CHAPTER TWO:

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During the formative period of Islamic thought\(^1\), a number of research methods and modes of thinking were developed by Muslim thinkers to activate the intellectual machinery of the Muslim *Ummah*. The emergence of deduction as a process moving from the universal (*kulli*) to the particular (*juzi*) and induction, from the particular to the universal, made the Muslim thought a genuine product and a daring innovation of the Muslim mind.

Besides, the utmost efforts exerted by the Muslim mind in the first centuries aimed at targeting certainty in whatever forms it might be. Further, the rules of interpretation invented by Muslim jurists to derive legal rules from the legal text involved a number of propositions which are logical in form such as *Qiyās* (Analogy), a matter which proves that certainty was very much targeted by Muslim jurists. However, other elements whose very structure is subject to speculation proved to have influenced the juristic heritage, making the greatest portion of it speculative.

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\(^1\) This is the flourishing period of the Islamic thought, mainly the 2\(^{nd}\), the 3\(^{rd}\), the 4\(^{th}\) and the 5\(^{th}\) century A.H. See *Tarīkh al-Tashrī‘ Islāmi* of al-Sheykh al-Khudari, p.56, in the version cited in the Bibliography of this thesis.
Throughout the development of the early Muslim thought, the legal methods of inference were characterized by an ongoing debate among Muslim scholars with regard to the alternate consideration of certainty and speculation in legislation. While a group of scholars stressed the correlative structure of both certainty and speculation\(^2\), another group would observe the discrepancies underlying the two\(^3\). Eventually, the Muslim mind was perplexed as how to be decisive and irrevocably certain about the rules constituting Muslim law.

This plight was even perpetuated by the failure to narrow down the scope of disagreement among Muslim scholars, a matter that poses a question as to whether we are in need of new criteria that underscore the exact difference between certainty and speculation. Thus clarifying the meaning of certainty as adopted by Muslim thought, philosophy and logic would be of great benefit to mould the general aspects of certainty in our research, but first, a scrutiny of the term *yaqīn* literally and technically is needed from a methodological perspective.

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\(^2\) Such a view is represented by jurists like Ibn Nujaym in his *Ashabāh wal Naḍā‘īr*, p.73. Ibn Farḥūn held that al-Ẓann al-Ghālib (the highly preferable speculation) assumes the status of Mutāḥaqiq (definitive), (Ibn Farḥūn, *Tabṣirat al-Ḥukkām*, p.129). See also al-Isnawi in *al-Tamhīd*, p.65 and Ibn Taymiyyah in *al-Istiqāmah* 1/47. The certainty of *fiqh* was looked upon from another perspective by scholars such as al-Bayḍāwī who held that "we do not acknowledge that *fiqh* is speculative. It is indeed definitive as the jurist is bound by the view he thinks it is speculative, for the evidence pertaining to the obligation of following speculation is highly definitive", see al-Baydawī, *Mihāj al-Wuṣūl ilā ‘Ilm al-Uṣūl*, 148.

\(^3\) This trend is well represented by scholars such as al-Juwayni in his *Ghiyāthī*, p.158 and al-Shāṭibī in his *Muwāfaqāt* 1/12.
2.1 Definition and juristic implications:

Classical lexicographers, like Ibn Manzūr, maintained that “the word yaqīn is the root word of the term yaqina (to get certain). Yaqīn, is the pure Knowledge and hence, an act of removing scepticism and getting certain of something. Yaqīn is an opposite to shakk (doubt)”.⁴ Al-Fayruzabādī, on his part, held that yaqīn is the root word of the verb yaqina that means getting to know something for certain. Yaqīn, he continues, is the removal of shakk (scepticism)⁵. Besides, it is possible to have some speculative terms expressing definite meanings and vice versa.⁶

Obviously, the literal definition of yaqīn puts us between two extremes, i.e: Definitiveness and scepticism, a matter urging us to determine the exact scope within which the intellectual activity in the legal field is operational. Determining such a scope would certainly clarify the meaning and the applicability of certainty in the legislative process.

Al-Shakk (scepticism), in contrast to yaqīn, poses a question as whether the failure to attain certainty in the legal field would bring about absolute scepticism. The latter, in its Arabic version al-Shakk, is the act of being hesitated to understand things of equal status⁷. Based on this definition, shakk cannot constitute the ground for laws enactment as

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⁴ Mohd.Ibn Mukarram Ibn Manzūr, Lisan al-'Arab, (Beirūt: Dār Gādir,1990), Vo2, p.562
this would lead to social injustice and inflict a vivid prejudice over the entire body of Fiqh. This is what has been ascertained by al-Imām al-Zarkashī when dealing with the hierarchy of knowledge. He held that "Al-Shakk (scepticism) can not constitute the foundation upon which the legal rule stands...".

Consequently, the literal definition of certainty ignores the various levels of knowledge lying between certainty and scepticism, a matter that prompts an examination of the term yaqīn as has been technically defined and used by other disciplines. This would lead us to probe into the meaning and applicability of the term yaqīn in the legal field.

Looking into the overall structure of the Islamic legal system as designed to fit the interests and welfare of mankind, we will not patronise the idea of being able to attain absolute certainty in the legal field. Shari‘ah, in its universal structure, constitutes the ultimate truth and the absolute reality in this universe, but the projection of the universal notions embodied in Qur‘ān and Sunnah are fully subjected to human understanding and the variant circumstances surrounding him.

Human being, with all his complexities and variant moods, was entrusted with a huge responsibility to establish vicegerency on earth. However, human being took up this task unreservedly despite all the weaknesses and shortcomings he/she carries. Allah (S.W.T) says:

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“Allah doth wish to lighten your (difficulties): For man was created weak (in flesh)” (4: 28)

“For the present, Allah hath lightened your (task), For He knoweth that there is a weak spot in you…” (8: 66)

“It is Allah who created you in state of (helpless) weakness, then gave strength after weakness, then, after strength, gave (you) weakness and a hoary head: He, creates as He wills, and it is He who has all knowledge and power” (30: 54)

“Truly man was created very impatient, Fretful when evil touches him” (70:19-20).

The foregoing verses focus on the nature of man as being weak and far from being able to stand alone managing his life in this earth. Besides, the human’s intellectual abilities vary from one person to another, and human reasoning is usually affected by social factors which hinder him to attain objective thinking, a matter which paves the way to subjectivity to crystallise, to a considerable extent, the human thought. Therefore, Muslim jurists are of the opinion that the general pattern of abiding by Sharī'ah does not rest on the absoluteness of certainty. Rather, it rests on the predominant status of the truth. In other words, it is not always imperative to come up with ultimate truth. It suffices to sustain the truth that has resulted from a genuine Ijtihād, be it right or wrong.
2.2 The Roots of certainty and uncertainty in the Islamic legal system:

The roots of certainty and uncertainty can be traced back to the Prophetic era and the era of the great companions where al- *Ijtihād bi al- Ra'y* (personal reasoning) was first exercised to encounter cases of no direct reference in both Qur'ān and Sunnah.

The Prophet (s.a.w) in his capacity as a judge or a military leader practised *ijtihad* extensively. Abu Dawūd reported in his *Sunan* that the Prophet (saw) said:

"When I do not receive revelation (waḥy), I adjudicate among you on the basis on my opinion (Ra'y)". $^9$

The Prophet (s.a.w), in this respect, is laying the foundation of uncertainty in the Islamic legislation. His speech implies that his opinion does not necessarily amount to certainty as an ultimate source of truth. This is supported by a number of incidents in which the Prophet (s.a.w) exercised his own *Ijtihād* in the light of the spirit of the *Sharī'ah*. He is reported to have freed the captives of *Badr* for a ransom to be given in return. $^{10}$ Yet, this *ijtihad* did not appear to have convinced

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some of the companions like 'Umar Ibn al-Khaṭṭāb who suggested their execution instead. Later, Qurʾān came to support the opinion of 'Umar directing the Prophet (s.a.w) not to hold the enemies of Allah (swt) captives.

Allah (s.w.t) says: "It is not fitting for a Prophet that he should have prisoners of war until he hath thoroughly subdued the land. Ye look for the temporal goods of this world; but Allah looketh to the Hereafter: and Allah is Exalted in might, wise."

(8: 67).

Al- Imām Al-Kāshānī maintained that what had been viewed by the Prophet (s.a.w) concerning the captives of Badr battle was his own Ijtihād that Wahy later came to disagree with, as the Prophet did not wait for Qurʾān to settle the issue in question. Al- Imām al- Ḍāmidī, from his part, held that the prophet's personal opinions may not be authentic and Qurʾān does not hesitate to assess and orient the Prophet's judgements.

Furthermore, the great companions developed good skills to come up with juristic views of their own, and yet their views are judged in accordance with the two major sources of the Sharī‘ah, i.e.: Qurʾān and Sunnah. It is believed that the majority of the companions considered their own Ijtihād susceptible to uncertainty

11 Abū Bakr ibn Mas‘ūd Al-Kāshānī, Badā‘i’ al-Sanā‘i’ Fi Tariḥ al-Sharā‘i’, (Cairo: Maṭba‘at Sharikat al-Maṭbū‘at al-‘Ilmiyyah, 1907), Vo7, p.120.

