Premodern Muslim jurists who wrote on legal theory were aware of the *Epistle*’s importance. Badr al-Dīn al-Zarkashī (d. 794/1392), a later medieval author, states unequivocally that al-Shāfiʿī was “the first one to compose a work on legal theory,” and then gives a list of several works, at the head of which stands the *Epistle*. As a Shāfiʿī jurist, al-Zarkashī was favorably disposed toward al-Shāfiʿī, but some of the *Epistle*’s key ideas also became the target of interschool polemic, such as in the work of the important Ḥanafī (i.e., a follower of Abū Ḥanīfah) jurist al-Jaṣṣāṣ (d. 370/981) or the Mālikī (i.e., a follower of Mālik) Ibn al-Labbād (d. 333/944). Although commentaries were written on the *Epistle*, it remains unclear whether any survive.

The *Epistle on Legal Theory* has also been much discussed in Western scholarship ever since it began to appear in modern printings in late nineteenth-century Egypt. For many years it was regarded as a kind of blueprint of Islamic legal theory, which was neatly though somewhat misleadingly summarized in Western studies as consisting of a hierarchy of four sources of law that were “mined” in descending order for apposite rules: the Qurʾan, Prophetic hadith-reports, consensus of the Muslim community, and legal interpretation using analogy.

The Qurʾan’s legal content, as noted above, is relatively limited. Much more vast is the corpus of Prophetic hadith-reports, which are understood to collectively contain a record of Prophetic Practice (*sunnah*, from which the adjective Sunni is derived), the sum total of Muḥammad’s religiously relevant practices. Individual hadith-reports provide accounts of individual Prophetic practices (pl. *sunan*). Consensus (*ijmāʿ*) is a more elusive concept, but the basic idea is that the Muslim community as a whole, perhaps as represented by its jurists, is incapable of agreeing on an error. This notion suggests that individual rules and precedents somehow become collectively validated, but in practice such unanimous consensus was difficult to achieve and the concept may, at some level, have validated legal disagreement and diversity more than actual discrete doctrines.
No doubt it also expressed an important theological idea about the saved character of the Muslim community. Finally, legal interpretation (ṣiṣṭād) pursued by means of analogical reasoning (qiṣāṣ) involves the attempt to develop rules for new situations by relating those situations to preexisting rules that govern similar situations. The problem of extending the divine law to situations that it seemed to govern only by implication raised theological and epistemological problems that were handled differently by different jurists.

The emphasis on the four sources in Western scholarship is probably partly connected with the popularity of legal positivism in England in the 1960s, and it is tempting to see in it a nod to H.L.A. Hart’s concept of the master rule of recognition. Understanding the “four sources” through the prism of Hart’s concept of the master rule would also accord well with the view of Islamic legal theory as a means for producing actual rules that were derived by private jurists and also applied and enforced in courts by Muslim judges. However, some have wondered whether Islamic legal theory was not instead a retrospective exercise in justifying a diverse set of preexisting rules, not otherwise easily reconcilable, by imagining a methodology that might account for them. It would also be possible to understand Islamic legal theory as an extended discussion of legal epistemology in which questions of theology, language, authority, community, and so on were explored as a way of dealing, perhaps through intellectual play, with the very complex problem of confronting the inherent uncertainty in attempts to discover divine legislative intent. All of these tendencies in Islamic legal theory seem relevant, and their emphasis could shift from author to author—they are all in evidence in the Epistle, even though it differs in important ways from later works that belong to the principal genre of writing on Islamic legal theory, a genre termed in Arabic “the foundations of the law” (uṣūl al-fiqh).

Whatever the relevance of Hart’s concept of the master rule, there is something intensely positivist about Sunni legal theory, and that positivism begins in some ways with the Epistle and its argument that all rules are derivable, directly or indirectly, from the Qur’an and the corpus of hadith-reports. The Epistle’s main argument is that the divine law forms a coherent whole. The specific propositions that support that argument are the following: (1) the Qur’an and the hadith-reports contain a complete expression of the divine law, whether directly or inferentially; (2) no matter how incompatible the revealed source texts—the Qur’an and the hadith-reports that provide accounts of Prophetic Practice—may appear in regard to a given legal issue, contradiction is always illusory or
explicable; (3) Prophetic hadith-reports are an authoritative source of law that independently supply rules on their own; and (4) the divine law is absolutely complete and leaves no situation ungoverned. These “theses” must reflect a polemical context in which hadith-reports had not gained complete acceptance as authentic expressions of Prophetic Practice, and Western scholarship has emphasized the importance of the accounts of individual Prophetic practices, in the form of hadith-reports, in al-Shāfiʿī’s thought. In addition, al-Shāfiʿī’s insistence on confining legislation within the bounds of the Qurʾan and Prophetic Practice as expressed in hadith-reports also gave Islamic law a textual focus that contributed significantly to the development of hermeneutical speculation and to Islamic law becoming what has been called “a literary discipline.”

