

Religion and Society Research Centre



International Conference on Organ Transplantation in Islam

International and local academics and experts offer a critical and comparative discussion on **Organ Transplantation in Islam**. By investigating how Islam grapples with the question of Organ Transplantation and Donation in the modern world, this conference aims to enhance our understanding of various issues and debates surrounding these processes and different ways through which Muslims deal with organ transplantation and donation.

Registration and attendance to this event is FREE.

Date and Time

Saturday, 22 November 2014
8.30 am – 5:30 pm

Venue

Bankstown Campus
Building 23, Room G.30 (LT04)

RSVP

By Wednesday, 19 November 2014
(for catering requirements)
To j.fishman@uws.edu.au

Speakers

Razia Ghaznavi, Deakin University and
Derya Iner, University of Wisconsin-Madison

Farrokh B Sekaleshfar, Manchester
University

Nor Safina Zainal, Department of Islamic
Development Malaysia

Sheikh Nazeerul Hassan (Thanvi), Sydney

Arskal Salim, University of Western Sydney

Jan A Ali, University of Western Sydney

Conference Organisers

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Religion and Society Research Centre
School of Social Science and
Psychology
University of Western Sydney

Program Outline

09:00 am – 09:10 am	Welcome and Conference Opening: Professor Kevin Dunn
09:10 am – 09:30 am	Introduction to Conference: Dr Jan A Ali MC: Dr Arskal Salim

09:30 am – 10:00 am	Morning Tea
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Organ Transplantation in the Modern World

10:00 am – 10:30 am	Ms Razia Ghaznavi and Dr Derya Iner Organ Transplantation and Donation: Islamic Jurisprudential Perspectives and Recent Medical Technological Inventions on Organ Transplants
10:30 am – 10:40 am	Q&A
10:40 am – 11:10 am	Ms Nor Safina Zainal Organ Transplantation: Islamic Bioethics Discourse
11:10 am – 11:20 am	Q&A

Islamic Theological Perspective on Organ Transplantation and Donation

11:20 am – 11:50 am	Dr Farrokh B Sekaleshfar Organ Donation Perspectives in Shiah Islam
11:50 am – 12:00 noon	Q&A

12:00 noon – 1:00 pm	Lunch
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Social Scientific and Comparative Analysis of Organ Transplantation and Donation

1:00 pm – 2:30 pm	Sheikh Nazeerul Hassan (Thanvi) Organ Transplantation in Islam
2:30 pm – 2:40 pm	Q&A
2:40 pm – 3:10 pm	Dr Arskal Salim Indonesian Ulama Council's Fatwas on Human Organ Transplantations and Donation
3:10 pm – 3:20 pm	Q&A

Social Scientific and Comparative Analysis of Organ Transplantation and Donation

3:20 pm – 3:50 pm	Dr Jan A Ali A Sociological Analysis of Organ Transplantation in Islam
3:50 pm – 4:00 pm	Q&A
4:00 pm – 5:00 pm	Open Panel Discussion
5:00 pm	Close

6:30 pm	Conference Dinner – dinner is free; places are limited Bankstown Campus, Building 23, Rooms G.40 and 41 Please RSVP to J.Fishman@uws.edu.au by 19 November 2014
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Abstracts

Organ Transplantation and Donation: Islamic Jurisprudential Perspectives and Recent Medical Technological Inventions on Organ Transplants.

Razia Ghaznavi, Deakin University and Derya Iner, University of Wisconsin-Madison

Organ donation is a product of medical research and advancements in the 21st century. It has elicited strong opinions on the bioethical, religious and legal conundrums associated with its' therapeutic application amongst scholars and laymen alike. In recent times Islamic bioethics has evolved as a distinct area of academic scholarship that stems from the corpus of Islamic Jurisprudence to address the religious and legal dilemmas facing patients, donors, medical practitioners, families, lawmakers and society in understanding and managing the social changes connected with new medical technologies. Islamic jurisprudence provides the framework for jurists via the application of the legal precept of ijtiḥād (analogical reasoning) in conjunction with the concept of Maqasid al Shariah (The higher intents and purposes of the law) to devise new rulings on paradigm bioethical cases such as organ donation.

