

[Home](#) > [Philosophical Instructions](#) > [Part 2: Epistemology](#) > [Lesson 20: The Evaluation of Ethical and Legal Propositions](#) > The Difference between Legal and Ethical Propositions

Lesson 20: The Evaluation of Ethical and Legal Propositions

[Features of Ethical and Legal Knowledge](#)

Knowledge of ethics and law, sometimes called ‘evaluative knowledge’, has features which can be divided into two general groups. One group of features is related to specific imaginative concepts, from which legal and ethical terms are formed. This was discussed in Lesson Fifteen. The other group of features concerns the shape and form of evaluative terms.

Legal and ethical knowledge may thus be explained in two ways: one is in the form of prescriptions and commands and prohibitions, as is seen in many verses of the Noble Qur’an; and the other is in descriptive form, the form of propositions which have the logical forms of subjects and predicates or antecedent and consequent, which is employed in other verses and narrations.

We know that prescriptive expressions are not propositions and do not have truth values, so one should not ask whether they are true or false. If one does ask this question, the answer is neither one nor the other, but it is simply prescriptive.

Indeed, with respect to commands and prohibitions, it may be said that they potentially indicate the desirability of the object commanded for the one who commands, or the undesirability of the object of prohibition for the one who prohibits, and because of this potential indication, they may be said to be true or false.

If the object of command is really desired by the one who commands and the object of prohibitions is really detested by the one who issues the prohibition, the prescriptive expressions, according to what they potentially indicate, are true, and otherwise they are false.

Some Western thinkers have imagined that the consistency of ethical and legal rules is based on command, prohibition, obligation and warning, in other words, that their essence is prescriptive.

Therefore, ethical and legal knowledge is not considered to have truth value. Naturally, they believe that there is no standard for their truth or falsity, and that no criterion for recognizing their truth or error can be produced.

This idea is wrong. Without a doubt, ethical and legal rules can be expressed in the form of descriptive expressions and logical propositions without prescriptive meaning. In reality, to try to fit ethical and legal knowledge into the framework of prescriptive expressions is either to consider them to be a sort of mental diversion or to be solely for the sake of meeting certain educational goals.

The Criterion for the Truth and Falsity of Evaluative Propositions

Ethical and legal propositions are explained in two ways: the first way is by describing the application of specific rules in a certain system. For example, it is said, “Lying for the purpose of reconciliation is permitted in Islam,” or “Cutting the hand of a thief in Islam is obligatory,” and when a jurist or Muslim judge explains such precepts he does not need mention the ethical or legal system of Islam. Hence, the expression “according to Islam” is not usually employed.

The criterion for the truth and falsity of such propositions is their correspondence or non-correspondence to ethical and legal references and sources. The way of knowing them is to refer to sources related to the appropriate system. For example, the way of knowing the ethical and legal precepts of Islam is to refer to the Qur’an and Sunnah.

The second way to describe their real application and the ‘case itself’ of their purport is with regard to the universal principles of ethics and law, including natural law, without paying attention to whether it is valid or not in a specific system of values or accepted by a given society.

Consider for example the following ethical propositions: “Justice is good,” or “One ought not to be cruel to anyone,” and such legal propositions as, “Every human has a right to life,” and “No one must be killed undeservingly.” There are a variety of views about this subject, and especially in Western ethical and legal philosophy, it has become an arena of conflict.

A Review of the Most Famous Opinions

The most famous opinions on this matter are the following:

A. Some of the Western philosophers of ethics and law basically deny the fundamental and proven principles, especially the positivists, who consider discussion of them to be vain and meaningless, as they are metaphysical and unscientific thoughts.

Of course, as much is to be expected from the sympathizers of this school of so-called positivists, whose eyes are glued to the senses. With regard to other thinkers who have occasionally raised this kind of issue, it must be said that the origin of this idea is the change in legal and ethical values in

different societies at different times, which has led them to believe in the relativity of ethics and law, and has led them to doubt or deny basic evaluative principles. The roots of such ideas may be found in explanations of the relativity of ethics and law.

B. Another group of philosophers considers evaluative propositions to express social values arising from the needs of people and their inner emotions, which change as they change; hence, they hold that ethical propositions are outside the realm of rational discussion based on certain, eternal and necessary principles. On this basis, the criteria for the truth and falsity of these propositions would be these same needs and inclinations which are the causes of their validity.

In reply, it must be said that undoubtedly all practical wisdom is related to the voluntary behavior of man, behavior originating from a kind of desire and inner inclination directed toward a specific goal and destination. On this basis, specific non-whatish concepts occur, and propositions are formed from them.

The role of practical wisdom, however, is to lead man as he is confronted with a choice among diverse desires and inclinations to the basic and lofty human goal, and it leads him toward happiness and desired perfection.

