Defining the Pedagogical Parameters of Islamic Bioethics

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Secular bioethics has only recently begun to take religious perspectives seriously. Religion and Medicine courses in a number of universities across North America have incorporated Christian and Jewish perspectives for some time now, but Islamic, Buddhist and Hindu perspectives are only now gaining recognition. This late inclusion of Islamic perspectives can be partially attributed to the lack of materials in English on Islamic bioethics. Moreover, those materials that have been published actually deal with juridical-religious opinions rather than ethical deliberations based on principles and rules as developed in Islamic legal sciences. Here and there in these writings one reads references to the principle of "public interest" (*maslaha*), without any elucidation about its function, either as a principle in legal theory or as a rule of utility or beneficence that promotes the good in ethical decision-making. Instead, we have a plethora of juridical opinions (*fatawa*, plural of fatwa) deduced from the revealed texts on issues in biomedicine like abortion, end of life decisions, and more recently, genetic engineering or stem cell research, without any ethical discussion on the rightness or wrongness of the act in its medical scientific and clinical practical settings.

The other major reason for the dearth of Islamic perspectives appears to be a lack of general interest in Islamic ethics among scholars of Islamic studies, both in Western universities as well

as in the Muslim world. There has been minimal Muslim participation in, for instance, comparative ethics programs in religious studies programs. Islamic theological ethics began to be taken seriously after George F. Hourani and Majid Fakhry's[1] pioneering studies on the subject drew attention to the richness of the subject and its organic relation to Christian-Hellenistic natural and rational theologies. What passes for Islamic ethics in Muslim countries is mostly Aristotelian ethics, and not theological ethics introduced by Hourani's groundbreaking study on the Mu'tazilite theologian, Qadi <Abd al-Jabbar.[2] Aristotelian ethics as taught in the Muslim world deals with development of the virtuous life as part of one's spiritual and moral discipline. Consequently, what has been circulating as "Islamic bioethics" has very little to say about ethics as a discipline that endeavors to understand the moral reasoning behind ethical decisions.

This is not surprising. Today a majority of Muslims writing on such biomedical issues are physicians who are interested in these issues through their training in the West. It is important to keep in mind that it was in the West that autonomy as an overriding right of a patient found institutional and legal-ethical support. In Islamic communitarian ethics autonomy is far from being recognized as one of the major bioethical principles. Moreover, in the Muslim world medical practice continues to remain authoritarian and paternalistic, depriving patients and their families of any substantial role in determining the pros and cons

1-Hourani, George F., *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985); Majid Fakhry, *Ethical Theories of Islam* (Leiden: E. J. Brill, 1991)
2-George F. Hourani, *Islamic Rationalism: The Ethics of 'Abd al-Jabbar* (Oxford: Clarendon Press, 1971),

of a treatment in critical care where ethical dilemmas predominate. Hence, although these writers have access to the descriptive contents of religious-legal opinions in their original Arabic or Persian or their translations, they have little or no training in the normative contents of Islamic legal methodology or theological ethics and ethical principles that inform juridical sciences in Islamic jurisprudence. In the absence of essential information about the underlying ethical principles that guide the juridical research in Islamic law, the literature in English that I have examined thus far suffers from sweeping, immature judgments about Islamic positions. In some cases, "Islamic" is used simply to legitimize the ascription of the contents to Islam with no indication, whatsoever, that normative sources of Islamic ethical reflection provide a variety of opinions and resolutions to each ethical dilemma in biomedicine. These articles and studies, although important in their own right, can hardly form the backbone of Islamic bioethics. Instead, this emerging discipline needs to define its epistemic parameters and develop both a methodology and a justificatory mechanics of moral reasoning that explore and open venues for deriving ethical "recommendation (*tawsiyya*)" rather than "judicial opinion (*fatwa*)" on issues that confront human health and medical research in Muslim societies.

