

Reconstructing Islamic Legal Philosophy: Al-Ghazālī's *al-Mustasfā* in Dialogue with Contemporary Jurisprudence

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Özet

Ebû Hâmid el-Gazzâlî'nin İslam hukuk felsefesini konu alan araştırmada, müellifin el-Mustasfâ fi İlmi'l-Usûl adlı eserinde ortaya koyduğu teorik çerçeveyi yeniden değerlendirilmekte ve çağdaş hukuk teorileri bağlamında incelenmektedir. Mevcut literatürde Gazzâlî'nin usûl-i fıkıh alanındaki katkıları ile makâsidi'ş-şerîa anlayışının erken dönem gelişimine dair kapsamlı çalışmalar bulunmasına rağmen, düşüncesinin modern hukuk felsefesi perspektifinden ele alınmasına yönelik önemli bir eksiklik dikkat çekmektedir. Araştırmada söz konusu eksikliği gidermek amacıyla metin merkezli nitel araştırma yöntemi ile karşılaştırmalı hukuk yaklaşımı benimsenmiş; Gazzâlî'nin düşünceleri H. L. A. Hart, Ronald Dworkin ve John Finnis gibi çağdaş hukuk teorisyenlerinin görüşleriyle karşılaştırmalı biçimde değerlendirilmiştir. Çalışmada, Gazzâlî'nin ilahî otoriteyi esas alan; ancak sistematik aklî muhakeme ile temellendirilen gelişmiş bir hukukî amaçsalcılık anlayışı geliştirdiği ileri sürülmektedir. Onun maslahat ve makâsıd kavramsallaştırmasının, çağdaş hukuk yorumu ve doğal hukuk teorileriyle büyük ölçüde örtüşen teleolojik bir yapı ortaya koyduğu ifade edilmektedir. Bunun yanında vahyin üstünlüğüne yaptığı vurgu, yaklaşımını seküler hukuk modellerinden ayıran temel normatif sınırı oluşturmaktadır. Elde edilen bulgular, Gazzâlî'nin yaklaşımının hukuk yorumunda ahlâkî muhakemenin merkeze alınması, nesnel iyilerin kabul edilmesi ve hukuk

normlarının sistematik biçimde düzenlenmesi gibi modern hukuk felsefesinin temel unsurlarını önceden haber verdiğini göstermektedir. Klasik İslam hukuk teorisi ile çağdaş hukuk düşüncesi arasında köprü kuran çalışma, hukuk felsefesine daha kapsayıcı ve küresel bir perspektif kazandırmakta; aynı zamanda Gazzâlî düşüncesinin modern hukuk söylemi içerisindeki güncelliğini ve sürekliliğini ortaya koymaktadır.

Anahtar Kelimeler: al-Ghazālî, İslam hukuk felsefesi, maqāşid, Hart, Dworkin, Finnis

Abstract

This article reconstructs Abū Ḥāmid al-Ghazālī's philosophy of Islamic law as articulated in *al-Mustaşfa fi 'Ilm al-Uşul* by situating it within contemporary jurisprudential debates. While existing scholarship has extensively examined al-Ghazālī's contributions to *uşul al-fiqh* and the early formulation of *maqāşid al-sharī'ah*, a significant gap remains in analyzing his thought through the lens of modern legal philosophy. Addressing this gap, the study employs a qualitative method based on close textual analysis and comparative jurisprudence, placing al-Ghazālī in critical dialogue with prominent modern legal theorists, including H.L.A. Hart, Ronald Dworkin, and John Finnis. The article argues that al-Ghazālī develops a sophisticated proto-theory of legal purposivism that is grounded in divine authority yet mediated through structured rational inquiry. His conceptualization of *maslahah* and *maqāşid* provides a teleological framework that aligns, in important respects, with contemporary theories of legal interpretation and natural law. At the same time, his insistence on the primacy of revelation introduces a normative constraint that distinguishes his approach from secular jurisprudential models. The findings demonstrate that al-Ghazālī's framework anticipates key elements of modern legal philosophy, including the integration of moral reasoning in legal interpretation, the recognition of objective goods, and the systematic organization of legal norms. By bridging classical Islamic legal theory and contemporary jurisprudence, this study contributes to a more globally inclusive understanding of legal philosophy and highlights the enduring relevance of al-Ghazālī's thought in modern legal discourse.

Keywords: al-Ghazālî, Islamic legal philosophy, maqāşid, Hart, Dworkin, Finnis

Introduction

A Abū Ḥāmid al-Ghazālī's *al-Mustaṣfā fi 'Ilm al-Uṣūl* has long been recognized as one of the most authoritative and systematic works in the discipline of *uṣūl al-fiqh*. As a culmination of earlier juristic and theological developments, the text represents a high point in the formalization of Islamic legal theory, offering a sophisticated structure that integrates legal sources (*adilla*), rulings (*aḥkām*), and methods of reasoning (*ṭuruq al-istinbāt*).¹ In the history of Islamic thought, *al-Mustaṣfā* is often regarded not merely as a manual of legal methodology, but as a work that embeds jurisprudence within a broader epistemological and theological framework.²

Despite this recognition, much of the existing scholarship on al-Ghazālī remains largely internalist, focusing on his contributions within the boundaries of the Islamic legal tradition itself. Studies typically emphasize his role in refining *uṣūl al-fiqh*, systematizing *qiyās*, or articulating early formulations of *maqāṣid al-sharī'ah*.³ While such analyses are undoubtedly valuable, they often overlook the broader philosophical implications of his work, particularly when viewed in relation to global traditions of legal philosophy. As a result, al-Ghazālī is frequently confined to the domain of "Islamic scholarship," rather than being recognized as a thinker whose ideas bear relevance to universal jurisprudential questions.

