

**ETHICS OF ASSISTED REPRODUCTIVE  
MEDICINE: A COMPARATIVE STUDY OF  
WESTERN SECULAR AND ISLAMIC BIOETHICS**

**by**

**SHARMIN ISLAM**

**Thesis submitted in fulfillment of the requirements  
for the degree of  
Doctor of Philosophy**

**January 2008**

## **ACKNOWLEDGEMENTS**

All praises for Allah (S.W.T) the Creator, Sustainer and the Protector of the universe.

I would like to express my thanks and gratitude to all persons involved in this research.

First of all, I would like to express my gratitude to my supervisor Professor Rusli Nordin, Deputy Dean, School of Dental Sciences (PPSG), Universiti Sains Malaysia (USM) for his valuable guidance, intellectual inputs, constructive criticisms and ever-smiling cooperation from before my coming to Malaysia to the end of the study.

My hearty thanks and gratitude to my co-supervisors Professor Ab. Rani Shamsuddin, Dean, PPSG, USM and Professor Hanafi Mohd. Nor of UIAM for their valuable guidance and cooperation from the beginning to the end of the study.

I am indebted to the Institute of Postgraduate Studies (IPS), USM for granting me the Graduate Teaching Assistantship during my study. I am grateful to Pusat Islam of Health Campus, USM to help me in arranging a day long seminar with participation of expatriates in the field of bioethics from all parts of Malaysia.

I shall remember the services of the staffs of PPSG especially Cik Haizan Binte Hassan.

My gratitude to my mother Mrs. Roushan Akhter who looked after our children when both me and my husband were busy in studying. My gratitude also goes to my husband Dr. Abu Kholdun Al-Mahmood for his great cooperation and encouragement and my sweet daughters Fariha and Shaeeri whose presence removes all my sorrows and sufferings.

Jajakumullahu Khairan Kathira.

Sharmin Islam.

## TABLE OF CONTENTS

Item	Page
ACKNOWLEDGMENTS	ii
TABLE OF CONTENTS	iii-vii
LIST OF TABLES	viii
LIST OF FIGURES	ix
LIST OF ABBREVIATIONS	x
ABSTRAK(BM)	xi-xii
ABSTRACT	xiii--xiv
NOTES ON TRANSLATION AND TRANSLITERATION	xv-xvii
 CHAPTER 1	
Introduction	1-13
1.1 Background	2
1.2 Objective	
1.3 Scope and Subject Matter of the Study	7
1.4 Sources of the Study	11
1.5 Research methodology	11
 CHAPTER 2	
Western Secular Bioethics	14-47
2.1 Ethics	15
2.2 Bioethics	16
2.3 Principles of Bioethics	18
2.4 Bioethical Theories up to 1990	21

	2.5 Flourishment of Contemporary Theories after 1990s	26
	2.6 Western Secular Bioethics and Secularism	36
	2.7 Conclusion	44
CHAPTER 3	Islamic Bioethics	48-73
	3.1 Sources of Islamic Ethics	49
	3.2 Islamic Jurisprudence amidst Modern Medicine	51
	3.3 Reflection of Islamic Law in the Modern Period of Medicine (1420H onwards)	58
	3.4 Rules of Solving the Conflict of Cases	65
	3.5 Relevance for Bioethics	71
	3.6 Conclusion	72
CHAPTER 4	The Philosophical Relevance of Western Secular and Islamic Bioethics	74-87
	4.1 Relevance of Ontology	75
	4.2 Relevance of Epistemology	81
	4.3 Relevance of Axiology	84
CHAPTER 5	Artificial Insemination: Western Secular and Islamic Bioethics in a Comparative Perspective	88-128
	5.1 Background	89
	5.2 Definition, Reasons and Types	89
	5.3 Artificial Insemination from the Perspective of	92

	Islamic Bioethics	
5.4	Western Secular and Islamic Bioethical Views in a Comparative Perspective	95
5.5	Conclusion	127
CHAPTER 6	In Vitro Fertilization (IVF): Western Secular and Islamic Bioethics Perspectives	129-174
6.1	Background: Birth of Louise Brown	130
6.2	IVF: Reproductive Physiology	132
6.3	Reasons for IVF	132
6.4	IVF: Technical Procedure	133
6.5	Ethics of IVF: Islamic Bioethics Perspective	134
6.5.1	IVF and the Preservation of Progeny ( <i>Hifz al Nasl</i> )	134
6.5.1.1	IVF & the Preservation of Progeny in the light of the Necessity of Procreation	134
6.5.1.2	IVF & the Preservation of Progeny in the light of the Necessity of Preservation of Lineage ( <i>Hifz al Nasab</i> )	140
6.5.2	IVF and Protection of Life ( <i>Hifz al Nafs</i> )	142
6.5.3	IVF and Protection of the Mind ( <i>Hifz al 'Aql</i> )	147
6.5.4	IVF and Protection of Wealth ( <i>Hifz 'al Māl</i> )	147
6.5.5	IVF and Protection of Faith ( <i>Hifz al Dīn</i> )	148
6.6	IVF: Western Secular Versus Islamic Bioethics	149

