

Examining the Validity of Medical Tests in the Issues Related to Jurisprudence

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Abstract

Background and Objective: Finding the relevance of medical experiments and tests to some religious orders in Islam dates back to the narrations. Since the new experimental achievements have led to the emergence of new issues in Jurisprudence (fiqh), the purpose of the present study is to elaborate on the new medical experiments according to the fiqh criteria of Imamah (Shia) and examine the validity and acceptability of these proofs in Jurisprudence issues, i.e. to determine the conditions and criteria for these types of tests.

Methods: The present study is library-based and was conducted using a descriptive-analytical method. An attempt was made to examine the validity and authority of medical experiments and tests for fiqh issues using the Jurisprudence laws and principles and the teachings from the narrations from the perspective of Imamah (Shia) Jurisprudence. The authors reported no conflict of interests in this study.

Results: The tests conducted in the new sciences that are relevant to the Jurisprudence issues were categorized into four categories of pathology, toxicology, serology, and genetics. The views and perspectives of the contemporary Imamah religious experts about the medical tests were presented in two general fatwas: a) authority and validity of tests if only they lead to absoluteness and science and b) general invalidity of these types of tests. In order to explain the applicability of medical experiments to religious orders as criterion, the tests were classified into two categories: estimation-based and hypothetical. Then, their validity and scope of authority as proof were examined from the perspective of Imamah Jurisprudence.

Conclusion: The conclusions of the present study can be presented based on three general categories of data: a) Estimation tests: Validity of estimation experiments is not provable and lack of reason for validity can be considered as the reason for lack of validity; b) The validity of sensory tests is defensible via the reasons for its validity if the issue of concern is an example of evidence and attestation and there is no better reason like the number of experimenters for the mentioned conditions; c) The validity of hypothetical tests is defensible via the reasons for validity if the issue of concern is consistent with the experts' views. In conclusion, a single experimenter's opinion is enough for the religious orders and there is no need for numerous views by the experimenter in sensory and hypothetical tests.



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Summary

Background and Objective

Sciences are on the path to progress. Naturally, old medical experiments and tests are regarded as limited and very basic compared to the new scientific achievements. During the age of the Innocent Imams (pbut) also, doing medical experiments was the subject of religious orders.

The experimental data that are relevant to Jurisprudence (fiqh) issues in the new sciences can be classified into four categories: 1) pathological tests, i.e. identifying and interpreting the diseases and injuries to the human body based on the medicinal law, in which different parts of the body are examined to find the likely diseases or the side effects caused by poisons or blows to determine the cause and time of death; 2) toxicological tests for identifying and producing medicines, extracting poisons or chemicals from human tissues and interpreting the findings and test results, for example the tests for determining the cases of alcohol abuse while driving or the use of illegal drugs by some culprits; 3) Serological tests conducted on human and warm-blooded animals' serum, for example for determining the blood type; and 4) genetic (DNA) tests, on which some particular parts of the DNA molecule and the genes within it are identified and examined: given the fact that the genetic formula and the arrangement of the gene components follow a particular pattern in every individual, it is possible to discover the identity of a person in such studies (1).

The present study is an attempt to examine the acceptability of the principle of validity of proof and expert views in medical tests and the fatwa indicating invalidity of medical tests meaning that the test in itself is not the criterion for authority and proof of validity, but if it meets the conditions for a valid proof in Jurisprudence, it is regarded as valid. It means that the test result given out by the laboratory is not valid because what is valid is the evidence or comments provided by the expert and laboratory in itself is not valid as proof. What lies in the evidence is the authority of proofs and the test result will be proof if it is matched and consistent with other pieces of evidence.

The views of Imamiah (Shia) religious experts in this regard can be classified into two categories: a) most of them believe that careful scientific experiments and tests are not valid as proof and evidence unless they lead to science (2); b) some

have considered all tests and experiments as invalid for sharia (3).

Methods

The present study is library-based and was conducted using a descriptive-analytical method. An attempt was made to examine the validity and authority of medical experiments and tests for Jurisprudence issues using the Jurisprudence laws and principles and the teachings from the narrations from the perspective of Imamiah (Shia) Jurisprudence.

