

OPEN

The Moral Status of Organ Donation and Transplantation Within Islamic Law: The *Fiqh* Council of North America's Position

Aasim I. Padela, MD, MSc^{1,2,3,4} and Jasser Auda, PhD^{5,6}

Background. Muslim communities tend to hold more negative attitudes toward organ donation than other communities. These views, in part, reflect the diverse views of Islamic scholars who debate the conditions under which donation and transplantation is morally licit. In December 2018, the *Fiqh* Council of North America (FCNA) weighed in on the US context of donation and transplantation through an Islamic ethico-legal verdict (*fatwa*). **Methods.** Between 2016 and 2018, FCNA members engaged in multidisciplinary research using conventions of collective Islamic moral deliberation. They examined rulings on organ donation and transplantation issued by Islamic jurists and juridical councils abroad, convened with organ donation and transplantation professionals and stakeholders including families and patients, and consulted medical and bioethics experts. **Results.** FCNA judges organ donation to be morally permissible from the perspective of Islamic law and ethics, subject to several conditions. These include first-person authorization, that donation occur either while living or after circulatory declaration of death, harm to the donor is minimized, reproductive organs are not donated, among others. Organ transplantation, in general, was also deemed licit. **Conclusions.** FCNA's verdict uniquely addresses American contexts and has several clinical practice implications. By sharing their perspective with academic and professional stakeholders, the council aims to provide nuanced guidance for assisting Muslims in making informed choices regarding these procedures and further societal dialogue on the ethics and practices of donation and transplantation.

(*Transplantation Direct* 2020;6: e536; doi: 10.1097/TXD.0000000000000980. Published online 18 February, 2020.)

Received 11 December 2019.

Accepted 19 December 2019.

¹ Section of Emergency Medicine, Department of Medicine, The University of Chicago, Chicago, IL.

² Initiative on Islam and Medicine, The University of Chicago, Chicago, IL.

³ MacLean Center for Clinical Medical Ethics, The University of Chicago, Chicago, IL.

⁴ Fiqh Council of North America, Plainfield, IL.

⁵ Fiqh Council of North America, Plainfield, IL.

⁶ Maqasid Institute Global, Ottawa, Canada.

A.I.P.'s time-effort was partially supported by Grant #R39OT31104 "Informing American Muslims about Living Donation" from the Health Resources and Services Administration, Islamic Relief USA, the International Institute of Islamic Thought, and the Islamic Society of North America, provided fiscal and hosting support for the deliberative meetings.

The authors declare no conflicts of interest.

A.I.P. originated the article concept, primarily authored the article, and participated in the research. J.A. edited the article for critical content and conducted the research.

Correspondence: Aasim I. Padela, MD, MSc, FACEP, 5841 S. Maryland Ave, MC 5068, University of Chicago Medicine, Chicago, IL 60637. (apadela@uchicago.edu).

Copyright © 2020 The Author(s). *Transplantation Direct*. Published by Wolters Kluwer Health, Inc. This is an open-access article distributed under the terms of the Creative Commons Attribution-Non Commercial-No Derivatives License 4.0 (CCBY-NC-ND), where it is permissible to download and share the work provided it is properly cited. The work cannot be changed in any way or used commercially without permission from the journal.

ISSN: 2373-8731

DOI: 10.1097/TXD.0000000000000980

In December 2018, *Fiqh* Council of North America (FCNA) issued an Islamic ethico-legal verdict (*fatwa*) on organ donation and transplantation. This decree, resulting from successive rounds of deliberation over the religious, social, and biomedical aspects of the procedures, provides stakeholders from, and working with, Muslim Americans with guidance on the issue. Herein, we describe how the ruling was developed, reproduce the ethico-legal opinion in full, and discuss its main features and implications.

By sharing this perspective within an academic specialty journal, FCNA addresses several stakeholder groups. First, given the diversity of Islamic opinions on organ donation and transplantation,^{1,2} FCNA's ruling provides clinical staff and organ donation professionals with an authoritative Islamic stance attendant to the American context by which they can help Muslims make informed choices. Additionally, this article speaks to bioethicists and policy-makers as it adds to debates over the policies and procedural aspects of organ procurement, donation, and "brain death."^{3,4} Finally, in describing a contemporary Islamic law council's process of multidisciplinary, stakeholder-engaged ethico-legal deliberation, this article is relevant to religious ethicists and academicians studying how biomedical advancements are situated within the moral frameworks of religious traditions.

