

Demarcation of Ethics and Law: A Theoretical Framework that recaptures the Primary Role of *Akhlāq Islamiyyah*

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Abstract

This paper revisits the role of Islamic ethics (*akhlāq islamiyyah*). The author argues that Islamic ethics has, so far, not been appropriately treated as a full-fledged discipline and is very much overshadowed by the discipline of law. Thus, the discussion focuses on major features which distinguishing *Shari'ah* law from *akhlāq* comprising the principal tasks, goals and orientation, affecting other supporting concepts of sanction, nature of judgement and action. This modest attempt delineates the comprehensive role of Islamic ethics as a major contribution to mankind's well-being, one that also offers a more balanced view of religion. The study finds that both law and *akhlāq* fundamentally diverge and only by functioning as two different domains, can they complement each other and potentially balance the dynamics of self-development and social intercourse. *Akhlāq* therefore, is not depicted as a dry discipline of regulations but rather as a system of liberation that obtains excellence and an individually optimized state of self-governance that achieves success in this life and the next, without which the real meaning of philosophy of the religion, namely Islam, will not be grasped.

Keywords: Demarcation, ethics, law, theoretical framework

Introduction

The relationship between ethics and law is fundamental to the institutionalization of communal living. A correct understanding of this relationship not only depicts complementarity but also clear demarcations. In fact, the quest for definitive clarity must be obtained. Looking for the

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answer in the discourses of the past will find elusive discourses with no definite answer on both philosophy and religion. ¹

In Islam, the successful and complementary synthesis of morality and law is much appreciated. It is also very much consistent.² *Akhlāq* has been generally known as a system that introduces good manners and conduct which are mainly about the general principles of good action. The basis of harmony can also be easily found, where it rests on ethical concepts such as equality, justice, freedom as well as human, animal and environmental rights that are central to legal discourse. This congruence also provides the basis for legal enforcements that include justification for punishments based on disobedience to the law with regard to ultimate moral issues.³ Such a state of unicity further enhances the holistic image of the Islamic religion as a way of life.

However, highlighting the unity and complementarity of legal and ethical aspects in Islam has been flooded by deliberations that obscure their demarcations. Indeed, understanding their congruence does not deny the importance of streamlining delimiting aspects while focusing on respective roles and domains. Hence, the latter remains a fundamental to determine the directives that advance each discipline. It includes developing and strengthening respective theoretical frameworks, both of which require the doing away with enmeshments that diminish efficacy. While it is important to ensure values as espoused by a holistic and balanced religion, we also do well by maintaining definitive roles that expand viable approaches that obtain flexibility and thereby offers livable solutions for social and civil problems for generations to come.

Compared to Islamic law, Islamic ethics has enjoyed obviously limited coverage, especially with regard to analytical components. Consequently, the field is presently somewhat dependent on and even perceived as simply a supportive constituent of jurisprudence. Muhammad Abul Quasem suggested this is most likely the reason for *akhlāq's* lack of development,⁴ a matter this writer considers in need of urgent attention.

While examining their contemporary relationship, which he found unacceptable, Hourani wrote:

The relation between ethics and divine law in Islam is usually stated in the reverse direction: that the whole range of ethics was

absorbed into *shari'ah* so that all conduct was judged as obedience or disobedience to divine law.⁵

This tendency of the law to attain a super-independent status in Islam appears to have simply engulfed ethical and spiritual aspects of Islam as traced by scholars over time. Various writers have voiced their objections to the law's incorporating all aspects of Islam. Among them are Al-Ghazali, Shah Wali Allah and Muhammad Iqbal. They voiced that ethical and spiritual dimensions of Islamic teachings should be repositioned for a more properly balanced approach to Islam's way of life. Recently, Hashim Kamali also expressed dissatisfaction with the situation, saying, "It is questionable whether Islam was meant to be as much of a law-based religion as it has often been made out to be."⁶ He further suggested that the main content of the *Shari'ah* is, in fact, not exactly the law. He argued that the verse referring to the *Shari'ah* in the Qur'an (45:18) actually voices a broader connotation than any 'code of law' as is presently understood, saying also that "there is a tendency to over legalize Islam ... it is common".⁷ Fazlur Rahman observed, "... In the overall value structure of human conduct, the primary valuation is religio-moral." He also confirmed, "In Islam, the paramount valuation of human conduct is moral, not legal."⁸

Nonetheless, any discussion on *akhlāq* under the purview of law holds serious consequences. Failure to maintain a sufficiently sharp distinction between the two, or failure to draw it in the right place, has led to serious distortions of true Islamic values. Thus, we propose that *akhlāq* has a far greater role to play. Azim Nanji contended that the most important challenge in this realm may not be to simply formulate a continuity and dialogue with bygone ethical underpinnings but rather, like Muslims of the past, to remain open to possibilities and challenges presented by new ethical and moral discoveries.⁹ With the same idea, Zaroug emphasized that the importance of history in the development of ethical systems is about its relevance to contemporary conditions.¹⁰

Globalization's post-modern impacts have led to various new dilemmas, not the least of which are threats to religion's role in societies which value emancipation from dictatorial fixations. Even so, it appears that knowledge, consensus and totality are shunned as many people seek a nebulous free agency while they enthrone relativism as the seat of all solutions. The actual role of *akhlāq* in the production of high moral in men

with a solemn disposition is thus seriously challenged. Moreover, grave problems in economic, political, technological, educational and social realms all appear to diminish the most important social unit of all: marriage and family. Such a monumental social dissolution can be traced to the neglect of *akhlāq*.

Implications of Islamic Law and Islamic Ethics

Before deliberating the differences between ethics and law, it is needful to scrutinize the significations of the *shari'ah*, and *akhlāq*, without which, a smooth discussion cannot be attained. This is indeed complex since both terms represent major disciplines of Islam which are expected to be quite fundamental and not anymore open for scrutiny. The current understanding is seen as really established since it is based on the main sources of Islam, namely the Qur'an and the Prophetic traditions. However, on the other side, a brave attempt at scrutiny is potential opportunity to clarify flaws that have evolved over time.

To begin with, both legal and ethical domains were denoted by *Hadīth Jibrīl*.¹¹ Accordingly therefore, Islam comprises three major concepts: faith (*iman*), practice (*Islam*) and principles (*ihsān*). Their respective foundations are described by the terms *'aqidah*, *shari'ah* and *akhlāq*. Thus, for the purposes of the present study, the word *shari'ah* is taken as a focus to help us understand the position and relationship of the law with respect to Islamic ethics. Although widely used, *shari'ah's* numerous connotations are traced through actual scholarly usage. *Shari'ah* literally means "... a way to the watering-place, or a path apparently to seek felicity and salvation."¹² The word itself is mentioned only once in the Qur'an as follows, "Thus we put you on the right way (*shari'atan*) of religion. So, follow it and follow not the whimsical desire (*hawa*) of those who have no knowledge" (45:18).

