

Special Article

Organ Transplantation: A Sunni Islamic Perspective

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ABSTRACT. This paper reviews the standpoints of Muslim jurists within the Sunni tradition on organ transplantation. Muslim jurists allowed different forms of bone grafts (autograft, allograft and xenograft) for widely broken bones. Ibn Sina in 1037 discussed this subject in *Al-Kanoon* 1000 years ago. In 1959, the Muftis of Egypt and Tunisia allowed, under specific conditions, corneal transplants from dead persons. Thereafter, many fatwas (jurisprudence) on organ transplantation have been issued from different parts of the Muslim world. In Amman, Jordan, the International Islamic Jurist Council recognized brain-death as a recognized sign of death in Islam in October 1986. This paved the way for organ transplantation from brain-dead persons, which started immediately in Saudi Arabia. In 1990 and 2003, the International Islamic Fiqh Academy (IIFA) and the Islamic Fiqh Academy (IFA) issued important fatwas on organ transplantation. By the end of 2008, more than 3600 organs were transplanted from brain-dead persons in Saudi Arabia.

Introduction

Islam differs from many other religions in providing a complete code of life. It encompasses the secular with the spiritual and the mundane with the celestial. Man is the viceregent of god (Allah) on earth. "Behold the lord said to Angels: I will create viceregent on earth."² He fashioned man in due proportion and breathed into him something of his spirit³ and not only Adam was honored by Allah, but his progeny also, provided they followed the

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right path. "We honored the progeny of Adam, provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favors above a great part of our creation."⁴

Human life begins at the time of ensoulment, which is stated in the sayings of the prophet to be the 120th day from the time of conception.⁵ Prior to that moment, the embryo has sanctity, but not reaching that of a full human being. Life ends with departure of the soul (or spirit); a process that cannot be identified by mortals except by the accompanying signs – the most important of which is the cessation of respiration and circulation. Some jurists described...weakening of vision, limpness of the feet, bending of the nose, whitening of the temples and the stretching of the face and loss of the ability to wrinkle as the signs of death.⁶

The sanctity of the human body is not lessened by the departure of the soul and declaration of death. The human body, whether living or dead, should be venerated likewise. The prophet Muhammed (peace be upon him) rebuked a man who broke a bone of a corpse that he found in a cemetery. The prophet said, “the sin of breaking the bones of a dead man is equal to the sin of breaking the bones of a living man.”^{7,8}

The dead body should be prepared for burial as soon as possible in order to avoid putrefaction (which occurs rapidly in hot climates). Cremation is not allowed. Due respect and reverence should be given to the funeral, as exemplified by the prophet Muhammed (PBUH) who stood in veneration for the passing funeral of a Jew, at a time when Jews were waging war against him. One of his companions exclaimed: “it is the funeral of a Jew” – the prophet answered, “is it not a human soul?”⁹

Historical Background

Organ transplantation is not a 20th century novelty. Indeed, it was known in one form or another even in prehistoric times. Ancient Hindu surgeons described methods for repairing defects of the nose and ears using auto grafts from the neighboring skin, a technique that remains to the present day. Susruta Sanhita, an old Indian medical document written in 700 BC, described the procedure later emulated by the Italian Tagliacozzi in the 16th century, and by British surgeons working in India in the 17th and 18th centuries.¹⁰ Tooth transplantation was practiced in ancient Egypt, Greece Rome and pre-Colombian North and South America. Arab surgeons were experts at this technique thousands of years ago.^{11,12}

At the time of the prophet Muhammed (PBUH) – AD 570–632 – one of his companions, Qatada ibn Nu'man, lost his eye during the battle of Uhud. The Prophet replanted it and it became the better of his two eyes.¹³ In the battle of Badr, the Prophet (PBUH) replaced the arm of Muawath bin Arafah and the hand of Habib bin Yasaf.^{14,15} Muslim jurists sanctioned transplantation of teeth and bones,

which had been practiced by Muslim surgeons from a thousand years ago. Imam Nawawi (631-671H/AD1233-1272) fully discussed the subject of bone and teeth transplantation in his voluminous reference textbook *AL Majmu*,¹⁶ and his concise text book *Minhaj Attalibin*.¹⁷ Al Imam Asshirbini commented on the same subject in his book *Muqnhni Al Muhtaj*.¹⁸

