Maqasid al-Shari'ah as a Complementary Framework for International Council of Nurses (ICN) Code of Ethics for Nurses: Malaysian Context

Abstract

Maqasid al-Shari'ah or the objectives of the Islamic law and nursing share inherent intersections and sometimes work as integral subjects, the ultimate aim of which is "harm reduction" and "promotion of wellbeing" in life. The Maqasid al-Shari'ah provides values and principles of good conduct, while nursing achieves this aim through practical and hands-on healthcare services. In a country like Malaysia, where Muslims make up the majority of the population, Islam plays a crucial role in providing the essential guidelines on the permissibility and acceptability of nursing services. The research uses an analytical method and presents a concise overview of Islamic nursing ethics, focusing on the applications of Maqasid al-Shari'ah in nursing services. Besides the literature review, the research highlights the primary contents and fields of both nursing and the objectives of Islamic law. The research identifies and analyses four principal elements that outline the standards of ethical conduct that the ICN Code of Ethics has stated for Nurses. The research then integrates the values of Maqasid al-Shari'ah in the ICN Code of Ethics to ensure in line with Islamic teaching.

Keywords: *Nursing, Ethics, Islam, nursing practice, Maqasid al-shari'ah.*

Introduction

Every nurse's goal in nursing is to help patients, their families, and the community by promoting health, preventing illness, restoring health, and alleviating suffering(ICN, 2021). Because of the nursing ethics driving their ethical behaviour and decisions, nurses from diverse backgrounds such as religion, race, education, and socioeconomics can work together to achieve these shared goals for the benefit of the patient population.As a result, nurses cannot engage in careless behaviour that puts patients at risk, outlined in the nursing ethics manual.This means that nursing ethics includes all aspects of patient care, from vital sign monitoring to phlebotomy evaluations to patient grooming and consideration in clinical decision-making. The same ethical principles govern nurses' ethics. These ethical principles should always guide the actions of nurses. Deontology and utilitarianism are influenced by the Judeo-Christian foundations of available ethical principles for nursing care (Burkhardt & Nathaniel, 2014).

People can use ethical principles to guide their actions and achieve their goals. In order to satisfy a person's basic need for food, for example, eating is the appropriate method of accomplishing this goal. Eating, in this example, represents a way to meet the goal. On the other hand, principle-based ethics establishes a standard to judge whether a decision or action is morally acceptable. Two common moral theories in nursing are utilitarianism and deontology, which apply exclusively to inpatient care. "Utilitarianism" is derived from "utility," which denotes the advantages and benefits of a given action. According to many academic studies, utilitarianism is concerned with the likely outcomes of one's decisions and actions. If a decision or action can benefit the most significant number of people, then we can say that it is ethically sound(Ismail & Shahadan, 2021). In order to provide the best possible care for their patients, nurses apply this moral theory to a broader range of situations (Bunton, 2017). The goal should be to find the most beneficial or least harmful solution to a given

problem. Although the patient may benefit from this consideration, it opens the door for someone to justify the means considering the end in question. How do you decide whether this decision or action violates the law or moral standards? This inquiry, on the other hand, should be taken very seriously.

A theory of ethics known as deontology presents a novel ethical viewpoint. The Greek word 'duty' is the origin of the term deontology. In this moral theory, a person's actions are judged based on the nature of the work itself rather than the consequences(Ismail & Shahadan, 2021). Everyone has a moral obligation in the performance of a task. Moral obligation is the primary responsibility that needs to be done to complete a task. For example, nurses need to be honest in documenting patient vital sign reading.If a nurse falsifies documentation, the nurse has violated the basic responsibilities entrusted to her. According to this theory, ethical rules are universal, and moral activism is based on practicality and autonomy. As a rule of thumb, one should abide by the given instruction (Farkhani et al., 2017). It is important to remember that ethical conduct refers to any decision or action taken under the highest moral obligations. It is important to note that telling lies is against the norms that can be considered immoral because telling the truth is seen as a universal law for everyone. However, what if the patient's life depends on someone breaking these moral rules to save them? Is this situation considered morally wrong?

