



THE ONGOING CHARITY OF ORGAN DONATION. CONTEMPORARY ENGLISH SUNNI FATWAS ON ORGAN DONATION AND BLOOD TRANSFUSION

STEF VAN DEN BRANDEN AND BERT BROECKAERT

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ABSTRACT

Background: Empirical studies in Muslim communities on organ donation and blood transfusion show that Muslim counsellors play an important role in the decision process. Despite the emerging importance of online English Sunni fatwas, these fatwas on organ donation and blood transfusion have hardly been studied, thus creating a gap in our knowledge of contemporary Islamic views on the subject.

Method: We analysed 70 English Sunni e-fatwas and subjected them to an in-depth text analysis in order to reveal the key concepts in the Islamic ethical framework regarding organ donation and blood transfusion.

Results: All 70 fatwas allow for organ donation and blood transfusion. Auto-transplantation is no problem at all if done for medical reasons. Allograft transplantation, both from a living and a dead donor, appears to be possible though only in quite restricted ways. Xenotransplantation is less often mentioned but can be allowed in case of necessity. Transplantation in general is seen as an ongoing form of charity. Nearly half of the fatwas allowing blood transfusion do so without mentioning any restriction or problem whatsoever. The other half of the fatwas on transfusion contain the same conditional approval as found in the arguments pro organ transplantation.

Conclusion: Our findings are very much in line with the international literature on the subject. We found two new elements: debates on the definition of the moment of death are hardly mentioned in the English Sunni fatwas and organ donation and blood transfusion are presented as an ongoing form of charity.

INTRODUCTION

Islamic end-of-life ethics is a growing research field.¹ The majority of the studies on this subject adopts a normative and deductive approach. Only a very small minority of

studies adopts an empirical, inductive approach.² Studies that specifically discuss Islamic views on organ donation and/or blood transfusion are, however, more common. Not only do we find research articles in medical journals taking a normative approach,³ we also find several

¹ O. Roy. 2002. *L'islam mondialisé* (Essais, 521). Paris. Editions du Seuil. A. Caeiro. 2009. *Transnational 'Ulama, European Fatwas, and Islamic Authority: A Case Study of the European Council for Fatwa and Research*. In *Production and Dissemination of Islamic Knowledge in Western Europe*. S. Allievi & M. van Bruinessen, eds. London: Routledge; D.F. Eickelman, & J.W. Anderson, eds. *New Media in the Muslim World. The Emerging Public Spheres* 2nd edn. Bloomington-Indianapolis: Indiana University Press.

² S. Van den Branden 2006. *Islamitische ethiek aan het levenseinde*. Een theoretisch omkaderde inhoudsanalyse van Engelstalig soennitisch bronnenmateriaal en een kwalitatief empirisch onderzoek naar de houding van praktiserende Marokkaanse oudere mannen in Antwerpen. PhD diss: Katholieke Universiteit Leuven.

³ See. Y.I.M. El-Shahat. *Islamic Viewpoint of Organ Transplantation*. *Transplant Proc* 1999; 31: 3271–3274; M.M. Golmakani, M.H. Nikam & K.M. Hedayat. *Transplantation Ethics from the Islamic Point of*

empirical studies.⁴ One of the important findings often stated in empirical studies is the impact of Islamic clergy – often the local imam in Muslim immigrant settings – on the respondents' attitude towards organ donation and/or blood transfusion.⁵ Therefore, it is very important to study the 'authoritative Islamic positions' on organ donation and blood transfusion. A very relevant, though almost completely neglected area of research in terms of 'official Islamic positions', are contemporary English Sunni fatwas on the subject as they can be found on the Internet.

The importance of these English internet fatwas must not be underestimated. The impact of globalization and migration on Muslim minorities living in non-Islamic countries during the past 20 years has been very strong.⁶ According to Roy and Mandaville the idea of a worldwide Islamic community (*umma*) is represented in a digital – virtual – form on the Internet (*virtual umma*). Fatwa services, online accessible modules providing the website visitor the chance to ask questions to an Islamic scholar, are very popular on Islamic websites (e-fatwas). Roy characterizes the messages spread in these services as uniform and fundamentalist. 'Fundamentalist' because

View. *Med Sci Monit* 2005; 11(4): RA105-109; S. Aksoy. A Critical Approach to the Current Understanding of Islamic Scholars on Using Cadaver Organs without Prior Permission. *Bioethics* 2001; 15: 461–472.

