

## **A Study of medical errors**

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### **ABSTRACT**

Any time Throughout the human story, when man has been exposed to boredom and health problems , he has used the expertise of those in the life of medicine and treatment. The holy Prophet (PBUH) has been narrated as saying, "The experts are healers of people, and in case the healers are themselves ill, who will treat the patients? From the Holy narration by the Holy Prophet (PBUH), we learn that the important figures in the society, especially the physicians, have to be always in good health both physically and morally. The medical team being known as outstanding characters, are highly valuable in the society. In the past they were known as 'healers', a title which is used to call the God showing that Islam pays a special attention to the physicians. It is so incredible to utilize this value in guiding the people, especially the patients in the best way possible. . It has to be noted that those with the highest quality features, characters, and self-efficient personalities shall be better benefited. . The health of the healers is therefore, an undeniable necessity. Studies have revealed that even a 24-hour monthly work shift may triple the occurrence of medical errors. As the most serious part of the present study is the definition of the term "Fault" in medicine, it becomes mandatory to define it morphologically and terminologically to see what it really refers.

**Keywords:** Fault; Ignorance; Knowing Ignorance; Unknowing Ignorant; Medical Fault

### **INTRODUCTION**

The Holy Prophet (PBUH) has been narrated as saying, "The experts are healers of people, and in case the healers are themselves ill, who will treat the patients? [1] From the Holy narration by the Holy Prophet (PBUH), we learn that the important figures in the society, especially the physicians, have to be always in good health both physically and morally.

Any time throughout the human history, when man has been exposed to boredom and health problems, he has used the expertise of those in the field of medicine and treatment. Such experts have had different names in different cultures and languages; however, the most common word used to name such people in the whole world is the term 'physician'. This is knowledgeable and effortful part of the society, apart from their invaluable services they render to the society during the daily life, are occasionally providing ineffective services, and have even caused damage or mortality among people. In such cases the physicians claim to be seriously effortful, while the damaged relatives of the patients do not

accept such claims and follow the cases by even suing the physicians seriously for mistreatments. Studies have revealed that even a 24-hour monthly work shift may triple the occurrence of medical errors. In case the long shifts are 5 times in a month, the emergence of medical errors will be multiplied by 7. The recent studies in the ICU wards have revealed that elimination of long shifts of work has dramatically reduced the amount of medical errors and concentration reduction[2].

It is, therefore, necessary to learn the morphological aspects of medical error terms.

(Qosoor): to be incapable, to withdraw, to come short, to let down, to leave, to become incapable, ignore, to be lazy, to become lazy [3] (Taqsir): to reduce, to hit, to pick, to make mistake, to make short, to minimize, to be incapable, to be unable, to be inefficient, not to qualify, not to deserve [4]. The meaning of Qosoor in different dictionaries is as follows: In Dehkhodaa Persian-Persian Dictionary, the term is defined as crime, fault, deficiency, etc [5]; however, in Amid Persian- Persian Dictionary the term is named as

stopping a job, leaving a job due to an excuse and inability. While the term Taqsir is defined as committing ignorance in a job, and committing error intentionally and knowingly [6]. Still, in Moin Persian Dictionary the term Taqsir is defined as: to ignore, to intentionally commit an error, to commit a sin, to commit a sin intentionally, mistake, to be incorrect [7]. In Larose Dictionary, Taqsir is defined as any ignorance committed intentionally. However, in Islam the term is defined as committing an intentional and purposeful murder [8].

In Arabic, Qasare and Qosoor (both in past tense forms), mean 'became deformed' and 'became cheap'.

The following is the Arabic statements that include the term Qasare: Qasare an al shaya: (He) became incapable of doing something and abandoning it.

Qasare- osallaat: (He) said his prayer in a shortened form; Qasare means it was shortened. Qasare -olshaya: (He) shortened something. Qasare an-al-alm: (He) didn't perform a job, though (he) was capable of performing it. Qasare fel-amr: (He) was ignorant in doing the job [9].

Jahel-e-Qasaser : One who is not guilty for committing his(her) error; i.e., when there is no way to follow the Law of God for him (her), or when the doer does not at all consider him(her)self as ignorant (also known as Jahlemorrakkab: Complex Ignorance).

Jahel-e-Moqasser: one who is guilty for committing his (her) error; i.e., the doer has the opportunity to learn the law and his (her) own duties, but has not performed them [10]. The Holy Imam Ali (PBUH) has been quoted as saying about God: "Our sight is short of seeing Him, and our wisdom is short in comprehending His Greatness" (Nahjol-al- Balaqa, Address 160). [11].

The term Qosoor: It is defined as ignorance, and not using adequate care and effort in performing a job; the action is usually performed due to inability and unawareness (Shahid Mottahari, 1990).

(To become) as Qosoor: is defined as becoming short in performing a task; for example, "we may have come short in our services" (Mokhber-ol-Saltaneh) [12]

### **The purpose of the Study**

The main objective of the present study is to "Study the medical errors with respect to Fiqh outlook".

