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Advancement of Sciences
(K.F.A.S.)

**Islam and Current Medical Concerns
(2)**

HUMAN LIFE ITS INCEPTION AND END AS VIEWED BY ISLAM

**The Full Minutes of the Seminar on Human
Life: Its Inception and End as Viewed by Islam,
Held on January 15, 1985 A.D.
(Rabi Al-Akhar 14, 1405 H.)**

Supervised and with an Introduction by
Dr. Abd El-Rahman Abdulla Al-'Awadhi
Minister of Public Health and of Planning
Chairman of the Islamic Organization
for Medical Sciences

Edited by
Dr. Khaled Al-Mazkur
Dr. Ali Al-Saif
Dr. Ahmad Raja'ii Al-Gindi
Dr. Abd Al-Sattar Abu Ghuddah

Translated by
M. Muneer S. Asbahi, Ph. D.

1989

**ISLAMIC ORGANIZATION FOR MEDICAL SCIENCES
PUBLICATION SERIES**

Islam and Current Medical Concerns

Second Volume

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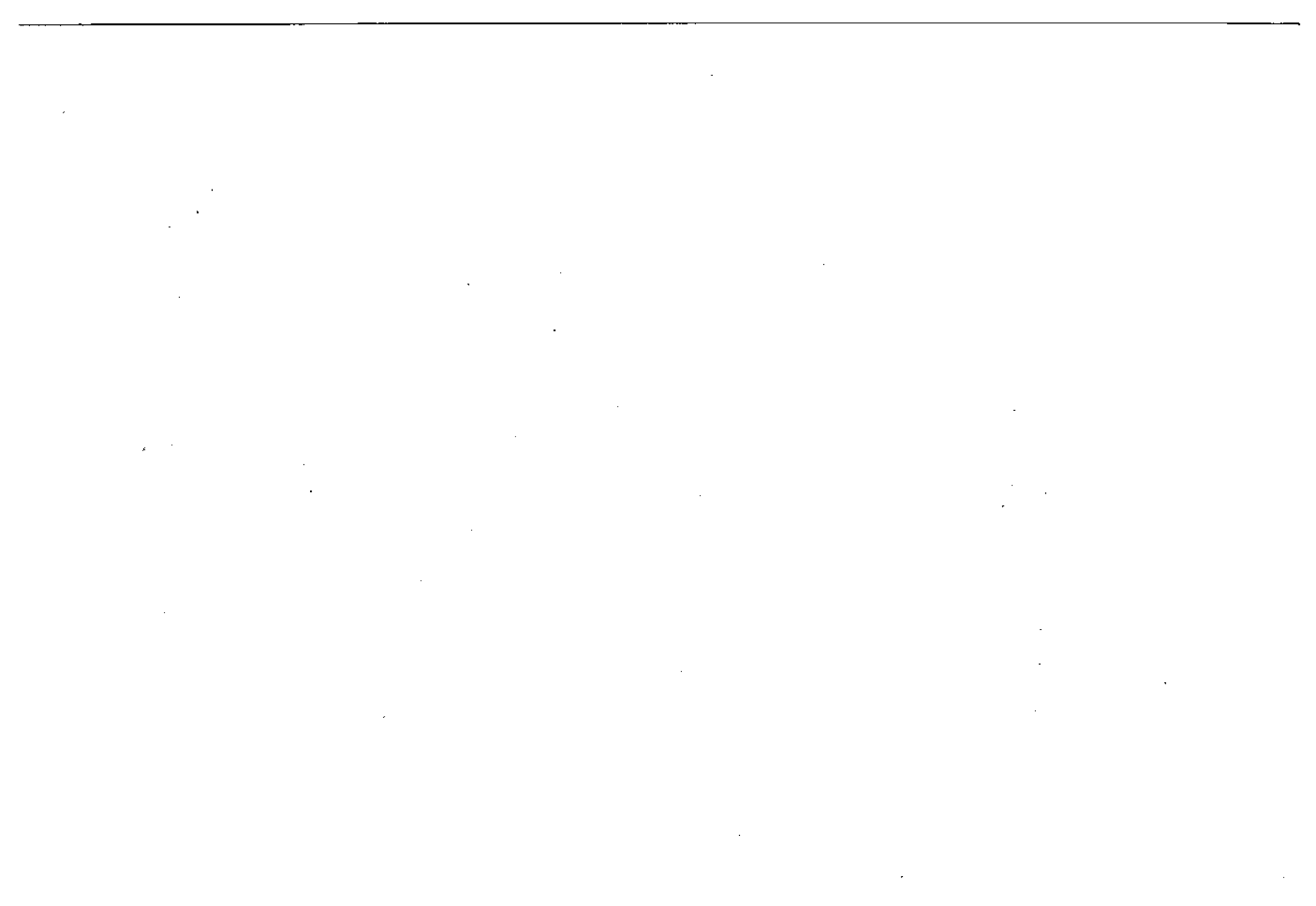
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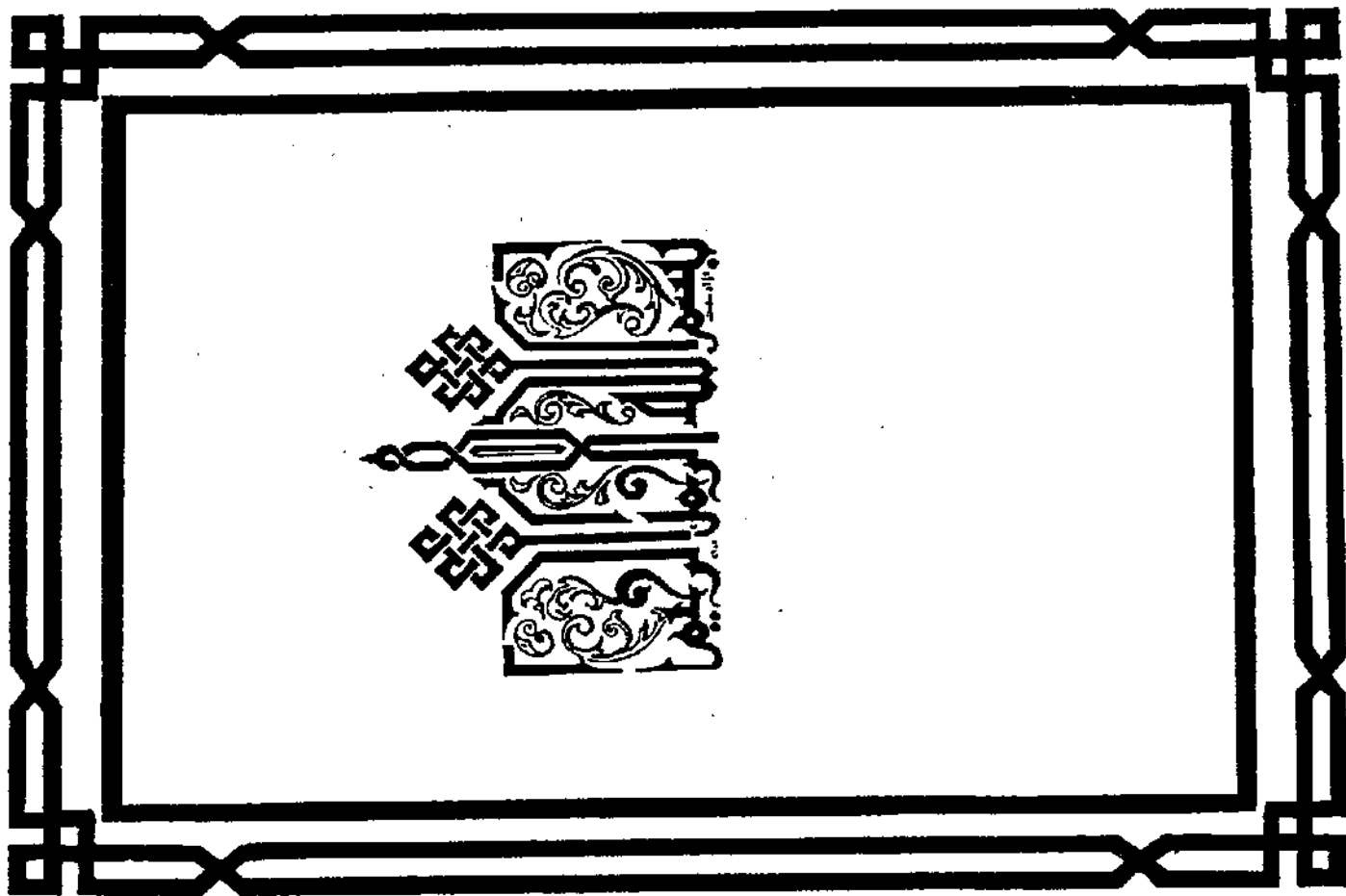
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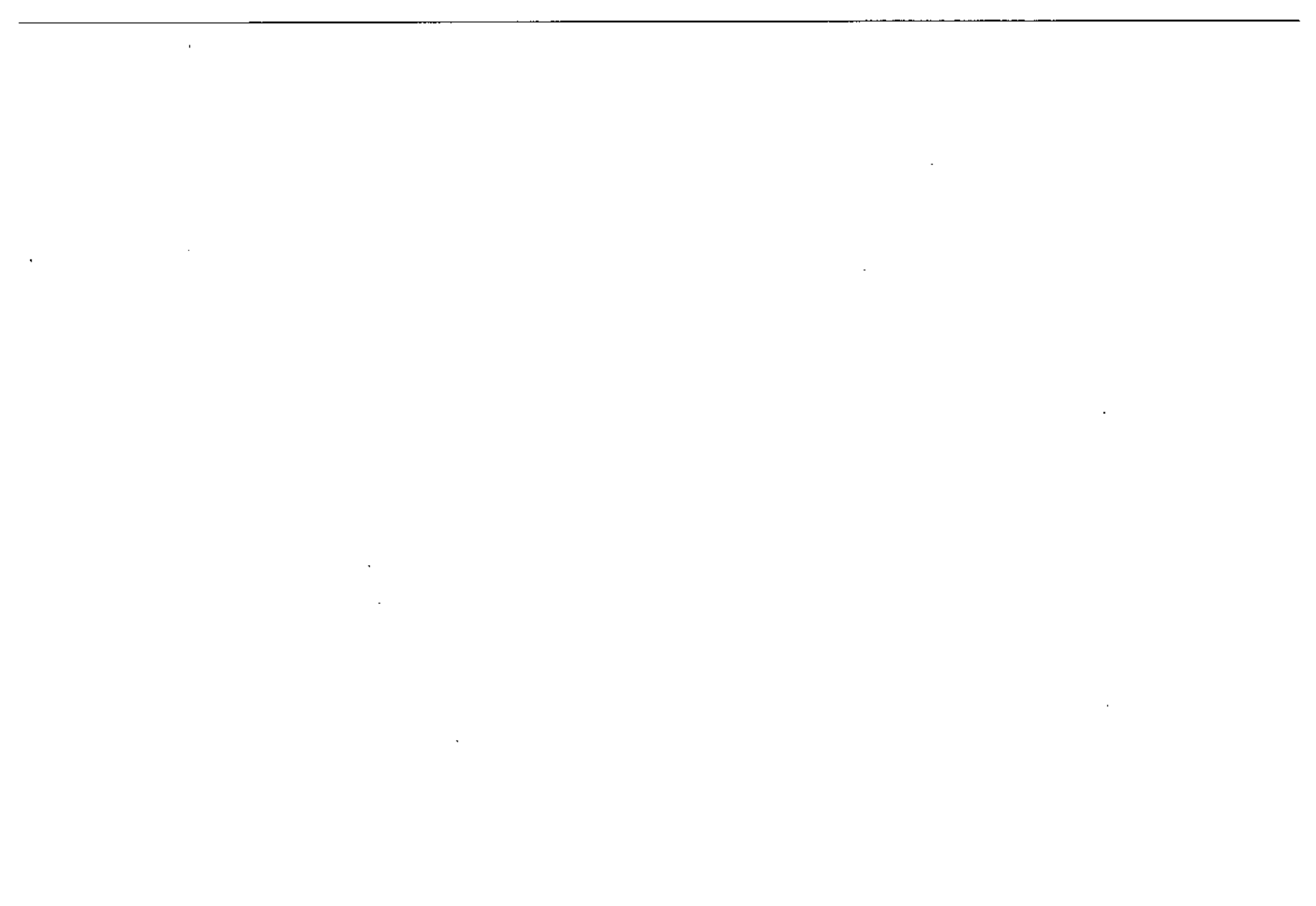
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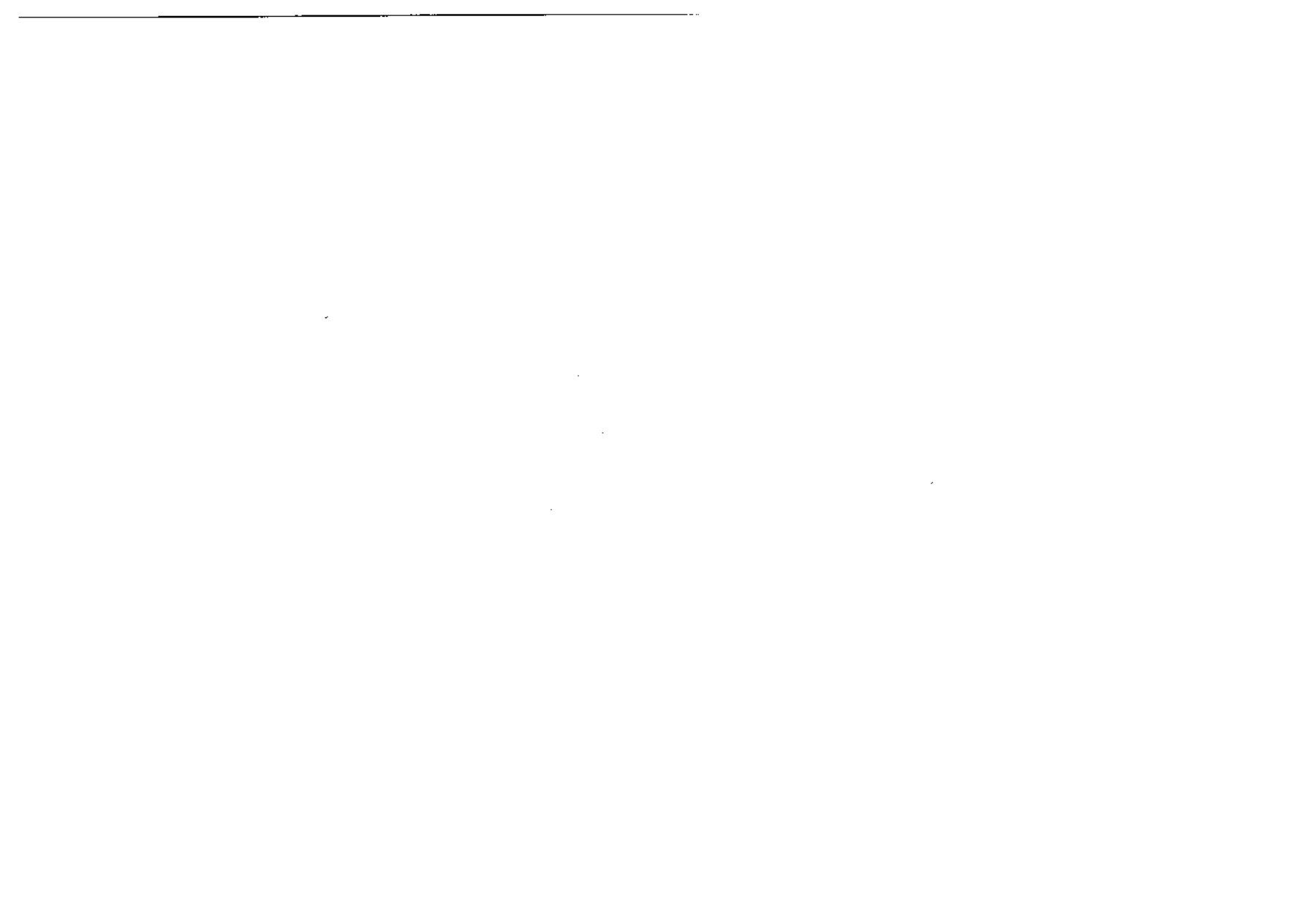






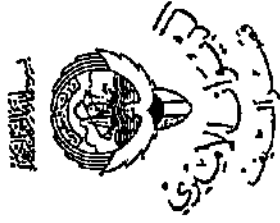


His Highness
SHEIKH JABER AL-AHMED AL-JABER AL-SABAH
Amir of the State of Kuwait





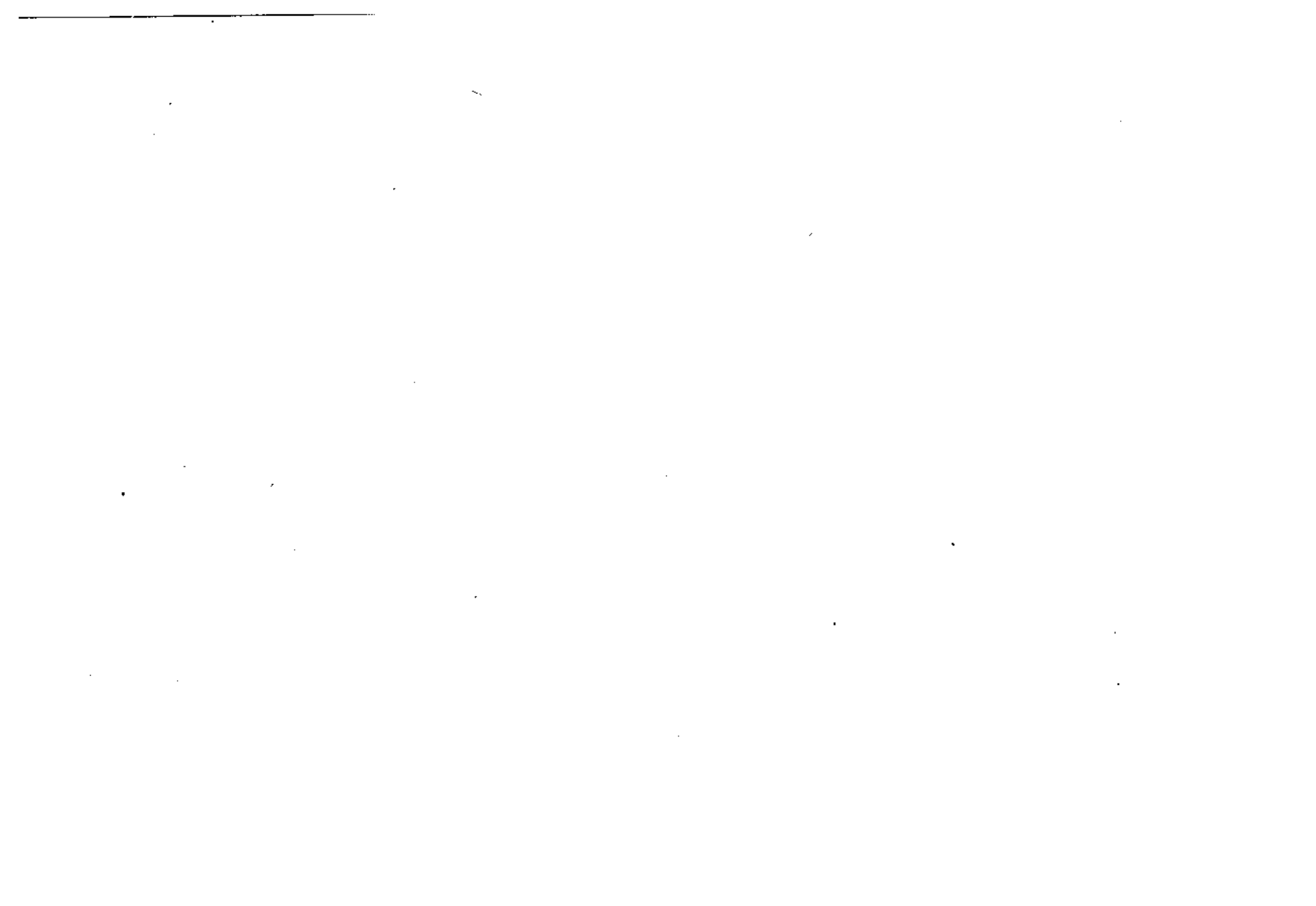
His Highness
SHEIKH SAAD AL-ABDULLA AL-SALEM AL-SABAH
Crown Prince & Prime Minister

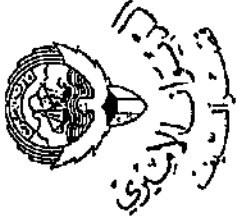


On the directions of His Highness the Amir of the State of Kuwait, Sheikh Jaber Al-Ahmad Al-Sabah;

And out of His Highness's keen desire to disseminate culture which combines religion with science in its multifarious fields and to present it to the Islamic nation particularly to those concerned with the Islamic civilization;

And as part of Kuwait's contribution to enriching the Islamic library; Kuwait Foundation for The Advancement of Sciences in collaboration with the Islamic Organization for Medical Sciences and the World Health Organization, has completed the translation and printing of this series of books that deal equally well with both Islamic Jurisprudence and Medicine.