We, therefore, consider the complexity of implications presented by two related words: *shari'ah/t* ('path' or 'right way') and *shari'ah* (law). *Shari'ah/t* has been variously interpreted as representing the entire scope of Islamic teachings and mainly indicates that Islam is a way of living in accord with commands, prohibitions, guidance and principles that God has addressed to mankind pertaining to their conduct in this world and salvation in the next.

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However, *shari'ah/t*, having been interchangeably equated to *shari'ah*, is at times understood as the umbrella of practical Islam, to include both ethics and law as its major components. Kamali expressed this meaning by saying, “[it] embraces in its orbit all human actions”,¹³ which reflects a general implication in contradistinction to *hawa*, the latter being lawlessness and deviation from correct guidance, as is clearly portrayed in the cited verse. When considering this interpretation, the *Shari'ah* thus implies an entire value system that comprises both law and an uncompromising system of values and morals. Kamali's emphasis that the Qur'an's mentioning of the word *shari'ah/t*, has a far more gestalt (holistic) connotation; hence, it is not merely a legal codex as rampantly understood, which appears to be the favoured perspective. Hence, we imagine such a reduction seriously delimits Islamic teachings within narrow margins, especially on the role of *akhlāq*.

Although law is important, it is only one aspect of Islam's system of individual and social management. Indeed, the Revelation was never intended to answer every question of law, especially as the Qur'an ranked law after both faith and *akhlāq*.¹⁴ Verses pertaining to legal rulings number only in the hundreds compared to those dealing with faith and ethics, which form the major part of the scripture. In truth, current laws are the consequence of enormous efforts made by jurists to extract rulings that are both clear and unclear from the Revelation. But more important are the brilliant ideas and insights that established the systematic emergence of a dynamic and comprehensive body of law.

It is also very obvious that *shari'ah* law covers all major aspects and spheres of life, ranging from purely personal religious commitment (*fiqh al-'ibadat*: ritual and devotional matters) to general and criminal law at individual as well as societal level. Presently, Islam's legal discipline provides a properly respected judiciary system among Muslims. This is especially apparent in marital law as practised in almost all Muslim communities. In some countries like Saudi Arabia and others, Islam's criminal law is also implemented. Contemporary developments in the interpretation of *Shari'ah* law also involve Islamic economics and finance, the halal industry and general concepts regarding good governance. However, the objective of law is mainly to regulate fundamental practices that have direct bearing on human relationships. Islamic law does not focus on the nurturing or grooming of moral and spiritual aspects of human life, which is another major task of religion.

On the other hand, the concept of *al-Akhlāq al-Islamiyyah* (Islamic ethics) holds an all-inclusive inference of human behaviour. The term *Akhlāq* is the plural form of *khuluq*, which derives from ‘*kha*’, ‘*lām*’ and ‘*qāf*’, generally means ‘innate peculiarity’, ‘natural disposition’, ‘character’, ‘temper’ and ‘nature’ whereas *khalq*, another word from the same alphabet but with different reading, means ‘creation’, ‘making’, ‘origination’ and ‘physical constitution’.¹⁵ The relationship between *khalq* and *khuluq* was explained in a *hadith* narrated by Ibn Mas’ud (RA): “*The Messenger of Allah said, ‘O Allah You have made my creation perfect, so make my moral characteristics also to be the best.’*”

Ibn Abbas defined *khuluq* as *dīn* (religion)¹⁶ in light of the following verse: “*And you (Muhammad) have a sublime character (khuluq),*”¹⁷ which more clearly indicates *akhlāq*’s significance. Hamdy ‘Abd al-‘Al explained that this designation implies that both *dīn* and *akhlāq* thus share the major task of guiding human actions. Hence, *akhlāq*’s purposes are as comprehensive as religion’s purpose in the true guidance of man. Indeed, *akhlāq* is not merely a singular aspect of religion but rather represents the entirety of religion’s spirit and essence.¹⁸ The connotation of *khuluq* extends even further to embrace the inner self that holds the tenor of a man’s disposition. This inner nature is the actual essence of an individual since he/she cannot be judged by external appearances because real identity lies within a person’s character. The focus of *khuluq*, therefore, supports human experiences that demonstrate moral strength as being superior to physical strength in the struggle to obtain the real success.

Hence, we propose that instead of assuming its proper place and vital role, *al-Akhlāq al-Islamiyyah* has been upstaged and thus also, remains unseen by modern audiences. Abd al-Haq Ansari voiced his concern on the matter as follows: “Islamic ethics, as a discipline or a subject, does not exist at present. We do not have works that define its concepts, outline its issues or discuss its difficulties.”¹⁹ Abul Quasem mentioned the absence of analytical ethics in Islam as a corresponding discipline (ethics) that is enjoyed in the West, saying it remains in a vacuum that furthers unbalances development in the field.²⁰ Moreover, writings on ethics are not only extremely rare but also fragmentary in their approaches to the subject matter.²¹ Hence, as mentioned by several Muslim ethicists, proper discussion on *akhlāq* suffers serious neglect.

Draz presented his *magnum opus*, *Dustur al-Akhlāq fī al-Qur'an*, to restore the spirit of Qur'anic ethics. Abdul Haq Ansari declared the necessity of venturing further into the discipline of *akhlāq* and called for critical thinking in the realm of ethics rather than the rote memorization of dated opinions. A missive left by a famous ethicist demonstrates the intellectual poverty in the discipline: "I have no idea what it might mean to train someone in Islam to be a 'religious ethicist'. I do not even know if, from the perspective of Islam, that would make sense or be thought to be a good thing."²²

We assert that a clear understanding of the above-related terms will shed light, not only on Islamic ethics but also on the blueprint of Islamic disciplines in general. It is observed that Islamic disciplines suffer from weaknesses of having clear scope for each discipline which have finally made the realm of jurisprudence as the only remarkable achievement especially when it comes to theoretical framework. Theological aspects of Islam suffer from a lack of unruffled developments that have left Muslims with unresolved problems. The ethico-spiritual of Islam is generally confined to reduced terms that leave unbridgeable gaps that consequently seen to be deficient and unattractive.