BACKGROUND: ISLAMIC VIEWS ON ORGAN DONATION AND "BRAIN DEATH"

Before delving into the sociological context and ethical content of FCNA's *fatwa*, the backdrop against which it stands

requires sketching out. Islamic scholars have been debating the ethics of organ donation and transplantation for decades. With respect to organ donation, generally speaking, there are 3 views; organ donation is categorically impermissible within Islamic law, organ donation is impermissible in principle but can become contingently permissible, and organ donation is generally permitted as long as certain conditions are met.² This diversity of opinion is part of the inherent ethico-legal plurality of Islam. Since organ donation and transplantation is a matter that is not unequivocally addressed by the Qur'an and Sunnah, scholars consider the societal contexts that lead to moral questions about organ donation and transplantation and make reasoned arguments about its permissibility by marshaling scriptural evidences and precedents to support their views. This process of ethico-legal deliberation, *'ijtihad*, results in probable conclusions that are subject to scholarly disagreement and future revision.⁵ Since different scholars hold different positions, individuals are free to follow any of the multiple scholarly positions and still be acting in accordance with the tradition. In general, only when a Muslim state vests a particular opinion with their authority does that ruling become morally binding.⁶

The impermissibility camp grounds their view in the idea that organ donation threatens human dignity (*hurma and karāma*) and supports this view with statements from the Prophet Muhammad.^{1,7,8} The contingently permissible view is supported by Qur'anic and legal precedents that overrule prohibitions when a dire necessity (*darūra*) exists. Cases where organ transplant is life-saving, and thereby another person's donation of an organ is necessary, are held to meet the standard of dire necessity.^{9,10} The general permissibility camp bases their position on the idea that a legitimate human public interest (*maṣlaḥa*), namely duration and quality of life, is furthered by organ donation.^{2,11,12,13} They also marshal scriptural and legal supports for their view.

While there is diversity of opinion across the globe, there are geographical and legal school overlays onto each position. Scholars from the Indo-Pakistani subcontinent, and those belonging to the *Hanafi* school, typically advance the impermissible/contingently permissible views.^{14,15,16} Scholars in the Middle East and those from *Shafi'i* and *Shia* backgrounds oftentimes advance the permissible views.^{11,17}

Each of these stances involve nuanced arguments and are subject to several provisos. A critical nuance to recognize is that the legitimacy of "brain death" impacts the implementation of rulings. Said another way, the conventional distinction between deceased and living donation is predicated on the acceptance of neurological criteria for death. Islamic jurists remain divided over whether "brain dead" individuals can be considered legally dead, hence their stances on when organ donation is morally licit are intimately connected to their views on "brain death."^{18,19,20,21,22} Some scholars may consider organ donation after neurological criteria for death are satisfied as a form of *living* donation, while others classify it as deceased donation. To avoid misinterpretation and misapplication of rulings, it is of utmost importance to appraise whether a "brain dead" state signifies a dying or dead person according to ruling. Some scholars who judge organ donation to be contingently permitted may do so only when the donor is living, while others who judge organ donation to be impermissible might advance this view only with respect to donation after "brain death."

While it is beyond our scope to fully detail contentions over "brain death" in Islam, a brief overview will aid in situating the FCNA ruling. Accordingly, like organ donation, the status of "brain death" in Islamic law has been debated for nearly 50 years. Leading transnational Islamic juridical councils, including the Islamic *Fiqh* Academy of the Organization of Islamic Cooperation (IFA-OIC), the Islamic *Fiqh* Academy of the Muslim World League (IFA-MWL), and the Islamic Organization for Medical Sciences, took up the topic in the 1980s and came to different conclusions. The IFA-OIC resolved that neurological criteria for death were acceptable in Islamic law, where "brain death" meant that "all vital functions of brain cease irreversibly and the brain has started to degenerate as witnessed by specialist physicians" a person can be declared legally dead.^{19,23} On the other hand, while the Islamic Organization for Medical Science (and the IFA-MWL) validated the clinical implications of a "brain dead" state by permitting the withdrawal of life support when such a physiology is reached, they judged that legal death occurred upon cardiopulmonary cessation.^{19,23} Brain-dead physiology thus represented an intermediate state between the living and the dead and the IFA-MWL rejected organ procurement from a "brain dead" donor.²³

The principal point of contention in these and other juridical councils revolved around whether medical science carries sufficient epistemic weight to create new "Islamic" standards for legislating death. Related discussions touched on (1) the physiological meaning of "brain death," (2) relationships between the departure of a human being's soul and physical signs and brain functions, and (3) how much the need for organ donors should impact the standards for declaring death.^{24,25,26,27,28} Contemporary jurists continue to debate these questions and hold diverse views.²⁹ Moreover, although many Muslim countries have, particularly those with active organ donation programs, adopted the OIC-IFA view and legislate neurological criteria for death, others defer.^{28,30}

Finally, since the need for transplantation as a therapy for organ failure begets the question of donation, the moral status of organ transplantation is tied to that of donation. Jurists nearly uniformly endorse the permissibility of pursuing organ transplantation when one's life is under threat, with a great many suggesting it is morally obligatory if it saves one's life and no alternative is present.¹²

