

Exegesis of the Holy Qur'an as Legal Framework of Muslim Patients' Rights in the Contemporary Muslim Societies

Tafsir Al-Qur'an sebagai Kerangka Hukum Hak Pasien Muslim di Masyarakat Muslim Kontemporer



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Abstract

Background and Objectives: Muslims in non-Islamic states continuously face lots of challenges regarding recognition and observance of the Muslim patients' rights (MPRs). There is widespread misconception that Islamic law does not explicitly cover patients' rights. **Methods:** The study adopts doctrinal method of Islamic legal research exploring foundation of the MPRs from the Holy Qur'an. Qur'anic exegesis explores *Tafseer* of Al-Qurtubi and As-Sa'di which are based on *Ayat al-Ahkam* (legislative verses). Relevant secondary sources of information were explored at academia, google scholar, google search engine, research gate, sage-pub, semantic, Brill, and jostor.

The main results: The study finds that the MPRs emanated from the relevant verses of the Holy Qur'an especially the Qur'an Chapter 24 verse 30-31 and Quran Chapter 33 verse 59. The MPRs include same-gender treatment, presence of *mahrām* during medical treatment, privacy and coverage of 'awrah, separate hospital wards for different genders etc. Though the MPRS are very sacrosanct; they are not absolute and relaxable under emergencies to save life in compliance with certain cautions. **This research contribution:** The existing literature focused on medical *fatwas* and thematic interpretations with dearth of Qura'nic interpretative literature of modern healthcare regarding MPRs. The study fills the gap by coming up with up a model of legal framework, mapping table of verses and policy recommendations for the contemporary Muslim societies. **Conclusion:** The study finds that the MPRs are inherently inalienable having emanated from Holy Qur'an. The study recommends pragmatic integration of Islamic etiquettes in hospital policies and medical principles for the recognition of the MPRs.

Keywords: Exegesis, Holy Qur'an, Legal Framework, Patients' Rights, Muslims

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Abstract

Latar Belakang dan Tujuan: Umat Muslim di negara-negara non-Islam secara terus-menerus menghadapi berbagai tantangan terkait pengakuan dan pelaksanaan hak-hak pasien Muslim (MPRs). Terdapat kesalahpahaman yang meluas bahwa hukum Islam tidak secara eksplisit mencakup hak-hak pasien.

Metodologi: Studi ini menggunakan metode doktrinal dalam penelitian hukum Islam dengan mengeksplorasi landasan hak-hak pasien Muslim dari Al-Qur'an. Tafsir Al-Qur'an yang digunakan adalah Tafsir Al-Qurthubi dan As-Sa'di yang berfokus pada Ayat al-Ahkam (ayat-ayat legislatif). Sumber-sumber informasi sekunder yang relevan dieksplorasi melalui dunia akademik, Google Scholar, mesin pencari Google, ResearchGate, SagePub, Semantic Scholar, Brill, dan JSTOR.

Hasil utama: Studi ini menemukan bahwa hak-hak pasien Muslim berasal dari ayat-ayat yang relevan dalam Al-Qur'an, khususnya Surah An-Nur ayat 30-31 dan Surah Al-Ahzab ayat 59. Hak-hak ini mencakup pengobatan oleh tenaga medis sesama jenis, kehadiran mahram selama pengobatan, privasi dan penutupan aurat, ruang rawat inap terpisah berdasarkan jenis kelamin, dan lain-lain. Meskipun hak-hak ini sangat sakral, namun tidak bersifat mutlak dan dapat dilonggarkan dalam kondisi darurat demi menyelamatkan nyawa, dengan tetap memperhatikan kehati-hatian tertentu.

Kontribusi: Literatur yang ada lebih banyak berfokus pada fatwa medis dan interpretasi tematik, dengan kekurangan literatur tafsir Al-Qur'an yang membahas pelayanan kesehatan modern terkait MPRs. Studi ini mengisi kekosongan tersebut dengan menyusun model kerangka hukum, tabel pemetaan ayat-ayat, serta rekomendasi kebijakan bagi masyarakat Muslim kontemporer.

Kesimpulan: Studi ini menyimpulkan bahwa hak-hak pasien Muslim merupakan hak yang tidak dapat dicabut karena bersumber langsung dari Al-Qur'an. Studi ini merekomendasikan integrasi etika Islam secara pragmatis dalam kebijakan rumah sakit dan prinsip-prinsip medis demi pengakuan terhadap MPRs.

