

## COUNTRY REPORT

### ISLAMIC MEDICAL ETHICS: A PRIMER

AASIM I. PADELA

#### Keywords

*Islamic bioethics,  
Islamic Medical Ethics,  
Islamic law,  
Muslim ethics,  
transcultural ethics,  
Adab*

#### ABSTRACT

*Modern medical practice is becoming increasingly pluralistic and diverse. Hence, cultural competency and awareness are given more focus in physician training seminars and within medical school curricula. A renewed interest in describing the varied ethical constructs of specific populations has taken place within medical literature. This paper aims to provide an overview of Islamic Medical Ethics. Beginning with a definition of Islamic Medical Ethics, the reader will be introduced to the scope of Islamic Medical Ethics literature, from that aimed at developing moral character to writings grounded in Islamic law. In the latter form, there is an attempt to derive an Islamic perspective on bioethical issues such as abortion, gender relations within the patient-doctor relationship, end-of-life care and euthanasia. It is hoped that the insights gained will aid both clinicians and ethicists to better understand the Islamic paradigm of medical ethics and thereby positively affect patient care.*

With the increasing diversity in medicine, today's practicing clinician, particularly in the United States and Europe, encounters patients from a wide spectrum of socioeconomic and cultural backgrounds. The cultural background of both the clinician and the patient influences the meanings attached to clinical encounters and interventions. Thus, cultural competency is given increased focus within medical education programs. While no universally accepted definition of the culturally competent physician exists, a common element is seen in the various formulations, that being a physician who possesses the knowledge-based skills to adjust his or her attitudes and behavior in order to provide effective clinical

care to patients from diverse backgrounds.<sup>1</sup> Within the sphere of patient-doctor interaction bioethical conflicts can arise due to religious and cultural differences between the practitioner and the patient, thus cultural competency has a place within medical ethics discourse. In this light Islamic Medical Ethics is presented.

<sup>1</sup> A. Misra-Hebert. Physician cultural competence: Cross-cultural communication improves care. *Cleveland Clinic J Med* 2003; 70(4): 289–303; US Department of Health and Human Services-Bureau of Health Professions *Other Definitions of Cultural Competency*. Rockville, Maryland: HRSA. Available at: <http://bhpr.hrsa.gov/diversity/cultcomp.htm> [Accessed 20 Nov 2006].

## ISLAMIC MEDICAL ETHICS

Ethics is classified as a sub-branch of applied philosophy that is intrinsically related to morality as it seeks to define ‘the right and the wrong, the good and the bad set of behaviors in a given circumstance’.<sup>2</sup> Further, Medical Ethics is a subdivision of ethics that is concerned with moral principles as they relate to biomedical science in the clinical and investigational arenas. As Western ethics has developed into a philosophical science it has moved away from a Christian conception of good and evil, readily seen in the writings of Kant and Augustine, to draw more upon human reason and experience as the arbiter between right and wrong action. This development from religious ethics to philosophical ethics is not paralleled in Islamic intellectual discourse. While Islamic ethics incorporates various philosophical traditions it still holds a religious worldview and draws its resources mainly from, religious texts.

### Ethics within Islamic intellectual discourse

In order to define Islamic Medical Ethics, it is important to note that Islamic ethics as a cohesive discipline does not exist. Material on ethics is scattered throughout the Islamic sciences of *Fiqh* (jurisprudential understanding), *Tafsir* (Qur’anic exegesis), and *Kalam* (scholastic theology).<sup>3</sup> Only in modern writings, has consolidation been attempted in order to allow for comparative study. Furthermore, when conducting such investigations it is important to realize that there is no exact word for ethics in Arabic. Two Arabic terms that approximate the meaning are *Akhlaq* and *Adab*. *Akhlaq* is derived from an Arabic root word meaning ‘to create’ or ‘to form’ thereby signifying innate qualities, and is used to mean morality or character. While in English the terms ‘ethics’ and ‘morality’ have different origins and connote different meanings, the former being what is ‘appropriate and rational’ and the latter being more subjective and amenable to change over time, being what is ‘com-

monly felt and done’, in Islamic thought this distinction is not so apparent as *ilm-ul-Akhlaq*, literally the knowledge of morality, is also the science of ethics.<sup>4</sup>

The term *Adab* has a wider range of meanings within Islamic intellectual thought, and has developed into a specific genre within Arabic literature. *Adab* represents the ‘linking of learning and knowledge to right and appropriate human conduct... that is the foundation of the human personality’.<sup>5</sup> *Adab* literature is related to character ethics, both in the personal and professional realm. The relation between *Adab* and *Akhlaq* in modern parlance is that *Adab* literature refines *Akhlaq*; works of *Adab* aim to refine character. There is a substantial amount of writing from the classical era on both *Adab* and *Akhlaq* as they relate to the medical field, the crowning achievement being the treatise *Adab al-Tabib (Practical Ethics of the Physician)* by Ishaq ibn Ali al-Ruhawi a ninth-century physician residing under the Islamic caliphate in modern-day Iraq.<sup>6</sup> This genre is still prominent today as witnessed by the multitude of works relating to Islamic codes of medical ethics. Thus, one type of literature that falls within the purview Islamic Medical Ethics discourse is *Adab* literature.

