

The Social Politics of Islamic bioethics

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‘Islamic bioethics’ has, over the last decade or so, emerged as an important object of academic attention.¹ The globalisation of biomedicine has entailed a globalisation of its attendant ethical dilemmas: the fertilisation of embryos *in vitro*, the cessation of life support and the transplantation of human organs, among a host of other issues, have been keenly debated in Muslim contexts just as they have elsewhere. Muslim voices have made their own distinctive contributions to these topics of universal concern, contributions which have in their turn become the subject of academic commentary and analysis. A burgeoning number of conferences (including that which led to this special edition of *Die Welt des Islams*),² edited volumes,³ journal articles,⁴ and monographs⁵ have outlined and explored what can now be seen as a field in its own right.⁶

¹ For a sketch of the literature before 2000, of which Vardit Rispler-Chaim’s *Islamic Medical Ethics in the Twentieth Century* (Leiden: Brill, 1993) was perhaps the pioneering instance, see Thomas Eich and Jonathan Brockopp, ‘Introduction: Medical Ethics and Muslim Perspectives’, in Jonathan Brockopp and Thomas Eich (eds), *Muslim Medical Ethics: From Theory to Practice* (Columbia, SC: University of South Carolina Press, 2008), 5-7.

² That conference was *The Social Politics of Islamic Bioethics*, held in January 2014 at the University of Hamburg. Thanks are due to the Fritz Thyssen Stiftung, Körber Stiftung and Hamburgische Wissenschaftliche Stiftung for their financial support. Other recent such meetings have included, to name just a few: *Where Religion, Bioethics, and Policy Meet: An Interdisciplinary Conference on Islamic Bioethics and End-of-Life Care*, Chicago, 10-11 April 2011; *Islamic Bioethics: The Interplay of Islam and the West*, Georgetown University in Qatar, 24-25 June 2012; and *Health-Related Issues and Islamic Normativity*, Hamburg University, 20-23 June 2012.

³ For some recent examples see Brockopp and Eich (eds), *Muslim Medical Ethics*, Marcia C. Inhorn and Soraya Tremayne (eds), *Islam and Assisted Reproductive Technologies: Sunni and Shia Perspectives* (New York: Berghahn Books, 2012), and two special editions edited by Mohammed Ghaly: *Islam and Biomedical Ethics*, *Zygon* vol. 48, no. 3 (2013); and *Islamic Bioethics: Text and Context*, *Bioethics* vol. 28 no. 2 (2014).

⁴ Here there are far too many to cite comprehensively. But for a very limited selection of pieces by some notably prolific authors, see for example: Ayman Shabana, ‘Negation of Paternity in Islamic Law Between Li‘an and DNA Fingerprinting’, *Islamic Law and Society* vol. 20 no. 3 (2013): 157-201; Mohammed Ghaly, ‘Human Embryology in the Islamic Tradition: The Jurists of the Post-Formative Era in Focus’, *Islamic Law and Society* 21 (2014): 157-208; Aasim Padela, Ahsan Arozullah and Ebrahim Moosa, ‘Brain Death in Islamic Ethico-Legal Deliberation: Challenges for Applied Islamic Bioethics’, *Bioethics* vol. 27 no. 3 (2013): 132-9.

⁵ E.g. Sherine Hamdy, *Our Bodies Belong to God: Organ Transplants, Islam, and the Struggle for Human Dignity in Egypt* (Berkeley: University of California Press, 2012); Martin Kellner, *Islamische Rechtsmeinungen zu medizinischen Eingriffen an den Grenzen des Lebens* (Würzburg, 2010); Abdulaziz Sachedina, *Islamic Biomedical Ethics: Principles and Application* (New York: Oxford University Press, 2009); Morgan Clarke, *Islam and New Kinship: Reproductive Technology and the Shariah in Lebanon* (New York: Berghahn Books, 2009); Dariusch Atighetchi, *Islamic Bioethics: Problems and Perspectives* (Dordrecht, 2007); Thomas Eich, *Islamische Bioethik – Eine kritische Analyse der modernen Diskussionen im islamischen Recht* (Wiesbaden, 2005); Birgit Krawietz, *Die Hurma – Schariatrechtlicher Schutz vor Eingriffen in die körperliche Unversehrtheit nach arabischen Fatwas des 20. Jahrhunderts* (Berlin, 1991).

