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Religious Teachings and Reflections on Advance Directive - Religious Values and Legal Dilemmas in Bioethics: An Islamic Perspective

Cover Page Footnote

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RELIGIOUS TEACHINGS AND REFLECTIONS ON ADVANCE DIRECTIVE— RELIGIOUS VALUES AND LEGAL DILEMMAS IN BIOETHICS: AN ISLAMIC PERSPECTIVE

*Faroque A. Khan**

INTRODUCTION

In this presentation, the following Islamic concepts will be briefly outlined—the sanctity of life, the concept and definition of death, end-of-life issues, and the resulting issues of advance directives, pain control and comfort care. Some relevant case studies from the author's personal experience that highlight these dilemmas will also be explored.

I. THE PURPOSE OF LIFE

Islam means submission/peace—submission to the will of one God (Allah) and His will, and peace defined as inner peace with oneself, one's Creator, and His creations.¹ The key elements are true belief and righteous deeds.² We were created to serve (worship) God (Allah). He entrusted us with our lives, physical beings, wealth, families, communities, environment, and our earth.³ Our responsibility is to care for and maintain that trust.⁴ Muslims (followers of Islam) believe that life on this earth is only a transition period that precedes the more eternal permanent life in the Hereafter.⁵ Muslims are encouraged to constantly prepare themselves, by deeds and action, for the Hereafter. The Prophet Muhammad is reported to have said, "Work for this life as if we are living forever, and work for the later life as if you are dying tomorrow."⁶

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1. Council on Islamic Educ., at http://www.cie.org/About_Islam.html (last visited Oct. 10, 2002).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Death and Dying: Islamic View*, NEWSL. ISLAMIC CTR. BLACKSBURG FOR ISLAMIC INFO. & EDUC., July 1995, at 1416, available at www7.bev.net/civic/icb/pdf/

II. THE SANCTITY OF LIFE

Life is a gift from the Creator, and we are expected to take care of this gift to the best of our abilities.

From *Qur'an*⁷ 5:32
And if any one saved one life
It would be as if he saved the life of the whole people

III. THE CONCEPT OF DEATH IN ISLAM

The following passages express the concept of death in Islam:

Qur'an 3:185
Every soul shall have a taste of death:
And only on the Day of Judgment shall you be paid your
full recompense.
Only he who is saved far from the Fire and admitted to
the Garden
will have attained the object (of Life):
For the life of this world is but goods and chattels
of deception.

Qur'an 3:145
Nor can a soul die except by Allah's leave, the term being
fixed as by writing.
If any do desire a reward in this life, We shall give it to him;
And if any do desire a reward in the Hereafter, We shall give
it to him.
And swiftly shall We reward those that (serve us
with) gratitude.

Qur'an 39:42
It is Allah that takes the souls (of men) at death;
And those that die not (He takes) during their sleep:
Those on whom He has passed the decree of death, He keeps
back (from returning to life),
But the rest He sends (to their bodies) for a term appointed.
Verily in this are Signs for those who reflect.

A. Definition of Death

The following passages help define death in Islam:

i43_lad.pdf (last visited Oct. 10, 2002); *see also* World of Islam, at <http://www.islamworlduk.com/hadith.htm> (last visited Sept. 24, 2002).

7. THE MEANING OF THE HOLY QUR'AN (Abdullah Yusuf Ali trans., 7th ed. 2001).

Qur'an 45:26

Say: "It is Allah Who gives you life, then gives you death;
Then He will gather you together for the Day of Judgment
about which there is no doubt":
But most men do not understand.

Qur'an 23:100

"In order that I may work righteousness in the things
I neglected" –
"By no means! It is but a word he says" –
Before them is a Partition till the Day they are raised up.

Footnote 2940

Barzakh: a partition, a bar or barrier; the place of state in
which people will be after death and before Judgment. Cf.
25:53 and 55:20. Behind them is the barrier of death, and in
front of them is the *Barzakh*, partition, a quiescent state until
the judgment comes.

While the inevitability of death is made fairly clear in the above verses, the exact definition of death remains vague. When does one die? When the heart stops beating? When breathing stops? When the brain stops functioning?

In *Qur'an* 39:42, Allah states that He takes away the souls upon the death of a person. Where does the soul reside, and how do health providers or lawyers determine that at the bedside? In technologically advanced countries, this becomes a problem because doctors can, using modern techniques, maintain a patient's breathing and heartbeat. In the less technologically advanced countries, this dilemma does not exist because most deaths occur in homes where, in the absence of artificial devices, nature takes its course and death is relatively easy to recognize.