The theories of morality rely on a reductionist approach. Most of the moral theories used in nursing practice open a series of questions and arguments to prove their validity. Whether these moral theories can be used as a basis for moral judgement is an open question. It is impossible to tell if it is right or wrong in this case. As a notable point, the development of these moral theories relied heavily on thinking creatively and reason logically. As a nursing concept of particular importance, it does not suffice to say it covers holistically even though it offers essential insights into patient care.

The art and science of patient care have been exposed to the secular view of thinking in Western countries, where the discipline of nursing has also flourished. As a guide to ethical nursing practice and decision-making, the ICN Code of Ethics for Nurses is widely used in the healthcare industry(ICN, 2021). In a country like Malaysia, where Muslims make up the majority of the population, Islam plays a crucial role in providing the essential guidelines on the permissibility and acceptability of nursing services (Htut et al., 2007). In this study, the researcher uses an analytical method which is process of systematically searching and arranging the literatures, related documents, or other non-textual materials that the researcher accumulates to increase the understanding of the phenomenon (Wong, 2008). The researcher presents a concise overview of Islamic nursing ethics, focusing on the applications of *Maqasid al-Shari'ah* in nursing services. Besides the literature review, the research highlights the primary contents and fields of both nursing and the objectives of Islamic law. The research then identifies and analyses four principal elements that outline the standards of ethical conduct that the ICN Code of Ethics has stated for Nurses.

The Framework of ICN Code of Ethics for Nurses

In 1953, the International Council of Nurses (ICN) approved an international code of ethics for nurses. Since then, it has been revised and reaffirmed numerous times, the most recent of which was completed in 2021. Nurses and nursing students are expected to adhere to the ICN Code of Ethics for Nurses, which outlines nurses' and students' ethical values, responsibilities, and professional accountability. The International Code of Ethics for Nurses is a source of ethical guidance for their roles and responsibilities and their professional judgment and relationships with patients, other people who receive nursing care or services, and other healthcare providers (ICN, 2021).The revised code also addresses new issues like the digital explosion, including social media, artificial intelligence in healthcare settings, human genome

technology, population health and the Sustainable Development Goals, and environmental and climate change consequences.

In the 2021 revised edition, the ICN Code of Ethics for Nurses amended the main components of ethical conduct: a) nurses and patients or other people requiring services, b) nurses and practice, c) nurses and the profession, d) nurses and global health. The component of ethical conduct, a and b only, has been given a new branding, in which the former component were "nurse and people" and "nurse and co-workers", respectively.

To meet the needs, nurses are encouraged by the phrase "nurses and patients or other people requiring services" to provide care to all. For this service to be provided effectively, nurses must foster an atmosphere in which everyone is aware and respectful of the rights, values, customs and religious or spiritual beliefs of individuals, families, and communities at large.

From the above, it is clear that the significant change in the revised edition is the addition of the section on global health. This element focuses on nurses' advocacy role in addressing inequities in health care, which the Covid-19 pandemic has so starkly highlighted.

In modern nursing, religious faith plays a significant role than in the past(Rumun, 2014). *Maqasid al-Shari'ah* as a binding principle in nursing ethics or ICN Code of Ethics for Nurses will be presented in the following discussion.

Overview of *Maqasid al-Shari'ah* (Objective of *Shari'ah*)

*Shari'ah,*or Islamic law, is the command of God revealed to the Prophet Muhammad (*s. a. w.*), and it is a rule that controls the state and society. It means that the state and society have to conform to the dictates of*Shari'ah*. It is the opinion of Dr. Yusuf al-Qardawi that *Shari'ah* is defined as the law that God established among His people, which is based on evidence found

