

Methodological and Discursive Considerations for Developing the Field of Islamic Bioethics

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Abstract

The past two decades have witnessed substantial growth in the academic literature on Islamic bioethics. As more papers are published, and more conferences are held, there is a need to reflect on the conceptual and discursive questions that frame the nascent field. Accordingly, this paper offers an “insider’s” perspective detailing important issues prospective authors should consider when writing on Islamic bioethics. The paper begins by reflecting on the term Islamic bioethics to suggest that authors must carefully weigh the normative and methodological implications of uniting the disparate discourses represented by the conjunctive term. Next, the paper describes lacunae in the extant academic literature on Islamic bioethics. These gaps, it argues, emerge from the insufficient attention given to the engagement of Islamic discourses

with contemporary bioethics and must be filled in for Islamic bioethics to move beyond theory and into applied bioethics discourse. The paper closes by describing how Islamic bioethics deliberation can transform into a truly multidisciplinary academic field of inquiry.

Key Words: Religion, Medical Ethics, Ethics Discourse, Muslim, Narrative Review

Background

Many factors have resulted in a growing interest in “Islamic” bioethics. The global Muslim population continues to grow steadily, and since Muslims, on average, tend to be religiously oriented, this population of patients, physicians, and policy-makers thirst for religious guidance on biomedical issues.[1, 2] As universities, think tanks, and policy institutes in the Muslim world take action to overcome the scientific knowledge and technological gaps between themselves and the so-called “West,” the resulting increased interaction with biomedicine and biotechnology has also made bioethics a critical area of focus. At the same time, European and American educational and scientific institutions have taken root in Muslim-majority nations. These cultural exchanges have led some to examine whether the ethical values implicitly connected with the research and educational aims of these bodies cohere with Muslim culture and Islamic norms.[3-5]

Consequently, Islamic bioethics has been a hot topic of conversation in the academy, and a body of literature has developed around it. In the past ten years or so, Islamic bioethics conferences have been held at Penn State, the University of Michigan, Yale, the University of Florida, and the University of Chicago. Similarly, on the global scene, institutions such as Haifa University in Israel, Ankara University in Turkey, Georgetown in Qatar, the University of Hamburg in Germany, and the International Islamic University in Malaysia have also dedicated conferences to the field. Capitalizing upon this scholarly interest, leading academic journals such as the Journal of Bioethics[6], Eubios Journal of Asian and International Bioethics[7], Theoretical Medicine and Biomedicine[8], Die Welt des Islams[9], the Journal of Religion and Health[10], and Zygon[11] have all published on thematic issues on Islamic bioethics in recent years. Furthermore, the Kennedy Institute of Ethics has created a resource library titled Islamic

Medical and Scientific Ethics[12], and Oxford University Press is presently publishing an Encyclopedia of Islamic Bioethics[13]. These ventures collectively transform Islamic bioethics into a proper academic field of study.

Within the burgeoning literature, writers on Islamic bioethics have taken varied approaches to making normative claims, engaging with fields outside of medicine and Islamic law, and in crafting outputs that speak to patients, clinicians, researchers, healthcare organizations, and policy-makers. As Islamic bioethics voices multiply, they add to a cacophonous symphony. A casual observer of the literature would glean that the discourse appears unsure of its methods and aims as authors promulgate, either implicitly or overtly, different visions for Islamic bioethics. Writers mark out different types of sources and arguments to authenticate the “Islamic” portion of bioethics [14], and many pieces remain ambiguous about whether Islamic bioethics is part of, or stands apart from, contemporary global bioethics.[15] Regardless of its limitations, Islamic bioethics-related papers and books service the essential needs of the global Muslim community; the impulse for a religiously-informed ethics for medical practice and health policy, the desire for religious guidance when confronting difficult decisions in healthcare, and the need for “Islamic” source materials to study Muslim encounters with modern science and technology. Beyond Muslim circles, the literature also assists comparative ethics scholars in studying the various approaches to applied bioethics, and furnishes content for the academic debate regarding the place of religion within bioethics.[16-21]

Against this backdrop, any project that seeks to weave together the disparate threads of Islamic bioethical writing into a cohesive research resource, or aims at fashioning Islamic bioethics resources anew, has to confront conceptual questions about the relationship between the “Islamic” and the “bioethical” in their project. Simultaneously such ventures, in so far as

they insert themselves into bioethics debates, also need to account for historical factors that led to the development of modern bioethics, the philosophical and theological underpinnings of current medical practice, and the social contexts that impact those who seek Islamic bioethics resources. Indeed, inadequate attention to these issues contributes to the fragmented and atomistic nature of much of Islamic bioethics writing.

Consequently, this paper tackles some of these important considerations. I begin with a reflection on the term Islamic bioethics, and its normative and discursive implications. As far as the growing field of Islamic bioethics addresses contemporary bioethical issues, I argue that it must fully engage the historical, social, and cultural factors shaping that discourse and offer a vision of what Islamic bioethics is. The next part of the paper specifies some critical relationship gaps in the literature. I contend that filling these gaps is critical for Islamic bioethics to move beyond a theoretical construct and contribute fully to applied bioethics deliberation. In my closing comments, I suggest how Islamic bioethics can merge into a multidisciplinary academic field.

In developing this paper's "insider's" perspective, I draw upon narrative reviews of the Islamic bioethics literature [22-24], critical discourse analyses of the field [25-27], and my editorial experiences with reviewing and commissioning Islamic bioethics-related pieces for multiple journals.

