

## Islamic Jurisprudence and Ethics: A Study Based on Al-Ghazali's 'Iha'y 'Ulūm Dīn

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### Abstract

*Our purpose in this paper is to show the interrelation between Islamic jurisprudence as a science that contains high values and ethics. The impetus of this research is the two causes, the first is the absence of this relation in most of the Islamic literature, especially in the history of jurisprudence, and the second is the direct elimination of the Islamic thought in the ethical scope by the Western researchers in their contemporary studies. The author of this paper based on the heritage of al-Ghazali (d. 505 AH- 1111 CE), especially in his masterpiece 'Iha'y 'ulūm dīn.*

**Keywords:** *Ethics, Values, Jurisprudence, Legal Theory, High Objectives.*

### Introduction

Ethics in academic writings is a common topic that witnesses many contributions by different fields of knowledge. Many scholars from different disciplines had contributed to this topic, including thinkers, philosophes, Muslim jurists, and the lawgivers. Nevertheless, western thinkers or philosophers had produced enormous works since early periods until now.

Depending on what George Hourani said in his introduction to his book *Reason and Tradition in Islamic Ethics*, numerous works and studies about ethics, especially in the west, had neglected the efforts of Muslim thinkers and their contributions to ethics, including the much-cited work in the field *A Companion to Philosophy of Religion*. Nonetheless, this does not contest all that has been produced in this regard, but one notice that the majority of them have not thoroughly scrutinized this area in Islam

Away from the emotional judgements, a mere historical vision to the Muslim works, starting the fourth century inward C.E, will be enough to show the prominent and qualitative works in the Muslim thought had paid attention to ethics as a branch in Islamic studies only but had demonstrated its ability of formulating a theory of ethics also, based on Islamic literatures. The treatment of ethics in Islamic thought rests on four areas: philosophy, theology, sufism, and jurisprudence that I will focus on in this article.

But the striking remark in the jurisprudential literatures is the absence of ethics, jurists did not paid attention to ethics when dealing with legal rulings even if they pertain to the sources of *Shari'ah*; so this gap became the dominant sign in the jurisprudential books, except for a few attempts of some scholars that noticed this gap, and were aware of their negative impacts.

The questions that I seek to answer in this paper are as follows: (1) Is there a relationship between rulings and ethics? (2) How did al-Ghazali for instance link jurisprudence with ethics? (3) And what were the tools that al-Ghazali used to combine jurisprudence and ethics?

In attempting to answer those questions, I divided my paper into five sections as follows: a/ the Reason behind authoring *Iha'y 'ulūm dīn*, b/ Knowledge before practice, c/ Is *Iha'y 'ulūm dīn* a jurisprudential work? d/ Jurisprudential Rulings and their Ethical Nature, E/ Jurisprudence and Ethics in charity (*Zakaat*).

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These following pages will try to elaborate the nexus between rulings and ethics, relying on the prominent work of al-Ghazali, *Ih'ya' 'ulūm dīn*, as a great work in the Islamic context that discusses the relationship between jurisprudence and ethics, as its author was one of the pioneering scholars who paid close attention towards ethics in Islamic history.

Noticeably Muslim jurists in their books of jurisprudence did not pay attention to ethics. This situation continued for many centuries due to many reasons. Including the chasm between sciences whether, either those that pertain to the same source, or those that pertain to various sources, to preserve the specialty of sciences, and to avoid merging them. If Muslim scholars rejected to combining jurisprudence and legal theory, all along with theology, it would be logical for them to combining jurisprudence and ethics. Thus, legal works had been only dedicated to rulings, and the jurists had been conscious of this reason. It is crucial to mention that *al-Ghazali* had authored jurisprudential books before *Ih'ya' 'ulūm dīn*, which had not contained ethics as he had done strikingly in the last one, and this shift in al-Ghazali's path attracted the attention, and make the reader in an inquiry case, that I will talk about subsequently.

It is very crucial that al-Ghazali had not limited himself to depicting ethics in Islamic studies, but he aimed to formulate a theory about ethics based on the sources of Islamic law (*shari'a*), which had been unfortunately neglected until recently.

Much research had been conducted about ethics more broadly, but this topic through al-Ghazali's thought is understudied, irrespective of the aforementioned contribution of George Hourani that upon which the present paper draws suggestively. Some contemporary authors have known a qualitative shift in ethics in the thought of al-Ghazali, so they have strived to fill this gap, especially in Western scholarship that obviously neglected the Muslim perspective, especially with respect to and al-Ghazali's.

In their contributions, Moh Fauzi Hamat and Mohd Hasrul Shuhari emphasized ethics of living in society. This research covers one side of ethics because it sought to illustrate how to deal with people, either friends or unfriends, based on one work of al-Ghazali titled *Bidayat al-Hidayah*.

