The Foundation of Norms in Islamic Jurisprudence and Theology

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In this book, Omar Farahat presents a new way of understanding the work of classical Islamic theologians and legal theorists who maintained that divine revelation is necessary for the knowledge of the norms and values of human actions. Through a reconstruction of classical Ashʿarī-Muʿtazilī debates on the nature and implications of divine speech, Farahat argues that, rather than being a purely traditionalist position, the Ashʿarī attachment to revelation was a rational philosophical commitment emerging from debates in epistemology and theology. He further argues that the particularity of this model makes its distinctive features helpful for contemporary scholars who defend a form of divine command theory. Farahat's volume thus constitutes a new reading of the issue of reason and revelation in Islam and breaks new ground in Islamic theology, law, and ethics.

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To my parents
Hala El-Beyaly and Nour Farahat

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Introduction

Classical Islamic Thought and the Promise of Post-Secularism

This book asks two questions: *why* and *how* do we rely on divine revelation in guiding our actions? To answer these questions, it draws upon theories of divine speech and command in Islamic theology and jurisprudence. In a secular world, the most obvious way to answer these questions would be to refer to faith and obedience. We consult divine revelation because we believe in God, and we follow God's commands by understanding and obeying them. To obey and have faith in a divine creator is a matter of personal choice that, by its nature, cannot be the subject of rational public debate.[1] As a reaction to this characterization of religious forms of law-making, there was a noticeable shift toward theories of natural law, which, broadly speaking, attempt to show that what God commands coincides with what is good and rational in a secular sense.[2] This primacy of secular reason is certainly not a

[1] The rise of the secular and the relegation of the religious to the realm of the private and irrational in the modern west is a matter that was studied in significant breadth and depth. For example, Charles Taylor, *A Secular Age* (Cambridge, MA: Belknap Press of Harvard University Press, 2007).

[2] "Natural law" as an alternative to divine command theory typically involves a reliance on the perceived uniformity of human nature to argue for an identity between values immediately known to us and those "revealed" by God. For example, Harry Gensler maintains that the term "refers to objective *moral principles* that are 'written on the human heart' (as opposed to coming from society or revelation). Such norms are instinctive or based on ordinary reasoning. They're the same for everyone, authoritative over our actions, and known by virtually everyone." Gensler further explains that, in the writings of major Christian figures, such as Thomas Aquinas, the idea of natural law is part of a scheme characterized by "the harmony between human reason and Christian faith." Harry J. Gensler, *Ethics and Religion* (Cambridge: Cambridge University Press, 2016), 57–8.

phenomenon we encounter in the study of the premodern Islamic tradition. In the classical Islamic disciplines of theology, jurisprudence, and law, public rationality was entwined with individual virtue in an overarching theistic framework. Thinking about proper and required behavior was inseparable from an understanding of the world as a divine creation, and revelation-based guidance as a matter of collective rational deliberation. While ideas of natural law, as we will see throughout this book, were defended at all levels of theological and jurisprudential thought, the view that actions are good and right *because God commanded them* was advanced consistently and unapologetically. While this idea, which we refer to as "divine command theory," has drawn an increased interest in recent years,[3] little attention was paid to what can be learned from the classical Islamic tradition. Reconstructing some of the key features of an Islamic divine command theory, in conversation with its natural law interlocutors, is the primary purpose of this book.

In its most abstract form, the question we will address is the following: Given what we know, or believe we know, about the world, its origin, and human reason, how we can advance principles that are designed to guide humans toward correct behavior? In this most general form, the question is not specific to any given tradition of thought. Every known attempt in theoretical ethics, as well as legal theory, is an effort to construct a theoretical apparatus capable of justifying norms of behavior consistently with a given view of the world. Whereas a secular ethicist may develop a general theory of moral norms and values based on human intuitions, emotions, the faculty of reason, biological evolution, or other considerations, a theistic ethicist or jurisprudent will be concerned with models that can offer a coherent justification of judgments based on theocentric views of the world. In intellectual traditions that view the world as the creation of a deity, discussions often focus on the place of God's revealed words in the formulation of norms of action and value judgments. The three major Abrahamic traditions are obvious examples of this tendency.[4] That is hardly surprising. Since language is the prime tool of production, preservation, and dissemination of meaning, communities that share a theistic understanding of the origin of existence

[3] See for example, John E. Hare, *God's Command* (Corby: Oxford University Press, 2015); David Baggett and Jerry L. Walls, *Good God: The Theistic Foundations of Morality* (New York, NY: Oxford University Press, 2011), 103–33.

[4] For a comparative study of the idea of revelation in major Abrahamic faiths see C. Stephen Evans, "Faith and Revelation" in William J. Wainwright (ed.), *The Oxford Handbook of Philosophy of Religion* (New York, NY: Oxford University Press, 2005), 323–43.

frequently resort to a text as a tool of central importance for guiding behavior. This resorting to some form of divine revelation can raise specific types of difficulty. For example, if revelation is understood as a direct form of communication from *another* agent (i.e., God), the subject that resorts to revelation as a source of guidance will be faced with questions concerning the rationality of her reliance on revelation and its implications for her moral autonomy.[5]

Theories advanced in contemporary religious ethics and legal theory on the role of revelation in guiding action tend to involve two stances commonly referred to as divine command and natural law theories.[6] These two approaches to revelation are characteristic of different responses to the question of the indispensability of divine revelation for the knowledge of values and judgments, and therefore the regulation of action. Divine command theories can generally be characterized as views that stem from an understanding of revelation as necessary for the guidance of action.[7] Natural law theories, by contrast, tend to deal with divine revelation as informative and effective in the process of knowledge of normative judgments, but not necessarily constitutive thereof.[8] The conversation between these two approaches to revelation evokes a wide variety of philosophical problems pertaining to epistemology, the nature of divine speech, the place of human autonomy in a theocentric view of ethics, and the construction of normative judgments. We will explore some of those underlying questions in the classical Islamic tradition through an analysis of key classical Islamic debates on divine speech.[9] By reconstructing divine command, and the corresponding natural law,

[5] That is not to say that one is justified to think that theistic theories of ethics are intrinsically more or less problematic than any others; they merely come with their own set of challenges. For a comparative study of some of the difficulties raised by theistic and nontheistic theories of ethics, see Edward Wierenga, "Utilitarianism and the Divine Command Theory," *American Philosophical Quarterly* 21 (4) (1984): 311–18. This question will be discussed in detail in Chapter 4.

[6] This includes, for example, Robert M. Adams, *Finite and Infinite Goods: A Framework for Ethics* (New York, NY: Oxford University Press, 1999) and J. E. Hare, *God's Command* (New York, NY: Oxford University Press, 2015).

[7] J. E. Hare, *God's Call: Moral Realism, God's Commands, and Human Autonomy* (Grand Rapids, MI: W. B. Eerdmans, 2001).

[8] John Finnis, *Natural Law and Natural Rights* (Oxford; New York, NY: Clarendon Press; Oxford University Press, 1979).

[9] The study of a philosophical question *through* a reading (or rereading) of a historical intellectual tradition is a deliberate methodological choice that will be elucidated in Section I.2 of this introduction.

views on how God speaks and how norms can be formed through his speech,[10] we will see that two fundamental features of the Islamic divine command model are both distinctive and promising. First, scholars of the divine command trend tended to justify the need to rely on revelation on the shortcomings of our unaided reasoning.[11] Second, the legal tradition tended to view the formation of norms as a collective exercise that involves the community of believers.

The reconstruction of the theoretical foundations of revelation-dependence in Islam allows us to see how the view of law and morality as necessarily reliant on divine speech came to be accepted, without us ascribing this reliance to mere "traditionalism." As we will see, a unique attribute of Islamic intellectual trends that we may refer to as divine command theories is their advancement of an epistemological critique of the formulation of judgments independently of divine revelation. This critique centered on the difficulty of generalization of judgments made by individual agents. Accordingly, divine-command–minded scholars argued for a conception of divine revelation as an intervention intended to remedy the intrinsic human inability to formulate general and objective norms. This view was coupled with an understanding of divine speech not as an expression of the will of a similar but transcendent moral agent, but as a timeless attribute of God. The juristic engagement with the earthly manifestations of divine speech was regarded as the collective task of the community of believers. The discipline of *uṣūl al-fiqh* offered a dynamic domain in which methods of collective norm-construction were constantly balanced and refined. The reconstruction of those epistemological,

[10] Many of the contemporary works in theological ethics attempt to distinguish between norms (or obligations) and values. The distinction generally stems from the assumption that, whereas values are universal and shared even by God, obligations are primarily imposed upon humans and therefore are not identical to, or defined in terms of, moral values. See Hare, *God's Command*. As we will see throughout this study, most classical Muslim thinkers saw values and norms (or judgments) as inextricably linked.

[11] We must take note here of the important distinction drawn by Nicholas Wolterstorff between divine speech and revelation in his seminal work *Divine Discourse*. It is common to speak interchangeably (and perhaps confusingly) about revelation and speech, which in certain cases reflects the assumption, as Wolterstorff puts it, that speech is reducible to revelation. We do not make this assumption here. As we will see in Chapter 3, the event of revelation and the act/attribute of speech were clearly distinguished by Muslim jurist-theologians. What we mean by revelation throughout is the general sense of "that through which divine speech has become, in some form, accessible to human minds." For a lengthy exposition of the argument that "speaking is not revealing," see Nicholas Wolterstorff, *Divine Discourse: Philosophical Reflections on the Claim That God Speaks* (Cambridge: Cambridge University Press, 2000), 19–36.

metaphysical, and methodological foundations is the primary purpose of this study.

It may be important to note at the start that this is *not* a work of pure intellectual history in the sense commonly understood in the study of Islam. A common approach in intellectual history is to offer a given reading of one or several related works for the purposes of elucidating its place in relation to its social or intellectual context. For example, one could study eleventh-century works of Islamic theology to make a claim about the evolution of a given concept, or the differences and similarities between various schools of thought on a given issue. The guiding motive of such study would be to make a claim about Islamic thought in its historical context in the hopes of helping us today make sense of this historical tradition. In the present book, while certainly we will advance a specific reading of the works studied, the analysis is geared toward our understanding of religious moral and legal theories in general. Our goal is not only to place the ideas of those scholars in molds that are accessible to us. Our main concern is to look for broad theoretical stances in those works and consider them in light of moral and legal questions that are common to human communities in a transhistorical manner.[12] The historically minded reader will be urged to note that this study does not aim

[12] It is helpful here to refer to the distinction between history and philosophy as explained by Peter Gordon: "Intellectual history can frequently involve a close reconstruction of philosophical arguments as they have been recorded in formal philosophical texts. In this respect, intellectual history may bear a noteworthy resemblance to philosophy, and most especially, the history of philosophy. But intellectual history remains importantly distinct from philosophy for a number of reasons. Most importantly, philosophy tends to disregard differences of history or cultural context so as to concentrate almost exclusively upon the internal coherence of philosophical arguments in themselves. One often says that the task for intellectual historians is that of 'understanding' rather than philosophical evaluation. That is, intellectual historians want chiefly to 'understand' – rather than, say, to 'defend' or 'refute' – a given intellectual problem or perspective, and they therefore tend to be skeptics about the philosophers' belief in decontextualized evaluation. Philosophers, too, of course, will frequently appeal to historical-contextual matters when they are trying to figure out just why someone thought as they did. So the difference between philosophy and intellectual history is merely one of degree rather than kind."

Peter Gordon, "What is Intellectual History? A Frankly Partisan Introduction to a Frankly Misunderstood Field," available at: https://sydney.edu.au/intellectual-history/documents/gordon-intellectual-history.pdf. This difference between history and "theory" was also addressed by Baggett and Walls in their defense of a version of divine command theory: "Historical inquiry into how obligation talk arose is one thing; ontological questions of whether obligations exist and what their ultimate essence might be is another matter altogether." Baggett and Walls, *Good God*, 108.

to offer a detailed survey or historical account of the intricate differences and subtle developments of those debates across time and within various Islamic schools of thought. What may appear to the historian as a tendency to homogenize is in fact an effort to abstract, which is crucial to inquiries in ethics and legal theory.

1.1 DIVINE REVELATION IN LEGAL AND MORAL THOUGHT

It would not be an exaggeration to say that the rationality of the reliance on divine revelation as a source of law and morality is widely doubted across various fields. In the study of Islam, this manifests in an apparent celebration of premodern natural law tendencies as a distinct expression of rationalism in an otherwise revelation-dominated tradition.[13] This stance regarding the reliance on revelation as a source of guidance, which we will refer to as divine command theory, rests on a deep presumed opposition between "reason" and "revelation," an opposition that, we will see throughout this book, is not necessarily applicable to Islamic theological debates on divine speech.

The expression "divine command theory" covers a wide range of models that deal with divine speech and commands as conducive to the formulation of values and judgments. Generally, those theories, as their own proponents almost invariably admit, have not been particularly popular in recent scholarship. Much of the efforts to find a place for divine speech in norm-formation have been focused on elucidating the ways in which divine revelation accords with some notion of natural goodness. A prominent example of the tendency of divine command theorists to adopt certain compromise with natural law views can be

[13] A sound critique of this assumption was leveled by Oliver Leaman, who argues along lines similar to those in this book that "commentators sometimes see [the development of Ash'arism today] as a victory for an anti-rationalism which has retarded Islam's development. This, however, is an entirely misleading view. For one thing, even the critics of *Kalām* defended their arguments rationally ... It might even be argued that it is those who are not normally seen as rationalists who are in fact the most concerned with reason, since they are prepared to be critical of reason and argue (but note the term here, argue) that we should acknowledge its severe limitations. So the 'traditionalists' are able to view the use of reason critically, unlike their 'rationalist' opponents, something which might be considered an even more rational strategy than that of their adversaries, who evince an uncritical enthusiasm for rationality itself." Oliver Leaman, "The Developed Kalām Tradition" in T. J. Winter (ed.), *The Cambridge Companion to Classical Islamic Theology* (Cambridge: Cambridge University Press, 2008), 85–6.

found in some of the work of Robert Adams.[14] The same tendency can be seen in the study of Islam. Works that advance some conception of natural law are treated as works of particular philosophical interest.[15] Several theological ethicists have attempted to formulate more robust versions of divine command theories. Notably, William Alston insisted that the "good" as applied to God and His speech should not be understood along the same lines as human morality.[16] Adams' and Alston's efforts were the precursors of a significant rise in the interest in theories of divine command ethics, as seen in the work of John Hare, among others.[17]

The works of Adams and Alston give us a helpful understanding of the range of views available on the question of the place of divine speech in moral (and, in the Islamic case, legal) thought. Adams represents what I consider an attenuated form of divine command theories. In "A Modified Divine Command Theory of Ethical Wrongness," Adams makes the argument that the view that the wrongness of actions follows from their contradiction to divine commands is defensible if we presuppose that a "loving God" makes those commands. Adams' concern was to defend the place of divine speech in moral reasoning against the objection that following divine commands would require committing acts of senseless cruelty if God commanded them. To resolve this problem, Adams advocated the use of a natural precondition that can be used to scrutinize divine commands based on human standards of love and benevolence. This could be regarded as a partial concession to natural law theories. Alston, on the other hand, advanced a more robust form of divine command theories. In "Some Suggestions for Divine Command Theorists," Alston argued that God's goodness cannot be measured by human standards, and that we generally ought to follow God's commands because of His authority as creator. John Hare makes a similar move in

[14] Especially Robert M. Adams, "A Modified Divine Command Theory of Ethical Wrongness" in Gene H. Outka and John P. Reeder (eds.), *Religion and Morality: A Collection of Essays* (Garden City, NY: Anchor Press, 1973), 318–47.

[15] As stated in George Hourani, *Islamic Rationalism: The Ethics of ʿAbd Al-Jabbār* (Oxford: Clarendon Press, 1971), 1–3. In fact, Hourani further declares that not only Muslim, but most "medieval thinkers have not been found to have contributed very much to philosophical ethics."

[16] William P. Alston, "Some Suggestions for Divine Command Theorists" in William P. Alston, *Divine Nature and Human Language: Essays in Philosophical Theology* (Ithaca, NY: Cornell University Press, 1989).

[17] Hare, *God's Call*; Hare, *God's Command*. See also Baggett and Walls, *Good God*.

God's Call, where he argues that God has designed the world to operate in a specific manner, but we cannot know why He made it in this way rather than any other.

This distinction between attenuated and robust ways of approaching the place of divine speech in law and ethics is analogous to the debates between Muslim theological-jurisprudential schools on the manners of construction of judgments, with the Muʿtazilīs and the Ashʿarīs representing the natural-law and divine-command sides, respectively. As we will see, the Ashʿarī model of divine command theory is particularly uncompromising. The value of drawing on Islamic thought to reflect upon issues of theistic ethics and jurisprudence resides precisely in the different epistemology and metaphysics advanced in certain streams of this tradition in comparison to the dominant views in contemporary thought.[18] For example, as we will see in the first half of the book, Ashʿarīs saw divine speech as a divine attribute and not a product of divine will. They argued that those transcendent attributes did not align with any humanly attainable notion of goodness, but were introduced into human reasoning through miracle. These are positions that may appear counterintuitive to the modern reader, but that offer possibilities that may not have been otherwise available to theistic ethicists. The view of God as speaking eternally rather than through involvement in time in human life is indeed opposed to widespread assumptions about divine command theories. As Wolterstorff put it: "divine command theory not only *allows* for God's participation in the community of discoursers as an agent therein; it *requires* it. More strongly yet, the theory places it on center stage. For at the *heart* of the theory is God's performing speech actions of commanding things."[19] This is fundamentally opposed to the model that Ashʿarīs advanced. For example, rather than posit that theories of divine revelation that subordinate God's words to preexisting natural laws are of potential value, Ashʿarīs offer a model of exploitation of the shortcomings of revelation-independent reasoning that anchors theistic theories in the

[18] The generally Christian-centric nature of contemporary studies in theological ethics and jurisprudence means that certain possible conceptions of the divine in its relation to human communities are left out of the conversation. One of the manifestations of this focus on the Christian tradition is the tendency to view divine speech as inseparable from divine will. As will be shown in Chapters 2–4, this was not the prevalent view in Islamic thought. For an example of this assumption of the link between divine will and command, see Adams, "A Modified Divine Command Theory of Ethical Wrongness" in Outka and Reeder (eds.), *Religion and Morality*, 318–47.

[19] Wolterstorff, *Divine Discourse*, 100.

limitations of secular thought. This model of divine command theory presents itself as a necessary supplement to secular theories of norm-construction that fail to justify their universalizability, as we will see in Chapter 1.[20]

The distinction between reasoning geared toward the formulation of judgments based on revelation and reasoning independent of it is routinely presented as an opposition between rationalism and textualism, or reason and tradition. The tendency in modern scholarship, both in the West and in the Muslim world, is to assume a certain fundamental opposition between reasoning based on divine revelation, and some idea of reason, rationality, or rationalism. This view quite often appears to presuppose that secular rationality is the standard of rational thought.[21] A central claim of this study is that debates on divine speech as a source of

[20] Our concern here is with judgments of moral nature, understood as those judgments that apply to all agents in a similar situation just by their being the righteous, moral, pious, rightly guided thing to do, and not for any other instrumental or prudential consideration. This corresponds to what Muslim scholars considered to be the *sharʿī* (i.e., legitimate, divinely ordained, judgments), as opposed to contingent judgments made by individuals in relation to specific situations. As we will see in Chapter 1, there was no disagreement among major Islamic schools of thought that the second (i.e., circumstance-specific) kind of judgment can be made independently of divine revelation. The main controversy concerned if and how *sharʿī* judgments can be made independently of revelation, precisely because of the supposed general nature of those judgments and their claimed applicability to categories of case, rather than individual circumstances.

[21] Hence, the persistent assumption that only natural law trends qualify as truly "rational" in Islamic thought. For example, see Wilferd Madelung and Sabine Schmidtke, *Rational Theology in Interfaith Communication: Abu-I-Husayn Al-Basri's Mu'tazili Theology among the Karaites in the Fatimid Age* (Leiden: Brill Academic Publishers, 2006). The rejection of all theories that fall outside the Hellenistic and natural-law traditions as uninteresting from a philosophical standpoint can also be seen in Hourani's declaration that, "[t]he writings of medieval Islamic jurisprudence include much that is of interest for ethics, especially at the points where revelation was felt to be in need of extension or supplement as a source of law. But since for all the jurists Islamic law was primarily based on revelation, there was little open recognition or discussion by them of any valid method of arriving at knowledge of the right by natural ethical judgment." The inevitable (and incorrect) conclusion that followed from this assumption is that the work of the Ashʿarīs is to be casted as mere voluntarism or "theological subjectivism" that has little to say about theoretical ethics (Hourani, *Islamic Rationalism*, 3). This attitude is clearly changing, although the assumption that revelation-independent reasoning (*ʿaql*) is equated with "rationalism" seems to persist. See Sophia Vasalou, *Ibn Taymiyya's Theological Ethics* (New York, NY: Oxford University Press, 2016), 4. Vasalou's account of Ashʿarism is quite nuanced and highlights their role in speculative theology, and theoretical ethics (e.g., pp. 106–36). This account will be addressed at various points in our study, where relevant.

judgments in classical Islamic thought cannot be fully understood through the rationalism–textualism framework. The paradigmatic example from the Islamic tradition, and the one that dominates the present book, is the opposition of Ashʿarī and Muʿtazilī thought. A very general formulation of the disagreement between those two influential schools can be put as follows: Muʿtazilīs argued that judgments knowable through divine revelation accord with those available to human minds through this-worldly experience, while Ashʿarīs insisted that this was not necessarily the case. At its core, this debate does not concern "rationalism" or the importance of relying on the faculty of reason in any important way. Instead, the Muʿtazilī-Ashʿarī debates on the construction of judgments were, defined broadly, essentially an opposition between a naturalistic stance and a skeptical-theistic stance.[22]

Based on this reading of the Muʿtazilī-Ashʿarī debates within theology and jurisprudence, I propose to "appropriate" (in the sense elucidated in Section I.2) those theories for reflection upon concerns in theistic law and ethics. Specifically, I suggest that the Ashʿarī skepticism about our ability to formulate universal judgments independently of revelation is theoretically promising. Those theories suppose a sharp metaphysical divide between the divine realm and the human domain of deliberation and interpretation. That sharp divide, as we will discuss in Chapters 2 and 3, opposes itself to the Platonic model that underlies both Muʿtazilī metaphysics and the Christian-inspired reflections in contemporary philosophy.[23]

[22] The idea of "naturalism" I use here is similar to the very broad definition provided by G. E. Moore, namely the assumption that there are some factual observations from which one can move logically to make normative judgments of the moral (i.e., universalizable) type. G. E. Moore, *Principia Ethica* (New York, NY: Barnes & Noble Publishing, 2005), 38–60. This does not necessarily mean that Muʿtazilīs consistently argued that all things are intrinsically either good or bad, a narrower conception frequently assumed in modern studies of Muʿtazilī thought.

[23] The question of the metaphysical *nature* of divine attributes is not the same as the question of whether or not divine attributes are real. Thus I do not wish to contest Wolfson's assertion that the Ashʿarī (which he calls "orthodox") view that divine attributes are real is in some form reminiscent of the Christian doctrine of the reality of divine attributes. The "amodal" nature of those attributes, their eternity, attachment and yet distinction from God is a particular Ashʿarī theory that will be mentioned in our discussion of divine speech in Chapter 2. Also, Wolfson's argument that early Muslim theologians may have been influenced by Christian theologians is both plausible and mostly unrelated to my core arguments. Harry A. Wolfson, *The Philosophy of the Kalam* (Cambridge, MA: Harvard University Press, 1976), 112–13.

1.2 APPROPRIATING CLASSICAL ISLAMIC THOUGHT

We now turn to a set of broad questions that this type of study might raise, and that concern the place of the study of classical Islamic thought in the contemporary humanities. What does it mean to study Islamic theology and jurisprudence *as* works of legal and moral theory? What methodological choices does one make, and what theoretical assumptions does one embrace, to engage our understanding of classical Islamic disciplines with contemporary conversations in law and ethics? The starting point of this study is an analysis of late tenth- and eleventh-century texts in the Islamic genres of *uṣūl al-fiqh* and *uṣūl al-dīn*. The book makes a theoretical claim based on this analysis, namely that the helpfulness of a divine-command view of normative judgments can be defended by an awareness of the shortcomings of revelation-independent reasoning. Going from a study of classical Islamic texts to the formulation of abstract arguments raises the following questions: Is there anything we can learn from a nonmodern, non-Western tradition that we can use in our engagement with contemporary concerns in moral or legal thought? Are we justified in bringing insights from a distant tradition into our reflections upon present moral problems? Do these texts contribute something to our awareness of ourselves beyond our specific understanding of the historical context within which they were produced?

To answer these questions, we must first investigate the nature of the experience constituted by the study of a text. Is it possible to be "in dialogue" with eleventh-century Muslim jurists and theologians through a study of what has survived of their scholarly writings?[24] Or does meaningful theological-philosophical communication require the presence of an interlocutor, immediately or in one's temporal-cultural domain? Is our engagement with a tradition through its textual products purely informative of a specific set of events that led to the creation of the studied text, or can some meaning of present value be drawn from this

[24] See Souleymane Bachir Diagne, *Comment philosopher en Islam?* (Fenton, MI: The Phoenix Publishing Company, 2008). S. B. Diagne advanced the idea of "dialogue" as the outcome of a transhistorical and transcultural reading in the following terms: "Dialogues: because philosophy does not 'emanate'. It is not the natural expression of any culture nor, of course, *a fortiori*, of any religion. It is this conversation, often lively, in which people who know the meaning and value of free thought are engaged. They know that this requires precisely a kind of dependence on the immediate significations given to us by cultures and religions" (My translation). We will see later in this section how the philosophical reading of classical Islamic texts is both intrinsically context-specific and context-independent and the same time.

engagement? To answer these questions, I will make two claims. First, every experience of a text is inevitably both informative of some aspects of the context in which it was produced and to which it refers, *and* communicative of some form of meaning that transcends its specific context. This inextricable duality of textual experience corresponds to the idea of a reference-sense dichotomy as advanced in philosophical hermeneutics. Second, while it is impossible to understand a text without an awareness of its inner reference-sense dichotomy, the emphasis a scholar may wish to place on one or the other side of this dyad will largely rest on his or her own subjective purposes and suppositions. Classical Islamic scholarship, like any other, intrinsically lends itself to both historical and philosophical analysis, and cannot be understood without an awareness of both of these dimensions. Whether the scholar uses his or her study to suggest a novel understanding of the text's context, or to advance a new explanation of the content of its inter-subjective communication, will depend largely on factors independent of the textual tradition itself, and pertaining to the reader's presumptions as to who may qualify as an interlocutor and why.

An explanation of the dual nature of communication through text can be drawn from the tradition of continental hermeneutical philosophy, culminating most notably in the work of Hans-Georg Gadamer and Paul Ricœur.[25] Here I focus on Ricœur as a prominent representative of the post-structuralist bent in philosophical hermeneutics that could be said to have incorporated and further elaborated upon Gadamer's theories.[26] Ricœur offered the outline of a theory of writing and reading in his *Interpretation Theory: Discourse and the Surplus of Meaning*.[27] This collection of four essays provides an exploration of the question of "language as *a work*,"[28] to be distinguished from spoken language as a means of immediate exchange. The theory of writing and reading offered in those essays elucidates a process of construction of text and a parallel process of reading and understanding "without imposing too mechanical

[25] Hans-Georg Gadamer, *Truth and Method* (New York, NY: Seabury Press, 1975); Paul Ricœur, *Hermeneutics and the Human Sciences: Essays on Language, Action, and Interpretation*, ed. John B. Thompson (Cambridge, UK; New York, NY; Paris: Cambridge University Press; Editions de la Maison des Sciences de l'homme, 1981).

[26] Mario J. Valdés, *A Ricœur Reader: Reflection and Imagination* (Toronto; Buffalo, NY: University of Toronto Press, 1991), 3. Ricœur's work, most commonly invoked in the context of literary criticism, is of general value for understanding the process of writing, reading, and text-based philosophical reflection.

[27] Paul Ricœur, *Interpretation Theory: Discourse and the Surplus of Meaning* (Fort Worth, TX: Texas Christian University Press, 1976).

[28] Ibid. xi.

a correspondence between the inner structure of the text as the discourse of the writer and the process of interpretation as the discourse of the reader."[29] In elucidating the first part of the process of text construction, Ricœur invokes the idea of language *as discourse* to highlight the dialectic of event and meaning. This dialectic, for Ricœur, corresponds to a process of explanation and understanding that the reader experiences. Together with the inner dialectic of text production, the event-meaning dichotomy informs the whole process of communication through text.[30]

Ricœur begins to construct a conception of discourse as inextricably constituted of both event and meaning by reference to some of Plato's reflections on the possible truth or falsehood of utterances.[31] This is the beginning of a crucial distinction between semiotics as the "science of signs," which concerns itself with language's power of reference, and semantics, the "science of sentence," which deals with language as communication of meaningful (potentially truthful) claims.[32] In its ancient form, the discussion of the potential for truth in linguistic utterances took for granted the idea of language as discourse. Language was considered a combination of signs that produces meaning by being more than just the sum of its constitutive elements. This, Ricœur observes, is no longer taken for granted today: a structuralist view of language as a system of signs now presents itself as an alternative to this view of language as discourse.[33] Structuralism, in Ricœur's view, especially as advanced in Saussure's linguistics, was built on a series of oppositions between code (i.e., a semiotic understanding of language) on the one hand, and meaning, thought or intention, which are intrinsically subjective, context-specific, and inaccessible, on the other hand. The result was a view of text, and language in general, as a self-sufficient web detached from any elements external to it: "language no longer appears as a mediation between minds and things. It constitutes a world of its own, within which each item only refers to other items of the same system, thanks to the interplay of oppositions and differences constitutive of the system." Language becomes a "self-sufficient system of inner relationships."[34]

Under a structuralist view of text, the question of whether and how one can engage questions of legal-moral theory based on a reading of the classical Islamic tradition would appear intrinsically problematic. Certainly, there is no place in this theory for an approach to Muslim theologians and jurisprudents as "interlocutors," since all we have left are texts,

[29] Ibid. 71. [30] Ibid. [31] Ibid. 1. [32] Valdés, *A Ricœur Reader*, 4.
[33] Ricœur, *Interpretation Theory*, 2. [34] Ibid. 6.

and texts are self-sufficient and separate from the subjective meanings that drove their production. In a structuralist sense, it is conceivable that a study could emerge from a subjectivity informed by a reading of a text belonging to the Islamic – or some other – tradition, but that study would still be a self-sufficient system of codes independent of the author's internal world of thought. Texts, in that sense, act as buffers that stand between distant subjectivities, rather than means of communication that facilitate rapprochement among them.

What we are trying to show, however, is that it is possible to produce a study in Islamic theology and jurisprudence that uses its findings to engage questions of law and ethics. This sense of engagement with two distinct fields supposes some idea of dialogue that a structuralist understanding of textual analysis does not allow. In a post-structuralist view of discourse, by contrast, such dialogical engagement with classical Islamic thought and contemporary philosophical writings is conceivable. A concise way of presenting Ricœur's departure from Saussure's theory of text is to consider it as a move from the dichotomous to the dialectical. By departing from Saussure's sharp dichotomies, Ricœur reintroduced the idea of text as communication, without dismissing the intrinsically historical and "distant" nature of the encounter with text.[35] This reintroduction of the notion of "text as discourse" which, Ricœur insists, was predominant before the advent of modern linguistics, rests largely on the understanding of the production of meaning as a phenomenological process, described as "the dialectic of event and meaning."[36] This dialectic can be seen as a "concrete polarity" consisting of the two poles of event and meaning that are clearly distinct yet entirely inseparable. It is a characteristic of language as discourse, Ricœur explains, that it involves an "intertwining and interplay of the functions of identification and predication in

[35] A significant step toward deconstructing the sharp dichotomies of modern semiotics involves Ricœur's distinction between semiotics and semantics, or the word and the sentence. Ricœur insisted that the sentence is not simply an arrangement of signs, but that it is something *different* from the word. It is not merely a long word, and the word is not a short sentence. There is a difference in type, and that difference is the most basic element in the central dialectic of event and meaning upon which Ricœur constructs his theory of interpretation. He explained, "Semiotics, the science of signs, is formal to the extent that it relies on the dissociation of language into constitutive parts. Semantics, the science of the sentence, is immediately concerned with the concept of sense (which at this stage can be taken as synonymous with meaning, before the forthcoming distinction between sense and reference is introduced), to the extent that semantics is fundamentally defined by the integrative procedures of language." Ibid. 8–9.

[36] Ibid. 8.

one and the same sentence."[37] Identification is done by reference to a singular subject, while predication involves the attribution of a universal characteristic to that subject. The structuralists, therefore, were wrong: "discourse is not merely a vanishing event and as such an irrational entity, as the simple opposition between *parole* and *langue* might suggest."[38]

The dialectical understanding of discourse as *proposition* (i.e., as both event and meaning) is of immense importance for our purposes. To study the texts of the classical Islamic theological-jurisprudential tradition "as discourse" is to realize that those works are "actualized as events" and "understood as meaning."[39] This is central to our awareness of the possibility of both historical and theological-philosophical study of this discourse. The Islamic tradition of theology and jurisprudence is, like any discourse, a product of a given historical reality, and *at the same time* a set of propositions that ascribes a more general meaning or sense to the historical element to which it refers. For example, let us consider a jurisprudential maxim of central importance to this study: "[divine] commands indicate obligation (*al-amru yufīdu l-wujūb*) unless there is proof (*qarīna*) to the contrary."[40] This proposition was actualized within a specific discursive context. It belongs to a tradition of Islamic juristic reflection on the tools and methods of engagement with sources seen as authoritative within the tradition. As a methodological prescription, this maxim was intended to advance a given view of how we can engage those specific authoritative sources. As a proposition, on the other hand, the maxim does more than that: it ascribes, as Ricœur put it, a universal attribute to its subject matter. The maxim proposes a specific way in which judgments can follow from given linguistic forms stemming from a legitimate authority.

A view of textual study as engagement in discourse allows us to see the intrinsic duality of event and meaning, or history and philosophy, in all textual traditions, classical Islamic ones included. If this dialectic of event and meaning is a characteristic of all forms of discursive communication, how can we understand the distinction between the primarily historicist study and the theological-philosophical approach that characterizes this study? Every study that takes the analysis of text as its starting point inevitably moves beyond mere understanding by advancing views based on the reader's engagement with the text. These views are the product of the reader's textual experience and therefore emerge from a certain degree

[37] Ibid. 11. [38] Ibid. [39] Ibid. 12. [40] This principle is discussed in Chapter 4.

of appropriation of textual communication. It is at this level that a distinction can be made between the historicist and the philosophical use of textual analysis. A scholar of Islam may frame his or her analysis of this maxim as a claim about Islamic thought as event, thus placing this proposition in the context of the set of circumstances that generated it. For example, Bernard Weiss argued that jurists who advanced this maxim had a "legalistic" approach to Islamic jurisprudence, as opposed to the "moralists" who argued that such statements should be presumed to indicate recommendation, rather than obligation.[41] Weiss's argument is an example of the historicist scholarship that dominates the modern study of Islam. Weiss uses his analysis and understanding of a classical jurisprudential text to advance a claim *about* the tradition. This book, by contrast, uses a reading of classical texts of theology and jurisprudence to advance a claim about theoretical ethics *through* specific readings of the tradition. This does not mean that I ignore the historical aspect of those texts, or that Weiss is unaware that those texts made claims to meaning that transcended their context. No understanding is possible without awareness of this dialectic. This difference shows that at a postanalysis stage, scholars "appropriate" those events and claims differently.

To explain what I mean by different appropriation of text, we should turn once again to Ricœur, but this time to his theory of reading or experiencing a text. I use "appropriation" here in the sense advanced by Ricœur as a transformation of a present self-consciousness generated by an encounter with a "distant" (assuming all texts presuppose some form of distance) discursive tradition.[42] Distance here is a fundamental quality of text, understood as a separation of language from the speech-act event that does not "cancel the fundamental structure of discourse."[43] This encounter can be described as a process of analysis and appropriation that can be outlined along the lines of a threefold interpretive scheme: (i) examination, including philological and historical analysis; (ii) understanding, which involves the recalling of elements present in the reader-scholar's consciousness; and (iii) appropriation, which leads to the emergence of a reformed consciousness of the reader-scholar about him- or herself. This tripartite process of engagement with a text was

[41] Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf Al-Din Al-Amidi* (Salt Lake City, UT: University of Utah Press, 1992), 350–51.

[42] Ricœur, *Hermeneutics and the Human Sciences*.

[43] Ricœur, *Interpretation Theory*, 25–6; Valdés, *A Ricœur Reader*, 6.

articulated by Ricœur in *Hermeneutics and the Human Sciences*, in what came to be known as the "hermeneutic arc."[44] Ricœur advanced a view of textual study as an encounter between two "distant" forms of consciousness through a set of cognitive stages. Those stages do not necessarily occur chronologically, but constitute a broad outline of the manners in which a reader's consciousness is shaped and affected by a text.

A significant feature of this scheme of interpretation is the insistence on textual encounter as a space for the convergence of the consciousness of various agents. In the words of Mario Valdés, Ricœur views engagement with text as a "convergence of the author's configuration of the text and the reader's re-figuration," which leads to a "dynamic merger that makes possible the net gain of new meaning."[45] As Valdés observed, a consequence of this view of the relation between author, text and reader "is the transformation of interpretation into a dynamic dialectic between the distanciation of the text and the appropriation of the reader."[46] The idea of reading as appropriation rests on a view of understanding as an expansion of self-understanding. The reader necessarily makes their experience of the text their own, thus making reading a "remedy" for cultural distance that "includes the otherness within the ownness."[47] Viewing reading as a dialectic between distanciation and appropriation means that understanding always rests on pre-existing categories in the reader's mind, and an awareness of an encounter with a consciousness that is distant but made close through text. Understanding is always self-understanding.[48]

This view of understanding as appropriation is central to this study's conception of the possibilities our engagement with the Islamic intellectual tradition can generate. If text is both event and meaning, and all reading is appropriation of a distant consciousness that results in self-understanding, the critical question thus becomes: how do we *choose* to appropriate a distant intellectual tradition? In this concluding part of the present section, I wish to argue that there are at least four major ways in which our engagement with this distant tradition can result in self-understanding: noncritical, critical-historical, critical-comparative, and dialogical. I maintain that much of the recent interest in methodological critique in the field of the study of Islam centered on the move from noncritical to critical-comparative or historical self-understanding. This

[44] Especially Ricœur, *Hermeneutics and the Human Sciences*.
[45] Valdés, *A Ricœur Reader*, 7. [46] Ibid. 8. [47] Ibid. [48] Ibid. 87.

study capitalizes on those developments with an aim to move from critical-comparative to dialogical self-understanding.[49]

The first approach, to which I refer as noncritical self-understanding, situates the study of classical Islam against the backdrop of a more or less uncritical understanding of Western modernity as a normative universal standard against which all distant cultural phenomena should be measured. Extensive effort has been put into deconstructing and overcoming this approach, especially following E. Said's *Orientalism*.[50] Those efforts, for the most part, have resulted in a form of critical historicism, which can be characterized as a tendency to highlight the historical alterity of Islamic traditions, among others, to explain their apparent unfamiliarity to the modern observer. A significant achievement of this trend has been the deconstruction of the assumption of universality and ahistoricity of modern Western standards in ethics and law, among other domains. The predisposition to view one tradition primarily (if not entirely) through historical lenses while viewing the other tradition's normative claims more seriously is reflective of the configurations of power within contemporary scholarship. The way in which these power relations shape the types of questions and assumptions guiding the study of traditions that habitually fall outside the purview of what is accepted as "Western" has been explained in numerous studies. Along those lines, we can find a plethora of studies that explicitly undertake to provide more self-conscious and theoretically informed forms of historicization, often calling for studies of the Islamic tradition that highlight its own "internal logic."[51] To give a recent example, in *Islamic Legal Pluralism*, Anver Emon explains that he situates his historical account of the treatment of non-Muslims under Islamic law in opposition to what he refers to as "the myth of harmony" and "the myth of persecution." Both accounts, Emon argues, study the history of Islamic treatment of non-Muslims through the framework of "tolerance," and therefore produce views on the matter

[49] It would be a mistake to see this as a rigid categorization in which each study falls exclusively under one category. It is rather a general scheme through which we can understand the range of manners of appropriation and their development in the contemporary study of Islam.

[50] Edward W. Said, *Orientalism* (New York, NY: Vintage Books, 1979).

[51] One of these is Behnam Sadeghi, *The Logic of Law Making in Islam: Women and Prayer in the Legal Tradition* (Cambridge: Cambridge University Press; Cambridge Studies in Islamic Civilization, 2013).

that disregard the "inner logic" of the Islamic legal tradition.[52] This significant trend in contemporary studies on Islam can be characterized as advocating a form of critical historicization. It is "critical" in the sense that it corrects prior tendencies to adopt Eurocentric and anachronistic conceptions of history. In relation to this approach, my study takes one additional step. By way of extension of those models, I suggest a dialogical approach to the study of the Islamic traditions. A dialogical approach is one in which Islamic theology and jurisprudence are analyzed for their normative claims and, on the basis of that analysis, suggestions are made for the resolution of contemporary problems in theological and moral thought.

More recently, we can observe the rise of an approach that can be described as critical comparativism. This approach does not content itself with explaining different traditions based on different historical and intellectual circumstances, but undertakes critiques of modern concepts and institutions based on an appropriation of pre-modern Islamic theories. A notable example of this method would be W. Hallaq's, *The Impossible State*, in which an analysis of pre-modern Islamic governance allows a critical evaluation of some of the paradigmatic features of the modern state.[53] This study represents a step in the same direction, but takes a dialogical, rather than a comparative, approach. In other words, based on my "appropriation" of abstract meta-ethical models emerging from my analysis of eleventh-century Islamic theological and jurisprudential texts, I offer suggestions pertaining to contemporary problems in theological ethics. This dialogical engagement is, I believe, urgently needed, since engaging traditions that are typically underrepresented in contemporary theological-philosophical reflection can offer solutions that have been otherwise unavailable within the dominant philosophical discourse.[54]

[52] Anver Emon, *Religious Pluralism and Islamic Law: "Dhimmīs" and Others in the Empire of Law* (Oxford: Oxford University Press; Oxford Islamic Legal Studies, 2012). One work following the same form of "improved historicism" is Marion Holmes Katz, *Women in the Mosque: A History of Legal Thought and Social Practice* (New York, NY: Columbia University Press, 2014).

[53] Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (New York, NY: Columbia University Press, 2013).

[54] It is worth noting at that philosophical appropriation, or appropriation for theological-philosophical purposes, has been and remains widely exercised in the study of other premodern traditions, especially Christianity. For reasons pertaining to the history of the study of Islamic thought in the West, which are largely beyond the scope of this introduction, this has only been done rarely and highly selectively in the field of the study of Islam. This set of methodological questions imposes itself with urgency in the

It is worth noting that, in the contemporary study of classical Islamic traditions, certain streams of thought were commonly singled out as "philosophical" (e.g., the Muʿtazilīs),[55] while others continue to be regarded strictly as historical events. This imbalance in the methodological approaches applied to different intellectual discourses has nothing to do with those discourses' intellectual content, let alone quality, and everything to do with the contemporary scholar's predisposition to accept or "appropriate" one set of ideas or the other as claims of some normative value. To demonstrate this unequal treatment of what I contend are largely equal traditions,[56] one could point to the vast and common incorporation of the ideas of central Christian figures such as Thomas Aquinas and John Calvin into contemporary works on legal and ethical theory.[57] By contrast, in the Islamic tradition, among contemporaries of Aquinas who worked in vastly similar disciplines and dealt with similar questions using comparable methods, only the Muʿtazilīs, on occasion, captured the philosophical interest of contemporary ethicists.[58] To explain why the philosophical study of Islamic traditions has been done selectively and marginally would require a broad critique that is certainly beyond the scope of this section.[59]

context of the study of Islamic thought for reasons specific to state of the contemporary study of Islam, not because of anything intrinsic to the premodern Islamic tradition. In other words, the reason this methodological section is particularly necessary is that I must contend with the objection-from-historicity, or the claim that ideas produced in the Islamic disciplines can *only* be understood as historical events, and that an attempt to deal with those ideas in any manner that does not firmly anchor them in their historical roots is misguided and misleading. The urge to historicize does not arise equally in relation to different intellectual traditions. It is possible to find ample examples in which premodern Christian thought is treated *as* theoretical ethics, metaphysics, and epistemology, to name a few philosophical domains in which such traditions are incorporated. One example of a study in theoretical ethics is Hare, *God's Call*.

[55] For example, Hourani, *Islamic Rationalism*.

[56] "Equal" in the sense that, in cases like the theology of Thomas Aquinas and classical *kalām*, there is a significant similarity in form and substance that suggests a certain historical and intellectual closeness and cross-pollination among those discursive fields.

[57] For example, John Finnis, *Aquinas: Moral, Political, and Legal Theory* (New York, NY: Oxford University Press, 1998).

[58] For example, Mariam Attar, *Islamic Ethics: Divine Command Theory in Arabo-Islamic Thought* (New York, NY: Routledge, 2010).

[59] Helpful explanations can be found in Wael B. Hallaq, "On Orientalism, Self-Consciousness and History," *Islamic Law and Society* 18(3–4) (2011): 387–439; and Wael B. Hallaq, "Introduction" in Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009).

1.3 SCOPE OF STUDY AND CHAPTER OUTLINE

The first part of the book is concerned with the epistemological and metaphysical dimensions of the notion of divine speech, largely based on works of *kalām*. The second part of the book focuses on the linguistic manifestations of divine commands and their normative implications. It is primarily based in *uṣul al-fiqh*. It is a basic assumption of this book that the disciplines of *kalām* and *uṣūl al-fiqh* are an integrated project. The first belongs to an area of inquiry that encompasses questions we would consider today to belong to systematic and philosophical theologies, and is concerned with a broad range of debates, many of which can be traced back to the earliest periods in Islamic history. Those debates, in the relatively mature form of the disciplines with which this study is concerned, came to incorporate topics as varied as moral epistemology, the nature of divine attributes, divine justice and benevolence, metaphysics and cosmology, the nature of good and evil, the nature of revelation, and the conditions of true belief. These sorts of topics were studied in treatises as early as Abū Ḥanīfa's *al-Fiqh al-Akbar*, yet the discipline of *kalām* came to be systematized and to take a distinct form in later centuries. Similar observations can be made of *uṣūl al-fiqh*, which, for the sake of convenience (though not entirely accurately) will be referred to here as "jurisprudence," or "legal theory." Debates over the proper methods of reasoning that would be conducive to judgments (*aḥkām*) of the *shar'ī* variety are as old as Islam itself, yet the specific discipline of *uṣūl al-fiqh* probably emerged in the second half of the tenth century. This view of *kalām* and *uṣūl al-fiqh* means that we will consider this integrated project as intervening in questions of ethics and legal theory simultaneously.[60] The search for proper methods for the formulation of norms in *uṣūl al-fiqh* was, as we will see, also an inquiry into the proper ways of acting. The division of judgments – into obligatory, recommended, permissible, reprehensible, and prohibited – consistently rested on a conception of good and bad that is closely associated with those judgments, in spite of all disagreements on how our minds could reach knowledge of those moral values. Essentially, the theories studied in this book are seen as participating equally in what we may refer to as moral and legal thought.[61]

[60] For more on the close link between these two disciplines, see Ahmad Atif Ahmad, *Structural Interrelations of Theory and Practice in Islamic Law: A Study of Six Works of Medieval Islamic Jurisprudence* (Leiden; Boston, MA: Brill, 2006), 6–7.

[61] In that regard, this view differs from Johansen's analysis in Baber Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden: Brill, 1999), 1–77.

While not chiefly concerned with intellectual history, this work is inevitably situated in a given moment in Islamic history. Our study focuses primarily on the eleventh-century writings in *kalām* and *uṣūl al-fiqh* produced within the central urban centers of learning by scholars belonging to the popular Ashʿarī and Muʿtazilī schools. Certain arguments in semantics and norm construction will be made by relying on the work of jurisprudents who did not directly engage in philosophical theology in the manner that scholars from these schools did. Given the centrality of the theologico-philosophical arguments of this study, the choice of text and historical period is inevitably indecisive. The same arguments could, admittedly, have been advanced based on a later set of texts.[62] I do not claim that the scholars studied here are representatives of their entire schools of thought, or that any of those schools represent the Islamic tradition as a whole. Rather, I mainly wish to highlight that there are voices within the tradition that can help us reflect upon issues of theological ethics and legal theory more generally.

The inseparability of *kalām* and *uṣūl al-fiqh* for the purposes of this study stems from the fact that both disciplines belong to a single intellectual project that was driven by the need to justify the process of taking moral positions based on theological views. Yet one should observe a crucial asymmetry in those disciplines. Whereas the issue of the indispensability of divine revelation for the formulation of norms and values was up for debate at the level of *kalām*, virtually all noteworthy works produced in *uṣūl al-fiqh* begin with the assumption that it is indeed indispensable. In other words, one can see a clear and explicit tension between divine command and natural law theories at the level of *kalām*. Yet at the level of *uṣūl al-fiqh* this tension becomes, as I shall argue, implicit behind the dynamic formulation of jurisprudential arguments. At the level of *kalām*,

Johansen argues throughout the book that there is a distinction to be made between what the law sets out as ethical ideals and what it enforces as a matter of practical obligation. I do not venture into the social and institutional histories that Johansen examines, yet, at the legal-theoretical level, it is clear to me that the jurist-theologians intended legal judgments to rest on a certain notion of good and bad that was formulated at the level of *kalām*.

[62] The choice of texts was still informed by several considerations. First, I avoided the earlier periods in which disciplinary boundaries were in flux for ease of identification of theological debates within the treatises in question. Second, I chose works that were produced in historical proximity so that they are similar in style and language, and one can relatively easily detect exchanges across those works. Third, I focused on works that can be considered influential, in the sense that they were frequently cited and commented upon in later scholarship.

Muʿtazilīs took the natural law position that revelation comes to confirm, inform, facilitate or emphasize moral positions that are otherwise available to the human mind, whereas Ashʿarīs advanced the divine command notion that revelation generates or introduces moral possibilities that are otherwise inaccessible to human minds. At the level of *uṣūl al-fiqh*, it appears to be widely accepted that one has to use divine revelation in some manner to advance valid *sharʿī* judgments, yet, as we will see in Chapter 6, natural-law considerations have very much survived at the level of legal theory.

Taken together, the Ashʿarī theories of divine speech and *uṣūl al-fiqh*'s collective mode of norm construction constitute a unique model of divine command theory that can be characterized as a form of collaboration between God and society. The elucidation of this model is the primary focus of this study. It will be shown that, rather than primarily seeking to conform with natural law theories, divine-command theories of ethics can carve out a place for themselves by focusing on critiques of natural law or revelation-independent theories of ethics. Muʿtazilī theories of divine speech will be studied to explain the background against which Ashʿarī notions of divine command were formulated. The first step in reconstructing this model is to ask why we need divine revelation in the first place, and what we can or cannot know without revelation; the second step is to explain what divine revelation is, which will differ depending on the kind of answer offered to the first question. The first part of the book will answer these questions. The third step is to inquire into the normative potential of divine speech by analyzing the concept of divine command; the fourth and final step will be to ask how norms can be constructed based on specific linguistic forms in the language of revelation. These issues will be addressed in the second part of the book.

Chapter 1 anchors the debate in its epistemological foundations, and shows that the Ashʿarī–Muʿtazilī disagreements did not stem from a pre-conceived commitment to reason or revelation, but from an epistemological tension between skeptical and naturalist views. Whereas Muʿtazilīs argued that knowledge of values and norms was possible based on empirical and primary knowledge alone, Ashʿarīs insisted that norms formulated based on individual experience alone remain agent-specific and contingent. Revelation, for Ashʿarīs, was an interruption of experience that made general norms possible. Chapter 2 contrasts the metaphysical theories underlying the two divergent positions on the normative role of divine revelation. I argue that different views on the role of revelation in norm construction stemmed from a divergence between a dualistic metaphysical view advanced by the Muʿtazilīs, and a form of

skeptical theistic view that steered away from positive claims about God, embraced by the Ashʿarīs.

Chapter 3 outlines the implications of this metaphysical difference on each school's respective notion of divine speech. For the Muʿtazilīs, divine speech was a concrete event in time that reflected God's will to bring forth a particular change in the world, whereas for Ashʿarīs, divine speech was transcendent of our world of sense perception. Viewing divine speech as a product of God's purposeful intervention presupposed that values and norms are independent of such speech, whereas viewing it as a transcendent attribute meant that norms were constructs that resulted from the human epistemological efforts.

Chapter 4 begins the second part of the book by studying the jurisprudential discussions of the nature of divine commands, a type of speech specifically designed to produce normative outcomes. I argue that the Muʿtazilī model attached normativity to God's will and action, a position analogous to contemporary natural-reason doctrines. By contrast, Ashʿarīs viewed normativity as an eternal divine attribute, and human moral judgments as purely human experiences that attempt to approximate those attributes.

Chapter 5 focuses on the semantic aspects of the normative implications of divine revelation by studying the treatment of the imperative mood in *uṣūl al-fiqh*. I argue that the emergence of *uṣūl al-fiqh* as a primary mode of deliberation over the normative implications of revelation signified the general triumph of the Ashʿarī revelation-centric position, but that, at the level of detailed *uṣūl al-fiqh* dialectics, Muʿtazilī naturalism survived, and even dominated. While the engagement in *uṣūl al-fiqh* by all schools of thought meant that revelation had to be relied upon to achieve a form of universalizability, the dialectical nature of the discipline ensured that the universality of norms was the product of collective social construction.

Chapter 6, the final chapter, demonstrates that some naturalistic considerations persisted even at the level of revelation-centric legal theory. By continuing the analysis of the treatment of divine commands in *uṣūl al-fiqh*, this chapter shows that concerns relating to the feasibility and reasonableness of legal obligations were woven into the theories on how to deal with divine statements in the imperative form. The outcome is a general framework that, at its core, relies on divine revelation as indispensable for the formation of legal obligations, yet concedes the need to accommodate certain natural imperatives that are intrinsic to human action and social organization.

PART I

EPISTEMOLOGICAL AND METAPHYSICAL FOUNDATIONS

1

What Do We Know without Revelation?

The Epistemology of Divine Speech

A noteworthy feature of the classical Islamic discipline of *kalām*, which, in its mature form, came to encompass a range of topics in philosophical theology, ontology, and meta-ethics, is its pronounced interest in epistemology. It is a common characteristic of the major *kalām* compendia to begin with an investigation of the sources, objects, and methods of acquisition of knowledge. This was an established disciplinary tradition, but also indicative of a specific worldview. Scholars who engaged in the complex of traditional theological-legal sciences believed in the primacy of the study of knowledge. The world consisted of items of information to be learned, or knowable things (*maʿlūmāt*), which meant that understanding the process of gaining knowledge itself must logically come before anything else can be understood. For us to acknowledge the primacy of epistemology in classical Islamic thought is a first step to escaping the perception of debates on the place of revelation as polemics between rationalists and traditionalists. In this chapter, we will see that the two main approaches to revelation as a source of practical norms were firmly anchored in two distinct theories of knowledge.

These two general approaches, represented here by the Muʿtazilī and Ashʿarī schools, are comparable to common trends in contemporary theological ethics. Classical Islamic debates on the role of divine revelation in the formulation of normative judgments occurred, in large part, along similar lines to what we would refer to as natural law and divine command theories.[1] A significant strand of the Muʿtazilī school advanced, in different

[1] The assertion that Muʿtazilī thought exhibits many of the features of natural law theories has been widely made by scholars of Islam. This characterization of Muʿtazilī thought will

manners, the view that norms and values were available to human minds independently of revelation. The substantive contribution of revelation cannot contradict the content of this naturally available knowledge. This model was associated with a given metaphysic and had implications in the area of norm-construction. Natural law, I maintain, is an adequate characterization of this influential theological-ethical school. However, natural law does not necessary entail – and should not be equated with – "rationalism."

A central argument of this book is that, while the persistent characterization of natural law theories as "rationalist" may have made sense in other historical contexts, it fails in the context of classical Islamic theological ethics and legal theory. Reserving this label to natural law thinkers to the exclusion of their most obvious rivals, the divine-command theorists, largely posits, rather than proves, that the latter were pure dogmatists and blind followers of revelation. I will argue in this chapter, and throughout this book, that this was not the case. Divine-command theorists, defined as those thinkers who held revelation as unique and irreplaceable for the purposes of normative reasoning, will be represented here by the thought of some influential classical Ashʿarī scholars.[2] Ashʿarī theories of divine revelation, frequently labeled as traditionalist or textualist by contemporary scholars of Islam, were in fact anchored in elaborate epistemological, metaphysical, and meta-ethical theories.

The most fundamental of those theories stem from a skepticism about the reliable and uniform nature of conclusions reached through individual human reasoning. This skepticism extended to views about God's nature as a creator and ultimate moral guide, as well as to judgments that can be made by individual humans in practical situations. These two layers of skepticism underpinned a critique of natural law theories that assume some degree of availability of moral and theological knowledge to individual human reasoning. The attack on natural law theories by invoking the unreliability of our moral and theological reflections was

be, at face value, accepted in this study. A significant, relatively recent, example can be found in Anver Emon, *Islamic Natural Law Theories* (New York, NY: Oxford University Press, 2010). Emon does not restrict his study natural law theories to the Muʿtazilīs alone, and expounds a range of other views that he terms as "soft" natural law theories.

[2] A helpful definition and overview of divine command theories in contemporary philosophical theology can be found in Michael W. Austin, "Divine Command Theory," *Internet Encyclopedia of Philosophy*, www.iep.utm.edu/divine-c/. Like many contemporary philosophical theologians, Austin upholds the assumption that divine command ethics are largely difficult to defend.

complemented by the reliance on collective deliberation as a mode of justification of norms within the jurisprudential tradition.

The first step in the construction of those two contrasting models is to ask what, if anything, we can know about the norms and values of actions without revelation, and what contribution the advent of revelation offers to the state of human moral knowledge. It is within those epistemological discussions that the Ashʿarīs established the foundations of their critique of natural law theories and advanced the first justifications of the revelation-centrism that came to be dominant within the tradition. This chapter will focus on those epistemological discussions. We will see that scholars adopting a natural-law view of normativity maintained that categorical norms were available to human minds without divine revelation. For them, this quest for moral knowledge was enhanced in some manner by the arrival of revelation. Conversely, the divine-command theorists maintained that, because human reasoning has intrinsic subjective limitations, knowledge of categorical norms was impossible without revelation. The question, therefore, was not simply whether we should rely on revelation, but whether divine revelation was *necessary* for the knowledge of *categorical* norms and values. This question was invariably posed in works of philosophical theology (*kalām*, or *uṣūl al-dīn*) as one of epistemology. Specifically, the question pertains to what, if anything, we can know about values and norms through individual, revelation-independent reasoning. This question of epistemology will be addressed in this chapter. The nature and role of revelation will be discussed in Chapters 2 and 3.[3]

Some conclusions can be drawn from those classical Muslim debates that would be instructive for contemporary discussions on the place of religious ideas in the making of normative judgments. The realization that Ashʿarī revelation-centrism was anchored in a critique of the assumption of universalizability of individual reasoning helps us reconsider the place

[3] In this chapter and throughout this study, I use "revelation" in the sense employed by classical scholars in the disciplines of theology and jurisprudence. Scholars of *kalām* and *uṣūl al-fiqh* used the term *samʿ* to denote a set of data available to the human mind because of communication with God. Specifically, this meant all utterances and actions reliably attributed to Prophet Muḥammad as part of his communication of information received from God. Exactly what those data consisted of and how they were communicated will be our concern in Chapters 2 and 3. Practically, determining which specific piece of information qualifies as revelation should not be our concern here. For a detailed exploration of what Revelation meant in Islamic theology see Yahya Michot, "Revelation," in Timothy O'Connor and Constantine Sandis (eds.), *A Companion to the Philosophy of Action* (Malden, MA: Wiley-Blackwell, 2010), 180–96.

of theism in the construction of norms. The Ashʿarī–Muʿtazilī debates on moral epistemology show that the reliance on divine revelation in norm construction is best justified by the *limits* of secular systems of moral reasoning, rather than by attempts to harmonize revelation-based and revelation-independent systems. Carving out a domain for revelation-centric ethics, as we will see, was primarily successful because of the Ashʿarī insistence on the limitations of individual human experience, hence the need for an *interruption* of those experiences (i.e., through miracle) to construct norms that are more than subjective. I refer specifically here to "individual" experience because, as we will see later, a special epistemological status was granted to norms formulated through collective deliberation. To carve out this domain by emphasizing what lies beyond the reach of individual experience, Ashʿarīs highlighted the distinction between categorical norms on the one hand and hypothetical or instrumental norms on the other hand. The latter can be obtained through individual human reasoning, while the former cannot, which makes revelation necessary.

