

A Reader's Guide to al-Shāfi'ī's Epistle on Legal Theory (*al-Risāla*)

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*This is the Author's Original version of this article, made available at <http://david.vishanoff.com/readers-guide/> for private study and non-commercial educational use. For scholarly citation, please refer to the Version of Record, which is published in Islam and Christian-Muslim Relations and is available at <http://dx.doi.org/10.1080/09596410.2017.1289705>. The published version is shorter, as it omits most of the amendments to Joseph Lowry's translation that are proposed in this long version of the paper. It also omits my speculations about the history of the text's composition, which reviewers rightly pointed out were unwarranted, and it adds some references to scholarship by Walter Young and Gregor Schoeler. The substance of my outline of the *Risāla*, however, remains unchanged, so this longer Author's Original, which contains both a brief and a detailed outline of the *Risāla*, and preserves my proposed amendments to Lowry's translation, remains useful for study and teaching.*

Al-Shāfi'ī's famous *Risāla* gave Islamic law the divinely revealed and scripturally based character that we still imagine it to have today. Western scholars have been quick to recognize the work's overall significance but slow to unpack its argument. We have hailed al-Shāfi'ī's innovative discussions of concepts that later became central to Islamic legal theory, but because we have been so interested in their subsequent impact we have often failed to notice exactly what al-Shāfi'ī was saying about them to his own audience. The *Risāla* does not speak as directly as we might like to the

questions of classical legal theory, and for that reason many who have read it closely have found it perplexing or disorganized. Consequently, our attempts to make sense of the text's wording and structure have involved some ungainly exegetical contortions. I believe, however, that if we attend to what the text says—rather than what we expect it to say, or what generations of copyists and commentators have thought it must be saying—we will find that it follows a coherent train of thought. It is not just a collection of unrelated legal problems illustrating what appear in retrospect as important topics of legal theory, but a purposeful and powerful argument addressed to al-Shāfi'ī's immediate context. The basic structure of that argument is sketched below in a brief outline,¹ and then spelled out in a more detailed analytical outline that indicates at each step what point al-Shāfi'ī is trying to make and how it all fits together into a coherent argument—or, I shall suggest, a sequence of three distinct arguments.

References to al-Shāfi'ī's *Risāla* will cite three editions, in this order: A. M. Shākir's 1940 edition (designated Sh); volume 1 of R. F. 'Abd al Muṭṭalib's 2001 edition of *al-Umm* (AM), and J. E. Lowry's 2013 edition and translation (L). AM will be cited by page and line number, while Sh and L will be cited by paragraph number and, when necessary, line number within a paragraph (e.g., Sh 491–505.2 / AM 75.2–77.5 / L 211.2–219.2). For L paragraph numbers refer to both Arabic and English, but line numbers refer to the Arabic unless otherwise indicated.

The Problem of the *Risāla*'s Structure

Much has already been written about the overall significance and impact of al-Shāfi'ī's *Risāla*. Much of this is insightful, yet fails to explain the peculiar contents and structure of the book. It has been common, for example, to treat the *Risāla* as a primitive textbook on the sources or theory of Islamic law (*uṣūl al-fiqh*).² It is true that the book discusses the traditional “four sources” of Islamic law—the Qur'an, the Prophet's Sunna, consensus, and

¹ It may be instructive to compare that outline with the one in Lowry 2007, 372–373, which lists topics rather than steps in an argument and is, as Lowry recognizes, problematic.

² See the discussion in Lowry 2007, 11–13.

analogy, in that order³—as well as important subsidiary matters of legal theory: the opinions of Companions, abrogation, the interpretation of commands and prohibitions, restricted and unrestricted expressions, and clear and ambiguous language, for example. These became standard topics in classical legal theory, and it would be a mistake to deny al-Shāfi‘ī’s influential role in launching that discipline,⁴ but the *Risāla* is not an attempt to catalogue the sources of law and spell out rules for their interpretation. Such a legal theory was neither necessary nor even conceivable until the *Risāla* made it so by arguing that law should and could be based entirely on revealed sources—something that was not yet taken for granted in al-Shāfi‘ī’s day. Rather, the *Risāla* addressed the question, which was then still far from settled, of what the authoritative basis of Islamic law should be.⁵ Its answer to that question has been variously understood. The *Risāla* has been interpreted as a major boost for traditionalists,⁶ as a compromise between traditionalists and rationalists,⁷ and as a synthesis of traditionalism, rationalism, and Qur’an-only scripturalism.⁸ It has been read as an argument for the exclusive authority of Prophetic traditions,⁹ and for reliance on textual interpretation rather than living communal tradition.¹⁰ It has been explained as a defense of scholars’ authority notwithstanding

³ The common view that the *Risāla* articulated this four-source theory of law is chronicled and decisively refuted in Lowry 2002.

⁴ As in Hallaq 1993; Hallaq 1997, 30–35. Cf. my response in Vishanoff 2011, xvi, 63–65, 259–261, as well as Lowry 2007, 11–13, 16, 359–368.

⁵ See Vishanoff 2011, 34–37, 61–62, 265. Cf. Hallaq 2005, 119.

⁶ Makdisi 1984, 12, 40–47; Schacht (1950) 1967, 11, 20, 137, 256; Hallaq 2005, 109, 117–119.

⁷ Rancillac 1977, 157 (but cf. 167–169); Khadduri 1987, 7–8, 12–13, 41; Melchert 1997, 68–71; Hallaq 1993, 592–593, 597–598; Hallaq 1997, 20, 31–35. Cf. Souami 1997, 31; Yahia 2009, 239–240, 503.

⁸ Vishanoff 2011, 37, 40, 62. Note that scholars do not all use the terms traditionalism, rationalism, and scripturalism in the same way.

⁹ Schacht (1950) 1967, 11–20, 57; Burton, 1977, 21–29; Burton 1990, 14–17; Hallaq 1993, 592; Hallaq 1997, 29; Hallaq 2005, 109, 119; Lowry 2007, 8–11. Yahia (2009, 491–503) offers an important qualification to this view, emphasizing that while al-Shāfi‘ī regarded only the Qur’an and Prophetic reports as sources of law, for their interpretation he relied heavily on the secondary evidence of non-Prophetic reports.

¹⁰ Hasan 1970, 178–223, especially 222; Wheeler 1996, 43–47; El Shamsy 2013.

their disagreements,¹¹ as an illustration of how to reconcile conflicting revealed texts with each other and with the law,¹² and as a demonstration that all law comes from four possible combinations of Qur’an and Sunna.¹³ Each of these interpretations captures something important about the *Risāla*’s overall significance and influence, but none of them adequately explains what one finds when one sits down and reads the book from cover to cover.

Indeed, parts of the book have puzzled scholars since the tenth century,¹⁴ and generations of copyists have muddled things further by adding headings and glosses that often obscure more than they reveal about the book’s argument. The difficulty of finding a clear outline or organizing principle has led some modern scholars to question whether the *Risāla* was written by a single author. Norman Calder interpreted its repetitions, redundancies, and “apparent failures of organization” as “signs of organic growth and redaction,” and concluded that it was produced by several generations of al-Shāfi‘ī’s followers over the course of the third/ninth century.¹⁵ This

¹¹ Calder 1983. Cf. Wheeler 1996, 57–58.

¹² Burton, 1977, 25–27; Burton 1990, 14–17, 30, and passim; Calder 1993, 223–243; Wheeler 1996, 48–57; Vishanoff 2011, 41–62. Lowry affirms this view in his comments in Weiss 2002, 391, and in Lowry 2007, 16 and 359, but downplays it in his detailed analysis of the *Risāla* (e.g., Lowry 2007, 124).

¹³ That is, every legal rule can be traced to the Qur’an alone, the Sunna alone, both together, or neither. Since this claim is a truism, it is fortunate that the *Risāla* is not in fact structured around it as Lowry asserts; Lowry’s own explanations of why al-Shāfi‘ī soon stops talking about it are themselves sufficient proof that it is not really the *Risāla*’s main point or organizing principle. See Lowry 2002, 47–49, and Lowry 2007, ch. 2, especially pp. 24, 34, and 44. Yahia (2009, 328, 338, 342) agrees that the *Risāla*’s main point, encapsulated in al-Shāfi‘ī’s categorization of *bayān*, is that the Qur’an and Sunna are hermeneutically complementary and together form the basis of the entire law.

¹⁴ The *Risāla*’s famous “definition” of *bayān* at Sh 53–54 / AM 7.7–11 / L 17 was criticized for its obscurity by Muḥammad Ibn Dāwūd al-Zāhirī (d. 297/910) (al-Zarkashī 1988, vol. 3, 479) and by Abū Bakr al-Jaṣṣāṣ al-Rāzī (d. 370/981) (al-Jaṣṣāṣ 2000, vol. 1, 240–246; Bernard 1995, 147–151).

¹⁵ Calder 1993, 242. Calder did not perform a detailed analysis of the stages of composition reflected in the *Risāla*, as he did for several other early legal texts; his redating of the *Risāla* rested mainly on its theoretical sophistication (223–243).

unnecessarily radical proposal has not been widely accepted,¹⁶ but the problem remains. Majid Khadduri, in an attempt to make his English translation of the *Risāla* resemble a work of classical legal theory, resorted to a rather severe reordering of the text.¹⁷ Joseph Lowry likewise was unable to reconcile the *Risāla*'s contents with any of the outlines that al-Shāfi'ī gives here and there in the text,¹⁸ so he proposed a simpler but equally unnecessary reordering.¹⁹ (In his 2013 translation of the *Risāla*, however, he wisely left the text intact.) Most recently Mohyiddin Yahia has continued the litany of complaints about the book's poor organization, suggesting that it contains interpolations and was compiled by al-Shāfi'ī's followers, perhaps as an attempt by his disciple al-Rabī' to concoct a legal theory out of quotes

¹⁶ See Lowry 2007, 14–15, 18–19, 370–371. Lowry himself (2007, 383–386) identifies six problems in the text that suggest later interpolation, but notes that such a small number of changes hardly vitiate the text's integrity. I do not believe even those six passages are as problematic as Lowry thinks. Yahia (2009) refutes at length Calder's redating of al-Shāfi'ī's *Kitāb al-Umm* (170–177), and shares only partially his scepticism about the *Risāla* (336–337, 367, 383). Melchert (2002, 96) supports dating it to the later ninth century.

¹⁷ Khadduri 1987, 53. Lowry (2007, 374–375) has shown these rearrangements to be unwarranted and even disruptive to the text.

¹⁸ See Lowry 2007, 372–379. Lowry was searching for an outline of the entire *Risāla*, but al-Shāfi'ī's outlines never apply to more than a single Book. For example, the issues concerning *ḥadīth* raised in sections 2.1.1 and 2.1.2 are all addressed within the scope of Book Two, but Lowry (2007, 377–378) tries to make them an outline of most of Books Two and Three.

¹⁹ Lowry (2007, 379–380) proposed moving material on restricted and unrestricted expressions from my section numbers 1.2.5.4 through 1.2.6.1 (Sh 179–235 / AM 23.1–32.10 / L 72–97) to the end of Book One because the outline in 1.3.2 (Sh 310–311 / AM 43.8–14 / L 125) promises to discuss these topics. This is unnecessary because the outline in 1.3.2 is already fulfilled by sections 1.3.7 and 1.3.8 (Sh 466–568 / AM 70.14–91.13 / L 201–255), which present many examples of the Sunna restricting apparently unrestricted Qur'anic expressions. This rearrangement would create a new minor problem because in section 1.3.3.1 (at Sh 332 / AM 46.14 / L 135) al-Shāfi'ī refers back to 1.2.6.1 as “what I have described in this book of mine.” Lowry's rearrangement was also motivated by his sense that the discussion of the authority of the Prophet's Sunna in section 1.2.6.2 (Sh 236–297 / AM 33.1–40.11 / L 98–118) was “surely an introductory matter” (380); in fact, however, it is not a major focus of al-Shāfi'ī's argument, but fits into the outline below as an explanation, in passing, of why the Sunna can modify and extend the Qur'an's meaning.

from al-Shāfi'ī.²⁰ I agree with the work's foremost contemporary interpreter, Joseph Lowry, that the work has a single author and a coherent outline, but I do not think that even Lowry's elegant new translation (2013) reveals what that outline is.

The *Risāla*'s outline consists not of a list of topics—sources of law, interpretive rules, or legal examples—but of a sequence of claims advanced and illustrated in the course of an argument. Al-Shāfi'ī himself provides numerous little outlines of what he is about to discuss, but none of these maps out the entire argument that he makes over the course of the whole book.²¹ Yet the book does make a sustained argument. What obscures it is that al-Shāfi'ī did not plan that entire argument in advance or even compose it all at once, and therefore never offered his audience a complete outline of it. Rather, he set out to prove that the entire law can be grounded in the Qur'an, was challenged by an opponent regarding his freewheeling use of *ḥadīth* and responded by showing that conflicting *ḥadīth* can be reconciled with each other and with the law, and was then confronted with a more fundamental objection about the subjectivity and uncertainty of his interpretations, and responded by arguing that this does not undermine their validity or authority, but that they still provide a kind of knowledge that is adequate for all but the most basic religious obligations. The result of these interactions was a three-part work, making a series of three distinct arguments in what amounts to three related books with their own internal structures, or one book followed by two appendices. I will call them Books One, Two, and Three.