I will not present the details of ethics as they were presented by al-Ghazali in *Ih'ya' 'ulūm dīn*, but I will address the general view that He relied on. In other words, this paper will explore al-Ghazali's attempt to combine jurisprudence and ethics through the Charity in Islam.

#### *The Reason of Authoring Ih'ya' 'Ulūm Dīn.*

In the introduction to his magnum opus *Ih'ya' 'ulūm dīn*, al-Ghazali started depicting the situation of some jurists who were far more interested in jurisprudence and deriving rulings than in their finalities, especially in regard to 'badat, or rituals. In his view, a jurist who ignores those purposes cannot be considered a jurist who is disciplined in religious teachings.

Al-Ghazali does not stop at this point. He states that the jurists did not mention the hidden defects of transactions [*Mu'amalat*] that bring harm to oneself in the worldly life and the hereafter. Based on this idea the question that remains is as follows: why: why al-Ghazali emphasized on the secrets of the rulings of worship and transactions [*Mu'amalat*]?

Let us move to the book's structure. Al-Ghazali has divided it into four parts, the first of which relates to rituals, the second to transactions [*Mu'amalat*], the third to destructive ethics that detrimental to humans, which He called [*al-munjiyat*] and the fourth that relates to the morals that will bring evil to humanity, which al-Ghazali called [*al-mohlika*].

*Knowledge Before Practice*

Before discussing the details of rulings and their purposes, al-Ghazali preferred to crystalize the concept of knowledge. This is a priority in the classification of the book that reflects the centrality of knowledge in al-Ghazali's thought. For instance, rituals in Islam are based on the knowledge.

In his fourth chapter titled: Knowledge and Morality, the author illustrated the relationship between knowledge and morality that knowledge as a moral basis that results from the acquisition of knowledge. According to al-Ghazali, knowledge has a two-fold purpose. First, it is an apprehension of objects as they are and of their significance. Second, it is thought of as, a guide to conduct. Based on this purpose, reason is divided into two types: theoretical reason, and practical reason, and the function of each is different. Additionally, al-Ghazali emphasizes the importance of knowledge in his *Mizān al-'amal*, and argues the value and the classification of practice in the same way he did in his *Mi'yar al-'ilm*.

*Is Ihy'a 'Ulūm Al-Ḍḍīn A Jurisprudential Book?*

*Ihy'a 'ulūm al-ḍḍīn* cannot be considered a jurisprudential book although its first quarter is devoted to rituals, and the second quarter is dedicated to some transactions [*mu'amalat*]. Additionally, al-Ghazali preferred to write this book similar to the jurists' lingua franca to gain wider acceptance. Although this book does not contain all rulings for all common legal cases, al-Ghazali stressed its hidden meanings. He discussed at great length the hidden meanings of ablutions, prayer, fasting, Charity, and pilgrimage. It is even more crucial to state that al-Ghazali in his discussion of the secrets of devotional actions relied on two core elements.

The first element is the high objectives of *shari'ab*, as *shari'ab* does not differentiate between rulings and their purposes, a holistic maxim that has been established by usual scholars like al-Juwayni (d. 478 AH- 1085 CE), al-Ghazali himself, al-Qarafi (d. 684 AH- 1286 CE), and al-Shatibi (d. 790 AH- 1389 CE). Most Muslim scholars throughout the Islamic history of the doctrines (Sunni schools) have acknowledged that *shari'ab* preserve the welfare of people, provided that God put on the responsibility of accountable persons (*mukallafun*), that their actions does not go beyond five categories which are: obligation, recommendation, permission, prohibition, and reprehension. Muslim scholars have differentiated between rituals and transactions [*mu'amalat*]. The benefits of the latter are plausible, captured by reason, unlike the former that its benefits are hidden. Although, *shari'ab* acknowledged the teleological purposes of rituals, it provided a reasoning for certain rituals such as prayers which prevents obscenity and evil acts, and Zakat which alleviates the suffering of the poor from asking money as a purpose of Charity,

It is worthy to confirming that Islamic ethics were a major impetus that influenced al-Shatibi's thought about *sabri'ab*. This is obvious when he calls for considering Islamic ethics as a whole framework that encompasses all the rulings of *shari'ab*. He also argued that *shari'ab* as a whole established the high morals and virtues, thereby prohibiting usury and the like, in agreement with his prominent predecessor al-Ghazali in *al-ih'ya*.

The second element is the importance of praxis in *shari'ab* that it is not separated from knowledge, and that the relation between them is dialectical. That means that knowledge in *shari'ab* must lead to practice and the practice must be based on knowledge, and any attempt to separate them is misleading. To my knowledge, all Muslim scholars who treated the theoretical reason and practical reason relied on this inextricable connection between knowledge and practice in Islamic vision.

Yet, the issue that merits further attention here is the ethical nature of the secrets that al-Ghazali attributed to jurisprudential rulings on which I will shed light in what follows.

