FROM GOD'S NATURE TO GOD'S LAW: THEOLOGY LAW AND LEGAL THEORY IN ISLAM

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By
Abdul-Rahman Mustafa, M.St.
Washington DC
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This study explores the ways in which theological ideas regarding the nature of God shaped the jurisprudential and legal landscape of Islam in the classical period. Focusing on the traditionalist theological and jurisprudential thought of the Ḥanbalī intellectuals Ibn Taymiyyah (d. 728/1328) and Ibn Qayyim al-Jawziyyah (also known as Ibn al-Qayyim) (d. 751/1350) this study traces the way in which these two scholars developed a critique of the dominant theological-jurisprudential tradition of their day, which was influenced by dialectical theology. Against the dialectical theologians, Ibn Taymiyyah and Ibn al-Qayyim argued that an authentically fideist, consistent and rational theory of Islamic law could only emerge from an acceptance of the reality of God’s voluntary attributes. The study situates these debates on the influence of theology on law and legal theory in Islamic history within an overall account of the influence of
theology on modern Anglo-American law and secularism. It concludes by remarking upon the ways in which classical discussions on the relationship between Islamic theology and legal theory have been appropriated and utilized in the modern period to ground disparate theories of Islamic legal reform, ranging from Islamic secularism and liberalism to neo-traditionalism.
This work is dedicated to my parents.
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Introduction

This book explores the ways in which theological ideas – particularly those relating to the nature of God – influence and shape legal concepts. More specifically, it explores the way two significant Muslim intellectuals of the fourteenth century, Ibn Taymiyyah (d. 728/1328) and Ibn al-Qayyim (d. 751/1350) attempted to articulate a legal theory that grew out of their understanding of what the author of the law – God – was like.\(^1\) While the main body of this work casts a light on the relationship between theology and law in classical Islam, the first part of this section situates that discussion by recalling the many ways in which the modern Anglo-American legal tradition which now governs most of the world has, despite its professed secularism, itself been hewn out of theological ideas about the nature of God and man. The second part provides some introductory remarks on the main contours of Islamic traditionalist and theological thought on legal theory.

That secular modernity continues to be haunted by the ghost of the God whose death it announced rather prematurely should not surprise us. For as the Christian theologian Jürgen Moltmann argues, the modern world itself is a child of religious hope. The very events which herald the birth of modern time – events such as the European discovery of America – simply cannot be understood, according to Moltmann, without appreciating the messianic and

\(^1\) For a list of sources on Ibn Taymiyyah’s biographical, social and political context, see Rapoport, *Ibn Taymiyya*; El-Tobugi, *Reason*, 78-79. For details of Ibn al-Qayyim’s biography, see al-Sayyid, *Ibn Qayyim*; Abū Zayd, *Ibn Qayyim*; Bori, “Scholar”; Holtzman, “Ibn Qayyim”; Krawietz, “Ibn Qayyim.” On the ways in which to approach the question of Ibn al-Qayyim’s legacy in relation to that of Ibn Taymiyyah, see Krawietz and Tamer, *Islamic Theology*, 2. On the general lack of interest in Western academia in Ibn al-Qayyim and Ḥanbalism, see ibid., 5, and Bori, *Scholar*, 36. On the popular and scholarly presentation of Ibn Taymiyyah as an extremist dogmatic, see Krawietz and Tamer, *Islamic Theology*, 11-14. All references to MF in the notes refer to the *Majmūʿ al-fatāwā* of Ibn Taymiyyah. All references to FK are to the *Fatāwā al-Kubrā* of Ibn Taymiyyah. All other works have been cited in short form in the notes and with their bibliographical details in the bibliography.
millenarist impulses of Christian theology and culture. Paradoxically then, the influence of religion has not diminished with the coming of the secular age. On the contrary, the most visible artifacts of secular culture – the arts, law and politics, for instance – continue to be shaped by the interplay of religious and secular ideas on the nature of God and religion.

If, however, we were to choose one aspect of cultural life which, from the classical period all the way down to the advent of Christianity and beyond, has been most influenced by theological ideas about the nature of God, it would have to be the law. One reason for this is simply the many conceptual, structural and functional similarities between the two disciplines. As one scholar remarks, religion and law are engaged in a mutual dialectic. They deal with overlapping concepts of sin and crime, covenant and contract, righteousness and justice. Both disciplines uphold comparable liturgical and ritual practices, habits, traditions and precedents as well as shared sources of authority and power. Methodologically too, law and religion champion homogenous methods of interpretation, argument and instruction. Finally, law and religion both create officials charged with the formulation, implementation and demonstration of the norms and habits of their respective fields.

Of course, the great monotheistic religious traditions of Judaism, Christianity and Islam have played a very explicit role in fostering unique legal cultures shaped by their distinct yet related ideas on the nature of God – ideas whose influence continue to reverberate in modern nation states. Christianity for instance, explicitly rejects many aspects of the Jewish legal tradition and does so because of the Christian view that God’s true nature, as revealed in the person of Christ,

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2 Moltmann, God, 5, 7.
3 Fletcher, Disciplining the Divine, 98. Young, Biblical Exegesis, Chapter 5 (passim), 97; Ward Transcendence, 127-148 in Schwartz, Transcendence; Susanna Lee, A World, 11.
4 For a survey of the relationship between religion and law in the classical period, see Ando, Religion.
5 Witte, Jr. “God’s Joust.”
compels a very different understanding of divine law from that upheld in the Jewish tradition. “For the letter kills, but the spirit gives life,” says Paul, signaling a conscious departure from the Jewish legal tradition, which treasured the written law of God as its greatest link with the divine. For Paul and his followers, however, the word of God is “written not with ink but with the Spirit of the living God, not on tablets of stone but on tablets of human hearts” (2 Corinthians 3:3-6). For some Christians, then, the figure of Christ is arguably the teleological termination of the law of the Israelites. The Qurʾān, in turn, criticizes aspects of Jewish and Christian legal culture, and makes it clear that the distorted understanding of God’s law (and the consequences of disobeying it) in both communities stems from their misconceptions about the nature of God (Q. al-Baqarah, 2:80-83).

**Religious and Common Law**

Christian theology in turn is responsible for shaping some of the most foundational doctrines of the Western, particularly the Anglo-American, legal tradition. And because of the legacy of colonialism and the cultural dominance of the West, the influence of this tradition extends well beyond the borders of Europe and America. In his classic study of the subject, Ernst Kantorowicz showed that many of the ‘mystic fictions’ of what might be termed medieval political law, particularly its doctrines on kingship, such as the two bodies of the king and of the king never dying, etc. have a clear parallel in Christian theological thought about the dual nature of Christ and the eternity of God. Christian ideas on retribution – particularly the notion that a tribute or atonement (such as that offered by Christ) must be paid to vindicate the law – also exerted a

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7 Kantorowicz, *The King’s Two Bodies.*
strong influence on theories of punishment in Western jurisprudence. Another striking example of the influence of theology on law comes from the rules relating to natural justice and due process. Let us take the rule that requires an accused party, even one whose guilt is not in doubt, to be given a fair hearing. For the medieval Christian lawyers whose writings shaped the Anglo-American legal tradition, the justification for this rule was primarily theological, and came from the scriptural account of the hearing given by God to Adam after he tasted the forbidden fruit. (Genesis 3:8). God could not be in any doubt regarding Adam’s guilt, the medieval lawyers reasoned, yet He gave Adam an opportunity to be heard. So too, a human judge must also allow the accused party who appears before him an opportunity to be heard.

The Protestant reformation brought with a new set of ideas about the nature of God, man and society and many of these ideas also indelibly shaped Anglo-American jurisprudence. Some of the foundational beliefs about the nature of belief, doubt, certainty and the value of evidentiary enquiry – that facts speak for themselves and are capable of being read by the layman; that a rational and impartial inquiry into the evidence will yield the truth – are beliefs that are thoroughly grounded in Protestant theology. From Protestantism also comes the notion that an ordinary layman could surmount the problems of legal interpretation just as an ordinary believer was deemed capable of surmounting the problems of scriptural interpretation.

Whatever his own religious commitments might have been, Thomas Hobbes’ famous declaration that he could master the law in two months, armed only with his pretense to reason, is a good example of such a view. Today, we see echoes of this idea in the call for states to be governed

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8 Berman, Law, 183.
9 Evans, Law, 108, 136; Witte, Law, 300.
10 Schramm, Testimony, 33, 60–62.
11 On the anti-interpretive tradition of interpretation in Protestantism, see Pelikan, Interpreting, 48.
12 Cromartie, Sir Matthew Hale, 100.
by a codified set of laws so that even European nations such as England—which traditionally cherished their “unwritten constitution” as a guarantor of the independence and freedom of their people—find themselves unable to resist demands to create a codified set of laws which enjoys quasi-constitutional status.

The legal historian Harold Berman has suggested another theological source for modern Western notions of property and contract law in Lutheran theological ideas about the power of the individual to change social relations through his will.\textsuperscript{13} The legal effects of Lutheran theology can be seen, Berman argues, in the transformation of the form and function of the last testament. In the earlier Catholic tradition, testaments had primarily been a means of saving souls by charitable gifts. Under the influence of Lutheran theology, however, they became a means of controlling social and economic relations through a process that involved a spiritualization and sanctification of property and contract.\textsuperscript{14}

Another attempt to explain transformations in the law of contract by reference to transformations in religious and theological ideas came from the influential English legal historian Sir Henry Maine (1822-1888), who offered a religious explanation for the move from status to contract as the primary means of understanding and classifying social relationships. In rudimentary legal systems, Maine argued, man is destined to live out the destiny into which he has been placed by a ‘supernatural presidency.’ Subsequently, the loss of this deterministic

\textsuperscript{13} Berman, Law, 27-28.

\textsuperscript{14} Berman, Law, 28. For an interesting account of the changing rationales, ranging from considerations of commutative justice to an enlightenment inspired view of freedom of will (and by extension, of contract), upheld by judges in the law of contracts, see Mc Cauliff, “Historical” 476.
religious worldview is accompanied by a greater willingness to allow man to change his destiny through contract.\textsuperscript{15}

Even as Christian theology develops then, it inspires new transformations in modern Anglo-American jurisprudence and legislators and judges in Anglo-American jurisdictions often explicitly invoke theological ideas as justifications for a particular position in legal philosophy. In the words of Lord Denning, one of the most influential English judges of recent times, the precepts of religion have become a habit of mind for English judges and, therefore, a guide to the administration of justice.\textsuperscript{16} One prominent example of a major legal development justified by reference to religious ideas is the famous ‘neighbor principle’ in tort law – familiar to every first year law student – which was developed by the judges of the House of Lords in the 1932 case of \textit{Donoghue v. Stevenson}. The principle, which hearkens back to the golden rule, imposes on all actors a duty of care in relation to those who are considered their ‘neighbors,’ a term defined not in relation to physical proximity but rather including all those who are potentially harmed by one’s acts.\textsuperscript{17}

Developments in Christian theology are also partly responsible for transformations in the regulation of same sex relationships in many Western jurisdictions. The former Archbishop of Canterbury, Rowan Williams, for instance, was amongst many Christian theologians who made an explicitly \textit{theological} case for reexamining Christian attitudes towards homosexuality.\textsuperscript{18} Without denying that theological thought itself is influenced by its social (and legal) context, we can still suggest that such transformations in theological thinking invariably transform the

\textsuperscript{15} Maine, \textit{Ancient Law}, 6. On the influence of Maine on modern understandings of law and legal subjects, see Naffine “Law’s Sacred and Secular Subjects,” 273.
\textsuperscript{16} Mc Cauliff, “Historical,” 471.
\textsuperscript{17} For the relationship between religion and tort law generally, see, Cochran Jr., “Tort,” 487.
\textsuperscript{18} http://www.virtueonline.org/church-wrong-gays-says-former-archbishop-rowan-williams-updated.
attitudes of lawmakers, judges and society at large towards practices such as homosexuality. Is it not significant that when the U.S. Supreme Court finally pronounced homosexual marriages to be lawful, it did so with the knowledge that its stance was supported by religious figures and organizations, some of whom had even filed petitions as amici curiae, encouraging the court to change its stance on such relationships, just as these churches themselves had done?

Other basic and fundamental categorizations of modern law – its definition of personhood and sanity, for instance – also continue to be based to a large extent on religious notions of human sanctity and the self. Let us consider the legal treatment of children and adults with impaired reason, whom the law regards neither as fully rational agents nor as fully recognized legal actors. This unique and anomalous legal position in modern secular law is, it has been suggested, a vestige of older notions of the innate sanctity of the individual.¹⁹ The influence of theology can also be seen in the attempts of the Anglo-American legal tradition to define concepts such as culpability and insanity by reference to metaphysical models of human responsibility – which see behavior as willed – rather than scientific materialistic models – which see behavior as caused.²⁰

Theology and Secular Law

The aforementioned discussion has surveyed the theological roots of some of the most treasured notions of Anglo-American law, such as its understanding of the legal subject and personhood itself. We have also seen that ideas such as legal codification, the right to a fair hearing etc. are not, as is sometimes thought, modern inventions but are, on the contrary, thoroughly grounded

¹⁹ Naffine “Law’s Sacred and Secular Subjects,” 277-278 and Ch. 7, passim. For a discussion of the influence of theology on modern human rights discourse, Ghanea-Hercock, Does God Believe in Human Rights?.
in the ideas and values of the Christian jurists of the middle ages. This discussion has therefore revealed one of the most central, animating and creative tensions in the Western legal tradition – the way it is pulled in opposing directions by a set of historical religious impulses and another set of secular, modern aspirations. This tension is most visibly expressed in the contested and paradoxical phenomenon of legal secularism. The paradoxical nature of the phenomenon is reflected in the fact that even as Western secular legal systems proclaim their allegiance to the doctrine that religion should be a private affair and not influence the legal, political and public realms, these same legal systems seem to be shaped significantly by religious and theological ideas. The paradox seems less glaring, however, when we consider that the very notion of secular law is, to a great extent, a development within religion itself.\footnote{Yelle, “Bentham’s Fictions,” 178.}

We have already seen that some of the foundational legal concepts of secular law, the autonomy and agency of the legal subject for instance, or the duties owed by legal subjects to one another, are ideas which secularism inherits from religious notions of the nature of God and man. However, the relationship between religious and secular legal systems is not merely historical in the sense that secularism inherits religious ideas. Rather, it is, as Fitzpatrick explains, structural insofar as the combined presence and denial of the sacred continues to shape modern law.\footnote{Fitzpatrick “Triumph,” 157.} The structural relationship between theology and law was also pointed out by the political theorist Carl Schmitt. In his celebrated study of the concept of sovereignty in modern law, Schmitt not only pointed to parallels between political and divine sovereignty, but also famously
proclaimed that ‘[a]ll significant concepts of modern theory of the state are secularized theological concepts.’

Religion and theology thus shape secular law because secularism is itself a religious – and in its Anglo-American manifestations a specifically Christian – theological doctrine. In fact, the Christian origins of Anglo-American secularism go a long way to explaining why Anglo-American secular courts, when they have to decide what does or does not count as religious practice, often do so by conceptual mechanisms internal to Christian distinctions between true and false worship. More generally however, the very distinction between the religious and the profane which lies at the heart of a secular legal system is one whose origins are decidedly religious. Secularism is thus properly seen as a set of doctrines, beliefs and practices which takes over the function of religion in the realms of law and governance. Because religion itself gives birth to secularism, secularism never loses the religious impulses which brought it into the world. Secularism becomes religion, not least in the way it is forced to define a space within it for religion, just as religion was initially forced to create space for the secular.

In recent years, a number of scholars, of whom perhaps the most well known is Talal Asad, have interrogated the religious dimension of secularism by exploring the sacral claims made by secularism and secular polities for themselves. These investigations have prompted questions about the extent to which the roots of modern secularism lie in Christian theology. Asad is certainly not alone, however, in remarking on the fact that modern secularism itself has all the

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23 Schmitt, Political Theology, 5, 36. See also also Fletcher, Disciplining the Divine, 104. For another discussion of the sacral underpinnings of secular law, see Comaroff, “Reflections” 195.
26 Asad, “Trying to Understand French Secularism,” 516, 519-520; idem. Geneologies 47; Edge, Religion, 8.
trappings of Christian religious doctrine. Like Christianity, secular mythology invites man to believe in universal and scientifically unverifiable myths and to inhabit certain modes of discipline and practice which will bring about the salvation of mankind. In post-enlightenment culture, the greatest of these myths is that the secular march of reason and scientific progress will emancipate man from the shackles of violence, suffering and mortality itself, creating a demystified heaven on earth. The appropriation of such religious ideas is central to the secular project.27

It is also clearly the case that many of the core features of modern Anglo-American secularism, such as religious pluralism and tolerance, flow directly out of a very particular set of religious beliefs about the nature of God. Let us consider the provisions of the American constitution relating to religious freedom, which are regularly hailed as an exemplar of secular legislation on religion. It has been rightly pointed out that these freedoms of worship are actually grounded not just in a particular political philosophy but in a thoroughly Protestant theology. Let us recall that the religious freedoms granted in the American constitution were often only available to Protestant Christians. More fundamentally, the beliefs justifying the granting of such freedoms – that the realm of God operates not on bodies which can be subjected to force but on minds which can only be subjected to reason – are unmistakably Protestant.28 William Miller aptly remarks that for the original champions of American secularism, the reasons for prohibiting force in matters of religion were as much religious as they were political: to force obedience would be an incorrect form of religion. It therefore ought to have been proscribed on religious

27 See Gray, Straw Dogs; Moltmann, God, 10; Nicholls, Deity, Ch. 7; Ferrari, “Law,” 360. For more on the similarities between religion and secularism, see Yelle, “Bentham’s Fictions,” 153.
28 Miller, Faith, 29, 32-33. For a contrasting view, see Edge, “Religion” 8, 33 and the references therein.
grounds – and so it was.\textsuperscript{29} The liberal political philosopher John Rawls was thus more correct than even he realized when he suggested that Christianity is one of the foundations of American liberalism.\textsuperscript{30} In fact, as we shall see, the religious origins of American liberalism go a long way towards accounting for its inner contradictions.

Religion continues to animate not only secular notions of law but also the social, political and cultural forces in secular polities which contribute to the creation of the legal order.\textsuperscript{31} We see this in the way American judges approach the Constitution of the new republic, which has assumed the status of what Jaroslav Pelikan calls ‘American Scripture.’ American judges often refer to unconstitutional doctrines as heresies while constitutional theories are regarded as being akin to theological doctrines.\textsuperscript{32} Even the ritual of American courts, not excluding the Supreme Court – whose sessions begin with the invocation “God save the United States and this honorable court” – is explicitly religious. Lord Denning’s remarks about English judges being guided by Christian beliefs find their echo in the words of the American Justice Douglas, who wrote in 1952 that the Americans were a religious people whose institutions presuppose a Supreme Being.\textsuperscript{33}

The United States also celebrates a form of secular nationalism which, in the words of the leading scholar of religion Jurgensmeyer, is comparable to religion.\textsuperscript{34} The American statesman

\begin{itemize}
\item Miller, \textit{Faith}, 31. A very different account of secularism, one which sees it as a victory of science and progress over religion, can also be found in the scholarly literature. See Ledewitz, \textit{Secularism}; Davis, \textit{Religion}.
\item McConnell “Old Liberalism,” 6. See also Inazu, “Between Liberalism and Theocracy,” and Hauerwas and Michael Baxter “The Kingship”.
\item On the interaction of theology and culture, see Newlands “Theology”; Jaspers, \textit{Believing}, 177. For a discussion of the significance of theology in contemporary philosophy, see Blond, \textit{Post Secular}. For an account of the relationship between theology and positivist social theory and liberalism, see Milbank, \textit{Theology}, 13 and passim.
\item Pelikan, \textit{Interpreting}, 11.
\item Pelikan, \textit{Interpreting}, 20.
\item Calhoun, Jurgensmeyer, \textit{Rethinking}, 25.
\end{itemize}
and academic Carlton Hayes also commented on the religious nature of American nationalism, pointing out that Americans are taught to revere their national shrines (Independence Hall.), national relics (the Liberty Bell), national holy scriptures (the Declaration of Independence, the Constitution), national martyrs (Lincoln) and national holy feasts (the Fourth of July). This reverence is actively inculcated in national public schools (dare one call them secular madrasas?) in which toddlers are trained to participate in national rituals and liturgy (the recital of the pledge of allegiance etc.), reaffirming their loyalty to the nation’s sacred symbols, (such as the flag).

The influence of theology on the legal and political system of the United States was apparent from the very moment of its inception. The legal order of the new United States was justified by invoking specifically Protestant and deist ideas about the nature of God. The earliest constitutions of states such as Pennsylvania and Massachusetts, for instance, explicitly referred to God as the ‘great Governor’ and ‘great Legislator’ of the universe, one who governs His creatures through “providence.” Here, as in all theological doctrines, it is important to look not only at what is being said about God but also at what is not being said about Him. A God who governs through providence seems very different from a God who governs not through providence alone but also through divinely revealed law. The ‘democratic’ image of God celebrated in the American legal order, which identified the voice of the people as the voice of

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35 Most of the examples cited in this paragraph are from Cavanaugh, Myths, 117. See also Sarat, Law, 11-13.
36 Miller, Faith, 56; Nicholls, Deity, 150 and passim; Sarat, Law, 11-13. The simultaneous rise of deism and modern constitutionalism is also noted in Schmitt, Political, 36. For more on the idea of constitutionalism as a feature of Catholic thought, see Oakley, Conciliarist.
God,\textsuperscript{37} can be usefully compared with the monarchical images of God embedded in the European legal imagination,\textsuperscript{38} which in turn sustained a very different kind of legal order.

A number of scholars have also commented on the influence of specific strains of Protestantism on the American political and legal project. For example, behind the concerns of the American founding fathers regarding the inevitable evil and corruption of individuals, and the possibility of using institutions of the state to deter such corruption, was a distinctly Calvinist and Presbyterian set of impulses.\textsuperscript{39} Other scholars have remarked on the ways in which Lutheran theology lends support to a particular set of political ideas championed by secular polities such as the United States – ideas such as liberty and equality. Even when they are not justified in explicitly religious terms, these ideas resonate strongly with those who already believe in the priesthood of all believers and in the sovereign immunity of man from human structures and strictures.\textsuperscript{40} The trajectory of Protestantism, particularly the lines along which it developed during the Lutheran reformation in sixteenth century Germany, also continues to exert an influence on modern legal and political ideas, particularly in the areas of marriage and divorce, public education and the welfare state. For the seemingly secular impulse to transfer the spiritual and civic functions of the Church to the magistrate and the state, which functioned as the guarantors of Christian republicanism was – it bears repeating – religious in origin, even if it is now associated with secular governance.\textsuperscript{41}

\begin{itemize}
  \item Schmitt, \textit{Political}, 49.
  \item Oakley, \textit{Kingship}; Eppley, \textit{Defending}; Nicholls, \textit{Deity}, Ch. 5.
  \item Witte, \textit{Law}, 301.
  \item Witte, \textit{Law}, 22, 294-296. For a different account of the mutually exclusive development of theology and law in Protestantism, see Troeltsch and Montgomery. \textit{Protestantism}. For a discussion of how religious ideas (both Catholic and Protestant) on marriage shaped the Anglo-American common law tradition, see Witte, Jr. “God’s Joust,” 416. On the effect of varying conceptions of God on thinking about the welfare state, see Nicholls, \textit{Deity}, 31, 157. For a
\end{itemize}
The point of this brief excursus into the nature of legal secularism in the modern West is not to offer any new or original perspective on the subject but to demonstrate that the although theology plays a significant role in shaping the law, it can do so in the most varying and complex ways. Therefore, at no point should any thing said in this work be taken to imply that there is a deterministic relationship between theology and any other facet of culture, such as the law. It is important to state this because the Christian roots of modern Anglo-American secularism have lead some to argue that Christian theology is somehow uniquely capable of giving rise to and sustaining secularism, liberalism and democracy, a view which is openly proclaimed in the titles of works such as Marie A. Eisenstein’s *Religion and the Politics of Tolerance: How Christianity Builds Democracy*.\(^42\) Claims such as these become particularly distorted when they are used to denigrate other religious traditions for not possessing the theological resources needed to develop a philosophy of liberalism.

As we have seen however, there are a number of reasons why such deterministic accounts must be regarded as unsound. First, as Asad points out, concepts such as religion and therefore secularism are not universal notions but historical, varied and contextually grounded ones which differ across cultures. Anglo-American secularism, for instance, is the outcome of a particular European history, in which Protestant Christianity has played a central role. Non-Western religious traditions are no less capable than Christianity of developing forms of secularism which, while different from Anglo-American secularism, are no less secular.\(^43\) And

\(^42\) Eisenstein, *Religion*.

anyone making the claim that the Anglo-American models of religion or secularism are universal has to prove this claim rather than take it for granted.

It is, in fact, one of the central arguments of this book, one which will be demonstrated repeatedly, that there is almost nothing deterministic about the relationship between theological and legal ideas. On the contrary, a particular theological tenet can be used to support radically different models of law and politics, just as different theological tenets can still give rise to very similar visions of the law. It is thus absurd to argue, as some do, that a particular set of religious ideas is bound to produce a particular kind of political or legal order. The same Christianity which is held by some to be the bedrock on which democracy is built is regarded by others, such as the legal philosopher Hans Kelsen, to make democracy impossible.\textsuperscript{44} Theologians such as Moltmann, who argue that monotheism is always associated with theocracy and dictatorial rule, are thus ultimately as reductive as those who celebrate Christian theology for being intrinsically liberal and democratic. That theologians and scholars of religion should adopt such views is particularly indefensible, for one expects theologians to be particularly conscious of the fact that a single theological tenet or text can still give rise to a variety of interpretive possibilities.\textsuperscript{45} Indeed, such reductive and deterministic reasoning about religion is usually associated with modern atheists who dismiss religious traditions for being intrinsically illiberal or violent, without paying much attention to the variety of ways in which religious ideas are used to justify particular political and legal positions. So while it is certainly true that monotheism can be, and has been, used to support earthly monarchies, which are justified as being temporal reflections of the celestial monarchy of God,\textsuperscript{46} it is equally true that monotheism

\begin{footnotesize}
\textsuperscript{44} Ferrari, “Law,” 357.
\textsuperscript{45} Helmer, \textit{Multivalence}, 5 and passim.
\textsuperscript{46} Nicholls, \textit{Deity}, 232-233. On this and the development during this period of the notion that the authors of human law had the authority to pronounce definitively on God’s will, see also Eppley, \textit{Royal Supremacy}.
\end{footnotesize}
has been a driving force behind some of the most committed opposition to totalitarian political orders precisely because monotheism can also be deployed as a call to reject all forms of earthly political authority as false and illegitimate.\(^{47}\) This leads to the interesting conclusion that the mere fact that Christian beliefs have been influential in shaping the modern, secular legal order by no means robs these beliefs of their potential to threaten that order and replace it with one that is radically different. Thomas Shaffer explores one such potentially revolutionary current in Christian theology when he argues that the Christian call to forgiveness, by its very nature, threatens and disrupts established legal orders and their claims to authority.\(^{48}\)

But if a theological view, such as monotheism, can be used to sustain both political absolutism and resistance to it, if theological ideas can ground almost any legal or political claim, how relevant is the study of theology as an active agent in the formation of legal and political culture? One of the answers to this question offered in this book is that unless we are aware of how a particular set of theological doctrines influences a legal tradition, we shall have very little understanding of why that legal tradition is the way it is. We shall be able to understand neither its underlying commitments nor its apparent tensions and contradictions. Consequently, we shall have very little idea of how to take that tradition forward in an organic and coherent way and we shall have no way of critiquing the tradition in terms that appear sound and coherent to those familiar with it. There are those who have suggested that something like this has happened in the Western legal tradition. Harold Berman, for instance, argues that modern Western legal science is a ‘secular theology,’ which often makes no sense because its theological presuppositions are no longer accepted.\(^{49}\) As I argue in the epilogue, something along these lines

\(^{47}\) Nicholls, Deity, 233; Fletcher, Disciplining, 103, 106; Brewbaker, God, 24.

\(^{48}\) Shaffer, “The Radical Reformation,” 328–329; Brewbaker, God, 24 and passim.

has also happened in some reformist circles in Islam, which have generally shown little concern for reconciling their project of reforming the substance of Islamic law with the tradition of theological thought which has so deeply shaped the legal tradition which these reformists wish to change.

It will also become abundantly clear throughout the course of the following chapters that the interaction of theology and law does not only proceed in one direction. On the contrary, the conceptual and theoretical overlap between theology and law alone makes it untenable to suggest that theology influences law without itself being influenced by it. And a number of studies have, in fact, documented this very process, that is, the juridification of religious traditions such as Christianity and Hinduism. 50 On the contrary, this study takes it as a given that because theology and law influence each other, they do not remain static over time. The object of this book is therefore to examine how Islamic theology influences Islamic jurisprudence in the thought of two particular scholars in the classical period, without closing the doors on other works which set out to examine this relationship in reverse or to explore its effects at a different time or geographical context.

Another reason for the dynamic and evolving nature of theological and legal doctrines is the eclecticism of scholars, even when they adhere to a particular theological or legal school. As we shall see time and again, individual theologians and jurists in the Islamic tradition often subscribed to a smattering of views which do not fit neatly within the boundaries of a particular theological or legal school. Thus, when we speak of the Ashʿarīs or the traditionalists holding a view, this by no means implies that the doctrine in question was held widely by all members of

50 Comaroff, “Reflections,” 201, 205. On Indian, specifically Vedantic, albeit positivist, critiques of jurisprudence, see Singh, Law. For a study of the steady legalization of Christian rituals (such as the eucharist) and doctrines (such as redemption and atonement), see Berman, Law, 172-174, 181.
the school. For as we shall see, each of the theological traditions studied here underwent considerable change over time. The intellectual freedom to dissent from an intellectual tradition to which one is still fully committed is not, as is often thought, something distinct to modernity. On the contrary, the medieval and classical figures whom we shall encounter show as much breadth and latitude in their ideas as their modern counterparts, if not more so. This, after all, is why we still have discussions on whether or not al-Ghazālī was an Ashʿarī, al-Rāzī a philosopher and Ibn Taymiyyah a Sufi? The fact that we imagine confessional identities being more stable in the past than they are today says more about us than it does about the historical personalities who are the object of our study. With these caveats in place, we now proceed to make a few introductory remarks on Islamic legal theory which might help to place the ideas presented in the following chapters in some context.

**Theology and Law in Islam**

As stated at the outset, this work explores the ideas of two traditionalist scholars, Ibn Taymiyyah and Ibn al-Qayyim, both of whom articulated a distinct legal theory in light of their traditionalist theology. Traditionalism, a term bequeathed to us by George Makdisi, is associated with three theological and jurisprudential positions, which I have discussed in detail elsewhere. These are: the supremacy and self-sufficiency of scripture, the harmony of reason and revelation and the interpretive authority of the first generations (salaf) of Muslims. Although many opponents of traditionalism, such as the dialectical theologians, would also formally subscribe to these principles, the traditionalists would argue that there is fundamental difference between the traditionalist understanding of these principles and that of their opponents.

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Nowhere is the conflict between the two groups more evident than in the rancorous debates over the proper interpretation of scriptural passages which describe the nature and attributes of God. The respective positions of the two groups in these debates reveal underlying differences between them on the authority of scripture and the relationship between scripture and reason. For the traditionalists, the attributes of God mentioned in scripture, such as God's wisdom, wrath and love, His laughter and anger, even His eyes, hands and speech, are to be accepted as they are. This is precisely what the traditionalists mean when they insist that scripture is self-sufficient and comprehensive, that it is in harmony with reason and that the earliest Muslims are its most authoritative interpreters. Since the scriptural descriptions of God are, at least in the traditionalist view, clear and unambiguous, and since the earliest Muslims are not known to have understood them in anything other than apparent sense, the traditionalists refuse to regard such descriptions of God as metaphorical. For the traditionalists, God has revealed Himself to man in the form of His word, the Qurʾān. Where this word is clear and unambiguous, it ought not to be reinterpreted so as to make it conform with knowledge obtained through disciplines such as philosophy or dialectical theology.

For the dialectical theologians, however, scriptural passages such as those which speak of God's speech, love and hands etc. had to be metaphorical because if accepted according to their plain meaning, these passages would contradict what was known by reason. What was known by reason for the dialectical theologians in this case was the impossibility of ascribing real speech, real organs or real emotions to a God who was supposed to be both immaterial and unchangeable.⁵² For as the theologians see it, if the attributes of God are eternal and have always co-existed with God, then God’s eternal and transcendent unicity is severely compromised. On

⁵² Elkaisy-Friemuth, *God*, 44.
the other hand, if the divine attributes are all part of the essence of a God whose transcendent unicity is absolute, then these attributes are essentially one and therefore not really extant as distinct attributes.\textsuperscript{53}

Muslim dialectical theologians were not, of course, alone in confronting the problem of how to reconcile difficult passages of scripture – particularly those dealing with the nature of God – with what human reason perceived to be true. This tension between negation and eminence has been common to each of the great monotheistic religions\textsuperscript{54} and in each of these traditions, this tension has frequently been expressed in the form of rival positions on the proper way to describe God and His attributes.\textsuperscript{55} For there have been devout scholars in each of these traditions who have feared that accepting the descriptions of God found in scripture would fuel disbelief rather than belief in the divine. And indeed we do find the purported absurdity of scriptural descriptions of God being used as an argument in favor of atheism, as in the case of the renowned Victorian atheist and founder of the National Secular Society Charles Bradlaugh, who justified his atheism partly on the grounds that it was impossible to take as true scriptural claims about God’s speech, since “speaking implies the possession by the speaker of the organs of speech, tongue, larynx, &c.”\textsuperscript{56}

For Muslim theologians then, as for their Christian counterparts, scriptural passages about the attributes of God proved to be what the interpreters of Christian scripture called a \textit{crux interpretum} – a difficulty which it torments or troubles one greatly to interpret or explain.\textsuperscript{57} In

\textsuperscript{53} Elkaisy-Friemuth, \textit{God}, 42.
\textsuperscript{54} Brewbaker, \textit{God}, 16.
\textsuperscript{55} Mawson remarks that the division made between the particular essential and accidental properties of God is often arbitrary even though the distinction between the two sets of attributes itself is not. Mawson, \textit{Belief}, 11.
\textsuperscript{56} Larson, \textit{Christianity}, 105.
\textsuperscript{57} Pelikan, \textit{Interpreting}, 38. For the problems of speaking about the nature of God and distinguishing this from His existence, see Plantinga, \textit{Nature}. 
Christianity such difficulties included reconciling not only the scriptural view of God with that upheld by the philosophers and theologians (who denied many of the divine attributes spoken of in scripture) but also reconciling the nature of God as manifested in the figure of Christ with that of Jewish theology (which frequently spoke of the nature of God in terms which appeared problematic to Christians).  

In each of the great monotheistic religious traditions, one resolution to the problem of interpreting the divine attributes mentioned in scripture was found in metaphorical interpretation. Since the underlying reasons for adopting metaphorical rather than literal understandings of problematic scriptural passages were similar in each tradition, the advocates of such interpretative strategies can, in a sense, speak for each other across the bounds of their own religious traditions. Thus, in the following extract from a letter of Galileo, in which he explains to his correspondent both the anxieties of the theologians as well as their reasons for adopting a metaphorical interpretive methodology, we have a concise summary of the position of the theologians who advocated metaphorical interpretation in both Christianity and Islam:

‘I think in the first place that it is very pious to say and prudent to affirm that the holy Bible can never speak untruth-whenever its true meaning is understood. But I believe nobody will deny that it is often very abstruse, and may say things which are quite different from what its bare words signify. Hence in expounding the Bible if one were always to confine oneself to the unadorned grammatical meaning, one might fall into error. Not only contradictions and propositions far from true might thus be made to appear in the Bible, but even grave heresies and follies. Thus it would be necessary to assign to God feet, hands and eyes, as well as corporeal and human affections, such as anger, repentance, hatred, and sometimes

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58 Seibert, Disturbing, 145; Dell, “Does God Behave Unethically?,” 170-186; Barton, “Dark Side” in Dell, Ethical and Unethical; Seibert, Disturbing, 184. For a fuller account of Jewish Christian hermeneutics, see Hirshman. For Jewish deliberations on the interpretation of scripture, see Cohen, Interpretation. For an account of how monotheism would have different strategies for coping with the nature of the Divine than polytheism, for instance over the question of divine arbitrariness, see Versnel, Coping, Ch. 2.
even the forgetting of things past and ignorance of those to come. These propositions uttered by the Holy
Ghost were set down in that manner by the sacred scribes in order to accommodate them to the capacities
of the common people, who are rude and unlearned. For the sake of those who deserve to be separated
from the herd, it is necessary that wise expositors should produce the true senses of such passages,
together with the special reasons for which they were set down in these words. This doctrine is so
widespread and so definite with all theologians that it would be superfluous to adduce evidence for it.59

The difference between the philosophers and theologians on the one hand and the
traditionalists on the other thus boils down to this: the philosophers and theologians regard the
postulates of philosophy as universal and the scripture of Islam as a particular expression of
universal truths. The traditionalists, on the other hand, regard Islamic scripture itself as the
expression of a universal truth and hold philosophy to be something bound and shaped by the
human cultural forces which produce it. In each case, the specific is reinterpreted to harmonize
it with the universal – with very different results.60

Theology and Law in Islam

The influence of theology on Islamic legal thought can hardly be exaggerated. Some of the
earliest schisms in Islamic history were caused by controversies over the question of whether
or not someone who did not conform to the law could still be considered part of the theological
community of Muslims – a question on which the main theological schools of Sunni Islam – the
Mu‘tazilites, Ash‘arites and traditionalists – adopted different positions.61 Other ostensibly
theological schisms, such as the renowned inquisition launched by the Mu‘tazilites, also had a
significant legal dimension.62 Partly as a response to these schisms, theological orthodoxy also

61 Watt, Islamic Philosophy, 67.
came to influence the law by exerting an influence on the formation of legal culture. Theological impulses were largely responsible for the appointment and selection of legal officials such as judges\textsuperscript{63} and played a major role in the canonization of the most renowned collections of legal hadīths in Sunni Islam, such as those of al-Bukhārī and Muslim.\textsuperscript{64}

However, although the influence of theology on Islamic legal theory in Islam is omnipresent, it has also been obscured, partly as a result of the tendency of some – though not all – Muslim scholars to pass over this influence in silence or to deny its existence altogether.\textsuperscript{65} This might also explain why, despite the acknowledgment by a number of Western scholars that law in the Islamic tradition is “theology par excellence,”\textsuperscript{66} studies exploring the influence of Islamic theology on Islamic law and legal theory have generally focused on the interaction between the two disciplines in the field of hermeneutics,\textsuperscript{67} and have paid less attention to the specific ways in which Muslim ideas about the nature of God have shaped Islamic jurisprudential thought.

To get some indication of the opaqueness with which Muslim scholars sometimes allude to the interaction of theology and law, we can examine the voluminous biographical dictionaries of Muslim scholars written by authors such as al-Khaṭīb al-Baghdādī (d. 463/1071). A casual reader leafing through the latter’s voluminous biographical dictionaries might easily miss the true import of notices which record the theological and legal affiliations of individual scholars. ‘Abd al-Jabbār (d. 415/1024), for instance, is described in passing as being Shāfi‘ī in his law and

\textsuperscript{63} El Shamsy, \textit{Tradition}, 123-128.
\textsuperscript{64} Brown, \textit{Canonization}.
\textsuperscript{65} Vishanoff, \textit{Hermeneutics}, 129; Makdisi, \textit{Ibn ‘Aqīl}.
Muʿtazili in his legal theory. Similarly, Alī b. Saʿīd Abū al-Ḥasan al-Istakhri (d. 404) is presented as a Shāfiʿī in law but a Muʿtazilite in dialectical theology (kalām). Remarks such as these are not, however, merely historical trivia. Rather, they are an oblique acknowledgment of the tension that existed (at least in the minds of the authors such as al-Khaṭīb al-Baghdādī) between particular legal and theological traditions, such as Shāfiʿīsm and Muʿtazilism.

Traditionalists such as Ibn Taymiyyah and Khaṭīb al-Baghdādī naturally have a particular interest in exposing the tensions between the Shāfiʿī legal school and the schools of dialectical theology, particularly Ashʿarism. By Ibn Taymiyyah’s time Ashʿarism had superimposed itself on the Shāfiʿī school to such an extent that the two terms are sometimes treated as synonymous in literature from the period. For the the traditionalists, however, Shāfiʿīsm was an originally traditionalist and fideist juristic tradition which had been corrupted by the influence of Ashʿarī dialectical theology. Ibn Taymiyyah therefore sets out to show the unpopularity of Ashʿarī theology in early Shāfiʿīsm by citing the works of authors such as the Shāfiʿī jurist and litterateur Abū al-Ḥasan al-Kurjī (d. 532/1137). The latter was one of several scholars to note that early Shāfiʿī jurists such as al-Shīrāzī (d. 476/1083) attempted to distinguish Shāfiʿī jurisprudential positions from Ashʿarī ones – even if they were identical – by using expressions such as ‘this is the opinion of some of our scholars [i.e. the Shāfiʿīs] and the Ashʿarīs also hold to it,’ a formulation which conveys some unease about the association of Shāfiʿī doctrines with Ashʿarī ones. Ibn Taymiyyah also records the explicit repudiation of Ashʿarī scholars such as al-Bāqillānī (d.403/1013) – arguably the first Ashʿarī theologian to develop a systematic Ashʿarī theology – by Shāfiʿī jurists such as Abū Ḥāmid al-İsfarāʾīnī (d. 406/1016). The latter particularly

68 I am grateful to Professor Jonathan Brown for alerting me to these references.
69 Ibn Taymiyyah, al-Baʿalbakiyyah, 227.
denounced the influence of al-Bāqillānī’s theology on a group of “pseudo-jurists” who had mistakenly fallen under the spell of Ashʿarī theology without appreciating how vehemently the jurists rejected some of the theological and juristic positions of the Ashʿarīs. From other sources, we learn of the difficulties faced by the Ḥanafīs in distinguishing their legal theory from the taint of association with Muʿtazilism. The uneasy relationship between theology and jurisprudence can also be seen in jurisprudential works written by legal theorists with a strong theological bent, who often distinguish their positions as theologians from those of the jurists.

Towards a Traditionalist Legal Theory

Why should the relationship between the schools of law and dialectical theology be so vexed? One answer is hinted at by the ‘father of historiography,’ Ibn Khaldūn, who expounds on the complex relationship between the theological and jurisprudential traditions of Islam. Ibn Khaldūn popularized the conceptual division of legal theorists into two methodological camps. On the one hand are those experts who practice legal theory in accordance with the methodological tradition of the jurists (ṭarīqah al-fuqahāʾ). This tradition of legal theory, we are told, is particularly concerned with developing jurisprudential principles which justify their positions in substantive law. It is associated above all with the Ḥanafī school of law. On the other hand there are legal theorists who are more concerned with the elaboration of theoretical principles than they are with how those principles justify particular legal positions. These legal theorists are associated above all with dialectical theology, which is why they are said to be following the methodological tradition of the dialectical theologians (ṭarīqah al-mutakallimīn).

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72 Al-Bazdawī, Kanz, 4. For a discussion on the influence of Muʿtazilism on Ḥanafi legal theory, see Bernard, “Ḥanafī.”
According to Ibn Khaldūn, the leading books of legal theory written in accordance with this methodological tradition include the *Burhān* of the Ashʿarī-Shāfīʿī al-Juwaynī (d. 478/1085) and the *Mustaṣfā* of the Ashʿarī-Shāfīʿī al-Ghazālī (d. 505/1111) as well as the jurisprudential works of the Muʿtazilites ʿAbd al-Jabbār and al- Баṣrī (d. 436/1044). These books in turn, Ibn Khaldūn says, were reformulated by theologians such as al-Řāzī and al-Āmidī (d. 631/1233). This jurisprudential tradition of the theologians is presumptively the one adopted by the three remaining non-Ḥanafī schools of the law, the Mālikīs, Shāfīʿīs and Ḥanbalīs. Immediately, then, we can see the potential for conflict between theology, jurisprudence and substantive law as legal schools with very different legal positions on substantive law end up adopting a common jurisprudential methodology that develops out of dialectical theology.

The influence of the methodological tradition of the theologians described by Ibn Khaldūn is most visible in the works of Shāfīʿī Ashʿarīs, who by and large came to dominate the world of Sunnī jurisprudence by the time of Ibn Taymiyyah and Ibn al-Qayyim. For the Ashʿarī al-Āmidī, it is a precondition of being a jurist that one be aware of theological postulates such as the necessary existence of God and the divine attributes of life, power, knowledge, will and speech. The Ashʿarī al-Zarkashi (d. 794/1392), who is one of the few authors in the classical period to devote a whole book to the relationship between theology and law, says that legal theory draws on three sciences, the first of which is theology. Even authors such as Muḥaffar al-Dīn Ibn al-Saʿātī (d. 694/1295), whose work is reported by Ibn Khaldūn and others to be grounded in both

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74 Juwāni, *al-Burhān*, 77.
76 Al-Zarkashi, *Salāsil*, 104.
jurisprudential traditions, (the theological and the juristic) regards theology as indispensable to legal theory.\textsuperscript{77}

It is somewhat ironic then, that the Ashʿarī Shāfiʿīs who are most often associated with the methodological tradition of the theologians, the ones whose works are teeming with all the richness of dialectical theology, are also occasionally the ones most eager to keep theology distinct from legal theory and the law. Al-Ghazālī, for instance, criticizes the influence dialectical theology has wielded on legal theory, calling this a mistake similar to the mistake of basing jurisprudence on substantive law as the Ḥanafīs do.\textsuperscript{78} As we shall see later, al-Ghazālī’s view that the field of legal theory should be divorced from theology mirrors his view that legal theory should be divorced from substantive law. Both views follow from al-Ghazālī’s commitment to dialectical theology, which requires that the sciences which deal with pure reason and hence offer certain knowledge – such as philosophy and (possibly) dialectical theology – be distinguished from disciplines such as the law – which do not deal with abstract reason but with textual proofs, and therefore offer only probabilistic knowledge. Legal theory is a hybrid that falls somewhere in between the certainty of philosophy and the uncertainty of law. It is, as the Ashʿarī al-Qarāfī (d. 684/1285) puts it, neither amongst those sciences which consist of “mere narration” without offering any opportunity for the use of reason, nor is it a purely rational science unconcerned with scripture.\textsuperscript{79}

Al-Rāzī expresses the same point when he says that the premises of a science cannot be derived from that science itself.\textsuperscript{80} In other words, legal theory must produce the rational and certain

\textsuperscript{77} Al-Saʿātī, Nihāyah, 8-9.
\textsuperscript{78} Al-Ghazālī, al-Mustaṣfā, 1:42.
\textsuperscript{79} Al-Qarāfī, Naḥṣīs, 1:90.
\textsuperscript{80} Al-Rāzī, al-Maḥṣūl, 1:82.
principles which provide the theoretical justification for the methods by which Islamic substantive law is derived from its sources. However, legal theory itself must, in this view of things, remain distinct from the law because only then does legal theory come close enough to an abstract reason based science to rescue the law from being rendered completely probabilistic and uncertain.

**Traditionalist Legal Thought**

Ibn Khaldūn’s picture of two distinct jurisprudential methodological traditions, the juristic and the theological, becomes even more complex when we introduce traditionalism into his framework. For as we shall see, the legal theory of traditionalists such as Ibn Taymiyyah and Ibn al-Qayyim incorporates elements of both the juristic and theological traditions. On the one hand, the traditionalists reject the dissociation of legal theory from substantive law advocated by theologians such as al-Rāzī and al-Ghazālī. A good example of this traditionalist trend can be found in the *Faqīh wa al-mutafaqqih* of al-Khaṭīb al-Baghdādī, a work which not only establishes the superiority of legal knowledge and its practitioners – the jurists – over esoteric knowledge and its seekers – the mystics – but also seeks to ground jurisprudence in scriptural reports and the normative practices of the early Muslim community rather than in abstract reason, as the theologians would have it.\(^8\) Yet another example of the traditionalist drive to marry the fideism of the jurists with the intellectual rigour of the theologians comes from the traditionalist al-Samʿānī (d. 489/1086), whose staunch fideism saw him renounce his Ḥanafī school and affiliate himself with the traditionalist wing of the Shāfiʿī school. In his *Qawāṭiʿ al-adillah*, al-Samʿānī clearly attempts something of a synthesis between these two rival traditions.\(^8\)

\(^8\) al-Khaṭīb al-Baghdādī, *Ṣahīḥ*.
\(^8\) For a study of the development of the writing of traditionalist theology, see al-Ṭurayyif, *Tadwīn*.
Beyond the ranks of the traditionalists, there were other scholars who were attempting to bridge the divide between the two methodological traditions of legal theory. Muẓaffar al-Dīn Ibn al-Sāʿātī’s *Nihāyah al-wuṣūl*, we are told, combines the insights of the Ḣanafī legal theorist al-Bazdawī (d.482/1098) with those of the Ashʿarī Shāfīʿī al-Āmīdī. After Ibn Taymiyyah, a similar effort to combine the two methodological traditions was made by the Shāfīʿī Ibn al-Subkī (d. 771/1370) in his *Jamʿ al-jawāmiʿ* and also by the Ḣanafī Ibn al-Humām (d. 790/1457). Ibn Taymiyyah’s and Ibn al-Qayyim’s efforts were in this sense part of a wider transformation in Islamic legal culture, although they gave this transformation a distinctively traditionalist turn.  

What is indisputable, however, is that the traditionalist concern with orienting jurisprudence toward substantive law rather than abstract legal reasoning created common ground between the traditionalists and the jurists. At the same time, it must not be thought that the traditionalists were opposed to the influence of theology on jurisprudence. If anything, their legal theory was more theological than that of the dialectical theologians. What they did reject of course, was what they regarded as the very negative influence of dialectical theology on Islamic legal theory.  

The attempt to harmonize the distinct methodological traditions of legal theory, which as we saw was a major concern of traditionalist jurisprudence although not exclusive to them, had a special significance for traditionalists because it hearkned back to the earliest traditionalist writings on *uṣūl al-fiqh*, those of al-Shāfīʿī himself, whose juridical theology (another term bequeathed to us by George Makdisi) was to have a great influence on traditionalists such as Ibn Taymiyyah and Ibn al-Qayyim. The methodological orientation of al-Shāfīʿī’s jurisprudence, if

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84 Ibn Taymiyyah on *uṣūl* and theology: MF 20/403, 21/150, 9/23, 9/171 (where he quotes the Bishr Mattā debate)
we were to categorize it retrospectively, would fall somewhere in between that of the jurists and that of the theologians. For instance, al-Shāfiʿī’s Risālah shows far greater concern with substantive law than is normally associated with legal theorists in the theological tradition, making his methodological orientation somewhat similar to that of the jurists. At the same time, al-Shāfiʿī’s jurisprudence is – as shown by Makdisi, Lowry and others – fundamentally grounded in traditionalist theological positions on the nature of God and His speech acts – such as His address (khitāb – a way of referring to God’s speech which was disliked by later dialectical theologians) and commands.85

We can get a sense of the differences between al-Shāfiʿī’s traditionalist jurisprudence and that of later Ash‘arī Shāfiʿīs such as al-Ghazālī by comparing the introductions written by both authors to their respective works on legal theory. Despite being glossed over by most students of legal theory as formulaic praises of God, these passages actually reveal a great deal about the different ideas which inspire and ground these works. Al-Shāfiʿī begins with a resolutely traditionalist account of God’s attributes, celebrating the authority of God’s revelation and praising God for being “as He describes Himself” (recall the insistence of the dialectical theologians that scriptural descriptions of God as He describes Himself in scripture cannot be taken at face value). Incidentally, the profession of a traditionalist view of God’s attributes is also a feature of some early Mālikī works on law, such as the Risālah of Ibn Abī Zayd (d.386/996). By contrast, al-Ghazālī’s introduction to the Mustaṣfā contains absolutely no mention of God being as He describes Himself. Rather, al-Ghazālī offers praise to God for creating the intellect and


On the authenticity of al-Shāfiʿī’s works, particularly the Risālah, see El-Shamsy, Tradition, 244. For an account of the Risālah as a work on the principles of hadith rather than legal theory, see al-Baghdādi, Uṣūl, 313. For Ash‘arī attempts to read their theological movement into Shāfiʿism, see Makdisi, “Ash‘arī.”
knowledge, foreshadowing the main concerns of the Mustaṣfā, which seeks to identify rational and theoretical principles on which to construct the knowledge of legal theory.\footnote{Al-Ghazālī, al-Mustaṣfā, 1:32-33.}

Furthermore, even as he praises legal theory for being a discipline based both on revelation and reason (the creation of a distinction between these two disciplines itself being a hallmark of dialectical theology), al-Ghazālī is emphatic that it is the intellect – and not scripture – which acts as a criterion and arbiter in matters of truth. The role of scripture, according to al-Ghazālī, is to witness what the intellect has already proved.\footnote{Al-Ghazālī, al-Mustaṣfā, 1:32.} This is why, al-Ghazālī argues, dialectical theology is the most comprehensive of religious sciences, in comparison to which all other sciences (such as the law, for instance) are limited.\footnote{Al-Ghazālī, al-Mustaṣfā, 1:36.}

The differences between the dialectical theologians and the traditionalists are also sometimes brought to light by the contrast in their styles of writing about legal theory. The works of theologians such as al-Rāzī follow a tightly structured pattern dictated by the philosophical tradition in which great premium is placed on expressing axiomatic propositions which are then challenged with a variety of theoretical arguments, counter-arguments, rebuttals to counter-arguments, challenges to rebuttals and so on. By contrast the writings of traditionalists such as al-Shāfīʿī and Ibn Taymiyyah are marked by wordiness, digressions and conversational styles of argumentation, a fact remarked upon even by their own disciples and admirers.\footnote{MF 19:88; El Shamsy, Tradition, 143. For a similar discussion of the epistemological concerns of a philosopher affecting his style of argumentation, see Burton’s discussion of Jeremey Bentham; Burton, Introduction, http://ebooks.adelaide.edu.au/b/bentham/jeremy/burton/complete.html#chapter1; http://www.stephenhicks.org/2012/12/13/philosophys-longest-sentences-bentham-edition/} So whether one was a dialectical theologian attempting to burnish one’s work on legal theory with the rigor of philosophy or a traditionalist attempting to break the spell of philosophy by abandoning its
modes of argument and adopting a conversation style, the manner in which one argued for a particular view of legal theory was every bit as significant as the substance of the argument itself. Indeed, Ibn Taymiyyah attacks dialectical theologians such as al-Juwaynī not only for composing works on legal theory which are insufficiently grounded in prophetic traditions but also for composing and arranging these works on after the fashion of the philosophers and Mu’tazilites, in a way “which has no sanction from God.”

Over the next three chapters, we shall examine in greater detail how the traditionalists and their opponents relied on their distinct understandings of God’s nature to create very distinct accounts of God’s law. It is worth making clear at this stage that although this book does make an argument about the development of traditionalist and dialectical theology and legal theory, it also lets the protagonists of these camps speak for themselves, to present their understanding of what their theological opponents were saying, even where this understanding was condemned by their opponents for being deliberately or unwittingly misleading.

The organization of the chapters is quite straightforward. Each of them deals with one particular attribute of God, starting with speech, proceeding to rationality (commonly signified by the term ḥikmah or wisdom) and ending with love. In the first chapter I explain how Ashʿarī theological understandings of God’s speech as eternal, indivisible and formless lead Ashʿarī scholars to argue that there was almost no relationship between language and meaning. I then explore the response of the traditionalists to these theological ideas and to the jurisprudential views to which they gave rise. The second chapter explores controversies over the role of reason in divine law. It presents the views of theologians who argued that unlike rational sciences such

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90 Ibn Taymiyyah, al-Tis’iyyah, 3:900, 922-923. See also al-Qaraḍāwī, “Tarjamah.”
91 Ibn Taymiyyah, al-Tis’iyyah, 3:938. For Ibn Taymiyyah’s account of the influence of Hellenic learning on Islamic civilization, Ibn Taymiyyah, Bayān, 2:338.
as philosophy, the law was an inherently uncertain and speculative discipline. This view of God’s law was reinforced by a set of theological ideas which ruled out the possibility of ratiocination in divine law and held that God could not possibly issue commands in accordance with a set of reasons or to fulfill a set of purposes. I show that these theological disputes had a huge impact on the way the theologians and traditionalists thought about techniques of legal reasoning such as *qiyaṣ* and about the role of legal formalism. The final chapter explores theological debates on the reality of God’s love, which was formally denied by the dialectical theologians and fervently affirmed by the traditionalists. Once again, I show that rival accounts of God’s love produced very different accounts of legal theory. I examine in particular the debate over whether God’s law serves the highest good and welfare (*maṣlaḥah*) of man, and show that with their different understandings of God’s love, the dialectical theologians and traditionalists produce very different accounts of *maṣlaḥah*. In the epilogue, I present a brief snapshot of some of the loci of dynamism in contemporary debates on Islamic legal theory, showing how they continue to be animated by classical discussions on theology. Throughout this book, I use the terms legal theory and jurisprudence interchangeably to refer to *uṣūl al-fiqh*, while the term *fiqh* itself is denoted by the ‘substantive law’ or ‘trivial law.’
Chapter I. Word of God

Oh that I knew how all thy lights combine,
And the configurations of their glorie!
Seeing not only how each verse doth shine,
But all the constellations of the storie.

George Herbert – The Holy Scriptures II

On a Sunday morning in October 742, the Umayyad prince Khālid al-Qasrī (d. 126/743) ascended the pulpit of the central mosque in the Iraqi city of Wāsiṭ and delivered a sermon to mark the Muslim festival of ‘Īd. After exhorting the faithful to abide by the custom of sacrificing an animal on the occasion as a mark of their gratitude to God, the prince announced that he would be offering a special ‘sacrifice’ in the form of the renowned heretic Jaʿd b. Dirham (d. 742/124). True to his word, the chroniclers tell us, al-Qasrī immediately proceeded to cut off Jaʿd’s head. Al-Qaṣrī was hardly the only Umayyad potentate to display a penchant for petty violence. The account of his brutality, and his own brutal end, are commonplace in Umayyad history. What makes the execution of Jaʿd significant is its significance for the Muslim community’s understanding of its boundaries. There were, we are told, two charges of heresy against Jaʿd which lead to his grisly end. The first was his denial of God’s attribute of love – Jaʿd denied that God actually took Abraham as a friend, as stated in the Qurʾān (Q. al-Nisāʾ, 4:125). The second was his denial of the belief that God spoke to Moses directly (Q. al-Nisāʾ, 4:164). According to

92 Ibn Taymiyyah, al-Baʿalbakiyyah, 146; Majmūʿah al-rasāʾil, 1: 376; MF 12:269.
Jaʿd, God could not have actually spoken to Moses because God does not possess the attribute of speech.

This chapter explores the way Muslim theological ideas about the nature of divine speech influenced Islamic legal thought. The chapter accordingly starts with a brief survey of the theological positions of the main actors: the Muʿtazilites, Ashʿarites and traditionalists, explaining how they understood the concept of divine speech and why. The chapter then moves on to a discussion of the way these theological ideas affected the development of basic legal concepts such as commands, performative utterances and even the role of the Qurʾān as a text that legally abrogated older religions such as Christianity and Judaism. Particular attention is paid here to the way in which the Ashʿarī theological understanding of God’s speech as eternal, formless and indivisible lead Ashʿarī scholars to argue that there was almost no relationship between the language and text of scripture and its real meaning. The chapter traces the progression of Ashʿarī thought on the subject until its most emphatic expression in the writings of al-Rāzī and the response this evoked amongst the traditionalists. The final chapter surveys the conflict between the dialectical theologians and the traditionalists over the legitimacy of metaphorical interpretations of scriptural language, showing the theological and legal significance of this controversy.
I. The Word of God in Theology

And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the word of God. Then deliver him to his place of safety. Q. al-Tawbah, 9:6.

‘When God decrees some order in heaven, the angels flutter their wings altogether, and His speech has a voice which sounds like chains being dragged on rocks.’ Ḥadīth.93

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Few Muslims, if any, would deny that the Qurʾān is God’s word – the proposition is after all explicitly affirmed in the Qurʾānic verse cited above. Yet there is huge disagreement between Muslims about what the word of God actually is. The great theologian and philosopher al-Rāzī, ‘The Pride of the Faith,’ points to this confusion about the meaning of divine speech, saying:

‘The congregation of Muslims is united on the propriety of holding that God speaks. However, their agreement extends only to the word [‘speaks’] itself. Regarding the meaning of this, they do not agree.’94

Divine Speech in Dialectical Theology

The notion of God’s speech was one of the most controversial topics discussed in Islamic theology. It has even been suggested that the reason Islamic dialectical theology was termed kalām (literally, speech) was because its practitioners were excessively prone to fractious debates on the nature of divine speech.95 Here, we shall limit ourselves to surveying the theories of the Muʿtazilites and Ashʿarites, which were the main theories challenged by Ibn Taymiyyah and Ibn al-Qayyim.

93 Ibn Qudāmah, Taḥrīm.
95 Ibn Khaldūn, al-Muqaddimah, 429; Ramaḍān, Uṣūl, 216. See also Treiger, s.v. “Origins.”
For the Muʿtazilah, the divine word is a creation of God and not a manifestation of God’s eternal attribute of speech. Actual speech in the form of words, letters and sounds could not subsist in God, the Muʿtazilah insisted. In fact, they went further, arguing that if He spoke, God would no longer be God. The Muʿtazilite ʿAbd al-Jabbār (d. 415/1025) explains that if one ascribes a voice and the movements required to produce it to God, the cosmological proof for God’s existence collapses entirely. For a speaking God is Himself subject to accidents and temporality and can no longer be said to be the necessary prime mover who is not subject to movement. The expression ‘God’s speech’ (kalām Allāh) thus refers in Muʿtazilite thought to the speech created by God inside another created object: an intelligent being such as an angel – a non-rational object such as a tree – even an insubstantial entity such as the air. Not only can any created object serve as a repository of God’s speech in the Muʿtazilite view, it is also the case that divine speech must come from such created objects since God Himself cannot speak.

The Ashʿarīs, by contrast, affirm God’s attribute of speech and hold that the uncreated word of God subsists within Him. Most Ashʿarī creedal works are so insistent on this as a central article of faith, and so vehement in their denunciation of the Muʿtazilite doctrine of divine speech, that one might be forgiven for thinking that the Ashʿarīs subscribe to the traditionalist position on divine speech. They do not. In reality, the Muʿtazilah and the Ashʿarīs are in complete agreement with each other – and jointly opposed to the traditionalists – in maintaining that it is impossible for the Almighty to speak with ‘letters and sounds’ (ḥarf wa al-ṣawt). Rather, they argue, sounds

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97 ʿAbd al-Jabbār, al-Mughnī, 7:63, 85; al-Mawṣili, Mukhtasar, 4:1306–1309. See also Wolfson, Philosophy; Lane, Kalām.
and voices are themselves a temporal creation of God. The word of God cannot be comprised of letters or sounds, says the Ashʿarite al-Bāqillānī, as this would necessitate that God have limbs and organs:

‘The letters of the alphabet produced by [moving] the lips are not like those produced by the tongue, while the letters produced by the throat are different from both of these. If the Exalted One was dependent in His speech upon letters, He would also be dependent on the organs which produce them – while He is elevated above all such things. How High and Exalted is He above what they associate with Him!’

Ashʿarī theologians also echo the argument of their Muʿtazilite forebears: accepting the possibility of linguistic speech inhering in God necessarily undermines the cosmological proof for His existence. One proves the existence of God, they argue, by demonstrating how everything that is temporally created is dependent for its existence on the uncaused cause – God. For this proof to work, God Himself must not be a body subject to temporal accidents, such as speech consisting of sequential letters. Al-Rāzī explains that the speech of God is eternal while the letters of the Qurʾān are necessarily spoken in time, one after another. Hence these letters and words cannot be the word of God, for God must be free of all things created in time. Moreover, if God spoke with the actual letters and words employed by man, the letters themselves would have to be eternal, as was God’s speech itself. Indeed this is one of the reasons we sometimes

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102 Al-Bāqillānī, al-Insāf, 94, 98, 115.
105 Al-Bāqillānī, al-Insāf, 95.
encounters discussions in theological and jurisprudential works on whether ‘alif,’ the first letter of the alphabet, is eternal.

The Ashʿarī dilemma, then, was this: how does one reconcile the doctrinal belief that God possesses the attribute of speech with the rejection of the very possibility of speech (in the form of letters and words) issuing from God? The solution lay, of course, in advancing a concept of speech that had nothing to do with letters and words and everything to do with meaning: an inner speech. This is precisely what Ashʿarism did in arguing that the actual speech of God was an inner speech (kalām nafi). This speech was – and the legal significance of these three qualifiers cannot be overemphasized – formless, eternal and indivisible. As an eternal, self-subsisting divine attribute, divine speech was an inner meaning (maʿnā) that was identical to God’s will and knowledge but utterly different in nature from the letters and sounds which made up the Qurʾān.

The term maʿnā had been used by early Muʿtazilites such as al-Nazẓām to refer to the soul as the factor that causes the actuality of the body. In Ashʿarī thought, the divine maʿnā became the actuality of divine speech, the real meaning which was then clothed in the letters and words that formed its ‘body’, the Qurʾān. In the works of early Ashʿarīs such as al-Baqillānī and al-Juwaynī, the term ‘speech’ always refers primarily to the inner meaning and not to its expression in the form of words. In fact, some Ashʿarīs insist that language and words are not

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108 Elkaisy-Friemuth, God 53; Key, Linguistic, 5.
called speech except by way of metaphor,\textsuperscript{110} while others grant that the word ‘speech’ is a homonym which signifies both the inner meaning and its linguistic expression.\textsuperscript{111} Figures such as al-Ashʿarī, whose opinions had been hallowed and sanctified by time and tradition, were associated with both views.\textsuperscript{112}

\textbf{Divine Speech in Traditionalist Thought}

The difference between the position of the traditionalists and the Ashʿarīs is summed up in an anecdote concerning the renowned traditionalist al-Muwaffaq Ibn Qudāmah (d. 620/1223), who once encountered the venerable and aged Ashʿarite Ibn ʿAsākir (d. 571/1175), almost forty years his senior, but insouciantly offered no words of greeting to him. When the offended Ibn ʿAsākir demanded to know why Ibn Qudāmah had not greeted him, Ibn Qudāmah responded that as someone who subscribed to the doctrine of inner speech, Ibn ʿAsākir should be content with the knowledge that Ibn Qudāmah had in fact greeted him with his inner speech.\textsuperscript{113}

Ibn Taymiyyah’s opposition to the Ashʿarī doctrine of divine speech is a running theme in his works, and the subject of some of his major works, such as the \textit{Risālah al-Baʿalbakiyyah} and \textit{al-Tisʿīnīyyah}. The latter is probably the single most substantial attack on the Ashʿarī theory of divine speech in Sunni Islam. Composed of some 90 arguments of unequal length, the whole work was reportedly written by Ibn Taymiyyah over the course of a single afternoon in the year 706, in response to the demands of Ashʿarī inquisitors who demanded that Ibn Taymiyyah clarify

\textsuperscript{110} Al-Juwaynī, \textit{al-Talkhīs}, 1:240. See, however, al-Juwaynī, \textit{al-Irshād}, 108 where al-Juwaynī, while alluding to this Ashʿarī opinion, says that the preferred opinion is that language is considered speech in a real sense. See also al-Zarkashi, \textit{Salāsil}, 178.


\textsuperscript{113} See al-Mardāwī, al-Lālīʾ, 112, where the editor remarks that this episode is wrongly attributed to Ibn Taymiyyah.
his beliefs regarding the speech of God.\textsuperscript{114} The main themes of Ibn Taymiyyah’s critique of Ash‘arī theological ideas revolves around two traditionalist principles: the lack of support for Ash‘arī theological doctrines amongst the salaf and their opposition to sound reason.

The traditionalists, as we stated in the prologue, insist that in doctrinal matters one ought not to innovate but to emulate the earliest Muslims in accepting the straightforward meaning of scriptural descriptions of God. Committed to the position that the understanding of the salaf is normative, Ibn Taymiyyah condemns the Ash‘arī theory of speech for failing to conform to the understanding of speech held by the earliest generations of Muslims. According to Ibn Taymiyyah, the salaf and the early grammarians insisted that speech consists of letters and sounds and thus understood the Qur‘ān as a particular set of words which also signified a particular meaning.\textsuperscript{115} Dialectical theologians such as Ibn Kullāb were, Ibn Taymiyyah says, the first ones to violate this consensus by holding that the expression ‘speech of God’ was simply meant to negate muteness from God.\textsuperscript{116}

It is also because of their insistence on the interpretive authority of the salaf that the traditionalists find so abhorrent Ash‘arī attempts to find support for the concept of inner speech in the work of Arabic poets such as the libertarian Christian al-Akhtal, “The Loquacious” (d. 92/710). The latter had composed a verse that spoke of speech residing in the heart, with the tongue being a mere indicant of what the heart said.\textsuperscript{117} Even the Ash‘arī al-Rāzī, however, had acknowledged that proving the concept of inner speech by reference to such poetic precedents

\textsuperscript{114} Ibn Taymiyyah, \textit{al-Tis‘īniyyah}, 1:110-113.
\textsuperscript{116} MF 6:179; al-Sijzī, Risālah; Dar‘, 2:18; MF 7:88-89.
was problematic, for one could question whether the verse in question constituted a proper linguistic precedent and even if it did, the verse allowed for more than one interpretation.\textsuperscript{118} The traditionalists, for their part, utterly reject the idea of referring to the poetry of a non-Muslim to overturn the doctrine of the spoken Qurʾān that had been held by the salaf. In a didactic poem that sets out his creed, Ibn Taymiyyah says,

‘How repulsive is the one who throws the Qurʾān behind his back

And when seeking to prove himself, says, ‘so said al-Akḥṭal?’\textsuperscript{119}"

For as Ibn al-Qayyim pointed out, the fact that al-Akḥṭal was himself a Christian made it likely that his poetry would be tainted with heretical ideas about the word of God. It would thus be improper to base Muslim theological doctrines on the works of such a poet, even if their attribution to him could be proved.\textsuperscript{120} For the traditionalists, let us recall, when it comes to determining the interpretation of a religious term, the relevant interpretive community is the first Muslims in whose language the Qurʾān was revealed and who saw it being enacted by the Prophet himself, a privilege not bestowed on anyone after them.\textsuperscript{121} To paraphrase Ebrahim Moosa, the traditionalists regard semiotics is inseparable from theology.\textsuperscript{122}

We also recall from the prologue that the traditionalists believe in the harmony of reason and revelation. A proposition clearly established in revealed scripture cannot, in the traditionalist view, be in opposition to reason since sound revelation and sound reason both come from the

\textsuperscript{118} Al-Rāzī, \textit{al-Maḥṣūl}, 2:28
\textsuperscript{121} Ibn Taymiyyah, \textit{Jawāb al-ʾīṭirāḍāt}, 10, 15, 17.
\textsuperscript{122} Moosa, \textit{Ghazali}, 152.
same source – God. The proposition that God speaks is, in the traditionalist view, precisely such a proposition, which is why any attempt to demonstrate its unreasonableness will itself be unreasonable. In the traditionalist, for instance, it is unreasonable to deny the reality of God’s attributes traditionalists because anyone who does so actually ends up denying the very existence of an actual, real God. It is a mistake, the traditionalists insist, to think that a being without real attributes can still actually exist. Mere ‘existence’ without attributes is a concept one can conceive of, but not one that has any reality outside the mind. Actual existence requires real attributes. Therefore, if the terms ‘God’ and ‘Lord’ are to refer to something real, they cannot refer to a being without attributes, as such a being cannot exist except as an abstract mental concept (in the same way that one speaks of the existence of any non-existent, abstract concept i.e. ‘blackness’ without real attributes). The term ‘God’ must, the traditionalists insist, refer to a being who possesses real attributes and – because He is God – the most perfect ones.\footnote{Ibn al-Qayyim, Madārrij, 2:496-497. Ibn Taymiyyah accuses al-Rāzī of defining God in such a way as to render Him a mental object with no existence outside the mind. See Ibn Taymiyyah, Bayān talbīs al-jahmiyyah, 1:225.}

It is, first and foremost, the philosophers whom the traditionalists accuse of furnishing a cosmology which requires that the dynamic and active God who reveals Himself in scripture be displaced by a being whose existence is a rational necessity but who lacks any dynamic attributes such as speech and love. The theologians in turn, accept this philosophical cosmology, although they do not subscribe to many of the substantive positions on divine speech upheld by the philosophers. For instance, the theologians do not share the ideas of philosophers such as al-Fārābī (d.339) and Ibn Sīnā who argue that divine speech refers to a series of meanings emanating from the tenth intellect or the active intellect.\footnote{For al-Fārābī’s cosmology and the place of the heavenly bodies in it, see al-Fārābī, Ārā’, 69. Ibn Taymiyyah, Minhāj, 2:359; idem. Jāmi‘ al-rasā’il, 1:162-163, 169-170. See also Ibn Taymiyyah, al-Ba‘albikīyyah, 218-219; Ibn Abī al-Ṭizz, Sharḥ, 168; MF 12:27, 90; al-Ṣafadiyyah 1:201; al-Mawṣili, Mukhtaṣar, 4:1304-1305.} The theologians also disagree with
the philosophers who suggest that since divine speech is a series of emanated meanings rather than actual speech, prophecy is something that man can acquire through the exercise of his intellect, intuition and imagination and that it is precisely by exercising these two faculties that a prophet perceives the meanings emanating from the active intellect, which he then casts into words suitable for his audience.\textsuperscript{125}

In opposition to the philosopher and theologians then, the traditionalists insist that the Qur\'ān, as both word and meaning, is the actual speech of God.\textsuperscript{126} Speech, the traditionalists explain, is a collection or arrangement of sounds and letters in accordance with the intent of the speaker and not merely the inner meaning (\textit{ma\’nā}) existing in the speaker's mind – as claimed by the Ash\’arīs.\textsuperscript{127} Inner speech, the traditionalists claim, is not speech at all and neither reason nor revelation provide any basis for referring to it as such.\textsuperscript{128} Ibn Taymiyyah therefore rejects the attempts of Ash\’arī theologians to explain the distinction between divine expression and meaning by classifying the Qur\’ān as a rendering (\textit{‘ibārah}) or narration (\textit{ḥikāyah}) of divine speech while being distinct from the latter – distinctions that were also rejected by some dialectical


theologians who feared that they suggested too great an identity between words and speech, which were, for them, two distinct phenomenon).\textsuperscript{129}

While some traditionalists, such as Ibn Abī Yaʿlā, simply affirm God’s eternal speech without distinguishing between different acts of speech,\textsuperscript{130} by the time of Ibn Taymiyyah and his circle of traditionalists we commonly see a distinction being made between the species (nawr) of speech, which is eternal, and the actual vocal articulation (ṣawt) of speech, which is not.\textsuperscript{131} For Ibn Taymiyyah then, God’s speech is uncreated but it does not have to be eternal and indivisible, as the Ashʿarīs claim.\textsuperscript{132} Rather, Ibn Taymiyyah insists, God speaks but He may also choose to be silent.\textsuperscript{133} Those who deny God’s voluntary speech, the traditionalists argue, make him a static God who is very different from the dynamic and active God who reveals Himself in scripture.\textsuperscript{134}

For Ibn Taymiyyah, Ibn al-Qayyim and a host of other Ḥanbalīs then, there is a major difference between their understanding of the doctrinal formula that the Qurʾān is ‘the word of God’ and that of the Ashʿarīs. According to the traditionalists, the Ashʿarīs regard the ‘word of God’ and ‘the Qurʾān’ as two distinct realities. What the Ashʿarīs mean by the ‘word of God,’ the traditionalists explain, is an eternal, indivisible meaning that subsists in God, which cannot be bound by finite and created letters and words. It follows, the traditionalists continue, that the Ashʿarīs regard ‘the Qurʾān,’ which is the book which has been collected ‘between the two


\textsuperscript{130} Abū Yaʿlā, \textit{al-Ḍiqqād}, 25.

