

# Islam, Healthcare, and Spirituality

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## **Abstract**

Contemporary moral discourse has been aptly described as a minefield of incommensurable disagreements. Such disagreements are believed to be the result of secularization marked by a retreat of religion from the public arena. To provide an overall sense of Islamic ethical discourse in the complexity of bioethical pluralism in the Muslim world, in this chapter I have followed principle-rule based deontological-teleological ethics that serves as the foundation of Islamic legal-ethical investigation. The deontological ethical norm in Islamic jurisprudence determines the rightness (or wrongness) of actions without regard to the consequences produced by performing such actions (Killing is wrong.). By contrast, the teleological norm determines the rightness (or wrongness), of actions on the basis of their consequences produced by performing these actions (Saving life is commendable.). Deontological-teleological ethics undergirds Muslim legal-ethical methodology in resolving moral dilemma in social ethics. In Islamic jurisprudence ethical values are integral to the prescriptive action guide that the system provides to the community. No legal decisions are made without meticulous analysis of various factors that determine the rightness or wrongness of a case under consideration.

## **Healing through Spiritual Morality**

Given that suffering can result from either natural or moral evil, we are obliged to examine the concept of good health in Islam, especially insofar as it is regarded as part of a person's obligation to avoid undue pain and suffering. The Arabic word *ṣiḥḥah* ("sound" or "health") is rich in connotations. Like the word *salāma* (also "sound" or "health"), it conveys the wholeness and integrity of a being that generates a sense of security. Further, it connotes a life of balance and moderation that avoids behavioral extremes. Disturbing this

balance causes physical ailment. The Qur'an lays down the golden rule about moderation: "O children of Adam [and Eve], . . . eat and drink the good things you desire, but do not become wasteful" (Q. 7:31).

Imbalance or overindulgence in the enjoyment of God's bounty leads to both physical and moral suffering. In the moral sense, human volition may result in the overconsumption of certain foods because of sensual indulgence rather than attention to good health. The Prophet is reported to have advised his Companions to avoid overeating and recommended that one stop eating before feeling full.<sup>1</sup> Another tradition traces all sickness to a lack of moderation in eating. On this view, those physical or psychological conditions beyond one's own control dictate lifestyle adjustments in the interest of physical wellbeing.

The Qur'an prescribes the pursuit of self-knowledge as a part of maintaining good health. Physical and psychological health cannot be taken for granted – they are a divine benefaction that depends on human moderation in food and drink and regular physical activities, including swimming and horse riding, as the Prophet instructed his followers.<sup>2</sup> Yet there are people who suffer from genetically inherited illnesses about which they have no choice whatsoever. This kind of suffering raises questions about God's will and the existence of evil in the world.

## Islamic Spirituality

God's omnipotence is the most important idea in Muslim theology. God is the creator of all things, including human destiny on Earth and rewards and punishments in the hereafter. Such a deterministic concept of human action gives rise to the problem of reconciling the divine predetermination of human action with divine justice, which entails God punishing the wicked and rewarding the righteous. This aspect of the problem of theodicy arose out of statements from the Qur'an and Sunnah. In the context of health care, the idea of God's omnipotence has enormous implications, for it breeds a quietism that discourages the ill from prying into His unfathomable ways and encourages resignation to suffering.<sup>3</sup> With modern medicine's enormous strides in healing the sick and alleviating suffering, the inexorability of God's decrees provides little comfort to those who want to see an end to the agonies of incurable diseases.

Yet despite the phenomenal advancement in medical treatment, people need to come to grips with what I constantly hear in my duties as a hospital chaplain: undeserved suffering. The need to understand the divine decree and

cultivate necessary faith in God's goodness brings me face to face with the role of Islamic spirituality.

In Islam, the realm of spirituality is located within the human experience of transcendence. It does not matter whether one is anchored in an organized religious tradition or not. The experience of transcendence is positioned in the depth of the human heart, which needs to be explored by each individual through the natural endowment with which all humans have been created. This endowment – the innate capacity (*fiṭrah*) to incline toward transcendence – is the source of that human spiritual and moral awareness (*taqwā*) that is created the moment they are fashioned as humans (Q. 97:7-10).

At various points in their journey toward spiritual and moral perfection, humans receive portents that are present both in their own selves (*anfus*) and in the environment (*āfāq*) for them to realize the stages of their journey toward becoming perfected (Q. 16:78). In this sense, their personal perfection is tied to the perfection of the environment, which requires humanity's undivided attention because its own preservation and beautification are existentially connected to humanity's own survival and internal beauty. The more one understands this indispensable connection between the internal and external sources of human spiritual and moral development, the more one commits oneself to achieving the equilibrium generated by this understanding in actual life situations. This is the universal dimension of one's nature as well as one's spiritual and moral journey.

In this sense, spirituality and morality are intertwined because the former is the internal dimension of the being's identity and thus individual and subjective; the latter is the external aspect and grounds for a person's overall performance in corporate existence, and hence collective and objective. Claims of being spiritual are bereft with the calamity of self-righteous attitudes in faith communities, since they are ultimately inaccessible to outsiders for scrutiny. This is why, in Islam, morality (doing what is right and avoiding what is wrong) must accompany spirituality as its consequence and take the form of being objective and accessible to others for evaluation to establish the validity of the claim to be moral.