	Perspective	
	6.7 Conclusion	173
CHAPTER 7	Surrogacy: Western Secular and Islamic Bioethics Perspectives	175-205
	7.1 Background	176
	7.2 Surrogacy: Definition, Reasons and Classification	177
	7.3 Surrogacy: Islamic Bioethics Perspectives	178
	7.4 Ethics of Surrogacy: A Comparative Study of Western Secular and Islamic Bioethics	182
	7.5 Conclusion	203
CHAPTER 8	Human Cloning: Western Secular and Islamic Bioethics Perspectives	206-232
	8.1 Introduction	207
	8.2 Defining Cloning	207
	8.3 Technique Behind the Birth of Dolly	208
	8.4 Birth of Dolly and Human Cloning	209
	8.5 Medical Benefits of Human Cloning	209
	8.6 Islamic Bioethics and Human Cloning	213

	8.7	Human Cloning: Western Secular and Islamic Bioethical Perspective	218
	8.8	Conclusion	231
CHAPTER 9		Western Secular and Islamic Bioethics in relation to Assisted Reproductive Technique (ART): An Overall Comparison	233-253
CHAPTER 10		Concluding Remarks	254-259
REFERENCES			260-293
APPENDIX 1		List of Publications	294
APPENDIX 2		List of Seminars	295

## **LIST OF TABLES**

Table 2.1	Divisions of Ethics	15
Table 3.1	The Primary Necessities in Islam	61
Table 3.2	Legal Maxims on the Principle of Intention	66
Table 3.3	Legal Maxims on the Principle of Do No Harm	68
Table 3.4	Legal Maxims on the Principle of Certainty	69
Table 3.5	Legal Maxims on the Principle of Hardship	70
Table 4.1	Islamic Epistemology at a Glance	83
Table 5.1	Comparative Study of Western Secular and Islamic Bioethics in relation to Artificial Insemination	127
Table 6.1	Comparison between Western Secular and Islamic Bioethics in relation to In Vitro Fertilization	173



### **LIST OF FIGURES**

Figure 3.1	Levels of Essential Human Needs	62
Figure 3.2	Relationship between the Absolute Necessities in Islam	63
Figure 3.3	Relevance of the Primary Necessities With the Private and Public Affairs	64
Figure 5.1	Diagram of <i>Halāl</i> and <i>Harām</i> in Islamic Ethics	100

## LIST OF ABBREVIATIONS

Abbreviation	Full
AI D	Artificial Insemination Donor
AIH	Artificial Insemination Husband
ART	Assisted Reproductive Technology
CM	Commercial Motherhood
HESC	Human Embryonic Stem Cell
IOL	Islam Online
IVF	In Vitro Fertilization
NBAC	National Bioethics Advisory Commission
OIC	Organization of Islamic Conference
SCNT	Somatic Cell Nuclear Transfer
Q	Glorious Qur'ān

## **ABSTRAK**

Kemandulan merupakan salah satu dari masalah perubatan yang utama masa kini. Namun yang demikian, hasil dari Teknologi pembiakan Bantuan (Assisted Reproductive Technology /ART) pasangan yang mandul mampu menimang zuriat. Terdapat pelbagai teknik untuk mengatasi kemandulan. Pada masa yang sama, teknik-teknik tersebut turut mendatangkan masalah etika-agama dan perundangan. Manakala pendekatan etika dari berbagai pemikiran bioetika atau tradisi berbeza dalam menangani masalah tersebut. Kajian ini tertumpu kepada pandangan bioetika sekular Barat dan Islam dalam menghakimi nilai moral intervensi pembiakan ini. Dari itu, kajian memperincikan kedua-dua pandangan ini dari dimensi epistemologi dan ontologi. Justeru, ia menggunakan kaedah fenomenologikal dalam pengupasannya yang merangkumi sebab logikal dan refleksi kritikal. Kajian komperatif telah dilaksanakan ke atas kedua-dua pendekatan untuk mengupas titik persamaan, perbezaan dan yang saling memerlukan (sekiranya ada). Dari skop semulajadi dan ART, kajian menghadkan perbincangan ke atas Peranian Artifisial (Artificial Insemination /AI), Fertilisasi In Vitro, Serogasi dan Pengklonan Manusia.

Hasil kajian mendapati bahawa pandangan bioetika sekular Barat terhadap ART adalah secara konsekuensi manakala pandangan bioetika Islam mempunyai kedua-dua unsur deontologi dan konsekuensi. Maka secara keseluruhannya, kaitan di antara kedua-dua sistem bioetika ini adalah tidak sepadan. Walaupun mempunyai prinsip asas yang berbeza, kedua-dua pandangan bioetika ini tidak bercanggah secara total. Tiada pemisahan jitu patut dibuat di antara keduanya. Sebaliknya, yang perlu ditegaskan di sini adalah hasil dari perbincangan dan analisa tertutup dan luas, terdapat titik persetujuan

bagi keduanya. Kajian perbandingan menunjukkan terdapat perbezaan yang bersandaran yang bukannya bercanggah secara total di antara kedua-dua bioetika.

## **ABSTRACT**

Infertility is one of the major medical problems now days. But with the aid of some forms of Assisted Reproductive Technology (ART), an infertile couple can be blessed with a child. There are a lot of techniques to overcome childlessness. At the same time, these techniques also raise several ethico-religious and legal problems as well. But ethical approach of different bioethical thoughts or traditions varies in solving these problems. The present study will concentrate on the Western secular and Islamic bioethical perspective in order to judge the moral worth of this reproductive intervention. Hence, the study concentrates on these two moral systems of thoughts with reference to their epistemological and ontological dimension. Therefore, it employs phenomenological method in its endeavor which consists of logical reasoning and critical reflection. We have made a comparative study between these two approaches to indicate points of agreement, disagreement and interdependence (if any). In view of the extensive nature and scope of ART, we have limited our discussion to Artificial Insemination (AI), In Vitro Fertilization, Surrogacy and Human Cloning.

