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The American Response to COVID-19 and the Moral Dilemma

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Preface

The times call for Muslims not only to ‘find a place’ in the society and culture we live in, but to proactively participate in the effort to understand and respond to its crises. We can neither insulate ourselves, nor be drawn passively and blindly into the social fray, but must be positive agents in shaping and influencing it toward justice. The more aware we are of the dynamics that shape the culture, the more capable we will be of participating in society with clarity and agency. This requires, among other things in the current moment, recognizing and helping others to recognize the irreducibly collective and moral nature of the disagreements over our response to COVID-19, which is but one manifestation of a deeper crisis threatening the future of American society, and thus inevitably that of the American Muslim community, not to mention the world at large. I call this a crisis of public moral reality, and in this article I will explain what I mean by this, why I believe it is at the root of the social conflict that has erupted in American society in the wake of COVID-19.

This conflict began to surface in the form of a [debate](#) over what activities are to be considered ‘essential.’ What is ‘essential’ vs. ‘non-essential’ activity? Our current circumstances have forced us to answer this question collectively, for the standard response to the threat of COVID-19 in most societies [worldwide](#) has been to close down all ‘non-essential’ public activity while leaving open the ‘essential.’ Explicitly or implicitly, this has been the underlying question driving public discussion, debate, and divisive politics ever since. The purpose of this article is not to criticize or support any set of public health measures, but instead to examine the nature of this question and the moral dynamics the COVID threat has revealed by imposing the question on society. I believe that a keen awareness here can give American Muslims insight into the nature of our social and cultural context and the prospect of a deeper engagement with and positive influence over the process of its development.

The collective and moral nature of the question: ‘What is essential’?

We must first appreciate that the question at hand, of ‘what is essential,’ is unavoidably both collective and moral. That is, it forces us to decide, as a group, that some things are more important or valuable than others. Consider it first in the context of the Muslim community, in isolation from the rest of society. Of course, as a community we do not exist in isolation from the rest of society (which is crucial, though sometimes difficult to acknowledge and appreciate), but we consider it here simply for the sake of analysis. The decision whether to close the *masājid* as a precaution against the spread of COVID was an unavoidably collective one affecting the entire community. Logically, there is no way to leave this up to the individual. For to leave the *masājid* open, supposedly so that everyone can decide for herself whether it is ‘worth the risk,’ is essentially to decide for the whole community that leaving them open is worth the risk. Whatever decision we make affects the community as a whole.

Secondly, such a decision unavoidably involves a value judgment. That is, it is a judgment about what is valuable (good, bad, more important, less important, etc.). For even though a great many empirical facts have to be taken into account (regarding the nature of the virus, the manner of its spread, etc.) to assess the likely results of any course of action, in the final analysis one must weigh one value against another. Is it more important to keep the *masjid* open, or to mitigate the risk to life and health? This latter judgment is within the scope of *uṣūl al-fiqh*, whose practitioners draw from the Qur’an and Sunnah methods for prioritizing the values and objectives of Shari’ah.¹ In doing so, they take account of the empirical knowledge drawn from sciences related to the matter.

Whether keeping the *masjid* open will pose a clear and present risk to life and health is a matter for epidemiology and related sciences. The question of whether mitigating that risk is a higher priority than keeping the *masjid* open, calls for a

¹ Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Kuala Lumpur: Ilmiah, 1998).

value judgment we should make based on revelation. In our new COVID-language, that is the question of whether opening the *masjid* is ‘essential.’ Is it worth the risk posed by the virus? The Islamic position is eminently rational. The dead cannot attend the *masjid*. Saving life thus takes priority over keeping it open. The only room for difference here is over the empirical question of whether it really does pose such a risk. There is no place in that discussion for scriptural citations and pious posturing.² It is solely a matter of assessing the empirical evidence, an important topic treated [here](#) and [here](#).

The primary point is that we cannot base our decision that something is or is not essential simply on the empirical ‘scientific’ facts, for it involves a value judgment that is not reducible to such facts. Secondly, it is to notice that while certainly not simple, the issue is relatively less complicated in the context of the Muslim community considered in isolation (at least for those who take the tradition seriously) than in the wider society. For we understand and acknowledge that Allah’s message provides us with means by which to make these value judgments systematically (albeit fallibly, as we are human after all). That means we as a community have the means of a shared public moral reality, and thus a framework for the legitimacy of a public moral authority. This does not mean we have unanimity, any more than a God-given means of systematic value judgment makes us infallible.

