

# A Tale of Two *Ṭariqas*: The Iraqi and Khurasani Shāfiʿī Communities in the Fourth/Tenth and Fifth/Eleventh Centuries

Mariam Sheibani\*

## ABSTRACT

This article provides a new account of Shāfiʿī legal history in the fourth/tenth and fifth/eleventh centuries: a tale of two *ṭariqas*, or interpretive communities, one in Iraq and the other in Khurasan. I show that these two Shāfiʿī communities developed as distinct social and scholarly collectives before gradually converging in Ayyubid Damascus and eventually coalescing around one authoritative school doctrine in the Mamluk period. I reconstruct the networks of Shāfiʿī jurists in the two regions and show how and why the two groups differed in their legal reasoning and their paradigm of the *madhhab* (legal school). Although all of these jurists shared a transregional affiliation with the Shāfiʿī *madhhab* that distinguished them from jurists belonging to other legal schools, I argue that these affinities were countered by geographical boundaries and diverging local developments that led to the differentiation of the Iraqi and Khurasani Shāfiʿī communities. These insights not only complicate our understanding of what constitutes the post-formative *madhhab* as an institution but also demonstrate how broader intellectual and institutional developments, such as the ascendancy of Ashʿarism, the emergence of new centres of scholarship, and the introduction of the *madrasa*, shaped the internal workings of the *madhhab*.

## INTRODUCTION

Contributions to the historiography of the Shāfiʿī *madhhab* (legal school) in the last two decades have significantly advanced our knowledge of the school's formative development. Among the important studies of Shāfiʿism's beginnings, Ahmed El Shamsy's benchmark study of al-Shāfiʿī's (d. 204/820) legacy established the role of the collective efforts of a multigenerational community of jurists—a 'community of interpretation', as he aptly terms it—in the canonization of al-Shāfiʿī's thought and its eventual evolution into a legal school.<sup>1</sup>

\* Mariam Sheibani, Brandeis University, Department of Near Eastern and Judaic Studies, Waltham, MA, USA.

Email: [msheibani@brandeis.edu](mailto:msheibani@brandeis.edu)

<sup>1</sup> Ahmed El Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (Cambridge University Press 2013); Ahmed El Shamsy, 'The First Shāfiʿī: The Traditionalist Legal Thought of Abū Yaʿqūb al-Buwayṭī (d. 231/846)'

El Shamsy argues persuasively that this achievement rested on a shared hermeneutic approach to revealed sources.<sup>2</sup> While the important contributions of El Shamsy and others have shed light on al-Shāfi‘ī’s thought and the consolidation of his legacy into a *madhhab*,<sup>3</sup> a gap persists in our knowledge of the school’s evolution after the generation of al-Shāfi‘ī’s students, corresponding roughly to the fourth/tenth and fifth/eleventh centuries, when it spread eastward from Egypt to Iraq and Khurasan (present-day Iran, Central Asia, and Afghanistan).<sup>4</sup>

Primary sources from this period speak of a distinct group of authorities in each locale—‘our Khurasani companions’ (*aṣḥābunā al-khurasāniyyūn*) and ‘our Iraqi companions’ (*aṣḥābunā al-‘irāqiyyūn*)—and later of two separate ‘*ṭariqas*’, a term that literally signifies an approach or a method but that is used from the late fourth/tenth century onwards to designate two Shāfi‘ī communities, one in Iraq and one in Khurasan (*ṭariqat al-khurasāniyyin wal-‘irāqiyyin*). Beyond these broad outlines, we still know very little about the two communities, how they were differentiated, and why. Literature on this period tends to depict the Shāfi‘ī school as a single homogeneous and cohesive entity. It is a commonplace in Shāfi‘ī historiography that members of the Shāfi‘ī *madhhab* throughout time shared a core set of legal doctrines inherited from al-Shāfi‘ī and other early authorities, interpretive commitments rooted in al-Shāfi‘ī’s hermeneutics, and a distinct communal identity and historical memory vis-à-vis other legal schools. Scholarly analysis of Shāfi‘ī social history in the fourth/tenth and fifth/eleventh centuries has therefore centred on the debates and polemics between the Shāfi‘īs and members of other *madhhabs*—chiefly the Ḥanafis in Khurasan and the Ḥanbalis in Iraq—with little attention to the ongoing negotiations within the *madhhab* itself.<sup>5</sup> This lacuna is also shaped by the limitations of the primary sources from and about this period, which rarely discuss the Iraqi and Khurasani traditions in an analytical way and thus make a full understanding of the conceptual and historical categories of Khurasani and Iraqi Shāfi‘ism elusive.

This article draws on an array of literary, biographical, and historical sources to provide a new account of Shāfi‘ī legal history in the fourth/tenth and fifth/eleventh centuries: a tale of two *ṭariqas*, or interpretive communities, one in Iraq and the other in Khurasan. Building on El Shamsy’s conceptualization of the *madhhab* as a community of interpretation, I show that these two Shāfi‘ī communities in fact developed as distinct social and scholarly collectives before gradually converging in Ayyubid Damascus and eventually coalescing around

(2007) 14 *Islamic Law and Society* 301; Ahmed El Shamsy, ‘Rethinking *Taqlid* in the Early Shāfi‘ī School’ (2008) 128 *Journal of the American Oriental Society* 1; Ahmed El Shamsy, ‘Al-Shāfi‘ī’s Written Corpus: A Source-Critical Study’ (2012) 132 *Journal of the American Oriental Society* 199; Ahmed El Shamsy, ‘The Wisdom of God’s Law: Two Theories’ in Robert Gleave and A Kevin Reinhart (eds), *Islamic Law in Theory: Studies on Jurisprudence in Honor of Bernard Weiss* (Brill 2014).

<sup>2</sup> El Shamsy, *Canonization of Islamic Law* *ibid* 6, 176–7.

<sup>3</sup> See eg, Christopher Melchert, *The Formation of the Sunni Schools of Law, 9th–10th Centuries C.E.* (Brill 1997); Joseph E Lowry, *Early Islamic Legal Theory: The Risāla of Muḥammad ibn Idrīs al-Shāfi‘ī* (Brill 2007); Kecia Ali, *Imam Shafi‘i: Scholar and Saint* (Oneworld 2011).

<sup>4</sup> Some recent studies have contributed to filling this gap by presenting intellectual biographies of prominent Shāfi‘ī jurist-theologians from this period, including Abū al-Ma‘ālī al-Juwaynī (d. 478/1085), Abū Ishāq al-Shirāzī (d. 476/1083), and Abū Ḥāmid al-Ghazālī (d. 505/1111). See eg, Sohāira Siddiqi, *Law and Politics under the Abbasids: An Intellectual Portrait of al-Juwaynī* (Cambridge University Press 2019); Youcef L Soufi, ‘Pious Critique: Abū Ishāq al-Shirāzī and the 11th Century Practice of Juristic Disputation (*Munāzara*)’ (PhD dissertation, University of Toronto 2017); Youcef L Soufi, ‘Before *Maqāsid*: Uncovering the Vision of Contested Benefits (*Maṣāliḥ*) in the Classical Shāfi‘ī School’ (2021) 38 *American Journal of Islam and Society* 71; Muhamed Eissa, *The Jurist and the Theologian: Speculative Theology in Shāfi‘ī Legal Theory* (Gorgias Press 2017); Frank Griffel, *Al-Ghazālī’s Philosophical Theology* (Oxford University Press 2009); Frank Griffel, *Über Rechtgläubigkeit und religiöse Toleranz* (Spur 1998).

<sup>5</sup> See eg, Louis Pouzet, *Damas au VII<sup>e</sup>–XIII<sup>e</sup> siècle: Vie et structures religieuses d’une métropole islamique* (Dar el-Machreq 1988); Daphna Ephrat, *A Learned Society in a Period of Transition: The Sunni ‘Ulamā’ of Eleventh-Century Baghdad* (SUNY Press 2000); Daniella Talmon-Heller, *Islamic Piety in Medieval Syria: Mosques, Cemeteries and Sermons under the Zangids and Ayyūbids (1146–1260)* (Brill 2007); Rodrigo Adem, ‘The Intellectual Genealogy of Ibn Taymiyya’ (PhD dissertation, University of Chicago 2015).

one authoritative school doctrine in the Mamluk period.<sup>6</sup> I reconstruct the networks of Shāfi'ī jurists in the two regions and show how and why the two groups differed in their legal reasoning and their paradigm of the *madhhab*. Although all of these jurists shared a transregional affiliation with the Shāfi'ī *madhhab* that distinguished them from jurists belonging to other legal schools, I argue that these affinities were balanced in the fourth/tenth and fifth/eleventh centuries by geographical boundaries and diverging local developments that led to the differentiation of the Iraqi and Khurasani Shāfi'ī communities.

The article is divided into four parts. The first part examines the meaning of the term *ṭariqa* and its usage in historical Shāfi'ī sources and secondary literature. It analyses the ways in which Mamluk-era Shāfi'ī biographers and intellectual historians, particularly Muḥī al-Dīn Abū Zakariyya Yaḥyā b. Sharaf al-Nawawī (d. 676/1277), memorialized this stage in the *madhhab's* evolution. The second part traces the eastward expansion of the Shāfi'ī school from Egypt into Iraq and later from the capital, Baghdad, into Khurasan and Transoxania. It explains the different trajectories of Shāfi'ism in these two centres on the basis of three primary factors: geographical contingencies, the emergence of distinct interpretive communities, and differences in the intellectual and social integration of Ash'arism in each Shāfi'ī community. Part three evaluates the mature legacy of each community as expressed in the thought of two prominent mid-fifth/eleventh-century jurists: Abū al-Ma'ālī al-Juwaynī (d. 478/1085) in Nishapur and Abū Ishāq al-Shīrāzī (d. 476/1083) in Baghdad. The article closes with a brief consideration of the fading of the *ṭariqas* in Iraq and Khurasan, which coincided with their transplantation through networks of teaching and learning to Ayyubid Damascus and was eventually sealed with the synthesis of their respective approaches into a single authoritative school doctrine in the Mamluk period.

## 1. WHAT'S IN A *ṬARĪQA*? THE TWO *ṬARĪQAS* IN SHĀFI'Ī HISTORICAL MEMORY AND SECONDARY LITERATURE

The term *ṭariqa* is used in early Shāfi'ī sources to signify a transmitted legal opinion. This indicates that an early difference between the *ṭariqas* of Khurasan and Iraq concerned their diverging transmissions of school doctrine and their distinctive methodologies for weighing competing transmissions within the school. In the period in which the two *ṭariqas* emerged, Shāfi'ī jurists were principally focused on consolidating school doctrine by harmonizing the body of opinions transmitted from early authorities and developing a methodology for addressing unprecedented cases.

The most extensive theoretical discussion of the term *ṭariqa* is presented by al-Nawawī in his *Majmū'*, a commentary on al-Shīrāzī's *Kitāb al-Muḥadhdhab fī fiqh al-Imām al-Shāfi'ī*. In his introduction, al-Nawawī defines key terms deployed by early Shāfi'ī jurists, including a position held by al-Shāfi'ī (*qawl*, pl. *aqwāl*), a position held by an early authority (*wajh*, pl. *awjuh*), and a transmission of school doctrine (*ṭariqa*, pl. *ṭuruq*). Al-Nawawī contrasts *aqwāl* with *awjuh*, which are views that prominent early Shāfi'īs (*aṣḥāb al-wujūh*) either derived from the doctrinal principles (*uṣūl* and *qawā'id*) laid down by al-Shāfi'ī or formulated through independent reasoning. A *ṭariqa* denotes a particular transmission of either type of position. For instance, a jurist might report via one *ṭariqa* that al-Shāfi'ī had two opinions on a given matter and via a second *ṭariqa* that he endorsed only one of them. Or one *ṭariqa* might convey that Shāfi'ī authorities proffered multiple opinions or rulings (*aqwāl* or *awjuh*)

<sup>6</sup> On this later synthesis of the Shāfi'ī school, see Fachrizal Halim, *Legal Authority in Premodern Islam: Yaḥyā b. Sharaf al-Nawawī in the Shāfi'ī School of Law* (Routledge 2015); Tarek Ghanem, 'Texts, Language, and History in the Madhab-Law Tradition: A Study of the Shāfi'ī School' (MA thesis, American University in Cairo 2020); Mahmood Kooria, *Islamic Law in Circulation: Shāfi'ī Texts across the Indian Ocean and the Mediterranean* (Cambridge University Press 2022).

to resolve a legal problem while another *ṭarīqa* asserts a single position on the issue. As a further example, a *ṭarīqa* might provide details concerning the applicability of a ruling (*tafṣīl*), whereas another claims that the ruling is straightforward and universally applicable. Al-Nawawī recognizes the complexities involved in arbitrating between conflicting transmitted views, and he therefore offers guidelines for determining the preponderant position in such situations, making extensive reference to the Shāfi‘ī hadith scholar Abū ‘Amr Ibn al-Ṣalāh’s (d. 643/1245) *Adab al-muḥtāfi wa-l-mustaḥtāfi*.<sup>7</sup>

Al-Nawawī also notes that at times the terms *wajh* and *ṭarīqa* are used interchangeably, because a *wajh* can also denote a variant transmission of school doctrine. In Shāfi‘ī doctrinal sources, we find copious references to divergent views transmitted by individual Iraqis and Khurasanis as well as to views promulgated by each community as a collective. In some cases, these transmissions pertain to views concerning the most reliable statement from al-Shāfi‘ī, while in others, they convey later scholars’ own independently derived rules for new cases. As Fachrizal Halim observes in his study of al-Nawawī’s thought, a particular jurist’s *ṭarīqa* may have consisted not just of a transmitted view but also of a unique method of interpretation and the specific weights given to various considerations in that jurist’s approach to legal disputation (*khiṭāf*).<sup>8</sup> Halim maintains that the *ṭarīqa*, in the sense of interpretive approach, of the most prominent *ashāb al-wujūh* became normative within the Shāfi‘ī school: ‘The influence of their model of reasoning and interpretation was apparently huge, so much so as to attract other jurists to use them as common models of interpretation.’<sup>9</sup> Over time and in the aggregate, regional patterns in Khurasan and Iraq crystallized into distinctive interpretive approaches, which came to be referred to as the Iraqi *ṭarīqa* and the Khurasani *ṭarīqa*.

Although the surviving sources establish the existence of the Khurasani and Iraqi *ṭarīqas* as two distinct Shāfi‘ī interpretive approaches and communities, many questions remain unanswered. For instance, what were the characteristic features of each community? Beyond geography, what intellectual, methodological, and institutional differences demarcated the two branches? What factors contributed to this differentiation? To what extent were the two communities aware of their differences, and what were the dynamics of exchange between them? And finally, how did later Shāfi‘īs remember this stage in their school’s development?

Our sources, both those written in this period and those composed later, have little to say about these issues. Substantive works attribute particular legal doctrines to individual Iraqi or Khurasani jurists or, more often, to the Iraqis or the Khurasanis as a collective (eg, ‘The Iraqis held X, whereas the Khurasanis maintained Y.’) Biographical sources assign jurists to one community or the other and record their teachers and students. Drawing on this biographical cache, several scholars have studied Khurasani and Iraqi juristic networks. In his study of the evolution of the Sunni schools of law, Christopher Melchert identified the important figures of third/ninth- and fourth/tenth-century Shāfi‘ism in the East. His criteria for what constitutes a legal school led him to conclude, somewhat contentiously, that Abū al-‘Abbās Ibn Surayj (d. 306/918), rather than al-Shāfi‘ī himself, was the real architect of the Shāfi‘ī school.<sup>10</sup> Nail Okuyucu’s Turkish-language study of the consolidation of Shāfi‘ism as a corporate unit in the third/ninth century confirms the broad outlines of Melchert’s theory of the evolution of the *madhhab*, particularly the significance of Ibn Surayj and his disciples in its consolidation.<sup>11</sup> Halim’s study includes a chapter describing

<sup>7</sup> Abū Zakariyya Muḥī al-Dīn al-Nawawī, *al-Majmū‘ sharḥ al-Muhadhdhab* (Idārat al-Ṭibā‘a al-Muniriyya 1925) vol 1, 65–69; Abū ‘Amr Ibn al-Ṣalāh al-Shahrazūrī, *Adab al-muḥtāfi wa-l-mustaḥtāfi* (‘Abd al-Muṭī‘ Amin Qal‘aji ed, Dār al-Ma‘rifa 1986/1406) 60–71.

<sup>8</sup> Halim (n 6) 58.

<sup>9</sup> *ibid.*

<sup>10</sup> Melchert (n 3) ch 4.

