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Philosophical Reflections on the Relation of Law and Ethics in Shi'i Islam

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Abstract

One of the controversial issues discussed by professors, students, and researchers associated with the Islamic seminaries of Qom (*awzeh-ye 'ilmiy-ye Qom*) is the relation between Islamic law, *shari'ah*, and ethics. Here we will review several positions that classical and contemporary Muslim scholars have taken on this issue.

The issue is not a new one; but may be seen as one aspect of the relation between religion and philosophy, which has been discussed for over a millennium in the Islamic world. It is also closely related to one of the oldest theological controversies of the Muslim dialectical theologians, the *mutakalimin*. I will begin with the view taken by the 7th/13th century philosopher and jurisprudent, Khwajah Nasir al-Din Tusi. The most important and still controversial figure in Islamic philosophy for contemporary Iranians is Mulla Sadra. I will conclude with a review of Sadra's position on this issue as expressed in his essay, *Three Roots*, and comment on its reception in contemporary Iran.

Introduction: Defining Terms

The Islamic seminaries of Qom (*awzah al-'ilmiy Qom*) are responsible for the training of most of the Muslim clerics in Iran. The seminaries, together with research institutions and universities provide for an atmosphere of lively intellectual exchange. One of the topics of controversy in the intellectual milieu of Qom today is that of the relation between ethics (*akhlaq*) and religious law (*shari'ah*) or Islamic jurisprudence (*fiqh*). In order to understand the issues, we first need to define their terms, and place the

relevant fields of study in relation to one another.

The Islamic sciences are often divided into the intellectual sciences and the transmitted sciences, *'ulum al-'aqli wa 'ulum al-naqli*, although the division is not quite exclusive, that is, questions treated in some intellectual sciences may draw on insights provided by revealed sources, as, for example, when *kalam* (theology, apologetics), an intellectual science, draws upon the teachings of the Qur'an in the expositions of its defenses of Islamic teachings about the afterlife; and, likewise, transmitted sciences, such as the principles of Islamic jurisprudence (*usul al-fiqh*), contain discussions of points of logic, such as the nature of reference.

Because of this, the very idea of dividing sciences according to methodology has been questioned. Nevertheless, the division remains popular; and among the intellectual sciences, logic (*manTiq*) in the Avicennan tradition is taught to all young seminarians. Philosophy is not a required are of study, and it continues to have opponents and defenders in the seminaries.

Traditionally, philosophy (*falsafah*) was taken to include the natural sciences. Other intellectual sciences are *kalam* (theology, apologetics) and *'irfan al-na□ari* (theoretical mysticism). Among the transmitted sciences are *fiqh* (Islamic jurisprudence), *usul al-fiqh* (the principles of Islamic jurisprudence), *'ilm al-rijal* (biography), *'ilm al-□adith* (the science of narrations), *tafsir al-Qur'an* (the interpretation of the Qur'an), *tarikh* (history), and others. Each of the sciences is further subdivided. The question of the divisions of the sciences remains an important area of research in Iran to a much greater extent than in the Western traditions.

One of the oldest discussions of *kalam* was over the relation between ethics and the divine law. It was asked whether God decreed his laws so that they would accord with what is good and bad independent of his decrees, a view defended by the Mu'tazilites and by the Shi'ah, or whether what is good and bad derive their moral values from God's decrees, the view defended by Ash'ari and his followers. If there were no obligations independent of God's decrees, it was asked, then how could one come under the obligation to obey the divine decrees in the first place?[1]

Islamic jurisprudence, *fiqh*, has as its aim the discovery of divine law, the *shari'ah*. The principles whereby this discovery is made through the derivation of rulings on the fourfold basis of the Qur'an, the *sunnah*, reason, and consensus, is the science of the principles of jurisprudence, *usul al-fiqh*. Modern Shi'i *'ilm al-usul* (the science of principles) stems from the works of Shaykh Murtadha Ansari (1214/1800 – 1281/1864).

The central question in Commemorative stamp depicting Shaykh Ansari much of the subsequent usuli writings concerns what one should do in various conditions in which one is not certain about will of God with regard to a given action; the *usuli* writings seek to find reasons for taking a practical stance that will ensure that the agent will be blameless (*ma'dhur*) when judged by God.

The Arabic word *akhlaq* is the plural of *khulq* and signifies the character traits of a person. It is related to

khalq (creation, people) in the sense that the character traits of a person result from the way that the person has been formed or created. In contemporary usage, the word *akhlaq* is used to translate the English ethics. However, the English word ethics is used both in discussions of particular moral virtues and obligations and in philosophical discussions of the nature of virtue and obligation.

Sometimes the latter discussions are included in metaethics. In Persian, *akhlaq* is used for the study of morals and *falsafeh-ye akhlaq* for philosophical discussions about the nature of morals. The term *faraakhlaq* (literally, beyond ethics) is used to translate metaethics.

Many authors in the Islamic tradition have defined the science of ethics, *'ilm al- akhlaq*, as the study of virtue and vice, although more comprehensive definitions are found, as well. As an example of a definition of ethics in terms of virtue, we may consider the division of Islamic teachings by Shahid Mutahhari (1920-1979):

The scholars of Islam divide Islamic teachings into three parts:

(*i*) *Doctrines* (*'aqa'id*)*: These constitute the issues which must be understood and believed in, such as, the Unity of God, the Divine Attributes, universal and restricted prophethood, etc. However, there are certain differences between Muslim sects as to what constitutes the basic articles of faith* (*usul al-Din*) *in which belief is necessary.*

(*ii*) *Morals* (*akhlaq*)*: These relate to the commands and teachings relating to the spiritual and moral characteristics of human beings, such as, justice, God-fearing* (*taqwa*)*, courage, chastity, wisdom, endurance, loyalty, truthfulness, trustworthiness, etc., and prescribe 'how' a human being should be.*