Why point this out? For the reason that, as just mentioned, our community does not exist in isolation but in the context of a wider society. For this reason, the matter can become more complicated. For whether we like it or not, the effective decision on ‘what is essential’ is not up to the Muslim community alone but the wider society of which we are a part, and which in the wake of COVID has demonstrated a certain [fragility](#), the ramifications of which affect all. We may describe this as a crisis of public moral authority; that is, a social gridlock over whether Americans should trust President Trump and ‘Jesus’ or Dr. Fauci and the ‘experts.’ A closer analysis, I suggest, warrants describing it rather as a crisis of public moral reality. The crisis is the manifestation of a bug in the ‘operating system’ of American

² Sherman Jackson, “Islamic Law, Muslims, and American Politics,” *Islamic Law and Society* 22 (2015): 253–91.

public life, revealed by COVID forcing on us, as a collective, the question ‘What is essential?’ For as we mentioned it is unavoidably a moral question calling for a value judgment. It thus seems incompatible (so to speak) with the American ‘operating system,’ according to which individual freedom is the [single public value](#) and we secure it by leaving all other moral values and judgments entirely to the private sphere.

Facts, values, and public policy

This system rests on a familiar distinction between ‘facts’ and ‘values.’ Facts are universal, objective, discoverable by natural science, and susceptible to rational evaluation. Values are supposedly particular, subjective, beyond the scope of natural science, and immune to rational evaluation.³ Only [facts then, and not values](#), are said to be appropriate factors on which to base public policy and by which to set limits on personal freedom. So goes the formula. Sometimes, however, real life gets in the way and presents [anomalies](#) to this paradigm, as when a computer crash reveals bugs in the system. Since human beings are not computers, we do not always respond by sending a report for another program to diagnose and solve the problem in an update. Often we attempt to avoid recognizing the problem. Avoidance sometimes gives rise to irrational habits.

For example, it is a common habit of certain intellectuals to conflate values with behavior; that is, to reduce questions about what is morally good or right and why, to questions of what people think is morally good or right and what makes them think that.⁴ By observing and attempting to explain actual human behavior, they create the *appearance* of answering moral questions via the methods of the social sciences, psychology, or evolutionary biology (and debate each other as to which field can do it), but without actually doing so. For questions about what and why we value are not questions about what and why we *ought* to value.⁵ A psychologist,

³ More precisely, this is rooted in hedonistic utilitarian moral ontology that reduces moral reason to prudential calculus, as I explain [here](#).

⁴ Robert Prentice, “Teaching Behavioral Ethics,” *Journal of Legal Studies Education* 31, no. 2 (2014): 325–65.

⁵ Christine M. Korsgaard, “Morality and the Distinctiveness of Human Action,” in Frans de Waal, *Primates and Philosophers*, ed. Stephen Macedo and Josiah Ober (Princeton, NJ: Princeton University Press, 2006), 98–119.

for example, may explain why a sociopathic criminal values what he does, but if an explanation of why we actually value something were the same as an explanation of why we ought to value it, then the psychologist's explanation would be proof that the criminal *ought* to be a criminal. For the same reason, an explanation of why we average 'non-criminal' types value what we value has nothing to do with whether or why we *ought* to.

What motivates this conflation is the fact that public policy decisions turn on questions about what we ought to value, not what we actually value. Thus, when deciding whether we should require wearing masks at the grocery store, I have to consider not only what the likely outcome of not requiring masks would be, but also whether the value of avoiding that risk outweighs the value of our personal freedom not to wear it. This is a question of values and (assuming our modern distinction) not facts. If it were simply a question of what we actually value, then it seems I would not be able to arrive at an answer other than through statistics. If more people value safety over the freedom to go out unmasked, then perhaps that is the fact about what we actually value.

If we consider this from the view of a democratic public policymaker, whom we may suppose should simply represent the 'will of the people' it may seem that this fact is adequate to make the decision. However, if we consider it from the view of a participant in this democratic process of 'discovering the fact about what we actually value,' then things change. For each such participant is confronted at the outset with the question, 'What do I think we ought to value?' and this is a question each must answer before there can be any fact about 'what we actually value.' Thus I cannot base my answer to the question what we ought to value on any fact about what we actually value, much less reduce the first question to the second. That would be like waiting to see who actually wins the election and then voting for her.