If spirituality generates peace and confidence, then morality becomes its objective manifestation when one deals with other humans as equals endowed with the same dignity, regardless of one's faith connection. In this estimation, then, spirituality is not only a precondition of one's inner peace and healthy state of mind; it is functionally indispensable to develop the moral sensibilities that enable a person to deal with others in fairness and justice.

However, this morality-oriented spirituality is overshadowed by the exclusionary Muslim theology that finds its major application in Islamic law. The juridical tradition is founded upon this theology, which, paradoxically, also advances the idea of a common human family that can be traced back to the first human couple: Adam and Eve. Human beings need one another to enable them to live in peace and harmony – the very foundation of human wellbeing. Hence the critical need for spirituality is underscored by Islam's mystical tradition, namely, Sufism, which neutralizes this exclusionary theology by emphasizing the Prophetic teaching that the Children of Adam are like one body because they share the same essence in their creation.

One of the striking features of religiously based spirituality is its emphasis on human relationships and the ethics that govern them. By its very emphasis on an ethics of relationship, this spirituality is dialogical. It is not only in dialogue with other humans, something to which it inevitably leads; it also leads to dialogue with all of nature. It requires humans to engage in beautifying nature in a reciprocal mode (if I am beautiful, so is my environment) and mandates its preservation in the same way as it treats one's own preservation as a moral and religious duty.

Dialogue allows the relationship of equality to emerge, one that potentially can confront the sources of conflict generated by the culturally advanced dichotomy of superiority/inferiority, saved/damned theology. To defeat the negative forces of this cultural theology, human endeavors need to be equipped with the spirituality that orients a person toward ethical action. When the Prophet was asked about the meaning of religion, he is reported to have replied: "It is obedience to God and kindness to creation (*makhliq*)." "Creation" is used here in its generic sense to include all created beings and not just humans. This is why fractured human relationships need to be mended through the healing that comes by reaching out to fellow humans qua humans.

The correlation between spirituality and morality provides a unique way of estimating the relationship between faith and law. Law is certainly connected with the human experience of living with one another and in community. In Islam, God's will is expressed in God's commandments delivered through the supernatural medium of revelation. God's law guarantees salvation to those who obey them. In some unique sense, fulfilling the legal-ethical rulings restores total human wellbeing and leads to a blissful hereafter. In order to fully appreciate this interdependent relation between spiritual and moral wellbeing, we need to turn our attention to Islam's normative legal system, which functions as a divinely ordained scale of what it means to be a spiritually and morally healthy community.

## The Islamic Legal Tradition

Islamic law covers all the actions performed by humans, whether toward one another or toward God. The Shari‘ah, the norm of the Muslim community, grew out of Muslim endeavors to ensure that Islam pervaded all of life. Two essential areas of human life define its scope: acts of worship, both public and private, that are connected with the pillars of faith; and acts of public order that ensure individual and collective justice. The first category of actions, undertaken with the intention of seeking God’s pleasure, is collectively known as “ritual duties” toward God (*‘ibādāt*, literally “acts of worship”). These include all religious acts such as the daily prayers, fasting, alms-giving, and so on. The second category of actions, undertaken to maintain social order, is known as “social transactions” (*mu‘āmalāt*, literally “social intercourse”).

The religious calibration of these two categories depends upon the meticulous division of jurisdiction based on the ability of human institutions to enforce the Shari‘ah and to provide sanctions for disregarding its injunctions. According to Islamic law, all actions should be performed to secure divine approval; however, human agency and institutions have jurisdiction only over the social transactions that regulate interpersonal relations.

In order to create such an all-comprehensive legal system founded upon revealed texts, Muslim scholars went beyond the Qur’an to the person of the founder and the early community. The Qur’an required obedience to the Prophet and those invested with authority, which included the idealized community made up of the elders among the first and second generations. In this way, the Qur’an opened the way for extending the normative practice beyond the Prophet’s earthly life. Such an understanding of the normative tradition was theoretically essential for deriving the legal system, which saw its validity only in terms of its being extracted from the Prophet’s own paradigmatic status. Hence, his life as understood and reported by the early community became an ethical touchstone for what the Muslims call the Sunnah. The intellectual activity surrounding the interpretation of God’s will as expressed in the Qur’an and the evaluation of the hadith (reports ascribed to the Prophet and the early community) became the major religious-academic activity among Muslims and thereby laid the foundation for subsequent juridical deliberations – what became known as *fiqh* (“understanding”), or jurisprudence.

By the ninth and tenth centuries, the Muslim community was affiliated with one or another of the leading scholars in the field of juristic investigation. The legal school that followed the Iraqi tradition was called Hanafi, after Abu Hanifah (d. 767), the imam (teacher) in Iraq. Those who adhered to the rulings

of Malik ibn Anas (d. 795) in Arabia and elsewhere were known as Malikis. Al-Shafi'i, who is credited with being a profound legal thinker, founded a legal school in Egypt whose influence spread widely to other Muslim regions. Another school was associated with Ahmad ibn Hanbal (d. 855), who compiled a work on hadith-reports that became the source for the juridical decisions of those who followed him. The Shi'a developed their own legal school, the Ja'fari school, whose leading authority was Imam Ja'far al-Sadiq (d. 748). Normally, Muslims accepted their region's prevailing legal school. Today most Sunnis follow the Hanafi or Shafi'i rite, whereas the Shi'a follow the Ja'fari school. In the absence of an organized "church" and ordained "clergy," the Islamic legal rite is inherently pluralistic. The determination of valid religious practice is left to the qualified scholars of religious law, collectively known as the ulama.

