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The Legal and Ethical Aspects of Spiritual Care in Medical Practices

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ABSTRACT

Spiritual care is important to ensure that the physical and mental health of a person is protected. Spiritual care in the context of Muslims is very much associated with *iman* and *amal soleh* of a person. A Muslim is required to perform Ibadah, reciting the Quran and doa as prescribed in the Quran and Sunnah as part of protecting his mind, soul and physical from any harmful or negative elements. The duty to take care of the soul and spiritual part of a Muslim is crucial especially if he is suffering from any terminal illness that could affect his mental health and possibly his physical health will be more affected. This paper is to discuss the ethical values of spiritual care in the context of Islamic religion and the legal and practical aspects of as what has been practiced in Malaysia.

INTRODUCTION

Allah has created mankind in both spiritual and physical aspects. The preservation of these two aspects is mandated in Islam as prescribed in the higher objectives of Shariah. Many studies are showing that spiritual care contributes to physical healing.

In Islam, man is Allah's *khalifahs* (vicegerents) on earth and is His *aabid*. By accepting Allah's trust, a man also accepts a test of hardship (Fadl KAE. 2017). Every challenge in a man's life, from moral struggles to illness and physical pain refers back to man's faith and his role to serve Allah and trust in His higher power. Therefore, the spiritual element exists in every part of a man's life.

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In dealing with fellow humans, physical healing must not be separated from its spiritual counterpart. Unfortunately, spiritual care is often neglected in the common practices of conventional medicine. However, man must deal with hikmah from a humanistic approach. In order to achieve this, there should be a mechanism within medical institutions that provides for spiritual care.

METHODOLOGY

This study analyses the requirements of taking care of one's mental and spiritual needs by referring directly to the Quran, sunnah and other Shariah-based documents. It is based on qualitative research with non-numerical data to understand concepts, opinions, or experiences. The methods of qualitative data collection used in this study are library documents, an interview with a chaplain, and informal discussions with six knowledgeable people. The documents studied are the review of written materials and annual reports from the Department of Islamic Development Malaysia (JAKIM). The interview with a chaplain revolved around his subjective experiences, opinions, and motivations. Finally, much insight was gained through informal discussions with six academic members of the International Islamic University Malaysia.

SPIRITUAL CARE

Spirituality is seen as what gives meaning, purpose, and fulfilment to one's life (Atarhim & Copnell B., 2019), involving everything surrounding the emotions and the soul. Hence, it is universally relevant and is shaped by one's perception of the world. In Western countries, spirituality is often regarded as a personal experience and is thus unique to the individual but is important to all, regardless of one's association with religion. Religious individuals have their worldview, personal values and beliefs based on their religious beliefs and practices.

For Muslims in particular, religion is an applicable, relevant, and important aspect of every part of life and is thus inseparable from spirituality. It is the obligation of each person to seek and realise the righteous path and this path aligns with one's natural disposition intuition (Atrahim & Copnell B, 2019) Therefore, despite its obligation, this journey fulfils man's spiritual need. A true pursuit of this righteous path must include the acceptance of Allah's divinity and man's submission to Him. Therefore, it is the acceptance of Allah's trust and one's roles as vicegerent, or khalifah and servant, or aabid, and performing these roles through a test of hardship that brings purpose and fulfilment to man. Spirituality in Islam is thus woven into the concept of Iman and Taqwa, realised through zikrullah and trust in higher power as a way of fulfilling one's spiritual need.

A part of this concept of spirituality is the acceptance of man being sent to Earth to be tested through various trials and hardships. Nonetheless, through these trials, man will be held accountable for their sins and rewarded for their successes. In Surah Al-Taghabun: 11, Allah said,

"No calamity befalls anyone except by Allah's Will. And whoever has faith in Allah, He will rightly guide their hearts through adversity."

This verse acknowledges calamities and disasters being part of Allah's arrangement which man can benefit from through having faith in Allah. These challenges may also come in the form of sadness as one hadith states:

"When a man's sins are numerous and he has no good deeds wherewith to atone for them, God afflicts him with sorrow to remove them from him."

This is also affirmed in the hadith in which the Prophet Muhammad stated,

"No fatigue, nor disease, nor sorrow, nor sadness, nor hurt, nor distress befalls a Muslim, even if it were the prick he receives from a thorn, but that Allah expiates some of his sins for that."

This hadith also noted disease as one of the challenges Allah sent to man to remove their sins. Therefore, the concept of spirituality is relevant in every single aspect of man's life including in sickness and the emotions surrounding it. It is, therefore, humanistic to provide medical care alongside spiritual care under those circumstances.