Modern efforts to defend theistic ethics commonly hold that theories that take God as a source of judgments are similar in important ways to the dominant secular theories of ethics. The tendency to make theistic ethics compliant with and subordinate to secular reason is most frequently expressed in the adoption of some form of natural law that applies simultaneously to moral choices made by God and humans. In this view, theistic ethics are a variation of the dominant theories of ethics and largely abide by their standards, but incorporate an element of theism that is specific to them. By contrast, some defenses of theistic ethics realize the importance of stressing the differences between the kinds of normative knowledge produced within theistic and nontheistic theories.[4] Defenses of

[4] For a brief account of Lewis's argument, see R. Keith Loftin, "C. S. Lewis's Dangerous Idea: A Philosophical Defense of Lewis's Argument from Reason," *Christian Scholar's Review* 37(3) (2008): 389–91. Another noteworthy tendency in the critique of secular reason centers on the collapse of traditional societies, with all the moral incentives and motivations that those social structures provided. A critique that pushes in this direction can be found in Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame, IN: University of Notre Dame Press, 2007). Interestingly, Jürgen Habermas, a prominent defender of Enlightenment rationality, makes a similar claim, notwithstanding his caricatured depiction of the Islamic tradition as one that relies completely on "faith" (as opposed to reason). Jürgen Habermas, *An Awareness of What Is Missing: Faith and Reason in a Post-Secular Age* (Malden, MA: Polity Press, 2010). For a critical response to Habermas, see W. Julian Korab-Karpowicz, "An (Un)awareness of What Is Missing," *Modern Age* 56(1) (2014): 19–27.

theism that rest on a critique of secular, naturalist or materialist reason are not uncommon. Providing an overview of the full range of scholarship that deals with the admittedly vague idea of "the limits of secular reason" will not occupy us here, since the precise issue this chapter deals with is why revelation is justified from a moral-epistemological standpoint. One of the more interesting defenses is C. S. Lewis's "argument from reason" in *Miracles*. Lewis's argument, while it makes the case for theism as a successful explanation of human rationality (more successful than materialism, at any rate), does not explain why revelation is necessary for moral knowledge, and does not attempt to do so. In that sense, Lewis's argument is not clearly different from the Muʿtazilī view that human reason, along with the inner logic of the universe at large, are the creation of, and can only be explained through, faith in God. This view is also common in neo-Platonic theories of intellect. None of those views, however, explains why we need divine revelation to construct moral norms. It seems, therefore, that no modern theorist has articulated the necessity of revelation-based knowledge and anchored it in the failures of revelation-independent theories as directly as the Ashʿarīs.[5]

The debates among Muslim scholars of the fifth century AH/eleventh century CE on the place of divine speech in the construction of normative judgments are best understood as resting on profound differences in their views on epistemology. The most fundamental division that we can observe at that level is one between the view that revelation-independent judgments were universally verifiable, and a sort of skepticism that represented the backbone of Ashʿarī theism. This skepticism was central to the justification of revelation as an indispensable element in the formulation of normative judgments.[6]

The Muʿtazilī insistence that reasoning *caused* knowledge stemmed from their belief that the human mind followed natural and predictable principles of causality that we can assume to be universal. Those principles are self-contained and consistent, which meant that epistemic

[5] The matter of universalization was perhaps particularly pressing in the Muslim tradition because knowledge of *shar*ʿ*ī* norms was not merely a matter of personal morality, but was part of the community's effort to self-regulate. Deliberations over the normative impact of revelation were, by their very nature, part of a system of hybrid moral-legal nature. In a system of that sort, a simple acceptance of moral subjectivism was not a tenable outcome.

[6] A question closely linked to the issue of the place of revelation in moral reasoning is the issue of the value of actions before/without Revelation, studied by A. Kevin Reinhart in *Before Revelation: The Boundaries of Muslim Moral Thought* (Albany, NY: State University of New York Press, 1995).

operations need not derive their validity from ontological truths. This division between knowledge and objective truth was designed to obviate the objection, central to Ashʿarī thought, based on the inevitability of moral error. For Ashʿarīs, maintaining that knowledge must attach to objective realities was designed to narrow the scope of what qualified as knowledge *proper*, which would allow the exclusion of moral judgments from that domain. The adoption of an occasionalist view of causality was part of a general Ashʿarī view that the appearance of consistency in natural phenomena, epistemic ones included, was nothing but the habit of God.[7] Since reasoning led only to knowledge by virtue of God's habit, and revelation-independent reasoning did not uniformly produce widely accepted moral judgments, an interruption in God's habit (i.e., a miracle) was necessary for the possibility of moral knowledge.[8]

Generally, the epistemological models presented by those rival Muslim schools of thought reflected several shared views. The most significant area of agreement consisted of a distinction between two methods of attainment of knowledge. On the one hand, some knowledge is attained immediately or by necessity (*iḍṭirār*), on the other hand, some requires reflection (*fikr*), reasoning (*nāẓar*), and search for proofs (*istidlāl*).[9] Within this general framework, two differences emerged.[10] First, Ashʿarīs

[7] On how the occasionalist understanding of epistemic operations was transformed in later Ashʿarī thought under the influence of Greek philosophical teachings, see Frank Griffel, "Al-Ghazālī's Use of 'Original Human Disposition' (Fiṭra) and Its Background in the Teachings of Al-Fārābī and Avicenna," *The Muslim World* 102(1) (2012): 1–32. More generally on Ashʿarī occasionalism, see Ulrich Rudolph, "Occasionalism," in Sabine Schmidtke (ed.), *The Oxford Handbook of Islamic Theology* (Oxford: Oxford University Press, 2016), 347–63.

[8] It may be worth noting that, if we took a larger historical view of the Ashʿarī positions on causality, we would find the picture to be far from monolithic. A noteworthy example is the so-called Ghazālī Problem, which refers to Ghazālī's indecision on whether God creates all occurrences in the world directly or only directly through secondary causation. For more on Ghazālī's agnostic attitude on this question, see Frank Griffel, *Al-Ghazali's Philosophical Theology* (New York, NY: Oxford University Press, 2012), 122–3.

[9] *Istidlāl* was also widely discussed in treatises on legal theory, such as in Ahmad b. ʿAli al-Jaṣṣāṣ, *Uṣūl al-Jaṣṣāṣ, al-musammā al-fuṣūl fi l-uṣūl* (Beirut: Dār al-Kutub al-ʿIlmiyya, 2000), 198–9 and Abī al-Ḥasan ʿAbd al-Jabbār al-Asadābādī, *al-Mughnī fi abwāb al-tawḥīd wa l-ʿadl*, vol. 17 (Cairo: Wazārat al-Thaqāfa wal-Irshād al-Qawmī, al-Idāra l-ʿĀmma lil-Thaqāfa, n.d.), 279.

[10] On this basic agreement, M. Ibrahim argued that "The mutakallimūn in general agree that knowledge is divided into immediate and acquire knowledge. Immediate knowledge (*ʿilm darūrī*) is considered the foundation of the theological arguments. According to the Muʿtazilites, immediate knowledge is important in establishing the rational obligation. Every compos mentis person will reach a stage where he will obtain the maturity of the

were generally more emphatic than some of the prominent Muʿtazilī scholars in affirming that what the mind knows with certainty is in fact what is true. As we will see, there was an internal debate among Muʿtazilīs on whether knowledge should be conceived as an inner state of conviction. As it turns out, the Ashʿarī adamancy that knowledge is the recognition of a matter *for what it is* allowed them to place moral opinions outside of the domain of knowledge. Muʿtazilīs, by contrast, relied on apparent similarities in human cognition to argue for the universalizability of moral views. Perhaps more importantly, Muʿtazilīs and scholars of Muʿtazilī inclination viewed the emergence of knowledge as part of an exact, predictable and self-sustaining natural order.[11] For Muʿtazilīs, attaining knowledge was the result of reasoning, much like burning is the result of contact with fire. Ashʿarīs, by contrast, viewed the attainment of knowledge as an habitual occurrence. The relationship between knowledge and reasoning is nothing more than a contingent association, with no definitive causality. This allowed for occasional interruptions of those "habits," which consisted of "miracles." In that context, miracles were seen as events that introduced the very possibility of universalizable moral knowledge in a world where such knowledge was otherwise utterly unattainable.

These two different models of moral epistemology will be expounded in Sections 1.1 and 1.2. First, we will begin with the Muʿtazilī theories that stressed the universality of cognitive processes. Second, we will then follow with the Ashʿarī response that centers on the possibility of identity between knowledge and truth. Third, we will then conclude with a discussion of the possibility of incorporating Ashʿarī epistemological skepticism into contemporary discussions of divine command theory.

intellect (*kamāl al-ʿaql*). When a person completed his immediate knowledge, he is considered achieving the maturity of the intellect. Then this maturity of the intellect will become the foundation for rational obligation." Mohd Radhi Ibrahim, "Immediate Knowledge According to al-Qadi ʿAbd al-Jabbar,"*Arabic Sciences and Philosophy* 23 (1) (March 2013): 102.

[11] A good example of those scholars Muʿtazilī tendency is the prominent Imāmī scholar Abū l-Muẓaffar al-Ḥillī. Ḥillī placed the relevant views on the matter within three doctrines: the view that knowledge is associated with reasoning through mere habit (*ʿāda*), which he deemed weak, the view that it is generated by reasoning, which he advocates, and the view that it is entailed by reasoning without it being generated, which he considered close to the correct doctrine. The view that knowledge is generated by reasoning is based on the Muʿtazilī theory that actions are caused by individuals either directly, such as the will, or indirectly, in which case it is *generated* through an intermediary. Abū l-Muẓaffar al-Ḥillī, *Maʿārij al-fahm fī sharḥ al-naẓm*, ed. ʿAbd al-Ḥalīm al-Ḥillī (Qom: Dalīl-e Mā, 2006), 79–80.

1.1 THE MUʿTAZILĪ MODEL: KNOWLEDGE AS THE OUTCOME OF A UNIVERSAL CAUSAL PROCESS

At a very general level, we can say that Basran Muʿtazilīs from the fifth century AH/eleventh century CE tended to view the acquisition of knowledge as a causal outcome of observation and reasoning. They emphasized the inner aspects of the state of knowing, as opposed to the possible identity between the mental state and the objective world. The distinction between necessary and acquired knowledge was widely accepted by scholars from various theological and jurisprudential schools. This large distinction aside, Muʿtazilī scholars and their Ashʿarī counterparts differed in their understanding of two fundamental matters: (1) how the processes through which knowledge was obtained were related to one's state of mind and (2) how that state of mind related to the truth of the object of knowledge, or the thing-in-itself. In this section, we will attempt to achieve two tasks. First, we will show that the epistemology of ʿAbd al-Jabbār and some of his followers exhibits some distinctive features, such as the emphasis on the uniformity, inwardness, and causal predictability of the attainment of knowledge. Second, I will argue that, because of this internal and uniform conception of knowledge production, ʿAbd al-Jabbar and some of his followers were able to incorporate the formulation of normative judgments in such a view.

1.1.1 Muʿtazilī Epistemology: Uniformity, Inwardness, and Causality

An important model of Muʿtazilī epistemology can be found in the work of al-Qāḍī ʿAbd al-Jabbār.[12] One of the central elements of ʿAbd al-Jabbār's conception of knowledge was the lack of a firm identity between

[12] Abū al-Ḥasan ʿAbd al-Jabbār b. Aḥmad al-Hamadhānī al-Asadābādī, a prominent Muʿtazilī theologian who attained the top of the Muʿtazilī school in his lifetime. In law, he was a follower of the Shāfiʿī school. He lived in Baghdad, until called to Rayy, in 367 AH / 978 CE, by Ṣāḥib b. ʿAbbād, who reportedly described him as "the most knowledgeable person on Earth." He was subsequently appointed chief *qāḍī* of the province; hence he is usually referred to in later Muʿtazilī literature as "the judge of all judges" (*Qāḍī l-quḍāh*). He served as a judge in Rayy, Qazwīn, Abhūznajān, Suravarad, Qum, Danbawand, among other places. He died in Rayy in 415 AH/1024 CE. Tāj al-Dīn al-Subkī, *Ṭabaqāt al-Shāfiʿiyya l-kubrā*, ed. Maḥmūd Muḥammad al-Tanahī and ʿAbd al-Fattāḥ Muḥammad al-Ḥulw (Cairo: Dār Iḥyāʾ al-Kutub al-ʿArabiyya, 1918), 97–8. ʿAbd Allāh b. Aḥmad Kaʿbī et al., *Faḍl al-iʿtizāl wa-ṭabaqāt al-Muʿtazila* (Tunis: al-Dār al-Tunisiyya li l-Nashr, 1974), 121–6.

knowledge as a state of mind and the object of knowledge as a thing-in-itself. For ʿAbd al-Jabbār, knowledge consisted of an inner sensation of certainty and tranquility of the soul (*sukūn al-nafs*). This sensation is *caused* by sense perception, reasoning, or reliance on authority.[13] ʿAbd al-Jabbār's epistemology rested on two main premises: First, knowledge is primarily a feeling of certainty that occurs within the knower's soul, which assumes no definite connection with an objective reality; second, this feeling is the natural outcome of an epistemological process common to all rational beings. These two positions allowed ʿAbd al-Jabbār to adopt a conception of normativity in which revelation was marginal. Certainty can constitute the foundation of universalizable judgments, since it arises in the same manner in all humans of sound mind. Not only is this epistemological process intrinsically universalizable among all rational beings, it assumes no distinction between knowledge of facts and norms. In both cases, what matters is the attainment of a state of inner persuasion that one's convictions are in fact true. Presumably, if all rational beings followed this process, they would attain the same degree of conviction.

This internal and personal view of knowledge, along with many central elements of ʿAbd al-Jabbār's project, was partially altered by later Muʿtazilīs.[14] Such tension within Muʿtazilī thought can be seen in the work of Rukn al-Dīn al-Malāḥimī,[15] who reproduced and refined the conceptions of knowledge advanced by ʿAbd al-Jabbār and Baṣrī.[16]

[13] Aḥmad Mankadīm, *[Taʿlīq ʿalā] sharḥ al-uṣūl al-khamsa [li l-Qāḍī ʿAbd al-Jabbār]*, ed. ʿAbd al-Karīm ʿUthmān (Cairo: Maktabat Wahba, 1965), 48. Please note that the bracketed portion was incorrectly omitted from the printed title. *Sharḥ al-uṣūl al-khamsa* is the title of ʿAbd al-Jabbār's original book, whereas Mankadīm's work is a commentary on it. Nonetheless, throughout the book I will be referring to this publication using its printed (albeit incorrect) title to avoid confusion.

[14] The insistence of later Muʿtazilīs on the view that revelation-based and revelation-independent ethics fundamentally coincided was, as we shall see, possibly one of the main factors that led to the popularity of Ashʿarī thought.

[15] Rukn al-Dīn Maḥmūd b. Muḥammad al-Malāḥimī al-Khuwārazmī, *Kitāb al-muʿtamad fī usūl al-dīn*, eds. Martin McDermott and Wilferd Madelung (London: Al-Hoda, 1991), 17–18. For a further explanation of this concept, see Attar, *Islamic Ethics*, 76.

[16] Muḥammad b. ʿAlī al-Ṭayyib al-Baṣrī, a Muʿtazilī theologian and a student of ʿAbd al-Jabbār. He was a prolific writer who wrote predominantly in defense of Muʿtazilī doctrines against their detractors. He was also allegedly skilled in polemical debates. His book in jurisprudence *al-Muʿtamad fī uṣūl al-fiqh* was widely studied by his successors. He died in 436 AH/ 1044 CE, and was reportedly buried in Baghdad. Al-Mahdī Aḥmad b. Yaḥyā Ibn al-Murtaḍā, *Kitāb Ṭabaqāt al-Muʿtazila*, ed. Susanna Diwald-Wilzer (Beirut: in Kommission bei F. Steiner, 1961), 118–19. Shams al-Dīn al-Dhahabī, *Siyar aʿlām al-nubalāʾ*, ed. Ḥasan ʿAbd al-Mannān (Beirut: Dār al-Afkār al-Dawliyya, 2004) 3585;

Malāḥimī followed ʿAbd al-Jabbār in maintaining that the meaning of conviction itself is known directly to humans in an intuitive manner. In other words, we know when we know something. Any intelligent being can tell when they attain the state of tranquility that characterizes true knowledge. Other definitions of knowledge that Malāḥimī mentioned and rejected included "conceiving of a thing in a manner that is identical to it," and "the realization of a thing in a manner identical to it."[17] He found the first definition unacceptable because it applied to conviction based on pure authority, which does not qualify as knowledge at all. The second is inadequate because awareness is only applicable to knowledge through the senses, which is exceedingly limited in comparison to conviction. Those negative arguments highlight the main parameters of the concept of knowledge for Malāḥimī. We can see that, for him, knowledge had to be the outcome of an original intellectual process based on more than just authority, and can be achieved in many ways – including, but not limited to, empirical observation.

These general parameters align with ʿAbd al-Jabbār, with some modifications. Although Malāḥimī acknowledged the relative merit of defining knowledge as conviction, he eventually declared his preference for a conception of knowledge as "the representation of a matter (*ẓuhūr*) to a person in a manner that makes it impossible [for him] to think that anything else is possible."[18] This conception of knowledge upheld the most important elements in ʿAbd al-Jabbār's definition. It maintained the emphasis on the knower's state of mind and refrained from making claims pertaining to identity with objective reality. Malāḥimī's focus was on defining knowledge in a manner that focuses on certitude and eliminates probabilistic convictions. For that reason, he substituted the notion of inner confidence with the idea of implausibility of error.[19]

The theories of ʿAbd al-Jabbār and Malāḥimī emphasized that knowledge obtained by necessity (*iḍṭirār*) arises in the minds of all people in a uniform manner. This was key to establishing the epistemological groundwork for the view that revelation was effective, but not entirely required, for normative judgments. Necessary knowledge, for ʿAbd al-Jabbār, is that which "occurs to us but is not caused by us. We cannot eliminate [it] from the mind in any way."[20] For knowledge to be necessary, it has to fulfill two conditions: First, it must be inevitable, existing

Ismaʿīl b. ʿUmar Ibn Kathīr, *al-Bidāya wa l-nihāya fi l-tārīkh*, ed. Salah al-Khaymi, vol. 14, 2nd edn (Damascus: Dār Ibn Kathīr, 2010), 103.

[17] "*idrāk ul-shayʾi ʿalā mā huwa bihi*." Malāḥimī, *Muʿtamad*, 20. [18] Ibid., 21.

[19] Malāḥimī, *Muʿtamad*, 22. [20] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 48.

within the mind by its very nature; second, it must not be the result of deliberate efforts to think and examine evidence. This includes some forms of empirical knowledge.[21]

Concerning necessary knowledge,[22] Malāḥimī essentially reproduced ʿAbd al-Jabbār's definition,[23] unlike Baṣrī, who offered a slightly different definition.[24] Malāḥimī approved of the basic division of necessary and acquired knowledge, but added that the decisive factor separating them was whether a search for proofs (*istidlāl*) was necessary for the attainment of knowledge. This places knowledge through observation within the realm of necessity. He offered an argument in support of the certainty of knowledge obtained through the senses. We know that sensory perception produces necessary knowledge because "the conditions of rational beings do not differ in relation to matters they perceive."[25] More specifically, Malāḥimī alluded to the fact that intelligent people "avoid harm and seek benefit for themselves in the same manner without distinction."[26] It follows that they observe the same thing, hence the view that their senses are reliable. This is a remarkable argument in that it relies on an observation of the general moral behavior of "intelligent people" to reach a conclusion about the accuracy of sensory knowledge. Malāḥimī's suggestion that we behave in the same manner does not only mean that we perceive the same things, but also that we have the same understanding of what is good and evil.[27]

We can already see that, in Malāḥimī's thought, factual and normative reasoning were necessarily entwined. Because intelligent people respond to the same observations in the same manner, it must be concluded that sense perception is necessary and uniform. Discussions of inferential reasoning maintain the same themes of universality and natural causation. The first step, for ʿAbd al-Jabbār, was to distinguish proper *naẓar* (*naẓar bi l-qalb*, literally "looking with the heart") from certain homonymous concepts, such as seeing with the eyes. He then explained that *naẓar* in that sense included "thinking, searching, contemplating, deliberating, and seeing, among other similar matters."[28] Those various

[21] Ibid., 51.

[22] For more on necessary knowledge, see Binyamin Abrahamov, "Necessary Knowledge in Islamic Theology," *British Journal of Middle Eastern Studies*, 20(1) (1993): 20–32.

[23] Malāḥimī, *Muʿtamad*, 23.

[24] "It is a type of knowledge that renders the knower unable to eliminate it from the mind." Ibid., 24.

[25] Ibid., 31. [26] Ibid. [27] Ibid., 33.

[28] "*al-tafkīr wa l-baḥth wa l-taʾammul wa l-tadabbur wa l-ruʾya wa ghayrihā.*" Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 45.

components of reasoning can pertain to matters specific to this world, or to matters relating to the hereafter. The latter, in turn, can be divided into reasoning aimed at the clarification of ambiguous matters, or looking into proofs to attain new knowledge.[29] It is this last type of reasoning, namely "looking into proofs" with the purpose of attaining conclusions that relate, in some way, to the belief in the hereafter, that occupied ʿAbd al-Jabbār. We continue to see that ʿAbd al-Jabbār's epistemology was firmly rooted in a view of human nature as uniform and consistent.[30] He maintained that reasoning simply consisted of the "state in which one finds oneself to be thoughtful, and one finds oneself in such state [intuitively] and knows the difference between thinking and not thinking."[31] On this view, no systematic explanation is needed for what reasoning is, since any intelligent being knows a state of reflection when they experience it. Similarly, the state of knowing, as we have seen, is a belief through which the self comes to be content of the accuracy of its conviction. This inner satisfaction, ʿAbd al-Jabbār explained, varies according to the degree of certainty. The knowledge that another person is in the house, for example, may be obtained either through observation or on someone else's report. The knowledge obtained through observation, however, has a "quality" (*mayza*) of inner certainty on the part of the observer that is missing from that obtained by another person's report.[32]

ʿAbd al-Jabbār's epistemology, as we can see, relied on the uniformity of the operation of the human mind concerning the inner awareness of various epistemic states, and the specific processes through which knowledge is attained. Inferential reasoning, he argued, occurs through "thinking in one method in a continuous manner."[33] This way of defining inferential reasoning served to distinguish it from empirical knowledge, since the latter requires no continuous reasoning, but merely observation. The application

[29] "*al-naẓar fi l-adilla li-yutawaṣṣalu bihā ilā l-maʿrifa.*" Ibid., 45.

[30] Another definition can be found in Ḥillī's *Maʿārij al-fahm.* Reasoning, according to Ḥillī, is "the processing of mental elements [with the aim of] attaining new ones." The primary "mental elements" upon which *naẓar* acts are classified into two types. Singular elements include "genera, species and attributes" based on which one can know the defined matter. Composite elements include premises (*al-muqaddimāt*), be they certain (*ʿilmiyya*), probabilistic (*ẓanniyya*), dogmatic (*taqlīdiyya*) or false (*iʿtiqādiyya iʿtiqād al-juhhāl*). Primary elements of knowledge, therefore, consist of concepts that pertain to observed phenomena, as well as beliefs that pertain to any such phenomena or combinations thereof. Reasoning (*naẓar*), for Ḥillī, is a composite phenomenon, which, like any composite matter, consists of concrete or physical parts, and conceptual parts, which may consist of the overall form (*ṣūra*) of the whole. Ḥillī, *Maʿārij al-fahm*, 75–8.

[31] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 45. [32] Ibid., 46–7. [33] Ibid., 52.

of a particular method of reasoning consistently, according to ʿAbd al-Jabbār, is an effective cause of the emergence of knowledge. Both reasoning and knowledge, therefore, are products of the agent's actions, "since the producer of the cause is also the producer of the effect."[34] This conscious search for knowledge is contrasted with necessary knowledge, empirical knowledge, and knowledge obtained through reports.[35]

The predictability and universality of the process of formation of acquired knowledge was formulated in even more emphatic terms in the work of Malāḥimī in his treatment of some of Baṣrī's theories.[36] Malāḥimī insisted that a proper search for proofs leads to certain knowledge, and that a valid process of reasoning leads to knowledge that cannot be denied from the soul.[37] Malāḥimī's point is that absolute certainty is not restricted to knowledge obtained by necessity or intuition, but also includes knowledge obtained through a valid form of inference based on necessary premises. This is the case because both the necessarily known premises and the form of the inference are known with certainty.[38] The fact that acquired knowledge is not known by necessity means that, in certain cases, a process of inference may fail to lead to knowledge because of an error within the process itself. That, Malāḥimī insisted, does not contradict the fact that a valid form of reasoning should lead to certain knowledge.[39] Importantly, he maintained that all cases of inference that are based on necessary knowledge must lead to consistent solutions. No difference of opinion is justified unless there has been an inconsistency in the premises.[40] This systematic consistency was also found in Baṣrī's thought as related by Malāḥimī. Reasoning was defined by Baṣrī as "the examination of convictions or beliefs to attain a certain position (*tawaqquf*),[41] which forms [a new] conviction or belief."[42] This, Malāḥimī explained, is a meaning found intuitively in

[34] Ibid., 53.

[35] This distinction was reproduced by al-Bayḍāwi as a difference between intuitional and acquired knowledge. See ʿAbd Allāh b. ʿUmar al-Bayḍāwī, *Nature, Man and God in Medieval Islam: Abd Allah Baydawi's Text, Tawali Al-Anwar Min Matali Al-Anzar, along with Mahmud Isfahani's Commentary, Matali Al-Anzar, Sharh Tawali Al-Anwar*, ed. E. Calvelry and J. Pollock (Leiden: Brill, 2002), 28.

[36] Malāḥimī, *Muʿtamad*, 51. [37] Ibid., 52. [38] Ibid., 51–2. [39] Ibid., 53.

[40] Ibid.

[41] *Tawaqquf* and *tawqīf*, understood as suspension of judgment, will be addressed in detail in Chapter 5. In this context, *tawaqquf* is the exact opposite of reasoning, since the latter was defined as a motion of the soul. The cessation of this motion, therefore, indicates conviction, or the adoption of a given belief.

[42] Malāḥimī, *Muʿtamad*, 20.

the mind, and therefore is valid. If reasoning is based on a proof that is attached to something conclusive, it leads to knowledge, and if it is attached to something inconclusive it leads to probability. This view of systematic reasoning constitutes the basis for the linear conception of moral reasoning advanced by the Muʿtazilīs. In Malāḥimī's words, "if we ascertained that reasoning produces knowledge in certain cases, and then we found that some of those who perform inferences are mistaken, we would know that error is not due to the invalidity of the method itself, but to their own shortcomings."[43] This theory, in short, provides that all thinking people, when undertaking reasoning properly, should arrive at the same conclusions.[44]

1.1.2 Uniformity of Reasoning and the Attainment of Moral Judgments

We have so far seen that ʿAbd al-Jabbār and two of his successors advanced epistemological views that shared some basic features. Across various forms of acquisition of knowledge, those Muʿtazilī scholars saw epistemic processes as uniform internal operations. The predictable process of observation and reflection is the effective cause of the rise of knowledge. Individuals simply recognize knowledge when they have it; it is an intuitive and innate occurrence. This framework of knowledge production was key to the Muʿtazilī argument that both descriptive and normative judgments are attained in the same manner. From those basic epistemological views emerged a profound commitment to understanding moral values and judgments without revelation. The question that these epistemological positions helped address was whether, by following proper methods of reasoning, one can go from individual observations about the world to moral judgments about types of action. The real dispute, therefore, concerned whether there can be norms *without* revelation. Understood this way, the debate was not a mere opposition of reason against revelation, but a disagreement on the possibility of reaching categorical judgments based on individual (read: subjective) observation.

As we have seen, some prominent Muʿtazilīs, in spite of subtle variations in their thought, generally agreed that the acquisition of knowledge

[43] Ibid., 54.

[44] The disagreement between Ashʿarīs and Muʿtazilīs on whether or not reasoning causes knowledge was related in Muḥammad b. ʿAlī al-Tahānawī, *Kashshāf iṣṭilāḥāt al-funūn wa al-ʿulūm al-islāmiyya*, vol. 3 (Beirut: Dār Ṣādir, 1980), 1390.

consisted of a universal causal process. The assumption of universality of the process of acquisition of knowledge was at the foundation of a larger epistemological claim: Normative positions reached through a combination of human observation and reflection are to be expected from, and therefore applied to, all rational beings.[45] This general view of norm production is often confusingly termed "rationalist" by modern scholars of Islam.[46] Whereas some sense of "naturalism" is applicable to some of the later Muʿtazilī doctrines,[47] especially after ʿAbd al-Jabbār, "rationalism" is an entirely unhelpful way of characterizing their epistemological views. To my knowledge, no Muʿtazilī scholar has argued that the structure of the human faculty of reason should be viewed as the *source* of moral judgments, which would be one sense of rationalism. All of them, however, have maintained that human minds could, by processing data obtained through observation, *including, but not limited to, revelation*, make categorical pronouncements. Reason, in that model, does not *produce* normative positions, but attains them by processing information obtained through the external world. This can be considered a form of "naturalism" if the information in question consisted of intrinsic properties of actions, which was true in many cases. The main meaningful difference between Muʿtazilīs and their rivals had to do with whether or not revelation was necessary, or only effective, in the process of formulation of categorical judgments. Ashʿarīs, as we will see, held that revelation must be involved in some manner in that process, whereas the Muʿtazilīs did not. This difference says nothing about the importance of the faculty of reason in the process of norm production (i.e., about whether or not those scholars were "rationalists").

The primary Muʿtazilī approach to moral epistemology was to hold that acquiring evaluative forms of knowledge proceeded in largely the same manner as any other type. This position was made possible by the uniform and expansive conception of knowledge production as explained in Section 1.1.1. Normative judgments followed from assessments of actions, which in turn followed from observations, in the same way knowledge of facts followed from observation and reasoning that led to "tranquility within the soul." These two links exposed their normative

[45] The necessity and universality of moral judgments made by intelligent agents was addressed in Attar, *Islamic Ethics*, 70–1.

[46] For example, George Hourani, *Islamic Rationalism: The Ethics of ʿAbd Al-Jabbār*, (Oxford: Clarendon Press, 1971).

[47] As explained in Emon, *Islamic Natural Law Theories*, 2010.

theories to criticism, which led to some transformations in the thought of ʿAbd al-Jabbār's successors and constituted the foundation of the Ashʿarī argument for the necessity of revelation.

ʿAbd al-Jabbār posited that it was possible to move from a certain set of observations to make normative conclusions that follow from them by necessity. He placed emphasis on the fact that conclusions follow intuitively from certain types of observation. This model raised objections based on inevitable moral disagreements concerning categories of action, an objection that Malāḥimī tried to obviate by separating theoretical assessment from practical responsibility, as we will see later in this section. One place where ʿAbd al-Jabbār's moral epistemology is articulated with particular clarity is in the discussion of the goodness (and, therefore, compulsoriness) of knowing God. For example, he explained that,

> Knowledge of God most high is among the strict obligations (*al-wājibāt al-muḍayyaqa*) that cannot be avoided (*lā yusaʿ al-ikhlāli bihā*) or replaced, because neglecting them is deemed evil, and it has been established by mere reason that it is obligatory to avoid what is evil (*wa qad taqarrara fī l-ʿaqli wuqūʿ al-taḥarruz min al-qabīḥ*). If avoiding evil is impossible without knowledge, then this knowledge becomes obligatory.[48]

What is noteworthy in this quote is that ʿAbd al-Jabbār appeared to maintain that all primary and secondary obligations stem from a general primordial obligation to avoid what is evil.[49] The awareness of the moral value "evil" engenders, by necessity, an awareness of a particular obligation. What we learn from this proposition is that values are translated into norms. This does not, however, tell us how values come to be known in the first place. ʿAbd al-Jabbār's argument that "it has been established rationally that all evil must be avoided"[50] does not help explain how normativity is introduced into our reasoning, since this claim takes as a starting point a normative premise in the notion of "evil." What this argument requires, therefore, is an explanation of how the knowledge that a matter is intrinsically evil is attained. An attempt to provide an

[48] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 43.

[49] "Secondary" here refers to the idea that some actions are deemed obligatory because they are necessary for the performance of other obligations, such as the necessity of performing ablution before prayer. This source of compulsoriness is common in works of law and legal theory and was largely uncontroversial.

[50] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 43.

explanation was made by ʿAbd al-Jabbār in the sixth volume of *al-Mughnī*, in which he argued that,

> Actions are of two kinds. Some have no attribute in addition to their existence. Those are not good or evil according to our doctrine, such as actions of the sleepy or the forgetful. Others have an additional attribute. Such action is either good or evil, since *we can know from its attribute* that it either *renders blame appropriate*, which makes it evil, or does not, which makes it good.[51]

This approach to the knowledge of values is based on the assumption that knowledge of the propriety of praise and blame follows directly from our knowledge of the attribute of the action. From this knowledge, one can attain all categories of valuation in *sharīʿa*.[52] If one knows that an action is deserving of praise but its omission is not deserving of blame, it becomes recommended. If we know that its omission is deserving of blame it becomes obligatory. If an omission is praiseworthy but commission not blameworthy, the action is reprehensible (*makrūh*), and if commission is blameworthy it is forbidden.[53]

The generality and predictability of the forms of norm-inducing reflections is in line with ʿAbd al-Jabbār's general epistemology. It still remains to be explained how the attribute of an action can indicate its value and normative status. We can begin to understand this matter through the specific example of the obligation to know God, which ʿAbd al-Jabbār described as "the first obligation." ʿAbd al-Jabbār's argument that the knowledge of God is obligatory points to his adoption of a theory in which any action that involves the infliction of harm (*ḍarar*) is evil,[54] and

[51] ʿAbd al-Jabbār al-Asadābādī, *Al-Mughnī fī abwāb al-tawḥīd wa l-ʿadl*, vol. 6 (Cairo: Wazārat al-Thaqāfa wa l-irshād al-Qawmī, al-Idāra al-ʿĀmmah li l-Thaqāfa, n.d.), 7. Emphasis added. It is possible to object to this definition for its circularity, since "blameworthiness" is a value judgment that is equivalent to being evil, and therefore saying that the evil character of an action follows form its blameworthiness is not informative. In fact, blameworthiness itself is often claimed to follow from evil, not the opposite: "blameworthiness (*dhamm*) is the opposite of praiseworthiness (*madḥ*), and it is any saying, action, silence or omission that indicates clearly the evil nature of a person." Muḥammad b. ʿAlī al-Tahānawī, *Kashshāf*, 2:515.

[52] An account of the relation of ʿAbd al-Jabbār's view of moral values to *sharʿī* categories can be found in Attar, *Islamic Ethics*, 100–1.

[53] ʿAbd al-Jabbār, *Mughnī*, 6:7–8.

[54] The difficulty of establishing harm (*ḍarar*) as a primary unanalyzable moral concept also lies in the fact that it is intrinsically evaluative, as can be clearly seen from its etymology. *Ḍarar*, according to Ibn Manẓūr, is "the opposite of benefit (*manfaʿa*)," which contains "any kind of misfortune (*sūʾ ḥāl*), poverty (*faqr*) or bodily discomfort (*shidda fī badan*)." As can be seen from this formulation, *ḍarar* presupposes a negative value and cannot be isolated into some clear descriptive phenomenon. Ibn Manẓūr, *Lisān al-ʿArab*, 2572–3.

any action that allows the avoidance of harm is good. He held that "the proof that knowledge of God is obligatory is that it amounts to providence (*luṭf*) in the performance of duties and avoidance of evils. Whatever constitutes *luṭf* is obligatory because it is akin to avoidance of self-harm."[55] In the case of knowledge of God, the benefit arises from the fact that this knowledge represents an *additional* incentive to act morally: "if a person knew that there is a Creator who created him and who rewards obedience and punishes sins, he would be more likely to perform duties and avoid evils."[56] Obligation follows directly from the identification of this advantage.

From this outline, we can begin to see the main elements of ʿAbd al-Jabbār's moral epistemology. The specific attributes on which ʿAbd al-Jabbār based the knowledge of normative judgments are benefit and harm, which are known from the property of the action. The moral agent, upon observing a type of action and knowing its relative benefits and harms, can make a judgment on its status. This process was described in the following terms:

> We know by necessity (*qad ʿulima bi-iḍṭirār*) that lying that neither causes benefit (*lā nafʿa fīhi*), nor averts a greater harm, (*wa lā dafʿa ḍararin aʿẓama minhu*), and any harmful act that leads to no benefit nor averts a greater harm, . . . whenever it is performed by a capable person, renders this person deserving of blame, unless something prevents this judgment (*idhā lam yamnaʿa minhu māniʿ*).[57]

ʿAbd al-Jabbār's process of construction of moral knowledge can be outlined as follows: (1) an action is observed (2) its relative benefits and harms are assessed (3) the person's moral agency is inspected and (4) a moral judgment is made. This outline of ʿAbd al-Jabbār's system leaves a number of questions unanswered, which is precisely the gap that was used by the Ashʿarīs to construct their skeptical view of moral epistemology. What constitutes benefit and harm? Is there an objective and universal manner of assessing benefit and harm? What happens in case of conflict? Is this a process that is expected to be followed by every rational being? If so, does that mean that ʿAbd a-Jabbār viewed moral values as "real" ontological attributes that attach to actions, or prescriptions made by individuals?

The main principle that seemed to guide his thought in attempting to deal with these issues is the uniformity of the human intellect. While we

[55] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 64.
[56] "*li ʾannahu jāri majra dafʿ il-ḍarari ʿan il-nafs.*" Ibid.
[57] ʿAbd al-Jabbār, *Mughnī*, 6:18.

cannot know, and should not attempt to know, what *real* values are, we can all expect to make the same judgments if we reflected about them properly. In the same vein, he argued that, "it is a sign of sanity to know that injustice is something that entails blame. No rational people disagree on that, in the same way that they do not disagree on empirical knowledge."[58] What remains most ambiguous in ʿAbd al-Jabbār's thought is precisely what constitutes "benefit" and "harm." These concepts are laden with normative value and characterizing a given act as beneficial or harmful would need to be justified in each case.

An attempt to address some of those questions can be found in the work of Malāḥimī.[59] Concerning the good and evil nature of actions, Malāḥimī argued that individuals of sound mind could immediately know a particular property, namely "being deserving of blame."[60] Similarly, one knows by way of general, irrefutable knowledge that some actions entail no praise or blame, such as eating food that neither benefits nor harms anyone. Malāḥimī, following ʿAbd al-Jabbār's model, maintained that a sound mind could immediately categorize actions based on whether or not they resulted in benefit or harm. From this distinction, some actions would be deserving of praise, some deserving of blame, and others deserving of neither. Moral evaluation of actions immediately follows from those categorizations without the need for further investigation.

Malāḥimī's observation that some actions are evil but do not entail blame reflects a distinction between moral value and responsibility that adds a degree of subtlety to his analysis. This move was designed in part to address a challenge from moral disagreement. Even though one can agree on the analytical statement "lying (as a concept) is evil," this does not help with the diversity of actions and their assessments that we observe in practice. It would appear that, for Malāḥimī, value is a basic and unanalyzable property that is immediately known to the mind. Responsibility, on the other hand, depends on whether or not a person is qualified to participate in the normative system. Unlike ʿAbd al-Jabbār, there seems to be a slight asymmetry between praise and blame on the one hand, and good and evil on the other hand. Good and evil are general properties or "states" that may or may not entail praise or blame. For example, "goodness is what does not entail blame *in any way whatsoever*

[58] Ibid.

[59] For an overview of a number of definitions found in extant theological works from that era, see Ibrahim, "Immediate Knowledge," 104–5.

[60] Malāḥimī, *Muʿtamad*, 831.

as opposed to evil actions, [which may include] actions of children or animals that constitute injustice, which are considered evil in our school but *do not entail blame.*"[61] In all cases, Malāḥimī appeared to assume that normative observations in both forms are immediately available to the human mind in an obvious way that requires no explanation.[62]

In his description of what is obligatory, we can see that Malāḥimī attempted to avoid some of the objections stemming from the impossibility of universalizing value judgments. Malāḥimī's strategy was to indicate that compulsoriness is only a *prima facie* judgment about actions, which can be defeated in many circumstances. Obligation, in Malāḥimī's view, can be undermined by the lack of knowledge or intention. Thus, he defined it as "that the omission of which leads to the *possibility* of blame."[63] As in ʿAbd al-Jabbār, he posited goodness as an intuitively known property: "these and similar actions are deemed evil by all people of sound mind, but they may differ with regards to the manner in which they are evil, and anyone who denies knowing this [evil character] is denying something that he necessarily knows is true."[64] This problem, which was present in ʿAbd al-Jabbār's theory, led Malāḥimī to attempt to justify the universality of judgments by distinguishing between theoretical values and judgments made in individual cases.

Malāḥimī's treatment of the concept of evil also distinguished between the moral evaluation of action in itself and action arising from a given situation. For Malāḥimī, evil is an action "that cannot be committed by a person who knows its nature and is capable of refraining from it."[65] Since a person may commit an evil act and at the same time be deserving of praise in a manner that renders blame unjustified, however, the occurrence of an action that is evil does not immediately lead to blame. Even in that case, the action can be seen as evil in itself independently of the justifiability of blame. The evil nature of certain actions is known by necessity with no need for justification.[66] Actions that are evil by necessity

[61] Ibid., 832.

[62] On whether this type of knowledge is best designated as "necessary" or "immediate," see Hourani, *Islamic Rationalism*, 20.

[63] Malāḥimī, *Muʿtamad*, 836. [64] Ibid., 841. [65] Ibid., 840.

[66] Incidentally, Malāḥimī distinguished between the necessary knowledge of evil actions and the *disinclination* that a person feels with regards to certain matters. Malāḥimī was not advocating a theory of moral intuition, but was advancing the view that actions have moral properties that are knowable to all people of sound mind. Thus, he maintained: "finding a certain sight ugly (*istiqbāḥ al-ṣuwar*) does not mean the same thing as finding certain acts evil (*istiqbāḥ al-afʿāl*). The former means that the self is repulsed by some images and thus become harmed by it, whereas finding an action evil is different. This

are those that do not lead to avoidance of harm nor pertain to the performance of obligation or achievement of any purpose, including actions that are absurd (*ʿabath*).[67] Thus, to justify the universalizability of moral judgments, Malāḥimī distinguished between the theoretical evaluation of a category of actions, and the evaluation of a particular instance. The difference, he said, is that,

> Knowledge that an act is evil when committed by a specific person is knowledge of a specific evil. This knowledge does not arise by necessity unless we attribute the action to the agent with certainty. This is not what we are concerned with, but rather we are talking about the abstract knowledge of the evil nature of injustice (*al-ʿilm al-mujmal bi-qubḥ al-ẓulm*), and this knowledge arises even if no injustice was committed in the first place.[68]

This response still sets up the theory for two objections: First, it is not clear that this theoretical knowledge could in fact yield results at a practical level; second, it would appear to be nothing more than a tautology, in that he maintains that we can know that actions of evil nature are evil. The Ashʿarīs leveled some of those objections against Muʿtazilī ethics, as we will discuss in Section 1.2.

1.2 THE ASHʿARĪ RESPONSE: KNOWLEDGE AS CONTINGENT ACQUISITION OF FACTUAL TRUTH

In Section 1.1, we saw how some prominent Muʿtazilīs formed the theory that values and norms were accessible independently of revelation. This theory was grounded in an epistemology that trusted the inner consistency of human mental operations. We react to the world internally, and we know our judgments are valid if they lead to tranquility of the soul. This applies to both descriptive and evaluative judgments. In this section, we will see that the Ashʿarī adamancy that no proper evaluation is possible without revelation, a position often attributed to traditionalism or textualism, emerged from an epistemological critique of the Muʿtazilī theories described in Section 1.1. This disagreement, which on the surface may appear polemical, was in fact embedded in an elaborate philosophical debate.

difference is clear in the fact that people of sound mind do not agree on the ugliness of certain sights . . . but do not disagree on finding actions evil even when their souls do not find them repulsive, for people of sound mind can find evil actions attractive, because souls are inclined to commit the evil. It follows that they find them evil *with their minds* [as opposed to their intuitions]." Ibid.

[67] Ibid., 841. [68] Ibid., 834.

1.2.1 Outline of Ashʿarī Epistemology: Knowledge as Habitual Process

Generally, classical Ashʿarī scholars viewed knowledge as a specific representation of truth that emerges from a habitually shared human experience and a set of rational structures. Inasmuch as it involved a connection between the human intellect and the objective world, knowledge obtained through observation and reasoning was strictly limited to those experiences we know with certainty are shared by all of us. Primarily, those consist of empirical observations and formal reasoning. None of those experiences can be shown without any doubt to include knowledge of normative or evaluative nature. As we will see, Ashʿarīs excluded conclusions of evaluative nature from the realm of what can be acquired through shared human faculties.[69] The higher threshold of truth advanced by Ashʿarīs was at the foundation of their elimination of normative judgments from the realm of reasoning based on observation. One acquires knowledge by following the proper mental process that habitually leads to a state of mind indicative of objective reality. Tranquility of the soul is not sufficient to produce an assumption of validity.

The most prominent epistemological accounts from the fifth century AH/eleventh century CE show that many Ashʿarīs were unwavering believers in the need for identity between knowledge and the objective world. They argued that sources of knowledge, such as perception or reasoning, did not cause knowledge, but were only habitually associated with it. This occasionalist understanding of the acquisition of knowledge is what prevented the major Ashʿarī figures prior to al-Ghazālī from embracing the Avicennian idea that certain forms of knowledge followed from human natural predisposition.[70] Imām al-Ḥaramayn al-Juwaynī, for example, advanced the view that knowledge relates to things-in-themselves, and that it can be attained through perception or reasoning. Human reasoning is defined by the fact that it has a certain teleology: it is "a process designed to attain probabilistic or certain knowledge."[71] The important factor to note about reasoning is that it is not a purely

[69] The assumption of a correspondence between the knower's state of mind and the objective world seems to have continued in later Ashʿārī works. See, for example, see al-Bayḍāwi's claim that knowledge links the percipient to the perceived object in al-Bayḍāwi, *Nature, Man and God in Medieval Islam*, 30.

[70] Griffel, "Al-Ghazālī's Use of 'Original Human Disposition' (Fiṭra)."

[71] "*yaṭlubu bihi man qāma bihi ʿilman aw ghalabata ẓann*" Imām al-Ḥaramayn Abū l-Maʿālī al-Juwaynī, *Kitāb al-irshād ilā qawāṭiʿ al-adilla fi uṣūl al-iʿtiqād*, ed. Muḥammad Yūsuf Mūsā and ʿAlī ʿAbd al-Ḥamīd (Cairo: Maktabat al-Khānjī), 1950, 3.

internal process that ultimately leads to stability within the soul; it is, rather, a mental operation determined primarily by the intention to attain some form of representation of reality. The external world that constitutes the object of human knowledge comprises the entirety of data obtained through sense perception and the various forms of reasoning.[72] One can either immediately perceive the truth of those "knowables" through direct perception, or aim to attain this truth by systematic reasoning based on established premises.

Another prominent Ashʿarī, Abū Bakr al-Bāqillānī,[73] defined knowledge as "the recognition of the object of knowledge for what it [truly] is (*maʿrifat ul-maʿlūm ʿalā mā huwa bihi*)."[74] The "knowable" (*maʿlūm*), Bāqillānī explained, is not necessarily a "thing" (*shayʾ*) but can also be something that does not exist (*al-maʿdūmāt*). God and humans share knowledge in that sense, with the crucial difference that God's knowledge is eternal, whereas human knowledge is temporal.[75] Bāqillānī adopted the standard distinction between necessary knowledge and knowledge obtained through reasoning and proof searching.[76] In all cases, the knower is someone who "recognizes a matter for what it is."[77] Bāqillānī's account of the definition of knowledge highlights the possibilities that Ashʿarīs attributed to the human mind in the realm of acquiring nonevaluative truths. Our minds can grasp the truths of everything and nothing, if the proper process of acquisition of knowledge presents itself. This process was understood in a purely nondeterministic manner, which helped keep nondescriptive forms of knowledge outside of the realm of matters habitually knowable to us.

The Ashʿarī treatment of necessary knowledge was distinguished by the position that knowledge was *associated with* those processes rather than *produced by* them. Necessary knowledge, Bāqillānī maintained, is a

[72] Ibid.

[73] Al-Qāḍī Abū Bakr Muḥammad b. ʿAlī al-Ṭayyib b. Muḥammad al-Bāqillānī, originally from Baṣra, lived in Baghdad. Bāqillānī was a major theologian who belonged to the Ashʿarī school. He was also a distinguished jurist who held a prominent *ḥalaqa* in al-Manṣūr mosque in Baghdad. He was a prolific writer, and allegedly attained the leadership of the Mālikī school in Baghdad. He was also known for superior polemical skills. Bāqillānī died in 403 AH/1013 CE. Muḥammad b. Muḥammad Makhlūf, *Shajarat al-nūr al-zakiyya fi ṭabaqāt al-Mālikiyya* (Cairo: Al-Maṭbaʿa al-Salafiyya, 1930), 92–3; Ibrahīm b. ʿAlī ibn Farḥūn, *al-Dībāj al-mudhahhab fi maʿrifat aʿyān ʿulamāʾ al-madhhab*, vol. 2 (Cairo: Dār al-Turāth li l-Ṭabʿ wa l-Nashr, 1975), 228–9.

[74] Muḥammad b. al-Ṭayyib al-Bāqillānī, *Kitāb al-tamhīd*, ed. Richard Joseph McCarthy (Beirut: Al-Maktaba al-Sharqiyya, 1957), 6.

[75] Ibid., 7. [76] Ibid. [77] Ibid.

type of knowledge that is "associated with the soul in a manner that precludes the possibility of evasion or denial."[78] In a sense, this is a type of knowledge that is inevitable, since the agent has no choice but to have it. The other type of knowledge is one that occurs in association with reflection on the matter at hand. This differs from the first kind in that it "only occurs after reflection and contemplation."[79] It is referred to as reflection-dependent knowledge. This knowledge is nonetheless built upon necessary and sensory knowledge. Thus, one can only reflect upon matters that already exist within the self to arrive at acquired knowledge.[80]

Necessary knowledge is attained either through the senses, or through an awareness of internal matters. Knowledge obtained through the senses, Bāqillānī argued, is necessary inasmuch as it resides in the self in a manner that precludes any form of doubt. As a matter of habitual occurrence, each sense is assigned to the acquisition of a specific category of knowledge. For example, colors and shapes are known visually, sounds are known audibly, and so on.[81] The reference to ongoing habits is a manifestation of the Ashʿarī belief that what appears as a universal law is in fact nothing other than the habit of God, which may be interrupted at any moment at God's will. The other type of necessary knowledge is what is acquired primarily, without being obtained through the senses. This includes knowledge of one's own existence, inner feelings and pains, and logical necessities such as the impossibility that things could be adjacent and apart at the same time.[82] The same category includes knowledge reported through an overwhelming number of people, such as knowing that China exists and that the prophets were present, as well as knowledge of past empires and kingdoms.[83]

Importantly, Bāqillānī separated the knowledge obtained through an awareness of overwhelming reports from knowledge obtained through the senses and inner realizations. The former, he argued, are matters of

[78] "*yalzamu nafsi l-makhlūqi luzūman lā yumkinuhu maʿhu l-khurūja ʿanhu walā l-infikāku minhu*" For more on al-Bāqillānī's definition of necessary knowledge, see Kambiz GhaneaBassiri, "The Epistemological Foundation of Conceptions of Justice in Classical *Kalām*: A Study of ʿAbd Al-Jabbār's *Al-Mughnī* and Ibn Al-Bāqillānī's *Al-Tamhīd*," *Journal of Islamic Studies* 19(1) (2008): 71–96.

[79] al-Bāqillānī, *Tamhīd*, 8–9. [80] Ibid., 9–10. [81] al-Bāqillānī, *Tamhīd*, 9.

[82] Ibid., 10. *Ibtidāʾ* stems from the same root as *badaʾa*, to begin, which means a first or primary matter. In epistemology, it denotes knowledge that is acquired by the mind independently of any prior thoughts, or things that we can know independently of prejudgment (*al-khālī ʿan al-ḥukm*). See Tahānawī, *Kashshāf*, 3:109.

[83] al-Bāqillānī, *Tamhīd*, 10.

pure awareness, in the sense that they depend on the agent's comprehension of certain occurrences, rather than matters that arise within the soul through sensation. This is a crucial distinction because Bāqillānī placed knowledge created by God within the soul during times in which He *interrupts His habits* (i.e., revealed knowledge) in this category of awareness. This interruption constitutes the miracle, which is nothing other than a breach of habit.[84]

Inferential reasoning, Bāqillānī argued, has too many forms to be included in an exhaustive list. There are cases in which the mind necessarily knows the invalidity of one of two options, which leads to the inference that the other one is correct, or that all but one among many possibilities are invalid, which makes the remaining one valid by necessity, and so on.[85] Another example of inferential reasoning consists of relying on our knowledge of causality to deduce the existence of the cause whenever we see the effect. For example, when we know that a matter is corporeal (*jism*) we can deduce that it is composed of parts. Another type of inference, Bāqillānī explained, pertains to miracles. A miracle, he argued, is proof that the one who possesses it is truthful (*ṣādiq*). A miracle is a divine interruption of habitual natural processes, which is aimed at achieving a particular purpose, such as the confirmation of the veracity of a prophet. All of the reports that are provided by the Prophet, therefore, are truthful. Inference can be based on proofs communicated through the Prophet, such as the Quran, the Sunna, consensus of the community, and inferences based on previously established judgments (*qiyās*). All those revelation-based inferences are "capable of indicating the validity of judgments in the same manner as purely rational proofs, even if they are *derivative* of rational inferences."[86] Proofs are given the same definition by Bāqillānī, and Juwaynī. They are signs that allow the attainment of knowledge through reflection and contemplation.

This overview of the epistemological frameworks of some major eleventh-century scholars reveals to us some important matters. First, as we saw, treatises that we may describe as "theological" tend to begin with an epistemological discussion. This is not a mere reflection of a disciplinary commitment, but also a manifestation of a belief that understanding the world depends on a clear understanding of the operation of the human mind. Neglecting the study of the epistemological theories underlying systems of theological ethics leads not only to gaps in our

[84] "*khurūju l-umūri ʿalā mā hiya ʿalayhi fī l-ʿāda*" Ibid., 11. [85] Ibid.
[86] al-Bāqillānī, *Tamhīd*, 13. Emphasis added.

knowledge, but to outright misconceptions. One of the few points on which scholars of various schools appear to agree is the fact that all areas of inquiry are concerned with *knowable objects*, which contain all existents and nonexistents. This means that epistemology preceded ontology, theology, and ethics. Second, in the larger scheme of things, differences on the particular methods in which knowledge is obtained were quite subtle. Whereas the basic division between immediate and acquired knowledge was broadly accepted, significant differences pertained to the *causality* between those methods and the attainment of knowledge on the one hand, and to the relation of knowledge to the objective world on the other hand. It is within the rift, created by these two areas of disagreement, that the debate on the possibility of normative knowledge should be understood. This fundamental disagreement on a seemingly technical point of epistemology was at the heart of a larger debate on the role of Revelation in the formation of judgments. We now turn to the discussion of how the Ashʿarī critique of Muʿtazilī epistemology paved the way for their Revelation-centric views.

1.2.2 The Limits of Human Cognition and the Necessity of Revelation

We saw in Section 1.1 that the Muʿtazilīs believed that the uniform operation of the human mind could lead to universalizable normative outcomes. This was based on a belief in an indivisible goodness attached to certain actions. This attribute can be known either intuitively or through systematic reasoning. The immediate objection that can be raised against this view pertains to the difficulty of holding a universal judgment in relation to types of action across time and in all circumstances. This difficulty is evident in the fact that Muʿtazilī scholars offered little guidance as to what, from their perspective, would qualify as "benefit" and "harm," which are the most basic moral elements upon which their moral epistemology was constructed.

In this section, I will discuss the Ashʿarī critique of this Muʿtazilī view of normative reasoning. The purpose of this discussion is to show that the Ashʿarī insistence on the place of revelation in moral reasoning did not stem merely from a dogmatic attachment to the revealed text, but was anchored in a profoundly skeptical epistemological outlook.

This epistemological skepticism was not necessarily directed at the Muʿtazilīs as such, but was generally presented as the first premise upon

which Ashʿarīs justified the role they attributed to divine speech. For instance, Bāqillānī's objection to the view that knowledge of categorical norms can be obtained by mere reasoning arose in the context of his response to a claim allegedly made by "the Brahmans" (*al-barāhima*):[87]

> [The Brahmans] attempted to prove that it is not possible for there to be prophets due to the lack of need (*ghinā*) for them. God has created minds in a perfect manner and allowed them to recognize what He has created good or evil, and has made minds capable of knowing what is best for people and where their benefits rest, and knowing how to avoid injustice and to know all that needs to be known. It is not possible for prophets to introduce anything that has not been known with the mind alone. This proves that they are superfluous and that people do not need them.[88]

In an attempt to respond to the claim that obligations can be known immediately through observation and reflection, Bāqillānī referred to the Muʿtazilī argument that it is possible to know intuitively that we must think about the presence of God when we feel fear, or that we must thank the benefactor.[89] Bāqillānī's response was a plain reference to the lack of agreement on matters of normative judgment. He argued that,

> If this were known by necessity, it would have been common knowledge among all discerning people … We know that this is not the case [since we deny it ourselves]. Moreover, plenty of predestinarians and some schools of thought deny the goodness of inferential reasoning altogether … Therefore, we hold that knowing that it is obligatory is not necessary.[90]

Concerning the argument that one knows by necessity that it is obligatory to thank the benefactor, Bāqillānī responded in a similar manner: "how can we distinguish between you and those who argue that we know the invalidity of this claim by necessity?" Bāqillānī broke down the claim that normative values are known immediately to the human mind into two possibilities. On the one hand, one knows by necessity that a harm done *to them* is evil and that a benefit obtained *by them* is good, a matter that clearly is agent-specific and non-universalizable. On the other hand, this immediate knowledge of values can be a reference to "the inclination of the character to commit pleasurable actions, and the disinclination from painful actions."[91] This, Bāqillānī observed, is a matter known through the senses, but is not sufficient for the establishment of norms. Muʿtazilīs, we may recall, did not adopt the natural inclination toward pleasures as a basis for obligation. Rather, they maintained that observation and

[87] Ibid., 121. [88] Ibid. [89] Ibid., 121–2. [90] Ibid., 121. [91] Ibid., 122.

reasoning alone can discern the good and evil properties of actions, a matter that Bāqillānī countered mainly by observing the lack of consensus on any of the main normative questions.

Bāqillānī further entertained the claim that many people know the good and evil character of certain actions without knowing of revelation at all, which proves that revelation is not necessary for the knowledge of norms. Here, he invoked the difference between his definition of knowledge as recognition of a matter *for what it is* and ʿAbd al-Jabbār's definition of knowledge as conviction. The fact that someone is convinced that, for instance, lying is categorically bad does not mean that they *know* that it is, if they did not reach this knowledge either by necessity or reasoning.[92] On that view, maintaining that one believes that a given action is good or bad is a mere description of an inner state that has no bearing on the action's actual moral value.

As we can see in the previous argument, differences in the understanding of what constitutes knowledge were decisive in shaping scholars' views on how revelation contributes to the knowledge of norms. Because the Ashʿarī robust epistemology left no room for subjectivity, moral disagreement was a clear indication that individual normative opinions did not constitute knowledge at all. Rather, the denial of the natural ability of human minds to attain universalizable moral judgments rested in part on a view of moral opinions as necessarily socially constructed.[93]

Bāqillānī's response to the Muʿtazilī argument that the universal goodness of truthfulness is an indication of people's ability to reason – and is illustrated by the fact that, in some instances, people revert to truthfulness even though they could have obtained what they desire by lying – was to insist that this opinion was hypothetical:

> How would you deny that, if someone has a particular purpose and does not believe that truthfulness is better than lying, nor lives among people who see that lying is shameful, nor that truthfulness is praiseworthy or glorified, … he would have the choice to attain his purpose either through truthfulness or through lies?[94]

[92] "*al-muʿtaqidu li l-shayʾi ʿalā mā huwa bihi min ghayri jihati l-iḍṭirāri wa l-istidlāl ghayra ʿālimin bihi*" Ibid., 123.

[93] Interestingly, the view that individual normative opinions tend to follow from some form of social or cultural conditioning seems to align with the moral epistemological theories advanced by Avicenna, and embraced by Ghazālī. See Griffel, "Al-Ghazālī's Use of 'Original Human Disposition' (Fiṭra)."

[94] al-Bāqillānī, *Tamhīd*, 125.

Bāqillānī's point is that, for an obligation to exist, something more than an individual opinion on the value of action must be present. In that hypothetical situation, obligations can be socially constructed as a matter of convention, but in the absence of that, no single individual can produce universalizable norms.

In the same vein, Juwaynī leveled a systematic attack on the Muʿtazilī view that individual normative opinions can be uniform and universalizable. He argued that "whatever you claim is good or evil by necessity has been disputed ... so how can you claim that we know good and evil by necessity while you know that those who disagree with that opinion cover the whole face of the earth? Any minute sample from them surpasses that minimum number that constitutes knowledge held by the masses."[95] The key issue in Juwaynī's argument is the following: How can "one group among reasonable (discerning) humans be the only bearer of knowledge when the path toward the same knowledge is available to all?" Juwaynī's question, in the end, pertains to the justification of the claim of universality. How, and according to which criteria, can a single individual, or a group of individuals, declare that *their* position is the one that *must* be held by all rational beings? If we granted this to one group in particular, does that mean that all those who disagree, who happen to be in the majority, are irrational beings?

Several possible counterarguments were leveled by Juwaynī, but are generally less decisive than those already mentioned. One of the more interesting debates concerned the case of choosing truthfulness over lying, which was often discussed in Muʿtazilī treatises. In this scenario, we are to suppose that, if a person of sound mind has a choice between lying and telling the truth to obtain the same benefit or avoid the same harm, such person would without a doubt avoid lying.[96] This assumption is taken by the Muʿtazilīs to be an indication that lying is regarded as evil in itself by all rational beings. Juwaynī's response to this is quite puzzling. Besides pointing to the usual objection based on the lack of universalizability, Juwaynī argued, "the Muʿtazilī argument contains a contradiction, since, if lying was evil in itself, a liar would deserve blame and punishment categorically according to the Muʿtazilī view. So how could we accept a hypothesis that supposes the equality of truth and lying with regards to the acquisition of benefit?"[97]

[95] al-Juwaynī, *Irshād*, 260.
[96] "*jalb al-intifāʿ bihimā wa-indifāʿ al-ḍarar ʿanhu bihimā*" Ibid., 263. [97] Ibid., 264.

This response appears to fail on an obvious level. There is clear difference between personal purpose and general benefit and harm that may result from an action, which are the true measures of moral value in Muʿtazilī thought. The scenario supposes a situation in which both lying and telling the truth would achieve the same personal purpose in exactly the same way, but in which the agent chooses truthfulness for the sake of the general, universal good.

