

EUTHANASIA WITH REGARDS IN EGYPT SHARIA

Zahra Hamedani

Department of Humanities, Gonbad Branch, Islamic Azad University, Khorasan, Iran

Seyed Milad Alizadeh Javaheri

PhD student, Department of Humanities, Tehran Markaz Branch,
Islamic Azad University, Tehran, Iran

Abstract

Many advocates of euthanasia consider the criminal law to be an inappropriate medium to adjudicate the profound ethical and humanitarian dilemmas associated with end of life decisions. This work examines the legal response to euthanasia and end of life decisions and considers whether legal reform is an appropriate response to calls for euthanasia to be more readily available as a mechanism for providing death with dignity. Through an analysis of consent to treatment and medical decision making, euthanasia is carefully located within its legal, medical, and social contexts. This book focuses on the impact of euthanasia on the dignity of both the recipient and the practitioner while emphasizing the legal, professional, and ethical implications of euthanasia and its significance for the exercise of clinical discretion.

Keywords: Euthanasia, Egypt, Iran, Sharia

Introduction

Apart from scholars and authorities, most of people in these countries ask such questions from Islamic scholars and rely on the answers with jurisprudential nature. Islamic jurisprudence has four main sources: The first and the most important one is Holy Koran which is the primary source of Islamic law (although it is not only a book of law); the second source of Islamic law is Sunnah which is what the prophet (and Shiite Imams in the Shiite jurisprudence) said, did or agreed to. The third source is Ijma' which is consensus of Islamic scholars, and the fourth one is Aghl that means reason. In this article we are going to discuss this topic from Islamic perspective through reviewing Islamic primary texts and contemporary Muslim scholar's point of views. Islamic jurisprudence, based on a convincing interpretation of the holy Koran, does not recognize a person's right to die voluntarily. The Islamic arguments against euthanasia can be summarized in two main reasons: 1-Life is sacred and euthanasia and suicide are not included among the reasons allowed for killing in Islam. Allah decides how long each of us will live and two verses support this reason. According to Islamic teachings, life is a divine trust and cannot be terminated by any form of active or passive voluntary intervention. Of course, we have to exclude the situation in which the life support equipments are switched off from a brain-dead person, aimed to use them for saving the life of a live person. As a conclusion we can say that the Islamic position is that life belongs to Allah. It is He who gives and takes away life. No human can give or take it. Muslims are against euthanasia. They believe that all human life is sacred because it is given by Allah, and that Allah chooses how long each person will live. Human beings should not interfere in this. There are two instances, however, that could be interpreted as passive assistance in allowing a terminally ill patient to die and would be permissible by Islamic law: Administering analgesic agents that might shorten the patient's life, with the purpose of relieving the physical pain or mental distress, and withdrawing a futile treatment in the basis of informed consent (of the

immediate family members who act on the professional advice of the physicians in charge of the case) allowing death to take its natural course.

Discussion

If a patient is medically presumed dead through what is known as brain death, switching off the life support may be permissible, with due consultation and care, especially when it is clear that the life support machine becomes of no use for the already-dead patient or in the case of organ and tissue donation for saving another persons' life which is a routine practice in Iran and some other Muslim countries. Regarding end-stage dementia patients, they should be considered as completely human being and according to Islamic teachings; their life is sacred and should not be taken. Many predominantly Muslim countries have not adopted hudud penalties in their criminal justice systems. Ali Mazrui stated that "most Muslim countries do not use traditional classical Islamic punishments". The harshest penalties are enforced with varying levels of consistency. The use of flogging is more common compared to punishments like amputations. Classical sharia systems formally equate national law with sharia, and to a great extent national law are based on sharia; religious scholars (ulama) play a decisive role in the application and interpretation of sharia as national law, while the legal changes allowed to the ruler are limited. Only a small minority of Muslim nations institutes this system. These countries for the most part lack constitutions or codification of laws outside of the Sunnah and Hadith. The ulama are the source of ijma (scholarly consensus) and therefore determinants of the law of the land. Even the ruling parties do not have the power to institute large-scale changes because of the power of the ulama. Egypt Sharia courts and qadis are run and licensed by the Ministry of Justice. The personal status law that regulates matters such as marriage, divorce and child custody is governed by Sharia. In a family court, a woman's testimony is worth half of a man's testimony.

Sharia in the world by Country

Where Sharia applies in personal status issues (such as marriage, divorce, inheritance, and child custody), but otherwise have a secular legal system. Countries where Sharia applies in full, covering personal status issues as well as criminal proceedings.