### Ethics within Islamic juridical discourse

While *Adab* literature calls to universal virtues and timeless morals, the other type of Islamic medical ethics discourse is more distinct and is grounded in Islamic legal tradition. This is necessarily so since many Muslims when asked as to what is the source of their ethical code and where they turn when facing ethical dilemmas, would direct the questioner towards Islamic *fiqh* (jurisprudential understanding) and the *Shari’ah* (Islamic law). Similarly, ethicists in the Muslim world may refer to the *Shari’ah* when debating abortion, euthanasia, end-of-life care, and other biomedical issues. In Islam bioethical deliberation is inseparable from the religion itself, which emphasizes continuity between ethics and

<sup>4</sup> Ibid: 423.

<sup>5</sup> A. Nanji. Medical Ethics and the Islamic Tradition. *J Med Phil* 1988; 13: 257–275.

<sup>6</sup> M. Levey. Historical Notes. In *Islamic Medicine*. S. Athar, ed. online publication available at <http://islam-usa.com/im1.html> [Accessed 20 Nov 2006].

<sup>2</sup> S. Aksoy & A. Elmali. The Core Concepts of the ‘Four Principles’ of Bioethics as found in Islamic Tradition. *Med Law* 2002; 21: 211–224.

<sup>3</sup> A. Siddiqui. Ethics in Islam: key concepts and contemporary challenges. *J Moral Education* 1997; 26(4): 423–431.

jurisprudence.<sup>7</sup> Hence Islamic Medical Ethics is tied to Islamic Law (*Shari'ah*), as Islamic Law not only legislates but also assigns moral values.<sup>8</sup>

It is important to understand the relationship between two Arabic terms that are a source of much confusion: *Fiqh* and *Shari'ah*. *Fiqh*, often translated as jurisprudence or law, has a much broader definition. The term literally means, 'understanding or discerning', and connotes insight and comprehension.<sup>9</sup> *Fiqh* spans both theology and jurisprudence as the 'objects of *fiqh*-understanding are either religion (its values or rulings) or sources of law and statutes'.<sup>10</sup> Thus *fiqh* represents the formulated legal ruling on a subject matter and/or the moral value assigned to a particular action. However, the mechanism of *fiqh*-understanding, the process by which one arrives at the *fiqh*-law, is also called *fiqh*. This elliptic quality is a source of great misunderstanding to the unfamiliar reader. The science that identifies the sources of *fiqh* and also lays down rules for weighing these sources against each other in cases of conflict is *usul-ul-fiqh*, literally the roots of law.

The Arabic term *Shari'ah* literally means 'the way to the water' and has two dimensions.<sup>11</sup> The first being physical as the corpus of legal rulings, precedents and statutes, (a collection of *fiqh*) and the second being intellectual, as the moral code of Islam. Just as the root meaning of the *Shari'ah* points one to water, the source of all life, in Islamic teaching the *Shari'ah* is the source of Muslim existence as it represents 'the correct path of action as

determined by God'.<sup>12</sup> A popular representation of *Shari'ah* is that of 'a highway along which to travel in order to lead the moral life'.<sup>13</sup> The *Shari'ah*, not only separates actions into required and forbidden, but also the intermediate categories of recommended, discouraged and permitted. Consequently, Islamic 'law' is both a legal and ethical system and any discussion of Islamic Medical Ethics must incorporate the *Shari'ah*.

## ISLAMIC MEDICAL ETHICS AS ADAB LITERATURE

### Classical Literature on Medical Adab

One of the forms that Islamic Medical Ethics discourse takes is *Adab* literature. This genre within Islamic literature advises to proper manners and seeks to inculcate practical morals. Within the professions, this type of writing was used to compose manuals of professional standards and ethics. Consequently, medieval Arabic literature is replete with works on the ethics of judges, politicians, students and physicians.

Although Hellenistic writings on the practice of medical profession contained no explicit religious code they did call to general piety and sincerity. Similarly, since the medical art was closely related to religion in ancient Egypt, India, and Persia, piety was deemed a necessary professional characteristic.<sup>14</sup> When these treatises came to be known in the Islamic civilization this ideal was accepted and augmented. As Nanji states, 'though medical traditions and values from antiquity were sustained, many of its details came to be set in Islamic contexts'.<sup>15</sup> Medical *Adab* literature therefore represents a synthesis of Islamic morals and standards infused into older healing traditions, the most significant being Greek and Persian. Many of the most prominent physicians of the classical Islamic civilization concerned themselves with professional ethics, among them were al-Ruhawi, and al-Razi (Rhazes). Each

<sup>7</sup> A. Daar & A. Khitam. Bioethics for clinicians: 21. Islamic Bioethics. CMAJ 2001; 164(1): 60–63.

<sup>8</sup> For the purposes of this paper, by Islamic law we mean Islamic Sacred Law as derived from religious sources. The *Shari'ah* is Islamic Sacred Law. Hence, the *Shari'ah* refers to legal stances and injunctions derived from the science of Islamic jurisprudence (*usul-ul-fiqh*). However, law only becomes law when there is body that enforces it. There exists no state in the modern world that enforces the *Shari'ah* entirely nor one that considers it as the only source of law. However implementing the *Shari'ah* is an individual and collective duty in Islam, and it is both a source of law and a moral code. Accordingly on the personal and at some communal levels the *Shari'ah* is considered a binding guide to morality as well as the source of legal rulings. This point will be explored further throughout the paper.