Therefore, we submit that balanced discussion of different dimensions of Islam is mandatory. The spirit of 'one dimension is all-answering' must be abolished. Such a prideful conflict must end because, until each discipline is fully recognized as separate realms, Islam cannot assume its rightful place as a dynamic religion that addresses and solves all human problems in a comprehensive way.

Demarcating *Akhlāq* from Islamic Law

This study deals extensively with differences between both disciplines but without denying their respective congruities. Law and ethics share similar concerns in many ways, especially regarding the guidance of human beings to the proper way of life. Almost all aspects of Islam places law and ethics together. Both have the same sources, namely, the Qur'an as supreme Revelation, followed by the Prophetic traditions and human reasoning. Both also aim to educate and shape man's personality in order to gain success here and the hereafter.

The following discussion of some components of the disciplines, namely law and ethics, will help to achieve our objectives.

Major Features

The following external features describe both disciplines with regard to principal tasks, orientations and goals.

1. Principal Tasks

The difference between law and ethics begins with tasking. Law’s major task is to produce decisive verdicts because of breaching legal rules. Thus, law concerns the regulation of mass behaviour by the introduction of legal rulings bearing consequences (punishments) that are then enforced in cases of proven trespass. For example, law announces official and clear ordinances that are made known to the people and for which human needs are given the highest considerations. The law (judiciary system) then enforces these edicts by punishing those who demonstrate proven breaches. Reform of character occurs, but happens externally, mainly through imposing of rules and punishment.

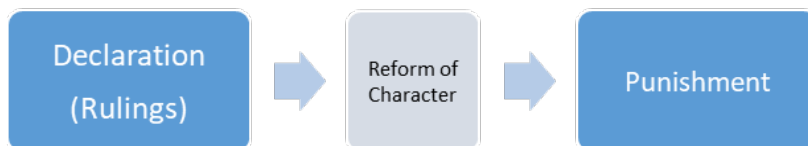


Diagram 1: The main task of law

On the contrary, *akhlāq* both imposes and nurtures aims to improve/restrain man’s behaviour for good or evil, respectively. The imposing side of *akhlāq* begins with the introduction of principle values and rules that are commonly accepted by all. Instead of straightforward concepts with respect to values and norms, *akhlāq* is complex. It holds a set of values that concerns general labels comprising standardized characteristics, but at the same time are flexible and fluid that may require critical thinking as one important criteria of difference, but not necessarily inconsistent. The concepts comprising Islamic values are a combination of idealistic and realistic goals. Ansari described their meaning as “general standards of desirability that are more or less independent of specific situations.” There are two sets of values: one is clearly well-defined while

the other remains unfixed and somewhat vague. Clear values, for example, are keeping promises and speaking the truth, but obscure values concern economic justice, which requires scrutiny and involves various norms that can differ because different societies propose varied approaches, and different individuals impose different standards to themselves.²³

Izutsu examined the implications of ‘good’ and ‘bad’ in ethics according to diverse rules of judgement. Beside primary meanings, he introduced secondary evaluative classifiers that involve an ethical meta-language used by a majority that remained open to different interpretations by different people.²⁴ But even the most agreed upon ‘stable values’ are not static or straightforward. The virtue of justice, for example, concerns the difficult balancing of ‘wise’ decisions, indicating that every virtue has limitations. For example, being generous is good but being overly generous while depriving needs of those who have a greater right to one’s wealth is bad. Thus, we must consider the importance of knowledge and the careful articulation of those with sufficient experience in moral decision-making. This is the philosophical side of *akhlāq*’s imposition component.

The nurturing side of *akhlāq* is psychological. Knowledge of values is followed by their justification, which has two important roles. The first validates clear and well-defined values while the second attends to their relevancy to self and a particular situation, and this is in addition to the continuance of a given action in accord with a decision that is made. Hence, we appreciate *akhlāq*’s complexity. Even though Muslims believe that the Revelation deserves the highest seat as our source of knowledge that affects decisiveness and continuity of action(s), *akhlāq* also involves complex intellectual processing. In other words, ethics cover an ever-widening range of internalized values that produce actions and also include the knowledge of rules and their limitations with regard to good and evil. *Akhlāq* is therefore directly related to both cognition and volition.

Akhlāq’s far-reaching purpose is thus to nurture man through reformative processes that establish a truly human state of the soul as defined by scholars such as al-Ghazali and Ibn Miskawayh. The moulding of one’s soul by the purposeful positioning of intellect, desire and anger in their proper stations represents the highest skill that can be expected of an individual. Thus, attaining a virtuous disposition with respect to courage, wisdom and temperance can indeed produce ‘justice’ towards one’s self

and others. Such a state of soul also needs frequent maintenance after its attainment, which requires continuous discipline.

Thus we appreciate *akhlāq*'s two roles, both of which are essential to problem solving in any age and, when appropriately applied, help fill the void cited previously with regard to an individual's lack of determinism, resilience, responsibility and the emotional capacity to make sound balanced decisions while avoiding extremism and obsession. Acknowledging punishment and reward, mainly in the Hereafter, plays the role of natural motivation, rather than a concept imposed on men. The following diagram sheds light:

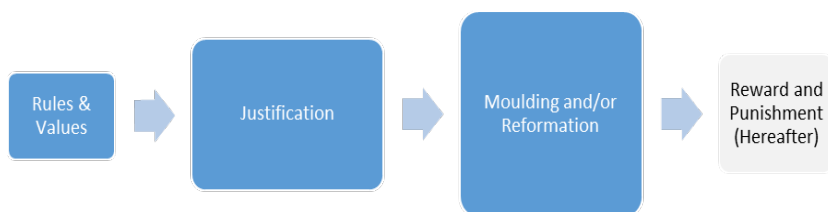


Diagram 2: The tasking of *akhlāq* (ethics)

Indeed, Islam highly esteems those who learn the true value of *akhlāq*. The term *ma'rūf*, another Arabic word that connotes 'the good', originally means 'known' and indicates that a good-natured individual is 'known' for his/her fluid reasoning. This implies that moral expectations are naturally flexible in general; thus, the door for personal reasoning remains wide open without sacrificing divinely prescribed rules that grant certain rights to certain groups of people.²⁵

The reformative process is a vast subject of complicated study, especially because the focus of *akhlāq* is the inner self, which comprises reason and spirit in relation to intellect and feelings. This is very much in line with the definition of a good character i.e. the state of soul from which good actions flow.

