

## Chapter 1

# Taking Ethics Seriously: *Adab* to Zygotes

'If there is to be an invitation to morality, it will have to be toward concrete and accessible rules, not toward some abstract ideas that bend to any conceivable form yet solve no specific moral dilemma.'

Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam*<sup>1</sup>

'[T]he ethical individual dares to employ the expression that he or she is his own editor, but he is also fully aware that he is responsible for himself personally ... responsible to the order of things in which he lives, responsible to God.'

Søren Kierkegaard, *Either/Or: A Fragment of Life*<sup>2</sup>

### 1

In asserting that an act is authentically moral only in terms of the intention that accompanies it – unsullied by self-interest or 'mock virtues' – the Muslim philosopher Nasir al-Din al-Tusi (1201–74) anticipated Kant by over five centuries.<sup>3</sup> The harmony of outward and inner disposition and character was of the essence, both for the quality of the act itself and, ultimately, for the health of the soul. The Prophet Muhammad had, after all, proclaimed the primacy of

moral intent over all else, including legal obligation.<sup>4</sup> It is true that this perspective is shared among the major traditions of faith-based ethics. Yet, in the merging of sacred and secular that became the leitmotif of Muslim civilizational experience, the congruence of external and internal universes of meaning also bridged the moral choices of the individual and the community (*umma*). As al-Tusi, al-Farabi (879–950) and other Muslim thinkers saw it, often in an Aristotelian vein, individual happiness and virtue were premised on a life of association.<sup>5</sup> A reasoned account of the good and why it should be pursued must, then, repose on the quality of interaction of the personal and societal. ‘Let there be among you’, proclaims the Qur’an, ‘a community that calls to the good (*al-khayr*), bidding virtue (*ma’ruf*) and forbidding vice (*munkar*)’ (3:104). Rooted in ‘*arafa*, that which is known, the term *ma’ruf* signifies the social transparency of the idea of virtue.<sup>6</sup>

The ethos that emerges from scripture, whether through narratives or injunctions, is of necessity about the practical unfolding of moral principles: ideals and their implications are set forth within the bounds of the relationship among the individual, society and the divine. Layers of meaning attach themselves through the course of history to those ideals, and to the nature of the threefold relationship within which they are to be realized. In Islam, the primary ethical corpus derived from Qur’anic and prophetic direction and, additionally for the Shi’a, the guidance of designated Imams, is interwoven with literary and social mores (*adab*), as well as a robust intellectual tradition of which al-Tusi, Miskawayh (932–1030), al-Ghazali (1058–1111), Ibn Rushd (1126–89) and Fakhr al-Din al-Razi (1149–1209) are exemplars. Even the Shari’a, often thought of as a body of law, is foremost an encompassing ethos derived over time from the primary sources – of which legal norms (*fiqh*) derived in pluralist fashion are only a part.<sup>7</sup> Thus, the ethical tradition of Islam finds rich expression in the plenitude of virtually a millennium-and-a-half of historical experience.

Yet the picture is incomplete, for it does not convey the sense of the quotidian, the ordinary encounter of community and individual with moral choices, large and small. This is not merely about the relationship between ‘ideals’ and ‘realities’, which after all is integral

to human frailty and pervades all normative systems. Rather, it is about recognizing that the tenets or ideals themselves are framed in the crucible of human experience, amid the congruence and tension of the demands of intellect, faith and tradition. After all, that is why scriptures find compelling expression in narratives that echo across the boundaries of culture, time and space.<sup>8</sup> Creation, death, sacrifice and love are staples of narrative and norm in the Bhagavad Gita and the Upanishads, the Hebrew and Christian Testaments, the Qur'an – as well as of cultural epics such as those of Gilgamesh, Manas and Homer's Odyssey. Their parables generate and impart human context to the norms which they proclaim, weaving sacred and secular into lived experience. The same is true of the spaces – physical and psychological – in which that experience unfolds.

Less majestically, oral as well as written narratives of daily experience that are part of our shared heritages capture the *detail* of lifeworlds in which religio-ethical principles are mediated by the mundane exigencies of moral choice by individuals, families and communities. Thus, the Qur'an's normative universe is given specificity by Muhammad's pragmatic engagement with vexing moral problems as captured in the Hadith tradition.<sup>9</sup> *Adab* often captures this sense of the 'empirical', not only in popular tales like *Kalila wa Dimna*, the *Maqamat* of al-Hariri and *Hayy Ibn Yaqzan*,<sup>10</sup> but also in the behavioural codes of artisans, calligraphers, musicians and painters.<sup>11</sup> One is mindful too of the informal conventions that were a conspicuous part of early Islam, like the *shari'a ummiya*, the 'unlettered code' that was interwoven with its scripted counterpart. There are hymnal narratives of mystical or devotional bent, always bearing an ethos and sometimes affirming a specific set of ethical norms; examples in Arabic, Persian and a host of Indic languages include *ghazal*, *qasida*, *qawwali* and *ginan*.<sup>12</sup> Modern secular chronicles can convey and influence the ethical sensibilities of the Muslim public square, as in the novels of Naguib Mahfouz, Orhan Pamuk, Tayib Salih, Ahdaf Soueif and M.G. Vassanji.<sup>13</sup> Their characters are as familiar as the difficult choices that they encounter in settings or states of mind where Islam is at the epicentre – lending credence to the notion that the deepest truths are perhaps located in fiction. To which can be added the impact of contemporary cinematic culture,

as purveyor of 'common' and 'elite' values alike as they reflect as well as mould social identities. Post-revolutionary Iranian cinema is a prime instance, with the forthright yet subtle handling of the most serious philosophical issues by *auteurs* who have endured first-hand the vicissitudes of radical social and political change.<sup>14</sup>