Results

The tests conducted in the new sciences that are relevant to the Jurisprudence issues were categorized into four categories of pathology, toxicology, serology, and genetics. The views and perspectives of the contemporary Imamiah religious experts about the medical tests were presented in two general fatwas: a) authority and validity of tests if only they lead to absoluteness and science and b) general invalidity of these types of tests. In order to explain the applicability of medical experiments to religious (fiqh) orders as criterion, the tests were classified into two categories: estimation-based and hypothetical. Then, their validity and scope of authority as proof were examined from the perspective of Imamiah Jurisprudence.

Conclusion

The conclusions of the present study can be presented based on three general categories of data:

a) Estimation tests: some medical experiments do not basically lead to production of knowledge for the experimenter; accordingly, the result presented by the experimenter is estimated and hypothetical (4). Validity of estimation experiments is not provable and lack of reason for validity can be considered as the reason for lack of validity.

b) Sensory tests: some medical tests lead to knowledge for the experimenter and the result is the same for every typical person; in this case, the test is believed to be sensory. Validity of sensory tests is defensible via the reasons for its validity if the issue of concern is an example of evidence and attestation and there is no better reason like the number of experimenters for the mentioned conditions (5).

c) Hypothetical tests: if the preliminaries for a person do not lead to science and certainty about a single conclusion, it is considered as a hypothetical issue (6). The validity of hypothetical tests is defensible via the reasons for validity if

the issue of concern is consistent with the experts' views. In conclusion, a single experimenter's opinion is enough for the religious orders and there is no need for numerous views by the experimenter in sensory and hypothetical tests.

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Conflict of interest

The authors reported no conflict of interests in this study.

Authors' contribution

Concept, data gathering and analysis, drafting the manuscript and final approval: first author and Data interpretation, critical revision and final approval: second author.

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التحقق من صحة التحاليل الطبية في القضايا الفقهية

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الملخص

معلومات المادة

خلفية البحث وأهدافه: التطرق إلى موضوع التحاليل الطبية من منظور الفقه الإسلامي له تاريخ طويل فقد ظهر منذ ظهور الفقه الإسلامي وتزامن معه. وبالنظر إلى أنّ الإنجازات الطبية وعلوم المختبرات الحديثة، أحدثت بعض القضايا الفقهية، فإنّ هذه الدراسة تسعى للتطرق إلى أنواع هذه التحاليل من منظور فقه المدرسة الإمامية وترصد مدى تلائمها مع معايير هذه المدرسة وصحتها. فإلى أي مدى يمكن الإحتجاج بنتائج هذه التحاليل وما هي معايير الإحتجاج بها فقهياً.

الوصول: ١٥ رمضان ١٤٤٢
وصول النص النهائي: ١ ذى القعدة ١٤٤٢
القبول: ٢٦ ذى القعدة ١٤٤٢
النشر الإلكتروني: ٢٦ صفر ١٤٤٤

الكلمات الرئيسية:

منهجية البحث: اعتمدت الدراسة المنهج الوصفي/ التحليلي وسعى القائمون على الدراسة من خلال دراسة قوانين أصول الفقه والقواعد الفقهية والروايات أن ترصد مدى اعتبار هذه التحاليل من منظور معايير الفقه الإسلامي وفقه المدرسة الإمامية على وجه الخصوص. إنّ مؤلفي البحث لم يشيروا إلى أيّ تضارب في المصالح.

التحليل التخميني
التحليل التقديري
التحليل الحسي
صحة الشهادة
صحة قول الخبر

المعطيات: قامت دراسة على تقسيم التحاليل الحديثة التي أثارت قضايا أخلاقية من منظور الفقه الإسلامي، إلى أربعة أجزاء هي: التحاليل الباثولوجية (علم الأمراض)، وعلم السموم، وعلم الأمصال، والبيولوجيا. بعدها قامت الدراسة بألقاء الضوء على الآراء الفقهية في المدرسة الإمامية في الفقه حول التحاليل الطبية وتقسيمها إلى جزئين: (١) صحة هذه التحليل في حال إثباتها علمياً، (٢) عدم صحة هذه التحاليل بالمطلق. ومن أجل تبين التحاليل الطبية بمعايير الأحكام الفقهية؛ تم تقسيم المعطيات إلى ثلاثة أجزاء تقديرية، وحسية، وتخمينية من منظور الفقه الإمامية.