The Nature of Islamic Bioethics Discourse

As noted above, much ink is being spilled writing on Islamic bioethics. Shanawani and Khalil undertook a review of Medline over a decade ago to quantify a portion of this resulting academic literature. The search terms "Islam or Muslim or Arab" and "Bioethics" uncovered 497

articles published between 1950-2005 relating to these key terms. Out of these, they considered 112 to focus on Islamic bioethical perspectives.[28] Today, the same search string yields over three times as many articles, marking an exponentially growing literature. While pairing search terms related to Islam and to bioethics uncovers a literary genre, what sort of relationship between Islam and bioethics do the papers try to offer?

Differing visions for “Islamic Bioethics”

There are many ways to relate Islam and bioethics, and authors use Islamic bioethics to mean different things. For some, Islamic bioethics refers to the decrees of Islamic jurists writing on the ethico-legal permissibility of participating in some therapeutic exercise. For others, Islamic bioethics is attached to a traditional form of healing that emerged in medieval Muslim lands and thus is sourced in scriptural sources and cultural practices. Others contend that there is no unifying “Islamic” bioethics per se; rather, Muslims interpret and live out their tradition in diverse ways when confronted with bioethics issues. These diverse views on what constitutes Islamic bioethics betrays more profound divergences on the nature of the “Islamic” content and about the scope and features of contemporary bioethics. In what follows, I would like to offer several conceptual frames through which Islamic bioethics can be viewed, and how these distinct visions implicate the content and character of Islamic bioethics writing.

To begin with, one could see Islamic bioethics as *Islam visiting contemporary bioethics*. In this view, contemporary bioethics becomes the addressee of Islamic authorities and theoreticians. The *nature* of bioethics as a multidisciplinary field with multiple tiers of ethical concern, including the political and legal, is not the primary concern of the addressor. Instead, the chief concern is to respond to dominant ethical views in bioethics. So, for example, since contemporary bioethics primarily operates out of the four-principle model of Beauchamp and

Childress, Islamic scholars and Muslim thinkers assess whether the four-principle model is compatible with Islamic ethics [29-31], or offer an alternative principle-based model from within the Islamic moral tradition.[32-34] Similarly, when a “hot topic” is being debated in the bioethics community, Muslim thinkers rush to fashion some Islamic argument for, or against, the use of that technology. This sort of Islamic bioethics is reactive to the methods and outputs of contemporary bioethics discourses. I term this sort of Islamic bioethics a *visitor* model.

Another vision for Islamic bioethics sees it as an outgrowth of traditional Islamic moral discourses. In other words, it simply represents a special concern within conventional Islamic ethical and legal writings. Hence, the chapters on medicine found within canonical collections of the Prophet Muhammad’s sayings and other scriptural sources are the source of “Islamic” values for bioethics. Accordingly, the writings of Islamic jurists who interpret and apply scriptural values to make determinations about the moral status of medicine and healthcare represent the hallmark output of Islamic bioethics.[35] For the sake of simplicity, I would term this version of Islamic bioethics the *native* model.

While the aforementioned visitation model leaves the nature of contemporary bioethics largely unaddressed, the native model leaves the nature of Islamic ethical and legal inquiry largely undisturbed. Traditional Islamic moral authorities continue to ply their trade and deploy classical ethico-legal constructs and moral reasoning exercises to bioethics questions on an as-needed, ad hoc basis. The distinction between the visitor and native models becomes more apparent when we consider the primary concerns of each. The former seeks to respond to developments in bioethics, while the latter is concerned with the continuity of tradition and the ultimate salvation of Muslims. To be sure, a connection between the two is seen when an Islamic juridical body is asked to issue an edict on the latest bioethics controversy. Yet beyond

the surface, the differences are made visible when we consider the respective motivations of the actors involved. In this scenario, the jurist's primary concern is to offer Muslims religious guidance so they can rightly order Muslim lives. At the same time, the bioethics stakeholder who brings the issue up to the juridical authority seeks Islamic *responsa* to address developments in medicine, healthcare, and bioethics. In this way, the jurist acts out the native imperative, while the clinician/policy-maker lives out the visitation model.

Both the visitor and native models are first-generation models for engagement between Islam and bioethics. One introduces Islamic juridical decrees into bioethics literature, and the other brings specific bioethical questions into Islamic moral deliberation. Against these two somewhat over-simplified models stand second-generation models for engagement. These seek to produce a discourse that advantages itself of the normativity of the Islamic ethico-legal system yet also recognizes the multi-disciplinary and multi-layered nature of bioethical inquiry.[9, 36, 37] Islamic bioethics outputs arising out of this vision take neither the traditional modes of Islamic ethical reasoning, nor the nature of contemporary bioethics, as a given. Instead, they push both domains to innovate and evolve. For example, traditional modes of Islamic moral reasoning might be extended to incorporate multidisciplinary perspectives on the good and beneficial. At the same time, the authority of public reason over scriptural values in contemporary bioethics deliberation is subjected to critical scrutiny. This vision thus aims to secure a space for Islamic bioethics within the house of traditional Islam and within the bioethics academy.

Although the three perspectives on Islamic bioethics I outline above are not exhaustive, and somewhat overlap, they provide a helpful schema through which to analyze the Islamic bioethics literature, and highlight conceptual questions that necessarily frame the discourse.

Moreover, a defining vision is the critical first step needed for developing Islamic bioethics into a cohesive field of inquiry and academic discipline. Thus both constructive theoreticians and descriptive researchers alike need to consider these differing visions as they engage with Islamic bioethics.