From the perspective of contemporary legal theory, this limitation is striking. Modern jurisprudence—especially in its analytic and interpretive forms—has developed sophisticated debates concerning the nature of law, the role of morality in legal reasoning, and the relationship between rules and purposes. Thinkers such as H.L.A. Hart have

¹ Abū Ḥāmid al-Ghazālī, *al-Mustaṣfā fi 'Ilm al-Uṣūl* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1993), vol. 1, 5–10.

² Wael B. Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997), 96–101.

³ Felicitas Opwis, *Maqasid al-Shariah: An Introduction* (Oxford: Oneworld, 2010), 45–52.

conceptualized law as a system of rules grounded in social practices,⁴ while Ronald Dworkin has advanced an interpretive theory in which legal reasoning is inseparable from moral judgment.⁵ Similarly, John Finnis has revived natural law theory by grounding legal systems in objective human goods.⁶ These developments invite a reconsideration of pre-modern legal traditions, including Islamic jurisprudence, within a broader comparative framework.

Against this backdrop, several critical gaps become apparent. First, al-Ghazālī is rarely positioned within the landscape of global legal philosophy, despite the conceptual sophistication of his work. Second, his theory of *maṣlaḥah*—often treated as a technical legal concept—is seldom analyzed as a form of legal purposivism, that is, a theory in which law is understood in light of its underlying objectives. Third, there is limited engagement between al-Ghazālī's thought and major currents in modern jurisprudence, particularly legal positivism (Hart) and interpretivism (Dworkin).

This absence is not merely a gap in comparative scholarship; it also reflects a missed opportunity to develop a more inclusive and dialogical understanding of legal philosophy. By isolating Islamic legal theory from global debates, contemporary scholarship risks reinforcing artificial boundaries between “Western” and “Islamic” intellectual traditions.

This article addresses these gaps by reconstructing al-Ghazālī's legal philosophy through a comparative jurisprudential lens. It situates *al-Mustaṣfā* within contemporary debates on the nature of law, arguing that al-Ghazālī develops a form of proto-purposivism grounded in divine authority yet mediated through structured rationality. By placing his thought in dialogue with Hart, Dworkin, and Finnis, this study demonstrates that al-Ghazālī's framework anticipates key concerns of modern legal philosophy, including the integration of moral reasoning, the role of interpretation, and the teleological orientation of legal systems.

⁴ H.L.A. Hart, *The Concept of Law* (Oxford: Oxford University Press, 1961), 79–99.

⁵ Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986), 225–275.

⁶ John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980), 85–90.

In doing so, the article contributes to a growing body of scholarship that seeks to decenter Eurocentric narratives of legal philosophy and to recognize the plurality of intellectual traditions that have shaped our understanding of law. Ultimately, it argues that al-Ghazālī should be read not only as a jurist within the Islamic tradition, but as a legal philosopher of global significance whose ideas remain relevant for contemporary jurisprudential discourse.

Theoretical Framework: A Comparative Jurisprudential Lens

This study adopts a comparative jurisprudential framework to situate al-Ghazālī's legal thought within broader debates in modern legal philosophy. Rather than treating Islamic legal theory as an isolated intellectual tradition, this approach engages it in dialogue with three influential paradigms: legal positivism (H.L.A. Hart), interpretivism (Ronald Dworkin), and contemporary natural law theory (John Finnis). Through this triangulation, the article aims to demonstrate that al-Ghazālī's framework in *al-Mustasfā* exhibits conceptual affinities with, while also critically diverging from, these modern theories.

Hart: Law as a System of Rules

H.L.A. Hart famously conceptualizes law as a union of primary rules (which govern conduct) and secondary rules (which regulate the creation, recognition, and adjudication of primary rules).⁷ This distinction provides a structural understanding of law as a normative system grounded in social practices rather than moral imperatives alone.

From a comparative perspective, al-Ghazālī's legal theory reveals a parallel concern with the systematic organization of legal knowledge. In *al-Mustasfā*, law is not treated as a collection of isolated rulings, but as a structured system encompassing:

1. aḥkām (normative rulings),
2. adilla (legal sources), and
3. ṭuruq al-istinbāṭ (methods of derivation).⁸

This tripartite structure reflects a level of analytical abstraction comparable to Hart's framework. However, a key divergence lies in the foundation of legal authority: while Hart grounds law in social recognition

⁷ Hart, *The Concept of Law*, 79–99.

⁸ Abū Ḥamid al-Ghazālī, *al-Mustasfā fi 'Ilm al-Uṣūl*, vol. 1, 7–12.

(the “rule of recognition”), al-Ghazālī locates its ultimate source in divine revelation.⁹

From a deeper analytical perspective, al-Ghazālī's legal philosophy may be interpreted as offering a theocentric counterpart to H.L.A. Hart's positivist model. At the level of structure, both thinkers share a striking commitment to the systematization of law. Hart's distinction between primary and secondary rules reflects an effort to explain how legal systems maintain coherence, validity, and functionality through internally regulated procedures.¹⁰ In a comparable manner, al-Ghazālī organizes Islamic law into a highly structured framework encompassing *aḥkām* (normative rulings), *adilla* (sources of law), and *ṭuruq al-istinbāt* (methods of legal reasoning).¹¹ This structural parallel suggests that al-Ghazālī, like Hart, is concerned not merely with the content of law, but with its architecture as a rational system.

However, the convergence at the structural level conceals a fundamental divergence at the level of legal authority and ontology. Hart's theory ultimately grounds the validity of law in social practices, particularly in what he terms the “rule of recognition,” a convention through which a legal community identifies authoritative norms.¹² In this sense, law for Hart is a social construct, dependent upon collective acceptance and institutional validation rather than moral or metaphysical truth.