⁴ A. Sheikh & S. Dhama. Attitudes to Organ Donation among South Asians in the UK. *J R Soc Med* 2000; 93(3): 161–162; N. Keçecioglu et al. Attitudes of Religious People in Turkey Regarding Organ Donation and Transplantation. *Transplant Proc* 2000; 32(3): 629–630; M. al-Mousawi, T. Hamed & H. al-Matouk. Views of Muslim Scholars on Organ Donation and Brain Death. *Transplant Proceedings* 1997; 29(8): 3217; R. Rachmani, S. Mizrahi & R. Agabaria. Attitudes of Negev Beduins toward Organ Donation: a Field Survey. *Transplant Proc* 2000; 32(4): 757–758; W. Ahmed, S. Harris & E. Brown. Attitudes to Organ Donation among South Asians in an English High Street. *J R Soc Med* 1999; 92(12): 626–627; F.S. Alkhawari, G. Stimson & A. Warrens. Attitudes toward Transplantation in U.K. Muslim Indo-Asians in West London. *Am J Transplant* 2005; 5(6): 1326–1331; G. Randhawa: An Exploratory Study Examining the Influence of Religion on Attitudes towards Organ Donation among the Asian Population in Luton, UK. *Nephrol Dial Transplant* 1998; 13(8): 1949–1954.

⁵ Alkhawari, Stimson & Warrens, *op. cit.* note 4; Sheikh & Dhama, *op. cit.* note 4; N. Keçecioglu et al., *op. cit.* note 4; Rachmani, Mizrahi & Agabaria, *op. cit.* note 4.

⁶ L. Buskens. An Islamic Triangle. Changing Relationships Between Shari'a, State Law, and Local Customs. *ISIM Newsletter* 2000; 5: 8; A. Caero. 2009. Transnational 'Ulama', European Fatwas, and Islamic Authority: A Case Study of the European Council for Fatwa and Research. In *Production and Dissemination of Islamic Knowledge in Western Europe*. S. Allievi & M. Van Bruinessen, eds. London: Routledge; D. Eickelman & J. Anderson, eds. 2003. *New Media in the Muslim World. The Emerging Public Sphere*. Bloomington: Indianapolis University Press; Y.Y. Haddad. 1999. The Globalisation of Islam. The Return of Muslims to the West. In *The Oxford History of Islam*. J. Esposito, ed. New York: Oxford University Press: 601–641; O. Roy. 2002. *L'islam mondialisé*. Paris: Editions du Seuil; M. Van Bruinessen. The Production of Islamic Knowledge in Western Europe. *ISIM Newsletter* 2001; 8: 3; P. Mandaville. Digital Islam: Changing the Boundaries of Religious Knowledge? *ISIM Newsletter* 1999; 2(1): 23.

the authors of these fatwas focus only on the major Islamic sources (Quran and Sunnah) and leave out any reference to jurisprudential reasoning as it developed throughout the ages.⁷

Because of the rather limited number of relevant texts in the Islamic sources – Quran and Sunnah – on the one hand and the repeated postings on the other hand, the same message is communicated and taken over, resulting in an uniformization of the message. Anderson describes the impact of English as the *lingua franca* of the Internet and points to the emergence of a discourse outside the traditional houses of authority.⁸ The subjects that are dealt with in these online fatwa services are as diverse as life itself. Although transplanting/donating organs/blood is a subject that occurs quite frequently in these e-fatwa banks, these materials have not yet been taken up in studies on the Islamic point of view on the subject.

This in-depth study of English Sunni e-fatwas on organ donation and blood transfusion is part of the research project 'Religion and Ethics at the End of Life. A Study of the Influence of Religious and Ideological Affiliation and Worldview on Attitudes towards End-of-life Decisions' (promoter Bert Broeckaert), sponsored by the FWO Flanders.

METHOD

English Sunni e-fatwas

In his book *L'Islam mondialisé*, Roy studies several Islamic websites that he describes as representative for the virtual *umma*.⁹ Because of the quickly evolving nature of the Internet, many of the websites selected by Roy no longer exist. Others did not provide fatwas on end-of-life ethics. Therefore we extended our search using snowball sampling techniques on the links sections of Islamic websites. We found English Sunni e-fatwas on end-of-life ethics on several websites. The major Islamic website specializing in the situation of Muslims in non-Muslim countries is www.islamonline.net run by Yusuf Qaradawi from Qatar. Another Qatar website focusing on Muslims worldwide, www.islamweb.net tries to build a virtual *umma*. There is also a very large website www.islamicity.com (launched in 1995, over 7 billion requests serviced since 2001) focusing on 'Islam & The Global Muslim eCommunity'. It is run by HADI (Human Assistance & Development International), an organization that 'works

⁷ Roy, *op. cit.* note 6.

⁸ Eickelman & Anderson, *op. cit.* note 6.

⁹ Roy, *op. cit.* note 6, pp. 182–185. Roy mentions <http://admin.muslimsonline.com>, Islamic Interlink (irretrievable), www.ummah.net, www.islam.org, www.islamicity.org, www.muslims.net, www.islam-qa.com, www.cybermuslim.net, www.islamwebring.com and www.islam.tc.

