Miskawayh (d. 1030) on Justice and The Limits of Law

This article explores the limitations of Islamic law within the broader intellectual tradition of Islam. While law is typically designed to enforce coercive justice, Miskawayh's perspective attempts to integrate this conception through a reassessment of the concept of justice. Specifically, this article examines, first, the overarching view of Islam as a nomothetic religion; and second, the ethical concepts and vision of justice offered by Miskawayh. By contextualizing Miskawayh's ideas within the broader cultural and intellectual traditions of Islam, this research reveals a contrasting view of legal mechanisms. For Miskawayh, the vision of justice is not necessarily derived from external mechanisms of divine revelation, but rather hinges on the internal mechanisms of the individual. Miskawayh emphasizes a reversal of mechanisms from external to internal by advocating for a greater role of ethical-philosophical thought in Islamic legal discourse. Miskawayh, like many Muslim philosophers, navigates the relationship between revealed law and reason in his conception of justice. He rejects the notion of inherent conflict, arguing that both reason and divine law originate from God.

Keywords: Miskawayh, Justice, Limits of Law

Konsepsi hukum yang dirancang untuk menegakkan keadilan yang bersifat memaksa dilakukan peninjauan ulang dalam artikel ini dengan mengacu pada pandangan Misykawayh terhadap konsep keadilan. Upaya integrasi Misykawayh terhadap keterbatasan hukum Islam dalam tradisi intelektual Islam yang lebih luas menjadi dasar bangunan argumentasi dalam tulisan ini. Artikel ini bertujuan untuk mengkaji dua aspek mendasar; penjelasan tentang visi Islam sebagai agama nomotetik dan konsep etika dan visi keadilan yang ditawarkan oleh Miskawayh. Dengan mengontekstualisasikan ide-ide Miskawayh dalam tradisi budaya dan intelektual Islam yang lebih luas, penelitian ini mengungkapkan pandangan yang kontras tentang mekanisme hukum. Bagi Miskawayh, visi keadilan tidak selalu berasal dari mekanisme eksternal wahyu ilahi, melainkan bergantung pada mekanisme internal individu. Miskawayh menekankan pembalikan mekanisme dari eksternal ke internal dengan mengadvokasi peran yang lebih besar dari pemikiran etis-filosofis dalam wacana hukum Islam. Miskawayh, seperti banyak filsuf Muslim lainnya, menavigasi hubungan antara hukum yang diwahyukan dan akal dalam konsepsi keadilannya. Ia menolak gagasan tentang konflik yang inheren, dengan alasan bahwa akal dan hukum ilahi berasal dari Tuhan.

Kata kunci: Miskawayh, Keadilan, Keterbatasan Hukum

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Introduction

The centrality of legal discourse in Islam, established by the pedagogical paradigm of Islamic educational traditions, has raised concerns among Muslim philosophers. Miskawayh (d. 1030) examines this issue from an ethical philosophy perspective with the aim of preventing the decline of Islamic law. While acknowledging that the supreme source of law is divine revelation, he attempts to emphasize that reason, which has the potential to generate philosophical thought, is also a divine gift that should be utilized to the fullest extent in understanding law. [1] Therefore, he proposes that the assessment of justice as the orientation of law should not be separated from philosophical discussion, with the idea that the sense of justice is an ethical foundation that is constantly in the process of seeking truth for every individual. [2] The values in Islamic law should not be far removed from their cultural context, which inevitably develops, or fall into the manipulation of justice due to excessive legalism. Miskawayh thus seeks to bring the vision of justice closer to philosophy, not to be solely dominated by Islamic legal discourse alone.

