords well with Allard's thesis *(Le problème des attributs divins,* 51-52 and 250) that al-Ashᶜarī wrote or at least reworked the *Ibāna* late in his life, in an attempted rapprochement with the Ḥanbaliyya.

There is, however, another equally plausible way to unravel this snarled evidence, which is to suppose that al-Ashᶜarī never claimed to have a uniform principle for interpreting general expressions. He may have suspended judgment in theological

arguments while assuming generality by default in law, as al-Juwaynī contends *(al-Burhān,* 1:166.11-19 ¶355; see note 343 above). al-Ḍabbī's report may preserve a radical Murjiʾī argument that he made at some point. The claim that he extended the suspension of judgment to all general expressions may represent a later attempt, by his disciple Ibn Mujāhid or by the latter's pupil al-Bāqillānī, to develop certain aspects of his thought into a systematic hermeneutical theory. Their portrait of al-Ashʿarī as the champion of a broad theory of *waqf* appears to have gained widespread acceptance, and was reported by Ibn Fūrak as his most well-known view; yet Ibn Fūrak also called attention to his largely forgotten statement in the *Tafsīr* in support of the default of generality, no doubt because this was Ibn Fūrak's own view (see his *Muqaddima fī nukat,* 6; but cf. his *Muǧarrad maqālāt al-Aš^ʿarī,* 165.5-7, which may just represent his understanding of al-Ashʿarī's position). The other Khurāsānī Ashʿariyya, who were influenced mainly by al-Ashʿarī's disciple al-Bāhilī, likewise held to the default of generality (e.g. ʿAbd al-Qāhir al-Baghdādī, who favors this view in *Uṣūl al-dīn,* 218-219). al-Bāqillānī alone of all al-Ashʿarī's early followers defended suspension of judgment on general expressions in legal theory.

From the vantage point of later theory, it may seem disrespectful to suppose that al-Ashʿarī did not interpret general expressions uniformly. We must be careful, however, not to project back into the early 4th/10th century the kind of unifying hermeneutical vision that drove al-Bāqillānī. To apply different interpretive principles to different types of general expressions was not without precedent: some of the Murjiʾa interpreted commands as general by default, even though they did not interpret statements generally (al-Ashʿarī, *Maqālāt,* 1:228.18, in the context of 1:225-228; cf. Ibn Fūrak, *Muǧarrad maqālāt al-Aš^ʿarī,* 165.5-6 and 197.17-18). On the other hand, to uniformly suspend judgment on them would have been more of a novelty. When al-Shāfiʿī, a century earlier, introduced the categories of general and particular into legal hermeneutics, he interpreted apparently general speech as general by default. His concern was to reconcile general texts with a superabundance of contradictory evidence; general texts concerning which there was no other evidence did not seem to him problematic, and the suspension of judgment, as a methodological principle for dealing with them, does not seem to have ever crossed his mind. In al-Ashʿarī's time, suspension of judgment was still not a broadly conceived interpretive principle, but just one of several positions on the specific issue of the promise and the threat. If we take al-Ashʿarī's *Maqālāt* (a survey of theological disputes that briefly covers basic points of legal theory on 2:162 and 172-174) as representative of the issues and terminology current in his time, it is striking that the only issue with respect to which a position of *waqf* is mentioned is the interpretation of general expressions, and that solely within the context of the promise and the threat (1:225-228, 1:336-337). General expressions are discussed in two other contexts (1:228 and 2:134), but without any reference to a position of *waqf.* Ibn Fūrak *(Muǧarrad maqālāt al-Aš^ʿarī,* 165.5-6 and 197.17-18) reported that some of the Ashʿariyya and/or Murjiʾa suspended judgment on both statements and

commands, but this development must have postdated al-Ashᶜarī, who knew of no such position in his *Maqālāt,* 1:228. It makes good historical sense, therefore, to suppose that al-Ashᶜarī suspended judgment on general expressions when arguing about the status of the grave sinner, but treated them differently elsewhere.

However we interpret the evidence – whether we suppose that al-Ashᶜarī had no uniform position on this matter, or that he changed his mind, or both – we are left with the impression that his ways of interpreting general expressions were an ad hoc feature of his arguments, not a general principle embedded in a systematic interpretive theory.

[346] Nowhere in his *Risāla* did al-Shāfiᶜī (d. 204/820) state a position on the default interpretation of imperatives. He did say that the Prophet's prohibitions constitute forbiddance by default (217 ¶591, 343 ¶929), but this did not necessarily entail a corresponding position on commands: the Muᶜtazila generally interpreted prohibitions as forbiddance, yet held imperatives to be recommendations (ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.14, 216.9-11; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:48.12-13). In later discussions of the legal force of imperatives, al-Shāfiᶜī was most often cited in favor of obligation (e.g. ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.13-14; al-Juwaynī, *al-Burhān,* 68.9-10), but also sometimes in favor of recommendation or even suspension of judgment (al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:26-27, 2:46-49). al-Bāqillānī's testimony, however, shows plainly that these conflicting reports were not based on general statements of principle in al-Shāfiᶜī's own writings, but were inferred from his arguments on specific points of law. Unqualified commands and prohibitions were not particularly important to al-Shāfiᶜī's hermeneutical project, for they seemed to pose no interpretive dilemma; he was more concerned with imperatives that had to be interpreted in light of seemingly conflicting evidence.

One of his principal disciples, al-Muzanī (d. 264/877-8), directly addressed the question of the legal force of commands and prohibitions. He elaborated (and attributed to al-Shāfiᶜī) the view that by default they should be interpreted as general and definite, in accordance with their apparent meaning *(ᶜalā al-ᶜumūm wa-l-ẓāhir wa-l-ḥatam)* (al-Muzanī, *Kitāb al-amr wa-l-nahy,* 153.6-9). Instead of the term obligation he used definiteness *(ḥatam),* by which he meant both a legal value opposed to recommendation and permission (153.7-9), and the way in which a legal value applies to an act (153.9-10). His vocabulary, and the composite nature of the position he attributed to al-Shāfiᶜī, reveal that in the mid-3d/9th century, the classical question of the legal force of commands was not yet a standard topic with an established terminology. al-Muzanī's question was broader and vaguer: when must commands be obeyed absolutely, and in what ways may they be qualified?

By al-Ashᶜarī's time this multifaceted topic had been boiled down into a number of questions relating to two discrete problems: should imperatives be interpreted as general or particular (al-Ashᶜarī, *Maqālāt,* 1:228), and what legal value do they entail – obligation, recommendation, or permission? We are here concerned solely with the

second issue. In order to make sense of the dreadfully brief references to this problem in al-Ashᶜarī's *Maqālāt,* it is necessary to attempt a hypothetical reconstruction of the principal terms and claims of the debate. It appears to me that the matter was discussed in two sets of terms that at first blush seem to represent independent questions: 1) does an imperative *(ifᶜal)* entail a command *(amr),* and 2) does a command *(amr)* entail an obligation? According to al-Bāqillānī's later analysis, an obligation (in the active sense – a "making obligatory") is a type of speech; a command is a broader class of speech types encompassing both obligations and recommendations; an imperative is a verbal form which may or may not express a command (see al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:5-16, 27-30). On this model, our two questions represent two separate steps in the interpretive process: first one must determine whether a given imperative expresses a command, and then one must decide whether that command is an obligation (see al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 73). This analysis of the problem, however, rests on a clear distinction (rooted in Ibn Kullāb's theory) between speech (e.g. a command) and the verbal form that expresses it (e.g. an imperative); but we have seen that this distinction was probably not systematically maintained by al-Ashᶜarī (see note 341), much less by his contemporaries; even in al-Bāqillānī's time it was an innovation (see e.g. al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:93). It would be anachronistic, therefore, to understand the two forms of our question as two separate steps in the interpretive process. Rather, it appears that the term command *(amr)* was used sometimes to refer to the imperative form, and sometimes to refer to obligation. The two questions, then, were but two ways of phrasing the same debate: 1) does an imperative *(ifᶜal)* entail a command *(amr)* (i.e. an obligation), and 2) does a command *(amr)* (i.e. an imperative) entail an obligation.

On this single question, it is usually asserted that the great imams interpreted imperatives as obligations by default. (As was said above concerning al-Shāfiᶜī, the imams themselves probably did not directly address this theoretical question in these terms; the many claims that they did so seem to be at best generalizations abstracted from an analysis of some of their concrete legal arguments. See e.g. Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* 58-60, who infers this view from Mālik's writings; also ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.12-14, who attributes it to Mālik, Abū Ḥanīfa, and al-Shāfiᶜī.) From these attributions, from al-Muzanī's stance, and from later reports (e.g. al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:26-27), we may infer that this was the usual position of traditionalist jurists in the Shāfiᶜī tradition during al-Ashᶜarī's time. The principal rival view, held by most of the Muᶜtazila, was that imperatives should be interpreted as recommendations by default; they should only be considered obligations if other evidence shows that omission is prohibited and will be punished (see al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:26, 39; ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.14; al-Juwaynī, *al-Burhān,* 1:68). Finally, some of the Muᶜtazila (probably including the Baghdād Muᶜtazilī al-Kaᶜbī) contended that imperatives entail permission by default

(al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:26, cf. 2:17-18; al-Juwaynī, *al-Burhān,* 1:67.23-26).

This tentative reconstruction of the debate in al-Ashᶜarī's time provides a way to understand his terse and nameless accounts, in the *Maqalāt,* of several questions related to the legal force of imperatives. On 2:135 we may read between the lines that it was mainly those defending traditionalist views who said that a divine imperative is a binding command *(amr lāzim)* even if there is no apparent prohibition connected to it; we may guess that it was the Muᶜtazila who said an imperative is not a command (i.e. not an obligation but only a recommendation or permission) unless it is accompanied by *(yuqārinuhu)* an explicit prohibition (which for them entails a proscription) against omission. On 2:174, in the context of legal theory, it must be the traditionalists in the Shāfiᶜī tradition who say that a divine imperative is a command (i.e. an obligation) by virtue of its own apparent meaning *(ẓāhir),* while the Muᶜtazila say it is not a command (i.e. not an obligation but only a recommendation or permission) unless God indicates he has required *(faraḍa* – a Ḥanafī subtype of obligation) the act. Note that since the notions of obligation and proscription are classically defined in terms of reward and punishment, the Muᶜtazilī requirement of evidence that an act is obligatory, or that its omission is proscribed, is equivalent to requiring evidence of a threat of punishment. On 2:85 al-Ashᶜarī raised a related question about the relationship between commanding an act and prohibiting its omission. Here command should be understood in the sense of imperative. Those who say that a command constitutes a prohibition of omission must be those defending traditionalist views, who hold that imperatives constitute obligations. (al-Ashᶜarī notes that they also claim that willing an act constitutes abhorring its omission; this seems designed to undermine the Muᶜtazilī argument that imperatives are only recommendations because they indicate God's willing the act but not his abhorrence of its omission.) On the other side, those who say that a command does not constitute a prohibition of omission must be the Muᶜtazila, who hold that unqualified imperatives entail only recommendation (or permission) unless other evidence shows that omission is prohibited. (This interpretation of *Maqalāt* 2:85 is corroborated by later discussions in Ibn Fūrak, *Muǧarrad maqālāt al-Aš*ᶜ*arī,* 67.4-6; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:198-207; and ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 212.)

These, then, were the main outlines of the debate within which the evidence about al-Ashᶜarī's views must be situated.

[347] In the context of the debate just described, one would expect al-Ashᶜarī, after his conversion, to uphold the traditionalist position, which was that imperatives entail obligation by default. It is not impossible that he should have broken with both his Muᶜtazilī and his Shāfiᶜī training by proposing suspension of judgment on imperatives, but this would have been an unprecedented theoretical move. (Even al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:26-81, finds no one before al-Ashᶜarī to whom he can attribute this position. ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.14-16, reports that the

infamous heretic Ibn al-Rāwandī suspended judgment on commands, but he contradicts this on 210.2-3 when he reports that Ibn al-Rāwandī limited commands to obligations.)

al-Ashᶜarī's extant works tell us nothing of his position on imperatives. Most early reports, beginning in the second generation of the Ashᶜariyya, claim or imply that al-Ashᶜarī suspended judgment on imperatives and/or commands. See Ibn Fūrak, *Muğarrad maqālāt al-Aš*ᶜ*arī,* 191.13-19, 197; al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:27; ᶜAbd al-Qāhir al-Baghdādī, *Kitāb uṣūl al-dīn,* 215.14-16; al-Juwaynī, *al-Burhān,* 1:66-67. But Ibn Fūrak also reports *(Muğarrad maqālāt al-Aš*ᶜ*arī,* 67.4-6) that al-Ashᶜarī held that a divine command must be a prohibition of the opposite act, which makes it an obligation. Ibn Fūrak goes on to say *(Muğarrad maqālāt al-Aš*ᶜ*arī,* 67.6-8) that in one place al-Ashᶜarī said that recommendations are a type of command (which would be a reason to suspend judgment on the legal force of commands), while in another passage he said that command means obligation, and that recommendations may be called commands only in a loose sense *(tawassuᶜan)* (which requires interpreting commands as obligations). Finally, al-Juwaynī's claim that al-Ashᶜarī did not uniformly deny that ambiguous expressions have default meanings *(al-Burhān,* 1:166.11-19 ¶355, see note 345) is made in broad terms, so that even though al-Juwaynī only specifically mentions general expressions, he seems to be saying that in law al-Ashᶜarī was willing to rely on the apparent meanings of all kinds of expressions, including, presumably, imperatives.

There are several possible ways to interpret these conflicting claims, but given the state of the discourse on commands in al-Ashᶜarī's time (see note 346), it seems to me most reasonable to interpret the evidence by supposing that he held, along with virtually all of his non-Muᶜtazilī colleagues, that imperatives entail obligation by default. He expressed this by saying that command (which he did not consistently distinguish from imperative) means obligation. At some point he may have referred to recommendations as commands, or admitted that they may be called commands in a loose sense, as reported by Ibn Fūrak. al-Bāqillānī's circle interpreted this as evidence that the founder had advocated their theory of suspension of judgment on commands. Their portrait of al-Ashᶜarī as a champion of the suspension of judgment seems to have won the day, but the conflicting reports on this point may be vestiges of an early disagreement among the Ashᶜariyya on what the master's views were.

[348] The default of obligation was upheld by, for example, ᶜAbd al-Qāhir al-Baghdādī *(Uṣūl al-dīn,* 215-216) and Abū Isḥāq al-Isfarāʾinī (cited in al-Juwaynī, *al-Burhān,* 1:68.9-12 ¶132). The only early Ashᶜarī to suspend judgment on imperatives, so far as I can determine, was al-Bāqillānī. Even al-Juwaynī, who was much influenced by al-Bāqillānī, ended up in effect supporting the default of obligation *(al-Burhān,* 1:71). al-Juwaynī, however, makes the puzzling statement *(al-Burhān,* 1:68.9-12 ¶132) that al-Isfarāʾinī was the only Ashᶜarī theologian to follow al-Shāfiᶜī in claiming that the imperative was established to mean command; all others followed al-Ashᶜarī in suspending judgment. Perhaps he was led to this conclusion because many of the

Ashᶜariyya defined command broadly enough to include recommendation (e.g. ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 210.2-5); but this does not necessarily lead to suspension of judgment, as the example of ᶜAbd al-Qāhir al-Baghdādī illustrates.

This divergence among al-Ashᶜarī's followers leads me to suspect that it was the circle of al-Ashᶜarī's pupil Ibn Mujāhid in Baghdād, of which al-Bāqillānī was the most eminent, that first succeeded in formulating a coherent legal hermeneutics in al-Ashᶜarī's name. The more traditionalist circle of al-Bāhilī seems to have lost out in Baghdād, and to have migrated to Khurāsān, where they outlived the Baghdād circle and upheld a more conservative interpretive theory. They seem to have acknowledged the persuasively coherent representation of al-Ashᶜarī offered by the Baghdād group, but they also preserved the shreds of conflicting evidence that have led us to question that portrait of their founder. On these two groups, more below.

[349] There is in fact one mysterious personage who is said to have held something like a position of suspension of judgment on both imperatives and general expressions even before al-Ashᶜarī: that notorious heretic and perpetual thorn in the flesh of the theologians, Ibn al-Rāwandī (fl. mid-3d/9th century). (See al-Juwaynī, *al-Burhān,* 1:112.5-6 ¶228; Gimaret, *La doctrine d'al-Ashᶜarī,* 524 n. 18; and ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 215.14-16, but cf. 210.3.) Given his reputation, these attributions may be attempts to discredit the principle of suspending judgment rather than honest historical citations. Yet the reports may be genuine; it would be consistent with our limited knowledge of Ibn al-Rāwandī to suppose that he sought to undermine both the traditionalists and the Muᶜtazila by arguing that the ambiguity of general expressions and imperatives invalidated all the various ways of interpreting them, and should logically lead to an interpretive impasse. Such arguments could have been seized upon by the Murjiʾa, and in due course by al-Ashᶜarī, in their refutations of the Muᶜtazila. It seems less likely that Ibn al-Rāwandī should have developed the principle of suspension of judgment as a corollary of Ibn Kullāb's theory of speech (which he apparently shared in some respects; see Gimaret, *La doctrine d'al-Ashᶜarī,* 205); he seems to have been driven not by a systematizing vision but by antipathy to the Muᶜtazila.