The findings of the study are that Western Secular Bioethics in relation to ART holds a consequential colour while Islamic Bioethics has both a deontological and consequential tone. Hence, broadly speaking, these two systems of bioethics hold an incommensurable relation to each other. Although these two types of Bioethics are different in their foundational principles, the relationship is not a relationship of absolute confrontation. No water-tight compartment should be drawn between them. Rather it should be highlighted that a close and elaborate discussion and analysis reveals the fact

that there are also many points on which both agree. The comparative study shows that there exists relational difference rather than absolute contrast between them.

## NOTES ON TRANSLATION AND TRANSLITERATION

The translated verses of the Holy Qu'rān have been taken from M. Asad's translation of the Holy Qu'rān [Asad, 1980].

The transliteration in this study has emphasized words as they are written not as they are pronounced, (i.e. graphically, not phonetically; e.g. 'Abd al Fattah, not 'Abdul Fattah) [Al Fārūqī, 1995].

Arabic letter	Transliteration
ا	)
ب	b
ت	t
ث	th
ج	j
ح	h
خ	kh
د	d
ذ	dh
ر	r
ز	z
س	s
ش	sh
ص	s

ض	d
ط	t
ظ	z
ع	(
غ	gh
ف	f
ق	q
ك	k
ل	l
م	m
ن	n
و	w
هـ	h
ي	y
هـ	ah
ال	(article) al
	(even before the antepalatals)

## **Diacritical Signs**

### **Short Vowels**

Fathah ( َ )	a
Dammah ( ُ )	u
Kasrah ( ِ )	i



### Long Vowels

Alif Mamdudah آ ā

Yā Mamdudah ئ ā

Wāw Sākin preceded by Dammah (وْ) ū

Yā Sākin preceded by Dammah (يْ) ī

### Diphthongs

Wāw Mushaddad preceded by Dammah (وْوْ) uww  
)

Wāw Mushaddad preceded by Fathah (وَّوْ) aww

Wāw Sākin preceded by Fathah (وَ) aw

Yā Mushaddad preceded by Fathah (يَّوْ) ayy

Yā Mushaddad preceded by Kasrah (يَّوِ) iyy

Yā Sākin preceded by Fathah (يَّوْ) ay



## **Chapter 1: Introduction**

## **1.1 Background**

The desire to have one's own offspring is a very strong human instinct. A heterosexual couple decides whether to have a child or otherwise. If their decision is positive, they could proceed to conceive a child by means of sexual intercourse. But some couples fail to become parents because of some medical reasons.

Infertility can be defined as the failure to produce a viable pregnancy within a year of regular sexual intercourse without the use of contraception [Simmons, 1983:157]. The problem of infertility is as old as recorded history. Irrespective of religion, place, community, culture and time, people facing this problem have tried hard to overcome it.

In order to comprehend the causes of infertility, it would be important to understand the process of normal pregnancy assuming that evening of the 13<sup>th</sup> day of menstrual cycle of the wife; the husband has sexual intercourse with her. Through ejaculation the penis is reflexly thrust deep into the vagina. After withdrawal of the penis, the front and back walls of the vagina come together like the hands in prayer and thereby it takes only a small amount of semen to fill the vagina and cover the cervix. Within 20 to 30 minutes, enzymes from the prostate liquefy the semen. Some of semen will now flow out of the vagina. The first wave of sperms rushes rapidly upwards, swimming against the downward current of the uterine contractions. Within 5 minutes after ejaculation, they will be swarming the fallopian tubes. The second major wave of sperms enters into the crypts in the cervix and will reside there over the next few days. From here, a constant stream will travel up the uterus and the fallopian tubes. During their staying in the female genital tract, the surface charges on their heads are altered by the female genital fluids, a process known as capacitation; it is only after capacitation that

the sperm could fertilize the egg. On the 14<sup>th</sup> day of the menstrual cycle, ovulation takes place and the fallopian tubes are stimulated. As the egg is released, rhythmic contractions of the tube and its microscopic brush border draw the egg into its open-ended funnel. There, the egg is immediately surrounded by sperms. It is in this funnel where fertilization takes place [Teoh, 1987:11-13]. Thus, the developmental process of a baby starts with the process of fertilization. It is the union of two special cells or gametes: an egg and a sperm to form a zygote or fusion cell. Strictly speaking, the zygote is a fertilizing egg causing union of the genetic material from the mother and father [Anonymous, 1999:154-63].

In fact, infertility is a pathological condition that affects only heterosexual couples. A homosexual couple cannot be said to be infertile in any meaningful sense. It is the achievement of biomedical scientists, we should say that made possible to detect the causes of infertility. According to their opinion infertility may be caused by certain ‘defects’ either in the wife or husband.

Male infertility takes place if the husband produces no sperms or produces few sperms. Infertility also occurs if he produces sluggish or immotile sperms or abnormal sperms. He may have an insufficient volume of seminal fluid, an excessive amount of fluid which over-dilutes the sperms, may be impotent, may not ejaculate or ejaculates prematurely. Even ejaculation may be discharged into his urine. These are all factors related to male infertility [Teoh, 1987:15].