The text of the Epistle may be divided into an introduction and three main sections. The introduction (paras. 1–71) begins by invoking what has been called the “mission-topos,” a recitation of sacred history that surveys the progress of Abrahamic monotheism, deviations from it by recalcitrant communities, and its culmination in God’s sending of Muḥammad. Next comes praise of the search for religious knowledge (paras. 14–15) and the assertion that the divine law covers every eventuality that could possibly befall a believer (para. 16). After these important preliminaries, the theoretical account of the divine law begins in earnest. Al-Shāfiʿī describes all the modes of what he calls the “legislative statement” (bayān) (paras. 17–49). These are the four basic ways that God communicates the divine law to humans: through the Qurʾan alone, through the Qurʾan and accounts of Prophetic Practice together, through Prophetic Practice alone, and then through indications in the Qurʾan and/or Prophetic Practice that serve as the basis for certain defined types of inference. Al-Shāfiʿī closes the introduction with a brief discussion of legal epistemology (paras. 50–51) and then of the Arabic language, in which he refutes the claim that the Qurʾan includes any language other than Arabic and describes certain interpretive difficulties posed by Arabic (paras. 52–71).

The description of the varieties of legislative statement, in addition to attributing an aesthetically pleasing structural symmetry to the divine law, seems to provide an outline of the entire Epistle. The three sections that follow and comprise the rest of the Epistle deal with: (1) how to interpret and derive rules from the Qurʾan and Prophetic Practice; (2) how to interpret and derive rules from accounts of Prophetic Practice, which constitutes an independent source of law; and (3) how to perform legal interpretation and analogical reasoning.
In the first section, al-Shāfiʿī offers examples that illustrate how passages from the Qurʾan and accounts of Prophetic Practice (hadith-reports) combine to furnish rules, something that occurs under three rubrics: norms expressed in “unrestricted” and “restricted” language (ʿāmm, khāṣṣ) (paras. 72–97), norms subject to “abrogation” (naskh) (paras. 126–82), and norms expressed by means of “general” and “explicit” texts (jumlah, naṣṣ) (paras. 183–255). The discussion of unrestricted and restricted passages begins with a series of examples of the complex ways that Qurʾanic language signifies inclusion and exclusion of members of a class (paras. 72–89). It seems reasonable to think that these examples correspond to the first type of legislative statement. A series of examples follows in which hadith-reports restrict the application of apparently unrestricted Qurʾanic passages (paras. 90–97). These examples evidently begin a longer section of examples of the interaction of the Qurʾan and Prophetic Practice that extends over the other two hermeneutical rubrics just mentioned, abrogation and general and explicit obligations. Although abrogation ought simply to describe the historical succession of rules, it emerges that actual instances of abrogation involve a complex and nuanced relationship between the Qurʾan and accounts of Prophetic Practice. In addition, the Qurʾan contains obligations expressed in general terms whose details are supplied by explicit hadith-reports. All three of these rubrics (beginning with the harmonizing examples of the restricted and the unrestricted) correspond to the second type of legislative statement, in which the Qurʾan and Prophetic Practice function together to express legal rules.

Between the discussion of unrestricted and restricted passages and abrogation comes the argument for the binding character of the Prophetic Practice as embodied in hadith-reports (paras. 98–125).

After the illustrations of the second type of legislative statement comes the long second section on the legislative function of hadith-reports. This section of the Epistle corresponds to the third type of legislative statement, in which hadith-reports alone express legal rules. It is divided into discussions of several discrete issues: First comes a searching series of questions posed by an interlocutor (see below) about seeming inconsistencies in al-Shāfiʿī’s use of hadith-reports as a source of law and al-Shāfiʿī’s point-by-point response (paras. 256–66). There follows a recapitulation of the hermeneutic rubric of abrogation with special reference to Prophetic Practice, which gradually evolves into a general discussion of how to reconcile apparently inconsistent hadith-reports (paras. 287–375), and
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then a further discussion of how to interpret “commands” and “prohibitions” (*amr, nahy*) found in hadith-reports (paras. 376–433).

