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Abstract

This article outlines one of the rich ethico-religious debates on organ donation and Muslims in the West by unravelling the Dutch case. Since the 1990s and up to this very moment, the standpoints of Muslims living in the Netherlands towards organ donation have been giving rise to heated socio-political and public debates. Islam, the religion of Muslims living in the Netherlands, has always been focal element in these debates. This article studies a fatwa on organ donation which was issued during a conference held in the Netherlands in 2006. Besides studying the fatwa, the article also pays attention to the socio-political context in which the fatwa was issued and its reception after the conference.

1. Introductory remarks

The last two decades witnessed different fatwas which have been issued specifically for Muslims living in Europe.[1] The main fatwa to be studied in this article is one of the most detailed and lengthy ones in this regard. Furthermore, this fatwa is one of the very few which paid due attention to the inter-religious aspects of organ donation, namely, is it permissible, from an Islamic perspective, to receive organs from or to donate organs to non-Muslims? Previous research showed that such questions do busy the minds of Muslims living in non-Muslim countries.[2] Before delving into the analysis of this fatwa, first two introductory remarks are due:

1. Since the 1950s, when the earliest fatwas on this issue appeared in the Muslim world,[3] it became clear that biomedical advances will produce unprecedented and complicated questions to Muslim religious scholars and this will require practising a fresh *ijtihād* (independent legal reasoning). *Ijtihād* practised in the field of biomedical

[1] For more details about such fatwas, see Ghaly 2011.
[2] Ghaly, Schipper & Abma 2010, 111-116.
[3] For a historical overview of these fatwas, see Albār 1994, p. 275-306; Qaraḍāwī 2010, p. 61-94.

ethics and the resulting fatwas have been done either by individual Muslim religious scholars or by collective Islamic institutions where religious scholars collaborate with biomedical scientists. During the last three decades different Islamic institutions have been active in the field of biomedical ethics.

The Islamic Organization for Medical Sciences (IOMS), based in Kuwait and established officially in 1984, seems to be the most influential one. This institution exclusively studies bioethical issues from an Islamic perspective. The IOMS coordinates with two other institutions that pay occasional, rather than exclusive, attention to bioethical questions. One is the Islamic Fiqh Academy (IFA), established in 1977, which is affiliated with the Muslim World League and based in Mecca, Saudi Arabia. The other is the International Islamic Fiqh Academy (IIFA), established in 1981, based in Jeddah, Saudi Arabia, and affiliated with the Organization of Islamic Conference.[4] In a bid to build bridges with the Islamic juristic legacy, these contemporary institutions try to make benefit from the diversity inherited in the classical schools of Islamic law without strictly following one specific school. They adopt a critical approach by which the opinions recorded in the juristic manuals of these schools can be equally consulted, criticized and/or endorsed.[5] The importance of these collective institutions and the weight of their fatwas, thought to surpass that of the "individual" fatwas, are increasingly being recognized.[6] However, these fatwas do not represent a "court of final appeal" and thus leave room for negotiations and critical remarks from disagreeing religious scholars.[7]

2. Islamic literature is almost unanimous that *ijtihād* or its resulting fatwas cannot be properly performed without first grasping the reality of people (*aḥwāl al-nās*).[8] Hence, analyzing a fatwa can be hardly detached from understanding the reality of people for whom the fatwa was issued. Hence, glimpsing information about the image of Muslims living in the Netherlands concerning their standpoint towards organ donation is due. Information below shows that the fatwa to be studied in this article does not only handle an abstract ethical problem but also tackles a social issue in which

[4] Ghaly 2010, p. 8.
[5] *Majallat* 1986, p. 60.
[6] Ben Ḥumayd 2010, p. 55, 63-64.
[7] Ghaly 2011.
[8] Ramadan 2004, p. 47.

Muslims living in the West in general have been directly involved and some of the critique directed towards them had to do with their religion, namely Islam.

2. Socio-political context

The general image of Muslims in the Netherlands has been reflecting an alarming situation. They were depicted as a group which provide fewer donors than the average percentage in the Netherlands. One of the main reasons frequently mentioned in order to explain this alarming situation was the religion of this group, i.e., Islam.