Muslim legal theorists were thoroughly aware of the moral underpinnings of the religious duties that all Muslims were required to fulfill as members of the faith community. In fact, the validity of their research into Islam's foundational sources (viz., the Qur'an and Sunnah) for solutions to practical matters depended upon their substantial consideration of the different moral facets of a case that could be discovered by considering conflicting claims, interests, and responsibilities in the precedents preserved therein. What ensured the validity of their judicial decision regarding a specific instance was their ability to deduce such universal moral principles as "there shall be no harm inflicted or reciprocated" (*lā ḍarar wa lā ḍirār*),<sup>4</sup> which flowed downward from their initial premise to support their particular conclusion without relying upon the circumstances that would have rendered the conclusion circumstantial at best. However, the power of these conclusions is contingent on the ethical considerations that were operative in the original precedents as well as the agreement of the scholars who sought to relate the new case to the original rationale and rules.

Customarily, when faced with a moral dilemma juridical-ethical deliberations are geared toward a satisfactory resolution in which justifications are based on practical consequences, regardless of applicable principles. For instance, in deciding whether to allow the dissection of a cadaver to retrieve a valuable object swallowed by the deceased, Muslim jurists have given the permission by simply looking at the consequence of forbidding such a procedure. The major moral consideration that outweighs the respect for the deceased's dignity is the surviving orphan's ownership through inheritance of the swallowed object. Islam forbids this procedure, and yet the case demands an immediate solution based on consequential ethics.

Or, in the case of a female patient who, as prescribed in the Shari‘ah, must be treated by a female physician; in an emergency situation the practical demand overrides this prohibition because the rule of necessity (*darūrah*) extracted from the revealed texts outweighs the rule of sexual segregation extracted from rational consideration. Numerous instances clearly show the cultural preferences involved in solving pressing healthcare problems in Muslim societies in which communitarian ethics considers the consequence of any medical decision on both the family and the community’s resources and interests.

### **Health-related Beliefs and Values**

People with different backgrounds approach suffering through illness and death with a wide range of diverse attitudes about its causes and consequences, attitudes that often have been cultivated and transmitted by their respective cultures and religions. Sometimes these attitudes undermine the efficacy of those treatments that require the patient to have the necessary will to fight the disease. A holistic medical approach, which treats both psychosomatic and physical conditions, necessitates that clinicians be aware of the patient’s emotional condition and cultural background in order to formulate an accurate diagnosis and successful treatment plan.<sup>5</sup> What should the healthcare worker know about her Muslim patient’s religious and moral presuppositions about the nature of suffering?

Generally a situation that is negatively described as suffering refers to an objective state of affairs (“It is unbearable!”) and the subjective response (“It is harmful for the patient!”) of a judging individual. In other words, when one assesses suffering as a form of evil, either objectively or subjectively, one needs to take into account the agent, the act of suffering, and the resultant harm that is objective enough for a positive or a privative understanding of evil. When both elements are present, suffering in the context of illness is described as an experience that is undesirable and maleficent. Both physically and morally, this description immediately captures an objective standard that most people would judge as tragically harmful to the agent, without any reference to any ontology or complex metaphysical or theological explanation. We are, in a realistic way, able to assert that a person is suffering unrequited pain and destruction. Evil then reveals the undesirable and maleficent aspects of human suffering. Understood in this way, we can now probe into theodicy and begin to unfold the divine mystery regarding the infliction of destruction of innocent life through natural evil.

The quest to unfold this divine mystery paves the way for a meaningful conversation between the religious beliefs and medical aspects of illness, where metaphysical and physical dimensions of medical care struggle to come to terms with the human condition and the limitations of human undertakings to alleviate that suffering. The difference between religious and medical assessment of the situation is stark. Faith in divine will nurtures humility and reveals human limitations in comprehending the ways of the all-powerful God who gives and takes life. Medicine, on the other hand, which assumes the responsibility for removing the evil of pain and suffering, continues its search to find the cure and prolong the impending death unabated.

This stark difference is further underscored by how religion inculcates personal piety in dealing with illness, which is to inculcate faith in God's goodness and accept suffering as part of the overall divine plan for humanity's spiritual and moral development. Although medical professionals enter the field of human suffering with enormous confidence and determination to treat ailments by undertaking the necessary training and research, religion emphasizes the finitude of human life and reminds humanity not to arrogate God's functions of taking life at a fixed point in history, for that knowledge rests only with God.

"How fortunate you are that you died while you were not afflicted with illness." Thus said the Prophet to the person whose funeral rites he was performing. Such an assessment of death without illness indicates the value attached to a healthy life in Muslim culture. To be sure, good health is God's blessing for which a Muslim, whenever asked, "How are you (lit. "How is your health?")?" responds, "All praise is due to God." However, this positive appraisal of good health might seem to suggest that illness is an evil to be eliminated at any cost. No doubt illness is regarded as an affliction that needs to be cured by every possible legitimate means. In fact, the search for a cure is founded upon the unusual confidence generated by the divine promise that God has not created a disease without creating its cure.<sup>6</sup>

Hence, the purpose of medicine is to search for a cure and provide the necessary care to those afflicted with diseases. The Muslim physician's primary obligation is to provide care and alleviate the patient's suffering. Decisions about ending the life of a terminally ill patient at her/his request are beyond his moral or legal obligations. The Qur'an states its position in no uncertain terms: "[I]t is not given to any soul to die, save by the leave of God, at an appointed time" (Q. 3:145). Moreover, "God gives life, and He makes to die" (Q. 3:156) and, hence, "A person dies when it is written" (Q. 3:185, 29:57, 39:42).

