ISSUES IN END-OF-LIFE CARE FROM THE ISLAMIC PERSPECTIVE: SOME GUIDANCE FOR MALAYSIAN DOCTORS

ISU-ISU PENJAGAAN AKHIR HAYAT DARI PERSPEKTIF SHARI'AH: BEBERAPA PANDUAN UNTUK PENGAMAL PERUBATAN DI MALAYSIA

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ABSTRACT

The decision-making process at the end of life, more often than not, takes place in a highly charged atmosphere as it deals with the delicate issue of death and the dying process. Doctors are confronted with difficult decisions whether to continue, withhold or withdraw medical interventions from terminally ill patients, which involve an array of ethical dilemmas. This includes situations when there exist conflicts between the religious and cultural values of the patient and routine medical practice, or when the wishes of the patient's family members are opposed to what the doctor feels would be in the best interests of the patient. At the moment, Malaysia does not have comprehensive guidelines that incorporate the religious perspectives of end-of-life care to help guide doctors to understand the Islamic standpoint on such issues. This paper seeks to highlight the discussion and rulings on end-of-life decisions from the Islamic context with the hope of increasing the understanding of such issues among Malaysian medical practitioners and guide them in the decision-making process. To such end, this study employs the qualitative method of doctrinal analysis by referring to both primary and secondary sources relating to medical treatment and issues at the end of life. Findings of this research demonstrate that Islam provides a holistic approach to the subject matter, which will assist doctors to address the prevalent issues in end-of-life care and provide assurance to Muslim doctors, in particular, of the ethicality of their actions.

Keyword (s): *bioethics, end-of-life care, euthanasia, Islam, life-sustaining treatment, Malaysia, religion*

ABSTRAK

Proses membuat keputusan di akhir hayat sering berlangsung dalam suasana yang penuh emosi kerana berkisar tentang isu-isu sensitif berkaitan proses kematian. Para doktor berhadapan dengan keputusan yang sukar sama ada untuk meneruskan, menahan atau memberhentikan intervensi perubatan pesakit terminal yang banyak melibatkan dilema etika. Ini termasuk situasi-situasi yang melibatkan konflik di antara nilai-nilai agama dan budaya pesakit dengan amalan perubatan, atau apabila kehendak ahli keluarga pesakit bercanggah dengan pendapat doktor tentang kepentingan terbaik pesakit. Pada masa kini, Malaysia tidak mempunyai panduan komprehensif yang mengandungi perspektif agama tentang keputusan di akhir hayat untuk membantu para doktor memahami pandangan Islam tentang isu-isu tersebut. Makalah ini bertujuan untuk menekankan perbincangan dan hukum-hukum berkaitan keputusan di akhir hayat dari konteks shari'ah dengan harapan dapat meningkatkan pemahaman pengamal perubatan di Malaysia dan membimbing mereka di dalam membuat keputusan. Kajian ini menggunakan metode kualitatif iaitu analisa doktrin dengan merujuk kepada sumber-sumber utama dan sekunder berkaitan rawatan perubatan dan isu-isu di akhir

hayat. Dapatan kajian menunjukkan Islam mempunyai pendekatan yang holistik tentang perkara tersebut yang dapat membantu para doktor menangani isu-isu penjagaan akhir hayat dan memberi jaminan kepada doktor-doktor Islam terutamanya, tentang keetikaan tindakan mereka.

Kata Kunci: *agama, bioetika, eutanasia, Islam, Malaysia, penjagaan akhir hayat, rawatan sokongan*

Introduction

The term “end-of-life care” is generally used to refer to the health and social care system required to address the physical, spiritual, emotional and social needs of patients who are suffering from serious illnesses, incurable diseases or are in the final stages of their lives, and includes acute care and long-term care (Colello et al., 2011; Tallon, 2012). From the healthcare perspective, end-of-life care focuses more on providing a comfortable environment to restore and improve patients’ quality of life as far as it is practically possible (Kinzbrunner, 2005). ESMO defines “end-of-life care” as palliative care that is delivered when death is imminent (Cherny 2003). According to the United States National Quality Forum, end-of-life care applies when a patient’s chronic illness is no longer curable and life-prolonging therapies are no longer appropriate indicated or desired (National Quality Forum, 2006). It refers to “a specific phase of palliative care requiring specialised skills and services that may be served by the delivery of hospice care or other models of palliative care programmes” (National Quality Forum, 2006; Rome et al., 2011). Due to its nature, end-of-life care is often fraught with intricate ethical dilemmas, particularly when decisions are to be made on treatment options for patients suffering from life-limiting illnesses, which are commonly referred to as end-of-life decisions (Thelen, 2005; Harris, 2003). The decision-making process in end-of-life care is highly influenced by cultural components such as religious and spiritual beliefs. Such decisions are not confined to clinical assessments as to what would be in the best interests of the patient from a purely medical perspective, but must necessarily involve due consideration of the patient’s values and beliefs.