Taking ethics seriously implies coming to terms with the variegated social canvas on which reasoned accounts of right and wrong are played out; it cannot be about the abstractions of moral theory or divine commands alone. The latter approach would amount to a retreat into what Abdolkarim Soroush calls 'the ethics of the Gods', where the palpable sense of the mundane that humans must inhabit is altogether lacking.<sup>15</sup> This is not to gainsay the rewards of delving into the primary sources for renewed inspiration, in this as in earlier epochs. Soroush, Khaled Abou El Fadl, Mohammed Arkoun, Sohail Hashmi, Ebrahim Moosa and others have been at the forefront of such endeavour – to recall the late Fazlur Rahman – as an exercise in *rational* historical retrieval that aims to grasp an ethical unity beyond 'isolated commands and injunctions'.<sup>16</sup> This effort, in contrast to what is commonly referred to as 'fundamentalist' or 'Islamist' revivalism, is firmly anchored in historicity and context: the past is not for imitation (*taqlid*) but part of a continuum in which texts, narratives and experience are shared by a diverse *umma*. Moreover, it is worth recalling that the *umma* was conceived not as an abstract ideal but a real entity with all 'the complexity and ambiguity of actual communities, religious or otherwise'.<sup>17</sup> As such, it was enjoined by the Qur'an to be more than a nominal *umma muslima* and to merit the status of the 'best community' by affirming right conduct (3:110).

This intertwining of the individual and communal selves is firmly grounded in the way that ethical life is actually constructed. For the narrative of an individual's life is tied invariably to an interlocking set of narratives that involve others, notes the moral philosopher Alasdair MacIntyre.<sup>18</sup> 'I can only answer the question "What am I to do?" if I can answer the prior question "Of what story or stories do I find myself a part?"'<sup>19</sup> The atomized, much less the disembodied, self is hardly a meaningful subject on which to build an edifice of right and wrong that has enduring practical relevance. This is implicitly recognized by religious traditions, where the individual is embedded in a larger

whole: *re-ligare*, 'to bind together', is the font for 'religion'. Islam has made it pivotal to its scriptural as well as civilizational thrust. In the merging of secular and sacred, as well as the interlocking lives of the individual and the *umma*, Muslims recognize intuitively that faith traditions are the 'primary models for lived ethics':

Religious ethics are distinguished by their grounding in the histories, texts, rituals, practices, and institutions of particular communities. Religion confronts philosophy with real life. Religion also confronts real life with philosophy. In and through religious narratives and rituals, people set everyday duties, concerns, conflicts, and hopes in a larger context, giving them meaning and significance beyond their own times and places.<sup>20</sup>

What this points to is a key divergence in the approach to the subject between most modern philosophy and religion. The former offers elaborate theories – stressing consequences, a social contract, social justice, human nature, and the like – that purport to be grounded in ideas either of what we ought to do as a moral duty (deontology) or what we should do to maximize social happiness (teleology). These theories purport to give us coherent responses to Socrates' observation that the unexamined life is not worth living. Aristotle, like an array of Eastern sages before him, sought to give both deontological and teleological answers to Socrates' question,<sup>21</sup> for in their cultural universes the unity of the individual and the community was not yet sundered. Their rationalist humanism was to profoundly shape early Muslim thought, which in the hands of Ibn Rushd (1126–98) attained fresh heights in the nexus of faith and reason – that in turn influenced the rebirth of European philosophy.<sup>22</sup> Yet if this rationalist thrust came to be muted in Muslim religious discourse amid the rise of conservative theology (*kalam*), the opposite was to occur in Occidental thought. 'What am I to do?' was less about the examined life as a whole or the interlocking narratives of MacIntyre, than the preoccupations of the secular citizen or collective, usually in the abstract. The stress in utilitarian philosophy on social consequences may give the impression of tying the individual to the whole, but it treats the former as an impersonal agent in the process of maximizing collective benefit. Again, the notion of a social contract to maximize justice for all treats the contracting parties as anonymous actors in

a formula for shared existence, without asking who the actors are in imparting content and context to what they ought to do.

It may be countered that a liberal community of reason – consisting of individuals engaged in the communicative rationality of a modern civil society – does not require to be identified as anything more than citizens who are subject to public, rule-based morality. ‘To know if someone is a “good” scientist,’ it has been argued, ‘it is not necessary to know anything about their “psychology” or moral make-up; it is necessary only to know if they are playing by the “rules of the game”.’<sup>23</sup> To which one may couple a ‘reflective equilibrium’, where the individual mediates general rules for application to particular settings.<sup>24</sup> Is not the upshot the most practical ethics that we can summon with regard to individuals dealing with one another in pluralist communities? If so, then we might cogently have addressed *what* and *how* the individuals and communities at hand should take seriously as moral principles; but *why* they should do so? Self-interest alone cannot possibly account for why we should not only be altruistic, but also seek to do so to a prescribed standard. Moreover, do we really operate in a reflective equilibrium of cool rationality, dipping into a normative pool for answers to daily moral dilemmas in need of truthful solutions? Is a scientist who complies with a professional code of conduct thereby rendered ‘good’ rather than merely professional in his conduct? One defence of a liberalism that embraces an integrated view of individual and community argues that we are indeed ethically bound up in the social, insofar as (after Aristotle) life is a performance that ought to be done as well as possible, which requires us to recognize our communal rootedness.<sup>25</sup> Yet this, too, would make the code-compliant scientist ‘good’ in that he has performed well; it barely adds value beyond professionalism.