The practice of spiritual care during healing has its legitimacy in the Quran and is part of the traditions of the Prophet Muhammad. The six verses of healing, or ayat *Shifaa'* address the spiritual aspect of healing, including Surah Al-Isra: 82 which states:

"And We have sent down in the Quran such things that have healing and mercy for the believers."

These verses are also read for the purpose of healing. The Prophet Muhammad's wife Aishah said that when the Prophet Muhammad was sick, he would recite Surah al-Muawwizatain and then blow his breath over his body. In a different hadith, Aishah noted that the Prophet Muhammad would make supplication when he came to a sick person, highlighting the importance of doa in healing.

ETHICAL ASPECTS

Ethics, or *akhlaq*, as well as etiquette, or *adab*, are integral to Islamic teaching. Allah has stated in Surah Al-Isra: 70:

"We have honoured the sons of Adam" and that humans are "conferred on them special favours, above a great part of our creation."

This high stature of man comes with, among others, the capability for rational thinking and distinguishing which is good from which is harmful as a part of one's fitrah. However, with these privileges comes with the obligation to reach out towards the truth of the divine and Allah's path. In seeking the righteous path, one is also obligated to perfect their morals and ethics. This is supported by the hadith in which the Prophet Muhammad SAW said:

"I was sent to perfect good character."

Ethics in Islam is thus part of Iman and is legally mandated, being a part of Shariah.

A large part of ethics is based on mu'amalah, that is the relationship between man and man. The Prophet Muhammad SAW had said:

"None of you has believed until he loves for his brother what he loves for himself of goodness".

Thus, one must not simply treat another with the same humanity and respect that he wishes for himself but also love and wish for it. The averse is also true as mentioned in the hadith:

"Whoever believes in Allah and the Last Day should not trouble his neighbour".

This obligation is especially emphasized with the treatment of guests with numerous hadith that highlight the necessity for good and generous treatment of guests. Ethics in mu'amalah also extends to protecting the feelings of another, to the point where one is not allowed to talk secretly with another person and excludes a third person, as this would injure his or her feelings. All of these are relevant when discussing ethics in medical practice.

Ethical aspects of medical practice must be established at all levels to ensure healing and medical services are provided with hikmah. Ethics within a relationship between doctors and patients is crucial in providing treatment and medical advice. The patients must be treated with care and respect and their wishes honoured. However, proper communication is essential in ensuring that the patients are well-informed of their circumstances. Hence, doctors need to be aware and sensitive to the issues their patients are facing. An example can be seen among some of the British health authorities who send their "quit smoking"

message within a religious framework for their Muslim patients (Gatrad, 2001). This allows the patients to make a decision that is truer to their beliefs.

The importance of ethics also extends to the relationship between the staff and the others who interact with them, including the patients' families and relatives. While the doctors are responsible for prescribing treatment, the patients and their families spend much more time interacting with the nurses, attendants, and other medical staff. Much of their interaction may also extend beyond simply medical concerns. Spiritual care given by nurses is seen as a crucial aspect of holistic healthcare as they interact with the patients and their loved ones and are in a good position to help support them through such trying times and concerns. Should the medical staff neglect the spiritual aspect of healing, it may limit the patients' potential recovery due to stress and loss of hope.

Ethics is also important in the relationship between the institution related to medicine and healthcare and the people at large. These institutions will largely affect how the doctors and the medical staff offer their services to the people and how it is communicated to the public. This includes the ministerial institutions, the legislators as well as the hospital management. Since spirituality is connected to one's mind and emotions, it is also important that people have a strong sense of trust in the medical institution as a whole. The laws and policies created by the legislators and the health ministry will become the framework upon which each healthcare provider will base their services.

The medical institution must ensure that its policy and provision of services benefit the healthcare users and promote their well-being. At the same time, the services should be provided in a humanistic and ethical manner that respects the healthcare users as individuals with their needs duly addressed. For Muslims, several sensitive issues are hard for patients or their loved ones to deal with emotionally, life and death decisions or are related to religious needs and obligations. Spiritual care surrounding these issues is of utmost importance to ensure healthcare is holistic.