This leads us to a deeper question that we cannot avoid here. When I go to cast my 'vote,' am I really confronted with a question of what I think we ought to value, or simply a question of what I actually value? Some of our fellow citizens will deny that the former is even a meaningful question. For, they argue, we do not decide on

our values based on reasoning over ideas about what we ought to value. We simply want what we want, without rhyme or reason. From this point of view, reason and deliberation, whether individual or collective, is only ever about how to get what we want. What we ought to want is not even something we can reflect on or decide. It is just a brute fact. It may change, but not through any choice on our part. In that case, public policy debates are only about *how* best to get what we want, rather than what we ought to pursue. This view follows directly from the distinction between values and facts described above.⁶

That would make things simple, if in fact we all actually wanted the same things. If not, however, then there would be no reasonable way to arrive at a collective decision. For, if the basic values guiding our choices cannot themselves ever be determined by any decision on our part, then differences between them can not be resolved through rational means. We may vote, but any discussion about how to vote would ultimately prove futile. We would simply want different things, and according to this view, there is no point trying to reason over it, for there are never reasons why we want what we want; we just do and in the final analysis, that is all the reason we can ever give for what we think ought or ought not to be. The buck stops with our desires, according to this prevalent view. Meanwhile according to what we see on the news, we do not all have the same desires. To be clear, this is not a critique of democracy as a procedure, but instead of a commonly assumed moral epistemology which, if true, would render any such process futile.

Natural science and values

Since natural sciences seem to have been astoundingly successful in the last few centuries at answering questions about what actually is the case (just look at all our gadgets), some naturally have hoped they might have the same success answering questions about what we ought to value.⁷ The problem is that our last few centuries of natural scientific success are associated with the same metaphysical paradigm in

⁶ For an in-depth study of the historical development of this idea and its effects on contemporary Western society, see Alasdair MacIntyre, *After Virtue* (Notre Dame: University of Notre Dame Press, 1981).

⁷ Sam Harris, *The Moral Landscape* (New York: Free Press, 2010).

which is enshrined the distinction between facts and values that virtually defines the modern sciences. That is, that there are no facts about what ought or ought not to be. There are only human choices about what ought to be. In whatever sense we might want to claim these choices are ‘informed,’ they are certainly not informed by or about the facts of what ought to be, for again there are no such facts. There are other sorts of facts. There are facts about what is likely to result in something we think ought or ought not to be, or again facts about what we think ought to be and why. However, these are not facts about what ought to be, and therefore they leave open the question of what we ought to decide regarding what ought to be; that is, what we ought to value.

The closest that modern science can come, on its own terms, to an account of what we ought to value, is to offer an account of what human beings *actually* value. Crucially, a distinctive feature of ideas about what ought to be the case, is that they usually, perhaps inevitably, differ from observations of what is the case. If you always thought everything actually is as it ought to be, you would never think about what ought to be. Likewise, modern accounts about what humans actually value also often differ from our *prima facie* observations about what we actually value. Otherwise, they would be uninformative. A scientific theory that tells us what we already thought we knew is not very interesting.

Consider on the other hand a theory saying, for example, that despite your belief that you want to provide for and raise your children, what you actually want is for your genome to survive the grand contest for survival.⁸ That is interesting because it purports to reveal something about what you actually value as quite different from what you may have initially thought. Another theory may claim that what you believe to be your values are actually self-imposed means to avoid your alleged unconscious sexual impulses,⁹ or to avoid facing your social class alienation and economic exploitation.¹⁰ These otherwise very different but well-known modern theories have two things in common. First, they all purport to explain human values as very different from what we believe our values to be. Second, in spite of

⁸ Richard Dawkins, *The Selfish Gene* (Oxford: Oxford University Press, 1976).

⁹ Sigmund Freud, *The Interpretation of Dreams* (Leipzig & Vienna: Franz Deuticke, 1899).

¹⁰ Karl Marx and Friedrich Engels, *The German Ideology* (New York: International Publishers, 1947).

their differences, they all operate under the paradigm we mentioned above, that there are no facts about what ought to be. In place of that, they offer supposed facts about what we *actually* value, very different from what we *think* we value.