Key Terms: Islamic Bioethics, Muslim Bioethics, and Applied Islamic Bioethics

Before describing lacunae in literature, I would like to offer another set of terms that can aid in analyzing the literature. I consider Islamic bioethics to be a discourse that uses the Islamic tradition to address moral questions and ethical issues arising out of the biomedical sciences and allied health practice. It is anchored to the ethico-legal sciences of Islam, which in turn ground the moral guidance and ethical opinions rendered. Accordingly, Islamic bioethics considers scripture and tradition, along with the associated class of scholars of both, to be sources of normativity. Muslim bioethics, in my view, represents the sociological and anthropological study of how Muslims act when encountering moral challenges and ethical questions related to medicine and biotechnological advances. Within Muslim bioethics, the “normative” is a descriptive rather than evaluative term. Said another way, Islamic bioethics concerns itself with the study of Islamic scriptural texts and moral traditions along with those who produce ethico-legal guidance based on these sources. Muslim bioethics studies human actors who may or may not engage these texts, traditions, and rulings while facing bioethical dilemmas.

I draw this distinction because I consider that when one invokes the term “Islamic” to describe a field, one is attempting to move beyond the anthropological/sociological, i.e., the individual Muslim actor, to study the lived tradition and its source proper. In other words, by attaching the label “Islamic,” one seeks to move out from the human construct and tap into a

transcendent ground of meaning, e.g., revelation. While this rhetorical move might allow for classifying studies about the organ transplantation practices of Muslims in Malaysia as *Muslim bioethics*, and studies into religious texts commenting on organ transplant as *Islamic bioethics*, I recognize that the dividing line is not a sharp one. For example, a researcher might study the transplantation attitudes of Muslims in Malaysia and find that they are heavily influenced by understandings of Islamic scriptural texts and juridical verdicts on the matter. Thus the so-called “Muslim” bioethical attitudes are informed by hermeneutical understandings and traditional Islamic authorities. Such work belongs crosses the line from Muslim to Islamic bioethics.

Recognizing this challenge, I conceive of such work belonging to a subgenre of Islamic bioethics: applied Islamic bioethics. Applied Islamic bioethics, in my view, refers to (i) studies of how Muslims at the ground level, i.e., the end-users, interpret and apply Islamic bioethics rulings, and (ii) how Islamic scholars derive normative values and make moral assessments based on scriptural texts and religious traditions to address bioethics questions. This is somewhat separate from Islam and bioethics as subjects of study, either where rulings are the primary source of study (as in Islamic bioethics) or where peoples and societies are primary sources of study (as in Muslim bioethics). Some scholars, particularly those from religious studies, might argue that the bounding conditions are ambiguous and that since religious traditions are embodied, one cannot divorce the study of the religious texts from the study of the people who interpret and live out those texts. Indeed the ongoing and lively debates about the methods and sources for the study of religion suggest that Muslim vs. Islamic vs. applied Islamic bioethics terminology might be similarly debated as the discourse matures.

Though I admit classifications do not fully resolve ambiguities, I assert that they may at the least differentiate Muslim studies where Muslim is simply a demographic descriptor from

studies where the religious tradition is under study. And in doing so they can help researchers organize and analyze the growing literature.

Constructing the Field of Islamic Bioethics: Important Considerations

Much of the academic Islamic bioethics literature emerges out of the “visitor” model. Fatwa reviews remain the preeminent research method[35, 38-43], despite the methodology having some significant flaws including publication bias and fatwa being contingent by nature.[44] Scholars are increasingly taking a critical eye toward juridical deliberations on bioethics, and these reveal an ad hoc enterprise that often involves incomplete conceptualizations of the ethical problem-space.[25, 27, 45, 46] Moving beyond these attempts and to a second-generation model for Islamic bioethics requires attending to the features and character of contemporary bioethics. In what follows, I highlight important considerations that betray gaps in the present literature to provide entry points for research and innovation in the field.

The historical underpinnings of modern bioethics

As Islamic bioethics theoreticians come into dialogue with contemporary bioethics, a largely secular humanistic discourse, they must acknowledge why the field of bioethics came about. Modern bioethics developed in response to conditions challenging the patient-doctor relationship, and these concerns continue to shape the discourse's character. Specifically, it was a reaction to physicians and researchers who trampled upon the humanity of patients repeatedly.[47, 48] In the research arena, the travesties of Nazi physicians in the concentration camps, the US public health service during the Tuskegee experiments, and researchers at Willowbrook State Hospital attest to physicians and researchers devaluing the dignity of humans by considering them objects, i.e., as simply a means to a (research) end.[49, 50] In clinical care,

it has been widely accepted that physicians in the past often imposed their values about the merits of medical treatment upon patients, and that shared-decision making between the patient and provider was infrequent. This type of paternalistic patient-doctor relationship connotes a lack of respect for the patient's right to self-determination.[51] These deplorable conditions led to the contemporary bioethics movement, its rights-based framework, and its overarching focus on respecting patient autonomy and human dignity.

Islamic bioethics writings generally do not address the patient-doctor or medical researcher-participant relationships in any significant way. While it is true that a classical genre of Islamic ethical literature, *adab* literature, addresses character development and the embodiment of virtues[52], few contemporary writings do so. Similarly, writings on the nature of the patient-doctor relationship as a contractual and/or fiduciary one, or on Islamically-sanctioned models of shared decision-making are all but absent. Likewise, there are but a few attempts at generating a research ethics based on Islamic values.[53-56]

These literature gaps make one wonder what the tradition considers the proper ordering of clinical care and medical research in general and of the patient-doctor-society relationship in particular. The gaps also raise questions about whether such concerns are marginal to the “native” discourse in Islamic ethics and law, and/or whether they are significant enough to comment upon within the “visitor” model. Perhaps more significantly, Islamic bioethics, at least as seen through the lens of the extant literature, seems to miss the mark in critically addressing the nature of bioethical deliberation in contemporary healthcare. What would research and clinical care ethics committees and consultations that are grounded within Islamic bioethics look like? Is the secular *modus operandi* of peer deliberation one that is recognized and valued by the

Islamic tradition? Is public reason a guide towards moral truth in Islam? Such questions are crucial to answer if one desires to offer “Islamic” alternatives to contemporary bioethics.