In 1963, as a medical student in my native Kashmir, I was asked to evaluate "Grandma, who didn't look good." With my rudimentary clinical skills, I listened for the heartbeat. Hearing none, I put a strip of cotton under Grandma's nostril, and seeing no movement, declared her dead in the absence of heart sounds and breathing. Grandma was laid to rest. Fast forward to the year 1999, and I, as Chief of Medicine in a busy hospital in New York, would have a far harder time declaring someone dead who is being ventilated on a machine, is unresponsive, and shows some traces of heartbeat on the attached cardiac monitor.

It was relatively easy to declare that the Creator had separated Grandma's body from her soul. However, that declaration is far more complicated in the hospital settings in the United States. In

simple terms, defining death, or the moment of death, can be quite challenging.

As a physician caring for critically ill patients in New York, I have reviewed the various Islamic definitions of death and concluded that using brain death, which is defined as cortical and brain stem death, as a criterion of death in Islam is quite acceptable.⁸

IV. END-OF-LIFE ISSUES

In approaching potentially controversial issues such as end of life care as a Muslim, I take into account what the most appropriate action is under the circumstances. While the *Shari'ah*⁹ protects each individual's life, religion, mind, property, and family, the *Shari'ah* does, in difficult cases, provide the option of choosing the lesser of two evils.¹⁰ A cardinal principle is that necessity overrides the prevailing rules.

Setting goals, making plans, and designing strategies to assure the accomplishment of objectives are all part of Islamic traditions. This is according to the *Qur'an* and the practice of Prophet Muhammad.¹¹ Planning, therefore, must be at the center of a Muslim's life, in all of her moral, political, social, economic, and health-related activities.

The *Holy Qur'an* teaches Muslims to be strategists and planners in their affairs. It shows this in a number of ways: through the stories of the prophets, the law of Allah, in nature, and in praising the people of vision and foresight. Prophet Muhammad, through his words and actions, emphasized the value and importance of planning. He said, "When the day of reckoning comes, if someone has a palm shoot in his hand he should plant it."¹² The story of the Prophet's migration to Yathrib (Medina)¹³ is a classic example of meticulous planning and preparation.

8. See Farouque A. Khan, *The Definition of Death in Islam: Can Brain Death Be Used as A Criteria of Death in Islam?*, 18 J. ISLAMIC MED. ASS'N 18, 20 (1986); see also Mohammad Naeem Yaseen, *The End of Human Life in Light of the Opinions of Muslim Scholars and Medical Science*, 23 J. ISLAMIC MED. ASS'N 74, 80 (1991).

9. *Shari'ah*, Islamic law, designates the rules and regulations governing the lives of Muslims, derived principally from the *Qur'an* and *Hadith*. 9 THE ENCYCLOPAEDIA OF ISLAM 321 (2d ed. 1996); see also *infra* note 13.

10. Islamic Paths, at http://www.islamic-paths.org/Home/English/Issues/Law/Anatomy_Islam.htm (last visited Oct. 10, 2002).

11. See, e.g., *supra* text accompanying note 6 & *infra* text accompanying note 12.

12. AHMAD IBN AL-HUSAYN AL-BAYHAQI, 3 SUNAN BAYHAQI AL-KUBRA 184 (Hyderabad n.d.).

13. This refers to:

It is my firm belief and conviction that based on the example from Prophet Muhammad's life and the teachings of the *Qur'an*, Muslims are encouraged to plan for the Hereafter on a regular basis and preparing for death becomes a central and key element in this. Muslims are encouraged to have wills prepared to ensure appropriate dispensation of belongings after death.¹⁴

The key elements in preparing for end-of-life issues are, first, advance the best efforts to maintain life.¹⁵ Second, do not introduce unbearable pain or suffering.¹⁶ Third, Muslims look upon hardships as tests from Allah.¹⁷ Patience, persistence, and hope in Allah's mercy are prescribed for the patient, family, and friends, and are better rewarded by Allah.¹⁸ Fourth, when scientifically evaluated treatment is obviously futile and holds no promise, it ceases to be mandatory.¹⁹ Doctors, however, still owe the patients their ordinary human rights of nutrition, hydration, nursing, and relief of pain, but *not* extraordinary medical interventions.