The lengthy section on Prophetic Practice continues with a brief discussion of “knowledge” (*ʿilm*, i.e., epistemology) (paras. 434–47), in which it is argued that knowledge is of two kinds, that appropriate for laypersons and that which is the preserve of specialists. The discussion of epistemology serves as a prelude to the discussion of the most prevalent kind of hadith-report, the so-called “uncorroborated report” (*khabar al-wāḥid*), a hadith-report with a single point of origin among the Companions of the Prophet Muḥammad—that is, a hadith-report whose “chain of transmitters” (*isnād*) originates with only one, rather than multiple, witnesses (paras. 448–567). The discussion of epistemology is relevant to such hadith-reports because they are, according to al-Shāfiʿī, the least probative form of revealed text that nonetheless constitutes “authority,” “binding authority,” or “authoritative proof” (*ḥujjah*) for jurists. The discussion of uncorroborated reports is historically important since it is the earliest preserved systematic treatment of how to “confirm” (*tathbīt*) the “authenticity” (*ṣiḥḥah*) of hadith-reports by scrutinizing their “transmitters” (*muḥaddithūn*). The technical discussion of the formal analysis of hadith-reports is followed by a brief section on “consensus” (*ijmāʿ*) (paras. 568–73). The discussion of consensus is difficult, but seems aimed at reaffirming the idea that the Muslim community as a whole is in possession of the entire corpus of hadith-reports that furnish accounts of Prophetic Practice. In this regard, it differs from later discussions of consensus, which assert in a much more straightforward way that consensus is simply the agreement of the Muslim community as a whole on any legal matter. Al-Shāfiʿī seems to believe that consensus is that of jurists only, not of the Muslim community at large, his formulations such as “the people’s consensus” (e.g., para. 91) notwithstanding. As with the discussion of epistemology, the discussion of consensus seems to belong to the larger treatment of Prophetic Practice and thus to that part of the *Epistle* that corresponds to the third type of legislative statement. In later works on legal theory, consensus becomes an independent topic and is no longer subsumed under the discussion of Prophetic Practice.

The *Epistle*’s third section then treats in depth the fourth variety of legislative statement, “legal interpretation” (*ijtihād*) and its principal technique, “analogical reasoning” (*qiyyās*) (paras. 574–686). Part of the discussion directs criticisms against “subjective reasoning” (*istiḥsān*, paras. 612–25), a name used by the followers of Abū Ḥanīfah for certain instances of legal interpretation. The
discussion of analogical reasoning then evolves into a series of examples that illustrate how such reasoning may be used to develop doctrinal consistency in certain persistently difficult problems that are characterized as instances of “legal disagreement” (ikhtilāf) (paras. 687–725). The Epistle closes with brief discussions of the epistemological status of the opinions of Muḥammad’s Companions and of the relative status of the Qurʾan, Prophetic Practice, consensus, and analogical reasoning (paras. 726–30).

Al-Shāfiʿī constructs most of his arguments by presenting example problems, that is, legal and textual problems in which the proper interpretive technique for deriving the law is demonstrated, or in which the successful resolution of a textual problem validates a particular hermeneutical rubric, such as distinguishing between the restricted and unrestricted import of revealed language. Often such example problems are simply presented one after another with no intervening prose. Al-Shāfiʿī offers only a few abstract discussions of theoretical matters; they include the above-noted discussions of the Arabic language, abrogation, problems involved in the use of hadith-reports, epistemology, and legal interpretation. Increasingly after the first third of the text, an interlocutor moves the discussion along. The interlocutor seems frequently to express views that are close to those of the early Ḥanafi jurists and seems partly inspired by the figure of al-Shaybānī; in his exchanges with the interlocutor, al-Shāfiʿī seems occasionally to identify himself with the jurists of Medina and Mecca.

For al-Shāfiʿī the law is based entirely on revealed texts, the smallest units or building blocks of which he refers to as “reports” (sg. khabar). Both the Qurʾan and hadith-reports consist of such “reports”; the Qurʾan is the revealed word of God and the hadith-reports collectively comprise a record of Prophetic Practice as a whole. It is significant that al-Shāfiʿī seems to consider Prophetic Practice to be revealed (e.g., paras. 71, 132), though he sometimes uses the term “Revelation” (al-tanzīl) as shorthand for the Qurʾan (e.g., para. 136). The reports that make up the law might be “explicit texts” (naṣṣ) from the Qurʾan or hadith-reports, or “scriptural proof texts” (naṣṣ kitāb) from the Qurʾan that express a rule in such a way that no additional clarification is required and are thus binding (lāzim). More usually, however, they are characterized by ambiguity (iḥtimāl) because they are expressed in unrestricted language (ʿāmm) or in general terms (jumlah, mujmal). In such cases, the text in question has an “apparent meaning” (zāhir) and a “true meaning” (bāṭin); both meanings involve a truth (ḥaqq), but “objective certainty” (iḥāṭah, sawāb) is achieved only when one’s understanding
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encompasses both truths at once. When confronted with such a text, jurists must seek some indication (dalîl, dalâlah) by means of an inference (istidlâl) from another report, from an instance of consensus, or from an analogy. Where there is no directly apposite revealed text, jurists must analogize from a revealed text. The divine law is thus always circumscribed within revelation and may be derived either directly (naṣṣan), which is preferable, or inferentially (istinbâṭan/istidlâlan), in case of need.

