

Investigation how and why of the difference in the analysis of the relationship between law and morality

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Abstract: Jurisprudence and ethics of human and Islamic sciences and knowledge are valuable. In what relationship there was between the two of deep disagreement among Muslim scholars and there are strange. Given that man is Allah's creature sovereign move of Allah if the plan eventually will lead him to happiness and perfection and each of the Islamic sciences somehow the way for this move are actors, specially jurisprudence and ethics that both the holder of the divine law, despite the sharp divisions on contentious questions. The letter seeks to achieve an answer to: (1) How is the relationship between law and ethics from the perspective of different? (2) Why there are different views? The letter with an overview of the subject, purpose, resources, philosophy, law and ethics fundamental similarities and differences intends to investigate why and how this difference.

[Fatemeh Ferdowsi. **Investigation how and why of the difference in the analysis of the relationship between law and morality.** *Academ Arena* 2015;7(9):78-81]. (ISSN 1553-992X). <http://www.sciencepub.net/academia>. 13

Key words: Jurisprudence, ethics, respect, discrimination, conflict,

1. Introduction

The definition of jurisprudence and ethics

Jurisprudence word literally means understanding (Al-Javaheri, 1407: 2243; Al-Tarihi, 1368, vol 3, pp 4219). The jurisprudence, understand and contemplate that lead to deep knowledge of jurisprudence But the word-of-mouth is the property of the means:

A- Knowledge of Islamic science and religion - though some of the "jurisprudence" has been interpreted and applied to any type of knowledge and understanding about the science of religion and have known for its integrity, (Ibn Manzur, 1363: vol. 13, p. 522).

B- A Sunni and Shiite religious order in the so-called knowledge is to know the religious orders and subsidiary of detailed evidence that. The word law in the Quran and Hadith has been used on several occasions. For example, in verse 122 of Surah Tobeh, there is: "Why do not migrate to any group of a complete insight in their religion and their people return after a warning".

It seems that in this verse is referring to. A deep understanding of all aspects of Islam, such as faith, moral, educational, social and political issues, etc. But gradually this unique understanding of religious precepts that is called jurisprudence. But ethics is an Arabic word that literally means singular creation and nature is Sejjiyeh (Fiume, 1398 AH: 88). People with digestive means is nature. But scientific ethics in which the forces of human habits of vegetable, animal and human will be discussed. In this science, cognitive virtues of vices, is discussed. To maintain it, your man great virtues and his head by his actions, which is to achieve eternal bliss (Tabatabai, vol: 1: 370).

Miskawayh said: moral, mental state is no need to reflect moves someone to do Abu Ali the work.

(Miskawayh, 1375: 51)

However the most common meaning of the term morality is self sustainable attributes and features that are tailored to the characteristics of things, spontaneously and without thought and reflection of man be issued. (Majlesi, 1403 AH: 372/ Feiz Kashani, B and C. 5. p. 95)

In relation to the Ethics also defines a number of states that may be the most comprehensive definition of "scientific ethics with the introduction and recognition of good and bad, good and bad way to teach us." (Naraqi, 1383 AH: vol 1. Page 15-9 / Modarresi, 1371: 17/ Mesbah, 1381: 18)

Subject jurisprudence: jurisprudence of laws and legal issues required discussion that revolves around action or external thread bypasses. For example, jurisprudence or about actions and words such as pilgrimages and sale and fasting religiously accountable and rent and mortgages, and about the sanctions and retaliation or in conjunction with external issues like holy orders and filthiness, argues. However, in a matter of law, human actions are optional.

The issue of ethics:

According to what was stated in the definition of ethics and science ethics "becomes clear that the issue of ethics, virtue and vice, virtue and fight vice and ways to create them. However, some believe as ethical morality addition, ethics is also included. Mesbah Yazdi stated that the issue of ethics in this way: ethics, including moral habits and human dignity encompasses all things, the things that are attributed to the good and bad and can provide for human perfection or the emergence of vices are in the soul "(Davoodi, 2008: 24).

The purpose of jurisprudence:

The aim and purpose of the law, in addition to

the individual and his spiritual nourishment and development, community organizing, and reward and punishment is eternal (Bojnordi, 85: 1285)

In other words: The purpose of jurisprudence in addition to nurturing the human spirit in the shadow of securing happiness in this world and the hereafter, reform the individual and society, social justice and the rights of the Muslim Ummah. (Sharifi, 2004: 115-126)

The purpose of ethics:

The goal is to change people's moral ethics scholars and spiritual development of human beings have. In other words, the purpose of ethics, protection of the conduct of human error and deviation. So that the actions and intentions of temperature and away from imitating blindly and desires. (Ibid.)