Further scrutiny shows that Juwaynī's critique is much more penetrating. He explained that "for us to accept that a rational person prefers truthfulness by necessity *if everything else is equal*, we must first assume that truthfulness is not the subject of [divine] legislation and hence the possibility of reward and punishment."[98] The point here is that no moral decision is ever made independently of some preexisting conception of the value of the action, and thus it would be impossible to distinguish between outward reasons and inner motivations. This critique is similar to the critique of utilitarianism famously leveled some nine centuries later by Bernard Williams. Williams's view centered on the fact that utilitarianism completely overlooks the element of personal motive in the formulation of moral decisions. If a person chooses to act based on some conception of the common good, they would also be acting based on the general or customary perception of the action in question in relation to their own sense of self-worth.[99] Similarly, Juwaynī appeared to be hinting at the unavoidably preexisting religious or social conception of the value of a particular action, which would make distinguishing between personal motives and pure moral reasoning an absurd task.

Following this systematic critique of arguments for revelation-independent (i.e., *ʿaqlī*) norm construction, Bāqillānī introduced the doctrine that no knowledge of normative states of action can be attained without revelation. It is only through revelation that we know of the possibility of reward and punishment. Without revelation, we cannot know which actions constitute obedience to God, and which actions do not. Similarly, Juwaynī asserted the principle according to which "[revelation-independent] reasoning does not reveal the good or evil character of a thing *with* regards to its normativity, but only acquires moral values through the sources of legislation and the transmitted knowledge."[100] At

[98] Ibid.

[99] J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973).

[100] al-Juwaynī, *Irshād*, 258.

the foundation of this view lies the doctrine that "a thing cannot be considered good as a result of its nature, its type, or a property attached to it."[101] We must note here that, in an attempt to advance a similar argument, Juwaynī specified that this discussion pertains to matters of *taklīf*, which, in *uṣūl al-fiqh* and *kalām* literature, is a term that denotes the general idea of imposition of duties.[102] Juwaynī thus carved out a domain within which a normative status emerging from categorical (*sharʿī, taklīfī*) moral judgments must rely on the revealed word of God. Conversely, this also means that *some* normative judgments, such as hypothetical ones, can be made based on revelation-free reasoning, but do not pertain to categorical and fully binding obligations.

Within the realm of categorical or revelatory reasoning, "the word 'good' indicates those matters the doer of which is subject to praise by virtue of revelation."[103] To the view that "good" is that which has been commended by revelation, Juwaynī added the important clarification that "good is not a matter *outside* of revelation ... but is the very arrival of revelation with praise to the author of the action."[104] The importance of this clarification is that it shows that Ashʿarīs did not view revelation as an aid to the otherwise defective human minds. This is a view of the human mind that embraces the inherent and inescapable diversity and subjectivity of human judgments. Revelation makes universality possible.[105] Revelation is an additional normative source that introduces a new *type* of moral reasoning. This function of revelation will be expounded in more detail in Chapters 3–5.[106]

[101] Ibid.

[102] For the concept of *taklīf* in *uṣūl al-fiqh*, see al-Juwaynī, *Burhān*, 15; al-Ghazālī, *al-Mankhūl min taʿlīqāt al-uṣūl*, ed. Muḥammad Ḥasan Ḥītū (Damascus: Dār al-Fikr, 1970), 22–4; Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf Al-Din Al-Amidi* (Salt Lake City, UT: University of Utah Press, 1992), 104.

[103] al-Juwaynī, *Irshād*, 258.

[104] "*bal huwa nafs wurūd al-sharʿ bi l-thanāʾi ʿalā fāʿilih*" Ibid., 259.

[105] A similar observation was made by Vasalou: "For having asserted that revelation institutes the consequences of actions, the Ash'arites had asserted the natural corollary, namely that these consequences are epistemically accessible to people only by revelation." Sophia Vasalou, *Ibn Taymiyya's Theological Ethics*, (New York, NY: Oxford University Press, 2016), 108.

[106] al-Juwaynī, *Irshād*, 259.

1.3 EPISTEMOLOGICAL SKEPTICISM AND THE BROADER CASE FOR DIVINE COMMAND THEORY

We have seen thus far that the Ashʿarī critique of Muʿtazilī thought was anchored in a specific epistemological outlook. This skepticism, I maintain, should be embraced for the defense of divine command theories in general. In recent decades, there has been a visible interest in the field of theistic ethics in a position referred to as "skeptical theism." Generally, this position, adopted by some illustrious theistic ethicists such as William Alston and Alvin Plantinga,[107] is aimed at the avoidance of a challenge to theism commonly labeled the "argument from evil." This argument typically relies on the fact that pointless suffering constantly occurs in the world, which signifies the impossibility, or at least unlikelihood, of the existence of a god. Skeptical theists, in response, maintain that what may appear to us as pointless evil could in fact be a blessing of some sort, thus suggesting that it is impossible for us to comprehend fully the manner in which God manages the world. There are two points to be made in relation to those arguments. First, it is clear that, for both sides of the argument, a given conception of God must necessarily have implications of a meta-ethical nature. This is a plain assumption. If one should claim that God creates all that exists, then this Creator must be decisive in some sense in determining the better, desirable or ideal state in which all that exists ought to be. Even if one were to adopt a purely impersonal or, for example, an aesthetic understanding of the divine,[108] that would still have implications for the concepts of the right and the good. Accordingly, we can clearly see that skeptical theism is a position that leads to consequences at the level of moral reasoning.

The second, less obvious observation is that the difference between the argument from evil and skeptical theism is primarily epistemological. The disagreement does not concern whether moral values exist, but whether they are knowable. The argument from evil supposes that, independently of God's motives or actions, there is a uniform concept of evil that is

[107] See, most significantly, William P. Alston, *Divine Nature and Human Language: Essays in Philosophical Theology* (Ithaca, NY: Cornell University Press, 1989), and Plantinga, Alvin, "Epistemic Probability and Evil" in Daniel Howard-Snyder, (ed.), *The Evidential Argument from Evil* (Bloomington, IN: Indiana University Press, 1996), 69–96.

[108] For example, see Friedrich Nietzsche, "Attempt at a Self-Criticism," in Friedrich Nietzsche, *The Birth of Tragedy; The Case of Wagner*, ed. and tr. Walter Kaufmann (New York, NY: Vintage Books Knopf, 1967).

available to human minds and that any deity would need to take into account. Skeptical theists, however, without denying that moral values exist and are in line with the way God acts, deny that full knowledge of those values, and therefore of God's motives, is available to human minds. Skeptical theism, therefore, is closely linked to a form of moral skepticism. Importantly, however, skeptical theism does not lead to the denial of ethics altogether – and does not necessarily lead to the view that all moral judgments are *a priori* false.[109] It could, however, justify the view that moral judgments not based on divine Revelation are only subjective prescriptions, not expressions of universal norms.

This disagreement, understood as relating to a question of moral epistemology, is very similar to the Ashʿarī–Muʿtazilī debate that this chapter addresses. The Ashʿarīs embraced the view that God and His actions cannot be fully grasped by human minds. This position, which we can liken to skeptical theism, was not advanced primarily in Ashʿarī theories as a response to the argument from evil but was formulated to respond to a more significant challenge from their perspective, namely the claim that the occurrence of evil was outside of the reach of divine will. That we do not fully understand God and His actions, therefore, is an idea that went hand in hand in Ashʿarī thought with the belief in God's omnipotence. This was manifested in a belief that we only know things about God amodally (*bilā kayf*). Unsurprisingly, this view of our knowledge of God was associated with a skepticism (or, as we might call it, "humility") concerning the ability of individual human agents to posit universal normative truths. For example, the illustrious Abū Ḥāmid al-Ghazālī (d. 1111), in an extended passage in *al-Mustaṣfā min ʿilm al-uṣūl*, explained various attempts to assign values to actions in the following terms:

> Saying "this is good and this is evil" cannot be understood without understanding good and evil. Conventional meanings assigned to the words "good" and "evil" are different, hence the need to summarize them. Those meanings are threefold. First: the well-known colloquial meaning consists of dividing actions into those that serve the purpose of the agent, those that defeat [the purpose], and those that neither serve nor defeat [the purpose]. Actions that serve the purpose are called 'good, those that defeat it are called 'evil' and the third are called futile . . . Second: calling good whatever has been characterized as such by the divine law by praising whoever commits it. Third: calling good whatever is permissible for the agent to

[109] The "error theory" of ethics was most famously advanced by Mackie in J. L. Mackie, *Ethics: Inventing Right and Wrong* (Harmondsworth, UK: Penguin, 1977).

do . . . Hence, if there was no divine law (*idhā lam yaridu l-sharʿ*), we would not be able to evaluate actions except [to the extent that] they serve or defeat [purposes].[110]

This passage from Ghazālī's *Mustaṣfā* illustrates the view that revelation-independent judgments are intrinsically subjective. Ghazālī's reasoning is that any given individual making judgments based on their own experience and views of what ought to take place is necessarily bound by the limits of those experiences and views. Any individual assessment that a matter is good is necessarily an assertion that it is good *for something*.[111] Only God (who, importantly, is not fully knowable to us), can decide what is good in itself. What I would like to argue is that the form of skepticism that is clear in Ashʿarī thought was not only a move aimed at the avoidance of a specific challenge (e.g., the problem of theodicy), but was in fact the very foundation of the mainstream Islamic justification of divine revelation as *necessary* for the construction of norms.

Using skepticism about the limits of human knowledge of universal truths to construct an argument for a type of moral reasoning in which divine revelation is necessary (and not merely helpful) is a significant reversal of the order of reasoning in comparison to modern debates on theistic ethics. For example, Jeff Jordan made the claim that theistic skeptics do not have "a principled way of avoiding moral skepticism."[112] What is noteworthy for our purposes is that this argument, as Jordan represented it, is structured in a manner that is the reverse of the skeptical argument made in Ashʿarī theology. A strong belief in the inability of human minds to attain universal moral judgments was at the basis of the entire Ashʿarī edifice of theistic ethics. This skepticism was behind the

[110] Abū Ḥāmid Muḥammad b. Muḥammad al-Ghazālī, *al-Mustaṣfā min ʿilm al-uṣūl*, 1st edn (Cairo: Dār al-Baṣāʾir, 2007), 81–2.

[111] Sophia Vasalou explains this passage as an expression of the belief in the relativity of individual moral judgments. Yet, Vasalou considers this a "naturalistic" account, an assessment I neither agree with nor fully comprehend. This appears to be an expression of the general assumption that judgments made independently of revelation are naturalistic. But, to my mind, for something to be naturalistic, it has to be either real, or at least verifiable. Ghazālī's point is precisely that those judgments are neither: they are mere subjective expressions of one individual's preferences. If anything, the Ashʿarī account more broadly appears relativistic in the sense explained by John Ladd: "Ethical relativism is the doctrine that the moral rightness and wrongness of actions varies from society to society and that there are no absolute universal moral standards binding on all men at all times." John Ladd, *Ethical Relativism* (Lanham, MD: University Press of America, 1985), 1. Vasalou, *Ibn Taymiyya's Theological Ethics*, 108.

[112] Jeff Jordan, "Does Skeptical Theism Lead Moral Skepticism?" *Philosophy and Phenomenological Research,* 72(2) (2006): 403–17.

view that we are unable to understand the way God acts. Since our own moral views are necessarily contingent and fallible, it would logically follow that our judgments do not allow us to make any categorical judgments about the manner in which God works. Finally, it is precisely *because* of our inability to advance universalizable judgments that some divine intervention is needed in the moral domain.

This order of reasoning from moral skepticism to skeptical theism and finally to theistic ethics was made explicit by Juwaynī in his *Kitāb al-Irshād*. In a chapter where he treated the issue of the knowledge of justice and injustice, Juwaynī explained that: "the substance of this major question and serious matter is limited to two premises . . ." The first consisted of denying the claim that "the [human] mind can make moral judgments." The second consisted of denying that "anything indicated by mere [individual] reasoning can be applicable to God."[113] Clearly, then, positions similar to moral skepticism and skeptical theism were held by Ashʿarīs as foundations upon which their systems were constructed. Along those lines, Juwaynī proceeded to explain that, "once we have established those premises we would therefore consider [the possibility of] miracles, following which we would establish the veracity of prophets, transmitted knowledge and the moral principles that are based on it."[114]

Ashʿarīs, therefore, went from skepticism to the unavoidability of theism, whereas Jordan went from theism to the unavoidability of skepticism. This reversal in the form of argument signifies a number of things. First, the Ashʿarī position did not begin with the assumption that an admission of the limits of human reasoning is something to be avoided. What is referred to as "skepticism," which we can also consider as a form of epistemological humility, was not seen as a last resort that only signifies the failure of all other means, but was an accepted premise that scholars reflected on and attempted to address positively. The term "skepticism" itself, in fact, is quite telling. We can only be skeptical of something that we are otherwise presumed to know in one way or another. To be a moral skeptic in modern philosophy is only possible because verifiable moral knowledge is widely assumed to be available to human minds. Being a theistic skeptic is conceivable only because the alternative is admitting the possibility that humans might fully understand the manner in which God operates. If it were not assumed that God's actions should follow our own conceptions of good and evil, no argument from evil would be necessary.

[113] "*lā wājib ʿalā Allāhi taʿālā yadullu ʿalayhī l-ʿaql.*" al-Juwaynī, *Irshād*, 257.
[114] Ibid., 257.

Theism today, it seems, attempts to find a place within a world dominated by secular thought. In this context, it becomes likely for theistic ethics to accede to the assumption that our own experiences and observations should be the primary, if not exclusive, means through which we formulate judgments. It is therefore not surprising that many of the most influential models in contemporary theistic ethics adopt some form of natural-reason theory, wherein knowledge obtained through divine speech serves only to confirm or enhance the moral knowledge available by other means. A prominent example can be found in R. M. Adams's "A Modified Divine Command Theory of Ethical Wrongness."[115] In this broadly discussed article, Adams begins by admitting that "it is widely held that all those theories are indefensible which attempt to explain in terms of the will or commands of God what it is for an act to be right or wrong."[116] To present a theory that is defensible, Adams adds, we must "renounce certain claims that are commonly made in divine command analyses of ethical terms."[117] Adams maintains that, in its traditional (or "unmodified") form, a theory that holds that divine speech is indispensable for moral knowledge faces a fatal objection in the form of the following question: In a situation in which God would command cruelty for its own sake, what should we do? The pure natural law theorists, such as al-Qāḍī ʿAbd al-Jabbār in our case, would hold that God does not command pure cruelty by His very nature. Adams's solution to this objection, by contrast, is to incorporate the ideas of divine will and speech into a preexisting natural order of ethics. An agent would be justified in following divine commands if (and only if) the command is made in accordance with God's character as all-loving and all-benevolent.

Evidently, love and benevolence are moral and normative concepts, and therefore this theory limits the extent to which divine will and commands can generate moral judgments. More importantly, there is a problem with the objection to which Adams appears to pay little attention. This objection presupposes that "cruelty for its own sake" is a property that is fully verifiable in a uniform manner by all human agents. It supposes that there is a possible scenario in which God would "command" an act in such a way that the command would be fully understood by all agents, and the object of command would be fully understood and

[115] R. M. Adams, "A Modified Divine Command Theory of Ethical Wrongness," in G. Outka and J. R. Reeder (eds.), *Religion and Morality* (Garden City, NY: Anchor Press, 1975), pp. 318–47.
[116] Ibid., 318. [117] Ibid.

verified by all agents, as inherently cruel.[118] This shortcoming in the supposedly fatal objection to divine command ethics is what makes skepticism a promising strategy for theistic ethics.

The recourse to skepticism is manifested in another influential essay, namely William Alston's "Some Suggestions for Divine Command Theorists."[119] Alston's main strategy, which is also embraced by John Hare,[120] is to distinguish between moral *obligation*, which applies to worldly creatures, and moral *goodness*, which applies to God.[121] For Alston, the way out of the objection mentioned by Adams is to hold that,

> God is our creator and sustainer, without whose continual exercise of creative activity we would lapse into nothingness. If God's commands are morally binding on us solely because He stands in that relation to us, it follows that they are not morally binding on Himself: and so if there are any moral facts involving God they will have to be otherwise constituted.[122]

Alston's view that moral facts involving God are metaphysically removed from those applicable to His creatures is promising in its avoidance of puzzles of the sort advanced by Adams. Separating divine goodness from moral obligation makes it possible for Alston to argue that we do not *just* follow anything that God commands, but we follow God's commands because He is fully and intrinsically good. This would generally seem to accord with the Ashʿarī view that obligations in the legal-moral (*sharʿī*) sense are radically different from obligations in the instrumental or prudential sense. However, in attempting to develop a definition of what it means for God to be good, Alston seems to revert back to a natural conception of goodness. He argued that "the lack of any possibility of God's doing other than the best prevents the application of terms in the 'ought' family to God."[123] Alston tried to justify moral obligations based on the deficiency of the human will. Because God's will is perfect, no obligation binds Him.[124] This argument, however, continues to assume that there is some fundamental idea of goodness that is (1) independent of God's speech; (2) shared by God and His creatures in type, but not in degree and (3) fathomable to human minds.

[118] For my analysis of this noncritical use of the concept of "command" see Chapter 4.
[119] William Alston, "Some Suggestions for Divine Command Theorists," in Alston, *Divine Nature and Human Language*, 253–73.
[120] J. E. Hare, *God's Call: Moral Realism, God's Commands, and Human Autonomy* (Grand Rapids, MI: W. B. Eerdmans, 2001).
[121] Alston, *Divine Nature and Human Language*, 256. [122] Ibid. [123] Ibid., 259.
[124] Ibid., 259–60.

Alston's theory, therefore, explains why divine commands are valid sources of obligation, but does not explain why they are necessary.[125] By placing God outside of the domain of human imperatives, he adopted a form of skeptical theism, but by attributing moral obligations to the deficiency in human will, he did not take seriously epistemological skepticism as a potential foundation for divine command ethics. In Section 1.2, I have shown how anchoring the discussion on the necessity of divine revelation in questions of moral epistemology allowed Ashʿarīs to exploit certain weaknesses in revelation-independent epistemology. In Ashʿarī theories, theism anchors itself and emerges from within the shortcomings of nontheistic reasoning. It is *because* secular ethics fails that theistic ethics is necessary.

1.4 CONCLUSION

In this chapter, we saw that some of the most elementary differences between divine command and natural law thinkers in classical Islam could be traced to some fundamental epistemological disagreements between leading scholars of the Muʿtazilī and Ashʿarī schools. This way of seeing the difference between Ashʿarī revelation-centrism and Muʿtazilī revelation-independence can help us overcome the textualist–rationalist dichotomy that, I argue, prevents a proper understanding of the theoretical underpinnings of those debates. Understood in that way, we can see that the central debates between the natural-law thinkers and divine-command theorists of the Islamic tradition centered on the question of what the human mind can know through ordinary observation and reasoning. The Muʿtazilīs insisted that the products of human reasoning are uniform and universal, and that factual and normative conclusions can be produced in those uniform manners. The Ashʿarīs, by contrast, took a skeptical stance by emphasizing the inevitable contingency of any individual normative judgment by contrast to factual observations, which can be uniform if they satisfy certain conditions of objectivity. This fundamental disagreement sets the stage for the different conceptions of

[125] One further step toward a type of skeptical theism can be found in J. E. Hare's *God's Call*, where Hare argues that God's motives are unavailable to us, but his commands must be followed if we believe he is the designer of the universe. Hare shares Alston's view that good and obligation must be treated separately, but insists that human existence is intrinsically good-in-itself, which is a manifestation of divine benevolence. Hare, *God's Call*.

divine revelation that we will examine in Chapters 2 and 3. Basing a defense of divine-command theories on a form of epistemological skepticism, I argued, is a promising strategy. As we will see in various instances in this book, it is often the tendency in modern theistic thought to conform to the imperatives of secular reasoning, which can lead to untenable positions. Conversely, we can see that Ashʿarīs saw the limits and deficiencies of revelation-independent reasoning as the absolute first step in the edifice of their divine-command theory. The inevitable subjectivity of individual normative judgments, largely observed today in the prevalence of skepticism and error theories of ethics, allows revelation-based thinking an opportunity to carve out a domain for itself without attempting to conform to or fully dismiss revelation-independent thought.

2

God in Relation to Us

The Metaphysics of Divine Speech

In Chapter 1, we saw that epistemology was the first step in building a theory in which divine revelation was a necessary component for the formation of norms and values. Scholars who argued for the possibility of attaining universal judgments independently of revelation saw human knowledge as a predictable internal process. By contrast, revelation-centrists grounded their view in a skepticism about the ability of human individual cognition to attain universalizable judgments. Major Ashʿarīs of the eleventh century did not attempt to respond to the natural-law model of the Muʿtazilīs through the search for some middle ground between revelatory and nonrevelatory systems. Rather, they directly anchored their system of theistic norm-formation in an understanding of the limitations of revelation-independent (i.e., purely "secular") reasoning. Revelation was not introduced into normative thinking out of pure dogma or attachment to tradition. Rather, it was seen as a necessity that follows from the intrinsic limitations of unaided human reasoning. Divine command theory was defended by exploring the limitations of "secular" thought, not by looking for compromises with it.

In this chapter, we begin to address another preliminary issue: What did each group of scholars mean by "revelation"? There are, evidently, many ways in which the idea of divine revelation can be understood. Yet, there are certain basic elements that the very concept of revelation entails. By invoking revelation, we immediately understand that we are dealing with a divine being, and that something has been made available to human minds about that being, its actions, and its relation to our world as we observe it. This act of making known through communication or disclosure, if one understands God as, in some sense, the originator of all

that exists, is by necessity of some consequence for human reasoning and action. Revelation, in that sense, is inherently a divine–human affair. The formulation of a particular concept of revelation stems from a broader human quest to make sense of the origin of this world and all possible others, a quest aided by an act through which the designer of all existence makes itself known. Understood this way, we can see that the particular concept of revelation an individual adopts necessarily follows from their view of the place in which humans stand in relation to God. To understand why and how God speaks to us, we should first elucidate our understanding of what it means for God to be the creator of all that exists and the relation in which God stands to His creation.

In this chapter, we will discuss how some major thinkers of the Ashʿarī and Muʿtazilī schools conceived of the relation of God to our world. Understanding the meaning of the words "God" and "us" is a necessary condition for our understanding of how God speaks to us, and the kinds of reasoning and action that can rationally follow from this speech. The disagreement on the nature and role of revelation rested on different understandings of how the Creator is related to His creation. While classical Muslim theologians of both the Ashʿarī and Muʿtazilī schools shared a basic understanding of the existence of a Creator–created divide, they differed on the specifics of this dichotomy. Scholars from both schools understood God as necessary and eternal, in opposition to a constantly changing world that, in the deepest ontological sense, is entirely accidental. In those theories, God represented that which exists by necessity and to which no accident attaches.[1] Apart from this basic agreement, scholars belonging to these schools tended to adopt contrasting conceptions of what it means for God to act and to be the Creator. The different views on the relation of God to the created world entailed different understandings of how and why God speaks to His creatures.

Here, again, we see that the Ashʿarī system does not follow the model of blind belief and obedience so commonly attributed to revelation-based theories. Divine speech, in Ashʿarī thought, was embedded in a view of God as an eternally "commanding" transcendent Creator, rather than an active and authoritative Legislator. The difference between the divine-command view of God as a transcendent Commander and the natural-law view of God as an active Legislator was central to the formation of

[1] This view is also prevalent in various other traditions, including the contemporary philosophy of religion. See, for example, Edward R. Wierenga, *The Nature of God: An Inquiry into Divine Attributes* (Ithaca, NY: Cornell University Press, 1989).

different models of norm construction by the Ashʿarīs and the Muʿtazilīs. The divine-command theorists (i.e., the Ashʿarīs) developed a theory of revelation based on a severing of the ties between the immanent and the transcendent. Natural-law thinkers, by contrast, assumed a quasi-Platonic metaphysic of continuity. The classical debates among divine-command and natural-law thinkers in Islam were thus anchored in contrasting metaphysics that nonetheless shared a basic view of God as an eternal and accident-free Creator. The primary disagreement in metaphysical design between the Ashʿarīs and Muʿtazilīs can be seen to pertain to the assumption of a certain continuity between the physical and the metaphysical.

For the scholars of the natural law persuasion, the continuity between the divine and the human is what justified the normative power of divinely inspired principles. As we will see in Chapters 3 and 4, for the Ashʿarīs, it was precisely because God is removed from us and vastly incomprehensible to us that some form of divine intervention into the opaqueness of our worldly existence was necessary. The rejection of a natural-law conception of how the world relates to God meant that God – and, therefore, His speech – were constitutive elements of the universe rather than humanlike purposeful interventions. An immediate implication of the Ashʿarī rejection of a quasi-Platonic view of the human as an imperfect image of the divine is an increased sense of reliance on human reasoning and sensory experience in the process of norm formation. For the natural-law or Platonist thinker, normativity follows from general principles that accord with the perfect divine domain and apply to every human circumstance. The severing of this link between the immanent and the transcendent by the Ashʿarīs meant that the outcome of revelation could now be appropriated as the domain of the jurists and the community of the believers. This will be contrasted with the Muʿtazilī view, which largely accords with a natural-law conception of God and His speech.

One way of understanding the major difference in conceiving of the Creator–created distinction in classical Islamic theology is to say that, for Muʿtazilīs, God is above all creation, and for Ashʿarīs, God is *beyond* all creation. For Muʿtazilīs, God and anything associated with Him can be conceived by analogy to our world. God and the divine realm are perfect images of the human realm. The human world is, conversely, a corrupted version of the perfect divine realm. We can allow ourselves, according to this view, to abstract from our lived experiences to generalize about the way in which God creates and manages the world. This rests on the

assumption that there is some continuity between divine actions and flawed human behavior. This way of thinking about God is absent in Ashʿarī works. For them, we know by rational thought that there is a necessary existent, but our reasoning is incapable of comprehending how God acts. We should not allow ourselves to make abstractions based on our own experience of the world and to conclude that those experiences are indicative of anything universal. From this fundamental difference emerges an opposition between a Muʿtazilī metaphysic that assumes some form of Platonic continuity between the immanent and the transcendent, and an Ashʿarī metaphysic that assumes a radical difference between the divine and anything immanent. The revelation-centric view of the relation of God to the world, represented here by the Ashʿarīs, followed from an understanding of the divine as being unlike anything immanent.

A persistent critique of theories that anchor ethics in a theocentric view of the world focuses on the fact that adopting a divine being as the source of morality betrays a tendency to disregard the lived experiences of human agents. The metaphysical understanding of theistic ethics assumes that some stable divine principles exist independently of the constant variation in human conditions. The tendency to avoid metaphysics has a long history in modern thought, but is particularly visible in theological discussions. In *Theology without Metaphysics*, Kevin Hector develops an account of language in relation to God that provides a "therapeutic" method of overcoming the assumption of an intrinsic link between language and metaphysics. In that context, he remarks that

> Modern thought has engaged in a recurrent rebellion against metaphysics . . . This rebellion against metaphysics indicates that although we moderns may want to avoid metaphysics, we have a hard time doing so. It would appear, in other words, that metaphysics is a kind of *temptation*: we want to resist it, but find it difficult to do so.[2]

A rejection of a form of metaphysics can be seen in many works of Nietzsche, such as *The Gay Science* and "On Truth and Lying," and has been more recently made by Bernard Williams in his influential *Truth and Truthfulness*.[3] Both Nietzsche and Williams begin their critiques from the premise that a theistic view of the foundations of ethics takes away from the subtlety and flux of sense experience, and puts undue

[2] Kevin Hector, *Theology without Metaphysics: God, Language, and the Spirit of Recognition* (New York, NY: Cambridge University Press, 2011), 2–3.

[3] Bernard Williams, *Truth & Truthfulness: An Essay in Genealogy* (Princeton, NJ: Princeton University Press, 2002), 18; Hector, *Theology without Metaphysics*, 2.

emphasis on some imagined metaphysical moral system.[4] Williams's critique of Platonic metaphysics is aimed at the assumption that our world is by necessity inferior or inadequate in relation to a divine ideal. It encourages an attitude of condescension toward the physical world and searches for answers in a realm removed from our experiences. This metaphysical stance, he argued, establishes truth and value as "altogether prior to a human interest in them," and as "in themselves entirely independent of our thoughts and attitudes."[5] Williams's project is avowedly a continuation of Nietzsche's attack on Platonic and Christian metaphysics and his affirmation of the "innocence of the becoming" against the Platonic insistence on the superiority of the metaphysical Forms.[6]

Williams's project, however, is only a critique of a specific view of metaphysics and its practical implications, not a critique of theistic conceptions of norm formation altogether.[7] As we will see, an alternative view of the Creator–created dichotomy can be found in Ashʿarī thought. Ashʿarīs developed a metaphysical model in which the divine was utterly unlike anything that is experienced by humans and available to their

[4] Williams frames his project in the following terms: "to see how far the values of truth could be revalued, how they might be understood in a perspective quite different from the Platonic and Christian metaphysics which had provided their principal source in the West up to now." Williams, *Truth & Truthfulness*, 18. For a defense of Platonic-Christian metaphysics (here corresponding to the Muʿtazilī view) against Williams's attack, see John Finnis, "Reason, Revelation, Universality and Particularity in Ethics," *American Journal of Jurisprudence*, 53(1) (2008): 23–48.

[5] Ibid., 61.

[6] "[I]t is still a *metaphysical faith* upon which our faith in science rests . . . even we knowers of today, we godless anti-metaphysicians, still take *our* fire, too, from the flame lit by the thousand-year-old faith, the Christian faith which was also Plato's faith, that God is truth; that truth is divine." Friedrich Nietzsche, *The Gay Science*, tr. Josefine Nauckhoff (Cambridge: Cambridge University Press, 1994), 334.

[7] The need to clearly define what we mean by "metaphysics" was highlighted by Kevin Hector, who argued that "to see why [modern thinkers are rebelling against metaphysics], we must consider, first the metaphysics against which theologians repeatedly rebel. It is important to address this matter explicitly, since the term "metaphysics" can be used to refer to several different things, and I am by no means suggesting that everything that goes by that name is to be rejected. So, for instance, the term is sometimes used to designate any set of claims about that which transcends nature, or any set of claims about what things are like. I am emphatically *not* interested in doing without metaphysics in *these* senses – or, more precisely, I am interested in doing without them just insofar as they are bound up with the variety of metaphysics I *am* interested in doing without." Hector, *Theology without Metaphysics*, 2–3. Along the same lines, we could say that Ashʿarīs, or any school of Muslim thought, were most certainly not attempting to do away with any conception of matters that exist beyond nature, but were contesting a given view of meaning and value that posits the world of human sense perception as the distorted image of a world of perfect divine forms.

minds. God and His attributes, actions, and speech were all radically different in type and in no way comparable to anything humans may experience. It followed from this sharp metaphysical divide that divine attributes, including speech, were considered as transcendent and eternal, and that our experience of this speech (i.e., our experience of revelation) was an entirely human affair. The physical words, sounds, and writings left behind after the event of revelation could only be approached as elements of human experience. They are treated as a set of *signs* that were incorporated into human practical reasoning as raw materials for the construction of normative judgments. Those physical signs were not "the word of God," as the Muʿtazilīs would have it, but only elements of sense experience that, as we will discuss in Chapter 3, happen to be established as the outcome of a miraculous intervention by the community's consensus.

Counterintuitively, the Ashʿarī idea of a transcendent God resulted in a reversed metaphysic of divine speech. The world of sense perception, for the Ashʿarīs, takes precedence over the divine when it comes to the construction of normative judgments. Whereas existence begins in the metaphysical domain, the formation of practical norms of action is entirely the purview of worldly perception. We experience revelation in the same manner that we encounter other elements of our sense-experience, and engage in a worldly exercise in norm construction on its basis. This does not entail any rejection of our lived experiences for the sake of some metaphysical divine ideal. This reading of the Ashʿarī understanding of divine speech and attributes can serve to build an alternative conception of theistic metaphysics. Adopting a theistic view of the world does not necessarily mean that one aspires to follow a Platonic model of a similar-but-perfect divine realm. It does not necessarily entail a turn away from the world of sense perception toward a world of intangible ideals. Rather, it constructs an idea of God as a transcendent and impersonal creator. A defense of Ashʿarī divine command theory, in my view, entails perhaps not so much a rejection, but at least a modification, of the "belief in the personal and caring God worshiped by the majority of human beings," as Peter Forrest put it.[8] While Forrest portrays the idea of a "personal and caring God" in opposition to much of "scientific theism," the Ashʿarī God is not a naturalist or scientific God, but a God that is too absolute to be grasped by our limited minds. This

[8] Peter Forrest, *God without the Supernatural: A Defense of Scientific Theism* (Ithaca, NY: Cornell University Press, 1996), 1.

Ashʿarī conception of the Creator–created division established the physical world as the locus of production of judgments in the manner we will address in the following chapters. In the next sections, we address the basic Creator–created dichotomy advanced by both schools and their implications on their view of God and His attributes.

2.1 THE BASIC DIVIDE BETWEEN NECESSARY AND ACCIDENTAL EXISTENCE

Ashʿarīs and Muʿtazilīs saw God as free from the contingencies of our world of sense experience, including being limited in time. Everything, in the fullest ontological sense, except God, exists in a precarious and accidental manner, and is limited by a multitude of temporal accidents. This scheme places God in a clear opposition to all created things. God and His attributes, speech included, are necessary existents that are entirely devoid of accidents. Everything else is temporal, contingent, and exists inseparably from accidents. It follows from this dichotomy that all our thoughts, experiences and judgments, including experiences related to and guided by revelation, are accidental in this ontological sense: they are limited, contingent experiences. Scholars from both schools with which we are concerned share this fundamental dualism. God, in relation to us, is defined as the eternal in opposition to the accidental. This primary conception of God in relation to the world was not controversial. In fact, the acknowledgement that all bodies are temporal (and, therefore, that only God is free of accidents and eternal) was seen as an integral part of the theory of the oneness of God, and, therefore, as a fundamental tenet of Muʿtazilī theology.[9] What distinguishes the Muʿtazilī understanding of this divide from their interlocutors is that God's relation to the world, for Muʿtazilīs, is reminiscent of our relation to our creation and differs only in magnitude and perfection, a relation that, as we will see, the Ashʿarīs rejected entirely.[10]

[9] This view was maintained in the work of ʿAbd al-Jabbār's successors, such as Ibn Mattawayh, who argued that all "knowables" (*al-maʿlūmāt*) can be divided into that which exists and that which does not exist. Al-Ḥasan b. Aḥmad Ibn Mattawayh, *al-Tadhkira fī aḥkām al-jawāhir wa l-aʿrāḍ*. (Cairo: al-Maʿhad al-ʿIlmī al-Faransī li l-Āthār al-Sharqiyya, 2009), 1:1–2.

[10] A Mankadīm, *Sharḥ al-uṣūl al-khamsa*, ed. ʿAbd al-Karīm ʿUthmān (Cairo: Maktabat Wahba, 1965), 94.

The starting point of ʿAbd al-Jabbār's metaphysics, like his Ashʿarī contemporaries, is the separation of the earthly from the divine. Like accidents to which they attach, bodies are also temporal. Their occurrence is caused by an agent who "differs from us (*mukhālifan lanā*)."[11] The "difference" between our world of sense experience and the transcendent divine domain is the foundation upon which a dualistic metaphysic is constructed by scholars in both schools. As we will see, however, the nature of this duality was understood differently by different thinkers. ʿAbd al-Jabbār's succinct exposition of this basic duality focuses on two main elements: the createdness of the world, and the attachment of accidents to all created beings. Worldly beings are inevitably attached to accidents and, therefore, are necessarily defined in time. It must be noted that ʿAbd al-Jabbār's reasoning behind this distinction, like the Ashʿarī arguments explained in the following text, relies on a search for rational conclusions, rather than the mere positing of God's nature. For example, there are certain manners of proving the temporality of the world by relying on a simple belief in God's eternity, and inferring the ephemerality of this-worldly bodies by contrast to God. ʿAbd al-Jabbār, like his Ashʿarī contemporaries, did not advance any of those arguments, presumably because he wished for his argument to proceed in the opposite direction. The knowledge of God's eternity should follow from our knowledge of the temporality of this world, not by merely positing God's eternity and freedom from accidents.[12] It is our awareness of our world and our primary knowledge of logical necessities that lead to our knowledge of the Creator.

The question of the necessary attachment of every created being to a contingent accident is central to the distinction between the physical and the metaphysical. The key to this distinction resides in the issue of the createdness of the world (*ḥidath al-ʿālam*), which closely follows from the notion of the necessity of attachment of accidents to all immanent things (*imtināʿ al-ʿuruww ʿan al-aʿrāḍ*).[13] In ʿAbd al-Jabbār's analysis, this distinction begins from the view that all bodies that exist in this world

[11] Ibid. [12] Ibid., 95.

[13] The link between Muʿtazilī metaphysics and their meta-ethical assumption of the existence of universal moral judgments was analyzed in various studies. The same cannot be said of the link between Ashʿarī metaphysics and their meta-ethical positions, which are commonly dismissed as "voluntarist" without much scrutiny. On the Muʿtazilī metaphysical theories and their ethical consequences, see, for example, George Hourani, *Islamic Rationalism: The Ethics of ʿAbd Al-Jabbār* (Oxford: Clarendon Press, 1971).

are attached to attributes, and are therefore temporal.[14] The manner in which ʿAbd al-Jabbār made the argument that all created things are attached to accidents follows a method that he attributed to the early Muʿtazilī Abū l-Hudhayl. Significantly, this method is similar to what we find in the reasoning of Juwaynī as explained in the following text. He summarized the argument as follows: "bodies cannot exist independently of, or prior to, accidents (*lam tanfakka mina l-ḥawādithi wa-lam tataqaddamuhā*). Whatever cannot exist without, or prior to, a temporal matter, must be temporal as well."[15] The argument, ʿAbd al-Jabbār explained, can be outlined in four steps: (1) all bodies are characterized by particular attributes (*maʿānī*), such as being joined, separated, moving, still, and so on; (2) all of those attributes are contingent and temporal; (3) no earthly body can exist independently of such attributes; (4) therefore, all created bodies are temporal. That all bodies exist in a manner that makes them dependent on temporal circumstances is evident from the fact that no single body is devoid of specific characteristics, such as being joined with another (*mujtamiʿan*). It is a matter of simple observation. In each case, ʿAbd al-Jabbār insisted that, "it could have been otherwise," meaning that any given attribute attached to a body, whatever it is, could have been different.[16] The conclusion that all things could have been otherwise is central to the understanding of all matters in this world as possible existing things. The joined body could have existed separately

[14] The way in which bodies are constituted appears to have been a particularly controversial issue in classical cosmology. Ibn Mattawayh reports a handful of opinions on the matter, and makes the argument that, for an existent being to qualify as a body, it must be composed of at least eight parts (*ajzāʾ*). Some, according to Ibn Mattawayh, considered a single-part matter to be a body (*jism*), in which case God would consist of a body, a view that Muʿtazilīs, including Ibn Mattawayh, rejected. Ibn Mattawayh correctly reported that Ashʿarīs advanced the view that a body must be constituted of at least two parts, and attributed to Ibn al-Hudhayl the view that a body is composed of six parts at least. Ibn Mattawayh, *Tadhkira*, 1:9–10.

[15] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 95.

[16] Some medieval Christian theologians appear to have accepted and advanced in various ways the notion that God can be understood through the assumption of the need for a necessary existent. Robert Spitzer outlines the Thomist view that, without causation, all worldly beings are merely hypothetical. There must, therefore, be an "uncaused cause," a being that exists "purely through itself without any conditions whatsoever." This being "must be a pure act of existing through itself." Robert J. Spitzer, *Evidence for God from Physics and Philosophy: Extending the Legacy of Monsignor Georges Lemaître and St. Thomas Aquinas* (South Bend, IN: St. Augustine's Press, 2015), 86–96. This argument is part of the frequently discussed "five ways to show the existence of God." See Thomas Aquinas, *The Summa Theologica of Saint Thomas Aquinas*, ed. Daniel J. Sullivan (Chicago, IL: Encyclopaedia Britannica, 1952), Ia.2.3.

from other bodies. There is no necessary reason why any given body should be attached to one attribute as opposed to the other. It follows that *something* must have led to the rise of one attribute rather than the other.[17] This, he generalized, was an overall characteristic of all things corporeal (*mutaḥayyiz*), which include all immanent objects (*al-ajsām al-ḥāḍira*) that we can examine (*ikhtabarnā*) and categorize (*sabarnā*).[18] This four-step argument advanced by ʿAbd al-Jabbār and attributed to Abū l-Hudhayl is designed to show that our observation of the temporality of all immanent things can lead to an understanding of the divide between the divine and the human.[19]

After showing that observation demonstrates that all things in this world are contingent, the more difficult step in the argument was to explain why this requires an understanding of God as a Creator, rather than simply an eternal being to be distinguished from our temporal world. The argument for the need for an actualizing agent is the key to introducing God as Creator in relation to worldly existing things. ʿAbd al-Jabbār explained this relation by reference to the impossibility that states of bodies could be the product of human action (*lā yajūzu an yakūn al-jismi mujtamiʿan bil-fāʿil*).[20] All our actions, he maintained, are adjustments of already existing substances (*maʿānī*), but none of them can be responsible for the very existence (*ījād*) of a body or a state.[21] For

[17] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 96. [18] Ibid., 97.

[19] Mankadīm, in his commentary on ʿAbd al-Jabbār's *Five Principles*, goes to great lengths to elucidate each of those steps, which, he insisted, were based on our observation of the real world, rather than any *a priori* knowledge. For example, the claim that any object that exists in a given condition *could have been otherwise* is a synthetic generalization from the realization that the same body bears different attributes at different points in time. Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 98.

[20] Ibid., 100.

[21] Ibid., 101. The allusion to the inadequacy of sciences based on empirical and causal reasoning to the explanation of *existence* itself is a popular argument and one that continues to be made by philosophical theologians to this day. For example, Swinburne maintained the "scientific inexplicability of the universe," and held that "there could be a universe today for whose existence today there was no scientific explanation at all. But, of course, there is a full scientific explanation of the existence of our universe today *in terms of it existing in a certain state yesterday* . . . But we can have no evidence of the operation of quite different laws in the past, unless their operation is a consequence of the simplest explanation of what is happening in the present. In so far as science shows that the fundamental laws of nature operating today are *L*, and that extrapolating *L* backwards leads to a physically impossible state, we have to conclude that there was a beginning to the universe-governed-by-today's-laws and that we can have no knowledge of anything earlier than that . . . If we confine ourselves to scientific explanation, it will not follow that the existence of the universe (for as long as it has existed, whether a finite or an infinite

example, we can ensure that our speech consists of commands or assertions, but we cannot create speech *ex nihilo*. In that sense, we "create" our speech by combining already existing matters, but we cannot bring anything that does not already exist into existence. The very existence of speech is independent of our will, and therefore needs a different actualizing agent, which must be eternal (*qadīm*).

We have seen so far that ʿAbd al-Jabbār conceived of God in opposition to the world as an eternal Creator whose existence is necessary for the realization of any other existence. This understanding was also prevalent in Ashʿarī thought. In *al-Irshād*, Juwaynī defined the world (*al-ʿālam*) as "every existent, except God and His essential attributes (*Allāhu taʿālā wa ṣifāti dhātihi*)."[22] The world, which is the totality of all created things, is composed of atoms (*jawāhir*) and accidents (*aʿrāḍ*).[23] Atoms consist of all things that are definable in space (*mutaḥayyiz*), and accidents are matters that attach to atoms, such as colors, scents, tastes, knowledge, and mortality, among others.[24] Juwaynī maintained that the physical world is temporal and contingent, which meant that it is in constant change and motion, and was defined in time. The argument for the temporality of the physical world rested upon two main premises: (1) all beings (except God and His attributes) exist together with accidents and (2) no chain of occurrences can exist that has no beginning (*istiḥālatu ḥawādithin lā awwala lahā*).[25] The idea of the beginning of the chain of contingent events in Juwaynī's theory plays the same role as the actualizing agent in ʿAbd al-Jabbār's argument. The importance of the view that all created atoms are necessarily associated with accidents is that it grounds the argument that all existent things in the world are only

time) has no explanation." Richard Swinburne, *The Existence of God* (Oxford: Clarendon Press, 1979), 137–40.

[22] Imām al-Ḥaramayn Abū l-Maʿālī al-Juwaynī, *Kitāb al-irshād ilā qawāṭiʿ al-adilla fī uṣūl al-iʿtiqād*, ed. Muḥammad Yūsuf Mūsā and ʿAlī ʿAbd al-Ḥamīd (Cairo: Maktabat al-Khānjī, 1950), 17.

[23] Ibid.

[24] Ibid. This is a widely accepted distinction, although often with some variation. For example, see Nasafī's *ʿAqāʾid* and Taftāzānī's commentary thereupon, both of whom reproduce the argument that the world is composed of essences (*aʿyān*) and accidents (*aʿrād*). Saʿd al-Dīn al-Taftāzānī et al., *al-Shurūḥ wa l-ḥawāshī ʿalā l-ʿaqāʾid al-Nasafiyya li-ahl al-sunna wa l-jamāʿa al-Ashāʿira wa l-Māturīdiyya* (Beirut: Dār al-Kutub al-ʿIlmiyya, 2013), 95–6. See also Bāqillānī's explanation in *al-Tamhīd*, "created matters are divided into three categories: composite bodies, simple essences, and accidents that attach to bodies and essences." Muḥammad b. al-Ṭayyib al-Bāqillānī, *Kitāb al-Tamhīd*, ed. Richard Joseph McCarthy (Beirut: Al-Maktaba al-Sharqiyya, 1957), 17.

[25] Juwaynī, *Irshād*, 17–18.

actualized possibilities. There is nothing inevitable about their existence in the state in which they are. The denial of the possibility of an endless chain of existence serves to counter the theories that hold that flux and contingency are eternal attributes of the world. The combination of those two views forms the foundation of Ashʿarī metaphysics. The belief that atoms can exist independently of accidents is so deeply opposed to the Ashʿarī view of the world that it was ascribed by Juwaynī to the "transgressors" (*al-mulḥida*).

Along the same lines as the Muʿtazilī position explored previously, the proof of the view that all atoms are associated with accidents was advanced according to an argument that begins from a simple observation. We can observe atom A in a moment in time t1, following which we can observe the same atom A in moment t2. If atom A moved between t1 and t2 (or underwent any kind of transformation), we can understand that this transformation was not necessary, but only possible, since it is conceivable that A would have remained in the same place in both t1 and t2. We can, in addition, conclude that existence in a particular place, or any other state that may or may not exist, does not exist in itself, but is caused by a triggering power (*muqtaḍī*).[26] The reason for this is that all states in which atoms are found are only *possible* and there is nothing inevitable about them. It would follow that something causes this potential state to become actual, and that this cause is additional to the being itself.[27] This additional element that causes the accident to become actual must be different from the atom itself for this accident to occur. We are left, therefore, with one of two possibilities: this state was caused by either (1) a conscious agent (*fāʿil mukhtār*) or (2) a prior state that led to it (*maʿnan mūjiban*).[28] Even if it were a transformation that was produced by an agent, it would be the agent's action (*fiʿl*), and not the agent, that caused the change. In all cases, there must be a prior state that causes a new state to occur.[29] It must be concluded, therefore, that essences in this

[26] For a broad survey of the treatment of this question in Ashʿarī thought, see Richard M. Frank, *Texts and Studies on the Development and History of Kalām*, ed. Dimitri Gutas. 3 vols. (Aldershot: Ashgate Variorum, 2005), 3:VIII.

[27] Juwaynī, *Irshād*, 18–19.

[28] Ibid., 19. For Taftāzānī, the inextricable connection between substances and accidents follows directly from the fact that all objects are either at rest or in motion (*lā takhlūʿan al-ḥaraka wa l-sukūn*), both of which are created. The idea of impossibility of independence from motion and stillness is explained by reference to the intrinsic properties of existence in time. Taftāzānī, *Shurūḥ wa-ḥawāshī l-ʿaqāʾid al-Nasafiyya*, 1:99.

[29] Juwaynī, *Irshād*, 19. See also Bāqillānī, *Tamhīd*, 18.

world always exist in conjunction with accidents, which are subject to perpetual transformation.

Like ʿAbd al-Jabbār, Juwaynī advanced the idea that the physical world is in an essential state of transformation as an ontological theory. This was central to contrasting the contingency of the world to God's eternity and self-necessity. It is not that different conditions merely become apparent to us at different points in time, but that things in fact exist in different states at different moments. Ashʿarīs rejected the idea that states in which objects exist only become manifest at particular points in time, while they have always existed in a hidden form. The transformations that we observe in conditions of objects prove that they are in constant change: "the inert matter, when it moves, enters a new state of motion, and the newness of this state means that it occurred at a particular point in time, which also means that inertia is, too, temporal."[30] In short, for Ashʿarīs, the very mobility of all objects *is* the state of perpetual change in which the world exists, and cannot be reduced to some fundamental substance that exists independently of the objects to which it attaches.[31]

The two similar arguments that we find in ʿAbd al-Jabbār and Juwaynī primarily interest us because of what they tell us about how God is defined in the relation to the created world. Another way of viewing these arguments – to which we will not devote much time here – is that they are attempted *proofs* of God's existence. As we saw in Chapter 1, many scholars saw reflecting upon the existence of God as "the first obligation." The preceding discussion demonstrates that such reflection should lead to the affirmation of God's existence.

In that sense, this argument participates in a theological conversation that dates back to Antiquity. A similar argument, commonly labeled "the Cosmological Argument" can be found in Thomas Aquinas' *Summa Theologica*. After observing, like Juwaynī, that everything is in a process of change, Aquinas concludes that,

[30] Juwaynī, *Irshād*, 20.

[31] Frank attributes a different conception of motion to Abū l-Hudhayl, where motion is "a created 'accident' which 'comes to be in a body' or some part of a body. Although movement is not a thing's 'transference from the first place and its departure from it' [as the Ashʿarīs would hold], it is not a 'becoming' (*kawn*), as was noted, but an 'accident' which comes to be in the thing as a completion or perfect act of *having moved*." Frank, *Texts and Studies on the Development and History of Kalām*, 2: 18.

Of necessity, therefore, anything in process of change is being changed by something else . . . Now we must stop somewhere, otherwise there will be no first cause of the change, and, as a result, no subsequent causes . . . Hence one is bound to arrive at some first cause of change not itself being changed by anything, and this is what everybody understands by God."[32]

The argument as presented by Aquinas belongs, William Rowe explains, to the three major types of proof of God's existence in the Western theological tradition: the Cosmological Argument, the Ontological Argument, and the Teleological Argument.[33] Of those three types of proof, only the Ontological Argument is truly *a priori*, in the sense that it is supposed to follow entirely from concepts that are independent of any particular experiences of the world.[34] A famous version of the Ontological Argument was advanced by St. Anselm, a very brief version of which would be as follows: we can conceive of a being superior to all other beings; for this Supreme Being to be truly superior it would have to exist; this being is God, and therefore God exists.[35] We can see that leading scholars of two major Muslim schools of thought adopted an *a posteriori* argument for the existence of God. Both ʿAbd al-Jabbār and Juwaynī started from common observations derived from concrete experiences. The idea of God that emerges from these arguments is not purely conceptual, but anchored in lived experience. As we will see in Sections 2.2 and 2.3, while they adopted different accounts of how God relates to the world and how we can understand divine attributes, God remains in both theories a Creator and a source of normative knowledge of definite links to His creation.

2.2 THE MUʿTAZILĪ MODEL: GOD AS SIMILAR BUT SUPERIOR

We have seen thus far that some leading Muslim theologians from both the Muʿtazilī and Ashʿarī schools agreed on a basic conception of the

[32] Thomas Aquinas, *Summa Theologica*, 1a. 2,3.

[33] William L. Rowe, *The Cosmological Argument* (New York, NY: Fordham University Press, 1998), 3. As with much of the contemporary philosophical theology, Rowe's account fails to mention the contribution of Islamic scholars to this debate.

[34] Ibid., 3–4.

[35] For an account of St. Anselm's argument, see Alvin Plantinga (ed.), *The Ontological Argument: From St. Anselm to Contemporary Philosophers* (London: Macmillan, 1968), 1–5. See the entire study for a meticulous examination of various versions of this argument.

relation of God to our world. Only God is a necessary existent, and none of the world's occurrences could have been actualized without His eternal necessary existence. God is the only being free from accidents and the Creator of all that exists. Conceived this way, the Creator–created divide justifies a view of the divine as a key element of normative guidance, but it does not impose a particular model of how this guidance can and should occur. As we will see in the rest of this chapter and in Chapter 3, beyond this basic divide, different understandings of revelation and its place in norm formation were based on this fundamental dichotomy.

In this section and Section 2.3, we will see that the similarities in the models of ʿAbd al-Jabbār and Juwaynī do not go beyond this basic agreement. For Muʿtazilīs, God's attributes and actions are analogous to human attributes and actions. In their theories of divine attributes, humans are presented as imperfect but similar to the divine. For the Ashʿarīs, the world of sense experience is temporal and fleeting, but not a distorted image of some ideal realm of perfection. God, in the Ashʿarī theory, is described in simple and limited ways: He is that which is beyond our ordinary experience and comprehension. Relying on a skepticism about our ability to comprehend God, Ashʿarīs introduced a model in which the world is God's creation but not a fallen or flawed version of divine perfection.[36] God simply created the world in the form He devised, and no human can claim to comprehend the reasons of this design, much less aspire to approach divine perfection.

God, in ʿAbd al-Jabbār's theory, is an eternal agent that makes all existents possible, but is not a radically different being. God is transcendent and infinite, but not fundamentally unknowable by, or distinct from, all else that exists. There is a continuity between divine agency,

[36] The Ashʿarī conception of the divine as *beyond* all sense experience, and of our experience of revelation as firmly anchored in sense experience, is remarkably similar to attempts to formulate modified metaphysical understandings of God and His speech in contemporary Christian and philosophical theologies. Hector described this metaphysic of continuity as a form of "correspondism," where one attempts to establish "a bridge between oneself and that which transcends experience." We can overcome "correspondism" by conceiving of God in a way suggested by Gordon Kaufman in the following terms: "[T]he ultimate point of reference for all experience, and thus [we can claim that] 'God cannot be conceived as simply one more of the many items of ordinary experience or knowledge, in some way side by side with the others: God must be thought of as 'beyond' all the others, not restricted or limited by any of them but relativizing them all,' since 'without such unique logical status, God would be conceived of as of the same order as the many things which need to be grounded beyond themselves, rather than as the ground or source of them all'." Hector, *Theology without Metaphysics*, 32–6.

knowledge, and action, which appears as a matter of degree rather than sharp distinction from the immanent world. God, in ʿAbd al-Jabbār's view, is primarily characterized by being *eternal in himself* (*qadīmun li-nafsihi*).[37] Whereas, in Juwaynī's thought, this agent is utterly outside of any existence in time, ʿAbd al-Jabbār and his followers mainly stressed the idea that God is not limited in time. Rather than being undefined by time altogether, God, for them, exists in all of time. This is one sense in which God is above, but not unlike, all creation. This characteristic, for ʿAbd al-Jabbār and his followers, is intrinsic to His being without the need to obtain it from any prior external source.[38] The most central distinction in this context is between the Ashʿarī idea of God as supreme Creator beyond time, and the Muʿtazilī conception of God as a primary creating agent. The latter, unlike what we will see in Ashʿarī thought, assumes that God is the doer (*fāʿil*) of things in the world in a manner similar to the way in which we perform our actions.

One of the most basic manifestations of this conception of God's relation to the world is found in the way in which the argument for the existence of God, outlined in Section 2.1, was shaped and defended. ʿAbd al-Jabbār, as we saw, argued that it is possible to find signs of the existence of God in accidents (*al-aʿrāḍ*). His reasoning was that accidents are created and need an actualizing agent who is "not amongst us."[39] Since all accidents are temporal, it follows that they require an agent that would bring them into being. This conclusion is attainable by analogy, which is a very significant difference from the views advanced by the Ashʿarīs. ʿAbd al-Jabbār explained that "we know that accidents require a creator and an agent because it has been established through [the observation of] *our own actions* that they depend upon and attach to us in to occur. By extension, everything that is created needs a creator and an agent."[40] Here we see the first elements that signal a major difference at

[37] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 107. The same argument underlies the denial of there being a natural element (*ṭabīʿa min al-ṭabāʾiʿ*) that made the emergence of the world necessary. In Bāqillānī's refutation of this claim, he argued that this natural event must have either existed or been nonexistent. If it was the latter, its creation of the world would have been impossible "and nothing could be attributed to it. If it did exist, it must have been either eternal or created. If it was eternal its manifestation must have persisted until now for the lack of any reason for its disappearance." Bāqillānī, *Tamhīd*, 35.

[38] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 107.

[39] Ibid., 92.

[40] Ibid., 94. Emphasis added.

the level of the foundations of the natural-law and divine-command models with which we are concerned.[41] While ʿAbd al-Jabbār upheld the broadly accepted view that everything is temporal and created except God, he begins to bridge this gap by abstracting from human experience to reach theological conclusions. For ʿAbd al-Jabbār, God creates all accidents in the same way that we create our own actions. This contrasts significantly with the Ashʿarī view, which is explained in the following text.

The Muʿtazilī position was to maintain that God's oneness, omnipotence, and omniscience are identical with His essence, rather than separate attributes, which Ashʿarīs took to be a denial of attributes altogether (*nafy al-ṣifāt*).[42] Those attributes can be understood in a manner analogous to our understanding of our own attributes, most notably regarding their existence in time. This led to a tendency to conceive of certain divine actions as temporal and created but not spatially defined (*lā fī maḥall*). The point of this argument was to establish divine intervention in the world in a comprehensible manner, and to insist that such created actions did not require any transformation in the perfect divine self.[43] For both ʿAbd al-Jabbār and Mankadīm, the defining feature of God is not His utter alterity to all else that exists, but primarily the fact that He is a being that has a set of attributes that no other possesses. No claim is made by ʿAbd al-Jabbār that those attributes are of a fundamentally different type compared to attributes possessed by humans or other earthly beings. Those attributes are in part positive and in part negative, and are attached to God by necessity.[44] The state in which one both knows and acknowledges the attributes that set God apart from all other beings is a prerequisite for fulfilling the requirements of monotheism (*tawḥīd*).[45] This is understandable, given that the uniqueness of those attributes is what *defines* the conception of God in ʿAbd al-Jabbār's thought. Failing to recognize those attributes is equivalent to a failure to know the One God.

The conception of the divine as possessing attributes in a way analogous to the way humans and other creatures hold theirs manifests itself most pronouncedly in the assumption that God possesses those attributes

[41] For a summary of ʿAbd al-Jabbār's position among a survey of theological opinions on that question, see Samīḥ Dughaym, *Mawsūʿat muṣṭalaḥāt ʿilm al-kalām al-islāmī*. 2 vols. (Beirut: Maktabat Lubnān Nāshirūn), 1998, 1:458–9.

[42] Juwaynī, *Irshād*, 79. [43] Ibid., 64. [44] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 128.

[45] Ibid.

in time. In his development of ʿAbd al-Jabbār's idea of divine oneness, Mankadīm explains,

> All believers should know the Eternal – most exalted – through His necessary attributes, the manner in which they attach to Him, that which among them attaches at all times (*fi kulli waqt*), that which is impossible at all times, and that which attaches to Him at some moments rather than others (*fi waqtin dūna waqt*). Then, they must know that whoever possesses these attributes must be one without a peer who would share the same positive and negative attributes in the same manner.[46]

This passage highlights the two central characteristics of the Muʿtazilī treatment of divine attributes. First, God is One by his possession of a unique set of attributes, and not by virtue of being radically different from anything this-worldly. Second, much like earthly beings, God possesses his attributes *in time*. While some of those attributes are possessed by God at all times, others are only limited to certain periods in time. The determination of divine attributes in time contrasts very clearly with the Ashʿarī view on God. We will see that, for Ashʿarīs, some of God's eternal attributes are inseparable from the very essence of divinity, while others are not necessarily linked to the very essence of the divine, but are still knowable through inference based on certain matters that we know about God. The Muʿtazilī theory of divine attributes acknowledges a number of characteristics that are attributable to God in himself (*fi dhātihi*) at all times.[47]

A central difference between this theory and the Ashʿarī model is the Muʿtazilīs' belief that God's attributes can be "shared" (*mushāraka*) by humans, with the caveat that God possesses His attributes *in himself* while humans are granted the attributes in particular circumstances. Those main attributes that are possessed by God in himself at all times include His being omnipotent (*qādir)*, omniscient (*ʿālim*), living (*ḥayy*), all-hearing (*samīʿ*), and all-seeing (*baṣīr*).[48] Among the attributes that

[46] Ibid., 129. [47] Ibid.

[48] The Muʿtazilī assumption that divine attributes can be inferred from human attributes was attacked directly by Abū Ḥāmid al-Ghazālī in his *al-Iqtiṣād fī l-iʿtiqād*. Ghazālī held that "if one attempts to prove divine speech by asserting that reason deems it possible that the creation frequently receives commands and prohibitions, and that every quality that is possible for the creation is founded on a necessary quality of the Creator, then one has transgressed the bounds of reason. It would be said to him: if you mean that it is possible for created beings to be commanded by other created beings, for whom speech is conceivable, then that would be conceded. But if you mean that it is possible in general, whether for the creation or for the Creator, then you have presupposed in this argument what is being disputed, and that would not be conceded." In this passage, Ghazālī resorts

God possesses only at particular points in time are His being aware of all recognizable matters, willing (*murīdan*), or unwilling (*kārihan*) *by virtue of a temporal nonimmanent will*.[49] To be aware, willing, or detesting, there must be a temporal object to be aware of, will, or detest.[50] The insistence that some attributes such as awareness and will are temporal and attach to temporal objects without inhering in any immanent matter (*lā fī maḥall*) is an attempt to harmonize a view of God as a knower of all the details of the world with the idea of the absolute oneness of God. God in this model is all-powerful, yet is involved in the ever-changing details of this world without being the subject of any change. God acts *in time* by wishing and disliking particular events in a manner fundamentally understandable to humans.