towards the long term social, economic, educational, and scientific development of people worldwide' and contains several sub-organizations including IslamiCity.com. One of Saudi-Arabia's most popular Islamic websites, www.islamtoday.com is supervised and inspired by Salman al-Ouda, a Saudi Wahhabi cleric 'supporting peace and coexistence with other religions'. www.understanding-islam.com is a website supervised by Moiz Amjad, a researcher at al-Mawrid, a Pakistan research institute originally founded in 1983 and re-established in 1991. The website is 'an attempt to separate the sacred from the profane in a time when human interpretations have become Divine words incarnate. It is a movement to go back to the original sources and to root out intellectual stagnation.' Shahid Athar, Clinical Associate Professor of Internal Medicine and Endocrinology at the Indiana University School of Medicine Indianapolis, Indiana, who has published widely on Islam and medicine, has created a website where his publications are available online: www.islam-usa.com The Islamic Institute of Toronto, a non-profit, federally registered, educational institute established in 1996 reaching out to Muslims in Canada and worldwide, runs the website www.islam.ca; and although www.islam.tc, www.albalagh.net, www.islamhelpline.com, www.ourdialogue.com www.islam-qa.com and www.sunnipath.com are smaller websites, we included them since they contained interesting fatwas on the topic studied here.

Text analysis

In total we found 70 English Sunni e-fatwas on transplanting/donating organs/blood on the websites mentioned above. Each of them was subjected to an in-depth text analysis in order to reveal the key concepts in the Islamic ethical framework regarding the subject.

RESULTS

Donation/transplantation

Our analysis revealed a striking theological reasoning underlying the opinions offered in the fatwas we studied. In developing this argument, often exactly the same Quranic verses and prophetic sayings are mentioned or referred to.

A first element in the theological argument is the idea of the sacredness of life, as based on verse 32 of the fifth sura (al-Ma'idah – The Table).¹⁰ This verse stresses the

¹⁰ Q.5:32: 'On that account: We ordained for the Children of Israel that if any one slew a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole people: and if any one saved a life, it would be as if he saved the life of the whole people'.

importance of a human life by stating that saving the life of an individual equals saving the life of the whole of humanity, and – vice versa – that killing an individual equals killing the whole of humanity. We quote from the fatwa by Yusuf Al-Qaradawi entitled *Virtues of Blood Donation* as found on www.islamonline.net:

Donating blood is a highly estimated deed, [. . .] It is an act whose virtue is explicitly clarified in the Qur'anic verse in which Allah the Almighty says: 'Whosoever killeth a human being for other than manslaughter or corruption in the earth, it shall be as if he had killed all mankind, and whoso saveth the life of one, it shall be as if he had saved the life of all mankind' (Al-Ma'idah: 32).¹¹

Added to the sacredness of life comes the reference to the central place of human beings in creation. A verse often quoted or alluded to in this respect is verse 70 in sura 17: 'We have honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favours, above a great part of our creation.'

The body is a divine gift from God and therefore should be respected. The author of the fatwa entitled 'Are Muslims Allowed to Give Blood and Donate Organs?' published on www.islamweb.net, makes a short but clear reference to the verse just mentioned.

Also as a general rule, a human body should be respected. Deforming a human body or degrading it is not permissible. Allah Says (interpretation of meaning): And indeed we have honoured the Children of Adam . . . (Q.17:70).¹²

The author of the fatwa entitled 'Is Organ Donation Permissible?' published on qa.sunnipath.com does not mention the verse itself, but refers to the idea that is central in the verse.

The human body and parts are not in our ownership in that we may fiddle with them as we desire. It is a trust (amanah) that has been given to us by Allah Almighty.¹³

The theological argument usually continues with a number of prophetic sayings (*hadith*) that state the

¹¹ Y. Al-Qaradawi, *Virtues of Blood Donation*, Available at http://www.islamonline.net/servlet/Satellite?cid=1119503548624&pagename=IslamOnline-English-Ask_Scholar%2FFatwaE%2FFatwaEAskTheScholar [Accessed 18 Jan 2008].

¹² Fatwa Bank Islamweb. 2002. *Are Muslims Allowed to Give Blood and Donate Organs?* Available at: <http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?lang=E&Id=84292&Option=FatwaId> [Accessed 18 Jan 2008].

¹³ Fatwa_Bank_SunniPath. s.d. *Is Organ Donation Permissible?* Available at: http://qa.sunnipath.com/issue_view_print.asp?ID=2043 [Accessed 18 Jan 2008].

inviolability of the body and the duty to keep the body in a healthy condition. We give two examples. The first quote is taken from the fatwa 'Donating an Organ after Death' as found on www.islamonline.net.

We are not allowed to dissect, mutilate or tamper with the body in any way. The reason for this is that the dead person enjoys a certain amount of sanctity, which cannot be violated. The prophet (peace and blessings be upon him) is reported to have said, 'Cutting up a dead person's bones is akin to cutting him up while he is alive.'¹⁴

The second quote is taken from the fatwa 'Is Organ Donation Permissible?' as found on www.sunnipath.com:

d) It is unlawful for an individual to inflict harm upon himself or others. The Messenger of Allah (Allah bless him & give him peace) said: 'It is unlawful to inflict harm upon your self and others, (la dharar wa la dharir)'. (Mustadrak of al-Hakim).¹⁵

After having read these injunctions from the Quran and the prophetic tradition, the reader might have the impression that organ transplantation/donation cannot be allowed at all. But this is not the case: the next step consists of mentioning several principles from the Islamic jurisprudential tradition that do allow for transplantation/donation of organs. These principles are the necessity-breaks-the-law principle (*darura*), the principle of working for the wellbeing of society (*maslaha*) and the principle of altruism (*al-ithar*). The principle of *darura* allows for exceptions to general rules and the use of this principle can make the prohibited lawful. The principles of *maslaha* and *ithar* can be seen as arguments that overrule the individual concern and stress the need to look for the wellbeing of the whole of society (*maslaha*) or the need to allow for certain actions that go against general prohibitions because they can be seen as a form of altruism (*ithar*).

