



Session 2: Research Methods, Outputs & Producer Roles in Islamic Bioethics Summary



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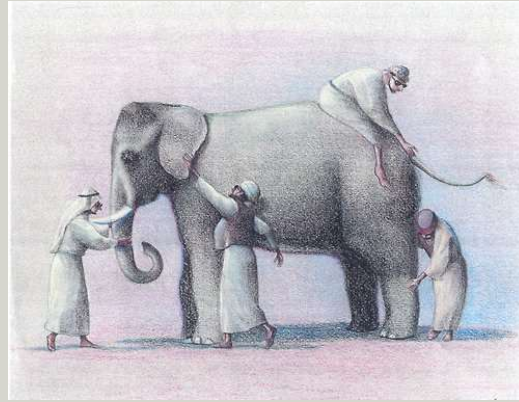
Focus Questions

- What are the cognitive frames and biases of specific *producers* of Islamic bioethics?
- What are the limitations of *fatwa research*, *Medline reviews*, and *uṣūlī* approaches to understanding Islamic bioethical perspectives?

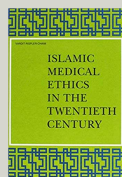
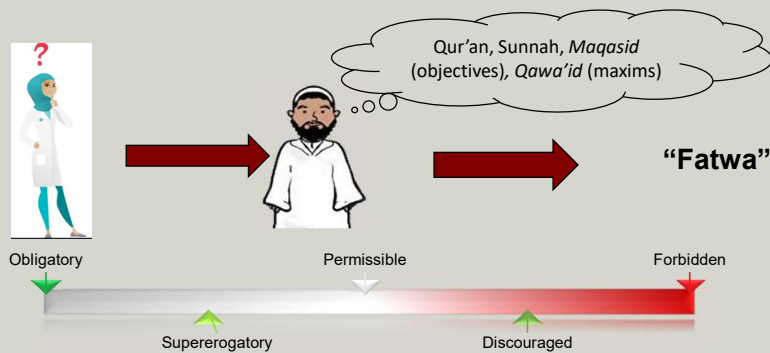


Limitations of Research Methods & Materials

- *Uṣūlī* → *ḥukm*
- Fatwas & *qararāt*
- Biomedical literature [Medline]



What are Islamic bioethical views on?



Problems with Fatwa Discourse & Research

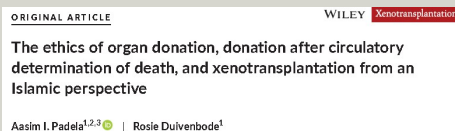


- Limitations of Normativity
 - By defⁿ Contingent morality/ non-ideal
 - Contextually derived & driven
 - Purposefully 'strained' reasoning → eclectic methods
- Limitations of Research Method
 - Publication bias
 - Sampling error
 - "Seeing part for the whole" – incomplete morality
- Limitations of Application
 - Imprecise
 - Errors in problem-space conceptualization
 - Perceived lack of importance to MDs



Three broad positions

- ◆ Organ donation **is impermissible**, because it violates human dignity (*ḥurma* and *karāma*)
- ◆ Organ donation **is impermissible in principle, but is conditionally permitted** on the basis of dire necessity (*ḍarūra*)
- ◆ Organ donation **is permissible** with several stipulations, because it serves **general public interest** (*maṣlaḥa*)



