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Islamic Ethical Perspectives on the Allocation of Limited Critical Care Resources During the COVID-19 Pandemic

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Note from author: It is to be noted that the published paper is part of a work in progress on a more detailed study. Because of the urgency of the topic, we wanted to share our thoughts with colleagues from different backgrounds. Their critical feedback will be of great help to further sharpen our arguments and to improve the prospective large-scale study.

Abstract

The current COVID-19 pandemic has placed overwhelming demands on healthcare systems globally necessitating guidelines for limited resource allocation to be developed. This paper examines the ethics of resource allocation from an Islamic perspective and proposes a pragmatic clinical algorithm for the allocation of critical care when resources are limited.

Introduction

Pandemics, and other mass casualty disasters, place overwhelming demands on healthcare systems with respect to supplies and equipment (such as N-95 masks and ventilators) as well as human resources such as healthy, trained staff. This creates the need to manage the available limited resources in a morally justified and consistent way. Most hospitals adopt the overall policy of directing essential resources, including ventilators, to patients who can benefit the most from treatment. The question remains: how should this loose guideline of "benefit the most" be practically implemented in the COVID-19 context? What algorithm should be in place for the consistent ethical management of scarce resources? The current COVID-19 pandemic has mandated these issues be addressed urgently to provide some form of guidance to health care providers, including those of Muslim background. For this main reason, the authors share their nascent ideas on these issues from an Islamic perspective, fully recognizing the need to receive critical feedback from various researchers and scholars who should see this paper as a work in progress. This paper limits the discussion to critical care resources only.

Islamic Bioethical Framework

Unlike the secular bioethical model, the Islamic bioethical framework is premised on a belief in a supreme moral authority assigned to God, the Creator, whose moral judgement about what is good/bad should always be respected.

What process did Muslim scholars develop to know that God judges a certain act as good or bad? The detailed nuances of this process are beyond the scope of this paper and mandate a more comprehensive study, but briefly, the process starts by consulting the foundational Scriptures (Quran and Sunnah). When the divine command/prohibition is categorical and not open for various interpretations, then Muslim scholars will consider it a straightforward case. Whenever the passage in the Quran or Sunnah is open to different interpretation but the community of scholars consensually agreed on a specific interpretation, then the agreed-upon position will be adopted. When there is no direct reference in the Scriptures to the new case under discussion, but there is a parallel paradigm mentioned in the Scriptures, then the evidence of analogy will be

employed. The difference in weight given to hermeneutical techniques and the ordering of tertiary sources resulted in different schools of jurisprudence.

By surveying the wide range of divine commandments and prohibitions in Islamic Scriptures, Muslim scholars developed a broad framework to help with judging novel issues commonly encountered by Muslim individuals. At the level of objectives, they concluded that the governing Islamic religio-moral system (Sharia) recognizes five main benefits, the actualization of which would make an act a good act, namely safeguarding faith, life, intellect, lineage and property. These are known as the Higher Objectives of Sharia (Maqāṣid al-Sharīʿa). (1) At the level of maxims, they agreed on the following five governing maxims:

- Acts are judged by their goals and purposes
- Certainty is not to be removed by doubt
- Hardship begets ease ('necessity permits the prohibited' is part of this)
- Harm must be eliminated
- Custom is made arbitrator

Application of Islamic Bioethical Principles to Resource Management During the COVID-19 Pandemic:

A state of emergency, such as during a pandemic, is a dynamic state: the end is unknown, needs are constantly changing/ developing and swift action is often required. In general, the wellbeing of the community at large takes precedence over individual benefits and damage-control decisions must ethically balance between two harms (instead of the usual harm-benefit assessment). Since public resources are used to address the public health hazard, the resource allocation protocol should be made public to promote transparency and community trust in a uniformly fair process (2). Furthermore, community viewpoints, especially from those at greatest risk for morbidity and mortality, should inform decision makers.
The Islamic bioethical framework provides the necessary flexibility to issue appropriate guidance responsive to the continual state of flux inherent in a pandemic:

1. Value of human life should indiscriminately be respected. In the context of life-threatening situations like the classical example of a drowning ship, Muslim scholars are of the opinion that saving inviolable life is a religious obligation that is indiscriminately applied to all individuals involved. One of the discriminatory criteria explicitly rejected in various sources is giving preference to free people over slaves or to Muslims over non-Muslims. They only accepted the rationale of starting with sacrificing money and then animals, if proven necessary for saving human lives on the drowning ship. This is because the higher value is accorded to human life (sharaf al-nafs). Against this background, giving higher priority to certain individuals or groups, because of their social status, profession or health condition, would not be morally justified in principle.Vulnerable sectors of society must be protected against the bias within current clinical triage protocols which could (un)intentionally favour the advantaged.