One of the early examples in this regard was the study published by the Dutch Kidney Foundation (*Nierstichting*) in 1993 under the title *Islam and organ donation: How do Muslims think about organ donation?* which stated "Now the impression of the Kidney Foundation has grown that there is little willingness in the Muslim community in the Netherlands to sign a donor card whereas patients from these circles do like to become eligible for kidney transplant".[9] This negative image was criticized by an empirical study published in 1998. On the basis of interviews with imams in mosques, representatives of Islamic organizations and also with Muslim individuals in the Netherlands, the authors concluded that this negative stereotyping of Muslims was based neither on solid empirical data nor on well-structured academic research. On the contrary, their own results showed that Muslims living in the Netherlands do not deviate from the average standpoint adopted by Dutch people towards organ donation.[10] Despite the socio-political attention which this study received[11], the negative image of the attitude of Muslims in the Netherlands towards organ donation did not radically change. For instance, a front-page newspaper article was released in March 2005 in which the Dutch Minister of Health, Hans Hoogervorst, was quoted to say, "Muslims in particular refuse to donate their organs for religious reasons. However, they are ready to receive such organs if they fall sick ... This does not hold for an incidental Muslim but for a substantial group".[12] The statements of the Dutch Minister of Health did not go unnoticed especially within the Muslim community in the

[9] Pranger 1993, p. 1; Zwart & Hoffer 1998, p. 19-21.
[10] Zwart & Hoffer 1998, p. 135-136.
[11] Linsen 2000, p. 22.
[12] Peeperkorn 2005, 1.

Netherlands. Different reactions expressed the Muslim community's dissatisfaction with and rejection of these statements. Below, three expressive examples of these reactions will be outlined.

Just few days after publishing these statements in the well-known Dutch newspaper *Volkskrant*, Ahmed Marcouch, at this time a board member of the Union of Moroccan Mosques in Amsterdam and Outskirts (UMMAO), wrote an article in the same newspaper criticizing the Minister of Health for promoting "untrue information about Islam". Marcouch refuted the claim that Islam forbids organ donation. To argue for this standpoint, Marcouch referred to the fatwa issued by the European Council for Fatwa and Research (ECFR) and said that according to this fatwa it is not prohibited for Muslim to be an organ donor. Marcouch argued further that organ donation should even be stimulated if we kept in mind the rule that saving the life of one person, for instance by donating an organ, is as good in Islam as saving the life of the whole mankind.[13] To him, Islam just requires specific conditions such as the abstinence of trading in human organs and that life donation does not threaten the donor's life. On the other hand, Marcouch stressed the responsibility of the Muslim community to stop with approaching organ donation as taboo and to stimulate constructive discourse on this issue in their own mosques.[14]

The second reaction to be named here is that of the Netherlands-based branch of the Turkish social-religious organization Milli Görüs. Haci Karacaer, at this time the director of the Dutch Milli Görüs, criticized the Dutch Minister in a newspaper article dated 12 October 2005. "It is not true that Muslims are not willing to donate their organs on religious basis", said Karacaer. He conceded, however, that Muslims might be unfamiliar with organ donation and that more efforts should be exerted in this regard. "We were already busy herewith but the statements of Hoogervorst [the Dutch Minister of Health] have been an accelerating factor", said Karacaer. Milli Görüs proposed a project named *geven en nemen* (give and take) to the Netherlands Institute for Health Promotion and Disease Prevention (NIGZ) with the aim of promoting public awareness

[13] Marcouch refers here to the purport of the Quranic verse "...and if any one saved a life, it would be as if he saved the life of the whole people" (05:32). For further information about the ECFR fatwa on organ donation, see Ghaly 2011 .