THE DEVELOPMENT AND CONTENT OF FCNA'S FATWA

Originally part of the Islamic Society of North America, FCNA is an independent body of Islamic scholars from across the United States and Canada who provide religious guidance to Muslim publics in matters of Islamic law.³¹ Accordingly, they furnish Islamic legal opinions in response to questions they receive, author policy papers and articles, and host educational forums at national conventions. While FCNA scholars represent the diversity of Islamic theological (both *Shia* and *Sunni*) and legal schools (*Hanafi*, *Mālikī*, *Shafi'i*, *Hanbalī*, and *Ja'fari*), the council upholds the Qur'an and Sunnah as the primary scriptural sources for moral deliberation and utilizes conventional methodologies for deriving Islamic ethico-legal opinions.³² As such, the council mirrors other transnational Islamic juridical academies in being "guided by the judicial heritage" of Islam when conducting collective *'ijtihad*.³¹ Collective *'ijtihad* refers to a group of Islamic jurists issuing a

joint ruling on a matter through a process of multidisciplinary research and engagement. Although the methodology for such deliberation varies, it is increasingly used by jurists given the contemporary scientific and social complexities that impact moral assessment.³³ Accordingly, FCNA examines the views of transnational juridical councils and prominent jurists abroad, and then issues rulings specific to the North American context.

THE NEED FOR A FATWA ON ORGAN DONATION AND TRANSPLANTATION IN NORTH AMERICA

The needs of Muslims on the ground for religious guidance, the reality that Muslim Americans hold negative views toward donation in part due to religious concerns, and the rapidly evolving practice of transplantation motivated FCNA to hold meetings and conduct research for a *fatwa*. Specifically, despite ample discussions by juridical bodies abroad, extant edicts from within the United States were formulated by individual scholars. At the same time, empirical studies reveal that Muslim Americans, in general, hold more negative views toward donation and transplantation than their counterparts.^{34,35,36} Moreover, the community appears divided over the religious status of organ donation and uninformed about the medical processes entailed, as well as the religious values at stake.³⁶ Additionally, FCNA was approached by organ procurement organizations (OPOs) to help address the religious concerns of Muslim families, who in their experience were usually unwilling to authorize organ donation.

The Deliberative Process

Three engagements with the ethics and practice of organ donation preceded council meetings where the contours of the *fatwa* were mapped out. In July 2016, FCNA experts Drs Muzammil Siddiqi, Jasser Auda (an author on this piece; JA), Jamal Badawi, and Mohamad El-Sheikh participated in a forum co-convoked by International Institute of Islamic Thought (IIIT) and Washington Regional Transplant Community (WRTC) where presentations by organ donation professionals, donor families, clinicians, religious studies experts, social scientists, and chaplains laid out the ethical terrain.³⁷ In December 2016, a follow-up meeting at IIIT (with WRTC participation and including FCNA members Drs. JA and Zainab Alwani) featured (1) a lecture by Dr. Aasim Padela (AIP) debunking popular myths that Islamic law unequivocally endorses organ donation; that the procedural aspects of organ procurement do not raise ethical concerns within secular bioethics, and that *fatwas* are successful in changing Muslim health behavior and (2) a panel discussion featuring JA, AIP, a tissue recipient a Muslim organ donation advocate, and the President of WRTC on how best to communicate the value of organ donation to Muslim publics while at the same time acknowledging religious controversies surrounding the practice.³⁸ Finally in July 2017, the executive director of FCNA, Dr Zulfiqar Ali Shah, participated in a mock debate with another Imam (moderated by AIP) over the Islamic permissibility of organ donation at the Islamic Society North America annual convention.

These conversations informed the eventual *fatwa* and made FCNA's deliberative process uniquely multidisciplinary and public facing. They allowed FCNA members to learn about the clinical and social aspects of organ donation and

transplantation from individuals working in the field and to gain an intimate understanding of the multiple critical roles OPO organizations play. Furthermore, the meetings served to map out points of contention between Islamic scholars before entering the proverbial council chamber. With these insights in hand, the full council (along with AIP as a bioethics and medical consultant) deliberated together over 2 meetings in October 2017 and September 2018. Importantly, further evidencing the import of OPO perspectives, WRTC representatives were invited to share their thoughts on the content of a *fatwa* during an open portion of the October 2017 meeting.

The council's formal deliberative process followed conventions of collective *'ijtihād*. Several scholars, namely JA and Dr Jamal Badawi, canvassed prominent juridical opinions and presented the scriptural evidences and legal precedents utilized in these arguments. Next, council members involved in the IIIT forums shared their ethical views incorporating their learning of the biomedical and social contexts involved with organ procurement and donation. During these sessions, AIP was asked to comment on clinical issues and secular and religious bioethics debates over organ donation and brain death, as well as policy implications of a potential *fatwa*. After council members mapped out areas of consensus at the meetings, JA and Dr Badawi penned a provisional *fatwa*, engaged with AIP for edits and revision, and presented the final *fatwa* for full council approval. FCNA members unanimously approved the following edict in December 2018.