To underscore the importance of the normative sources that validate fresh rulings, Islamic biomedical ethics cannot ignore judicial opinions and the sources that provide their legitimization as being Islamic. Actually, judicial opinions function as raw material for further inquiry into moral reasoning that undergirds these rulings. In other words, the *fatwa*-literature should be investigated for the purpose of exploring and understanding the

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legal reasoning behind the rulings. Such an investigation could unfold the rational-textual methodology (*al-ijtihad al-shar<i*) and enable the researcher to identify operative principles and rules that Muslim jurists employ in their resolution of new cases. To emphasize the subtle methodological differences between legal and ethical forms of deliberation and decision-making, I provide the following two figures. The first schematizes the legal methodology for deducing a new legal ruling from authoritative precedent; the second figure shows the ethical methodology for reaching a reasonable tentative recommendation.
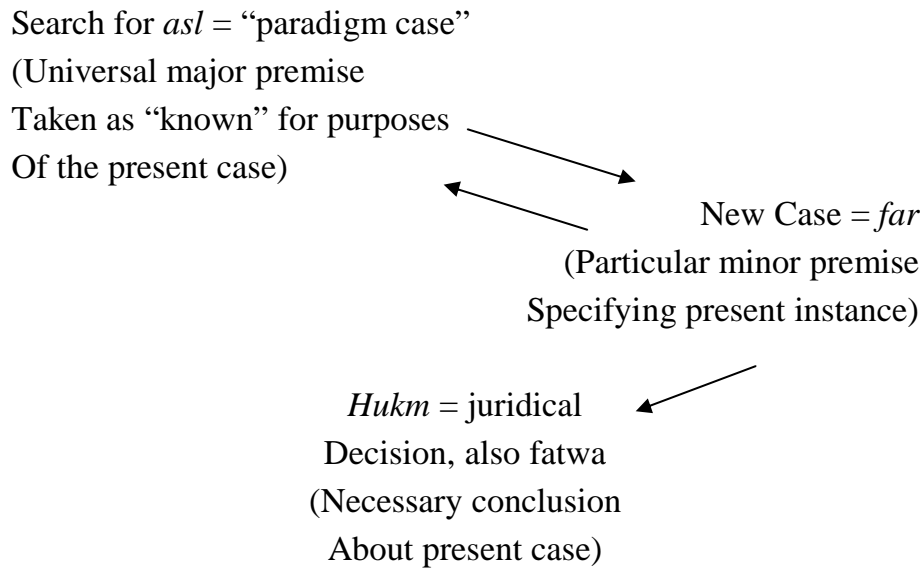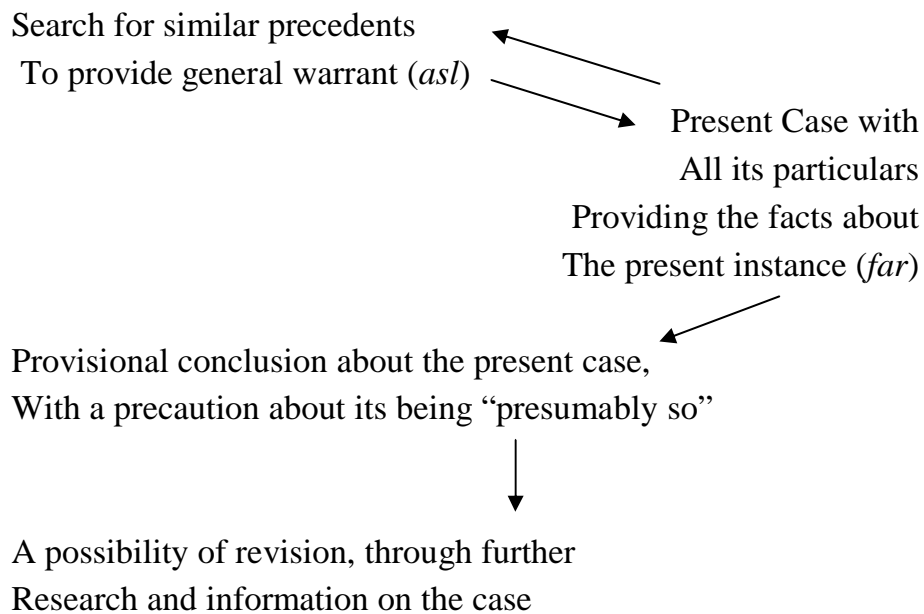
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Figure I – Patterns of Legal Decision-making