Algeria: In criminal cases the testimony of two women are equal to the testimony of one male witness.

Benin: It has a civil law system with influences from customary law.[9]

Burkina Faso: It has a civil law system.

Cameroon: It has a mixed legal system of English common law, French civil law, and customary law.

Chad: The government is declared to be secular in the constitution.

Comoros: The legal system is based on Sharia.

Cote d'Ivoire: It has a civil law system.

Djibouti: The Family Code is mainly derived from Islamic law and regulates personal status matters such as marriage, divorce, child custody and inheritance.

Egypt Sharia: courts and qadis are run and licensed by the Ministry of Justice. The personal status law that regulates matters such as marriage, divorce and child custody is governed by Sharia. In a family court, a woman's testimony is worth half of a man's testimony.

Eritrea Sharia: courts entertain cases dealing with marriage, inheritance and family of Muslims.

Ethiopia: Sharia courts have jurisdiction on cases regarding marriage, divorce, maintenance, guardianship of minors (only if both parties are Muslims). Also included are

cases concerning waqfs, gifts, succession, or wills, provided that donor is a Muslim or deceased was a Muslim at time of death.

Gabon: It has a mixed legal system of French civil law and customary law.

Ghana: Islamic law is applied by customary or traditional courts as part of customary law.

Guinea-Bissau: It has a mixed legal system of civil law and customary law.

Guinea: It has a civil law system.

Kenya: Islamic law is applied by Kadhis' Courts where "all the parties profess the Muslim religion". Under article 170, section 5 of the constitution, the jurisdiction of Kadhis' court is limited to matters relating to "personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi's courts".

Libya: Qaddafi merged civil and sharia courts in 1973. Civil courts now employ sharia judges who sit in regular courts of appeal and specialise in sharia appellate cases. The personal status laws are derived from Islamic law.

Mali: It has a civil law system influenced by customary law.

Mauritania: The Penal Code contains Sharia crimes such heresy, apostasy, atheism, refusal to pray, adultery and alcoholism. Punishments include lapidation, amputation and flagellation.

Morocco: In 1956, a Code of Personal Status (Mudawana) was issued, based on dominant Maliki doctrine. Sharia sections of regional courts also hear personal status cases on appeal. In matters of family law, a woman's testimony is worth only half of that of a man. The Moudawana was the subject of a wide-ranging reform in 2004.

Niger: It has not adopted any elements of Islamic law.

Senegal: The government is declared to be secular in the constitution.

Sierra Leone: It has a common law system influenced by customary law.

Somalia: Sharia was adopted in 2009. Religious law is traditionally only used to settle domestic disputes, including issues of marriage and family. Traditional law usually takes precedence on criminal matters.

Sudan: The Criminal Act of 1991 prescribes punishments which include forty lashes for drinking alcohol, amputation of the right hand for theft of a certain value and stoning for adultery.

Tanzania: Islamic law is applicable to Muslims under the Judicature and Applications of Laws Act, empowering courts to apply Islamic law to matters of succession in communities that generally follow Islamic law in matters of personal status and inheritance. Unlike mainland Tanzania, Zanzibar retains Islamic courts.

Togo: It has a customary law system.

Tunisia: The Law of Personal Status was inspired by unofficial draft codes of Maliki and Hanafi family law, but it bans polygamy and extrajudicial divorce. Sharia courts were abolished in 1956.

Guyana : The country has a common law system.

Suriname: The country has a civil law system.

Afghanistan: Criminal law in Afghanistan continues to be governed in large part by Islamic law. The Criminal Law of September 1976 codifies sharia, and retains punishments such as the stoning to death of adulterers. However virtually all courts, including the Supreme Court of Afghanistan, rely on Islamic law directly.

Azerbaijan: The government is declared to be secular in the constitution.

Bahrain: Civil courts have jurisdiction over cases related to civil, commercial, and criminal matters, while Sharia courts are limited to personal status law issues only. A personal status law was codified in 2009 to regulate personal status matters. It applies only to Sunni

Muslims; there is no codified personal status law for Shiites. Before a Shari'a court a woman's testimony is worth half of that of a man.

Bangladesh: Marriage, divorce, alimony and property inheritance are regulated by Sharia for Muslims. The Muslim Personal Law (Shariat) Application Act, 1937 (XXVI of 1937) applies to Muslims in all matters relating to Family Affairs. Islamic family law is applied through the regular court system. There are no limitations on interfaith marriages.

