

Islamic Perspective

Biomedical Ethics: An Islamic Formulation

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Abstract

The term 'ethics' translated into Arabic as *akhlāqiyāt* suggests an alien notion that ethics is separate from or is parallel to the law. Ethics is an indivisible part of Islamic law, unlike the situation in the West where ethics evolved in the recent past as a distinct area of study and practice to deal with issues of a 'moral' character that the secular positive law could not deal with since it divested itself of 'religious' elements. The Islamic view is that some moral issues cannot be resolved using empirical experience alone. With clear and robust purposes and operating under various sources of the law, Muslims can analyze and resolve all ethical issues from within the Law and do not therefore need another discipline outside the Law.

Key words: Biomedical ethics, Islam, Islamic jurisprudence.

The term "ethics" translated into Arabic as *akhlāqiyāt* suggests an alien notion that ethics is separate from or is parallel to the law. Ethics is an indivisible part of Islamic law, unlike in the west, where it has in the recent past evolved into a distinct area of study and practice that deals with moral issues that secular law cannot approach because it divested itself of religious elements.

The Islamic view is that some moral issues cannot be resolved using empirical experience alone. The Creator endows humans with intellectual faculties to reason and decide what is morally right and wrong; however, the line between right and wrong is vague in some issues. That is why the Qur'an makes humans accountable for moral infractions based on violating clear injunctions from revelation¹ and not for failures in their moral reasoning.

Many issues that are sometimes considered ethical are purely legal issues under the Islamic system. They are dealt with under the division of the law called medical jurisprudence (*al-fiqh al-ṭibbī*). There are three stages in the evolution of *al-fiqh al-ṭibbī*.

During the first period (0 to circa 1370 AH), it was derived directly from the Qur'an and the sunnah (Prophet Muhammad's traditions and sayings صلی اللہ علیہ وسلم). In the second period (1370-1420 AH), rulings on the many novel problems arising from drastic changes in medical technology were derived from secondary sources of Islamic law either transmitted as analogy (*qiyās*), scholarly consensus (*ijmā'*), or reason (*istiṣhāb*, *istiḥsān*, or *istiṣlāḥ*). The failure of the tools of *qiyās* to deal with many new problems led to the modern era (1420 AH onwards), characterized by use of the theory of "Purposes of the Law" (*maqāṣid al-sharī'a*) to derive robust and consistent rulings. *Ijtihād maqāṣidi* (independent judgment based on the purposes of the law) is becoming popular and will be more popular in the foreseeable future.

The primary sources of Islamic law are the Qur'an and the sunnah. Secondary sources may be based on *ijmā'* and *qiyās* or may be rational within the spirit of revelation (*istiṣhāb*, *istiḥsān* and *istiṣlāḥ*). *Ijmā'* is the consensus of all *mujtahids* (scholars exerting themselves to reach an opinion) existing at one time on a particular legal ruling based on *naṣṣ* (a concise statement). *Qiyās* is the use of a ruling on one matter for another matter when the two share the same *'illa* (cause or nature). *Istiṣhāb* is continuation of

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an existing ruling until there is evidence to the contrary. *Istihsān* is preference for one *qiyās* by a *mujtahid*. *Istiṣlāh* is assuring a benefit or preventing a harm.

The Islamic theory of ethics is based on the five general purposes of the shariah (*maqāsid al-sharīʿa*).² They are the protection, preservation, and promotion of religion, life and health, progeny, intellect, and resources. With clear and robust purposes and operating under various sources of the law, Muslims can analyze and resolve all ethical issues from within the law and do not, therefore, need another discipline outside the law. For a medical issue to be considered ethical, it must fulfill or not violate one or more of the five purposes that constitute the Islamic theory of ethics. All ethical violations can be related to a violation of one or more of the five purposes.

Purpose #1: Protection of religion (*ḥifẓ al-dīn*) is achieved by medical treatment of physical and mental illnesses, enabling the patient to undertake physical obligations of worship, which, viewed in the widest sense, include any human activity with a good purpose and intention (*al-niyya*). An additional implication of this purpose of the law is that ethical technology cannot be used to promote immoral actions such as promiscuity resulting from the availability of safe contraceptives, or physician-assisted suicide or genocide.