The theological and philosophical bases of medical practice

A substantial portion of Islamic bioethics writings is tied to *fiqh*.^[22] The science of Islamic jurisprudence, *uṣūl al-fiqh*, is rightly at the center of Islamic bioethics because by attends to the measure of Divine pleasure or reproach within acts. Yet mining the Islamic ethico-legal responsa literature, *fatāwa*, to piece together the field of Islamic bioethics is problematic. “Fatwa-hunting” is a flawed method for gleaning Islamic bioethical norms, partly because it overemphasizes the contingent by conflating the non-binding fatwa with a normative statement or binding decree, *ḥukm*. While these concerns have their place, I also want to draw attention to what motivates *fiqhī* responses. The machinery of *fiqh* is employed with a *telos* in mind. Many Islamic scholars suggest the telos is represented by the *maqasid*, the higher objectives of the Islamic *Shariah*. Traditionally the *maqāṣid* can be used to calibrate and prioritize ethico-legal assessments when the primary Islamic sources *uṣūl* are ambiguous. Some scholars extend this idea further to advocate a *maqāṣid*-based approach to *fiqh* such that the *maqāṣid* remain at the forefront during Islamic ethico-legal deliberation and frame the approaches to assessment.^[57] Both camps have their merit; however both the *fiqh* and the *maqāṣid* insufficiently guide medical practitioners and patients.

Taking the case of end-of-life care, as an example, the *fiqh*, as espoused within many *fatāwa* generally allows physicians to withdraw life support when medical care is deemed futile.^[58-60] At the same time, the *fatāwa* enjoin physicians to not participate in euthanasia and to use all means at their disposal to care for the patient. Islamic bioethics writings often parrot

these juridical decrees without greater theorization. The *fiqh* discussions variably lean on the essential *maqṣad*, the preservation of life (*ḥifẓ al-naḥs*), to bolster the argument for maintaining life-sustaining therapy where practical. Between these two poles, neither the *fatāwa* nor the *maqṣad* assists the physician in deciding what the preservation entails, nor what is considered to be ‘life.’ Practically, they do not address what value Islam attaches to physiological indicators of life, to depressed states of consciousness, and to costs of care, and how these are to be balanced in moral deliberation. Neither do they specify the ethical obligations Muslim physicians have vis. a vis. withholding/withdrawing life support at the request of family members. As such, they leave critical questions unanswered.

In such potential gray zones, Islamic bioethics thinkers may be better positioned and the *fatāwa* better calibrated once an Islamic philosophical and theological conceptualization of medical care is in place. An Islamic theory of medicine that describes the ends of medicine, maps out what sort of life is worth preserving, and defines futile care would appear to be prerequisite for accurate ethico-legal assessment. For example, one may begin to build out such a conceptualization of clinical care and the medical profession by considering it to be the actualization of God’s characteristic of *al-Shafī*, the Healer. Reflecting on the nature of this attribute as one that derives from God’s essential beauty, *jamāl*, rather than His majesty, *jalāl*, may further illuminate what medicine qua healing should look like. One may embellish this conceptualization by looking at how the Qur’an describes the act of healing. This derived theological account of medicine can have an immense bearing upon the field of Islamic bioethics; it would provide a *telos* of Islamic bioethics, help fine-tune the deployment of *fiqh*, and rendering of *fatāwa*, and even shape the moral formation of physicians. Furthermore, this

type of contribution would allow Islamic bioethics to dialogue with other conceptualizations of bioethics, e.g., Christian, that have philosophical and theological underpinnings.

The science and statistics of clinical care

Connected to the necessity of conceptualizing medical practice theologically and philosophically is a need to conceptualize medicine better. The *fatāwa* discourse, for example, often treats medical treatment as operating in a binary realm between acute illness and health, where physicians are viewed as curers using medical therapy to restore health. Such a conceptualization is inaccurate on many levels. Biomedical advances have changed the landscape of medical practice such that managing chronic disease is now the main focus of clinical encounters. Indeed, for many countries, cardiovascular disease and cancer significantly contribute to mortality, both of which are not amenable to one-shot cures.[61-63] The physician's role has shifted from carrying out rapid interventions to save a patient's life to prescribing medicine and behavioral modifications that incrementally improve a patient's quality of life.

Successive biomedical advancements today thus contribute to declinations in mortality in a relatively minor way. For example, consider the treatment of heart attacks. Most of the reduction in mortality from the acute treatment of myocardial infarction is attributed to the development of coronary catheters that disrupt the blood clot impeding blood flow, introduce chemicals to do the same, or pass a stent to bridge the vessel open. These procedures can be truly life-saving, although only most heart attacks are non-lethal. On top of this treatment, pharmaceutical companies continue to develop drugs that facilitate the treatment of heart attacks in the acute setting or reduce the clogging of the coronary blood vessels so as to prevent future

heart attacks. While such drugs reduce the risk of heart attack, and may improve patients' quality of life, it is arguable whether they are life-saving. On the population level, hundreds of individuals need to take such medicines for an extended period before we can attribute one death to have been prevented by these medicines. This calculation, termed the number needed to treat, is part and parcel of evaluating the effectiveness of medical treatments today.

There has been little discussion about such statistics and the probabilistic nature of medical therapy in the Islamic bioethics literature. Instead, Muslim thinkers broadly argue for the permissibility of medications on the premise that they save a patient's life. For example, the permissibility of taking medicines containing normatively proscribed ingredients, e.g., pork, or in the tasking of clinicians to provide normatively-prohibited procedures, e.g., abortion, is based on the idea that the patient's life is at risk.[35, 41, 64-66] Thus, the ethico-legal construct of dire necessity, *darūra*, is used to overturn the normative prohibition. In some instances, this usage may be apropos, however, a more nuanced risk-benefit analysis based on the epidemiological risk profile of patients and the statistical probability of therapeutic efficacy would enhance Islamic bioethical deliberation. Unfortunately, this possibility is mainly out of reach due to the dated imaginary employed by Islamic bioethics theoreticians to evaluate clinical care. A second-generation vision for Islamic bioethics must demonstrate a robust techno-scientific imagination to weigh in on conversations about the ends of medicine and the ethical utilization of medical technologies.

