In the Name of Allah, the Most Gracious, the Most Merciful

Mapping Islamic Ethics (The Tools of the Islamic Ethico-Legal Tradition)

Jawad Anwar Qureshi

Mapping out an Islamic Bioethics:
An Intensive Workshop
University of Chicago
August 1-2, 2014

OBJECTIVES

- understand the broad structure of Islamic ethical thinking, in conversation with Western ethics

- be exposed to various trends in Islamic ethics

Mapping Islamic Ethics

- Islamic ethics does *NOT* map onto one particular discipline of Islamic thought
- There are two predominant modes of Islamic ethics
    1. Virtue Ethics – as it relates to (in medicine) the physician and the patient
    2. Legal Ethics (Sacred Law) – as it relates to acts of moral agents

ISLAMIC VIRTUE ETHICS

Philosophy (*falsafa*)

- Four Cardinal Virtues: Wisdom & prudence, courage, temperance, justice
- Al-Kindi, al-Farabi, Ibn Miskawayh, Ibn Sina, Nasir al-Din al-Tusi, Abu Hamid al-Ghazali, Fakhr al-Din al-Razi, etc.

Islamic Terms for virtue:

- *Faḍīla (pl. faḍa'il)*: merit or virtue
- *Makārim al-akhlāq*: noble character traits
- *Adab (pl. ādāb)*: proper conduct; proper comportment; right action
- *Adab* is the central term for virtue in Islamic societies

Virtue Ethics in Medicine

- *Adab* relates to crafts, practices
- All practices have histories, authorities, that represent the best standards of that practice
- Islamic virtue ethics considers moral exemplars in the history of the practice
- *The Proper Conduct of the Physician* (*Adab al-ṭabīb*) by Isḥāq ibn Ruhāwī (9th century CE)

What is a practice?

- Alasdair MacIntyre:
  - "…any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended." (*After Virtue*)

Internal Goods and External Goods

- External goods: extrinsic to the practice
- Internal goods: defined *in terms* of the practice

OR

- Internal goods: where the means and ends are defined *in terms* of each other
- External goods: where the means and ends are *not* defined in terms of each other

Virtues and Moral Exemplars Related to Illness

- The Prophet Ibrahim (upon him be peace) – *tawḥīd*
  - … [He] who created me, and He guides me; who gives me food and drink; *and when I am ill, it is He Who cures me.* (Q. al-Shuʻara 26:78-80)

Virtues and Moral Exemplars Related to Illness

- The Prophet Ayub (upon him be peace) – *patience*
  - And remember Ayub, when He cried to his Lord, "Truly the affliction (*al-ḍurr*) has fallen upon me, yet You remain the Most Merciful of the merciful!" So We heard him and removed the affliction that was upon him, … (Q. al-Anbiya' 21:83-84)
  - "… Truly We found him full of patience and constancy. How excellent in Our service! Ever did he turn (in repentance)!" (Q. Ṣād 38: 44)

Virtues and Moral Exemplars Related to Illness

- Mary the Mother of Jesus (upon him be peace)
  - *Not despairing*
    - When the pains of childbirth drove her to the trunk of a palm-tree, she cried out in her anguish, "Would that I had died before this! Would that I had been a thing forgotten and out of sight!"
    - But a voice cried to her from beneath (saying): "Despair not! for your Lord has provided a rivulet beneath you…" (Q. Maryam 19: 23-24)

LEGAL ETHICS

Legal ethics (i.e. ethics pertaining to the acts of moral agents) relate to a series of Islamic disciplines.