Al-Ghazālī, by contrast, rejects any reduction of law to purely social foundations. While he acknowledges the role of juristic reasoning and interpretive activity, the ultimate source of legal authority remains divine revelation (*waḥy*). Law is not validated by social consensus as such, but by its rootedness in the *khiṭāb al-sharʿ* (divine address).¹³ Even *ijmāʿ* (consensus), which might appear analogous to Hart's social recognition, derives its authority not from sociological facticity but from its status as a divinely sanctioned epistemic proof.¹⁴

⁹ Wael B. Hallaq, *A History of Islamic Legal Theories*, 97–100.

¹⁰ Hart, *The Concept of Law*, 79–99.

¹¹ Abū Ḥāmid al-Ghazālī, *al-Mustasfā fi ʿIlm al-Uṣūl*, 7–12.

¹² Hart, *The Concept of Law*, 94–95.

¹³ Al-Ghazālī, *al-Mustasfā*, vol. 1, 36.

¹⁴ Wael B. Hallaq, *A History of Islamic Legal Theories*, 98–100.

This leads to a crucial theoretical implication: al-Ghazālī preserves the formal rationality and internal coherence that characterize positivist legal systems, yet he embeds them within a transcendent normative order. His framework may therefore be described as a form of theocentric legal rationalism, in which law is simultaneously systematic and metaphysically grounded.¹⁵

In this light, al-Ghazālī's theory challenges the sharp dichotomy often drawn in modern jurisprudence between positivism (law as social fact) and natural law (law as moral truth). Rather than choosing between these poles, he articulates a hybrid model in which legal validity depends on divine authority, while legal reasoning operates through disciplined rational methods.¹⁶ Consequently, al-Ghazālī does not merely parallel Hart; he reconfigures the very foundations of legal systematization, demonstrating that a highly structured legal order need not be divorced from metaphysical and theological commitments.

Dworkin: Law as Interpretation

Ronald Dworkin critiques legal positivism by arguing that law is not merely a system of rules, but an interpretive practice guided by moral principles.¹⁷ In his view, legal reasoning involves constructing the “best moral interpretation” of legal materials, thereby integrating law and morality at a fundamental level.

This interpretive dimension finds a compelling parallel in al-Ghazālī's treatment of maqāṣid al-sharī'ah and maslaḥah. Although rooted in revelation, al-Ghazālī's framework requires jurists to engage in purposive reasoning that considers the underlying objectives of the law. His definition of maslaḥah as “the preservation of the objectives of the Lawgiver” (muḥāfazah 'alā maqṣūd al-shar') underscores the centrality of teleological interpretation.¹⁸ Unlike Dworkin, however, al-Ghazālī imposes

¹⁵ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), 28–32.

¹⁶ Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986), 225–230.

¹⁷ Ronald Dworkin, *Law's Empire*, 225–275.

¹⁸ Al-Ghazālī, *al-Mustasfā*, vol. 1, 286.

epistemic constraints on interpretation: moral reasoning must remain within the boundaries of authoritative texts (*nusūṣ*).¹⁹

From a comparative jurisprudential standpoint, al-Ghazālī's approach may be conceptualized as a form of bounded interpretivism, a model in which purposive reasoning (*ta'līl* and *maqāṣid*-based inference) is actively employed, yet remains firmly constrained by the normative authority of revelation. This characterization becomes particularly significant when placed in dialogue with Ronald Dworkin's interpretivist theory of law.

Dworkin argues that legal reasoning is inherently interpretive, requiring judges to construct the "best moral reading" of legal materials by appealing to principles of justice, fairness, and integrity.²⁰ In this framework, moral reasoning is not external to law but constitutive of it; the legitimacy of legal interpretation ultimately depends on its coherence with broader ethical values. Law, therefore, is not simply discovered but constructed through moral interpretation.

Al-Ghazālī's legal theory shares with Dworkin this emphasis on purposive reasoning. His articulation of *maslaḥah* and *maqāṣid al-sharī'ah* requires the jurist to move beyond literalism and to consider the underlying objectives of the Lawgiver. He explicitly defines *maslaḥah* as the preservation of the purposes intended by the sharī'ah (*muḥāfaẓah 'alā maqṣūd al-shar'*),²¹ thereby embedding teleological reasoning at the heart of legal interpretation. In this respect, al-Ghazālī's framework resonates strongly with Dworkin's insistence that legal reasoning must engage with purpose and value.

However, the similarity is qualified by a critical difference. Whereas Dworkin allows moral reasoning to function with a high degree of autonomy—drawing upon evolving ethical principles—al-Ghazālī imposes clear epistemic and normative limits. Interpretive reasoning cannot override explicit textual evidence (*nusūṣ qaṭ'īyyah*), nor can it generate independent moral standards detached from revelation.²² The jurist's role is not to construct moral meaning *ex nihilo*, but to uncover

¹⁹ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 351–355.

²⁰ Ronald Dworkin, *Law's Empire*, 225–275.

²¹ Abū Ḥāmid al-Ghazālī, *al-Mustaṣfā fi 'Ilm al-Uṣūl*, vol. 1, 286.

²² Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 351–355.

and apply the divinely intended purposes embedded within the revealed texts.

This leads to an important theoretical conclusion: al-Ghazālī's model represents neither strict textualism nor unrestricted interpretivism, but rather a disciplined synthesis of both. It allows for dynamic and purposive interpretation, yet ensures that such interpretation remains anchored in a stable and transcendent normative framework.

Thus, the notion of "bounded interpretivism" captures the dual character of al-Ghazālī's legal philosophy: interpretive in method, but constrained in authority. It is precisely this balance that enables his theory to avoid the rigidity of literalism on the one hand and the indeterminacy of unconstrained moral reasoning on the other, offering instead a coherent model of legal interpretation grounded in both rational inquiry and divine guidance.