Social scientific findings and political contexts

Contemporary bioethics is a multidisciplinary field where scholars of law, social scientists, historians, clinicians, moral philosophers, and others interact. This is necessarily so

because bioethical questions have multiple dimensions and implicate many sectors of society. Islamic bioethics, thus far, has not mirrored the multidisciplinary approach contemporary bioethics has taken. Instead, both the visitor and the native models privilege clinical science and Islamic legal scholarship beyond all other disciplines. This approach arises from concerns about the normative value of the social sciences and leads to an incomplete characterization of the problem space.

For example, let us consider surrogate decision-making at the end of life. Studies show that most surrogate decision-makers find making choices about the continuation of medical intervention for their loved ones to be highly stressful, and they are troubled by the idea of having to decide what the patient would want.[67-69] This empirical fact should be weighed when considering the appropriate model of surrogate decision-making in end-of-life care. Yet it is unclear how such social scientific facts are incorporated into Islamic bioethics deliberation, and remain unaddressed within the Islamic bioethics literature. Such neglect may stem from the fact that within the traditional *usūl al-fiqh* paradigm such data may enter the ethico-legal assessment only after an interrogation of the primary sources, *usūl*, and as a secondary consideration. Yet this finding represents a potential harm that surrogate-decision makers may suffer, and as such Islamic moral norms would dictate it be removed so far as possible.[70, 71] Without incorporating social scientific data, Islamic bioethics deliberation is, arguably, incomplete.

In the same scenario, the legal and political contexts are also essential to account for. For example, within the United States, legal statutes dictate the order of priority of surrogate decision-makers in the absence of a healthcare power of attorney or living will should a patient lack decisional capacity. Illinois law authorizes the legal guardian, spouse, adult child, parent,

sibling, grandchild, and then friend as the surrogate decision-maker in that order.[72] Other states have different schema, and this legal backdrop has implications for Islamic bioethical proclamations. For instance, Islamic law has its own schema for guardianship, *wilāya*, certain individuals are morally liable for the caretaking of others. And as such, they also become surrogate decision-makers when their charge is incapacitated. Just as the academic Islamic bioethics literature is silent on models for healthcare decision-making, it is also mute on the ethics of surrogate decision-making. More importantly, the legal must be considered when Islamic bioethicists provide their opinions on applied bioethics issues. Thus far, such considerations remain unaccounted for by the literature.

Related to the legal contexts are the political contexts of those seeking Islamic bioethics resources. Thus far, the Islamic bioethics writings largely fail to differentiate between the ethical obligations of Muslims living in a Muslim country and those of Muslims living as a minority. There are several reasons why there may be differences in what Islamic ethics requires of its adherents in cases when they have state authority as opposed to when they do not. For one, the determination of an ethical obligation may rest on a determination of capacity to carry out the obligation; in other words, an “ought” implies a “can.” Another reason for a difference in obligations may arise from differences in the patients one cares for. Thus a Muslim physician in a minority status can ask what are their ethical obligations when a non-Muslim patient requests a treatment that she feels is appropriate, but the physician deems religiously proscribed. In Western circles, conscientious objection finds grounding in Christian theology and liberal political theory and has become a flash point for bioethical debate. Islamic bioethics discourse has not yet weighed in on this issue, partly because Islamic bioethics projects do not consider the

interaction between ethical obligations and responsibilities across differing political circumstances.

It bears mention that within Islamic legal discourse, ample attention is given to conceptions of the Islamic state and the responsibilities of Muslims in minority status. The ethico-legal discourse goes even further to attach culpability (sin) and thereby a positive obligation upon Muslims living in a Muslim land to obey state law. Mapping out Islamic bioethics positions that are particular to the political context of Muslims would make it more relevant to the needs of its consumers.

Conclusion

The literature on Islamic bioethics grew out of the needs of many stakeholders- from Muslim patients and providers seeking religious guidance when faced with clinical ethics dilemmas to Muslim nations seeking to create health policy in line with Islamic law. Despite the diversity of needs, the discourse has largely involved Muslim clinicians and Islamic jurists acting out of a *visitor* or a *native* vision for Islamic bioethics. As such, the resulting literature suffers from critical shortcomings in conceptualizing the bioethical problem-space and in the ethical guidance it offers.

Instead of analyzing specific pieces, I have sought to outline general gaps in the academic Islamic bioethics literature. These gaps appear, in my view, because Islamic bioethics theoreticians have yet to envision Islamic bioethics as part of broader bioethics discourses. In other words, there is an inadequate appreciation for the historical development of bioethics, its methods, its role in societies and within the academy, and its disciplinary intersections. What is needed is for Muslim thinkers to develop an approach to bioethics deliberation that is both based

on Islamic moral frameworks and also serves the many roles bioethics serves in society today. Such an Islamic bioethics will be multidisciplinary and multi-layered; it will be able to incorporate scientific data and attend to social contexts while at the same time furnishing ethical resources that are useful to clinicians, patients, policy-makers, and researchers. It will then also be a genuinely worthy contributor to academic bioethics discourses.