<sup>9</sup> Siddiqui, *op. cit.* note 3, p. 425; K. Reinhart. Islamic Law as Islamic Ethics. *J Rel Ethics* 1983; 11(2): 186–203.

<sup>10</sup> Reinhart, *op. cit.* note 9, p. 188.

<sup>11</sup> Siddiqui, *op. cit.* note 3, p. 425.

<sup>12</sup> J. Brockopp, ed. 2003. *Islamic Ethics of Life: Abortion, War and Euthanasia*. South Carolina: University of South Carolina Press.

<sup>13</sup> Reinhart, *op. cit.* note 9, p. 188.

<sup>14</sup> F. Rahman. 1998. *Health and Medicine in the Islamic Tradition*. Park Ridge Center, IL: ABC International Group, Inc: 91.

<sup>15</sup> Nanji, *op. cit.* note 5, p. 262.

of these physicians incorporated, and built upon, themes from the Hellenistic medical tradition.

One of the earliest and most thorough treatises on medical ethics is entitled *Adab al-Tabib (Practical Ethics of the Physician)* by Ishaq ibn Ali al-Ruhawi. Al-Ruhawi lived sometime in the second-half of the ninth century A.D. and practiced in the city of Ruha, which was part of the Islamic caliphate at the time, located in an area of present-day northwestern Iraq.<sup>16</sup> Aside from his writings not much is known about al-Ruhawi. He was born a Christian, and there is question as to whether he fully embraced Islam.<sup>17</sup> His audience, however, was predominantly Muslim and his writings contain a religious overtone. He begins *Adab al-Tabib* by stating that his motivation is ‘to elevate the practice of medicine in order to aid the ill and to enlist the aid of God in His support vocationally and otherwise’.<sup>18</sup> In his book al-Ruhawi calls medicine a Divine Art and considers belief in the Abrahamic tradition to be a necessary virtue. Interestingly, however, he quotes Aristotle’s *Metaphysics*, Socrates in Plato’s *Phaedo*, Galen’s *On Ethics*, and multiple works of Hippocrates to support this ideal. Importantly, the use of both the Abrahamic traditions and the Philosophers to further his points shows a distinctly Islamic paradigm; any knowledge that does not specifically contradict with Islam and is a part of the culture of humanity should be accepted as it is a mercy from God.<sup>19</sup> This intellectual tolerance at Islamic centers of learning, and in Islamic discourse, was truly exceptional given the prejudice against, and persecution of different ideologies present in Europe at the time. In the first section of *Adab al-Tabib*, ‘On the Loyalty and Faith Which a Physician Must Hold, and the Ethics He Must Follow to Improve

His Soul and Moral Character’, al-Ruhawi describes three articles of faith that a physician must have: ‘that all in this world has only one able Creator who performs all deeds wilfully’, ‘that he have credence in the great Allah (Arabic term for God) with a firm affection, and is devoted to Him with all his reason, soul, and free will’, and ‘that Allah sent his messengers to mankind to teach them what is good since the mind alone is not sufficient’.<sup>20</sup> He continues by stating that if one does not believe in this, that one ‘may find remedy for his blindness in reading the books of the ancient wise men’ and then references the works of Aristotle, Socrates and others to show the necessity of, and prove, monotheistic belief.<sup>21</sup> For example he quotes Aristotle’s *Metaphysics* in defining God as ‘that which occupies no place is endless, and cannot be included in material like other things’.<sup>22</sup>

Al-Ruhawi’s *Adab al-Tabib* contains twenty chapters, the titles of which are listed in Table 1. As the chapter titles illustrate, *Adab al-Tabib* is not only a manual of professional ethics, but contains significant material on personal hygiene, the patient-doctor relationship, and even comments on the profession as it relates to the government. This monumental work demonstrates the integration of ancient medical principles into the moral framework of a vibrant Islamic culture. Al-Ruhawi’s work attests to the ability of Islamic thinkers to incorporate seemingly disparate traditions and philosophies into an Islamic discourse.

Abu Bakr Muhammad ibn Zakiriyya al-Razi was ‘undoubtedly the greatest physician of the Islamic world and one of the great physicians of all time’.<sup>23</sup> He hailed from the Iranian city of Rayy, born sometime between 841 and 865 AD. and passing away there in 924 or 925 AD.<sup>24</sup> Initially, he was interested in music but later learnt medicine, mathematics, astronomy, chemistry, pharmacy, and philosophy and wrote numerous books relating to these

<sup>16</sup> Rahman, *op. cit.* note 14, p. 92.

<sup>17</sup> M. Levey. Medical Ethics of Medieval Islam with Special Reference to Al-Ruhawi’s ‘Practical Ethics of the Physician’. *Transactions of the American Philosophical Society* 1967; 57(3): 1–99; Levey, *op. cit.* note 6. Even though al-Ruhawi might not have become a Muslim his writings do show the influence of the Islamic environment he was in. His intellectual tolerance and reference to Abrahamic tradition are illustrative of classical Islamic ethical discourse.

<sup>18</sup> *Ibid*: 8.