This way of outlining the text is justified first of all by its ability to make sense of the *Risāla*'s detailed contents and arrangement. That should become clear in the outline below. It is also supported by specific internal evidence such as shifts in form and vocabulary, internal cross-references, repetitions, and the introduction of new and unanticipated questions placed in the mouths of interlocutors at the start of Books Two and Three.

²⁰ Yahia 2009, 336–337, 367, 383.

²¹ See, for example, the internal “tables of contents” which Lowry (2007, 377–379) attempts to reconcile with the actual structure of the *Risāla*.

Book One takes the form of a continuous monologue framed as a report of al-Shāfi‘ī’s words (“*qāla al-Shāfi‘ī...*”), with occasional references to a hypothetical interlocutor (“*in qāla qā’ilun...*”).²² This first book articulates al-Shāfi‘ī’s principal claim: that the entire law is revealed by the Qur’an, and can be found there if one takes into account the ambiguity and flexibility of the Arabic language and the natural and Prophetic evidence that explains and modifies the apparent meaning of Qur’anic dictates. Al-Shāfi‘ī proceeds to demonstrate how reports of the Prophet’s Sunna can be used to bring the language of the Qur’an into line with the law. Book One appears to have been composed and regarded as a book in its own right, for in Book Two the author repeats considerable material from it, and refers back to it as “The Book on the Relationship between the Sunna and the Qur’an” (*Kitāb al-sunna ma’a al-qur’ān*)²³—a very apt description of Book One.

Book Two takes the form of a report of a narration, by the same author, of a discussion he had with and an unnamed interlocutor who had just heard him read some version of Book One.²⁴ The interlocutor is introduced with the phrase “*qāla lī qā’ilun*” (which does not occur in Book One) and the discussion is then related largely in al-Shāfi‘ī’s own voice, using the first-person *qultu* (*lahu*) and the third-person *qāla* (*lī qā’ilun*), and occasionally quoting each party’s use of the second-person *qulta*. Sometimes the narrator inserts a hypothetical question and answer (*in qāla qā’ilun / qīla*), but then returns to

²² Sh 146, 149, 151, 325, 327, 329, 331, 363, 390, 445, 551 / AM 18.9, 18.15, 18.18, 45.11, 46.4, 46.9, 46.12, 53.3, 58.13, 67.1, 88.14 / L 59, 60, 61, 132, 133, 134, 135, 155, 171, 190, 248. The author also refers to real but unnamed opponents (as at Sh 133 / AM 17.6 / L 53), but does not engage them in dialogue form. In Books Two and Three the author moves back and forth between real and hypothetical interlocutors, using *qāla lī qā’ilun* in some sections and *in qāla qā’ilun* in others.

²³ Sh 615 / AM 97.14–15 (corrupted) / L 273. Scholars have wondered whether this refers to a separate work by al-Shāfi‘ī or to the preceding section of the *Risāla*; my proposal makes it both at once. See the footnotes to this passage in Shākir 1940, Lowry 2013, and Khadduri 1987 (185 n. 6), as well as Lowry 2007, 40 n. 18, and Yahia 2009, 337–338. Yahia’s arguments against this being a reference to Book One (2009, 338 n. 16) are erroneous.

²⁴ At Sh 625 / AM 99.3 / L 277 the author refers to “what you [the interlocutor] have heard me relate in my book,” and when asked to repeat some of it proceeds to reiterate material from Book One. The marked break between what I have called Book One and Book Two (at Sh 569 / AM 91.14 / L 256) is understood by Lowry (2007, 375–376) as a major shift in topic within a unified text.

narrating what appears to be an actual dialogue. The entire discussion is framed repeatedly by the third-person *qāla* (*al-Shāfi‘ī*), which places the narration in al-Shāfi‘ī’s mouth. Figure 1, a graph created using *Voyant Tools*,²⁵ shows that the third person “he said” (*qāl*) and the interlocutor (*qā’il*, whether real or hypothetical) are employed throughout the *Risāla*, but the first and second person “I said / you said” (*qultu / qulta*) are used to narrate the discussion only in Book Two and, especially, Book Three. The interlocutor’s questions sometimes serve to set up the author’s statements,²⁶ but sometimes they reflect a lack of comprehension or a need for further explanation that frustrates the author;²⁷ this suggests that the discussion was not just invented for reasons of presentation,²⁸ but that some such discussion actually took place and is being paraphrased here as a device for structuring Book Two.

²⁵ The graphs in this paper were produced using the text of Shākir’s edition of the *Risāla* exported from *al-Maktaba al-Shāmila* (<http://shamela.ws/>), stripped of notes, and uploaded into S. Sinclair and G. Rockwell’s *Voyant Tools* at <http://voyant-tools.org/?corpus=4803c6cd8321c3c183085eaa25294&stopList=stop.ar.arabic-lucene.txt> (accessed June 1, 2016). Data generated using the “Trends” tool were adjusted and graphed using Microsoft Excel and Adobe Fireworks.

²⁶ E.g., Sh 593, 600, 742, 765–773, 968 / AM 94.18, 95.12–15, 119.2, 124.5–125.5, 165.7–10 / L 264, 267, 327.5, 340–342, 435.4–6.

²⁷ E.g., Sh 624–626, 655–657, 745–746, 790, 833–834, 983–985, 1003–1007, 1049–1050, 1792 / AM 99.1–4, 103.4–6, 120.1, 128.5, 135.7–8, 167.18–20, 171.8–13, 176.12–177.1, 274.1 / L 277, 287, 330, 348.4, 364.1, 442, 450, 465, 722. Calder (1983, 67) refers to “instances of apparent obtuseness on the part of the interlocutor.”

²⁸ Lowry (2007, 375–376) takes the interlocutor’s questions to be a formal device “to move the discussion along.” Calder (1983, 57, 67–68) 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; he subsequently suggested that this repetitiveness was a sign of the text’s “organic growth and redaction” (Calder 1993, 242).



Figure 1. Occurrences of *qāl*, *qult*, and *qā'il* in al-Shāfi'i's *Risāla*.

The opening question is asked in direct response to Book One: the interlocutor complains that al-Shāfi'i's use of Prophetic reports to modify Qur'anic directives is arbitrary and inconsistent. The interlocutor's timid suggestion that perhaps the Qur'an should trump *ḥadīth* indicates that whoever he was, he had some sympathy for Qur'an-only scripturalism.²⁹ The author first defends himself by repeating points made in Book One, to which he refers back frequently as to a previously written work which has just been read publically and is now being discussed.³⁰ His repetition of numerous example legal problems already discussed in Book One shows that Book Two is not just the next chapter in the same composition but a fresh start, a new discussion that builds on Book One³¹ but for which al-Shāfi'i feels he needs to lay the groundwork again. He then moves on to address at length the interlocutor's question about his use of *ḥadīth*, demonstrating that the same hermeneutical devices that were applied to the Qur'an in Book One can be

²⁹ Sh 610, 617 / AM 97.4–6, 98.6–8 / L 271, 274. On the identity of al-Shāfi'i's interlocutors in Baghdad, see Yahia 2009, 121–131, 161, 392; El Shamsy 2013, 44–63. Books Two and Three respond especially to the kinds of scripturalist objections that al-Shāfi'i addressed in his *Jimā' al-ʿilm* (published in ʿAbd al-Muṭṭalib 2001, vol. 9, 5–55); see section 2.1.1 below; El Shamsy 2013, 57–61; Burton 1990, 22–25. Lowry (2013, xxvi) takes the *Risāla*'s interlocutor to represent the views of Ḥanafis such as al-Shaybānī.

³⁰ Sh 573, 575, 581, 615, 625 / AM 92.14, 93.1–2, 93.12, 97.14–15, 99.3 / L 258, 259, 260, 273, 277.

³¹ In Sh 709 / AM 113.4–114.1 / L 315 al-Shāfi'i appears to refer to examples of abrogation within the Qur'an presented in section 1.3.3 as part of "this book of ours," which shows that he regarded Book Two as a continuation of Book One.

used in a principled fashion to reconcile *ḥadīth* with each other and with the law. Book Two closes with the formula "I ask God for protection and success."³²

Book Three opens with a new question, again from an unnamed interlocutor, who raises the problem of whether the law can and should be known with certainty, or whether uncertainty and disagreement are admissible. The subtle interpretive machinations by which al-Shāfi'i has made his case in Books One and Two have the unfortunate consequence of making legal interpretation highly subjective and uncertain, so Book Three argues that even subjective interpretation can be a principled and epistemologically adequate basis for all but the most fundamental and well-known points of law. This explains why the Qur'an can still be considered a clear statement of the entire law, even though harmonizing it with the law requires subtle interpretive reasoning based on disputable evidence. This section could be regarded as merely a continuation of the discussion from Book Two,³³ but formally it is more strongly characterized by the style of a live interaction (recall the increased use of *qultu* / *qulta* in Figure 1 above), and it takes up a new topic and follows a new outline that are not announced in Books One or Two.³⁴ Figure 2 shows how Book Three picks up knowledge, *ʿilm*, as a topic in its own right, and introduces the concept of apparently correct knowledge,

³² Sh 960 / AM 164.4 / L 433. Al-Shāfi'i uses this formula to wrap up a train of thought, though not always to conclude a major section; such formulae appear also at Sh 307, 417, 1048 / AM 42.13, 63.5–6, 176.10–11 / L 123, 181, 464.

³³ Lowry (2002, 48; 2007, 372–373) and Yahia (2009, 336) make the discussion of Sunna that I call Book Two continue through the discussion of individually transmitted reports early in Book Three (my section 3.2.1), which makes the intervening section on knowledge (3.1) seem out of place. More recently Lowry (2013, xxiv–xxv) has extended the discussion of Sunna to include even the brief section on consensus (3.2.2). I concur with Calder (1983, 69–70; 1993, 241) that the discussions of individually transmitted reports (3.2.1) and consensus (3.2.2) are better regarded as part of a coherent section on knowledge and uncertainty, which I call Book Three.

³⁴ In section 1.2.3.5 (Sh 126 / AM 16.15–16 / L 50) al-Shāfi'i mentions in passing that knowledge is of two types, agreement and disagreement, which he has dealt with elsewhere (*wa humā mawḍūʿān fī ghayr hādha al-mawḍiʿi*). This subject is discussed, using different terminology, in Book Three, but al-Shāfi'i does not sound like he is anticipating that here; he is more likely referring to his own *Jimā' al-ʿilm* (in ʿAbd al-Muṭṭalib 2001, vol. 9, 5–55; see especially 20–21).

al-ḥaqq / al-ṣawāb fī al-zāhir, which is not mentioned in Books One or Two.³⁵ Figure 3 shows that even though all three books discuss Prophetic reports in some way, al-Shāfi‘ī’s terminology shifts from one book to the next. For these reasons Book Three is best understood as a separate book³⁶ or appendix, though it may have been composed and dictated immediately after Book Two.

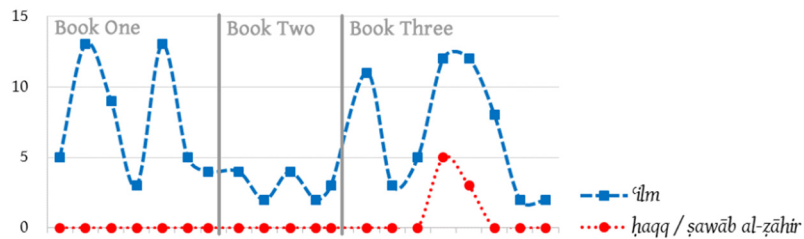


Figure 2. Occurrences of *‘ilm*, and of *ḥaqq* or *ṣawāb* near *al-zāhir*, in al-Shāfi‘ī’s *Risāla*.



Figure 3. Occurrences of *sunna*, *ḥadīth*, and *khabar* in al-Shāfi‘ī’s *Risāla*. *Sunna* appears in Book Two mainly in the opening section which repeats considerable material from Book One.

³⁵ A reference to this concept early in Book One (AM 9.8–10 / L 28) is a later addition to the text (see Shākir 1940, ¶70 / p. 25 n. 4).

³⁶ It is still regarded as a book, despite the live interaction; see Sh 1184 / AM 198.10–199.2 / L 517.

I cannot say exactly when or how each of these three books was composed. It is tempting to speculate that Book One reflects in some way the earlier work known as al-Shāfi‘ī’s Old *Risāla*. Some reports indicate that this first *Risāla*, composed before al-Shāfi‘ī’s move from Iraq to Egypt near the end of his life, focused on the Qur’an, the Sunna, restricted and unrestricted expressions, and abrogation—a description that fits very well the contents of Book One.³⁷ Book One is certainly the part that had the greatest impact. The argument of Book One was made at a time when the law was already a widely shared body of legal rules but there was still no consensus about what it should be based on. The Qur’an did not appear to be a complete statement of the law, and the role of the Sunna and human reasoning were still much disputed. Book One addressed this dispute, arguing that the views of rationalists, traditionalists, and Qur’an-only scripturalists could all be combined: a comprehensive and systematic law could be grounded entirely in the Qur’an if one followed the Qur’an’s own prescriptions for Sunnaic clarification and rational elaboration. The view of law articulated in Book One, along with many aspects of the flexible hermeneutic by which al-Shāfi‘ī made it plausible, came to dominate Sunni thought by the early eleventh century.³⁸ Book One was also the part of the *Risāla* most frequently quoted and discussed by legal theorists, but some quotations from it do not quite correspond to the extant text³⁹ and may reflect an earlier version. It therefore seems quite possible that al-Shāfi‘ī dictated Book One to his

³⁷ Khadduri 1987, 22; see also al-Zarkashī 1988, vol. 4, 121. The old *Risāla* also reportedly affirmed the value of the opinions of the Prophet’s Companions, precisely because they understood the interpretive issues discussed in Book One: restricted and unrestricted expressions, the difference between strict obligations and mere recommendations, and the clarifying evidence provided the Prophet’s Sunna and reason. See Yahia 2009, 125; Khadduri 1987, 23. The new *Risāla* is not incompatible with this praise, but accords their opinions rather less deference, and that not until Book Three (see section 3.4). Other reports also mention consensus and analogy (Khadduri 1987, 22), which are not addressed until Book Three.