## II

In his *Ethics and the Limits of Philosophy*, the Oxford philosopher Bernard Williams offered a sustained critique of how far removed modern moral theories were from grappling with the difficulty of how ‘truthfulness to an existing self or society is to be combined with reflection, self-understanding, and criticism.’<sup>26</sup> While responding to

this challenge might be helped by abstract reflection, the answers are ultimately to be found in 'reflective living', because ethical commitments only exist within the dispositions of actual individuals. That is, individuals are not mere ciphers for theoretical assignment of value or motivation; they have to be dealt with as actors faced with contextual choices, defining the 'good life' in their particular experience. There is no escaping the reality that it is the content of individual dispositions, their intelligibility and their degree of specificity, which differs among individuals, and among modern communities and societies.<sup>27</sup> More recently, Jürgen Habermas makes the same point in *The Future of Human Nature*, arguing that norms and insights 'bind the will only when they are embedded in an ethical self-understanding that joins the concern about one's own well-being with the interest in justice.'<sup>28</sup> The word 'bind' here should be taken in terms of motivating capacity, to which Habermas adverts,<sup>29</sup> not of 'obligation'. For the idea of reducing moral complexity to 'obligation' is precisely the sort of rule-based order that both he and, more explicitly, Williams, direct much of their critique.

Moral choices have to do with the 'deliberative priority' that is accorded to specific courses of action, and this priority in turn relates to a whole range of possible motivations, of which obligation is only one. Ethically outstanding choices may not be a matter of obligation at all, in that they cannot be demanded or the actor subjected to blame for not doing them; instead, they may be done because the actor feels there is no alternative for him personally, while recognizing that this could not be demanded of others.<sup>30</sup> Which brings us to shades of difference that often characterize contemporary usage of the terms 'ethics' and 'morals'. Sharing as they do Graeco-Latin roots (*ethikos*, *mores*, relating to 'custom'), they are often used interchangeably. In formal discourse, however, ethical perspectives are about what guides an individual or a community in choices that concern the 'good', relating closely to perceptions of who one is and how best to live in one's universe. Morals, on the other hand, are more specifically about rules that concern what is right or wrong, whether for the individual or society. Certainly the concepts overlap substantially in theory and practice; but it is well to bear in mind the more encompassing sense of reality that typifies ethics.<sup>31</sup>

Now this leads Habermas to infer that only in the domain of public morals can one ground 'rational solutions' to competing views of what is right, in the shared interest of all. Ethical perspectives, he says, are too tightly linked with identity-forming beliefs to allow for such deliberation. Moral rules have the advantage of being able to maintain neutrality vis-à-vis various worldviews, and thereby support fundamental claims to human rights. Yet Habermas duly recognizes that only through a suitable ethical orientation on the part of individuals and communities will those rational moral solutions be taken seriously, and not languish in an existential vacuum.<sup>32</sup> That is, short of legislating or otherwise codifying such solutions, which also speaks to the need to take the law seriously. It seems reasonable, then, to conclude that it is within a pluralist ethos – true to its own understanding of the self and the universe, but also committed to a rational conception of the good – that moral claims, whether public or private, must finally be embedded. That ethical views are connected with identity-forming beliefs does not wed them, *ipso facto*, to a rigid worldview. Unless, of course, one assumes that identities themselves are inexorably set in time and space, in which instance their ethos would be hard pressed to accommodate the moral and human rights claims that stem from communicative rationality.

The question of whether a particular outlook corresponds to the standard of a pluralist ethos with a commitment to deliberative morality is not about its religious or secular identity as such, but a matter of actual as well as normative orientation. Just as there are secular ideologies, including mainstream variants of Liberalism, that eschew claims to the 'good' against what they perceive as 'just', so there are religious outlooks that resist any departures from their orthodox conceptions of the good against fresh claims to justice. In positing that a *bona fide* commitment to ethical conduct must involve the harmony of external action and moral motivation, Nasir al-Din al-Tusi and Kant in their different ways staked out an approach to mediating the rational and the good. Both espoused Reason as central to their moral venture, and nourished variant streams of humanist thought and praxis, whether in religious or secular vein. Kant's 'categorical imperative' and 'transcendental self' with a 'reverence for the law' may seem at a considerable remove from al-Tusi's Intellect as the seat of



the Soul in a moral search for 'the perfection of defective faculties', until one recalls Kant's espousal of the ideal Church as an 'ethical republic' rejecting dogma in favour of 'rational faith'.<sup>33</sup> Still, Kant has properly been assailed for his excessively abstract deontology, and its heritage in Western philosophy,<sup>34</sup> against which al-Tusi epitomizes the notion of a 'lived ethics'.

The perspectives offered in the present study explore critical ethical themes in Muslim contexts today, mindful of scriptural, intellectual and cultural heritages and influences. As is already evident, non-Islamic currents run through those historic and contemporary elements, for reasons that have to do with the quintessentially shared nature of lived ethics. Indeed, the Qur'anic ethos itself embodies a plurality of cultural and confessional elements that Muslims made their own, a synthesis that would in its turn impact the metamorphosis of secular and religious frameworks far beyond the Muslim world. One often sees the characterization of modern Muslim discourse as involving conversations with authoritative scholars who lived long ago, alongside the need to 'return' to primary sources, in a 'quest for understanding of novel situations in light of traditional values.'<sup>35</sup> True enough – if this is not taken to imply that the ethical venture is effectively about 'applying' traditional norms to new problems. As already suggested, the understanding of those traditions as well as their content are themselves in constant flux, or should be in the name of a pluralist and rational stance that partakes fully of the modern. Even if 'life can only be understood backward,' Kierkegaard observed, 'it must be lived forward.'<sup>36</sup> An ethical critique of civic conduct, including of rigid, traditionalist applications of the Shari'a, remains characteristic of Muslim contexts (as shown elsewhere in this study) because it is supple in living forward. It entails conversations not only with interlocutors of the past, Muslim and otherwise, but also of the present. Among the most acute tests of its relevance, as well as fidelity, today are the emergent challenges posed by biomedical, ecological and development issues, in a techno-secular age with its peculiar theology and ethos.<sup>37</sup> The remainder of this essay focuses on some of the specific themes in that context that confront Muslims, as well as others, in ways old and new.