Such a way does not often correspond with the desires of most people, who are bound to their animal desires, to worldly fleeting material pleasures. Rather it forces them to adjust their instinctual animal desires and to close their eyes to material worldly pleasures.

Therefore, if by people's needs and inclinations we mean just individual and group needs, which are actually always in conflict and interfere with each other, and cause corruption and the decay of society, then this is something opposed to the basic goals of ethics and law.

If the meaning is the specific needs and lofty human inclinations which are latent in most people and are unactualized and dominated by animal desires and tendencies, this is not incompatible with constancy, eternity, universality and necessity. These kinds of propositions need not be dispelled from the realm of demonstrative knowledge. As the evaluative concepts, which are usually subjects of this kind of proposition, implicitly contain a sort of figure of speech, this does not mean that they are without any intellectual basis, as was shown in Lesson Fifteen.

C. The third view is that the principles of ethics and law stem from self-evident propositions of practical reason, and like the self-evident propositions of theoretical reason, they arise from the nature of the intellect, and are without need of proof or argument. The criterion for their truth and falsity is agreement and opposition to human conscience.

The roots of this view lie in the thoughts of the ancient Greek philosophers, and most Eastern and Western philosophers have accepted it. Among them, Kant has emphasized it. Of all the views, it is the most dignified one and the one closest to the truth. But at the same time, it is open to subtle objections, some of which will be indicated.

1. On the surface, this view asserts the multiplicity of intellects and the separation of their percepts, which may be denied.
2. The difficulty which is related to innateness of percepts of the theoretical intellect also applies to this view.
3. The principles of ethics and law are imagined in this view to be without need of reasoning and justification. Even the most universal of them, the good of justice and the evil of injustice, are in need of proof, as will be indicated.

Inquiry about a Problem

In order to make the truth clear regarding this question, several brief introductory remarks will be mentioned. Their detailed explanation will be left for the philosophy of ethics and law.

1. Ethical and legal propositions are related to the voluntary behavior of man, behavior which is the means to obtain desired goals. Their value derives from the fact that they are means and instruments to those desired goals.
2. The goals man attempts to achieve are either to secure natural worldly needs, and satisfying animal desires, or for securing social welfare and the prevention of corruption and anarchy, or for the achievement of eternal felicity and spiritual perfection. The natural and animal goals are not the source of values for the primary movement toward them. Of themselves, they have no relation to ethics and law.

However, social interests, whether or not they conflict with individual interests and pleasures, are one of the sources from which value arises. Another source from which value arises is the view toward eternal happiness, for the sake of which one must cover one's eyes from some material and worldly desires.

Above all, as motivation for behavior, is the desire to reach human perfection, which, in the view of Islam, is to be close to God the Most High. Therefore, it can be said that value in all cases arises from putting aside one's desires for the sake of reaching higher desires.

3. Regarding the law, different goals have been presented, the most universal and most inclusive of which is securing social interests, which has various branches.

On the other hand, different ideals have been mentioned for ethics. Above all of them is the extreme perfection of being in the shadow of those close to God the Most High. If this goal is the motivation of man's behavior, either individually or socially, it will have ethical value. Therefore, behavior regarding the law can also be included under the umbrella of ethics, on the condition that the motivation is ethical.

4. The mentioned goals have two aspects. One is their desirability for man such that it causes man to close his eyes to base desires. On this view, these goals are related to the innate desires of man to

achieve happiness and perfection. This aspect is psychological.

It is subordinate to scientific and perceptual principles and knowledge. The other aspect is ontological (takwini), which is completely objective and independent of individual inclinations, desires, recognition and knowledge.

If an action is considered in relation to its desired goal, from the point of view of its desirability, the concept of value may be abstracted from it. If it is considered with respect to its ontological relation, with the consequences which result from it, the concepts of obligation and permissibility are obtained from it. In philosophical language, such obligation is interpreted as relative necessity (dharurat bil-qiyas).

Now, with regard to this introduction, we can come to the conclusion that the criterion of truth and falsity and correctness and error in ethical and legal propositions is their effect in achieving the desired goals. The effect which is not subordinate to one's: inclinations, desires, tastes and opinion.

Like other causal relations, it arises from the reality of the case itself. Of course, in recognizing the ultimate goal, and the intermediate goals, it is possible to make mistakes, so that, for example, someone on the basis of his materialistic outlook will limit man's goal to worldly luxuries. Likewise, it is possible to make mistakes in recognition of the ways in which a man achieves real goals.

But none of these mistakes are harmful to the causal relation between voluntary actions and their results, nor do they cause their exclusion from the realm of intellectual discussions and rational arguments. The errors of philosophers do not imply a denial of intellectual realities independent from opinion and thought. Controversies among scientists about the rules of experimental knowledge do not mean that there is no such knowledge to be gained.