<sup>19</sup> The terms Abrahamic traditions and Abrahamic religions are used in comparative religious discourse to mainly refer to Judaism, Christianity and Islam. The term denotes a religion derived from the ancient tradition attributed to the Prophet Abraham, the great patriarch described in the Torah, Bible and Qur’an.

<sup>20</sup> Levey, *op. cit.* note 17, p. 19.

<sup>21</sup> Levey, *op. cit.* note 17, p. 20.

<sup>22</sup> *Ibid*.

<sup>23</sup> A. Arberry (trans.). 1950. *The Spiritual Physick of Rhazes*. London. Butler & Tanner Ltd: preface.

<sup>24</sup> *Ibid*: preface; E. Abouleish. Contributions of Islam to Medicine. In *Islamic Medicine*. S. Athar, ed. online publication available at <http://islam-usa.com/im1.html> [Accessed on 20 Nov 2006].

Table 1. The Chapters in *Adab al-Tabib* by *al-Ruhawi*

1.	On the loyalty and faith in which a physician must believe, and on the ethics he must follow
2.	On the means and measures by which a physician treats his own body and limbs.
3.	On things of which a physician must beware
4.	On the directions which a physician must give to patients and servants
5.	On the behavior of the patients visitors
6.	On simple and compound drugs which a physician must consider and on his remedial directions which may be corrupted by the pharmacist and others
7.	On matters of which a physician must question the patients or others
8.	On the necessity for ill and healthy people to have faith in the physician in times of illness and health
9.	On the agreement that the patient must follow the directions of the physicians and the outcome when it is annulled
10.	On the behavior of the patient with his people and servants
11.	On the behaviour of the patient in regard to his visitors
12.	On the dignity of the medical profession
13.	On that people must respect a physician according to his skill but kings and other honorable men must respect him more
14.	Peculiar incidents concerning physicians, that is, those already known, so that the physician may be forewarned. Some are funny and may help him to discover uncooperative persons before the consultation lest he be held responsible for any harm that may occur
15.	On the subject that not everyone may practice the profession of medicine but that is must be practiced by those who have a suitable nature and moral character
16.	On examination of physicians
17.	On ways by which kings may remove corruption of physicians and guide the people in regard to medicine, and how it was in ancient times
18.	On the necessity of warning against quacks who call themselves physicians and the difference between their deceit and the true medical art
19.	On faulty habits to which people are accustomed but which may injure both the sick and health and cause physicians to be blamed
20.	On matters which a physician must observe and be careful about during periods of health in order to prepare for periods of illness, and at the time of youth for old age

Source: M. Levey. Medical Ethics of Medieval Islam with Special Reference to Al-Ruhawi's 'Practical Ethics of the Physician'. *Transactions of the American Philosophical Society* 1967; 57(3): 1-99.

sciences. He served as chief physician for major hospitals in Baghdad and Rayy and is famous for the criterion by which he decided the best place to build a hospital in Baghdad. He is said to have chosen its position by hanging pieces of meat throughout the city, deciding that the ideal location for the hospital is where the putrefaction of meat is slowest. His most renowned works on medicine were *Kitab al-Hawi fi al-tibb* (*The Comprehensive Book on Medicine*) and *Kitab al-Mansuri* (The Book for Mansour), which was dedicated to his patron the

Iranian Prince Abu Salih al-Mansur ibn Ishaq.<sup>25</sup> This work became one of the most widely read medieval medical manuals in Europe for hundreds of years. He wrote a companion to *Kitab al-Mansuri*, dedicated to the 'reformation of the character', and entitled it *Tibb al-Ruhani* (Spiritual Medicine). In this work he details how one can elevate his character by controlling his passions and casting away vices. He makes numerous references to God, but does not base his arguments on Islamic theology. Rather he refers to a common monotheistic understanding of God and honors the Philosophers. He summarizes Plato's advices when discussing the suppression of passions, and when speaking about the virtuous life states 'it consists of treating all men justly' as did 'all the great philosophers'.<sup>26</sup> While al-Razi did disagree with Hellenistic thought on certain matters, it is clear from his works that he did not completely reject the Greeks. His works attest to the general thrust of the Islamic civilization in refining and building upon ancient traditions and adding its own color to the tapestry of intellectual thought.

### Modern Medical *Adab* Literature

The contemporary *Adab* literature pertaining to the medical profession follows a similar pattern. These writings call to universal virtues while packaging them in an Islamic vocabulary. For example in Dr. Arafa's *Ethics of the Medical Profession from the Islamic Viewpoint*, six personal qualities are considered necessary to ethical practice: sincerity, honesty, truthfulness, compassion and sympathy, patience and tolerance, and humility.<sup>27</sup> While these qualities are universal virtues, Dr. Arafa quotes verses of the Holy Qur'an and sayings of the Prophet Muhammad (peace and blessings be upon him) to emphasize that these virtues are an integral part of the Islamic character.

A modern attempt to synthesize a code of medical ethics from the Islamic perspective was undertaken at the International Conference on Islamic Medicine

<sup>25</sup> Ibid: preface.

<sup>26</sup> Ibid.

<sup>27</sup> H. Arafa. *Ethics of the Medical Profession from the Islamic Viewpoint*. Doha, Qatar. Available at <http://www.islamonline.net/iol-english/dowalia/techng-2000-August-22/techng7.asp> [Accessed 20 Nov 2006].