The main role of *akhlāq* which comes from the word '*khuluq*' has different meaning than action. Al-Ghazali has made this clear that a generous man might not donate his wealth for reasons. The process of nurturing good character person really involves lengthy process of nurturing man's soul, if not the whole span of life. Its objective is not simply the doing of what is

good but rather the continuum of doing good, since a good action is not acceptable if does not fulfil other criterias such as good motive and intention²⁶. Hence, it is the potential capacities of disposition, rather than the deeds, that really matters in *akhlāq*.

The responsibility as *khalifah* is weighty and brooks little opportunity for ease in decision-making. This begins with a struggle over desire, which, when successful, prevents human beings from doing evil. Optimal improvement of one's disposition for the good is the quality of being proactive and thus so predisposed. *Akhlāq* thus concerns an ever-widening range of attitude, ranging from *takhalli* (purification from evil) to *tahalli* (accumulation of good) with the view of fulfilling his/her responsibilities, which, as *khalifah*, are never ending and solemn. This path, one of unending effort (discipline) towards a disposition that continually achieves what is good, better defines the process of achieving *akhlāq*'s developmental goal, its essence, and is what completely demarcates it from the law.

Thus, ethical responsibilities are complex and involve thoughtful choices that require the effort of reflection before decisive action. Moreover, the set or system of Qur'anic ethics, as described by Draz, forms an adjustable standard that is flexible as opposed to rigid legal reductions. As such, we see that the Qur'an offers an extraordinary effect on man that positions human action (responses) midway between what is fixed and what is fluid. This is a message that uniquely holds tripartite perfection: softness within firmness, progress within stability and nuance within unity.²⁷

2. Goals

The highest goal of the law is to regulate social behaviour according to standard expectations regarding respect for the right of others, which translates into maintaining social equilibrium (civic mindedness). The elimination of crime and grave behavioural maladaptation in an effort to preserve communal equanimity is the law's noble end. For this reason, the law generally requires that human beings to refrain from the commission of serious crimes such as murder and theft. Nevertheless, this still leaves individuals with freedom of choosing unethical activities such as disrespecting others. Hence, the law covers basic rules but does not concern itself with achieving high standards of living or teamwork and good neighbourly relations, etc.

Akhlāq, on the other hand, zeroes in on moral excellence as a responsibility carried by every member of society. But a Muslim's ethical responsibility does not stop at simply parting from what is evil for the company of what is good because the essence of *akhlāq*'s expectation is his/her *dispositional* excellence, which is the optimization of efforts to individually obtain moral success. Thus, Izutsu raised an objection to the pairing of the modern understanding of virtue with the Greek word *arête*. In his opinion, *arete* which means excellence, does not equate with virtue, which literally means 'the right one'.²⁸ But we surmise that the actual meaning of *akhlāq* is compatible with *arête* since its aim is man's *dispositional* excellence, which surpasses the *status quo* in favour of idealism, and at the same time fulfils the role of virtues as well as rules in life.

Qur'anic verses bear numerous associations of faith with good actions as a reflection of Allah's high expectations of His servants (*'amal salih*). Being *the* guide for the transitioning of true faith into good actions, Islam expects optimal levels of commitment from each believer, but it is only God, the All-Knowing, who is able to reward or punish on the day when real justice will prevail, since *akhlāq* covers both tangible and intangible efforts.

A person with a high degree of *akhlāq* is always alert and sensitive to tasks, thinking always of producing good actions and doing as much good as possible. The cleverest man, according to one prophetic tradition, is the person who always remembers death because he/she will try to do as much as they can in preparation. This more proper ambition thrusts a person towards the achievement of excellence, not only here but also for the hereafter. Thus, the impetus that set Prophet Muhammad (s.a.w) as the model also motivates us, generally speaking, even if we are unable to achieve his level of excellence. It is in this spirit that Islamic ethics is teleological and idealistic. Islam not only acknowledges several consequences of action but has also offered a way of encouraging man to strive for excellence as rendered in numerous Qur'anic verses.²⁹

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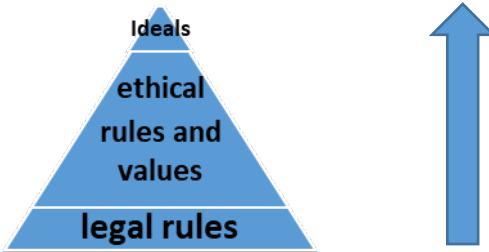


Diagram 3: The path of ethical achievement

Al-Ghazali's theory of justice aligns with *akhlāq's* unceasing quest for excellence. The continuum of just behaviour achieves excellence of soul and thus produces exceptional conduct and actions. Consequently, Al-Ghazali considered justice a path that accesses a soul's highest ranking, i.e., *al-nafs al-mutma'innah*, that stage when the soul leaves the body (death) as a result of successfully facing all sorts of life challenges, in full rest and satisfaction.³⁰ Hence, *akhlāq* is not achieved passively but is the result of high degrees of cognitive activities that follow a responsible and pro-active disposition that has been trained to accumulate good deeds.

The nature of *mi'yari* (normative) in Islam uniquely *expects* the highest point attainable, which considerably differs from the Western concept that concerns standards determined by a certain mean that would limit human endeavour to social expectations. On the contrary, *akhlāq* is concerned with striving to achieve an idealistic way of life. In Islam, *akhlāq's* principles thus push man forward towards the highest attainable level of achievement, even though normal people cannot attain perfection or completion. The implication here is to constantly seek improvement by trying to do our very best. Hence, the highest attainable level of morality varies from one person to another according to respective capacities and abilities.³¹ Therefore, the most important consideration for decision-makers is to view differing traits and personality types. In fact, this is where effort bears more weight than achievement or even natural talent.