Kata Kunci: Tafsir, Al-Qur'an, Kerangka Hukum, Hak Pasien, Muslim

A. INTRODUCTION

The legal framework for Muslim patients' rights refers to the divine guidelines, divine rules, divine regulations as well as the divine standards set for the protection and enforcement of Muslim patients' rights under Shari'ah jurisprudence. The legal framework is undoubtedly drawn from the foundation of knowledge under Shari'ah. The foundation of knowledge includes the Qur'an and Sunnah (Zubair,

2005). The two are referred to as the foundation of knowledge under Shari'ah because they are the primary sources from which all inspirations are drawn. They are the determinants of the validity of all actions and inactions of Muslims under Shari'ah. Any action, inaction, deed, ideology, doctrine, or principle that contradicts the Qur'an and Sunnah is *ab initio* void. That is why Allah (SWT) posited in (Qur'an Chapter 5 (Al-Ma'idah) verse 47.

Patients' rights are a global issue especially from the perspective of conventional patients' rights. This is because one of the topical concerns of the World Medical Association is the promotion of the recognition and enforcement of conventional patients' rights (Ayim, 2019 & Idhiarhi, 2024). The conventional patients' rights here refer to the patients' rights derived from the man-made laws (Osime, 2018). However, with respect to the Muslim patients' rights, there appears to be novelty. This is because the Muslim patient rights seem to be appreciated by Muslim countries who have adopted Shari'ah as part of their legal systems. That is why Muslims in most states (non-Islamic States) whose legal system places primacy on the man-made laws continue to face lots of problems and challenges with the recognition and observance of the Muslim patients' rights whenever they visit hospital for medical services. There is a continued problem of the wrong notion that Islamic religion is only limited to worship within the four walls of *masjid* (mosque) and wrong perception of the issue of the Muslim patient rights as strange and superfluous.

There is a gap in the previous work of the scholars especially on the subject matter of this article. While the scholars from Indonesia and Malaysia are lauded for their industries in the aspect of the Shari'ah hospital, little attention has been paid to the topical issue of the Muslim patients' rights in an holistic manner (Rimiyati & Susanto, 2020; Yahyah, 2018; Shariff, 2016; Arifin, 2022; Hamzah, *et al*, 2019; Alfarizi, & Arifian, 2023; Jamaludin, *et al*, 2023). A few of the work only examine an aspect of the right of the Muslim patients to coverage of 'awrah

(private parts) while in hospital. Holistic work on the Muslim patients' rights seems to be scarce. Thus, this work intends to fill the gap by basing on the discussion from the exegesis of the Holy Qur'an thereby showcasing the topical issue of the Muslim patients' right to the limelight.

This study adopts unique methodology with reliance on the doctrinal method of legal research; the study explores the in-depth analysis of the issue of the patient rights from Quranic position. Exegesis of the Holy Qur'an occupies the top-most fulcrum of analysis through reliance on the two (2) major *Tafsīr* (explanation of the holy Qur'an) of Imam Al-Qurtubi and Imam As-Sa'di. The style enables the researcher to trace the evolution of the Muslim patients' rights from the primary source in the Holy Qur'an. Usage of *instibāt* (inferences) becomes useful for the subsequent Muslim patients' rights derived from the clear provisions in the Holy Qur'an (Qur'an Chapter 59 (Al-Hashr) verse 2). The doctrinal method also extends to the secondary source of information through reliance on the previous work of scholars published in both the articles in journals and on the net to support or expatiate the primary source. This aids especially in the conceptualization of the relevant concepts on the Muslim patients' rights.

The purpose of the study is primarily to show to the world that the issue of the Muslim patients' rights does not spring from *rai'* (human intellect) but from the divine legislation as contained in the glorious Qur'an. This thus implicates that Muslim patients' rights are important as part of the religious practices of Muslims in the sphere of seeking medical services.

The study is significant because it will be of help to Muslims to better understand some of their rights whenever they visit hospital for medical intervention. Policy makers and legislators, especially in the countries where man-made law continues to dictate order of medical practice, would benefit immensely from this finding of the study as great

expositions to the Shari'ah aspect of the patients' rights.

