

Fiqh in Medical Imaging – A Conceptual Approach Work in Progress

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Introduction

- Historical Perspective of Medical Imaging
- The Concept of Islamisation of Knowledge

Objectives of the Presentation

- To present an overview of Shari'ah, Fiqh and Medical Fiqh.
- To differentiate between Medical Fiqh and Fiqh in Medical Imaging.
- To discuss Maqasid and Qawa'id Al-Shari'ah
- To outline some issues pertaining to fiqh in Medical Imaging

Fiqh

- Definition of Fiqh - Fiqh (Arabic: [فقه] fiqh]) is **Islamic jurisprudence (Islamic rulings / Islamic study of Law)**.
- Fiqh : the knowledge of the detailed rules of Islamic law in the various aspects that affects Man.
- Fiqh is an expansion of the code of conduct (Shari'ah) expounded in the Quran, often supplemented by the traditions (Sunnah) and implemented by the rulings and interpretations of Islamic jurists.
- Deals with observance of rituals, morals and social legislation

- Hence, Fiqh represents the formulated legal ruling on a subject matter and/or the moral value assigned to a particular action. (Padela 2007)
- Simply, Fiqh denotes the do's and the don'ts in Islam.
- Provides a guidance in contemporary / day to day issues not addressed in the Qur'an and Hadith.

Difference between Fiqh (Islamic Law) and Usul Al-Fiqh (Islamic Jurisprudence)

- Fiqh : the knowledge of the detailed rules of Islamic law in matters that has an influence of Man's day-to-day activities.
- Usul Al-Fiqh: the methods that are applied in the deduction of such rules from their sources (Qur'aan and Hadith).
- In other words: *Fiqh*, is the law itself whereas *usul al-fiqh* is the methodology of the law

Classifications (The 5 Islamic Laws):

- Obligatory (Wajib)
- Desirability or recommended (Sunat) or supererogatory
- Simple Permissibility (Harus)
- Undesirability or offensive (Makruh)
- Prohibition (Haram).

Some topics in Islamic Law

- Purification
- Prayer
- Funeral prayer
- Alms
- Fasting
- Pilgrimage
- Trade
- Marriage
- Inheritance
- Divorce
- Leaving Islam/Apostasy
- Dietary
- ## and matters related to the above

What about matters involved in
Medical Imaging?

Importance of Islamic Law

- As a guidance to facilitate man.
- As a reminder to Man.
- Achieving benefit and prevention of harm
- Negative opinions in the media.

Islamic Jurisprudence sect.

- Differences in opinions among the jurists due to the interpretations by the scholars.
- They do not differ in terms of matters pertaining to Aqeedah
- The 4 main sects, namely The Hanafī sect, The Mālikī sect, The Shāfi`ī sect and The Hanbalī sect teaches us one important lesson.
- **What is the important lesson?**

Definitions

- Medical Fiqh is the formulated legal ruling on subject matters and/or the moral values assigned to a particular action related to the field of Medicine.
- Fiqh in Medical Imaging can thus be those legal rulings on subject matters and/or the moral values assigned to a particular action related to the field of Medical Imaging.

Fiqh in Medical Imaging – A New Fiqh?

- Discussions on Fiqh in Medical Imaging.
- Fiqh of Priorities by Dr. Yusof Al- Qardawi something needs to be done.
 - *Focussing on certain concepts that have to be clarified, generalized and deepened in the intellectual field. – A New Fiqh*
 - The importance to relate Fiqh to Medical Imaging

- The influence of Western beliefs, thoughts and practices.
- **Time for Muslim Medical Imaging Practitioners to take care of our own predicament rather than continuously blaming others for the situation we are in!**

Maqasid Al Sha'riah and Qawaid Al Sha'riah in Healthcare

- Two sources in the study of Fiqh in the today's professions.
- To address issues not mentioned in the Qur'aan and Hadith.
- Provides a platform to address contemporary issues in the profession to the Islamic perspectives .