Female infertility may occur due to anovulation in which the ovary does not produce an egg. Usually the cause is when the ovaries do not get adequate hormonal stimulation from the pituitary gland. Other causes are the absence of ovaries, hormonal

disorders, tumours etc. The eggs may ripen but fail to escape because of scarring from endometriosis or infection. Infrequent ovulation also causes infertility of the woman. Sometimes ovulation occurs but thereafter, the ovary fails in its duty to produce pregnancy-sustaining hormones over the next 14 days. Defective fallopian tubes also cause infertility. This is due to either a fault in picking up the egg or an obstruction to sperm and egg transport. Even theoretically, the tubal environment may also be hostile to fertilization. The woman may not have any uterus. Even abnormalities present at birth or resulting from fibroids, infection or abortion prevent implantation to take place. If the cervix of the woman produces thick instead of thin and clear mucus at ovulation, it may immobilize the sperm of the husband. An absence of a vagina or a thick hymen causes infertility in rare cases [Teoh, 1987:15-16].

Whenever a couple fails to hope for a child they become frustrated and go to the physician again and again for treatment. In other word, the impact of infertility upon a couple sometimes becomes a significant problem in life. But today such difficulties can be set in the context of new possibilities that are being explored in the laboratories of medical science. Many strategies have been developed to bypass infertility and enable a couple to become parents. Until recently the treatment for infertility was mainly by surgery to correct anatomical defects and was mostly uncontroversial from an ethical and religious point of view. But the dramatic and tremendous development in biomedicine in recent years has changed the situation drastically. One of the most controversial topics in reproductive ethics is the use of new technologies and new social arrangements to facilitate child bearing. It basically transformed the process of procreation from private

personal relation between husband and wife into artificial means in the laboratory and in many instances the involvement of a third or a fourth party in the process.

Different technologies that have been developed to overcome infertility include the following:

- (a) Artificial Insemination;
- (b) In vitro Fertilization;
- (c) Surrogate Motherhood;
- (d) Human Cloning;
- (e) Gene Replacement Therapies;
- (f) Artificial Embryo Donation;
- (g) Ectogenesis;
- (h) Embryo Adoption; and
- (i) Egg Transfer etc.

For the last few decades, human civilization is observing tremendous development and ever-newer innovations in the fields of bio-medical research. The most successful breakthrough in this matter is the successful sequencing of human genome by the human genome project. By this advancement, we are able to put a step in learning the language on which God created life. There are so many advancements in the fields of artificial organ transplantation, genetic engineering, gene therapy and assisted reproduction. The technology of cloning added a new spectrum in this field. As human civilization is being benefited by these innovations in many ways yet many of these are creating so many ethical issues. In fact, Kuhse rightly said, “New medicine calls all in doubt” [Kuhse, 1984:22-35]. During his presidential address to the American College of

Surgeons in Oct 2001, R. Scott Jones noted, “to function effectively in the health care system... to navigate in a trillion dollar industry, we need compass: medical ethics [Dent, 2002:8-12].

Therefore, ethical inquiry is an immense need to us when we are unsure of the direction in which we are heading. It cannot be denied that such advances in recent medicine will cure many medical dilemmas and previously incurable diseases. But such new developments must not be left to proceed astray without proper ethical guidelines. Moreover, different ethical system of thoughts views these problems from different angles. These changes in the procreative processes challenged basic religious and ethical concepts. Reproduction is an especially sensitive issue because of the way it intersects with traditional views, including religious views, about the moral status of the fetus, women social roles and family. At one end of the spectrum are those who believe that reproduction should take place only in a traditional marriage as a result of sexual intercourse between a man and a woman. At the other end are those who condone any attempt to reproduce those results from informed choices; only the high probability of serious harm justifies limits on such choices. In between lays a vast array of possible ethical positions, expanding in number as new options become available. We shall confine our discussion here to Western secular bioethics and Islamic bioethics to judge whether these newer inventions are blessings for human beings or a curse. We shall also make a comparison between these two approaches in order to find out points of similarities, differences and interdependence (if any).

It should be mentioned here that in view of the extensive nature and scope of assisted reproductive technologies, we shall choose to restrict our research to four



important and current issues namely Artificial Insemination, In-Vitro Fertilization (IVF), Surrogate Motherhood and Cloning.

## **1.2 Objective of the Study**

The general objective of the study is to initiate the discussion upon the philosophical basis pertaining to both Islamic and Western secular view points on bioethical issues. The specific objective of the present study is wholly expository. The study is, in fact a theoretical intellectual enterprise. It is not proposed to recommend the establishment or otherwise of a bioethics. However, an attempt will be made to demonstrate the importance of ethical values to be considered in dealing with medical practice. We shall therefore, study the legal philosophy of Islam in its broad outline by comparing and contrasting with Western secular bioethics.

## **1.3 Scope and Subject Matter of the Study**

We must at the very outset clearly understand that the present study is not, strictly speaking, a study of the legal aspects of bioethics of both Western secular philosophical and Islamic ethical view points per se. It is, on the other hand, a study of the philosophical basis of both Western secular and Islamic view points with special reference to their epistemological and axiological aspects. The problem deserves analytical study for epistemological and axiological reasons. The contention here is that in order to deal with bioethical issues, not only legal consideration has to be brought up, but the whole concept of man vis a vis knowledge-based approach as well as theories of value, consisting of epistemology and axiology have to be developed. In other words,

before legal rules can be established, the bioethical issues must undergo a discussion on the basic concept of man in relation to the development of knowledge. In the absence of such a philosophical comprehension, any move to establish an ethical procedure is unwise and in fact unfounded on a solid ground.

By Western philosophy we refer to the philosophical thoughts of Western or Occidental civilization beginning with Greek philosophy in ancient Greece. Western secular bioethics here stands for contemporary thoughts and philosophy and not ancient Judeo-Christian philosophy (a detailed discussion of background of contemporary secular bioethics has been given in chapter 2). Here Islamic bioethics also refers to contemporary Islamic philosophy and thoughts.

