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Islamic Bioethics: Sharia Ethics or Virtue Ethics? [Etika Islam dan Problematika Sosial di Indonesia]

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ISLAMIC BIOETHICS: SHARIA ETHICS OR VIRTUE ETHICS?

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Abstract

Rather than develop the tradition of medical ethics from the Galenic-Islamic tradition, contemporary scholars of Islam discuss Islamic medical ethics largely under the umbrella of Islamic law. This may lead to a narrow perception of Islamic medical ethics. One may perceive that Islamic medical ethics results from sharia-based reasoning *tout court*. This is not the real description of medical ethics in Islam, especially if Islam is interpreted as a cultural force, not confined to religion (Manfred Ullmann). In the case of medical ethics, we may also attribute the term “Islamic” to the philosophical and medical traditions that were developed in the medieval Islamic world, in addition to associating “Islamic” with Islamic legal prescriptions.

In order to have a fuller understanding of medical ethics, I provide an account of the principles, the reasoning, and the norms of both sharia-based medical ethics (i.e. sharia ethics) and Galeno-Islamic medical ethics (i.e. virtue ethics). Islamic medical ethics will appropriately include ethical concepts developed by philosophers and physicians in the Islamic world, in addition to those ethics derived from Islamic legal principles and stipulations.

Keywords Islamic bioethics, sharia, ethics.

Introduction

The contribution of Islamic perspectives to biomedical ethics is currently very limited. This is probably due to the dearth of a serious engagement of contemporary scholars of Islam in this field, although some scholars of Islam have already dealt with medical ethics for centuries. In the Middle Ages, several authors wrote on Islamic medical ethics: al-Ruhawi, al-Tabari, al-Majusi, Ibn Ridwan al-Baghdadi, and Ibn Abi Usaybi`a. (Rispler-chaim, 1993: 2). Their ideas are not properly appreciated. Instead of developing the tradition of medical ethics that comes from the Galenic-Islamic tradition, contemporary scholars of Islam largely discuss Islamic medical ethics under the umbrella of Islamic law. Therefore, the discourse of medical ethics in contemporary Islam is more about Islamic legal rulings and principles issued by religious scholars than the discussion of medical ethics by physicians or philosophers.

For example, Vardit Rispler-Chaim, the author of *Islamic Medical Ethics in the Twentieth Century* (1993), discusses biomedical ethics through an analysis of Islamic scholars' legal rulings on medical-controversial topics. Farhat Moazam, who wrote *Bioethics and Organ Transplantation in Muslim World* (2006), relies more on the rulings of Islamic scholars when she discusses "Islamic values" in the context of organ transplantation. Even Abdulaziz Sachedina, the leading expert on Islamic medical ethics, who wrote *Islamic Biomedical Ethics* (2009), bases his arguments on religious sources ranging from the sacred texts to the legal principles deduced by Islamic jurists when he studies Islamic biomedical ethics. In other words, the above scholars are knowledgeable in modern medical ethics, but when they come to the discussion of Islamic medical ethics, they refer only to religious text-based ethics and exclude the medical ethics that was alive and developed in medieval Islamic scholarship.

This may lead to a narrow perception of Islamic medical ethics. One may perceive that Islamic medical ethics results from Sharia-based reasoning per se. In fact, this is not the real description of medical ethics in Islam, especially if the term “Islam” or “Islamic” is interpreted as what Manfred Ullmann (1978: ix) calls “a cultural force,” not confined to the religion of Islam (Pormann and Savage-Smith, 2007: 2). Accordingly, in the case of medical ethics, we may also attribute the term “Islamic” to the philosophical and medical traditions that were developed in the medieval Islamic world, in addition to associating “Islamic” with Islamic legal prescriptions. Furthermore, medical ethics is more comprehensively discussed in the medical and philosophical texts in the medieval age of Islam (Farag in Brockopp and Eich, 2008: 30-31).