If al-Ashᶜarī did in fact hold to suspension of judgment on some points of legal hermeneutics (a possibility which my interpretation of the evidence has called into question but has by no means ruled out), he probably did so in the spirit of Ibn al-Rāwandī (whose work he knew and refuted), not as part of a systematic integration of hermeneutics with Ibn Kullāb's theory of speech. We saw in note 341 that this theory was not central to his thought, and the hermeneutical positions attributed to him could have been motivated by other factors, such as his conflict with the Muᶜtazila over questions like the fate of grave sinners, or the philosophical debates about affirmations, denials, actions, and opposites. al-Bāqillānī's argument for an intimate connection between hermeneutics and the nature of speech is, to my mind, subtle, and depends on a

range of assumptions about the origin of language and other issues. It was probably not formulated by al-Ashᶜarī, whose strength seems to have been as a debater rather than as a systematizer, but rather by al-Bāqillānī, or possibly by his teacher, al-Ashᶜarī's pupil Ibn Mujāhid.

[350] This way of mapping the Ashᶜariyya largely follows Allard's sketch in *Le problème des attributs divins,* which traces strictly theological developments.

Ibn Mujāhid and al-Bāhilī are the two recognized transmitters of the last phase of al-Ashᶜarī's thought (see al-Kawtharī's introduction to al-Bāqillānī, *al-Inṣāf,* 10-11). Ibn Mujāhid was, like al-Bāqillānī, a Mālikī in jurisprudence, while in theology he was the foremost of al-Ashᶜarī's disciples teaching in Baghdād (Brunschvig, *Études d'islamologie,* 1:227). al-Bāqillānī studied with both, but is considered the disciple of the former; he is the only well known representative of that tradition.

A number of al-Ashᶜarī's other immediate disciples moved to Khurāsān, but the school there came to be regarded as the center of gravity of the Ashᶜariyya under the leadership of scholars such as Ibn Fūrak and Abū Isḥāq al-Isfarāʾinī, who were trained under al-Bāhilī in Baghdād.

[351] Brunschvig, *Études d'islamologie,* 1:228, presents Ibn Mujāhid as a specialist in legal theory, who was convinced of the importance of understanding the theological foundations of legal method. This is precisely the kind of person from whom one might expect such a systematic integration of the principle of suspension of judgment with a theory of speech. The fairly sharp division between his disciple al-Bāqillānī and the disciples of al-Bāhilī, on questions of legal hermeneutics, suggests that he may have been largely responsible for the hermeneutical theory of the Baghdād Ashᶜariyya.

[352] The Mālikiyya should not be considered a separate school of legal-theoretical thought, for although they have upheld a few distinctive claims, such as that the practice of the people of Medina constitutes a source of law, the main points and the vocabulary of their legal theory are those of the Shāfiᶜiyya. To this day they refer to only two schools of legal theory, the Shāfiᶜiyya and the Ḥanafiyya, and consider themselves part of the former tradition. al-Bāqillānī's teacher of law, al-Abharī (d. 375/985), the head of the Mālikī school in Baghdād, was engaged with the Shāfiᶜī hermeneutical project; he wrote several works on legal theory, including a response to al-Muzanī (al-Sulaymānī's introduction to Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* 31).

[353] His theoretical concern with language is evident not only in his legal hermeneutics, but also in his theological writing; Allard, *Le problème des attributs divins,* 312, concludes that his main advance over al-Ashᶜarī's analysis of God's attributes was his more developed theory of language.

[354] Ibn Fūrak, *Muqaddima fī nukat,* 6.

[355] This is illustrated, for example, by al-Juwaynī's section on commands in *al-Burhān,* 1:61, which opens with the statement that before one can discuss commands and other meanings that are associated with verbal forms, one must first establish the doctrine of inner speech *(kalām al-nafs).* The influence of al-Bāqillānī's insistence on distinguishing meaning from verbal form may also be reflected in the change of the standard title of the topic of "a command following a prohibition" *(al-amr baʿd al-ḥaẓr).* al-Juwaynī tacitly accepted al-Bāqillānī's argument that the topic really concerns "an imperative following a prohibition" (see *al-Taqrīb,* 2:93), and corrected the title accordingly (al-Juwaynī, *al-Burhān,* 1:87-88). Abū Zunayd, the editor of al-Bāqillānī's *Taqrīb,* points out (2:93 note 2) that the Ḥanbalī Abū Yaʿlā (d. 458/1066) likewise accepted this correction; this suggests that al-Bāqillānī's integration of theological principles had an early impact even in traditionalist circles.

[356] Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl.* This work, sometimes referred to as *al-Muqaddima fī uṣūl al-fiqh,* was written as an introduction to the author's larger work on disputed points of law, *ʿUyūn al-adilla fī masāʾil al-khilāf bayna ʿulamāʾ* (or *fuqahāʾ) al-amṣār* (see the editor's introduction, 16, 17 and 32; and pages 3-4 of the text).

[357] He appears to have been well aware of less traditionalist views, as in *al-Muqaddima fī al-uṣūl,* 58-60, where he implicitly takes a jab at al-Bāqillānī's suspension of judgment on commands by commenting that when someone in authority utters an imperative, one does not understand that one has been ordered to suspend judgment! But he does not attempt to refute the speculative theologians' arguments.

[358] Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* 58-60.

[359] Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* 53-57. He takes a more moderate position, however, than the Ḥanafiyya/Muʿtazila, who hold that a general expression in and of itself gives knowledge that the speaker's intent is general. Ibn al-Qaṣṣār recognizes a certain ambiguity in general expressions, since he says that they should be interpreted as general by default only after one has searched for particularizing evidence (which was not deemed necessary by some of the Ḥanafiyya). In its practical effect, this is not actually very far from al-Bāqillānī's position, which is that in the end, if the interpreter becomes convinced that there is no particularizing evidence, he should rule as though the expression were intended as general, even though he does not know that it is (see below). The difference is more theoretical than practical: al-Bāqillānī stresses that

the expression itself does not provide any evidence of the speaker's intent, whereas Ibn al-Qaṣṣār emphasizes the default to generality in the absence of other evidence.

[360] For example, he does not differentiate between commands and imperatives in *al-Muqaddima fī al-uṣūl,* 58-60.

[361] Abū Bakr ibn Ṣāliḥ al-Abharī (d. 375/985), the head of the Mālikī school in Baghdād.

[362] The Ḥanbalī Abū Yaʿlā and his student Ibn ʿAqīl (who also studied under the traditionalist al-Shirāzī and under Abū Isḥāq al-Isfarāʾinī's pupil Abū al-Ṭayyib al-Ṭabarī), both from rationalist backgrounds, seem to have been aware of and perhaps responding to Ashʿarī legal theory. One possible instance of al-Bāqillānī's influence on Abū Yaʿlā was cited in note 355.

Makdisi (see *Ibn ʿAqīl, passim* and conclusion) suggests that Ibn ʿAqīl and his teacher Abū Yaʿlā, both of whom came from a Muʿtazilī background and represent the "intellectualist" trend among the traditionalists, represent a point at which Muʿtazilī thought was dealt with by and thus influenced Ḥanbalī/traditionalist *uṣūl al-fiqh*. Watt *(Islamic Philosophy and Theology,* 101) approves the thesis that from Abū Yaʿlā onwards the Ḥanbaliyya accepted something of the methodology of *kalām*.

[363] al-Bājī studied under al-Shirāzī and, according to Chaumont ("al-Shāfiʿiyya," in *EI²),* held a legal theory "virtually indistinguishable" from that of al-Shirāzī.

[364] See N. Cottart, "Mālikiyya," in *EI²*.

[365] This monumental work was discovered and partially published only recently by ʿAbd al-Ḥamīd Abū Zunayd. The three volumes of this laudable edition include only the prolegomena and the sections on language analysis; the second part of the manuscript, which begins with a discussion of the Sunna (see 1:91, and al-Bāqillānī's own outline at 1:310-311), is extant but has not been published; see the editor's introduction. Although the unique manuscript does not identify al-Bāqillānī as the author, the editor cites numerous quotations from later works, especially al-Juwaynī's summary *Talkhīṣ al-taqrīb,* to show that this is the work listed by al-Qāḍī ʿIyāḍ as *al-Taqrīb wa-l-irshād al-ṣaghīr,* al-Bāqillānī's summary of his own *al-Taqrīb al-awsaṭ* and *al-Taqrīb al-kabīr* (to which the author refers as his own works on page 1:420). The style, argumentation, and terminology seem reasonably uniform, and I have found nothing to suggest additions by a later author.

[366] The *mutashābih* includes, for example, polysemous words *(al-asmāʾ al-mushtaraka); al-Taqrīb,* 1:328-331.

[367] *al-Taqrīb,* 1:332.

[368] See *al-Taqrīb,* 1:340-351. The classification in question is not a categorization of speech (i.e. meaning) itself, or of verbal forms, but of specific instances of address *(khiṭāb)* – actual uses of specific verbal forms to express certain meanings to specific persons. Since al-Bāqillānī's analysis is concerned with the way in which a given instance of address conveys its meaning to the hearer, I will refer to it as a classification of communication.

[369] *al-Taqrīb,* 1:352-357.

[370] al-Taqrīb, 1:367ff. al-Bāqillānī includes such expressions in his definition of *al-asmāʾ al-ʿurfiyya.* He does not consider that customary usage makes them literal (as al-Āmidī will; see Weiss, *Search,* 142). They are still transgressive, but unlike most transgressive expressions they are not *mujmal,* as some apparently claimed.

[371] For example, al-Bāqillānī argued that a repeated imperative can only be used to express emphasis by virtue of specific evidence to that effect; otherwise it is assumed to express a command to repeat the action. al-Bāqillānī did not call repetition expressing emphasis transgressive usage, but since repetition is established to mean repetition, to use it to express emphasis seems to fit his broad definition of transgressive usage (on which see below). Whether or not he would have called it transgressive, al-Bāqillānī treated such usage in the same way as dependent communication, since he did not include it in the range of possible meanings that the expression might have in the absence of clarifying evidence.

[372] See *al-Taqrīb,* 1:340-341.

[373] He often used *ẓāhir* interchangeably with *ḥaqīqa,* as at *al-Taqrīb,* 2:190.

[374] See *al-Taqrīb,* 1:431.18-432.2, and 1:434, where he classified all God's transmitted speech as either definite or ambiguous/summarized.

[375] *al-Asmāʾ al-mushtaraka,* words that admit of two or more basic meanings, each of which may be perfectly detailed and clear in itself (i.e. homonyms). He also said that an expression is *mushtarak* if it has one basic meaning but could be meant to be applied in either of two different ways, as a plural may refer to all or some of those it designates; this we would not call homonymy.

[376] He explicitly linked it to partially dependent communication in *al-Taqrīb,* 1:349-350.

[377] See al-Ashᶜarī's three levels of clarity cited by al-Ḍabbī, quoted in Ibn Fūrak, *Muğarrad maqālāt al-Aš*ᶜ*arī,* 19-20: *naṣṣ*, *muḥtamil / mubayyan, mujmal*. Cf. the classifications attributed to him by Ibn Fūrak himself *(Muğarrad maqālāt al-Aš*ᶜ*arī,* 23, 191).

[378] See Moosa, "The Legal Philosophy of al-Ghazālī," 114ff.

[379] On al-Bāqillānī's theory about the semantic assignment of words and the origin of language, see page 104.

[380] *al-Taqrīb,* 1:352-357.

[381] He referred *(al-Taqrīb,* 1:352-357) to a distinction that others made between *majāz bi-l-ziyāda* (transgression by surplus) and *majāz bi-l-ḥadhf* (or *bi-l-nuqṣān)* (transgression by deficiency), but did not mention *majāz bi-l-naql* (transgression by transference), which is the third category commonly used in classical theory. Indeed he seems to have thought of *majāz* primarily as *naql,* for this seems to be what he meant by the *majāz* that he includes in the category of dependent communication in *al-Taqrīb,* 1:340-351. He said there that some *majāz bi-l-ḥadhf* has come to communicate self-sufficiently by force of common use; but this effectively removes it from the category of *majāz,* since this means that it no longer requires evidence for its interpretation, which al-Bāqillānī requires for all *majāz*.

[382] al-Bāqillānī found it necessary to illustrate the presence of transgressive language in the Qurʾān, *al-Taqrīb,* 1:356-357. See the editor's note 18 on those who denied this point.

[383] *al-Taqrīb,* 1:352; also 2:190, where al-Bāqillānī appealed to the principle that "لا وجه لترك الظاهر إلى المجاز بغير دليل." al-Ashᶜarī stated a similar principle in the context of a theological argument: "لا يجوز أن يُعدَل بالكلام عن الحقيقة إلى المجاز بغير حجة ولا دلالة." al-Ashᶜarī, *al-Lumaᶜ,* 41.3-4. Ibn Fūrak *(Muğarrad maqālāt al-Aš*ᶜ*arī,* 26-27, 191) confirmed that al-Ashᶜarī held to literal interpretation by default, but also noted (191-192) that some of those who suspended judgment on general expressions also suspended judgment even between literal and transgressive meanings, rather than defaulting to a literal interpretation in the absence of evidence indicating transgressive usage. This represents a more radical claim of ambiguity than even al-Bāqillānī was willing to make.

[384] As we saw above (page 92), self-sufficient and partially dependent communication do not perfectly correspond to literal usage, or dependent communication to transgressive usage.

[385] Strictly speaking, it is not expressions that are general in al-Bāqillānī's system, since he held that the expressions themselves were not established to designate generality; one may only say that certain expressions are susceptible to being interpreted as general (see *al-Taqrīb,* 2:179-180, in light of his own position of *waqf).* He stated that generality and particularity are actually *maʿānī* (meanings or types of speech) in the speaker's mind *(al-Taqrīb,* 3:173). Even this does not seem quite consistent with his system; it seems to me that his thinking is most accurately represented by the statement that generality and particularity characterize specific uses of expressions, according to whether the scope of a *maʿnā* is as broad as or narrower than the possible scope of reference of the word that expresses it: insofar as an expression is used to express a *maʿnā* that is narrower than the widest possible *maʿnā* that it can express, its use is characterized by particularity. Insofar as an expression is used to express a *maʿnā* that is broader than the narrowest possible *maʿnā* that it can express, its use is characterized by generality. (On this interpretation, a given use of an expression can be both general relative to the narrowest possible use of that expression, and particular relative to the broadest possible use of that expression.)

[386] See *al-Taqrīb,* 1:349-350.

[387] Some said two rather than three.

[388] *al-Taqrīb,* 3:7-8, 18.12-15, 20.16-17.

We will see below that al-Bāqillānī did not allow the suspension of judgment on general expressions to lead to juridical indecision. Ultimately, if no particularizing evidence can be found, a jurist must rule as though the expression were intended as general. This does not make the expression any less ambiguous, for the jurist still has no knowledge of whether the expression is meant as general or particular. This is a purely practical concession to the need for legal opinions, justifiable in view of the principle that a jurist's best interpretive effort is necessarily adequate even if his interpretation is not correct. See *al-Taqrīb,* 3:425-426.

[389] See *al-Taqrīb,* 3:177-179, 185-186, 195-196. Abū Isḥāq al-Shīrāzī *(al-Lumaʿ,* 35) mentioned that al-Bāqillānī regarded general and particular texts as contradictory, and attributed the same view to some unidentified Ẓāhiriyya.

[390] *al-Taqrīb,* 2:198, 202.

[391] Whether God's eternal speech eternally consists of different types of speech was a disputed point. al-Bāqillānī contended that God's speech was command, etc., even before those to whom the command was directed existed. (It was not, however address *(khiṭāb),* since speech is not address unless it is addressed to someone who can understand it.) *al-Taqrīb,* 1:335.

[392] *al-Taqrīb,* 1:316. This brief list is typical of the 4th/10th century; later theorists typically expand it to include separate categories for requests, wishes, oaths, and other kinds of speaking.

[393] *al-Taqrīb,* 2:25-26, 88.

[394] *al-Taqrīb,* 2:317.

[395] *al-Taqrīb,* 2:5. He rejects (2:7-8, 24) the stipulation that a command must be from a superior to an inferior; this was common before him and eventually became a standard part of the definition.

[396] *al-Taqrīb,* 2:7.

[397] See *al-Taqrīb,* 2:10-11, and pages 52 and 63 above.

[398] *al-Taqrīb,* 1:423-424, 2:15, 2:94. It can, however, express only one of these things in any given utterance, because they are mutually exclusive; *al-Taqrīb,* 1:423-424. This list of possible meanings of the imperative form was later expanded to include creation (as when God says to something "be!" and it is), and other meanings.

[399] See *al-Taqrīb,* 2:7, 27, 73. al-Bāqillānī says that command is itself ambiguous *(muḥtamil)* and polysemous *(mushtarak),* encompassing both obligation and recommendation; *al-Taqrīb,* 2:27 and 33-34; cf. 2:80 and 318 for prohibitions. He usually reserves the terms ambiguous and polysemous for expressions, not meanings; here one must understand him to mean, not that command is a verbal forms that can express either obligation or recommendation, but that command, which is a class of *maʿānī,* includes two subclasses: obligation and recommendation.

[400] *al-Taqrīb,* 2:60, 62.

[401] See note 346.

[402] Most notably by the Ẓāhiriyya. It seems likely that the controversy over reasoning by analogy as a source of law was one factor that motivated the development of a theory of implicit meaning, but I am unable to document this motivation.

[403] Analogical reasoning is only an *amāra ᶜalā al-ḥukm* (a sign of a legal value), not a *dalīl* (indicator, proof); therefore it yields only *ẓann* (belief), not *ᶜilm* (knowledge) *(al-Taqrīb,* 1:224); therefore it does not, strictly speaking, yield *fiqh* (legal science), although al-Bāqillānī no doubt accepted it as a legitimate tool in the absence of a textual indicator. This would have been one motivation for applying the language of revelation directly to cases it does not explicitly address, rather than resorting to analogical reasoning. This was perhaps not a major concern for al-Bāqillānī, however, since does not seem to have been particularly concerned with the question of certainty in his analysis of language. Certainty became a central concern of classical Ḥanafī legal theory, as Aron Zysow has shown ("Economy"), and also of classical Shāfiᶜī discourse.

