Comparative Method in the Medical Ethics Methodology in Islam

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ABSTRACT
Introduction: Medical ethics methodology, beside the explanation of extraction and verdict inference methods and considered problems in medical ethics, proceeds two other subjects:
1- Using method from medical ethics framework to establish and to conform it to the affected cases.
2- Presentation practical duty at the time of law or verdict case absence.

* the method of medical ethics verdict inference has been discussed previously by the authors.

Methods: This is a library, descriptive study. The efforts have been conducted to explain and provide moral decision making method for the personnel in clinics.

Results: Law and religious precepts are the most important references for moral decision making in medical ethics. Doubting in the law or verdict of any case evaluation and exactness seem necessary to remove doubt as much as possible. If one could not pretense any law or verdict for his (her) decision, the efforts should be conducted to improve the way of decision making by the help of medical ethics rules.

Conclusion: The priority references of medical ethics decision making in Islam are:
- Law
- Qualified jurisprudent verdict
- Religious jurisprudence rules supervising on the medical ethics.

Keyword: Medical ethics, Comparative method, Rule, Principle, Methodology

INTRODUCTION
Medical ethics is a science which is also the guarantor of explanation of behavioral, rules and indispensable points by medical practitioners beside defining and explaining the concepts and moral problems in medicine, such as, brain death, human cloning, fetus individualization begin.

Medical ethics methodology explains the used ways and rules to extract and infer the necessary verdicts and guidelines in medical ethics.¹ So, two important ways can be drawn for it:
- To explain the method of verdicts extraction and inference and discussed problems in medical ethics.
• Using method if medical ethics framework in order to establish and to make it applicable.

The first role is not included in the present article and has been discussed under the title of “Medical Ethics transcendental Method.”

Methodology in The second role describes its adaptation manner with affected cases after describing the medical ethics framework. At this stage, if there is no law or verdict, the executives of law will try to present an acceptable way for moral decision making which will be discussed and evaluated in this article as much as possible.

Regarding the role of methodology, efforts will be carried out to explain the method of medical ethics decision making or clinical committee of medical ethics as an imitator.

Clinical committee decisions are sometimes moral and their verdicts are not clear, so, it seems necessary for the physician to access a right moral decision regarding his (her) medical ethics knowledge and patient condition. This method has been considered in the world medical sciences universities, and the efforts will be conducted to establish it according to the Islamic views.

Exact presentation of the role of methodology on the manner of decision making of medical team beside the patient, particularly in emergency cases and need for quick decision, while no special law article is defined for it seems necessary, meanwhile the physicians’ experiences endorse its importance and explanation of condition.

It is notable that Islamic thinkers have also paid attention to the separation of theorize and its adaption and have tried to explain it. The main role of a researcher confronting a problem is to try to change it into a problem by the help of specifications, such as, separation, suitable for research and ... in order to be able to step forward to solve it using analysis.

**Different Manners of Confrontation with a Case Requiring Decision Making**

While confronting a problem or case requiring moral decision making and regarding the law articles, guidelines or religious jurisprudence verdicts one of three following cases may occur for a physician:

• Knowing that law article or religious jurisprudence adapts on it.
• Doubting that law article or religious jurisprudence may adapt on it.
• No law article or religious jurisprudence is available about the case.

So, one is obliged to pass the following procedure while confronting a case requiring decision making:

1- Is there any law for this case? If so, action should be done according to it.
2- Is there any religious jurisprudence verdict for this case? If so, action should be conducted based on it.
3- Is there any doubt about the discussed case in law or religious jurisprudence verdict adaption? Attention should be paid to the origin and the factor of such doubt:
   a- The incidence of such a doubt maybe derived from unclearness of the subject of law or verdict. (Conceptual doubt).
   b- The verdict maybe clear, but one may doubt whether the affected case is included in such as cope or not? For example, if the legislator has allowed the patient to refer to a non homogeneous physician for treatment, now “Is aesthetic surgery evidenced as a treatment?” it could be doubted, or “Is aesthetic surgery necessary or not?” is the factor of doubt incidence (evidence doubt).

If doubt is derived from the unclearness of verdict, for example, one may doubt that whether the legislator has considered as specific point in this law in order to cover this case or not? In this case, The determinant sources is absolute genuineness (Esalatol-etlagh), which consequently, the case will be under the law.