*Jurisprudential R And Its Ethical Nature*

It was mentioned previously that al-Ghazali intended by his book to combine jurisprudential rulings and ethics through his work *Ihy'a 'ulūm al-ḍḍīn*, because he considered the latter as an outcome of the former.

In this context, some authors attempted to clarify the ethical sides of some jurisprudential topics, such as Russel Powell who treated of forgiveness in *shari'ah* as an ethical act or virtue when somebody is killed by another one, provided that the Quran exhorted the family of the victim to forgive the killer. In my opinion, forgiveness as it was established in the jurisprudential books remains a virtue that *shari'ah* emphasizes for avoiding revenge that leads to killing more people. Broadly speaking, the author did not clarify secrets and morals beyond the topic of criminal law in general.

We should remember the great effort made by Hachim Kamali, in his book titled Equity and Fairness in Islam, in which he tried to illustrate the virtue of fairness in the judgments of Islam beyond *Istih̄san*, and He provided some examples of transactions that entail justice and fairness in jurisprudence, and clarified the ethical side of the rule of *Istih̄san* within legal theory, an attempt that intersects to some extent with that of David Vishanoff in his study about al-Juwayni in his compendium titled: *al-Waraqat fi ūsūli l' fiqh*.

In a somewhat similar attempt, Ahmad Badri painstakingly treated the relation between jurisprudence and ethics, acknowledging that the jurisprudence crystallized with applied Islamic ethics which, a viewpoint that is perceived as in the ethical discourse. Specifically, after citing the four types of ethics, he focused on one of them which is applied ethics, as they fall under to jurisprudence in his view, but that it is imperative to precede the genuine knowledge and the best exploitation of high objectives (*maqasid al- sabri'ah*) which were neglected in a wide range of rulings and legal precedents in Islamic legal history.

Badri's approach is to bridge the gap between jurisprudence and ethics through restoring the consideration of high objectives in contemporary *ijtihad* to address the new challenges in various fields. Badri's account about the disuse of high objectives in legal heritage may make sense if he meant some legal opinions that avoided the system of Islamic legal schools, such as the *abl al-zahir*, Unlike the methodology of The legal schools which is differentiated from it. Now, I will demonstrate how al-Ghazali combined ethics and jurisprudence through the practicality of high objectives in the charity.

#### *Jurisprudence and Ethics in Charity (Zakat)*

I took interest in charity to as an of a jurisprudential example where both ethics and jurisprudence overlapped overlap. Chrity topic embeds higher values and morality which are compatible with the higher objectives of *shari'ah*, like solidarity and cooperation. The unique methodology that al-Ghazali wrestled with in his masterpiece *ihy'a ūlūm d̄din* is praiseworthy and deserves much attention.

Al-Ghazali expounds that it is imperative for an account person (*mukallaf*) to be aware of eight functions of Charity. The first is to be conscious of the ultimate meaning of Charity, by answering two kernel questions: why Charity is obligatory? And why is it one of the pillars of Islam? The second function is the timing of performance, and the etiquette of giving Charity. The third is to remain humble while giving charity. The fourth is to promote charity by giving it in public. The fifth function is to protect charity from whatever may ruin its value, like the state of someone who gives some money away to the poor and then brags about it. The sixth function is to consider charity as a small act of solidarity or even nothing so that the person giving it will not be conceited, given that conceitedness is one of the ethics that lead Mankind to extinction. The seventh function is to choose the best of whatever one possesses for charity, especially with respect to agriculture and livestock. The eighth function is to choose how to evaluate his charity, by looking for the right people who deserve charity, especially those among the pious, righteous, and the people seeking knowledge.

It is worth noting that al-Ghazali used the tools of legal theory, taking into account the higher objectives of *shari'ah*. Obviously, he emphasized them in his masterpiece *al-mustasfa min 'ilm l'ūsūl*, where he asserts that every ruling or meaning that is extracted from the Divine sources must extracted from one of three paths. This methodology does not pertain to rulings only, but it encompasses ethics also.

According to *Ibn Rūshd* (d. 595. AH) knowledge is divided into three types, knowledge whose purpose is to show statement belief occurring within oneself, practical knowledge that includes all actions which have a

practical nature, and mediating knowledge whose function is to establish rules, upon which jurists can rely to derive previous knowledges, though ethics fall under the second for its practical nature.

## Conclusion

To sum up, it is briefly evidenced in this paper that there is a closer relationship between jurisprudence and ethics based on Zakat in Islam as it is elucidated by al-Ghazali in his famous book mentioned earlier. The important result can be drawn from this research that it needs to be shown in forthcoming research is the central role of Islamic legal theory and higher objectives on Islamic ethics. Although there are insights in some research mentioned in this paper that attempt to elaborate Islamic legal theory and higher objectives as fundamentals of Islamic ethics, but the proofs that demonstrates process, methodology, and the epistemic sources remain unclear until now.

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