The extent to which such juristic inferences lead to certainty remains unclear. In cases of revelational ambiguity requiring textual interpretation, al-Shâfiʿî may suggest that they sometimes do, but he does not unequivocally so state. However, al-Shâfiʿî is clearly aware that juristic inferences in cases of legislative silence—that is, legal interpretation by means of analogy—do not generally lead to such certainty. In general, jurists are unable to tell whether certainty in such cases has been achieved, as illustrated by the many references to the problem of finding the “prayer-direction” (qiblah) when out of view of the Kaaba. This structural uncertainty in the law also entails the validation of “legal disagreement” (ikhtilâf) among qualified jurists in cases where the law poses substantial interpretive difficulties. Such legal disagreement seems to be allowed specifically in cases involving analogical reasoning, particularly difficult problems of textual interpretation, and reliance on uncorroborated hadith-reports. As a formal or functional matter, however, rules arrived at inferentially through legal interpretation by means of analogical reasoning have the force of law and are binding for laypersons.

As the many example problems in the Epistle make clear, one of the author’s major goals is to demonstrate how to harmonize the Qur’an with hadith-reports and also apparently inconsistent hadith-reports with each other. This harmonizing tendency was noted in one of the very earliest Western studies of the text, and it has been emphasized in more recent scholarship as well.28 The discussions of the history of the law of prayer and of the penal regime for unlawful sexual intercourse, both under the rubric of abrogation, are spectacular examples—in my view—of al-Shâfiʿî’s genius for this kind of harmonizing legal reasoning (see paras. 138–43 and 163–71). In neither of those problems are the given materials easy to reconcile, and al-Shâfiʿî’s efforts in both problems reveal a seriously creative legal mind.

Al-Shâfiʿî provides two important discussions of language (paras. 51–72, 271–2) in which he argues that the hermeneutical difficulties posed by the
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Qur’an and the corpus of hadith-reports may be traced to the unusual richness of Arabic. He is certainly interested in the semantic properties of Arabic, since the scope of reference of rules stated in revealed texts provides a constant challenge to interpreters, who must determine the boundaries of the groups to which such rules apply. This concern emerges particularly clearly from the discussion of unrestricted and restricted passages (paras. 72–97). It is fascinating, however, that al-Shāfiʿī never once makes an argument from grammar, and that he seems not to use grammatical terminology. I say “seems not to” because most of his technical terms—unrestricted and restricted (ʿāmm, khāṣṣ), general and explicit (jumlah, naṣṣ), command and prohibition (amr, naḥy), analogy (qiyās)—could be (and were) deployed in discussions of Arabic grammar, though with slightly different meanings. Although al-Shāfiʿī never appeals directly to grammatical features of the language, he certainly implies that both the plural (in the discussion of restricted and unrestricted texts) and the imperative and negative imperative (in the discussion of commands and prohibitions, paras. 419–34) are inherently ambiguous.29

Also noteworthy is al-Shāfiʿī’s antirationalist theology, which is reflected in the several predestinarian slogans that he occasionally uses (paras. 6, 13, 110, 115, 121, 126, and 264) and also in his citation of Q Ra’d 13:41 (paras. 126, 264, and 589). The appeals to God’s foreknowledge and foreordainment often occur in conjunction with arguments for the authority of accounts of Prophetic practices and for the importance of abrogation, areas in which issues of legislative authority and the ontology of the divine law presumably remained the subject of debate. Perhaps also in paragraph 1, where the ability of humans to describe God adequately is doubted, one may see a subtle criticism of theologians’ debates about God’s attributes.30 The critique of subjective reasoning (paras. 612–9) may contain more than a hint of antirationalism. The general orientation of al-Shāfiʿī’s jurisprudence around hadith-reports as a whole is already an important clue to his own antirationalist theological leanings, and it seems very clear that his concern to harmonize the Qur’an and hadith-reports within the categories of legislative statements reflects his deep commitment to the importance of the corpus of Prophetic hadith-reports as a whole: the argument that all such apparent contradiction can be explained and naturalized aims to integrate the corpus of hadith-reports fully and seamlessly into the divine law, alongside the Qur’an. The more difficult the exercise in harmonization, the more compellingly
the solution shows the Qur’an and Prophetic Practice to constitute a divinely planned, natural legislative whole.