B. DISCUSSION

1. Conceptual Clarification on the Muslim Patients' Rights

Definition of the concept of Muslim Patient Rights (MPRs) from cannot be subjected to mathematical precision. This is because the MPRs can be viewed from any aspect of Shari'ah while seeking medical treatments. It could imply any patient's right that conforms to tenets of Shari'ah. It could also imply any patient's right which seeks to avoid any anti-Shari'ah element in the course of medical services. MPRs could be rights exercisable by Muslim medical patients that are devoid of anything that could trigger the wrath of Allah in consequences. Summarily, MPRs are rights derivable from the tenets of Shari'ah which exercisable by Muslim patients as part of their acts of *'ibādah* (worship) during their interactions with medical personnel except in rare/pardoned cases of *ḍarūrah* (necessity) (Shariff and Abdul Rahman, 2016, pp. 1-4).

The concept of the Muslim Patient Rights (MPRs) is not strange to any medical personnel in a typical Islamic State (Zubair, 2018, pp. 134-188). There is no clog on the implementation of Shari'ah tenets in an Islamic State unlike the contemporary Muslim societies. (Zubair, 2018). In the contemporary Muslim societies, medical personnel perceive the MPRs as unnecessary make-up rights. This is due to lack of religious knowledge.

Rationale behind agitation for MPRs is because Allah (SWT) ordered Muslims whether residing in *dār al-kufr* (non-Islamic State) or *dār al-Islām* (Islamic State) to practise the religion of Allah completely and wholeheartedly (Qur'an chapter 2 (Al-Baqara) verse 208). The practice of the *dīn* (religion) is not restricted to the four walls of the mosques but cuts across every aspect of the lives of all Muslims inclusive of medical services (Qur'an chapter 6 (Al-An'am) verse 38). Seeking medical services should not violate the clear rulings of Shari'ah. Therefore, all Muslim patients need to be fully accorded with the MPRs. This is as an

extension of their religious practices compliance which attracts the pleasure of Allah avoiding His wrath (Qur'an Chapter 33 (Al-Ahzab) verse 36).

2. Exegesis of the Holy Qur'an

Highest authority for the MPRs is the Holy Qur'an. This is achievable through the exegesis of the Holy Qur'an. This relies on *Tafsīr* (explanation of the holy Qur'an) of Imam Al-Qurtubi and Imam As-Sa'di to showcase the MPRs. The selection of the two (2) works is because of their focuses on the legislative verses of the Holy Qur'an. The purpose is to trace the evolution of the MPRs from the legislative verses (*Ayāt Ahkām*). The verses are not usually direct but could be inferred through the process of *istinbāt* (legal inferences) based on *maqāṣid* Shari'ah and *qawā'id fiqhīyah* (Islamic legal maxims) (Prayogi, *et al*, 2024).

... Nothing has we omitted from the Book, and they (all) shall be gathered to their Lord In the end. Qur'an Chapter 6 (An-An'am) verse 38. (Yusuf Ali Translation)

In view of the above, some of the verses of the Holy Qur'an from which MPRs could be drawn will be briefly discussed. The verses of *jilbāb* (outer garment) are the first point of call. The above verse commands believing men to lower their gaze and protect their private parts. The Qur'an Chapter 24 (An-Nur) verse 30 implies that *sitru al-'awrah* (coverage of private parts) and *hifz al-furūj* (protection of private parts) are compulsory for all believing men. Al-Qurtubi states that it is forbidden for believing men to view what is *harām* (forbidden) for them (Al-Qurtubi, 2018(a), pp. 158-161). He states further that the rationale for the commandment is that the act of sighting opens door to man's heart which in turn brings thought of *zinā* (adultery) and other vices because lowering of one's gaze from viewing *muḥaramat* (impermissible things) and protecting one's private parts from such indeed lead to purity for Muslims (Al-Qurtubi, 2018(a), pp. 158-161). Though the verse is addressed to believing men, Al-Qurtubi also states that it also serves as a general instruction to all believers whether male or female (Al-Qurtubi, 2018(a), pp. 158-161).