The bone to be implanted could be from the same person (autograph) or from the corpse of another person (allograft) or from an animal (xenograft). The latter could be from a slaughtered (Halal) animal or from a Najas, i.e. a dead corpse (Carcass) or of porcine origin, both of which will not be allowed unless there is no other alternative and is deemed necessary. However, Zakaria Al Qazwini, a grand Qhadi (judge) in Iraq (600:682H/1203:1283D), noticed that porcine bone grafts function more efficiently than other xenografts, and reported this fact in his book “Wonders of Creatures.”¹⁹

Ibn Sina (Avicenna (607-687H/1210-1288AD) (the greatest muslim physician), in his voluminous textbook “*Al kanoon*,”²⁰ regarded bone transplantation as a hazardous operation that he would never attempt to perform.

Islamic Principles and Rules

Related to organ transplantation

Islam considers disease as a natural phenomenon. It is not caused by demons, stars or evil spirit. Indeed, disease is not even caused by the wrath of God or any other celestial creature. Diseases and ailments are a type of tribulation and expiate sin. Those stoics who forbear and endure in dignity are rewarded in this world and on the Day of Judgment. However, man should seek remedy for his ailments. The Prophet Muhammed (PBUH) told Muslims to seek remedy and treatment.²¹ He ordered his cousin Saad ibn Abi Waqqas to seek the medical advice of Al Harith ibn Kaledah, a renowned physician of the time.²² He also declared that there is a cure for every illness, although we may not know it at the time.²³ New methods of treatment should be searched for and applied if proven successful.

The prophet ordered Muslims to be compas-

sionate to every human being. He also said, "All mankind is the family of Allah. Those who best serve his family are best loved by God."^{24,25}

The human being should always maintain his dignity even in disease and misfortune. The human body, living or dead, should be venerated likewise. Mutilation of humans or animals is not allowed.^{26,27} However, performing post-mortems or donating organs from a cadaver are not tantamount to mutilation of the corpse or an act of disrespect.²⁸ The harm done, if any, by removing any organ from a corpse should be weighed against the benefit obtained, and the new life given to the recipient. The principle of saving human life takes precedence over whatever assumed harm would befall the corpse.²⁹ Nevertheless, Sheikh Shaarawi, a renowned commentator on the *Holy Qur'an*, but not a Mufti (Jurisconsult), rejected all types of organ donation.

In the case of living donor, the principle of doing no harm – *premium non nocere* – is invoked. The donor cannot give one of his vital organs, which would end his life. It is an act of homicide or suicide, both of which are considered among the most detestable crimes in Islam. The donation of an organ whose loss would usually cause no harm, or a minimal increased risk to the health or life of the donor, is acceptable if the benefit to the recipient is greater than the harm. It invokes the principle of accepting the lesser harm when faced with two evils. The harm done by the disease, which can kill a human life, is not to be compared with the harm incurred by donation.²⁹

Organ transplantation is a new method of treatment that can save many human lives and improve the quality of life for many others. Islam encourages a search for a cure and invokes Muslims not to despair, for there is certainly a cure for every ailment, although we may not know of it at the present time. The donation of organs is an act of charity, benevolence, altruism and love for mankind. God loves those who love fellow humans and try to mitigate the agony and sorrow of others and relieve their misfortunes. Any action carried out with good intentions and which aims at

helping others is respected and indeed encouraged, provided no harm is inflicted. The human body is the property of God; however, man is entrusted with the body as well as other things. He should use it in the way prescribed by God as revealed by His messengers. Any misuse will be judged by God on the Day of Judgment, and transgressors will be punished. Suicide is equated, in Islam, with homicide. Even cremation of the corpse is not allowed. The only accepted and dignified way is burial of the corpse – which should be performed as soon as possible, but not immediately for medical certainty.

