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Title: Approaching Organ Transplant in Islam from a Multidimensional Framework

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ABSTRACT

The subject of organ transplant has been highly contested within Islam. Though the majority of Muslims now accept the validity of the practice from both live and deceased donors, this is by no means a universal consensus. In particular Islamic contexts, the subject of organ transplant remains a major subject of debate. Intertwined with the debate of organ transplant is the sensitive and complex issue of what constitutes death. Bioethical decision-making in Islam takes place within a multi-dimensional framework of authorities and themes. With no central authoritative body for the Islamic community, general consensus on bioethical matters is difficult to locate. The central thesis of this article is that because Islamic bioethics takes place within a multidimensional framework, there remains no common consensus on the question of organ transplant. Though a majority of Muslims have accepted the practice, others continue to find it *haram*, or forbidden.

Approaching Organ Transplant in Islam from a Multidimensional Framework

1) Introduction

The subject of organ transplant has been highly contested within Islam. Though the majority of Muslims now accept the validity of the practice from both live and deceased donors, this is by no means a universal consensus. In particular Islamic contexts, the subject of organ transplant remains a major subject of debate. Intertwined with the debate of organ transplant is the sensitive and complex issue of what constitutes death. What is more, when applying the issue of authority—the Qur’an, Sunna, and Sharia—in Islam to the question of organ transplantation, the matter of interpretation and possessing no singular Islamic response to the topic becomes apparent.

Bioethical decision-making in Islam takes place within a multi-dimensional framework of authorities and themes. With no central authoritative body for the Islamic community, such as the Magisterium for the Catholic Church, general consensus on bioethical matters is difficult to locate. Therefore, the central thesis of this article is that since Islamic bioethics takes place within a multidimensional framework, there remains no common consensus on the question of organ transplant. Though it does appear that the majority of Muslims have accepted the practice, others continue to find it *haram*, or forbidden (Budiani and Shibly, 2008). This article will proceed as follows: section 2 will focus on the background of organ transplant within Islam. Section 3 details the resistance to organ transplant, and section 4 provides an overview of the rationale used by those who accept the practice within the Islamic community.

2) Background

Organ transplant in Islam has experienced a somewhat contentious history. The Qur’an and Sunna, the divine revelation within Islam from which Muslims look to for instruction, is silent on the issue of organ donation and transplant. For a document revealed to Muhammad in the early seventh-century, it is not surprising that the Qur’an and the Prophet’s sayings do not speak explicitly to this area.

Though there is no explicit address in the Qur'an or the Sunna, this is not to mean that they cannot aid Muslims in their quest for a decision on the matter. This section will explore two of the principles generally employed in Islam when approaching the issue of organ transplant.

2.1) The Use of Islamic Authority in Organ Transplant Decisions

As stated above, there is no single consensus on organ transplant in the Islamic community; this is not entirely surprising. In Islam, there is no papacy, as in the Roman Catholic Church, to articulate dogma on certain contentious matters. While legal opinions (i.e., fatwas) may be sought about controversial or contemporary issues from Muslim scholars who are acknowledged experts in matters of Islamic law and ethics, these still may profoundly differ based upon the scholar's interpretation of the authoritative texts (Brockopp, 2003).

The primary source of references for reaching a fatwa is the Qur'an, the Sunna, and then the volumes of sharia that are based on the Qur'an and Sunna. Further, authority proceeds in this order with the Qur'an serving as the basis for ethical inquiry and the ultimate authority of appeal; there is no contesting this in Islamic ethical theory (Brockopp, 2003). While these three sources of authority contain great Islamic teaching, they do not explicitly address the host of challenges faced in bioethics today. Thus, Islamic bioethics becomes a process of drawing out general principles from the authorial texts and attempting to apply them to a modern-day context. Unquestionably, this creates divergent opinions and positions on ethical matters within the Islamic community.

Thus, with this short background on the nature of Islamic bioethics, the multidimensional framework that is deeply embedded within the religion becomes evident. Since there is no central teaching office in Islam as there is in the Roman Church, Muslims reading the same text to gain insightful values on ethical matters may reach different conclusions. Therefore, this inevitably leads to an extensive array of opinions on bioethical matters, including organ transplant, within the various schools of Islam.