In order to have a fuller understanding of medical ethics, therefore, this paper provides an account not only of the principles, the reasoning, and the norms of sharia-based medical ethics (i.e. sharia ethics) but also of the principles, the reasoning, and the norms of Galeno-Islamic medical ethics (i.e. virtue ethics). Islamic medical ethics will appropriately include ethical concepts developed by philosophers and physicians in the Islamic world, in addition to those ethics derived from Islamic legal principles and stipulations.

Biomedical Ethics

Before we discuss the notion of Islamic medical ethics in detail, let us survey some basic concepts of contemporary biomedical ethics. This will clarify the context of our discussion. According to the two prominent scholars of biomedical ethics, Tom L. Beauchamp and James F. Childress, there are two general approaches to ethics: first, normative ethics, second, non-normative ethics. Normative ethics deals with the general moral norms for the guidance and evaluation of conduct, whose dimensions are both theoretical and practical. The theoretical dimension

of normative ethics attempts to identify and justify the norms, which are often called principles; while the practical dimension attempts to interpret general norms in addressing particular problems and contexts (Beauchamp and Childress, 2009: 1-2).

Non-normative ethics deals not with the norms of “what ethically ought to be the case” or “what is ethically valuable” but with what factually or conceptually is the case. Factual investigation of moral beliefs and conducts, as when anthropologists, sociologists, psychologists, or historians study the phenomena of ethics, results in descriptive ethics; whereas the conceptual analysis of the language, concepts, and methods of reasoning in normative ethics, usually a product of philosophical, epistemological, and theoretical investigation, is called meta-ethics (Ibid., 2).

These ethical approaches are applied by Beauchamp and Childress to the realm of medical ethics. They attempt to establish on what “principles of contemporary biomedical ethics” ethical decisions and judgments are supposedly made. For them, there are four principles of biomedical ethics: respect for autonomy, beneficence, non-maleficence, and justice. By establishing these principles, they consciously work in the area of normative ethics, not non-normative ethics.

In the context of Islam, ethicists generally work in normative ethics as well, either theoretically or practically. There are two main ethical schools of thought in Islam. First is a group of ethicists who base their ethical thought primarily on religious texts, such as Islamic legal scholars and jurists, theologians, and some mystical groups. Compared to theologians and mystics, however, Islamic legal scholars and jurists are more obliged to refer to religious texts. Second is a group of ethicists who base their ethical thought mainly on philosophical-medical sources, such as physicians and philosophers.

In this paper, we will focus on examining the ethical thought of these Islamic legal scholars-jurists and physicians-philosophers.

Islamic legal scholars-jurists express their ethical thought in two forms: legal principles (*al-qawā'id al-fiqhīya*) and legal rulings (e.g. *fatāwa*, *al-aḥkām al-fiqhīya*). They not only provide principles of legal reasoning, based on which one can derive legal opinions, but also generate “ready for use” legal stipulations. Such legal principles and rulings are produced to guide Muslims to behave in certain way and to justify a course of action in the terms associated with Islamic jurisprudence. Inspired by John Kelsey, who employs the term “sharia reasoning” to denote the reasoning based on Islamic jurisprudence (Kelsey, 2007: 3), we will call the ethical thought generated by Islamic legal scholars-jurists as “sharia-based ethics.”

Another Islamic scholarship tradition that engenders ethical thought is the philosophical-medical tradition. Some philosophers-physicians may discuss metaethics, but most of their medical and philosophical works on ethics are written in the context of normative ethics. They are written to establish certain norms, ideals, or virtues that should be cultivated with the aim of creating a good, healthy person. Since this ethical thought is grounded in the Greek philosophical tradition, whose notion of ethics is known as “virtue ethics,” we shall call the ethical thought developed by medieval Islamic philosophers-physicians “Islamic virtue ethics,” or simply “virtue ethics.”

In the paragraphs that follow, we shall discuss the following questions: “Where are Islamic legal principles derived from? What are the common Islamic legal principles? How do they operate and generate legal rulings in the biomedical context? What are virtue ethics in the Islamic tradition and how do they operate in Islamic medical tradition?”