\textsuperscript{131} Ibn al-Najjār, \textit{Sharḥ}, 2:103; Ibn Abī al-‘Izz, \textit{Sharḥ}, 169; zl-Sarramarri, \textit{al-Ḥamiyyah}, 74. This is also the very point for which Ibn Taymiyyah is attacked by al-Subkī, see al-Subkī, \textit{al-Durrah}, 6.

\textsuperscript{132} Ibn Taymiyyah, \textit{al-Baʿalbakīyyah}, 176, 179; Dar\textsuperscript{2} 2:18; MF 5:341; see also al-Ashʿarī, \textit{Maqālāt}, 2:257.


\textsuperscript{134} Ibn al-Qayyim, \textit{al-Ṣawāʾiq}, 1:235.
covers’ which is revered and recited by Muslims as something distinct from the ‘word of God.’

Regarding the actual Qurʾān then, the Ashʿarī position is identical to that of the Muʿtazilites as both sects agree that the Qurʾān, in the form in which it exists on earth, cannot be anything other than created. This is not, it must be said, mere traditionalist schiamanchy. Rather, a number of dialectical theologians openly proclaim the position which the traditionalists attribute to them. ‘What was revealed to the heart [of the Prophet] was the meaning, not the word’ says al-Taftāzānī. Al-Jurjānī (d. 471/1078), the renowned Ashʿarī theorist, summarizes the opinion of the cream of Ashʿarī scholars as he acknowledges the commonality between the Muʿtazilite and Ashʿarite positions:

‘Know, that what the Muʿtazilites say regarding the speech of God – that the sounds and letters are created to indicate the required meaning, and that they are temporally created outside of God’s self – this is what we too confess and there is no dispute between them and us on this point.’

Al-Rāzī, too, proclaims:

‘God speaking in the sense affirmed by the Muʿtazilites is something we (i.e. the Ashʿarīs) also affirm and profess. We do not deny this at all.’

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137 al-Taftāzānī, Sharḥ, 4:155.
138 Al-Jurjānī, Sharḥ, 8:108; al-Juwaynī, al-Irshād, 116-117; al-Ĭjī, al-Mawāqif, 294 (“as for what the Muʿtazilah say that the sounds and letters are created and contingent, we too say this and there is no dispute between them and us on this matter.”).
139 Al-Rāzī, al-ʿArbaʿīn, 1: 249.
II. The Word of God in Law

Cromwell: So silence can, according to the circumstances, speak... this silence betokened – nay this silence was – not silence at all, but most eloquent denial.

More: (...) Not so, Mr. Secretary, the maxim is ‘qui tacet consentire’. The maxim of the law is: ‘Silence Gives Consent’. If, therefore, you wish to construe what my silence ‘betokened’, you must construe that I consented, not that I denied.

Cromwell: Is that what the world in fact construes from it? Do you pretend that is what you wish the world to construe from it?

More: The world must construe according to its wits. This Court must construe according to the law.

- Robert Bolt, A Man for All Seasons, Act 2

There is, says al-Ghazālī, a difference between the way one interprets literature and law. The words of poets may be interpreted in ways other than those intended by their authors. The words of God, however, must be reverenced and not interpreted to suit the tastes of individuals.\(^\text{140}\) However, as al-Ghazālī was only too aware, the central problem of interpretation for Muslim theologians and jurists such as himself was how to properly accord due reverence to the word of God. One the one hand, al-Ghazālī the theologian was committed to the view that certain passages of scripture – such as those which spoke of God’s attributes of speech, wisdom and love – must be interpreted metaphorically and not according to their apparent meaning. In such cases al-Ghazālī argued, literal interpretation would go against what God really wanted people to understand from such passages. On the other hand, al-Ghazālī the jurist was a fierce critic of those Sufis and Bāṭinīs whom he condemned for advancing unwarranted metaphorical interpretations of scriptural passages dealing with theology and law, such as the interpretation of the Qurʾān’s injunctions regarding the pilgrimage to Mecca as an allegory of mystical meditation, of the seven circumambulations of the Kaʿbah as a circumambulation of the seven

\(^\text{140}\) Whittingham, Al-Ghazālī, 4.
true imāms in one’s heart, and of prayer and charity, ṣalāḥ and zakāh, (which in Arabic carry a total of seven consonants) as loyalty to the Prophet and ʿAlī (whose names also carry a total of seven consonants).\(^{141}\)

Against those who would subject the law itself to metaphorical or allegorical interpretation, al-Ghazālī championed a view of language that is remarkably similar to that of contemporary legal theorists who argue that the normative and coercive power of the law distinguishes legal language from other types of language. That is, unlike literature and poetry, which inspire the reader to bring her own meaning and perception to the text, to lose herself in the mystery and beauty of the word, the law is interested in conveying information about the legal status and consequences of a particular set of acts. Therefore, these legal theorists argue, ambiguities of language that are believed to enrich literature, such as metaphors, are actively discouraged in the law, where there are seen as shortcoming which detract from the law’s purpose of being clear and communicable.\(^{142}\) If legal texts are opened to the sort of metaphorical interpretation that is allowed or even encouraged in literature, the argument goes, the law’s claims about its own clarity, coherence and constancy are greatly diminished and one can no longer speak meaningfully of the law’s objective meaning and interpretation.\(^{143}\)

Resolving this tension, of how to regard scriptural language as both certain enough to be the basis of legal action yet ambiguous enough to warrant allegorical interpretation of passages which speak of God in anthropomorphic terms, is a recurring concern throughout the writings


\(^{142}\) Hughes, Biblical, 110; Barak, Purposive, 59.

\(^{143}\) Hurley “Ethics,” 59; Mootz, “Ontological,” 32, 63-64; Anderson, “Ancient,” 141-142. For alternative theological responses to postmodern Biblical hermeneutics, see Green, Theology; Wolsterstorff, Divine. For a discussion of the hermeneutical implication of contemporary philosophical theories, such as those of Gadamer, Habermas and Derrida, see Schmidt, Understanding. See also Dworkin, Empire.
of Ashʿarīs such as al-Ghazālī and al-Rāzī. The Ashʿarī resolution of this tension also inspires, as we shall see, some of the most resounding criticisms of Ashʿarī theology and legal theory on the part of the traditionalists.

**The Dilemma of the Word**

Al-Ghazālī’s dilemma – which was also the dilemma of every Muslim theologian and jurist – brings to light the fundamentally different ways in which theologians and jurists understood and spoke about divine speech and revelation. For the dialectical theologians, as we saw above, God’s speech and revelation is *not* a form of linguistic, interpersonal communication. On the contrary, the dialectical theologians insist that God cannot communicate with humans by speaking their language. Some scholars nourished in the tradition of dialectical theology explain that linguistic communication can only take place between those who speak the same language and are therefore at the same level of ontological existence. Therefore, these scholars maintain, the prophetic spirit actually transforms into an angelic spirit during the times of revelation. Only when one stops being entirely human can one communicate with God, according to those who subscribe to this view.¹⁴⁴ For the dialectical theologians then, scripture is akin to the last will and testament of a deceased individual. It must be deciphered without the assistance of the sort of contextual clues which abound in interpersonal speech and help to determine the latter’s meaning.¹⁴⁵

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However, the fact that most theologians were also accomplished and, not infrequently, distinguished masters of law made it all the more difficult for them to champion the non-linguistic model of revelation to the exclusion of all others. For the juristic tradition of Islam, which the theologians also inhabited, was thoroughly committed to a linguistic view of revelation.146 That jurists should adopt such a view is language is hardly surprising. For as Mavrodes shows, while it is easy to imagine propositional content being revealed without speech, it is very difficult to imagine revelation containing normative content without that content being linguistic. A bald man, for instance, may reveal he is bald by taking off his hat, thereby revealing content (i.e. his baldness) without linguistic expression. In this case, revelation takes the form of the manifestation of a fact which would otherwise be expressed by a proposition (such as a bald man saying, ‘I am bald,’). However, it is much harder to imagine normative content such as commands and the like being revealed without any linguistic resources and communication. A bald man taking off his hat only reveals his own baldness, it says nothing about what other bald men should do with their hats.147 As we shall below, dialectical theologians themselves frequently pointed to the inability of their (non-linguistic) model of revelation to accommodate within it normative categories of speech such as commands and prohibitions.

The jurists have another objection to the theological idea that God does not and cannot speak. It was, the jurists argued, in the nature of God to be a lawgiver. A view of divine speech which suggested that God did not issue legal commands (which, as explained above, have to take the form of linguistic revelation) was therefore manifestly wrong because it presented a diminished view of God’s nature. Ibn Taymiyyah is not alone in arguing in this vein against the philosophers

146 Izutsu, God, 164, 172.
147 Mavrodes, Revelation, 119.
and theologians who deny the reality of divine speech. Not only is it possible for God to have real speech, he claims, it is in fact necessary.¹⁴⁸ For to deny God’s speech is to deny His sovereignty and therefore His Godhead. God can only be called the lawgiver if He actually uttered the law, commands and prohibitions in the Qurʾān. If these commands and prohibitions are only metaphorically the word of God, Ibn Taymiyyah suggests, then God Himself is only metaphorically a sovereign God.¹⁴⁹ The great exegete al-Ṭabarī offers a similar argument. Not only is speech essential to the nature of God, His nature also determines the content of that speech. Divine speech, according to al-Ṭabarī, must be normative. It must guide God’s servants to do whatever saves them and prohibit them from everything that harms them.¹⁵⁰

The traditionalists also argue that a denial of God’s speech calls into question the prophecy of His Messenger – and thus of the law conveyed by him. Here, it is important to understand that one of the main functions of a prophet, in the Islamic view, is to convey to mankind the law which had been revealed to him by God. But if the speech of God is formless and devoid of any specific legal content such as commands and the like, then it follows that the Prophet has no actual specific law to convey from God. This is the thrust of Ibn al-Qayyim’s argument against the philosophers and Muʿtazilah who deny the reality of God’s speech. Ultimately, Ibn al-Qayyim maintains, this position must challenge the notion of prophecy because a prophet, by definition, conveys what God says. If God does not speak, then the prophet who claims to speak what he

¹⁴⁸ MF 12:189.
hears from God and to deliver His commands, His prohibitions and His law is either mistaken or a liar – and thus no prophet at all.  

Created Speech and Law

Now it could rightly be said that the dialectical theologians do in fact accept that God speaks. They merely insist that He does so by creating speech, including legal and normative speech, in other beings. Why should this view of divine speech be objectionable to the traditionalists? The traditionalist answer to this is that such a view of divine speech eliminates the distinction between God’s sovereign speech, which issues from Him, and all other speech in existence, which is also ultimately created by God. If God’s legal speech, commands and prohibitions are created, then the law has no special moral force arising from the fact that it is the command issued by a sovereign. Rather, God’s spoken commands have the same legal authority as the spoken words of His subjects. The full fears of traditionalism regarding the eventual implications of such a view are realized not within dialectical theology, however, but in the writings of Sufis such as Ibn ʿArabī. In his Futuḥāt Ibn ʿArabī neatly sums up the full implications of this line of theological reasoning when he proclaims: ‘Lo! Every speech in existence is His speech.’

151 Ibn al-Qayyim, Maḍāʾirī, 1:74. See also Ibn Taymiyyah, al-Baʾalbakiyyah, 142, 144, 184; al-Bāqillānī, al-Insāf, 92; al-Ghazālī, al-Mustaṣfa, 2:22.
152 Ibn Taymiyyah, Majmūʿah al-rasāʾīl, 1: 363.
The traditionalists are not, it must be said, alone in rejecting the Muʿtazilite view of God’s created speech for the way it diminishes the greatness of God. Al-Rāzī, for instance, criticizes the Muʿtazilite view of God’s created speech by arguing that it characterizes God with all the shortcomings of created beings.\footnote{Al-Rāzī, al-Maṭālib, 3:206; Ibn al-Amīr, al-Kāmil, 2:463.} Al-Ashʿarī and al-Bāqillānī also argue that the God’s commands do not fall within the class of created objects, pointing to the Qurʾān’s proclamation: ‘Lo! to Him belongs creation and command.’ [Q. al-Aʿrāf, 7:52,54?]. This verse indicates, these scholars argue, that God’s speech is uncreated and His command eternal. For if God’s commands were created, there would be no point in distinguishing them from the class of created objects as the verse does.\footnote{Al-Bāqillānī, al-Iṣbahānī, al-Ḥujjah, 2:198.}

The Ashʿarīs also agreed with the traditionalists in holding that the uncreatedness of the Qurʾān was inextricably linked to its legal authority. For al-Ghazālī, sovereignty belongs only to God and the Qurʾān as it is the word of One to whom obedience is necessary. Man, therefore, cannot possess sovereignty.\footnote{Al-Bāqillānī, al-Baghdādī, Uṣūl, 209.} The Ashʿarī al-Bāqillānī recounts that when the caliph ‘Alī (d. 40/661) was condemned by his critics for agreeing to an arbitration with his opponents and thereby accepting secular judgment, he defended his actions by pointing out that he had not referred to a created arbiter but an uncreated one, namely the word of God in the form of the Qurʾān.\footnote{Al-Baghdādī, Uṣūl, 209.} Likewise, it is the eternality of God’s commands that ensures that commands and prohibitions would abide forever and that there will never come a time when all legal responsibility has ended.\footnote{Al-Ghazālī, al-Mustasfā, 1:40, 157; al-Zuhayli, al-Wajīz, 24.} “The obligation of that which is commanded and the prohibition of that which is
prohibited remain until the resurrection because the speech with which God commanded and prohibited these things is, according to us, eternal,” says al-Bāqillānī.160

**Inner Speech and Law**

As we have seen, the traditionalists and jurists reject the Ash’arī model of divine speech—which insists that language-based communication can only be considered speech by way of metaphor and that verbal speech and physical gestures are merely indicants of inner speech.161 Not only do the traditionalists regard this view as incoherent, they also denounce its pernicious effects on legal theory. However, Ibn Taymiyyah also points out that the traditionalists are not alone in seeing in Ash’arī theology a threat to the very foundations of the juristic tradition. In fact, he says, a number of later Ash’arī scholars openly accept that their theological doctrines are opposed to the teachings of early legal luminaries such as al-Shāfi‘ī.162 In Ibn Taymiyyah view then, not only does the Ash’arī doctrine of inner speech violate the consensus of the salaf, who agreed that the term speech referred to verbal expressions and not an inner meaning,163 it also fails to find support amongst the community of jurists, who do not consider inner speech to be capable of having any legal effects – a point conceded by the Ash’arite al-Zarkashī who, even as he defends the doctrine of inner speech, explains that such speech is not considered effective in legal matters such as contracts, marriages and divorces.164 This, of course, creates a huge anomaly in the law. God’s inner speech is the foundation of all law but as inner speech, it is in itself legally inefficacious.

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160 Al-Baghdādī, Uṣūl, 209.
162 Ibn Taymiyyah, al-Tis‘īniyyah, 3:876, 891, 1013; idem. al-Fatwā al-ḥamawiyyah, 513; idem. Darʾ, 2:110.
163 Ibn Taymiyyah, al-Tis‘īniyyah, 2:690
164 MF 7:88; 12:40; idem. al-Imān, 134; Ibn Qudāmah, Hikāyah, 32; Ibn Abī al-‘Izz, Sharḥ, 185; al-Zarkashī, al-Bahr, 2:65; al-Asnawī, al-Tamhīd, 136, 139.
The Ashʿarī assertion that speech is primarily or exclusively an inner meaning also buttresses what the traditionalists regard as yet another heretical Ashʿarī doctrine, namely that one can be a believer on account of the faith in one’s heart without verbally uttering the declaration of faith and without conformity to God’s law.¹⁶⁵ For the Ashʿarīs, both faith and speech reside primarily in the heart. Physical acts and verbal expressions (which are, of course, a type of physical act) are reflections of the core realities of faith and speech respectively, both of which exist within. Bodily acts then, are only metaphorically considered a part of faith,¹⁶⁶ just as the spoken word is only metaphorically considered speech. For the traditionalists, by contrast, speech, like faith, consists both of what is in the heart and what is uttered by the tongue or performed by the body. Temporal acts are therefore an integral and not metaphorical part of faith in the traditionalist view,¹⁶⁷ just as verbal expressions are an integral, and not metaphorical, part of speech. The position of the Ashʿarīs on this matter, says Ibn Taymiyyah, makes them the closest of all sects to the heretical Murji‘ah, who completely divorce faith from acts.¹⁶⁸ Abū Ya‘lā also criticizes the position of the Ashʿarīs on faith, which he says reduces faith to mere inner affirmation, with acts and obedience to the law being relegated to a secondary status.¹⁶⁹ The traditionalist al-Khallāl (d. 311/923) says that the most perversive opinion held by (some) Murji‘ah is that mere affirmation of the heart or even of the tongue, without further acts, can be considered faith.¹⁷⁰

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¹⁶⁵ al-Bāqillānī, al-tamhīd, 346; al-Baghdādī, Uṣūl, 247-249.
¹⁶⁷ Abū Ya‘lā, al-ʾĪtīqād, 23; Ibn Baṭṭah, al-Ibānāh, 192; Ibn Sallām, al-Īmān, 59; al-Īsmāʿīlī, ʾĪtīqād, 43 (knowledge, speech and action); al-Muzani, Sharḥ, 81; Ibn Abī Shaybah, al-Īmān, 50; Ibn Mandah, al-Īmān, 1:305; al-Ḥumaydī, Uṣūl, 37-38; al-Baghdādī, Uṣūl, 249 (position is ascribed to the ʾaṣḥāb al-ḥadīth); Āl Muḥirah, Dalālāt, 87-114; Ibn Taymiyyah, al-Furqān, 37; idem. al-Īmān al-ʿawṣat, 54, 56; Ibn al-Qayyim, Miṭāḥ, 2:223; al-Īṣbahānī, al-Ḥujjah, 1:403.
¹⁶⁹ Abū Ya‘lā, Masāʾil, 158-159.
¹⁷⁰ See also al-Khallāl, al-Sunnah, 3:570-571.
The recognition of the unsettling effect of the doctrine of inner speech on legal theory might explain the efforts of some Ashʿarīs to downplay the legal significance of the doctrine. Al-Rāzī goes as far as to say that inner speech has nothing to do with legal theory as the latter is concerned only with divine speech which has distinct sounds – the Qurʾān. However, al-Rāzī’s foremost commentator, al-Qarāfī, is forced to concede that since the words of the Qurʾān which are the concern of the jurist and legal theorist are themselves assigned to give effect to God’s inner speech, ultimately one could not argue that the nature and content of this speech was irrelevant to the legal theorist. Al-Juwaynī advances a similar argument in his Burhān, arguing that determining the import of particular grammatical forms used in the Qurʾān and establishing a proper theory of commands is dependent on first establishing the correct doctrine of self subsisting inner speech. It is to a discussion of these specific forms and how their understanding is shaped by theology that we now turn.

From Formlessness to Form

The Ashʿarīs as we saw, believe not only that the speech of God subsists within him but also that it is formless, eternal and indivisible. The Qurʾān, meanwhile is regarded by the Ashʿarīs as a metaphorical verbal rendering of God’s inner speech. Immediately, these doctrines raise a number of jurisprudential challenges.

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173 Al-Juwaynī, al-Burhān, 1:199, 203. The will in a command is the factor accompanying the word: al-Juwaynī, al-Burhān, 2:211. Al-Ashʿarī opposed the doctrine of there being a verbal form for a command, see al-Juwaynī, al-Burhān, 1:212-213. Al-Juwaynī also explains that al-Ashʿarī’s position has been poorly understood. See al-Juwaynī, al-Burhān, 1:213-214.
174 al-ʾIsbahānī, al-Ḥujjah, 2:189, 192. The doctrine is rejected in Ibn Qudāmah, al-ʾIrshād, 181, where the author insists the Qurʾān, as God’s word, consists of parts and divisions. See also Ibn al-Ḥanbalī, al-Risālah, 2:460; Abū Yaʿlā, al-ʾUddah, 1:104.
First, if God’s speech is formless, eternal and indivisible, it cannot be divided into distinct legal categories such as commands and prohibitions. However, the existence of these categories is essential to the vision of the law articulated by the jurists and, for that matter, the dialectical theologians themselves.\(^\text{175}\) Once again, this was a point made not only by the traditionalists but also by Mu‘tazilites such as ‘Abd al-Jabbār. God’s speech must be created, the latter argues, because we can identify particular discrete parts within it, such as commands and prohibitions, which we could not have done if it were eternal, as claimed by the Ash’arīs.\(^\text{176}\)

Secondly, and much more obviously, the Ash’arī doctrine that the Arabic Qur’ān is not God’s word creates an interpretive gap between the words and meanings of the Qur’ān, diminishing, if not eliminating, the possibility of using the rules of language to decipher God’s word.\(^\text{177}\) For in Ash’arī thought, let us remember, the words of the Qur’ān no longer carry its meaning, they merely indicate the existence of a hidden, inner meaning of an altogether separate ontological order which subsists in God. For Ash’arīs such as al-Bāqillānī, al-Juwaynī and al-Ghazālī, words themselves are not speech at all, but merely indicants which remain fundamentally different from real speech, which is an inner meaning.\(^\text{178}\) The text of the Qur’ān is therefore something conceptually distinct from its meaning. This divorce between word and meaning suggests that the vaunted juristic activity of locating divine meaning in the words of the Qur’ān is naively misguided – if not altogether cynically self-serving.

Let us address the first of these challenges, namely how a formless, eternal and indivisible word can be divided into distinct categories. In their attempts to respond to this challenge, Ash’arī
theologians presented divine speech as something of a paradox. The word of God, they said, was a single, indivisible meaning which nevertheless contained distinct categories such as commands, prohibitions, declarations, promises, threats and questions.\(^{179}\) ‘The word of God is one and indivisible, and despite being one, it is command, prohibition and declaration’ says al-Rāzī.\(^{180}\) Al-Ghazālī, too, states that the word of God, while being single and indivisible, is actually divisible into five categories which encompass all meaning, just like God’s knowledge, despite being single, encompasses everything. Al-Ghazālī does concede, however, that understanding this is difficult even for the trained theologian, let alone the jurist who is unschooled in theology.\(^{181}\) A similar solution to the problem was actually advanced by the Māturīdīs, although they only divided speech into three categories (declarations, questions and ʿtalb) and not four or five, as the Ashʿarīs did.\(^{182}\) However, both groups of theologians agreed that despite its divisibility into various categories, divine speech constituted a single, indivisible entity.\(^{183}\)

This position was further expounded upon by explaining that the various categories of God’s word were only attributes acquired by the word as it acquired a relational quality with its addressee.\(^{184}\) Al-Juwaynī explains that the eternal speech, despite its indivisibility, is at once a

\(^{179}\) There is considerable disagreement about the precise categories and their exact number, as is clear from considering the Mustasfa alone. Al-Ghazālī, al-Mustasfa, 1:191 offers five categories (declarations, questions, commands, prohibitions, warnings). Compare this with al-Ghazālī, al-Mustasfa, 1:151 (four categories, excluding declarations from the fivefold schema) and al-Ghazālī, al-Mustasfa, 2:61 where a different set of four categories are offered, (commands, prohibitions, declarations and questions). See also al-Ghazālī, al-Liqṭiṣād, 113; al-Baghdādi, Uṣūl, 106, 107; al-Zarkashi, Salāsil, 181; al-Dabūsī, Taqwīm, 34.


\(^{181}\) al-Ghazālī, al-Mustasfa, 1:191.

\(^{182}\) Al-Samarqandi, Mīzān, 1:226.


command, a prohibition and a declaration. It acquires new relations with these features but does not itself undergo any change.\textsuperscript{185} Al-Ghazālī follows his teacher’s explanation. Divine speech, he says, is single and indivisible in itself but becomes a command, declaration and so on in relation to different objects.\textsuperscript{186} Al-Qarāfī states that the self subsisting word of God is a single word in which His command is exactly identical to His prohibition and declaration. It is the external objects to which this word applies that differ.\textsuperscript{187}

By extension, the Ashʿarīs maintained that just as the various verbal forms of the Qurʾān constituted one indivisible divine meaning (\textit{ma’nā}), so too must all the divinely revealed books, the Qurʾān, the Torah and the Gospels, constitute different renderings of a single, eternal, indivisible meaning.\textsuperscript{188} This meaning, when deciphered in Arabic, became the Qurʾān, and when deciphered in Hebrew and Syriac, became the Torah and Gospel of Jesus, respectively.\textsuperscript{189} One does not need a great deal of imagination to foresee how a traditionalist or a jurist might respond to such a theological doctrine which challenged Islam’s claim to abrogate all previous revelations by God, including those revealed to Moses and Jesus.

\textbf{Traditionalist Response: Eternal Speech and Abrogation}

The traditionalists were not alone in pointing out that Ashʿarī thought on divine speech overturned settled jurisprudential doctrines. In fact, a long and venerable line of Ashʿarī theologians before Ibn Taymiyyah had alluded to the contradictions between the Ashʿarī theory


\textsuperscript{186} Al-Ghazālī, \textit{al-Muṣtafa}, 1:218-219.

\textsuperscript{187} Al-Qarāfī, \textit{Naṣīḥ}, 4:1490. See also al-Bāqillānī, \textit{Burḥān}, 1:318.

\textsuperscript{188} Al-Bāqillānī, \textit{al-Inṣāf}, 97-98.

of divine speech and jurisprudential doctrines such as abrogation (*naskh*). All four schools of Sunnī law subscribed to the view that divine speech abrogated itself in at least two ways. First, some parts of the Qurʾān abrogated others. More fundamentally for the Islamic legal tradition, the Qurʾān as a whole was held to abrogate all previous scriptures revealed by God. But as al-Ghazālī points out, it is not easy to fathom how a single, indivisible speech of the sort that Ashʿarīs attribute to God can abrogate parts of itself, nor how this speech can be divided into commands and prohibitions.\(^{190}\) Al-Rāzī makes the same point, arguing that it was impossible to rationally reconcile the Ashʿarī doctrine of eternal speech with jurisprudential theories allowing abrogation in divine speech, for that which can be abrogated cannot be eternal.\(^{191}\) Al-Rāzī invites his readers to consider the example of an act whose legal status changes as a result of divine abrogation. Such a view of abrogation cannot logically be reconciled with the Ashʿarī doctrine of the indivisible word, al-Rāzī says. For the doctrine of indivisible speech requires that an act that was commanded and subsequently prohibited by way of abrogation be regarded as commanded and prohibited at the same time, since the same indivisible and eternal speech bestows both legal rulings on it.\(^{192}\)

Traditionalists such as Ibn Qudāmah and Ibn Taymiyyah also point to what is for them perhaps the most abhorrent jurisprudential conclusion to flow out of the Ashʿarī doctrine of divine speech. If God’s word is indivisible, as the Ashʿarī theologians claim, then there is nothing to distinguish the commands and prohibitions uttered by God in the Torah from those uttered by God in the Qurʾān. Both are renderings of the same indivisible word of God.\(^{193}\) Such a view, the traditionalists argue, not only fails to explain the real, practical differences between the legal

\(^{190}\) al-Ghazālī, *al-Mustaṣfā*, 1:191, 218


\(^{193}\) Ibn Qudāmah, *Ḥikāyah*, 20.
content of the Torah, the Bible and the Qurʾān, it also diminishes the status of the Qurʾān, which is supposed to abrogate all prior divine injunctions.\footnote{Ibn Taymiyyah, al-Tisʿīnīyyah, 2:434; idem. Darʾ, 2:91; idem. Minhāj, 5:417-418; Ibn al-Qayyim, al-Šawāqīq, 1:338.}

**The Categorization of Indivisible Speech**

Even over the question of the divisibility of divine speech into distinct forms such as commands and questions, the traditionalists were not alone in finding Ashʿarī theology to be unsound. The Ashʿarī theologian al-Āmidī reviews the efforts of Ashʿarī scholars to explain how an indivisible word can contain as many as five distinct attributes – and finds them all unsatisfactory. The self-effacing al-Āmidī confesses that he himself is unable to offer better solutions than those which have already been offered and found wanting and concludes his discussion with the pious hope that someone else might be able to offer a better resolution of the problems associated with the doctrine.\footnote{Al-Āmidī, Abkār, 1:400.}

Outside Ashʿarī circles, scholars did not always feel the need to express such optimism about the ability of Ashʿarism to reconcile its theology with its legal theory. In typically hyperbolic form, the fierce Ibn Ḥazm calls the Ashʿarī doctrine of the indivisible word of God a ‘stupid opinion’ which can neither be understood nor proved through revelation. ‘How can these dimwits say that God has naught but one speech?’ he asks, when all Muslims agree that the Qurʾān, which is the word of God, consists of 114 chapters and some six thousand verses, each chapter and verse being distinct from all others.\footnote{Ibn Ḥazm, Faṣl, 5:80.}

Ibn Taymiyyah and Ibn al-Qayyim are also agreed that it is simply nonsensical to claim that the word of God is a single, indivisible word which is at the same time divisible into five different categories. Merely conceptualizing this opinion, says Ibn Taymiyyah, yields necessary


\footnote{Al-Āmidī, Abkār, 1:400.}

\footnote{Ibn Ḥazm, Faṣl, 5:80.}

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knowledge of its nullity.\textsuperscript{197} There are, Ibn Taymiyyah continues, such fundamental differences between declarative (\textit{khabar}) and performative (\textit{inshā’}) legal expressions in the Qur’an that it is simply implausible to suggest that both can be contained at once in a single word.\textsuperscript{198} By contrast, a number of Ash’arīs argued that all legal statements were declarative, even if they subsequently acquire performative status by way of metaphorical usage, an argument rejected by Ibn al-Qayyim.\textsuperscript{199}

\textbf{Attacking the Declarative Theory}

Ibn Taymiyyah also utilizes the distinction between declarative and performative utterances to attack the Ash’arī doctrine that divine speech was entirely declarative and contained no other categories of speech – a doctrine to which we shall refer as the declarative theory.\textsuperscript{200} This theory was an attempt by Ash’arī scholars to explain how a single, indivisible word could contain a variety of speech forms. The Ash’arīs tended to split into two main camps on the issue. As we stated earlier, al-Ash’arī (in at least one of his views) and al-Ghazālī held that God’s speech, single and indivisible as it is, can be divided into a number of distinct categories of speech. Other dialectical theologians, such as Ibn Kullāb, held that divine speech was not divisible into categories and that the speech of God in eternity was neither a command, nor a prohibition nor a declaration.\textsuperscript{201} Both solutions were deemed unattractive by al-Bāqillānī and al-Rāzī, who

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\textsuperscript{200} Ibn Taymiyyah, \textit{al-Tis’inīyyah,} 1:608; al-Rāzī, \textit{al-Arba‘īn,} 1:252; idem. \textit{Muhāṣṣal,} 185. See also al-Baghdādī, \textit{Uṣūl al-dīn,} 208, 215 for a categorization of speech into two or three categories (commands, prohibitions and declarations).

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proposed that divine speech be reduced to the most basic category of speech: declarations.\textsuperscript{202} In the declarative theory, all divine speech, including commands and prohibitions, is regarded as a declaration. For a command, the explanation goes, does not arise through God’s will or God’s statements about the specific legal status of things. Rather, a command arises through God’s declaration that the one who does not obey the command will be punished.\textsuperscript{203} Al-Qarāfī explains that God’s speech is ultimately declarative, because God is knowledgeable and every knowledgeable being necessarily declares something of His knowledge when he speaks. By contrast, other speech forms such as commands and prohibitions are not necessary in speech.\textsuperscript{204} Al-Rāzī’s remarks help us to understand the appeal of the declarative theory to Ashʿarism:

‘In a word, the speech of God is all declarative. For a command is a way of declaring that if someone were to do something, he would be entitled to praise and if he were to abandon it, he would deserve blame. The same applies to the prohibition...Since all of this leads to one thing - and that is the declaration - our [Ashʿarī] doctrine that the speech of God is single and indivisible is shown to be correct.’\textsuperscript{205}

Ibn Taymiyyah, as we have seen, rejects this declarative theory on the grounds that it ignores the very real categorical differences between declarative and performative speech acts, which are not only distinct in themselves but also give rise to different responses amongst those who hear them.\textsuperscript{206} Ibn Taymiyyah also makes a provocative attack on the theory: if distinct entities

\textsuperscript{202} Al-Rāzī, al-Maḥšūl, 2:257-258; idem. Maʿālim, 68; idem. al-Khamsūn, 55; al-Rāzī, Muḥāṣṣal, 185; Ibn al-Amīr, al-Kāmil, 2:462 attributes this opinion to Abū Ishāq al-Isfārāʾīnī.

\textsuperscript{203} Al-Bāqīllānī, al-Taqīfūb, 1:280, 2:31; al-Rāzī, al-Maḥšūl, 2:257; al-Armāwī, al-Taḥṣīl, 1:329 (commands are declarations of punishments for the abandonmet of the command); al-Hindī, Nihāyah, 3:1131; al-Āmidī, Muntahā, 99.

\textsuperscript{204} Al-Qarāfī, Nafāʾīṣ, 4:1618.

\textsuperscript{205} Al-Rāzī, al-Arbūʿīn, 1:252; idem. Muḥāṣṣal, 185.

\textsuperscript{206} Ibn Taymiyyah, al-Tisʿīniyyah, 2:636; 1:608.
such as the various forms of speech can all be collapsed into one, what is to stop all the apparent attributes of God from being reduced to one?\textsuperscript{207}

\textsuperscript{207} Ibn Taymiyyah, \textit{al-Ba‘albakiyyah}, 159.
III. Divine Speech and Command

The protracted debates over the nature of the command and its relationship with divine speech reveal the centrality of the command in classical Muslim conceptions of the law. This vision of the law brings to mind the positivist school of jurisprudence in the European legal tradition. According to Jeremy Bentham, one of the leading figures associated with the positivist tradition, any attempt to define legal notions such as rights by reference to nature rather than the actual commands of the law only produced ‘nonsense upon stilts.’ The English legal philosopher John Austin – a disciple of Bentham – coined the following definition of law, which was widely cited in positivist circles:

‘[e]very law or rule ... is a command. Or, rather, laws or rules, properly so called, are a species of commands.’ (Emphasis in original).

A command, in turn, was defined by Austin as a signification of desire which was marked not by reference to the style in which it is signified but by the fact that 'the party to whom it is directed is liable to evil from the other, in case he comply not with the desire.'

We can get a greater appreciation of the centrality of the command in Islamic legal theory by considering the large number of jurists who, regardless of their theological or legal affiliations, begin their jurisprudential works with a discussion of the command. In works as diverse as the Tabṣirah of the Ashʿarī-Shāfiʿī al-Shīrāzī, the Uṣūl, Kanz and Mughnī of the Ḥanafī authors al-Sarakhsī, al-Bazdawī, and al-Khabbāzī, respectively and the Musawwadah of the Taymiyyah

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208 Austin, Province, 5-6.
209 Austin, Province, 7. For a critique of Austin, see Hart, Concept. Ch.2 and Ch. 4.
210 Al-Shīrāzī, al-Ṭabṣirah, 17.
211 al-Bazdawī, Kanz, 19 (where the author also says it has a specific verbal form); al-Khabbāzī, al-Mughnī, 27.
family, we see that the command and its theological significance is discussed before the authors turn to the usual subjects treated in jurisprudential works.

**The Command in Ashʿarism**

Although the Ashʿarī legal theorists agreed with the jurists in holding the command to be the basis of the law there was, as we shall see, a fundamental disagreement between the two sides over the linguistic signification of the command. In order to appreciate the extent to which Ashʿarī theology, to say nothing of Ashʿarī legal theory, was shaped by the notion of the command, let us consider the way in which later Ashʿarī theologians prove the existence of the divine attribute of speech. It is well known that early Ashʿarīs such as al-Juwaynī argued for the existence of a total of seven divine attributes, including speech, whose existence could, according to them, be proved by reason. In al-Juwaynī’s case one proved the existence of divine speech by arguing that God’s freedom from imperfection necessitated that He possess the attribute of speech. By the time of al-Rāzī and his commentators, a proof of this sort was no longer deemed credible. For the latter set of theologians, the existence of divine speech could only be proved by revelation, not by reason. This view is championed in the creed of scholars influenced by al-Rāzī, such as al-Ījī and al-Iṣbahānī (d. 688/1289), a renowned commentator on al-Rāzī’s works, whose creed was the subject of a critical commentary by Ibn Taymiyyah. Ibn

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213 Ibn Taymiyyah, *al-Risālah al-madaniyyah*, 36. An exception to this trend amongst Ashʿarīs is al-Bāqillānī, *al-Tamhīd*, who affirms a significantly greater number of essential attributes. See also al-Baghdādī, *Uṣūl*, 90; al-Rāzī, *al-Maṭālib*, 3:221 has eight essential attributes, the eighth being everlastingness.
216 Al-Ījī, *al-Mawāqif*, 293.
Taymiyyah condemns al-Iṣbahānī for following al-Rāzī in limiting the proof of God’s attribute of speech to scripture alone, to the exclusion of reason. Al-Rāzī’s influence on al-Iṣbahānī can be seen in the latter’s discussion on God’s attribute of speech, a divine attribute for which al-Iṣbahānī does not offer any rational proof, as he does for divine attributes such as will and power. Rather, al-Iṣbahānī says: ‘The proof that God speaks is that He is one who commands and prohibits’ as affirmed by that fact that He sends Messengers to convey His commands and prohibitions. Outside of these commands, al-Iṣbahānī concludes, ‘His [i.e. God’s] speaking has no meaning.’ This reminds us once of the point we made in the prologue: theology and jurisprudence exercise a mutual influence on each other.

The Ashʿarīs also have another reason for seeing the speech of God as being crucial to the existence of legal commands. As we shall see in the next chapter, the Ashʿarīs regard God’s command, conveyed through his address (khiṭāb), to be the only source of legal and moral norms. Good and evil, according to the Ashʿarīs, are not qualities that inhere in actions and substances. Rather, they are attributes that are acquired by objects as a result of God’s address. The targets of Ashʿarī theology here were primarily the Muʿtazilah, to whom is ascribed the position that not only good and evil but also the lawful and the illicit can all be known through reason. Ashʿarism was thus more committed than Muʿtazilism to the notion that the divine command was the sole basis of all law.

But the Ashʿarī theory of divine speech, which saw commands as the central feature of this speech, also raised difficult questions about how commands could exist in God’s speech, some of which, such as the nature of an abrogated command, we have already discussed above. The

217 Ibn Taymiyyah, Sharḥ al-Iṣbahāniyyah, 397, 409.
218 Ibn Taymiyyah, Sharḥ al-Iṣbahāniyyah, 397, al-Rāzī, Khamsūn, 53.
conundrums thrown up Ashʿarī teachings on divine commands was, however, far greater still. How could an eternal and indivisible speech create particular states (such as permissibility and prohibition) for acts which were themselves temporally created? To whom were God’s eternal commands addressed in pre-eternity when there were no objects in existence to command? Could a command addressed to a non-existent subject even be considered a command? These were merely some of the profound jurisprudential problems raised by the Ashʿarī theological doctrine that the speech of God, which was the locus of the command, was eternal, formless and indivisible.\(^{219}\) Al-Armawī, one of the major commentators on the works of al-Rāzī and the teacher of one of Ibn Taymiyyah’s fiercest critics, Ṣafī al-Dīn al-Hindī, raises these and a host of other insightful questions about the Ashʿarī doctrine of divine speech. How, he asks, can an eternal address produce rulings that are chronologically varied and bestow attributes on objects that are themselves temporally created?\(^{220}\) Does this not contradict the Ashʿarī doctrine that God’s eternal address cannot be affected by temporally created causes?\(^{221}\)

The absence of an addressee to whom divine speech could be addressed in pre-eternity was a particularly challenging problem, one which prompted a number of Ashʿarī scholars including al-Bāqillānī, al-Ghazālī and perhaps even al-Ashʿarī himself to conclude that the word of God could not be called an address or communication (khīṭāb).\(^{222}\) This once again made Ashʿarī theology diverge considerably from the views of the jurists who, as we saw, regarded God’s speech as a form of interpersonal communication. Alternatively, some Ashʿarīs argued that legal

\(^{219}\) Al-Qarāfī, Nafāʾīs, 3:1157.  
\(^{221}\) Al-Armawī, al-Tahṣīl, 1:170, 177, 328, 330.  
injunctions such as commands and prohibitions were contained within the inner speech of God and that it was possible for this inner speech to be directed towards non-existent objects. Al-Ghazālī’s attempts to present these intra-theological differences as an exercise in logomachy are dismissed by the Ashʿarī legal theorist al-Zarkashī, who points out that this debate actually revolves around a substantive difference of views on the ‘great matter’ of God’s inner speech.223

The contrary position, denying the possibility of speech addressed to non-existent objects, was associated with the Muʿtazilah and some Ḥanafis,224 although it was not limited to their circles. In fact, no less a figure than al-Rāzī objects to the Ashʿarī doctrine on the grounds that it is impossible to have legal obligations in the absence of a legal subject.225 Al-Qarāfī alerts us to the theological significance of al-Rāzī’s objection when he exclaims that the master’s lapse on this point was a result of his failure to see that the position he espoused was that of the Muʿtazilah and those who deny the Ashʿarī doctrine of inner speech.226

Some defenders of the Ashʿarī doctrine attempted to resolve the dilemma of an eternal command being addressed to temporally created objects by suggesting that God could have a voluntary desire (talb) to command in pre-eternity before there was anything in existence to command. When the creation of God came into existence, it was argued, it then became subject to these commands.227 An example from everyday human life was used to explain this how this might happen. A father, it was argued, could have a will and command in relation to an unborn

223 Al-Zarkashī, Salāsīl, 153, 155; al-Qarāfī, Naḥāfīs, 3:1157.
225 Al-Rāzī, al-Maḥṣūl, 2:255.
226 Al-Qarāfī, Naḥāfīs, 7:3310.
son. Once born, the son would be subject to the will and command of the father.228 In other words, the command only became effective when its object came into existence.229 A similar solution was offered to the problem of how some rulings could precede others chronologically given that they all originate in eternal speech in which there can be no precedence in time. The eternal ruling, explains al-Qarāfī, is related to conditions such as the coming into existence of its object, the sending of Messengers, and revelation, all of which occur in time. It is thus not the rulings themselves that precede each other but their operative conditions.230

Notwithstanding the efforts by Ashʿarī theorists to make their doctrine more jurist-friendly, the critics of Ashʿarism continued to insist that the issuance of commands to non-existent addressees would make God akin to a master who issues orders in an empty house in which there is nobody to obey his commands. Such futile activity could not, these critics insisted, be attributed to a wise God.231 In response, Ashʿarī scholars suggested that those who advanced such arguments had not properly understood the nature of divine speech. It is true, the Ashʿarīs conceded, that issuing verbal commands in an empty house would be a futile activity. However, inner speech and contemplation are actually best performed in solitude. God’s eternal command is such an instance of inner speech, akin to contemplation, best carried out in solitude without the presence (or even the existence) of legal subjects.232 God’s eternal commands can also be compared, the Ashʿarīs suggested, to His eternal speech wherein He praises Himself eternally, or to His eternal knowledge by which He knows everything. If God’s praising Himself when there was nothing else in existence but He and God’s knowing all things before they existed do not

229 Al-ʿArūsī, al-Masāʾil, 150.
230 Al-Qarāfī, Nafāʾīs, 8:3519.
232 Al-Qarāfī, Nafāʾīs, 4:1616. See also al-Juwaynī, al-Irshād, 105 (God’s speech is a thought which reverberates throughout eternity, which is then indicated by language).
cause any conceptual problems, neither should the fact that His eternal commands are addressed to non-existent subjects.\footnote{Al-Qarāfī, Nafāʾīs, 4:1615-1616. On al-Rāzī’s denial of God’s knowledge of particulars see al-Rāzī, al-Masā’il, 476, 482-485 and al-Rāzī, al-Maṭālib, 3:157 where the author seems to support this position, ascribing it to the later theologians.}

**The Imperative in Ashʿarism**

The most significant difference between the jurists and the Ashʿarīs is brought out in their discussions on the linguistic form (ṣīḥah) of the command. For although the Ashʿarīs stood with the jurists in regarding the command as the foundation of the law, they openly disagreed with them over the linguistic signification of the command. For most jurists, the command is straightforwardly, though not exclusively, signified by the imperative mood, the grammatical form which most often expresses a command or request (in the form ‘do x’, ‘speak!’ ‘stand’ etc.). The juristic draws support from Arabic usage, in which the same term amr is used to signify both a command and the imperative mood. Also with the jurists on this point are the Muʿtazilah, for whom God’s justice demands that He use clear language to express His will. We see an argument of this sort which marries the reasoning of the jurists and Muʿtazilites in the writings of the Ḥanafi jurist al-Sarakhsi (d. 490/1097), author of a multi-volume work of Ḥanafi law which he reportedly dictated to his students while imprisoned. According to al-Sarakhsī, the command, being so central to the law and to the religion itself, must be communicated by a special expression, the imperative. All other linguistic forms conveying the meaning of a command must, al-Sarakhsī reasons, be regarded as metaphorical.\footnote{Al-Sarakhsī, Uṣūl, 12.}

For the Ashʿarīs however, commands cannot be contained in particular grammatical forms such as imperatives. Rather, commands arise in the inner speech of God which is formless, eternal...
and indivisible, containing neither distinct grammatical forms such as imperatives, nor distinct categories of speech such as commands and prohibitions.\textsuperscript{235} In Ashʿarī thought, therefore, a command has nothing to do with an imperative. Commands and prohibitions, explains the Ashʿarī al-Asnawī, are attributes of God’s speech and not categories within it, in the same way that a substance (jawhar) is single in itself yet possesses attributes and accidents such as direction.\textsuperscript{236}

Despite its centrality to the law then, the command remains in Ashʿarism a fundamentally ambiguous term, in that it cannot be known by a particular linguistic form employed in the Qurʾān.\textsuperscript{237} Rather, the Ashʿarīs insist, the real command is an uncreated inner meaning subsisting in the mind of the speaker – God.\textsuperscript{238} The verbal expression of the command, by contrast, can assume a variety of forms, of which the imperative is only one. This is why, the Ashʿarīs claim, a command remains a command even when the verbal form used to express it has changed.\textsuperscript{239} Al-Juwaynī explains the difference between the inner and outer command by offering the example of a master issuing a command to his servant. Behind the spoken command there necessarily exists an inner will that the servant obey the command. This, according to al-Juwaynī, is the real locus of the command.\textsuperscript{240}

\textsuperscript{235} Al-Rāzī, Maʿālim, 66; Al-Qarāfī, Ṣafāʾīs, 3:1117, 1154, 1157; al-Asnawī, Nihāyah, 1:299; al-Ashʿarī, Maqālāt, 2:258 (Ibn Kullāb reported as saying that God was speaking in eternity before His word could be called a command and before a cause which made His word into a command, prohibition or declaration. Therefore God cannot be described as eternally declaring or prohibiting). See also al-Sarakhūnī, Uṣūl, 11; al-Āmidī, al-Iḥkām, 2:171.

\textsuperscript{236} Al-Asnawī, Nihāyah, 1:309; Al-Ashʿarī, Maqālāt, 2:258.

\textsuperscript{237} Al-Ghazālī, al-Mustaṣfā, 2:61; al-Qarāfī, Ṣafāʾīs, 3:1157; al-Hindi, Nihāyah, 3:801; al-Āmidī, Muntahā, 98; al-Badakhshi, Minhāj al-ʿuqūl, 2:6-7; al-Asnawī, Nihāyah, 2:227; al-Sarakhūnī, Uṣūl, 12.

\textsuperscript{238} Al-Bāqillānī, al-Taqrīb, 2:10; al-Ashʿarī, ā, 2:174; al-Taftazānī, Sharḥ, 4:149; al-Hindi, Nihāyah, 3:801.


\textsuperscript{240} Al-Juwaynī, al-Īrshād, 105.
Al-Rāzi explains that commands are to be identified by ṭalb – a concept so notoriously slippery that one can only marvel at al-Rāzi’s dexterity in refusing to define it on the grounds that it is too well known as a matter of necessity to require a definition.\(^{241}\) It would appear that ṭalb refers to God’s desire to bring the object of the command into existence.\(^{242}\) A speaker who commands someone to give him a drink recognizes within himself, before he issues the command, a ṭalb or desire for this action to occur. This desire or ṭalb does not itself change, although the words used to express it can and do.\(^{243}\) For the Ashʿarīs, a particular verbal form by itself is neither a ṭalb nor, as has been demonstrated previously, a command.\(^{244}\) Rather, a particular grammatical form only indicates the existence of ṭalb.\(^{245}\) It is the ṭalb that creates distinctions in God’s otherwise indivisible speech and gives rise to legal categories such as commands and prohibitions. For when the indivisible speech is accompanied by a ṭalb of performance, it becomes a command and when accompanied by a ṭalb of non-performance, a prohibition. In this way, the concept of ṭalb reinforces the Ashʿarī distinction between words and meaning.

In support of their view that the command is not associated with a particular verbal form, the Ashʿarīs marshal a number of arguments. The most commonly cited of these rely on linguistic conventions which show that the imperative form can be used to convey both commands and supplications, as when someone addresses God in prayer and says, “God! Help me!” It is thus impossible to argue, the Ashʿarīs triumphanty proclaim, that the imperative form by itself signifies a command, for man cannot be said to command God when he uses an expression such as “help me.”\(^{246}\) The dialectical theologian al-Baghdādī considers the juristic view that an

\(^{241}\) Al-Rāzi, al-Maḥṣūl, 2:18.
\(^{242}\) Al-Rāzi, al-Maḥṣūl, 2:19; al-Arba‘īn, 1:244.
\(^{243}\) Al-Rāzi, al-Arba‘īn, 1:244.
\(^{244}\) Al-Rāzi, al-Arba‘īn, 1:244-245, 250; al-Rāzi, al-Maṭālīb, 3:201.
\(^{245}\) Al-Rāzi, al-Maḥṣūl, 2:18.
\(^{246}\) On supplication as the converse of revelation as a mode of communication, see Izutsu, God, 158.
imperative issued by one whom the addressee is obliged to obey as a matter of obligation signifies a command. But he regards this view as unsatisfactory, arguing that linguistic precedents and conventions prove that the imperative can be used in eight different senses.\(^{247}\) As if to demonstrate the utter futility of relying on linguistic evidence to arrive at meaning, al-Rāzi and his commentators go further, pointing out that the imperative has as many as 15 distinct functions. It can signify an obligation, a recommendation, mere permissibility or a warning. Ultimately, they argue, one can form only a probable belief about which of these senses is meant. The only justifiable inference one can draw from an imperative, then, is that the law prefers the performance of an act over its non-performance (although al-Rāzi offers no satisfactory explanation for why even this inference is justified).\(^{248}\) Al-Ghazālī lists 16 distinct functions of the imperative, but agrees that in the absence of contextual evidence, all an imperative can convey is that the performance of an act is preferable to its non-performance.\(^{249}\) Al-Qarāfī, in his commentary on al-Rāzi’s uses of the imperative, adds more meanings to the function of the imperative, for a total of 18.\(^{250}\) The later Ash‘ārī ibn al-Subkī trumps his predecessors by producing a grand total of 27 functions of the imperative form.\(^{251}\) Alongside the hyperinflation in the number of meanings conveyed by the imperative, Ash‘ārī skepticism regarding the ability of linguistic evidence to yield certainty was also manifested in other ways. One of these was the expanding number of ways (from as few as 14 to as many as 31) in which Ash‘ārī theorists allowed apparently unambiguous speech to be deemed metaphorical.\(^{252}\)

\(^{247}\) Al-Baghdādī, Uṣūl, 215-216.


\(^{249}\) Al-Ghazālī, al-Mustaṣfū, 2:66-67.

\(^{250}\) Al-Qarāfī, Nafā‘īs, 3:1185; al-Hindī, Niḥāyah, 3:851.

\(^{251}\) Ibn al-Subkī, Jam‘, 40-41.

\(^{252}\) Al-Mardūwī, al-Taḥbīr, 1:394.
On the strength of their theological commitment to the view that there was no inherent relationship between language and meaning, many Ashʿarīs called for jurists to suspend judgment on the meaning of the imperative form and whether or not it signified a command, at least until one could come with extraneous proof one way or the other. Besides mystics such as Ibn ʿArabī, this position was associated above all with the great Ashʿarī theorist al-Bāqillānī, as well as al-Ghazālī and al-Ashʿarī himself, although the disdain of the jurists for this view made some disciples of al-Ashʿarī to go to great lengths to absolve their master of ever having held it.

The Ashʿarī view on the command not having a specific verbal form is criticized not just by the theological opponents of the school but also by a number of Shāfiʿī jurists who sought to distance themselves from a view so fundamentally at odds with the prevailing consensus of the juristic community. For these Shāfiʿī scholars and theologians the imperative form itself constitutes a command. This is also the view of Shāfiʿī traditionalists such as al-Khaṭīb al-Baghdādī and al-Samʿānī, who criticize the Ashʿarī doctrine on the grounds that it was not held by the salaf. Al-Samʿānī, for instance, alleges that no scholar before al-Ashʿarī and his followers ever held that the command has no specific verbal form. He makes a point of distinguishing the Ashʿarī doctrine from the one held by ‘our companions’ i.e. the Shāfiʿīs.

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253 Ibn ʿArabī, al-Futūḥāt, 1:350.
255 Al-Ghazālī, al-Mustaṣfā, 2:63, 70.
256 Al-Baghdādī, Uṣūl, 215
258 Abū Yaʿlā, al-ʿUddah, 1:214; al-Dabūsī, Taqwīm, 36; al-Shirāzī, Sharḥ al-lumaʿ, 1:206; al-Ghazālī, al-Mankhūl, 105. See also al-Armawī, al-Taḥṣīl, 1:274, 334 where this position is attributed to most jurists and theologians (but, as we know, for very different reasons).
259 Al-Samʿānī, Qawāʿid, 1:80; al-Khaṭīb al-Baghdādī, Ṣaḥīḥ, 50.
What is perhaps more unexpected is the opposition to the Ashʿarī doctrine amongst Shāfiʿī-Ashʿarīs such as Abū Ḥāmid al-Ifṣarāʾīnī, Abū Bakr al-Ṣayrafi (d. 330/941) (a student of Ibn Surayj (d. 306/918) and the teacher of al-Qaffāl (d. 365/976), both of whom were also known for their frequent opposition to Ashʿarī legal doctrines), and al-Shīrāzī, whose complex relationship with Ashʿarism still awaits a full study. Al-Shīrāzī explicitly distinguishes the Ashʿarī opinion on the grammatical form of the command from that of al-Shāfiʿī and is singled out by al-Juwaynī as the only theologian to uphold the position of al-Shāfiʿī rather than the Ashʿarīs on the matter.

**The Ashʿarī Hermeneutical Revolution**

In the Ashʿarī position on the command and its (lack of) relationship with the imperative form we can see the realization of Ashʿarī skeptical hermeneutics. For hidden in the Ashʿarī view that the command has nothing to do with the imperative form, or any other linguistic form for that matter, is the theological conviction that language has nothing to do with meaning. Commands and prohibitions are not verbal forms, according to al-Bāqillānī. Rather, they are meanings in the inner speech or mind of God. The inherent ambiguity of the imperative mood merely exemplifies, for the Ashʿarīs, the futility of resolving legal questions by reference to the

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264 Al-Bāqillānī, *al-Taqrīb*, 2:10; al-Ashʿarī, *Maqālāt*, 2:174; al-Taftāzānī, *Sharḥ*, 4:149 (the meaning of a command which subsists in the speaker who wishes to issue a command does not depend on expressions). See also al-Hindi, *Nihāyah*, 3:801 (some say the verbal forms are only metaphorically called a command, which actually resides in inner speech); al-Āmīdī, *Muntahā*, 98 (both the verbal form and the inner speech are properly called commands).
linguistic form of scripture. Therefore, when the Ashʿarī al-Bāqillānī insists that the jurists are wrong in equating particular verbal expressions (such as imperatives) with particular meanings (such as commands), he is really making a larger argument about the dangers of positing a necessary relationship between words and meaning.

We see this even more clearly in the works of the next generation of Ashʿarī scholars following al-Bāqillānī, such as al-Juwaynī, who seek to shift the focus of legal hermeneutics away from the text of scripture. According to al-Juwaynī, in order to establish that behind a particular verbal form, such as the imperative, there lies a particular meaning, such as prohibition, one needs independent, non-linguistic proof, since the linguistic data available i.e. the imperative itself, is insufficient to convey this meaning. The textual evidence of scripture, by the very fact of its being linguistic, obscures rather than illuminates the real meaning of scripture.

The legal consequences of the Ashʿarī doctrine, some of which are brought to light by al-Qarāfī, are nothing short of revolutionary. A verbal form only conveys commands and prohibitions by way of necessary implication (iltizām). Therefore, legal norms do not come from the Qurʾān, which is a set of created sounds. Rather, they come from the eternal speech of God subsisting in Him and from His eternal will that His speech be taken to signify particular legal categories. The textual evidence of scripture thus becomes merely the beginning, rather than the ultimate end, of Ashʿarī legal hermeneutics.

265 Al-Rāzī, al-Mahṣūl, 2:41; Al-Āmidi, Muntahā, 100.
266 Al-Bāqillānī, al-Taqrib, 2:10-12.
268 Al-Qarāfī, Nafāʿīs, 4:1491.
269 Al-Qarāfī, al-Nafāʿīs, 1:219-220, 368.
**Linguistic and Mystical Interpretation**

The Ashʿarī position on the inability of a particular verbal form to convey meaning by itself also suggests that, ideally, one ought to continue to search for evidence which would yield the meaning of scriptural expressions but that this search for meaning has to be conducted beyond the domain of language. This is because in the Ashʿarī view, language itself – on account of its distance from inner speech – is itself the obstacle, rather than the solution to the obstacle – of interpretation. This seed of linguistic skepticism ultimately gave rise to two separate but overlapping trends. On the one hand, it encouraged the full blown linguistic skepticism of scholars such as al-Rāzī, whose attack on language we shall consider below.

On the other hand, linguistic skepticism also fostered hermeneutical theories which posited that the real meaning of scripture lay beyond its words, in the mind and knowledge of God. Accordingly, it was often suggested that the real meaning of scripture would be disclosed not by the adoption of a particular methodology of linguistic interpretation but by gaining access to the divine essence, which is where divine speech subsisted. A variety of theories ranging from Sufi mysticism to the purposive ṭabaṭaba theories of certain legal theorists (many of whom were also Sufi masters) were thus developed to allow one to reach for this meaning behind words and language. Some of these theories of ṭabaṭabah shall be discussed in the third chapter.

At this stage, we need only observe that the insistence of the dialectical theologians that scriptural language did not itself resolve questions about the real meaning of God’s speech, which resided in God, naturally prompted an interest in disciplines such as Sufism. For in some of its varieties, Sufism offered to some – if not all – esoteric knowledge of God’s inner speech and meaning and did so independently of the reveled words of scripture. Sufism of this variety obviates the need to find meaning in scriptural language, which explains why a number of
Ashʿarīs incorporated Sufism into their legal theory. This is an approach adopted by al-Qarāfī in his defense of the Companions, whose acceptance of Islam al-Rāzī deemed less than perfect on account of the fact that it could not have been based on rational assent. Reasoned assent, al-Rāzī argues, requires knowledge of rational sciences such as arithmetic and philosophy, which the Companions did not possess. To this al-Qarāfī has two responses. The first is to show the acumen of Companions such as ʿAlī in the law of inheritance, which requires knowledge of arithmetic. The second is to demonstrate the unrivalled esoteric knowledge of the Companions, which made them immune to the sort of criticisms of their philosophical knowledge advanced by al-Rāzī. Not coincidentally, given the central place he occupies in later Sufi chains of transmission, it is ʿAlī who is presented as the master of such esoteric knowledge. According to al-Qarāfī, ʿAlī was able to foretell all the events of the battle of Ṣiffīn from considering the disjointed letters “Ḥ-M-Ṣ-Q” which open one of the chapters of the Qurʾān [Q., al-Shūrā, 42:1-2]. At this point, there is little theoretical distance separating a Sunnī dialectical theologian such as al-Qarāfī from the Ismāʿīlis who argued that terms such as prayer (ṣalāh) and charity (zakāh) actually carried a symbolic meaning that went far beyond the actual text, referring to loyalty to the Prophet and ʿAlī, based on the fact that both sets of words had a similar number of consonants. Not only is al-Qarāfī making a claim for the esoteric knowledge of ʿAlī (although a substantially different claim from the one made by the Ismāʿīlis), he also bases this claim on the principle of the real meaning of scripture lying beyond its letters and words – a meaning which cannot be retrieved by the deeper study of language itself but only by God disclosing His real meaning to someone. This line of thinking was reinforced by the Ashʿarī doctrine that the speech of God was

270 Al-Qarāfī, Nafāʾis, 9:3870-3871.
synonymous with God’s knowledge and both were indivisible. It follow then, that the Qurʾān as a whole (or perhaps even any letter of the Qurʾān?) contains within it all the knowledge of God.

On the topic of dialectical theology and Sufism which, it must be emphasized, is not out main topic of interest, it is worth noting that Ashʿarī theology also furnishes a set of ideas which were available to Ibn ʿArabī when he formulated his doctrine on the superior of saints over prophets. For Ashʿarī theology, as we saw, rules out the possibility of man hearing God’s actual speech – such speech cannot, in fact, exist according to the Ashʿarīs. Rather, the Ashʿarīs maintain, man can only intuit divine inner speech via inspiration (ilhām), which he then communicates in his own words. Ibn ʿArabī develops this principle to argue that someone who has direct access to divine thought (which is what speech is, according to the Ashʿarīs) ought to be considered superior to someone who is dependent on this divine thought being conveyed to him via an intermediary, as is the case with the prophets to whom angels convey the word of God. The saint acquires directly what is sent to the Messenger indirectly, in the form of a revealed book.272

This also explains why Ashʿarī attempts to account for the nature of divine speech frequently end with an admission that it is an inexplicable mystery – a mystery which can only be experienced in the form of mystical unveiling, not one which can be explained by means of language and reason. Asked how Moses could have heard the word of God if it did not consist of letter and sounds, al-Ghazālī responds that the question shows that one has not understood the nature of divine speech. Such a thing cannot be explained because it has no explanation.273 Rather, hearing is a form of perception (idrāk) and such things can only be explained through

272 Ibn ʿArabī, Futūḥāt: 5:81; Ibn ʿArabī, Fiqūṣ, 1:63; Ibn ʿArabī, Rasāʾīl, 76. See also Chodkiewicz, Seal; Ibn Taymiyyah, al-Baʿalbakīyyah, 169; al-Mawṣūli, al-Ṣawāʾiq, 4:1382. In al-Baghdādī, Uṣūl, 167 the belief that a saint could be higher in rank than some of the Prophets is attributed to the heretical Karrāmiyyah. For al-Ghazālī’s views on intuition, see Heath, “Reading.”

273 Al-Ghazālī, al-Iqtiṣād, 117. Compare the discussion on the same topic in al-Juwaynī, al-Īrshād, 134.
experience, just as the only way to show a person that sugar is sweet is to make him taste it.  

In instances such as this, Sufi ideas and rhetoric go a long way to resolving the conundrums thrown up by Ashʿarī theology, which explains why Ashʿarī theologians find theoretical Sufism far more indespensable than do the traditionalists, whose theology develops a different set of techniques to explain the mystery of God’s attributes.

**The Command in Muʿtazilism**

In contrast to the Ashʿarites, the Muʿtazilites held that the imperative signified a command, although some Muʿtazilites, seemingly being guided by the principle that God’s commands had to be conveyed using clear expressions, held that an imperative only conveyed some level of encouragement to perform an act and therefore ought to signify mere permissibility.

Behind the different positions of the Muʿtazilah and the Ashʿarīs on this question, there lay a different set of assumptions about the relationship between divine command and divine will. According to the Muʿtazilah, an imperative only signifies a command on account of the fact that God wills the commanded act to be performed. Arguing in terms strikingly similar to those employed almost a thousand years later by European legal positivists such as Bentham and Austin, the Muʿtazilah argue that an imperative form by itself merely conveys a will to command. An actual command only exists once an imperative is associated with a threat of evil as a consequence of non-compliance. On this point at least, the Muʿtazilah enjoyed the support of Ashʿarīs such as al-Juwaynī and al-Ghazālī, who also argued that God’s sovereignty rests on

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the fact that His commands are accompanied by threats of punishment for non-performance. Without such a threat, these Ashʿarīs argue argued, a command has no existence.278

On the relationship between divine command and divine will, however, there was no common ground between the Muʿtazilah and the Ashʿarīs. For the Ashʿarīs, as we have said, a command arose primarily from God's ṭalb. Not so for the Muʿtazilah, who held that a divine command arose from God's will. A number of sources inform us that the Muʿtazilah always require the existence of three separate wills in order to bring about a command.279 First, the author of the command has to utter an imperative and has to do so willingly. An imperative uttered by a sleeping person, for instance, cannot constitute a command. Second, there must be a will to issue the imperative to signify a command and not to signify one of the other functions of the imperative, such as a warning. Lastly, the speaker has to will the command to be understood as such by the hearer and for the latter to respond to the command with obedience.280

The Muʿtazilite insistence on the will of God being the underlying basis of the command raises another question, the answer to which divided the Muʿtazilites and Ashʿarites: does obedience to God lie in conformity to His expressed command or to His will which is the real source of the command?281 Al-Rāzī makes the answer to this jurisprudential question a cardinal point of difference between the Muʿtazilite and the Ashʿarite theological schools. According to him, the Ashʿarīs hold that obedience to God consists of obedience to His commands, while for the

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278 Al-Ghazālī, al-Mustaḍfaq, 1:157-158; al-Juwaynī, Burhān § 37, (an obligation has no meaning without a threat for non-performance). See also al-Dīb, Fiqh, 110.
279 Al-Ḥāsānī, al-Muʿtamaḏ, 1:49; al-Ghazālī, al-Mustaḍfaq, 2:64.
280 Al-ʿArūsī, al-Maṣāʿil, 121; Al-Ḥāsānī, al-Muʿtamaḏ, 1:50-55; al-Samarqandī, al-Mīzān, 1:131; Al-Baghdādī, Uṣūl, 209; al-Qarāfī, Naẓīrīs, 3:1163-1164; al-Hindi, Nihāyah, 3:840, typically careless in the attribution of opinions, attributes this to the Jubbāʾis. See also al-Ghazālī, al-Mustaḍfaq, 2:64.
281 Al-ʿArūsī, al-Maṣāʿil, 125; Ibn `Aqīl, al-Wādīh, 1:170, Abū al-Khaṭṭāb, al-Tamhīd, 1:146; Abū Yaʿlā, al-ʿUddah, 1:163 (proof: if God does what man wills, He cannot be said to obey Him); Ibn al-Najjār, Sharḥ, 1:385.
Muʿtazilah, it consists of obedience to His will.\textsuperscript{282} The Muʿtazilite position therefore suggests that a sinner who violates the law disobeys God’s will and that God Himself does not will the violations of His commands by His creation. This, of course, fits with the overall Muʿtazilite emphasis on human free will and God’s justice.

By contrast, the Ashʿarite al-Zarkashi tells us, the Ashʿarīs do not hold the existence of a command to be dependent upon the third type of will deemed necessary by the Muʿtazilah. That is, the Ashʿarīs do not require the author of a command to will that the listener understands the imperative as a command and responds to it with obedience. For according to the Ashʿarīs, if God really willed all those who heard His commands to respond to these commands with obedience, there would be no disobedience or disbelief in the world. Instead, all of God’s servants would have no choice but to obey His will and command.\textsuperscript{283} For the Ashʿarīs, human sins and disobedience to the law exist because they are willed by God.

The dispute over the relationship between divine will and divine command remains one of the fundamental points of contention between the Muʿtazilah and the Ashʿarīs. Like the English word ‘will’, the Arabic \textit{irādah} also denotes a wide range of meanings, including both the power and faculty of action and also ‘purpose’ or ‘desire’. The term itself therefore invites questions about whether or not God’s will accords with His desire. In other words, does God desire everything that He commands? As we saw above, the Muʿtazilites answered this question in the negative and the Ashʿarīs in the affirmative. Both positions, however, are vulnerable to attack. If one explains disobedience to God’s commands by saying that this obedience exists against the will of God (the Muʿtazilite solution), one is left with the problem of explaining how anything

\textsuperscript{282} Al-Rāzī, \textit{al-Maḥṣūl}, 2:16.
\textsuperscript{283} Al-Zarkashi, \textit{Salāsil}, 222-224.
can occur against the will of an all-powerful God.\textsuperscript{284} On the other hand, if one holds that disobedience to God’s law occurs because of His will (the Ashʿarī solution), one is faced with the problem of explaining how God can command and will obedience to His law while also commanding and willing the existence of disobedience to that same law.