Death, then, comes at the appointed time by God's permission. In the meantime, humans are faced with the suffering caused by illness. How does

Islam view suffering? Is it part of the divine plan to cause suffering? To what end? These general questions about the meaning and value of suffering should lead us to appraise the suffering caused by prolonged illness to an individual's personal and family life. The need to take a decision to end one's life arises precisely at that critical point when the sick person is undergoing severe discomfort and desperation, and when all forms of advanced medical treatments have failed to restore her/his hope in getting better.

Closely related to such a consideration on the part of the sick person is whether the unbearable circumstances caused by one's interminable illness make existence worthwhile at all. Does such an existence, which is almost equivalent to non-existence because of the intense sense of helplessness in managing one's life, possess any value for its continuation? Beneath these concerns remains a deeper question about the quality of life that individuals and society regard as worth preserving.

The discussion about the quality of life points to the cultural and religious attitudes regarding human existence and the control over life and death decisions when an individual is overcome by suffering. Furthermore, it underscores the view that a human being has the stewardship, but not the ownership, of his body so that he can assert his right to handle it the way he pleases. He is merely the caretaker, the real owner being God, the Creator. As a caretaker, it is his duty to take all the necessary steps to preserve it in a manner that would assist him in seeking the good of both this world and the next. In light of such a stipulation about human duty toward his earthly existence in Muslim theology, the problem of human suffering through illness assumes immediate relevance. The Qur'an provides an essential philosophy behind human suffering by pointing out that it is a test or trial to confirm a believer's spiritual station:

O all you who believe, seek your help in patience and prayer; surely God is with the patient. ... Surely We will try you with something of fear and hunger, and diminution of goods and lives and fruits; yet give thou good tidings unto the patient who, when they are visited by an affliction, say, 'Surely we belong to God, and to Him we return'; upon those rest blessings and mercy from their Lord, and those – they are the truly guided. (Q. 2:153-57)

In this situation, suffering is caused by a divinely ordained trial. More pertinently, it functions as an instrument in revealing God's purpose for humanity and reminding it that ultimately it belongs to God and will return to God. Accordingly, from this perspective it cannot be regarded as evil. In a well-known tradition, the Prophet is reported to have said: "No fatigue, nor

disease, nor sorrow, nor sadness, nor hurt, nor distress befalls a Muslim, even if it were the prick he received from a thorn, but that God expiates some of his sins for that.”<sup>7</sup>

Hence, understanding suffering is central to Islamic understandings of health and illness. As pointed out earlier, human suffering in any form raises the question of God's power and knowledge over what befalls human beings. God's overwhelming power is the most important doctrine in Muslim theology. God is not only the Creator of all things, including human destiny (*qadar*), but also determines the ultimate outcome of human decisions. Such a deterministic theology primarily gives rise to the problem of reconciling God's justice with existing evil. It also has tendencies toward resignation and almost passivity in dealing with illness and other forms of affliction. Our everyday experience with death and disease provides us with plenty of grounds to complain about the sad fact that, in view of what modern medicine promises to do for the sick, faith in the inscrutable ways of God's decree offers little comfort to those who want to see an end to the agonies associated with incurable diseases.

Muslim theologians have done their best to comprehend the rationale of suffering, for instance, of children and even animals. Explaining why bad people suffer, even though unconvincing, has been easier because of the causal link drawn between sin and suffering by majority of Muslim theologians. But what sins can one count for the suffering of innocent children? The suffering of children in reproductive technologies and genetics, as well as the unprecedented devaluation of a defective fetus in contemporary biomedical advancements, await a full accounting of the ethics of fertility clinics and prenatal genetic screening.

### **Islamic Biomedical Ethics<sup>8</sup>**

Secular bioethics in the Muslim world today has severed its partnership with faith communities in resolving the moral problems that have arisen in clinical situations and public health around the world. International bodies like the WHO and UNESCO, which support local efforts in developing culturally sensitive bioethical curriculum, still appear to be unaware of the essentially religious nature of the Muslims' bioethical discourse and the need to engage religious ethics in the Muslim context to better serve those whose cultures take religion more seriously. An examination of the emerging literature on Muslim bioethics, mostly authored by interested Muslim physicians, shows that those who represent Muslim bioethics do not take local cultures and their

religious ingredients seriously enough to speak with the necessary acumen and sensitivity about Muslim culture-friendly bioethics. Thus secular bioethics, with its emphasis on liberal western values, does not fully resonate with local and regional Muslim values.