<sup>11</sup> Nail Okuyucu, *Şafii Mezhebinin Teşekkül Süreci* (Marmara Üniversitesi İlahiyat Fakültesi Vakfı 2015).

the Iraqi and Khurasani Shāfi'ī transmissions of school doctrine that al-Nawawī would eventually reconcile.<sup>12</sup>

Beyond jurists' biographies, on which these studies are largely based, historical sources provide little information about the emergence of differentiated juristic communities in Iraq and Khurasan or, more crucially, about the characteristics that distinguished the two communities. This is perhaps due to the school's subsequent trajectory: once the *madhhab's* dual legacy was fused into a single authoritative doctrine by Mamluk-era jurists, there was little incentive to belabour the differences that had once existed. Breaking this virtual silence, al-Nawawī characterizes the two communities as follows in his long introduction to *al-Majmū'*:

Know that the Iraqis transmit the views (*nuṣūṣ*) of al-Shāfi'ī, the maxims (*qawā'id*) of his school, and the views of early authorities more precisely and reliably than the Khurasanis transmit them, for the most part. [On the other hand,] the Khurasanis are more adept in analysis, research, derivation, and organization (*aḥsan taṣarrufan wa-baḥthan wa-tafri'an wa-tartiban*).<sup>13</sup>

In al-Nawawī's view, then, Iraqi Shāfi'īs were primarily concerned with preserving and transmitting school doctrines in the form in which they had received them, much like hadith transmitters, whereas Khurasanis sought to systematize the school's doctrines and engaged in analytical and exploratory legal discourse.<sup>14</sup> As the principal synthesizer of the two strands of Shāfi'ism al-Nawawī was intimately familiar with both, making his account particularly compelling.<sup>15</sup>

Al-Nawawī's terse remarks about the varying transmissions of legal doctrine among early Shāfi'īs and the divergent scholarly cultures and authorial styles of Iraqi and Khurasani jurists tell the beginning of an intriguing but to date untold story. By situating the legal thought of Khurasani and Iraqi jurists within broader social and intellectual developments, I not only confirm and flesh out al-Nawawī's characterization of the two communities but also reconstruct *how* and *why* they developed.

## 2. THE EMERGENCE AND DIFFERENTIATION OF THE KHURASANI AND IRAQI COMMUNITIES

The historical emergence of the Khurasani and Iraqi Shāfi'ī *ṭariqas* was shaped by three main factors, roughly corresponding to three stages of development. The first factor was the geographical distance of Baghdad from the cities of Khurasan, whose economic, political, and religious significance was rising steadily throughout the fourth/tenth century. Since Iraq had been a hub of Sunni learning since the second/eighth century, the key change that led to the existence of two *ṭariqas* was the emergence of an indigenous Shāfi'ī scholarly tradition in Khurasan that was both rigorous and distinctive enough to rival that of Iraq. The second factor was the consolidation, over time, of a distinct interpretive community in each locale with its own authorities, characteristic solutions to new and old problems, and styles of legal reasoning shaped by exchange with local interlocutors. Finally, the differentiation of the two communities was entrenched by the third factor: the Khurasani Shāfi'īs' deep

<sup>12</sup> Halim (n 6) ch 3.

<sup>13</sup> al-Nawawī (n 7) vol 1, 69.

<sup>14</sup> In his entry on Shāfi'ism for the second edition of the *Encyclopaedia of Islam* (EI2), Éric Chaumont astutely characterized the Khurasani branch of the school as 'more speculative' than its Iraqi counterpart, perhaps drawing on al-Nawawī; Éric Chaumont, 'Al-Shāfi'iyya' EI2 (Brill 1997) vol 9, 185–9.

<sup>15</sup> On al-Nawawī and this later synthesis of the Shāfi'ī school, see Halim (n 6); Ghanem (n 6); Kooria (n 6).

absorption of Ash‘arism, which influenced their theoretical jurisprudence (*uṣūl al-fiqh*) and ethico-legal philosophy, their substantive *fiqh* works, and their style of Sufism in ways unfamiliar to their Iraqi peers.

### A. Beginnings: Geography and the emergence of two *Ṭarīqas*

The eastward expansion of Shāfi‘ism from Egypt began in the late third/ninth century. In the decades after al-Shāfi‘ī’s death in 204/820, news of his and his students’ prominence caught the attention of Iraqi scholars, some of whom travelled to Egypt to seek out al-Shāfi‘ī’s disciples.<sup>16</sup> Upon their return, they became sought-after teachers in their own right and attracted students to Baghdad, the Abbasid caliphal capital where the Shāfi‘ī school was quickly developing a following.<sup>17</sup> Among the earliest and most prominent Iraqis who trained with al-Shāfi‘ī’s disciples in Cairo was Abū al-Qāsim ‘Uthmān b. Sa‘īd al-Anmātī (d. 288/901),<sup>18</sup> who studied with al-Rabī‘ b. Sulaymān al-Murādī (d. 270/884) and Ismā‘īl b. Yaḥyā al-Muzanī (d. 264/877) in Egypt (see Figure 1). Al-Anmātī’s importance for the spread of Shāfi‘ism in Iraq was eclipsed only by that of his student Ibn Surayj (d. 306/918), who remains the object of considerable interest and debate among contemporary scholars despite how little we know about his thought.<sup>19</sup>

Iraq’s status as a centre of learning was further augmented by the Fatimid conquest of Egypt in 358/969, which made Iraq, and especially Baghdad, the main hub of Sunni cultural and intellectual life. The further eastward spread of Shāfi‘ism proceeded largely from Baghdad, which soon overtook Egypt as the centre of Shāfi‘ī scholarship. Throughout the fourth/tenth century, a steady stream of bright young minds flocked from the cities of Khurasan to Baghdad to study with Shāfi‘ī masters. They had become acquainted with al-Shāfi‘ī’s teachings through early Khurasani pioneers who had travelled to Egypt in the previous century to study the books of al-Muzanī and al-Rabī‘ directly with their authors.<sup>20</sup> Al-Muzanī’s Khurasani students included ‘Abadān ‘Abd Allāh b. Muḥammad b. ‘Īsā al-Marwazī (d. 294/906)<sup>21</sup> and Aḥmad b. Sayyār (d. 268/881)<sup>22</sup> from Merv and Ibn Khuzayma (d. 311/923)<sup>23</sup> and Abū Bakr ‘Abd Allāh b. Muḥammad b. Ziyād al-Naysābūrī (d. 324/936)<sup>24</sup> from Nishapur. Some Khurasani Shāfi‘īs who trained in Egypt, such as Abū Bakr ‘Abd Allāh b. Muḥammad, settled in Iraq, whereas others returned home to Khurasan, where they spread the knowledge they had acquired from al-Shāfi‘ī’s students. For example, Muḥammad b. Naṣr al-Marwazī (d. 294/906), a student of al-Rabī‘ b. Sulaymān and ‘Abd Allāh b. ‘Abd al-Ḥakam (d. 214/829), actively spread Shāfi‘ism in Khurasan upon his return

<sup>16</sup> For a detailed history of al-Shāfi‘ī’s students, see El Shamsy, *Canonization Islamic Law* (n 1) especially chs 5–7.

<sup>17</sup> On the history of Baghdad during this period, see Dimitri Gutas, *Greek Thought, Arabic Culture: The Graeco-Arabic Translation Movement in Baghdad and Early ‘Abbāsī Society (2nd–4th/8th–10th Centuries)* (Routledge 1998); Hugh Kennedy, *When Baghdad Ruled the Muslim World: The Rise and Fall of Islam’s Greatest Dynasty* (Da Capo Press 2005); Jens Scheiner and Damien Janos (eds), *The Place to Go: Contexts of Learning in Baghdad, 750–1000 C.E.* (Darwin Press 2014); Jens Scheiner and Isabel Toral (eds), *Baghdād: From Its Beginnings to the 14th Century* (Brill 2022).

<sup>18</sup> On al-Anmātī, see Abū Ishāq al-Shirāzī, *Ṭabaqāt al-ḥaqāhā’* (Iḥṣān ‘Abbās ed, Dār al-Rā‘id ‘Arabī 1401/1981) 104.

<sup>19</sup> On Ibn Surayj, see Shams al-Dīn Muḥammad al-Dhahabī, *Siyar a‘lām al-nubalā’* (Shu‘ayb al-Arna‘ūt and others eds, Mu‘assasat al-Risāla 1417/1996) vol 12, 201–4; Melchert (n 3) ch 4; Wael B Hallaq, ‘Was al-Shāfi‘ī the Chief Architect of Islamic Jurisprudence?’ (1993) 25 *International Journal of Middle East Studies* 587; Ahmed El Shamsy, ‘Bridging the Gap: Two Early Texts of Islamic Legal Theory’ (2017) 137 *Journal of the American Oriental Society* 505; Okuyucu (n 11).

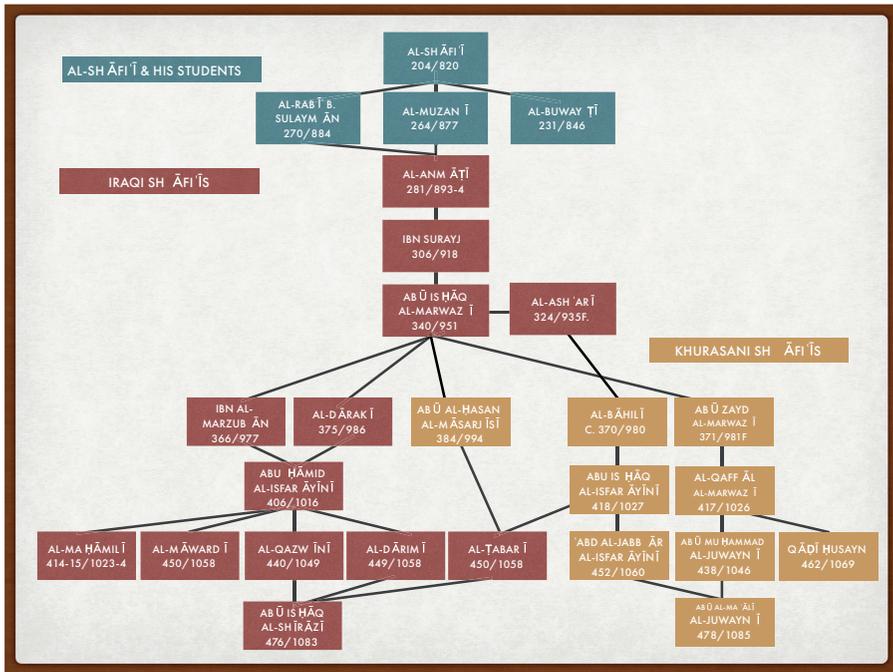
<sup>20</sup> The benchmark study in the field about intellectual life in Khurasan remains Richard Bulliet’s study of Nishapur, the conclusions of which are largely generalizable to the rest of Khurasan in this period. He notes that the Hanafis arrived in Khurasan first and constituted the intellectual establishment by the time the relative latecomers, the Shāfi‘īs, appeared on the scene. See Richard Bulliet, *The Patricians of Nishapur: A Study in Medieval Islamic Social History* (Harvard University Press 1972).

<sup>21</sup> On ‘Abadān, see Tāj al-Dīn al-Subkī, *Ṭabaqāt al-shāfi‘iyya al-kubrā* (Mahmūd Muḥammad al-Tanāhī and ‘Abd al-Fattāh Muḥammad al-Ḥulwī eds, Maṭba‘at ‘Īsā al-Bābī al-Ḥalabī 1964–76) vol 2, 297–8; Abū Bakr b. Ahmad Ibn Qāḍī Shuhba, *Ṭabaqāt al-ḥaqāhā’ al-shāfi‘iyya* (‘Abd al-‘Alīm Khān ed, ‘Ālam al-Kutub 1407/1986–7) vol 1, 79.

<sup>22</sup> On Ibn Sayyār, see al-Subkī *ibid* vol 2, 183; Ibn Qāḍī Shuhba *ibid* vol 1, 75.

<sup>23</sup> On Ibn Khuzayma, see al-Shirāzī (n 18) 105–6; al-Subkī (n 21) vol 3, 109–19; Ibn Qāḍī Shuhba (n 21) vol 1, 99–100.

<sup>24</sup> On Abū Bakr ‘Abd Allāh al-Naysābūrī, see al-Shirāzī (n 18) 113–14; al-Subkī (n 21) vol 3, 310–13.



**Figure 1.** Student–teacher links among Iraqi and Khurasani Shāfi'īs in the fourth/tenth and fifth/eleventh centuries, showing the most important conduits to al-Shīrāzī and Abū al-Ma'ālī al-Juwaynī.

from Baghdad.<sup>25</sup> Abū 'Alī al-Thaqafī (d. 328/940) studied with Muḥammad b. Naṣr as well as Ibn Khuzayma and was remembered for being the first to bring 'the sciences of al-Shāfi'ī and the minutiae of Ibn Surayj from Iraq to Khurasan'.<sup>26</sup>

Importantly, many of these figures were also prominent hadith scholars who collected and evaluated reports attributed to the Prophet Muḥammad. This activity was one of the most significant features of the proto-Shāfi'ī school during its eastward expansion. The collection and canonization of Prophetic hadith marked a crucial shift in Sunnism and was closely associated with the paradigm of legal interpretation and epistemology established by al-Shāfi'ī.<sup>27</sup> Of the school founders, it was al-Shāfi'ī who championed hadith as the primary vehicle of the Prophet's normative legacy and elevated hadith above communal practice as the primary determinant of the correct understanding of the Quran and the main source of legal rulings.<sup>28</sup> Al-Shāfi'ī's theorization of the role of hadith served as a major impetus for the compilation and study of hadith in the subsequent century, a movement spearheaded by al-Shāfi'ī's intellectual heirs in Baghdad and Khurasan, many of whom maintained at least a nominal affiliation with the Shāfi'ī legal school.<sup>29</sup> Prominent Shāfi'īs who played a seminal role in the early study of hadith, such as Ibn Khuzayma, Ibn Abī Ḥātim al-Rāzī (d. 327/938), al-Ḥākim al-Naysābūrī (d. 405/1014), and al-Khaṭīb al-Baghdādī (d. 463/1071), were

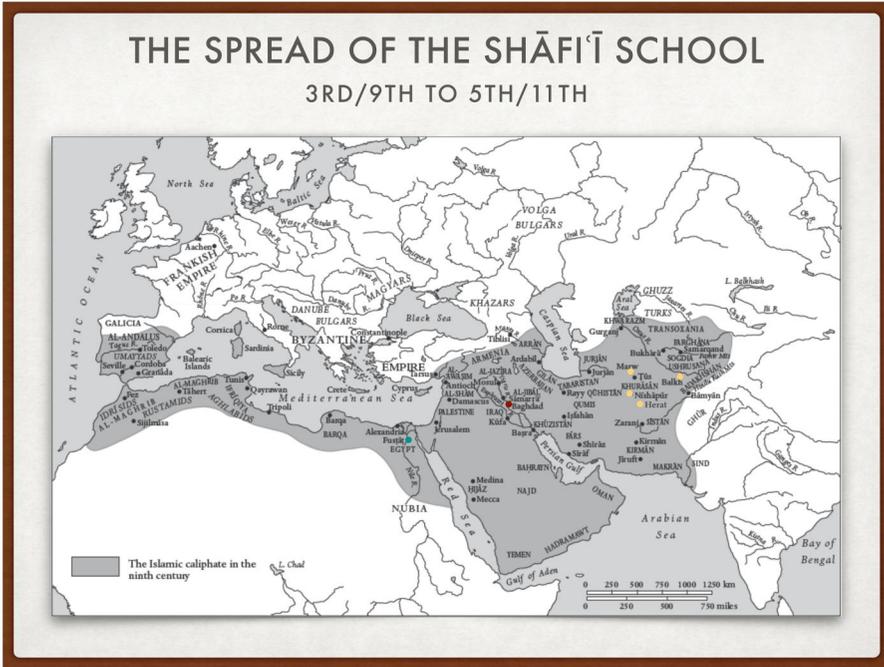
<sup>25</sup> On Muḥammad b. Naṣr, see al-Shīrāzī (n 18) 106–7; al-Subkī (n 21) vol 2, 246–55; Ibn Qāḍī Shuhba (n 21) vol 1, 84–85.

<sup>26</sup> Melchert (n 3) 99. On Abū 'Alī al-Thaqafī, see al-Subkī (n 21) vol 3, 192–6.

<sup>27</sup> On the canonization of hadith and the role of Shāfi'ī scholars in it, see Jonathan AC Brown, *The Canonization of al-Bukhārī and Muslim: The Formation and Function of the Sunnī Hadīth Canon* (Brill 2007).

<sup>28</sup> See El Shamsy, *Canonization of Islamic Law* (n 1).

<sup>29</sup> See Scott Lucas, *Constructive Critics, Hadīth Literature, and the Articulation of Sunnī Islam: The Legacy of the Generation of Ibn Sa'd, Ibn Ma'in, and Ibn Ḥanbal* (Brill 2004).



**Figure 2.** The Islamic caliphate in the third/ninth century, showing the major cities of Khurasan and Iraq. Map taken from Chase F Robinson (ed), *The Formation of the Islamic World, Sixth to Eleventh Centuries* (CUP 2011) xxxi (map 5, 'The 'Abbāsīd empire in c. 800').

not the exception but the rule: as Jonathan Brown has argued, the canonization of the definitive collections of Prophetic hadith in the fourth/tenth century was an 'exclusively Shāfi'ī endeavor'.<sup>30</sup>

The emergence of Khurasan as the second important centre of Shāfi'ism was also tied to the region's growing political and social significance starting in the fourth/tenth century.<sup>31</sup> Once local networked scholarly communities had arisen in the principal cities of Khurasan at some distance from Iraq, there was little incentive to travel to Baghdad to study when Shāfi'ī authorities resided closer to home. Khurasanis travelling to Iraq remarked that the legal knowledge they had acquired back home in the East differed slightly from what was taught in Iraq; these comments point to a nascent awareness of distinct communal identities.<sup>32</sup>

The first mention in the sources of a nascent scholarly community in Khurasan distinct from the one in Iraq appears towards the end of the fourth/tenth century in the form of references to 'our Khurasani companions' (*aṣḥābunā al-khurasāniyyūn*) and 'our Iraqi companions' (*aṣḥābunā al-'irāqiyyūn*).<sup>33</sup> Whereas the Iraqi school was focused on Baghdad and its environs, the Khurasani Shāfi'ī community was spread over a vast geographical expanse centred on four cities and their surrounding villages and townships: Merv, Nishapur, Balkh, and Herat (see Figure 2). Of these cities, Nishapur was the quasi-capital of Khurasan, but it

<sup>30</sup> Brown (n 27) 135 and ch 3; El Shamsy, *Canonization of Islamic Law* (n 1) 223.

