CHAPTER ONE

SHĀFIĪ’S CONCEPT OF THE BAYĀN

I. Introduction

Shāfi‘ī’s Risāla offers a comprehensive and coherent account of the structure of the sacred law, a structure that emerges from attempting to assign any given legal rule to one of several possible combinations of the two revealed legal source texts, the Qurʾān and the Sunna. The name given by Shāfi‘ī to the individual permutations of the various possible combinations of the Qurʾān and the Sunna is bayān, and the varieties of the bayān constitute God’s modes of announcing the law to humankind. Shāfi‘ī thus offers his concept of the bayān as a claim about the law as a whole, namely that the solution to any given legal problem—or more particularly, any legal rule—can be shown to derive directly from a revealed textual source, namely the Qurʾān, the Sunna or both. Moreover, legal rules deriving from the Qurʾān and the Sunna fit into intelligible and orderly categories, categories which, in turn, reflect and therefore embody the divine design and perfection of the law.

The Risāla is constructed around Shāfi‘ī’s theory of the bayān, and all the major topics of discussion in the Risāla can easily be related to it, yet most previous scholarship on the Risāla has not considered the concept of the bayān one of its noteworthy features. In this chapter, I will present Shāfi‘ī’s concept of the bayān, discuss its implications as a theory of law, and show how it relates to the construction of both the theory and the argument presented in the Risāla. I will conclude with a brief survey of the treatment of Shāfi‘ī’s discussion of the bayān in the works of later writers on usūl al-fiqh, and in modern scholarship of Islamic law.

II. The Idea at the Heart of the Risāla: Shāfi‘ī’s Concept of the Bayān

The idea at the core of Shāfi‘ī’s Risāla, his concept of the bayān, is the first legal-theoretical concept explored in detail in the Risāla, and the
whole of the *Risāla* is organized around it. It may be summarized as follows: The entirety of the law resides in two texts, the Qurʾān and the Sunna, and all legal rules are expressed by one of five possible combinations of those two textual sources. Those combinations are the following:

1. Qurʾān alone;
2. Qurʾān and Sunna together, each expressing the same rule;
3. Qurʾān and Sunna together, whereby the Sunna explains what is in the Qurʾān;
4. Sunna alone; and
5. neither, in which case one engages in legal interpretation, *ījtihād*.

These five modes of the *bayān* can be further reduced to four basic combinations of the two revealed source texts: the Qurʾān (mode 1), the Qurʾān and the Sunna (modes 2 and 3), the Sunna (mode 4), and neither (mode 5). In fact, Shāfiʿī lists the permutations of the *bayān* both ways, as consisting of four or five possible Qurʾān-Sunna combinations (*Risāla* ¶¶56–59 and ¶¶73–125).¹

A suggested English translation for *bayān* follows, even though I will be using the Arabic word throughout. Shāfiʿī’s description and examples of the *bayān* imply that he is offering a catalog of all the different ways in which God expresses or communicates rules of law. *Bayān* in this sense refers to a “statement” of the law or, more precisely, to the statement or expression of a particular rule of law.² Shāfiʿī uses the term, then, to denote a mechanical or architectural feature of the divine law,

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¹ Variation in Shāfiʿī’s description of the phenomenon of the *bayān* has potential significance for the history of the *Risāla*’s text. This issue is discussed below in the Appendix, at 386. One explanation for the discrepancy would be to say that the four modes of the *bayān* are simply mechanical, describing the possibilities for combining the Qurʾān and the Sunna. The five modes result from considering the combinations qualitatively, as hermeneutical rubrics.
² The term *bayān* is, of course, an important technical term in classical (post-Shāfiʿī) Islamic legal theory and I will consider how Shāfiʿī’s use of the term differs from that later usage, as well as the reception of Shāfiʿī’s own concept of the *bayān* in later works of *usūl al-fiqh* later in this chapter. For a good outline of some meanings of the term in later Muslim legal thought, see B. Weiss, *The Search for God’s Law* (Salt Lake City: University of Utah Press, 1992), 457–459. It also appears in three places in the Qurʾān, namely in 3/Al Imrān:138, in the sense of an exemplary episode, in 55/al-Rahmān: 4, in the sense of “eloquence,” and in 75/al-Qiyāma:19, in the sense of the meaning or explanation of the Qurʾān itself. Other words derived from the same triliteral root not infrequently refer to the Qurʾān, as, for example, *mubīn* (“clear,” e.g., Q 5/al-Māʾida:15: “Light and a clear scripture [kātīb mubīn] have come to you from God.”).