After having laid out these principles, the authors deal with the specific question at hand and develop specific arguments for or against transplantation/donation. In what follows, we will give an overview of the standpoints the English Sunni authors take in their e-fatwas towards several forms of transplantation/donation, thereby differentiating – as is done in the e-fatwas – between autotransplants, allotransplants and xenotransplants, as the main categories.

¹⁴ Fatwa_Bank_Islamonline. 2005. *Donating an Organ After Death*. Available at: http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503547364 [Accessed 18 Jan 2008].

¹⁵ Fatwa_Bank_SunniPath. s.d., *op. cit.* note 13.

Autotransplant

Generally speaking, transplantation of one part of the body to another place in the same body does not prove to be too problematic for the majority of the fatwas as analysed. Still, an unconditional acceptance of the medical act is not allowed. To illustrate this, we quote from the fatwa entitled *Organ Transplant* that was found on www.albalagh.net:

A transplant of any nature whatsoever is permissible from one part to another part of the body of the same person when necessary.¹⁶

From the above quote, the condition of necessity becomes apparent: according to the author of the above-mentioned quotation, transplantations in general can only be done if necessary for the wellbeing of the patient. This same condition of necessity receives a slightly different wording in another fatwa taken from www.islamweb.net in which the author stresses that merely cosmetic reasons do not suffice for allowing autotransplantation:

If the organ is transplanted in the body of the person from whom it is taken, this is lawful under three conditions:

First, there should be a real necessity and not for mere beautification. Second, there should not be any risk to the life of the person during any stage of the operation. Third, there should be an authentic medical report stating that this transplantation is likely to be successful.¹⁷

The majority of the authors of English Sunni e-fatwas agree that autotransplantation can be allowed in case of necessity, if there is no danger for the patient and only if done for reasons other than merely cosmetic ones.

Allotransplant

English Sunni e-fatwas on allotransplantation distinguish between organs taken from living donors or dead donors.

Living donor

The English Sunni e-fatwas we collected all contain a common and therefore immediately recognizable set of conditions in which allotransplantation from a living donor could be allowed. The first condition is that the donor has full mental capacity to agree upon the

¹⁶ Fatwa_Albalagh.net. 2003. *Organ Transplant*. Available at: http://www.albalagh.net/qa/organ_transplants.shtml [Accessed 18 Jan 2008].

¹⁷ Fatwa_Bank_IslamWeb. 1999. *Organ Transplantation*. Available at: <http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?lang=E&Id=82240&Option=FatwaId> [Accessed 18 Jan 2008].

transplant and that he does not feel to be pressurized to do so. We find an example of this first condition in the fatwa entitled *Transplant Of Organ From the Dead, Living Or Animals* as found on www.ourdialogue.com:

To use an organ from a living person for transplantation into another is permissible if the recipient or his family or the state or any other authority does not put the donor under any pressure to give away his organ. If he donates his organ, he must do so out of his own free choice.¹⁸

The second condition is that the person is an adult, preferably 21 years or older.¹⁹ Other conditions regard the kind of organs that can be used for transplantation. In some e-fatwas it is said as a general rule that vital organs cannot be transplanted. In other fatwas this condition is described in more detail, by making a difference between, on the one hand, vital and non-vital organs and on the other hand between organs that are self-renewing and organs that are not.

With regard to vital organs, i.e. organs on which life depends, they may be singular organs – of which there is only one in the body – or there may be more than one. The former group includes organs such as the heart and liver, and the latter includes organs such as the kidneys and lungs. The conditions mentioned above are all mentioned in the following quote taken from the fatwa entitled *Ruling on Organ Donation* taken from www.islam-qa.com.

As for those [organs] on which life does not depend, there are some that control basic functions in the body and some that do not. There are some that are renewed automatically, such as blood, and some that are not; there are some that have an effect on offspring and on the genetic makeup and personality of the individual, such as testicles, ovaries and cells of the nervous system, and some that do not have any such effect. (. . .) It is permissible to transplant an organ from the body of one person to another if it is an organ that renews itself automatically, such as blood and skin. (. . .) It is haraam to transplant an organ on which life depends, such as transplanting the heart from a living person to another person.²⁰

¹⁸ Fatwa_OurDialogue.com. 2005. *Transplant Of Organ From the Dead, Living Or Animals*. Available at: <http://www.ourdialogue.com/answers/articles.php?action=show&showarticle=1015> [Accessed 18 Jan 2008].