The widespread recognition of Miskawayh as a leading ethical philosopher within the Islamic intellectual tradition has unfortunately led to a research trend that tends to confine his ideas solely to the philosophical realm. This focus has resulted in three main research questions: firstly, scholars are interested in the historical context, particularly the origins or sources of Miskawayh's ethical thought given the historical transition of philosophical traditions from Greece to the Islamic world. They aim to understand the synthesis Miskawayh achieved by exploring both philosophy and his internalization of Islamic values. Secondly, researchers are keen to determine the specific

contributions Miskawayh made to the field of moral philosophy. Thirdly, there is a tendency for research to become fragmented, focusing on specific themes within ethical philosophy such as mental health, education, and social interactions. However, it is noteworthy that research highlighting Miskawayh's ideas within the broader cultural context of Islamic traditions remains limited and exceptional. [3]

This article deviates from the prevailing research trend of confining Miskawayh's ideas to the philosophical realm by examining his concept of justice in relation to the centrality of legal discourse in Islam. It delves into two key aspects: firstly, it presents a general overview of Islam as a nomothetic religion within the Islamic intellectual tradition. Secondly, it highlights Miskawayh's contributions in addressing this issue through the ethical concepts and vision of justice he proposed. By exploring these two aspects, the article aims to shift Miskawayh's ethical ideas from the realm of philosophical elaboration to the cultural context of legal discourse within Islamic traditions.

Miskawayh's focus on personal-intrinsic ethical issues appears to challenge the deterministic vision of justice inherent in the coercive tendencies of Islamic legal discourse. Considering the dominant role of divine revelation in shaping Islamic law, this research argues that Miskawayh introduces a dialectic that grants greater weight to ethical-philosophical thought, potentially leading to the redrawing of boundaries within Islamic law. Miskawayh's ideas inevitably lead to a more dynamic and varied vision of justice, rooted in individual dispositions. Miskawayh, therefore, can be seen as advocating for a new perspective on justice, paving the way for a broader and more diversified implementation in the context of Islam as a nomothetic religion.

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[1] Miskawayh, *The Refinement of Character*, translated by Constantine K. Zurayk (Beirut: The American University of Beirut, 1968), 104. M. Abdul Haq Ansari, *The Ethical Philosophy of Miskawayh* (Aligarh, India: The Aligarh Muslim University Press, 1964), 112.

[2] Miskawayh, *The Refinement of Character*, 111.

[3] This trend will be discussed further in the next section.

Islam as a nomothetic religion

The nomothetic character of Islam, emphasizing a central role for law, is a widely recognized notion within both academic circles and the general public. Joseph Schacht, a leading Western scholar of Islamic law, reinforces this concept in his work *An Introduction to Islamic Law*. He argues that the very term "*fiqh*" (meaning "knowledge") signifies that Muslims consider knowledge of sacred law to be the preeminent form of knowledge ''.[4] This emphasis on fiqh is further corroborated by research on Muslim pedagogical institutions. Walid Saleh, a prominent historian of tafsir (Qur'anic commentary), suggests that tafsir was second only to Islamic law as the most critical subject in the medieval *madrasa* curriculum'.[5] A prominent Scottish scholar, H.A.R. Gibb offers us a sociological explanation of the eminence of *fiqh* in the classical Islamic curriculum, particularly in comparison to other subjects like *'ilm kalam* (theology). He argues that "the practical needs of the community-in-being made it necessary to stabilize and standardize the process of law before its intellectual curiosity progressed to the point of asking and answering metaphysical questions."[6] Gibb goes further by contrasting the characteristics of Muslim societies with those of Western societies. According to him, the former generally devotes much more sustained efforts to maintain stable social organization, with law as one of its pillars, compared to the latter who more enthusiastically advocates changes.[7]

Scholar Joseph Schacht argues that the Islamic law permeates the lives of Muslims. He supports this claim by presenting some historical records that demonstrates the deep engagement of Muslim communities in deriving legal principles from scripture and implementing them in daily life. Schacht highlights the Umayyad dynasty (the first Islamic dynasty) as a pivotal period. During this era, a new administrative system for justice, Islamic jurisprudence, and consequently, Islamic law itself, emerged. [8] This emphasis on Islamic law continued under the Abbasids. The early Abbasid caliphs, particularly al-Mansur, reportedly attempted to establish the *Muwatta'* of Malik ibn Anas as the sole legal code for the empire, even though this effort was ultimately unsuccessful. [9] However, the Abbasids did succeed in ensuring that judges adhered to Islamic law. [10]

