

Principles of Islamic Medical Ethics

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Abstract

Islamic bioethics refers to Islamic views on issues related to both the medical and research fields. Islamic bioethics is an extension of Shari'ah (Islamic law), which is itself based on two foundations: The Qur'an (the holy book of all Muslims) and the Sunna (the aspects of Islamic law based on the Prophet Muhammad's words or acts). Islamic law is a compendium of morality, ethics, and legal rules. The fundamental basis of Islamic bioethics is that all rulings and actions must fall in accordance with Islamic law (Shari'ah). The objectives of the Shariah (Maqasid al-Shariah) is divided into three categories, dharuriyyat (essentials), hajiyyat (necessities), and tahsiniyyat (desirables). Of these, the most critical is "dharuriyyat" where five matters are given prominence for protection and preservation, namely the protection and preservation of faith, life, intellect, progeny, and property. Besides, contemporary scholars made use of the five qawā'id fiqhiyya (Islamic legal maxims) namely: intention, certainty, removal of hardship, elimination of harm, and custom, in their endeavor to determine the legal ruling for the various novel issues.

This review summarizes the principles of Islamic medical ethics and the methodology used by the Muslim jurists in deriving rulings on rising issues in the field of medical ethics.

Introduction

Medical ethics has been defined as "the analytical activity in which the concepts, assumptions, beliefs, attitudes, emotions, reasons and arguments underlying medico-moral decision making are examined critically" (1). According to Beauchamp and Childress, ethics is a "generic term for various ways of understanding and examining moral life (2). Bioethics is a branch of applied ethics concerned with resolving problems in the area of living sciences, including research and practice of medicine. Islamic medical ethics refers to Islamic guidance on ethical or moral issues relating to medical and scientific fields, in particular, those dealing with human life.

Islam made every effort to build a distinct personality of the Muslim that conform to principles of morality and considers medical ethics the same as ethics in other aspects of life. The Prophet Muhammad (Peace Be Upon Him) (PUBH) said: "I was dispatched to complete morality" (3).

While the medicine practiced by Muslims and for Muslims is generally the same medicine practiced in the West today, the medical ethics may be different. This means that the use or nonuse of a renowned medical treatment by Muslim doctors will sometimes be guided more by ethics derived from Islamic law than by purely medical considerations (4). While Islamic ethics incorporates various philosophical traditions it still holds a religious worldview and draws its resources mainly from religious texts (5).

In response to new medical technology, Islamic jurists, informed by medical experts, have regular conferences at which emerging issues such as organ transplantation, brain death, assisted reproduction, genetic engineering are explored and consensus is sought. Our investigations in bioethical issues require Muslim ethicists to examine a number of judicial decisions made by Muslim scholars in response to the growing number of cases in the clinical settings (6).

Today there is an increasing interest in medical ethics from an Islamic perspective in The West. Both Muslims and non-Muslim healthcare providers have shown sustained interest in Islamic viewpoints in medical practice and research to cater to the health care needs of the Muslim population in Western countries (7).

Usul al fiqh (the principles of Islamic jurisprudence)

Uṣūl al fiqh is the methodology and principles by which Muslim jurists derive legal rulings from the foundational sources of Islamic law which are primarily the Qur'an and the hadith (Sunna). Islamic jurisprudence is divided into two parts:

I. Usul (fundamentals): which formulate the basic sources of Islamic laws. The main sources of Islamic law (Shari'a) consisted of:

1. *The Holy Qur'an.*

2. *The Sunna:* (The trodden path) which includes the sayings of the Prophet (PUBH) known as the "Sunna Qawliyya" or Hadith, the deeds and acts of the Prophet "Sunna Filiyya", and the Prophet approvals "Sunna Taqriyya", whether they are expressed or implied.

3. *The Qiyas;* or "Ijtihad" whereby the jurists or Qadi (judge) would use analogy and reasoning to arrive at the judgment that is not mentioned in the Holy Qur'an or Sunna.

4. *Ijma:* this is the consensus of opinion of jurists. It is well-known that true Ijma of the jurists over the world has been always difficult to meet. However, achieving the consensus of the majority of opinions is a more realistic option.

There are other sources like "Almasalih Al Mursalah" which is held by the Maliki School. This simply means taking care of public interest, provided it does not clash with a clear text of the Holy Qur'an or Sunna. The Hanafi School has a similar source which they call "Istihsan"; i.e. seeking the best solution for the general interest. This superstructure is very rational. This is seen especially in the

use of *qiya's* (analogy) in the development of *shari'ah* (Islamic law).

II. Furu' - i.e. branches of Islamic jurisprudence which includes the details of every aspect of life and worship (Ibadat and Mu'amalat).

The principle of 'Urf or 'A' da: This is a major source of problem resolution that embodies considerations based on custom, tradition or local habits. 'Urf' is accepted as a source of judicial decision making so long as there is no provision of the matter in the revealed texts (the Qur'an or the Sunna). *Sadd al- Dhara'i'* (blocking the means): is another reasoning procedure that some jurists considered to be a source of legislation, especially in the Maliki school (6,8).