(*iii*) *The Law* (*ahkam*)*: Here the issues relating to practice and the correct manner of performing acts, such as, prayers* (*salat*)*, fasting* (*sawm*)*, hajj, jihad, al-'amr bil ma'ruf wa al-nahy 'an al-munkar, buying, renting, marriage, divorce, division of inheritance and so on, are discussed.*

The science which deals with the first of the above-mentioned is 'ilm al-kalam. The study of the second is 'ilm al-'akhlaq (*ethics*)*. The study of the third is called 'ilm al- fiqh* (*the science of jurisprudence*)*. That which is subjected to division in this classification is the corpus of Islamic teachings; that is, those things which constitute the content of Islam. It does not include all those Islamic studies which form the preliminaries for the study of Islamic teachings, such as, literature, logic, and occasionally philosophy*.[2]

Here *fiqh* and *akhlaq* are defined in such a way as to prevent any possible conflict between them. They pertain to different subjects. *Fiqh* deals with rulings, e.g., about what is obligatory and about ritual purity; while *akhlaq* is about the virtues and their acquisition. Sometimes an attempt is made to separate the ruling of religious law and ethics by defining them in terms of the predicates they employ. The judgments of *fiqh* attribute to any given action one of five predicates: *wajib* (obligatory), *mustaḥab* (commendable), *mubaḥ* (permitted), *makruh* (reprehensible), or *ḥaram* (forbidden).

Moral judgments about actions only classify them under the categories of *usn* (good/beautiful) and *qub* (bad/ugly). Yet a third strategy for separating *fiqh* from ethics is by defining them in terms of their ends, and stipulating that the purpose of *fiqh* is to guide a person toward otherworldly ends while ethics is to be understood as aiming at an Aristotelian idea of eudaimonia in this world.

These strategies for separating *fiqh* from *akhlaq* inevitably run into trouble when it is pointed out that even classical Islamic texts on ethics, such as the 7th/13th century *Nasirean Ethics* (which dominated the field for centuries) by Khwajah Nasir al-Din Tusi, do not define ethics in such restricted ways. Tusi follows the peripatetic tradition of the division of the sciences, but considers the end of the science to include felicity in the afterlife rather than a purely earthly eudaimonia:

Practical Philosophy is the acknowledgement of benefits in voluntary movements and disciplined acts on the part of the human species, in a way that conduces to the ordering of the states of man's life here and hereafter, necessitating arrival at that perfection towards which he is directed. It likewise is divided into two: that which refers to each soul individually, and that which concerns a community in association. The second division is itself subdivided: that which refers to a community associated within a dwelling or home, on the one hand; on the other, that which concerns a community associated within a city, a province, or even a region or a realm. Thus, Practical Philosophy too has three divisions: the first is called Ethics, the second Economics, and the third Politics.[3]

A final strategy for separating *fiqh* and *akhlaq* by definition derives from the fact that *akhlaq* is defined as a division of practical philosophy. Because of the rational methods employed by the philosophers, the construction of proofs, the evaluation of reasons and definitions, etc., the judgments of philosophy will be of a general nature insufficient to provide rulings in many cases of specific actions.

In some cases, the right thing to do is determined by local customs; and in other cases, God provides guidance through the revelation of divine law. Tusi, however, does not appeal to this difference in methodology, but rather on the distinction between nature and convention.

The principle of nature applies in cases whose particulars conform to the understandings of people of insight and the experiences of men of sagacity, unvarying and unchanging with the variations of ages or the revolutions in modes of conduct and traditions. These correspond with the divisions of Practical Philosophy already mentioned. Where the principle lies in convention, if the cause of the convention be the agreed opinion of the community thereon, one speaks of Manners and Customs; if the cause of the convention be, however, the exigency of the opinion of a great man, fortified by divine assistance, such as a prophet or an imam, one speaks of Divine Ordinances.[4]

There is an element of skepticism in Tusi's relegation of every moral judgment that changes in different ages must be due to changes in convention: either social conventions for customs and manners, or conventions adopted due to the opinion of a great leader or prophet. When Islam was first accepted by the followers of Muhammad (s) in Arabia, there is an important interplay between the conventional

morals of the preceding period, which Muslims refer to as the period of ignorance, the *jahiliya*, and the new religious/moral norms taught by the Prophet and indicated in the Qur'an.

The norms of a society are not static, but evolve, as do the reactions of a person's moral conscience. This dynamic of morality is what makes it possible for prominent elements of a moral outlook to undermine a previous system of norms of which they are a part in order to favor a new moral outlook that appeals to the earlier norms even as it proposes to reform them.

This appeal to the moral conscience is especially prominent in an example from one of the early Meccan surahs, *al-Takwir* (The Winding Up), which describes the end of the world as a time when the baby girl who was the victim of infanticide will be asked for what crime she was killed. In a later Meccan surah, al-Isra, infanticide is declared to be a crime, as explained by Angelica Neuwirth:

Through the sacralisation of socio-behavioural rules, the anthropocentric world view of pre-Islamic Arabia is unrooted. This all takes place from the vantage point of a new kind of piety. The catalogue of commandments is no longer exclusively imprinted with God's omnipotence, but, equally, with human responsibility. Hence, the act of infanticide cited in the early Meccan Surat al-Takwir, Q. 81:8-9: when the buried infant shall be asked/for what sin she was slain (*wa-idha'l-maw'udatu su'ilat; bi-ayyi dhanbin qutilat*)*, now constitutes a sinful act in the Decalogue* (*Q. 17:31*).[5]

The appeal to moral norms while at the same time reforming them, and incorporating the reform into divine law, are testimony to the complexity of the relation between ethics and the *shari'ah*. On the one hand, all religions seem to have some moral teachings. They encourage their followers to respect prescriptions pertaining to diet, purity, and morals, they hold up paragons of virtue, and declare what is to be valued and what is to be held as vain.