Schacht argues that despite the fragmentation of the Islamic Empire and the rise of many other dynasties due to Islamic expansion, Islamic law preserved remained a stabilizing force as it provided "the main unifying element in a divided world of Islam." Historically, empires like the Ottomans in the Near East and the Mughals in India demonstrated the "highest degree of actual efficiency" under Islamic law. "."[11] Based on this analysis, Schacht emphasizes the centrality of Islamic law to understanding Islam itself. He views it as the "epitome of Islamic thought," the "most typical manifestation of the Islamic way of life," and the "core and kernel of Islam itself ".[12]

The centrality of law in Islam is not only recognized by academicians but is also expressed explicitly by Islamists. Sami Zubaida pointed out that, the 'Islamic revival' movements since their rise in the twentieth century have massively advocated and called for the application of

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[4] Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Oxford University Press, 1982), p. 1.

[5] He also says that the Qur'anic interpretative tradition is one of the most voluminous of Islamic literary genre, second only to the legal tradition. See Walid Saleh, "Qur'anic Commentaries," in Seyyed Hossein Nasr (ed.), *The Study Qur'an: A New Translation and Commentary*, (US: Harper One, 2015), p. 1645.

[6] H.A.R. Gibb, *Mohammedanism an Historical Survey* (Oxford: Oxford University Press, 1962), p. 88.

[7] H.A.R. Gibb, *Mohammedanism an Historical Survey*, pp. 88-9.

[8] Joseph Schacht, *An Introduction to Islamic Law*, p. 3.

[9] Muhammad Qasim Zaman, *Religion and Politics under the Early 'Abbasids: the Emergence of the Proto-Sunni Elite* (Leiden: Brill, 1997), p. 84.

[10] Joseph Schacht, *An Introduction to Islamic Law*, p. 4.

[11] Joseph Schacht, *An Introduction to Islamic Law*, p. 4.

[12] Joseph Schacht, *An Introduction to Islamic Law*, p. 1.

Islamic law. Sayid Qutb, the Egyptian Islamist and influential member of Muslim Brotherhood, argued that all man-made laws are idolatry. He condemned Muslim governments not ruled by Sharia, viewing them as un-Islamic and should be considered as the enemy of Islam to be fought against. He believed Sharia, as the revealed law of God, was perfect and required no human additions. Similarly, Ayatollah Khomeini, the architect of the 1979 Iranian Revolution, saw the Islamic state's primary task as implementing divinely revealed law as preserved in the scriptural sources and interpreted by the leading Muslim jurists.[13] Witnessing how prevalent the discourse of Islamic law is among the Muslim revivalist groups in the modern era, Zubaida remarks that the idea of Islamic sacred law is "central to the Muslim religion and a major element in the discourses and institutions of Muslim societies over ages." [14] In short, law is central to Muslims in both medieval ages and modern era.

Mustafa Akyol's recent book, *Reopening Muslim Minds*, expands the discussion on the centrality of Islamic law.' Akyol argues that the idea extends beyond scholarly circles and revivalist groups, permeating a wider conversation and reaching a general readership. He describes Islamic culture as a "legal culture" that emphasizes proper behavior over proper belief. Most Muslims today, Akyol suggests, are living within this legal culture "which entails a plenitude of dos and don'ts regarding prayer, fasting, almsgiving, ritual hygiene, dress code, dietary laws, family laws, and, most controversially, criminal laws." [15] This survey demonstrates a common understanding among academicians, Islamists, and general public about the supremacy of law in Islam.

The Theological foundation of Muslim legal culture

The emphasis on law in Islam can be further illuminated by examining a classical theological debate regarding the definition of 'good' and 'bad' actions. While the Mu'tazilites argued that good and bad are defined by intrinsic values of the particular action and thus can be known by human reason, the Ash'arites believed that good is what God commands in his revealed law and bad is what he forbids. In Ash'ary theology, which becomes a dominant theological force in Islamic history with the demise of the Mu'tazila, good and bad are determined not by internal qualities of the action itself but by God's law. To be good and just is to submit oneself to the sacred law. To be good and just government is to implement what Islamic law prescribes.