For instance, regarding fetus donation to religious minorities, one may doubt whether the saint legislator has considered the Islamic condition effective for the donation receivers or not? The respond is that, when such a condition is not
obtained, no limitation is required for donation receiver.

If doubt is derived from ambiguity of evidence of verdict, it is necessary to remove it by referring to the explanation of the subject and determination of influencing factors in it. For example, exact definition of treatment or definition of necessity will clear its range. If still doubt remains after such exactness, answering the above of questions is negative and exclusion of aesthetic surgery from treatment will be the basis.

4-If no law article or religious jurisprudence verdict is found for the subject, in such a case:
- If enough times is available, one should refer to the law and religious jurisprudence reference for inquiry.
- But, if no enough time is in access, Medical ethics committee or in some special cases, the physician himself (herself) makes necessary decision using the rules of medical ethics.

5- Are there several rules for the case by which the application will be impossible? To solve such a problem, it is necessary to refer to priorities (Morajahat) of incompatibility (Tazahom) section which will be discussed later.

**Medical Ethics Rules in Islam**

Explaination of two expressions seems to be necessary here:
1- Moral rule
2- Practical principle

Moral rule is a moral law or base that there will be no room for other moral reasons to seize in moral decision making if referred or documented to it. If the physician or selected committee on a specific case considers practical principles for his (her) decision while moral rule exists, it could not be accepted. So, moral rules from Islam view is a grade higher than principles and in the case of rule absence, it will be the turn of principle application and establishment.

Some of the medical ethics rules in Islam are:
- Law is the most important pillar in moral decision making and application of principle is not allowed while a law exists.
- Observance of Islam verdicts is necessary in every center and aggression without any reason or authorization is not accepted.
- If law is absent, the most famous imitation sources view could be considered as the basis of medical ethics decision making.
- Medical ethics principles are the reference of decision making while no rule is available.

Incompatibility among some of them is the important point to apply moral rules which causes doubt for law executive and prevents final decision making. Incompatibility means that two or several laws compete about a case or two or several cases in application a law in such a manner that the executive of law is unable to consider a priority to one of them in the primary evaluation.

While incompatibility occurs between two or several laws or cases it is necessary to refer to one of the priorities in this respect in order to give priority to one of them and then, it will be the turn of the others.

It is clear that if there is no priority, the law executive has the option to apply each one. Some of the priorities are:
- The emergency case takes priority other than the others.
- A case with unique treatment takes priority to those having several treatments.
- The more important case will take priority to others.
- Among equal cases, that one which has the more probable saving will take priority.

**Medical Ethics Principles and Its Position in the Medical Ethics Method in Islam**

At first, attention should be paid to the difference between principle and rule in Islamic methodology.
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Principle is used as one of the methodology tools (but not comparative method) as a verdicts source in the Islamic methodology, whereas, rule is the tool of comparative method. So, principle could not be induced to non specialist of medical ethics, contrary to the rule that is presented to the public to establish the orders and verdicts.

Four famous principles were considered as the basis of medical ethics decision making in the U.S.A. community in the late 1970s, which must be discussed as the medical ethics rules according to the previous explanation on the Islamic comparative method.

These principles are:  
- Autonomy
- Beneficence
- Non-maleficence
- Justice

According to autonomy principle it is necessary to consult with the patient and obtain his (her) consent about the physician planning. In fact, this principle acts in three scopes:  
- a- Respecting the individual thinking and reasoning ability about his (her) selection
- b- Respecting the individual decision making about type of operation
- c- Respecting the decision making establishment and its application

Respection to an individual is considered regardless his (her) legal position and personality and everybody is the same from this view.

The beneficence principle includes improvement and well being of patient (whatever appropriate for him (her)) and lack of causing damage which means avoiding to damage and injure. The beneficence principle has been raised in the physician’s oath in order to make the best decision.

Two beneficence and Non-maleficence principles are complementary of each. They are very close, so some have collected these two principles under the title of beneficence. Some aspects have been demonstrated to show the differences of these two principles:

- Non-maleficence specifies to the result of treatment and beneficence is related to the present condition of patient.
- Non-maleficence is considered as a duty against every human being, while beneficence is specified for special individuals, because consideration of being beneficent for every human being is difficult.

As to those two principles, it seems that using the word repelling or removal of a disease depending on the treatment is more suitable and is able to explain its duty better.