Sharia-Based Biomedical Ethics

Islamic legal scholars and jurists (*fuqahā'*) assess the value of human practices based on five categories; obligatory (*wājib*), prohibited (*ḥarām*), recommended (*sunna*), reprehended (*makrūh*), and permitted

(*mubāḥ*). In order to have a conclusive assessment of the practices, they not only refer to the Qur'an and the Prophetic Tradition (Hadith), but also employ certain modes of reasoning and formulate legal principles (*al-uṣūl al-fiqhīya*). Legal reasoning and principles are crucial, especially when a judgment from the Qur'an and the Hadith is metaphorical, ambiguous, or even absent. Islamic jurists will then employ such legal-moral reasoning and principles to determine whether certain cases are considered obligatory, prohibited, recommended, reprehended, or permitted. Among the most popular forms of juristic moral reasoning are: *qiyās* (judicial analogy), *istiḥsān* (legal preference in the aims of promoting common good), and *istiṣlāḥ* (legal discretion based on public interest), and *istiṣhāb* (presumption of continuity).

In Islamic law, *qiyās* is a sort of deductive reasoning which is centered on the principle of analogy. In the case of the matters in which the judicial judgment of text (revelation) is absent, Islamic jurists seek an analogous case, a precedent, in which revelation has a clear verdict. Analogy in Islamic law, according to Nabil Shehaby (1982), has two forms. First, the analogy that is based on *ma'na* (reason) shared by two cases. God or Prophet may prohibit or allow something for a *ma'na*, a reason. If we find the same *ma'na* in another case that is not treated in the legal sources, the judicial judgment covering the first can be extended and applied to the second (Shehaby, 1982: 33). For example, there is no explicit legal judgment made by revelation regarding using marijuana. The text only says that *khamr* (a kind of wine) is prohibited because it renders intoxication. In other words, the reason (*ma'na*) for the prohibition is intoxication. The legal judgment of the *khamr* can be applied and extended to marijuana based on the *ma'na* (reason) that both have a similar effect, i.e. intoxication. Thus, if drinking a wine is prohibited, consuming marijuana is also forbidden because both of them cause intoxication. Second is the analogy that is based on resemblances (*ashbāh*). This is employed when the case that is not treated in the

authoritative legal sources resembles other cases that are treated by either the Qur'an or the Hadith. In this situation, the case under examination acquires the judicial judgment of the case that is the most similar to it (Ibid., 33).

Another kind of legal-moral reasoning is *istiḥsān*. This reasoning is actually a kind of *qiyās*, but in a broader sense. This reasoning allows formulating a decision that sidesteps a preceding judgment established by *qiyās* in order to meet “the objectives of the Revelation”, which are primarily to protect people’s integrity and belongings while making their lives easier (Ramadan, 2009: 56). It is plausible reasoning because it is founded upon an important principle derived from the directive of “circumventing hardship” stated in the Qur’an: “God intends facility for you, and He does not want to put you in hardship” (2: 185). This directive is also further reinforced by the tradition (Hadith) that states: “The best of your law is that which brings ease to the people” (Sachedina in Guinn, 2006: 275).

Practically speaking, when scriptural sources say nothing about a particular issue, *istiḥsān* takes into account the social and human context without denying the necessary relation to the scriptural text. Customary practices (*al-‘urf*), avoiding hardship, and necessity (*ḍarūra*), and even public interest (*maṣlaḥa*) are in turn regarded as sources of legal judgment besides the necessary adherence to the teachings of the established religious texts (Kamali, 1991: 253). Islamic jurists can choose one of those legal considerations based on their preference in issuing certain religious rulings. In a sense, this method is much more inductive compared to *qiyās* by virtue of considering human customs and habits among the sources of Islamic law.