FCNA's Fatwa

"The Fiqh Council agrees with many individual scholars and national and international *fatwa* councils in considering organ donation and transplantation to be Islamically permissible in principle. All *fatwas* that have allowed transplantation have allowed donation as well. Done with a good intention, organ donation may be regarded as a rewarded act of charity. However, similar to the general themes within these other *fatwas*, the Fiqh Council makes its general allowance subject to the following conditions:

- 1) The prohibition of "selling" one's organs: this is based on 3 Islamic concepts: trust (*amanah*), dignity (*karamah* and *hurma*), and blocking the means (*sadd aldharee'ah*), and includes the prohibition of receiving other material "benefits" or "gifts" in return of the organ donation.
 - a) The human body is a trust that Allah bestowed upon the human soul in this life and is not considered a property. Based on this principle, a human is not allowed to kill him/herself (eg, Quran 4:29), harm him/herself (eg, Quran 2:102) and—by analogy—sell him/herself or part of him/herself. The Prophet (pbuh) prohibited the selling what one does not own (eg, Tirmidhi 1232, Nasa'i 4613).
 - b) The concept of human dignity implies that body parts are not commodities that a human sells to solve a financial crisis or fulfill a basic need. Islam considers fulfilling one's basic needs to be a "right" (*haqq*, eg, Quran 6:141, 17:26, 30:38, 51:19, 70:24) that the haves owe the have-nots.
 - c) The selling of organs is already an objectionable international reality, especially in failed states, refugee camps and states where migrant workers are most vulnerable. It is the duty of Muslims to block the means to these crimes which preying on human vulnerability and dire need.

- 2) The prohibition of considerably “harming” the donor or the recipient: this is a general condition that was set by the scholarly bodies based on numerous Quranic and Sunnah evidences that prohibit inflicting harm as well as make removing harm an imperative. The type and extent of the physical and psychological harm that donation and transplantation procedures entail must be assessed by medical experts and conveyed to those seeking to donors and recipients. In all cases, harm must be minimized, and the threshold of what harm can be tolerated in such procedures, that is, the risk/benefit calculation, must be made on a case-by-case basis and is determined by consultation among physicians, patients and family members, and jurists as necessary.
- 3) The consent and authorization of the donor: it is prohibited to use human organs without the prior authorization and informed consent of the donor him or herself. For living donors, this authorization is required explicitly, for deceased donors their prior wishes for donation need to have been documented and consultation of the family (particularly the *wali* [guardian]) of the potential donor’s understanding of these wishes needs to be considered.
- 4) A vital organ must not be donated while living: there is a difference between a living and a deceased donor based on death having occurred, and there is controversy around whether Islamic law recognizes “brain death” as legitimate. Thus, with respect to living donation, a vital organ, for example, heart, cannot be subject to donation for the act of donation would become the proximate cause of the donor’s death. This principle is consistent with the “no harm” principle noted above and corresponds with the secular medical ethics construct of the dead donor rule.
- 5) Deceased donation must occur after cardiac determination of death: in all related previous Fatwas and in the Council’s view, reference should be to medical experts in defining death. However, as mentioned above, there are different opinions in the medical field itself when it comes to the definition of death. “Brain death” or neurological determination of death is a highly contentious issue among medical scientists and bioethicists, and indeed stirs controversy among jurists. Some Islamic scholars consider a person deemed to have met neurological criteria for death as having met the standards for legal death in Islam, others hold the person to be in a dying but not dead state, and other reject neurological criteria as too uncertain to meet Islamic legal standards for death determination. Consequently, based on caution (*ihhtiyat*), the Fiqh Council does not include brain death in the definition of death, and thus does not allow for extraction of vital organs (eg, the heart) for donation purposes in such a state. The Fiqh Council calls its members and other scholarly bodies to do more research on the subject. At present deceased donation when permitted, in our view, occurs after determination of cardiopulmonary cessation.
- 6) Prohibition of donating reproductive organs: there is a consensus among major scholarly bodies on the prohibition of donating organs related to fertility and progeny. The Fiqh Council agrees with this view based on the higher objective of Islamic law: the protection of progeny. Thus donating ova and sperm, and even the uterus, is not permissible.
- 7) Other organs that can be donated: aside from the prohibition of donating a vital organ while living or donating reproductive organs, organs which if removed would cause considerable harm to the donor via disability or high-risk of mortality cannot be donation. Such determinations must be made on a case-by-case basis. In general while living a twinned, non-vital organ, for example, kidney, may be donatable unless it carries risk to the patient, as would a partial liver or pancreas donation. After death, bone, cornea, and tissue may be donation. There are such risk-calculators that can be used

by medical professionals, we urge potential donors to consult donor advocate professional at transplant centers to help understand their personal risks. Islamic scholars have yet to research whether face or partial brain transplants are allowed and thus we also suspend judgment on ruling.”³⁹

DISCUSSION

Important Features of FCNA’s Fatwa

In summary, as do several other councils and Islamic jurists, FCNA judges organ donation to be morally permitted (*mubah*). This status is subject to several conditions, any of which if not adhered to overturn its permissibility. They likewise judge organ transplantation to be morally licit without discussing the topic much further. Several of the *fatwa*’s stipulations merit discussion because of the deep religious concerns they reflect, as well as their practice implications.

