

Index

- ‘Abbasids, 5, 39, 253, 274
 Hārūn al-Rashīd, 70
 Mihna, 80
 Translation Movement, 70
 Abou El Fadl, Khaled, 240
Ahl al-ḥatra (people of the interval), 271
Ahl al-ḥadīth (partisans of *ḥadīth*), 136
Ahl al-ra’y (partisans of reason), 137
 al-Abyārī, Shams al-Dīn, 157, 179, 192, 206
 al-‘Allāf, Abū al-Hudhayl, 80
 Alp Arslān, 60
 al-Āmidī, Sayf al-Dīn, 203
 on *ijmā’*, 180
 on *mutawātir ḥadīth*, 144
 on *qiyās*, 198
 Anjum, Ovamir, 288
 on al-Ghazālī, 14
 on Islamic political thought, 23, 240, 274
 al-Anṣārī, Abū al-Qāsim, 65, 67
 al-Asadabādī, ‘Abd al-Jabbār, 82
 epistemology, 88–93, 95
 Mughnī, 82, 87, 94
 al-Ash‘ari, Abū al-Hasan, 42, 96
 Ash‘arīs, 4
 epistemology, 4
 law and epistemology, 106
 move to Nishapur, 6, 96
 Baghdad, 1, 10, 20, 37, 47, 56–57, 71–72, 82
 al-Baghdādī, ‘Abd al-Qāhir, 241
 al-Baghdādī, Abū Maṣṣūr, 13, 43, 96
 al-Balkhī, Abū al-Qāsim, 44
 al-Bāqillānī, Abū Bakr, 13, 43, 56, 96–97, 178, 204, 241
 definition of *qiyās*, 188
 epistemology, 98–103
 impact of epistemology on law, 106
 on *mutawātir ḥadīth*, 142
 on *qiyās al-shabah*, 212
 Tambū, 98, 103
 Taqrib, 98, 101, 103
 al-Baṣrī, Abū ‘Abd Allah, 44
 al-Baṣrī, Abū al-Ḥasan, 44
 al-Baṣrī, Abū al-Ḥusayn, 155, 193, 196
 defense of *ijmā’*, 169
 definition of *mujtahid*, 228
 on *mutawātir ḥadīth*, 143
 on *qiyās*, 189
 al-Baṣrī, Ḥasan, 80
 Böwering, Gerhard, 237, 248
 Bulliet, Richard
 factionalism in Nishapur, 40
 canonization
 of *ḥadīth*, 137
 of Islamic Law, 137–39
 certainty and continuity, 9–11. *See also*
 under al-Juwaynī, Abū al-Ma‘ālī
 Chaghri Beg, 60–61
 Companion precedent, 199, 217, 243; *see also*
 under al-Juwaynī, Abū
 al-Ma‘ālī
 in political thought, 236, 244, 246
 Cover, Robert, 26
 nomos, 279