Maqasid Al Sha'riah

- Literally it means : The objectives of the Sha'riah
- It relates to the Five (5) purposes of Islamic Law:
 - Protection of *diin* or religion
 - Protection of life
 - Protection of progeny
 - Protection of mind
 - Protection of wealth

Some authors (Al-Zarkashi, Ibn Farhun etc) felt that preservation of dignity / honor should be included.

No real consensus concerning the above sequence.

Application of Maqasid Al-Shari'ah in Medical Imaging

Protection of religion:

- Concerned with the obligation in all religious matters in order to achieve felicity (blessedness) on Earth and in the Hereafter.
- Use of the images to assist diagnosis.
- Good treatment outcomes.

Protection of life:

- Preservation of human life or quality of life serves to ensure the continuance of the various forms of worship to the Creator (Allah).
- In emergency situations, Medical Imaging helps to detect life threatening situations: pneumothorax, severed artery etc.
- Prompt conduct of radiological examination could significantly reduce the possibility of mortality.

Protection of progeny:

- This refers to the continuation of lineage which is directly related to human survival.
- Use of Medical Imaging in Paediatric .
- Also in studies involving infertility (HSG).
- Assessing fetal growth with the use of Ultrasound.
- Safety and patient care in attending to the above two groups.

Protection of intellect / mind / 'aql:

- The ability to reason.
- The images provides elements of certainty.
- Treatment progress can also be effectively monitored.

Protection of wealth:

- Wealth denotes the productivity of a person.
- Medical Imaging provides the ability to detect, locate, characterise and monitor disease processes.
- Early detection reduces overall healthcare cost.

Qawa'id Al Shari'ah

- Literally means the principles of Shari'ah.
- Complements the Maqasid Al-Shari'ah
- Also called “axioms” - “a general rule which applies to all of its related particulars”
- Provide the understanding of the law.

Elements of Qawa'id Al-Shari'ah

- The first principle is the principle of intention
- The second principle is the principle of certainty
- The third principle is the principle of injury
- The fourth principle is the principle of hardship
- The fifth principle is the principle of custom or precedent

Application of Qawa'id in Medical Imaging

#1 . Principle of intention:

- *“Acts are judged by the intention behind them”* (Al-umuru bi-maqasidiha)
- requires pure and sincere intentions on the part of the practitioner
- The decision to use imaging modalities – elements of risks
- The best positioning / modifications to derive the optimum image.

#2. Principle of certainty

- *“Certainty is not overruled by doubt” (Al-yaqinu la yazulu bish-shakk).*
- Decisions are evidence- based. Relate to the Concept of Evidence-Based Practice.
- Absolute certainty might not be possible.
- Problems when dealing with patients with different body habitus in determining exposure factors using either analog / digital imaging.

#3. Principle of injury

- “Harm must be eliminated” (Ad-dararu yuzal)
- NOT TO BRING OTHER HARM – positioning!
- Calls for balancing of benefits and the possibility of side effects or further harm.
- Risks cannot be completely eliminated in Medical Imaging. Go for the lesser harm.
- Though the intentions are pure, steps must be taken to limit the risks

#4. Principle of hardship

- *“Hardship begets facility” (Al-mashaqqatu tujlab at-taysir).*
- Procedures that are usually haram is permitted when there is a necessity (darurah)
- Inter-gender interaction between patient and practitioner is permissible in certain situations.
- Exposing the awrah
- However, efforts to reduce the intensity of the situation should be prioritise in those actions.

#5: The principle of custom or precedent

- *“Custom is the basis of judgement” (Al-‘addatu muhakkamatun)*
- The basis of treatment is based on accepted protocols and procedures. A practice that is considered as customary or readily accepted.
- In Medical Imaging, guidelines and the various Codes of practice, Code of Ethics or Standards of Practice can provide the necessary directions.
- The Queue system though readily accepted must be overruled in situations that require prioritisation. Under this circumstances it becomes a precedent for future references.

Recall - Medical Imaging

- Medical Imaging - Is described by
 - its role in healthcare
 - Generation of Image
 - use of technology
 - Patient care
 - procedures
 - professionals
 - Image quality
 - safety
 - economic considerations
 - customer satisfaction

Question: What would be the issues pertaining to Fiqh?