As evidence of a practical turn in Muslim ethico-philosophical discourse, one is inclined to cite the early derivation of juridical principles (*fiqh*) by communities whose rapid geo-cultural expansion beyond the original Arabian domain (*dar al-Islam*) mandated a rule of law that enjoyed the imprimatur of the new faith. Indeed, one may lament with Fazlur Rahman the overly legalistic guise that the Shari'a and *fiqh* conferred from the eighth to tenth centuries upon a discourse still in the early stages of metamorphosis as moral reasoning.<sup>38</sup> However, as the threads of this reasoning were picked up and woven into a full-fledged philosophical discourse by Miskawayh, al-Ghazali and al-Tusi, among others, it found rich application and maturation within the emergent sciences of Islam in the early medieval period. Medicine, in particular, as institutional-clinical practice and as a field of advanced learning, extended the normative *akhlaq* into the public sphere, building on a Hellenistic (as well as a significant Indian) legacy of pathology and its appropriate social locus. In founding the world's earliest hospitals (*bimaristan*) in Baghdad, Damascus and Cairo, while deploying the empirical method in a discipline hitherto dominated by theoretical modes of reasoning, Muslims and their Judaeo-Christian collaborators developed a humanistic ethos that prized the rational. It flourished across the urban centres of the Middle East – to cite Ahmad Dallal's seminal analysis – not only as part of Islam's civilizational impetus but also as a 'social institution'.<sup>39</sup>

Issues of professional conduct by health practitioners, open access to hospitals, and 'sensible' attitudes among patients, physicians and pharmacologists were of vital importance. In these matters, Hippocratic and Galenic writings were certainly influential. Yet here, as in the determination of those like 'Abd al-Latif al-Baghdadi (1162–1231) and Ibn al-Nafis (1213–88) to test canonical claims by rigorous anatomical samplings and examination,<sup>40</sup> Muslims made science and its universal outlook very much their own. A new medical ethics grew from the writings of 'Abbas al-Majusi (c. 925–94), Ibn al-Baytar (c.1190–1248), the Damascus medical school founder and teacher al-Dakhwar (d.1231), and his illustrious pupils Ibn Abi Usaybia (1194–1270) and Ibn al-Nafis himself, also a fine Hadith scholar.<sup>41</sup> In their writings, the practice of medicine – as art and science – acquired what might be described as a rational teleology:

it demanded the fullest commitment to pursuing scientific accuracy and truth, coupled with a recognition of the purposive nature of that pursuit as an extension of man's relationship with God. Virtually all the luminaries were trained not only in medicine but also in law and theology; sundere universes of secular science and religious morals did not exist. When al-Nafis was confronted with the *akhlaq* tenet that required the integrity of human organs to be preserved after death, he nonetheless found it justifiable to conduct cadaver dissections to establish vital facts (like the heart's ventricular structure) that made for effective treatment. Time and again, such rationales were found on behalf of therapeutic action and sound health.

While this may be interpreted as evincing the cognitive and value autonomy of science from 'Islam', it is more cogently seen in terms of an integrated ethos in which normative fidelities were balanced by a sense of the larger good.<sup>42</sup> It was here that the *akhlaq* values of compassion, charity, wisdom and solidarity found some of their most creative and conscious expression, beginning with the physician's Oath that put the welfare of the patient and the avoidance of harm at the forefront.<sup>43</sup> Nor is this in the least surprising: the encounters with birth, death and the elements that challenge them are, after all, the *métier* from which ethical narratives are derived and given meaning. The capacity of science in general, and medicine in particular, to account for – and control – key aspects of these fundamental encounters has long been obvious. Where that capacity is part of a broader canvas of shared meaning such as that provided by religion or other metaphysical sources, the ethical compass for action finally sits *outside* the scientific universe. One cannot offer a purely biological, chemical or other physical rationale in response to questions about the morality of an innovation or intervention. Al-Nafis could ground his defence of dissection and anatomical knowledge in *maslaha* (from *istislah*), the public good; he could not assert an absolute or unqualified right to pursue anatomical curiosity irrespective of the results.<sup>44</sup> With the advent of the techno-secular age, science often purports to provide its own ethical compass, rejecting social values that are deemed 'irrational'; yet motives of profit and publicity are part of the scientific warp and woof.

When the innovative and intervening prowess of medical science

touches on the very foundations of birth, death and all that connects them, the relocation of the ethical compass matters all the more to society at large. 'We've discovered the secret of life!' gushed Francis Crick on 28 February 1953, after he and James Watson had established the three-dimensional structure of DNA that is the basis of cellular life. Their discovery made possible the Human Genome Project, which a half century later has decoded the sequence of the three billion DNA units in the human genome.<sup>45</sup> A leading proponent of that project, William Haseltine, is no less enthusiastic than was Crick about the implications for molecular biology: 'as we understand the body's repair process at the genetic level ... we will be able to advance the goal of maintaining our bodies in normal function, perhaps perpetually.'<sup>46</sup> The ability to fight through prevention and treatment a spectrum of disorders such as Alzheimer's and Parkinson's, cardiovascular disease and various forms of cancer would on its face seem a profoundly welcome outcome. But can those ends warrant the means involved in the process, such as gene intervention and manipulation whose effects we only dimly grasp, and which may radically alter the foundations of 'human nature'? Is there a stable human nature in the first instance whose alteration ought to raise moral concern? Where the ends include not simply preventing or treating disease but 'enhancing' the human body, biologically and aesthetically, where do we draw the line?