بوجهيبكم الكريمهين

حضرة صاحب السمو السيد في
جابر الصباح حفظه الله

امير دولة الكويت

ورغبتم بين سيموني في فيف رالتقافة الجامعتم بين
البرين والعلم في آفاقهم المتعددة وقد عرس
الى الائمة للهك لالمة والعين بيورون الحضارة
للهم لالمة في العالم ، وساهمة في الراء المكتبة
للهم لالمة ، فاهت على سمة الكويت للتقدم العالمة
بالعاف مع الظمة للهك لالمة للعلم الطبية ونظمة الصوم
العالمتم برجمته وطاهته هذه السلسله من الكتب
الجامعتم بين الفقه الالهى والطب

In the Name of God, the Compassionate, the Merciful

FOREWORD

Praise be to God with Whose blessing the second in a series of seminars sponsored by the Islamic Organization for Medical Sciences under the title "Islam and Current Medical Concerns" was held. The topic of this seminar was "Human Life: Its Inception and End as Viewed by Islam." The response of scholars in medical sciences and in *fiqh* was highly positive, which can probably be explained by everyone's desire that this series of seminars, dealing with such vital topics, be successful and by the great success of the first seminar, which dealt with "Human Reproduction in Islam"; and the appreciation with which its proceedings were received by medical and *fiqh* authorities and organizations in the Muslim world to an extent that made these proceedings an important reference work in their field.

The importance of this series of seminars stems from the following:

1. These questions are urgently calling for our attention, and we have to come up with Islamic rulings for them to clarify things for ourselves as physicians, *fiqh* scholars, and Muslims.
2. We are striving to reach the minimum degree of agreement among us all over these vital concerns, although difference is not something to be frowned at, but rather an aspect of God's mercy for His servants. When there is no definite ruling over a certain subject, and individual attempts to determine the correct Islamic point of view can be made, the outcome of any such attempt has to be influenced by the type of approach taken and by the clarity of concepts used as their bases, which differ in degree from one age to another, depending on the available data, and from one individual to another, depending on his diligence and understanding. When one is mistaken in his conclusion, he is rewarded for his effort, and when he is correct, the reward is doubled.
3. A gathering like this of *fiqh* and medical scholars has already proved its significance and usefulness by the chance it offers for simplifying

medical terminology for *fiqh* scholars and giving them a clear idea of current discoveries in this field, where scientific progress staggers the imagination and where the dreams of yesterday are the realities of today. We have to keep up with this progress. We have particularly to revise, on the basis of the data and findings of our age, any rulings reached by our predecessors in the light of scientific information available at the time, when more advanced and precise discoveries have been made.

On the other hand, we are trying to improve the level of *fiqh* education among those who work in medical fields. Such an education has become indispensable in these fields, as it allows these people to meet their obligation of distinguishing between what is lawful and what is unlawful in their work and represents a safety valve in their work.

This year, we have chosen a topic, "Human Life: Its Inception and End as Viewed by Islam," which is by no means less important than the topics raised at the previous seminar. The importance of discussing this topic comes from the fact that it meets a pressing need felt by every Muslim doctor to know the Islamic rulings covering the tasks he performs in the process of his medical practice. This practice of his involves vital *fiqh* rulings and medical decisions which may affect human life one way or the other. God says:

THAT WHOEVER KILLS A HUMAN BEING, EXCEPT AS RETALIATION FOR MURDER OR PUNISHMENT FOR CORRUPTION ON EARTH, SHOULD BE LOOKED UPON AS THOUGH HE KILLED ALL MANKIND; AND THAT WHOEVER SAVES A HUMAN LIFE SHOULD BE REGARDED AS THOUGH HE HAS SAVED ALL MANKIND

Perhaps the dialogue of the participants at the seminar is the best evidence of the truth of what is stated here. Many are the points raised by both sides, the physicians and the *fiqh* scholars, all endeavouring to please their Lord and to arrive at the truth which would clearly define what is Lawful and what is not. Although the debate would sometimes be heated, the atmosphere was never one of quarrel and dispute, but rather of brotherhood and friendliness, and all were clearly anxious for the seminar to be successful and aware that "Differences of opinion need not spoil friendship."

In conclusion, the seminar gives an example of the greatness and the flexibility of Islamic Law, which cares for man as man and guides him to distinguish lawful things from unlawful ones, to keep his health and thus safeguard his lineage and kinship from confusion or obscurity.

We pray to God, the Most Sublime, for these seminars to continue, combining benevolent efforts, and we seek His guidance so that we may be able to do what earns for us His pleasure and reward.

Dr. Abd El-Rahman Abdulla Al-Awadhi
Minister of Public Health and of Planning
Chairman of the Islamic Organization
for Medical Sciences



In the Name of God, the Compassionate, the Merciful

EDITORS' PREFACE

Praise be to God with whose blessing the seminar on "Human Life: Its Inception and End as Viewed by Islam" was held. The special importance of this seminar is evident by its consequences in the form of *fiqh* rulings and legal and medical regulations. It was for that purpose that experts in all three disciplines were brought together with the hope of arriving at a medical, legal, and *fiqh* definition of the inception and end of human life as viewed by Islam.

One of the first aims of Islamic legislation is to protect man's health. This is one of its five purposes. Former *fiqh* scholars endeavoured in this field to arrive at suitable rulings to cover every problem that faced them then, and faces us today, on the basis of the scientific progress achieved at their time.

Because of the great progress in medicine and medical sciences we witness today, there has been a pressing need for medicine, *fiqh*, and law scholars to get together to discuss these questions with which we are dealing, and which have direct bearings on man's life, again and again, so that deduced *fiqh* rulings would keep up with the new discoveries and technology.

Dealing with these two questions is an urgent need not of Muslim countries alone, but also of Muslim communities in other countries, which are continuously growing in size. All want to be clear about what is lawful and what is unlawful. Moreover, there are many Muslims who work in these fields and would like to know the limits of what they can do, especially that, "What is lawful is clear, and so is what is unlawful but there are ambiguous questions inbetween"

Without any bias or narrow-mindedness, scholars of the various disciplines offered their scholarly views and discussed them at length, feeling the flexibility of Islam and doing their best to reach, on every question, an opinion acceptable to *fiqh*, medicine, and the law, and based on modern findings. Perhaps to those who have not experienced in practice the ability

of Islamic Legislation to keep up with these new discoveries, the outcome of this and other seminars speaks volumes in support of Islamic Legislation. This impression will be enforced by the testimony of non-Muslim physicians participating at the seminar, not to mention Muslims, offering the proof that Islamic Legislation has the potential to encompass all the innovations for our time.

**THIS DAY I HAVE PERFECTED YOUR RELIGION FOR YOU AND
BESTOWED ON YOU THE FULL MEASURE OF MY BLESSINGS
AND CHOSEN ISLAM AS A RELIGION FOR YOU.**

*"This faith is solid, do delve into it gently. Everyone who
contests against this religion will be defeated by it."*

Clarity in these matters is urgently needed to face these deafening noises and these calls that have swept over the Western World promoting unrestricted freedom and resulting in great chaos. Unless we face up to them with Islamic rulings based on our faith, we are likely to be drowned by this flood that is invading us under different guises.

We have grouped together all papers submitted to the seminar which dealt with the inception or with the end of human life, by both physicians and *fiqh* scholars. We included the papers on the Inception of Life, together with the discussions over them, in the first part of this book, which is followed by the second part, devoted to the End of Human Life. The third part includes the recommendations and the discussions over them.

Dear reader:

A detailed account of the seminar is now in your hands. We have done our best to present it to you in the best possible form. We pray to God to guide us all to what He may be pleased with. We also pray that the work of this seminar will contribute to the edifice of medical *fiqh*, which we hope will serve as a lighthouse, guiding Muslims in the midst of the strong tide of alien concepts. It is from God that we receive true guidance.

Editors:

Dr. Khaled Al-Mazkur

Dr. Ali Al-Saif

Dr. Ahmad Ragail Al-Gindi

Dr. Abd Al-Sattar Abu Ghuddah

**PROGRAMME OF THE SEMINAR
ON
HUMAN LIFE: ITS INCEPTION
AND END AS VIEWED BY ISLAM**

**HELD AT THE KUWAIT HILTON HOTEL
ON RABI AL-AKHIR 24-26, 1405 H.; JANUARY 15-17, 1985 A.D.**

**First Day
Tuesday, Rabi' Al-Akhir 24, 1405H; January 15, 1985 A.D.**

Opening:

The Address of His Excellency Dr. A. R. Al-Awadhi 9:00-9:30 a.m.

First Session

9:30-11:30 a.m.

The Inception of Human Life: The Medical Point of View

Chairman: H.E. Dr. Abdul Rahman Abdullah Al-Awadhi

Assistant Chairman: Dr. Mustafa Sabri

Rapporteur: Dr. Muhammad Al-Jasem

Tea Break and Noon Prayer

11:30-12:00 noon

Second Session

12:00-2:00 p.m.

The Inception of Human Life: The *fiqh* Point of View

Chairman: His Eminence Sheikh Muhammad Al-Mukhtar Al-Salami

Assistant Chairman: Counsellor Abdulla Muhammad Abdulla

Rapporteur: Dr. Ahmad Al-Qadhi

Lunch Break

2:00-4:00 p.m.

Third Session

4:00-8:00 p.m.

Discussion on the Inception of Human Life

Chairman: Professor Yusuf Al-Qaradhawi

Assistant Chairman: Professor Abdulla Basalamah

Rapporteur: Dr. Abd Al-Sattar Abu Ghuddah

Second Day
Wednesday, Rabi' Al-Akhir 25, 1405 H.; January 16, 1985 A.D.

First Session

The End of Human Life: The Medical Point of View

Chairman: H.E. Dr. A. R. Al-Awadhi

Assistant Chairman: Dr. Omar Al-Ashqar

Rapporteur: Dr. Mukhtar Al-Mahdi

Noon Prayer Break

11:30-12:00 noon

Second Session

12:00-2:00 p.m.

The End of Human Life: The Fiqh Point of View

Chairman: Professor Abd Al-Aziz Kamel

Assistant Chairman: Professor Ahmad Al-Ghandour

Rapporteur: Dr. Adel Al-Tawhid

Lunch Break

2:00-4:00 p.m.

Third Session

4:00-8:00 p.m.

Discussion on the End of Human Life

Chairman: Professor Khaled Al-Mathkour

Assistant Chairman: Professor Yunus Al-Muftu

Rapporteur: Dr. Ali Al-Saif

Third Day
Thursday, Rabi' Al-Akhir 26, 1405; January 17, 1985

Final Session

12:00-1:30 p.m.

Chairman: H.E. Dr. Abdul Rahman Abdulla Al-Awadhi

Rapporteur: Councillor Abdulla Al-Isa

In the Name of God, The Compassionate, the Merciful

OPENING ADDRESS

Dr. Abd El-Rahman Abdulla Al-Awadhi

Minister of Public Health and of Planning

Chairman of the Islamic Organization for Medical Sciences

In the Name of God, the Compassionate, the Merciful.

Praise be to God, Who has guided us to Islam and blessed us with the gift of faith, and Peace and Blessings be on God's most honoured and the last Prophet Muhammad ibn Abdullah and on all his Kin and Companions.

It is my pleasure to welcome you to this second meeting of ours, held under the umbrella of Islamic Legislation, within the series of seminars sponsored by the Islamic Organization for Medical Sciences, in cooperation with the Ministry of Public Health, under the title "Islam and Current Medical Concerns".

It is also my pleasure to greet in particular the honourable scholars and scientists who have arrived in Kuwait to participate in this important seminar, wishing them a pleasant stay in Kuwait, their second homeland, and hoping for the success of this seminar.

This year, we have chosen a vital topic, which is "Human Life: Its Inception and End as Viewed by Islam." It may be worthwhile to go back over one year to the time when our first seminar was held under the title "Human Reproduction in Islam." At that time, we had received only on *fiqh* paper prior to the opening of the seminar, and yet the conference was as successful as we had wished. This was due in the first place to the determination of the scholars who participated in the seminar, and who are also participating today, to enrich the discussion with their ideas, knowledge, and contributions. That seminar was an example of how an enlightened Islamic dialogue should be conducted. The outcome of that dialogue is now a valuable reference work and a living testimony of its success.

As for our seminar today, the response of the scholars we have invited to participate was good, for which we thank God. The outcome is

impressive. Ten *fiqh*, five medical, and one social papers have been submitted, a fact which shows interest in the topic of the seminar. Thus we already have a comprehensive conception of all aspects of the subject, which, God willing, will allow us to arrive at a *fiqh*, medical, and social definition for it.

Dear brothers and sisters:

These scholarly seminars in medical Islamic *fiqh* are of great importance as they are likely to achieve the following goals:

First: Physicians need not rely on their personal judgement, which may be right or wrong, because the problems that they face in their humanitarian profession may be loaded with emotion and that requires a sound opinion that observes the rulings of Islamic Legislation. For this purpose, it has been necessary to bring physicians together with the scholars of Islamic Law in scholarly seminars of this type, to derive conclusions that can be adopted and used as a guidance by everybody.

Second: The new innovations have been studied by non-Muslim authorities concerned with this field, and a minimum degree of agreement has been reached by them, while there is no Islamic authority or organization devoting its attention to these questions. All what has been reached so far has been the outcome of individual judgement, which does not rise to the desired level. Because of this the Islamic Organization for Medical Sciences has decided to sponsor these seminars, in an attempt to arrive at a collective opinion to be a guideline for Muslims in general.

Third: The Islamic rulings over scientific innovations introduced in non-Muslim countries may be explored. We have had no active part in these innovations, but they have reached us as a result of the gigantic progress in the field of communications. As time passes, they creep into our life whether we want it or not, hence the need to lay down Islamic regulations and controls for them before we are swept with the tide into adopting them not knowing Islam's stand on them.

Fourth: The meeting of scholars of Islamic Law with Muslim physicians meets the urgent need of Muslims to learn many medical-*fiqh* issues of which they are unaware, particularly those that concern the recent innovations resulting from the great advance in medical sciences, over the lawfulness or unlawfulness of which they are puzzled, There lies the importance of this seminar on "Human Life: Its Inception and End as Viewed by Islam, ". Much will depend on the recommendations which you will reach, such as questions of inheritance, widows, waiting period, and

other consequences of the definition of the inception and end of human life. On the other hand, these recommendations will play an important role in saving the life of a human being who badly needs the transplant of a certain organ from the corpse of a recently deceased person, which otherwise would be buried into the earth. God's reward for something of this sort is great, as testified in His saying:

THAT WAS WHY WE LAID IT DOWN TO THE ISRAELITES THAT WHOEVER KILLS A HUMAN BEING, EXCEPT AS RETALIATION FOR MURDER OR PUNISHMENT FOR CORRUPTION ON EARTH, SHOULD BE LOOKED UPON AS THOUGH HE HAS KILLED ALL MANKIND; AND THAT WHOEVER SAVES A HUMAN LIFE SHOULD BE REGARDED AS THOUGH HE HAD SAVED ALL MANKIND.

Dear brothers:

The scholars of the Islamic nation shoulder the responsibility to study these innovations and offer their clear conclusions to medical workers. No gap should separate us or deny us the common language with which to communicate. Perhaps today we are closer to that than we have been earlier, and we are better convinced that the subject of medical *fiqh* should be introduced as a basic course in the schools of medicine, representing the minimum requirement for a *fiqh* education in that field.

Dear brothers:

If we imagine Islamic Legislation to consist of body and soul, then the body has to be Muslim communities, while the soul is the stipulations of the Quran and the Sunnah of Prophet Muhammad, Peace be upon him. Without these two elements merging together, we would have a soul without a body, or action devoid of reason. That would mean utter loss, for a Muslim individual has his own concepts and beliefs, on which he bases his behaviour, and his own understanding of the meaning of his existence in this world, which is to inhabit it, but without transgression over the bounds which God, the Most Sublime, has set for us.

There have been many calls throughout the world, demanding that abortion should be made legal, thus making an assault against the sanctity of man. These calls adopt mottoes which glitter on the surface, but are deadly in reality.

Man's life, from beginning to end, is sacred. The stipulations of Islam emphasize this, for man's life belongs to his Creator, rather than to another creature of God.

We do not meet today as two work teams, but as one, and this team

faces a great task, for which it is responsible before God and before Muslims. Our responsibility is to bring to a fruitful conclusion this constructive Islamic dialogue with which we are entrusted. It is a dialogue, conducted under the guidance of Islam, that aims at finding the legal Islamic solution for the question before us. In doing this, we should exhort each other to justice and to fortitude.

I take this opportunity to offer deep gratitude to His Highness the Prince of this country and His Highness the Crown Prince for the interest they take in, and the full support they give to, the Islamic Organization for Medical Sciences, as reflected in its various activities. I would also like to thank the honourable scholars and scientists who have enriched this seminar with their *fiqh*, medical, and social papers, and whose response has been of great help and encouragement to us.

In addition, I want to thank the general secretariat of the Islamic Organization for Medical Sciences, which has patiently and diligently worked in preparing for this seminar, and it was due to that work that we have such an impressive turn out.

May God guide us all to be sincere in observing His Law and open our minds and hearts to follow the rulings of our religion and shun alien concepts. May He guide every Muslim to make his contribution to the implementation of His Legislation, which is not addressed to a particular person, but to humanity as a whole. Every human being has to account for his work.

It is God who knows real intentions and who guides to the Straight Path. I conclude this address by quoting His saying: "Say:

**WORK. GOD WILL BEHOLD YOUR WORK, AND SO WILL HIS
MESSENGER AND THE FAITHFUL.**

**MAN'S LIFE ON EARTH
A DISTINGUISHED MISSION IN ORIGIN,
SIGNIFICANCE, PRINCIPLE, AND DESTINY
(A COMPARATIVE STUDY)**

Dr. Muhammad Abd Al-Hadi Abu Reidah
Professor of Islamic Philosophy,
Kuwait University

The topic of this seminar is "Human Life: Its Inception and End as Viewed by Islam". Indeed it is a very serious topic, because man is the highest creature among those we see with our eyes in this tangible world of ours. He is clearly aware of himself and his existence in the world, and is also aware of the world he lives in, what it contains, and what it signifies.

Still, man is the most difficult problem. As far as appearances are concerned, he belongs to the world of living creatures, but in reality he is quite distinguished from these creatures through the faculties of reason and choice which he possesses.

Before speaking about man and what he really is, certain basic questions have to be answered and major problems that raise themselves in man's mind have to be solved.

What is this world in which man finds himself? What type of existence does he enjoy, and what does it signify? This life on earth, with its amazing phenomena and potentials, what is its source? Man himself, with these distinctive qualities mentioned above and with the central place he occupies in the universe, with his great power, and with his increasing influence over the world that surrounds him, what is the meaning of his existence? What is the meaning of, and what are the standards by which we may know, these great issues we keep talking about, these realities, concepts and values we call existence, the universe, the truth, good, duty, virtue, and human perfection?

And what are the bases of the questions of religion and faith? and what is their significance to man and to his mission and destiny?

All these and other questions are being raised in our age, the age of science and its applications; of philosophy, with its many, different approaches; and of contradictory political and social schools.

Modern man has an open mind that asks many questions, and he stands puzzled in front of the conflicting opinions and approaches.

The big question is to know the origin of this universe, man's place in it, and the meaning of his life. On this question, everything else is based, including all rules, values, and principles which regulate man's life.

Undoubtedly, if man frees his mind from ignorance, from adopting ideas without thinking, and from pride, bias, and whims, his reason will lead him, on the contemplation of this world as a whole and of its details and the laws that govern everything in it, to conclude that the efficiency and skill evident in its system reveal it to be the creation of a wise and powerful creator.

This deduction is based on reason and science in the strictest sense of the two words. All interpretations of the emergence of this world as a matter of coincidence, which cannot occur before objects exist, or a question of nature, vague in conception as it is, or of matter, which by definition is a mass that cannot move by itself, are false, illusory interpretations that offer nothing to explain the existence of this wonderful universe, or to explain in particular the existence of man, the master of this planet on which we live and the highest of the creatures we are aware of through our senses.

As already mentioned, man is the most difficult problem. We can say that if we want to explain his existence on earth, the various aspects of his nature, the diversity of his faculties, the ambitions of his mind, the yearnings of his soul, and the scope of his hopes, we have to solve the problem of the whole world. It does not stand to reason that man may be discussed apart from the problems of existence, the world, and life.

It is said, in defining what he is, that man is an "animal which uses speech" which is an old definition still being repeated by logicians who have a knack for definitions. What is here defined is merely man's exterior appearance or his place and distinction within the animal kingdom. Yet, the truth about life and about reason remains unrevealed, and man remains mysterious.

Without undue disregard for what is called "life", with all its amazing functions, man is distinguished from animals by his creative thinking.

which is the product of a special faculty we call "reason"; by will and the ability to make choices, which are two faculties exercised in the light of reason; by emotions, in which quite often nobility, sublimity, and unselfishness are evident; and by moral behaviour, which rises with man above the system of nature, and even above his own life.

If man started as a disciple of nature, he has turned into its master. It is wrong to describe him as the child of nature, because when nature is defined as a group of elements and bodies, there is nothing in its concept, nor in its structure, that can be a creative power producing sublime images.

If man, as the master of our planet has initiated this civilization with all its manifestations and started-thanks to his intellect, imagination, and creativity- to exercise his authority outside the limits of his planet, which is merely a beginning, this all indicates the purpose of his existence, within the plan of existence in general and within the system of the world close to, and surrounding, us.

Obviously, it is by no means easy to determine things that relate to man, or to outline a life system for him, without knowing first his reality and the significance of his life on this earth, in the light of a knowledge of existence as a whole.

