CHAPTER FIVE

SHĀFI‘Ī’S EPISTEMOLOGY

I. Introduction

Much of the material examined in previous chapters has important epistemological implications. In this chapter those implications will become explicit through a focus on the following questions: How does Shāfi‘ī conceive of knowledge? Are there objectively correct answers to legal questions? Under what conditions can those answers be known and what are the potential impediments to knowing them? What is the role of subjectivity in legal interpretation? And, finally, what implications does Shāfi‘ī’s description of ijtihād have for his epistemology? In the process of answering these questions the central epistemological problems that Shāfi‘ī is trying to solve throughout the Risāla will emerge, and in particular his attempt to cope with the potential unknowability of the divine ordinances.

What ought to make the study of Islamic legal theory appealing to students of other traditions of legal thought is its self-conscious concern with issues of epistemology, interpretation, and language.¹ This concern arises in significant part from the fact that theology and epistemology are closely related in a religious legal system such as Islamic law.² The post-Risāla stream of works that recognizably belong to the usul al-fiqh genre reflect the theorizing on epistemological questions by theologians (mutakallimūn) who probably began their work in earnest on such questions in the first half of the ninth century.³ Sources from the

¹ This is emphasized by Zysow at the very outset of his dissertation. “Economy of Certainty,” 1.
² A. Kevin Reinhart’s book Before Revelation, examining how Muslim theologians evaluated the legal and moral status of acts prior to the existence of a revealed law, provides an excellent demonstration of the interwovenness of these topics in Islamic thought—and that in the case of a relatively narrow question, albeit one with broad implications.
³ In a useful summary of the origins of Muslim epistemology, Van Ess cites Mu’tazilī authorities from around 850 as his first examples of thinkers concerned with a theory of knowledge (beyond mere declarations that ʿilm—knowledge about religion in general—is good). It seems reasonable to assume that theories of knowledge evolved earlier, but
early ninth century, however, when the *Risāla* is thought to have been composed, do not preserve such a fully developed, self-reflexive and specifically Islamic epistemology.\(^4\) When such an epistemology does emerge, the handiwork of said theologians, it functions to bolster the argument that Islam, or some theoretically acceptable generic equivalent, could be deduced from first principles, using abstract reason, and without the aid of Islam’s specifically Arabic revelation.\(^5\) This originally polemically driven epistemology continues to resonate in the introductions to later works on legal theory and their discussions of types of knowledge.\(^6\)

Shāfi‘ī does not, in any event, present his views on epistemology in one place in the *Risāla*, neatly organized and summed up. Instead they have to be extracted from a variety of contexts. Once isolated and identified, however, they form a fairly cohesive set of concepts. So, while it might be misleading to claim that Shāfi‘ī developed a systematic legal epistemology, it would be true to say that he expresses a coherent and consistent set of epistemological concerns in the *Risāla*, and that these concerns shape a crucial aspect of his legal thought as a whole.

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the sources are thin on this point. See J. Van Ess, *Die Erkenntnislehre des Awdudaddīn al-Īsī* (Wiesbaden: Franz Steiner, 1966), 17–18; see also his more recent and more general overview in *THG*, especially at IV, 645–672. A good introduction to the approach of mature *usūl al-fiqh* works to epistemology can be found in Weiss’s study of al-Āmidī, *Search*, particularly 35–50.

\(^4\) This is not to say that there are no ideas or concepts with epistemological implications early on in the various streams of Islamic thought, merely that they do not rise to the level of full-fledged theories of knowledge and knowing. The only attempt to characterize a really early epistemology of which I am aware—and it is very brief and general—is that undertaken by Cook for the Murji‘a in his *Muslim Dogma*, ch. 7, 44–47.

\(^5\) Such a theory is first developed, according to van Ess, by the Mu‘tazila, in an attempt to aid in disputations with non-Muslims. In such a context, they obviously could not appeal to the Islamic revelation, but rather needed some ostensibly neutral basis as the starting point for an argument demonstrating that Islam was the true religion. In addition, according to the Mu‘tazila view that God was fair, some basis was required for affording persons who had no chance to become aware of the Islamic revelation an opportunity to escape divine punishment. The opportunity was provided in some cases by theorizing that it was possible to reason one’s way to the existence of a supreme being without the aid of revelation. *Erkenntnislehre*, 12–33.

\(^6\) Knowledge might be divided at one level into rational and revelatory, *‘aql* and *dhīn* (or *samīt*) as in al-Ghazālī’s *al-Mustasfīf*, 3–4. Or, at the level of specifically religio-legal enquiry, into certain knowledge and probable or opinion-based knowledge, *‘ilm* and *samn*, as in Fakhr al-Dīn al-Rāzī’s *Mabsūl*, I, 12. These distinctions are common to most mature Sunnī works on *usūl al-fiqh*. 