2. Acts are judged by their goals and purposes. Normally, it is incumbent on Muslims to seek life-saving treatment. However, when resources are limited and the intention is altruistic, forgoing life-saving treatment is permitted.

3. Harm is not to be eliminated by an equal or greater harm. As an application of this maxim, religious scholars contend that in case of starvation, one is not permitted to take food owned by another person when the available food can only save one life. The harm of losing one's life cannot be eliminated by taking someone else's life, they explained. For this reason, it would not be permissible to remove a ventilator from one patient for the benefit of another, as long as the life of the first patient can be equally saved. Withdrawing life support is much more ethically problematic than withholding.

4. The lesser harm/evil principle. Muslim scholars agree that when two evils or harms exist, the lesser harm or evil can be tolerated if it is the only way to avoid the greater one. But would this principle apply to the abovementioned example of a drowning ship, when throwing some individuals into the sea (who would then imminently die) is the only way to save the remaining passengers? Some scholars argue that it has to do here with eliminating one harm by an equal one and thus conclude that no one should be sacrificed because their lives are not less valuable than the saved ones. Others view the case differently by comparing between saving some lives or losing all lives. For them, saving some lives would be the lesser evil but they struggle with the follow-up question: Which criteria should be used to choose those who would be thrown into the sea and those who would remain on the ship? The most recurrently suggested tool here is lottery (random allocation) because of its unbiased character, they argued.

5. Necessity overrides prohibition. When there is a shortage of frontline workers, it becomes permissible in principle to prioritise those with the required skill over others for the greater benefit of society.

Recent Fatwas

A number of fatwas have recently been issued on this topic. At this phase of our research, we will just mention two examples of these fatwas without further analysis or critical comments. We leave this to the prospective more detailed study.

The European Council for Fatwa and Research (ECFR)

issued a fatwa in Arabic (number 30/18) on managing scarce resources during this pandemic. The text of the fatwa reads:

"Muslim physicians should comply with the administrative and medical regulations adopted by the hospital in which they work. However, if the decision is assigned to them, then they must utilize medical, ethical and humane principles. Withdrawal of life-saving equipment in order to benefit a patient coming after is not permitted. If the physician has no choice but to choose between two patients, then the first patient should be chosen (unless their treatment is deemed futile) and the patient requiring emergency treatment (over the patient whose condition is not so critical) and the patient whose successful treatment is more likely (over the patient whose successful treatment is unlikely). This is in accordance with the fiqhi principle "ghalabatal-ẓunūn" and medical assessment." (3)

The second example is the fatwa issued by the Assembly of Muslim Jurists of America. It is a very detailed and comprehensive Fatwa, dated 4 April 2020, on managing scarce medical resources and rationing during the COVID-19 pandemic. Here, we give some quotations of the text:

"Human beings have the same intrinsic value... it is not permissible to favor some individuals receiving scarce resources over others...What is to be considered in prioritizing some over others is the degree of need; so the one in greater need should be prioritized, and if they have the same need (i.e., requiring the intervention for survival), the one with a greater likelihood of recovery, based on evidence-based clinical decision tools, should be given precedence. If such likelihood is equal, then those with the longer life expectancy should be given precedence. This is all consistent with the principle of 'procuring the greater good by forsaking the lesser.'...When applicable, service should be provided on a first come, first served basis...except when it may lead to stampedes or violence, or give unfair advantage to those capable of arriving early at a healthcare facility... If all previous considerations do not give precedence to some over the others, resorting to lottery is a principle that is endorsed...It is permissible for some people to decline placement on the ventilator, if it's benefit is questionable..." (4)