Search for *asl* = "paradigm case"
(Universal major premise
Taken as "known" for purposes
Of the present case)

New Case = *far*
(Particular minor premise
Specifying present instance)

Hukm = juridical
Decision, also fatwa
(Necessary conclusion
About present case)

Figure II – Patterns of Ethical Decision-making

Search for similar precedents
 To provide general warrant (*asl*)

Present Case with
All its particulars
Providing the facts about
The present instance (*far*)

Provisional conclusion about the present case,
With a precaution about its being "presumably so"

A possibility of revision, through further
Research and information on the case

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As shown in Figures I and II, both legal and ethical deliberations search for a precedent in the normative source (*asl*) to derive a resolution for a new case (known as *nazila* or *far*). The search for a paradigm case is interactive, in the sense that it moves back and forth from normative to present case. The resolution in the legal case is the *fatwa*, which carries the authority of being implemented; whereas the resolution in the ethical case is simply to provide a recommendation that could change as the case begins to unfold in its complexity, seeking a justifiable conclusion.

Let me state in most uncertain terms that the foundation of Islamic biomedical ethics cannot be laid solely on Islamic legal studies. The scope of Islamic legal studies includes medical jurisprudence (*fiqh al-tabib*), but it does not deal with biomedical ethics as the discipline is defined today. The total absence of any discussion about the moral underpinnings of religious duties in Islamic jurisprudence renders bioethics beyond the scope of Sharia studies. It is for this reason that in teaching Islamic bioethics we need to constantly avoid reducing the inquiry to *fatwa* investigation. There is no question that the presuppositions that underlie legal rulings are ethical in intent because Muslim jurists make frequent mention of public good and promotion of benefit as justificatory evidence for the rulings that deal with social ethics. These rulings, not unlike ethical judgments that are derived at the end of ethical deliberations, are deduced as a result of meticulous study of the revealed, normative texts that provide principles in the form of paradigm cases. Ethical inquiry, in contrast, does not lead to an enforceable ruling resembling a judicial decision in Islamic law; rather, even when it uses some of the same principles that are

used to derive a judicial decision, it strives to achieve clarity about a case at hand so that it can make recommendations about its resolution. This difference between a legal-religious ruling and an ethical resolution is worth keeping in mind when selecting appropriate readings on Islamic biomedical ethics.

Teaching Islamic Bioethics

In reviewing a number of recently published articles and books[1] on Islamic biomedical issues one can gauge the spirit of Islamic juridical inquiry; but it is hard to fathom and extract ethical deliberations that must guide human action in such cases. More importantly, this literature hardly provides the frame of reference for comparative study between Islamic and, for instance, Jewish or Christian bioethics. At this time, Islamic bioethics will have to be taught in a comparative mode since there is dearth of both teachers and resources to craft a uniquely Islamic bioethics curriculum in any Western university. Further, biomedical education in an Islamic context cannot succeed pedagogically without including subjects like Islamic Theology and Ethics, Islamic Moral Philosophy, Islamic Legal Methodology, and so on. Therefore, I suggest the following subjects as a basis for an Islamic Biomedical Ethics curriculum in the context of Muslim cultures and societies:

1. Islamic Theology and Ethics
2. Islamic Moral Philosophy

1- In her recently published work entitled *Islamic Medical Ethics in the Twentieth Century* (Leiden: E. J. Brill, 1993) Vardit Rispler-Chaim analyses *fatwa* literature and claims that there are no specifically Islamic principles that undergird the legal-religious decisions among Muslim jurists. A number of articles on abortion also follow the same kind of legalistic analysis of the biomedical issues. [Jon, my hands are limited in Iran to check these out and list them here.]