A. Advance Directives

An advance directive is a duly executed document concerning medical care in the absence of the ability to decide.²⁰ Advance directives are permitted as long as the efforts are sincere and the intentions are to abide by Islamic rules and follow the commands of Allah.²¹ Once these guidelines are followed, one is not held responsible for the results. Such directives can resolve serious conflicts. The validity of advance directives is supported by a Hadith²²

Hijrah, the migration in 622 C.E. of Prophet Muhammad and members of the Muslim community from the city of Makkah to the city of Yathrib, later renamed Madinah an-Nabi (city of the Prophet) in honor of Muhammad. The Islamic lunar calendar, often called the *Hijri* calendar, is dated from this important event, which marks the beginning of an Islamic state (in Madinat) in which the *Shari'ah* (Islamic Law) was implemented.

Council on Islamic Educ., Online Resources, Glossary of Terms, at <http://www.cie.org/resources/hbglossary.htm> (last visited Sept. 24, 2002).

14. See QUR'AN 2:180; 2:240; 4:33; 5:106.

15. *Death and Dying: Islamic View*, *supra* note 6, at 1416.

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. See BLACK'S LAW DICTIONARY 19 (pocket ed. 1996) (defining advance directive as a durable power of attorney that takes place upon one's incompetency and designates a surrogate decision-maker for healthcare matters).

21. See *infra* text accompanying note 23.

22. Unlike the verses contained in the *Qur'an*, *Hadith* are the sayings and traditions of Prophet Muhammad himself, and form part of the record of the Prophet's *Sunnah* (way of life and example). The *Hadith* records the words

in which Prophet Muhammad told his followers that anyone who knows that a patient does not want medicine must not force it on her.²³

B. Suicide and Euthanasia

Suicide and euthanasia receive an emphatic “no.”²⁴ Life is a trust given by Allah. Human beings are not allowed to diminish it, let alone harm or destroy it. Life can neither be shortened nor prolonged.

From *Qur'an* 2:195
And do not with your own hands cast yourselves
into destruction.

From *Qur'an* 4:29
Nor kill (or destroy) yourselves.
For verily God hath been to you Most Merciful.

Qur'an 17:31
And slay not your children for fear of want.
We shall provide for them and for you.
Lo! Their slaying is a great sin.

C. Pain Control and Comfort Care

Too many Americans spend their final days in a hospital or nursing home, alone and in pain. One-third of dying people spend at least ten days in intensive care units enduring tortuous and futile care.²⁵ Fifty percent are in pain, surrounded by strangers.²⁶ It does not have to be that way. In Islamic teachings, caring for one another is part of the belief system, in particular, caring for the elderly and one's parents.

and deeds, explanations, and interpretations of the Prophet concerning all aspects of life. *Hadith* are found in various collections compiled by Muslim scholars in the early centuries of the Muslim civilization. Six such collections are considered most authentic.

Council on Islamic Educ., Online Resources, Glossary of Terms, at <http://www.cie.org/resources/hbglossary.htm> (last visited Sept. 24, 2002).

23. 7 SAHIH BUKHARI 71:610.

24. Both are condemned in The Islamic Code of Medical Ethics endorsed by the First International Conference on Islamic Medicine held in Kuwait in January 1981. ISLAMIC CODE OF MEDICAL ETHICS § 8 (1981), available at <http://www.islamset.com/ethics/code/index.html> (last visited Oct. 15, 2002); see also Hassan Hathout, *Islam and Euthanasia*, 26 J. ISLAMIC MED. ASS'N 152, 152 (1994).

25. John Cloud, *A Kinder, Gentler Death*, TIME, Sept. 18, 2000, at 60.

26. *Id.*

Qur'an 17:23-24

Thy Lord hath decreed that ye worship none but Him, and
that ye be kind to parents.

Whether one or both of them attain old age in thy life, say
not to them a word of contempt,

nor repel them, but address them in terms of honor.

And, out of kindness, lower to them the wing of humility,
and say:

“My Lord! Bestow on them thy mercy even as they cherished
me in childhood.”

I believe it is morally—“Islamically”—acceptable and often an act of love to forgo or withdraw technologies and treatments aimed at prolonging life, such as ventilation, dialysis, nutrition, and hydration, when it offers little reasonable benefit to the patient, or is an unreasonable burden to the patient. In doing so, the individual makes the following choice: the disease causes the death, and a person who forgoes heroic measures chooses life without the burden of disproportionate medical intervention thereby accepts the inevitability of the dying process and Allah’s will.

V. FACING THE CHALLENGE

In my experience, the vast majority of Americans, in particular Muslim-Americans, are not prepared to face properly the issues outlined above, and this lack of preparation leads to confusion, conflicts, and futile, unnecessary care. The following case history highlights this issue.