Table 2. *The Eleven Sections in the Islamic Code of Medical Ethics as put together by the First International Conference on Islamic Medicine in 1981*

1.	Definition of the Medical Profession
2.	Characteristics of the Physician
3.	The Physician and his Brother Physicians
4.	The Physician and his Patient
5.	Professional Secrecy
6.	The Physician's Role in Time of War
7.	The Sanctity of Human Life
8.	Responsibility and Liability
9.	The Physician and Society
10.	The Physician and Modern Biomedical Advances
11.	On Medical Education

Source: The Islamic Code of Medical Ethics. *World Medical Journal* 1982; 29(5): 78–80.

held in Kuwait in 1981. The proceedings of the conference yielded the Declaration of Kuwait entitled the *Islamic Code of Medical Ethics*. Although this paper is shorter than *Adab al-Tabib*, it is similar in scope, aiming to set ethical guidelines for the physician in multiple spheres of interaction. It is divided into eleven parts as shown in Table 2. The document concludes with The Physician's Oath, which has been adopted by many Muslim medical schools and organizations for ceremonial purposes.<sup>28</sup> It too calls to universal ideals within the framework of Islamic discourse.

As has been demonstrated one vein within Islamic Medical Ethics discourse is *Adab* literature. This literature not only serves as a quasi-codification of professional ethics, it also speaks to the personal morality of both physician and patient. The reason for this dual emphasis is two-fold. The first being a belief in the ethical responsibility of the physician having two dimensions: one being the care and compassion that must mark the doctor's behavior towards the patient, and the other being that a physician must be righteous for his treatment to be efficacious. The second reason is that according to the Islamic paradigm ethical health is part of general health thus good character leads to physical health.<sup>29</sup>

<sup>28</sup> The Islamic Code of Medical Ethics. *World Medical Journal* 1982; 29(5): 78–80; The Kuwait Declaration: Ethics of medicine in the light of Islamic Constitution. *Medical times* XVI 1981; 32(6).

<sup>29</sup> Rahman, *op. cit.* note 14, p. 96.

## ISLAMIC MEDICAL ETHICS AS RELATED TO ISLAMIC LAW (SHARI'AH)

The distinction of Islamic medical ethics vis-à-vis principlism-based medical ethics lies in it giving a religious basis to morality. Philosophical or secular ethics starts with 'the psychological constitution of man's nature and the obligation laid on him (like the "four principles" [of Beauchamp and Childress]) as a social being, but in Islamic Ethics the basic assumption is faith in Allah (with other pillars of Islam) and morality is the attempt of each individual as well as society to approach Him as far as possible'.<sup>30</sup> This approach to Allah is made through the *Shari'ah*. Collectively state authorities may give the *Shari'ah* supreme legal authority as the only source of law (which no country does today), while individuals may apply Islamic law in their personal life. In this latter realm the *Shari'ah* as a moral code for Muslims is fully functional and is better understood as 'the collective ethical subconscious' of the Muslim community.<sup>31</sup> With this definition as a starting point it follows that any discussion of Islamic Medical Ethics must include analysis of the *Shari'ah*. Muslim patients may refer to the *Shari'ah* when discussing treatment options or seek assistance from an expert in Islamic law when faced with a difficult decision during the course of care. The objective of the *Shari'ah* in finding the possible Divine law is to protect five essentials of the person: life, religion, intellect, honor and integrity and property.<sup>32</sup> Furthermore, scholars have enumerated principles that aid in the formative process of legislation. Of these, five are known as the cardinal rules:

1. Intent is all-important in action;
2. Do no harm: harm must be removed (by a lesser harm) or compensated;
3. The doctrine of legal presumption of continuance;

<sup>30</sup> Aksoy & Elmali. *op. cit.* note 2, p. 216.

<sup>31</sup> A. van Bommel. Medical Ethics from the Muslim perspective. *Acta Neurochir* 1999; [Suppl] 74: 17–27.

<sup>32</sup> A. Gatrads & A. Sheikh. Medical ethics and Islam: principles and practice. *Arch Dis Child* 2001; 84: 72–75; M. Abdel Haleem. 1993. Medical ethics in Islam. In *Choices and Decisions in Health Care*. A. Grubb, ed. John Wiley & Sons Ltd: 1–20.

4. Hardship calls for license;
5. Custom is the rule (is the absence of a ruling).<sup>33</sup>

Lastly, in order to facilitate comparison with other ethical systems and legal structures two broad tendencies that shape Islamic ethical reflection should be stated. The first being a tendency toward theological voluntarism, i.e. that God alone defines the standard of right and wrong, hence the corollary 'that good deeds are good only because God commands them, and evil is evil because God forbids it'.<sup>34</sup> Following this assumption would lead to heavy dependence upon revelation and no role for human deduction. However, there exists a counterbalancing tendency, God's commands are purposeful and as such His will extends to all areas of life and every field of action. Since God's will is purposeful 'human reason in dependence upon revelation can discern rules and apply them'.<sup>35</sup> These two tendencies or assumptions gave birth to the richness of Islamic legal thought and ethical reflection in the development of *usul-ul-fiqh*. *Usul-ul-fiqh* is the science that identifies the sources of *fiqh*-law and also lays down rules for weighing these sources against each other in cases of conflict. The word *usul* in Arabic means 'root' and in the ethical/legal lexicon the '*fiqh*-process . . . (is) a movement from the bases or roots (*usul*) of revelation to specific determinations that constitute the actual dictates of Divine Law'.<sup>36</sup>