Some issues:

Images

- Concept of optimisation – the balancing act
- To talk or not to talk:
 - Visualisation of surgical appliances in the patient's body.
 - Cut ureters as demonstrated in IVU.
 - Post-traumatic injuries to the patients.
 - Susuk.
- What happens if those instances involve your own family member.
- What different standards? Has justice been served?

Use of technology

- The Islamic concept in addressing to the risks in medical Imaging:
- The concept of benefits against the risks.
- concept of lesser harm: to minimise the risks – through the use of knowledge
- Beware with Digital technology – Dose Creep
- Concept of “Gold Standard” in the use of technology.

Procedures

- Concept of Prioritisation
- Concept of Individual Tailoring of Radiological Examinations.
- Application of learned theories into practice
- Wrong choice of projections: Use of Vertical beam in lateral knee post trauma
- Obliteration of Radiological signs due to “too competent” – in abdominal x-rays
- Preserving the awrah of patients.

Fig. 2



Approaching the Muslim Orthopaedic Patient.

Hussain, Waqas; Hussain, Haroon; Hussain, Mohammed; Hussain, Suleman; Attar, Samer

Journal of Bone & Joint Surgery - American Volume. 92-A(7):e2(1)-e2(7), July 2010.

DOI: 10.2106/JBJS.J.00065

Fig. 2 Modesty and the operating room. Muslim women who prefer to wear the Islamic head dressing, or hijab, may feel uncomfortable removing their covering in procedural settings. One option to resolve this problem is to use a surgical head-and-neck covering that allows a woman to maintain her sense of comfort and dignity without compromising hospital and operating-room policy.

Have we ever thought of valuing what others believe? Others have done that!



Professionalism

- What to do when colleagues fail to observe safety standards?
- What to do when colleagues PREVENT the use / practice of safety?

Patient-practitioner Interaction

- Female patient – Male practitioner : Chaperone
- What about Male patient – Female practitioner?
- Is it permissible for the practitioner to wear gloves? No? Why? Based on standards and practice by others. What is the problem of wearing gloves? Not sensitive to touch? What is the intensity of sensitivity required in Medical Imaging?

Can I wear glove?



- Exposing areas that are not supposed to be visible by others. The concept of awrah. Why the need to expose those areas? Can't we formulate ways to reduce the exposure. If there can devise landmarkings, why can be apply the COURT model to address this issue.
- Where is the role of the individual radiographer, the pool of radiographers and the administration in solving this problem?
- Change in attitude and work ethics? Who is going to initiate this change?
- Concept of "Limiting your Vision".

Safety issues

- Reducing all possible risks – Go for the lesser harm / not to bring extra harm to the patient.
 - radiation
 - procedural (including transferring patients or manipulating a patient with suspected spinal fracture)
 - MRI
 - US
 - Cross-infection
 - transferring
- gyts

Promoting the application of Fiqh in Medical Imaging

- Self
- Peers
- Administrative – Work arrangement, concept of R and R
- Continuous reminders

Four Classes of Medical practitioners.

- Four classes of medical practitioners are recognised by Muslim fuqaha:
- (1) The authorised and competent practitioner who performs his duty according to the accepted methods of the profession.
- (2) The authorised and competent practitioner who erred, or was mistaken, or was involved in a situation of misadventure or accident.
- (3) The negligent practitioner.
- (4) The criminally negligent practitioner.

Question:

Which category do you want to be?

Summary

- Understanding Fiqh as applied to Medical Imaging has its benefits in addressing contemporary issues in the field.
- The use of Maqasid and Qawa'id Al-Shari'ah can further strengthen the beliefs and values of the Muslim Medical Imaging Practitioner for they have their roots in the Revealed Knowledge (Qur'aan and hadith)
- Continuous appreciation and application of Fiqh in one's professional environment should mould the practitioner in the display and internalisation of Islamic values leading to a true Muslim Medical Imaging Practitioner.

Work in progress

- Consolidating further understanding and research towards the establishment of the Muslim Code of Professional Conduct / Practice / Standards.