³⁸ Vishanoff 2011.

³⁹ For example, compare Sh 923 / AM 156.14–16 / L 418 with the several quotations in al-Zarkashī 1988, vol. 3, 18–19; and compare Sh 53–54 / AM 7.7–11 / L 17 with al-Jaṣṣāṣ 2000, vol. 1, 240; al-Baṣrī 1983, vol. 1, 294; and al-Zarkashī 1988, vol. 3, 479.

Egyptian disciples as an updated version of the Old *Risāla*,⁴⁰ and then went on to dictate Books Two and Three to recount and respond to questions that had arisen when he first promulgated the work in Baghdad. The precise history of the *Risāla*'s composition and transmission is a task for which there is considerable evidence that has not yet been exhausted, but it is a task for another article (and probably another scholar). For this paper, the point is not where and when the various parts of the *Risāla* were composed but how they should be read: as a series of three related but distinct and separately organized arguments.

For the purpose of reading the *Risāla* and understanding al-Shāfi'ī's original argument (rather than its relation to later legal theory) neither the outlines and interpretations of modern scholars, nor the glosses or headings inserted by medieval copyists, are adequate. Indeed, the headings, which date back to the earliest extant manuscript, are more a hindrance than a help. They were not designed to indicate the structure of al-Shāfi'ī's theoretical argument; indeed, it is clear that whoever inserted them did not himself always understand what point al-Shāfi'ī was trying to make with his concrete examples.⁴¹ Sometimes the headings split up examples that the text explicitly says are meant to illustrate one and the same point,⁴² and

⁴⁰ The reference in section 1.2.3.4 (Sh 96 / AM 12.11–12 / L 39) to “what we have written in this book” seems to point ahead to section 1.2.6.2; this suggests that al-Shāfi'ī is not composing Book One for the first time, but is repeating a previously written book. Al-Shāfi'ī similarly appears to describe what he is about to say as something he has already written in 1.3.4 (Sh 418 / AM 63.7 / L 182). The text clearly originated from dictation: even if the recurring phrase “al-Shāfi'ī said” could be explained as a copyist's addition to al-Shāfi'ī's own writing, the phrase “he recited up to...” in Sh 337 / AM 48.8–9 (corrupted) / L 139 looks like a remark by a pupil who was taking dictation and did not want to write out the entire Qur'anic verse that al-Shāfi'ī had recited (as noted by Shākir 1940, ¶337 / p. 114 n. 6; Souami 1997, 27, see also 35).

⁴¹ Particularly unhelpful and un insightful headings may be found, for example, at Sh 179, 188, 197, 212, 214, 336, 872 / AM 23.1, 24.5, 25.11, 28.11, 29.1, 47.14, 144.4 / L 72, 77, 80, 89, 90, 138, 387.

⁴² The heading at Sh 92 / AM 12.3 / L 38 breaks up what appears to be a single type of *bayān*; see section 1.2.3 in the outline below. The heading at Sh 212 / AM 28.11 / L 89 separates the example that follows it from the two preceding examples, but Sh 213 / AM 28.15 / L 89 explicitly says they are equivalent. The late heading at Sh 1456 / AM 234.16 / L 612 breaks up a discussion that begins at Sh 1443 / AM 233.13 / L 609.

sometimes major transitions in the argument are not marked by any heading at all.⁴³ The headings were certainly not dictated by al-Shāfi'ī himself,⁴⁴ and should not be used as a table of contents.

Numerous explanatory glosses have also been inserted into the text with the aim of clarifying what is, admittedly, a difficult work. In this, however, they do not always succeed; some of these glosses are harmless enough, but others miss the point or even completely obscure al-Shāfi'ī's argument. Fortunately, there is one early manuscript that appears to be relatively free of such interpolations, and the 1940 edition of Aḥmad Shākir⁴⁵ adheres religiously (and intelligently) to that manuscript even when its syntax is bewildering. For this reason Shākir's edition is the only one from which al-Shāfi'ī's argument can be adequately understood, and it should remain the standard reference. The 2001 edition of Rif'at Fawzī 'Abd al-Muṭṭalib⁴⁶ refers to Shākir's edition (and to his notes, which it frequently reproduces without attribution⁴⁷) but it generally follows later manuscripts whose well-intentioned corrections and clarifications are usually harmless but sometimes distort al-Shāfi'ī's argument.⁴⁸ This edition is useful mainly as an indication of how the Shāfi'ī tradition came to understand (and

⁴³ Examples are at Sh 127, 133, 298, 418, 440, 710, 926, 1665, 1812 / AM 16.17, 17.6, 41.1, 63.7, 66.6, 114.2, 157.6, 259.2, 275.14 / L 51, 53, 119, 182, 189, 316, 419, 684, 728. The early manuscript used by Shākir conspicuously lacks headings at Sh 961 (the beginning of Book Three), 998, 1309, 1321, 1671 / AM 164.5, 170.6, 219.5, 222.1, 259.12 / L 434, 448, 568, 574, 687.

⁴⁴ Lowry (2007, 383) and Yahia (2009, 336) likewise doubt they are from the author.

⁴⁵ Cairo: al-Ḥalabī Press. Shākir uncharacteristically includes one (harmless) later insertion at Sh 82 / AM 10.14–15 / L 31.7.

⁴⁶ Volume 1 of 'Abd al-Muṭṭalib 2001, *al-Umm* (al-Manṣūra, Egypt: Dār al-Wafā').

⁴⁷ The editor promises on p. 37 of the introduction that he will indicate with a *shīn* where he draws from Shākir's notes, but then repeatedly fails to do so. A few examples I happened to notice: 'Abd al-Muṭṭalib 2001, vol. 1, 16 n. 6, 32 n. 12, 84 n. 13, and 157 n. 8, quoting verbatim from Shākir 1940, p. 40 n. 3, p. 73 n. 1, p. 195 n. 4, and p. 343 n. 1.

⁴⁸ Some examples of problematic changes: 'Abd al-Muṭṭalib 2001, vol. 1, 9.8–10 n. 3–4, 11.5 n. 2, 13.1 n. 1, 19.6–7 n. 4–5, 58.2–5 n. 1–2, 63.12 n. 8, 91.18 n. 14, 97.15 n. 9, 156.18 n. 15. Cf. Shākir 1940, ¶70 n. 4, ¶87, ¶101 n. 2, ¶152 n. 1, ¶385 n. 3, ¶420 n. 5, ¶569 n. 3, ¶615, ¶924 n. 5; Lowry 2013, Arabic ¶28 n. 1, ¶34 n. 1, ¶41, ¶62 n. 1, ¶169 n. 2, ¶182 n. 3, ¶256 n. 1, ¶273 n. 1, ¶418 n. 1.

misunderstand) the *Risāla*. The 2013 edition by Joseph Lowry, which accompanies his English translation, does not follow any particular manuscript tradition, but for the most part it wisely follows Shākir, while including some innocuous explanatory glosses and a few serious distortions⁴⁹ from ‘Abd al-Muṭṭalib’s edition.

The *Risāla* has also been the object of numerous translations, some of which are quite insightful but none of which gives any sense of the flow of al-Shāfi‘ī’s argument. Majid Khadduri’s 1961 English translation (reissued in 1987) offered some insightful readings⁵⁰ but rearranged the text⁵¹ and compounded the difficulty of the work with some serious misunderstandings.⁵² In the same year Khalil Semaan published a brief summary of the *Risāla* and an English translation of the first of its two discussions on abrogation (section 1.3.3 in the outline below), but these did not reflect a good understanding of the text. In 1972 Philippe Rancillac published a marvelously clear French translation of what is, admittedly, the easiest part of the text: the section on knowledge that I have called Book Three, whose unity and importance were also recognized by Calder⁵³ but have been overlooked by others. Lakhdar Souami’s 1997 French translation is well worth consulting, as it captures well some important aspects of the *Risāla*’s argument,⁵⁴ but it misses others entirely.⁵⁵ Joseph Lowry’s 2013 translation is remarkably readable and even elegant, and it does an especially good job of clarifying many of the specific legal problems that form the bulk of the work, but it does little to reveal, and indeed often

⁴⁹ E.g., Lowry 2013, Arabic ¶28 n. 1, ¶62 n. 1, ¶169 n. 2.

⁵⁰ E.g., Sh 53–54 / AM 7.8–11 / L 17, translated in Khadduri 1987, 67.

⁵¹ Khadduri 1987, 53.

⁵² E.g., Sh 83, 96–101, 420, 553, 557, 1328–1332 / AM 10.16–18, 12.11–13.1, 63.11–13, 88.19–21, 89.8–13, 223.3–14 / L 32, 39–41.1, 182.4–6, 248.5–7, 250, 577–580, translated in Khadduri 1987, 72, 75–76, 145, 170, 171, 289–290.

⁵³ Calder, 1983, especially 69–70, and 1993, 241.

⁵⁴ E.g., the crucial and usually misunderstood sentence at Sh 54 / AM 7.9–11 / L 17 (Souami 1997, 53–54 ¶54); also Sh 83 / AM 10.16–18 / L 32 (Souami 1997, 59 ¶83).

⁵⁵ E.g., at Sh 91, 341, 420, 694, 1330–1332 / AM 12.1–2, 48.14–17, 63.11–13, 110.4–5, 223.8–14 / L 37, 140.4–7, 182.4–6, 307.2–3, 578–580 (Souami 1997, 61 ¶91, 113 ¶341, 130 ¶420, 189 ¶694, 319–320 ¶¶1330–1332).

distorts and conceals, the argument that those examples serve.⁵⁶ Consequently, the outline below will often seem out of line with Lowry’s translation. I will only have space to point out a few of the most crucial divergences, but I hope that the outline will nevertheless prove to be a helpful companion to Lowry’s translation, and that when it is read alongside Shākir’s Arabic text it will be found to clarify some of al-Shāfi‘ī’s more obscure sentences, and will help the *Risāla* to come alive for readers who have previously found it puzzling or disjointed.

⁵⁶ For example, see Sh 54, 83 / AM 7.9–11, 10.16–18 / L 17, 32, comparing Lowry’s translation with my outline and with Souami 1997, 53–54 ¶54, 59 ¶83. Several other examples are noted in the outline below.

A Brief Outline of the *Risāla*

1. **BOOK ONE: Qur'anic Law Clarified by the Sunna.** The Qur'an is a clear statement of the entire law, but this is only evident to those who understand its ambiguities and read it in light of the evidence of nature and the Prophet's Sunna (Shākir ¶¶1-568 / 'Abd al-Muṭṭalib p. 1 line 1 – p. 91 line 13 / Lowry ¶¶1-255).
 - 1.1. **Introduction:** Guidance for all of life has been clearly revealed through the Qur'an (1-52 / 1.1-7.6 / 1-16).
 - 1.2. **The theory of “making clear” (*bayān*).** The Qur'an is a clear statement of the entire law if interpreted in light of the Sunna and natural evidence, which clarify its ambiguous passages (53-297 / 7.7-40.11 / 17-118).
 - 1.2.1. *Bayān* (revelation) can take different forms some of which seem clearer than others.
 - 1.2.2. Types of revelatory *bayān*: ways in which the law is made clear (revealed) by the Qur'an.
 - 1.2.2.1. A – the Qur'an reveals an obligation explicitly.
 - 1.2.2.2. B – a Qur'anic obligation is explained by the Prophet's Sunna.
 - 1.2.2.3. C – the Qur'an's general obligation to obey the Prophet is fleshed out by the Sunna.
 - 1.2.2.4. D – a Qur'anic obligation is explained by the evidence of nature and human reason.
 - 1.2.3. Types of clarificatory *bayān*: ways in which the Qur'an can be reinterpreted (clarified).
 - 1.2.3.1. A – redundant clarification.
 - 1.2.3.2. B_a – modifying clarification.
 - 1.2.3.3. B_b – elaborative clarification.
 - 1.2.3.4. C – the Prophet's legislative clarification.
 - 1.2.3.5. D – analogical clarification.
 - 1.2.4. Five things one must know about the Qur'an to perceive its clarity.
 - 1.2.4.1. Its pure Arabic nature.
 - 1.2.4.2. Which verses abrogate others.
 - 1.2.4.3. Which verses do or do not impose strict obligations.
 - 1.2.4.4. All the ways the Sunna can clarify the Qur'an.
 - 1.2.4.5. The non-legal, exhortative nature of some verses.