### Sources of Islamic law (Usul ul-Fiqh)

The sources of Islamic *fiqh*-law can be divided into material sources and formal sources. The material sources as the Qur'an and the *Sunnah*. The Qur'an is the Muslim holy book and held to be the literal word of God transmitted through the angel Gabriel to the Prophet Muhammad (pbuh) over a period of 23 years. The Qur'an contains 6326 verses of which approximately 500 are explicitly concerned with legal rulings mostly pertaining to worship and religious duties. However, many principles of behavior

are laid out within the text.<sup>37</sup> The Qur'an, as Burton states, 'is a source of knowledge in the way that the entire corpus of legal precedent is for the common law tradition: not as much as an index of possible rulings (rather) as a quarry in which the astute inquirer can hope to find the building blocks for a morally valid, and therefore, true system of ethics'.<sup>38</sup> The *Sunnah* is the second source of binding law and encompasses collections of sayings, actions and silent affirmations of the Prophet Muhammad (pbuh). For Muslims the Prophet Muhammad (pbuh) represents the ideal model of human behavior and multiple Qur'anic injunctions order believers to emulate and obey him. However, the *sunnah*, is not just a mere catalog of moral behavior; it is a collection of data that requires assessment and application. Since the Prophet Muhammad (pbuh) represents a life lived totally in accord with the moral/legal code of Islam he is the normative case<sup>39</sup> as well as the explainer of the code.<sup>40</sup> The *Sunnah* has been compiled in book form in collections called *hadith*.

The formal sources are the product of juristic endeavors to find the *fiqh*-law. These are *ijma'* and *qiyas*. *Ijma'* refers to consensus agreement about the moral and/or legal assessment of an act or practice. Its scope can include how a particular *hadith* or Qur'anic injunction should be applied and interpreted, as well a record of agreement on an issue that may not be explicitly covered by the two material sources. Thus, *ijma'* can be seen as a material source itself. As for the question the consensus of whom, differences exist within the different schools of law.<sup>41</sup> The dominant opinion is that '*ijma'* is the

<sup>33</sup> A.A.A. Yacoub. 2001. *The Fiqh of Medicine*. London. Ta-Ha Publishers Ltd: 43.

<sup>34</sup> D. Brown. Islamic Ethics in Comparative Perspective. *The Muslim World* 1999; 89(2): 181-192.

<sup>35</sup> Ibid: 187.

<sup>36</sup> Reinhart, *op. cit.* note 9, p. 189.

<sup>37</sup> Yacoub, *op. cit.* note 29, p. 16.

<sup>38</sup> J. Burton. 1977. *The Collection of the Quran*. London: Cambridge University Press: *et passim*.

<sup>39</sup> In Islamic theology all of the Prophets are considered protected by God from sin. They were fully human and subject to the same tendencies as all other humans but they lived their life in total accordance to the commandments of God. Their 'errors' in judgement are considered to be Divinely decreed for the purposes of teaching the rest of mankind. Thus they serve as examples of humans who are in perfect harmony and exemplars of perfect human conduct. Therefore there is no concept of original sin in Islam.

<sup>40</sup> Reinhart, *op. cit.* note 9, p. 190.

<sup>41</sup> *Ijma* (consensus agreement) is considered a source of Islamic law by the four major Sunni schools of law- Hanafi, Shafi'i, Maliki and Hanbali. The Hanafi and Hanbali pose no restrictions on consensus in terms of time and place. The Malikis prefer to restrict consensus to the

Table 3. Moral Status of Actions in Shari'ah

Status	Meaning in this life	Consequence in Hereafter
<i>Wajib or Fardh</i> – Obligatory	Minimum actions needed to be performed to be considered part of the Islamic community	Reward for performance Punishment for neglect
<i>Mandub or Mustahabb</i> – Recommended	Commendable actions	Reward for performance No consequence for neglect
<i>Mubah</i> – Permitted	Indifferent	No reward or punishment
<i>Makruh</i> – Discouraged	Should be avoided as a way to piety	No punishment for performance Reward if avoided
<i>Haram</i> – Prohibited	Performance of certain of these acts or legitimacy of performing them takes one out of Islamic community	Punishment for performance Reward for avoidance

Source: K. Reinhart. Islamic Law as Islamic Ethics. *J Rel Ethics* 1983; 11(2): 186–203.

agreement of Muslim learned persons at a time, after the death of the Prophet (pbuh) on a “legal” matter’.<sup>42</sup> *Qiyas* literally means ‘to compare’ or ‘to measure’, and in practice is juristic reasoning by analogy.<sup>43</sup> In application it stands for applying a certain ruling from an established case if the predisposing conditions, which led to the ruling in the first case, apply to a second case. These four sources in descending order of importance, albeit with slight modifications in scope, the Qur’an, *Sunnah*, *Ijma’* and *Qiyas*, are agreed upon by the four major schools of law in Sunni Islam.<sup>44</sup> The four schools – Hanafi, Shafi’i, Maliki and Hanbali – are named after famed jurists who developed systems for weighing evidences in the *Shari’ah* and promulgated their views.