An important question about the Epistle in the context of early Arabic literary history is whether it was a book. That is, did the author compose it and then himself put it into final form as a completely redacted, integral text intended for publication and private reading? Although the Epistle has a clearly identifiable introduction, it does not have a list of chapters that appears at the beginning whose order is then rigorously followed throughout the work. I suggested above that the discussion of the types of “legislative statement” seemed to foreshadow the work’s organization as a whole, but this congruence is not remarked upon by the author. There are passages, however, in which the author or the interlocutor provides internal references that correspond reasonably well, though not always exactly, to the actual organization of the work’s contents (e.g., paras. 39, 125, 181–2, 256, 433, 568, 726, and 728). So, although the Epistle may not exhibit all the features of the kinds of integral texts that were produced by those authors who wrote later in the third/ninth centuries, its content exhibits a high degree of coherence and its form a discernible deliberateness and clear relationship to that content. Using the criteria developed by Gregor Schoeler for analyzing the character of early Arabic writings, the Epistle comes close to being a syngramma; according to Schoeler, syngrammata are “actual books, composed and redacted according to the canon of stylistic rules and intended for literary publication,” but because the Epistle was likely intended for a restricted audience of students, it remains “literature of the school.” The early date of the Epistle in the context of written cultural production in Arabic more generally and, presumably, the need to forge a vocabulary for writing about legal theory and legal hermeneutics probably combined to contribute to the text’s linguistic and conceptual difficulty. In any event, a work on theory such as the Epistle seems likely to have been intended eventually to become written text.

Finally, it should be noted that the title “Epistle” does not seem justified by the work’s contents. There was a well-established epistolary tradition among premodern writers of Arabic, but the Epistle is clearly not an “epistle.” This literary fact perhaps encouraged the circulation of narratives in which al-Shāfi‘ī was said to have sent the “old” version of the Epistle to a Basran scholar of hadith-reports (and pearl merchant) named ʿAbd al-Raḥmān ibn Mahdī (d. 198/814) at his request for a book that dealt with certain topics in legal hermeneutics. Another possible explanation for the text’s name is that the underlying Arabic
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word, *risālah*, means something else in this instance, namely, “introduction.” In the manuscript tradition of the *Kitāb al-Umm*, the Epistle/Risālah is usually placed first, so it could have been named *risālah* either because it provided the theoretical introduction to the works that made up the *Umm* or simply because it traditionally occupied the lead position. The use of the term *risālah* to refer to the important introductory chapters of a key contemporaneous text, the Arabic grammar of Sibawayhi (d. ca. 180/798), seems to support the idea that *risālah* means “introduction,” but I have translated the title as “Epistle” in accordance with tradition.  

The *Epistle* bequeathed to mature Islamic legal theory a full array of productive technical terms and an initial treatment of many issues that were to be of perennial interest, but its overriding concern with source interaction—harmonization of revealed texts to produce rules—gave way to a more conspicuous concern with epistemology, the negotiation of uncertainty in the divine law, linguistic speculation, and legal and theological polemics. The *Epistle* nonetheless remains a central text in the formation of the Islamic legal tradition and in the Islamic intellectual tradition more generally. For those interested in law across traditions, the *Epistle* offers a remarkable collection of examples of applied legal reasoning and hermeneutical finesse. I have drawn attention above to al-Shāfiʿī’s skill in harmonizing seemingly irreconcilable texts. The techniques that he uses to do this will be immediately familiar to, and I hope admired by, any lawyer trained to read and interpret case law. One might also note his ability to read hadith-reports that ostensibly concern problems of positive law as expressing principles of legal theory. For example, al-Shāfiʿī groups together a number of such reports to justify the authority of uncorroborated hadith-reports (see paras. 480–540) and relentlessly deploys the example of the prayer-direction both to justify the necessity of inferential reasoning and to take the sting out of the theological consequences of legal disagreement (see, e.g., paras. 595–6). A great legal mind is easily recognized across cultures and centuries.  

The Arabic Text

There are three important printed versions of al-Shāfiʿī’s *Risālah*: the 1321/1903 edition printed by the royal press in Būlāq (Cairo), the 1940 critical edition by Ahmad Muḥammad Shākir, and the recent 2001 edition by Rifʿat Fawzī ʿAbd al-Muṭṭalib. It is not easy to improve on the editions of Shākir and ʿAbd al-Muṭṭalib,
but they are also very different, and it is important to understand how they differ in order to understand the basis on which I established the Arabic text offered here. Shākir edited the *Risālah* from an ancient manuscript that has been dated to the third or fourth/ninth or tenth centuries, optimistically to the lifetime of al-Shāfiʿī himself. I refer to it as the “Rabīʿ manuscript” (and in Arabic as رَبِّيَّةُ الْرَّيْبِ) since Shākir thought that it was written down by al-Rabīʿ ibn Sulaymān himself from al-Shāfiʿī’s own oral dictation of the *Risālah*. If this is right—and not everyone is convinced—then it makes both the text and the manuscript very early documents for the history of Islamic law and legal thought. Even the later dating, to about a century after al-Shāfiʿī’s lifetime, means that the manuscript on which Shākir based his edition is one of the very earliest Arabic manuscripts of any kind to survive.34 ʿAbd al-Muṭṭalib based his recent edition, which is found in the first volume of his extremely valuable edition of the complete *Kitāb al-Umm*, on much later manuscripts, taking as his principal source a manuscript completed in 891/1486. ʿAbd al-Muṭṭalib also consulted a much wider range of manuscripts than did Shākir.35