## The Fundamental Principle of Public Good in Islamic Bioethics

The principle of public good consists of each and every benefit that has been made known by the purposes stated in the divine revelation. Given that some jurists have essentially regarded public good as safeguarding the Lawgiver's purposes, they have discussed this principle in terms of both the types and the purposes they serve. The Shari'ah is instituted in the interests of Muslims, whether these interests pertain to this life or the next. In order to safeguard these interests and achieve God's purposes for humanity, it seeks to promote three universal goals. These goals are discussed under the following universal principles, whose authority is based on a number of probable instances and supporting documentation in the revelation:

1. **The Essentials or Primary Needs (*al-Darūriyāt*).** These are indispensable things promulgated for the good of this and the next world, such as providing healthcare to the poor and downtrodden. Such actions are necessary for maintaining public health and the good of people in this life and for earning reward in the next. Moreover, without them life would be threatened, thereby resulting in further suffering for people who cannot afford even the basic necessities of life. According to Muslim thinkers, the necessity to protect the essentials is also felt across traditions among the followers of other religions. The good of the people is such a fundamental issue that there is a consensus among all people that when one member of a society suffers, others must work to relieve the afflicted.<sup>9</sup>
2. **The General Needs (*al-Ḥājiyāt*).** These enable human beings to improve their life and remove those conditions that lead to chaos in one's familial and societal life in order to achieve high standards of living, even though these necessities do not reach the level of the essentials. These benefits are such that, if not attained, they lead to hardship and disorder but not to corruption. This kind of common good is materialized in matters pertaining to performing one's religious duties, managing everyday life situations, maintaining interpersonal relationships, and upholding a penal system that prevents people from harming others.<sup>10</sup>

3. **The Secondary Needs (*al-Taḥsīnāt*).** These are commonly regarded as praiseworthy deeds that lead to the avoidance of those things regarded as blameworthy. They are also known as “noble virtues” (*makārim al-akhlāq*).<sup>11</sup> In other words, although they do not qualify as “primary” or “general” needs, their goal is to improve the quality of life, to make them easily accessible to the average member of a society, and even to embellish them in order to render these noble virtues more desirable.<sup>12</sup>

One of the issues in the Muslim world that is assessed in terms of public good is assisted reproduction in sex selection, defined as any practice, technique, or intervention intended to increase the likelihood of the conception, gestation, and birth of a child of a specific sex. Some Muslim parents prefer one sex for cultural or financial reasons. Some jurists have argued in favor of sex selection as long as no one, including the resulting child, is harmed. However, others have disputed the claim that it is possible for no harm to be done in sex selection by pointing to violations of the divine law, natural justice, and the inherent dignity of human beings.<sup>13</sup>

The principle of public good has also been examined in terms of collective or individual goodness. When the juristic rule of *istiḥsān* (i.e., choosing between two possible solutions of a case within the context of recognized sources of Islamic law) is evoked to justify a legal-ethical solution, the actual rationale is based on considering the common welfare that is unrestricted and reaches the largest number. However, it is sometimes likely that an individual benefit could become the source for a ruling that could clash with another ruling that entails morally superior consequences. To put it differently, the only criterion for legislation on the basis of public good is that the ruling must lead to the common good, even when it is prompted by a specific individual good.

The underpinning of the Qur'an's primary ordinances (e.g., saving human life or maintaining just order) is this kind of good. However, the consideration of individual welfare is provided by the context of change for a ruling from primary to secondary (e.g., prolongation of life without any hope for cure), so that it can benefit a particular individual in a particular situation. To be sure, any elimination of the primary ordinance that requires saving life and its change to a secondary ruling that allows discontinuing extraordinary care takes place in the context of a particular situation. In this sense, common interests function as criteria for legislation, whereas individual interests function as the context for secondary rulings. This change from common to individual good causes disagreement among Muslim jurists trying to determine the benefits and harms of the situation under consideration.<sup>14</sup>

## Autonomy and Piety

The international community has shown a growing interest in Islamic perspectives in bioethics. It is important to keep in mind that autonomy, as the patient's overriding right, found institutional and legal-ethical support in the West. Western notions of universal human rights rest on a secular view of the individual and of the relations between such individuals in a secularized public sphere. The idea of individuals as bearers of something called "rights" presupposes a very particular understanding and reading of the self essentially as a self-regulating agent. This modern idea of the autonomous self envisions social actors as self-contained matrixes of desires who direct their own interests.

In Islamic communitarian ethics, however, patient autonomy is far from being recognized as one of the major bioethical principles. Islam's universal discourse conceives of a spiritually and morally autonomous individual capable of attaining salvation outside the nexus of the community-oriented Shari'ah, with its emphasis on integrated system of law and morality. The Shari'ah did not distinguish between external acts and internal states because it did not regard the public and the private as unrelated in the totality of individual salvation. Islam's communal discourse sought to define itself by legitimizing individual autonomy within its religiously based collective order by leaving the individual free to negotiate his/her spiritual destiny, while requiring him/her to abide by a communal order that involves the play of reciprocity and autonomy upon which a regime of rights and responsibilities are based in the Shari'ah.

Practical piety and reliable character are emphasized in connection with all professions. Although a physician does not have to be pious in order to be competent, because a physician's work is essentially to take care of his/her patient, piety and good character nevertheless aid in the general acceptance of the physician's advice and bad character detracts from its value. A physician should be a cultured person, one aware of the sensibilities of the people among whom he/she works. In Muslim culture, a physician has to work hard to gain the patient's trust and cultivate professional confidence.

Islam places a great emphasis on virtue and obligation in connection with the medical profession because medicine deals with the most valued aspect of existence: the preservation of human life. Bad character in a physician is seen as a mortal poison and a sure path to perdition. The sicknesses of the heart and the diseases of the soul are regarded as a great threat to the normal professional role assumed by a physician. Moreover, the society and institutions that provide medical care have certain expectations from a person to

whom they entrust their physical wellbeing. Muslim ethicists lay down canons by which virtues become ingrained in a skillful physician's practice.