This paper aims to combine the two main concepts of this conference: (1) Islamic Jurisprudential Perspectives on organ transplants and donation, and (2) Organ Transplants and Donation in light of recent inventions in Modern Medicine. It will analyse the Islamic jurisprudential rulings (fatwas) derived by Islamic Juristic scholars on organ transplantation and donation in Singapore, Saudi Arabia and Europe with a view to gaining critical insights into the evolution of these rulings and why there are divergent opinions on the issue.

The analysis will include an examination of the ethical, legal and religious points expounded by jurists in the rulings, as supported by Islamic precedents' and evidence from the normative sources of the Quran and Sunnah, in tandem with current medical and scientific knowledge in relation to organ donation and transplantation. Then, the discussion will focus on the diverse role of Islamic jurisprudence in shaping ethically sound laws in light of modernity and medical developments *vis-à-vis* the case of organ transplantation and donation, in medical advancements such as stem cell research. Recent developments in the area of stem

cell research show there is great potential in the use of somatic cell nuclear transfer procedures to clone organs specifically for transplant and use the of stem cell therapy to reverse necrosis in organ tissues.

These new biomedical technologies would mean the revision of Islamic rulings on organ transplants and donation as the human interests in terms of the higher intents and purposes of the law and the status quo, has morphed into a different case necessitating a new legal ruling (fatwa). It is imperative that these bioethical questions are explored as it provides valuable insight to Muslims, medical practitioners, ethicists, sociologists and scholars in related fields of scholarship on the system of Islamic law and the central role it plays in responding to new social phenomenon and realities, deriving laws on the grey areas of social interaction for individuals and society in matters of law and ethics, whilst maintaining relevance for Islam in modernity.

Organ Transplantation: Islamic Bioethics Discourse

Nor Safina Zainal, Department of Islamic Development Malaysia

Organ transplantation has become one of the most important developments in modern medicine; saving the lives, as well as improving the quality of life of many patients. As the demand for organ transplantation far exceeds the organ availability, the transplant programme is often saddled with intricate religious and ethical issues. This review paper highlights the aforesaid issues that might arise regarding organ transplantation and appraises the existing juristic framework governing organ transplantation in Islam. It was believed by medieval jurists that to mutilate one living person to benefit another violates the integrity of the human person. Among contemporary Muslim academicians and researchers, there are those who throw religious support as to its permissibility while the other group sees it as illegal.

The latter argues that organ/tissues transplantation is a medical intervention that touches on the fundamental rights of the donor or the recipient and that it is prohibited to violate, harm or mutilate the dead body whether it is a Muslim or non-Muslim cadaver. However, organ transplantation in its contemporary state is a new issue which the classical jurists could not have dealt with or determined its Shariah rulings. The reason is that, this exigency is the consequence of recent scientific

advancement in the medical discipline. Therefore, it is impossible for us to find express rulings concerning it in the classical works.

As such, this study seeks to assess the issue in discussion based on the general and broad guidelines of the Shariah. The legal maxims and correct methodology of exercising *Ijtihad* should follow in every age and this is the approach followed in reaching new rulings for novel matters, such as the serious issue currently under consideration. Any error in determining the ruling for such a complex issue would preclude good from reaching the Muslim nation. Juristic canons and primary sources are consulted, particularly those dealings with any act *vis-à-vis* the organs of the living and the dead. This paper analyses these juristic legacy, determining the new factors which should be taken into consideration; those factors which make it necessary for us to re-evaluate the issue within the ambit of the rules of Shariah.

Organ Donation Perspectives in Shiah Islam

Farrokh B Sekaleshfar, Manchester University

Organ donation is a medical phenomenon that has arisen mainly during the twentieth century. Islam is a 1400-year old religion that claims to be the last divine and monotheist religion on earth, following Judaism and Christianity. The Islamic sources of legislation from which Shiah jurists employ in order to derive law and social policy, on medical and non-medical matters, include the Quran, traditions and reason.

In this paper, we shall first outline the method of extrapolating rulings – from Shiah perspectives – and then illustrate how different legal mechanisms are put into play when verdicts are issued in relation to different aspects of organ donation. According to first (jurisprudential) principles, all forms of donations are legitimate in Islam as a result of the sanctity of life and the lack of evidences indicating such procedures' prohibition, irrespective of whether the organs are derived from living people or human cadavers. These will be discussed in addition to the exceptions that would deem donations as illegal.

