

Introduction

Imagine, if you will, the two Persian luminaries, Abū Ishāq al-Shīrāzī (d. 476/1083) and Abū Ma‘ālī al-Juwaynī (d. 478/1085), sitting with knees crossed and brows tightened as they fervently debate whether it is the consideration of time or direction that is more integral to the performance of obligatory prayers, after which they turn their attention to the proper scope of marital agency on the part of the adult virgin. Beyond sharing an affinity for the law, al-Shīrāzī¹ and al-Juwaynī were at the helm of the newly established Nizāmiyya madrassas in Baghdad and Nishapur, respectively. Readers who stumble on these debates in al-Subkī’s *Ṭabaqāt al-Shāfi‘iyya* can almost visualize the two scholars perched in a miniature.² In the background would appear the towering madrasa of Nishapur and a vibrant market; in the foreground would be an eclectic audience of devoted students and passers-by, with books delicately balanced atop one another in the corner.

In the first debate, al-Juwaynī asserts that facing the correct direction is more important to fulfilling one’s duty of prayer, while al-Shīrāzī argues instead that it is praying at the proper time. To support his claim, the latter invokes the permission granted for one to pray while mounted on

¹ Abū Ishāq Ibrāhīm b. ‘Alī b. Yūsuf al-Fīrūzābādī al-Shīrāzī lived the majority of his life in Baghdad, where he was the preeminent student of Qādī Abū al-Ṭayyib al-Ṭabarī (d. 450/1058) before being appointed in 459/1066 by Nizām al-Mulk as the head of the Nizāmiyya in Baghdad. For his full biography, see Tāj al-Dīn al-Subkī, *Ṭabaqāt al-Shāfi‘iyya al-kubrā*, ed. Maḥmūd Muḥammad al-Ṭahānī and ‘Abd al-Fattāḥ Muḥammad al-Ḥilw (Cairo: ‘Īsā al-Bābī al-Ḥalabī, 1965), 4:215, and Ḥasan Hitū, *al-Imām al-Shīrāzī* (Damascus: Dār al-Fikr, 1980).

² Al-Subkī, *Ṭabaqāt al-Shāfi‘iyya*, 5:209–18.

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an animal, which ignores the direction of the *qibla*, as does the prayer of fear (*khawf*) in wartime. In both scenarios, the direction of the *qibla* may be disregarded, but the designated prayer time may not. Al-Juwaynī rebuts these examples with his own, pointing to the permission to join prayers while traveling, ignoring the prescribed prayer times but not the direction. Both scholars accept that in certain circumstances obligations with respect to prayer direction or time can be abandoned without invalidating the prayer.³ The debate is thus not about validity, but rather about which element is *intrinsically* more important to prayer in the mind of the Lawgiver.

In spite of the ardor of the discussion, the absence of legal consequence for either position may lead the reader to conclude that the issue is inconsequential. What is the point of two great scholars debating which element of prayer is *more* important when both elements can be forfeited? Is this just another example of the pedantic nature of legal sparring, or does it reveal something deeper about how Islamic law was conceptualized by two of the greatest legal minds of the fifth/eleventh century? Indeed, far from a mere exercise, the exchange between al-Juwaynī and al-Shīrāzī encapsulates the core guiding principle of the juristic vocation in Islam – that God’s law is enclosed within the mind of the Lawgiver and that jurists, while seeking to capture it, must accept the fallibility of their own opinion and, as a corollary, the possibility of the veracity of their opponent’s. The debate between the two scholars ends on this note, with each defending his position while conceding the potential correctness of the other’s view. Scholars of Islamic law have referred to this guiding legal principle in a variety of ways – such as “the valorization of uncertainty,” “legal indeterminacy,” and “self-conscious epistemology” – all of which emphasize the acceptance on the part of jurists of the gulf that exists between the law as reasoned and the law as dictated by God.