Purpose #2: Protection of life (*ḥifẓ al-naḥs*) is the primary purpose of both preventive and curative medicine. From the Islamic perspective, medicine focuses on the quality and not the quantity of life, because lifespan is under the Creator's control. A physician treating a patient focuses on improving the quality of remaining life to a level as high possible until the appointed time of death. Measures aimed at improving quality may, with Allah's permission, result in prolonged life, as seen from a human perspective, but from the Creator's perspective there is no prolongation, because the length of life was predetermined. Protection of life also includes preventive measures such as vaccinations, which are legitimate and cannot be seen as opposing or anticipating the Creator's prerogatives. This is because all that a human undertakes is enabled and is permitted by the Creator.

Purpose #3: Protection of progeny (*ḥifẓ al-naṣl*) is achieved by treatment of infertility, prenatal care, obstetric care, and child care, which ensure children are born healthy and grow up to become healthy adults who will parent the next generation. This is an

important purpose because it ensures the survival of the human race. If the rate of reproduction falls below replacement levels, whole communities could disappear within a few generations. Those communities will also suffer from a lop-sided dependence ratio: too many old people to be supported by too few young people. There are specific and special obligations for Muslims to reproduce beyond the replacement level for the continuity of the community and ensure that it plays its role in building human civilization and asserting values of morality, justice, and freedom. The community will have no perceptible impact if its numbers dwindle. Islam, therefore, has many specific regulations that impact many ethico-legal issues in obstetric, gynecologic, and pediatric practice.

Purpose #4: Protection of the mind (*ḥifẓ al-ʿaql*) is achieved by preventing and treating neuroses, psychoses, personality disorders, and various addictive disorders so that human intellectual function can be restored to its optimal level. The prohibition of alcohol and other psycho-active drugs conforms with this purpose. Also, regulations that balance life's spiritual and material aspects fulfill this important purpose. A happy and stable family is necessary to foster balanced psychological and intellectual development that will prevent to a large extent many of the behavioral problems that adolescents and young adults experience.

Purpose #5: Protection of resources (*ḥifẓ al-māl*) involves both human and material resources. Promotion of human resources is achieved by general community health because it is only healthy citizens who can be productive to increase community wealth. This purpose has special application in medical practice: avoiding waste of resources in the hospital, conserving energy, and protecting the environment. It is also achieved by avoiding waste in the hospital environment. An even more urgent application is the need to control the spiraling costs of medical care driven by some factors that may not relate to promotion of a quality life.

In practice, the theory of purposes of the law is supplemented by ethical principles based on the five major *fiqh* (Islamic jurisprudence) principles.³ These principles are axioms that make rational decisions on contentious ethico-legal issues systematic and robust. It must be emphasized that they are not themselves a source of law, but they make the understanding of the law easier.

Principle #1: The principle of intention (*qā`ida(t) al-qaṣd*) requires pure and sincere intentions in all medical decisions and procedures. The intentions should be fully in the patient's interests; any other considerations can be considered unprofessional. Real intentions are internal, and only the practitioner knows what is in his or her heart. This implies that a professional must consult his inner conscience. It is possible to do wrong things by the book, and nothing but conscience can prevent such a transgression.

Principle #2: The principle of certainty (*qā`ida(t) al-yaqīn*) requires that medical decisions are evidence-based and not the result of subjective feelings. The issue that arises is the definition of the degree of certainty. It is impossible to reach absolute certainty, and if that were the standard, few medical interventions would be carried out. Interventions can be undertaken if the evidence is preponderant. In emergencies, interventions can be undertaken on imperfect evidence, but in all circumstances we must attempt to reach as high a degree of certainty as possible.

Principle #3: The principle of injury (*qā`ida(t) al-ḍarar*) requires careful balancing of the benefits of an intervention against its side effects. If the benefits clearly exceed the side effects, the intervention is undertaken. If the side effects clearly exceed the benefits in worth, a more conservative approach is advised. If the benefits and the side effects are equal in worth, it is best not to undertake the intervention unless there are specific extenuating circumstances.

If confronted with two choices, both being risky, it is advised to undertake the one with the lesser risk. This reflects the general conservative trend of Islamic law.

Principle #4: The principle of hardship (*qā`ida(t) al-mashaqqa*) allows medical procedures and therapies that are normally prohibited (*ḥarām*) if there is a necessity (*ḍarūra*) of saving life. This is a great enabling principle that makes possible the practice of medicine in difficult circumstances. It is based on the premise that protection of life is supreme and supersedes many provisions of the law.

Principle #5: The principle of custom or precedent (*qā`ida(t) al-`urf*) is the basis for treating generally acceptable protocols and procedures as legally binding on every practitioner. A physician should practice according to what is considered customary. This principle protects patients from adventurous treatments.

References

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