The Ashʿarī doctrine on God’s will itself is set out in a number of theological texts, including the first widely disseminated Ashʿarī theological textbook, the \textit{Niẓāmiyyah} of al-Juwaynī. God’s will, the Ashʿarīs explain, is one of His essential attributes, like His knowledge. It is both eternal and indivisible. Moreover, nothing can come into existence without the will of God and all that exists does so because of His will.\textsuperscript{285} As a result of these doctrines regarding divine will, the Ashʿarīs (as well as some Māturīdīs\textsuperscript{286} and Ḥanbalīs\textsuperscript{287}) concluded that God’s will does not always correspond to His command. Rather, God can and does command things that He does not will.\textsuperscript{288} A number of examples were offered in support of this proposition. God commanded Abraham to sacrifice his son but did not will that such a thing should occur.\textsuperscript{289} Likewise, God commands the fulfillment of vows. However, there is a juristic consensus (which only appears to have been opposed by a handful of dialectical theologians) that there was no sin upon a person who makes the fulfillment of his vow conditional upon the will of God and then fails to fulfill it. Thus, God’s
command that vows be fulfilled is distinct from His will by which He deprives a person of the ability to fulfill a vow that he has undertaken.290

The most obvious example of the distinction between God’s command and His will proffered by the Ashʿarīs was also the one which earned them the greatest criticism from their theological opponents. The will of God, the Ashʿarīs reasoned, was both irresistible and the cause of everything that existed, including sin and disbelief which could not exist unless God willed them into existence.291 Therefore, when God commands people to believe in Him and to submit to His law, He does not have a corresponding will that they should all do so. Rather, the Ashʿarīs argue, it must be the case that God wills and desires the disbelief of some people, such as the disbelievers, even as He commands them to believe.292

The same conclusion is upheld by some Ashʿarīs on the basis of the doctrine that God cannot will or command the impossible. The argument they offer is this: God’s foreknowledge of a person’s disbelief makes it impossible for that person to become a believer. Therefore, although God commands the disbeliever to believe He does not will it, because God cannot will that which is impossible. God’s commands are thus distinct from His will.293 According to al-Rāzī, every instance of God commanding a disbeliever to believe, when the latter’s belief is made impossible

290 Al-Bāqillānī, al-Tamhīd, 255; al-ʿArūsī, al-Masāʾīl, 121; MF 8:288.
291 Al-Ashʿārī, al-Ibānah, 164; al-Bāqillānī, al-Inṣāf, 151; Al-Bāqillānī, al-Tamhīd, 338; al-Baghdādī, Uṣūl, 102-103; al-Rāzī, Maʿālim, 65-66, 94; al-Rāzī, al-Arbaʿīn, 1:245; al-Rāzī, Khamsūn, 60; al-Rāzī, Muḥaṣṣal, 202; al-Rāzī, al-Masāʾīl, 518 (God decrees sin and righteousness as well as the rewards and punishments for both); al-Samarqandi, Mīzān, 1:133; al-Āmīdī, Ghāyah, 97; al-Taftazānī, Sharḥ, 4:278; al-Ghazālī, al-Mustaṣfā, 2:69. For the Ashʿārī attempt to explain this with the theory of ḫasb, see al-Bāqillānī, al-Inṣāf, 43-44, 138. See also al-Ashʿārī, Maqālāt, 2:219.
292 Al-Ashʿārī, al-Ibānah, 163; al-Bāqillānī, al-Tamhīd, 280, 284 (God loves the disbelief of the disbelievers); al-Bāqillānī, al-Inṣāf, 43, 161-162; al-Juwaynī, al-Irshād, 239 (some Ashʿāris say God loves disbelief); al-ʿIjī, al-Mawāqīf, 322 (God wants the disbeliever to disbelieve); al-Baghdādī, Uṣūl, 104-105, 145-146 (God does will evil but it is improper to attribute this to Him). Al-Nawawī discusses the views of the Ashʿāris while himself stating that God hates sins, despite willing them, for a wisdom which is known to Him, al-Nawawī, al-Uṣūl, 23.
293 Al-Rāzī, al-Maḥṣūl, 2:19-20, 23; al-Zarkashi, Salāsil, 224.
by God’s knowledge of its impossibility, constitutes a kind of impossible obligation.\footnote{Al-Rāzī, \textit{al-Maḥṣūl}, 2:215; al-Qarāfī, \textit{Nafūṣīs}, 4:1548, al-Qarāfī, \textit{Nafūṣīs}, 4:1568.} This conclusion in turn, justifies the practice of interpreting God’s commands as declarations rather than as expressions of His will. A command, according to al-Rāzī, ought to be seen as a declaration by God that He intended to reward believers for their belief and to punish disbelievers for their disbelief, even if God Himself had willed the belief and disbelief of each group.\footnote{Al-Rāzī, \textit{al-Maḥṣūl}, 2:20; al-Bāqillānī, \textit{al-Inṣāf}, 43; al-Bāqillānī, \textit{al-Tamhīd}, 325-326; al-Bāqillānī, \textit{al-Tamhīd}, 327; al-Baghdādī, \textit{Uṣūl al-dīn}, 145.}

Lastly, the Ashʿarīs argue that God’s will is distinct from His command because God can abrogate His command before the time for its performance has commenced.\footnote{Al-Rāzī, \textit{al-Maḥṣūl}, 2:22.} If God’s will and command were identical, abrogating such a command would mean that God would be willing a particular state of affairs and its absence simultaneously. This, too, would also constitute an impossible legal obligation – whose existence was a subject of theological controversy – as we shall see in the third chapter.

**Status and Command**

We saw earlier that the one of the Ashʿarī arguments for rejecting the view that an imperative signified a command revolved around the fact that in prayer man addressed God in the imperative form (“grant me,” “forgive me,” etc.), yet it was implausible to suggest that man was commanding God. The Muʿtazilah (as well as the traditionalists) deal with this problem by advancing a theory of interpretation that takes the relative status of the speaker and addressee into account when determining what a speech act signifies. According to this theory, it is not every imperative that qualifies as a command but only those addressed from a superior to an
inferior. When used by an inferior addressing a superior, the imperative mood is not a command but an imploration. Muʿtazilites such as Abū al-Ḥusayn al-Baṣrī went further, calling for contextual clues such as gestures to be taken into account to determine what an imperative signified. The mere existence of an imperative issuing from a superior to an inferior does not, according to al-Baṣrī, signify a command. Rather, what is required is an indication of authoritativeness, such as a raised voice or a gesture that indicates that the speaker intends the imperative to be taken as a command.

Al-Rāzī finds the arguments of al-Baṣrī more compelling than those of his own school. He supports the view that a command involves seeking the commission of an act in an authoritative way (ʿalā sabīl al-istiʿlāʾ) by gestures such as the raising of one’s voice. It is thus the forceful manner in which the command is issued (istiʿlāʾ) and not the superior status of the one issuing the command (ʿuluww) which is the crucial factor in determining the existence of a command. Al-Rāzī argues that when a superior addresses an inferior with the imperative form but does so humbly, this is not considered a command. Al-Rāzī’s views go against the grain of Ashʿarī theology, which argues that contextual clues, such as gestures, cannot be used to determine the real import of a speech act such as an imperative. For the Ashʿarīs it is possible for inferiors to issue commands to their superiors, even if such
commands would never be obeyed. To confuse command with obedience is to confuse cause and effect, which are entirely separate in Ashʿarī theology.303 Al-Qarāfī, meanwhile, raises another significant objection against al-Rāzī’s views that a command is to be identified by the forceful manner in which it is expressed. Such a view, al-Qarāfī says, would result in most of God’s orders losing the status of commands. For God’s commands, al-Qarāfī points out, are often expressed in the gentlest of ways and not as the dictats of an imposing overlord.304

The Limits of the Command

The theological differences between the Muʿtazilites and Ashʿarites also produced different accounts of the limits of the command in the two schools. The Ashʿarīs, having argued that the command had no particular verbal form but arose from God’s inner speech, also tended to adopt a maximalist interpretation of verbal commands. A command to perform an act included within it, they held, a command to do everything entailed in the performance of the act – even if there was no verbal evidence for this.305 Moreover, a command to perform an act was regarded by the Ashʿarīs as identical to the prohibition of the opposite of the relevant act. A command to stand, for instance, was in itself also a prohibition against continuing to sit.306 In fact, some Ashʿarīs held that a command could not exist without at least one prohibition – the prohibition of abandoning the command.307 These maximalist interpretations of the scriptural command

303 Zysow, Economy, 115.
304 Al-Qarāfī, Naṣāʾīs, 3:1123-1124.
305 Al-Bāqillānī, Taqrīb, 2:100, 102; al-Rāzī, al-Maḥṣūl, 2:189; Ibn Taymiyyah, MF 20:89.
307 Al-Ashʿarī, Maqālāt, 2:85, 135.
follow naturally from the theological position that the command has no specific verbal form and
that its locus is the inner speech of God rather than the words of the Qurʾān.308

Al-Ghazālī however, thinks that even raising the question of whether or not God’s command is
also a prohibition of its opposite is to misunderstand the doctrine of inner speech. Such a
question can only be raised and answered by those who hold that the command has a specific
form. Those who understand the nature of God’s inner speech know that it is a single, indivisible
word that is command, prohibition, promise and threat at once. It does not have parts such that
one could ask whether a command to stand is also a prohibition on continuing to sit.309
Consequently, al-Ghazālī maintains, a command is not the prohibition of its opposite by itself,
nor by extended meaning or necessary implication.

As for the Muʿtazilah, who rejected the doctrine of inner speech, not only did they associate the
command with a particular verbal form, they also tended to adopt a restrictive reading of that
verbal form. For example, the Muʿtazilah did not accept that a command to perform an act
included within it a prohibition of its opposite.310 Not only was there no support in linguistic
convention for such an idea, they argued, it would also be unjust of God to issue a command
without clarifying exactly what it entailed.311

**The Command in Traditionalist Thought**

Ibn Taymiyyah and Ibn al-Qayyim agree with the majority of theologians and jurists who regard
the command as the foundation of the law. It might even be argued that the theology and legal

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theory of these two traditionalists accords greater centrality to the command than their Sunnī peers. This is because Ibn Taymiyyah and Ibn al-Qayyim espouse the position that the class of commands is categorically superior to the class of prohibitions, thereby disagreeing with the majority of jurists and theologians who regard prohibitions as superior to commands. We shall have more to say on this debate in the third chapter.

The Form of the Command

For Ibn Taymiyyah, who does not accept the Ashʿarī doctrine of inner speech, a command – like all other categories of divine speech – is comprised of both word and meaning.\(^{312}\) It has a specific verbal form, the imperative, which signifies it, although the imperative is not, in Ibn Taymiyyah’s, the only form capable of signifying a command.\(^{313}\) Alongside the imperative form, Ibn Taymiyyah insists, a command must also involve seeking the performance of an act with authoritativeness (istīlā’).\(^{314}\) The central error of the Ashʿarīs, according to Ibn Taymiyyah, is their insistence that the word of God is a single, eternal and indivisible meaning subsisting in God’s essence, like His attributes of knowledge, power and will. This flawed doctrine compels the Ashʿarīs to defend the indefensible and argue for the identity of speech forms that are actually distinct, such as commands, declarations and ūlāb.\(^{315}\) In a pointed attack on the Ashʿarī position on divine speech, Ibn Taymiyyah says that allowing distinct categories of speech to reside in a single word is analogous to allowing distinct entities such as man and God to reside in one person.\(^{316}\)


\(^{314}\) MF 20:68; Āl Taymiyyah, al-Musawwadah, 1:81-82, 136, 152.

\(^{315}\) Ibn Taymiyyah, al-Tisʿīniyyah, 3:830, 836.

\(^{316}\) Ibn Taymiyyah, al-Tisʿīniyyah, 3:866.
Ibn Taymiyyah also addresses the charged question of whether the imperative form signifies an obligation or whether it can also signify recommendation or mere permissibility. Ibn Taymiyyah’s position on this issue has been widely misunderstood, even by some of his most ardent traditionalist followers, who attribute to him the position that an imperative signifies a command. This misunderstanding is based on an erroneous understanding of Ibn Taymiyyah’s view that a scriptural command in the form of an imperative demands to be interpreted as an obligation.\footnote{MF 22:311; Ibn Taymiyyah, Dar’, 7:54. Āl Mughīrah, Dalālah, 1:292 is therefore mistaken when he says that Ibn Taymiyyah regards the command/imperative to mean obligation. See also on this issue Ibn al-Najjār, Sharḥ, 3:93, Abū Ya’lā, al-’Uddah, 1:214, 224, 228-229; al-Sarakhšī, Uṣūl, 1:15; al-Shīrāzī, Tabṣīrah, 26.} What makes this interpretation of Ibn Taymiyyah’s words implausible is that it stands in direct opposition to his views on language and meaning, which we shall examine in detail later in this chapter. At this stage, we only need to bear in mind that Ibn Taymiyyah argues at great length that a word by itself is incapable of signifying anything meaningful and that the meaning of expressions is determined by contextual data that include the status and identity of the speaker and his audience. Accordingly, the more plausible interpretation of Ibn Taymiyyah’s words is that although he believes an imperative is capable of signifying something other than an obligation, he believes that God’s status demands that in the absence of contrary evidence, His imperatives be regarded as obligations and not merely recommendations or indications of permissibility.\footnote{Ibn Taymiyyah, Bayān, 8:477-478.}

The Musawwadah of the Taymiyyah family, a set of notes on the reigning jurisprudential controversies of the day penned by Ibn Taymiyyah, his father and grandfather, shows that a number of Ibn Taymiyyah’s traditionalist predecessors also called for context to be taken into account in order to determine the precise import of the command.\footnote{Āl Taymiyyah, al-Musawwadah, 1:83-86, 92, 154.} Ibn al-Qayyim follows this
traditionalist theory of interpretation, calling for the meaning of terms to be determined in light of contextual clues such as the status and identity of the speaker. The salaf, he points out, understood that the scriptural expression *makrūh* (which literally means disliked) does not signify reprehensibility but prohibition, a determination made in light of the identity of the speaker, God, whose majesty dictates that one prohibits upon one’s self even those things merely disliked by God.\(^{320}\) Elsewhere, Ibn Taymiyyah explains that the basic principle regarding anything for which God has declared His disapproval is that it should be abandoned, even if it is not strictly prohibited. Similarly, those things God recommends without rendering them obligatory must, on the whole, be done rather than left undone.

For the traditionalists, divine speech, like all other types of communication, contains a wealth of clues on how a speaker’s words are to be understood. The relative status of the speaker and auditor, the speaker’s tone and his habits of speech, the situation in which the speech act occurs as well as general linguistic conventions are all contextual factors that allow us to determine the meaning of a speaker’s words. For instance, the declarative formula ‘God blessed X’, recited when mentioning the deceased, is actually not a declaration but an imploration (*talb*) asking God to bless someone. Invocations and declarations, despite the identity of their grammatical form, convey meanings that are distinct.\(^{321}\) Similarly, the imperative form generally signifies a command to do something but can, in particular contexts, also signify a prohibition or a warning.

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\(^{321}\) Ibn Taymiyyah, *al-Tisʿīniyyah*, 2:634; 3:829-830, 840-841. On the distinction between determining the intent of the author through text alone (expression theory) and determining it through sources external to the text (will theory), see Barak, *Interpretation*, 121.
Commands and Prohibitions

Let us recall that for the Ashʿarīs, commands and prohibitions are meanings contained in inner speech rather than verbal expressions, a view which, as we said, lead some Ashʿarīs to conclude that an expressed command includes within it a prohibition of its opposite while an expressed prohibition is in itself a command to perform the opposite (or at least one of the opposites) of a proscribed act. 322 This expansive view of a command, which all but ignored the linguistic form in which it was expressed, was widely condemned by the critics of Ashʿarism – such as the Muʿtazilah and the traditionalists – as well as the jurists.

For the traditionalists and others who rejected the Ashʿarī doctrine of inner speech, an imperative did not in itself signify a prohibition of its opposite. 323 A command, they argued, implied the prohibition of its opposite in meaning, not in its verbal form. 324 Figures associated with the juristic position that a command entails, but does not include, the prohibition of its opposite include the four eponyms of the schools of law 325 as well as Ashʿarī Shāfiʿīs such as al-Shīrāzī. 326 Even al-Bāqillānī was reported to have come around to this position towards the end of his career. 327 The traditionalists position is thus distinct from the two theories prevalent

323 Al-ʿArūsī, al-Masāʾil, 117; MF 10:300; Ibn al-Najjār, Sharḥ, 3:51, 54; al-Baṣrī, al-Muʿtamad, 1:102, 106; al-Rāzī, al-Mahṣūl, 2:189, 199; Abū Yaʿlā, al-ʿUddah, 2:368 (commands are a prohibition of their opposites by way of meaning). Ibn Taymiyyah says the command is not a prohibition of its opposites, see Āl Taymiyyah, al-Musawwadah, 1:99, 223; Ibn al-Qayyim, al-Fawāʾid, 179-182.
324 Ibn ʿAqīl, al-Wādiḥ, 3:161. This is explicitly stated in opposition to the Ashʿarīs and al-Bāqillānī who holds that this applies only to the speech of God which is single and indivisible and not to the speech of man. For the Ḥanbalī perspective see also Abū Yaʿlā, al-ʿUddah, 2:368; al-Ṭūfī, Sharḥ, 2:380 (by way of meaning, contra the Muʿtazilah); Ibn al-Qayyim, al-Fawāʾid, 179-182.
325 Ibn al-Najjār, Sharḥ, 3:53.
326 Al-Shīrāzī, Sharḥ, 1:216.
327 Al-Juwaynī, al-Burhān, 250.
amongst the dialectical theologians: the view of the Muʿtazilah, who insisted that scriptural terms must be given their minimum literal meaning on the grounds that God must address His servants with absolutely clear speech, and the view of the Ashʿarīs who regarded the verbal form in which speech was expressed as ambiguous and disconnected from the meaning of speech, which for them resided within the speaker.\footnote{Vishanoff, “Hermeneutics,” 464.}

Ibn Taymiyyah and Ibn al-Qayyim also accuse the dialectical theologians of misunderstanding the nature of a prohibition and what it entails, which then leads them to argue erroneously for its superiority over the command. The Ashʿarīs, they point out, believe that the real purpose and import of a prohibition is God’s desire (ṭalḥ) for the performance of its opposite. This belief, coupled with the Ashʿarī view that the grammatical forms of expressed speech do not resolve questions about the meaning of linguistic expressions,\footnote{Ibn Taymiyyah, al-Tisʿinīyyah, 3:829.} leads many Ashʿarīs to conclude that a command in itself is also a prohibition of its opposite and a prohibition in itself is a command to perform the opposite of the prohibited act. In the traditionalist view, however, the two are very distinct categories of divine speech.\footnote{MF 20:67 and 20/112-113; al-Armawī, al-Taḥṣil, 1:339; al-Ashʿarī, Maqālāt, 2:135; Ibn al-Qayyim, al-Fawāʾid, 177. MF 7:11-112; 20:68; al-Baghdādī, Uṣūl, 268.}

Expounding on the difference between commands and prohibitions, Ibn Taymiyyah and Ibn al-Qayyim assert that commands are ontologically prior to prohibitions. Prohibitions follow from, but cannot precede, commands because commands are instituted for their own sake, whereas prohibitions are instituted in order to remove factors that prevent the perfect realization and fulfillment of the command.\footnote{Ibn al-Qayyim, al-Fawāʾid, 177, 179; Ibn al-Qayyim, al-Fawāʾid, 177.} This insistence on the ontological priority of commands over prohibitions and the categorical differences between them provides the traditionalists with
another set of arguments with which to attack the Ashʿarī position allowing commands and prohibition to be read into each other. Against the Ashʿarīs, the traditionalists maintain that commands and prohibitions are linguistically and conceptually distinct – they are therefore incapable of being read into another.332 A command, Ibn al-Qayyim argues, is a prohibition of its opposite by way of rational necessity, not because of God's will (al-qāṣd al-ṭalbī) to include the latter within the former. For God does not will and desire everything that follows from a command, as is wrongly believed by the Ashʿarīs and some Sufis.333 An example would be the inevitable degree of hardship that is inescapable when performing a good deed. Ibn Taymiyyah also attempts to show the superiority of the command over the prohibition by arguing that whereas one cannot avoid the forbidden without doing what has been commanded, the reverse is not true. That is, one can obey a command without avoiding that which is prohibited.334

Having adopted the view that distinct legal categories (such as commands and prohibitions) were actually intermingled, a number of Ashʿarīs found themselves struck by the arguments of the Muʿtazilite Sufi theologian al-Kaʿbī, who denied the existence of one of the five recognized normative categories of Islamic law: the permissible (mubāḥ). Al-Kaʿbī’s reasoning can be reduced to the following syllogism:

A. The permissible (mubāḥ) is the opposite of the forbidden (ḥarām).

B. The opposite of the forbidden (ḥarām) is obligatory (wājib).

C. Therefore, the permissible (mubāḥ) is actually obligatory (wājib).335

332 Ibn al-Qayyim, al-Fawāʾid, 179; MF 20:71.
333 Ibn al-Qayyim, al-Fawāʾid, 179.
334 MF 20:74-85.
335 MF 10:299.
Al-Āmidī admires al-Ka‘bī’s reasoning and confesses his inability to refute it.336 Al-Juwaynī also explicitly comes out in support of al-Ka‘bī’s theory and does so on the grounds that it agrees with the Ash‘arī theory of a prohibition entailing the command of its opposite.337

By contrast, Ibn Taymiyyah, who is not bound by Ash‘arī doctrines on commands and prohibitions existing within each other, finds it much easier to dismiss the argument of al-Ka‘bī.338 According to Ibn Taymiyyah, it is incorrect to claim, as al-Ka‘bī and the dialectical theologians do, that a command is a prohibition of its opposite. A more accurate statement, according to Ibn Taymiyyah, would be that an obligation includes a command to perform an act necessary for the performance of the obligation.339 Al-Ka‘bī, Ibn Taymiyyah argues, ignores this distinction, just as he ignores the fact that God primarily desires the abandonment of what is prohibited and not the performance of its opposite, since the latter might be required for its own sake or as a means to an end such as the complete realization of the prohibition.340 It is thus incorrect to say that the Lawgiver necessarily desires everything that results from the performance of a command. For instance, the fulfillment of an obligation that is desired by God might involve some degree of hardship that is not desired by God for its own sake.341 Here, Ibn Taymiyyah directly opposes a number of Ash‘arī scholars who argued that doing what was merely permissible did not involve any hardship and consequently did not constitute an act that

336 Al-Āmidī, Muntahā, 37; Al-Zarkashī, Salāsil, 132.
337 MF 10:299.
338 MF 20:67.
341 MF 20:90.
could be praised, or even recognized, by the law.\textsuperscript{342} Ibn Taymiyyah argues the contrary position and offers the following example in support of his view. Two individuals who live at unequal distances from a mosque are both commanded to travel to the mosque to offer their Friday prayers, even though one of them faces greater hardship in doing so. But if the hardship involved in going to the mosque was required for its own sake, the person who lives further from the mosque would be under a greater obligation to pray therein. However, the contrary is closer to being the case, as the person living further away from the mosque is arguably under a lesser obligation to pray in a mosque located at a great distance from his house because this would expose him to hardship, which the Lawgiver does not desire.\textsuperscript{343}

**Will and Command in Traditionalism**

As we saw above, the Muʿtazilah\textsuperscript{344} and the traditionalists\textsuperscript{345} rejected the Ashʿarī belief that God willed and desired disbelief and sinfulness on the part of at least some of His creation, even as they acknowledged that the topic of God’s will and command raised important questions about human responsibility and accountability. These and other related questions were the subject of a famous poem of eight couplets, most probably authored by the Shīʿī al-Sakkākīnī (d.721/1321), which challenged the scholars of Islam to explain why the author of the poem should be blamed for his sinfulness when it had been willed by God Himself.\textsuperscript{346} Ibn Taymiyyah was one of the many scholars who responded to this poem with a poem of his own, the *Ode in T*. An anecdote about the composition of this work gives us a glimpse of Ibn Taymiyyah’s precocious intellect. An

\begin{footnotesize}
\textsuperscript{342} MF 10:300, 20:89-90.
\end{footnotesize}
eyewitness relates that upon first hearing al-Sakkākīnī’s poem Ibn Taymiyyah fell silent for a few moments. He then proceeded to startle his audience by extemporaneously composing a response of 125 couplets in response to al-Sakkākīnī’s eight, each of the 125 couplets matching the rhyme and meter of al-Sakkākīnī’s original.  

The main error of the Ashʿarīs, according to Ibn Taymiyyah, lies in their insistence on the doctrine that God’s attributes of speech and will are single and indivisible. Some of the consequences of this doctrine – the way in which it collapses the distinction between different parts of speech such as commands and prohibitions – have been examined above. We recall Ibn Taymiyyah’s criticisms that adopting this doctrine means that the word of God no longer provides a clue as to God’s will. Another dangerous result of this doctrine, according to Ibn Taymiyyah, is the failure to distinguish between creative and normative commands – contrary to the practice of the earlier traditionalists who, according to Ibn Taymiyyah, made a distinction between the creative and normative aspect of God’s speech.

Ibn Taymiyyah and Ibn al-Qayyim argue that God does not have a single, indivisible will or command. Rather, just as God’s speech admits of different categories such as commands and prohibitions, so too can God’s will be categorized into that which is universal/creative (kawnī) and that which is normative/prescriptive (sharī). Every created object, Ibn Taymiyyah explains, exists by virtue of God’s creative will and command. Out of these created things, God prescribes certain things and proscribes others by His normative command. Unlike the creative command,

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the normative command does not bring objects into existence. Rather, Ibn Taymiyyah says, it sets out God’s legal will regarding the things He has created.\(^{350}\)

Ibn Taymiyyah believes that Ash’arī scholars such as al-Rāzī commit a grave error when they fail to qualify the statement that God wills everything He creates, thereby collapsing the distinction between God’s creative and normative will.\(^{351}\) The traditionalists, by contrast, argue that although God wills disbelief and other violations of His normative will only in the sense that He allows such things to exist in His creation. God’s normative will is that disbelief and sin be shunned because normatively, God only commands what He desires.\(^{352}\) Creatively, however, God can command into existence things that He might not desire for their own sake but for the realization of another end.\(^{353}\)

There is some similarity then, between the views of Ibn Taymiyyah and Mu‘tazilites such as ‘Abd al-Jabbār, who also held that God wills everything that He commands, even if He does not desire it.\(^{354}\) However, Ibn Taymiyyah is also critical of the Mu‘tazilah for believing that evil occurs entirely without the will of God. This belief, Ibn Taymiyyah insists, amounts to denying God’s absolute power over His creation.\(^{355}\) Finally, Ibn Taymiyyah’s fiercest criticism is reserved for those Sufis who take the positions of the dialectical theologians and then use them to undermine


\(^{352}\) Ibn Taymiyyah, al-Furqān, 174.


\(^{354}\) ‘Abd al-Jabbār, al-Mughnī, 7:67; Sharḥ, 466.

\(^{355}\) Ibn Taymiyyah, Majmū‘ah al-rasā‘īl, 1:341.
the notion of legal responsibility and accountability in ways that the Muʿtazilah and Ashʿarīs do not.\textsuperscript{356} For Ibn Taymiyyah, belief in the will of God can never justify a denial of His commands.\textsuperscript{357}

\begin{footnotesize}
\begin{enumerate}
  \item Ibn Taymiyyah, al-Qaṣīdah, 116.
\end{enumerate}
\end{footnotesize}
IV. Linguistic Ambiguity

So far, we have considered how Ashʿarī theological doctrines regarding divine speech affected the way Ashʿarī legal theorists conceptualized distinct categories, such as commands, within that speech. We stated that Ashʿarī legal thought on commands grew out of the deep theological conviction of Ashʿarī theologians that there was no relationship between speech forms such as commands and verbal forms such as imperatives.

In this section we shall see how the seeds of Ashʿarī theological skepticism about language and its (in)ability to convey meaning reached full and unabashed bloom with al-Rāzī, in whose works Ashʿarī zeteticism reaches its apogee. Supported by the views of the generations of Ashʿarī giants who had preceded him, al-Rāzī boldly announces the conclusion towards which Ashʿarism had been building for years. The ability of narrative, transmitted and linguistic (naqli) proofs to impart knowledge and certainty, he argues, is always dependent on the absence of ten factors that render language uncertain. Since these ten factors are never entirely absent, it follows that language itself, including the language of the Qurʿān and ḥadīth, is inherently ambiguous and incapable of imparting knowledge or certainty.

Al-Rāzī’s Attack on Language

The inability of language to impart knowledge or certainty is the foundational principle upon which al-Rāzī constructs his vision of theology and law. In the Muḥṣṣal, the ten factors are presented as credible arguments against the hypothesis that language can convey certainty. However, in the Maḥṣūl (which treats two of the ten factors together for a total of nine), and the Arbaʿīn, it appears that al-Rāzī does not regard linguistic ambiguity as a mere hypothesis. He asserts it as a fact. The speculative nature of language does render all narrative proofs
uncertain.\footnote{al-Rāzī, \textit{Muḥaṣṣal}, 51; idem \textit{al-Arbaʻīn}, 2:251-252; idem \textit{al-Maṭālib}, 9:113-118; al-Rāzī, \textit{al-Maḥṣūl}, 1:390-391; Ibn al-Qayyim, \textit{al-Ṣawāʻiq}, 2:633.} In the \textit{Asās al-taqdīs}, which attacks the traditionalist hermeneutics of scholars such as Ibn Khuzaymah (d. 311/924), al-Rāzī presents the ten factors in a way that leaves no doubt about the challenge they pose to legal theory. Scriptural language, al-Rāzī points out, shares the attribute of ambiguity and uncertainty with all other types of language and is therefore incapable of imparting certain knowledge. Moreover, a conflict between two passages of scripture cannot be resolved by interpreting one passage in light of the other, since both passages are necessarily uncertain. All such conflicts are thus to be resolved by having recourse to something beyond language; to wit, reason, which is the only unassailable proof available to man.\footnote{al-Rāzī, \textit{Asās}, 215, 220, 234-235; idem, \textit{al-Arbaʻīn}, 2:253.}

Turning now to a brief overview of al-Rāzī’s ten factors, we see that the first basis on which al-Rāzī attacks the ability of language to impart certain knowledge is that linguistic proofs are dependent on the infallible narration of the relevant words from the speaker to the interpreter. However, in most cases a linguistic proof is only conveyed by means of solitary narrations from individuals who are not immune from making errors in their transmission of language. Linguistic proofs are therefore uncertain because in most cases we only have a probable belief, and not certainty, that the words before us are the words that were spoken by the speaker.\footnote{Al-Rāzī, \textit{al-Maḥṣūl}, 1:391.}

Language is also inherently incapable of imparting certainty, al-Rāzī says, because its meaning can only be explicated in light of established principles of grammar, syntax and morphology. However, there is no agreement on what these principles are, as evinced by the debates between the rival schools of grammar associated with the Iraqi cities of Baṣrah and Kūfah. Even within
these schools, the principles of grammar that are upheld are often based on solitary reports or analogies, both of which are incapable of bestowing certainty about proper grammatical conventions.\textsuperscript{361} Even the poetry of the celebrated ancient poets cannot serve as a precedent for correct grammar because poetry only reaches us via solitary or indirect (\textit{mursal}) narrations. Besides, even the greatest poets, such as Imru’ al-Qays, made numerous grammatical errors in their works – a point al-Rāzī seeks to substantiate by producing a long catalogue of such purported errors.\textsuperscript{362} To challenge the soundness of the language of the ancient poets was a brave and almost heretical position to take, not entirely dissimilar to accusing Tyndale, Shakespeare, Donne and Milton of making grammatical errors in English. It is not surprising then, that al-Rāzī’s Ashʿarī commentators should have responded that the ‘mistakes’ identified by al-Rāzī were in fact proper instances of poetic license whereby grammatical cases can be altered and letters can be excised from words in order to preserve the meter and rhythm of poetry.\textsuperscript{363}

Another set of factors that render language incapable of imparting certainty, according to al-Rāzī, are conventions such as ellipsis and verbal subrogation, whereby certain words are either omitted from a clause or transferred from their proper grammatical place for a linguistically valid reason. We do not always know with certainty whether a particular clause is elliptical or not. Moreover, the meaning of a clause changes depending on the words with which we substitute the elided words. Al-Rāzī points out that the Qurʾān contains many elliptical expressions which appear to be negative but which turn out, once a set of words is supplied in place of the elided words, to be affirmative, and vice versa. (Q., al-Qiyāmah, 75:1; al-Aʿrāf, 7:12;

\textsuperscript{361} Al-Zarkashī, \textit{al-Bahr}, 2:5; Āl Mughirah, Dalālāt, 47.
\textsuperscript{362} Al-Rāzī, \textit{al-Maḥṣūl}, 1:392, 404.
\textsuperscript{363} Al-Qarāfī, \textit{Naṭā’īs}, 3:1081.
al-Anʿām, 6:151; al-Nisāʾ, 4:176). One can therefore never even establish with certainty whether a particular clause is affirmative or negative.\footnote{Al-Rāzī, \textit{al-Arba'īn}, 2:253.}

The ability of language to impart certainty is also dependent, al-Rāzī continues, on the absence of homonyms, metaphors and terms of art, which necessarily create ambiguity and uncertainty about the meanings of particular words. If narrative evidence is to impart certainty, it must be based on words not being used in a metaphorical or ambiguous sense. However, al-Rāzī says, in reality most language is metaphorical, rendering linguistic evidence inherently uncertain.\footnote{Al-Rāzī, \textit{al-Maḥṣūl}, 405; al-Rāzī, \textit{al-Arba'īn}, 2:252.}

Narrative evidence is also inherently uncertain according to al-Rāzī because it is capable of either being abrogated in its entirety or being qualified and specified by some other narrative data. The existence of such countervailing data can never be ruled out as a matter of certainty. The most that can be said is that one has not come across them, which is insufficient to dispel doubts about the narrative evidence before us.\footnote{Al-Rāzī, \textit{al-Maḥṣūl}, 1:406-407.}

The last of al-Rāzī’s ten factors incorporates the supreme canon of interpretation championed by the dialectical theologians, which is set out by al-Rāzī in the following terms. If an absolutely certain rational proof contradicts the apparent meaning of a scriptural narrative proof, it is impossible to either accept or dismiss both. It is also impossible to prefer the scriptural proof over the rational one because this would involve a betrayal of the intellect, which is the basis for accepting revealed proofs in the first place. Therefore, al-Rāzī concludes, a rational proof must be given preference over a conflicting proof that is purely scriptural.\footnote{Al-Rāzī, \textit{al-Maḥṣūl}, 1:406; al-Qarāfī, \textit{Nafī'īs}, 3:1083.}

Returning to the ten factors, al-Rāzī says that even if a particular narrative proof were free of all linguistic ambiguity, it could only convey certainty if it did not contradict what was known through reason. For unlike narrative proofs, rational proofs are known with certainty and must therefore be preferred over countervailing narrative proofs. By contrast, preferring a narrative proof to a rational one undermines the intellect and ultimately, revelation itself, since revelation is only accepted because of its appeal to reason.368 In the Arbaʿīn, al-Rāzī goes further, arguing that narrative evidence is rendered uncertain even by countervailing narrative proofs. This is because when we are faced with two competing narrative proofs, we must act on the proof that appears stronger (tarjīḥ). According to al-Rāzī, the act of choosing and following a stronger narrative proof is one that is necessarily based on probabilities and not on certainty because all such proofs are ambiguous. Therefore, a conflict between scriptural proofs can only be resolved by reference to reason, not to linguistic techniques and scripture itself.369

Al-Rāzī is not the only scholar to advance a canon of interpretation that prohibits scripture from being interpreted in a way that makes it contradict what is known through reason.370 ʿAbd al-Jabbār,371 Ibn Rushd (d. 595/1198),372 and al-Ghazālī,373 amongst others,374 all adopt a similar position. Al-Ghazālī actually anticipates the substance of some of al-Rāzī’s ten factors when he argues that reason has no role to play in the rules of language, which can only be known through what is conveyed to us by means of continually recurrent testimony. In the absence of such

368 Al-Rāzī, Muḥāṣṣal, 51.
370 Al-Rāzī, Asās, 220.
371 ʿAbd al-Jabbār, Uṣūl, 89.
372 Ibn Rushd, Faṣl.
373 Al-Ghazālī, Qānūn; idem al-Iqtīsād, 185; idem al-Mustasfâ, 2:70, 168. The attribution of the Qānūn to al-Ghazālī has been questioned by some. For this and a chronology of his works, see Whittingham, Al-Ghazālī, 1-2, 6-7; Treiger, Science, 28.
374 Al-Armawī, al-Taḥṣīl, 1:386; al-Hindi, Nihāyah, 7:2933.
evidence, one must suspend judgment about what is signified by a command, a general text and an imperative.\textsuperscript{375} Al-Ghazālī also comments on the inherent ambiguity of the general term,\textsuperscript{376} pointing out that the principles of Ashʿarism make it both permissible and impossible to specify the general term on the basis of a rational proof. For a general text can only be specified by something that comes after it, whereas Ashʿarism is committed to the view that the intellect is logically prior to revelation and is the basis on which one accepts revelation in the first place.\textsuperscript{377}

What makes al-Rāzī distinct then, is not his adoption of the canon of interpretation calling for rational proofs to be preferred over scriptural ones but the way he utilizes this canon and makes it part of his arsenal in his all out assault on the certainty of language, even as he shields himself from the full implications of this view by deploying the standard Ashʿarī argument that probabilistic language could, despite its uncertainty, be the basis of legal action. In the words of Ibn al-Qayyim, many individuals and sects before al-Rāzī accepted this canon in practice, but none had the audacity to insist on it as brazenly as he does.\textsuperscript{378}

The challenge for al-Rāzī’s Ashʿarī commentators was thus to save language from al-Rāzī’s devastating assault while conceding the force of his objections.\textsuperscript{379} Al-Qarāfī offers one solution to the problem. While admitting that al-Rāzī is correct in regarding linguistic evidence as uncertain in itself, he suggests that certainty can still attach to linguistic expressions through functions such as repetition and context. For instance, the general statement of the Qurʾān that the disbelievers shall be in the fire of hell forever is uncertain, owing to the fact that it can always be specified by other scriptural data. What gives us certainty about the general meaning

\begin{itemize}
\item Al-Ghazālī, \textit{al-Mustaṣfa}, 2:70, 77, 168.
\item Al-Ghazālī, \textit{al-Mustaṣfa}, 2:108.
\item Al-Ghazālī, \textit{al-Mustaṣfa}, 2:152.
\item Ibn al-Qayyim, \textit{al-Ṣawāʾiq}, 2:640.
\item For Ashʿarī criticisms of al-Rāzī’s account of words and their meanings, see al-Qarāfī, \textit{Naṣīr}, 2:566, 571.
\end{itemize}
of the statement is the frequency with which it occurs in the Qurʾān without being specified. Thus, while the words that convey our knowledge of theology and legal theory do not themselves impart certainty, they nevertheless bestow certainty in other ways. The problem of linguistic ambiguity can also be resolved, al-Qarāfī suggests, through greater knowledge of language, just as one’s doubts about any historical narrative can be resolved by greater study of the past.

Al-Qarāfī therefore agrees with al-Rāzī that the inherent ambiguity of language prevents us from being certain about the meaning of general expressions in the Qurʾān, which only impart a probabilistic belief about their generality – not certainty. The way we come to know that God’s general statement that He will punish some people eternally is to be taken in its general meaning is therefore not through the statement itself but through a review of all the evidence relating to this matter, which collectively instills in us a belief in the generality of the expression.

Al-Rāzī had, however, already anticipated such an objection to his theory, and he sets out his reasons for disagreeing with the argument that the widespread use of a word removes ambiguities about its meaning. Al-Rāzī points out that even continually recurrent transmission does not remove all ambiguities about language. We are unsure, he says, of how widely used terms such as ‘God’ and ‘faith’ came into existence and how their meanings were transmitted. Even the meaning of everyday terms such as ‘earth’ and ‘sky’ is ultimately ambiguous. What settles the meaning of these terms is the fact that the Companions used them in a particular way and we follow them, although al-Rāzī also adds, somewhat unconvincingly, that words that form

380 Al-Qarāfī, Nafāʿīs, 3:1083, 1248.
381 Al-Qarāfī, Nafāʿīs, 3:1247-1248, 1270.
382 Al-Qarāfī, Nafāʿīs, 3:1063.
383 Al-Rāzī, al-Maḥṣūl, 1:204.
the basis of beliefs are not subject to such ambiguity.\textsuperscript{384} Al-Rāzī therefore sees no reason to modify his view that speech is not intended to convey meaning but only a probable belief about meaning.\textsuperscript{385}

Al-Rāzī’s skepticism about language is mirrored in his pessimistic and bleak account of the lack of certainty in the cosmos. He insists, for example, that one cannot even be certain that the son whom one sees standing before one today is the same individual whom one saw yesterday. God could have replaced one’s son with an individual who appears to look like him, although mercifully God does not actually let us suffer such confusion.\textsuperscript{386} Language is like the individual who stands before one, the one who may or may not be one’s son. God creates the knowledge that we have of the meaning of words but each instance of such knowledge is created individually by God and there is no requirement that an otherwise sound proof, such as transmission by continually recurrent reports, yields identical knowledge at two different times.\textsuperscript{387}

**Ibn al-Qayyim’s Attack on al-Rāzī’s False Gods**

The traditionalists, we we said, regard revelation as the most secure way for man to attain knowledge of God. Al-Rāzī’s attack on language was in fact motivated by a desire to refute the traditionalist hermenutics of scholars such as Ibn Khuzaymah. In al-Rāzī, then, the traditionalists saw an unveiled attack on their theology and their legal fideism since traditionalist theology and law are both rooted in the conviction that scripture communicates the will of God in a way that is accessible to man. The traditionalist response to al-Rāzī takes two

\textsuperscript{387} Al-Rāzī, *al-Maḥṣūl*, 4:259.
forms. First, the traditionalists attack the idea that language and narrative proofs are by their very nature incapable of imparting knowledge or certainty. Second, the traditionalists reject the underlying theory of language and meaning upheld not just by al-Rāzī and the dialectical theologians but also by the majority of linguists and even legal scholars – a theory which sees language as fundamentally metaphorical and therefore ambiguous. It is to the first of these traditionalist responses that we now turn.

**Language and Meaning in Traditionalism**

In his *al-Ṣawāʾiq al-mursalah*, Ibn al-Qayyim mounts what is probably the most formidable attack on al-Rāzī’s claims regarding the inability of language to impart knowledge. He accuses the philosophers and dialectical theologians of turning to four specious arguments or ‘false gods’ whenever they wish to overturn the apparent meaning of a scriptural text. The first of these is the claim that the words of scripture constitute narrative evidence, which by its nature is incapable of imparting knowledge or certainty. Second comes the claim that the Qurʾānic verses and prophetic traditions that speak about divine attributes are metaphorical, not real. The third false god is the claim that the authentic solitary narrations of the Prophet’s words do not impart knowledge but only a probable belief. The last of the four false gods is the claim that whenever revelation contradicts what is known by the intellect, one must give precedence to what is known by the intellect over what is known by revelation.

It is apparent that each of the ‘false gods’ identified by Ibn al-Qayyim is also invoked by al-Rāzī in the course of his argument seeking to prove the inability of language to convey certainty. There is therefore some necessary overlap between Ibn al-Qayyim’s 73 arguments against the

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claim that language is uncertain and his 241 arguments against the claim that rational proofs must be preferred over scriptural ones. A noteworthy feature of Ibn al-Qayyim’s discussion is the relative balance of scriptural and rational arguments. Of a total of 73 arguments against al-Rāzī’s views on language, there are a total of three arguments (59, 68 and 72) that are primarily scriptural. One of these is that God Himself commands people to attain knowledge through His speech. This necessitates that His speech be capable of conveying knowledge. Another scriptural argument is that the Qurʾān itself negates al-Rāzī’s claims regarding the uncertainty of scriptural language by proclaiming that God has made the Qurʾān easy, simple and uncomplicated. According to Ibn al-Qayyim, these proclamations must refer to all aspects of the Qurʾān: its word, meaning and content. That is, the Qurʾān’s words must be easy to memorize, its meanings easy to comprehend and its rulings easy to implement. The reliance on such arguments, which are scriptural but still follow a logical pattern, shows us how difficult it is to distinguish between scriptural and rational arguments in the works of traditionalists such as Ibn al-Qayyim. And this is precisely what the traditionalists mean when they insist that there is complete harmony between reason and revelation.

**Traditionalists and the Canon of Interpretation**

Al-Rāzī’s canon of interpretation also prompted Ibn Taymiyyah to compose his *Darʾ taʿāruḍ al-ʿaql wa al-naql*, a monumental work that presents a traditionalist account of the relationship between reason and revelation. For our purposes, we are only interested in the canon of interpretation insofar as it constitutes one of the specific grounds on which al-Rāzī bases his argument of linguistic skepticism. The traditionalists certainly reject al-Rāzī’s canon of

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interpretation but, contrary to what might be expected of them, they do not propose inverting the canon so that in cases of conflict revealed proofs are given priority over scriptural ones. On the contrary, the traditionalists reject the possibility of a genuine conflict between revelation and reason, both of which they regard as God’s proofs before His creation. A conflict between revelation and reason can only arise if one has made a mistake in identifying a rational proposition, for instance by failing to distinguish between what the intellect holds to be impossible and what it simply does not know, or if one has made a mistake in identifying a revealed text or its meaning, for instance by relying on an inauthentic ḥadīth. According to Ibn Taymiyyah and Ibn al-Qayyim, even religious dogma such as the belief in God’s unity, prophecy, and resurrection is not accepted merely as a matter of belief but also because of the rational proofs presented for it in scripture.

Ibn Taymiyyah and Ibn al-Qayyim do not accept that the philosophers and dialectical theologians have demonstrated a single instance of a genuine conflict between reason and scripture. On the contrary, Ibn al-Qayyim argues that the purportedly rational propositions entertained by the philosophers, on the basis of which they overturn the apparent meaning of scripture – such as the reality of extra mental universals or the postulate that the One can only generate a multiplicity – are often not rationally sound at all. The same is true of the dialectical theologians who profess doctrines that are either contradictory or rationally unsound. An

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example of the former is the Ashʿarī doctrine that some matters related to the hereafter are known only by way of revelation, which contradicts everything the Ashʿarīs say about the inability of scriptural language to convey knowledge.\textsuperscript{398} As for the doctrines of the theologians that are plainly opposed to reason, these include, according to the traditionalists, the Ashʿarī doctrines of God’s distinct attributes of speech, sight and knowledge, being indivisible, of God not acting for a wise purpose and of secondary actions having no cause.\textsuperscript{399} By contrast, the traditionalists argue, the forms of reasoning advocated by revelation, such as juristic analogies, impart more certainty than the categorical syllogisms favored by the philosophers and theologians\textsuperscript{400} – a point we shall examine in greater detail in the next chapter.

Ibn al-Qayyim insists that the philosophers are divided over the question of what qualifies as a rational proof. It would thus be irrational, he argues, to ignore what is known through scripture because of its incompatibility with what a particular school of philosophy held to be rationally certain knowledge.\textsuperscript{401} Ibn Taymiyyah agrees, and points out that al-Rāzī, while insisting that only demonstrative proofs are certain, nevertheless constructs parts of his philosophy on rhetorical arguments.\textsuperscript{402} Ibn al-Qayyim adds that dialectical theologians such as al-Rāzī expressed strong doubts about their own supposedly rational knowledge, the methods by which they obtained it and the conclusions it yielded. This shows, according to Ibn al-Qayyim, that what these scholars possessed was not true knowledge, since the latter is certain and does not admit of any doubts.\textsuperscript{403} By contrast, Ibn al-Qayyim asserts, the certainty one has in the truth of the Prophet’s claim to

\textsuperscript{399} Ibn al-Qayyim, \textit{al-Ṣawāʾiq}, 2:727-728.
\textsuperscript{400} Ibn al-Qayyim, \textit{al-Ṣawāʾiq}, 2:764.
\textsuperscript{402} Ibn Taymiyyah, \textit{Bayān}, 8:444-445, 448.
be a prophet of God necessarily removes all doubts about the truthfulness of the Prophet’s speech.\textsuperscript{404}

Ibn al-Qayyim explains that al-Rāzī’s principle of preferring rational proofs over revealed ones is based on a mistaken view that the former category is more certain than the latter,\textsuperscript{405} when the opposite premise is actually more plausible. Linguistic expressions, Ibn al-Qayyim says, are a stronger proof for what they signify than rational proofs, which are often nothing more than suppositions based on the opinions of influential men.\textsuperscript{406} In support of this view Ibn al-Qayyim offers a form of proof based on observation (dalālah al-ḥāl). We know, according to Ibn al-Qayyim, that the first thing a child learns upon attaining the age of discernment is the meaning of the expressions she hears, not the propositions that constitute what the philosophers term necessary knowledge.\textsuperscript{407} Acquisition of this necessary, rational knowledge is thus dependent on and logically prior to knowledge gained through linguistic expressions.\textsuperscript{408} Ibn Taymiyyah also argues for the precedence of linguistic knowledge over demonstrative knowledge. Someone who does not understand the meaning conveyed by words will necessarily be unable to understand knowledge conveyed through definitions composed of words, which the philosophers claim provide certain knowledge about the object being defined.\textsuperscript{409
In Defense of the Word

Ibn Taymiyyah reports that when the renowned hadīth scholar Ibn al-Ṣalāḥ (d. 643/1245) heard of al-Rāzī’s view that narrative proofs do not yield certainty, he cursed al-Rāzī for holding a doctrine that was tantamount to disbelief. Ibn Taymiyyah’s response to al-Rāzī, although less visceral than that of Ibn al-Ṣalāḥ, is nevertheless based on a shared concern that al-Rāzī’s views negate the twin institutions of prophecy and revelation as forms of communication from God to man, undermining both revealed theology and revealed law.

For the traditionalists, al-Rāzī’s claim that what is conveyed by the prophets is only accepted because it concurs with what is already known through reason and his admission that the apparent sense of the speech of God invariably confuses mankind, requiring them to exert themselves in seeking non-apparent interpretations of revelation are both incompatible with the belief that one is to turn to scripture to gain knowledge of what to believe (theology) and how to act (law).

Crucially, the traditionalists point out, God’s revealed law cannot survive al-Rāzī’s attack on language and his insistence that one can never know the meaning of scripture. For if al-Rāzī is correct in saying that the passages of the Qurān which describe God’s attributes fail to convey knowledge – even though these are, according to Ibn al-Qayyim, the clearest and most frequently occurring passages in scripture – then the legal passages of scripture must, a fortiori, 

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410 Ibn Taymiyyah, Bayān, 8:488.
413 Ibn Taymiyyah, al-Tis‘īniyyah, 3:906.
fail to impart knowledge and meaning. \(414\) Ibn Taymiyyah makes a similar point. The kinds of things about which Ashʿarīs claim that divine declarative speech is ambiguous are precisely those that are most clearly and frequently expressed in the Qurʾān. \(415\) What is left, then, about which the Qurʾān can convey knowledge. For the Ashʿarī al-Āmidī, it would appear that the answer is far from clear, as he argues that even the examples and narratives in the Qurʾān are ambiguous and thus incapable of imparting certain knowledge. \(416\)

**Certainty and Skepticism**

For the traditionalists, al-Rāzī’s canon of interpretation and his ten factors are wrong on two separate, but related counts. First, they proceed from an incorrect understanding of the concept of certainty. Secondly, they fail to recognize that knowledge and certainty are relative. There is no agreement – and there can be none, the traditionalists insist – on what constitutes necessary knowledge. \(417\) What some people know as a matter of necessary certainty, others might know only after reflection – or perhaps never. \(418\) Therefore, a person’s ability to derive certain meaning from speech varies in accordance with his relative knowledge. \(419\) The jurists and hadith scholars, for instance, might know the Prophet’s words and acts with certain and necessary knowledge, even if this knowledge is unavailable to others, just as those who observed the

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\(414\) Ibn al-Qayyim, al-Ṣawāʾiq, 2:769. See also ʿAbd al-Jabbār, Uṣūl, 89 (the muḥkam against which all passages of the Qurʾān must be reconciled or re-interpreted is the verse which proclaims that there is nothing similar to the likeness of God). For a traditionalist understanding of the same passage, see al-Dhahabi, al-Arbāʿīn, 165.

\(415\) MF 19:85, 110.

\(416\) Al-Āmidī, Muntahā, 47. For an interesting account of the ways in which the narratives of the Qurʾān as well as its oral and dialogic character function as a form of knowledge of God and a display of His power, domination and self disclosure, see Bajwa, Storytelling, 12.

\(417\) Ibn al-Qayyim, al-Ṣawāʾiq, 2:660. See also al-Hindi, Nihāyah, 7:2727, for a discussion of whether or not continually recurrent testimony constitutes necessary knowledge.

\(418\) Ibn al-Qayyim, al-Ṣawāʾiq, 2:662.

\(419\) Ibn al-Qayyim, Iʿlām, 3:116; Ibn Taymiyyah, Bayān, 8:467.
Prophet perform particular acts came to have certain knowledge which was unavailable to those who did not witness the performance of these acts.\textsuperscript{420} The transmission of reports narrating the Prophet’s words and actions by first hand witnesses to the next generation of Muslims means that some people, at least, know the Prophet’s words and the meaning of the latter with a knowledge that surpasses certainty.\textsuperscript{421}

Another set of traditionalist criticisms of al-Rāzī’s ten factors is centered around the idea that these factors represent an extreme form of skepticism which, if taken to its logical end, would render normal human existence impossible.\textsuperscript{422} Man is a speaking animal and a social creature, says Ibn al-Qayyim. He must, therefore, have the capacity to understand the speech of those with whom he lives, for without this ability, man cannot survive and function in accordance with his nature and purpose.\textsuperscript{423} Al-Rāzī’s skepticism about language is also negated, according to Ibn al-Qayyim, by the successful instances of human communication we witness around us\textsuperscript{424} and by our observation of the way animals understand and respond to each other on the basis of the sounds they produce. In fact, the Qur’ānic account of Solomon’s conversation with the hoopoe [Q., al-Naml, 27:22-28] proves that humans and animals can also understand and communicate with each other.\textsuperscript{425}

The traditionalists also find al-Rāzī’s skepticism about language to be contradictory. They argue that understanding linguistic expressions is the basis of all knowledge, including – ironically – the purported rational knowledge on the basis of which al-Rāzī claims that language cannot

\textsuperscript{420} Ibn al-Qayyim, al-Ṣawā‘iq, 2:661.
\textsuperscript{421} Ibn Taymiyyah, Bayān, 8:471, 490.
\textsuperscript{422} Ibn Taymiyyah, Bayān, 8:458, 465.
\textsuperscript{423} Ibn al-Qayyim, al-Ṣawā‘iq, 2:641.
\textsuperscript{424} Ibn al-Qayyim, al-Ṣawā‘iq, 2:642.
impart certainty. For the rational sciences such as philosophy are themselves reliant on their concepts being conveyed through the medium of particular terms and expressions. If one cannot be certain of the meaning of such expressions, the traditionalists argue, one cannot be certain of the knowledge that they convey.\(^{426}\) Al-Rāzi’ argument is therefore all the more incongruous because he claims that language is incapable of conveying meaning and then justifies his claim by relying on knowledge which has been transmitted in the form of language.\(^{427}\)

Once it is established that knowledge of various disciplines can in fact be conveyed through imperfect and flawed human speech, as well as by writing which according to Ibn al-Qayyim is even is even more ambiguous than speech because it is unaccompanied by the sorts of gestures that help us to interpret verbal expressions, it follows that revelation, which is God’s perfect speech addressed to the most perfect of His creation, is fully capable of conveying knowledge.\(^{428}\) The evidentiary force of God’s speech must surpass the evidentiary force of the imperfect speech of man.\(^{429}\)

Ibn al-Qayyim also argues that al-Rāzi’s stance on linguistic ambiguity is ultimately as self defeating as the general intellectual skepticism of which it is a product.\(^{430}\) For al-Rāzi’s skepticism must, if it is followed to its natural end, make all rational claims uncertain, including the claim that narrative evidence is incapable of imparting certainty as to its meaning. For even after the most diligent attempt to establish that there is no evidence that contradicts the apparent meaning of the language before us, all we can be certain of is that we have been unable

\(^{426}\) Ibn al-Qayyim, al-Ṣawāʾiq, 2:642-643.

\(^{427}\) Ibn al-Qayyim, al-Ṣawāʾiq, 2:646, 766.


\(^{429}\) Ibn al-Qayyim, al-Ṣawāʾiq, 2:636, 765.

\(^{430}\) On this see also Ayman Shihadeh, “From al-Ghazālī to al-Rāzi.”
to discover such evidence – not that it does not exist – a point made by al-Rāzī.\textsuperscript{431} Ibn al-Qayyim takes al-Rāzī’s skepticism one step further, arguing that if it is impossible to rule out the existence of evidence that renders language ambiguous, it is also impossible to rule out the existence of evidence that overturns such evidence. All one can be certain of is that one has not discovered any evidence that renders language certain, not that such evidence does not exist. The premises justifying al-Rāzī’s skepticism therefore turn out to share the same vulnerabilities as the concept of linguistic certainty which he attacks.\textsuperscript{432}

Dismissing al-Rāzī’s skepticism, Ibn al-Qayyim offers us his reasons for regarding language as capable of imparting certainty. His argument calls for language to be treated like any other feature of human life about which we entertain certainty. Such certainties are not abandoned on the basis of insubstantial and inconsequential doubts. For instance, it is possible that the owner of an item has sold it or transferred its rights to someone else, that a husband has divorced his wife and that a master has freed his slave. However, despite the theoretical possibility of the aforementioned scenarios, we take it as certain that the owner of an item owns it absolutely free of any encumbrances, that a husband and wife are necessarily married and that a slave continues to belong to his master. Allowing our certainties about these matters to be displaced by improbable doubts would render human life impossible, opening the gates of skepticism which could never thereafter be shut.\textsuperscript{433} As a corollary to this point, Ibn al-Qayyim argues that al-Rāzī is incorrect in asserting that language is rendered uncertain due to the fact that its meaning can be transformed by ellipsis. If ellipsis were to render all language inherently uncertain, people would never have any certainty regarding contracts, wills and bequests, which

\textsuperscript{433} Ibn al-Qayyim, \textit{al-Ṣawā‘iq}, 2:682; 780-781.
can all contain elided clauses. All legal transactions based on verbal or written communication would therefore become invalid.\textsuperscript{434}

**The Traditionalist Theory of Speech: Speaker and Speech**

Traditionalist scriptural heremeneutics are every bit as dependent on traditionalist theology as Ashʿarī hermeneutics are on Ashʿarī theology. For Ibn al-Qayyim, the ability of scriptural language to impart certainty comes in part from the knowledge one has of its author – God. Divine speech, issuing from the most perfect and eloquent speaker, must be more successful than normal human speech in conveying its meaning.\textsuperscript{435} All misunderstanding in speech can be traced back to a shortcoming on the part of the speaker or the auditor. Despite such shortcomings, Ibn al-Qayyim continues, the most simple minded of people still demonstrate an ability to understand poorly expressed speech. However, when the speaker is God, who has the ability to speak in the most perfect way, the auditor is the Prophet, who has been granted the ability to understand this speech and the audience of the prophet are the Companions, who are the most intelligent of mankind, speech cannot fail to convey its meaning.\textsuperscript{436}

The idea that the nature of God imbues his speech with certainty is itself based on Ibn al-Qayyim’s account of language, which holds that speech conveys meaning in part because of the knowledge one has about the identity, habits and customs of speech of the speaker. According to Ibn al-Qayyim, man has a natural ability to understand the meaning of a speaker not just based on what the latter says but also on what he leaves unsaid. The a fortiori argument, for instance, depends on understanding a higher, unstated case on the basis of the one that has been

\textsuperscript{434} Ibn al-Qayyim, *al-Ẓawā’iq*, 710.


expressed. Words, then, are not desired for their own sake alone but also as evidence from which we gain knowledge of the speaker’s meaning and will, which can be known regardless of the ten factors.\textsuperscript{437} Once this meaning has been understood, it can and should be acted upon.\textsuperscript{438} Conversely, there are cases where we know that we must ignore the words of the speaker because we are certain that he does not will what he says, as in the case of a person who speaks involuntarily in his sleep.\textsuperscript{439} Having knowledge of the speaker and his will is thus a \textit{sine qua non} of communication and this knowledge, which allows the meaning of the speaker to be understood, can even allow us to interpret his speech in a non-apparent way.\textsuperscript{440}

Ibn al-Qayyim finds support for his view of communication in the practice of the Companions, arguing that their inferences about what God meant to say were based not only on divine speech but also on divine silence. With their complete understanding of God’s names and attributes, Ibn al-Qayyim declares, the Companions were able to understand that God would not allow any evil to exist without warning His servants against it. Therefore, they reasoned correctly that God’s silence about a thing signified His approval of it.\textsuperscript{441}

Ibn al-Qayyim accuses al-Rāzī of ignoring the obvious fact that one’s ability to understand speech depends on the extent of one’s familiarity with the language of the speaker, his particular expressions and the contextual indicants accompanying these expressions. Instead, Ibn al-Qayyim says, al-Rāzī holds that knowledge of formal grammar, semantics and morphology is the key to understanding meaning.\textsuperscript{442} Ibn al-Qayyim counters this by arguing that most laypeople

\textsuperscript{437} Ibn al-Qayyim, \textit{I‘lām}, 4:519.
\textsuperscript{438} Ibn al-Qayyim, \textit{I‘lām}, 2:385.
\textsuperscript{440} Ibn al-Qayyim, \textit{I‘lām}, 4:529.
\textsuperscript{441} Ibn al-Qayyim, \textit{I‘lām}, 2:386.
\textsuperscript{442} Ibn al-Qayyim, \textit{al-Ṣawā’iq}, 2:658, 780.
understand what God means when he refers to His names, not because they are experts in the technicalities of semantics and morphology as required by al-Rāzī, but because of their familiarity with God’s discourse, which allows them to know how God is using particular expressions.\textsuperscript{443}

According to the traditionalists then, our knowledge of God, which is innate in us and is then reinforced with revelation, allows us to make certain assumptions about God’s speech. For instance, we know that God’s speech will not contain any ellipsis of the sort that would overturn or obscure its apparent meaning, as this would be contrary to the very purpose of communication – especially communication which purports to provide guidance and direction to its addressees. The context of the Qurʾān itself indicates, according to the traditionalists, when ellipsis has occurred and how an elliptical phrase should be interpreted so as not to overturn its actual meaning.\textsuperscript{444}

Similarly, the traditionalists argue, our knowledge of the Prophet’s Companions tells us that they would never allow the meaning of God’s words to be lost while preserving the words themselves.\textsuperscript{445} In fact, the traditionalists claim, the Companions report that they would not commit any part of the Qurʾān to memory until they had implemented it in their lives. But this would be impossible if they had not understood the meaning of the Qurʾān first. Thus, the Companions’ acting on the Qurʾān tells us that they necessarily understood its meaning.\textsuperscript{446}

Ibn Taymiyyah makes a similar point against al-Rāzī’s assertion that understanding the meaning of language is dependent on having an in depth knowledge of the rules of language and

\textsuperscript{444} Ibn al-Qayyīm, \textit{al-Ṣawāʾiq}, 2:696, 711, 713, 775.
grammar. On the contrary, Ibn Taymiyyah argues, familiarity with a speaker’s customs and habits of speech allows one to know what the latter means by his expressions.447 The *salaf*, Ibn Taymiyyah claims, did not refer to the principles of grammar, theology or philosophy to resolve their disagreements about the meaning of particular scriptural passages. Rather, they resolved such disagreements by referring to scripture itself because they understood that the key to determining the meaning of a speaker’s words lay in further study of that speaker’s habits and customs of speech.448 The scholars of *ḥadīth* too, have acquired such familiarity with the language of the Prophet that they do not need to refer to the grammarians in order to determine what the Prophet meant by his expressions. In fact, Ibn Taymiyyah says, the *ḥadīth* scholars have also acquired a familiarity with the particular turns of phrases and expressions adopted by particular narrators of *ḥadīth*, which allows them to understand the precise import of the words used by these narrators to convey the Prophet’s speech and acts.449

We can see this view of meaning at work in Ibn Taymiyyah’s famous *Introduction to the Principles of Exegesis* which advances a theory of interpretation that calls for the Qurʾān to be interpreted first and foremost through the Qurʾān itself and then in light of the Sunnah, since that too is a form of revelation from God and thus a reliable source of knowledge about what God means when He uses particular expressions, the meaning of which is disputed.450 The same principle informs Ibn Taymiyyah’s views on the interpretation of contracts, trusts and other forms of performative speech that has legal effects. In all such cases, Ibn Taymiyyah insists, one must

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interpret the words of the speaker in light of one’s knowledge of her habits and customs of speech as well as contextual clues such as the linguistic conventions of her purlieu.\textsuperscript{451}

According to Ibn Taymiyyah and Ibn al-Qayyim then, al-Rāzī’s ten factors are redundant because one’s knowledge of the customs and habits of speech of a speaker provide one with certain knowledge of what that speaker means by her expressions. The ten factors are not necessary to arrive at knowledge of the speaker’s words, nor can they overturn the certainty regarding a speaker’s meaning that is based on knowledge of her habits and customs of speech.\textsuperscript{452} By contrast, the traditionalists argue, a person who has no knowledge of a speaker’s habits and customs of speech is akin to a person who hears a narration via solitary reports and not recurrent ones. In such cases, the attainment of certainty is neither impossible nor can it be dependent on a limited number of factors such as the ten mentioned by al-Rāzī.\textsuperscript{453}

V. Language and Metaphor

As we have seen, the legitimacy of metaphorical interpretations of scriptural passages, particularly those relating to the attributes of God, was a fundamental point of contention between the traditionalists and the dialectical theologians. But the implications of accepting that the speech of God was metaphorical, even in theology, were far reaching, extending well beyond the realm of theology itself. For the assumption which justified metaphorical interpretation of scriptural language was that this language was itself ambiguous to begin with. How could the ambit of this ambiguity be confined to the theology alone when both theology and law were derived from scripture? How could scholars such as al-Ghazālī and others justify their own metaphorical interpretations of scripture while insisting that esoteric interpretation of the law of the sort advocated by the Bātinīs, was unjustified? This section examines the attempts of the dialectical theologians to come to terms with this tension and then surveys the traditionalist rejection of the concept of metaphor itself.

Metaphor and Truth

The tension between holding that the Qurʾān is true and holding that it conveys the truth in a metaphorical way is succinctly expressed by Josef van Ess, who makes the following observation regarding the theologian al-Shahrastānī, whose views, van Ess informs us, belonged in the broad tradition of post-Avicennean thinking about the relationship between word and meaning:

‘He (al-Shahrastānī) stood in the tradition of Avicenna, and Avicenna’s doctrine of prophecy could scarcely be reconciled with verbal inspiration. For if the Prophet talks to the masses in images so that they better understand his messages (which is Ibn Sīnā’s standpoint) the truth is not in the words but behind them.’

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454 van Ess, “Verbal” 191.
One of the most intractable problems raised by the concept of metaphorical expressions in the Qurʾān was why God would use them in the first place. Why would God use speech which was potentially misleading and apparently false when he could have communicated in clear, unambiguous speech? The Ashʿarī theorist Ṣafī al-Dīn al-Hindī (d. 693/1294) tells us that there are scholars who were moved by concerns such as these to deny the existence of metaphor in the Qurʾān altogether. God’s use of metaphorical expressions, these scholars apparently argued, would indicate an inability on His part to express Himself with clear speech. Furthermore, if God were to speak metaphorically, His speech would become misleading and His meaning unknowable.\(^\text{455}\) It would therefore be unbecoming of God to communicate in metaphor.\(^\text{456}\)

But as we have seen repeatedly, the dialectical theologians were committed to the view that Qurʾānic expressions describing the attributes of God had to be metaphorical, since their literal and apparent meaning contradicted propositions known through reason, such as the impossibility of created attributes inhering in God. Al-Rāzī, as we saw, made the presence of metaphorical expressions one of his grounds for denying the ability of scriptural language to impart certainty, although he does add that the presence of metaphorical expressions in the Qurʾān does not make the speech of God untrue. It simply shows that God is not obliged to use words according to their original meaning.\(^\text{457}\)

As an Ashʿarī theologian and legal theorist committed to the view that scriptural passages relating to god’s attributes are metaphorical, Ṣafī al-Dīn al-Hindī himself does not share this view. He therefore proceeds to fault the argument of those who insist that God cannot

\(^{455}\) Al-Hindī, Nihāyah, 2:332-333

\(^{456}\) Ibn al-Najjār, Sharh, 1:191-192; al-ʿĀmidī, Muntahā, 48; al-Khaṭīb al-Baghdādī, Ṣaḥīḥ, 45; Āl Taymiyyah, al-Musawwadah, 1:362, 368; MF 7:60-61; al-Hindī, Nihāyah, 2:332-333. A more substantial number of scholars can be found denying the use of majāz in the Qurʾān. See Abū Yaʿlā, al-ʿUddah, 2:695; MF 7:61, Āl Mughirah, Dalālāt, 1:146.

\(^{457}\) Al-Rāzī, al-Maḥṣūl, 1:332-334.
communicate in metaparor. First, he says, it is a mistake to think that it would be unbecoming of God to express Himself in misleading speech. We must not impose our understanding of good (tahsin) and evil (taqbīḥ) on God. God is not bound by our conceptions of morality – He transcends them.\(^{458}\) However, al-Hindī adds, although God is not bound by our standards of good and evil, there could in fact be good reasons for God to use metaphorical expressions, particularly when a metaphorical expression was in common use or the corresponding non-metaphorical expression with the same meaning would have been more difficult for God’s audience to comprehend and pronounce. Lastly, al-Hindī says, God does a favor to people by using ambiguous expressions, as this drives people to seek the real meaning of such expressions and experience delight in discovering them.\(^{459}\)

Al-Hindī’s arguments on this point draw on the stock of arguments developed by his Ashʿarīs predecessors. Al-Āmidī and al-Rāzī, for instance, had argued that there were rhetorical and stylistic reasons for employing metaphor, such as the fact that a metaphorical expression was more rhythmic or euphonic than a literal one.\(^{460}\) Al-Ghazālī meanwhile, had explained that our knowledge of the truth of God’s speech cannot be based on the rational impossibility of God speaking untruthfully because it is not rationally evil or impossible for God to lie. Rather, al-Ghazālī says, our only way of knowing that the speech of God’s is true is that the Prophet testifies to this fact and because the inner speech of a knowledgeable being can never contradict his knowledge.\(^{461}\) Al-Qarāfī also lists a number of Ashʿarī doctrines that necessitate the conclusion that God can reveal speech that false. First, God is to be regarded as the creator of everything, including falsehood. Secondly, it is permissible for God to misguide His creation by creating false

\(^{458}\) Al-Hindī, Nihāyah, 2:334; al-Rāzī, al-Maḥṣūl, 1:408.

\(^{459}\) Al-Hindī, Nihāyah, 2:366-368.


\(^{461}\) Al-Rāzī, al-Maḥṣūl, 4:273.
speech in His creation, proclaiming for instance, that half of ten is one. Lastly, al-Qarāfī points out, the Ash‘arīs hold that the words of the Qurʾān were created in Gabriel and are not the actual words of God. As such, these words carry the same possibility of being untrue as the words of any created being.\textsuperscript{462}

Accepting the existence of metaphor in God’s speech however only raises once again the paradox referred to by al-Ghazālī, namely that God commands mankind to believe in scripture as it is, even though the beliefs formed as a result of this belief are manifestly incorrect.\textsuperscript{463} Even if one accepts that God reveals metaphorical speech, how does one explain the fact of God revealign speech that is not only metaphorical but which seems to be utterly misleading? Al-Rāzī sets himself the task of justifying God’s decision to reveal misleading metaphorical speech which, accepted in its apparent sense, would constitute disbelief.\textsuperscript{464} He explains that God deliberately reveals ambiguous speech to increase the reward of His servants, who now have to exert greater effort to attain a proper understanding of divine speech. Secondly, if the Qurʾān were free of ambiguity, it would only support the stance of one of the many sects who relied on its words in a doctrinal controversy. Those whose positions could not be supported by scripture would lose interest in devoting themselves to its study since it would be clear that scripture did not support their doctrines. God’s decision to keep the words of revelation ambiguous gives every sect and scholar a reason to continue the study of scripture in the hope that they will be able to find therein expressions which are flexible enough to lend support to their stance. The third defense of misleading metaphorical speech offered by al-Rāzī is that such speech serves as


\textsuperscript{463} Al-Ghazālī, \textit{Maqṣad}, 51; al-Ghazālī, \textit{al-ląqṭıṣād}, 66.

\textsuperscript{464} al-Rāzī, \textit{Asās}, 248. See also Ibn Taymiyyah, \textit{Bayān}, 8:247-251; MF 4:61-62, 98. For a contemporary defence of metaphorical expressions in divine speech on the grounds that this saves mankind from the idolatory of believing that one has fully understood the deity, see the references to the works of Walter Brueggeman in Aaron, \textit{Biblical}, 10-11.
a kind of test, guaranteeing that those who believe in God do so sincerely on the basis of scripture and not on the strength of intellectual proofs alone. Lastly, al-Rāzī’s argues that God’s use of misleading and ambiguous speech is justified because through it He addresses man’s imaginative faculties.

**Traditionalists and Metaphor in God’s Speech**

The traditionalists not only deny the existence of metaphorical expressions in divine speech, a point which we shall address shortly, they actually reject outright the distinction between real (ḥaqīqah) and metaphorical or tropical expressions (majāz) that had been upheld by most linguists and legal theorists in the classical period. Ibn Taymiyyah and Ibn al-Qayyim launch a systematic attack on the conventional theory of language, which held that metaphorical meaning arises as a result of words being assigned to signify certain objects (wadʿ) and then, over a process of time, denoting objects other than those originally assigned to them. As we intend to present a detailed account of Ibn Taymiyyah’s linguistic philosophy in a forthcoming work, in this section we shall comment very briefly on the significance of Ibn Taymiyyah’s rejection of metaphorical meaning on his theology and legal theory.