The other widely used judicial-moral reasoning is *istiṣlāḥ*. Literally, it means seeking a common good or public interest (*maṣlaḥa*). Compared the above legal reasoning, *istiṣlāḥ* is much more linked with the context rather than the text. Therefore, when the text does not

provide an explicit legal opinion on certain cases, the main consideration for issuing religious legal opinions is “what is the good for the public”. However, what are the things that are called as “the good for the public”? In *Mustaṣfā min ‘Ilm al-Uṣūl*, Imam al-Ghazali (d. 1111) writes:

“In essential significance, *al-maṣlaha* is a term that seeking something useful (*manfa‘a*) or warding off something harmful (*maḍarra*). But this is not what we mean, because seeking what is useful and preventing harm are objectives sought by creation, and the good in the creation of mankind consists in achieving those objectives (*maqāsid*). What we mean by *maṣlaha* is preserving the objective of the divine law (*shar‘*) that consists in five order things: preserving religion (*dīn*), life (*nafs*), reason (*‘aql*), progeny (*nasl*), and property (*amwāl*). What ensures the preservation of those five principles is *maṣlaha* (translated as: common good, public interest); what goes against their preservation is *mafsada* (harm), and preventing it is *maṣlaḥa*” (Ramadan, 2009: 62). In other words, what is considered “public interest” or “the good for the people” (*maṣlaha*) here is the preservation of the objectives of the divine law (*maqāsid as-sharīa*) which are: preserving religion (*dīn*), life (*nafs*), reason (*‘aql*), progeny (*nasl*), and property (*amwāl*).

Other Islamic scholars such as Shihab ad-Din al Qarafi (d. 1285), Najm al-Din at-Tufi (d. 1386), Taj ad-Din ibn as-Subki (d. 1369), and sometimes Abu Ishaq as-Shatibi (d. 1388), however, add the necessary protection of human dignity (*‘ird*) to those objectives of *sharia*. These objectives are in fact extracted by Islamic jurists through reflection on all sayings by the Lawgiver and the dynamics of human experiences in certain sociocultural contexts. For Islamic legal scholars, the intent of the Lawgiver in commands and prohibitions is clear, that is: “to promote good and to benefit human beings and to protect them from evil, from harm, and from subsequent suffering” (Ramadan, 2009: 67).

The last mode of sharia reasoning that will be discussed here is *istiṣhāb* (presumption of continuity). This term literally means “companionship.” But *istiṣhāb* technically denotes a rational proof which may be employed in the absence of other indications (Kamali, 1991: 297). The well-known legal maxim derived from *istiṣhāb* reasoning says that “the original legal value of things is permissible unless there is an argument/evidence that proves the contrary, and the original legal state of ritual-worshipping is prohibition unless there is an argument/evidence that says otherwise.” For example, the legal norm concerning foods, drinks, and clothes is permissibility (*ibāḥa*). When question arises as to the legality of a particular kind of beverage or food, and there is no other evidence to determine its value, recourse may be had to *istiṣhāb*, which will presume that it is permissible (Kamali, 21991: 297-299). In the same vein, acts of worshipping such as fasting and prayers are prohibited except if the sacred text or the prophetic tradition indicates that they are commanded, recommended, permitted, or reprehended.

In sum, at least four widely legal-moral logics are harnessed by Islamic jurists before they come up with certain moral principles and religious legal rulings: analogy (*qiyās*), legal preference (*istiḥsān*), promoting common good or public interests (*istiṣlāḥ*), and presumption of continuity (*istiṣhāb*). From these moral-legal modes of reasoning, Islamic jurists then generate moral principles. These moral principles in turn operate as guidance for Islamic jurists in issuing religious legal recommendations and opinions. Principles resulting from *qiyās* reasoning include: (1) “one needs certainty” and (2) “action depends upon intention”. Others stem from *istiḥsān*, such as: (3) “necessity makes lawful that which is prohibited, as long as it does not lead to any detriment”, (4) “hardship necessitates relief”, and (5) “custom determines the course of action”. Some principles derive from *istiṣlāḥ*, such as: (6) where it is inevitable, the lesser of the two harms should be

done”, (7) no harm shall be inflicted or reciprocated”, (8) “No harm, no harassment”, (9) “harm must be rejected”, (10) “preventing or removing harm has priority over promoting good”. One well-known legal principle is generated by *istiṣhāb* reasoning, namely: (11) “the original legal value of things is permissible unless there is an argument/evidence that proves the contrary, and the original legal state of ritual-worshipping is prohibition unless there is an argument/evidence that says otherwise.” Based on these principles, Islamic jurists are expected to respond to the situations that arise in medical practices or other cases in which the scriptural source is silent.