Prominent scholar of Islamic theology, Richard M. Frank, demonstrates how this theological concept was championed by many classical Ash'arite thinkers. Abu Ishaq al-Isfara'ini (d. 1027), for example, argues that "the ethical valuations (*ahkam*) of actions are grounded neither in the acts themselves nor in their properties; they are grounded simply in what God says." Similarly, Abu al-Qasim al-Ansari (d. 1118) maintains that "to be good and to be bad are not attributes of what is good or is bad, nor are they modes in which they occur; good and bad have no meaning other than the very promulgation of [God's] command and prohibition." In other words, since the act itself does not define good or bad, the reference point is an external power – God. A famous Sunni scholar and accomplished Ash'arite dialectician and theologian, al-Baqillani (d. 1013), remarks that "God command something entails its being wise and good and correct and that He prohibit it entail its being bad and pointless."[16]

[13] Sami Zubaida, *Law and Power in the Islamic World* (London, New York: I.B. Tauris, 2003), pp. 1-2.

[14] Sami Zubaida, *Law and Power in the Islamic World*, p. 1.

[15] Mustafa Akyol, *Reopening Muslim Minds: A Return to Reason, Freedom, and Tolerance* (New York: St. Martin Essentials, 2021), p. 26.

[16] Richard M. Frank, ''Moral obligations in classical Muslim theology,'' *Journal of Religious Ethics*, 11 (1983), p. 207.

Derived from God's pronouncements in revealed law, concepts of good and bad (and related qualities like just/unjust and correct/incorrect) position Islamic law as the core governing principle for Muslim societies. As al-Mutawalli (d. 1036) states, a good action is "one for the agent of which the law presents commendation." Similarly, 'Imad al-Din Abu al-Hasan 'Ali, commonly known as al-Kiya (d. 1110), a contemporary of al-Ghazali (d. 1111) and the leading Shafi'ite jurist and Ash'arite theologian, '', explains that "good and bad are grounded in the very giving of the law (*nafs al-shar'i*) itself, for what is good is that which the agent may legitimately do, and what is bad is that which the agent may not legitimately do …. Good and bad are grounded simply in God's command and prohibition …. Advantages and disadvantages are simply ascertained from the law." It is certain that these Ash'arites theologians followed the theological doctrines formulated by the eponymous founder of the Ash'arite school of Islamic theology, Abu al-Hasan al-Ash'ari (d. 936). Al-Ash'ari explains that lying is wrong since God declares it to be wrong and "if He were to command it there would be no argument to the contrary." In essence, it is His will to do whatever He will, and all His acts are by definition therefore good and just.[17] This discussion illustrates how a specific theological discourse of good and bad reinforces and maintains Muslim legal culture.

Law and Ethics

This section aims to build a hermeneutic framework based on the idea of a flexible sanad analysis and the well-developed critical methods of the three scholars mentioned above. Three key nodes form the foundation of this framework: the Qur'an's universal values, historical context of hadith, and the inherent subjectivity of hadith

interpreters. This framework takes inspiration from the "subjectivist cum objectivist hermeneutics" approach, drawing on the ideas of Hans-Georg Gadamer and Jorge J. E. Gracia.[18] Whereas all three scholars emphasize rationality in hadith interpretation, their methods do not necessarily embrace absolute freedom from the author's intent. The Qur'an acts as a crucial anchor, guiding the interpreter's continuous process to ensure interpretations align with its core principles. In other words, even if a hadith is traced back to the Prophet, we must consider how he conveyed it within the broader context of his divinely revealed message (the Qur'an). This necessitates engaging with the "metaphysics of presence," exploring the relationship between the author's historical context and the enduring meaning of the text.

