



Darul Arqam Educational Trust
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Legal Judgment Concerning Organ Donations

Collated from various international *Fiqh* Councils

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله والصلاة والسلام على رسول الله وعلى آله وصحبه ومن اهتدى بهداه

Scholars from various traditions have issued legal judgements in detail regarding the donation of body parts- by which we also include blood transfusions. These judgements have been expounded in the Muslim heartlands, and the conclusion is one of general permissibility, with specific conditions. Of particular importance are the judgements of three major international *fiqh* councils :

- Fiqh Council of OIC (Organization of the Islamic Conference منظمة المؤتمر الإسلامي) based in Jeddah, KSA.¹
- Fiqh Council of Kuwait,
- Fiqh Council of India

These judgements are :

Fiqh Council of OIC

“Organs from the deceased can be transplanted to a patient, where the life of the recipient depends on the transplant, or if the continuation of the basic bodily functions of the recipient depends on the transplant. This is however, dependent on the consent of the deceased, or of their next-of-kin after their death, or by a decision made by leaders of the Muslim community should the deceased be unidentified, or has no next-of-kin.”²

Fiqh Council of Kuwait

“If an organ to be transplanted is taken from a deceased person, the ruling is that such a transplant is permissible, no matter whether the intention for the transplant by the donor was made in the form of a will by the deceased or otherwise. This is based on exigency (*darurah*), such as saving a life, that transforms what is generally forbidden, into a state of permissibility. Thus, organ transplantation is permissible, as long as there is an urgent need for it. If the donor is still alive and taking the organ is detrimental to his life, such as taking his heart and lungs, then it is forbidden, no matter whether the donor allows it or otherwise.

If the organ or body part that is to be transplanted does not affect the donor's life, that is, the donor can continue living without it, then the ruling depends on several factors. If not having the organ will physically harm the donor, or prevent him from fulfilling his obligations, for example, donating a hand or leg, then it is not allowed.

In the case where the life of the donor is not affected by the donation, such as that of kidneys, teeth or blood, a transplant is not permissible if it is done without the consent of the donor. [It is] permissible if it is done with the consent of the donor and if the rate of success of such an operation is high.”³

Fiqh Council of India (quoted verbatim)

“If an organ of a person has failed, and the organ that has failed requires replacing, then it is lawful to replace that organ⁴. It is also lawful to use:

- a) Organic or inorganic objects such as metal, plastic, etc.
- b) Organs of *Halal* animals, which have been slaughtered according to Islamic methods.
- c) If one has organs inside of them of such animals whose meat is *Haram*, or of such animals whose meat is *Halal* but which have not been slaughtered in the prescribed Islamic manner, then in these circumstances, it is lawful to replace the organ with one that is permissible to use.
- d) If there is no danger to the life of the individual, or the organ being seriously damaged which would lead to serious harm to the life of the individual, the use of the organs of pigs is not permissible.

It is valid to replace a part of a person's body with another part of the same person if necessity so demands.

It is not permissible to sell one's organs. It is *Haram*.

In case a patient has reached the stage where their organ has stopped functioning and there is a strong danger that they will lose their life if that organ is not replaced through transplantation, and there is no substitute for it except the human organ, and medical experts are of the opinion that there is a strong likelihood of their life being saved if a transplantation of a human organ is made, and that the needed organ is also available, in such a desperate and unavoidable situation, transplantation of human organ will be permissible for the patient to save his life.

If a healthy person, in the light of the opinion of medical experts, is sure that they can live with one kidney only, it will be valid for them to donate one kidney to an ailing relative, if it be necessary to save his life while no alternative is available, but without charging any price.

If someone expressed a wish that after their death, their organs may be used for transplantation purpose (testamentary disposition as it is commonly known) it cannot be considered as *wasiyah* (will) according to *Shariah* and is invalid according to *Shariah* and such a wish is not to be honoured.”

These judgements have been agreed upon by the aforementioned councils and their scholars, who have concluded that the transplant of organs is permissible if in compliance with the terms mentioned above. For further details of the individual scholars return to the various judgements mentioned. Based upon these various judgements and in deference to the many tens of scholars who have concurred with the judgements of these organized *fiqh* councils a layman can feel assured that it is permissible to donate and receive donations of human parts (including blood).

Allah knows best and He grants success.

FOOTNOTES

- [1] The Islamic Fiqh Academy is a subsidiary organ of the Organization of the Islamic Conference (OIC), created by the Third Islamic Summit Conference held in Makkah al-Mukarramah (Saudi Arabia) in January 1981. Its members and experts are selected from among the best scholars and thinkers available in the Islamic world in every field of knowledge such as *fiqh*, science, medicine and economy. The OIC is the second largest international organization after the United Nations.
- [2] The decision of the Islamic Fiqh Academy in its Fourth meeting in Jeddah on 11 February 1988. Please see page 58 of “*Majma’ Al-Fiqh al-Islami: Qararat Wa Tausiyat, 1985-1988.*”
- [3] Decision no. 132 issued by the Fatwa Committee of Kuwait in 1979.
- [4] The problems and issues related to transplantation of human organs were discussed threadbare in the First Fiqh Seminar held on 1-3, April 1989.

In addition to the Fiqh councils mentioned above various national councils of Muslim countries have also given similar *fatwas* including :

- Sh Tantawi of al-Azhar, Egypt.
- High Council of Scholars, Riyadh, KSA.
- Dr Yusuf al-Qardawi, Qatar.
- The National Fatwa Council of Malaysia.
- Islamic Religious Council of Singapore (MUIS).

Sh Taqi Uthmani - he is the deputy chairman of the Jeddah based Islamic Fiqh Council of the Organization of Islamic Conference (OIC). And although he was not a signatory of the fatwa mentioned above nonetheless he recognizes the importance of the various councils mentioned above. Many other world renowned eminent scholars were signatories to the above mentioned fatwa including the scholars of al-Shaam - Shaikh Wahabah al-Zuhayli and Shaikh Abdul Latif al-Furfur from the respective schools of the al-Sahffi and al-Hanifi. For more details please return back to the organizations concerned for a full list of signatories.