

Islamic Bioethics from *Fiqh* to *Tasawwuf*

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Fiqh

Formative

Post-formative

Abu Ḥanīfa (d. 767)

Body's actions (*a'māl al-jawāreḥ*)

The greater *fiqh* (*al-Fiqh al-Akbar*)

Observable actions of man
(*hukumqadaī*)

Fiqh (jurisprudence) & *Imān* (faith)

”“The self awareness of one’s rights and duties

Legal texts:

- The chapters on purification.
- Chapter on death rites and funerals.
- Chapter on fasting.
- Chapter on exaction and guaranty.
- The chapter on presents and gifts.
- Chapter on marriage.
- Chapter on blood money.
- The chapter on dietary guidelines.
- The chapter on medicine.

The chapter on medicine:

- Is a cure or medication permissible or impermissible?
- Is a cure by prohibited materials or medications permissible?
- The cure by ironing or by fire.
- The cure by cupping therapy (*al-ḥijāma*).
- Recitation of Qur'ān on some parts of the patient's body.

“Principles” Books

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graph TD; A["Principles Books"] --> B["primary aims and objectives of Islamic law (Maqāṣid al-Sharī'ah)"]; A --> C["Islamic law or Islamic legal maxims"]; C --> D["General books: Islamic legal theory (uṣūl al fiqh)"]; C --> E["Specific books: maxims of Sharī'a"];
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primary aims and objectives of Islamic law
(*Maqāṣid al-Sharī'ah*)

Islamic law or Islamic legal maxims

General books: Islamic legal theory (uṣūl al fiqh)

Specific books: maxims of Sharī'a

objectives of Islamic law:

1. Religion.
2. Soul or life
3. Mind or reason
4. Honor.
5. Money or property

Each principle has three levels



The essential (*ḍarūrī*)



The complimentary (*ḥājī*)



ameliorating (*taḥsīnī*)

All five objectives have two levels



Six level of every objective:

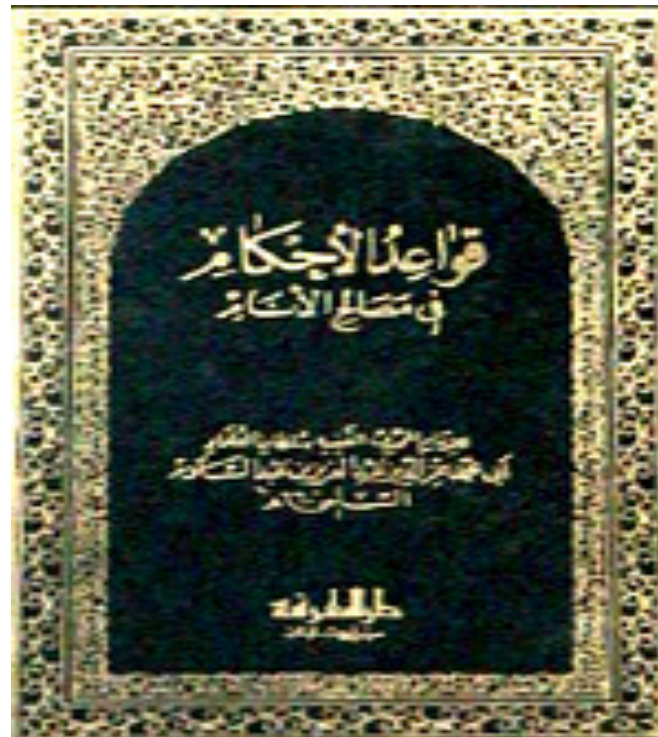
1. *Ḍarūrī* public-benefit religion.
2. *Ḍarūrī* private-benefit religion.
3. *Ḥājī* public-benefit religion.
4. *Ḥājī* private-benefit religion.
5. *Taḥsīnī* public-benefit religion.
6. *Taḥsīnī* private religion.

'Izz ad-Din 'Abd as-Salam's (d. 660H)

"Rules Provisions in the Interests of the Creatures"

(Qawa'id al-Ahkam fi Masalih al-Anam)

“ward off evil takes precedence over
bringing benefits”



1. When two harms or dangers are in place, a bigger harm or danger should be avoided by opting for an act carrying the smaller risk of danger.
2. Matters should be judged by their objectives.
3. Everything is pure except those items which are clearly proven to be impure.
4. Everything related to human benefit is permissible, and vice versa.
5. Permissibility and guaranty (insurance) can't be gathered.
6. Preserving something that already exists has more priority than something that does not yet exist.
7. A greater harm is eliminated by means of a lesser harm.
8. Necessity makes the unlawful lawful.

