

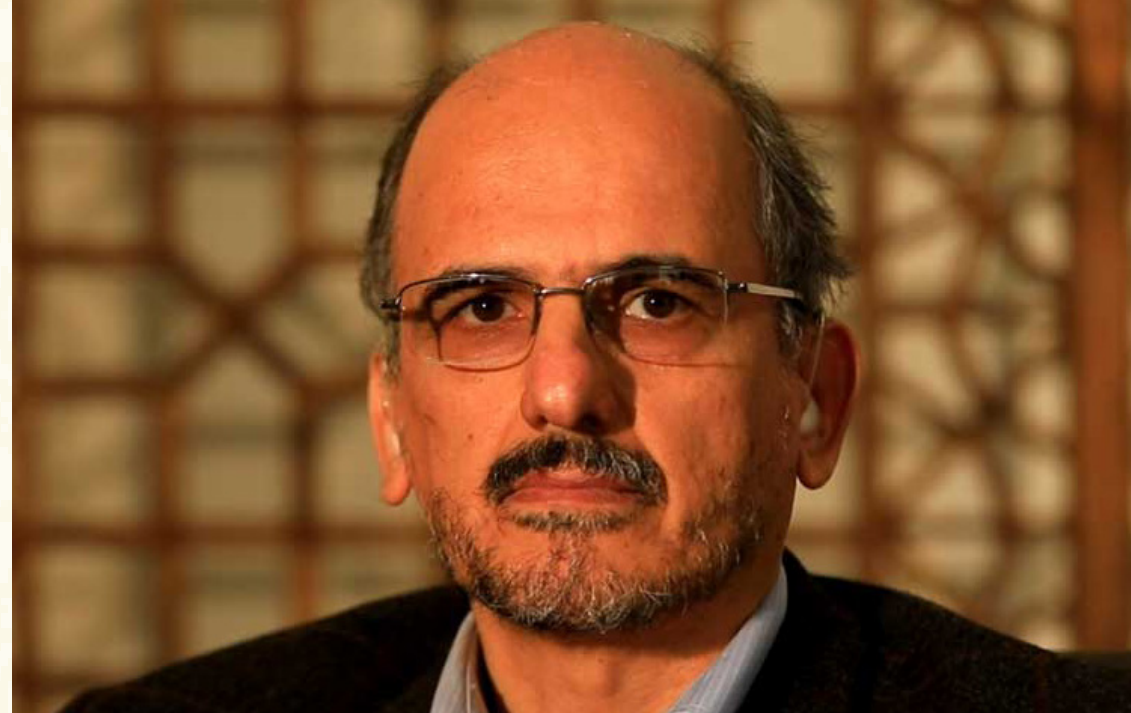
Professor Ali Fanaei

The Status of Moral Beliefs in Islamic Jurisprudence: A Shī'ite Perspective

The main question addressed in this paper is: "Can jurists rely on moral judgments to disregard or qualify scriptural evidence?" The standard answer to this question among later *uṣūlī* scholars is yes, provided that the moral judgment in question is "conclusive". Otherwise, the scriptural evidence will retain its validity. In applying this principle to particular cases, such as child marriage, jurists working within this paradigm split into two groups: a minority who claim that the moral judgment in question is certain, and accordingly modify or set aside the conflicting scriptural evidence; and a majority who believe that the moral judgment in question is not certain, and consequently resolve the conflict in favour of scriptural evidence.

Regarding the level of justification one can legitimately claim for moral judgments, the second group are correct in most cases. Therefore, granting the dominant paradigm, the path of moral reforms in jurisprudence is effectively closed. However, one can ask whether such a stringent condition as certainty for the permissibility of using moral judgments in jurisprudential arguments is rationally defensible. In this paper, I try to show that such a condition is indefensible, and hence the dominant paradigm lacks rational credibility.

Based on the alternative paradigm that I propose and defend, the conflict we face here is of an epistemological and hermeneutical nature. Thus, the appropriate solution to this conflict is to weigh the evidence we have in favour of moral judgments against conflicting scriptural evidence and prioritise the stronger, i.e., the evidence with a higher probability of being true. Within this paradigm, for moral judgments to take precedence over opposing scriptural evidence, it is sufficient that the moral judgment has stronger rational support by virtue of being more probable than the conflicting scriptural evidence. This paradigm provides a rational basis for moral reforms in jurisprudence.



Professor Ali Fanaei

Al-Mahdi Institute and Mofid University

Ali Fanaei completed 17 years of seminary studies in the *ḥawza ʿilmiyya* of Qom which included seven years of *khārij* (graduate) study. During this time, he was also awarded an MA in Islamic Theology from the University of Qom taking special interest in modern theology and philosophy of religion. He then moved to the UK to conduct research at the Department of Philosophy in the University of Sheffield. This led to the award of an MPhil for research on Moral Scepticism and Moral Realism followed by a PhD for research regarding the epistemic justification of moral beliefs.