- 1.2.5. The Qur'an is in Arabic and therefore exhibits ambiguities of scope, non-literal usage, implicit or indirect reference, synonymy, and homonymy.
- 1.2.6. The Prophet's Sunna can clarify and extend the legal meaning of the Qur'an.
- 1.3. **The Sunna (S) clarifies the Qur'an (Q) in many ways** (298-568 / 41.1-91.13 / 119-255).
 - 1.3.1. The three basic S-Q relationships.
 - 1.3.2. A more detailed list of S-Q relationships.
 - ⌘ – S indicates that one verse in Q abrogates another.
 - A – S confirms an explicit text in Q.
 - B₁ – S clarifies how and when to obey a general (*jumla*) text in Q.
 - B₂ – S clarifies whether an unrestricted text in Q is intended as unrestricted (*‘āmm*) or restricted (*khāṣṣ*).
 - C – the Sunna addresses a matter not explicitly mentioned in Q.
 - 1.3.3. Illustrations of S-Q relationship ⌘ – S indicates that one verse in Q abrogates another (including a statement that S cannot itself abrogate Q).
 - 1.3.4. Transitional comment: if one understands how Q is clarified by S, then one finds all of Q equally clear.
 - 1.3.5. Illustrations of S-Q relationship A – S merely follows an explicit text in Q.
 - 1.3.6. Illustrations of S-Q relationship B₁ – S clarifies how to obey a general text in Q.
 - 1.3.7. Illustrations of S-Q relationship B₂ – S clarifies whether an unrestricted text in Q is intended as unrestricted or restricted.
 - 1.3.8. Further illustrations of these hermeneutical relationships between S and Q.
2. **BOOK TWO: Conflicts within the Sunna.** Prophetic reports are not contradictory but can be reconciled with each other and with the law by means of interpretive techniques similar to those used in Book One (569-960 / 91.14-164.4 / 256-433).
 - 2.1. Opening question and answer about al-Shāfi'ī's use of the Sunna (569-600 / 91.14-95.15 / 256-267).

- 2.1.1. Opening challenge: the Sunna contradicts both the Qur'an and itself, and is used inconsistently by al-Shāfi'ī.
 - 2.1.2. Summary answer listing six ways of reconciling conflicting Prophetic reports.
 - S-S relationship A — one abrogates the other.
 - S-S relationship B — one clarifies the other.
 - S-S relationship C — one is incompletely transmitted.
 - S-S relationship D — one is supported by better evidence.
 - S-S relationship E — one's prohibition is not absolute.
 - S-S relationship F — one is an exception to a broader one.
 - 2.1.3. The interlocutor requests examples.
 - 2.2. Illustrations of S-S relationship A — one report abrogates the other (including a long tangential argument, in which much material from Book One is repeated, that the Sunna cannot be abrogated by the Qur'an but, on the contrary, governs the Qur'an's interpretation) (601-709 / 96.1-114.1 / 268-315).
 - 2.3. Illustrations of S-S relationships C and D — one report is incompletely transmitted or is supported by better evidence than the other (710-773 / 114.2-125.5 / 316-342).
 - 2.4. Illustrations of S-S relationship B — one report clarifies the other (the hermeneutical solution—which al-Shāfi'ī prefers—to conflicts within the Sunna) (774-925 / 125.6-157.5 / 343-418).
 - 2.5. S-S relationships (E) and (F) combined — whether or not a prohibition makes an act invalid and absolutely forbidden depends on whether it constitutes an exception to a broad permission, or to a narrow permission that is itself an exception to a broader prohibition (926-960 / 157.6-164.4 / 419-433).
3. **BOOK THREE: Legitimate Interpretation of Disputable Evidence.** Even when discerning the legal meaning of revelation requires interpretive moves that are uncertain and disputable, this interpretation is epistemologically adequate if it is based on the available evidence (961-1821 / 164.5-277.2 / 434-730).
- 3.1. The distinction between common knowledge (later identified with true knowledge of what God's law actually requires) and specialist knowledge (later identified with knowledge of what appears to be true given the available evidence) (961-997 / 164.5-170.5 / 434-447).
 - 3.2. Three grounds of specialist knowledge (998-1664 / 170.6-259.1 / 448-683).
 - 3.2.1. Individually transmitted reports are binding upon scholars, even though their authenticity and meaning may be disputed, if they fulfil certain criteria (998-1308 / 170.6-219.4 / 448-567).
 - 3.2.2. The consensus of the whole Muslim community is binding, but provides only specialist knowledge of apparent truth (1309-1320 / 219.5-221.16 / 568-573).
 - 3.2.3. Analogical reasoning that fulfils certain criteria is a legitimate path to a legal ruling when no rule is directly revealed, but provides only specialist knowledge of apparent truth (1321-1664 / 222.1-259.1 / 574-683).
 - 3.3. Specialists must rule based on what appears to be true given the evidence they have (1665-1670 / 259.2-11 / 684-686).
 - 3.4. Disagreement on matters of specialist knowledge is legitimate, and occurred even among the Prophet's Companions, but one can usually find some evidence to support one interpretation (1671-1811 / 259.12-275.13 / 687-727).
 - 3.5. Conclusion: Individually transmitted reports, consensus, and analogy only tell specialists what appears to be the correct interpretation, not what is really true; but they are followed as a matter of necessity (1812-1821 / 275.14-277.2 / 728-730).

A Detailed Analytical Outline of the *Risāla*

BOOK ONE Qur'anic Law Clarified by the Sunna

Book One claims that if we understand the ambiguities of the language of the Qur'an, and employ the means it prescribes—the evidence of nature and the Prophet's Sunna (practice)—for resolving its ambiguities, we will be able to recognize that it is a comprehensive and clear statement of the law. Book One then illustrates several ways in which the Sunna functions to clarify ambiguities in the Qur'an. (On Book One see further Vishanoff 2011, ch. 2, especially pp. 38–49.)

1.1 Introduction. Guidance for all of life has been clearly revealed through the Prophet Muhammad and, more specifically, through the Qur'an.

1.1.1 (Shākir ¶¶1–8 / 'Abd al-Muṭṭalib p. 1 lines 1–15 / Lowry ¶¶1–2) Opening expressions of praise.

1.1.2 (9–24 / 1.15–3.9 / 3–5) God sent Muhammad when there were two kinds of people, People of the Book and idolaters, but both were unbelievers.

1.1.3 (25–36 / 3.10–4.10 / 6–9) God sent Muhammad, the best of creation, to warn his own people in particular and the rest of creation after them. (Lowry's translation omits a phrase near the end of ¶6: “and ‘the mother of towns’ is Mecca, in which lived Muhammad's own people.” This makes the verse just quoted a proof that Muhammad was sent specifically to his own people. The special status of the Arabs will be highlighted further in 1.2.5.1–1.2.5.3.)

1.1.4 (37–38 / 4.11–5.2 / 10) God made Muhammad an object of faith and obedience alongside himself. (This sets up the argument al-Shāfi'ī will give in 1.2.6.2 for the authority of the Prophet's Sunna.)

1.1.5 (39–42 / 5.3–6.6 / 11–12) All blessings and guidance come through Muhammad, to whom God revealed the Qur'an, in which he provided clear legal rules and clear warnings.

1.1.6 (43–47 / 6.7–18 / 13–15) Knowledge of what God explicitly or implicitly revealed in the Qur'an is the main goal and mark of a scholar. (At the beginning of Lowry ¶14 read instead “People have different degrees of knowledge, and their level of knowledge depends on how well they know what God revealed in his Book.” The Sunna is then mentioned as a secondary object of knowledge because al-Shāfi'ī will argue that it is the principal

means by which God clarifies or makes explicit what is unclear or implicit in the Qur'an.)

1.1.7 (48–52 / 6.19–7.6 / 16) The Qur'an provides guidance about every possible situation.

1.2 The theory of “making clear” (*bayān*). In this section al-Shāfi'ī argues that although this is not immediately apparent to unqualified interpreters, the Qur'an is in fact a clear statement (*bayān* in the sense of revelation) of the entire law, as long as it is interpreted in light of the clarifying evidence of the Sunna and nature, which make clear (*bayān* in the sense of clarification) the intended meaning of its more ambiguous passages. The key to this interpretive process is to recognize that the language of the Qur'an is highly ambiguous: it can only reveal (make clear) the entire law because it is not in fact uniformly clear but is ambiguous enough that when it does not clearly align with the law it can be reinterpreted (made clear) on the basis of other evidence.

1.2.1 (53–54 / 7.7–11 / 17) ***Bayān* (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 are all equally clear. (This famous and controversial paragraph is not a definition of *bayān* but a justification of the ambiguity al-Shāfi'ī is going to claim exists in the Qur'an. For the Qur'an to be a clear statement of the law, he says, it only has to be clear enough for competent interpreters; it does not all have to be perfectly clear to everyone. I suggest the following translation: “Al-Shāfi'ī said: *Bayān* is a term encompassing several meanings [i.e., several types of *bayān*] which are essentially the same but differ in their particulars. What all these similar yet divergent meanings have in common is that all of them [i.e., all types of Qur'anic *bayān*] make things clear to those to whom they are addressed and in whose language the Qur'an came down. For such people they are all more or less equivalent [in their clarity], even if some of them make things more emphatically clear than others. But for those who do not know the language of the Arabs, they differ [in clarity].” That the equivalence in question has to do with degrees of clarity is evident from 206 / 27.9–13 / 85 and from 420 / 63.11–13 / 182.4–6; see also Souami 1997, 54.)

1.2.2 (55 / 7.12–13 / 18) **Types of revelatory *bayān***. The Qur'an makes the law clear (*bayān* in the sense of revelation) in several ways. (The main point of this section is that although three of these four types of *bayān* depend on additional clarifying evidence from the Sunna and nature, in all four the Qur'an itself is a sufficiently clear statement of the law for competent interpreters who read it in light of the relevant evidence.)

1.2.2.1 (56 / 7.14–16 / 19) **Revelatory bayān A** — the Qur’an reveals an obligation explicitly (e.g., the general obligation to pray).

1.2.2.2 (57 / 7.17–18 / 20) **Revelatory bayān B** — the Qur’an imposes an obligation and then the Prophet’s Sunna explains in more detail how to perform it (e.g., the Sunna specifies that one must pray five times each day).

1.2.2.3 (58 / 7.19–21 / 21) **Revelatory bayān C** — the Qur’an imposes an obligation to obey the Prophet, and then the Prophet’s Sunna spells out what this general obligation entails for matters not addressed by the Qur’an.

1.2.2.4 (59–72 / 8.1–9.13 / 22–28) **Revelatory bayān D** — the Qur’an imposes an obligation, and then the evidence of nature and human reason indicate how to perform it. E.g., the command to face the Sacred Mosque when praying may seem insufficiently clear for someone too far away to see the Sacred Mosque, but in fact it is sufficiently clear when interpreted with the aid of the additional natural evidence God has provided, such as the positions of the stars, which indicate the correct direction. Another example is the command to appoint just persons as witnesses; this is clarified by the visible marks of obedience or disobedience to God, which indicate which specific individuals are just persons. Al-Shāfi‘ī reaffirms here that no area of life is left unregulated; the Qur’an’s commands give guidance for every detail of life, even when we have to refer to extra-Qur’anic evidence to understand the precise implications of those commands. (Note that al-Shāfi‘ī is not making reason, natural evidence, or analogy a source of law or a kind of *bayān* in its own right, to which one appeals in matters on which revelation is silent; he is saying that natural evidence clarifies the Qur’an, which is the source of all law. Lowry’s translation in ¶24.1–7 misses the point; I suggest translating Sh 65 / AM 8.12–15 / L 24.1–3 as follows: “When people are not at the Sacred Mosque itself, God (sublime His praise) indicates to them the correct result of the interpretive reasoning he has required of them. He does so by means of the intellects he has placed in them to distinguish between things and their opposites, and by means of those signs that He has set up for them in addition to the Sacred Mosque itself toward which He has commanded them to face.” AM 9.8–10 / L 28.1–3 is a textual addition that disrupts the presentation of examples and introduces prematurely al-Shāfi‘ī’s concept of *al-ṣawāb fi al-zāhir*, “what appears to be correct,” which is not discussed until Book Three.)

1.2.3 Types of clarificatory bayān. The language of the Qur’an is made clear (*bayān* in the sense of clarification) in several ways. (The headings divide this section into five types of *bayān*, but the body of the text does not mark off the second and third types as distinct, as it does the other types. (Yahia 2009, 337 argues that they constitute in effect a single type.) Consequently, I have called them B_a and B_b, which preserves a certain correspondence with al-Shāfi‘ī’s list of four types of revelatory *bayān*. The two lists, however, serve different purposes: the first expressed al-Shāfi‘ī’s claim that all law is made

clear (revealed) by the Qur’an in one way or another; the second defends the plausibility of that claim by showing that all the Qur’an’s statements, from those that seem perfectly clear to those that seem quite vague, can always be reinterpreted (clarified) if necessary to agree with other texts and with accepted rules of law.)