These principles function as a guide and basis for Muslims when they have to make certain legal-moral decisions, including medical-ethical decisions. For example, in the case of organ donation, some legal principles are used before they come to a conclusive decision. Muslim legal scholars cite various principles for issuing a legal ruling on this issue. Some refer to the principle of “No harm, no harassment”; some invoke the principle of “necessity makes lawful that which is prohibited”; and some of them use the principle of “preventing or removing harm has priority over promoting good.” Vardit Rispler-Chaim (1993: 31) records that Muslim scholars, compelled by the desire to prevent harm to the party awaiting a donation and to protect the public benefit, rendered organ donation permitted and permissible.

In addition, although some scholars use various legal principles, according to Abdulaziz Sachedina, the most widely cited principle in resolving the ethics of organ donation is the principle “No harm.” For instance, if donating an organ would cause the donor’s death, the donation would be forbidden regardless of the benefits to the recipient. Conversely, if a person were to donate an organ without causing harm or death to himself, and if that act could save the life of a patient dying of organ failure, the donation would be regarded as permissible by the sharia (Sachedina, 2009: 185). That is how sharia-based ethics works in

the realm of medicine. The main purpose of this ethical approach is to determine whether a certain action is right or wrong, permissible or prohibited, or to specify other values of human actions.

Virtue-Based “Biomedical” Ethics

The Islamic ethicists who come from philosophical and medical backgrounds work quite differently from these Islamic legal scholars and jurists. Their main concern is not to determine, evaluate, or justify whether a course of action is obligatory, recommended, permissible, reprehended, or prohibited. Rather, they are concerned with the bodily and spiritual health, the cultivation of human character, and the formation of a virtuous person. The preservation of bodily health is the main purpose of the art of medicine. So, if the health of human body is being lost, it is the task of medicine to restore it (Sina, 1999: 9). Physicians in the Islamic medieval period generally maintain that the health of human body is signified by the balance of elements, temperaments, and humours within human body. If there is an imbalance in humours, the human body will be infected by sickness, which is indicated by a disturbance of bodily functions (Ibid., 171).

The imbalance in elements, temperaments, or humours is generally caused by a kind of deficiency or excess. Insufficient food consumption, sleep, or bodily regimen leads to sickness, as well as too much food, sleep, or bodily exercise. The ideal is that one has everything in the right proportion, namely moderation in food consumption, sleeping activity, and physical exercise. This moderation generates the balance of elements, temperaments, and humours, which in turn maintains the health of the human body. For example, food is transformed into humours (i.e. body fluids) through the process of digestion. If one has a bad diet, one of the humours (i.e. blood, phlegm, yellow bile, or black bile) will be deficient, causing the imbalance of humours. Having a good diet therefore is necessary to maintain the balance of the humours. In

this regard, the lack or excessiveness of food consumption is considered bad and moderation is good.

The ethics of “balance and moderation” is not only applied in preserving bodily health. It is also used in achieving spiritual health and the cultivation of virtue in human character. Ibn Miskawayh, one of the greatest Islamic ethicists, argues that the purpose of the medicine of souls is similar to that of the medicine of bodies, namely the preservation of spiritual health and the restoration of spiritual health when it is missing (1968: 158). The difference between the two is only in the context of their subject matter. The subject matter of the spiritual health is soul whereas the subject matter of the bodily health is body. According to Ibn Miskawayh, the spiritual health is signified by the absence of two extremes. One of the extremes of every mean is an excess while the other is a deficiency (Ibid., 23).