Seeking Treatment in Islam

According to Al-^{c}Iz ibn ^{c}Abdilsalam, a renowned Muslim jurist in the 7th century of *Hijrah*, in his book, *Qawa^{c}id Al-Ahkam* (Basics of Rulings), the preservation of health serves as the primary goal of medicine, which involves restoring one’s health, curing illnesses and reducing its effects to a person’s well-being (^{c} Al ^{c}Izz, 2000). There is a transcendental element to the concept of illness from the Islamic perspective; to practice patience when afflicted with pain or difficulty is a means of purification to absolve one’s wrongdoings and elevate his or her position in gaining the pleasure of God and attaining Paradise. Several verses in the *Qurʾan* attest to this, among others, in *Al-Baqarah*: 155-157: “…And We will surely test you with something of fear and hunger and a loss of wealth and lives and fruits, but give good tidings to the patient, who, when disaster strikes them, say, "Indeed we belong to Allah, and indeed to Him we will return. Those are the ones upon whom are blessings from their Lord and mercy. And it is those who are the [rightly] guided."

The above is substantiated by the following *hadith* of the Prophet (peace and blessings be upon him):

> It is narrated by ^{c}Abdullah bin Mas^{c}ud that, “I visited the Prophet (peace and blessings be upon him) while he was suffering from a high fever. I touched him with my hand and said, "O Prophet! You have a high fever." The Prophet (peace be upon him) said, "Yes, I have as much fever as two men of you have." I said, "Is it because you will get a double reward?" The Prophet (peace and blessings be upon him) said, "Yes, no Muslim is afflicted with harm because of sickness or some other inconvenience, but that Allah will

remove his sins for him as a tree sheds its leaves." (*Sahih al-Bukhariyy*, Book 70, Hadith 550).

Although Muslims are encouraged to face illness with patience and perseverance, this does not denote that they are not forbidden to seek treatment in order to alleviate the suffering. This precept is substantiated by verses in the *Qurʾan* and *hadith* of the Prophet (peace and blessings be upon him) that encourage Muslims to remove harm and difficulty: “Allah intends for you ease and does not intend for you hardship” (Al-Baqarah: 185); and “Allah does not intend to make difficulty for you, but He intends to purify you and complete His favor upon you that you may be grateful” (Al-Ma’idah: 6). In a *hadith* of the Prophet (peace and blessings be upon him), narrated by Abu Hurairah, the Islamic position that Muslims should avail themselves of assistance to relieve their burdens is further elucidated: It is reported that the Prophet (peace and blessings be upon him) said: "Religion is very easy and whoever overburdens himself in his religion will not be able to continue in that way. So you should not be extremists, but try to be near to perfection and receive the good tidings that you will be rewarded; and gain strength by worshipping in the mornings, the nights." (*Sahih al-Bukhariyy*, Book 2, Hadith 32).

Muslims also believe that for every ailment there is a remedy, based on several *hadith* of the Prophet (peace and blessings be upon him). For instance, it is narrated by Abu Hurairah that the Prophet (peace and blessings be upon him) said, "There is no disease that Allah has created, except that He also has created its treatment." (*Sahih al-Bukhariyy*, vol. 76, Hadith 1). There are differing views among both classical and modern jurists as to whether seeking remedy for an ailment falls into the category of being an obligatory or permissible act. The majority of Muslim scholars concur that seeking medical attention is not mandatory but is instead permissible and recommended, based on the Qur’anic verses and *hadith* of the Prophet (peace and blessings be upon him) on the removal of harm and difficulty, as well as the provision of medicinal remedy (Mohammed Ali, 2007; Abu Fadl, 2006a). Further, it has been reported in numerous *hadith* that the Prophet (peace and blessings be upon him) prescribed several substances and procedures such as honey, nigella seeds, dates, bloodletting and cupping as cure for ailments suffered by his family and Companions, and used to apply such remedies to himself (*Sahih al-Bukhariyy*, vol. 7, Book 71; *Jami*ᶜ *al-Tirmidhi*, vol. 4, Book 2; *Sunan Ibn Majah*, vol. 4, Book 31). Muslims may therefore choose either to pursue medical treatment for their illness or stoically forbear the pain and suffering in relation thereto; both acts are acceptable in Islam (Abu-El-Noor and Abu-El-Noor, 2014). One of the authorities upon which this precept is established is the *hadith* of the Prophet (peace and blessings be upon him) narrated by “ᶜAta’ bin Abi Rabah, who reported that, “Ibn ᶜAbbas said to me, "Shall I show you a woman of the people of Paradise?" I said, "Yes." He said, "This black lady came to the Prophet (peace and blessings be upon him) and said, 'I get attacks of epilepsy and my body becomes uncovered; please invoke Allah for me.' The Prophet (peace and blessings be upon him) said (to her), 'If you wish, be patient and you will have (enter) Paradise; and if you wish, I will invoke Allah to cure you.' She said, 'I will remain patient,' and added, 'but I become uncovered, so please invoke Allah for me that I may not become uncovered.' So he invoked Allah for her." (*Sahih al-Bukhariyy*, Book 70, Hadith 555).