1.2.3.1 (73–83 / 9.14–10.18 / 29–32) **Clarificatory bayān A — redundant clarification:** Qur’anic meaning that is already quite clear to the audience is made explicit. For example, the Qur’an says to fast three days plus seven, that is, ten; that Moses met with God for thirty nights plus ten, that is, forty; and that one should fast the month of Ramadan, that is, a period of numbered days. These sums, and the fact that a month is a period of numbered days, were already obvious to the Arabs, but God made them explicitly clear. (Lowry’s translation of ¶32 suggests that the point was to inform people that seven plus three make ten, but this is precisely the interpretation al-Shāfi‘ī denies. I suggest instead: “Most likely, the point of further clarifying the sum of seven and three, and of thirty and ten, was to make even more clear [what was already clear to them], because they already knew what those two numbers and their sum were, just as they already knew what the month of Ramadan was.” The point of these examples is to establish that sometimes Qur’anic language is clarified redundantly, in a way that does not add to or modify its meaning.)

1.2.3.2 (84–91 / 10.19–12.2 / 33–37) **Clarificatory bayān B_a — modifying clarification:** even Qur’anic prescriptions that seem clear enough can still be modified or made more precise by additional statements in the Qur’an and/or Sunna. For example, the Qur’an’s prescribed division of inheritance does not need further clarification, but the Qur’an goes on to restrict the division to what remains of the estate after the payment of debts and bequests, and then the Sunna modifies this further by limiting bequests to a third of the estate. (This establishes that even apparently clear texts can be reinterpreted on the basis of other texts, which is crucial for making the Qur’an agree with other texts and with accepted laws. The main point of this section is not, as Lowry asserts on p. xxxix in n. 25, that the Sunna merely echoes Qur’anic pronouncements, but rather that even apparently clear texts can be reinterpreted on the basis of other texts. Instead of Lowry’s translation of ¶37 I suggest: “Revelation was sufficient in regard to this issue, and there was no need for other reports, but then God [at the end of the Qur’anic verse] imposed a condition in regard to this, namely that distribution of the estate be subject to bequests and debts, and then another report [in the Sunna] indicated that bequests were not to exceed one-third of the estate.”)

1.2.3.3 (92–95 / 12.3–9 / 38) **Clarificatory bayān B_b — elaborative clarification:** Qur’anic prescriptions are elaborated by the Sunna. For example, the Sunna explains how often, when, and how to fulfil the Qur’anic duty to pray “at fixed times.” (Al-Shāfi‘ī does not call these commands vague, or distinguish

them from the previous examples that he said seemed clear enough on their own. His point here is simply that any Qur'anic prescription, whether or not it seems clear to the reader, can be clarified by other evidence.)

1.2.3.4 (96–103 / 12.10–13.7 / 39–41) **Clarificatory bayān C — the Prophet's legislative clarification:** when the Qur'an is silent on a point of law, the relevant Sunna is to be taken as a clarification of the Qur'an's general injunction to obey the Prophet. The resulting legal rule is still considered revealed by the Qur'an. No examples are given.

1.2.3.5 (104–126 / 13.8–16.16 / 42–50) **Clarificatory bayān D — analogical clarification:** the natural properties of things, together with the human ability to reason, clarify what things Qur'anic commands are meant to apply to. For example, they allow humans to discern what direction, which witnesses, and which animals are meant by certain Qur'anic commands. Such clarification is called reasoning by analogy, which can take two forms: when the Qur'an (or the Sunna) explicitly makes a thing licit or forbidden, other things that (1) share with it the property that is the reason for its being licit or forbidden, or (2) resemble it more than they resemble anything else, must likewise be licit or forbidden. Such clarification is a kind of revealed knowledge about which people may disagree. (Lowry's addition of the word "certain" in ¶48 is a misinterpretation; al-Shāfi'ī's point is that analogy yields a kind of knowledge that is not certain but nevertheless constitutes revealed knowledge. Lowry makes ¶50 an introduction to the next topic, but it should be read instead as a conclusion legitimating the idea that some knowledge is indisputable but some is uncertain and subject to disagreement.)

1.2.4 (127–132 / 16.17–17.5 / 51–52) **Five things one must know about the Qur'an,** before one presumes to interpret it, in order to perceive its clarity and understand what clarifies it. (This list justifies the wide range of interpretive moves that al-Shāfi'ī will employ.)

1.2.4.1 One must realize that the Qur'an is entirely in pure Arabic. (Al-Shāfi'ī will show in 1.2.5 that Arabic is highly ambiguous and therefore subject to many forms of interpretation.)

1.2.4.2 One must know which verses abrogate (supersede) other verses by virtue of being revealed after them. (One way of reconciling contradictory verses is to say that the later one supersedes the earlier one. Al-Shāfi'ī gives examples of abrogation in 1.3.3, but he prefers the hermeneutical solution of reinterpreting one verse so that it agrees with the other.)

1.2.4.3 One must know which verses impose strict obligations and which convey something less. (This justifies reinterpreting a command as merely a recommendation or permission.)

1.2.4.4 One must know all the different ways in which the Prophet's Sunna can elaborate, restrict, extend, or otherwise clarify the legal meaning of the Qur'an. (This justifies al-Shāfi'ī's extensive use of Prophetic reports to modify

Qur'anic injunctions; he will defend and illustrate the various ways this can occur in 1.2.6 and throughout the remainder of Book One.)

1.2.4.5 One must understand that some of the Qur'an is exhortative rather than legal in nature. (This justifies interpreting many verses as indicating something less than strict obligation.)

1.2.5 The Qur'an is in Arabic and therefore is often ambiguous. (This section elaborates on 1.2.4.1).

1.2.5.1 (133–168 / 17.6–20.16 / 53–66) **The Qur'an is entirely in Arabic.** Some people think it contains non-Arabic words, but that is just because neither they nor anyone else has a truly comprehensive knowledge of Arabic. The Arabic language is not learned or borrowed from non-Arabs; on the contrary, others borrow and learn from the Arabs. If non-Arabs use an Arabic word, either they borrowed it from Arabic or they coincidentally gave the same meaning to the same sound. Besides, the Qur'an itself says it was revealed to the Arabs in pure Arabic. (Al-Shāfi'ī takes sides here in the debate between proponents of Arabic and Persian literary and administrative cultures, arguing that Muslims' understanding of the Qur'an depends on Arab scholars.)

1.2.5.2 (169–172 / 20.17–21.9 / 67–69) It is necessary to point out that the Qur'an is entirely in Arabic because one cannot elucidate the vague passages in the Qur'an without knowing the breadth and ambiguity and subtlety of Arabic.

1.2.5.3 (173–178 / 22.1–17 / 70–71) The Qur'an employs the whole breadth of Arabic, including the following **types of ambiguity:**

1.2.5.3.1 Ambiguity A — ambiguity of scope: apparently unrestricted expressions can be meant as unrestricted, as unrestricted but restricted in some respect, or as restricted.

1.2.5.3.2 Ambiguity B — non-literal usage: expressions whose context indicates that they mean something other than their apparent meaning.

1.2.5.3.3 Ambiguity C — implicit or indirect reference. (For Lowry's translation ¶70.17–20, read instead "They may say something by conveying its meaning without making it verbally explicit, just as a gesture can convey meaning.")

1.2.5.3.4 Ambiguity D — synonymy.

1.2.5.3.5 Ambiguity E — homonymy.

1.2.5.3.6 Any part of an utterance may clarify any other part, whether it precedes or follows it. All these ambiguities are clear to those who know Arabic, but many non-Arabs do not appreciate them and therefore should not offer interpretations of the Qur'an and Sunna.

1.2.5.4 Examples of ambiguities A and B in the Qur'an. (In a few of these examples al-Shāfi'ī quotes other Qur'anic verses or Prophetic reports to show that a text does not mean what it appears to say, but for the most part he

thinks this will be obvious to his readers. Most of these examples are non-legal in nature; they are chosen simply to prove beyond dispute that the Qur'an contains ambiguities. The headings in this section should be disregarded, as they separate examples that the text explicitly puts in the same category.)

1.2.5.4.1 (179–187 / 23.1–24.4 / 72–76) **Examples of ambiguity A:** unrestricted expressions that are meant as unrestricted (179–180 / 23.3–8 / 72–73), as unrestricted but restricted in some respect (181–182 / 23.9–12 / 74), and as restricted (183–186 / 23.13–24.2 / 75). (Instead of “This is, in its import, just like the preceding verse” in Lowry’s translation ¶74, read “This verse is in the same category [of ambiguity] as the preceding verse,” i.e., category A. A similar change is needed in ¶75. These examples actually differ in their import—that is, in how unrestricted or restricted they are meant to be—but they all illustrate the same type of ambiguity.)

1.2.5.4.2 (188–196 / 24.5–25.10 / 77–79) **Three more examples of ambiguity A:** apparently unrestricted verses that are restricted in at least some respect.

1.2.5.4.3 (197–207 / 25.11–27.16 / 80–86) **Further examples of ambiguity A** in which the Qur'an designates various groups of people using the unrestricted expression “the people” but in each case intends only a restricted subset of humanity. Some of these examples seem clearer than others to those who do not know Arabic, but they are all equally clear to those who know Arabic because for them the least degree of clarity that adequately conveys the intended meaning is sufficient.

1.2.5.4.4 (208–213 / 27.17–28.17 / 87–89) **Examples of ambiguity B,** non-literal usage, in which “the town” means “the people of the town.” (The last example would become a stock illustration of *majāz*, but al-Shāfi‘ī does not use that term here.)

1.2.6 The Prophet’s Sunna can clarify and extend the legal meaning of the Qur’an. (This section elaborates on 1.2.4.4 and leads into 1.3).

1.2.6.1 (214–235 / 29.1–32.10 / 90–97) **Examples that show the Sunna clarifying (especially restricting) the meaning of Qur’anic passages:** inheritance shares do not apply to all heirs, washing the feet is not always required, not all thieves should have their hands cut off, only virgin fornicators are subject to flogging, only some kinsmen receive a share of the spoils of war, and only some spoils must be shared. Were it not for the Sunna, these laws would have applied unrestrictedly following the apparent meaning of the Qur’an. (The point of these examples is no longer to prove that the Qur’an contains ambiguities, but to show that the Sunna can clarify and modify the Qur’an’s meaning even when it appears clear enough on its own. This is crucial to resolving discrepancies between established laws and the Qur’an. In Lowry ¶97 read instead “Had we not followed the evidence of the Sunna, and had we ruled instead according to [the Qur’an’s] apparent meaning, we would have cut off the hand of everyone to whom the term ‘theft’ applied...”)

1.2.6.2 (236–297 / 33.1–40.11 / 98–118) **The reason that the Prophet’s Sunna can clarify the meaning of the Qur’an,** and even go beyond it where it is silent, is that God gave him that role: God required obedience to him (which is tantamount to obeying God and entails obeying the Qur’an and Sunna or an analogy based on one of them); God made him an object of belief alongside God himself; God mentioned “wisdom” (which can only mean his Sunna) alongside the Qur’an; and God guaranteed that he would perfectly follow and proclaim God’s guidance (which implies that whatever he did and said perfectly reflects God’s guidance). (The anecdote in 242 / 33.12–15 / 99 is relevant because it is understood that the slave to be freed must be a believer, so the Prophet’s two questions demonstrate that the essential components of faith are belief in God and in himself.)

1.3 The many hermeneutical relationships between the Sunna and the Qur’an (henceforth abbreviated S and Q). (These are illustrated at length because, as indicated in 1.2.4.4, one must understand the Sunna’s role in clarifying the Qur’an before one can interpret the Qur’an and recognize that it is in fact a clear statement of the entire law as affirmed in 1.2.)

1.3.1 (298–309 / 41.1–43.7 / 119–124) The three basic relationships between S and Q. (These correspond to clarificatory *bayān* types A–C in 1.2.3).

S–Q relationship A — the Sunna merely confirms an explicit Qur’anic text.

S–Q relationship B — the Sunna clarifies a general Qur’anic text, explaining how to obey it and whether it is restricted or unrestricted.

S–Q relationship C — the Sunna imposes a requirement not explicitly mentioned in the Qur’an; this too is divine revelation, whether or not one regards it as a clarification of a Qur’anic text.

1.3.2 (310–311 / 43.8–14 / 125) A more detailed list of the hermeneutical relationships between Sunna and Qur’an that will be illustrated throughout the remainder of Book One.

S–Q relationship N — the Sunna indicates that one Qur’anic verse abrogates another. (This type of clarification is useful for resolving conflicts among texts and laws, but al-Shāfi‘ī prefers hermeneutical forms of clarification that reinterpret problematic texts without discounting them.)

S–Q relationship A — the Sunna confirms an explicit Qur’anic text.

S–Q relationship B₁ — the Sunna clarifies how and when to obey a general (*jumla*) Qur’anic text.

S–Q relationship B₂ — the Sunna clarifies whether an unrestricted Qur’anic text is intended as unrestricted (*‘āmm*) or restricted (*khāṣṣ*).

S–Q relationship C — the Sunna addresses a matter not explicitly mentioned in the Qur’an.

1.3.3 Illustrations of S-Q relationship 8 — the Sunna indicates that one Qur’anic verse abrogates another. (These examples also illustrate more complex relationships between the Sunna and the Qur’an, but all of them involve abrogation within the Qur’an.)