Goals of law and ethics: from the most basic to higher qualitative levels

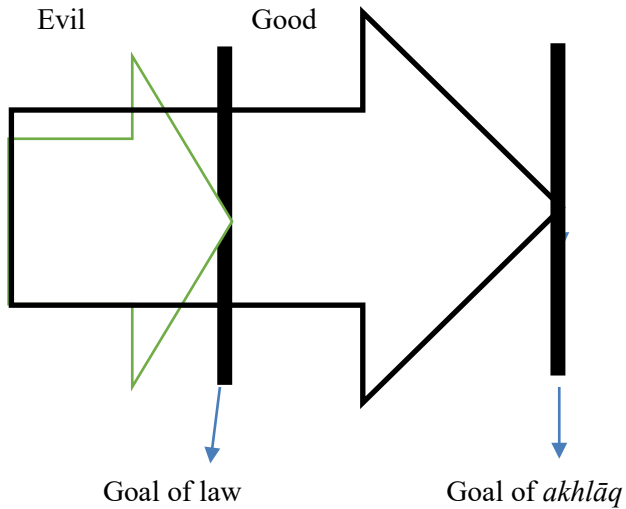


Diagram 4: The goals of law and *akhlāq*

The above diagram illustrates the scope of responsibilities for law and *akhlāq*, clearly showing that the expectations of *akhlāq* surpass those of law. Even though law in Islam also covers recommended acts, the general obligation is still the main aim. On the other hand, the path of ethical achievement is still a long way to go after leaving evil. In fact, among the good, there are numerous levels of achievement where every Muslim is supposed to push himself/herself to the best that he/she can be. Thus, *akhlāq* is neither secondary to nor subsumed by the law, which is cause for serious review because it is not, by nature or definition, supplemental to the law. *Akhlāq* is a dimension of Islam that stands on its own mainly to groom high quality of behaviour in man. In fact, in several instances the Qur'an makes it very clear that *akhlāq* surpasses faith which is the highest in rank when a character in *akhlāq*, namely being overly proud of one's self (*takabbur*, *istikbār*) and ungrateful, are the reasons for a person rejecting the right faith. It is in this light that Zaroug considered *akhlāq* obligatory as well as supererogatory.³²

3. Orientation

The Law is generally a formalized system that is devised to regulate human conduct as commonly agreed upon by a given society. It generally concerns itself with the expectations of others and mostly represents general rules that are imposed on a society. By nature, law produces common standards for societal living where humans are treated as legal objects that are required to conform to rules that maintain peaceful co-existence. It is important to highlight that even the most individualized aspects of Islamic law regarding religious ritual (*ibādah*) are generally intended for common practice while still give room for options.

On the contrary, *Akhlāq*'s primary tasking is to mould human personality in conformity with ethical values. Therefore, it focuses on man's individuality as reflected in its literal impression on man's inner self. *Akhlāq* concerns felicity, happiness, satisfaction and perfection by attempting to provide men with the sense of happiness as a means for both salvation and success. At first glance, *Akhlāq* seems to concern regulation of certain standards of behaviour that maintain good communal relationships with regard to specific social expectations. These include the manner of one's dealing with parents, teachers, neighbours, children, fellow Muslims, etc. However, a more thorough study of *Akhlāq* reveals expectancies that exceed the mundane because the actual goal that Islam sets for the individual concerns the philosophy of excellent living.

In this sense, Islamic ethics are uniquely dynamic in their approaches to accommodate every individual situation. *Akhlāq* concerns choice-making, beginning with fixed and standard rules and from thence moving on to an intensely individualized search for destiny by a well-defined path. Consequently, the formation of a singular way of life cannot be regulated by fixed determinants (law) at every level. Thus, when reflecting on the nature of *Akhlāq* as illustrated in the Qur'an, Abdullah Draz vigilantly proved that the Qur'an's phenomenal effect is its exposition of a dynamic system of potentials that stands in stark opposition to static expectations, even as its systematized exposition imputes the highest sense of obligation upon men.³³ He further explained that efforts made with regard to *akhlāq* are twofold in nature, being both defensive (*juhd al-mudafā'ah*) and creative (*juhd al-mubdi'*). Both labours vary according to individual proclivities and thus form an entire range of actions considered as *akhlāq*. He presented several examples of different life situations that described

challenges to the poor and the rich as well as the single and the married, and clearly showed how each individual has numerous opportunities to ethically perform what is good.³⁴

In response to the uniqueness of Islam's ethical nurturing of men towards perfection, Muhammad Asad wrote the following:

Islam, which is not a religion of repression, allows man a very wide margin in his personal and social existence so that the various qualities, temperaments and psychological inclinations of different individuals should find their way to positive development according to individual predispositions. Thus, one man may be an ascetic while another may enjoy the full measure of sensual possibilities within lawful limits. He may be a nomad roaming the desert without food for tomorrow, or a rich merchant surrounded by his goods. As long as he sincerely and consciously submits to the laws decreed by God, he is free to shape his personal life to whatever form his nature directs him. His duty is to make the best of himself so that he might honor the life-gift that his Creator has bestowed upon him; and to help his fellow-beings by means of his own development in their spiritual, social and material endeavors.³⁵

In support of the dynamic role of Islamic ethics, Ansari illustrated that *akhlāq*'s expectations were not limited to the Prophet as a model but also considered his companions a group of exemplary persons, each with various strengths and gifts.³⁶ This exceptional position opens opportunities for all, rich or poor, gentle or hard, lenient or strict.

Another fundamental difference in orientation is that law is basically an out-in system. That is, a law outwardly restrains man's behaviour at the behest of community and authoritarian rules. Law by nature is clear and known and its rulings are officially recorded. Legal codices are also made mandatory by the highest authority. Crimes thus presented are chargeable by law in accord with actions and legal decree. Moreover, charges must fulfil certain criteria and procedures before validation by the court. Furthermore, textual loopholes can provide room to debate the charges.

On the contrary, ethics is an in-out system that begins its work with man's internal state of the soul. The Sufi approach to ethics concerns stabilizing

the state of the soul as the ethical goal. According to al-Ghazali, *akhlāq* attains goodness as an established state of soul that continues to produce virtuous activities via wisdom, courage, benevolence and justice. Many other virtues, not listed here, are produced when a person achieves the state of justice.

However, several scholars have criticized the approach of emphasizing *akhlāq*'s relation to externalized behaviour, especially that which supposedly emulates the Prophet. Draz described this as 'the method of predecessor', which Ansari said was insufficient because scholars only had access to selective expositions of early Islam's moral life and actual practice upon which to base their assessments. Ansari added, "The business of the individual in Islamic morality is not confined to memorization of the injunctions of the Qur'an and Sunnah and their application to situations with which he is confronted in his life."³⁷ Muhammad Hashim Kamali described this approach as placing "... not enough emphasis on the meaning and purpose of Islam and integration of its values in one's conduct."³⁸ Indeed, over-emphasizing such an approach limits the entire scope of the discipline.