Since the beginning of conscious thinking, man has been meditating this universe, as well as himself. Opinions and theories relating to this are numberless, and they have been offered by scientists and philosophers, as well as poets, writers, and wise philosophers.

Moreover, man is afforded a major place in religions in general, whether they are, as far as we know, unrevealed by God, or the last few in the series of revealed religions.

When we compare the opinions of human beings with what is taught by revealed religions, we notice that the former are fragmentary, while the latter offers full and comprehensive conception of human affairs. To show the difference, it is worthwhile to quote some of the views on man expressed by thinkers who do not belong to revealed religions and others who, although they do, have voiced personal opinions. Let us start with views which are somewhat devoid of objectivity, being the outcome of personal experiences, special moods, or a certain type of performance.

It is well-known that there have been some pessimistic philosophies which regard man's existence and life an evil that should be disposed of

(Buddhism, for example).

Certain philosophers revile man, seeing only his negative side and failing to profoundly explore his nature and the rationale of his existence, including the two-sidedness of his composition, which is of special significance.

One of those who look down on man is the ancient Greek sage Diogenes, who used to walk around in the daytime, holding a lighted lantern and saying that he was looking for a human being, as though he despised the people he met and considered none of them worthy of being called human.

The wise poet Abu Al-'Alaa' Al-Ma'arri (d. 449 H.) describes man as foolish, ignorant, and unjust, and compares him to a lion or a wolf. His view on man is summed up in his line of verse:

Better than their best is a rock,
that commits no injustice and utters no lie.

Another pessimistic philosopher is physician Muhammad Ibn Zakariya Al-Razi (d. 311, 313, or 320 H.), who witnessed human suffering at hospitals. He believes that in light of the pain and misery suffered by man in this life, his existence is an affliction and a great evil. According to him, any pleasure enjoyed by a human being is no more than a temporary suspension of pain.

German philosopher Schopenhauer (d. 1860) regards human life as intermittent pain resulting from the will to live and the pain of desire it involves. It is a pain that stops with fulfillment but only for a while; soon it is resumed.

One of the philosophers who see human life only as a conflict among people is the Englishman Hobbes (d. 1679). He regards man as a wolf lying in ambush for his fellow men, a selfish creature whose selfishness is curbed only by his self interest and fear of punishment.

Several centuries before Hobbes, Abu Bakr Al-Tartushi (d. 520 H.) wrote in his book *Sifraj Al-Mutiuk* (*Lantern of Monarchs*) that men

by nature love to receive justice but to dispense none. When they are not governed by an authority, they are like fish at sea: the big devours the small.

Other ancient philosophers contemplated the moral aspect of human nature and attempted, at the same time, to offer a system for human life,

with its various aspects.

One of these is Plato (d. 347 B.C.), who believes that the soul, which is the real aspect of man, has arrived on earth from another universe and become subject to his senses and desires. Man, according to Plato, has to fight his desires and to purify himself with knowledge and virtue, so he can go back to the universe from which he has come. Plato's views are influenced by the religions revealed before his lifetime.

His disciple Aristotle (d. 320 B.C.) looks at two aspects of man's activity, the intellectual and the sensual. He believes the intellect should control desires in order for man to be virtuous and happy at the same time, in as much as life conditions allow. Aristotle adds that man should arm himself with wisdom and with the knowledge of the reality of things, which provides him with the greatest virtue and happiness.

Kant (d. 1804), the German philosopher, regards man as living in two worlds; by virtue of his mind, he belongs to the world of free intellects, and with his body, to the world of the senses, desires, and limitations. But in the world of senses, says Kant, man has to abide by the laws of the world of intellect. In this way, a moral code, which allows no exceptions, can be arrived at.

Hundreds of years before Kant, Muslim philosopher Ibn Miskawayh (d. 421 H.) wrote his book *Tahthib Al-Akhliaq (Refinement of Ethics)*, in which he says that man has both spiritual virtues and pleasures, with which he resembles angels, and physical virtues and pleasures, with which he resembles animals. He has to cultivate his spiritual pleasures, which he may find difficult at the beginning, but once he trains himself to this, he will discover their beauty. In his boyhood, man needs the care of his parents, and he needs the care of religion throughout his life.

Moreover, thinkers with poetic, artistic, imaginative, and skeptic tendencies have expressed their own opinions and theories.

One of these is the theory of a group of philosophers who were members of the Florence Academy in Italy. They view man as a spirit and a will belonging to a level of existence superior to this world; he is the meditative being, created after the creation of the world to contemplate it. He realizes himself in his love of beauty and sublime love, which raises him to a higher form of beauty.

Some look at man as the eye through which the universe is beheld; he contemplates and creates the most beautiful images (Leonardo da Vinci,

d. 1591).

Others saw man as part of the world of nature. In order for him to understand himself and to have a meaning, he has to see himself within the framework of the universe, and to recognize his exact position, between what is higher than him, and what is lower. But man has a special value evident in moral principles (Pietro Pomponazzi, d. 1525)

There is the view of man as part of the universe, but by virtue of his senses and mental faculties, he can imagine what the universe is like and can think, which enables him to learn and to teach (the French Bouille).

But there is also the theory that man is a creature of the earth, or a natural physical-psychological unit within nature, or a small world within a larger one. But man has no sublime origin (physician Paracelsus, d. 1541).

Among skeptics of the modern age, some regard man as being imprisoned within himself and within the universe. He lives in a world unknown to him, and knows only a little about himself and about the world. Everything, whether inside or around him, is an unsolvable mystery (the French Montaigne, d. 1592).

There are, however, poets who are optimistic in their view of man. The German poet Schiller (d. 1805) believes that man is created to be a king on this earth and to be happy as a result of the emotions of love, sympathy, and ambition to moral sublimity, which render people who live by them happy, while those who live in rift and estrangement suffer misery and deprivation.

Another German poet, Goethe (d. 1832), sees man as a noble, cooperative, and generous creature, who recognizes good and evil and is distinguished from other creature by his potentials and his ability to choose.

Fichte, a German transcendental idealist, believes that the individual "Ego" is the source of experience and that man has preceded the universe, the awareness and the reality of which are derived from the ego. With his intellect, man realizes existence and the universe.

To Schilling, another German philosopher, the "ego" is the mind; it is the ideal existence as contrasted to reality and nature. Both the "ego" and the natural universe are manifestations of an absolute intellect, which is the source of this manifest existence.

One of the views that revile man and the modern age is the theory of German philosopher Nietzsche, who despises ordinary man and is

intrigued by the image of a strong, cruel, and oppressive man, devoid of all mercy and love. That is what Nietzsche calls superman, while man as we know him is seen by this philosopher as a tight rope between animal and superman.

All these are theories of thinking philosophers, and many more, which differ from each other, can be cited. In spite of their abundance, they are fragmentary opinions that do not tell us the truth about man and do not satisfy the requirements of our minds and hearts. Nor do those philosophers oblige us to accept their view.

After all these opinions man is still puzzled, although he may divert himself for a while by contemplating any of them: that seems to have some truth in it.

When we try to find out the major tendencies or the main theories concerning man, we discover the following.

Firstly:

Physical sciences have their own view of man. In short, man is seen as a species in the animal kingdom. This is an old view, but it has been developed in the modern age and, on the basis of comparing the manifestations of life on all levels and in all forms, it has turned into a theory that considers man the climax of the evolution of living creatures, which has been going on for millions and millions of years.

Promoters of this theory do not have any particular interest in the source of life on earth as a whole, nor do they look at man in the light of his relation to the universe that surrounds him and serves his existence or at the universe with man in it in the light of this mutual response between them, which is an evidence of a creative power possessed of knowledge and wisdom. They also fail to interest themselves in finding out the significance of human life, and their view is limited to comparing man to animals. This is an extremely defective view, particularly as advocated by modern materialist thinkers, who have been trying in vain, and with much contradiction between concepts and reality to explain life and the characteristics of the living on the basis of what they call "Matter," which is by definition a lifeless mass that has no activity of its own, a field for the action of influences, or an ancient philosophical allusion.

Secondly:

Some philosophers have contemplated man, his mind and his spirit,

with some of them concluding that he, through a certain mistake, has arrived from another world, and that his life on this earth is temporary, a life of restrictions and limitations, from which, as already mentioned, he should free himself. They do not, however, impose their views on man. The whole thing to them is merely a philosophical concept, for which they claim no particular value and to which they expect no commitment nor promise any reward. The whole thing, from beginning to end, is shrouded in mystery.

Thirdly:

In addition to these views of physical sciences and certain philosophies concerning man, there is the attitude of the three revealed religions: Judaism, which preceded the opinions of ancient philosophers, and Christianity and Islam, both of which appeared after ancient philosophy and science.

The three religions share, in a very general sense, the belief in one true Creator, who has created this world, and in the view that man had life prior to his life on earth, to which he came as a result of the sin of disobedience. Still, he is an object of Divine Grace; he is requested to believe in God, to be good and righteous, and to avoid sin and vices; and he has to account for himself in a life that follows this one.

But the three religions differ considerably in the content they give to these beliefs as well as in their clarity over many points, such as the conceptions and characteristics they assign to the Sublime God and to man, as well as many conditions and features, whether related to this life or to the Hereafter. They also differ in their systems of knowledge through which the true aspects of faith can be arrived at.

But what these religions have to say on man covers, at any rate, his life before his coming to earth, his life on it, and his fate after it. Among the theories that concern man and the universe, we know of nothing as comprehensive in covering all the aspects of the questions of existence, the universe, and man as revealed religions, and Islam in particular.

Islam was revealed after the other revealed religions and after some man-made ones. It was also preceded by many philosophical and religious-philosophical schools. It is the last of the divine revelations. It contains all their essential truths in theory and all their major true principles of practice. It was revealed to implement, correct, and predominate.

It is a comprehensive true revelation, complete with basics, and with

the proofs of their truth based on the principles of sound deduction. Although the truth taught by Islam is self-evident when put to the test of reason and reality, a comparison between it and others would only make this truth clearer.

Among all religions and scientific and philosophical schools of thought, Islam alone explains clearly the truth about man and demonstrates the rationale of his existence in this life on earth.

In essence, man has been moulded

IN A MOST NOBLE IMAGE

(Al-Tin, V4)

WITH SPIRIT BREATHED INTO HIM.

(Al-Hijr, V29)

He is complete and well balanced in his composition; to his intellect, power is added, and to power, the ability to make choice. His desires are counter-balanced with a will or an ability to bring them under control guided by reason. With his mind, he understands orders and warnings and is inclined to obey, but he is liable to forget, get deceived, or err, for which he suffers the consequences and through this suffering, he regrets and repents. He is ambitious and he yearns for immortality and for an eternal kingdom. This yearning is sometimes a result of his lack of experience.

As viewed by Islam, man is not an angel who has the gifts of reason and power without any options that he may choose from or desires that tempt him to discede. Nor is he an animal with only power and desires, for he also has an intellect with which he goes beyond the world of the senses and, through inference, knows his Creator, and, also through his intellect, he purifies himself through knowledge, endeavour, and the struggle to overcome his desires and turn spiritual, thus becoming a rival to angels.

All these qualities make man a unique creature, the highest among all creatures, due to the diversity and complexity of his nature and by virtue of his mission on earth. He can accomplish this mission only through struggle and the overcoming of uncountable hindrances.

Man's arrival on this earth was no sheer coincidence without a definite aim; it is rather a carefully and wisely drawn Divine Plan.

According to the earlier religious tradition, as preserved and understood by its adherents, man was expelled to this world in consequence of a sin he has committed. He is required to atone for it through misery and suffering throughout his life. The sin, as they view it, is inherited by human offspring, and man is a creature full of vices and evils. The Torah says that, upon beholding all these evils, God "felt sorry and regretted in His

heart that He made man on this earth". (Genesis, 6).

From that tradition, it cannot be inferred that man's existence on this earth was planned to begin with, but rather that it was the outcome of his disobedience.

In the Quran, meanwhile, man is described as having a unique mission, namely, to be a "vicegerent" in charge of the earth. His mission is to start life on it, manage its affairs with truth and justice, and spread righteousness and mercy in the light of guidance he receives from his Creator.

When we read "the Quran", we note that man has been practically prepared for this mission. A summary of this process of preparation is given in the Surah entitled Al-Baqarah (verses 30-38).

God announces to His angels the good tidings that He is going to have a vicegerent on earth, and that He will highlight the species and mission of this deputy among those of other creatures. This is the key to a comprehension of the significance of man's life and its nature and to understanding what has occurred in Heaven prior to man's life on earth.

The angels wonder, as they see conflict and bloodshed taking place on earth when they devote all their lives to sing God's praises and sanctify His name. It is as if they request God for information about His plan.

God reveals to them aspects of His wisdom of which they have been unaware. He equips Adam with comprehensive education, and thus He elevates Adam above angels with this knowledge, which they do not have and which concerns his future mission. God also orders them to pay homage to man for his learning, which they do.

Satan, who originally belongs to the kingdom of jinn and through worship has been admitted into the world of angels, declines to pay homage to Adam out of pride, vanity, and envy. Thus Satan emerges as an enemy of man in the latter's great future mission. This is an inevitable development, so that trial can be made and endurance can be established. Man has the chance to struggle and resist, and thus to prove himself to be superior to other creatures.

Certain passages of the Quran mention the challenge posed to man by Satan and the latter's avowal to tempt and seduce the former (Al-A'araf, V11-18, and Al-Hijr, V28-43, for example), as well as the Divine warning to man against Satan's enmity and intrigue (Taha, V116-124).

Preparation for the mission begins with forbidding man to eat the fruit

of a certain tree. Satan deceives Adam and his wife (1), who fall for his cunning because they are innocent and inexperienced, and also because of Adam's ambition towards the sublime, for Satan claims that he is guiding the couple to "the Tree of Immortality and an everlasting kingdom", and that they have been forbidden the tree only to be kept from being immortal, like angels (Al-A'araf, V20-21). He swears that he is offering them sincere advice. Adam and his wife forget the divine warning and eat of the tree. Their nakedness, of which they have been unaware, becomes visible to them, so they repent and pray for forgiveness. God teaches them what to say (Al-Baqarah, V37) and forgives them, and they descend from heaven (2) to earth after their repentance and god's selection of them for the mission. He informs them that they will receive guidance and commission from him, and that destiny, as well as reward or punishment, will depend on behaviour; whoever follows his guidance will be happy on earth and in the life after, and whoever fails to do so will be miserable in both. (Al-Baqarah, V38-39; Taha, V123-127).

In short, according to the Judaic-Christian tradition, man, who has sinned, is brought to earth to atone for his sin, while in Islam, he has already repented and received guidance and knowledge by the time he is sent to earth to be God's vicegerent on it and to inhabit it in His Name.

Thus the duties of man's vicegerency, i.e. building human life on earth, began. That signalled the start of all what we witness of civilization, sciences and arts, righteousness and going astray, peace and war, good, and evil. This is man's kingdom in which he is required to follow the right guidance where the chance to go astray is always there, to do good when evil is possible, and to acquire knowledge after being ignorant. In carrying out his mission, man works, suffers, errs, and repents. He keeps on striving in every possible way and bearing the burdens of life with faith and patience, confident in the wisdom of his existence and the mercy of his Creator. After the struggle and the victory, he returns to God with a record of his work, and the final chapter of his existence is a wonderful resumption of the first.

To sum up, when we contemplate man's life on earth in the light of Divine Guidance, with all the commissions, orders, and warnings it involves, and with all the error, violation, regret, repentance, righteousness, and going astray which occur in human life we notice that, in essence, all this is part of the equipment of man to carry out his mission on earth. Satan, who was up there to seduce man and lead him astray, is also present down here. The influences on man up there have their

counterparts down here.

The Wisdom of God in creating man in a most noble image and in preparing him for his mission and looking after him is evident to every thinking person.

Is there among the creatures who preceded man's existence and commission any one with the same traits and qualifications as man to shoulder the great task mentioned in the Quran when God says:

*WE OFFERED OUR TRUST TO THE HEAVENS, TO THE EARTH,
AND TO THE MOUNTAINS, BUT THEY REFUSED TO UNDERTAKE
IT AND SHRANK BACK FROM IT. MAN UNDERTOOK TO BEAR IT,
BEING UNJUST AND IGNORANT.*

(S33:V72)

Man is truly a great creature, and his greatness is realized only in the light of the message of Islam. To equip man for his great task, God has placed in his service everything that we see in this world (Al-Jathiyah, V12-13).

The truth is that man enjoys a prominent position in Islam. It is sufficient that in the Quran he is mentioned on par with the universe, in as far as they are both starting points for contemplation and deduction through which we get to know God and to know the truth revealed by Him.

*ON EARTH THERE ARE SIGNS FOR FIRM BELIEVERS, AND SO
ARE IN YOURSELVES. CAN YOU NOT SEE?*

(S51: V20-21)

*WE WILL SHOW THEM OUR SIGNS IN ALL THE REGIONS OF THE
EARTH AND IN THEMSELVES, SO THEY WILL CLEARLY SEE THAT
THIS IS THE TRUTH.*

(S47: V53)

THE OPINIONS OF RELIGIOUS THINKERS CONCERNING MAN

We have so far reviewed briefly the attitude of religions which preceded Islam towards man as well as the distinctive view of Islam. The opinions of believers in older religions that we can cite here are those of Christian theologians and faithful thinkers.

These have looked at man through their understanding of Adam's sin and its relation to the message of Prophet. 'Isa (Jesus), Peace be upon him, which they believed to be the salvation of human beings from the consequences of this inherited sin. This is because the Old Testament,

which is basic to Christians, does not mention Adam's repentance and God's acceptance of it, as Islam does.

Here it should be pointed out that what is called Adam's sin is, specifically and as viewed by Islam, eating from the tree, after forgetting God's warning. It is nothing more than the act of eating, but some others, as it seems, imagine it to signify much more than that.

Let us contemplate the warning and ask whether it implies prohibition or signifies choice, with an admonition against the commission of injustice, the suffering of misery, and the experiencing of physical needs for food, drink, and attire. It is clear from the Quranic context that the act of eating would result in a transformation in Adam's nature from the spiritual way of living in Heaven to a life with a physical aspect outside Heaven, which is the life on earth. This can easily be comprehended in what God says, in explaining what would happen to Adam when he is made to leave heaven as a result of Satan's intrigue.

HERE YOU HAVE THE PRIVILEGE NOT TO HUNGER OR GO NAKED, AND NOT TO THIRST OR FEEL THE SCORCHING HEAT.

(S20:V178.119)

Moreover, the admonition is not combined with any mention that it is a real sin or it calls for the punishment of a crime. It is rather a warning against suffering. In fact, this is a disobedience only in form, and yet, for Adam with his stature, position, and educational advantages- it is similar to sin, and I believe the Quran calls it so in this sense.

When we think of this sin, it is inappropriate to examine it in isolation, but rather as part of God's purpose in educating a creature with Adam's task who is taught and prepared for his unique mission.

Otherwise, how does it follow that God, with His Wisdom, Mercy, and Grace, would create man to disobey Him and persist in this disobedience, and yet he is made God's vicegerent on earth, whom God undertakes to Guide and promises to bring to account concerning his mission?

The view of man entertained by theologians is influenced by their concept of man's existence on earth.

The Opinions of Some Christian Thinkers:

Let us review the opinions of some Christian and some Muslim thinkers concerning man to see the difference in concept between the two groups.

One of the Fathers of the Church in its second era, Saint Augustine (d. 430), believes that man on earth is not part of nature, but rather alien to it, because he has a former history summed up in his being guilty as regards his origin in heaven. As a creature on earth, he is miserable, unhappy, and sick, dominated by selfishness and the purchase of pleasures. Therefore, the authority of the church is necessary to discipline people. Although man has a will and he has to work hard in observing God's will, it is Divine Grace that provides him with faith and frees him from himself and his misery.

Saint Thomas of Aquin (d. 1274), considered the most outstanding Christian theologian of the Middle Ages, sees man as occupying a middle position. In spirit, he is akin to God, while in body, he is closer to beasts. This position allows for ethical life and for a moral code. Apart from this, Saint Thomas believes in the original sin and in the need for divine inspiration to awaken human consciousness of moral values. He was introduced to and influenced by Islamic thought, whether it is philosophical or the thought of Muslim spokesmen, and this influence is *Known* to Muslim and Christian specialists alike.

If we want to examine the views of a faithful Christian philosopher, we can choose Pascal (d. 1662), who shows man's contradictions: he is selfish, but he cannot live alone, so he runs away from himself to others, but in spite of his need for them, he is haughty and may harm them. He consists of a number of contradictions, and the reason for this is that he has sinned, so God expelled him to this world, the world of defects and pain, to atone for his sin. His story can be summed up as creation, sin, and atonement.

To Christian scholars, man is under the custody of the church, which controls his destiny; hence its authority is higher than that of the state, and does not come from the desire for authority but rather to serve man's best interests.

The Opinions of Some Muslim Thinkers:

As already mentioned, man occupies a very important position in Islam. He is an original creation, not one that has emerged as the result of the evolution of a certain species, but like all living creatures, he has come to earth from the treasures of the Creative Power, because earth itself has been moulded and formed. In the larger part of its history, earth had no life on it, nor was suitable for life.

Muslim thinkers do not differ over the rationale of man's vicegerency on earth, nor over the view that he is a rational creature capable of distinguishing between good and evil. He is entrusted with great duties that include faith which is based on knowledge and good deeds of all types. He is capable of purifying himself through knowledge, religious virtues, the moral values of believers, and the ability to overcome the elements of intellectual apathy and the aspects of worldly desires.