⁶ For approachable surveys see: Eich and Brockopp, ‘Introduction’; Mohammed Ghaly, ‘Islamic Bioethics in the Twenty-First Century’, *Zygon* vol. 48 no. 3 (2013): 592-9; Ayman Shabana, ‘Bioethics

As the literature has grown, so has the voicing of a number of reservations.⁷ First and foremost, it has been suggested, the focus has been too closely on the pronouncements of Islamic legal scholars.⁸ In particular, ‘Islamic bioethics’ has too often been reduced to the study of fatwas on medical issues. For one thing, this is to obscure not only wider worlds of Islamic discourse,⁹ but also the complex ways in which texts interrelate with the contexts within which they are necessarily embedded and employed.¹⁰ But furthermore, as we wish to stress especially here, this is also to lose sight of the ways in which Islamic legal authority relates to the wider world: to the world of medical expertise that an Islamic bioethics is in conversation with and to the world of state law and regulation that it aspires to influence, as well as to the lives of ordinary Muslims faced with these dilemmas. Second, the literature has concentrated on the Middle East, partly reproducing a widely challenged centre-periphery model, in which the Middle East is seen as the Islamic centre at the expense of the nominal peripheries, be they the demographically more significant South and South East Asia, or the minority communities of the West, the drivers of new visions of Muslim modernities.¹¹ And third, as for bioethics more generally, the study of Islamic bioethics can be seen to have focused too much on relatively exotic and uncommonly practised procedures such as surrogacy arrangements and organ transplants, rather than the much more pressing issues of mass provision of basic health care, for instance.¹²

Our argument for a turn to the ‘social politics’ of Islamic bioethics captures both this latter sense of the need to redress an over-intellectualisation and exoticisation of health issues, but also the first and broader issue of the need to look beyond Islamic texts and indeed their consumption. Attempts at complicating a straight-forward reduction of the field to Islamic texts on medical and bioethical issues have to date worked with a model contrasting normative discourse with

in Islamic Thought’, *Religion Compass* vol. 8 no. 11 (2014): 337-46; Thomas Eich, ‘Bioethics’, *Encyclopaedia of Islam*, THREE, Kate Fleet, Gudrun Krämer, Denis Matringe, John Nawas and Everett Rowson (eds) (Brill Online, 2015: http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-3/bioethics-COM_23420, accessed 27 May 2015).

⁷ For a powerful such statement see Hamdy, *Our Bodies Belong to God*. For a critique of the ‘fatwa-centred’ approach in particular see Manfred Sing, ‘Sacred Law Reconsidered: The Similarity of Bioethical Debates in Islamic Contexts and Western Societies’, *Journal of Religious Ethics* vol. 36 no. 1 (2008): 97-121.

⁸ What is termed in Islamic legal discourse *fiqh al-tibb*, ‘the Islamic legal study of medicine’, and other such expressions. See e.g. Sachedina, *Islamic Biomedical Ethics*, 17-18 for a discussion of relevant Arabic and Farsi terms.

⁹ See Sachedina, *Islamic Biomedical Ethics*.

¹⁰ See Eich and Brockopp, ‘Introduction’, and Mohammed Ghaly, ‘Islamic Bioethics: the Inevitable Interplay of “Texts” and “Contexts”’, *Bioethics* vol. 28 no. 2 (2014): ii.