Including:

- theology (*kalām*)
- legal theory (*uṣūl al-fiqh*)
- law (*fiqh*)
- Sufism

Historical Background

- Schools of Sunni Law
  - Abū Ḥanīfa (d. 148/767)
  - Mālik ibn Anas (d. 179/795)
  - Muḥammad ibn Idrīs al-Shāfiʿī (d. 202/820)
  - Aḥmad ibn Ḥanbal (d. 241/855)
- Schools of Sunni Theology
  - The Muʿtazilites
  - Abū al-Ḥasan al-Ashʿarī (d. 324/966)
  - Abū Manṣūr al-Māturīdī (d. 333/944)

Ethics at the Theological Level

- Plato's *Euthyphro* dilemma
  - "Do the gods love what is holy (or pious) because it is holy?
  - "Or is what they love holy because they love it?"
- Re-Stated:
  - "Does God command the good because it is good?
  - "Or is something good because God commands it?"
- Muʿtazilite answer: good and evil can be determined by the intellect → *NATURAL LAW*
- Ashʿarī answer: good and evil are only determined by God → *THEOLOGICAL VOLUNTARISM* or *THEOLOGICAL SUBJECTIVISM* or *DIVINE COMMAND*

Problems from Divine Command Ethics (1)

- If *the good* is determined by God's commands, how can we know what He commands?
  - Through revelation
- What constitutes revelation?
  - Shāfiʿī: revelation is circumscribed by (1) the Qur'ān and (2) the authenticated *sunnah* of the Prophet (Allah bless him and give him peace)

Ethical-Theological Basis to Islamic Law

- *Fiqh*
  - Conventionally translated as "law"
  - Lexical meaning: "deep understanding"
- Law is not produced but *discovered* and *formulated*
- *Fiqh*: the disciplined search for the will of God appropriate to a given a situation or act

Ethical-Theological Basis to Islamic Law

- The will of God is determined through a *ḥukm* (ruling, judgment, determination) appropriate to a given situation
  - *Wājib*: Necassary
  - *Mandūb*: Recommended
  - *Mubāḥ*: Permitted
  - *Makrūh*: Disliked
  - *Ḥarām*: Prohibited

Problems from Divine Command Ethics (2)

- The revealed law only deals with a *limited* number of cases? How do we extend the law?
  - Legal analogy (*qiyās*)
  - Consensus (*ijmāʿ*) of the early Muslims
  - Abū Ḥanīfa: legal rulings of the Companions, juristic preference (*istiḥsān*)
  - Mālik: the praxis of the People of Medina (*ʿamal ahl al-medina*), non-textual sources (*maṣāliḥ mursala*)

The Higher Objectives of the Law (*maqāṣid al-sharīʿa*)

- Voluntarism is mitigated by the presumption that God's commands are *purposeful*

- Is there a higher objective of the Law?
  - The "good" of mankind (*maṣlaḥa*)
  - Abū Ḥāmid al-Ghazālī (d. 505/1111): "We mean by *maṣlaḥa* preserving the purpose of the law, and the purpose of the law is fivefold: the preservation of religion, life, intellect, offspring, and wealth. Whatever entails the preservation of these five is *maṣlaḥa*. Whatever dispels these elements is a cause of damage whose repulsion is a *maṣlaḥa*." (*al-Muṣṭasfa*)

Public Goods

- Essentials or Primary Needs (*ḍarūrīyāt*)
- General Needs (*ḥājīyāt*)
- Secondary Needs (*taḥsīniyāt*)

Five Legal Maxims

- Matters will be judged by their objectives (*al-umūr bi maqāṣidiha*)

- Certainty will not be overturned by doubt (*al-yaqīn lā yazūlu bi al-shakk*)

- Hardship shall bring alleviation (*al-mashaqqa tajlibu al-taysīr*)

- Harm must be removed (*al-ḍarar yuzālu*)

- Cultural usage shall have the weight of law (*al-ʿurf muḥakkama*)

Summary (1)

- To study Islamic ethics one needs to drawn on a variety of disciplines within Islamic thought
- Two broad trajectories of ethics in Islam: virtue ethics and legal ethics
- Virtue Ethics:
  - Greek virtue ethics were incorporated early into Islamic civilization
  - Islamic virtue ethics pertain largely to practices/crafts, where *adab* is the primary virtue to be cultivated

Summary (2)

- Sunni legal ethics:
  - Rooted in voluntarism
  - Divine commands are extended through a variety of means, including analogy, juristic preference, the public good, etc
  - God's will is purposeful and points toward the human good
  - The tension between scripture-based voluntarism and a utilitarianism that appeals to higher goods is a key challenge to contemporary Muslim ethicists