<sup>31</sup> For an overview of Shāfi'ism in Khurasan in this period, see Melchert (n 3) 97–101.

<sup>32</sup> Halim (n 6) 60.

<sup>33</sup> 'Abd al-'Azīm Maḥmūd al-Dīb, introduction to Abū al-Ma'ālī al-Juwaynī, *Nihāyat al-maṭlab fī dirāyat al-madhhab* ('Abd al-'Azīm al-Dīb ed, Dar al-Minhāj 2007) vol 1, 132.

was Merv that produced the earliest, most prominent, and most numerous Shāfi‘is, which is why the Khurasanis are at times referred to as ‘the Mervis’ (*marāwiza*).<sup>34</sup>

Within a generation, these two groups developed into autonomous interpretive communities, differentiated by their approach (*ṭariqat al-khurasāniyyin* and *ṭariqat al-‘irāqiyyin*) and each known by a foremost authority referred to as the shaykh of the respective community: the Iraqi Abū Ḥāmid al-Isfarāyīnī (d. 406/1016, *shaykh al-‘irāqiyyin*) and the Khurasani Abū Bakr al-Qaffāl al-Marwazī al-Ṣaghīr (d. 417 or 418/1026 or 1027, *shaykh al-khurasāniyyin*). These terms signal the formation of a distinct community of legal interpretation in each locale, shepherded by an authoritative figure. Both of these shaykhs traced their intellectual lineages back to the same Baghdadi authority, Abū Ishāq Ibrāhīm b. Aḥmad al-Marwazī (d. 340/951).

Abū Ishāq al-Marwazī was the most prominent disciple of Ibn Surayj and the chief of the Baghdadi school after him.<sup>35</sup> Originally from Merv, Abū Ishāq trained a generation of Shāfi‘is who consolidated and further expanded the school in both Iraq and Khurasan. In Iraq, where the majority of his students remained, the Shāfi‘i community’s growth was led by his illustrious colleagues and students, such as Abū ‘Alī al-Ḥasan b. al-Ḥusayn Ibn Abī Hurayra (d. 345/956), Abū al-Ḥasan Muḥammad b. ‘Alī al-Māsārjīsī (d. 383 or 384/994 or 995), Abū al-Ḥusayn Aḥmad b. Muḥammad Ibn al-Qaṭṭān al-Baghdādī (d. 359/970), Abū al-Ḥasan Ibn al-Marzubān (d. 366/977), Abū al-Qāsim ‘Abd al-‘Azīz al-Dārakī (d. 375/986), and Abū al-Ḥasan al-Ash‘arī (d. 324/935f), whose seminal contribution to the development of Islamic thought we will return to.

The most influential Iraqi branch of Abū Ishāq al-Marwazī’s intellectual lineage passed through his students al-Dārakī and Ibn al-Marzubān to Abū Ḥāmid al-Isfarāyīnī, the shaykh of the Iraqi *ṭariqa*.<sup>36</sup> Born and raised in Isfarāyīn in northern Khurasan, Abū Ḥāmid was something of a child prodigy. He undertook his primary training in his hometown, where he received authorization to issue legal opinions (*fatawā*) before the age of 20. In 364/974f he moved on to Baghdad, where his tuition in Shāfi‘i law continued under Ibn al-Marzubān for some 2 years until the latter’s death and then under al-Dārakī, whom Abū Ḥāmid described as the most learned jurist he had ever met.<sup>37</sup> After completing his education, he remained in Baghdad, where he taught Shāfi‘i law from 370/980f onwards, and over the next three and a half decades, he trained the most prominent Iraqi jurists of the subsequent two generations. Venerated by biographers as the ‘second al-Shāfi‘i’, he was even once described, somewhat hyperbolically, as more knowledgeable than al-Shāfi‘i himself.<sup>38</sup> His classes are said to have been attended by between three and seven hundred jurists (*faqīh*) or students of law (*mutafaqqih*), and his 50-volume commentary (*ta‘liqa*) on al-Muzanī’s *Mukhtaṣar* became the main reference work for the Iraqi community after him. Most of the great Iraqi Shāfi‘is in the first half of the fifth/eleventh century, including Abū al-Qāsim Manṣūr al-Karkhī (d. 447/1055), al-Qāḍī Abū al-Ṭayyib al-Ṭabarī (d. 450/1058), and Abū al-Ḥasan ‘Alī al-Māwardī (d. 450/1058), were his disciples. The Iraqi successor whose legacy would prove most enduring was Abū Ishāq al-Shīrāzī. Al-Shīrāzī trained with three of Abū Ḥāmid al-Isfarāyīnī’s students, al-Qāḍī Abū al-Ṭayyib, Abū Ḥātim al-Qazwīnī (d. 440/1049), and Abū al-Faraj al-Dārimī (d. 449/1058), and he drew extensively on al-Isfarāyīnī’s *ta‘liqa* in his works.<sup>39</sup>

<sup>34</sup> Al-Subkī (n 21) vol 1, 324–6.

<sup>35</sup> On Abū Ishāq al-Marwazī, see al-Shīrāzī (n 18) 112.

<sup>36</sup> On Abū Ḥāmid al-Isfarāyīnī, see al-Shīrāzī (n 18) 123–4; Muḥī al-Dīn Abū Zakariyya Yahyā b. Sharaf al-Nawawī, *Tahdhīb al-asmā’ wa-l-lughāt* (Idārat al-Tibā’a al-Muniriyya 1927) vol 2, 208–10; al-Dhahabī (n 19) vol 17, 194–8; al-Subkī (n 21) vol 4, 61–74; Ibn Qāḍī Shuhba (n 21) vol 1, 172–3.

<sup>37</sup> al-Nawawī *ibid* vol 2, 263.

<sup>38</sup> al-Shīrāzī (n 18) 124; Ibn Qāḍī Shuhba (n 21) vol 1, 173.

<sup>39</sup> Halim (n 6) 60. On al-Shīrāzī, see al-Nawawī (n 36) vol 2, 172–4; al-Dhahabī (n 19) vol 18, 453–64; al-Subkī (n 21) vol 4, 215–56; Youcef L Soufi, *The Rise of Critical Islam: 10th–13th Century Legal Debate* (Oxford University Press 2023).

East of Baghdad, another group of Abū Ishāq al-Marwazī's students were developing an equally dynamic scholarly community in Khurasan under the leadership of Abū Sahl Muḥammad b. Sulaymān al-Su'lūkī (d. 369/980) and Abū Zayd al-Marwazī (d. 371/982). Abū Zayd studied Shāfi'ī law with Abū Ishāq al-Marwazī and was described as the latter's constant companion. After completing his studies with al-Marwazī in Baghdad—and having acquired a reputation for his outstanding skills in legal disputation—Abū Zayd returned to Merv to establish an influential teaching circle that graduated leading Khurasani jurists,<sup>40</sup> among them al-Qaffāl al-Marwazī.<sup>41</sup>

As his name suggests, al-Qaffāl began life as a locksmith, and he is reported to have started his studies at the unusually late age of 30. In one report, he recounts that when he began his studies, he did not even know the difference between the first- and second-person present tense in Arabic, or the distinction between *ikhtaṣartu* (the first word of al-Muzani's *Mukhtaṣar*) and *ikhtaṣarta*—implying that he started with the very basic step of learning the Arabic language.<sup>42</sup> Not much is known about his scholarly formation beyond that he trained with the two most prominent Shāfi'ī authorities in Merv: Muḥammad b. Aḥmad al-Khiḍrī (d. c. 380/990f),<sup>43</sup> who had studied with Abū Bakr al-Qaffāl al-Shāshī (d. 365/976), and Abū Zayd al-Marwazī, at whose hands he graduated (*takharraja*). According to al-Subkī, al-Qaffāl al-Marwazī often asked both teachers the same question and then compared their responses and reasoning.<sup>44</sup> He was eventually acclaimed as the most learned jurist of his generation in Khurasan. Students travelled great distances to study with him, and his long life (he lived to be 90 years old) enabled him to train the most important scholars of the next generation, including Abū Muḥammad al-Juwaynī (d. 438/1046), al-Qāḍī Ḥusayn (d. 462/1069), and Abū 'Alī Ḥusayn b. Muḥammad al-Sinjī al-Marwazī (d. 427 or 430/1036 or 1039).<sup>45</sup>

Al-Qaffāl al-Marwazī and al-Isfarāyīnī were near contemporaries. Although al-Isfarāyīnī was slightly younger than al-Qaffāl, the latter's late start and al-Isfarāyīnī's precocity meant that they taught and wrote at the same time, though al-Qaffāl outlived al-Isfarāyīnī by about a decade. Just as the Iraqi school's legal literature found its consummate representation in the writings of Abū Ishāq al-Shīrāzī, who was linked to al-Isfarāyīnī through several of his teachers, the Khurasani school crystallized in the works of Abū al-Ma'ālī al-Juwaynī, who accessed al-Qaffāl's legacy through his father and cited al-Qaffāl profusely in his works.

When forming an image of the two Shāfi'ī *ṭariqas* in geographical terms, it is important to bear in mind the difference between a jurist's place affiliation (*nisba*) and membership in a community. Although the two often matched, this was not always the case, as membership in a scholarly community was based on one's training and scholarly networks rather than on where one was born or resided. For instance, al-Isfarāyīnī hailed from northwestern Khurasan but relocated to Baghdad, where he trained, taught, and became the undisputed leader of the Iraqi community. Similarly, his teacher al-Dārakī originated from Khurasan but ended up in Iraq, and his teacher's teacher Abū Ishāq al-Marwazī issued from Merv but settled in Baghdad and became chief of the Baghdadi school. Thus, although al-Isfarāyīnī, al-Dārakī, and al-Marwazī all retained a *nisba* associating them with their Khurasani hometowns, their primary intellectual affiliation was with Iraqi Shāfi'ism, to which they

<sup>40</sup> On Abū Zayd al-Marwazī, see al-Shīrāzī (n 18) 115; al-Nawawī (n 36) vol 2, 234–5; al-Subkī (n 21) vol 3, 71–77.

<sup>41</sup> On Abū Bakr al-Qaffāl al-Marwazī, see al-Subkī (n 21) vol 5, 53–62; Ibn Qāḍī Shuhba (n 21) vol 1, 182–3. Al-Qaffāl al-Marwazī is not to be confused with the Shāfi'ī jurist and theologian al-Qaffāl al-Shāshī (d.365/976), usually referred to as al-Qaffāl 'al-Kabīr' to distinguish him from al-Qaffāl 'al-Saghīr' al-Marwazī.

<sup>42</sup> al-Subkī (n 21) vol 5, 54.

<sup>43</sup> On al-Khiḍrī, see al-Subkī (n 21) vol 3, 100–1; Ibn Qāḍī Shuhba (n 21) vol 1, 146; Aḥmad Ibn Khalīkān, *Wafayāt al-a'yan wa-anbā' abnā' al-zamān* (Iḥsān 'Abbās ed, 7th edn, Dār Sādir 1398/1978) vol 4, 215–16.

<sup>44</sup> See al-Subkī (n 21) vol 5, 53–62.

<sup>45</sup> On Abū 'Alī al-Sinjī, see al-Dhahabī (n 19) vol 14, 414–15; al-Subkī (n 21) vol 3, 444–8; Ibn Qāḍī Shuhba (n 21) vol 1, 207–8.

contributed with their teaching, writings, and leadership. In turn, once the cities of Khurasan had become established as lively intellectual centres, prominent Baghdadi jurists and theologians moved there, triggering an eastward migration of talent. The upshot is that although geographical realities certainly shaped the formation of the two Shāfiʿī communities, these communities were not static, nor was the separation between them absolute. Instead, they were constantly reshaped by the movement of people from one region to the other. Accordingly, the two *ṭarīqas* were distinguished by their methods, interpretive discourses, and communal identities more than they were defined by geography.

### B. Consolidation: The two *ṭarīqas* as distinct communities of interpretation

Although biographical sources enable us to identify the leading Shāfiʿīs in Iraq and Khurasan, they tell us little about what differentiated the legal discourses of the two communities. We know that both were grounded in the teachings of al-Shāfiʿī, sharing the doctrines and methods of legal reasoning that he and his successors developed. This shared basis connected both Iraqi and Khurasani Shāfiʿīs to what El Shamsy terms the Shāfiʿī ‘community of interpretation’.<sup>46</sup> El Shamsy identifies three constitutive features of this community: a distinct group identity, a common literature, and a shared intellectual discourse.<sup>47</sup> Reconstructing the histories of the Khurasani and Iraqi *ṭarīqas* reveals that these three features took different forms in the two regions, leading to the emergence of two distinct interpretive communities, each defined by its own communal identity and its own literature and intellectual discourse, which relied on authorities and works particular to that community and advanced diverging substantive views and interpretive methods.

Perhaps the most conspicuous indication of the existence of two distinct Shāfiʿī communities of interpretation in the fourth/tenth century is the separate, inward-facing culture within each. Shāfiʿī jurists in this period were always affiliated with either the Khurasani or the Iraqi community, and they were consistently known and identified by a single affiliation; I do not know of any jurist who was not associated with one community or the other, or whose affiliation was unknown or contested. This is not surprising in view of what we know of medieval Islamic scholarly culture, in which students were associated with prominent teachers rather than institutions and teachers exerted authority over their students in myriad formal and informal ways even after the completion of their studies.

The networks of teaching and learning that formed in each community were also remarkably self-referential, signalling a shared discourse within the community that did not extend to outsiders. This meant that authors in one community virtually never cited the major authorities of the other community, and instead of disputing the views of the other *ṭarīqa*, they often demonstrated little familiarity with its authoritative representatives and their doctrinal views. This dynamic is evident in Abū Ishāq al-Shīrāzī’s biographical dictionary, *Ṭabaqāt al-fuqahāʾ*, whose chapter on Shāfiʿī jurists claims to record the biographies of leading Shāfiʿī jurists from al-Shāfiʿī’s students onwards: al-Shīrāzī demonstrates detailed knowledge of Iraqi authorities and starkly contrasting unfamiliarity with, if not outright disregard for, their Khurasani counterparts. Abū Hāmid al-Isfarāyīnī receives one of the longest biographical entries in the book,<sup>48</sup> while the shaykh of the Khurasani *ṭarīqa* has no entry at all. After the generation of the two shaykhs, al-Shīrāzī’s focus is largely on the students of al-Isfarāyīnī and of al-Isfarāyīnī’s teacher al-Dārakī, many of whom also taught al-Shīrāzī himself, linking him to the legacy of these two Iraqi authorities.<sup>49</sup> After documenting the lives

<sup>46</sup> El Shamsy, *Canonization of Islamic Law* (n 1) 173–6.

<sup>47</sup> *ibid* ch 7.

<sup>48</sup> al-Shīrāzī (n 18) 122–3.

<sup>49</sup> *ibid* 123–32.

and achievements of some three dozen Iraqi jurists, with detailed information on their teachers, students, and writings, al-Shīrāzī casually acknowledges the names of some contemporaneous Khurasani authorities but claims to know nothing else about them:

And in Khurasan and Transoxania (*mā warāʾ al-nahr*) there are many others, such as al-Awdanī, Abū ʿAbd Allāh al-Halīmī, Abū Yaʿqūb al-Abīwardī, Abū Bakr al-Fārisī al-Balkhī, Abū Bakr al-Qaffāl al-Marwazī, Abū ʿAlī al-Sinjī, Abū Bakr al-Ṭūsī, Abū Manṣūr al-Baghdādī, Abū ʿAbd al-Raḥmān al-Nīlī, Naṣīr al-Marwazī, Abū Sulaymān al-Shāshī, al-Ghazālī,<sup>50</sup> Abū Bakr Muḥammad al-Juwaynī, Abū Ṭāhir al-Zayādī, Abū Sahl Aḥmad b. ʿAlī al-Abīwardī, and Abū al-Ḥasan ʿAlī b. Aḥmad al-Ḥākim in Samarqand, among others whose death dates I do not recall (*lam yahḍurnī*); God have mercy on them.<sup>51</sup>

In his *Muhadhdhab*, al-Shīrāzī likewise makes no mention of major Khurasani authorities such as al-Qaffāl al-Marwazī. A similar but inverse pattern characterizes the referencing habits of the Khurasani Abū al-Maʿālī al-Juwaynī, who cites his father and al-Qaffāl frequently throughout his *Nihāya* but only rarely references Abū Ḥāmid al-Isfarāyīnī or other Iraqi authorities.<sup>52</sup> This self-contained and internally referential culture was so deeply entrenched that the two communities could use the same nomenclature to refer to two distinct individuals without any concern that the referent would be misapprehended. For example, the appellation ʿal-qāḍīʿ was used by Iraqi jurists to refer to al-Qāḍī Abū al-Ṭayyib al-Ṭabarī and by the Khurasanis to refer to al-Qāḍī Ḥusayn.<sup>53</sup> These expectations, inclusions, and omissions are indicative of the existence of two discrete interpretive communities that increasingly evolved independently and operated autonomously.