Further elaborating on ʿAbd al-Jabbār's theory, Mankadīm makes the argument for the radical similarity of divine will and awareness to our will and awareness by classifying divine attributes into three types: First, only God possesses some attributes, such as omnipotence; second, God possesses some, such as omniscience and existence in eternity, in a way that is unlike anyone else; third, God and humans share some attributes in the same manner, such as awareness, wishing, and disliking,

> He wishes and dislikes by virtue of will and aversion, and so do we, but the difference is that the eternal, most exalted . . . wishes and dislikes by virtue of a will and aversion that do not exist in anything immanent, whereas we like and dislike based on our particular circumstances.[51]

The first attribute that we know God possesses is omnipotence, since we know God primarily as the Creator of all that exists. Being eternally existent is not a necessary consequence of this attribute, since He "shares" it with humans. This is important since, for Ashʿarīs, God exists in a manner that differs from the way in which we exist. For Muʿtazilīs, it is only a matter of us existing in a specific period, whereas God exists at all

to a strategy commonly used by Ashʿarīs in their refutation of Muʿtazilī thought when he identifies an unsubstantiated assumption in the argument and challenges it. The disputed assumption in this case is the view that, if humans are endowed of speech in time in a specific manner, it follows that God must speak in the same manner. As we can see, in matters of philosophical theology, as well as in matters of moral epistemology, Ghazālī is happy to concede that our speculative conclusions about our (i.e., human) capacities and constructed norms are valid, but adamantly denies that such judgments can in any way be imposed on God. Abū Ḥāmid al-Ghazālī, *Al-Ghazali's Moderation in Belief: al-Iqtiṣād fī al-iʿtiqād*, tr. Aladdin Mahmūd Yaqūb, 2013, 114.

[49] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 129. [50] Ibid., 130. [51] Ibid., 131.

times. Thus, existence is not what primarily distinguishes God, but being the Creator of the world (*al-muḥdith lil-ʿālam*). From our knowledge that God is the creator of the world follows immediately the knowledge that He is omnipotent.[52] What is most important to note about proving omnipotence based on creation is that the argument proceeds through analogy with human capacity:

> What shows that God's capacity to create is a sign of His omnipotence is that, through observation, we notice two possibilities. In some cases, people among us are capable of certain actions. In other cases, they are not, such as in case of sickness. The way to distinguish those two cases is through an attribute that the first possesses, which is power. This is the same for God. He must possess power, *since forms of argument do not differ between what is observable and what is beyond observation.*[53]

The italicized segment of this argument is what matters the most to us. Muʿtazilīs, generally, tended to view our forms of reasoning and argument as applicable not only to ourselves and our knowledge of the world, but to God as well.[54] The underlying metaphysical view that this argument reflects is one that sees a continuity and similarity between what is divine and what is human. Along the same lines, ʿAbd al-Jabbār built his argument for divine omniscience based on what we can observe from His actions. He argued that God's omniscience is evident because of His creation of animals, rotation of planets in their orbits, and generation of winds, among other phenomena.[55] We can see in this argument that a divine attribute like omniscience is not only a matter of primary knowledge, but also indeed a matter of abstraction from observations based on principles that we know about the world. That God's creation is an indication of His knowledge is taken to be analogous to the fact that

[52] Ibid., 151.

[53] "*li-anna ṭuruq ul-adillati lā takhtalifu shāhidan [aw] ghāʾiban.*" Ibid., 152. Emphasis added.

[54] The idea that attributes follow from their natural causes both in their immanent and metaphysical forms was also emphasized by ʿAbd al-Jabbār in his *Mughnī*. He held that "the attributes do not differ either in the concrete or transcendent domains as long as their cause is similar . . . It must be held that the speaker performs (*faʿala*) the speech (*al-kalām*) whether we are concerned with God (*al-qadīm*) or His creation (*al-muḥdath*). This [argument] invalidates their [i.e., the Ashʿarīs'] claim that God speaks eternally. God may only be characterized as such [i.e., as a "speaker"] when he *performs* speech (*ʿinda fiʿlihi l-kalām*)." Dughaym, *Mawsūʿat muṣṭalaḥāt ʿilm al-kalām al-islāmī*, 1:701.

[55] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 157.

complex types of activities, such as writing, require the existence of certain types of knowledge.[56]

This idea of fundamental difference was explicitly rejected by ʿAbd al-Jabbār in the form of a response to a hypothetical objection. The objection, which exhibits an obvious Ashʿarī logic, was put as follows:

> Why have you [i.e., Muʿtazilīs] denied the claim that the production of a complex action in the observable world (*fī l-shāhid*) indicates knowledge because of the identity between conventional and habitual occurrences (*muṭābaqat al-muwāḍaʿa wa l-ʿāda al-sābiqa*), which does not apply to God, most exalted, since he acts in a primary fashion (*afʿāluhu tajrī majrā l-ibtidāʾ*) and therefore is subject to no convention or habit that we are aware of?[57]

This argument is a clear expression of the skeptical (or modest) epistemological views that the Ashʿarīs were advocating. The point that ʿAbd al-Jabbār's hypothetical opponent is making is that the kinds of observation and inference that we can make based on our sense experience and primary knowledge are only contingent upon the habitual consistency of worldly phenomena, which is not guaranteed as a universal law. For all we know, God may change, interrupt, or reverse this habitual consistency as He wishes, and therefore it would be baseless to suppose that the same principles that apply to what we observe can lead us to knowledge about God's attributes. ʿAbd al-Jabbār's response to this counterargument amounts to nothing more than a restatement of his position. He maintained that,

> The possibility of performing a complex action is an indication that the agent is knowing, because we can distinguish between the actions of those who know and those who do not know. Can you not see that, concerning complexity, some writing is the same as a lot of writing? ... Our predecessors explained that the actions of God are performed in a harmonious and habitual manner.[58]

This is clearly not an effective response to the Ashʿarī objection, but a mere restatement of the Muʿtazilī doctrine. ʿAbd al-Jabbār simply asserted that he and his fellow Muʿtazilīs believed that God's actions occur in a manner fundamentally similar to actions performed in the habitual manner observed in this world. We now turn our attention more fully to the examination of the Ashʿarī view, which they developed in opposition to this Muʿtazilī metaphysic.

[56] Ibid. [57] Ibid., 158. [58] Ibid.

2.3 THE ASHʿARĪ MODEL: GOD AS UTTERLY DISTINCT FROM CREATED BEINGS

The fundamental difference between the Muʿtazilī and Ashʿarī models resides in a disagreement on whether, in the Creator–created divide, any continuity can be claimed. Whether God was conceived as a humanlike superagent, who acts in time, or a transcendent Creator with a set of eternal attributes, had a major impact on the understanding of how God could be incorporated into human normative reasoning. Ashʿarīs, in general, denied any continuity within the Creator–created divide. As we saw in Section 2.1, Juwaynī based his view that there must be a timeless being that exists necessarily and freely of all accidents on two premises: First, all existents are temporal and non-necessary (i.e., accidental); second, in order for what could have existed to exist, something that is not a mere contingency must have made it to exist. The dualistic framework that produced the view of the contingency of the world also justified the idea that the created world must have an eternal Creator. There is an actualizing factor (*mukhaṣṣiṣ*) that brings a possible existent into actual existence.

The central feature that we should note in Juwaynī's theory at this point is that God does not cause the world to exist in the way in which humans cause their actions to occur. God is an entirely transcendent agent who makes all things possible beyond time, space, and nature. God is not an actor in the natural or temporal parameters that are familiar to humans. This feature of Ashʿarī thought is manifest in the argument that God's relation to His creation cannot be reduced to mere causality. Juwaynī makes this argument by maintaining that actualization of possible existents can take place either through causation (*ʿilla*), a natural process (*ṭabīʿa*), or a conscious agent. Those three possibilities do not seem to be clearly distinguished, since a natural process would appear to be subsumed under the idea of causation. However, what Juwaynī seems to argue is that an actualizing factor of this purely causal type cannot be the *reason* for any existence. In other words, causation, in whichever way we may wish to understand it, is not sufficient to justify existence. Something beyond the observable chain of causation that we experience in this world must be driving the very existence of worldly beings. He explained this as follows:

> It is invalid to take [the actualizing factor] to be a cause, since the cause must lead to its effect by way of necessity (*ʿalā l-iqtirān*). This [necessary] cause can be either eternal or contingent. If it were eternal, it would mean that it caused the existence

of the world eternally, which is impossible, as we have already shown. If it were contingent, it means that it would require an actualizing factor, which would lead to infinite regression.[59]

The main point Juwaynī is making in this passage is that mere causality is insufficient to justify existence.[60] We must search for a greater agent beyond causal chains. He repeated the same argument concerning the possibility of natural processes being at the origin of existence: if nature were eternal, it would mean that the world is eternal, which is impossible.[61] God, for Juwaynī, is what allows us to claim that *this* existence (rather than any other existence, or anything else, or nothing at all), is justified. Juwaynī finally drove this point home in the following passage:

> Since it was established that the actualizing factor could not be a necessary cause, and that it cannot be the result of a natural process that is incapable of choice, it becomes evident that what makes existents actual is a conscious creator who chooses to bring them forth in certain shapes and times.[62]

The picture that emerges from this discussion of actualizing and necessary causes is one in which the world, as interconnected as its elements may be, has no necessary reason to exist.[63] Only a unique and unparalleled necessary existent (i.e., God) could be the true reason why there is existence at all. This relation between the eternal and immutable Creator and all His creation, which exists in a fundamental state of flux, involves a sharp divide between a divine transcendent being in comparison to the contingency of this-worldly beings. As Juwaynī explained, it is "impossible for accidents to inhere within the divine self, may He be exalted."[64] As explained in relation to this-worldly beings, an atom that is attached to an accident must always remain in a contingent state, since an accident can only be removed by an opposing accident. If God were subject to the occurrence of any accidents, it would mean that His very existence would

[59] Juwaynī, *Irshād*, 28–9.

[60] Contrary to this view, ʿAbd al-Jabbār held that "a characteristic of an action should be attributed to the [conscious] agent whenever it is proven to belong to the agent, and it is rational to attribute it to him. The fact that actions follow from the agent and are caused by him is similar to the fact that the effect follows from the cause, and this attribution follows from its intelligibility." Dughaym, *Mawsūʿat muṣṭalaḥāt ʿilm al-kalām al-Islāmī*, 1:459.

[61] Juwaynī, *Irshād*, 29.

[62] Ibid.

[63] For an explanation of the conception of God as an omnipotent originator of all worldly (or secondary) causes in the theology of al-Ghazālī, see Richard M. Frank, *Al-Ghazālī and the Ashʿarite School* (Durham, NC: Duke University Press, 1994), 36–9.

[64] Juwaynī, *Irshād*, 25.

be attached to changing accidents, which would mean that He himself is temporal.[65] Unlike all else that exists, God is indivisible, eternal, and devoid of anything contingent.

To say that God is an eternal Creator that transcends concrete chains of causality, however, raises the question of how precisely we can conceive of the relation of God to His creation. A debate that arose around the question of God's transcendence concerned precisely what it means for things to be "similar" or "different," a question that was generally referred to by Muslim scholars as *al-mithlayn wal-khilāfayn*. It is clear how this question should inform the discussion of what God is or is not in relation to creation. According the Ashʿarī view, we know a few things about God, such as being omnipotent, omniscient, and independent of time and accidents, among other things. How can it be said, even with this knowledge, that God is completely unlike anything in our world? Since much of Juwaynī's work focuses on the attributes of God in relation to the immanent world, the discussion of His alterity comes down to the issue of what we mean by "unlike." Juwaynī, and Ashʿarīs in general, maintained a higher threshold for what qualifies as a similarity than the Muʿtazilīs did. For Juwaynī, two things are deemed similar if they bear the same essential attributes in a way that would make them interchangeable.[66] This strict definition of "similarity" made it possible for them to argue that, although we may speak of God in a way that analogizes from our experiences, God is not "similar" to us in the proper sense.

Juwaynī attributed to Jubāʾī and the "late Muʿtazilīs" the view that similarity means sharing the "most particular of attributes" (*akhaṣṣ al-ṣifāt*), which would mean that they also share essential attributes.[67] Juwaynī responded to this view by pointing out the fact that although some matters are different concerning specific attributes, they share the more general ones, such as createdness, existence, and ephemerality (*ʿaraḍiyya*). The Ashʿarī doctrine on this point holds that distinguishing two matters regarding one central characteristic is not sufficient to claim that they are unlike one another, but it must be shown that they do not share any of the essential attributes. As Juwaynī put it: "we must take into

[65] Ibid. [66] "*sadda aḥaduhumā masadda l-ākhar*." Juwaynī, *Irshād*, 34.

[67] Ibid., 35. For more on the Muʿtazilī theories of divine speech, see Nader El-Bizri, "God: Essence and Attributes," In T. J. Winter (ed.), *The Cambridge Companion to Classical Islamic Theology* (Cambridge: Cambridge University Press, 2008), 121–5.

consideration *all the attributes of essence* in determining similarity; it is invalid to base this on only one attribute, hence we need to consider them all."[68]

For things to be truly "similar," they must have identical attributes of essence.[69] Accidental attributes, such as location or color, are only *possible* rather than essential, thus we can say that two things are similar even if they have different accidental attributes, as long as it is possible for each one of them to acquire the accidental attributes of the other. This distinction between essential and accidental attributes is central to resolving the critical matter of what God is "like," and what we can truly say that we know about God. Some schools of thought went too far in defending God's utter alterity by maintaining that "we cannot assume that God has any positive attributes." Juwaynī attributed this claim to esotericists, which typically included Ismāʿīlīs. Based on this view, if we said that God exists, we would mean that He exists in a way similar to created beings.[70]

Contrary to those views, Ashʿarīs held that we could comprehend God's attributes. However, the fact that God has comprehensible attributes, for Juwaynī, does not mean that He is similar to created matters. Juwaynī enumerated the ways in which God is radically different from worldly beings. First, God has no particular substance, since substances must by definition be localized.[71] Second, it follows from the first fact that, *a fortiori*, God is not a body (*jism*), since bodies are composite matters defined in space.[72] Third, and most importantly, God exists in perfect independence of all temporal created matters (*ḥawādith*).[73] The importance of this is the affirmation that God is absolutely above time and the constant flux that is entailed by temporality.[74] This issue alludes to the question of whether or not there can be an essence that is devoid of accidents, on which Ashʿarīs and Muʿtazilīs vigorously disagreed. For Ashʿarīs, being attached to accidents implies specificity, and therefore entails some temporal characteristics by its very nature. Muʿtazilīs, by

[68] Juwaynī, *Irshād*, 35. On the point of dissimilarity of the creator and the created, Bāqillānī argued that "the creator of all created [matters] cannot bear resemblance to it (*lā yajūzu an yakūna ṣāniʿa l-muḥdathāti mushbihan lahā*). If he resembled [created things] in type or appearance, He would have also been created, or it would have been eternal like him. This is the case because things that are similar must also be interchangeable in form (*yasuddāni fī l-manẓar masaddan wāḥidan*), such as composite things [or things of the same color]." Bāqillānī, *Tamhīd*, 24–5.

[69] Juwaynī, *Irshād*, 36. [70] Ibid., 37. [71] Ibid., 44. [72] Ibid., 42. [73] Ibid., 44.
[74] Ibid., 45.

contrast, argued that God has an eternal essence to which temporal events relate without altering His eternal being. Those temporal events would include actions, will, and speech, which would make them interventions in time that resemble (to an important degree) human actions.

The disagreement, therefore, related primarily to the acceptance of one version or another of the Creator–created divide. While Muʿtazilīs viewed the divine as somewhat similar to the worldly, Ashʿarīs insisted on its absolute difference. Juwaynī drove this point home in the context of his study of the attributes of God by maintaining that He is "unlike anything immanent" (*mukhālafatuhu li l-ḥawādith*). This, he explained, means that God "does not resemble anything in the created world, and that none of it resembles Him."[75] For Juwaynī, we should be able to assert that God exists, and that this is an attribute that is shared with created matters, without concluding that God is *like* created matters. The claim that God is unlike any created thing would be justified on the sole basis of the fact that He has attributes that no other being possesses. The importance of this division between essential and nonessential attributes lies in the need for us to maintain that we have *some* knowledge of God, while at the same time allowing for the view that the divine is not merely a perfect version of the immanent. It follows from the previous discussion that the Ashʿarīs and the Muʿtazilīs, although they agreed that God is "unlike" anything in this world, disagreed on precisely what that meant. The concept of difference advanced by Ashʿarīs was significantly more radical. It supposed that *all* of God's attributes of essence are unlike any of our attributes of essence.

The disagreement between Ashʿarīs and Muʿtazilīs starts from a basic distinction between essential and secondary attributes. The Ashʿarī conception of divine attribute included a distinction between the essential and the accidental, but none could be seen to occur or attach in time or to engage with the immanent world in a manner reminiscent of human attributes. Within this distinction, Ashʿarīs maintained that God's "attributes of the self" are essential to what God is. Those include oneness, timelessness, omnipotence, and omniscience. There are also attributes that, while not intrinsically connected to divinity, follow from what we know about God, such as His being "alive" all-hearing, all-seeing, and his being able to speak.[76] According to Juwaynī, God's attributes are divided between essential attributes and caused or imposed attributes (*ṣifāt*

[75] Ibid., 34. [76] Juwaynī, *Irshād*, 72.

maʿnawiyya). The first type of attribute is knowable through our awareness of the very idea of God. These are things that inhere within the concept of God. The second category includes attributes that are conceivably separable from God's self but that we know exist for a variety of reasons.

The Ashʿarī categorization of attributes, therefore, follows primarily from a view of what our minds can conclude is attached to divinity. They do not differ in terms of temporality or contingency. The most important attributes of the self (i.e., essential attributes) that follow from the very idea of divinity are eternity, oneness, and self-sufficiency. These characteristics radically set God apart from anything else that exists. Eternity primarily means that God is not defined in time, which, by necessity, means that His existence has not been introduced at any point.[77] The justification Ashʿarīs offer for the claim that God "has no beginning" and (obviously) no end, is the fact that anything that is defined in time must depend on an actualizing factor, which, in turn must have a reason for its actual existence, and so on indefinitely. The existence of a Being with no beginning or end, however, must be anchored into a specific conception of time.

Juwaynī mentions a possible objection to his understanding of God's eternity in the following terms: "assuming the presence of a Being that has no beginning means that we should posit that there are successive times that are not finite, since this Being cannot exist [without being within] given moments in time."[78] This view assumes that any existence is a function of time, which would mean that the existence of an eternal being entails the existence of an eternal state of affairs (i.e., endless moments in time). That would contradict the alleged uniqueness of the eternal Being, and defeat the Ashʿarī view in the first place. Juwaynī, in response to this objection, felt compelled to explain his conception of time:

> Times are [attributes by which we understand] the existence of certain matters in relation to others. Every existent that is attached to another existent that is inseparable from it is deemed its time ... Since this is the meaning of time, it becomes clear that it is not necessary for existents to exist in conjunction with others, if that is not a rational necessity ... The Creator, Most Exalted, is self-sufficient in His existence and attributes before any creation, and is not associated with any creation.[79]

[77] "*lā awwala li-wujūdihi*; *wujūd ul-qadīmi ghayri muftataḥ*." Ibid., 31–2.
[78] "*lā yuʿqal istimrār wujūd illā fi awqāt*." Ibid., 32. [79] Ibid., 33.

The uniqueness and absolute transcendence of God, even in relation to time, is obvious in Juwaynī's response. Time, for Juwaynī, is a creation like any other, except that it is attached to all creation by rational necessity. There is no intrinsic contradiction in the view that a being could exist separately from time, and that this being is God.[80]

2.4 CONCLUSION

In this chapter, we examined the basic divide according to which all existents are contingent, and only God, the eternal accident-free Being, serves as the ultimate actualizing factor of all that exists. God, in those theories, stands in contrast with all other intelligible matters in being the only perfectly eternal, uncreated, accident-independent being. Disagreement arose concerning whether God's attributes can be understood in a manner analogous to human attributes. While the Muʿtazilīs formulated views of the divine that suggested that God was analogous to us in fundamental ways, Ashʿarīs denied the possibility of any parallels or continuities between the divine and the human. The issue of radical alterity, in the sense that anything divine is by necessity unlike anything immanent that we may be aware of, was the ultimate matter at stake in those debates, which played a central role in shaping the views on the nature of divine speech. To maintain that God is unlike anything immanent, Ashʿarīs defined divine attributes exclusively with reference to God, and avoided suggesting any kind of continuity between divine and human actions. For Ashʿarīs, we know divine attributes either because they inhere in the very idea of divinity, or because they follow logically from things we know about God.[81] For Muʿtazilīs, knowledge of God can

[80] Another characteristic that has been discussed earlier in relation to the timelessness of God is the fact that God is "self-sufficient," which means that God needs no location, essence or actualizing factor. God, as we have already seen, *is* existence, and needs no actualization to exist. For a treatment of this question see ʿAbd Allāh b. Muḥammad Ibn al-Tilimsānī, *Sharḥ al-maʿālim fī uṣūl al-fiqh*, 1st edn. (Beirut: ʿĀlam al-Kutub, 1999), 170–1.

[81] An example of the understanding of divine attributes that follows by logical necessity from our understanding of God, rather than by analogy with humans, is Ghazālī's argument in support of his conception of divine speech: "We assert that speech for any living being is a perfection, a deficiency, or neither a deficiency nor a perfection. It is false to say that it is a deficiency or that it is neither a deficiency nor a perfection; hence it is established by necessity that it is a perfection. Every perfection that exists for a created being must necessarily exist for the Creator, since this is more proper, as we previously

follow from matters we know about the world and ourselves. God, for them, is a perfect intelligent agent that exceeds us in degree but is not radically unlike us. For Ashʿarīs, no parallels can be drawn between anything divine and anything human.

Understanding how God relates to us, His creation, is the first step to formulating a conception of what revelation might be and how it can constitute an element in human practical reasoning and norm construction. In this chapter, we examined two models in which this relation was conceived by focusing on the work of two eleventh-century scholars from the Ashʿarī and Muʿtazilī schools. We saw that, at a fundamental level, those scholars agreed on conceiving of God in relation to the world in terms of freedom from contingencies. God is the only necessary being whose existence was a precondition of all other beings' coming into existence. Beyond this fundamental framework, disagreement arose concerning *how* God creates and acts. This disagreement reflected a profound division on the issue of the nature of the God–creation dichotomy.

The natural-law–minded Muʿtazilīs advanced a Platonic conception of the divide in which our world and actions are a distorted reflection of the divine. The divine-command–minded Ashʿarīs, by contrast, posited no such continuity. For them, God was the transcendent source of all existence, and was utterly beyond time and, for the most part, unlike anything we can comprehend. This difference led to different views of how God acts in relation to us, which, as will be explained in Chapter 3, resulted in different understandings of how God "speaks" to us. The Platonic metaphysic, in which a certain continuity is assumed between the divine and human domains, resulted in an understanding of divine speech that accords with our common view of how we speak to each other: a purposeful intervention in time *caused* by the agent's will. The Ashʿarīs, by contrast, developed a view of speech that is unlike our common speech. Like divine attributes in general, divine speech was regarded as eternal and attached to God Himself. God does not *tell us what to do*, in

explained." Ghazālī is careful to explain that his view of divine speech does not follow in any way from an understanding of human speech. This argument is made by reference to this idea of inner speech, which will be explained in the Chapter 3, "We assert, however, that a man is called 'a sayer' in two senses. One of them is through sounds and letters, and the other is by virtue of *inner speech*, which is neither sound nor letter; and this is a perfection. Inner speech is not impossible for God and it does not imply contingency. The form of speech we affirm for God is inner speech." al-Ghazālī, *Al-Ghazali's Moderation in Belief*, 115–16.

the same way a superior would, but speaks eternally as a part of the divine constitution itself. The implications of these conceptions will be explained in Chapter 4, but first we need to ask *why* we need divine speech in the first place. The divergent metaphysics explained in the present chapter were coupled with different epistemologies of what can be known with or without divine speech, which will occupy us in Chapter 3.

3

The Nature of Divine Speech in Classical Theology

The most fundamental positions that constitute the basis of classical Islamic theories on revelation's place in norm formation can be found in attempts to answer two questions. The first question concerns the limits of human awareness and reasoning, and the second concerns the understanding of what is divine and transcendent in relation to our worldly existence. In their development of a theory that placed divine revelation at the center of the formation of norms, the Ashʿarīs leveled a systematic critique of arguments that viewed human individual cognition as reliable enough to attain universalizable rules of action. These critiques, for the most part, relied on the inevitability of moral disagreement. Because revelation-independent judgments are by necessity conditioned by their sociocultural and historical contexts and the individual person's circumstances, they cannot be raised to the level of universalizable (*sharʿī*) type. This intrinsic limitation to revelation-independent thought meant that an interruption of human experience was necessary for society-wide norms to be even conceivable, which was the role of revelation.

Once the epistemological and metaphysical backgrounds are established, the next logical step is to inquire into the nature of divine speech, which depended on the very elementary question of what "divine" meant. The way God was seen to intervene in our world through speech necessarily followed from the way God was conceived of in relation to our world. The disagreements on this question resulted in two distinct theological models that shaped the whole edifice of revelation-based reasoning in Islamic theology, legal theory, and law. In this chapter, we will see how different conceptions of God in relation to the world resulted in different theories on what it means for God to "speak" to us, and what that means

for the role of revelation in normative thinking. The natural-law thinkers viewed divine speech similarly to our common speech: as a set of purposeful utterances produced in a specific point in time to create a given impact. By contrast, for the divine-command theorists divine speech was an eternal attribute of God, and the language of revelation was a wholly human experience.

We can see how this dual understanding of divine speech follows from the metaphysics described in Chapter 2. Ashʿarī and Muʿtazilī debates produced different understandings of what it means for God to have attributes. This disagreement resulted in different views on the nature of divine speech. Whereas Muʿtazilīs maintained that God spoke through speech created in time, Ashʿarīs held that divine speech, like all of his attributes, is eternal and attached to the divine self. The fact that Muʿtazilīs held that divine speech was created, while Ashʿarīs viewed it as timeless, is sometimes regarded as a sign that Muʿtazilīs had a more rational take on divine revelation.[1] This conclusion is based on an incomplete reading of the Muʿtazilī-Ashʿarī disagreement. The central issue at stake was not merely a matter of the nature of God's speech, but a question of the relation of God to his creation. Muʿtazilīs presented a view of the world where the divine realm is an ideal mirror image of our earthly life. In this view, God is much like humans in his wishes, intentions, and actions but, unlike humans, always acts morally. Ashʿarīs, by contrast, were profoundly skeptical of the possibility of comprehending divine motives and intentions, and placed God in a position of pronounced uniqueness in relation to creation. In that sense, Ashʿarīs were in fact antimetaphysical in their approach. To assume that Ashʿarīs were simply more attached to revelation, therefore, is to present an incomplete picture of those theories.

The Ashʿarī antimetaphysical stance did not translate into revelation-independent empiricism, nor was it the foundation of purely textual dogmatism. Rather, it resulted in a renunciation of any attempt to be Godlike or to fit divine categories into human categories, or vice versa. Practically, this meant that Muslim divine-command theorists treated the language of revelation as a set of *indicators* (*dalālāt*) and signs (*ishārāt*), and not as purposeful instructions in the form of humanlike speech.[2]

[1] For example, see George Hourani, *Islamic Rationalism: The Ethics of ʿAbd Al-Jabbār* (Oxford: Clarendon Press, 1971).

[2] Imām al-Ḥaramayn Abū l-Maʿālī al-Juwaynī, *Kitāb al-irshād ilā qawāṭiʿ al-adilla fī uṣūl al-iʿtiqād*, ed. Muḥammad Yūsuf Mūsā and ʿAlī ʿAbd al-Ḥamīd (Cairo: Maktabat al-Khānjī, 1950), 104.

Maintaining that speech resides within the divine self, as we will see, means that we can see revelation-based reasoning only as a purely worldly exercise consisting of the collective engagement of the community of the faithful with the signs left to them by revelation. No transcendent principles or metaphysical designs can lead immediately to practical knowledge. What the modernist rejection of Ashʿarism misses, therefore, is the fact that Ashʿarī skepticism led to faithfulness to empirical knowledge and social agreement in matters of law making, and not a dogmatic attachment to the text.[3]

Even where the rationalism–traditionalism framework has been overcome in recent scholarship, the assumption remains that Ashʿarī theological ethics and jurisprudence were in some way voluntarist or promoted an image of an arbitrary God whose will knows no bounds. For example, we can see this in Sophia Vasalou's account of Ibn Taymiyya's critique of the Ashʿarīs:

> In trying to reconcile God's praiseworthiness and God's power, Ibn Taymiyya will argue, the Ashʿarites failed to give the former its due. Bent on preserving God's sovereignty from the encroachment of limiting standards foreign to His will, they left His will brut and dark to reasons ... When God chooses to do one thing or another – when he commands human beings to perform one action over another or when He creates one thing rather than another – He does so arbitrarily, preferring one of two equally possible actions without a ground ... [4]

I hope to have sufficiently shown in Chapter 1 – and to continue to demonstrate in Chapter 4 – that, for Ashʿarīs, the matter is not that God is an arbitrary tyrant, but that we cannot possibly hope to know the logic behind God's design, and therefore pursuing this line of questioning is futile from a human moral-legal standpoint. This is a kind of skepticism shared by some contemporary divine-command theorists.[5] In

[3] See for example, Binyamin Abrahamov, *Islamic Theology: Traditionalism and Rationalism* (Edinburgh: Edinburgh University Press, 2004).

[4] Sophia Vasalou, *Ibn Taymiyya's Theological Ethics* (New York, NY: Oxford University Press, 2016), 140. Elsewhere, Vasalou observes that the Ashʿarīs "denied the existence of constraints on God's possible action so blatantly as to make God seem like a tyrant." Ibid., 137.

[5] For example, John Hare argues that "Perhaps God could have willed also that we did not talk to each other ... Perhaps (to get more bizarre) God could have willed that we kill each other at the age of eighteen, at which point God would immediately bring us back to life ... I am not claiming that we know that God could have willed all these things, but that we do not know that God could not have. The point is that there is no necessary connection between our created natures and the way we reach our final end." J. E. Hare, *God's Call: Moral Realism, God's Commands, and Human Autonomy* (Grand Rapids, MI: W. B. Eerdmans, 2001), 68–9.

this chapter and in Chapter 4, I will attempt to show that the question of the "bounds on God's will" is not necessarily applicable to the Ashʿarī account of divine speech. Divine commands, as we will see, are not actions backed by a will, but eternal attributes.

This chapter will complete our investigation of the competing models of divine speech that were presented by Muʿtazilīs and Ashʿarīs. In Section 3.1, we will see how the Muʿtazilīs advanced an understanding of divine speech as a purposeful act performed in time. In Section 3.2, we will examine the Ashʿarī response in the form of the theory of inner speech. The chapter will conclude with an examination of how these two models led to a disagreement on the role of revelation in normative thinking. This will be advanced by studying the question of what constitutes the "first obligation."

3.1 THE NATURAL LAW MODEL: DIVINE SPEECH AS ACTION

We begin by examining the natural-law conception of divine speech. Generally, this conception supposes that divine speech occurs in a manner comparable to human speech. As we saw in Chapter 2, for Muʿtazilīs, God's actions are of the same *type* as human actions, and can be understood through the same principles that we use to evaluate human actions. The main difference is that they are always right and good. What follows from this view is that God participates, through His actions, in the moral universe that He created. ʿAbd al-Jabbār began his analysis of the nature of divine speech with an unequivocal declaration that God's speech is an action taken in time: "the Quran is one of God's *actions*, which could conceivably occur in a way that we consider to be good (*yuḥassan*), or in a different way that we consider to be evil (*yuqabbaḥ*)."[6] This statement incorporates the central

[6] Aḥmad Mankadīm, *Sharḥ al-uṣūl al-khamsa*, ed. ʿAbd al-Karīm ʿUthmān (Cairo: Maktabat Wahba, 1965), 527. Emphasis added. An account of the early theories of divine speech in Muʿtazilī thought was provided by Richard Frank. According to Frank, "Abū l-Ḥudhayl held that the *Koran* was primevally created by God in 'The Cherished Table' and that this discourse itself exists as recited, written, and retained in the hearts of men, without losing its integrity or identity with itself. Strictly speaking, the Word of God that is the revelation is not world-transcendent. It is a material being as are all beings save God Himself, and if God were to destroy *all* the substrates in which the *Koran* has its existence, it would cease to exist as speech. As speech, the Word of God is contingent upon His will, as is all material being, but the revelation is not, for this reason a 'mere' creature. Like all speech, it is the speech of the one who originated it and the *Koran* ... is the articulate speech of God, the eternal Creator, available to human perception and

elements of the Muʿtazilī view of divine speech. God speaks in a manner similar to humans. His speech is an action performed in time. This action does not *generate* normative judgments, but supposes the preexistence of universal ideas of good and evil. The preexisting framework of good and evil is applicable to God's actions in general and speech in particular. God being perfect, his speech is always good.

The argument that God's actions are always good was made more clearly by ʿAbd al-Jabbār in a chapter on God's justice (*ʿadl*). Justice, for ʿAbd al-Jabbār, is an evaluation of actions against standards of good and evil: "[justice] could be used to characterize an action or an agent. If it is used in relation to an action, it would mean that the action is good and performed by the agent to achieve benefit." If it were used to characterize an agent, it would mean that the agent performs just actions. In relation to God in particular, "it means that He neither chooses nor performs what is evil, nor abandons what he ought to perform, and that all His actions are good."[7] This is further elaborated in an example that ʿAbd al-Jabbār provides to explain the idea that one does not commit an evil action knowingly if there is no reason to commit it. ʿAbd al-Jabbār makes this claim to explain why, even though God could conceivably commit actions that we can characterize as evil, He never does:

> We find that the unjust (*al-ẓalama*) steal other people's possessions; either because they do not understand the evil nature of stealing or because they think they will need those stolen objects. This shows the truth of what we maintained. If a person has a choice between telling the truth and telling a lie, the consequences of the two being equal . . ., and if they know that lying is evil and unnecessary, they would *never* choose to lie.[8]

God, in His participation in the system of good and evil, is differentiated from other beings by the fact that he never needs to commit an evil action.[9] Since God is all-knowing, it is inconceivable that He would do

understanding." Richard M. Frank, *Texts and Studies on the Development and History of Kalām*, ed. Dimitri Gutas (Aldershot: Ashgate Variorum, 2005), 2: 493–4.

[7] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 301.

[8] Ibid., 303. Emphasis added.

[9] Similarly, Ḥillī argued that, even though all schools of thought agreed that God is always truthful, Imāmīs and Muʿtazilīs specifically maintained that God is always truthful because lying is evil (*qabīḥ*) and that God does not commit evil actions. Ḥillī reported that the Ashʿarī response to the question of God's truthfulness would be to say that if God were to be a liar, this would occur by an eternal attribute, which is absurd. Ḥillī rejected this claim in the context of his overall rejection of the idea of inner speech. Abū l-Muẓaffar Ibn al-Muṭahhar al-Ḥasan b. Yūsuf al-Ḥillī, *Maʿārij al-fahm fī sharḥ al-naẓm*, ed. ʿAbd al-Ḥalīm Ḥilli (Qom: Dalīl-e Mā, 2006), 312.

evil. In short, all beings, God included, participate in the same normative order, with God representing the virtuous extreme. God in the Muʿtazilī view speaks in time in a manner that presupposes values and norms. Because God is all-knowing and all-sufficient, His speech is good by necessity. It is "one of the great blessings," and through which "laws and rules" can be known, but it does not create values, or the possibility of knowing values, in the manner it does in the Ashʿarī model.[10]

In his explanation of what constitutes divine speech, ʿAbd al-Jabbār does not treat speech *proper* separately from written or spoken words. Rather, he begins his discussion with the Quran, which he treats as God's word in the proper sense. The discussion of the distinction between the written word and the speech of God takes the form of the need to identify the observed (*al-shāhid*) with the unseen (*al-ghāʾib*), or the physical and the metaphysical. This form of inquiry is advanced by ʿAbd al-Jabbār as follows:

> The Kullābiyya argued that God's speech is an eternal entity (*maʿnā azaliyy*) that resides in the divine self, that it is one with the Torah, the Gospel, the Psalms and Furqān, that what we hear and recite is a report about God's word. Thus, they distinguished between the seen and the unseen. They [however] ignored the fact that this would require them to maintain either the eternity of the [observable] words or the temporality of God's words, since both the report and the divine word must be of one type, and cannot be different with respect to eternity or creation.[11]

In this account of his position on divine speech, ʿAbd al-Jabbār formulated the question as one pertaining to the differentiation of the physical from the metaphysical. He then advanced his view of divine speech along the lines explained in Chapter 2. While ʿAbd al-Jabbār's interlocutors in this passage tended to see a difference in kind between worldly phenomena and transcendent matters, he insisted that speech is of the same kind, whether in the perfect divine form, or the less-than-perfect form that we can observe in our own speech. The seen and the unseen differ in degree of clarity and perfection, but not in type.[12] The Muʿtazilī doctrine of divine speech was thus presented by ʿAbd al-Jabbār in the following terms:

[10] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 527. A characteristic Ashʿarī response to this conception of divine speech would be that sounds and letters are occurrences (*muḥdathāt*) and that it is inconceivable that such occurrences would inhere in the divine essence. See for example Abū Ḥāmid Muḥammad b. Muḥammad al-Ghazālī, *Al-Ghazālī's Moderation in Belief: al-Iqtiṣād fī al-iʿtiqād*, tr. Aladdin Maḥmūd Yaqūb (Chicago, IL: University of Chicago Press, 2013), 115.

[11] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 527. [12] Ibid.

The Quran is God's speech and revelation. It is created in time. God has revealed it to His Prophet to demonstrate the truth of his prophethood, and to provide us with evidence for judgments so we can consult it on matters of permissibility and prohibition, which requires us to thank [God] and glorify Him. [God's speech] is, therefore, what we hear and recite, which, although not directly created by God, is attributed to Him in a literal sense, in the same way that our recitation of a poem by Imruʾu l-Qays, today, is attributed to the poet in a literal sense, even though the current recitation is not his creation.[13]

This statement of his doctrine on divine speech is, as ʿAbd al-Jabbār explained, a response to his opponents that was intended to settle a disagreement (*shaṭr al-khilāf*). Those opponents advanced the theory that the heard and recited words of the Quran cannot be God's words in the proper sense. As we will see in Section 3.2, Ashʿarīs typically maintained the absurdity of attributing the physical sounds and written words to God, since the acts of reading or hearing are purely human experiences.[14] In response to this, ʿAbd al-Jabbār resorted to yet another parallel with the human act of speech and writing by invoking a comparison to poetry. Just like a poem by Imruʾu l-Qays is still attributable to the poet when it is

[13] Ibid., 528. It is possible to see that the Muʿtazilī–Ashʿarī disagreement on the nature of divine speech reflects a tension between the need for the intelligibility of divine speech, hence its conception as physical words and sounds, and the need to establish the purely divine and transcendent nature of this speech, hence the theory of inner speech. An attempt to formulate a conception of divine speech that takes the best of both of those ideas while locating itself within revealed language was advanced by the prominent Shīʿī scholar Ṣadr al-Dīn al-Shirāzī (also known as Mulla Ṣadrā) (d. 1640). Shīrāzī's idea of divine speech is worth quoting at some length given its originality and difference from both the theories presented in this chapter: "[God's] Speech is not, as the Ashʿarites have said, an 'attribute of [his] soul' and the eternal meanings subsisting in his essence that they called the 'speech of the soul.' For God's speech is something other than a [pure] intelligible, or it would be Knowledge and not speech. But neither is his speech [as the Muʿtazilites have argued] [merely] an expression for the creation of sounds and words signifying meanings, since in that case all speech would be God's speech. Nor does it help [as some Muʿtazilites have attempted] to restrict God's speech to [that which is spoken] 'with the intention of informing another on the part of God' or 'with the intention of their presentation on God's behalf,' since everything is from God. And if [by these restrictions' they were intending a speech without any [human] intermediary, this would also be impossible, since in such a case there would be no sounds or words at all. No, God's 'speech' is an expression for his establishment of perfect words and the sending down of definite signs. . . . Hence His Speech is *'Qur'ān'* (that is, 'joining,' or the noetic Unity of Being) from one point of view and '*Furqān*' (that is, 'separate,' manifest reality) from another point of view." Ṣadr al-Dīn al-Shirāzī (Mulla Ṣadrā), "Principle, Concerning His Speech," tr. James W. Morris. In John Renard (ed.), *Islamic Theological Themes: A Primary Source Reader* (Oakland, CA: University of California Press, 2014), 207–8.

[14] For a similar view of divine speech see Ḥillī, *Maʿārij al-fahm*, 307–11.

recited hundreds of years later, the words of the Quran are God's, whenever they are seen, read, or heard.

This analogy has a number of implications. First, arguing that the Quran is God's word in the same way that a poem is the poet's word highlights the assumption that those words were created by God in some manner that we create our own speech. Second, those words were created at a given point in time; they are the result of an *act* of speech. This contrasts with the Ashʿarī concept of speech as an attribute. Third, and this is where the main difference with Ashʿarīs resides, ʿAbd al-Jabbār's analogy assumes that those physical words have a presence in time from the moment of their communication, and that this presence is the divine message that was sent to the Prophet. This is where the discussion of what constitutes divine speech *proper* is of importance. To say that the message that God sent to humanity through the Prophet is essentially a set of physical sentences has radically different implications than maintaining that the message is eternal. The Ashʿarī theory views the physical manifestations of revelation as distinct and renewable human experiences, which allows a greater role for the appropriation of revelation's meaning by the community. Another noteworthy feature of this account is that it appears to manifest what Nicholas Wolterstorff considers a conflation of divine speech and revelation, a conflation that Wolterstroff argues is prevalent even today, and one that is possibly behind the lack of philosophical analysis of divine speech.[15] While it appears in ʿAbd al-Jabbār's account that divine revelation *is* divine speech, the sharp divide between our experience and divine attributes that we find in Ashʿarī writings makes the distinction between revelation and speech much clearer, as we will see in Section 3.2.

These implications are at the center of the debate on what it means for God to speak. The Muʿtazilī conception is closer to the common idea of divine speech as humanlike in nature, which we find in works of Christian theology. We can draw an example from Wolterstorff's treatment of Augustine's *Confessions*, where Augustine encountered a divine command through a child's words "*tolle lege, tolle lege*" (take and read, take

[15] "So once again: why the neglect among philosophers of the topic of divine discourse, given the prominence of attributions of speech to God in the three great religious traditions which have shaped the West and Near East? I think in good measure it is because it has been widely thought that divine speech is reducible to divine revelation – which *has* received a great deal of attention from philosophers." Nicholas Wolterstorff, *Divine Discourse: Philosophical Reflections on the Claim That God Speaks* (Cambridge: Cambridge University Press, 2000), 9–10.

and read). Wolterstorff explains that, following a deeply moving conversation with Ponticianus,

> [Augustine] had no doubt that by way of the child chanting these words, *God* was then and there saying something, performing a speech action; specifically, an action of *commanding*. The command was not addressed to some collectivity of human beings but addressed specifically to him: God was commanding *him* to open *his* book of Scripture and read the first passage on which *his* eye should fall.[16]

The specifics of Augustine's story shall not concern us here, but what matters to us is the set of assumptions underlying the idea of divine speech: it is speech in time, with a particular meaning, reflecting a particular will. The commands that we hear and read as scripture *are* God's words in the most literal sense. This is amply clear in Augustine's declaration that God asked him to deny his own will and accept God's will. Speaking is acting, and not, as we will see in the Ashʿarī conception, an eternal state.[17] Whereas Augustine experienced a command of God directed to him at a specific moment, his friend Alypius had a different experience, one that is familiar to the followers of divine scripture: "[he] was applying to himself a command issued more than three centuries earlier."[18] We see here two modes of experiencing divine commands, both of which share the same assumption: God commands by an *act* performed in time.

As we will see, the Ashʿarī notion of divine speech is quite different. Ashʿarīs believed that God speaks eternally, by his perpetual state of being "speaking." God's speech, in that sense, is radically different from ours. It is understood as a substance (*maʿnā*), not in the sense of a set of temporal ideas or representations, but as an eternal divine attribute. In the Muʿtazilī model advanced by ʿAbd al-Jabbār, God speaks in a manner essentially identical to ours. He acquires a set of ideas or desires *in time*, and conveys those wishes through a certain set of organized words. We begin to see in this conception of speech that the Muʿtazilī idea of a close link between immanent and transcendent was designed to advance a specific conception of divine revelation which, in turn, would have significant implications on the question of the normative impact of God's words. This normative impact follows from the Muʿtazilī reduction of divine speech to a clear set of physically defined and temporally limited phenomena. The event of revelation itself is limited in time regarding its

[16] Ibid., 5–6. [17] Ibid., 6. [18] Ibid., 5.

implications. It is an intervention in time designed to point to timeless, revelation-independent truths understood as values that stem from the ideas of benefit and harm.

The physical and temporal nature of divine speech were stressed by ʿAbd al-Jabbār throughout his discussion of God's words: "we now explain the meaning of speech: it consists of the organized letters and divided sounds."[19] A central assumption that links together ʿAbd al-Jabbār's ideas on speech is the persistence of physical speech in its various forms.[20] For ʿAbd al-Jabbār, the written, spoken, recited, read, or heard speech *is* God's speech, and is identical to the revelation received by the Prophet. He insisted "the organized letters *are* the divided sounds."[21] That was an important point to preserve the idea that there is one divine speech, and that all its physical and observable manifestations are identical to it. As Wolterstorff explained, this position is not ontologically necessary, in the sense that uttering a command, for example, need not be the same thing as the act of commanding, although it *counts* as such quite often, as Wolterstorff put it. It would seem that ʿAbd al-Jabbār did not make this distinction: uttering speech, essentially, *is* the act of speaking.[22] This speech, as we saw, is a temporal intervention by God. The normative effect of this intervention is that "we can know through it what is permissible and what is prohibited, and can refer to it with regards to laws and judgments."[23] Revelation is not an introduction of new judgments, but a communication from God for the benefit of humans. It is a purposeful intervention, by which God communicated a certain set of

[19] "*al-ḥurūf al-manẓūma wa l-aṣwāt al-muqaṭṭaʿa*." Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 528.

[20] The view that divine speech is the sounds and letters that constitute the Quran resulted in often lengthy discussions of the nature of the sound and the manner of its transmission. The central issue that this discussion raises for our purposes is the question of the certainty and verifiability of sounds and their epistemic (and, therefore, moral) effects. Ḥillī attributed to al-Ashʿarī the claim that sounds are entirely composed of accidents, and that therefore they are intrinsically fleeting and unreliable. Ḥillī, like most proponents of the physicality of divine speech, insisted that sounds were substances that are transmitted in the air through waves (*tamawwuj*). The significance of this controversy stems from the possible objection that, since sound is understood as a concrete occurrence, physical obstacles may intervene in altering our experience of it, which would distort our sensation of divine speech. Ḥillī makes the argument that hearing and sight, unlike touch and taste, do not require immediate contact, and therefore hearing sounds through physical obstacles, such as a wall, is reliable and can be considered a proper way of experiencing speech. Ḥillī, *Maʿārij al-fahm*, 315–18.

[21] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 529. Emphasis added.

[22] On the difference between speaking and uttering, see Wolterstorff, *Divine Discourse*, 78.

[23] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 530.

changes He wished to see occur in this world.[24] If that was not the case, ʿAbd al-Jabbār argued, God's speech would be entirely pointless, which would be reprehensible and therefore absurd.

In attempting to refute the Ashʿarī view that God's speech is an eternal attribute, ʿAbd al-Jabbār responded as follows: "our response to those who said, 'the Quran is co-eternal with God Most Exalted' would be to say to them that they have attained the height of ignorance. Clearly, the Quran has some parts that are prior to others, which makes it impossible for it to be eternal, since the eternal is that which has nothing preceding it."[25] As we can see, ʿAbd al-Jabbār is positing that the Quran is the word of God in the literal sense, and that there is nothing transcendent to which the designation "word of God" applies.[26] Similarly, concerning the claim that divine speech is "an entity residing within the self," ʿAbd al-Jabbār argued, "this cannot be accepted rationally and has no justification. If we accepted that which has no justification we would be opening the door to accepting all fallacies."[27] In response to the Ashʿarī view that divine speech is residing within the divine self, ʿAbd al-Jabbār held that this only means that proper speech, which consists of the physical sentences and utterances, refers to something, which could be a will, intention, knowledge or thought. In that sense, he argued, the Ashʿarīs confused speech proper with that which the speech referred to (i.e., the thoughts or intentions).[28] All those categories of referends were systematically denied by the Ashʿarīs in favor of a view of speech as intrinsic to but not identical with the divine, which is the view we will now examine.[29]

[24] Ibid., 531. [25] Ibid., 532.

[26] A similar response to the Ashʿarī theory of inner speech was made by Ḥillī, who argued that the fact that God spoke to Noah and revealed the Quran on a particular day means that God's speech is temporal and concrete. This conception of divine speech as identical to the seen and heard statements entails by necessity that it cannot be located in Him, as the Ashʿarīs would argue. In response to the idea that speech is a divine attribute, Ḥillī simply restated the Muʿtazilī view that attributes can be either intrinsic, such as knowledge and power, or accidental, which cannot be identified with God. Since speech cannot be seen as an intrinsic attribute according to this theory, Ḥillī dismissed the claim that speech is an eternal attribute that resides in God. Ḥillī, *Maʿārij al-fahm*, 309–12.

[27] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 532. [28] Ibid., 533.

[29] The objection that "inner speech" would constitute nothing other than the will and knowledge to which speech proper refers was addressed by Ghazālī in *al-Iqtiṣād*. He presented this Muʿtazilī position as follows "[inner speech] is not outside the domain of cognition and perception, and it is not a distinct genus by itself at all. Rather, what people call 'inner speech' is knowledge of the arrangement of terms and expressions and the composition of known and understood meanings according to a specific form . . . Thus, if you posit in the soul something other than the act of thinking, which is the arrangement

3.2 THE DIVINE-COMMAND MODEL: SPEECH AS AN ETERNAL ATTRIBUTE

What Ashʿarī theologians meant by divine speech is what should occupy us now. Juwaynī argued that God's speech is eternal and its existence *has no beginning*.[30] The fact that God speaks, Juwaynī explained, is not disputed by any of the Islamic schools.[31] The idea that it has a timeless existence, which he defends, was advanced by Ashʿarīs, and rejected by Muʿtazilīs, Shiʿīs (including Imāmīs and Zaydīs) and Khawārij.[32] All those schools, according to Juwaynī, held that divine speech occurs in time, or comes into being at a particular time.[33] He attributed to the Karrāmiyya the view that we must differentiate between divine speech and utterance. Speech, for them, is the ability to speak,[34] while revelation is divine utterance, which is a "self-sufficient creation." The Muʿtazilīs defined speech as "discrete sounds and arranged letters."[35] The Ashʿarīs, by contrast, maintained that speech is "an iteration that is located within the self, which is indicated by statements, and whatever signs have been conventionally established."[36] To put it plainly, the Ashʿarīs argued that divine speech, and speech in general, was a meaning that could, incidentally, be expressed through arbitrary, conventional signs, while the Muʿtazilīs argued that the physical utterances were the speech itself.[37] For Juwaynī, the fact that speech, in the proper sense, resides within the self, is evidenced by two observations. First, it is common for speakers to refer to speech as something they "had on their minds"[38] but could not verbalize or indicate. Second, when someone utters a command, this reflects a certain sense of necessity and obligation, which stems from the

and composition of terms and meanings, and other than the faculty of thought, which is the power over this act, and other than knowledge of individual meanings and their combinations, and other than knowledge of individual terms-which are arrangements of letters and their combinations, then you have posited a queer notion that is unknown to us." To this objection that there is no distinct concept of "inner speech" besides what is common to the human mind, such as representations of meaning, knowledge of linguistic constructions, among other things, Ghazālī responds that "the notion of speech we seek is a meaning distinct from these forms of speech." It is the noetic element present in the speaker's mind, which is distinguishable from knowledge, intent, and linguistic formation. al-Ghazālī, *Moderation in Belief*, 116–19.

[30] "*lā muftataḥ li-wujūdihi*." Juwaynī, *Irshād*, 99.

[31] On the agreement of all scholars that God "speaks" (in some sense) see Ḥillī, *Maʿārij al-fahm*, 307–8.

[32] Juwaynī, *Irshād*, 100. [33] Ibid. [34] Ibid., 101.

[35] "*al-aṣwāt al-mutaqaṭṭiʿa wa l-ḥurūf al-muntaẓima*." Ibid., 104. [36] Ibid.

[37] See also Ḥillī, *Maʿārij al-fahm*, 307. [38] Juwaynī, *Irshād*, 108.

feeling of necessity in the speaker's mind.[39] Juwaynī paid close attention to command as a critical representation of what could constitute inner speech (*kalām al-nafs*). This conception of command will be discussed in Chapter 4. In this section, we will examine the way the idea of inner speech followed from the Ashʿarī conception of the divine (a), and how this led to a clear distinction between speech proper and the physical manifestations of revelation (b).

3.2.1 Inner Speech within the Ashʿarī Metaphysical Framework

We have already seen that Ashʿarīs held that divine attributes were, unlike human attributes, eternal but not identical to God. Many of those attributes pertained to the very nature of being divine, such as omnipotence, omniscience, and will. Studying these attributes helps explain creation and its relation to God. Divine speech, on the other hand, is primarily of interest for its normative implications. Of course, an important part of divine speech as manifested in the Quran is the attempt to convince humans of the need to believe in God's existence. This aspect, however, is arguably less profoundly transformative than speech that provides direct reasons for action. On the Ashʿarī view, it is the miraculous nature of the message of the Prophet, as well as all the miracles brought forth by previous prophets, which justifies the belief in God's existence. The substantive content of revelation comes to confirm what had already been known through miracle. The question of how to act based on this knowledge of God, by contrast, is a matter that is unanswerable without the content of revelation itself. The central importance of God's speech, therefore, is its potential for guiding human action in a way consistent with their independently acquired belief in God.

Going back to the idea of attributes that make it logically necessary for certain states of affairs to exist, Juwaynī maintained that the attribute of speech, which belongs to God, entails the conclusion that God is "speaking" as a permanent state (*ḥāl*).[40] The idea of a *ḥāl*, while generally more

[39] Ibid., 106–7. The ways in which obligation may or may not follow from command will occupy us in Chapters 4 and 5.

[40] Ibid., 109. The idea of "permanent states" in which God can be said to exist seems to have caused controversy within the Ashʿarī school. This argument, in fact, supposes a certain degree of comprehension of those states, or that they are in some manner within the reach of human minds. In *al-Iqtiṣād fī l-iʿtiqād*, Ghazālī was careful to oppose the view that God is in a perpetual state of speaking (or knowing, willing, and so on) in favor of a more conservative rendering of the school's position, in which he maintained that

closely associated with Muʿtazilī thought, helps explain the Ashʿarī theory that speech is an eternal attribute. For Juwaynī, God is eternally in a state of speaking, which means that there are ideas that are associated with the divine self in a manner that transcends time. Since divine attributes cannot be deficient in any way, they can be subject to no transformation in time. This contrasts with the Muʿtazilī theory, according to which speech is an action in a manner quite similar to human actions. It is a consequence of an agent's will that is separate from the speaker's self: "and, consequently, [the Muʿtazilīs] did not hold that speech must reside within the speaker, since the action does not have to be attached to the agent."[41] This, Juwaynī noted, is "one of the most important issues in this discussion."[42] The distinction between entity and action is indeed central to the determination of the relation between the earthly and the divine. For Muʿtazilīs, the earthly and the divine are interconnected.[43] God commits actions in time that are *separate* from Him and produce independent effects within the domain of our sense experience, such as the communication of His speech. For Ashʿarīs, God is eternally "speaking," something that is entirely unlike our common conception of speech.

The Ashʿarī insistence that God – and consequently His speech – are unlike anything that we can experience in this world was stressed in Juwaynī's response to a possible Muʿtazilī objection. This objection focused on the Ashʿarī rejection of the position that speech is an action in time that follows from a particular divine will: "why would you object to the claim that God is willing in Himself, while you maintain that God is living, knowing and capable in Himself (*li-nafsihi*), and therefore can also be willing in Himself?"[44] Juwaynī explained that there would not be a problem with this claim if it entailed a will that encompasses all matters that can be willed. The Muʿtazilī proposition, however, suggests that God

divine attributes are *amodal,* first and foremost, but also exist eternally without being identical with His essence. A brief summary of Ghazālī position on the question of divine attributes in *al-Iqtiṣād,* and his disagreement with the earlier Ashʿarī figures studied here, can be found in Richard M. Frank, *Al-Ghazālī and the Ashʿarite School* (Durham, NC: Duke University Press, 1994), 47–8.

[41] Juwaynī, *Irshād*, 109. [42] Ibid.

[43] The line between *ḥāl* and *ʿaraḍ* appears blurred at times, especially in contexts where *ḥāl* was defined as a characteristic that needs to attach to a substance by necessity. This proximity in meaning between an existent's state and accident can explain the ambivalence of later theologians (such as Ghazālī) to accept the idea of divine "states." For an overview of some of those positions, see Muḥammad b. ʿAlī al-Tahānawī, *Kashshāf iṣṭilāḥāt al-funūn wa l-ʿulūm al-Islāmiyya*. 3 vols. (Beirut: Dār Ṣādir, 1980), 1: 359.

[44] Juwaynī, *Irshād*, 115.

wills (in Himself) *particular* matters and that this particularization limits the will to some objects of the will as opposed to others.[45] Juwaynī further clarified the difference with the Muʿtazilīs in the context of the proposition that the concrete language of revelation can be said to be an act of God in the sense that it is God's creation.[46] Juwaynī concedes that saying that the printed and spoken words are "God's creation" is correct, so if someone wishes to call them "God's speech" for that reason, the dispute would be limited to nothing more than a choice of words. They are "God's speech" only to the extent that they reflect speech, and they are, like everything else, created by God. However, Juwaynī insists, there would still face the crucial distinction that those physical words, which, like all else, are God's creation, are not the same as the speech of which God can be said to be the speaker perpetually in an eternal manner.[47]

The Ashʿarī theory of the relation of God to the world required that no distinguishable divine manifestation could be claimed to exist in the world. The only way we can claim to establish a connection between the divine and the earthly is through the proposition that God is the creator and knower of all things with no exception. Nothing divine can be said to pertain to or inhere in any given thing, but not another, but all divine presence should be seen as all-encompassing. As a result, nothing divine can be said to have taken place in time, except insofar that God is the creator of time and all that occurs within it. The reason is that anything that occurs in time (*muḥdath*) must have not existed at another point in time, which, in the case of God, would imply the particularization of a divine element, which is impossible. Consequently, discerning good and bad, obligatory and prohibited, among other normative concepts, cannot be made through direct divine intervention in time. The collective community-based striving toward normative knowledge, which will be detailed in Chapter 5, was seen to constitute a form of worship. Revelation, in that sense, is not an actual divine action, but an

[45] "*ikhtiṣāṣun li l-irādati l-ḥādithati bi-mutaʿallaqihā*." Ibid. [46] Ibid., 116.

[47] Ibid., 117. *Khalq* or creation in that context means the bringing of an existent into being. The various form of *khalq,* including *khuluq* were at the center of many theological debates concerning divine (and human) capacity to create and to perform actions. In the Ashʿārī model explained here, God's *khalq* refers to His being the creator of all that exists, and thus this power of creation is at the source of the words of the Quran, among other existents. The inner ability to humans, by contrast, referred to as *khuluq,* was understood as a component of the soul that followers a largely Aristotelian scheme, whereby the *khuluq* of representation would be a central element of the soul's ability to speak, for example. See Tahānawī, *Kashshāf*, 1:334–5.

interruption of the façade of worldly consistency that makes possible striving toward God.

Ashʿarī theology, as we have seen, represented a version of theism that denied discernible connections between God, the absolute creator, and the world, which is His creation. This view creates certain problems and is susceptible to challenges pertaining to the clarity and availability to human minds of God's role in norm formation, and therefore of the form of ethics that would emerge based on the belief in God. The Muʿtazilī metaphysical configuration of God as the perfect being who actively guides us, His imperfect creatures, to be more like Him through *specific* interventions has the virtue of determinacy: God has a specific role to play, and so do humans. But if God is an utterly transcendent creator who is related to this world by being the all-powerful willing creator of everything, it is not clear how knowledge of God and His word can be of any help in discerning right from wrong, and obligatory from prohibited. This challenge was related by Juwaynī in the form of a possible objection to the absurdity of an eternally commanding God. He explained that,

> [Our opponents] objected to our views by saying: if you maintain that God's word was eternal, this would entail one of two things. Either you maintain that this eternal speech contains command, prohibition, and assertion (*amran, nahyan, ikhbāran*), or you maintain that it does not. If you maintain that it contains command, prohibition and assertion, your argument fails, because what is commanded and prohibited must correspond to a commanded or prohibited object. There cannot be an eternal speaker who manages to encourage a matter and discourage another one. A command without object is impossible, and the impossible cannot be the object of a command. If you hold that eternal speech does not contain those distinctions attributed to speech [in general], your argument becomes absurd, which would mean that we could not accept your views.[48]

There are two main ways in which Ashʿarīs attempted to address this concern. The first one that Juwaynī related, but did not endorse, is

[48] Juwaynī, *Irshād*, 119. Ghazālī responded to this objection by conceding that Ashʿarīs indeed "[observe that] speech is either command, prohibition, declarative statement, or interrogative statement." In all those cases, what is meant by inner speech is the meaning of solicitation of action, solicitation of inaction, the meaning of a declaration or the request for more knowledge. The fact that inner speech does not correspond to the speaker's will for the object of speech to be realized was illustrated using the example of the unwilling master, which will be discussed in more detail in the next chapter. This example supposes that a master commands a slave to perform an action while inwardly willing for the slave to disobey him. In that scenario, the inner speech only corresponds to the meaning of requiring action, not to the will for the action to be performed. al-Ghazālī, *al-Ghazālī's Moderation in Belief*, 118.

attributed to Muḥammad b. Kullāb. He held that the division of speech into command, prohibition and assertion does not pertain to divine speech in its eternal form, but only becomes divisible in the way in which humans follow it.[49] This, Juwaynī added, avoids the Muʿtazilī objection but does not truly resolve the problem. Juwaynī did not explain clearly why he found this unacceptable, but this could be attributed to the fact that it leaves unresolved the question of how indivisible and indistinguishable divine speech can result in specific ethical knowledge. Having rejected this view, Juwaynī proceeded to explain that a more valid understanding of divine speech is seeing it as eternally divided into commands and assertions.[50] Here, a distinction must be made between matters that constitute divine speech in the sense advanced by Juwaynī, and matters that are willed by God, which is the entirety of existents. For a matter to be the object of requirement or compulsoriness in eternal divine speech does not mean that it is willed by God, for all things that are willed by God exist by necessity given His omnipotence. In fact, Juwaynī argued, the absence of the object of commands follows by necessity from divine omnipotence. Since God is omnipotent by an eternal capacity, the actualization of potentials, which include the objects of commands, is one of the manifestations of this capacity.[51] This distinction between speech as eternal attribute and creation as a manifestation of divine will follows from the Ashʿarī dualistic model that we have already seen. Another area that reflects this sharp division between the immanent and the transcendent is the distinction between the concrete words of the Quran and divine speech in the proper sense. We now turn to this question.