2.3 Finnis: Natural Law and Basic Goods

John Finnis revitalizes natural law theory by grounding legal systems in a set of basic human goods, including life, knowledge, play, aesthetic experience, sociability, practical reasonableness, and religion.²³ These goods serve as objective foundations for moral and legal reasoning.

A striking convergence can be observed between Finnis's framework and al-Ghazālī's theory of al-ḍarūriyyāt al-khams, which identifies five essential values to be preserved by the law:

1. religion (dīn),
2. life (nafs),
3. intellect ('aql),
4. lineage (nasl), and
5. property (māl).²⁴

Both frameworks articulate a vision of law as oriented toward the protection of fundamental human interests. However, while Finnis derives these goods through philosophical reasoning, al-Ghazālī grounds them in divine intent as revealed through the shari'ah.

²³ John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980), 85–90.

²⁴ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 286–290.

The convergence between al-Ghazālī's theory of *maqāṣid al-sharī'ah*—particularly the doctrine of *al-ḍarūriyyāt al-khams*—and John Finnis's account of basic human goods invites a deeper theoretical reflection. It suggests that al-Ghazālī's legal philosophy may be understood as an early articulation of theologically grounded natural law, a framework in which objective goods are not merely the product of rational discovery but are rooted in, and mandated by, divine revelation.

In Finnis's reconstruction of natural law theory, the foundation of legal and moral reasoning lies in a set of self-evident basic goods, such as life, knowledge, and sociality, which are accessible to human reason and serve as ultimate reasons for action.²⁵ These goods are not derived from metaphysical or theological premises but are instead identified through practical reasonableness. Law, in this account, gains its legitimacy insofar as it promotes and protects these fundamental aspects of human flourishing.

Al-Ghazālī's framework exhibits a striking structural parallel. His identification of the five essential values—religion (*dīn*), life (*naḥs*), intellect (*aql*), lineage (*nasl*), and property (*māl*)—likewise establishes a hierarchy of goods that the law seeks to preserve.²⁶ However, unlike Finnis, al-Ghazālī does not ground these goods in autonomous rational intuition. Rather, they are understood as the intended objectives of the Lawgiver (*maqāṣid al-shāri'*), discerned through a combination of textual evidence and disciplined juristic reasoning.²⁷

This distinction is crucial. While both frameworks affirm the objectivity and universality of certain fundamental goods, they diverge in their epistemological grounding. Finnis locates these goods within the domain of human rationality, whereas al-Ghazālī situates them within a theocentric moral order, in which reason functions as an interpretive tool rather than an independent source of normativity.

Accordingly, al-Ghazālī's theory may be described as a form of revealed natural law, or more precisely, a theologically grounded teleology of law, in which the purposes of legal norms are anchored in

²⁵ John Finnis, *Natural Law and Natural Rights*, 85–90.

²⁶ Al-Ghazālī, *al-Mustaṣfā fi 'Ilm al-Uṣūl*, vol. 1, 286–290.

²⁷ Wael B. Hallaq, *A History of Islamic Legal Theories*, 167–170.

divine intent yet rendered intelligible through rational analysis.²⁸ This synthesis allows for a robust account of moral objectivity without relinquishing the primacy of revelation.

The theoretical implication is therefore significant: al-Ghazālī provides a model in which the dichotomy between natural law and divine command theory is effectively transcended. Law is neither reduced to purely rational ethics nor confined to voluntaristic divine will; instead, it emerges as a purposive system in which objective goods are simultaneously rationally apprehensible and divinely ordained. This positions al-Ghazālī as a key interlocutor in contemporary debates on the foundations of legal normativity, particularly in efforts to reconcile moral realism with theological commitments.

Synthesis: Al-Ghazālī as a Bridge Figure

The comparative analysis developed above demonstrates that al-Ghazālī's legal philosophy cannot be adequately subsumed under any single category of modern jurisprudence. Attempts to classify his thought strictly within the frameworks of legal positivism, interpretivism, or natural law theory risk oversimplifying a far more complex intellectual project. Rather, al-Ghazālī's contribution in *al-Mustaṣfā* reflects a synthetic and integrative model that operates across multiple dimensions of legal theory.

On the one hand, his systematic organization of legal knowledge—encompassing *aḥkām*, *adilla*, and *ṭuruq al-istinbāt*—demonstrates a concern for structural coherence that resonates strongly with H.L.A. Hart's account of law as a system of rules.²⁹ Like Hart, al-Ghazālī is attentive to the internal architecture of legal systems and the necessity of methodological rigor in determining legal validity. Yet, unlike Hart, he does not ground this structure in social practices alone, but anchors it in a higher normative order derived from revelation.³⁰

On the other hand, al-Ghazālī's emphasis on *maqāṣid al-sharīah* and *maslahah* reflects a mode of reasoning that parallels Ronald Dworkin's interpretivist approach. His insistence that legal rulings must be understood in light of their underlying purposes introduces a

²⁸ Felicitas Opwis, *Maqasid al-Shariah: An Introduction* (Oxford: Oneworld, 2010), 47–52.

²⁹ Hart, *The Concept of Law*, 79–99.

³⁰ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 7–12.

teleological and moral dimension to legal interpretation.³¹ However, this interpretive flexibility is not unbounded; it is circumscribed by the authority of scriptural texts, thereby distinguishing his approach from Dworkin's more expansive reliance on moral reasoning.³²

Furthermore, the convergence between al-Ghazālī's doctrine of *al-ḍarūriyyāt al-khams* and John Finnis's theory of basic goods underscores a shared commitment to identifying the objective foundations of legal norms. Both frameworks recognize that law is ultimately oriented toward the protection and promotion of fundamental aspects of human well-being.³³ Nevertheless, while Finnis derives these goods through philosophical reflection, al-Ghazālī grounds them in the intentionality of the divine Lawgiver, thereby embedding them within a theologically informed moral order.³⁴

Taken together, these convergences and divergences point to a distinctive theoretical position. Al-Ghazālī does not merely anticipate elements of modern legal philosophy; he reconfigures their underlying assumptions by integrating them into a unified framework that combines:

1. structural rigor,
2. interpretive reasoning, and
3. teleological orientation, all under the overarching authority of divine revelation.