### **The subjects**

The present study is conducted at medical universities throughout the country by interviewing with the medical staff departments and utilizing the available literature in articles and Islamic references.

## **METHODOLOGY**

The present study is a field and comparative work. The outlook is both quantitative and qualitative, and the techniques include the available evidence, observation, and FGD.

### **The Review of the Literature:**

The world today, especially in the field of medicine, undergoes increasing changes; therefore, the traditional systems in medicine are faced with serious challenges in case they wish to survive. The universities in the third millennium are different with the previous educational centers. Today, all the efforts of the politicians and social servants are to parallel themselves with the waves of changes, especially in utilizing new technologies, so they can obtain the best outcome from the educational processes.

In medical education, the educational periods include Basic Science, and Clinical Science. One of the important problems in medical education in Iran is the effective relation between the two mentioned fields. In the related steps in medical education, the inservice training is the most important part as the students enter the clinical phase and are out from the theoretical one. In this step, the student sees himself (or herself) as a physician. The better the student has prepared, both practically and theoretically, in this phase, the better he/she will be able to render the services to the patients in the treatment phase. Basic sciences are more theoretical. Yet, the requirements for the clinical education include the hospital environment and the patients. The hospital environment has a lot of differences with education in other areas. In an educational hospital, the student utilizes the limitless presence of the patients to increase his /her level of knowledge, yet he /she has to learn the art

inherent in this educational and treatment environment [13].

### **Error and its types**

Considering the morphological and idiomatic discussions regarding the terms Qossor and Taqsir, the term 'error' is used in committing an intentional performance, and include several meanings such as unintentional error, mistake, opposite of 'Savab', etc. [14].

Error is defined "describing an action whose doer has had the power of differentiation, yet due to negligence, or being unaware which can be upgraded to awareness" or a mistake, and not being cautious in performing a task, has committed an unethical, or illegal act [15].

In usual cases, error inefficiency in performing an act which a normal and logical person may perform under the same conditions [16].

However, in cases where a specialized skill is required, the acts of a normal individual is not considered as a standard, but with the performance of one who is occupied in the same field the performance is counter-balanced [17].

Considering importance of the discussions on Qossor and Taqsir, and the approach of the present study towards medicine and clinical field, ignorance and negligence in medicine are paid attention to.

### **(Qosoor)Negligence in Medicine**

(Qosoor) Negligence in medicine refers to a mistake and error done unintentionally, while 'Taqsir' (guilt) refers to an intentional error done in medicine. Idiomatically, Qossor (negligence) refers to leaving a mandatory rule on the part of a physician or someone in medical field whose action may cause financial and casualties to the patient due to diagnostic and treatment protocols; such as surgery by a physician without performing the necessary lab tests.

Based on what was said above, 'Qosoor' (negligence) in medicine occurs due to violations in medical commitments, whether they are made upon a contract or upon law; in any case, the medical rules and regulations have to be followed by the physician.

Therefore, Qosoor (negligence) in medicine is referred to violation of whatever has to be followed by the medical team in clinical exact visit, timely diagnosis, timely follow-ups and consultations.

### **Medical Qossor (negligence) and Taqsir (guilt) according to Fiqh (Islamic laws)**

The science of Fiqh (Islamic law), which modifies the Ahkam (The Laws of Allah and His Orders), and interprets the Holy Verses of Allah to help His creatures to have a better earthly and eternal life. Such Holy Orders are statements rather than order. However, the Holy Shara has made such orders as mandatory to stimulate the humans.

When the Holy religion talks over the terms Taqsir and Qosoor, it is only for the happiness and fortune of the people. Therefore, in case the medical teams have the potential to perform a task properly and favorably, but intentionally (on purpose) neglect to do so, they have committed a sin, and must leave it and in truth regret it so they are free from the eternal punishment, and have to compensate any casualty and financial loss they are responsible for [18].

In case the medical team's error is due to negligence, where they could learn, if they wanted to, the team is guilty in their action as this error originates from them. Therefore, there shall be punishment for them by Allah; so they need to truly regret so Allah may forgive their sin, though they have to compensate for what they have committed [19].

However, if the error is in no relation to the medical team, and external factors, such as the facilities, environment, nature, consequences, etc, are to blame, no responsibilities would incur upon the medical team, though some of the damage may be related to them.

### **Types of Qossor (negligence)**

The types of 'Qosoor' are as follows:

1-negligence, 2- not being cautious, 3- being unskilled, and 4- not following the governmental regulations.

### **Negligence**

Terminologically, negligence refers to mismanagements [20]. In French, the term is written as 'negligence' which is similar in meaning with 'not paying attention'. Therefore, if there is a mistake, or error, or forgetfulness in performing a task which is not popular in that occupation, it is referred to as 'negligence' [21].