Techniques of meditation and prayers are suggested for medical professionals to focus their attention on the wholeness of human care, and not simply to their physical condition. In this way, each medical professional in a Muslim community is expected to learn not only the origins and causes of sicknesses that cause the loss of corporeal life, but he/she also begins to pay attention to the diseases of heart and soul. In this latter diagnosis, Muslim physicians go beyond the role-related technical skill and equip themselves with a character built on virtuous life in order to understand the profession's religious/psychological dimensions. The two most important virtues emphasized in Islamic professional ethics are spiritual and moral consciousness (*taqwā*) and patience (*ṣabr*). The physician must cultivate these two virtues by leading a balanced and moderate life and not waste time and energy indulging in pleasure and amusements.

The question of professional ethics is directly connected to a religious problem of the relationship between action and its impact upon human conscience. To state it briefly, human acts have a direct impact upon the development of the conscience, which, in the Islamic tradition, is regarded as the source of determining the rightness or wrongness of human undertakings. The conscience must be constantly guarded against corruption. When it becomes corrupted as a result of neglecting ethical matters related to the production of daily sustenance, no moral safeguard is left to prevent these professionals from engaging in more serious acts that would lead to the destruction of the very fabric of social relations founded upon the divinely ingrained sense of justice and fairness. Both intention and reflection must precede all human acts that infringe upon the spiritual and physical wellbeing of others.

Here it is important to keep in mind that Islam requires both patient and physician to observe ethical discipline. Patients should respect their physicians, strictly follow their orders, and regard them better than their best friends. Patients should have direct contact with their doctors and fully confide in them regarding their sickness. In fact, it is better for people to stay in touch with a physician who can advise them about their health before they actually need treatment.

## **Conclusion: The Spiritual Care of Muslim Patients**

Spiritual care begins by providing settings that permit, and preferably encourage, religious observance and follow the rules of interpersonal behavior in

providing care and carrying out interventions. Spiritual care, however, also involves supporting appropriate decision making. Healthcare practitioners have to be able to provide patients and families with information that is appropriate to religious, communitarian ethical decision making, and to respect the process that such decision making must take. As part of this process, it may be necessary for the patient and family to consult a trusted physician and/or imam, and communication protocols may need to be adapted to include these key people. The negotiable and local character of Islamic communitarian ethics should be a reminder to healthcare practitioners that a “fact file” approach to care is, at best, inadequate.

## Endnotes

1. The major compilations of Prophetic traditions consist of hadith-reports that advise Muslims on dietary laws and permissible foods and drinks. Among these traditions are those that teach the followers of the Prophet to be moderate in eating. For instance, in Ibn Maja, *Sunan* (Beirut: al-Maktabat al-‘Ilmiyyah, n.d.), 2:1111, in the section on foods, one reads the subtitle: *Bāb al-Iqtīṣād fī al-Akl wa Kirāhat al-Shib’* (Section on Moderation in Eating and Reprehensibility of [Eating] with Satiation). This section contains traditions in which the Prophet declares explicitly that those who have full stomachs in the world shall suffer hunger for a longer period on the Day of Judgment.
2. The tradition is reported on the authority of Umar, who said: “The Prophet instructed to teach the children swimming, archery, and horse riding.”
3. A number of traditions to this effect have been cited in George F. Hourani, “Ibn Sina’s ‘Essay on the Secret of Destiny,’” in *Bulletin of School of Oriental and African Studies*, University of London (1966): 25-48.
4. Literally: “There shall be no harming, injuring, or hurting, [of one person by another] in the first instance, nor in return, or requital, in Islam” (See Edward William Lane, *An Arabic-English Lexicon*, off-print edition [Beirut: Librairie du Liban, 1968], part V, 1775). This is the rule of “No harm, no harassment.”
5. Peter Antes, “Medicine and the Living Tradition of Islam,” in *Healing and Restoring: Health and Medicine in the World’s Religious Traditions*, ed. Lawrence E. Sullivan (New York: Macmillan, 1989), 173-208, discusses the problem of assessment and diagnosis of culturally diverse individuals in Germany, and underscores the importance of understanding Muslim patient’s religious and cultural backgrounds for a successful diagnosis and treatment.
6. *Ṣaḥīḥ al-Bukhārī, Kitāb al-Mardā* (Chicago: 1979), vol. 7, hadith no. 582.
7. *Ibid.*, hadith no. 545.
8. For a detailed discussion on the subject, see Abdulaziz Sachedina, *Islamic Bio-medical Ethics: Principles and Application* (New York: Oxford University Press, 2009).