¹¹ But see, for example, Farhat Moazam’s work on Pakistan, *Bioethics and Organ Transplantation in a Muslim Society: A Study in Culture, Ethnography, and Religion* (Bloomington: University of Indiana Press), Aasim Padela’s discussion of the implementation of globalised Islamic pronouncements in Indonesia, ‘Islamic Verdicts in Health Policy Discourse: Porcine-Based Vaccines as a Case Study’, *Zygon* vol. 48 (2013): 655-670, and work on Malaysia such as, Noor Munirah Isa, Azizan Baharuddin, Saadan Man and Lee Wei Chang, ‘Bioethics in the Malay-Muslim Community in Malaysia: A Study on the Formulation of Fatwa on Genetically Modified Food by the National Fatwa Council’, *Developing World Bioethics* (2014, online publication ahead of print: DOI: 10.1111/dewb.12057).

¹² For this and other such critiques of the discipline at large (and a rebuttal) see e.g. Leigh Turner, ‘Anthropological and Sociological Critiques of Bioethics’, *Journal of Bioethical Inquiry* vol. 6 no. 1 (2009): 83-98. For an alternative vision of a ‘global bioethics’ that transcends such parochialism and comprehends the Islamic see Henk ten Have, ‘Global Bioethics: Transnational Experiences and Islamic Bioethics’, *Zygon* vol. 48 no. 3 (2013): 600-17.

necessarily varying and often deviating practice. It is of course undoubtedly necessary to study the different settings and mechanisms through which some normative statements become meaningful and authoritative and others do not.¹³ And we must also pay attention to the social processes through which those statements emerge and take shape. With regard to Islamic bioethics, one can point here to existing studies of international Islamic bodies such as the Islamic Organisation of Medical Sciences, based in Kuwait, and the International Fiqh Academies based in Mecca and Jeddah, associated with the Muslim World League and Organisation of the Islamic Conference respectively.¹⁴ But such research now needs, in our opinion, to go still further. 'Islamic bioethics' needs to be seen as an emergent social phenomenon *sui generis*, as a distinctive and varying assemblage of different sorts of knowledge and expertise, entangled in and productive of new forms of power.

It may help to consider the phenomenon of bioethics more generally. 'Bioethics' is in itself an obviously assembled term, reflecting the discipline's own complex institutional history. If one follows a standard, insider's account such as that of Albert Jonsen for instance,¹⁵ that new discipline, while traceable back to the Nuremburg Trials of doctors involved in medical experiments under Nazi rule and ambivalence over the increasingly technological nature of medicine in the context of the post-World War II war on disease and the emergence of the 'medical industrial complex', was rooted in a union of philosophy and theology. The Hastings Center in New York was co-founded in 1969 by Daniel Callahan, a philosopher trying to write a book on abortion, who thought the issue required an inter-disciplinary approach uniting philosophy and theology – the two most developed moral sciences – alongside medicine and science. The Kennedy Institute founded at Georgetown University, Washington DC in 1971 also sprung from debates over abortion. Its first director was Andre Hellegers, a research scientist working on foetal physiology, and the first two research scholars were both theologians. Philosophy and theology thus gave the initial disciplinary shape to debates that had previously been circulating within and outside medical circles. A further dimension was given by governmental involvement, through congressional hearings like the 1968 Mondale and 1973 Kennedy hearings on medical advances and experimentation. This governmental interest led also to the involvement of another very powerful expert domain – law.

There is some debate as to who coined the term 'bioethics',¹⁶ but by the early 1970s it seems to have gained wide currency. Whatever its origins, its conjunction of elements ('bio' and 'ethics') is a telling one, pointing to the transformative power of the biosciences. Such has been their impact that previous categories seem to take on new forms in their light and under their powers. 'Biomedicine' itself, for instance, is a very different phenomenon from medicine before the huge advances in the life sciences. It is no doubt by now all too familiar – but still pertinent – to invoke at this point Michel Foucault's extensively cited notions of 'biopower' and 'biopolitics'.¹⁷ For Foucault, where the pre-modern sovereign could 'take life or let live', under

¹³ See Hamdy, *Our Bodies Belong to God*, for a seminal such exploration.