[14] Marcouch 2005, p. 7.

about organ donation among Muslims in the Netherlands.[15] The NIGZ welcomed the idea of the project, a detailed plan was formulated in June 2005 and the project started on 1 October 2005[16]. According to the project-plan, the issue of organ donation would be raised during the Friday sermons in all mosques affiliated with Milli Görüs which host about 30.000 people, according to the estimates of Milli Görüs. In these sermons, imams would address common Muslims explaining why Muslims are allowed to receive donated organs and simultaneously required to show their readiness to donate their organs. Additionally, eminent board members of Milli Görüs would show the attendants in the mosque that they have filled in the card of organ donation as potential donors. As part of the campaign, a video tape would also be developed in order to show examples of Muslim patients who benefited from organ donation.[17]

The third reaction to Hoogervorst's statements came from the Contact Group for the Relations between Muslim Organizations and Government (CMO), established on 14 January 2004 and recognized by the Dutch government on 1 November 2004 as representing, on a national level, the majority of Muslim organizations in the Netherlands.[18] The CMO sent a letter to the Dutch Minister of Health complaining about his negative statements and arguing that such statements would stigmatize the Muslim community *in toto*. "It is very unfortunate that he chose this wording", the CMO secretary commented.[19] In a bid to correct misconceptions about this issue, the CMO proposed holding a conference on "Islam and organ donation".

The idea of the conference appealed to Hoogervorst, the Dutch Minister of Health, and the conference was held on 28 January 2006 in cooperation between the CMO, the Shiite Islamic Council in the Netherlands (SIRN) and the NIGZ-Donorvoorlichting affiliated with the Ministry of Health. The Minister of Health was also one of the speakers during the conference.

In his speech, Hoogervorst tried to nuance what the newspapers attributed to him in March 2005. He explained that all what he meant at this time was that he had difficulty with those who are willing to receive donated organs but not ready to donate

[15] Peeperkorn 2005, p. 1.
[16] Milli Görüs & NIGZ 2005, p. 5.
[17] Ibidem, p. 12-13; Peeperkorn 2005, p. 1.
[18] Ghaly 2008, p. 378, 385.
[19] Van den Broek 2005, p. 3.

theirs and then legitimize such a standpoint on religious basis. Although the statements attributed to him at this time appeared as if he exclusively pinpointed the Muslim community, Hoogervorst stressed that this was not the case and that his statements apply to anyone or any group who adopt such a standpoint. He also conceded that the problem is not as black and white as he thought at this time. For his part, Hoogervorst commended the aforementioned initiative taken by Milli Görüs to promote organ donation among Muslims in the Netherlands and also the CMO proposal to hold this conference. Hoogervorst also elaborated on the national need in the Netherlands to increase the number of potential organ donors. He said that about 200 persons die every year while they are waiting for donated organs. "That is why I think that everyone should be willing to register as organ donor irrespective of your belief or origin. However, I say it directly that I respect everyone's choice even if you decide not to be donor", Hoogervorst explained. Bearing in mind the background of the participants in this conference, he addressed them by saying "It would be very helpful if you can demonstrate that organ donation, on religious basis, is generally permissible and that it is also allowed to make a posthumous testament entailing permission to organ donation".[20]

Besides the Dutch Minister of Health, the main speakers of this conference included the Dutch Islam specialist Gerard Wiegers, two speakers from the UK, namely Hamid Alnajdi (London University) and Muhammad Shadid Reza (Muslim Law (Shariah) Council UK), Isamil Karagoz (the Turkish Ministry of Religious Affairs, Diyanet) and finally the Moroccan religious scholar Muṣṭafā Ben Ḥamza (Higher Council of Ulema, Morocco). The fatwa issued by Ben Ḥamza will be the main focus here for different reasons. First of all this fatwa was one of the most detailed contributions in this conference.[21] Ben Ḥamza gave a comprehensive review of the Islamic classical and contemporary discussions relevant to organ donation. Additionally, he dedicated a whole section of his fatwa to the inter-religious dimensions of organ donation, namely donating organs to or receiving donated organs from non-Muslims. Finally, the final

[20] Hoogervorst 2006, p. 2- 4.
[21] I hereby submit my due thanks to Prof. G.A. Wiegers (University of Amsterdam) who provided me with a copy of the full proceedings of this conference.

declaration endorsed by the conference was more or less based on the premises posed by the fatwa of Ben Ḥamza.

