

Islam Today 5: Medical Ethics

Medical ethics represent significant issues for some Muslims, who demand to know the appropriate 'Islamic' approaches towards key associated questions. For the purposes of this Islam Today module, an overview is presented, based on the writer's fieldwork in Pakistan.¹ It should be read in conjunction with the suggested reading. It is not intended to suggest that there are 'uniform' approaches to issues in Pakistan, which represents considerable religious, political, economic, ethnic, linguistic and cultural diversity. However, it is an opportunity to explore how scholars approach issues of medical ethics. Some of the opinions expressed in Pakistani Muslim contexts have a resonance in the UK, especially amongst elements of the population with ancestral origins on the Indian subcontinent, and such opinions frequent the 'virtual' and 'real' channels of authority. As some of the views presented are contentious and 'dangerous' for some to express, anonymity has been respected (when requested).

Population Planning

Family planning is a contentious issue in Pakistan, which had a natural population growth rate of 3.0%.² Large families represent, to some Pakistanis, economic benefits and a means of parental security in old age. There is resistance to the concept of smaller families:

"We are spending 5% of national income on health, even less. So only 3% of this is spent on the population-planning programme in a country which would greatly benefit from this. Because you see China is a poor country like Pakistan, but China has introduced a co-ordinated, well-planned programme. They promote good policy data, 'one couple one child'. China is a big population, but they control it.

"The big problem is the population explosion. Government is sincere, but it can't fight tradition. Government cannot fight tradition in Pathan areas or tribal areas. In Swat and NWFP [North West Frontier Province], there are many bad traditions. Government came in and convinced people regarding family planning that it is for the value of society."³

The absence of a population-planning programme in this rural area was associated with a lack of education and awareness, and inherent resistance from 'traditional', 'tribal', and 'religious' authorities. In a fieldwork interview, one rural activist noted to this writer:

"I think that the basic solution to population control is education. If only people have not been greedy. They think that more children means more fruit, so it is good for them to have more children. But even uneducated women don't like many children.

"A lot of women, they have no health care, nowhere to go and beg some basic help, especially in mountainous areas. When a foreign writer

went there, all the women were asking her for help to stop having babies. So that was very sensitive, because the people there are very conservative and rigid people. So she was very careful, and said to the women that they should go to a lady doctor in [town's name]. The men do not care. It is a problem for the women. And in these rural areas, these health workers would not know anyone. Local education is not available."⁴

The extent to which an 'Islamic' decision-making process might form part of a Pakistan-wide family planning programme is a contentious issue, where relatively large families - especially within rural areas - are seen as the 'norm'. The impact of governmental health workers operating within a remote region is limited, because of the distance, tribal-traditional influences, security fears, and a lack of 'education' amongst the rural population.⁵

Sources indicate many rural women would like to practice forms of family planning, because of the health difficulties presented by near-continual pregnancy, and related economic problems. Sources suggested that women were often prevented access to contraceptives by their husbands, families, and communities - either directly or indirectly through social pressures - although preventative measures were practised surreptitiously.⁶ This has a profound effect on women in general and their reproductive rights, although attitudes may vary in different sectors of Pakistani society.

Health issues related to 'family planning' provide indicators towards 'Islamic' decision-making processes within Pakistan. Abdur Rehman represents, on this issue, one 'traditional' viewpoint:

"Anything that is new, for the betterment of the people, which is innovative - it is valid? The issue of contraception: is it legal? If the life of the mother is in danger, then yes. Otherwise it is not allowed ... Everything which is legitimate in Islam is permissible."⁷

Any 'flexibility' within this interpretation was linked to obtaining appropriate medical advice.

An interviewee within the Federal Shari'ah Council proposed the view that family planning represented a 'western conspiracy' to reduce Muslim populations. His contention was that, in the event of a Muslim-Christian 'holy war', Muslim forces would be depleted. Contraception was acceptable for a woman with health difficulties: in other cases, the opinion was 'God will provide', and unborn children were not to be 'killed' through 'western rumours' generating fear of food shortages and economic difficulties caused by 'over-population'.⁸

This stress upon population quantity emerged from a source within the state Islamic decision-making sector - and is perhaps a literal reading of Islamic sources. Some interviewees expressed the desire for a smaller average family size privately.