¹⁴ See Mohammed Ghaly, 'The Beginning of Human Life: Islamic Bioethical perspectives', *Zygon* vol. 47 no. 1 (2012): 175-213; Ayman Shabana, 'Paternity between Law and Biology: the Reconstruction of the Islamic Law of Paternity in the wake of DNA Testing', *Zygon* vol. 47 no. 1 (2012): 214-239; Thomas Eich, 'Decision-Making Processes among Contemporary 'Ulama': Islamic Embryology and the Discussion of Frozen Embryos', in Brockopp and Eich, *Muslim Medical Ethics*, 61-77.

¹⁵ Albert Jonsen, *The Birth of Bioethics* (New York: Oxford University Press, 1998).

¹⁶ Van Rensselaer Potter apparently has a strong claim. See Warren Reich, 'The Word "Bioethics": Its Birth and the Legacies of Those Who Shaped It', *Kennedy Institute of Ethics Journal* Vol. 4 No. 4 (1994): 319-35.

modernity, 'life' itself is brought into the realm of explicit calculation on the part of the rationalising state, the subject of new forms of knowledge and technology, means of transforming and governing human life both at the level of the individual body and at the level of 'the species', which is to say, whole populations. New sorts of relationships between state and subject entail, are accompanied by and depend on new forms of power and knowledge. Others have been inspired to think of how contemporary scientific and technological forms, paradigmatically the new genetics, have led to new forms of sociality – 'biosociality' – and citizenship – 'biological citizenship'.¹⁸

Adding 'bio-' to existing categories is not (or should not be) just a matter of academic fashion then: it indicates a step-change in forms of knowledge and power. So for us, to use the term 'Islamic bioethics' is not simply to refer to what authoritative Muslim voices have to say about bioethical issues. Rather, it speaks to new constellations, or assemblages, of authority emerging in the modern Muslim world. Just as Western bioethics emerged from conjunctions of law, philosophy, theology and medicine, so too Islamic bioethics brings together Islamic legal authority with the new modern regimes of expertise and power: science, medicine and the nation state. And it does so in new social forms: transnational fatwa councils, Muslim medical associations and national Islamic bioethical committees. It is not that there was no pre-modern Islamic medical tradition or no Muslim ethical pronouncements on medical matters of course, nor that there is no genealogical connection between them and the phenomena we are concerned with. But we have to reckon also with the novelty of our subject.

In invoking the term 'assemblage' we do not intend any great theoretical sophistication. Leaving aside the notion's use (via translation) by Marx, let alone Latour or Deleuze,¹⁹ we have in mind a relatively straight-forward idea that 'Islamic bioethics' necessarily involves the conjunction of different orders of knowledge and practice, at the minimum Islamic and biomedical discourses, but also potentially those of state regulation, among others. Importantly then, such an assemblage is, in Collier and Ong's words, 'the product of multiple determinations that are not reducible to a single logic'.²⁰ Much has been written of late on the question of the compatibility of the Islamic tradition with modern concepts of normativity and governmentality;²¹ the relationship between 'religion' and 'science' is of course a hoary theme. 'Islamic

¹⁷ For which see Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975-76*, D. Macey trans. (London: Allen Lane, 2003); idem, *Security, Territory, Population: Lectures at the Collège de France, 1977-78*, G. Burchell trans. (Basingstoke: Palgrave MacMillan, 2007); idem, *The History of Sexuality: Volume 1, The Will to Knowledge*, R. Hurley trans. (London: Penguin, 1978).

¹⁸ See Paul Rabinow, 'Artificiality and Enlightenment: From Socio-Biology to Biosociality', in his *Essays on the Anthropology of Reason* (Princeton: Princeton University Press, 1996), and Nikolas Rose, *The Politics of Life Itself: Biomedicine, Power, and Subjectivity in the Twenty-First Century* (Princeton: Princeton University Press, 2007).

¹⁹ Bruno Latour, *Reassembling the Social: An Introduction to Actor-Network Theory* (Oxford: Oxford University Press, 2005); Giles Deleuze and Félix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia* (London: Athlone Press, 1988). Marx employs the term at the very opening of *Capital* Volume 1: for a discussion in the context of 'bio' assemblages see Aditya Bharadwaj and Peter Glaser, *Local Cells, Global Science: The Rise of Embryonic Stem Cell Research in India* (London: Routledge, 2008), 44-5. For a brief general discussion of the use of the term in the social and cultural sciences see George Marcus and Erkan Saka, 'Assemblage', *Theory, Culture and Society* vol. 23 nos. 2-3 (2006): 101-9.