The main functions of jurists lie in their understanding of the verses of the Quran and traditions; some of the pivotal concepts extracted from the transmitted texts that constitute the driving force and rationale behind Shiah jurisprudential

rulings are those of the sanctity of life and ownership. The paper ends with verdicts issued by Iran's Supreme Leader (of the Shiah world), Ayatullah Khamenei.

Organ Transplantation in Silam

Sheikh Nazeerul Hassan (Thanvi), Sydney

This abstract will be provided at a later date.

Indonesian Ulama Council's Fatwas on Human Organ Transplantations and Donation

Dr Arskal Salim, University of Sydney

Since its establishment in 1975, the Council of Indonesian Ulama (CIU) has produced many fatwas on medical and bioethical issues. These include, among others, heart-valve donation and transplantation, cornea donation, eyes bank and the bank of other human organs, the use of human organs for medicine and cosmetics, artificial insemination, cloning, microbial food and products and surrogacy. This paper will discuss these fatwas especially that relate to human organ transplantation and donation. Its focus is on the way in which Indonesian Islamic jurist scholars through such *ulama* institution formulate and construct legal reasoning to (dis)allow those certain medical undertakings. This paper would also look at how other parties (Muslim society, the state and medical practitioners) have responded to these fatwas. It will be argued that the theory of *maslaha* plays a key role in the construction of Islamic legal reasoning on these medical and bioethical issues in Indonesian Muslim contexts.

Sociology of Organ Transplantation: An Islamic perspective

Dr Jan A Ali, University of Western Sydney

Organ transplantation denotes the replacement of a non-functioning organ in one body with a functioning one in another to prolong the life of a patient or to cure him/her. In essence, there are two types of organ transplantation: in one case the organ or organs are harvested from a live body and transplanted in another live body to replace any non-functioning or diseased organs; in the other case, the organ or organs are removed from a cadaveric body and transplanted into a live body. Generally speaking, Islam instructs its adherents to protect the body at all times and accord it care and

attention during sickness or illness. Protection of the body and its treatment during sickness or illness is directly linked with the idea of preservation of life. Many Islamic scholars, therefore, view organ transplantation permissible in Islam. However, not all Islamic scholars and jurists necessarily agree with organ transplantation and donation. These scholars consider organ transplantation and donation to be prohibited in Islam, particularly regarding the removal of an organ or organs from a cadaveric body and transplant in a live body.

This paper examines for and against debates surrounding organ transplantation and donation in Islam. It explores various concepts, issues, and the role of key institutions connected with organ transplantation. The paper posits that organ transplantation is a modern sociological phenomenon. It emerged from the advancement made in secular modern medicine for the purpose of prolongation and betterment of life. However, organ transplantation as a modern sociological phenomenon is also associated with material and commercial practices. It is this latter situation that this paper is particularly concerned with and will look at how Islam attempts to negotiate through it.

Biographies

Ms Razia Ghaznavi completed her Degree in the Bachelor of Business at Deakin University, Victoria Australia majoring in Accounting. She is currently completing (2014) a Master's Degree in Islamic Studies at Charles Sturt University (CISAC – Centre for Islamic Studies and Civilisations), NSW Australia. Razia is working on publishing her thesis on "Stem Cell Research: Islamic Law and Bioethical Perspectives". She has an interest in the field of Islamic Bioethics and law and is keen to continue further research in this area of Academic scholarship.
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Dr Derya Iner completed her PhD in Cultural Studies (major) and Gender and Women's Studies (minor) at the University of Wisconsin-Madison (UW), USA. In addition to taking part in the organising committee of the international Islam conferences held in the US and Australia, Iner authored the book entitled *The Two Faces of the Stage* comparing two mystique play writers' point of views on creation, existentialism, and the Creator. She published encyclopaedia entries, journal and periodical articles and delivered conference papers.

She taught some subjects in the University of Wisconsin-Madison and conducted some projects in Australian Catholic University in Melbourne. Presently, she is lecturing and coordinating Higher Degree Research at Centre for Islamic Studies (CISAC), CSU. Iner is also part time research fellow at CISAC conducting a research on the second generation Australian Muslims' religious identity formation and editing a volume on Muslim Identity Formation in Religious Diverse Societies.