If the human soul falls in one of the two extremes, the soul becomes sick and its health needs to be restored. Conversely, if the human soul is in the middle between the two extremes, the soul is healthy because it possesses virtuous characters. Ibn Miskawayh, following his Greek predecessors, defines virtue as a mean, an intermediation, or moderation. The mean lies between two vices, deficiency and excess (Ibid., 22). For him, four means, or four virtues, are considered cardinal in virtue ethics: (1) wisdom: a mean between impudence and stupidity; (2) temperance: a mean between two vices: profligacy and frigidity; (3) courage: a mean between cowardice and recklessness; and (4) justice: a mean between doing injustice and suffering injustice (Ibid., 23-24).

These four represent the principal virtues from which other means or virtues can be derived. From the virtue of wisdom, we can generate the virtues of intelligence, retention, rationality, quickness and soundness of understanding, clarity of mind, and capacity for learning easily. From the virtue of temperance, we can derive the virtues of modesty, sedateness, self-control, liberality, integrity, sobriety, benignity, self-

discipline, good disposition, mildness, staidness, and piety. From the virtue of courage, some virtues can also be generated: greatness of spirit, intrepidity, composure, fortitude, magnanimity, self-possession, manliness, and endurance. From the virtue of justice, some virtues can be further derived: friendship, concord, family fellowship, recompense, fair play, honest dealing, amiability, and piety (Ibid., 17-22).

Some of the above virtues are related to the perfection of morality (i.e. moral virtues) and some to the virtue of cognition (i.e. intellectual virtues). Islamic philosophers-ethicists, who are mostly influenced and inspired by Greek philosophers, believe that the moral virtues are not a natural disposition (Fakhry, 1994: 81). They are not intrinsically built into the human character nor divinely given. They should be cultivated through a continuous practice of the virtues. In this regard, the “will of the individual” or “human volition” also plays an important role in the success of the cultivation of the self. People will be virtuous if they willingly accustom themselves to exercising and practising virtues, and they will be vicious if they let themselves be occupied with the vices. In other words, the health of human soul (i.e. character) actually depends on the conscious and continuous cultivation of virtues.

If the perfection of human character can be achieved through directing the will and the disposition towards moral virtues, the perfection of human intellect can be acquired not only through nourishing human cognition with intellectual virtues but also through the “conjunction” of human cognition with the active intellect (Ibid., 92). This kind of intellectual “conjunction” is believed to be the highest intellectual perfection that leads human beings to achieve their chief goal, which is happiness (Levey, 1967: 124). All other kinds of perfections, like technical and moral perfections, serve simply as preparations to this intellectual conjunction (Fakhry, 1994: 89).

The above physical/biological, moral, and intellectual virtues based on the idea of a mean, moderation, or intermediation are further

developed and applied in medical contexts. This ethical tradition is generally concerned with establishing mores, etiquettes, and norms in order to form a virtuous person, whether as a physician, patient, caregiver, or human being in general. When Islamic physicians discuss, their main topics will be “how to be a good physician,” “how to be a good patient”, and “what is the ideal relation between physician and patient”.

Al-Ruhawi, for example, wrote *dab al-abīb* in order to explain what physicians should do and how they should act and behave. Al-Ruhawi states that a virtuous physician is unlike a philosopher who may deal only with the improvement of the soul. The virtuous physician should deal with the improvement of both spirit and body. For him, spiritual and bodily improvement can be achieved only if a physician has faith in Allah when working with patients to get rid of illness. Therefore, the physician first of all should have faith in God. Faith is regarded as the spiritual foundation for medical practice. Faith in God means that physicians (1) must believe that Allah performs all deeds intentionally: gives life and takes it, causes illness and cures; (2) devote themselves to God with volition and love; and (3) must believe that He sent his messengers to mankind (Levey, 1967: 19-20).