²⁰ Stephen Collier and Aihwa Ong, 'Global Assemblages, Anthropological Problems', in Aihwa Ong and Stephen Collier (eds), *Global Assemblages: Technology, Politics, and Ethics as Anthropological Problems* (Oxford: Blackwell, 2005), 12.

bioethics' is thus at root an attempt at the mediation of forms in tension, although we do not seek to pass judgement on whether or not such attempts could be seen as successful or otherwise.

The parallel topic of 'Islamic finance' would make for an interesting comparison. Here too we see an uneasy conjunction of the classical Islamic legal tradition and some of the most powerful projects of Western capitalist modernity. Islamic jurists are brought into collaboration with financial service providers, and have to judge the merits of complex financial instruments, which presumably have to be explicated by other orders of professional expertise. State interests are bound in; civil legal regulation and arbitration entailed. It is striking that here an attempt has been made to institute an authentically 'Islamic' version of banking and finance, with its roots in distinctive Islamic legal practices and institutions, as an alternative to the Western, 'immoral' tradition. Islamic bioethics seems more explicitly a hybrid than a nominal alternative: the possibility of an authentically Islamic medical tradition rooted in Islamic precedent – even 'Prophetic medicine' (*al-tibb al-nabawi*) perhaps – has not seemed so attractive.²²

Collier and Ong's avocation of the notion of 'global assemblages' is an attempt to go beyond what they deem the rather empty notion of 'globalisation'. Certain 'global forms', of which biomedical technology would be one powerful example, and indeed 'ethics' another, lend themselves to deterritorialisation; they then become inserted into different contexts in the form of necessarily varying such assemblages.²³ For our purposes here, it is important to note that the processes of assemblage we are interested in play out in different ways in different places: the relationship between Islamic religious authority, state law and the medical establishment is very different between, for instance, Egypt, Iran and Malaysia, something that too tight a focus on the 'Islamic' discursive element of Islamic bioethics might blind us to.

Let us take an example from one central theme of bioethics in general and Islamic bioethics in particular, assisted reproduction. Within the Middle East – again, the focus of most existing discussions – according to existing research, donor egg procedures can only be obtained in predominantly (Twelver) Shi'i Iran and in Lebanon, which has a sizeable Shi'i community. Elsewhere in the region, such procedures are ruled out. This has been readily assimilated to a general characterisation that has arisen concerning Islamic opinion on assisted reproduction, which contrasts a 'Sunni consensus' forbidding the use of donor gametes with a more varied array of Shi'i opinion, among which are positions allowing the use of donor eggs and, more rarely, donor sperm. It has proved tempting to lump this all together in a contrast between 'Sunni' and 'Shi'i' approaches. But to remain with this binary would be to ignore the substantial differences not only in the sorts of religious authority being canvassed (commonly transnational and national fatwa councils in the

²¹ Most obviously, Wael Hallaq, *The Impossible State: Islam, Politics and Modernity's Moral Predicament* (New York: Columbia University Press, 2013).

²² As Jakob Skovgaard-Petersen pointed out at our conference. Medical insurance – a theme broached in Aasim Padela's article in this special edition – bridges the two fields. On Islamic debates over insurance more generally see e.g. Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dār al-Iftā* (Leiden: Brill, 1997), 335-73. For one way into thinking about Islamic reactions to Western capitalism see Charles Tripp, *Islam and the Moral Economy: The Challenge of Capitalism* (Cambridge: Cambridge University Press, 2006).

²³ Collier and Ong, 'Global Assemblages'. The articles assembled in Ong and Collier's edited collection (*Global Assemblages*) bear out this assertion. See Jenny Schreiber's article in this special edition for further discussion.