Relying on different sets of authorities and participating in largely separate scholarly conversations, members of the two communities transmitted distinct legal doctrines and developed diverging solutions to new problems, which then became enshrined in each community's legal literature. As the examples of al-Shīrāzī's *Muhadhdhab* and al-Juwaynī's *Nihāya* demonstrate, as late as in the mid-fifth/eleventh century prominent Shāfiʿī jurists cited almost exclusively the authorities and transmitted doctrines of their own *ṭarīqas*. In a few instances, however, they showed awareness of the views of the other *ṭarīqa*, and at times they contested the conclusions or methods of their counterparts. We also find in al-Shīrāzī and al-Juwaynī's generation anecdotal evidence of a handful of Shāfiʿī jurists who attempted to bridge the two regional traditions and to reduce the doctrinal differences between them; this is noted of Abū ʿAlī al-Sinjī (d. 427 or 430/1036 or 1039)<sup>54</sup> and ʿAbd al-Raḥmān b. Muḥammad Abū al-Ḥasan al-Dāwūdī al-Būshanjī (d. 467/1075).<sup>55</sup>

A particularly illustrative example is provided by the public disputations between Abū al-Maʿālī al-Juwaynī and al-Shīrāzī that took place in Nishapur when al-Shīrāzī visited the city in 475/1083. Thanks to al-Shīrāzī's approximate transcription of the exchange, we have a rare record of two of these debates, one concerning the permissibility of coercing a virgin

<sup>50</sup> The Ghazālī referred to in this passage is not the famous Hujjat al-Islām Abū Ḥamid Aḥmad b. Muḥammad al-Ghazālī (d. 505/1111) but a predecessor by the same name. Al-Subkī notes the confusion and explains how he was able to determine the identity of this older and less known al-Ghazālī, who some believed was the uncle of Hujjat al-Islām al-Ghazālī; see al-Subkī (n 21) vol 4, 87–90.

<sup>51</sup> al-Shīrāzī (n 18) 132–3.

<sup>52</sup> See al-Juwaynī (n 33) *passim*.

<sup>53</sup> al-Subkī (n 21) vol 5, 15.

<sup>54</sup> al-Subkī (n 21) vol 3, 444; Ibn Qāḍī Shuhba (n 21) vol 1, 207.

<sup>55</sup> On al-Būshanjī, see al-Dhahabī (n 19) vol 18, 223–7; Ibn Qāḍī Shuhba (n 21) vol 1, 249–50.

daughter into marriage and the other concerning the consequences of mistaking the correct prayer direction (*qibla*) in the ritual prayer.<sup>56</sup>

The question at issue in the second disputation was whether a prayer mistakenly performed facing the wrong direction needs to be repeated to be valid. Al-Juwaynī defended the Khurasani position that the prayer must be repeated, whereas al-Shīrāzī contended, with the Iraqis, that no repetition is necessary. Each thus assumed the position of his respective regional community. The divergence between the two positions reflected differing stances on how to approach issues concerning which multiple opinions had been transmitted from al-Shāfi‘ī and it was thus not clear which should be considered the school’s authoritative position. Most Khurasani jurists, al-Juwaynī included, argued that the more recent view attributed to al-Shāfi‘ī—in this case, that repetition of the prayer is required—had superseded his earlier view, according to which the prayer does not need to be repeated. By contrast, the Iraqis followed al-Muzanī, who maintained that al-Shāfi‘ī had never retracted his earlier view and that it was more consistent with his overall legal principles than the purported later view was.

This debate exemplifies both the substantive disagreements between the Khurasanis and the Iraqis and the methodological differences that underpinned them concerning questions such as how to choose between conflicting transmissions and which methods of reasoning should be used to address novel scenarios. A similar dispute between the Iraqis and the Khurasanis over two contradictory opinions attributed to al-Shāfi‘ī is also recorded from half a century earlier. One of the transmitted opinions matched the position of the Ḥanafī school’s eponym Abū Ḥanifa (d. 150/767), whereas the other opposed it. Al-Qaffāl al-Marwazī upheld the former transmission and al-Isfarāyīnī championed the latter, arguing that al-Shāfi‘ī must have had a reasonable, though unspecified rationale (*ma‘nā khafi*) for contradicting Abū Ḥanifa.<sup>57</sup>

As such diverging views accumulated, they coalesced into distinct bodies of doctrine particular to each community. Each community’s set of legal doctrines was then reproduced and reinforced through the composition and teaching of specifically Iraqi and Khurasani legal manuals and commentaries. The Iraqi community’s juristic writings revolved around Abū Ḥamid al-Isfarāyīnī’s commentary on al-Muzanī’s *Mukhtaṣar*. Many of al-Isfarāyīnī’s Iraqi students, including Abū al-Faṭḥ Sulaym b. Ayyūb al-Rāzī (d. 447/1055), Abū al-Ḥasan Aḥmad b. Muḥammad al-Maḥāmīlī (d. 414 or 415/1023 or 1024), Abū ‘Alī al-Ḥasan b. ‘Abd-Allāh al-Bandanījī (d. 425/1034), and Abū al-Qāsim al-Karkhī, authored commentaries on his work. In the following generation, their students, such as Abū Ishāq al-Shīrāzī, studied al-Isfarāyīnī’s commentary with his disciples and later based their teaching and compositions on the work.<sup>58</sup> Meanwhile, Khurasani Shāfi‘īs focused on the writings of al-Qaffāl al-Marwazī and his students al-Qāḍī Ḥusayn and Abū Muḥammad al-Juwaynī until these were synthesized and supplanted by the latter’s son Abū al-Ma‘ālī al-Juwaynī and Abū al-Ma‘ālī’s student Abū Ḥamid al-Ghazālī (d. 505/1111).

In her study of the debates between al-Shīrāzī and al-Juwaynī, Sohaira Siddiqui has noted the contrast between the traditionalist leanings of al-Shīrāzī, who relied primarily on textual arguments, and al-Juwaynī’s greater openness to analogical and other nontextual arguments—a contrast that is also evident in their respective *uṣūl al-fiqh* works.<sup>59</sup> These preferences are also illustrated by the two scholars’ arguments in the second disputation, concerning a virgin daughter’s forced marriage. Al-Juwaynī, who was representing the

<sup>56</sup> Al-Juwaynī and al-Shīrāzī’s disputations have been studied by Sohaira Siddiqui and Youcef Soufi. See Soufi, ‘Pious Critique’ (n 4) chs 4 and 5; Sohaira Siddiqui, ‘*Jadal and Qiyās in the Fifth/Eleventh Century: Two Debates between al-Juwaynī and al-Shīrāzī*’ (2019) 139 *Journal of the American Oriental Society* 923.

<sup>57</sup> Ibn al-Ṣalāh (n 7) 67.

<sup>58</sup> Al-Shīrāzī (n 18) 129–30, 133–4.

<sup>59</sup> Siddiqui (n 57).

Ḥanafī position in this debate, maintained that a daughter's virginity was not sufficient grounds to allow her father to coerce her into marriage because no benefit or purpose (*maṣlahā*) was realized by accepting virginity as the *ratio legis*, or legal cause ('*illa*, pl. '*ilal*'), that sanctioned coercion.<sup>60</sup> Unlike al-Shīrāzī, who showed little interest in such rationalizing discourse and did not discuss the *ratio legis* even in his jurisprudential works, al-Juwaynī and his student al-Ghazālī explored the *ratio legis* of legal rulings at length in their theoretical jurisprudence; indeed, al-Ghazālī authored an entire book on the topic and made it a cornerstone of his philosophy concerning the higher aims of the law.<sup>61</sup> Al-Shīrāzī, meanwhile, countered al-Juwaynī's argument about the purposiveness or otherwise of the *ratio legis* with a hermeneutic principle: in the speech of the Arabs, mentioning an attribute alongside the ruling was tantamount to asserting that the attribute was the ruling's *ratio legis*.<sup>62</sup> Accordingly, the fact that the Prophet stated that a father can marry off his 'virgin daughter' against her will was an indication that her virginity was the legal cause for the coercion.

The divergent styles of legal reasoning displayed by al-Shīrāzī and al-Juwaynī in their debates as well as in their works of theoretical jurisprudence are not unique to these two thinkers but emblematic of the respective approaches of the Iraqi and Khurasani communities of interpretation. They are reflected in al-Nawawī's description, quoted earlier, of the Iraqis as transmission-oriented and the Khurasanis as analytical and systematic. And they underpin the characterizations of Iraqi and Khurasani scholars in the biographical literature. The biographical sketches of Iraqi authorities tend to highlight their fidelity to hadith, whereas the biographies of Khurasani authorities emphasize their ingenuity and innovation in legal thought. For instance, the Iraqi al-Dārakī is said to have privileged reports from the Prophet and his Companions above the established views of both al-Shāfi'ī and Abū Ḥanīfa, arguing that in cases of disagreement it was more appropriate to adhere to the reported views of Companions than to follow the later school founders.<sup>63</sup> Similarly, his student Abū Ḥamīd al-Isfārāyīnī's *ta'liqā* is described as chiefly concerned with presenting evidence for Shāfi'ī doctrines and responding to the counterevidence offered by other schools.<sup>64</sup> Conversely, al-Dārakī's Khurasani colleague Abū Zayd is described first and foremost as a jurist; he had gathered licences (*ijāzāt*) to transmit hadith but was preoccupied with teaching law, which led him to neglect hadith transmission. In general, Khurasani Shāfi'īs such as al-Juwaynī and al-Ghazālī were criticized both during their lifetimes and after their deaths for being insufficiently attentive to the study of hadith.<sup>65</sup> Instead, the Khurasanis prioritized the derivation of novel legal opinions and the systematization of school doctrine. Abū Zayd was described by his intellectual heir, Abū al-Ma'ālī al-Juwaynī, as the most innately quick-witted jurist of his time (*adhkā al-a'imma qarīḥatan*), a commendation that emphasized his legal ingenuity.<sup>66</sup> The biographer 'Abd al-Karīm al-Sam'ānī (d. 562/1166) praised al-Qaffāl al-Marwazī's approach to the law as 'the most solid in systematization and the most engaged in analytical verification' (*amtan ṭarīqa tahdhīban wa-aktharuḥā taḥqīqan*).<sup>67</sup> Khurasani authorities such as Abū Zayd and al-

<sup>60</sup> Soufi, 'Pious Critique' (n 4) 185–6.

<sup>61</sup> See Abū al-Ma'ālī al-Juwaynī, *al-Burhān fī usūl al-fiqh* ('Abd al-'Azīm al-Dīb ed, Wizārat al-Awqāf wa-l-Shu'ūn al-Islāmiyya [Doha] 1997); Abū Ḥamīd al-Ghazālī, *al-Mustaṣfā min 'ilm al-uṣūl* (Hamza b. Zuhayr Ḥāfiẓ ed Sharikat al-Madīna al-Munawwara li-l-Ṭibā'a 1992); Abū Ḥamīd al-Ghazālī, *Shifā' al-ghalīl fī bayān al-shubah wa-l-mukhīl wa-maṣālik al-ta'līl* (Hamd al-Kabīsī ed, Matba'at al-Irshād 1390/1971).

<sup>62</sup> Soufi, 'Pious Critique' (n 4) 188.

<sup>63</sup> al-Nawawī (n 36) vol 2, 263–4.

<sup>64</sup> *ibid* vol 2, 208–10.

<sup>65</sup> See eg, the Iraqi Ibn al-Ṣalāḥ's critique of al-Ghazālī's weak knowledge of hadith and al-Subkī's partial admission of this criticism: Ibn al-Ṣalāḥ, *Ṭabaqāt al-fuqahā' al-Shāfi'iyya* (Muḥī al-Dīn 'Alī Najīb ed, Dār al-Bashā'ir al-Islāmiyya 1413/1992) vol 1, 252–64; al-Subkī (n 21) vol 6, 249–58.

<sup>66</sup> Quoted in al-Juwaynī (n 33) vol 1, 218; al-Nawawī (n 36) vol 2, 234.

<sup>67</sup> Quoted in Ibn Qāḍī Shubha (n 21) vol 1, 183.

Qaffāl also frequently substantiated their legal opinions by invoking legal maxims rather than the scriptural evidence typically employed by their Iraqi colleagues.<sup>68</sup>

It is important to note that these generalized depictions are not intended to discount the diversity that existed within the Khurasani and Iraqi juristic communities. There was certainly a great deal of internal debate and critique within each community, and often jurists of the same *ṭariqa* held radically different views on particular issues or relied on very different methodological considerations. For example, al-Nawawī notes that many of the opinions of the Khurasani jurist Abū al-Mahāsīn al-Rūyānī (d. 502/1108) match those of Iraqi jurists rather than those of his Khurasani peers. Methodologically, al-Qāḍī Ḥusayn departed from the approach adopted by his teacher, al-Qaffāl al-Marwazī, to weigh competing transmissions from al-Shāfi‘ī when one transmission corresponded with the view of Abū Ḥanīfa and the other was at variance; al-Qāḍī Ḥusayn considered the decisive factor to be the *ratio legis* underpinning the ruling.<sup>69</sup> Khurasani jurists also disagreed with one another about the importance of the study and use of hadith as legal evidence, as exemplified by the critique levelled by the Khurasani Abū Bakr Aḥmad al-Bayhaqī (d. 458/1066) at Abū Muḥammad al-Juwaynī for what he saw as a lack of rigour in the latter’s usage of hadith in legal reasoning.<sup>70</sup>

The evidence I have presented about the intellectual orientations of the Khurasani and Iraqi communities in the fourth/tenth century remains anecdotal, and a comprehensive comparative study of the legal doctrines and interpretive approaches of Khurasani and Iraqi jurists is needed to validate or nuance my account. The recent edition and publication of several previously unpublished Shāfi‘ī legal works from this period has placed such a study within the realm of possibility.<sup>71</sup>

### C. Entrenchment: Ash‘arism and interlocutors in the two *tariqas*

The third and chronologically the last factor in the entrenchment of the two Shāfi‘ī communities was their divergent engagement with theology—specifically, the differing degrees to which each community absorbed Ash‘arī rationalist theology into its legal thought and the different theological interlocutors to whom each adapted its legal reasoning. Although the sociopolitical consequences of the adoption of Ash‘arism by Khurasani Shāfi‘īs has been the subject of numerous studies,<sup>72</sup> the resultant epistemic and methodological shifts in Khurasani Shāfi‘ī legal thought have received less scholarly attention.

The eponymous founder of the Ash‘arī school, Abū al-Ḥasan al-Ash‘arī (d. 324/935f), was a member of the Baghdadi Shāfi‘ī community who had studied with Abū Ishāq al-Marwazī. Al-Ash‘arī had started out as a member of the Mu‘tazili school of theology, which relied on rational doctrines and forms of reasoning to defend Muslim theology.<sup>73</sup> The Mu‘tazila were opposed by Sunni traditionalists (*ahl al-ḥadīth*),<sup>74</sup> many of whom, such as Ibn Khuzayma and Aḥmad b. Ḥanbal (d. 241/855), were leading hadith specialists. The

<sup>68</sup> See eg, al-Subki (n 21) vol 3, 74, 76; vol 5, 61.

<sup>69</sup> Ibn al-Salāh (n 7) 67.

<sup>70</sup> See al-Bayhaqī, *Risālat al-imām Abī Bakr al-Bayhaqī ilā al-imām Abī Muḥammad al-Juwaynī* (Dār al-Bashā‘ir al-Islāmiyya 1428/2007).

<sup>71</sup> See eg, Abū al-Tayyib al-Ṭabarī, *al-Ta‘līq al-kubrā sharḥ Mukhtaṣar al-Muzanī* (Nash’at Kamāl al-Misrī ed, Markaz Majma‘ al-Bahrayn 2021).

<sup>72</sup> See eg, Bulliet (n 20); Siddiqui (n 4); Martin Nguyen, *Sufi Master and Qur’an Scholar: Abū’l-Qāsim al-Qushayrī and the Latā‘if al-Ishārat* (Oxford University Press 2012).

<sup>73</sup> On Mu‘tazilism, see Sophia Vasalou, *Moral Agents and Their Deserts: The Character of Mu‘tazilite Ethics* (Princeton University Press 2008); Sophia Vasalou, *Ibn Taymiyya’s Theological Ethics* (Oxford University Press 2015).