[404] See *al-Taqrīb,* 1:341-348. al-Bāqillānī specifically stated that positively implied meaning is understood without analogical reasoning *(qiyās)* and indeed without any type of inference *(istinbāṭ)* or rational inquiry *(naẓar) (al-Taqrīb,* 1:342.10 - 343.6; 1:345.9). Since, as we will see below (page 118), al-Bāqillānī considers that God's speech can only be understood through a process of inference, we must understand him to mean here that the implicit meaning of God's speech can be understood without any additional rational steps beyond those necessary for understanding its explicit meaning.

[405] See *al-Taqrīb,* 1:348, where he specifically excluded several classic examples of negative implication from the category of implicit meaning, and his full discussion at 3:331-338, where each of his arguments against negative implication amounted to denying that expressions linking a legal value to a quality (or other limiting factor) were established to indicate that things without that quality lack that legal value. al-Juwaynī *(al-Burhān,* 1:166.20-21 ¶355) made the puzzling claim that al-Bāqillānī denied implicit meaning entirely, and it seems clear from the context that he meant both positive and negative implication. His most proximate example, however, concerned negative implication, so perhaps he had only negative implication in mind.

[406] For the main outlines of the debate over negative implication, see Marie Bernand, "Controverses médiévales sur le *dalīl al-ḫiṭāb.*" On the Ḥanafī rejection of negative implication, see also al-Dabbūsī, *Taʾsīs al-naẓar,* 87-88; ᶜAbd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 224; and al-Juwaynī, *al-Burhān,* 1:166.10.

Whether al-Ashᶜarī approved or rejected negative implication is debated. Ibn Fūrak found nothing about it in his writings, but argued that he must have suspended judgment on it, which would be in effect to reject it as a hermeneutical principle

(Muğarrad maqālāt al-Aš^{c}arī, 199.1-5; but cf. 23.8-11, which seems to include a reference to *dalīl al-khiṭāb).* al-Juwaynī noted the tradition that he rejected it, but argued that he in fact relied on it *(al-Burhān,* 1:166.13-16 ¶355). Gimaret doubts that al-Ash^{c}arī accepted it; see *La doctrine d'al-Ash^{c}arī,* 529-530, where he quotes several other sources on the matter.

The more traditionalist theorists in the Shāfi^{c}ī tradition of legal theory seem to have generally accepted some form of negative implication, though they differed as to the dividing line between negative implication and negative analogy *(qiyās al-^{c}aks).* See e.g. ^{c}Abd al-Qāhir al-Baghdādī, *Uṣūl al-dīn,* 224, who tacitly approved it. al-Bāqillānī and a number of other theorists of a speculative orientation (including such diverse figures as Ibn Surayj, ^{c}Abd al-Jabbār, Ibn Ḥazm, and later al-Āmidī) joined the Ḥanafiyya in rejecting negative implication.

[407] For al-Bāqillānī's position, see *al-Taqrīb,* 2:198-207 (especially 2:200); on prohibitions see also 1:258-260.

Already in the 3d/9th century, theologians sympathetic to the traditionalists had argued for the similar view that the command to perform an act constitutes a prohibition against omitting that act. (Omission was considered to be an act contrary to performance.) This, however, effectively made all commands obligations; perhaps this is why it was opposed by some – presumably Mu^{c}tazila who interpreted command as permission or recommendation by default. (See al-Ash^{c}arī, *Maqālāt,* 2:85, where the identity of the parties must be inferred from their views on commands, *irāda* and *qudra;* cf. 2:135. The issue seems to have arisen not in the context of legal theory, but of metaphysical questions such as the nature of opposites.)

A number of the Ash^{c}ariyya, including al-Ash^{c}arī and Abū Isḥāq al-Isfarā$^{\flat}$inī, reportedly held views similar to al-Bāqillānī's. We will see below (page 120) that this view was supported by the Ash^{c}arī theory of speech. For those traditionalists and Mu^{c}tazila who identified speech with verbal expression, however, it was not strictly possible to identify command with prohibition of the opposite act, since commands and prohibitions are different verbal forms. Traditionalists (e.g. the Shāfi^{c}ī Abū Isḥāq al-Shirāzī, the Mālikī al-Bājī, and the Ḥanbalī Abū Ya^{c}lā) and some of the Mu^{c}tazila (e.g. Abū al-Ḥusayn al-Baṣrī) therefore adopted a middle position, arguing that command is identical to prohibition of opposite acts "in meaning" *(min jihat al-ma^{c}nā);* this also became the predominant Ash^{c}arī view (e.g. al-Rāzī, al-Āmidī). The rest of the Mu^{c}tazila denied that commands constitute prohibitions in any sense, though they do logically entail such prohibition. See *al-Taqrīb,* 2:198-200, 204-205, and the editor's note 1 on 2:198; also Ibn Fūrak, *Muğarrad maqālāt al-Aš^{c}arī,* 67.4-6, 197. al-Juwaynī *(al-Burhān,* 1:82-83) made the unusual argument that commands neither constitute nor entail any prohibition at all; he also reported that al-Bāqillānī's view (in his last writings) was similar to the Mu^{c}tazilī position that command logically entails (but does not constitute) prohibition of opposite acts.

[408] *al-Taqrīb,* 2:102-103. That the Muᶜtazila opposed al-Bāqillānī on this point must be inferred from the argument here. al-Bāqillānī puts in the mouth of the Muᶜtazila the claim that "الأمر بالمسبَّب المتولِّد أمرٌ بسببه" ("the command to perform an act that is occasioned and caused is a command to perform the act that occasions it"). This should not be taken as their true position; the illustrations given of it are absurd, e.g. the command to cut off the hand of a thief is a command to bring about theft. It should be taken instead as a Muᶜtazilī attempt to refute al-Bāqillānī's position by a *reductio ad absurdum,* against which al-Bāqillānī proceeds to defend himself.

[409] *al-Taqrīb,* 2:169-172. His reasoning here seems to rest on the view that a command does not implicitly contain all the conditions and specifications that may be attached to it on the basis of other evidence; hence it is possible to fulfill a command while failing to fulfill all the conditions and specifications of the requirement that the command indicates. See also 2:340, where he argues (on linguistic grounds) that prohibition does not entail the *fasād* or the *ṣiḥḥa* or the *ijzāʾ* of the prohibited act. On ᶜAbd al-Jabbār's view, see *al-Taqrīb,* 2:169, editor's note 3.

[410] *al-Taqrīb,* 2:255ff.

[411] *al-Taqrīb,* 2:253. In this case al-Bāqillānī's view is governed not by linguistic usage, but by his view that obligation and permission are mutually exclusive categories. It follows that the abrogation of a command entailing obligation does not leave the act permissible, as some claimed. See also the similar argument on 2:269.

[412] al-Bāqillānī's efforts to build a form of linguistic reasoning into the interpretive process were not limited to what I have called the topic of implicit meaning. For example, he accepted the principle that an imperative concerning an act that was previously forbidden on account of a specific factor *(ᶜilla)* constitutes permission to perform that act (rather than recommendation or obligation). But instead of reasoning to this conclusion on the basis of the removal of the *ᶜilla,* he held that this was evident from ordinary linguistic usage: an imperative, in such a situation, is normally intended as permission, so it can be known to mean permission without rational argument. See *al-Taqrīb,* 2:93ff. Similarly, when a proscription is based on a specific factor, customary linguistic usage *(not* analogical reasoning) entails the removal of the proscription when that factor is removed. *al-Taqrīb,* 2:99.3-5. These examples are not directly concerned with implicit meaning, but they illustrate how an appeal to linguistic usage can take the place of discursive reasoning.

[413] *al-Taqrīb,* 320. al-Bāqillānī considered any combination of divine *tawqīf* (instruction) and human *muwāḍaᶜa* to be conceivable. His position was followed by

subsequent major Ashᶜarī legal theorists (see the editor Abū Zunayd's note 4 on p. 320 of *al-Taqrīb;* and Weiss, "Language in Orthodox Muslim Thought," 31-32).

[414] See *al-Taqrīb,* 1:353-355. On the linguistic givenness of figurative meaning, see Weiss, "Language in Orthodox Muslim Thought," 75-79.

[415] al-Bāqillānī called these *al-asmāʾ al-ᶜurfiyya; al-Taqrīb,* 1:367.

[416] This category was not explicitly defined by al-Bāqillānī, but it is operative in his writing, and is helpful as a tool for understanding his writing. It encompasses both self-sufficient and partially dependent communication, and excludes fully dependent communication.

[417] This category was also not named by al-Bāqillānī. It encompasses all usage that al-Bāqillānī would have recognized as proper Arabic, which, as we have seen, must all have been instituted by semantic assignment or by the usage of those whose usage is definitive of the language.

[418] ᶜAbbād ibn Sulaymān (d. ca. 250/864) and his followers reportedly held that the very sounds of words replicate their meanings, and thus have the ability to evoke those meanings in the mind. See Weiss, "Language in Orthodox Muslim Thought," 8-41; idem, *Search,* 121-122. This view of language as a natural phenomenon rather than an arbitrary construct was also apparent in grammar. Some Muᶜtazilī grammarians argued that language was rational – that there was an explanation for all the different rules of grammar and their exceptions; they were opposed in this by the Ẓāhirī Ibn Maḍāʾ al-Qurṭubī, and their thesis eventually dropped out of the field of grammar. Carter, "Analogical and Syllogistic Reasoning," 109. al-Bāqillānī was thus in agreement with the majority when he denied that language was subject to rational explanation or argument.

[419] See *al-Taqrīb,* 1:361-366, where he rejected *al-qiyās fī al-asmāʾ,* the principle that a word can be extended to refer to things it was not established for, if those things share a common quality *(maᶜnā)* with the things the word was established for (for example, *khamr,* grape wine, can be extended to include *nabīdh,* date wine; thief can be extended to include grave robbers). Weiss, however, reports ("Language in Orthodox Muslim Thought," 70, citing al-Āmidī) that both al-Bāqillānī and Abū Isḥāq al-Isfarāʾīnī (d. 418/1027) affirmed *al-qiyās fī al-asmāʾ.*

[420] See for example *al-Taqrīb,* 2:34-35, where he argued that *ᶜaql* cannot show what a word means; its meaning is determined solely by *tawāḍuᶜ* and *tawqīf* (on 2:168 he said *naql* and *tawqīf).* On 2:125-126 (and again on 2:127) he used the principle that

al-lugha lā tuqās to show that we cannot determine whether commands require a single act or repetition by arguing rationally from the meaning of prohibition; we can only appeal to actual linguistic usage and *tawqīf*. At 2:40.1-4 he based an argument against identifying command with recommendation on his rejection of *al-qiyās fī al-asmāʾ*. He also argued positively that if it can't be proven that we have *tawqīf* from *ahl al-lugha* showing that an expression means one thing rather than another, we must suspend judgment on it; see for example 3:147.

[421] *al-Taqrīb,* 1:399-408.

[422] See *al-Taqrīb,* 1:371-372, and especially 1:387-398, where al-Bāqillānī argued against the notion that God instituted new meanings for certain terms, such as *ṣalāh,* through his use of them in the Qurʾān. He attributed this view to the Muʿtazila, the Khārijiyya, and mediocre traditionalists *(al-ḍuʿafāʾ min al-mutafaqqiha)* who were deluded by them. The Muʿtazila distinguished the linguistic meanings of words (their meanings as *asmāʾ lughawiyya)* from their religious or revealed meanings *(al-asmāʾ al-dīniyya, al-asmāʾ al-sharʿiyya),* bolstering their use of the terms believer, unbeliever, and grave sinner by claiming that faith, unbelief, and grave sin had special meanings in revelation. Thus al-Bāqillānī claimed that this dispute over language arose out of early theological disputes (see *al-Taqrīb,* 1:391). The question of *al-asmāʾ al-dīniyya* seems to have been already discussed (though not necessarily under that name) in al-Shāfiʿī's time, since he made a point of saying that God addressed the Arabs using only meanings that they already knew (al-Shāfiʿī, *al-Risāla,* 51-52 ¶173).

For his part, al-Bāqillānī contended that God addressed the community only in Arabic, and did not use words to convey any meanings other than those they already had *(al-Taqrīb,* 1:387). Thus the term *ṣalāh,* when used in the Qurʾān to designate the ritual prayer, itself only conveys the meaning of prayer in a generic sense (which is what it meant in pre-Qurʾānic usage) *(al-Taqrīb,* 1:395-396); that a certain prescribed form of prayer is in view can be known only from other evidence. al-Bāqillānī also sided with the Murjiʾa in interpreting the term *īmān* as meaning only belief, even when it appears to be referring to works (see *al-Taqrīb,* 1:393f.). On *al-asmāʾ al-sharʿiyya* generally, see also Weiss, "Language in Orthodox Muslim Thought," 79-84.

[423] Thus al-Bāqillānī argued *(al-Taqrīb,* 2:41) against the view that command entails recommendation by claiming that his opponents' argument applied only to God and revelation. He took this as an admission that in human language (which is the only valid criterion) command is not specifically established for recommendation. Human usage governs Qurʾānic usage, but not vice versa: whether an expression can have a certain meaning in language does not depend on whether it ever has that meaning in the Qur'ān *(al-Taqrīb,* 2:99.7-15).

[424] al-Ashᶜarī held that words were established by God rather than humans (Ibn Fūrak, *Muğarrad maqālāt al-Aššᶜarī,* 41), but otherwise his views on the basis of the meaning of revealed language appear to have been largely consistent with those that would later be championed by al-Bāqillānī. al-Ashᶜarī claimed that we can know the meaning of words only by being informed about those whose usage is definitive (Ibn Fūrak, *Muğarrad maqālāt al-Aššᶜarī,* 41). He insisted that the Qurʾān contains only Arabic (Ibn Fūrak, *Muğarrad maqālāt al-Aššᶜarī,* 149; see also Allard, *Le problème des attributs divins,* 275), and in his *Tafsīr* (cited in Allard, *Le problème des attributs divins,* 187) he criticized Abū ᶜAlī al-Jubbāʾī's commentary for relying on the usage of non-Arabs. He likewise rejected the notion that God had given some words new religious meanings in revelation *(Muğarrad maqālāt al-Aššᶜarī,* 149). Like al-Bāqillānī, he approached certain theological issues as linguistic questions, defining believers and grave sinners solely in terms of what those words mean in ordinary language *(Muğarrad maqālāt al-Aššᶜarī,* 149-150). Indeed these theological arguments may have been the primary motivation for his insistence on interpreting the language of revelation in the same way as human language, and these concerns remain evident in al-Bāqillānī's *Taqrīb,* even in the context of legal theory.

Like al-Bāqillānī, al-Ashᶜarī further restricted interpretation by insisting that it be interpreted as literal by default (see note 383); the inclusion of customary transgressive usage in the default range of meaning, however, may be original to al-Bāqillānī.

[425] See note 383.

[426] These three scenarios are explicitly raised in *al-Taqrīb,* 3:322, though from a different perspective.

[427] I have not noted any instance in which al-Bāqillānī discusses the possibility of an expression that is accompanied by evidence that shows it to be meant transgressively, but that is susceptible to being used in more than one attested transgressive sense, and is not accompanied by evidence as to which transgressive meaning is intended. In such a case a literal interpretation is out of the question, so one would imagine that al-Bāqillānī would call for suspension of judgment between the possible transgressive interpretations; but he never speaks of suspension of judgment between transgressive meanings. I believe this must be because he takes it as axiomatic that God never speaks in a way that the hearer has no way to understand (see page 91 above, and *al-Taqrīb,* 1:332), and therefore never uses an expression transgressively without providing all the evidence necessary for its interpretation.

[428] Recall that transgressive usage may become customary through force of common use, and thus become part of ordinary usage; and that implicit meaning *(al-mafhūm)* may be communicated self-sufficiently by ordinary usage.

[429] The range of evidence that might be available is quite broad, perhaps even open-ended. In *al-Taqrīb,* 2:139-146, al-Bāqillānī mentions, as types of evidence that might affect the interpretation of repeated commands, the rational or legal impossibility of one interpretation, the verbal context, a previous agreement between speaker and hearer about how to interpret repeated commands, custom, or a nonverbal contextual cue *(shāhid ḥāl,* which includes such things as gestures or even the setting or circumstances in which the command is uttered).

[430] In *al-Taqrīb,* 2:15.6-7, he stated that all polysemous words *(al-asmāʾ al-mushtaraka fī maʿānī mukhtalifa)* require suspension of judgment if they are not accompanied by evidence that shows which meaning is meant. Polysemous, however, sometimes refers only to what we would call homonyms (see note 375). On 2:116 (see also 2:144.14-15) al-Bāqillānī refers to the more general principle of "holding to suspension of judgment on ambiguous verbal forms ("أصل القول بالوقف في الألفاظ المحتملة"). Since ambiguity *(iḥtimāl)* is the term al-Bāqillānī uses on 1:349-350 to describe the category of partially dependent communication, this seems to be an explicit statement that he suspends judgment on all expressions used in partially dependent communication. On 1:427 he states that any ambiguous expression that was not originally established for just one of its meanings (i.e. that has more than one literal meaning) requires accompanying evidence for its interpretation.

al-Ashʿarī had apparently extended the notions of polysemy and suspension of judgment beyond the realm of speech, and applied them to the prophet's actions (Ibn Fūrak, *Muǧarrad maqālāt al-Aššʿarī,* 192). Later, al-Juwaynī tended to restrict this kind of analysis to speech per se; for example, he contended that only speech could be considered general or particular.