Sunni cases and individual *mujtahids* in the Shi‘i ones), but also the very different ways in which religious, medical and state legal authority are related in Iran and Lebanon. Donor egg procedures in Iran take place in a context where ‘official’ fatwas – that is, those made by *mujtahids* connected with the Islamic state apparatus, pre-eminently the Supreme Leader – have effective regulatory power and where a law allowing embryo donation and informed by religious opinion has been passed by parliament. Where they were possible in Lebanon it was because assisted reproduction remained largely unregulated due to the irreducible diversity of opinion on such matters among Lebanon’s eighteen religious communities and its more general political and parliamentary gridlock. The two examples at first glance look the same, but do not amount to the same point. What is commonly thought of as a free-floating ‘Islamic bioethics’ thus needs to be re-read, we would argue, as a plurality of distinctive local constellations of such national and transnational relations and projects.²⁴

Challenges to research

Once one grants the assembled nature of our subject, one must also note that its research presents its own particular challenges. If we consider Islamic bioethics as a new form of knowledge production establishing new linkages between different disciplines, it follows logically that the study of this new field would need to have some interdisciplinary dimension as well. A brief consideration of the academic backgrounds of some of the contributors to this thematic issue should illustrate the point. Mohammed Ghaly studied Islamic Studies in English at al-Azhar University in Egypt. He then transferred to Leiden University from which he received his PhD in Islamic Studies and today works at the Research Centre for Islamic Legislation and Ethics in Qatar. Jenny Schreiber is a medical doctor and scholar of South East Asian Studies at the University of Hamburg who is currently completing her PhD on transplant practises in Malaysia. Shirin Garmaroudi is an anthropologist, born in Iran but now based in Switzerland, who wrote her PhD on Assisted Reproductive Technologies in Iran in the academic setting of the *Internationales Zentrum für Ethik in den Wissenschaften* (IZEW, the International Centre for Ethics in the Sciences and Humanities), at the University of Tübingen. Originally the ‘I’ in the acronym IZEW stood for ‘interdisciplinary’, a commitment reflected in its current executive committee, which consists of a Catholic theologian, a philosopher-cum-biologist and a medical doctor-cum-philosopher. Aasim Padela has undergraduate degrees in Biomedical Engineering and Classical Arabic and Literature from the University of Rochester (New York) and received further medical degrees and emergency medicine training at various institutions in the United States. He currently works as an emergency physician and is the director of the Initiative on Islam and Medicine, a centre for dialogue between the Islamic tradition and biomedicine at the University of Chicago.

²⁴ See Morgan Clarke, ‘Islamic Bioethics and Religious Politics in Lebanon’, in Marcia Inhorn and Soraya Tremayne (eds), *Islam and Assisted Reproductive Technologies: Sunni and Shia Perspectives* (New York: Berghahn Books, 2012), 261-84. On the regulation of assisted reproduction in Iran see Soraya Tremayne, ‘Law, Ethics, and Donor Technologies in Shia Iran’, in Daphna Birenbaum-Carmeli and Marcia C. Inhorn (eds), *Assisting Reproduction, Testing Genes: Global Encounters with New Biotechnologies* (New York: Berghahn Books, 2009), 144-63, and Shirin Garmaroudi’s contribution to this special edition. For a parallel example outside of the Middle East of a seemingly identical Islamic bioethical outcome having contrasting nation state histories see Jenny Schreiber’s research on Muslim organ donation in Singapore and Malaysia (*Politics, Piety and Biomedicine: The Malaysian Account of Transplantation, Organ Donation, and Brain Death*. University of Hamburg: PhD thesis, forthcoming).

Interdisciplinarity is important not least if we are to avoid falling into widespread preconceptions of science and medicine as producing universal, stable knowledge, in contrast with the humanities and social sciences, viewed as producing interpretative, negotiable knowledge. Considerable efforts have been made within social scientific studies of science and biomedicine to de-essentialise one side at least of the ‘doctor-patient’, or ‘scientist-layperson’, dichotomy – that is, the patient or layperson. Localised patients have thus been seen – valuably – to speak with a diversity of voices. We should not thereby see science as necessarily speaking with one. The discourses of modern medicine have to be studied diachronically and contextualized locally: they change over time and space and are themselves neither monolithic nor stable. Medical anthropology has taken up an interest in such genealogies of medical discourse stemming from the work, again, of Michel Foucault; it has also more recently learnt from the burgeoning new discipline of Science and Technology Studies. Islamic bioethics – especially in its normative modes – needs to be similarly aware.