1.3.3.1 (312–335 / 44.1–47.13 / 126–137) **Opening statement about abrogation.** Only a Qur’anic verse can abrogate a Qur’anic verse; the Sunna cannot do so, for it is subordinate to the Qur’an, merely confirming or explaining it. (This shows again that al-Shāfi‘ī understood himself to be grounding all law in the Qur’an itself, not in the Qur’an and Sunna as if often asserted.) Similarly, only the Sunna can abrogate the Sunna.

1.3.3.2 (336–345 / 47.14–50.1 / 138–143) **Night prayer example.** A Qur’anic verse about spending some part of the night praying as a supererogatory practice is ambiguous: it may abrogate two earlier verses that made it obligatory to spend various lengths of time in night prayer, or it may leave the earlier obligation intact while recommending an additional, unspecified amount of supererogatory night prayer. The reports quoted in 344–345 / 49.4–50.1 / 142–143 show that the correct alternative is the first one: only the five daily prayers are now obligatory, so the old obligatory night prayer must have been replaced by the supererogatory night prayer. (At the end of Lowry ¶140 read instead “It is also possible, however, that God’s saying ‘And keep vigil during some part of the night as a supererogatory act for yourself’ means that one should keep vigil for another part of the night, in addition to the part that is easy, which is obligatory.”)

1.3.3.3 (346–358 / 50.2–52.10 / 144–152) **Prayer while intoxicated.** The Qur’an indicates that the obligation to pray is suspended so long as a person is intoxicated, just as it is suspended due to menstruation, fainting, and temporary insanity. The Sunna indicates that prayer missed due to menstruation need not be made up later, and this would appear to have been true of prayer missed due to intoxication as well, since the Qur’an mentioned them together; but later the Qur’an abrogated the original permissibility of drinking wine and made it a culpable offense (unlike menstruation and insanity), so prayers missed due to intoxication must be made up later.

1.3.3.4 (359–370 / 52.11–55.2 / 153–160) **Prayer direction.** The Qur’an and Sunna both show that the new prayer direction announced in the Qur’an did in fact abrogate an earlier prayer direction (though they also make some exceptions to the new prayer direction).

1.3.3.5 (371–374 / 55.3–14 / 161–162) **Fighting when outnumbered.** A report from a Companion of the Prophet confirms that the Qur’an’s requirement to fight a military force even ten times one’s number was abrogated by a later and less demanding Qur’anic verse (though this was already evident from the language of the Qur’an itself).

1.3.3.6 (375–392 / 55.15–59.6 / 163–171) **Fornication penalty.** The Prophetic report in 378 / 56.5–8 / 165 shows that the Qur’anic penalty of one hundred

lashes abrogated the earlier Qur’anic penalty of imprisonment or punishment. Then the two Prophetic reports mentioned in 382 / 57.3–4 / 167.4–5 show that the one hundred lashes apply only to virgins, and are abrogated for non-virgins, who should be stoned without prior lashing. Then the Qur’anic verse in 384 / 57.7–8 / 168 and the Prophetic report in 386 / 58.6 / 170 show that stoning applies only to free non-virgins, not to Muslim slaves, who only receive fifty lashes regardless of whether they are non-virgins “safeguarded” by marriage. (AM 58.2–5 / L 169 is a textual addition that only muddies the argument. In Lowry ¶167 read instead “Then the practice of God’s Prophet indicated that the one hundred lashes were in effect [only] for two free virgins, but were abrogated for non-virgins, and that [only] stoning was in effect for two free non-virgins. This is because the saying of God’s Prophet “Take this from me, God has appointed a way for them...” was the first [part of the Sunna] to be revealed, by which the imprisonment and punishment of fornicators was [shown to be] abrogated; then when the Prophet stoned Mā‘iz without lashing him, and when he ordered Unays to go to the wife of the Aslamī man and stone her if she confessed, this indicated that the lashes were abrogated for two free non-virgin fornicators, and that [only] stoning was in effect for them, because anything that comes after a first thing [i.e. the first part of the Sunna to be revealed] is later than it [and therefore abrogates it].”)

1.3.3.7 (393–415 / 59.7–63.2 / 172–180) **Bequests.** The Qur’an required that unspecified bequests be made to parents, spouses, and close relatives, but then it prescribed specific inheritance shares for parents, spouses, and some close relatives. The Sunna shows that this was a case of abrogation: the inheritance shares are not in addition to the bequests, but in place of them. A few scholars say it is still obligatory to leave bequests to those close relatives who do not receive inheritance shares, and impermissible to leave bequests to non-relatives; but a report in which the Prophet allowed a bequest of freedom to unrelated slaves disproves this interpretation. (In Lowry ¶177 read instead “But Ṭāwūs and a few others said that bequests were abrogated for parents, remained in effect for close relatives not receiving inheritance shares, and were impermissible for non-relatives.”)

1.3.3.8 (416–417 / 63.3–6 / 181) **Closing comment about abrogation.** These examples are but a few of many that could be given to illustrate how the Sunna clarifies inner-Qur’anic abrogation.

1.3.4 (418–420 / 63.7–13 / 182) **Transitional comment.** The examples in the remainder of Book One illustrate that God’s statements of law may appear to have different degrees of clarity, but if one understands how they are clarified (and never contradicted) by the Prophet’s Sunna, then one finds them all equally clear. (Lowry’s translation in ¶182.9–13 obscures this point; I suggest translating 420 / 63.11–13 (corrupted) / 182.4–6 as follows: “Whoever understands this book knows that making clear (*bayān*) can take different forms, not just one form. What these have in common is that to

people of knowledge they are all clear, and are similar in their clarity, but to those with insufficient knowledge they differ in clarity.”)

1.3.5 Illustrations of S-Q relationship A — the Sunna merely follows an explicit Qur’anic text.

1.3.5.1 (421-433 / 63.14-65.10 / 183-186) **Wording of oath.** Several Prophetic reports relate details about an oath-swearing procedure prescribed in the Qur’an, but since they do not relate the wording used by the Prophet, they indicate that the Prophet must have used the same wording as the Qur’an. (At the beginning of Lowry ¶186 read instead “We conclude that they would never have related only some useful parts of the story while omitting other useful parts—when the most obvious thing to do was to relate the part about how the Prophet conducted the oath-swearing between the parties—unless they were sure that anyone who read the Book of God would know that God’s Prophet conducted the oath-swearing just as God revealed it.”)

1.3.5.2 (434-439 / 65.11-66.5 / 187-188) **Fasting.** The Qur’an commands fasting during Ramaḍān. Although the Sunna explains many details about fasting, it does not explain which month is Ramaḍān or that the fast is obligatory, because this is assumed to be clear.

1.3.6 Illustrations of S-Q relationship B₁ — the Sunna clarifies how to obey a general Qur’anic text.

1.3.6.1 (440-447 / 66.6-67.8 / 189-192) **Remarriage after divorce.** “Until she marries” could mean “until she contracts a new marriage” or “until the new marriage is consummated;” the Sunna clarifies that it means the latter.

1.3.6.2 (448-465 / 67.9-70.13 / 193-200) **Ablutions and washing.** The Sunna does not change the Qur’anic requirements, which are clear enough on their own, but adds some details about the preferred way to perform ablutions and washing. (At the end of Lowry ¶193 read instead “‘If you are in a state of major impurity, purify yourselves.’ He also said: ‘and [do not come near the prayer] when you are in a state of major impurity, save when you are traveling, until you have washed yourselves,’ thus clarifying that purification from major impurity is achieved through washing rather than ablutions.”)

1.3.7 Illustrations of S-Q relationship B₂ — the Sunna clarifies whether an unrestricted Qur’anic text is intended as unrestricted or restricted.

1.3.7.1 (466-480 / 70.14-73.13 / 201-207) **Inheritance.** The Sunna restricts which of the relatives named in the Qur’an may inherit. This leads into a tangential argument for S-Q relationship C: If the Sunna can restrict the Qur’an’s explicit list of heirs, then the Sunna is also binding on matters not explicitly mentioned in the Qur’an.

1.3.7.2 (481-485 / 73.14-74.10 / 208-209) **Sales.** The Qur’an allows sales by mutual consent, but the Sunna restricts this by prohibiting some kinds of sale (and adds details about others). (To express more clearly how the Sunna restricts the intended meaning of Qur’anic language, in Lowry ¶209 read

instead “So the Sunna indicated that when God (sublime His praise) made sales lawful He meant only those sales that were not otherwise outlawed, not those that were outlawed by His Prophet.”)

1.3.8 Further illustrations of these hermeneutical relationships between the Sunna and the Qur’an.

1.3.8.1 (486-490 / 74.11-75.2 / 210-211.2) **Introduction** to the following examples of prayer, alms, and pilgrimage, all of which will illustrate how the Sunna clarifies how to perform Qur’anic obligations.

1.3.8.2 (491-505.2 / 75.2-77.5 / 211.2-219.2) **Prayer (illustrates S-Q relationship B₁).** The Qur’an commands prayer and the Sunna explains how and when to perform it.

1.3.8.3 (505.2-516 / 77.5-80.3 / 219.2-227) **Prayer of danger (S-Q relationship N).** The Sunna of delaying prayer during battle is not abrogated directly by the Qur’anic verse about the prayer of danger, since the Sunna and the Qur’an cannot directly abrogate one another (see 1.3.3.1); instead, the earlier Sunna is abrogated by another Sunna, which indicates that the Qur’anic verse was never abrogated but remains in force.

1.3.8.4 (517-534 / 80.4-85.4 / 228-240) **Alms (B₁, B₂).** The Qur’an appears to impose alms on all kinds of property without restriction, but the Sunna (with the further assistance of analogy) restricts this to only certain kinds of property (B₂) and specifies the times at which alms are to be assessed (B₁).

1.3.8.5 (535-541 / 85.5-86.15 / 241-242) **Pilgrimage (B₁, C).** The Qur’an imposes the basic duty of pilgrimage, and the Sunna adds numerous details (B₁). This example alone is sufficient to prove that the Sunna is binding even on matters not explicitly mentioned in the Qur’an (C).

1.3.8.6 (542-545 / 86.16-87.9 / 243-244) **Waiting before remarriage (B₂).** The Sunna indicates that several waiting periods imposed by the Qur’an in unrestricted language are actually meant only for women who are not pregnant.

1.3.8.7 (546-554 / 87.10-89.2 / 245-248) **Women a man may not marry (B₂).** The Qur’an says that its list of unlawful wives is exhaustive and that all other women are lawful, apparently without exception; but the Sunna adds (in a report that al-Shāfi‘ī does not mention because he assumes his readers know it) that a man may not be married to a woman and her aunt at the same time. Al-Shāfi‘ī argues that this is not a contradiction but a legitimate restriction of the Qur’an’s unrestricted statement of lawfulness (B₂), because that statement only means that other women are “lawful if married in an otherwise lawful way,” and the Sunna shows that this particular combination of wives is unlawful. (Al-Shāfi‘ī makes his argument more explicit and quotes the relevant report when he repeats this example in 2.2.2.3 at 627-635 / 99.5-100.11 / 278-280.)

1.3.8.8 (555-562 / 89.3-90.9 / 249-253) **Forbidden foods (B₂).** The Qur’an says that nothing is unlawful to eat except the four foods it lists, and this would

have to be interpreted unrestrictedly except that the Sunna also forbids eating predatory animals with fangs. Since such animals were not customarily eaten, this indicates that “nothing is unlawful” has the restricted meaning “nothing you customarily eat is unlawful.” (At the end of Lowry ¶250 read instead: “It is also the meaning that scholars, given a choice of possible meanings for the verse, would be obligated to affirm unless the Prophet’s Sunna indicated another of its possible meanings—in which case they would say that was the meaning God (blessed and exalted) intended.”)

1.3.8.9 (563–568 / 91.1–13 / 254–255) **A widow’s waiting period (B₁ or C).** The Qur’an obligates widows to remain unmarried and in their homes for a period, and the Sunna imposes additional restraints. This could be regarded as an instance of the Sunna clarifying how to observe the period of restraint (B₁), or it could be considered an instance of the Sunna imposing an additional requirement not explicitly mentioned in the Qur’an (C).

BOOK TWO Conflicts within the Sunna

It appears that sometime after al-Shāfi‘ī first articulated the ideas in Book One, showing how all law could be grounded in the Qur’an if it was reinterpreted to accord with Prophetic reports, someone objected to his freewheeling use of those reports. In Book Two he justifies his use of Prophetic reports to sceptics by showing that they are not contradictory but can be reconciled with each other and with the law by means of interpretive techniques similar to those used in Book One.

2.1 Opening question and answer about al-Shāfi‘ī’s use of the Sunna.

2.1.1 (569 / 91.14–92.6 / 256) **Opening challenge.** An unnamed interlocutor complains that not only is the Sunna often not in agreement with the Qur’an, it also contains internal contradictions, and is used and interpreted inconsistently by al-Shāfi‘ī. (This is the kind of criticism advanced by Qur’an-only scripturalists among the theologians of Baghdad, on whom see Vishanoff 2011, 69–78; see also note 29 above. Al-Shāfi‘ī’s concern, expressed below in 2.2.2 and 2.2.2.4, that the Sunna would be disregarded entirely if it could be abrogated by the Qur’an, likewise suggests he is addressing scripturalist objections.)