2.2) Islamic Principles on a Person's Relationship to the Body

The authoritative sources within Islam are replete with principles that may be employed when encountering organ transplant. It is necessary for our discussion to examine several of the most fundamental Islamic principles concerning the relationship of the individual to the body. In subsequent sections these will appear again and be used by Muslims both in support of and against the practice of organ transplant.

Islam places a high value on human life. For this reason, killing a soul is akin to killing the whole of humanity, and saving a soul is like saving the whole of humanity. The high value that Muslims place on the respect for human life and the importance of preserving life is integral to the fabric of the Islamic community. Further, all human life is seen as equal in Islam. This can be seen by the way that Islam uses a single criterion for the reparation of physical damage sustained by a human being regardless of his social status or wealth (Hassaballah, 1996).

An essential principle in Islam regarding the relationship between the individual and their body is the belief that God is the creator and sustainer of human life. The giver of life is God and the determinant of death is God. Aside from applying criminal laws, no man or authority has the right to decide the fate or end of a human life (Hassaballah, 1996). This leads to a great emphasis within Islam on the dignity of the human body, including the dignity of corpses (Sachedina, 2009). Indeed, because human beings do not possess absolute ownership of their body or spirit, this oftentimes leads to the concept of inviolability—a notion that will be discussed more extensively in a further section.

In summary, the Islamic community utilizes the divine revelation found in the Qur'an and the Sunna to reach their bioethical conclusions. What is more, they also rely on a long history of

Islamic law that is dependent upon the divine revelation. Moreover, there is a great emphasis within Islam on the human dignity of the person. This is based upon the belief that mankind owes his life to Allah and the belief that the body is not merely material, but also possesses a soul or spirit. Thus, the multidimensional framework of Islamic bioethics on this issue can be seen.

3) Resistance to Organ Transplant

The debate over organ transplant in Egypt is often regarded in the literature as the prime example of resistance to the procedure (Hamdy, 2008). Opposing fatwas have been issued on the matter in Egypt, which highlights not only the lack of accord on the issue but also the need to analyze Islamic positions within the particular social contexts that they are issued. This section will focus on the resistance to organ transplant in Egypt and in other contexts.

3.1) General Principles that Guide Resistance: Brain Death and Inviolability

The issue of brain death is a major point of resistance to organ transplant. As noted above, in Islam there is no separation between the soul and body; they are regarded as integrated units (Sachedina, 2009). This complicates matters when attempting to use cessation of brain activity as a qualifier for death. Brain death has been an accepted qualification for death in Western nations for a number of years. However, it has received selected pushback from a minority of Muslims for exactly this point of the psychosomatic integration of the person.

Due to the body-soul integration that is prevalent in Islamic thinking, any surgical procedure that entails making an incision on the recently deceased patient for purposes of organ harvesting evokes reprehension. Further, any suggestion to retrieve their organs, even for humanitarian purposes, before the heart has stopped beating (though the brain may be dead), similarly evokes repugnance because the patient's consent has not been secured. Those who criticize the concept of brain death as a proper qualifier for death have made the argument that using the cessation of heartbeat as a criterion for death may make it too easy for the parents or legal representative of the comatose patient to decide to withdraw life support and terminate the patient's life (Sachedina 2009). Due to a limited supply of organs, thoughtful questions have been prompted concerning the proper criterion of death by cases concerning those patients who have suffered brain damage and whose families have given consent to remove organs. A terminal patient on a respirator desiring to be weaned off the machine may request that his organs be used for transplant after his passing. The respirator is then removed in an operating room and, not less than three minutes after the patient's heart stops beating, the organs are harvested. However, the question of whether or not three minutes is a long enough interval to determine death has arisen. These particular doubts have led relatives of such patients to deny consent for organ extraction in the interests of preserving the dignity of the dead (Sachedina, 2009).