308 Index

- custom
 al-Juwaynī's terminological variance,
 170–71
 al-Juwaynī's use in *mutawātir ḥadīth* and
ijmā', 181–83
- Dalīl* (indicator), 111, 115
 in *kalām*, 89, 102
 in *uṣūl al-fiqh*, 149, 206
- dialectic between law and community, 183,
 257, 272, 280, 282
- El Shamsy, Ahmed, 20, 137, 156
 canonization of Islamic law, 137–39
- epistemology, 130–31
 social epistemology, 25, 281
 study of, 24
- epistemology and law, 106–7, 139–40, 286
 implications of al-Juwaynī's
 epistemology, 128–30, 226, 230,
 264–70, 272
 implications of Ash'arī epistemology,
 103, 106, 206, 222, 226, 230
 implications of Mu'tazilī epistemology, 95
 transmission of *ḥadīth*, 141, 147–48, 151,
 159
- Fatigue of the Sharī'a (*futūr al-sharī'a*), 261
- Fatimids, 61–62, 254
- Geertz, Clifford, 256
- al-Ghazālī, Abū Ḥāmid, 13, 65–66, 73, 203
 defense of *qiyās al-shabah*, 213
 on *munāsaba*, 197
qānūn al-ta'wīl, 13
- Ghaznavids, 5, 39, 60
 relationship with Ḥanafīs, 41
- Gibb, Hamilton, 242, 273
- Griffel, Frank, 13, 28, 73
- Hallaq, Wael, 136, 139, 186, 191, 261, 274
- Ḥanafīs, 5, 199, 203
 in Nishapur, 41
- al-Harrāsī, al-Kiyā, 65
- Ḥayyūya, 'Abd Allah ibn Yūsuf, 54
- Heck, Paul, 10, 36
- Hourani, George, 91, 104
- Ibn 'Abbād, al-Ṣāhib, 82
- Ibn al-Amīr, 72
- Ibn 'Atā', Wāsil, 80
- Ibn Fūrak, 43, 96
- Ibn Ḥanbal, Aḥmad, 97
- Ibn al-Muwaffaq, 7, 41, 46
- Ibn al-Najjār, 158
- Ibn Shādhān, Abū 'Ali Aḥad, 61
- Ibn Sina, 74
- al-Ikshīd, Abū Bakr, 81
- infallibility doctrine, 164
- intellect, 8, 100, 111, 117–18
- al-Isfarāyīnī, Abū al-Qāsim, 55
- al-Isfarāyīnī, Abū Ishāq, 43, 96
- Islamic political thought, 21–24, 287
- al-Juwaynī
 absence of the imam, 252–54
 continuity after, 257
ahl al-ḥall wa-l-'aqd, 245
 concern for political continuity, 253,
 255
 duties of the imam, 250–52
 individual knowledge of the Sharī'a,
 264–70, 282
 justification of the imam, 243–44
 loss of the imam, 257–62
 loss of the *muftī-mujtahids*, 262–64
 loss of the Sharī'a, 270–73
 qualifications of the imam, 247–50
 selection of the imam, 244–47
 critiques of, 21, 273
 development of, 236–43
 epistemological foundations, 23
 genres, 238
 governance, 275
 usurpation, 247, 253
- Jackson, Sherman, 16, 281
 scriptural universalism, 17
- al-Jaṣṣās, Abu Bakr, 193
 defense of *ijmā'*, 167
- al-Jawharī, Abū Muḥammad, 56
- Johansen, Baber, 16
- al-Jubbā'ī, Abū 'Alī, 44, 81
- al-Jubbā'ī, Abū Ḥāshim, 81
- al-Juwaynī, Abū al-Ḥasan, 55
- al-Juwaynī, Abū al-Ma'ālī. *See also under*
 Islamic political thought
- akhbār*, 145–46
- āḥād ḥadīth*, 146, 159–62
 epistemological value, 142, 161
 justification of, 160
mutawātir ḥadīth, 146, 285
 conditions, 147–55

- epistemological value, 141, 154–55, 159
 evaluation of, 152
qarā' in al-ahwāl (external indicators), 146–47, 149, 151, 154–55, 182
 reception of his opinions, 159
Burbān, 110, 118–28, 145
 epistemology, 118
 legal universality, 185
 practical certainty, 127–28
 process of reasoning, 124–25
 ten grades of knowledge, 119–21, 153
 Companion precedent, 160, 192
 concern for certainty and continuity, 7, 185, 187, 215, 262–63, 275, 284
 in law, 182, 217, 265
 in politics, 253, 255, 264–70
 internal tension, 224, 231–32, 253, 272, 283
 loss of the Sharī'a, 270–73
 death, 75–76
 definition of knowledge, 118
 definition of *nazar*, 112, 114, 116, 121
 types of, 122
 departure from Nishapur, 60
 dialectic between law and community, 177
 early life and studies, 57
 epistemology, 10
 acquired necessary knowledge, 121–23, 125, 127, 132
 practical certainty, 10, 18, 127–28, 147, 263, 284
 proofs, 124
 ten grades of knowledge, 119–21, 147
 theory of entailment (*taḍammun*), 112, 206
 types of knowledge, 114
 necessary knowledge ('*ilm darūrī*'), 114
 uniformity of knowledge, 116–17, 119, 121–23, 125, 127, 132
 use of custom and repetition, 127–28, 148, 153, 175, 181–83, 266, 281, 284
wajh al-dalāla, 112–13, 117, 121, 124
Ghiyāthī, 235, 243–54, 257–82, 286
 Greek philosophy, 71–75
ijmā', 163
 critiques of traditional defense, 173
 defense and explanation, 179, 182
 proof for, 171–72, 174, 285
 reception of Al-Juwayni's theory, 179–81
 use of custom or repetition, 175, 177, 183
 impact of epistemology on law, 128–30
 impact of politics on thought, 9
 intellect, 118
Irsbād, 74, 110–11
Kāfiya, 191
 legal universality, 185, 285
Maṣlaḥa, 216–23, 231
 defense of, 217
 five categories, 219–22
 in *qiyās*, 197
muftī-mujtahid
 definition of, 229
Nizāmiyya, 74, 110
 political thought
 absence of the imam, 252–54
 continuity after, 257
 application of his epistemology, 263, 272, 285
 individual knowledge of the Sharī'a, 264–70, 282
 legal principles, 265
 continuity after, 286
 duties of the imam, 250–52
 function of *muftī-mujtahids*, 257–62
 justification of the imam, 243–44
 loss of the imam, 257–62
muftī-mujtahids, 258
 loss of the *muftī-mujtahids*, 262–64
 loss of the Sharī'a, 270–73
 qualifications of the imam, 247–50
 accepting the non-ideal, 250, 252
 inferior candidates, 248, 253, 258
kifāya, 247–48
 selection of the imam, 244–47
abl al-ḥall wa-l-'aqd, 245, 247, 249, 257
 purpose, 244
 usurpation, 246, 253
 on two imams, 259
 proofs, 149–50
qiyās
 definition and defense, 188–95
 hierarchy of types, 223–27
qiyās al-dalāla, 195
qiyās al-ma'nā, 195, 200, 225