Justice principle focuses on the allocation and distribution of the sources among people in the texts of medical care and could consider it closer to the concept of "equality". Equality in rights under the title of justice has confronted the theoreticians of this field with doubts and questions. Is every human being enjoyed from equal rights? What kind of criterion causes different distribution of medical services? Some said that:

“Nearly all theoreticians recognize the specifications such as, experience, age, privation, ability, competence and success as the criteria to justify the unequally for Some special purposes, consequently, one should explain that in what cases the people could be recognized equally.”

The presented criteria in the views of various western theoreticians are different. Some of them are as follows: The equal share for everybody, distinction according to the individual demand, distinction based on his (her) activity, distinction in accordance with his (her) social services and competence.

Disturbance among above-mentioned views confronts moral decision making with problem to explain justice principle. So, it is necessary to solve such a problem by the help of a dominant principle. Islam is able to provide its procedure to solve this problem in this respect which must be discussed in an article separately.

* Repelling means prevention and removal means to eliminate. So, the treatment is also close to removal.
Medical Ethics Decision Making Process in Islam

Medical team should, firstly, answer this question while making moral decision that “Is there any article of law for such a case?” If the answer is yes, such article of law will be the reference of decision making. But if the answer is negative and cannot seize it for decision making, this question will be under consideration” Is there any religious rule in this respect?” If the answer is positive, the most famous view among jurisprudents will be the source of decision making.

If the decision making committee involves doubt to respond to two previous questions and cannot refer to any article of law or verdict, evaluation of the cause of doubt seems to be necessary to remove it as much as possible. (Fig. 1 shows these processes) If the cause of doubt is uncleanness of law or verdict and or interference of a factor, this committee should explain and clarify the interfering factors to clear the condition of the case. If the cause of doubt is the intervention or contradiction of the articles of law, any article of law could be recognized as the reference of decision making, if the prior article could not be determined.

But, if there is no article of law or verdict about the case and immediate decision making needed due to the shortage of time, the question is that “Is there any ethical rule in such a case?” It is necessary to clarify the condition of the case and decision making according to the moral rules.

It is possible that the problem of decision making does not depend on the article of law or religious verdict, but two or several cases are obstructive to each other and no service may be provided due to the lack of facilities or other factors. In this case, referring to incompatibility preferable will lead the case to a priority.

Fig. 2 shows these processes.

CONCLUSION

1- Explanation of the method of medical ethics decision making is one of the most important roles of medical ethics methodology and it is necessary that a committee handles this task in each center or supervises on its application.

2- The most important ethical decision making reference is law end its presented allows no room for other decision making sources. the qualified jurisprudent verdict will play its role at the time of law of absence.

3- Moral rules are the medical members decision making reference if there is no access to law or verdict.

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REFERENCE

5. Gharamaleki Faramarz A. Methodology for Islamic Studies. Mashhad, Razavi University of IslamicSciences. 2001:120-133.
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**Fig. 1**- Physician’s ethical decision making process chart

1. Seeking to find a law or religious verdict on the subject.
   - Do we have any article of law on the subject?
     - yes: the article of law is the criterion and reference of decision making
     - no
       - Do we have any religious verdict on the subject?
         - yes: The criterion of decision making is the famous verdict among qualified jurisprudents
         - no
           - Doubt about article of law or religious verdict?
             - yes: Doubt is removable by the help of Fig. 2?
               - yes
                 - Opportunity for seeking legal advice is available
               - no
                 - Medical ethics rules are the criteria for decision making
             - no
               - No article of law or religious verdict is available?
                 - yes
                   - Opportunity for seeking legal advice is available
                 - no
                   - Medical ethics rules are the criteria for decision making
Fig. 2: Evaluation process for the cause of doubt in the article of law or verdict chart.

There is a doubt in the article of law or verdict

- The cause of doubt is unclearness of law or verdict subject
  - Yes: carefulness to explain the article of law or verdict and its factors
  - No:
    - Yes: doubt is removable by the help of absent of the factors rule
    - No:
      - Yes: The rules of incompatibility solve the problem
      - No: we apply according to the priority rule

- Doubt in the article of law
  - Yes:
    - The cause of doubt is the intervention or contradiction of the articles of law
      - Yes:
        - The rules of incompatibility solve the problem
        - No: any of the articles of law could be used as decision making criterion if no incompatibility removal is available
      - No: we apply according to the priority rule