Principles of Islamic Ethics

&

Islamic Law
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Introduction

• The purpose of law and ethics is to ensure the well being of the individual and the community at the same time in a balanced way.

• Shariah encompasses ethics and law from a worldly and otherworldly perspective.

• There are clear methodologies in place for Shariah.

• Islamic ethics and Law have been developing throughout history in a dynamic way until 19th century when it stopped due to colonisation.

• Ethics and law continue to develop with the new situations that society faces.
Human Nature, Good and Evil
The Unique Position of a Human Being

- Has been “honoured with goodness” (Qur’an, 17:70) in that we are created with the innate capability to recognise goodness and virtue.
- Is created in “the best composition” (Qur’an, 95:3-6) in that we have the capacity to excel in our humanity. The Qur’an says that only those who believe and do good deeds will realise this potential.
- Is created as a “caretaker on earth” (Qur’an, 2:31-33) charged with the duty of upholding goodness and righteousness.
- Has been given “the trust” (Qur’an, 33:72) which is interpreted self-awareness and freedom of choice that comes with it.
The Unique Position of a Human Being

- However, human being has a nafs, the egotistical soul that acts as the interface between the spirit and the physical body. All human evil is a product of the unpurified nafs.

- Although we have the ability to recognise goodness and strive to uphold what is right, our choices are negatively influenced by the emotions, desires and the selfish impulses of the ego.
Therefore, human discernment for good and evil are clouded by human endeavour alone.
Four Sources of Shariah

1. **The Qur’an**
   As the primary source of God’s revelation, the Qur’an is the sourcebook of Islamic principles and values. Only about 300 verses can be considered strictly legal.

2. **Sunnah** of the Prophet
   Words, actions and approvals of the Prophet Muhammad as the messenger of God. An individual report narrated is called a *hadith*. Thousands of hadith report collectively make up the body of Sunnah.
Four Sources of Shariah

3. **Analogical Reasoning** (Qiyas)

Extending established legal precedence to new matters by identifying an operative cause applicable to both situations.

4. **Consensus** (Ijma)

Consensus of the community of scholars over a solution to a legal and practical issue. When a certain ruling lasts the test of time, more and more jurists as well as people accept the ruling achieving a consensus over that matter.
Principles of Islamic Law
Shariah

- Shariah literally means ‘the way’ and ‘source of water’.
- **Shariah** is understood as God’s guidance for happiness in this world and in the next.
- **Fiqh** (Islamic jurisprudence) is the human understanding of Shariah by the examination of source texts of the Qur’an and hadith.
- Islam is an all encompassing religion with a comprehensive law that provides guidance in all key aspects of life.
Shariah

- Shariah contains both legal rules and ethical principles.
- Shariah is summed up under four broad categories.
  - **Aqidah** – creed
  - **Ibadah** – religious worship and practices
  - **Ahklaq** – morality and ethics
  - **Muamalah** – social relations
Aims of Law and Ethics

• Firstly, any legal and ethical endeavour must ultimately lead to **justice**, **beauty** and **mercy**.
• Secondly, law and ethics must protect the following five basic human rights
  - **Life** – every person has a right to live in safety and earn his or her livelihood.
  - **Property** – owning and preserving one’s personal property is a fundamental right.
  - **Human mind** – no one, including the self, society and state, should coerce or remove the ability to think freely.
  - **Belief & religion** – there is no compulsion in religion and every person has a right to keep and pass their religion to future generations.
  - **Family and lineage** – humans have the right to raise a family.
Aims of Law and Ethics

• Thirdly, Muslim jurists also take into account important methodical principles that are utilised when addressing ethical problems.