in the Holy Qur'an and the Prophetic Sunnah, as well as what has been derived from these sources through consensus, analogous jurisdiction, and other sources of proof (Yusuf al-Qaradawi, 2013). *Shari'ah* is different from human law due to its divine origin based on divine revelations (Safi, 2000). In contrast to the conventional view,it asserts that morality is influenced by one's cultural norms. That is, the morality of the society in which it is practised determines whether an action is right or wrong.This view is the opinion of ethical relativism (Ficarrotta, 2012). Therefore, Islamic law differs from human law. Human law is grounded from the customary rules and product of reason. It can never give a consistency of behaviour and action. The right for one group of people is not certainly so for another group; therefore, the practice of moral conduct would be not the same as one another. In the meantime, Islamic law or*shari'ah* canproduce perfect standard rules of conduct within all aspects of man's life. It provides the specific norms of good and evil, virtue and vice(Abdurezak Abdulahi Hashi, 2015).The *shari'ah* will ensure the code of conduct in nursing practice does not violate the instruction and prohibition of the Creator. For example, even though nursing codes allow nurses to be involved in abortion activities, *shari'ah* provides the strict guideline in which the abortion can or cannot be performed.On the other hand, a negative connotation is attached to the term "*shari'ah* law" in the English language because it is used to describe a wide range of harsh corporal punishments in certain countries (Auda, 2010).

Muslim jurists like Ibn ᶜAbd al-Salām (d. 1262) in *Qawāid al-Ahkam fi Masalih Al-Anam* (Rules of the Derivation of Laws for Reforming the People) (Shaykh al-Islām ᶜIzz al-Dīn ᶜAbd al-ᶜAziz ibn ᶜAbd al-Salām, 2013), and al-Shatibi (d. 1388) in *al-Muwāfaqāt fī Usūl al Shariᶜah* (The Reconciliation of the Fundamental of Islamic Law)(Ibrahim ibn Musa Abu Ishaq al-Shatibi, 2011) have discussed the Maqasid al-Shari'ah (objective of *Shariᶜah*.) Al-Shatibi, for instance, stated:

"The rules of the *Shari'ah* have been designed to produce goods (*masalih*) and remove evil (*mafasid*), and these are certainly their ends and objects. Furthermore, the *masalih* are those which promote the preservation and fulfilment of human life, and the realization of all that the human nature, animal and rational demands, till one is happy in every aspect".

This statement clearly shows that the *Maqasid al-Shari'ah* is to secure the balanced well-being of man and fulfil man's comprehensive needs as a human being. Therefore, nursing ethics and *shari'ah* are two forms that cannot be separated (Mohamad Firdaus Mohamad Ismail et al., 2016). Al-Shatibi also discussed the priorities of the *Shari'ah*. Apart from the argument of the objective and priorities of *Shari'ah*, Muslim jurists also discussed the ranks of obligation and the factors that may upgrade or downgrade the obligation of individual acts. For example, although nursing codes permit nurses to participate in abortion activities, shari'ah provides the strict guidelines for whether or not abortions can be performed. If abortion is sought for social reasons, so Islam is not allowed. Compared to seeking abortion for preserving the mother's life, therefore the termination of pregnancy is granted by Islam(Mohamad Firdaus Mohamad Ismail et al., 2017).

Application of *Maqasid al-Shari'ah*in ICN Code of Ethics for Nurses

Some applications will be discussed in this section as follow:

a) The first component in the ICN Code of Ethics, namely 'nurses and patients or other people requiring services' describes that nurses promote an environment in which the human rights, values, customs, religious and spiritual beliefs of the individual, families and communities are acknowledged and respected by everyone. Besides, nurses should be upheld and protect the human rights of everyone. "Freedom of religion" is defined in Article 18 as

the right of every individual to express his or her religious beliefs in whatever way they see fit, in whatever setting they choose (public or private), in any manner they choose (including the right to change one's religion at any time). When talking about the religious belief in Islam, the *Maqasid al Shari'ah* is concerned about the *aqidah*. Preservation of religion means maintaining the concept of *tawhid* or oneness of God. This concept forbade Muslims to believe in someone else except Him, either by belief or action. The primary goal of the Islamic law that guarantee human beings do not speak against Islam to remain strong, stable and lasting peace. At the same time, Islam forbids all acts that lead to shirk against God, such as fortune-telling, magic, and superstitious things. Therefore, every Muslim should be cautious while undergoing this life to not stray from the Islamic faith path.