3.2.2 Inner Speech and Its Concrete Manifestations

We have thus far seen that, for Ashʿarīs, divine speech is eternal and exists in perpetuity in a state that is susceptible to distinction between command, prohibition and assertion. An important matter that follows from this view is the relation of this eternal speech to the earthly sounds and lines that we hear and read that we refer to as the Quran. If divine speech consists of an eternally existing attribute, it would mean that normativity, as it exists as a divine phenomenon, is universal in the full sense. The relation of those eternal meanings to our worldly experience of them determines the nature and reach of the judgments that we can build on

[49] Juwaynī, *Irshād*, 123. [50] Ibid., 120. [51] Ibid.

their basis. Juwaynī explained, "Recitation in our view consists of the voices and tunes of the reciters and are actions that they may be required to do in some cases, and recommended in others, and they may be reprehended in case they refrain from it."[52] Juwaynī's reference to reward and punishment as it attached to recitation shows that he viewed it as a normal human action to be assessed in the same way as any action performed by any person (or "acquired" in Ashʿarī jargon).[53] It would be absurd, he argued, for there to be a reward or punishment for something that constitutes an eternal attribute. The emphasis on recitation as an ordinary action is part of Juwaynī's overall argument that any experience of revealed words is purely human, which means that it cannot be identified with God's speech. This view was made more emphatically in *al-Inṣāf*, where Bāqillānī argued that recitation of the Quran, a human act that pertains to divine speech, is similar to prayer, which is a human act that pertains to God. Neither act *is* God in any sense, but only a human attempt to approach the Creator to the best of their abilities. Juwaynī proceeded, in typical Ashʿarī fashion, to highlight the fundamental variety of the sensory experience of the Quran to argue that none of those experiences can rationally be considered the actual word of God.[54] He explained, "recitation of one person can be pleasant and that of another can be repellant, it can be melodic or linear and emphatic, and none of this can be characterized as beingeternal."[55]

Ashʿarī scholars relied on the fundamental fluidity of sense experience to advance the utter transcendence of all that is divine. The Ashʿarī understanding of sense experience as essentially fluid served as a foundation for what could be regarded as a productive skepticism. It is productive in the sense that, in its awareness of the radical divide between all that is earthly and all that is divine, Ashʿarī theism carved out a domain for purely human reflection that is motivated by consciousness of what lies beyond the world of sense experience. Juwaynī's defense of the radical distinction between divine speech and the human experience of it is only one example of this skeptical theism.

The crucial step in formulating the link between transcendent speech and observable language is found in Juwaynī's discussion of "that which is recited." Since recitation itself was seen as a fully human action, it is the object of recitation that constitutes the domain where transcendent speech and its immanent manifestation potentially meet. Juwaynī proceeded to

[52] Ibid., 130. [53] Ibid., 131. [54] Juwaynī, *Irshād*, 131. [55] Ibid.

argue that "what is recited is that which is known and understood from recitation, and it is the eternal speech that is indicated by sentences but is not part of [those sentences] (*wa laysa minhā*)."[56] This is an immensely important idea in Juwaynī's thought that, unfortunately, he does not explain further. What we can understand from this passage is that: (1) the concrete sentences of the Quran *indicate* but *are not* divine speech (2) divine speech is the object of recitation and (3) what is understood from recitation is the object of recitation.

At face value, those statements may be seen as contradictory. Having defined divine speech as eternal meanings that constitute attributes of God, Juwaynī proceeded to equate between this speech and what people understand from Quranic recitation, which is a conclusion that follows from claims (2) and (3). The contradiction can be resolved with reference to the epistemology of the concept of *dalīl*, or indicant. A *dalīl*, as we previously saw, is a piece of information that has the potential of leading the mind in the direction of additional knowledge concerning a given subject matter, in the same way the vision of smoke leads to the belief that there may have been a fire that caused it. The outcome of a *dalīl* is purely noetic: it is a state of mind. Following this logic, we can see that Juwaynī attempted to explain in this passage that encountering the Quranic text has the potential of engendering within the mind states of belief that relate to the divine speech in its transcendent form. Those states of mind are, without a doubt, not identical to this eternal speech. This conclusion is confirmed by Juwaynī's explanation that the relation of "that which is recited" to the act of recitation is similar to the relation of "that which is remembered" to the act of remembrance (*al-dhikr*). When one exercises "remembrance" they are in a given state of mind that envisions or pertains to God in one way or another, but that state of mind is, most certainly, *not* God.[57] Remembrance, Juwaynī explained "refers to the utterances of those who remember, and God, whom we exalt and glorify is not [equivalent to] the exaltation and glorification."[58]

The logical consequence of Juwaynī's conception of reading or recitation of the Quran as worship is that the specific words of the Quran that can be read, written, recited, and heard are not divine utterances, but only a human earthly manifestation that attempts to approximate the meaning of divine speech. This conclusion was driven home by Juwaynī in his

[56] Ibid. [57] Ibid. [58] Ibid., 132.

discussion of the meaning of "revealing" (literally, bringing down, *inzāl*) the Quran. Juwaynī made it very clear that, in his view, *inzāl* or the act of revelation of the Quran does not mean its transfer or communication from a higher to a lower place, or any physical movement of any kind, since this type of movement is only reserved for physical and celestial bodies.[59] The impossibility of transmittance is a necessary conclusion that follows from the view that divine speech is an attribute of God. The act of revelation, therefore, consists in a miracle whereby Archangel Gabriel "comprehended the speech of God while in the Seven Heavens, and then came down to earth to explain to the Prophetwhat he had understood."[60]

This rather striking vision of revelation as a process of paraphrasing of divine speech through worldly communication boldly sums up the Ashʿarī understanding of what it meant for God to speak. Divine speech, in this model, is radically different from human speech, and should be understood as an integral part of the metaphysical divine presence. This somewhat counterintuitive theory, which matches the Ashʿarī epistemology and metaphysics explained in previous chapters, had important consequences regarding how revelation can guide action. Section 3.3 will outline those consequences at a theoretical level, and the remaining chapters will construct those processes of norm formation at the level of legal theory.

[59] Ibid., 135.

[60] Ibid. The argument that Gabriel communicated to Muhammad *what he understood* from divine speech is a radical departure from the (arguably common and intuitive) position that the Quran is "God's word" in the literal sense. It is a position that is rarely invoked despite its centrality to Ashʿarī theology and meta-ethics. The Ashʿarī position that Gabriel was paraphrasing God, in some manner, was an understanding specific to Muḥammad's experience of revelation, and helped develop what I have described here as nonmetaphysical meta-ethics in the context of their engagement with the Quran, but this was not necessarily the standard way in which they understood divine revelation. For instance, Ghazālī entertained the same question concerning the instance in which Moses heard the speech of God. "Did he hear sound and letter? If you say that he did, then, according to you, he did not hear the speech of God, since God's speech is not sound and letter. On the other hand, if he did not hear sound and letter, then how did he hear that which is neither sound nor letter?" Ghazalī, in response, resorts to the Ashʿarī notion of the amodality of divine attributes: "Your question, 'How did he hear God's speech?' is the question of someone who does not understand the object of a *how*-questions, what is sought by it, and what sort of answer is possible for it." Answering this question, for Ghazālī, is altogether impossible, since God's speech has no modality, and therefore it is impossible to say how one hears or sees it. al-Ghazālī, *Al-Ghazālī's Moderation in Belief*, 120–1.

3.3 THE FUNCTION OF REVELATION IN THE PROCESS OF NORM-CONSTRUCTION

So far, we have seen that different epistemological and metaphysical theories resulted in different conceptions of divine speech. In this section, we take this debate to its conclusion by examining how revelation was seen as necessary for the attainment of normative judgments.[61] The question of the normative effects of divine revelation was most immediately at stake in what scholars referred to as the question of the "first obligation." Admittedly, the term "first obligation" is vague and can (and did) have several meanings. It is within this ambiguity that the range of positions pertaining to the role of divine revelation in our acquisition of normative knowledge became evident. To put it briefly, scholars who embraced a type of natural-law approach to revelation meant by it the first obligation to be made known to us by God, whereas scholars who viewed revelation as necessary for normative knowledge (thus adopting a divine-command conception of obligation) meant the first obligation that can be known to human minds. For divine-command theorists, therefore, the very possibility of attaining knowledge of nonsubjective norms depended upon the arrival of revelation, while revelation played no such role for natural-reason theorists. For the latter, there can be no order of priority for norms of action, since normativity follows from a set of natural processes of acquisition of knowledge that are independent of divine speech. For the divine command theorists, the prerevelation world is one in which knowledge of universalizable norms is utterly impossible. Debating the question of what constituted the first obligation, therefore, was an indirect way of establishing the first link in a chain of reasoning that pertained to the sources of norms. The question of first obligation

[61] Whereas the epistemological foundations of the disagreement on the place of revelation in normative reasoning are often acknowledged, scholars focusing on the natural law side of the discussion often reach the unwarranted conclusion that the opposition of cognitivism and skepticism that we are explaining in this section is reflective of a supposed tension between "reason" and "revelation." For example, M. Ibrahim argued that "Another theological dispute resulting from ʿAbd al-Jabbār's view on immediate knowledge is with the Ashʿarites. ʿAbd al-Jabbār considers that basic ethical rules knowledge is included in immediate knowledge. His inclusion of this knowledge in immediate knowledge implies man's ability to know good and evil with reason alone. However, this inclusion is rejected by the Ashʿarites since they exclude ethical rules from immediate knowledge." Mohd Radhi Ibrahim, "Immediate Knowledge According to al-Qadi ʿAbd al-Jabbar." *Arabic Sciences and Philosophy* 23(1) (2013): 113.

reveals two approaches to revelation: (a) as a mere promoter of normativity, and (b) as an introducer of the very possibility of ethics.

3.3.1 Revelation as Promoter of Normative Knowledge

If one accepts the Muʿtazilī view that revelation is introduced into a world in which natural values are available to human minds, one would have to justify the relevance of divine revelation in the process of norm construction. This is a problem that Muʿtazilīs faced, and that continues to concern contemporary ethicists who attempt to combine the divine-command and natural-law approaches. In this section, we will see that the Muʿtazilī justifications of the relevance of revelation ranged from the claim that it made normative judgments more accessible, to the more robust view that absolute, unconditional obligations are impossible without revelation.[62] Generally, we can see a gradual shift in time toward a stronger role of revelation within the Muʿtazilī school, just like, as we will see, an increased degree of nuance can be observed in Ashʿarī theories as well. The argument that reasoning based on individual observation (*ʿaql*) and that based on divine reports (*samʿ*) are both valid sources of knowledge has been clearly articulated by ʿAbd al-Jabbār in *al-Mughnī*:

> What we say about revelation-based knowledge is similar to what we say about pure reasoning: they both represent a premise for obligation. The existence of a premise is only known through a divine message in revelation-based matters, and is known by reflection in the case of pure reasoning. To that extent, they are different, although they share the necessity of there being a reason that justifies obligation, without which no moral judgment would have been justified, as previously explained. Whenever we say that God has made something obligatory, we mean that God has *made it known* to us that it is obligatory, or has made it knowable through the action's attributes … Thus, God Most Exalted has differentiated between proofs. In some cases, He made obligations known through pure reasoning, through habits, or trustworthy reports, in other cases He made them

[62] Kambiz GhaneaBassiri offers a helpful explanation of the Muʿtazilī position on revelation in the following terms: "ʿAbd al-Jabbār, being a Muslim theologian, did not disagree with Ibn al-Bāqillānī about the enduring significance of divine revelations, nor did he dispute the validity of the Qurʾān as an accurate source of divine commands. My concern here is not with the ways in which the two theologians established the validity of the Qurʾān as a source of divinely revealed commands. Rather, my aim is to show how necessary knowledge serves as a theological argument for Ibn al-Bāqillānī's assertions that justice is whatever God commands." Kambiz GhaneaBassiri, "The Epistemological Foundation of Conceptions of Justice in Classical Kalām: A Study of ʿAbd Al-Jabbār's *Al-Mughnī* and Ibn Al-Bāqillānī's *Al-Tamhīd*," *Journal of Islamic Studies* 19(1) (2008): 71–96.

known through revelation. In all those cases, the obligation must be established by pure reasoning either in its general terms or as a specific case.[63]

It followed from the view that the moral properties of actions can be known by pure reasoning that divine revelation only *indicated*, rather than introduced, value norms. This accords with the conception of divine speech as a purposeful intervention in time that we have elaborated in the present chapter. For ʿAbd al-Jabbār, the problem with the position that no knowledge of normative judgments is possible without divine revelation was manifested in several objections, many of which correspond to the most common modern challenges to divine command theories. First, divine speech does not affect the attributes of actions. If physical actions "are subject to no event other than existence and occurrence, it would all be equal in that sense, and it would not be more likely for some to be mandatory and not others."[64] The assumption on which that view is based is that it would be impossible for us to distinguish categories of action based on value without distinguishing some feature that is attached to them. The issue of whether actions have discernible normative features is exactly the question ʿAbd al-Jabbār was attempting to settle, and hence this argument begs the question. Second, ʿAbd al-Jabbār argued, if good actions are made obligatory "because someone causes them to be so," it would not be possible to act morally in an autonomous manner but we would be merely doing so because it has been imposed on us.[65] This is a familiar objection to divine command theories. We will address it in the following chapter. Third, ʿAbd al-Jabbār invoked the notion that many people have no access to knowledge of revelation,[66] which would defeat the purpose of attempting to construct a model that allows the formulation of categorical judgments.

For ʿAbd al-Jabbār, the construction of norms is the product of a natural universal process, and not a function of the arrival of revelation. The crucial question that this natural-law model raises concerns the function that revelation has in the attainment of moral knowledge, which can be examined through the question of the "first obligation." Much like most Ashʿarī theologians ʿAbd al-Jabbār argued that the "first obligation" consists of "the reasoning that leads to knowledge of God Most Exalted, since He cannot be known by necessity or observation."[67] This

[63] ʿAbd al-Jabbār al-Asadābādī, *al-Mughnī fī abwāb al-tawḥīd wa l-ʿadl*, ed. Ṭāhā Ḥusayn. 20 vols. (Cairo: Wizārat al-Thaqāfa wa l-Irshād al-Qawmī, n.d.), 12:350.
[64] Ibid. [65] Ibid., 12:351. [66] Ibid., 12:350.
[67] Mankadīm, *Sharḥ al-uṣūl al-khamsa*, 39.

apparent agreement, however, vanished upon further scrutiny.[68] ʿAbd al-Jabbār was explicit that knowledge of God, and, *a fortiori*, the arrival of revelation, are not preconditions of knowledge of norms. In response to a hypothetical interlocutor's rather awkwardly phrased question "if you say that obligation is not imposed by a Legislator's action,[69] what do you mean when you say 'this is the first obligation that God imposed on you,'?" ʿAbd al-Jabbār responded, "it means that this is [the first] obligation that God has *made known* to you."[70] No divine intervention, revelation included, can be the origin of obligation, but God can *inform*, through a purposeful and time-defined intervention, that a certain act is required. When God informs us that actions are obligatory, ʿAbd al-Jabbār explained, he does that by way of "mercy (*luṭf*), to facilitate the performance of duties and the avoidance of reprehensible actions known by mere reflection."[71]

The primary answer that ʿAbd al-Jabbār offers to the problem of the function of revelation, therefore, consisted of invoking the idea that divine instruction makes the process of moral reasoning and compliance more accessible. This response raises a second problem: if God informs us through revelation of this obligation to reflect upon His presence, this presupposes the knowledge of God, thus this obligation would be pointless. ʿAbd al-Jabbār attempted to bridge this divide between the speculative and the revealed domains of normativity through the ubiquitous idea of *luṭf*. Mercy, he argued, was categorically normative since anything that alleviates hardship in any way is desirable. By that logic, one would naturally be required to reflect upon the existence of God and the authenticity of revelation, since the outcome of this reflection would be desirable by revelation-independent standards.[72]

The crucial point in this argument is that the obligation to reflect upon the existence of God is justified in the same manner as any other obligation: it depends on its supposed beneficial effects. The argument that reasoning that leads to the knowledge of God is obligatory because it constitutes *luṭf*, however, was subject to several objections. The most significant of those is the view that, since it is not possible to know whether reasoning is "fruitful and leads to actual knowledge," it cannot

[68] See also Ḥillī, *Maʿārij al-fahm*, 84–6.

[69] "*idhā kāna ʿindakum anna l-wājib lā yajibu bi ījābi mūjib.*" Mankadīm, *Sharḥ al-usūl al-khamsa*, 43.

[70] Ibid. Emphasis added.

[71] "*adāʾ al-ṭāʿāt wa ijtināb al-muqabbaḥāt al-ʿaqliyya.*" Ibid.

[72] Ibid., 57.

be said that such reasoning constitutes an obligation. This objection alludes to a recurring problem that often faces natural-reason theories: if our concrete experiences can serve as foundations for universalizable judgments, why would we feel compelled to reflect upon unobservable matters, such as God? ʿAbd al-Jabbār's answer was a categorical rejection of the assumption that the realization of good outcomes must be known with certainty as a precondition for moral judgments. He explained that,

> The bearer of obligation need not know that his reasoning would generate or lead to knowledge, just as he need not know that his actions in mundane affairs would lead to their intended consequences. It is sufficient to know in general and in his own view that the reasoning was good and obligatory.[73]

In this argument, we begin to see the significance of ʿAbd al-Jabbār's theory that moral reasoning is an internal and uniform process, explained in the first chapter. Since our faculties of observation and reflection are part of a predictable and purposeful natural order, what is required for us to attain moral knowledge is to apply those faculties correctly and nothing more. Once we have attained the state of inner conviction that signals true knowledge, we can act upon our thoughts. In this process, divine speech comes to assist in the search for conviction.

ʿAbd al-Jabbār's understanding of the role of divine speech in the acquisition of norms was slightly reconsidered by some later Muʿtazilīs. The idea that knowledge of God was the "first obligation" was also invoked by Malāḥimī, who explained it rather differently. Malāḥimī argued, "the discerning person need not know that this is the first obligation, as long as they know that reasoning that leads to the knowledge of God was obligatory. Scholars say that [it is the "first obligation"] with the intention of alerting the obligated that this is a strict obligation that cannot be postponed."[74] Malāḥimī appeared to have granted the knowledge of God an even lower rank in terms of urgency and importance in relation to other obligations. He did view it as a strict obligation for two reasons. First, he produced a version of the *luṭf* argument that was made by ʿAbd al-Jabbār without referring directly to *luṭf*: "an intelligent person wishes that by reasoning they would eliminate fear from their soul, and all that can eliminate fear from the soul is obligatory."[75]

[73] Ibid.

[74] Rukn al-Dīn al-Malāḥimī, *Kitāb al-Muʿtamad fī uṣūl al-dīn*, ed. Martin McDermott and Wilferd Madelung (London: al-Hoda, 1991), 75.

[75] Ibid.

This argument reflects the view that, without reflection upon the origins of the world, people are in a state of fundamental uncertainty, and this fundamental condition pertains to all intelligent people equally.[76] This, Malāḥimī maintained, is a reasonable form of fear-generating doubt, which, when it happens, makes it clear that one ought to reflect upon the origins of this world.[77] This productive type of fear need not be the result of exposure to revelation, but is a matter that occurs to anyone of sound mind. Since everyone knows that reasoning makes it more likely to obtain knowledge that would eliminate fear-causing uncertainty, it follows that this form of reasoning is obligatory. The assumption here is that there are universal forms of harm, fear being one of them, and that the avoidance of those forms of harm is a universal obligation. This is a restatement of the prudential position advanced by ʿAbd al-Jabbār, according to which: "hoping to eliminate fear and harm for oneself is an obligation that need not be proven, since every person of sound mind knows that by necessity."[78] Inasmuch as it constitutes a strict obligation, however, striving toward the knowledge of God occupies exactly the same status as any other action that is likely to alleviate hardship.

3.3.2 Revelation as a Miraculous Introduction of the Possibility of Universal Norms

In Ashʿarī thought, the question of the first obligation was used to explain how universal norms are introduced in a world in which humans are fundamentally incapable of more-than-subjective judgments. Since individual moral judgments based on habitual observation are inherently non-universalizable, revelation is required to introduce the potential of precisely that type of normative judgment that is otherwise unavailable. Juwaynī argued that "the first thing that is incumbent upon the discerning adult upon reaching the legal age of maturity is the intention to commit valid reasoning that leads to knowledge of the createdness of the world."[79] The initial scheme of things before speculative theology and revealed knowledge, in Ashʿarī thought, consisted of mere human

[76] Malāḥimī explained that "a discerning person, upon contact with people, will inevitably observe the differences of opinion and the fact that knowers of God warn others of going astray and of punishment, and hears warnings that, if one did not know God and know what actions please and displease him, one may commit what displeases him and deserve punishment from him." Ibid., 76.

[77] Ibid. [78] Ibid. [79] Juwaynī, *Irshād*, 3.

consciousness and epistemic possibilities. How is normativity introduced into this picture?

If Juwaynī were to argue that investigating the origin of the world was a purely rational (i.e., self-attained) obligation, one would have to ask if there was any obligation to undertake the reasoning that could lead to such knowledge, which would lead to infinite regression. Juwaynī avoided this difficulty by maintaining that, "reasoning that is conducive to knowledge is obligatory, and we know its compulsoriness through divine legislation. All of the divine obligations are attained through transmitted proofs (*al-adilla al-samʿiyya*) and matters of divine legislation (*al-qaḍāya al-sharʿiyya*)."[80] He did not explain the difference between *adilla sharʿiyya* and *qaḍāya sharʿiyya*, or if they are simply synonyms used to emphasize the meaning. A possible reading of this passage would suggest that Juwaynī added "matters of divine legislation" to "transmitted proofs" to highlight the fact that knowledge of norms is not merely the result of dogmatic following of transmitted reports, but involves various forms of reasoning that, nonetheless, ultimately rely on some divinely revealed report.

If that reading were accurate, this would be a statement of importance for our understanding of the place of knowledge of God and revelation in Juwaynī's system. The implication of this claim is that inquiring into the origin of existence, which is a condition for any categorical moral obligation, would be altogether unnecessary if there were no prophets who reported to us that the world is God's creation, with all the moral implications that this knowledge entails. In short, there would be no obligation (in *that* sense of obligation) without a message from God, and thus there would be no morality without a prophet. Juwaynī's formulation does not imply that divine reports immediately lead to definite knowledge of obligation. They are necessary conditions of normativity, but nothing in Juwaynī's argument indicates that they are sufficient. Rather, the arrival of a prophet makes knowledge of obligations *possible*, which would then make it incumbent upon legally capable adults to use the methods of reasoning at their disposal to attain that knowledge.

Reflection without knowledge of God is only a possibility, but becomes a *moral obligation* after one acquires knowledge of the origins of existence. The significance of Juwaynī's insistence on *samʿ* as the source of this primordial obligation is that it clearly contrasts with the Muʿtazilī

[80] Ibid., 8.

view "that [mere] reason can attain knowledge of obligations, including [the obligation to] think."[81] An argument commonly employed by the Muʿtazilīs in support of this view consisted of highlighting the seeming circularity of Juwaynī's claim. The problem with Juwaynī's argument is that one must first reflect upon the creation of the world to accept the divine message, which is a precondition for the obligation to reflect, which makes it circular. Juwaynī attributes this objection to the Muʿtazilīs:

> if you deny the possibility of attaining knowledge of the [primordial] obligation to think by mere reasoning it would follow that you invalidate the challenges to prophethood and close the path of argumentation [with, or for, the prophets]. If they [i.e., the prophets] invited people to [the worship of God] by calling upon them to consider their miracles and reflect upon their signs, people would respond, 'we are not obligated to reflect [upon your message] as long as we do not have an established [divine] legislation and a stable and continuous normative system, but we have no legislation from which obligations are derived.' This belief would drive them to steer away from truthfulness and persist in unbelief and denial.[82]

Juwaynī's response to this objection – though stated rather obscurely – appears to rest on the notion that *samʿ*, in the form of the arrival of a prophet supported by a miracle (*muʿjiza*), is an occurrence that makes it *reasonable* to reflect upon the truthfulness of this prophet. To avoid circularity, therefore, Juwaynī nuanced his conception of a primordial obligation to think into a *likelihood* of thinking that is triggered by the very fact of prophecy supported by miracle.[83] The rational possibility of there being a God, just like the mere claim of prophecy, entails no obligation of any sort. He explained, "if the path that leads to knowledge

[81] Ibid., 8–9.

[82] Ibid., 9. Ḥillī reproduced the common Muʿtazilī response to the Ashʿarīs, which stated that believing that the obligation to reflect is based on revealed knowledge would entail a repudiation (*ifḥām*) of the prophets. On that view, if one were to rely on revelation to know that it is obligatory to reflect upon the origins of the world, it would mean that there is no obligation to look into, let alone accept, revelation itself. In Ḥillī's words, one would say to a prophet "I do not have to follow you unless I know that you were truthful, which I cannot know without looking [into your message] (*lā aʿrifu ṣidqak illā bi l-naẓar*). However, reflecting upon your message can only be established as an obligation by the message itself (*al-naẓar lā yajibu ʿalayya illā bi-qawlika*), which has not been established as a proof [of obligation]." The standard Ashʿarī response to this objection largely takes the discussion to a different realm, namely the arrival of miracles. Ashʿarīs did not contest the *a priori* circularity in this form of reasoning, but rather maintained that the emergence of normativity within the human realm was the result of the breaking of such circle, which resulted from a disruption of the ordinary (or, in Ashʿarī terminology, "habitual" (*ʿāda*), course of events. The miracle that supports a prophet's claim makes it *reasonable* for an intelligent being to look into that message. Ḥillī, *Maʿārij al-fahm*, 88.

[83] Juwaynī, *Irshād*, 10.

of the obligation to think consists of the presence of ideas within the mind and weighing of various possibilities by the intellect, whoever remains oblivious of those ideas and possibilities cannot attain knowledge of the obligation to reflect."[84] Thus, though it is possible to consider the potentiality of there being a Creator of the world, there is initially absolutely no obligation to do so, and nothing makes this kind of reflection more likely or necessary.

For Juwaynī, however, mere possibility is transformed into obligation by the arrival of a miracle. It follows that "the source of obligation is the arrival of a [divine] report that indicates it while the agent is capable of attaining [this report]. If miracles that prove the veracity of the prophets emerge, then divine legislation and divine reports concerning obligations or prohibitions have been established."[85] Whereas considering the possibility of there being a God presents itself as something that demands investigation upon the arrival of a miracle, the establishment of divine legislation turns this possibility into a substantive moral obligation by its content. According to Juwaynī, "the community has reached a consensus that it is obligatory to know God, and it has been rationally known that the attainment of knowledge requires reasoning. That without which one cannot perform an obligation is obligatory."[86]

This argument by Juwaynī makes it amply obvious that, for him, the connection between *samʿ* and *wājib*, or divine reports and obligation, is not one of exclusivity but of necessity. In other words, while a divine message is necessary for there to be obligations, it is not the exclusive source of moral knowledge. Initially, Juwaynī established sensory perception and cognition as fundamental human conditions that preexist and make possible the arrival of a divine message. A divine message does not merely, or even primarily, lead to normative knowledge by its substantive content. To begin with, the very introduction of norms within the human realm is made by a miraculous manifestation that accompanies the message, rather than the moral content of the message itself. This introduction would not have been possible without the innate rational features that characterize the human mind and push humans to investigate any occurrence that breaches the otherwise steady flow of habitual sense perception. Furthermore, the persistence of the obligation to know God, which is a prerequisite to all normativity, is made possible by a

[84] Ibid. [85] Ibid., 11. [86] Ibid.

combination of consensus of the community and the necessity to perform that which is required for the satisfaction of an obligation.[87]

Importantly, divine reports, for Juwaynī, insert themselves into an already-existing web of human perception and cognition. The primacy of human experience is, in fact, a central characteristic of Ashʿarī thought that shaped its response to Muʿtazilī commitment to metaphysical naturalism, as we saw in Chapter 2. The two pillars upon which the divine system of ethics is incorporated into human existence are sense perception and valid reasoning. The divine does not assert himself in norm construction by a top-down announcement of a set of universal laws, but by the *interruption* of the normal flow of human experience through a nonhabitual occurrence that serves to establish the *possibility* of ethics. This interruption of human experience justifies the acceptance of a set of transmitted proofs that, when combined with the preexisting rational proofs, can result in practical moral knowledge. The attainment of moral knowledge, therefore, becomes the purview of the community of believers and therefore becomes subject to all the conventional rules of reasoning.[88]

3.4 CONCLUSION

In our efforts to reconstruct an Islamic model of divine command theory, we have focused on investigating two main sets of questions. The first set concerned the limits of human acquisition of knowledge of values and judgments. The second set pertained to the nature and role of divine revelation in this process of acquisition of knowledge. In Chapter 1 I attempted to show that the Ashʿarī–Muʿtazilī disagreement on the necessity of divine revelation for practical reasoning rested on a deeper disagreement in epistemology. In Chapters 2 and 3 I explained that those different views of the role of revelation in norm formation also rested on a two contrasting metaphysical schemes that advanced different conceptions of God and, specifically, His speech. Muʿtazilī metaphysics, for the most part, followed a scheme wherein the relation between the earthly

[87] Kevin Reinhart accurately observed that, for the Ashʿarīs, the problem of Muʿtazilī thought was not the reliance on reason, but the fact that they took rational processes to be a *source* of judgment when the Ashʿarīs believed these should be used as a faculty that acts upon all data obtained through experience, revelation included. A. Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (Albany, NY: State University of New York Press, 1995), 67.

[88] Juwaynī, *Irshād*, 13.

and the metaphysical is seen to be defined by the degree of perfection. While they largely agreed with the Ashʿarīs that God should be understood in relation to the created world in terms of His necessary existence, they conceived of His actions, attributes, and speech in ways that reflected a tendency to analogize from the human experience. The Muʿtazilī metaphysics rested on an assumption of continuity between the divine and the human, and thus understood divine speech as a willful intervention in time that is designed to bring about a particular effect. Ashʿarī metaphysics, by contrast, emphasized the unattainability of the divine and the uniqueness of divine speech, which was understood as an eternal attribute of God.

As we saw in Chapter 2, modern critiques of theological ethics as removed from lived experiences apply to the Muʿtazilī metaphysic of continuity. Ashʿarī metaphysics, by contrast, place the human experience of revelation fully within the earthly domain. The idea of miracle(s) offered our minds a sign that the limitations of our subjective judgments could be escaped. The miraculous nature of revelation left us with only concrete physical words, which in themselves are not divine in the proper sense, but are, rather, human experiences of the divine. Including a glimpse of the miraculous in the limited human experience opens the door for the community, represented by its scholars, to appropriate the system of norm production, and to take responsibility for it. The dynamics of this appropriation fall within the purview of Islamic jurisprudence, to which the rest of this study will be dedicated. Significantly, this argument parallels Williams's claim that the search for truth and value "should be seen as an exercise in human self-understanding."[89]

One of the main conclusions of our inquiry so far is that Muslim debates on the place of revelation in norm formation were anchored in conflicting epistemological and metaphysical outlooks, rather than in a simple inclination for rationalism or traditionalism. This argument requires us to refine our characterization of those debates. It is unhelpful to say simply that the Muʿtazilīs took human reason to be a source of moral judgments, while the Ashʿarīs replaced reason with revelation: there are several levels of complexity to this picture. For one thing, the disagreement concerned a specific type of judgment, namely the *sharʿī* – universalizable, normative judgment; for another, Ashʿarīs had no problem in principle with revelation-independent reasoning, but maintained

[89] Bernard Williams, *Truth & Truthfulness: An Essay in Genealogy* (Princeton, NJ: Princeton University Press, 2002), 61.

that this kind of reasoning only led to context-specific, subjective, hypothetical judgments. Because of the profound entwinement of human experience with the limitations of perspective and inclination, an interruption of such experience, in the form of revelation, was necessary to grant humans a chance at universalization. Lastly, Muʿtazilīs still took revelation to be a source of normative judgments, but held that observation and intuition are equally valid sources. This does not mean that "reason" is an independent source of judgment. "Reason" is required for the pronouncement of moral judgments whether based on revelation or otherwise.

This characterization of the debates on the place of revelation in norm construction offers us an insight into its relation to contemporary efforts to justify the place of religious thought in moral thinking. What we can see from the Ashʿarī–Muʿtazilī exchanges is that there are two conflicting ways in which theistic ethics can justify itself in relation to nontheistic or secular theories of ethics. One approach, embraced by the Muʿtazilīs and many of the natural-law philosophers in modern and medieval thought, is to hold that theistic concepts come to complement, reinforce, and improve upon the existing apparatus of nontheistic ideas. This conception of religious normative thought presupposes a conformity with some religion-independent moral concepts. Accordingly, one would need to argue that God is *bound* to act in a manner that conforms with our ideas of good, evil, right, wrong, and so on. While this may help harmonize theistic ideas with secular requirements, it does not offer a sustainable justification for resorting to elements outside of the ordinary human experience to build normative judgments. Indeed, the placement of God outside of the domain of human ideas of good and evil was a necessary step by many of the contemporary religious philosophers. The other approach is the one introduced by the Ashʿarīs. The Ashʿarī model of justification of the recourse to revelation attempts to exploit and anchor itself into the limits of secular thought. It is precisely because of its intrinsic contingency that individual moral reasoning cannot be relied upon for the construction of a generalizable normative system, hence the importance of Revelation. Nonetheless, revelation-based theories, even when anchored in the limitations of revelation-independent reasoning, face challenges that pertain to possible arbitrariness and inaccessibility. These two issues were dealt with in the field of Islamic jurisprudence, to which the rest of this book is dedicated.

PART II

THE CONSTRUCTION OF NORMS IN ISLAMIC JURISPRUDENCE

4

The Nature of Divine Commands in Classical Legal Theory

In the first part of this book, we dealt with the questions of the nature of divine speech and how it affects our view of the necessity of revelation in the formation of norms. I argued that the two main groups in Islamic philosophical theology, which corresponded to divine command and natural law trends, anchored their disagreements in epistemological and metaphysical differences. The foundations of the Ashʿarī divine command theory were a form of epistemological skepticism coupled with a sharp metaphysical divide in which God's speech was conceived as an eternal attribute. In the remaining chapters, we move closer to the practical side of this book's set of inquiries. We will examine how those epistemological and metaphysical preliminaries were reflected in the process of formulating normative judgments based on speech attributable to God.[1] To study the more tangible aspects of the formulation of judgments based on revelation, we will switch our discussion to matters that fall within the realm of legal theory, as defined by the delineation of classical scholarly disciplines. The study of revelation-based norm-construction will focus primarily on *uṣūl al-fiqh*, the main discipline within which Muslim scholars engaged in reflection on the methods of formulating norms of action through the analysis of signs obtained through revelation.[2]

[1] In the Islamic tradition, "speech attributable to God" is available to us mainly through the Quran, but also less directly through certain reports about the life of the Prophet. The concrete manifestations of the divine in Muhammad's life, a matter specific to Islamic history and theology, will not concern us here.

[2] Interest in *uṣūl al-fiqh* in Western scholarship has increased over the past several decades. Some of the most significant works dedicated to the discipline include, Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī uṣūl al-fiqh* (New York,

To study the processes through which norms can be constructed based on divine utterances, I will focus on commands as a form of divine speech designed to enjoin action, and the imperative mood as a particular linguistic form that is designed to express commands. In the present chapter, we will see how classical Muslim legal theorists conceived of the idea of a divine command, and how those conceptions carried different implications concerning the power of those commands to demand compliance. This discussion allows us to shed some light on how each theological-juristic model allowed for a different understanding of human obedience to divine commands. Once the idea of obedience to a deity is invoked, we find ourselves in confrontation with one of the most widespread contemporary objections to theistic normative systems, namely that they are *necessarily* either arbitrary (in the sense that they enjoin blind obedience), or superfluous.

The equation of obedience to divine commands with irrational submission is at the basis of much of the opposition to revelation-based normative theories. Although the rejection of divine-command theories in particular is often seen as a matter of "conventional wisdom"[3] among modern philosophers, a host of systematic arguments has been advanced in support of modern opposition to theistic conceptions of morality.[4] For the sake of brevity, those objections to divine-command theories can be grouped into three large categories: (1) arguments from arbitrariness or "blind following," (2) claims of *non-sequitur*, and (3) claims of inaccessibility. The first category includes arguments that there is no guarantee

NY: Cambridge University Press, 1997); Aron Zysow, *The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory* (Atlanta, GA: Lockwood Press, 2013); David R. Vishanoff, *The Formation of Islamic Hermeneutics: How Sunni Legal Theorists Imagined a Revealed Law* (New Haven, CT: American Oriental Society, 2011); Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf Al-Din Al-Amidi* (Salt Lake City, UT: University of Utah Press, 1992); Bernard G. Weiss (ed.), *Studies in Islamic Legal Theory* (Leiden: Brill, 2002). The boundaries between theological disciplines and legal theory (*uṣūl al-fiqh*) are only significant for our purposes in two respects. First, the emergence of *uṣūl al-fiqh* as the primary domain of practical reasoning in classical Islam indicates the failure of the proponents of revelation-independent reasoning to claim a distinct discursive domain for the formulation of norms without revelation. Second, *uṣūl al-fiqh,* unlike theological disciplines, was characterized by a dialectical rather than linear method of reflection. The implications of those two characteristics will be examined in Chapter 5.

[3] Philip L. Quinn, *Divine Commands and Moral Requirements* (Oxford: Clarendon Press, 1978), 23.

[4] For accounts of recent objections to divine command theories, see Ibid., 39–64; Edward Wierenga, "Utilitarianism and the Divine Command Theory," *American Philosophical Quarterly* 21(4) (1984): 312.

that what is commanded by an omnipotent being is always good, and it is therefore irrational to blindly follow such commandments.[5] The second category includes arguments that contest the validity of reaching normative positions based on theological outlooks. This can be based on Hume's famous thesis, according to which it would be invalid to draw evaluative conclusions from factual premises,[6] or, more generally, it can be based on a sort of skepticism toward the connection between divine commands and the normative claims that are taken to follow from them.[7] The third category includes claims that rest on the assumption that not everyone has a chance to know or understand what God commands, and the implications of those commands.[8]

One may view the objections relating to arbitrariness as advancing a "blind-following" thesis. In this thesis, an agent who follows God's commands without first showing that God commands only what is good is acting in an irrational manner. A popular form of the blind-following thesis has been seen to stem from a passage in Plato's *Euthyphro* dialogue. In this passage, Plato portrayed Socrates as asking a question that is broadly seen to encapsulate the crux of the modern critique of divine-command theories: "Is the pious being loved by the gods because it is pious, or is it pious because it is being loved by the gods?"[9] Socrates'

[5] This argument was made in 1731 by Cudworth. See Rudolph Cudworth, *A Treatise Concerning Eternal and Immutable Morality* (London: J. and J. Knapton, 1731; reprinted New York, NY: Garland, 1976), 9f.

[6] David Hume, *A Treatise of Human Nature: Being an Attempt to Introduce the Experimental Method of Reasoning into Moral Subjects* (Waiheke Island: Floating Press, 2009.).

[7] A helpful formulation of this more general objection can be found in Edward Wierenga, "Utilitarianism and the Divine Command Theory.

[8] For example, see the contention that: "even with belief in God, and indeed even with belief in an authoritative living teacher of morals, a great deal of moral truth will yet remain unknown: 'infallible' does not mean 'omniscient.'" Eric D'Arcy, "'Worthy of Worship': A Catholic Contribution," in G. Outka and J. Reeder, Jr. (eds.), *Religion and Morality* (Garden City, NY: Anchor, 1973), 194.

[9] Socrates asks this question in a characteristically polemical fashion to highlight the inaccuracies in Euthyphro's claim that "the pious is what all the gods love, and the opposite, what all the gods hate, is the impious." We can see that Euthyphro was attempting to claim an identity between moral values from the gods' perspective (i.e., what the gods love), and what humans should take as reasons for action (i.e., what is "pious"). Socrates' strategy was to question the connection between those propositions, or between the moral premises and their conclusions. The reference to "love" and "hate" is an unmistakable indication of the humanlike treatment of divine moral judgments as will be further explained throughout this chapter. Plato, *Five Dialogues*, ed. John M. Cooper, translated by G. M. A. Grube (Indianapolis, IN: Hackett Pub. Co., 2002), 11–12.

famous question is often understood as a dilemma. To construct moral judgments based on God's commands, one must accept either one of the following statements: (1) God necessarily commands what is good and prohibits what is bad or (2) God does not necessarily command what is good or prohibit what is bad. If one accepts the first statement, it follows that God's commands are devoid of the power to establish moral value, and their role would be limited to indicating a preexisting moral order. If one accepts the second statement it would follow that divine-command ethics are arbitrary, which would contradict the demands of rationality. In either case, divine-command theories would be incapable of presenting a tenable and significant view of normativity.

A central argument of this chapter is that this problem only holds if we presuppose a conception of divine commands that is fundamentally similar to our understanding of human commands in everyday parlance. Our study of the nature of divine commands in classical *uṣūl al-fiqh* will show that this is not the only way in which commands can be understood. I argue that, to act blindly or irrationally in following God's commands, those commands must be ready-made judgments of *another* moral agent made in time in relation to specific actions. Only Muslim natural-law theorists adopted this conception of command. The idea of divine commands as attributes does not fit into this characterization, and therefore offers a tool to the divine-command theorist for the formulation of a model that escapes the Euthyphro objection.

Two preliminary disclaimers must be made at the outset. First, I am only concerned with the blind-following thesis as it appears persistently in contemporary critiques of revelation-based normative thought. Some of those critiques will be discussed in Section 4.1. The reference to the so-called *Euthyphro* dilemma is a matter of contemporary scholarly habit, which is why I refer to it as a prominent example of the blind-following charge. Whether the appropriation of this passage from *Euthyphro* by contemporary ethicists rests on a proper interpretation of Plato's text is an entirely irrelevant matter for our purposes here. Second, I am not claiming that revelation-based theories never entail blind following. I am only saying that the objection, in its prevalent form, fails to show that they *necessarily* do so. In other words, revelation-based theories, like any other theories of normativity, could be deployed in a rational and well-reasoned manner, or in a dogmatic and arbitrary way. There is nothing intrinsic to them that makes them arbitrary by their very nature.

Exploration of the nature and implications of divine commands in the classical Islamic tradition primarily took the form of a juristic debate

between two opposed camps, largely falling along the lines of the epistemological-metaphysical divide explained in Part I of this book.[10] Whereas some argued that divine command is the meaning of urging legal subjects to act, which constitutes an eternal part of the divine self, others maintained that commands are nothing but the physical words and sentences that we experience with our senses. What was ultimately at stake in this debate was nothing less than the authority of God's revealed speech to establish a normative order. Specifically, two crucial matters depended on this juristic debate on the nature of commands: First, whether divine revelation introduced new normative positions or indicated preexisting ones; second, whether revelation was a unique event, and therefore whether it could claim exclusivity over the establishment of universalizable moral judgments. The Ashʿarī view of commands as a meaning that is located within the divine self, which was also championed by prominent Māturīdī jurists such as ʿAlāʾ al-Dīn al-Samarqandī (d. 1145) and Abū al-Fatḥ al-Usmandī (d. 1157),[11] constituted a defense of the assertion that divine commands can introduce previously unavailable judgments. By contrast, the Muʿtazilīs viewed divine commands as *indicators* that helped inform humans of the norms and values that preexist God's speech.

Before we can proceed with our discussion of premodern Muslim positions on the nature of God's commands, we must first ask why it is common in modern theistic ethics to assume that any normative claim that relies on some idea of the divine must entail a blind following of a higher agent (Section 1). My argument is that this assumption presupposes specific, and rather narrow, conceptions of God and His commands. For divine command theories to be *necessarily* arbitrary, an idea of God as a personlike agent must be presupposed. Since this presupposition, as we saw in Part I of the book, was rejected by the Ashʿarī in the theological and epistemological discussions, their idea of divine command *prima facie* escapes the *Euthyphro* objection in its modern form.[12]

[10] These two camps were described as the proponents and opponents of the theory of inner speech in Abū Ḥāmid Muḥammad b. Muḥammad al-Ghazālī, *Al-Mustaṣfā min ʿilm al-uṣūl*, ed. Tāhā al-Shaykh (Cairo: al-Maktaba al-Tawfīqiyya, 2010), 379–80.

[11] For Usmandī's biography see ʿAbd al-Qādir ibn Muḥammad al-Qurashī, *al-Jawāhir al-Muḍiyya fi Ṭabaqāt al-Ḥanafiyya*, 2nd edn, ed. ʿAbd al-Fattāḥ Muḥammad al-Ḥulw (Cairo: Dār Hajr, 1993), 3:208–9.

[12] Along the same lines, P. Quinn argues that the burden of proof continues to be "squarely on the shoulders of the opponents of divine command theories." Quinn, *Divine Commands and Moral Requirements*, 24. I make a similar argument in "Commands as

4.1 ARE DIVINE COMMAND THEORIES INHERENTLY CONTRARY TO MORAL AUTONOMY?

Does the *Euthyphro* question, as (mis)appropriated by modern secular ethicists, deal a fatal blow to revelation-based theories of norm formation? The manner in which this alleged problem presents itself for divine-command theorists was explained by William Alston as a choice between two statements: (1) "We ought to, e.g., love one another because God commands us to do so" or (2) "God commands us to love one another because that is what we ought to do."[13] If one accepts the second statement, it would follow that God's commands are entirely devoid of the power to establish moral value, and their role would be limited to indicating a preexisting moral order. If one accepts the first statement, it would follow that God makes His commands and prohibitions arbitrarily, which would contradict the demands of rationality. In either case, divine command ethics would be incapable of presenting a tenable theory of morality.

For this question, as presented by Alston, to constitute a true dilemma, it must be shown that the two alternatives it presents are the only conceivable options, and that both options are unsatisfactory. For that to be the case, it must be true that each of the two "horns" of the alleged dilemma necessarily leads to the conclusion assigned to it. To result in a categorical renunciation of divine command theories, the two horns must effectively encompass every conceivable theory that purports to draw normative conclusions from theistic principles. This argument cannot be adequately made without a proper exploration of the different ways in which divine commands can be understood as a foundation for practical reasoning.

As we will discuss in this section, it appears to be the case that modern discussions of the viability of divine command theories that raise the "blind following" thesis operate within a determined set of assumptions about the meaning of divine commands. Those assumptions appear focused on a specific view of the nature and implications of divine speech in a way that largely ignores different traditions of reasoning about divine commands, including the centuries-long Muslim juristic contributions to this matter. Hence, an analysis of Muslim conceptions of divine commands would help us assess the claim that taking God's commands as

Divine Attributes: Islamic Jurisprudence and the *Euthyphro* Question" *The Journal of Religious Ethics*, vol. 44, no. 4, December, 581–605. I am thankful to the editors of the *Journal of Religious Ethics* for the permission to use parts of this article in this chapter.

[13] William P. Alston, *Divine Nature and Human Language: Essays in Philosophical Theology* (Ithaca, NY: Cornell University Press, 1989), 255.

premises for normative arguments necessarily amounts to blind obedience. Once we study the conceptions of divine command as elaborated by Muslim divine-command theorists, it can be shown that blind following does not necessarily follow from the supposition that things are good because God commands them, as per the second horn of the Euthyphro question. This does not mean that we need to contest the first statement of the question. Indeed, if God can only command what is deemed good independently, then norms are merely indicated by divine commands, not established by them. As will be shown in this chapter, this opinion was embraced by scholars of Muʿtazilī affiliation. On the other hand, if divine commands do not comply with any pre-conceived concept of goodness, it does not necessarily follow that taking those commands as reasons for action amounts to a renunciation of one's autonomy.

There are many ways to formulate the claim that normative judgments follow from divine commands. One such formulation may consist of saying that an act's goodness causes God to command it, or an act's goodness is the reason why God commands it. It follows from those formulations that we can conclude that what God commands is good, and therefore recommended or required.[14] The implication of this assertion is that an act's value is not brought forth by God's command; something else (i.e., its prior and independent goodness) is necessary. It is possible to maintain – in fact, this is the Muʿtazilī view that we will discuss in Section 4.2 – that one ought to follow God's commands and at the same time argue that they do not bring forth moral values. According to this conception of divine commands, one would consider God's commands as communications that allow us to discern those preexisting values.[15] This view, however, suggests that divine commands are fully dispensable from a moral standpoint. An entirely different set of indicants may conceivably be found that would

[14] For example, see Ibid., 47–9. It is worth noting that the accuracy of those interpretations of Plato's dialogue, and the possibility of differing interpretations, is not our concern here.

[15] Thomas Carson maintained that this response to the Euthyphro dilemma was mistakenly seen by most modern philosophers as the only plausible one: "The enduring appeal of the Euthyphro argument is because many think that Euthyphro's answer to the question (the gods love what is pious because it is pious) is obviously correct and can be easily defended. Many, I dare say most, contemporary philosophers think that Euthyphro's answer to the question is obviously correct, since the other answer (what is pious is pious because the gods love it) makes the loves and hates of the gods arbitrary. However, I will contend that this widely held view is mistaken; the view that things are pious because the gods love them does not imply that the loves and hates of the gods are arbitrary." Thomas L. Carson, "Divine Will/Divine Command Moral Theories and the Problem of Arbitrariness," *Religious Studies* 48(4) (2012): 446.

guide us to the knowledge of independently existing normative truths. It is precisely this concern for the value of God's words as generators of normative judgments that fueled the centuries-long Muslim debates over the nature of divine commands.

The stronger formulation of the role of divine commands in norm construction is that divine commands bring forth normative judgments. It is this version of divine commands as sources of norms that the charge of blind following primarily targets.[16] P. Quinn suggested that a possible line of defense of this theory would be to maintain that there is nothing confusing about the notion that commands bring about obligations. "An officer's commands generate requirements only because an officer has the authority to command ... it might well be that having made the universe (or being very powerful or loving human beings) is precisely what gives God moral authority."[17] Although this line of argument shows that we can consistently reach normative conclusions based on God's commands, it does not address the problem of arbitrariness. God may conceivably have moral authority by virtue of His omnipotence, and yet command what is evil from our human perspective.

Some modern philosophers often consider divine command theories to be unquestionably arbitrary, in the sense that they do not allow rational and autonomous decision making. For example, in his attempt to refute moral realism, Jason Kawall argues, "choosing to abide by [moral realism] would be as arbitrary as choosing to abide by the preferences of a God (a difficulty akin to the Euthyphro dilemma raised for divine command theorists). In both cases we would lack reasons to prefer those standards over alternative modes of conduct."[18] Kawall, I must note, does not attempt a systematic refutation of divine command theories; he merely assumes the theories' vulnerability to the Euthyphro "dilemma." By contrast, a significant attempt to refute divine commands theories was made by James Rachels, who argues that, "if we recognize any being *as God*, then we are committed, in virtue of that recognition, to obeying him."[19] For Rachels, the worshiper necessarily "believes that there is a

[16] The Euthyphro objection is indeed commonly seen as challenging divine command theories for their arbitrariness. See, for example, Jason Kawall, "Moral Realism and Arbitrariness," *The Southern Journal of Philosophy* 43(1) (2005): 109. A detailed explanation of the Platonic objection to divine command ethics was offered by Carson in "Divine Will/Divine Command Moral Theories and the Problem of Arbitrariness."

[17] Quinn, *Divine Commands and Moral Requirements*, 48.

[18] Kawall, "Moral Realism and Arbitrariness," 109.

[19] James Rachels, "God and Human Attitudes," *Religious Studies* 7(4) (1971): 332.

being, God, who is perfectly good, perfectly powerful, perfectly wise, Creator of the Universe; and he views himself as the 'Child of God,' made for God's purposes and responsible to God for his conduct."[20] Rachels thus concludes that this view is contrary to the principle of moral autonomy, for "to deliver oneself over to a moral authority for directions about what to do is simply incompatible with being a moral agent."[21]

Importantly, Rachels does not explain why this should be the only valid way of thinking about God. In his attempt to elucidate the representativeness of the claims he makes about religious beliefs, he argues that these beliefs are "typically held by religious people in the West. They are, however, the sort of beliefs about God that are required for the business of worshipping God to make any sense."[22] How does one move from an observation about prevalent religious practices in the West to a categorical claim about what is *logically* necessary for religious practices in general to make sense? This unwarranted move results in lumping together ideas of omnipotence, infinite wisdom, and perfect goodness of God as logical prerequisites to any belief in God.[23] By asking whether it makes sense to believe in a God that has all those attributes, Rachels is presuming that those beliefs are all indispensable for a consistent theistic theory of morality. However, as our discussion of Muslim theories of divine command will reveal, one may posit a transcendent non-humanlike creator without it necessarily following that this creator can be referred to as "good" in any human moral sense.

Significantly, describing God's commands as "the preferences of a god" or the directions of "a moral authority" clearly reflects a conception of God as a personlike entity. Rachels takes the view that basing morality on divine commands amounts to the blind following of "another" moral agent. However, to view God's commands as the instructions of *another* moral agent presupposes that God is similar to humans in some important sense. The inability to overcome the view that divine command ethics entail a sort of blind following can be explained by modern theorists' reliance on the assumption that the divine is "a person-like entity which actually is very powerful, wise and good."[24]

[20] Ibid., 331. [21] Ibid. [22] Ibid., 327.

[23] This type of logical error is referred to as "the fallacy of multiple questions." On the fallacy of multiple questions, see Douglas N. Walton, *Informal Fallacies: Towards a Theory of Argument Criticisms* (Amsterdam: John Benjamins Publishing, 1987), 110–11.

[24] Quinn, *Divine Commands and Moral Requirements*, 24.

In its various uses, the term "arbitrary" appears to be definable negatively: it is the characteristic of an action taken without rational justification, reason, or cause. For instance, P. Klein defines an arbitrary reason as one "for which there are no further reasons making it even slightly better to accept than any of its contraries."[25] This is the same sense used in Kawall's definition.[26] The understanding of arbitrariness as a negative quality is clear in this definition; it is the *absence* of reasons – except the blind reliance on decisions made by another moral agent – that makes a particular position arbitrary. Is basing moral outcomes on divine commands inherently arbitrary in that sense? To answer this question, we must first distinguish between two levels of alleged arbitrariness. Kawall refers to the arbitrariness of choosing to abide by divine commands as a source of ethics. Rachels and Nielsen, by contrast, maintain that the act of following God's commands in itself, and regardless of the manner of choosing this particular theory of ethics, involves a renunciation of one's autonomy. It is the second charge that concerns us here. After all, as Kawall and Wierenga aptly observed, choosing divine-command ethics is at worst as arbitrary as choosing any other theory.

We must therefore deal with Rachels and Nielsen's claim that following divine commands is inherently opposed to autonomy. To claim that a given source of normative judgments, when followed, systematically results in the negation of rational judgment, one must suppose that this source is always sufficient for the generation of norms in a manner that effectively replaces the subject's autonomy. To result in full-fledged judgments that can be blindly followed as practical reasons, however, is a characteristic of humanlike decisions. For instance, one may be said to rely blindly on the commands of an elder, superior, or political figure as reasons to perform specific actions in specific situations, but not so with respect to abstract principles, entities, or concepts. An agent can be said to arbitrarily (i.e., unjustifiably) choose to follow a consequentialist theory as a source of guidance (which is Kawall's claim), but cannot plausibly be said to give up on their autonomy every time they act according to this theory. For an agent to alienate their autonomy completely, they must replace it with a different but comparable decision-making agent that intervenes in concrete situations to provide specific outcomes. A conception of divine command, the following of which is necessarily

[25] Peter D. Klein, "Human Knowledge and the Infinite Regress of Reasons," *Philosophical Perspectives* 33(s13) (1999): 297.

[26] Kawall, "Moral Realism and Arbitrariness," 109.

arbitrary, presupposes that the issuance of divine commands is an *event*, rather than an attribute.[27]

It appears that modern critics of divine-command ethics consistently fail to see divine commands as anything other than an *event*. Kai Nielsen, for example, holds that,

> [it] is indeed true, for the believer at least, that it is *God's* command or will that makes all the difference. This is so because the believer assumes and indeed fervently believes that God is good. But how, it should be asked, does the believer know that God is good, except by what is in the end his own quite fallible moral judgment, or, if you will, appreciation or perception, that God is good? We must, to know that God is good, see that his acts, his revelation, his commands, are good.[28]

One cannot fail to observe that, for Nielsen, God's commands are similar or at least comparable to "acts," and that those acts should be good, which presupposes that the meaning of "good" is logically prior to and independent from God's commands. It must be noted that philosophers who rely on a personlike conception of God and divine commands do not provide any reason for the superiority of such conception over any other except for their centrality to Judaism and Christianity from their perspective.[29]

What if divine commands are not viewed as willful interventions in time, designed to bring forth specific changes? What if commands are divine attributes, not events or actions? As explained in Chapters 2 and 3, a conception of God as the transcendent source of all existence who is unlike anything that is comprehensible to the human mind was developed at lengths in a branch of premodern Muslim theology. Defenders of this theory viewed divine speech as an eternal, inseparable attribute of God. The generative potential of such transcendent speech was established through a distinction between divine speech (the Quran) on the one hand, and its recitation, writing, or any other expression in an earthly form on the other hand. Ashʿarī theologians insisted that a distinction must be made between the earthly manifestations of speech through recitation,

[27] For a detailed discussion of actions as events in the Judeo-Christian tradition, see Alan Donagan, *The Theory of Morality* (Chicago, IL: University of Chicago Press, 1977), 37–52.

[28] Kai Nielsen, *Ethics without God* (Buffalo, NY: Prometheus Books, 1990), 74.

[29] Nielsen considers his critique to be directed at the "fundamental religious beliefs common to the Judeo-Christian-Islamic traditions," yet does not make any documented claim about anything specific to Islamic thought in his book. Ibid., 70.

interpretation, and compliance on the one hand, and divine speech in its transcendent form on the other hand.[30]

This link between earthly norms and transcendent truth was established through the concept of worship. God revealed his word through the Quran, and commanded humans to recite it. In this view, revelation, recitation, and writing are not identical to what is revealed, recited, and written. The speech of God is the goal of those actions just like God is the object of worship, which is not the same as the act of worship itself.[31] According to this view, as explained in Chapter 3, God's speech is not an event defined in time, but an eternal attribute of a transcendent creator. The supposition that God is a personlike agent who reflects, senses, and evaluates in the same manner as human beings was rejected by the Ashʿarīs for an account of God's attributes as transcendent and eternal. In Sections 4.2 and 4.3, we will see how these theological positions were reflected in the development of distinct theories of divine command.

4.2 DIVINE COMMANDS AS HUMANLIKE EXPRESSIONS OF WILL

In *uṣūl al-fiqh,* discussions on the nature of divine commands took the form of a debate between those who advanced a view of divine commands as an action performed in time, and others who responded with a theory of command as an attribute of God, a distinction previously introduced in the context of our broader discussion of divine speech. This dispute between Ashʿarī and Muʿtazilī jurists on the nature of divine commands generally took the form of a disagreement over whether command is identical to a particular linguistic form.[32] Muʿtazilīs insisted that

[30] Muḥammad b. al-Ṭayyib al-Bāqillānī, *al-Inṣāf fi-mā yajibu iʿtiqāduh wa-lā yujawwazu l-jahli bihi* (Cairo: al-Maktaba al-Azhariyya li l-Turāth, 2000), 76.

[31] Ibid., 78.

[32] Hallaq explained the difficulties that *uṣūl* scholars faced in attempting to understand the connection of command to the imperative mood. See Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (New York, NY: Cambridge University Press, 2009), 90. Elsewhere, Hallaq observed that "There are few topics in Islamic legal theory that succeeded in arousing so much controversy as did the issue of imperative form (*amr*)." Hallaq, *A History of Islamic Legal Theories*, 48. Jeanette Wakin also referred to this question as "heated and controversial." See Jeanette Wakin, "Interpretation of Divine Command in the Jurisprudence of Muwaffaq al-Dīn Ibn Qudāmah," in Nicholas Heer (ed.), *Islamic Law and Jurisprudence* (Seattle, WA: University of Washington Press, 1990), 35. Similarly, Ahmad argued that "Muslim legal theorists look at commands and prohibitions in Qurʾānic and Sunna texts as the linguistic formulas most relevant to

command is an utterance made in a specific form. Ashʿarīs, by contrast, maintained that command, properly speaking, is the meaning of imperativeness that resides within the speaker. This disagreement had noteworthy implications. If divine commands are identical to the spoken, written, or read words and phrases, it follows that they are physically and temporally definable phenomena to which all the contingencies and limitations of human thought apply. If the *true* commands of God were transcendent meanings that reside within the divine self, a universal status would be more readily attributable to them.

In this section, we will study the Muʿtazilī theory of command as an utterance backed by a set of particular wills. The main purpose of this section will be to show that the natural-law theorists of classical Islamic traditions, much like their modern counterparts, effectively conceded the Euthyphro objection. The Muʿtazilīs' conception of divine command supposed a preexisting set of values and norms that drove the divine will for the action in question to be accomplished, which, in turn, triggered the divine command. This is the notion in opposition to which the divine-command conception of norm construction, which we will study in Section 4.3, was developed.