Related to the matter of brain death is the inviolability of the human body. As discussed briefly above, Allah is the giver of life—the creator and sustainer of mankind. Moreover, the soul and body are integrated units in Islam, regarded as God's gift to humanity. Humans do not possess absolute, unqualified ownership of their body or spirit. Rather, they are stewards charged with preserving and dignifying their life by adhering to the guidance provided in the divinely revealed texts. Desecrating the body, as in the act of suicide, constitutes denial of God's creation and bodily ownership. Integral to the matter of inviolability is the controversy within Islam of making an incision into the body of the deceased for organ donation and transplantation. In the Sharia there was never objection to performing an autopsy on the deceased for the purpose of determining the cause of death or to advance medical knowledge. However, modern medical techniques that tamper with the corpse or delay its burial, such as organ donation and transplantation, are often viewed as mutilation of the dead. The Prophet himself emphatically instructed his followers to

bury their dead promptly. Thus, the Islamic regard for the dignity of the dead necessitates both prompt burial and respect for the dignity of the corpse (Sachedina, 2009).

3.2) Egypt: The Sha'rawi and Tantawi Debate

Opponents to organ transplantation often appeal to Qur'anic principles such as the belief that the body is a gift from God, and thus the self does not possess the autonomous right to donate its organs. One renowned debate over the legitimacy of organ transplant in Egypt was sparked in the 1980s when Shaykh Muhammad Mutwali al-Sha'rawi, a widely popular television personality in Egypt, when he maintained that one cannot ethically donate organs that belong to God. Al-Sha'rawi spoke constantly against the popular assumption that novel technologies have made Islamic teachings irrelevant (Hamdy, 2008). His insistence against organ transplantation is threefold, each based upon a clear tenet of Muslim faith: 1) mankind does not possess ownership rights over his body like property, 2) to die is to be united with Allah, and 3) the self and body are unified through practices of worship and devotion. This debate, which presents two opposing fatwas issued on organ transplantation, demonstrates that in order to properly analyze Islamic bioethical position, it is necessary to study the social context in which they are issued (Hamdy, 2008).

Rather than appealing to legal theory to construct his argument, Sha'rawi's premise was constructed around the notion of suicide being explicitly forbidden in Islam. In Sha'rawi's estimation, suicide—the premeditated taking of one's own body in order to act freely with it—was akin to organ donation. Thus, though the Qur'an does not explicitly address matters of organ donation and transplantation, it can be understood how one might employ principles found within the divine revelation to resist organ transplant.

The theme of theological voluntarism—that all beings are dependent on God as their source—is intertwined in Sha'rawi's argument. Sha'rawi held that God, our sole Creator, wills all events. Thus, he sought to remind the proponents of organ transplantation that even in cases when an organ donation saved a life, it was ultimately God who had worked to save the life apart from the donor, surgeon, or medical technology (Hamdy, 2008). Thus, firmly embedded within Sha'rawi's argument is the notion that nothing can occur without direct dependence on God's will.

Expectedly, Sha'rawi's conclusion on organ transplantation was not met with grand acclamation. Muhammad Sayid Tantawi, the grand mufti of Egypt who would go on to become the Grand Imam of Al-Azhar University, issued a fatwa on organ transplantation. In similar style to Sha'rawi, Tantawi begins his interpretation with explicit affirmation that the body belongs to Allah. Additionally, Tantawi references the Islamic prohibition against suicide as evidence that the individual does not possess ultimate ownership, sole autonomy, over his body to do with it as he wishes. After differentiating between organ trafficking and donating with altruistic intentions, Tantawi states that donation is surely a noble act that God will undoubtedly reward, and regarded organ transplantation as a medical, not religious, question. Tantawi's position is one of permitting organ donation if the need of the recipient is dire. Thus, by including stipulations permitting organ transplantation, Tantawi appeals to the logic and rationalism that is embedded within the legal reasoning of the Muslim community (Hamdy, 2008).

Thus, this scenario of organ transplantation demonstrates the interpretive challenges that frequently arise in Islamic bioethics. Scholars are able to appeal to similar principles within the authoritative works and achieve contradictory conclusions on an issue. Accordingly, the Sha'rawi and Tantawi debate exhibits the lack of consensus on an array of issues that do not find direct treatment in the divine revelation. In summary, this section has examined the resistance to organ transplant in Islam, primarily utilizing the Egyptian debate and the rationale used to support their

position. While a minority of Muslims continue to reject organ transplant, the vast majority support it (Budiana and Shibly, 2008). Thus, it is now necessary to examine the rationale employed by those who support organ transplant.