Some have said that the aim of ethics, individual and social disadvantages and significant reform to reward and punishment is not eternal. In other words, the reward and punishment and the moral law, is encouraged and disciplined. Recommended practice of law does not require any kind of dependence, but these practices in ethics and self-purification are the following. (Bojnordi, 85: 1285)

Sources of law:

Resources include books of jurisprudence, tradition, consensus, because wisdom.

1. Book: The Holy Quran is the seal of the prophets sent by God and all of God's words and meanings and style.

2. Tradition of infallible Imams: The consensus of word and deed and the statement of the Prophet, the Sunnah.

Shia tradition and the written word and deed Immaculate know that the Prophet, the Imams are twelve and Fatemeh Al-Zahra.

3. The consensus: Shiia says the consensus among the people who promise them is valid, is called consensus.

4. The reason why: If the Quran, Sunnah and consensus, the researchers cite religious order was not obtained in accordance with due reason.

Resources Ethics: Ethics in Islam resources include:

1. Quran
2. Imams (AS)
3. Reason
4. Fitrat

Philosophy of Jurisprudence:

Thinking about the principles, objectives, and provide a general view of research methods and interpretation in the jurisprudence of the "philosophy of law" or "law of" second look from the outside say that the question of what the law and jurisprudence responds. Three issues important to the philosophy of law is concerned:

- 1-tailored jurisprudence

2-cargo jurisprudence

3-affirmations legal statements
(Sharifi, 1383: 115)

Moral Philosophy:

Moral Philosophy is the science of vision and recognition of the principles of ethics argues that Moral Philosophy, the ideas and concepts that are used in ethics and its propositions and issues, including authentication and ethics, is on stop and their solution is discussed and examined. (Ibid: 116).

Different views about law and morality:

The big challenge between the two areas of law and morality there is. Quite the opposite attitude, which sometimes seems to have led to a polarization in this area, is recognized. Some positions are not independent and that the practice of moral precepts and religious orders, what a Muslim should be achieved in the field of moral self-respect. (Legal ethics) and ethics common scientific and non-Islam, "as scientific ethics and moral strength to moderation charged plan to deliver them from the field of practical wisdom is that the principles and general rules thanks to the wise men of Greece and after the finding of this knowledge to areas that were translated from Greek to Arabic literature. Muslim philosophers and scientists, especially those in the later periods, claim reconcile philosophy with religion were, strives to give religious color to the water and legal doctrine, including morals, were paid. Gradually, the tried, the evidence and legal arguments to support this kind of organization learning went beyond ethical issues, to maintain the structure and principles of its Greek, in the form of guidance became God "(Javad Fakhra Toosi, the relationship between law and morality, Imam Vision)

According to this group, morality is essentially morality jurisprudence that jurisprudence is digested. In this context, a more moderate view that morality is based on need and knows the law.

In contrast, another group in need and affected by law were passed ethics, morality and law scholars have also made the distinction between morality and law contradicts the view expressed. Finally consider the role of complementary and supplementary collective jurisprudence, ethics have for each other.

Detailed search for some of the items listed. It is necessary first to some of the similarities and differences between law and ethics.

The similarity of jurisprudence and ethics:

1. The law and ethics, both in the field with practical wisdom and as some Islamic scholars, law and ethics, both in the field of "transaction" are, the sciences that study them for action as far as ethics law Akbar and Islamic jurisprudence are considered minor.

2. Intentions, that is an internal matter, originality in ethics and jurisprudence is the principle of action.

3. As required by the laws and rules of origin, religion, revelation and religious expression, the source of moral obligation in the rules and regulations of religious expression and revelation can be important.

4. jurisprudence in the division are twofold:

1- Principals of sentences that have been imposed for the human constant need Endo depending on the circumstances and developments in human societies can not change, such as religious precepts.

2- variable rules: rules that have been established for the needs of non-fixed terms

Requirements and needs time to fit changing circumstances, such as the trading rules.

Moral judgments and value of this is twofold, are divided:

1. Some of the provisions of the moral and ethical at all times and places, stationary and any changes in them, such as justice, honesty and faith.

2. Some of moral judgments and values issues are considered valuable and at a time when other anti-values, such as social customs, as a result of legal and ethical rules in the constant variability of both are similar.

3. As a matter of law, human actions and behavior and its purpose, is reform of the individual and society, ethics and human actions and behavior of the individual and society can be corrected end.