Yet for all that, there is one idea about what ought to be that modern science leaves in place, and in fact cannot remove: that is, how we think things are, ought to match how they actually are. Otherwise, what is the point of science? Therefore, if what drives us actually is sex or the pursuit of economic self-interest, or the grand contest over which genomes are ‘naturally selected,’ then we *ought* to think that is the case. Otherwise, we are in a state of denial of science or ‘bad faith.’ Thus, though these modern theories do not give us any account of what we ought to value, they give us something closely resembling that: accounts of what we ought to think we value. That is, effectively, a back-door moral narrative.

First, in accord with the ontological presumptions of modern forms of [naturalism](#), we are told that there are no facts about what we ought to value, and thus any efforts to intellectually pursue and discover reasonable answers to such questions are futile. Then, various theories constructed under that paradigm tell us what we ought to believe about what we actually value. There is a difference between, on one hand, what we think we ought to believe about what we actually value, and on the other, what we think we ought to value. They nevertheless have one effect in common. That is that they eventually determine what we actually value. In the purported absence of discoverable moral facts, there is nevertheless a method here, or typology of methods, for using modern science to effect moral persuasion and shape human values, without reasoning directly over the matter. That is by constructing models of what we supposedly actually value, which we thus ought to believe (since they are scientific) and thus conform to (since otherwise we are in denial of what we know ‘scientifically’ to be true).

The medicalization of public moral authority

These processes have given rise to a range of moral outlooks (e.g., Darwinist, Marxist, and Freudian) that exercise powerful (though not hegemonic) influence on

the culture of the societies in which we unavoidably participate. These paradigms factor in the cultural conflict currently raging over the response to COVID-19, partly explaining a phenomena we might call the ‘medicalization of public moral authority.’ For reasons just explained, we might as well call it the ‘medicalization of public moral reality.’ That is the treatment of what are in fact irreducibly public moral questions as if they were medical or epidemiological questions, and consequently the treatment of medical professionals as moral authorities.

Hence, in response to resistance to prescribed ‘lockdown’ measures, we so often hear the refrain, ‘Listen to the scientists!’ Resistance to these measures is, likewise, often dressed up as a kind of ‘second medical opinion.’ We witnessed the absurdity of [‘America’s Frontline Doctors’](#) (including the infamous ‘demon-sperm’ doctor) not only making unfounded counterclaims about how to treat COVID-19, but also asserting that the economic harms of lockdown measures outweigh their benefit in slowing its spread. This is of course not within the scope of medical expertise, and not simply because it pertains to economics.

Whether the epidemiological benefits of lockdown outweigh its economic costs is neither medical nor economic but ultimately a value judgment. Yet both sides in the debate seem to have no mode of argument other than to wheel out competing medical ‘experts’ as authorities for reference on the issue. The fact that one side’s doctors are qualified and the others are quacks is beside the point. The bottom line differences are not over questions of medicine or epidemiology but of values. Those are the questions all sides are avoiding by attempting to medicalize the issue. This is probably because the harms of either locking down the economy or opening will inevitably be suffered by the poorest and [most disenfranchised members of our society](#). This is the moral question which the most empowered and thus most vocal are intent on avoiding. For that entails calling into question not only the morality of the structure of our socio-economic system, but even the standard by which this irreducibly collective public moral judgment must be made.

The cultural conflict happening across society as a whole over COVID-19 is therefore just one symptom of the core problem emerging in other aspects of life,

including the renewed assertion of white supremacy and public mistrust of the political process and legal system, among others. It will be impossible to resolve this conflict without a genuine public deliberation that recognizes the central issues involved as the irreducibly moral questions that they are, which must be raised and treated collectively and not outsourced to some vicarious moral authorities, whether they be medical doctors, televangelists, populist politicians, or sheikhs of any sort.

A critical mass of individuals must be willing to face the questions and the moral responsibility they carry, and must also be capable of arriving at a negotiated consensus with others. For American Muslims to focus solely on finding ‘a place’ in American society at this time is like demanding a ticket to board a sinking ship that you are already on. Drawing on the rich resources of our faith and ethical tradition, do we have the ability instead to find the leaks, repair, and possibly redesign the boat itself, side by side with others who may or may not share our *deen*? That is what the current moment in our country’s history requires.