Al-Shāṭibī (d. 790 AH) suggested that the whole process of *ijtihād*, whether or not directly linked with the text, should consider *maṣlaḥah* (utility or benefit) as the "spirit" of the objectives of Islamic law.

Maqasid al-Shariah (objectives of the Shariah)

Muslim jurists were faced with new ethical problems, and in the absence of clear evidence or juristic precedent on contentious ethical issues, they have taken recourse to the *Maqāṣid al- shari'a*, the purposes of the law.

The five cardinal essentials of Islamic teachings are: 1-Preservation of Faith (*di'n*), 2- Preservation of Life (*al-nafs*), 3- Preservation of Mind (*al-'aql*), 4- Preservation of Progeny (*al-nasl*), and Honor (*al-irdh*), 5- Preservation of Property (*al-ma'l*).

Numerous branches of medicine are clearly deeply intermingled within all these five purposes, directly or indirectly. Thus, anything that preserves one of these five purposes is regarded as beneficial, while anything that contributes to its detriment is immoral, and preventing it is deemed good (9). Knowledge of *Maqasid al-Shariah* is especially useful in bioethical applications and an important prerequisite in the formulation of any "fatwa" (religious decisions) through the process of *ijtihād*. *Ijtihad* is a process of self-exertion by a "mufti" to deduce a fatwa on any issue that does not have direct guidance in the primary sources of the Quran and the Prophetic traditions.

The aims of *Shari'ah* were discussed fully by Muslim scholars 1,000 years ago. For instance, Imam al-Juwayni (d 478/1185) said: "The aims of *Shari'ah* are nothing but the interests of the entire humanity." Imam al-Ghazali (d 505/1111) discussed *al-Maqasid* under the principle of the public interest.(10)

The objectives of the *Shari'ah* (Islamic rules) (*Maqasid*

al-Shariah) could be divided into three parts: 1- Necessities (daruriyat): These include preservation of faith, life, mind, progeny, property. They are essential for life, religion, and community. 2- Needed Things (hajiyat): These are needed for the community, or for persons. People can live without procuring them, but they are recognized needs for the welfare of society and individuals. 3- Recommended (tahsiniyat): They are also needed by the society or individuals to make life more comfortable and, more beautiful, and try to reach the level of satisfaction and happiness for both the individual and society (10,11).

Al Izz ibn Abdul Salam, a renowned Islamic jurist (d 660H/1243 CE) in his book "Qawa'id al Ahkam (Basics of Rulings)" said: "The aim of medicine, like the aim of Shari'ah (Islamic law), is to procure the maslaha (utility or benefit) of human beings, bringing safety and health to them and warding off the harm of injuries and ailments, as much as possible." He also said: "The aim of medicine is to preserve health; restore it when it is lost; remove ailment or reduce its effects. To reach that goal it may be essential to accept the lesser harm, in order to ward off a greater one; or lose a certain benefit to procure a greater one (12). This is a very pragmatic attitude, which is widely accepted, in Islamic jurisprudence, and it is frequently applied in daily practice in all fields including medicine (6).

In medicine, there are sometimes difficult decision-making options for the patient's care. Thus, a physician at times has to decide for his/her patient in light of available knowledge, his/her experience, his/her peers and consensus of the community. In addition, a Muslim physician derives his/her conclusion from rules of Islamic laws (Shari'ah) and Islamic medical ethics.

The first main principle of Islamic Medicine is the emphasis on the sanctity of human life which derives from the Qur'an: "If anyone saved a life, it would be as if he saved the life of all mankind"(13). The verse says: The person who helps to preserve the life of even one person is the protector of the whole of humanity, for he possesses a quality which is indispensable to the survival of mankind.

The second main principle is the emphasis on seeking a cure. Prophet Muhammad (PBUH) is reported to have said: "Seek treatment, for God the Exalted did not create a disease for which He did not create a treatment, except senility" (14).

The five Principles of the Law (qawa'id fiqhiyya) of Islamic medical ethics

The qawa'id fiqhiyya or "Islamic legal maxims" refer to a body of abstract rules which are derived from the detailed study of fiqh (Jurisprudence) itself. Numerous maxims and subordinate rules were collectively derived from the application of usul al fiqh on the primary sources, and

out of these, there are five major maxims of particular significance to medical practice and to the field of Islamic medical ethics.

The five universal maxims, including their subsidiaries, are considered the most important in the whole discipline, and seen as representative of the entire field. It is said that the whole fiqh is based on them, and the essence of the Shariah as a whole is grasped between them. They are as follows: 1. al-umur bi-maqasidiha (matters are judged in light of the intention behind them), 2. al-darar yuzal (harm must be eliminated). 3. Almashaqqah tajlib al-taysir (hardship begets facility). 4. al-yaqin la yazal bil-shakk (certainty is not overruled by doubt). 5. al-adah muhakkamah (Custom can be the basis of judgment). It is remarkable that the concepts, which the five maxims represent (namely: intention, certainty, removal of hardship, elimination of harm and custom) are mainly ethical, and are integral to the general Islamic concept of maslahah (utility or benefit), and of course, have legal function in this context (15).