### III

The answers can scarcely be sought within the confines of biotechnology itself, least of all for Muslim and other societies where techno-secular values do not have a putative primacy. Certainly, there is an overlap between the utilitarian and the religiously based ethic of maximizing public benefit from biomedical interventions – in Islam, on the basis of *maslaha* and *istihsan* (equity). But such claims must be tested against prior moral as well as human rights constraints regardless of the positive consequences, and mindful of the risks involved. Nor can one ignore commercial factors that have ramifications for how seriously we take claims to serving the public good or pursuing 'pure' science. The stakes on hand make the exercise of nuanced moral

reasoning more intricate than ever, between the application of given norms on the one hand and of professional standards on the other. If the former runs the hazard of retreating into a traditionalism that is divorced from modern imperatives, then the secular extreme can spur reliance on 'situational' reasoning where *ad hocery* prevails, or on regulatory schemes that are impelled by ideological or corporate concerns.<sup>47</sup> The problem is illuminated when one considers the standard bioethical guidelines that have come to be adopted by clinicians in the West, viz. the 'four principles' of beneficence, nonmaleficence, autonomy and justice.<sup>48</sup> 'Do no harm' (nonmaleficence or *darar* in Arabic) as a rule of professional conduct may be well grounded universally as a starting point for the clinician; but determining what constitutes 'harm' and how to resolve conflicts between the principles themselves (such as when the wishes of the patient clash with the obligations of the clinician) requires a degree of specificity that clearly takes us outside the realm of biomedicine itself.

The public policy dilemma in balancing secular and faith-based perspectives in this matter is summed up by a veteran Catholic US Congressman thus: 'When principles are at issue, they [the bishops] simply look them up. Too many liberals, alas, simply make them up.'<sup>49</sup> For Muslims, steering an accountable course on issues ranging from cloning and organ transplants to abortion and euthanasia occurs within an ethos that integrates *din* (religious) and *duniya* (secular), while recognizing their separate institutional domains.<sup>50</sup> That ethos is pluralist, in keeping not only with varying doctrinal views but also the flux of historical and cultural context and the emergence of human rights norms. Here are some examples that illuminate the specific dilemmas that stem from today's biomedical and social realities.

## Abortion

Induced as opposed to involuntary termination of pregnancy (*ijhad* or *saqt*) has long been the subject of ethico-legal analysis among Muslims,<sup>51</sup> attracting a broad range of stances on questions of doctrine and public policy. Involuntary abortion or miscarriage is usually regarded as 'natural' and bears no moral sanction – unless it stems from negligence, which carries its own burden. Induced abortion engages a

host of ethical themes that relate to timing and circumstance, which also underpin the various *fiqh* or legal stances thereon. On the basis of Qur'anic verses that refer to the development of the foetus from zygote and embryo to 'another creature' (22:5, 23:14), ensoulment of the foetus is generally thought to occur 120 days from conception (a minority regards the operative period to be 40 days).<sup>52</sup> This is distinct from the question 'when does life begin?' in biological terms.<sup>53</sup> However, the ensoulment phase is widely thought to be the pertinent boundary for a voluntary abortion on approved grounds; safeguarding the mother's health is the traditionally approved basis. As contraceptive devices gained approval across the Muslim world from the 1950s onward, drawing in part on the traditional acceptance of *coitus interruptus* ('*azl*'), modern opinion has often treated abortion within the 120-day phase as legitimate birth control.<sup>54</sup> The Shi'a tradition in general is especially permissive in this respect. Other scholars have argued that '*azl*' is not a proper analogy because an embryo/foetus is an 'existing presence' (*mawjud hasil*), a perspective that goes back to al-Ghazali.

What we have, then, are plural ethical approaches and not simply competing doctrinal views on the specific issues. One approach stresses the pragmatic results that are considered desirable, notably family planning and protecting the mother, which are considered to outweigh the undesirability of ending a potential life. Another deems abortion to be inherently disapproved, subject only to protecting the mother; the social context is not considered relevant. Yet the choice of approach in legal regulation and ethics, public and private, does not occur in a social vacuum. There is increasingly ready access to non-surgical forms of abortion like the 'morning-after' and 'RU486' pills, as well as to clinical sites of varying degrees of safety for abortion, often beyond the ambit of local or national frontiers. New medical understandings of foetal development, changing demographic and economic climates in a society, together with the impact of media portrayals of alternative lifeworlds (whether negative or positive), provide the practical canvas against which both public and individual interpretations of ethico-legal norms take place. Between a woman's human right to basic autonomy on the one hand, and the protection of a foetus's claim to life on the other, coercive legal regulation may

be of limited effect or efficacy. Rather, a choice of what the bioethicist Margaret Somerville calls 'competing sorrows' becomes the dominant personal and societal moral reality.<sup>55</sup>

### Human genetic intervention

The prevailing global public debate on aspects of cell cloning (*instinsakh*) in humans as well as animals gained urgency in 1997 with the birth of Dolly the sheep in Scotland, the first mammal to be cloned from the frozen cells of another.<sup>56</sup> She was the identical twin of a long-dead adult, and gave birth to six lambs, before dying in 2003 after suffering from acute arthritis and a lung infection.<sup>57</sup> 'This experiment made people think very differently about biology,' noted Dolly's cloner, Ian Wilmut, making us 'much more ambitious and optimistic' about stem cells as replacement cells for human beings.<sup>58</sup> Stem cells, present in small numbers in most organs, are significant because they have the 'plasticity' to develop into virtually any kind of tissue – especially if they come from embryos, rather than adults whose cells are currently thought to have less plasticity.<sup>59</sup> Those stem cells may be taken from existing embryos or derived from a process of fusing a cell and an egg whose nucleus has been removed.<sup>60</sup> Where cloning is used to foster cell lines that may help create tissues and organs, it is labelled 'therapeutic'; alternatively, the embryo derived from the fusion of cell and egg may be implanted in a uterus for reproductive cloning, as with Dolly the sheep. Reproductive cloning is at this juncture only successful with great difficulty in mammals,<sup>61</sup> and while there are scientists as well as others who do not find it morally objectionable, most people appear to do so. It is becoming the subject of tight regulation under national as well as international laws.<sup>62</sup>