Contemporary legal theorists debate the ultimate aim of law. Some theorists, as surveyed by Lawrence Solum, argue for virtue as the end of law. However, they admit the limitations of law in solely addressing ethical issues. While law should aim to create and sustain conditions for peace, prosperity, and meaningful work, it cannot directly cultivate virtue. Solum argues that non-legal actors, such as families and educational institutions, are better suited for this task, with the law offering them support.[19] This recognition of law's limitations in the ethical realm is not new. Even in ancient Greece, philosophers grappled with the relationship between law and virtue. Aristotle, for instance, extensively discussed virtue despite his significant contributions to natural law theory. Some modern thinkers even consider him a

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[17] Richard M. Frank, ''Moral obligations in classical Muslim theology,'' p. 210.

[18] Sahiron Syamsuddin, *Hermeneutika Dan Pengembangan Ulumul Qur'an* (Yogyakarta: Nawesea, 2017), 50.

[19] Lawrence B. Solum, "Law and Virtue," in *The Routledge Companion to Virtue Ethics*, edited by Lorraine Besser-Jones and Michael Slote (New York and London: Routledge, 2018), p. 512.

virtue theorist, or at least an intellectual ancestor of the movement. [20]

The Islamic tradition, often described as nomotheistic, also features lively discussions about virtues, ethics, morality, and the role of law in their cultivation. In this section, we will examine Miskawayh's (d. 1030) concept of justice and explore his perspective on the law's capacity to instill it. Lauded as "the father of Muslim ethics" [21], "the first Arab philosopher to write extensively on ethics" [22], and "the chief moral philosopher of Islam" [23], Miskawayh's work offers a valuable lens to nuance our understanding of the relationship between law and ethics in Islam, challenging the widespread assumption of strict legalism.

A Kevin Reinhart underscores the intellectual cross-pollination within Islamic scholarship, noting that Muslim philosophers possessed a deep understanding of Islamic law (fiqh) alongside its aims, discourses, debates, and methodologies. [24] Conversely, Muslim jurists (fuqaha) were also familiar with other branches of Islamic knowledge. Reinhart attributes this to the nature of classical Islamic pedagogy, which emphasized a more encyclopedic approach to learning compared to the modern emphasis on specialization. Feriel Bouhafa builds upon this point by challenging the misconception that Muslim philosophers were isolated from their Islamic cultural context. She demonstrates how these thinkers actively engaged with the broader intellectual environment, including the legal domain. For example, Bouhafa's study of the Andalusian Muslim philosopher Ibn Rushd (d.

1198) reveals his development of a nuanced 'corrective philosophy of law'.[25] Similarly, her analysis of al-Farabi (d. 950), an earlier Muslim philosopher, highlights his view of a fundamental connection between Islamic law and ethics. In al-Farabi's perspective, Islamic law is related with ethics, and "law are only particularized instances of universal ethical norms."[26] Bouhafa critiques the current academic separation of Islamic jurisprudence and philosophy. She argues that these "two key areas in the Arabic tradition" have been studied in isolation for too long[27]. Her intellectual project aims to bridge this gap by fostering a scholarly discourse that examines Islamic law in conversation with philosophy, and vice versa.

Scholarship on Miskawayh's Ethics

In this article, I accept Bouhafa's call for a conversation between Islamic jurisprudence and philosophy, and attempt to situate Miskawayh's ethics within the broader cultural context of Islamic milieu. Secondary studies on Miskawayh typically often examine his reception of the ancient philosophical tradition and his contribution to the Arabo-Islamic philosophical thought. These secondary works often confine his ethical ideas to the philosophical realm per se, neglecting other potential influences.'. My mapping of the secondary literature reveals three major trends in the scholarship about Miskawayh's ethics: questions about origins or sources of his ethics, his contribution to moral philosophy, and his ideas about specific ethical-philosophical issues.

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[20] Terence Irwin, "Virtue and Law," in *The Oxford Handbook of Medieval Philosophy*, edited by John Marenbon (Oxford: Oxford University Press, 2012), p. 606.

[21] M. Abdul Haq Ansari, *The Ethical Philosophy of Miskawayh*, p. ix.

[22] Y Mohamed, "Greek Thought in Arab Ethics: Miskawayh's Theory of Justice," *Phronimon*, vol. 2, 2000, p. 242.

[23] Majid Fakhry, *Ethical Theories in Islam* (Leiden: Brill, 1994), p. 107.