1. AL-UMURU BI MAQASIDIHA (Matters are judged in light of the intention behind them):

This maxim implies that any action, whether it is done physically or verbally, should be judged in the light of the intentions of the doer. Intention (niyya) is very important in any deed in Islam. The Prophet (PBUH) said: "Deeds are judged by intention"(16). According to many scholars, this Hadith is among the traditions upon which the whole spectrum of Islamic knowledge depends. An action though may be good apparently, but done with bad intention will be judged by God on the Day of Judgement, and will be punished. On the contrary, if someone intends to do a good deed, but when performing it, he unintentionally produced some harm, then he will be pardoned. The prayer in the Qur'an touches upon this theme: "Our Lord do not impose blame upon us if we have forgotten or erred" (17). Pain relief in terminal care is an obvious example. The prescription of morphine with the intention of causing respiratory depression and therefore premature death is considered "euthanasia" and would be deemed impermissible. On the contrary, providing analgesia with respiratory depression as an unintended consequence would be deemed permissible (6, 9).

2. AL-YAQINU LA YAZALU BI-L-SHAKK (Certainty is not overruled by doubt):

This maxim means that what is established with certainty is not removed by doubt. Al-Nawawi said expressing the idea of this maxim: "Things are legally assumed to remain as they are unless and until it is established with certainty that they are otherwise; and that extraneous doubts are of no consequence".¹⁸. Medical diagnosis cannot reach the legal standard of absolute certainty, (yaqeen). Treatment decisions are based on a balance of probabilities. Each

diagnosis is treated as a working diagnosis that is changed and refined as new information emerges. The principle of certainty asserts that uncertainty cannot abrogate an existing certainty. All medical procedures are considered permissible unless there is evidence to prove their prohibition (19).

3. AL-MASHAQQATU TAJLIBU AL-TAYSIR. (Hardship begets facility):

In the medical setting a hardship is defined as any condition that will seriously impair physical and mental health if not relieved promptly. This maxim indicates that if any implementation of the law causes hardship to an individual, then there are alternatives one can do instead, in order to overcome these hardships and difficulties (15). There are several Quranic verses and Hadiths of the Prophet (PBUH) which indicate that Allah intends to provide facility and to lift all kinds of unbearable hardship from human beings. "...Allah wants ease for you and He does not want hardship for you..." (20). "...Allah does not give anyone legal responsibility for anything except what is within their capacity" (21). In this regard, the Prophet (PBUH) said: "God did not send me to be harsh, or cause harm, but He has sent me to teach and make things easy" (22). Several legal principles were derived from this maxim, especially those, which relate to the concepts of *darurah* (necessity) and *hajah* (need). Among them is the rule "Al-daruratu tubihu al-mahzurat (necessity makes the unlawful lawful). However, committing the otherwise prohibited action should not extend beyond the limits needed to preserve the purpose.

This can be applied to medical interventions, such as sterilisation which is absolutely prohibited in Islam, but it becomes permissible if a potential pregnancy severely threatens a woman's life (6,9). Similarly, prohibited treatment may become permissible if it is considered a life-saving treatment for the patient.

4. AL-DARARU YUZAL (Harm must be eliminated):

This maxim is derived from the Prophet hadith "la darar wa la dirar" (23). Darar is defined as "a detriment caused to the interests of oneself or of others". Eliminating harm is portrayed as one of the major principles of Shariah to which all legal determinations can be traced back. This includes preventing its occurrence, since protection is better than cure, and, in case it occurs, eliminating it by whatever means (15). Medical intervention is justified on the basic principle is that injury, if it occurs, should be relieved. An injury should not be relieved by a medical procedure that leads to an injury of the same magnitude as a side effect. In a situation in which the proposed medical intervention has side effects, we follow the principle that prevention of an injury has priority over pursuit of a benefit of equal worth. If confronted with two medical situations

both of which are injurious and there is no way but to choose one of them, the lesser injury is committed (6,19).

5. AL-ADATU MUHAKKAMAH. (Custom can be the basis of judgment):

The terms "urf" and "adah" are Arabic terms which are normally both translated as "custom" and what is considered customary is what is uniform, widespread, and predominant and not rare. local custom is taken into consideration, provided it does not contradict the shari'ah legal force. The disclaimer is that the customary practice must be the predominant and widespread practice of medical practitioners in order to be rendered valid (9). Finally, this fundamental methodology, systematized by the early Muslim scholars over one thousand years ago, is still employed by Muslim jurists to deduce rulings on a number of issues, including the more challenging ones brought about by the modern medical advancements over the last few decades.

Conclusion

Currently there is an increase in bioethical discourse amongst Muslim scholars from all parts of the world. Most of these discussions look at specific issues pertaining to the permissibility of a new technological application. A number of issues in the field of bioethics were raised in the last few decades and Muslim jurists have been active in studying these contentious subjects and providing religious and ethical guidance in the form of fatwas (religious decisions) that are followed by healthcare providers in the Muslim world.

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