[431] An ambiguous expression can be intended to convey two or more of its possible meanings in the same utterance, as long as these do not contradict one another. One cannot determine how many meanings it has without the aid of some accompanying evidence. (Some Ḥanafiyya, following Abū Hāshim, held that an expression would have to be repeated in order for it to have several meanings.) See al-Bāqillānī, *al-Taqrīb,* 1:424-425, 427; see also 1:371.

[432] This is at least true for the interpretation of commands; see page 98 above, and al-Bāqillānī, *al-Taqrīb,* 2:60, 62.

[433] *al-Taqrīb,* 2:7.

[434] This is an application of the principle that clarification cannot be postponed beyond the time at which it is needed. It is important to note that al-Bāqillānī did not think that imposing a requirement without making it clear would violate God's justice, as the Muᶜtazila argued. For al-Bāqillānī the issue was that a requirement *(taklīf)* by definition can be directed only to someone who has at least the formal capacity to fulfill it; but ignorance of what is required makes fulfillment logically impossible, even if the subject happens to perform the right acts. Thus a logical consideration, and the definition of *taklīf,* led al-Bāqillānī to put limits on the ambiguity of God's speech, just as God's justice put limits on ambiguity for ᶜAbd al-Jabbār, as we saw in chapter 3.

[435] See *al-Taqrīb,* 2:208ff., where he did not explicitly present the argument I have given. That argument was made concerning the next question, but it appears to apply to both topics, and I have chosen to present it on this question first because that allows me to state it more simply.

al-Bāqillānī noted that some proponents of *waqf* suspended judgment on the present question as well; apparently al-Bāqillānī was not the most radical of the proponents of *waqf* and ambiguity, but we can say little about who his more radical colleagues might have been, except that they probably held Murjiʾī theological positions.

[436] The possibility of repeated obedience beginning at some point in the future does not seem to have been considered, even though, as we have just seen, al-Bāqillānī held that commands do not in and of themselves require immediate obedience. Repeated obedience *(takrār al-fiᶜl)* here seems to mean not just occasional repetition, but obedience at all times, in contrast to obedience at one point in time.

[437] *al-Taqrīb,* 2:116-124. This is where he elaborated the argument I have applied to this and the previous question.

[438] An individual instance of speech, considered as a meaning in the speaker's mind (or an attribute inhering in the speaker), might well be called a "speech act" – a specific act of stating, commanding, entreating, promising, making obligatory, etc. Although this designation would fit into the discourse very well, I will avoid it because the Ashᶜariyya were adamant (in opposition to the Muᶜtazila) that God's speech is not an act (which in Muslim theological discourse would make it his creation). I will therefore use instead the term "speech-meaning," seeking thereby to convey the idea of an instance of speech as a mental act or event, without implying that it is necessarily temporal. The Ashᶜariyya of course insisted that when it comes to God's speech, only its verbal expression is temporal and created.

[439] *al-Taqrīb,* 2:139-146. al-Bāqillānī's position was that the repetition of a command must be assumed to require repetition of the commanded act (more precisely, of an act like the first), unless some evidence shows that the repetition is meant by way of emphasis. On 2:145 al-Bāqillānī noted that one could say that the repetition of a command is ambiguous, meaning either repetition or emphasis, but that its apparent meaning *(ẓāhir)* is repetition. Since al-Bāqillānī typically used *ẓāhir* to describe what I have called ordinary usage, this implies that he considered emphasis to be an 'extraordinary' meaning of repetition, which would exclude it from consideration in the absence of specific evidence supporting it. al-Bāqillānī's main reason for not suspending judgment, however, had nothing to do with linguistic usage, but with the nature of commands.

[440] *al-Taqrīb,* 2:173, which must be read in light of al-Bāqillānī's suspension of judgment on general expressions. al-Bāqillānī made this point about commands, since they are the topic at hand, and because it is for commands that scope of address is a most pressing legal issue; but the principle appears applicable to all forms of address.

[441] These are but two of several related questions discussed in *al-Taqrīb,* 2:173-197. His position on these questions can be summarized thus: he suspends judgment about who is included in the scope of address, but he also rejects specific limitations or extensions of the scope of address that have no basis in linguistic usage or in some other specific evidence.

[442] al-Bāqillānī, *al-Taqrīb,* 3:307ff., mentioned four forms of *taqyīd (sharṭ, istithnāʾ, ṣifa,* and *naʿt),* all of which must be *muttaṣil.* They all express the same meaning: particularization (he said this explicitly of *sharṭ* and *istithnāʾ* in *al-Taqrīb,* 3:167).

In *al-Taqrīb,* 3:167, he stated that the verbal form of condition *(lafẓ al-sharṭ)* can express something other than conditionality if some evidence shows that to be the case. The reference to *lafẓ al-sharṭ* indicates that he had in view a verbal form that was established specifically to express conditionality, and would be transgressive if it were used to express anything else.

On the basis of linguistic usage, he placed several restrictions on the form that exception may take. It must be *muttaṣil (al-Taqrīb,* 3:128ff.), since an exception uttered outside the context to which it refers is meaningless (e.g. "except Zayd," in isolation, means nothing). He did allow that the *isthithnāʾ* may precede the *mustathnā minhu,* but only in a way that is meaningful and used in ordinary language, namely, when the two are in the same sentence *(al-Taqrīb,* 3:133). One cannot except the greater part of the *mustathnā minhu,* because this is frowned upon by *ahl al-lugha (al-Taqrīb,* 3:141, 143). In all this he was discussing exception strictly as a verbal form, in keeping with the

definition he gave for it at 3:126: " كلام ذو صيغ مخصوصة محصورة، دال على أن المذكور فيه لم يُرد بالقول الأول."

There is one respect in which one must suspend judgment on the interpretation of exceptions and conditions. If an exception is connected to a series of expressions connected to one another by conjunctions, does the exception apply to all, or only to some of them? Most of those who interpreted general expressions as general by default held that it applies to all that precedes it unless some evidence shows otherwise. Some Ḥanafiyya and Muᶜtazila held that it applies only to what follows it. al-Bāqillānī said it can apply to all or to only some of what precedes and/or follows it; exception is used in all these ways in the Qurʾān and among *ahl al-lugha,* and there is no basis for saying it was established for one option and is transgressive in the others, or that it means one option in the absence of contrary evidence. See *al-Taqrīb,* 3:145-147, concerning exceptions, and 3:168, where the same principle appears to apply to conditions.

[443] See page 91.

[444] Like virtually all Muslim thinkers, al-Bāqillānī rejected *(al-Taqrīb,* 3:384) the possibility that God might leave his intent unclear until some time after obedience was required *(taʾkhīr al-bayān ᶜan waqt al-ḥāja),* not because this would be unjust on God's part, as the Muᶜtazila held, but only because it would make obedience and disobedience formally impossible. Cf. *al-Taqrīb,* 2:116-119, where al-Bāqillānī followed his general tendency to preserve ambiguity, but the principle of no *taʾkhīr al-bayān ᶜan waqt al-ḥāja* put a limit on that ambiguity.

[445] See *al-Taqrīb,* 2:166, where al-Bāqillānī argued that since it is forbidden to interpret certain things (expressions, bases for analogy, etc.) that are susceptible two equally possible interpretations in two ways at once, it follows that those things are *ᶜalā al-takhyīr.* He gave the example of the famous homonym *qurʾ.* In a similar vein, he contended *(al-Taqrīb,* 3:263-264) that if there is an apparent contradiction between two general or two particular statements in a legal matter, we know that both cannot be meant at once, so we look for evidence to show that one abrogates or modifies the other, and if we don't find it the *mujtahid* is free to choose one or the other.

[446] *al-Taqrīb,* 3:425-426, stated that a *mujtahid* cannot rule based on the *ᶜumūm* of an expression for which he has found no *dalīl mukhaṣiṣ,* until he has convinced himself that there is no such *dalīl* to be found; but then he must so rule (even though he could be wrong).

[447] As we saw in chapter 2, ambiguity was only the first of several factors which, taken together, could account for seeming contradictions. al-Shāfiᶜī also appealed to the

principle of abrogation, and to the contingencies of *ḥadīth* transmission, in constructing his reconciling interpretations.

[448] al-Bāqillānī left intertextual relationships undetermined in that he did not assume that a particular text *does* in fact particularize a general one (see page 97); he did, however, place some restrictions on intertextual relationships, in that he put some limits on what kinds of evidence *can* be said to particularize general texts.

[449] We have seen that al-Bāqillānī rejected *taʾkhīr al-bayān ʿan waqt al-ḥāja;* see note 444. al-Bāqillānī differed, however, from the Muʿtazila and those jurists who followed them (including many of the Ḥanafiyya and Ẓāhiriyya), in that he accepted the possibility that God might leave his intent unclear up to the time at which obedience was required *(taʾkhīr bayān al-mujmal wa-l-ʿumūm ilā waqt al-ḥāja).* See *al-Taqrīb,* 3:386, where it is evident that al-Bāqillānī sides with those who accept this principle. This principle would seem to open up greater intertextual possibilities for interpretation, since it allows the interpreter to look for clarifying evidence in texts that were revealed after the text at issue, not only in texts prior to or contemporaneous with it. Furthermore, multiple pieces of clarifying evidence can come from texts revealed at a number of different times (see *al-Taqrīb,* 3:416).

[450] One suspects that legal theory usually made less difference for the content of a jurist's opinions than for how those opinions were justified. Nevertheless, al-Bāqillānī spoke of his *uṣūl al-fiqh* as a sufficient basis for knowing *aḥkām*, without reference to knowledge of a *madhhab (al-Taqrīb,* 1:305). This implies that in principle, he regarded his theory as an applicable method of discovering law, and not just as an epistemological justification of existing law.

[451] Certainly it promised much greater flexibility than the hermeneutics of the "literalist" Ẓāhiriyya, or of the traditionalists who assigned default values to most expressions. What is more remarkable is that the Muʿtazila, although they were willing to move beyond ordinary usage when this was demanded by rational considerations, actually allowed considerably less freedom in the interpretation of ordinary usage, since they typically assigned default values to commands and general expressions. They also limited the possibilities for intertextual clarification somewhat by rejecting the possibility of delayed clarification.

This is not to say that the Muʿtazila were less flexible in their interpretive theory as a whole; certainly their willingness to engage in *taʾwīl* gave them much greater freedom in theological interpretation. Michael Carter ("Linguistic Science," 227-230) has argued that al-Rummānī (d. 384/994), through his definition of certain rhetorical devices that contribute to the miraculous nature of the Qurʾān, gave interpreters virtual carte blanche by defining them as involving a meaning that is not expressed at the formal

level, and therefore has to be extracted by the interpreter. In the field of legal theory, however, on those topics which depended not on reason but on the interpretation of revealed texts, ᶜAbd al-Jabbār insisted on a stricter interpretation, in keeping with his requirement that God's communication always be perfectly unambiguous.

[452] The term *maᶜnā* was used in the sense of 'entitative accident' in the metaphysics of the early Muᶜtazila (see Frank, "Al-Maᶜnā;" idem, *Beings and Their Attributes*). It was in this general sense that it was used by the Ashᶜariyya to identify God's speech as one of his eternal attributes. It was used by jurists, in a related sense, as a synonym of *ᶜilla* – the quality of an act that is the basis for its legal value.

[453] On the grammarians, see note 113. The Ḥanafī "founding fathers" were also cited as positing a *maᶜná* behind the verbal form *(lafẓ, ᶜibāra)* of speech; see al-Dabbūsī, *Taʾsīs al-naẓar,* 86-87. Even if the terminology of this report is not authentic, it suggests that some kind of distinction between *maᶜná* and *ᶜibāra* was being employed in the analysis of speech already in the 2d/8th century. It is worth considering that this distinction may not have been invented by theologians for the sake of maintaining the uncreatedness of the Qurʾān; Ibn Kullāb may have borrowed it from jurists or, more likely, grammarians.

[454] Gimaret, *La doctrine d'al-Ashᶜarī,* 201-203, discusses the ambiguity of the term *maᶜnā* when it is applied to speech. He notes that it could be taken to mean 'meaning,' and he cites some authors who have taken it in that way. But he assumes that it must mean either meaning or attribute, and he concludes that it means attribute because the Ashᶜarī theory of speech has been understood as identifying speech as an attribute by many authors. When the term is applied to God's speech, however, both senses are possible, and we may not assume that only one dimension of its usage is in view, even if, in any given context, one translation is more appropriate than the other.

In *al-Inṣāf* al-Bāqillānī described God's speech as an attribute *(ṣifa)* of God's essence (pp. 26, 72, 105), but when he spoke of the verbal expression of speech (p. 106), he defined speech as a *maᶜnā* in the mind *(nafs)* of the speaker. He also he described God's speech as *al-mafhūm* (what is understood) (p. 121), which clearly identifies God's speech with its meaning. He seemed quite comfortable with defining speech as both an attribute and a meaning, and I think we must presume that he understood them to be the same entity. In *al-Taqrīb,* 1:316-317, where he was dealing with speech from the perspective of a search for meaning, al-Bāqillānī defined speech as "a *maᶜnā* subsisting in the mind, expressed (or indicated) by these separately and sequentially uttered sounds and ordered letters" ("الكَلامُ معنى قائم في النفس يُعَبَّرُ عنه (يُدَلُّ عليه) بهذه الأصوات المقطَّعة والحروف المنظومة.") In this context the translation "meaning" seems most appropriate, although the Ashᶜarī theory of God's attribute of speech is clearly also in view.

There is a third way in which the term *maʿnā* also enters into the analysis of speech. al-Bāqillānī held that most words are established to convey some attribute *(maʿnā)* of the thing they designate *(al-Taqrīb,* 1:362). It follows that the distinction between *maʿnā* and *ʿibāra* exists on two planes: words are established to convey attributes of their referents, and they are uttered to express meanings in the speaker's mind. Although al-Bāqillānī did not state this, it seems that the *maʿnā* in the speaker's mind must somehow correspond to or represent the *maʿnā* in the thing to which he refers.

[455] According to al-Bāqillānī, the legal values of acts arise from God's command (and not from the natures of acts, as the Muʿtazila believed, or from God's will, or his statements about their legal values). See *al-Taqrīb,* 2:31-33. (To be precise, it is not God's command to perform an act, but his command to praise or blame those who perform the act, that gives rise to its legal value, or constitutes its legal valuation. But since his command to perform an act serves as evidence of the legal valuation – that is, of God's command to praise the one who performs it – this detail makes no interpretive difference; it just adds another step to the process of reasoning that one must go through to determine the legal value of an act. See *al-Taqrīb,* 1:280.) Since, then, God's speech itself constitutes his legal valuation of acts, the knowledge of his speech is the goal of legal science, not its starting point. It is the verbal expression of God's speech that provides the data from which the jurist must work.

[456] al-Bāqillānī felt that on this point the traditionalists had been seduced by the Muʿtazila, and consequently had been led into innumerable errors, even though they did not intend to adopt the Muʿtazilī heresy of the creation of the Qurʾān. He complained *(al-Inṣāf,* 78-80, 108) that some of the "people of the Sunna" had accepted the Muʿtazilī premise that the Qurʾān is made up of sounds and letters, and thus had unwittingly given in to their heresy.

[457] See for example *al-Taqrīb,* 2:5-12, where it appears he was challenging all those around him by defining command as a *maʿnā* rather than as a verbal form. See also 2:25-26, where he criticized the traditionalists, the Muʿtazila, and others (at various points he mentioned the Khārijiyya and the Shīʿa) for identifying sounds with meaning and for assuming that verbal forms have meaning purely by virtue of linguistic convention (2:25.12-13 shows how crucial this issue was to his mind). Even when his arguments are focused on defining ordinary Arabic usage (as for example at *al-Taqrīb,* 2:34-38, a good summary of this type of argument), they must be read as part of a broad program of dissociating meanings from verbal forms, in opposition to those who identify meaning and its expression.

[458] Classes of speech-meanings are not dependent on semantic assignment for their meaning; they mean what they mean by virtue of their own nature. It is only expressions that have a certain meaning (or several meanings, sometimes even contradictory ones) by virtue of their semantic assignment. It follows that only expressions are subject to ambiguity. See *al-Taqrīb,* 2:25-26. This is an important consideration, for it means that God's speech itself is never ambiguous. In fact, God's speech is not something to be interpreted at all; on the contrary, it is itself the very meaning that the jurist seeks through his interpretation of expressions.

[459] Such verbal indicators of meaning would presumably by classified by al-Bāqillānī as conventional evidence *(dalīl waḍ^{c}ī),* which indicates only because it has been agreed upon as an indicator. This is in contrast to natural evidence, which indicates by virtue of its own nature. See *al-Taqrīb,* 1:204-205.

[460] al-Bāqillānī describes the meaning of a verbal form as determined by both intent *(qaṣd)* and will *(irāda).* See e.g. *al-Taqrīb,* 1:331, 424-428, 2:9.

[461] There was an ongoing debate, visible already in al-Ash^{c}arī's *Maqālāt,* over whether speech (or more specifically command) was meaningful by virtue of its own nature, or by virtue of something else. The Ash^{c}arī position was that speech is meaningful by virtue of its own nature, whereas the Mu^{c}tazila argued that its meaning depends on the speaker's intent (or for commands, his will). This controversy, however, appears to stem from the parties' difference over what constitutes speech. Both sides agreed that the meaning of a verbal expression is governed not only by the primordial semantic assignment of words, but also by the speaker's intent.

al-Bāqillānī argued *(al-Taqrīb,* 2:10-11) against the Mu^{c}tazila that an *amr* is a command *"li-nafsih wa-jinsih,"* not by virtue of an *irāda;* indeed every type of speech (2:25-26) is what it is *"li-nafsih."* (This is at the level of *ma^{c}nā:* no *irāda* is required for a *ma^{c}nā* to be what it is.) When it comes to expressions, however, they express what they express by virtue of *muwāḍa^{c}a* and *qaṣd.*

[462] See note 305.