On the other hand, religious ethical teachings do not fill a complete moral vacuum. Instead, they appeal to the moral conscience of those to whom they are addressed. Thus, religions both partially confirm and rectify morals. Numerous examples of these two features can be found in the prescriptions of the Qur'an. The Qur'an prescribes "enjoining the good" (*amr bil-ma'ruf*), which appeals to what is generally known to be good (the meaning of *ma'ruf*). It also informs us that some things are to be avoided, such as the use of intoxicants and how to distribute inheritance, about which moral conscience does not offer a clear universal judgment.

These observations are related to a final ambiguity in the concept of ethics (*akhlaq*), for the term is used to describe ethical outlooks generally; but also in a more restricted sense for religious ethics. In the more general sense, we can speak of the morals of the ancient Greeks, of the Arabs in the time of the *jahiliyah*, and of the morals of the Muslims, and, most preeminently for the Shi'ah, of the fourteen infallibles (*ma'sumin*), the Prophet, his daughter, and the twelve Imams (s). The term *shari'ah* (the path), can also be used for different religions, or in a more restrictive sense for the divine law of Islam.

One speaks of the *shari'ah* of Moses ('a), for example, and the same root is found for "a law" in the

following *ayah*:

وَأَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ مُصَدِّقًا لِمَا بَيْنَ يَدَيْهِ مِنَ الْكِتَابِ وَمُهَيْمِنًا عَلَيْهِ ۖ فَاحْكُمْ بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ ۖ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنَ الْحَقِّ ۚ لِكُلٍّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمِنْهَاجًا ۚ وَلَوْ شَاءَ اللَّهُ لَجَعَلَكُمْ أُمَّةً وَاحِدَةً وَلَٰكِنْ لِيَبْلُوَكُمْ فِي مَا آتَاكُمْ ۖ فَاسْتَبِقُوا الْخَيْرَاتِ ۚ إِلَى اللَّهِ مَرْجِعُكُمْ جَمِيعًا فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ فِيهِ تَخْتَلِفُونَ

And We have revealed to you the Book with the truth, verifying what is before it of the Book and a guardian over it, therefore judge between them by what Allah has revealed, and do not follow their low desires (to turn away) from the truth that has come to you; for every one of you did We appoint a law and a way, and if Allah had pleased He would have made you (all) a single people, but that He might try you in what He gave you, therefore strive with one another to hasten to virtuous deeds; to Allah is your return, of all (of you), so He will let you know that in which you differed (5:48).[6]

If we do not define *akhlaq* and *shari'ah* in such a manner to make conflict between them impossible, the question of how apparent conflicts are to be treated becomes pressing. We turn next to how a few contemporary Muslim scholars in Iran have responded to this question.

Some Contemporary Treatments of Apparent Conflicts between Akhlaq and Shari'ah

An ancient objection to the prophets ('a) is attributed to the Brahmins and discussed by Muslim philosophers:[7] if the moral teachings of the prophets are in agreement with reason, reason has no need of them; but if their teachings conflict with reason, they should be rejected. The answer that Tusi would have given is clear.

The moral teachings of the prophets do not conflict with reason, but neither is reason alone sufficient to establish all of them. Revelation is needed because of the limitations of reason and nature. Suppose, then, that the objection of the Brahmins is revised with ethics in place of reason: if the moral teachings of the prophets are in agreement with ethics, there is no need for them; but if their teachings conflict with ethics, they should be rejected.

The question of how to respond to this objection will assist our understanding of how contemporary Shi'i scholars understand the relation between ethics and divine law.

One view that has been publicly defended in Qom by Dr. Ridha ۖabibi[8] is that in cases of apparent conflict, the rulings of *fiqh* must always be accepted and any conflicting moral judgments must be dismissed. ۖabibi gives several arguments for this conclusion. First, the science of ethics, *'ilm al-akhlaq*, has never been adequately defined. Philosophers continue to dispute the definition of ethics. An ill-defined science such this cannot issue judgments to be preferred to the science of fiqh, whose principles have been elaborated in the science of *usul al-fiqh*, and whose sources in the Qur'an, *sunnah*, reason

and consensus, are firm.

Second, ethics has its roots in Greek philosophy and not in Islam. So, for Muslims, there should be no question of whether to obey an ethical ruling or a ruling about divine law in cases of apparent conflict. Third, while some scholars, such as Shahid Mutahhari, have described ethics as the science of the traits of character to be gained through the methods of the *'urafa* (the Muslim mystics), the *'urafa* describe these traits in different ways and they base their views on questionable narrations and on dubious interpretations of the Qur'an.

Habibi's position suggests a reversal of the revised objection of the Brahmins: if ethics conflicts with the rulings of *fiqh*, ethics should be rejected; and if ethics is in agreement with *fiqh*, there is no need for ethics.

Another approach to this issue is taken by Abu al-Qasim Fana'i, who has written extensively on this topic. He would reject the idea that if ethics conflicts with the rulings of *fiqh*, then the moral judgment must be revised. He asks his readers to consider two assumptions:

Assumption I: God's moral commands take precedence over His legal commands, that is, divine law as ascertained through fiqh (*Islamic jurisprudence*)*.*

Assumption II: Moral values have precedence over the divine rulings.