12 Al- Ḍāmidī, Al- Iḥkām fī Usūl Al- Aḥkām, (Beirūt:Al-Maktab al-Islāmī, 1406 A.H), Vo4, pp-222-224
and sometimes unworthy to be abided by. Abū Bakr, for instance, used to say after making his own *ijtihād* "this is my opinion, if it is right this is because of Allah's guidance, and if it is wrong it is definitely from me, and hence I ask Allah 's forgiveness". "Umar ibn al-Khaṭṭāb is reported to have received a letter from a person commenting on a juristic view delivered by ‘Umar. The person said in his letter: "This is what both Allah and ‘Umar have held". ‘Umar then replied: *What evil saying you have uttered! This is what ‘Umar has held, if it is right it is indeed from Allah, and if it is wrong it is certainly from ‘Umar.*"  

Further, ‘Abd Allah ibn Mas’ūd followed the same track by ascribing any shortcoming to himself and the perfection to Allah (s.w.t) when making an *ijtihād*. He is reported to have prescribed a dowry equivalent to the prevailing one for a widow whose husband died before he gave it to her. He later said: "*If what I have said is right, that is from Allah, and if it is wrong it is from me and Satan, and Allah and His messenger are absolved (from what I have said).*" 

This proves that despite being close to the Prophet and despite being well trained to deduce the legal rules from the sources of the *Shari‘ah*, the companions never considered their views certain nor did they urge the masses to follow them. Accordingly, the bulk of Muslim jurists maintain that the companion’s mere  

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13 Muḥammad Yūsuf Mūsā, *al- Madkhal*, p.37
14 Ibid., p.40
opinion is not an authentic source of legislation, particularly when his opinion appears to have been opposed by a view of another companion.

When asked about which of the companions’ opinions is worth taking when they appear to contradict each other, al-Imam al- Shafi’i replied: “We would uphold the view which conforms to the Qur’an, Sunnah, Ijmā’ or Qiyās”.16 Besides, If the companion’s opinion happened to be unique in respect of a particular issue, it will not be rendered authentic for just being the only available view, for “it is observed”, al-Shafi’i continues, “that Muslim scholars used to consider and reject the companion’s view respectively …and it is quite rare to find a companion’s view which has not been opposed ”17. The latter is the new view of al-Shafi’i and the bulk of Mutakallimīn (Muslim theologians).18 Abū Ḥanīfah19, like al-Shafi’i, does not consider the companion’s opinion authentic, notwithstanding the fact that, like al-Shafi’i, he used to refer to it when a clear text is not available, but his reliance on it is not that extensive.20

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17 Ibid: p.598


19 Al-Nu ʿmān bin Thābit, known as Abū Ḥanīfah (80-150AH), the founder of the Ḥanāfī school of Fiqh. He was born in Kūfah (Iraq) where he got most of his knowledge of Fiqh from Hammad bin Abi Suleyman. He established a new method to infer the legal rules from the legal sources. His writings include: Al-Fiqh al-Akbar, al-Musnad (collected by his students); al-Makharīj Fī al-Fiqh. See Tarīkh Baghdad (13/323-423)

2.3 Feasibility of certainty in the legal thought:

The classical writings of *Fiqh* did not seem to have favored using the term *yaqin* (certainty), for the scope of certainty in the juristic inference tends to shrink rather than getting expanded. The quest for a legal a rule has always been an attempt to unveil the intention of *Shari‘ah* towards the subject matter that the jurist is dealing with. In so doing, the jurist is dealing with divine sources as well as sources that he himself has formulated according to the divine sources. The jurist is duty bound to establish rules that unveil the intention of *Shari‘ah* in the most accurate way as he is not allowed apply a modest *Ijtiham*. This is because his responsibility is both crucial and dangerous. Crucial because he is bound to establish rules that aim to establish the *Shari‘ah* itself, especially when the issue with which he is dealing lacks an explicit text, thus urging him to apply *Ijtiham*. His responsibility is equally dangerous as he may not be qualified to exercise *Ijtiham*, thus leading to the veiling of the legal rules instead of unveiling them. In both cases, the jurist is exerting his utmost effort to achieve his goal, thinking that the legal rule that he has just established is the most authentic one.

Although the overwhelming majority of jurists would consider the rules they have established far from absolute certainty, they are usually resolute and unwilling to change the views they have arrived at. This attitude reveals that the majority of jurists were in quest of certainty but not an absolute one. The latter is not achievable for the following reasons:

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21 I have chosen the word *certainty* to refer to the Arabic term *yaqin* as the former is the most accurate translation for the latter.
i) The nature of Shaykh ‘ah:

The universal injunctions laid down by Qur’ān are so general that their meanings cannot be confined to one interpretation only.

b) The intellectual ability of human being:

Allah (S.W.T) declared that people are not alike in their potentialities. Hence, human being’s success in the earth depends on how much he is able to take advantage of what has been bestowed upon him by Allah (S.W.T).

ii) Social circumstances:

It is quite obvious that human circumstances are so changeable that one cannot stick to a single opinion that appears to fall short of meeting the new emerging needs of people.

The foregoing reasons led the bulk of Muslim scholars believe that worship (‘Ibādah), in its general meaning and practice, rests on speculative ground rather than a definitive one. The former is the cornerstone of Ijtihād that was declared the third source of Shari‘ah after Qur’ān and Sunnah. The Ḥadīth of Mu‘ādh upon his appointment to Yemen as a governor bears the meaning of the point under discussion Nevertheless, the term yaqīn appeared in a number of Fiqhī issues, namely the juristic maxims 22 (Al-Qawā‘id al-Fiqhīyyah). The first pioneers who propounded these maxims

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22 The juristic maxims are a set of general rules that gather under their folds a number of juristic issues. Each maxim gathers issues of similar theme. See Dr. Ahmād al-Zarrqā’, Sharḥ al-Qawā‘id al-Fiqhīyyah, (Bērūt: dār al-Gharb al-Islāmī, n.d), p.35
like Abū Tahir al-Dabbās and Ibn Nujaym23 of the Ḥanafi school; then Aḥmad al-
Mirwāzī24, Ibn al-Subkī25 and Al-Suyūṭī of the Shāfi‘i school; then Shihāb al-Dīn al-
Qarānī26 and Al-Baḍūrī27 of the Mālikī school and Ibn Rajab (790 A.H.), of the Ḥanbalī
school, all maintained that the rules of fiqh refer to at least four maxims, one of which is
"Al-Yaqīn Lā yażūlu bi-Shakk", “certainty can not be abolished by mere scepticism or
speculation”.28 This maxim, as Al-Suyūṭī29 held, makes it presence in the entire body of
Fiqh and the issues derived thereof constitute 3/4 of the entire Fiqh.30

23 Zayn al-ʿAbidin bin Ḥbrāhim bin Muḥammad, well known as Ibn Nujaym (d.970). He was a leading jurist
in Basrah (Iraq) advocating the Ḥanafi school of Fiqh. He authored outstanding books like: al-Ashbāḥ wa al-
Naẓā‘ ir; Sharḥ al-Manār wa lubb al-Uṣūl and al-Fatāwah al-Zayniyyah .
24 Aḥmad bin Bishr bin ʿAmīr al-Mirwāzī (d.326A.H). His teachers would include Abū Ishaq al-Mirwāzī
and his students would include Abū Ḥayyān al-Tawhīdī. He excelled in both Fiqh and Uṣūl al-Fiqh and his
writings would include: Sharḥ Mukhtāsr al-Muṣnī; Al-Jāmi` Fi Fiqh al-Shāfi‘iyyah; al-Iṣḥārāf “Alā al-
Uṣūl.
25 ‘Abd al-Wahhāb bin ‘Alī al-Subkī al-Shāfi‘ī (727-771A.H). He was born in Egypt then moved to
Damascus where he assumed the post of Qāṭī al-Qudāh (the judge of all judges). He authored many
Books, namely, Sharḥ Minḥāj al-Bayāḏwī; Jam’ al-Jawāmi` Fi Uṣūl al-Fiqh .
26 Aḥmad bin Idris bin ‘Abd al-Rahmān al-Ṣanḥājī (in reference to Ṣanḥājah, a Berber tribe in North Africa)
(d.684A.H). He was born in Egypt where he was the master of the Mālikī Mazhab. His writings would
include: Kitāb al-Taṣawwuf Fi Uṣūl al-Fiqh; Kitāb al-Dhakhīrah Fi al-Fiqh and Anwār al-Burūq Fi Anwār al-
Furūq. See al-A ‘lām (1/56)
27 Muḥammad bin Ḥbrāhim al-Baqūrī (707A.H), born in Andalus (Spain) and died in Morocco. He was a
leading Mālikī jurist who excelled in Uṣūl al-Fiqh. He authored Mukhtasār Furūq al-Qarāfī Fi al-Uṣūl and
Iknāl al-Ikmāl. See al-A ‘lām of al-Zarkalī.(1/78)
28 The rest are:
- Al-Umāru bi Maṣṣāṣiḍiḥā
- Al-Maṣḥaqqah taṭlību al-Taṣṣīr.
- Al-Adhah Muḥakkamah.
29 ‘Abd al-Rahmān bin Abī Bakr, known as Jālāl al-Dīn al-Ṣuṣyūṭī (849-911A.H). He was born and grew up
in Egypt. At a time, he secluded himself to a place where he wrote most of his 600 books, after which he
died. Some of his books include: Al-Iṣqān Fi ‘Ulūm al-Qur‘ān; al-Ashbāḥ wa al-Naẓā‘ ir; Tāriḵ al-
Khulafa`. See al-A ‘lām of al-Zarkalī (1/26)
While discussing this maxim, al-Suyūṭī brought a number of Fiqhi issues to clarify the meaning of Yaqīn. He maintained that the evidence underlying certainty in Islamic jurisprudence is found in a number of Ahadīth. He cited a few of them like the one reported on the authority of Abū Said al-Khudharī that the Prophet(S.A.W) said:

"If anyone of you starts having doubt over his prayer, getting confused how may (Raka'ah) he prayed, three or four, (must) throw doubt, and pursue his prayer based on what he is certain of")31.