Besides vision and an inadequate appreciation for contemporary bioethics, there are other reasons that the current literature gives little attention to the factors I mentioned above. For one, since a good proportion of Islamic bioethics authors are writing from within Muslim societies, it is possible that these Muslims' ethical concerns are different from the non-Muslim founders of modern bioethics. Therefore, for example, Muslims may not be as concerned with the dynamics of the patient-doctor relationship and a lack of attention to the modes of shared-decision making in Islamic bioethics writings results. Differences between the structure of healthcare in Muslim societies and those in Western countries may also play a role in the attention, or inattention, given to the state authorities and health policy considerations within Islamic bioethics discourse. Muslim nations tend to be authoritarian both in terms of governmental structure and in terms of medical culture, as such, the purview of Islamic bioethics projects may be different than those in Western nations. In a related fashion, the lack of a philosophical and theological account of medicine within Islamic approaches to bioethics may stem from the relative weighing of the disciplines within the Islamic tradition. Islamic law is the fountainhead of ethical thinking within Islam, and *uṣūl al-fiqh* is often considered the most robust of the Islamic sciences. Consequently, a crowding out of philosophical and theological thinking within Islamic bioethics is rightly or wrongly a natural consequence of the emphasis on law in Islam.

It would be inaccurate for me to claim that sociologists, historians, and disciplinary experts outside of Islamic law and biomedicine are not contributing to the Islamic bioethics literature. Indeed, there are impressive books and papers related to encounter between Muslims and bioethics penned by scholars in these fields.[73-76] The problem, however, is that these materials remain on the margins of the discourse and are not used as data sources when Islamic authorities deliberate on the bioethical.

In this paper, I have outlined several factors and considerations that seem to be missing in Islamic bioethics discourse. Addressing these factors will require Islamic bioethics projects to expand the circle of those at the discussion table to include others beyond Islamic jurists and physicians. Content experts in the social sciences may have something to offer about the lived experiences of Muslims, modern bioethicists may shed light on the trends in biomedical thinking, epidemiologists and health services researchers may provide granular data about the benefits and harms of medical therapies, and health policy experts may opine about the policy-level concerns Islamic bioethics may need to address. Furthermore, Islamic theologians and philosophers may be able to offer a religious account of healing which informs Islamic bioethical reflection. Multidisciplinary engagement thus is better positioned to map out the moral vision for Islamic bioethics.

Moreover, multidisciplinary will assist with placing Islamic bioethics into dialogue with other bioethical traditions, be they religious or secular, and make the discourse academic. Indeed, academic bioethics incorporates many different subfields and contemporary bioethics discourse likewise is comprised of several different subgenres. Medical ethics, environmental ethics, and animal ethics were all traditionally subsumed under bioethics, and more recent additions include public health ethics, genethics, and biomedical research ethics. Furthermore,

courses on law and policy-making related to biomedicine are often included within bioethics training. Each of these specific areas brings into focus a particular topic and level of analysis. For example, medical ethics is primarily concerned with the clinical domain and focused on resolving ethical issues at the patient-doctor level. Public health ethics, on the other hand, focuses on the health of populations and the ethical underpinnings of public policy. Genethics and animal ethics have special topics of interest but analyze ethical questions at many different levels – individual, institutional, societal, and transnational. Moving beyond the visitor and native models and into dialogue with contemporary bioethics requires Islamic theoreticians engage with these different bodies of knowledge. To map out the moral they will have to involve scholars who are expert in these scientific fields and employ a multidisciplinary model of bioethical deliberation.

References

1. *Muslim Americans: Middle Class and Mostly Mainstream*. 2007, Pew Research Center: Washington, DC.
2. *The Changing Global Religious Landscape*. 2017, Pew Research Center: Washington DC.
3. Pozo, P.R. and J.J. Fins, *The globalization of education in medical ethics and humanities: evolving pedagogy at Weill Cornell Medical College in Qatar*. *Acad Med*, 2005. **80**(2): p. 135-40.
4. De Vries, R. and L. Rott, *Bioethics as Missionary Work: The Export of Western Ethics to Developing Countries*, in *Bioethics around the Globe*, C. Myser, Editor. 2011, Oxford University Press: New York. p. 3-18.
5. Ypinazar, V.A. and S.A. Margolis, *Western medical ethics taught to junior medical students can cross cultural and linguistic boundaries*. *BMC Medical Ethics*, 2004. **5**(1): p. 4.
6. Ghaly, M., *Islamic Bioethics: The Inevitable Interplay of 'Texts' and 'Contexts'*. *Bioethics*, 2014. **28**(2): p. ii-v.
7. Afshar, A.B.a.L., *Abortion in Different Islamic Jurisprudence: Case Commentaries*. *Asian Bioethics Review*, 2011. **3**(4): p. 351-355.
8. *Special Issue: Islamic Bioethics: Between Sacred Law, Lived Experiences, and State Authority*. *Theoretical medicine and bioethics*, 2013. **34**(2).
9. Clarke, M., T. Eich, and J. Schreiber, *The Social Politics of Islamic Bioethics* ^{SEP}Die Welt des Islams, 2015. **55**(3-4): p. 265-277.
10. Ahmed, M., *Muslims and Medical Ethics: Time to Move Forward by Going Back*. *Journal of Religion and Health*, 2016. **55**(2): p. 367-368.
11. Ghaly, M., *ISLAMIC BIOETHICS IN THE TWENTY-FIRST CENTURY*. *Zygon*®, 2013. **48**(3): p. 592-599.