Rulings

OPEN

Clarification on Islamic Jurisprudence and Transplantation

Andrew C. Miller, MD,¹ Abbas M. Khan, MD,¹ and Amir Vahedian-Azimi, PhD²

TABLE 1

Summary of Islamic fatawa regarding the permissibility of transplantation

Y	Source	Sect	Permissible	Notes	Citation
1950	Sheikh Hassan Marwan, Grand Mufti, Egypt (Fatwa no. 1054)	Sunni	Conditional	Deceased donor corneal transplants	17
1960	Sheikh Hamed, Grand Mufti, Egypt (Fatwa no. 88)	Sunni	Yes	Extended your ruling to other organs	18
1960	Muhammad Shaf'at (1957–1976), Pakistan	Sunni	No		19
1960	International Islamic Conference (Makkah)	Sunni	Yes		20
1972	Algeria Supreme Islamic Council	Sunni	No		21
1973	Islamic Religious Council of Singapore	Sunni	No		22
1973	Sheikh Khazim, Grand Mufti, Egypt	Sunni	Conditional	Allowed removing skin from unidentified corpses	23
1978	Iranian Ulama (31: 471942) (20: 1275)	Sunni	Conditional	Bone and teeth	24
1979	Grand Ayatollah Sayyid Ali Khamenei (Fatwa no. 10)	Sunni	Conditional	Deceased donor corneal transplants	25
1979	Grand Mufti Sa'ad al-Hadi, Grand Mufti, Egypt (Fatwa no. 1323)	Sunni	Conditional	Live and deceased donor transplantation if donated freely. Organ retrieval: High for unidentified corpse requires investigation into	26
1980	Kuwait Ministry of Charitable Endowments (Fatwa no. 13279)	Sunni	Yes	Live and deceased donor transplantation	27
1982	The Supreme Council of Shari'a in Riyadh (Fatwa no. 98)	Sunni	Yes	Sanctioned autografts unconditionally; live and deceased transplants: Ban for majority	28
1985	Islamic Religious Islamic Council of Singapore	Sunni	Yes		29
1987	Islamic Fiqh Academy of the Muslim World League (Decision no. 2, 1987 session)	Sunni	Yes	Endorsed all prior fatwas on organ transplantation	30
1988	Fourth International Conference of Islamic Jurists (Resolution no. 7)	Shi'a and Suni	Yes	Endorsed all prior fatwas on organ transplantation, clearly rejected organ trafficking, deceased autograft	31
1990	Seventh International Conference of Islamic Jurists (Decision no. 54/545, 58/585)	Shi'a and Suni	Conditional	Discussed transplantation from embryos, HF projects, nerve tissue (including xenografts), anatomic donors, and prohibited grafted transplantation	32
1997	Sheikh Muhammad Khalaf al-Dhawi	Sunni	No		33
1999	Ayatollah Ali al-Sayid Ali al-Husseini al-Sayid	Shi'a	Yes	Live and deceased donor transplantation, and xenografts from animals considered unclear	34
1999	Grand Ayatollah Muhammad Taqi al-Bayhaqi (Question no. 24)	Shi'a	Conditional	Deceased donor transplantation is permissible if donor is non-Muslim, and it is a blessing for recipient	35
2000	Grand Ayatollah Hossein Vahid Khosravi (Question no. 2884)	Shi'a	Conditional	Deceased donor transplant is only permissible if blessing, if performed their death must be painless	36
2000	Grand Ayatollah Sayyid Ali Muhammad Dastgheibi (Question no. 2388)	Shi'a	Conditional	Deceased donor transplantation is permissible, but organ must be paid	37
2000	Marwa'at.net (Fatwa no. 82248)	Sunni	Yes	Live and deceased donor transplantation, and xenografts with exception of porcine	38
2001	Shahin Ahmad Khatib	Sunni	Yes		39
2001	Grand Ayatollah Hossein Nasir Hamadani (Question no. 888)	Shi'a	Conditional	It is lawful for Muslims to receive transplants from non-Muslim donors if the donor is of the "right of Allah"	40
2002	Grand Ayatollah Muhammad Baqir Jabali (Question no. 2697)	Shi'a	Conditional	Deceased donor transplant if blessing	41
2002	Grand Ayatollah Hossein Ali Montazeri (Question no. 278)	Shi'a	Conditional	Deceased donor transplant from Muslim donor	42
2002	Marwa'at.net (Fatwa no. 84769)	Sunni	Yes		43
2003	Islamic Fiqh Academy of the Muslim World League (Decision no. 3, 17th session)	Sunni	Conditional	Permits using leftover pre-embryos for stem cell research and treatment of serious ailments	44
2003	Marwa'at.net (Fatwa no. 85214)	Sunni	Yes		45
2003	Grand Ayatollah Mohammad Baqir al-Husseini (Question no. 158)	Shi'a	Conditional	Permissible if donor is Muslim and it is a blessing	46
2004	Grand Ayatollah Sayyid Ali Sadeq (Question no. 85)	Shi'a	Yes	If blessing for recipient	47
2005	Grand Ayatollah Husayn Ali Sadeq (Question no. 248)	Shi'a	Yes	Permissible among and between Muslims and non-Muslims	48
2006	Grand Ayatollah Mirza Javad Bafqer	Shi'a	No		49
2006	Grand Ayatollah Mohammad Taqi Lankarani (Question no. 375)	Shi'a	Conditional	Permissible if blessing for recipient, and donor is not approached after the transference or subsequent loss	50
2007	Grand Ayatollah Mohammad Reza Behnamani (Question no. 243)	Shi'a	Yes	Permissible among and between Muslims and non-Muslims	51
2008	Iran Medical Council (Fatwa no. 16796)	Sunni	Yes	If done within the prescribed limits of the Shari'ah	52
2009	European Council for Fatwa and Research (Second collection, resolution 28)	Sunni	Yes		53
2010	Grand Ayatollah Sayyid Ali Khamenei (Question no. 1202)	Shi'a	Conditional	Deceased donor transplant if donor gave prior consent, the donor's death is not hastened, and the transplant is blessing	54
2012	Grand Ayatollah Hossein Momen Shari'at (Question no. 282, 283)	Shi'a	Conditional	Permitted if done recipient from death or major illness	55
2013	Grand Ayatollah Sayyid Ali Hossein Khamenei (Question 12008)	Shi'a	Conditional	If donor is non-Muslim and it is a blessing	56
2018	Marwa'at.net (Fatwa no. 122088)	Sunni	Conditional	Xenograft (including porcine) is permissible if no pure alternative exists and it is the only remedy	57
2018	FDW	Shi'a and Suni	Conditional	Prohibited organ selling, if considerable harm to donor, reproductive organs or long-term of old organ, religious interest concerned, deceased donation only after death by cardiac determination	58