4.2.1 Muʿtazilīs and the Common Idea of Command

The Muʿtazilī idea of command that emerges from classical jurisprudential discussions is one that emphasizes the similarity between divine and human commands. It is telling, in that context, that Muʿtazilī discussions of command tended to start from an observation of what "command" means in common speech. For example, Abū al-Ḥusayn al-Baṣrī's discussion of the nature of command took the form of an analysis of what is commonly understood when the term "command" is uttered. While the nature of command and its common meaning were seen as unrelated by jurists of Ashʿarī tendency,[33] Baṣrī viewed this question as central to the debate on whether or not command is anything other than a linguistic form. This can be understood by the fact that the applicability of the

the law." Ahmad Atif Ahmad, *Structural Interrelations of Theory and Practice in Islamic Law: A Study of Six Works of Medieval Islamic Jurisprudence* (Boston, MA: Brill, 2006), 108.

[33] For example, Fakhr al-Dīn Muḥammad b.ʿUmar al-Rāzī, *al-Maḥṣūl fī ʿilm al-uṣūl*, ed. Muḥammad ʿAbd al-Qādir ʿAṭā. 2 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1999), 1:161–5.

designation "command" to different types of utterance suggests that there must be additional elements that allow the grouping of those utterances together under the same rubric. Such elements would likely be external to the linguistic form itself. The discussion took the shape of a debate on what the literal meaning of the word "command" is, as opposed to the figurative or nonliteral one.[34] This kind of analysis of the manners in which the word "command" was used invoked issues pertaining to the origins of language and the ways in which authentic usage of language can be verified. For instance, an opponent of the Muʿtazilī theory would claim that, if a person says "I have commanded A to do *x*" or "*x* is incumbent upon A" from a position of superiority in relation to A, then she or he would have *commanded* in the proper sense of the word. By contrast, a Muʿtazilī would insist that this is an instance of command only figuratively (*majāzan*). In that case, it would be improper, as Baṣrī argued, to call this person a "commander"[35] since he or she did not use the specific grammatical form that was assigned to commands. In general, Baṣrī maintained the view that "a condition of speech is the establishment of agreement in its regard."[36] In that sense, the argument ultimately depended upon the ability of either side to demonstrate the proper way in which the term "command" was used according to authoritative linguistic conventions.[37]

Applying this method, Baṣrī observed, "there is no doubt that the word 'command' is used in the proper sense to indicate statements in the form 'do!' (*ifʿal*) or 'may he do,' (*li-yafʿal*) and that it is not used to refer to

[34] I use literal and figurative (or nonliteral) to denote *ḥaqīqa* and *majaz*, respectively. Robert Gleave observes the common practice of referring to *ḥaqīqa* as "literal" and to *majāz* as "nonliteral." This practice will be upheld here for the sake of clarity, although it must be kept in mind that *ḥaqīqa* is always a function of *waḍʿ*. Robert Gleave, *Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory* (Edinburgh: Edinburgh University Press, 2012), 55–60.

[35] Muḥammad b. ʿAlī al-Baṣrī, *Kitāb al-Muʿtamad fī uṣūl al-fiqh*, ed. Maḥammad Bakr and Ḥasan Ḥanafī. 2 vols. (Damascus: al-Maʿhad al-ʿIlmī al-Faransī li l-Dirāsāt al-ʿArabiyya bi-Dimashq, 1964), 1:49.

[36] Ibid., 15.

[37] The question of assignment of meanings to words in Islamic thought (*waḍʿ al-lugha*) is explained by Weiss in Bernard G. Weiss, "Language and Law : The Linguistic Premises of Islamic Legal Science," in Arnold H. Green (ed.), *In Quest of an Islamic Humanism: Arabic and Islamic Studies in Memory of Mohamed Al-Nowaihi* (Cairo: American University in Cairo Press, 1986), 15–21. Robert Gleave agrees with Weiss that the theory of *waḍʿ*, which he translates as "placing" or "coining," prevailed over rival views that attempted to establish some intrinsic natural connection between sounds and their meanings. Gleave, *Islam and Literalism*, 29–35.

assertions, denials, or wishes."[38] For Baṣrī, this warranted the conclusion that commands are nothing other than the statements in the imperative mood. The same argument was advanced by ʿAbd al-Jabbār, who defined command as the very utterance in the imperative mood, provided it be addressed to an inferior. ʿAbd al-Jabbār held that "there is no ambiguity that saying 'do!' to one's inferior constitutes a command."[39] The veracity of those assertions, in the final analysis, rests on social facts about the proper use of language. Thus, the Muʿtazilīs posited that that command, properly speaking, must have a particular grammatical form. They then proceeded to determine the conditions that allow an utterance in this particular form to qualify as command. In the proper sense, command is the use of the particular linguistic form that is specific to the solicitation of action, namely the imperative mood.

We have seen in Chapter 3 how it was central for Muʿtazilī thought to identify speech with specific linguistic forms. Concerning commands, this view led to the understanding that God enjoins action in a way similar to humans. The assertion that command in the proper sense is a grammatical form is further explained by Baṣrī, who maintained that a command "must be in the form used to solicit (*istidʿāʾ*) and request action," which specifically must take the form "do" or "may he do."[40] This limitation of the forms that can properly be called "command" rules out informative expressions of solicitation of action, such as "I have commanded you." Such expressions, Baṣrī maintained, are called "commands" only figuratively. The claim that command should be defined as a statement in a specific grammatical form, however, cannot stand simply by showing that utterances in the imperative mood are properly referred to as commands. It must be shown that (a) commands cannot conceivably exist without this grammatical form and that (b) whenever this form exists, commands exist. This argument, according to which the word "command" can be used only in its literal sense in reference to statements made in the imperative mood, is designed to address the first problem. It follows from this position that the concept of command is inseparable from the imperative mood. Nonetheless, this does not account for the fact that the imperative mood is often used in sentences that do not qualify as commands.

[38] Baṣrī, *Muʿtamad*, 1:49.

[39] ʿAbd al-Jabbār al-Asadābādī, *al-Mughnī fī abwāb al-tawḥīd wa l-ʿadl*, ed. Ṭāhā Ḥusayn (Cairo: Wizārat al-Thaqāfah wa l-Irshād al-Qawmī, n.d.), 17:107.

[40] Baṣrī, *Muʿtamad*, 49.

To resolve this issue, both ʿAbd al-Jabbār and Baṣrī narrowed down their definitions of "command." They specified some criteria according to which an utterance in the proper form becomes a command.[41] A necessary condition of command, ʿAbd al-Jabbār explained, is the *will* of the commander to bring forth the commanded matter: "indeed it becomes a command by [God's] willing what has been commanded."[42] Will, in this sense, is a concept closely similar to that of wish and desire. The understanding of will as a desire to drive a specific change is of paramount importance, since it highlights the contrast of this Muʿtazilī view with the Ashʿarī idea of command as meaning. Whereas *willing* to command a certain matter implies the desire that such matter should occur, the same is not necessarily true of *meaning* to command a given matter. The question of whether or not God desires that humans obey his commands was in fact a major point of contention between Muʿtazilī and Ashʿarī scholars. Baṣrī maintained that, in addition to the use of the "specific linguistic form,"[43] two other conditions must be satisfied that "pertain to the issuer of the command."[44] The first is requiring that the speaker must utter those words in a manner that suggests authority, as opposed to supplication. The second is the characteristic Muʿtazilī condition according to which "[the speaker] has to *will* that the action be accomplished." To this view, Baṣrī brought a noteworthy refinement. Instead of willing that the action should be performed, the commander can "be motivated to say 'do!' by the possibility that the action will occur."[45] This subtle distinction was aimed at countering the argument that God's perfection prevents us from saying that he *wishes* that his subjects should commit certain actions in the sense of wanting or desiring them. Here, Baṣrī slightly modified the concept of will to include the possibility that divine utterances may be motivated by the potential of achievement of certain results.

[41] ʿAbd al-Jabbār, *Mughnī*, 17:107. [42] Ibid.

[43] The term "specific form" (or *al-qawl al-makhṣūṣ*) appears to have been used differently by scholars attempting to demonstrate different theories. A contrary use can be found in Samarqandī's *Mizān al-uṣūl*, where he contrasts *al-qawl al-makhṣūṣ*, by which he means command *proper* with the linguistic form (*al-ṣīgha al-mawḍūʿa*). This contrast suggests that Samarqandī meant to refer to the notion of inner speech by *al-qawl al-makhṣūṣ*. ʿAlāʾ al-Dīn Muḥammad b. Aḥmad al-Samarqandī, *Mīzān al-uṣūl fī natāʾij al-ʿuqūl fī uṣūl al-fiqh*, ed. ʿAbd al-Malik ʿAbd al-Raḥmān Saʿdī (Baghdad: Wizārat al-Awqāf wa l-Shuʾūn al-Dīniyya, 1987), 196.

[44] Baṣrī, *Muʿtamad*, 1:49. [45] Ibid.

For our purposes, it must be stressed that this idea of will rests on a humanlike causal understanding of command. Even in its expanded form, divine command in Baṣrī's thought is a specific action that is designed to achieve a specific result. Although Baṣrī may have eschewed the notion of desire in its affective sense, it remains the case that his theory portrays divine commands as temporal phenomena that attach to the accomplishment of particular changes. This is a conception of command that acknowledges the first horn of the Euthyphro question.

4.2.2 Command as a Product of the Will

We have seen thus far that Muʿtazilīs attempted to identify divine commands with the common idea of command. For them, God commands through a grammatical form that is designated for the enjoinment of action. God's commands, like our commands, both follow from and are intended to express a specific will. We will now focus on how those scholars attempted to justify their claim that command was a product of will. Baṣrī attempted to answer this question using a characteristically *uṣūlī* process of elimination.[46] First, he maintained that the imperative mood alone could not constitute a request for action, since a sleeping or unconscious person can utter statements in this form, which would not constitute a command.[47] There had to be an added condition. The possibility of a negative condition, such as the lack of proof that it is not a command, is ruled out in the same fashion. Since a forgetful person can utter a statement in this form without indicating that it is not a command, this lack of determination should not be sufficient to prove that an imperative statement is a request for action. We are left with the inevitability of the existence of an additional positive element for the imperative mood to constitute a request for action. Baṣrī concludes that "if the speaker is not absent-minded, he must have intended something by using

[46] This method of proof is referred to by *uṣūl* scholars as "testing and division" (*al-sabr wa l-taqsīm*). This process consists of offering what the scholar believes is an exhaustive list of premises to a certain conclusion (which is the portion of the process labelled '*taqsīm*'), then proceeds to test (*sabr*) those options, thereby eliminating invalid ones. Those options that were not eliminated during the process of *sabr* would be considered proven or established. See "Taqsīm" and "Taqsīm wa Sabr" in Rafīq ʿAjam, *Mawsūʿat muṣṭalaḥāt uṣūl al-fiqh ʿinda l-muslimīn*, 1st edn (Beirut: Maktabat Lubnān, Nāshirūn, 1998), 1: 478–80.

[47] Baṣrī, *Muʿtamad*, 1:50–1.

the [imperative mood]. If his intention does not attach to the matters [previously eliminated], it must pertain to the achievement of the commanded matter, which shows that there must be a purpose and a will."[48]

To argue that the will is a necessary condition for a statement in the imperative mood to constitute a command, Baṣrī continued with his process of elimination. The added condition, he explained, could be related to the speaker's "knowledge, power, desires, or aversions." For this argument to succeed, those must be the only possible mental states that can produce a command. We can observe that this list attributed to the mind a set of states that pertain solely to external events. For example, Baṣrī did not address the possibility that the production of a particular utterance would require the prior formation of a particular awareness of the linguistic and semantic features of this utterance. In that case, the speaker's mind would need to contain a certain representation of the uttered words and their meaning, which does not necessarily include the effects of the expected reaction of the listener.

Assuming this an exhaustive list, Baṣrī immediately discarded the conditions of knowledge and power. He argued that someone who is capable of the action, or "knows whether it is good or bad," could still use the imperative mood as a threat, as opposed to a command.[49] Concerning the epistemic conditions of an utterance in the imperative mood, Baṣrī argued that it would be invalid to claim that "a [statement] is a command because the commander knows it is a command."[50] This, he maintained, is because "a thing does not become what it is because of knowledge, but it first has to be what it is to be the object of knowledge." Thus, Baṣrī maintained a view of knowledge as a posterior event to the ontic states existing in the world.[51] According this this view, knowledge alone is incapable of determining the attributes of an utterance. Similarly, the condition of aversion toward the action is also eliminated because it is not specific to command. According to Baṣrī, the only condition that could possibly determine the quiddity of an utterance in the imperative mood is the will behind it.[52]

The will can pertain either to the utterance itself, or to the requested action. To lead to the creation of commands, ʿAbd al-Jabbār explained, the will of the commander has to attach to two matters: (1) the act of uttering a command and (2) the realization of the subject matter of the

[48] Ibid., 52. [49] Ibid., 52. [50] Ibid., 53.
[51] For more on Baṣrī's views on epistemology, see Chapter 1. [52] Baṣrī, *Muʿtamad*, 53.

command. In other words, the commanding agent has to intend to utter a statement that requires action, and to desire the coming into being of the thing or action that he or she commanded. ʿAbd al-Jabbār justified this conception of command by analogy to commands in common parlance: "anyone among ourselves who commands another wishes for the commanded matter to occur, and whoever does not wish that is not a commander."[53] Based on the view that divine commands are actions that are only distinguishable from human commands because of the perfection of their author, ʿAbd al-Jabbār elaborated a conception of divine command that equated it with the physical utterance that expresses it. This utterance is the product of an agent who wills the issuance of a command and the realization of its object, assuming it was addressed to someone inferior in rank to the commander.

Baṣrī advanced a partially modified version of this argument. Willing an utterance to be a command, Baṣrī argued, cannot possibly explain to us the nature of command. In other words, saying "a command is an utterance backed by a will to make it a command" is an uninformative statement. We have to be able to fathom what a command is before we can understand the attachment of a will to it.[54] Thus, a statement in the imperative mood becomes a command if the intent behind it is for the commanded action to be performed.[55] For Baṣrī, the argument that a specific will to bring forth the commanded object is necessary for an utterance to be a command is closely linked to the view that informative statements cannot be viewed as commands. His argument rested on the claim that commands, primarily because of the specific will, are utterances that entail the solicitation of action *in themselves* (*bi nafsihi*).[56] As a result, informative statements that relate the solicitation of action, such as "I wish that you do" are not commands at all, since they do not directly require action, but only do so indirectly. By contrast, will and request are matters that directly lead to the requirement of action. The obvious question that this position raises is why the will or request, in themselves, or in any case independently or any specific grammatical form, should not be considered *the* command, or the only necessary condition for the presence of commands.

To be sure, this question was a particularly potent point of contention in the debates on the nature of divine commands. If it could be

[53] ʿAbd al-Jabbār, *Mughnī*, 17:107. [54] Baṣrī, *Muʿtamad*, 1:53. [55] Ibid, 1:56.
[56] Ibid.

demonstrated that statements are classifiable only according to the will that produced them, it would follow that a given statement, in the imperative mood or otherwise, would be a command only because its author intended it to be so. This conclusion would defeat Baṣrī's purpose in establishing an identity between commands and utterances in the imperative mood. The only way this identity could be plausible was to argue that commands are a subset of all utterances in the imperative mood – a subset that is characterized by the *addition* of certain characteristics. Baṣrī explains this problem as follows:

> Discussing this matter is limited to one of two positions. Either we suppose that the imperative mood has an attribute by virtue of which it becomes a command, and argue that this attribute, which causes it to be a command, is [a specific] will, or we do not attach any attributes to the imperative mood but ask whether what we understand from saying "command" is the imperative mood alone, or in addition to another condition, which is the specific will.[57]

Baṣrī maintained the invalidity of the first option. If it were a particular attribute that made the imperative mood a command, the concept of command would be attached to this attribute, not to the linguistic form itself. If we were to call a certain statement in the imperative mood "command" because we could discern the speaker's intentions through it, those intentions would be the decisive element in the generation of commands. The second option, by contrast, allowed Baṣrī to argue that the requirement of a particular will underlying the imperative mood is the result of his analysis of the manner in which the term "command" is used in Arabic parlance. The concept to which the word "command" refers, according to Baṣrī, is "a specific [linguistic] form uttered by way of superiority, which constitutes a request for action and an urging to commit it, and we do not understand from this term anything else."[58] This understanding of command is aimed to avoid the conclusion that the essence of a statement is determined by the will behind it alone. According to Baṣrī, the will does not constitute a command; it is, rather, the underlying cause that leads to its utterance. If it were the will alone that led to the rise of command, divine commands would have attached to His transcendent will, and not to their earthly, temporal manifestations as physical speech. That would defeat the Muʿtazilī view that commands are events that occur in time.

[57] Ibid., 50. [58] Ibid.

4.3 THE ASHʿARĪ CONCEPTION OF COMMANDS AS DIVINE ATTRIBUTES

In Section 4.2, we saw that the rather intuitive concept of command as an action performed in time followed from the basic Muʿtazilī epistemological-metaphysical model that we previously studied. In this humanlike form of command, God makes a specific request for action in time because of His will for the commanded action to take place. This idea of command supposed a preexisting set of values and norms that commands come to reinforce. Thus, it effectively concedes to the first horn of the Euthyphro question. In this section, we will see that the theory of divine commands as divine attributes formulated by the Ashʿarīs *prima facie* escapes this objection, and thus opens the door for a type of divine-command theory that does not intrinsically entail a renunciation of moral autonomy.

Whereas the Muʿtazilī theory supposed that divine will logically intervenes after the establishment of a normative order, the Ashʿarīs advocated a view of divine commands as transcendent foundations of this universal order. This order cannot be fully accessed by any human or group of humans. Nonetheless, it can manifest itself through the incessant production of meaning and action by the community of believers, as we will see in Chapter 5. The basic element in the construction of this theory was the insistence on a notion of command as an inseparable part of the divine self. This was achieved through the formulation of the theory of speech of the self or inner speech (*kalām al-nafs*),[59] discussed in Chapter 3, according to which all speech in the true sense of the word consisted of meanings that resided within the speaker's self.[60] Based on this position, the divine role in the establishment of the normative order was not one of an all-powerful and arbitrary Legislator, as the modern interpretation of divine-command theories tends to assume. Rather, the normative order is part of a universal divine order that precedes, and is, by definition, superior to, any human moral thoughts or judgments. God, in this model,

[59] An account of the theory of inner speech more generally was offered in Chapter 3.

[60] Some later jurisprudents offered attempts to refute the theory of inner speech. A significant example was presented by Jeanette Wakin in her analysis of the jurisprudence of the prominent Ḥanbalī Ibn Qudāma. According to Ibn Qudāma, the fact that the mere conception of a specific meaning in one's mind without pronouncing it may not produce any legal effects (such as breaking an oath) shows that speech is a physical, and not a mental phenomenon. Wakin, "Interpretation of the Divine Command in the Jurisprudence of Muwaffaq al-Dīn Ibn Qudāmah," in Heer, *Islamic Law and Jurisprudence*, 38.

does not merely interfere in the universe to establish some order, but *is* the ultimate moral model that all earthly systems should attempt to approach.

This theory leaves no room for any analysis of goodness into more basic elements, a move that was adopted, although somewhat hesitantly, by modern divine-command theorists.[61] What is good in the objective moral sense is identical to what God commanded. Unlike the modern theory of theological voluntarism that posits, "ethics depends, at least in part, on God's will,"[62] Ashʿarī theories viewed values and norms as *the* divine, not as a matter willed by the divine. For this theory to hold true, a clear divide between what is universally true and what is humanly intelligible must be maintained, a notion that accords with Ashʿarī metaphysics as shown in Chapter 2. This insistence on establishing goodness as a transcendent divine attribute largely shaped the Ashʿarī attempts to offer a coherent definition of divine commands.

4.3.1 Divine Command Is Not the Observable Utterance

We saw that the Muʿtazilī attempts to identify divine commands with a grammatical form faced difficulties caused by the fluid way in which language is used. By contrast, Ashʿarī attempts to present commands as a transcendent reality had to account for the manner in which such phenomena became effective in guiding human action. The tension between the transcendent and immanent aspects of the construction of norm and value can be seen in efforts to elucidate the concept of divine command in Ashʿarī works of jurisprudence. According to Bāqillānī, command is "the saying, by virtue of which, action is required from the addressee, by way of obedience."[63] A similar definition was advanced by Imām al-Ḥaramayn al-Juwaynī, who, in *al-Burhān fī uṣūl al-fiqh*, defined command as "the utterance that, in itself, requires obedience to the commander by doing the commanded action. Except for minor variations in formulation, Juwaynī maintained all of the central elements of

[61] For example, Alston, *Divine Nature and Human Language*; J. E. Hare, *God's Call: Moral Realism, God's Commands, and Human Autonomy* (Grand Rapids, MI: W. B. Eerdmans, 2001).

[62] Philip L. Quinn, "Divine Command Theories of Ethics," in Donald M. Borchert (ed.), *Encyclopedia of Philosophy*, 2nd edn (Detroit, MI: Macmillan Reference USA, 2006), 3:93.

[63] "*Al-qawl al-muqtaḍā bihi l-fiʿl min al-maʾmūr ʿala wajhi l-ṭāʿa*." Abū Bakr Muḥammad b. al-Ṭayyib al-Bāqillānī, *al-Taqrīb wa l-Irshād "al-Saghīr,"* 2nd edn, ed. ʿAbd al-Ḥamīd b. ʿAlī Abū Zunayd (Beirut: Muʾassasat al-Risāla, 1998), 2:5–6.

Bāqillānī's definition. One noteworthy difference is that, in Bāqillānī's definition, action is necessitated *through* command, whereas in Juwaynī's command directly *necessitates* the action. This can be understood as a refinement of the definition toward a formulation that is clearly distinguishable from any Muʿtazilī conceptions of imposition of action. We saw that in the Muʿtazilī theories, the individual intervention of a personal agent is crucial in imposing obligation. That was not the case in Ashʿarī thought, in which command is nothing but the idea of solicitation of action. Therefore, speech is the concept of necessity of action, and not merely a means through which necessity of action is imposed.[64]

A significant aspect of those definitions is that they classify command as a type of saying (*qawl*). This may appear to bear some similarity to the Muʿtazilī view that command is an observable utterance. However, both Bāqillānī and Juwaynī are emphatic in their rejection of any such similarity. As we will see, the definition of command as a type of saying (*qawl*), although it has been abandoned by later Ashʿarīs, especially after Ghazālī,[65] can be understood an attempt to address the challenge of applicability to concrete human conditions that the transcendent nature of commands raises. In fact, both scholars dedicated significant parts of their treatment of divine commands to the refutation of the Muʿtazilī conception of command as a physical utterance. Challenging the attempts to identify command with the imperative mood was frequently done by referring to the fluidity in common usage of grammatical forms. This fluidity was reflected in two facts about the use of language: on the one hand, linguistic constructions are often used to indicate a wide range of meanings, and, on the other hand, language is used in various circumstances and contexts. For example, Bāqillānī observed that the same statement in the imperative mood could be used to indicate command, prohibition, admonishment, warning, or permission. If that were the case, it would be impossible to argue that any one of those meanings is identical

[64] It is worth noting that Bāqillānī's main concern here is to clearly distinguish *amr* from other parts of speech. This tendency to delineate the boundaries of the defined term is characteristic of *uṣūlī*s and theologians, and reflects the discursive environment in which this scholarship flourished. The mention of rendering action necessary (*iqtiḍāʾ al-fiʿl*), according to Bāqillānī, is no different than "requiring action" (*muṭālaba*), or "that by virtue of which compliance is attained" (*mumtathalun bī mūjibihi*). All of those alternative elements of the definition of *amr* serve the purpose of distinguishing command (*bāna l-amr*) from deterrence, assertion, and otherwise. Bāqillānī, *Taqrīb* 2: 5–6.

[65] See Rāzī, *Maḥṣūl*, 1:167; Weiss, *The Search for God's Law*, 333.

to the linguistic form without the same argument being applicable to the other forms, thus none of those claims could prevail.[66]

In addition, Muʿtazilī theories were countered with examples showing the various circumstances in which language is used. The "*qadriyya*," Bāqillānī maintained, "claim that the commands of God most exalted, and the commands of others, are nothing other than the sounds produced by the utterance 'do!'."[67] If command is nothing but the sounds of the utterance made in the imperative mood, it would follow that the meaning formed in the commander's mind is related to commands in a causal manner, but does not constitute an essential part of the concept of command itself. It would also follow that command, understood as a physical phenomenon, is not unique, but "can, itself, or similar occurrences, be replicated by others who are not the commander."[68] Bāqillānī's refutation of this position relied on the commonly used example of a person who utters those words in their sleep. He maintained that "the fact that the grammatical form may exist without being a command invalidates the claim that it is [nothing other than] the grammatical form."[69] This rebuttal of the claim that command is nothing other than the imperative mood, as we have seen, would have been conceded by Baṣrī, who elaborated a theory of will as a response to precisely this objection.[70]

Another allegedly Muʿtazilī claim that Bāqillānī countered reveals in detail the Ashʿarī objection to the command-as-utterance position. This more complex position consisted of claiming that command is the same as the imperative mood only when there is no proof to the contrary. This argument does not posit the identity between command and statements in the imperative mood as a plain principle, but establishes the relationship between them as one of presumption. A scholar making this argument would claim that being asleep or unconscious is the "proof to the contrary," which would defeat the presumption that the utterance in the imperative mood is a *prima facie* command. As a result, the utterance of

[66] Bāqillānī, *Taqrīb* 2:14. [67] Ibid., 2:10. [68] Ibid. [69] Ibid., 2:12.

[70] Weiss's study of Āmidī's jurisprudence shows that Ashʿarī jurisprudents continued to attack Muʿtazilī arguments on that matter in the same manner, and even in the same order. Weiss explains that Āmidī first responded to the Muʿtazilī efforts to "identify the command with a linguistic form, the imperative form of the verb, that is to say, the *ifʿal* form." Following this refutation, Āmidī dealt with the claim that "the command was the imperative form of the verb unaccompanied by a contextual clue indicating that the form constituted something other than a command." And finally, Āmidī addressed the argument that command was the imperative form of the verb backed by the speakers "intention to produce the form . . . to signify a command by means of it, and . . . that the command be obeyed." Weiss, *The Search for God's Law*, 329–30.

the sleeping person would not qualify as command, and Bāqillānī's objection would fail. Bāqillānī's response to this claim is a polemical counterargument of significant intricacy. The "proof to the contrary" in that case is a negative condition, namely the lack of awareness. Bāqillānī's objection consists of maintaining that, if the proof to the contrary is a negative element, then the reverse of this proof must be a necessary condition of the presumed matter. In this example, if the lack of consciousness is sufficient to show that an utterance is not a command, it follows that consciousness must always be present for an utterance to be a command.[71] This, obviously, is inconsistent with the claim that command is the grammatical form and nothing else. The argument based on the failure of the negative *qarīna* was taken further by Bāqillānī: "command cannot be said to exist for the lack of cause, for the causes of judgments have to be existing entities . . . thus it is not possible that the lack of proofs would constitute a cause for the utterance's being a command."[72]

While these two counterarguments respond to the positions against which Bāqillānī was arguing, they do not directly address the claim that command is an utterance backed by a specific will. This, as shown in the previous section, was a major line of argument in Muʿtazilī thought. Nevertheless, Bāqillānī's counterarguments reveal to us some important aspects of the Ashʿarī conception of language and the production of meaning. The physical sounds and letters, in this theory of language, are arbitrary signs of no intrinsic value. The only function of the physical sounds and written words is to signify meanings, which exist in minds, rather than in any observable medium. This view of language is clearer in Juwaynī's elaborate polemical engagement with Muʿtazilī theories. Juwaynī explained that the Basrans among the Muʿtazilīs maintained that an utterance becomes a command if it is backed by three wills: (1) a will to make an utterance, (2) a will to utter a command, and (3) a will to make the action happen.[73] The requirement of will is based on the view that attributes of all matters, utterances included, are either inherent, related to its immanence, or a result of knowledge, power, or will. The argument that a physical utterance becomes a command by a will is therefore an application of this last case. Juwaynī's response is as follows:

[71] Bāqillānī, *Taqrīb* 2:13. [72] Ibid.

[73] Imām al-Ḥaramayn Abū l-Maʿālī al-Juwaynī, *al-Burhān fī uṣūl al-fiqh*, ed. ʿAbd al-ʿAẓīm al-Dīb (Doha: Jāmiʿat Qaṭar, 1979), 1:205. A similar account can be found in Samarqandī, *Mīzān*, 203.

If you, Basrans, maintained that the utterance in the imperative mood intended as a command has a distinctive attribute that distinguishes it from assertion, this would be a fallacy and perseverance in error. Indeed, the utterance is [nothing but] broken sounds and arranged letters (*aṣwāt mutaqaṭṭiʿa wa ḥurūf muntaẓima*). They certainly are the same whether [the speaker] intends to make a command or an assertion, and sounds in themselves have no attributes that distinguish them.[74]

This passage reveals the reasons for which Ashʿarīs opposed the identification of commands with their physical manifestations. Juwaynī raised no objection to the view that specific utterances can be the products of particular wills, and that the will can be viewed as the effective cause of the utterance. Rather, his opposition to the view that command is an observable utterance stemmed from his treatment of the letters and sounds as mere physical phenomena. While those observable elements may play the role of epistemological indicants, to claim that those utterances are identical to the concept of command one should demonstrate that they are not mere shapes and sounds – hence Juwaynī's reference to the theory of attributes. Since, except for the previously mentioned process of elimination, Juwaynī's opponents did not explain how the will effectively changes the attributes of those utterances, he concluded that they were not justified in maintaining that commands are the physical utterances.

4.3.2 Divine Command as Inner Speech

As an alternative to the Muʿtazilī theory that command is identical to the linguistic form in which it is expressed, the Ashʿarīs elaborated a theory in which speech exists as meaning in the speaker's mind independently of, and prior to, the use of language as a physical phenomenon. The position that speech has a noetic presence of its own prior to its expression in a linguistic form seems to accord with the view that the creation of language is a matter of social convention. If the uttered sounds and words are arbitrary, in the sense that communities can, through linguistic practice, establish any given system of signs to indicate the same ideas, then the

[74] Juwaynī, *Burhān*, 1:210. Fakhr al-Dīn al-Rāzī, by contrast, appeared mainly concerned with the will to bring about the given action, which, for him, was not a condition of the validity of commands. For Rāzī, command is nothing but the concept of a request for action, which may or may not accord with the will of the speaker. The concept of request for action, however, requires no analysis: it is understood by all rational beings by way of necessity (*ḥāsīlun li-kulli l-ʿuqalāʾ ʿalā sabīl al-iḍṭirār*). Rāzī, *Maḥṣūl*, 1: 167–71.

meanings that can be expressed by those conventional signs must be, in a way, separate from them. The Ashʿarī theorists take this separation to an extreme: speech is nothing but the meaning that arises in someone's mind, and this is a self-contained, uniform category. This theory depends on the ability to distinguish the meaning located within the mind from two things: (1) knowledge of the utterance and the commanded action and (2) the will to bring forth the utterance and commanded action. For the Muʿtazilīs, the first cannot possibly be a condition of command, since knowledge cannot be prior to the realization of a phenomenon, thus the second is the only possibility. However, Ashʿarīs hold that there is a third noetic representation that characterizes the commander, and that this is the only one that is necessarily present: the *notion* of necessity, or solicitation of action.

The theory of inner speech dominates the concepts of command advanced by both Bāqillānī and Juwaynī. This "inner speech," Bāqillānī observed, is of two kinds: the eternal (*qadīm*) (literally, old) word of God on the one hand, and the speech of God's creatures (*kalām al-khalq*), which is created and contingent, on the other hand.[75] Thus, Bāqillānī established a contrast between the objectively true meanings located in the Divine Self and the contingent temporal meanings that constitute human thought and speech.[76] Divine command as inner speech is an attribute of God that may not be subject to doubt or corruption. In its objective, divine form, this inner speech constitutes a fully-formed command in the proper sense of the word, and thus requires no additional manifestation to become a command. Hence, Bāqillānī insisted that divine command is associated in itself with the action or abstention to which it relates.[77] Elsewhere, he insisted, "command in itself relates to what it commands, to those it commands, and to the one who commands it."[78] By maintaining that command as an internal meaning is "in itself" sufficient and effective, Bāqillānī distinguished it from outward sensory language which, he maintained, is not a necessary part of the concept of command. It is evident from this characterization that Bāqillānī was careful to distinguish divine command from two related concepts: human "inner speech" that constitutes an earthly form of command but fails to satisfy the conditions

[75] This distinction was upheld by Transoxanian Maturīdīs as well, such as Samarqandī who maintained that speech was "an attribute according to which the self becomes a speaker (*mutakalliman*)" as opposed to the physical sounds and sentences. Samarqandī, *Mīzān*, 199. See also ʿUmar b. Muḥammad al-Khabbāzī, *al-Mughnī fī uṣūl al-fiqh*, ed. Muḥammad Maẓhar Baqā (Mecca: Jāmiʿat Umm al-Qurā, 1983), 27.

[76] Bāqillānī, *Taqrīb* 2:5. [77] Ibid. [78] Ibid., 2:10.

of moral objectivity present in divine commands, and the physical manifestation of divine commands in the form of spoken and written words.

In support of his position on inner speech, Juwaynī argued: "the commander finds in himself a necessity and solicitation (*iqtiḍāʾan wa ṭalaban*) for the thing commanded. The [linguistic] form indicates [this necessity and solicitation]."[79] As we discussed in the previous section, Muʿtazilīs argued that knowledge that an utterance constitutes a command does not make it a command. It would seem that Ashʿarīs would not have opposed this claim. The feeling of "necessity of solicitation" is not a knowledge that relates to the physical utterance in question, but the very meaning of solicitation of action that becomes reflected in linguistic form. Thus, both Muʿtazilīs and Ashʿarīs agreed that a state of knowledge that pertains to the utterance in question could not conceivably be the reason why it constitutes a command. The Ashʿarī scholars, however, denied that it followed from this observation that the will has to be the effective cause that renders an utterance a command. Rather, an option unexamined by Muʿtazilīs is available, namely the meaning that the speaker represents within him- or herself.

For this argument to succeed, there must be a distinction between meaning and will. "Meaning," in this sense, has an eternal presence, and does not follow form the specific and temporal "will" of a higher agent. This distinction, in Juwaynī's thought, rests on a parallel between, on the one hand, meaning as formulated in the speaker's mind, and, on the other hand, meaning as triggered in the addressee's mind. Since the commander "finds in himself a meaning of necessity" prior to uttering the words, or otherwise producing the signs that *indicate* such meaning, we can assume some similarity in kind (but not an identity) between the state of mind that triggers the utterance and the one that results from it. Juwaynī explains: "a speaker may command someone and the commanded feels solicitation of action compulsively, as a result of the circumstances at hand, while the commander wishes him to disobey for a particular purpose."[80] Since Juwaynī was attempting to show that the will to command is not identical to command as inner speech, he offered an example in which one existed without the other. The example, which Juwaynī attributed to his predecessors, is as follows:

> A man punished one of his slaves in a manner that displeased the ruler of the land to the extent that he was on the verge of punishing the slave owner. This latter

[79] Juwaynī, *Burhān*, 1:200. [80] Ibid., 1:200–1.

apologized [to the ruler] and explained that his slave never followed his instructions, an excuse that the ruler refused to believe. In order to confirm his allegation, the slave owner made a command to his slave. There is no doubt that in this case he wanted the slave to disobey him, although the request for action is undeniable.[81]

What this example aimed to show is that the meaning of command can be present in the speaker's mind, but not the desire to see the action in question occur. By following divine commands, we are not submitting to the will of another agent, nor are we giving up on our autonomy. We are merely constructing our normative reasoning based on a profound truth about the universe. This example can raise an important objection to the theory of inner speech. Since Ashʿarīs maintained that the will could not provide an utterance with the added attribute of being a command, why should the same no be said of meaning as inner speech? In other words, if the will is independent of the nature of the utterance, can we also say that inner speech has no clear connection to whether an utterance is or is not a command? In response, Juwaynī invoked the Ashʿarī doctrine that meaning is strictly internal to the mind, and therefore inaccessible: "there must be an intention to create an utterance that can produce a sense of command [in the listener's mind], but this utterance does not gain its attributes from this intent. Rather, this sensation of command arises from the available proofs."[82] What this theory entails for the concept of command is that inner speech does not cause an utterance to be a command, but is, in itself, the command. The physical manifestations of inner speech are nothing but sensory data that may or may not convey the intended meaning.

The radical metaphysical separation between the divine and the earthly can be seen here in a sharp distinction between the divine form of command and the human understanding of what obligations may follow from revelation. This turns the search for norms and values within the language of revelation into a purely human exercise based on this-worldly observations, not a blind submission to the desires of a higher being. This may help avoid the problem of autonomy, but it raises a different problem concerning accessibility. If commands in the proper sense are transcendent divine attributes, how can they be attainable by human minds, and what possible relation can we assume between those attributes and the norms formulated by the jurists? The answer to this lies in the social dynamics of norm-construction, as we will see in Chapter 5.

[81] Ibid., 1:201. Ghazālī offered a similar example to support this claim. Ghazālī, *Mustaṣfā*, 382. A similar argument was made by Samarqandī, *Mīzān*, 205.

[82] Juwaynī, *Burhān*, 1:211.

4.4 CONCLUSION

Theories that rely on some notion of divine command for the guidance of human action are, to say the least, unpopular in modern scholarship. One important reason for this unpopularity is the view that the reliance on God as a source of normativity entails an abandonment of one's autonomy. This view stems from the belief that we do not *need* God to tell us what is right and wrong; we can and should rely on our own intellects to determine the manner in which we act. However, for a categorical rejection of divine command theories to stand on this premise, it must in fact be true that positing revelation as a source of norms amounts to conceding that we need God to tell us what is right and what is wrong. What I attempted to show, through an analysis of two distinct trends in premodern Islamic legal theory, is that this is not necessarily the case. To say that any theistic theory of norm making involves a renunciation of rational autonomy is to assume that the follower of such theory fully substitutes her own agency with *another* moral agency that is like it in some sense. This similarly resides in the belief that God is a human-like agent who observes particular circumstances and informs humans of their moral outcomes. Only this understanding of divine commands as human-like pronouncements would justify the claim that theistic ethics involve blind reliance on the judgment of an agent who tells us what to do. In this chapter, through a study of classical debates on the nature of divine commands, I attempted to show that this view is not only avoidable, but has been substituted for another elaborate view of divine commands as *attributes* that was influential among Muslim theologians.

I argued that Muʿtazilīs viewed divine command as an utterance designed to effect a specific change in time. This view of commands equated it to its physical linguistic manifestations. The Ashʿarīs, by contrast, advanced the view that divine commands were eternal attributes of God. The attempts to limit the concept of command to its physical manifestations were typically faced with difficulties stemming from the fluidity of use of linguistic forms in relation to particular meanings in common parlance.[83] By contrast, the theory that divine commands are

[83] This difficulty was clearly explained by B. Weiss in the context of his analysis of Āmidī's *iḥkām*. Weiss maintains that "The problem of identifying the command with the *ifʿal* form, according to Āmidī, is that there are innumerable instances in ordinary usage when this form clearly does not represent a command. Such instances may be found in the Qur'ān itself. For example, 'Do what you will' (41:40) is clearly not a command but a

transcendent meanings faced the challenge of determining the way in which they can be translated into practical human actions.

The theory of divine commands as an eternal attribute is quite clearly incompatible with the view of God as a humanlike moral agent. Bernard Weiss highlighted the uniqueness of this conception of divine command as meaning to the Islamic tradition:

> [W]hen Westerners, especially those who stand within the Judeo-Christian tradition, say that a given law – say, the law of Moses – is an expression of God's will, do they not very often mean that the law in question represents what God wills *in the way of human behavior or acts?* Do we not often hear in sermons or devotional literature of God's having a will for human lives, one embodied in commandments? If, on the other hand, one understands the statement 'Law is an expression of God's will,' to mean that law *exists* because he wills that it exists, then the statement is certainly correct from the point of view of Ashʿarī theology.[84]

Although the accuracy of Weiss's conclusion concerning the nature of divine will in Ashʿarī theology may require some clarification,[85] his assessment of the anthropomorphism underlying Western notions of divine judgment, which, I argue, is responsible for the categorical rejection of divine command ethics, seems perfectly accurate. As explained in Section 4.1 of this chapter, this view of God as a humanlike agent

warning: God is saying in effect, 'Do what you will, and see what befalls you. Similarly, 'God hunting' (5:2), 'Call to witness' (4:15), 'Eat of that which God has provided for you' (5:88), and 'Enter them in peace' (15:45, 50:34) do not constitute commands. In the first God is granting permission, in the second he is affording guidance, in the third he is showing favor, and in the fourth he is bestowing honor." Weiss, *The Search for God's Law*, 329. Wakin also explains that Ibn Qudāma provided a similar set of examples. See Wakin, "Interpretation of the Divine Command in the Jurisprudence of Muaffaq al-Dīn Ibn Qudāmah," in Heer (ed.), *Islamic Law and Jurisprudence*, 35–7.

[84] Weiss, *The Search for God's Law*, 331.

[85] The claim that God wills the existence of his commands is unlikely to have been accepted by an eleventh- or twelfth-century Ashʿarī. God's will, in Ashʿarī theology, attaches to creation (*al-muḥdathāt*). For Ashʿarīs, God creates all things by an eternal (*qadīma*) will that is responsible for the generation of all things past and present. The crucial notion here is that creation is not *necessary*. As Weiss aptly observed, before God lies an infinite range of possibilities, including the elimination of existence altogether. Thus, God's eternal will interferes to *prioritize* (*tarjīḥ*) one possibility over another. Divine commands, by contrast, are not creations at all: they are attributes of God. For an Ashʿarī, God's attributes are *an integral part of God*. It is impossible to speak of God without also meaning his attributes. Therefore, for an Ashʿarī, divine will cannot possibly be the cause of divine commands. See Abū Ḥāmid Muḥammad b. Muḥammad al-Ghazālī, *al-Iqtiṣād fī l-iʿtiqād*, ed. Muḥammad Muṣṭafā Abū l-ʿIlā (Cairo: Maktabat al-Jindī, 1972), 91, 121.

explains the popularity of the argument referred to as the "Euthyphro dilemma" with antitheistic moral theorists.

To what extent does the Euthyphro dilemma, as (mis)appropriated by modern scholars, undermine the versions of divine command theory explained in this chapter? A dilemma, in the technical sense, is fallacy that affects a certain argument when it can be shown that it necessarily has one of several implications, all of which are incorrect or undesirable. As a result, the initial claim would necessarily be incorrect or undesirable. In our case, the argument in question consists of the claim that universalizable norms must depend on revelation in some manner. The two conclusions are the following: either (1) actions are good *only because* God commands them, which means that judgments are made in violation of human moral autonomy or (2) actions are commanded by God because they are good, which means that God's commands do not have any authority in establishing values.

The notion of a personal God that makes normative judgments by pointing to preexisting outcomes (i.e., by *telling us what to do*), which stems from the first horn of this dilemma, would be much in line with Muʿtazilī theories of divine command as humanlike expressions of will. As we saw, Muʿtazilīs plainly adopted a notion of divine commands as indicants of a preexisting moral order and not as generators of normative judgments. For the Muʿtazilīs, God's justice means that He cannot conceivably reward or punish humans for their actions if they could not discern the worth of those actions by the minds that He Himself gave them. Therefore, there is nothing that God commands or prohibits that, in theory, could not have been known by the unaided human intellect. Divine revelation, therefore, is one among an infinite range of indicants, the function of which is to *inform* humans of the proper course of action. The Muʿtazilī notion of divine command concedes the Euthyphro objection.

By contrast, the Ashʿarīs viewed divine commands as attributes of God, and not mere informative statements. This model shows that norm formation can depend on God's commands in the sense that the objective judgments that attach to certain actions are part of the design of the universe by being a subcategory of the eternal word of God. This conception of divine command does not amount to a substitution of human agency with "another" agency of an omnipotent but humanlike being. Rather, this theory views divine commands as a metaphysical premise for a theory of practical reasoning that posits revelation as a source of universalizability, but requires the full involvement of human epistemic-linguistic faculties for the formulation of practical moral judgments. How

those faculties were exerted in the field of Islamic jurisprudence will be explained in Chapter 5.[86]

Seen as an attribute, and not an event, divine commands become immune to the claim that they inevitably induce blind following, upon which depends the validity of the second horn of the Euthyphro dilemma. The Ashʿarī model shows us that a theory of divine commands that supposes that God does not have to command things which have a moral value that has been predetermined independently of Him does not necessarily mean that divine commands are arbitrary or that following them amounts to a form of blind obedience to a higher (but similar) agent. This, however, does not mean that such a theory cannot be arbitrary. As with any other model of norm formation, it will depend on the manner in which practical norms are justified. We will address this question in Chapters 5 and 6.

[86] It must be noted that one can make the argument against the arbitrariness of divine command ethics *within* the tradition that views God as humanlike entity. *A fortiori,* therefore, this charge is more likely to fail once we step out of this tradition. A refutation of the Euthyphro objection from within this tradition was offered by Thomas Carson: "Here's the argument. The gods must have some reason for loving and hating the things they love and hate. Otherwise, their loves and hates are arbitrary. If the gods' loves and hates are arbitrary, then there is no reason to take them seriously as the ultimate standard for morality. This argument assumes that if B [i.e., the claim that the gods do not command what is good] is true, then the loves and hates of the gods must be arbitrary. But this assumption is false. Given Euthyphro's definition, we can't say that the gods love what they love because it is pious. This rules out one possible way in which the loves and hates of the gods could be nonarbitrary. But the conclusion of this argument, that if B is true then the loves and hates of the gods are arbitrary, follows only if we accept something like the following: 'Either we must agree with Socrates that the gods love what is pious/right because it is pious/right, or else we have to say that the gods have no reason whatever for loving and hating the things they do.' This statement presents a false dichotomy. Given his definition of *hosion*, Euthyphro can't say that the gods conform their loves and hates to some existing standard of *hosion*. But this leaves open many other possible reasons why the gods might love some things and hate others. There are all sorts of different reasons one can have for loving or hating something. So, at best, the Euthyphro argument is incomplete and, if we extend it in the way analogous to many recent arguments to the effect that divine will/divine command theories make God's will arbitrary, the argument clearly fails." Carson, "Divine Will/Divine Command Moral Theories and the Problem of Arbitrariness," 448–9.

5

Divine Commands in the Imperative Mood

In this chapter, we will focus on the way a given linguistic form in the language of revelation, the imperative mood, was seen to produce and justify normative positions. Studying the way the imperative mood was treated in Islamic jurisprudence (*uṣūl al-fiqh*) allows us to see how classical jurists thought about the formation of normative judgments using the concrete language of revelation. At this point in our reconstruction of a divine-command model, the question of the necessity of divine revelation is behind us. The discipline of Islamic jurisprudence centered on the principles and methods necessary to produce juristic pronouncements through divine speech. There is no other sustained, widespread, and influential intellectual area in which the methods of formation of practical norms were elaborated that could compete with *uṣūl al-fiqh* in classical Islamic thought. Since scholars of virtually all legal and theological inclinations participated in this discipline, it shows that it was largely acknowledged at the juristic level that some recourse to revelation was unavoidable. In this chapter and Chapter 6, we will focus our efforts on understanding how, given the diverse views on what revelation is, jurists engaged in Islamic jurisprudence thought about the construction of norms. The primary finding of these two final chapters is that, while the divine-command insistence on the necessity of revelation was victorious in the grand scheme of things, Islamic jurisprudence allowed for the survival of natural-law ideas within its complicated texture.

More broadly, as we will see, the incorporation of different approaches to divine speech within the framework of Islamic jurisprudence was the result of a general reliance on social construction as a foundation of juristic authority. The question of how the concrete signs of revelation –

seen by the divine-command theorists as purely earthly entities – could result in universal norms was largely resolved through the mediation of the community of scholars as representatives of the community of the believers. The idea of faith in the community as a remedy for the impossibility of attaining perfect knowledge of the meanings of divine commands is one that is familiar in Islamic thought and can be detected in foundational concepts such as consensus (*ijmāʿ*).[1] Faith in the veracity of the community at the level of *uṣūl al-fiqh,* however, did not generally manifest itself in the form of consensus, but in a reliance on collective deliberation as a source of authenticity. This idea will be explained in Section 5.1.

Looking for the link between concrete utterance and normative judgment was a question that was framed in Muslim jurisprudence as an inquiry into the signification (*ifāda*) of the imperative mood (*ṣīghat al-amr*). This kind of inquiry reveals the very nature and purpose of *uṣūl al-fiqh*. The very nature of *uṣūl* arguments, as we will see, meant that normativity was not justified through linear deduction from theological or epistemological premises, but through a type of active collective deliberation. This collective nature of the discipline helped construct a type of self-restricted community-relative universalizability, which aimed to approach as much as possible the perfection of the divine moral order. By establishing *uṣūl al-fiqh* as an intermediary realm between the epistemological-theological theories studied in Part I of this book, and the practical norms of Islamic law (*fiqh*), Muslim scholars attempted to formulate a socially constructed universality that relied on constant dialectical evaluation of normative claims. An important attribute of this deliberative effort is that each jurist's assumptions on the nature of divine speech, the sources of knowledge, and the semantic features of language only partially shaped the way they built their arguments by creating a tendency to argue in a specific direction.[2]

[1] For more on this concept, see Ahmad Hasan, "Ijmāʿ: An Integrating Force in the Muslim Community," *Islamic Studies* 6(4), (1967): 389–406. See also Wael B. Hallaq, "On the Authoritativeness of Sunni Consensus," *International Journal of Middle East Studies* 18(4), (1986): 427–54.

[2] Hallaq provided an explanation of this articulation of various spheres of inquiry in premodern Islamic legal thought that is helpful for our purposes: "a dialectical relationship existed between any juristic discourse and the site in which this discourse was designed and intended to function. The dialectic itself should be seen as a distinct discursive type, different from both the source and the site. It is also different in the sense that it constitutes the effect of this admixture, or the result of the two coming together or confronting each other. We shall see that these abstract and theoretical principles will apply to Islamic legal culture from beginning to end, a delineated sphere that is not

We will see in this chapter that this collective social construction reveals an interplay between two distinct approaches that transcend theological affiliation. These approaches related to whether the jurists should strive to limit their inquiries to linguistic analysis, or if they should allow themselves greater leeway in constructing rules of jurisprudence. A group of jurist-theologians held, for a variety of reasons, that a divine statement in the imperative mood should not give rise to any juristic presumption. This position, known as suspension of judgment (*waqf* or *tawqīf*), entailed the necessity of looking for additional evidence beyond the mere language of the imperative mood to determine whether any statement should impose an obligation, recommendation, or otherwise. A second group argued that a divine statement in the imperative mood should be taken to indicate a normative outcome by default. It has been generally accepted that many scholars took this outcome to be the compulsoriness of the commanded action.[3] As we shall see, several jurists referred to hypothetical opponents who maintained that such statements should be taken to indicate recommendation, a position that does not appear to have enjoyed significant following.[4] The focus on the two extremes of suspension of judgment and presumption of obligation is intended to portray the normative considerations that were at stake in this debate, but this is not an exhaustive account of the positions taken by Muslim jurists on the question. Between those two opposed positions, jurists formulated a variety of possible outcomes, one of which – the presumption of recommendation – we have already mentioned.

necessarily diachronic but rather, and above all, conceptual and real. In other words, both structurally and conceptually, Islamic legal culture moved from one layer of discourse to the next through a dialectic that moved injected itself in between; a dialectic that, when absent, bars any transition to the second layer . . . The result is a multi-layered theory that altogether constitutes and affords a "complete" set of discourses that can interact with and act upon other sets, producing at every stage of interaction a different dialectical effect." Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (New York, NY: Cambridge University Press, 2009), 78.

[3] See for example Muḥammad b. al-Ṭayyib al-Bāqillānī, *al-Taqrīb wa l-Irshād "al-Ṣaghīr"* 2nd edn, ed. ʿAbd al-Ḥamīd b. ʿAlī Abū Zunayd. 3 vols. (Beirut: Muʾassasat al-Risāla, 1998), 52. Also in Muḥammad b. 'Abd al-Ḥamīd al-Usmandī, *Badhl al-naẓar fī l-uṣūl*, 1st edn, ed. Muḥammad Zakī ʿAbd al-Bar (Cairo: Maktabat Dār al-Turāth, 1992), 59.

[4] The presumption of recommendation is often attributed to Muʿtazilīs. This was certainly not the position of either al-Qāḍī ʿAbd al-Jabbār or Abū l-Ḥusayn al-Baṣrī, although Bukhārī incorrectly attributed it to Baṣrī in his commentary on Bazdawī's *Uṣūl*. See 'Abd al-'Azīz ibn Aḥmad al-Bukhārī, *Kashf al-asrār ʿan uṣūl Fakhr al-Islām al-Bazdawī*, ed. ʿAbdullāh Maḥmūd Muḥammad ʿUmar (Beirut: Dār al-Kutub al-ʿIlmiyya, 1997), 1:165.

I will show that those two categories represented two different approaches to the manner in which a balance can be found between the exclusive faithfulness to divinely revealed indicants and the complexity of human practical considerations.[5] This diversity reflects the fact that, while

[5] A different explanation of the significance of this debate was offered by Bernard Weiss: "Those who maintain that the *ifʿal* form signifies imposition of obligation as its sole literal meaning (thus making it a *zāhir* [sic] signifier of that meaning) are in effect erecting a principle of interpretation that favors law over moral exhortation, a principle that is bound to produce an understanding of the Sharīʿa heavily weighted on the side of those categorizations of human acts that admit of being enforced by the state and its tribunals as opposed to those categorizations that do not. Those who maintain that the *ifʿal* form signifies recommendation as its sole literal meaning are, in contrast, favoring an approach that is bound to produce a more exhortation-oriented understanding of the Sharīʿa, one that reduces the legal part of the Sharīʿa to less demanding proportions. Those who maintain that the *ifʿal* form is a homonym are in effect making the heaviness or lightness of the legal part of the Sharīʿa more dependent on the deliberations of scholars. The *ifʿal* form, in their view, plays a more neutral role . . . The effect [of the suspension of judgment] is . . . similar to that resulting from the treatment of the *ifʿal* form as a homonym, though not exactly the same." Weiss is clearly right to conclude that those advancing the presumption of recommendation, as few as they may have been, were advancing a "less demanding" view of the *sharīʿa* compared to those who advanced a presumption of obligation. In addition, those who advocated the suspension of judgment did without a doubt view linguistic forms as neutral indicators. Beyond those two points, I think Weiss's conclusions are unjustified. First, as we will see throughout this chapter, the construction of moral principles at all levels of this system was a matter of "deliberations of scholars." The suspension of judgment, as we will see, is a position taken at a meta-ethical level, and therefore does not tell us much concerning the "lightness" and "heaviness" of the *sharīʿa* at the level of substantive practical injunctions. It does, however, tell us much about the extent to which the jurists allowed themselves the freedom to shape the logical and ethical underpinnings of that system. Second, there is nothing in the works of *uṣūl al-fiqh* that suggests that scholars elaborated their positions under the influence of any assumption or consideration pertaining to the "state" and its "institutions." Presenting the distinction between the categories of the obligatory (*wājib*) and the recommended (*nadb*) as corresponding to a separation between the legal and the moral is an unwarranted assumption that heavily and unnecessarily imposes a distinction that is specific to modern law on pre-modern jurisprudence. To remain faithful to the classical texts of *usūl al-fiqh*, one would need to see that the distinction between the obligatory and the recommended did not rely on the law/morality, public/private, and enforcement/exhortation dichotomies, but on the moral-theological question of the "prohibition of the opposite." (*al-manʿ min al-naqīḍ*). As will be explained in this chapter, and in various parts of this study, obligation and recommendation constituted two among many shades of *preponderance* of action, with obligation being distinguished by the specific concept of elimination of the possibility of omission. This is not a political division between the legal and the moral, but a cosmological gradation that involved the balancing of different degrees of divine intervention in the options available to the human will. See Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (Salt Lake City, UT: University of Utah Press, 2010), 350–1. For an example of the treatment of obligation as "preponderance of action and prohibition of its opposite," see Fakhr al-Dīn Muḥammad b.ʿUmar al-Rāzī, *al-Maḥṣūl fī ʿilm al-uṣūl*, ed. Muḥammad

the emergence of *uṣūl al-fiqh* as an influential discipline represented the overall triumph of the view that revelation was necessary for normative reasoning, attempts to establish revealed language as the *only* source of normativity ultimately failed. In its details, mainstream *uṣūl al-fiqh* inevitably incorporated semantic, moral, and practical considerations into its dynamic process. More purist projects on both sides, represented by the likes of Bāqillānī and ʿAbd al-Jabbār (studied in Section 5.2), had to give way to more inclusive models of reasoning represented by jurisprudents like Abū l-Ḥusayn al-Baṣrī, as well as the very popular school of Ḥanafī jurisprudence (a tendency examined in Section 5.3). Before we delve into this discussion, I will explain two of the central characteristics of *uṣūl al-fiqh*'s treatment of the language of revelation and its reliance on collective deliberation was intended to justify the social construction of categorical norms in Section 5.1.

5.1 COLLECTIVE DELIBERATION: COMMUNITY AS THE SITE OF PRODUCTION OF NORMS

The historical fact of the predominance of *uṣūl al-fiqh* had two important implications: (1) mainstream Muslim jurists dealt with divine revelation as a *necessary* premise for the production of categorical norms and (2) dialectical forms of reasoning were prevalent in *uṣūl al-fiqh*, which meant that norms were constructed by, and limited to, the community represented by its scholars. The kind of social construction that this model represents is radically removed from contemporary constructionist theories, which are commonly viewed as positivistic and arbitrary.[6] Objections to modern moral constructionism can be understood as a corollary of its insistence on confounding social agreement with objectivity. As a result,

ʿAbd al-Qādir ʿAṭā. 2 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1999), 178. On the inapplicability of the law-morality distinction to Islamic legal thought, see Hallaq, *Sharīʿa*, 1–3; Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (New York, NY: Columbia University Press, 2013), 78–84. On the separation of law and morality in modern jurisprudence, see the classic debate between H. L. A. Hart and Lon Fuller, notably in H. L. A. Hart, "Positivism and the Separation of Law and Morals," *Harvard Law Review* 71(4), (1958), and Lon L. Fuller, "Positivism and Fidelity to Law: A Reply to Professor Hart," *Harvard Law Review* 71(4), (1958): 630–72.

[6] This argument was also made in Omar Farahat, "Debating the Imperative Mood in Uṣūl al-Fiqh: Collective Deliberation and Legal Validity," *Oriens* 46(1–2) (2018): 159–85. Some parts of this article were reproduced in this chapter. I am thankful to the journal editors for the permission to use this material here.

the workings of social construction of meaning become unbound to any form of value external to it. The model we study in this chapter, by contrast, explicitly develops its dynamics of social construction around the central domain of divine speech as a collective moral purpose.[7] Another difference between those two types of social construction is that whereas one is the product of systematic scholarly deliberation, the other is the outcome of the free (read: random) and sovereign workings of social interaction. The insistence on the production and refinement of justification in the realm of *uṣūl al-fiqh* meant that socially produced judgments could not have been a representation of transcendent norms and values, but only a fallible attempt to attain them.[8]

The central underlying assumptions of the jurisprudential arguments pertaining to the normative effects of the imperative mood can be summarized as follows. First, the totality of opinions produced by scholars constitutes the boundaries of possible truth about any given scholarly question. Second, for a scholarly argument to be valid, it only needs to be superior in a logical or ethical sense (or both) to all other available arguments. Third, arguments were developed through dialectical evaluation, which meant that no independent theory, including the jurist's own theological assumptions, was sufficient to settle any matter of jurisprudential nature. This set of assumptions helps us understand how collective deliberation represented an attempt to simulate universality without making any final claims of unconditional universalism. The function of juristic reasoning was not to discover a divine law that existed in a metaphysical sense. Rather, the outcomes of juristic reasoning were the very substance of the human normative order at the earthly level.[9]

[7] Svend Brinkmann elaborately highlighted the tensions between modern constructionism and "finitude," which he equates to precision in moral purpose and an awareness of one's mortality. Modern constructionism, for Brinkmann, is closely associated with consumerist trends. As an alternative, Brinkmann argues for a phenomenological-existential morality that rests on an awareness of human vulnerability, maintaining that mortality is a condition to morality. Svend Brinkmann, "Questioning Constructionism: Toward an Ethics of Finitude," *Journal of Humanistic Psychology* 46(1) (2006): 92–111.

[8] On the impact of constructionism on moral agency, see Alasdair MacIntyre, "Social Structures and Their Threats to Moral Agency," *Philosophy* 74(289) (1999): 311–29.