Yet while the domain of Islamic law accepts legal uncertainty in many circumstances, this principle is not extended to the realm of theology (*kalām*). Theologians – the *mutakallimūn* – have, in fact, been adamant that the soundness of one’s belief in God is contingent on the certainty of rational proofs,⁴ which lead one to accept the truth of the Prophetic message and all that it entails. This axiom has motivated theologians to expend great effort in providing logically sound proofs for belief so as to

³ *Ibid.*, 5:209–14.

⁴ Richard Frank, “Knowledge and *Taqīd*: The Foundations of Religious Belief in Classical Ash‘arism,” *Journal of the American Oriental Society* 109, no. 1 (1989): 37–62.

assuage the doubts of laypersons and withstand the critiques of skeptics of belief. Once the veracity of the Prophetic message has been established, reason no longer functions as an independent tool of inquiry for the acquisition of knowledge, but now takes its place alongside revelation. This is not to say that revelation trumps reason, a topic of great debate;⁵ rather, revelation comes both to guide and to assist the human intellect.

On a theoretical level, the differentiation between the acceptance of legal uncertainty and the drive for theological certainty is reflected in theological and legal works. On a more practical level, however, scholars have more often than not been both jurists and theologians, constantly straddling the competing epistemological paradigms of these two disciplines. As a scholar, al-Juwaynī was lauded both as an Ash‘arī theologian and as a renowned Shāfi‘ī jurist. Although he recognized, as had others before him, the distinct epistemological paradigms in theological versus legal discourse, al-Juwaynī came to emphasize the theme of certainty – and this preoccupation can be identified not just in his theological works but also across his entire oeuvre.

The aim of this book is to present the shared intellectual threads that connect al-Juwaynī’s theological, legal, and political writings. Rather than evaluate his major texts as discrete units, I start with the assertion that al-Juwaynī was a syncretic thinker with a specific intellectual project that can be identified regardless of which texts of his are analyzed. This intellectual project, which both informed and molded al-Juwaynī’s intellectual concerns, was not formulated in a vacuum but rather emerged within a sociopolitical environment that left an indelible mark on him. On the intellectual scene, al-Juwaynī observed his Ash‘arī comrades embroiled in debates with their rivals, the Mu‘tazila, who confidently asserted that one could arrive at certainty in both legal and theological matters. On a very basic level, the tension produced within al-Juwaynī by the conflicting epistemologies of these two schools gave rise to his profound concern with certainty.

However, it was not his intellectual environment alone that had such a profound and permanent effect on al-Juwaynī. He lived in a politically tumultuous period, in which the rise of powerful dynastic families forced

⁵ For additional analysis, see A. J. Arberry, *Revelation and Reason in Islam* (New York: Routledge, 1957); Franz Rosenthal, *Knowledge Triumphant* (Leiden: Brill, 2007), 19–142; and Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (Albany: State University of New York Press, 1995). The first two works focus on the contexts of the reason versus revelation debate, whereas the last work details how the Mu‘tazila, more specifically, addressed the issue.

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the ‘Abbasid caliph into a position of merely titular power. Witnessing upheavals and the rise of counter-caliphates, the most prominent of these being the Fatimids,⁶ al-Juwaynī also became preoccupied with the question of continuity – both of social mores and of religious doctrine. If political elites, and along with them intellectual allegiances, are constantly changing, al-Juwaynī worried, what ensures the continuity of religion? Just in his short lifetime, al-Juwaynī experienced, at the hands of a singular dynastic power, the Seljuks, both the persecution and the adulation of the Ash‘arī-Shāfi‘īs. If the Seljuks could adopt such contrasting policies toward the Ash‘arī-Shāfi‘īs within the space of only a few decades, he ruminated that religious thought must be maintained and safeguarded by forces more powerful than just political affiliations and allegiances. His own lived political reality thus encouraged him to rethink the role of the imam in preserving order, and the role of the ‘*ulamā*’ in preserving religion. This process ultimately led him to reconceptualize the nature of the Sharī‘a and its relationship to the individuals who practice it.