• Some principles that especially apply to Muslims living in Western countries are given below.
  - Everything is fundamentally allowed unless stated otherwise.
  - Under the circumstances when absolute justice cannot be fulfilled, relative justice is applied.
  - Something that cannot be completely realised is not completely abandoned.
  - Necessities can waive a prohibition to the degree that necessity is removed.
  - Removal of a certain harm comes before acquisition of a certain benefit.
Legal & Ethical Boundaries
Legal & Ethical Boundaries

- Human actions, hence freedoms, are not absolute and are curtailed by law, public and individual conscience.
- Islam seeks a balance between these three concentric circles.
- Every crime is also a sin in Islam. But not every sin is a crime.
Legal & Ethical Boundaries

• Importance of individual conscience.
  - Islam cultivates the development of a “sound heart” because ultimately “only he (will prosper) that brings to God a sound heart” (Qur’an, 26:89)
  - The Prophet Muhammad (pbuh) said, “Actions are judged according to intentions. Whatever someone intends to do, he gets its reward...”

• Place of public morality.
  - “And from among you there should be a party who invite to good and enjoin what is right and forbid the wrong and these are those who shall be successful.” (Qur’an, 3:104)
Legal and Ethical Boundaries

- Narrated by An-Nu`man bin Bashir: The Prophet said,
  - “The example of the person abiding by God’s command and prohibitions in comparison to those who violate them is like the example of those persons who drew lots for their seats in a boat. Some of them got seats in the upper part (of the boat), and the others in the lower. When the latter needed water, they had to go up to bring water (and that troubled the others), so they said, ‘Let us make a hole in our share of the ship (and get water) saving those who are above us from troubling them. So, if the people in the upper part left the others do what they had suggested, all the people of the ship would be destroyed, but if they prevented them, both parties would be safe.”
Individual vs Community

- Islam seeks the well-being of the individual and the community at the same time in a balanced way.
- Just as there is individual responsibility for one’s actions, there is also collective responsibility that society has towards the individual.
- “Facilitate (ease) for people and do not make it difficult for them, and give them good tidings.” the Prophet Muhammad.
Ijtihad – Legal & Ethical Interpretation
Ijtihad

- When an issue is mentioned in the Qur'an or hadith, the correct action to be taken by a Muslim is relatively easy to deduce.

- However, when there is no direct mention of a major issue, a Muslim scholar must arrive at a religious judgment through collecting evidence, analysis, interpretation and conclusions – a process known as ijtihad.

- A major scholar who carries out ijtihad is known as a mujtahid.
Fatwa’s

- Judgments are regularly made by leading religious authorities, who issue fatwas, or nonbinding religious opinions.

- A religious scholar who makes a fatwa is called a mufti.

- A mufti interprets whether a behaviour or action falls into one of these five categories, according to the Islamic shariah:
  - obligatory (fard or wajib)
  - recommended (sunnah)
  - permitted (halal)
  - undesirable but not forbidden (makruh)
  - forbidden (haram)
Various Fatwa’s on the Same Matter

• A fatwa is taken seriously if it is given by qualified jurists and is accepted by a significant number of jurists.

• Having one jurist declare a fatwa on a particular topic does not mean that all Muslims will follow by default.

• There can be various fatwa’s on the same matter.

• Usually, a majority view emerges when the majority of scholars agree on the same opinion. This would later become a consensus over time.
Various Fatwa’s on the Same Matter