Another important idea in *dab al-abīb* is al-Ruhawi’s account of the relationship between physicians and their patients. Quoting Hippocrates, he said that the art of medicine involves three factors, the illness, the patient, and the physician (Ibid., 68). Physicians should know what will happen to their patients, raise themselves for it a long time in advance, and prepare whatever is necessary for when the event occurs (Ibid., 83). They should also give their medical services for the benefit of all people without distinguishing them as to friend or foe, in agreement or disagreement (Ibid., 94).

As for the patients, they should not conceal anything from their physician because their openness is a key step for diagnosis and

treatment. The cooperation of the patients is considered very important in order to fulfill their best interest, to give the best medical benefits for them. When al-Ruhawi is asked about patients' demands and the proper care of the ill, he quotes Galen and says: "It is essential that the physician not follow the will of the patient unless it benefits him in his improvement; he should not fear him in this nor any desire in this of his individual rights. On the contrary, it is only God that he fears and entreats." (Ibid., 56).

In the same fashion, at-Tabari in his Hippocratic treatment, *Al-Mu'ālaja*, provides some moral guidelines for physicians. Among other things, he requires them to be modest, virtuous, merciful, not slanderous, and speak no evil of men of repute in the community or be critical of their religious beliefs (Hamarneh, 1983: 163). They are required to be honest, and not divulge the secrets of their patients, nor make jokes and laugh at the improper place and time. They should also avoid predicting whether the patient will live or die. In addition, they should speak well of their acquaintances, colleagues, and clients and not to be money grubbers. They should dress in clean clothes, be dignified, and groom his hair neatly. They ought not to lose their temper when patients keep asking many questions but should answer gently and patiently. They should treat alike the strong and the weak, the master and the slave, the rich and poor, and the wise and the illiterate (Ibid., 163).

If contemporary Islamic scholars would further elaborate and develop the ethics of the "mean" or of "moderation", some contemporary bioethical problems could be resolved. For example, the principle of "respect for autonomy" at one extreme can be reconciled with the principle of "beneficence" at the other extreme by finding the right mean between the two. With a virtuous character already implanted, one can easily measure the right proportion of benefit and of harm before making an ethical decision, in the case of organ donation for example.

Conclusion

There are two main streams of bioethical discourses in Islamic tradition: (1) biomedical ethics that relies on the sharia modes of reasoning, ethical-legal principles, juristic rulings; (2) biomedical ethics that is rooted in the Greco-Islamic philosophical and medical tradition. The former is called sharia-based biomedical ethics and the latter is called virtue-based biomedical ethics. The contemporary discourse of Islamic biomedical ethics is heavily influenced by sharia-based ethics. The main concern of this ethical tradition is reach legal certainty: is this or that action or type of action stipulated to be an obligation, recommendation, permission, reprehension, or prohibition. Before arriving at legal certainty, however, we need to have a case, either an existing or a potential case; then a series of legal reasonings is conducted to issue rulings for the case at stake.

That tradition of ethics seems to be well suited to providing Islamic legal certainty in cases on the basis of casuistry. However, we cannot expect it to serve well in the formation of the self, which nothing to do with legal opinions. Another Islamic biomedical ethics, which aims to cultivate a good character or to form a virtuous person, is grounded in the tradition of Islamic virtue ethics. Instead of dealing with right-wrong legal logic, virtue biomedical ethics pays much attention to self-formation. It focuses on human physical, intellectual, and spiritual flourishing. Bodily health can be acquired by balancing elements, temperaments, and humours within human body. A sound mind can be achieved through conjunction with the highest intellect (this can be translated as: closeness with God). Spiritual health can be gained through exercising moral virtues.

This medieval Islamic ethics is unfortunately less studied and recognised in the contemporary era. If this intellectual tradition is studied further, the notion of ethics in Islamic bioethics will not be limited to post-factum legal judgments (i.e. permission-prohibition or

right-wrong judgments). The ethics that aims to form a virtuous person will also be recognised as Islamic biomedical ethics since this is rooted in Islamic values and its tradition. Furthermore, by practising moral virtues, a person will have a sound judgment and a good character without necessarily invoking religious stipulations.

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