¹⁹ As an example we refer to Fatwa_Islamonline.net. 2002. *Islam's View on Organ Transplants and Donations*. Available at http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503543788 [Accessed 18 Jan 2008].

²⁰ Fatwa_islam-qa.com. 1998. *Ruling on Organ Donation*. Available at <http://www.islam-qa.com/index.php?pg=print&ref=107690&ln=eng> [Accessed 18 Jan 2008].

Muslim authors see no problem in transferring non-singular organs that are not crucial for the survival of the donor or in transferring self-renewing organs on the condition that the donor is an adult with full mental capacities who doesn't feel forced to agree with the transplant, provided that there is a dire need for the transplant – no alternatives are available – and that the harm done to the donor is exceeded by the benefit for the receiver. Singular organs vital to the donor's survival must not be transplanted from a living donor. Transplantation of sexual organs is forbidden, as from an Islamic point of view this would amount to a situation of adultery because the transplanted organ would continue to produce the donor's genetic code.²¹

Dead donor

From an Islamic perspective, the issue of allotransplants from dead donors is much more controversial as it often evolves around the concept of brain death. Controversial or not, as with allotransplantation from a living donor, allotransplantation from a dead donor too can be allowed, but only when very strict conditions are met. The first condition is not new but is a variation on the theme of consent: organs can be taken from a dead person only if this person has stated his agreement in a last will or testament. If no such document is available, relatives and close friends can speak on behalf of the deceased person allowing for transplantation. As an example, we quote from the fatwa *Organ Transplant* taken from www.islam.ca:

1. It must be done after having ascertained the free consent of the donor prior to his /her death. It can be through a will to that effect, or signing the donor card, etc.
2. In a case where organ donation consent was not given prior to a donor's death, the consent may be granted by the deceased's closest relatives who are in a position to make such decisions on his/her behalf.²²

The majority of the authors of the English Sunni e-fatwas allow a living will on organ transplantation. Still, some

²¹ Another example of the prohibition against transplanting sexual organs is found on www.islamicity.com. Fatwa_IslamiCity.com. 2008. *Manners: Organ Donation*. Available at <http://www.islamicity.com/qa/action.lasso.asp?-db=services&-lay=Ask&-op=eq&nu> [Accessed 18 Jan 2008].

²² Fatwa_Bank_Islam.ca. 2001. *Are We Allowed to Donate Organs in Islam?* Available at: <http://www.islam.ca/answers.php?id=76> [Accessed 18 Jan 2008].

authors do not agree and state that the use of a living will on organ donation is forbidden.²³

Another safeguard that has to be built in, according to some authors, concerns the medical certainty on a positive outcome for the beneficiary of the transplant. So we read on www.islam.ca:

It must be an organ or tissue that is medically determined to be able to save the life or maintain the quality of life of another human being.²⁴

The issue of the determination of the death of the donor – a matter that receives an important place in the rulings of international *fiqh* committees²⁵ – is hardly present in the Sunni e-fatwas we analysed. The majority of the fatwas do not debate over the definition of death in case of an allotransplant from a dead donor. We find only a slight hint at it in three fatwas stating in exactly the same words that ‘the death of the patient has to be ascertained through reliable medical procedures’.²⁶ In only one fatwa we found a very clear reference on the question at stake: the acceptance of the medical definition of brain death as an acceptable way of determining the death of a person. In this fatwa, published on www.islam-qa.com we find the explicit acceptance of the use of organs taken from a brain dead patient for transplantation.²⁷

Xenotransplant

The issue of transplanting animal organs into the human body is not frequently debated in English Sunni e-fatwas: we found references to the subject in only three fatwas. In the two fatwas published on www.islam.tc, we find that the use of animal organs for transplantation is acceptable if the organs stem from animals that can be slaughtered and eaten with the permission of Islamic law.²⁸ Only in an emergency could pig organs be used.²⁹ The third instance in which the transplantation of animal organs is debated

was the fatwa entitled *Transplant Of Organ From the Dead, Living Or Animals* as published on www.ourdialogue.com. In that fatwa we find the unconditional approval of the use of animal organs for transplantation into the Muslim patient.³⁰

Donation/Transfusion of blood

We have found references concerning donation/transfusion of blood in 17 of the 70 English Sunni e-fatwas we collected. All of the authors consider blood donation to be permitted. Nearly half of these 17 fatwas allowing for blood donation do so without mentioning any restriction or problem whatsoever.³¹ The other half of the fatwas contain the same elements for a conditional approval of transplantation/transfusion as found in the arguments pro organ transplantation. The first condition is that the patient must be in a desperate need for the blood transfusion,³² and secondly, no alternative treatment must be available.³³ The other conditions apply to the condition of the donor: the donor has to approve based on his own free will, without feeling compelled to donate the blood.³⁴ Secondly, medical practitioners must be able to assure that the transfusion will not result in a situation endangering the health of the donor.³⁵

Other issues related to blood transfusion are sometimes mentioned in the English Sunni e-fatwas. These issues concern the blood transfusion to/from non-Muslims and the moral virtues of the very act of blood transfusion.