[24] A. Kevin Reinhart, "Islamic Law as Islamic Ethics," *The Journal of Religious Ethics,* fall, 1983, vol. 11, no. 2, p. 187.

[25] Feriel Bouhafa, "Averroes' Corrective Philosophy of Law," in *Interpreting Averroes: Critical Essays,* edited by Peter Adamson and Matteo Di Giovanni (Cambridge: Cambridge University Press, 2018), p. 80.

[26] Feriel Bouhafa, "Ethics and Fiqh in al-Farabi's Philosophy," in *Philosophy and Jurisprudence in the Islamic World,* edited by Peter Adamson (Berlin: de Gruyter, 2019), p. 12.

[27] Feriel Bouhafa, "Ethics and Fiqh in al-Farabi's Philosophy," p. 11.

Scholarship on Miskawayh's ethics explores three main trends. The first investigates the influence of ancient Greek philosophy. Scholars like Richard Walzer and Majid Fakhry debate the extent to which Miskawayh drew from Plato and Aristotle, with Walzer arguing for a limited original contribution and Fakhry highlighting Miskawayh's role in mediating their ideas.[28] Moh Nasir expands the discussion by including potential Christian sources alongside the Greek influence.[29] ''' The second major trend deals with to what extent Miskawayh contributed to ethical-philosophical discussions. While Richard Walzer maintains that Miskawayh only united materials of quite different origins and thus "his own original contribution to moral philosophy is slight,"[30] Majid Fakhry argues for Miskawayh's contribution in mediating Plato's and Aristotle's concepts of ethics.[31] M. Abdul Haq Ansari joins the debate and demonstrates that Miskawayh's valuable contribution lies in his disengagement of ethics from politics. Before him, ethics was part of politics, and Miskawayh made the former a discipline independent from the latter.[32] Other secondary studies examine Miskawayh's thought of specific ethical-philosophical affairs, such as his understanding of pleasure[33], psychology,[34] friendship, and education.[35]

An exception to these three general trends is Kambiz GhaneaBassiri's doctoral dissertation. which situates Miskawayh's ethics not within a philosophical tradition but within a theological dispute of the eleventh century Buyid society. GhaneaBassiri examines the concept of justice in the thought of three key figures: the Mu'tazilite thinker 'Abd al-Jabbar (d. 1030), the Ash'arite theologian al-Baqillani (d. 1013), and the Muslim ethicist Miskawayh. While all three differed in some important ways, they shared common ground in their understanding of the relations between humankind and God, as well as the reformative roles of religion and its ethical agendas within the society.[36]

Miskawayh's Concept of Justice

Building on GhaneaBassiri's work, this section situates Miskawayh within the legal setting of the Islamic tradition, rather than focusing on theological disputes. Here, I will explore Miskawayh's understanding of just and unjust acts, along with the extent to which law can enforce justice. This analysis aims to offer a more nuanced perspective on the limitations and reach of legalism in Islam.

Miskawayh initiates his exploration of justice by foregrounding the crucial distinction between genuine and counterfeit virtues. He recognizes the potential for outward displays of virtue to mask underlying flaws. As an illustration, Miskawayh points to temperance. Even individuals lacking true temperance can exhibit its outward characteristics in pursuit of personal gain or security:

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[28] Majid Fakhry, "The Platonism of Miskawayh and Its Implication for His Ethics," *Studia Islamica*, 1975, no. 42, pp. 39-57, Richard Walzer, *Greek into Arabic: Essays on Islamic Philosophy* (Cambridge: Harvard University Press, 1962), p. 220. Moh Nasir bin Omar, "Preliminary Remarks on Greek Sources of Muslim Ethics," *Islamic Quarterly*, 2000, and Y Mohamed, "Greek Thought in Arab Ethics: Miskawayh's Theory of Justice," *Phronimon*, vol. 2, 2000.

[29] Moh Nasir bin Omar, *Miskawayh's Ethical Thought and Its Sources* (Bangi: Fakulti Pengajian Islam, University Kebangsaan Malaysia, 2003).