4. The provisions of the law and ethics of the five obligatory, respect, and permissible, disdain are similar to "the same moral judgments have five sentences.

5. Laws and moral precepts of the same features that have laws and jurisprudence. These features include:

1. The necessary means any obligation that is what is necessary to implement the requirements.

2. Term: that is subject to the constraint and if these rules are not provided. Like the laws of health, economy, etc., which are not qualified and are not considered a prelude to the lack of another?

3. Totality: the moral judgments of a general order, and all those who are qualified to perform the same task.

Differences in jurisprudence and ethics:

1. The law and ethics of the issue are different in some ways.

A- broader scope of moral theology in its domain far as their legal obligations in terms of religious, social, demographic, economic, political, legal, criminal and holds the moral, just in terms of individual behavior and actions TVs are good and bad traits or virtues and vices are discussed.

B- The subject of both, but the jurisprudence of human behavior, behavioral considers that the orders do not come or leave.

C- Review later religious jurisprudence and legal ethics issue, but the value of it.

2. There is a difference between moral purposes incessantly. The purpose and goal of the law in addition to the training and development of individuals and (mentally) to her, and reward and punishment in the hereafter is community organizing While the aim of ethics, individual and social disadvantages and significant reform to reward and punishment is not eternal. In other words, reward and punishment is the law and ethics, encouragement and punishment.

3. The recommended practice of law does not require, but the rules of ethics and self-purification, a necessity in their wake.

4. The legal and ethical propositions are different in terms of composition and news. The principle of moral propositions, news contrary to the legal propositions in the legislation, and is willing to explain the news.

5. The principles and doctrines of law except through divine revelation does not appear, but the values and principles of morality, it is based on divine revelation and the pure nature and human nature of man, so much so that some of the ethics of human nature.

6. The material and social laws are enforced law, the judge could resort to means people get to their legal obligations, but the moral law, but enforcement can not guarantee the material and social performance within and religious.

7. Some of values such as lying, backbiting, slander, insult and etc.

In jurisprudence and ethics is prohibited, but the debate is not the same. Legal aspects of the subject's jurisprudence and ethics, then it is worth examining, for example, the absence of unlawful and caused outrage in Islamic law and ethics, is a mental illness that takes the human excellence. Slander and insults, and the ratio of non-permissible in law, and the resulting punishment and ethics, easygoing and polite person brings and keeps him from attaining spiritual perfection.

8. The legal acts of bodily organs and is not related to the heart, such as prayer, fasting, etc., but moral acts on the body and the heart. (Sharifi, 2004: 126 125 124)

Conclusion:

Relations between the science of the issues rose in the philosophy of science between Islamic sciences, studying the relationship between law and morality is important. The analysis of how and why the proposed

relations between the two Science, according to the closely intertwined and that at first seem, numerous similarities and differences in these two sciences makes clear.

Some scholars due to the numerous similarities, particularly Practical Ethics by some religious orders, talk of morality have no need independent science and argued that the practice with the provisions and legal instructions for the happiness of man would be sufficient. Scholar like Ghazali believes in separation and distinction between morality and the law. Because the science of jurisprudence from the world of science and believes only the interests of the world's jurisprudence and ethics worldly materials.

But it seems that among the three perspectives of conflict, discrimination and complement, the third view is closer to reality. However, in the view of jurisprudence as well as some know it and another group based ethics and moral principle and believe that morality has affected all legal aspects. Among those who believe in the profound relationship between law and ethics are among the past, Molla Mohsen, Faiz Kashani. Among the latter is the view of the experts on chuckling.

It seems that because of the different views on the relationship between law and morality, ignoring the realm of the theoretical and practical ethics is compared with the jurisprudence. Practical (practical wisdom) in both tension and a great affinity with the religious orders. But no ethics because man's internal affairs and good habits are habits vice jurisprudence is out of range.

Mullah Ahmed Naraqı says: This science (ethics) is the soul of the universe and the supreme tribal Ashraf possible and by the science of the low level of the beasts will rise to the pinnacle of the world of angels. (Naraqı, 5: 1383).

After cleansing the soul of vices utilitarian ethics and decorate it to Jamila habits that can be interpreted as self-purification and regeneration fruit, the good and eternal bliss. So it's kind of ethics (theoretically) the perfection of the soul and the soul and purifies the soul that jurisprudence is quite different.

Ignoring the differences between theoretical and practical ethics is one of the factors causing differences. It seems that other factors also seemed zeal and persistence and exaggeration of honor

jurisprudence is that if someone believes morality is independent of the realm of jurisprudence, is rude. While the two of each in its place, is very dear and respected.

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