<sup>74</sup> ‘Traditionalist’ (*ahl al-ḥadīth*) differs from ‘traditionist’ (*muhaddith*); the former is indicative of a particular attitude towards hadith, whereas the latter denotes scholarly expertise in the study of hadith. See El Shamsy, *Canonization of Islamic Law* (n 1) 50. For George Makdisi’s term ‘traditionalists’, see George Makdisi, ‘Ash‘arī and the Ash‘arites in Islamic Religious History I’ (1962) 17 *Studia Islamica* 37.

traditionalists rejected the rationalist methods and doctrines of the Mu'tazila and insisted that Muslim theology be grounded exclusively in the scriptural sources of the Quran and Sunna. Al-Ash'ari's abandonment of Mu'tazilism was a decisive turning point in the conflict between Mu'tazili rationalists and Sunni traditionalists. Al-Ash'ari carved out a middle position that defended Sunni beliefs by deploying select doctrines and methods of rational inquiry that he had honed during his 40-year career as a Mu'tazili. He critiqued the Mu'tazila's disregard of scripture and their imposition of obligations on God that curtailed His omnipotence, and he proposed an alternative theological paradigm that assimilated and repurposed rational methods and doctrines into the service of Sunni theology. A key innovation introduced by al-Ash'ari was the religious obligation to engage in *naẓar*, or rational justification of God's existence, His essential attributes, and other core theological doctrines.<sup>75</sup>

It is one of the curious twists of history that the locus of al-Ash'ari's teachings shifted away from his native Baghdad immediately after the generation of his direct students, and the popularization of his thought was accomplished largely by Shāfi'is in Khurasan, which became the bastion of Ash'arism.<sup>76</sup> Its introduction to the region is often credited to al-Qaffal's student Abū Sahl al-Su'lūkī, who studied Ash'ari theology in Baghdad with al-Ash'ari and his disciples during his 15-year sojourn in the city.<sup>77</sup> Upon his return to Khurasan, al-Su'lūkī's efforts to spread Ash'arism were bolstered by the influx of Ash'ari theologians into Nishapur between 290/902 and 343/955; many immigrated at the behest and insistence of prominent Nishapuri Sufis.<sup>78</sup> The newcomers included three second-generation students of al-Ash'ari through al-Bahili (d. c. 370/980): Abū Bakr Ibn Fūrak (d. 406/1015),<sup>79</sup> Abū Ishāq al-Isfarāyīnī (d. 418/1027),<sup>80</sup> and Abū Bakr al-Bāqillānī (d. 403/1013), the lone Mālikī among the three.<sup>81</sup> Later biographers such as al-Subkī and Abū al-Qāsim 'Alī b. al-Ḥasan Ibn 'Asākir (d. 571/1176), highlighted the instrumental role that Ibn Fūrak, Abū Ishāq al-Isfarāyīnī, and al-Bāqillānī played in disseminating Ash'ari doctrines in Khurasan, particularly in Nishapur. Another prominent Ash'ari who migrated to Khurasan was Abū Manṣūr 'Abd al-Qāhir al-Baghdādī (d. 429/1037).<sup>82</sup> Once in Nishapur, these scholars quickly attracted followers, often through madrasas constructed specifically for them.<sup>83</sup>

In advancing what was then an avant-garde theological approach, Nishapuri Ash'aris, the vast majority of whom were Shāfi'is, had to contend with both the established traditionalism of Shāfi'i hadith scholars and the political influence of the Shāfi'is' rivals, the Ḥanafis, who were associated primarily with Mu'tazilism. The debates within the Shāfi'i school culminated in what Rodrigo Adem describes as a 'changing of the guard' in Nishapur: the traditionalist authority and interpretive approach of pre-Ash'ari Nishapuri Shāfi'is was challenged and ultimately superseded by the rationalist commitments of the Ash'ari newcomers.<sup>84</sup> Pioneers of the emerging Ash'ari-Shāfi'i current in Nishapur such as Ibn Fūrak authored works refuting the emulative approach of earlier Nishapuri Shāfi'i authorities such

<sup>75</sup> Richard M Frank, 'Knowledge and Taqlīd: The Foundations of Religious Belief in Classical Ash'arism' (1989) 109 *Journal of the American Oriental Society* 37; Adem (n 5).

<sup>76</sup> Bulliet (n 20) 36–37; Siddiqui (n 4) ch 1.

<sup>77</sup> Bulliet (n 20) 116–17.

<sup>78</sup> *ibid* 116; Siddiqui (n 4) 6–7; Jan Thiele, 'Between Cordoba and Nisābūr: The Emergence and Consolidation of Ash'arism (Fourth–Fifth/Tenth–Eleventh Century)' in Sabine Schmidtko (ed), *The Oxford Handbook of Islamic Theology* (Oxford University Press 2016).

<sup>79</sup> On Ibn Fūrak, see al-Subkī (n 21) vol 4, 127–35; Abū al-Qāsim 'Alī b. al-Ḥasan Ibn 'Asākir, *Tabyīn kadhib al-muftari* (Ḥussām al-Dīn al-Qudsi ed, Maktabat al-Tawfiq 1347/1928) 232–3.

<sup>80</sup> On Abū Ishāq al-Isfarāyīnī, see al-Subkī (n 21) vol 4, 256–62; Ibn 'Asākir *ibid* 243–4.

<sup>81</sup> On Abū Bakr al-Bāqillānī, see Ibn 'Asākir (n 79) 217–26.

<sup>82</sup> On Abū Manṣūr al-Baghdādī, see al-Subkī (n 21) vol 5, 136–48.

<sup>83</sup> Siddiqui (n 4) 34.

<sup>84</sup> See Adem (n 5) ch 4.

as Ibn Khuzayma and Abū Bakr al-Ṣibghī (d. 342/953), Ibn Khuzayma's successor as the mufti of Nishapur, who had also studied hadith with the leading hadith scholar Abū Ḥātim al-Rāzī (d. 277/890). Adem shows that the aim of Ibn Fūrak's seminal work *Mushkil al-ḥadīth* was, at least in part, to counter these earlier scholars' prohibition on figurative interpretation of God's attributes and to demonstrate that the Ash'arī methodology did not represent a break with the past.<sup>85</sup>

Back in Baghdad, Iraqi Shāfi'īs were divided over al-Ash'arī's legacy. Although some, such as al-Bāhili, continued his work, most seem to have largely abandoned it, and after the generation of al-Bāhili's students, we find no Ash'arī-Shāfi'ī theologians of note in Baghdad and no important works of Ash'arī theology authored by Iraqis. Many Iraqi Shāfi'īs rejected al-Ash'arī's project outright and maintained fidelity to the emulative *ahl al-ḥadīth* theological paradigm. This camp included the shaykh of the Iraqi *ṭarīqa*, Abū Ḥāmid al-Isfarāyīnī, who broke with his contemporaries Ibn Fūrak and al-Bāqillānī by strongly censuring al-Ash'arī's project. Abū Ḥāmid al-Isfarāyīnī posited a sharp distinction between al-Shāfi'ī's linguistically oriented jurisprudence and the theologized jurisprudence of al-Ash'arī, and according to Taqī al-Dīn Aḥmad Ibn Taymiyya (d. 728/1328), Abū Ḥāmid inaugurated an anti-Ash'arī current among Shāfi'ī jurists.<sup>86</sup> Other Iraqi Shāfi'īs, perhaps the majority, may have nominally professed Ash'arism but contributed little to elaborating its doctrines and resisted integrating its rationalist methods and concepts into jurisprudence, law, and ethics. As we will see in the next section, this current among Iraqi Ash'arīs was exemplified by Abū Ishāq al-Shīrāzī, who defended Ash'arī doctrines in theology while resisting the impingement of rationalist theology on jurisprudence and law.

The Khurasanis' and Iraqis' respective receptions of al-Ash'arī's legacy influenced each community's engagement with its intellectual rivals. The construction of arguments in Islamic law depended greatly on one's interlocutor's substantive and methodological commitments, which determined the effectiveness of one line of reasoning over another in debate.<sup>87</sup> Although there is still a great deal that we do not know about the intellectual cultures of Khurasan and Iraq in the fourth/tenth and fifth/eleventh centuries, we do know that the primary rivals of Iraqi Shāfi'īs were the Ḥanbalis, whereas Khurasani Shāfi'īs competed mainly with the Ḥanafis in the realm of law and with the Mu'tazila in the area of theology.<sup>88</sup> In fact, Khurasani Shāfi'īs' espousal of Ash'arism exacerbated the already existing factional strife between them and the Mu'tazili-leaning Ḥanafis, eventually setting off violent clashes between the two parties. The tensions culminated in state persecution of Ash'arīs in Nishapur in the mid-fifth/eleventh century and the consequent exile of several hundred Ash'arīs, among them al-Juwaynī and the theologian and Sufi Abū al-Qāsim al-Qushayrī (d. 465/1072), who was a student of Ibn Fūrak.<sup>89</sup>

Their differing opponents shaped the approaches of the two Shāfi'ī communities. The Iraqis were influenced by their Ḥanbali interlocutors' hadith-leaning textualism and fidelity to transmitted doctrine, while the Khurasanis' *kalām*-oriented reasoning reflected the rational and theoretical approaches of the Ḥanafis and the Mu'tazila of Khurasan. The difference between the two communities' methodological and epistemological orientations is evident in the writings of their foremost representatives, to which we now turn.

<sup>85</sup> *ibid* 210–28.

<sup>86</sup> George Makdisi, 'The Juridical Theology of al-Shāfi'ī: Origins and Significance of *Uṣūl al-Fiqh*' (1984) 59 *Studia Islamica* 5, 26.

<sup>87</sup> Soufi, 'Pious Critique' (n 4) 171.

<sup>88</sup> Bulliet (n 20); George Makdisi, *Ibn 'Aqīl et la résurgence de l'Islam traditionaliste au XI<sup>e</sup> siècle (V<sup>e</sup> siècle de l'Hégire)* (Institut Français de Damas 1963).

<sup>89</sup> See Bulliet (n 20); Siddiqui (n 4); Nguyen (n 72).

### 3. TWO INTELLECTUAL PARADIGMS IN FIFTH/ELEVENTH CENTURY KHURASAN AND IRAQ

By the mid-fifth/eleventh century, the differentiation of the two Shāfi'ī communities in Khurasan and Iraq was firmly established, and its effects could be seen in the theoretical jurisprudence, law, and legal ethics of each community and in the legal reasoning and writing of its jurists. Indeed, it is possible to speak of two competing intellectual paradigms. The Iraqi Shāfi'īs inclined toward the *ahl al-hadīth* paradigm, which privileged careful preservation and transmission of authoritative earlier opinions in the style of hadith scholarship. Iraqi jurists largely opposed speculative theorization in theology, and even when they nominally subscribed to Ash'arism, their theological writings were epigrammatic and mostly mimetic of core Ash'arī doctrines. Furthermore, they insisted that Ash'arī doctrines and methods should not encroach on theoretical jurisprudence. They also tended to keep Sufism and legal ethics separate as fields of inquiry and appeared indifferent towards the ethical implications of the law's detailed provisions; they had little interest in deploying Ash'arī doctrines in the service of legal ethics and philosophy. By contrast, Khurasani Shāfi'ism was more analytical, experimental, and *kalām*-leaning, and it fused Ash'arī theology, Shāfi'ī law, and Sufism into a synthesis of Sunni normativity that became paradigmatic for classical Islam and remains so today.<sup>90</sup> Ash'arism's emphasis on rational investigation in theological matters informed Khurasani Shāfi'īs' theoretical jurisprudence and gave rise to a sophisticated discourse about theological and normative legal ethics.

The characteristic orientation of each community is evident in the thought of its foremost representative. The writings of al-Juwaynī and al-Shīrāzī represent the crowning achievements of their respective regional communities. Examined in their historical context, they provide a window on the intellectual paradigms of Khurasani and Iraqi Shāfi'ism.

#### A. Al-Juwaynī and the *Kalām*-leaning Shāfi'ism of Khurasan

The Khurasani fusion of Shāfi'ism, Ash'arism, and Sufism was pioneered in Nishapur in the fifth/eleventh century by al-Juwaynī and his students, who composed its most enduring written legacy. The distinctive synthesis constructed by the Nishapuri school united Ash'arī theology, Shāfi'ī law, and Sufi piety into what Tilman Nagel has called 'die neue Frömmigkeit' (the new piety).<sup>91</sup> Al-Juwaynī and his students indigenized Ash'arism in Khurasan by integrating it with their legal thought and Sufi practice. The resulting Nishapuri synthesis was disseminated through the Nizāmiyya madrasa.

##### (i) *Maṣlaḥa* and Ash'arī *uṣūl al-fiqh*

The incorporation of Ash'arī theology into Khurasani Shāfi'ism initiated a new style of Ash'arī theoretical jurisprudence that contrasted starkly with the tradition of language-focused jurisprudence introduced by al-Shāfi'ī. This Ash'arī *uṣūl al-fiqh* was the primary vehicle for the indigenization of Ash'arī rationalist theology, as it enabled Shāfi'ī theologians to popularize their doctrinal commitments.<sup>92</sup> Not only was the religious obligation to engage in *nazar*, or rational justification of theological doctrines, detailed and defended in works of jurisprudence, but a number of other seminal Ash'arī doctrines were also expounded in such works. Some of these were explicitly theological, such as human beings'

<sup>90</sup> For an example of the manifestation of this synthesis in nineteenth-century Egypt, see Aaron Spevack, *The Archetypal Sunni Scholar: Law, Theology, and Mysticism in the Synthesis of al-Bājūrī* (SUNY Press 2014).

<sup>91</sup> Tilman Nagel, *Die Festung des Glaubens: Triumph und Scheitern des islamischen Rationalismus im 11. Jahrhundert* (Beck 1988) 95–120. On the Nishapuri synthesis, see also Nguyen (n 72); Siddiqui (n 4); Adem (n 5)

<sup>92</sup> Adem (n 5) 276–89. On Ash'arī *uṣūl al-fiqh*, see David Vishanoff, *The Formation of Islamic Hermeneutics: How Sunni Legal Theorists Imagined a Revealed Law* (American Oriental Society 2011); Eissa (n 4).

obligation to thank their divine benefactor and God's obligation to do what is in the interest of human beings (*al-ṣalāh wa-l-aṣlah*).<sup>93</sup> Other doctrines laid out in works of Ash'arī *uṣūl al-fiqh* concerned legal epistemology and methodology but had significant theological implications; these included debates around legal analogy (*qiyās*), the existence of legal obligations before revelation, and whether jurists with contradictory legal opinions could be simultaneously correct (*taṣwīb/takḥīṭ*).<sup>94</sup>

Many of these doctrines had been adopted by Ash'arī-Shāfi'i theologians in one form or another in the course of their debates with the Mu'tazila. One doctrine with conspicuous legal implications was that of *maṣlaḥa*, or the proposition that the divine law's purpose, or *telos*, was to secure the common good or public welfare.<sup>95</sup> This proposition was first introduced by Mu'tazili theologians and was premised on the assumption that God was obligated to act with an objective (*gharad*) or purpose (*maqṣūd*). They argued that since He was above acting for His own ends, it was incumbent on Him to act in the interest (*ṣalāh*) of His creation and to accomplish the optimum (*al-aṣlah*) for them. Mu'tazili *uṣūl al-fiqh* presupposed this theological tenet and consequently held that the law always and necessarily benefited creation. The doctrine was further buttressed by the deductive argument that given God's divine attributes of wisdom and power, the law issuing from Him had to be beneficial to its subjects. This reasoning made *maṣlaḥa* logically prior to God's commands, if not their direct cause.

Many of the legal writings of early Mu'tazili jurists have been lost, but the few surviving sources show that the theorization of *maṣlaḥa* along these lines was current among at least some Mu'tazili-inclined Shāfi'is, such as al-Qaffāl al-Shāshī and Abū Bakr Aḥmad b. 'Umar al-Khaffāf (d. fourth/tenth century), as well as among their Ḥanafī counterparts, including al-Karkhī and his student Abū Bakr al-Jaṣṣāṣ (d. 370/981). The most detailed surviving account of how benefit pervades the law is found in al-Qaffāl al-Shāshī's *Maḥāsīn al-sharī'a*.<sup>96</sup> The work is underpinned by the objective ethics associated with Mu'tazilism in this period, which al-Qaffāl al-Shāshī articulates in the following way: 'If you affirm for things a Creator who is wise and powerful, then He must intend good for His servants, rewarding them for ordering society in a way that serves their benefit and for acting in conformity with how their intellect was constructed and their nature innately disposed.'<sup>97</sup> On the basis of this premise, he proceeds to analyse the detailed provisions of Shāfi'i law in terms of the benefits they achieve and their utility in establishing a just social order.<sup>98</sup>

The majority of the Shāfi'is in Khurasan espoused the cause of Ash'arism and rejected the theological underpinnings of Mu'tazili reasoning, but in the course of their extensive debates with the Mu'tazila regarding the purposiveness of God's law, Khurasani Ash'arī jurists universally adopted the assumption of the law's purposiveness through a

<sup>93</sup> On the doctrine of thanking the benefactor, see Aron Zysow, 'Two Theories of the Obligation to Obey God's Commands' in Peri Bearman, Bernard G Weiss, and Wolfhart Heinrichs (eds), *The Law Applied: Contextualizing the Islamic Sharī'a* (IB Tauris 2008). On other theological doctrines discussed in *uṣūl al-fiqh* works, see A Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (SUNY Press 1995); Eissa (n 4).

<sup>94</sup> On these doctrines, see Reinhart (n 94); Siddiqui (n 4); Eissa (n 4); Aron Zysow, *The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory* (Lockwood Press 2013).