That brings us to a further issue. It is true of any academic discipline that it is neither monolithic nor stable. But there is a difference between those disciplines which integrate into their habitus a thrust towards the normative and those that eschew it. Medicine and theology are obvious instances of the former; academic Islamic studies and anthropology, say, of the latter. Bioethics is, when all is said and done, essentially a normative project. On the other hand, this thematic volume appears in *Die Welt des Islams*, which according to its own self-description ‘focuses on the history and culture of the peoples of Islam from the end of the 18th century up to the present, with special attention given to literature’, and thus addresses a field of knowledge-production whose overall habitus could be characterised as non-normative. We raise the issue not so much to warn the reader of the prospect of some discomfort to come, but to point to the difficulties of drawing clear boundaries here.²⁵

The papers

The special edition begins by problematising the fatwa-centred notion of Islamic normativity that has dominated the study of Islamic bioethics to date, through Jakob Skovgaard-Petersen’s concise analysis of the fatwa genre and the varied forms it has taken historically, as a source for understanding Muslim preoccupations with medical issues. We need a nuanced understanding of what fatwas have been classically to understand the very different nature of much contemporary fatwa-discourse, globalised via the Internet. We also need to perceive the diversity within what is often taken to be a monolithic phenomenon, not only in terms of the scope and content of these textual interventions, but also in terms of their intended use and audience, and their permanence or ephemerality.

We then move to considering the ways in which Islamic legal authority becomes united with medical authority, focusing, in Mohammad Ghaly’s piece, on the activities of an important new Islamic institutional form, the transnational *fiqh* council. Ghaly investigates the role of Muslim medical specialists in the production of medical related pronouncements by the Islamic Organisation of Medical Sciences and the International Fiqh Academies referred to above. It becomes clear that these medical experts, whose authority is in part derived from their familiarity with the

²⁵ The debate about the issues raised here within what one might call ‘the anthropology of bioethics’ might prove an instructive precedent. See e.g. Klaus Hoeyer, “‘Ethics Wars’: Reflections on the Antagonism Between Bioethicists and Social Science Observers of Biomedicine”, *Human Studies* vol. 29 (2006): 203-27.

hegemonic West, are highly influential in this production of 'Islamic bioethics', not only providing specialist contextual information, but also effectively setting the agenda for such meetings, participating in the legal debates and even playing a crucial role in the drafting of the findings. Ghaly goes so far as to call them 'co-muftis', finding the extent of their involvement in the production of Islamic law unprecedented. One immediately perceives how a reduction of Islamic bioethics to the role of Islamic legal scholars is radically insufficient.

We now move to consider how this assemblage of medical and religious authority becomes further inserted into state-legal discourse and practice in different ways in different national contexts. Jenny Schreiber's contribution takes us away from the Middle East to investigate attitudes towards brain death and organ transplantation in Malaysia. Taking up Ong and Collier's notion of 'global assemblages' in more detail, she demonstrates how the local medical establishment, deriving its authority from its relationships to global biomedicine, works with an Islamic establishment similarly transnationally linked to prestigious Middle Eastern sites of authority and now firmly embedded within the state apparatus, to produce a vision of Malaysian modernity firmly in keeping with hegemonic global understandings of what that entails: in this case, a thriving organ transplantation endeavour. However, that vision is not one necessarily embraced by the Muslim Malay population at large, as Schreiber shows through a survey of rural opinion on 'brain death'. Her rural interlocutors largely reject this new notion of mortality imposed – if not necessarily well understood – by a metropolitan Muslim clerical elite