++3. The fatwa of Muṣṭafā Ben Ḥamza

Before delving into the details of the fatwa, a short biographical note on the religious scholar who issued this fatwa is due. Muṣṭafā Ben Ḥamza was born on 17 July 1949 in Oujda, Morocco. He studied Islamic sciences in the Faculty of Shariah and Arabic literature in the Faculty of Arts and Sciences, both in Fez, Morocco. He taught these sciences as professor in different Moroccan universities such as Muhammad V University in Rabat. He is currently one of the well-known members of the Higher Council of Ulema (*al-Majlis al-ʿImī al-Aʿlā*) in Morocco which is the official authority entrusted with issuing fatwas there. This Council, established in 1981, is chaired by the King of Morocco and includes 47 members of the Moroccan religious scholars.[22]

Ben Ḥamza's 20-page fatwa was divided into an introduction and four distinct sections. The introductory part elaborated on what Ben Ḥamza called the "extraordinary capacity" of Islam to cope with and accommodate all complexes that modern biomedical advancements give rise to such as organ transplantation. To Ben Ḥamza, this capacity do exist in the Islamic tradition thanks to the innovative mechanism of *ijtihād* (independent legal reasoning) which allows and enables Muslim religious scholars to formulate Islamic visions about new issues which have not been handed in the traditional scriptural sources of Islam.[23] He added that medical developments in the field of organ transplantation do influence the religious opinions of Muslim scholars about organ donation. For instance, the fact that organ transplantation, as a medical practice, gets by time less risky and more successful explains why increasing numbers of Muslim religious scholars consider organ donation as a good deed in Islam.[24]

The first section of the fatwa reviewed the relevant scriptural texts which are usually quoted in the contemporary Islamic religious discourse on organ donation. The same section also mentioned early incidents in Islamic history where reference was

[22] Ghaly 2011, p. 10.
[23] For more information about using *ijtihād* in the field of Islamic bioethics, see Ghaly 2010, p. 8-11.
[24] Ben Ḥamza 2005, p. 1-2

made to replanting or rejoining organs especially those incidents which took place during the lifetime of the Prophet of Islam. As an example, he referred to the Companion, Qatāda b. al-Nu'mān, who lost his eye during a battlefield. Islamic sources related that Prophet Muḥammad miraculously replaced Qatāda's eye. Although this is a miraculous incident, Ben Ḥamza argued, it implies the permissibility of replanting organs in principle because Prophet's miracles cannot be realized through forbidden acts. In practice, Muslim physicians such as the Andalusian Abū al-Qāsim al-Zahrāwī (known in the West as Abulcasis) did not see any religious objections to replanting human teeth or transplanting artificial ones for humans. [25]

The second section explored the arguments of Muslim religious scholars who did not permit organ donation (opponents) and the counterarguments of those who did (proponents). Ben Ḥamza supported the latter group and refuted the arguments of those who did not permit organ donation. He also argued that the number of Muslim scholars who permit organ donation do exceed that of those who forbid it and that the number of the proponents also increase by time. The first argument against organ donation is based on the concept of the sanctity (*ḥurma*) of human life and concurrently all his/her organs. Thus, no one is entitled to infringe upon this sanctity whether the person in question was living or dead. Concerning the dead in particular, the opponents referred to the Prophetic tradition which stated, "Breaking the bone of the dead is as [grave as] breaking the bone of the living." In response to this argument, Ben Ḥamza said that removing someone's organs for the sake of transplantation cannot be equated with violating the sanctity of human life. This act is rather closer to altruism and the earnest desire to save other people's lives. As for the aforementioned Prophetic tradition, Ben Ḥamza argued that this tradition implies nothing more than the prohibition of exhuming graves for the sake of blundering them, a practice which mostly involved breaking the bones of people buried there. In support of this interpretation, Ben Ḥamza referred to the well-known early scholar of the Mālikī school of law, al-Mawwāq (d. 1491), who commented on this tradition by saying, "This holds true in case it is done out of abuse." In reference to another counterargument,

[25] Ibidem, p. 2-4. For more information about the discussions of early and contemporary Muslim scholars on rejoining organs, see Ghaly 2010b, p. 126-129.

