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Research Article

Islamic Perspective on Organ Transplantation

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Abstract. Organ transplantation has become one of the important developments in modern medicine; saving the lives, as well as improving the quality of life of many patients. As the demand for organ transplantation far exceeds the organ availability, the transplant program is often saddled with complex legal and ethical issues. The present paper is a humble attempt to evaluate this issue in the light of Islamic law. The sources of Islamic law are discussed in brief to see how the parameters of organ transplantation are derived. The advantages and disadvantages of cadaveric donation are reviewed with technical and ethical considerations. The paper will also discuss the concept of rewarded donation as a way to alleviate the shortage of organs available for transplantation.

Keywords: Islam, Donation, Organ, Transplantation.

INTRODUCTION

In Islam, there is no such thing as “giving up”. As *khalifah* of Allah (SWT) on earth, mankind should make full use of their reasoning faculty given by Allah SWT to solve any problem and challenge they face. This also applies to treating illnesses and diseases. With the rapid development in modern medicine, various treatments have

been discovered. One of the treatments is organ transplantation, which has proven to be successful in treating end-stage organ failure.

Organs can be transplanted from a donor to a recipient for the purpose of replacing the organs that fail to function. Transplantable organs and tissues include the heart, liver, kidneys, lungs, cornea, bones, and skin. These organs can be transplanted either from a living or a deceased donor. Organs that can be donated from living donors are one of the kidneys and/or a part of the liver. Meanwhile, potentially all organs and tissues can be donated from a cadaveric donor.

Organ transplantation

It means transference of cells, tissues or organs from one individual to another for the purpose of treating the recipient's ailment or improvement of the organism.

History

It has been an old process as the skin grafts were used in humans since 1500 B.C. With the advancement of medical sciences, the transplantation of tissues and organs has now become a possible and accessible treatment for thousands of patients world over. First successful embryo transplantation was done in 1890 from a rabbit to a hare, by Walter Heape.ⁱ In the beginning of 20th century, Alex Carrel of USA succeeded in full organ transplantation. The first kidney transplant was carried out in USA in 1954. Now thousands of transplants are carried out per year across the globe, prolonging the life of the failed kidney patients markedly. The first heart transplantation was carried out in humans in South Africa by Christian Bernard in 1967.

In the meantime the success rate of transplantation of lungs, liver, cornea, pancreas, bone marrow etc. has increased. The transplantation of nervous tissues has been tried since last many decades, though yet not with much success.

Types of Transplantation

- 1) **Auto transplantation:-** When a tissue is removed from a place of body and planted onto the other place of the body of the same person, it is auto transplantation. It is harmless and not rejected by the immune system of the person.
- 2) **Homo transplantations:-** The transference of tissue or organ from an individual to another individual of same species is called the Homo transplantations. The individual from whom organ/tissue is taken is called donor while the individual in whom it is transplanted is called the recipient.
- 3) **Hetero transplantation:-** It is the transference of a tissue or an organ of one species to an organism of other species. For instance, the transfer from monkeys/pigs/cows to man. It has physiological and immunological problems and is not preferred.ⁱⁱ

Procedure of Organ Transplantation

An organ is taken from a live donor or a recent dead body and kept in saline solution at 4 °C, or plasma/albumin solutions for few hours up to 3 days.ⁱⁱⁱ It is then transplanted into the recipient whose ailing organ had been removed simultaneously.

The prerequisites are that the ailing organ of the recipient should be incurable, usually the age of donor should not be more than 50-60, Blood Pressure should be under control, blood group should be compatible, lymphocyte cross match should be present in the serum, purity of donated organ from any disorder and all other necessary pre-surgery medical examinations.^{iv}

Clinically safe preservation time of organs in cold storage (complemented by UW-Sol), after retrieval from donors or dead bodies is as follows:

- Kidneys ----- less than 8 hours.
- Liver ----- less than 24 hours.
- Heart and Lungs ----- 24 hours.
- Pancreas, Small Bowl ----- 48 hours.
- Bones ----- 12 months.^v

Sources of Organs/Tissues

A live human being most preferably a close relative is the best source for human transplantation. But it can transplant only kidney or part of bone, not any vital or single organ. A dead body can also act as a donor (Cadaver Donation) within few minutes after death, for eyes, kidneys and heart etc. kidney should be removed within one hour after heart stops beating. Kidneys are obtained mostly from cadaver donors. Heart can be transplanted within 3-6 hours after brain death. Heart from young bodies of up to 35 year age is most suitable. Fetal neurons (Dopaminergic) are transplanted in central nervous system of patients with Parkinson's disease with some success. It can also been done in other neurodegenerative diseases.^{vi} However a potential research programme is inevitable.

Legal prerequisites

- The minimum age of donor should be 18.
- The donor's consent.
- Brain death certificate and a written bequeath in case of a dead donor.