To respond to his dual concerns of certainty and continuity, al-Juwaynī made foundational changes to the Ash‘arī epistemology he had inherited in order to enlarge the scope of knowledge individuals can achieve certainty in. This departure facilitated the creation of a dialectical relationship between certainty and continuity in which the continuity of religion and society is possible only through the epistemically certain knowledge attained by individuals, and this epistemically certain knowledge is in turn preserved by the continuity of the society these individuals inhabit. As we explore al-Juwaynī’s theological, legal, and political texts in the course of this book, this dialectical relationship, along with its tensions and implications, will become evident.

Although al-Juwaynī has long been recognized as a seminal figure within Islamic intellectual history, there is a striking absence of comprehensive scholarship addressing his thought. By approaching al-Juwaynī not merely as a Shāfi‘ī jurist or an Ash‘arī theologian but also as an intellectual figure with a historically informed project that is manifested throughout his works, this book brings some of al-Juwaynī’s most influential texts together into a single conversation, providing insight into a complex thinker and laying the foundation for future research.

⁶ Marshall Hodgson, “The Ismā‘īlī State,” in *The Cambridge History of Iran*, vol. 5 (Cambridge: Cambridge University Press, 1968), 422–82.

A BRIEF GLIMPSE INTO NISHAPUR

Ideas rarely form in a vacuum – they are produced through a natural engagement with one’s socioreligious context, intellectual inheritance, and political circumstances. The politically strategic and rapidly developing social environment of Nishapur lent itself to the attraction of religious groups vying for political and social authority. Nishapur, alongside Marw, Herat, and Balkh, was one of the four great cities of Khurasan, itself among the important provinces in the ‘Abbasid Empire. In the century before al-Juwaynī’s birth, political power in Nishapur passed from the ‘Abbasids to the Samanids and then to the Ghaznavids, with each transition of power ushering in new intellectual trends.⁷ The rulers of these dynasties quickly realized that while they held political authority, social and religious authority was also integral to legitimacy. Because of the flourishing system of patronage, intellectual trends often reflected changing political circumstances. Shams al-Dīn al-Muqaddasī (ca. 946–91), the lauded geographer, noted during his travels to Nishapur that it was fraught with factionalism along theological lines between the Karrāmiyya and the Shī’a; however, by the time of the Ghaznavids, the lines of tension had been redrawn.⁸

The most significant intellectual cleavage in Nishapur before and during the time of al-Juwaynī was that between the Ḥanafī and Shafī’ī legal schools. The Ghaznavids, whose rule began in the fourth/tenth century, preferred the Ḥanafīs, meaning that patronage and politically appointed religious positions, such as the post of the chief *qāḍī* (judge) and other prominent judgeships, were almost always conferred on Ḥanafī jurists. Beyond showering direct patronage on individual legal scholars, the Ghaznavids supported the construction of madrassas for prominent Ḥanafī scholars. But despite the institutional support afforded to the Ḥanafīs, they could not easily eclipse the Shāfi’īs. As Richard Bulliet has argued, what the Shāfi’īs lacked in formal political support they made up for through the support of wealthy private families who established systems of patronage and funded the building of madrassas.⁹ The divide between the Ḥanafīs and

⁷ For the transition of power between these dynasties and their relationship to the ‘Abbasid caliphate, see Clifford Edmund Bosworth, *The Ghaznavids* (Edinburgh: Edinburgh University Press, 1963), and Bosworth, “The Early Ghaznavids,” in *The Cambridge History of Iran*, vol. 4 (Cambridge: Cambridge University Press, 1975), 162–98.

⁸ Muḥammad b. Aḥmad Shams al-Dīn al-Muqaddasī, *Aḥsan al-taqāsīm fī ma’rifat al-aqālīm*, ed. M. J. de Goeje (Leiden: E. J. Brill, 1967), 336.

⁹ Richard Bulliet, *The Patricians of Nishapur* (Cambridge: Cambridge University Press, 1972), 7, 38–46.

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the Shāfi'īs in Nishapur, however, was not merely a sociopolitical one, nor one over substantive matters of law; rather, it was a widening cleft between emerging theologies that would eventually split fully open.