Disagreements exist regarding transplantation *fatawa*. Of 42 identified *fatawa* (Table 1), 23 were Sunni (13 permissible, 7 conditional, 3 prohibited), 16 were Shi'a (4 permissible, 11 conditional, 1 prohibited), and 3 were joint Sunni/Shi'a (1 permissible, 2 conditional). Thirty-six (86%) of *fatawa* permit organ donation conditionally or unconditionally.

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

STEF VAN DEN BRANDEN AND BERT BROECKAERT

Results: All 70 fatwas allow for organ donation and blood transfusion. Autotransplantation is no problem at all if done for medical reasons. Allog-

Transplantation != donation;
Numerology != normativity;
Not all fatwas are of same 'weight'

Juridical Academies

- Process = Collective *ijtihād*
 - Religious scholars, Biomedical scientists, and other stakeholders → judicial decree
- Rationale:
 - Diverse experts allow for overcoming individual gaps in knowledge
 - Group deliberation brings different religious perspectives into dialogue

Examples:

- IFA-MWL (Makkah)
- IFA-OIC (Jeddah)
- IOMS (Kuwait)
- JAKIM (Malaysia)
- FCNA (USA)



Case Illustration: Vaccines, Porcine Components & Big PHARMA



ISLAMIC VERDICTS IN HEALTH POLICY DISCOURSE: PORCINE-BASED VACCINES AS A CASE STUDY

by Aasim I. Padelá

Abstract. In this article, I apply a policy-oriented applied Islamic bioethics lens to two verdicts on the permissibility of using vaccines with porcine components. I begin by reviewing the decrees and then proceed to describe how they were used by health policy stakeholders. Subsequently, My analysis will highlight aspects of the verdict's ethico-legal arguments in order to illustrate salient legal concepts that must be accounted for when using Islamic verdicts as the basis for health policy. I will conclude with several suggestions for facilitating a more judicious use of verdicts in policy-relevant discourse. My analysis is meant to contribute to the dialogue between science and religion, and aims to further efforts at developing health policies that value health while accommodating religious values. In the encounter between the Islamic tradition and global public health, a multidisciplinary dialogue, where Islamic legists become aware of the health policy implications of their ethico-legal pronouncements, and where health policy actors gain a literate understanding of Islamic ethico-legal theory, will lead to verdicts that better meet the needs of patients, health workers, and religious leaders.

bioethics

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DIRE NECESSITY AND TRANSFORMATION: ENTRY-POINTS FOR MODERN SCIENCE IN ISLAMIC BIOETHICAL ASSESSMENT OF PORCINE PRODUCTS IN VACCINES

AASIM I. PADELA, STEVEN W. FURBER, MOHAMMAD A. KHOLWADIA AND EBRAHIM MOOSA



1995 Meeting of IOMS

Can Muslim take medicines/vaccines with porcine components

Baseline Scriptural Norms:

- Prophetic statement
 - “God has not made things that are unlawful (*haram*) for you to consume to be your medicine”
- Verse in the Qur'an
 - “verily it is filthy [fa innahu rijsun]” (6:145)
 - Pig → *najas al-ayn* [majority opinion in Sunni legal schools]
 - All parts are impure

Juridical Reasoning

Argument For Permissibility #1

Exemptions allowed by Prophet

- Wearing of silk for skin diseases
- Camel urine allowed for 1 tribe for medical purpose

→ Necessity renders impermissible things permissible **IS** the operative principle