One fatwa answers the question whether transfusing blood of a non-Muslim donor into a Muslim beneficiary is permissible in view of the idea that non-Muslim people eat *haram* food and consume alcohol. This raises questions on the purity of the blood and organs to be transplanted. To this issue, the author of the fatwa states that because of the impurity of the non-Muslim habits such a transfusion can only be done in case of necessity. Based on Q.9:28³⁶ the author adds that the impurity of the

²³ Fatwa_islam.tc. 2001. *Is it Permissible to Make Organ Transplanting?* Available at: <http://www.islam.tc/ask-imam/view.php?q=2251> [Accessed 18 Jan 2008].

²⁴ Fatwa_islam.ca., *op. cit.* note 22.

²⁵ A.A.A. Yacoub. 2001. *The fiqh of medicine : responses in Islamic jurisprudence to developments in medical science*. London, UK: TaHa Publications.

²⁶ Fatwa_Bank_Islamonline. 2002. *Islam's View on Organ Transplants and Donations*. Available at: http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503543788 [Accessed 18 Jan 2008]; Fatwa_islam.ca., *op. cit.* note 22; Fatwa_Bank_IslamiCity. 2005. *Organ Donation*. Available at <http://www.islamicity.com/qa/action.lasso.asp?-db=services&-lay=Ask&-op=eq&nu> [Accessed 18 Jan 2008].

²⁷ Fatwa_islam-qa. 2000. *Ruling on Organ Transplants*. Available at: <http://www.islam-qa.com/index.php?pg=print&ref=2117&1n=eng> [Accessed 18 Jan 2008].

²⁸ Fatwa_islam.tc, *op. cit.* note 23.

²⁹ Fatwa_islam.tc. 2003. *Does Islam Prohibit the Donation of Body Organs After Death for the Benefit of Another Human Being?* Available

at: <http://www.islam.tc/ask-imam/view.php?q=7693> [Accessed 18 Jan 2008].

³⁰ Fatwa_Ourdialogue.com. 2005. *Transplant Of Organ From the Dead, Living Or Animals*. Available at: <http://www.ourdialogue.com/answers/articles.php?action=show&showarticle=1015> [Accessed 18 Jan 2008].

³¹ E.g. Fatwa_Bank_IslamiCity.com. 1997. *Blood Donation*. Available at <http://www.islamicity.com/qa/action.lasso.asp?-db=services&-lay=Ask&-op=eq&number=1964&-> [Accessed 18 January 2008].

³² Fatwa_Bank_Islamonline, *op. cit.* note 14.

³³ Fatwa_Bank_Islamweb. 1999. *Donating Blood*. Available at <http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?lang=E&Id=82197&Option=FatwaId> [Accessed 18 Jan 2008].

³⁴ Fatwa_islam.tc, *op. cit.* note 23.

³⁵ Fatwa_Bank_Islamweb. 2001. *Donating Blood to non-Muslims*. Available at <http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?lang=E&Id=83172&Option=FatwaId> [Accessed 18 Jan 2008].

³⁶ Q.9,28: ‘Ye who believe! Truly the Pagans are unclean; so let them not, after this year of theirs, approach the Sacred Mosque. And if ye

non-Muslim is situated on the moral level, not on the physical level and that therefore such blood transfusions can be done in case of necessity:

The blood which is donated is impure and forbidden, and it is not permissible to seek treatment with it in principle, but it is permissible here for the necessity. Since the blood is impure in principle, then there is no need to say that the non-Muslims eat impurities or drink impurities. The impurity of a non-Muslim is not physical but moral because of their disbelief, and this is the meaning of the saying of Allaah (what means): {Verily, the disbelievers (are impure)}[Quran 9:28].³⁷

The issue of the transfusion of the blood of a Muslim donor to a non-Muslim beneficiary is raised and discussed in several fatwas published on www.islamweb.net and on www.islamonline.net. Here, in the fatwa entitled *Blood donation to unknown people who might be criminals, drug addicts, etc.*, we read that whether or not the non-Muslim beneficiary might be a fornicator, an adulterer or a drug addict does not amount to a religious obstacle, since the blood donation is related to saving the life of the beneficiary and not related to helping the sinner with his sins:

The possibility that the person to whom the blood is donated could be a fornicator or adulterer, or a person who consumes intoxicants, is not a religious obstacle from donating to him, as this is not directly helping him in doing those sins.³⁸

Another issue related to donating a Muslim donor's blood to a non-Muslim beneficiary concerns the relationship of the non-Muslim to the Islamic community: the same author whom we just quoted mentions that if the beneficiary is an unbeliever (*kafir*) who is at that moment waging war upon the Islamic community, the blood transfusion cannot be performed.³⁹ We find the same argument in two more fatwas published on the same website www.islamweb.com.⁴⁰ In the fatwa *Donating Organs to non-Muslims*, Yusuf Qaradawi adds that a Muslim is not permitted to donate organs to apostates either.⁴¹

fear poverty, soon will Allah enrich you, if He wills, out of His bounty, for Allah is All-knowing, All-wise.'