Pagan and animistic beliefs predated Islam's arrival in what was then Malaya, and they, along with Hinduism and Buddhism, had a profound impact on the Malay psyche (Ishak & Nassuruddin, 2014). Incantation and belief in superstition have influenced some Malay patients in their quest for healing(Abdullah, 2009; Ishak & Nassuruddin, 2014). Islam saw 'tangkal' as an illegal practice that might violate someone aqidah and had been confirmed by Malaysian religious authorities (Bungsu @Aziz Haji Jaafar, 2019; JAKIM, 2011). If nurses observe the patient wearing 'tangkal' during hospitalization, do they have to keep silent to respect their beliefs and human rights? Keeping silent seems like letting the patient do bad things. As a servant of Allah, Muslim nurses obliged to preserve the patient's aqidah and advise them wisely to leave the illegal practice. From Abu Sa'id al-Khudri RA, he said, I heard the Prophet PBUH said:*"Whosoever of you sees an evil, let him change it with his hand; and if he is not able to do so, then [let him change it] with his tongue; and if he is not able to do so, then with his heart — and that is the weakest of faith"*(Sahih Muslim). Making a rapport with the patient first and talking to them nicely was the best technique of the Prophet

teaching in approaching people. However, if the patient refuses to listen, the nurse's responsibility is done. The principle that the larger community has no right to interfere in one's choices of faith and conviction can be seen, further, in the fact that the Qur'an emphasizes that the individual is accountable for the moral choices he or she makes in this life to their Creator alone(Safi, 2000).In chapter 3 of the Qur'an, verse 20, God mentions, "So if they dispute with you, say: I have submitted my whole self to God and so have those who follow me. And say to the People of the Book and to those who are unlearned: Do you (also) submit yourselves? If they do, they are underthe right guidance. But if they turn back, your duty is to convey the Message; And in God's sight are (all) His servants."

b) The second component in the ICN Code of Ethics highlights 'nurses and practice'. When a patient is in the nurse's care, the nurse bears personal responsibility and accountability for practising ethical nursing. All roles and settings must adhere to the code of ethics ethical standards. Nurses need to improve the quality of work to provide the best service to the public.It is imperative that practising nurses know the code of ethics, are accountable for competent nursing actions, and always practise within their scope of practice set by regulatory bodies in the state where they are employed (Jacoby & Scruth, 2017). However, the nurse must use professional judgement when accepting and delegating responsibility. Some procedures or nursing and health-related research may offend nurses' consciences. However, they must still facilitate timely and respectful action to ensure that patients receive care tailored to their unique requirements (ICN, 2021).

What is the baseline for Muslim nurses to conscientiously object to participating in a particular procedure in Islam? All healthcare procedures are permissible unless Islam says it clearly to avoid it. This guideline is based on one of the Islamic legal maxims stated by

Imam al-Suyuthi, who said: "The basics in the middle of nowhere" or the origin of something is a must(Imam Jalaluddin Abdul Rahman al-Suyuti, 2004). Relating to nursing, nurses deal a lot with human life. Preserving life is one of the *Maqasid al Shari'ah* that everyone must uphold this principle; no matter what, taking life is prohibited. So, nurses must be aware and understand which procedure either allows or prohibits them from participating.Abortion for social reasonsisan example of a procedure that violates Shari'ah. In Islam, life is a gift that is very sacred and priceless. In chapter 5 verse 32, the Qur'an states that: "On that account: We ordained for the Children of Israel that if anyone slew a person unless it is for murder or for spreading mischief in the land, it would be as if he slew the whole people: and if anyone saved a life it would be as if he saved the life of the whole people". In this verse, the sanctity of life is confirmed, whereby the murder of one life is like killing all humankind. All life-taking forms are prohibited, including homicide, suicide, abortion and many more.

