CONCLUSION: THE *RISĀLA* AND ITS RELATIONSHIP TO MATURE *UṢŪL AL-FIQH*

In the *Risāla*, perhaps the earliest work of Islamic legal theory, Shāfi‘ī sought to solve several interrelated problems. The most pressing of these was the problem of seeming contradictions in the revealed texts, the Qurʾān and the Sunna. These resulted from Shāfi‘ī’s unswerving commitment to the use of the Sunna as a coequal source alongside the Qurʾān and may have come to his attention in the course of reflection during the elaboration of norms or in polemical encounters. In any event, Shāfi‘ī solved this problem at the level of individual questions of law by demonstrating the effectiveness of hermeneutical techniques that allowed the manipulation of revealed texts, so as to eliminate the apparent conflicts and justify discrete legal doctrines.

Apparent contradiction at the level of substantive law led, at a higher level of abstraction, to a concern that the frequent incompatibility of the Qurʾān and the Sunna gave the appearance of a more fundamental structural incoherence. Shāfi‘ī addressed this through his concept of the *bayān*, which portrays the law as an inherently interlocking structure the overarching aspects of which accommodate the complex interplay and interpenetration of the two revealed sources.

These ideas, which stand at the *Risāla*’s core, are framed by a concern with the justification of textual authority, above all of the prophetic Hadith. The elegance of the *bayān* schema functions as an argument for the integral importance of the prophetic Hadith to the divine law. However, the frequent hermeneutical complexity of the law requires, in addition to the sustained demonstration of its interlocking structure, an assertion of the importance of scholarly expertise, lest the law’s details seem arbitrarily derived in those instances of particularly intricate source interaction. Occasional allusions to predestination further buttress the structure that Shāfi‘ī portrays in the *Risāla*, lending the law’s architecture an almost cosmic inevitability.

The immediate impulse for this instance of theory construction was controversy over changes in concepts of authority occasioned by the emergence of the prophetic Sunna in a fixed literary form, as prophetic Hadith. Although the idea of prophetic authority may have needed no justification prior to Shāfi‘ī, the reification of this authority in the
form of Hadith texts acted as a catalyst for theorization. The view taken in the Risāla—emphatically in favor of the prophetic Hadith as both authority and a textual source of law—won out among Sunnis, as evidenced by the compilation of authoritative collections of ‘sound’ prophetic Hadith in the late 9th and early 10th centuries, and the routinization of the study of the Hadith corpus thereafter.

The Risāla offers much more, however, than an extended defense of prophetic Hadith, and the importance of the Hadith to the legal theory developed in the Risāla should not obscure its many other important legal-theoretical features. Shāfi‘i deals also with specific hermeneutical procedures, formal reasoning, language, epistemology, scholarly authority, and he makes consistent use of a rich and varied technical vocabulary. Most impressively, as I have emphasized, he shows himself capable of imagining the law as a structure whose dimensions address specific and complex theological concerns.

As I suggested in the Introduction, the Risāla can no longer be claimed to be the direct progenitor of usūl al-fiqh, a genre of legal writing and field of intellectual endeavor that belongs to a later period of Islamic legal thought. Many of the features of the Risāla that make it into a work of theory do feature prominently in mature writings on usūl al-fiqh, but the emphasis on individual points differs in such works, where the intellectual environment has changed considerably due to various factors, especially advances in other intellectual disciplines and the universal acceptance of the authority of the prophetic Hadith. Here, I suggest some perspectives for approaching connections between the Risāla and the later science of usūl al-fiqh, but do so mindful of the fact that the origins of usūl al-fiqh are not yet completely understood.¹

The first preserved work of mature usūl al-fiqh is that of the Hanafi jurist al-Jaṣṣāṣ (d. 370/980); several other works are preserved from the 11th century.² Jaṣṣāṣ’s work, which already seems to belong to an established genre of writing about legal theory, explores the intellectual problems of that discipline through examination of a set of issues, as well as the deployment of a technical vocabulary, in a way that is

¹ For a wide-ranging and fruitful dialogue about the origins and function of usūl al-fiqh, see the discussion reproduced in Weiss, ed., Studies in Islamic Legal Theory, 385–429.

² A handy list of extant, published works of premodern Islamic legal theory is found in É. Chaumont, tr., Kitāb al-luma’ fi usūl al-fiqh (Berkeley: The Regents of the University of California, 1999), 375–381.