Al-Tirmidhī reported on the authority of 'Abd al-Raḥmān ibn 'Auf saying: I heard the Prophet saying:

"If anyone of you forgets as to whether he prayed one (Raka'ah) or two, he (must) continue his prayer based on one (Raka'ah) and if he is not certain whether he prayed two or three (Raka'ah) he (must) continue his prayer based on two (Raka'ah)...."32

The foregoing two Aḥādīth lay down the foundation of the exact meaning of certainty in Islamic jurisprudence. The following elements are drawn from the above-cited Aḥādīth:

31 Muslim, ḫadīth No888 in Mawsu 'at al-Ḥadīth al-Sharīf (Kuwayt: Mu'assasat Sakhr, 1992-1996), the electronic version, Version 1.1. It has also been reported by al-Tirmidhī, No 362; Abu Daūd, No 864-866; Ibn Mājah, No 1194; Ahmad No 10660; Mālik No 198 and al-Dārīmī No 1457.
32 Ibid.
a) Certainty based on mere feeling
b) Certainty based on mere intuition
c) Certainty based on sense perception
d) Certainty based on pure reason

To go deeper into the situation of the person who got confused about the exact number of the Raka‘ah he prayed, we mostly assume the existence of a relationship between certainty and the elements mentioned in a, b, c and d. To clarify this point, we would analyse a number of cases:

Case 1: Getting certain by mere feeling

If we look deeply into the two Prophetic Aḥādīth mentioned earlier, we find that the Prophet(S.A.W) is not building the concept of certainty on mere feeling. This notion is well substantiated by the Prophet (S.A.W) when he kept mentioning the number of (Raka‘īt). For differentiating between 1 and 2, or 2 and 3 does not rest on mere feeling, otherwise human subjectivity would be the sole criterion of certainty. Besides, human mood shapes, to some extent, his feeling and leads him to come up with fluctuated views.

Case 2: Getting certain by mere intuition
Intuition belongs to the esoteric side of human being. It reveals a number of sentiments that human being usually does not know from where they are originated. That is because virtual reality, which brings about certainty must not be subjected to sudden sentiments whose synthesis cannot be easily conceived and perceived.

It is worth mentioning that certainty can emerge from the inner side of human being, a matter that will be discussed later.

**Case 3:** Getting certain by sense perception

It is here where the Prophet (S.A.W) introduces a new concept of certainty in the legal field. For getting certain of the exact number of *Raka 'at* prayed by a person cannot be subjected to any experiment through which our senses play a major role to attain certainty. Rather, the person engaged in prayer must fully rely on his memory and the corresponding feelings to know how many (*Raka 'āt*) he prayed. In other words, he must start from a prior data and feelings stored in his person, something happened in the past and waiting to be confirmed in the present, whereas attaining certainty through experiment requires that the person must start from existing data in the present waiting to be confirmed in the future. It follows that certainty in the legal field can be attained even when sense perception is out of consideration.
However, the Prophet (S.A.W) had clearly adopted sense perception as a decisive tool to attain certainty. In an exclusive hadith related to al-Imām Aḥmad, the Prophet (S.A.W) held:

"If Satan would cast doubt on one of you as to whether your ablution has been invalidated while in prayer, he should address himself and tell Satan: 'you are a liar', except that when he hears a sound with his ears or smells a stench with his nose..."\(^{33}\)

In a related hadith reported by al-Imām al-Tirmidhī, ‘Abd Allah ibn al-Mubārak suggested an additional criterion of certainty as far as the validity of ablution in prayer is concerned. He puts it as follows:

"If someone has some doubts over the validity of his ablution, he is not required to repeat it until he gets completely certain that his ablution has been invalidated to the extent that he can swear by Allah that he is not in a state of ablution"\(^{34}\).

Undoubtedly, invoking the name of Allah is of course always accompanied by a strong conviction in relation to the issue sworn on. Otherwise, one would find it repugnant to the purity of faith if the name of Allah were invoked on a doubtful thing.

\(^{33}\) Ahmad, ḥadīth No 10893

\(^{34}\) Al-Tirmidhī, Sunan al-Tirmidhī, ḥadīth No 70, in Kitāb al-Ṭahārah.
Another criterion suggested by Ibn Mājah’s Sunan. Quoting the same hadīth pertaining to the missing Raka ‘at in prayer, there was an additional part that reads:

“He (the one who is sceptic on the exact number of Raka‘at he prayed or missed) should build upon the least number of Raka‘at he believes he already prayed, then he should proceed until he gets sceptic on the additional Raka ‘at 35 he may have prayed (Hatta yakūna al-Wahmu fī al-Ziyādah)”

This method aims at removing Shakk (scepticism) with another type of Shakk. It is a negation within a negation that would produce a positive conclusion, a method widely used in logical inferences to produce positive propositions.

**Case 4:** Getting certain by pure reason

Is reason able to produce certain knowledge?

Looking into the universe, we find ourselves before a huge amount of notions that we know as well as unlimited scope of notions that are beyond our cognitive abilities. Reason proved to have failed to understand what can be perceived by the senses, let alone

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35 Ibn Mājah, *Sunan ibn Mājah*, hadīth No 1199
what cannot be seen and conceived. This great shortage of reason marks the beginning of a new source of truth i.e., revelation, or the issues known through a revealed text.

Hence, certainty cannot be attained by mere reason, particularly when the latter deals with particulars that are treated individually without having a prior comprehensive view towards the issues being treated. Besides, a lot of exoteric and esoteric elements play a major role to affect the objectivity of human reasoning, thus making the human thinking biased and controlled by inner desires, emotions, which later turn into the breeding ground for human subjective reasoning.

The foregoing analysis, helps understand the meaning of certainty mentioned in both *Ahādīth* of Abū Sa‘īd al-Khudhārī and ‘Abd al-Rahmān ibn ‘Auf. If reason is the sole criterion of certainty, the person who found himself missing some *Raka‘āt* in prayer without knowing how many, would resort to unfounded facts that he himself is unable to prove their rationality. All what reason can do is to go back to the memory and remember the least number of *Raka‘āt* already prayed and continue prayer accordingly. Reason, in this respect, confirms an assumption but does not justify it, for justification requires facts and pieces of evidence, a matter that is beyond reach in our present case.

Consequently, the general outcome of the foregoing analysis uncovers some aspects of certainty in the legal field, which are the following:
Certainty is the outcome of a process moving from assumptions to facts.

Feeling, intuition, sense perception and reason work together to yield certainty in the legal field.

Certainty can be achieved when a major component like sense perception appears to be irrelevant, depending on the issue being treated.

Al-Imām al-Shāfi‘ī and the hierarchy of cognition:

The essential foundations underlying the concept of certainty can be traced back to al-Imām al-Shāfi‘ī (204 A.H.). He distinguished between three types of propositions:

Certainty (Qāṭ‘); a highly preferable speculation (Al-Zann al-Ghālib); mere speculation (Zann). 36

a) Certainty (Qāṭ‘):

While discussing the issue of confession (Iqrār) in the Islamic law of evidence, Al-Shāfi‘ī held that “the basis upon which confession stands refers to my discretion to

36Al-Suyūṭī, al-Asbahān wa al-Naẓā‘ir, 54
uphold certainty and discard scepticism and neglect al-Ghalabah". Accordingly, confession amounts to certainty that ignores any type of speculation. This is what led jurists, Muslims or non-Muslims, to believe that confession is the strongest conclusive evidence in any legal system, be it divine or secular.

But the arising question is that does this certainty amount to absolute truth? In other words, can the conclusion, which we believe to be certain, be entirely abolished or at least a part thereof?

To answer this question we must differentiate between the disciplines and the subject matter to which certainty is applicable. For, certainty in the applied sciences tends to be more exact due to the consistency and coherence existing among its components whereas certainty in the Human Sciences seems to be manipulated by the complexities underlying its structure, while certainty in the legal field combines a number of elements of which religion is one. But how can religion give birth to certain knowledge while religion itself needs first to be proved certain? This is at least what Qurʾān directs people to do before they are convinced of its divinity and authenticity.

Again, reason emerges as a catalyst to confirm the definitive reality of Qurʾān whose legitimacy is beyond doubt. But the focal question pertaining to this analysis is that how can a limited means like reason with all its shortcomings grasp and prove the

\[37\] Ibid, p.53
authoritativeness of an absolute and definitive reality like Qur'ān? How does the finite confirm the certainty of the infinite?

These series of questions that we have raised converge with one fact that a highly preferable speculation (Al-Zann al-Qawiyy) is what really counts in the legal field. Exerting the utmost effort is exactly what counts to reach what is deemed to be true. Al-Shāfi‘ī brought to the fore this notion by holding that:

“A person is bound by his confession when it amounts to certainty or a highly preferable speculation” but not when it amounts to mere speculation.38

However, al-Suyūṭī distinguished between a confession amounting to yaqīn (certainty) and a confession amounting to Qāṭ‘ (definitiveness). He stressed that “since confession is contingent on certainty, the latter is predicated only on the linguistic connotation of the term yaqīn, for what is meant by certainty is not Qāṭ‘ (definitiveness).39 This distinction will be clarified later.

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38 Ibid, p.54
39 Ibid, p.55
b) A highly preferable speculation: (*Al-Zann al-Qawiyy*)

This type of speculation tends to go closer to certainty. It is the way through which most of the *Fiqhi* rules were deduced. The level of this type of speculation is resulted from a series of mere speculations. The jurist, in this respect, keeps on detecting the pieces of evidence pertaining to a specific *Fiqhi* issue until a strong conviction is reached. Yet, his effort may fluctuate depending on a number of things:

1. **The availability of the evidence:**

The jurist may not reach a conclusion if the evidence he is looking for does not exist.