Some potential threats/diseases after transplantation

- 1) **Physiological/organic problems:** This includes graft rejection, damage to blood vessels, bleeding, urine leakages (in kidney transplants), pleural effusion, cancers, lymphocele and cardiovascular and nerve injuries.
- 2) **Infections:** Several types of infections such as bacterial, viral, protozoan and fungal may occur. (30% of cardiopulmonary transplantation failures are due to post transplant infections).^{vii}

HIV susceptibility is high in patients with transplantations because their immunity gets suppressed due to continuous use of immunosuppressant drugs necessary for transplant successes.

Islamic Perspective

In Islam, the permissibility of organ transplantation and donation is not specifically mentioned in the main sources of reference, namely the Quran and Hadith. This is because organ transplantation and donation are modern

developments in medicine. Nevertheless, Islamic scholars have discussed these developments since the 1950s. In Malaysia, the issue of organ transplantation has been discussed since the 1960s as evidenced from the decree of the Mufti of Perlis in 1965.^{viii}

The *Quran* and the *Ahadith* (traditions of Prophet) encourages healthy state of man. If a person is afflicted with a disease, he should pray for recovery as the *Quran* mentions about prophet Ayub (Job),

“Remember our servant Job when he called upon his Lord: ‘Satan has afflicted me with foil and ferment.’”^{ix}

Prophet Ayub (Job) was suffering from diseases of skin, also reported in Bible (Job 2:7). He prayed for its cure and Allah (SWT) cured him by a fresh water spring.

Prophet Muhammad (SAW) once said,

“Allah loves a healthy believer...”^x He advised people to take cures for diseases.

Transplantation is a modern method of replacing diseased or damaged tissues or organs of a person by fresh tissues or organs from the same or the other person or even an animal Islam does not oppose any new or innovative method of treatment. But the question of transplantation in which a tissue or organ is donated by an individual to another needful individual is a very complex issue. There are two opinions regarding the transplantation. Some scholars oppose the transplantation of organs and derive their opinion from the following Quranic verses:

“Do not worry over something you have no knowledge about: your hearing, eyesight and vital organs will be all questioned concerning it.”^{xi}

“Have We not granted him both eyes, a tongue and two lips, and guided him both highroads? Yet he does not tackle the obstacle.”^{xii}

Keeping in view the commandments of the above mentioned verses that any part donated or removed from human body goes against Islamic *Shari’ah*, but there are verses of the Quran which appreciates the altruism of a believer for others;

“Give them some of God’s wealth which He has given you...”^{xiii}

“.....they should not find any need in their breasts for anything that has been given them and prefer them ahead themselves, even though some privation exists among them.....”^{xiv}

The preference here is for worldly matters and may include the help to rescue a man from a fatal disease even if it is by donation of an organ, however without risking his own life. Though it is prohibited to eat or use a human part of body, but the *Fiqh* (jurisprudence) principle of *Iztirar* (dire necessity) makes prohibited things lawful and the donation of blood has been allowed for same reasons.

So if a Muslim donates some tissue or organ it may not violate the dignity and sanctity of human body, but may be constructed as an altruistic act and an appreciable one. However, all organs cannot be donated to a needy one because of the principle of ‘no harm’. A man can give an organ which is not single, which is not vital and indispensable for life. So heart, liver, lungs cannot be donated. Brain cannot be donated as it is the seat of personality. Testes and ovaries cannot be donated as these are the vital organs for fertility and preservation of lineage. External organs like ears, nose, hands, legs and feet need not to be donated as these are not needed to save a person’s life. Moreover these are *Zeenah* (elegance) of a person and his identity.

There is almost consensus about the permission of donation of such tissues and organs by a Muslim to another person where there is not any greater harm or risk, although some religious scholars differ.^{xv} But the general opinion of the jurists is that donation of organs and their transplantation is not against the dignity of man. Most of the Muslim jurists regard blood and kidney donation, under strict conditions and regulations, permissible.

The controversial issue in transplantation debate is the cadaver donation or the removal of organs from a dead person on his/her bequeath or by his/her family members.

Those who oppose the removal of organs from the dead, derive their opinion from the Quranic verses of *Karamat* (dignity) of man and his respect. There are some *Ahadith* (traditions of Prophet) which they mean, are against any desecration of a dead. A dead believer or human is to be handled and buried with respect and should not be opened or cut. A *Hadith* holds that breaking the bone of a dead is a crime in Islam. In *Sharh Siyar al-Kabir* it is said that, a human being is as respectful after death as when alive.^{xvi}

But those who favor donation of organs and their transplantation opine that there is no defined limit in the implications of man's dignity. So any issue related to human beings, in absence of any definite limit, is decided on the principle of '*Urf*'. What may be desecration at one time/place may not be so at another time/place.^{xvii} They maintain that as the modern scientific methods are not desecrating, the cadaver donations should not be disallowed. So in a dire necessity of saving a human life, organs of a dead body can be removed and transplanted. It is again corroborated by an early jurist's opinion that, 'to save a live fetus from a dead pregnant woman, it is allowed to cut open the viscera of the dead woman. It is more preferable to save a life than to consider dignity of a dead body'.^{xviii} Thus most of the modern Muslim jurists are inclined to permit the donations, removal and transplantations of organs that can save lives of others.