According to Ibn Taimiyyah, seeking medical treatment, might be classified as *wajib* (obligatory), *mandub* (highly recommended), *mubah* (optional), *makruh* (not preferred) and *haram* (prohibited) (Mohammed Ali, 2007; Hassan and Mohammed Ali, 2017), depending on the circumstances. Based on this view, contemporary Islamic scholars have categorised the ruling on medical treatment as follows (Mohammed Ali, 2007; Abu Fadl, 2006a): (a) The general rule of seeking medical treatment is that it is permissible and recommended when there is a substantial possibility that it will cure the illness and not cause harm to the patient, and the illness will hamper the individual’s ability to perform his duties and obligations as a Muslim. The treatment must also not involve any elements or substances which are prohibited, unless there is no alternative and it is deemed necessary in order to cure the patient of his illness; (b) It is obligatory to seek treatment when it is life-saving and there is a bigger threat or harm if

this is not done, such as preventing the spread of infectious diseases by way of vaccination; (c) Seeking medical treatment is optional if the success and harm associated with such therapy is uncertain; (d) It is preferable to refrain from seeking treatment if its benefit to the patient is questionable, and the harm it may cause outweighs the benefit; (d) Medical treatment is prohibited when it involves methods and substances which are forbidden in Islam, such as talismans, intoxicants, porcine derivatives and blood, unless it is absolutely necessary in order to save one's life from grave danger and there exists no other alternative remedy. This view is similarly reflected in an edict issued by the Council of the Fiqh Academy in 1993 on medical treatment, which also emphasised on the obligation to respect the patient's autonomy, whether he decides to accept or refuse such therapy, if he is competent (Islamic Fiqh Academy, 2000).

Issues in End-of-Life Care

In applying the Islamic position on medicine as discussed above, it would appear that in terms of end-of-life care, seeking treatment would therefore fall under the category of being permissible and/or optional, depending on the patient's prognosis vis-à-vis the modality of treatment, as well as his personal wishes. Nevertheless it is important to note that even in cases where chances of recovery are considered to be dim, it is important for the doctor and patient's family to maintain and uplift the patient's morale, and continue to exert efforts to provide comfort and alleviate his pain and suffering, as it is impermissible in Islam to despair of God's mercy. This is enunciated in the *Qurʾan* (*Yusuf*: 87): "Indeed, no one despairs of relief from Allah except the disbelieving people." Sachedina highlights the significance of addressing issues at the end of life from the Islamic juristic standpoint, stating that "with modern medical developments and their universal implementation, Muslim legal scholars are under pressure to respond to the moral and legal questions pertaining to health care of terminally ill patients." (Abdulaziz, 2005). It is therefore pertinent for the management of end-of-life issues to be examined in the light of the Islamic framework on bioethical principles and rulings on medical treatment.

Euthanasia

From the healthcare perspective, euthanasia means the intentional putting to death of a person with an incurable or painful disease intended as an act of mercy (Medilexicon International Limited, n.d.; British Medical Association Ethics Department, 2012). It is also seen as "the implementation of a decision that a particular individual's life will come to an end before it need to do so—a decision that life will end when it could be prolonged" (Harris, 1997). The European Association for Palliative Care (EAPC) adopts the position that euthanasia is killing upon request and describes it as "[a] doctor intentionally killing a person by the administration of drugs, at that person's voluntary and competent request (Materstvedt, 2003). In the legal context, euthanasia contemplates a medical practitioner causing the death of a patient whose terminal illness is the source of unbearable pain and distress (Amaraskekara and Bagaric, 2004; Otlowski, 1997).

From the Islamic perspective, in congruence with the doctrine of sanctity of life as enunciated in the primary sources and *maqasid al-shariᶜah,* all forms of active euthanasia, be it voluntary, non-voluntary or involuntary, are equivalent to suicide and murder and therefore strictly prohibited. The prerogative to decide the moment of death belongs exclusively to God and God alone, and human beings cannot attempt to hasten in ending one's life. In Islam, the inviolability principle prevails over the individual's right to self-determination in cases of active euthanasia, not only because life itself does not belong to humans, but also because the termination of a life will cause harm to the family unit and community at large (Aramesh and Shadi, 2007). Thus, patient autonomy ceases to have much significance in such a situation. Further, the curtailment of an individual's freedom of choice to end his life has its basis on the legal maxim *yatahammal al-darar al-khas li-dafᶜi al-darar al-ᶜam* (a specific harm is tolerated

in order to prevent a more general one) (Kasule, 2006). Since permitting acts of active euthanasia could lead to widespread arbitrariness and abuse, considerations for the good of the public take precedence over one's personal injury. The prevention of harm resulting from an act of euthanasia must therefore prevail over any benefit that may be associated with it. Consequently, active euthanasia defeats the *maqasid al- shari^c ah* on three levels: (1) it violates the preservation of life as it is antithetical to the fundamental principle that holds life to be sacred; (2) it flouts the protection of one's religion, due to the commission of an act of transgression against the right of God to give and end life; and (3) it infracts the preservation of progeny, as it diminishes the worth of human life (Kasule, 2006).