Shirin Garmaroudi takes us to another, albeit different and more thorough-going attempt at embedding religious authority within the state apparatus, the Islamic Republic of Iran, analysing the emergence of Iran's Law on Embryo Donation of 2003. Garmaroudi demonstrates how popular demand drives the production of Islamic legal opinion, which then enters into a complex dialogue with philosophical ethicists and civil lawyers in an enactment of a distinctively Iranian hybrid modernity, aware of Western bioethics, but concerned to produce a national-culturally authentic and Islamic form. While the Malaysian case described by Schreiber evinces a lack of harmony between popular and professional opinion, Garmaroudi argues for a genuinely 'bottom-up' approach to medical regulation in Iran, rooted in an almost classical *mustafti-mufti*, or here *muqallid-marja' al-taqlid*, relationship.

Björn Bentlage's paper takes us more pointedly to 'social politics' by contrasting the different approaches taken by three modern Arab Middle Eastern nation states – Jordan, Egypt and Tunisia – towards the status of children born out of wedlock. Filiation has been a central theme of the Islamic bioethical literature, not least due to the unsettling implications of the assisted reproductive technologies. Genetic testing for paternity raises fundamental issues for Islamic legal understandings of relatedness, which were formed in an era when paternity was ultimately inscrutable. But, as Bentlage argues, beyond these relatively exotic preoccupations, definitions of paternity have profound social consequences, not least because membership of the modern nation state community, and thus the rights that may entail, is so frequently tied to birth. The state has thus had to come to terms with current scientific understandings of relatedness in a way that Islamic jurists have not. But, in the three cases that Bentlage examines, those states have also had to position themselves carefully with regard to their Islamic traditions. It has not proved possible simply to grant DNA testing the status of legal proof of paternity, because this is unanimously denied by Sunni *ulama*. On the other hand, those states are all part of a modern global political system constituted through international treaties such as those

for the protection of the rights of the child. Each of the three states has tackled the problem in different ways, ranging from avoiding the issue through terminological equivocation to addressing it through ad hoc procedural practices rather than a coherent law. Again, questions of ‘Islamic bioethics’ – even the same question – and their bearing on state law are worked out differently in different settings.

Finally, Aasim Padela addresses the similarly socially vital issue of health insurance, here in a Muslim minority context, the United States, where the state’s role in the provision of healthcare has been such a high-profile political issue. Padela compares two very different sorts of Muslim discursive intervention in the field: pamphlets produced by national Muslim organisations arguing for American Muslim support of the ‘Obamacare’ initiative; and fatwas by US-based Islamic jurists in response to individual questions as to the permissibility of purchasing medical insurance, a necessity in the American context, but largely ruled out by the authoritative opinions of Middle-East based scholars. The two proceed along radically different lines, the one seeking to position a unified Muslim voice within the accepted norms of a multi-cultural, if fundamentally Judaeo-Christian/secular public ethical sphere at root hostile to the notion of ‘sharia law’; the other mobilising the resources of the Islamic legal tradition in attempting to resolve the distinctive problems of American Muslims. The two discourses employ wholly different tropes of Islamic authority and modes of reasoning. It would be hard to identify a common notion of what is ‘Islamic’ to them, let alone discern the possibility of a unified field of Islamic bioethics emerging from them. This is of some concern to Padela, a Muslim physician avowedly committed to delivering a viable Islamic bioethics for his concerned and religiously committed patients and community. Here the tension between the normative and the objective-analytical becomes explicit.

Conclusion

To use the term ‘Islamic bioethics’ to refer merely to the pronouncements of Islamic legal scholars on medical issues would be to miss the distinctive complications of what is, for us, an emergent social form, an assemblage of religious, medical and regulatory knowledge and authority characteristic of modernity. The study of Islamic bioethics thus requires attention to its social politics, in the variety of senses set out here, as well as to its textual manifestations. We would further argue that Islamic bioethics is thereby not merely a hyper-specialised subfield of Islamic studies, but a paradigmatic and revealing instance of the present transformations in Islamic religious authority under globalised modernity. Research on Islamic bioethics is sited at the cutting edge of the study of contemporary Islam, as we trust this special edition bears out.