Islam, Population Control, Embryology and Medically Assisted Conception (MAC)

The intention of this section is to provide a case study of aspects of important and related medical issues associated with Islam, Population Control, Embryology and Medically Assisted Conception (MAC) in order to provide an overview of how approaches to medical knowledge and bioethical paradigms are made through an Islamic matrix of interpretation. It explains how religious concepts, arguments and textual interpretation can be integrated into 'life and death' situations, within one South Asian regional and cultural Muslim framework. Similar case studies could be made for other medical issues. The opinions are drawn from the writer's fieldwork in Pakistan, which draws in wider interpretative, traditional and political issues. Some of these have implications for those Muslims in the UK who are influenced directly or indirectly by 'policies' emanating from various authorities in Pakistan. It has to be stressed that this is only a selection of possible perspectives, and does not represent a single, homogeneous 'Pakistani Muslim' viewpoint.

Several 'scholars' regarded population control as one of the most complex issues that they faced. Associated medical areas of 'genetic engineering', and specifically 'gender-selection', were also perceived as contentious and full of difficulties. Developments in embryology and medically assisted conception (MAC) emerged within decision-making agendas, and there were some important priorities that scholars were starting to consider. MAC increases the chances of conception (for some), and the technology introduces the potential of selecting embryo-characteristics, including gender.

In an associated area, some scholars felt that foetal scanning for the determination of gender was acceptable, but not if the result was abortion of a female foetus, which is specifically against injunctions contained within the Qur'an (with certain exceptions):

"When news is brought to one of them of (the birth of) a female (child) his face darkens and he is filled with inward grief!

"With shame does he hide himself from his people because of the bad news he has had! Shall he retain it on (sufferance and) contempt or bury it in the dust? Ah! What an evil (choice) they decide on!"⁹

These issues introduce an interpretative and ethical debate, given that 'traditional Pakistani society' can represent (in general terms) a preference for male over female offspring. The reasons for this are partly based around the economic pressures of marriage and dowry, the differentials between male and female economic/earning potential, and inheritance issues. The reasons may also be linked to a specific interpretation of Islamic sources, which argues that males are 'superior' to females. Scholars expressed concerns about the implications of 'genetic engineering' in areas concerned with family and property rights, and in the guarantees of 'legitimacy' of any conception. Certain areas of this technology were determined as 'forbidden', including the use of anonymously donated sperm, and/or surrogate pregnancy.

Interviewees' concerns were compounded by the feasibility of after-death conception; for example, a 'test tube baby' could be conceived after its father's death through sperm or embryo preservation. The impact of this upon an Islamic 'marriage contract' would be considerable. Although a marriage is 'finished' on the death of either partner, the existence of a contractual pact or agreement stating that - for example - upon the husband's death, the wife would use preserved sperm to conceive a child raises questions of 'legitimacy'.¹⁰ An alternate scenario would be, after a wife's death, the husband's use of 'their' embryos in a 'surrogate mother'.

This issue provides one indicator of Islamic decision-making methodological processes, in which modern technology and Islamic 'interpretations' may have to be reconciled. Interviewee responses centred on the following question:

"A husband has a sample of his sperm 'preserved', prior to medical treatment (which could render him impotent e.g. radiation treatment for cancer). Two years later he dies in an accident. Following this accident, his wife decides to have a baby through IVF [in vitro fertilisation] treatment. What is the appropriate Islamic response to this issue?"

This hypothetical situation provoked intensive discussions, prior to tentative responses being provided. The reaction of some interviewees was that they had absolutely no desire to ever face such a question:

"I don't like it in principle. The basic approach of modern secularists is if something can be done, it should be done. If you do not have a child, it's just like not having money. It doesn't entitle you to go and break open the bank. If you can't have a child, because of blocked tubes or something, then you can do something about it. If it is beyond a certain point then it spins over into the sector of 'just because it can be done, it should be done'. This is not according to Islam.