In Islam, a doctor is prohibited from intentionally hastening the death of a patient by any means, either of his own accord or upon the request of the patient himself. This interdiction stands firm even though the doctor may have been moved by compassion and mercy and did so to alleviate the patient's pain and suffering. Muslim scholars aver that such motivating factor does not lessen the gravity of the offence nor deflect from the fact that it is still tantamount to murder, since one can never be more merciful than God. Although the Islamic position is that any injury or harm must be extenuated as far as possible, based on the *hadith*, *la darara wa la dirara fil-Islam* (harm may neither be inflicted nor reciprocated in Islam) (*Sunan Ibn Majah*, vol. 13, Hadith 33), this cannot be done by means of another harm, as enunciated in the juridical principle, *al-dararu la yuzalu bi al-darar* (harm must be eliminated but not by means of another harm). Thus, it is prohibited for a doctor or terminally ill person to opt for active euthanasia as a recourse in order to remove one's suffering.

The prohibition of resorting to active euthanasia in order to ease suffering is also stipulated in one of the fatwas issued by the Permanent Committee for Ifta', Kingdom of Saudi Arabia ("Permanent Committee) (The Permanent Committee of Ifta;, n.d.). The fatwa reiterates that any patient who hastens his own death and any party who takes part in assisting a patient to end his life have grievously sinned as they have unlawfully transgressed the sacred boundaries determined by God. Further, an act of active euthanasia is seen to be a show of discontent with God's divine decree and wisdom. The Islamic standpoint on active euthanasia as discussed above is accordingly incorporated in article 61 of the Islamic Code for Medical and Health Ethics (The Islamic Organisation for Medical Sciences, n.d.):
"Human life is sacred, and it should never be wasted except in the cases specified by shari'a and the law. This is a question that lies completely outside the scope of the medical profession. A physician should not take an active part in terminating the life of a patient, even if it is at his or her guardian's request, and even if the reason is severe deformity; a hopeless, incurable disease; or severe, unbearable pain that cannot be alleviated by the usual pain killers. The physician should urge his patient to endure and remind him of the reward of those who tolerate their suffering. This particularly applies to the following cases of what is known as mercy killing: a. the deliberate killing of a person who voluntarily asks for his life to be ended; b. physician-assisted suicide; and c. the deliberate killing of newly born infants with deformities that may or may not threaten their lives."

Withholding or Withdrawal of Treatment: Considerations of Futility

The withholding or withdrawal of life-sustaining treatment (McMurray et al., 1992; Cavalieri, 2001) is an issue frequently encountered in end-of-life care. There are several reasons for such interventions to be withheld or withdrawn; the first of which relates to the futility of treatment which can no longer achieve its intended goal and will not provide any therapeutic benefit to the patient. Medical futility is described as an intervention that will not be able to reach its intended goal (Cavalieri, 2001). Doctors may also withhold or withdraw treatment that would inflict excessive burdens on the patient, or when the treatment would result in unnecessary application of limited resources that would deprive others who are more in need. Another justification for withholding or withdrawing treatment is the refusal of the patient itself. Doctors must withhold or withdraw treatment when a competent patient refuses it, or when a

valid advance decision has been made in the case of a patient who lacks capacity. There is accordingly no moral or ethical distinction between withholding and withdrawing life-sustaining treatment (American Medical Association, n.d.; Berlinger et al., 2013). Withholding or withdrawal of life-sustaining treatments includes, but is not limited to cardiopulmonary resuscitation, mechanical ventilation and artificial nutrition and hydration.

The saving of a life is considered one of the highest merits and imperatives in Islam (Al-Ma'idah: 32), and therefore doctors must do everything they can to prevent a premature death. However, this does not come at all costs, as the purpose of preserving life does not imply human ability to delay or prolong an individual's life span, which are solely the prerogatives of God (Kasule, n.d.). Consequently, when death is inevitable, and clinically evaluated treatment is obviously futile, it ceases to be mandatory (Khan, 2002). Islam recognises that there are times in which human beings need to recognise their own limits and let nature take its course (Al-Nahl: 61); resorting to futile treatment in order to put off death is therefore not acceptable in Islam. Medical treatment should therefore not be applied for the sole purpose of protracting the dying phase of one who is terminally ill and thereby prolonging the patient's pain and suffering (Zahedi et al., 2007).

Muslim scholars agree that doctors would not be liable for withholding or withdrawing treatment when it is futile and would not provide any benefit to the patient. In such a situation, the dying process should be allowed to take place without any medical interference. The permissibility for such a decision is grounded upon two justifications: (1) the duty to remove harm (non-maleficence), which is based on the Qur'anic verse, "Allah intends for you ease and does not intend for you hardship" (Al-Baqarah: 187), from which the legal maxim, *al-mashaqqah tajlibu al-taysir* (hardship begets facility) is derived. This may be used to validate the withholding or withdrawal of futile treatment that merely prolongs life. It is therefore preferable for life-sustaining treatment to be withdrawn from critically ill patients who are in the final stage of their lives when it is burdensome and can no longer accord any benefit to the patient apart from delaying the moment of death (Abu Fadl, 2006a; Abu-El-Noor and Abu-El-Noor, 2014; Abulfadl, 2007; Mohammed Ali, 2007; Hans-Henrik Bülow et al., 2008); and (2) the intention underlying the act of not administering or removing treatment must not and cannot be to hasten the death of the patient. This is based on the famous *hadith*, *innama al-a*ᶜ*malu bi al-niyyah* (acts are valued in accordance with their underlying intention). This is a crucial determinative factor, because if the aim was to deliberately accelerate the dying process, then such an act would be equivalent to murder (Abu Fadl, 2006a). Thus, a doctor's decision to withhold or withdraw any life-sustaining treatment must be carried with the purpose of alleviating the burden and distress suffered (or which may be suffered) by the patient due to such intervention, or when it has been ascertained that such clinical measures would be non-beneficial to the patient.