2.1.2 (570–599 / 92.7–95.11 / 257–266) **Summary answer.** Al-Shāfi‘ī reiterates the three basic S–Q relationships from 1.3.1 (which justified his reinterpretations of the Qur’an) and then enumerates several possible relationships that can exist between conflicting Prophetic reports (which

enables al-Shāfi‘ī to reconcile them, and justifies his variable use and interpretation of the Sunna):

S–S relationship A — one report can be said to abrogate another.

S–S relationship B — one report can be said to clarify another’s ambiguity.

S–S relationship C — one report can be deemed to have been incompletely transmitted.

S–S relationship D — one report can be found to be supported by better evidence than the other.

S–S relationship E — one report can be used as an indication that a prohibition in another report was not intended as absolute (591 / 94.15–16 / 263.10–11).

S–S relationship F — a report containing a narrow prohibition (or permission) can be deemed an exception to another report’s broader permission (or prohibition). Such a report cannot be the basis of an analogy, whereas a report that indicates a basic requirement (rather than an exception to a broader one) can be extended using analogy to similar cases not mentioned in revelation if the rationale for the requirement has been revealed.

2.1.3 (600 / 95.12–15 / 267) **The interlocutor requests examples** of all these categories, beginning with abrogation within the Sunna.

2.2 Illustrations of S–S relationship A — one report can be said to abrogate another.

2.2.1 (601–603 / 96.1–8 / 268) **Example of the change of prayer direction.** (Although this change is also indicated within the Qur’an, it is presented here as an example of change in the Prophet’s practice.)

2.2.2 (604–611 / 96.9–97.7 / 269–272.1) **Tangential argument that the Sunna can only be abrogated by the Sunna, not by the Qur’an.** Otherwise, any time a report conflicted with a Qur’anic verse we might think it was abrogated by the Qur’an, when in fact the Sunna can only confirm or clarify the Qur’an.

2.2.2.1 (612–616 / 97.7–98.5 / 272.1–273) Al-Shāfi‘ī repeats from Book One his claim that **the Sunna never contradicts the Qur’an but either confirms it** (S–Q relationship A) **or clarifies it** in some way, explaining how and when to obey it (B₁) or whether it is meant as unrestricted or restricted (B₂). As proof he refers back to examples he gave in sections 1.2.6.1 and 1.3.8.1–5, explicitly citing Book One as a previously authored work called “The Book on the Relationship between the Sunna and the Qur’an” (*Kitāb al-sunna ma‘a al-qur‘ān*) in 615 / 97.14–15 (corrupted) / 273.

2.2.2.2 (617–623 / 98.6–18 / 274–276) **The interlocutor raises the objection** (already timidly proposed in 610 / 97.4–6 / 271) **that the Qur’an should judge the Sunna**, not vice versa, by citing a Prophetic report to that effect; but

al-Shāfi‘ī rejects the report as unreliable and responds with another criticizing those who follow only the Qur’an while ignoring reports from the Prophet (another indication al-Shāfi‘ī is addressing scripturalists).

2.2.2.3 (624–646 / 99.1–102.4 / 277–284) **The interlocutor requests an example** of a widely agreed upon instance of the Sunna restricting an unrestricted Qur’anic passage (S–Q relationship B₂). Al-Shāfi‘ī responds that the interlocutor has already heard him relate such examples in his book (i.e., Book One), but he repeats several: women a man may not marry (see 1.3.8.7), wiping footwear instead of washing one’s feet (see 1.2.6.1), forbidden foods (see 1.3.8.8), and sales (see 1.3.7.2).

2.2.2.4 (647–654 / 102.5–103.3 / 285–286) If one could consider the Sunna to be abrogated by the Qur’an, rather than considering it a clarification of the Qur’an, then one would have to give up all these widely accepted examples, and one would end up ignoring the Sunna entirely.

2.2.3 (655–657 / 103.4–6 / 287) **Request for more examples** of abrogation within the Sunna (S–S relationship A).

2.2.4 (658–673 / 103.7–105.18 / 288–294) **Keeping meat from a sacrifice.** Some reports say the meat cannot be kept more than three days, while some say it can be stored up as provisions. A longer report indicates that the prohibition was followed by a subsequent dispensation that abrogated it.

2.2.5 (674–681 / 105.19–107.9 / 295–299) **The prayer of danger.** In one report the Prophet delayed prayer until after a battle, but in another he did not delay but performed the “prayer of danger.” The second report must abrogate the first because the first report says it occurred before the Qur’anic revelation about the prayer of danger while the second must have occurred after it. (Cf. 1.3.8.3, where the focus is not on abrogation within the Sunna but on how the Sunna clarifies that the Qur’anic verse was not abrogated.)

2.2.6 (682–695 / 107.10–110.7 / 300–307) **The penalty for unlawful sexual intercourse.** The Prophet declared that guilty nonvirgins were subject to both lashing and stoning, but several times he had nonvirgins stoned without being lashed. This contradiction within the Sunna is resolved by arguing (in 687–690 / 108.12–109.5 / 304) that the former penalty must have come first, so the latter must abrogate it. (This example also involves abrogation within the Qur’an, as emphasized in 1.3.3.6, as well as restriction of a Qur’anic verse on lashing to virgins only, but the main point here is abrogation with the Sunna. This is obscured, however, by Lowry’s translation; in ¶304.10–17 read instead “What the Prophet said—“God has appointed ‘a way for them’...”—indicates that this [the lashing plus stoning for nonvirgins mentioned in this report] was the first thing to abrogate imprisonment for fornicators, and the first penalty to be imposed on them

after the prior ruling of imprisonment, and that any other penalty imposed on fornicators [i.e., stoning only] could only have come into effect after this [and therefore abrogates it], since this [lashes plus stoning] was the first penal sanction that was imposed on fornicators.” In ¶307.2–9 read instead “If nonvirgins were among those intended to receive lashes [in the Qur’anic verse on lashing], then the combination of lashing plus stoning [in the first report] was abrogated for them [by the Prophet’s subsequent practice of only stoning]. If they were not intended to receive lashes [in the Qur’anic verse], and only virgins were intended, then virgins are considered completely separately from nonvirgins, and the penalty of stoning for nonvirgins comes after the Qur’anic verse on lashing, as one can tell from what God’s Prophet related from God [in the first report].”

2.2.7 (696–706 / 110.8–113.12 / 308–314) **Prayer with the imam sitting.** On one occasion the Prophet led the prayers sitting and told people to pray sitting behind him, but on another occasion he sat and they stood behind him. Since the latter occurred during his final illness, it abrogated the former; this resolves the conflict and conforms to accepted law.

2.2.8 (707–709 / 113.13–114.1 / 315) **Many other examples could be cited** of abrogation within the Sunna (and within the Qur’an).

2.3 Illustrations of S–S relationships C and D — one report can be deemed to have been incompletely transmitted (C) or to be supported by better evidence than the other (D).

2.3.1 (710 / 114.2–3 / 316.1–2) **The interlocutor requests examples** of contradictions within the Sunna which are resolved not by abrogation but by considering one report more authoritative than another (D).

2.3.2 (711–736 / 114.3–117.20 / 316.2–324) **The prayer of danger.** The three reports in 711 / 114.4–7 / 316, in 712 / 114.8–12 / 317, and in 713 / 114.13–115.3 / 318 relate different ways of performing the prayer of danger, and al-Shāfi‘ī follows the first one. He explains the conflicting reports by saying that the third is valid in a special situation, while the second is to be disregarded entirely because the first (which is the tradition from Khawwāt ibn Jubayr mentioned in 722 / 115.15–116.3 / 320; cf. 677–678 / 106.15–107.4 / 297–298) is supported by other reports, its narrator was older and became a Companion of the Prophet before the narrator of the second, it agrees with a Qur’anic verse, and it makes better sense tactically and ritually (D). Another way of resolving the conflict would be to interpret the second report as an indication that the prayer of danger can be performed in whatever way makes sense in each situation, but al-Shāfi‘ī prefers to follow the first report.

2.3.3 (737–757 / 118.1–122.5 / 325–334) **The prayer formula.** Several Companions related different wordings of a portion of the prayer formula. Al-Shāfi‘ī prefers one because it is related from the Prophet himself and because he likes its comprehensiveness (D), but the real solution to the conflict is that as Companions memorized the formula they distorted its wording (C), but since they did not distort its meaning the Prophet allowed them to recite it however they had memorized it, so all of them are equally valid.

2.3.4 (758–773 / 122.6–125.5 / 335–342) **Usury.** Five Companions report that exchange of like goods in unequal amounts constitutes forbidden usury, but Usāma reports that usury only occurs when there is a delay in payment. There are two ways to resolve this conflict: either Usāma failed to report that the Prophet was talking only about exchanges of unlike goods when he said there could only be usury if there was a delay in payment, so his report only appears to contradict the others because it is incomplete (C); or it does contradict the others but is to be rejected because the others are transmitted by older and more numerous Companions (D). (In Lowry’s translation ¶340.7–11 read instead “Or perhaps that question was asked before he got there and he only heard the answer, so he related the answer but did not memorize the question or was unsure of it. For there is nothing in Usāma’s report that precludes this having happened. This is how his report can be interpreted as in agreement with the others.”)

2.4 Illustrations of S–S relationship B — one report can be said to clarify another’s ambiguity. (Al-Shāfi‘ī’s goal here is to show that not all apparent contradictions within the Sunna are real; some can be resolved by appeal to ambiguity. This is the hermeneutical solution, which al-Shāfi‘ī prefers (see 2.4.11). The first four examples illustrate various ambiguities of meaning; the rest mostly illustrate ambiguities of scope in which an apparently unrestricted report is shown to have a restricted application. Some also involve claims of incomplete transmission (C), but the focus is now on how that renders them ambiguous and subject to reinterpretation. The last several examples in this section involve prohibitions, which leads to the explicit focus on prohibitions in 2.5.)

2.4.1 (774–810 / 125.6–130.10 / 343–352) **Timing of the dawn prayer.** One report urges performing the dawn prayer “at daybreak,” but others indicate the Prophet prayed when it was still dark. Al-Shāfi‘ī gives multiple reasons for regarding the latter reports as supported by better evidence (S–S relationship D), but then says they do not actually contradict the first report because “at daybreak” is ambiguous (S–S relationship B). (In Lowry’s translation ¶345.4–5 read instead “Someone said to me: “We think that we

should perform the dawn prayer at daybreak, based on the hadith–report of Rāfi‘...”.)

2.4.2 (811–822 / 130.11–133.8 / 353–357) **The direction for relieving oneself.** Two conflicting reports can be reconciled by positing that although they were transmitted in a general fashion (*jumlatan*) and thus appear to be generally applicable, they were intended to apply to different situations.

2.4.3 (823–837 / 133.9–135.20 / 358–366) **Killing women and children.** Two conflicting reports should be reconciled by appealing not to abrogation (A) but to ambiguity (B): the Prophet only meant to prohibit killing women and children intentionally, not collateral deaths during night raids.

2.4.4 (838–846 / 136.1–138.7 / 367–375) **Washing before Friday prayer.** The Prophet’s command to perform a full washing before Friday prayer, and even his calling it mandatory, are ambiguous: they could just mean it is “optionally mandatory,” and several reports show this to be the case.

2.4.5 (847–862 / 139.1–142.4 / 376–382) **Competing marriage proposals.** The Prophet’s apparently unrestricted prohibition may have been incompletely transmitted; it must only have been intended as a more restricted prohibition against proposing to a woman who has already authorized her guardian to marry her to a prior suitor, because the Prophet himself suggested a marriage to a woman who already had two suitors but who, al-Shāfi‘ī infers, must not yet have authorized her guardian to marry her to either one.

2.4.6 (863–868 / 142.5–143.12 / 383–385) **Underselling.** A report about having the option to rescind a sale until one leaves the place of sale shows that another report, in which the Prophet prohibits undercutting another merchant’s price, only applies from the time of sale until the buyer leaves the place of sale.

2.4.7 (869–871 / 143.13–144.3 / 386) **Outbidding.** A report that the Prophet sold to the highest bidder indicates that his prohibition against outbidding another buyer only applies once the seller has accepted the first bid.

2.4.8 (872–905 / 144.4–151.11 / 387–407) **Prayer at sunrise and sunset.** The Prophet’s prohibition against prayer at these times is ambiguous: it could mean all prayers without restriction, or only some prayers; other apparently conflicting reports show that he must have meant only supererogatory prayers. Reports that two Companions avoided praying mandatory prayers during sunrise do not disprove this interpretation; they must have heard only the general prohibition without hearing the evidence that restricted its application. A report should be interpreted unrestrictedly unless some other evidence restricts it, in which case interpreting it as restricted allows one to

obey both pieces of evidence at once (881–882 / 146.11–17 / 392). (In Lowry’s translation ¶392.11–12 read instead “obeyed [the Prophet] in both matters at once,” meaning that they will have obeyed both pieces of evidence by reconciling them rather than neglecting either one. Lowry’s note 284 says that both the apparent (*ẓāhir*, outer) sense and the objectively correct (*bāṭin*, inner) sense are obeyed at once, but al-Shāfi‘ī has just said that when a report is restricted one follows its inner *rather than* its outer sense.)

2.4.9 (906–911 / 151.12–153.13 / 408–412) **Sale of dates.** The Prophet’s allowing the exchange of dates on the tree for dried dates restricts the meaning of his unrestricted prohibition against exchanging fresh for dried dates, showing that it no longer applies (or never did apply) to dates on the tree.