Deciding to Donate and Authorizing Donation

Several conditions placed by FCNA implicate the organ donation decision-making process. They mandate explicit, first-person authorization from a potential donor for both living and deceased donation. This emphasis emerges from the tradition’s focus on personal responsibility and moral culpability (*taklif*).⁶ The Qur’an explicitly notes that every individual is accountable to God for their own deeds (6:163, 17:15, 35:18; 39:7); thus merit-, or demerit-, making activities should be willfully undertaken by the individual themselves. While others may perform good deeds on another’s behalf, giving charity by way of example, the tradition’s primary impulse is on individual responsibility, particularly in areas of ethical plurality. Additionally, some scholars discussed that given that each individual has a stewardship responsibility for, and not an ownership relation to, their body organ donation decisions cannot automatically be made on behalf of someone else.^{1,40} While other juridical academies advance different views, FCNA requires first-person consent and authorization for organ donation, and by implication informed personal decision-making. This focus on personal decision-making becomes even more important in the American legal context where families cannot overturn a loved one’s decision to become organ donor after death.

Consequently, FCNA foresees limited roles for families (or other surrogate decision-makers) in authorizing donation, as “consultation of the family” is simply for the purposes of assuring that the potential donor understood the implications of their donation decision. Implicitly, the council’s ruling suggests that surrogate decision makers should apply a substituted-judgment standard when communicating their relative’s stated values to healthcare workers.

In cases where organ donation aligns with the potential donor’s expressed values, the council prohibits donation when there is substantial harm to the donor (or recipient). They, therefore, encourage individuals (and families) to consult medical experts to discuss health risks and other harms and also discuss the matter with a religious scholar. As such, the council recommends a “case-by-case” approach to judging whether a specific donation is morally permitted.

“Donatable” Organs

Consistent with the dead donor rule and the overarching Islamic ethico-legal maxim of removing harm,⁴¹ FCNA rules

out the donation of vital organs and any donation that has the potential for rendering the donor disabled or physiologically harmed. Ova and sperm donation is unanimously forbidden by Sunni scholars because it creates confusion in the identity as genetic linkages between offspring and progenitor are separated from parent-child connections made by rearing and gestation.^{23,42,43,44,45} Since reproductive organs, for example, ovarian tubes and testicles, carry gametes that would create genetic links between the donor and the offspring, FCNA rules such donation to violate Islamic law's overarching objective of preserving lineage and/or progeny.⁴² This view aligns with that of other transnational juridical academies including the IFA-OIC.²³

More controversial perhaps is FCNA's view that uterus donation is prohibited. The uterus is different from donating gametes or organs that contain gametes because it does not contain any transferrable genetic material. Although the IFA-WML holds uterus transplantation to be permitted because genetic material is not transferred, FCNA rules out such donation.⁴² This view also has precedent as preeminent jurists, including some from the IFA-MWL, prohibit the donation of organs, for example, penis and vagina, intimately connected to sexual reproduction.⁴² The uterus is considered among these sorts of organs by some scholars. Another line of reasoning that scholars use to caution against uterus donation comes from the metaphysical nature of the womb. The Qur'an warns Muslims to respect the womb that bore them for it is through the womb that humans become related to one another (4:1). Hence, a precautionary principle grounds FCNA's view. They also suspend judgment over face and partial brain donation. Hence FCNA's ruling covers kidney, partial liver or pancreas donation, as well as bone, cornea, and tissue donation.

The Donor's Physiologic State

Echoing bioethical concerns over brain death and the dead donor rule,^{46,47} and Islamic contestations over "brain death,"^{19,20,48} FCNA defines deceased donation as donation that occurs after circulatory determination of death. Thus, the scope of donation considered to be Islamically licit, according to them, is living donation and donation after cardiopulmonary cessation. This view echoes a recent fatwa penned by Mufti M. Zubair Butt in the United Kingdom that resulted from extensive Islamic research and meetings with bioethicists, and organ donation stakeholders, including the National Health Service Blood and Transplant leaders.^{49,50}

Practice Implications for OPO Organizations and Organ Donation Authorization Forms

Within the United States, OPOs are legally mandated to approach families to discuss organ and tissue donation around the time of their loved one's demise. In cases where the decedent is a registered donor, OPOs focus on educating families about the process and providing social and psychological support. Since families cannot override the decedent's authorization, conversations between family members and OPO representatives are delicately handled. When the decedent has not formally registered as a donor and not left documented unequivocal wishes to be one, OPO professionals discuss the societal need for, and possible benefits of, organ donation with family members. Given that both the number and quality of organs that can be procured are increased after "brain death," OPOs play a critical role in facilitating this

type of donation. OPO professionals share that donation may offer positive meaning-making from their loved one's demise and that their organizations offer long-term social support to donor families.