Beginning within the self, *akhlāq* covers everything that concerns the production of action. It also embraces the genesis of a correct worldview; the knowledge of good and evil, motivation and encouragement to do what is good, the prevention of doing evil, decision-making and intention, and finally, producing the act. Indeed, human actions include the external as well as internal dimensions, by which an extremely broad horizon opens to discussion and cannot be approached by limiting *akhlāq*'s scope to an externalized nature of human behaviour that can and has been feigned by hypocrites. *Akhlāq* is therefore also focused on the inner domains that guide development and fulfilment of individual aspirations. Although *akhlāq* involves a code of manners that appears to emphasize exterior aspects, our deeper analysis reveals that it mainly functions to instil the desire for good behaviour and invariably begins within man.

The above motivations to adopt ethical values and behaviour place the matter of personal choice as the direct result of faith. A person is free to opt in or out of actions that follow Islamic rules. This is called '*ilm al-iradah* (knowledge of will) and establishes man's role in choosing actions that conform to the essence of *akhlāq*. Hence, *akhlāq* is not so much about knowing the differences between good and evil, but more importantly it is

framing the will to choose what is best in life, which therefore requires decision-making skills that nurture self-growth. This also allows room for people to identify priorities, limitations, strengths and abilities. Thus, the rich should be thinking in terms of monetary commitments for what is good and the strong should be thinking in terms of bodily services, etc. Moreover, Qur'anic verses address different types of sacrifices, whether of wealth, self, time, energy, knowledge, etc.

Thus, *akhlāq* concerns itself also with careful decision-making with respect to moral responsibilities that also cover actions resulting from ignorance or negligence, such as a doctor who carelessly causes the death of a patient or a poorly informed judge who passes an erroneous judgement.³⁹ This aspect of *akhlāq* is intended to ensure that sufficient preparation and care is taken in every human activity, especially when entrusted by others. The end result is a responsible and serious-minded individual who is wary about the consequences of his/her actions.

Major Consequences

Sanction

Authority is primary to the law at all levels, which, in Islam, consciously includes man as the divinely appointed representative of God, both in the partial making and implementation of the law as embodied within a nation's judicial system. As for implementation, a judge delivers legal judgement after considering the text of law for guidance. Hence, legal enforcement is top-down in nature and punishment by law is undertaken as far as possible in this life.

Akhlāq, however, commands immediate implementation via divine guidance because, in its entirety, it concerns a man's direct relationship with God. Generally speaking, *Akhlāq* is focused on the effects of sound faith so that implementation is mainly based on a man's conscience. Here we can appreciate *Akhlāq's* private domain wherein a man has no need to show others his/her sincerity or commitment to his/her job, for example. The whole message of the Qur'an addresses the heart of man to fulfil the expectations inherent in *Akhlāq*.

Hence, *akhlāq* is a self-imposed, self-regulating system whereby individuals are expected to create his/her own level of sensitivity as a

motivational source. The correct worldview helps because believing that Allah is All-seeing, All-hearing and All-knowing signifies that God is also the Supreme and Final Judge, which is surely a prime motivator for doing what is good in this life. Allah consistently promises good rewards as well as serious punishment in accordance with what one performs in life. Moreover, Muslims must persevere in the face of difficulties and problems since life is but a test of faith.

The highest levels of achievement in *akhlāq*'s ethical journey are *taqwa* and *ihsan*, both of which reflect the highest degree of an individual's sensitivity towards doing and producing what is good. It is true that all of life is imposed upon us by God, but it is man who must nurture and develop from within himself/herself a certain level of spiritual inclination (disposition) to act. In this, man is therefore responsible for what he/she does. Allah describes believers in the Qur'an as having a high standard of *akhlāq*, which peaks are conquered by *muhsininun* and *muttaqun*. It is interesting that God describes the *muhsininun* to be the one who avoids, not the person who does not commit, which highlights the attempt and effort. The verse is "... He rewards those who do good, with what is best. Those who avoid great sins and shameful deeds, only small faults."⁴⁰ Hence, it is all about the inner self that matters.

The Nature of Judgement or Ruling

Judgement is primary to the law and includes rulings passed in court and comprises major legal processes. The nature of legal rulings is specific and clear-cut for example, on adultery, murder, theft, etc. Islam's divinely stamped *hudud* is core to its social venue and covers the most serious of crimes with straightforward punishments. However, lesser crimes that are also subject to legal punishments are left to human discretion (*ta'zir*). All in all, the nature of the law is a bit dry. There are five categories of rulings in Islamic law, all of which are very straightforward although they involve some differences of opinion. These are: compulsory (*wājib*), recommended (*sunnah*), permissible (*mubāh*), disapproved (*makruh*) and prohibited (*haram*). Attention is given mostly to compulsory and prohibited categories, both of which are liable to punishment by abandoning the former and performing the latter. The remaining three are applicable only to rulings related to communication and personal affairs.

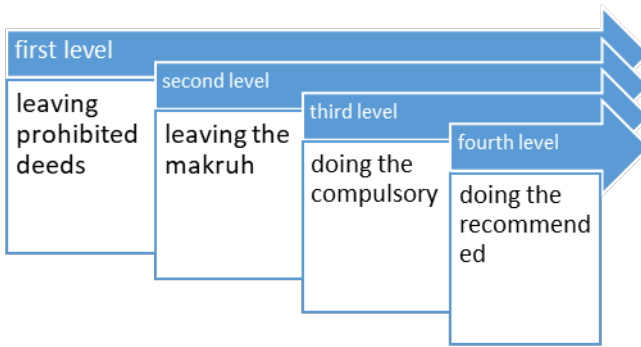


Diagram 5: Level of actions in law

On the other hand, *akhlāq* is open-ended, although ethics has certain codes or rules regarding deeds that are morally bad including what is not punishable by law, such as not visiting a sick friend or acts that do no place harm onto others such as wasting time.⁴¹ Specific injunctions or codes of morality are available as guides for good practice.

Scholars have discussed many injunctions in the Qur'an that are somewhat open for interpretation. Instead of addressing virtues in detail, the Qur'an describes good actions as deeds of good faith and intention. The bulk of virtue mentioned in the Qur'an comprises an open-ended guideline for personal adoption that can be adapted differently to suit numerous situations.⁴² These include humility, piety, goodness, generosity, justice etc; that can be interpreted and acted on differently by various situations of individuals as well as societies. What is important in *akhlāq* is a person's decision to continue with certain actions and these can vary enormously from one person to another and from one situation to another. Thus, if *akhlāq* were to be made dry like the law, it would become impractical.