[9] Here I do not in any direct way address the much-debated question of the "function" of *uṣūl al-fiqh*, which, in its common form, primarily means "how did *uṣūl al-fiqh* affect the formulation of substantive norms of *fiqh*?" What I suggest here is that "function" is not a matter exclusively reserved to the mechanical production of first-order norms. The formulation of a conceptual model for the moral and rational improvement of such production (and the understanding thereof) is also a conceivable and real "function." In

The view that the opinions produced by all scholars within the community represented the limits of legal knowledge reflected an admission of the ultimate unattainability of this normative ideal in its absolute form. As a result, scholars of *uṣūl al-fiqh* were not concerned with establishing the validity of their positions by applying abstract criteria, but primarily by showing that their chosen view was the most viable among all available arguments produced by the jurists on a given question. That does not mean that the law as a transcendent ideal was irrelevant to the process of formulation of practical moral judgments. It only meant that, in the final analysis, the set of injunctions formulated based on divine revelation represented the collective achievement and responsibility of the community of jurists acting on behalf of Muslims at large. The dialectical nature of those debates meant that theories about the normative outcomes of divine revelation were not produced analytically within the self-sufficient theoretical framework of each school of thought, but dynamically through constant exchange and evaluation of available alternatives.[10]

This method of production of normative statements may correspond to what W. Frankena referred to as a "third logic . . . whose canons warrant such inferences from factual premises to ethical conclusions." Frankena's partially dismissive reference to a "third logic," which, I maintain, corresponds to the forms of argument we are observing in this context, was part of his larger argument that moral conclusions cannot logically follow from religious premises. Frankena observes, in his attempt to dismiss this possibility, that "this suggestion has not been very convincingly worked out and it is hard to see how the canons of this third logic would differ from what are usually regarded as the moral principles that we ought to

that sense, my findings partially overlap with Hallaq's argument that "the descriptive function [of *uṣūl al-fiqh*] was fulfilled by the successive productions of theoretical works that both reflected and articulated the developments within legal practice, legal doctrine and, ultimately, legal theory itself. In other words, the legal theoreticians, by virtue of their constant and intense interpretive engagement with their own tradition, managed to inventory accretions and developments within their own field." Hallaq, *Shari'a*, 75. Although it may appear that this view is diametrically opposed to the often-referenced argument made by Sherman Jackson in "Fiction and Formalism," they in fact answer different questions. Jackson asks the question whether *uṣūl al-fiqh* is *formalistic*, and answers in the negative. But the question of "formalism" is primarily concerned with the way concrete norms are produced. This, I maintain, should not be the only question that exhausts the entirety of our thinking about the "function" of *uṣūl al-fiqh*." See Sherman A. Jackson, "Fiction and Formalism: Toward a Functional Analysis of Usul Al-Fiqh," in Bernard G. Weiss (ed.), *Studies in Islamic Legal Theory* (Leiden: Brill, 2002), 177–201.

[10] For more on this characteristic of *uṣūl al-fiqh*, see Omar Farahat, "A Devotional Theory of Law: Epistemology and Moral Purpose in Early Islamic Jurisprudence," *Journal of Law and Religion* 31(1) (2016):42–69.

keep promises and not to injure anyone." Frankena here seems to conflate the *methods* of formulation of norms with the substantive norms themselves. That some of the canons of a given moral system are in line with the "usual" moral principle (such as the immorality of lying and the morality of keeping promises) does not mean that the theoretical model that led to those principles is the same or redundant. Defending a given system of norm construction is important, even if some of the practical norms it generates may overlap with those justified by other normative models. Frankena was probably right, however, that those alternative nonlinear systems have not been sufficiently worked out in recent scholarship, and I hope that this chapter is a step in this direction.[11]

Let us now take the argument for suspension of judgment (*waqf* or *tawqīf*) in relation to the imperative mood as an example of this social conception of production of norms. Scholars of *uṣūl al-fiqh,* as will be shown in detail in Section 5.2, presented their arguments for the suspension of judgment as a plea for the search for more evidence. They justified this normative claim by the fact that no superior case had been presented by the proponents of other positions. For example, Bāqillānī introduced his position in support of the suspension of judgment by outlining the possible options concerning which further investigation is needed: "it is inevitable that command should be divided in two matters: the obligatory and the recommended. It is imperative that we suspend judgment whenever it comes devoid of proof of obligation or recommendation."[12] As we can see in this statement, suspension of judgment is an acknowledgement of the jurist's indecision between alternative moral outcomes, and the realization that additional evidence is required. The indecision that resulted in Bāqillānī's position is not defined in terms of abstract standards of certainty, but primarily by the fact that the community had failed to show in a morally compelling manner that one option should be taken as preferable to the other:

> We mean by *waqf* that command can be obligatory or recommended, and the people of language (*ahl al-lugha*) did not conclusively show that it is exclusively associated with one or the other. We should not follow them in anything upon which they did not agree (*lā yajibu an yunqal ʿanhum mā lam yaḍaʿūhu bi-ittifāq*).[13]

[11] William Frankena, "Is Morality Logically Dependent on Religion?," in Gene H. Outka and John P Reeder (eds.), *Religion and Morality; A Collection of Essays* (Garden City, NY: Anchor Press, 1973), 300–1.

[12] "*Wajaba inqisām al-amri qismayn: wājib wa nafl. Wa wajaba l-waqfu fīhi matā warada ʿāriyan min dalīl il-ijāb wa dalīl al-nadb*" Bāqillānī, *Taqrīb* 2:33. The theory that command implies two different normative degrees will be addressed in Section 5.2.

[13] Ibid., 2:36.

The logic of social construction of normative claims is evident in this argument. None of those two incompatible claims could be adopted as a sole valid presumption given that both arguments, according to the available wisdom offered by the community of linguists, can be made without one defeating the other and without there being any justification for preferring one to the other. According to this view of the production of knowledge, deliberation constituted a search for the most plausible epistemological position among all available views produced by the scholars, and not a process of analysis of independently coherent concepts. It follows from this conception of construction of knowledge that it would have been sufficient to show the relative preponderance of one position over the other to defeat the argument for the suspension of judgment.

To be sure, Bāqillānī took this possibility quite seriously in his emphasis upon the perfect equivalence (*takāfuʾ*) of the two normative alternatives at hand. This equivalence is manifested in the fact that, "no one can say that [command] must be taken to indicate obligation when devoid of proof of recommendation without someone else being able to say that it should be taken to indicate recommendation when devoid of a proof of obligation. This entails its being [both] recommendation and obligation when devoid of a particular proof."[14]

Of course, the simultaneous validity of two incompatible judgments is an impossibility, hence the need to search for more evidence. Significantly, Bāqillānī's argument was not based on the invalidity of all the alternative claims, but on the equal validity of all of them. Since there is no free-standing threshold of truth outside of the arguments made by the scholars, jurists did not need to maintain that all that was incompatible with their own claims failed. In that case, it was sufficient to observe that all opposing arguments were equally plausible to show the moral worth of the suspension of judgment. The community of scholars' disagreement concerning the signification of the imperative mood was also at the core of ʿAbd al-Jabbār's argument in support of the suspension of judgment. ʿAbd al-Jabbār begins his argument by providing an outline of the state of knowledge produced by the scholars on this question:

> The people of language have clarified the form of command (*qad bayyana ahlu l-lughati ṣīghat al-amr*), and there is no doubt that saying 'do!' to an inferior

[14] Ibid., 2:33–4.

constitutes a command. However, they disagreed on what makes it a command (*mā yakūnu bihi amran*), and what it signifies and indicates.[15]

It is precisely on this community-based indecision that the argument for the suspension of judgment rested. For ʿAbd al-Jabbār, indecision about the exact signification of the imperative mood warranted further investigation into the concept of command itself. It follows from this argument, *a contrario*, that the superiority of one of the alternatives, or the consensus of the community, would have settled the matter.

ʿAbd al-Jabbār did not stop at explaining that incompatible and equally plausible arguments have been made concerning this question. He proceeded to explain that a preponderant argument was made concerning a slightly different, but logically prior question: "we do not maintain that the imperative mood indicates recommendation [or obligation] by linguistic convention. We say that it only indicates the desire for the subject-matter to take place."[16] This is a claim about the descriptive components of the imperative mood, which ʿAbd al-Jabbār could have attained by analyzing the concept of command. However, advancing a normative claim concerning the imperative mood could not have proceeded analytically from the concept of command itself. A single jurist, even one who, like ʿAbd al-Jabbār, generally paid close attention to methods of logical reasoning, could not claim to proceed *analytically* from their own observations to produce universalizable judgments. A collective form of deliberation was necessary, which is precisely the role played by *uṣūl al-fiqh*. As a result, ʿAbd al-Jabbār's concept of suspension of judgment rested on the same premise advanced by Bāqillānī, namely the equivalence between the possibility that a statement in the imperative mood could indicate either obligation or recommendation. For ʿAbd al-Jabbār, this equivalence is a result of both the goodness of divinely commanded actions, and the fact that no linguistic or jurisprudential argument has been advanced that would prove that one outcome was morally preponderant over the other.[17]

Despite obvious differences at the theological level, different proponents of *waqf* presented their views as the most plausible outcome among the available ones. They further insisted on framing them as presumptions that could be defeated by evidence found by the community of moral

[15] ʿAbd al-Jabbār al-Asadābādī, *Al-Mughnī fī abwāb al-tawḥīd wa l-ʿadl* (Cairo: Wazārat al-Thaqāfah wa l-irshād al-Qawmī, al-Idāra al-ʿĀmma lil-Thaqāfa, n.d.), 17:107.

[16] "*yufīdu irādat al-maʾmūr bihi faqaṭ*" Ibid., 17:115.

[17] Ibid.

agents.[18] As ʿAbd al-Jabbār explained: "If it was established that the Prophet, peace be upon him, or the consensus of the scholars, maintained that divine commands are all obligatory, it would be incumbent upon us to decide as such, otherwise our argument would stand."[19] Jurists could advocate for the suspension of judgment based on divergent theological views precisely because they viewed themselves as contributors to a constant process of moral deliberation, the locus of which was the community of scholars at large. This conception of the production of knowledge allowed them to assess and revise their premises at each step of construction of argument in a way that prioritized commitment to the overall purpose of juristic reasoning over loyalties to specific theological-cosmological views. On the other hand, being conscious of the place of their arguments in the overall scheme of knowledge construction meant that those claims had to remain open for revision by incompatible claims made within the community.

This concept of equivalence or equal validity (*takāfuʾ*), and the related concept of preponderance (*tarjīḥ*), are central to those dynamics of collective production of norms. That those are the standards by which arguments were measured demonstrates that moral deliberation consisted of an exercise in weighing incompatible claims, rather than freestanding analysis. As a result, none of the jurisprudents we study in this chapter attempted to present their claims as valid based on an independent standard of truth.[20] None of them found it necessary to present positions incompatible with theirs as false on their own terms or based on some abstract standard of validity. Instead, Muslim jurisprudents advanced their views as the most desirable among several options. This type of argument would not have been possible without the involvement of the community of knowledge in dialectical argument. Furthermore, *tarjīḥ*, which is the concept that was most closely associated with a jurist's preference of a given position, was both an epistemic and normative

[18] This intrinsic defeasibility of moral arguments led to an interesting debate in Ḥanafī-Maturīdī Transoxanian circles. See for example Maḥmūd b. Zayd al-Lāmishī, *Kitāb fī uṣūl al-fiqh*, ed. Abdulhamid Turki (Beirut: Dār al-Gharb al-Islāmī, 1995), 91. See also A. Kevin Reinhart "'Like the Difference Between Heaven and Earth': Ḥanafī and Shāfiʿī Distinction of Farḍ and Wājib in Theology and Uṣūl" in Bernard G. Weiss (ed.), *Studies in Islamic Legal Theory* (Leiden: Brill, 2002), 205–34.

[19] ʿAbd al-Jabbār, *Mughnī*, 17:115.

[20] For a similar observation on the nature of Islamic juristic writing, see the concept of "open texts" in Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (Berkeley, CA: University of California, 1993), 31–7.

act. By announcing his *tarjīḥ* of a given outcome, the jurist both pronounced this conclusion as the outcome of his process of reasoning, and effectively *made* this position preponderant by lending his support to it. As the etymology of the word shows, *tarjīḥ* is in fact a positive epistemic intervention by the jurist, and not an intrinsic or independent attribute of the moral position in question.[21]

The notion that a jurist's preferred argument is the most plausible among the alternatives made available by the community of scholars can be seen with equal clarity in the way in which arguments for the presumption of obligation were constructed. A consequence of the collective view of moral deliberation is that the various arguments presented by the community of scholars on any given issue were taken to represent the limits of all possible knowledge. Authors of *uṣūl al-fiqh* were very careful to present those alternatives to show the validity of each claim they are advancing, since "validity" precisely meant preponderance over other claims. All conflicting claims, taken together, represented the yardstick of possible truth. For example, the different positions advanced on the presumed meaning of the absolute form of the imperative mood[22] were reported by Jaṣṣāṣ, who summarizes them as follows: (1) the imperative mood should be taken to indicate (*yuḥmal ʿalā*) the goodness of the object of command, which is equivalent to saying that it is a *desired* matter; (2) the imperative mood should be taken to indicate permissibility, unless a sign shows that it is required or recommended and (3) jurists should suspend judgment until a proof is found that indicates compulsoriness, recommendation or permissibility; (4) it should be presumed to indicate obligation (*ʿalā l-ījāb*) unless shown otherwise.[23]

[21] Tahānawī explains that preponderance (*tarjīḥ*) is not a negation of the initial opposition or equivalence (*muʿaraḍā/muʿādala*), but the act of adding to one of the two opposed claims by way of highlighting an attribute (*waṣf*) that was initially irrelevant to the claim of equivalence. This is an illustration of the dynamic dialectical method of construction of knowledge. For a claim of preponderance (i.e., effectively adopting a specific moral argument) to be valid, it *logically need not demonstrate the failure* of the initial claim of equivalence of various alternatives. The scholar only needs to highlight a special attribute of the chosen position that would grant it preponderance, in the same way someone would actively make one of the sides of the balance drop. Muḥammad b. ʿAlī al-Tahānawī, *Kashshāf iṣṭilāḥāt al-funūn wa l-ʿulūm al-Islāmiyya*. 3 vols. (Beirut: Dār Ṣādir, 1980), 2:538.

[22] "Absolute" here refers to the form as when it is provided "*ʿala l-iṭlāq*," i.e., when it is devoid of a *qarīna* to the contrary

[23] Aḥmad b. ʿAlī al-Jaṣṣāṣ, *Uṣūl al-fiqh al-musammā bi l-fuṣūl fī l-uṣūl* (Beirut: Dār al-Kutub al-ʿIlmiyya, 2000), 2:83. It is not very clear why Jaṣṣāṣ did not take the first option to be a

This enumeration of the available views on the imperative mood was not a mere descriptive review of the arguments produced by Jaṣṣāṣ's contemporaries. It was, rather, a normative claim concerning the limits of knowledge that can validly be advanced on this particular question.[24] Jaṣṣāṣ explicitly maintained that the imperative mood could not literally mean anything (*lā yakhlū*) outside of those four options.[25] The argument that a given linguistic form *cannot literally mean anything other than* a particular set of meanings is an attempt to establish all the alternative opinions that jurists put forward in this particular scholarly discourse as the self-imposed limit of truth on that matter. We can see that this argument was not premised on the observation of an independently verifiable natural or linguistic fact, but on the limits of knowledge produced by the community. The fact that, among those conceivable meanings, at least one must be the literal meaning is a semantic principle derived from the collective output of the scholars. Once all the potential literal meanings of the imperative mood were presented, Jaṣṣāṣ proceeded to demonstrate that it follows from all the alternatives that imposition of obligation is the default meaning of command. It follows that a jurist *ought* to take command to signify the imposition of obligation unless clear proof to the contrary is found.[26]

Like their pro-*waqf* colleagues, scholars advancing the argument for the presumption of obligation or recommendation presented their views as moral preferences that can be defeated by future evidence to the contrary. This group of jurists did not at any point claim the presence of an objective causality that would necessitate normative outcomes from linguistic premises without juristic intervention. Those discussions were entirely concerned with the weighting of juristic presumptions. In their attempt to explain the relationship between the imperative mood and its

case of suspension of judgment. It seems to be very like ʿAbd al-Jabbār's argument explained earlier in this section.

[24] The presentation of the opinions of opponents sometimes amounted to expositions of significant clarity and faithfulness to the opponents' views. For example, Abū l-Muẓaffar al-Samʿānī, a steadfast opponent of theological methods and advocate of the presumption of obligation, while noting that the suspension of judgment is an opinion that "is unprecedented among the scholars" and unlikely to have been held by the prominent Shāfiʿī Ibn Surayj, proceeded to explain the arguments made by the "*wāqifiyya*" in a detailed manner. Abū l-Muẓaffar al-Samʿānī, *Qawāṭiʿ al-adilla fī l-uṣūl*, ed. Muḥammad Ḥasan Ismaʿīl Shafiʿī. 2 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1997), 49–50.

[25] "*Fa inna qawlahu ifʿal lā yakhlū min an yakūna li l-ījāb aw al-nadb aw al-ibāḥa*." al-Jaṣṣāṣ, *Fuṣūl*, 2:91.

[26] Ibid.

normative outcome, jurists often stated that the linguistic form ought to be "assigned to" (*yuṣraf*) or (*yuḥmal*) obligation.[27] Both *yuṣraf* and *yuḥmal* are verbs that roughly mean "to be taken to indicate," and thus both refer to the thought process that a jurist ought to undertake concerning the linguistic construction in question.[28] Thus, like *tarjīḥ*, the *ṣarf* and *ḥaml* of a word was a positive effort by the jurist that collectively created a moral presumption, and not an analytical conclusion derived from an abstract principle.

5.2 FAITHFULNESS TO REVELATION: THE ARGUMENT FOR SUSPENSION OF JUDGMENT

We will now address the position that, when faced with a divine statement in the imperative mood, a jurist should suspend judgment on its exact signification. Suspension of judgment (*waqf*) is a position that requires jurists to look for further evidence to determine the meaning of a given statement. Practically, this meant that the jurists who advocated the suspension of judgment considered the imperative mood insufficient to indicate whether the action in question is obligatory, recommended, or permissible. When considered closely, the suspension of judgment – contrary to what its designation would suggest – is not a passive stance. The practical implication of this view is that jurists are urged to look for further evidence before making a pronouncement.

One of the arguments of this chapter is that the formulation of principles of *uṣūl al-fiqh* can be understood as an exercise aimed at finding a balance between the language of divine commands and the practical imperatives of human life. Among the many theories advanced by jurisprudents to manage this delicate balance, those who argued for the suspension of judgment, regardless of their school affiliation, leaned toward the faithfulness to norms as a divine ideal, and resisted the

[27] See for example al-Jaṣṣāṣ, *Fuṣūl*.

[28] *Yuṣraf* stems from the root (ṣ-r-f), from which derive many interconnected concepts. The basic noun form *ṣarf* means to change the direction of something. Muḥammad b. Mukarram Ibn Manẓūr, *Lisān al-ʿArab*, ed. ʿAbdullāh al-Kabīr, Muḥammad Hasaballah, and Hāshim al-Shazlī (Cairo: Dār al-Maʿārif, 1984), 2434–6. See also al-Tahānawī, *Kashshāf*, 2:837. Ayyūb b. Musā al-Ḥusaynī al-Kaffawī Abū al-Baqāʾ, *al-Kulliyyāt: muʿjam fī l-muṣṭalaḥāt wa l-furūq al-lughawiyya*, ed. ʿAdnān Darwīsh and Muḥammad al-Maṣrī (Beirut: Muʾassasat al-Risāla, 1992), 562. ʿAbd al-Nabī ʿAbd al-Rasūl al-Aḥmadnagarī, *Jāmiʿ al-ʿulūm al-mulaqqab bi dustūr al-ʿulamāʾ fī iṣṭilāḥāt al-ʿulūm wa l-funūn* (Haidarabad: Dāʾirat al-Maʿārif al-Niẓāmīyya, 1911), 2:341.

incorporation of purely speculative considerations. Conversely, those who advocated the presumption of obligation blurred the boundaries between revealed and nonrevealed premises and attempted to include various types of consideration into their reasoning. In a sense, they made the law their own. Concretely, defending the suspension of judgment reflected a conservative stance concerning the latitude that revelation-independent speculation should be allowed in formulating principles of construction of normative judgments. This conservatism was manifest in an unwillingness to adopt overarching juristic principles that would apply to entire categories of language and a preference for a case-by-case search for evidence. The reluctance to grant free inferential reasoning the power to establish principles of jurisprudence, it must be noted, does not necessarily reflect any kind of conservatism at the level of the actual first-order rules of conduct. It only shows a reserved attitude toward the ability of free speculation to construct principles at the *intermediary* (second-order) domain of *uṣūl al-fiqh*.[29]

[29] According to Bernard Weiss, Āmidī provided a list of positions on the question of the signification of the imperative mood that included the following: (1) equivalence between obligation and recommendation, (2) preponderance of performance, (3) the presumption of obligation, (4) the presumption of recommendation and (5) suspension of judgment. Suspension of judgment, as we will see in Bāqillānī's case, was based on the view that the imperative mood indicated the solicitation of action (*iqtiḍā'*). It is important to try to understand the subtle difference between this and the second position, namely that the imperative mood indicates the preponderance of action. Weiss interprets this difference as follows: "If there is a difference between the two points of view, it probably is that one (the second group) affirms dogmatically that the *if'al* form does not have either imposition of obligation or recommendation as its literal meaning, suggesting that there are compelling reasons for making this affirmation, while the other (the fifth group) refrains from taking this dogmatic posture, preferring rather the noncommittal position of being unwilling to affirm dogmatically that the *if'al* has either imposition of obligation or recommendation as its literal meaning because of a *lack* of known compelling arguments in favor of such an affirmation." I think Weiss's reading is accurate. However, one must add that it is not *only* a matter of taking a certain view concerning the questions of obligation and recommendation. The fifth group (to which both Āmidī and Bāqillānī belonged) did indeed advance a claim in that regard, namely that the imperative mood indicates a solicitation for action, which *might* imply one or the other. The central difference between those positions, in my view, is the same difference between pro-*waqf* and pro-obligation jurists: while the suspenders of judgment only took a descriptive stance from the imperative mood and refused to pronounce an overarching normative presumption, those who argued for the preponderance of performance, presumption of obligation and presumption of recommendation all argued that a specific normative position follows from the imperative mood. However, since the argument for *waqf* could indeed appear at any stage of the dialectical process, the position that the imperative mood signifies preponderance of action is, as Weiss

It is worth noting that this attempt to keep juristic deliberation solely within the realm of revealed knowledge was not backed by most jurisprudents who, as will be explained in Section 5.3, welcomed the introduction of a variety of considerations in legal reasoning. Pro-*waqf* jurists agreed that there was a need to separate the revealed and the nonrevealed, but they did not necessarily assume that revelation was the exclusive source of knowledge. When it came to revelation-based reasoning, pro-*waqf* jurists refused to look beyond the language of revelation and its inner logic. In fact, two of the most prominent theological opponents of the early eleventh century – the Ashʿarī Abū Bakr b. al-Bāqillānī, and the Muʿtazilī al-Qāḍī ʿAbd al-Jabbār – provided elaborate justifications for the position of suspension of judgment. As we have previously seen in Part I of this book, Bāqillānī was a major proponent of the theory of inner speech and saw divine commands as eternal attributes of God. ʿAbd al-Jabbār, one of the most celebrated Muʿtazilīs, advanced a view of commands as a physical utterance backed by a specific will.

Although scholars of divergent theological schools advanced pro-*waqf* arguments, we would however be mistaken to think that their theological doctrines played no role in the construction of those jurisprudential theories. Although subscription to one view or the other on the nature of divine commands did not necessarily dictate jurisprudential positions regarding the implications of the imperative mood, specific views of norm construction were better suited for certain theological views than others. Because of its emphasis on the exclusive focus on revealed language, the suspension of judgment followed more readily from divine-command theories of inner speech, whereas a presumption of a specific normative status was the likely outcome for those who viewed speech as a physical phenomenon.[30]

suggested, compatible with, but not identical to, the argument for the suspension of judgment. Weiss, *The Search for God's Law*, 346–8.

[30] It is worth remembering at this point that viewing divine commands as physical utterances was coupled with a "nativist" view of language, whereas the theory of inner speech was advanced in parallel with a view of language as socially constructed. The latter view was at the center of the suspension of judgment position, since, in the absence of social consensus on a specific linguistic structure, the jurist would be justified to disregard this structure as a self-sufficient reason for action. The Muʿtazilī view that meanings were *intrinsic* in linguistic structures, by contrast, justified the establishment of juristically constructed rules of production of meaning in the absence of social consensus (i.e., the presumption of obligation). The main achievement of *uṣūl al-fiqh* that this chapter attempts to highlight consists of the fact that *both* positions were incorporated into a process of dialectical social construction of norm-generating principles. On the

Defending the suspension of judgment as a default view on the implications of the imperative mood followed from a given position on the question of the normative weight that should be attributed to the linguistic manifestation of divine speech in the process of norm construction. An important ramification of this question pertained to the latitude that jurists could grant their own speculative reasoning in the process of establishing rules of jurisprudence and, consequently, the formulation of practical edicts. Broadly speaking, suspension of judgment was a position that followed from a certain reluctance to adopt blanket rules of jurisprudence based on nonlinguistic inferential arguments. This, in turn, meant that pro-*waqf* jurists attempted to attenuate the overall role that their own speculative positions played in the shaping of the rational structures of norm-construction. This view of the role of the jurists in drawing normative conclusions from the language of revelation was coupled with a conception of obligation-generating commands as essentially composite and, therefore, in need of further evidence for its specific outcomes to be determined. It followed from those arguments that language was only regarded as a tool that allowed the jurists to access the meaning residing within the divine self (for Bāqillānī) or produced by divine will (for ʿAbd al-Jabbār).

5.2.1 The Inner Complexity of the Imperative Mood

Advocating the propriety of suspending judgment and looking for further evidence in relation to the imperative form, as we will see in the following text, required a certain commitment to restricting the jurists' role in creating principles of jurisprudence. Suspension of judgment, however, could not have been a logical outcome unless there were some ambiguity surrounding to the linguistic form in question. As we have seen, advocates of the suspension of judgment attempted to limit the jurists' inquiry to the established norms of language. This raises a question concerning the possibility that the concept of command inherently favored a specific normative outcome. The insistence that there was an absolute equivalence (*takāfuʾ*) between recommendation and obligation as possible outcomes of command had to rest on a conceptual view of command itself that

contemporary debates concerning those two views of language, see Aeddan Shaw, "The Prescriptivist Account of the Normativity of Meaning Debate," in Jerzy Stelmach, Bartosz Brożek, and Mateusz Hohol (eds.), *The Many Faces of Normativity* (Kraków: Copernicus Center Press, 2013), 177–89.

substantiated this inherent diversity. As we saw in Chapter 4, analyzing the concept of command into its elementary components can help us discern the central concepts that allow the production of norms in various theories of command. This central concept in the Muʿtazilī theory consisted of the goodness (*ḥusn*) of the action in question. By contrast, the Ashʿarī idea of normativity depended upon the solicitation of action (*iqtiḍāʾ*). Both goodness and solicitation were the respective foundations of normativity based on which one can claim that a certain act ought to be performed in a *sharʿī* (i.e., universalizable) sense.

There are significant parallels in the way in which ʿAbd al-Jabbār and Bāqillānī treated those foundational concepts. Even though the origin of normative judgments was seen to be intrinsic goodness in ʿAbd al-Jabbār's case, and divine inner speech in Bāqillānī's case, they analyzed *ḥusn* and *iqtiḍāʾ* in a similar manner. For both scholars, whether we establish the positive moral value of an act, or the fact that God has urged us to commit it, we can conclude that performing the action is preferable to omitting it. Importantly, the preponderance of commission over omission was a concept broad enough to encompass both recommendation and obligation. The argument that command involves both recommendation and obligation meant that both jurists drew a clear line between all that *ought* to be done, regardless of whether such action is obligatory or only recommended, and between everything else.[31] All actions can be divided into (1) those that conform to God's commands – whether they be mandatory or only recommended – and (2) those that do not. As a result, the distinction between recommended and obligatory actions appears in both jurists' thought as a classification internal to the general category of all matters that conform to the divine moral order.

Bāqillānī argued that command encompasses both obligation and recommendation, but not permissibility.[32] As a result, the normative

[31] *Nadb* is a juristic and jurisprudential term that indicates "a request for action by speech that involves no omission, the performance of which is a cause for reward." It can be referred to as *mandūb, mustaḥabb, taṭawwuʿ*, and *nafl*. Matters that are subject of *nadb* exceed the mandatory duties and are referred to as *sunan*. al-Tahānawī, *Kashshāf*, 3:1361.

[32] Bernard Weiss argued that *iqtiḍāʾ*, which he translates as "calling for an act," is – in Āmidī's jurisprudence – essentially the same as the argument for the preponderance of action: "In the first discussion he has already presented the arguments for regarding [sic] the *ifʿal* form as signifying the calling for an action (a notion equivalent, I have suggested, to the notion of giving priority to the performance of an act over nonperformance) as its sole literal meaning." Weiss, *The Search for God's Law*, 348. The same cannot be said in the case of Bāqillānī. The latter clearly sees *iqtiḍāʾ* as a purely descriptive matter: a

strength of the act of requiring action can differ from one command to another. This variation in the sense of solicitation can range from compulsoriness to recommendation. Controversy arises, however, concerning whether permissible matters can be said to be included in the sense of *iqtiḍāʾ*, and, consequently, whether God commands permissible actions (*al-mubāḥ maʾmūrun bihi*).[33] Bāqillānī maintained that nothing that is neutral in its normative value could be the object of command.[34] We should recall that Bāqillānī argued that *all* actions are subject to divine judgment, even those with neutral value. That is the case because, even in case of mere permission, we have a positive license from God to commit the action. For Bāqillānī, however, little unites the categories of the required and the permissible other than the fact that they include actions that may be lawfully undertaken by a believer. No moral value (i.e., no praise or blame) attaches to permissibility, hence the sharp line Bāqillānī draws with regard to his delineation of what can be viewed as commanded (*maʾmūrun bihi*).[35]

ʿAbd al-Jabbār adopted a classification of the degrees of normativity that is similar to Bāqillānī's, although he did that based on very different conception of the source of normativity. Recommendation, he argued, is a status that implies the desirable nature of the act, hence it is like obligation, and quite different from permission.[36] Since divine command is essentially an indication of the intrinsic goodness of an act, the normative consequences attached to such command must necessarily follow from the meaning of "goodness." Unlike Bāqillānī, ʿAbd al-Jabbār did not rely on common linguistic usage. Rather, he used the idea of desirability as a common denominator that connects recommendation and obligation on the one hand, and excludes permissibility on the other hand. Importantly, this view allowed ʿAbd al-Jabbār to establish recommendation and obligation together as potential meanings of the imperative mood and to set aside permission or "choice-giving" (*takhyīr*) as a potential meaning.[37] The desirability of performing the action, in ʿAbd al-Jabbār's theory, is purely a reflection of the action's positive value. It does not mean that God *wants* the action to occur in any humanlike sense. This latter sense of wanting would have justified a view of command that only results in

superior agent *solicited* a specific action. This does not imply any specific normative outcome. This, I think, is the essence of the position of *waqf*, namely the denial of any intrinsic normative value to particular linguistic forms.

[33] Bāqillānī, *Taqrīb*, 2:17. [34] Ibid., 2:18. [35] Ibid., 2:2.

[36] ʿAbd al-Jabbār, *Mughnī*, 17:111. [37] Ibid.

obligation. Desirability of committing the action, however, had a different sense. ʿAbd al-Jabbār explained that if command indicated that the speaker desires this act, this goes to show that "performance is preferable to omission (*fiʿlihi awlā min tarkihi*), which eliminates optionality."[38] This position reflects that a fundamental difference exists between ʿAbd al-Jabbār and some of his Muʿtazilī colleagues, including his student Abū l-Ḥusayn al-Baṣrī. ʿAbd al-Jabbār maintained that there can be a situation in which an action is solicited and *preferable*, and yet it remains possible to omit the action without breaching the request in question. Baṣrī, as we will discuss in Section 5.3, assumed a strict binary: one either performs the action in compliance with the command, or omits it in breach of the command. This view of command leaves no space for any normative outcome other than outright compulsoriness.

5.2.2 Suspension of Judgment as a Self-Imposed Restriction

Suspension of judgment was the outcome of a skepticism about the jurists' ability to establish overarching jurisprudential norms without revelation or social agreement.[39] The skeptical scholar subjected all suggestions to adopt a default meaning of the imperative mood to rigorous examination that invariably ended in rejection. An example of this method can be found in Bāqillānī's response to the claim that recommendation is the default meaning of imperative statements. This argument for the presumption of recommendation rested on the belief in the primordial permissibility of all actions.[40] Prohibiting the otherwise permitted omission of a commanded action, Bāqillānī's hypothetical opponent maintained, required a specific proof in addition to the language of the command. Command alone, in this view, meant that it is desirable to commit the action, but did not eliminate the possibility of omission. Simply put, command indicates that the speaker wishes for the action to take place,

[38] Ibid.

[39] The spirit of suspension of judgment is perhaps best captured by Ghazālī's claim that "we do not argue that suspension of judgment is a doctrine (*lasnā naqūl al-tawaqquf madhhab*), but [the Arabs] used [the imperative mood] to indicate recommendation in some cases and obligation in others. They have not decisively shown that it is assigned to one rather than the other. Our choice (*sabīluna*) is to refrain from attributing to them what they have not expressed, and to cease from misrepresenting and fabricating at their expense." Abū Ḥāmid Muḥammad b. Muḥammad al-Ghazālī, *al-Mustaṣfā min ʿilm al-uṣūl*, ed. Tāhā al-Shaykh (Cairo: al-Maktaba al-Tawfīqiyya, 2010), 387.

[40] Bāqillānī, *Taqrīb*, 2:42.

but does not imply that acting against the command is reprehensible. This is another way of saying that it is merely a recommendation. Bāqillānī summarized this view as follows:

> If command comes devoid of other proofs, it would show the goodness of the commanded matter, and the fact that it is desired. We would also know from the lack of relevant proof that omission is not prohibited. If [omission] was prohibited it would have been harmful and evil (*mafsadatan qabīḥan*), and it would have been necessary to indicate this with something additional to the command and the desire to bring forth the action.[41]

The references to will and goodness clearly indicate that Bāqillānī was responding to a Muʿtazilī position. However, this claim could have been made in non-Muʿtazilī terms by replacing the concept of divine will with the solicitation of action (*iqtiḍāʾ*). The result, in all cases, would be a presumption that a command indicates a recommendation of action. As we can see, this is not a language-based argument. Rather, it is a claim about the normative depth of the concept of command and if the solicitation in question is a sufficient reason for action.

For a pro-*waqf* jurisprudent such as Bāqillānī, this argument does not offer convincing proof that the imperative mood should have a default meaning, be it recommendation or otherwise: "we do not know that permitting the omission of action follows from the fact that it is desired, good and commanded (*murādan, ḥasanan, maʾmūran bihi*). [Those characteristics] apply to the obligatory and it is neither permitted nor desired to omit it."[42] Whereas the reported opponent viewed divine commands as mere indicators of the desirability of certain actions, Bāqillānī maintained that command might include a prohibition of the contrary, which would lead to obligation.

This counterargument reveals Bāqillānī's commitment to the view that divine speech *alone* should be taken as a source of moral assessment. Not only does divine command carry the possibility of prohibiting the omission of action, but the absence of command does not necessarily entail permissibility – only that the action is of unknown normative status:

> We know by pure reasoning that omission of the action is not prohibited *so long as there is no command to do it* (*mā lam yarīdu l-amru bi fiʿlihi*). If a command occurs *its status changes* (*taghayyarat ḥāluh*), and we do not know upon the command's arrival that omission retains the same status, since it is possible that

[41] Ibid. [42] Ibid.

the command is of the type that prohibits omission, and it is equally possible that it is a command that leaves the revelation-independent judgment intact.[43]

We can see that Bāqillānī insisted on assigning the potential of shaping the normative landscape to divine speech alone, while at the same time restricting the latitude granted to jurists in doing so. Like ʿAbd al-Jabbār, he maintained that juristic speculation about the concept of command and its impact on human actions could not lead to definite knowledge about the presumed meaning of the imperative mood or any other part of speech. It can, however, confirm that we do not know the action's normative status with certainty. Establishing an overarching jurisprudential norm based on speculation over the concept of command would be arbitrary and contrary to what Bāqillānī held to be the ethic of jurisprudential thought.

ʿAbd al-Jabbār offered a similar theory concerning the role divine speech should play in guiding juristic reasoning aimed at formulating normative judgments. For ʿAbd al-Jabbār, the jurist must be guided in his search for the normative implications of God's speech by the likelihood that his conclusions will be in line with God's will. For ʿAbd al-Jabbār, like Bāqillānī, the jurist's exploration of linguistic principles is an attempt to access or approach a certain transcendent moral truth that resides within the divine self. This attempt must be characterized by restraint from imposing one's theological convictions on questions of jurisprudence. The same understanding of jurisprudential reasoning can be observed in ʿAbd al-Jabbār's theories, although in that case divine will plays the role that inner speech played in Bāqillānī's thought. For both jurisprudents, the divine realm is the locus of morality, and the jurist must exercise a significant degree of caution when formulating second-order moral principles. Based on this assumption, ʿAbd al-Jabbār held that a

[43] Ibid., 2:43. Emphasis added. This counterargument was reproduced by Ghazālī: "do you [really] know whether or not the [action that constitutes the] predicate of a sentence in the imperative form can be omitted? If you do not, then you doubt the fact that it signifies recommendation. If you do, how did you attain this knowledge? While the linguistic form [alone] does not indicate the necessary reprehensibility of its omission (*luzūm al-maʾāthim bi tarkihi*), it also does not indicate the lack of reprehensibility of its omission (*suqūt al-maʾāthim bi tarkihi*)." Like Bāqillānī, Ghazālī also bases this counter-claim on the view that divine speech effectively cancels any judgment that was known independently from it: "after encountering the imperative mood (*baʿda wurūdi ṣīghat al-amr*), the speculative decision [that omission is not reprehensible] loses its authority (*lā yabqā li ḥukmi l-ʿaqli bil nafy . . . ḥukm*." Ghazālī, *Mustaṣfā*, 388.

jurist could not add to the signification of the imperative mood using mere speculation:

> [Command] cannot signify an additional matter other than what we have mentioned. It would be invalid to say that it signifies obligation (*bi annahu dalālat al-wājib*) unless there is a revealed sign (*dalīl samʿī*). This would be equivalent to God's saying 'I have not commanded anything that is not obligatory' (*lā āmirun illā bi l-wājib*), in which case *this* saying would indicate obligation, and not the imperative mood. Whatever is said to be the signification of the imperative mood must be based on the foregoing [i.e. the speaker's will, or a revealed indicant], and not on a matter related to its form or meaning (*lā li-amrin yarjiʿ ilā ẓāhiri wa mawḍūʿihi*).[44]

This argument reflects ʿAbd al-Jabbār's approach to the proper methods of construction of methodological principles that are conductive to edicts of practical ethics. Unless otherwise known from the language of divine revelation, a jurist would not be justified in advocating a broad presumption concerning an entire category of speech. In response to the claim that "no proof exists that omission is permitted; hence it must be obligatory," ʿAbd al-Jabbār responded: "If the command does not prove its compulsoriness, there is evidence of the permissibility [of omission]. The latter remains permissible according to the rational judgment. This can be reversed by proving the compulsoriness of the act before discussing the matter of its omission."[45]

Whereas Bāqillānī insisted that, without divine speech, all moral values are utterly unknown to humans, ʿAbd al-Jabbār argued that we could rationally know that actions are permissible prior to revelation. While they disagreed on the role that independent reasoning can play in the absence of revelation, they had an identical approach to the proper manner of constructing second-order principles that would apply to revealed language. Interestingly, we can see that ʿAbd al-Jabbār uses his claim of primordial permissibility to support his pro-*waqf* views. Whether we see actions before revelation as devoid of judgment, or as permissible, both scholars advanced the argument that the methodological principles that pertain to the imperative mood cannot be the result of language-independent speculation. Since command is an inherently composite concept, determining its exact implications would require evidence external to the mere linguistic form that indicates it.

[44] ʿAbd al-Jabbār, *Mughnī*, 17:107–8. Emphasis added. [45] Ibid., 17:111.

5.3 NORMATIVITY AS THE JURISTS' DOMAIN: ARGUMENTS FOR THE PRESUMPTION OF OBLIGATION

In Section 5.2, I argued that the suspension of judgment was a manifestation of a conservative view of the extent to which language-independent juristic judgment should be allowed to shape principles of jurisprudence. Conversely, advancing the claim that a certain meaning should be presumed to be the imperative mood's default outcome was the result of an openness to constructing principles of jurisprudence based on a variety of considerations formulated through language-independent reasoning. The argument that statements in the imperative mood should be presumed to signify obligation (*al-amr yufīd al-wujūb*), which will be our focus in this section, was the most popular stance in this category.[46] Much like the argument for the suspension of judgment, it was advanced by jurists of diverse theological affiliations, including prominent Ashʿarīs such as Juwaynī,[47] Muʿtazilīs such as Baṣrī, and those I refer to as theology-averse jurists.

One important consideration that explains the advancement of the argument for the presumption of obligation is the effectiveness and predictability of the *sharīʿa* as a system of practical norms. The adherence by jurists to general rules of thumb concerning the normative effects of specific linguistic forms meant that the operation of the system of generation of normative statements would be consistent and easy to anticipate. The suspension of judgment meant that dealing with specific linguistic forms depended on the evidence available to each jurist.[48] Pro-*waqf* jurists prioritized epistemological coherence over practicality. Refusing to incorporate speculative considerations such as predictability within the

[46] For example, Bāqillānī, *Taqrīb*, 2:52.

[47] Juwaynī gives a curious account of the argument for the presumption of obligation. Again highlighting the collective dialectical nature of moral deliberation, Juwaynī proceeds to discuss every available claim for or against this argument, only to maintain the inadequacy of all of them. In the end, Juwaynī declares the presumption of obligation to be the valid position according to revelation (*al-samʿ*), but does not offer any evidence to substantiate this claim. Imām al-Ḥaramayn Abū l-Maʿālī al-Juwaynī, *al-Burhān fī uṣūl al-fiqh*, ed. ʿAbd al-ʿAẓīm al-Dīb. 2 vols. (Doha: Jāmiʿat Qaṭar, 1979), 212–21. Āmidī reportedly adopted a similar approach, but ended up advocating the suspension of judgment. Weiss, *The Search for God's Law*, 344–5.

[48] I refer to the presumption of obligation as a "rule of thumb" because of its defeasibility. Unlike rules of thumb as understood in modern legal philosophy, however, this presumption is not merely utilitarian, but contains a strong moral component. See Frederick F. Schauer, *Playing by the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and in Life* (Oxford: Clarendon Press, 1991), 4–5.

structure of *uṣūl al-fiqh* meant that conventional rules of language remained the sole source of second-order moral principles. By contrast, jurists advocating a default moral outcome for the imperative mood based their principles on a variety of considerations of speculative nature.[49]

Jurisprudents who argued for the presumption of obligation were delineating the field of construction of normativity as the jurists' exclusive domain. To say that a statement in the imperative mood indicates obligation is to produce a linguistic principle in which the primary meaning of statements including verbs in the imperative mood is the necessity of action. Since obligation is the meaning of command, and jurists are the ones undertaking the task of analysis of legal language on behalf of the community, it follows that the pronouncement of the normative effects of divine speech is a result of the jurists' work alone. Concretely, what that means is that a statement is seen to signify obligation when the jurists deem it ethically acceptable to attribute this specific meaning to that linguistic form. This view implies that the production of obligation was the result of the conventions of language and the deliberations of the community of the jurists. Thus, this process of normativity construction involved no inquiry into the divine will or intentions in any direct manner, but mainly consisted of two elements: First, jurists attempted to present obligation as the most viable semantic outcome of the imperative mood; second, they argued that any other outcome would be in breach of a variety of language-independent considerations.

5.3.1 Extralinguistic Premises of the Semantic Presumption of Obligation

Jaṣṣāṣ's central argument was that the imperative mood was the only construction in language that is associated in some sense with imperativeness.

[49] This contrast in priority between the proponents of *waqf* and those who advanced specific presumptions was cogently explained by Bernard Weiss: "One can readily appreciate why some jurisprudents may have been inclined to extract as much from this all-important and frequently occurring form as possible. If the form could be regarded as a *zāhir* [sic] signifier, one that by virtue of its univocality warranted an *ab initio* presumption as to what constituted the meaning intended by the speaker, then the greater the specificity of that meaning the easier was the task of the one engaged in the business of articulating the law. If the form signified nothing more specific than a calling for an act as its sole literal meaning, then the mujtahid was much more dependent upon the context; and given the vastness of the context, the more he was dependent upon it the more difficult was his task." Weiss, *The Search for God's Law*, 341–2.

Since each construction should as a rule have one literal meaning, we should take this to be obligation. This, as previously indicated, fails to explain why this presumption should attach to obligation and not recommendation or permissibility. Jaṣṣāṣ explains what, in his view, justifies the preponderance of obligation over the other possibilities in the following terms:

> But even if we granted your claim that it literally indicates each one of those meanings, it would still be *more desirable to take it to indicate obligation* (*kāna ḥamluhu ʿalā l-īǰāb awlā*). This is because what is permissible does not entail reward or punishment, and doing the recommended leads to reward, but abstaining from it does not lead to punishment, thus it has an additional meaning compared to permissibility. Obligation leads to reward when fulfilled and punishment when breached, thus it is a more comprehensive judgment compared to recommendation. Thus, if we grant you that this linguistic form literally indicates all those matters we should still prioritize taking it to indicate obligation because this is the most inclusive and expansive meaning, and it includes all the other meanings within it literally.[50]

In the final analysis, the basis of Jaṣṣāṣ's argument for the prioritization of obligation is his position concerning the effects of various moral categories of action in the afterlife. Relying on the assumption of determinacy of moral consequences, Jaṣṣāṣ concludes that obligation is the most comprehensive among the available options, since it conceptually includes both recommendation and permissibility. Therefore, to defend the position that the jurist *ought* to take a mere imperative form to indicate obligation, Jaṣṣāṣ had to prove the preponderance of obligation over the other options.

Jaṣṣāṣ's argument is an example of what Hare refers to as "[t]he second attempt to reduce imperatives to indicatives." Specifically, Jaṣṣāṣ attempts to interpret imperative statements as conditionals, whereby "shut the door" becomes equivalent to "either you are going to shut the door or

[50] al-Jaṣṣāṣ, *Fuṣūl*, 2:91. Emphasis added. The same argument was made by Bazdawī in response to those who advocated the presumption of recommendation: "those who argued for recommendation maintained that 'it is necessary for the normative statement to make existent preponderant (*tarǰīḥ maʿnā al-wuǰūb*), then it should indicate recommendation because it is the lesser of those meanings.' However, this is invalid, because if it is established that it has been coined for a certain meaning, the fullness of the meaning becomes the rule (*kān al-kamāl aṣlan fīh*). Therefore, we must maintain the higher normative status [by default] and the possibility of the lesser status, assuming no shortcomings in the linguistic form and capacity of the speaker." Bukhārī, *Kashf al-asrār*, 1: 169–70.

X will happen."[51] Hare concedes that this analysis may apply in cases where imperatives have been commonly used in a hypothetical or utilitarian contexts, but objects that "in cases where the end aimed at is not so easily recognized . . . the hearer may be quite at a loss to understand, on this analysis, what he is to supply after the word 'or'."[52] Examples may include a statement such as "please tell your father that I called." However, if we accept that all imperatives are made with a certain preexisting social or cosmological context in place, it would not be impossible to discover such hidden "or." In that mundane example, one can assume that if they did not tell their father that a person called, they would be betraying the mutual expectation of trust that is assumed in social situations of the sort. The understanding of imperatives as hypotheticals suggested by Jaṣṣāṣ is an attempt to bridge the gap between the linguistic fact and the moral value using an "institutional" link. The idea of an "institutional" link between the descriptive and the evaluative was suggested by J. R. Searle in the context of his argument that the is-ought gap can be overcome by using preexisting social constraints.[53]

Arguing that obligation is more comprehensive than recommendation and permission is not sufficient to show that it should be given priority as a semantic matter. Showing this would require the establishment of a general meta-ethical principle by which inclusive meanings should be given preponderance over less inclusive ones. Jaṣṣāṣ attempted to establish this principle of exclusivity by analogy:

> The same applies to the general term (*lafẓ al-ʿumūm*) which literally refers to three or more, such as the verse 'and kill the unbelievers!' thus we must take it to indicate everything that it entails and includes, and it is not allowed to restrict its meaning without proof. Similarly, the imperative mood if obligation was one of its literal meanings then it is impermissible to limit it to some meanings. Thus, we have proven that if this construction is literal in all those meanings it follows that the compulsoriness of action is entailed by its form alone.[54]

Since obligation is "fuller" than recommendation or permissibility, it would be the responsible presumption to make. This principle reflects a

[51] R. M. Hare, *The Language of Morals* (Oxford: Clarendon Press, 1952), 7. [52] Ibid.

[53] J. R. Searle, "How to Derive 'Ought' from 'Is'," in W. D. Hudson (ed.), *The Is-Ought Question: A Collection of Papers on the Central Problems in Moral Philosophy* (London: Macmillan, 1969), 120–35. A similar explanation of the normative effects of utterances (promises in that case) can be found in J. Raz, "Promises and Obligations," in P. M. S. Hacker and J. Raz (eds.), *Law, Morality, and Society: Essays in Honour of H. L. A. Hart* (Oxford: Clarendon Press, 1977), 210–29.

[54] al-Jaṣṣāṣ, *Fuṣūl*, 2:91–2.

general stance that prefers overinclusion to underinclusion. Since *uṣūlīs* are working to establish the principles by which standards of moral action are determined, the balancing of risk factors entails that a principle that would lead to the performance of *more* of the divine moral law would be preferable to one that could likely lead to partial failure to comply with the law. We can see that the moral purposes of juristic reasoning are built into the structures of *uṣūl* principles, the very principles that attempt to regulate practical reasoning.

We saw that, like Jaṣṣāṣ, Baṣrī advanced the claim that the presumption of obligation was the *most appropriate* among the available semantic alternatives. To substantiate this position, Baṣrī dedicated much of his discussion to a claim that pertains not to the immediate semantic effects of the imperative mood, but to its moral implications. This argument for the presumption of obligation rests on the view that *any* act that is contrary to a statement in the imperative mood constitutes a "disobedience" (*maʿṣiya*) concerning such statement. A possible response to this claim, as Bāqillānī had anticipated, would consist of denying any logical link between the concepts of disobedience and compulsoriness. If Bāqillānī's objection stands, it would follow that Baṣrī's argument is circular. He first *assumes* that the imperative mood is primarily used to indicate obligation, then attempts to reach this same conclusion.

In response to the claim that "disobedience" does not necessarily imply obligation, Baṣrī maintained "we say that the term 'do!' is a solicitation of action and a prohibition from omission, and that its literal sense requires that the speaker used it in that sense."[55] What follows is a situation in which saying 'do!' even when the speaker is giving advice,[56] can be intended by way of compulsoriness and prohibition of omission. If, however, the speaker indicates that no obligation is imposed, there would not be any reason to claim that there has been an act of disobedience.[57]

[55] Muḥammad b. ʿAlī al-Baṣrī, *Kitāb al-Muʿtamad fī uṣūl al-fiqh*, ed. Maḥammad Bakr and Ḥasan Ḥanafī. 2 vols. (Damascus: al-Maʿhad al-ʿIlmī al-Faransī Li l-Dirāsāt al-ʿArabiyya bi-Dimashq, 1964), 1:61.

[56] *Shāra* stems from the root (sh-w-r), and means to help, especially with extracting a matter from its place. A derived but different meaning is *ashāra* and *shawwara,* meaning to point, either with the fingers or any of the facial features, hence the *mushīra* is the index finger. A meaning derived from pointing concerns the act of encouraging to commit an act, which is referred to as *shūrā* or *mashūra*. Ibn Manẓūr, *Lisān al-ʿArab*, 2357–8.

[57] Baṣrī, *Muʿtamad*, 61.

Baṣrī pressed this point further by claiming that the connection between the imperative mood and disobedience can be seen in common parlance: "the people of the language say, 'I have commanded you but you disobeyed me' (*amartuka fa ʿaṣaytani*) and 'I said to you 'do!' but you disobeyed me. Also, God most high said 'have you disobeyed my command?'"[58] Those examples show that omission of the commanded act can be referred to as an act of disobedience. The point of this argument was to introduce the claim of "disobedience" as a common third concept that bridges the gap between the imperative mood and the necessity of action. This causality between the act of commanding and the requirement of obedience was explained by Baṣrī as follows: "Disobedience attaches to the commanded person whenever he breaches (*ikhlālihi*) the command, and the occurrence of command is the effective cause that leads to characterizing [breach] as disobedience."[59]

To sum up, Jaṣṣāṣ's main reason for making this claim lay in resorting to a nonlinguistic factor, namely the fact that obligation is superior to recommendation in normative status. Baṣrī, as mentioned previously, was adamant in showing that normativity was exclusively found in linguistic constructions. Thus, he attempted to provide evidence that the matter had been established as a categorical principle in linguistic usage. This attempt to take the discussion entirely to the linguistic domain, however, is not without difficulties. It is not sufficient to provide many linguistic examples to prove a certain principle inductively. It must be shown that absolutely no opposite examples exist or that, if they do, they occur by way of exception. Even then, it is quite difficult to show which examples constitute the linguistic norm, and which are the exception. The difficulty in providing a decisive argument for a given normative effect of a linguistic form offers a justification to the position of suspension of judgment, which is nothing more than a quest to search for additional proof. Assigning a meaning to the imperative mood in principle reflects a higher sense of juristic involvement in the design of the moral outcome of the system of *uṣūl al-fiqh*, independently of the prevalent rules of language. Jurists who more readily offered speculative arguments in support of a principle of norm construction are ones who leaned toward treating divine revelation in its earthly linguistic form as a phenomenon within the domain of human appropriation and utilization.

[58] Ibid., 60. [59] "*inna li taqaddum al-amr fī istiḥqāq hadhā l-ismi taʿthīran.*" Ibid.

5.3.2 The Attempt to Establish Normativity as a Linguistic Phenomenon

Arguing that obligation should be the default meaning of the imperative mood presupposes the possibility of establishing general semantic rules that would uniformly guide the process of norm production. One important consequence of this position is the assumption that that all parts of speech, as a rule, are assigned a default function. Among all the parts of speech, the one that is most likely to denote obligation is the imperative mood. Jaṣṣāṣ explains that: "no construction in the language of Arabs relates to command except saying 'do!' which means that it denotes obligation unless proven otherwise."[60] This is not a conclusive argument. The fact that there is only one linguistic form that indicates command does not mean that obligation is necessarily its default meaning. The same form could also be assigned to indicate other matters, such as recommendation, approval, permission, or advice.[61] It is also possible that not all those meanings have any other linguistic form that is primarily assigned to them. How, then, would Jaṣṣāṣ justify his singling out of obligation at the expense of this range of possible default meanings of the imperative mood? Jaṣṣāṣ dedicated a lengthy response to this exact challenge:

> Saying 'do!' cannot possibly mean anything other than (*lā yakhlū min an yakūn*) obligation, recommendation or permission, thus it either signifies all this literally (*ʿalā al-ḥaqīqa*), or some literally and some figuratively (*majāzan*). If it was used literally to indicate obligation and figuratively otherwise, then *it is incumbent [upon us]* to take it to indicate its literal meaning and only understand it figuratively when there is a specific sign.[62]

This argument highlights the collective nature of deliberation in *uṣūl al-fiqh*. After offering an account of the available alternatives that were presented by the community of jurists, Jaṣṣāṣ declares his choice of obligation as the default meaning of the imperative mood. If we accept the premise that imposition of obligation is the literal meaning of the imperative mood, then, when nothing else indicates otherwise, it would only be logical to presume that a mere utterance in the imperative mood signifies obligation. The first step to bridging the gap between attributing

[60] "*Lā lafẓa li l-amr fī lughati l-ʿarab ghayr qawlihim ifʿal fa-dalla annahu li l-ījāb ḥattā taqūmu dalāla*." al-Jaṣṣāṣ, *Fuṣūl*, 2:89.

[61] Ghazālī rejected this argument for the same reason, using a clearly sarcastic counterargument: "recommendation is also an important matter. Let us then say that the imperative mood indicates recommendation." Ghazālī, *Mustaṣfā*, 390.

[62] al-Jaṣṣāṣ, *Fuṣūl*, 2:91. Emphasis added.

a statement in the imperative mood to God, and claiming that we ought to act in a certain way, therefore, consists of deliberating over the moral order among the semantic alternatives at hand. In that case, deliberation begins by acknowledging that moral truth is a socially constructed phenomenon. This step is followed by an evaluation of the worth of alternative presumptions to establish a specific prescription concerning the normative effect of this linguistic form.

Nonetheless, to say that the imperative mood literally indicates obligation is to beg the question. Claiming that any given meaning is the meaning for which the linguistic construction had been initially coined is a matter of linguistic fact regarding which, as we have previously seen, jurists deferred to the authority of linguistic convention. Neither Jaṣṣāṣ nor anyone else claimed that there is any consensus among linguists regarding this matter, which makes it open to the kind of moral deliberation characteristic of *uṣūl al-fiqh*. Thus, the next alternative to maintaining that only obligation follows literally from the imperative mood is to claim that *all* the other meanings advanced by members of the community of jurists literally follow from this construction. Jaṣṣāṣ maintained that, even if this were true, the assumption of obligation would still stand: "If all those meanings were literal, then it is literal in indicating obligation by its mere linguistic form, and we cannot take it to mean otherwise, since a linguistic construction must be presumed to indicate its literal meaning (*ḥukm al-lafẓ ʿala l-ḥaqīqa*)."[63]

Like Jaṣṣāṣ, Baṣrī went to great lengths to show that a semantic analysis of the imperative mood would lead to the conclusion that it can only mean obligation. He maintained that the imperative mood was aimed at "restricting the addressee to the commission of the action (*qaṣr al-maʾmūr ʿalā l-fiʿl*)," and that if recommendation was one of the meanings of the imperative mood, it would mean, "Do if you like! (*ifʿal in shiʾt*)," which it does not.[64] For this type of argument to succeed, however, it must be granted that the option to omit the action was necessarily eliminated by the imperative mood alone, which was a deeply controversial matter.

To single out obligation as the preferred semantic outcome, Baṣrī had to deal with the question of the impossibility of omission, which, jurists agreed, was a condition of obligation:

[63] Ibid. [64] Baṣrī, *Muʿtamad*, 1:64.

Saying 'do!' signifies either the will [for the action to be committed], prohibiting the action, and [soliciting] the omission of the action, or giving an option between omission and performance, either equally or with the latter being more desirable.[65]

The second and third options are clearly absurd: saying that issuing a command entails a prohibition of action or incitement to omit it is a logical impossibility. As we have previously seen, Baṣrī's position is that command is triggered by the will, but indicates the necessity of action, not merely the will to do so, which eliminates the first alternative. Thus, we are left with two options: the imperative mood means either that performance is preponderant over omission, in which case it would indicate obligation, or that performance and omission are equally valid, in which case it would amount to mere recommendation. The problem with attempting to choose obligation over recommendation using this process of elimination is that the attempt to eliminate the possibility of omission will be contested because mere solicitation of action is not the same as obligation. Baṣrī finally maintained that it is *more appropriate* (*awlā*) to say that omission is eliminated by the imperative mood since it is an attempt to impose action.[66] Thus, for Baṣrī, as was the case for Jaṣṣāṣ, the argument for obligation stems from an essentially moral exercise in weighing the available juristic options. For Jaṣṣāṣ, as we have seen, this argument relied on the undesirability of not having a specific linguistic form the literal meaning of which was obligation.

5.4 CONCLUSION

Studying the debates of *uṣūl al-fiqh* as attempts to construct a general theory of ethics allows us to view it as an intermediary realm between theological theories and practical norm production. The theological foundations of ethics, which consist of facts about the universe, its Creator, and His speech, are inherently normative. In fact, it would be quite difficult to maintain that arguments about the nature and characteristics of the source of all existence are mere observations that do not, even implicitly, have any implications concerning how one should act. We may grant that, from a strictly formal standpoint, the imperatives produced by

[65] "*al-takhyīr baynahu wa bayna l-ikhlāl fīhi ʿala l-sawāʾ aw ʿalā an yakūn al-awlā an yafʿal.*" Ibid.
[66] Ibid., 65.

this scheme remain hypothetical. A judgment based on divine speech is normative *if* one is to accept that there is a source of all existence that has a moral order associated with it in some manner. However, beyond the acceptance of this first theological premise, the hypothetical is so far-reaching that it hinges on the universal, at least from the standpoint of the community of believers. To say that one accepts the fact that all existence is the product of an absolute first Being, and still maintain that one's own purposes for action take precedence over the moral designs of the universe, is quite possibly the most irrational stance that could be taken. As such, the distinction between the moral and the ethical, or the right and the good, was irrelevant. What is good and what is required are identical by rational necessity.[67]

The intermediary status granted to jurisprudence meant that the attempt to overcome the gap between factual and normative statements took place within the discussions of this discipline. Relying on extensive deliberations over the nature of divine speech and its role in conveying the divine moral order to humans, scholars of *uṣūl al-fiqh* proceeded to reflect upon the manners in which specific linguistic constructions can be said to lead to normative conclusions. While several theories were advanced to address this issue, our study of those arguments shows that they operated within a meta-ethical framework that remained unchallenged by those scholars, in spite of their profound differences. This framework, I suggest, can be seen as a uniquely *uṣūlī* response to the problem of universality in ethics. The basic tenets of this framework are the following: (1) only divine speech makes more-than-subjective morality possible, as shown in Chapter 1; (2) the production of moral meaning belongs to the community, and is attained through collective deliberation and (3) it is the jurists' responsibility to elaborate the principles by which the divine moral order should intervene within and guide human action.

On that basis, scholars of *uṣūl al-fiqh* took different positions concerning the extent to which their own free judgment should shape the principles that articulated those two realms, which we referred to as second-order normative principles. By taking debates on the normative implications of the imperative mood as a case study, we were able to observe that those positions can be placed in two main categories. On the one hand, some jurists took divine will and speech to be the true locus of production of normativity, and therefore attempted to limit the latitude the jurists had in

[67] On this distinction, see Christine M. Korsgaard, *The Sources of Normativity*, ed. Onora O'Neill (New York, NY: Cambridge University Press, 1996), 7–8.

formulating second-order principles based on nonlinguistic considerations. On the other hand, the majority of scholars adopted the view that the jurists should appropriate the formulation of the intermediary realm of jurisprudence. They further saw that human reasoning and language were the proper sites of production of norms. Jurists in this category argued that the imperative mood must have a specified default meaning.[68] This view reflected a certain tendency to prioritize the predictability of jurisprudential principles. By contrast, jurists who shunned the juristic imposition of general second-order principles by advocating the suspension of judgment valued the purely linguistic nature of the principles of *uṣūl al-fiqh*.