310 Index

- al-Juwaynī, Abū al-Ma'ālī. (cont.)
 definition, 196
ikhāla, 196, 199, 225
'illa, 200
munāsaba, 196–97, 217
qiyās al-shabab, 209, 213–16, 225
 definition, 214
ikhāla, 214, 225
 types, 214, 225
 regulating legal variance, 227–32
al-sabr wa-l-taqṣīm, 201
al-ṭard wa-l-'aks, 204–5
 returning to Nishapur, 64
Shāmīl, 73, 110, 112, 116, 121, 123
 studies of, 28–31
Talkhīṣ, 142
 teaching at the Nizāmiyya, 70
- Karrāmiyya, 5, 39
 Kerr, Malcolm, 273
 al-Khabbāzī, Abū 'Abd Allāh, 56
 al-Khayyāt, Abū al-Ḥasan, 84
 Khurasan, 83
 knowledge
 acquired knowledge ('*ilm kasbī*), 115
 acquired necessary knowledge, 121–23,
 125
āḥad ḥadīth, 142, 159–62
 definition
 'Abd al-Jabbār, 88–89
 al-Bāqillānī, 98
 al-Juwaynī, 111, 118
 as evident or latent, 116
mutawātir ḥadīth, 143, 150, 154
 necessary knowledge ('*ilm darūrī*), 88, 95,
 99, 101, 111, 114, 123
 speculative knowledge ('*ilm nazārī*),
 88–89, 95, 114, 123
 theory of entailment (*taḍammun*), 112
 theory of *tawallud*, 89, 112
 uniformity of knowledge, 116–17, 119
 use of repetition or custom, 115,
 125–26
- al-Kundurī, 'Amīd al-Mulk, 48, 62
 involvement in *fitna*, 48–49
- Laher, Suheil, 155, 157
 Lambton, Ann, 242
 legal fallibility and infallibility, 229–31
 legal uncertainty, 2–3, 8, 15–21, 185, 206,
 226, 285, 287
- legal universality, 11, 185, 207, 216,
 223–24, 226, 231, 235, 272, 285
 Lowry, Joseph, 149, 166, 189, 211
- Madhbabs*, 6, 240
 development of, 137–39, 165, 227
 Mahdī, Muhsin, 239
 Maḥmūd of Ghazna, 6, 41, 83
 Makdisi, George, 19
 on the development of the Shāfi'ī school,
 45
 al-Marwazī, Abū Bakr al-Qaffāl, 54
Maṣlaḥa, 156, 204, 264
 five categories, 219–22
 justifying *āḥad ḥadīth*, 160
 use in *qiyās*, 197–98, 216–23, 231
 al-Māwardī, Abū al-Ḥasan, 242, 245, 247,
 252
 al-Māzarī, Abū 'Abd Allāh, 71, 156
 al-Mujāshī 'ī, Abū al-Ḥasan, 68
muftī-mujtabid, 258
 absence of, 260
 definition of, 228
 function in lieu of imam, 257–62
 loss of, 262–64
 regulating legal variance, 227–32
 al-Mu'tamir, Bishr, 80
 Mu'tazila
 Bahshamiyya, 81, 84
 development of school, 84
 doctrine of *lutf*, 92
 epistemology, 88–92, 95
 five principles, 84–86
 free will, 86
 on *ḥadīth*, 155
 Ikshīdiyya, 81
 law and epistemology, 95
mihna, 81
 political support, 6
taḥsīn wa taqbiḥ, 90, 94
 theory of *ḥuqūq*, 94
 moral universalism, 95, 106, 109
- al-Nāshīhī, Abū Bakr, 84
Nazar (speculative reasoning), 15, 89, 101,
 105, 111–12, 114, 116, 121
 in *qiyās*, 215, 262
 types of, 101, 111, 116, 122
 al-Nazzām, Abū Ishāq, 155–56, 169
 Nguyen, Martin, 49
 factionalism in Nishapur, 45