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3. Philosophy of Legal Decision-Making in Islam

4. History of Biomedical Ethics in the West

My justification for including the history of bioethics in the West as a required subject is based on my experience in teaching bioethics in Iran, where social and political expectations from healthcare institutions as well as professionals are in stark contrast from patient empowerment in the democratic and liberal societies of the West.

It is worth keeping in mind that since bioethics is anchored in timeless ethical norms and time-bound experience of living as humans, the subject matter of bioethics is an admixture of ethnocentric cultural context connected to geography, history, language, and ethnic tension of each community. Consequently, bioethics intellectually moves from case to norm, and norm to case, in that order.

In addition, Islamic bioethics needs to construct a language that is understood across cultures and traditions to take advantage of the opportunity to sit in dialogue with other religious or secular bioethics. Religiously-based bioethics in other Abrahamic traditions shares certain common methodological features with Islam in the way an ethical dilemma is investigated and in the process of arriving at a resolution. On many occasions, both in teaching and researching, I find Jewish legal reasoning in consonance with Islamic legal doctrines. However, without a common bioethical vocabulary a comparison based on commonality or differentiation between Islam and other Abrahamic traditions is difficult to undertake. Since the natural home for Islamic bioethics is a comparative ethics program within a Religious Studies department, we need to emphasize the teaching of Islamic legal and ethical methodology as shown in

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Figures I and II, so that students can identify the moral-legal principles that are operative in justificatory processes employed by Muslim jurists.

In defining the pedagogical ends of Islamic bioethics, there are two related questions that must be answered. The first question deals with the general approach that should be adopted to maximize our understanding of Islamic foundational sources. The second question deals with the way Muslim culture should be interpreted in its assessment of healthcare institutions and the overall expectation of the peoples with Muslim religious identity, whether they live in Muslim countries or in the West. In other words, do we need to develop a course that specifically looks at Muslims as distinct peoples with their own specific cultural experience and normative sources; or, should we look at the bioethical issues as the byproduct of a universal biomedical technology that is impacting upon people's expectations about life and their responses to the moral dilemma that they encounter in their everyday interaction with the world of science and medical advancement?

The other point that needs to be raised in connection with the limited scope of *fatwa*-literature on the biomedical issues is the fact that it often mirrors a particularly Arab or Persian attitude toward healthcare issues, concealing the diversity of cultural attitudes toward illness and well-being in Muslim societies. Recent studies in Muslim cultural attitudes toward organ donation reveal the importance of cultural presumptions, including the way religious opinions are sought and ignored, and rarely applied, to resolve practical matters arising from moral considerations connected with conflicting claims, interests and

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responsibilities.[1] Anthropological and sociological studies on Muslim attitudes towards new biomedical technology and its impact upon human relationship (which is the heart of communal ethics in Islam) further corroborates my observation that in teaching about Islamic bioethics one needs to go beyond the *fatwa*-literature to do justice to bioethical issues by probing into highly controversial ethical dimensions of the cases in their clinical and cultural settings.

Who should teach?

Essentially, in the absence of any academic curriculum to train teachers of bioethics in the Islamic countries, it is impossible to determine what qualifications should be sought for those who teach the subject, whether in the context of Muslim or non-Muslim societies. While some Muslims have received their training in the bioethics programs in Western universities, they lack cultural legitimacy to speak with the same authenticity in Muslim societies. The culturally-specific bioethics that speaks to the social-political and cultural conditions prevalent in the West, could hardly benefit these candidates preparing to teach in the Muslim world if they do not receive, at least, foundational training in normative and practical resources of their own tradition and culture. This situation makes our task of teaching Islamic bioethics in the West both challenging and exciting, as I have discovered in a number of workshops that I led in Tehran under the auspices of Behishti University of Medical Sciences and UNESCO in 2007.