Shākir’s edition, accordingly, preserves an ancient version of the text, one that retains many archaisms of spelling and expression. ʿAbd al-Muṭṭalib’s edition, although based on much less ancient sources, may well include a more complete version of the text and better readings of difficult passages. In addition, it provides an important picture of the *Epistle* as it was studied and taught in the mature scholastic institutions of the later Middle Ages.36 The two editions are thus complementary. In the version of the text prepared here, I have availed myself of that complementarity by retaining all that Shākir’s edition has to offer as a window into the earliest history of the text while presenting as inclusive a version of the text as possible based on the valuable materials brought to light by ʿAbd al-Muṭṭalib. Obviously, serious academic study of the *Risālah* must continue to draw on those two editions and their extensive apparatuses, but I hope that the edition of the *Risālah* offered here contains what is best from both and thus can form a responsible and viable starting point for such study.

I have accordingly taken Shākir’s edition as my basis (referred to in the notes as شَكِير), but I have supplemented it with additions and variants from ʿAbd al-Muṭṭalib’s edition (referred to in the notes as مُطَالِب). The additions in ʿAbd al-Muṭṭalib’s edition are of several kinds and have required different approaches. I have noted any sentences, hadith-reports, paragraphs, and so on that I have added because they do not appear in Shākir’s edition. I have included (and
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noted) any additions of words and phrases that consist of nouns or verbs, but not those that consist merely of prepositions, pronouns, and attached pronouns, which often seem designed to make the archaic and often truncated language of Shākir’s underlying text more syntactically complete. That said, it seems to me that the additional nouns and verbs I have included are also often designed to flesh out syntactic structures and sometimes even legal and theological matters that are elided, alluded to, or abbreviated in the ancient version of the text, but I have not attempted to resolve such questions, since in most instances the solutions would be speculative. In a few places I have decided that the additional material is stylistically too unlike Shākir’s text to warrant its inclusion, but I have always indicated the existence of the words or phrases in question in the notes.

I have not noted variant readings of nouns or verbs that merely involve different conjugations of the same verb, or etymologically closely related words, except those where a major difference in meaning results, which I always note. In the case of variant readings that are not etymologically related, I have mostly, but not always, preferred Shākir’s readings, but I have noted such variants whether or not I included them in the text. I have also refrained from adding the many fuller versions of personal names, additional blessings, and additional discourse markers found in ‘Abd al-Muṭṭalib’s edition.

Punctuation and paragraph divisions present particular problems. I have tried to keep punctuation to an absolute minimum. Still, even the introduction of periods is fraught with danger, and sensible placement does not always lead to Arabic sentences that correspond to their English counterparts. I have avoided commas completely. I have put colons after the typical authorial discourse markers in Arabic (“he said,” qāla, or “Al-Shāfi ʿī said,” qāla al-Shāfi ʿī) where such markers refer to the author. I have also used colons after discourse markers that introduce the speech of al-Shāfi ʿī’s interlocutor, after the names of the poets whose poetry is used in paragraph 43 to illustrate the meaning of the Arabic word shaṭra, and between sura names and verse numbers in identifications of Qur’anic citations. I have used parentheses to mark the quoted speech of the Prophet Muḥammad, but not for any other quoted speech. In the notes to the Arabic text, quotation marks are employed to indicate variants or additions. I have also taken the liberty of using three asterisks to mark divisions between topics and example problems in some cases, in both the Arabic and English texts, to help readers keep track of the discussion.
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In regard to paragraph divisions, Shākir’s edition has well over eighteen hundred paragraphs, which are simply too many for present purposes. I started, therefore, with ‘Abd al-Muṭṭalib’s paragraph divisions, which are far fewer, but modified them based on my sense of how the constituent elements of al-Shāfiʿī’s argument hang together.

I have generally modernized the archaic and inconsistent spellings found in Shākir’s edition, but have resisted the urge to vocalize the text except in a very few instances. I have generally relied for all vocalization on the editions of Shākir and ‘Abd al-Muṭṭalib, on their splendid notes, as well as on their erudition and excellent knowledge of Arabic and much else.

I am acutely aware that the text offered here may not correspond to any hypothetical original, but it does aim, in the ways outlined above, to provide a responsible and useful reflection of the manuscript tradition as a whole.