By contrast, a qualified ethical acceptance of therapeutic cloning of stem cells appears to have emerged, not least in the Muslim world with its comparatively permissive stance on early embryonic status. A new stem cell research centre in Saudi Arabia, for example, will have the endorsement of *fatwas* that emphasize the public welfare element (*maslaha*) in allowing the use of cells taken from miscarried or aborted fetuses, subject to the 120-day norm.<sup>63</sup> However, there are potential grounds for ethical concern about therapeutic cloning,

which in practice straddles 'therapy' and 'enhancement'. Stem cells developed for muscle tissue, for instance, may assist therapy for cardiac damage or muscular dystrophy, yet the same process could lend itself for commercial use in boosting muscular or cardiac tissue for elite sportsmen.<sup>64</sup> It is doubtful that *maslaha* could justify the second choice as a rationale for cloning. A related issue is that of equitable access to biomedical resources within and among societies, if there is not to be a 'biotech divide' in favour of the privileged few.<sup>65</sup> Then there is the prospect that embryos created by the same process of fusion for therapeutic cloning may end-up being implanted for reproductive purposes, either by accident or by design to circumvent legal constraints. At a more fundamental level, one must ask whether genetic manipulation and control may impact the autonomous basis of the identity of humans as responsible for their fate, and as ends in themselves rather than as instruments for ends chosen by others.<sup>66</sup> Could we in the process put at risk the gamut of human responses that allows us to connect with other human beings as individuals and communities?<sup>67</sup> As Muslim health professionals and scholars reflect on these questions,<sup>68</sup> the rush of developments in the laboratory and biotechnological market only elevates the ante.

### Euthanasia

While the ethics of genetic intervention and abortion begin with the primacy of the life's sanctity in Islam, and then may venture into qualifying factors of the public welfare that shape the final response to the specific issue, euthanasia as an *active* act of 'mercy killing' (literally 'good death') is approached in more absolute terms. For it is treated as suicide on the part of the individual, with no reprieve on grounds of medical necessity.<sup>69</sup> Typically, *The Islamic Code of Medical Ethics* (Appendix C below) holds that a physician 'shall not take away life even when motivated by mercy,' basing itself on Prophetic guidance against suicide.<sup>70</sup> In the face of pain, the philosophical response is fortitude (*sabr*) borne of the conviction that the body is not one's property to dispose of but a custodial charge; the medical response is expected to be pain alleviation.<sup>71</sup> Where a medical condition reduces the body to a vegetative state or medical intervention is otherwise deemed futile,



the same principle of sanctity/dignity allows for treatment to cease and life to lapse. Or, as the *Islamic Code* casts it, the physician must then recognize his limits as upholder of life, and may desist from 'heroic measures' or other passive preservation of the patient. However, active euthanasia – such as by lethal injection – remains prohibited in all circumstances. The broad (and sometimes difficult) distinction between passive and active euthanasia in Western medical ethics<sup>72</sup> is not, therefore, irrelevant in a Muslim context.<sup>73</sup> But though the patient's right to demand the cessation of treatment *in extremis*, along with 'informed consent' to such cessation vis-à-vis the caregivers, has a central place in Western bioethics, it does not appear to command the same attention in the *Islamic Code* at present; the explanation may be that the traditional norms against suicide and the body as a custodial charge prevail.<sup>74</sup> Yet, one is cognisant of gaps between precept and practice on this score, especially in light of the universalization of medical practice standards.<sup>75</sup>

Those ethically opposed to active euthanasia in contemporary Western discourse have invoked arguments that resonate with the Muslim stances outlined. Factors such as an intense individualism that finds expression in a body-as-property perspective, coupled with a decline in community support for dying individuals who face institutional loneliness, are felt to impel the trend in demanding the legalization of euthanasia. Further, 'new genetic and reproductive technologies have given us a sense that we understand and may manipulate the origin and nature of human life,' which applied 'to the other end of life makes euthanasia seem acceptable.'<sup>76</sup> Indeed, these considerations may in time weigh on Muslim societies as part of the advent of techno-social modernity. After all, it is precisely the advances in medical care, institutional development and socio-economic freedom that have fed demands for legalized euthanasia in North America and Western Europe.<sup>77</sup> Might the physician's obligation under the *Islamic Code* to safeguard 'freedom from pain and misery' on the part of the individual patient then acquire a greater profile? At the same time, given the risk entailed in physician-assisted suicide, which remains beyond the pale in most jurisdictions across the world (both because of the scope for abuse and the need to preserve the physician's normative commitment to the sanctity of life),

society must remain alert to its stake in the wider context in which individual autonomy in ending life is asserted.

### Organ donation and transplant

The potency of scriptural advocacy to 'bid the good' (*yamuruna bi-l maruf*) is captured in the decree by Islam's second caliph, 'Umar ibn al-Khattab (634–44 CE), that responsibility for a man who died of hunger was shared by his community, which was obligated to pay ransom (*fidya*) as if they had in fact killed him. This has prompted a modern analogy to derive an obligation on the part of those with the appropriate capacity to engage in donating blood and organs such as kidneys. 'Obligations' of this kind on behalf of society at large, *fardh kifaya* (contrasted with *fardh 'ayn*, obligations that rest on every individual distinctively), are regarded as a vital element in the ethos of the *umma* as a civic community.<sup>78</sup> In this context, it is bolstered by the norm in Prophetic guidance that the saving of life warrants all essential measures, including transgressions of standard prohibitions – 'even if it requires transplants from the dead.'<sup>79</sup> These evocations are commonly offered not only to urge an affirmative civility in response to chronic shortages in supplies of blood and human organs, but also to overcome normative counter-weights. For the hallowed notion of 'bodily integrity' raises for some the issue of desecrating the body by severing its parts – which in the past has even caused resistance to postmortem examinations (discussed earlier).<sup>80</sup> Likewise, the tenet that the body is a custodial charge rather than individual property might be read to imply that organ donations, in life or death, are violations of sacred trust. Those objections are put in perspective by recalling the far greater dignity and obligation in serving the collective good.<sup>81</sup> At the same time, however, the custodial nature of body 'ownership' is deemed to preclude the sale of organs, in conjunction with protecting society's more vulnerable members from commercial exploitation.