2. **The strength of the evidence:**

The jurist's opinion varies according to his ability to grasp the authenticity of the evidence he is using. Failure to distinguish between the various degrees related to the strength of evidence may result in false speculation and hence deducing the wrong rule.

3. **Observing the relevancy of the evidence being used:**

The jurist may fail to adopt a comprehensive approach to tackle the *Fiqhi* issues. Consequently, irrelevant pieces of evidence would be adopted, resulting
in a clear perplexity in the mind of the jurist, let alone the people for whom the rules are deduced.

4. Mechanism of deduction:
This requires a full mastery of the ways and methods pertaining to the derivation of a rule from the legal text. It follows that the more these methods are smartly used, the more the degree of speculation rises to get closer to certainty.

Taking into consideration the foregoing elements, the jurist usually proceeds from a satisfactory mastery of all the relevant disciplines, targeting certainty or a high preferable speculation regarding the *Fiqhi* issue under treatment. But what sparks confusion is the two statements made earlier by al-Shāfi‘ī regarding the highly preferable speculation. In one context, al-Suyūṭī reported on the authority of al-Harawi that al-Shāfi‘ī believes that a person is bound by his confession if a definitive evidence or that resulting from a highly preferable speculation) confirms it.⁴⁰ However, in another context, al-Suyūṭī reported that al-Shāfi‘ī refuses to use *Al-Ghalabah*⁴¹ to consider one’s confession valid, a word that connotes the meaning of the highly preferable evidence.

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⁴⁰ Ibid, p.54
⁴¹ Ibid, p.53
The two statements appear to be contradictory with each other, but the approach chosen by al-Shaf‘ī while dealing with Fiqh proves that he does not neglect “Al-Ghalabah”. While discussing the various types of water which can be used in ablution (Wudu’), al-Shaf‘ī raised the issue of being sceptic regarding the water mixed with filth, an assertion of which a person is not certain if he does not really see the fall of filth in the water he is carrying while on a journey. Al-Shaf‘ī maintains that such water is still clean as long as the person has a strong conviction about its cleanness. Needless to say that this conviction does not overrule the possibility of being wrong when thinking that such water is clean. Similarly, al-Shaf‘ī stresses that:

“If a person has two types of water while in a journey, one of them was touched by filth, then he gets certain about the contamination of one and the purity of the other then he pours the filthy based on Al-Aghlab principle (high preferable speculation), then he [must] make his ablution with the pure one”.

This proves two things:

1. Al-Shaf‘ī believes that Al-Ghālib or Al-Ghalaba is a source of conviction in the Islamic legal system.

43 Ibid.
2. Al-Shāfi‘ī uses *yaqīn* (certainty) and al-Ghālib or al-Aghlab (a high positive speculation) as two synonymous words.

Al-Zarkashī⁴⁴, in his renowned work *Al-Manthūr fī al-Qawā'id* explained what al-Shafī’ī meant by the word ‘*Al-Ghalabah*’. Al-Zarkashī maintains that the word *Ghalabah* is predicated on the metaphoric sense of the word⁴⁵. Thus, al-Shafī‘ī predicates one’s confession on its real sense not on its metaphorical one.

But the structure of the pieces of evidence underlying *Fiqh* demonstrates that *yaqīn* and *Ghālib al-Ẓann* vary in degree. While the former enjoys a high-ranking status of certainty, the latter tends to get closer to the former. Yet, the legal rule enacted from both bears the same authenticity and authoritativeness. That is what Ibn Nujaym has confirmed while saying: “*Al-Ghālib Kal-Mutaḥaqiq*” [the evidence] based on high positive speculation is just like the one based on “certainty”⁴⁶. Furthermore, Ibn Nujaym stresses,

>“Ghālib al-Ẓann is annexed with *yaqīn*, the former is the one upon which the legal rules stand”⁴⁷.

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⁴⁷ Ibid.
The outcome of the above-mentioned discussion stresses that a high positive speculation is a concomitant element in the operation of *Ijtihād*. For the very meaning of *Ijtihād* refers to that kind of effort exerted by the Muslim jurist to unveil the legal rule embodied in *Qurān* and *Sunnah*. Accordingly, the concept of absolute certainty clashes with the very meaning of *Ijtihād*, for the latter may be right or wrong. In case of being right, certainty by no means characterises this type of *Ijtihād*, and in case of being wrong certainty is far from being attained. This notion has been implicated in Al-Āmīdī’s definition of *Zann* (speculation). He held that

"Zann is the preponderance of one of the contrasting propositions (over the other) without *Qat’* (definitiveness)."

This definition indicates that as far as *Zann* (speculation) is concerned, certainty is a recommended goal but not a required one.

Muslim scholars realised that the concept of certainty and speculation as explained in the previous pages is the source of a number of *Fiqhī* (juristic) maxims, and hence a source of the greatest part of *Fiqh*, namely:

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49 ‘Alī bin Aḥī ‘Alī, known as Sayf al-Dīn al-Āmīdī (551-631 A.H). He grew up as a Ḥanbali but later adopted the Shāfi’ī Madhhab. He settled in Damascus and isolated himself to avoid the instability plaguing Syria by that time. He wrote: *Al-Aḥkām Fī Uṣūl al-Aḥkām; Muntahā al-Suwāl Fī al-Uṣūl and Daqāqīq al-Ḥaqāqīq* See *Shadharāt al-Dhahab*, 2/150.
50 Al-Āmīdī, *al-Aḥkām*, Vo2, p.126
* Al-Aṣl Barāʾat al-dhimmah.⁵¹

E.g.: every human being is basically innocent until proven guilty. Thus, single testimony against a suspect is not qualified to ascertain his guilt. This testimony must be supported by other testimonies or valid signs and signifiers. Hence, single speculative evidences can yield certainty if they keep corroborating each other.

* Al-Aṣl fi al-Ashyāʾ al-Ībāḥah⁵² (the basic Aṣl refers to the permissibility of things)

The original status of all things must be born on the principle of permissibility. For permissibility is the definitive aspect which characterises these things. Therefore, any speculative evidence trying to cast doubt on the permissibility of things must be neglected unless it is corroborated by other pieces of evidence and again by valid reasons.

- Al-Aṣl fi al-Abdāʾ al-Tahrīm (The Basic Aṣl of sexual encounters is based on prohibition).

This is a definitive principle as it guarantees the preservation of the human race from destruction. Any speculation therein would lead to a total disorder of the norms of life.

* Al-Aṣl fi al-Kalām al-Ḥaqīqah (The Basic Aṣl of speech is the reality of sense)

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⁵¹ Al-Kāsānī, al- Badāʾiʿ, Vo2, p.206
⁵² Ibn Nujaym, Al-Ashbāh, pp.65-66
The interests of the individual as well as society require that any uttered word must be born first on its real sense. This definitive principle would protect people from speech manipulation.

All the above-mentioned rules refer to the general rule of Istiğhāb in so far as the speculative evidence cannot cast any doubt over the certainty of the originality of things.

Lastly, it is believed that the concepts of certainty and speculation made their presence in the entire body of Fiqh, dragging the bulk of Muslim scholars to dig in the revealed text to unveil the rules of the Islamic legal system. Yet, another element that Muslim jurists and al-Shafi‘i discussed was the mere speculation.

C) Mere speculation (Al-Zann)

It is worth mentioning that lexicographers and Muslim jurists equate between al-Zann al-Qawiyy (Strong positive speculation) and al-Zann (Mere Speculation), despite the factual difference embodied therein. Lexicographers, like al-Fayruzabadi, defined Zann as follows:

"the preponderant vacillation between two convictions without reaching the level of certainty."\textsuperscript{53}

Therefore, Al-Zann al-Qawiyy and al-Zann are of the same meaning when used in the derivation of a legal rule. But which kind of speculation is workable in the legal field?

\textsuperscript{53} Al-Fayruzabadi, Al-Qāmūs al-Muhiti, p.1566.
Muslim jurists believe that *Zann* is of several divisions.⁵⁴

First: Knowledge resulting from undeniable propositions.

E.g.: knowing the existence of one's self.

Second: Knowledge resulting from widely known propositions and this is a knowledge that leans to issues widely known by the masses as true

Third: Knowledge resulting from accepted propositions inculcated in the mind because of a positive interpretation of what one hears from people.

E.g.: Knowing things through *Taqlīd*.

Fourth: Knowledge resulting from a number of factual signifiers (signs) that are vivid to one's sight.

E.g.: knowing that a husband wants to deprive his wife from inheritance by divorcing her shortly before he dies.

The foregoing divisions of *Zann* constitute the ground of all the *Fiqhī* issues that have been so far promulgated, not to mention the legal rules derived from definitive pieces of evidence. Furthermore, these divisions must be *observed* according to the descending order mentioned earlier. That is why self-conceived propositions are given

priority over demonstrative ones; and *Mutawātirāt* are given priority over solitary propositions, and a view based on a clear evidence is given priority over the one based on factual signifiers and the like. Hence, the legal rule varies according to the strength of the speculation affecting its binding force. Al-Juwaynī clarifies this by holding that:

“*If people of a particular era get certain about what must be given as Zakāt, they must do so, but if they hesitate over the object of Zakāt, they must not fact according to hesitation*”\(^{55}\)

### 2.4 Certainty between *Uṣūl al-Dīn* and *Uṣūl al-Fiqh*:

Undoubtedly, the merger between *ʿIlm al-Kalām* and *Uṣūl al-Fiqh* is undeniable. Since the third century of Hijrah, the two sciences came into a formidable contact that contributed greatly to their development. After the seminal work of al-Shāfiʿī, i.e.: Al-Risālah, Muslim theologians embarked upon studying it and even using it when arguing against their opponents. They got attracted to the sound methodology applied by al-Shafiʿī in his *Risālah*. The combination of reason and *Wahy* is the main feature granting *al-Risālah* a balanced pattern of argument. Accordingly, Muslim theologians applied

\(^{54}\) Al-Zarkashi, *Al-Bahr al-Muhīt*, Vol 1, p.76

themselves to it and went one step further to develop its themes and suggest new areas of research.