Several fatwas have been issued by Islamic authoritative bodies with regard to the withdrawal of life-supporting treatment. According to a fatwa issued at the 10th session of the Islamic Fiqh Council of the Muslim World League, the unanimous agreement of three medical specialists must be obtained in order to withdraw life support from a patient whose brain has completely and irreversibly ceased to function, even though the heart and respiratory system are still functioning with the help of medical equipment. However upon withdrawal, the patient can only be declared to be legally dead when his heart and breathing fully stop functioning (Resolutions of the Islamic Fiqh Council, 1987). Fatwas in response to specific queries and issues regarding the terminally ill on a case-to-case basis were also delivered by the Permanent Committee. In the case of incurable patients with no hope of recovery who are highly dependent on medical interventions such as mechanical ventilation in order to keep them alive, it is permissible for doctors to discontinue such treatment on the condition that two competent doctors have confirmed that it is futile and death is inevitable (Council of Senior Scholars, n.d.). Where CPR is concerned, several rulings were prescribed by the Permanent Committee: (a) If the patient's medical file contains a do-not-resuscitate order based on the refusal of the patient or his legal guardian/representative, then no CPR should be administered if in the opinion of

three competent medical specialists, the patient's condition is not fit for resuscitation; (b) If the patient suffers from an irremediable disease, is no longer responding to treatment and death is definite as testified by three competent medical specialists, no CPR need be attempted; and (c) If the patient is mentally incompetent, terminally ill, or suffering from chronic or recurrent heart and/or lung failure, there is no need to use CPR if such a decision is made by three competent medical specialists. The Permanent Committee also specifically address situations where administering CPR would be futile and inappropriate for certain patients. If the futility of such treatment has been verified by three competent medical specialists, then it need not be attempted, and doctors are not obliged to carry out CPR upon the request of either the patient or family members. Further, the patient's view in such a case is not significant as it is a matter to be left to the medical experts. Accordingly, the permissibility on withholding or withdrawal of futile treatment is also incorporated in paragraphs (a) and (b) of Article 62 of the Islamic Code for Medical and Health Ethics:

"The following cases are examples of what is not covered by the term "mercy killing": a. the termination of a treatment when its continuation is confirmed, by the medical committee concerned, to be useless, and this includes artificial respirators, in as much as allowed by existing laws and regulations; b. declining to begin a treatment that is confirmed to be useless…" (The Organisation of Islamic Sciences, n.d.)

It can be clearly deduced from the above rulings that the opinion of *ahl al-khibrah* (medical experts) is of paramount importance and constitutes a condition precedent prior to the withholding or withdrawal of life-sustaining treatment (Abulfadl, 2007). Such end-of-life decisions must remain as medical decisions, which are made in consultation with family members. According to some contemporary scholars, it is possible for a collective decision to be reached between the attending doctor, patient and family members to refuse medical interventions and discontinue life-sustaining treatments if such procedures will in no way improve the condition or quality of life, on the basis of informed consent (Alsolamy, 2014; Abdulaziz, 2005; Bülow et al., 2008). However, if invasive treatment has been intensified to save a patient's life, Muslim scholars are of the opinion that life-saving equipment cannot be switched off unless the doctor is certain about the inevitability of death (Abdulaziz, 2005). In palliative care, particularly in the case of patients who are in a persistent vegetative state (PVS), doctors often concur with requests of patients and family members to withhold or discontinue therapy (Abu Fadl, 2006b). Thus, in order to safeguard the patient from disproportionate life-sustaining treatment that would not provide quality of life to the patient and only serve to stretch the dying process, it has been suggested that doctors avoid from admitting cases that are futile and limit from administering aggressive therapy when the patient's prognosis is bleak (Mohammed Ali, 2007).

The patient is also given the right in Islam to refuse treatment that will not benefit him or provide him with a better quality of life. This stems from the conviction that God is the Ultimate Healer and everything is within His divine will, which entails acceptance that certain treatments may or may not work (Abu Fadl, 2006a). The authority for this principle is based on an incident when the Prophet (peace be upon him) became terminally ill and there were times in which he would lose consciousness. During one such occasion, his companions tried to force feed him medicine, pursuant to which the Prophet (peace be upon him) indicated his disapproval by waving his hand at them. When the Prophet (peace be upon him) came to his senses, he reproached the companions and voiced his displeasure at their actions (*Sahih al-Bukhariyy*, Book 71, Hadith 610). Thus, it can be derived from the *hadith* that a patient's right of autonomy is to be respected and it is permissible for a patient to refuse treatment particularly at the end of life and when such treatment would be futile. This right of the patient is also justified by the *hadith la darara wa la dirara fil-Islam* (harm may neither be inflicted nor reciprocated in Islam), and is seen in the practice of many Companions of the Prophet (peace be upon him) such as Abu Bakr al-Siddiq and Muᶜadz ibn Jabal, who refused medical treatment in the final stages of their respective illnesses (Mohammed Ali, 2007). It must further be noted that despite the removal of life-sustaining treatment, Islam emphasises that a doctor's duties of beneficence

and non-maleficence must continue even upon the removal of life-sustaining treatment. The patient must be accorded full respect and doctors must ensure that necessary measures are taken to provide symptomatic relief and ensure the patient's comfort until the end (IMANA Ethics Committee, 2005).