الاستنتاج: قسّمت الدراسة النتائج الحاصلة إلى ثلاثة أجزاء وهي: (١) لا طريق لأثبات صحة التحاليل التخمينية ويمكن إيعاز ذلك إلى عدم إمكان الإحتجاج بها. (٢) يمكن الدفاع عن صحة التحاليل الحسية في حال كانت القضية من مصاديق القضية البيّنة والأدلة المقامة على صحتها قابلة للدفاع و لا تكن ثمة دلائل تدحض الشروط المذكورة، كشرط تعدد المختبرات التي أقيمت فيها التحاليل، (٣) أما اعتبار التحاليل التخمينية فيمكن الدفاع عنها إذا كانت مدعّمة بشهادات ذوي الخبرة وإقامة دلائل دامغة على صحتها. وقد اعتمدت الدراسة على آراء المشارك الواحد في موضوع الأحكام ولم تشترط اتفاق رأي المشاركين جميعاً حول قضية واحدة. كما لم تشترط أن يكون الرأي واحداً في الأجزاء الأخرى الحسية والتخمينية.

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اعتبار پژوهی آزمایش‌های پزشکی در حوزه مسائل فقهی

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چکیده

سابقه و هدف: موضوع‌سازی آزمایش‌های پزشکی برای برخی احکام اسلام پیشینه‌ای به درازای عمر روایات دارد. از آنجاکه دستاوردهای جدید علوم آزمایشگاهی موجب ایجاد مسائل مستحدثه در فقه شده، هدف این مطالعه بیان انواع آزمایش‌های پزشکی جدید طبق ملاک‌های فقهی مکتب امامیه، اعتبار و حجیت این آزمایش‌ها و محدوده حجیت، یعنی تعیین شروط و ضوابط حجیت این نوع از آزمایش‌ها است.

روش کار: این پژوهش از نوع کتابخانه‌ای است که با روش توصیفی-تحلیلی سامان یافته و تلاش شده است تا با استفاده از قوانین اصول فقه و قواعد فقهی و آموزه‌های روایی اعتبار و حجیت آزمایش‌های پزشکی در حوزه مسائل فقهی از دیدگاه فقه امامیه بررسی شود. مؤلفان مقاله تضاد منافی گزارش نکرده‌اند.

یافته‌ها: آزمایش‌هایی که در بستر علم جدید برای مسائل فقهی موضوع‌ساز است، در چهار دسته آزمایش‌های آسیب‌شناسی، سم‌شناسی، سرولوژی و ژنتیک معرفی شد. نظر فقهای امامیه معاصر درباره آزمایش‌های طبی در دو فتوای کلی معرفی شد: الف) حجیت آزمایش، در صورتی که منتهی به قطع و علم باشد و ب) حجت‌نبودن این نوع آزمایش‌ها به‌طور کلی. در جهت تبیین مسئله آزمایش‌های پزشکی با ملاک یافتن حکم فقهی، آزمایش‌ها به سه دسته تقسیم شد؛ تخمینی، حسی و حدسی و در چند مرحله بحث اعتبار و محدوده حجیت آنها از دیدگاه فقه امامیه بررسی شد.

نتیجه‌گیری: به‌صورت مشخص نتیجه را در سه داده کلی می‌توان ارائه داد: الف) اعتبار و حجیت آزمایش‌های تخمینی قابل اثبات نیست و فقدان دلیل بر حجیت را می‌توان دلیل بر فقدان حجیت دانست. ب) اعتبار آزمایش‌های حسی در صورتی که مسئله از مصادیق قضیه بینه و شهادت باشد، به واسطه ادله حجیت آن بحث قابل دفاع است و دلیلی بر شروط ذکر شده در آن ابواب، مثل تعدد آزمایش‌کننده نیست و ج) اعتبار آزمایش‌های حدسی در صورتی که مسئله بر قضیه قول اهل خبره و کارشناس تطبیق‌پذیر باشد، به واسطه ادله حجیت آن بحث قابل دفاع است. در نتیجه نظر آزمایش‌کننده واحد در موضوعات احکام کافی است و نیاز به تعدد نظر آزمایش‌کننده در آزمایش‌های حسی و حدسی نیست.

واژگان کلیدی:

آزمایش تخمینی
 آزمایش حدسی
 آزمایش حسی
 حجیت شهادت
 حجیت قول کارشناس

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