[463] Although al-Bāqillānī himself did not make this argument explicit, it appears that implicit meaning, which al-Bāqillānī called *mafhūm al-khiṭāb,* is not ontologically distinct from God's speech itself, which he called *al-mafhūm.* See al-Bāqillānī, *al-Inṣāf,* 121, where he identifies God's eternal *ma^{c}nā* of speech not only with what is heard, read, written, etc., but also with what is understood *(al-mafhūm)* when God's speech is heard.

[464] al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 2:200 and 204-205. al-Bāqillānī presented this argument as occurring essentially between those who affirm and those who deny *khalq al-qurʾān* (the main issue being whether speech is identical to verbal expression); the camps were not so neatly drawn, however, as he recognized. On the one hand he was arguing against the Muʿtazila, but on the other he was arguing against those (traditionalist) scholars who denied *khalq al-qurʾān* but nevertheless identified speech with verbal expression. Those (traditionalists) who identified command and prohibition with specific verbal forms *(ṣiyagh)* held that a command constitutes a prohibition of its opposite "in meaning but not in verbal form" *(min jihat al-maʿnā dūna al-lafẓ).* See *al-Taqrīb wa-l-irshād,* 2:200. The editor of the *Taqrīb,* Abū Zunayd, points out (2:198, note 1) that some of the Muʿtazila also held this view.

We may note that this debate was related not only to the question of *khalq al-qurʾān,* but also to a broad and multifaceted disagreement over the nature of opposites. al-Bāqillānī (and the Ashʿariyya generally) assumed that to not do an act is necessarily to omit it (which is an act opposite to performance); hence a prohibition is a command to omit. The Muʿtazila, on the other hand, held that is was possible to simply not perform an act, without performing the opposite act of omitting it; hence they did not consider a prohibition equivalent to a command to omit. This disagreement concerned statements as well as commands: it was debated whether an affirmative statement constitutes a denial of the opposite statement. This dispute over opposites surfaced in arguments over God's speech: al-Ashʿarī argued (see Allard, *Le problème des attributs divins,* 234) that God's speech was eternal by claiming that speech has an opposite (dumbness) and that if God had ever not been speaking, he would have been dumb; the Muʿtazila, on the other hand, held that God could be simply not speaking, without being dumb.

[465] al-Bāqillānī defined command as a *maʿnā fī al-nafs (al-Taqrīb* 2:5), and identified commands with God's single undifferentiated speech *(al-Taqrīb,* 2:198 and 202).

[466] Indeed in a sense it is identical to all of God's commands, and also to all of his prohibitions and statements, because God's speech is all one single *maʿnā.* See *al-Taqrīb,* 2:198, 202, and 318. This does not, however, lead al-Bāqillānī to conclude that everything that God says is implicit in, and can be understood from, any one Qurʾānic utterance.

[467] His arguments in the *Taqrīb* suggest that his rejection of negative implication resulted from his concern not to attribute to an expression any meaning beyond what it conveys in ordinary Arabic usage. Each of his arguments against negative implication constitutes a denial that expressions linking a legal value to a quality (or other limiting

factor) were established to indicate that things without that quality lack that legal value. See *al-Taqrīb,* 3:333-338. Here he is not thinking at the level of meaning: what is negatively implied is not the same as or part of the meaning of what is explicitly stated, as is the case with positive implication. He is treating negatively implied meaning as a distinct meaning, and is asking whether it is linguistically conveyed by an expression that ties a legal value to a certain qualification. His answer is no – in keeping with his policy of restricting interpretation to what is attested in Arabic usage. This explains why, despite the theoretical support for implicit meaning provided by his theory of language, al-Bāqillānī rejected a powerful interpretive tool that had been relied upon by many of his predecessors.

[468] See *al-Taqrīb,* 2:5-12 and 2:25-26.

[469] See *al-Taqrīb,* 3:173, where he said that *ʿumūm* and *khuṣūṣ* are *maʿnayān fī al-nafs,* expressed by *ʿibārāt*.

[470] See note 399.

[471] al-Bāqillānī did not reject reasoning as a means of arriving at law; on the contrary, he held that all revealed law is known through *naẓar*. His definition of legal science ("العلم بأحكام أفعال المكلفين الشرعية التي يتوصل اليها بالنظر دون العقلية," *al-Taqrīb,* 1:171) implies that law is discovered only through *naẓar;* it cannot be known necessarily, which is the only alternative *(al-Taqrīb,* 1:183). But this does not mean that he regarded reason, or natural knowledge, as an independent source of knowledge of legal values; the reasoning that he had in mind is *istidlāl,* which means to prove something by appealing to some evidence *(dalīl).* That evidence is first and foremost the language of revelation, although natural knowledge may also serve as contextual evidence to aid in its interpretation.

[472] Ebrahim Moosa, in "The Legal Philosophy of al-Ghazālī," has noted that the Ashʿarī thesis of the separation between meaning and verbal form offered interpretive flexibility. He remarks (p. 127) that al-Shāfiʿī considered *lafẓ* (verbal form) and *maʿnā* inseparable (but cf. page 38 above), and that he thus opposed the interpretive scope the rationalists wanted, whereas the more rationalist Abū Ḥanīfa saw revelation as primarily *maʿnā,* and *lafẓ* as secondary. al-Ghazālī, however, "held tenaciously to the binary distinction between the inner and outer dimensions of language, the distinction between vocable and signification" (p. 129); the effect of his analysis of language was "the unconscious subversion of utterances couched in seemingly straightforward constative terms into ambiguous and inconclusive discourse even though the entire project was to create certainty" (p. 128; see also p. 141). Moosa thus recognizes that the Ashʿarī discourse somehow supports the view that revealed language is ambiguous, but he

considers ambiguity to be a problem, indeed the supreme problem, for the jurist (p. 137). I would differ only by suggesting that in the context of the Shāfiᶜī project, ambiguity is not a problem, but a solution to the problem of a superabundance of contradictory evidence.

Naṣr Ḥāmid Abū Zayd, on the other hand, has argued that the Ashᶜarī doctrine of God's eternal speech requires a "strict adherence to the literal meaning of the text" (Abū Zayd, "Divine Attributes in the Qur'an," 195).

[473] al-Bāqillānī's most frequent references in the *Taqrīb* are to the *fuqahāʾ,* the *mutakallimūn* in general, and especially the Qadariyya (Muᶜtazila). He occasionally refers to the followers of al-Shāfiᶜī, Mālik, and especially Abū Ḥanīfa, but he refers to very few individual legal theorists. (See the indices of persons and groups at the end of each volume, which are useful but not perfectly complete.)

[474] There is a certain sympathy between the Ashᶜarī theological vision of God's speech and the Shāfiᶜī legal vision of the role of revelation. The dependence of *aḥkām* on God's speech (rather than on the qualities of acts) is the theological corollary of al-Shāfiᶜī's project of basing law entirely on the Qurʾān (through the extensions of the Sunna and *qiyās*) (rather than on *raʾy).* The unity of God's speech (a single eternal indivisible *maᶜnā)* is the theological corollary of the unity and internal consistency of God's law, and it supports the view that specific expressions carry more meaning than their verbal form would suggest. The evidentiary relationship between the created *ᶜibārāt* and the eternal *maᶜnā* they express is the theological corollary of the evidentiary relationship between texts and law in the Shāfiᶜī vision. The looseness and ambiguity that characterizes that evidentiary relationship between *ᶜibāra* and *maᶜnā* supports the flexibility of interpretation that the Shāfiᶜī project requires.

This sympathy suggests that the Ashᶜarī 'infiltration' of the Shāfiᶜī *madhhab* was not as alien as Makdisi ("Ashᶜarī and the Ashᶜarites") makes it out to be. Perhaps the speculative orientation and argumentation of the Ashᶜariyya were alien (and perhaps this is Makdisi's point), but their basic vision of revelation and law was quite compatible with that of the Shāfiᶜiyya.

[475] See note 51.

[476] The absence of evidence from the 3d/9th century was helpfully and provocatively stressed by Wael Hallaq in "Was al-Shāfiᶜī the Master Architect."

[477] This important point has been made clear by the writings of Joseph Lowry. Lowry has downplayed, however, the continuity between the *Risāla* and classical legal theory.

[478] As argued by Hallaq, "Was al-Shāfiᶜī the Master Architect."

[479] This dichotomy is reproduced, for example, by Khalīl al-Mays, in his introduction to *Uṣūl al-Shāshī,* 8-11; by Weiss, "Language in Orthodox Muslim Thought," 42-44; and by Ziadeh, *"Uṣūl al-fiqh,"* 4:299.

[480] See pages 26f.

[481] See e.g. Abū al-Ḥusayn al-Baṣrī, *al-Muᶜtamad,* 3-4; Makdisi, *Ibn ᶜAqīl: Religion and Culture,* 80-81.

[482] See note 11.

[483] Khadduri moved al-Shāfiᶜī's general discussions of epistemology and prohibitions. See al-Shāfiᶜī, *al-Risāla,* trans. Khadduri, 53. Lowry ("Legal-Theoretical Content," 72-74) has shown these rearrangements to be unwarranted and even disruptive to the text.

[484] Lowry proposed ("Legal-Theoretical Content," 72, 79-81) moving ¶¶179-235 (on general and particular expressions) to just after ¶568. He did this because ¶311, coming after the section on general and particular expressions, gives an prospective outline that includes general and particular texts. However, what Lowry labeled a section on summary speech (¶¶421-568) actually includes illustrations of general texts and their particularization by the Sunna (these are labeled 2c in the outline below). This fulfills the prospective outline in ¶311. Lowry also argued that his rearrangement would put al-Shāfiᶜī's defense of the authority of the Prophetic Sunna (¶¶236-311) in a more logical place, at the end of the introduction, before the discussion of various forms of source interaction. The outline below shows how that defense fits naturally in the text as it stands.

[485] Lowry, "Legal-Theoretical Content," 19-42. Lowry's explanation (ibid., 38-40) that al-Shāfiᶜī omits discussion of 'Qurʾān alone' because he cares more about the role of the Sunna is certainly true, but does not remedy the fact that the *bayān* scheme (the five combinations of Qurʾān and Sunna) do not provide an outline of the text. Lowry is also forced to explain (ibid., 40-41) why references to the *bayān* scheme disappear after ¶629. The outline below gives a simpler explanation: the *bayān* scheme governs only Book 1, and then reappears in the review of Book 1 near the beginning of Book 2. After Book 1 the types of *bayān* no longer provide the outline, although the topics discussed can of course be regarded as representing different types of *bayān,* since *bayān* is supposed to comprehend all modes of legal revelation.

[486] E.g. *al-Risāla,* 44 ¶146, 45 ¶149, 45 ¶151, 108 ¶325, 110 ¶329. The author also refers to real opponents (as at 41 ¶133), but does not engage them in dialogue form.

[487] Khadduri, trans. of al-Shāfiᶜī's *Risāla,* 22. The additional report that the "old *Risāla"* also included discussions of consensus and analogy sounds suspiciously like an attempt to anachronistically foist a "four sources" model of legal theory on al-Shāfiᶜī; Lowry ("Four Sources") has convincingly shown that the longstanding "four sources" interpretation of the *Risāla* is erroneous.

[488] At 226 ¶625 the author refers to "what you [the interlocutor] have heard me relate in my book," and when asked to repeat it (¶626) proceeds to repeat material from Book 1.

The marked break between what I have called Book 1 and Book 2, at p. 210 ¶569, is understood by Lowry ("Legal-Theoretical Content," 75) as a major shift in topic within a unified text; Brockopp *(Early Mālikī Law,* 73 n. 12) has suggested that the shift from narrative to dialogue at this point is a sign of an "organic text" that has undergone revision.

[489] Calder *("Ikhtilâf* and *Ijmâᶜ," 57,* 67, 69) initially considered the dialogue to be a purely formal device designed to provide opportunities for repetition and explanation; but the only motivation he could offer for such repetitiveness was that it substituted for logical persuasiveness (ibid., 67, 68). Calder subsequently questioned the purposefulness of this repetitiveness and redundancy, taking them as signs of "organic growth and redaction" (Calder, *Studies,* 242).

[490] *al-Risāla,* 211 ¶569, 212 ¶573, 212 ¶575, 214 ¶571, 223 ¶615, 226 ¶625.

[491] *al-Risāla,* 223 ¶615. Previous scholarship has taken this as a reference to a separate but otherwise unknown work by al-Shāfiᶜī (see Shākir's note 3 on p. 223 of *al-Risāla;* Khadduri's note 6 on p. 185 of his translation of *al-Risāla;* and Lowry, "Legal-Theoretical Content," 36-37); Shākir and Lowry also noted the possibility that it might not be a reference to a specific work, but rather a general reference to whatever al-Shāfiᶜī had already written on the topic of the relation of the Qurʾān to the Sunna, in the *Risāla* or elsewhere. I agree that it has all the appearance of a reference to a specific work, and I take that work to be Book 1 of the *Risāla.* That which the author says he described in *kitāb al-sunna maᶜ al-qurʾān,* and which he now mentions again for the interlocutor in ¶615, is a series of examples, from Book 1, of how the Sunna elaborates the Qurʾān's summarized injunctions.

[492] See 431 ¶1184.

[493] Lowry ("Legal-Theoretical Content," 70) keeps together the discussion of individually transmitted reports that forms the first major topic after the introduction of Book 3, and the treatment of conflicts within the Sunna that I have called Book 2. I concur with Calder (*"Ikhtilâf* and *Ijmâ^{c},"* 59, 69; *Studies,* 241) that the discussion of individually transmitted reports is better regarded as part of a coherent section on degrees of legal knowledge – what I call Book 3.

[494] Calder, *"Ikhtilâf* and *Ijmâ^{c},"* 73 and *passim*.

[495] Calder, *Studies,* 146, 224-226, 229, 241-242, and *passim*.

[496] Calder, *Studies,* 242.

[497] Melchert, "Qur$^{\circ}$ānic Abrogation," 91-96.

[498] See especially Lowry, "The Legal Hermeneutics of al-Shāfi^{c}ī and Ibn Qutayba," and pages 46ff. above.

[499] Lowry, "Legal-Theoretical Content," 70-71; see also his response to Calder's arguments in ibid., 89-92.

[500] Calder, *Studies.* It is important to note that whereas Calder gave detailed analyses of the stages of composition reflected in several other early legal texts, he did not actually perform such an analysis for the *Risāla*.

[501] See p. 601 of Shākir's edition of the *Risāla.* This would seem to establish a *terminus ad quem* for the redaction of the work as a closed book.

[502] Khadduri (trans. of al-Shāfi^{c}ī's *Risāla,* 48-51) cites evidence favoring a date in the 4th/10th century, though he says a 3d/9th-century date cannot be ruled out.

[503] For example, the terms *siyāq, ẓāhir, bāṭin,* and *lafẓ* appear in headings on pp. 62-64, but are not used in the text those headings describe (although they are used elsewhere in the *Risāla).*

[504] For example, in the heading on p. 62 the term *ma^{c}nā* is used in the sense of intended meaning; in the following text the verb *arāda* indicates intended meaning (63 ¶209), whereas *ma^{c}ná* is used only in a different sense (63 ¶211).

[505] The heading on p. 64 before ¶212 separates it from the examples on pp. 62-63 ¶¶208-211, but ¶213 explicitly states that the example in ¶212 is just like the preceding ones.

[506] Lowry, in addition to suggesting that the text has been slightly rearranged (see note 484), also lists ("Legal-Theoretical Content," 84-89) six passages that he believes may have been interpolated after the initial composition of the text: ¶121, ¶298, ¶¶346-358, ¶¶367-370, the end of ¶381, and the end of ¶528.

[507] See notes 206 and 222, and Bedir, "An Early Response to Shāfiʿī."

[508] See note 487.

[509] See note 191.

[510] See note 501.

[511] See note 197.

BIBLIOGRAPHY

Bibliographic conventions:

EI² *Encyclopaedia of Islam,* 2d edition.

EQ *Encyclopaedia of the Qurʾān.*

OEMIW *The Oxford Encyclopedia of the Modern Islamic World.*

Qurʾānic references have the form Q sura:verse, for example, Q 2:181.

Page references have the form volume:page.line, for example, ʿAbd al-Jabbār, *al-Mughnī,* 17:94.20.

Primary sources are listed here under the name of the earliest figure to whom each work is attributed, even if the attribution is in doubt. Where a work represents one of several important recensions, the chain of transmission is indicated by an arrow; for example, a reconstruction of Ibn Abī Ṭalḥa's recension of the exegetical teaching of Ibn ʿAbbās is listed under "Ibn ʿAbbās → Ibn Abī Ṭalḥa." Where a redactor is believed to have added substantially to a work, this is indicated by the "less than" symbol; for example, a commentary by ʿAbd al-Jabbār that is extant only embedded within the supercommentary of Mānkdīm is listed under "ʿAbd al-Jabbār < Mānkdīm." Where a redactor is believed to have omitted significant parts of a work, the "greater than" symbol (>) is used; where a redaction is believed to involve both significant omission from and addition to the original work, the two signs are conjoined (<>).

Abbott, Nabia. *Studies in Arabic Literary Papyri, II: Qurʾānic Commentary and Tradition.* The University of Chicago Oriental Institute Publications, no. 76. Chicago: University of Chicago Press, 1967.

ʿAbd al-Jabbār, Abū al-Ḥasan. *Faḍl al-iʿtizāl wa-ṭabaqāt al-muʿtazila wa-mubāyanatuhum li-sāʾir al-mukhālifīn.* In *Faḍl al-iʿtizāl wa-ṭabaqāt al-muʿtazila,* ed. Fuʾād Sayyid, 135-350. Tunis: al-Dār al-Tūnisiyya li-l-nashr, 1393/1974.