What constitutes quality of life from the Islamic bioethical perspective is another important point for deliberation, since the Islamic edicts that have been issued on end-of-life decisions thus far, do not expound on the subject matter. According to contemporary Muslim scholars, a patient's quality of life is a key consideration in deciding whether to withhold or withdraw medical therapy (Rahman, 1987; (Aasim and Afshan, 2015; Gatrad and Sheikh, 2001). One renowned Islamic bioethicist, Dr. Aasim Padela discusses this concept at length and suggests ethical guidelines in the continuance and removal of Islamic therapy based on the assessment of a patient's quality of life (Aasim and Afshan, 2015). He argues that from an Islamic perspective, end-of-life care aims to maintain or return a patient to a state in which he can potentially benefit from life. What amounts to a beneficial life is intrinsically connected to the purpose of all creation that is to worship God and gain His pleasure in this world and in the afterlife: "And I did not create the jinn and mankind except to worship Me." (Al-Dhariyat: 56). This, according to Padela, forms the theological yardstick to determine what amounts to quality of life, and therefore Muslim doctors are ethically duty-bound to carry out medical treatment that would enable a patient to attain a clinical state that provides him with the ability to perform acts of worship.

The obligation to worship is made incumbent upon a Muslim from the time that he reaches the status of *mukallaf* until death approaches: "And worship your Lord until there comes to you the certainty (death)." (Al-Hijr: 99). *Mukallaf* refers to a state where an individual possesses the cognitive ability to recognise and comprehend the existence of God and perform his obligations voluntarily with full cognizance of the consequences of his actions; the *mukallaf* status therefore signifies the accountability of a person to God for his deeds. Accordingly, Padela draws a nexus between a patient's quality of life and his position as a *mukallaf*; if the patient's *mukallaf* potential is not impeded by his ailment, then his quality of life is not compromised. Inserting this into the equation, Padela asserts that end-of-life care should therefore serve to fulfil two main purposes: (1) to improve the likelihood of the patient to regain *mukallaf* status upon losing it due to illness; and (2) to maintain the cognitive functions of a patient who potentially would be able to attain the *mukallaf* status in the future. Premised on the foregoing, Padela lays down the following guidelines to assist Muslim doctors in end-of-life decisions: (1) If a patient's *mukallaf* is adversely affected by an illness, then a Muslim doctor must administer treatment in order to restore this capacity; and (2) when medical treatment cannot reinstate or preserve the *mukallaf* state of a patient, then there is no ethical obligation on the part of the Muslim doctor to perform such procedure.

Withholding or Withdrawal of Treatment: Considerations of Distributive Justice

Life-sustaining therapy involves the utilisation of resources which are costly and are often limited in availability. Consequently, Islam recognises resource allocation in end-of-life care as a legitimate concern where doctors may face the challenging decision whether one patient is better entitled to the limited equipment and treatment than the other. Competition for the same scarce resources in the delivery of end-of-life care is to be examined in the light of two objectives of the *shari^cah* namely, the preservation of life and the protection of property. The underlying considerations in balancing between both interests lie in a patient's quality of life, which is intrinsically linked to considerations of futility, and the need to avoid putting such resources to waste.

Islam discourages wasting in any form, as enunciated in the *Qur᾽an*, "…and do not spend wastefully. Indeed, the wasteful are brothers of the devils, and ever has Satan been to his Lord ungrateful." (Al-Isra': 26-27). Applying limited resources which are subject to competing demands in cases where the patient's condition is unlikely to improve from it and recovery is

dismal, would be regarded as a waste, when it can be used to benefit patients who have a better prognosis of being cured (Kasule, n.d.). There is accordingly no obligation for doctors to administer or continue treatment that would not provide a better quality of life to the patient (Abu Fadl, 2006a). Thus, in futile cases where death is inevitable, the preservation of life concedes to the protection of property i.e. medical resources. According to a well-known contemporary Islamic jurist, *Yusuf Qaradawi*, it is lawful to withdraw life support systems from patients suffering from brain death (al-Qaradawi, 1993). Without these machines, death would be inevitable for such patients and therefore the function of the machines would be to merely prolong the process of death. Furthermore, since such machines are expensive and scarce, it would not be possible to provide them to all patients. Thus, such treatment should be given to those who have a better prospect of recovery rather than to those whose deaths are unavoidable (al-Qaradawi, 1993).