Both the Ḥanafīs and the Shāfi'īs were widely recognized as representatives of legitimate legal schools in Nishapur and throughout the 'Abbasid Empire. Scholars tracing the historical development of the *madhhabs* largely agree that by the fourth/tenth century, the legal schools had concretized, and by the fifth/eleventh century, they were an unremarkable part of daily life.¹⁰ Given the widespread influence of the legal schools over Islamic societies, leaders of new religious trends sought legitimacy through political patronage. They could also turn to these legal institutions for validation. To the extent that new religious trends or theologies were adopted by the intellectual flagbearers of the legal schools, they could claim orthodoxy by affiliation. This argument was first forwarded by George Makdisi in relation to the Ash'arī theological school, which strategically aligned itself with the Shāfi'ī legal school in the fourth/tenth century in order to attain the status of orthodoxy. The locus of this newfound alliance was Nishapur.

Between 290/902 and 343/955, prominent Ash'arī scholars such as Abū Bakr Muḥammad Ibn Fūrak (d. 406/1015), Abū Ishāq al-Isfarāyīnī (d. 418/1027), Abū Bakr al-Bāqillānī (d. 403/1013), and Abū Manṣūr 'Abd al-Qāhir al-Baghdādī (d. 429/1037) responded to the call of Abū Sahl al-Ṣu'lukī (d. 369/980) to come and settle in Nishapur. This newly forming Shāfi'ī-Ash'arī synthesis became the catalyst for further tension between the two legal schools, as the Ḥanafīs did not forge the same alliance with the Ash'arīs. Prior to the Ash'arīs' arrival in Nishapur, many Ḥanafī scholars had supported the Basran Mu'tazilī school, a rival theological school. Tensions increased after 408/1017, when Maḥmūd of Ghazna (d. 421/1030), a prominent Ghaznavid ruler, expelled all of the Mu'tazilī scholars to Khurasan, with many settling in Nishapur. The relationship between the Ḥanafīs and the Mu'tazilī allowed the latter to flourish in Nishapur, with prominent Mu'tazilī scholars being granted judgeships there. This fueled tensions with the Ash'arīs, who had entered the intellectual milieu in Nishapur just a few decades earlier.

¹⁰ See Christopher Melchert, *The Formation of the Sunni Schools of Law, 9th–10th Centuries C.E.* (Leiden: Brill, 1997); Wael Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005); and, more recently, Ahmed El Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (Cambridge: Cambridge University Press, 2015).

The strained relationships between the various schools continued under the Ghaznavids, but with the capture of Nishapur in 429/1037 by the Seljuks, a potential spark for change appeared on the horizon. Knowing that they would likely lose political power with the rise of the Seljuks, prominent Ḥanafīs within the city were reluctant to welcome their new rulers. It was thus the Shāfi'īs, under the leadership of Ibn al-Muwaffaq (d. 440/1048), who brokered the formal entrance of the Seljuks into Nishapur.¹¹ While this earned the Shāfi'īs temporary favor, Ṭughril Beg, the Seljuk sultan, eventually came to favor the Ḥanafīs because of his own personal adherence to the Ḥanafī school. The political reascendance of the Ḥanafīs highlighted the political impotence of the Ash'arī-Shāfi'īs, and in 440/1048 intellectual persecution of the Ash'arī-Shāfi'īs began. This persecution culminated in 446/1054, when Ṭughril Beg commanded the arrest of four prominent Ash'arī-Shāfi'ī scholars, among them al-Juwaynī. Though he narrowly escaped arrest by having earlier absconded, al-Juwaynī was forced to abandon the city, undertaking travels that would eventually bring him to the Hejaz.¹²

Al-Juwaynī would return to Nishapur in 451/1059 at the behest of the Seljuk vizier, Niẓām al-Mulk (d. 485/1092), who appointed him the head of the newly minted Niẓāmiyya madrasa. However, his turbulent formative years amid shifting political powers and allegiances made addressing the question of social and religious continuity inescapable for him. The pendulous nature of intellectual-political affiliations served to impress on him all the more the need to contemplate the challenge of continuity – a theme most salient in his political writings. Yet the continual political rearrangements notwithstanding, the intellectual and theological lines that divided groups were not simply the outcome of practical decision-making on the basis of social power within the city; they also reflected substantive issues that demarcated the competing factions. These substantive issues, alongside political instability, formed the backdrop against which al-Juwaynī's second primary concern, certainty, was born.