Comparative approach in philosophy is a very recent phenomena and its exploration is very current. It encourages the rival philosophical positions to know each other better and to set right the limitations and inconsistencies in them. Comparative philosophy which is sometimes designated as cross-cultural philosophy is a sub-field of philosophy in which philosophers work on problems by intentionally setting into dialogue sources from across cultural, linguistic, and philosophical streams. This approach is different from both area studies philosophy and world philosophy. Area studies philosophy is such a philosophy in which philosophers investigate topics in particular cultural traditions. Confucianism and World philosophy is such a philosophical trend in which philosophers construct a philosophical system based on the fullness of global traditions of thought. But the ambition and challenge of comparative philosophy is to include all the philosophies of global humanity in its vision of what is constituted by 'philosophy' [The Internet Encyclopedia of Philosophy, 2005]. Our view is that surely

the target of Comparative philosophy is ambitious and it is a challenging job. It is challenging in the sense that its scope and subject matter is wider than other branches of philosophy. A problem in comparing western secular bioethics with Islamic bioethics is that the first one is a combination of vast philosophical outlooks such as utilitarianism, deontology, virtue ethics, communitarian ethics, and feminist ethics and so on. They not only have tensions with other traditions but they themselves have internal conflict as well.

We must be very clear that the aim of comparative study is not the creation of a synthesis of different traditions in philosophy. Indeed world philosophy does it. Comparative study of philosophy is unique in the sense that it helps us to learn a new way of thought, a new way of approach, a new way of inter-action. Comparative study within philosophy took place in the 18<sup>th</sup> century in the Western philosophy. Their main focus was on Eastern philosophy and highlighting Confucianism and Buddhism. As a whole Mainstream Western philosophy has been slow to accept this new trend in philosophy. Philosophy departments rarely put elements of comparative philosophy in their curricula, and comparative philosophers often find it difficult to publish their work in mainline journals [The Internet Encyclopedia of Philosophy, 2005].

Literature review reveals that comparative study of philosophy with reference to Western secular and Islamic ethics is almost non-existent without any exaggeration. It is generally said that there is radical difference between Western secular and Islamic bioethics in the pursuit of philosophy. Western secular bioethics is generally differentiated from the Islamic one by their exclusively rational approach to the ultimate being of the reality and in their denial of the role of faith in supernatural being. We are

familiar with the issues Islamic ethics versus Western ethics and feeling very comfortable about coloring Western bioethics as being always anti-Islamic and vice versa. The core of Islamic bioethics is divinity. Islamic bioethics is based on divine revelations. It is a divine order, which is firmly based on some articles of faith, spiritual guidance from God, belief in the hereafter etc. When these articles of faith would be removed from Islamic ethics it will de-spiritualize the whole system. That is why, we cannot speak about some aspects of Islamic bioethics without referring or quoting divinity. Hence, the very core and main foundation of Islamic bioethics is the divinity and ultimate faith in Allah (S.W.T). On the other hand, Western secular bioethics is based on absoluteness of human reason. This system emerged in the West as a backlash or mutiny against the dictatorship of the Church. Before the industrial revolution, the Church and some priests were very unfair towards scientists and scientific discoveries. As a result, there was severe backlash which contributed towards the reshaping of modern Western secular philosophy and subsequently bioethics. Human reason is so supreme and absolute that man alone has the power to give ideas. So these are the points of clear and distinct confrontation. In fact, these two civilizations were historically in enmity to each other for centuries. Common people and even scholars felt proud in highlighting differences between them. Muslims are delighted to say that Islamic ethics is superior to Western secular bioethics. On the other hand, Western secular trends in bioethics tend to think that the philosophical mode used by them does not exist in Islamic bioethics.

But this is neither a very healthy intellectual approach nor an intellectual brightness. It does not allow Western philosophy to remain stubbornly insular regarding Islamic philosophy. The present theses will give up this idea of confrontation because

confrontational approach is not a good approach in the domain of knowledge. The idea of confrontation keeps the world isolated and small-minded which will do no good to society. Rather the distinctive feature of the thesis will be that it will establish the fact that even though Western secular bioethics and Islamic bioethics do not hold a very friendly relation in respect of their interpretation of the world, nevertheless, they are not 180 degree away from each other. Instead a harmonious and inter-related intimacy between them is feasible.

#### **1.4 Sources of the Study**

Data under study consisted of a primary and secondary sources drawn mainly by way of library research and other means of data collection such as from a seminar on bioethics purposely held in support for this research project.

We have carried out library research not only in the Health Campus, Universiti Sains Malaysia library, but also in other local libraries in Malaysia, namely International Islamic University Malaysia, University of Malaya, Kuala Lumpur, and Universiti Sains Malaysia, Pulau Pinang. We have also arranged a seminar on the topic under discussion in which a lot of experts in bioethics and medical sciences participated.

#### **1.5 Research Methodology**

The present study is descriptive, qualitative and non-hypothetic. It employed the mixed-mode method. However to certain extent, this study uses the steps of the phenomenological method to explore the essence of views or practices on bioethics from both Islamic and Western secular perspectives. This is because phenomenology deals with the essences of objects, or phenomena as they present themselves in human

consciousness. We hoped by this approach, we could come to know the essence of those objectivities, or realities of the data under study. Phenomenology consists of:

(a) Accumulation of data: This study starts with a broad review of some current ethical literature with special reference to bio-medical ethics. The key principles of the phenomenological approach are then clarified, followed by an exploration of how these might be applied in practice. This study uses the steps of the phenomenological method to explore the essence of bio-medical ethics. Our objective is to understand the meanings of the qualitative data gathered from the study. Accumulation of data describes what is important about matters of fact. This task will help us to choose a starting point for discussion on assisted reproductive medicine. A huge collection of data is required to have clear vision about Western secular philosophical and Islamic ethical perspective and to compare and critically evaluate them. These great mass of data once identified and collected, must be systematized and distilled for their meaning. That is to say they should be related as meanings and not as facts.