Fana'i points out that although many Muslim jurists accept these two assumptions, they consider them to be idle because they hold that we lack sufficient moral knowledge to overturn rulings of divine law. From Ghazzali onward, we find an acceptance of essential goodness and badness that in principle can be determined by reason; but it is argued that in practice our moral reasoning is not strong enough to be of much use and we have to rely on what has been narrated. Fana'i derisively calls this a kind of modern or postmodern Ash'arism, and subjects it to criticism.[9]

The traditional Ash'arites denied that there were moral values independent of divine commands, and declared morality to be dependent on divine whim. Postmodern Ash'arites (and Fana'i's primary target here is Shi'i jurists) accept that there are moral values independent of divine commands, but hold that we have very little knowledge of them and must rely on traditional sources and methods of jurisprudence even when they seem to yield morally unintuitive results.

To the contrary, Fana'i defends a form of ideal observer theory,[10] which he claims can provide sufficient reasons to make some claims of religious knowledge, knowledge about the legislative will of God with regard to human actions, dependent on ethical knowledge, knowledge of how an ideal observer would judge the action in question.

Fana'i's proposal is a radical one. It would require a thorough reappraisal of *fiqh* and *usul*. Although there are religious scholars in Qom who are proposing revisions in *fiqh* and *usul* that are no less radical,

and that are also motivated, at least in part, by moral concerns, there is no general agreement about whether an ideal observer theory would be best to ground moral judgments of reason, or whether appeals should be made to commonly accepted moral standards,[11] or whether other grounds for moral truth can be defended by reason.

According to Prof. Amir Ghanavi, moral truth is to be ascertained only by considering all relevant arguments and insights, including those provided through revelation. Muslims need to develop an Islamic ethics, which is properly founded on the Qur'an and reliably evaluated hadiths, as well as rational argumentation. To accomplish this, it would be best to make use of the methods of Islamic jurisprudence to find proper rulings about moral questions. Moral reasons need to be identified and evaluated.

This, according the Ghanavi, does not mean that we are to replace moral deliberation by Islamic jurisprudence, but that the methods of Islamic jurisprudence are to be applied to cover a wider range of topics than has previously been the case. For historical reasons, Islamic jurisprudence has focused on questions of worship, ritual purity, dietary regulations, divorce, inheritance, and various kinds of financial transactions.

The nearly exclusive focus on these issues has shaped the manner in which Islamic jurisprudence and its principles have developed. Ghanavi suggests that it is now imperative that questions about how to lead a moral life must also be investigated with reformed methods of Islamic jurisprudence so that believers can be given sound answers to moral questions that are not treated in traditional works of *fiqh*.

His Introduction to the Jurisprudence of Ethics is divided into three parts. The first provides a review of the methods of *fiqh* and its history, followed by summaries of moral discussions to be found in the Qur'an and in the narrations attributed to the Prophet and Imams (s), and a glance at the contributions made by the ancient Greek philosophers to the ethics of Muslim thinkers.

The second part considers *usul al-fiqh*, and the modifications to it that would be appropriate for a consideration of moral questions. The third part elaborates the author's conception of the *fiqh* of ethics in such a manner as to take into consideration the philosophical and mystical traditions of Islam, and even contemporary analytic metaethics, and not merely the outward aspects of behavior that have been the focus of attention of traditional *fiqh*.

Prof. Ganavi would answer the revised dilemma of the Brahmins by claiming that neither *fiqh* nor ethics, as currently understood, is sufficient for the practical guidance needed by man, and neither, alone, does sufficient justice to the scope of the divine guidance to be found in Islam.

The idea that the *shari'ah* by itself is not sufficient for approaching God is also a common theme of the Muslim mystics. The great Shi'i '*arif*, Sayyid Ḥaydar Amuli (1319– 1385), considered the *shari'ah* to describe only the lowest level of religious guidance, to be complemented by the *tariqah* (the spiritual way) and the *ḥaqiqah* (the innermost way).[12]

The three of these, together, form a single reality; and when an attempt is made to follow any of them alone, the result will only be a deformation of the religious life. This outlook is also recognizable in the works of Mulla Sadra (to whom we turn in the next section), in the works of the author of the great exegesis of the Qur'an, *Al-Mizan* (The Balance), by 'Allamah TabaTaba'i (1904–1981), and in his students, among whom Ayatullah Misba□ Yazdi (b. 1934) and Ayatullah Javadi Amuli (b. 1933) have devoted much of their careers to the promotion of the study of ethics and Islamic morality.

It is precisely the conflict of moral perspectives and the inability of rational argumentation to provide a convincing defense of any given moral position over its rivals that has led numerous philosophers to claim that morality is relative.[13] For Ayatullah Misba□, however, the plurality of moralities and their resistance to conciliation through rational argumentation only indicates the limitations of human reason and the need to cling to the divine guidance provided through revelation.[14]

Since the essentials of the moral teachings of Islam are also contained in the divine revelations on which Judaism and Christianity were founded, there is a common moral basis for religious dialogue and cooperation. At the same time, Muslims are required to delve more deeply into revealed truth in order to understand the moral outlook of their religion, and are not to rely exclusively on the rulings of *fiqh*.

For this reason, a three-volume work on the ethics of the Qur'an has been published on the basis of his lectures on the subject;[15] but in addition to a number of other books and essays, he has lectured, sermonized, and given support to the study of ethics.

As for the relation between *fiqh* and *akhlaq*, Ayatullah Misba□ teaches that from one perspective one can consider actions performed in accordance with religious ordinances to be the fruits of proper character training; on the other hand, since rulings of *fiqh* include questions of ritual purity, and the correct manner of worship, which are not related to what are commonly understood to be specifically moral issues, there is a sense in which the ethical can be considered as a subdivision of the areas governed by the *shari'ah*.

However, the rulings of *fiqh* concern only the outward form of our actions. Ethics, in some sense, concerns itself with the heart, and with the purity of the intentions with which we perform our duties. The *shari'ah* is concerned with legal rulings that require a bare minimum of the agent to avoid damnation according to religious teachings; it is law rather than morality.