Brunei Sharia: courts decide personal status cases or cases relating to religious offences. Sultan Hassanah Bolkiah declared in 2011 his wish to establish Islamic criminal law as soon as possible.

Gaza Strip: The Egyptian personal status law of 1954 is applied. The personal status law is based on Islamic law and regulates matters related to inheritance, marriage, and divorce and child custody. Shari'a courts hear cases related to personal status. The testimony of a woman is worth only half of that of a man in cases related to marriage, divorce and child custody.

Exercising both spiritual and temporal leadership

Shia as the official religion of Islamic Republic of Iran has had many Fatwas (religious opinions about whether an action is permissible or not) from its scholars regarding bioethical issues such as organ transplantation, abortion and genetic research, some of which have been implemented into law by the parliament of Iran in recent years. But the subject of Euthanasia is a clear matter that all the branches of Islam have had a unified opinion on. In an Islamic setting the issue of euthanasia is dismissed as religiously unlawful, therefore the specifications for taking a life are clear. From Islamic perspective sanctity of life is of supreme value, so killing a person out of mercy and in order to relieve him of pain and suffering is not only sinful, but a threat to the moral fabric of society. Islam states that to kill one's self or to get someone else to do it, is actually denying God, and of course to deny God's rights over our lives is to deny him altogether and this is the clear example of blasphemy. Islam teaches its followers that a person in any profession needs to be honest, show sound performance and be God conscious. This rule for the physicians is of course of more value because they touch on the human soul as well as his body. A physician is expected to maintain a typical, ethical performance at all costs. In this sense, controversial issues such as euthanasia have drawn the medical profession into the fields of ethics, philosophy, and religion.

Life and death from Islamic perspective

Islamic jurisprudence has four main sources, and all the Muslims rely on these sources to get answers for their questions. The primary source of Islamic law is the holy Quran. The second source is the Sunnah which is the teachings, sayings and the life style of the Prophet of Islam. The third source is Ijma', (meaning consensus or acceptance of a matter by a specified group of people), and the last one is Aghl or reason. Based on these sources Islamic laws and regulations are established and governed.

Conclusion

To answer the question of Euthanasia, we will only rely on the primary source which is the holy Quran. After creating Adam, the Almighty congratulates himself for creating the best of the creations: "so blessed be Allah, the best of the creators ". Allah gave this creation the best position: "certainly we created man in the best make ". But this great creation is also doomed, and in the end death awaits him: "then after that you will most surely die" and " every soul shall taste of death, and you shall only be paid fully your reward on the resurrection day; then whoever is removed far away from the fire and is made to enter the garden he indeed has attained the object; and the life of this world is nothing but a provision of vanities ". Islam emphasizes that man has not created himself; therefore he has no right

over his body. Our lives are not our lives for us to do with as we see fit, this life was entrusted to us for care, nurture and safekeep: "surely Allah's is the kingdom of the heavens and the earth; he brings to life and causes to die; and there is not for you besides allah any guardian or helper. Imam Ali, the first Imam of the shia muslims, says that God is the owner and giver of life and his rights in giving and in taking are not to be violated: " He who gives life is he who is the owner of life and he who is taker of live". In Islam the sanctuary of human life is a basic value as decreed by God. The holy Quarn clearly points out this issue in the following verses: " and do not kill any one whom Allah has forbidden, except for a just cause, and whoever is slain unjustly, we have indeed given to his heir authority, so let him not exceed the just limits in slaying; surely he is aided ", " o you who believe! do not devour your property among yourselves falsely, except that it be trading by your mutual consent; and do not kill your people; surely Allah is merciful to you ".

References:

- Morris, K.N.; Wolf, J.L. & Gies, D.L. (2011). Trends in intake and outcome data for animal shelters in Colorado, 2000 to 2007. *Journal of the American Veterinary Medical Association*, Vol.238, No.3, (February, 2009) pp. 329-336. ISSN 0003-1488
- Nogueira, B.L.J.; Adams, C.L.; Bonnet, B.N.; Shaw, J.R. & Ribble, C.S. (2010). Use of the measure of patient-centered communication to analyze euthanasia discussion in companion animals practice. *Journal of the American Veterinary Medical Association*. Vol,237, No.11, (December, 2010) pp. 1275-1287. ISSN 0003-1488
- "Law No. (11) of 2004 Penal Code". Qatar Financial Information Unit.
- "Prison Information Pack - Saudi Arabia". Ukinsaudiarabia.fco.gov.uk. 2012-04-09. Retrieved 2013-02-18.