³⁷ Fatwa_Bank_Islamweb. 2006. *Transfusing Blood of a Non-Muslim*. Available at: <http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?lang=E&Id=91247&Option=FatwaId> [Accessed 18 Jan 2008].

³⁸ Fatwa_Bank_Islamweb. 2007. *Blood Donation to Unknown People Who Might Be Criminals, Drug Addicts, etc.* Available at: <http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?lang=E&Id=96396&Option=FatwaId&x=54&y=18> [Accessed 18 Jan 2008].

³⁹ Ibid.

⁴⁰ Fatwa_Bank_Islamweb, *op. cit.* note 33; Fatwa_Bank_Islamweb, *op. cit.* note 35.

⁴¹ Fatwa_Bank_islamonline.net. 2006. *Donating Blood to non-Muslims*. Available at: http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503544408 [Accessed 18 Jan 2008].

The very act of blood transfusion – and also organ donation in general – is said to be morally virtuous, as stated in several fatwas.⁴² There is even a fatwa entirely devoted to the subject, found on www.islamonline.net and entitled *Virtues of Blood Donation*: the virtues are based upon Q.5:32, stating the importance of saving a person's life, and include a seven-hundredfold reward of the good deed by Allah.⁴³ The virtue of a blood donation or blood transfusion is so huge that it amounts up to the status of *sadiqah jariyah*. *Sadiqah* is the Arabic term used to denote an act of charity. This *sadiqah* is termed *jariyah*, which means that it is ongoing: by transplanting an organ or transfusing blood to a beneficiary, the act of the *sadiqah* will keep going on (*jariyah*) as long as the recipient benefits from it – i.e. remains alive due to the transaction.⁴⁴

DISCUSSION

In the fatwas we analysed, we found a permissive attitude toward the issues of donation or transplantation of organs and toward blood transfusion. Concerning autotransplantation we found a very clear consensus on the permissibility of the act. Most of the e-fatwas on organ donation and/or blood transfusion do not contain a lot of Islamic source material. The Quranic verse that is most often alluded to is Q.5:32 stating the sanctity of life. This verse is, for most of the authors, the strongest argument in favour of organ and blood donation. The only condition related to autotransplantation we found is that it has to be necessary for the wellbeing of the patient. It should not be done for cosmetic reasons only. Allotransplantation, both from a living and from a dead donor, appears to be possible, although only in quite restricted ways. Concerning harvesting organs from a dead donor, the issue whether brain death is accepted as a definition of death is crucial though only hinted at in these fatwas: Islamic scholars who do not accept brain death as a condition equal to being death will stress the need to await the traditional criteria for determining death (no heart beat, no respiration) and will not allow harvesting organs

⁴² Fatwa_OurDialogue.com. 2005. *Interfaith Blood Transfusion and Organ Transplant*. Available at: <http://www.ourdialogue.com/answers/articles.php?action=show&showarticle=999> [Accessed 18 Jan 2008].

⁴³ Fatwa_Bank_Islamonline.net. 2004. *Virtues of Blood Donation*. Available at: http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503548624 [Accessed 18 Jan 2008].

⁴⁴ Fatwa_Islam.tc. 2001. *Is Donating Organs Considered a Form of Sadaqah Jariyah (ongoing charity)?* Available at: <http://www.islam.ca/answers.php?id=79> [Accessed 18 Jan 2008]. Fatwa_Bank_Islamonline.net. 2003. *Organ Donation. Ongoing Charity?* Available at: http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503546864 [Accessed 18 Jan 2008].

from a merely brain dead patient. Scholars who do accept brain death as a condition for determining whether or not a patient has died will accept that organs are harvested from a brain dead patient on the condition that the operation is necessary for the survival of the beneficiary and that the operation has a high chance of success. For organs stemming from a living donor, the age of the donor appears to be a very important element in the decision process: a person willing to act as a donor has to have attained the age of majority (often 21 years old). Important and recurring elements are:

- the free consent of the donor,
- the absence of any form of compulsion,
- the condition that no vital organs (such as the heart), reproductive organs (such as the ovaries) or singular organs (such as the heart) are transplanted
- and the condition that the donor must not suffer any form of persistent harm.

We found two additional discussions concerning living donors. The first element we found concerns questions related to donating organs from Muslims to non-Muslims and *vice versa*. The websites www.islamweb.net and www.islamonline.net were the only two websites offering answers to this type of question. They stipulated that transplanting organs from a non-Muslim to a Muslim patient should not be a problem. Concerning the reverse case, in which organs from a Muslim are transplanted to a non-Muslim patient, we found only one fatwa mentioning that this medical act cannot be allowed if the non-Muslim is a person who is at war with the Muslim community. An often recurring theme regarding xenotransplantation is the discussion on the purity of the animal from which the organs can be harvested. Based on the dietary laws prohibiting eating pork meat one would expect this form of xenotransplantation to be forbidden. Still exceptions can be made based on Q.2,173, a verse that reads 'He hath only forbidden you dead meat, and blood, and the flesh of swine, and that on which any other name hath been invoked besides that of Allah. But if one is forced by necessity, without wilful disobedience, nor transgressing due limits – then is he guiltless. For Allah is Oft-forgiving Most Merciful.' A last theme regarding organ donation or blood transfusion in general is that this medical act can be seen as an ongoing form of charity (Arabic: *sadiqah jariyah*) resulting in rewards in the hereafter.