This determines what is obligatory and prohibited (*wajib* and □*aram*). From a perspective focused on *fiqh*, ethics appears to concern itself with the *musta□abat* (commendable actions), such as altruistic actions. This jumble of meanings leads to confusion among many for whom the concept of *musta□ab* is associated with supererogatory acts of worship. Misunderstandings about the relation between ethics and the *shari'ah* can only be removed, according to Ayatullah Misba□, if sufficient care is taken to specify in advance the various senses in which ethics (*akhlaq*) and the science of ethics (*'ilm al-akhlaq*), as well as *shari'ah* and *fiqh* are employed.

Fiqh, or, rather, one subdivision of it, is concerned with specific voluntary actions. Ethics, in the sense in which it is used in the tradition of Islamic philosophy, pertains to character, to virtue and vice, as in the peripatetic tradition; but it is also understood by Muslim ethicists to include the purification of the heart and intentions. In fact, the purification of the heart and approach to God are typically treated in discussions of practical mysticism (*'irfan al–'amali*), what Sayyid Ḥaydar Amuli referred to as the *Tariqah* and *Ḥaqiqah* of Islam.

The Muslim philosophers consider the states acquired in the process to correspond to various virtues, which are the subject of the study of ethics (*'ilm al– akhlaq*). In this way, in response to the revised dilemma of the Brahmins, there would be no conflict between ethics and *shari'ah*, and yet their agreement would not make either superfluous, since they are seen as providing for complementary dimensions of religious life. The insufficiency of the *shari'ah* for a complete religious life is one of the central themes of the writings of Mulla Sadra.

The Error of Limiting Religion to Shari'ah according to Mulla Sadra

Sadr al–Din Muḥammad Shirazi, known as Mulla Sadra, was born in Shiraz during the Safavid period, in 1571–2; and he died in Basra on his return by foot from his seventh hajj in 1635–6.[16] He was a systematic philosopher, theologian, and mystic (*'arif*).[17] His life may be divided into three periods: the period of study, mostly in Isfahan; the period of ascetic discipline and intense worship during his seclusion in the village of Kahak near Qom, where he sought refuge from his opponents among those he referred to as the superficial scholars and hypocrites; and finally a period of industrious writing of his major works, much of which also was done in Kahak.

His views on ethics are scattered throughout his works, where they are found in discussions of spiritual wayfaring, commentaries on verses of the Qur'an, philosophical psychology. His ethics is interwoven with his religious and metaphysical views. Sadra considers reality to be a graduated hierarchy whose pinnacle coincides with the pure being identified with divinity that gives all things their actual existence.

The human being is considered to be in a dynamic state whereby one's very existence is intensified as one achieves moral and spiritual perfections by finding release from the domination of material appetites and approaches God.

One of the important sources for the understanding of Mulla Sadra's moral thought is his Persian treatise, *Seh Asl*,[18] whch means "three principles" or "three roots" in Persian. In this section, I will review the position he takes on the need to integrate the *shari'ah* within a life of spiritual wayfaring and philosophical contemplation of religious truths, particularly concerning our origination from and return to God (*mabda' va ma'ad*).

In the Three Roots, Sadra argues that "those legalistically bound to the *shari'ah*" by ties of imitation

(*taqlid*) “are really far from the bounds of *shari‘ah* and its bonds”,[19] that is, the *shari‘ah* itself is deformed when followed in isolation from the spiritual way. Sadra cites several *ayat* of the Qur’an on the importance of wisdom and divine grace. While imitation is justified in the case of children and those who lack the capacity for autonomous judgment, those who have the capacity but persist in imitation are condemned as lacking insight and holding “stupid prejudices”.[20]

The way to overcome the imitative attitude and to act autonomously is not by merely busying oneself with argumentation and theological disputes; for this may lead to nothing but arrogance.

Likewise, the supererogatory prayers and fasts of one who is hard hearted will lead only to conceit; so that these acts, which are commendable, according to *fiqh*, will actually result in making the soul darker every day instead of aiding the agent in the mastery over her own nature, which is needed for true freedom.[21]

According to Mulla Sadra, the imitative following of the divine law without divine grace and insight leads to a deformation of the religious life, and, although Sadra is a champion of philosophy, he admits that philosophy by itself cannot remedy this plight. The deformation takes the form of the disfiguration of those who are victims of their own deceits and hypocrisy:

There should be an observer to see how many monkeys and pigs are the slaves of Taghut[22] wearing the robes of asceticism and self-righteousness. They will see deceit and hypocrisy and from following lust and anger how they have been disfigured from their original natures and have become equal to wild beasts and devils. They will have such forms on the day of gathering.

وَإِذَا الْوُحُوشُ حُشِرَتْ

“When the wild beasts are hearded together.” (***81:5***)[23]

The disfigurement extends so far as to transform all the means of guidance into misleading paths. Without the light of true knowledge, the prophetic hadiths will mislead those who follow them blindly, so that they will mistreat anyone who opposes their superficial misuses of reason, and they will persecute the dervishes.[24]

So, it appears that Islam of the tongue and Islam of the heart are as different as night and day. Not anyone who confesses with the tongue is really a believer in the fundamental doctrines of religion, though with respect to Islamic law he may nevertheless be considered a Muslim.[25]

With regard to *fiqh*, Sadra relies on the root meaning of the word, which indicates penetrating knowledge; and he cites several *ayat* of the Qur’an to make the point that what is commonly understood as *fiqh* is far from the kind of knowledge of which the Qur’an speaks, a knowledge that is evidenced by true fear of God:

In the eyes of the seminarians and scholars of today, fiqh consists of the mastery of the rules for divorce

and the freeing of slaves, repudiation of one's wife, trade, advanced sale of agricultural products, mortgage, and being skillful in matters of inheritance, rituals, the determination of punishments and admonitions for criminal acts, and expiation for the violation of religious duties, and the like. The more one delves into these problems, the more one is considered a faqih, even if he has nothing of true knowledge. The masters of insight would gather from:

إِنَّمَا يَخْشَى اللَّهَ مِنْ عِبَادِهِ الْعُلَمَاءُ

"Verily, those who fear God among His servants are those of knowledge **(*'ulama*)*"* (*35:28*)** 26

and

لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنْذِرُوا قَوْمَهُمْ

"to become learned **(*liyatafaqqahu*)** ***and to warn their people when they return to them",*** **(*9:122*)**27

that a faqih is one who fears God more than others and for whom dread and awe fill his heart more. 28

The problem is not that the preoccupation with questions of law should be replaced by concerns with theology, for the result of this science, *kalam* (scholastic theology), if one lacks true knowledge, will be nothing but disputation;29 just as the study of the science of exegesis, *tafsir*, will make one nothing but "scholar of shells".30

*This deed and knowledge of which you are so proud, a pile of it is not worth a single grain. "There are so many reciters of the Qur'an while the Qur'an curses them."*31

Sadra complains to the superficial scholars of religion that if there is nothing to know but what they consider knowledge, the mere rote memory of regulations and narrations, of *shari'ah* and hadiths, if there is nothing to be known beyond their feeble abilities, then the "field of knowledge and science is infinitely narrow, and the foot of reason is quite lame and shaky".32

He then enjoins such people to climb out from under their dark covers and seek earnestly to purify their hearts. He urges them to move past the stage of imitation in strong poetic language:

Whoever is entrapped by imitation
his heart is in shackles and chains.

These sheikhs who should be the staffs of the way
may become barriers preventing the lost from finding the way.

Unless you overcome the imitation of your fathers
*I'll be damned if you ever benefit by religion.*33

There is anger in Sadra's admonitions. He frequently urges his readers to free themselves from the

shackles and chains of their ignorance and desire and to make themselves into true human beings, true autonomous agents, or masters of their natures.

The failure to understand that there is knowledge beyond fanatical imitation leads the superficial to misunderstand the fundamental nature of the divine act of revelation itself: *"the only difference they draw is that the prophet imitates Gabriel while others imitate human beings. They do not realize that imitation is not a kind of knowledge. The true knowledge is a light that God shines on the heart of any servant."*[34] This kind of statement is one against which many Muslims will still react with horror, if they imagine that the only alternative to blind imitation is making things up on a whim. The same passage continues:

They suppose that the Prophet learned the Qur'an by heart as other people do, and that the Imams and awliya (saints), peace be with them, have learned these things by listening to the narrations of others. According to

وَعَلَّمْنَاهُ مِنْ لَدُنَّا عِلْمًا

"And We taught him, from nearness to Us, knowledge" **(*18:65*)**[35]

God has emanated knowledge on their shining hearts because of a spiritual connection with what is hidden, and then it has come from their hearts onto their tongues, and from the hidden to the observable.

Once we understand that what we are called to do is to surpass mere imitative knowledge, and to gain the mastery over ourselves that modern philosophy has called "autonomy", and that this requires the exercise of judgment rather than blind conformity to a set of regulations, then, Sadra tells us, we will understand that the *shari'ah* by itself cannot bring salvation–worse, it can lead to damnation!–because when divorced from the inner path, it is deformed.

Sadra scathingly pleads for greater attention to the Qur'an:

O just followers of the shari'ah and rational discerners of subtleties! If only you would reflect for a moment on this ayah:

وَمَا أُمِرُوا إِلَّا لِيَعْبُدُوا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ حُنَفَاءَ وَيُقِيمُوا الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ ۚ وَذَٰلِكَ دِينُ الْقَيِّمَةِ

"you were not commanded except to serve Allah, purely for Him in religion, as honorable ones, and to maintain the prayer, and to pay the alms (zakat); that is the upright religion." **(*98:5*)**[36]

then it would be clear to you that you cannot be saved in the afterlife by bodily works, superficial sciences, nominal Islam, the fundamentals of prayer, fasting by the mouth, charity of bread, nominal Hajj, without purification of the interior from impurity, erroneous beliefs, heresy, lust, without purifying your heart from pretentiousness, corrupt worldly purposes, selfish motives, and covetousness. "All my words and sayings have perished and have been annihilated and the only thing that has been of any use

is two little units of prayer said in the middle of the night."[37]
The prophetic knowledge of the divine revelation is a knowledge that arises through the grace of God that accompanies the Prophet's intimacy with God. Lesser degrees of this intimacy are available to others who seek to travel the path to approach God.

The mark of the jurist who lacks the grace of divine knowledge is hypocrisy, his failure to put into practice what he preaches. For those who lack self–knowledge, no action can do them any good.[38] Likewise, the mark of true divine knowledge is a faith that is inseparable from good deeds. One's actions are enduring and eternal when they spring from one's illuminated spirit.[39]

Any heart in this house that is not alive with love
While he is not yet dead, by my fatwa, you should pray the prayer of the dead for him.[40]

While many other points relevant to these themes could be gleaned from the Three Roots, not to mention his other works, what we have already seen is enough for us to understand the kind of answer Sadra would give to the revised dilemma of the Brahmins. Ethics does not conflict with the *shari'ah*, but that does not make it dispensable; for it is only with the proper spiritual/moral knowledge and ethical character that respect for the *shari'ah* can result in actions that are enduring and eternal.

In fact, it is the purification of the heart that by the grace of God brings one into communion with the divine and manifests itself at the corporeal level by respect for the *shari'ah*.

Summary and Conclusion

The relation between ethics and the *shari'ah* is complex; and it gives rise to various positions that are currently the subject of intense study and debate by religious scholars and intellectuals in Iran. In order to avoid confusion in this area, prerequisite for any discussion of these topics is the elucidation of how the contested terms are being used.