Al-Ghazālī should therefore be understood as a bridge figure between divine law and rational ethics, whose legal philosophy transcends the conventional dichotomy between positivism and moral interpretivism. His thought offers a model of jurisprudence in which law is neither reduced to social fact nor expanded into unconstrained moral reasoning, but is instead conceived as a normative system that is at once rationally intelligible and theologically grounded.

This positioning has significant implications for contemporary legal theory. It challenges the dominance of Eurocentric paradigms by demonstrating that pre-modern Islamic thought contains sophisticated resources for addressing enduring jurisprudential questions. Moreover, it

³¹ Al-Ghazālī, *al-Mustasfā*, vol. 1, 286.

³² Ronald Dworkin, *Law's Empire*, 225–275.

³³ John Finnis, *Natural Law and Natural Rights*, 85–90.

³⁴ Wael B. Hallaq, *A History of Islamic Legal Theories*, 167–170.

opens the possibility of a more dialogical and pluralistic legal philosophy, in which different intellectual traditions contribute to a shared understanding of law's nature, purpose, and legitimacy.³⁵

Epistemology: Structured Rationality under Revelation

Within *al-Mustaṣfā*, al-Ghazālī articulates a sophisticated epistemological framework that underpins his legal theory. Central to this framework is his well-known classification of knowledge:

العلم إما ضروري وإما نظري

(*Knowledge is either necessary [ḍarūrī] or acquired [naẓarī]*).

This distinction is foundational, as it establishes a hierarchy of cognition in which legal reasoning (*ijtihād*) is situated within the domain of *naẓarī* knowledge, that is, knowledge attained through deliberation, inference, and systematic inquiry.³⁶ Unlike immediate or self-evident knowledge (*ḍarūrī*), legal judgments require methodological engagement with textual sources, linguistic analysis, and inferential reasoning.

Al-Ghazālī's epistemology thus affirms the indispensability of reason in the legal process. However, this affirmation does not lead to epistemic autonomy. Rather, reason functions as an instrumental faculty (*ālah*), tasked with uncovering and systematizing the meanings embedded within revelation.³⁷ In this sense, rationality is neither rejected nor absolutized; it is disciplined and directed by the authoritative framework of divine law (*al-waḥy*).

This integration produces a model of what may be described as structured rationality, in which legal reasoning operates according to established principles of *uṣūl al-fiqh* while remaining anchored to the epistemic primacy of revelation. The jurist does not legislate independently but interprets, extrapolates, and applies divine norms through controlled rational procedures.³⁸ Such a framework ensures both methodological rigor and normative fidelity, preventing arbitrary interpretation while allowing for intellectual dynamism.

³⁵ Felicitas Opwis, *Maqasid al-Shariah: An Introduction*, 50–55.

³⁶ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 10.

³⁷ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 13–15.

³⁸ Wael B. Hallaq, *A History of Islamic Legal Theories*, 162–165.

This epistemological configuration bears a striking resemblance to what contemporary theory identifies as bounded rationality. Although the term originates in modern social science—particularly in the work of Herbert A. Simon—it captures an important aspect of al-Ghazālī's thought: reasoning is neither free-floating nor unconstrained, but operates within a set of normative, linguistic, and theological limits.³⁹ In al-Ghazālī's case, these limits are defined by revelation, the Arabic language, and the methodological conventions of *uṣūl al-fiqh*.

Accordingly, al-Ghazālī's epistemology offers a middle path between rationalism and scripturalism. It avoids the excesses of purely autonomous reason while equally rejecting a rigid literalism that would render interpretation unnecessary. Instead, it advances a disciplined interpretive rationality, in which the human intellect participates in the discovery of legal meaning without usurping the authority of divine command.

This model has important implications for contemporary jurisprudence. It suggests that rational inquiry and normative constraint are not mutually exclusive but can coexist within a coherent legal system. In this respect, al-Ghazālī anticipates ongoing debates about the limits of legal reasoning, the role of interpretation, and the relationship between authority and rationality in law.⁴⁰

Ontology of Law: Divine Command or Moral Order?

A central dimension of al-Ghazālī's legal philosophy lies in his ontological conception of law. In *al-Mustaṣfā*, he offers a well-known definition:

الحكم خطاب الشرع المتعلق بأفعال المكلفين

(*Law is the address of the Lawgiver concerning the acts of morally responsible agents*).

At first glance, this formulation appears to align closely with divine command theory, insofar as it grounds the very existence and validity of law in the authoritative speech (*khiṭāb*) of the Divine Legislator

³⁹ Herbert A. Simon, *Models of Bounded Rationality* (Cambridge, MA: MIT Press, 1982), 3–10.

⁴⁰ Frank Griffel, *Al-Ghazali's Philosophical Theology* (Oxford: Oxford University Press, 2009), 98–105.

(*al-shāriʿ*).⁴¹ Law, in this sense, is not a human construct nor a mere social convention, but a manifestation of transcendent will communicated through revelation.

However, such a reading—if taken in isolation—risks oversimplifying al-Ghazālī's position. While he affirms that law originates in divine command, he simultaneously insists that this command is neither arbitrary nor devoid of intelligible purpose. Rather, the divine خطاب is intrinsically goal-oriented (*maqṣūd*), reflecting a deeper teleological structure embedded within the Shariʿah.⁴² Legal rulings are thus directed toward the realization of human welfare (*maṣlahah*) and the preservation of fundamental goods, as articulated in his theory of *maqāṣid al-shariʿah*.