_____. *al-Mughnī fī abwāb al-tawḥīd wa-l-ᶜadl.* Ed. Ṭā Hā Ḥusayn. Cairo: Maṭbaᶜat Dār al-Kutub, 1960-1969.

_____. *Mutashābih al-qurʾān.* 2 vols. Ed. ᶜAdnān Muḥammad Zarzūr. Cairo: Dār al-Turāth, 1969.

ᶜAbd al-Jabbār < Mānkdīm. *Sharḥ al-uṣūl al-khamsa,* with the commentary of Aḥmad b. al-Ḥusayn b. Abī Hāshim [Mānkdīm]. Ed. ᶜAbd al-Karīm ᶜUthmān. Cairo: Maktabat Wahba, 1384/1965.

Abdel Haleem, M. A. S. "Early Islamic Theological and Juristic Terminology: *Kitāb al-ḥudūd fi ʾl-uṣūl,* by Ibn Fūrak." *Bulletin of the School of Oriental and African Studies* 54 (1991): 5-41.

Abū Jayb, Saᶜdī. *al-Qāmūs al-fiqhī lughatan wa-iṣṭilāḥan.* Damascus: Dār al-Fikr, 1419/1998.

Abū ᶜUbayda Maᶜmar b. al-Muthanná al-Taymī. *Majāz al-qurʾān.* 2 vols. Ed. Muḥammad Fuʾād Sezgin. [Cairo]: Muḥammad Sāmī Amīn al-Khānjī, 1374/1954 - 1381/1962.

Abū Zayd, Naṣr Ḥāmid. "Divine Attributes in the Qur'an: Some Poetic Aspects." In *Islam and Modernity: Muslim Intellectuals Respond,* ed. John Cooper, Ronald L. Nettler, and Mohamed Mahmoud, 190-211. London: I. B. Tauris, 1998.

_____. *al-Imām al-Shāfiᶜī wa-taʾthīth al-aydiyulūjiyya al-wasaṭiyya.* 2d ed. Cairo: Maktabat Madbūlī, 1996.

_____. *Mafhūm al-naṣṣ: Dirāsa fī ᶜulūm al-qurʾān.* Beirut: al-Markaz al-Thaqāfī al-ᶜArabī, 1998.

āl-Ḥusayn al-ᶜĀmirī, ᶜAbdallāh M. "aṭ-Ṭūfī's Refutation of Traditional Muslim Juristic Sources of Law and His View on the Priority of Regard for Human Welfare as the Highest Legal Source or Principle." Ph.D. diss., University of California, Santa Barbara, 1982.

Ali, Mohamed Mohamed Yunis. *Medieval Islamic Pragmatics: Sunni Legal Theorists' Models of Textual Communication.* Richmond, Surrey: Curzon Press, 2000.

Allard, Michel. *Le problème des attributs divins dans la doctrine d'al-Aš*ᶜ*arī et de ses premiers grands disciples.* Recherches publiées sous la direction de l'Institut de Lettres Orientales de Beyrouth, no. 28. Beirut: Imprimerie Catholique, [1965].

Almagor, Ella. "The Early Meaning of *Majāz* and the Nature of Abū ᶜUbayda's Exegesis." In J. Blau, ed., *Studia Orientalia Memoriae D. H. Baneth Dedicata,* 307-326. Jerusalem: Magnes, 1979.

Arnaldez, Roger. *Grammaire et théologie chez Ibn Ḥazm de Cordoue: Essai sur la structure et les conditions de la pensée musulmane.* Études musulmanes, ed. Étienne Gilson and Louis Gardet. Paris: Librairie Philosophique J. Vrin, 1956.

al-Ashᶜarī, Abū al-Ḥasan. *al-Ibāna ᶜan uṣūl al-diyāna.* Ed. Fawqiyya Huṣayn Maḥmūd. Cairo: Dār al-Anṣār, 1397/1977.

_____. *al-Ibānah ᶜan uṣūl ad-diyānah (The Elucidation of Islam's Foundation.)* Translated by Walter C. Klein. American Oriental Series, ed. W. Norman Brown, no. 19. New Haven, Conn.: American Oriental Society, 1940; reprinted New York: Kraus Reprint Corporation, 1967.

_____. *al-Lumaᶜ fī al-radd ᶜalá ahl al-zaygh wa-l-bidaᶜ.* Together with *Risāla fī istiḥsān al-khawḍ fī ᶜilm al-kalām.* Ed. Muḥammad Amīn al-Ḍannāwī. Beirut: Dār al-kutub al-ᶜilmiyya, 1421/2000.

_____. *Maqālāt al-islāmiyyīn wa-ikhtilāf al-muṣallīn.* Ed. Muḥammad Muḥyī al-Dīn ᶜAbd al-Ḥamīd. 2 vols. in one. 2d ed. Cairo: Maktabat al-Nahḍa al--Miṣriyya, 1389/1969.

Austin, J. L. *Philosophical Papers*. 3d ed. Edited by J. O. Urmson and G. J. Warnock. Oxford: Oxford University Press, 1979.

al-Baghdādī, Abū Manṣūr ᶜAbd al-Qāhir ibn Ṭāhir al-Tamīmī. *Kitāb uṣūl al-dīn.* Istanbul: Maṭbaᶜat al-Dawla, 1928; reprinted Beirut: Dār al-Kutub al-ᶜIlmiyya, 1981.

al-Balkhī, Abū al-Qāsim. *Bāb dhikr al-muᶜtazila min Maqālāt al-islāmiyyīn.* In *Faḍl al-iᶜtizāl wa-ṭabaqāt al-muᶜtazila,* ed. Fuᵓād Sayyid, 61-119. Tunis: al-Dār al-Tūnisiyya li-l-nashr, 1393/1974.

al-Bāqillānī, Abū Bakr b. al-Ṭayyib. *al-Inṣāf fīmā yajibu iᶜtiqāduhu wa-lā yajūzu al-jahl bih.* 2d ed. Ed. Muḥammad Zāhid b. al-Ḥasan al-Kawtharī. [Cairo:] Muᵓassasat al-Khānjī, 1382/1963.

_____. *al-Taqrīb wa-l-irshād (al-ṣaghīr).* Ed. ᶜAbd al-Ḥamīd b. ᶜAlī Abū Zunayd. 3 vols. (vol. 1 is 2d ed.) Beirut: Muᵓassasat al-Risāla, 1998.

Barthes, Roland. *Elements of Semiology.* London: Jonathan Cape, 1967.

al-Baṣrī, Abū al-Ḥusayn Muḥammad b. ᶜAlī b. al-Ṭayyib. *al-Muᶜtamad fī uṣūl al-fiqh.* 2 vols. Ed. Khalīl al-Mays. Beirut: Dār al-Kutub al-ᶜIlmiyya, [1983].

al-Bazdawī. *Uṣūl al-Pazdawī.* In al-Bukhārī, *Kashf al-asrār,* q.v.

Bedir, Murteza. "An Early Response to Shāfiᶜī: ᶜĪsā b. Abān on the Prophetic Report *(khabar)*." *Islamic Law and Society* 9 (2002): 285-311.

Bercher, L[éon]. "Le '*kitāb al-waraqāt*,' traité de méthodologie juridique musulmane traduit et annoté." *Revue Tunisienne* 1930, 93-105 and 185-214.

Bernand, Marie. "*Bayān* selon les *uṣūliyyūn*." *Arabica* 42 (1995): 145-160.

_____. "Controverses médiévales sur le *dalīl al-ḫiṭāb*." *Arabica* 33 (1986): 269-294.

_____. "Ḥanafī Uṣūl al-Fiqh through a Manuscript of al-Ǧaṣṣāṣ." *Journal of the American Oriental Society* 105 (1985): 623-35.

_____. "L'iğmāᶜ chez ᶜAbd al-Ǧabbār et l'objection d'an-Naẓẓām." *Studia Islamica* 30 (1969): 27-38.

_____. "Le savoir entre la volonté et la spontanéité selon an-Naẓẓām et al-Ǧāḥiẓ." *Studia Islamica* 39 (1974): 25-57.

_____. "Les *uṣūl al-fiqh* de l'époque classique: *Status quaestionis*." *Arabica* 39 (1992): 273-286.

Bin ᶜĀrifīn, Muḥammad. "The Principles Of *ᶜUmūm* and *Takhṣīṣ* in Islamic Jurisprudence." Ph.D. diss., University of Edinburgh, 1988.

Black, Deborah L. *Logic and Aristotle's* Rhetoric *and* Poetics *in Medieval Arabic Philosophy.* Islamic Philosophy and Theology: Texts and Studies, ed. Hans Daiber, no. 7. Leiden: E. J. Brill, 1990.

Bouman, Johan. *Le conflit autour du Coran et la solution d'al-Bāqillānī.* Amsterdam: Jacob van Campen, 1959.

Brockopp, Jonathan E. *Early Mālikī Law: Ibn ᶜAbd al-Ḥakam and His Major Compendium of Jurisprudence.* Studies in Islamic Law and Society, ed. Ruud Peters and Bernard Weiss, no. 14. Leiden: Brill, 2000.

Browers, Michaelle. "Islam and Political *Sinn:* The Hermeneutics of Contemporary Islamic Reformists." In *An Islamic Reformation?* ed. Michaelle Browers and Charles Kurzman, 54-78. Lanham, Maryland: Lexington Books, 2004.

Brunschvig, Robert. *Études d'islamologie.* With a foreword and bibliography of Brunschvig's works by Abdel Magid Turki. 2 vols. Paris: G.-P. Maisonneuve et Larose, 1976.

_____. "Herméneutique normative dans le Judaïsme et dans l'Islam." *Rendiconti (Accademia nazionale dei Lincei: Classe di scienze morali, storiche e filologiche),* Serie 8, vol. 30, fasc. 5-6 (1975): 233-252.

_____. "Logique et droit dans l'Islam classique." In *Études d'islamologie*, vol. 2, 347-61. Paris: G.-P. Maisonneuve et Larose, 1976. Originally published as "Logic and Law in Classical Islam" in *Logic in Classical Islamic Culture,* ed. G. E. von Grunebaum, 9-20. Wiesbaden, 1970.

_____. "Muᶜtazilisme et aššᶜarisme à Baġdād." In *Études d'islamologie*, vol. 1, 221-232. Paris: G.-P. Maisonneuve et Larose, 1976. Originally published in *Arabica* 9, no. 3 (October 1962): 345-56.

_____. "Muᶜtazilisme et optimum (*al-aṣlaḥ*)." In *Études d'islamologie*, vol. 1, 233-251. Paris: G.-P. Maisonneuve et Larose, 1976. Originally published in *Studia Islamica* 39 (1974): 5-23.

_____. "Pour ou contre la logique grecque chez les théologiens-juristes de l'Islam: Ibn Ḥazm, al-Ghazālī, Ibn Taymiyya." In *Études d'islamologie*, vol. 1, 303-338. Paris: G.-P. Maisonneuve et Larose, 1976. Originally published in *Convegno Internazionale 9-15 Aprile 1969, Tema: Oriente e Occidente nel Medioevo: Filosofia e Scienze,* 185-209. Rome, 1971.

_____. "Rationalité et tradition dans l'analogie juridico-religieuse chez le muᶜtazilite ᶜAbd al-Ǧabbār." In *Études d'islamologie*, vol. 2, 395-403. Paris: G.-P. Maisonneuve et Larose, 1976. Originally published in *Arabica* 19 (1972): 213-221.

_____. "Les *uṣūl al-fiqh* imāmites à leur stade ancien (X^e^ et XI^e^ siècles)." In *Études d'islamologie*, vol. 2, 323-34. Paris: G.-P. Maisonneuve et Larose, 1976. Originally published in *Le Shīᶜisme Imāmite*, 201-12. Paris, 1970.

_____. "Valeur et fondement du raisonnement juridique par analogie d'après al-Ġazālī." In *Études d'islamologie*, vol. 2, 363-394. Paris: G.-P. Maisonneuve et Larose, 1976. Originally published in *Studia Islamica* 34 (1971): 57-88.

al-Bukhārī, ᶜAlāᵓ al-Dīn ᶜAbd al-ᶜAzīz ibn Aḥmad. *Kashf al-asrār ᶜan uṣūl Fakhr al-Islām al-Bazdawī.* Ed. Muḥammad al-Muᶜtaṣim bi-Allāh al-Baghdādī. 4 vols. Beirut: Dār al-Kitāb al-ᶜArabī, 1994.

Bulliet, Richard W. *The Patricians of Nishapur: A Study in Medieval Islamic Social History.* Harvard Middle Eastern Studies, no. 16. Cambridge: Harvard University Press, 1972.

Burton, John. *The Sources of Islamic Law: Islamic Theories of Abrogation.* Edinburgh: Edinburgh University Press, 1990.

Calder, Norman. "Doubt and Prerogative: The Emergence of an Imāmī Shīʿī Theory of *Ijtihād.*" *Studia Islamica* 70 (1989): 57-78.

_____. *"Ikhtilâf* and *Ijmâʿ* in Shâfiʿî's *Risâla." Studia Islamica* 58 (1983): 55-81.

_____. *Studies in Early Muslim Jurisprudence.* Oxford: Clarendon Press, 1993.

Carter, Michael G. "Analogical and Syllogistic Reasoning in Grammar and Law." In *Islam: Essays on Scripture, Thought and Society: A Festschrift in Honour of Anthony H. Johns,* ed. Peter G. Riddell and Tony Street, 104-112. Islamic Philosophy Theology and Science: Texts and Studies, ed. H. Daiber and D. Pingree, no. 28. Leiden: Brill, 1997.

_____. "Linguistic Science and Orthodoxy in Conflict: The Case of al-Rummānī." *Zeitschrift für Geschichte der Arabisch-Islamischen Wissenschaften* 1 (1984): 212-232.

_____. Review of Mohamed M. Yunus Ali, *Medieval Islamic Pragmatics: Sunni Legal Theories of Textual Communication. Islamic Law and Society* 9 (2002): 275-280.

Chaumont, Éric. "Bâqillânî, théologien ashʿarite et usûliste mâlikite, contre les légistes à propos de l'*ijtihâd* et de l'accord unanime de la communauté." *Studia Islamica* 79 (1994): 79-102.

_____. "*Ijtihād* et histoire en islam sunnite classique selon quelques juristes et quelques théologiens." In R. Gleave and E. Kermeli, eds., *Islamic Law: Theory and Practice,* 7-23. London: I. B. Tauris, 1997.

_____. "al-Shāfiʿiyya." In *EI*^{2}.

Cook, Michael. *Early Muslim Dogma: A Source-Critical Study.* Cambridge: Cambridge University Press, 1981.

Cottart, N. "Mālikiyya." In *EI*^{2}.

al-Dabbūsī, ᶜUbayd Allāh b. ᶜUmar. *Taʾsīs al-naẓar.* With Abū al-Ḥasan al-Karkhī, *Risāla fī al-uṣūl allatī ᶜalayhā madār furūᶜ al-Ḥanafiyya,* with examples by Abū Ḥafṣ ᶜUmar al-Nasafī. [Ed. Muṣṭafā Muḥammad al-Qabbānī.] Cairo: Zakariyyā ᶜAlī Yūsuf, n.d.

Edge, Ian. "Material Available on Islamic Legal Theory in English." Introduction to Ian Edge, ed., *Islamic Law and Legal Theory,* xv-xxxiii.

_____, ed. *Islamic Law and Legal Theory.* The International Library of Essays in Law and Legal Theory, ed. Tom D. Campbell, Legal Cultures, 7. New York: New York University Press, 1996.

Esack, Farid. *Qurʾan, Liberation & Pluralism: An Islamic Perspective of Interreligious Solidarity Against Oppression.* Oxford: Oneworld, 1997.

Esposito, John L., and John O. Voll. *Makers of Contemporary Islam.* Oxford: Oxford University Press, 2001.

Ess, Josef van. *Das Kitāb al-Nakṯ des Naẓẓām und seine Rezeption im Kitāb al-Futyā des Ǧāḥiẓ: Eine Sammlung der Fragmente mit Übersetzung und Kommentar.* Abhandlungen der Akademie der Wissenschaften in Göttingen, Philologisch-historische Klasse, ser. 3, no. 79. Göttingen: Vandenhoeck & Ruprecht, 1972.

_____. "Une lecture à rebours de l'histoire du Muᶜtazilisme." *Revue des études Islamiques* 46, no. 2, and 47, no.1 (1978 and 1979); reissued in *Revue des études Islamiques, hors série* 14 (Paris: Librairie Orientaliste Paul Geuthner, 1984).

_____. *Theologie und Gesellschaft im 2. und 3. Jahrhundert Hidschra: Eine Geschichte des religiösen Denkens im frühen Islam.* 6 vols. Berlin: Walter de Gruyter, 1991-1997.

_____. "Ein unbekanntes Fragment des Naẓẓām." In *Der Orient in der Forschung: Festschrift für Otto Spies zum 5. April 1966,* ed. Wilhelm Hoenerbach, 170-201. Wiesbaden: Otto Harrassowitz, 1967.

al-Farrāʾ, Abū Zakariyyāʾ Yaḥyá b. Ziyād. *Maᶜānī al-qurʾān.* 3 vols. Ed. Aḥmad Yūsuf Najātī, Muḥammad ᶜAlī al-Najjār, and ᶜAbd al-Fattāḥ Ismāᶜīl Shalabī. [Cairo: al-Dār al-Miṣriyya li-l-Taʾlīf wa-l-Tarjama, 1955]; vols. 1 and 3 reprinted Beirut: Dār al-Surūr, n.d.; vol. 2 reprinted Tehran: Intishārāt Nāṣir Khusraw; n.d.