"People do it all the time. Even I should mention that for the well off, this artificial insemination is now available in Pakistan. In my own large family, a girl lost the baby but we don't turn to this, despite the very strong pressures like you mentioned. We don't look upon modern technology as the answer to everything, and this is most notably shown in our attitude to death."¹¹

Several interviewees determined that, if faced with this issue in reality, consultation between religious authorities would be required.

One scholar maintained certain core principles, including an examination of specific case details:

"Irrespective of the detailed situations, the principle is that we should keep the concept that the children belong to the husband, and belong to their mother. This is something that is basic in Islam...

"But in your case, you are saying that the husband has died, or the sperm is frozen for some time. This could be so, although the bearing is such not to make a ruling outright."¹²

The scholar was asked how this alters the principle of a marital relationship 'ending' at the husband's death, if the wife subsequently conceives?

"We should ask a question before that? 'Why has it happened?' For example without justification it should not be allowed in the first place. Why take the sperm and freeze it? There should be a good explanation of this process. You don't just do it for fun, or to keep an interval of two or three years. That is not a good justification."¹³

The writer introduced one 'justification', that the husband's radiation treatment has the potential side effect of impotency:

"That's good justification. But if the father is writing in his will that he accepts this process, again that is equivalent to a recognition that this process should take place even after his death. And again that his offspring would be acknowledged and recognised and there would be no problem for the child and no problem for his wife or his mother. Again it could be misused."¹⁴

"There's another possibility. She plays around, and then says [laughter]: 'This was kept from the sperm of the husband, nobody knows what happened.' All these factors should be weighed together. But the objective of Islam is to keep the real children for their father and mother. This is the principle."¹⁵

This issue represents the potential difficulties faced in maintaining various Islamic interests and principles, in the light of technological development. The primary objective was to keep "the real children for their father and mother", but other interests also have to be represented (i.e. desire for family, marital contractual obligations, Islamic ethics and morality).

Another scholar believed, in this case, that the conception process was lawful, because the husband died through an 'unnatural' process of radiation therapy.¹⁶ The original justification for 'freezing' the sperm was another key element: would the same response would have obtained if a man had his sperm preserved, and was then killed in an accident or in war? Clearly, according to Mumtaz, each case depends on the circumstances. The writer asked Mumtaz whether this was the kind of case in which Islamic decision-making processes had a role to play? The response was cautious:

"Yes. But now you are asking a theoretical question. I would not give you a theoretical answer at all. It must be the case brought to me. Detailing the mother, the father. Specifics. That would be possible. I will see it and then make a ruling. But not on theoretical grounds like this. As if you are giving a general fatwa [religious edict or ruling]. In this case it should not

be allowed. You have to know, this is the mother, this is her situation, and this is the father. And this is the case what is happening."¹⁷

Mumtaz based his initial conclusion on an opinion that 'after-death conception' represented a transgression of the boundaries of Islam. Mumtaz's analysis demonstrates his priority, of adhering to (what he understood to be) qur'anic principles, whilst applying lateral thinking to deal with the different issues and possibilities arising out of a decision. These include projected reactions within Pakistan society, and the responses of subsequent generations [i.e. towards possible inheritance disputes].

Mumtaz's methodology demanded the root-cause of an issue, and asked whether this was a response to a medical issue, or for more 'frivolous' reasons? Mumtaz then matched this to what he saw as primary 'Islamic' principles affecting the parties concerned, and of the wider society, notably the principle of attributing parenthood:

"Again we should weigh all these consequences ... Such an issue is going to cause havoc in the balance of society, so I may disallow it because of this..."¹⁸

Within Pakistan, this has to be seen in the light of society demands, including tradition and state law relating to inheritance (which may or may not - depending on the perspective - have been 'Islamicized'). A Federal Sharia Court source, 'Talib', believed that MAC issues raised intense difficulties regarding property right mutation, because MAC was 'against nature' and offered 'no certainty' that preserved sperm comes from 'the legitimate father'. This opinion, based on an initial reading of the fieldwork question, represents Talib's first exposure to this specific issue, which he accepted could play a prominent part in future interpretative agendas. Emphasis was on what were seen as clear injunctions within the Qur'an to 'go with what God gives', in terms of the permissible and non-permissible aspects of the Revelation. However, Talib determined MAC could be appropriate, if it was '100% guaranteed' that the sperm and eggs 'definitely belonged' to individuals concerned. Talib believed no religious school within Pakistan had opposed MAC or 'test-tube babies', when gender-selection was left 'in the hands of God'.¹⁹