Donation of organs should not be considered as acts of transgression against the body. On the contrary, they are acts of charity and benevolence to other fellow humans, which God loves and encourages. Human organs are not a commodity. They should be donated freely in response to an altruistic feeling of brotherhood and love for one's fellow beings.^{29,32,34,38}

Islamic Jurists Fatwas (Juridical Resolutions) Regarding Organ Transplantation

Muslim surgeons practiced autograft transplantation, which they learned from other nations, especially the Indians. They also practiced teeth and bone grafting from both animal and human sources (i.e., xenograft and home-grafts) as far back as a thousand years ago, having first obtained the consent of the jurists. Table 1 illustrates some of the recent Fatwas on organ transplantation. In the 20th century, Muslim jurists sanctioned blood transfusion, although blood is considered as *Najas* – i.e., unclean. The Fatwa of the Grand Mufti of Egypt, No. 1065 dated 9 June 1959, is an example of Islamic jurists' attitude toward new methods of treatment.³⁰

A Fatwa by Grand Mufti is a decree and not a mere juridical opinion; so is a Fatwa by a Conference of Jurists. However, each country legislative parliament should endorse it to become a law.

The majority of the Muslim scholars and jurists belonging to various schools of Islamic law invoked the principle of priority of saving

Table 1. Fatwas relating to organ transplantation.

| Source | Date | Fatwa | Ref |
|---|------|---|--------|
| Sheikh Maamoon (Grand Mufti, Egypt) | 1959 | Sanctioned blood transfusion | 30 |
| Sheikh Maamoon (Grand Mufti, Egypt) | 1959 | Sanctioned corneal transplants | 31 |
| Sheikh Hureidi (Grand Mufti, Egypt) | 1966 | Sanctioned organ transplants | 32 |
| Islamic Int. Conference (Malaysia) | 1969 | Sanctioned organ transplants | 35 |
| Algiers Supreme Islamic Council | 1972 | Sanctioned organ transplants | 35 |
| Sheikh Kater (Grand Mufti, Egypt) | 1973 | Allowed harvesting skin from unidentified corpses | 33 |
| Saudi Grand Ulema | 1978 | Sanctioned corneal transplants | 34 |
| Sheikh Gad Al Haq (Grand Mufti, Egypt) | 1979 | Sanctioned live and cadaveric donation | 35 |
| Kuwaiti Fatwa of Ministry of Endowment | 1980 | Sanctioned organ transplants | 35 |
| Saudi Grand Ulema | 1982 | Sanctioned organ transplants | 36 |
| 3 rd Int. Conference Islamic Jurists (OIC) | 1986 | Equated brain death with cardiac death | 37 |
| 4 th Int. Conference Islamic Jurists (OIC) | 1988 | Sanctioned organ transplants and trafficking | 38 |
| 6 th Conference Islamic Jurists (OIC) | 1990 | Discussed transplantation from embryos, IVF projects, CNS and anencephalics | 40, 41 |

human life and hence gave it precedence over any other argument. Sheikh Hassan Mamoon (the Grand Mufti of Egypt) also sanctioned corneal transplants from cadavers of unidentified persons and from those who agree to donate upon their death (Fatwa No. 1084 dated 14 April 1959).³¹ His successor, Sheikh Hureidi, extended the Fatwa to other organs in 1966 (Fatwa No. 993).³² In 1973, the Grand Mufti, Sheikh Khater, issued a Fatwa allowing harvesting of skin from an unidentified corpse.³³

Grand Mufti Gad Al Haq sanctioned donation of organs from the living provided no harm was done and provided it was donated freely in good faith and for the love of God and the human fraternity. He also sanctioned cadaveric donors provided there was a will, testament or the consent of the relatives of the deceased. In the case of unidentified corpses, an order from the magistrate should be obtained prior to harvesting organs (Fatwa No. 1323 dated 3 December 1979).³⁴ The Saudi Department of Research Fatwa studied corneal transplantation in H1376 (1976) and H1397 (1977). The Saudi Grand Ulama sanctioned corneal transplant the following year (Decree No. 66 H1398/1978).³⁵

In Algiers, the supreme Islamic Council sanctioned organ transplantation in 1972, while in Malaysia, the International Islamic Conference sanctioned organ transplantation in April 1969.³⁵

The Saudi Grand Ulama Fatwa No. 99, 1982, addressed the subject of autografts, which was unanimously sanctioned. It also sanctioned (by

a majority) the donation of organs both by the living and by the dead, who made a will or testament, or by the consent of the relatives (who constitute the Islamic next of kin).³⁶ The Kuwaiti Fatwa of the Ministry of Charitable Endowments No. 132/79, 1980 sanctioned live and cadaveric organ donation.³⁶ The Kuwaiti law No. 7, 1983, reiterated the previous Fatwa and pointed out that living donors should be over the age of 21 years in order to give their own consent.