Further, allowing the distribution of resources to patients who may better benefit from it complies with the juridical principle that allows for one to choose the lesser of two evils in order to achieve the greater good: *daf^{c}u a^{c}dham al-mafsadaini bihtimal aisarihima* ("warding off the greater of two evils by committing the lesser"), as well as *al-maslahatu al-^{c}ammatu muqaddamatun ^{c}ala al-maslahatu al-khassah*, where public interest is to be given priority over the consideration individual interests. The principle of repelling the greater harm by bearing the lesser of the two is discernible from a *hadith* narrated by Anas bin Malik: "A Bedouin came and passed urine in one corner of the mosque. The people shouted at him but the Prophet stopped them till he finished urinating. The Prophet (peace be upon him) ordered them to spill a bucket of water over that place and they did so." (*Sahih al-Bukhariyy*, vol. 4, Hadith 88). In his commentary, Ibn Hajar al-Asqalani explained that the Prophet (peace be upon him) ordered his Companions to do so in order to avoid a greater harm (which among others, would have been the untoward soiling of a wider area of the mosque) by suffering a lesser harm (al-Asqalani, 2006). Thus, an individual may have to sustain a harm in order to protect and prevent harm to a larger group of people: *yatahammalu al-darar al-khas li daf^{c}i al-darar al-^{c}am* (Kasule, 2004). Thus, in Islam, it may be necessary in such a situation to: (1) examine and contemplate the needs of two individuals competing for the same resources, and (2) to balance between individual interests and societal needs (Choong and Chandia, 2013). Applying this to an end-of-life care setting, the greater good would therefore be in the form of preserving limited resources and benefitting other lives, which is to be weighed against the lesser harm of withholding or withdrawing the utilisation of such resources from patients with no hope for eventual recovery.

Justifying the allocation of limited resources on the necessity of preserving property can also be viewed from a different perspective. Medical interventions in end of life care incur heavy expenses, which may be inordinately burdensome on family members or state resources (as the case may be). Thus, such expenditure could be better applied for the sustenance of the patient's family, who may have limited means of financial support, and in the case of state funding, such costs could be utilised for the care of members of the community who are in dire need such as orphans, as well as the poor and underprivileged (Kasule, 2006). Accordingly, Islam does not impose any obligation upon Muslims to persist in seeking life-sustaining treatment for their family members if it would place them in a lot of difficulty (Kasule, 2006; Abu Fadl, 2006a).

Palliative Sedation

Terminally ill patients at the end of life may experience severe symptoms such as dyspnea, pain, delirium, restlessness and vomiting that are refractory, to which normal interventions provide no relief (Bruce et al., 2006; Sinclair and Stephenson, 2006). In such cases, doctors may sedate the patient to a state of unconsciousness in order to alleviate the patient's intractable suffering and discomfort. This is known as palliative sedation. According to ESMO, palliative sedation is "the monitored use of medications intended to induce a state of decreased or absent

awareness (unconsciousness) in order to relieve the burden of otherwise intractable suffering in a manner that is ethically acceptable to the patient, family and health-care providers." (Cherny and Radbruch, 2009).

Pain management is the final resort in managing refractory symptoms for patients in end-of-life care, where analgesics such as opioids are administered in order to relieve the suffering and discomfort faced by the terminally ill. In Islam, the issues arising from the use of sedatives can be discussed from two aspects: (1) the possibility of death being hastened against comfort measures and pain control; and (2) the effect of inhibited consciousness in respect of a Muslim's responsibility to observe and perform acts of worship (Al-Nomay and Alfayyad, 2015).

Islam permits palliative sedation even if in the process there may be a real risk that a patient's life may be shortened. This is based on the Islamic legal maxim that "actions are to be judged by their intentions" (*al-umuru bi maqasidiha*) (*An-Nawawi's Forty Hadith*, Hadith 1). It follows that the intended purpose of palliative sedation is not to facilitate death, but rather to save a patient from severe discomfort, which renders it ethically legitimate from the Islamic bioethical standpoint (Gatrad and Sheikh, 2001; Bülow et al., 2008; Zahedi et al., 2007; Abdulaziz, 2005). The focus should be on restoring the quality of life of the patient until death comes naturally. This precept is consistent with the doctrine of double effect, in which the distinction between intention and foresight is a decisive factor.

Palliative sedation is also allowed based on other juridical principles such as *al-dararu yudfa*^{c}*u bi qadr al-imkan* (harm is eliminated to the extent that is possible), the harm in this case referring to the intolerable pain suffered by the patient. The justification for the administration of opioids can be further justified by the ruling, *al-daruratu tubihu al-mahzurat* (necessity makes the unlawful lawful), where it becomes a necessity to alleviate the intolerable pain and distress suffered by patients at the end of life (Malik, 2012). This legal maxim is derived from the Qur'anic authority that prohibited acts may be permitted in situations of necessity, for example, "But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him" (Al-Baqarah: 173), and "[b]ut whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], then indeed, your Lord is Forgiving and Merciful." (Al-An^{c}am: 145) The permission based on necessity however should be exercised in due proportion and must not exceed the limits of permissibility, consistent with the legal maxim *al-daruratu tuqaddaru bi qadariha* (necessity is measured in accordance with its true proportions).