Ben Ḥamza mentioned the familiarity of Muslim physicians with autopsy which was not seen by either Muslim physicians or Muslim religious scholars as something which violates the sanctity of the deceased. The prominent Andalusian physician and religious scholar, Abū al-Walīd Ibn Rushd, known in the West as Averroes (d. 1198), used to say, "One who gets occupied with learning autopsy, his belief in God will increase." Another argument used by the opponents had to do with the risks of undergoing the surgical operation of organ transplantation. In response, Ben Ḥamza stressed that such risks are by no means certain any more. On the contrary, he added, people's eagerness to undergo such operations indicates their trust in its efficacy in healing their diseases and saving their lives.[26]

The third section was dedicated to examining the interreligious dimensions of organ donation. This section of the fatwa shows that Ben Ḥamza was well-informed of the heated debates which preceded this conference where Muslims were portrayed as a group of profiteers who are willing to receive organs donated by non-Muslims but not ready to donate their own organs to non-Muslims. Ben Ḥamza stressed that adopting such a standpoint tarnishes the image of Muslims living in the West and demonstrates them as opportunists who are willing to take but not to give. Beyond the religious perspectives, Ben Ḥamza argued that this standpoint is neither ethical nor wise. It is unethical because no single society would ever accept accommodating a group of people who would behave in such a selfish way. It is further unwise because Muslims in the West, statistically speaking, live as minorities and this will not enable them to have self-sufficiency through organs donated by Muslims only. If the non-Muslim majorities adopted the same logic and thus donated their organs to non-Muslims only, Muslims would eventually have no organs available for transplantation.[27]

Besides these ethical and pragmatic remarks, Ben Ḥamza elaborated on the Islamic religious perspective to show that Muslims can donate their organs to non-Muslims without any religious qualms. In order to justify the permissibility of donating organs to non-Muslims, Ben Ḥamza referred first to the Qur'anic verse (05:32) which is usually quoted by those who permit organ donation in general. This Qur'anic verse

[26] Ben Ḥamza 2005, p. 5-7.
[27] Ibidem, p. 11-13.

reads, "...If any one slew a person (*nafs*) -unless it be for murder or for spreading mischief on the earth- it would be as if he slew the whole people: and whoever keeps it alive, it would be as if he saved the life of the whole people." Ben Ḥamza quoted different authoritative Muslim scholars of Qur'an exegesis to argue that the term *nafs*, usually translated as person or human being, is a generic term which makes no distinction between Muslims and non-Muslims. Thus, saving the life of a human being, by means of organ donation for instance, irrespective of his/her religion is always a commendable deed in Islam. Further, Ben Ḥamza made reference to another Qur'anic verse (02:126) which reads "And remember when Abraham said: 'My Lord, make this a City of Peace, and feed its people with fruits, such of them as believe in Allah and the Last Day.' He said: (Yea), and such as reject faith, for a while will I grant them their pleasure, but will soon drive them to the torment of Fire, an evil destination (indeed)!" To Ben Ḥamza, this verse indicates that providing people with means of living in this life should not be dependent on their religious identity. As the Qur'anic verse shows, religious affiliation will rather be an important criterion just in the Hereafter. The final argument used by Ben Ḥamza was the permissibility of concluding treaties of peaceful coexistence between Muslims and non-Muslims. As a historical example, he referred to the treaty concluded between the Prophet and the inhabitants of Medina during the lifetime of Prophet Muḥammad on the basis of which Muslims and Jews committed themselves to defend each other against foreign enemies. Such treaties compelled Muslims to sacrifice their lives in order to save the lives of their non-Muslim allies. All this can be taken as a valid basis for permitting donating organs to non-Muslims especially if they also do the same with Muslims, Ben Ḥamza argued. Finally, he said that some Muslims might feel uneasy about donating organs to or receiving organs from non-Muslims because they believe that religious affiliation might influence the purity of human organs. In response to this reservation, Ben Ḥamza stated that human bodies of both Muslims and non-Muslims, from an Islamic perspective, are all equally pure (*ṭāhir*) in the physical sense. He also quoted the well-known Muslim religious scholar al-Nawawī (d. 1278) who transmitted the unanimous agreement of Muslim scholars on this point.[28]

[28] Ibidem, p. 11-13.