The conventional theory of language suggests, as we said, that language arises through the assignation of words to denote objects. In this theory, the real meaning of a word is therefore the meaning that is apparent by itself without any context, that which first comes to mind when

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466 Al-Rāzī, 1:175. For an account of the theory, see Ali, Medieval, 16. On the differences between some of the various theories of wadʿ, see al-Rāzī, al-Maḥṣūl, 1: 181-182.

a word is heard. A metaphor, on the other hand, is defined in the conventional theory as a word whose meaning is determined by the context in which it occurs.\textsuperscript{468} Well before Ibn Taymiyyah, however, aspects of this conventional theory had been challenged. The jurist Abū Ӏishaq al-Isfarā’īnī, for instance, reportedly argued that once the context of a word has been fixed by its arrangement in an expression, its meaning can no longer be regarded as metaphorical.\textsuperscript{469} Ibn Taymiyyah and Ibn al-Qayyim adopt a more radical form of this argument, insisting that a word by itself is incapable of conveying meaning. In fact this is one of the grounds on which Ibn Taymiyyah rejects the conventional theory of language. There cannot, he insists, be any conventional agreement on the meaning of words prior to the use of language in ways that already convey meaning.\textsuperscript{470}

For Ibn Taymiyyah and Ibn al-Qayyim then, words by themselves, devoid of context, signify nothing. In fact solitary words do not even constitute proper speech, as the latter term refers to complete expressions that convey meaning, which words by themselves are incapable of doing.\textsuperscript{471} The meaning of a word, the traditionalists argue, is necessarily clarified, adjusted and ultimately determined by the context in which it occurs, its placement in a sentence and the expressions and practice of the speaker using it. Since words only convey meaning within

\textsuperscript{468} al-Armawī, al-Taḥṣīl, 1:237; al-Hindi, Nihāyah, 1:261; MF 20:222. For more on the debates on the origins of language, see al-Subkī, al-Ibhājī, 1:197; al-Ghazālī, al-Mustaṣfā, 2:10; al-Bāqillānī, al-Taqrīb, 1:320-326. On context, see Ali, Medieval, 53, 55-58 (context includes but is not limited to co-text).
\textsuperscript{469} al-Armawī, al-Taḥṣīl, 1:232; al-Hindi, Nihāyah, 2:323-325; al-Samānī, Qawāṭī‘, 2:77; MF 20:220.
\textsuperscript{470} Al-Mawṣili, al-Ṣawā‘īq, 3:701, 751, 760; MF 7:61-65; MF 20:221-222, 224; Ibn Taymiyyah, al-Tis’īniyyah, 2:384. For criticisms of Ibn Taymiyyah’s views on majāz, see al-Mat‘ānī, al-Majāz.
\textsuperscript{471} Ibn al-Qayyim, al-Ṣawā‘īq, 1:289; al-Mawṣili, al-Ṣawā‘īq, 3:719, 724-725, 751. Ibn Taymiyyah, al-Risālah al-madaniyyah, 31; Ibn Taymiyyah, al-Imān, 83; Ibn Taymiyyah, Bayān, 8:404; MF 10:138, 20:222, 238-239, 250; Ibn Taymiyyah, al-Radd ‘alā al-mantiqiyyīn, 77. For a discussion on whether or not marks replicating intelligible sentences should be considered a meaningful in the absence of any accompanying intent to convey meaning, see Mootz, “Law,” 19-20. For a discussion of the way in which the sentence frame selects the sense of the words in it, see Swinburne, Revelation, 16, 38. See also Ali, Medieval, Ch. 4.
particular semantic contexts that fix their meaning and make them unambiguous, and since speech cannot exist without such contexts, it follows that all words in speech are real and not metaphorical.\footnote{MF 20:239, 250; MF 7:66-67,70-72; MF 20:226-227; Ibn al-Qayyim, al-Ṣawāʾiq, 2:714-715. See also al-Āmīdī, al-Iṭkām, 1:72, 73.} This, it should be said, is an understanding of language that is anticipated and then resolutely dismissed by al-Ḥāfīzī, who remarks that if it could be said of every word that it carries a particular meaning but that this meaning changes in light of external factors, there would be no metaphor left on earth – a conclusion clearly too outlandish for al-Ḥāfīzī to consider.\footnote{Al-Ḥāfīzī, al-Maḥṣūl, 3:15.}

As we said earlier, we are not interested in presenting a detailed account of Ibn Taymiyyah’s linguistic philosophy. Rather, we are interested in examining the ways in which his theory of language reinforces his traditionalist positions in legal theory. At the outset, we see that Ibn Taymiyyah’s emphasis on using contextual indicants to determine the meaning of expressions hearkens back not only to the views of jurists such as Abū ʿĪsāq al-Īṣāfār īnī but also to early traditionalist figures such as al-Ṭāḥīrī, who, at the outset of his Risālah, refers to the ‘multiplicity of ways in which meaning [of the Arabic Qurʾān] is imparted.’\footnote{El-Shamsy, Tradition, 59.} Ibn Taymiyyah makes it clear, in fact, that the conventional division between real and metaphorical meaning ought to be rejected not only because it is, according to him, rationally unsound, but also because it is, in his view, an innovation of the Muʿtazilah\footnote{Al-Mawṣūli, al-Ṣawāʾiq, 3:700 (the editor suggests that al-Ḥāḥiqī is the first to use the term in its later sense).} which finds no support in the works of the earliest and most reliable authorities on Arabic grammar such as al-Khalīl (d. 170/786) and Sībawayh (d. 180/796), nor in the works of the early on legal theorists such as al-Ṭāḥīrī.\footnote{MF 20:222-224, 246, 7:60; al-Mawṣūli, al-Ṣawāʾiq, 7:708.} For Ibn Taymiyyah, the fact that meaning does not arise out of an original act of assignation but through the adoption
of particular linguistic arrangements, practices and conventions by users of a language makes it all the more necessary that in order to interpret a historical text such as the Qurʾān, one have recourse to the conventions of communication established between its author – God – and His primary addressees – the Prophet and his Companions.\footnote{MF 7:71; MF 20:245, 250; Ibn Taymiyyah, Jawāb al-ʾītirādāt, 10, 15, 17.}

Moreover, Ibn Taymiyyah remarks, the criteria that purportedly allow one to distinguish between real and metaphorical expressions – for instance, regarding a general statement as real and qualified one as metaphorical – lead to conclusions which even the Ashʿarī must regard as absurd. For according to this distinction most Qurʾānic passages imposing religious obligations, even the proclamation of faith itself – there is no God except God – would have to be regarded as metaphorical expressions because they involve qualifications to general statements.\footnote{MF 20:248-249, 262, 264, 7:69-70; Ibn Taymiyyah, Bayān, 8:477. See also al-Juwaynī, al-Burhān, 1:410-411; Zysow, Economy, 147.} In fact, Ibn Taymiyyah continues, the continuing disagreement amongst legal theorists over whether the imperative mood signifies recommendation or obligation shows that there is no rule by which actual and metaphorical usage can be distinguished.\footnote{MF 20:249.}

**Metaphor, Theology and Law in Traditionalism**

Although the traditionalists deny the existence of metaphorical expressions as a feature of language altogether, they nevertheless have a specific set of criticisms to make of theologians who advocate the metaphorical interpretation of scripture. Foremost amongst these criticisms is that metaphorical interpretation distorts the real knowledge of theology and law that God sought to communicate through His word by reimagining the purpose of interpretation. This,
the traditionalists argue, leads in turn to a situation where neither scripture nor law are immune from esoteric interpretation.

**Interpretation and Meaning**

As we said repeatedly, the traditionalists favor the interpretive authority of the *salaf*. They therefore reject the justifications for metaphorical interpretation advanced by philosophers and theologians such as Ibn Rushd. Ibn Rushd’s defense of metaphorical interpretation is set out concisely in his *Faṣl al-maqaṣl*, a small work in which Ibn Rushd sets himself the task of arguing that the truth of the Qurʾān must be reconcilable with the truth of philosophy since they are both true and truth does not contradict truth. The way to resolve any apparent conflict between scripture and the conclusions of philosophy, according to Ibn Rushd, is to interpret scripture in such a way that its conclusions no longer contradict the truth of philosophy. The reason why it is scripture and not the conclusions of philosophy that must be interpreted away is that the methods and conclusions of philosophy are demonstrative. They do not lend themselves to metaphorical interpretation. Scripture, on the other hand, is expressed in a poetic and rhetorical medium that can be understood metaphorically.

Despite his vehement denunciations of Ashʿarism elsewhere then, Ibn Rushd’s justification for metaphorical or tropical interpretation (*taʾwil*) is virtually identical to the Ashʿarī version that we encountered above. Ibn Rushd even cites with approval al-Ghazālī’s views on the validity of *taʾwil* from the latter’s *Fayṣal al-tafriqaḥ*, wherein al-Ghazālī had argued for the validity of *taʾwil* and issued a warning against pronouncing disbelief on those whose misunderstandings of the Qurʾān were based on a valid *taʾwil*. ⁴⁸⁰

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The commitment of the dialectical theologians to this theory of interpretation stems in part from their underlying conviction that scripture uses expressions which are ambiguous and misleading, if not entirely untrue. Since such passages are necessarily ambiguous, it follows that there can be more than one way of interpreting them correctly. At a very basic level, the dialectical theologians disagreed about the extent to which believers were required to reject the apparent meaning of such scriptural passages. According to some Mu’tazilites, lay believers, women and all other classes of people who could not be expected to understand why literal interpretations of divine attributes were wrong were still required to dispel the erroneous interpretations of anthropomorphitic passages that came to their minds. Others, however, held that it was sufficient for such classes of people to not hold any beliefs regarding the interpretations of such passages.\footnote{Al-Ash’arī, \textit{Maqālāt}, 2:115; al-Qarāfī, \textit{Nafūs}, 9:3867.}

In his \textit{Nizāmiyyah}, the Ash’arī al-Juwaynī regards both these options as acceptable. When faced with a passage whose apparent meaning is clearly impossible to accept, he says, one can either resort to metaphorical interpretation or suspend one’s judgment about the meaning of such passages.\footnote{Al-Juwaynī, al-‘\textit{Aqidah}, 32-33; al-Juwaynī, \textit{al-Shāmil}, 543; Ibn Taymiyyah, \textit{al-Fatwā al-ḥamawiyyah}, 514.} The only error, in such cases, according to the Ash’arīs, lies in affirming both the literal and metaphorical meanings of scriptural passages when these meanings are mutually exclusive. One may adopt one or another of these meanings – not both.\footnote{Al-Qarāfī, \textit{Nafūs}, 2:879; Ibn al-Qayyim, \textit{Ijām}, 4:58, 62. This includes theological and legal examples, such as denying wisdom and causality; Ibn al-Qayyim, \textit{Ijām}, 4:66 (God’s speech being His); God’s elevation (Ibn al-Qayyim, Ijām, 4:67). On whether a word can bear its literal and metaphorical meaning together, see Āl Taymiyyah, \textit{al-Musawwaddah}, 1:370.}

For the Ash’arīs then, the meaning of speech cannot be established by arriving at a correct interpretation of inherently ambiguous and potentially misleading expressions, since all such
interpretations are presumptively correct, or at least none can be shown definitively to be incorrect. Instead, the Ashʿarī Ṣafī al-Dīn al-Hindī says, an interpreter must somehow already know that a speaker intends the apparent meaning of what he says before he can begin to interpret the latter’s speech. In the case of divine speech, al-Hindī explains, God Himself creates a necessary knowledge in His servants which makes them certain that He does not mean the opposite of what He says.

The error of such thinking is, for Ibn Taymiyyah encapsulated in al-Rāzī’s view that while one can be certain that the apparent meaning of a particular ambiguous passage is unacceptable, there is no way of being certain as to which of the metaphorical meanings of such passages should be adopted and therefore one need not specify which metaphorical interpretation of a passage is correct. For according to al-Rāzī although revelation must provide people with statements of belief that they can affirm, people must nevertheless refrain from elaborating on the true import of such statements as these would confuse the majority of those addressed by revelation. Ibn Taymiyyah rejects this hermeneutical approach of the dialectical theologians which regards as legitimate any linguistically valid metaphorical interpretation of a scriptural passage. For Ibn Taymiyyah, an interpretive strategy of this sort is flawed because it dissociates the activity of interpretation from the search for the speaker’s meaning. Interpretation, according to Ibn Taymiyyah, must not be geared towards providing all the meanings a word can bear, from which the auditor can then choose the meaning that he finds most agreeable. Rather,

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484 Al-Hindi, Nihāyah, 8:3825; Ibn al-Qayyim, al-Ṣawāʾiq, 1:337-338.
485 Al-Rāzī, Maṭālib, 8: 116-117; al-Rāzī, Asās, 249-259. See also Ayman Shihadeh, “From al-Ghazālī to al-Rāzī,” 174; Ibn Taymiyyah, Bayūn, 8:443.
the purpose of interpretation is to uncover the meaning of the speaker – a point that Ibn Taymiyyah and Ibn al-Qayyim believe is ignored by the dialectical theologians.\textsuperscript{486}

In fact, Ibn Taymiyyah says, there is a fundamental tension in the views of the dialectical theologians who hold that holding to the apparent meaning of scripture is a legitimate strategy of interpretation, so long as one does not simultaneously hold to a metaphorical meaning that negates this apparent meaning. According to Ibn Taymiyyah, by allowing some believers to adhere to the apparent meaning of scriptural passages, the theologians have allowed people to believe in falsehoods, since the theologians themselves regard the apparent interpretations of many of these passages as false.\textsuperscript{487} Against the theologians, Ibn Taymiyyah is adamant that God cannot intend people to understand something contrary to the truth with His speech, nor can He encourage them to adopt false beliefs.\textsuperscript{488}

Ibn Taymiyyah therefore rejects al-Rāzī’s view that if the early Muslims were divided over the meaning of a word, it was permissible for those who came later to offer another interpretation of that word. For Ibn Taymiyyah, this approach directly undermines the interpretive authority of the \textit{salaf} and the possibility of discovering the true meaning of scripture. Ibn Taymiyyah therefore insists that in cases where the early Muslims only entertained a limited set of possibilities as to the meanings of particular scriptural words, this constituted an agreement that God’s meaning was limited to those possibilities and was not open to new interpretations by later generations.\textsuperscript{489} Ibn al-Qayyim also uses standard traditionalist theology to argue against the metaphorical interpretations of the dialectical theologians that are not supported by the


\textsuperscript{487} Ibn Taymiyyah, \textit{Bayān}, 2:115.

\textsuperscript{488} Ibn Taymiyyah, \textit{Bayān}, 8:250-251.

\textsuperscript{489} Ibn Taymiyyah, \textit{Bayān}, 6:287, 290.
understanding of the earliest generations. Not the least of the unacceptable conclusions that flow from such doctrines, according to Ibn al-Qayyim, is that the earliest and best Muslims were guilty of either ignorance or concealment of knowledge and that the later generations can surpass the knowledge and understanding of their forefathers in faith. 490

Ibn Taymiyyah and Ibn al-Qayyim do accept that speech could be used to mean the opposite of what is expressly stated, but this would only be true with certain conditions 491 and in particular contexts such as poetry, where the aim is the ta‘miyah of the hearer. The word ta‘miyah, derived from the root ‘-m-y meaning loss of vision, is quite similar to the English word ‘bedazzle’, which also conveys the sense of being overpowered by brilliance in such a way as to lose one’s vision. 492 However, Ibn al-Qayyim says, the aim of the Qurʾān is not to bedazzle people but to guide them. It is not permissible, Ibn al-Qayyim continues, to take the words of God and His Messenger to mean anything they can mean linguistically, nor to interpret them according to the technical definitions adopted by a group of people such as the philosophers or the dialectical theologians. 493 On the contrary, in the absence of any guidance within the Qurʾān regarding how its words are to be interpreted in a non-apparent meaning, one must take the speech of God to mean what it apparently says. 494

We can see how this traditionalist critique of the heremenutics of dialectical theology is supported by the traditionalist rejection of metaphors as a feature of language. For Ibn Taymiyyah and Ibn al-Qayyim, where a speaker has the opportunity to indicate that he intends his words to be understood in a non-apparent way but still fails to do so, one can determine that

491 Ibn Taymiyyah, al-Risālah al-madaniyyah, 26, 40, 43; Ibn Taymiyyah, Bayān, 1:262-263.
the speaker’s words are not to be interpreted in anything other than their apparent sense.\textsuperscript{495} This, according to the traditionalists, is the case with the speech of the Prophet, who is not reported to have ever warned his audience against adopting the apparent meaning of scriptural descriptions of God and the hereafter, nor to have required them to adopt metaphorical interpretations of such descriptions, as the dialectical theologians do.\textsuperscript{496}

According to Ibn al-Qayyim, the Ashʿarī position on metaphorical expression undermines the very purpose of communication, which is to convey what is inside the speaker to the auditor in the most direct way. Communication, according to Ibn al-Qayyim, depends on (i) the expressions of the speaker and (ii) the possibility of the auditor understanding these.\textsuperscript{497} In the absence of these factors, as in the case where a speaker desires an auditor to understand something other than what he says, speech serves no purpose.\textsuperscript{498} In such cases, says Ibn al-Qayyim, it would have been better for the speaker not to say anything at all instead of confusing the listener with speech that is to be taken in other than its apparent meaning.\textsuperscript{499} An unwarranted metaphorical interpretation of a passage that was intended to be understood in its apparent sense is therefore as destructive to the process of communication as distorting the speaker’s actual words. Therefore, according to Ibn al-Qayyim, the unwarranted metaphorical interpretation of clear scriptural passages practiced by the dialectical theologians is no different from the distortions of scripture practiced by the Christians.\textsuperscript{500}

\begin{footnotes}
\item[495] Ibn Taymiyyah, Jawāb al-īṭirāḍāt, 101-102.
\item[496] Ibn Taymiyyah, Bayān, 2:452-453, 8:252-253; Sharḥ risālah al-tadmuriyyah, 233; Ibn Taymiyyah, al-Risālah al-madaniyyah, 57.
\item[497] Ibn al-Qayyim, al-Ṣawāʾiq, 1:310.
\item[498] Ibn al-Qayyim, al-Ṣawāʾiq, 1:310-311.
\item[499] Ibn al-Qayyim, al-Ṣawāʾiq, 1:310.
\item[500] Ibn al-Qayyim, al-Ṣawāʾiq, 1:329, 358; al-Mawṣili, al-Ṣawāʾiq, 2:936.
\end{footnotes}
For Ibn al-Qayyim, the conflicting positions of the philosophers and theologians on this point arise out of their contradictory accounts of the reasons why God chose to communicate in metaphorical speech.\footnote{501}{al-Mawṣili, al-Ṣawāʾiq, 932, 933. See also Al-Rāzī, al-Mahṣūl, 1:201, 385, 389, 408; al-Āmīdi, Muntahā, 47; al-Qarāfī, Našīṣ, 3:1062; Ibn Taymiyyah, Bayān, 8: 242-243, 245, 246-247; 250-251; Ibn Taymiyyah, Minhāj, 2:551; MF 6:347; Ibn Taymiyyah, al-Nabūwwāt, 2:934, 951; al-Mawṣili, Mukhtaṣar, 932, 933; Ibn al-Najjār, Sharḥ, 2:143; Āl Taymiyyah, al-Musawwadah, 1:367 (it is possible for the Qurʾān to say that whose meaning is not understood). See also Ḥasan, Qawāʾid, 111; Ali, Medieval, 43; Āl Mughīrah, Dalālāt, 1:118-119.} We have already encountered the sort of tensions Ibn al-Qayyim is referring to in the works of Ashʿarīs such as al-Ghazālī, who points out that God commands people to believe in scripture as it is but also warns that the beliefs formed in obedience to this command are necessarily erroneous.\footnote{502}{Al-Ghazālī, Maṣṣad, 51; al-Ghazālī, al-Iqtiṣād, 66.} According to Ibn al-Qayyim, when explaining why God and the Prophet describe God in anthropomorphic terms, the philosophers and theologians hold that scripture addresses people in language which they can understand and accept and since most people could not fathom the reality that God has no voluntary and dynamic attributes, scripture uses anthropomorphic expressions about God’s speech and other attributes so as not to confuse the majority of its addressees. However, Ibn al-Qayyim continues, these same philosophers and theologians also frequently insist that the descriptions of God in scripture must be interpreted metaphorically so as to avoid forming an anthropomorphic image of God. This, according to Ibn al-Qayyim, clearly contradicts the claim that God has addressed people in language that does not confuse them. For the very presence of metaphorical expressions demonstrably does cause confusion for those who fail to see the necessity of metaphorical interpretation at all as well as for all those who adopt incorrect metaphorical interpretations.\footnote{503}{Ibn al-Qayyim, al-Ṣawāʾiq, 2:771; Ibn Taymiyyah, Bayān, 8:492-493; MF 16:245, 17:194, Darʾ, 1:15-16.} Ibn Taymiyyah expresses a similar point, saying that the fundamental tensions at the heart of dialectical theology arise out of the fact that although the theologians wish to affirm that God’s word is entirely true, they are committed to the idea that much of scripture must be be
interpreted metaphorically and to defining a metaphorical interpretation as one that can be negated for not being true.\textsuperscript{504}

In the same vein, Ibn Taymiyyah remarks that there are some three thousand passages in scripture that describe the attributes of God, the apparent meaning of which is rejected by the dialectical theologians, who insist that such passages must be interpreted metaphorically.\textsuperscript{505} Ibn Taymiyyah’s brother, ‘Abd Allāh b. Taymiyyah (d.727/1326) argues that one cannot require the metaphorical interpretation of such an overwhelming number of passages without calling into question God’s knowledge, power and sincerity. For God either knows the real meaning of such passages or He does not. The second possibility cannot be entertained, he says. Therefore, the fact that God knows the real meaning of such passages but fails to convey it is due either to his lack of power or because He continually speaks in a way that is contrary to His true meaning, while assuring people that He speaks with the utmost clarity, (Q., Ibrāhīm, 14:4; al-Naḥl, 16:44, 64, 89; al-Ahzāb, 33:4; al-An‘ām, 6:114-115).\textsuperscript{506} Metaphorical interpretation, the traditionalists argue, would only be justified if one had clear evidence that God and His Prophet did not intend one to understand their expressions in accordance with their apparent meanings. For the purpose of scripture, the traditionalists argue, is to guide man to the knowledge of God. This purpose is lost if the meaning of scripture is unclear or if it is only known to a few.\textsuperscript{507}

\textsuperscript{505} Ibn Taymiyya, \textit{al-Ba‘albikīyyah}, 186.  
Metaphor, Theology and Law

Even before Ibn Taymiyyah and Ibn al-Qayyim, a number of scholars had expressed concerns about the law’s ability to survive as a coherent entity once the revealed sources of law, i.e. the Qur’an and Sunnah, could be interpreted metaphorically. The Mu’tazilite ‘Abd al-Jabbār, for instance, argued that the law cannot remain intact if the words of scripture cannot be interpreted metaphorically. The Mu’tazilite ‘Abd al-Jabbār, for instance, argued that the law cannot remain intact if the words of scripture cannot be interpreted according to their apparent meaning. To say that the Qur’an’s expressions are ambiguous is to deny its role as a guide for mankind, a point echoed by Ibn al-Qayyim.508

Another figure who made the same point, and who is quoted extensively by Ibn al-Qayyim, is the Andalusian philosopher and jurist Ibn Rushd. Ibn Rushd’s remarks on the subject are found in a section of the latter’s Manāḥīj al-adillah,509 during which the philosopher examines the views of various theological sects on God’s ‘direction’, specifically, whether or not God can be described as being above His throne, as maintained by the traditionalists.510 Ibn Rushd remarks that the ‘apparent law’ necessitates affirming a direction for God, for ‘if metaphorical interpretation is imposed on these [verses referring to God being above His creation], the law in

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509 Ibn Rushd, Manāḥīj, 145. Ibn Taymiyyah is also concerned with the principles set out in this work. See Ibn Taymiyyah, Bayān, 1:158-166. See also al-Marzūqī, Iṣlāḥ, 100.

For the contrary position of the Ashʿarīites, see al-Bāqillānī, al-Insāf, 40 (God is to be described as being nowhere). However, elsewhere, al-Bāqillānī adheres to the traditionalist position and insists that God is above His throne, a position also affirmed by al-Ashʿarī. See al-Bāqillānī, al-Tamhīd, 260, 264; al-Ashʿarī, al-Ibānah, 106. The later Ashʿarī position is found in Al-Juwaynī, al-Shāmil, 546-551; Al-Ghazālī, al-Iqtiṣād, 58-62 (God cannot be in any of the six directions); Al-Ghazālī, al-Mustasfā, 1:90, (God cannot be above the Throne); Al-Baghdādī, Uṣūl, 76 (God cannot be in any place), 112 (He cannot be above); al-Āmidī, Abkār, 2:34 (God is not in any place); al-Īṣa, Khamsīn, 36; al-Īji, al-Mawāqif, 270-271; al-Bayhaqi, al-ʿItiqād, 122-123 (God is above His throne without being in any place).
its entirety becomes subject to allegorical interpretation.’ Despite his justification for an allegorical interpretation of God’s attributes elsewhere, in the Manāhij, Ibn Rushd appears to be decidedly unimpressed with the efforts of the theologians to have their metaphorical cake and eat it. He argues that one cannot make a meaningful distinction between theoretical and legal passages of scripture whereby only one set of passages could be interpreted metaphorically and not the other, for ‘if it is said that these passages [dealing with God’s attributes] are amongst those which are ambiguous, the whole law ends up being ambiguous. This is because all revealed laws are founded on God being in the sky, His angels descending from thence with revelation to the prophets and the divine books being revealed from the sky...’

Ibn Taymiyyah and Ibn al-Qayyim develop the argument that once the existence of metaphorical expressions is accepted in theology, there can be no basis for excluding it in law. Theology and law, Ibn al-Qayyim says, are both concerned with realizing the unity (tawḥīd) of God, which depends on having the correct beliefs about God (theology) and performing acts in accordance with God’s commands (law). This too was an argument that had been made earlier by Ashʿarī scholars against their theological adversaries, whom the Ashʿarīs warned that their refusal to accept the plain and apparent meaning of legal passages of scripture necessarily meant that they could not arrive at the right set of beliefs about God. Al-Qarāfī, for instance, rejects the argument of the Murjiʿah that God’s general threats of punishment for disobedience to the law should be read as warnings intended to instill fear in people so that they would not disobey God. If the

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513 Al-Rāzī, al-Maḥṣūl, 1:390.
apparent meaning of such verses is not what is intended, asks al-Qarāfī, what reason can people have for fearing anything from God at all?514

Ibn Taymiyyah also points out that Ashʿarī scholars such as al-Rāzī have conceded that the ways in which various theological and legal sects support or condemn particular metaphorical interpretations of scripture is wildly inconsistent and driven by the need to justify their own positions.515 and that each sect uses the principle of metaphorical interpretation to support its own positions. Ibn Taymiyyah and Ibn al-Qayyim also repeatedly refer to the discussion of the problem of consistency in the work of the Ashʿarite al-Bāqillānī. In his theological tour de force, al-Tamhid, a work which clearly displays the influence of the author’s traditionalist teachers such as Ibn Abī Zayd al-Qayrawānī, al-Bāqillānī exhibits the same anxieties about interpreting God’s speech metaphorically as the traditionalists, arguing that if rational considerations dictate that God’s speech be understood as a metaphor, the same considerations would require the reinterpretation of God’s will, knowledge and power.516 For Ibn al-Qayyim, the reason no sect has been able to develop a principle of metaphorical interpretation which it can apply consistently across theology and law is that it is impossible to restrict metaphor to one of these domains to the exclusion of the other.517 The dialectical theologians who advocate metaphorical interpretation of God’s attributes want to limit such interpretation to theology but, as we said

514 Al-Qarāfī, Naḥāṣ, 3:1062. On the restriction of general threats, see al-Bāqillānī, al-Tamhid, 355; al-Rāzī, al-Arkāʾīn, 2:237. For the Muʿtazilah, general threats are to be taken on their apparent meaning and can only be specified by an accompanying exception or a rational necessity. Al-Nazzām, however, calls for the suspension of judgment on generality until one has ensured that there is no specification. See al-Asʿārī, Maqālāt, 1:336-337; al-Ghazālī, al-Mustaṣfā, 2:70.

515 Ibn Taymiyyah, Bayān, 2:448, 6:293; al-Rāzī, Asās, 234; lSee also al-Ghazālī, al-Mustaṣfā, 2:50. For the Muʿtazilite principle of regarding all verses other than the ones which supported their five principles as ambiguous, see Ullah, “Al-kashshaf”, 126, 129.


earlier, their advocacy of such interpretation naturally opens the door for the esoteric Bāṭinīs who call for allegorical interpretation of the law. After all, what justification can there be for the theologians to interpret away scriptural reports relating to God’s attributes and eschatology while not allowing other sects to interpret away the law when knowledge of all these comes from the same source, Ibn al-Qayyim asks?  

Similarly, Ibn al-Qayyim says, the dialectical theologians try to justify their own metaphorical interpretations while condemning those of the philosophers, even though the philosophers advance the same arguments for their rejection of the apparent meaning of scripture as do the theologians for theirs.  

Ibn al-Qayyim also points to the scale of the devastation wrought on the edifice of the law by the theory of metaphorical interpretation when he points out that some of the champions of the theory, such as the famed linguist Ibn al-Jinnī actually regard most verbs and statements relating to actions as metaphorical. According to Ibn al-Jinnī (d. 392/1002), even a simple expression such as ‘Zayd left’ is metaphorical because one individual cannot possibly perform all possible instances of the genus of an action, such as leaving, which encompasses past present and future instances of such actions. Accordingly, the expression Zayd left can only be real in reference to the way in which Zayd actually left, and can only be metaphorical with regard to all the other ways Zayd could have left but did not. The natural implication of this view is that all linguistic expressions which use verbs are ambiguous and metaphorical, although Ibn al-Jinnī tries to escape the implications of this view by arguing that when metaphorical expressions become widespread they are taken as real. Ibn al-Qayyim, however, refuses to let Ibn al-Jinnī escape so easily, insisting that the latter’s views on metaphorical expressions automatically

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renders the law metaphorical, as most of the law is conveyed in the form of imperatives and verbs commanding people to perform specific acts.\textsuperscript{521}

For Ibn Taymiyyah too, once it is accepted that the Ashʿarīs are correct in holding that it is not abhorrent for God to use ambiguous expressions when guiding people as to their beliefs, there can be no justification for the Ashʿarī doctrine that legal speech guiding people as to their acts cannot contain metaphorical expressions. Rather, one must affirm the view of Ibn Taymiyyah’s contemporary, the Ashʿarī Ṣafī al-Dīn al-Hīnī who admits that God can mean the opposite of what He says in theology and law.\textsuperscript{522} If accepted, this position leaves little ground for Sunnī jurists to criticize the esoteric legal interpretations championed by the Ismāʿīlis and others who were so vehemently attacked by al-Ghazālī.

It is in this light that Ibn Taymiyyah critiques al-Rāzī’s statement that all sects agree on the necessity of metaphorical interpretation.\textsuperscript{523} Ibn Taymiyyah responds that to believe that the Qurʾān contains ambiguous passages – in the sense that there is no guidance within scripture on how to interpret them – is tantamount to denying the Qurʾān’s own proclamations that it is a guide and that God has clarified everything for mankind.\textsuperscript{524} Elsewhere, Ibn Taymiyyah argues that it is impossible for scripture to convey knowledge of trivial legal matters in the utmost detail, as maintained by the dialectical theologians who also served as jurists, but for it to provide no guidance on the real meaning of God’s attributes, which constitutes real knowledge of God.\textsuperscript{525} This highlights once again how the traditionalists insisted that the same interpretive


\textsuperscript{522} Al-Hīnī, \textit{Nihāyah}, 5:1812.


\textsuperscript{524} Ibn Taymiyyah, \textit{Bayān}, 2:456.

methodology be applied seamlessly across theology and law, challenging thereby the hermeneutics of dialectical theology, which condemned the widespread metaphorical interpretation of law while insisting on its necessity in theology.
Chapter II. Mind of God

‘Well, religious beliefs aren’t reasonable. I mean, religious beliefs are categorical.
You know, it’s God tells you. It’s not a matter of being reasonable. God be reasonable?’ – Antonin Scalia,
Holt v. Hobbs.

In 2006 Pope Benedict XVI delivered an erudite and provocative address at the University of
Regensburg on the subject of ‘faith and reason.’ According to Benedict, or at least according
to the sources he cites, the Islamic model of divine rationality is one in which God is ‘absolutely
transcendent’ and His will ‘is not bound up with any of our categories, even that of rationality.’
Citing the French Islamicist R. Arnaldez, Benedict points out that the renowned Muslim
theologian Ibn Ḥazm, ‘went so far as to state that God is not bound even by his own word, and
that nothing would oblige him to reveal the truth to us.’ Indeed, Benedict remarks (relying once
again on Arnaldez’s work), according to Ibn Ḥazm, ‘were it God's will, we would even have to
practice idolatry.’

By contrast, Benedict declares, ‘the faith of the Church’ guided by ‘Greek philosophical enquiry’
teaches that God would contradict His own nature if He acted unreasonably. Honesty, Benedict
continues, requires one to concede that in the Middle Ages theologians such as Duns Scotus
‘sunder[ed] this synthesis between the Greek spirit and the Christian spirit’ thereby giving rise
to positions ‘which clearly approach those of Ibn Hazm and might even lead to the image of a
capricious God, who is not even bound to truth and goodness.’ Nevertheless, in Benedict’s view
there is something fundamentally distinctive in the Church’s ‘rapprochement between Biblical

526 http://w2.vatican.va/content/benedict-xvi/en/speeches/2006/september/documents/hf_ben-xvi_spe_20060912_university-regensburg.html#ftn. All references to this speech are from this official Vatican website, which provides an English translation of Benedict’s remarks.
faith and Greek philosophical inquiry’, which makes Christian thinking about the divine ostensibly reasonable.

It is of course, deeply ironic that Benedict chose to locate the difference between Muslim and Christian civilization in their supposedly differing attitudes towards Hellenistic philosophy. For it is well known that in many cases Christian theologians themselves only had access to the works of the Greek philosophers through their transmission (and transformation) by Muslim philosophers and theologians. This is not to deny that some Muslim theologians, such as marginal Ibn Ḥazm (and the Ashʿarīs, whom Benedict does not mention for some reason), did insist that God who could not be bound by any of the limitations of human reason. But as Benedict himself acknowledges, the Christian tradition has not been wanting for those who see something contradictory in speaking of a God who is bound by reason. Examples of this approach within Christianity can be found not only in the works of medieval theologians such as Scotus, but also in the remarks of the recently deceased Catholic judge of the American Supreme court, Antonin Scalia. In 2014, Scalia was on the bench which heard the case of Holt v. Hobbs, which turned on a conflict between the law of God and the decidedly less awe-inspiring prison regulations of the state of Arkansas. A Muslim prisoner, believing that God’s law required him to grow a beard, had challenged the state’s prison regulations which prohibited him from growing one. Presiding over oral arguments in the case, Scalia remarked that the reasonable of the religious law invoked by the prisoner was an irrelevant factor when determining whether the state was justified in placing restrictions on it. In Scalia’s opinion, God’s commands could not be expected to conform to the demands of reasonableness.
I. Philosophy, Law and Reason

In the last chapter we discussed varying theological understandings of the notion of divine speech gave rise to a variety of conflicts between the theologians and the traditionalists in the field of legal theory. In this chapter, we shall see that different theological conceptions of divine rationality also produced similar jurisprudential conflicts.

For many philosophers and theologians God's law was not – and could not be – rational. The irrationality of the law, however, was demonstrated in two different, albeit related, ways. Firstly, the philosophers and dialectical theologians held that legal proofs seldom if ever offered the kind of epistemological certitude offered by the methods of reasoning adopted by the philosophers, methods such as logical and syllogistic reasoning as well as technical definitions. And since the scriptural proofs on which scripture was based were, according to the dialectical theologians, probable, the theologians held that all legal solutions based on these proofs were correct, a doctrine known as legal infallibilism. The traditionalists, as we shall see, fiercely denounced the dialectical theologians for incorporating philosophical methods of reasoning into the traditional religious sciences: theology, jurisprudence and law while failing to appreciate the intellectual rigour of legal proofs. Because they regarded legal proofs as certain rather than probable, the traditionalists also denounced the theory of legal infallibilism for destroying, as they saw it, the law's integrity and its claim to coherence and authority.

Secondly, there were philosophers and theologians, foremost amongst them the Ashʿarites, who sought to demonstrate the irrationality of the law by proving that it was impossible for God's law to be based on reasons and purposes. This conclusion followed from a number of Ashʿarī theological doctrines: that it was rationally impossible for God to act for a reason, that in practice God's law showed no signs of being based on good reasons and purposes and that good and evil
were, in any case, terms that were given meaning by the law itself, which is why the law could not seek to uphold a good set of purposes. Consequently, the Ashʿarī theologians developed a theory of law which categorized large areas of substantive law as a-rational, favored technically circumscribed and formal rules of legal reasoning over techniques of legal reasoning that were more purposive and sought to alleviate the rigors of the law by devising legal fictions which circumvented the purposes of the law while adhering to its external form. All of this brought the Ashʿarīs into conflict with the traditionalists, who insisted that God’s law sought to realize a set of eminently wise purposes which returned to Him. With this theological and jurisprudential principle, the traditionalists adopted a purposive approach to legal reasoning and rejected the formalism which was advocated by the theologians and occasionally by jurists in the four main Sunnī schools of law as well.

The Battle Between Philosophy and Law

For many of the most prominent Muslim philosophers and theologians, philosophy was the summit of the rational sciences. The certainty of philosophy rested on its infallible methods of reasoning – logical reasoning, technical definitions, categorical syllogisms and the like – which were held to yield certain knowledge. By contrast, the law – as a science – was seen by these theologians as less than completely rational because its proofs (such as unqualified general statements, solitary hadiths, the implied meaning of texts, juristic analogies and the like) were uncertain and yielded speculative belief rather than knowledge based on certitude.⁵²⁷ Let us recall al-Rāzī’s argument in the previous chapter that scriptural linguistic proofs are in and of themselves incapable of yielding knowledge. The Ashʿarī Safī al-Dīn al-Hindī expresses this view

concisely when he says that when one speaks of a legal ‘proof’ one is using the term metaphorically, since legal proofs are not, properly speaking, proofs in the real sense of the word. Rather, legal proofs are mere indicants (amārat) that give rise to a probable belief (zann) – not knowledge.⁵²⁸ Only the jurists, says al-Hindi, insist on using the term ‘proof’ to refer to legal evidence.⁵²⁹ Even the few Ashʿarī-inclined jurists who did allow legal evidence to be classified as proof did so because they argued that the latter term referred to both certain and probable evidence. In other words, these jurists did not reject the basic assumption of the dialectical theologians that legal evidence was itself uncertain.⁵³⁰

Precisely because of this difference between what was deemed an acceptable proof in philosophy and theology and what passed for a proof in law, a number of philosophers and theologians held that the law itself was not a rational science in the way that philosophy was.⁵³¹ In the words of a commentator on al-Rāzī’s Maḥṣūl, the law is not based on knowledge because it is speculative.⁵³² For these philosophers and dialectical theologians, then, it is uṣūl al-fiqh, particularly as practiced according to the methodological tradition of the theologians (ṭarīqah al-mutakallimīn), with its rational maxims dealing with theoretical problems such as the nature of knowledge and certainty, the interpretation of words, the distinction between valid and invalid forms of analogical reasoning and that brings one closest to the certainties of rational sciences such as philosophy.

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⁵³¹ Al-Rāzī, Nihāyah al-ʿuqūl, 1:66. On the differences between logic and demonstration as practiced by the kalām scholars and the philosophers, see Shihadeh, “From al-Ghazālī to al-Rāzī” 144, 147; El-Tobugi, Reason, 15.
⁵³² Al-Qarāfī, NaḥĪʿīs, 1:153.
Scripture and Rational Demonstration: Ibn Rushd’s View

An early proponent of the argument that the law was an inferior science to philosophy was the renowned philosopher al-Fārābī (d. 339/950). In his Ḩṣāʾ al-ʿulūm al-Fārābī argues that the law – which he defines as the science of extrapolating or inferring things which the lawgiver is silent about on the basis of that which He has demarcated – lacks the demonstrative certainties of philosophy and is therefore an inferior science by comparison with it. Like most of the Muslim philosophers, however, al-Fārābī was both uninterested and unschooled in the law. It therefore fell to the lot of the philosopher-jurist Ibn Rushd to present a more complete account of al-Fārābī’s argument that the demonstrative proofs of philosophy are the highest and most certain form of proof.

Ibn Rushd’s makes this one of the central argument of his book Faṣl al-maḥāla, arguing that Islam itself requires the study of philosophy and logic as a means of proving the existence of the Divine Artisan with demonstrative proof (burhān). Scripture, according to Ibn Rushd, cannot contradict anything known to be true by demonstration. However, and the significance of this point cannot be overemphasized – Ibn Rushd does not hold every scriptural proof carries the same level of certainty as a demonstrative proof of philosophy. Therefore, Ibn Rushd argues, Islam makes it obligatory – for some people at least – to study Hellenic philosophy, in order to know the truth of God’s existence and other metaphysical matters with demonstrative certainty. This is the main argument of a series of works, the Faṣl al-maḥāla, its appendix (Ḍamīma), the Kashf ‘an manāḥij al-adillah and the famous refutation of al-Ghazālī’s attacks on the philosophers, Tahāfut al-

533 al-Fārābī, Ḩṣāʾ, 85-86. For a discussion of Aristotle’s views on legal proofs, see Gywnne, Logic, 98.
534 Taylor, “Truth”; idem., “Averroes” 38-59. See also Benmakhlouf, Averroes; Leaman, Averroes. On Ibn Rushd’s debt to al-Fārābī for classifying demonstration as the apodictic form of reasoning, see El-Tobugi, Reason, 54-55.
Tahāfut, which Ibn Rushd presented to his patron, the Almohad ruler Abū Yaʿqūb Yūsuf (r. 558-580/1163-1184).  

As Ibn Rushd was of course, well aware that the jurists tended to have a negative opinion of logic and philosophy. This places Ibn Rushd in something of a dilemma, since he is committed to the view that logic is the only proper form of reasoning that yields certain knowledge. In an effort to take the sting out of juristic objections to the study of logic, Ibn Rushd claims that that the jurists themselves use logic and syllogistic reasoning to establish legal analogies (qiyyās). This is not, it should be clear, an admission by Ibn Rushd that there is some sort of equivalence between the work and method of the philosophers and the jurists. For as Ibn Rushd himself makes abundantly clear, he regards theology and philosophy as inferior sciences owing to the fact that they are not based on the demonstrative proofs that are pursued by the philosophers. Indeed, in his summary of al-Ghazālī’s renowned work on uṣūl al-ḥiqāḥ, the Mustaṣfā, Ibn Rushd justifies his decision not to reproduce al-Ghazālī’s introductory passage on logic by pointing out that this is a separate science that has nothing to do with the study of jurisprudence.

Ibn Rushd therefore sets out to find specific Qur’ānic proof for the obligation of studying philosophy and logic. As far as philosophy is concerned, Ibn Rushd finds the proof he seeks in

535 Majid Fakhry suggests the Faṣl was presented 1179. See his introduction to Najjar, Faith 2.
536 See Hourani, Averroes, 13, 17. On the negative reaction to logic, see Rosenthal, Knowledge, 203-205. On the negative reaction to Aristotelianism, see Ṭabaṭabāʾī, al-Mufakkarūn. For criticisms of logic amongst Muslim scholars, see also an account of the debate between Abū Bishr Mattā (d. 328/940) (one of the teachers of al-Fārābī who called for the study of Greek philosophy) and the grammarian Abū Saʿīd al-Ṣirāfī (d. 368/979) as reported by Abū Ḥayyān al-Tawḥīdi (d. 404/1023). See Margoliouth, “The Discussion,”; MF 9:93. See also Hernandez, Framing, 115, 252-254.
537 See Ibn Rushd, al-Ḍarūrī, 37.
fragments of two Qur'ānic verses, ‘consider, you who have sight’ [Q., al-Ṣaff, 59:2]\(^{538}\) and ‘Do they not look into the realm of the heavens and the earth and everything that God has created’ [Q., al-Aʿrāf, 7:185]. Both texts prove, Ibn Rushd argues, the obligation of demonstrating with certainty the existence of the Divine Artisan through the study of existent things, which, according to Ibn Rushd, is precisely what demonstrative philosophy is and what makes its study an obligation. As for logic, Ibn Rushd develops an argument already present in a nascent form in al-Ghazālī’s works\(^{539}\) and argues that the following verse of the Qurʾān provides specific proof not only of the obligation of studying philosophy and logic but also of their superiority over other forms of knowledge:

Invite unto the way of your Lord with wisdom and fair warning, and argue with them in the better way. Lo! your Lord is best aware of him who strays from His way, and He is best aware of those who go aright. [Q., al-Nahl, 16:125].

According to Ibn Rushd, the verse above creates a tripartite division of proofs, more or less corresponding to the categories found in Aristotle’s Organon. These we may term, in descending order of certainty: demonstrative, dialectical and rhetorical.\(^{540}\) The Qurʾān, Ibn Rushd argues, addresses different classes of people in accordance with their ability to grasp different levels of proof. Those who are able to understand demonstrative proofs are addressed with ‘wisdom’ (i.e. philosophy). ‘Warning’ is directed towards those who can only engage with dialectical proofs. Lastly, those incapable of understanding the preceding types of proofs are addressed with

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\(^{538}\) I have used the translation given in Butterworth. However, as my subsequent citation of the verse shows, the word faʿtabirū is more accurately rendered as ‘reflect’, ‘take a lesson’ or indeed ‘take warning’ which is the rendering in the popular Sahih International translation.

\(^{539}\) Gywnne, Logic, 154. For a discussion of al-Ghazālī’s misunderstanding of Qurʾānic disjunctions and syllogisms, see Gywnne, Logic, 187.

\(^{540}\) For a discussion of al-Rāzī’s use of this verse, see Shihadeh, Teleological Ethics, 145. For a discussion on classical rhetoric and its acceptance as a probablistic yet necessary form of proof, see Nomi Stolzenberg, “Profanity,” 40.
rhetorical ‘argument.’ The last two forms of proof are, of course, not actually proofs at all in Ibn Rushd’s view, since they are based on premises which can be shown to be demonstrably false and can therefore also be deployed in defense of propositions that are demonstrably false. Nevertheless, Ibn Rushd argues, scripture countenances the use of such lesser forms of proof for the sake of the majority, which is unable to negotiate the complexities of demonstrative proofs.

The debate over the epistemological status of ḥadīth reports offers a good practical example of the position of the theologians on the non-demonstrative proofs on which the law was based. For most theologians, both Muʿtazilite and Ashʿarī, the law was rendered entirely uncertain by its dependency on speculative proofs such as ḥadīth reports transmitted by a relatively small number of people (āḥād). According to the theologians such reports were, by their very nature, incapable of imparting certain knowledge, particularly if they contradicted what was known through the demonstrative proofs of philosophy. The stance of the dialectical theologians on solitary reports thus mirrored their stance on the intrinsic uncertainty of language: both were pseudo-proofs incapable of yielding the level of knowledge imparted by philosophy. To reflect their inferior epistemological status, it was sometimes suggested that linguistic and reported evidence could be the basis of legal action – which could be based on probability but not knowledge – which had to be based on the sort of certainties which were only available through the demonstrations of philosophy.

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542 Al-Bazdawī, Kanz, 154; al-Āmīdī, al-Iḥkām, 2:32–33.

However, even as the certainties of philosophy exposed the epistemological weakness of legal proofs, they offered an opportunity for the epistemological authority of the law to be bolstered by the adoption of the tools, methods and resources of the philosophical method. We see an attempt to do just this in al-Ghazālī’s efforts to settle the controversy over the epistemological status of hadīth reports transmitted via continually recurrent testimony (tawātur). For al-Ghazālī, the most secure way to establish the acceptability of such reports is to construct a syllogistic proof for the proposition that such reports are true. In al-Ghazālī’s construction of the argument, one knows the truth of a report conveyed recurrently (signified by the letter ‘X’) because:

A. Large numbers of people would not agree on X if it were not true

B. Large numbers of people agree on X

C. Therefore, X is true.

Scripture and Rational Demonstration: Ibn Taymiyyah’s View

For the traditionalists, and this has been shown to be true even of early figures such as al-Shāfi‘ī, there is a systematic connection between the law and reason. Ibn Taymiyyah and Ibn al-

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544 Āl ‘Abd al-Laṭīf, Manhāj, 363; al-Baghdādī, Uṣūl, 12, 17, 18 insists that even the claim that tawātur yields acquired knowledge is incorrect. In order to be certain it must yield necessary knowledge which does not admit of doubts like knowledge gained through sensory experience. He adds that the tawātur Sunnah yields necessary knowledge while solitary narrations necessitate action but not knowledge; al-Armawī, al-Taḥṣīl, 1:198 (tawātur yields knowledge while āḥād reports yield conjecture). See also Hallaq, Authority, 128; Hallaq, “Inductive,” 3-31; Weiss, Search 268, 270-277; Melchert, Ahmad Ibn Hanbal, 49. On the doctrinal significance of tawātur, see al-Rāzī, al-Maḥšūl, 4:227-234; al-Ghazālī, al-Mustaṣfā, 1:193, 251, 2:70, 77; Ābd al-Jabbār, Sharh, 768; al-Ḥasā, al-Mu’tamad, 2:546-566; al-Bāqillānī, al-Tamhīd, 436-437; al-Juwaynī, al-Irshād, 412; On al-Rāzī’s position on tawātur, see Opwis, Maṣlaḥa, 91.

545 al-Ghazālī, al-Mustaṣfā, 1:252.

546 Tarīf Khaidī, Arabic Historical Thought in the Classical Age, 137
Qayyim also reject what they regard as the misguided assertions of the philosophers and theologians who insist that philosophy is capable of bestowing reasonable certitude in a way that the law is not. The traditionalists accuse the philosophers of misunderstanding the very nature of certain evidence (burhān).\textsuperscript{547} As a result, the traditionalists claim, the philosophers and theologians have created invalid divisions and hierarchies between various kinds of proof, such as demonstrative and dialectical which, according to the traditionalists, are actually complementary and not mutually exclusive.\textsuperscript{548} Moreover, the traditionalists maintain, the philosophers and theologians have tended to dismiss legal proofs merely because these proofs do not usually conform to the external form of philosophical proofs such as categorical syllogisms and the like.

This takes us directly to Ibn Rushd and the three categories of proofs with which he held the Qurʼān addressed different classes of people. Ibn Taymiyyah attacks what he sees as the necessary subtext of Ibn Rushd’s claim, namely that the Qurʼān uses proofs and arguments that are not substantiated by, or are manifestly opposed to demonstrative proofs – the most certain form of proofs in Ibn Rushd’s view. For according to the schema created by the philosophers, the premises and methods of reasoning of dialectical and rhetorical arguments do not conform to the rigorous standards of demonstrative proofs, even if the propositions being justified by the former set of proofs is demonstratively true.

For Ibn Taymiyyah, however, the demonstrative proofs, warnings and arguments of the Qurʾān are all equally true and rational. Ibn Taymiyyah argues that the Qurʾān itself proclaims that it is true, wise and certain, that it guides people to that which is most resolute, that it is the word of

\textsuperscript{548} Ibn Taymiyyah, al-ʿRadd ʿalā al-mantiqiyyīn, 485; MF 19:90. For an instance of the distinction being made, see al-Hindi, Nihāyah, 8:3843.
the most wise and truthful speaker and that falsehood does not even come near it [Q., al-Isrā’, 17:9; Fuṣsilat, 41:42; al-Nisā’, 4:87, 122]. The proofs of the Qurʾān therefore complement each other, Ibn Taymiyyah says, as the Qurʾān provides substantiating proofs even for propositions and claims that are demonstratively true. Therefore, Ibn Taymiyyah argues, none of the Qurʾān’s proofs are false or weak in the sense meant by Ibn Rushd and the philosophers.549

Armed with his traditionalist hermeneutics, Ibn Taymiyyah also meticulously dismantles Ibn Rushd’s scriptural argument in support of his hierarchy of proofs (Q., al-Nāhl, 16:125). As we saw, Ibn Rushd argued that the Qurʾān commanded that people be called to God with three different kinds of proofs, depending on their varying levels of intellectual ability. Ibn Taymiyyah responds that the verse cited by Ibn Rushd uses only two imperatives: ‘invite’ and ‘argue’. For Ibn Taymiyyah then, the verse does not support Ibn Rushd’s interpretation that one is to invite people to the way of God in three distinct ways. Rather, says Ibn Taymiyyah, the verse commands that people be invited to the way of God with wisdom and fair warning. There is, Ibn Taymiyyah says, a second command in the verse, namely to argue with people in the best way. But this command, according to Ibn Taymiyyah, is independent of the first command to invite people to the way of God. Argument is thus not a way of inviting people to the way of God in Ibn Taymiyyah’s view. Rather, it is only the correct way of responding to those who do not heed the invitation to God’s way that is presented with wisdom and fair warning.550

Let us highlight the difference between the two interpretations by dividing the verse in the order in which Ibn Taymiyyah divides it, with the imperatives rendered in uppercase letters,

qualifiers and explanatory clauses rendered in bold and significant repetitions rendered in italics:

[A] INVITE unto the way of your Lord with wisdom and fair warning
[B] and ARGUE with them in the better way.
[B'] Lo! your Lord is best aware of him who strays from His way
[A'] and He is best aware of those who go aright.

Ibn Taymiyyah’s interpretation thus draws on the rhetorical structure of the verse, which as we can see is a chiasmus, a rhetorical form in which clauses are related to each other through a reversal of structures – the inverted parallelism drawing attention to the main topic. Ibn Taymiyyah points out that the verse issues two commands to the believers, each of which covers the interaction of the believers with two distinct groups of people. This is signified by the fact that the verse uses two imperatives, INVITE and ARGUE, each of which is qualified in a different way: INVITE with wisdom and fair warning versus ARGUE with them in the better way. The verse then concludes with a double repetition of God’s knowledge of two distinct groups of people: God is best aware of the one who strays from His way and God is best aware of those who go aright. Thus, God’s knowledge of those whom the believers are commanded to invite [A] is dealt with in the inverted parallel [A’] which mentions those who are willing to change their ways and ‘go aright’ in response to an invitation conveyed with wisdom and fair warning. Conversely, God’s knowledge of those whom the believers are commanded to argue with [B] is dealt with in the inverted parallel [B’], which mentions those who do not respond to the invitation to God’s way conveyed with wisdom and fair warning and instead stray from the better way.551

551 By far the most thorough study of the chiasmus and other rhetorical structures in the Qur’ān is Cuypers, The Banquet.
Ibn Taymiyyah’s understanding of the verse is clearly very different from that of Ibn Rushd. The latter, as we know, sees only one command in the verse despite the fact that the verse contains two imperatives. Ibn Rushd’s understanding also does not see the chiasmus in the verse as significant to its meaning, leaving as it does the last clause as an independent addition to the verse rather than as intricate and integral component of the argument of the verse. In fact, the second section of the verse plays no integral role at all in Ibn Rushd’s interpretation, which can thus be presented as follows, with the commands rendered in uppercase letters and its qualifiers in bold.

[A] INVITE unto the way of your Lord with wisdom and fair warning and argue with them in the better way.

[B] Lo! your Lord is best aware of him who strays from His way, and He is best aware of those who go aright.

Ibn Taymiyyah has a further criticism to make of Ibn Rushd’s interpretation of the word ‘argue’, the second imperative to appear in the aforementioned verse. As we saw earlier, Ibn Rushd sees the command to argue in this verse as a command to deploy non-demonstrative proofs which are weak and vulnerable because their premises can demonstratively be shown to be false. According to Ibn Rushd, the deployment of such proofs is justified to invite a certain class of people to the way of God. Ibn Taymiyyah rejects this understanding, pointing out that the Qur’an commands one to argue on the basis of real knowledge. Thus, Ibn Taymiyyah reasons, the Qur’an does not countenance argument as a weaker form of knowledge in the way Ibn Rushd does. On the contrary, the Qur’an condemns those who argue on the basis of anything other than that which is best. In fact, Ibn Taymiyyah continues, the Qur’an invites people to argue on the basis of knowledge whereas an argument, in the sense Ibn Rushd understands it, may be won by
techniques which the Qurʾān does not countenance, such as agreeing to the false beliefs of one’s opponent (Q., Āl ʿImrān, 3:66).\footnote{Ibn Taymiyyah, al-ʾRadd ʿalā al-mantiqīyyīn, 513. See also see also al-ʾRāzī, Asās, 249-259 and al-ʾRāzī, 
*Tafsīr al-Kabīr*, 7:172.}

The preceding summary of Ibn Taymiyyah’s argument provides a practical example of how his method of scriptural exegesis differs from that of Ibn Rushd and others who subscribe to the conventional theory of taʾwīl, which we discussed in the last chapter.\footnote{MF 19:89. On Ibn Taymiyyah’s theory of exegesis, see Saleh “Ibn Taymiyya.”} For the theologians who upheld this method, it was permissible to coin new interpretations of scriptural expressions and all such interpretations were presumptively valid. Ibn Taymiyyah, however, does not allow scriptural terms such as wisdom (ḥikmah), warning (mawʾīẓah) and argument (jadāl) to carry any meaning they are capable of bearing linguistically or metaphorically. Rather, he insists that such terms are to be understood according to the custom of the speaker. The best understanding of these terms is thus to be attained by familiarizing one’s self with the way God uses these terms on other occasions in His speech.

For Ibn Taymiyyah one must therefore examine the way the terms ‘wisdom’, ‘warning’ and even ‘those who have sight’ are used in the Qurʾān. Doing so reveals, according to Ibn Taymiyyah, that Ibn Rushd’s philosophically inspired interpretation of these terms is unwarranted. The Qurʾān, Ibn Taymiyyah says, does not use the term wisdom to refer to abstract theoretical knowledge of the sort that is the métier of the philosophers. Instead, the Qurʾān employs the term wisdom to signify knowledge and action, in accordance with widespread Arabic usage. Similarly, Ibn Taymiyyah continues, when we examine other uses of the term ‘warning’ in the Qurʾān (Q., al-Nisāʾ, 4:66-67; al-ʾNūr, 24:17), we see that the term refers to warnings to heed the commands and prohibitions of God – not to a particular type of philosophical proof of the kind discussed by Ibn
Rushd. Even the scriptural expression ‘you who have sight,’ [ulī al-abṣār] does not refer, in Ibn Taymiyyah’s view, to those who indulge in philosophical reflection in the manner of the philosophers, as argued by Ibn Rushd. Rather, Ibn Taymiyyah argues, the term is used in the Qur’an in relation to people such as the prophets who convey beneficial knowledge and practical commands from God (Q., Ṣād, 38:45).

Ibn Taymiyyah’s traditionalist hermeneutics also reveal to him another devastating flaw in Ibn Rushd’s argument. As we saw above, Ibn Rushd’s scriptural justification for the study of philosophy rests on the Qurʾān’s command to consider/reflect. The Arabic term signifying this activity (fāʿtabirū) is, according to Ibn Taymiyyah, identical to the activity of analogizing or qiyās that is used by the jurists. So far, Ibn Rushd would agree, as he himself argues that the Qurʾānic term fāʿtabirū justifies the use of juristic analogies. However, Ibn Taymiyyah points out, Ibn Rushd’s approach is utterly contradictory because while he regards the Qurʾānic command to consider and reflect as the justification for engaging in forms of reasoning (such as demonstration) that convey certainty, he regards the specific forms of reflection referred to by the Qurʾān as uncertain and unreliable. For the term fāʿtabirū is used elsewhere in the Qurʾān to refer to the activity of uncovering patterns of similarity in God’s acts. Specifically, Ibn Taymiyyah observes, the term is used to refer to the process of analogizing on the basis of God’s treatment of the righteous and the sinful amongst previous nations that His treatment of similar classes of people from amongst the recipients of the Qurʾān will be identical (Q., Yūsuf, 12:111; al-Ḥāshr 59:2; Āl ʿImrān, 3:13). But reasoning of this sort does not fulfil Ibn Rushd’s criteria for demonstrative proof.

554 Ibn Taymiyyah, al-Radd ʿalā al-mantiqiyyīn, 492.
555 MF 19:92.
556 See MF 14:39.
Philosophy versus Law: The Traditionalist View

The involved debate over the proper interpretation of Qurʾānic passages, such as we have considered above, helps us to understand Ibn Taymiyyah’s opposition to philosophy. Behind Ibn Taymiyyah’s uncompromising attack on philosophy lies not only his conviction that philosophy is incapable of offering the kind of certain, rational knowledge that it purports to, but also a genuine sense of alarm at the way in which the rationality of scripture has been called into question by philosophical claims to certain knowledge.

Ibn Taymiyyah therefore attacks Muslim theologians and jurists for being deluded by the false arguments and claims of philosophy and replacing the real knowledge of Islam’s true scholars with the artificial abstractions of the philosophers. According to Ibn Taymiyyah, scholars such as al-Rāzī and al-Ghazālī have exalted philosophy at the expense of devaluing scripture as a source of certain knowledge and have, as a result, upset the foundations of traditionalist theology and legal theory. Al-Ghazālī, in particular, is criticized by Ibn Taymiyyah for incorporating Aristotelian logic into the Islamic sciences of law, theology and Sufism, an approach that was subsequently integrated further into legal theory by jurists such as al-Rāzī.

Ibn Taymiyyah is not, of course, alone in criticizing the influence of logic on the Islamic sciences. For it is well known that earlier traditionalists such as Ibn al-Ṣalāḥ had also denounced the influence of Hellenistic philosophy on the traditional sciences of Islam. Ibn al-Ṣalāḥ, for instance, famously issued a verdict in which he prohibited reading the books of uṣūl unless they

557 MF 2:59 (on al-Rāzī), 9:100 (on al-Ghazālī), 9:125, 144.
558 Ibn Taymiyyah, al-Radd `alā al-mantiqiyyīn, 64, 73, 94–95 238, 418; MF 2: 59, 9:124. For a discussion of al-Ghazālī’s incorporation of Greek formal logic into Sunni legal theory, see Hallaq, History, 138. On al-Rāzī’s use of formal logic and syllogisms in qiyās, see Opwis, Maṣlaḥa, 92.
559 MF 9:124. See also Shihadeh, “From al-Ghazālī to al-Rāzī,” 145-146.
560 See Weiss, Search, 31, 648.
were free of the taint of philosophy, thereby launching a direct attack on the tendency of jurists following the methodological tradition of the theologians (ṭariqah al-mutakallimīn) who, as we said, introduced a substantial amount of philosophy and logic into legal theory.\(^{561}\)

Turning to al-Ghazālī’s jurisprudential masterpiece, the Mustaṣfā, we in fact find just the sort of paean to logic and philosophy – and a corresponding attack on the certitude offered by scriptural legal proofs – which was criticized by Ibn Taymiyyah and the traditionalists. Al-Ghazālī clearly states in this work of jurisprudence that the primary form of rational evidence is the syllogism and that the jurists treat speculative legal evidence with a level of certainty which syllogistic reasoning shows it does not actually possess.\(^{562}\) In the introductory section of his work, which is devoted to logic, al-Ghazālī says that the bases of intellectual knowledge, i.e. logic, are technical definition and the categorical syllogism (burhān) – both of which are associated, as we know, with philosophical reasoning.\(^{563}\) Moreover, al-Ghazālī makes it clear that the categorical syllogism, based on certain premises, is the only form of certain knowledge. Directly beneath categorical syllogisms on the scale of certainty are syllogisms based on generally accepted premises. As for theological and legal analogies, these engender nothing more than a probable belief, according to al-Ghazālī.\(^{564}\) Consequently, al-Ghazālī insists that juristic proofs extrapolating the prohibition of spirits from the scriptural prohibition of wine and all other intoxicants are not certain unless they are framed as a syllogism of the following form:

\(^{561}\) Ibn al-Ṣalāḥ, Fatāwā, 204, 210-211, also rules against logic and using its vocabulary in the legal sciences.

\(^{562}\) al-Ghazālī, al-Mustaṣfā, 2:413-414.

\(^{563}\) Al-Ghazālī, al-Mustaṣfā, 1:45, 62-65.

\(^{564}\) Al-Ghazālī, al-Mustaṣfā, 1:100. For a more elaborate account of the various levels of certainty and probability engendered by different kinds of knowledge, see al-Ṭāzī, al-Maḥṣūl, 1:83-83.
(A) Every spirit is an intoxicant

(B) Every intoxicant is prohibited

(C) Therefore, every spirit is prohibited

It goes without saying that this is an exercise in framing which Ibn Taymiyyah dismisses as flawed and unnecessary. Ibn Taymiyyah is equally critical of al-Rāzī, whom he accuses of following the philosophers in ordering a hierarchy of proofs that exalts the intellect as a source of certain knowledge, while relegating scripture to a secondary role, a hierarchy which, in Ibn Taymiyyah’s view, leads to al-Rāzī’s flawed canon of interpretation (which we discussed in the previous chapter). For Ibn Taymiyyah, al-Rāzī’s canon makes revelation and prophethood unnecessary and an obstacle to the truth because it announces that truth is grasped with the intellect and not with scripture, the latter only being accepted if it conforms to one’s intellect.

Ibn Taymiyyah therefore sets himself the task of demonstrating that the very tools of the philosophical method, syllogistic reasoning and technical definitions, are fundamentally inadequate to serve as a basis of knowledge, let alone knowledge which can be deemed decisive enough to overturn scripture. It is therefore incorrect of the philosophers and the theologians, Ibn Taymiyyah argues, to regard the knowledge obtained through definitions and syllogistic

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reasoning as the highest form of knowledge while dismissing the theological and legal proofs of scripture as inherently uncertain or lacking in logical rigor.\(^{569}\)

In a memorable simile, Ibn Taymiyyah dismisses the philosophical contributions of Aristotle, whose ideas exercised an almost unparalleled influence on Islamic intellectual culture, saying that Aristotle’s philosophy is like lean camel meat located on a mountain peak: neither easy to reach, nor capable of providing much nourishment.\(^{570}\) For Ibn Taymiyyah, not only is philosophy incapable of providing the sort of knowledge through which the Qurʾān prompts mankind to act righteously, such as knowledge of the afterlife and of past nations who were the recipients of divine revelation,\(^{571}\) it also privileges artificially elaborate methods of reasoning such as syllogisms and definitions as sources of knowledge at the expense of true knowledge.

True knowledge, Ibn Taymiyyah argues, can come from a variety of sources, many of which are dismissed by the philosophers. One such source is innate human disposition (fiṭrah), the existence of which is, for Ibn Taymiyyah, affirmed in scripture and proved through the universal recognition of the divine as well as through the judgments, preferences and dislikes shared by almost all people.\(^{572}\) Above all, Ibn Taymiyyah argues, true knowledge comes from scripture, which always addresses man with the strongest and most rational of proofs.\(^{573}\) It is therefore

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\(^{570}\) MF 19:89.

\(^{571}\) Ibn Taymiyyah, *al-Radd ʿalā al-mantiqiyyīn*, 302; MF 2:32-38. For an excellent account of the way in which Islamic law’s authority is based on the moral imperatives of revelation, see Hallaq, *Impossible*.


wrong, Ibn Taymiyyah believes, to regard scriptural proofs as inferior to philosophical proofs and to abandon the plain meaning of scripture in order to reconcile it with what the philosophers term demonstrative proofs.

While the sources through which one obtains knowledge are, in Ibn Taymiyyah’s view, many and varied, he is adamant that the definitions and categorical syllogisms championed by the philosophers do not constitute viable sources of knowledge of the sort that could be regarded as superior to scriptural proofs. Knowledge, Ibn Taymiyyah insists, arises from the consideration of specific cases and not the extra mental universals that are utilized in categorical syllogisms.574 In fact, one’s knowledge of universals and even of basic rational truths is, according to Ibn Taymiyyah, itself dependent on analogizing what is sensed and experienced to what is not. Thus, Ibn Taymiyyah says, the basis of knowledge is not the categorical syllogism but the sort of analogies used in Islamic juristic reasoning.575 Syllogisms, unlike analogies, only yield particular knowledge, which, according to Ibn Taymiyyah, can also be attained in other ways.576 Ibn Taymiyyah therefore concludes that while syllogisms might occasionally impart certain knowledge, they cannot provide knowledge that was not already known. It is simply unreasonable, Ibn Taymiyyah says, to suggest that syllogistic reasoning is the only means of attaining certainty.577

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576 Ibn Taymiyyah, Naqd, 204-208; Ibn Taymiyyah, al-Radd ʿalā al-mantiqiyyīn, 293.
Categorical Syllogisms versus Juristic Analogies

Ibn Taymiyyah dismisses the objections of the logicians who insist on the superiority of demonstrative, philosophical reasoning over juridical reasoning on the grounds that the transfer of a ruling from the original to the subsidiary case in juridical analogies is always a result of a probable belief rather than certainty. Ibn Taymiyyah counters that the middle term of a categorical syllogism actually corresponds to what is referred to in a juridical analogy as the ratio (ʿillah), reason (manāṭ) or common attribute (wasf) shared by the original and subsidiary cases. Ibn Taymiyyah says, might take the form of the argument that man is a body, just like a horse and other animals. This conclusion, which is based on a common attribute shared by a man and other animals is, according to Ibn Taymiyyah, no less certain than a similar conclusion reached through a categorical syllogism framed as follows:

A. Every man is an animal.

B. Every animal is a body.

C. Therefore, every man is a body.

Ibn Taymiyyah concedes the force of the argument of the logicians who point out that the assimilation of man to every other body in a juridical analogy is speculative since one has not shown that every animal is a body. However, Ibn Taymiyyah points out, this criticism is also true of categorical syllogisms, in which the middle term is also taken for granted. The construction

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578 Ibn Taymiyyah, al-Radd ʿalā al-mantiqiyyīn,158; idem Sharḥ al-Iṣbahāniyyah, 397-399. For an argument against translating the term ʿillah as ratio, see Weiss, “Search,” 546. Weiss rightly cautions that the term ratio can be too easily confused with ‘reason’ or ‘rationale’. The translation of ʿillah as ratio above is intended to convey precisely this confusion in the scope and meaning of the term, which was and remains the subject of jurisprudential and theological controversy.
of a categorical syllogism therefore also relies on forms of reasoning that the philosophers
dismiss as weak and uncertain, such as analogizing what has not been observed to what has.
After all, one has not seen every member of the class of objects termed ‘man’ or ‘animal’. Yet the
construction of a categorical syllogism requires that one analogize between observed and
unobserved members of this class on the basis of their shared attributes.

Like a syllogism then, the strength of a juridical analogy rests, in Ibn Taymiyyah’s view, on the
level of certainty with which one can demonstrate that a particular attribute of an act occasions
a rule. For the jurists, Ibn Taymiyyah suggests, this knowledge arises out of their knowledge of
God’s nature, which compels them to conclude that God seeks to uphold a particular set of
purposes with His law. Therefore, Ibn Taymiyyah concludes, the jurists can deduce with
certainty that where a particular attribute of an act triggers a legal rule in one case, it must
trigger the same rule in all similar cases. This, of course, is precisely what jurists do when
constructing juridical analogies. Ibn Taymiyyah is therefore arguing against the philosophers
and theologians that the way in which one proves the existence of a common ruling in a juridical
analogy is quite similar to the way one proves the truthfulness of a major premise and its
inclusion of a middle premise in a categorical syllogism. Since the middle term of the
categorical syllogism corresponds to the common attribute of the juridical analogy, Ibn
Taymiyyah says, it follows that all else being equal, either both or neither are capable of
impacting certainty.

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580 Ibn Taymiyyah, al-Radd `alā al-mantiqiyyīn, 258, 394, 417. See also Hallaq, “Ibn Taymiyya”; Hallaq, History, 139-140.
See also Gywnne, Logic, 64 for a presentation of the argument that rule based reasoning of the sort found in the
Qur’ān precedes both induction and deduction, since the validity of logical operations is itself evaluated by
referring to rules; ‘Abd Allāh, Masā’il, 3:910-911.
Technical Definitions versus Knowledge

Ibn Taymiyyah is also extremely critical of the philosophers and dialectical theologians who, in his view, mistakenly rely on definitions as a more certain source of knowledge than scripture and overturn the apparent meaning of scripture on the basis of the definitions they have coined.\(^{581}\) In fact, Ibn Taymiyyah’s rejection of technical definitions as a source of certain knowledge has a significant impact on his legal ideas, forcing him to part ways with many jurists whom he accused of proposing overly elaborate and incorrect definitions of what were, to Ibn Taymiyyah, well understood legal terms such as ‘ritual purity’, and ‘travel’ as well as well understood jurisprudential terms such as ‘report’ and ‘analogy’.\(^{582}\)

The pursuit of technical definitions often becomes an artificial exercise, Ibn Taymiyyah reminds his readers, producing little more than unnecessarily elaborate definitions of what is already known. This violates, in Ibn Taymiyyah’s view, God’s command to the Prophet to declare that he is not artificially elaborate or pretentious (Q., Ṣād, 38:86). One therefore ought to strive to speak simply and clearly, Ibn Taymiyyah argues, and to admit that there are things one does not know, rather than attempt to bring everything in existence within the bounds of a definition that one has coined.\(^{583}\)

Ibn Taymiyyah continues his attack on the claim that knowledge, at least of those things that are not known of necessity, can only come about through definitions. Contra the philosophers, Ibn Taymiyyah argues that knowledge is entirely possible without definitions because a person

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\(^{582}\) MF 9:28; MF 19:131; Ibn Taymiyyah, Naqḍ, 186 (acknowledgment of disclosure or mukāshafah as a form of knowledge).  
\(^{583}\) MF 9:26; Ibn Taymiyyah, Naqḍ 185.
who coins a definition must already know the object he is defining before he defines it. Ibn Taymiyyah also challenges the notion that definitions bring about knowledge by pointing out that nearly every definition in existence has been disputed. If definitions were the only source of knowledge, the fact that nearly every definition in contested would mean that mankind has not been able to attain any knowledge of anything at all. Conversely, if knowledge has in fact been obtained despite incomplete and contested definitions, this shows that definitions are not necessary for the attainment of knowledge.