¹¹ In his monograph *The Ghaznavids*, Bosworth provides an account related by Abū al-Faḍl al-Bayhaqī (d. 470/1077) in his *Tārīkh al-Bayhaqī*. For an analysis of this account, see Paul Jurgen, "The Seljuk Conquest(s) of Nishapur: A Reappraisal," *Iranian Studies* 38, no. 4 (2005): 575–77.

¹² For accounts of this incident, see Shams al-Dīn Muḥammad b. Aḥmad al-Dhahabī, *Tārīkh al-Islām wa-wafayāt al-mashāhīr wa-l-a'lām*, ed. 'Umar 'Abd al-Salām Tadmurī (Beirut: Dār al-Kitāb al-'Arabī, 1990), 30:122–23, and 'Alī b. al-Ḥasan Ibn 'Asākir, *Tārīkh madīnat Dimashq*, ed. 'Alī Shīrī (Beirut: Dār al-Fikr, 1995), 5:204–5.

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The Ash‘arīs and the Mu‘tazila can be distinguished from one another in a variety of ways, but for al-Juwaynī their most important intellectual conflict was an epistemological one. As noted earlier, although Sunnī legal theorists of all schools were generally amenable to the notion of legal uncertainty, theologians were adamant that belief had to have an epistemically certain foundation based on rational proofs. In this schema, the intellect is assumed to be a judicious tool capable of reasoning from rational proofs to arrive at knowledge. Curiously, however, Ash‘arī theologians argued that once an individual arrives at sound belief and receives revelation, further guidance for his or her affairs is derived from revelation, raising the question of why the human intellect is in need of such assistance. If the intellect is able to arrive, with certainty, in belief in God, why, then, can it not reason in other matters? And what does the dependence of reason on revelation entail for law?

Given that revelation is the source of guidance for believers, the Ash‘arīs argued that human beings are not accountable for their actions before they receive revelation. Such individuals behave in the world according to what they deem beneficial, but their actions bear no other-worldly legal consequences. With the onset of revelation – the source of morality and guidance – this situation changes. At that point individuals become obligated to act in accordance with God’s dictates and are rewarded and punished accordingly.¹³ With revelation as the reservoir of guidance, individuals must derive from it a legal and moral code. This derivation is primarily the duty of prophets and messengers, but with their temporal demise, the mantle of scriptural interpretation passes to jurists. These jurists turn first to the Quran and the *ḥadīth* in order to deduce the law, but given the hermeneutical complexity of the Quran, the absence of the Prophet, and the fallibility of human reason, rulings issued by jurists are epistemically only probable and cannot be certain. This fact is the foundation of the epistemic uncertainty pervading Islamic law.

By contrast, the Basran Mu‘tazila afforded reason a wider scope both before and after revelation. As they saw it, morality is not simply legislated through scripture; on the contrary, people can achieve knowledge of what is good and bad through reason – the argument being that each action is either objectively good or objectively bad based on the circumstance of its

¹³ Richard Frank, *Early Islamic Theology: The Mu‘tazilites and al-Ash‘arī*, vol. 2 of *Texts and Studies on the Development and History of Kalām*, ed. Dimitri Gutas (London: Routledge, 2007); and W. Montgomery Watt, *Free Will and Predestination in Early Islam* (London: Luzac, 1948), 135–50.

occurrence.¹⁴ This doctrine, known as *taḥsīn wa-taqbīḥ*, means that individuals are responsible for their actions whether or not they have received revelation. Revelation thus comes to affirm what the intellect has already determined or to provide particularities for generalities already deduced. In the realm of law, the Mu‘tazila, like the Ash‘arīs, acknowledged the hermeneutical complexity of scripture and the difficulty entailed by the absence of the Prophet. But given their belief in the independence of the intellect, the law for them was not burdened to the same extent with legal uncertainty. The Mu‘tazila, though relying on scriptural sources, stressed the importance of the intellect when scriptural sources were silent and believed in the epistemological equivalence of rulings deduced from scripture and rulings deduced through the intellect.