The final section of the fatwa was an appendix containing 13 fatwas issued in the Muslim world which all permitted organ donation. This section clarifies the transnational dimension of issuing fatwas on organ donation. It is clear that this section was meant to communicate a specific message to Ben Ḥamza's addressees in the Netherlands, namely, permitting organ donation is more or less a settled issue in the Muslim world. Ben Ḥamza stated that fatwas issued by both individual Muslim religious scholars and collective Islamic institutions agree that organ donation is permissible. To him, the fatwas just disagree on determining the precautions that should be taken in order to safeguard the donor's and the recipient's interests. In this section, Ben Ḥamza quoted 13 fatwas the first five of which were issued by individual Muslim religious scholars: ʿAbd al-Raḥmān Nāṣir al-Saʿdī (Saudi Arabia) in 1952, Ḥasan Ma'mūn (Egypt) in 1959, Muḥammad Khāṭir (Egypt) in 1972, ʿAbd Allāh Kanūn (Morocco) in 1978 and Jād al-Ḥaqq (Egypt) in 1979. Ben Ḥamza also quoted other 7 collective fatwas issued by the international Islamic Conference held in Malaysia in 1969, the Supreme Islamic Council (*al-Majlis al-Aʿlā*) in Algeria in 1972, the Fatwa Committee of Jordan in 1977, 2 fatwas issued by the Authority of the Supreme Scholars (*Hay'at Kibār al-ʿUlamā'*) in Saudi Arabia in 1978 and in 1981, the Islamic Fiqh Academy (IFA) in 1985 and the International Islamic Fiqh Academy (IIFA) in 1988. The thirteenth fatwa quoted in this section was on brain-death because of its essential relevance for cadaveric organ donation. This fatwa was the one issued by the IIFA in October 1986 which recognized brain death from an Islamic perspective and stated that organs can be procured from brain dead people.[29] The importance of this section was clear in the final declaration of the conference which stressed, as we shall see below, that the majority of Muslim scholars agreed that organ donation is permissible in Islam.

3. The reception of the fatwa

The fatwa of Ben Ḥamza besides the other papers read during the conference, held on 28 January 2006, resulted in the following final declaration which was officially adopted by the Contact Group for the Relations between Muslim Organizations and Government (CMO) and the Shiite Islamic Council in the Netherlands (SIRN):

[29] Ibidem, p. 14-20.

"The majority of Muslim scholars in the Muslim world have declared that there is no objection to organ transplantation, provided that it is necessary for the patient, there is no financial gain, the decision to become a donor is freely taken, the deceased's wishes are respected and finally the removal and transplant procedures take place with the greatest medical and social cautiousness".[30]

Unfortunately examining the (possible) influence of the fatwa issued by Ben Ḥamza as well as the final declaration adopted by the conference still await academic studies. However, the media coverage for the conference can give some primitive indications in this regard. For instance, it was reported that the CMO and the SIRN promised to urge the imams of the mosques affiliated with them not to resist organ donation anymore. One of these imams already expressed this tendency during the conference: "We follow the advice of our scholars and we will allow organ donation", upon which the audience that already included many other imams applauded. Further, the final declaration of the conference was distributed among Muslims via mosques and Islamic organizations.[31] The Dutch National Institute for Health Promotion and Disease Prevention (NIGZ), which included the department of Donorvoorlichting (Donor Information), also tried to publicize the final declaration of the conference. They published a report about the conference on their website under the title, "Islam is no obstacle for organ donation". The report stated that the conference was attended by at least 100 imams. The NIGZ also developed brochures in Arabic and Turkish, available via the Internet and in printed versions as well, on Islam and organ donation. The final declaration of the conference was quoted in these brochures.[32]