9. Abu Hamid al-Ghazali, *Kitāb al-Mustaṣfā min 'Ilm al-Uṣūl* (Cairo: Bulaq, 1904-7), 174ff., Ibrahim b. Musa al-Shatibi, *Al-Muwāfiqāt fī Uṣūl al-Sharī'ah* (Beirut: Dar al-Jil, n.d.), 2:8ff.; Ibn Badran al-Dimashqi, *Al-Madkhal ilā Imām Aḥmad b. Hanbal* (Beirut: Mu'assassah al-Risalah, 1401/1981), 295; Abd Allah b. Ahmad Ibn Qudama, *Rawḍat al-Nāzir wa Jannat al-Manāzir* (Riyadh: Jami' al-Imam, 1399/1978), 3:170.
10. Muhammad b. Umar al-Razi, *Al-Maḥṣūl fī 'Ilm al-Uṣūl al-Fiqh* (Riyadh: Jami' al-Imam, 1400/1979), 6:220 quotes al-Ghazali regarding the lack of authoritativeness of the principle of *maṣlaḥah* in the area of the Necessities. In general, Ghazali maintains that to derive a legal decision only on the basis of the public good, without any reference to another principle based on the revelation, is not appropriate. However, he adds, such a ruling is necessary in positive law, and it is for this reason that it is possible that a jurist's final judgment may end up citing this principle without any proof from the revelation itself (*Al-Mustaṣfā*, 175). In other words, he does admit the possibility of independent reasoning based on public good to derive a legal-ethical ruling.
11. Shatibi, *Al-Muwāfiqāt*, 2:9.
12. Ghazali, *Al-Mustaṣfā*, 175.
13. Shatibi, *Al-Muwāfiqāt*, 2:9-10; Muhammad Sa'id Ramadan al-Buti, *Ḍawābiḥ al-Maṣlaḥah fī Sharī'ah al-Islāmiyah* (Beirut: Mu'assassat al-Risalah, 1401/1981), 219.
14. For instance, after explaining the good of this and the next world, Shatibi opens up a new section and states very clearly: "As for the public good and corruption, if they happen to be outside customary law, then it requires further investigation [before any ruling can be given]." He provides examples of eating a dead body or other contaminated foods under certain circumstances out of necessity, cutting a limb that has been affected by irremediable disease, and so on, on the basis of disagreement between the good the potential corruption that might occur while adopting one or the other course of action. See: *Al-Muwāfiqāt*, 2:23-25.

### Selected Bibliography

- Antes, Peter. "Medicine and the Living Tradition of Islam." In *Healing and Restoring: Health and Medicine in the World's Religious Traditions*. Edited by Lawrence E. Sullivan. New York: Macmillan, 1989.
- Al-Ghazali, Abu Hamid. *Kitāb al-Mustaṣfā min 'Ilm al-Uṣūl*. Cairo: Bulaq, 1904-07.
- Hourani, George F. "Ibn Sina's 'Essay on the Secret of Destiny.'" *Bulletin of School of Oriental and African Studies* (1966).
- Ibn Maja. *Sunan*. Vol. 2. Beirut: al-Maktaba al-'Ilmiyyah, n.d.
- Lane, Edward William. *An Arabic-English Lexicon*. Off-print edition. Beirut: Librairie du Liban, 1968, part V, 1775.
- Sachedina, Abdulaziz. *Islamic Biomedical Ethics: Principles and Application*. New York: Oxford University Press, 2009.

## Discussion

### **Discussant:** Ebrahim Moosa

I am struggling very hard to find a problem with your presentation. You raise the issue of Shaykh Atia's breast-feeding fatwa, but he does not understand human biology. Women do not lactate all the time. I find the trend is away from the deontological discussion to an ethical discussion. The inquirer should not be treated as a child. The Qur'an and Sunnah are supposed to push us forward, but instead we are always looking backward and so we are held back. We are anxious about the Qur'an and the Prophet. *Tawṣīyah* rather than *ḥukm*, recommendation rather than judgment, pushes the patient into a morally autonomous zone. A patient needs resources to make that decision. Doesn't this require patient literacy? You gave examples from traditional *fiqh* on the necessity for the individual to decide. Al-Ghazali requires that the individual have minimal knowledge, even if it is just to know who is the better-informed *faqīh*.

You introduced an important point about conscientious decision making. This could be a real opening as to what kind of literacy is required. You also clarify individual vs. communitarian decision making. Traditional *fiqh* is based on understanding the relationships that inform inheritance and kinship relationships and so on. The anxiety in Muslim circles is that the traditional kinship model will be reduced to the genetic model. When technology reveals new dimensions of the body and the self, how is the traditional model affected? I can empathize with the permissibility of sperm donation because adultery is an impermissible physical act.

**Sachedina:** There is a tension in how Muslims define relationships. Communitarian ethics is not the only way to define Islamic ethics. I only say that relationships are very important and that autonomy assumes a position below communal concerns. The role of conscience is important in a way to which *iftā'* has not given any attention. The empowerment of the individual has not taken place in the Muslim world. The Qur'an is not only iconoclastic, but also against claims of special position by certain people; however, in the culture that is not the case. There is the desire to let others make the decision.

### **Discussant:** Imad-ad-Dean Ahmad

What is at the heart of this talk is the fundamentals of the consideration of ethics in *iftā'*, rather than bioethics per se. Understood this way, I agree with its thrust. Like you I am a chaplain at a hospital. But in my case it is an Adventist Hospital, which emphasizes the spiritual as well as the material aspects of healing. The Shari'ah is more than just the revealed law. We know it means "path," because like the path to the well it is divine given and humanity's job is not to invent it but to discover it.

If you take two passages together, the Qur'an does identify the time of personhood (ensoulment). One passage says that the time of a child's full dependency on its mother is thirty months; elsewhere it says the full term of weaning is twenty-four months. Simple arithmetic says there is an additional six-month period apart from the time of breast

feeding covered by the term “full dependency.” If this six-month period follows weaning, then I have no idea what it means. However, if it precedes weaning, then it implies that the fetus is a person during the last six months of pregnancy. Therefore, during the first three months it is not a person. This places ensoulment at about ninety days rather than the 120 days mentioned in the hadith. This is not a problem for me, as I always prefer the Qur'an over the hadith. When you try to obtain a purely rational or a purely scientific answer to the question, things get messy. Many atheists concerned with abortion have tried to define when personhood begins, and their answers diverge widely: at conception, at birth, when the heart is audible, when brain waves appear, and so on. They are trying to obtain a physical answer to what is a metaphysical question.