Ibn Taymiyyah also remarks on what he perceives as a major tension in the position of the philosophers and logicians who insist that solitary narrations and the like cannot impart certainty, yet insist that definitions are a source of certain knowledge. A definition, Ibn Taymiyyah says, is itself a kind of solitary narration and hence equally vulnerable to criticisms of its ability to impart certain knowledge.

**Certain Knowledge and Probable Action**

The dialectical theologians were, as we saw, willing to concede that the scriptural proofs relied on by the jurists, such as narrative hadith reports, were a valid basis for the performance of legal acts. They only denied that such proofs were a sufficient basis for knowledge, which according to the theologians has to be based on certainty. The difference between acts which could be

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585 MF 9:27.
587 For the traditionalist position on the ability of narrative reports to impart knowledge, see al-Mawsili, al-Šawā’iq, 4:1400, 1466, 1495, 1534, 1560, 1646; MF 13:188, 18:13, 26, 30, 20:142-145; ibn Taymiyyah, Jawāb al-‘tirādāt al-miṣriyyah, 4; ibn al-Najjār, Sharḥ, 2:352; Al-Ghazali also admits (contra al-Bāqillānī) that whether a particular number of narrators yields knowledge also depends on the state of the one acquiring it, which is why solitary reports can yield knowledge with circumstantial evidence; al-Ghazali, al-Mustasfī, 1:257, 259. However, al-Ghazali goes on to say that
based on probable belief and knowledge which had to be based on reasoned certitude was
denoted by referring to the former as subsidiary matters (furūʿ) and to the latter as fundamental
matters (uṣūl), the latter also being the term used to denote ‘rational’ and quasi-rational sciences
such as theology and jurisprudence.

The traditionalists reject the division of religious matters into uṣūl and furūʿ on a number of
grounds. First, the traditionalists argue, certainty and probability are not attributes of evidence
but terms that indicate the relative knowledge of an individual. A legal proof such as a
narrative report is therefore capable of serving as a proof for some but not for others. This does
not, the traditionalists argue, make such reports any more or less vulnerable than the
demonstrative proofs of philosophy, which also serve as proof for some individuals and not
others.

More fundamentally, the traditionalists reject the very division of religious matters into those
that are subsidiary, involving practice which can be based on probable beliefs and those which
are fundamental, involving knowledge which must be based on rational certainty. According to
the traditionalists, none of the criteria developed by the theologians to distinguish between
these two categories stands up to scrutiny. The traditionalists therefore reject all the three
grounds advanced by the theologians to distinguish between fundamental, theoretical matters
on the one hand and subsidiary matters on the other, these distinctions being the association of

solitary reports do not yield knowledge, they only obligate action. See also al-Ghazālī, al-Mustaṣfā, 1:272; al-Mawṣilī,
al-Ṣawāʾiq, 4:1491 al-Ghaṣn, Mawqīf, 1:133.

588 al-Mawṣilī, al-Ṣawāʾiq, 4:1402, 1607.

589 Al-Mawṣilī, al-Ṣawāʾiq, 4:1570-1572; Ibn Taymiyyah, al-Furqān, 81; MF 19:112. Note however, that Ibn Taymiyyah
himself occasionally uses the distinction, for instance when arguing that knowledge of the uṣūl is better than
knowledge of the furūʿ, MF 11:218. Ibn Taymiyyah’s attack on the division of uṣūl and furūʿ is discussed in al-Shithrī,
al-Uṣūl, 141.
the first (fundamental matters) with belief, certainty and rationality and of the second
(subsidiary matters) with action, probability and scripture.\textsuperscript{590}

The theologians argued, for instance, that having the correct knowledge or belief about a
particular proposition was more important than matters related to legal practice. Therefore, the
theologians reasoned, the former requires unassailable proof. For an individual who affirms or
negates an attribute of God on the basis of a probable belief would be in danger of attributing
something impossible to God and thus of falling into grave theological error. By contrast, the
theologians reasoned, an individual who merely acts on the basis of a probable belief does not
expose himself to theological peril.\textsuperscript{591}

The traditionalists, however find fault with the basic division between knowledge and action
introduced by the dialectical theologians. It makes little sense, the traditionalists say, to classify
an act such as prayer as a subsidiary matter on the grounds that it relates to practice when it is
in fact the single most fundamental obligation of Islamic religious life (after the declaration of
faith itself, which is also a practical act and not merely a theoretical matter). On the other hand,
the traditionalists point out, even legal practices such as prayer have a theoretical dimension
which requires certitude. For instance, a person seeking to discharge the obligation of
performing an obligatory prayer needs to have certain knowledge of the obligatory nature of
the prayer. The obligation of performing an obligatory prayer cannot be discharged, the
traditionalists argue, if one performs all the required acts of an obligatory prayer but does so
with the belief that this prayer is merely voluntary and not obligatory. Therefore, Ibn
Taymiyyah concludes, it is unreasonable to suggest that scriptural proofs such as solitary

\begin{footnote}
\textsuperscript{591} Al-Qarāfī, \textit{Nafāʾīs}, 9:3874-3875, 3889.
\end{footnote}
narrations are a sufficient basis for the performance of legal practices such as prayer, but an insufficient basis on which to believe something about the obligation, prohibition, merit or punishment of performing such practices.\textsuperscript{592}

\textsuperscript{592} MF 20:143-144.
II. Infallibilism

The belief of the philosophers and theologians that the law is an intrinsically probabilistic discipline based on uncertain proofs has profound consequences for legal theory. We already saw, for instance, that the theologians adopted a particular set of views on the strength of legal proofs such as juristic analogies and hadīth reports. An even more divisive position in legal theory that was fortified by the theological conviction that the law was an uncertain discipline was the theory of legal infallibilism, which found early support amongst theologians such as al-Ashʿarī, his Muʿtazilite teachers the Jubbāʿīs and al-Bāqillānī. Although various versions of the theory abound, the most basic one states that God’s law does not have a specific ruling on matters that are subject to ijtihād beyond the ruling arrived at by each mujtahid. Therefore, every mujtahid is correct – a doctrine expressed in the maxim kull mujtahid muṣīb, literally ‘every jurist hits the mark.’

As stated above, the justification for the doctrine rests on the fundamental distinction between certain and speculative proofs. In the rational sciences, say the theologians, only one of all conflicting views can be correct since rational proofs cannot actually uphold contradictory

593 See al-Juwaynī, al-Burhān, 2:1316, 1319 (in speculative matters al-Ashʿarī and al-Bāqillānī (who also reported a similar opinion from al-Shāfiʿī) held for all being correct and Abū Ishāq al-Isfārāʿī held the correct to be one.); al-Ghazālī, al-Mankhūl, 455; al-Tilimsānī, Sharḥ, 2:443; al-Hindi, Nihāyah, 8:3846; al-Zarkashī, Salāsīl, 452. al-Shirāzī, al-Taṣfīrah, 498; al-Baṣrī, al-Muʿtamad 1:70; Abū Yaḥyā, al-ʿUddah, 1:79; al-ʿArūsī, al-Masāʾīl, 322.

594 Abd al-Jabbār, al-Mughnī, 17:364; al-Baṣrī, al-Muʿtamad, 2:399; al-Hindi, Nihāyah, 8:4056; al-Zarkashī, Salāsīl, 452-453; al-Qarāfī, Nafāʾīs, 9:3879, 3845; MF 19/69, 113; Ibn al-Najjār, Sharḥ, 4:489. al-Khaṭṭābī al-Baghdādī, Sahīḥ, 298 is unusual amongst traditionalists in favoring infallibility. See also Chaumont, “Ijtihād” 12; Ahmad, Structural, 155-156; Zysow “Muʿtazilism,” 239. In modern Western jurisprudence, the most sustained discussion on this question comes from Dworkin and his interlocuters. See Ronald Dworkin, Empire; Greenwalt, Law, Ch. 11; Peczenik, Law, 249.
propositions. However, the law is not a rational science of this sort, according to the theologians. Legal proofs, the theologians argue, are not even deemed proper proofs but mere indicants (amārāt). In such speculative disciplines, the theologians explain, one has no choice but to act on the basis of probability and all results derived from probabilistic forms of inference can be equally correct.

An alternative version of the doctrine of legal infallibilism incorporates a theory of verisimilitude (al-ashbah). God does indeed have a ruling on all legal matters, proponents of the modified theory suggest, albeit one that is hidden and buried, without any indicants or signs pointing to its existence. If a jurist does happen to discover this objectively right ruling, this is purely a matter of coincidence. Even amongst theorists who held that there were signs and indicants pointing to God’s right but obscure answer, it was commonly accepted that the mujtahid was under no obligation to discover it.

Al-Ghazālī presents a lengthy argument in support of infallibilism, which shows how much the doctrine rests on the principles of Ashʿarī theology, although in al-Ghazālī’s case his discussion concludes on a somewhat ambivalent note, with an admission that there are legal issues which

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595 Al-Baṣrī, al-Muʿtamad, 2:949; al-Qarāfī, Naḥāʾīs, 9:3842; al-Hindi, Nihāyah, 8:3837; al-Zarkashi, Salāsil, 451. For al-Zarkashi, an individual who errs in theology is undoubtedly corrupt, and even his status as a Muslim is subject to doubt; see al-Zarkashi, al-Baḥr, 6:239.
596 Al-Juwaynī, al-Burhān, 1:599. For a contrasting position, see al-Bāqillānī, al-Tamhīd, 386. For a discussion of the historical controversy surrounding the attribution of this edition of the Tamhīd to al-Bāqillānī, see the concluding note to the Tamhīd and Mashhūr Ḥasan’s introduction to al-Ḥammādī, Masā’il.
600 Al-Ghazālī, al-Mustaṣfā, 2:399, 406, 415.
only admit of one correct answer.\textsuperscript{601} For al-Ghazālī, the primary form of rational evidence is the syllogism. The jurists, he says, are guilty of treating speculative legal evidence as certain in itself, when one can demonstrate through categorical syllogisms that it is not.\textsuperscript{602} There is actually no specific correct answer in the law, al-Ghazālī says,\textsuperscript{603} before adding that seeking certainty where there is no certain evidence to be sought is a kind of impossible obligation.\textsuperscript{604} Therefore, al-Ghazālī concludes, since God has no ruling in probabilistic matters, the correct ruling on a legal matter can only be the one deemed most suitable by a jurist on a balance of probabilities (\textit{ghalabah al-ẓann}).\textsuperscript{605}

According to al-Ghazālī, finding the right answer to a legal problem cannot be obligatory because the definition of an obligation is that which leads to punishment if it is not performed – a definition which, as we shall see in the next chapter, was challenged by the traditionalists. Since it is accepted, al-Ghazālī says, that failing to find the right answer does not lead to punishment, (a belief based on a \textit{ḥadīth} that promises two rewards to the person who arrives at the correct answer to a legal problem and a single reward to the one who fails to do so), the search for such an answer cannot have been obligatory to begin with.\textsuperscript{606}

Al-Ghazālī also provides another resoundingly Ashʿarī defense of infallibilism that draws on Ashʿarī theological ideas on the nature of good and evil. The Ashʿarīs, as we recall, do not regard good and evil as intrinsic attributes of objects, but qualities that an object acquires as a result of God’s address. Al-Ghazālī reasons that since God declares that all instances of \textit{iḥtīād} are

\textsuperscript{601} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:443.
\textsuperscript{602} Al-Ghazālī, \textit{al-Mustaṣfā} 2:413–414.
\textsuperscript{603} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:404.
\textsuperscript{604} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:404.
\textsuperscript{605} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:409.
\textsuperscript{606} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:415, 417.
rewarded, and since 'good' has no meaning in Ashʿarī theology other than God’s declaration of His intent to reward (just as ‘evil’ has no meaning other than God’s declaration of His intent to punish), it follows that every *ijtihād* is 'good' simply because it is rewarded. This raises the question of why God declares that the *mujtahid* who is correct is given two rewards. In response al-Ghazālī offers a robust Ashʿarī account of divine voluntarism, proclaiming that God has absolute discretion regarding whom to reward and how much. There is simply no rational correlation between greater goodness and greater reward, al-Ghazālī says. In fact, he argues, God could just as easily have given the *mujtahid* who is wrong two rewards if He wanted.

Al-Ghazālī’s views on infallibilism, as he himself acknowledges, affect every area of Islamic legal culture, from the courthouse to the law school. A judge’s ruling that a husband is no longer legally married to his wife is not just a judicial decree that sets an observable rule for the couple to follow, it actually changes the reality of their legal relationship, (although as a committed infallibilist, al-Ghazālī concedes that the opposite view, holding that a judge’s ruling does not alter the extant rule of God on a given matter, must also be regarded as correct). Similarly, the purpose and pedagogy of the law school is altered significantly by al-Ghazālī’s insistence that there can be no wrong answer to a legal problem, not even one that is based on an incorrect jurisprudential principle, since the *ijtihād* resulting from this flawed jurisprudential principle would be as correct as any other.

For Ashʿarīs such as al-Ghazālī then, the practice of *tarjih*, whereby a jurist selects one proof over another on the basis of evidence, is inherently incapable of yielding definite answers in law

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because the law does not deal with proper proofs to begin with. The practice of tarjīḥ, al-Ghazālī suggests, is only supported by the practice of the Companions – not by reason.

Consequently, Ashʿarī and Muʿtazīlī theologians offer a variety of solutions for the jurist who is faced with multiple legal answers and has to select one to act upon. The theologians suggest that such an individual may choose one legal opinion over another on the basis of his own inclination, on the grounds that one opinion is more difficult and hence safer, or because one opinion had been selected by a figure whose legal opinions one imitates. Alternatively, the theologians suggest, one can suspend judgment on the matter altogether.

Underlying all these solutions however, is the assumption that it is impossible to perform tarjīḥ and prefer one proof over another on the basis of certain knowledge that one of this proofs is correct.

In articulating their views on the matter, Ashʿarīs such as al-Ghazālī were in dialogue with some of the early dialectical theologians, such as the Muʿtazīlī scholars Bishr al-Marīṣī (d. approx. 217/833), Ibn ʿUlayyah (d. 218/833) and al-茚amm (d. 201/817), who held that there must be certain evidence for every legal rule. For these theologians then, there was no room in the law for speculative legal techniques such as qiyyās. On the contrary, they argued, every jurist who fails to arrive at the right answer to a legal question is sinful in the eyes of God.

Al-Ghazālī gets to the heart of the difference between these theologians and the Ashʿarī majority when he accuses these Muʿtazīlīs of trying to import into the law the sort of certainty that is only available in the rational science of jurisprudence. For al-Ghazālī, any attempt to imbue the law

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610 Al-Khaṭṭāb al-Baghdādī, Šāhī, 211.
612 al-Ghazālī, al-Mustaṣfā, 2:169; 447-449. Similarly, al-Ghazālī introduces taqlīd as one of the options for the mukhtārāh, al-Ghazālī, al-Mustaṣfā, 2:447; al-Zarkashi, Salāsil, 441,443; al-başıṛ, al-Muʿtamad, 1:452, 2:306. For a list of various grounds of tarjīḥ in qiyyās, see Hallaq, Authority, 132.
with such certainty, as these early Muʿtazilites sought to do, is thoroughly misguided\textsuperscript{614} because it upsets the relative hierarchy of philosophy and law.

At the same time as they were arguing against some Muʿtazilites that the law was not a certain science, al-Ghazālī and the Ashʿarīs were also distinguishing themselves from another set of Muʿtazilite theologians such al-Jāḥiẓ (d. 255/869) and ʿUbayd Allāh al-ʿAnbarī (d. 168/785). These Muʿtazilites did not claim that the law is or ought to be as certain as jurisprudence, but that theology and jurisprudence are as uncertain as the law. This radical idea suggests that just as there are no rational grounds on which to prefer one legal opinion over another, so too there are no rational grounds for preferring one religion’s theological arguments over another. Interestingly, even as they formally disagree with this Muʿtazilite position, al-Rāzī and al-Ghazālī nevertheless present a variety of arguments in support of this position, nearly all of which revolve around the fact that religious doctrines, like legal ones, cannot be shown to be reasonable or otherwise through demonstrative reason.\textsuperscript{615} Once again then, the prevailing principle for these theologians is the supreme status of demonstrative sciences such as philosophy and the relatively inferior epistemological status of legal, and even theological, pseudo-proofs.

Such distinctions between theology and law once again brought to the fore the problem of categorizing jurisprudence, the laws and rules by which the law itself was derived. Was jurisprudence (\textit{uṣūl al-fiqh}) a science like theology (\textit{uṣūl al-dīn}) such that it could only admit of one answer? Or was it more akin to the law, wherein mutually contradictory positions could be tolerated on account of the inherent ambiguity of the data on which the discipline was built?


For many theologians, particularly Muʿtazilites and Ashʿarites working in the methodological tradition of the theologians (ṭāriqah al-mutakallimin) jurisprudence was more akin to the rational sciences which only admit of one right answer. This was the view of Abū al-Ḥuṣayn al-Baṣrī and al-Qarāfī, who insisted that unlike a jurist who made an error in law, the jurisprudent who arrived at an erroneous answer in legal theory would be censured and not excused.\(^{616}\)

**The Traditionalist Response**

The traditionalists and jurists oppose the theory of legal infallibilism, arguing that it amounts to a rejection of the belief that God’s law contains a rule for every eventuality, one that is discoverable through ījtiḥād.\(^{618}\) Ibn Taymiyyah makes much of the fact that the theory was widely rejected in legal circles and also occasionally in theological ones. He reports, for instance, that al-Ashʿarī’s himself remained quite confused on the question of whether or not all legal evidence was equally probable.\(^{619}\) Another jurist whose opposition to the theory of legal infallibilism is cited by Ibn Taymiyyah is the Shāfiʿī Abū ʿIṣḥāq al-Isfarāʾīnī, who famously stated that the doctrine of infallibilism began with sophistry and ended with pure disbelief\(^{620}\) – a view dismissed by al-Ghazālī as the typical response of a jurist who was ignorant of ṣūḥūl.\(^{621}\) Even the arch-Ashʿarite al-Juwaynī cannot bring himself to unequivocally endorse the theory of infallibility and

\(^{616}\) Al-Brāṣrī, Al-Muʿtamad, 2:949

\(^{617}\) Al-Qarāfī, al-Nafūṣis, 1:161-162

\(^{618}\) al-Zarkashi, Salāsīl, 442 where the denial of the position is attributed to jurists. See also Ibn al-Qayyim, Flām, 2:92; Ibn al-Najjār, Sharḥ, 4:608; al-Juwaynī, al-Burhān, 2:1183, 1424; On the attribution of the doctrine to jurists such as al-Shāfiʿī, see al-Qarāfī, Nafūṣis, 7:3332, 9:387; al-Khaṭīb al-Baghdādī, Ṣaḥīh, 294; Ibn al-Najjār, Sharḥ, 4:489; Ibn ʿAqīl, al-Wādīḥ, 5:351, 356; al-Shirāzī, al-Tāṣīrāt, 496, 498; Āl Taqīm, al-Musawwadah, 2:895, 898; al-Hindi, Nihāyah, 8:3847 says the opinion of the dialectical theologians is also attributed to al-Shāfiʿī, Abū Ḥanīfah and Ibn Ḥanbal although the author himself says this is unlikely. For al-Shāfiʿī’s views on the possibility of qiyās yielding objectively right answers, see Lowry, Early, 242, 246-247.

\(^{619}\) Ibn Taymiyyah, al-Tisʿīniyyah, 3:996.

\(^{620}\) MF 19:78-79; MF 19:79; Ibn Taymiyyah, al-Furqān, 81.

\(^{621}\) Al-Ghazālī, al-Mustaṣfī, 2:416-417.
criticizes his fellow Ashʿarīs for supporting it. The doctrine of infallibilism, al-Juwaynī argues, leaves no foundation on which to construct a proof for the superiority of the Shāfiʿī school over its Ḥanafi rivals. For taken to its logical conclusion, the doctrine of infallibilism would make it impossible to denounce any legal interpretation – so long as it claimed some support, however tenuous, in scripture itself. And if he cannot refute even refute his Ḥanafi opponents, what exactly is a Shāfiʿī jurist to do?

In his Rafʿ al-malām Ibn Taymiyyah accordingly sets himself the task of charting a middle course between scholars such as al-Ghazālī, who insist that all jurists are correct, and those who insist on the legal imitation of one jurist or school on the basis that on any given legal problem only one juristic answer can be correct. Like al-Shāfiʿī before him, Ibn Taymiyyah attempts to account for much of the difference of opinion amongst jurists by pointing to their varying levels of familiarity with the corpus of hadīth reports and other scriptural and legal data. As we have seen, Ibn Taymiyyah regards certain knowledge as a relative concept, arguing that the same propositions can be known with certainty by some and not by others.

However, as as he insists that certainty is a relative concept, Ibn Taymiyyah also registers his disagreement with those theologians who regard most legal rulings as probable rather than certain. Against the latter, Ibn Taymiyyah counters that the majority of legal matters are known with certainty. It bears repeating here that al-Ghazālī himself concedes the basic validity of Ibn Taymiyyah’s argument here when he acknowledges that there are aspects of the law, such

622 Al-Juwaynī, Mughīth, 8; al-Shīrāzī, al-Ṭabṣīrah, 496, 498.
623 MF 20:19; Āl Taymiyyah, al-Musawwadah, 2:903.
624 See Lowry, Early, 255.
625 MF 9:165, 13:65; MF 19:75; Ibn Taymiyyah, al-Furqān, 77. Shihadeh argues that al-Rāzī also comes to accept that demonstrative proof is also relative, see Shihadeh, Teleological Ethics, 182.
as the obligation of praying five times a day and the prohibition of alcohol, that constitute certain, even necessary, knowledge, despite the fact that they rest on other premises, such as the confirmation of the truthfulness of the Prophet, which technically excludes them from the domain of necessary knowledge.\textsuperscript{627}

This leaves those matters that legitimately fall within the province of \textit{ijtihād}, where there appears to be more than one legal answer. For al-Ghazālī, differences of opinion in such matter boil down to the particular sensibilities and temperaments of individual jurists, which lead them to arrive at different conclusions based on the same evidence.\textsuperscript{628} Ibn Taymiyyah, however, argues that even in matters of \textit{ijtihād}, the mujtahid must know that where two proofs lead to opposite conclusions one of them must be stronger than the other because God cannot issue contradictory rulings. Moreover, Ibn Taymiyyah says, the Qurʾān condemns people who follow nothing but conjecture. Therefore, even where the Qurʾānic proofs on a particular matter appear contradictory and ambiguous, it is obligatory to engage in \textit{ijtihād} until one comes to know that one set of proofs is stronger than the other, i.e. to exercise \textit{tarjih}, so that one is not acting on mere conjecture.\textsuperscript{629} Here again, Ibn Taymiyyah’s views run directly counter to those of the Ashʿarī theologians we mentioned earlier, for whom \textit{tarjih} provided no rational grounds on which to prefer one opinion or set of proofs over another.

Ibn Taymiyyah, however, argues that there is a difference between the subjective preponderant belief (ẓann) in the mind of the mujtahid and the actual proofs contained in scripture.\textsuperscript{630} A jurist acts on the basis of knowledge and conviction that one proof is stronger than the other, while

\textsuperscript{627} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:411.
\textsuperscript{628} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:412-413.
\textsuperscript{630} MF 13:63, 67; MF 19:75.
acknowledging that the real ruling on a matter might be contrary to his own preponderant belief regarding what it is.\textsuperscript{631} The dialectical theologians are therefore wrong, according to Ibn Taymiyyah, in holding that all legal answers, being probable, are equally probable and that a probable belief cannot be a form of knowledge. Rather, Ibn Taymiyyah says, it is possible to be convinced that one of various probable answers to a legal problem is preponderant. This conviction of preponderance (\textit{i\textsuperscript{t}iq\textit{ā}d al-rujh\textit{ā}n}) is distinguishable from preponderant conviction (\textit{rujh\textit{ā}n al-i\textsuperscript{t}iq\textit{ā}d}). According to Ibn Taymiyyah then, when one acts on the basis of a preponderant belief, one is not acting on the basis of probability, as asserted by al-Rāzī. Rather, one is acting on the basis of one’s conviction that the subject of one’s preponderant belief is more likely to be the ruling by which God wants one to rule.\textsuperscript{632}

Ibn Taymiyyah’s views on the role played by a jurist’s subjective belief on the determination of a legal rule therefore differ from those of the Mu\textsuperscript{t}azilah, who insist that since good and evil are known through reason, a jurist who is sincerely mistaken in discovering them is nevertheless condemned.\textsuperscript{633} Against the Mu\textsuperscript{t}azilah, Ibn Taymiyyah argues that the commission of a sinful act does not necessarily earn its performer a sin if the act was committed as a result of mistaken \textit{i\textit{j}tih\textit{ā}d}. This, Ibn Taymiyyah explains, is because sin only accrues to an individual if a number of conditions are met. When it comes to a mistaken \textit{i\textit{j}tih\textit{ā}d}, a jurist’s ability to discover the truth is one such condition.\textsuperscript{634}

\textsuperscript{632} Ibn Taymiyyah, \textit{Bayān}, 8:404-406, 453. See also al-Qarāfī, \textit{Nafâ\textaccentheight{3}i\textaccentheight{1}s}, 9:3883.
\textsuperscript{634} Ibn Taymiyyah, \textit{Bayān al-dalīl}, 294.
III. Ratiocination in God’s Acts

So far we have seen that the dialectical theologians distinguished between the sciences of pure reason, such as philosophy, and disciplines which lacked rational certitude, such as the law. We saw that these theological ideas gave rise to a distinct positions in legal theory, such as legal infallibilism. We now turn to another set of theological arguments advanced by the theologians in support of their view that God’s law was not rational.

For most Ashʿarī theologians, it was impossible for God to act for a reason, purpose or cause. God’s acts, the Ashʿarīs insisted, must flow from His sovereign will alone – not from any imposition of reason. The creation of the universe itself out of nothingness was, the Ashʿarīs argued, an act of sheer and untrammeled divine power; an expression of God’s creative majesty – not a means to fulfill a higher purpose. God could just as well have created a different universe, or none at all. The same principle, the Ashʿarīs argue, applies to God’s law. As an expression of divine sovereignty, it was impossible for the law to be based on reasons.

But what of God’s wisdom? Did the Ashʿarīs themselves not insist that acting without a purpose was a sign of foolishness? Did they not proclaim God to be supremely wise? What did God’s wisdom mean if not His creating everything for a wise purpose and revealing a law that was in accordance with the highest dictates of reason? Confronted by questions such as these, the Ashʿarī theologians responded by introducing a fundamental distinction between the way one spoke about things human and divine. Al-Bāqillānī conceded that it would indeed be foolish for

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635 Al-Ghazālī, al-Iṣṭiḥād, 165.
man to act without a purpose, but insisted that this was not so for God, whose wisdom and perfection dictated that He be above any dependence on causes to bring about whatever He willed. God could not create the cosmos for the purpose of bringing about any benefit to Himself, al-Bāqillānī reasoned; He was already perfect.\footnote{Al-Bāqillānī, al-Tamhīd, 30-32. For al-Fārābī’s views on the wisdom of God, which relate to the perfection of His intellect and knowledge without ay mention of the effect of this on His creation and law, see al-Fārābī, Ārāʾ, 47-48.} Al-Rāzī explains that concepts such as futility and wisdom change their meaning when used in relation to the divine. God’s attributes are a metaphor, explains al-Rāzī, and we have no real knowledge of what God is like because none of the ordinary ways in which we acquire knowledge – direct apprehension, analogies and the like – can be used to know Him. Therefore, al-Rāzī cautions, when one speaks of God’s attribute of wisdom, one ought not to analogize this with what humans understand as wisdom. God’s wisdom, according to al-Rāzī, simply refers to His knowledge of things as they are and not to His acting in accordance with reason.\footnote{Al-Rāzī, al-Masāʾil al-mashriqīyyah, 494-495; al-Rāzī, Muḥassal, 205; al-Rāzī, al-Maṭālīb, 3:289; al-Qarāfī, Nafāʾis, 7:3309-3310; al-Hindi, Nihāyah, 3/177; al-Āmidī, Ghāyah, 233. ‘Abd al-Jabbār, al-Maghni, 5:222; For a discussion on this argument in contemporary philosophy, see Plantinga, Nature, 23-24; Brewbaker, God, 16-17.}

More than any other Ashʿarī theologian, it is al-Rāzī who is associated with the denial of ratiocination in God’s acts.\footnote{Al-Rāzī, al-Arbaʿīn, 1:350-354; Al-Rāzī, Khamsūn, 62; Al-Rāzī, al-Masāʾil al-mashriqīyyah, 1:542-543; al-Rāzī, Muḥassal, 205; al-Rāzī, al-Maṭālīb, 3:289-290. See also Gywnne, Logic, 59; Shihadeh, Teleological Ethics, 97-98; Opwis, Maṣlaḥa, 113-121.} His arguments in support of the position that God does not issue commands and prohibitions for a reason were subsequently embraced by generations of Ashʿarī legal theorists after him.\footnote{Al-Ījī, al-Mawāqif, 331-332; al-Taftazānī, Sharḥ, 4:301 (completion, endless chain, eternal punishment); al-Hindi, Nihāyah, 8:3326; al-Āmidī, Muntahā al-sūl, 215; al-Badakhshī, Sharḥ, 3:37; al-Būṭī, Ḍawābīt, 89 is an instance of a twentieth century deployment of the completion argument.} In summary, al-Rāzī argues that if God acted for a purpose, He would become more perfect with the fulfillment of that purpose and consequently would have been
less perfect and less complete before His purpose was achieved. But this is impossible, al-Rāzī explains, as God is eternally perfect.

Al-Rāzī and the Ashʿarites also refuse to accept the Muʿtazilite distinction between a beneficial purpose relating to God Himself, which the Muʿtazilites agree is impossible, and one relating to the creation, which the Muʿtazilites say is necessary, (since God, according to the Muʿtazilites, is obliged to do what is best for His creation). Al-Rāzī insists that even acting for the purpose of benefitting His creatures is impossible for God because it still makes God’s perfection dependent on something external to Himself, in this case man’s obedience to the divine law, which would be the realization of God’s purpose in instituting the law. Al-Rāzī rejects this line of thought and insists that God’s perfection must lie in the fact that He can instantaneously create any end He desires, without being dependent on unnecessary causes to realize His purposes. Moreover, al-Rāzī argues, God is Himself the cause of all causes. If He were to act for a cause, this would create an endless chain of causation.⁶⁴¹ Lastly, al-Rāzī argues, acting for a wise purpose means acting in a way that procures benefit and averts harm from one’s self. Wise purposes are thus reducible to pursuing pleasure and avoiding pain. However, if it is even acceptable to speak of God experiencing pleasure (and al-Rāzī does not believe that it is) it would, al-Rāzī says, be contradictory to God’s nature for His experience of pleasure to be dependent on the realization of His purposes.⁶⁴²

As we shall see in the next chapter, al-Rāzī and his Ashʿarī commentators also marshaled a range of arguments to demonstrate that most of God’s acts showed no ostensible benefit that would compel us to conclude that God always acts for a reason or a wise purpose: God created the devil,

⁶⁴¹ Al-Rāzī, al-ʿArbaʿīn, 1:350; al-Rāzī, Muḥaṣṣal, 205. See also al-Ashʿarī, Maqālāt, 318; al-Tilimsānī, Sharḥ, 2:296–297.
⁶⁴² Al-Rāzī, al-Maḥṣūl, 5:133; al-Rāzī, al-Maṭālib, 3:293. See also al-Qarāfī, Naḥāʾīs, 7:3262.
who turns most people away from God’s path; He allowed Prophets and righteous believers to suffer and die; He created great multitudes of people knowing that they would not believe in Him and would thus be doomed to suffer everlasting torment. None of these acts can be said to have a reason or a beneficial purpose. What such acts display, these scholars argued, is that God’s power is not bound by any considerations of wisdom or reasonable purpose.643 Al-Juwaynī offers another justification for the view that the law cannot be based on the pursuit of a rational good, namely that the imposition of legal commands and prohibitions is itself something the intellect finds abhorrent. It would obviously be better, he argues, for God to have created people without any intellect so that they could not be held accountable for their acts, instead of endowing them with rationality and thereby making them subject to legal responsibility and to punishment for breaching that responsibility.644

The nexus between these theological debates and legal theory had been pointed out by al-Ashʿarī himself, who pointed out that the issue of ratiocination in God’s acts would have an impact on one’s view of the validity of the variety of juristic techniques subsumed under the term qiyās. For theologians who reject the idea of God acting for a purpose or reason, it is impossible to analogize one legal rule with another on the basis of a common rationale behind them because their theology prohibits God’s acts from having a rationale to begin with.645 Ibn al-Qayyim also remarks on the link between theology and legal theory here, observing that qiyās becomes impossible unless one holds that acts have been made permissible and forbidden on account of their intrinsic qualities, and not merely on account of divine fiats. For only if one accepts that divine norms are based on an intrinsic and underlying rationale can one search for

644 Al-Juwaynī, al-Irshād, 204-205.
645 Al-Ashʿarī, Maqālāt, 2:162.
such rationales in new cases and analogize them to those for which scripture contains an explicit ruling.\footnote{Ibn al-Qayyim, \textit{Miftāḥ}, 2:1120.}

\textbf{The Traditionalist Response}

Ibn al-Qayyim, as we have seen, rejects what he sees as the jurisprudential implications of the Ashʿarī argument that God’s law is devoid of reason and purpose. However, the traditionalists also respond directly to the arguments against ratiocination in God’s actions advanced by al-Rāzī, whom Ibn al-Qayyim identifies as the greatest of the later scholars upholding the Ashʿarī position on the matter.\footnote{Ibn al-Qayyim, \textit{Shifāʾ}, 417; Ibn al-Qayyim, \textit{Miftāḥ}, 2:1013-1014; Ibn al-Qayyim, \textit{Iḥām}, 2:333, 335. A rejection of al-Rāzī’s arguments is also contained in Ibn al-Najjār, \textit{Sharḥ}, 1:315-317. The views of al-Rāzī and al-Ghazālī are also discussed in Al-Būṭī, \textit{Dawābiḥ}, 89} As an exhaustive survey of the traditionalist response to al-Rāzī is neither possible nor desirable here, what follows is merely a sketch of the traditionalist response to the Ashʿarī denial of reasons and purposes in the acts of God. This sketch will allow us to see how important it was for the traditionalists to establish that the law was in a relationship of fundamental harmony with reason, and not merely a set of commands and prohibitions that was neither based on rational proofs nor rational in terms of its purposes.

The theologians’ discussion of the issue of ratiocination in God’s acts frequently employs the term ‘end’ (gharaḍ) to refer to God’s purposes, a term that is also frequently deployed in works of dialectical theology. The traditionalists, however, find such terminology objectionable. Ibn al-Qayyim recounts Ibn Ḥanbal’s disapproval of speaking of gharad in relation to God and remarks that the latter would encourage people to speak of divine wisdom instead, since this was an attribute affirmed by God for Himself.\footnote{Ibn al-Qayyim, \textit{Miftāḥ}, 2:1024, 1027.} Similarly, Ibn Taymiyyah objects to al-Rāzī’s use
of the term ladhdhah to denote the divine pleasure which al-Rāzī claims is impossible for God to experience, which then furnishes al-Rāzī with an argument for why God cannot enjoy a certain set of purposes. According to Ibn Taymiyyah, one should only affirm what God affirms for Himself, namely that He is pleased with some things and displeased with others.\(^{649}\)

In the sixth of the 125 rhyming couplets of his *Ode in T*, Ibn Taymiyyah also succinctly lays out the traditionalist doctrine on ratiocination in God’s commands, proclaiming that every aspect of God’s creation rests on His wisdom and mercy.\(^{650}\) The problem of divine wisdom and ratiocination in God’s acts is also addressed in Ibn Taymiyyah’s *Epistle on Will and Command*.\(^{651}\)

Here, Ibn Taymiyyah rejects the position of the philosophers, who hold for the eternity of creation without a cause, and the Muʿtazilites, who insist that the good of God’s will and command does not return to Him and that it can only be directed towards others.\(^{652}\) Against these views, Ibn Taymiyyah and Ibn al-Qayyim argue that God’s creation and command are always based on a wise purpose that returns to Him.\(^{653}\)

Ibn Taymiyyah also remarks on the contradiction, as he sees it, of the theologians’ rejection of the proposition that God’s commands and prohibitions are based on reasons, even as the theologians persist in seeking the reasons and causes for which divine laws have been instituted.\(^{654}\) Ibn Taymiyyah’s own search for the reasons underlying God’s law is unencumbered

\(^{649}\) MF 16:83.


by the warnings of the dialectical theologians that it is impossible for such reasons to exist. On the contrary, the search for these reasons reaffirms Ibn Taymiyyah’s traditionalist theological convictions that God’s actions show Him to be wise and merciful. Reflection on the wise and merciful purposes behind God’s acts, Ibn Taymiyyah suggests, makes one adore God more deeply and to submit to His law more completely. Ibn al-Qayyim adds that the affirmation of divine wisdom and ratiocination in God’s acts is fundamental to the affirmation of God’s unity, thereby showing once again how crucial a role the concept of God’s wise acts played in traditionalist theology. The understanding of God’s reasons and wisdom in causality (ʿilal) is the highest level of tawḥīd, Ibn al-Qayyim says, because it involves understanding God’s creation of (1) things (2) at their proper times (3) in their proper place.

The traditionalists therefore reject the al-Rāzī’s argument that acting for a wise purpose would be contradictory to God’s perfection. On the contrary, they assert, God never acts without a wise purpose and herein lies His perfection. Acting in accordance with wisdom is, the traditionalists insist, necessarily more perfect than acting without a wise purpose. In fact, they continue, God would be imperfect if He acted without a wise purpose or if He had a wise purpose behind His acts but was unable to realize it. The first of these imperfections is rendered impossible by God’s wisdom – the second by His power. The error of Ashʿarī scholars such as al-Rāzī lies, the traditionalists argue, in their making a God who acts for no reasons and without purposes.

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657 Ibn al-Qayyim, Miftāḥ, 2:1051.
perfect, while regarding a powerful God who brings about the fulfillment and realization of His ends as imperfect.659

Ibn Taymiyyah and Ibn al-Qayyim also invert the fundamental Ashʿarī argument in support of the proposition that God does not act for purposes, namely that this would make God less perfect before these purposes were realized and more perfect thereafter. Ibn al-Qayyim advances 16 arguments against this Ashʿarī proposition.660 His central argument, also found in Ibn Taymiyyah’s works, is that God’s perfection dictates that He acts for a purpose which is realized at the right time. God could undoubtedly bring about any end He desired immediately, Ibn al-Qayyim says, but to seek the realization of a purpose before its right time would constitute an imperfection, which is impossible for God.661 In the Miftāḥ, Ibn al-Qayyim argues that God’s ability to do anything at any time does not negate wisdom from whatever He does at a particular time.662 According to the traditionalists, then, God’s creation of causes and effects to realize His purposes is an expression of His complete power and wisdom, not a sign of His limitations.663 This, the traditionalists point out, is why God seldom mentions His might and power in the Qurʾān without also mentioning His wisdom.664

The Ḥanbali traditionalists also reject the Ashʿarī argument that if God were to act for causes He would be seeking completion through something external to Himself. God, the traditionalists respond, acts for wise purposes because He is Wise and wisdom is one of His attributes. God’s

659 Ibn al-Qayyim, Shifāʾ, 421.
660 Ibn al-Qayyim, Shifāʾ, 417-422; Ibn Taymiyyah discusses this argument of the Ashʿarīs, some jurists of the four schools and scholars such as Ibn Hazm. Ibn Taymiyyah, Majmūʿah al-rasāʾil, 1:326-327.
662 Ibn al-Qayyim, Miftāḥ, 2:1070; MF 16:85. See also Minhāǧ, 1:421.
wisdom is thus not distinct from God but inheres in Him. Here, Ibn Taymiyyah and Ibn al-Qayyim sought to explain how God’s wisdom does not involve completion through something other than Himself by drawing on traditionalist theological ideas regarding God’s attribute of speech. Unlike the Muʿtazilites, who held that God’s speech exists as something separate from Him, the traditionalists generally subscribed to the formula that God’s speech ‘originates with God and returns to Him.’ Ibn Taymiyyah and Ibn al-Qayyim use the same formula to describe the nature of God’s wisdom. The worldly manifestation of God’s speech and wisdom, they say, does not alter the eternal nature of God’s attributes, nor does it imply any shortcoming on the part of God. Ibn Taymiyyah also relies on the traditionalist doctrine of preordainment (qadar) to show that God’s perfection is not dependent on something other than Him. It is God Himself who creates man and grants him the ability to act in a way that fulfills God’s wise purposes. Therefore, it is God alone who deserves praise for bringing about the realization and fulfillment of His purposes.

Ibn Taymiyyah and Ibn al-Qayyim also respond at length to al-Rāzī’s argument that God acting for a cause would necessitate an endless chain of causality. The central argument advanced by Ibn al-Qayyim is that even if God’s acting for a cause does lead to an endless chain, the kind of endless chain this entails is not logically impossible. Rather, it is indispensable.

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665 Ibn al-Qayyim, Shiḥāʾ, 418.
667 See for instance al-Maḍīsī, Ikhtisās, 30 and passim, which establishes that this was the doctrine of the leading traditionalists. The doctrine of the Qurʾān returning to God is also cited Ibn Taymiyyah, Jāmiʿ al-rasāʾil, 1:162, Ibn Qudāmah, al-Irshād, 176; Ibn al-Ḥanbalī, al-Risālah, 2:533.
669 On the endless chain of causation as an issue in theology, see al-Rāzī, al-Maṭālib, 1:130, 141; Ibn al-Qayyim, Shiḥāʾ, 423-429. See also Ibn Taymiyyah, Majmūʿah al-rasāʾil, 1:327; MF 8:55, 8:226-227 (paradise and its favors continue eternally); Ibn Taymiyyah, Minhāj, 1:146, 436, 445
670 Ibn al-Qayyim, Shiḥāʾ, 428.
endless chain, Ibn al-Qayyim explains, is one that seeks to trace back each cause to another cause ad infinitum. However, an endless chain of causes proceeding from an uncaused cause is not logically impossible but necessary. In response to the argument that an eternal chain of causes, even one issuing from an uncaused cause, would mean that God’s wise purpose is never realized, Ibn al-Qayyim declares that it is precisely in an eternal chain of causes that God’s wise purposes are continually being realized. God’s purposes in relation to man, Ibn al-Qayyim explains, are continually being realized. The creation of man realizes God’s desire to display His essential attributes of love and mercy. This purpose is also subsequently realized at every stage of mankind’s journey through this world into the next: when God addresses man with His speech; when He directs man to what He loves; when He helps man to abide by His commands and finally at the moment when God showers His mercy upon those who obey Him. God’s desire and purpose of displaying His love and mercy is thus realized through a chain of causality that extends from the moment of man’s creation to the moment he attains God’s mercy in the next life and the hereafter.

Ibn al-Qayyim also tackles al-Rāzī’s argument that all purposes are ultimately reducible to the procurement of pleasure and joy and the avoidance of pain, both of which can be brought about by God without creating intervening causes, such as legal commands and prohibitions. Ibn al-Qayyim responds by drawing a distinction between different kinds of ‘things.’ God does indeed have the power to do all things, he says, but the impossible is not really a ‘thing’ at all. Other examples of impossible things cited by Ibn al-Qayyim include effects that cannot exist without

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671 Ibn al-Qayyim, Shifāʾ, 433 where he also says this eternal chain of caused causes going back was a concept approved of by the salaf; Ibn Taymiyyah has a slightly different set of objections to this argument; see Ibn Taymiyyah, Majmūʿah al-rasāʾīl, 1:388-389. See also Hoover, Pepetual.
672 Ibn al-Qayyim, Shifāʾ, 424-428.
673 Ibn al-Qayyim, Shifāʾ, 429.
their causes. A son, definitionally, cannot exist without a father, Ibn al-Qayyim says. Consequently, God is not made imperfect in Ibn al-Qayyim’s view if He does not bring about effects without their necessary causes. On the contrary, this simply means that God has not done what is impossible. Therefore, when God fulfills His wise purpose in the creation of a son through the creation of his father, this is not, according to Ibn al-Qayyim, an imperfection. Rather, it is the realization of God’s wise purpose.674

More fundamentally, Ibn al-Qayyim challenges al-Rāzī’s premise that all of God’s wise purposes must ultimately be reducible to the procurement of pleasure and the avoidance of pain. This might be true of humans and animals, Ibn al-Qayyim admits, but to say that it is therefore true of God is an unwarranted analogy and a mere claim without proof. Indeed, Ibn al-Qayyim reasons, it follows from the fact that God’s will is unlike our own that His reasons for acting cannot be identical to ours.675 The Ashʿarīs are mistaken, he says, in analogizing the purposes observable in this world with the realm of the unseen.676 For Ibn al-Qayyim, God’s purposes are related to His names and attributes, which are known with certainty through scripture and which, therefore, do away with the need for drawing analogies between divine and human purposes. God’s names (which, in Islamic theology, include ‘the Loving’ and ‘the Wise’) themselves dictate, according to Ibn al-Qayyim, that He loves certain things and abhors others677 and that He acts purposefully, in a manner deserving praise and for a purpose that pleases Him.678

674 Ibn al-Qayyim, Shifāʾ, 429-430.
675 Ibn al-Qayyim, Shifāʾ, 431.
677 Ibn al-Qayyim, Shifāʾ, 432.
678 Ibn Taymiyyah, Majmūʿah al-rasāʾīl, 1:332.
Ibn Taymiyyah and Ibn al-Qayyim expound at some length on the errors of the philosophers in positing attributes to God on the basis of analogies between what is observable in this world and what the philosophers themselves admit is unobservable, a technique whose weaknesses are also acknowledged by theologians such as al-Rāzī. The correct position, according to Ibn Taymiyyah, is that God cannot be the subject of the type of analogy known as *qiyyás tamthīl* – where objects are classified together on account of their similarity – nor of a categorical syllogism, because this involves reasoning from a specific to a general of which the specific is a part and then from that general back to the specific. God, however, is not part of a general class, Ibn Taymiyyah exclaims. He is utterly unique and solitary. Therefore, the traditionalists argue, the only correct form of reasoning about God is the *a fortiori* argument (*qiyyás al-awlā*), whereby every aspect of perfection affirmed of the creation which does not necessitate any shortcoming is to be attributed to the creator who bestowed this perfection on man and is thus more worthy of it Himself. Conversely, every shortcoming in the creation must, by greater necessity, be negated of God.

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681 Ibn Taymiyyah, *Bayān*, 2:349. See also MF 3:23; 9:65-66; Ibn Taymiyyah, Dar’, 7/322. See also See also Radd ‘alā al-mantiqiyyīn, 158, 161-162 and 193 (a fortiori); Ibn al-Qayyim, *Miftāḥ*, 2:1050-1051. For a discussion of al-Shāfi‘ī’s championing of the *a fortiori* argument, specifically the *minore ad maius*, as the strongest form of argument, see Gwynne, Logic, Rhetoric and Legal Reasoning in the Qur‘ān, 128. See also Mayyādah Muḥammad al-Ḥasan, *al-Ta‘āruḍ bayn al-aqyisah* (Damascus: Dār al-Nawādir, 1421/2010), 191-194. For al-Rāzī, God’s fundamentally different nature makes it impossible to attain any knowledge of him on the basis of reason, which is why ultimately, even theology itself is an uncertain science. This makes it necessary, or at least desirable, to resort to an alterative epistemology such as Sufism. See Shihadeh, Teleological Ethics, 187, 200. See also Alexander Treiger *The Science of Divine Disclosure: Ghazalis Higher Theology*. For a contemporary philosophical critique of the idea that God ought to be thought of as possessing, in a perfect form, all positive attributes possessed by man, see Barry Miller, *A Most Unlikely God*. For a counter argument, see Daniel Hill, *Divinity and Maximal Greatness* and Edward R. Wierenga, *The Nature of God*, 5 and passim.
In the *Miftāḥ*, where the topic of attributing pleasure to God is discussed in markedly spiritual terms, Ibn al-Qayyim accepts that God does not personally benefit or suffer because of the good and evil of His creation and that God’s purpose of rewarding man is not dependent on man’s obedience to God’s law. God is entirely capable, Ibn al-Qayyim explains, of giving people a reward without making this dependent on causes such as obedience to His law. The reason God reveals a law is thus not to serve as an arbitrary means of man attaining His reward but because the law is itself a realization of God’s love and mercy. It is out of His love and mercy that God reveals a law that benefits man, which God then makes a means of attaining His pleasure and reward.  

It is also in response to the dialectical theologians who argued that there was no wise purpose in the creation of individuals who would disbelieve and then suffer everlasting torment in hell that Ibn al-Qayyim develops one of the most controversial theodicies in Sunnī Islam. Ibn al-Qayyim agrees that everlasting punishment benefits neither God nor the one being punished. However, while the theologians accept the existence of eternal punishment as a matter of doctrine and derive from it proof of the absence of wisdom in God’s acts, Ibn al-Qayyim questions the doctrine of eternal punishment itself. In fact, Ibn al-Qayyim advances a host of scriptural and rational arguments to support his assertion that God will not subject anyone to everlasting punishment, not even polytheists and disbelievers who reject Islam. This position of Ibn al-Qayyim, to which Ibn Taymiyyah also inclined towards the end of his life, set these two scholars against the overwhelming majority of Sunnī theologians who insisted that disbelievers would suffer everlasting torment in hell and would never be forgiven. No less an authority than Ibn Ḥanbal, for instance, is reported to have held that, ‘whosoever amongst the disbelievers meets

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God, He punishes him and does not forgive him. Nevertheless, while Ibn Taymiyyah and Ibn al-Qayyim both affirm the standard theological view in their early works, it appears that towards the end of Ibn Taymiyyah’s life, and prompted in no small part by the questioning of Ibn al-Qayyim, Ibn Taymiyyah changed his views on the issue. This change is reflected in Ibn Taymiyyah’s work *Fanā’ al-nār*, in which Ibn Taymiyyah attacks various theological doctrines on the nature of heaven and hell and argues that hell need not be everlasting. Ibn al-Qayyim, whose questioning spurred Ibn Taymiyyah’s deliberations on this issue, devotes much more attention to it himself. He is also much more forceful than Ibn Taymiyyah in championing the view that everlasting punishment is contrary both to scripture, reason and the understanding of the earliest Muslims.

Ibn al-Qayyim’s discussion on everlasting punishment is built on his understanding of God’s wise purposes and the means He uses to achieve them. God creates nothing that is purely evil or entirely devoid of a wise purpose, Ibn al-Qayyim says. The wisdom and mercy of God therefore dictate that those who have been purified by a period of punishment corresponding to the gravity of their offences not be made to suffer eternally. For Ibn al-Qayyim, God’s desire to bring about the welfare of man flows from His attributes of mercy, which is integral to God’s nature. On the other hand, Ibn al-Qayyim explains, punishment is not something desired by God for its own sake; it is only a means of purifying man of his sins. Once the purpose of punishment is achieved, there is no benefit in prolonging it. God’s nature therefore dictates that

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686 Ibn Taymiyyah, *Fanā’*.


He will not make anyone suffer eternal punishment, and that ultimately all His servants will be encompassed within His mercy, a position which Ibn al-Qayyim states is supported by scripture and the opinion of several Companions. It is clear that this position of Ibn al-Qayyim also rests on his belief that terms such as good and evil have a meaning that is known independently of revelation. This is why Ibn al-Qayyim rejects as senseless the argument of his opponents who suggest that God’s eternal punishment of man could be considered merciful and wise. Using such terms to describe eternal punishment for a finite number of sins is, in Ibn al-Qayyim’s view, to deprive them of all intelligible meaning.

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690 Ibn al-Qayyim, Ḥāḍī al-ʾarwāḥ, 773.
IV. Good, Evil and Law

The Ashʿarīs had another set of theological doctrines that supported their belief on the inherent a-rationality of the law. The majority of Ashʿarīs (with the exception of such prominent figures as Abū Bakr al-Qaffāl al-Shāshī (d. 365/976), al-Ṣayrafi (d. 330/941) and Ibn Surayj (d. 306/918), whose opposition to the school’s position on this point could be explained as a consequence of their naïve and unwitting dalliance with Muʿtazilism) subscribed to an extreme form of divine command theory, arguing that it was the speech of God alone – not human reason – that determined good and evil. Independently of revelation, good and evil are entirely subjective terms, says al-Ghazālī. They are bywords for one’s own preferences and dislikes. This is why what one person deems good is by another deemed evil. But if good and evil are not rational categories that exist before the law but only terms that acquire meaning as a result of the law, this means that the reason for revealign the law cannot have been the attainment of a set of good and wise purposes because terms such as good have no meaning independently of the law. For good and evil, the Ashʿarīs claim, are not attributes of acts themselves but only qualities that arise as a result of the attachment of a legal rule to an act. The Ashʿarī doctrine that the law

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693 Al-Ghazālī, *al-Iqtiṣād*, 146, but see 148; al-Rāzī, *al-Maḥṣūl*, 1:130. For an interesting comparison with the views of Thomas Hobbes, who also denies that good and evil are anything more than subjective, see Alschuler, “A Century” 100.

was not based on reason thus follows from the school’s theological teachings on good (taḥṣīn) and evil (taqbīḥ).

The Ashʿarī theologian al-Āmidī musters all the resources of Aristotelian philosophy to explain why good and evil, which he terms accidents, cannot inhere in acts – which are also accidents – but only in bodies. It follows for the Ashʿarīs that since good and evil are merely attributes acquired by acts as a result of God’s speech, there is no intrinsic difference between a substance that is ritually pure and one that is ritually impure beyond the fact that one has been declared licit and the other illicit.\(^695\) Al-Bāqillānī offers a simpler argument in support of the Ashʿarī position. The pleasure one feels when having lawful intercourse with one’s wife does not differ from the pleasure one experiences when having unlawful intercourse. The only difference between the two acts and experiences is the fact that one has been declared to be permissible and the other, not.\(^696\)

The centrality of this theological doctrine to Ashʿarī legal theory can be seen by the fact that it is the first substantive issue discussed by al-Juwaynī in his treatise on uṣūl, the Burhān, and also by the space devoted to it in major Ashʿarī works on jurisprudence, such as the Maḥṣūl of al-Rāzī.\(^697\) The main opponents of the Ashʿarīs here were the Muʿtazilah who insisted that human reason on its own was capable of determining right and wrong – a view that the Ashʿarīs deemed


\(^{696}\) Al-Bāqillānī, al-Inṣāf, 47. A similar argument relying on the identical nature of the pain produced by good and bad instances of killing is found in Ibn al-Amīr, al-Kāmil, 2:736.

tantamount to rendering revelation and prophecy superfluous. The mind, the Ashʿarīs contend, is not capable of determining the goodness of thanking one’s benefactor, nor the evil of lying and oppression, all of which Muʿtazilites such as ʿAbd al-Jabbār held was known by necessary knowledge, (even though, ironically, ʿAbd al-Jabbār himself was dismissed from the court of his Būyid patron because of the widespread impression that ‘he no longer acknowledged his benefactor.’)"

Against the Ashʿarīs, the Muʿtazilah argued that submission to God’s revealed law presupposes that man has a rational ability to know good and evil. For only on the basis of this rational knowledge that God must do what is good does one arrive at the knowledge that God’s speech cannot be false. This knowledge, in turn, forms the basis of one’s submission to God’s law.

Although Muʿtazilite in origin, this argument gained acceptance beyond Muʿtazilite circles. It is present, for instance, in the uṣūl of the Ḥanbali Abū al-Khaṭṭāb (d. 510/1116), where it is framed as follows: unless one has determined through reason, independently of revelation, that lying is evil and that it is therefore prohibited, one has no basis for asserting that God Himself does not lie. Yet belief in God is dependent on God being truthful and not lying. After all, this argument runs, it is only because we accept that God does not lie and that He does not grant the ability to perform miracles to a charlatan that we believe in the truth of His revelation to a prophet who

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698 al-Āmidī, Ghāyah, 233-234. Ibn al-Amīr, al-Kāmil, 2:736 (since the pain felt at just and unjust killing is the same, there can be nothing inherent in the act itself which makes one good and the other evil. Rather these terms are dependent on the law). See also Shihadeh, Teleological Ethics, 48.
performs miracles, a point also discussed by Ashʿarī scholars such as al-Juwaynī and al-Ḥādī.\footnote{Abū al-Khaṭṭāb, al-Tamhīd, 4:296; al-Baṣrī, al-Muʿtamad, 2/327; al-Juwaynī, al-Irshād, 331-335 where the solution is that God’s truthfulness lies in His speech matching His knowledge; al-Rāzī, al-Maḥṣūl, 1:128-129. See also Shihadeh, Teleological Ethics, 107.} Genuine belief in God and submission to His revealed law are thus seen by proponents of this line of reasoning to be impossible unless the intellect first determines that evil acts such as lying, or granting miracles to a lying charlatan, are prohibited for God.

The Ashʿarīs, however, abide by their theological position and insist that it would not be evil of God to lie. Firstly, they declare, there is no way of demonstrating through reason that lying is in fact evil. Al-Rāzī sets out to prove this and in doing so, rejects the premises of a famous thought experiment proposed by the Muʿtazilah which hypothesized that a man who neither knows any human conventions nor subscribes to any societal beliefs would still know the good of truthfulness and the evil of lying. It is impossible, al-Rāzī counters, to prove what such a man would actually think. One cannot assert, in the absence of any evidence, that such an individual would consider lying to be evil.\footnote{Al-Rāzī, al-Maḥṣūl, 1:138-139. Note however, al-Shahrastānī uses the same experiment to demonstrate that such an individual would necessarily recognize the difference between propositions such as ‘two is greater than one’ and ‘lying is wrong’, showing that there is no moral knowledge. Ibn al-Qayyim rejects the thought experiment as unfounded and unproved and says that even if its results are accepted it would not negate the essential wrongness of lying; Ibn al-Qayyim, Miftāḥ, 2:1017-1018; Ibn Taymiyyah, al-Radd `alā al-mantiqiyyīn, 472.} Besides, al-Rāzī continues, the evil of lying cannot be a matter of rational necessity because unlike rational propositions, which are true come what may, lying is not actually evil in all cases. On the contrary, it can sometimes be good, as when it leads to saving the life of a prophet. Therefore, al-Rāzī concludes, evil is not a permanent quality that inheres in the act of lying.\footnote{Al-Rāzī, al-Maḥṣūl, 1:130, 136, 150; al-Rāzī, al-Maṭālib, 3:347; al-Ḥūfī, Darʾ, al-qawl, 106; Āl Taymiyyah, al-Musawwadah, 1:467.}
Secondly, the Ashʿarīs argue that the term evil cannot be applied to God’s acts.\(^{704}\) If God lies, inflicts pain on children who have committed no wrong and punishes people for what He makes them do, this is all permissible, good and wise because it is done by a being whose acts are necessarily good and wise.\(^{705}\) One cannot even say that lying would be an imperfection on the part of God. Our knowledge of what constitutes an imperfection for God does not come from reason but from revelation or the consensus of the Muslim community, the Ashʿarīs explain.\(^{706}\) Expressing his displeasure at his fellow Ashʿarīs who admit the strength of the Muʿtazilite argument that allowing God to lie shatters the foundation of faith itself because it makes it possible for God to deliberately misguide all of His creation, al-Qarāfī proudly owns the Ashʿarite position:

“This is precisely what we do believe. We hold that it is permissible for God – exalted is He – to guide or misguide all of His creation.”\(^{707}\)

The radically undesirable consequences of this theological doctrine were, as ever, avoided by invoking the concept of custom (ʿādah). It is absolutely true, says al-Qarāfī, that God can grant miracles to a charlatan, deliberately mislead all of His creation and perform purposeless acts like issuing commands and prohibitions to inanimate objects such as rocks and stones. However, we are certain that God does not in fact do any of these things in practice. In reality, al-Qarāfī continues, God’s revelation, which is the voice that God created in Gabriel (note the Ashʿarī


\(^{705}\) Al-Bağillānī, al-Tamhīd, 341; al-Baghdādī, ʿUṣūl, 25. Contrast Ibn ʿAbd al-Jabbār, al-ʿUṣūl, 82 where he says we cannot allow this for God as this would be oppression and God is above doing such a thing. Ibn Taymiyyah holds that God cannot oppress by consensus of the Muslims; see MF 8:297. Ibn al-Qayyim, Miftāḥ 2:777-780 allows that God inflicts suffering on children but says it is incorrect to say this is without a wisdom.


\(^{707}\) Al-Qarāfī, Nafāʾīs, 1:367; Ibn al-Qayyim, Miftāḥ, 2:962, 1084.
insistence that God does not actually utter the words of the Qur‘ān but creates them in Gabriel) is actually centered on the welfare (maṣlaḥah) of man. There are many things, says al-Qarāfī, whose possibility is affirmed but whose actual occurrence is denied. The possibility of God granting miracles to a charlatan and issuing commands and prohibitions to a stone falls within this class of things.\(^{708}\)

Al-Qarāfī goes on to suggest another intriguing justification for the possibility of God granting miracles to a charlatan – one that can only come from a theologian committed to the principles of dialectical theology. The granting of false miracles, al-Qarāfī suggests, is only one step removed from God employing anthropomorphic language in His revealed message in a way that confuses people and makes them think of God as a body. Clearly, God does not intend for people to think of Him as a body, al-Qarāfī suggests. Nevertheless, God uses anthropomorphic language to describe Himself in such terms because doing so serves some benefit. By implication, the same could be said of God’s decision to grant miracles to a charlatan.\(^{709}\)

**The Traditionalist View**

The traditionalists denounce the Ash‘arī position that reason has no way of distinguishing between good and evil.\(^{710}\) This does not, however, mean that the traditionalists subscribe to the view of the Mu‘tazilites who hold that reason itself, independently of revelation, can give rise to

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\(^{708}\) Al-Qarāfī, *Nafā‘is*, 1:367.

\(^{709}\) Al-Qarāfī, *Nafā‘is*, 1:369.

legal responsibility. Rather, the traditionalists argue that both the Muʿtazilite and the Ashʿarite positions on the nature of good and evil undermine the law.

Ibn al-Qayyim denounces the Muʿtazilite position because he believes that it not only opposes scripture but also undermines its. According to Ibn al-Qayyim, God makes it clear that He does not actually punish people until He has sent them Messengers informing them of the law. The revelation of divine law has thus been made a condition for the awarding of punishment for the performance of acts that remain evil in themselves, Ibn al-Qayyim argues. The Muʿtazilite position makes revelation superfluous by suggesting that human reason could have determined the content of the law independently of revelation.

At the same time, Ibn al-Qayyim also rejects the Ashʿarī view that the mind is incapable of considering the intermingled good and evil aspects of an act in such a way as to determine whether that act is good or evil. In most cases, Ibn al-Qayyim says, the intellect is not confused and can straightforwardly determine the evil of acts such as lying, oppression, homicide, doing evil to those who do good, hitting one’s parents, having sexual relations with one’s mother, associating partners with God and refusing to thank Him for His favors. The intellect, Ibn al-Qayyim maintains, can provide no arguments against the judgment that worshipping and adoring God is good, as is truthfulness, fulfilling the needs of others and protecting life, intellect, wealth and honor so far as this is possible. The reason why people frequently refuse to do what their own intellect has clearly identified as good, Ibn al-Qayyim suggests, is not because they are

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712 Ibn al-Qayyim, Miftāḥ, 2:877. See also Āl Taymiyyah, al-Musawwadah, 2:868.
713 Ibn al-Qayyim, Miftāḥ, 2:970-971.
714 Ibn al-Qayyim, Miftāḥ, 2:1098.
unsure about the goodness of the act in question but because the performance of a good act conflicts with their own passions and desires.\textsuperscript{715}

Ibn Taymiyyah castigates the Ashʿarī view that reason has no role to play in determining good and evil for what he perceives as its effects on legal theory. Such a view, Ibn Taymiyyah’s says, denigrates the status of divine law by dissociating the law from reason.\textsuperscript{716} According to Ibn Taymiyyah, revelation affirms the moral knowledge of good and evil that man acquires through his intellect. This, says Ibn Taymiyyah, is why God Himself appeals to man’s reason and moral knowledge when issuing commands and prohibitions. For instance, Ibn Taymiyyah points out, the Qurʾān states that a recognizable attribute of the Prophet is that he enjoins what is good and prohibits what is evil (Q., al-ʿArāf, 7:157). The verse becomes redundant, Ibn Taymiyyah says, unless good and evil are already recognizable before the coming of prophets. For if good and evil are synonymous with divine command and prohibition, the verse would become would mean that the sign of the Prophet is that he commands what he commands (i.e. what is good) and prohibits what he prohibits (i.e. what is evil).\textsuperscript{717} Moreover, Ibn Taymiyyah argues, the purpose of God declaring that He does not act unjustly is to make people love and glorify Him. This is not possible if injustice simply means not doing that which is rationally impossible (such as joining contraries), which according to the traditionalists is how the Ashʿarīs understand God’s negation of injustice from Himself.\textsuperscript{718} For the traditionalists, the sort of injustice God prohibits upon

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\item \textsuperscript{715} Ibn al-Qayyim, Miftāḥ, 2:1099.
\item \textsuperscript{716} MF 19:124-125; al-ʿArūṣī, al-Masāʾil, 100. For a discussion of the ways in which Ashʿarī theistic subjectivism makes divine law irrelevant, see Opwis, “Maṣlaḥa in Contemporary Islamic Legal Theory,” 189; Felicitas Opwis, “Islamic Law and Legal Change, 64
\item \textsuperscript{717} MF 20:24.
\item \textsuperscript{718} Al-Saffārīnī, Lawāmiʿ, 1:284, 290; Ibn al-Qayyim, ʿIlām, 3:95; Ibn al-Qayyim, Miftāḥ, 2:969-970; Ibn Taymiyyah, MF 8:186-187.
\end{itemize}
\end{footnotesize}
Himself is that which human reason itself regards as unjust, such as burdening one individual with the sins of another.

The critics of Ashʿarism also argue that the Ashʿarī stance on the nature of good and evil conflicts with other established doctrines in Ashʿarī legal theory, such as the school’s view on the legal status of acts before the advent of revelation.719 While most Muʿtazilites had adopted the view all acts before revelation were either permissible or proscribed,720 Ashʿarīs such as al-Rāzī held that one must suspend judgment on this question.721 Al-Rāzī justifies this position by reference to Ashʿarī doctrine on good and evil. Since good and evil are terms that only acquire meaning as a result of God’s speech, it is impossible to determine the objects to which the terms might apply before such speech has been revealed. After revelation, al-Rāzī declares, good and evil come to mean everything that is legally permissible or prohibited, respectively.723 The problem with al-Rāzī’s theory was identified by his Ashʿarī commentator al-Qarāfī, who pointed out that the requirement to suspend judgment on acts before revelation would itself constitute a legal obligation, as one would be under an obligation to suspend judgment about whether or not one was under an obligation.724 Al-Qarāfī also dismisses another argument of his Ashʿarī predecessor, namely that one could not be under an obligation to refrain from acts before they were explicitly prohibited by revelation, as this would constitute an impossible obligation. For al-Qarāfī, this is yet another doctrine that goes against the principles of Ashʿarism, prompting him to exclaim:

719 Reinhart, Before Revelation.
722 Al-Rāzī, al-Mahṣūl, 1:158–159; al-Armawī, al-Taḥṣīl, 1:187. His view is dismissed in al-Hindi, Nihāyah, 2:754. A similar view is attributed to the Zāhirīs; see Ibn Ḥazm, al-Iḥkām, 1:52. For an alternative position, namely that there is no ruling on acts before revelation, see al-Juwaynī, al-Burhān, 1:99.
723 Al-Rāzī, al-Mahṣūl, 1:108.
724 Al-Qarāfī, Naṣīʾis, 1:410.
'It is not as he [i.e. al-Rāzī] says. No indeed, O Ashʿarī! An obligation beyond one’s capacity is permissible.'

The traditionalists comment on yet another seeming tension in the works of al-Rāzī and his fellow Ashʿarīs. They point out that even though Ashʿarī theology teaches that good and evil are totally dependent on revelation, Ashʿarī theology is itself built on the premise that the intellect knows that perfection is good and imperfection is evil. For the Ashʿarīs themselves frequently argue that this knowledge is what allows us to know that God does not lie. Ibn Taymiyyah adopts a similar strategy in dealing with the objections of the philosophers who hold that the pleasure or displeasure experienced in the performance of an act is not a means of determining its goodness. Ibn Taymiyyah remarks that the philosophers themselves hold intellectual and contemplative happiness to be superior to material happiness because the former, in their view, is more enjoyable (although Ibn Taymiyyah remarks that few philosophers and even fewer non-philosophers actually find contemplation more enjoyable than material happiness). For Ibn Taymiyyah, man’s innate ability to recognize that justice is better and more agreeable than injustice and that knowledge is better than ignorance stands as proof of the fact that man possesses the rational faculty to distinguish between good and evil.

The theological debate over the inherent good and evil of acts also spurred a variety of juristic views on an infamous legal conundrum, which is also the first properly legal issue discussed in the theological encyclopedia of al-Ashʿarī. The conundrum concerned the legal status of an

725 Al-Qarāfī, Nafāʾīs, 1:419.
727 Ibn Taymiyyah, al-Radd ‘alā al-mantiqīyyīn, 467, 516.
728 Ibn Taymiyyah, al-Radd ‘alā al-mantiqīyyīn, 467.
729 See al-Ashʿarī, Maqālāt, 2:139.
obligatory ritual prayer performed on usurped land on which one was forbidden to set foot. Was such a prayer acceptable or not? The jurists generally held straightforwardly that such prayers were scripturally and rationally acceptable, because a single act could contain aspects of good and evil, just as an individual could combine aspects of faith and hypocrisy in him.\textsuperscript{730} For the Ashʿarīs, however, good and evil had no meaning independently of God’s commands and prohibitions. Consequently, to say that an act was both good and evil would mean that it had been both commanded and prohibited at once, which would constitute an impossible and thus – for some theologians, though not all – a prohibited obligation.\textsuperscript{731}

Given the weight of juristic opinion on the matter, however, a number of Ashʿarīs balked at the prospect of declaring a prayer performed on usurped land to be invalid. Instead, they advanced the view that while reason dictated that such a prayer be regarded as null and void, the law nevertheless recognized its validity.\textsuperscript{732} The obligation of performing such prayers, it was held, was not discharged as result of their performance (\textit{bihā}) but alongside their performance (\textit{ʿindahā}).\textsuperscript{733} Precisely the same distinction was used by the Ashʿarīs to explain how a particular attribute of an act was made the ratio for the legal rule governing it. God’s ruling regarding such acts did not come about as a result of these attributes but alongside them.\textsuperscript{734} It might well have


\textsuperscript{731} Al-Ḥiǧī, \textit{Sharḥ al-ʿAḍūd}, 312.