This dual commitment—to divine authority and purposive rationality—places al-Ghazālī in a unique ontological position within legal theory. Law, for him, is not reducible to sheer command, nor is it equivalent to independent moral reasoning. Instead, it is best understood as a normative discourse that integrates command and purpose, where the authority of revelation coexists with an intelligible moral order.⁴³

When situated alongside modern jurisprudential theories, the distinctiveness of al-Ghazālī's ontology becomes more apparent:

1. For H.L.A. Hart, law is fundamentally a matter of social fact, constituted by rules recognized and practiced within a given legal system.⁴⁴ Its validity depends on institutional acceptance rather than moral content.
2. For Ronald Dworkin, law is an exercise in moral interpretation, where legal reasoning seeks coherence with principles of political morality and justice.⁴⁵
3. For al-Ghazālī, by contrast, law is divine discourse endowed with intrinsic purpose—a revealed normative system that is both authoritative and teleologically structured.

⁴¹ Al-Ghazālī, *al-Mustasfā*, vol. 1, 36.

⁴² Al-Ghazālī, *al-Mustasfā* vol. 1, 286–287.

⁴³ Felicitas Opwis, *Maqasid al-Shariah: An Introduction*, 42–45.

⁴⁴ Hart, *The Concept of Law*, 100–110.

⁴⁵ Ronald Dworkin, *Law's Empire*, 225–230.

This comparison highlights a crucial insight: al-Ghazālī's theory cannot be adequately categorized within the dichotomy of positivism versus interpretivism. While he shares with positivism an emphasis on authoritative sources, he rejects its reduction of law to social fact. Likewise, although he resonates with interpretivism in recognizing the role of purposive reasoning, he does not grant moral judgment full autonomy from revelation.

Instead, al-Ghazālī advances a third ontological model, in which law is simultaneously:

1. command-based (grounded in divine/*khitab*), and
2. purpose-driven (oriented toward *maqāṣid* and *maṣlaḥah*).

This synthesis carries significant implications. It suggests that the nature of law cannot be fully understood without accounting for both its source of authority and its teleological orientation. In al-Ghazālī's framework, these two dimensions are inseparable: divine command provides legitimacy, while purposive structure provides intelligibility.⁴⁶

Ultimately, this ontological vision reinforces the broader thesis of this study: al-Ghazālī offers a model of legal philosophy that transcends conventional categories. His conception of law as purposeful divine discourse not only bridges the gap between revelation and reason but also provides a compelling alternative to dominant paradigms in contemporary jurisprudence.⁴⁷

Maslaḥah as Proto-Purposivism

A pivotal component of al-Ghazālī's legal philosophy is his conceptualization of *maṣlaḥah*, which he defines in *al-Mustaṣfā* as:

المصلحة هي المحافظة على مقصود الشرع

(*Maslaḥah is the preservation of the objective of the Law*).

This definition is striking not merely for its legal precision but for its philosophical depth. Al-Ghazālī does not treat *maṣlaḥah* as a pragmatic tool for juristic flexibility; rather, he elevates it into a normative and teleological principle that reveals the inner logic of the Sharī'ah itself.⁴⁸ In this sense, *maṣlaḥah* functions as a bridge between positive

⁴⁶ Wael B. Hallaq, *A History of Islamic Legal Theories*, 166–170.

⁴⁷ Frank Griffel, *Al-Ghazali's Philosophical Theology*, 110–115.

⁴⁸ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 286.

rulings and their underlying purposes, allowing law to be understood as a coherent moral project rather than a collection of isolated commands.

Within al-Ghazālī's framework, *maṣlaḥah* performs two interrelated functions:

1. As a normative *mi'yār* (criterion), it provides a standard by which legal rulings are evaluated in relation to the objectives of the Lawgiver. This ensures that juristic reasoning remains aligned with the higher intents (*maqāṣid*) of Sharī'ah.⁴⁹
2. As a teleological framework, it situates law within a purposive structure oriented toward the preservation of essential human goods, particularly the well-known *al-ḍarūriyyāt al-khams* (religion, life, intellect, lineage, and property).⁵⁰

Through this dual role, *maṣlaḥah* transforms legal reasoning into an exercise in purpose-oriented interpretation, where the validity of a ruling is inseparable from its contribution to the realization of these higher objectives.

When placed in dialogue with modern legal philosophy, the conceptual richness of *maṣlaḥah* becomes even more evident:

1. John Finnis's notion of basic goods—such as life, knowledge, and sociability—finds a strong parallel in al-Ghazālī's doctrine of *ḍarūriyyāt*, both of which identify objective foundations for legal norms.⁵¹
2. Ronald Dworkin's theory of law as moral reading resonates with al-Ghazālī's insistence that legal interpretation must be guided by underlying purposes rather than confined to literal textualism.⁵²
3. Al-Ghazālī, however, integrates these elements into a distinct framework in which *maṣlaḥah* serves as the organizing principle of purposive law grounded in revelation.

On this basis, it can be argued that al-Ghazālī articulates a form of proto-purposivism long before the emergence of purposive interpretation in modern jurisprudence. His theory anticipates the core insight that law

⁴⁹ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 287–288.

⁵⁰ See also Wael B. Hallaq, *A History of Islamic Legal Theories*, 167–170.

⁵¹ John Finnis, *Natural Law and Natural Rights*, 85–90.

⁵² Ronald Dworkin, *Law's Empire*, 225–275.

must be interpreted in light of its goals, yet it does so within a theocentric paradigm that differs fundamentally from contemporary secular approaches.⁵³

Unlike modern purposivism, which often derives legislative purpose from human intent or institutional practice, al-Ghazālī grounds purposiveness in the intentionality of the Divine Lawgiver. This results in a model where teleology is not contingent or subjective but objective, stable, and normatively binding.⁵⁴

In this light, *maṣlaḥah* is not merely a supplementary principle within *uṣūl al-fiqh*; it is the philosophical core of al-Ghazālī's legal theory, providing the key to understanding how divine command, rational inquiry, and moral purpose converge within a unified jurisprudential system.