1. Must be necessary for life
2. Recommended by upright Muslim doctor
3. Contingent on other lawful medicines not being available

Argument For Permissibility #2

Legal Precedent

- Transformation- *Istiḥāla* (impure → pure)
- Medieval construct
 - Swine falling into salt-mine ceases to be swine [Ibn Abedin]
 - Wine turns into vinegar → can drink vinegar

- Basis
 - Change of nature
(*Tabdil al mahiyyat/hal*)



Islamic Organization for Medical Sciences (IOMS)

- 8th & 9th Medical *Fiqh* seminars (1995 & 1997)
 - Ruling on porcine in medications
 - “The Gelatin formed as a result of the transformation of the bones, skin and tendons of a juridically impure animal is pure and...permissible”
 - Reaffirmed pig = *najas* → not permissible to consume/use
 - *Istihāla* for porcine components in medicine → mubah
 - *Istihlak* for porcine enzymes used in medicine → mubah



Health Policy Matters

- Kuwait Ministry of Health
- World Health Organization (WHO)
- Islamic Educational, Scientific, and Cultural Organization [ISESCO]

■ WHO

- 2001: release a letter to “relieve the burden of all Muslims” → “medicine with porcine components is halal by *Istihāla*”
- Sent to
 - “all health ministries”
 - United Nations Children’s Fund (UNICEF)
 - Institute for Vaccine Safety



Fiqh & Policy Discourse

- 2009- Indonesian Ulema Council [MUI]
 - Declare GSK meningitis vaccine *haram* due to pig-related enzymes used in production
 - Indonesian government drops GSK from approved vaccine suppliers
- Problem
 - Saudi Arabia requires vaccine for Hajj
 - 212,000 Indonesian pilgrimages in jeopardy
 - → Dire necessity invoked
- 2010
 - MUI declares Novartis & Tian Yuana meningitis vaccines *halal* (porcine free)



Limitations

- *Istihāla* not universally accepted for porcine
 - Yes- Ḥanafī & Malikī
 - No- Shafī & some Ḥanbalī
- Fatwa caveat not understood:
 - “(we) recommend the necessity of utilizing...(halal) animals for gelatin” → no impact on PHARMA
- Non-normative contingency not acknowledged
 - A ruling based on necessity → drove conditions for necessity to exist
- Fatwa vs. hukm
 - IOMS vs MUI rulings carry different ethico-legal weight

Fatwa → Policy Document

Fiqh Perspective

- The issue
 - Is it halal to take porcine medications & vaccines for Muslims?
- Who is the audience?
 - Muslims
- What marks the Islamic?
 - Justifiable *ḍarūra*

Policy Discourse

- The issue
 - Does pharma need to adjust manufacturing for Muslims?
- Who is the audience?
 - Global community of physicians, pharma, and hospitals
- What marks the Islamic?
 - A porcine medical supply?