\textsuperscript{734} Al-Ḥiǧī, \textit{Sharḥ al-ʿAḍūd}, 312.
been their desire to glaze over the theological controversies underlying this problem that lead theologians such as al-Baghdādī to present this problem as a purely legal one. The latter therefore attributes a legal maxim to the disciples of al-Shāfiʿī which allows the Ashʿarī Shāfiʿīs to preserve their theological commitments while acceding to the view of the jurists on this particular question. The legal maxim states that where a person’s act is deemed to be prohibited due to the violation of another’s right (in this case, the right of the person whose land has been usurped and has now been taken as a place of prayer by the usurper), the prohibited act is not nullified once it has already been performed.\footnote{Al-Baghdādī, Uṣūl, 216.}

Surveying the various solutions to this problem, Ibn Taymiyyah identifies the Ashʿarī view as the most repugnant of all the theological opinions on the matter, as it suggests that God’s law upholds the validity of acts (such as a prayer on usurped land) that are deemed invalid by reason.\footnote{MF 19:159-160.} Ibn Taymiyyah’s own view on the disputed question of a prayer performed on usurped land is in harmony with the traditionalist view that a single act can contain aspects of both good and evil.\footnote{MF 7:314, 19:160-162; MF 19:160; Ibn Taymiyyah, Bayān, 1:219; Ibn al-Qayyim, Miftāḥ, 2: 1117; al-Rāzī, al-Maḥṣūl, 2:285; al-ʿĀmidī, al-ʿIḥkām, 1:157; Ibn al-Najjār, Sharḥ al-kawkab, 1:390; al-Ṭūfī, Mukhtasār al-rawdah, 1:362.} Ibn Taymiyyah and Ibn al-Qayyim both regard a divine ruling in relation to a substance or an act as an additional attribute of that substance or act – distinct from its intrinsic good and evil. The intellect, they maintain, can determine the good and evil of acts but not their precise legal status. Therefore, even if the intellect has already established the good of an act, the fact that it is later made obligatory by revelation adds a new dimension of goodness to the performance of that act, which it did not possess before.\footnote{MF 14:88-89; Ibn al-Qayyim, Miftāḥ, 2:875-8766, 881; Āl Taymiyyah, al-Musawwadah, 2:879.} The goodness of an act can therefore...
come from a multiplicity of sources: from its intrinsic nature, from the command of the lawgiver in relation to it, or both.\textsuperscript{739}

It is also on the basis of this understanding that Ibn Taymiyyah formulates a critique of the Muʿtazilite doctrine that God can abrogate a command before the time for its performance. The Muʿtazilah, and some Ḥanbalīs such as Abū al-Ḥasan al-Tamīmī (d. 371/981), argued that since a command did not add any good to an obligation that was not already present in it, a command that was abrogated before the time of its performance could not be of any benefit. Ibn Taymiyyah, however, argues that responding to a divine command with an attitude of ready compliance is itself a benefit. In the case of a command abrogated prior to the time of its performance, the benefit of the command lies in the opportunity provided to God’s servants to resolve to perform this obligation should it be imposed on them.\textsuperscript{740}

While accepting that obedience to a divine command is in itself a good, the traditionalists also insist that God bases His legal rulings on the intrinsic good and evil of substances. This, they say, is why God never bestows different rulings on similar substances or vice versa. Ibn al-Qayyim argues that the Qurʾān clearly states that what is permissible was good and pure before it was made permissible, while the prohibited was evil and impure before it was prohibited (Q., al-ʿArāf, 6:158).\textsuperscript{741} Good and evil are thus qualities of an act which the mind can perceive, just like color and sound.\textsuperscript{742} God’s commands and prohibitions, Ibn al-Qayyim’s says, are not based on merely on arbitrary will, as the Ashʿarīs insist, but on bringing about the maṣlaḥah.\textsuperscript{743}

\textsuperscript{739} MF 19:161.
\textsuperscript{740} MF 14:88.
\textsuperscript{741} Ibn Taymiyyah, Darʾ, 8:492; Ibn al-Qayyim, Miftāḥ, 2:875.
\textsuperscript{742} Ibn al-Qayyim, Miftāḥ, 2:1114.
\textsuperscript{743} Ibn al-Qayyim, Miftāḥ, 2:884, 1013.
V. Techniques of Qiyās

The theological belief that God cannot legislate for reasons has sweeping jurisprudential and legal implications. It explains both the cautious, if not hostile, attitude of many theologians towards techniques of legal reasoning such as qiyās and their attempts to fortify this form of legal reasoning by assimilating it to the sort of syllogistic reasoning prevalent in Hellenistic philosophy. By contrast, traditionalists such as Ibn Taymiyyah and Ibn al-Qayyim adopted an altogether more optimistic view of qiyās and also rejected the efforts of the theologians to introduce the formalism and technicality of philosophical reasoning into the domain of the law.744

For many theologians, their suspicion of qiyās as a valid technique of legal reasoning was rooted in their beliefs about the unreasonableess of the law. For instance, Muʿtazilite scholars such as al-Nazzām (d. approx. 230/845) and others associated with the Baghdadi branch of the school opposed the use of qiyās in matters of law and worship. Their argument rested on the unreasonable contradictions and incoherence of the law, which they argued frequently bestowed contrary rulings on similar cases. Since the law treated similar things differently and different things similarly, one could not be certain that the law consistently sought to uphold a particular rationale which one could use as the basis for analogical reasoning.745 The apparently

744 al-Ghazālī, al-Mustaṣfā, 2:162.
contradictory rulings upheld by scripture thus drove some Muʿtazilites to insist that a qiyās could only be allowed if it had been expressly approved by scripture or by a source of knowledge that imparted certainty, such as consensus.\textsuperscript{746}

Traces of this Muʿtazilite argument on the irrational or supra rational nature of the law can be seen in the restrained approach to qiyās adopted by the Ḥanafīs (the legal school most influenced by Muʿtazilite theology). Of the four main schools of Sunnī law, the Ḥanafīs often adopt the most formalistic and technically restrictive approach to qiyās. They prohibit, for instance, the use of qiyās across huge swathes of the law, such as legal penalties (sing. hadd, pl. hudūd), dispensations (sing. rukhṣah, pl. rukhaṣ), and causes (sing. sabab, pl. asbāb), all of which they regard as supra rational.\textsuperscript{747} By contrast, the Shāfiʿīs and Ḥanbalīs (despite the latter’s reputation as hidebound textualists opposed to the use of reason) tend to allow qiyās in all these areas.\textsuperscript{748}

The Ḥanafī preference for a formalistic rule based approach over one that considers the underlying rationale of the law can be seen in the school’s ruling that a child born six months after the marriage of two people living on opposite sides of the world is still recognized as legitimate since the formal cause of legitimacy, a valid marriage, is present. Occasionally, the other schools also adopt a formalistic approach over a purposive one, as in the case of the legal dispensation allowing a traveller to postpone his obligatory fasts while travelling, on account of the hardship he would face if required to observe his during his travels. The majority of scholars hold that in cases such as this, one follows the external and apparent rule and does not create

\textsuperscript{746} Al-Hindi, Nihāyah, 7:3204; al-Zarkashī, Salāsil, 390; al-Ḥārī, Muʿṭamad, 2:761; al-Rāzī, al-Maḥṣūl, 2:494.
\textsuperscript{748} Al-Rāzī, al-Maḥṣūl, 5:349, 465; Āl Taymiyyah, al-Musawwadah, 2: 753, 754.
analogies with other circumstances that might warrant a similar dispensation because the original dispensation is itself a legal anomaly. According to the majority, therefore, a traveller is allowed to avail the dispensation regardless of whether or not he faces any hardship of the sort that would necessitate postponing his fasts. On the other hand, the majority insists, someone who faces considerably more hardship than a traveler while not actually in a state of travel is not covered by the original concession. As we shall see, Ibn Taymiyyah and Ibn al-Qayyim adopt a highly purposive view of the law in such matters and in doing so, depart from the prevailing view of scholars from across the four schools.

Some might challenge the preceding account of Ḥanafī legal theory by pointing out that far from being cautious of qiyās, the Ḥanafī school is renowned for resorting to qiyās more frequently than its rivals. While this is true, the reality is that the Ḥanafī proclivity for qiyās is also based on the standard theological view on the uncertainty of legal evidence – such as solitary narrations, the vast majority of which are regarded by the Ḥanafīs as suffering from a variety of deficiencies, which is why the Ḥanafīs impose a set of formidable conditions that must be met if such reports are to be acted upon. This hyper-skepticism about the certainty imparted by solitary reports leads the Ḥanafīs to seek support for their legal opinions, especially those based on solitary reports which the Ḥanafīs do accept, in supposedly rational analogies which, at the very least, demonstrate the external consistency of Ḥanafī positions across disparate areas of law.

749 Al-Hindi, Nihāyah, 8:3293; al-Āmīdi, Muntahā, 211; al-Dabūsī, Taqwīm, 382 (in the case of the fasting traveler the rule applies although the hardship which was the ratio is absent. Likewise in sleep one needs to perform one’s ablutions again, even though there might not have been an act nullifying one’s purity. Similarly, one must make sure a slave is not bearing her master a child by making her go through a waiting period, even if the master was a minor incapable of fathering a child. Lastly, mere touching of one’s private parts nullifies one’s ritual ablutions ad obligates one to perform one’s ablutions anew, even though the ratio (he emission of semen) is absent.
We see this in the Ḥanafī school’s position on the legal problem of determining the minimum amount of dower that must be paid to a bride. The Ḥanafīs, having rejected a prophetic report which suggests that the dower has no minimum limit, must find some rational argument in support of their view that the minimum amount of dower is ten dirhams. Their argument thus takes the form of a *qiyās* between the minimum amount of the dower and the minimum value of stolen property for which a thief’s hand may be amputated, which in Ḥanafī law is also ten dirhams. The *qiyās* thus formulated by the Ḥanafīs is dismissed by Ibn Rushd in the following terms:

> Yet, when [the Ḥanafīs] sought to find a basis for the measure of the dower, they did not find a resemblance better than the minimum scale for amputation due to theft, on the basis of which they could construct their flimsy analogy for the fixation of the amount of dower.

> The analogy they employed is that it (the female organ here) is a limb that becomes permissible in return for wealth, therefore, it is necessary that it be determined on the basis of amputation (like theft).\(^{750}\)

Ibn Rushd proceeds to list a number of weaknesses in the analogy employed by the Ḥanafīs, including, most significantly, the different rationales and purposes behind marriage, which he argues is something made permissible for the purpose of pleasure and involving mutual affection, versus a legal penalty which is required for the purposes of punishment. However, as we said earlier, it is precisely such considerations of underlying purposes that the Ḥanafīs are trying to avoid by basing their *qiyās* on superficially similar attributes rather than underlying purposes and rationales.\(^{751}\)


\(^{751}\) A similar argument is presented in al-Ḥasan, *al-Ta’āruḍ*, 94.
As for the Ashʿarīs, their hesitancy in approving of *qiyyās* stems, first and foremost, from their denial of ratiocination in God’s acts; then, from their general denial of causality itself and lastly from their conviction that the scriptural proofs for the validity of *qiyyās* consist of solitary reports that are themselves incapable of providing certain knowledge.\(^{752}\)

Regarding the denial of ratiocination and causality, al-Ghazālī says that there is no way of demonstrating that a particular ruling has been instituted due to a particular objective.\(^{753}\) Ṣafī al-Dīn al-Hindī explains that for the Ashʿarīs a clear scriptural expression such as ‘alcohol is prohibited because it is an intoxicant’ does not constitute sufficient proof to say that all intoxicants are prohibited.\(^{754}\) One’s observation that the law is always and without exception accompanied by a benefit creates only a probable belief (*ghalabah al-ẓann*), and not certainty, that whenever a law exists, so does a benefit, al-Hindai explains. In reality, however, this is a mere custom (*vādah*) of God, like His habit of rotating the planets and stars in a particular direction. There is no certainty that all of this cannot change.\(^{755}\) There are, al-Rāzī insists, laws instituted by God that do not appear to bring about any benefit, although the number of such laws is statistically insignificant.\(^{756}\)

We also recall that the Ashʿarīs regard legal *qiyyās* as a non-demonstrative, and therefore an inherently uncertain, form of reasoning. For al-Ghazālī, all *qiyyās* is, by definition, probabilistic. Once the door of *qiyyās* is opened, he says, the regularization (*ḍabṭ*) of rules becomes impossible.\(^{757}\) Al-Ghazālī is even reluctant to concede that the *a fortiori* argument is a form of *qiyyās*, arguing

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\(^{752}\) Al-Rāzī, *al-Maḥṣūl*, 5:86.

\(^{753}\) Ayman Shihadeh, “From al-Ghazālī to al-Rāzī,” 166.


that since it does not require reflection or admit of doubts, it cannot properly be termed *qiyās*. A true *qiyās* has to have an element of uncertainty whereas the *a fortiori* argument, according to al-Ghazālī, is one where the higher case is even more apparent than the original and comes to mind before the latter. To conclude from the scriptural prohibition of saying ‘fie’ to one’s parents that beating them is also prohibited is not, al-Ghazālī argues, something that requires reflection or inference from the ratio. Even those who refer to this form of reasoning as *qiyās*, he says, admit that it is certain. Since it is actually impossible for a higher case to come to mind before one has understood what is conveyed by the text covering the original case, one must regard al-Ghazālī’s remarks here as an attempt to dispel the miasma of uncertainty which, according to the dialectical theologians, surrounds all forms of non-demonstrative reasoning. Other prominent Ashʿarīs such as al-Juwaynī and al-Rāzī, to say nothing of the traditionalists, have no problem accepting the *a fortiori* argument as a legitimate form of *qiyās*.

By contrast with the constrained formalism of the dialectical theologians, early traditionalists such as al-Shāfiʿī and Ibn Ḥanbal appear to have held an expansive and non-formalistic view of *qiyās*, giving their approval to forms of analogical reasoning that relied on a straightforward and commonsensical notion of similarity between distinct objects. This was also the case with many jurists, for whom the prime example of *qiyās* came from the Qurʾān’s command that anyone who hunted an animal while in a state of ritual consecration for pilgrimage (*iḥrām*) had to offer as compensation an animal like the one that had been hunted (Q., al-Māʾidah, 5:95). For the jurists, an apparent resemblance between two animals, and by extension between any two

objects, was sufficient to analogize between them and to set aside differences that were regarded as inconsequential. The term for this form of reasoning, *qiyyās al-mithl* or *qiyyās al-shabah*, points to the role played by a consideration of apparent similarities therein.\(^{762}\) The dialectical theologians, however, regarded such forms of *qiyyās* as uncertain, imprecise and lacking in rigor.\(^{763}\) In fact, al-Ghazālī insists that the *qiyyās* of similar animals cannot be a *qiyyās shabah* because *qiyyās* is always tainted by irredeemable uncertainty, whereas in this case one has certainty that one only need look for superficial similarity.\(^{764}\) Al-Juwaynī, however, argues that the supra rational nature of ritual law makes it an eminently suitable area for the application of *qiyyās al-mithl* and other forms of inferential reasoning that do not rely on identifying causes and rationales that are, according to him, absent from ritual law to begin with.\(^{765}\)

**Traditionalist Response**

According to Ibn Taymiyyah, the philosophers and dialectical theologians are mistaken in their dismissal of juristic *qiyyās* as a source of certain knowledge. The central error of both groups, he says, lies in creating strict divisions between demonstrative, dialectical and rhetorical proofs, based on the extent to which each can instill knowledge, and then holding that syllogisms impart certain and demonstrative knowledge while juristic analogies do not.\(^{766}\)

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765 For al-Juwaynī’s views on areas of law which are a-rational and not subject to ratio, see al-Burḥān, 2:891 (despite prayer being a-rational in this sense, one can still analogize and do *tارئَه* on the basis of a *qiyyās* which advocates a form for the ‘prayer of fear’ which is closer to the general norm, al-Burḥān, 2:1179.

766 MF 12:7-9. Lowry points out that *qiyyās*, along with transmitted reports and consensus, is also regarded as a form of knowledge yielding objectively correct answers by al-Shāfiʿī. See Lowry, *Early*, 242, 246.
For Ibn al-Qayyim, reason and revelation affirm *qiyaṣ* as the soundest form of reasoning. To compare like with like and to distinguish between things that are different is natural to man, he proclaims.\(^{767}\) This is why *qiyaṣ* is at the core of religious and rational logic. An example of this, in Ibn al-Qayyim’s view, is the way in which scripture invites man to analogize between creation and resurrection, and to use the *a fortiori* argument to reach the conclusion that similar objects will have similar rulings.\(^{768}\) Likewise, Ibn al-Qayyim says, the examples (*amthāl*) used in the Qurʾān impart the highest form of knowledge, as the intellect is innately predisposed to seeking examples and using them as a way of acquiring knowledge.\(^{769}\)

Ibn Taymiyyah and Ibn al-Qayyim reject the very possibility of the law treating similar things differently and different things similarly. On the contrary, they assert, there are rational reasons behind the apparently contradictory rulings given to things that appear similar and vice versa.\(^{770}\) Because the traditionalists are convinced that the contradictory rulings raised by the dialectical theologians are actually in harmony with sound *qiyaṣ*\(^{771}\) (with Ibn al-Qayyim, in particular discussing hundreds of such rulings in detail), the traditionalists are able to conclude that the theologians are wrong in saying that the contradictory rulings of scripture make *qiyaṣ* an unreliable technique of legal reasoning. On the contrary, Ibn Taymiyyah and Ibn al-Qayyim argue that any form of reasoning that opposes scripture is not just impious but irrational.\(^{772}\)

Ibn al-Qayyim sets out his points of contention with the dialectical theologians, insisting that (i) scripture covers every legal scenario, contrary to the dialectical theologians for whom the

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\(^{770}\) MF 17:102, 8:110; MF 20:274.


majority of legal problems are arrived at by probabilistic ra’y and that (ii) there is no conflict between scripture and sound reason or qiyās. We shall examine Ibn al-Qayyim’s exposition of each of these traditionalist principles in turn.

The Comprehensiveness of Scripture & Qiyās

According to al-Rāzī, God has a specific ruling for all or most eventualities. This represents a modified version of the theory of Ash’arīs such as al-Juwaynī and al-Tilimsānī, who held that although God does have a ruling on all matters, most of the law is not based directly on a scriptural text or naṣṣ but is derived by way of probabilistic legal analogies and uncertain ra’y. One cannot therefore say with any certainty what the ruling of God on any given matter is, since most such rulings are probabilistically derived and epistemologically uncertain. As proof for his view that the Qur’ānic text itself does not contain God’s rule for every eventuality, al-Juwaynī points out that the verdicts of the Companions far exceeded the number of legal scriptural texts. This, according to al-Juwaynī, shows that scripture itself does not have a ruling for every eventuality. In al-Juwaynī’s famous dictum, scriptural texts do not cover even a tenth of a tenth of all possible legal scenarios. Al-Juwaynī is not, of course, denying that God’s law is all-encompassing. His point is rather that most legal scenarios are only covered indirectly by scripture, and therefore require a substantial amount of ījtiḥād and ra’y, which necessarily adds another dimension of subjectivity and uncertainty to the law. Recall that for the dialectical

774 Al-Rāzī, al-Mahṣūl, 1:170
775 Al-Juwaynī, al-Burḥān, 2:743; A similar view is expressed in al-Tilimsānī, Sharḥ, 2:249. Al-Rāzī agrees, although he concedes that issues such as prayer and charity are known as certain and are not the arena of ījtiḥād; see al-Qarāfī, Nafāʾīs, 9:3840. Al-Qarāfī responds that a matter could still have certain proofs and not be known to a particular jurist, al-Qarāfī, Nafāʾīs, 9:3840.
theologians in general, juristic qiyās is necessarily a speculative and inferior form of proof in comparison with categorical syllogisms and the like.

Ibn Taymiyyah and Ibn al-Qayyim, explicitly attack al-Juwaynī and the Ashʿarī theologians who hold that the law does not address a tenth of a tenth of all legal scenarios and that it is incapable of doing so since such scenarios are infinite whereas scripture is finite. Ibn Taymiyyah insists that the position of al-Juwaynī’s heirs that most eventualities are not covered in the Qurʾān and can only be known by way of uncertain qiyās is one that is inspired by their commitment to dialectical theology. Ibn al-Qayyim responds to al-Juwaynī’s line of reasoning by arguing that the Qurʾānic command to return to God and His Messenger in all cases of disagreement (Q., al-Nisā’, 4:59) must mean that the Qurʾān and the Sunnah contain within themselves the answer to every legal question. Once again, the traditionalists argue, the mistake of the theologians lies in their misunderstanding of what constitutes a legal proof. A scriptural qiyās, according to the traditionalists, is actually a naṣṣ based proof because scriptural texts, along with their meaning, necessarily establish principles which are general, certain and which cover all possible legal scenarios. This, the traditionalists argue, is precisely why the verdicts of the Companions – which the Ashʿarīs cite as evidence of their subjective legal reasoning (raʾy) – actually consisted of citations of particular scriptural passages which contained the general principles that were to be applied to particular cases. It is true, the traditionalists acknowledge, that one might incorrectly infer a scriptural rule while engaging in qiyās. However, this does not alter the reality

79 Ibn al-Qayyim, ʿlām, 2:92.
82 See also Ibn al-Qayyim, ʿlām, 3:256; 563–564; Mustafa, Taqlīd, 153; MF 19:151; Āl Taymiyyah, al-Musawwadah, 2:932.
that scripture does contain an actual ruling covering new scenarios in the form of a correct scriptural *qiṣṣā*.

Moreover, neither Ibn Taymiyyah nor Ibn al-Qayyim accept that the number of legal scenarios requiring a scriptural rule is actually infinite. What is more, Ibn al-Qayyim continues, even if the number of such legal scenarios were infinite, they could still fall into finite categories, each of which could be covered by scripture. Therefore, even if the number of possible legal scenarios were infinite, it would still be reasonable to believe that they are all covered directly by a scriptural text. This, Ibn al-Qayyim explains, is just how scripture does in fact work in practice. It simply declares a specific number of things prohibited and makes everything else permissible. It thus deals in general principles and not in the individual cases subsumed under those principles.

**The Rationality of Scripture & *Qiṣṣā***

As we stated above, Ibn al-Qayyim produces one of the most thorough legal theodicies ever developed in Islam, offering rationales for the countless legal rules that were regarded as contradictory by the dialectical theologians. While many scholars dealt with such hidden rationales in their works on analogous and non-analogous cases, (*al-ashbāḥ wa al-naẓāʾīr*), it is significant that for Ibn Taymiyyah and Ibn al-Qayyim the study of the rationales underlying God’s law is not just a legal issue but also a theological one, since it involves the correct understanding of God’s wisdom and rationality. The cases and rules discussed by Ibn al-Qayyim are those criticized by the dialectical theologians for their inconsistency. They include those drawn from the law of ritual purity and worship as well as those drawn from the law relating to

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contracts such as sharecropping, which either involve an element of uncertainty or create nonpermanent rights of ownership and therefore create (according to the dialectical theologians) an anomaly in the law.\textsuperscript{785} Even basic legal institutions of the law such as marriage did not escape unscathed from the criticism of the dialectical theologians. Al-Qarāfī, for instance, argues that the law's recognition of marriage is contrary to qiyās as it involves the degradation of women, to whom the law otherwise accords dignity and respect. In marriage, al-Qarāfī points out, women are commanded to suffer the indignity of letting their bodies become the receptacles of their husbands’ bodily emissions.\textsuperscript{786}

A particularly revealing example of the different approach of the traditionalists and the dialectical theologians can be found in the controversy regarding the rationality of a provision in the law of ritual purity, which holds water to be capable of removing an individual’s state of ritual impurity (ḥadath), a state brought about by a variety of acts such as answering the call of nature. A group of dialectical theologians, as well as the Ḥanafīs, hold this provision to be against reason and qiyās on the grounds that as soon as water comes into contact with the impurity on one’s body, it becomes impure itself and far from removing an individual’s state of ritual impurity or ḥadath, it contaminates everything that comes into contact with it. Ibn Taymiyyah finds this principle unjustified on rational, let alone scriptural grounds, arguing that reason and scripture show that water does not become impure by mere contact with an impurity but only when and if its essential attributes such as its color, taste and smell undergo a transformation as a result of contact with an impure substance.\textsuperscript{787} Ibn al-Qayyim agrees, holding that to regard water as impure on account of its contact with an impurity would mean that a single drop of an

\textsuperscript{785} Ibn al-Qayyim, Īlām, 3:165; MF 20:275, 294, 300.
\textsuperscript{787} Ibn Taymiyyah, MF, 20: 280-281; Ibn al-Qayyim, Īlām, 3:176, 177.
impure substance would render a whole ocean impure, since a drop of impurity would contaminate the water around it, which would contaminate the water around it, and so on ad infinitum, which is an absolutely irrational conclusion to hold.\(^{788}\)

The scourge of Ḥanafism, Ibn Ḥazm, had also vilified the Ḥanafīs for their purportedly rational stance on this issue, arguing that the Ḥanafī opinion was nonsensical, not rational:

... Their statement that the ruling of loss of ritual purity (ḥadath) is transferred to the water with which impurity is lifted is the most stupid statement on the face of the earth, which no one can comprehend or rationalize. For ḥadath is the event that terminates the validity of one’s state of ritual purity. How can this ruling be transferred to water? This is madness! Loss of one’s state of purity refers to the excretion of elements from the body or to specific actions or states [which have the effect of making one lose one’s state of ritual purity]. To say that water that has not exited the body carries the ruling of creating a loss of purity is so irrational as to be impossible. We testify by God, besides whom there is no God, that whoever says such a thing is either devoid of reason or such a dissembler as to have nullified his faith.\(^{789}\)

A similar disagreement relates to the rationality of the law regarding the procedure of ritual purification known as tayammum, which involves brushing one’s hand and arms with sand if one does not have easy access to water. The Ashʿarī al-Juwaynī, along with some Ḥanafīs, holds that the law of tayammum has no rationale and can therefore not serve as the basis of qiyās. Its only purpose, according to al-Juwaynī, is to instill in people the habit of engaging in an act of purification before prayer (even if purification is not actually achieved thereby) and to impress upon mankind their obligations to God by reminding them that they are constantly under the yoke of His law.\(^{790}\) Ibn al-Qayyim disagrees and responds that there is a logic and rationale behind the legal provisions on ritual purity, including those related to tayammum. Combined with the

\(^{788}\) Ibn al-Qayyim, Iʿlām, 2:392, 3:176.

\(^{789}\) Ibn Ḥazm, al-ṭIrāb, 3:1102.

\(^{790}\) Al-Juwaynī, al-Burhān, 2:911-913.
provisions related to ritual cleansing with water, the provisions on *tayammum* establish a
general principle that when man loses his original state of ritual purity, he is to revive that state
by returning to the two elements from which he was created and which therefore restore him
to his original state of vitality and purity: water and earth.791

In another controversy, this time regarding the law’s recognition of the validity of the fast of an
individual who eats or drinks forgetfully, Ibn Taymiyyah and Ibn al-Qayyim accuse the
theologians of imposing their own understanding of rationality on scripture and then dismissing
scriptural rules as unreasonable for not conforming to the theologians’ own flawed standard of
rationality. According to the traditionalists, there is no reason to assert, as the dialectical
theologians do, that it is contrary to the principles of the law to recognize the fast of a person
who has consumed food or drink out of forgetfulness. Ibn al-Qayyim, however, argues that the
recognition of such a fast is rational and in conformity with *qiyyās*.792 The dialectical theologians,
he says, have overlooked the fact that scripture makes it clear that God does not hold people
responsible for their mistakes (Q., al-Baqarah, 2:286). Reason also dictates, according to Ibn al-
Qayyim, that a person who does not intend to commit a violation of the law not be held
accountable for his mistakes and unintentional errors. An act of worship, Ibn al-Qayyim states,
should only be nullified by the intentional commission of a prohibited act or the intentional
omission of an obligatory one, not by the commission of a mistaken act.793

792 Ibn al-Qayyim, *Iʿlām*, 3:244-245. See also See also Ibn Taymiyyah’s *Epistle on Qiyyās* in MF 20:274.
793 Ibn al-Qayyim, *Iʿlām*, 3:245, 247. For more, see Zuhayli, al-Wajiz, 67. On forgetfulness lifting legal responsibility,
see Āl Taymiyyah, al-Musawwadah, 1:143; al-Hāshimi, al-Qawāʾid, 1:396; al-Dabūsī, *Taqwīm*, 286; al-Ghazālī, *Shifāʾ al-
ghafīl*, 650. See also Zysow “Muʿtazilism,” 248.
Ratio and Analogy

For the Ashʿarīs, it was the most basic feature of a legal analogy – the existence of a common ratio [ʿillah] between two cases that would cause them to acquire a common legal ruling – which proved to be the most theologically troublesome. On the one hand, the Ashʿarīs insisted that nothing could occur without an ʿillah or cause. On the other hand, as we have seen, the Ashʿarīs specifically denied the existence of ratiocination in the acts of God. This theological commitment, which made qiyās difficult if not impossible, coupled with the view of Ashʿarī scholars that most legal cases were not covered by scripture and therefore required a qiyās based ruling, produced some of the sharpest tensions in Ashʿarī theology and legal theory – tensions that would not go unnoticed by the traditionalists.

Owing to their denial of ratiocination in God’s law, most Ashʿarīs adopted, as we saw earlier, a formalistic approach towards qiyās, identifying the ʿillah not as the underlying reason that caused two cases to acquire identical rulings but as an externally similar aspect shared by two cases, which allowed the transference of rulings between them. The Ashʿarīs therefore reject a variety of definitions of ʿillah on the grounds that these definitions import unsound theological beliefs into the concept. An ʿillah cannot be what necessitates a legal rule, says al-Rāzī, because the orthodox Muslims (i.e. Ashʿarīs) are agreed that the rule of God is just His address (khiṭāb), which is His eternal speech. The eternal cannot be necessitated, let alone be necessitated by the contingent. Therefore, there are no reasons or causes behind God’s rules that can serve as the basis for legal analogies. Our doctrine, says al-Qarāfī, is that God is not obliged to base His acts

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794 Al-Juwaynī, al-Shāmil, 659.
795 Al-Rāzī, al-Maḥṣūl, 5:127; al-Hindi, Nihāyah, 8:3255 offers a similar explanation for why the ratio cannot be regarded as the factor that necessitates a rule (muʿaththur).
on reasons (taʿlīl) nor his rulings on purposes. It is not obligatory for God to preserve that which is good or beneficial (maṣlaḥah), nor to repel that which is evil or harmful (mafsadah). 796

It is also incorrect, the Ashʿarīs say, to suggest that the ʿillah is something God seeks to bring about through a rule (dāʾī, bāʾith) because whoever acts for a reason attains completion by the fulfillment of that reason and this is impossible for God. 797 The perfection of God, however, is necessary and not dependent on the fulfillment of His purposes. Even if God’s purposes were to relate to His creation and not to Himself, simply accepting that God acted for good purposes would mean accepting that He would be lacking in divinity if He did not fulfill those purposes. 798

Further, the Ashʿarīs argued, all purposes can be reduced to a desire to procure pleasure or avert pain, both of which are impossible for God. 799

Even al-Ghazālī’s middle position, holding that it was not wrong to call the ratio the cause (sabab) of a legal rule, provided one did not regard the ratio as efficacious in itself but only by virtue of the law, failed to bring about any unity in the ranks of the Ashʿarīs. 800 While regarded as a happy compromise by some, al-Ghazālī’s position is rejected by those who still find it uncomfortably close to the Muʿtazilite position on the efficacy of causes, 801 a position al-Ghazālī himself rejected by insisting that effects occur alongside causes but not because of them, a distinction we also

796 Al-Qarāfī, Naṣīṣ, 3:1044. See also al-Hindi, Nīhāyah, 8:3274; al-Baṣrī, al-Muʾtamad, 2:777; al-Rāzī, al-Maḥṣūl, 2/206.
797 Al-Rāzī, al-Maḥṣūl, 5:132; al-Hindi, Nīhāyah, 8:3256. On just such a use of the term bāʾith in the work of a Ḥanbalī legal theorist, al-Qaṭṭā’ī, d.739, see al-Shathrī, Sharḥ kitāb qawāʾid, 86; al-Ḥasan, al-Taʿāruḍ, 99.
798 Al-Hindi, Nīhāyah, 8:3257.
799 Al-Ghazālī, Shifʿaʾ al-ghalāl, 21; al-Hindi, Nīhāyah, 8:3257-3258.
encountered in the debate over the status of a prayer performed on usurped land.\footnote{Al-Ghazālī, al-Mustaṣfā, 1:177; al-Qarāfī, Naḍā’īs, 1:307, 7:3217; Shabana, Custom, 65-66.} Al-Rāzī thus maintains that it is altogether incorrect to speak of causes in the law. A legal cause, such as adultery, cannot be efficacious in bringing about a legal effect, such as the penalty for this act, he argues, because the ruling of God is eternal and the eternal is not causally linked to temporal accidents.\footnote{Al-Rāzī, al-Maḥṣūl, 1:110.}

Because speaking of legal causes was theologically perilous, the Ashʿaris suggested that a ratio ought to be seen as an apparent or cognizable sign or attribute (amārah, dalālah, muʿarrif) of an act or rule, one that could be made the basis of an analogy.\footnote{Al-Khaṭīb al-Baghdādi, Ṣaḥīḥ, 203. See also Hallaq, History, 136. For various definitions of the term, see al-Ḥasan, al-Tāʿāruḍ, 98-100.} In this way, all discussion of the reasons and rationales behind the law could be sidestepped and a jurist could focus on matching the external attributes of objects while being agnostic as to the reason those attributes had been made the basis of a rule. A variety of techniques were developed to reduce the element of uncertainty that arose when analogies were based merely on external attributes, without any examination of the underlying ratio of the law. To ensure that he did not analogize on the basis of a legally insignificant attribute, a jurist inferred the ʿillah by determining that the attribute he had identified as the ratio fulfilled the criteria of suitability/appropriateness (munāsabah),\footnote{Al-Ghazālī, al-Mustaṣfā, 2:306; al-Rāzī, al-Maḥṣūl, 5:172.} efficacy (taʿthīr),\footnote{Al-Āmidī, Muntahā al-sūl, 38.} resemblance (shabah),\footnote{Al-Hindi, Nihāyah, 8:3399.} concomitance (dawrān),\footnote{Al-Hindi, Nihāyah, 8:3351; al-Tilimsānī, Sharḥ, 2:329; al-Tilimsānī, Miftāḥ, 705. al-Dabūsī, Taqwīm, 304; al-Shuwaykh, Taʿlīl, 206. For further discussion on munāsabah, see the next chapter.} also termed co-extensiveness and contrariety (ṭard wa al-ʿaks),\footnote{Hilāl, Muʿjam, 152, al-Saʿdi, Mabāḥith, 208; al-Hindi, Nihāyah, 8:3371; al-Āmidī, Muntahā al-sūl, 217; al-Zarkashī, Salāsil, 405 explains this as determining that where the ratio does not exist, neither does the rule; Ibn al-Qayyim,} classification and exclusion (sabr wa al-
The point of using these logical and dialectical techniques was to impart certainty to the search for an ʿillaḥ, an important and contentious exercise not only in law but also in dialectical theology an philosophy. This explains why the aforementioned techniques for determining the ʿillaḥ, which did not constitute an important feature of the analogical reasoning of the earlier jurists, acquired such prominence after the fifth century when dialectical theology and logic became more accepted in juristic circles. Al-Juwaynī’s discussion of these legal techniques reveals their theological significance. Ṭard and ʿaks, he says, are not ways of establishing the ʿillaḥ. They are only techniques that allow us to establish the theologically sound conclusion that a rule occurs alongside an ʿillaḥ, not because of it. The Ḥanbalī forbears of Ibn Taymiyyah still reflected the older view when they said that techniques such as ṭard and ʿaks were merely preferable, but nowhere near necessary for determining the appropriate ʿillaḥ. The contrary

\[tq̄ṣm\]^810 and a variety of other techniques, some of which actually mitigate against the conclusions obtained by the techniques just mentioned.\[^811\]

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[^810]: Flām, 3:166; Ibn Taymiyyah, Bayān al-dalīl, 295-296; al-Tilimsānī, Miftāḥ, 682, 683; al-Tilimsānī, Sharḥ, 2:252; al-Dabūsī, Taqwīm, 333; al-Juwaynī, al-Burhān, 2:835-836 makes it clear that this particular technique was inherited from the logicians and was considered by some to impart a state of near certainty, although al-Juwaynī also reports that his master al-Bāqīllānī remained skeptical about this. See also al-Zarkashi, Salāsil, 403 for an account of the view of the Muʿtazilah who regard this technique as imparting certain knowledge, even if the ratio identified thus does not meet the criteria of suitability (munāsabah); al-Ghazālī al-Mustasf, 2:315, 367; al-Shuwaykh, Taʿlīl, 210.

[^811]: Al-Hindi, Nihāyah, 8:3361; al-Āmīdī, Muntahā al-sūl, 209-210, al-Saʿdī, Mabāḥīḥ al-ʿillaḥ, 443; al-Samʿānī, Qawāṭī, 4:238; al-Ghazālī al-Mustasf, 2:315; Zuhaylī, al-Wajīz, 77; al-Juwaynī, al-Burhān, 2:815. On the use of this technique in kalām, see al-Ghazālī, al-Mustasf, 1:91, 2:305 where al-Ghazālī says that a ratio identified by this method need not fulfill the test of suitability (munāsabah).


[^813]: Al-Zarkashi, Salāsil, 409, citing al-Ghazālī, Shiḥā al-ghalīl, 486. On the role of the logicians in shaping the debates over the ʿillaḥ, see al-Qarāfī, Nafṣīs, 9:3748; al-Juwaynī, al-Burhān, 2:835-836. See also al-Ghazālī, al-Mustasf, 2:304 for an account of the importance of the dialecticians and their munāzarah in framing the development of jurisprudence; Zysow, Economy, 316.

position, that ṭard and ʿaks are conditions, is attributed to the Ashʿarīs, who are referred to by the scholars of the Taymiyyah family as Shāfiʿīs.\footnote{Al Taymiyyah, al-Musawwadah, 2: 734, 790, 795-796; Ibn Taymiyyah, Bayān al-dalīl, 295-296.}

Although designed to bypass the disputed doctrine of divine ratiocination, the technical finery of Ashʿarī jurisprudential doctrines on qiyās only drew more attention to the school’s doctrine that the law itself was devoid of purposes.\footnote{Al-Qarāfī, Naṣīḥīs, 8:2574.} For as al-Ḥāzī points out, an apparent attribute (waṣf) is only considered legally efficacious in an analogy because it incorporates a wise or beneficial purpose, which raises the problem of ratiocination in God’s acts all over again.\footnote{Al-Rāzī, al-Maḥṣūl, 5:288, 291, 292-293. See also al-Khaṭṭīb al-Baghdādī, Ṣaḥīḥ, 208-209; al-Hindi, Nihāyah, 8:3272, 3274. Same in Al-ʿĀmidī, Muntahā al-sūl, 208.} The dilemma facing Ashʿarī theologians was that they had to choose between two jurisprudential positions, neither of which they could wholly commit to: an outright denial of ratiocination or the insistence that not only were there reasons in God’s law but that these reasons were the procurement of man’s best interests (maṣlahah).\footnote{Al-Hindi, Nihāyah, 8:3264; Ibn al-Najjār, Sharḥ, 1:313-322; al-Ghazālī, Shīfāʾ al-ghalīl, 204; al-ʿĀmidī, Ghāyah, 224.} This explains the contradictory efforts made by the Ashʿarīs to deny any causative relationship between the law and its wise purposes, even as they affirmed that wise purposes were the rationale underlying the law. When a ruling is mentioned alongside a particular apparent attribute, this gives rise to a probable belief that this attribute is the ratio, says al-Ḥāzī. However, he continues, rationes are only mentioned in scripture because people are more likely to obey a rule that appears to be based on a wise purpose.\footnote{Al-Rāzī, al-Maḥṣūl, 2:112-113; al-Qarāfī, Naṣīḥīs, 3:1229; al-Ghazālī, al-Mustaṣfā, 1:40. For an interesting comparison with the views of the great American jurist Oliver Wendell Holmes, who was as convinced of the fact that the law was neither moral nor rational as he was that it ought to be obeyed, see Alschuler, “Skepticism,” 95.}
Unsurprisingly, the works of Ashʿarīs such as al-Rāzī show a great deal of tension between their views as theologians and their views as jurists, particularly on the charged debate over the existence of causes in God’s law. In his celebrated exegesis of the Qurʾān, a work so teeming with the richness of dialectical theology and philosophy that Ibn Taymiyyah lamented that it contained everything except scriptural exegesis, al-Rāzī had denied that the presence of grammatical clauses such as causative particles (for instance the lām of causality), indicated that God acted for a purpose. However, in his discussion of the ‘illah in legal theory, al-Rāzī unabashedly states that opposite view: the ‘illah is recognized with certainty, he says, by markers such as the lām of causality.

Nowhere are the tensions in Ashʿarī theological and juristic thought more evident than in al-Rāzī’s Maḥṣūl in which, within the space of a few lines, al-Rāzī emphatically affirms and then equally emphatically denies the existence of causes in God’s law. In the same work, al-Rāzī says that an allusion (īmā’) is sufficient to infer the ratio of a scriptural rule, since every rule must necessarily have a ratio – a stance that once again flatly contradicts his insistence that there can be no ratiocination in the laws of God. Later Ashʿarīs such as al-Subkī were impressively candid in admitting that the views of the Ashʿarīs on these matters could not be reconciled with those of the jurists.

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820 Al-Rāzī, Taṣḥīr Mafāṭīḥ al-ghayb, 2:142. Ibn Fūrak also narrates from al-Ashʿarī a denial of all causative prepositions in the Qurʾān; see al-Zarkashi, al-Bahr, 3:88.
821 Al-Rāzī, al-Maḥṣūl, 5:139. According to al-Qarāfī, the fact that the lām of causality has as many as seven distinct uses means that it can be used metaphorically, which is why it is still an uncertain means of identifying the ‘illah; see al-Qarāfī, Naṣīʿ, 7:3226; Mustafa, Taqlīd, 35.
822 Al-Rāzī, al-Maḥṣūl, 5:176, 179.
823 Al-Rāzī, al-Maḥṣūl, 5:147.
"Ta’il bi al-ḥikmah"

The difference between the rival approaches of the jurists and theologians is also revealed in their contrasting attitudes to the technique known as ta’il bi al-ḥikmah, which involves making an analogy between two cases on the basis of an underlying wisdom present in both. The majority of theologians rejected the technique on the grounds that it did away with almost all the technical rules they had proposed to bring rigor to the process of analogical reasoning. Consequently, the theologians insist that the technique of ta’il bi al-ḥikmah can only be accepted where the underlying wisdom of a rule is capable of being regularized into a technical rule (mundabīṣ).

To some theologians, such as al-Rāzī, is ascribed the position of unrestrained support for the technique of ta’il bi al-ḥikmah, although there is little evidence of al-Rāzī’s support for such a radical position. Rather, it appears that al-Rāzī presented arguments both for and against the juristic method of ta’il bi al-ḥikmah and, in doing so, demonstrated that the jurists did not insist that ta’il bi al-ḥikmah be mundabīṣ in the way the theologians did.

Shilbī, one of the most insightful writers on the subject, remarks that the theologians tend to discuss the issue of ta’il bi al-ḥikmah as if it were a purely hypothetical one. This undoubtedly allowed the theologians to preserve the fiction that qiyyās was not carried out on the basis of non-regularized attributes such as wisdom, but only on external and apparent attributes, which imbued the process of qiyyās with certainty. However, the record of the verdicts of the

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826 Shilbī, Ta’il, 135. For a discussion of al-Āmidī’s views on the matter, see Weiss, Search, 567-570, 573.

827 Al-Rāzī, al-Maḥṣūl, 5:289.

828 Shilbī, Uṣūl, 238.

829 Shilbī, Uṣūl, 241-242; idem Ta’il, 141, 148, 150-152.
Companions, the early jurists such as the four Imāms and even some of the muqallid scholars, demonstrates beyond doubt that these scholars regularly issued verdicts that created legal rules which were either not found in scripture or which created exceptions to general scriptural commands. Moreover, it appears that the early jurists did so merely on the grounds that these verdicts accorded with the wise purposes of the law, and showed little or no interest in engaging with the kind of formal conditions imposed upon the technique of ta‘līl bi al-ḥikmah developed later by the theologians.

The legal theory of traditionalists such as al-Shāfi‘ī also reveals their overriding concern for giving effect to the wisdoms and purposes of the law in the very processes of scriptural interpretation itself. Al-Shāfi‘ī, for instance, calls for what is known as semantic qiyās, whereby the meaning of scriptural terms such as ‘wine’ (khamr) is determined through the underlying purpose for which they are used in scripture, a position that leads to the conclusion that spirits are included in the term ‘wine’ because they share the relevant quality of being an intoxicating substance, which is the basis for the scriptural prohibition of wine. Despite being a staunch Shāfi‘ī himself, al-Ghazālī opposes the founder here, siding with his theological school over his legal one, although al-Ghazālī does agree with al-Shāfi‘ī that the scriptural term for

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830 Shibli, Ta‘līl, 144. Examples of the verdicts issued by the Companions on the basis of ta‘līl bi al-ḥikmah include a verdict forbidding women from going to the mosque despite an explicit Prophetic license for them to do so; a verdict prohibiting marriage with Jewish and Christian women despite an explicit permission or this in scripture and a verdict suspending the award of capital punishment on the battlefield, which is not explicitly supported by any scriptural provision.

831 Shibli, ʿUsūl, 237-240. See also al-Būṭī, ʿawlābiṭ, 178. Examples of such verdicts include a verdict obliging a Muslim to destroy his wealth and livestock (which is scripturally prohibited) to prevent a non-Muslim enemy from benefitting from them; allowing the cutting of thorns from the branches of trees during pilgrimage in Mecca, despite an explicit scriptural prohibition on cutting the vegetation of this city.

832 Shibli, Ta‘līl, 144. For instance, allowing the taking of wages for teaching the Qur’an, despite a scriptural prohibition against this.

833 Shibli, Ta‘līl, 150.

834 Al-Ghazālī, al-Mustaṣfā, 2:11-12; Ibn al-Qayyim, ʿIlām, 2:387; Ibn Taymiyyah, Bayān al-dalīl, 63.
adultery/fornication, zinā, must include homosexual intercourse within its referents, a conclusion which the Shāfiʿīs also justify by the technique of semantic qiyās.\textsuperscript{835}

The practical difference between the views of the traditionalists and the theologians on taʿlīl bi al-hikmah can be seen in their differing views on the substantive law relating to the legal dispensations that can be availed by a traveler, such as shortening and combining one’s ritual prayer and delaying one’s obligatory fasts. The majority of jurists and theologians insist that every aspect of the term ‘travel’, such as the minimum distance and duration that allows a journey to be considered a form of travel, must be strictly prescribed. The hardship that constitutes the ratio for the legal dispensations of travel is, these scholars argue, not technically regularized or circumscribed (munḍabiṭ). It is therefore necessary the majority says, to identify external attributes of travel, such as distance and duration, to determine when these dispensations can be availed. By contrast, Ibn Taymiyyah and Ibn al-Qayyim insist that the ratio for the dispensations relating to travel is hardship itself, which they insist is a necessary feature of all travel (a proposition justified by reference to a hadīth which declares all travel to be a form of torment). Therefore, Ibn Taymiyyah and Ibn al-Qayyim hold that travel need not be restricted by any arbitrary limitations on its distance and duration. Rather, they say, one can avail the dispensations of travel for the entire duration of one’s travel, even if it extends over a long period of time.\textsuperscript{836}

\textsuperscript{835} Al-Ghazālī approves of this conclusion not on the basis of semantic qiyās but on the grounds of qiyās of the cause (sabab), acknowledging that the differences here are more semantic than substantial; see al-Ghazālī, al-Mustasfū, 2:346, 348-349; al-Zarkashī, Salāsil, 388.

\textsuperscript{836} Shilbī, Taʿlīl, 138-139. Although Ibn Taymiyyah and Ibn al-Qayyim are not cited here, the logic of their position is stated.
VI. Fiction and Formalism

It is precisely on account of their belief that the law serves a set of wise purposes that Ibn Taymiyyah and Ibn al-Qayyim strongly support the concept of enacting legal regulations to uphold and protect the purposes of the law (sadd al-dharāʾiʿ) and oppose the use of what they describe as unwarranted legal fictions or stratagems (ḥiyal), whereby an act that is contrary to the spirit and aim of the law is allowed on the basis that it does not technically entail the commission of a legally prohibited act.

The most obvious example of the sort of legal fiction Ibn Taymiyyah and Ibn al-Qayyim condemn is the marriage contract known as ḥalālah or the muḥallīl marriage, whereby a woman who is irrevocably divorced from her husband (and is therefore required to enter into a new marriage contract with a different party and wait for the termination of that contract before she can remarry her previous husband) enters into a marriage contract for the sole purpose of obtaining a divorce to allow her to marry her previous husband once again.

For the traditionalists, a marriage in which neither side intends to abide by the contract nor fulfill their spousal obligations to the other; (which, moreover, lasts only as long as the period in which intercourse can take place – so as to allow a wife to return to her first husband) – is one

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838 Ibn al-Najjār, Sharḥ, 4:434-435 (an apparently permissible contract through which something impermissible is sought); Ibn Taymiyyah, Bayān al-dalīl; al-Qawāʾid al-nūrānīyyah, 141, 282; 23:110, 125, 32:144, 35:174.
Al-Juwaynī criticizes Mālik for his excesses in maṣlaḥah mursalah which is not based on scriptural proofs and Abū Ḥanīfah for being obsessed with cases without principles and foundations; see al-Juwaynī, Mughīth, 78. Note the criticisms of Mālik are for allowing legal penalties based on circumstantial evidence and paving the way for tyrants to misuse the law by allowing them to inflict penalties not proscribed in the law; al-Juwaynī, Mughīth, 77. See also Kamali, “Kitāb al-Ḥiyal” 61; Coulson, History, 141; Schacht, s.v. “Ḥiyal” EI.
For the influence of Ibn Taymiyyah’s ideas on al-Shāṭibī, see Badawi, Maqāṣid, 371, which precedes Mashhūr Ḥasan’s writings wherein he furnished definitive proof of the relationship between al-Shāṭibī and Ibn Taymiyyah.
On Ibn Ḥanbal’s avoidance of legal fictions, See Spectorsky, Chapters.
which is entirely contradictory to the wisoms and *maṣlaḥah* of marriage. It makes little difference to the traditionalists that the external form of the marriage is seemingly in accordance with the law.\(^{839}\) Although the traditionalist opposition to the ḥalālah had some precedent in the views of Companions such as ʿUmar, who as Caliph famously declared that he would award the penalty for adultery to anyone who entered into such a marriage, the validity of such marriages was nevertheless recognized by a large number of jurists, particularly those associated with the Ḥanafi school, who made a distinction between the undesirability of such a contract and its legal validity. For the Ḥanafis, the validity of such marriages could not be questioned, given that they fulfilled all the external criteria for the recognition of a valid marriage, such as offer, consent and the presence of witnesses.\(^{840}\)

For the traditionalists, however, the very essence of a forbidden legal stratagem lies in its conformity to the external provisions of the law in order to attain an end that is legally prohibited. Traditionalist opposition to *hiyal* thus follows from the traditionalist doctrine that there is an intrinsic difference between good and evil and that these terms refer to more than permissibility and impermissibility. For the traditionalists, the goodness of an act exists independently of its permissibility. A legal stratagem undermines the distinction between good and evil by refusing to ask if the end result of a permissible act is still good. Instead, those who favor legal stratagems such as the ḥalālah marriage insist that a formally permissible end result cannot, by definition, be evil.\(^{841}\)

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\(^{839}\) Ibn al-Qayyim, *Ilām*, 4:409-410, 412-414; Ibn Taymiyyah, *Bayān al-dalīl*, 114, 116, says that the basic principle is that one must not enter into a contract for the purpose of undermining it. A person who engages in a ḥalālah, he says, does precisely this. His intent to divorce undermines the purpose of marriage, which is cohabitation with love.

\(^{840}\) Al-Mahannā, *Sadd al-dharrāʾiʿ*, 142-143.

Ibn al-Qayyim insists that the works of the early jurists provide no support for the sort of legal stratagems and devices whose validity is recognized by the jurists of his own time.\textsuperscript{842} At issue here were a series of rulings attributed to al-Shāfi‘ī, wherein he had opined that contracts such as sale and marriage could not be nullified on the basis of the intent of the parties. For instance, a marriage which the parties intended to maintain only for a few days would still be valid, provided that the temporary duration of the marriage was not made a condition of the contract itself.\textsuperscript{843} For some advocates of ḥiyal, al-Shāfi‘ī’s aforementioned views could be used to develop a defense of legal stratagems, notwithstanding the fact that al-Shāfi‘ī’s legal writings repeatedly criticize the stratagems upheld by Abū Ḥanīfah.\textsuperscript{844}

Ibn al-Qayyim claims that his views, as well as those of al-Shāfi‘ī, are in conformity with the Prophetic precedent of ruling on matters in accordance with what is evident, even if the inner reality of a matter is not as it appears.\textsuperscript{845} However, he continues, what is evident is determined not merely on the basis of external forms (such as the words used by a legal subject) but also on the basis of the evidence of what that legal subject willed and intended. God has assigned words to allow us to know and express what is in our selves, Ibn al-Qayyim says. Therefore, the law does not only look at the words used to bring about legal effects such as sales and marriages but also the intent behind those words. This is why the law excuses the words a person utters by mistake, as well as those said in extreme joy, anger, ignorance and duress, according to Ibn al-Qayyim. In such cases, the law recognizes that there was no will to utter words to signify their apparent meaning.\textsuperscript{846}

\textsuperscript{842} Ibn al-Qayyim, \textit{I'lam}, 5:232.
\textsuperscript{843} Al-Shāfi‘ī, \textit{al-Umm}, 7:295-297.
\textsuperscript{844} See Lowry, \textit{Early}, 8.
According to Ibn al-Qayyim then, al-Shāfīʿī’s opinion regarding the importance of judging on the basis of expressed words and not subjective intent relates to only one category of words, those in which there is no conflict between expressed word and inner will. Al-Shāfīʿī’s opinion does not, according to Ibn al-Qayyim, cover those cases where one knows with certainty that the speaker did not mean the apparent meaning of what he said. This could be because the speaker willed neither the apparent nor the non-apparent meaning (as in the case of duress, insanity, sleep, anger and intoxication) or because the meaning willed was actually the opposite of what was said (as in jest, equivocation and metaphorical use). A third category of words, those where the words are ambiguous and their correspondence with inner will unclear, are also not covered by the opinion of al-Shāfīʿī, Ibn al-Qayyim concludes.847

The traditionalists thus hold that where there is evidence that an individual is using an external form for something other than its apparent and legally approved purpose, this evidence must be taken into account in determining the legality of that individual’s acts.848 One does not, therefore, ignore the evidence that a person who used the term ‘marriage’ and ‘divorce’ actually intended something other than what is commonly understood by these terms, according to the traditionalists. Similarly, the traditionalists say, one does not affirm the legality of a contract that is referred to as a sale, even when it is clear that the contract is only being entered into to bestow legal cover on impermissible ends such as fraud, deception, or the procurement of an impermissible substance such as wine. On the contrary, all such legal devices that seek to legalize what is forbidden are themselves prohibited.849

847 Ibn al-Qayyim, ʿIlām, 4: 433, 518-519.
849 Ibn al-Qayyim, ʿIlām, 4:433, 520, 523; Ibn Taymiyyah, Bayān al-dalīl, 88, 96; See also al-Būṭī, Ḏawābiṭ, 300-301; al-Zarqāʾ, Ṣaḥḥ al-qawāʾid, 55; al-Burhānī, Ṣadd al-dharrāʾī, 712. For an account of Ibn Ḫanbal’s consideration of
The difference between the approach of the traditionalists and their critics is illustrated in the writings of the twentieth century Ashʿarī scholar al-Būṭī, who mounts a robust defense of ḥiyal against the criticisms leveled against them by Ibn Taymiyyah and Ibn al-Qayyim. For al-Būṭī, legal stratagems are a way of ensuring that the law continues to fulfill the maslahah.\footnote{Al-Būṭī, Ḍawābiṭ, 293.} A ḥalālah marriage for instance, allows an irrevocably divorced woman to remarry her previous husband, which is why al-Būṭī allows such marriages, which only aim to return the wife to the first husband. Al-Būṭī only insists that the limited nature of the marriage and its termination by divorce not be set out in the marriage contract itself.\footnote{Al-Būṭī, Ḍawābiṭ, 297.}

Unlike the theologians who advocate attaining the maslahah by means of ḥiyal, Ibn Taymiyyah and Ibn al-Qayyim advocate the procurement of maslahah by adjusting legal verdicts in accordance with time, place and context in order to uphold the purposes and objectives of the law.\footnote{Ibn al-Qayyim, ʿIlām, 2:206, 4:337.} When legal verdicts are adjusted in light of these purposes of the law, the traditionalists say, there is no longer any need for extra-legal solutions such as ḥiyal. Here again, the contested law of divorce provides a ready example of the two competing systems at work. Ibn Taymiyyah and Ibn al-Qayyim both oppose the quasi-consensus of the jurists who regard a ‘triple divorce’ as an irrevocable divorce. The majority of the jurists, however, regard a triple divorce (where one pronounces the formula of divorce thrice in a single sitting) as irrevocable.

The majority is therefore more tolerant of a legally fictitious ḥalālah marriage because having decreed that a triple divorce is irrevocable, they can find few other paths to renew the marriage contract between a husband and his divorced wife. Ibn Taymiyyah and Ibn al-Qayyim, however,
can adopt a stricter attitude towards legally fictitious marriages because they already recognize the enduring validity of a marriage in which a husband has issued a triple divorce to his wife. Against the majority, Ibn Taymiyyah and Ibn al-Qayyim argue that the ruling of the sharī‘ah regarding the triple divorce is that it be regarded as a single revocable divorce. The justification for regarding such divorces as irrevocable, they say, comes from a decision of the Caliph ʿUmar, which they regard as a policy decision designed to safeguard the purposes of the law by impressing upon the people the serious consequences of trying to effect a divorce before its legally prescribed time. In their own time, Ibn Taymiyyah and Ibn al-Qayyim argue, consideration for the purposes of the law, which aims to discourage instantaneous divorces such as the triple divorce and also the institution of ḥalālah marriages, requires that a triple divorce not be treated as an irrevocable divorce but only as a single and revocable one.\footnote{Ibn al-Qayyim, \textit{I‘lām}, 4:377-390, 408.}

The traditionalist view on triple divorces, and the potential scope for state adjustment of sharī‘ah provisions it allows (in the manner of the Caliph ʿUmar), is not our subject here. The relevant aspect of the aforementioned debate for our purposes is the view of Ibn Taymiyyah and Ibn al-Qayyim that the law contains within it provisions for its rules to be applied in accordance with their overall purposes and objectives and for legal verdicts to change if this is dictated by the overall purpose of the law. The traditionalists cast the decision of the Caliph ʿUmar to adjust the law of divorce by recognizing a triple divorce as an irrevocable divorce as the perfect example of this principle in action.

Ibn Taymiyyah and Ibn al-Qayyim’s legal approach here also shows some similarity with that of al-Shāfi‘ī, for whom one’s knowledge of the ʿillah of a legal rule allows one to depart from the
literal command of the text. As a result of their view that the law is always to be applied in accordance with its overall purposes, Ibn Taymiyyah and Ibn al-Qayyim’s legal system contains far fewer problems of the sort that subsequently require a solution through the use of ḥiyal – problems such as the large number of women who have been issued a triple divorce in a moment of anger who then seek a means of returning to their previous husbands. Ibn Taymiyyah himself refers to this difference between his legal theory and that of his opponents when he says that most impermissible legal stratagems are only used because people mistakenly attribute excessive strictness to the law, which they believe can only be undone by resorting to such stratagems. The champions of ḥiyal, Ibn Taymiyyah says, are often those who have no knowledge of the purposes of the lawgiver or the ratiocination behind His acts, which is why their legal verdicts so often ignore the purposes of the law. The mistake made by the advocates of ḥiyal, according to Ibn Taymiyyah, is that they fail to use the proper legal means to attain a desirable legal outcome. That is, they fail to see that legal stratagems have been made redundant by virtue of the law itself providing a mechanism for change in order to give full effect to its wise purposes. Far from securing the maṣlahah, Ibn Taymiyyah exclaims, resorting to legal stratagems undermines the integrity of the law and its aims of procuring what is beneficial and averting what is harmful (sadd al-dharīʿah) in this world and the next.

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855 MF 29:27, 37.
858 Some scholars attributed to the Ḥanafīs, Shāfiʿīs and Zāhiris the opinion that they did not consider dharīʿi; see al-Zarkashi, *al-Baḥr* 6:82 However, the rejection of dharīʿi by the Ḥanafīs is disputed as it has been pointed out that they prohibit many permissible things on the basis that what could lead to the prohibited is itself prohibited see al-Burhānī, *Sadd al-dharīʿi*, 654; al-Mahannā, *Sadd al-dharīʿi*, 78; al-Shāṭibī, *al-Muwāfaqāt*, 4:198; Ibn al-Najjār, *Sharḥ*, 4:434.
Ibn Taymiyyah’s criticisms of these scholars here mirror his general criticisms of the Ashʿarīs, whose positions on the relationship between revelation and reason Ibn Taymiyyah regards as flawed. According to Ibn Taymiyyah, the Ashʿarī position on the relationship between reason and revelation leads to an unwarranted legal ritualism that ignores the underlying wisdom, rationality and purposes of revelation. This attitude is typified for Ibn Taymiyyah in the devotional practices of the Ashʿarīs who, according to him, make great efforts to memorize the words of the Qurʾān and hold ceremonies to mark the completion of its recitation\textsuperscript{860} without attempting to understand it in the way of the salaf\textsuperscript{861}.

Another practical example of the difference between the approach of the traditionalists and their critics is found in the debate regarding women who are prevented from completing the rites of pilgrimage on account of their being in a state of menstruation. Opposing the majority of jurists, who call for a straightforward application of the Prophetic ḥadīth commanding menstruating women to delay the performance of the ritual of circumambulation (ṭawāf) around the Kaʿbah until they are ritually pure, Ibn Taymiyyah and Ibn al-Qayyim argue that this verdict does not apply to the many women in their own day who would face great difficulty if they were to await the end of their menstrual periods in Mecca while their ḥajj caravans departed without them.\textsuperscript{862}

The staunchly Ashʿarī al-Būṭī, however, cannot agree with Ibn Taymiyyah’s and Ibn al-Qayyim’s view that proper obedience to the law necessitates the adjustment of legal verdicts in accordance with considerations of time, place and context. Along with his Ashʿarite predecessor al-Subkī, al-Būṭī firmly rejects Ibn al-Qayyim’s principle that legal verdicts change with time and

\textsuperscript{862} Ibn al-Qayyim, \textit{I′lām}, 4:356-357.
place in order to meet the objectives of the law. As staunch Ashʿarīs, al-Būṭī and al-Subkī regard all talk of purposes and objectives in the law as theologically misguided. Moreover, they are committed to the theological view that the law itself determines what is good and what is not. Therefore, one does not ask of something already considered formally acceptable by the law: is this also good? Without any possibility of adjusting rules in accordance with the underlying reasons and objectives of the law, al-Būṭī declares that a major maslahah of the law is to ensure consistency, an aim that is violated by Ibn Taymiyyah and Ibn al-Qayyim’s view that legal verdicts change with time and place. Al-Būṭī therefore rejects the traditionalist stance on triple divorces and on the tawāf of the Kaʿbah by menstruating women.

Al-Būṭī makes it clear that he does not approve of legal stratagems that subvert the law, and expresses his opposition to the ḥilāh whereby a woman who wishes to free herself from her husband and is unable to obtain a judicial decree to this effect circumvents the law by committing an act of formal apostasy, which automatically annuls her marriage contract with her Muslim husband, and then immediately reverts back to Islam sans undesired spouse. The problem with al-Būṭī’s approach, however, is that once one accepts the validity of the legal stratagems of which he approves, it is difficult to explain why this approval is to be limited to these stratagems and no others. The Ḥanafīs for instance did recognize, at various times in their history, the validity of a ḥalālah which expressly stated the limited nature of the marriage in the marriage contract itself, arguing that even though such conditions were themselves void, they did not render invalid the contract in which they were incorporated. A number of Ḥanafīs even

863 Al-Būṭī, Dawābīṭ, 299.
864 Al-Būṭī, Dawābīṭ, 292.
865 Al-Būṭī, Dawābīṭ, 294-295; Ibn Taymiyyah, Bayān al-dalīl, 127, 129.
advised women to adopt the stratagem of declaring themselves apostates in order to free themselves of an undesirable marriage, the very ḥilah that al-Būṭī himself finds so abhorrent.⁸⁶⁶

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⁸⁶⁶ Al-Būṭī, Ḍawābīṭ, 295; Qasim Zaman, Thanwi.
Chapter III. Love of God

I. Love and the Law

For most classical legal theorists, God’s love for mankind was manifested in His act of instituting a law that procured man’s welfare and best interests (maṣlaḥah).867 For many dialectical theologians, however, it was impossible to attribute love to God. Not only did these theologians regard love as an attribute which it was impossible for God to possess, they also argued that the law, or large parts thereof, were entirely supra-rational and devoid of maṣlaḥah. These theological ideas had a significant impact on the development of Islamic legal thought, particularly in relation to the legitimacy, scope and characteristics of maṣlaḥah. This chapter presents a survey of these views before proceeding to a discussion on traditionalist theories of maṣlaḥah, which were grounded in the traditionalist affirmation of God’s love and mercy. However, before we proceed to a discussion on the rival conceptions of maṣlaḥah that were in circulation in classical Islam, we begin with a brief discussion on the way in which theological ideas on God’s attribute of love shaped the general normative structure of Islamic law, influencing not only the definition of the particular legal norms recognized by Islamic law but also establishing a hierarchy between divine commands and prohibitions.

Love and the Classification of Legal Norms

The traditionalists and their opponents accept that the law creates five categories of legal acts into which every conceivable human action must fall. A basic threefold classification (an act could be desirable, undesirable or neither of the two) leads to the five categories established in

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867 See generally Opwis, Maṣlaḥa.
Suni legal theory: (1) obligatory farḍ or wājib⁶⁶⁸ (2) recommended mandūḥ⁶⁶⁹ (3) forbidden ḥarām (4) reprehensible makrūḥ and (5) merely permissible or legally neutral mubāḥ. The very definition of these legal categories, however, was a subject of theological, and therefore of legal, controversy. At the very heart of this controversy was the different understanding of divine love held by rival groups of theologians.

**Recommended (Mustaḥabb)**

The Muʿtazilah and Ashʿarīs were, by and large, united in holding that God could not actually experience sensations such as love as these would imply that God was subject to change and temporality.⁸⁷⁰ This created difficulties across the field of legal theory, not least when it came to defining the legal norm known as mandūḥ or mustaḥabb, literally ‘that which is loved,’ which, according to the jurists, was an act loved by God which He would reward but which had nevertheless not been made obligatory by Him.⁸⁷¹ The Ashʿarīs could either omit all references to the love of God from their definitions of the mandūḥ/mustaḥabb, as does al-Ghazālī, or they could openly challenge the view that a mandūḥ/mustaḥabb act was one that was loved by God. The latter strategy is the one adopted by al-Qarāfī, who argues that it is impossible for God to love because one who is in love experiences feelings of tenderness and partiality, which would be quite unbecoming of God.⁸⁷²

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⁶⁶⁸ For the distinction, see al-Rāzī, al-Maḥṣūl, 1:97.
⁶⁶⁹ Ibn al-Qayyīm, Miṣfāṭ, 2:992.
⁸⁷⁰ Elkaisy-Friemuth, *God*, 45–46. For the Ashʿarīs, God’s love and hatred simply mean His will to reward or withhold reward, respectively; see Ibn Fūrak, Kitāb, 332; al-Bāqillānī, al-Inṣāf, 38, 156; al-Bāqillānī, al-Tamhīd, 27; al-Juwaynī, al-Irshād, 239; Al-Ghazālī, al-Ifaqīs, 67. For a discussion of the philosophical problem of God’s love for man being unseemly for God, see Osborne, *Eros Unveiled*.
⁸⁷² Al-Qarāfī, al-Nafāʿīs, 1:276.
The traditionalists, unsurprisingly, are critical of the Ashʿarīs and other dialectical theologians for interpreting God’s attribute of love as a metaphor for His will to reward.\textsuperscript{873} For Ibn Taymiyyah and Ibn al-Qayyim, God’s love is real. This is not just a matter of affirming God’s attributes in the right way, although that is an important consideration as well. The traditionalists, as we shall see, regard the law, and indeed the very existence of the cosmos itself, as predicated on God’s love. The law, they argue, only exists because of God’s love for His creation.\textsuperscript{874}

**Prohibited (Ḥarām)**

The legal norm of prohibition also sparked a great deal of controversy amongst the theologians and the jurists due to their differing understandings of the attributes of a maximally great being. These theological differences came to the fore in theological disagreements over the status of the sinner – one who had committed a prohibited act. The Khārijites, as is well known, insisted against the proto-Sunnī majority that a sinner did not belong to the fold of Islam. The necessity of punishment for the person who committed a prohibited act was also one of the main pillars of Muʿtazilite theology, which held that divine justice obliged God to reward obedience and punish disobedience. Moreover, the Muʿtazilah argued, the impossibility of God uttering a falsehood meant that God had to fulfill His threat to punish those who committed a prohibited act. The Murjiʿah, as is well known, held the opposite view, arguing that God could choose not to fulfill His threats of punishment.


Despite their disagreements on the issue, the Muʿtazilah and the Ashʿarīs were united in their unease at the idea that God’s declarations, specifically His threats to punish those who committed a prohibited act, could be contradicted. This is precisely why Ashʿarīs such as al-Rāzī and Ṣafī al-Dīn al-Hindī fault those who define the prohibited act as one that leads to punishment, or even one for which God promises punishment. If accepted, the Ashʿarīs argue, definitions such as these would mean that God could not violate His promise to punish the person who commits a prohibited act. The legal definition of prohibition would thus invariably come into conflict with Ashʿarī theology, which allows God to forgive sinners if He wills to do so. Likewise, defining the prohibited as that which makes someone rightfully deserving of punishment is considered unacceptable by Ashʿarīs such as al-Hindī because this contradicts the principle of dialectical theology that nothing is necessary for God. This is a view shared by other dialectical theologians such as al-Samarqandī, who argues that if the prohibited act is defined as one that deserves punishment, God could no longer have a choice to punish or forgive a person who performs such an act.

Ashʿarīs such as al-Bāqillānī and al-Rāzī therefore preferred to define a prohibited act as one that would earn censure, blame and condemnation – but not necessarily punishment – a definition that excludes all references to God threatening the person who commits a forbidden act and avoids confronting the problem of how God could threaten to punish a sinner and then

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875 Al-Rāzī, al-Maḥṣūl, 1:96. Along with some Muʿtazilah, al-Rāzī does allow declarations to be abrogated, al-Hindī, Nihāyah, 6:2319. A number of theologians hold that this is impossible, and that God can only abrogate declarations about the future, not the past. See al-Ghazālī, al-Mustaṣfā, 1:128.
876 Al-Rāzī, al-Maḥṣūl, 1:95–96. Similarly, al-Rāzī argues that it is not the condition of an obligation that on be punished for leaving it; al-Rāzī, al-Maḥṣūl, 2:201–202; al-Qarāfī, Nafīʿīs, 4:1511. See also Āl Taymiyyah, al-Masawwadah, 1:90; Al-Āmidī, al-Iḥkām, 1:134.
877 al-Hindī, Nihāyah, 2:511.
878 al-Hindī, Nihāyah, 2:513. See also Juwaynī, al-Burhān 1/308 See also Āmidī, 1/97.
879 Al-Samarqandī, Mīzān, 1:45.
forgive him, thereby contradicting His own word.\textsuperscript{880} Even this solution was found unsatisfactory by some theologians, who insisted that the definition of the prohibited act must make it clear that the blame involved in the commission of such acts was merely legal, lest it be thought that prohibitions and their reprehensibility had anything to do with the intellect.\textsuperscript{881}

The early traditionalists, by contrast, held that God could choose to forgive sinners, even if He had threatened to punish them. This view was justified by invoking the concept of a maximally great God, one who possessed the most perfect attributes. In his debate with the Muʿtazilah on this very point, the leading traditionalist scholar Ḥasan al-Baṣrī argued that to fail to deliver on a promise of reward was a sign of a lowly character. As God was maximally great, He would not fail to reward those whom He had promised to reward. To forgive an offender, however, even when one had threatened to punish him, was not a flaw but a sign of forbearance, mercy and generosity. God’s decision not to effect the punishment He had threatened to inflict was thus not a shortcoming, as argued by the dialectical theologians, but something that added to His perfection and goodness.\textsuperscript{882}

Notwithstanding the towering reputation of al-Ḥasan al-Baṣrī, a great many Ashʿarī theologians, to say nothing of the Muʿtazilites, remained skeptical of his line of reasoning. Al-Rāzī does not accept that God would deserve praise for not acting on his threats. If the possibility of God

\textsuperscript{880} Al-Rāzī, al-Maḥṣūl, 1:95; al-Armawī, al-Taḥṣīl, 1:311; al-Baghdādī, Uṣūl, 199.
\textsuperscript{881} al-Hindi, Nihāyah, 2:513-14; al-Badakhshī, Sharḥ, 1:41, 50; al-Asnawi, Nihāyah al-sūl, 1:41.
\textsuperscript{882} Ibn al-Qayyim, Ḥādī al-ʿurwāḥ, 785-787. For modern philosophical reflections on God as maximally great being and how this relates to the love of God, see Hill, Divinity and Maximal Greatness, 203 and passim. For modern reflections on the idea of imputing the maximal perfection to God, see Miller, Unlikely God,. For another discussion of the clash between divine mercy and justice, see Murphy, Forgiveness, Ch. 5.
speaking untruthfully is conceded here, he says, one would also have to hold that God could lie about His promise to reward. One could no longer believe anything God says.883

**Commands, Prohibitions and Love**

For the traditionalists, God’s attribute of love is even more integrally linked to the normative structure of the law than suggested by the above account. For God’s love not only defines the legal norms recognized by the law – norms such as recommended and prohibited – it also establishes a hierarchy between divine commands and prohibitions. As we saw in the first chapter, Ibn Taymiyyah and Ibn al-Qayyim espouse the relatively unpopular position that commands are greater in rank than prohibitions. This was a view based in no small part on the way these two scholars understood divine love. For the majority of Sunnī scholars, despite their insistence that commands were the foundation of the law, still maintained that the avoidance of prohibitions was more important than obedience to commands – although we do also come across scholars such as al-Muzanī, the disciple of al-Shāfi‘ī, who appear to suggest that the performance of good deeds comes before the avoidance of prohibited ones.884

Ibn Taymiyyah’s discussion of this topic begins by stating that the genus of commands is more important, more noble and higher in rank than the genus of prohibitions. Correspondingly, the genus of abandoning prescribed commands is more perilous than the genus of performing prohibited acts.885 By making obedience to commands rather than avoidance of prohibitions the center of theological significance, Ibn Taymiyyah and Ibn al-Qayyim signal their disagreement with theological sects such as the Khawārij and the Mu‘tazilah, for whom an individual’s

883 Al-Rāzi, Khamsūn, 63.
884 Al-Muzanī, Sharḥ, 88-90.
885 MF 20:51, 70; Āl Mughirah, Dalālah, 1:408; Āl Taymiyyah, al-Musawwadah, 1:84.
commission of prohibited acts is more significant in determining his status in the hereafter than his compliance with divine commands.