As-Sa'di asserts that the verse contains divine guidance to the believing men not to indiscriminately look at the *'awrah* of the women either from the front or the back (As-Sa'di, 2018(a), pp. 401-402). He states that the verse commands Muslims not to use their eyes to view what is *harām* for them and that it is incumbent upon every Muslim to protect themselves from looking at that which is *harām* or exposing their private parts (As-Sa'di, 2018(a), pp. 401-402). He asserts further that the verse is a strong commandment that *'awrah* should be completely covered because Allah (SWT) is aware of every action of men, so men should strive to protect themselves from *muharāmat* (As-Sa'di, 2018(a), pp. 401-402).

The Qur'an Chapter 24 (An-Nur) verse 31 contains a similar commandment to believing women to lower their gaze, protect their *'awrah* from being exposed to men and not expose their adornments except the open parts, and importantly cover their chests with *khimār* (head-covers). Thus, As-Sa'di opines that the verse is an express commandment to the believing women not to look at the *'awrah* of the opposite-sex while protecting their *'awrah* from being viewed by the non-*Mahrām* (As-Sa'di, 2018(b), pp. 402-405). He states further that the commandment in the verse is that believing women have the religious obligation to completely cover themselves and their beauties except the places permitted to be exposed i.e. the cloth or the garment worn over their customarily inner clothes, if exposing them might not lead to *fitnah* (invitation to sins) (As-Sa'di, 2018(b), pp. 402-405).

Al-Qurtubi asserts that the verse under reference is commanding the believing women not to reveal their beauty except what could be seen such as their faces and palms (Al-Qurtubi, 2018(b), pp. 161-172). He states that women's beauty is of two types viz: open and hidden (Al-Qurtubi, 2018(b), pp. 161-172). The hidden ones are the natural *'awrah* of the women while the open ones are the artificial *'awrah* such as the artificial beauty, outer garment, face and palms (Al-Qurtubi, 2018(b), pp. 161-172). He contends that the open ones can be seen while it is

unlawful to expose the hidden ones except to those Allah mentioned in the verse of the Holy Qur'an.

The above two verses serve as the legal framework for MPRs because of the following reasons: They serve as the foundation for the concept of same-sex medical treatment as the general rule; They inspire the right of the patient to *Mahrām* and avoidance of *khalwah* during medical services; They gave credence to certain Shari'ah-compliant medical-know-how which must be observed especially during opposite-sex medical treatment; The verses uphold various patient's rights to dignity and respect during medical treatment; The verses serve as the basis for inferring that in the situation of opposite-sex medical treatment, parts of the body of a female patient should not be touched any how except the permitted parts based on the *hajāh* (requirement) for the treatment; The basic lessons embedded in verse should be internalized by every medical personnel without necessarily having to being a *faqih* (scholar of Islamic law); and The verses serve as points of concern and distinguishing features between the MPRs and the conventional patient's rights.

Another set of verses that also serves as legal framework from the Holy Qur'an is the verse where Allah (SWT) states in Qur'an Chapter 33 (Al-Ahzab) verse 59. The verse contains a commandment to the Prophet (SAW) towards his household to conduct themselves as the best examples to the Muslim Ummah before Allah directed the commandment also to all the believing Muslim women. While explaining the verse, Al-Qurtubi states that the purpose of the commandment is to set the standard of behaviour in terms of dressing amongst the women folks (Al-Qurtubi, 2018(c), pp. 169-172). He posits that by the standard enjoined by Allah in the verse of the Holy Qur'an, it is a sin to expose one's '*awrah* to non-*Mahrām* (Al-Qurtubi, 2018(c), pp. 169-172). According to him, those clothes that expose one's *awrah* (private parts) are the same as those that expose the nature of a woman's body shape which are the clothes of Shayton (Al-Qurtubi,

2018(c), pp. 169-172). He emphasizes that the phrase 'so that they would not be recognised' means, that people will not be able to sight their ornaments, appreciate their beauty and shapes of their bodies (Al-Qurtubi, 2018(c), pp. 169-172).

As-Sa'di asserts that the verse is nothing, but a verse of *hijāb* and that *hijāb* is that which is what is worn on top of women's garments (As-Sa'di(c), 2018, pp. 58-60). He states further that the purpose of the verse by first directing the commandment to the Prophet's household before directing it to other believing women is that it is expected that an example should be set from the Prophet's household to the Muslim Ummah (As-Sa'di, 2018(c), pp. 58-60). He states that the *hikmah* (wisdom) behind the *hijāb* legislation is to protect and shield Muslim women from those who suffer diseases in their hearts and may have sinful or evil intentions towards them (As-Sa'di, 2018(c), pp. 58-60). Thus, the verse forbids Muslim women to expose their '*awrah* to non-*Mahrām*. It is important to note that the reasons for considering the verse as legal framework for MPRs is not different from the reasons given for the earlier two verses highlighted above (Qur'an Chapter 24 verse 30-31).