The latter refers to inefficiency in care and the absence of required attention; however, the meaning of 'required attention' includes the

necessary care which is required from the health and treatment team staff under all circumstances that the team has to render to patients, and if there is any kind of damage, the team is referred to as being 'negligent'.

In the occurrence of negligence, an individual performs a task without having prepared the grounds and facilities for doing so. There are four conditions to prove that an action has been due to 'negligence':

The health staff had been responsible for providing the care to the patient;

Inefficient function which does not meet the standards;

The patient is damaged; The damage to the patient has been due to negligence on the part of the medical staff. So, there has been a 'Qosoor' in the action.

#### **Not being cautious**

The term refers to performing an action without enough care. Caution means looking into the future, and being far-sighted in action, while in Fiqh (Islamic science), the term is used to being committed no to commit sins [22].

Not being cautious refers to performing an action where prediction in performing it is possible [23].

According to the law, any individual IS responsible for his deeds.

In recognizing an error, the important point is to realize whether there have been grounds for predicting an action under special circumstances or not. Whether the same individual could have predicted it under special circumstances? Therefore, if the action or its prevention has not occurred under normal conditions, while prediction had been possible, a 'Qosoor' has occurred.

#### **Being unskilled**

Skill refers to smartness and power in performing a task [24]. Being unskilled means not being usually familiar with the principles or delicacies from a specific task [25]. Sometimes, it is implied that the individual is incapable, or has no practice, or experience in performing a task, so the individual is referred to being 'unskilled' [26]. Therefore, if the medical team does not have the necessary skill in performing a task, it has committed a 'Qosoor'.

#### **Not following the governmental regulations:**

In Islamic punishment law, not following the necessary regulations is referred to as one of the cases of committing an error. Any order with a warranty, whether stated by the law, or being usual in an occupation has to be followed. An error which has occurred due to not following the governmental regulations, is different from the one due to negligence or being unskilled, i.e., following the pursuit of all governmental rules and regulations is required, but it is not enough to say whether an individual is innocent or guilty, as each individual condition is different from the others [27].

#### **The Conditions for meeting a medical error:**

The physician has been in charge of treatment; the scientific, technical, and medical rules are not followed; the medical error has resulted in damage and casualty. The only reason that can justify an individual's responsibility against a loss is the cause-and-effect relationship between Qosoor and loss. Based upon this theory, the loss-maker is responsible if he has committed a kind of Qosoor, and the loss thus produced is from him. In proving that a Qosoor has occurred, the loser is the one who makes a petition, so he has to prove that the loss and casualty had occurred due to the action committed by the doer. In contracts, if the contract is not fulfilled, the responsibility is clear, while in others, the Taqsir is always different from following the principles, and needs to be proved by the loser [28].

#### **The origin of commitment**

The origin of the commitment on the part of a physician is not a legal commitment for not producing loss to a third party, and its opposition is not the patient's will in making a contract, but it originates from the governmental rules and regulations which define the areas of responsibility of a physician. Therefore, not fulfilling the mandatory obligations on the part of the physician is a medical Qosoor [29].

In other words, any time a physician ignores the care of a patient for whom he has been responsible, he has committed an error; however, not all happenings are considered necessarily as committing an error, as the medical role is always related to producing dangers. Today, it has been accepted as a rule that physicians are not expected



to make miracles, but he has to provide enough care, attention, skill and knowledge under similar circumstances.

### Hints

Any physician, even the most expert ones and the good-hearted may have cases of unsuccessful treatments, Medical Qosoor is a relative phenomenon, and even the expert physicians may commit it.

You may not expect the same level of knowledge from all physicians; In medical law, at first the physicians' qualifications are investigated and then the responsibilities are assigned.

### CONCLUSION

Based on the definitions in dictionaries and atlases, as well as in religious references, Qosoor is an action involving an individual doer. Therefore, it is an unintentional act, which will cause only property loss. Committing an unintentional action will not result in any punishment before Allah; however, Taqsir refers to an intentional action and needs a receiver; therefore, the losses and damages are more

severe, so compensation is mandatory, such as losing body parts, damaging social dignity, job conditions, etc.,. The encounter between a patient and the medical team has to be humane; the medical team should not behave unethically, or be ignorant with the patient or his/her companies, an action that is against the medical laws. Whether such an action is performed intentionally (Taqsir), or unintentionally which is called (Qosoor).

### Suggestion to modify the medical team :

Making the patient and his/her companies aware of the condition and the treatment processes; Obtaining consent with full details; Avoiding any treatment protocols, especially when not necessary; In all cases of diagnosis, treatment, and rendering care, attention has to be paid; In case of committing Taqsir, or Qosoor, the patient or his companies have to be informed plus apologies made and compensations provided, so no petition is made, and the conscience is calm. Any decision and action has to be made with a good will (for the satisfaction of Allah, all Mighty), because whatever Allah gives us no one can provide [30].

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