Islam has pillars of faith, with evidence of their truthfulness; principles of knowledge, with systems for its acquisition; guidance to sublime moral values, with the methodology for observing them—all of which are sufficient to keep a Muslim from wondering over the question of his existence. He troubles himself over no original sin or expulsion from a lofty position, but is rather concerned with his sublime mission. Therefore, scholars have outlined the method of mental search for knowledge, within the bounds of Islam, in order to know God through the guidance of reason. They have also described the system of moral sublimity and of the acquisition of religious virtues and avoidance of vices. Historians have the right to assert that Islam offers such a method and system that can be found in the heritage of no other nation, and all stems from a belief in man and an awareness of his reality and his mission.

Religious scholars give details of the tenets of faith, together with their evidence, and of the stipulations of Islamic Law, together with the wisdom behind them. God has seen to it that the last Message He has sent to man has complete sources of legislation and is comprehensive in covering everything relevant to learning and to behaviour. Moreover, it has been preserved intact as it was revealed. Many nations have contributed to the task of preserving it. Its history, unlike that of some other religions, has known no interruption, neither in the practice of religion nor in thought and civilization.

The interest of Muslim thinkers in man, whatever their fields of specialization are, continues and is guided by the views and concepts of all aspects of human life expressed in the Quran and in the Prophet's Tradition. In light of these honoured statements Muslim thinkers have arrived at opinions concerning man's intellect, spiritual life, soul, and ethics, as well as his place within the universe, his standing in individual and social life, the course of his history, and the development of his civilization. In addition to all this, they are equally interested in his worldly affairs and in his subsequent destiny.

Since man is entrusted with a mission to perform within a life where

physical and mental abilities, both of which are cared for in Islamic Law, complement each other, he has received the interest of thinkers to which he is entitled.

One of the reasons for the fast rise and flourishing of Islamic culture, in all its fields, was the belief in this mission of man on earth, a mission that is ever renewed in the light of the general principles and the sublime objectives of this great religion.

Let us give some examples of the interest in man shown by Muslim thinkers, specifically those whose activity is predominantly scientific, but is nevertheless closely connected with religion.

The spokesmen of Islam, i.e. the scholars specialized in the fundamentals of doctrines, study man, not in his capacity as God's vicegerent on earth, but rather in connection with his mental and sensory faculties, his abilities, his free will, his religious and moral responsibility, and his existence as an influencing factor in nature.

Muslim philosophers' view of man is part of their view of existence, and they stress his standing compared with other things. One of these thinkers is Al-Farabi, who regards man as a link between the world of creation, or the visible world, and the world of ordinance, or the metaphysical world.

Al-Ghazali speaks of man's basic element as being the "heart," which he described as a "Divine nicety". Through the senses, he adds, man has access to the "visible world," i.e. the tangible world, and, on the other side, he has access to the "metaphysical" or "sovereignty" world. He stands between the two and within him lies the mystery of both forms of existence, for the sensory world and the world beyond it; or this life and the life after, are two aspects of the heart. With the guidance of his heart, man has to rise from creation to the truth, and this is the worship of one-and-only God. By knowing and loving God, the heart lives, is healthy, and enjoys happiness, and by its ignorance or denial of God, it dies in misery.

Sufi poets express man's love for God and yearning to be at His side. They also deal with man and the mystery of his nature in a most eloquent and impressive language. Examples can be found in the poetry of Ibn Al-Faridh (d. 633 H.), Jalal Al-Din Al-Roumi (d. 672 H.), Sa'di Al-Shirazi (d.c.690 H.), and others.

Sufis have their own views of man. An example is the concepts of

Muhyi Al-Din Ibn Arabi (d. 638), who, in his compositions, offers profound religious and philosophical ideas.

Some of these are ideas familiar to earlier thinkers since the ancient Greeks, such as the statement that man is a "small world," (microcosm) in contrast with the larger one. Ibn 'Arabi, however, adds that man possesses within himself all the qualities of beauty and loftiness contained in the larger world, that he is the larger of the two domains of divine qualities, and that he is the "noble gist... and the universe that embraces all the facts and scales of existence". The whole human race is created by God after His own image, and no one can bring its system to an end other than its Creator, either by doing so Himself or by giving orders to that effect. Whoever undertakes this task without an order from God would be doing injustice to himself, transgressing over Divine bounds, and seeking to lay to waste what God has ordered to be inhabited. Since God has created man after His own image, (3) to care for man is to care for God.

The fact that in Islam, God has ordered that those who fail to embrace the new faith should be respected rather than killed is due, according to Ibn Arabi, to the original creation, which means that they are created in God's image.

Likewise, the fact that in Islamic Law, for the punishment of a murderer, a choice is made between killing him, accepting blood money, or forgiving him altogether, has the aim of providing a chance to preserve this image, which is created by God and reflects His own qualities, and to allow its owner an opportunity to realize the purpose for which he was created.

Man, according to Ibn 'Arabi and other scholars, is above angles in rank, because all formulas lead up to him, and because he is capable of doing evil but struggles with himself, while they are incapable of it. Man suffers in disciplining himself into keeping away from evil what no other creature suffers. (Ibn 'Arabi's *Fusus Al-Hikam [The Gems of Wisdom]*).

The purpose behind all what we have said is not a mere review of the various opinions and concepts of man, but rather to show how defective they are, and how superior is the Islamic view of man as a creature unique in his nature and in all his affairs.

No one is as aware as Muslim scholars how God's Legislation takes care of all aspects of man, particularly the essential aspects of his being and his life, and how it highlights the value and purpose of human life, and sets criteria for all of these things.

Man is a creature superior in his nature and the purpose of his creation. God has assigned him a task on earth, but life on earth has its own conditions and laws. As a result of the progress in theoretical knowledge and practical applications, many amazing instruments are under man's control. He has even been able to successfully interfere with the laws of nature, but only with the help of nature itself. He has also started to interfere with the composition of living creatures and with his own physical makeup in various ways. But he is assisted by what he knows of life and acquires from it. The worst thing is that he has been interfering with God's creation, changing things, and conducting strange experiments, without the control of the mind or of religion.

Human civilization has changed and will inevitably continue to change without a pause. One of its greatest shortcomings in non-Muslim countries is that for centuries it has been keeping away from religion, having set a barrier between religious faith on the one hand and intellectual life and the management of life affairs on the other. The result is that man is mainly viewed as a living creature, and all attention is channelled towards his life, health, comfort, and prosperity, and to the relief of his physical and mental pain. At the same time, man's true integrated composition, both mental and physical, is being ignored, and so is the importance of his belief in his Creator and in the meaning of his life and his mission on earth, which allows him to manage its affairs and to bear its various burdens.

In brief, man has started to tamper with himself in as much as his knowledge allows him to do, as if he were his own god and as though the limited knowledge he has acquired were all the knowledge possible, and its criteria were absolute standards. This has created for him problems for which he has no solution and led him into a state of affairs where his very existence on this planet is threatened.

The basic question is: what are the goals which modern man is trying to reach? What are the principles which should guide his life? And what are the honest and legitimate means with which he can reach his objectives?

Neither modern philosophy nor modern science offers answers for these questions, because they are not within the realm of either. The answer is available only through the knowledge offered to man by his Creator, Who has taught him, sent him to earth, and told him:

*WHEN MY GUIDANCE IS REVEALED TO YOU, HE THAT FOLLOWS
IT SHALL NEITHER GO ASTRAY NOR SUFFER, BUT HE THAT
GIVES NO HEED TO MY REMINDERS SHALL LIVE A HARD LIFE*

AND COME BEFORE ME BLIND ON THE DAY OF RESURRECTION.

(S20: V123-124)

It is the good fortune of humanity that Islam survives among its nations, which are equipped with the full Islamic Legislation, with its sources and branches, and with its general stipulations that are sufficient to cover all details and all human problems.

Islam is the religion accepted by God. There is a current Islamic reawakening, of which there can be no doubt. Today Islam faces this modern culture with all its problems, as it (Islam) has faced and challenged earlier cultures and has been able to meet all challenges, thanks to its vitality, and the potential it has in its principles for solving all the problems of man, who is entrusted by God with the task of living on earth.

The world expects to find in the outcome of this unique conference, on a subject that deserves all attention, what guides it in taking care of man, whom God has chosen as His vicegerent on earth.

Postscript

It was not my intention in this paper to go into scientific medical questions. But the papers and discussions of the seminar have dealt with questions related to man and to the spirit from a religious and a philosophical points of view.

The truth about man or about the spirit is not something for empirical science to settle. Although religion, i.e. Islam, tells us the truth about man and views him in his totality as both a spirit and a body, the question of spirit has puzzled religious scholars as well as philosophers.

Because it is a difficult question that requires profound investigation, some scientists with materialistic or empirical inclinations simplify the problem by denying the existence of what is called "spirit," as an intangible element, with its own faculties, and claim that the basic element of man is what is called the "brain". Once his brain stops to function, a person is pronounced dead.

This is the exterior appearance perceived by the senses, but every physical object, every tangible material thing is only an appearance at the bottom of which or beyond it are active powers and faculties. Among the wonders of this material world is the fact that none of its factors and influences is material, but their existence is deduced from their functions

and their evident effects, as can be seen in the lives of plants and animals in general, including man.

What I would like to say is that the "brain", like all other organs of the body, is an instrument for the spirit, although the brain is a very delicate and sensitive instrument, particularly as it is, by virtue of its location within the body and its connection to all the senses, an instrument that receives and records all sensations. Whoever meditates the process of thinking realizes what a wonderful instrument the brain is. The same conclusion is reached through empirical research.

As for the location of the "spirit" or "soul," it is a puzzle for everybody, but it is probably spread throughout the body and over every single cell.

When the brain stops to function it signifies the end of life as a whole, but this does not mean that the spirit is no longer connected to the body, in spite of the latter's failure. Some form of connection remains. If we have to cite an evidence from the Prophet's Tradition, we may quote the statement attributed to the Prophet, Peace be upon him;

"A dead person suffers pain for the same reasons as a living one".

However the case may be, in no way whatsoever should an organ be removed from a dead person before the signs of life have stopped in every single organ, and only when the dead person has, during his life, consented to the removal. The body is not a mere object and it is owned by, and is an instrument for, the spirit of its owner. It will resume its life at Resurrection.

As for making use of some of the organs of a dead person by replacing with them the damaged organs of another person, this is an issue that falls within the category of what is permitted by religion and noble ethics. If a religious interpretation that allows something of this sort is arrived at, a question remains whether, regardless of individual differences, the transplanting of such an organ is for the mere purpose of extending the life of the recipient for an additional period of time, and whether sublime purposes, approved by Islam and consistent with the significance of man's life and his mission, should not be served by such an operation. Such purposes could be the promotion of justice, good, and righteousness, as when a scholar needs the transplant of a part of an eye to continue to serve the truth, or when a parent or a child needs a kidney to be able to go on taking care of his (or her) children of aging parents. These

and similar purposes, particularly the purpose of worshipping God longer, are religious, ethical ends.

The mere desire to extend a life, when it is not endowed with a lofty mission, should not be justified. A person's life on this earth has to come to an end sooner or later, and the attempt to escape death in abnormal ways does not save one from it.

SAY: THE DEATH FROM WHICH YOU SHRINK IS SURE TO OVERTAKE YOU.

(S62:V8)

Instead of worrying about this life, a wise man should think more of what he is going into when it comes to its end. The same way a believer has learned how to make his life an example of sublime human life, he should also prepare himself, while on earth, for the loftier life that follows and to learn how to die graciously.

THOSE WHOM ANGELS BRING TO DEATH IN A GRACIOUS MANNER ARE TOLD: PEACE BE ON YOU. COME INTO PARADISE, THE REWARD OF YOUR LABOURS.

(S16:V32)

One more point, which has been the subject of controversy and which relates to fetuses, remains. It is clear that from the moment it is conceived until it is born, a fetus is a human being in the making as God Says:

A CREATION OUT OF A CREATION.

(S39:V6)

Every stage is dependent on the one before it, and the fact that various functions start at an early stage of fetal life suggests that the fetus has a "soul," or has that something which is the "foundation" of life, or the power whose functions are found in the manifestations of life. Abortion should not take place at any stage unless for a cause of more importance than the protection of fetal life, such as saving the mother's life if it is scientifically and medically confirmed that abortion does save it.

To take the Prophet's tradition concerning the breathing of spirit into a fetus at a particular stage as a basis for the conclusion that before that stage, a fetus is not yet a human being is not a logically sound deduction. Human abstract powers and faculties, whether in a fetus or in an adult, are many and connected together. No one knows the truth about them, but their signs are quite clear. All of them are part of one integrated structure, which is man, in whose tangible/material and intellectual/spiritual nature all the mysteries of this world can be found. The difference in terms such

as life, soul, spirit, mind, heart, and psyche should not deceive an in-depth thinker, because each of them expresses things which differ with the context. If they are not various aspects of the same thing, then at least they are connected at the roots into a common base that goes beyond the field of empirical knowledge.

The purpose of all this is that man should be viewed and dealt with very carefully and on a firm basis of respect for his body, life, soul, and mind, and of conviction that he is a unique creature created by God and that no one is allowed to tamper with him unless with the permission of his Creator.

Notes

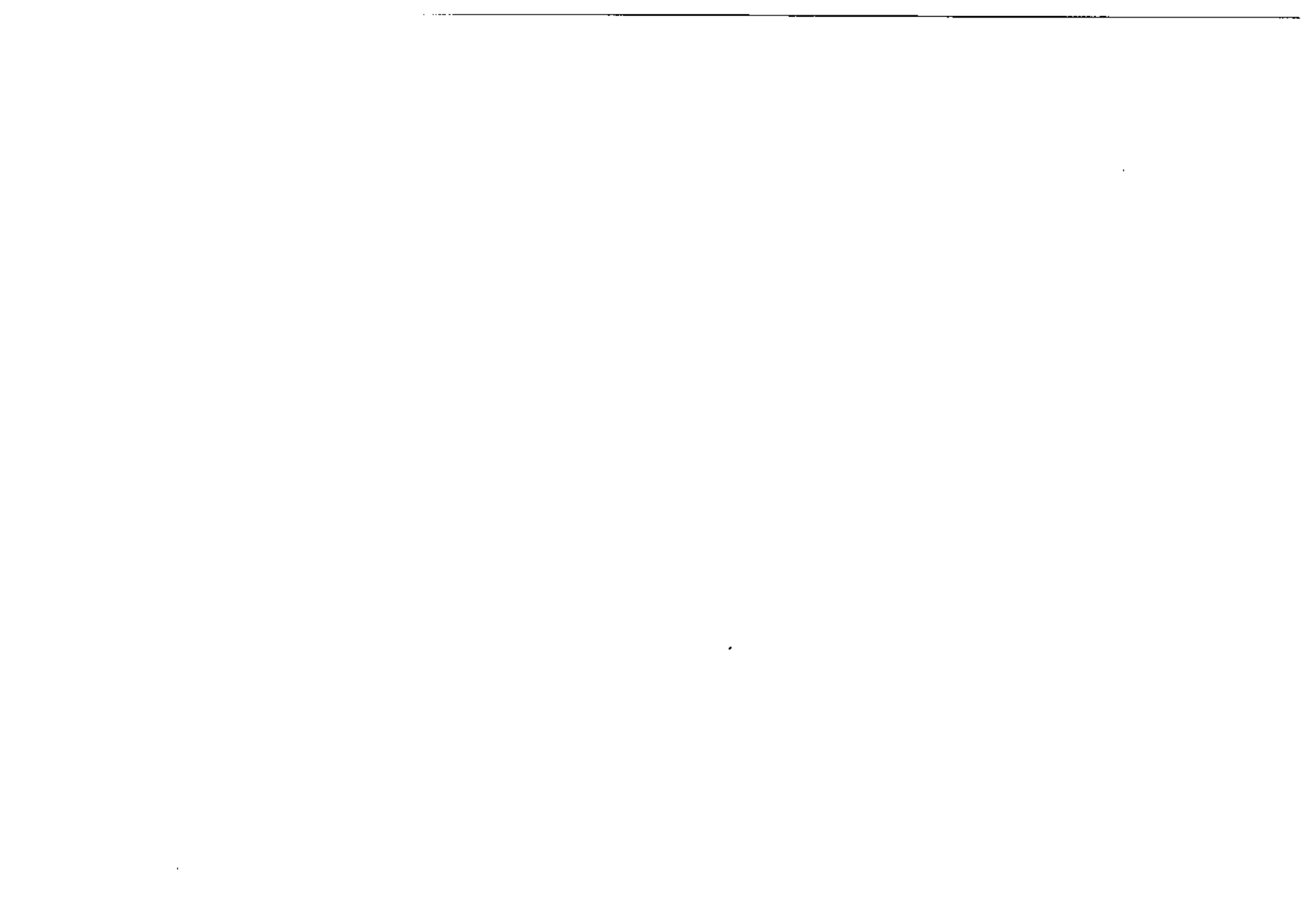
(Translator's note: The method of notation and documentation in the original Arabic differs from one paper to another. While some scholars prefer footnotes, others are satisfied with notes, and sometimes with only a list of references, at the end of their papers. The same thing is true about documenting quotations from the Quran. Some writers cite the surah and verse (s) numbers within the text of their papers, while others make a note for every quotation. Some mention the number of the surah; others do not. To make things easier for the English reader, I have decided to follow a uniform method. For quotations from the Quran, the surah title in Arabic and the verse(s) number are cited within the text. A list of the surahs, their numbers, and the meaning of their titles in English is supplied at the end for the convenience of the reader. As for other notes, they are supplied at the end of every paper of session).

1. In the Quran, it is Satan that deceives man. The Quran makes no mention of a legend recounted in the Old Testament which says Adam's wife was deceived by the snake, which pictured the tree as so tempting to eat from, that Adam's wife ate and offered the fruit to her husband, who also ate of it.
2. In the Old Testament, the garden where Adam spends the earlier stage of his life is on earth. God has planted it east of Eden. From Eden itself, a river springs to irrigate this garden. It branches into four rivers, etc. This, as European scientists commenting on the Old Testament say, is not supported by Geographical facts. (Genesis, 2)
3. This is mentioned in the Prophet's Tradition, and it does not refer to the physical image, but rather a figurative one, which is the total of the qualities of Divine Perfection and Grace.

PART ONE
THE INCEPTION OF HUMAN LIFE
AS VIEWED BY ISLAM

FIRST: MEDICAL PAPERS

- **The Beginning of Life.**
Dr. Hassan Hathout
- **The Beginning of Human Life**
Dr. Mukhtar Al-Mahdi
- **When Human Life Began**
Dr. Ahmad Shawqi Ibrahim
- **Human Life Inside The Uterus: Its Inception and End.**
Dr. Abdullah Basalamah



THE BEGINNING OF LIFE

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Faculty of Medicine
University of Kuwait

With praise to God we meet, physicians and *fiqh* scholars, with the bond of Islamic brotherhood and within the context of belief in God, His Messenger, and His Law. This is a type of meeting favoured by God, first because it is based on mutual love for the sake of God, second because it is a meeting of learning, and third because our intention is to learn and to teach. We hope our deliberations will result in something useful to the nation of Islam in this age, when scientific discoveries have made giant leaps and have become diversified in a way that calls for the joint meeting of specialists in medical sciences and in Islamic disciplines, because one of the conditions of being qualified to make rulings (*fatwas*) is to well comprehend the issues in question.

It will not surprise me to see us all feeling puzzled and confused again and again, and let me tell your honours that others who tackle the topic of this seminar in other parts of the world also experience this puzzlement and confusion. The world has not been able to reach a unanimous opinion or a unified legislation concerning this issue, and it is not expected of this seminar to come up with one opinion, ruling, or *fatwa*. If God blesses us with His favour and we agree on a certain point, that will be great, and we will offer it to people as an opinion rather than a ruling. Otherwise, it is sufficient for us to learn information which may be new to us and to exchange points of view. If we fail to reach a unanimous opinion or resolution, that should not worry us.

If medical doctors all over the world have been and are still finding difficulty in tackling such topics, it is more expected of *fiqh* scholars to meet at least as much difficulty. Some of the points are going to be completely new innovations. Early scholars have not known them or written about them. The library and books in general are no longer the inclusive-exclusive source that clears every ambiguity. Solutions for the problems that are raised before us now are to be sought mainly in the mind

and only to a minor extent can be found in references. Quotation here will not make up for personal effort, and we should follow the example of our predecessors who worked their brains to come up with their opinions, finding no discouragement in having views different from earlier or contemporary scholars. So, I here salute every person who goes through the process of handwork, study, investigation, and then announces to people that there is an affair on which earlier scholars have voiced no opinion and that his own opinion is such and such for this and that reasons, even if he adds that he is not offering this as a ruling or *fatwa* for all people to follow.

On the question of the inception of life, there are two difficulties that I would like to point out at the outset. The phrasing of our topic has it as "human life," and I may say I personally took part in this phrasing, which unwittingly limits our subject not to the beginning of life as such, but rather to the time and stage at which it becomes human. This is what some *fiqh* scholars have addressed in their papers, although they make the precaution of stating that they still do not approve the destruction of life by abortion, even before it acquires the quality of being human. I believe we should not refrain from discussing the general question of "When does life begin?" Let us say we are talking about a certain individual, or about life in its general, abstract sense.