While it is beyond the scope of this paper, there exist other formal sources of law within each school that carry lesser importance than the above mentioned four, these are *isthisan*, which is the principle where equitable considerations may override strict *qiyas*; *maslahah*, which is the consideration of public welfare or interest; *urf*, which is customary practice; *istishsab*, which is the presumption in the laws of evidence that a given state of affairs known to be true in the past still continues to exist until the contrary is proved. It is also important to note that in

agreement of the immediate companions of the Prophet (pbuh) and generation immediately following them, while the Shafi’i require the consensus of the entire Muslim community. M.A.H. Sheikh. 1999. *Islamic Principles on Family Planning*. Karachi, Pakistan. Darul-Ishaat: 20.

<sup>42</sup> Yacoub, *op. cit.* note 29, p. 25.

<sup>43</sup> Ibid: 25.

<sup>44</sup> Ibid. p. 15; H. Hathout. 1989. Talking to Each Other. In *Health Policy, Ethics And Human Values, An Islamic Perspective*. Geneva: Council for International Organization of Medical Sciences: 26.

the Shiite sects of Islam, which represent between 10–15% of Muslim population have a similar system of *usul-ul-fiqh*. For example, the Jafari sect of Shiite Islam, also maintain the Qur’an, *Sunnah*, *Ijma’* as sources of law but add *‘aql*, or human intellect, as the fourth source instead of *qiyas*.<sup>45</sup>

While this system may seem complicated and labor-intensive, in practice the sources are seen as living harmoniously with one another and thus a jurist may consult an important handbook of law as readily as the *hadith* literature in his quest to find the moral value and/or ruling on an action. The entire process of determining the *fiqh*-law is called *ijtihad*. The end result of this process can yield three types of rulings: judicial fact or law (*hukm al-qadi*), a determination of validity (*hukm wadi*) and a determination of moral status (*hukm taklifi*).<sup>46</sup> This last category is what makes the *Shari’ah* a moral and legal code. The moral status of an action is divided into five different categories with obligations in this world and a consequence in the hereafter, as seen in Table 3.

### Legal opinions (Fatawa) as a window into Islamic ethics

A final point that must be made is that the application of the *Shari’ah*, is both an individual and collective duty in Islam. Centers for learning the Islamic sciences have existed since classical times within, and in modern times even outside of, Muslim countries. After completion of years of study the graduate of such an institution may come

<sup>45</sup> Yacoub, *op. cit.* note 32, p. 41.

<sup>46</sup> Reinhart, *op. cit.* note 9, pp. 193–194.



to be employed within the Islamic legal system as a *qadi* or judge. This, however, necessitates a functional Islamic legal system, which exists only in a limited form today. The other career option for the graduate is to be employed by communities or other institutions as a *mufti*. A *Mufti*, literally someone who can render a *fatwa* (legal opinion), is a scholar-in-residence who is specialized in the *Shari'ah* and has been conferred this title through study and examination. The difference between the ruling of a *Mufti* and that of the *qadi* is that the former is not binding, but the latter is, since it is backed by a state system. This twofold system still functions in many parts of the Islamic world as the *mufti* serves as a legal consult before bringing a case to the formal court.<sup>47</sup> In Western countries, the *mufti* is more popularized as a communal and personal resource, who can offer moral guidance on specific issues and dilemmas. The *fatwa*, or legal opinion of the *Mufti*, functions as an informal religious document upon which to base action. Today one can readily find published *fatawa* (sing. *fatwa*), in books, newspapers and on the various websites. Some scholars even host call-in radio and television shows, as well as Internet chat forums, where the seeker might be able ask a *Mufti* for a *fatwa*. There are two essential aspects of a *fatwa*: it is founded on the juridical sources and principles of the *Shari'ah*, and it is formulated with consideration of the context that motivated the questioner to seek the opinion.<sup>48</sup> Thus, the compilations of *fatwa* serve as a window into the moral code of the Islamic community on particular issues.

Islam does not have a singular developed clergy system. A diversity of views on any particular matter exists and is apparent within the *fatawa* collections. For the one who is seeking the *fatwa*, the multiplicity of opinions allows one to explore and make a personal choice as to which *fatwa* has the stronger argument; which *fatwa* sets the seeker's heart at ease. In practice however the seeker often only consults the particular *Mufti* whose opinion he trusts, and will consider binding, on the particular subject. This choice of a particular *Mufti* could be

based on adherence to a particular school of jurisprudence, on similarities in cultural background, or on preferential scholarship.

With regard to Islamic Medical Ethics in particular the *fatwa* literature is a fertile ground when searching for an 'Islamic' opinion on a variety of issues ranging from abortion to assisted reproductive technologies. Furthermore, patients may refer to specific *fatwa* when encountering an ethical dilemma. In the medical field there has been a trend to develop consensus position papers through joint conferences between medical specialists and scholars of *Shari'ah*. Increasing scientific and technological advances have forced the *Muftis* to consult medical scientists in order to better understand the science behind the technology or issue that they are asked to find an 'Islamic position' on. This cooperation has been deemed an obligation upon the medical scientist as the Islamic Code of Medical Ethics states 'the medical profession has the right and owes the duty of effective participation in the formulation and issuing of religious verdicts (*fatwa*) concerning the lawfulness or otherwise of the unprecedented outcomes of current and future advances in biological science'.<sup>49</sup> The cooperation is still in its infancy, but the numerous Islamic medical conferences occurring each year, and the inclusion of both scholars of the *Shari'ah* and of medicine within them, is an encouraging sign.