It is important in Islam for a person to preserve his mental awareness at all times and therefore the consumption of intoxicants and other substances which can impair one's cognitive functions is strictly forbidden. This relates to one's accountability for his actions, as the effect of such components could not only cause the individual to lose the ability to rationalise and discern, but also result in him neglecting his duties and obligations, and commit acts or omissions which could have harmful consequences not only upon the individual but also to others (al-Qaradawi, 1997). The prohibition is contained in the *Qurʾan (al-Ma'idah*: 90-91): "O you who have believed, indeed, intoxicants, gambling, (sacrificing on) stone alters (to other than Allah), and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful. Satan only wants to cause between you animosity and hatred through intoxicants and gambling and to avert you from the remembrance of Allah and from prayer. So will you not desist?"

In the case of palliative sedation however, Muslim scholars agree that the principle of necessity can be applied to justify this procedure on the condition that proportionality is properly exercised. It is important that the patient be allowed to maintain clarity in his mental faculties as close to normal as possible (al-Shahri and al-Khenaizan, 2005); however, the use of sedatives which reduce a patient's level consciousness is permitted provided that there are no other effective forms of symptomatic relief. Further, the dosage of the medication and duration for which the patient is sedated must be that which is essential to control the pain and provide comfort to the patient. The permissibility of palliative sedation is also enunciated in

article 62 of the Islamic Code of Medical and Health Ethics under paragraph (c) (The Islamic Organisation for Medical Sciences, n.d.).

Terminal Sedation

Terminal sedation is a term used to denote the act of administering deep and continuous sedation while foregoing artificial nutrition and hydration from a terminally ill patient (Battin, 2008; Cellarius, 2008). Islam considers the provision of food and water to be a patient's basic needs in the delivery of medical care. As long as the person is alive, it is his fundamental right to be fed. Thus, Islam maintains the position that patients should not be denied their basic human rights of nutrition and hydration even at the end of life. This is due to the fact that withdrawal of such basic necessities is considered to be equivalent to starving the patient and thereby hasten death, which is a crime in Islam as it violates the sanctity of life (Bülow et al., 2008; Gatrad and Sheikh, 2001; Khan, 2002; Alsolamy 2014; Abu Fadl, 2006a; Abu Fadl, 2006b). Similarly, it is forbidden for a doctor to carry out the request of a terminally ill patient that he not be fed by artificial means, as this would tantamount to active euthanasia (Abu Fadl, 2006b).

Therefore, the prevailing view is that it is permissible for a doctor to withdraw or withhold therapy that does not confer any clinical benefit to a terminally ill patient and would not contribute towards his recovery (for example in the case of a patient suffering from irreversible brain damage), but the supply of nutrition and hydration must nevertheless be continued until death naturally takes place. The Islamic standpoint is accordingly reflected in the statement of the Ethics Committee of the Islamic Medical Association of North America (IMANA): "The patient should be treated with full respect, comfort measures and pain control. No attempt should be made to withhold nutrition and hydration." (IMANA Ethics Committee, 2005). According to the Saudi Commission for Health Specialties, there should be continuous care, including provision of suitable feeding for patients suffering from terminal or incurable diseases, by whatever means (Saudi Commission for Health Specialties, 2014). A similar decision was endorsed at the 97th Discourse of the National Fatwa Committee for Islamic Affairs Malaysia, which mentions that if the patient no longer has any hope for recovery, withdrawal of definitive treatment is permissible, but supportive treatment (for example, hydration and nutrition) must nevertheless be continued (The National Fatwa Council for Islamic Religious Affairs Malaysia, n.d.).

Some Muslim scholars suggest that the decision to withhold or discontinue artificial nutrition and hydration should be made by looking at the issue from the perspective of non-maleficence (Abu Fadl, 2006b, Alsolamy, 2014; Al-Nomay and AlFayyad, 2015; Abulfadl, 2007). If, in the opinion of medical experts, the provision of nutrition and hydration through artificial means would be futile and further exacerbate the patient's condition, then it would be justified for doctors to not administer it on the basis of *la darara wa la dirara fil-Islam* (harm may neither be inflicted nor reciprocated in Islam), for the purpose of avoiding harm and minimising injury to the patient. However, if upon weighing the effects of such a withdrawal, it is ascertained that it would result in a greater harm to the patient, then artificial feeding should not be discontinued (Alsolamy, 2014).

Conclusion

The importance of religious and cultural values cannot be undermined in the decision-making process at the end of life, due to its broad and significant impact on the delivery of holistic and compassionate care. The preceding discussion elucidates how Islam provides a holistic framework to address the current and prevalent issues in end-of-life care; it lays down principles and justifications on medical treatment and care while concomitantly recognising the relevancy of modern medical practice. A clearer understanding of the Islamic precepts would operate to facilitate the communication process between doctor and patient, which in turn will lead to

increased trust and cooperation in the shared decision-making process, in addition to creating a more culturally sensitive environment. Accordingly, it is essential that modules relating to Islam, as well as different religious perspectives and practices on end-of-life decisions, are incorporated as part of uniform guidelines, as well as in health care training courses and programmes.

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