Another difficulty we face is the difference in terminology between medicine and *fiqh*. Sometimes the same term is used, but it does not mean the same thing. An example is that *tharrah* (iota) in the language of the Quran may not mean the same as *tharrah* (atom) in chemistry. Dr. Ahmad Al-Qadhi gives a good example when he speaks about the heart in its figurative sense and the muscular heart. If we are considering the inception of life and we read the tradition about the forty-day stages, and if someone asks me what a "*nutfah*" (drop of sperm) means, I would say it is "one of us" ("The creation of one of you is brought together in the belly of his mother" that is, from the beginning of his being- and the word "being" indicates an action (verb to be) which is completed- till the end of the first forty days of fetal life. I would say that an "*alaqah*" (germ-cell) is an embryo between the fortieth and eightieth days and a "*mudhghah*" (embryonic lump) is one between the eightieth and the one hundred and twentieth. While in medical terminology, as used in books of embryology written in Arabic, a *nutfah* means semen and a *mudhghah*, the mass of cells resulting after a few days of multiplication by a zygote. The act of *ulug* (implanting) begins at the end of the fourth day after fertilization, and a *alaqah* implants itself in the lining of the uterus on the seventh day. The

term *alagah* is not used afterwards. So the usage of the same word gives a different meaning in religion from that in medicine.

Let us simply and quickly go over the beginning of our story inside our mothers. We are not the sperm, and a sperm will never produce a human being by itself, and we are not the ovum for the very same reason. When a sperm and an ovum unite, they form one cell, which exercises one essential feature of life which is growing. It grows into a mass of cells, then into a blob implanted in the uterine wall. When it is time for the next menstruation, which fails to materialize, the embryo is two weeks old. Starting with the second week, and until almost the end of the third, it is shaped like a pear, because at its head-end, the nervous canal has swollen to form an early brain. The current of life is not the spirit breathed in; and it is a fact that the spirit is blown into a living, not a dead fetus. The introduction of spirit is something that takes place during fetal life, not to initiate it. As far as our medical sciences are concerned, the introduction of spirit is something purely metaphysical; we know nothing of its nature or its process, and we see no effect resulting from it. The claim that at that instant [of the spirit being breathed in], the fetus gains consciousness or imagination, or becomes capable of having physical expressions of pleasure or displeasure is, very unfortunately, nothing but folk tales or an attempt, out of great personal enthusiasm to a certain point of view, to prove scientifically something that has no true scientific basis.

I cannot call life before the date given for the breathing in of spirit vegetarian life, because by definition, vegetation does not have an active movement system, nor a nervous system. Moreover, its method of nourishment is different. It is nourished by light; it takes in carbon dioxide and exhales oxygen. Likewise, I am reluctant to call the life of an embryo animal life, though it may please Darwin's followers to hear me say that fetal life goes through a bestial stage. But I refrain from doing so. Perhaps the best thing is to say that there is life in an embryo at the stage prior to the breathing of spirit into it, or that it is alive according to the familiar criteria of life, and that should be sufficient.

Nor do I find, on the basis of what I have read in the papers of fellow speakers of earlier, that on a purely Islamic basis there is anything suggesting that I should use the moment of spirit breathing-in anything suggesting that I should use the moment of spirit breathing-in as the point at which I may start to call this life human. I believe, as a matter of faith but without any scientific evidence, that an angel breathes the spirit in at the end of the fourth month of gestation, but I find nothing religious or scientific

to make me say that before then fetal life is inhuman, and that it turns human at that point.

Whatever approach we take, life is absolutely certain. The difficulty we are facing is that there are several points of view concerning the underlining of a starting point and saying that whatever comes before that point is not alive and whatever follows is. Some of us, physicians, have tried to set that point over a month earlier than the breathing in of spirit, which is the time when certain embryonic movements start which are clear responses to the nervous system rather than mere automatic muscular convulsions. This, they take, is a sign that the nervous system is functioning, which they claim, signals the beginning of human life and the end of mere cellular life. I am not convinced by this at all. The nervous system has already been there, but, like all other systems, it has been developing and links with other systems are in the process of being established. At that point, the nervous system has not yet taken its final form. Nor does it function fully even at birth. While a calf starts to run shortly after it is born, a human being takes a long time before he can do that.

Some have thought of the time of the visit of the first angel, that is on the forty second day after conception, or the time of taking form. It is obvious that the first tradition has to be interpreted. We may say, for instance, that the angel asks God about the sex of the embryo to learn from Him what he does not know, not to give the embryo at that moment, its sex, for it is definitely established that sex is determined at the union of a sperm with an ovum, depending on whether the sperm carries a male or a female sex chromosome. Moreover, the process of taking form is a relative thing; the eye of a specialist sees more details than an ordinary person, and a microscope reveals more than the naked eye. Taking form is a continuous, harmonious, very gradual process, and there is no particular moment we can point to and say, "Here formation begins!" The tendency then is to consider the inception of life to take place at the actual time it begins, i.e. at the first stage at which all following five conditions are met:

1. it should be an identifiable and clear cut event.
2. it should be able to grow, for growth is a feature of life.
3. unless its growth is interrupted it should produce the subsequent stages of human embryo, infant, child, youngster, and young, middle-aged, and then old person, if God grants him (her) long life;

4. it is not preceded by a phase when it cannot grow into a human being, and
5. it should have the collective hereditary traits of the human race in general, and at the same time, of a specific individual who is different from all individuals from the beginning of creation till the day of resurrection.

These five conditions are all met in the zygote resulting from the union of a sperm and an unfertilized ovum. They can be met no where else, and they are not met either before or after it. Although this subject is within the field of modern medicine, the ideas are by no means new. They have been familiar to early scholars, although their expression of such ideas is the result of keen insight rather than actual observation which we can afford in this century. If *fiqh* scholars today equip themselves with advanced scientific knowledge, they may be able to arrive at a terminology more precise than the one used by earlier scholars.

Al-Ghazali regards an embryo to be alive from that beginning which I have mentioned, and he believes its life is sacred. However, an expression such as, "and when man's water combines with a woman's and the object takes the proper place..." can be substituted with a more precise one, based on the scientific observations of our age.

Those who believe that human life begins with the union of a sperm and an ovum do not find any contradiction between their view and that of Islamic Law. In the *Sunnah* of the Prophet, the death sentence passed on a pregnant woman is postponed, without setting as a condition that she should have completed a particular stage of pregnancy, such as forty, eighty, or 120 days. I see no reason for that other than the protection of the fetus's life. This means that it is alive, and its life is sacred. It is not true that it is a part of, or a swelling in, the mother's body. Otherwise, there would have been no reason to prevent its execution with the mother. The whole thing now rests on the ability of advanced science to diagnose pregnancy at the earliest possible stage. Three years ago, a preparation called Evatest, which could test pregnancy two days after the date of the first missed menstruation, was introduced into the Kuwaiti market, after many countries had already known it. Now the latest report on this subject says that tests can detect a secretion which a fertilized ovum starts to make a few hours after fertilization, which is thirteen days and a number of hours before the date of menstruation. The embryo is just a few hours old at the time.

Some physicians have made an objection against considering the time of conception as the beginning of life. They say a zygote divides into a number of cells, and, in the case of identical twins, the cells form two groups, each producing an embryo. They raise the question of when the life of each twin begins and whether it does at the time of fertilization of the mother's ovum or at the time of the cells dividing into two groups, so that each will form into an embryo.

I do not find this a justified objection. It assumes that life is a material thing and almost claims that when a mass of cells divides into two twins, each of them would be taking half a life, because the mother's cell began with one life. But this is not the case. A zygote divides and multiplies into an embryo with one billion living cells, but it cannot be said that each of these cells receives its share of life as one fraction out of a billion. The true nature of life is unknown, so it cannot be measured with common material standards. We have another choice in the realm of metaphysics, which is to say that the ovum destined by God to produce twins is, by the will of God, provided with two lives to start with.

There is, however, an agreement among physicians and *fijih* scholars that life goes through stages, which are neither similar nor equal. Medically speaking, life gets stronger and stronger with the passage of time. The early stages of fetal life witness a greater number of naturally aborted embryos than later stages. The longer a fetus stays in the uterus, the greater its chance of survival is. The mortality rate among immature babies is higher with a percentage proportionate to the period they miss inside the womb (and it is not true that a baby born after seven months of gestation is stronger than one born after eight months).

Religious stipulations have followed a parallel course. Although life is regarded as sacred from the outset, difference is made concerning the type and nature of the punishment due for earlier or later abortion, and other things.

This is a review of the dominant views concerning the inception of life. Each has its supporters with their own interpretations. I believe the beginning is the beginning, and may God guide us to the truth.

THE BEGINNING OF HUMAN LIFE

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Foreword

Undoubtedly human life in its general sense began with the creation of Adam and Eve. It will go on, while their progeny continue to reproduce, and God only knows how much longer it will last, but it will do so until the Horn is blown and God inherits the earth and everything on it. Thus the two events define the beginning and end of the human era.

As for the life of an individual human being, which I believe is our subject of inquiry, there is a controversy over it and what it means. Some say man begins with one cell, a zygote, which is alive and is a miraculous phenomenon. Since this cell is also human, by virtue of its origin and the genetic code it has, we have to conclude on the basis of this way of looking at things that the zygote is, if God wills it to be so, the beginning of a human life. This can be taken for granted and can be denied by no one. But this way of looking at things does not go along with the title of this seminar, "The Inception and End of Human Life as Viewed by Islam." The concern here is with both inception and end, which means it is a concern with two opposites. Since the end of human life is unanimously taken to mean death, logically its beginning is the living being. From the Islamic point of view, our concern is, therefore, with the breathing in of spirit, and it is with this in mind that I submit this paper.

A zygote represents one level of human life, which we can call "cellular life". It is followed by the continuous division of the cell, its implanting itself in the uterus inner lining, and its ceaseless growth inside it, the same way that tumours grow in the human body. We can call this stage "tissue life". The cells are biologically different from those of the mother. At the beginning they represent an alien tumour, they turn next into an alien human being, and finally they produce a human child.

An evidence that the inception of human life does not occur at the

moment an ovum is fertilized by uniting with a sperm is what happens in the case of identical twins, triplets, etc. We know that they develop out of the same ovum, whatever their number may be. Although they share the same chromosomes and genes, and they are exactly identical in their figures and complexion, which means that they are identical in cells, they do not share the same soul. Each has his own identity and his own life, his own good and bad deeds, his own birth and death. Even in the case of twins with joined bodies, known as Siamese twins, which go beyond identical twins in that they share certain organs and have one blood-circulatory system, which means that the same blood runs in their bodies—still, each has his own individuality.

Is It Possible to Determine When Fetal Life Begins?

Since the inception of life, in the second definition above, is something of definite significance in *fiqh*, and since it is a basis for certain rights and rulings, we should, in this age of ours, try to determine its actual timing if that is possible. One more reason for doing so is the reflection it may have on the timing of abortion if medical necessity calls for it.

In old days, a fetus in the belly of its mother was beyond medical observation and beyond laboratory tests. Therefore, it was impossible to determine the timing of life inception. The time of the introduction of spirit into the fetal body was a metaphysical concept that had no scientific synonym. But the mystery started to clear up in recent years, or, to be more specific, within the last decade. Science has been able to observe a fetus as from the fourth week of gestation and to monitor its growth and development for any desired period of time, through ultrasound devices which are constantly being improved to give clearer and more precise pictures. It has even been possible to conduct laboratory tests for the embryo and its various systems, including examination and electrographs of the heart and brain. More than that, it is possible now to diagnose certain fetal diseases during pregnancy, and, in some rare cases, to perform surgical treatment for them.

The question now is whether it is possible, with all these devices that allow continuous monitoring of the fetus at various stages and tests to be carried out for it, to note a certain time during gestation when what we may call “signs of life” can be detected and to say scientifically that is the beginning of human life.

To answer this question, we have first of all to decide what we mean by a living fetus or a living human being in general. In an earlier paper, we

have concluded that anatomically, through microscopic examination, and even chemically, there is no difference whatsoever between a dead and a living human being. The only difference is in functioning or functional performance. The cells of a living person are active in carrying out their functions, while, when a person dies, his cells, in various degrees, cease to function and later start to disintegrate. But in addition to the fact that the cells and organs of a living person are alive and active, he himself as a "human entity", has his own life and functions, which, in my estimation, are to perceive the world around him, be aware of this perception, and react to it in a voluntary manner. Undoubtedly, the meaning of the perception and consciousness of a living creature differs greatly between the case of a learned adult-who has, stored in his brain, the experiences of scores and perhaps even hundreds of years, acquired through reading, studying, and practice- and the case of an embryo, whose senses are still imprisoned inside its mother and his record of experience is still blank, with nothing in it other than instinctive consciousness. It is obvious that fetal observation of the phenomena of this life can only be made through a nervous system, and essentially a brain, that has developed fully and started to function normally.

A Fetus Through Ultrasound

A human being begins as one cell, which divides to form first several identical cells, and then they begin to vary and form groups which are distinct from each other in both shape and function. We cannot, before the fourth week after fertilization, distinguish the head, trunk or tail of an embryo.

At the end of the sixth week, i.e. after the first forty-two days, which according to the Prophet's Tradition is the end of the drop of sperm stage, an embryo goes through a turning point which is regarded as highly significant in embryology. An embryo turns into a fetus. At this stage, sonar devices can reveal to us the time when the fetal heart begins to beat, its circulatory system having already started to function. The fetus is, at that point, twenty-two centimeters tall.

During this stage and in the same week, bone tissue begins to appear in small growth centres at the location of the mandible, the maxilla, and the clavicle bones. Other bone centres follow. In the seventh week, the centres for the femur, tibia, and fibula appear, and in the eighth week, those of the radius and the ulna.

It is worthwhile to stress an important fact at this point. The beginning

of the heart's work, pumping blood into the embryonic body, is a new aspect of embryonic life and a significant milestone that helps in the examination of pregnant women at the outpatient clinics of maternity hospitals to make sure that the pregnancy is following a normal course. Still, the functioning of the heart does not mean that human life has already started, because the contraction and relaxation of the heart muscle is a special property of that muscle, a property which begins when it forms as an independent organ and continues whether the heart is inside or outside the body. Even if the heart is cut into small pieces, each piece would retain this property. We can call this stage of embryonic development "organic life," as body organs start to form, although human life has not started yet.

During the eighth week, feeble convulsions begin in the fetal trunk. In the ninth week, they spread to the limbs. These elementary movements are also reflexes associated with organic life and do not signify the inception of human life. They take place when extremity nerves grow and reach the muscular tissues. Since the trunk muscles are closer than arm and leg muscles to the spinal cord, from which the nerves grow, such movement begins in the trunk first.

This has been proved through cell and tissue laboratory culture. We can cultivate side by side separate embryonic nerve and muscle cells in tissue culture dishes at a laboratory and supply them with proper nourishment. The nerve cells grow and branch out to reach, through an unknown force of attraction, the embryonic muscle cells, which would have also multiplied into a great number. When the extremities of a nerve cell touch a muscle cell, the latter begins to contract repeatedly, though the violence and frequency of such contraction would vary, depending on several factors. Still, the contraction can be seen with the naked eye. It results from electric stimulation carried by the nerve cells and spreading through their extremities to the muscular ones. All this is an expression of cellular, tissue, or organic life that has not yet transcended to the level of individual life.

In several medical research projects for monitoring, with ultrasound equipment, the stages of embryonic growth in the early months of gestation, details of many movements have been recorded. Out of this, eleven different embryonic movements have been identified. They occur consecutively, depending on the embryo's growth and the maturity of its nerve and muscle systems. It has also been noted that, with the continued development of the embryo, these movements increase in force and

complexity. Perhaps many of these movements are important factors in the further development and strengthening of muscles. At the end of the eleventh week and during the twelfth week, a distinct and significant stage of fetal development begins.

Signs of Fetal Life in the "Birth-of-the-Brain Stage"

During the twelfth week, five new important signs are noted in a fetus. All these signs indicate that the brain has completed its formation and started to function, and that a human entity begins to emerge. This can be seen in the following.

First, the movements of the fetus develop into harmonious, complex movements, rather than mere convulsions. Examples of these movements include back folding, head lifting, folding the neck, turning the face to either side, moving the hands as if waving them, making a fist, kicking the feet, as well as compound movements of the mouth, the lips, the tongue, and the jaws in a way similar to the act of sucking.

Second, breathing movements also begin. This does not mean that the fetus starts to breath air; lungs do not function during gestation and the oxygen needed by the fetus is transferred from the mother's blood to the fetus's through the placenta. The movements are the same that will be made in breathing after birth. The chest and diaphragm muscles contract repeatedly and concordantly. Undoubtedly, this means that the brain-stem has started to function, for it is the generator of these electric stimuli of the chest and diaphragm muscles. The movements turn into a characteristic of the fetus that stops only with death.

Third, during this stage, monitoring the fetus for a long period of time reveals that it goes through regularly alternate periods of activity and movement and periods of relaxation and quiet, which may be periods of waking and of sleep. The active periods are characterized with two types of movements. One type is normal movements of the type described under "first" above, and they last for seven and a half minutes, and then are followed with high leaps. After these physical exercises, the fetus rests for a period of five minutes during which it does not respond to outside stimuli. Again it becomes active, and so on.

Fourth, research has shown that at this stage, the twelfth week, certain electric signals can be observed. It has been possible to measure and record these signals, which come from the fetal brain and indicate that the meninges and the cerebral hemispheres have started to function.

These are the same, electric signals that are recorded in electrocorticography, which is similar to cardiography.

Fifth, fetal movements with new implications begin to occur. They are different from involuntary convulsions and spinal reflexes. They are rather reactions to exterior stimuli, such as the probe of an ultrasound apparatus when it is moved on the mother's belly to produce a picture of the fetus. Such a reaction may be produced by mildly stroking the location of the placenta, which results in a movement indicating discomfort on the part of the fetus, which implies that the movement is the result of the interference of high brain centres, reacting to sensations through which the fetal brain perceives the occurrence of something out of the normal. We conclude that sensation, consciousness of the fetal environment, and the ability to distinguish what is familiar and what is not are all available to the fetus, which is surrounded by plenty of sounds and movements of the intestines, breathing, and the mother's heart beat. Of course what we are talking about is simple, instinctive consciousness.

Out of all these phenomena observable in the fetal stage defined as the twelfth week after an ovum is fertilized, we conclude that a fetus now has an "entity" or existence of its own. It jumps and plays, wakes up and sleeps, feels and is startled. All this coincides with the completion of brain formation and its beginning to function, as implied by the breathing movements and the brain electric signals, revealing that the meninges and the cerebral hemispheres are actively functioning. This stage is an important milestone in the growth and development of a fetus. Moreover, these signs and phenomena are the opposite of the signs of the stage described as the death of the human brain. Therefore, we can describe the twelfth week of fetal life as the stage of brain birth or the inception of human life. At the end of that week, a fetus in nine centimeters in height and forty-five grams in weight. Its facial and body features are by now human in shape. It is easy to identify and define this stage, even if the date of conception is not precisely known, through sonar examination detecting breathing movements and various fetal activities.

The Stage of the Inception of Human Life Between Science and Islamic Legislation

If this is what we can reach through medical science and philosophy, where can we place it in the Islamic context? In the Quran, many verses deal with the creation of man. The verses in the *Surah* entitled Al-Mu'minun are the most detailed in describing the stages of the creation

of man.

WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY: THEN PLACE HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE. THEN WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL, AND WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC LUMP, AND THEN WE CREATE WITH IN THE EMBRYONIC LUMP BONES AND THEN WE CLOTHE THE BONES WITH FLESH, THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION. BLESSED IS GOD, THE NOBLEST OF CREATORS.

(S23:V12-14)

Modern science has been able to find out much about the stages of fetal creation, establishing in fact an independent science, embryology, to deal with this. It is scientifically known that bone tissue first appears at the centre of the body and of limbs. At the beginning, this tissue takes the form of cartilage with centres for bone growth. When bones form, muscle tissue surrounds them on all sides, clothing them as mentioned in the *Surah Al-Mu'minun*. Later, nerves will get into these muscles, which will allow the movement of bones and muscles together, and the human motor system is created.

The Prophet's tradition known as the forty-day tradition has been the only source of Islamic Legislation which gives a timetable for the various stages of creation before spirit is breathed in, which are defined as three stages.

"The creation of each one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm, then in that for a similar period, he is a germ-cell, then in that for another forty days, he is an embryonic lump, then an angel is sent to him to breath spirit into him, and is ordered to write down four words: its livelihood, life duration, career, and whether it is to be miserable or happy".

(Narrated by Muslim)

Most people have taken the tradition to mean that spirit is breathed into a fetus after three forty-day periods, i.e. 120 days or four months. It is clear that this conclusion is based on the fact that three forty-day periods are mentioned.

Muslim's version, however, is somewhat different from others. It says,

"Then in that for a similar period, he is a germ-cell...."

This has been interpreted as probably indicating that the change is gradual, i.e. the germ-cell stage begins gradually during the first forty days of the drop of sperm stage. The same could be true for the embryonic lump.

According to this interpretation, it is clear that the three forty-day stages may not be consecutive, but may rather run into each other, which means that the total of the three stages would be less than 120 days. Such interpretation is more acceptable to modern science, which suggests the total of the three stages may be eighty-four days, twelve weeks, or three months, as figure one suggests.