Constraints on Legal Reasoning

A defining feature of al-Ghazālī's legal philosophy is his firm insistence on disciplining legal reasoning so as to prevent what may be termed *al-infiltāt al-'aqlī* (unrestrained or uncontrolled rationalism). While he grants a central role to reason—particularly in the domain of *naẓarī* knowledge and *ijtihād*—he simultaneously establishes clear epistemic and normative boundaries that govern its operation.

At the core of these constraints is the principle that *maṣlaḥah*, despite its importance as a teleological guide, must not contradict definitive (*qaṭ'ī*) textual evidence derived from the Qur'ān or mutawātir Sunnah.⁵⁵ In other words, purposive reasoning cannot be invoked to suspend or override clear scriptural commands. This condition safeguards the integrity of revelation as the ultimate source of legal authority and prevents the instrumentalization of *maṣlaḥah* for subjective or utilitarian ends.

In parallel, al-Ghazālī maintains that reason cannot function as an independent source of normativity. Its role remains fundamentally interpretive and inferential, not legislative.⁵⁶ The intellect (*'aql*) operates within the framework of *uṣūl al-fiqh*, extracting meanings, resolving

⁵³ Felicitas Opwis, *Maqasid al-Shariah: An Introduction*, 45–50.

⁵⁴ Frank Griffel, *Al-Ghazali's Philosophical Theology*, 105–110.

⁵⁵ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 286–287.

⁵⁶ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 13–15.

ambiguities, and extending rulings through analogy (*qiyās*), but it does not possess the authority to generate norms in contradiction to revelation.⁵⁷

These constraints give rise to a controlled interpretive system characterized by a delicate balance between flexibility and fidelity:

1. It is flexible, in that it allows jurists to employ *maṣlahah*, *maqāṣid*, and rational inference to address new and complex situations.
2. Yet it is bounded, because all such reasoning must remain within the limits established by authoritative texts and methodological principles.

Accordingly, al-Ghazālī's model may be described as both: (1) dynamic yet orthodox, enabling adaptation without doctrinal rupture; and (2) rational yet constrained, permitting intellectual engagement without epistemic excess.

This stands in marked contrast to certain strands of modern liberal legal theory, where moral reasoning or social utility may override established norms. In al-Ghazālī's framework, the possibility of such override is categorically restricted, ensuring that legal development proceeds through interpretation rather than revision of foundational sources.⁵⁸

From a broader jurisprudential perspective, this approach reflects a sophisticated awareness of the risks inherent in unconstrained interpretation. By instituting methodological limits, al-Ghazālī preserves both the stability of the legal system and its capacity for principled evolution. His theory thus avoids two extremes: rigid literalism on the one hand, and unchecked rationalism on the other.⁵⁹

Ultimately, these constraints reinforce the overarching thesis of this study: al-Ghazālī advances a model of legal reasoning that is neither purely formalistic nor purely moralistic, but rather normatively anchored, methodologically disciplined, and teleologically oriented. It is precisely this equilibrium that enables his legal philosophy to remain both intellectually robust and theologically coherent across changing contexts.

⁵⁷ Wael B. Hallaq, *A History of Islamic Legal Theories*, 162–166.

⁵⁸ Felicitas Opwis, *Maqasid al-Shariah: An Introduction*, 50–55.

⁵⁹ Frank Griffel, *Al-Ghazali's Philosophical Theology*, 108–112.

Discussion: Toward a Global Legal Philosophy

The preceding analysis—spanning epistemology, ontology, and the theory of *maṣlaḥah*—culminates in a broader theoretical reflection: al-Ghazālī's legal philosophy is best understood not merely within the confines of classical *uṣūl al-fiqh*, but as a significant contribution to global jurisprudential discourse. His thought engages, anticipates, and in certain respects transcends key debates in modern legal philosophy, particularly those surrounding positivism, interpretivism, and natural law.

7.1 Al-Ghazālī vs Legal Positivism

Al-Ghazālī's framework departs fundamentally from the central premises of legal positivism, especially as articulated by H.L.A. Hart. While he shares with positivists a concern for systematic structure and rule-governed reasoning, he rejects two of their core assumptions: (1) the reduction of law to pure textualism, and (2) the conception of law as mere command devoid of intrinsic purpose.

In *al-Mustaṣfā*, legal texts are never interpreted in isolation; they are always situated within a broader teleological framework defined by *maqāṣid al-sharī'ah*.⁶⁰ This renders al-Ghazālī's approach incompatible with a strictly positivist model in which legal validity depends solely on social recognition or institutional practice.⁶¹

Moreover, while divine command plays a foundational role in his ontology of law, it is not understood as arbitrary will. Rather, it is rationally intelligible and purposively structured, thereby resisting the positivist separation between law and morality.⁶² In this respect, al-Ghazālī offers a critique of positivism *avant la lettre*: law cannot be reduced to formal validity without reference to its underlying moral and teleological dimensions.

7.2 Al-Ghazālī vs Liberal Moral Theory

At the same time, al-Ghazālī's thought cannot be assimilated into modern liberal or interpretivist theories that prioritize autonomous moral reasoning. While his use of *maṣlaḥah* and *maqāṣid* introduces a robust ethical dimension into legal interpretation, this dimension is not grounded in subjective or individual moral judgment.

⁶⁰ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 286–287.

⁶¹ Hart, *The Concept of Law*, 100–110.

⁶² Wael B. Hallaq, *A History of Islamic Legal Theories*, 166–170.