Fatwa vs. ḥukm

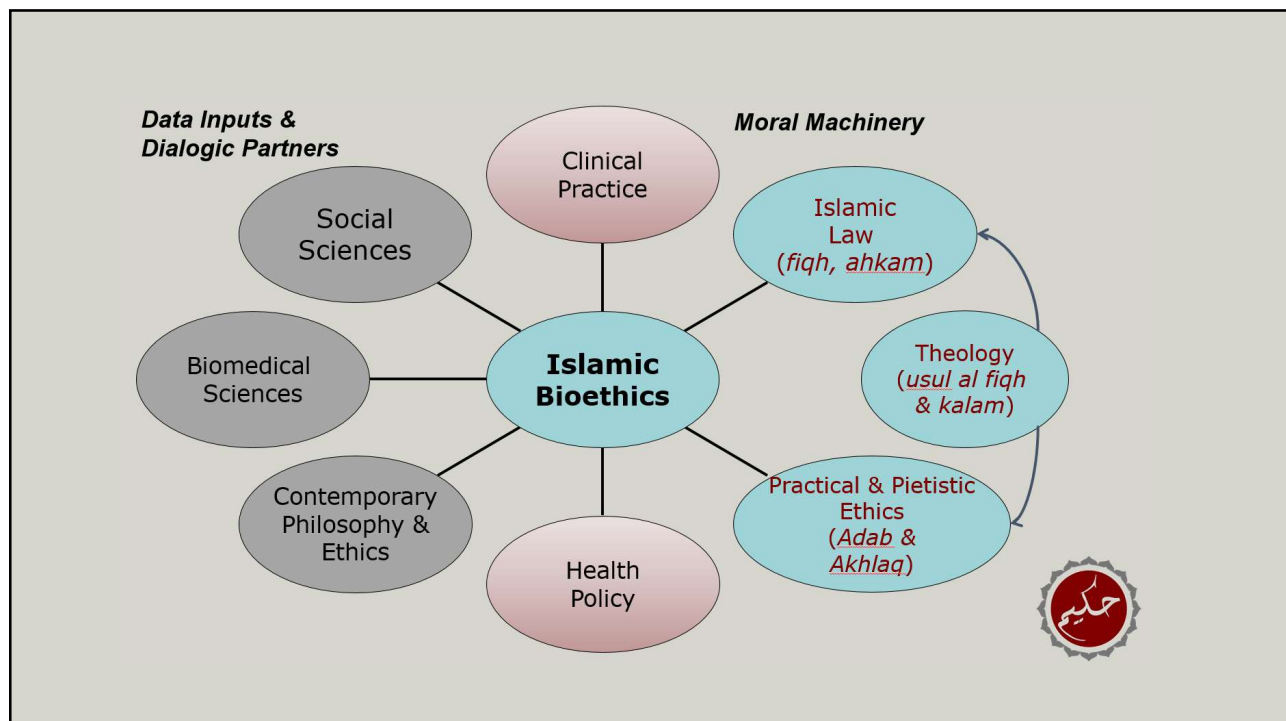
	<i>Fatwa</i>	<i>ḥukm</i>
Binding	No	Yes; Moral (sin) Legal (penal)
Pre-requisites	Training in <i>usul al- fiqh</i>	State authority (<i>hukuma</i>)
Essential Feature	Context-dependent	Governance (<i>wilaya</i>)
English connotation	Recommendation	Law or Rule

- *Fatwa* → *ḥukm* on the back of a Muslim state authority
- IOMS = *Fatwa*; MUI → *ḥukm*
- Types:
 - Uṣūl al-fiqh: *ḥukm al wadi*- enacts a cause or condition; *ḥukm taklīfī* – ethical gradient
 - Siyasa (political-legal): *ḥukm al qadi*
 - Kalam (Theological-Moral): *ḥukm* = Normative goal

al-ḥukm ‘ala shay far’ ‘an taṣawwurihi

○ Implications

- Fiqh Councils need to move to incorporate experts beyond jurists and doctors
- Islamic Bioethics Councils are more than *fiqh* bodies
- Need multidisciplinary perspectives to address the contexts of the question and the social implications of a ruling before deliberating
→ *maṣlaḥa* and *ḍarūra* need to be broadly conceptualized



Insights into the Materials

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National Survey of American Muslim Physicians



Methodology

- Mailed questionnaire (3 waves with cash+book incentives) to random sample of 746 physicians from IMANA in 2013

Results (n=255)

- 85% report being somewhat or very familiar with Islamic bioethics and
- 59% report Islamic bioethics somewhat or greatly influences their practice

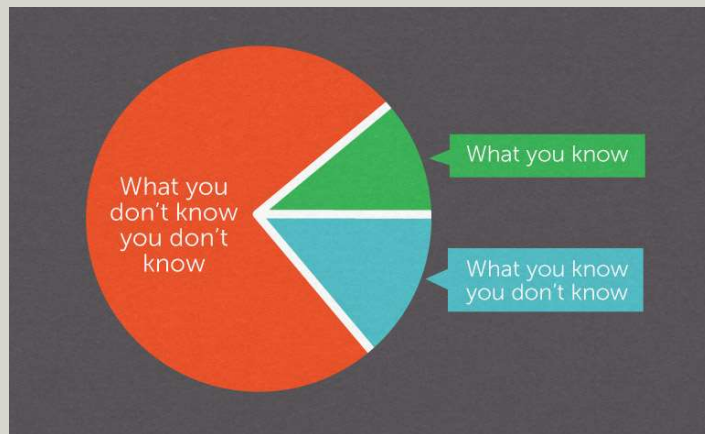


National Survey of American Muslim physicians

55% never or rarely read Islamic bioethics books

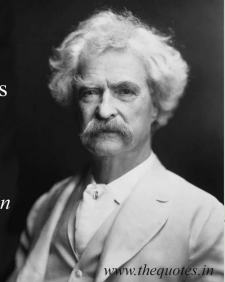
64% never or rarely consult Islamic jurists

79% never or rarely look to Islamic medical fiqh academy verdicts



It ain't what you don't know that gets you into trouble. It's what you know for sure that just ain't so.

Mark Twain



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