Those differences did not follow from the jurists' theological affiliations. The deliberative nature of jurisprudential arguments meant that scholars could develop their individual positions in dialogue with the juristic community without having to justify a linear deduction of those positions from the school's doctrines. More importantly, those different positions represented the set of possibilities that Muslim jurisprudents offered collectively to overcome the gap between theological-linguistic facts and moral judgments. We have noted how *uṣūl al-fiqh* arguments were hybrid in nature, in the sense that they combined moral-theological views with linguistic claims. For the conservative, pro-*waqf* jurists, normativity mainly emerged from the realization of facts about God. If the community of jurists were able to reach a reasonable understanding that a certain action is solicited or desired by the Creator of the world, it would be utterly absurd to refuse to take this as a reason for action. The proponents of the presumption of obligation, on the other hand, put more emphasis on linguistic conventions, but eventually resorted to arguments relying on moral choice, just as the *appropriateness* of the presumption of obligation. In all cases, none of the scholars in question doubted the fact that their theological and linguistic premises were in fact of normative potential. The challenge that faced Muslim scholars in attempting to deal with linguistic forms of divine speech was not that they were purely factual observations – they were not. The main difficulty consisted in determining the extent to which their own judgment should bear on this material of moral potential. Jurisprudents of different schools were attempting to find an acceptable balance between the need to remain faithful to the theological doctrines underlying the system of normative ethics, and the various practical imperatives that permeate this system.

[68] For more on this "appropriating" tendency, see Weiss, *The Search for God's Law*, 342.

6

The Persistence of Natural Law in Islamic Jurisprudence

This study has been concerned with a central question: how do norms that guide human behavior follow from divine revelation? To address this question, we had to ask why revelation should be considered in the process of norm construction in the first place. While this primary concern is often assumed to follow from some basic distinction between rationalist and textualist tendencies, we have seen that, in the classical Islamic tradition, this question was embedded in elaborate epistemological and metaphysical debates. Disagreements on what human minds can know without revelation, and precisely what revelation was, occurred in conjunction with different theories on how normativity follows from divine speech. As we saw in the Chapters 4 and 5, the discipline of legal theory (*uṣūl al-fiqh*) was the primary domain in which questions of method of norm formation were debated in classical Islamic thought. In this discipline, it was largely assumed that some degree of reliance on divine revelation was necessary in the process of attainment of society-wide normative judgments. In this primary theoretical field concerned with the justification of the formation of society-wide norms, a view of divine commands as essential to the regulation of human behavior occupied central stage. That divine speech was necessary for the formulation of norms, however, hardly meant that it was sufficient. As we saw in Chapter 5, the juristic encounter with the language of divine revelation took the form of an open collective deliberation. The collective nature of juristic disputation was, I argued, indispensable for the authoritativeness of revelation-based norm making. In addition to the skepticism about the value of individual judgment, the authority of the community of scholars, represented in its dynamic deliberations,

was the second essential pillar of the making of practical norms in Islamic jurisprudence.

The double foundation constituted by epistemological skepticism and social construction gives us a uniquely rational model of divine command theory. It is "rational" in its reliance on specific analytical stances that follow from an understanding of human experience and the place of humans in the world, and the adoption of a viable social dynamic for the realization of a system of divine-command–based regulation. We have already seen in Chapter 4 that the concern with the arbitrariness of divine commands does not hold against the Ashʿarī conception of divine speech. Because of the metaphysical disconnect between divine speech and human revelation-based reasoning in this divine-command model, there remains a possibility that practical norms formulated by the community of jurists are impractical, unreasonable, or generally disconnected from the lived realities of the community of believers. In this chapter, we take our discussion to the question of reasonableness: What, if anything, ensures that the final product of a divine-command–based system of regulation is practical and reasonable?[1]

At the center of the question of reasonableness is a certain tension between the considerations of legitimacy and practicability, a tension that can be found in any society-based system of guidance. Because deliberations

[1] This question takes us to the heart of the nature and purpose of *uṣūl al-fiqh*. In recent decades, there has been an increased interest in the discipline of Islamic jurisprudence. This increased interest resulted in a number of important works, most of which aimed to elucidate the discipline's most central concepts, or to explain its subject-matter. For example: Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī uṣūl al-fiqh* (New York, NY: Cambridge University Press, 1997); Aron Zysow, *The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory* (Atlanta, GA: Lockwood Press, 2013); Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf Al-Din Al-Amidi* (Salt Lake City, UT: University of Utah Press, 1992); Joseph E. Lowry, *Early Islamic Legal Theory: The Risāla of Muḥammad Ibn Idrīs Al-Shāfiʿī* (Leiden: Brill, 2007); David R. Vishanoff, *The Formation of Islamic Hermeneutics: How Sunni Legal Theorists Imagined a Revealed Law* (New Haven, CT: American Oriental Society, 2011). In parallel with those attempts, we also find a strong interest in analyzing the function that *uṣūl al-fiqh* played in the context of premodern Islamic sciences. This question of function generated some divergent views and vehement disagreements. While some viewed *uṣūl al-fiqh* as a discursive field in which juristic methodologies were debated and fine-tuned, others viewed it as an attempt to provide after-the-fact justifications to the otherwise unsystematic enterprise of juristic lawmaking. See Sherman Jackson, "Fiction and Formalism: Toward a Functional Analysis of Uṣūl al-fiqh," in Bernard G. Weiss (ed.), *Studies in Islamic Legal Theory* (Leiden: Brill, 2002), 177–204. For an overview of those positions, see Robert Gleave, "Foreword," in Zysow, *The Economy of Certainty*, xi–xix.

in Islamic theology and jurisprudence on what is right and good from a theocentric standpoint had direct social implications within the intellectual-juridical institutions of the *sharīʿa*, formulating the structures of legitimate authority was not sufficient. It was also necessary to show that the theology-jurisprudence-law nexus produced a viable system of norm making that responded to real practical needs of the members of the community. As is the case in modern conversations on the interplay of law and morality, a balance had to be struck between considerations of legitimacy and reasonableness or, to use Lon Fuller's expression, "inner morality."

As a system of theistic law and ethics with direct practical implications, a collapse into full-fledged subjectivism was inconceivable in Islamic theology and legal theory.[2] Through our reconstruction of the Ashʿarī model of divine command theory, we saw that epistemological and theistic skepticism were at the foundation of a revelation-centric society-based system of governance. This, largely, is a question of legitimacy. We have thus far been occupied with explaining why and how divine words could play a role in guiding our actions. As in modern legal thought, the question that necessarily arises is whether everything that follows from this scheme of authority is valid and ought to be accepted, or – in more concrete terms – are the deliberations of the jurists based on divine speech *sufficient* to produce socially acceptable normative outcomes? Or are there other considerations that come into play to regulate or limit this dynamic?

This question was famously raised in modern jurisprudence in the exchange between H. L. A. Hart and Lon Fuller, which came to be known

[2] We should note at this point that reducing the discussion to matters of practical benefit alone would not be satisfactory given the intrinsically subjective nature of what would be seen as beneficial from each person's perspective. The fragmentation of moral reasoning and the collapse into subjectivism is a topic that has captured the attention of modern moral philosophers over the past century. For example, observing the historical emergence of subjectivism in modern society, Alasdair MacIntyre attributed this phenomenon to the dissolution of tradition and community-based reason in our world. Alasdair C. MacIntyre, *After Virtue: A Study in Moral Theory* (London: Bloomsbury, 2014). The impossibility of universalization of moral judgments was repeatedly observed in various ways, including in G. E. Moore's critique of the "naturalistic fallacy" and in the emergence of error theory, most notably within the work of J. L. Mackie. G. E. Moore, *Principia Ethica* (New York, NY: Barnes & Noble Publishing, Inc., 2005); J. L. Mackie, *Ethics: Inventing Right and Wrong* (New York, NY: Penguin, 1977). For more on moral fragmentation in modern societies, see Robert Audi, *Moral Value and Human Diversity* (Oxford: Oxford University Press, 2007), 3–34.

as the Hart-Fuller debate.[3] This debate involved a range of questions, and generated a large amount of scholarship in response. For our purposes, it would suffice to observe that one of Hart's main contentions in the essay that sparked this debate was that legal naturalists are wrong to suppose that law and morality are inseparable. Hart insisted that, while law may strive to accord with some notion of morality, whether or not a law is moral has no bearing on whether or not it is valid. Ultimately, it is a rule of recognition, emerging from a given social acceptance that determines what qualifies as law, as Hart maintained here and in his landmark book *The Concept of Law*.[4]

This contention would appear in line with our divine-command model only to the extent that it rejects the reliance on subjective notions of benefit and value. The theocentric society-based model of authority that we have thus far elaborated, unlike Hart's positivism, consistently assumed that there is a deeper, universal, sense of "goodness" underlying the entire system of divine-command normativity. Nonetheless, this "other" idea of goodness did not necessarily align with immediate practical considerations. In response to Hart, law professor and legal philosopher Lon Fuller observed that there are certain natural imperatives of human social existence that a law needs to observe in order to qualify as law.[5] These may appear minimal from a hard naturalist perspective; but they nonetheless pose a challenge to Hart's thesis. A socially viable system of governance needs to be comprehensible and practical. It should strive to maintain some degree of functionality. This set of considerations, in the Islamic context, were ensured by the persistence of elements of natural law within the general framework of divine-command based normativity. Natural law, in this context, is used rather loosely, in a way similar to contemporary jurisprudence. By "natural law," I mean any consideration inherent to the nature of human life in society, or the way humans think, behave, and act, such as considerations of reasonableness and

[3] For example, see the papers presented at the conference titled "The Hart-Fuller Debate at Fifty," which appeared in the *New York University Law Review* 83(4) (2008). See also Peter Cane (ed.), *The Hart-Fuller Debate in the Twenty-First Century* (Oxford, OR: Hart, 2010).

[4] See H. L. A. Hart, "Positivism and the Separation of Law and Morals," *Harvard Law Review* 71(4) (1958): 593–629; On the "rule of recognition," see H. L. A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1961).

[5] Fuller develops his idea of an inner morality of law throughout his book, but for a specific exposition of the criteria that constitute "inner morality," see Lon L. Fuller, *The Morality of Law* (New Haven, CT: Yale University Press, 1964), 33–91.

practicality. As we will see in this chapter, natural law survived under the guise of the need for reasonableness in legal theory. What I refer to as reasonableness, therefore, includes a large number of considerations, all of which pertain to what Lon Fuller referred to as the inner morality of law.[6] The concept of inner morality of a legal system pertains to a set of imperatives that ensure that it is not only aligned with some idea morality, but that it is itself a good system, in the sense that it is comprehensible, logical, and does not impose undue hardship.

This final chapter will examine how considerations of "inner morality" survived within the general framework of divine-command based legal theory. Because of the deep-seated assumption that revelation-dependence is in some sense intrinsically opposed to free rational thought, the search for rationality in Islamic traditional sciences often results in investigations of schools of thought advancing ideas of "external" morality, or moral value independent of the edifice of divine-command lawmaking. The Muʿtazilīs are one example,[7] but this also explains the wide interest in concepts of benefit (*maṣlaḥa*) and the aims of the law (*maqāṣid al-sharʿ*) in recent scholarship.[8] This idea of public interest, benefit, or purpose of the law, which is external to the working of the system of norm-making itself, shall not concern us here – not because it is a venue unworthy of investigation, but because we are primarily concerned with reconstructing and demonstrating the inner features of the system of revelation-based lawmaking.

As we have seen thus far and will continue to demonstrate in this chapter, there are various ideas of goodness that can be examined across the disciplines and schools of thought involved in classical Islamic theological ethics and law. For the divine-command theorists, "goodness" that followed from the ascription of commands to the divine self is to be distinguished from the limited kind of goodness that attaches to the particular needs and purposes of individual humans. Whereas the latter is distinguishable by human minds based on this-worldly observations, the former is only available through divine speech. For the natural-law

[6] Ibid.

[7] As we can see in George Hourani, *Islamic Rationalism: The Ethics of Abd Al-Jabbar* (Oxford: Clarendon Press, 1971); Sophia Vasalou, *Moral Agents and Their Deserts: The Character of Mu'tazilite Ethics*, (Princeton, NJ: Princeton University Press, 2008); Anver M. Emon, *Islamic Natural Law Theories* (New York, NY: Oxford University Press, 2010).

[8] For example, Felicitas Opwis, *Maṣlaḥa and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century* (Leiden: Brill, 2010).

theorist, by contrast, those two types of goodness are not distinguishable. While the Ashʿarī separation of divine and human notions of goodness may have worked at a theoretical level, we will see that the law's encounter with practice gave rise to a third type of goodness that cannot be derived from revelation: practical and instrumental goodness.

To make this claim, this chapter will be centered on analyzing selected arguments from each of the *uṣūl* works of Abū Bakr b. al-Bāqillānī, Abū Bakr al-Jaṣṣāṣ, and Abū l-Muẓaffar al-Samʿānī. To elucidate the persistence of notions of reasonableness within the revelation-based works of Islamic jurisprudence, we will continue to focus on the analysis of the implications of divine statements in the imperative form. We will examine the persistence of inner morality within Islamic legal theory in the work of three different jurists. The first is a divine-command theorist who adhered to revelation as the primary source of moral knowledge, but expanded his jurisprudential arguments beyond revelation to ensure the practicality of his positions. The second is a natural-law theorist who viewed the various levels of goodness mentioned previously as similar and closely linked to revelation-based inquiry. The third is a jurist with no specific theological affiliation, whose work arguably represents mainstream legal theory in the classical tradition.

6.1 AL-BĀQILLĀNĪ: INNER MORALITY AND THE LIMITS OF THE DIVINE COMMAND MODEL

As we have previously seen, Bāqillānī was a pioneering Ashʿarī who defended the view that *sharʿī* norms cannot be attained without recourse to divine revelation. He is one of the central divine-command theorists we have investigated throughout this book. He took his revelation-centric stance to greater depths in his work on *uṣūl al-fiqh* by insisting that jurisprudential principles concerned with the methodology of norm formation also should, generally speaking, follow from divine revelation and social agreement. The reliance on revelation and social construction, however, has its limits. In *al-Taqrīb wa l-irshād*, we find an unmistakable tendency to present the principles of jurisprudence as following from rules of language. As a result, we may suppose that arguments that invoke nontextual considerations should not, in principle, be advanced in support of such principles. This is evident in the first argument we will examine, which pertains to Bāqillānī's position concerning the question of whether or not divine commands require repetitive performance of the

requested action.[9] Bāqillānī defends the position that the jurist must suspend his judgment in the absence of any proofs indicating whether repetition (*tikrār*) is required. The main argument for suspension of judgment stems from the authority of linguistic convention. As already seen in Chapter 5, Bāqillānī generally holds that linguists agree that it is desirable to inquire about what is meant by a mere command in the absence of specific proofs.[10] An example of such command would be for a master to say to his slave "strike Zayd!" In that case, Bāqillānī maintains, "there would be no disagreement that the slave would be justified to inquire about the number or duration of the intended strikes."[11] The two pillars of divine command theory that we have so far reconstructed are evident in this example. For Bāqillānī, the reception of the language of an authoritative injunction (command) is the primary source of normativity. The manner in which this injunction is dealt with reflects a reliance on socially accepted methods of linguistic analysis. Those two steps are prerequisites for the advancement of normative judgements by the jurist.

Bāqillānī's reasoning in this instance reflects the view that the formulation of legal norms based on revelation is in major part an exercise in semantic analysis. As previously argued, the reliance on linguistic convention was presented as a rational choice by Muslim jurisprudents. In this particular argument, Bāqillānī offers a justification for his reliance on the authority of linguists. In a matter that can be the subject of differences in observation between various people, such as the rules of language and linguistic conventions, it would appear *rational* to appeal to widespread opinions of specialists on that matter as the best a given community can do by way of coming close to the truth on the matter. Each person's observation, as had been long established since al-Shāfiʿī's *Risāla*, is a matter that relies on appearances (*al-ẓāhir*), which is insufficient to settle any dispute. Hence, "there is a need for reliance on authority (*naql*) and convention (*tawqīf*)."[12] This, however, is a kind of indirect rationality. In the end, the argument that immediately supports the jurisprudential principle in question, namely the suspension of judgment, does not require any rational validation of its content or effects. It only relies on

[9] Muḥammad b. al-Ṭayyib al-Bāqillānī, *al-Taqrīb wa l-Irshād "al-Ṣaghīr,"* 2nd edn, ed. ʿAbd al-Ḥamīd b. ʿAlī Abū Zunayd. 3 vols. (Beirut: Muʾassasat al-Risāla, 1998), 116.

[10] Ibid., 2:117. [11] Ibid.

[12] Ibid., 2:119. For a study of the concept of *al-ẓāhir* in Shāfiʿī's *Risāla*, see Omar Farahat, "A Devotional Theory of Law: Epistemology and Moral Purpose in Early Islamic Jurisprudence," *Journal of Law and Religion* 31(1) (2016): 42–69.

the validity of the authority in question, which in this case is the authority of the linguists.

Apart from such unmistakably text-based claims, Bāqillānī's work contains a significant number of arguments that transcend the ideal of faithfulness to the text, and reflect a view of jurisprudence as a purposeful exercise. This can be seen in Bāqillānī's explanation of his view on whether divine commands alone should entail indefinitely continuous performance, as prohibitions do. The question here ultimately hinges on the understanding of the nature of human action, not on anything that follows from divine revelation. The distinction between command and prohibition, or enjoining action as opposed to abstention, has been intensely debated in *uṣūl al-fiqh*. The basic implication of this distinction pertains to the types of assumption that can be made in each case. In the case of prohibition, one can safely assume that abstention is required at all times. One is able to refrain from adultery in a continuous manner without this being an anomaly or excessive burden in the normal course of human life. Similarly, one can refrain from food, drink, and intercourse during the daytime in Ramadan. Abstention can be done over a stretch of time simply by performing other actions that do not involve the prohibited matter. The same cannot be said of commands, or injunctions to commit a given action. While Bāqillānī holds that, in principle, the normative effects of commands and prohibitions follow from semantic analysis, he still argued that considerations of benefit and general welfare play a role in the justification of legal norms that follow from such injunctions. His reasoning is simple: "God has not demanded [the indefinite performance of commanded actions...]. It is possible to justify this position by the fact that indefinite performance of action would be harmful and disruptive of production, reproduction and overall welfare."[13] Here, Bāqillānī assumes a fundamental level of natural law, one stemming from the good purposes of the law as intended by God. This, we might say, is an external type of morality from the perspective of *uṣūl al-fiqh*. It is "external" in the sense that it takes into account the broader social implications of the design of the normative system, as opposed to the "inner morality," which pertains to the consistency and functionality of the system itself.

There is another level of natural law in which we can detect notions of reasonableness that are "internal" to Bāqillānī's system of *uṣūl al-fiqh*. Those arguments aim to articulate *uṣūl* principles in a way that ensures

[13] Bāqillānī, *Taqrīb*, 2:217.

that law is, in a sense, *reasonable*, and not just faithful to revelation. A reasonable legal system is one that is comprehensible, functional, and logically consistent. Those considerations require something other than mere authority. They invite the purposeful intervention of the jurist in order to guarantee the functionality of the normative structures that *uṣūl al-fiqh* represents. The following argument comes from the discussion of whether or not commands entail immediacy (*ʿalā l-fawr*). Bāqillānī maintains that it would be valid to argue that performance does not have to be immediate, but rather can occur later (*ʿalā al-tarākhī*). However, he is quick to add that this position cannot be maintained if one claims that command entails constant or suspended performance.[14] Each one of those possible effects of command, such as single, repetitive, or postponed performance may be supported by an argument that relies on content-independent authority, such as the text of revelation or the conventional rules of language. By contrast, restrictions on the manners in which those positions can plausibly be combined are formulated in accordance with the requirements of reasonableness and logical consistency. The fact that postponement (*tarākhī*) is only conceivable in relation to matters that have clear limits in time is a plain fact about the nature of human action that must be known independently of revelation. One cannot postpone something that occurs permanently. For obligations that are designed to occupy the entire duration of a person's legal capacity, postponement is simply an absurd concept. No such conclusion can be drawn from any textual, linguistic, or conventional source. This is a principle of *uṣūl al-fiqh* that emerges from the natural-law consideration of inner logic and consistency.[15]

Bāqillānī's discussion of whether or not command in itself requires immediate compliance also reflects a need to analyze the nature of human action and abstention. For example, one of his arguments for the validity of postponement proceeds as follows: "if [someone] says ... 'hit a man!' ..., assuming every person in the world can potentially be hit, and that the speaker did not specify which person, it follows that any person can be hit and that the addressee has a choice to hit any man they wish." By analogy, Bāqillānī concludes that:

> If someone said 'pray!' and did not specify a given time, assuming all times are valid for prayer, it follows necessarily that all times are [possible] times for prayer,

[14] Ibid., 2:116. [15] Ibid., 2:120.

and the imposition and specification of one time rather than another cannot take place without [separate] proof (*bi dalīl*).[16]

By examining this analogy between specifying the object and time of performance, we can see that Bāqillānī viewed each action as associated with a number of elements, and that, in case one of those elements is specified as a general category, all members of this category should be considered interchangeable for the purposes of performing the action. To clarify, in our example the action occurs in a given time and place, and befalls a particular person. If any of those matters are defined as a general category, like praying in some place at some point in time, then all the relevant times and places are interchangeable. This analogical argument rests on the assumption that time's relation to action is the same as the object upon which it falls. It is one of the circumstances that attach to the action, not an intrinsic part of it. An understanding of how human action proceeds in time, which cannot be derived from any engagement with divine revelation, was essential for the development of Bāqillānī's jurisprudence.

Another aspect of Bāqillānī's legal theory that aims to ensure that juristic law making is bound by considerations of reasonableness pertains to the management of uncertainty. The following example takes us back to whether commands signify a single or repetitive performance.[17] In this discussion, Bāqillānī relies on the authority of convention to eliminate the possibility that a mere command should indicate a specific number of performances. This follows from the observation that no one in the community maintains that the direct meaning of a mere command is the performance of a specific number of multiple actions.[18] Bāqillānī goes on to articulate the ramifications of this argument on purely speculative grounds. What if a command contains an indication that postponement (*tarākhī*) is allowed, but there is no indication concerning the duration of performance, or whether performance should occur one time or in a repetitive manner? The exact scope of juristic indecision in that case is limited to the two options that a mere command raises, but incorporated within the timeframe that the command specifies:

It is valid to say that we suspend judgment in case of a command that allows late or postponed performance, since it is possible that, in that given timeframe, performance can occur repetitively, and it can be limited to a single performance.[19]

[16] Ibid., 2:213. [17] Ibid., 2:121. [18] Ibid. [19] Ibid.

This articulation of apparent proofs with unsettled possibilities requires no reference to textual authority, since, Bāqillānī maintains, "this is all clear (*hādhā wāḍiḥ*)."[20] It is in the nature of human action that it raises the possibility of one-time or repetitive performance, and a jurist needs this understanding for the management of their juristic methods and presumptions.

To sum up, Bāqillānī's arguments pertaining to the normative effects of divine commands rested on a variety of premises. While some followed from linguistic conventions, others reflected his speculative reasoning about the way in which human action occurs in time, as well as the nature of action and time in general. In his formulation of principles of jurisprudence, Bāqillānī attempted to balance the necessity to rely on divine revelation with the need to formulate a system of norm-form ation that is coherent, comprehensible, and functional.

6.2 AL-JAṢṢĀṢ: DEFENDING NATURAL LAW IN REVELATION-BASED JURISPRUDENCE

We now turn to the same discussion in *al-Fuṣūl fī l-uṣūl* of Abū Bakr al-Jaṣṣāṣ. We have already seen that Jaṣṣāṣ adhered to many of the tenets of Muʿtazilī theories, including the possibility of attainment of knowledge of norms independently of revelation, and the understanding of divine speech as a purposeful intervention in time. Jaṣṣāṣ's legal theory represents an attempt to elucidate those positions within the framework of a discipline that saw the reliance on revelation as indispensable. As was the case with the question of the presumption of obligation that we discussed in Chapter 5, Jaṣṣāṣ's treatment of divine commands generally reflected a willingness to adopt juristic presumptions that were broader than those accepted by Bāqillānī. This willingness can be understood in the context of his divine commands as immediate and concrete interventions.

We saw in Chapter 5 that Jaṣṣāṣ considers any statement in the imperative form as sufficient ground to presume that an obligation exists, except when evidence to the contrary can be provided. With respect to the issue of attachment of obligation to action in time, the main question is whether, in the absence of explicit proof that performance is to be made at a specified point in time, obligation would require immediate performance. As was the case with the effects of statement in the imperative form,

[20] Ibid.

Jaṣṣāṣ is primarily looking for a standard answer, and acknowledges that special cases may exist. This question allows us to examine the text-independent reflections on the nature of action in Jaṣṣāṣ's thought. In this respect, we can differentiate between obligations that should be met at a specific point in time, obligations that must be fulfilled at any point during a period of time (such as prayer), and obligations that must be fulfilled whenever possible (such as pilgrimage, and the repayment of debt where no date has been specified).[21] The question is, concerning the second and third type, what does it mean for an obligation to be due, if postponing performance still allows compliance with the letter of the command in question?

Generally, Jaṣṣāṣ argued that a command must be presumed to entail an obligation to comply immediately.[22] The primary justification of this position appears to rest on a purely semantic argument, but, upon further scrutiny, we can see that this argument is in turn predicated upon a presupposition of the function of language in communication. Jaṣṣāṣ explains that, since command entails the obligation to comply, it follows that action is *wanted* from the addressee immediately (*fī l-ḥāl*).[23] This, we should note, is only true if one accepts Jaṣṣāṣ's Muʿtazilī-like analogizing of divine commands to human commands. We can see that Jaṣṣāṣ's position in favor of the immediacy of obligation invokes his epistemological and theological assumptions as well. To maintain that it is in the nature of commands to demand immediate compliance, Jaṣṣāṣ must advance the claim that language is an expression of will. If the speaker wishes for the action to take place, then we should be able to assume that immediate compliance is also desired.[24] Jaṣṣāṣ's argument that obligations are, in general, instantly due rests upon similar foundations as the presumption of obligation. A command can be presumed to indicate the desire for the action to take place. In addition, it can be presumed to mean that it is to be performed instantly.[25] His position on the question of immediate performance is further justified by analogy between lack of performance and postponed performance. Both omission and postponement, according to Jaṣṣāṣ, require explicit proof to overcome the presumption of immediate requirement. The central notion in these arguments is choice (*takhyīr*). According to Jaṣṣāṣ, whenever we are justified in believing that God has made a command, we no longer have

[21] Aḥmad b. ʿAlī al-Jaṣṣāṣ, *Uṣūl al-fiqh: al-musammā bi l-fuṣūl fī l-uṣūl* (Beirut: Dār al-Kutub al-ʿIlmiyya, 2000), 269.
[22] Ibid., 106–7. [23] Ibid., 107. [24] Ibid. [25] Ibid., 296.

a choice. It would be absurd to say that we have the right to choose to postpone the performance of an obligation; yet, if we for some reason failed to perform immediately, we may still do so at a later point in time.

Since command is an action that is "wanted" by God, Jaṣṣāṣ argues that if immediacy and postponement were both possible, then it would be more prudent and proper to perform the action early.[26] In this argument for the immediacy of obligation, we can observe how the notion of "external morality" of law is strongly tied to his very conception of command. Jaṣṣāṣ presupposes the overall pietistic function of compliance with God's commands, a supposition that rests on an idea of goodness that is accessible to the human mind. We can see that a clear and uniform conception of goodness motivates this argument. For Jaṣṣāṣ, it is not merely a question of knowing what the rule is, but a question of acting as morally as possible. If certainty cannot be achieved, then choosing the most self-disciplined path would be the morally justifiable outcome. While Jaṣṣāṣ consistently upholds the notion of external morality as closely linked to each divine command and obligation, his argument does not presuppose any notion of determinability of the law. Jaṣṣāṣ does not attempt to posit that any given situation should have a correct answer, but openly acknowledges the possibility of plurality, and advocates a given position based on a moral criterion. This gives us an example of natural-law minded scholars who coupled his belief in the epistemic availability of moral judgments with an adherence to the collective forms of jurisprudential argumentation.

We have seen thus far that Jaṣṣāṣ's theological commitment led to a view of compliance with God's commands as inextricably linked to a comprehensible notion of goodness. In addition to this conception of goodness, Jaṣṣāṣ also shows a concern for the internal coherence of practicality of his jurisprudential system. He bases his vindication of his argument for the immediacy of compliance on a specific conception of action in relation to time. If commands by their very nature demand immediate compliance, how can we make sense of cases in which one is required to make up for missed or forgotten duties, such as prayer? He deals with this difficulty by positing that when a person utters a command, what they really mean is "do the action in the immediate time without delay, but if you postponed it to a later time, do it then and do not postpone it again."[27] An example of this is the obligation to perform

[26] Ibid., 109. [27] Ibid., 107.

late prayer in case it was initially missed, or the late performance of monetary obligations.[28] The fact that delayed action is permissible, in itself, does not contradict the claim that immediacy was initially required. Jaṣṣāṣ analyzes the possibilities of postponed performance in relation to the human lifetime, concluding, after employing a *reductio ad absurdum*, that immediate performance is the only reasonable possibility. If the exact time in which performance is due is not specified, then there can only be two possibilities: either performance has to be immediate, or not. If it is not immediate, then one can either be blamed for dying without performing it, or not. If it is the latter, then it cannot accurately be said that there was an obligation in the first place. If it is the former, then it would be impossible to blame a person for not performing an action before a certain time that is utterly unknown to him or her, which is the time of death. As a result, only immediate performance remains as a logical conclusion.[29] This argument does not rely on the semantic effects of the revealed text, but on the articulation of the notion of obligation with speculation over human mortality.

Like Bāqillānī, Jaṣṣāṣ delved into an investigation of the nature of action to determine the consequences of particular divine injunctions. This can be seen in his discussion of commands that specify an extended period for their performance. His general position is that obligations that have a time limit can be performed at any point in time prior to this limit.[30] In this case, the time condition, contrary to Bāqillānī's view, constitutes an integral part of the nature of the obligation itself. This situation can be contrasted with indefinite obligations by the fact that their time limit –unlike that of death – is known. As a result, Jaṣṣāṣ maintains that, in the first case, it should be allowed to postpone performance until the last minute, since the timeframe is incorporated within the obligation itself.[31] This, however, challenges Jaṣṣāṣ to harmonize this argument with his views on the immediacy of obligation. How can it be said that an obligation falls upon us without it being necessary to perform it immediately?

Jaṣṣāṣ mentions two positions to which he does not adhere. The first adopts a notion of extended obligation: as soon as prayer time begins, an obligation is created that extends over the designated period, which gradually diminishes as the time for the next prayer approaches.[32] For Jaṣṣāṣ, it is inconceivable that a divinely ordained command would not

[28] Ibid., 108. [29] Ibid., 109–10. [30] Ibid., 125. [31] Ibid. [32] Ibid., 123.

raise an immediate necessity to act. An alternative approach to extended obligations is to maintain that necessity of action only arises near the end of the designated period. Prior to that, performance is only recommended, not mandatory. This is unacceptable for Jaṣṣāṣ since God's commands must necessarily lead to obligations. Jaṣṣāṣ provides a creative alternative, by virtue of which obligation exists from the outset, but the *object of obligation* is not designated. He compares this notion to the sale of goods in kind, such as rice, oil, beans, and so on. In this type of obligation, performance is done by delivering goods according to certain features, yet the actual beans or grains of rice of drops of oil are not identified in advance.[33] Similarly, the obligation to pray consists of the obligation to do a certain act at some unspecified point in time. Just as the object of the obligation to deliver rice becomes specified only upon delivery, the exact object of the obligation to pray also becomes specified only upon performance.

The separation between the existence and object of obligation in this argument allows Jaṣṣāṣ to avoid the conclusion that performance prior to the end of the designated time is optional, which would contradict the command to pray. Having the possibility to satisfy a given duty in different ways does not mean that the duty does not exist: it simply does not have a firmly defined object. The individual assists in defining it as he or she performs it. The second consequence of this argument is that, contrary to Bāqillānī, Jaṣṣāṣ establishes time as a matter intrinsic to action. In rejecting the theory of initially recommended obligation, Jaṣṣāṣ firmly establishes time as a component of action: prayer performed at the beginning of the designated period is not identical to prayer performed in the middle or in the end. These are different "entities" even if they equally satisfy the duty in question. We can clearly see that none of these arguments emerges from any semantic commitment. Rather, this is entirely the result of Jaṣṣāṣ's efforts to build a consistent and effective theory of law.

To harmonize his position on performance in a determined window of time with his theory of divine command, therefore, Jaṣṣāṣ had to elaborate a purely speculative theory of action that takes into account the practicality of his system. This model persists with respect to the question of repetition of performance. The issue here is whether, whenever an absolute command does not specify the time and modality of performance, the action must be repeated unless otherwise indicated. Jaṣṣāṣ holds

[33] Ibid., 127.

that in a case where the command comes in the form "do *x*" without specifying the time and number of times, it is sufficient to do *x* only once. Jaṣṣāṣ's argument is that performing *x* once only is sufficient for us to say that *x* has been done, and therefore the command has been obeyed. Any repetition of the action would be beyond the scope of the command. Another indication of the fact that obligation intervenes in time but does not control human action over time is the argument that the possibility of performing an obligation over an extended period of time does not mean that obligation itself is extended, as we saw in the case of prayer. The period specified for prayer is a period of possibility of performance, and choosing to perform at any particular point in this period renders the subject of obligation specific. This, however, does not mean that the obligation persists over the specified period: once prayer is performed, obligation is terminated for the remaining window of time.[34]

Another matter that highlights the distinction between the need to accommodate the natural requirements of human action independently of divine speech is the issue of the physical possibility of performance. Fulfilling an obligation, Jaṣṣāṣ holds, must be physically possible. Importantly, the validity of a command does not depend upon the practical possibility of obligation in one specific instance, but it depends upon the general possibility of action in all conceivable cases. This is a principle that clearly displays the balancing of the considerations of legal stability and practical flux. If a command concerns a specific action that a group of people may be capable of performing, the command itself is valid indefinitely, but the obligation only arises where the possibility of performance exists. This formulation is confirmed by Jaṣṣāṣ's own example: "it is possible to say to the sick person, 'whenever you recover, fast, pray, and fight the polytheists'."[35] In that case, the command is instantly valid, but obligation arises only when the action is physically possible. This is a crucial argument in ascertaining the balance between the stability and adaptability of norms that follow from divine commands. God's commands were revealed to humanity at a given point in time within a given community. Still, these commands remain valid for the generations that were not yet present at that time, provided commands are duly brought to their knowledge, and the actions in question remain physically doable. In Jaṣṣāṣ's words: "a command can be existent even if the addressee is not present ... and commands befall those who are born after the prophet's era since no other

[34] Ibid, 314–16. [35] Ibid, 323.

commands [from God] are brought to them." An exception is the case of commands that pertain to actions that are humanly impossible *a priori*, such as carrying a mountain. This, Jaṣṣāṣ maintains, would be absurd, and would not constitute a valid command at all.[36]

In an attempt to elucidate the differences between command and prohibition, Jaṣṣāṣ delves into the differences between human action and abstention. Abstaining from committing a prohibited action can and should be done continuously in time, unlike commands. This abstention does not raise any of the issues concerning practical impossibility that the continuity in performing a positive duty raises. Therefore, it would be absurd to say that a prohibition falls once it has been obeyed at some specific point in time, whereas the default position in the case of positive duties is the termination of obligation after the first performance.[37] Jaṣṣāṣ's analysis of the effects of prohibition shows the way this type of claim influences different forms of human action. Prohibition, Jaṣṣāṣ holds, establishes a *prima facie* invalidity of all actions that involve the prohibited action. A prohibited action is an action that has been the subject of a divine statement in the negative imperative form. Any such action that has been prohibited by God raises an immediate presumption of invalidity of any transaction that involved it (*ma tanāwalahu min ʿuqūd*). The exact delineation of the notions of "transaction" and "involvement" raises many complexities concerning how human actions connect to one another. For instance, marrying one's mother or sister or such close relatives is clearly an invalid transaction. The effect of the prohibition here is not limited to the possible punishment for breach or giving a reason for abstention to the pious, but it extends to the denial of the social and economic effects that a valid marriage should enjoy. Deriving invalidity from prohibition in this case is based on the fact that the prohibited action constitutes the center of the transaction. According to Jaṣṣāṣ, a transaction is said to involve an action if the action is the direct object of the contract, a proximate effect, or a necessary condition. Other than that, an action related to a contract in a different way, though prohibited, would not invalidate the transaction.[38]A classic example of a valid action that is inconclusively connected to a prohibited element is praying while on stolen land. In this case, Jaṣṣāṣ maintains, stealing the land is a breach of the prohibition of stealing, yet prayer is valid since it is not sufficiently related to the act of stealing.[39]

[36] Ibid, 324. [37] Ibid, 318. [38] Ibid, 340. [39] Ibid, 341.

A more controversial example that further tests Jaṣṣāṣ's theory of prohibition in relation to time is the act of sale concluded during Friday call for prayer. The Quran contains a command to cease sales (i.e., a prohibition of concluding sales) during Friday prayers. Jaṣṣāṣ here views the conclusion of the sale as a breach of the prohibition established by the Quran, yet the contract remains valid. The reason for which he considers the timing of sale, which renders it a breach of the law as an element not central to the transaction, is not clear. In fact, it appears to contradict Jaṣṣāṣ's assumption that the time of the action is an inseparable part of an action, which was the basis of the claim that prayer at a given time establishes the exact mode of obligation in its regard. It may be argued that the act of sale is primarily related to the exchange of goods for money, and that time here is merely consequential, unlike prayer, which is an action that recurs in time on a daily basis. While this may be the case, it is not clear why this makes the performance of the act of sale in time any different from the performance of the act of prayer in time. In the case of sale, prohibition relates to the time of performance, which means that concluding a sale at a given time changes the type of action performed and therefore its legal effects. Similarly, prayer at a given moment in time determines what legal consequences attach to it. The more plausible explanation may be related to the consideration of stability of transactions, again a consideration pertaining to the "inner morality" of the legal system. The time of sale in itself has no lasting influence on the economic effects of sale transactions, just as performing a prayer late has no lasting effect on the overall dynamics of pious practices. Assuming invalidity based on timing would be at the very high cost of hindering social transactions and pious practices, and would render the *sharīʿa* an unduly burdensome regulatory system.

6.3 AL-SAMʿĀNĪ: INNER MORALITY IN MAINSTREAM JURISPRUDENCE

The prominent eleventh-century Shāfiʿī scholar Abū l-Muẓaffar al-Samʿānī (d. 1095),[40] known for his opposition to the inclusion of

[40] Abū l-Muẓaffar Manṣūr b. Muḥammad b. al-Samʿānī was a prominent Shāfiʿī jurist who wrote on *ḥadīth*, *fiqh*, and *uṣūl al-fiqh*. In his *Ṭabaqāt*, Subkī distinguishes him with a particularly lengthy biography and a highly praiseful introduction. He was born in Khurasan in 426 AH/1034 CE to a known Ḥanafī scholar, Abū Manṣūr, and belonged to the Ḥanafī school in his early career. Samʿanī went to Baghdad in his mid-thirties,

theological discussions in matters of juristic methodologies,[41] began his work on *uṣūl al-fiqh* titled *Qawāṭiʿ al-adilla fī l- uṣūl* by distinguishing between the methods of the jurists (*fuqahāʾ*) and the methods of the theologians (*mutakallimīn*) in the study of jurisprudence. He lamented the fact that many of his colleagues appeared lured by the methods of the theologians:

> I have spent long days examining the books (*taṣānīf*) of my companions (*al-aṣḥāb*) in this science, as well as the works of others, and found that most of them are satisfied with the appearances of language (*ẓāhir min al-kalām*) and embellished rhetoric (*rāʾiq min al-ʿibāra*) without exploring the truths of jurisprudence in a manner that corresponds to the meanings of legal knowledge (*fiqh*). I saw that some of them have expounded, analyzed, and engaged (*awghala wa ḥallala wa dākhala*) but they strayed from the methods of the jurists (*fuqahāʾ*) and adopted the methods of the theologians (*mutakallimīn*) who are outsiders to the law and its concepts (*ajānib ʿan al-fiqh wa maʿānīh*).[42]

Samʿānī, throughout his work, constructs his arguments in opposition to those of the theologians. With regard to the question of the nature of command, examined in detail in Chapter 5, Samʿānī's opposition to speculative theology led him to conflate three matters: (1) the concept of command, (2) the imperative mood as a grammatical form and (3) the semantic implications of the imperative mood. This was a common problem with theology-averse writings on jurisprudence (i.e., the writings of the so-called *fuqahāʾ*). Because the imperative mood is a linguistic form designed to demand action, and because the majority of jurists presumed that divine statements in this form gave rise to obligation, jurists who were antagonistic toward philosophical theology viewed the search for a

where he reportedly met with the then-Ḥanafī Abū Isḥāq al-Shīrāzī. On his way to Mecca, he was attacked and held captive by a Bedouin tribe, who then released him when they knew he was a scholar. Upon his arrival at al-Marw, Samʿānī deserted the Ḥanafī *madhhab*. Subkī's description of his conversion suggests that it was a major event. It would appear that, during his trip, Samʿanī was constantly seeking to meet with scholars of diverse affiliations, and continuously wondering who, among all those scholars, is closest to the truth. He died in Marw in 489 AH/1095 CE. See Tāj al-Dīn ʿAbd al-Wahhāb b. ʿAlī al-Subkī, *Ṭabaqāt al-Shāfiʿiyya al-kubrā*, ed. Maḥmūd al-Tanahī and ʿAbd al-Fattaḥ al-Ḥulw (Cairo: Dār Iḥyāʾ Kutub al-ʿArabiyya, 1918), 5:335–46. Shams al-Dīn al-Dhahabī, *Siyar aʿlām al-nubalāʾ*, ed. Ḥassan ʿAbd al-Mannān (Beirut: Dār al-Afkār al-Dawliyya, 2004), 3957–8.

[41] Samʿānī's aversion to theology, and his prestigious status in the Shāfiʿī school, are mentioned in George Makdisi, "The Juridical Theology of Shâfi'î: Origins and Significance of Uṣûl Al-Fiqh," *Studia Islamica* 59 (1984): 35.

[42] Abū l-Muẓaffar Manṣūr b. Muḥammad al-Samʿānī, *Qawāṭiʿ al-adilla fī l-uṣūl*, ed. Muḥammad Ḥasan Ismaʿīl Shāfiʿī (Beirut: Dār al-Kutub al-ʿIlmiyya, 1997), 1:18–19.

concept of command beyond the imperative mood as pointless. The predominant semantic effect of the grammatical form, in that case, was seen as identical to the part of speech it is supposed to express, or, quite simply, to what it is. In addition, a major source of confusion associated with taking the debate on the nature of divine commands to the field of linguistic analysis stemmed the fact that the imperative mood in the Arabic language is referred to as *ṣīghat al-amr*, which, quite unfortunately, literally translates to "the [grammatical] form of command."[43] For that reason, it was easy to suppose mistakenly that the imperative mood is *a priori* a form that is designed for the exclusive aim of communicating commands. This led scholars who were altogether hostile toward the debates about the concept of command and interested only in the practical effects of linguistic constructions to side with the Muʿtazilīs in their view that command is the same as the imperative mood. However, due to the confusion resulting from the denomination *ṣīghat al-amr*, this position was often ill-informed.

Samʿānī maintained that "commands have a self-sufficient form in the language of the Arabs that needs no additional proof (*qarīna*) to be added to it."[44] This, he argued, is generally the position of the learned people (*ʿāmat ahl al-ʿilm*), by which of course he means the nontheological jurists, as opposed to the theologians.[45] This position, in Samʿānī's view,

[43] A succinct definition was provided by Aḥmadnagarī: "*ṣīgha* is the form (*hayʾa*) that a word attains because of the organization of letters and enclitics." ʿAbd al-Nabī ʿAbd al-Rasūl al-Aḥmadnagarī, *Jāmiʿ ul-ʿulūm: al-mulaqqab bi-dustūr ul-ʿulamāʾ fi-ṣṭilāḥāt il-ʿulūm wa l-funūn*, ed. Quṭb al-Dīn al-Ḥaydarabādī (Haidarabad: Dāʾirat al-maʿārif al-niẓāmīya, 1911), 258. Jalāl al-Dīn al-Suyūṭī clearly distinguished between *amr* as a linguistic construction and its semantic implications. He explained that "*al-amr* is a rhetorical tool (*min aqsām al-inshāʾ*) that comes in the form '*ifʿal*' and '*li-yafʿal*.'" He proceeded to explain that this form's *literal* sense (*ḥaqīqa*) is obligation (*wujūb*), but can be used figuratively for many purposes, including recommendation or supplication. The categorization of the imperative mood (*al-amr*) as a rhetorical tool was designed to distinguish it from assertion (*khabar*), which aims to establish a relation between elements, which can be true or false. Jalāl al-Dīn al-Suyūṭī, *al-Itqān fi ʿulūm al-Qurʾān*, 3rd edn (Medina: Majmaʿ al-Malik Fahd li-Ṭibāʿat al-Muṣḥaf al-Sharīf, 2011), 5:1688, 1713.

[44] Samʿānī, *Qawāṭiʿ*, 1:49. *Qarīna* here, and in jurisprudence in general, is understood as a semantic element that "attaches" (*yaqtarin*) to a linguistic construction in a way that delimits, specifies, or otherwise alters its initial meaning. On the use of the concept of *qarīna* by Muslim jurists, see Wael B. Hallaq, "Notes on the Term Qarīna in Islamic Legal Discourse," *Journal of the American Oriental Society* 108(3) (1988): 475–80.

[45] Samʿānī, *Qawāṭiʿ*, 1:49. Abū Isḥāq al-Shīrāzī largely agreed with Samʿānī's treatment of command, and appears to commit the same error: "Command has a specific form in language that imposes action, which is the form 'do!' The Ashʿarī's said that command

contrasted with the claim he attributed to the Ashʿarīs, namely, that "commands and prohibitions have no linguistic form," and that "the term 'do!' does not signify anything in itself without additional proof."[46] Here, however, Samʿānī was confusing two questions: whether the imperative mood is sufficient to *indicate* command, and whether the imperative mood is, *in itself*, command. Saying that command is not identical to a linguistic form is not the same as saying that command has no linguistic form assigned to it. Thus, as we saw in Chapter 5, it is possible to hold that statements in the imperative mood are not identical to commands and yet argue that statements in such form should be presumed to signify commands in the absence of evidence to the contrary.

The assumption that the principles of *uṣūl* are plain semantic norms that can be observed in the ordinary use of language remains prevalent throughout Samʿānī's work. While this continues to be a guiding principle throughout his legal theory, many areas of his *uṣūl* work required him to step outside the strict boundaries of semantic analysis. It is noteworthy that these deviations from the norm were made self-consciously and were always explicitly indicated as such. Despite systematic efforts to portray his system of jurisprudence as built on purely semantic principles, Samʿānī needed to delve into language-independent analysis in many instances. As we have already seen, the insistence on portraying his *uṣūl* principles as following from the plain meaning of language often led to confusion between the conceptual and linguistic levels in his arguments. In addition, deviations from this standard norm were often concealed by reference to some accepted juristic concepts such as custom (*ʿurf*).

The question of whether or not divine commands require a continuous or repetitive performance (*yufīd al-tikrār*) offers a clear example of how considerations of semantics and natural practicality (or *ʿurf*, according to Samʿānī) become intertwined. Samʿānī's view is that command alone (which, as we saw, he treats interchangeably with the imperative form) does not require repetitive performance, but might require it if a specific proof is added to it. This, he explains, contrasts with the view of some other Shāfiʿīs who hold that continuous compliance is never required, or those who argue that command indicates it by default.[47] Those who

has no form. The proof that it does is that linguists divided speech into parts which include command and prohibitions. Command is saying 'do!' and prohibition is saying 'do not do!' Linguists considered saying 'do!' alone a command, which means that command has a special form." Abū Isḥāq al-Shīrāzī, *al-Lumaʿ fī uṣūl al-fiqh*, 3rd edn n.s. (Beirut: Dār al-Kutub al-ʿIlmiyya, 2007), 13.

[46] Samʿānī, *Qawāṭiʿ*, 1:49. [47] Samʿānī, *Qawāṭiʿ*, 1:65.

maintain that divine command in itself entails continuous performance advance their claim by assuming an equivalence between commands and prohibitions, and therefore action and abstention. Since command is the opposite of prohibition, and since it demands action in the same manner prohibition demands abstention, it follows that command, like prohibition, requires continuous performance. This line of reasoning rests on a particular view of how divine speech impacts human action. Since we are aware of a particular requirement that follows from divine commands, any instance of nonperformance is by necessity an instance of disobedience or breach. Since this is true of prohibition (e.g., a single instance of adultery is sufficient to breach the divine prohibition against adultery), it must also be true of commands. This view, to which Samʿānī does not subscribe, also rests on a moral preference: Since obedience to God is desirable, wherever there is no indication of the time of performance, it should occur at all possible times.[48]

While these arguments have their merits, Samʿānī adheres to the most practical view – that command indicates a single performance unless otherwise specified. Still, he is very careful to portray his position as one that follows almost entirely from ordinary language. We are still able to detect certain aspects of "inner morality" within Samʿānī's reasoning, although they are carefully concealed within juristic and technical language. Samʿānī's language-based argument is original, yet fails to distract from the considerations of reasonableness included within it. He maintained, "Saying 'pray' is an injunction to perform the object of the phrase 'he prayed'."[49] This argument is further explained: "command demands obedience and therefore is limited to the extent that is required for compliance to occur with nothing more."[50] This argument is presented throughout as a mere analysis of various grammatical forms of verbs in the Arabic language. Just like "he hit" is the past tense and "hit" the imperative, "pray" is the imperative related to the past tense "he prayed." Whenever there is a command to perform an action in the imperative tense, it is only sufficient to perform that action to the extent that, linguistically, we can say that it has been accomplished. This does not mean that Samʿānī is defending the possibility of partial compliance to commands: A single act of compliance is, in principle, sufficient for full compliance with the command.

[48] "*qawluhu ṣallī amrun bi-mā qawlihi ṣallā khabarun ʿanhu*." Ibid., 69. [49] Ibid.
[50] Ibid., 70.

While this appears like a pure linguistic inquiry, looking further into those arguments reveals Samʿānī's reliance on what is useful and common. The primary basis of Samʿānī's argument for single performance is the ordinary usage of language. He observes that, in common speech, if a person orders their subordinate to offer water, "rational people" would consider the action performed after one instance. If the subordinate does it twice, the superior is likely to object that they only asked once, and therefore the subordinate should have complied once. In addition, in habitual language, reference to an indefinite entity is usually a reference to one such entity. For example, by saying "a man," one often refers to a single man. The same is not true of the negative indefinite, such as "I have not seen any men." While these may be accurate observations of the use of language, they are common for reasons pertaining to the nature of human actions and experience, and not for inherently linguistic properties.

This becomes clearer in Samʿānī's response to the argument that command is nothing but the opposite of prohibition. While he does not object to the assertion that command is opposed to prohibition, Samʿānī argues that continuous compliance with a prohibition is not a matter of repetitive compliance. Continuous abstention, according to him, is "a single sustained act." One refrains from drinking wine for several years by virtue of a single act of abstention. Repetition, he argues, requires the completion and restarting of an action. This is not the case concerning prohibitions. This is clearly not a linguistic argument, but one that relates to the nature of action. We consider positive acts, by their nature, to be defined in time: they have a beginning and an end. The same is not necessarily the case with abstentions: they can last for an indefinite amount of time. While this can be analyzed in terms of the law's reasonableness and intervention within human actions, Samʿānī rejects this kind of analysis. Whether or not the law is or is not too burdensome is a matter that comes after linguistic analysis, which, for him, occupies center stage in constructing arguments of jurisprudence. While this may appear to be true in his own thought, we might say that he simply refuses to see the considerations of practicality that are built into his linguistic references.[51]

Samʿānī's method of ascribing the common meaning found in ordinary parlance to linguistic forms extends to his treatment of the question of immediacy in performance. As we have previously seen, Jaṣṣāṣ found a

[51] Ibid., 72.

creative solution to this problem by saying that performance is required immediately, but then becomes extinguished and renewed once it is not performed. This rested on the moral view that divine commands are of such importance that postponement would be untoward. As we saw, Samʿānī avoided such broad moral assumptions. He argued that command in itself contains no indication of immediacy, the same way it contains no indication of repetition. In common understanding, the injunction to pray requires the performance of a single act of prayer within the specified timeframe, and not necessarily as soon as it becomes required.[52] While this appears like a simple inquiry into common parlance, it is in fact a view that rests on a specific understanding of human action. Samʿānī holds the commonplace understanding that human action consists of a specific set of physical occurrences, to be distinguished from intent, understanding, and the time in which it is performed.[53] It is this single physical performance of action that constitutes compliance, regardless of any other circumstances. This understanding makes the principles of jurisprudence compliant with the ordinary norms of action and speech and therefore ensures reasonableness of the law, even if this is done without explicit acknowledgement from the author-jurist.

6.4 CONCLUSION

In this final chapter, we examined arguments from Bāqillānī's *al-Taqrīb wa l-irshād*, Jaṣṣāṣ's *al-Fuṣūl fī l-uṣūl*, and Samʿānī's *Qawāṭiʿ al-adilla*. When we asked the question 'where do principles of Islamic jurisprudence come from?', we found that there is not a single answer. While some arguments are purely semantic, others stem from a need to articulate a logical and functional theory of action and compliance with divine commands. This exercise, as I indicated at the beginning of this chapter, rests on two assumptions. First, at the methodological level, I suggest that a full understanding of the function of Islamic jurisprudence requires an analysis of the structure and justification of its arguments. Second, on the substantive level, I suggest that the tension that this kind of analysis reveals is not – as has long been maintained – one between rationalism and traditionalism, but a tension between the need to remain faithful to revelation and the necessity of constructing a reasonable and effective legal theory. This tension was evident in the attempts of the two scholars

[52] Ibid., 79. [53] Ibid., 80.

we studied to harmonize the considerations of effective human action in time with concerns of fidelity to revealed texts. On the methodological level, I hope that this study has contributed to the understanding of the formal structures of *uṣūl al-fiqh*. Moving forward in our attempts to understand the function of the discipline, on the other hand, would require a significantly broader analysis of its internal structures, as well as of the way it interacted with other sciences that thrived in parallel and in conjunction with it.

Conclusion

This study had a number of goals. We attempted to reconstruct some of the primary features of a classical Islamic system of norm formation that saw revelation as a necessary component. In doing so, we saw that the charges of traditionalism, voluntarism, or arbitrariness that are commonly leveled against Islamic divine-command theories often neglect some important aspects of it. The first important aspect that we sought to highlight is epistemological skepticism, regarding both our ability to know moral values and our ability to understand God's designs. The second related aspect is a sharp metaphysical divide that places God far beyond our worldly experiences. The third is an understanding of divine speech as an eternal attribute, and not an action, and of divine commands as transcendent attributes of normative potential. Finally, we saw that the practical norms generated by this system did not simply follow from God's words (whichever way we may wish to define "God's words"), but were built through collective scholarly deliberation. Finally, we saw that, even within this revelation-centric model, considerations of practicality and reasonableness pervaded the jurists' methods of engagement with the divine text.

Highlighting those characteristics of revelation-based thought in classical Islam also helps us make "some suggestions for divine command theorists," to borrow Alston's famous title. The main suggestions concerned the possibility of further exploring the potential of epistemological skepticism and the collective formation of norms for a revelation-based system of law and ethics. These suggestions remain purely at a theoretical level, and nothing in this study begins to address the practical (i.e., legal) contexts in which these ideas may or may not be developed. In addition,

we have not begun to address the variations in schools of thought either synchronically or diachronically, and have done so within each school only to the extent necessary for the task at hand. In that sense, as stated in the Introduction, this is more a work of legal and moral theory, and less a work of intellectual history.[1] The third goal was to explore precisely this methodological point: that we can study the Islamic tradition in more ways than pure historicism. While I did not directly frame it as such, this question certainly resonates with discussions in postcolonial thought, and conversations on the place of Islamic and other non-Western traditions in the broader humanities. Instead of adding to the past and present critiques of orientalist studies, I sought to engage directly in the kind of study that, in my view, avoids the undertones of domination and violent appropriation that those critiques highlighted.

Divine-command theories, understood as theoretical models that assume the necessity of divine speech for the knowledge of moral values and norms, have long been marginalized in the modern study of law and ethics. This marginalization appears to have occurred in the context of a broad presumption of a *prima facie* conflict between areas of thought that accept and proceed from theistic notions (such as revelation) on the one hand, and proper theoretical and philosophical reflection on the other hand. It is up to the theistic thinker, it is assumed, to show that they can successfully comply with the requirements of secular reason. This explains the popularity of natural-law approaches to theistic ethics in contemporary scholarship. The natural-law theorist concedes some of the presuppositions of secular ethics in relation to the intrinsic inadequacy of revelation-based thinking, and simultaneously advances a reformed view of God in ethics that claims to accord with the requirements of revelation-independent reason. The same preference for a natural-law approach to theistic thought manifests itself in the contemporary study of Islam. Many works focus on the idea that natural-law thinkers are the proper representatives of rational philosophical thought in classical Islamic disciplines, while explicitly or implicitly dismissing their opponents as traditionalists or textualists.[2]

[1] With the understanding, as stated in the Introduction, that these fields are never entirely separable.

[2] For example, George Hourani, *Islamic Rationalism: The Ethics of ʿAbd Al-Jabbār* (Oxford: Clarendon Press, 1971); Mariam Attar, *Islamic Ethics: Divine Command Theory in Arabo-Islamic Thought* (London: Routledge, 2010); Anver M. Emon, *Islamic Natural Law Theories* (New York, NY: Oxford University Press, 2010); Sabine Schmidke, David Sklare, and Camilla Adang (eds.), *A Common Rationality: Mu'tazilism in Islam and Judaism* (Würzburg: Ergon Verlag in Kommission, 2007).

A central goal of this study was to offer a reading of classical Islamic theories on divine speech and commands that highlights the inadequacy of those assumptions. A second goal was to show that a proper philosophical investigation and "appropriation" of divine-command theories in classical Islam could provide insights that help advance theories of norm formation without necessarily conceding to the main secularist objections to theistic thought. Chapter 1 begins to achieve the first goal. I argue that divine-command and natural-law trends in classical Islamic theology emerged from a fundamental epistemological disagreement rather than a preconceived attachment to revelation (or the lack thereof). Chapter 1 also showed that it would be productive for contemporary theistic ethicists to explore the limits of nontheistic ethics through an adoption of a form of epistemological skepticism. This type of skepticism can carve out a domain for revelation to produce a specific form of universal judgment based on the suspension of habitual human experience (i.e., through miracle). Chapter 2 examined the metaphysical theories underlying the various conceptions of divine speech in Islamic theology and tackled another central contemporary objection to theistic ethics, namely that positing God as a central element of moral thought entails a rejection of the immediacy and flux of human sense experience. I argued that Platonic metaphysics that posit the world of sense perception as a distorted image of the perfect forms was adopted by Muslim natural-law theorists, but not by the divine-command thinkers. The latter developed a view of the world of generation and corruption as entirely unlike anything in the divine realm, which, again, follows from their skeptical theistic stance explained in Chapter 1. Chapter 3 expanded this inquiry into the Creator–created dichotomy to the idea of divine speech. We saw that, for the divine-command theorist, divine speech is a transcendent divine attribute, and human perceptions of divine revelation are wholly human experiences.

Part II of the book focused more closely on the discipline of legal theory, taking the concept of divine command as its central focus. Chapter 4 explored the modes of norm making that follow from the various conceptions of divine command that we find in Islamic jurisprudence. I showed that a natural-law conception of command makes it subordinate to preexisting moral values. According to this view, God *wills* a certain action to be committed because the action is good, and therefore makes a command to enjoin humans to perform the action. In that sense, following God's command would constitute a renunciation of our efforts to discover the moral value of actions that exist independently of God's

speech. For the divine-command theorist, by contrast, divine commands are eternal attributes of God and are analytically prior to any notion of goodness in the universal sense. Taking divine commands, in that sense, as a starting point for moral reasoning does not necessarily constitute a renunciation of moral autonomy, but represents an attempt to embrace a sense of goodness that is deep-seated in the very origins of this world. Chapter 5 explores the semantic and interpretive processes through which divine commands communicated through revelation can lead to the construction of moral norms. I maintained that the dialectical form of argument that we saw in these juristic arguments meant that theological commitments were not decisive in shaping jurisprudential positions, and that the jurists adopted a form of social construction as a method of collective law making. In Chapter 6, we saw that a closer look at the forms of argument employed in the field of jurisprudence to justify the normative effects of the imperative mood revealed two things: that revelation-independent trends (a) remained quite influential and (b) advanced their theories through the then–widely-studied discipline of jurisprudence.

The resulting divine-command theory that emerges from this study is one in which norms were formulated based on a type of collaboration between God and the community. Recent attempts to advance divine-command–centered theories of norm and value have often shunned social agreement as an untenable premise upon which formation of universal norms can be based.[3] This Islamic account would urge us to reconsider this position. Whereas divine speech intervened to make possible a form of legal-moral reasoning that is otherwise inaccessible to human minds, the community of believers created normative pronouncements through their experience of, and deliberation over, the signs that revelation produced. Among the many things that this study does not address, of distinct importance is the larger historical narrative within which divine-command theories came to flourish in Islamic thought and became marginalized in secularized modern Western thought. While this study is focused on a number of philosophical responses that a study of Islamic theology and jurisprudence makes available to theistic ethicists and jurisprudents, it certainly is produced in the context of an increased interest in the limits of secular reason, even by some of the most secularist of

[3] For example, Harry Gensler, *Ethics and Religion* (Cambridge: Cambridge University Press, 2016), 42.

contemporary philosophers.[4] The interest in theistic thought as a possible source of philosophical understanding that presents potentials unavailable to purely secular thought is a trend that is inextricably linked to the quickly changing theoretical and methodological landscape in the study of Islamic traditions in particular, and non-Western traditions in general. This book has been an attempt to explore some of the possibilities that both of those trends present to us today.

[4] See, for example, Jürgen Habermas, *An Awareness of What Is Missing: Faith and Reason in a Post-Secular Age* (Cambridge: Polity, 2010).

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