In contrast, another scholar had not been approached about 'gender selection' before, but indicated that it could be permissible. It was seen as being in the 'public interest' - for example, when a couple had several girls, but no boys:

"According to this point of view, the gender-selection is not forbidden in Islam, because for instance if the person has five girls and he does not have a boy then our religion provides a chance to do it. If he can do, he can select gender before the birth of a child. And, for example, a person who has five boys and he wishes to have a girl - then he can do that. Because it provides variations for him, and it is up to him. There is no harm..."²⁰

This interpretation of the technology, in terms of 'public interest' and God's Will, is in contrast to that of other scholars:

"This is laughing at values: even in this Frontier Province, if a male child is born to you then people are very happy and most of the time they start firing their guns. If a female is born to you, they are very unhappy. This is not Islamic." ²¹

Other sources indicated that gender-selection was not permissible:

"I am not a well-read Muslim. Although we are not very aware of this latest technology that selective babies [sic] can be produced, it is very clearly mentioned in the Holy *Qur'an* that whatever is in the womb is not known to the people. It is only known to Allah, except a few things that mankind can know." ²²

Whilst the 'technology' is available within Pakistan, all decision-makers have not tackled the questions surrounding its implications. To some interviewees, gender-selection represents a case of breaching the boundaries of acceptable 'Islamic behaviour', based on clear principles articulated within the *Qur'an*. Talib understood the implications of a wider availability of MAC (and related technology) in Pakistan, not just in terms of potential legal difficulties: the preference for male offspring could result in a disproportionate male-female balance in society (at least in those classes able to afford access to the technology):

"Don't you think that if this happens on a wide scale, it will change the composition of the human being? In Pakistan nobody would like a girl at all. Nobody. Even if he has ten boys, he will want eleven boys. Again that would be of very serious consequences. It's like these industrialists: years ago people didn't know about industry and smoke and now they realise the damage it does the environment. So if allowed it will cause havoc." ²³

Mumtaz's understanding was that this unnatural technology would interfere with nature, and therefore was against God's 'creational' judgement - especially gene selection.

Another scholar, seen by some as a 'progressive' commentator on Islamic issues, had reservations about the technological 'innovation' too:

"Perhaps I may be categorised as rather conservative when I say that despite all the knowledge of genetics that we have today, I still believe that God, creator of all humanity, has much more knowledge than all of our scientists because He has created us from nothing.

"I think these experiments work for a while, but we are not yet in a position to understand what was the wisdom when God created human beings by selecting one out of ten million genes to make successful fertilisation...

"So I think this plan to 'play God' is rather ambitious, and we are not yet in a position to ethically judge which of the genes I should permit to survive, and which gene I crucify. It is too much of a claim for a human being to make."²⁴

There can be reluctance to use MAC, even in the cases where it is affordable. This reluctance would have to be balanced - in other cases - with intense family pressures for the production of male children. In some contexts, this might result in the husband seeking another wife, through divorce or polygamy. Several interviewees considered there had been a lack of consultation on issues such as MAC in Pakistan. These questions have only recently appeared on decision-making agendas, and provide examples of a 'new issue' not encountered directly within the Qur'an, and in which different forms of interpretation have to be applied. Those who require such 'innovations' do not always seek the opinion of a religious authority, prior to application or introduction.