<sup>95</sup> In recent years, a number of studies of Ash'arī *uṣūl al-fiqh* and ethics have significantly furthered our understanding of the evolution of *maṣlaḥa* and its theoretical underpinnings and implications. See eg, El Shamsy, 'Wisdom of God's Law' (n 1); Reinhart (n 94); Ayman Shihadeh, *The Teleological Ethics of Fakhr al-Dīn al-Rāzī* (Brill 2006); Felicitas Opwis, *Maṣlaḥa and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century* (Brill 2010); Vasalou, *Moral Agents* (n 73); Vasalou, *Ibn Taymiyya's Theological Ethics* (n 73); Mariam Sheibani, *An Islamic Legal Philosophy: Ibn 'Abd al-Salām and the Ethical Turn in Islamic Law* (Cambridge University Press 2025) ch 3.

<sup>96</sup> See Abū Bakr Muḥammad b. 'Alī al-Qaffāl al-Shāshī, *Maḥāsīn al-sharī'a fi furū' al-shāfi'iyya* (Muḥammad 'Alī Samak ed, Dār al-Kutub al-'Ilmiyya 2007); El Shamsy, 'Wisdom of God's Law' (n 1); Aron Zysow, 'Qaffal, Muḥammad ibn 'Alī ibn Isma'il al-Shāshī' *Oxford International Encyclopaedia of Legal History* (2009).

<sup>97</sup> al-Qaffāl al-Shāshī ibid 25–26; slightly different translation in El Shamsy, 'Wisdom of God's Law' (n 1) 24.

<sup>98</sup> Reinhart (n 93) 15–16; El Shamsy, 'Wisdom of God's Law' (n 1); Zysow (n 94) 203–4.

detheologized theory of *maṣlaḥa*. Ash‘arī theologians categorically affirmed theological voluntarism and thus did not accept the Mu‘tazilī argument that God was obliged to secure the optimum for His creation. But they defended the law’s benefit on the basis of an inductive study of existing legal norms, which, they contended, established that the law consistently upheld human interests as an empirical fact rather than a moral obligation on God. Having justified *maṣlaḥa* as a normative theological value, they then integrated it into Ash‘arī *uṣūl al-fiqh* within the theory of legal analogy (*qiyās*), where it functioned as the substantiating principle for a sound analogy that extends an existing legal rule to a novel situation.<sup>99</sup>

Nishapuri Shāfi‘īs, led by al-Juwaynī, were at the forefront of the scholarly effort to strip *maṣlaḥa* of its theological trappings and incorporate it into Ash‘arī *uṣūl al-fiqh*. Al-Juwaynī’s *Burhān* stands out for its developed discussion of the objectives (*maqṣad, gharaḍ*) of legal rulings, which was unprecedented in works of Sunni *uṣūl al-fiqh*. *Maṣlaḥa* is central to al-Juwaynī’s understanding of the law’s operation, and in his work he thus entreats jurists to apprehend the deeper purposes of the law: ‘Whoever fails to comprehend the objectives (*maqāṣid*) underlying God’s commands and prohibitions has failed to perceive the basis for the establishment of the law.’<sup>100</sup> Al-Juwaynī’s legal theory also accommodates considerations of *maṣlaḥa* when treating cases not addressed by scripture through analogical reasoning.<sup>101</sup> His theory of the purposefulness of individual rulings rests on his typology of legal causes, which categorizes legal rulings according to the importance of the objective they serve into essentials (*amr ḍarūrī*), general needs (*hāja ‘amma*), enhancements (*makrūmāt, mandūbāt*), and very rare rulings for which no objective or benefit can be discerned.<sup>102</sup> This typology signals the broader purposes of the law that later came to be known as *maqāṣid al-sharī‘a*.

Al-Juwaynī’s leading student al-Ghazālī expanded on his teacher’s contribution and transformed the Khurasani Shāfi‘ī theory of benefit. As El Shamsy has shown, al-Ghazālī disembedded *maṣlaḥa* from the realm of theology and rationalized an inductive, quasi-empiricist, Quran-inspired teleology in which the law’s purposefulness was justified in terms of existing legal rules established through revelation.<sup>103</sup> Once discerned, the intelligible structure immanent in the law could be used to extend rules analogically to new cases using the test of appropriateness (*munāsaba*). This test, which quickly eclipsed other formal methods of evaluating legal causes, assesses whether a presumptive cause serves the overall purposes of the law. Although this method of analogy was practiced from early on, al-Ghazālī was the first to theorize it, and his theory was subsequently widely adopted.<sup>104</sup> Al-Ghazālī is also the earliest scholar known to have articulated the five universal values (*kullīyyāt*) promoted by the laws of all revealed religions—namely, the preservation of life, lineage, property, religion, and reason. Aron Zysow suggests that the doctrine of the five universal values was developed before al-Ghazālī within the Khurasani branch of the Shāfi‘ī school, and he

<sup>99</sup> On the Ash‘arī integration of *maṣlaḥa*, see El Shamsy, ‘Wisdom of God’s Law’ (n 1). On *maṣlaḥa*’s role in grounding legal analogy, see Opwis (n 95).

<sup>100</sup> al-Juwaynī (n 61) vol 2, 295.

<sup>101</sup> Al-Juwaynī’s ethical theory has received much less attention than that of his student al-Ghazālī has, and to date no study has synthesized the numerous pronouncements that he made on the law’s purposive teleology in his various works of *kalām*, law, and *uṣūl al-fiqh*. For excellent studies of al-Juwaynī’s theory of *maṣlaḥa*, largely focused on its role in *qiyās* as developed in his *Burhān*, see Soufi, ‘Before *Maqāṣid*’ (n 4) 73–81; Siddiqui (n 4) 216–23; Opwis (n 95) 41–58; Ahmad al-Raysuni, *Imam al-Shatibi’s Theory of the Higher Objectives and Intents of Islamic Law (Nazariyat al-maqāṣid ‘inda al-Shatibi)* Nancy Roberts tr, International Institute of Islamic Thought 1426/2005) 12–16.

<sup>102</sup> Al-Juwaynī (n 61) vol 2, 923–7; Opwis (n 95) 41–57; al-Raysuni *ibid* 12–15.

<sup>103</sup> Ahmed El Shamsy, ‘Al-Ghazālī’s Teleology and the Galenic Tradition: Reading the Wisdom in God’s Creations (*al-Hikma fi makhluqāt Allāh*)’ in Frank Griffel (ed), *Islam and Rationality: The Impact of al-Ghazālī; Papers Collected on his 900th Anniversary*, vol 2 (Brill 2015). El Shamsy explains al-Ghazālī’s empiricism and his reintroduction of teleology into Islamic thought through the influence of Galen and shows that al-Ghazālī posits the purposefulness observed in the divine law as constitutive of a wider landscape of creation divinely structured to maximize benefit and minimize harm.

<sup>104</sup> Zysow (n 94) 199.

proposes that it may have originated with al-Qaffāl al-Shāshī, who died a century before al-Juwaynī.<sup>105</sup> The earliest definitive textual evidence that has reached us is a mention of the first three of these values by al-Juwaynī. Al-Ghazālī added the remaining two and also followed al-Juwaynī by dividing the five interests into essentials, needs, and enhancements.<sup>106</sup> Al-Ghazālī elucidates the relationship between *maṣlaḥa* and *maqāṣid* by defining *maṣlaḥa* not as what procures benefit and averts harm—a definition that he rejects—but as the preservation of the law's five objectives.<sup>107</sup> He also severely restricts the scope of interests about which the law is silent (*maṣāliḥ mursala*), a category upheld by Mālikī jurists, by stipulating strict conditions for these unattested interests, tethering them to the five central objectives of the law and limiting them to the grade of necessities.<sup>108</sup>

As El Shamsy remarks, it may appear counterintuitive that the systematic use of *maṣlaḥa* in the process of legal analogy coincided with the decline of Mu'tazilī objectivist ethics and the ascendancy of Ash'arī ethical subjectivism exemplified by al-Juwaynī and al-Ghazālī.<sup>109</sup> Intellectual historians continue to investigate the genealogy and stages of evolution of the concept of *maṣlaḥa* among Ash'arīs, but research to date has established the conspicuously Khurasani lineage of the most important contributors to the theorization of *maṣlaḥa*. I have briefly surveyed the seminal contributions of al-Qaffāl al-Shāshī, al-Juwaynī, and al-Ghazālī here, and this history continues with the contributions of subsequent generations of Khurasani Ash'arī-Shāfi'ī jurist-theologians, notably Fakhr al-Dīn al-Rāzī (d 606/1210) and Sayf al-Dīn al-Āmidī (d. 631/1235), who further refined this divine command ethics towards a teleological-consequentialist moral philosophy.<sup>110</sup>

Khurasani Shāfi'īs' innovative arguments for the purposiveness of the law are thrown into even sharper relief when they are compared with the thought of their leading Iraqi contemporaries, such as Abū Ishāq al-Shīrāzī. Although al-Shīrāzī acknowledges that *maṣlaḥa* is found throughout the law and is contingent on God's decree,<sup>111</sup> he does not engage with the ontology and epistemology of ethical value in the manner that al-Juwaynī does. Similarly, we find little theorization about *maṣlaḥa*'s role in al-Shīrāzī's discussions of analogical reasoning in his *uṣūl al-fiqh* works. Instead, al-Shīrāzī maintains a strict insistence on the autonomy of *uṣūl al-fiqh* from his nominal Ash'arī theology, and his *uṣūl al-fiqh* largely follows the source-based positivism of al-Shāfi'īs *Risāla*, which privileges linguistic analysis of scripture and resists methods of rational analysis.<sup>112</sup> One result of this Iraqi distinction as it pertains to *maṣlaḥa* is that Iraqi Shāfi'īs limited the role of *maṣlaḥa* in their assessment of legal causes. For instance, al-Shīrāzī's discussion on *qiyās* does not mention *maṣlaḥa* among the diverse methods for identifying the legal cause, in contrast to the theories of al-Juwaynī and al-Ghazālī, which grant pride of place to *maṣlaḥa* in the search for the legal cause.<sup>113</sup> In short, in contending with Mu'tazilī objectivist ethics, Khurasani Ash'arī-Shāfi'īs espoused a theory of *maṣlaḥa* and its underlying meta-ethics that was absent not just from the other legal schools but even from the Iraqi branch of the Shāfi'ī school.

<sup>105</sup> *ibid* 201.

<sup>106</sup> Al-Raysuni (n 101) 21.

<sup>107</sup> Al-Ghazālī, *Mustasfā* (n 61) 2, 481–02.

<sup>108</sup> *ibid* vol 2, 481–506; Opwis (n 95) 65–88; Shihadeh (n 95) 68–72.

<sup>109</sup> El Shamsy, 'Wisdom of God's Law' (n 1).

<sup>110</sup> On these later developments, see eg, Sheibani (n 95); Shihadeh (n 95); Bernard Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (University of Utah Press 1992); Rami Koujah, 'Divine Purposiveness and Its Implications in Legal Theory: The Interplay of *Kalām* and *Uṣūl al-Fiqh*' (2017) 24 *Islamic Law and Society* 180.

<sup>111</sup> See eg, Abū Ishāq al-Shīrāzī, *al-Tabṣira fi uṣūl al-fiqh* (Muḥammad Hasan Hītū ed, Dār al-Fikr 1983) 509.

<sup>112</sup> See al-Shīrāzī *ibid*; Abū Ishāq al-Shīrāzī, *Sharḥ al-Luma'* ('Abd al-Majīd Turkī ed, Dār al-Gharb al-Islāmī 1408/1988); Makdisi (n 87) 27–29; Soufi, 'Before *Maqāṣid*' (n 4).

<sup>113</sup> Soufi, 'Before *Maqāṣid*' (n 4) 79.

## (ii) Legal maxims in Khurasani Shāfi'ism

Another significant and related development in Khurasani legal thought was the pioneering role played by Khurasani Shāfi'is in developing legal maxims or canons (*qawā'id fiqhīyya*). A legal maxim (*qā'ida*, pl. *qawā'id*) expresses in a succinct adage or aphorism a broad tendency or a fundamental pattern that characterizes either the entire body of legal rulings or a subset thereof.<sup>114</sup> Jurists inferred legal maxims inductively from the aggregate body of legal rules and used them to guide their legal interpretation and practice. Some maxims circulated already in early legal texts, and by the fifth/eleventh century, there was an emerging trend among jurists to explicate the legal doctrines of their schools on the basis of maxims immanent in the schools' legal rules.<sup>115</sup> As I show elsewhere, al-Juwaynī played a central role in this development through his *Nihāyat al-maṭlab*, a commentary on al-Muzanī's *Mukhtaṣar*, and through his *Ghiyāth al-umam*, his main political treatise.<sup>116</sup>

The *Nihāya* is a novel work in which al-Juwaynī lays out an unprecedented maxim-based approach to Shāfi'ī substantive law. His contribution is to highlight and extract the underlying maxims that had remained latent or unarticulated in the Shāfi'ī school up to that point.<sup>117</sup> In the opening lines of the *Nihāya*, al-Juwaynī asserts that he is primarily concerned with determining and refining the maxims and subsidiary principles of the school and its rational foundations (*taqrīr al-qawā'id wa-tahrīr al-ḍawābiṭ wa-l-ma'āqid fi ta'līl al-uṣūl*).<sup>118</sup> He further explains that when faced with a new issue for which there is no precedent, he infers the correct ruling through these maxims (*kharrajtuḥā 'alā al-qawā'id*).<sup>119</sup> The organization of the *Nihāya* reflects the work's goal: he systematically extracts the unstated maxims and principles that govern Shāfi'ī rulings and compiles similar cases under the maxim that explains them.

In the process, al-Juwaynī develops a more systematic vocabulary for the school's maxims. A comparison of his terminology with those of three contemporaneous Iraqi Shāfi'is—al-Mahāmīlī, al-Māwardī, and al-Shīrāzī—shows that unlike his contemporaries, al-Juwaynī uses terms such as *aṣl* and *qā'ida* in a systematic and technical way to denote particular types of legal maxims and authoritative precedents.<sup>120</sup> He also distinguishes maxims that are

<sup>114</sup> A commonly cited definition is that of Tāj al-Dīn al-Subkī: "The *qā'ida* is a generally valid rule with which many particular cases [*juz'īyyāt*] agree and from which their legal determinations can be understood"; Tāj al-Dīn al-Subkī, *al-Ashbāh wa-l-nazā'ir* ('Ādil Ahmad 'Abd al-Mawjūd and 'Alī Muḥammad 'Iwāḍ eds, Dār al-Kutub al-'Ilmiyya 1991) vol 1, 11. For recent studies of legal maxims, see eg, Khadiḡa Musa, 'Legal Maxims as a Genre of Islamic Law: Origins, Development and Significance of *al-Qawā'id al-Fiqhīyya*' (2014) 21 *Islamic Law and Society* 325; Intisar Rabb, 'Islamic Legal Maxims as Substantive Canons of Construction: *Hudūd-Avoidance in Cases of Doubt*' (2010) 17 *Islamic Law and Society* 63; Intisar Rabb, *Doubt in Islamic Law: A History of Legal Maxims, Interpretation and Islamic Criminal Law* (Cambridge University Press 2014); Intisar Rabb, 'Interpreting Islamic Law through Legal Canons' in Khaled Abou El Fadl, Ahmad Atif Ahmad and Said Fares Hassan (eds), *Routledge Handbook of Islamic Law* (Routledge 2019); Intisar Rabb, 'Legal Canons—In the Classroom and in the Courtroom or, Comparative Perspective on the Origins of Islamic Legal Canons, 1265–1519' (2021) 66 *Villanova Law Review* 831; Necmettin Kızalkaya, *Legal Maxims in Islamic Law: Concept, History and Application of Axioms of Juristic Accumulation* (Brill 2021).

<sup>115</sup> See eg, Abū Bakr b. Mas'ūd al-Kasānī, *Kitāb Badā'ī' al-ṣanā'ī' fi tartīb al-sharā'ī' (Maṭba'at Sharikat al-Maṭbū'āt al-'Ilmiyya 1909)*; al-Juwaynī (n 33).

<sup>116</sup> Sheibani (n 95) ch 4. On the *Ghiyāthī*, see Abū al-Ma'ālī al-Juwaynī, *al-Ghiyāthī aw Ghiyāth al-umam fi iltiyāth al-zulam* ('Abd al-'Azīm al-Dīb ed, 4th edn, Dār al-Minhāj 1435/2014); Siddīqī (n 4); Sohāira Siddīqī, 'Power vs. Authority: Al-Juwaynī's Intervention in Pragmatic Political Thought' (2017) 28 *Journal of Islamic Studies* 193; Ovāmīr Anjum, 'Political Metaphors and Concepts in the Writings of an Eleventh-Century Sunni Scholar, Abū al-Ma'ālī al-Juwaynī (419–478/1028–1085)' (2016) 26 *Journal of the Royal Asiatic Society* 7; Ahmad Atif Ahmad, *The Fatigue of the Shari'a* (Palgrave Macmillan 2012).