(b) Construction of meaning – wholes, or the systematization of data [Al Fārūqī, 1989: 416-9]. This is in order to reach an understanding of the essence, structure or principles of the data under study.

While applying a phenomenological method, this study also employed a comparative approach. Comparative approach in philosophy encourages different philosophical positions and to set right the limitations and inconsistencies in them.

Approached from another angle, the methodology of this dissertation will also be synthetic and analytic. Its operation is synthetic in the sense that it will consolidate all aspects of the problem under discussion into a comprehensive view of the world. As in

ethical decision-making, the dissertation will also follow critical reflection or logical rules and predictability of principles and theories, its method is analytic also.

From the very beginning, Bioethics felt the need of a coherent and explicit methodology. But instead of formulating a specified method of study, the Bio-ethicists used the terms approach, principles, theories and methodology in an almost synonymous way. Although bioethics is concerned with some practical issues related to life sciences, its basic foundation is rooted in Philosophy. Therefore, the correct approach to bioethics must be from philosophy which is designated as “a disciplined, critical reflection following logical rules” [Pellegrino & Thomasma, 1981:39]. Logical reasoning followed by critical reflection is the main tool of philosophical enterprise. Therefore, this dissertation will adopt mixed-mode method with critical reflection as its methodology. As philosophical approach is an approach of the higher order, critical reflection will have link with the whole system of beings that is ontology and epistemology also.

A limitation of the study was regarding the collection of data on Islamic bioethics. As the topic under study is very recent, we could collect many journal articles and seminar papers but did not find any book written on this matter. There may be some books written by some Arabian writers but still they are in Arabic not translated in English.

## **Chapter 2: Western Secular Bioethics**



## 2.1 Ethics

In this study we use the term Western secular ethics to mean a particular type of Western thought pattern concerning ethical values which developed in a unilaterally quantitative fashion from the seventeenth century onward upon the foundation of European Judeo-Christian tradition but in a direction and with a purpose very different from mediaeval Christian thought pattern. Thus, at least within the stream of Western thought the question of ‘what is ethics’ has been debated for centuries. Ethicists however could not arrive at a common definition of it. But we can say without doubt that ethics is concerned with rightness and wrongness of human conduct. It is the systematic study of what a person’s voluntary actions ought to be with regard to himself, others and the environment around him. It helps people to rationally decide in conflicting moral dilemmas [For the nature of ethical reasoning, please see Ladd, 1978:400-7 and for method of ethical reasoning, please refer to Brody,1976:5-27]. Ethics is an important branch of Philosophy. In short, we think it would be better to characterize ethics as “philosophical study of morality” [Mappes & DeGrazia, 2001:1-55].

Ethics can be divided as follows:

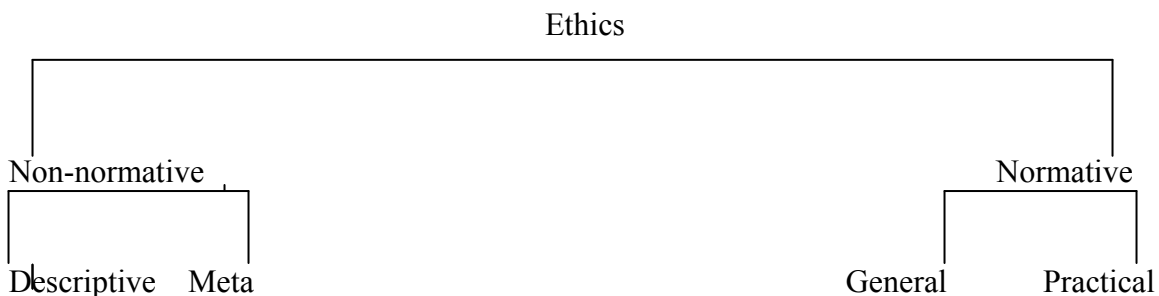


Table 2.1: Divisions of Ethics [Beauchamp, 1999:1-32]

Two of these approaches describe and analyze morality without taking moral positions and these approaches are therefore called ‘Non-normative’. The remaining two approaches involve taking moral positions and are therefore ‘Normative’. Under non-normative approach, first comes Descriptive Ethics. The goal of Descriptive Ethics is to obtain empirical knowledge about morality. Anthropologists, sociologists and historians who study morality employ this approach in their investigation. Meta-ethics involves analysis of the meanings of central terms in ethics, such as ‘right’, ‘obligation’, ‘good’, ‘virtue’, and ‘responsibility’. The function of General Normative Ethics is to establish an ethical theory that provides a general answer to the question ‘what is morally right and what is morally wrong?’ Practical Normative Ethics is a step further to General Normative Ethics. It employs tools (theories and principles) of Normative Ethics in order to justify positions on particular moral problems such as research involving human beings, suicide, crime and punishment and so on. In general, the attempt to delineate practical action guides is referred to as Practical Ethics. Practical Ethics emerged as an independent discipline in the 60’s of the 20<sup>th</sup> century and now it is regarded as the most important branch of Ethics. Like business ethics or engineering ethics, Bioethics is a branch of Practical Normative Ethics.