More vexing ethically are recent developments relating to organs taken from animals (xenotransplants) and their genetic modification for this purpose (transgenic breeding). Crossing the species barrier for body parts is not, in itself, a medical novelty. Bones from animals

were famously used to heal human fractures in Muhammad's time, for example, and Muslim physicians also reportedly used animal bones to make dentures. However, xenotransplants of complex organs are a relatively modern phenomenon,<sup>82</sup> and the use of the pig as the commonest source of organs has obvious sensitivity. It is readily argued that if necessity justifies Muslims consuming the flesh of swine, then it certainly warrants transplants.<sup>83</sup> Pigs and other animals that are 'farmed' as organ sources for humans raise problems in two important respects.<sup>84</sup> First, their confinement in special conditions to preserve them from infections tends to be highly oppressive; mindful of the imperatives on the treatment of non-human animals in Muslim and other frameworks,<sup>85</sup> the avoidance of harm must occupy a conspicuous place in the assertion of 'ethical necessity'. Second, in order to mute human biological rejection of alien organs (especially acute for xenotransplants), the genomes of source animals are modified, often by inserting human genes. Cloning is undertaken to preserve a supply of transgenic animals. The perils in the mixing of genomes can't be taken lightly, as shown by recent global experience with contagion;<sup>86</sup> the social and ethical implications of proceeding with new biotechnologies in this area have led to regulatory restraints in several countries. Still, it would compound matters if a decline in public trust led to apprehension about organ donations – and about more benign biotechnologies – especially in communities where these need to be robustly cultivated to sustain the heritage of a positive communal ethos.

#### IV

A plethora of other bioethical concerns could be added to the foregoing, from sex-selection, surrogate motherhood and geriatric end-of-life situations to the cultivation of genetically modified foods – together with broader socio-ethical issues such as same-sex relationships and unions. Suffice it for our purposes to observe that the ethics of each issue tends in Muslim, as in religious and indeed secular contexts, to be approached from contending analytical angles. One inquires into the inherent rightness or wrongness, 'red lines' that ought not to be crossed at all – or crossed only on grounds deemed

compelling enough. Another prefers to inquire whether the foreseeable consequences of an action (or inaction, as in 'passive' euthanasia) are morally desirable for the actor and the larger community. The former concerns the acuity of our moral intuitions; the latter requires a more deliberate rationality. Neither is dispensable for a lived ethics. Even though the answers they offer may appear sharply divergent, they ultimately must work in tandem. It may be decided, for example, that therapeutic cloning for the purpose of treating Alzheimer's disease is acceptable on the basis of the consequentialist approach. This would not dispense with the prospect of 'red lines' within and beyond the scope of the action: whose cells are being cloned and what conditions are regarded as 'acceptable' in the process (such as in the manipulation of animal genes)? What would be the implications of the research apropos of gene therapies, including intervention at the foetal or neonatal stage where the propensity for Alzheimer's is considered high? The unforeseeable risks in seemingly benign intervention, and the *bio-determinism* that rears its head, call for intuitive acuity to be kept very much alive. Ironically, the implicit loss in human autonomy, along with the more general lapse into resignation about the capacity of genes/DNA to determine human behaviour, emanates from our 'rational' impulses, scientific and otherwise.<sup>87</sup>

But there is a further sense in which intuitive capacities are crucial for practical ethics, beyond the red line and consequentialist ways of looking at issues. Let us suppose that Soraya, a healthy woman, donates one of her kidneys to her brother, Nadim. After a successful transplant, she visits him in the hospital where Nadim expresses his deep gratitude to her. Soraya responds that she could have done no less in the circumstances: the hospital advised that the transplant was essential and likely to be successful, that she was the most suitable donor and the risk to her was small. Accordingly, she felt it was her duty to donate. We may understand this to be rational and responsible, and would likely regard a failure to donate by Soraya as morally culpable (barring other compelling reasons). She can be said to have fulfilled the Kantian critique that only an act motivated by an undiluted sense of duty counts morally – or the utilitarian one that society should be able to count on siblings delivering on mutual obligations in order to relieve the usual pressures on the health system for matching organs.

Yet neither evaluation seems entirely satisfactory. Is Nadim not entitled to expect that Soraya's motivation ought to go beyond duty, to acting foremost out of affection? The gap between doing 'right' and doing 'good' is evident.<sup>88</sup> Matters of affection and personal commitment are not marginal but key facets of the context – the *telos* or whole life – in which moral choices find meaning.<sup>89</sup> There is more to those choices than obligations, and more to the *telos* than choices. It may be that Soraya's sense of duty sprang from a disposition tied to affection and the good; if so, then the 'bottom-line' was not obligation. For this is the domain of character, where intuitions are rife in shaping one's views and conduct in the real world. It is also where religions stake their claim on the human conscience not just at the point where one encounters a difficult choice, but in the continuum of mind and routine habit.

From Aquinas's adaptation of Aristotle's natural law into Christian teachings to Gandhi's instilling of *satyagraha* (truth and firmness), to Zen Buddhism today, character is the locus of the good. For Muslims, this certainly finds expression on the metaphysical plane, as in Ibn 'Arabi's doctrine of *wahdat al-wujud* or 'unity of being' in which the virtues are lived.<sup>90</sup> But Islam, as already noted, is wedded quintessentially to character-in-action, wherein the *umma* serves as the vehicle for practical ethics. The Caliph 'Umar's decree that a society shared the burden for the fate of its hungry members expressed a civic ethos, while a plurality of *tariqas* came to embody solidarities of the spirit in personal as well as institutional action.<sup>91</sup> The *telos* framing the acts or virtues of the individual and the community gives a central place to the notion of custodianship in Islam at several levels: the community as caretaker for its members, especially the disadvantaged (those disabled or indigent, orphaned or widowed); the individual as fiduciary for those in his/her charge; the human body itself as a charge on behalf of the Maker.