<sup>117</sup> 'Abd al-'Azīm Mahmūd al-Dīb, introduction to al-Juwaynī (n 33). al-Juwaynī's *Nihāya* superseded other commentaries on al-Muzanī's *Mukhtaṣar* and came to dominate the Shāfi'ī school's teaching tradition. This was largely thanks to al-Ghazālī's three summaries of the work, *al-Basīṭ*, *al-Wasīṭ*, and *al-Wajīz*, and his further condensation of the *Wajīz* in his *Khulāṣa*. *Al-Wajīz* also formed the core of the subsequent Shāfi'ī tradition; al-Rāfi'ī wrote two commentaries and an abridgement, which al-Nawawī, in turn, further condensed. Together, these books have formed the mainstay of Shāfi'ī substantive law ever since, and with rare exceptions, all subsequent Shāfi'ī commentaries, glosses, and compendia are derivative of these works.

<sup>118</sup> See eg, al-Juwaynī (n 33) vol 1, 3.

<sup>119</sup> *ibid* vol 1, 4.

<sup>120</sup> On al-Juwaynī's maxim terminology, see Sheibani (n 95) ch 4.

specific to a school or a legal topic (*qā'idat al-bāb*, *qā'idat al-ḥaṣṣ*, *qā'idat al-madhhab*) from maxims that are shared among schools or pertain to the law as a whole (*qā'idat al-sharī'a*).

Al-Juwaynī was aware that his approach differed from those of his colleagues. In the *Ghiyāthī*, he stresses the importance of maxims to the application of the law and highlights the originality of his contribution.<sup>121</sup> He contrasts his approach explicitly with the more demonstrative, case-based approach of other jurists, subtly critiquing their neglect of the higher-order maxims on which the cases are based.<sup>122</sup> He singles out his Iraqi peer al-Māwardī, denouncing his shallow legal knowledge, his reliance on the doctrines in existing works of law, his frequent transmission errors, and his willful ignorance and blindness.<sup>123</sup> As I have shown elsewhere, al-Juwaynī's theorization of legal maxims played a significant role in the subsequent development of legal maxim treatises.

Al-Juwaynī's *Nihāya* reflects an emerging interest in maxims among Khurasani Shāfi'is of the fifth/eleventh century. This interest was part of an investigative approach to legal analysis that endeavoured to identify and elucidate the underlying principles and patterns structuring the law. The available literary evidence indicates that the development of legal maxims began among Baghdadi Ḥanafis such as Abū Ṭāhir al-Dabbās (d. 320/932 or 340/951) and Abū al-Ḥasan al-Karkhī (d. 340/952) before the school's centre of gravity shifted to Transoxania, where Ḥanafī legal maxims discourse flourished in compositions such as al-Dabbūsī's (d. 430/1039) *Ta'sīs al-naẓar* and Abū Ḥaḥṣ 'Umar al-Nasafī's (d. 537/1142) commentary on al-Karkhī's *Risāla*. It seems plausible that Khurasani Shāfi'is picked up their interest in maxims from the Ḥanafis.<sup>124</sup>

The hypothesis of likely Ḥanafī influence on Shāfi'is in Khurasan is supported by an anecdote about the Ḥanafī scholar Abū Ṭāhir al-Dabbās, who had reportedly distilled the jurisprudence of the Ḥanafī school into 17 core maxims. Every night following the evening prayer, after all the worshippers had departed the mosque, al-Dabbās, who was blind, would recite these maxims to himself. When the Shāfi'ī scholar Abū Sa'd al-Harawī (d. 518/1124) heard about this, he travelled to al-Dabbās. One night, he rolled himself up in a straw mat and hid in the mosque. When the people had left, al-Dabbās locked the door of the mosque and began his recitation. But he had recited only seven maxims when al-Harawī was overcome by a coughing fit, alerting al-Dabbās to his presence. Al-Dabbās beat al-Harawī and threw him out of the mosque. Al-Harawī returned to his disciples and recited to them the seven maxims he had acquired. Al-Dabbās, for his part, never again repeated his maxims in the mosque.<sup>125</sup> The historicity of this encounter is questionable,<sup>126</sup> but this anecdote nonetheless suggests a route of influence from Ḥanafis to Eastern Shāfi'is. Ḥanafī influence is likewise indicated by the report that the Khurasani Shāfi'ī authority al-Qāḍī Ḥusayn, al-Qaffal al-Marwazī's disciple, responded to the Ḥanafis' use and development of legal maxims by setting forth four maxims that, he maintained, constituted the basis of the Shāfi'ī school's legal corpus and were widely known among the Shāfi'is in Herat.<sup>127</sup> These four maxims, which constituted basic tools of legal problem solving, were 'Certainty is not overruled by

<sup>121</sup> al-Juwaynī (n 116) 650.

<sup>122</sup> al-Juwaynī (n 33) vol 1, 110–11.

<sup>123</sup> al-Juwaynī (n 116) 302–3.

<sup>124</sup> See eg, Kızılkaya (n 114); Musa (n 114).

<sup>125</sup> Quoted in Ṣalāh al-Dīn Khalīl al-'Alā'ī, *al-Majmū' al-Mudhhab fi qawā'id al-madhhab* (Majīd 'Alī al-'Ubaydī and Aḥmad Khudayr 'Abbās ed, Dār 'Imār 1425/2004) vol 1, 34–35; Jalāl al-Dīn al-Suyūṭī, *al-Ashbāh wa-l-naẓā'ir fi qawā'id wa-furū' fiḥ al-Shāfi'iyya* (Dār al-Kutub al-'Ilmiyya, 1403/1983) 7; al-Subkī, *al-Ashbāh wa-l-naẓā'ir* (n 115) vol 1, 12; Ibn Nujaym, *al-Ashbāh wa-l-naẓā'ir* (Muḥammad Mutī' al-Hafīz ed, Dār al-Fikr 1999) 10–11. The anecdote is also translated with brief commentary in Wolfhart Heinrichs, 'Qawā'id as a Genre of Legal Literature' in Bernard Weiss (ed), *Studies in Islamic Legal Theory* (Brill 2012) 370–1.

<sup>126</sup> On the historicity of this encounter and the likely identity of al-Harawī, see Sheibani (n 95) ch 4.

<sup>127</sup> Abū Sa'd al-Harawī, *al-Ishrāf fi adab al-qaḍā' wa-ghawāmiḍ al-ḥukūmāt* (MS, Istanbul, Süleymaniye, Yeni Cami, 359) fols 63b–64a; al-'Alā'ī (n 125) vol 1, 35–7; al-Suyūṭī (n 125) 7.

doubt', 'Hardship begets facility', 'Harm is removed', and 'Custom is a referee'. They were augmented by a fifth maxim, 'Actions are judged by their ends', and these five universal maxims (*al-qawā'id al-khamš*) were eventually adopted as the foundation for all other maxims by Mamluk-era Shāfi'i maxim compilers.<sup>128</sup>

For Khurasani Shāfi'is such as al-Juwaynī, a concern with legal maxims would have been 'in the air' among their fellow Central Asian jurists and theologians, inspired at least in part by the competitive juristic environment that had prompted Shāfi'is such as al-Qāḍī Ḥusayn to attempt to articulate the underlying logic of Shāfi'i law in the form of maxims in order to defend their legal doctrine as internally coherent in a mode familiar to their Ḥanafī adversaries. The interest in maxims may also have been promoted by the deductive methodology of Mu'tazilī theologians who distilled their core theological doctrines into five principles (*uṣūl*), though this hypothesis requires more research. What we do know is that maxim thinking among Khurasani Shāfi'is corresponded with the inductive and rationalizing approach that they used to establish the existence of *maṣlaḥa* as the overarching aim of the law. After all, legal maxims, like *maṣlaḥa*, reflect patterns and principles immanent in legal rulings that express the underlying rational and moral values of the law and could be identified through a close and careful reading of legal doctrine.

### (iii) Integrating law with Sufism

The third component of the Khurasani synthesis, alongside Ash'arī theology and Shāfi'i law, was Sufism. Several studies have traced the migration of leading Ash'arī theologians from Baghdad to Nishapur at the urging of prominent Nishapuri Sufis. They have also established the seminal role that Khurasani Shāfi'is played in the integration of Sufism into the social fabric and intellectual discourse of Muslim societies as a discipline connected to and bolstered by both theology and law.<sup>129</sup> The integration of Ash'arī theological doctrines into Sufi cosmology, metaphysics, and ethical schemes is a hallmark of the writings of prominent Nishapuri Ash'arī theologians such as al-Qushayrī and al-Ghazālī. Conversely, these scholars also embedded and intertwined themes from Sufi mysticism and ethics into their legal discourses to produce a synthesis that emphasized the inward and outward meanings of acts carried out in obedience to the law.

The paradigmatic work in this regard is al-Ghazālī's *Revival of the Religious Sciences* (*Iḥyā' 'ulūm al-dīn*), in which he uses theological doctrines to argue that outward adherence to the law cultivates inward states of deep gnosis and spiritual development.<sup>130</sup> In fact, a reader unversed in Ash'arī doctrines will be unable to understand much of the *Iḥyā'*, which builds on and assumes prior knowledge of such doctrines as the nature of God's attributes,<sup>131</sup> the Ash'arī position on the divine attribute of speech,<sup>132</sup> and the metaphysics of Ash'arī causality.<sup>133</sup> Similarly, al-Ghazālī incorporates significant reflections on Sufi ethics and mystical secrets as discursive themes in his theological works. For instance, in the course of proving

<sup>128</sup> See eg, al-'Alā'ī (n 125) vol 1, 35–159—the first author to integrate these five universal maxims at the beginning of his collection.

<sup>129</sup> See eg, Margaret Malamud, 'Sufi Organization and Structures of Authority in Medieval Nishapur' (1994) 26 International Journal of Middle East Studies 427; Bulliet (n 20) 21, 38–46; Nguyen (n 72).

<sup>130</sup> Abū Ḥāmid al-Ghazālī, *Iḥyā' 'ulūm al-dīn* ('Ali Mustafā and Sa'īd al-Mahāsini eds, Dār al-Fayḥā' 1431/2010). For a study of al-Ghazālī's project in the *Iḥyā'*, see Kenneth Garden, *The First Islamic Reviewer: Abū Ḥāmid al-Ghazālī and His Revival of the Religious Sciences* (Oxford University Press 2014).

<sup>131</sup> See eg, Abū Ḥāmid al-Ghazālī, 'Kitāb al-mahabba' in 'Ali Mustafā and Sa'īd al-Mahāsini (eds), *Iḥyā' 'ulūm al-dīn* (Dār al-Fayḥā' 1431/2010) vol 6, 5–129; Abū Ḥāmid al-Ghazālī, *al-Maṣṣad al-asnā fi sharḥ asmā' Allāh al-ḥusnā* (al-Lajna al-'Ilmiyya bi-Markaz Dār al-Minhāj ed, Dār al-Minhāj 1441/2020).

<sup>132</sup> See eg, Abū Ḥāmid al-Ghazālī, 'Kitāb al-tilāwa' in 'Ali Mustafā and Sa'īd al-Mahāsini (eds), *Iḥyā' 'ulūm al-dīn* (Dār al-Fayḥā' 1431/2010) vol 2, 71–114.

<sup>133</sup> See eg, Abū Ḥāmid al-Ghazālī, 'Kitāb al-tawḥīd wa-l-tawakkul' in 'Ali Mustafā and Sa'īd al-Mahāsini (eds), *Iḥyā' 'ulūm al-dīn* (Dār al-Fayḥā' 1431/2010) vol 5, 475–569.

the proposition that God is not located in any direction in his *Iqtiṣād fi al-i'tiqād*, al-Ghazālī expounds at length on the spiritual meanings associated with turning towards the heavens and raising the hands during supplication within a broader argument that God is not specified by the direction ‘above’ and that the seat of glorifying God is the heart.<sup>134</sup> A similar integration of Sufi and Ash‘arī epistemologies and doctrines is also evident in the thought of al-Ghazālī’s predecessor al-Qushayrī. Martin Nguyen places al-Qushayrī within a long tradition of Sufi Ash‘arism started by Abū Sahl al-Su‘lūkī, who settled in Nishapur in 337/948f.<sup>135</sup>

This synthesis of Sufism and Ash‘arism was in no way inevitable. Not only did Iraqi Sufis not contribute to this project, but even some Khurasani contemporaries of al-Qushayrī and al-Ghazālī, such as Khwāja Abū Ismā‘il ‘Abd Allāh al-Anṣārī (d. 481/1089) of Herat, developed a Sufi science deliberately devoid of any Ash‘arī influences. Al-Anṣārī was expelled from Nishapur and imprisoned on account of his rejection of Ash‘arism, which he elaborated in his *Kitāb Dhamm al-kalām wa-ahlih* (Condemnation of *kalām* and Its practitioners), a substantial polemic denouncing rationalist theology and the doctrines of al-Ash‘arī.<sup>136</sup> Al-Anṣārī went on to author an influential work describing the waystations on the spiritual path that resembles the Sufi works authored in Iraq in the previous century by displaying no trace of rationalist theology.<sup>137</sup>

#### (iv) Dissemination through the Nizāmiyya

How did Khurasani Ash‘arī-Shāfi‘is disseminate their unique Sunni synthesis, particularly in light of their persecution in the Seljuk period? Despite the early difficulties they faced, the fortunes of Nishapur’s Ash‘arīs quickly improved with the ascendancy of Nizām al-Mulk (Abū ‘Alī al-Ḥasan b. ‘Alī b. Iṣḥāq al-Ṭūsi, d. 485/1092), who served as vizier under the Seljuk sultan Alp Arslān (r. 455–65/1063–72) and his son Malik-Shāh (r. 465–85/1072–92). During his long tenure, Nizām al-Mulk assumed control of virtually all administrative affairs in Khurasan. His enduring legacy was the establishment of a chain of educational institutions that came to be known as Nizāmiyya madrasas, first in Baghdad and Nishapur and then in other major cities including Herat, Damascus, Balkh, Merv, and Basra. Nizām al-Mulk used the madrasas as a vehicle to promote Ash‘arī theology and Shāfi‘ī law, which constituted the vision of orthodox Islam to which he personally adhered. Rather than simply designating each madrasa for a particular scholar, as was customary, Nizām al-Mulk appointed prominent Ash‘arī-Shāfi‘is to head his madrasas while presiding over the Nizāmiyya system himself.<sup>138</sup>

As the head of the first Nizāmiyya school, established in Nishapur, he selected Abū al-Ma‘ālī al-Juwaynī, who returned from exile to assume the chair at Nizām al-Mulk’s bidding. While serving as chair of the Nishapur Nizāmiyya, al-Juwaynī wrote his most important works, which demonstrate the successful assimilation of Ash‘arī doctrines and methods and the expansion of its exploratory and principle-based approach into jurisprudence and legal doctrine. It was also at the Nizāmiyya that al-Juwaynī trained his most influential students, including al-Ghazālī and al-Anṣārī, who advanced and built on his legacy. Through the synthetic writings produced by prominent Khurasani Shāfi‘is such as al-Juwaynī, al-Qushayrī,

<sup>134</sup> Abū Ḥamid al-Ghazālī, *al-Iqtiṣād fi al-i'tiqād* (Anas Muḥammad ‘Adnān al-Sharfāwī ed, 2nd edn, Dār al-Minhāj 1443/201) 111–20; Aladdin M Yaqub, *Al-Ghazālī’s Moderation in Belief* (University of Chicago Press 2013) 48–55.

<sup>135</sup> Nguyen (n 72) 92, 221–2.

<sup>136</sup> S. de Laugier de Beaureceuil, ‘Abdallāh Anṣārī’, *Encyclopædia Iranica* (1982) vol 1, pt 2, 187–90; an updated version is available at <[www.iranicaonline.org/articles/abdallah-al-ansari](http://www.iranicaonline.org/articles/abdallah-al-ansari)> accessed 17 January 2014.

<sup>137</sup> ‘Abd-Allah al-Anṣārī, *Kitāb Manāzil al-sā‘irin* (Dār al-Kutub al-‘Ilmiyya 1408/1988). For an English translation, see *Stations of the Sufi Path: The One Hundred Fields (Sad Maydān) of ‘Abdu’lāh Ansārī of Herat* (Nahid Angha tr, Archetype 2010).

<sup>138</sup> On the introduction of the Nizāmiyya madrasa to Khurasan, see Bulliet (n 20); Siddiqui (n 4) ch 2.

and al-Ghazālī, the approach of the Khurasani *ṭarīqa*, and particularly the distinct Nishapuri synthesis, reached Damascus in the following century and shaped the thought of sixth/twelfth-century Damascene Shāfiʿī luminaries such as Fakhr al-Dīn ʿAbd al-Rahmān b. Muḥammad b. ʿAsākir (d. 620/1223) and ʿIzz al-Dīn Ibn ʿAbd al-Salām (d. 660/1262).<sup>139</sup>

### B. Al-Shīrāzī and the Hadith-Leaning Shāfiʿism of Iraq

As already noted, although Ashʿarism originated in Baghdad, its centre of gravity moved to Khurasan after the generation of al-Ashʿarī’s students and their students. Some Iraqi Shāfiʿis, such as Abū Ḥamid al-Isfarāyīnī, rejected Ashʿarī theology outright, while others nominally professed Ashʿarism but neither developed Ashʿarī theology further nor integrated its doctrines and methods into their jurisprudence, ethics, or legal reasoning. On the whole, in place of the rationalizing, discursive, and analytical legal paradigm advanced by their Khurasani peers, Iraqi Shāfiʿis privileged an emulative, transmission-based legal methodology that focused on the preservation and transmission of the established legal doctrines of the school and on imitation of its early authorities. Unlike the Khurasanis, who adopted a synthetic and systematizing approach to the range of disciplines, the Iraqis kept fields of knowledge and methods of inquiry separate, resisting the impingement of rationalist theology and Sufism on jurisprudence and law.