Unlike the English Sunni e-fatwas on other end-of-life issues, the English Sunni e-fatwas on organ donation and blood transfusion do not have the same neat recurring structure.⁴⁵ The fatwas whose content most closely

⁴⁵ S. Van den Branden. 2006. Islamitische ethiek aan het levenseinde. Een theoretisch omkaderde inhoudsanalyse van Engelstalig soennitisch bronnenmateriaal en een kwalitatief empirisch onderzoek naar de

resembles Roy's characteristics of the virtual *umma*, can be found on www.islamweb.com. Roy characterized the *virtual umma* as fundamentalist – referring only to Quran and Sunnah – and uniform. The e-fatwas published on www.islamweb.com are built upon quotes taken from the Quran and the Sunnah. They even contain a lot of references to medieval discussions of relevance to the topic. In this respect, these fatwas are the most tradition-based e-fatwas on organ and blood donation we could find. The fatwas published on other websites often contain the same lines of reasoning, to varying degrees based on quotes from the Islamic sources.

In international literature on Islamic views on organ donation and/or blood transfusion we find the same conditions applying to the transplantation of organs from a living donor: the donor has to comply freely with the operation, may not suffer any persistent harm, his life may not be endangered, and he must not transfer single organs.⁴⁶ Concerning transplants from a dead donor, in international literature we find references to the central use of Q.5:32 and the sayings of the prophet Muhammad on respecting the dead body as much as the living body. Again we found the same arguments in the English Sunni e-fatwas on organ donation and blood transfusion as the ones mentioned in international literature on the subject: the wish to donate an organ can be recorded in the living will; if a living will is lacking at the death of an individual, the family members, other close relatives or friends may decide; the donation of non-regenerative bodily elements is a lot more restricted than donation/transplantation of regenerative bodily elements.⁴⁷ Also, the views we have encountered in the English Sunni e-fatwas on the use of animal organs for transplantation is in line with international literature: based on the rule of necessity and in the absence of any available alternative, Islamic scholars decide to allow the use of animal organs for transplantation.⁴⁸

We found two important elements in the English Sunni e-fatwas that appear to be new elements. The first element is the fact that in the e-fatwas hardly any reference is made to defining the moment of death, whereas this element seems to be of much greater importance in the international literature.⁴⁹ The second element is the fact that organ donation and blood transfusion can be seen as an ongoing form of charity (*sadiqah jariyah*). This element,

houding van praktiserende Marokkaanse oudere mannen in Antwerpen. PhD diss: Katholieke Universiteit Leuven.

⁴⁶ D. Atighetchi. 2007. *Islamic Bioethics: Problems and Perspectives*. New York: Springer. 168–169; V. Rispler-Chaim. 1993. *Islamic medical ethics in the twentieth century*. Brill: Leiden: 30–43; B. Krawietz, 1999. *Die Hurma. Schariatrechtlicher Schutz vor Eingriffen in die körperliche Unversehrtheit nach arabischen Fatwas des 20. Jahrhunderts*, Dunker & Humlot: Berlin: 191–210.

⁴⁷ D. Atighetchi., *op. cit.* note 44.

⁴⁸ B. Krawietz, *op. cit.* note 44, pp. 187–188.

⁴⁹ V. Rispler-Chaim. *op. cit.* note 44, 33–37.

in combination with the verse Q.5:32 and the sayings of the prophet Muhammad could present Muslims with a very firm basis for a positive attitude towards organ donation and blood transfusion.

CONCLUSION

English Sunni e-fatwas on organ donation and blood transfusion unanimously allow for such operations. While some of the fatwas do not mention any problem whatsoever, the majority of the fatwas allow donation/transplantation and transfusion only conditionally and as an exception in case of necessity. Our findings are very much in line with international Islamic literature on the subject. Still, we found two new elements: debates on the definition of the moment of death are hardly mentioned

in the English Sunni e-fatwas and donation/transfusion can be seen as an ongoing form of charity. In view of the positive evaluation these fatwas give and in view of the worldwide shortage of organs for donation, the importance of these English Sunni e-fatwas must not be underestimated.

Dr. Stef Van den Branden received his PhD in theology from the Catholic University of Leuven (Belgium). His research interest is Islam and end-of-life ethics. Currently he works as a scientific researcher at the Interdisciplinary Centre for the Study of Religion and World View (Catholic University Leuven, Belgium).

Prof. dr. Bert Broeckaert was the first coordinator of the Interdisciplinary Centre for the Study of Religion and World View at the Catholic University of Leuven (Belgium). His main research interests are religious diversity in Belgium and Europe, comparative religious ethics, and end-of-life ethics. He was a member of the Belgian National Bioethics Advisory Commission for four years and serves as ethical adviser to the Flemish Palliative Care Federation.