## **2.2 Bioethics**

Bioethics is a composite term derived from the Greek words *bios* meaning life and *ethike* meaning ethics. Therefore, it can be defined as the systematic study of human conduct in the area of life sciences and health care in so far as this conduct is examined in the light of moral values and principles [Reich, 1978:xv-xxii]. Samuel Gorovitz defines it

as “the critical examination of the moral dimensions of decision-making in health related contexts and in contexts involving the biological sciences” [Gorovitz, 1977:3-15]. In fact, many issues of bioethics are perennial and people involved in clinical medicine and in biological research have reflected on the moral limits of their activities as long as those activities have existed [Gorovitz, 1977:3-15]. The range of bioethics is wide. We can mention here some provocative questions posed by bioethics: should we have any access to new reproductive medicine? Should infertility be treated? Is surrogacy an acceptable policy? Can we try to make ourselves more ‘perfect’ by adding better genes to our fertilized eggs? Would human embryonic stem cell research be permitted at any rate because it destroys human embryos? Can we clone human beings? Should we allow doctor-assisted death to hasten the deaths of terminally ill? Should an adolescent who has struggled through painful disease treatments without success finally be allowed to refuse further treatment, in spite of the disagreement of the patient? Should every citizen have a right to a good health care? What about the ethics of organ transplantation? And so on. Bioethics covers a broad range of social issues such as those associated with public health, occupational health, international health and the ethics of population control. It extends beyond human life and health to embrace issues affecting animal and plant life as for example, in the topics dealing with animal experimentation and competing environmental claims [Reich, 1978:xix].

Unlike other branches of philosophy, as a branch of applied normative ethics, bioethics has an interdisciplinary approach. It is interdisciplinary in the sense that other discipline of knowledge can stimulate the discussion of bioethics. As ethics of life sciences, it has surely an interdisciplinary feature. But law, sociology, anthropology,

political study may also overlap with bioethics. A number of non-philosophers even regard that some explication of its interdisciplinary character will be beneficent for bioethics itself [Mappes & DeGrazia, 2001:1-55]. The argument of the non-philosophers is right in the sense that when a bioethicist is talking about the ethics of assisted reproductive medicine, a sociologist can help him by supplying the data about infertility rate in a certain area. When a bioethicist is talking about the morality of abortion, the sociologist may make him aware about public opinion about abortion. He will never judge abortion from a moral point of view. His role is limited to the collection and presentation of facts. But the bioethicist will bear the burden to interpret and analyse the moral validity of it in the light of ethical principles and theories [De Vries, 2004:279-92]. But as an interdisciplinary study, we think it is more closely related to life sciences because it directly deals with ethical issues related to life sciences. In fact, in spite of several factors influencing bioethical decision-making, bioethics would have to move in its own way, that is, we are incapable of making a bioethical judgment if moved from its range that is its own methodology, principles and theories developed in normative flavor.

### **2.3 Principles of Bioethics**

To generate ethical discussion on bioethics, a conceptual framework is necessary. Three general moral principles have been advanced to aid ethical discussion in bioethics. These are: Autonomy, Beneficence and Justice.

### **2.3.1 Autonomy**

In bioethics it stands for personal liberty where the individual is free to choose and implement his own decisions, free from deceit, duress, constraint or coercion. Autonomy must involve the following criteria: the action must be intentional. It may be guided by others, but the final decision must be taken by the person concerned in ethical decision-making. If comprehended or understood properly, a person might not have properly given his consent in any proposal. In an autonomous decision-making, no external pressure or constraint should have any role. Suppose that a patient before undergoing an open heart surgery may consult the doctor and the members of his family, friends etc. But ultimately, if the decision of the patient is not imposed by the external constraints but only by him then it is autonomous. But if there is any kind of external constraint then it is not counted as autonomous. Sometimes, internal phenomena such as unleashed urges of severe alcoholism, intense fear, acute pain or persistent discomfort may have effects on our decision-making. We act autonomously only if we are sufficiently free from all kinds of internal constraints.

Many philosophers talked in the line of autonomy. The strongest arguments in favor of the justification of autonomy come mainly from the deontologists, especially from the German philosopher Immanuel Kant. According to him, “Autonomy of the will is the property the will has of being a law to itself” [Paton, 1964:108].

### **2.3.2 Beneficence**

Beneficence ordinarily means acts of mercy and charity. It may indicate any action that benefits another. More specifically, the principles of beneficence may include the following four elements:

1. One ought not to inflict evil or harm
2. One ought to prevent evil or harm.
3. One ought to remove evil or harm.
4. One ought to do or promote good [Frankena, 1973:47].

In fact, he arranged the elements of beneficence in order of precedence. In bioethics, beneficence usually stands for the doctor's obligation to do good to the patient. He will also abstain from doing any harm to the patient. It is best stated in the Hippocratic Oath and in the pledge of the American Nurses Association, "The nurse's primary commitment is to the health, welfare and safety of the client".

### **2.3.3 Justice**

The word "justice" is very attractive and simple and instantly reminds us of the concept of fairness, just deserts and entitlements. Distribution problem is a very regular and sensitive issue in health management where we struggle with the distribution of scarce resources. In the debate over the allocation of health care resources, different theoretical positions have been advanced [For elaborate discussion on different theoretical dimension of justice, for example, Utilitarian Theories, Egalitarian Theories and Libertarian Theory, please see Edge & Groves, 1999: 124-131].