Frank, Richard MacDonough. *Beings and Their Attributes: The Teaching of the Basrian School of the Muᶜtazila in the Classical Period.* Studies in Islamic Philosophy and Science, ed. George F. Hourani, et al. Albany: State University of New York Press, 1978.

_____. "'Al-Maᶜnā,' Some Reflections on the Technical Meanings of the Term in the *Kalām* and Its Use in the Physics of Muᶜammar." *Journal of the American Oriental Society* 87 (1967): 248-59.

_____. "Meanings Are Spoken of in Many Ways: The Earlier Arab Grammarians." *Le Muséon: Revue d'études orientales* 94, no. 3-4 (1981): 259-319.

Gadamer, Hans-Georg. *Truth and Method.* 2d rev. ed. Translation revised by Joel Weinsheimer and Donald G. Marshall. New York: Continuum, 1995.

Gardet, Louis, and M.-M. Anawati. *Introduction à la théologie musulmane: Essai de théologie comparée.* 3d ed. Études de philosophie médiévale, ed. Étienne Gilson, no. 37. Paris: Librairie Philosophique J. Vrin, 1981.

al-Ghazālī, Abū Ḥāmid Muḥammad b. Muḥammad. *al-Mustaṣfá min ᶜilm al-uṣūl.* With ᶜAbd al-ᶜAlī Muḥammad b. Niẓām al-Dīn al-Anṣārī, *Fawātiḥ al-raḥmūt,* with the commentary of Muḥibb Allāh b. ᶜAbd al-Shakūr, *Musallam al-thubūt fī uṣūl al-fiqh.* 2 vols. Beirut: Dār al-Fikr, n.d. [Reprint of Bulāq, 1322-24/1904-07.]

Gilliot, Claude. "Exegesis of the Qurʾān: Classical and Medieval." In *EQ*.

Gimaret, Daniel. "Bibliographie d'Ašᶜarī: Un réexamen." *Journal Asiatique* 273 (1985): 223-292.

_____. *La doctrine d'al-Ashᶜarī.* Patrimoines: Islam. Paris: Cerf, 1990.

_____. "Un document majeur pour l'histoire du kalām: Le *muğarrad maqālāt al-Aššᶜarī* d'Ibn Fūrak." *Arabica* 32 (1985): 185-218.

_____. "Muᶜtazila." In *EI²*.

Gleave, Robert. "Akhbārī Shīᶜī *uṣūl al-fiqh* and the Juristic Theory of Yūsuf b. Aḥmad al-Baḥrānī." In R. Gleave and E. Kermeli, eds., *Islamic Law: Theory and Practice,* 24-45. London: I. B. Tauris, 1997.

Goldziher, Ignaz. *Die Richtungen der islamischen Koranauslegung: An der Universität Upsala gehaltene Olaus-Petri-Vorlesungen.* Veröffentlichungen der "De Goeje-Stiftung," no. 6. Leiden: E. J. Brill, 1920; reprint, 1970.

_____. *The Ẓāhirīs: Their Doctrine and Their History: A Contribution to the History of Islamic Theology.* Trans. and ed. Wolfgang Behn. Leiden: E. J. Brill, 1971.

Graham, William A. *Divine Word and Prophetic Word in Early Islam: A Reconsideration of the Sources, with Special Reference to the Divine Saying or* Ḥadīth Qudsī. Religion and Society, ed. Leo Laeyendecker and Jacques Waardenburg, No. 7. The Hague: Mouton, 1977.

Hallaq, Wael B. "The Gate of Ijtihad: A Study in Islamic Legal History." Ph.D. diss., University of Washington, 1983.

_____. *A History of Islamic Legal Theories: An Introduction to Sunnī* Uṣūl al-Fiqh. Cambridge: Cambridge University Press, 1997.

_____. *Law and Legal Theory in Classical and Medieval Islam.* Collected Studies Series, CS474. Aldershot: Variorum, 1995.

_____. "Non-Analogical Arguments in Sunni Juridical *Qiyās*." *Arabica* 36 (1989): 286-306. Reprinted in idem, *Law and Legal Theory in Classical and Medieval Islam,* II 286-306. Also reproduced with original pagination in Ian Edge, ed., *Islamic Law and Legal Theory,* 205-225.

_____. "Notes on the Term *Qarīna* in Islamic Legal Discourse." *Journal of the American Oriental Society* 108 (1988): 475-80. Reprinted in idem, *Law and Legal Theory in Classical and Medieval Islam,* X 1-15.

_____. "On the Authoritativeness of Sunni Consensus." *International Journal of Middle East Studies* 18 (1986): 427-454. Reprinted in idem, *Law and Legal Theory in Classical and Medieval Islam,* VIII 427-456.

_____. "On the Origins of the Controversy about the Existence of Mujtahids and the Gate of Ijtihad." *Studia Islamica* 63 (1986): 129-141.

_____. "The Primacy of the Qurʾān in Shāṭibī's Legal Theory." In *Islamic Studies Presented to Charles J. Adams,* ed. Wael B. Hallaq and Donald P. Little, 69-90. Leiden: E. J. Brill, 1991. Reprinted in idem, *Law and Legal Theory in Classical and Medieval Islam,* XI 69-90.

_____. "*Uṣūl al-Fiqh:* Beyond Tradition." *Journal of Islamic Studies* 3 (1992): 172-202. Reprinted in idem, *Law and Legal Theory in Classical and Medieval Islam,* XII 172-202.

_____. "Was al-Shāfiᶜī the Master Architect of Islamic Jurisprudence?" *International Journal of Middle East Studies* 25 (1993): 587-605. Reprinted with original pagination in idem, *Law and Legal Theory in Classical and Medieval Islam,* VII 587-606.

_____. "Was the Gate of Ijtihad Closed?" *International Journal of Middle East Studies* 16 (1984): 3-41. Reproduced with original pagination in Ian Edge, ed., *Islamic Law and Legal Theory,* 287-325.

Ḥammādī, Idrīs. *al-Khiṭāb al-sharʿī: Ṭuruq istithmārih.* Beirut and Casablanca: al-Markaz al-Thaqāfī al-ʿArabī, 1994.

Hanafi, Hassan. *Les méthodes d'exégèse: Essai sur la science des fondements de la compréhension "ʿilm uṣul al-fiqh."* With a preface by R. Brunschvig. Cairo: Conseil Supérieur des Arts, des Lettres et des Sciences Sociales, 1385/1965.

_____. *"Qirāʾat al-naṣṣ."* ("Reading the Text.") *Alif: Journal of Comparative Poetics (Majallat al-balāgha al-muqārana)* 8 (Spring 1988, Interpretation and Hermeneutics): 6-29 of the Arabic section.

Ḥasab Allāh, ʿAlī. *Uṣūl al-tashrīʿ al-islāmī.* 5th ed. Egypt: Dār al-Maʿārif, 1396/1976.

Hasan, Ahmad. *The Early Development of Islamic Jurisprudence.* Publications of the Islamic Research Institute (Pakistan), no. 17. Islamabad: Islamic Research Institute, 1970.

Heinrichs, Wolfhart. "Contacts between Scriptural Hermeneutics and Literary Theory in Islam: the Case of *Majāz*." *Zeitschrift für Geschichte der Arabisch-Islamischen Wissenschaften* 7 (1991/92): 253-284.

_____. "On the Genesis of the *ḥaqîqa-majâz* Dichotomy." *Studia Islamica* 59 (1984): 111-140.

Hodgson, Marshall G. S. *The Venture of Islam: Conscience and History in a World Civilization.* 3 volumes. Chicago: University of Chicago Press, 1974; paperback edition 1977.

Ibn ʿAbbās → ʿAlī Ibn Abī Ṭalḥa. *Tafsīr Ibn ʿAbbās al-musammá Ṣaḥīfat ʿAlī ibn Abī Ṭalḥa ʿan Ibn ʿAbbās fī tafsīr al-qurʾān al-karīm.* Reconstructed by Rāshid ʿAbd al-Munʿim al-Rajjāl. Beirut: Muʾassasat al-Kitāb al-Thaqāfiyya, 1991.

Ibn ʿAsākir, Abū al-Qāsim ʿAlī b. al-Ḥasan b. Hibat Allāh. *Tabyīn kadhib al-muftarī fīmā nusiba ilá al-imām Abī al-Ḥasan al-Ashʿarī.* [Ed. al-Qudsī. Damascus, 1347/1928-29]; repr., Beirut: Dār al-Kitāb al-ʿArabī, 1399/1979.

Ibn Fūrak. *Kitāb al-ḥudūd fi ʾl-uṣūl.* In M. A. S. Abdel Haleem, "Early Islamic Theological and Juristic Terminology: *Kitāb al-ḥudūd fi ʾl-uṣūl,* by Ibn Fūrak." *Bulletin of the School of Oriental and African Studies* 54 (1991): 5-41.

_____. *Muğarrad maqālāt al-Aš^{c}arī (Exposé de la doctrine d'al-Aš^{c}arī).* Ed. Daniel Gimaret. Recherches: Collection publiée sous la direction de la Faculté des Lettres et des Sciences Humaines de l'Université Saint-Joseph, Beyrouth, ed. Louis Pouzet. Nouvelle Série: A. Langue arabe et pensée islamique, no. 14. Beirut: Dar al-Machreq, 1987.

_____. *Muqaddima fī nukat min uṣūl al-fiqh.* In *Majmū^{c} rasā^{ɔ}il fī uṣūl al-fiqh,* 4-14. Beirut: al-Maṭba^{c}a al-Ahliyya, 1324/[1906-07].

Ibn Ḥazm, Abū Muḥammad ^{c}Alī b. Aḥmad b. Sa^{c}īd al-Ẓāhirī. *al-Iḥkām fī uṣūl al-aḥkām.* 8 parts in 2 vols. Beirut: Dār al-Kutub al-^{c}Ilmiyya, n.d.

Ibn Jinnī, Abū al-Fatḥ ^{c}Uthmān. *al-Khaṣā^{ɔ}is.* Ed. Muḥammad ^{c}Alī al-Najjār. 3d ed. Vol. 1 [of 3]. N.p.: Markaz Taḥqīq al-Turāth, bi-l-Hay^{ɔ}a al-Miṣriyya al-^{c}Āmma li-l-Kitāb, 1406/1986.

Ibn al-Murtaḍá, Aḥmad b. Yaḥyá. *Kitāb ṭabaqāt al-Mu^{c}tazila / Die Klassen der Mu^{c}taziliten.* Ed. Susanna Diwald-Wilzer. [Wiesbaden: Franz Steiner, 1961]; reprint Beirut: Dār Maktabat al-Ḥayāh, [1980].

Ibn al-Najjār, Muḥammad b. Aḥmad b. ^{c}Abd al-^{c}Azīz b. ^{c}Alī al-Futūḥī. *Sharḥ al-kawkab al-munīr al-musammá bi-mukhtaṣar al-taḥrīr aw al-mukhtabar al-mubtakar sharḥ al-mukhtaṣar fī uṣūl al-fiqh.* 4 vols. Ed. Muḥammad al-Zuḥaylī and Nazīh Ḥammād. *Min al-turāth al-islāmī* (Markaz al-Baḥth al-^{c}Ilmī wa-Iḥyā^{ɔ} al-Turāth al-Islāmī, Kulliyyat al-Sharī^{c}a wa-l-Dirāsāt al-Islāmiyya, Jāmi^{c}at al-Malik ^{c}Abd al-^{c}Azīz / Jāmi^{c}at Umm al-Qurá), no. 5. Damascus: Dār al-Fikr, 1400/1980-1408/1987.

Ibn Naṣr, ^{c}Abd al-Wahhāb. *al-Ma^{c}ūna ^{c}alá madhhab ^{c}ālim al-madīna.* Excerpts appended to Abū al-Ḥasan ^{c}Alī b. ^{c}Umar Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* ed. Muḥammad b. al-Ḥusayn al-Sulaymānī, 235-250. *Dirāsāt wa-nuṣūṣ fī uṣūl al-fiqh al-mālikī,* [no. 1]. Beirut: Dār al-Gharb al-Islāmī, 1996.

_____. *al-Muqaddima fī uṣūl al-fiqh.* Appended to Abū al-Ḥasan ^{c}Alī b. ^{c}Umar Ibn al-Qaṣṣār, *al-Muqaddima fī al-uṣūl,* ed. Muḥammad b. al-Ḥusayn al-Sulaymānī, 227-234. *Dirāsāt wa-nuṣūṣ fī uṣūl al-fiqh al-mālikī,* [no. 1]. Beirut: Dār al-Gharb al-Islāmī, 1996.

Ibn al-Qaṣṣār, Abū al-Ḥasan ^{c}Alī b. ^{c}Umar. *al-Muqaddima fī al-uṣūl.* Ed. Muḥammad b. al-Ḥusayn al-Sulaymānī. *Dirāsāt wa-nuṣūṣ fī uṣūl al-fiqh al-mālikī,* [no. 1]. Beirut: Dār al-Gharb al-Islāmī, 1996.

Ibn Qutayba, Abū Muḥammad ᶜAbd Allāh b. Muslim. *Kitāb taʾwīl mukhtalif al-ḥadīth fī al-radd ᶜalā aᶜdāʾ ahl al-ḥadīth, wa-al-jamᶜ bayna al-akhbār allatī iddaᶜū ᶜalayhā al-tanāquḍ wa-al-ikhtilāf, wa-al-jawāb ᶜammā awradūhu min al-shubah ᶜalā baᶜḍ al-akhbār al-mutashābihah aw al-mushkilah bādiʾ al-raʾy.* Ed. ᶜAbd al-Qādir Aḥmad ᶜAṭā. [Cairo]: Dār al-Kutub al-Islāmīyah, 1402/1982.

_____. *Taʾwīl mushkil al-qurʾān.* Ed. Aḥmad Saqar. Maktabat Ibn Qutayba. Cairo: Dār al-Turāth, 1393/1973.

Ibn al-Sarrāj, Abū Bakr Muḥammad ibn Sahl. *al-Uṣūl fī al-naḥw.* Ed. ᶜAbd al-Ḥusayn al-Fatlī. 3 volumes. Beirut: Muʾassasat al-Risāla, 1405/1985.

Jackson, Sherman A. "Fiction and Formalism: Toward a Functional Analysis of *Uṣūl al-fiqh*." In *Studies in Islamic Legal Theory,* ed. Bernard G. Weiss, 177-201.

_____. "From Prophetic Actions to Constitutional Theory: A Novel Chapter in Medieval Muslim Jurisprudence." *International Journal of Middle East Studies* 25 (1993): 71-90.

_____. *"Taqlīd,* Legal Scaffolding and the Scope of Legal Injunctions in Post-Formative Theory: *Muṭlaq* and *ᶜĀmm* in the Jurisprudence of Shihāb al-Dīn al-Qarāfī." *Islamic Law and Society* 3 (1996): 165-192.

al-Jaṣṣāṣ al-Rāzī, Abū Bakr Aḥmad b. ᶜAlī. *Uṣūl al-Jaṣṣāṣ al-musammá al-fuṣūl fī al-uṣūl.* Ed. Muḥammad Muḥammad Tāmir. 2 vols. Beirut: Dār al-Kutub al-ᶜIlmiyya, Manshūrāt Muḥammad ᶜAlī Bayḍūn, 1420/2000.

Jokisch, Benjamin. "*Ijtihād* in Ibn Taymiyya's *fatāwā.*" In R. Gleave and E. Kermeli, eds., *Islamic Law: Theory and Practice,* 119-137. London: I. B. Tauris, 1997.

al-Jubūrī, Ḥusayn Khalaf. *al-Aqwāl al-uṣūliyya li-l-Imām Abī al-Ḥasan al-Karkhī.* [Mecca: Maṭābiᶜ al-Ṣafā], 1409/1989.

al-Jurjānī, ᶜAlī b. Muḥammad b. ᶜAlī. *Kitāb al-taᶜrīfāt.* Ed. Ibrāhīm al-Abyārī. Beirut: Dār al-Kitāb al-ᶜArabī, 1418/1998.

al-Jushamī, Abū al-Saᶜd al-Muḥassin ibn Muḥammad [ibn] Karrāma al-Bayhaqī. *al-Ṭabaqatān al-ḥādiyata ᶜashara wa-l-thāniyata ᶜashara min kitāb Sharḥ al-ᶜuyūn.* In *Faḍl al-iᶜtizāl wa-ṭabaqāt al-muᶜtazila,* ed. Fuʾād Sayyid, 363-393. Tunis: al-Dār al-Tūnisiyya li-l-nashr, 1393/1974.

al-Juwaynī, Imām al-Ḥaramayn Abū al-Maᶜālī ᶜAbd al-Malik b. ᶜAbd Allāh b. Yūsuf. *al-Burhān fī uṣūl al-fiqh.* 2 vols. in one. Ed. Ṣalāḥ b. Muḥammad b. ᶜUwayḍa. Beirut: Dār al-Kutub al-ᶜIlmiyya, Manshūrāt Muḥammad ᶜAlī Bayḍūn, 1418/1997.

_____. *al-Waraqāt fī ᶜilm uṣūl al-fiqh.* In Jalāl al-Dīn Muḥammad ibn Aḥmad al-Maḥallī al-Shāfiᶜī, *Sharḥ al-waraqāt fī ᶜilm uṣūl al-fiqh, ᶜalā waraqāt Abī al-Maᶜālī Imām al-Ḥaramayn ᶜAbd al-Malik ibn Yūsuf ibn Muḥammad al-Juwaynī al-Shāfiᶜī (419-478 h) wa maᶜahu ḥāshiyat al-Shaykh Aḥmad ibn Muḥammad al-Dumyāṭī al-Shāfiᶜī.* Cairo: Maṭbaᶜat al-Madanī, n.d.