However, legalizing the donations and transplantations needs strict regulations as crimes of kidney removing from the people unaware, exploitation of poor and smuggling of kidneys across the countries have grown in recent times. Organ sale is also gaining momentum world over and the charity has turned into a trade. That is why public opinion has grown in favor of strict regulations of donation and reception of organs.

Fatwa of the Senior *Ulama* Council of Saudi Arabia

As early as 1967, the Senior *Ulama* Council of Saudi Arabia has permitted cornea transplant.^{xix} In 1982, the Senior *Ulama* Council of Saudi Arabia permitted the transplant of whole or parts of organs from cadaveric donors to living persons provided that there is no other alternative.^{xx} This council permits living organ transplant.

Fatwa of *Majma' al-Fiqh al-Islamic*, Jeddah

its fourth conference in Jeddah, Saudi Arabia on 11th February 1988, *Majma' al-Fiqh al-Islami* issued a fatwa that permits organs from a deceased person to be transplanted to a living person if the life of the organ recipient depends on the organ

to be received provided that consent is obtained from the donor before death, or from the deceased's guardians after death, or from the head of the Muslim community if the deceased cannot be identified or does not have any next of kin.^{xxi} This fatwa also emphasizes on the prohibition of trading and smuggling of organs.^{xxii}

In its working session held on 17th October 1987, Majma' al-Fiqh al-Islami recognised the concept of brain death as death. The decree stated that a patient who is attached to a resuscitation apparatus, if has been confirmed by three specialists that there is total cessation of all cerebral functions, the apparatus can be switched off although the patient's cardiac and respiratory systems still function with the aid of the device.^{xxiii}

Fatwa of Majma al-Fiqh al-Islami al-Hind

Majma al-Fiqhi al-Islami al-Hind (Islamic Fiqh Academy, India) was established to facilitate Muslims in India in addressing issues relating to Islamic law. During a conference in New Delhi in March 1989, a fatwa that permits the replacement of a patient's organ with another person's organ on the basis of emergency was decreed. Organs can be donated either from living or cadaveric donors.^{xxiv}

Fatwa of the Islamic Shariah Council, United Kingdom

In 1995, the Islamic Sharia Council of United Kingdom issued a fatwa that the council supports and recognises organ transplantation as an approach to cure illness or save lives based on Islamic legal maxims. The council also permits the legal guardian of the deceased to give their consent for the deceased's organs to be donated in order to save lives of others. This fatwa is in line with the Islamic legal maxim of "emergency permits matters that are prohibited" as well as meeting one of the objectives of the *maqasid al-syar'iyyah* that is "preserving life".^{xxv}

Fatwa of Dr. Yusuf al-Qaradawi

Dr. Yusuf al-Qaradawi, a well-known contemporary scholar from Egypt, stated that the donation and transplantation of organs from a living or a deceased person is permissible in critical and crucial situations provided that the act does not bring significant harm to the donor or those who have the rights on the donor.^{xxvi} He also stressed on the permissibility of organ donations to non-Muslims,^{xxvii} and prohibition of organ trading.^{xxviii} Legal guardians are allowed to donate organs of their deceased family member who has not instructed otherwise,^{xxix} and it is permissible for Muslims to receive organs from non-Muslims.^{xxx}

Opinion of Maulana Wahiddudin Khan

Maulana Wahiddudin Khan (b. 1925) a Delhi based Indian Muslim scholar of international repute terms organ donation as an act of supreme sacrifice. According to Maulana organ donation is what is called *Sadqa Jariya*, that is, continuous charity. For example, if a blind person receives another person's eyes after the person's death and is able to see, then that is *Sadqa Jariya*, because even after his death the benefits from his donation continue to be received by another person. Organ donation is the greatest way of showing sympathy to others. In this sense, organ donation promotes a noble, humane spirit in society. It signifies living with the spirit of compassion for others.^{xxxi}

CONCLUSION

Ibn Qayyim al-Jawziyyah placed the sacrifice of the body and soul as the highest level of sacrifice from ten categories of sacrifices that he mentioned in *Madarij al-Salikin*. Organ donors can be categorized under the sacrifice of body and soul as mentioned by Ibn Qayyim al-Jawziyyah. This is because the donors willingly donated their organs to patients who are in need. Saving human lives is also one of the objectives of Islamic law. Organ donation can also inculcate altruism in individuals and society. Altruism will drive people to help each other regardless of religion, race, status and wealth.

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