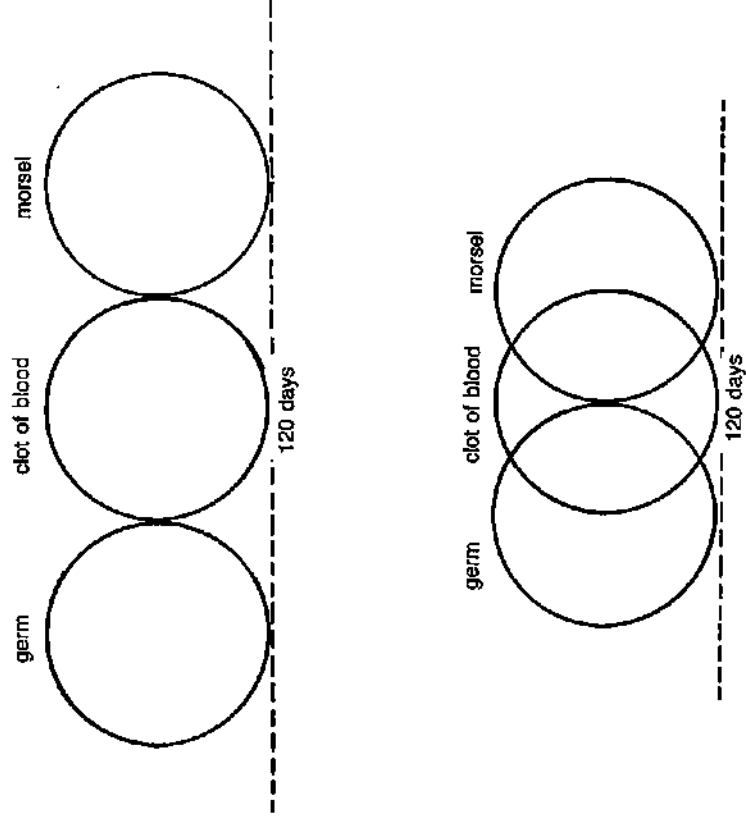


Figure One

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WHEN HUMAN LIFE BEGAN

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Man is alive since the moment of conception in the mother's womb. A zygote is very active; it divides into many cells and it multiplies very actively. Later, these cells form organs, then bone and flesh grow. In the Surah entitled Al-Mu'minin, God says:

WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY: THEN
PLACE HIM A DROP OF SPERM, IN A SAFE ENCLOSURE. THEN
WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL AND
WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC LUMP,
AND THEN WE CREATE OUT OF THE EMBRYONIC LUMP BONES,
AND THEN WE CLOTHE THE BONES WITH FLESH, THEN WE
BRING ALL THIS INTO BEING AS A NEW CREATION. BLESSED IS
GOD, THE NOBLEST OF CREATORS.

(S23:V12-14)

In the Two Collections of Authentic Traditions, (The Sahih of Al-Bukhari and Muslim), the Prophet, Peace be upon him, is quoted to have said:

"The creation of each one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm, then for a similar period, he is a germ-cell, then for another forty days, he is an embryonic lump, then an angel is sent to him to breathe the spirit into him, and is ordered to write down four words: its livelihood, life duration, career, and whether it is to be miserable or happy".

Thus the Quran lists the stages of man's creation from the anatomical point of view and the Prophet's tradition mentions their chronological duration and shows what happens during these stages, including the breathing in of spirit, the beginning of human life, and what the angel writes, with his Lord's permission, concerning livelihood, life span, career,

and happiness or misery.

A human being is alive in the belly of its mother before spirit is breathed into it. It is a bestial life. Life requires the existence of soul, and bestial life requires a bestial soul. when the fourth month of gestation is completed, spirit is breathed in, and movement commences.

Therefore, the inception of human life undoubtedly occurs at the end of the fourth month of pregnancy. It is known that God sends an angel to the uterus earlier than that, specifically at the end of the sixth week, but that angel is not commissioned to breathe spirit into the germ, but rather to shape the body of the embryo. In the *Sahih* of Muslim, according to Abu Al-Tufail, Huthaifah Ibn Usaid quotes the Prophet, Peace be upon him, as saying:

“An angel comes to the germ-cell after it has been settled in the womb for forty to forty-five nights. He asks, ‘O Lord, is it to be miserable or happy?’, and the answer is entered. He says, ‘O Lord, is it to be masculine or feminine?’ and the answer is entered. He also enters its career, influence, life duration, and livelihood. Then the record is folded. Nothing is ever added nor taken away.”

This angel is not supposed to breathe spirit into the germ-cell, and therefore, it is a germ-cell with bestial, not human, life. But what is the rationale of sending an angel to the germ-cell forty to forty-five nights after it settles in the uterus?

Perhaps the reason is that by that time the brain has started to grow. The beginning of creating the brain is the beginning of creating the most important tributary of human perception and reason. Perhaps sending the angel to the germ-cell at that point is related to this stage of creation. Perhaps it is for another reason known to God and His Prophet.

Therefore, the inception of human life is a metaphysical question. The only source for people to learn anything about it is the Divine Inspiration as expressed in the Quran and *Sunnah*.

An embryo is alive in the belly of its mother before spirit is breathed in. Life also continues in the cells of the body after a human being dies, his soul is released, and his spirit is freed.

An evidence of this is the transplants made with organs of dead people. They are living organs transplanted to other human beings through surgery, such as the kidney and heart transplants. Body cells then

do not die with the death of a human being and continue to live for some time. Likewise, body cells are alive before spirit is breathed into them inside a mother's womb.

Thus, the inception and end of human life are not dependent on the life of body cells and organs, with the exception of cerebral cells, which die at the end of life.

The end of human life begins when the brain cells die, even if the heart continues to beat and the chest to breathe, and even if the cells of the body are alive, because in this case what they have is bestial, rather than human, life.

The brain is the entrance to the mind, the heart, perception, and consciousness, all of which are human qualities. If they come to an end, that is the end of human life, although bestial life remains in the body for a time that may be long or short.

HUMAN LIFE INSIDE THE UTERUS: ITS INCEPTION AND END

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Does Life Begin inside the Uterus?

First of all we have to distinguish between life in general and human life inside the uterus in particular.

Human life inside the uterus is actually a continuation of a cellular or bestial life prior to it. Before they unite, a sperm and an ovum released by a woman's ovary are both live components, each containing life. In most cases, their union results in a new human life.

At times, however, the union of a sperm and an ovum does not result in human life, but rather in hydatidiform mole, which is an active villus mole with the ability to spread through the uterus, the abdomen, and the whole body. It is a malignant type of life which may threaten the mother's life. To protect the mother's health, this mole should be removed as soon as possible.

A zygote goes through phases inside the womb. Opinions differ over during which of these phases human life begins. God says concerning the creation of man:

*HE CREATES YOU IN YOUR MOTHERS' WOMBES, ONE ACT OF
CREATION AFTER ANOTHER, IN THREEFOLD DEPTHS OF DARK-
NESS.*

The three phases inside the uterus are (a) the first phase of the germ-cell and the embryonic lump, (b) the second phase of the fully-formed human being and (c) the third phase of the breathing-in of spirit.

Before the phase which may be claimed to be the beginning of human life is determined, it is worthwhile to briefly describe the three phases.

The First Phase:

It may also be called the cellular phase. During this phase, an embryo is a mass of cells, gaps, and projections, which do not represent a real human form or suggest what the human being will look like. It looks rather like something which may exist inside the wombs of some animals.

The Second Phase:

The cellular mass (the germ-cell) and then the embryonic lump) continues to grow and form until it gets to the second phase, the phase of the second creation, where the fetus inside the uterus shows certain distinctive signs which allow an observer to describe what he sees as a human life in the making.

I believe, though it is only God who has certain knowledge, that the beginning of this phase is the time when God decides to send an angel to the uterus, and that is when the germ-cell has been fully formed and settled during the first six weeks of gestation. This angel is concerned with physical shape and not with the breathing in of spirit. As it is listed in Muslim's "Sahih", Huthaifa ibn Usaïd, quotes the Prophet, Peace be upon him, as saying:

"An angel comes to the germ-cell after it has been settled in the womb for forty to forty-five nights. He asks, 'O Lord, is it to be miserable or happy? and the answer is entered. He says, 'O Lord, is it to be masculine or feminine? and the answer is entered. He also enters its career, influence, life duration, and livelihood. Then the record is folded. Nothing is ever added nor taken away".

The Quran also mentions the stages of the creation of man inside the uterus. God says:

WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY: THEN PLACE HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE. THEN WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL, AND WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC-LUMP, AND THEN WE CREATE OUT OF THE EMBRYONIC LUMP BONES, AND THEN WE CLOTHE THE BONES WITH FLESH, THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION. BLESSED IS GOD, THE NOBLEST OF CREATORS.

(S23:V12-14)

This phase signals a new beginning in the fetal development inside

the womb. The visit of the angel is a significant turning point. The shapeless mass of cells turns into something that looks human.

The Third Phase:

This is the phase when spirit gets into the mass of cells. According to some scientists, spirit is located in the brain. After various stages of fetal development inside the uterus, and after a fetus's nervous system, including the brain, is fully developed (which happens during the fourth month of pregnancy), spirit gets into this cellular matter and turns it into a formed human being that will hold a responsibility and a trust, and that is worthy of the mission of being God's deputy on earth and the master of all creatures in this world.

The Prophet, Peace be upon him, describes this phase, when he says, as listed in the Two Collections of Verified Traditions:

“The creation of each one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm, then for a similar period, he is a germ-cell, then for another forty days, he is an embryonic-cell, then an angel is sent to him to breathe spirit into him, and is ordered to write down four words: its livelihood, life duration, career, and whether it is to be miserable or happy.

After this brief description of the phases a fetus goes through inside the womb, we may ask ourselves whether it is possible to determine the phase during which human life begins, and whether this beginning and the process of defining it have anything to do with the sanctity of a fetus. (Sanctity here refers to the prohibition of abortion and to protection of the fetus.

If we begin answering the second question first, we find that many rulings have been made over the permissibility of abortion and the sanctity of fetuses. The following is a summary of these rulings on the basis of the three phases mentioned above:

1. In the first phase of stage, abortion is permissible with the consent of the two spouses.
2. In the second phase or stage, the fetus acquires sanctity, but its life may be forfeited under certain conditions, such as when the continuity of pregnancy harms the mother or when it is certain that the fetus will be born with an incurable physical deformity or mental defect.

3. In the third phase assault against the fetus is forbidden and abortion is unlawful.

1. Inception of Life:

We go back to the inception of human life inside the uterus. Modern medicine, or current medical tradition, holds the view that man's life ends with the end of the brain's life. When the brain is no longer capable of transmitting its electric signals and to carry on its chemical reaction and activity, a human being turns into a cellular, bestial corpse.

If we use this as a criterion for the beginning of life, or let us call it human life to differentiate between it and the earlier life of the initial cell which results from the union of a sperm and an ovum and continues through the stages of germ-cell and embryonic lump up to that of the fetus with human form- the life which some call cellular or bestial life- we find that the last phase of fetus growth is the beginning of human life inside the uterus. It is at this stage that spirit is breathed into this human mass. It is the phase in which the trust of the assignment of task is introduced into the human body, and its location, as scholars have agreed and as has been mentioned above, is the brain.

It sounds more reasonable than that human life begins with the breathing of spirit into the body, which occurs 120 days after the date of conception. For human life to begin there has to be a sound fully-developed brain that can receive that life or that breathing-in.

A fully developed sound brain is a prerequisite to the description of a fetus as having human life.

2. End of Life:

If the brain's life is human life and the death of the brain or brain cells is the end of human life, then we have to determine the stand of Islamic Law on the following questions:

- a. Is human life inside the uterus subject to the same rulings as human life outside it? When we say that the brain is the source or the location of life, and when we are certain that the brain of a fetus inside the uterus is defective or not fully developed, do we consider it dead even if all the signs of its other organs, such as the heart, the lungs, the kidneys, etc., are there, indicating cellular life?
- b. Is it lawful to terminate the life of a fetus when medical examination and tests show an atrophy, defect, or insufficient growth in the head or

brain, particularly if this is discovered after the fourth month, that is 120 days or more after conception? Or is the life of such a fetus regarded as human life, and it is unlawful to discontinue such life inside the uterus through abortion?

- c. If a fetus with an imperfectly developed brain is born and gives signs of life, like when it retains its cellular life for a few hours, is it entitled to inheritance?
- d. It is now possible to diagnose congenital heart diseases and certain other deformities while a fetus is still inside the womb. If we are sure that a fetus has a major congenital heart disease, while all other signs suggest that its brain is sound, is it lawful to abort it, since such diseases are going to lead to its death sooner or later after birth?

Summary

I have attempted in these few pages to determine the beginning of human life inside the womb. I have concluded that it makes more sense to say that human life begins when spirit is breathed into a fetus, which occurs only when the location for this spirit, which is the brain, is sound and fully developed. I based this conclusion on an analogy with the fact that the end of human life is the end of brain life. Still, these are assumptions that remain far from being an absolute certainty. Consequently, I believe that human life, in its various phases inside the uterus, must be protected, even if preserving it and the continuation of gestation causes the mother some hardship throughout pregnancy and nervous and psychological taxation and suffering afterwards. Still, I believe the reward for such suffering is much better. It is God Who has set a life span for everything and all are under His control. The knowledge we have is hardly anything compared to His.

SECOND: *FIQH* PAPERS

- **The Inception of Human Life in Light of Statements of the Quran and Sunnah and the Opinions of Muslim Scholars.**
Dr. Muhammad Na'im Yasin
- **The Beginning of Human Life**
Sheikh Badr Al-Mutawalli Abd Al-Baset
- **Human Life: Its Inception**
Sheikh Mohammad Al-Mukhtar Al-Salami
- **The Beginning of Life**
Dr. Muhammad Sulaiman Al-Ashqar
- **The Inception and End of Life**
Dr. Omer Sulaiman Al-Ashqar
- **Life: Its Inception**
Counsellor Abdulliah Muhammad Abdullah
- **The Beginning of Life**
Judge Abd Al-Qader Ibn Muhammad Al-Amari
- **The Inception of Human Life in Light of the Quran and the Prophet's Sunnah**
Sheikh Saleh Moussa Sharaf
- **The Inception of Human Life**
Dr. Mustata Sabri Ardughdu

THE INCEPTION OF HUMAN LIFE IN LIGHT OF STATEMENTS OF THE QURAN AND SUNNAH AND THE OPINIONS OF MUSLIM SCHOLARS

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Definition of the Paper's Topic

It is undoubtedly true that there is no definite statement in the Quran or *Sunnah*, nor a comprehensive *fiqh* treatise, dealing with the question of the beginning of human life, which makes it certain that there is room for interpretation and deduction by learned and specialized people.

The bases for scholarly effort in dealing with this subject are of two types. If the two can be brought together and are both taken into consideration, the outcome is likely to be more valid and closer to the truth. The two types are, first, some statements in the Book of God, the Most Glorious and Sublime, and in the *Sunnah* of His Messenger, Peace be upon him, as well as the opinions of a number of Muslim scholars over the subject, and, second, some of the findings in the field of medicine.

Undoubtedly, to be valuable and correct, this paper should define what it proposes to do in a way that would distinguish it from other topics with which it may be confused or may share common grounds.

This calls on us to remember that the purpose of this seminar is to determine the point at which the life of a human being begins, allowing him to be called human. In my belief, this does not include types of life which precede human life and pave the way for it. Otherwise, it would be possible to claim that the life of every human being who has been or will be born after Adam, Peace be upon him, has started when Adam was created by God, the Most Sublime, and with the sperms God created in him, some of which produced his own children. In this sense, it is true, without any exaggeration, that these sperms have a share in producing every human

being after Adam, although this share becomes smaller and smaller, the greater the number of generations separating a person from Adam is. It is a self-evident scientific truth that a fraction of a fraction is a fraction of the original source of which the first fraction is a part. Therefore, every human being is in fact a fraction of a fraction of a fraction, etc., of an original sperm, which God created in the father of humanity, Adam, Peace be upon him.

Within this context, which we do not believe to be the one this seminar is concerned with, we can say that the life which paves the way to the life of a certain person begins before the existence of the zygote that produces that person, because no one can deny the fact that a sperm is alive, in one sense or another, before fertilizing and ovum. What is required here, however, is the definition of a more specific beginning, the beginning of life which is described as being human.

There is no conclusive answer, neither in medicine nor in Islamic Law, to the question on when this life begins. But in Islamic statements, there are certain non-conclusive hints, and there are in medicine two points of view, the more acceptable of which, though God alone has perfect knowledge, is the one which is closer to the Islamic hints.

The Idea Suggested by Quran and Sunnah Statements Concerning the Inception of Human Life

What the Islamic hints and the interpretations based on them suggest is that human life begins four full months after the conception of an embryo in the belly of its mother. The life earlier to that cannot be described as human although it has some of the characteristics of life in its general meaning, including growth, formation, involuntary movement, and other vital processes that have been discovered by modern medicine with the sophisticated modern equipment available to it.

To arrive at this idea, I will take as my starting point the authentic tradition narrated by Ibn Mas'oud, may God bless him, quoting of the Prophet, Peace be upon him. This tradition will be the foundation of my idea, which I will support with further evidence, each item of which will be a corner stone in the edifice. The paper will be concluded by an attempt to answer a number of questions which may be raised concerning that idea of the inception of human life.

The Tradition Narrated by Ibn Mas'oud

The two Sheikhs [Al-Bukhari and Muslim] relate on the authority of

Abdullah Ibn Mas'oud that God's Messenger, who is inspired the truth and utters nothing but the truth, has said:

"The creation of each one of you is brought together in the belly of his mother for forty days, then for a similar period, he is a germ-cell, then for another forty days, he is an embryonic lump, then an angel is sent to him and ordered to write down four words. He is told: "Write down his career, his livelihood, his life duration, and whether he is to be miserable or happy. And the angel breathes spirit into him..."

This honoured tradition defines the stages of man's creation, though it does not mention the characteristics of each stage. What is helpful to us in our effort to determine the point at which human life begins is the timing given in the tradition, and that is for two reasons. The first is the writing down of the foreordainment of the person being created, which covers his livelihood, his life duration, his career, and his happiness or misery, and the second is the breathing of spirit into that person. The tradition suggests that each of these two things occurs at the end of the first 120 days of fetal life, and this timing implies that the quality of being human is endowed by God to the creature deposited in the belly of its mother only at the end of that period. The tradition also implies that what the breathing-in of spirit means is the means by which that creature passes from the stage of having life in its general sense into that of having the type of life which is modified by the quality of being human.

The Evidence Supporting the Validity of This Idea, Based on the Face-Value of the Tradition

This interpretation of the tradition is supported by a number of items of evidence, the most important of which are the following.

1. God's foreordainment is synonymous with His knowledge of the future conditions of creatures, with the perfect system He has made for existence, and with the general laws through which He connects causes and consequences².

He says,

**WE HAVE CREATED EVERYTHING IN DUE MEASURE AND
PROPORTION.**

(S54:V49)

On the other hand, fate means God's creation of things in accordance

with His knowledge and His will.

As it is obvious, God's foreordination is prior to the creatures involved in it and is recorded in the safeguarded tablet. Before something foreordained actually takes place, or before things related to it exist in reality, no one knows it other than God, the most Glorious and Sublime.⁽³⁾

Angels are the troops of God who carry out His recorded preordination. They know of it only in as much as and when He lets them know. When God, the All-Glorious and Powerful, wants a creature to be, He lets his troops of angels know of his preordination concerning this creature and orders them to put it in effect, which they begin to do at the first moment of the creature's existence as preordained by God. During this stage, an angel would know, because God has given him such knowledge, the preordination for this creature before it turns into reality. Once it is put into effect, the preordination becomes common knowledge and is no longer a metaphysical issue. This is true with all creatures, including human beings. For every human being, there is a foreordination recorded on the tablet before he actually exists and even before angels are told about him. For every human being, God has placed angels in charge of his existence at every stage of his creation and formation. They put into effect God's foreordination as recorded on the safeguarded tablet. To do so, they must be given the preordained timetable for every human being before the moment of his existence, so that they would follow that divine timetable.

In accordance with these Islamic facts, a human being cannot exist before the angels in charge of him are told the foreordination concerning his life span, livelihood, work, misery or happiness, and other things.

The tradition we are examining, which is authentic and there can be no doubt over its validity, states that the Creator sends the angel in charge of putting into effect the foreordination concerning a certain human being four months after that being is conceived as an embryo in his mother's belly. This angel is supplied with details of the foreordination⁴ to observe it while taking care of that human being, which starts at the moment he is promoted from having life in its general sense to having life in its more specific, human sense. The angel gives this human being, while still an embryo, the livelihood preordained for it, even if it is merely a drop of nourishment that it receives from the body of its mother; allows it its life span, even if it is no more than few hours it lives in the mother's belly after that moment; and inspires it to do the work preordained for it, even if it is only a slight movement within the mother's womb.

With this understanding, we are obliged to hold the view that human life begins with the breathing in of spirit which, as mentioned in the tradition, follows the commission by God of the angel in charge of this life, with details of its foreordination, four months after conception. Perhaps the breathing-in process takes place within ten days after the first four months, as Ibn 'Abbas, may God bless him and his father, is quoted to have said.⁵

If human life, in its more specific sense, began earlier or right at the time of ovum fertilization, God would not delay sending the angel, nor would the latter be slow to ask about the details of his job.