Underlying these is the Qur'anic bestowal of trust (*amana*) and vicegerency (*khilafa*) upon humankind with regard to the earth (33: 72, 35:39), for which the 'inheritors' have the fullest accountability. This is no fall from grace into nature, as in Aquinas, but a quest within what Nomanul Haq calls a 'cosmology of justice' that links our *telos* to ecological ethics:

It ought to be recognized that the Qur'an does contain verses that *prima facie* give the impression that the natural world and all its creatures exist for the sake of human beings, but it would be a gross oversimplification to view such declarations in a moral vacuum. 'In considering all these verses,' wrote the outstanding jurist ... Ibn Taymiyya (d. 1328), 'it must be remembered that God in His wisdom brought into being these creatures for reasons other than serving human beings. In these verses God only explains the [human] benefits of these.' ... Islam does not have to carry the burden of any scriptural imperative to 'subdue' the earth and seek to establish 'dominion' over the natural world. There is a clear and explicit answer to the question as to where and to whom belongs the dominion over the natural world, an answer so obvious in the overall drift of the Qur'an that it is expressed rhetorically: 'Knowest thou not that to God belongeth the dominion of the heavens and the earth?'<sup>92</sup>

An extensive body of socio-economic and legal literature as well as practice has built on this foundation, touching on issues such as fair access to water, the husbanding of flora, fauna and soils, the proper treatment of animal life, and the aesthetics of public gardens. The notion of *hima* (protected space) evolved from scripture and Hadith into an instrument of policy to create sanctuaries for forests, grazing and related environmental purposes in the public interest – parallel to the *haram* (sacred space), which extended beyond places of worship to natural springs and wells, vulnerable plants and wastelands.<sup>93</sup> Privileged status is accorded to gardens (*bustan*, *bagh*) as appendages to mosques, tombs and palaces as well as independent public refuges, celebrated from Moorish Spain to Mughal India as earthly reflections of Paradise. These are not only symbolic or functional elements but entail recognition of intrinsic merit within the schema of natural balance and its counterpart in social justice.<sup>94</sup> Hence the solemn rituals that must attend the licit slaughter of animals (*dhabh*) – and the injunctions that abound on their humane treatment. The Prophetic tradition, 'Do not treat the back of your animals as pulpits, God the Most High has made them subject to you only to convey you to a place which you could not otherwise reach without much difficulty,' is exemplary; cats, sparrows, dogs and livestock feature in innumerable exhortations, leading to the *fiqh* rule making animal owners liable for their well-being.<sup>95</sup> Muhammad's acute distress at seeing the branding

of an animal's face and at the idea of blood sports finds its way into the normative corpus.<sup>96</sup>

Stewardship ethics today pervades the discourse on the environment and sustainable development,<sup>97</sup> against the wider background of globalization and its decidedly mixed implications for both.<sup>98</sup> Secular and religious ways of approaching 'stewardship' differ particularly when it comes to normative views of dominion over nature in Judaeo-Christian traditions;<sup>99</sup> but the emphasis on accountable trust in Muslim ethics narrows the discrepancy considerably. It is rewarding on this score to consider the approach in the operational framework of the Aga Khan Development Network (AKDN), which aims to 'realise the social conscience of Islam through institutional action' (*Ethical Framework*, Appendix B). Engaged across the Muslim and developing worlds in cooperation with national and global agencies as well as civil society,<sup>100</sup> its ethos of sustainable environment and governance lays special emphasis on resource management in conditions of 'trust, probity, equity and accountability', mindful of the need to preserve ecological balances. Certainly, dealing with legacies ranging from poor nuclear waste disposal to mega-projects with repercussions for the human and physical environment is as much a challenge in 'Muslim' as other contexts. A recent independent appraisal of AKDN projects in Tajikistan singles out the commitment to local consultation and ownership as well as to long-term self-sustainability of projects as key markers of its success.<sup>101</sup> While the 'Ethical Framework' draws specific inspiration from the Shi'i Muslim tradition, this prompts an inclusive view of 'communities and nations ... to harness individual and group differences and talents,' including sensitivity to gender equity. A routine test of this occurs in a multiplicity of programme locales, from South Asia to the Near East and sub-Saharan Africa, where the socio-cultural diversity of the beneficiaries is evident.

These commitments to ecological stewardship – and their parallels with respect to biomedical, corporate and other public practices – call attention to the nexus between ethical and legal orientation. Since tangible sanctions usually attach to the law as compared with the more voluntary nature of ethical codes, the willingness to legalize or otherwise make enforceable such commitments often becomes the criterion of 'seriousness'. This seems especially reasonable in the

regulatory realm where effective protection of the public interest has primacy; equally, an appeal to that interest at the moral level is of obvious import for the law itself. Legislation to foster urban green spaces, or to ensure thresholds in the treatment of captive animals or the use of embryonic stem cells, relies on shared values beyond deference to the rule of law – hence, the assumption that the law reflects a society's ethos, signalling the obligations deemed most fundamental.<sup>102</sup> Yet, the profuse legalization of the public sphere can obscure the vitality of ethical life in its own right, as will be seen apropos of themes relating to civic culture and pluralism in the essays that follow. This essay has embraced the view that obligations provide an inadequate explanation of the intricacy of ethical life on the personal plane. That is no less true of societal issues where there is more to taking public virtues seriously than legislating them. Obligations may impart a sense of legitimate expectation and reliability, but they fail to capture the *telos* where choices and character converge.

For Muslims, the overlap of individual and public interest – indeed, of the individual as an extension not only of the *umma* but also a cosmic *telos* – is part of the principle of *ulm al-nafs*, of wrong to the other as injury to the self.<sup>103</sup> As such, it lends a poignancy all its own to Kierkegaard's observation quoted at the outset, on the individual as life-editor who answers to the order of things in which he lives, and thereby to God. It does no less, surely, for the commitment that Abdolkarim Soroush calls for to the concrete and accessible in taking ethics seriously.