In contrast, all types of life are believed to be sacred, including that of adults, teenagers, children and infants (Mohamad Firdaus Mohamad Ismail et al., 2017). The Malaysian Penal Code, Article 312, strongly forbids abortion except to save the mother's life should she be in danger(Ahmad Muhammad Husni et al., 2013; Jamaluddin, 2013). It is synchronized with the Islamic guideline in preserving life. The fatwa says, "The only acceptable reason to abort the foetus is if the pregnancy would threaten the mother's health and life (Dar al-Ifta al-Misriyyah, 2016). Muslim nurses can refuse the patient's request for an abortion procedure because of their religious beliefs. What is the Muslim nurses' option if encountering this issue of concern? The best course of action is to ask the non-Muslim nurse to take over the case. If Muslim nurses are forced to perform the same procedure every day and have been offered a new job, they may consider quitting their current position (Mohamad

Firdaus Mohamad Ismail et al., 2017). In chapter 64 of the Qur'an, verse 16, God mentions, "So fear Allah as much as you can."

c) The third component in the ICN Code of Ethics is about 'nurses and profession'. As part of their professional organisations, nurses help creating a positive and constructive practise environment that encompasses clinical care and education and research, management and leadership. Nurses assume asignificant leadership role in determining and implementing evidence-informed, acceptable clinical nursing practice standards, management, research, and education. According to Malaysia's nursing statistics, there were 78,944 nurses in the country in 2011 and this number rose to 123,454 nurses in 2015. Of the total in question, 1826 people were male nurses (Mustapa & Abdullah, 2019). Females are dominant and outnumber males in nursing. The issue of concern is that females have more chances of being nominated as top leaders in nursing organisations such as the Malaysian Nursing Board, the Malaysian Nurses Association, and many more. Relating to *Maqasid al Shari'ah*, when women actively participate in community, like being a top leader, definitely the interaction between different gender will occur. Islam create a borderline, so the privilege of women is always at the top. Islam protects women so nobody can take undue advantage of them, like touching and harassing. Islam is concerned about dignity, and it has been placed at rank fourth in *Maqasid al Shari'ah*.

Islam places a unique position for women in society. Some people argue and reject women to sit at the top position in the organisation based on the verse, "Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means," as stated in chapter 4 of the Qur'an, verse 34. Nevertheless, most Muslim scholars agree that this verse refers to

leadership in broader scope (*wilayah ammah*), such as the position of Prime Minister of Malaysia or *khalifah*. This prohibition is based on the Prophet's prohibition on appointing women as heads of state when he found out that princess Kisra became the head of state after her father's death(Agesna, 2018). Islam wants to preserve the dignity of women because such tasks require extraordinary sacrifice and attention. The position exposes women to significant responsibilities, borderless duties, extensive mixing of relationships and high risk(Muhammad, 1997). However, Islam allows women to hold a leadership position in a particular region (*wilayah khas*), such as ministry, society, organisation, and professional bodies. Therefore, no harm for women leads the nursing organisation. However, the promotion and encouragement to men joining the nursing profession sound like a good idea to balance the ratio between males and females. The increasing intake of male nurses can meet the high demand from male patients to take care of the same gender and they tend to rise faster and quicker to upper levels of leadership(Williams, 1992).For nursing to advance in the 21st century, it is time for advancement in the nursing profession to be based on merit, not on a person's gender (Barrett-Landau & Henle, 2014).

d) the fourth component in the ICN Code of Ethics is about 'nurses and global health'. The "global health" concept did not exist even 20 years ago. It now encompasses a much broader concept that affects the health of the planet as a whole. A growing number of governments and organisations are adopting it as a critical policy theme(Salvage & White, 2020). A review of global health issues literature uncovered numerous concerns, from global warming and terrorism to emerging infectious diseases(Edmonson et al., 2017).For discussion, selected emerging infectious disease as Covid-19 has heightened awareness among countries, including Malaysia, for the past two years.