The major sects of Kalām like Ash'ariyyah, Māturidiyyah and Mu'tazilah are represented by scholars who bound Kalām with Uṣūl al-Fiqh in such a way the latter would boost the former.56 We record scholars like al-Imām Ābū al-Ḥasan al-Ash 'ārī in his book Ḳībat al-Qiyās (confirming Qiyās); Ābū Bakr al-Bāqillānī58 in his book Taqīb wa al-Irsād Fī tarīb Ṭurūq al-Ijtihād (Approaching and Guidance in organizing the modes of Ijtihād); Al-Qaḍī 'Abd al-Jabbār al-Hamadhānī, a Mu'tazilite, in his book Al-'Umād, , all ventured into a formidable merger between Kalām and Uṣūl al-Fiqh.

The foregoing scholar’s writings on Uṣūl were featured by a great deal of accuracy. Coming from a background requiring meticulous argumentation to prove the themes of Tawḥīd, Muslim theologians covered their treatment of the themes of Uṣūl al-Fiqh with the same frame of accuracy. This would prompt a need to assess the way Muslim


57 ‘Āli bin Ismā‘il bin Iṣḥāq, known as al-Ash ‘ārī (260-324A.H). His linage goes back to Abū Mūsā al-Ash- ‘ārī, the famous companion of the Prophet (s.a.w). He was born in Başrā where he first adopted the Mu'tazilites doctrine of belief than later had to quit only to establish his new doctrine which has been widely adopted by the majority of Muslims. He was well known as a theologian but his preoccupation with Uṣūl al-Fiqh was noticeable. His writings include: Ḳībat al-Qiyās; al-Ībānāh ‘Ann Uṣūl al-Diyānah and Maqālāt al-Islāmiyyān. See Ṭabaqāt al-Shaftī iyyah of Ibn al-Subkī (2/245).

58 Muḥammad bin al-Ṭayyib, known as al-Bāqillānī (d.403A.H). He was born in Başrā and settled in Baghdad. He was known as theologian as well as a jurist. He was the leading jurist of the Malikis in Iraq
theologians were targeting certainty in *Uṣūl al-Fiqh*. The comparative study that we are envisaging requires a subtle examination of the methods of inference applied in 'Ilm al-Kalām.

2.4.1 Certainty in 'Ilm al-Kalām:

The science of kalām aims at confirming the oneness of Allah (SWT) through demonstrative propositions. Since the dawn of Islam, scholars representing the Muslim sects indulged themselves in a pattern of argumentation that brought about an edifice of views which subsequently divided the Muslim Ummah into two major bodies, i.e.: *Ahl al-Sunnah wal Jamā‘ah* (the people who take hold to the Prophet’s path) and *Mubtadi‘ah* (people who uphold heresy and tend to neglect the prophet’s path). Yet, among the former, Muslims were divided into three major sects, these are the Ash’arites, the Maturidis and the Mu’tazilites. As far as this division is concerned, these sects took a genuine interest to defend the tenets of Islam from the intellectual threat posed by the Hellenistic philosophy and the Godless doctrine coming from the East. Besides, an immense effort was exerted by Muslim theologians to foil the innovative doctrines and the heretical dogmas that tried to sweep the theological debates in the first and second century after Hijrah.

The intellectual confrontations that took place between Ash’arites and Mutazilites ant the different sects of theology were so tense that all parties used profound reasoning and strongly advocated the Ash ‘arī precepts. His writings include: *Kitāb Sharḥ al-Ibānah; al-Tamhīd Fī Uṣūl al-Fiqh* and *al-Muqaddimāt Fī Uṣūl al-Dīyānāt*. See wafayāt al-Aʾyān of Ibn Khillikān (1/909)
to demolish each other's proofs. This gave birth to a Muslim mind whose machinery of thinking appears to have been very strong in refuting the opponent's views. This distinguished ability was exploited to establish the four major themes of Muslim theology: **Deity, prophecy, universe and metaphysics.** Besides, the confrontation between Muslim theologians and the alien philosophies aiming at destroying the very structure of the Islamic *'Aqidah* enriched the strength of the arguments used by Muslim theologians.

It is worth mentioning that the challenge posed by the enemies of Islam of the first centuries was so obstructing that Muslim theologians were always kept in the defensive lines. The sweeping wave of the stories of the Jews found in the Torah, called in Arabic (*Iṣrāʾīliyāt*), found their way to Islamic theology through a number of fabricated *Aḥadīth* introduced by people like ‘Abd Allah Ibn Sallām (43 A.H.), Wahb Ibn Munabih (114 A.H) and Ka ‘b al-Aḥbār (32 A.H). This is what has been ascertained by Muslim historians like Ibn al-Athīr when saying:

"When the enemies of Islam failed to demolish *Islam* by force, they started fabricating traditions in order to cause sceptic thinking in the mind of the weak people"⁵⁹ who appeared to be the most vulnerable.

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This alien thought gained a great momentum among the masses that were unable to discover the source of such a distortion. This situation brought into existence a lot of fabricated Prophetic reports that describe the essence and the deeds of Allah (SWT) and hence the tenets of similitude (Tashbīḥ) and personalization (Tajsid) and other dogmatic tenets like that of Mahdiyyah (The emergence of Imam al-Mahdi) and Ghaybah (occultation: the temporal disappearance of the twelfth Imām in the Shī‘ah doctrine), all emerged to influence the purity of the Islamic ‘Aqidah.60

Besides, Greek philosophy was so influential on the Muslim mind in the first centuries that many Muslims found it very convincing and sometimes the sole criterion for the truth. This challenge is basically originated from the way the early Christians used to rationalize their beliefs. It follows that a number of doctrines were established like that of Ḥulūl (pantheism) and Fanā’ (annihilation) which subsequently made their presence in the Muslim thought, especially in Sufism. This tragic situation had pushed Muslim theologians to encounter this alien intellectual invasion and protect the tenets of Islam from a genuine threat.

Our major concern, in this respect, is to uncover the rationality and authenticity of the proofs used by theologians to tackle the issues of ‘Aqidah. Having done so, the level of certainty underlying those arguments will be the outcome of our discussion. We will

60 Ibid. p. 91
use this outcome to see whether the certainty embodied in the methods of inference in "Ilm al-Kalām has influenced or shaped the certainty in Uṣūl al-Fiqh.

Methods of inference in the science of Kalām.

It is believed that the spectrum of opinions underlying the science of Kalām rests mainly on logical grounds. For logic, according to Muslim theologians, yields certainty and hence, the opponent would find the evidence confronting him so decisive that he cannot reject it. Now what kind of arguments was used to substantiate the themes of 'Aqīdah?

i) Causality:

It is believed that causes lead to effects and effects result automatically from causes. This observable norm controls every particle and creature in this universe. This logical doctrine led the bulk of Muslim theologians to prove the existence of Allah (S.W.T) by demonstrating that Allah (S.W.T) is the ultimate cause of all causes and effects of this universe. They started by the relationship between Allah (S.W.T) and the universe. The efforts exerted by those theologians tried to confirm the temporal status of the universe and the eternity of the sublime source of creation, i.e.: Allah (S.W.T). Aiming to prove that, the Ash‘arites introduced the doctrine of causality.
It follows that the existence of something is completely dependent on another.\textsuperscript{61} For it is rationally unacceptable to have the existence of something from the realm of non-existence. The alternative view suggested by the opponent is that things keep creating themselves through an unlimited regeneration. Undoubtedly, holding such a view would lead us to an infinite circularity that blocks any breakthrough to reach the truth. The logical evidence used by Muslim theologians lies in demolishing the concept of circularity. This is done by using demonstrative proofs like that of Atomism.\textsuperscript{62}

The Doctrine of Atomism establishes automatically the very concept of cause and effect (causality). For the first atom is the cause of all objects appearing afterwards, and since this universal norm applies unreservedly to the first atom itself, then it must have come into existence by effect of an ultimate cause. The rationality of this evidence lies in the impossibility of having things created from ‘non-existence’ and yet they enjoy self-existence. Even ‘non-existence’, must have a starting point in order to be called non-existence. Ultimately, we find ourselves in front of two propositions that reason must admit true, i.e. things that are of possible existence\textsuperscript{63} and those of necessary existence\textsuperscript{64}.

\textsuperscript{61} Al-Juwaynī, \textit{Al-Shāmil fī Usūl al-Dīn}, Ed. Dr. 'Alī Sāmī al-Nashār (Alaxiendria; Dārul Ma 'ārif, 1970), p. 143.
\textsuperscript{62} Dr. Mohd Said Ramadān Al-Bū, \textit{Kubrā al-Yaqīniyyāt al-Kawnīyāh}, 2\textsuperscript{nd} edn. (Beirut; Dār al-Fikr, n.d), p. 84.
\textsuperscript{63} These are the things whose existence depends entirely on a cause such as the universe. The latter existed only when Allah (S.W.T) brought it into existence.
\textsuperscript{64} This is a being who fully enjoys self-existence and Does not need a cause to bring him into existence as He is the first cause, i.e. Allah (S.W.T).
The former is featured by the possibility to exist or otherwise such as the universe. The latter is featured by self-existence and by no means needs a source to bring it into existence, for it is the source of existence itself. This source is the necessary being that reason finds itself fully submissive to its existence. It is through this submission that an inevitable conclusion is exclusively drawn; it is the fact that this universe is created and hence not eternal, and the source of this creation is called Allah (S.W.T). In other words, the cause is Allah (S.W.T) and the effect is the universe.