[30] Richard Walzer, *Greek into Arabic: Essays on Islamic Philosophy*, p. 220.

[31] Majid Fakhry, "Justice in Islamic Philosophical Ethics: Miskawayh's Mediating Contribution," *JRE*, 1975, p. 243.

[32] M. Abdul Haq Ansari, *The Ethical Philosophy of Miskawaih*, p. ix.

[33] Peter Adamson, "Miskawayh on Pleasure," *Arabic Sciences and Philosophy*, vol. 25, 2015, pp. 199-223.

[34] Peter Adamson, "Miskawayh's Psychology," in Classical Arabic Philosophy Sources and Reception, edited by Peter Adamson (Warburg Institute, 2007).

[35] Badruddin Bhat, "Miskawayh on Social Justice, Education, and Friendship," *Islamic Studies*, vol. 25, no. 2, 1986.

[36] Kambiz GhaneaBassiri, "A Window on Islam in Buyid Society: Justice and Its Epistemological Foundation in the Religious Thought of 'Abd al-Jabbar, Ibn al-Baqillani, and Miskawayh," Ph.D. thesis, Harvard University, 2003.

"those who deny themselves the pleasures of eating, drinking, and the like in which other people indulge, either because they hope for more than what they are getting at the time or because they do not know these pleasures and have never experienced them – such as villagers who live far from cities and the shepherds in the wilderness and the summits of mountains – or because they are satisfied with what they find and are getting, or because the lack the desire and are imperfect in their constitution, or because they are afraid of enjoying them and of suffering an adversity on account of them – all of those people act like the temperate, but are not truly temperate."[37]

Miskawayh emphasizes the distinction between genuine and performative virtue. A truly temperate person chooses temperance for its inherent value, not for external rewards like wealth or prestige. Similarly, real courage arises from an internal conviction in its virtue, not from a desire for personal gain. As Miskawayh illustrates, 'one who exposes himself to danger for wealth or other desires acts like the courageous, but his action is driven by greed, not courage'. [38] He observes people who mimic temperance and courage to gain social status or wealth, but these actions lack the essence of true virtue, which stems from a genuine commitment to the virtues themselves. [39]

The criteria for distinguishing genuine from performative virtue also extend to justice. A truly just person cultivates justice within their soul, leading to just actions. They are not motivated by personal agendas. As Miskawayh observes:

"For when he acts justly in certain matters, through hypocrisy in order to obtain thereby honor, money, or any other desire, or for any other purpose such as those which we have enumerated before, he is not just, but only acts like the just for the sake of the object which he pursues. His act must be thus ascribed to his purpose, for, as we have already stated and explained, it is only accordance with this purpose that he performs that act."[40]

Miskawayh understands justice as a state of equilibrium between two extremes, such as between excess and deficiency or between multiplicity and paucity. In short, justice is moderation (*i'tidal*). A truly just individual achieves harmony within their soul by balancing all faculties, activities, and states. This internal justice then translates into just actions in worldly life and social interactions. 'As Miskawayh explains, 'the just person exercises justice towards themself as well as their fellow citizens, while the unjust person acts unjustly towards themself, their friends, and all others' [41] . This passage illustrates that, in Miskawayh's thought, justice first flourishes within an individual's self when they harmonize all their internal states.[42] Only then does it manifest in their social life. In short, true justice originates from a balanced inner soul, not from external forces. Miskawayh emphasizes the internal foundation of justice. As he states, 'the just person exercises justice towards themself as well as their fellow citizens, while the unjust person acts unjustly towards themself, their friends, and all others' [43] . This passage illustrates that, in Miskawayh's thought, justice flourishes within an individual first, through the harmonization of their internal states. Only then does it manifest in their social interactions. In essence, true justice originates from a balanced inner soul, not from external enforcement.

The role of law

Miskawayh, as a Muslim ethicist, acknowledges the role of divine law in establishing justice. He incorporates elements from Aristotle's concept of three laws. According to Aristotle, the highest law comes from God,

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[37] Miskawayh, *The Refinement of Character*, p. 95.