12. *Islamic Medical and Scientific Ethics*. Available from: <https://bioethics.georgetown.edu/library-materials/bioethics-research-library-databases/islamic-medical-and-scientific-ethics/>.
13. *Encyclopedia of Islamic Bioethics in Encyclopedia of Islamic Bioethics* A. Shabana, Editor. 2018, Oxford University Press: Washington DC.
14. Padela, A.I., *Muslim Perspectives on the American Healthcare System: The Discursive Framing of "Islamic" Bioethical Discourse*. Die Welt des Islams, 2015. **55**(3-4): p. 413-447.
15. Hamdy, S. *Reframing Islamic Bioethics*. Contending Modernities 2013 [cited 2019 March 6].
16. Miller, J.E., *Irreligious Bioethics, Nonsense on Stilts*. The American Journal of Bioethics, 2012. **12**(12).
17. Murphy, T.F., *In defense of irreligious bioethics*. Am J Bioeth, 2012. **12**(12): p. 3-10.
18. Murphy, T.F., *The More Irreligion in Bioethics the Better-Reply to Open Peer Commentaries on [in defense of irreligious bioethics]*. The American Journal of Bioethics, 2012. **12**(12).
19. Parker, J.C., *Irreligious Bioethics-Benefits and Burdens*. The American Journal of Bioethics, 2012. **12**(12).
20. Schuklenk, U., *On the role of religion in articles this journal seeks to publish*. Developing World Bioethics, 2018. **18**(3): p. 207-207.
21. Brody, H. and A. Macdonald, *Religion and bioethics: toward an expanded understanding*. Theor Med Bioeth, 2013. **34**(2): p. 133-45.
22. Padela, A.I., *Islamic medical ethics: a primer*. Bioethics, 2007. **21**(3): p. 169-78.
23. Atighetchi, D., *Islamic bioethics : problems and perspectives*. International library of ethics, law, and the new medicine v. 31. 2007, New York: Springer. xiii, 375 p.
24. Al-Bar, M.A. and H. Chamsi-Pasha, *Contemporary bioethics*. Islamic Perspective, 2015.
25. Padela, A.I., H. Shanawani, and A. Arozullah, *Medical experts & Islamic scholars deliberating over brain death: gaps in the applied Islamic bioethics discourse*. Muslim World, 2011. **101**(1): p. 53-72.
26. Padela, A.I., *Muslim Gazes upon the American Healthcare System: The Discursive Framing of "Islamic" Bioethical Discourse*. Die Welt des Islams, 2015.
27. Padela, A., *Islamic Verdicts in Health Policy Discourse: Porcine-based Vaccines as a Case Study*. Zygon, 2013. **48**(3): p. 655-670.
28. Shanawani, H. and M.H. Khalil, *Reporting on "Islamic Bioethics" in the Medical Literature*, in *Muslim Medical Ethics: From Theory to Practice*, J. Brockopp and T. Eich, Editors. 2008, University of South Carolina Press: Columbia, South Carolina. p. 213-228.
29. Aksoy, S. and A. Elmai, *The core concepts of the 'four principles' of bioethics as found in Islamic tradition*. Medicine and Law, 2002. **21**(2): p. 211-224.
30. Aksoy, S. and A. Tenik, *The 'four principles of bioethics' as found in 13th century Muslim scholar Mawlana's teachings*. BMC Medical Ethics, 2002. **3**: p. E4.
31. Ghaly, M., *Islamic perspectives on the principles of biomedical ethics : Muslim religious scholars and biomedical scientists in face-to-face dialogue with western bioethicists*. Intercultural dialogue in bioethics. 2016, Covent Garden, London ; Hackensack, NJ: World Scientific, Imperial College Press. xvii, 430 pages.
32. Sachedina, A., *The Search for Islamic Bioethics Principles*, in *Principles of Health Care Ethics*, R.E. Ashcroft, Editor. 2007, John Wiley & Sons: Hoboken, NJ. p. 117-125.
33. Sachedina, A., *Islamic biomedical ethics : principles and application*. 2009, Oxford ; New York: Oxford University Press. viii, 280 p.
34. Saifuddeen, S.M., et al., *Maqasid al-shariah as a complementary framework to conventional bioethics*. Sci Eng Ethics, 2014. **20**(2): p. 317-27.
35. Rispler-Chaim, V., *Islamic Medical Ethics in the Twentieth Century*. 1993: Brill. 172.