Index

311

- al-Nīsābūrī, Abū Rashīd, 83
 Nishapur, 5–7, 35, 39–48, 71, 83, 96
 al-Juwaynī leaving, 60
 al-Juwaynī returning, 60–64
 factionalism, 40
 fitna in, 48–51
 Nizām al-Mulk, 7, 59, 61, 66, 274
 creation of the Nizāmiyya madrassas, 63
 political thought, 239
 Nizāmiyya (madrassa), 1, 32, 60, 63–64, 73
 Opwis, Felicitas
 on *maṣlaḥa*, 222
 on *munāsaba* and *ikhāla*, 196
 overwhelming probability (*ghalabat al-zann*),
 18, 105, 199–200, 213, 215, 225
 al-Qushayrī, Abū al-Qāsim, 46, 50, 67
 al-Rāzī, Fakhr al-Dīn, 14
 reason and revelation, 8, 106–7, 287
 Ash'arī perspective, 8, 12, 103, 105, 207
 conflict between, 12
 in Islamic studies, 15
 Mu'tazilī perspective, 8, 12, 90, 92, 95
 Reinhart, Kevin, 19, 156
 Samanids, 5, 39
 al-Ṣandaī, Abū al-Hasan, 48
 al-Ṣaymarī, Abū 'Abd Allah, 81
 scriptural universalism, 17, 106, 109, 187,
 216, 223
 Seljuks, 60, 83, 253–54, 257
 capture of Nishapur, 7, 41
 Shabana, Ayman, 170
 Shāfi'ī-Ash'arī synthesis
 beginning of, 42
 persecution of, 7, 46
 al-Shāfi'ī, Muhammad ibn Idrīs, 6, 174
 defense of *ijmā'*, 166
 definition of *mujtahid*, 228
 on *qiyās*, 189
 on *qiyās al-shabah*, 195, 211
 Shafī'īs, 5
 in Nishapur, 41
 relationship with Mu'tazila, 19, 156,
 160–61
 Sharī'a, 24
 continuity through individual knowledge,
 264–70
 as custom, 264, 266
 definitions of, 277–82
 al-Juwaynī, 279–81
 Anver Emon, 278
 as *nomos*, 280–81
 Joseph Schacht, 277
 Khaled Abou El Fadl, 277
 derivation of legal rulings, 105
 as dialectic, 280, 282
 loss of, 270–73
 as *nomos*, 26, 283, 286–87
 al-Shaybānī, Muḥammad, 166
 Shī'a, 5
 Shihadeh, Ayman, 86
 ethical realism, 91
 al-Shirāzī, Abū Ishāq, 1, 69
Shūrā, 164, 238
 skepticism, 10, 37
 Stoker, Gerry, 276
 al-Subkī, Tāj al-Dīn, 1
 al-Ṣu'lukī, Abū Sahl, 43, 54
Tahsīn wa taqbiḥ, 90, 94
 Ash'arī response, 104
Taklīf
 Ash'arī perspective, 104
 Mu'tazilī perspective, 92–93, 95
 Tilman, Nagel, 37–39
 Translation Movement, 70
 Ṭughril Beg, 7, 42, 46, 48, 57, 83
Usūl al-fiqh, 135, 284
 āḥad ḥadīth, 141
 epistemological value, 142
 transmission, 141
 epistemological foundations, 148
ijmā'
 criticisms of, 172
 early defense of, 166–70
 epistemological importance, 139–42,
 163, 167, 181
 historical roots, 164–66
 al-Juwaynī's defense and explanation,
 179
 responses to al-Juwaynī, 174–77
maṣlaḥa
 five categories, 219–22
mutawātir ḥadīth, 136
 conditions, 142–45, 147–55
 epistemological value, 141, 143–44, 162
 reception of al-Juwaynī's opinions, 159
 transmission, 140–41

312 Index

Uṣūl al-fiqh (cont.)*qiyās*

- definition and defense, 188–95
- hierarchy of types, 223–27
- ‘illa*, 191, 196
- ma’nā*, 190, 196
- qiyās al-dalāla*, 195
- qiyās al-ma’nā*, 195, 200
- qiyās al-shabāh*, 195, 213–16
 - debates on, 209–13
 - regulating legal variance, 227–32
- sabr wa-l-taqṣīm*, 201–4
- al-ṭard wa-l-‘aks*, 204

Quran

- theory of *tawātur*, 136

- Vasalou, Sophia, 85, 92, 94
- Vishanoff, David, 17

- Weiss, Bernard, 165, 288
- Wisnovsky, Robert, 26, 74

- Young, Walter, 191

al-Zarkashī, Badr al-Dīn

- on *ijmā’*, 180
 - on *mutawātir ḥadīth*, 145, 157
- Zysow, Aron, 15, 162, 192–93, 205, 222, 288
- formalists and materialists, 15, 19, 139–40
 - formalists on *ḥadīth*, 159