[38] Miskawayh, *The Refinement of Character*, p. 96.

[39] Miskawayh, *The Refinement of Character*, p. 97.

[40] Miskawayh, *The Refinement of Character*, p. 100.

[41] Miskawayh, *The Refinement of Character*, p. 100.

[42] Miskawayh, *The Refinement of Character*, p. 100.

[43] Miskawayh, *The Refinement of Character*, p. 104.

followed by the ruler's law acting on God's behalf, and finally, the law of money, which facilitates fair transactions. Money serves a practical purpose, but when it fails, a just ruler intervenes to uphold justice. Ultimately, God's law holds the highest authority. ''Miskawayh integrates elements from Aristotle's concept of three laws to explore how these laws contribute to justice. .[44] The just ruler, acting as the "deputy of the Custodian of the Law" (enforcer of Islamic law), upholds this divine law by promoting equality and preventing personal enrichment at the expense of others. [45]"" Miskawayh integrates the concept of money into his framework of justice. Money facilitates fair economic transactions, ensuring that individuals like farmers and carpenters exchange goods and services equitably.[46] Conversely, injustice arises from the violation of these three laws. Miskawayh identifies a hierarchy of injustice saying that the most unjust are those who reject divine law altogether. The second category comprises those who disregard the rulings of a just ruler in their daily lives and transactions. Finally, the third category includes those who acquire wealth through illegitimate means, taking more than their share and leaving others with less."[47]""

Miskawayh, like many Muslim philosophers, navigates the relationship between revealed law and reason in his conception of justice. He rejects the notion of inherent conflict, arguing that both reason and divine law originate from God. Reason, he posits, acts as God's representative within humans, while divine law embodies His commandments.[48] This emphasis on harmony is evident in Miskawayh's statement: "Justice refers to one who adheres to the Law. However, justice is also a disposition of the soul from which this virtue proceeds"[49] . However, considering his distinction between genuine and

performative virtues, it becomes clear that Miskawayh prioritizes the internal development of true justice. While he attempts to reconcile law and ethics (religion and philosophy), his emphasis lies on a disposition of soul, not external forces, as the source of true justice [2]. Ansari aptly captures this point: "Miskawayh identifies justice completely with the Shari'ah (Islamic law). Obedience to the Shari'ah defines a just person. Yet, this doesn't equate justice with mere submission to external authority. Justice is, and forever remains, an intrinsic quality of the self, an internal development that manifests in virtuous actions."[50] In conclusion, while external law can compel just actions, it is the perfected character of the soul that cultivates truly just individuals.

Conclusion

This discussion exposes key distinctions between Miskawayh's psychological conception of justice and the prevailing legal theory. Legal frameworks typically view justice as an external force – the law itself – that governs and compels individuals to act justly. In contrast, Miskawayh emphasizes the internal development of justice within the individual. True justice, for him, blossoms from a balanced inner disposition and a well-harmonized faculty of reason. This individual's just character, in turn, contributes to the establishment of a just society. '''While legalism conceives that justice comes from law and proceeds to individuals, Miskawayh reverses the mechanism. For him, true justice comes first from individuals and proceeds to society or to any other larger social or political group. According to him, law enables people to act justly, but a perfect disposition makes them truly just persons. Miskawayh's intervention illustrates that law specialists do not have a monopoly to define justice and shows, to some

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[44] Miskawayh, *The Refinement of Character*, p. 104.

[45] Miskawayh, *The Refinement of Character*, p. 105.

[46] Miskawayh, *The Refinement of Character*, p. 104.

[47] Miskawayh, *The Refinement of Character*, p. 104.

[48] M. Abdul Haq Ansari, *The Ethical Philosophy of Miskawaih*, p. 112.

[49] Miskawayh, *The Refinement of Character*, p. 111.

[50] M. Abdul Haq Ansari, *The Ethical Philosophy of Miskawaih*, p. 111.

extent, the limitations of legalism. By presenting an alternative understanding of justice, Miskawayh compels us to acknowledge the multifaceted nature of justice in the Islamic intellectual tradition.

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