However, the theory of causality, as established by Muslim theologians, underwent a number of criticisms by prominent scholars like al-Imam al-Ghazali. The latter does not see any necessary connection between cause and effect. He maintained that:

"The connection between what is believed to be the cause and what is believed to be the effect is not necessary... for it is possible for a person to feel full without eating, and to have death without killing and to have life without killing and the like."

The explanation given by al-Ghazali to this notion seems to be convincing but threatening in the same time. He justified his opinion by Saying: "the connection

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between cause and effect is made by a pre-destined command made by Allah (SWT) and not because of a self-necessary connection..." The plausibility of this statement is that Allah (S.W.T) is the ultimate cause of all effects, and not even one small particle moving in this universe can escape his commands and will. Thus, the cause does not produce its effect if Allah’s command is not given.

Here we have three things: Cause, effect and Allah (S.W.T) and in the same time we have two major propositions portrayed in the following figures:

Fig 1

Fig 2

Ibid: p. 254
In the first figure, the relationship between cause and effect is fully contingent on the intervention of the third element that is Allah (S.W.T). But in the second figure, the third element Allah (S.W.T) needs to be proven first before we proceed to find the connection between cause and effect. It follows that the justification of al-Ghazālī with regard to cause and effect is not rational in the eye of someone who does not believe in Allah (S.W.T) in principle. To rationalize the argument from the point of view of certainty, we must introduce a third figure that takes into account the rationality of all components constituting the relationship between cause and effect.

The ultimate Cause

Cause

Effect

Fig. 3

The foregoing figure takes into account the rational evidence linking cause with effect. The ultimate cause or the original cause of all causes in this universe is the one that the opponent would ultimately admit its existence and would automatically believe
that it is the connecting link between all the causes and effects existing in this universe. If the opponent does not believe in the first cause, his argument is irrational and irrelevant, for he is denying the simplest principles of reasoning.

But al-Ashʿarī, the one who laid down the science of Kalām, stresses the existence of the necessary connection existing between cause and effect. While proving the existence of Allah (SWT) Ibn Ḥazm referred in his Milal to Al-Ashʿarī’s argument:

"If human being thinks of the origin of his creation and how he grew through the stages of creation, stage by stage until he reached the completion of his creation and then he knew for certain that he is unable to create himself... he necessarily knew that he has a creator who is all knowing, most powerful..." ⁶⁷

Al-Ashʿarī, in this respect, is linking between human being as an effect, and Allah (S.W.T) as the cause of this effect. It follows that if this necessary connection does really exist between Allah and human being then it must exist between two created objects, and this is, in my opinion, the way the Ashʿarites justify the necessary connection existing between causes and effects. Consequently, the element of necessity is the one that features causality as certain evidence.


This is one of the most conclusive pieces of evidence adopted by Muslim theologians to prove the existence of God and the provisional status of the world. Abū al-Hudhayl al-ʿAllāf (235 A.H.) one of the founding members of Muʿtazilites, was the first theologian who addressed Atomism in the science of Kalām. The rest of the theologians who used it in their inferential methods later adopted it. It consisted of four major principles:

1. Things are either Jawāhir (essences) or Aʿrād (accidents):

This doctrine is built on the fact that every existing being is either of necessary existence or possible existence. The latter is either Jawhar (atomic essence) or ʿAraq (accident).68 Al-Jawhar is the source of existence of every being located in a physical space. Every substance, if kept continuously divided and split, would end up in a unique small object called Atom. The latter is an indivisible particle and serves as the first component of any creature. Despite the clarity of this principle, theologians like al-Juwaynī, stressed that the Jawhar (Atom) is the substance that does not need a space

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whereas al-‘Araḍ does. This notion was rejected by the rest of theologians who reiterated that the only one who is not in need of space to exist is Allah (S.W.T).

2. *Araḍ* do not last within two times:

*Al-Araḍ*, according to Ashʿarists are “the things whose existence must not remain, and they are the things that get annexed with *Jawāhir* (the original atomic substances) and perish in case they tend to exist for the second time”

3. Every *Jawhar* is annexed with its *Araḍ*:

Every *Jawhar* must have a *Araḍ* (attribute) that features its structure. Therefore, if the *Jawhar* is alive then death is away from it, and vice versa; and if it is tall then shortness is away from it and vice versa.

**Criticism of the theory of Atomism as portrayed by Muslim Theologians**

Undoubtedly, the basic foundation underlying the very structure of Atomism rests on rational grounds. Despite this distinguished feature, little has been done to employ its validity to prove the existence of Allah (S.W.T). This is because of the following reasons:

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1. Except for the first component of the theory of Atomism, i.e.: things are either Jawahir or A’raḍ, the rest of the components appear to be of philosophical nature that do not help much to prove the existence of Allah (S.W.T).

Yet, the concept of the indivisible Atom (Jawhar al-Fard) has entered a new era where the Atom was split, marking a new age for the philosophy of Atomism. This shows that Muslim theologians engaged in more theoretical discussion than in experimental ones.

2. The redundancy of some components:

It appears to the observer that certain components like the annexation of A’raḍ with Jawahir is no more that a rational postulate which does not require a separate reference. For if we talk about a Jawhar, we are automatically talking about some of its features. Such statements constitute a priori in the mind of the speaker. That is to say that some intellectual principles already exist in our minds and are indirectly implicated in what we utter and speak. Any theorization of the self-existing principles would render the whole discussion redundant.

3. Projectability of the theory:

While discussing the theory of Atomism, Muslim theologians failed to project its aspects on the main issues pertaining to the science of Kalām, that is the issue of proving the existence of Allah (S.W.T). We observe that the components of Atomism deal with
the Atom and its features. In other words, these components deal with the Atom after it existed and not before its existence. Whereas, the ultimate goal of the theory of Atomism must focus on the first Atom and how it was brought into existence and where was it before it existed?

Needless to say that this does not mean that Muslim theologians neglected the discussion of the creation of the first Atom. The only shortcoming, however, is that when the theory of atomism was first propounded, it appears to have been shaped based on philosophical grounds. That is why the discussions held by Muslim theologians in this respect tackled unnecessary issues like the relationship between self, reason and al-Jawhar al-Fard. We find some theologians say that self and reason are attached to every atom of human being. While others maintained that they are attached to human body in its entirety, others held that self is annexed with only one Atom of the human body. As for life, the Ash'arites maintained that it is possible for life to exist in the Atom, while the Mu'tazilities held that life does need a body to exist, for it is void for the Atom to contain life,\(^{71}\) and so on and so forth of issues which appear to be of no avail.

4. The applicability of Atomism on the essence of God:

Since the Ash'arites believe that Allah (S.W.T) is Shay' (something),\textsuperscript{72} and everything is either jawhar or 'Araq, therefore, the applicability of the theory of Atomism on Allah (SWT) as a source of every thing in this universe would bring about disastrous corollaries. This is to say, the way theologians discuss the cause of all causes in the physical world is more or less similar to the way they discuss the same notion in reference to Allah (SWT). That is why some scholars like Ibn Rushd maintained that the theory of Atomism is ambiguous and not demonstrative as far as the relationship between Atom and its attributes is concerned. He held that the Ash'arites failed to realize that Atomism, as explained by them, requires that something temporal is created by an eternal creator, then the former shares eternity with the latter. For, according to Ash'arites, whatever is annexed with the temporal must be temporal too.\textsuperscript{73} This is against the basic principles of Muslim theology.

5. The inadequacy of the concept of the Atom location:

Muslim theologians believe in vacuity (Khalā') as a place accommodating all atoms. Prior to the formation of any object, these atoms gather together in a harmonious and compatible way that leads to the formation of an object located in a physical space.\textsuperscript{74}

\textsuperscript{72} Al-Ash 'arī Abūl Ḥasan, \textit{Al-Ibānah 'An Uṣūl al-Dīyānah}, Ed. Bashir Muhammad 'Uyūn, 4\textsuperscript{th} edn, (Syria: Maktabat Dārul Bayān, 1993), p. 18.

\textsuperscript{73} Abū al-Walīd Muḥammad Ibn Rushd, \textit{Al-Kashf 'An Manāhīj al-Adillah Fī 'Aqā'id al-Millah}, 2\textsuperscript{nd} edn. (Egypt: Al-Maṭba'ah al-Jamāliyyah, 1910), p. 33

The idea is that, the atom can lead to the formation of an object located in a space, and yet the atom itself is not located in any space. This is justified by the fact that if the Atom is located in a space, then this space turns into Jawhar (Atom), and this would lead to an infinite circularity.

This argument, to my opinion, is not potent. For the concept of space as discussed by theologians appears to be more apologetic than demonstrative. I would say that every atom does have space within which it is contained. This space itself is the source of every space originated form the atoms that gather to form an object. This would lead us to establish the concept of the indivisible unit of space that represents by itself the atomic space for all spaces that exist or might exist. This atomic space is so smooth and transparent that it does not obstruct other atoms to form the object waiting to be formed. Besides, I would uphold the same argument regarding time and its indivisible atom.