One important issue surrounds the treatments and decisions regarding the end of life. Islam promotes saving lives and there is no authority on deliberately ending a person's life. Reduction of suffering is acceptable even if the process quickens death. However, artificial prolongation of life without evidence of a reasonable quality of life is also seen as un-Islamic which leads to the view that ending life support therapy after 'brain stem' death is acceptable. Due to its religiously sensitive nature, spiritual counselling would greatly assist the patients' next-of-kin in their decision-making, as well as ensure that they receive emotional support.

Another religiously sensitive issue is the question of post-mortem examinations and organ transplantation. A Quranic verse states that "Breaking the bone of the dead is akin to breaking the bone of the living" and this has led to a majority of Muslims avoiding post-mortem examinations. The innovations of alternative methods to open whole-body post-mortem examinations such as the magnetic resonance necropsy may be more favourable to Muslims due to its less invasive nature. While organ transplantation is now largely viewed as a charitable act in Arab Muslim countries, some Muslims may still find the notion to be challenging Islamic ethos. Spiritual care would help the patients, donors and their relatives to ease their doubts and anxieties. Questions of xenotransplantation, or transplanting animal organs, especially involving prohibited animals like pigs, would also require religious research and debates at an academic and institutional level as the issue remains divided among Muslim scholars.

Issues related to pregnancy are also a sensitive area for Muslims as it takes into account the foetus as a separate life just as sacred as the mother's. When complications arise during pregnancies, there may be conflicts when termination of pregnancy is in question. Based on a hadith that discusses the development of a foetus, it has been decided that the soul is blown into the foetus 120 days after conception. Therefore, more invasive prenatal screening such as the chorionic villous biopsy is best done during the first trimester before the blowing of the spirit. Similarly, the termination of the foetus is only acceptable if the mother's life is in danger, especially after the first trimester.

Critical cases at the Intensive Care Unit (ICU), and terminal illness are two other areas in which spiritual care would greatly benefit patients and their family members. In critical cases, there is very little certainty in the prospect of the patients and their condition may fluctuate quickly. This is often stressful for family members as they feel helpless at watching their loved ones suffer and anxious at the possibility of change in their future. Family members may also be expected to decide on the care or treatment to be provided to the patients and this can lead to them feeling responsible for the patient's outcome.

In cases of terminal illness, the patients and their families will have to adapt to new changes and find a way to maintain or improve the quality of life for the terminally ill despite the anxiety of incoming death or worsening conditions (Farih et al., 2017). Spiritual care, specifically listening to Quranic recitations, complementing interdialytic endurance-resistance training has shown significant improvement in both physical and mental conditions of elderly patients undergoing dialysis treatment. Spiritual care will help patients and their close relatives to process the changes and uncertainty and help those affected to find hope and peace despite their challenges, which can in turn, improve physical health and quality of life.

Another issue in which spiritual care would be especially helpful is when delivering the news of a negative prognosis or death to the family members. The way the communication is handled may leave a lasting impact on the family members especially if they previously have reasons to believe that the health of the patients would improve. While this is usually done by the doctors who are knowledgeable about and are responsible for the patient's care, doctors and even nurses have other responsibilities which will limit the amount of time they can spend with their patient's family members. Having a staff member who specializes in spiritual care can help support the family members through difficult times and will create a more holistic healthcare system.

RESULTS ON LEGAL ASPECTS OF SPIRITUAL CARE IN MEDICINE

The Sacred Law in Islam covers all aspects of human existence and is based on the Shariah, the Quran and the Sunnah, or traditions of the Prophet Muhammad. In dealing with issues that are not explicitly addressed by the first two sources, Islamic law would be created based on *ijtihad*, or the intellectual reasoning made by learned scholars after consulting with specialists from the relevant disciplines and guided by the principles laid down in the Shariah.

These laws must be in line with *Maqasid Shariah* or the higher intents of Shariah, which includes the protection of religion, life and intellect. While spiritual care, especially in relation to religious matters is clearly in line with the protection of religion and one's Iman, it is also closely related to the protection of one's intellect. This is because one's emotional and mental well-being is closely linked to one's intellect, being related to the mind. Hence, although the goal of medicine is in line with the protection of life, it does not excuse neglecting the spirit.

The basis of Islamic law is the attempt to achieve *maslahah*, or public benefit, and avoid *mafsadah*, or harm and destruction. The process of legislating Islamic law must also be full of *hikmah*, or wisdom. This means that law should be made by someone knowledgeable with a deep understanding of religion and later enacted with justice. Wisdom is thus a combination of knowledge and understanding and the action made based on it. In the context of *usuli* scholars, it must also be appropriate and beneficial. The process of legislation and enactment must thus be made with *hikmah* through the knowledge of the objectives of the law as well as a deep understanding of the law and its mechanisms.