FCNA's *fatwa* has the potential to significantly impact conversations OPO representatives have with Muslim families. The council stresses first-person consent nor does it fully agree that "brain death" is death proper in Islamic law. As such, OPO professional's conversations with devout Muslim families may need to be more nuanced than with other groups. To properly counsel Muslim families facing choices about whether or not to donate a loved one's organs, OPO representatives should learn about, and acknowledge, FCNA's stances on first-person authorization and "brain death." While it may appear to run counter the goal of increasing opportunities for organ donation, the norm of informed consent and the goals of cultural awareness and religious accuracy seem to require as much. Certainly there are Islamic jurists with differing opinions, and each individual's (and family decision-maker's) motivation to follow a particular jurist (or juridical council's) rulings varies. Yet if a Muslim family desires, or appears to value, religious stances on the matter, clinical ethics norms suggest noting the pluralism within Islamic scholarly circles and sharing FCNA's stances since this council's judgment is specific to the American context.

Additionally, OPOs and similar organizations perform significant community outreach and education and produce a great deal of public-facing materials to encourage conversations about, and decisions to, donate one's organs through donor registries and the like. These strategies align with FCNA's, and well as American law's, preference for first-person authorization. Arguably, acknowledging the diversity of Islamic opinion in these settings would be more ethical, prudent, and engendering of community trust. It may seem counterintuitive to suggest that the constraints placed on organ donation by FCNA and other juridical councils about what types of organs and when they can be donated be openly discussed in community-based conversations and public media. One may speculate that such discussions would dissuade individuals from participating in organ donation. However, empirical research demonstrates that Muslim American communities are already aware of conflicting opinions among religious scholars on organ donation,^{36,51} and directly addressing ethical pluralism and controversy while also encouraging individuals to educate themselves and resolve the matter to their own hearts, content can generate positive changes in attitudes. Moreover, such details would allow for individuals who fear running afoul of religious edicts to, in advance, designate which organs, under which conditions, and even possibly to whom they would donate. Hence, reticence toward may be transformed into an opportunity for donating organs and tissues. We thus suggest that OPOs and similar organizations working in geographies with significant Muslim populations develop training modules on the diverse religious views related to organ donation and "brain-death."

The council's stress on individual choice also suggests that opt-out policies would be met with opposition by Islamic scholars, as has been the case in the United Kingdom.⁵² Moreover, given that most donor registries do not have provisions for restricting the types of organs/tissues that one desires to donate, FCNA's restrictions could motivate Muslim community stakeholders to develop their own templated legal

documents. By doing so, greater numbers of individuals may be able to join the donor pool and the goals of respect for persons and individual autonomy would be advanced.

While not an implication for OPO and donation forms, FCNA's fatwa may spur greater research into donation after circulatory death protocols and organ recovery. While organ procurement after cardiopulmonary collapse is technically challenging and can lead to both fewer and lower quality of organ procured, research in this area is growing exponentially. As experiences grow and greater viability of organs such as the kidneys, livers, and lungs donated after circulatory death is found, increased opportunity for Muslims following FCNA's views to donate appear on the horizon.

Questions Left Unaddressed and to Be Revisited

FCNA explicitly deferred on whether "brain death" was Islamically valid and thus ruled out donation after "brain death." Members on the council acknowledged that the topic ties into perennial debates about the soul's connection to the body, and also involves considering whether there can be different standards for death based on the purposes it needs to be declared for (eg, withdrawal of life support versus organ donation versus distribution of the decedent's estate). Future council meetings will focus on these questions. Similarly, left unaddressed is their view on donation after declaration of circulatory death protocols. On the one hand, these may be permissible given their defaulting to circulatory markers for death declaration. However, given the mandate to not harm potential donors, protocols that entail giving anticoagulants and vasopressors that offer no benefit to, but carry the risk to harm, the donor may run afoul of Islamic bioethics.² During the deliberative sessions, FCNA experts felt this area required greater exploration. Finally, as the field of xenotransplantation advances additional deliberations will be necessary. The ethics of using porcine products for human purposes remains controversial within Islamic law.^{53,54} Should pig organs become a viable renal replacement therapy alongside allografts and dialysis, jurists will need to reexamine the harm/benefit calculus according to Islamic ethico-legal conventions.

ACKNOWLEDGMENTS

We acknowledge all FCNA members for their time, effort, and dedication to producing this fatwa: Drs. Muzammil Siddiqi, Zainab Alwani, Zulfiqar Ali Shah, Mohamad A. El-Sheikh, Jamal Badawi, Muhammad Qatanani, Yasir Qadhi, Ossama Bahloul, Deina Abdelkader, Muneer Fareed, Ali Soliman Ali, Mudassir Siddiqi, Ihsan Bagby, Shaykhs Abdur Rahman Khan, Muhammad Nur Abdullah, Mustafa Umar, and Imams Yahya Hendi and Hassan Qazwini. We are grateful to Dr Hisham AlTalib, Dr Abu Bakr al-Shingeti, Sr. Saulat Pervez, Dr Ermin Sinanovic and IIIT scholars and staff for their kind hosting meetings and important intellectual support. We thank all the participants in the 2 IIIT forums, including WRTC Personnel (Lesley Compagnone and Lori Brigham) and Alianetwork staff (Karim and Felicia Ali) for their assistance with organizing and marketing the IIIT meetings as well as their sharing their expertise and experiences with FCNA members.