This conclusion does not negate that a zygote, as well as the sperm before it and the germ-cell and the embryonic lump that succeed it, have a foreordination which is put into effect through these stages at the order of God, the Most Sublime, and the execution of the angel commissioned for this task, but it is a foreordination independent of that of the human being this zygote produces four months later. It is rather a foreordination of a being that leads to the creation of a human being. If this being is preordained to die before spirit is breathed into it, it does not turn into a human being, nor is it subject to the type of foreordinations that apply to human beings. If it were human from the time an ovum is fertilized, the angel would not wait to ask about its foreordination as a human being, which this angel would want to begin executing from that very moment.

2. This approach in interpreting the tradition narrated by Ibn Mas'oud is supported by another authentic tradition related by the Two Sheikhs, (Al-Bukhari and Muslim). It is narrated by Anas Ibn Malek who quotes the Prophet, Peace be upon him, as saying:

*"God appoints an angel in charge of a uterus. He says, 'Lord, it is a drop of sperm;' 'Lord, it is a germ-cell;' 'Lord, it is an embryonic lump if God decides to bring forth a creation, He says so. The angel asks, 'Lord, is it a male or female? miserable or happy? what is its livelihood? its life duration? and writes this down while it is in its mother's belly'"*⁶.

As it is clear, the angel in charge of the uterus asks his Lord about the foreordination of a human being only after the three stages of drop of sperm, germ-cell and embryonic lump are over, which, according to the first tradition, take together four months. He makes the question when he is certain that, out of these stages, God wants to make a human being with his own foreordination that covers his life duration, traits, livelihood, sex,

and other things. This is what the phrase "bring forth" means. The Arabic root from which the expression is derived means, among other things, to make or to ordain. The same expression is used by God, the Most Sublime, when He says,

HE BROUGHT THEM FORTH, SEVEN HEAVENS, IN TWO DAYS.

(S41:V12)

From the same root, the Arabic word for destiny, as in the expression "destiny and foreordination," is derived⁷.

3. This approach in understanding the tradition narrated by Ibn Mas'oud is also supported by many Quranic verses which mention the stages of the creation of a human being in the belly of his mother. An example is verse 5 of the *Surah* entitled Al-Haj, in which God, the All-Powerful, says:

MEN, IF YOU DOUBT THE RESSURRECTION, WE FIRST CREATED YOU FROM DUST, THEN FROM A DROP OF SPERM, THEN FROM A GERM-CELL, AND THEN FROM A FORMED AND YET NOT FORMED EMBRYONIC LUMP, SO THAT WE MIGHT MAKE THINGS CLEAR TO YOU. WE CAUSE TO REMAIN IN THE WOMB WHICHEVER OF YOU WE PLEASE FOR AN APPOINTED TERM, AND THEN WE BRING YOU OUT AS INFANTS, THAT YOU MAY GROW UP AND REACH YOUR PRIME. AMONG YOU ARE SOME WHO DIE YOUNG, AND SOME LIVE ON TO THE WORST AGE.

(S22:V5)

This divine statement is an irrefutable argument against any one who denies resurrection, which, in reality, is getting a live being out of dead matter. It shows that it stands to reason that the Creator-Who created Adam, the beginning of human life, from dust, which is a dead matter, and Who creates Adam's offspring from sperm, germ-cell, and then an embryonic lump, which means that He creates human life out of these stages that lack the properties of such life, although they are alive, in the general sense of living-is capable, having done all that, of resurrection.

If those stages were the human being himself, the verses would not be consistent in meaning, neither syntactically, for they would imply that God creates man out of man, nor by inference, for the eloquence of the verse derives from its highlighting the capability of God, the Most Powerful and Sublime, to create human life either from an inanimate object, such as dust, or from a mode of life inferior to human life by lacking certain essential properties. On the other hand, while the creation of a perfect human being from an imperfect one, if the expression is allowed, does

show the capability of God, it is not a proper answer to the atheist claim based on the impossibility of restoring life to a dead matter. Thus the approach we have taken in interpreting the tradition is more in harmony with the context of this verse.

4. The majority of scholars who explain the tradition narrated by Ibn Mas'oud, may God be pleased with him, interpret the phrase "to breathe spirit," as used in the tradition, to mean the process chosen by the Creator for the inception of human life in the fetus, and only few of them deny that it has any kind of life before this process.

Al-Qurtubi in his commentary, for example, considers the phrase

"To breathe spirit into it,"

as used by the Prophet, Peace be upon him, to mean that the breathing is the means of the creation of human life in the fetus, and that it takes place when God wills it to⁸.

Ibn Hajar in *Fatth Al-Bari* interprets "to breathe spirit" by saying that "to breathe originally means to get wind out of the chest of the breather and into the thing he is breathing into, but when this is attributed to God, it suggests that He orders it to be and it is";⁹ that is to be a human being and it does turn into one as God orders it to be.

Ibn Qayyem Al-Jawziyah believes an embryo has two lives, the first is similar to plant life and God introduces it into an embryo before spirit is breathed in. Among its consequences are the growth and involuntary nourishment processes. The second is human life, which is introduced into a fetus when spirit is breathed into it. Among its consequences are sensations and voluntary movements.¹⁰

5. These scholars view that the breathing of spirit is the means of introducing human life is supported by the analogy with the first spirit breathed into the first man, the father of humanity, Peace be upon him, who was offered residence in God's heaven. Reports agree that when God wanted to create Adam, he sent Gabriel to hold a handful of soil which He made into mud, gave it a shape, and breathed spirit into it. Once the spirit was introduced, the handful of mud turned into a flesh and blood being, who was alive and able to speak⁽¹¹⁾. This is what God refers to when He says:

I AM CREATING MAN FROM CLAY. WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE YOURSELVES BEFORE HIM. (S38:V71-72)

6. Another point that supports the scholars' interpretation is the fact that the real means to end human life is the departure of the spirit from the body, although the moment when this takes place is not defined. This fact is expressed in many statements of the Quran and *Sunnah*. For example, God says;

GOD TAKES AWAY MEN'S SOULS UPON THEIR DEATHS...

(S12:V42)

This means that He takes their spirits away, because "souls" is used here to mean spirits¹².

In another example, God says:

*COULD YOU BUT SEE WRONGDOERS WHEN DEATH OVER-
WHELMS THEM! WITH HANDS OUTSTRETCHED, THE ANGELS
SAY: YIELD UP YOUR SOULS. TODAY YOU SHALL BE PUNISHED
BY SUFFERING SHAME, FOR YOU HAVE SAID OF GOD WHAT IS
UNTRUE...*

(S6:V93)

The verse clearly implies that yielding the soul, which is the spirit as interpreters say, is associated with death. The angels stretch their hands to get hold of it when the course of a certain human being is run. Life ends at the moment the spirit departs¹³.

The traditions that express the same idea are numerous. They state that spirit gets out of the human body at the moment of death. Human sight can follow and see it at that moment, and the task of the Angel of Death is to get hold of it when the time comes.

Since it is established that the departure of the spirit is the means ordained by the Creator for ending human life, there is no doubt that its introduction into the human body signals the inception of that life. And since the Prophet, Peace be upon him, has told us the time at which spirit is breathed into the body, we have no choice other than defining the beginning of human life in accordance with what he, who is inspired the truth and utters nothing but the truth, tells us.

Comment

In accordance with the interpretation of the tradition narrated by Ibn Mas'oud offered above, we notice a kind of scientific miracle with which God equipped his Prophet Muhammad, Peace be upon him. The tradition clearly refers to two types of life that are related to the body in this world.

They are separate during one period of physical life, but they go together most of the time. The first type is life which is devoid of human qualities. Some Muslim scholars compare this life to vegetable life, and some medical scientists call it cellular life. Its characteristics include nourishment, growth, and involuntary motion. The second type is human life, which is characterized by will and consciousness.

The division is clear in the tradition, which shows that an embryo, before the breathing in of spirit is in a state of development, growth, and formation. It turns from a drop of sperm into a germ-cell and then into an embryonic lump. These are the signs of the first type of life. After spirit is breathed into it, it turns into a human being with all the characteristics of such a being.

In this age of ours, science has supported this categorization, for it holds that the human body is an abode for two types of life in this world. The most striking evidence offered is the ability of physicians to remove many human organs and to keep them alive although they are separated from the body and no longer under the control of a human brain and a human spirit.

If the life God creates in a human body is all of one type, from the time the first cell is formed to the minute of death, no one would be able to bring to life or to activate a heart or a kidney removed from the human body, either while the body is still alive or later.

Questions and Answers

Certain questions may be raised concerning the interpretation of the tradition of the Prophet, Peace be upon him, narrated by Ibn Mas'oud as implying that human life begins when spirit is breathed into a fetus. A number of questions that may be raised follows, together with an attempt at answering them in as much as God makes it possible for us to do so.

The First Question:

It may be said that the tradition on the basis of which I offer my concept of the inception of human life is not the only one on the subject, and that various versions are narrated by a number of the Prophet's Companions, may God be pleased with them. These versions differ in some of the details they give concerning the embryo, such as the time at which its foreordination is set down on record and certain other matters. In one version, it is stated that recording foreordination occurs forty days after

an embryo settles in the womb, in another it is six weeks, and in a third forty five days, not to mention what Ibn Mas'oud's version says. There are also differences over the formation of an embryo and the creation of its organs¹⁴.

Although I do not wish to start answering this question by casting doubts over the reliability of what the Companions of the Prophet who differ with Ibn Mas'oud narrate, some of which is listed in Muslim's "*Sahih*", i.e. *Authentic Collection*, it should be noted how a tradition scholar such as Ibn Al-Salah affirms that Al-Bukhari's avoidance to include in his "*Sahih*" any version of this tradition that differs from that of Ibn Mas'oud cannot be without any significance, which, in turn, can be nothing less than a testimony that the tradition as narrated by Ibn Mas'oud is most outstanding among the traditions that deal with the stages of man's creation in the validity of both its text and its chain of narrators. Any other tradition that seems to contradict it must be interpreted in keeping with its basic facts¹⁵.

At any rate, we do not base our answer to the question on any controversial point, but rather on the part of the tradition on which all authentic versions agree. The answer consists of two points.

First, all the authentic versions agree on a minimum of time that passes before the Angel of the Womb writes down man's foreordination including his life duration, livelihood, sex, and misery or happiness or at least asks about it. This minimum is forty days after the fertilization of an ovum. There is no version or tradition on the subject that indicates, whether explicitly or implicitly, that the angel sets down, or asks about, man's foreordination before forty days of gestation pass. The difference between versions concerns the period after, not during these forty days.

All these traditions suggest that the angel does not know before-hand the foreordination of the human being that is to be created later.

On the basis of this minimum, we can affirm that life which is described as being human does not begin before the forty-first day after an embryo is conceived in the womb.

To say anything different means to claim that a human life begins before the angel in charge of it is supplied with the information concerning its foreordination, without which this angel is helpless to do anything. The claim is utterly unacceptable; man has a foreordained destiny and angels put that into effect, but they can do that only after they receive details of the foreordination of the creature concerned.

When we accept this, it is definite that human life does not begin before the forty-first day of gestation. If we stop at this point, two possibilities are left open. One is that the inception of human life occurs on the very forty-first day, and the other is that it occurs later. The second point on which the various authentic versions agree makes it clear that the first possibility should be excluded. So, what is that point?

It is that the breathing of spirit into a fetus takes place only after the first four months of pregnancy, as in the version of Ibn Mas'oud. Neither the various versions nor Muslim scholars differ over this point even when they disagree over the first, i.e. the writing down of human foreordination.

If we take into consideration the interpretation above concerning the significance of breathing spirit, in which we follow the example of various scholars who consider it the means for the inception of human life, our approach in understanding the tradition narrated by Ibn Mas'oud proves to be valid.

Some, however, may argue over the significance of the breathing in of spirit, which is the subject of the second question.

The Second Question:

This question says the interpretation concerning the significance of breathing spirit contradicts what is suggested by God's saying:

THEY ASK YOU ABOUT THE SPIRIT. SAY: THE SPIRIT IS MY LORD'S CONCERN. LITTLE INDEED IS THE KNOWLEDGE YOU ARE GIVEN.

(S17:V85)

This suggests that spirit is a metaphysical concern which we are not allowed to go into, base rulings on, or use to define the beginning of human life.

This question may be answered in two different ways.

The first is that the objection is based on the assumption that this verse from the *Surah* entitled *Al-Israa'* refers to human spirit, but this is neither the only nor the most preponderant interpretation offered by Quran scholars. It is one of several interpretations.

One of these says Spirit in the verse in question refers to Gabriel, Peace be upon him. This interpretation is offered by Ibn 'Abbas, who says it is the same reference as in God's statement,

*THE FAITHFUL SPIRIT ALIGHTED WITH IT FROM ON HIGH UPON
YOU HEART...*

(S26:V193-194)

Another interpretation, attributed to Ali Ibn Abu Taleb, says Spirit means a great angel other than Gabriel, the same angel referred to when God says:

*ON THE DAY WHEN THE SPIRIT AND THE ANGELS STAND UP IN
THEIR RANKS, THEY SHALL SAY NOTHING, EXCEPT HIM WHO IS
PERMITTED BY THE MERCIFUL TO SPEAK AND DECLARE WHAT
IS TRUE.*

(S78:V38)

A third interpretation says Spirit is Jesus, Peace be upon him.

According to these three interpretations, the Spirit in the verse is a creature created by God. Its relations to Him stops at that point, for it is NOT a deity, nor a child of God's.

Another interpretation, attributed to Al-Hasan Al-Basri, holds that it is the Quran that is meant by Spirit, and the verse, in this sense, means that the Quran is a concern of God, which He has inspired to Muhammad, Peace be upon him, who has not composed it himself.¹⁶

These interpretations suggest that the Spirit in the verse is not that which brings the body to life. Ibn Qayyem Al-Jawziah believes this view has more weight. He says:

Most earlier scholars, or more precisely all of them, agree that the Spirit which is subject to question in the verse is not human spirit, but rather the same Spirit which God says will stand up with angels on Doomsday.¹⁷ It is a great angel... Human spirits are not a metaphysical concern; they are discussed by a number of scholars of the different denominations.¹⁸

According to these interpretations of what is meant by Spirit in the verse

*THEY ASK YOU ABOUT THE SPIRIT. SAY: THE SPIRIT IS MY
LORD'S CONCERN,*

Our approach in understanding the tradition narrated by Ibn Mas'oud does not contradict the Quranic text.

The second way of answering the question is that even if human spirit

is meant in the verse quoted above, the implication is not that it is unlawful to discuss this spirit at all. For even with the assumption that human spirit is meant, more than one interpretation have also been offered. One of these is that the verse was revealed in response to Jews. God does not allow his Prophet, Peace be upon him, to answer them because of their obstinacy. Another says that he does answer them by telling them that spirit is something initiated; he says it is "my Lord's concern", which means it is of his making and creation. Other things are also said by means of interpretation.¹⁹

Due to the considerations offered above, scholars have not felt restricted in discussing and defining spirit, nor in describing its effects and its types of activity and motion, basing their conclusions on the texts of the Quran and *Sunnah*. They were not inhibited by the fear of contradicting the verse quoted above.²⁰

Some scholars hold a very reasonable opinion on this question. They believe that what is kept from us about spirit is the knowledge of its nature and the way it penetrates the body, which is only for God to know.²¹ This by no means implies that the human mind is restricted from contemplating aspects of the spirit other than its nature, such as the time at which it unites with the body or departs from it, the ways in which it affects this body and is affected by it, and other things.

It is clear then that our way of understanding the text of the tradition of the Prophet, Peace be upon him, which is narrated by Ibn Mas'oud, does in no way contradict the Quranic verse, and that it is not right to neglect the reference in this tradition to the inception of human life with the breathing-in of spirit under the pretext that this is a metaphysical matter that should not be subject to discussion.

In fact we do not serve the interests of Islam by listing many things as metaphysical, unless there is a definite evidence in each case. When science succeeds in discovering the secret of one of these things, the discovery is bound to have a negative effect, especially on young Muslims who are raised to respect the sanctity of metaphysical matters only to see science break the mystery and discover their secrets. Precaution in religion calls for abstention from describing anything of being metaphysical at unless there are irrefutable proofs of its being so.

The Third Question:

It may be said that the stages through which an embryo goes, from

being a zygote until just before spirit is breathed into it after the first four months of gestation, reveal a great deal of similarity between it and a human being into whom spirit has already been breathed, such as the similarity in the genetic code and in the various organs and systems, particularly when one considers the fetus right before spirit is breathed into it. Because of this similarity, it may be argued, it makes more sense to consider human life as beginning at the earliest moment such a similarity is noted.

The answer is that every creature is singled out by God to receive a special quality that distinguishes it from other creatures and without which it does not exist. Regardless of how similar two creatures are in traits, qualities, and functions, they cannot be considered identical unless they have the same special quality. A human being is distinguished by human spirit, which is breathed into him at a particular stage in accordance with a foreordination put into effect at its due time by an angel in charge of the human being. This spirit supplies him with powers and abilities which he does not have earlier, or at least provides him with the potential for them. Before this potential, a being cannot be said to be human, even if it has surface similarity to human beings.

Perhaps it is part of the wisdom of the Lord that man's creation follows certain stages. Adam, the father of the human race, Peace be upon him, was first made as a handful of dust, then for another period of time he was some mud, and then he was given human form, but for a while he was of dry clay that resembled ceramics. When the time willed by God, glorious be His Power, arrived for turning him into a perfect human being, God breathed of His spirit into him and ordered angels to fall prostrate before him. Undoubtedly, each stage before the breathing of spirit had a certain amount of similarity to the final creature, either in raw material or in exterior form. Still, no one claims that Adam existed before spirit was breathed into him.

The same thing is true about Adam's children. If God wants to create one, He prepares for his existence by stages he has to go through. First, a being called the sperm is created in the father, and another called an ovum in the mother. Then God gives his permission for the next stage to begin through the union of these two beings, forming a zygote. After that, God wills the following stages to take place. At each stage, there is a degree of similarity with the human being to be produced. This degree gets higher, the closer the stage is to the moment at which God will allow that person to exist. In creating the sperm, for example, a step is taken towards creating that human being, represented by half the human genetic code. This divinely ordained half code represents a degree of similarity which

increases when the sperm unites with an ovum, which has its own half of the genetic code. This is how creation goes into higher stages and the similarity increases until the end is reached when it is time for a fetus to acquire a new type of life: Human life.

The Fourth Question:

Since human life begins with the breathing of spirit into the fetal body, and not before, it may be asked why scholars make some of their *fiqh* rulings effective as from the moment of conception, when an ovum is fertilized, and others from the time a embryo begins to take form, although this occurs before spirit is breathed in. Some scholars go as far as to prohibit abortion before the breathing-in of spirit and even before an embryo takes form. Many of them hold the view that the waiting period of a pregnant woman terminates when the fetus drops out, even if this occurs before spirit is breathed in, and that a share of a legacy should be held for the embryo, regardless of how far the pregnancy has progressed. If it is born alive, it is entitled to that share.²²

The answer is that not all the rulings which *fiqh* scholars link to pregnancy before it has completed its first four months are based on the beginning of human life in its strict sense as we understand it from the tradition of the Prophet, Peace be upon him. They are rather based on other things.

Forbidding abortion as from the time of conception is justified by those who advocate it with the sanctity and dignity of the seed out of which a human being is created. This seed acquires its dignity when conception takes place. Some scholars go further; they prohibit the flushing out of semen, even before conception takes place or taking anything that may reduce the energy which leads to conception.²³

As for the waiting period, *fiqh* scholars determine its end in the case of pregnant women in accordance with the general meaning of God's saying,

**AND FOR THOSE WOMEN WHO ARE PREGNANT, THEIR TERM
SHALL END WHEN THEY DELIVER THEIR BURDEN.**
(S65:V4)

This verse defines the end of a pregnant woman's waiting period as the delivery, of her burden, a term which applies to an embryo even before the breathing-in of spirit and the inception of true human life. The rationale is to make sure the womb is free from conception,²⁴ and the womb is freed when its conception is aborted, regardless of whether it has begun its human life or not.

Again with the holding of a share of a legacy for a fetus, which it receives when and if it is born alive, the criterion is not the issue under discussion in this paper, and there is nothing to indicate that this ruling implies a tendency on the part of *fiqh* scholars to consider the inception of human life as coinciding with the moment of conception. Scholars rather base their ruling on the greater probability that a living human being will be born out of this fetus. The probability starts at the moment conception is confirmed. The clearest evidence supporting this is the condition set by scholars for the fetus to be entitled to its share, which is to be born and show signs of stable life. Implied in this condition is that spirit should be breathed into that fetus, because when reaching an advanced stage is set as a condition, it is implicit that an earlier stage should have been reached. Therefore, no *fiqh* scholar says the share held for a fetus goes into its credit, whether before or after spirit is breathed into it, unless it is born alive. If it is aborted and it is dead at the moment of abortion, whether spirit has been breathed into it or not, it is not entitled to anything.

Although *fiqh* scholars do not base many rulings on the fact revealed to us by the Prophet, Peace be upon him, concerning the inception of human life by the breathing-in of spirit,²⁵ and the consequent necessity of recognizing the distinction between two stages of fetal development, the one before and the one after the breathing-in, I believe the most significant benefit we get from being aware of that fact is the chance it allows us, from an Islamic viewpoint, to avoid many errors and hazards that concern offspring. We can take precaution by avoiding any measure after spirit is breathed in. Regardless of how much sanctity a fetus has earlier, it should not be regarded as equal to the sanctity it acquires when spirit is introduced into it and it begins its human stage.