Suggested Algorithm

In the eventuality that triage for limited critical care services becomes required, we argue that Islamic bioethical principles stress the need for rationing to follow clear, pre-specified, publicly transparent protocols. This would not only promote community trust but also relieve medical personnel of burdensome decisions. Figure 1 outlines our suggested decision tree for the rationing of limited life support resources consistent with Islamic bioethical principles. *It must be emphasized that this decision tree is a provisional guideline to be utilized only during states of emergency when resources are severely limited and when all lives cannot be saved.*

As paramedics transport a critically ill patient to the Emergency Room, they may have an opportunity to ascertain whether that patient has shared advanced directives or wishes to forgo life supporting measures for the benefit of others (altruism). Advanced directives and altruism are permissible in this, if motivated by good intentions rather than suicidal thoughts. (3,4) To our mind, a patient who chooses to altruistically give up a ventilator for another, cannot select the recipient of that ventilator as this may lead to ethical complications, e.g., possible undue influence on aged people to sacrifice for their relatives. Paramedics may also be able to gather enough history to determine if this patient would meet the exclusion criteria, which are twofold: either the likelihood for survival is (almost) completely absent, or life supporting measures would be deemed futile to save his/her life. Exclusion criteria are required for appropriate resource allocation and must be based on clinical criteria made publicly transparent.

Unstable patients at risk of imminent death must receive immediate critical care. Whenever possible though, a brief discussion should be had with each patient regarding their end of life care wishes. This discussion should be guided by best practices identified in the literature. (5) Each patient should be reassured they will receive the highest level of care regardless of their decision to receive life support or not. If a patient wishes to proceed with life support measures, the physician should then clinically assess whether that patient's likely quality of post-survival life would be "good" or "poor", as judged from a clinical perspective. The hospital should have a pre-determined quota of critical care resources reserved for those expected to have a "poor quality" of life. Those patients expected to have a poor quality of life would be triaged separately from those expected to have a good quality. This step is needed so that the vulnerable are not disadvantaged by the suggested algorithm. In Islam, the vulnerable are highly valued for the religious, spiritual and social benefits they accord society. Without them, it would be difficult to show moral values such as compassion etc.

Within each of these categories (good or poor outcome), accepted clinical criteria would then be applied to determine the most severe cases and those most in need of life support (including those with multiple co-morbidities) to be prioritised first. In Islam, all lives are equal but if there was a shortage of a specific category of frontline workers (such as respiratory technicians or ICU doctors) and they would likely recover during the period of scarcity, then those specifically needed individuals would be prioritised next for the benefit of society as a whole as they, in turn, would

likely help save many other lives. Other recognised triage criteria would then follow in sequence: the likelihood of treatment success, the number of years to be saved and the estimated speed of recovery. (4) In the unlikely event that all these criteria fail to prioritize between patients, then critical care would be randomly assigned. All patients are continually assessed. If brain death occurs or if treatment is deemed futile, then a multidisciplinary ethics team would advise the clinical team that withdrawal of that patient's life support would be possible. The goal of treatment is not to prolong life, but to reverse any reversible conditions.

In the situation that a more urgent case, with a better likelihood of survival subsequently arrives, it is not permitted to remove the ventilator from the first person for the benefit of the other. (4) This is because performing an action which indirectly leads to death in one patient is, morally speaking, worse than allowing another to die due to insufficient critical care.

Conclusion

The Islamic bioethical framework provides the necessary flexibility to issue appropriate guidance throughout the dynamic state of a pandemic. The state of hardship a pandemic causes does allow certain things that are normally forbidden.

Clear pre-specified guidelines should be prepared as part of every disaster plan (6), publicly shared and instituted early to effectively manage limited resources throughout the pandemic with transparency and uniformity. The suggested algorithm is based on Islamic bioethical principles and balances utility with equity. It is designed to save the greatest number of lives without disadvantaging the vulnerable. Withdrawal is decided upon the consensus of a non-clinical team and is reserved for cases of brain death or futility.

Muslim physicians are advised to follow the policy of their institutions and regulating medical bodies. If religious conflict with withdrawing or withholding life support is perceived, conscious objection may be considered as the Prophet (saw) said, "Leave that which troubles the heart (and turn) towards that which brings it solace." (4)

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FIG 1 Ethical Management of Triage