The subject of the brain death was not addressed in any of these Fatwas. It was discussed for the first time in the Second International Conference of Islamic Jurists held in Jeddah in 1985. No decree was passed at that time, until further studies and consultations were obtained. In the Third International Conference of Islamic Jurists (Amman 1986), the historic resolution (No. 5) was passed with a majority of votes, which equated brain death to cardiac and respiratory death.³⁷ Death in the true Islamic teaching is the departure of the soul, but, as this cannot be identified, the signs of death are accepted. This decree paved the way for an extension of organ transplantation projects, which were limited to living donors. Campaigns for organ donation from brain-dead persons were launched both in Saudi Arabia and in Kuwait.

The unfortunate high incidence of road accidents in the Gulf area provides many cases of brain death. The tragedy should be averted by

issuing and pursuing stricter traffic laws, and by other means. Meanwhile, it is a pity to waste such candidate cadavers without trying to save the life of many others who need their organs.

The Islamic League Conference of Jurists held in Makkah Al Mukaramah (December 1987), which passed Decree No. 2 (10th session), did not equate cardiac death with brain death. Although it did not recognize brain death as death, it did sanction all the previous Fatwas on organ transplantation. This decree received little publicity in the media, and cardiac and kidney transplants from brain dead individuals continued without any hindrance from the jurists.

The most detailed Fatwa on organ transplantation was that of the Fourth International Conference of Islamic Jurists, held in Jeddah in February 1988 (Resolution No. 1). It endorsed all previous Fatwas on organ transplantation, clearly rejected any trading or trafficking of organs and stressed the principle of altruism.³⁸

Later, the Islamic jurists started to discuss new subjects related to organ transplantation, viz.

- a) Transplantation of the nerve tissue as a method for treating Parkinsonism or other ailments
- b) Transplantation from anencephalics
- c) Transplantation of tissues from embryos aborted spontaneously, medically or electively
- d) Leftover pre-embryos *in vitro* fertilization (IFV) projects.³⁹

The Sixth International Conference of Islamic Jurists, held in Jeddah in March 1990, addressed all these issues fully.^{40,41} It sanctioned transplantation of nerve tissues to treat ailments such as Parkinsonism, if this method of treatment proved superior to other well-established methods of treatment. The source of the nerve tissues could be

- The suprarenal medulla of the patient himself (autograft)
- The nerve tissues from an animal embryo (xenograft)
- Cultured human nerve cells obtained from

spontaneous abortion or medically indicated abortions.

However, the conference deplored the performance of abortion for the sake of procuring organs. It reiterated the Islamic views against elective abortion, which is only allowed to save the life or health of the expectant mother. If, however, the fetus is not viable, organs can be procured if the parents donate and only when the fetus is declared dead. The aborted fetus is not a commodity and commercialism is not allowed.

Anencephalics cannot be used as organ donors until declared brain or cardiac dead. The fully informed consent of the parents should be obtained in every case.

Regarding leftover pre-embryos from IVF projects, the jurists recommended that only the needed ova should be fertilized by the husband's sperms. However, if excess fertilized ova were found, they should be left to die spontaneously. Cryopreservation or donation of these fertilized ova is not allowed.

The jurists also discussed transplantation of genital organs. They did not allow the transplantation of gonads, as they carry all the genetics inheritance from the donor. However, they sanctioned the transplantation of the other internal sex organs.

In 2003, the Islamic Jurisprudence council of Islamic World League (Makkah – Saudi Arabia) in its 17th session passed a Fatwa No. 3, which allowed using leftover pre-embryos for stem cell research and treatment of serious ailments.⁴²

New frontiers have been opened and Islamic jurists are keeping pace with the tremendous advances in medicine and technology. This review has discussed the pragmatism that prevails in interpreting the Islamic heritage as applied to present day science.

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