Ms Nor Safina Zainal was appointed as a Senior Chief Assistant Director at Department of Islamic Development Malaysian since 2011. She is responsible of managing and coordinating the operational of Islamic Affairs in Malaysia and currently the main role that she serves is research and management of *fatwa* (edict), such as identify the contemporaries issues related to Muslims that need a solution regarding Islamic Teaching in various scope and disciplines including religious dogma, doctrinal issues, Shari'ah, Islamic jurisprudence and finance, medicine, pharmaceutical, and biotechnology.

Nor Safina received her Bachelor of Syariah and Islamic Law and Master of Syariah at University of Malaya in Kuala Lumpur Malaysia. She has over eight years of experience in research and management of *fatwa* (edict). In addition, she has also presented several papers especially on bioethical issues related to Islamic perspective and she was also appointed as a Member of National Committee for Assisted Reproductive Technology Services for Ministry of Health Malaysia.
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Dr Farrokh B Sekaleshfar was born in Manchester, UK, in 1973. He qualified in General Medicine at Imperial College, London, in 2000 and has studied Bioethics at Manchester University. He has been studying seminary sciences in Qum for over a decade and is teaching ethics and gnosticism. His main research areas include jurisprudence and spirituality. He is currently a researcher at Royan Institute in Tehran.
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Imam Nazeerul Hasan Thanvi was born in Lahore in Pakistan in the world renowned Thanvi family of Muslims Theologians and is a direct descendant of Molana Sh. Ashraf Ali Thanvi. He completed his Holy Quran memorization at the age of 12 and completed Muslim Theologian Degree (Tafseer, Hadith and Fiqh) from The Jamia Ashrafiyyah,

Lahore in 1980 along with his Master of Arts (MA) from The University of Punjab, Lahore in Arabic and Islamic Studies which included a short research paper on Arabic Literature before the era of Prophet Muhammad.

In Pakistan he served as Officer Incharge in the Divisional Board of Education, Rawalpindi and held various other posts.

He migrated to Australia in 1987 and from that time until 1993 he was the Resident Imam and Religious Minister in Rooty Hill Masjid. Apart from this role Imam Nazeerul Hasan Thanvi has been active in various other religious activities and continues to do so to this day.

Dr Arskal Salim is currently Senior Research Lecturer at the University of Western Sydney, Australia. His PhD was obtained from Melbourne Law School, University of Melbourne, Australia in 2006. He was awarded a three-year postdoctoral research fellowship by the Max Planck Institute for Social Anthropology, Halle, Germany. In late 2009 to mid-2012, he served as visiting professor at the Aga Khan University, Institute for the Study of Muslim Civilisations, London United Kingdom.

Dr Salim has published numerous works on law and Islam in Indonesia including: *Challenging the Secular State, The Islamization of Laws in Modern Indonesia*, (Hawaii University Press, 2008); *The Shift in the Zakat Practice in Indonesia: From Piety to an Islamic Socio-Political-Economic System*, (Thailand Silkwormbooks, 2008); *Shari'a and Politics in Modern Indonesia*, (Singapore ISEAS, 2003). His forthcoming book 'Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism' will be published by Edinburgh University Press (February 2015).

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Dr Jan A Ali is a Sociologist of Islam. He holds a joint appointment as a Senior Lecturer in Islam and Modernity in the School of Humanities and Communication Arts and as the Community and Research Analyst in the Religion and Society Research Centre at the University of Western Sydney. His main sociological focus is on the study of existential Islam. In recent years Jan has been invited by a number of non-government organizations and government agencies in various Australian capital cities and overseas to deliver Public Lectures on Islamic Revivalism, *Shar'iah*,

Terrorism, and various other important topics on Islam.

Jan has published numerous peer reviewed articles in international journals and book chapters. He also published a book entitled *Islamic Revivalism Encounters the Modern World: A Study of the Tablighi Jamā'at*, (New Delhi: Sterling Publishers, (2012).

Currently Jan is researching *Shar'iah in Australia: A Sociological Perspective* using data based on questionnaire survey, collaborating with Professor Kevin Dunn, Professor Peter Hopkins, and Professor Adam Possamai researching *Muslims on Campus: University Life for Muslim Students in Australia*, and working with Dr Michael Kennedy on a research project entitled *Resilience and the NSW Police Community Engaged Counter-Radicalisation Model*.

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