The Delta variant is still the most common in Malaysia, having been found in all of the country's states and territories. Authorities have detected one imported case bearing the Omicron, a variant of concern in a traveler returning from South Africa. As of 5 December 2021, 77.9% of Malaysia's total population (97.1% of the adult population and 86.5% of the adolescent population) had received their second dose of the Covid-19 vaccine. An estimated 9.1% of the total population had received a booster dose. The states reporting the lowest full Covid-19 vaccination coverage are Kelantan (61.2%) and Sabah (60.8%)(WHO, 2021). In order to achieve herd immunity, the vaccine hesitancy issue should be addressed.The challenges of nurses today are very high where the world is now too vulnerable to slander and lies that are easily accessible through the media. Misinformation about the adverse effects of vaccines from irresponsible parties had been monitored closely by the government.Study results show that over half of the 1,406 Malaysians polled were concerned about the potential side effects of the Covid-19 vaccine. Almost one-third of them agreed that scary information about the Covid-19 vaccine was rampant on social media(Mohamed et al., 2021), including the issue of the permissibility of taking vaccination from Islamic view. Nurses have a responsibility to create awareness and encourage people to take the vaccination, so they should have basic knowledge on Islamic view about vaccines. Islam advises its people to seek a cure for the disease they are suffering from because every disease has a cure that needs to be sought, explored and studied. Following the words of the Prophet SAW:"Every disease has a cure, when the cure meets the disease, it will surely be cured with God's permission" (Sahih Muslim).In this case taking vaccination is permissible. This is because prior treatment before an outbreak or a disease is feared to occur. This is based on the hadith of the Prophet SAW:"Whoever eats seven grains of Medina dates in the morning, he will not be affected by the bad influence of magic or poison" (Sahih Bukhari). Similarly, suppose there is a concern that a disease may arise and immunization is performed against a disease that appears

somewhere or anywhere. In that case, it is not a problem because it includes preventive measures.In this case, if it is made of clean and pure material, then it is permissible to use. However, if it is made of an unclean material and other alternatives are available, it is prohibited to use the unclean one. This is because of the words of Rasulullah SAW from Abu Darda (RA), which means: "Indeed, Allah has sent down diseases and cures, and He has made for every disease a cure, so you all be cured and do not all of you be cured by (things) which is haram." If there is no other alternative, it is allowed because it is included in the emergency matter(Zulkifli Mohamad al Bakri, 2015). This principle can be applied in other clinical situations whereby the nurses face two harm; greater and lesser harm. In this situation, nurses may use critical thinking to choose the lesser harm. Choosing the lesser harm is in line with the Islamic legal maxim, which stated, "A lesser harm removes a greater harm" (al-ḍarar al-ashaddyuzālu bi al-ḍarar al-akhaf)(Abd al-Karim Zaydan, 2015; Azman Ismail & MD Habibur Rahman, 2013).

Conclusion

Up to this notion, we note that the *Maqasid al-Shari'ah* is comprehensive and encompasses moral principles, which are directly applicable to modern practices. In the aim of *Shari'ah*, any conduct that is deemed ethical or permissible must fulfil its five purposes: preservation of religion, preservation of health, preservation of progeny, preservation of intellect, and preservation of wealth. However, in this article, the author has selected some issues to be addressed. The discussion has integrated the element of preservation of religion in the ICN component of 'nurses and patients or other people requiring services', the element of preservation of life in the ICN component of 'nurses and practice' and 'nurses and global

health', and finally, the element of preservation of dignity in the ICN component of'nurses and profession'.Any conduct of nursing practices must fulfil one of the purposes of being considered ethical. If any conduct violates any of the five purposes in successive order of importance, it is deemed unethical. Again, we emphasize that nursing ethics and *Maqasid al-Shari'ah* are two elements that cannot be separated, whereby the latter form must be a binding principle to guide nurses because it represents the fountain head of Divine guidance for every Muslim nurses. For the future direction of this study, it is highly recommended to conduct a workshop, webinar and training for a Muslim staff nurse to disseminate this knowledge and applying in nursing practices.

Declaration of interests

We declare no competing interests.

Acknowledgments

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