4) In Support of Organ Transplant

While there is a considerable debate within particular Islamic contexts as to the legitimacy of organ transplant, many states have embraced donation from both living and deceased donors. Indeed, some commentators, politicians, and physicians have gone so far as to maintain that Islam has nothing to do with resistance to organ transplantation. They cite Saudi Arabia and Iran, both operating under strict forms of Islamic law, for their argument because they both have state-sanctioned programs for transplantation from living and brain-dead donors (Hamdy, 2008). This section will examine the rationale used in support of organ transplant in particular Islamic contexts.

4.1) General Principles that Guide Support

Though there are considerable detractors from organ transplant within the Islamic community, the vast majority of Muslims accept the practice of donation from living and deceased donors as acts of philanthropic acts of humanity and acceptable under Islamic doctrine (Budiana and Shibly, 2008). Those that support organ transplant appeal to the divine revelation for their support. Moreover, the theme of community welfare, closely tied to the notion of altruism, is also apparent in their logic and will be examined in the following subsection.

Appeals to the divine Islamic literature undergird much of the logic for those that advocate for organ transplant. This is seen in passages such as Qur'an 5:35: "Whoso slays a person not to retaliate for a person slain, not for corruption done in the land, shall be as if he had slain humankind altogether, and whoso gives life to a person, shall be as if he had given life to humankind altogether" (Sachedina, 2009). While this verse can rightly be understood altruistically, it can also be applied generally as a basic commandment to preserve life. Organ transplantation and donation fulfill the requirement in the preservation of human life, which is an objective of the Sharia (Ministry of Health Malaysia, 2011).

The methodology used to determine the permissibility of organ transplantation is based on the urgent need to save the life of the patient. Hence, organ transplantation is carried out only in critical situations. When deemed appropriate, legal maxims are used to determine the permissibility of transplant. These may include the maxims that deeds are judged by their goals and purpose, harm must be eliminated, and that hardship faced by the ill patient begets facility (Ministry of Health Malaysia, 2011).

4.2) Welfare of the Community

The theme of concern for the welfare of the community permeates the discussion of organ transplant. This is common in Islamic bioethics and, in the context of organ transplant, arrives in the form of altruism. As seen in the al-Sha'rawi and Tantawi debate, altruism is central to Tantawi's position. Tantawi states that organ donation is surely a noble act that God will generously reward. As stated above, Tantawi ultimately permits organ transplant and asserts that the Sharia honors the human being in life and in death and aims to lessen suffering. The medical field is able to help in attaining these goals for the betterment of the community's welfare; therefore, the practice of organ transplant should be permitted (Hamdy, 2008).

Further, some commentators have noted that the nobility of the act of organ donation, combined with the altruism of the donor, supersede the desecration of the dead. Grand Ayatollah Sistani of Iraq considers the donation of any organ following death to be *haram*, or prohibited. He considers an organ donation card or advance directive that indicates the desire to be an organ donor upon death to be invalid for that purpose. However, in recent years, Sistani has allowed for organs

to be donated after death if the life of another Muslim is at stake. This holds true in cases even when a will, testament, or organ donation card stating this does not exist (Jaffer and Alibahi, 2008).

Therefore, we see the common theme of concern for the welfare of the community impact Islamic bioethics. While there may be near universal consensus on certain ethical principles within Islam, Muslims are prepared to bow to other necessities when circumstances may appear to necessitate it. Thus, Islam is generally more focused on a circumstantial, casuistic, end-based system of moral imperatives that demonstrates the ability to deal with circumstances that arise within the community in a practical fashion when two undesirable conditions collide (Bowen, 2003).

In summary, advocates of organ donation and transplantation appeal to the Qur'an and to Sharia for their support. Moreover, the theme of concern for the welfare of the community appears regularly in Islamic bioethics literature. From this it can be readily seen that bioethics within Islam take place in a multidimensional framework of divine revelation, sharia, and certain themes.

5) Conclusion

Organ transplant in an Islamic context can be a complex issue. Because Islamic authority rests in a multidimensional framework of authority and themes, and due to the lack of consensus amongst Islamic scholars on bioethical matters, there is no unitary position on the topic of organ transplant. Indeed, the issue of organ transplantation demonstrates the interpretive challenges present within Islamic bioethics. As such, this article has focused on the background of organ transplant in order to obtain an awareness of the historical context, as well as the rationale used to reject and advocate for organ transplant.

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