Even when precise definitions are before one's eyes, however, it is easy to fall into a use of terms such as "moral" and "unethical" that trade on ambiguities.

In this brief introduction to the topic, we have seen some of the controversy about how "ethics" is to be understood. We have also become just barely acquainted with the views of several scholars of the seminaries in Qom. Some would dismiss ethics as a Greek intrusion into Islamic culture. Others argue that there is a need for a reform in Islamic jurisprudence and its principles to take into account moral judgments. Yet another view is that there is no need for reform of this sort, but only a shift of emphasis from one that focuses on *shari'ah* to one that yields priority to the *Tariqah* and *Haqiqah* of Islam.

The discussions taking place among Muslim scholars in Qom about these topics are more nuanced than they have previously been, in large measure due to the cross pollination of ideas that comes with increasing exposure to different traditions of thought that is stimulated by conferences such as this one,

the increasing work on translation that is being undertaken in Iran, and by opportunities for Muslim scholars to engage in research projects abroad.

Although I have only mentioned a few of the scholars in Iran who are promoting discussions of ethics in relation to Islam, it is due to them and others like them that discussions of ethics have gained such prominence in Iran today. Much of this prominence can be considered a part of the legacy of the work of ‘Allamah TabaTaba’i (may Allah reward him).

My purpose has only been to introduce some important views in the discussion, and not to consider their relative merits and disadvantages. The evaluative work needed for such a task is being carried out today by scholars more capable than I.

Works Cited

Amuli, S. H. (1989). *Inner Secrets of the Path*. (A. a.-D. Yate, Trans.) Longmead: Element Books.

Brogaard, B. (2012). Moral Relativism and Moral Expressivism. *The Southern Journal of Philosophy*, 50(4), 538-556.

Fana'i, A. a.-Q. (1384/2005). *Din dar Tarazu-ye Akhlaq* (*Religion in the Scales of Ethics*). Tehran: Mo'assesseh Farhangi Serat.

Fana'i, A. a.-Q. (1389/2010). *Akhlaq-e Din Shenasi* (The Ethics of Religious Knowledge). Tehran: Nashr-e Negah-e Mo'aser.

Ghanavi, A. (1393/2014). *Dar Amadi bar Fiqh-e Akhlaq* (*An introduction to the jurisprudence of ethics*). Tehran: Sazman-e Entesharat Pazhuheshgah-e Farhang va Andisheh Islami.

Habibi, R. (2016, May 8). Fiqh-e Akhlaq che nesbati ba Akhlaq-e naqli darad (What relation does the Islamic jurisprudence of ethics have to transmitted ethics). *http://newsletter.ethichouse.ir/index.php?option=com_acymailing&ctrl=archive* [*1*] *e&task=view&mailid=70&key=cace7e17d1cb4d2c8910eee85381c645&subid=1751-a4c5849132e98a0fca5c20c9ba0d4ca1*. 2016, Qom, Iran: Khaneh-ye Akhlaq.

Harman, G. (2000). *Explaining Value and Other Essays in Moral Philosophy*. Oxford: Oxford University Press.

Kölbel, M. (2005). Moral Relativism. In D. Westerstahl, & T. Tännsjö (Eds.), *Lectures on Relativism* (pp. 51-72). Göteborg: Göteborg University.

Legenhausen, M. (2014). The ‘Irfan of the Commander of the Faithful, Imam ‘Ali. *Religious Inquiries*, 3(5), 5-20.

Misbah Yazdi, M. T. (1380/2001). *Akhlaq dar Qur'an* (*Ethics in the Qur'an*) 3 vols. (M.H. Eskandari, Ed.) Qom: Mo'assesseh Amuzeshi va Pazhuheshi Imam Khomeini.

Misbah Yazdi, M. T. (1384/2005). *Naqd va barresi makateb-e akhlaqi* (*Critique and review of ethical schools of thought*). (A. H. Sharifi, Ed.) Qom: Mo'assesseh Amuzeshi va Pazhuheshi Imam Khomeini.

Muntazir Qa'im, M. (1389/2010). I'tibar-e dhati-ye sireh-ye `uqula (the essential validity of the practices of rational agents). *Mo`aref Islami*, 23, 91-138.

Mutahhari, M. (n.d.). *Introduction to 'Ilm al-Kalam*. Retrieved May 10, 2016, from al- islam.org: http://www.al-islam.org/al-tawhid/vol3-no2/introduction-ilm-al-kalam/int... [2]

Neuwirth, A. (2014). Scripture, Poetry and the Making of a Community: *Reading the Qur'an as a Literary Text. Oxford:* Oxford University Press.

Rahman, F. (1986). Barahima. In *The Encyclopedia of Islam, New Edition, Volume I, A- B* (p. 1031). Leiden: Brill.

Reinhart, A. K. (1995). *Before Revelation: The Boundaries of Muslim Moral Thought.* Albany: State University of New York Press.

Rizvi, S. H. (2009). *Mulla Sadra and metaphysics: modulation of being.* London and New York: Routledge.

Rovane, C. (2013). *The Metaphysics and Ethics of Relativism.* Cambridge: Harvard University Press.

Shafi'i, A. (1392/2013). *Barressi rabiteh-ye fiqh va akhlaq* (*A review of the relation between Islamic jurisprudence and ethics*). Tehran: Amir Kabir.

Shirazi, S. a.-d. (1376/1997). *Risaleh Seh 'Asl*. Tehran: Entesharat Mawla.

Tusi, K. N.-D. (1356/1977). *Akhlaq Nasiri.* (M. Minavi, & A. Haydari, Eds.) Tehran: Entesharat Khwarazmi.

Tusi, K. N.-D. (1964). *The Nasirean Ethics.* (G. M. Wickens, Trans.) London: George Allen & Unwin.