REFERENCES

1. Hussaini MO. Organ Transplantation: Classical Hanafite Perspectives. Pureway; 2013. Available at http://pureway.org/writing/organ_transplantation/. Accessed February 5, 2020.

- Padela AI, Duivenbode R. The ethics of organ donation, donation after circulatory determination of death, and xenotransplantation from an Islamic perspective. *Xenotransplantation*. 2018; 25:1–12.
- Veatch RM, Ross LF. *Defining Death: The Case for Choice*. Washington DC: Georgetown University Press; 2016.
- Veatch RM, Ross LF. *Transplantation Ethics*. 2nd ed. Washington DC: Georgetown University Press; 2015.
- Kamali MH. *Principles of Islamic Jurisprudence*. Cambridge, United Kingdom: Islamic Texts Society; 2003.
- Nyazee IAK. *Theories of Islamic Law*. Islamabad, Pakistan: Islamic Research Institute International Institute of Islamic Thought; 2005.
- Shafi M, Muhammad M. *Islam on Grafting and Transplantation of Human Organs*. 1st ed. Karachi, Pakistan: Darul Ishaat; 1995.
- Moosa E. Transacting the body in the law: reading Fatawa on organ donation. *Afrika Zamani*. 1998;6:291–315.
- India Islamic Fiqh Academy. Organ Transplant II. 1989. Available at <http://www.iol.ie/~afifi/Articles/organ2.htm>. Accessed May 17, 2010.
- Singapore, Muslim Religious Affairs Division. *Organ Transplant In Islam: The Fiqh of Organ Transplant and Its Application in Singapore*. Singapore: Majlis Ugama Islam Singapura; 2007.
- Ghaly M. Religio-ethical discussions on organ donation among Muslims in Europe: an example of transnational Islamic bioethics. *Med Health Care Philos*. 2012;15:207–220.
- Van den Branden S, Broeckaert B. The ongoing charity of organ donation. Contemporary English Sunni fatwas on organ donation and blood transfusion. *Bioethics*. 2011;25:167–175.
- Albar M. Organ transplantation: a Sunni Islamic perspective. *Saudi J Kidney Dis Transpl*. 2012;23:817–822.
- Rasheed SA, Padela AI. The interplay between religious leaders and organ donation among Muslims. *Zygon*. 2013;48:635–654.
- Moazam F. *Bioethics and Organ Transplantation in a Muslim Society: A Study in Culture, Ethnography, and Religion*. Bloomington, IN: Indiana University Press; 2006.
- Qasmi QMI. *Contemporary Medical Issues in Islamic Jurisprudence*. New Delhi, India: IFA (Islamic Fiqh Academy India) Publications; 2008.
- Jaffer IH, Alibhai SMH. The permissibility of organ donation, end-of-life care, and autopsy in Shiite Islam: a case study. *Muslim Med Ethics: Theor Pract*. 2008:167–181.
- Albar MA. Islamic ethics of organ transplantation and brain death. *Saudi J Kidney Dis Transpl*. 1996;7:109–114.
- Padela AI, Arozullah A, Moosa E. Brain death in Islamic ethico-legal deliberation: challenges for applied Islamic bioethics. *Bioethics*. 2013;27:132–139.
- Padela AI. The perspectives of Islamic jurists on the brain death as legal death in Islam. *J Relig Health*. 2016;55:1215–1217.
- Grundmann J. Shari'ah, brain death and organ transplantation: the context and effect of two Islamic legal decisions in the near and Middle East. *Am J Islamic Soc Sci*. 2005;22:1–25.
- Moosa E. Brain death and organ transplantation—an Islamic opinion. *S Afr Med J*. 1993;83:385–386.
- Al-Bar MA, Chamsi-Pasha H. Contemporary bioethics. *Islamic Perspect*. 2015.
- Padela AI, Basser TA. Brain death: the challenges of translating medical science into Islamic bioethical discourse. *Med Law*. 2012;31:433–450.
- Krawietz B. Brain death and Islamic traditions. In: Brockopp JE, ed. *Islamic Ethics of Life: Abortion, War, and Euthanasia*. Columbia, SC: University of South Carolina Press; 2003:194–213.
- Moosa E. Languages of change in Islamic law: redefining death in modernity. *Islamic Stud*. 1999;38:305–342.
- Sachedina AA. *Islamic Biomedical Ethics: Principles and Application*. Oxford, New York: Oxford University Press; 2009.
- Atighetchi D. *Islamic Bioethics: Problems and Perspectives*. New York, New York: Springer; 2007.
- Mohammed AM. *Harvesting the Human: Traditional Sunnī Islamic Perspective*. Bradford, UK: The Olive Foundation; 2017.
- Miller AC, Ziad-Miller A, Elamin EM. Brain death and Islam: the interface of religion, culture, history, law, and modern medicine. *Chest*. 2014;146:1092–1101.
- Padela AI. Islamic verdicts in health policy discourse: porcine-based vaccines as a case study. *Zygon*. 2013;48:655–670.
- The Fiqh Council of North America. The Fiqh Council of North America. 2019. Available at <http://fiqh-council.org/about-fcna/>. Accessed May 31, 2019.
- Hasan A. An introduction to collective Ijtihad (Ijtihad Jama'i): concept and applications. *Am J Islamic Soc Sci*. 2003;20:26–49.