• For example, the first fatwa on medically assisted reproduction was delivered on March 23, 1980. This fatwa has been upheld by other fatwas issued since 1980 in Egypt, Saudi Arabia, and other Muslim countries, and has achieved wide acceptance by the Muslim community.
<table>
<thead>
<tr>
<th>Islamic Term</th>
<th>English Term</th>
<th>Definition</th>
<th>Pointer</th>
<th>Example</th>
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<tr>
<td>Fard or Waajib</td>
<td>Compulsory</td>
<td>Commandments of God which are based on evidence from the sources of Islam</td>
<td>have to do</td>
<td>- Fasting during Ramadan&lt;br&gt;- Looking after parents</td>
</tr>
<tr>
<td>Sunnah</td>
<td>Recommended</td>
<td>Acts, verbal advice and acts approved by Prophet Muhammad</td>
<td>should do (good to do)</td>
<td>- Fasting Monday’s and Thursday’s&lt;br&gt;- Giving gifts</td>
</tr>
<tr>
<td>Makruh</td>
<td>Disliked</td>
<td>Acts that are disliked in Islam and technically contradict the practice of Prophet Muhammad</td>
<td>should not do</td>
<td>- To fast for the whole year&lt;br&gt;- Smoking (some scholars – prohibited)</td>
</tr>
<tr>
<td>Haram</td>
<td>Forbidden</td>
<td>Acts decisively forbidden by Islam</td>
<td>must not do</td>
<td>- Murder&lt;br&gt;- Theft</td>
</tr>
<tr>
<td>Halal</td>
<td>Permissible</td>
<td>Anything permissible, in contrast to haram. Includes human behaviour, communication, clothing, conduct, manner and dietary laws.</td>
<td>can do</td>
<td>- Anything not haram</td>
</tr>
</tbody>
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Case Study – Organ Donation

Is organ donation permissible?
Organ Donation - Fatwa 1

1. Check Qur’an

“Whosoever kills any person without another soul being involved or for causing corruption in the earth, it shall be as if he had killed all mankind and whosoever saves the life of one it shall be as if he had saved the life of all mankind.” (5:32)

2. Check the Sunnah

“Whoever helps a brother in difficulty, God will help him through his difficulties on the Day of Judgement.”
3. **Draw on principles of Islamic Jurisprudence**

“Confronted with two evils a person is permitted to choose the lesser of the two.”

“Islam made it an obligation upon the sick to seek treatment.”

“Human life is sacred. The saving of one life is regarded as the saving of all humanity.”
Organ Donation - Fatwa 1

Islamic Ruling (Fatwa)

“It is permissible for a living person to donate part of the body such as the kidneys to save the life of another, provided that the organ donated would not endanger the donor’s life and that it might help the recipient.”
Organ Donation - Fatwa 2

1. Check the Quran

“And verily we have honoured the children of Adam.”
(Qur’an, 17:70)

2. Check the Hadith

“Breaking the bone of a dead person is similar (in sin) to breaking the bone of a living person.”

“Harming a believer after his death is similar to harming him in his life.”
Organ Donation - Fatwa 2

3. **Draw on principles of Islamic Jurisprudence**

“Harm can not be removed by a similar harm” (meaning, in order to remove harm from another individual, it is impermissible for one to harm himself).

“When the evidences of prohibition conflict with the evidences of permissibility, preference is given to prohibition.”
Organ Donation - Fatwa 2

Islamic Ruling (Fatwa)

In view of the above and other evidences, it is unlawful to transplant organs, whether it be of a living person or a dead body, and whether there is a need or otherwise. In other words, there is no permissibility whatsoever for the transplantation or donation of organs.
Summary

- A fatwa is taken seriously if it is given by qualified jurists and is accepted by a significant number of jurists.
- Having one jurist declare a fatwa on a particular topic does not mean that all Muslims will follow by default.
- There can be various fatwa's on the same matter.
- Usually, a majority view emerges when the majority of scholars agree on the same opinion. This would become a consensus over time.
- Organ transplant is an example of a practice which more and more jurists are accepting as permissible.
Case Study – IVF

Is having children through IVF permissible?
IVF - Fatwa

- **Check the Qur’an**

  “It is He who has created man from water, then He has established relationships of lineage and marriage, for thy Lord has power over all things.” (Qur’an, 77:59)

  Therefore, origin preservation is a most essential objective of Islamic law.

- **Check the Hadith**

  “There is no disease Allah has created, except that he has also created its treatment.” (Hadith)

  Infertility is considered a disease.
3. **Draw on principles of Islamic Jurisprudence**

“Protection against difficulty and constriction.”

“The necessity to refrain from causing harm to oneself and others.”

“The priority of averting corruption over attaining benefit.”
IVF - Fatwa

Islamic Ruling (Fatwa):

IVF is Permissible
End