The English Translation

The great scholar of Islamic intellectual history and institutions George Makdisi once told me that the only way to really understand a text was to translate it. How right he was. The text that I have translated here, al-Shāfiʿī’s Epistle, was the subject of my doctoral dissertation and, several years later, of a book that was a revised version of that dissertation, and I have subsequently written about this subject extensively. I still believe that my conclusions in those publications were fundamentally correct: about what the author of the Epistle was saying about legal reasoning, legal interpretation, textual interpretation, and legal epistemology, and also about how his claims concerning those subjects added up to something more, an account of what I have called the architectonics of Islamic law as a whole. I developed my interpretation of the Epistle through a careful analysis of the author’s discussion of the many individual legal problems that he uses to support his arguments. Some might think that all this preparation would have made the translation of the Epistle a relatively simple affair. How wrong they would be.

Although in the course of my studies I translated many passages from the Epistle, those translations were directed primarily at specialists, not the general reader. Consequently, their English style was often turgid, to say the least, and frequently interrupted by brackets that revealed the underlying Arabic terms. With this translation, however, I have started over and, liberated by the presence
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of a parallel Arabic text, attempted to render the Epistle in a way that will read naturally in English. Having said that, the text is a difficult read in Arabic: the syntax is unusually involved, the analyses are sometimes truncated to the point of incomprehensibility, and principles of interpretation are mostly demonstrat-ed rather than explained. These features of the text constitute irreducible chal-lenges to both the translator and the nonspecialist reader. What it would mean for such a text to “read naturally” in early twenty-first-century English is not entirely clear.

The Epistle has been translated in full twice previously, in both English and French, and two partial translations also exist in English and French. Majid Khadduri’s 1961 English translation was a brave undertaking, since the study of Islamic legal theory in the West was barely underway. Khadduri decided to omit the poetry (though there is not much) and, more interestingly, felt free to rearrange the text in ways that conformed to his own preconceptions of how it should be organized. He also included a useful list of transmitters of hadith-reports as an appendix. His translation continues to be reprinted and cited.

The 1972 partial translation by Philippe Rancillac rendered the second half of the text into French. Rancillac’s decision to translate only the text’s second half probably stems from the field’s strong interest in the theological relevance of the terms and concepts discussed therein—epistemology (ʿilm), consensus (ijmāʿ), legal interpretation (ijtihād), analogy (qiyās), and subjective interpretation (istiḥsān)—and its relative lack of interest in the techniques of textual interpretation that take up the text’s first half. For me, the most important part of the book is its first half, in which al-Shāfiʿī explains the architecture of the divine law and offers techniques for interpreting revealed texts that support his character-i- zation of the law’s structure as a divinely planned, seamless whole. Khalil Semaan’s translation of the Epistle’s chapter on abrogation (naskh) is couched in an archaizing English idiom, and it is not entirely clear from his introd-uction why he chose only to translate the one section. The more recent full French translation by Lakhdar Souami is nicely annotated and has a glossary of Ara-bic terms. Like Khadduri, Souami has a useful introduction and notes that give helpful background to the Epistle’s legal polemics.

I have freely and shamelessly consulted all of the above works in preparing this translation. The text is difficult and its difficulties are no doubt reflected in the shortcomings of my own translation. However, in my view all the previous translations suffer from a common ill: none of the translators seems to feel that
the Epistle offers a coherent vision of the law. That is, none has an interpretation of the work as a whole, which I suspect reflects their view—nowhere stated outright, but perhaps implied in their introductions—that al-Shāfiʿī did not really have any coherent vision of the law or at least that he did not aim to communicate such a view in his Epistle. I have argued elsewhere at length that the Epistle’s main point is the portrayal of the Qur’an and Prophetic Practice as intensely complementary and coherent by divine plan, and I have attempted to demonstrate this point above in my summary and explanation of the Epistle’s contents. I hope that it comes through in the translation.

A few remarks about my procedures of translation: I have tried to find equivalents for Arabic technical terms that are as productive in English as the underlying terms are in Arabic. The most important of these appear in my summary of the Epistle’s contents above. I hope that these terms help to give the work as a whole the conceptual and intellectual coherence in English that it has in Arabic. It is not possible to achieve complete consistency in regard to such terms without making the translation wooden, but I have gone as far as I think I dare in that regard. I have felt free to depart from the literal Arabic in all kinds of ways, as dictated by English style and readability. These include freely substituting singulars for plurals and vice versa, never hesitating to replace pronouns with their referents and vice versa, changing nouns from definite to indefinite and vice versa, replacing verbs with gerunds and vice versa, changing tenses as needed, and fleshing out Arabic phrases by adding words as necessary. I have almost never noted such departures from the literal Arabic text.