36. Schreiber, J., *Politics, Piety, and Biomedicine: The Malaysian Transplant Venture*. 2017: transcript Verlag.
37. Brockopp, J.E., *Islam and Bioethics: Beyond Abortion and Euthanasia*. Journal of Religious Ethics, 2008. **36**: p. 3-12.
38. Shabana, A., *Paternity between Law and Biology: The Reconstruction of the Islamic Law of Paternity in the wake of DNA Testing*. Zygon, 2012. **47**(1): p. 214-239.
39. Ghaly, M., *The Beginning of Human Life: Islamic Bioethical Perspectives*. Zygon, 2012. **47**(1): p. 175-213.
40. Ghaly, M., *Organ donation and Muslims in the Netherlands: A transnational fatwa in focus*. Recht Van De Islam, 2012. **26**: p. 39-52.
41. Isa, N.M., *Darurah (Necessity) and Its Application in Islamic Ethical Assessment of Medical Applications: A Review on Malaysian Fatwa*. Science and Engineering Ethics, 2015. **22**(5): p. 1319-1332.
42. Branden, S.V.D. and B. Broeckaert, *The ongoing charity of organ donation. Contemporary english sunni fatwas on organ donation and blood transfusion*. Bioethics, 2011. **25**(3): p. 167-175.
43. Van den Branden, S. and B. Broeckaert, *Living in the hands of God. English Sunni e-fatwas on (non-) voluntary euthanasia and assisted suicide*. Medicine, Health Care and Philosophy, 2011. **14**(1): p. 29-41.
44. Padela, A.I., et al., *Using Fatawa within Islamic and Muslim bioethical discourse: the role of Doctrinal and Theological considerations- A Case Study of Surrogate Motherhood, in Islam and Bioethics*, B. Arda and V. Rispler-Chaim, Editors. 2011, Ankara University Press.
45. Ghaly, M., *Biomedical Scientists as Co-Muftis: Their Contribution to Contemporary Islamic Bioethics*. Die Welt des Islams, 2015. **55**(3-4): p. 286-311.
46. Padela, A.I. and R. Duivenbode, *The ethics of organ donation, donation after circulatory determination of death, and xenotransplantation from an Islamic perspective*. Xenotransplantation, 2018. **25**(3): p. 1-12.
47. Jonsen, A.R., *The birth of bioethics*. Hastings Center Report, 1993. **26**(6): p. S1-S16.
48. Jonsen, A.R., *A Short History of Medical Ethics*. 2000, New York: Oxford University Press.
49. Jonsen, A., *Experiments Perilous: The Ethics of Research with Human Subjects*, in *The Birth of Bioethics*. 1998, Oxford University Press: New York.
50. Fox, R.C. and J.P. Swazey, *Observing Bioethics*. 2008, New York: Oxford University Press.
51. Veatch, R. and C. Spicer, *Against Paternalism in the Patient-Physician Relationship*, in *Principles of Health Care Ethics*, R. Gillon, Editor. 1994, John Wiley & Sons. p. 409-419.
52. Sartell, E. and A.I. Padela, *Adab and its significance for an Islamic medical ethics*. J Med Ethics, 2015. **41**(9): p. 756-61.
53. Suleman, M., *Contributions and ambiguities in Islamic research ethics and research conducted in Muslim contexts: a thematic review of the literature*. Journal of Health & Culture, 2016. **1**(1): p. 46.
54. Suleman, M., *Biomedical Research Ethics in the Islamic Context: Reflections on and Challenges for Islamic Bioethics*. Islamic Bioethics: Current Issues And Challenges, 2017. **2**: p. 197.
55. Rattani, A. and A.A. Hyder, *Developing an Islamic Research Ethics Framework*. Journal of religion and health, 2017: p. 1-13.
56. Alahmad, G. and K. Dierickx, *What do Islamic institutional fatwas say about medical and research confidentiality and breach of confidentiality?* Developing world bioethics, 2012. **12**(2): p. 104-112.
57. Auda, J., *Maqasid al-shariah as philosophy of Islamic law : a systems approach*. 2008, London ; Washington D.C.: International Institute of Islamic Thought. xxviii, 347 pages.

58. *Islamic Perspectives on Withdrawing or Withholding Life Support: An Example of Collaboration between Jurists and Physicians*, in *Society for the Scientific Study of Religion*. 2014: Indianapolis, Indiana.
59. Albar, M.A. and others, *Seeking remedy, abstaining from therapy and resuscitation: an Islamic perspective*. Saudi Journal of Kidney Diseases and Transplantation, 2007. **18**(4): p. 629.
60. Al-Bar, M.A. and H. Chamsi-Pasha, *Contemporary bioethics: Islamic perspective*. 2015, Cham: Springer.
61. Fitzmaurice, C., et al., *Global, regional, and national cancer incidence, mortality, years of life lost, years lived with disability, and disability-adjusted life-years for 32 cancer groups, 1990 to 2015: a systematic analysis for the global burden of disease study*. JAMA oncology, 2017. **3**(4): p. 524-548.
62. *The top 10 causes of death*. Fact Sheets 2014 [cited 2016 Nov 10]; Available from: <http://www.who.int/mediacentre/factsheets/fs310/en/>.
63. Heron, M.P., *Deaths: Leading causes for 2016*. National Vital Statistics Reports, 2018. **67**(6).
64. Padela, A.I., et al., *Dire necessity and transformation: entry-points for modern science in Islamic bioethical assessment of porcine products in vaccines*. Bioethics, 2014. **28**(2): p. 59-66.
65. Hathout, H., *Abortion and Islam*. Bull Soc Liban Hist Med, 1992(3): p. 85-9.
66. Al-Kawthari, M.i.A., *Birth control & abortion in Islam*. 2006, Santa Barbara, Calif.: White Thread Press.
67. Handy, C.M., et al., *The surrogate's experience in authorizing a do not resuscitate order*. Palliative & supportive care, 2008. **6**(1): p. 13-19.
68. Sulmasy, D.P., et al., *A prospective trial of a new policy eliminating signed consent for do not resuscitate orders*. Journal of general internal medicine, 2006. **21**(12): p. 1261-1268.
69. Azoulay, E., et al., *Risk of post-traumatic stress symptoms in family members of intensive care unit patients*. American journal of respiratory and critical care medicine, 2005. **171**(9): p. 987-994.
70. Sachedina, A., *"No Harm, No Harassment": Major Principles of Health Care Ethics in Islam*, in *Handbook of Bioethics and Religion*, D.E. Guinn, Editor. 2006. p. 265-289.
71. Qureshi, O. and A. Padela, *WHEN MUST A PATIENT SEEK HEALTHCARE? BRINGING THE PERSPECTIVES OF ISLAMIC JURISTS AND CLINICIANS INTO DIALOGUE*. Zygon, 2016. **51**(3): p. 592-625.
72. *Illinois Health Care Surrogate Act*. 1998: United States.
73. Hamdy, S.F., *Our bodies belong to God : organ transplants, Islam, and the struggle for human dignity in Egypt*. 2012, Berkeley: University of California Press. xxiv, 342 p.
74. Moazam, F., *Bioethics and organ transplantation in a Muslim society : a study in culture, ethnography, and religion*. Bioethics and the humanities. 2006, Bloomington: Indiana University Press. x, 264 p.
75. Clarke, M., *Islam and new kinship: Reproductive technology and the Shariah in Lebanon*. Vol. 16. 2009: Berghahn Books.
76. Ragab, A., *The medieval Islamic hospital: medicine, religion, and charity*. 2015: Cambridge University Press.