Given the diverging epistemologies of the Ash‘arīs and the Mu‘tazila and the ramifications of their respective theories for the epistemological value of legal rulings, the two schools’ coexistence in Nishapur was bound to cause tension and conflict as well as synthesis. In the early part of al-Juwaynī’s life, before his sojourn in the Hejaz, the intellectual conflicts between the Ash‘arīs and the Mu‘tazila and between the Ḥanafīs and the Shāfi‘īs punctuated his life and career. And although he emerged triumphant, returning to Nishapur to assume a position at the prestigious Nizāmiyya, these early conflicts had an enduring impact on his prodigious production. On the political front, the precarious nature of politics during his lifetime ushered in his concern for stability, and on the intellectual front, the legal and theological factionalism resulted in his desire to provide rationally sound and epistemically certain arguments for both belief and legal action.

AL-JUWAYNĪ: BETWEEN CERTAINTY AND CONTINUITY

Al-Juwaynī’s intellectual work is best read as his response to, and means of coping with, the most pressing intellectual and political challenges of his time. The parallel themes of theological and legal certainty, on the one hand, and social and religious continuity, on the other, emerge directly from his environment. It is, however, important to note that it was not simply the socioreligious politics of Nishapur that produced al-Juwaynī’s

¹⁴ Ayman Shihadeh, “Theories of Ethical Value in Kalām: A New Interpretation,” in *Oxford Handbook of Islamic Theology*, ed. Sabine Schmidtke (Oxford: Oxford University Press, 2016), 384–407, and George F. Hourani, “Two Theories of Value in Medieval Islam,” *Muslim World* 50, no. 4 (1969): 269.

dual concerns. As Paul Heck has recently elaborated in *Skepticism in Islam*, from the third/ninth to fifth/eleventh centuries, Muslim scholars were concerned with skepticism and its corollary, certainty. The hub of this movement in the third/ninth century was Baghdad, where diverse intellectual interlocutors were forced to defend their positions and contend with opposing ones. With its political stability and patronage, Baghdad became the center of intellectual inquiry, allowing scholars to employ a variety of intellectual strategies, including skepticism. However, these scholars were not skeptics in the traditional sense of denying the possibility of knowledge; rather, they employed skepticism as a “constitutive element of religious reasoning.”¹⁵ Their goal was to “question assumptions about the way in which knowledge, in this case religious knowledge, can be established as certain.”¹⁶ The epistemological desire for certainty and invocation of skepticism was thus not unique to al-Juwaynī but was very much in the intellectual air. What is unique about al-Juwaynī is the manner in which he resolved his quest for certainty and the extent to which a desire for continuity is imbricated in his quest for certainty.

To achieve a basis for certainty, al-Juwaynī moves beyond the legal and theological constraints he inherited from the Ash‘arīs to construct a new epistemology, broadening the scope of human reason. In doing so, he is concerned not merely with epistemic certainty but also with *practical certainty* for both individuals and jurists in legal matters. Certainty, for al-Juwaynī, is contingent on whether individuals can assert true knowledge of something or confidence in their conclusion. Whereas knowledge for al-Juwaynī’s Ash‘arī predecessors was the product of either reason or revelation, he, by contrast, argues that knowledge can also be acquired through custom or repetition. That is, to the extent that a certain practice is habitual for an individual, it can be said to be *practically* certain from that individual’s perspective, whether or not it is epistemically certain from an objective perspective. This means that al-Juwaynī addresses certainty not just through an objective epistemological lens but also through a subjective, personal one.

In applying his epistemology to legal thought, al-Juwaynī has two goals: (1) establishing a definitive basis of authority for the primary sources of legal derivation and (2) achieving epistemic certainty in rulings. While he is easily able to accomplish the former, he is frustrated in the latter, given that epistemic certainty in the domain of Islamic law is

¹⁵ Paul Heck, *Skepticism in Classical Islam* (London: Routledge, 2013), 13.

¹⁶ *Ibid.*, 10.