2.4.10 (912–922 / 154.1–156.13 / 413–417) **Sale of indeterminate goods.** The Prophet forbade selling what one does not have, and this could have meant anything not in one’s possession, but when the Prophet allowed advance payment for definitely specified goods this showed that he had only meant to prohibit selling something indeterminate for which one could not be held specifically liable.

2.4.11 (923–925 / 156.14–157.5 / 418) **Concluding statement of principle: hermeneutical reconciliation is preferred.** An apparently unrestricted report must be interpreted unrestrictedly unless another report indicates it was meant in a restricted sense. Such reports should not be considered contradictory, such that one must be given preference over the other (as in S–S relationships A and D), but must be reconciled if at all possible, so that both are put into effect in some way (as in S–S relationship B).

2.5 S–S relationships (E) and (F) combined — whether or not a prohibition makes an act invalid and absolutely forbidden depends on whether it constitutes an exception to a broad permission, or to a narrow permission that is itself an exception to a broader prohibition. (Although this section is focused on prohibitions, its purpose is to continue illustrating the kinds of hermeneutical relationships by which conflicting Prophetic reports can be reconciled with each other and the law.)

2.5.1 (926–927 / 157.6–9 / 419.1–2) **Opening question.** Because al-Shāfi‘ī has made exceptions to several prohibitions in the preceding examples, the interlocutor requests a full explanation of prohibitions. Al-Shāfi‘ī responds by sorting prohibitions into two categories.

2.5.2 (928–929 / 157.10–13 / 419.2–4) **Exception to a narrow permission that is itself an exception to a broader prohibition.** If something is generally forbidden, but some subset of it is permitted by revelation, and then the

Prophet prohibits some further subset of that permitted subset, then this prohibition makes the act absolutely forbidden.

2.5.2.1 (930–942 / 157.13–159.12 / 420–424) **Example of marriage.** The general forbiddance of sexual intercourse is restricted by permission in case of marriage or concubinage, but then the permission in case of marriage is itself restricted by prohibitions against certain types of marriage. These prohibitions are absolute; such marriages are invalid, and sexual intercourse remains forbidden.

2.5.2.2 (943–944 / 159.13–160.5 / 425) **Example of sale.** The general forbiddance of using the property of others is restricted by permission in case of sale, but then this permission is itself restricted by prohibitions against certain types of sale. These prohibitions are absolute; such sales are invalid, and using the property thus acquired remains forbidden.

2.5.3 (945–960 / 160.6–164.4 / 426–433) **Exception to a broad permission.** If something is generally permitted, but some subset of it is prohibited, this prohibition is less absolute: violating it is still forbidden, but is a less severe form of disobedience. As al-Shāfi‘ī said in 2.1.2 when discussing S–S relationship F, such an exceptional prohibition cannot be extended beyond the specifically prohibited manner of acting; other instances of the generally permissible act remain permissible. Several examples are given, including the Prophet’s prohibition against eating from the center of a common dish rather than from the closest part of the dish: this prohibition is merely instruction in good manners, and does not make the food itself unlawful (as intercourse is unlawful in a prohibited marriage).

BOOK THREE

Legitimate Interpretation of Disputable Evidence

In Books One and Two al-Shāfi‘ī put forward and defended a hermeneutical apparatus that made it possible to find the entire law expressed in the Qur’an by showing how to reconcile legal rules with Qur’anic verses and with the Prophetic reports that explain them. Book Three (on which see the perceptive analysis in Calder 1983) opens with a question that seems to come out of nowhere, but is warranted because the examples of interpretation in Books One and Two have become increasingly subtle, to the point of undermining al-Shāfi‘ī’s opening claim (in 1.2) that the entire law is “made clear” by the Qur’an. Al-Shāfi‘ī did not claim, however, that the law is made clear to everyone, only to those who know the subtleties of Arabic and the clarifying evidence of the Sunna and nature. Book Three defends this claim by arguing that even when discerning the legal meaning of revelation requires interpretive moves that are uncertain and disputable, this

interpretation can and must be carried out in a principled and epistemologically adequate way. The argument rests on a distinction between two types of knowledge. True knowledge of what God’s law actually requires can be reached with confidence only concerning the relatively few requirements that are clearly established by the Qur’an and widely accepted reports; knowledge of those basic rules is incumbent upon everyone (“common knowledge”). Only the community of scholars, however, is required to pursue “specialist knowledge” of those innumerable points of law that are based on ambiguous language and questionable reports. On those points, scholars are only required to achieve knowledge of what appears to be true given the available evidence, not what is actually true. Such specialist knowledge is the subject of disagreement, but each scholar’s interpretation fulfils his epistemic duty and is deemed formally correct as long as it is grounded in a report whose transmission meets certain minimum standards, in the consensus of the community, or in a valid analogy, and not just in his own personal inclinations. The subtle and debatable interpretations of Books One and Two are therefore legitimate paths to fallible but genuine knowledge of the law.

3.1 The distinction between common knowledge and specialist knowledge.

3.1.1 (961–971 / 164.5–165.16 / 434–436) **Opening question and answer about knowledge.** All are obligated to know those laws that are clearly and indisputably conveyed by the Qur’an and widely transmitted Prophetic practice. Discerning laws based on analogy or on texts that are not clear and explicit, however, is incumbent only on specialists—not individually, but as a collective duty that need only be fulfilled by a sufficient number of them.

3.1.2 (972–997 / 165.17–170.5 / 437–447) **Three well-known examples of collective duty** (*jihād*, funeral prayer, and returning a greeting that was addressed to a group) are given to legitimate al-Shāfi‘ī’s application of this concept to specialist knowledge.

3.2 Three grounds of specialist knowledge by means of which jurists can and must reach formally adequate judgments about what interpretation is right according to appearances (*fi al-zāhir*) when there is no way to be sure of what is true in actuality (*fi al-bāṭin*). (Note that these are not presented as sources of law or forms of *bayān* in their own right; they are evidence a scholar must consider to ensure that his interpretation, though fallible, nevertheless fulfils his epistemic duty to follow God’s revelatory *bayān*, interpreting it with the help of all the clarifying evidence God has made available, rather than following his own personal inclinations.)

3.2.1 Individually transmitted (uncorroborated) reports are binding upon scholars, even though their authenticity and meaning may be disputed.

3.2.1.1 (998–1002 / 170.6–171.7 / 448–449) Reports that are not known widely enough to constitute common knowledge are nevertheless binding for specialists if they are continuously transmitted by at least one chain of transmitters who all meet certain criteria.

3.2.1.2 (1003–1100 / 171.8–183.9 / 450–479) **Comparison with the criteria for acceptable testimony before a judge.** Al-Shāfi‘ī defends his criteria for the transmission of reports, and explains why they differ from the criteria for testimony.

3.2.1.3 (1101–1153 / 183.10–193.4 / 480–504.5) Numerous reports show that the Prophet and his Companions considered reports conveyed from the Prophet by a single trustworthy individual to be binding.

3.2.1.4 (1154–1255 / 193.5–213.14 / 504.5–550) **Comparison with the rulings and opinions of Muslim authorities after the Prophet.** Their rulings are a kind of report about what appears true to them in a given case, and they are accepted and implemented, but they do not constitute binding authority in and of themselves. Therefore, if a Prophetic report is found to entail a different ruling, it must be followed in preference to the caliph’s or judge’s ruling. Numerous examples are given of early Muslim authorities who considered individually transmitted reports from the Prophet to be binding, and even abandoned their own rulings when they learned of a contrary Prophetic report. They did so consistently, only rejecting an individually transmitted report if they had a specific reason for doubting it. In 1201–1213 / 201.6–202.5 / 522–525 al-Shāfi‘ī also inserts Qur’anic stories about the authority of individual messengers from God. (Note that al-Shāfi‘ī is no longer arguing against scripturalists who reject extra-Qur’anic practices and reports, but against those who follow early Muslim authorities such as the scholars of Medina, demonstrating that those authorities themselves yielded to uncorroborated Prophetic reports.)

3.2.1.5 (1256–1261 / 214.1–12 / 551) **Individually transmitted reports give specialist knowledge.** A scholar who harbors doubts about them need not be commanded to repent, as he would be if he doubted matters of common knowledge, but he must still accept as binding whatever those reports explicitly state, just as he must rule based on the apparent truthfulness of upright witnesses even though they might be wrong.

3.2.1.6 (1262–1308 / 214.13–219.4 / 552–567) **Reports with discontinuous chains of transmission** may be accepted if they are corroborated by other evidence, but they are dubious even when coming from sources that are otherwise known to be trustworthy. Some are universally rejected, whereas reports with continuous chains of transmission are at most disputed, never universally rejected.

3.2.2 (1309–1320 / 219.5–221.16 / 568–573) **The consensus of the whole Muslim community** on a point of law does not constitute a kind of widespread report of Prophetic practice, as some have claimed.

Nevertheless, in the absence of an explicit Qur’anic text or Prophetic report about that point of law, the community’s consensus must be followed, both because the Prophet said so and because it cannot be mistaken, whether it be based on an interpretation of a Qur’anic text, a Prophetic practice, or an analogy. (Note that consensus, like individually transmitted reports, is binding but provides only specialist knowledge of apparent truth, as is clear from 1330–1332 / 223.8–14 / 578–580.)

3.2.3 Analogical reasoning.

3.2.3.1 (1321–1407 / 222.1–230.8 / 574–600) Legal interpretation (*ijtihād*) by analogical reasoning (*qiyās*) is a legitimate path to a legal ruling when no rule is directly revealed. Like individually transmitted reports and consensus, it provides only specialist knowledge of apparent truth. Several examples show that scholars are obligated to rule based on whatever knowledge they have, whether that be knowledge of the true state of affairs or only knowledge of what appears to be true given the evidence available to them (which can differ from person to person, leading to different rulings). In either case, they have done all that is required of them. (1330–1332 / 223.8–14 / 578–580 should be read as an enumeration of three types of specialist knowledge: from individually transmitted reports, from consensus, and from analogical reasoning.)

3.2.3.2 (1408–1442 / 230.9–233.12 / 601–608) A Prophetic report shows that *ijtihād* is permissible even though it may be mistaken with respect to the true answer, for it may nevertheless be correct with respect to fulfilling the duty of *ijtihād* based on what appears to be true.

3.2.3.3 (1443–1479 / 233.13–237.20 / 609–619) *Ijtihād* is not a matter of personal discretion (*istihsān*) but must always be based on evidence, so it can only be performed by a scholar who knows the evidence and is qualified to interpret it.

3.2.3.4 (1480–1606 / 238.1–252.8 / 620–662) There are two types of permissible analogy: (1) argument *a fortiori*; and (2) taking a ruling revealed because of a specific feature (*ma’nā*) of a case and applying it to a relevantly similar case for which no ruling has been revealed. Several examples are given, including lengthy debates about which *ma’nā* is most relevant.

3.2.3.5 (1607–1664 / 252.9–259.1 / 663–683) It is not permissible, however, to extend by analogy a rule that is itself an alleviation or restriction of a broader textually established rule (presumably because that would give an analogy priority over an explicit text). Several examples are given.

3.3 (1665–1670 / 259.2–11 / 684–686) **Specialists must rule based on what appears to be true.** A single case can be ruled upon in two different ways: based on knowledge of the true state of affairs, or knowledge of what appears to be true. One rules according to the evidence one has, and that ruling is legitimate, just as a widow’s remarriage is valid so long as she

believes her former husband is dead, but is annulled if she learns he is actually alive.

3.4 Disagreement on matters of specialist knowledge is legitimate, and does not preclude reaching adequate rulings.

3.4.1 (1671–1682 / 259.12–260.11 / 687–689.3) In matters that hinge not on clear texts but on interpretation or analogical reasoning, and are therefore matters of specialist knowledge, disagreement is legitimate, though one can usually find some evidence to support one interpretation over the other.

3.4.2 (1683–1804 / 260.12–274.17 / 689.4–725) **Examples.** Al-Shāfi‘ī discusses at length five such cases about which the Prophet’s Companions disagreed, but about which there is evidence from the Qur’an, the Sunna, reason, language, or analogy to support one opinion over the other.

3.4.3 (1805–1811 / 275.1–13 / 726–727) **The divergent opinions of Companions should be evaluated** based on the evidence of the Qur’an, the Sunna, consensus, and analogy. In those rare instances when we know the opinion of only a single Companion, and there is no evidentiary basis for evaluating that opinion, al-Shāfi‘ī follows it; but this is not required by revelation, and scholars disagree about it. (Al-Shāfi‘ī’s point here is not that the opinions of Companions are themselves a source of law, but that jurists can reach adequate, evidence-based judgments despite the interpretive difficulties that led to the Companions’ disagreements.)

3.5 (1812–1821 / 275.14–277.2 / 728–730) **Conclusion: specialist knowledge based on appearances is legitimate.** These grounds of specialist knowledge (individually transmitted reports, consensus, and analogy) allow one to determine only what appears to be correct, not what is really true; but we follow them as a matter of necessity, just as a judge must reach a formally correct verdict on the basis of the available evidence if he does not have direct knowledge of the true state of affairs. (This legitimates al-Shāfi‘ī’s many uses of ambiguous and disputable evidence in Books One and Two.)

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