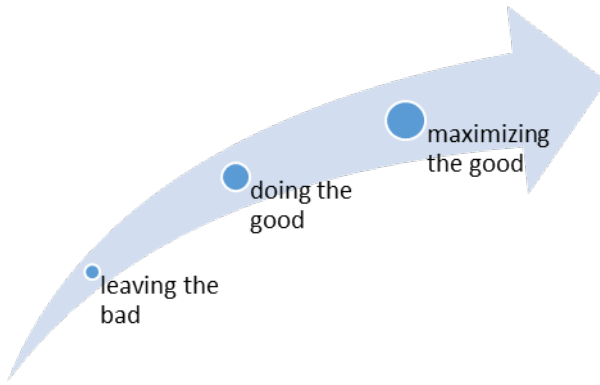


Diagram 6: The progressive course of *Akhlāq*

Therefore, values and rules that involve the internalization of *akhlāq* run a smooth course as illustrated above. For this reason, several scholars have identified the initial difference between ethics and law as *akhlāq*'s inclusion of both justiciable and non-justiciable actions.⁴³ The expected line of Islamic ethics thus ascends from the leaving-off of evil actions to the realization of duties and the continuum of obtaining ideals. *Akhlāq* therefore does not fulfil the features of legal praxis, etiquette or moral code, and knows no classification of actions excepting evil, good and best. Thus, any attempt to delimit modern approaches to *akhlāq* by a codex is grossly insufficient.⁴⁴

In the context of real life, ethics concerns decision-making at the individual level but not necessarily at the expense of legal rulings. This process mostly involves human psychology. People may adopt different rules for themselves and may even opt for a certain injurious path in a desperate situation, or be forced to choose between two evils, both of which remain within reasonable ethical deliberation. On the good side, for example, a person can make it compulsory for his self to donate to the poor every month. Therein lies the challenge of ethics and thus provides wide latitude for personal justifications in the field of ethics.

Draz presented teleological features of *akhlāq* by describing the concept of effort as an attempt to avoid evil and creatively move towards what is good, as illustrated below:

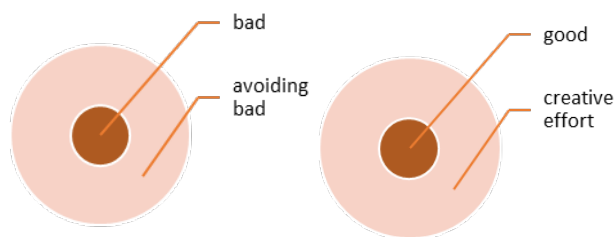


Diagram 7: Draz's concept of effort

The Nature of Action

Law is a completely action-oriented system that only deals with executed human deeds that enable the judiciary system to function. Attempts or intentions to commit crimes that are not executed do not fall under the law. For example, a person who attempts murder but misses his/her intended victim cannot be charged under the law in this life. To meet judicial requirements, a crime must be reported, and sufficient evidence must be presented before a person is considered guilty. This procedural process increases the chance that a person is not charged or is freed from charges in the event of insufficient evidence, even though he/she may have actually committed the crime. In another scenario, a person can be deemed guilty under the law, even if an act was due to negligence.

Akhlāq, however, covers both tangible and intangible behaviour. It is about the state of the self and actions that accomplish certain aims throughout the course of one's life. It is about the transformative process of one's character to embrace the virtues, including trustworthiness, accountability, sincerity and others. *Akhlāq* concerns good and evil at primary and secondary levels⁴⁵ and internal activities, including human will. For these reasons, *ilm al-akhlāq* is known as knowledge of will ('*ilm al-irādah*'). In fact, man's internal activities open a new realm of research including inclinations, motives and effort. Islam also makes it clear that we will be judged not only for our actions but also for our intentions. Hence, intention plays such a major role in *akhlāq* that it can even overrule general verdicts, since a good act can be deemed evil according to intention.

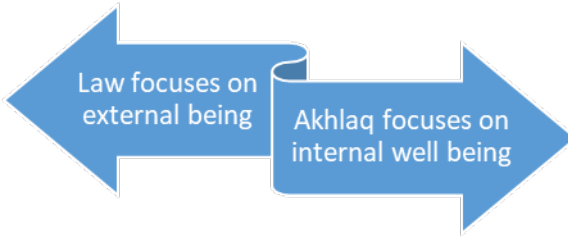


Diagram 8: Different focus of law and *Akhlāq*

Conclusion

We have thus demonstrated that Islamic concept of morality (*Akhlāq*) and law, which is generally termed as *shari'ah*, are fundamentally different. Both have complementary roles to play to support the religion, but they take different tasks in Muslims' life. They are independent disciplines that must be approached and upheld as such, a discipline cannot be made subordinate or subsumed by the other, for which serious philosophical religious and social consequences will appear.

Akhlāq and *shari'ah* law are two approaches meant to solve human problems with different capacities and ways. As a system, *shari'ah* law is a clear and acknowledged set of rules while *akhlāq* is about guidelines for individual decision-making that allows everyone the right to choose their degree of submission and/or participation. At the societal level, *akhlāq* esteems appropriate behaviour and disposition while law sets limits of permissibility. Hence, the principles defined by *akhlāq* assist the law in nurturing human for the betterment of life, which is not necessarily means secondary and merely supporting. Each has own strength that makes itself cannot stand alone in fulfilling the role of religion.

Law is a system with straight-forward rules in managing human actions while ethics is an open system guarded more with important goals in life. This does not mean that clear rules are more important than implicit rules of *akhlāq*. In fact, the laxity is more natural in teaching human to come back to the real path in accordance with different strength, inclination and situations among people.

Law imposes rules but does not concern itself with man's inner self, whereas ethics addresses the psychological and spiritual aspects that differentiate good from evil and passivity from wilful activity in favour of what is good for all mankind. Thus, any attempt to conflate these disciplines or subjugate ethics as supererogatory consideration to obligatory law, is intellectually and practically unacceptable.

Understanding the nature of ethical expectation of Islam towards human beings will further shed light to better understand several hot and burning issues debated such as the emancipation of women, the ideal framework of family and societal life etc. Islam has been suggesting the importance of family as top priority of society for the development of civilization. Ethical perspective of solving problems can further scrutinize the issues through the question of appropriateness of a particular action in different situations. Answers based on appropriateness is giving suggestions, while giving man a range of options in life and therefore more viable answers for human practices. This is important especially in dealing with the changes that occur to man and society in accordance to the demands of human development. All in all, this will further reflect the role of religion in solving the problems of society and assisting human beings to move on in life.

Hence, there is an urgent need to redirect our energies to develop *akhlāq* as a separate discipline so that each discipline, law and ethics, can be developed and sustained accordingly to maintain the dynamics of civilization in raising quality of life and society.