## SUMMARY AND FINAL REMARKS

A certain level of cultural awareness is necessary to deliver culturally sensitive medical care. Our societies are becoming increasingly multicultural with a plurality of value systems that may come into conflict with one another. Cultural and religious differences can lead to bioethical conflicts in the clinical realm and in order to bridge these differences each party must understand the ethical constructs that inform each other's opinions. Thus, not only is cultural competence necessary, but competence in dealing with divergent ethical codes is as well. The field of medical ethics is a growing one, and increasing importance has been placed upon it within

<sup>47</sup> Brockopp, *op. cit.* note 12, p. 9.

<sup>48</sup> T. Ramadan. 2004. *Western Muslims and the Future of Islam*. New York, NY: Oxford University Press: 48.

<sup>49</sup> Siddiqui, *op. cit.* note 3, p. 430.

medical curricula. It is hoped that within these educational programs diverse systems of, and approaches to, medical ethics are presented in order to facilitate greater competence in the clinical realm.

Islamic Medical Ethics discourse can be divided into two distinct forms of literature. The first being of practical ethics and advice literature; *Adab* literature. Prominent physicians in the golden age of the Islamic civilization authored numerous works on the ethics of the medical professional. These treatises incorporate ideals from the ancient healing traditions into a distinctly Islamic discourse relying on morals derived from sayings of the Prophet Muhammad (pbuh) and verses from the Qur'an. Modern committees have also undertaken the task to develop comprehensive manuals on Islamic Medical Ethics highlighting universal morals justified through Islamic vocabulary.

The other type of discourse in Islamic Medical Ethics relates to Islamic law, *Shari'ah*. The *Shari'ah* is not only a source of law but assigns moral values to actions in Islam. Hence any discussion on medical ethics in the light of Islam must refer to it. This second type of literature aims to define the Islamic stance on biomedical issues ranging from abortion and reproductive technologies to gender relations and end-of-life issues. One can find these topics discussed in books of *fiqh*, in collections of *fatawa*, and in consensus position papers of Islamic medical conferences. Studying these works allows for comparison between Islamic medical ethics and other ethical codes.

It is encouraging that there have already been multiple papers examining the relationship between the 'Four Principles' of medical ethics as described by Beauchamp and Childress and Islamic Medical Ethics.<sup>50</sup> It is hoped that this paper lays the founda-

tion for moving beyond stereotyped and generic interaction when dealing with the Muslim patient to one marked by experiential learning and mutual respect. Furthermore it is hoped this paper serves the ethicist as a starting point for in-depth analysis of Islamic Medical Ethics literature vis-à-vis Secular Medical Ethics.

#### Acknowledgments

Prof. Madelon Finkel for her endless support and the Office of International Medical Education at WMC and its donors for funding the travel, Deans Alger and Alonzo at WCMC-Q for allowing for the use of facilities in Qatar, Prof. Rodriguez del Pozo at WCMC-Q for his mentorship and invaluable comments, the library staff at WCMC-Q for textual aid, and MRP for support, editing and comments.

## GLOSSARY

<i>Adab</i>	a type of Arabic advice literature aimed at inculcating moral values
<i>Akhlaq</i>	Morality, Ethics, Character
<i>'Aql</i>	Human intellect
<i>Fatwa (pl. fatawa)</i>	a legal opinion about a matter in the light of Islamic law
<i>Fiqh</i>	jurisprudential understanding, also can be used to denote legal rulings concerning a particular issue, i.e. Fiqh of prayer
<i>Ijma'</i>	Consensus agreement, third source of Islamic law
<i>Ijtihad</i>	the process by which one derives an Islamic ruling when one is not explicit in the sources
<i>Isthisan</i>	the principle by which equitable considerations override strict qiyas
<i>Kalam</i>	Scholastic Theology
<i>Maslahah</i>	public welfare
<i>Mufti</i>	a title conferred upon a scholar of Islamic law
<i>Qadi</i>	judge
<i>Qiyas</i>	juristic reasoning by analogy, fourth source of Islamic law
<i>Shari'ah</i>	Islamic sacred Law
<i>Sunnah</i>	the corpus of sayings, actions, and silent consent to the performance of certain deeds by the Prophet Muhammad (pbuh), the second source of Islamic law
<i>Tafsir</i>	Qur'anic exegesis
<i>'Urf</i>	customary practice
<i>Usul-ul-fiqh</i>	a system developed within Islamic jurisprudence to assign sources of law and how to weigh these sources against one another to find the proper ruling in cases on conflict

<sup>50</sup> Aksoy & Elmali. *op. cit.* note 2, pp. 211–224; van Bommel, *op. cit.* note 27, pp. 17–21; I. Ilklic. Bioethical Conflicts Between Muslim Patients And German Physicians And The Principles of Biomedical Ethics. *Med Law* 2002; 21: 243–256.