Abū Ishāq al-Shīrāzī is the prime representative of the Iraqi community’s paradigm. As we have already seen, a comparison of his jurisprudential and doctrinal works with those of al-Juwaynī illustrates the divergences between the Iraqi and Khurasani approaches. Whereas al-Juwaynī incorporates doctrines and themes from Ashʿarī theology into his theoretical jurisprudence, al-Shīrāzī maintains a strict insistence on the autonomy of theoretical jurisprudence from theology.<sup>140</sup> For instance, while al-Juwaynī and his successors deliberate extensively about the purposefulness of the law in conversation with the Muʿtazila, al-Shīrāzī acknowledges that *maṣlaḥa* is found throughout the law but does not attempt to elucidate its underlying ontology and epistemology or use *maṣlaḥa* to identify the legal cause in his theory of *qiyās*.<sup>141</sup> Similarly, al-Juwaynī explains Shāfiʿī legal doctrines with reference to broadly applicable maxims and principles, but al-Shīrāzī shows little interest in identifying patterns in the law or articulating them in the form of maxims.

As George Makdisi has observed, al-Shīrāzī’s legal theory largely follows the model of al-Shāfiʿī’s *Risāla* by adhering to a source-based positivism and rejecting rationalist methods and doctrines.<sup>142</sup> This textualism, consistent across al-Shīrāzī’s writings, privileges emulation of past authorities, including their methods of reasoning and their styles of authorship. Even more explicit evidence of his opposition to the Ashʿarī rationalization of *uṣūl al-fiqh* is found in the specific arguments that al-Shīrāzī makes in his works of theoretical jurisprudence, *al-Lumaʿ* and *al-Tabṣira*. In these works, al-Shīrāzī frequently espouses jurisprudential positions that are explicitly opposed to those of the Ashʿarīs. Éric Chaumont notes that whenever al-Shīrāzī mentions the Ashʿarīs in the *Tabṣira*, he does so to disagree with them, and he frequently distinguishes between Ashʿarī jurisprudential views and those of himself and his companions (*aṣḥābūna*), by which he seems to mean Iraqi Shāfiʿis specifically.<sup>143</sup> Examining al-Shīrāzī’s handling of the disputed jurisprudential question whether the meanings of Arabic words change when used in connection with religious issues (*naql al-asmaʿ fi al-sharʿ*), Chaumont concludes that al-Shīrāzī deemed revelation immediately

<sup>139</sup> See Sheibani (n 95).

<sup>140</sup> See al-Shīrāzī (n 111); al-Shīrāzī (n 112); Makdisi (n 86) 27–29.

<sup>141</sup> al-Shīrāzī (n 111) 509; Soufi, ‘Before *Maqāsid*’ (n 4) 79.

<sup>142</sup> Makdisi (n 86) 27–29.

<sup>143</sup> Éric Chaumont, ‘Encore au sujet de l’Ashʿarisme d’Abū Ishāq Ash-Shīrāzī’ (1991) 74 *Studia Islamica* 175, n 34.

comprehensible to its audience of Arabic speakers, who had perfect knowledge of its language and nuances, its interpretation, and the derivation of its legal rulings.<sup>144</sup> This meant that theological doctrines and rational methods were irrelevant and their intrusion into jurisprudence was unwarranted. This picture is supported by al-Shīrāzī's own explicit witness: in response to a Ḥanbalī scholar who accused al-Shīrāzī of being an Ash'arī, he reportedly declared, 'These are my books on *uṣūl al-fiqh* in which I profess doctrines opposed to those of the *uṣūl* of al-Ash'arī.'<sup>145</sup>

Al-Shīrāzī's resistance to the increasingly influential paradigm of Ash'arī *uṣūl al-fiqh* has sparked a debate about his theological commitments.<sup>146</sup> Ibn 'Asākir raises the issue in his biography of al-Shīrāzī, in which he—rather predictably, given his own staunch Ash'arism—argues that despite al-Shīrāzī's jurisprudential positions, he was a committed Ash'arī in theology.<sup>147</sup> Contemporary scholars have also discussed al-Shīrāzī's possible Ash'arism at length.<sup>148</sup> The discovery and publication of a short theological tract, *al-Ishāra*, authored by al-Shīrāzī has added weight to the thesis of his Ash'arism and shown that the assertion that he was anti-Ash'arī is too broad.<sup>149</sup> *Al-Ishāra* is clearly an Ash'arī work, but it is brief and merely enumerates well-known Sunni doctrines in the style of *ahl al-ḥadīth* theological creeds. These short treatises are not discursive theological works properly speaking and display none of the depth and rational sophistication we find in the developed, multivolume *kalām* works of al-Juwaynī and al-Ghazālī.

The argument in favour of al-Shīrāzī's Ash'arism is further bolstered by the public stances that he took in support of Ash'arī theologians. Baghdad was the stage of many public controversies about Sunni orthodoxy in his time, and arguably the most important was the issuance of a public creed by the caliphs Abū al-'Abbās Aḥmad b. Iṣḥāq al-Qādir (r. 381–422/991–1031) and his son Abū Ja'far 'Abd-Allāh b. al-Qādir al-Qā'im (r. 422–67/1031–75). Ash'arīs were a minority in Baghdad, outnumbered by the more influential Ḥanbalī theologians, who derived support from al-Qādir's Sunni revival.<sup>150</sup> It is in this context that al-Shīrāzī complained that an opponent could disparage his theological commitments in front of laypeople merely by calling him an Ash'arī.<sup>151</sup> It did not help that Khurasani Ash'arī-Shāfi'īs visited Baghdad and inflamed the simmering tensions between the Ḥanbalīs and the Shāfi'īs. One such episode in 469/1076 was ignited when Abū Naṣr al-Qushayrī (d. 514/1120), the son of Abū al-Qāsim al-Qushayrī and a student of al-Juwaynī, came to Baghdad and publicly denounced Ḥanbalī theological doctrines at the Niẓāmiyya mosque. When violent clashes broke out between the two factions, the caliph was forced to intervene and called a conciliatory council attended by representatives of both sides.<sup>152</sup> Makdisi also mentions two 'abortive attempts for Ash'arī infiltration of the Niẓāmiyya' made by Khurasanis in 475/1083 and 495/1102, which ended with the immigrant giving up and returning home.<sup>153</sup>

As head of the Niẓāmiyya in Baghdad, al-Shīrāzī presided over an Ash'arī safe haven within a predominantly Ḥanbalī intellectual and social sphere. Al-Shīrāzī sided with the

<sup>144</sup> *ibid.*

<sup>145</sup> Makdisi (n 86) 29.

<sup>146</sup> See eg, Makdisi (n 86); Claude Gilliot, 'Deux professions de foi du juriste-théologien Abū Iṣḥāq aṣ-Ṣīrāzī' (1988) 68 *Studia Islamica* 170; Chaumont (n 143); Éric Chaumont, 'Al-Shīrāzī' *EI2* (2012); Adem (n 5) 289–99; Abū Iṣḥāq al-Shīrāzī, *al-Ishāra ilā madhhab ahl al-haqq* (Muhammad al-Sayyid al-Julaynid ed, Wizārat al-Awqāf [Cairo] 1999).

<sup>147</sup> Ibn (n 79) 276–8.

<sup>148</sup> See eg, Makdisi (n 86); Gilliot (n 146); Marie Bernand, *La profession de foi d'Abū Iṣḥāq al-Ṣīrāzī* (Institut Français d'Archéologie Orientale 1987); Chaumont (n 143); Chaumont (n 146); Adem (n 5) 289–99; al-Shīrāzī (n 146).

<sup>149</sup> Adem (n 5) 289–99.

<sup>150</sup> *ibid* 267–330.

<sup>151</sup> *ibid* 296.

<sup>152</sup> *ibid* 289–99.

<sup>153</sup> George Makdisi (ed), 'The Sunnī Revival' in *History and Politics in Eleventh-Century Baghdad* (Variorum 1990).

Ash'arīs. He corresponded with Nizām al-Mulk and later with the vizier Fakhr al-Dawla Abū Naṣr Muḥammad b. Muḥammad (d. 483/890) and his son 'Amīd al-Dawla about the conflicts with the Ḥanbalīs and recommended steps towards their resolution.<sup>154</sup> Nonetheless, these broader social tensions and the ongoing conflicts with the Ḥanbalīs prompted al-Shīrāzī to downplay Ash'arī doctrines. Although the textual and historical records indicate that al-Shīrāzī personally adhered to Ash'arī doctrines and defended them in public debates, he was by no means a theologian, and he drew a clear line between Ash'arī theological doctrines and the realm of jurisprudence, which he believed ought to remain impervious to theological and rational speculation.

The Iraqis' orientation did not go unnoticed by the Khurasanis. By al-Juwaynī and al-Shīrāzī's generation, Iraqi and Khurasani jurists were meeting each other, engaging in disputation, and sometimes reading and criticizing each other's writings and arguments. The Khurasanis scoffed at the Iraqis' ignorance of jurisprudence and the rational sciences and at their formulaic legal writings, in which they merely regurgitated existing doctrines; al-Juwaynī's criticism of al-Māwardī's shallow legal understanding and unimaginative transmission of legal doctrines is a prime example.<sup>155</sup> Conversely, the scholarship of Nishapuri Ash'arī-Shāfi'īs was weaker in the discipline for which the Iraqi community was commended: expertise in hadith. Khurasan had been an important early hub of hadith scholarship; the authors of all six canonical Sunni hadith collections hailed from Greater Khurasan and Transoxania, as did many of the foremost hadith experts of this period, including Abū Ḥātim al-Rāzī, his son Ibn Abī Ḥātim, and al-Ḥākim al-Naysābūrī. However, with the introduction of Ash'arism and its rationalizing methodology to Khurasan, the hadith sciences were demoted in importance. Although jurists in Khurasan still learnt hadith, prominent Nishapuri Shāfi'ī jurists and theologians were consistently critiqued for being insufficiently versed in hadith, for neglecting to teach it, and for failing to adhere to its rigorous standards in their legal discourse. This would be an ongoing criticism of the thought of Nishapuri Shāfi'īs, as exemplified by the numerous critiques of al-Juwaynī's and al-Ghazālī's deficiencies in the domain of hadith.<sup>156</sup>

#### 4. CONCLUSION: ON CANONIZATION AND THE END OF THE TWO ṬARIQAS

In this article, I have examined the history of the two Shāfi'ī ṭariqas in Khurasan and Iraq in the fourth/tenth and fifth/eleventh centuries. Through a reconstruction of the intellectual networks that constituted the two communities and an analysis of the thought of prominent figures in each community, I have shown that by the mid-fourth/tenth century, what had been fluid Shāfi'ī networks had evolved into two discrete interpretive communities. The fault lines between the two communities included claims of membership in distinct lineages of authority and the championing of different doctrinal rules, methodological commitments, and views concerning the relationship between rationalist theology and legal theory. These insights not only complicate our understanding of what constitutes the post-formative *madhhab* as an institution but also demonstrate how broader intellectual and institutional developments, such as the ascendancy of Ash'arism, the emergence of new centres of scholarship, and the introduction of the madrasa, shaped the internal workings of the *madhhab*.

Although I have recounted the history of the Shāfi'ī school in this period as a narrative of social and intellectual developments within two communities of interpretation, it could also

<sup>154</sup> Adem (n 5) 289–99.

<sup>155</sup> al-Juwaynī, *Ghiyāthī* (n 116) 302–3.

<sup>156</sup> Brown (n 27) 354–6.

be told through the lens of canonization.<sup>157</sup> From this perspective, the story begins with the foundational canonization undertaken by al-Shāfi‘ī, aptly depicted by El Shamsy as the establishment of a paradigmatic methodology that prioritized a canonized set of revelational sources, particularly hadith, in formulating legal conclusions while demoting competing sources of authority.<sup>158</sup> Al-Shāfi‘ī’s students and successors then enshrined his works as a ‘secondary canon’ through their critical engagement with his thought.<sup>159</sup> Within the emerging communal institution of the *madhhab*, scholars shared a commitment to al-Shāfi‘ī’s legacy but nonetheless upheld a variety of particular interpretive approaches, which can be situated along a textualist–rationalist continuum. El Shamsy points out that already in the generation of al-Shāfi‘ī’s direct students, the more traditionalist orientation of Abū Ya‘qūb al-Buwaytī (d. 231/846) distinguished itself from the more rationalist proclivities of al-Muzani.<sup>160</sup> These divergent orientations within the Shāfi‘ī community found expression in the gradually differentiated ‘canons’ of the two *ṭarīqas*. The Khurasani and Iraqi communities thus represented two competing methodological and epistemological legacies of the Shāfi‘ī school and of Islamic intellectual history more broadly: the emulative and transmission-based approach of *ahl al-hadīth* and the rational investigation (*nazar*) of speculative theologians. As we have seen, each community coalesced around a slightly different canon, invoked a different set of authorities, transmitted distinct legal doctrines, developed its own solutions to new problems, and engaged in scholarly disputes with its particular local interlocutors.

This period, in which two distinct interpretive communities championed two competing canons, was downplayed in the school’s historical memory because the subsequent trajectory of the school was one of unification: the gradual synthesis of the two *ṭarīqas* thanks, in large part, to the work of al-Nawawī in Mamluk Damascus, effectively restored the school as a single canonical community. The vitality of Khurasani Shāfi‘ism had started to wane towards the end of the fifth/eleventh century, and Iraqi Shāfi‘ism followed it in decline, though to a lesser extent. The reasons for this development lay in a combination of geopolitical transformations that gradually drew the focus of intellectual life away from the Eastern centres of the empire towards the new Ayyubid capital of Damascus. Even before the destruction wrought by the Mongols, Khurasan had suffered from instability caused by inter-school clashes and Ghuzz raids, both of which often turned bloody and drove many scholars to migrate westwards.<sup>161</sup> Iraq’s decline was less drastic, but it, too, was increasingly overshadowed by the rising star of Damascus.<sup>162</sup>

Although Damascus had retained a cultural allegiance to Shāfi‘ism since the late third/ninth century, for several centuries it had been home to only a small and marginal community of Shāfi‘ī jurists. The inauguration of a sustained tradition of Shāfi‘ī scholarship in Damascus was facilitated by the migration of jurists into the city starting in the Seljuk period. The newcomers brought with them the scholarly genealogies of the two *ṭarīqas*. Iraqi Shāfi‘ism arrived first, facilitated by the relative proximity of and historic ties between the regions, and it became the dominant Shāfi‘ī tradition in Damascus. In the process, it fused with the city’s centuries-old indigenous scholarly heritage, which shared important features with the Iraqi orientation: it was nominally Shāfi‘ī, focused on hadith transmission, and privileged traditionalism in theology. This dominant intellectual current was further shaped by

<sup>157</sup> For the emergence of the term canonization and its introduction to Islamic studies, see Brown (n 27) 21–46. For its application to Islamic law specifically, see El Shamsy, *Canonization of Islamic Law* (n 1) 4–9 and passim.

<sup>158</sup> El Shamsy, *Canonization of Islamic Law* (n 1).

<sup>159</sup> *ibid* 225; El Shamsy, ‘Rethinking *Taqīd*’ (n 1).

<sup>160</sup> El Shamsy, *Canonization of Islamic Law* (n 1); El Shamsy, ‘First Shāfi‘ī’ (n 1).

<sup>161</sup> On the destruction of the intellectual centres of the Islamic East, see Bulliet (n 20).

<sup>162</sup> The revival of Shāfi‘ism in Ayyubid Damascus is explored in detail in Shebani (n 95) chs 1 and 2.

engagement with the anti-Ashʿarī and Ḥanbalī currents in Damascus. The later immigration of Khurasani Ashʿarī-Shāfiʿīs gave rise to a second scholarly tradition in Damascus that championed rationalism, analysis, and synthesis.

The emergent Shāfiʿī community in Damascus did not develop its own indigenous *ṭarīqa* to rival those of Khurasan and Iraq. Instead, the two currents gradually converged, experiencing some tensions during the Ayyubid period before eventually being fused into a single authoritative Shāfiʿī doctrine in the Mamluk period. This fusion was the accomplishment of al-Nawawī, who is lauded for having undertaken a ‘second refinement’ of the school.<sup>163</sup>

<sup>163</sup> On Shāfiʿism in Ayyubid Damascus, see Sheibani (n 95). On al-Nawawī’s synthesis, see Halim (n 6). It is noteworthy that al-Nawawī’s achievement was part of a larger Mamluk-era trend towards encyclopaedism, which was an impulse to gather and synthesize the received inheritance in all of the disciples in the wake of the destruction of the Eastern centres. On Mamluk-era encyclopaedism, see Elias Muhanna, *The World in a Book: al-Nuwayri and the Islamic Encyclopedic Tradition* (Princeton University Press 2017); Maaiké van Berkel, ‘Opening up a World of Knowledge: Mamluk Encyclopaedias and Their Readers’ in Jason König and Greg Woolf (eds), *Encyclopaedism from Antiquity to the Renaissance* (Cambridge University Press 2013), 357–76.

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