A. Case History

I was called to consult and advise a family regarding the appropriateness of continued intensive care for a woman in her seventies who had suffered a stroke and was unresponsive for over a week. Should the ventilation be continued? Can we pull the plug? What are the Islamic guidelines regarding this? A very devoted and caring family of six prosperous adult children seemed confused and unable to come to a consensus surrounding this patient. There was no advance directive available. After my evaluation, it was clear that the patient was brain dead, and further care would be futile and only prolong the act of dying. Some of the children were not convinced. They asked, “Isn’t the cardiac monitor showing a heart rhythm and doesn’t the urine bag show that she is passing urine.” When I answered in the affirmative they responded and said, “How could she be dead?” It was clear there was a major conflict

amongst the siblings, and in the absence of a consensus, the “treatment” was continued. After several days of care in the intensive care unit (“ICU”), the patient suffered a cardiac arrest and was finally declared dead.

The lessons from this and similar other cases is that there is a great need to have advance directives available, and mass education needs to be embarked upon, particularly among immigrants, to bring them up to date regarding the issues of advance directives that are in conformity with Islamic teachings.

CONCLUSION

In conclusion, it seems that in view of the very clearly stated purpose of life of a Muslim, which is that we were created to serve and worship Allah,²⁷ when one loses that ability to serve the mission of the Creator, using artificial devices such as ventilators at the end of life does not make any sense, whatsoever. In my study of the *Qur'an*, the *Hadith* and the principles and precedents expounded by the first four Caliphs²⁸—*Usul al fiqh*²⁹—which codify the rules and regulations for Muslims, decisions and recommendations usually boils down to “sensible actions,” and those constitute Muslims’ moral, ethical, and equitable framework. Using that principle, having an advance directive for Muslims is acceptable.

Physicians may discontinue life-support equipment if there is no hope of saving a patient. Islam does not require prolonging life without quality.³⁰ When treatment is scientifically futile, or when “minimal” means hopeless, neither cardiopulmonary resuscitation

27. See *supra* text accompanying note 1.

28. An Arabic term meaning “successor,” caliph refers to the rightful successor of Prophet Muhammad as leader of the *ummah* (worldwide Muslim community). The *Khalifah* (caliph) is not a prophet; rather, he is charged with upholding the rights of all citizens within an Islamic state and ensuring application of the *Shari'ah* (Islamic Law). The immediate successors of Prophet Muhammad, known as the “Rightly Guided” Caliphs, were Abu Bakr as-Siddiq, Umar ibn al-Khattab, Uthman ibn Affan, and Ali ibn Abi Talib. Council on Islamic Educ., at <http://www.cie.org/resources/hb-glossary.htm> (last visited Sept. 24, 2002).

29. The science of Source Methodology in Islamic Jurisprudence, *Usul-al-Fiqh*, has been defined as the aggregate, considered per se, of legal proofs and evidence that, when studied properly, will lead either to certain knowledge of *Shari'ah* ruling or to at least a reasonable assumption of *Shari'ah*; the manner by which such proofs are adduced, and the status of the adducer. See FAKHR AL DIN AL RAZI, AL MAHSUL FI 'ILM USUL AL FIQH, 1:94 (Dr. Taha Jabir al 'Alwani ed., Imam ibn Sa'ud Islamic Univ., 1979) (1399), available at http://www.witness-pioneer.org/vill/Books/TA_ua1/ch1.html (last visited Sept. 24, 2002).

30. *Death and Dying: Islamic View*, *supra* note 6, at 1416.

("CPR"), nor life support equipment is mandatory. Heroic treatment is not required if there is no hope for a cure.

SUGGESTED READINGS

- FEISAL ABDUL RAUF, ISLAM: A SACRED LAW: WHAT EVERY MUSLIM SHOULD KNOW ABOUT THE SHARIAH 24-34 (1999).
- HASSAN HATHOUOT, READING THE MUSLIM MIND 120-36 (1992).
- Faroque A. Khan, *The Definition of Death in Islam*, 18 J. ISLAMIC MED. ASS'N, 18-21 (1986).
- FAROQUE A. KHAN, STORY OF A MOSQUE IN AMERICA 35-36 (2001).
- S.N. Hassan, *Fighting to Save Life: Muslim Perspective on Health Care*, ISLAMIC HORIZONS, Jan.-Feb. 2002, at 26-28.
- S. Athar, *Islamic Medical Ethics*, ISLAMIC HORIZONS, Jan.-Feb. 2002, at 39-41.
- R.A. Parker, *Caring for Patients at the End of Life: Reflections after 12 Years of Practice*, ANNALS OF INTERNAL MED., Jan. 2002, at 72-75.