III) Analogy (Qiyās al-Ghā’ib ‘Ala al-Shāhid)

Almost all Muslim theologians tackling issues like the relationship between God’s essence and His attributes patronized the proof of analogy. This stand is supported by the remarkable repetition of the word I’tibār (commitment by external comparison) mentioned in a number of verses in the Holy Qur‘an. It was viewed as the “consideration
of something based on another and extending the rule of the former to the latter. According to Ibn Rushd, there are some verses considered as conclusive pieces of evidence on the obligation of applying *Qiyās* (Analogy) to establish certain dogmatic principles. Verses like:

"Take warning, then, O ye with eyes (to see)" (59:2)

And

"Do they see nothing in the government of the heavens and the earth and all that Allah hath created?" (7:185)

Muslim theologians do not prefer using the term Analogy (*Qiyās*) and they use the statement "Al-Istidlāl bi al-Shāhid 'Alā al-Ghā'ib" (measuring the absent according to the present) instead. For, there are epistemological and ideological considerations that prevent such a usage. This is mainly due to the order pertaining to the line of argument existing in *Qiyās* if used in 'Aqīḍah. If *Asl* is the present case (Shāhid) and *Far* (is the absent) case (Ghā'ib), then this would result in a dogmatic predicament that makes Allah the Far* and His creatures the *Asl*. But the statement "Al-Istidlāl bi al-Shāhid 'Alā al-Ghā'ib" would certainly escape this dogmatic standoff.

Muslim theologians, identified five types of analogy, each is in reference to a thing linking the *Fa*’ (the unprecedented case) with the *Asl* (the original case). This link


could be ‘illah (effective cause), sharṭ (condition), ḍalīl (proof), ḥadd (Definition) and ḥaqiqah (the reliable truth). But the most commonly used link between Asl and Far is ‘illah.

The Ash‘arites used this type of Analogy to address the issue of the essence of Allah and the nature of His attributes. Two trends of theologians, namely the Attributists (ṣiṣṭāniyyah) and Mu‘tazilites influenced greatly the debate held with regard to the Attributes of Allah. While the former stress the physical nature of Allah’s attributes, the latter ascertain that Allah’s Attributes are integral parts of His essence and that He does not possess any attribute a part from His essence. The Ash‘arites maintained the medium position by stressing that the attributes of Allah are unique and fundamentally different from those of the created beings, and as such should not be compared to them. On the other hand, and in response to Mu‘tazilites, they held that “Allah has attributes which inhere eternally in Him and are in addition to His essence.”

The Ash‘arites used analogy to substantiate their argument. They held that Allah’s actions prove that He is knowing, powerful, and willing; so they also prove that He possesses knowledge, power, will, etc. because the ground of inference cannot differ in

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different things. What is true in the case of a created being must also be true in the case of the Divine being.\textsuperscript{80} In the case of human being, by “knowing” we mean one who possesses knowledge and even common sense and draws a line of demarcation between an essence and its attributes. On the same analogy, distinction must be drawn between the essence of God and His attributes, and this is where the analogical reasoning lies. Despite the clarity of this type of analogy, it was sharply criticized and classified as non-demonstrative. For what is true of a finite being need not necessarily be true of an infinite being.\textsuperscript{81}

Scholars like al-Baqillani and al-Juwayni endeavoured to apply Qiṣṣās to confirm the seven attributes of Allah (S.W.T); these are knowledge, life, power, will, hearing, seeing, having speech. Al-Baṣqillānī held that if an attribute is confirmed to the present being (Shāhid), then it must be extended to an absent being (Ghāʾib). Hence, if somebody in this present world enjoys the attribute of knowledge, then the latter must be extended to any absent being.\textsuperscript{82} That is to say that if the attribute of knowledge is an evidence that somebody is knowledgeable, then this rule must also apply to the absent being (Ghāʾib).\textsuperscript{83} We can summarize the argument advanced by Muslim theologians in the following syllogistic form:

\textsuperscript{80} Al-Shahrastānī, \textit{Al-Milal wa al-Nihal}, p. 51.
\textsuperscript{81} M.M. Sharif, \textit{History of Muslim Philosophy}, Vol., p. 228
\textsuperscript{82} Al-Baqillānī, \textit{Al-Tawḥīd}, p.11
\textsuperscript{83} Al-Juwaynī, \textit{Al-Burḥān Fī Uṣūl al-Fiqh}, 1/23
- Human being (Shāhid) is a being having knowledge
- God (Ghā'ib) is a Being

== God has knowledge

How far this type of Qiyyās is certain?

The major challenge that Muslim theologians had to face was the certainty of the proofs used to substantiate the grand themes of 'Aqīdah. For speculative proofs are fully neglected to substantiate dogmatic issues that require definitive proofs.

Al-Istidlāl bi al-Shāhid 'Alā Al-Ghā'ib (Analogy in the science of Kalām), according to some scholars like al-Ghazālī, is not demonstrative and hence, does not lead to certainty. This is because of the shortcomings underlying Qiyyās, making its premises ambiguous and its form vague. We would record the following inadequacies:

1. Language deficiency:
Reviewing the pattern of argument used by the patrons of *Qiyās*, we can easily observe that language determines, to some extent, the degree of certainty sought to substantiate the argument. Al-Ghazālī observed,

"If you deeply observe (the types of arguments) used by Muslim theologians, you will get certain that most of the fallacies are originated from the exaggerated way to extract the meanings from the pure texts..."  

It follows that "knowledge is the cause for a person to be knowledgeable", as maintained by Muslim theologians in reference to the definition of `illah (cause), becomes absurd and an unfounded argument. For the word knowledge (`Ilm) cannot be derived from the word knowledgeable (`Ālim), as both `Ilm and `Ālim denote the same connotation. Accordingly, what Muslim theologians held that "knowledge is the cause for a person to be knowledgeable (`Alim), thus Allah is knowledgeable by Knowledge", is redundant and does not refer to any causal relationship.

This conclusion is very crucial to assess the methods of inference used by Muslim theologians. For *Ta’līl* (law of causation) is the backbone of the science of *Kalam*, and the conclusion reached in our previous discussion would completely demolish the theory of causation in the science of *Kalām*.

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85 Ibid: p. 151
2. **The speculative structure of the cause (‘illah).**

(‘Illah) in both disciplines (science of Kalam and the science of Uṣūl al-Fiqh) has to be extracted and confirmed clear, constant and transient. This requires a deep scrutiny of the available attributes from which the appropriate one is to be realized. Hence, in the field of ‘Aqīdah, one cannot ascertain that such an attribute is the real cause of certain dogmatic rules. The affirmation of the real cause rests primarily on speculative grounds and thereby the authenticity of Qiyās becomes speculative too.

3. **The unsettled components of the structure of Qiyas:**

The premises used in Qiyās appear to have an unsettled position. Theologians exposed the form of Qiyās pertaining to the attributes of Allah (S.W.T) in the following way:

| (Shāhid) | Human being has knowledge therefore he is Knowledgeable | [1\textsuperscript{st} premise.] |
| (Ghā’ib) | God has Knowledge | [2\textsuperscript{nd} premise] |

| | God is knowledgeable | [Conclusion] |

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This analogy prompts us to realize the following things:

1. **The first premise:**
   - The type of knowledge that human beings enjoy is not determined. For human knowledge varies in degree and is subject to increase and decrease. If human being is in a state of a shallow knowledge then it would be improper, from the dogmatic point of view, to apply Qiyās in the way suggested by Muslim theologians. Obviously, the conclusion of this Qiyās would make Allah (S.W.T)'s knowledge shallow too.
   
   - And if human knowledge is in a state of increase, then this does not overrule the possibility of having this knowledge decreased. And here we find ourselves making analogy between relative knowledge and absolute knowledge. In other words, the different entities of knowledge that both Allah (S.W.T) and human being enjoy would prevent this Qiyās to work out. For the most crucial prerequisite for Qiyās to have a subtle conclusion is that the two entities representing the premises of Qiyās are bound by similitude connections that justify the analogical processes. And since the sublime and transcendental entity of Allah (S.W.T) is completely different from that of human being, any analogy drawn between the two becomes implausible.

   - Human knowledge is of two categories: Gifted knowledge and acquired knowledge. The former is imparted into ourselves by Allah (S.W.T) such as knowing that we exist, 2 is bigger than 1 and justice is better than oppression. For the natural disposition of human being teaches him this necessary knowledge
without his direct realization. The latter must be acquired through an ongoing
devour to unveil what we do not know.

Now if we affirm that the gifted knowledge is originated from a divine source,
that is Allah (SWT), then the use of *Qiyas* to prove that Allah (SWT) has knowledge
would become redundant. Besides, it would lead to an infinite circularity presented in the
following figure:

![Diagram showing Human knowledge and Allah's Knowledge](image)

**Fig. 4**

It means whenever we need to prove that Allah (S.W.T) is knowledgeable, we
need to prove it by resorting to human knowledge; and whenever we need to prove that
human being is knowledgeable, we need to resort to Allah (S.W.T) as the ultimate source
of knowledge, and this is indeed a circularity which causes a serious impediment to
*Qiyas*.

2. The second premise: “God has knowledge”
It is believed that the premises of Qiyāṣ need to be proven true before they can be used to draw a conclusion thereof. Thus, proving that Allah (S.W.T) has knowledge would render the whole process of Qiyāṣ futile. For the conclusion that we want to reach, that is Allah is knowledgeable, is already contained in the premise ‘Allah (S.W.T) has knowledge’.

d) Classification and annulment (Al-Sabr wa al-Taqṣīm)

Early theologians used this method as a way to confirm the ‘Ilm (cause) in rational analogies. The theologian assumes a number of possible rational propositions, and then each possibility is individually tackled for consideration or cancellation purposes. This process of negation would continue till the most appropriate possibility is selected.

This method is divided into two:

- Unrestricted:

  This is when the number of possibilities is not limited. For if we say: “if something can be seen, then we can see it”, then the reasons preventing seeing something could be farness, extreme nearness, vision obstruction and so on. That is why this type of reasoning is not conducive to certainty.

- Restricted:

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67 Al-Juwaynī, *Al-Burhān*, Vo 1, p. 22
This type leads to certainty, for the possibilities are only two, the negation of one would result in the consideration of the other.\textsuperscript{88}

The researcher would maintain that the second way is also disputable, for what is lacking is the criterion whereby the available possibilities waiting to be classified and annulled, are judged restricted or unrestricted. What is deemed to be restricted (only two possibilities) might be abolished if a third possibility emerges. Therefore, this way does not lead to certainty.

However, some categories of \textit{Qiyās} are held by Muslim theologians to be conducive to certainty like that of \textit{Qiyās} whose second premise is a condition (\textit{Shart}). The form of this analogy is as follows:

\begin{center}
\begin{tabular}{l}
\textit{(Shāhid)} knowledge of human being is conditioned by life \\
\textit{(Ghā’ib)} Allah has knowledge \\

\hline
\text{Conclusion : Allah has life}
\end{tabular}
\end{center}

This type of reasoning seems to be logical and hence conducive to certainty.\textsuperscript{89}

\textsuperscript{88} Ibid.

\textsuperscript{89} Ibn Rushd, \textit{Al-Kashf ‘An Manāhij al-Adillah}, 22
2.4.2 The integral dimension of certainty in both disciplines

After scrutinizing the levels of certainty embedded in *Ilm al-Kalām*, we shall now attempt to compare the level of certainty in both disciplines and what impact this comparison would have on *Uṣūl al-Fiqh* in particular. The areas of comparison would include, causality and *Qiyās*.

I. Causality:

We have already explained that causality is one of the conclusive pieces of evidence adopted by *Mutakallimīn*. Causality, as advocated by the same scholars, is to be understood within two levels:

i. Cause and effect:

This is the notion stipulating that cause precedes effect. The connection linking the two is of necessary type as this is reflecting and expressing the law of universal causation.

It is worth mentioning that jurists, in quest of *i'llah* (effective cause) underlying the legal proof, would stem from the same law, i.e. law of universal causation. It is here where both theologians and jurists adopt the same platform to mould their views.
Besides, while reviewing the attributes of 'illah that the jurists were trying to confirm, we find that the most essential attribute is Iṣṣirād (constancy). This means that the quest for a valid 'illah requires a necessary connection between 'illah and its Ḥukm (legal rule). In other words, whenever the 'illah exists, the Ḥukm would definitively exist, and the absence of the former would lead to the absence of the latter. This is similar to the doctrine of causality advocated by theologians. The latter would emphasize on the necessary connection between cause and effect so as to apply the same rule on the first cause ever existed in the universe.

ii. The first cause (Atomism):

Causality in Kalam would end up in Atomism, the concept of the indivisible atom. By observing that every cause is leading to an effect, the process ends up in stopping at the first cause ever existed in this universe. Yet, two things feature this process:

1. Descending order by eliminating the causes that do not represent the first cause. This operation requires that we must keep descending from one cause to another until we reach a cause that cannot be the effect of another, otherwise the whole process would be endless.

In quest for a valid 'illah of a legal proof, jurists would follow the same process by going from one attribute to another, trying to settle
down on the most clear and constant one. Therefore, both processes have one objective to achieve, which is to reach the most accurate and definitive cause. But they are different in that the cause in Kalām is definitive in nature as it is observed by sense perception, while in Uṣūl al-Fiqh it has to be extracted, casting some doubt over its accuracy. The next item would highlight more on the certainty of this process.

2. Causality in both Kalām and Uṣūl al-Fiqh tend to narrow down the scope of reasoning so that only one option would eventually be possible. In Kalām, the theory of atomism advocates the idea of the indivisible atom. In this respect, the mind would dive in futile reasoning if it tries to explain things out of the sphere of the indivisible atom. After a series of continuous linkage between causes and effects, the mind would find itself compelled to accept the doctrine of the first atom, the denial of which would amount in conceptual paradoxes that reason would be plagued with.

We notice the same tendency in Uṣūl al-Fiqh where the ‘illah in Qiyās is deduced after a series of linkages between the hukm and its possible causes. Through the methods of extracting the ‘illah in Qiyās, such as sabr and taqṣīm (classification and annulment), tanqīḥ al-Manāṭ (refining the legal cause), takhrīj al-Manāṭ (extracting the legal cause)
and taḥqīq al-Manāt (confirming the legal cause), jurists have ably set a mode of reasoning that enjoys a high deal of certainty.

Through the above-mentioned methods, the jurist keeps eliminating the irrelevant causes, trying to locate the most plausible one. Taking into consideration various criteria, including constancy, clarity, transitivity and appropriateness with the general principles of Shari'ah, the jurist finds himself compelled to accept only one ‘illah and discard the rest. The researcher would argue that after exhausting all the possible causes, the ‘illah settled down upon is of definitive nature, though it is extracted. The researcher would also argue that the element of "mind compulsion" is the platform upon which the certainty of causality in both Kalām and Uṣūl al-Fiqh stand.

II. Qiyās:

Qiyās had undergone a series of development since Muslim theologians applied themselves to the science of Uṣūl al-Fiqh. Considering Qiyās one of the most conclusive proofs, theologians applied it to prove the attributes of Allah (S.W.T.).

It is noticeable that both theologians and jurists agreed on the form of Qiyās, which resembles the famous syllogism laid down by Aristotle. The existence of premises, numbered 3, and the transition from a universal proposition to a particular one feature the line of argument of Qiyās in both Kalam and Uṣūl. Although the Qiyās involving ‘illah between the two premises is the one used by both Kalam and Usul, Qiyās tends to suffer some inconsistency in Kalām but enjoyed credibility in Uṣūl.
a. **Qiyās in Kalām:**

Qiyās had to acquaint itself with a platform, having the divine entity as one of its components. The criticism that the researcher has made to Qiyās in Kalām would be sufficient to prove that *al-Istidlāl bi al-Shāhīd ‘Alā al-Ghā’ib*, the name preferred by theologians instead of Qiyās, is superfluous. In fact, the doctrine of atomism is the most definitive form of argument ever made in the science of Kalām.

b. **Qiyās in Uṣūl al-Fiqh:**

Qiyās in Uṣūl is featured by a number of inferential reasoning whereby the transition from one premise to another appears to be subtler than that in Kalām. Operating from a platform that is both accessible and manageable, the jurist is not hindered by fears that he would infringe upon divine limits, the way the theologian would risk to attempt when applying Qiyās to the attributes of Allah (S.W.T).

The toughest job awaiting the jurist is the realization of the common ‘illah between Aṣl and Far’. The methods applied therein are inductive in nature. As such, the jurist is dealing with perceivable data that he can experiment and draw conclusions thereof. This is not the case with ‘Ilm al-Kalām where the data of the premises are dogmatic in nature and thus, they cannot be subjected to experiment.

The deep relation between Qiyās in Uṣūl and that of Kalām lies in the dependency of the former over the divine aspect of the latter. The researcher would argue that Qiyās in Uṣūl implicates that of Kalām in an implicit way. That is to say that the major premise in the
juristic Qiyās is a minor premise and the conclusion one in the Qiyās of Kalām. The following example would clarify this:

Every intoxicant is khamr and every khamr is ḫaram.

Drug is intoxicant

Drug is ḫaram

The first premise, as al-Shatibi put it, is confirmed either by Naṣṣ (legal text) or Istiqrā' (induction). In case of a Naṣṣ, this premise would have to undergo another Qiyās to determine the divine originality of the rule embodied therein. To present this type of Qiyās combining the Qiyās of both Kalam and Uṣūl al-Fiqh, we may suggest two types of Qiyās, one is conditioned that would entail certainty, and the other is conventional.

1. Conditioned Qiyās:

This is a type of Qiyās whose one of its premises is a Sharīʿ (condition). We have already seen that this kind of Qiyās is considered certain by Muslim theologians. The following example would clarify this:
Qiyās 1

The ruling of human being is conditioned by life [1st premise]

Allah has life [2nd premise]

Allah is a ruler [conclusion]

2. Conventional Qiyās:

After genuinely concluding through the conditioned Qiyās that Allah is a ruler, this conclusion would be used as the major premise in another form of Qiyās. The following would clarify this:

Qiyās 2

Allah ruled that intoxications are prohibited

Khamr is intoxicant

Khamr is prohibited

We realize now that the conclusion in *Qiyās 1* became the major premise in *Qiyās 2*, as this is a prerequisite before the juristic *Qiyās* can proceed. This would require the use of the minor premise and the conclusion of *Qiyās 2* to assume the major premise in the forthcoming *Qiyās 3* (the juristic *Qiyas*). This can be presented as follows:

*Qiyās 3*

*Khamr* is prohibited, as it is intoxicant

Drug is intoxicant

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Drug is prohibited

Consequently, we find ourselves dealing with three types of *Qiyās*, one is purely dogmatic (*Qiyās 1*), the second combines both dogmatic and juristic premises (*Qiyās 2*) and the last is purely juristic in form (*Qiyās 3*) but depends chiefly on *Qiyās 1* and 2. This would explain better the coherent structure of *Qiyās* in both *Kalam* and *Uṣūl al-Fiqh*.

We also notice that one of the conditions of the major premise in the juristic *Qiyās* is that it should not be a minor premise in another *Qiyās*:\footnote{Al-Āmīdī, *Al-Iḥkām*, 2/231} this condition is not to be observed when we move from *Qiyās 1* to *Qiyās 2* to *Qiyās 3* as we have already seen that the major
premise in Qiyās 3 is already a minor premise in Qiyās 2. And the major premise in Qiyās 2 is the minor in Qiyās 1.

Consequently, the certainty in both Kalām and Uṣūl al-Fiqh is interchangeable and harmonious enough to grant the methods of inference in both disciplines a sense of definitiveness.