This Qur'an Chapter 33 (Al-Ahzab) verse 36 forbids Muslims from acting contrary to the clear commandments of Allah and His Messenger. This is because acting contrary to the clear commandments of Allah and His Messenger has grave consequences. Al-Qurtubi explains that following other choice(s) other than the choice of Allah and His Messenger is sinful because it amounts to disputing Allah and His Messenger's commandment which is *harām* (forbidden) for Muslims generally (Al-Qurtubi, 2018, pp. 132-133). This is because it is incumbent upon *Mukallaf* (mature Muslim) to obey the commandments from Allah and His Messenger immediately after they hear about it (Al-Qurtubi, 2018, pp. 132-133).

As-Sa'di states that it is expected of Muslims to be pleased with the instructions or commandments from Allah and His Messenger and to

distance themselves from what Allah and His Messenger have forbidden (As-Sa'di, 2018, pp. 28-29). He asserts that Shari'ah frowns against the act of doubting in one's mind whether to obey or not obey and whether to do or not to do what Allah and His Messenger have instructed Muslims (As-Sa'di, 2018, pp. 28-29).

The purpose for considering the above verse as part of the legal framework for MPRs is that it is an important verse which every Muslim must internalize in every sphere of their lives. The verse gives inspiration that what Allah has forbidden (*muḥaramāt*) should be avoided absolutely in total submission to the Will of Allah (SWT). The same goes for all that Allah has commanded to be done. Linking this to MPRs, patients' rights under Shari'ah have been tailored towards avoiding what Allah (SWT) has forbidden and to enjoin what He has ordered Muslims to do. So, that is the best for Muslim patients during their interactions with medical personnel. For instance, right of the Muslim patient to demand for same-gender medical treatments is to avoid *muḥaramāt* (forbidden things) exposing their private parts to the opposite-sex.

As-Sa'di states that Qur'an Chapter 2 (Al-Baqara) verse 173 serves is a *dalīl* (textual authority) for the *qa'idah* (Islamic legal maxim): *al-darūrat tubīḥ maḥḍūrāt* i.e. necessity makes lawful impermissible things (As-Sa'di, 2018, pp. 206-209). He states that within the scope of the verse, one may be forced by necessity to do that which is ordinarily unlawful but to the extent to which the situation demands (As-Sa'di, 2018, pp. 206-209). Al-Qurtubi states that the verse is a verse of necessity temporarily permitting one to engage in prohibited things under necessity but only for the time being (Al-Qurtubi, 2018, pp. 169, 174-175). He clarifies that the necessity does not permit one to do, utilise or engage in such temporarily permitted thing(s) beyond what is needed or required for the time being (*fawqah hajah*) (Al-Qurtubi, 2018, pp. 169, 174-175).

The verse served as a legal framework for MPRs to Shariah-compliant medical treatment except in cases of *ḍarūrah* (necessity) because in the event of necessity, certain patient rights might be compromised in the absence of any alternative but only for the time being. The verse gives impetus to the practice of opposite-sex medical treatment in cases of emergency and real threat to the life of the patient involved (i.e. where competent same-sex medical personnel are not available) to save the life of the patient involved. The verse is the basis of *ruqṣah* (exception) to certain strict rules in Shari'ah regarding medical treatments. For instance, in the case of medical treatment involving prohibited substances like pig valve grafting for heart's transplant, the substances are generally prohibited except it is the required in an emergency to save life where there is no alternative substance available (Fiqh Al-Muslim).

Apart from the few verses shown above as the legal framework for MPRs, it is noteworthy that the list of other verses in the same categories cannot be exhausted. Thus, MPRs are deeply rooted in the Holy Qur'an, the Book of guidance and knowledge to the believers (Qur'an Chapter 2 (Al-Baqara) verses 2-4).