Concluding Comment

Other medical issues provide examples of 'contemporary issues' that required Islamic responses in Pakistan. Despite opinions regarding preventing 'body-mutilation' after death, several interviewees agreed that - according to all schools of interpretation - organ transplantation was acceptable.²⁵ The issues raised by this were not examined from a legal viewpoint, as the human body is seen as being 'owned' by God:

"I think that when I am donating my eye, do I have authority? Do I own it? Is it mine? And according to the approach of Muslim scholars through the centuries, my body is owned by God and life is given by God as a trust. I am authorised to use it, but not to misuse it. I am authorised to use my body in a healthy, natural way, but if I commit an offence against my body, then the Qur'an calls it '*zulm*': injustice and exploitation."²⁶

There was concern that an illegal trade in organs would emerge in Pakistan - as in certain South American states. Organ trade would have different implications (in terms of contractual obligations and morality) compared to organ donation. The opinions connected with the concept of God's provision of the human body, can also be linked with the issue of euthanasia and the 'Islamic' stigmatisation of suicide; permitting euthanasia was seen as violating the ethics of society, and the authority of God. As such, euthanasia was not high on the agenda for discussion, as the *Qur'an* was seen to have clear injunctions on related issues ²⁷

Other medically related issues - such as AIDS/HIV, mental health, post-mortems, disabilities, and alternative medicine - could be considered in a wider study. Medical ethics are a significant area within Islamic decision-making contexts, although some of the issues may be of less concern to majority populations unable to obtain basic health care. The issues represent the intersection between the Qur'an and everyday life, demonstrate that there is no uniform approach to specific issues, and also that some 'authorities' are more proactive than others in determining reactions to modernity.

Further reading:

Conrad, Lawrence I. , Nancy E. Gallagher, Yasmin Safian and Robert Gleave. "Medicine." In *The Oxford Encyclopedia of the Islamic World*. Oxford Islamic Studies Online,

<http://www.oxfordislamicstudies.com/article/opr/t236/e0524>

Rispler-Chaim, Vardit 'Islamic medical ethics in the 20th century', *Journal of Medical Ethics*, 1989, 15, 203-208 [available online via Athens,

<http://jme.bmj.com/content/15/4/203.short>]

¹ Gary R. Bunt, PhD.

² There has been a decline in the infant mortality rate, from 143 per 1,000 live births in 1962-6 (average) to 14.7 per 1,000 live births in 1990. *Pakistan Statistical Yearbook*, 14. "Pakistan is set to become the third most populous country. Average number of children per mother in Pakistan: 5.9. In India and Bangladesh: 3.4." Population Action International (n.d.), in "Digitations", *The Guardian*, May 19, 1996.

³ Usayd (pseudonym), interview by writer, 1995, tape recording.

⁴ Hamidah (pseudonym), interview by writer, 1995, tape recording.

⁵ Hamidah

⁶ Faysal (pseudonym), interview by writer, 1995, tape recording.

⁷ Maulana Abdur Rehman

⁸ Talib (pseudonym), interview by writer, 1995, transcript of notes, Islamabad.

⁹ Qur'an, *Surah al-Nahl*, 16:58-9, Ali trans.

¹⁰ After the writer's fieldwork period, during 1995-7, a legal case in Britain emerged concerning the litigant Diana Blood's right to use her deceased husband's sperm was finally decided in the Court of Appeal under European Law in Blood's favour. Her son Liam was born in December 1998. According to the Centre of Bioethics at the University of Philadelphia, at least forty-five separate cases of 'after-death conception' are known within the United States. See: "Baby from dead husband's sperm", March 27, 1999, BBC Online, http://news2.thls.bbc.co.uk/hi/english/sci/tech/newsid_305000/305302.stm

¹¹ Khalid Alavi, Director, Sheikh Zayed Islamic Centre, University of the Punjab, interviewed by writer, April 1995, tape recording, Lahore.

¹² Mumtaz, (pseudonym), interview by writer, 1995, tape recording.

13. Mumtaz
14. Mumtaz.
15. Mumtaz.
16. Qusay, (pseudonym), interview by writer, 1995, tape recording.
17. Mumtaz
18. Murshid, (pseudonym), interview by writer, 1995, transcript of notes, Lahore.
19. Talib
20. Maulana Abdur Rehman
21. Saeed Ullah Qazi, Peshawar, interview by writer, 1995, tape recording.
22. Maulana Abdul Malik
23. Mumtaz
24. Mumtaz
25. Sahih Al-Bukhari Hadith 3.654, *Alim* CD-Rom, (USA: ISL Software Corporation).
26. Anis Ahmed (interview)
27. See *Sura Imran* 3:145