Further, a slight increase was noticed in the number of registered donors in 2007, compared with 2005, among Dutch people with Moroccan and Surinamese origins and these two groups include a big number of Muslims living in the Netherlands. This was reported in a small-scale empirical study, conducted by order of the NIGZ, which also indicated that the percentage of registered donors among people from Turkish origins remained unchanged.[33] It might be a hasty conclusion to state that these

[30] Ghaly 2011, p. 11.
[31] Catoen 2006, p. 3.
[32] Ghaly 2011, p.11.
[33] MCA Communicatie 2007, p. 7-9.

statistics indicate that the conference held in 2006 succeeded in increasing the numbers of the registered donors among Muslims. For instance, the latest report published by the NIGZ in 2009, *Support for Organ Donation*, still speaks of a negative attitude towards organ donation prevalent among ethnic minorities in general who live in the Netherlands. The report stated that the group of non-Western "foreigners" or "immigrants" (in Dutch *allochtonen*), to which the majority of Muslims in the Netherlands belong, are less often donors, less often recorded in the donor register, less positive about organ donation and also have less knowledge about organ donation. The report added that this negative attitude has (partially) to do with the uncertainty of this group about the stance of their religion towards organ donation.[34] So, it seems that examining the possible influence of the religious discourse on the Muslim community in the Netherlands still needs large-scale academic studies which should also pay attention to the social, cultural and political factors.[35]

Conclusions

This article studied some aspects of the debate on organ donation and Muslims living in the Netherlands. The focus of the article was a fatwa issued by the Moroccan scholar Muṣṭafā Ben Ḥamza during a conference on "Islam and Organ donation" which was held on 28 January 2006 in Driebergen, the Netherlands. On the basis of the text of this fatwa and the broad context in which it was issued, three main conclusions can be reached.

First of all, the fatwa stated that the great majority of Muslim scholars in principle permit organ donation. The fatwa also clearly argued for the permissibility of donating organs to non-Muslims and stated that receiving organs donated by non-Muslims on one hand while refusing to donate organs to them on the other hand is neither ethical nor in conformity with the Islamic precepts. The fact that this fatwa was issued during a conference held in the Netherlands and specifically addressed Muslims living there indicate that Islam started to become part of the bioethical deliberations in Europe. In the context of discussing palliative care, Van den Branden and Broeckaert

[34] Van Thiel & Kramer 2009, p. 7, 35.
[35] Wiegers 2002, p. 224.

(Catholic University of Leuven, Belgium) have rightly argued: "Europe can no longer cling to a Christian or secular conceptual frame of reference to explain general attitudes towards ethical decisions".[36] The Islamic religious discourse on organ donation shows that this statement holds true for different bioethical topics.

The second concluding remark is that Islamic bioethics has a transnational character. The religious scholars who spoke in the conference came from outside the Netherlands especially from Morocco and Turkey where the majority of Muslims living in the Netherlands come from. Also a whole section of the fatwa issued by Ben Ḥamza was dedicated to the fatwas issued in the Muslim world on organ donation. This transnational characteristic is not exclusive to the discussions on organ donation but can also be observed in other bioethical issues such as cloning and milk banks.[37]

The final concluding remark has to do with the impact of the fatwa. The Dutch governmental apparatus has been trying to spread out the positive standpoint towards organ donation, as communicated by the fatwa, among Muslims living in the Netherlands. However, provisional results show that these trials have not been successful enough. To overcome this problem, governmental authorities should think of more creative disseminating techniques and to broaden their focus group. Besides mosque visitors, one can also think of Muslim students at schools, colleges and universities. Academics in the filed of religious and specifically Islamic studies should also conduct large-scale academic studies in order to educate the Dutch public, Muslims and non-Muslims, about the religious, social, cultural and political dimensions of organ donation and Islam. Such studies with their academic and objective approach can also contribute to a better understanding of this complicated issue besides the normative standpoints and fatwas.

[36] Van den Branden & Broeckaert 2008, p. 194.
[37] Ghaly 2010, p. 30-33; Ghaly 2010a, p. 8-10.

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