1- See, for examples, the essays by Sherine Hamdy and Debra Budiani and Othman Shibly in this volume.

These workshops that were conducted with the participation of seminary trained religious scholars provided me a rare opportunity to determine the distinguishing boundaries, separating Islamic legal from ethical studies, for Muslim jurists. In addition, I also determined the substance of the courses, keeping in mind both the global as well as the local aspects of bioethical discourse to allow for full Muslim participation in reaching ethical resolutions to the problems that have arisen since the advent of modern biomedical technology in healthcare institutions.   The distinction between ethical and juridical enquiry that I have introduced in Iran continues to be debated among the jurists. In response to the need to develop textbooks to teach theological ethics in the modern context, a major project of translating fundamental texts dealing with Christian and secular ethics and moral development is underway. The specific aim of this project is to develop moral reasoning within the social and political contexts of Muslim professions, including medical practice. Secular bioethics that has been thus far imported from the West (through the translations of Western studies and the pioneering articles and reports of Muslim physicians returning from abroad) cannot meet the challenges that face healthcare institutions in the Muslim world if that training does not include culturally sensitive norms and rules to resolve moral problems facing the medical profession and patient care.

Practical aspects of teaching
An Islamic biomedical course needs to discuss the ways in which ethical norms interact with cultural realities to produce a specific

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response to a moral dilemma. As such, it needs to respond to the following questions:

- Are norms derived only from Revelation, or are they extracted from cases that function as the source for the derivation of the norm?
- What is the significance of locating norms in history and culture?
- How do we assess human experience as a key element in intuitive reasoning?
- How do we assess culture as a source of moral presuppositions?
- What does it mean to consider ethics as a source of moral choices in various social/political/economic contexts?

The role intuitive reasoning plays in providing practical resolution cannot be overlooked. This practical dimension – reflecting various moral facets of a case by considering conflicting claims, interests and responsibilities – is totally absent in the *fatwa*-literature.

Consequently, the course begins with the sources of ethical norms in Islam, and situates the ethical epistemology both in revealed texts and intuitive reasoning. Introducing the students to reading the Qur'an and the Tradition (*sunna*) in the context of biomedicine can be approached in two ways: (1) By taking up a case and moving through the normative sources inductively to find appropriate citations and interpretations that lead to plausible resolution(s); or, (2) By going directly to the juridical methodology to indicate the deductive process that is in place among Muslim jurists to provide a response to the new case. This approach enables students to enter the field of Islamic ethics

through the legal theory (*usul al-fiqh*) that is well-developed in the juridical studies.

Both inductive and deductive reasoning in resolving an ethical dilemma provides the most direct experience with the ways in which normative sources are appropriated and then applied to resolve a moral dilemma. It is also at this stage that a brief history of Islamic theological ethics is essential to dispel any monolithic understanding of the way that divine command ethics of the majority Sunni theologians interacts with deontological and teleological ethics of Shiite theologians. George Hourani's classification of Islamic ethics into "subjective theism" (also known as "divine command ethics" in which good or evil is determined by reference to the scripture) and "objective rationalism" (also known as deontological ethics, that is, good or evil is objectively present in the act itself) is pedagogically useful in categorizing Islamic bioethics as a sub-field of Islamic theological ethics.[1] This general understanding of moral epistemology is fundamental to appreciating the categorization of human action in Islamic ethics (required/necessary, recommended/good, forbidden/evil) with sometimes similar and at other times different signification of the categorization system in Islamic jurisprudence. Moreover, it serves as a comparative aspect for the study of bioethics founded upon different religious or cultural traditions.