Wong, D. (2006). *Natural Moralities: A Defense of Pluralistic Relativism.* Oxford: Oxford University Press.

1. For an excellent review of the issues and an historical sketch of their development, see (Reinhart, 1995).
2. (Mutahhari).
3. (Tusi K. N.-D., 1964), 28.
4. (Tusi K. N.-D., 1964), 28-29.
5. (Neuwirth, 2014), 265.
6. Qur'an (5:48): "Und Wir haben das Buch mit der Wahrheit zu dir herabgesandt, das bestätigt, was von der Schrift vor ihm

da war und darüber Gewißheit gibt; richte also zwischen ihnen nach dem, was Allah herabgesandt hat und folge nicht ihren Neigungen, von der Wahrheit abzuweichen, die zu dir gekommen ist. Für jeden von euch haben Wir Richtlinien und eine Laufbahn bestimmt. Und wenn Allah gewollt hätte, hätte Er euch zu einer einzigen Gemeinde gemacht. Er wollte euch aber in alledem, was Er euch gegeben hat, auf die Probe stellen. Darum sollt ihr um die guten Dinge wetteifern. Zu Allah werdet ihr allesamt zurückkehren; und dann wird Er euch das kundtun, worüber ihr uneins waret."

7. Cf., (Rahman, 1986). Versions of the argument mentioned are attributed to Ibn Hazm and Shahrastani.

8. (Habibi, 2016).

9. (Fana'i, Akhlaq-e Din Shenasi (The Ethics of Religious Knowledge), 1389/2010), 33-35.

10. (Fana'i, Din dar Tarazu-ye Akhlaq (Religion in the Scales of Ethics), 1384/2005).

11. As suggested in (Muntazir Qa'im, 1389/2010).

12. (Amuli, 1989), available on-line at: http://www.al-islam.org/inner-secrets-of-the-path-sayyid-haydar- [3] amuli.

13. There are too many important philosophers to cite here. Some of them are (Harman, 2000), 78-99; (Kölbel, 2005); (Rovane, 2013), 262-270; (Wong, 2006); and (Brogaard, 2012). All of them argue that the inconclusiveness of rational argumentation about topics of moral disagreement of a certain kind (together with other factors) provides good reason for the acceptance of some form of moral relativism.

14. (Misbah Yazdi, Naqd va barresi makateb-e akhlaqi (Critique and review of ethical schools of thought), 1384/2005), 329-330.

15. (Misbah Yazdi, Akhlaq dar Qur'an (Ethics in the Qur'an) 3 vols., 1380/2001).

16. See Rizvi, Sajjad, "Mulla Sadra", The Stanford Encyclopedia of Philosophy (Summer 2009 Edition), Edward N. Zalta (ed.), URL = http://plato.stanford.edu/archives/sum2009/entries/mulla-sadra/ [4]

17. The term 'arif (pl. 'urafa) derives from 'arafa, to know in the sense of being familiar with, and by the time of Mulla Sadra, it was used for famous Sufis, like Attar and Qawnavi, as well as those who followed an Islamic spiritual path seeking knowledge (ma'rifat, also derived from 'arafa) of God or union with God or annihilation in God. From the same root, we also have 'irfan, which is the study of the path, and is sometimes divided into theoretical and practical pursuits. Although 'irfan and 'arif have been translated by some as gnosis and gnostic, this is misleading if one associates the terms with Greek and early Christian forms of Gnosticism. Another translation is mysticism and mystic; but this is misleading because of associations with secrets that are hidden from the intellect and with the specifically Christian figures known as mystics and their doctrines, which is by no means to deny important similarities that can be found between the views of some Christian mystics and Muslim 'urafa. For more on 'irfan in the Shi'i tradition, see (Legenhausen, 2014).

18. (Shirazi, 1376/1997). References to this work will be by paragraph, as used in this edition, "n/m", where n is the chapter number and m is the number of the paragraph in the chapter. The work is in Persian. All translations are my own. In what follows, I will refer to the book as Three Roots. There is also an earlier edition of the Persian text that was edited by Seyyed Hossein Nasr and published in Tehran in 1961. An English translation by Colin Turner is scheduled to be published by Routledge later this year (2016).

19. (Shirazi, 1376/1997), 0/8.

20. (Shirazi, 1376/1997), 3/2.

21. (Shirazi, 1376/1997), 3/5.

22. Taghut means a rebel against God, and is said to mean Satan, the carnal soul, or anyone rebellious against God of the humans or the jinn. See Qur'an: (2: 256); (4:51); (4:60); (4:76); (5:60); (16:36).

23. Qur'an (81:5); (Shirazi, 1376/1997), 5/5.

24. (Shirazi, 1376/1997), 6/6.

25. (Shirazi, 1376/1997), 7/12.

26. Qur'an (35:28).

27. Qur'an (9:122).

28. (Shirazi, 1376/1997), 8/12.

29. (Shirazi, 1376/1997), 9/8.

30. (Shirazi, 1376/1997), 9/6.

31. (Shirazi, 1376/1997), 14/13. The quoted sentence is from a hadith attributed to the Prophet (s).

32. (Shirazi, 1376/1997), 9/9.
33. (Shirazi, 1376/1997), 11/9.
34. (Shirazi, 1376/1997), 13/5.
35. Qur'an (18:65): "wa 'allamnahu min ladunna 'ilman."
36. Qur'an (98:5)
37. (Shirazi, 1376/1997), 14/1. The last sentence is a quotation attributed to the great Sufi, Junayd of Baghdad (830–910).
38. (Shirazi, 1376/1997), 1/20.
39. (Shirazi, 1376/1997), 1/21.
40. (Shirazi, 1376/1997), 14/14.

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[4] http://plato.stanford.edu/archives/sum2009/entries/mulla-sadra/