Instead, al-Ghazālī imposes clear constraints:

1. *maṣlaḥah* must remain consistent with qat'ī textual evidence, and
2. interpretive reasoning must operate within the bounds of revelatory authority.⁶³

This sharply distinguishes his position from Ronald Dworkin's theory of law as moral interpretation, where judges are tasked with constructing the best moral reading of legal practice based on principles of political morality.⁶⁴ For al-Ghazālī, moral reasoning is not autonomous but derivative of divine intent, as expressed through revelation and systematically articulated through *uṣūl al-fiqh*.

Thus, while he embraces purposive interpretation, he simultaneously limits interpretive freedom, preventing the slide into relativism or normative subjectivism. His framework ensures that ethical reasoning remains both objective and disciplined, rather than open-ended and discretionary.

A Third Way: Theocentric Purposivism

The comparative analysis above reveals that al-Ghazālī advances a distinctive jurisprudential model that cannot be reduced to either positivism or liberal moral theory. Instead, he articulates what may be described as a “third way”—a synthetic paradigm characterized by:

1. Theocentric purposivism: law is grounded in divine command yet intrinsically oriented toward intelligible purposes (*maqāṣid*).
2. Integrative epistemology: reason and revelation are not opposed but function in a complementary relationship, producing a form of structured and bounded rationality.
3. Ethical legal reasoning: legal interpretation is inherently moral, yet its moral content is anchored in objective, divinely mandated goods rather than subjective preferences.

This synthesis enables al-Ghazālī to reconcile tensions that remain unresolved in much of modern jurisprudence. Where positivism struggles to account for the moral dimension of law, and interpretivism

⁶³ Al-Ghazālī, *al-Mustaṣfā*, vol. 1, 286.

⁶⁴ Ronald Dworkin, *Law's Empire*, 225–275.

risks excessive subjectivity, al-Ghazālī offers a framework in which authority, rationality, and morality are systematically integrated.⁶⁵

In light of these considerations, al-Ghazālī may be positioned as a pre-modern architect of integrative legal philosophy, whose thought provides critical resources for rethinking the foundations of law beyond the confines of Western theoretical paradigms. His model demonstrates that it is possible to construct a legal system that is at once:

1. normatively grounded in transcendence,
2. rationally accessible through disciplined inquiry, and
3. ethically oriented toward the realization of human flourishing.

This positioning has significant implications for contemporary scholarship. It invites a de-centering of Eurocentric jurisprudence and opens the field to genuinely comparative and dialogical approaches.⁶⁶ More importantly, it suggests that classical Islamic legal theory—far from being merely historical—contains conceptual tools capable of addressing enduring questions about the nature, purpose, and limits of law.

Conclusion

This study has argued that al-Ghazālī's legal philosophy in *al-Mustaṣfā* cannot be adequately understood through conventional, internalist readings confined to the tradition of *uṣūl al-fiqh*. By situating his thought within a comparative jurisprudential framework, this article has demonstrated that al-Ghazālī articulates a complex and integrative theory of law that engages, anticipates, and ultimately transcends key paradigms in modern legal philosophy.

At the epistemological level, al-Ghazālī develops a model of structured and bounded rationality, in which reason plays an essential yet disciplined role under the authority of revelation. This framework avoids both rationalist autonomy and rigid textualism, instead advancing a methodologically controlled form of legal reasoning. At the ontological level, he defines law as divine discourse (*khiṭāb al-sharʿ*) endowed with intrinsic purpose, thereby rejecting both the positivist reduction of law to social fact and the interpretivist tendency to ground law in autonomous moral judgment.

⁶⁵ Felicitas Opwis, *Maqasid al-Shariah: An Introduction*, 45–55.

⁶⁶ Frank Griffel, *Al-Ghazali's Philosophical Theology*, 110–115.

Most significantly, through his theory of *maṣlaḥah*, al-Ghazālī introduces a teleological architecture of law that may be understood as a form of proto-purposivism. Legal norms are not merely commands to be followed, but are oriented toward the realization of objective goods encapsulated in the *maqāṣid al-sharī'ah*. At the same time, his imposition of strict constraints—particularly the prohibition against contradicting *qaṭ'i* texts—ensures that purposive reasoning remains bounded, objective, and normatively anchored.

Taken together, these elements form a coherent jurisprudential model that may be described as theocentric purposivism: a theory in which law is simultaneously grounded in divine authority, structured through rational methodology, and oriented toward ethical ends. This synthesis enables al-Ghazālī to bridge enduring tensions between authority and reason, text and purpose, and law and morality.

This study makes three principal contributions to the field of legal philosophy and Islamic legal theory: First, it reconceptualizes al-Ghazālī not merely as a classical jurist but as a global legal philosopher, whose work can be productively placed in dialogue with major figures such as H.L.A. Hart, Ronald Dworkin, and John Finnis. In doing so, it challenges the prevailing tendency to treat Islamic legal thought as isolated from broader jurisprudential debates.

Second, it advances the original claim that al-Ghazālī develops a form of proto-purposivism, anticipating central features of modern purposive interpretation while grounding them in a theocentric framework. This re-reading provides a new lens through which *maṣlaḥah* can be understood—not as a secondary juristic tool, but as the philosophical core of his legal theory.

Third, the study proposes a new theoretical category—theocentric purposivism—as a conceptual bridge between legal positivism and moral interpretivism. This category captures the distinctive synthesis in al-Ghazālī's thought, where divine authority, rational inquiry, and ethical teleology are systematically integrated into a unified model of law.

By positioning al-Ghazālī as a bridge figure between divine law and rational ethics, this study contributes to the ongoing project of developing a more inclusive and dialogical global jurisprudence. It

demonstrates that pre-modern Islamic legal theory contains not only historical significance but also theoretical resources of enduring relevance, capable of enriching contemporary debates on the nature, purpose, and limits of law.

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