Now that the juridical-ethical scope of the Islamic tradition is clearly delineated, and the method of deriving legal-ethical decisions is spelled out, Islamic bioethical principles and rules as

1- George Hourani, *Reason and Tradition in Islamic Ethics*, p. 17
introduces the latter distinction in deontological norms.

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developed and explicated in jurisprudence may be introduced. The principles and rules function as a bridge between revealed text and reason, correlating the conclusion as a normatively validated resolution. Islamic Ethics requires the principles to be extracted from normative sources recognized by the community as "Islamic," and justification and legitimization are dependent upon moral principles and rules established in Islamic legal theory. Finally, and importantly, intuitive reasoning is an essential methodological process to resolve ethical dilemmas in biomedical ethics.

Through my seminary training in the legal theory and legal reasoning behind judicial rulings, I have determined specifically Islamic principles and rules that are part of the justificatory process expressly stated in some major biomedical decisions (e.g., the permissibility of abortion when the mother's life is in danger) given by both the Sunni and the Shiite jurists. Although some of the principles that are evoked in the legitimization of an ethical resolution share the moral validation with secular bioethics (such as promoting beneficence and preventing maleficence), Islamic bioethics has depended largely on the principle of "no harm and no harassment" (*la darar wa-la dirar*) to resolve the majority of ethically problematic issues. A large number of articles on new issues in Arabic and Persian resort to the "No harm"-principle for justificatory purpose, but several other principles are also regularly used, such as: Public Interest (maslaha); Necessity (darura); Protection against Distress and Constriction (usr wa haraj); and Necessity to Avert Probable Harm (daf al-darar al-muhtamal)

Islamic Biomedical Ethics: a model syllabus

As a way of summing up my essay, I present a syllabus on Islamic biomedical ethics which I have developed over the last decade of teaching in the context of a Theology, Ethics and Culture subfield within the discipline of Religious Studies. I have sometimes taught bioethics under a seminar on Islamic Law, Ethics, and Society, and at other times under Islamic Theology and Ethics. But, basically, I have followed the approach in the course outline below. In addition, in teaching the course to the teachers of bioethics, both clerics and physicians, in recent months in Behishti Medical Sciences University in Tehran under the Behishti Medical Sciences University Fellowship Program that aims to develop conceptual and practical clarity in clinical ethics as well as teaching of Islamic Biomedical Ethics in Iranian universities, the distinction between *fiqh*-studies and bioethics has assumed epistemic importance among Muslim jurists. It is gratifying to note that both Muslim physicians and Muslim jurists have taken up theological ethics as foundational to explore Islamic moral philosophy as it pertains to biomedical research and practice. This is just the beginning of Islamic bioethics which must come to terms with the presuppositions of Western secular bioethics, namely, democratic politics and individual autonomy in determining one's rights to accept or reject a particular treatment or in consenting to become a subject of highly intrusive medical research today. Without patient empowerment in the Muslim world, Islamic biomedical ethics will continue to remain a marginal discipline in medical programs across Muslim societies.

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Seminar on Islamic Biomedical Ethics the Course

How do Muslims solve their ethical problems in biomedicine? Are there any distinctive theories or principles in Islamic ethics that Muslims apply in deriving moral judgments in bioethics? The seminar will undertake to discuss the development of a new subfield in Islamic legal and ethical studies. Although there is a long history of legal theoretical studies among Muslim legal scholars, the study of social ethics and its various applications in research and biomedical ethics is searching to define its methodology as well as application in the growing awareness of the ethical issues that confront both medical and legal professionals in the Muslim world. The emergence of a specifically Islamic approach to the resolution of ethical problems in health care ethics indicates both casuistry and principle-based ethical deliberations and rulings. The seminar will outline the moral reasoning that Muslims have developed to provide ethical guidelines in various areas of ethical problematic in research as well as clinical settings. It will, furthermore, relate these ethical principles to the moral experience of contemporary Muslims living under different circumstances to examine the role of human experience/intuitive reasoning in deriving ethical decisions. The core of the seminar will be devoted to understand the way culture provides the moral presuppositions and ethics the formal normative framework, for Muslim moral choices. There is in every culture an admixture of the ethnocentric bound to a particular geography, history, language, and ethnic strain; and the universal which is common to all humans as humans. The course will highlight the interaction between particular and universal in resolving ethical problems in biomedicine. Selected readings in theological