9. Necessity is measured in accordance with its true proportions.
10. What's legally considered is the common not the uncommon.
11. Every action that causes a harm or evil, or prevents a benefit or good is impermissible.
12. Every unawareness or ignorance that can be avoided can't be an excuse/justification for the ignorant.
13. Every matter that exceeds the natural boundary, becomes the opposite.
14. "Don't harm and don't reciprocate harm".
15. The hardship shall bring alleviation.
16. Certainty shall not be removed by doubt.

17. All harms should avoided as far as one can.
18. A harm should not be rid of by bringing in another harm.
19. A specific harm is tolerated in order to prevent a more general one.
20. Ensuring the human livelihood should come first before that of animals.
21. Profit follows responsibility.
22. Anything can cause a harm or evil is impermissible except if it includes a potential benefit.
23. “Whoever gives medical treatment, with no prior knowledge of medicine, is responsible for any harm done.”

Sharī'a means for all Muslim in general and for physicians in particular:

The foundations that they should be aware of, and they are responsible for any action which violates these foundations.

Therefore, there are no exceptions, all physician share the responsibility of knowing the legal rules pertaining to their practice.

- Al-Adab al-Mufrad by al-Bukhārī (d.256 H).
- Adāb al-Mu‘alimīn, the ethics of teachers, by Ibn Suḥnūn (d. 256 H).
- Adab al-Nafs, the ethics of soul, by Abu al-‘Abbas al-Sarkhasī al-Ṭabīb (d. 286 H).
- Adab al-Ṭabīb, the ethics of physician, by Ishāq Ibn ‘Ali al-Ruhawī (d. third century).
- Al-Ādāb al-Ḥamīda wal Akhlāq al-Nafīsa, the good ethics and noble manners, by Ibn Jarīr al-Ṭabarī (d.310 H)
- Adab Al-Katib, the ethics of writer, by Ibn Qutayba (d. 370 H)
- Adāb al-Ghuraba’, the ethics of the strangers, by Abu al-Faraj al-Aṣḥabanī (d. 356 H)
- Akhlāq al-‘ulama', the ethics of scholars, by Abu Bakr al-Ajurrī (d.360 H)
- Adāb al-Ta‘āzī, the ethics of Condolences, by Abu Abulraḥmān al-Sulamī (d. 412 H)
- Adab al-Ṣuhba, the ethics of companion, by Abu Abulraḥmān al-Sulamī (d. 412 H)
- Adab al-Jadal, the ethics of argument, by Abu Ishāq al-Isfarāyānī (d.418 H)
- Adab al-Marīḍ wal ‘Ā'id, the ethics of the patient and the visitor, by Abu

1. First, to believe: "that all in this world has only one able creator who performs all deeds willfully. He gives life and takes it, causes illness and cures. He is able and wise, the perpetrator of all actions, all intentional. Since the beginning of their creation, Allah has made known what is useful to them since their nature is a needful one. Thus (man has) the ability to recognize useful things which he may utilize, and harmful things which he must avoid."
2. Second, to believe "that he have credence in the great Allah with a firm affection, and is devoted to Him with all his reason, soul, and free will. This is because voluntary love is greater than that which is compulsory."
3. Third, to believe that Allah sent his messengers to mankind to teach them what is good since the mind alone is not sufficient."

- Train his soul and accustom it to these three good qualities, i.e. reason, respect, and self restraint, to be virtuous and ethical.
- Be of noble aim to attain goodness and generosity. Otherwise, a base goal attains evil and lowliness.
- Not to hold an opinion violently. Distinguish good from bad with intelligence to keep his logic strong and his action praiseworthy.
- Retain caution in time of anger and restrain excessiveness in requital with politeness, and avoid obstinacy together with an unsociable disposition. Both of those indicate folly.
- Be bold and brave in time of necessity to ward off danger, preferring a noble death to a blameworthy continuance.
- Use patience, choose toil, and do not wish for rest and pastime.
- Be chaste, meek, and grave in order not to be silly, ridiculous, and foolish.

- Burn down desire with the flame of patience before pleasures bring him to an early grave.
- Embrace justice, control his instincts, and understand the creed and laws of his people and country and do not disagree with them or his demise will be near and quick.
- Be of kindness, compassion, and manly noble since these stem from the quality of freedom.
- Be kind toward strangers for these are the acts of polite freemen.
- Remove the evil people from among his friends and students so that what they do and say may not be attributed to him.
- Know that lawful poverty is more proper than illegal riches. Continued good character is better than precious property which is perishable.

"If you visit a patient, give him hope of long living, for though this does not prevent his death, yet it pleases him"

“The disease of bodies is a mercy, and the disease of hearts is a punishment”.

Sahl al-Tusturī