Kamali, Mohammad Hashim. *Principles of Islamic Jurisprudence.* Rev. ed. Cambridge: Islamic Texts Society, 1991.

al-Karkhī, Abū al-Ḥasan. *Risāla fī al-uṣūl allatī ᶜalayhā madār furūᶜ al-Ḥanafiyya,* with examples by Abū Ḥafṣ ᶜUmar al-Nasafī. [Ed. Muṣṭafā Muḥammad al-Qabbānī.] Printed with ᶜUbayd Allāh b. ᶜUmar al-Dabūsī, *Taʾsīs al-naẓar.* Cairo: Zakariyyā ᶜAlī Yūsuf, [1972].

al-Khalīl b. Aḥmad [< al-Layth b. al-Muẓaffar]. *Kitāb al-ᶜayn.* 8 vols. Ed. Mahdī al-Makhzūmī and Ibrāhīm al-Sāmarrāʾī. *Silsilat al-maᶜājim wa-l-fahāris.* [Beirut]: Dār wa-Maktabat al-Hilāl, n.d.

Khallāf, ᶜAbd al-Wahhāb. *ᶜIlm uṣūl al-fiqh.* 10th ed. Kuwait: Dār al-Qalam, 1392/1972.

Kraemer, Joel L. *Humanism in the Renaissance of Islam: The Cultural Revival during the Buyid Age.* 2d rev. ed. Leiden: E. J. Brill, 1992.

Larkin, Margaret. *The Theology of Meaning: ᶜAbd al-Qāhir al-Jurjānī's Theory of Discourse.* American Oriental Series, ed. Edwin Gerow, et al., no. 79. New Haven: American Oriental Society, 1995.

Leemhuis, Fred. "Origins and Early Development of the *tafsīr* Tradition." In *Approaches to the History of the Interpretation of the Qurʾān,* ed. Andrew Rippin, 13-30. Oxford: Clarendon Press, 1988.

Levin, Aryeh. "Sībawayhi's View of the Syntactical Structure of *kāna waʾaxawātuhā.*" *Jerusalem Studies in Arabic and Islam* 1 (1979): 185-213.

Lowry, Joseph E. "Does Shāfiᶜī Have a Theory of 'Four Sources' of Law?" In *Studies in Islamic Legal Theory,* ed. Bernard G. Weiss, 23-50.

_____. "The Legal Hermeneutics of al-Shāfiᶜī and Ibn Qutayba: A Reconsideration." *Islamic Law and Society* 11 (2004): 1-41.

_____. "The Legal-Theoretical Content of the Risāla of Muḥammad b. Idrīs al-Shāfiᶜī." Ph.D. diss., University of Pennsylvania, 1999.

Lubac, Henri de, S.J. *Exégèse médiévale: Les quatre sens de l'Écriture.* 2 parts, each in 2 vols. Théologie: Études publiées sous la direction de la Faculté de Théologie S. J. de Lyon-Fourvière, Nos. 41, 42, and 59. [Paris]: Aubier, Éditions Montaigne, 1959-1964.

Madelung, Wilferd. "Imamism and Muᶜtazilite Theology." In *Le Shīᶜisme imāmite*, ed. T. Fahd, 13-29. Paris: Presses Universitaires de France, 1979. Reprinted in Wilferd Madelung, *Religious Schools and Sects in Medieval Islam*, VII 13-29. Collected Studies Series. London: Variorum Reprints, 1985.

_____. "The Origins of the Controversy Concerning the Creation of the Koran." In *Orientalia Hispanica sive studia F. M. Pareja octogenario dicata,* vol. 1/1, ed. J. M. Barral, 504-525. Leiden: E. J. Brill, 1974. Reprinted with original pagination in Wilferd Madelung, *Religious Schools and Sects in Medieval Islam,* V 504-525. Collected Studies Series, CS213. London: Variorum Reprints, 1985.

Makdisi, George. "Ashᶜarī and the Ashᶜarites in Islamic Religious History." *Studia Islamica* 17 (1962): 37-80; 18 (1963): 19-39.

_____. *Ibn ᶜAqīl: Religion and Culture in Classical Islam.* Edinburgh: Edinburgh University Press, 1997.

_____. "The Juridical Theology of Shāfiᶜī: Origins and Significance of *Uṣūl al-Fiqh*." *Studia Islamica* 59 (1984): 5-47.

al-Marāghī, ᶜAbd Allāh Muṣṭafá. *al-Fatḥ al-mubīn fī ṭabaqāt al-uṣūliyyīn.* 3 vols. in 1. Beirut: Muḥammad Amīn Ramaj wa-Shurakāh, 1394/1974.

Martin, Richard C. "The Role of the Basrah Muᶜtazilah In Formulating the Doctrine of the Apologetic Miracle." *Journal of Near Eastern Studies* 39 no. 3 (1980): 175-189.

Martin, Richard C., and Mark R. Woodward, with Dwi S. Atmaja. *Defenders of Reason in Islam: Muᶜtazilism from Medieval School to Modern Symbol.* Oxford: Oneworld, 1997.

McAuliffe, Jane Dammen. "Quranic Hermeneutics: The Views of al-Ṭabarī and Ibn Kathīr." In *Approaches to the History of the Interpretation of the Qurʾān,* ed. Andrew Rippin, 46-62. Oxford: Clarendon Press, 1988.

McCarthy, Richard J. *The Theology of Al-Ashᶜarī.* Beirut: Imprimerie Catholique, 1953.

McDonald, Lee M. *The Formation of the Christian Biblical Canon.* Revised & expanded edition. Peabody, Mass.: Hendrickson, 1995.

Melchert, Christopher. "Qurʾānic Abrogation Across the Ninth Century: Shāfiʿī, Abū ʿUbayd, Muḥāsibī, and Ibn Qutaybah." In *Studies in Islamic Legal Theory,* ed. Bernard G. Weiss, 75-98.

Meron, Yaʿakov. "The Development of Legal Thought in Hanafi Texts." *Studia Islamica* 30 (1969): 73-118. Reproduced with original pagination in Ian Edge, ed., *Islamic Law and Legal Theory,* 329-375.

Moosa, Ebrahim. "Allegory of the Rule (*Ḥukm*): Law as Simulacrum in Islam?" *History of Religions* 38 (1998): 1-24.

_____. "The Legal Philosophy of al-Ghazālī: Law, Language and Theology in al-Mustaṣfā." Ph.D. thesis, University of Cape Town, 1995.

Muqātil ibn Sulaymān al-Balkhī [<> Abū Naṣr Manṣūr ʿAbd al-Ḥamīd al-Bawardī]. *al-Ashbāh wa-l-naẓāʾir fī al-qurʾān al-karīm.* Ed. ʿAbd Allāh Maḥmūd Shiḥāta. Cairo: al-Hayʾa al-Miṣriyya al-ʿĀmma li-l-Kitāb, 1395/1975.

Muqātil ibn Sulaymān [< Abū Ṣāliḥ al-Hudhayl ibn Ḥabīb al-Zaydānī]. *Tafsīr Muqātil ibn Sulaymān.* Vol. 1 [of 4]. Ed. ʿAbd Allāh Maḥmūd Shiḥāta. Cairo: Muʾassasat al-Ḥalabī, [1969].

al-Muzanī, Abū Ibrāhīm Ismāʿīl b. Yaḥyā. *Kitāb al-amr wa-l-nahy.* Edited and translated by R. Brunschvig in "'Le livre de l'ordre et de la défense' d'al-Muzani," *Bulletin d'Études Orientales* 11 (1945-46): 145-193.

[al-Nātiq bi-l-Ḥaqq, *al-Mujzī;* erroneously published as] Abū al-Ḥusayn al-Baṣrī, *Sharḥ al-ʿumad.* 2 vols. Ed. ʿAbd al-Ḥamīd b. ʿAlī Abū Zunayd. Medina: Maktabat al-ʿUlūm wa-l-Ḥikam, 1410/[1989-90].

Nyberg, H. S. "Abu 'l-Hudhayl al-ʿAllāf." In *EI*^{2}.

Ong, Walter J. *Orality and Literacy: The Technologizing of the Word.* New Accents, ed. Terence Hawkes. London and New York: Methuen, 1982; reprinted 1983.

Patton, Walter M. *Aḥmed Ibn Ḥanbal and the Miḥna: A Biography of the Imâm Including an Account of the Moḥammedan Inquisition Called the Miḥna, 218-234 A. H.* Leiden: E. J. Brill, 1897.

Peters, J. R. T. M. *God's Created Speech: A Study in the Speculative Theology of the Muʿtazilī Qāḍī l-Quḍāt Abū l-Ḥasan ʿAbd al-Jabbār bn Aḥmad al-Hamadhānī.* Leiden: E. J. Brill, 1976.

Rahman, Fazlur. *Islam & Modernity: Transformation of an Intellectual Tradition.* Publications of the Center for Middle Eastern Studies, ed. Richard L. Chambers, no. 15. Chicago: University of Chicago Press, 1982.

_____. *Prophecy in Islam: Philosophy and Orthodoxy.* George Allen & Unwin, 1958; reprint, Chicago: University of Chicago Press, Midway Reprints, 1979.

Reinhart, A. Kevin. *Before Revelation: The Boundaries of Muslim Moral Thought.* SUNY Series in Middle Eastern Studies, ed. Shahrough Akhavi. Albany: State University of New York Press, 1995.

Rippin, Andrew, ed. *Approaches to the History of the Interpretation of the Qurʾān.* Oxford: Clarendon Press, 1988.

Robbins, Vernon K. *Exploring the Texture of Texts: A Guide to Socio-Rhetorical Interpretation.* Valley Forge, Pa.: Trinity Press International, 1996.

aṣ-Ṣadr, Muḥammad Bāqir. *Lessons in Islamic Jurisprudence.* Translated by Roy Parviz Mottahedeh. Oxford: Oneworld, 2003.

al-Ṣaymarī, Abū ᶜAbd Allāh al-Ḥusayn b. ᶜAlī b. Muḥammad. *Kitāb masāʾil al-khilāf fī uṣūl al-fiqh.* Ms. Dublin. Chester Beatty Library. Ar. 3757.

Schacht, Joseph. "Ibn Suraydj." In *EI*^{2}.

_____. *An Introduction to Islamic Law.* Oxford: Clarendon Press, 1964.

_____. *The Origins of Muhammadan Jurisprudence.* Oxford: Clarendon Press, 1950; reprinted Oxford: The University Press, 1959.

Searle, John R. *Expression and Meaning: Studies in the Theory of Speech Acts.* Cambridge: Cambridge University Press, 1979.

al-Shāfiᶜī, Muḥammad b. Idrīs. *al-Risāla.* Ed. Aḥmad Muḥammad Shākir. [Originally published Cairo: al-Ḥalabī Press, 1940;] reprint, Beirut: al-Maktaba al-ᶜIlmiyya, [1990].

_____. *al-Risāla fī uṣūl al-fiqh: Treatise on the Foundations of Islamic Jurisprudence.* Translated by Majid Khadduri. 2nd ed. Cambridge: Islamic Texts Society, 1987.

[Falsely attributed to] al-Shāshī, Abū ᶜAlī. *Uṣūl al-Shāshī.* With the commentary *ᶜUmdat al-ḥawāshī* by Muḥammad Fayḍ al-Ḥasan al-Kankūhī. [Ed. Khalīl al-Mays.] Beirut: Dār al-Kitāb al-ᶜArabī, 1982.

Shehaby, Nabil. "ʿ*Illa* and *Qiyās* in Early Islamic Legal Theory." *Journal of the American Oriental Society* 102 (1982): 27-46.

al-Shīrāzī, Abū Isḥāq Ibrāhīm b. ʿAlī b. Yūsuf al-Fayrūzābādī. *al-Lumaʿ fī uṣūl al-fiqh.* Beirut: Dār al-Kutub al-ʿIlmiyya, Manshūrāt Muḥammad ʿAlī Bayḍūn, 1421/2001.

Smith, Jonathan Z. "Sacred Persistence: Toward a Redescription of Canon." In *Imagining Religion: From Babylon to Jonestown,* 36-52. Chicago Studies in the History of Judaism, ed. Jacob Neusner, William Scott Green, and Calvin Goldscheider. Chicago: University of Chicago Press, 1982; paperback edition 1988.

Stewart, Devin J. *Islamic Legal Orthodoxy: Twelver Shiite Responses to the Sunni Legal System.* Salt Lake City: University of Utah Press, 1998.

Stewart, Devin. "Muḥammad b. Dāʾūd al-Ẓāhirī's Manual of Jurisprudence, *al-Wuṣūl ilā maʿrifat al-uṣūl.*" In *Studies in Islamic Legal Theory,* ed. Bernard G. Weiss, 99-158.

Sufyān al-Thawrī, Abū ʿAbd Allāh ibn Saʿīd. *al-Tafsīr.* Ed. Imtiyāz ʿAlī ʿArshī. Beirut: Dār al-Kutub al-ʿIlmiyya, 1983.

al-Ṭabarī, Abū Jaʿfar Muḥammad ibn Jarīr. *Tafsīr al-Ṭabarī: Jāmiʿ al-bayān ʿan taʾwīl āy al-qurʾān,* vol. 6. Ed. Maḥmūd Muḥammad Shākir and Aḥmad Muḥammad Shākir. *Turāth al-Islām.* Cairo: Dār al-Maʿārif, 1971.

al-Ṭaḥāwī, Abū Jaʿfar Aḥmad. *Mushkil al-āthār.* 4 vols. Hyderabad: Maṭbaʿat Majlis Dāʾirat al-Maʿārif al-Niẓāmiyya, 1333/[1914-15].

Thiselton, Anthony C. *New Horizons in Hermeneutics: The Theory and Practice of Transforming Biblical Reading.* Grand Rapids: ZondervanPublishingHouse, a Division of HarperCollinsPublishers, 1992.

Vakili, Valla. "Abdolkarim Soroush and Critical Discourse in Iran." In John L. Esposito and John O. Voll, *Makers of Contemporary Islam,* 150-176. Oxford: Oxford University Press, 2001.

Versteegh, C. H. M. *Arabic Grammar and Qurʾānic Exegesis in Early Islam.* Studies in Semitic Languages and Linguistics, ed. J. H. Hospers and C. H. M. Versteegh, 19. Leiden: E. J. Brill, 1993.

Wakin, Jeanette. "Interpretation of the Divine Command in the Jurisprudence of Muwaffaq al-Dīn Ibn Qudāmah." In *Islamic Law and Jurisprudence,* ed. Nicholas Heer, 33-52. Seattle: University of Washington Press, 1990.

Wansbrough, John. *"Majāz al-Qurʾān:* Periphrastic Exegesis." *Bulletin of the School of Oriental and African Studies* 33 (1970): 247-266.

_____. *Quranic Studies: Sources and Methods of Scriptural Interpretation.* London Oriental Series, vol. 31. Oxford: Oxford University Press, 1977.

Watt, William Montgomery. "Early Discussions about the Qurʾān." *The Muslim World* 40 (1950): 27-40 and 96-105.

_____. *The Formative Period of Islamic Thought.* Edinburgh: Edinburgh University Press, 1973; reprint, Oxford: Oneworld, 1998.

_____. *Islamic Philosophy and Theology: An Extended Survey.* 2d ed. Edinburgh: Edinburgh University Press, 1985.

Wegner, Judith Romney. "Islamic and Talmudic Jurisprudence: The Four Roots of Islamic Law and Their Talmudic Counterparts." *The American Journal of Legal History* 26 (1982): 25-71. Reproduced with original pagination in Ian Edge, ed., *Islamic Law and Legal Theory,* 35-81.

Weiss, Bernard. "Interpretation in Islamic Law: The Theory of *Ijtihād.*" *The American Journal of Comparative Law* 26 (1978): 199-212. Reproduced with original pagination in Ian Edge, ed., *Islamic Law and Legal Theory,* 273-286.

_____. "Language and Law: The Linguistic Premises of Islamic Legal Science." In *In Quest of an Islamic Humanism: Arabic and Islamic Studies in Memory of Mohamed al-Nowaihi,* ed. A. H. Green, 15-21. Cairo: American University in Cairo Press, 1984.

_____. "Language in Orthodox Muslim Thought: A Study of "waḍᶜ al-lughah" and Its Development." Ph.D. diss., Princeton University, 1966.

_____. *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī.* Salt Lake City: University of Utah Press, 1992.

_____. "Subject and Predicate in the Thinking of the Arabic Philologists." *Journal of the American Oriental Society* 105 (1985): 605-22.

_____, ed. *Studies in Islamic Legal Theory.* Studies in Islamic Law and Society, ed. Ruud Peters and Bernard Weiss, no. 15. Leiden: Brill, 2002.

Wheeler, Brannon M. *Applying the Canon in Islam: The Authorization and Maintenance of Interpretive Reasoning in Ḥanafī Scholarship.* SUNY Series, Toward a Comparative Philosophy of Religions, ed. Paul J. Griffiths and Laurie L. Patton. Albany: State University of New York Press, 1996.

Wolfson, Harry Austryn. *The Philosophy of the Kalām.* Harvard: Harvard University Press, 1976.

Ziadeh, Farhat J. *"Uṣūl al-fiqh."* In *OEMIW.*

al-Zwaini, Laila, and Rudolph Peters. *A Bibliography of Islamic Law, 1980-1993.* Handbuch der Orientalistik: Erste Abteilung, Der Nahe und Mittlere Osten, no. 19. Leiden: E. J. Brill, 1994.

Zysow, Aron. "The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory." Ph.D. diss., Harvard University, 1984.

_____. "Muʿtazilism and Māturīdism in Ḥanafī Legal Theory." In *Studies in Islamic Legal Theory,* ed. Bernard G. Weiss, 235-265.