ethics, legal methodology and application, and a growing literature on the new rulings in bioethics will provide students of Islam and comparative ethics an opportunity to understand the underpinnings of Islamic theology and legal-ethical methodology that guide public health and medical research in Muslim countries around the world.

Format

The seminar will be conducted in the interactive format, whereby students will prepare short presentations based on the readings for that week as a team (one preparing a short summary, the other critiquing the reading, and so on) every week, in such a way that each participant will have three opportunities to present different aspects of the class materials. To encourage debate and discussion, from time to time, the class will be presented with bioethical cases to resolve the moral dilemma facing all those related to the case.

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Requirements

1. Reading materials to prepare for class presentation and discussion. Readings will include:

   a. Abdel Rahim Omran: *Family Planning in the Legacy of Islam*
   b. Munawar Ahmad Anees, *Islam and Biological Futures: Ethics, Gender and Technology*
   c. Aziz Sheikh and Abul Rashid Gatard, *Caring for Muslim Patients*
   d. Mohammad Hashim Kamali, *Principles of Islamic Jursiprudence*
   e. Fazlur Rahman, *History of Muslim Medical Tradition*
   f. Majid Fakhry, *Theories of Islamic Ethics*
   g. Selected articles

2. Regular presentation of short papers in the class

3. Final paper on selected topic (15-25 pages)

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Seminar Sessions

1. General Discussion about Islamic Tradition and its ethical presuppositions: Normative Sources and their applications in deriving legal-ethical decisions
2. Theological Differentiations: The Makings of Islamic Ethical Traditions
3. Understanding Human Suffering and Illness as a form of Divinely Ordained Test
4. Legal and Ethical Categories: Necessary, Good, Forbidden, Neutral in formulation of religious-moral values
5. Ethical-Legal Methodology: Moral Reasoning
6. Principles and Rules in Islamic Ethics: The Role of Reason and its relation to Revelation-based Ethics
7. Beginning of Life, Family Planning and Related Biomedical Issues
8. Sexuality in Muslim Culture and its Impact on biomedical practice
9. Cultural and Ethical Issues Related to AIDS and other epidemics
10. Death and Dying in Muslim Culture: Euthanasia, Physician Assisted Suicide
11. Organ Donation and Transplant: Who owns the human body?
12. Genetic Engineering, Genetic Testing, and Gene Therapy
13. Future of Biomedical Ethics in Muslim World: The Role of Organization of Islamic Countries

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References

1-Hourani, George F., *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985); Majid Fakhry, *Ethical Theories of Islam* (Leiden: E. J. Brill, 1991)

2-George F. Hourani, *Islamic Rationalism: The Ethics of 'Abd al-Jabbar* (Oxford: Clarendon Press, 1971),

3- In her recently published work entitled *Islamic Medical Ethics in the Twentieth Century* (Leiden: E. J. Brill, 1993) Vardit Rispler-Chaim analyses *fatwa* literature and claims that there are no specifically Islamic principles that undergird the legal-religious decisions among Muslim jurists. A number of articles on abortion also follow the same kind of legalistic analysis of the biomedical issues. [Jon, my hands are limited in Iran to check these out and list them here.]

4- See, for examples, the essays by Sherine Hamdy and Debra Budiani and Othman Shibly in this volume.

5- George Hourani, *Reason and Tradition in Islamic Ethics*, p. 17 introduces the latter distinction in deontological norms.

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