3. Muslim Patients' Rights Derived from the Holy Qur'an

The MPRs are elaborate under Shari'ah compared to any other legal system (Qur'an Chapter 6 (An-An'am) verse 38). They are comprehensive depending on the condition and situation a Muslim patient finds him/herself. The MPRs sprung the exegesis of the Holy Qur'an. In the contemporary Muslim societies, they include rights to confidentiality of medical records, informed consent, right to spiritual care (*ruqyah*, prayer, *qiblah*), prohibition of prohibited procedures (transfusion of *harām* blood, pig organs) except in cases of *ḍarūra*, palliative care & refusal of extraordinary care to mention but a few. Some of the MPRs inferable from the above Qura'nic exegesis are briefly examined below.

First is the right to be treated by same-sex medical personnel (Qur'an Chapter 24 (An-Nur) verse 30-31 and Qur'an Chapter 33 (Al-Ahzab) verse 59). The general rule is that patients are to be treated by same-gender medical personnel. Thus, patients have the right to demand that he or she be treated by same-gender medical practitioners. The rationale behind this is to avoid *fitnah* (evil teasing or whispering from *Shaytān*) that could occur when opposite sexes are permitted to treat each other in medical practice freely without caution (Qur'an Chapter 33 (Al-Ahzab) verse 60). The *fitnah* could be sexual harassment of the opposite sex, forcible rape and all other elements of that may advance the act of *zina* (unlawful sexual intercourse) between the opposite sex (Qur'an Chapter 17 (Al-Isra) verse 32). A lot of cases have been reported where female patients suffered similar *fitnah* at the hands of male doctors (Kanabe, 2024). However, it is important to note that in rare cases of *ḍarūrah* (necessity), the rule is relaxable to pave for emergencies and life-saving circumstances with attached conditions and Shari'ah ethical guidelines to be observed. In the Kingdom of Saudi Arabia, the general rule is that patients are entitled to same-gender services. (Patient Bill of Right, MOH, Saudi Arabia). This is practicable during medical examinations and treatments. Where there appears the case of emergency, male doctors are permitted to attend to patients in the presence of *maḥrām* (unmarriageable closest relative).

Secondly is the Right to presence of *maḥrām* during medical treatment (Fatwa: Resolution No. 81 (12/8). Shari'ah accords Muslim patients the right to the presence of *maḥrām* during medical treatment. This comes to play especially in the event of *ḍarūrah* (necessity) paving way for opposite-sex medical personnel to treat the patient (Fatwa: Resolution No. 81 (12/8). This is because the presence of a *maḥrām* prevents any *fitnah* from *Shaytān* from being occasioned. The exercise of this right would make the patient to be comfortable and safe during the medical treatment, especially in the case of an emergency where the

patient is unconscious of what is happening around her. It is important to note that *fitnah* here is not pertaining to *zina* (unlawful sexual intercourse) alone. It could be for the prevention of the patient from being intentionally and arbitrarily given certain unethical medical treatments/pills geared towards endangering his or her life. Framework for rights of patients in Saudi gives room for patients' relative to visit him or her in hospital. (Saudi Arabia Patient Bill of Rights). This entitles *mahrām* to the right of presence during medical examinations or treatments

Thirdly is the right to privacy and coverage of '*awrah* (private parts). (Qur'an Chapter 24 (An-Nur) verse 30-31 and Qur'an Chapter 33 (Al-Ahzab) verse 59-60). Coverage of '*awrah* is not treated with levity under Shari'ah. The '*awrah* of male and female patients are carefully explained. All the parts of a female body constitute her '*awrah* while for a male, his parts of the body from the abdomen to the knee constitute his '*awrah* (Mataram, 2023). The principle of coverage of '*awrah* must be observed in the course of any medical services. Shari'ah outrightly forbids a female to see the '*awrah* of her fellow female. A male is prohibited also from seeing the '*awrah* of his fellow male. The prohibition is grave in the circumstances of opposite sexes who are not lawful to each other from seeing their respective '*awrah*. In the case of emergency and *durarah*, a male doctor is permitted to see part(s) of the body of a female patient body sufficiently required for treatment in the presence of her *mahrām*. Completely stripping a patient nakedly surgical operation is seriously frowned (Kelvas, 2024). This goes against patient's dignity and modesty under Shari'ah. Under the Bill of Right in Saudi Arabia, from inception of the preliminary medical examination and admission of the patient in a hospital, the right of the patient to privacy and coverage of '*awrah* (private parts) must not be breached (Saudi Arabia Patient Bill of Rights).