## **2.4 Bioethical Theories up to 1990**

A conceptual framework is essential to determine the rightness or wrongness of action in life sciences. Contemporary ethicists explicate ethics of action in the light of the following mutually exclusive ethical theories:

1. Teleology;
2. Deontology.

Any ethical theory that determines the rightness and wrongness of human action as exclusively a function of the goodness and badness of the consequences resulting directly or indirectly from that action is a Teleological theory. Deontological theory conversely declares that the rightness and wrongness of human action is not exclusively a function of the goodness and badness of consequences. So, the ethical theory in which the rightness and wrongness is fixed as completely independent of the goodness and badness of the consequences is deontological.

### **2.4.1 Utilitarianism**

The most prominent teleological theory is utilitarianism. The basic idea behind utilitarianism is that an action or practice is right (when compared to an alternative action or practice) if it leads to the greatest possible balance of good consequences or to the least possible balance of bad consequences in the world as a whole. This theory is based on the principle of utility according to which we ought always to produce the maximal balance of positive value over disvalue (or the least possible disvalue, if only undesirable results

can be achieved). Its classical systematic formulation is found in the philosophy of Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873). Utilitarianism is mainly based on 'the greatest happiness principle'. According to Mill, "the greatest happiness principle holds that actions are right in proportion as they tend to promote happiness; wrong as they tend to produce the reverse of happiness"[Mill, 1957:10]. [For the salient characteristics of Utilitarianism see Beauchamp, 1999:1-32]. In the case of deciding whether to donate 10 thousand dollars to a rich man or five real needy people, the utilitarian response will go in favor of five poor people. Utilitarianism has some flaws also [W. D. Ross and others criticize it on many grounds. For detail, see Pojman, 2000:41].

Contemporary versions of Utilitarianism are two: Act Utilitarianism and Rule Utilitarianism. The basic principle of Act Utilitarianism can be stated as follows: A person ought to act so as to produce the greatest balance of good over evil, every one considered. But these rules in turn are justified by appeal to the principle of utility. For example, promise keeping is regarded as a good rule in our society. Yesterday I promised to go to my friend's house in the morning, but all on a sudden, my brother passed away. I was so sad that I forgot to inform my friend that I would not be able to see him in the fixed time. I have broken a utility rule in order to maximize utility. I am not unjust and wrong here according to Act Utilitarian approach of morality.

Suppose a situation in the 1950s when kidney dialysis machines were scarce. A committee had been in charge to decide who would be given priority in dialysis: a civic-minded woman of 40 having four children and husband or an unmarried man of the same age who is known to be a drifter and an alcoholic. It seems clear that the consequences of



saving the woman's life are far superior to those of saving the man's life. After her death, a lot of people will be affected in a very substantial ways (her children, her husband and the community in general). However, is it not very problematic to accord an individual access to a scarce medical resource on the basis of his or her social role? If a regulation like this is set up, will not those whose lives are less socially effective become somewhat depressed? On the other hand, perhaps this negative consequence will be balanced by a positive one in this way: people will be more inclined to become socially useful [Mappes & De Grazia, 2001:1-55]. [For criticism see Mappes & De Grazia, 2002:1-55]. When we consider an action right on the basis of a set of rules that we judge to be most likely to bring about the best consequences most of the time then it is Rule Utilitarianism. The basic principle of Rule Utilitarianism may be like this: A person ought to act in accordance with the rule that if generally followed, would produce the greatest balance of good over evil, every one considered. These rules in turn, are justified by appeal to the principle of utility. Normally we prefer to live by the best rules that our society seems to approve such as the rules of truthfulness, honesty, trustworthiness, justice etc. Rule Utilitarianism is labelled as a "direct" or "extreme" form of Utilitarianism because of its straightforward approach to the principle of utility. It directly asks, "What good and evil consequences will result directly from this action in this circumstance? - not what good and evil consequences will result generally from this sort of action?"

For example, suppose a woman of 35 is diagnosed to have breast cancer (which is incurable) by the doctors when she is 3 months pregnant. Now, thinking about the uncertain future of the coming baby, the woman intends to terminate the pregnancy. Normally killing is a bad norm in our society. But in this case, the proponents of Rule

Utilitarians would try to justify the action with reference to at least one exception to the rule against killing [For critical discussion, please refer to Mappes & Degrazia, 2001:16-17].

Another important teleological theory is Ethical Egoism. The main principle of ethical egoism runs as follows: A person ought to act so as to promote his or her own self-interest. An action is right when it generates the greatest balance of good over evil for the actor. So the rightness or wrongness here is determined on the basis of consequences produced by it. Ethical Egoism is not free from some limitations [For details, see Mappes & DeGrazia, 2001:1-55].

#### **2.4.2 Deontological (Duty-Oriented) Theories**

Deontological or Duty-Oriented Ethics states that the basic rightness or wrongness of an action depends upon its intrinsic nature rather than upon the situation or the consequences. There are several different Deontological ethical systems. But the most famous deontological ethical system is Immanuel Kant's formulation. Kant based his ethical theory on the crucial fact that we are rational beings. And a central theme of this rationality is that principles derived from reason are universal. According to him, an act is right only if it is done not to satisfy our self-interest but to satisfy our reason. The ultimate basis for the validity of moral rules is in pure reason, not in intuition, conscience or utility. Morality is, therefore, derived from rationality, not from experience and obligation, and is grounded not in the nature of man or in the circumstances of the world but in pure reason. These universal truths apply to all people, for all time, in all situations.