Ibn al-Qayyim explicitly justifies his view on the superiority of commands over prohibitions by invoking the concept of divine love. He argues that obedience to divine commands flows out of the love of God. This love of God, and the positive actions which result from it, are the very core of faith. A person who fails to obey God’s commands demonstrates thereby that there is no love of God – and hence, no faith – in his heart, Ibn al-Qayyim says. By contrast, the commission of a prohibited act by itself does not, in Ibn al-Qayyim’s view, entirely negate one’s love of God.\textsuperscript{886} Ibn al-Qayyim also argues that God loves commands more than He hates prohibitions because mercy (which accompanies the fulfillment of commands) is intrinsic to God’s nature, while anger and punishment (which accompany the violation of prohibitions) are not.\textsuperscript{887}

Turning to the question of the human response to divine commands, the traditionalists suggest once again insist that man acts to attain what he desires and loves. However, the traditionalists continue, prohibitions, unlike commands, are not concerned with ensuring the existence of an act or a state of affairs. Rather, a prohibition aims to ensure the opposite: the absence and negation of an act or state of affairs. Since one can only conceive of and love what exists, the traditionalists argue, the love of a positive command and what it aims to bring into existence comes before the love of avoiding a negative prohibition and what it aims to exclude.\textsuperscript{888}

In a passage which provides a glimpse of his legal thought and shows us how far he was far from being a dry legalist, Ibn Taymiyyah points out that the bulk of the Prophet’s teaching consisted

\textsuperscript{886} Ibn al-Qayyim \textit{al-Fawā’id}, 174-175.
\textsuperscript{887} Ibn al-Qayyim, \textit{al-Fawā’id}, 181-182, 184.
\textsuperscript{888} MF 20:72-73, 75; Ibn al-Qayyim, \textit{Rawḍah al-muḥibbīn}, 88-89, 93.
of positive doctrines that man is invited to affirm as well as positive acts that he is commanded
to perform. The teachings of the dialectical theologians, according to Ibn Taymiyyah, privilege
negation over affirmation in both doctrinal and practical matters. Doctrinally, Ibn Taymiyyah
says, the dialectical theologians describe God by way of negation rather by way of affirming what
God says of Himself. They hold that God is best described in terms of what He is not rather than
what He is. For Ibn Taymiyyah, affirmation (ithbāt) is ontologically distinct from and preferable
to negation in both theology and law. Ibn Taymiyyah also finds a similar inclination to
emphasize negation over affirmation in the legal works of the dialectical theologians. He argues
that these works advocate a religiously unsanctioned form of ascetism, exemplified by the long
lists of ‘don’ts’ which appear in them. The approach of these dialectical theologians, Ibn
Taymiyyah argues, stands opposed to the way of scripture, which contains a relatively small
number of prohibitions and establishes the permissibility of everything that is not specifically
prohibited.

The view being challenged by Ibn Taymiyyah is expressed by the Ashʿarī theorist al-Zarkashi,
who argues that prohibitions are more important than obligations. As proof, al-Zarkashi
presents a ḥadīth in which the Prophet instructs his followers to avoid everything that he
prohibits and to perform, to the extent they can, everything commanded by him. The fact that
the Prophet makes obedience to his commands conditional upon ability, while instituting an
unqualified prohibition on the performance of forbidden acts shows, according to al-Zarkashi,
that avoiding prohibitions is more important than obeying commands.

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889 As they were for a group of dialectical theologians, see Al-Ashʿarī, Maqālāt, 2:135.
890 MF 20:71.
891 Al-Zarkashi, Salāsil, 158.
Ibn al-Qayyim also accuses a number of dialectical theologians, including the Muʿtazilite Abū Hāshim al-Jubbā’i (d. 321/933) and al-Baqillānī (in one of his two opinions) of misunderstanding the nature of a prohibition and thus erroneously arguing for its superiority over the command. The aforementioned theologians held, according to Ibn al-Qayyim, that what was required to realize a prohibition was mere non-performance of a proscribed act. We see the same train of thought in the work of the Ashʿarī al-Qarāfī, who declares that the law is divided into three categories: commands, prohibitions and permissions of which commands require an intention while prohibitions and permissions do not. In fact some Ashʿarīs hold that prohibitions constitute impossible commands because they require the use of power to achieve non-performance, which according to these theorists is impossible, as the exercise of power must produce an existent and not the mere absence of something.

Ibn al-Qayyim argues that the law only recognizes voluntary acts and omissions that involve an exercise of will and power out of love. Mere non-performance, without a voluntary exercise of will to refrain from an act for the sake of God, is something non-existent and incapable of being recognized by the law, he says. The Muʿtazilah are therefore wrong, in Ibn al-Qayyim’s view, for insisting that the mere avoidance of evil acts is praiseworthy. On the contrary, Ibn al-Qayyim says, the most that can be said of a person who involuntarily refrains from evil acts is that he is not condemned – not that he is praised. A person who is mute and therefore never curses anyone is not praised for this, according to Ibn al-Qayyim, because it was never within his power to curse someone. Praise is therefore proper only for those who have the power to commit an evil act but exercise their power to refrain from it. Obedience to the law, the traditionalists conclude,

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892 Al-Qarāfī, Nafāʾ is, 4:1630.
893 Al-Hindī, Nihāyah, 8:3329.
894 Ibn al-Qayyim, al-Fawāʾīd, 170, 178.
895 Ibn al-Qayyim, al-Fawāʾīd, 179.
is worship and worship cannot be comprised of acts or omissions which do not flow from the love and dread of God.

This also addresses one possible objection to Ibn Taymiyyah’s and Ibn al-Qayyim’s view that commands are superior to prohibition because they proceed from love and not fear. One could legitimately ask if one’s avoidance of prohibitions could not also proceed from love. The response to this objection is that Ibn Taymiyyah and Ibn al-Qayyim regard love as a positive existence not a negative absence. If a person’s avoidance of prohibitions issues from his love of God, this proves Ibn Taymiyyah’s and Ibn al-Qayyim’s argument that obedience to commands (in this case the command to love God) is ontologically prior to and precedes the avoidance of prohibitions. For Ibn Taymiyyah and Ibn al-Qayyim, as we shall see, the inculcation of the love of God is itself a practiced discipline which the law aims to procure for mankind. Without this love, obedience to commands and the avoidance of prohibitions becomes impossible. And since the inculcation of this love is itself a matter of practicing a certain discipline (Ibn Taymiyyah’s collected legal verdicts contain an entire volume devoted to a’māl al-qulūb, acts and practices of the heart) it follows that obedience to commands is both prior to and superior to the avoidance of prohibitions.
II. Maṣlaḥah: The View of the Theologians

As we said in the introduction to this chapter, the notion of maṣlaḥah was basic and central to the juristic vision of the law. For the theologians, by contrast, accepting the existence of maṣlaḥah in divine law was far from straightforward. For many theologians simply do not regard the law as the site of grace, at least in this world. Rather, they suggest, the element of grace in the law lies in the otherworldly reward bestowed by God on those who abide by His commands. For some Muʿtazilites, God can even issue commands that His servants finds painful or disgusting, as long as He rewards them for obeying these commands in the hereafter. The Ashʿarīs go a step further, formally denying that there is a causal relationship between the law and salvation or perdition. God, they reason, can reward His creation regardless of their compliance with the law. Consequently, the Ashʿarīs reject the idea that the law is the cause for one’s attainment of grace, even in the next world.

The Muʿtazilah and Ashʿarīs also disagree over the extent to which God’s law is most optimum and beneficial (aṣlah, a term semantically related to maṣlaḥah). The Muʿtazilah, while formally denying that God could love, nevertheless insist that He is bound to command that which is most perfect and beneficial for man. Acting for His own benefit, however, would not be just or wise on the part of God, according to the Muʿtazilah and for Muʿtazilites such as al-Nazẓām,

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897 Al-Baqillānī, al-insāf, 46; al-Juwaynī, al-irshād, 381.
898 ‘Abd al-Jabbār, al-Mughnī 11:58-133, 14:110-137. For the position of the Muʿtazilah and Ashʿarīs on whether or not God was obliged to do what was best, see Frank, “Currents and Countercurrents”. On the Muʿtazilite concept of lūtf, see Ullah, “Al-kashshāf”, 210.
injustice must be altogether impossible for God (although others countered that a being that has
the power to do justice must also have the power to do its opposite). 900

**Law and Maṣlaḥah in Ashʿarism**

The Ashʿarīs, as we shall see, held that the only thing that would be impossible or unjust for God
was that which was logically impossible, such as joining contraries like presence and absence.
Apart from this, God could do anything. He could, for instance, institute commands that are not
based on the *maṣlaḥah*. The far-reaching and somewhat troubling implications of such a view
were neutered, once again, by recourse to the concept of divine custom. Our repeated
observation of God’s acts establishes that in His grace He chooses to act for the *maṣlaḥah* of man,
the Ashʿarīs reasoned 901 – although we shall see that this formula did not convince the
traditionalists that Ashʿarī theology and legal theory had freed itself of contradictions on this
matter.

For the Ashʿarī al-Rāzī, the law cannot be based on the procurement of *maṣlaḥah*, nor on the
avoidance of its opposite, *mafsadah*, because these terms are basically reducible to good and evil
and therefore simply refer to the subjective pursuit of pleasure and the avoidance of pain and
sorrow. 902 Besides, says al-Rāzī, it is implausible to suggest that God acts for the *maṣlaḥah* when
we have an abundance of evidence before us that clearly contradicts such a hypothesis. The
litany of arguments cited in support of the view that God does not act for the *maṣlaḥah* is, by
now, familiar to us, as we encountered many of them in the previous chapter; God creates people
for eternal torment in this world and the next, which is clearly not in their best interests; God

creates us in a world of suffering when He could have created us all in heaven and so on.\textsuperscript{903} Al-Rāzī thus concludes that whatever grace the law entails must be limited to the next world because in this world, it is clear that even acts of divine grace involve manifest evil.

This pessimistic view of divine grace is championed relentlessly by al-Rāzī as he embarks on a lengthy disquisition to prove that God is neither bound to do good, nor to refrain from evil. God, he argues, can only bestow His grace on those who need it. Therefore, to bestow His grace upon people God first has to make them dependent on Him by subjecting them to some form of deprivation, which makes them needy for His grace and favors. But it is an evil for man to be put in a position where he is so needy and dependent on the grace of another. This is akin to someone injuring a person and then treating his wounds, or to a man who deprives another of money and then gives him money to replace what he himself took in the first place. Accordingly, al-Rāzī concludes, even the attainment of God’s grace is not entirely free of evil. This being the case, there is no justification for supposing that God must act in accordance with the maṣlaḥah.\textsuperscript{904}

Al-Rāzī then makes an even more arresting argument. If God were obliged to do what is best, he says, this in itself would make the law impossible. For religious obligations such as faith, adoration and worship involve hardship, al-Rāzī points out. They are certainly not beneficial for the majority of legal subjects who fail to abide by them, nor for those who do, because the latter know that easier ways could have been devised to attain God’s pleasure. It is even more obvious that legal obligations are of no benefit to God. On the contrary, to demand thanks and arduous service from someone in return for what one bestows on them is the mark of a lowly and stingy nature, more so when one then threatens to punish those who do not proffer the thanks

\textsuperscript{903} Al-Rāzī, al-Maḥṣūl, 5:182, 192. See also al-Hindi, Nihāyah, 8:3330; Al-ʿĀmidī, Muntahā al-sūl, 215; al-Tilimsānī, Sharḥ, 2:294; al-Rāzī, al-Maṭṭālib, 3:291-292; al-Juwaynī, al-Irshād, 204-205.

\textsuperscript{904} al-Rāzī, al-Maṭṭālib, 3:291-292.
demanded. Now it is clearly impossible, al-Rāzī says, for God to be attributed with such lowly characteristics. Therefore, if God were obliged to do what is good and to avoid what is evil, there would be no law at all. For the imposition of legal obligations is clearly rationally abhorrent and something that involves evil, not benefit. The only thing allowing an evil such as the law to exist is that God is not bound to refrain from doing what the intellect deems to be evil and abhorrent.\footnote{al-Rāzī, al-Maṭālib, 3:299, 300-301; al-Hindi, Nihāyah, 2:741; al-Ghazālī, al-Iqtiṣād, 156, 163.}

In these discussions on maṣlaḥah and its relationship to God’s love we see that Ashʿarī beliefs on the subject are influenced by the Ashʿarī denial of ratiocination in God’s acts. Nevertheless, there are important distinctions between the two sets of arguments. In the arguments recounted above, al-Rāzī is not merely rejecting the idea that God acts for a purpose or that His acts are not to be described as good and evil. He is systematically disproving the premise that God upholds a particular set of purposes in His acts, namely the procurement of maṣlaḥah and the avoidance of mafsadaḥ. Nevertheless, in works of legal theory the debates over maṣlaḥah are generally found in close proximity to those on the issue of good and evil in divine acts and both doctrines are often justified by an identical set of arguments, showing the considerable overlap between them. The fact that the law does not consistently prohibit the taking of life, for instance, serves to show both that the taking of life is not inherently evil and also that the law does not have to consistently uphold the maṣlaḥah.\footnote{Al-Subkī, Ṭafṣīr al-ḥājib, 1:457; al-Juwaynī, al-Burhān, 1:90; al-Juwaynī, al-Talkhīṣ, 1:160; al-İṣfahānī, Bayān al-mukhtāsar, 1:291; al-Shahrastānī, Nihāyah, 381. See also al-Bāqillānī, al-Taqrīb, 1:284;}

\footnote{Al-Subkī, Ṭafṣīr al-ḥājib, 1:457; al-Juwaynī, al-Burhān, 1:90; al-Juwaynī, al-Talkhīṣ, 1:160; al-İṣfahānī, Bayān al-mukhtāsar, 1:291; al-Shahrastānī, Nihāyah, 381. See also al-Bāqillānī, al-Taqrīb, 1:284;
Suitability as Maṣlaḥah

The most formidable challenge facing Ashʿarī legal theory was to develop a way of reconciling the theological doctrine that God does not act for a reason, let alone the best of reasons, with the juristic activity of qiyās. In its simplest and most common forms, qiyās involves the identification of a ratio (ʿillah) behind an established legal norm, which can then serve as the justification for further unestablished legal norms through a process of inferential or analogical reasoning. Identifying the ratio behind a legal norm, however, raises once again the problem of how to reconcile a theory of ratiocination with the Ashʿarī rejection of divine ratiocination. The problem only becomes more acute if it is suggested that the ratio behind God’s law is the welfare (maṣlaḥah) of God’s creation and that when faced with more than one rationally acceptable analogy, a jurist ought to give preference to an analogy that conforms to the maṣlaḥah.⁹⁰⁷

Quite startlingly, given their misgivings about ratiocination in God’s actions and commands, the majority of Ashʿarīs held that one could in fact discover rationes in divine laws by identifying the attribute of an act that was most suited (munāṣib) to serve as a ratio. This suitability (munāṣabah) was, in turn, demonstrated by pointing to the benefits that ensued when the attribute in question was made the ratio for a legal norm.⁹⁰⁸ The circuitous reasoning involved in this formula (munāṣabah was supposed to be a way of identifying the ratio but it had no meaning other than a quality or attribute that was suited to serve as the ratio) was not its only shortcoming. Much more serious was the fact that the identification of munāṣabah by means of maṣlaḥah was,

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⁹⁰⁷ al-Qarāfī, Nafāʾis, 9:3901. Maṣlaḥah is also discussed in al-Hindi, Nihāyah, 8:3996. See also al-Āmīdī, al-Ahkām, 4:160. According to Ibn Daqīq al-ʿIḥd, the scholars of stature in the field of maṣlaḥah based reasoning are Mālik and Ibn Ḥanbal. See al-Hindi, Nihāyah, 8:3998, 4000 (editor’s notes). In fact, we are told that Mālik would consider maṣlaḥah even in the category of needs (ḥājīyyāt) and not just necessities (darūriyyāt). See also Opwis, “Attributing Causality.”

according to the principles of Ash‘arism itself, theologically unsound because it involved conceding that God acted to uphold the welfare of man – a proposition that had been thoroughly and vociferously rejected in Ash‘arī theology. 909

The ability of Ash‘arī manuals of jurisprudence to simultaneously affirm and deny the existence of divine ratiocination and maṣlaḥah, often within the space of a few lines, remains an abidingly fascinating feature of the genre and a testament to the interplay of theology and legal theory. The Ash‘arī Şafī al-Dīn al-Hindī says that since the law exists for the benefit of the creation, the suitability of an attribute to serve as the ratio is proof that it is the ratio. This is so, firstly, because God is wise. One who is wise cannot act without a purpose, nor for a harmful purpose. Therefore, al-Hindī concludes, a wise being must act for a beneficial purpose. For God to desire harm or to be indifferent as to whether He visited benefit or harm on His creation would thus be purposeless and unjust. Secondly, al-Hindī continues, the jurists agree that God’s rules are never devoid of wise purposes. These purposes must relate to the creation since they cannot return to God Himself. This is because while acting for His own purposes would be a shortcoming on the part of God, acting for the benefit of others would not. Apart from those who deny ratiocination altogether (an apparent reference to the Zāhirīs), the only difference on this point amongst the dialectical theologians, according to Şafī al-Dīn al-Hindī, is whether God is obliged to do what is beneficial or whether this is a pure act of grace from Him. 910

Only a few paragraphs later, however, Şafī al-Dīn al-Hindī says that the theologians, as a group, reject the idea that it is obligatory, or even permissible, for God to act for reasons. Opposed to the theologians, we are told, are the jurists, who say that God’s acts are necessarily for the benefit

909 MF 17:111.
of the creation. What is more, Ṣafī al-Dīn al-Hīndī says, the consensus of the jurists (whose agreement was earlier cited as a proof that God acted for the *maṣlaḥah*) should not be considered relevant, since these are matters of dialectical theology and not legal trivia. In a similar vein, al-Āmīdī offers an account of *munāsabah* that is flatly opposed to Ashʿarī theology. One can be certain, he says, that the *munāsib* attribute incorporates the *maṣlaḥah* because it is accepted as a matter of consensus that the law serves the purposes of man. If the law had not been created for the purpose of *maṣlaḥah*, this would have been an evil for the creation.

Al-Rāzī, who probably went further than any Ashʿarī theologian in denying the existence of ratiocination and *maṣlaḥah* in God’s law, and even provided a litany of reasons why God’s acts were anything but beneficial in this world, says that when it comes to legal theory, it is justified to believe that God institutes laws for the sake of *maṣlaḥah*. One’s knowledge that the lawgiver is wise, combined with one’s knowledge that there is a benefit in a given rule, leads to the probable belief (*ẓann*) that the wise lawgiver instituted a given rule for a particular wisdom. Such beliefs are a sufficiently valid basis for legal action, al-Rāzī asserts, echoing the distinction made by the theologians between theoretical and practical matters. In an unexpected move, al-Rāzī then proceeds to rationally prove that God must act for the best of reasons. It is illogical, he says to suggest that God could act without a reason, because such a thing is impossible. This leaves two possibilities; God must either act for bad reasons or good ones. The first possibility has been ruled out by consensus. Therefore, al-Rāzī concludes, God can only act in accordance with the *maṣlaḥah*.

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The ever-vigilant al-Qarāfī points out that almost every proposition upheld by al-Rāzī in his account of divine *maṣlahah* contradicts the tenets of Ashʿarī theology. In fact, al-Qarāfī says, most jurists, including al-Rāzī, do not understand the real nature of the differences between the Muʿtazilite and the Ashʿarī positions on this point.\(^9\) While agreeing with al-Rāzī that God is to be described as wise, al-Qarāfī reminds his readers that in Ashʿarī theology there is no reason to suppose that this term implies for God what it does for man.\(^9\) On the contrary, says al-Qarāfī, wisdom in the case of God must be explained in a way contrary to its normal, customary meaning, so as to make it clear that unlike human wisdom, divine wisdom does not compel the one who possesses it to choose that which is most suitable.\(^9\)

Ashʿarī theology, according to al-Qarāfī, requires divine wisdom to be understood as an affirmation of God's seven essential attributes. Al-Rāzī is thus wrong, says al-Qarāfī, in suggesting that God's wisdom dictates that whenever He is faced with a choice between doing what is beneficial and harmful, He must choose what is beneficial. This is a position that, according to al-Qarāfī, reeks of the heresy of Muʿtazilah, who define God's wisdom as His acting in accordance with *maṣlahah*. Divine wisdom, al-Qarāfī says, is eternal. If this wisdom is the *ratio* for legal rules, the rules would also have to be eternal and one would have to hold that commands were addressed to non-existent beings.\(^9\)

The Ashʿarīs, al-Qarāfī points out, hold that the preponderating factor behind God's acts is not His wisdom, which compels Him to choose a beneficial course of action. Rather, it is God's will, which allows Him to choose anything that is possible, whether beneficial or not.\(^9\) So, although

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al-Rāzī is correct in holding that God’s acts cannot be purposeless, this is only because of the impropriety of describing the deity in terms that carry such negative connotations.\footnote{Al-Qarāfī, Nāfāʾīs, 7:3309.} In reality, al-Qarāfī says, it is entirely permissible for God to create something without a purpose. Even the presumption that having bestowed dignity on man, God must create a law that protects and promotes this dignity is rebutted by al-Qarāfī. A presumption, al-Qarāfī suggests, can be rebutted by evidence showing its invalidity. The testimony of women and children is presumptively reliable, for instance, yet the law does not deem it acceptable. Similarly, the presumption that God creates a law that benefits man and enhances his dignity is rebutted by the evidence that demonstrates the invalidity of such presumptions.\footnote{Al-Qarāfī, Nāfāʾīs, 7:3309.}

Dismissing the scriptural evidence marshaled by those who argued that God must act on the basis of wise and suitable considerations, evidence such as the Qur’ānic proclamation that God desires ease for His creation \([Q., \text{al-Baqarah, 2:185}]\), al-Qarāfī embraces the familiar Ashʿarī association of will with command. The Qur’ānic declaration that God wants ease for man simply means that God has instituted laws that are easy, nothing more. Likewise, it is incorrect, according to al-Qarāfī, to suggest that God’s mercy would make Him institute particular kinds of laws and not others. Qur’ānic evidence cited in support of this proposition, such as God’s statement that He has imposed mercy upon Himself and that His mercy extends over everything \([Q., \text{al-ʿArāf, 6:56}]\) must not, in al-Qarāfī’s view, be interpreted to mean that God is bound to act in what is understood to be a merciful manner. It is actually impossible for a quality such as
mercy to inhere in God, al-Qarāfī reminds his readers, because being merciful involves succumbing to a tenderness in one’s nature, which is impossible for God.  

Having elaborated all the ways in which al-Rāzī’s assertion that the law was based on maṣlaḥah were incorrect, al-Qarāfī advances his own account of maṣlaḥah. One can have a probable belief, he says, that the law is based on procuring the maṣlaḥah. What is startling about this claim is not only how great a departure it represents from al-Qarāfī’s theology, which rejects as a matter of certainty the very possibility of God acting for a cause, but also al-Qarāfī’s insistence that this belief is only a probable one when he himself acknowledges that there is a wealth of evidence that proves the existence of maṣlaḥah. First, al-Qarāfī says, there is scriptural evidence that God upholds the maṣlaḥah. Second, the Companions formulated a consensus that legal rulings had to uphold the maṣlaḥah. An inductive review of scripture proves, according to al-Qarāfī, that the law is entirely beneficial and that the prophets of God only ever come with that which is beneficial and averts harm. It is true, al-Qarāfī continues, that the Ashʿarī masters such as al-Bāqillānī opined against reliance on maṣlaḥah in legal reasoning. However, he points out, outstanding scholars such as Mālik, of whose legal school both al-Bāqillānī and al-Qarāfī were members, were great advocates of maṣlaḥah, going so far as to invoke it in the most serious legal matters, those involving the taking of life and wealth.

The inherent difficulty of reconciling Ashʿarī theology with the doctrine of maṣlaḥah explains some of the tensions in Ashʿarī writings on this subject and the related subject of munāsabah.
One attempt at resolving this difficulty took the form of denying that munāsabah in relation to God meant His acting for the maṣlaḥah. Rather, some theologians suggested, to say that God chose a suitable attribute as a ratio was simply a way of saying that God’s choice corresponded to the choice of those who are considered wise. It was thus the fact that God chose to act in the manner of those considered wise, rather than any imposition or necessity on the part of God Himself, which accounted for the fact that beneficial purposes were the rationes of God’s laws.

Al-Rāzī offered another explanation, saying that when those who deny the doctrine of God’s wisdom and maṣlaḥah (i.e. the Ashʿarīs) spoke of the suitability of a ratio, they understood the latter as an aesthetic concept. An arrangement of pearls in a necklace might, for instance, be said to be suitable, without invoking the theologically problematic concept of ratiocination and maṣlaḥah. Al-Ghazālī too appears to regard maṣlaḥah as an aesthetic concept when he says that the maṣlaḥah of a rule enhances its beauty and authority, creating in the people a greater inclination to obey a law that appears to benefit them. For some theologians then, it was incorrect to define the munāsib attribute as the reason for a legal rule. A rule occurred alongside a munāsib attribute, they argued, not as a result of it. A similar formula, as we recall, was used by the Ashʿarīs to develop theologically acceptable solutions to the problems of causality (causes occur alongside their effects, not as a result of them) and the legal validity of prayers performed on usurped land (the obligation of performing such prayers is discharged alongside their performance, not as a result of it).

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928 Al-Rāzī, al-Maḥṣūl, 5:157-158.
929 Al-Ghazālī, al-Mustaṣfā, 2:369-370.
930 Ibn al-Najjār, Sharḥ, 1:318; al-Ījī, Sharḥ al-ʿAḍūd, 312.
While such intellectual finery had its place in works of theology and legal theory, as a practical matter the majority of Ashʿarīs working in the field of substantive law simply accepted that where a munāsib attribute of an act is mentioned, this attribute serves to indicate the ratio. The justification for this belief was one’s repeated observation of God selecting munāsib attributes, those that procure the maṣlaḥah, as the ratio for His laws. Al-Ghazālī explains that one shows the efficacy of the munāsib ratio by pointing to its existence in similar cases and showing merely the possibility of this attribute being the ʿillah because it serves the maṣlaḥah.

However, as the Ashʿarīs themselves acknowledge, this method of determining the ratio is inherently probably and uncertain, at least by the standards of the theologians. Formally, then, the hyper-skepticism of Ashʿarī theology makes it all but impossible to have any certainty about the relationship between the expression of a legal rule and its ratio. The Ashʿarī al-Asnawi, for instance, remarks that even the Prophet’s instruction to a Companion to free a slave, issued directly after the latter came to the Prophet to confess that he had deliberately broken his fast, creates only a probable belief – not certainty – that the legal ruling issued by the Prophet was a response to the confession of the Companion before him.

Al-Ghazālī himself, while advocating the view that God’s law is based on maṣlaḥah, expounds on the reasons the identification of suitably beneficial purposes behind God’s law always remains uncertain. To begin with, the procurement of maṣlaḥah can only be said to be the norm in non-ritual areas of the law, according to al-Ghazālī. By contrast, areas of law concerned with ritual worship, punishments and dispensations are often not based on any apparent maṣlaḥah or

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933 Al-Zarkashi, Salāsil, 391.
935 Al-Asnawi, al-Tamhīd, 472.
936 Al-Ghazālī, al-Mustaṣfā, 2:312.
munāsabah. Even in non-ritual law, al-Ghazālī insists, the rule that legal provisions are
governed by maṣlahah is general, but by no means absolute. One can never know through mere
observation whether a rich man who gives money to a poor one does so because of the latter’s
poverty or because of the existence of a filial relationship between them. Similarly, no amount
of repeated observations of God upholding the maṣlahah in His law allows us to determine
whether God institutes this law for the purpose of upholding the maṣlahah or for some other,
hidden, purpose. The maṣlahah that lies behind God’s choice of munāsib attributes is ultimately
a divine secret, (recall that Ashʿarīs often used the same expression to refer to God’s attribute of
speech) says al-Ghazālī. Our only justification for acting on the basis of our probabilistic
determination of the munāsabah, according to al-Ghazālī, is that it appears to us that God selects
suitably beneficial causes as the basis of His laws and we can be excused for ignoring any other
reason for God instituting such laws that does not come to our minds. Ṣafī al-Dīn al-Hindī
seems to share al-Ghazālī’s view that the suitability and beneficial aspect of God’s law is a divine
secret. The real import of munāsabah, he says, is not something that can be expressed. Once
again, the similarity with the way in which Ashʿarīs invoke mystical concepts to resolve the
conundrums thrown up by Ashʿari theology is revealing.

The suitability of an attribute to serve as a ratio might not be something that could be expressed;
but it could be fiercely defended in the course of dialectic (jadal/munāẓarah) with one’s rivals.
Indeed, the ability to defend the attributes one had identified as rationes became a central
concern of the theologians and legal theorists, a fact that explains the frequent invocation of

938 Al-Ghazālī, al-Mustaṣfā, 2:326.
939 Al-Ghazālī, al-Mustaṣfā, 2:312, 318. See also Zuhaylī, al-Wajīz, 72, 78-79.
940 Al-Hindī, Nihāyah, 8:3289.
941 Al-Juwaynī, al-Burhān, 2: 787-788. For a discussion of the role of dialectical debate in legal theory and its origins in
Greek philosophy and kalām, see Hallaq, A History, 136.
consensus to justify one’s chosen *rationes*. Al-Qarāfī objects to al-Rāzī’s view that a suitable *ratio* chosen by God is one that corresponds to the custom of wise people on the grounds that this definition is far too unwieldy to be of any use in dialectic. Perhaps equally subjective, and consequently ineffective in scholastic argument, is the definition of *munāsabah* advanced by Ḥanafis such as al-Dabūsī (d. 430/1038), who argue that a suitable *ratio* is one which, upon reflection, is deemed acceptable by the intellect. Occasionally, it appears that catching out one’s opponent in the cut and thrust of debate was considered more important than attempting to identify the correct *munāsib ratio*. The *munāsib* attribute, says al-Zarkashī, is one whose existence, if denied by one’s adversary, makes the latter contradict himself.

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943 Al-Qarāfī, *Nafāʾis*, 7:3264
III. Love, Law and Maṣlaḥah: The View of the Traditionalists

As outlined at the outset, the remainder of this chapter is dedicated to exploring the differences between the theologians and the traditionalists on the legitimacy, scope and characteristics of God’s love – as exemplified in the maṣlaḥah of His law. Our starting point must be the different understandings of divine love held by the two sides. The traditionalist understanding of divine love and its place in the law is very different from that of the dialectical theologians, and this is largely a function of the way Ibn Taymiyyah and Ibn al-Qayyim regard God’s love as a real divine attribute. Ibn al-Qayyim surveys as many as thirty technical definitions of God’s love advanced by the scholars and theologians, including the Ashʿarī interpretation of divine love and mercy as God’s intent to reward, and finds them all deficient on theological, legal or linguistic grounds, or because they involve technical errors such as the conflation of love with its signs and effects, such as mercy and the abnegation of one’s will.946 The definition of love favored by Ibn al-Qayyim himself is unmistakably spiritual rather than technical, which is not surprising, given that it is the one formulated by the Sufi al-Junayd (d. approx. 298/910). In the latter’s view, a lover of God is:

One banished from his own self, in perpetual remembrance of his Lord, whose rights he fulfills. One who gazes upon God with his heart, his heart igniting from the radiance of God’s awe. One who drinks deep from the cup of God’s kindness so The Majestic One discloses some of His secrets to him. When such a person talks, he talks with God; when he speaks, it is of Him he speaks; when he moves, it is with God’s command; when he finds rest, it is with God. This person is of God, for God and by God.947

The traditionalists therefore see nothing untoward in affirming the reality of God’s love and joy as mentioned in scripture, which states that God is overjoyed when His servants turn to Him in

946 Al-Mawṣili, Mukhtasar al-Ṣawā’iq, 3:871, 879; Ibn al-Qayyim, Madārij, 2:232-333. See also Bell, Love.
repentance and that He loves to forgive them. On the contrary, it is the denial of God’s love and mercy by the dialectical theologians – a position associated with the heretic Ja’d b. Dirham, Ibn Taymiyyah points out – which the traditionalists regard as unwarranted and indefensible and which they condemn for diminishing the status of the law.\footnote{Al-Mawṣili, Mukhtaṣar al-Ṣawā’iq, 3:860; Ibn Taymiyyah, Majmū’ah al-rasā’il, 1: 377-378; MF 8:24.} For Ibn Taymiyyah and Ibn al-Qayyim, it is simply impossible to have any understanding of God’s law unless one appreciates the reality of His mercy and maṣlaḥah.\footnote{Ibn Taymiyyah, al-Nubuwwāt, 2: 915, 932; al-Mawṣili, Mukhtaṣar al-Ṣawā’iq, 3:869, 867, 887; MF 10:37.}

**Love, Law & Maṣlaḥah**

The dialectical theologians, as we already know, advanced a number of objections to the idea that God could experience love, bestow grace on His servants out of His love and issue commands on the basis of what He loved and abhorred.\footnote{See al-Qarāfī, Nafā’is, 1:276; al-ʿAshʿarī, Maqālāt, 2:251, 1:317-318.} The Muʿtazilite ʿAbd al-Jabbār, for instance, argues that the maṣlaḥah in God’s law can only relate to man and not to God Himself, since God can neither experience love or benefit, nor would it be considered praiseworthy, just and wise of Him to act for His own benefit and purposes as opposed to the benefit of His creation.\footnote{ʿAbd al-Jabbār, al-Mughnī, 6:48-49.} A similar argument is advanced by some Ashʿarīs, most notably al-Ghazāli, who argues that God cannot experience any benefits (fawā’id, sing. fāʿidah).\footnote{Al-Ghazāli, al-ʾIṣṭiṣād, 168.} According to the al-Baghdādi, one of the foundational principles of the Ashʿarism is the belief that God does not create the world for the sake of a benefit that returns to Himself.\footnote{Al-Rāzī, meanwhile, holds that God cannot experience joy or pain, as these are bodily sensations (which for al-Rāzī are also the primary elements of good (maṣlaḥah) and its opposite, mafsadah). Moreover, al-Rāzī continues, if God could...}
experience joy, the object through which he did so would have to be eternal, just like the eternal pleasure and joy of God which it occasioned. The only kind of joy which the philosophers allow God to experience, al-Rāzī informs his readers, is that which arises as a result of God’s reflection on His own perfection, although the theologians do not even concede the validity of this kind of joy subsisting in God. In any case, al-Rāzī concludes, God cannot desire His own benefit because this is a kind of lust, which is impossible to ascribe to God. 955 The dialectical theologians also argued, as we saw above, that the imposition of legal responsibility was itself contrary to the maṣlaḥah. Al-Ghazālī, to take just one example, argued that the creation of man benefits neither God nor man. God cannot obtain any benefit from man and man himself wishes he did not exist in this world of moral accountability. 956

For Ibn al-Qayyim, however, it is precisely in the law that one finds the greatest expression of God’s love, mercy and maṣlaḥah. 957 The Ashʿarī argument that the imposition of legal responsibility cannot be considered a rational good is thus inverted by Ibn al-Qayyim, who argues that the imposition of legal responsibility is a great good as it establishes the proper relationship between God and man. 958 Turning to the specific argument that reason deems it preferable for man to be created without being subject to legal responsibility and to receive divine grace independently of the law, Ibn al-Qayyim responds that to leave man free to follow his own destructive desires and impulses is necessarily something that the intellect finds abhorrent. The imposition of legal responsibility thus serves to protect man from pursuing his

958 Ibn al-Qayyim, Miftāḥ, 2:1066.
destructive desires and elevates him in rank above animals and other creatures who have been created without being subjected to divine law.  

Ibn Taymiyyah also addresses a common objection raised against the view that the imposition of the law is beneficial, namely that the law does not prevent evil from occurring and leads to those who violate it being made to suffer. Ibn Taymiyyah responds by reiterating that the law is entirely beneficial. Even those who do not accept and submit to it benefit by it because it reduces the magnitude of their sinfulness and corruption. This the law does either by establishing proofs for its own truth and goodness in the hearts of those who reject it, or by instilling in them the fear of retribution. In Taymiyyah’s view, legal provisions such as the waging of jihād against disbelievers who commit oppression and the imposition of the poll tax (jizyah) upon them all serve to limit their oppression, showing once again that the law diminishes the capacity to do evil, even on the part of those who reject it.

While the dialectical theologians held that the imposition of legal responsibility could only be rationalized on the basis of its otherworldly benefit, the traditionalists insist that the maṣlahah of legal responsibility is present both in this world and the next. For Ibn Taymiyyah, the otherworldly maṣlahah of complying with God’s commands and prohibitions is just one facet of the maṣlahah in divine law. Addressing the question of whether or not one enters paradise on account of one’s compliance with the law, Ibn Taymiyyah concludes that actions are a cause of salvation, albeit not the only one – just as rain is one of the various causes of burgeoning vegetation. The spiritual reward associated with obedience to the law is thus an additional

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959 Ibn al-Qayyim, Miftāḥ, 2:1071-1071.
aspect of *maṣlaḥah* that should not blind us to the fact that everything God commands serves to procure man’s benefit in this world.\(^{962}\)

Ibn al-Qayyim also criticizes a range of figures, from the philosophers to the Muʿtazilite and Ashʿarī theologians, for offering the sorts of justifications for the imposition of legal responsibility that they do.\(^{963}\) The philosophers, he says, are wrong in holding that the primary benefit of the law lies in its ability to discipline individuals to become receptive to higher learning and wisdom.\(^{964}\) Equally reprehensible, if not more so, are the views of the Ashʿarī theologians who argue that since the law does not play a role in bringing about salvation or perdition, the real purpose of God rewarding man for his compliance to the law is to allow man to enjoy God’s reward as an earned recompense rather than an unearned favor, a position that is more suited to man’s dignity. Such a view is particularly abhorrent to Ibn al-Qayyim, for whom one of the benefits of the imposition of legal responsibility is that it allows the formation of a proper relationship between God and man, one in which man offers his obedient love and servitude to God and yearns to attain the love and grace of God. It is simply unthinkable, Ibn al-Qayyim says, that man would ever desire or enjoy being in a position where he is not yearning for and enjoying divine grace and favor.\(^{965}\)

For Ibn al-Qayyim, then, God’s love is the secret behind His creation and command.\(^{966}\) Love, Ibn al-Qayyim says, is the basis of all existence and motion in the cosmos. For existence and motion arise out of God’s will and God’s will is exercised to accord with what He loves and regards as


beneficial and to repel what He regards as abhorrent or harmful.\footnote{Ibn al-Qayyim, Rawḍah al-muḥībbīn, 88-89, 93.} Love, Ibn al-Qayyim argues, is essential to God’s nature. God’s wisdom necessitates that He love the good, even though He does not benefit from it, and that He abhor evil, even if He remains unharmed by it.\footnote{Ibn al-Qayyim, Miftāḥ, 2:1020.}\footnote{Ibn Taymiyyah, Majmū’ah al-rasā’il, 1: 331-333.} Ibn Taymiyyah also regards love as essential to God’s nature. Rejecting the argument of the theologians who insisted that God could not act to procure what He loved without acting in a way that did not befit Him, Ibn Taymiyyah counters that it would be purposeless of God, and hence a shortcoming on His part, to act without any concern for what He loves and abhors.\footnote{Ibn al-Qayyim, Miftāḥ, 2:1010-1011.} Ibn al-Qayyim also remarks that to deny the role played by God’s love in shaping His law, as the Muʿtazilites and other dialectical theologians do, leads to a bare and impoverished view of God’s law.\footnote{Al-Rāzī, al-Maḥṣūl, 5:173; Ibn Taymiyyah, Darʾ, 4:14.}

Ibn Taymiyyah has another argument to make against al-Rāżī’s denial of maṣlaḥah on the grounds that it is impossible for God to act so as to procure His own benefit.\footnote{Al-Rāzī, al-Maḥṣūl, 5:173; Ibn Taymiyyah, Darʾ, 4:14.} Against those who subscribe to this view, Ibn Taymiyyah argues that to issue a command that does not serve the purpose and benefit of the one issuing it – in this case, God – is not considered praiseworthy. Rather, it is deemed a sign of imperfection. So while the Ashʿarīs for their part might be satisfied with the argument that God happens to do good on account of His custom, not for an underlying purpose, thereby preserving God’s voluntarism and the notion of maṣlaḥah as a practical reality in God’s command, Ibn Taymiyyah argues that such a view of God and His law fails to present an accurate view of God’s nature and of the maṣlaḥah upheld by God in His law. For according to Ibn Taymiyyah, doing good to others without intending to do so, or being indifferent as to the good
and evil of one’s acts, is not considered praiseworthy. Only if one does good to others out of an active desire to do good is such an act made noble and praiseworthy.\(^972\) Since God’s acts are good and praiseworthy, Ibn Taymiyyah continues, they must proceed from His love and desire to do good to others. For seeking to benefit others through one’s own actions is a praiseworthy and noble quality.\(^973\) Therefore, Ibn Taymiyyah concludes, God bestows his benefits and favors on man and benefits man for His own purposes, out of His own love and perfection and because He loves to act in a praiseworthy way. Acting in this way is proper to God and also evokes the proper response from his servants, who reflect on God’s concern for their welfare and are moved to love and adore Him.\(^974\)

**The Maṣlahah of the Law**

Ibn al-Qayyim remarks that there are some scholars who deny that anything like a pure maṣlahah actually exists, on the grounds that even the attainment of that which is beneficial involves some degree of effort, exertion and hardship which are unpleasant and therefore evil. On the other hand, Ibn al-Qayyim says, there are those who regard love and faith in God as a pure good, while regarding the devil as pure evil without the slightest good.\(^975\) Ibn al-Qayyim’s own view is that while pure maṣlahah does exist, it cannot be attained without some degree of exertion and hardship extrinsic to the maṣlahah itself.\(^976\) Conversely, Ibn al-Qayyim also strongly believes that

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\(^972\) MF 8:55-56. This then develops into a discussion of taḥsin and taqbiḥ with Ibn Taymiyyah saying that things are beneficial in themselves, and this can be known by the intellect, which according to Ibn Taymiyyah is affirmed by everyone. The dispute thus revolves around whether or not everything God commands is beneficial in itself; see MF 8:56.

\(^973\) Ibn Taymiyyah, Majmūʿah al-rasāʾil, 1: 382.

\(^974\) Ibn Taymiyyah, Majmūʿah al-rasāʾil, 1:332.

\(^975\) Ibn al-Qayyim, Miftāh 2:892-893.

\(^976\) Ibn al-Qayyim, Miftāh, 2:895-897.
there is wisdom and *maṣlaḥah* even in the most seemingly purposeless acts of God, such as His creation of the devil.\(^\text{977}\)

Amongst the scholars who fall into the first category mentioned by Ibn al-Qayyim, i.e. those who deny the existence of *maṣlaḥah* on the grounds that even the attainment of that which is beneficial involves some degree of effort, exertion and hardship which are unpleasant and therefore evil, pride of place must be awarded to al-Rāzī for the sheer relentlessness with which he sets out to prove this proposition. Al-Rāzī points out, for instance, that God could have created things in a way that eliminated evil altogether, so that fire burnt only when it was beneficial and not when it was harmful.\(^\text{978}\) The fact that God chose not to do this must mean, al-Rāzī concludes, that God does not consistently desire to uphold the *maṣlaḥah*. Other Ashʿarīs echo the argument that even the most meritorious of good deeds entail a level of evil and hardship that prevents us from saying that God seeks what is beneficial or easy for man. God could have allowed the attainment of good without any hardship or evil, these scholars argue, but He did not. Eating permissible food, for instance, entails the hardship of having to first cook it, but God could have created food in a way that allowed us to consume it without having to cook it.\(^\text{979}\) A number of Ashʿarīs also drew attention to the fact that many legal provisions, such as those relating to ritual worship, are supra rational and either display no discernible *maṣlaḥah* or stand in stark opposition to the dictates of *maṣlaḥah*. In al-Ghazālī’s famous example, the postures of ritual prayer involved an affront to the dignity of man, who was required to place the noblest part of his body, his head, on the ground. For al-Qarāfī, even interpersonal law, which is supposed to be governed by *maṣlaḥah*, contains provisions that seem to subvert the *maṣlaḥah*.

\(^{977}\) Hoover, “God’s wise purposes.”  
\(^{979}\) Al-Qarāfī, *Naṣīrīs*, 1:352, 376.
Al-Qarāfī offers the example of marriage, a legally prescribed act, which according to him constitutes an affront to the dignity and nobility of women, who must submit to becoming the repositories for the bodily excretions of men.\textsuperscript{980}

Formidable as they are, the preceding arguments do not deter Ibn al-Qayyim from proclaiming his commitment to the view that none of the acts of God are devoid of mercy, wisdom and maṣlaḥah.\textsuperscript{981} Ibn al-Qayyim argues that man’s intellect and his innate disposition affirm that the universe has a wise God whose law is entirely based on averting that which is absolutely or predominantly harmful and procuring that which is absolutely or predominant good.\textsuperscript{982} This is an important qualification, given the preceding criticisms of the Ashʿarīs that even the best of acts involve a degree of evil. Ibn Taymiyyah also responds to the sort of arguments advanced by al-Rāzī by explaining that the law often brings about superior benefits by letting go of inferior ones and eliminates a greater evil by allowing one that is smaller by comparison.\textsuperscript{983} For Ibn Taymiyyah and Ibn al-Qayyim, then, there is nothing degrading about the postures of prayer, nor in the act of marriage, as alleged by the Ashʿarīs. Acts such as prayer and marriage, Ibn al-Qayyim argues, fulfill a beneficial purpose and accord with man’s intellect and his innate disposition.\textsuperscript{984} The same is true, according to Ibn al-Qayyim, of the various other legal provisions cited by al-Qarāfī to show that the law is not based on upholding the maṣlaḥah.

For the traditionalists, the wise purposes loved by God constitute the aims (maqāṣid) of His law. The attainment of these maqāṣid is the ratio (ʿillah) behind the rules instituted by God.\textsuperscript{985} However,

\textsuperscript{980} Al-Qarāfī, Nafāʾis, 1:332.
\textsuperscript{981} Ibn al-Qayyim, Miftāḥ, 2:862, 884.
\textsuperscript{982} Ibn al-Qayyim, Miftāḥ, 2:859, 912; 1079; Ibn al-Qayyim, Madārij, 3:489, 491.
\textsuperscript{983} MF 20:30-32; 28:75.
\textsuperscript{984} Ibn al-Qayyim, Miftāḥ, 2:865, 871-872.
\textsuperscript{985} Maqāṣid al-sharīʿah ‘ind Ibn Taymiyyah, 50, 51 and particularly 54.
Ibn Taymiyyah cautions, the use of the term ʿillah might create more confusion than clarity, owing to the protracted debates over its meaning and significance in dialectical theology.986 According to Ibn Taymiyyah, theologians such as al-Rāzī and al-Āmidī present one view of ratiocination in law, another in legal theory and yet another in theology987 (a feature of Ashʿarī scholarship that is also adverted to by the Ashʿarī al-Būṭī).988 Nevertheless, says Ibn al-Qayyim, it cannot be denied that the Qurʾān itself affirms ratiocination in God’s law by using as many as 15 types of expressions indicating that God instituted His laws for a wise purpose loved by Him. Only the dialectical theologians, according to Ibn al-Qayyim, deny God’s love and maṣlaḥah, and in doing so they show the gulf that separates them from the jurists, who cannot avoid speaking of the wise purposes and ratios in God’s acts.989

Ibn al-Qayyim is particularly critical of the theological doctrine that there is no underlying rationale and maṣlaḥah in God’s law, a doctrine he ascribes to some Ashʿarīs.990 Taken to its natural conclusion, Ibn al-Qayyim says, this view leads to the abhorrent belief that God could just as well permit as prohibit something as irrational and hateful as the worship of other gods, a belief that, according to Ibn al-Qayyim, belittles the wisdom and rationality of God’s law and the perfection of His religion.991 That such a thing was possible was, of course, precisely the

986 Al-Badawi, Maqāsid, 58, 61. See also Ibn Taymiyyah, Darʾ, 7:341-342; al-Juwaynī, al-Shāmil, 645, 651, 653, 656-657. The influence of philosophical discussions of ʿillah on legal theory is also discussed in Hallaq, History, 132-133.
987 Ibn Taymiyyah, Minhāj, 1:455. For further contradictions in the debate on causality, see al-Rāzī, Mafṭūḥ al-ghayb, 2:154 and al-Rāzī, al-Maḥṣūl, 5:172-178.
988 Al-Būṭī, Dawābit, 88.
989 Ibn al-Qayyim, Miftāḥ, 2:913-914; MF 8:57; 11:189-190; 14:149 (everything God commands contains benefit and does not harm); Ibn Taymiyyah, Minhāj, 3:14, 28.
990 Ibn al-Qayyim, Miftāḥ, 2:876-877.
991 Ibn al-Qayyim, Miftāḥ, 2:885-886, 888-891, 953.
position of Ashʿarīs such as al-Ghazālī, who argues that it is entirely possible for God to create man without issuing him a code of law to guide him.992

The traditionalists, however, contend that it is impossible to engage in sound legal reasoning unless one accepts that God prefers certain ends and not others.993 Ibn al-Qayyim remarks that the techniques developed by the theologians themselves to distinguish between sound and unsound rationes depend on the jurist assuming that the law is not just a set of arbitrary commands but aims to secure the maṣlaḥah. For if all the attributes of an act are equally suitable to serve as the ratio, one cannot select one particular attribute as the one on which to base one’s analogical reasoning, nor can one speak meaningfully of the ratiocination (taʿlīl), suitability (munāsabah) and benefits (maṣlaḥah) of the law.994 The traditionalists were not alone in seeing a contradiction between the activity of legal reasoning and the denial of divine ratiocination and maṣlaḥah. As we saw earlier, al-Qarāfī raises the same concerns over the Ashʿarī position on these matters as the traditionalists.995

Maṣlaḥah, Love and Divine Voluntarism

In the course of defending their position that God institutes the law to procure the inherent maṣlaḥah that He loves, the traditionalists are also forced to respond to the argument of the theologians that this is tantamount to imposing a limitation on God’s power and omnipotence.996 A technical form of the argument, as presented by Ibn al-Qayyim, runs as follows. Reason

992 Al-Ghazālī, al-Mustaṣfā, 1:410.
993 MF 11:193; 20:316.
995 Al-Qarāfī, Naḥīfis, 9:3901.
996 Al-Rāzī, al-Maṭālib, 3:286; al-Ashʿarī, Maqālāt, 1:313; Murphy, Forgiveness, Ch. 5.
requires a greater preponderating factor (rājīḥ) to be chosen over a lesser one (marjūḥ). Now, if goodness were an inherent quality of substances and acts, their goodness would become a preponderating factor in them being made obligatory or permissible by God. Similarly, if some things were inherently evil, this quality would be a preponderating factor in God prohibiting or discouraging His creation from doing such things. It follows, according to those who advanced this argument, that if things are inherently good and evil, God is left with no choice but to declare good things permissible or obligatory and to declare evil things disliked or prohibited.\textsuperscript{997}

Ibn al-Qayyim responds that refusing to accept that God bases His commands and prohibitions on the inherent good and evil of things means reducing the law to a set of arbitrary divine fiats. Ultimately, such a view must lead to the conclusion that worshipping the one true God is morally equivalent to worshipping an idol, the only difference between the two acts being their legal – not moral – status.\textsuperscript{998}

Ibn al-Qayyim also remarks however, that those who object to the traditionalist view here on the grounds that it imposes limitations of God’s power actually accept various limitations on God’s power themselves. They accept, for instance that God would be obliged to choose a greater preponderating factor over a lesser one. Alternatively, Ibn al-Qayyim says, if the proponents of the argument do not insist that God is obliged to act according to a greater preponderating factor but merely state that He chooses to do so, then their position is not substantially different from that of the traditionalists who also hold that God chooses to uphold the maṣlahah in His acts.\textsuperscript{999}

\textsuperscript{997} Al-Īṣfahānī, Bāyān al-mukhtāṣar, 1:303, al-Subkī, Rāf al-ḥājīb, 1:464. This is different from the argument that good and evil would then become necessary for God and man; see Ibn al-Qayyim, Miftāḥ, 2:988, 991; Ibn Taymiyyah, Minhāj, 3:190; MF 11:193. Recall that for traditionalists what is obligatory in itself deserves no praise.

\textsuperscript{998} Ibn al-Qayyim, Miftāḥ, 2: 885-886, 888-891, 953.

\textsuperscript{999} Ibn al-Qayyim, Miftāḥ, 2:953-954.
Even before Ibn Taymiyyah and Ibn al-Qayyim, the Ḥanbalīs generally shared the Ashʿarī distaste for the Muʿtazilite view that God is obliged by reason to uphold the maṣlahah in His creation and commands. Ibn ʿAqīl, who considers the Muʿtazilite position at some length, remarks that it requires imposing the same obligations on God as those that exist for man and undermines the concept of God's omnipotence by obliging Him to uphold the maṣlahah in everything that He commands. Ultimately, Ibn ʿAqīl says, those upholding the Muʿtazilite view are obliged to conclude that it is impossible for God to command anything other than what He has commanded.\textsuperscript{1000}

The traditionalist position on love and maṣlahah thus differs from that of the Muʿtazilah\textsuperscript{1001} and the Ashʿarīs because the traditionalists maintain that while God does uphold the maṣlahah in everything that He creates and commands, this does not represent a limitation on His powers. This is because God's Himself chooses to limit His power by always exercising it in accordance with love, mercy, justice and maṣlahah. And power is meaningless unless one can choose to exercise it as one wills. ‘I have forbidden injustice upon myself’, says God in the words of a famous ḥadīth qudṣī, in which the Prophet reports the sayings of God.\textsuperscript{1002} The Qurʾān expresses the same point, proclaiming that ‘[God] has inscribed mercy upon Himself.’ [Q., al-Anṭām, 6:54]. For the traditionalists, such declarations by God make it abundantly clear that although God has the power to act unjustly and contrary to the maṣlahah, He himself chooses not to do so.\textsuperscript{1003} This makes God more worthy of praise, adoration and love than if He upheld the maṣlahah because He could not do otherwise – as argued by the Muʿtazilah. In traditionalist thought, God deserves

\textsuperscript{1000} Ibn ʿAqīl, \textit{al-Wāḍīh}, 1:347. For the same view by Ibn Taymiyyah, see MF 8:56. For Ibn al-Qayyim’s view that the law could not be other than what it is, see Ibn al-Qayyim, \textit{Miftāh}, 2:863–864, 876.

\textsuperscript{1001} This distinction is sometimes misunderstood and even sympathizers of Ibn Taymiyyah can end up attributing the Muʿtazilite stance to him. See for instance, Ibn al-Najjār, \textit{Sharḥ}, 1:302.

\textsuperscript{1002} Ibn Taymiyyah, \textit{Minhāj}, 2:310.

praise and thanks not because He is compelled to be just but because He chooses to be so, because he chooses to create the best possible world and because He chooses to institute the best possible law for mankind.  

Maṣlaḥah and the Superiority of Divine Speech

Ibn Taymiyyah also points to another aspect of Ashʿarī theology which, he says, makes it more difficult for Ashʿarī legal theory to allow that God’s commands are based on the maṣlaḥah, namely the doctrine that the word of God is a single, indivisible entity. This, according to Ibn Taymiyyah, is not a doctrine that can be easily reconciled with the view that some parts of God’s word, those that uphold the maṣlaḥah of facilitating ease and removing hardship, for instance, are better than others. And certainly, when we survey the pinax of those who do hold that some parts of God’s word are better than others we encounter many figures whose jurisprudential views are inspired by traditionalist or juristic ideas: Abū Yaʿlā, al-Shīrāzī, al-Samʿānī and Ibn ʿAqīl. Ibn Taymiyyah explains that while the word of God is all perfect, parts of it can still be more perfect than others. We have already seen something of this approach in the traditionalist discussion of the superiority of commands over prohibitions, where the traditionalists argued that although both commands and prohibitions were from God, the former were higher in rank than the latter. We see it again here in the traditionalist views that some parts of God’s speech,

1004 Ibn al-Qayyim, Miftāḥ, 2:1131. See also Rowe, God, 2 and passim.
1005 MF 17:11, 29, 32; 16:7; For the various positions of the kalām scholars, see al-Baṣrī, al-Muʿtamad, 1:427; al-ʿArūsī, al-Masāʿil, 244.
1006 Abū Yaʿlā, al-ʿUddah, 3:791-792.
1007 Al-Shīrāzī, Sharḥ al-lumaʾ, 1:502.
1008 Al-Samʿānī, Qawāṭiʿ, 1:150.
1009 Ibn ʿAqīl, al-Wāḍiḥ, 1:376, 377 but see ibid. 2:246.
for instance those that uphold the *maṣlahah* by creating ease for His servants, are better than others.\textsuperscript{1010}

The problem of holding some parts of God’s speech to be superior to others is one that is raised by the Qurʾān itself, which proclaims that God never abrogates a verse except by replacing it with one that is like it or even better (Q., al-Baqarah, 2:106). For some theologians, this simply meant that every abrogating verse instituted a ruling that was easier and more rewarding than the one it replaced, not that an abrogating verse was actually better than the one it abrogated.\textsuperscript{1011} Ashʿarīs such as al-Ghazālī also rejected, at least in their works on legal theory, the idea that parts of the Qurʾān could be better than others. It is only in his *Iḥyāʾ*, where he often soars loftily above the constraints of Ashʿarī theology, that al-Ghazālī clearly asserts the superiority of some verses of the Qurʾān over others and insists that this is something that can be observed by everyone.\textsuperscript{1012} For the traditionalists, however, the fact that a verse introduces a law that lifts a legal burden, removes hardship or creates greater ease are all grounds for holding it to be superior to others.

**Good, Evil and Maṣlahah**

It is, by now, clear that one of the recurring differences between the theories of *maṣlahah* upheld by the theologians and those upheld by the traditionalists is the extent to which each side is willing to accept *maṣlahah* as a feature of God’s law which can be comprehended by human

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\textsuperscript{1010} MF 17:35. Al-Zarkashi, *Salāsil*, 179 says the origin of this dispute might lie in the nature of speech and whether it is an eternal inner meaning or a created expressed meaning. Although al-Zarkashi himself favors the position that parts of the Qurʾān are better than others, this is, as he points out, a position which was denied by dialectical theologians such as al-Ashʿarī and al-Bāqillānī and those associated with this view included traditionalists such as Iḥṣāq b. Rāhawayh. See al-Zarkashi, *al-Burhān*, 294. For al-Ghazālī’s position, see his *Jawāhir al-Qurʾān*.

\textsuperscript{1011} For a discussion of the issue, see al-Hindi, *Nihāyah*, 6:2298.

\textsuperscript{1012} On the issue of contradictions in al-Ghazālī’s writings see Heath, *Reading*; Moosa, *Ghazali*, 157; Frank, *Ghazālī*.
rationality. The position of the Ashʿarī theologians on this matter corresponds to their position on the interpretation of God’s attributes and on the nature of good and evil. One may not, according to the Ashʿarīs, interpret the good, evil, maṣlaḥah or love of God’s acts in light of the meaning of these terms established by human reason.

Ibn Taymiyyah, however, argues that it is impossible to speak of maṣlaḥah unless one accepts that good and evil are qualities that can be recognized by the mind.1013 If the terms ‘good’ and ‘evil’ refer simply to whatever God makes permissible or impermissible, as the Ashʿarīs claim, the debate over whether or not God does what is most good becomes redundant according to Ibn Taymiyyah. Ibn al-Qayyim shares his master’s view. The debate over good (taḥṣin) and evil (taqbiḥ), he says, is inextricably linked to the debate over whether or not God acts for wise purposes and a maṣlaḥah that He loves.1014 Ibn al-Qayyim expresses these ideas is his Miftāḥ dār al-saʿādah, a work whose central theme is the development of an Islamic theodicy; to justify the ways of God to man by showing that whatever is, is best. In a way, the very purpose of the Miftāḥ is to demonstrate that everything God does is based on maṣlaḥah. It is therefore significant that in order to demonstrate the truth of this assertion, Ibn al-Qayyim first sets out to dismantle two Ashʿarī theological ideas which he finds incompatible with any meaningful notion of maṣlaḥah. The first is the Ashʿarī belief that the mind has no way of determining good and evil independently of revelation; the second is the Ashʿarī doctrine that since nothing can exist without God’s will, God must will and love everything in existence, including hardship, disbelief and all other evils.1015

1013 MF 11:193.
1015 Ibn al-Qayyim, Miftāḥ, 2:968.
The Ashʿarīs, as we saw, argued that the mind was simply incapable of determining the *maṣlaḥah* because the good of an act is often intermingled with its evil (*mafsadah*) in such a way as to make it impossibly difficult to distinguish one from the other. Al-Qarāfī, for instance, maintained that there was no such thing as a pure *maṣlaḥah* or *mafsadah*.

To illustrate this, he pointed to a famous hypothetical scenario discusses by Muslim legal theorists, which envisioned a Muslim army having to decide whether or not to strike an enemy force that was holding Muslim captives of war. The good and evil of attacking the enemy in such a situation was, according to al-Qarāfi, evenly balanced. Not so for Ibn al-Qayyim who argues that the law is always based on securing the greater good and averting the greater harm. Consequently, for Ibn al-Qayyim (and al-Ghazālī, who follows a similar line of reasoning), where an attack on the Muslim army cannot be averted except by attacking the enemy and possibly killing Muslim captives in the process, this is what must be done to avert the greater evil. Conversely, Ibn al-Qayyim says (in a qualification which is not emphasized in al-Ghazālī’s discussion), if a Muslim army is involved in a struggle that is not for the greater good of Islam, saving the lives of Muslim captives becomes a greater good than averting an attack on such an army. In the latter scenario, attacking the enemy would lead to a greater harm and is, consequently, forbidden.

Although he regards the good and evil of most acts to be clear and apparent, Ibn al-Qayyim is willing to concede that there might be instances when it is difficult to know which qualities of an act one should consider when determining whether it is good or evil. Nevertheless, he says, the difficulty of discovering the inherent good or evil of an act does not prove the non-existence

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of such inherent qualities. This is as true of rational matters as it is of sensory ones. For instance, different kinds of foods are inherently dry, moist, hot or cold; yet physicians disagree about the essential nature of particular foods and whether they are beneficial or harmful. The disagreement of the physicians and the difficulty of discovering the inherent nature of an edible substance does not, Ibn al-Qayyim says, mean that such substances do not have an essential nature.\footnote{1020 Ibn al-Qayyim, Miftāḥ, 2:1099-1100.}

Ibn al-Qayyim also tackles another Ashʿarī argument against the notion of maslahah, namely that the law cannot be based on the procurement of what is good because legal permissions and prohibitions are frequently overturned through the process of abrogation (naskh), whereas a law that seeks to procure the good cannot bestow differing rulings on the same act before and after abrogation.\footnote{1021 Al-Hindi, Nihāyah, 8:3332.} In his response to this line of argument, Ibn al-Qayyim explains that the expression ‘X is inherently good/ evil’ does not mean that good or evil will always follow from X without exception. The good and evil of an act are not static properties, Ibn al-Qayyim explains. Rather, they undergo change with time and place due to a variety of factors, such as the presence of countervailing forces that prevent these inherent qualities from becoming apparent.\footnote{1022 Ibn al-Qayyim, Miftāḥ, 2:928-929; Ibn Taymiyyah, al-Radd ʿalā al-mantiqīyyīn, 465-466.} Ibn al-Qayyim draws on the field of medicine to explain how this might happen. The inherent curative property of a medicinal substance, he says, might be countered by forces such as extreme body temperature and the inner weakness of a patient, which prevent him from benefitting from such substances. Similarly, a sick individual might not find his thirst quenched by water. However, a particular individual’s inability to benefit from a medicine or to quench his thirst with water does mean that medicine and water no longer have their inherent
properties of curing illness and quenching thirst. Just as a physician might prescribe the same medicine at one time and refrain from prescribing it when instead of being beneficial it is likely to cause harm, so too does the law procure the *maṣlāḥah* at some times and not at others. This, Ibn al-Qayyim concludes, is the reason God’s commands are operative when it is known that there is a *maṣlāḥah* in them and why they become prohibited when they entail harm.[1023]

Responding to the aforementioned claim of the theologians who had said that if the law were based on *maṣlāḥah*, there could be no abrogation in it, Ibn al-Qayyim develops a legal theodicy similar to that of al-Ghazālī, who had argued that the world could not be better than it was because God had created it in the most perfect way. In his account of legal theodicy, Ibn al-Qayyim argues that the law could not be contrary to what it is, as that would mean it no longer upheld the *maṣlāḥah*, a view shared by Ibn Taymiyyah.[1024] It is precisely because every rule is based on the *maṣlāḥah*, Ibn al-Qayyim says, that no divine ruling is ever abrogated in its entirety, even if it does have to be abandoned at times for a rule containing a greater benefit.[1025]

Ibn al-Qayyim also rejects another premise of the aforementioned argument, namely that since ‘evil’ acts such as lying and killing are sometimes deemed permissible and good, good and evil cannot be inherent qualities of such acts and the law cannot be said to uphold the *maṣlāḥah* when it prescribes or proscribes them. First of all, Ibn al-Qayyim says, it has not been established that lying is ever good or permissible. Even in cases where one seeks to prevent the crime of vaticide, one may only equivocate, not lie, if doing so would lead to the beneficial end of saving the life of a prophet. In such cases, even if one lies or comes close to doing so, the evil of the act is

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countered by an external factor, which proves what was mentioned earlier regarding the ability of external factors to prevent the good or evil of an act from becoming manifest. Turning to the argument that the law allows, and therefore deems good, certain types of killing, Ibn al-Qayyim responds by saying that killing is a species of act that can contain both good and evil forms. Even if a specific act of killing is evil for a particular individual, it does not follow that the act of killing is itself evil. Killing as a form of retribution, for instance, might be bad for the one being killed but is good in itself. The fact that an identical act can be good and evil in different contexts cannot, therefore, be used as an argument against acts being inherently good or evil.

Mašlahah, Ritual Law and Hardship

The traditionalists also articulate their opposition to the views of Ash‘arī scholars whom they accuse of holding the unwarranted position that the law frequently upholds contradictory rationes or that large swathes of the law – particularly ritual law – are supra rational, defying any attempt to discover in them an underlying mašlahah. The target of the traditionalists here include Ash‘arī legal theorists such as al-Ghazālī, al-Juwaynī and others. The former held that the legal dispensation allowing a traveler to wipe over his socks as a substitute for washing his feet in ritual ablutions is simply a ritual exercise devoid of rationes and mašlahah, since wiping over a barrier that covers parts of one’s body cannot, in al-Ghazālī’s view, serve a rational purpose or procure a rational benefit. According to al-Ghazālī, the benefit of such dispensations does not lie in their ability to bring about a desirable legal end such as actual purity but merely in preventing people from becoming utterly lax about their ritual obligations and abandoning

1027 Ibn al-Qayyim, Miftāḥ, 2:951.
1028 Ibn al-Qayyim, Miftāḥ, 2:1064.
1029 MF 20:287; 29:85.
them altogether.\textsuperscript{1030} Similarly, al-Ghazālī says, there is nothing suitable about the law’s imposition of the obligation of paying blood money on the relatives of a murderer.\textsuperscript{1031} Penal law is, for al-Ghazālī, yet another area of the law that is simply not amenable to qiyās because it has no discernible rationale or ‘illah.\textsuperscript{1032} Al-Juwaynī too clearly regards the penal law as something supra rational, although this does not prevent him from including it under the rubric of maṣlaḥah.\textsuperscript{1033}

By contrast, Ibn Taymiyyah holds that every area of law upholds the maṣlaḥah.\textsuperscript{1034} This includes, Ibn Taymiyyah explains, ritual law, which is desired for its own sake (even if the intellect cannot comprehend the maṣlaḥah in this area of law) as well as interpersonal law, which is not desired for its own sake but because it brings about a set of desirable objectives.\textsuperscript{1035} For Ibn Taymiyyah and Ibn al-Qayyim all legal rules, including those discussed by al-Ghazālī, such as the rules of ritual worship and penal law, are rational and based on a reasonable ratio. In fact, Ibn al-Qayyim goes further than Ibn Taymiyyah in his attempt to demonstrate that even the most seemingly supra rational of legal regulations are in accordance with God’s underlying wisdom and purposes.\textsuperscript{1036} It is deeply ironic that amongst those who criticize this trend of expounding the rationality of every legal rule, a trend encapsulated in the writings of Ibn Taymiyyah and particularly those of Ibn al-Qayyim, is the Spanish jurist al-Shāṭibī.\textsuperscript{1037} The irony arises from two

\textsuperscript{1030} Al-Ghazālī, al-Mustasfā, 2:320. See also Shifā’ al-ghalil, 318-329.
\textsuperscript{1031} For Ibn al-Qayyim’s response, see Ibn al-Qayyim, l’lām, 3:217.
\textsuperscript{1032} Al-Ghazālī, al-Mustasfā, 2:341. Nevertheless al-Ghazālī does approve of qiyās in legal punishments (hudūd) and atonements (kaffārāt); see al-Ghazālī, al-Mustasfā, 2:351.
\textsuperscript{1033} Al-Juwaynī, al-Burhān, 2:602-603.
\textsuperscript{1034} MF 8:57; 11:189-190; 14:149; Ibn Taymiyyah, Minhāj, 3:14, 28.
\textsuperscript{1035} Al-Ṭūfī, Sharḥ, Risālah, 19, 31; Opwis, “Maṣlaḥa in Contemporary Islamic Legal Theory,” 195; Hallaq, “History,” 151.
\textsuperscript{1036} Ibn al-Qayyim, l’lām.
factors. First, as al-Raysūnī points out, al-Shāṭībī himself pens one of the most formidable arguments in Sunnī Islam in favor of the view that the law is entirely based on maṣlaḥah.\textsuperscript{1038} Secondly, recent studies have now revealed that al-Shāṭībī’s own views on maṣlaḥah owe a significant debt to Ibn Taymiyyah and Ibn al-Qayyim, from whose works al-Shāṭībī reproduces long but unattributed passages in his own work on maṣlaḥah.\textsuperscript{1039}

For the traditionalists, the law’s aims of procuring the maṣlaḥah of alleviating hardship and facilitating ease are most fully realized in the issuance of legal dispensations of the sort which the dialectical theologians dismiss for serving no discernible rational maṣlaḥah and for being devoid of an ‘illah. Therefore, when it comes to the dispensations available to the traveller, which include jointly offering and shortening one’s ritual prayers and wiping over one’s socks as a substitute for washing one’s feet during ritual ablutions, the two sides are completely at odds with each other. For al-Ghazālī, there can be no qiyās on such dispensations because the law does not consistently uphold the rationes for which these dispensations have been instituted.\textsuperscript{1040}

\textsuperscript{1038} For more on this, see Opwis, “Maṣlaḥa in Contemporary Islamic Legal Theory,” 196; Opwis, “Islamic Law and Legal Change,” 68.

\textsuperscript{1039} al-Raysūnī’s view that there was no genealogical relationship between the works of the Ḥanbalī traditionalists and al-Shāṭībī must now be regarded as incorrect. In his introduction to al-Shāṭībī’s al-ʿītisām, Mashhūr Ḥasan presents almost a dozen passages in al-Shāṭībī’s works wherein al-Shāṭībī reproduces, almost word for word, entire passages, phrases or sentences from the Bayān al-dalīl of Ibn Taymiyyah, often including the mistakes made by the scribes who copied Ibn Taymiyyah’s work. This, evidence, coupled with the fact that al-Shāṭībī studied under the jurist ‘Abd Allah al-Maqqari, an associate of Ibn al-Qayyim, must be regarded as preponderant evidence of al-Shāṭībī’s reliance on the works of Ibn Taymiyyah and Ibn al-Qayyim. See al-Shāṭībī, al-ʿītisām, 1:80 (editor’s intro.). Before Mashhūr Ḥasan, the influence of Ibn Taymiyyah on al-Shāṭībī was also commented on by the late Saudi scholar Bakr Abū Zayd and Yūsuf al-Badawī. The latter recounts that he pointed Mashhūr Ḥasan to the similarities between the aforementioned passages in which al-Shāṭībī copies from the work of Ibn Taymiyyah. See al-Badawī, Maqāṣīd, 67, 265, 508, 514-515-517.