I do support the prohibition of abortion at any stage of fetal life out of respect to the seed out of which a human being is going to be created, if the fetus is still in the first stage, and to the spirit breathed into it, if it is in the second stage, but I also believe abortion is lawful in the first stage if it is performed to meet a reasonable need or if it has a justification acceptable to a committee of experienced and religious specialists.

When spirit is breathed into it, the generally accepted rules of *fiqh* make it imperative for us to fully respect a fetus, because in dealing with it, we are dealing with a human soul whose blood is sacred and cannot be lawfully shed for any reason whatsoever, since none of the lawful excuses for killing a human soul as stipulated by the Quran and Prophet's Tradition applies in the case of a fetus, these being the consequences of actions

that can be committed only by responsible adults, such as apostasy, adultery and murder. As for the necessity of saving a mother's life, it is not a sufficient justification for killing a human soul which is as sacred and as protected as that of the mother or of any other human being whose blood and soul are protected in Islam. The only case where there is room for argument is when physicians are certain that to keep a fetus in its mother's belly will lead to their death both.

This is similar to the case of two persons on a boat in the sea. They are certain to perish if they both stay on the boat, but if only one of them is left on the boat, he would be saved. Is it lawful in this case for the stronger to get rid of the other? It is a question that may be answered in different ways, and a cautious scholar would hesitate long before answering.

Notes

1. See Ibn Hajar, *Fatth Al-Bari Bi-Sharh Sahih Al-Bukhari (The Creator's Inspiration in Interpreting the Verified Collection of Al-Bukhari)* (Al-Bahiyah Egyptian Press, 1348 H.), vol. 11, p. 405; *Sahih Muslim Bi-Sharh Al-Nawawi (Muslim's Verified Collection with Al-Nawawi's Interpretation)*, First Edition (Al-Azhar Egyptian Press, 1348 H., 1930 A.D.), vol. 16, p.190.
2. Hasan Ayub, *Tabait Al-Aqa'id Al-Islamiyah (Simplifying Islamic Beliefs)* (Al-Thaqafah Al-Arabiyyah Library, 1391 H., 1971 A.D.) p. 77; Sayyed Sabeq, *Al-'Aqa'id Al-Islamiyah (Islamic Beliefs)*, Second Edition (Al-Nasr Press, 1387 H. 1967 A.D.), p.95.
3. See Ibn Qayyem Al-Jawziyah, *Al-Ruh (Spirit)*, First Edition (Beirut: Al-Kutub Al-Ilmiyah Press, 1402 H., 1982 A.D.), p. 217.
4. In explaining how the angel is supplied with these details, it is said that when he asks about the embryo's foreordination he is told, "Go to the Original Book and you will find there the story of this germ." He goes there and finds the story. Thus a human being is created, and he receives the livelihood preordained for him and goes to places foreordained for him to visit. When the time comes, he is buried in the spot preordained for his burial.
Al-Qurtubi, *Al-Jame, Li-Akham Al-Qur'an (The Comprehensive Book of Quran Provisions)* Beirut: Ihiya' Al-Turath Al-'Arabi Press House, 1966 A.D.), vol.12, pp.6-7.
5. See Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol. 12, p.6.
6. *Fatth Al-Bari*, vol. 11, p.416; *Sahih Muslim Bi-Sharh Al-Nawawi*, (vol. 16, p. 195).
7. Check the word "qadhaya" in *Lisan Al-'Arab (The Arabic Tongue)* and *Mukhtar Al-Sihah (Selections from the Correct Usages)*. Also see Al-Khattabi, *Ma'alem Al-Sunan (The Features of Sunnah)*, Second Edition (Beirut: Al-Maktabah Al-'Ilmiyah, 1401 H., 1981 A.D.), vol. 4, p.323.
8. Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol.12, p.8.
9. *Fatth Al-Bari*, vol.11, p. 411.
10. See the paper submitted to this seminar by Judge Abd Al-Qader Al-'Amari, p.7 (where he quotes Ibn Al-Qayyem, *Al-Tibyan Fi Ahkam Al-Qur'an [The explanation of Quran Provisions]*).

11. Ibn Al-Qayyem, *Al-Ruh*, p. 233
12. Ali Ibn Habib Al-Mawardi, *Al-Mawardi's Commentary (Al-Nikat wa Al-'yun [Anecdotes and Gems])*, First Edition (Kuwait: Ministry of Endowments Publications, 1402 H., 1982 A.D.) vol.3, p.470; Muhammad Ali Al-Sabuni, ed. *Mukhtasar Tafsir Ibn Kathir (A Brief Edition of Ibn Kathir's Interpretation)*, Seventh Edition (Beirut: Al-Qur'an Al-Karim Press) vol.3, p.222; Mahmud Khattab Al-Subki, *Al-Din Al-Khales (Pure Faith)*, First Edition (Cairo Al-Istiqamah Press, 1368 H.), vol.7, p.186; Ibn Al-Qayyem, *Al-Ruh*, pp.199, 242.
13. Al-Mawardi's *Commentary*, vol. 1, p.545; Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol.7, p.41; Mahmud Khattab Al-Subki, *Al-Din Al-Khales*, p.187; Sharh Al-'Aqidah Al-Tahawiyah (*Tahawi*) (*Explanation of the Faith*), Third Edition (Damascus: Al-Maktab Al-Islami Publications), p. 381.
14. See these versions in *Sahih Muslim Bi-Sharh Al-Nawawi*, vol.16, pp.190-195; *Fath Al-Bari*, vol.11, pp. 405-411; Zain Al-Din Ibn Rajab Al-Hanbali Al-Baghdadi, *Jame' Al-'Ulum Wa Al-Hikam Fi Sharh Khamsin Hadithan Min Jawame' Al-Kalem (The Comprehensive Book of Knowledge and Wise Sayings: An Interpretation of Fifty Short and Highly Expressive Traditions)* (Beirut: Dar Al-Ma'rifah), pp. 45-50.
15. See Ibn Hajar, *Fath Al-Bari*, vol.11,p.410.
16. See these interpretations in Al-Mawardi's *Commentary*, vol. 2, p.454; Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol.10, p. 324; *Mukhtasar Tafsir Ibn Kathir*, vol.2, p.398.
17. He is referring here to verse 38 of the surah entitled Al-Naba'.
18. Ibn Al-Qayyem, *Al-Ruh*, p.203.
19. See Al-Mawardi's *Commentary*, vol. 2, p.454; Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol. 10, p. 324; *Mukhtasar Tafsir Ibn Kathir*, vol. 2, p. 398.
20. See Sharh Al-'Aqidah Al-Tahawiyah, p. 379ff.; Abu Hamed Al-Ghazali, *Ihya' 'Ulum Al-Din (Revival of Religious Studies)* Beirut: Dar Al-Ma'rifah), vol. 4, pp.494-495 *Mukhtasar Tafsir Ibn Kathir*, vol. 2, p.398; Al-Sayed Al-Sharif Al-Jarjani, *Al-Ta'rifat (Definitions)* (Mustafa Al-Babi Al-Halabi's Press, 1357 H., 1938 A.D.), p. 99; Al-Katawi, *Al-Kulliyat (Generalities)* (Damascus: 1982 A.D.), vol.2, p.373.

21. Ihya' 'Ulum Al-Din, vol. 4, p.495; Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol. 10, P.324.
22. See Ibn Qudamah, *Al-Mughni (The Sufficient)* (Beirut: Dar Al-Kateb Al-'Arabi, 1403 H., 1983 A.D.) vol.7, p. 197 & vol.9, pp.113-114; Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol 12, p.8; Dr. Tawfiq Al-Wa'ii, "Reproduction in Islam" (A Paper submitted to the seminar on Reproduction in Islam), pp. 270-272; Muhammad Ali Al-Shawkani, *Na'il Al-Awtar (Fulfilling Desires)* (Riyadh: Publications of the Presidency of the Departments of Research, Ifta', Da'wah, and Guidance), vol.7,p.88 & vol.6, p.185.
23. See Zain Al-Din Ibn Rajab Al-Hanabali Al-Baghdadi, *Jame' Al-'Ulum Wa Al-Hikam*, p.46; Dr. Wa'ii's paper, pp. 271-272.
24. 'Ala' Al-Din Al-Kasani, *Bada'e' Al-Sana'e' (The Most Exotic Products)*, Second Edition (Beirut: Dar Al-Kateb Al-'Arabi, 1402 H., 1982 A.D.), vol.3, pp. 192-193.
25. There are some rulings which are linked by *fiqh* scholars to the time of spirit breathing-in as specified by the Prophet, Peace be upon him, such as the distinction in the ruling on abortion between the two stages; some consider abortion lawful before that time, but all agree it is forbidden after it. Those who believe it is generally unlawful before the breathing-in allow it for certain justifications. The same thing is true about performing the "prayer a deceased person" for a miscarried fetus. Some scholars consider it an obligation though the majority do not. There are other points as well. For further details of such rulings, see Dr. Wa'ii's paper and Al-Qurtubi, *Al-Jame' Li-Ahkam Al-Qur'an*, vol.12, p.8.

THE BEGINNING OF HUMAN LIFE

Sheikh Badr Al-Mutawalli Abd Al-Baset

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This paper deals with two subjects; the first is the determination of the beginning of human life as viewed by Islam, and the second is the end of that life.

The Beginning of Human Life as Viewed by Islam

It is my firm belief that as viewed by Islam, human life begins the moment a woman's ovum is fertilized by a man's semen and settles in the uterus of that woman.

On this Islam bases rulings which are unanimously accepted. If it is confirmed that a woman is pregnant, her divorce of widowhood waiting period is no longer based on the number of menstruations or cleanliness from menstruation periods (scholars differ on the point); it is rather the period needed for her to deliver her child, for God Says:

*AND FOR WOMEN WHO ARE PREGNANT, THEIR TERM SHALL
END WHEN THEY DELIVER THEIR BURDEN.*

Undoubtedly, a woman who has a zygote inside her womb is a pregnant woman; it makes no difference whether the pregnancy is in an early or an advanced stage. Scholars agree that if it is established that a woman is pregnant, the embryo enjoys a conditional legal competence, or as *fiqh* and law scholars say, an imperfect eligibility. It is entitled to shares in inheritance and will which become due if and when it is born alive; otherwise, its share is restored to the other legatees.

These two points, on which both early and modern scholars of Islam are unanimously in agreement, indicate that human life is taken into consideration from the moment of conception.

On the basis of this, I believe that a crime against an embryo at any stage of pregnancy is unlawful and sinful, unless there is a legitimate

justification, such as its continued gestation presenting a risk to the mother's life. Such an act is considered an abortion.

It is true, however, that the more advanced the stage of pregnancy, the greater the crime against an embryo is. A crime against an embryo in the drop of sperm stage is not as serious as a crime against it in the germ-cell stage, and the latter is less serious than a crime against it while it is an embryonic lump. In fact, when the crime is committed against an embryo which has started to take human form, it almost calls for fetus blood money, which is known to scholars as "*ghurrah*" and which is equal to five per cent of the blood money for a normal human being. This is of course in case the fetus is aborted and it is dead at abortion. If it is alive and has started to take human form, and it drops dead after it is born as a result of a stroke or an attempt on its life, the crime is murder and full blood money has to be paid.

As for the opinion of some later scholars who permit the spoiling of a zygote before the spirit is breathed into it, they base this view on the assumption that before the breathing-in, what seems to be a fetus may only be some congealed blood. But with modern scientific methods, we can make sure whether it is a conception or not. Before a spirit is breathed into it, a zygote represents a dormant life, which is the origin of an active life.

This opinion is held by a group of scholars foremost among whom is the great Islamic authority, Al-Ghazali, who considers a crime against an embryo before spirit is breathed into it to be similar to an assault against the eggs of game birds while a Muslim is in consecration. Such an assault is a crime which calls for punishment and an act of sin, for although the eggs have no active life, each could be the origin of one.

HUMAN LIFE: ITS INCEPTION

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Allow me to commend and express appreciation of the Islamic Organization for Medical Sciences for this sound approach in dealing with questions that Muslims face in their lives, and in exploring the Islamic point of view on issues and problems raised before them, not as a result of innovations they have themselves introduced, but rather in response to God's Law for this universe, which has made man a developing rather than static creature and has also made the principle of exchange and interaction among human groups one of the factors influencing man's development.

I applaud this approach in the east, which tends to get closer and closer to the truth by getting together *fiqh* scholars and physicians in one conference at which their efforts combine. The progress of medical sciences has opened the horizons of knowledge for physicians to explore their field of specialization which investigates man, his health and soundness, and his sickness and disease, from the simple to the lethal. Death, it seems, is still a supreme ruler, for there is nothing that can foil God's foreordination.

WHEN THEIR TERM IS COME, THEY CAN NEITHER DELAY IT BY A
SINGLE MOMENT, NOR CAN THEY HASTEN IT.

(S7:V34)

This medical knowledge is something a *fiqh* scholar cannot do without if he is to be able to tell people the rulings he believes are in harmony with God's will for His servants.

I would like next to point out a basic fact, which is that each of us hopes to arrive at an acceptable idea of what the Islamic ruling on the issue under discussion should be. No scholar is ambitious enough to believe he will hit the truth all by himself. If this fact is something that should be taken for granted, I only meant to remind you of it at the opening of my paper, so that every researcher will keep himself from bias to his

opinion, show tolerance towards those who oppose it, and realize that every person is entitled to a viewpoint of his own when he is ready to reveal what he bases this point of view on and what has made him arrive at it.

The question under consideration is "Human Life: Its Inception and End". Therefore, what we are looking for as suggested by this phrasing is not a ruling on a detail of Islamic Legislation, but rather on one of its general areas. If such a ruling is arrived at with confidence, its application to the details branching from it is easy at the beginning. But there is an initial difficulty here, because a generality, being such, calls for an investigation of all its common occurrences. When a scholar feels sure that a full survey has been made, he can accordingly arrive at a ruling. Still, when he is considering the details, he cannot escape reconsidering the general area itself, according to the system laid down by Al-Shatibi in the early part of Volume Three of *Al-Muwafaqat*.¹

Inception of Life

We are not concerned in this investigation of ours with a definition of how human life started on earth, for that investigation would lead to no ruling of importance to the Islamic community concerning its activity. What concerns us here is to determine the inception of human life on which everyday rulings are to be based.

Many researchers take as their authority the tradition related by more than one tradition scholar. The phrasing in Al-Bukhari's "*Sahih*", as listed in the chapter on the Beginning of Creation, follows that of Zaid Ibn Wahb, who quotes Abdullah Ibn Mas'oud as saying:

"The Prophet, Peace be upon him, who is inspired and utters nothing but the truth told us: 'The creation of each one of you is brought together in the belly of his mother for forty days as a drop of sperm. Then for a similar period, he is a germ-cell. Then he is an embryonic lump for a similar period, Then an angel is sent to him and is ordered to write down four words: its life duration, livelihood, and whether it is to be miserable or happy. Then he breathes spirit into him. By God, a man may follow the behaviour of those bound to hell until he is only a yard or two, away from it, but foreordination interferes, he starts to behave like those bound to paradise, and gets into it. Likewise, a man may follow the behaviour of those bound to paradise until he is only a yard or two, away from it, but

foreordination interferes, he starts to behave like those bound to hell, and gets into it”².

Notes on the Tradition

1. This tradition is very well known because it is narrated by many companions including Ibn Mas'oud, 'A'ishah, Abu Hurairah, Anas Ibn Malek, Huthaifah Ibn Usaid, Abdullah Ibn Omar, Sahl Ibn Sa'd, Abu Tharr Malek Ibn Al-Huairith, Ali Ibn Abi Taleb, and Jaber. Moreover, Ibn Hajar says that it is traced through forty different routes to Ibn Mas'oud through Zaid Ibn Wahb through Al-A'mash.
2. Because it has so many narrators, differences in its phrasing are inevitable.
3. The essential purpose of this tradition is to tell about foreordination, pointing out that God has foreknowledge of everything that exists and that His knowledge is never behind.
4. There are differences among narrators over every word of the first sentence except the word “*yujima*.” (to be put together), over which there is unanimous agreement. Still, the word is interpreted in various ways. It denotes a change from being separate to being united. Al-Qurtubi believes the word signifies what happens after water is ejected and spreads all over.³ Ibn Hajar regards a man's semen to be like rennet to milk, in the sense that through it a germ coagulates⁴.
In *Al-Mihayah*, Ibn Al-Athir says, it is possible that “putting together” is used to mean that a sperm takes forty days to coagulate and become ready to be shaped, which allows it later to take form. It is also said that Ibn Mas'oud interprets this to mean that if a germ gets inside a womb, and God decides to make a human being out of it, it goes through the body of the woman under every nail and hair, and stays forty days, then goes down into the womb as a drop of blood, and that is “putting it together”.⁵
5. With the progress in embryology, the word “*yujima*” has acquired a specific scientific denotation, for the first step in the creation of a human being is the union (getting together, for which the Arabic word is derived from the same root) of a sperm and ovum, which is the process of fertilization.
6. According to the results of laboratory tests, hereditary and personal traits are carried by a zygote, and what takes place afterwards follows a precise system.⁶

7. A zygote is not an actual human being; it is a potential one, in the sense that all the personal and hereditary traits are present in it and that each stage leads to another until the creature realizes its independent human existence, when it separates from the mother and its systems start to work independently. As long as it remains in its mother's belly, a fetus is neither a full human being nor an animal. It ranks somewhere between the two.

The Consequences of Suspecting Pregnancy according to Fiqh Scholars

1. Suspension of the settlement of a legacy and waiting for delivery.

All scholars agree that pregnancy calls for a suspension in setting a legacy or a will until the fetus separates from the mother's body. If it has developed sufficiently to have an independent life of its own, it is entitled to its share of the legacy or the will as from the date the legator dies. If it does not develop to the extent of having a life of its own, it is not entitled to anything.

2. Effect on the Waiting Period

A pregnant woman in her waiting period who delivers a living child is eligible to be proposed to when the longer of the two terms comes to an end as unanimously agreed, or when delivery takes place regardless of the other term, as the correct opinion seems to be.

If she miscarries and the miscarried fetus has some evident human features, such as an arm, a leg, or something of the sort, the ruling is the same as in the case of delivery.⁷

If she miscarries an embryonic lump, i.e. if tissues have started to form but none of the organs is clearly distinguishable yet, the Hanafi School of thought holds that her waiting period does not come to an end. Ibn 'Abdin, following the view expressed in *Al-Bahr [Al-Ra'eq]*, says:

Conception is a term for a changing drop of sperm. If it is a germ-cell or an embryonic lump, it has not yet changed, for the only way to be certain about its having changed is when certain features can be distinguished.⁸

But according to the Maliki School of Thought, if the miscarried embryo is an embryonic lump, the waiting period ends, as will be explained below, when the germ-cell situation is discussed.⁹

Shaf'ie scholars also believe a waiting period terminates when a woman miscarries an embryonic lump if experts, including midwives, can testify with confidence that an obscure human form can be distinguished in it. Even if the embryonic lump has not developed that much, the waiting period comes to an end according to authentic traditions, if experts testify that it is the origin of a human being and that it would take human form if it were not aborted.¹⁰

Ahmad's School of thought agrees with that of Al-Shaf'ie on the first case, while on the second two different opinions of that school have been quoted.¹¹

If it is miscarried earlier, Maliki scholars are alone in holding that a woman finishes her waiting period if it is proved that what she has dropped is an early stage in the creation of a human being. They set a test for that which is to pour hot water on it. If it decomposes, it is mere blood; otherwise, it is a stage in the creation of a human being and is subject to the same rules as other stages.¹²

3. Effect on Freedom

If a woman slave gets pregnant with her master's child, she becomes a "child's mother". She is entitled to this status by the same criteria that terminate her waiting period, except in a view attributed to Imam Ahmad's School. According to this view, if she miscarries an embryonic lump that has no form and experts testify that an obscure human form can be distinguished, some scholars make an exception to the general view that aborting an embryonic lump has no influence, while others make a distinction between the waiting period and the "child's mother" status; they say out of precaution the waiting period does not terminate and out of precaution a slave woman acquires the status of a "child's mother".¹³

Shaf'ie scholars hold the opposite view. They believe that when a woman drops a formless embryonic lump, her waiting period does terminate because dropping it indicates that the uterus is free from conception, while if the woman is a slave she does not become a "child's mother".¹⁴

Note

On contemplating what the various schools say, it seems to me most probable that they follow the principle that certainty is not negated by doubt. In this particular case, a woman is required to go through a waiting

period, and that obligation is a certainty which is not waived when there is doubt over something she has dropped, whether it is an embryo or not. This of course is based on the scientific knowledge available for specialists at the time these rulings were made. Maliki scholars are the only ones who resort to a test, which is the pouring of hot water. Whatever rulings they base on a miscarried germ-cell are effective if it is proved to be a germ-cell, with the traits and the tissues it is supposed to have, and not merely some secreted congealed blood. Imam Ahmad Ibn Hanbal follows another principle in addition to the one that says certainty is not negated by doubt. The other principle is that freedom is the normal condition of a human being. Since it is possible for a pregnant slave who miscarries and is considered a "child's mother" to gain her freedom, this probability is given predominance.

A Fine is Called for When Aggression Is Committed against a Pregnant woman

In his "*Sahih*" or *Authentic Collection*, Imam Muslim tells a story of two women of the Huthail tribe.

"One throws something at the other who aborts a fetus".

The Prophet, