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The Relationship between Ethics and Islamic Jurisprudence from the Perspective of Philosophy of Religion

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Abstract

The relationship between ethics and Islamic jurisprudence is one of the important topics of Islamic studies today. This article analyses this relationship.

Jurisprudence and ethics have a complex and intertwined relationship in Islamic thought. Jurists disagree about the centrality of ethics in Sharī'a (Islamic Law) as a criterion for deducing religious rulings.

Religious rulings often include moral values but are not always directly morally based. The main goal of Sharī'a is the realisation of justice and moral virtue, so ethics should be considered a basic criterion for deducing jurisprudential rulings. The hadith of the Prophet Muhammad: "I was sent to perfect good morals." (al-Ṭabrisī, 1153/1408 AH, vol. 10, p. 500) proves the necessity of the central ethics of religious rulings.

In traditional jurisprudence, moral values are not always the direct criterion for deducing rulings. However, in modern schools of jurisprudence such as "objectives-based Islamic jurisprudence" (*fiqh al-maqāsidī*) and "cause-based Islamic jurisprudence" (*fiqh al-ta'ālīlī*) (moral values are recognised as an important criterion in *ijtihād*). These approaches try to harmonise jurisprudence with Shari'a's goals and the time's requirements and regulate the rulings to achieve a ruling that is beneficial to society and eliminate corruption.

The most important moral principle in deducing jurisprudential rulings is the principle of justice, which is the main axis of the goals of the Shari'a and the general spirit of Islamic rulings.

The balance between jurisprudential rulings and moral values requires a deep understanding of the social context and purposes of the Shari'a.

This view emphasises that human dignity, justice, and intrinsic human rights can be a solid basis for the rulings of civilisation-building jurisprudence in today's world.

Keywords: Ethics, Islamic Jurisprudence, Philosophy of Jurisprudence, Philosophy of Ethics, Philosophy of Religion.

Introduction

The relationship between religion and ethics (Hastings et al., 1908–1926) has been one of the important topics of philosophy (McCutcheon, 2005), mysticism (Nasr, 1989, pp. 330-333), and philosophy of religion (Tilghman, 1994, pp. 174-199). However, the issue of the relationship between Islamic jurisprudence and ethics is one of the issues that has been considered in recent years. The central question concerns whether the entirety of religious rulings in Islamic jurisprudence should be regarded as inherently ethical, or whether ethics and jurisprudence constitute distinct and autonomous domains. This article analyses the relationship between religion and ethics in

general and the relationship between ethics and Islamic jurisprudence in particular.

The Relationship between Religion and Morality

Does religion define moral values, or do moral values guide religion, and religion falls within the circle of ethics? This topic falls into the realm of domain-specific philosophies, especially the philosophy of religion, the philosophy of jurisprudence, and the philosophy of ethics.

First and foremost, I must emphasise that, in my view, our most crucial epistemological problem is the methodology of analysing sacred texts (the Qur'an and hadith) and the philosophy of language. I have explained the foundations, evidentiary principles, and methodology in the books of exegesis of the semantic structure of the chapters of the Qur'an published between 2017 and 2025 (for the complete list, see Safavi, 2017/1396 SH–2025f/1404f SH) and the semantic structure of Rumi's *Mathnawī* (Safavi, 2006). I refer readers to those works to understand the method of interpreting the Qur'anic text as the most important source of Islamic jurisprudence.

The relationship between religion and ethics is complex and multifaceted and can be studied from different angles based on the cultural and philosophical context. This relationship, when examined within the field of the philosophy of religion, yields the following considerations:

1. Religion as a Source of Morality

Religion is regarded by many as the primary source of moral values and behavioural norms. From this perspective, ethics is regarded as a

component of religious guidance that defines right and wrong in light of divine teachings or sacred texts.

Religions provide a stable, consistent normative framework for ethics, for example, the Ten Commandments in Judaism and Christianity and the teachings of the Qur'an in Islam, which guide individuals toward specific forms of conduct such as truthfulness, trustworthiness, and benevolence.

2. Ethics independent of religion

Many philosophers maintain that ethics has an existence independent of religion and derives either from human reason or from social contract. From this perspective, religion serves to affirm and reinforce pre-existing moral values or to endow them with spiritual significance.

Rationalist moral philosophers, such as Plato, Aristotle, Spinoza, and Kant, considered ethics to be dependent upon purely rational rules, whereas “contractarian” moral philosophers (e.g., Rousseau, Locke, Rawls) argued that ethics is grounded in the “social contract,” which could be operative even in the absence of religion. The *‘Adliyya (Imāmiyya and Mu‘tazila)*, in philosophy, theology, and legal theory (*‘ilm al-uṣūl*), likewise asserted that all human actions, independent of the declaration of the Lawgiver, possess objective grounds and rational value. Certain actions are intrinsically good or evil, for example justice intrinsically good while injustice is intrinsically evil. Imam Khomeini held that discerning good and evil through the intellect is possible, and he classified intellect’s judgment of the goodness of justice and beneficence, and of the evil of injustice, wrath, and lying, as judgements of the intellect (Khomeini, 2021, vol. 7, p. 384).

3. The Reciprocal Interaction between Religion and Ethics

There is often an interaction between religion and ethics, such that religion is regarded both as a promoter of moral values and as influenced by them. Religions, historically, have developed within diverse social and cultural contexts and have absorbed the moral values prevailing in those societies.

Ethics can also serve as a criterion for evaluating religion itself or its interpretations. For example, if a particular religious interpretation is perceived as conflicting with the principles of justice or compassion, it may be subject to modification or even rejection.

4. Contemporary Challenges in the Relationship between Religion and Ethics

In modern societies, new issues such as human rights, gender equality, and cultural diversity have emerged, raising the question of whether traditional ethics based on religion can adapt to these challenges.

There is ongoing debate about whether modern moral values have gone beyond some traditional religious concepts or whether those concepts require reinterpretation in order to align with universal ethical principles.

The conclusion that emerges from these perspectives is that religion and ethics are deeply interwoven, yet not identical. Religion can serve as an important source of ethics and provide it with spiritual and moral dimensions, but it is not the sole source. The *mustaqillāt 'aqliyya akhlāqiyya* (Intellectually Independent Principles of Ethics) may function as a guide for interpreting religion, while religion, in turn, seeks to promote and consolidate moral virtues.

“Intellectually Independent Principles of Ethics”

“The Intellectually Independent Principles of Ethics” refers to those moral principles and values that the human intellect can apprehend without reliance on revelation or scriptural sources. This idea rests on the intellect’s capacity to discern good and evil in actions on the basis of their intrinsic nature and their effects. Such principles are foundational to moral philosophy and Islamic theology, particularly in schools such as the Mu‘tazilite tradition and Shi‘i intellectual theology (for example, in the works of Khwāja Naṣīr al-Dīn Ṭūsī and ‘Allāma al-Ḥillī). The following discussion will elaborate on several of these intellectually independent ethical principles.

1. Intrinsic good and bad

Concept: Some actions independent of religious legislation are good or evil. For example, truthfulness is considered good, while lies are regarded as bad.

Intellectual Evidence: The intellect recognises that some actions are beneficial for humanity and contribute to the flourishing of society, such as justice, and therefore judges them as good. Conversely, actions that result in harm or injustice are perceived as reprehensible or bad.

2. Justice and Oppression

The principium principiorum of all moral judgments’ rests upon two propositions: the goodness of justice (*ḥusn al-‘adl*) and the badness of oppression (*qubḥ al-ẓulm*).

The Goodness of Justice: Justice ensures fairness and the safeguarding of individual rights. The intellect apprehends that justice is indispensable for the continuity, stability, and cohesion of social order. Thus, justice is regarded as a necessity of the intellect, for it contributes to social stability and fosters a sense of equality among its members. The practice of justice leads to balance and harmony in relations between individuals.

The Badness of Oppression: Oppression, by contrast, results in the harm of others and the deprivation of their rights, thereby contradicting the very logic of peaceful coexistence. The intellect perceives the ugliness of injustice, for it generates disorder and causes harm to others, which conflicts with human nature. Injustice results in conflict and chaos, rendering it intellectually unacceptable, even if it were not forbidden by religious law.

3. Benevolence and Exploitation

The Goodness of Benevolence (*ḥusn al-iḥsān*): The intellect maintains that benevolence contributes to the formation of a cohesive society founded upon cooperation and love. Providing goodness and kindness to others is regarded as a noble human value, the validity of which requires no appeal to scriptural authority.

The Badness of Exploitation: Exploitation, by contrast, inflicts pain on others and undermines social relations. The intellect recognises that exploitation stands in direct opposition to the human logic of building and sustaining societies.

4. Fidelity to Covenants and Violation of Covenants

The Goodness of Fidelity to Covenants (*ḥusn al-wafā' bi'l-‘ahd*): Fulfilling covenants strengthens trust among individuals and serves

as the foundation of stable human relations and social cohesion. The intellect recognises that breaking covenants results in the loss of credibility and the dissolution of interpersonal bonds.

The Badness of Violation of Covenants (*qubḥ naqḍ al-‘ahd*): The violation of covenants produces disorder and distrust. The reprehensibility of covenant-breaking is evident in its immediate negative effects upon both individuals and society.

Divergence Among Muslim Theological Schools

Rationalist Theologians: Rationalists maintain that actions possess intrinsic goodness or badness (*ḥusn and qubḥ dhātī*), and that the intellect, independent of religion, is capable of discerning this. Accordingly, they regard the intellect as a partner in the determination of moral values.

Ash‘arites: The Ash‘arites, by contrast, deny the intrinsic goodness or badness of actions, holding that goodness and badness are known only through revealed law. However, they do not entirely deny that the intellect has a role in judging certain actions in terms of their practical consequences.

The *mustaqillāt ‘aqliyya* (intellectually independent principles) express the human capacity to make moral distinctions on the basis of the intellect. They include concepts such as the goodness of justice (*ḥusn al-‘adl*) and the badness of oppression (*qubḥ al-zulm*), the goodness of benevolence (*ḥusn al-iḥsān*) and the badness of exploitation. These are values regarded as foundational within both religious and philosophical systems of ethics. The Noble Qur’an has confirmed all Intellectually Independent Principles of Ethics, such as fidelity to covenants (*wafā’ bi’l-‘ahd*), the goodness of justice (*ḥusn al-‘adl*) and the badness of oppression (*qubḥ al-zulm*), the goodness of truthfulness (*ḥusn al-ṣidq*) and the badness of lying (*qubḥ al-kadhib*).

Jurisprudential Propositions and Ethical Values

Jurisprudence and ethics have a complex and interwoven relationship in Islamic thought; Jurists (*fuqahā'*) have differed over the extent to which ethics occupies a central place within the *Sharī'a* as a criterion for deriving legal rulings. What follows is an analysis of the relationship between juridical principles and ethical values.

1. Overarching Principles of Islamic Law

As an introduction to this section it is important to note that there exist certain overarching principles within the structure of Islamic law that hold authority over subsidiary juridical rules—meaning that no legal ruling (*ḥukm sharī'*) may contradict them. These principles serve as normative foundations ensuring that the *sharī'a* remains consistent with divine justice and human welfare (*maṣlaḥa*). Among the most fundamental of these are justice (*'adl*), intellection (*'aqlāniyya*), the intrinsic moral value of good and bad discernible through reason (*ḥusn wa qubh 'aqlī*), the preservation of human dignity (*ḥifẓ karāmat al-insān*), and the recognition of the natural rights of the individual and society.

Equally significant is the principle of the negation of hardship (*qā'idat al-lā ḥaraj*), which forbids the imposition of undue difficulty or excessive burden upon individuals in religious or legal obligations (Qur'an 22:78). The duty to defend the oppressed (Qur'an 4:75; 22:39–40; 42:39–40) and the obligation to struggle against oppressors (Qur'an 16:90; 28:5–6; 42:39–40) likewise form essential ethical imperatives deeply rooted in the Qur'anic conception of justice and social responsibility.

Furthermore, adherence to explicitly stipulated legal norms (*qawā'id manṣūṣa*), those directly articulated in the Qur'an or the *Sunna*, is obligatory. Such injunctions are referred to as *manṣūṣ* (منصوص) meaning “textually grounded” or “explicitly revealed.” Examples

include the prohibition of adultery (*tahrīm al-zinā*; Qur'an 17:32), intoxicating beverages (*tahrīm shurb al-khamr al-muskir*; Qur'an 5:90–91), usury (*ribā*; Qur'ān 2:275–279), injustice (*zulm*; Qur'an 16:90), marriage with close kin (incest) (*nikāḥ al-maḥārim*; Qur'an 4:23), same-sex acts (people of Lot) (Qur'an 26:165–66), gambling (*maysir*; Qur'ān 5:90–91), and the consumption of pork (*luḥūm al-khinzīr*; Qur'an 2:173; 5:3; 6:145; 16:115).

Collectively, these principles and explicit prohibitions form a hierarchy of values within Islamic jurisprudence, ensuring that derived rulings (*aḥkām far'iyya*) remain aligned with the higher objectives of the *sharī'a* (*maqāṣid al-sharī'a*). They underscore the centrality of ethics, reason, and human welfare in the ongoing process of legal interpretation and reform in contemporary Islamic thought.

2. Do jurisprudential rulings encompass moral values?

Yes. Jurisprudential rulings often do encompass moral values, though they are not invariably and directly ethics-centred.

The relation between fiqh and ethics

Sharī'a-based rulings aim at securing people's worldly and otherworldly interests, and they are counted among the objectives of the Sharī'a, such as the preservation of religion, life, progeny, and property. Jurisprudential rulings ought to promote the full range of ethical ends—such as justice, compassion, and solidarity.

Examples:

Prohibition of theft: involves values such as justice and respect for others' rights.

Payment of *zakāt* and *khums*: manifests the values of generosity and social solidarity.

Prohibition of lying in testimony: expresses the value of honesty and truthfulness.

Pathology of jurists' rulings

At times, the rulings of jurists have not been issued in a manner consonant with the spirit of virtuous ethics (*al-akhlāq al-ḥasana*). This is because some are 'imitative jurists' (*al-faqīh al-muqallid*) rather than jurists qualified to exercise independent juristic reasoning (*al-faqīh al-mujtahid*), that is, a jurist who performs *ijtihād*—the disciplined exertion of juristic reasoning upon the recognised sources of Islamic law—to derive jurisprudential rulings. Consequently, they hand down jurisprudential rulings without due regard to the exigencies of time and place.

The *mujtahid* jurist must issue jurisprudential rulings attentive to the exigencies of time and place and in light of established ethical rules. The most important ethical rule that ought to govern all jurisprudential rulings is the principle of justice (*aṣl al-ʿadl*), which is the fundamental rule of ethics. This is also the social aim of the prophets' mission:

لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ النَّاسُ بِالْقِسْطِ وَأَنْزَلْنَا
الْحَدِيدَ فِيهِ بَأْسٌ شَدِيدٌ وَمَنْفَعٌ لِلنَّاسِ وَلِيَعْلَمَ اللَّهُ مَنْ يَنْصُرُهُ وَرُسُلَهُ بِالْغَيْبِ إِنَّ اللَّهَ قَوِيٌّ
عَزِيزٌ

“We have indeed sent Our messengers with clear proofs, and We sent down the Book and the Balance with them, that the people would uphold justice. And We sent down iron, wherein are great might and benefits for mankind, and so that God may know those who will help Him and His

messengers unseen. Truly God is Strong, Mighty.” (Qur’an, 57:25).

Moral values as the loftiest aim of the Sharī‘a

Islamic jurisprudence rests on the premise that the Sharī‘a is instituted to realise exalted objectives, and these objectives are, for the most part, consonant with moral values.

The Prophetic hadith «أَنَا بُعِثْتُ لِأَتَمِّمَ مَكَارِمَ الْإِخْلَاقِ» (“I was sent only to perfect noble character [and to teach it].” (al-Ṭabrisī, 1153/1408 AH, vol. 10, p. 500)) This indicates that Sharī‘a rulings must to be ethics-centred.

Regrettably, however, in social matters, especially in the contemporary period, less attention has been paid to incorporating cardinal ethical considerations when articulating jurisprudential rulings. In particular, human dignity (*karāmat al-insān*) has in some instances been overlooked. Moreover, due regard has not been given to the inviolability of Islam when formulating rulings. If a jurisprudential ruling belonging to the past brings Islam into disrepute in the present age, it must be reconsidered and a contemporary ruling derived in light of the exigencies of time and place.

3. Is ethics a criterion for deriving Sharī‘a rulings?

Classical Fiqh:

In Classical Fiqh ethical values are not always a direct ground of argumentation, because jurists appeal to specific sources of legislation (*al-maṣādir al-tashrī‘iyya*)—the Qur’an, the Sunna, consensus (*ijmā‘*), and reason (*‘aql*). Nonetheless, ethical values may

form part of the broader context upon which a jurisprudential ruling (*al-hukm al-fiqhī*) rests, and they can guide the derivation (*istinbāt*) of Sharī‘a rulings.

Examples:

Justice functions as an ethical point of reference in construing texts. As the Exalted God says:

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ
وَالْبَغْيِ يَعِظُكُم لَعَلَّكُمْ تَذَكَّرُونَ

“Truly God commands justice, virtue, and giving to kinsfolk, and He forbids indecency, wrong, and rebelliousness. And He admonishes you, that haply you may remember.” (Qur’an, 16:90).

Ethical Harm as a criterion of judgement: The legal maxim *qā‘idat lā ḍarar wa-lā ḍirār* (There shall be neither harm nor reciprocating harm) is invoked to avoid actions that cause unjustified harm and thus serves as an ethical criterion.

Differences among schools of jurisprudence

Objectives-based Islamic jurisprudence (*fiqh al-maqāṣid*)

They emphasise that attaining the objectives of the Sharī‘a depends upon observing ethical proprieties, and thus ethics forms part of the process of jurisprudential reasoning (*ijtihād*). *Fiqh al-maqāṣid*, pioneered by Sunnī jurists such as al-Shāṭibī and Ṭāhir b. ‘Āshūr, concerns itself less with identifying and stating the specific cause of

each ruling than with the general objectives of the Sharī‘a and the telos of the rulings.

Cause-based Islamic jurisprudence (*al-fiqh al-ta‘līlī*)

The Qur’an and the Prophet’s Household (Ahl al-Bayt]) are presented as the founders of *ta‘līlī* fiqh; thereafter Shaykh al-Ṣadūq (306–381 AH [c. 918–991 CE]), through his works *‘Ilal al-sharāyī*‘ (Ibn Bābawayh & A‘lamī, 1988) and *‘Uyūn akhbār al-Riḍā* (Ibn Bābawayh & A‘lamī, 1984, chs. 32–34), played an important role in refocusing attention on *al-fiqh al-ta‘līlī* (cause-based Islamic jurisprudence) and on the philosophy of rulings and religion. *al-fiqh al-ta‘līlī* is an evidentiary/argumentative fiqh (*al-fiqh al-istidlālī*) whose rulings are responsive to the philosophy of the law and to the *‘ilal* (legal causes) of the rulings. It facilitates a deeper grasp of Islamic law and better accords with the exigencies of time and place. This approach strengthens the commitment to securing the public good and preserves the vitality of the Sharī‘a and its capacity to address new challenges. By *ta‘līl* it is meant that where a proof-text indicates the *‘illa* (determinative cause) of a ruling, the absence of that cause entails the lapse of the ruling—just as the absence of a delimiting exception, condition, or purpose entails the lapse of the ruling (Ebrāhīmī, 2015).

Constituent elements of ta‘līlī fiqh:

***‘Ilal* (legal causes):** a cause is the evidential ground upon which a jurisprudential ruling (*al-ḥukm al-fiqhī*) depends. For example, the ground for prohibiting alcoholic beverages is intoxication, because it produces unjustified harm.

Wisdom and objectives: Wisdom is the rational aim or benefit a ruling seeks to realise. For example, the wisdom behind forbidding intoxicants and alcoholic drinks is the preservation of intellect and reason.

Relation to the objectives of the Sharī‘a: *ta‘līlī* fiqh is oriented to the Sharī‘a’s aims of realising interests (*maṣāliḥ*) and averting harms (*mafasid*), such as the preservation of religion, life, intellect and reason, progeny, and property/wealth.

Ta‘līlī fiqh and the *maqāṣidī* approach stand in contrast to literalist fiqh (*al-fiqh al-zāhirī*).

***Ta‘līlī* fiqh in the contemporary period**

Ijtihād has developed to introduce ethics as a clearer criterion, especially in cases where no explicit text exists, for instance, in questions of modern medicine and human rights.

The legal maxim of “blocking and opening the means” (*qā‘idat sadd al-dharā‘i‘ wa-fatḥuhā*): The purpose of this maxim is to prevent situations that may lead to moral corruption or, conversely, to promote that which secures moral benefits.

The literalist textualist school

It approaches the exoteric or literal meaning of the scriptural texts without regard to moral values as a criterion of legal inference. In the contemporary period, Taliban thought represents a clear example of this outlook.

Points of Convergence and Divergence between Legal Rulings (Fiqh) and Morality

Points of Convergence

Ethical values support the implementation of legal rulings and enhance their legitimacy in society. Both aim at achieving individual and social well-being.

Points of Divergence

At times there may be differences between a strictly legal ruling and what is regarded as ethical, for example, the application of prescribed punishments (*ḥudūd*) which may be viewed from differing ethical perspectives depending on the social context.

Legal rulings may be grounded in material or organizational interests, whereas ethics is more concerned with spiritual values and perennial wisdom (*ḥikma khālida*).

Ethics as a Juristical Criterion within Fiqh

The Theory of Objective-based Islamic Jurisprudence (*maqāṣid*)

The overarching aims of the Sharīʿa, such as justice and mercy, constitute ethical guidelines that influence legal reasoning. Sharīʿa seeks “the realization of benefit (*maṣlaḥa*) and the prevention of harm,” which is itself an ethical principle.

The Moral Philosophy of Fiqh

When evidence is evenly balanced or when there is no definitive text, jurists may rely on ethical values. Certain schools of law employ principles such as juristic preference (*istiḥsān*) and consideration of public interest (*istiṣlāḥ / al-maṣlaḥa al-mursala*) to adapt rulings in pursuit of ethical values.

Conclusion

Legal rulings consist of ethical values, but they are not always directly founded upon morality in the reasoning process. For jurists, ethics is counted among the objectives (*maqāṣid*) of Sharī‘a, and in particular contexts—especially within schools that prioritize aims and objectives—it functions as a criterion for legal reasoning. Nevertheless, balancing legal rulings with moral perspectives remains a matter that requires nuanced understanding of both textual and social contexts.

Custom (‘urf), the Practice of Rational Agents, Cultural and Social Conditions, and Fiqh

Certain religious rulings may be regarded by some as unethical or incompatible with contemporary moral standards. This contrast often arises from differences between the cultural and social conditions of the period in which Islamic law emerged and those of the modern context. To gain a deeper understanding of this phenomenon, it can be analysed from several perspectives:

1. Reasons why some legal rulings are considered unethical

A. Varied cultural and social contexts

a. Historical conditions:

Many legal rulings were formulated in specific historical and social contexts that differed from the modern world. For example:

Slavery: At that time, slavery was a widespread and socially accepted institution, while the idea of its abolition as a universal moral value had not yet developed.

Child marriage: In earlier periods, early marriage was socially common and culturally acceptable, whereas today in many societies it is regarded as a violation of children's rights.

b. Development of global morality

Moral standards evolve over time, as certain modern values such as gender equality, human rights, and freedom of choice have become global ethical norms. In contrast, some traditional legal rulings do not reflect these values and are therefore seen as inconsistent with modern ethics.

B. Literalist interpretation of texts

a. Adherence to the literal and exoteric meaning of texts
Some jurists remain committed to a strictly literal interpretation of legal texts without regard to the objectives or the evolution of social contexts. This has produced rulings that fail to align with contemporary ethics.

b. Neglecting the objectives of Sharī'a

A reactionary or rigid reading of scriptural texts may result in decisions that conflict with ethical principles that themselves express the aims of Sharī'a, such as justice and mercy.

C. Relativity of moral values

What is regarded as ethical may vary across cultures and historical periods. Rulings such as polygyny (*ta'addud al-zawjāt*) or the application of prescribed punishments (*ḥudūd*) may have been

acceptable in some cultural and historical contexts but may in other cases be considered controversial or unethical.

2. The Impact of Cultural and Social Conditions on Fiqh

A. Influence of the dominant culture

Jurists lived within particular environments and were shaped by them. Consequently, their rulings often corresponded to the prevailing social norms and values of their time.

B. Absence of contemporary issues from their context

Some jurists were unfamiliar with modern issues such as human rights in their current form or with the complexities of cultural diversity, which presents some of their legal opinions as less suitable for today's world.

C. Influence of tribal customs

Many jurists were influenced by tribal customs that were widespread in early Islamic societies. At times, these norms stand in tension with ethical values that today we consider integral to the spirit of Islam. A prominent example is what has been termed “male-centered fiqh” (*fiqh modhakkar*).

D. Limitations of the tools of legal reasoning (ijtihād)

At times the methodological tools of jurisprudence were insufficient to address the complexities of social life, leading some jurists to propose solutions that were more closely tied to the circumstances of earlier times and places. Others such as the martyred scholar ĀyatAllāh Muḥammad Bāqir al-Ṣadr, ĀyatAllāh Montazerī (Montazerī, 2015), ĀyatAllāh Mūsavī Ardabīlī, ĀyatAllāh Ṣāne‘ī,

and ĀyatAllāh Muḥaqiq Dāmād introduced new methods and modern forms of *ijtihād*, which merit a separate discussion.

3. How Can These Divergences Be Addressed?

A. Reconsideration within fiqh

Adopting the principle that “laws must correspond to time and place” (a view associated with Imām Khomeinī) makes possible the reinterpretation of texts in light of contemporary ethics and values.

Expanding objective-based Islamic Jurisprudence (*ijtihād maqāṣidī*) enables the adaptation of rulings to align with ethical principles aimed at realizing the objectives of the Sharī‘a.

B. Activation of Islam’s universal values

Islamic law embodies universal values such as justice, mercy, and facilitation (*ta’sīr*). These can serve as a foundation for focusing legal rulings in a way that meets modern ethical requirements.

C. Distinguishing between immutable texts and juristic reasoning

The text of the Qur’an and authentic *aḥadīth* are considered fixed, whereas the juristic reading of scripture, or the *ijtihād* of scholars within their historical contexts is subject to change and development. There is thus a distinction between sacred texts and juristic interpretation: the texts are permanent and always authoritative, while the interpretations are variable and diverse. Attention to this precise scholarly distinction enables the growth of a contemporary *ijtihād* that is rooted in the sacred texts yet responsive to modern needs of time and place.

D. Taking modern conditions into account

Understanding the modern social and cultural context is essential to avoid conflict between legal rulings and ethical values. This includes reconsideration of laws related to women's rights, punishments, and social, economic, and political relations.

Prerequisites for the Interaction of Fiqh and Ethics

Establishing a constructive interaction between fiqh and ethics depends on several conditions:

A. Greater attention to the philosophy of rulings (*falsafat al-aḥkām*), the causes of the Shari'a (*ilal al-sharā'i*), or the "principle of causation" (*qā'idat al-ta'līl*).

The concept of *ta'līl* means that when a ruling is explicitly linked to a certain cause, the absence of that cause entails the cessation of the ruling.

B. Re-examining human rights

Recognizing that the human being possesses inherent rights prior to obligations. All legal rulings must be grounded in the principle of the human being's intrinsic rights. The most important intrinsic right of humans is the dignity of the human being qua human being.

C. Gender equality

Women are not the "second sex"; men and women alike are first-class citizens in the city of God.

D. Re-reading methods of textual analysis

Employing new methods of textual interpretation such as structuralism, semiotics, semantics, hermeneutics, discourse

analysis, and phenomenology. The application of these approaches opens new horizons for understanding religious texts, especially the Qur'an and ḥadīth, and exerts a decisive influence on legal inference.

E. The philosophy of language

The question of linguistic diversity including metaphorical, scientific, colloquial, and other modes of language is central to the understanding of sacred texts. The jurist must identify the language of religion, or the language of the Qur'an: is it scientific, conventional, metaphorical, or otherwise? Accepting any of these possibilities entails its own particular logical consequences.

Conclusion

Sharī'a rulings are not separate from ethical values, yet at times they are perceived as conflicting with ethics due to the different cultural and social contexts in which they emerged. The influence of historical conditions on certain jurists was profound, underscoring the necessity of reinterpreting rulings in light of ethical values and the universal objectives (*maqāṣid*) of Islamic law. In this way, the connections between Sharī'a and ethics can be revitalized while also preserving the relationship between Sharī'a and the lived realities and needs of the people.

Ethics-centred and civilization-building fiqh is the contemporary need of our society. The Qur'an and the Sunna of the infallibles (*al-ma ṣūmūn*) are sacred, but the jurist's interpretation of the text is not sacred nor divinely revealed. The history of fiqh itself reflects divergent interpretations, legal opinions (*fatāwā*), and processes of transformation and development (cf. *Jawāhir al-ahkām*). Confronted with the postmodern era, fiqh, if it is to remain influential in society, must revise its rulings on the basis of the Qur'an, the Sunna, reason (*'aql*), and the needs of the time and place of the postmodern period.

The intrinsic rights of the human being, inherent human dignity, and justice can serve as a firm foundation for a civilization building fiqh.

1. The Necessity of Reconsideration in Fiqh

Islamic law (fiqh) must be rethought in a manner that harmonizes with changes in time and place. Such reconsideration can be achieved through causal reasoning (*ijtihād ta' līlī*) and reinterpretation of texts in accordance with contemporary ethical values and requirements. Imām Khomeinī also emphasized this principle, holding that legal rulings must correspond to the conditions of time and place.

2. Universal Values of Islam as a Foundation

The Islamic Sharī'ah embodies universal values such as justice, mercy, and tolerance. These values must serve as the primary basis for organizing and revising legal rulings so that they may address the ethical and social needs of the modern world.

3. Distinction between Immutable Texts and Juristic Reasoning

The sacred texts—the Qur'an and authentic ḥadīth are fixed and unchangeable. Juristic reasoning (*ijtihād*), however, which reflects the historical and social conditions of jurists, is subject to change and revision. Recognizing this distinction enables the development of fiqh in ways that are responsive to the needs of modern society.

4. Confronting Modern Conditions

To prevent conflict between fiqh and ethics, the modern cultural and social context must be taken into account. This entails revisiting rulings concerning social relations, human rights, and concepts such as gender equality, human rights, women's rights, and freedom of choice.

5. Enhancing the Interaction between Fiqh and Ethics

Constructive interaction between fiqh and ethics rests upon several conditions:

- A. Attention to the philosophy of rulings (*falsafat al-aḥkām*) and the use of the principle of causation (*qā'idat al-ta'līl*) in legal inference.
- B. Reconsideration of intrinsic human rights and the recognition of human dignity as an intrinsic principle that precedes obligation.
- C. Acceptance of the equal status of men and women in religious rights and duties.
- D. Employment of modern methods of textual interpretation such as hermeneutics, discourse analysis, and semiotics for a deeper understanding of the Qur'an and the Sunna.

6. Conclusion and Recommendations

- A. Fiqh must be reinterpreted in light of ethical values and the universal objectives (*maqāṣid*) of the Islamic Sharī'a in order to meet the needs of contemporary humanity.
- B. Religious rulings are not separate from ethics, yet due to differing historical and social contexts, they are at times perceived as inconsistent with morality.
- C. An ethics-centred and civilization-building fiqh—grounded in the Qur'an, the Sunna, reason (*'aql*), and the needs of the postmodern era—offers a way to preserve the connection of Sharī'a with social realities while addressing the ethical and social demands of the present.

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