34. Padela AI, Rasheed S, Warren GJ, et al. Factors associated with positive attitudes toward organ donation in Arab Americans. *Clin Transplant*. 2011;25:800–808.
35. Padela AI, Zaganjor H. Relationships between Islamic religiosity and attitude toward deceased organ donation among American Muslims: a pilot study. *Transplantation*. 2014;97:1292–1299.
36. Hafzalah M, Azzam R, Testa G, et al. Improving the potential for organ donation in an inner city Muslim American community: the impact of a religious educational intervention. *Clin Transplant*. 2014;28:192–197.
37. International Institute of Islamic Thought. Reaching consensus on organ donation: a call to the Muslim American community. The International Institute of Islamic Thought website. 2019. Available at <https://iiit.org/en/reaching-consensus-on-organ-donation-a-call-to-the-muslim-american-community/>. Accessed May 31, 2019.
38. International Institute of Islamic Thought. Dr. Padela and Organ Donation. International Institute of Islamic Thought website. 2019. Available at <https://iiit.org/en/dr-padela-and-organ-donation/>. Accessed May 31, 2019.
39. Auda J, Badawi J, America FCoN. *On Organ Donation and Transplantation*. Planfield, IN: Fiqh Council of North America; 2018.
40. Hamdy S. *Our Bodies Belong to God: Organ Transplants, Islam, and the Struggle for Human Dignity in Egypt*. Berkeley, CA: University of California Press; 2012.
41. Sachedina A. “No Harm, No Harassment”: major principles of health care ethics in Islam. In: Guinn DE, ed. *Handbook of Bioethics and Religion*. Oxford, UK: Oxford University Press; 2006:265–289.
42. Clarke M. *Islam and New Kinship: Reproductive Technology and the Shariah in Lebanon*. Vol 16. Oxford, NY: Berghahn Books; 2009.
43. Islam S. *Ethics of Assisted Reproductive Medicine: A Comparative Study of Western and Islamic Bioethics*. Herndon, VA: International Institute of Islamic Thought (IIIT); 2017.
44. Shaikh MAH. *Islamic Principles on Family Planning*. New Delhi, India: Adam Publishers & Distributors; 2008.
45. Kabir M. Who is a parent? Parenthood in Islamic ethics. *J Med Ethics*. 2007;33:605–609.
46. Veatch RM. Killing by organ procurement: brain-based death and legal fictions. *J Med Philos*. 2015;40:289–311.
47. Truog RD, Berlinger N, Zacharias RL, et al. Brain death at fifty: exploring consensus, controversy, and contexts. *Hastings Cent Rep*. 2018;48(Suppl 4):S2–S5.
48. Mohammed AM. *Harvesting the Human; Traditional Sunni Islamic Perspective*. Bradford, UK: The Institute for the Revival of Traditional Islamic Sciences; 2017.
49. Yes I Donate: Organ Donation. An Islamic Perspective on Organ Donation. NHS: Blood and Transplant website. 2019. Available at <https://www.organdonation.nhs.uk/helping-you-to-decide/your-faith-and-beliefs/islam/>. Accessed December 5, 2019.
50. Butt MZ. *Organ Donation and Transplantation in Islam: An Opinion*. Bradford, United Kingdom: Institute of Islamic Jurisprudence; 2019.
51. Duivenbode R, Hall S, Padela AI. “Is it still controversial that we cannot donate organs?” American Muslim women’s organ donation beliefs – a mosque-based qualitative study. *Clin Transplant*. In Press.
52. BBC News. *Organ donation: Jewish and Muslim presumed consent worries*. BBC website. 2012. Available at <https://www.bbc.com/news/uk-wales-20182517>. Accessed June 1 2019.
53. Yacoub AAA, Ahmed Y, Clarke A, et al. *The Fiqh of Medicine: Responses in Islamic Jurisprudence to Development in Medical Science*. London, UK: Ta-Ha Publishers Ltd; 2001.
54. al-Munajjid MS. Medicines Containing Animal Hormones/Organs/Products. Halal Industry Development Corporation website. 2004. Available at <http://www.hdcglobal.com/publisher/pid/b368dc7b-039b-4335-9df3-8c015cbb33af/container//contentId/392c5218-6fd6-4184-a7ef-e56d9751c94b>. Accessed March 12, 2012.