Much of the Epistle proceeds in the form of a dialogue, as exchanges between al-Shāfiʿī and a hypothetical interlocutor. I have used quotation marks for the interlocutor’s discourse and also for hypothetical objections entertained by both the interlocutor and al-Shāfiʿī. I have not put al-Shāfiʿī’s statements of his own views, even in such dialogues, in quotations marks but have left them as a kind of internal monologue, since the interlocutor, even if based on actual opponents in debates, is a literary device, and al-Shāfiʿī’s views form a part of his own written work on legal theory.

In the many hadith-reports that are quoted, I have used quotation marks where there is a dialogue or where it is otherwise clear from the text that someone’s speech is being quoted, but I have omitted them if the hadith-report contains no dialogue and is presented as an impersonal, third-person narrative. A special problem is presented by the discourse marker “he said” (qāla) in Arabic.
In the _Epistle_ this marker occurs in two forms. There is the fuller phrase “al-Shāfiʿī said” (_qāla al-Shāfiʿī_′i) and then simply “he said,” which can introduce the speech of either al-Shāfiʿī or his interlocutor. I have retained all instances of the former, but I have felt free to ignore the latter, and also to vary translations of the verb _qāla_ (“to say”) as needed, and to insert English dialogue markers (e.g., “he responded”) where there is no corresponding occurrence of _qāla_ in Arabic. It is confusing that some of the interlocutor’s discourse is introduced with the phrase “al-Shāfiʿī said,” but the use of quotation marks for the interlocutor’s speech and the use of additional discourse markers in English always clarify when the interlocutor is “speaking.”

I have translated all the hadith-reports myself. For the many citations of the Qurʾan, I have adapted the translation of Alan Jones, but with US spelling and, more importantly, frequent modifications whenever they seemed dictated either by the logic of al-Shāfiʿī’s discussion or by the need for additional clarity in general. I have reproduced Qurʾan quotations as they appear in Shākir’s edition, including instances in which he has fleshed out those quotations that are, as he signals in his notes, abbreviated in the Rabī′ manuscript.

It may amuse readers to learn that the hundreds of footnotes to the translation represent my attempt to keep explanatory notes to the bare minimum needed for a nonspecialist to make sense of this text. Even so, for the nonspecialist reader, the unfamiliar subject matter will pose challenges. A large share of the notes are citations to the Qurʾan passages that appear in the text. Otherwise, the notes include occasional explanations of legal doctrine, attempts to clarify or signal difficult points in the text, and a few brief identifications of matters mentioned in the text. Although many of al-Shāfiʿī’s discussions of individual problems of positive law presuppose a knowledge of the background of polemics about legal doctrine between al-Shāfiʿī, Mālik, and the disciples of Abū Ḥanīfah, I have not generally supplied details about these arguments in the notes unless I judged that they were necessary to make sense of the discussion. Supplying such background information in full might well have doubled the size of this book. Both Souami and Khadduri occasionally give brief references to the significance of these polemical contexts.

Persons and terms in the text that are likely to be unfamiliar to nonspecialists are listed and briefly explained in the glossary of names and terms. For the spellings of transmitters’ names, I relied especially heavily on Ibn Ḥajar al-ʿAsqalānī’s (d. 852/1449) _Tahdhib al-tahdhib_ (God bless Ibn Ḥajar!) and the other specialist.
works, both primary and secondary sources, found in the bibliography. For the
dating and identification of events during the Prophet’s lifetime, I relied on the
relevant volumes of the translation of al-Ṭabarī’s Tārīkh al-rusul wa-l-mulūk,
Ibn Hishām’s Al-Sīrah al-nabawiyyah, and Guillaume’s translation of Ibn Isḥāq’s Sirah.

There is an index of names, terms, and concepts; it is hoped that this can
be used as a rough guide to the location of technical terms in the Arabic text
as well, though it is envisioned that the Arabic text will be fully searchable on-
line. There is a separate index of Qurʾan citations. A table in which paragraph
numbers in this edition and translation are correlated with Shākir’s and ‘Abd
al-Muṭṭalib’s editions of the Arabic text, the Būlāq printing, and the full transla-
tions of Khadduri and Souami, as well as the partial translations of Rancillac and
Semaan will be available online at the website of the Library of Arabic Literature
(www.libraryofarabicliterature.org). It is hoped that the table of editions and
translations will facilitate future study, including the inevitable and necessary
criticism of this work.

The translation of this difficult text has not been free from moments of anxi-
ety. Translation requires one to stake out a position on what absolutely every
last thing in the text means. I have to admit that in several places I have not been
able to unravel precisely what the author had in mind, even though I think that
I have in most cases understood the overall trajectory of his argument. I have
tried to indicate in the notes those passages where I had doubts about my own
interpretation; it seems likely that I remain unaware of additional failures of un-
derstanding. I am somewhat consoled in such instances by the fact that the two
native speakers who previously undertook to translate this text, both scholars of
high repute, also encountered occasional difficulties.