In Malaysia, there exists the Malaysian Syariah Index as a method of feedback and a tool of measurement. It is a scientific method of measurement used in determining the government's status in carrying out the nation's administrations based on the principles of *Maqasid Shariah*. In the year 2015 - 2017, health as one of the divisions measured was reported to have an index of 73.92% - 77.79% (JAKIM

2016), which is considered good (Ismail, 2017). However, there is still much room for improvement and a higher index would signify policies and execution which more closely relate to the *Maqasid Shariah*.

Currently, Malaysia has no specific law which addresses spiritual care and the policies and other mechanisms addressing spiritual care are still in their infancy, usually with limited application. In some countries, hospitals hire chaplains responsible for providing spiritual and psychological support to the patients and their family members with research showing that many patients consider it an integral part of the healing process (Griffin et al., 2019). While medically trained professionals usually view outcomes as successes or failures, chaplains can help patients look beyond their conditions in their search for peace and contentment. Chaplains may also be responsible for assisting medical professionals in areas of religious doubts, ensuring that the care offered is in line with one's religious needs.

In Malaysia, such policies have only recently been implemented and are limited to certain hospitals, one of which is the *Institut Jantung Malaysia* (IJN) which hires two Muslim chaplains, under the patient counselling unit, among those with Islamic education. They are responsible for providing religious counsel and psychological support to both the patients and the medical staff, as well as managing the religious activities at the IJN mosque (Whitehead, 2022).

While spiritual care formally incorporated within hospital walls is limited, there are other resources from which spiritual care can be sought in Malaysia. As a response to the Covid-19 outbreak, the Malaysian Health Ministry (KKM) and MERCY Malaysia have collaborated in creating *Talian Bantuan Sokongan Psikososial* to provide counselling and emotional support, even for non-medical related concerns which may arise from the pandemic. On the field, KKM initiated the Mental Health and Psychosocial Support System (MHPSS) initiative, focusing mostly on selected vulnerable groups including those under surveillance, infected individuals and their families, as well as medical staff and other frontliners. KKM also collaborated with JAKIM in creating *Pusat Khidmat Keluarga, Sosial dan Komuniti* (KSK Care Centre) to provide a more Islamic-focused psychosocial support system.

It must also be mentioned that the provision of spiritual care should not be limited to governmental institutions. There has been a rise in the number of non-governmental organizations (NGOs) providing spiritual care as part of psychosocial and physical support. The Malaysian Relief Agency is a humanitarian-based agency that provides help and support to those affected by natural disasters or armed conflicts. On top of providing for livelihood and health care, they also provide for education and community development and are accepted as an associate member of the Islamic Medical Association (FIMA). One organisation that caters solely to spiritual care is Rahmah Support Team, a group of trained activists who provide psychosocial support to those who are struggling emotionally and psychologically.

CONCLUSION

The need for spiritual care is gaining recognition in Malaysia as part of providing a holistic health care service but is still inadequate at its current state, especially on an institutional level. While some medical staff, such as nurses, understand that they are also responsible for providing spiritual care, chaplaincy services are still limited to only a few medical institutions. Furthermore, mechanisms that offer spiritual care and support to patients and their family members are completely dependent on the institutions themselves.

To ensure that health providers are well-equipped to provide patients with professional and holistic care, there should be a specific law that regulates spiritual care under medical provision such as the Health Care Chaplaincy Act and Chaplaincy Guidelines. There should also be individuals with expertise in spiritual care in medicine on a governmental level, such as a Health Care Chaplaincy Board, to further expand and develop this area of medical care in their research and policymaking.

Spiritual care is an integral part of health and well-being as man has been created with both physical and spiritual aspects. Psychological well-being and physical well-being do not just coexist but are also correlated. Limiting medical services to cater only to physical needs would be unethical and may even hamper a patient's healing. With so many emotionally and religiously sensitive issues that exist in relation to medical practice, it is imperative that healthcare providers consider these ethical and spiritual concerns. While individual staff members are responsible for providing professional and ethical services to the patients and their family members, they also rely on institutions for guidelines and frameworks.

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CONFLICT OF INTEREST STATEMENT

The author agrees that this research was conducted in the absence of any self-benefits, commercial or financial conflicts and declares the absence of conflicting interests with the funders.

AUTHORS' CONTRIBUTIONS

The author is the sole author of the paper in which she has carried out the research, wrote and revised the article all by herself.

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