\textsuperscript{1040} Al-Ghazālī, al-Mustasfā, 2:341, 351.
turban worn on the head, even though undoing one’s turban might involve the same level of hardship as removing one’s socks. Al-Ghazālī also insists that one cannot analogize between socks and other articles of footwear that do not cover the entire foot. The fact that the law has specifically allowed wiping over socks but not wiping over turbans or other articles of footwear means that the latter cases do not entail a level of hardship substantial enough to trigger a dispensation. Likewise, one cannot analogize between the dispensation available to the traveler, who may shorten his ritual prayers and offer them jointly rather than individually, and a sick person who is not travelling who would also have to face hardship if he were required to perform his individual prayers in their full form. The law only allows a non-traveller who is sick to combine his prayers, not to shorten them, says al-Ghazālī because that is all a sick person is in need of.¹⁰⁴¹

For al-Ghazālī, it is simply untenable to issue non-scriptural dispensations on the grounds that God desires the lifting of hardship, because the law frequently prescribes acts that involve considerable hardship. Al-Qarāfī, as we recall, thought that even legally permissible acts such as eating lawful food and wearing lawful clothes involves such a high degree of harm and hardship that they ought not to be permissible in a legal system that aims to bring about ease and to alleviate hardship. Al-Qarāfī’s view on the matter lead him to object to al-Rāzī’s definition of dispensations as acts that are permissible despite the existence of a countervailing cause.¹⁰⁴²

According to al-Qarāfī, since every permissible act has been made permissible despite the existence of a countervailing cause, namely a level of hardship which ought to make it

¹⁰⁴² Al-Rāzī, al-Maḥṣūl, 1:331.
impermissible, al-Rāzī’s definition would result in every permissible act being regarded as a dispensation.\textsuperscript{1043}

Nothing could be further from the foregoing analysis than the traditionalist view that ritual law and legal dispensations incorporate the \textit{maṣlahah} and are eminently suited to serve as the foundational rule in \textit{qiyās}. For the traditionalists, the underlying purpose and rationale of legal dispensations is to lift hardship and facilitate the easy performance of one’s ritual obligations. We have already encountered examples of this approach in Ibn Taymiyyah’s rejection of the view that God desires the hardship entailed in legally prescribed acts and that the level of hardship entailed in such acts determines their level of obligation.\textsuperscript{1044} Ibn Taymiyyah, as we recall, offers the example of two individuals who live at unequal distances from a mosque, both of whom are commanded to travel to the mosque to offer their Friday prayers, even though one of them faces greater hardship in doing so. According to Ibn Taymiyyah, if the hardship involved in going to the mosque was something required for its own sake by God, the person who lives further from the mosque would be under a greater obligation to pray therein. However, Ibn Taymiyyah argues, the contrary is closer to being the case, as the person living further away from the mosque is arguably under a lesser obligation to pray at a Mosque located at a great distance from his house because this would expose him to hardship, which the Lawgiver does not desire.\textsuperscript{1045}

A close examination of Ibn Taymiyyah’s views on the legal dispensations which have been instituted in ritual law reveals the distance which separates his understanding of the role of \textit{maṣlahah} in the law from that of the dialectical theologians. We see, for instance, that Ibn

\textsuperscript{1043} Al-Qarāfī, \textit{Naṣīrīs}, 1:331-332. See also Opwis, \textit{Maṣlaḥa}, 143.
\textsuperscript{1044} MF 25:151.
\textsuperscript{1045} MF 10:300, 20:89-90.
Taymiyyah’s understanding of the maṣlaḥah of alleviating hardship leads him to dispense with the somewhat arduous conditions which most jurists insist must be met before the dispensation of sock-wiping can be availed, for instance the condition that a sock which is wiped over may not be torn or expose part of the foot. The imposition of such restrictions on these dispensations is not just scripturally unwarranted in Ibn Taymiyyah’s view; it also undermines their raison d’être: the removal of hardship and the facilitation of ease. Against the overwhelming majority of jurists then, Ibn Taymiyyah allows torn socks which leave parts of the foot exposed to be wiped over. The purpose of a legal concession, Ibn Taymiyyah says, is to remove hardship and create ease. It would be quite contrary to the spirit and rationale of a concession to withhold it from the class of people who stand in greatest need of it, for instance travellers and the poor who because of their circumstances are often compelled to wear socks that are worn out and torn. This consideration, coupled with the absence of a specific hadith prohibiting the act of wiping over torn socks suffices, in Ibn Taymiyyah’s view, to establish that the legal concession of wiping over socks extends to torn socks that expose parts of the foot.1046

Because Ibn Taymiyyah and Ibn al-Qayyim regard dispensations as an eminently rational area of the law, they also approve of the practice of analogically extending such dispensations on the basis of their underlying rationale, namely the alleviation of hardship and the facilitation of ease. Both scholars, for instance, approve of the practice of wiping over a type of foot covering known as a jawrab, for wiping over which there was no established Prophetic precedent as there

was in the case of socks, but which had nevertheless been allowed by analogy with the practice of sock-wiping by jurists such as Ibn Ḥanbal.¹⁰⁴⁷

Al-Ghazālī, as we saw, alluded to the anomalous nature of the legal provisions governing the dispensations related to travel, pointing out that the law allowed a traveller who did not experience any hardship in his travels to avail the dispensation of shortening his prayers but withheld this same dispensation from non-travelers experiencing hardship. The Ashʿarī Ṣafī al-Dīn al-Hīndī explains that there are times when the law does not procure benefits, a proposition he demonstrates by pointing to the example of the dispensations related to travel. A travelling king, he says, is allowed to avail the dispensation of not fasting, even though doing so would not involve any hardship for him.¹⁰⁴⁸ Ibn al-Qayyim’s discussion of this issue reveals a fundamental difference between traditionalist and Ashʿarī thinking on maṣlaḥah. For Ibn al-Qayyim, the very premises on which his opponents construct their argument regarding the anomalous nature of the law are invalid. It is simply unimaginable, he says, for travel not to involve hardship, as every traveler is away from home and hence out of what in modern parlance be called his ‘comfort zone.’ This view of travel is borne out by a ḥadīth in which the Prophet calls travel a type of torment. Therefore, Ibn al-Qayyim concludes, travel is in itself a form of hardship, even for kings travelling in the most luxurious manner.¹⁰⁴⁹ There is therefore nothing anomalous or supra rational in the law granting a legal concession to all travellers. Rather, Ibn al-Qayyim insists, only by doing so does the law uphold the maṣlaḥah.

This view of maṣlaḥah also contributes to the traditionalist position on the scope and definition of travel. For the majority of jurists, the aforementioned dispensations can only be availed

¹⁰⁴⁸ Al-Hīndī, Nihāyah, 8:3293.
during a journey that covers a specific distance and extends for a specified duration (ranging from three days to fifteen depending on the legal school). Ibn Taymiyyah and Ibn al-Qayyim, however, maintain that since the underlying purpose of these dispensations is the alleviation of hardship that is an inevitable part of travelling, one may avail them as long as one is a traveller. The only requirement for availing these dispensations, according to Ibn Taymiyyah, is that one be engaged in what is considered travel, which involves a journey for which one prepares by stocking provisions and the like. Beyond this, Ibn Taymiyyah says, the law allows anyone engaged in lawful travel and thus experiencing the hardships related to it to avail the dispensations of travelling, regardless of the distance and duration of one’s journey.¹⁰⁵⁰

Legal dispensations are not the only area of the law whose contours are shaped by traditionalist ideas on God’s love and maṣlaḥah. As we saw in the previous chapter, Ibn Taymiyyah’s understanding of maṣlaḥah also lies at the heart of some of his controversial verdicts, such as the one in which he allowed a menstruating woman to perform ṭawāf around the Kaʿbah, a verdict that Ibn Taymiyyah says is in keeping with the general principles of the law. The law, he argues, upholds the principle that an individual not be held liable for failing to fulfill a condition of performing an act that was beyond his capacity. Moreover, Ibn Taymiyyah argues, the law cannot prohibit things for which the people have a genuine need.¹⁰⁵¹ Somewhat similar to this is the case of a menstruating woman who needs to recite the Qurʾān or enter a Mosque, both of which Ibn Taymiyyah allows her to do on the grounds that withholding permission for such acts would be contrary to the maṣlaḥah which underlies the law.¹⁰⁵² Considerations of maṣlaḥah also influenced Ibn Taymiyyah’s and Ibn al-Qayyim’s views on the validity of acts of worship that had

¹⁰⁵⁰ MF 19:131.
¹⁰⁵¹ MF 26:98, 100.
¹⁰⁵² MF 26:98.
been performed imperfectly, whether because of ignorance,\textsuperscript{1053} a mistake or forgetfulness,\textsuperscript{1054} or because of sheer incapacity.\textsuperscript{1055} It would be contrary to the purpose and spirit of the law, these scholars argued, for the law to require the repetition of such acts. \textit{Maṣlaḥah} also plays an important role in Ibn Taymiyyah’s political philosophy, leading him to dispense with the formalism of Ashʿarī political theory and recognize the legitimacy of \textit{de facto} political and social structures that are set up to realize the \textit{maṣlaḥah}.\textsuperscript{1056}

But of course, traditionalists thinking on divine love and \textit{maṣlaḥah} influences legal theory across the board, and not only in the discrete area of law relating to legal dispensations. We have already seen that when responding to those who argue that God punishes disbelievers for eternity, Ibn al-Qayyim responds that it is inconceivable that God would continue to torment an individual beyond the period necessary for his vastation. Eternal punishment, Ibn al-Qayyim declares, would be entirely contrary to the \textit{maṣlaḥah}.

\textsuperscript{1057} Similarly, we have seen the traditionalists insist that language itself must serve a \textit{maṣlaḥah}. This belief influences the traditionalist rejection of the Ashʿarī doctrine of inner speech which, they argue, does not serve the \textit{maṣlaḥah}. Ibn al-Qayyim also rejects the notion of taʿwil advanced by scholars such as Ibn Rushd on similar grounds, arguing that it undermines the \textit{maṣlaḥah} of revelation by suggesting that in granting them a revealed message God simply wants to test His servants by confounding them with ambiguous statements.\textsuperscript{1058} Likewise, the traditionalists argue, unwarranted taʿwil of God’s attributes of love and mercy nullifies the \textit{maṣlaḥah} by hindering man from inculcating in

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\textsuperscript{1053} MF 21:424; 22:28; 23:24. \\
\textsuperscript{1054} MF 20:309, 311; 21: 271, 21:117, 26:69, 102, 110. \\
\textsuperscript{1055} MF 21:242, 248, 26:113, 125. \\
\textsuperscript{1056} Anjum, Taymiyyan. \\
\textsuperscript{1057} Ibn al-Qayyim, \textit{Ḥādi al-ʿarwāḥ}, 773. For other legal examples, see Āl Maṣṣūr, \textit{Tajdīd}, 96. \\
\textsuperscript{1058} Ibn al-Qayyim, \textit{al-Ṣawāʾiq}, 2:413. Here Ibn al-Qayyim is quoting a lengthy passage from Ibn Rushd which was referenced earlier.
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himself the sort of love and adoration of God which the law aims to instill in man and which can only come from affirming the reality of God’s beautiful names and attributes.\textsuperscript{1059}

**Causality, Hardship and \textit{Maṣlahah}**

There are other ways in which Ashʿarī theology supports the conclusion that the hardship accompanying legal acts is something created and desired by God, thereby making it impossible to argue that the law serves the \textit{maṣlahah} of alleviating hardship. For a number of Ashʿarī theologians, the secondary effects of acts (\textit{tawallud}), such as the relief one feels when scratching one’s self, the knowledge that one acquires when one engages in reflection and the movement of a stone that one pushes, are all created by God. They do not result from the act itself. Al-Bāqillānī explains that power, being an accident that cannot last for two consecutive moments, must end with the performance of the act itself and cannot therefore be responsible for bringing about its secondary effects.\textsuperscript{1060} Al-Baghdādī, too, points to the error of those who hold that a person is responsible for the secondary consequences of his action, such as the pain which follows when one hits someone. The Ashʿarīs, he says, hold that all such secondary consequences are not caused by man, nor are they attributable to him. Rather, they are produced by God.\textsuperscript{1061} A theory of this sort makes it virtually impossible to insist that the law aims to alleviate the pain and hardship that follows the performance of permissible acts, for this pain and hardship does not, according to this theory, result from the performance of the act itself but is actually created and therefore (in Ashʿarī theology at least) desired by God.\textsuperscript{1062} For as al-Bāqillānī reminds us,

\begin{footnotesize}
\textsuperscript{1061} Al-Baghdādī, \textit{Uṣūl}, 137-138.
\end{footnotesize}
Ashʿarī theology teaches that to believe that something can happen in the kingdom of God that He does not desire is to attribute incapacity to God.\textsuperscript{1063} If God institutes laws that are accompanied with hardship then, this is a sign that He wills and desires that hardship to exist. For the Ashʿarī al-Būṭī, the benefit and harm in acts is therefore a result of the legal designation given to them by the law. Accordingly, al-Būṭī says, one must often simply affirm that the rulings of God procure the \textit{maṣlaḥah} and leave it at that.\textsuperscript{1064}

Al-Qarāfī offers similar reasons for rejecting the Muʿtazilite view that God is obliged to do that which is beneficial. The Muʿtazilah, he says, cannot explain away the hardships that exist, even in acts that God has made obligatory, nor the various harms and evils that accompany such acts.\textsuperscript{1065} The Ashʿarīs, it would appear, can explain the existence of hardship in God’s law because for them attributing \textit{maṣlaḥah} to the law of God does not preclude that law from being harsh, irrational or unjust. Rather, the Ashʿarī affirmation of \textit{maṣlaḥah} corresponds, as we said, to the Ashʿarī affirmation of the divine attributes: one must affirm them without allowing the meaning these terms bear in human discourse to affect one’s understanding of the divine. For the Ashʿarīs even the infliction of undeserved pain and suffering by God must be termed good.\textsuperscript{1066}

Moreover, the Ashʿarīs only affirm the existence of \textit{maṣlaḥah} in general terms, not at the level of specific legal rules, some of which (such as the rules related to ritual law, which Ashʿarīs such as al-Ghazālī regard as supra rational to begin with)\textsuperscript{1067} are affirmed by the Ashʿarīs to be contrary to the \textit{maṣlaḥah}. For the Ashʿarīs, let us recall, regard \textit{maṣlaḥah} to be a result of divine

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  \item \textsuperscript{1063} Al-Bāqillānī, \textit{al-Insāf}, 151, 155.
  \item \textsuperscript{1064} Al-Būṭī, \textit{Dawḥīt}, 65. This is not to deny that Ashʿarī scholars, including al-Būṭī himself as well as al-Shāṭibī and al-ʿIzz b. ʿAbd al-Salām can develop coherent accounts of \textit{maṣlaḥah}. The question we are interested in is the relationship between these legal positions and theology.
  \item \textsuperscript{1065} Al-Qarāfī, \textit{Nafīʿis}, 1:352, 376.
  \item \textsuperscript{1066} Al-Juwaynī, \textit{al-Irshād}, 273.
  \item \textsuperscript{1067} Al-Ghazālī, \textit{al-Mustaṣfā}, 2:320, 322, 340-341. See also al-Ghazālī, \textit{Shīfāʾ al-ghaliḥ}, 318-329.
\end{itemize}
choice, not a matter of obligation, thereby allowing the existence of rules that are contrary to the *maṣḥalah*. Therefore, when confronted with examples of laws that entail hardship and harm, Ashʿarīs such as al-Qarāfī point to verses of the Qurʾān which proclaim that God does what He wills and that He is not questioned about His acts [Q., Ibrāhīm, 14:27; al-Anbiyāʾ, 21:23]. The Muʿtazilah, al-Qarāfī says, do not have this option, for if they concede that particular laws might not be beneficial, their insistence on God’s justice loses some of its force and, in the words of al-Qarāfī, ‘the very foundations of their belief are shaken.’

**Maṣḥalah and Impossible Obligations**

The differences between Ashʿarī and traditionalist thinking on *maṣḥalah* and the alleviation of hardship are also revealed in their contrasting answers to the question of whether or not it is possible for God to impose an impossible obligation, one that His subjects are incapable of performing (*taklīf mā lā yuṭaq*). For the Muʿtazilah and the traditionalists, God could not command the impossible. By contrast, the Ashʿarīs – with a few noticeable exceptions such as al-Ghazālī and Abū ʿIṣḥāq al-Isfaraʿīnī – are generally associated with the view that God can impose obligations of this sort.

The debate on the issue revolves entirely around the meaning and implication of God’s love, grace and *maṣḥalah*. For most Muʿtazilites, man must have the ability to perform an act before the time of its performance. If God were to issue a command and then withhold from man the ability to perform it, the Muʿtazilah argue, this command would constitute an impossible obligation. God’s justice and grace therefore dictate that He give man the ability to perform an

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1068 Al-Qarāfī, Nafīʿīs, 1:352, 353.
act before the time of its performance.\textsuperscript{1070} For the Ashʿarīs, however, the power to perform an act, an accident like any other, does not last two consecutive moments.\textsuperscript{1071} The ability to perform an act cannot, therefore, exist prior to the time of its performance, for if it did, it would not exist at the actual time of performance itself, which would lead to the absurdity of an act coming into existence without power.\textsuperscript{1072} Accordingly, the Ashʿarīs say, it must be the case that man acquires the ability to perform an act at the time of its performance. God’s grace, the Ashʿarīs argue, lies precisely in His granting man the power and ability to perform legally approved acts, without which man would be powerless to obey God.\textsuperscript{1073}

The Ashʿarī doctrine on power coinciding with performance and not preceding it lead to the vexing conclusion that all obligations are impossible, at least at the time when they are commanded, because the ability to fulfill these obligations has been withheld from man until the time of performance.\textsuperscript{1074} Moreover, as we pointed out earlier, Ashʿarī theology is strictly determinist, holding not only that man lacks any real independent power of action but also that all human acts are in fact created by God.\textsuperscript{1075} In the words of al-Juwaynī, any divine command directing a man to act is in fact an impossible command obliging man to perform an act of God, since Ashʿarī theology regards God, not man, as the author of all human acts. The solution to

\textsuperscript{1070} See ʿAbd al-Jabbār, Sharb, 396; al-Zarkashī, Salāsil, 161; al-Ashʿarī, Maqālāt, 1:300.
\textsuperscript{1071} Al-Juwaynī, al-Irshād, 217; al-Zarkashī, Salāsil, 167; al-Armawi, al-Taḥṣīl, 1:316, 319. See also Al-Ashʿarī, Maqālāt, 2:48.
\textsuperscript{1072} Al-Bāqillānī, al-Tamhīd, 287; al-Bāqillānī, al-Inṣāf, 44-45; al-Ashʿarī, Maqālāt, 2:84-85; al-Armawi, al-Taḥṣīl, 1:319; al-Asnawi, Niḥāyah al-sūl, 1:345; al-Rāzī, Maʿālim, 89, 91. See also Ibn Taymiyyah, Majmūʿah al-rasāʾīl, 1:367; MF 8:179-180, 222, 278-279, 14:64; Ibn Taymiyyah, Darʾ, 1/64; al-ʿArūsī, al-Masāʾil, 132, 137. Hallaq argues that their opposition to the notion that causes could exist without effects lead Ḥanafīs such al-Sarakhsi to embrace the Muʿtazilite doctrine that humans must have the ability to act prior to action. See Hallaq, History, 135.
\textsuperscript{1073} Al-Ashʿarī, al-Ibānah, 182, 185; al-Juwaynī, al-Irshād, 300.
\textsuperscript{1074} Al-Zarkashī, Salāsil, 232.
\textsuperscript{1075} See, for instance al-Rāzī, al-Maṭālib, 9:19; al-Juwaynī, al-Irshād, 203.
these dilemmas, al-Juwaynī says, lies 'in the secret of our position regarding the doctrine of acquisition (kašb)'.

The Ashʿarī view on impossible obligations is also related to the Ashʿarī theories of divine love and determinism in another way. For as we recall, the traditionalists and the Ashʿarīs have very different ways of understanding the relationship between divine love and command. For Ibn Taymiyyah and Ibn al-Qayyim, God loves what He commands in a normative sense, even if He wills disobedience to His commands in an existential sense. By contrast, the Ashʿarīs insist that God commands things such as belief and righteousness without loving or willing them, for if He willed them, such commands would necessarily be fulfilled and there would be no disbelief or sinfulness in the cosmos. For the Ashʿarīs, then, the fact that God's commands are violated proves that God cannot be said to love obedience to His commands. Accordingly, the Ashʿarīs maintain, God can issue commands which He knows His servants will never perform and which are thus made impossible for the servant to perform because God never willed the fulfilment of these commands. In fact, the Ashʿarīs argue, this is actually the case with every command

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1076 Al-Juwaynī, Burhān, 1:102-104.
1080 Al-Zarkashi, Salāsil, 159; Ibn Taymiyyah, MF 8:177-178, 294. See also al-Baṣrī, al-Muṭṭamad, 1:150-152, Abū Yaʿlā, al-ʿUddah, 3:392-394 (where the author fails to distinguish the Ashʿarī view from those of the traditionalists); al-ʿArūsī, al-Masāʾīl, 175.
directing a disbeliever to submit to God. All such commands are impossible, given that the submission of the disbeliever has been made impossible by God’s will that it never occur.\(^{1081}\) The imposition of such impossible commands therefore also demonstrates, according to the Ashʿarīs, that God’s law does not cater to the maṣlaḥah of man.\(^{1082}\) For the ultimate purpose of God’s law, according to the Ashʿarīs, is not the attainment of any set of purposes that are loved by God. Rather, the Ashʿarīs say, God’s commands serve as a test for His creation.\(^{1083}\)

The Ashʿarīs are also, as we saw, resolutely unimpressed with the argument that God may not issue an impossible command which He knows will not be fulfilled because to do so would be a purposeless act on His part. God, the Ashʿarī theologians point out, is not obliged to issue commands in accordance with a purpose at all. On the contrary, nothing is necessary for God.\(^{1084}\) Al-Qarāfī, setting out the Ashʿarī view, says that a sleeping person, a lunatic and an animal can all be subjected to legal obligations, even if they would never be able to fulfill them, because the imposition of an impossible obligation is regarded as permissible by the Ashʿarīs.\(^{1085}\) Al-Ghazālī, while disagreeing with the prevailing Ashʿarī view that impossible obligations are permissible, nevertheless insists that the imposition of impossible obligations by God cannot be denied on the grounds that to do so would be a purposeless act. Such terms, he says, simply do not apply to God.\(^{1086}\) A similar argument is offered by al-Taftāzānī, who says that the Ashʿarī view on the issue follows from the school’s doctrine on the moral status of good and evil. Since God is not bound by such categories, there can be nothing evil in Him imposing impossible obligations.\(^{1087}\)

\(^{1081}\) Al-Rāzī, Maʿālim, 91; al-Rāzī, Muḥaṣṣal, 202; al-Ījī, Mawāqīf, 330-331.
\(^{1082}\) Al-Rāzī, al-Maṭālib, 3:305.
\(^{1083}\) Al-Taftāzānī, Sharḥ, 4:278.
\(^{1084}\) Al-Taftāzānī, Sharḥ, 4:296; al-Juwaynī, al-Irshād, 268.
\(^{1085}\) Al-Qarāfī, Naṣīṭās, 1:362.
\(^{1086}\) Al-Ghazālī, al-Iqtisād, 144, 158-159; al-Ghazālī, al-Mustaṣfā, 1:215; al-Juwaynī, al-Irshād, 226, 288.
\(^{1087}\) Al-Taftāzānī, Sharḥ, 4:296.
Elsewhere, al-Ghazālī says that God can perform purposeless acts such as forgiving all sinners and refusing to reward the believers without contradicting His nature and attributes. Even a divine command to utter words of disbelief is not regarded as impossible in Ashʿarī theology. Only a command to disbelieve in one’s heart is impossible, explains al-Baghdādī. Here too, the impossibility does not arise out of any obligation on the part of God to refrain from issuing commands that are evil or rationally abhorrent. Rather, a command to disbelieve is impossible because it can only be obeyed by a person who has already accepted the existence of God in the first place.

Al-Baghdādī also states that God’s entire creation could consist of lifeless forms without this diminishing His wisdom in any way. There are those, he says, who harbor the heretical notions that God must create living forms, capable of recognizing and adoring Him. To them, al-Baghdādī directs the following question: if it is permissible for all of creation to perish and be lifeless between the blowing of the two trumpets that herald the day of judgment, why is it not permissible for all of creation to be eternally lifeless? Al-Baghdādī’s question deserves some attention here because, unlike al-Ghazālī’s assertions regarding the permissibility of God rewarding sinners and condemning the righteous, it raises a defense of the Ashʿarī view that we have not hitherto encountered. One response to al-Baghdādī’s question might be found in Ibn al-Qayyim’s didactic Ode in N where he declares that there are created things, such as God’s throne, as well as created beings, such as the maidens and epheboi of heaven, that never perish. According to Ibn al-Qayyim then, al-Baghdādī’s argument that the annihilation of all

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1088 Al-Ghazālī, al-Iqtisād, 165.
1089 Al-Baghdādī, Uṣūl, 214.
1090 Al-Baghdādī, Uṣūl, 151.
1091 Ibn al-Qayyim, al-Kāfiyah, 1:78, (Verse 118-119). For Ibn Taymiyyah’s views on God’s perpetual creativity, see Jon Hoover, Theodicy.
creation shows that God’s creation need not conform to a wise purpose is entirely wide off the
mark, for the signs of God’s power (such as His throne) and His mercy (such as heaven and the
beings created to abide therein) can never perish in their entirety. Ibn Taymiyyah too, as is well
known, argued that the class of objects created by God was eternal since there was never a time
when God’s creative power was not manifest.¹⁰⁹²

When it comes to obligations which are incapable of being performed, Ibn Taymiyyah concurs
with the majority of jurists in denying the existence of such obligations.¹⁰⁹³ God Himself, Ibn
Taymiyyah says, proclaims that He has not imposed any hardship or harm on His servants. It is
therefore wrong to believe that God could command something that was incapable of being
performed, harmful or devoid of *maslahah*.¹⁰⁹⁴ Ibn Taymiyyah also remarks that the debate over
the existence of impossible obligations is theoretical, since nobody insists that impossible
obligations actually exist.¹⁰⁹⁵ While perplexing at first sight, it would appear that Ibn Taymiyyah
is referring here to the fact that even the Ashʿarīs, who defend the theoretical existence of
impossible obligations, agree that everything that has been made an obligation by God is capable
of being performed by man, even if it is God Himself who compels man to act. Moreover, despite
their passionate defense of the view that impossible obligations could exist, a number of Ashʿarīs
actually insist that a command does have to meet a minimum threshold of capacity, thereby
implicitly ruling out the possibility that an entirely impossible obligation could exist. At the very
least, these scholars argue, a command has to be capable of being understood.¹⁰⁹⁶ Significantly,

¹⁰⁹² Hoover, *Theodicy*; Michot, “Mamluk.”
¹⁰⁹³ For the general juristic rejection of impossible obligations, see Ibn al-Amīr, *al-Kāmil fī Uṣūl*, 2:581. For Ibn
Taymiyyah’s position on this and the related question of voluntarism, see Ibn Taymiyyah, Darʾ, 1:60-63; MF 8:176-178, 283, 294; Ibn Taymiyyah, Minhāj, 3:104.
¹⁰⁹⁵ See MF 3:198. A similar statement is made in al-Ṭūfī, Darʾ, 348 (what is affirmed by those who affirm impossible
obligations is their possibility, not their occurrence).
this is not just the position of scholars such as al-Ghazālī, who are regarded as having disagreed with the Ashʿarī position on impossible obligations.\textsuperscript{1097} Al-Baghdādī reports that there are a number of Ashʿarīs who insist that in order to be valid an obligation can only be imposed upon someone who is capable of perceiving it.\textsuperscript{1098} One such scholar is the Ashʿarite al-Armawī, who states that there cannot be any imposition of legal responsibility upon someone who is genuinely ignorant.\textsuperscript{1099}

\textit{Mašlaḥah and Abrogation}

The Ashʿarī stance on the issue of impossible obligations also determines the school’s position on a related controversy, namely the possibility of God abrogating an obligation prior to the time of its performance. The Ashʿarī Ṣafī al-Dīn al-Hindī rejects the Muʿtazilite view that an abrogation of this sort is impossible because the purpose of a command is to bring about obedience and a command that is abrogated before it can be obeyed becomes purposeless. Against the Muʿtazilah, Ṣafī al-Dīn al-Hindī presents the standard Ashʿarī view of God’s commands, which he says, need not have a purpose or benefit.\textsuperscript{1100}

Al-Hindī’s position on the possibility of commands that are abrogated prior to the time of their performance can, once again, be usefully compared with that of the traditionalists. For although Ibn Taymiyyah and Ibn al-Qayyim, along with their Ḥanbalī forebears, agree with the Ashʿarīs that commands can actually be prohibited before their time, their reasons for doing so are not those of al-Hindī, who argued that commands need not have a purpose or benefit. Rather, the traditionalist authors of the \textit{Musawwadah} explain that religious obligations have two sets of

\textsuperscript{1097} Al-Zarkashi, \textit{Salāsil}, 157.
\textsuperscript{1098} See also al-Baghdādī, \textit{Uṣūl}, 212.
purposes or benefits. One of these arises from the issuance of legal commands themselves and not from the action that is commanded. Even if it is abrogated before it is obeyed, a command still serves the purpose of providing God’s servants with an opportunity to affirm the command and to form a resolve to fulfill it when the time for its performance comes. The other purpose and benefit of religious obligation is that it procures the benefit and maṣlaḥah of man.\footnote{Āl Taymiyyah, al-Musawwadah, 1:171, 175; al-ʿArūsī, al-Masāʾil, 160; see also al- Başrī, al-Muʿtamad, 1:150 (since the command is willed, it must come to pass); ʿAbd al-Jabbār, al-Mughnī, 11:421.} Like the authors of the Musawwadah, Ibn al-Qayyim also thinks it a mistake to regard the maṣlaḥah of an act as arising exclusively from itself. Rather, he says, the maṣlaḥah can be obtained by the act (like the act of speaking the truth or doing justice), by a command that makes what otherwise be a non-beneficial act into a beneficial one (like certain ritual acts) or by a combination of both, which is the case with the vast majority of legal acts, whose benefit arises from the acts themselves and from the fact that they have been prescribed.\footnote{Ibn al-Qayyim, Miftāḥ, 2:1012; Ibn al-Qayyim, Madārij, 2:243.} The traditionalists therefore develop a position that is distinct from the Muʿtazilah and the Ashʿarīs. Against the Muʿtazilah, they hold that a command can be abrogated before the time of its performance. Against the Ashʿarīs, they maintain that even such commands have a wise purpose.

Once again, what is clear is that Ashʿarī legal theory has a very particular understanding of the sort of acts that must be denied of God, even if one affirms that He upholds the maṣlaḥah, which is itself a difficult concession to make for Ashʿarism. The Ashʿarī affirmation of maṣlaḥah in God’s law is similar to the Ashʿarī affirmation that God is loving, merciful and wise and that everything He does is good. In all these cases, the Ashʿarīs argue, we must resist our temptation to impose our understanding of these words on the divine. Human reason is simply not qualified to determine what God’s wisdom and maṣlaḥah might entail. All it can do is demonstrate the
necessity of resisting our limited, human understanding of these terms from shaping our notions of the divine. For the traditionalists, on the other hand, God speaks to man’s intellect and soul using words that man knows and understands. Since the words God uses to describe Himself, words such as wise, loving and merciful, are a way of knowing something real about Him, the traditionalists argue that one can attribute certain kinds of acts to God and not others. The same applies, mutatis mutandis, to the notion of maṣlaḥah in God’s law.

To conclude this section, we can see that it is precisely in the details of the debate over the scope of maṣlaḥah that we see the extent of the differences between the legal theory of the dialectical theologians and that of the traditionalists. For as Ibn al-Qayyim says, while everyone may agree that God does not oppress His servants, there is no agreement on the sort of acts which must be regarded as impossible for God to perform. Ibn Taymiyyah, as we know, rejects the views of a group of scholars which included, according to him, al-Ashʿarī and Ḥanbalis such as Abū Yaʿlā. The latter, Ibn Taymiyyah says, argued that it cannot be unjust of God to bring about that which is possible. Their reasons for adhering to this belief, Ibn Taymiyyah says, are that they believe injustice in relation to God can only mean doing that which is impossible, such as making something present and absent at the same time. As for acts that are within God’s power, it cannot be unjust of God to perform them, according to the argument of these scholars as cited by Ibn Taymiyyah, because injustice can only refer to disposing of someone else’s property or not obeying someone whom one is bound to obey. And indeed we see this line of thought being traced in the work of al-Baghdādi, who argues that even the creation of disbelief and sinfulness

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1104 Ibn Taymiyyah, Jāmiʿ al-rasāʾīl, 1:123.
1105 Ibn Taymiyyah, Jāmiʿ al-rasāʾīl, 1:121.
by God cannot be regarded as an injustice since their creation does not entail doing the impossible.\textsuperscript{1106}

Ibn Taymiyyah has a different understanding of injustice, which he defines as positioning a thing somewhere other than its proper place. Therefore, Ibn Taymiyyah says, the statement that God acts in accordance with wisdom and justice has a specific meaning.\textsuperscript{1107} It necessarily precludes attributing certain kinds of acts to God, but the things thus precluded of God are not logically impossible acts, as argued by the Ashʿarīs. Rather, Ibn Taymiyyah says, the sort of things which are impossible for God are those which would involve God acting in a way that was contrary to His purpose of inculcating His love in man. It is therefore impossible for God to punish the righteous for the sins of the guilty and to deal with the righteous and the wicked in an identical way.\textsuperscript{1108} Ibn al-Qayyim also rejects the argument of Ashʿarīs such as al-Qarāfī who held that the Qurʾān’s declaration that God is not questioned about what He does is an admission that God can act contrary to the \textit{maṣlaḥah}. In Ibn al-Qayyim’s interpretation, the verse in question does not merely allude to God’s power but also to the perfection of His judgment in exercising it, which is what makes it impossible to quesiton it.\textsuperscript{1109} In the next and final section of this chapter, we shall see how the differences between the theologians and the traditionalists over the scope of \textit{maṣlaḥah} in God’s law lead the traditionalists to fault Ashʿarīs such as al-Ghazālī for advocating a doctrine of \textit{maṣlaḥah} which the traditionalist regarded as limited and flawed.

\textsuperscript{1106} Al-Baghdādī, \textit{Uṣūl}, 131.
\textsuperscript{1107} Ibn Taymiyyah, \textit{jāmiʿ al-rasāʾil}, 1:124.
\textsuperscript{1108} MF 8:28-29, 257-258; Ibn Taymiyyah, \textit{Minḥāj}, 1:135, 2:311, 3:88, al-Mawṣūli, \textit{Mukhtaṣar}, 2:576-577, 591, 631 (we do not compel God to uphold \textit{maṣlaḥah}. Rather, we say that He does have a wisdom in everything He does which surpasses being encompassed by the intellect of man).
\textsuperscript{1109} Al-Mawṣūli, \textit{Mukhtaṣar}, 2:585-586.
IV. Al-Ghazālī’s Fivefold Taxonomy

Having dealt with the general differences between the theories of ḥaṣ – as an expression of God’s love – upheld by the theologians and the traditionalists, we end this chapter with a comparative study of the popular theory of ḥaṣ advanced by al-Ghazālī and its substantial critique by Ibn Taymiyyah and Ibn al-Qayyim, showing how the two sides were in fundamental disagreement about the scope of ḥaṣ in God’s law.

In his discussion of ḥaṣ, al-Ghazālī famously proposes that the benefits which the law aims to secure can be divided into a set of five aims: the protection of life, property, honor, intellect and religion. This fivefold taxonomy of ḥaṣ has been followed widely by those who came after al-Ghazālī.\(^\text{1110}\) Al-Rāzī, for instance, says that the necessary aims of the law are limited to the protection of the five basics identified by al-Ghazālī.\(^\text{1111}\) According to al-Qarāfī, the promotion of these five values forms the basis not just of Islamic law but of all revealed religions.\(^\text{1112}\) The late Ashʿarī scholar al-Būṭī suggests that only the five values articulated by al-Ghazālī should be considered when determining what weight to give to competing legal principles.\(^\text{1113}\)

Ibn Taymiyyah advances an explicit and wide ranging critique of al-Ghazālī’s fivefold taxonomy of ḥaṣ and the attempts of subsequent scholars to make every ḥaṣ fit into one of the five categories proposed by al-Ghazālī. Such attempts, he says, are entirely misguided. Rather,

\(^{1110}\) For a different view of the five maqāṣid, see Ibn Farḥūn, Tabṣīrah, 2:116. On the relationship between ḥaṣ and maqāṣid, and al-Ghazālī’s influence on authors in the field, see Opwis, “Maṣlaḥa in Contemporary Islamic Legal Theory,” 183, 188; Opwis, “Islamic Law and Legal Change,” 65-66. Zysow suggests al-Ghazālī himself moves towards a theory of the law which accommodates more than the five basic value; see Zysow, Economy, 346. For a comparison of al-Ghazālī’s views on ḥaṣ with the more expansive views of al-Ṭūfī, see Opwis, “Maṣlaḥa in Contemporary Islamic Legal Theory,” 182-223.

\(^{1111}\) Al-Rāzī, al-Maḥṣūl, 5:160.

\(^{1112}\) Al-Qarāfī, Naṣṣīs, 7:3265. A similar view is found in MF 20:7.

\(^{1113}\) Al-Būṭī, Ḥawābīt, 249.
Ibn Taymiyyah argues, *maṣlaḥah mursalah* pertains to the general attainment of benefit and the repelling of harm. To understand benefit and harm with reference to these five categories is, according to Ibn Taymiyyah, to unduly constrain the notion of *maṣlaḥah*, an error that leads either to an unnecessarily restricted view of *maṣlaḥah* or an unjustifiably expansive one.\(^{1114}\)

Ibn Taymiyyah’s apparent targets here are Ashʿarī scholars who theorize that whereas acts such as marriage have been legislated because they constitute a human necessity (*ḍarūrah*) or requirement (*ḥājah*), or because they make man’s existence more perfect (*mahāsin*), acts of ritual worship do not fall anywhere on this axis and are entirely a-rational, a view advanced by scholars such as al-Ghazālī and al-Juwaynī. The latter, for instance, suggests that acts of ritual worship serve no purpose beyond making people remember God.\(^{1115}\) For the Ashʿarite al-Asnawi too, every beneficial thing required by man falls under one the five categories identified by al-Ghazālī.\(^{1116}\) As for acts such as ritual prayer, these merely serve to discipline the soul by teaching man abasement. It is in the next world then – and not in this one – that acts such as ritual prayer lead to man’s happiness.\(^{1117}\)

Ibn Taymiyyah rejects what he sees as the false dichotomy between this worldly and other worldly purposes and benefits of the law.\(^{1118}\) It is a mistake, he says, to think that the law has only come to provide benefits related to this world or the next when in fact the law procures a benefit in both worlds. Moreover, to say that the temporal benefit of the law consists in the physical welfare of man is to entirely misunderstand the nature, purpose and *maṣlaḥah* of God’s law. For Ibn Taymiyyah, God’s law elevates man above the rest of creation by securing for him a

\(^{1114}\) MF 11:188 .
\(^{1116}\) al-Asnawi, *Nihāyah al-sūl*, 4:82-84.
\(^{1117}\) al-Asnawi, *Nihāyah al-sūl*, 4:89.
\(^{1118}\) MF 32:146; 11:227-228; MF 10:400.
set of benefits that transcend mere physical survival and welfare. Even animals, Ibn Taymiyyah points out, know and pursue their corporal and material welfare by consuming only what is beneficial to them and avoiding that which is dangerous. The benefit of divine law, which is a unique gift to man, must therefore consist of something beyond the mere protection of one’s life and limb. Any vision of the law which makes accords paramount importance to the protection of mere life and limb is therefore severely impoverished in Ibn Taymiyyah's view.

On this point, Ibn Taymiyyah parts company with the majority of classical theologians and legal theorists who, following al-Ghazālī, define the necessary values protected by the law (darūrāt, sing. darūrah) primarily by reference to the corporal punishments that have been instituted as a response to the commission of prohibited acts. Al-Ghazālī, for instance, offers a total of six examples to demonstrate that the law aims to protect man’s basic needs. Every single one of these examples comes from Islamic penal law. According to al-Ghazālī, the corporal punishment ordained for the disbeliever and the heretic propagating his heretical views serves the purpose of protecting man’s religion; the law of lex talionis serves another basic human need, namely the protection of life itself. As for the corporal punishment awarded to the person who imbibes intoxicants, this serves the basic need of ensuring the protection of man’s intellect, which al-Ghazālī argues, is the basis on which man acquires legal responsibility and liability in the first place. Lastly, al-Ghazālī concludes, the corporal punishment ordained for the crime of adultery and theft or usurpation serves the aim of protecting, respectively, man’s lineage and his property, both of which are basic human needs.\footnote{Al-Ghazālī, al-Mustasfā, 1:417; al-Rāzī, al-Maḥṣūl, 5:160 does not mention the specific punishment of intoxication, only the fact of its prohibition. Otherwise, he repeats the examples of corporal punishment offered by al-Ghazālī.}

This is an understanding of maṣlaḥah which Ibn Taymiyyah rejects, saying:
Whosoever restricts the *maṣlaḥah* to the punishments ... for the protection of the body alone, has fallen short of the mark.\textsuperscript{1120}

Ibn Taymiyyah’s own conception of *maṣlaḥah mursalah* is more expansive. First, as we have seen, Ibn Taymiyyah regards positive obligations to be more important than negative prohibitions. He therefore finds incomplete any account of *maṣlaḥah mursalah* that revolves primarily around the institution of punishments for prohibited acts. *Maṣlaḥah mursalah*, Ibn Taymiyyah insists, is not negative in nature. It is not limited to deterring violations of the five necessary values which the law seeks to protect. On the contrary, *maṣlaḥah* procures and promotes the positive values and benefits which the law seeks to confer.\textsuperscript{1121} To restrict the *maṣlaḥah* to that whose protection is attained through the institution of corporal punishments is, Ibn Taymiyyah argues, unjustifiably restrictive.\textsuperscript{1122}

According to Ibn Taymiyyah, the unique benefits provided by God’s law, in this world and the next, are those which result from having faith in God, worshipping Him and obeying His command to enjoin good and forbid evil.\textsuperscript{1123} The worship and gnosis of God is, in fact, the wise purpose behind creation.\textsuperscript{1124} Since worship, according to Ibn Taymiyyah, originates from love,\textsuperscript{1125} one of the highest aims of the law in his view is to engender the love of God in His servants.\textsuperscript{1126} Acts of ritual worship are thus good and beneficial in themselves because they serve a fundamental legal aim, namely to engender the love of God in His servants.\textsuperscript{1127}

\textsuperscript{1120} MF 11: 188
\textsuperscript{1121} MF 11:188.
\textsuperscript{1122} MF 11:188.
\textsuperscript{1123} MF 19:55.
\textsuperscript{1124} MF 5:8; 2:14.
\textsuperscript{1126} MF 14:25.
\textsuperscript{1127} MF 32:146; 11:227-228; 14:25.
Ibn al-Qayyim agrees with this view and argues for the centrality of the notion of divine love in any account of the law. Worship, Ibn al-Qayyim says, has no meaning other than deep love, humility and abasement.\footnote{1128 Ibn al-Qayyim, \textit{Madārij}, 1:77; ibn al-Qayyim, \textit{Rawdah al-muhībbīn}, 94; ibn al-Qayyim, \textit{Madārij}, 2:239, 3:441.} It is incorrect, he says, to restrict the purposes of the law to the attainment of a set of socially beneficial regulations while ignoring the law’s cardinal aim of inculcating sentiments such as love, humility and abasement and directing them towards God alone.\footnote{1129 Ibn al-Qayyim, \textit{Madārij}, 1:86.} Moreover, Ibn al-Qayyim says, since obedience to God’s commands and prohibitions inculcates this love of God and fulfills the aim of making man worship God with love, commands and prohibitions must be desired for their own sake. They must constitute legal aims in and of themselves.\footnote{1130 Ibn al-Qayyim, \textit{Madārij}, 1:96–97; ibn al-Qayyim, \textit{Rawdah al-muhībbīn}, 94–95.}

The traditionalist view is based, once again, on the belief that good and evil are independent moral categories, not just legal ones, as argued by the Ashʿarīs. Offering thanks to God, for instance, is not just a spiritual exercise designed to discipline one’s soul. Rather, Ibn al-Qayyim, explains, since thanking one’s benefactor is itself a necessary good, the performance of acts of worship in which one offers thanks to God procures this good for man. Such acts of worship therefore become one of the most beneficial acts one can perform.\footnote{1131 Ibn al-Qayyim, \textit{Madārij}, 1:239; ibn al-Qayyim, \textit{Madārij}, 2:239, 3:441.} Naturally, the Ashʿarīs who rejected the existence of good and evil as inherent moral categories could not subscribe to this view of the benefit of acts of worship deriving from the fact that they provided man with an opportunity to do that which was in itself good.\footnote{1132 \textit{Al-Juwaynī, al-Burhān}, 2:603, 622; ibn al-Najjār, \textit{Sharḥ al-kawkab}, 4:171.} What is more, theologians such as al-Baghdādī explicitly rejected the idea that God created His servants to worship and thank Him and that for Him not to do so would be considered unwise. This heretical notion, he says, makes
the wisdom of God dependent on His act of creation, and must therefore be rejected.\textsuperscript{1133} Al-Ghazālī too, as we saw above, affirms that it is entirely possible for God to leave man without a revealed law to guide him.\textsuperscript{1134}

While revelation was not considered a rational necessity by the Ashʿarīs, for Ibn Taymiyyah it was what man needed most and what God therefore bestowed in greatest abundance. The more man is in need of something, the more abundantly God makes it available, according to Ibn Taymiyyah. He argues that air, without which man cannot survive, is more widely available than water, without which man can still survive for a period of time. Water, in turn, is needed more than food, which is why it is more abundantly available than the latter. Above all his other needs lies man’s need to recognize and love God, to worship Him and to call upon Him properly. Therefore, the means to do this have to be made easier and more abundant than everything else, Ibn Taymiyyah reasons.\textsuperscript{1135}

Ibn Taymiyyah deems it insufficient to regard the protection of religion as one of the five purposes of the law – as al-Ghazālī does, arguing that this limited view fails to account for the fact that through various internal and external acts of worship, God seeks to instill in man knowledge of Himself, His angels, His books and His Messengers and to inculcate in man a variety of emotional and spiritual states such as love, fear, sincerity, reliance, hope and dependence upon God.\textsuperscript{1136} Essential to the cultivation of this love and adoration of God is the affirmation of His names and attributes which must therefore be regarded as one of the main aims of the law.\textsuperscript{1137}

\textsuperscript{1133} Al-Baghdādī, 	extit{Uṣūl}, 83, 89.
\textsuperscript{1134} Al-Ghazālī, \textit{al-Mustasfā}, 1:410.
\textsuperscript{1136} MF 32:146-147.
\textsuperscript{1137} Ibn al-Qayyim, \textit{Miftāḥ}, 2:1086. God’s love formed an important attribute in Ḥanbalī theology, see Ibn Qudāmah, \textit{al-Irshād}, 132; Bell, \textit{Love}. 314
This explains why Ibn Taymiyyah’s discussions of the aims of the law frequently segue into an account of the reasons and rationales behind God’s command to perform particular acts of worship at specific times and occasions. For Ibn Taymiyyah, every aspect of these acts of worship, down to the time and manner of their performance, serves the aim of allowing mankind to express their submission and adoration to God in the most complete way.\(^\text{1138}\)

Because he holds that the benefits of the law exist in this world and the next, Ibn Taymiyyah also condemns certain groups of Sufis who regard it as a sign of their piety to renounce food, drink and marriage, which they regard as worldly activities. Even more egregiously, in Ibn Taymiyyah’s view, these Sufis disdain the act of ritually supplicating to God to benefit them and avert harm from them. Ibn Taymiyyah argues that the law has put the worldly and otherworldly benefit of man in acts such as eating, drinking, marriage and ritual supplication and worship. An individual who renounces these acts and who refrains from calling upon God to fulfill his needs is thus adopting an attitude that is precisely the opposite of the one the law aims to cultivate in man.\(^\text{1139}\)

Ibn al-Qayyim remarks that the dialectical theologians are prevented from regarding the cultivation of the love of God as one of the aims of the law by their insistence that while one can love the temporal rewards created by God, it is impossible for the eternal God to be the object of man’s love, because the eternal cannot be the object of a temporal will. An example of the sort of view criticized by Ibn al-Qayyim is found in the work of the Ashʿarī Ṣafī al-Dīn al-Hindi, who objects to the expression ‘I prayed for the sake of God’, on the grounds that such an expression is, strictly speaking, invalid, since God cannot be the object of man’s actions.\(^\text{1140}\) Ibn al-Qayyim

\(^{1138}\) MF 24:124.

\(^{1139}\) MF 10:400.

\(^{1140}\) Al-Hindi, Niḥāyah, 8:3265.
not only rejects the Ashʿarai doctrine that man can only love the temporally created rewards of God and not God Himself, he also criticizes the dialectical theologians for holding that the summit of divine gnosis is to fear God without loving Him. It is futile, Ibn al-Qayyim says, to deny the joy that man experiences when He loves God. The love of God’s rewards, which the dialectical theologians claim is the only sort of love man can experience in relation to God, does not even qualify as love in Ibn al-Qayyim’s view. Love, Ibn al-Qayyim insists, must be unselfish. If love of God’s rewards were all that love of God amounted to, this love would be based on man desiring some benefit from God. It would therefore be a love that is selfish and untrue. Contrary to the dialectical theologians who insist that an eternal God cannot be the object of a temporal will, Ibn al-Qayyim insists that God is the only being who can be loved for His own sake. Everything else loved by man is, properly speaking, only loved for the sake of God. We also find a censure of the Ashʿarī view that God cannot be the object of man’s love in Ibn Taymiyyah’s denunciation of those who restrict worship to servitude and abasement, to the exclusion of love. It is impossible, says Ibn Taymiyyah, to have faith unless one loves God and His Messenger more than anything else. From this love flows the love of whatever God and His Messenger love and the abhorrence of everything they abhor.

The differences between Ibn Taymiyyah’s understanding of the purposes of the law, and that of the dialectical theologians and other jurists influenced by them are brought into sharp relief when we contrast their views on the reasons for the prohibition of acts such as gambling and the imbibing of intoxicants. Most legal theorists hold that these prohibitions have been

1142 Ibn al-Qayyim, Miftāḥ, 2:1084; Madārij, 2:224.
1144 MF 10:341.
instituted for the purpose of protecting man’s wealth and his intellect. Al-Ghazâlî, for instance, explains that the prohibition of alcohol follows from the law’s purpose of protecting the intellect, since it is on the basis of his intellect that man becomes subject to legal responsibility. Since wine inhibits a person’s rational faculties, it is prohibited.\textsuperscript{1146}

Even as he agrees that the protection of the intellect is one of the aims and purposes of the law, Ibn Taymiyyah reveals his expansive understanding of maṣlaḥah when he says that the aim of protecting man’s intellect dictates the prohibition not only of all form of alcohol (contra the Ḥanafîs who regard certain alcoholic spirits as falling outside the scope of the prohibition of wine) but also of music (contra the Sufis who regard certain forms of music as permissible) and even of sports such as chess and backgammon, which, according to Ibn Taymiyyah, not only keep man from pursuing his worldly tasks but also distract him from his cardinal purpose of remembering God. For Ibn Taymiyyah, the spiritual and moral corruption of one’s mind and heart entailed in activities such as gambling and the imbibing of alcohol – the way in which they prevent a man from remembering God – are therefore a more important basis for the prohibition of such acts than the mere loss of intellect and wealth they entail. In fact, Ibn Taymiyyah argues, since the protection of the spiritual soundness of one’s heart and mind are important purposes of the law, these take precedence over merely pecuniary aims such as the protection of wealth.\textsuperscript{1147}

Thus, while accepting that the protection of wealth is a purpose of the law, Ibn Taymiyyah is equally concerned with setting out the ways in which the disposition of wealth serves the

\textsuperscript{1146} al-Ghazâlî, al-Mustaṣfâ, 1:415, 417.

\textsuperscript{1147} MF 32:145, 147. On Ibn Taymiyyah’s views of chess, see also Marion Katz, who mistakenly asserts Ibn Taymiyyah’s belief in the five universals but states that these serve the aim of cultivation of the right attitude towards one’s creator. Marion Katz, “Pragmatic,” 101-102.
underlying legal purpose of instilling in man a sense of dependence and reliance on God (tawakkul). This, Ibn Taymiyyah argues, is an aim that could sometimes be better served by giving up one’s wealth than it could by accumulating it, as renouncing one’s wealth can sometimes make one more dependent on God and less reliant on people.\textsuperscript{1148} The purpose of the law then, in Ibn Taymiyyah’s view, is not just the safeguarding of man’s wealth, as is commonly thought. Rather, the law also aims to cultivate a certain set of emotional and spiritual attitudes and responses to the possession, acquisition and disposition of wealth.

Ibn Taymiyyah and al-Ghazālī’s different understandings of the maṣlaḥah and aims of the law also influence their views on legal scholarship. For al-Ghazālī, a mujtahid need not even know the ḥadīths relating to the hereafter, nor those which exhort man to abstain from sinfulness or issue comminations for failing to do so.\textsuperscript{1149} For Ibn Taymiyyah by contrast, the inculcation of such knowledge in man is itself one of the aims of the law. It is precisely because the Companions had the deepest understanding of the spiritual realities of faith, he says, that they attained the highest ranks of scholarship.\textsuperscript{1150}

\textsuperscript{1148} MF 1:76-77.
\textsuperscript{1149} Al-Ghazālī, al-Mustasfī, 2:384.
\textsuperscript{1150} MF 4:95; MF 20: 316; Ibn al-Qayyim, ḫīlām, 4:5. Mustafa, Taqlīd, 167-168.
Conclusion

This work has examined the ways in which Islamic theological doctrines have had a substantive and substantial influence on Islamic legal theory in the classical period. We have seen that classical theological doctrines continue to exert a strong influence on modern legal theory. Al-Būṭī’s twentieth century account of maṣḥaḥah, for instance, was heavily influenced by classical Ashʿarī ideas on the impossibility of ratiocination in the acts and laws of God.\(^\text{1151}\) There are, however, other latent potentialities in Islamic theological thought which, despite their tremendous legal significance, were not developed in the classical period. The classical theologians and legal theorists were not, for instance, concerned with developing a theologically grounded defense of secularism although, as Opwis points out, Muʿtazilite rationalistic objectivism does sometimes slip into secularism.\(^\text{1152}\) By contrast, modern champions of Western secularism and liberalism have been more interested in the ability of Islamic theology to construct an Islamic secularism and liberalism than they have in the sort of debates which we have been exploring in the last three chapters. In this epilogue, we shall in a sense return to the subject we raised in the prologue, the relationship between theology and secularism, and briefly survey some of the attempts by modern legal theorists to construct an Islamic secularism and liberalism on the foundations of classical schools of Islamic theology.

We saw that in the classical period, Ashʿarī theology, with its insistence on the distinction between speech and language, spurred interest in disciplines such as Sufism, which sought to provide avenues by which one could access the real meaning behind divine speech which subsisted in the divine essence. In the modern period, the same Ashʿarī distinction between

\(^{1151}\) Al-Būṭī, Ḍawāḥīṭ, 65, 89.

\(^{1152}\) Opwis, “Maṣḥaḥah in Contemporary,” 189; idem “Islamic Law and Legal Change,” 64.
language and speech has drawn the attention of those who are interested in the potential contained within this distinction for a theory of secularism.¹¹⁵³

The crux of the argument made for this conceptual leap rests on the distinction made by the Ashʿarīs between the non-temporal eternal and inner speech of God and its temporal, finite and contextual rendering in the Arabic language. According to Halverson, who devotes a whole monograph to the subject, the Ashʿarite distinction between the linguistic manifestation or ‘utterance’ of the Qurʾān on the one hand and the word of God which subsists in the Divine essence on the other creates space for a new Islamic liberalism and secularism.¹¹⁵⁴ For the Ashʿarī position that the speech of God, when it takes the form of sequential letters and sounds, is temporal, contingent and accidental leads naturally, Halverson argues, to the conclusion that this contingent verbal form cannot itself assume a timeless legal authority. Employing Saussure’s famous distinction between signifier and signified, Halverson argues that Ashʿarī theology allows one to see the signifier, i.e. the text of the Qurʾān, as a temporal and cultural construction of the signified, i.e. the word of God. The signifier, i.e. the Qurʾān is thus a historicized rendering of the signified, i.e. the word of God and the former took the form that it needed to take in seventh century Arabia, just as earlier signifiers of God’s word took the form of the Torah and the Gospels.¹¹⁵⁵ In support of this reading, Halverson cites the works of Ashʿarī theologians who proclaim that the word of God, when rendered in Arabic, becomes the Qurʾān, and when rendered in other languages, becomes the Torah and Gospels, a belief which, as we saw, inspired fierce criticism of the Ashʿarīs amongst the traditionalists.

¹¹⁵³ Krawietz, Islam.
¹¹⁵⁴ Halverson, Theology, 131-132.
¹¹⁵⁵ Halverson, Theology, 137.
Halverson’s argument is at times explicitly directed against the large number of scholars in the modern period who have sought to ground a theory of secularism in Muʿtazilite rather than Ashʿarite theology. Because it is Ashʿarism and not Muʿtazilism which, according to Halverson, holds the key to an autochthonous and authentic form of secularism, he attacks Muslim reformists such as Fazlur Rahman, Hasan Ḥanafi and all those who seek to ground a new Qurʾānic hermeneutic in discredited Muʿtazilite theology for the crisis of Islam. According to Halverson ‘[t]he intellectual results of Ashʿarite creedal formulations are far more desirable and conducive to modern liberal aspirations’ than traditionalist creedal formulations. Halverson’s efforts to create space for what he calls “modern liberal aspirations” in Ashʿarī legal theory might not convince many people, but few can deny that the success of any effort to create an autochthonous form of Islamic liberalism depends on the degree to which Muslims can be convinced to accept a distinction between the uncreated speech of God and the created text of the Qurʾān. The scholar and champion of liberal Islam, Leonard Binder makes precisely this argument when he says that an Islamic liberalism ultimately depends on an acceptance of the Qurʾān as “coordinate with the essence of revelation” alongside an acceptance of the proposition that “the content and meaning of revelation is not essentially verbal.” Instead of relying on the words of the Qurʾān, Binder says, an Islamic liberalism would have to go beyond words “seeking that which is represented or revealed by language.”

The modern voice most closely associated with this attempt to fashion a theory of secularism out of Muʿtazilite theology – which is criticized so vehemently by Halverson – is that of the Egyptian Naṣr Ḥāmid Abū Zayd, whose views on the nature of the Qurʾān famously lead to his

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1156 Halverson, *Theology*, 146.
marriage being nullified by an Egyptian court on the grounds that as someone who had renounced the basic tenets of Islam, he could not remain married to a Muslim woman. Explicitly endorsing Muʿtazilite hermeneutics, Abu Zayd insists that the Qurʾān, even though it is the speech of God, is a created and historical work. This in turn dictates a particular hermeneutical approach towards the text of the Qurʾān. In the words of a sympathetic critic who offers both a summary and defense of Abu Zayd’s views, the Muʿtazilite view is the most well suited to express the spirit of the Muslim faith. For if the Divine Word is an act, “it is equally a natural and historical phenomenon, as all divine acts necessarily become determined within the created world, or History.” Abū Zayd himself has said as much, arguing that “the Qurʾān is a historical discourse – it has no fixed intrinsic meaning.”

Given the ruthlessness with which classical Muʿtazilism sought to use political power to quash intellectual dissent, there is some irony in the modern appropriation of Muʿtazilism as a symbol of rationality and tolerance – a view expressed in the very titles of works such as Defenders of Reason in Islam: Muʿtazilism from Medieval School to Modern Symbol. This transformation has not been unaffected by the personal travails of Abū Zayd himself. More generally, however, Muʿtazilite ideas on the created nature of the Qurʾān have made Muʿtazilism an appealing medium in which to couch a postmodern Qurʾānic hermeneutic which sees the Qurʾān as a text created like any other – one whose meaning is not fixed but contingent on the ideas brought to the text by its readers and interpreters. We see this in a recent doctoral dissertation by a self described “hyphenated Muslim academic” who records her feelings of “personal anxiety” at the

1159 For a discussion of the Abu Zayd’s views on the superiority of Muʿtazilite hermeneutics and views on the Qurʾān, see Campanini (tr. Leaman), Qurʾān, 125 and Campanini, (tr. Higgitt) Qurʾān, 59.
1160 Abu Zayd, Critique, 43-44, as cited in Campanini, (tr. Higgitt) Qurʾān, 59.
1161 Nadir, Mihna, 153, Abū Zayd, Voice, 97.
1162 Martin, Defenders, 203.
1163 Van Ess, Flowering, 5-33.
urgency of Islamic reform and writes about the “Created Qurʾān” as a vehicle of Islamic legal reform.\textsuperscript{1164} The scholar Jan Hjärpe also expresses his hope that a study of the theology of the Muʿtazilah “may be – God willing – of some help in the great task of creating a modern Islamic thinking.”\textsuperscript{1165}

Another scholar attacked by Halverson for failing to see the potential of Ashʿarī theology to lend support to secular and liberal positions is the late Pakistani Muslim intellectual, Fazlur Rahman who, like Abū Zayd, found a more receptive audience for his views in Western academe than he did in his own country of origin.\textsuperscript{1166} For Fazlur Rahman, the Qurʾān is “the divine response, through the Prophet’s mind, to the moral-social situation of the Prophet’s Arabia.”\textsuperscript{1167} In fact, he continues, this factor of the Qurʾān being God’s response through the Prophet’s mind to a historical situation “has been radically underplayed by the Islamic orthodoxy.”\textsuperscript{1168} Despite his criticisms of Ashʿarī theologians then, Fazlur Rahman was clearly echoing theological ideas that seemed very close to those championed in classical Ashʿarism. The real difference between Halverson and Fazlur Rahman thus lies in their differing approaches to secularism. For Fazlur Rahman, Islamic secularism is itself an impoverished response to the closed hermeneutic method of Qurʾānic interpretation developed by what he terms orthodox Islam. This method, according to Fazlur Rahman, pays more attention to the external form of the Qurʾān than to its overarching meaning. For Fazlur Rahman, the real meaning of the Qurʾān lies not in a particular portion of the text itself but in the general principles behind particular Qurʾānic textual injunctions and in principles which, according to Fazlur Rahman, can be recovered and retrieved

\textsuperscript{1164} Nadir, \textit{Miḥna}, 171-172.
\textsuperscript{1165} Peters, \textit{Speech}, xi.
\textsuperscript{1166} For a discussion of the hermeneutics of Fazlur Rahman, see Campanini (tr. Leaman), \textit{Qurʾān}, 130.
\textsuperscript{1167} Rahman, \textit{Islam and Modernity}, 5.
through an interpretive strategy of ‘double movement.’ It thus remains crucial for Fazlur Rahman’s project of legal reform to insist that the Qurʾān is both the word of God and the word of the Prophet, as opposed to the literal world of God alone.\textsuperscript{1169}

Another argument regarding the contextual specificity of the Qurʾānic text which contains echoes of Ashʿarī theology was advanced by the Sudanese mystical thinker Muḥammad Ṭāhā. For Ṭāhā, this conclusion regarding the specificity of the Qurʾān followed from the Ashʿarī-Sufi belief that the speech of God is ideas and not words.\textsuperscript{1170} A less mystical foundation of Ṭāhā’s views has been offered by his disciple Abdullahi Ahmed an-Na’im, who grounds his defense of Islamic secularism and his opposition to the notion of an Islamic state on his view that the Qurʾān must not be interpreted as a text which was normative for all times and places but as one that was specific to a very particular time and place – seventh century Arabia.\textsuperscript{1171}

It is clear, then, that there have been a number of efforts in recent years to situate modern political philosophies such as secularism and liberalism within Islamic theology. But most of these efforts have not gained the sort of mass appeal enjoyed by classical schools of theology such as Ashʿarism or traditionalism. One obvious reason for this is that the contemporary reformist movements largely revolve around particular individuals rather than a collective group of scholars sharing a common approach towards basic epistemological, ethical and legal questions. As a result, modern reformists have not been able to develop a system of thought that incorporates theology and law in a consistent manner, a fact which leaves their ideas exposed to charges of being inconsistent with established positions in Islamic theology. We see these tensions at play in the writings of Abū Zayd, who explicitly praises the Muʿtazilite conception of

\begin{footnotes}
\textsuperscript{1169} Nadir, Mihna, 170.

\textsuperscript{1170} See Mahmoud, Quest, 76-104; Campanini, (tr. Higgitt) Qur’an, 70-72.

\textsuperscript{1171} Hjärpe, “Islamic Legitimation,” in Human Rights, 113.
\end{footnotes}
God’s created word and Mu‘tazilite hermeneutics, but actually draws a distinction between the speech of God and its manifestation in the Arabic language which also draws on Ash’arī theology.\footnote{See Abū Zayd’s interview, available at \url{https://www.youtube.com/watch?v=SFkzRM9pfjw}, accessed 12.19.15.}

In her study of maṣlaḥah in the modern period, Opwis has made somewhat similar observations, remarking that modern legal reformers frequently built on the theories of maṣlaḥah developed by the classical scholars without going into the theological roots of these theories. At most, Opwis points out, modern legal reformists have grounded their calls for maṣlaḥah in a general call for a return to scripture.\footnote{Opwis, “Maṣlaḥa in Contemporary Islamic Legal Theory,”; Opwis, “Islamic Law and Legal Change” 62-82; Opwis, “Changes in Modern Islamic Legal Theory,” 40.} Such inconsistencies could probably be resolved over time, but this would take generations of scholars working within a common tradition, not a single individual determined to achieve legal reform within his lifetime. One must conclude then, that the inability of modern legal reformists to present their ideas in a theological language and idiom that most Muslims can readily accept continues to be a major reason for the failure of most reformist projects.

One example of the formidable theological task which modern reformists have set themselves comes from Abdullahi an-Na‘ím, who proposes inverting the traditional theological and jurisprudential technique of abrogation (naskh). As we saw earlier, abrogation is a crucial concept in Islamic theology and legal theory. Theologically, Islam itself abrogates all religious traditions preceding it. Jurisprudentially, scriptural texts which cannot be reconciled through any of the usual techniques of harmonization (such as generalization, specification, etc.) are reconciled by holding that the chronologically earlier text is abrogated by the later one. As we observed earlier, theologians such as al-Rāzī alluded to the theological problems raised by the
standard theory of abrogation, pointing out that if the word of God was eternal and indivisible, as maintained by the Ashʿarīs, it was impossible for some parts of it to abrogate others. An-Naʿim’s proposal, however, raises an entirely different set of theological problems because he suggests creating a hierarchy and division between the largely theological revealed content of the early, Meccan revelations, and the largely legal revealed content of the later, Medinan revelations. Creating this fissure clearly allows an-Naʿim to jettison the Medinan legal provisions of scripture in favor of a legal framework that is in more amenable to twenty first century liberal mores. However, calling for the standard account of abrogation to be subverted necessitates other adjustments in theology and legal theory which an-Naʿim does not seem interested in exploring, which, once again, might explain the limited success of an-Naʿim’s project of legal reform.\footnote{Halverson, \textit{Theology}, 151.}

One also sees attempts by modern Muslim individuals and movements to selectively appropriate the legacy of traditionalism. This is particularly visible in the writings of the various groups who are often termed Salafi-jihādist. Some who belong to this camp appear to consider jihād against those they have identified as disbelievers to be a required form of piety and thus a religiously required aim and purpose of the law. Others, however, view jihād as a means to achieve an end, such as the establishment of an Islamic state where the sharīʿah is the law of the land.\footnote{Alshech, “Doctrinal” 432.} The two sides are this in disagreement over whether jihād is a rational obligation in and of itself or whether it serves another rational end, in which case it may be suspended in order to achieve that end. Both sides, invariably, cite Ibn Taymiyyah and other traditionalist authors in support of their views.
Another attempt to appropriate the legacy of traditionalism has been made by modern legal theorists who have sought to justify their expansive theories of *maṣlahah* by invoking the authority of Ibn Taymiyyah and Ibn al-Qayyim. But despite the best efforts of modern theorists, Ibn Taymiyyah and Ibn al-Qayyim’s thoughts on *maṣlahah* cannot go far in justifying any theory of *maṣlahah* that originates from a worldview that regards political and social liberalism, with all its attendant notions of formal equality and freedom, as a *maṣlahah*. This is because despite their sweeping proclamations that any divine law which does not uphold the *maṣlahah* is to be set aside, Ibn Taymiyyah and Ibn al-Qayyim refuse to countenance a *maṣlahah* that overturns an explicit provision of scripture.

We see this in Ibn al-Qayyim’s defense of his understanding of the law of *lex talionis*, which requires, according to him, a non-Muslim to be executed for killing a Muslim but not vice versa. Modern sensibilities might well baulk at such a view and cry out that such a view cannot be in harmony with the *maṣlahah*. For Ibn al-Qayyim, however, it would be irrational and contrary to the wisdom of God for Him to institute a law that treats Muslim and non-Muslim life equally when it comes to *lex talionis*. In Ibn al-Qayyim’s logic, God would never equate the life of those whom He loves (i.e. the believers – note once again the centrality of the notion of divine love and *maṣlahah*) with those disbelievers whom God Himself describes as the worst of His creation. The reality of divine love thus makes it impossible, in Ibn al-Qayyim’s view, for God’s law to insist on absolute equality between Muslims and non-Muslims. Similarly, traditionalists such as Ibn al-Qayyim would also disappoint modern reformists by refusing to countenance the freedom to engage in consensual sexual which has nevertheless been proscribed by the law (homosexual activity, for instance) as a *maṣlahah*. Sex is simply not a need in the same way as food

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and drink, says Ibn al-Qayyim. Therefore, while one may consume prohibited foods in cases of need, one can never claim a need to engage in illicit sexual activity. Once again we see that contrary to contemporary reformists, the traditionalist understanding of *maṣlaḥah* is built within the parameters of what scripture allows and prohibits to begin with.

The same scriptural bent informs traditionalist views on the *maṣlaḥah* of violence and maintaining cultural distinctions between Muslims and non-Muslims. Here too, modern sensibilities and notions of *maṣlaḥah* frequently conflict with those of the traditionalists. For the latter, norms such as those prohibiting Muslims from resembling non-Muslims in their external appearance and obliging Muslims to wage *jihād* against certain categories of non-Muslims are necessarily beneficial and conducive to procuring the *maṣlaḥah*. In Ibn al-Qayyim’s view, *jihād*, which involves a clash between those loved by God and those who are His enemies, fulfills one of the wise purposes and benefits for which God created the world. It demonstrates the mutual love God and His beloved friends have for each other. The same is true of the legal regulations prohibiting Muslims from resembling non-Muslims in external appearance. These regulations are based on exhibiting one’s love of what God loves and one’s hatred of what God abhors. The symbols of faith are loved by God while the symbols of disbelief are hated by Him. Therefore, Ibn Taymiyyah and Ibn al-Qayyim reason, a Muslim must adopt the former and shun the latter. Once again, what is clear from this discussion is that for the traditionalists, a *maṣlaḥah* must, in Ibn Taymiyyah’s words, be weighed according to the scales of the *sharīʿah*.

The most useful way to understand traditionalists and their legal theory then, particularly when it comes to a figure such as Ibn Taymiyyah, might be as a principled iconoclast. And the best

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1177 Ibn al-Qayyim, Rawḍah al-muḥībūn, 205-206.
1178 Al-Badawi, Maqāsid, 498; Ibn Taymiyyah, Jāmiʿ al-Rasāʿil, 2:326.
1179 MF 28:75; Ibn al-Qayyim, Miftāḥ, 2:928-929, 946-947, 1023. See also al-Qarāfī, Naḥāʾīs, 8:3423.
defence of an iconoclastic legal philosophy was presented by one of the most celebrated judges of the common law tradition who having confessed to being a legal iconoclast, set out to explain that an iconoclast was one who “assails cherished beliefs or venerated institutions on the grounds that they are erroneous or pernicious,” but does not change them. The way of an iconoclast, according to Lord Denning, is

“...the way of one who is not content to accept cherished beliefs simply because they have been long accepted. If he finds that they are not suited to the times or that they work injustice, he will see if there is not some competing principle which can be applied to the case in hand. He will search the old cases, and the writers old and new, until he finds it...Once found, this principle will be invoked to modify the old beliefs and to mitigate the injustice produced by them. Only in this way can the law be saved from stagnation and decay...”

This perfectly encapsulates Ibn Taymiyyah’s judicial philosophy. Although he might rail against the pernicious ills introduced in the law by generations of lawyers, Ibn Taymiyyah will not change the law until he can find authority to do so in scripture or in the words and opinions of the earliest Muslims. One can well imagine Ibn Taymiyyah echoing Lord Denning’s plea to the legal establishment: “Will you not follow the way of an iconoclast?”

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1180 Denning, “Iconoclast.”
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For various reasons it was not always possible to find the same printed editions of all the works cited across the many countries in which this dissertation was written. I have therefore sometimes been forced to include more than one printed edition of a single work in the bibliography. A lot of the research was also done from online databases of Islamic texts and I have made every effort to check these references against the printed originals, but I do not doubt that in a work of this size, there might still be a few inadvertent errors.

In citing authors I have omitted the initial al- in their names. Authors are not always cited by their last names if they are better known by another title. Thus Khaṭīb al-Baghdādī and not al-Baghdādī, al-Khaṭīb and Shah Waliullah and not Waliullah, Shah. I have grouped together, in alpahabetical order, all names beginning with Ibn. By the same logic, van Ess will be found under Van and de Roover under de, and so on. If an author is known by more than one name, the other name is provided in brackets. Thus al-Futūḥi (Ibn al-Najjār). If the title of an author’s work has been popularized with his name, this has been reflected in the title. Thus al-Sarakhsī, Uṣūl al-Sarakhsī.


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