In conclusion, the principles of ethics and law are philosophical propositions that can be proven by intellectual arguments, although the intellect of the common man in its subdivisions and particularities is deficient and is unable to deduce a judgment for every particular proposition from the universal principles because of the complexity of the formulas, the abundance of factors and variables, and due to lack of proficiency. In these cases, there is no alternative but to rely on revelation.

Therefore, it cannot be said that ethical and legal propositions depend on the inclinations, desires, tastes and opinions of individuals or groups, and hence that definitive and universal principles are not acceptable; nor can it be said that ethical and legal propositions depend on the needs and changing conditions of the time and place, and that rational proofs do not apply to them but only to universal, eternal and necessary propositions.

It is also wrong to claim that these propositions pertain to an intellect other than the theoretical intellect, and that therefore reasoning about them with philosophical premises related to the theoretical intellect is incorrect.

Answer to an Objection

An objection may be raised here on the grounds that this view contradicts the opinion of all the logicians, an opinion which is also accepted by the Islamic philosophers. In logic, it is mentioned that a dialectical argument (jadal) is composed of indemonstrable indisputable premises, but on the contrary, a proof (burhan) is composed of certain premises, and an example of an indemonstrable premise is, "Truth is good," which is an ethical proposition.

In response, it must be stated that the greatest logicians of Islam, Ibn Sina and Khwajah Nasir al-Din Tusi, have suggested that these propositions in this universal and absolute form, are considered indemonstrable, and may only be employed in dialectical arguments, not in proofs. They have hidden and special restrictions which are obtained from the relation between and actions and its desired result.

Hence, it is not correct to tell the truth when it leads to someone's murder. Therefore, if this kind of proposition in this absolute and universal form is applied in a syllogism on the basis of its general acceptance, the proposition will be dialectical.

However, it is possible that this same proposition may be transformed into a certain proposition by taking into account rational standards, subtle relations and hidden restrictions. For such propositions proofs may be constructed, and their conclusions may be used in other proofs.

Relativism in Ethics and Law

As was mentioned, most value propositions, especially legal propositions, have exceptions, and even the goodness of truth telling is not universal. On the other hand, sometimes a single subject really may be the locus of two topics to which conflicting judgments apply. In case the criteria utilized for them are equal, one is free to use either.

In case the importance of one of the criteria is preferred over another, one ought to defer to the more important criterion. In practice, the other is then mooted. Likewise, it is seen that some legal judgments have temporal restrictions, and after a while they are abrogated.

Attention to this point has brought about the idea of the absolute relativity of the value propositions, and the idea that they do not apply generally to all individuals at all times. Schools of thought with positivistic inclinations also consider differences in value systems in different societies and times to provide reason for relativism with respect to all value propositions.

But the truth is that this kind of relativism can be found in the laws of the empirical sciences, and the universality of empirical laws is based on the satisfaction of conditions and the nonexistence of obstacles. From a philosophical point of view, these restrictions are due to the complexity of the causes of phenomena. With the lack of one of the conditions, the effect is also annulled.

Therefore, if the causes of ethical and legal judgments are precisely determined, and the conditions and restrictions of their subjects are completely accounted for, we will see that ethical and legal principles, in the limits of these standards and final causes, are general and absolute. In this respect, they are no different from the other scientific laws.

It must be mentioned that in this discussion other focus has been on the universal principles of ethics and law; but some particularities, such as traffic regulations and the like, fall outside the scope of this discussion.

The Difference between Legal and Ethical Propositions

Now that we have come to the end of this discussion, we had better mention the difference between legal and ethical propositions. Of course, there are numerous differences between these two groups of propositions which must be discussed in legal and ethical philosophy. Here we simply point out one of these differences which are more important and basic, the difference in their goals.

As we know, the basic goal of the law is the social happiness of the people in worldly life, which is determined by legal rules with the guarantee of government enforcement. However, the ultimate goal of ethics is eternal happiness and spiritual perfection, and its compass is wider than that of social conditions.

Hence, legal and ethical subjects overlap. A proposition, insofar as it is related to the social happiness of man supported by government is legal, and in so far as it affects the eternal happiness and spiritual perfection of man, it is ethical, such as the existence of repayment of loans and the prohibition against treason.

In such cases, if the observance of the rule is only motivated by fear of governmental punishment, it has no ethical value, even if it is in agreement with legal regulations. If the deed is motivated by a higher goal, which is an ethical goal, it will also be ethical.

It must be mentioned that these differences accord with a view which is accepted in ethics, and there are also other views, for information about which one must refer to books on ethics and the philosophy of law.

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