Another right reserved for patients under Shari'ah is the right not to be exposed to '*awrah* (private parts) within the hospital environment

(Qur'an Chapter 24 (An-Nur) verse 30-31 and Qur'an Chapter 33 (Al-Ahzab) verse 59). This right is to be observed by all hospital staff in medical facilities. Patients be protected from being exposed 'awrah of any staff who attend to them during their stay at hospital. This means Shari'ah forbids hospital staff from wearing clothes that reveal parts of their body beyond the permitted parts. This applies mostly to the female staff who usually attend to male patients in their wards. In Indonesian and Malaysian Shari'ah hospitals for instance, all the Shari'ah ethics must be observed with a view to giving effect to the MPRs. To achieve compliance, Shari'ah Advisory Council and Shariah Supervisory Committee (SSC) are put in place (Shariff and Abdul Rahman, 2016 & Ismail, 2024).

Muslim patients have the rights to choose a doctor of his or her choice to ensure medical treatment in adherence to Shari'ah social etiquette. If a patient trusts a particular doctor who is very upright within the purview of Shari'ah, a Muslim patient has the right to demand that he or she be treated by such doctor (Qur'an 9 (At-Taubah) verse 71). This is especially where the patient fears that he or she might not be able to get *halal* (lawful) medical services from any other doctor except the trusted doctor. Thus, it is the right of the patient to demand such a doctor except where the doctor is unavoidably absent, and it is risky to delay the patient's medical treatment till when such a doctor would be available.

Patients have the right to separate hospital wards for males and females (Qur'an Chapter 24 (An-Nur) 30-31 and Qur'an Chapter 33 (Al-Ahzab) 50-60). This is to guard against the mixing of female and male patients together in the same ward. Hospitals should earmark separate wards for male and female patients. A female patient can demand that she should not be admitted into a ward where male patients are already admitted. This is because mixing male and female patients in the same ward breaches the right to privacy. Guarding against this requires every hospital to provide separate male and female wards. The framework in

the Saudi Arabian clime holds in high esteem the importance of having separate wards hospital wards for male and female patients (Saudi Arabia Patient Bill of Rights). This follows Islamic etiquettes from the Holy Qur'an.

There is potential challenge towards the enforcement of the above rights in some Muslim countries especially in Africa. For instance, Muslims in Nigeria, South African, Ghana, Zimbabwe, Cameroon etc. faced problems of recognition of the MPRs. The conventional legal system of these countries posed serious challenges to the MPRsc. In Nigeria, there have been cases whereby Muslim patients were denied MPRs (Vellturo and Omer, 2021). Campaigns are ongoing towards achieving the incorporation of the MPRs into the existing patients' rights laws. This aligns with World Medical Association's principles and international standards approving a patient-centered satisfactory approach through religious assistance (World Medical Association Website)

C. CONCLUSION

The study found that the MPRs such as the right to same-gender medical treatment, the right to privacy and coverage of *'awrah*, the right to presence of *mahrām* etc. emanated from the Holy Qur'an. The study found further Qur'an legislation validates *darūrah* (emergency) rule in medical services to uphold the *hifz nafs* (protection of life). Through the exegesis of the relevant verses of the Holy Qur'an and the interpretative approach, the MPRs were made clear as having emerged from Islamic law. This addresses the problem of the widespread misconception in some contexts that Islamic law does not explicitly cover patients' rights.

The study contributed to the existing body of knowledge and filled the gap identified through the verse-policy implications based on the interpretative approach. The findings of this study can be used as a basis for the development of a Statement of Policies for Islamic hospitals on gender-concordant care and *halal* written information. It is high time the medical practitioners, policy makers and Muslim communities

started to respect the MPRs. Islamic Council of *Ulama* in Muslim countries should come together towards achieving the integration of Islamic etiquette in hospital policies and medical principles. There is also a need for hospital regulation, training of medical personnel in the contemporary Muslim societies for effective observance of the MPRs.

The study recommends an interpretative research approach for other aspects of the MPRs not covered in this study and an empirical study of the observance of MPRs in the contemporary secular Muslim societies. Also, a study of comparison of contemporary medical *fatwas* and an empirical study of patients' perceptions is recommended for further research. Hence, Qur'an constitutes a virile legal framework for the MPRs based on the interpretative approach of its hidden rulings.

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