Endnotes

¹ In Judaism for example, studies mainly focus on the relationship between ethics and *halakhah*. In Christianity, the role of Jesus as the moral source is primarily discussed. See Newman LE, “Ethics as Law, Law as Religion: Reflections on the Problem of Law and Ethics in Judaism”, *Contemporary Jewish Ethics and Morality*, Dorff EN and Newman LE (eds), (Oxford: Oxford University Press, 1995), 79. Also see Mellema Gregory F, “Moral Ideals and Virtue Ethics” *Ethics: An International Journal of Social, political and Legal Philosophy*. Chicago: University of Chicago Press, 2010), 14.

² See for example Reinhart A Kevin. “Islamic Law as Islamic ethics” *The Journal of Religious Ethics*, (Atlanta: Scholars Press).

³ Zaroug, Abdullah Hasan, “Ethics from an Islamic Perspective: Basic Issues” *The American Journal of Islamic Social Science*, 16: 3 (1999), 54.

⁴ Muhammad Abul Quasem, *The Ethics of al-Ghazali: A Composite Ethics in Islam*, (Delmar, N.Y: Caravan Books, 1978), 79.

⁵ George Fadlo Hourani, *Reason & Tradition in Islamic Ethics*, (Cambridge: Cambridge University Press, 1985), 1.

⁶ Mohammad Hashim Kamali, *Shari‘ah Law: An Introduction*, (Oxford, England: Oneworld Publications, 2008), 6.

⁷ Ibid.

⁸ Fazlur Rahman, “Laws and Ethics in Islam”, in *Ethics in Islam*. Hovannisian RG (ed), (Malibu: Undena, 1985), 5.

⁹ Azim Nanji, “Islamic Ethics”, *Companion to Ethics*, Singer P (ed) (Basil: Blackwell, 1993), 23.

¹⁰ Zaroug, “Ethics from an Islamic Perspective”. 55

¹¹ On the authority of Umar (r.a.) who said: “One day while we were sitting with the Messenger of Allah, there came before us a man with extremely white clothing and extremely black hair. There were no signs of travel on him and none of us knew him. He sat next to the Prophet. He supported his knees up against

the knees of the Prophet and put his hand on his thighs. He said, 'O Muhammad, tell me about Islam.' The Messenger of Allah said: Islam is to testify that there is none worthy of worship except Allah and that Muhammad is the Messenger of Allah, to establish the prayers, to pay the zakat, to fast the month of Ramadan, and to make pilgrimage to the Baitullah if you have the means to do so.' He said: 'You are correct.' He said: 'Tell me about iman (faith).' He then responded: 'It is to believe in Allah, His angels, His books, his messengers, the last day and to believe in the divine decree, the good and the evil.' He said: 'You are correct.' Tell me about Ihsan. He answered: It is that you worship Allah as if you see Him. And even though you do not see him you know that He sees you.'" Narrated by Muslim

¹² Kamali, *Shari'ah Law*, p. 2

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Hans Wehr, *Dictionary of Modern Written Arabic*. ed. J. Milton Cowan. (N. P.: Otto Harrassowitz. 1974), 258.

¹⁶ Hamdy 'Abd al-'Al, *Al-Akhlāq wa Mi'yaruha bayna al-Wad'iyyat wa al-Din*. (Kuwait: Dar al-Qalam, 2002), 13.

¹⁷ Al-Qalam: 4.

¹⁸ 'Abd al-'Al, *Al-Akhlāq wa Mi'yaruha*, 13.

¹⁹ Abdul Haq Ansari, "Islamic Ethics: Concepts and Prospects" *The American Journal of Islamic Social Sciences*, 6: 1 (1989), 81.

²⁰ Quasem, *The Ethics of al-Ghazali*, 80.

²¹ M A Draz, *The Moral World of the Quran*, Tr. Danielle Robinson and Rebecca Masterton, (New York: I. B. Tauris, 2008), 2; Abdul Haq Ansari. "Islamic Ethics: Concepts and Prospects", 81; Siddiqui Atallah, "Ethics in Islam: Key Concepts and Contemporary Challenges" *Journal of Moral Education*, 26: 4 (1997), 423; Amana Raquib, *Islamic Ethics of Technology: An Objectives' (Maqasid) Approach*, (Petaling Jaya: The Other Press, 2015), 23.

²² Stanley Hauerwas, "Between Christian Ethics and Religious Ethics, How Should Graduate Students Be Trained?" *Journal of Religious Ethics*, 31: 3 (2003), 410.

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- ²³ Abdul Haq Ansari, "Islamic Values in Changing world", *Islam and the Modern Age*, 4 (1973), 24.
- ²⁴ Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'an*. (Kuala Lumpur: Islamic Book Trust, 2007), 5.
- ²⁵ Ibid.
- ²⁶ Al-Ghazali (1993) *Ihya Ulum al-Din*, (Beirut: Dar al-Khair, 1993), 3/ 177.
- ²⁷ Draz, *The Moral World*, 5
- ²⁸ Izutsu, *Ethico-Religious Concepts*, 4.
- ²⁹ Abd al-Al, *Al-Akhlāq wa Mi'yaruha*,. 27.
- ³⁰ Al-Ghazali *Ihya Ulum al-Din*. 3/ 178.
- ³¹ Muhammad Asad, *Islam at the Crossroads*, (Kuala Lumpur: The Other Press, 1999), 11.
- ³² Zaroug, "Ethics from an Islamic Perspective", 54.
- ³³ Draz, *The Moral World*, 5.
- ³⁴ Ibid.
- ³⁵ Asad, *Islam at the Crossroads*, 12.
- ³⁶ Muhammad Abdul Haq Ansari, *The Ethical Philosophy of Miskawaih*. (Aligarh: n.p., 1964), 27.
- ³⁷ Ibid. p. 28.
- ³⁸ Kamali, *Shari'ah Law*, 6.
- ³⁹ Hamdy, *Al-Akhlāq wa Mi'yaruha*,
- ⁴⁰ *Al-Najm*: 31-32.
- ⁴¹ Zaroug, "Ethics from an Islamic Perspective", 46; Rahman F. "Laws and Ethics in Islam", 5.

⁴² Draz, *The Moral World*, 272-277.

⁴³ Rahman, F, "Laws and Ethics in Islam", 5.

⁴⁴ Quasem, *The Ethics of al-Ghazali*, 79.

⁴⁵ Izutsu, *Ethico-Religious Concepts*, 21.

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