I question the statement that argument of permission by necessity is based on prohibiting difficulty in religion. Rather, I think it is based on multiple Qur'anic verses that give explicit consent to eating otherwise *ḥarām* food on the grounds of necessity (Q. 2:173, 6:119, 6:145, and 16:115).

The argument that a woman can sidestep the problem of being in an adult male co-worker's physical presence by suckling him is not an example of the contradiction between reason and revelation so much as of poor reasoning. The hadith on which it is based (e.g., *Ṣaḥīḥ Muslim*, hadith no. 3427), as you imply, should be dismissed due to the text's moral weakness.

On the question of whether sexual intercourse is necessary for adultery, I think we must remember that adultery comes from the root of adulteration, meaning of the “bloodline.” Substituting genes for blood does not alter the principle. I am not saying that sperm donation is necessarily evil; I am only saying that we should approach it the same way we approach adoption, of which it seems to be a variety.

I would like to apply your point on the difficulties caused by an absence of moral explanation more broadly. The problems become the most difficult when the Qur'an gives no reason, such as the distinction between *riba* and trade, and the restrictions on beating women.

## General Discussion

- What did Khamenie do with the Qur'anic verse “Know them by their fathers” and the hadith “the child belongs to the marriage bed” when he allowed a third-party sperm donation? Kinship is through *rahm* (the womb) not the blood.
- Khamenie rescinded his fatwa in the next edition. Perhaps senior *mujtahids* drew his attention to his error. He often has a committee sit with him and advise him on *iftā'*. Khamenie was politically promoted; his scholarship is managed by others. The senior (first tier) *mujtahidīn* disagreed with him on this issue. Khamenie is in the third tier.
- What happens to those who followed his first edition?
- Is not a false accusation of adultery an example of psychological harm? Khaled Abul Fadl says that law and ethics do not always correlate. It has been argued that the Mu'tazilis and the early Ash'aris started with deontological ethics and shifted to consequentialist ethics.

- Slander is a public crime, but rape, which is a trauma, was not necessarily recognized as a public crime until Bosnia. There rape was used as a weapon of war. Imam Khomeini declared rape to be a harm that would permit abortion in the first thirteen days, but others disagree. I think our criticism is introducing the subject of moral reasoning into *fiqh*.
- Most Mu'tazilis accepted the deontological, but the Ash'aris did not because they think only God knows good and evil. The medical community respects chaplains, but the ultimate decision is made by the hospital's ethics committee. Our influence depends on how much faith they have in us.
- Are Indonesians unrestrained by the four *madhhabs* because they have a different culture?
- As for rethinking *fiqh* in a cultural context, *fiqh* means to understand and so *fiqh*, as an activity, is different from the Shari'ah. It is a growing body of knowledge and thus will differ according to culture.
- I am trying to clarify *hukm* and *tawṣīyah*. I believe morality has always been there, but there has been a lack of understanding the issues.
- *Fitrah* is not sufficient; we need revelation. The texts have many references to conscience. The Qur'an emphasizes *īmān* more than *ihkām*, because once you have submitted Allah's guidance is sufficient for you.
- In rural areas of Morocco women openly nurse their infants by the side of the road, and no one is shocked or even surprised. It is doubtful if our current Puritanism was the norm when the *ahkām* were established. Giving an illegitimate child the name of *ibn abīhī* (child of his father) today would mark the child for life. We have to find a *maṣlahah* for the individual because we know that the blame for the illegitimate child cannot be put upon him.
- Even in the time of the Prophet there were different interpretations of the Qur'an and Hadith, such as the people who were told to pray when they reached the Bani Qurayzah. Umar ibn al-Khattab suspended the *ḥadd* of theft, to much controversy. The stages of the fetus are mentioned in the Qur'an, and I like what al-Ghazali said: Life starts at fertilization and is thus like the contract of buying or selling in that destroying the embryo at any of its three stages has a specific monetary penalty: *'arsh* = 10 dinar, or double or triple. There is also the question of who dies first and who dies second as regards taxing the inheritance.
- I understood there is an enforcing body for *hukm*, whereas the mufti is dependent upon the one who follows him. Khamenie's fatwa (which was requested by doctors) was not adopted by the government. *Akhlāq* (morality) is essentially intertwined with *fiqh*. The Prophet's language was *akhlāq*, but that was before you had an Islamic empire. Conscientious objection is not developed in *fiqh*. For me, *uṣūl al-fiqh* is ethical. *Al-waḥy awlā min al-'aql*. There is clearly a link, but it has not been well developed. I am not saying that all Muslim jurists ignore ethics.
- The Companions saw the Qur'an as the Prophet and the Prophet as the Qur'an, because it was not there in a manuscript form. Thus *īmān* in the Qur'an required submission to the Prophet. Today it is a struggle to keep the two together.

- Our *fuqūhā'* said when the father's identity is unknown the child must be known by the mother's name specifically to avoid such stigma. People who were called ibn *abīhī* or such were being insulted, sometimes for political reasons.
- We are teaching the *waṣīyah* (Islamic will) today.
- How does the contrast of the western focus on the individual with the Muslim focus on the individual as part of a family or community affect Muslim immigrants?
- Why is the individual's opinion more important than that of the family? Sometimes the illness is such that the person cannot make that decision and thus we empower the family to do so. When a patient needs a stent in Iran, the doctors do not accept his approval before consulting his family.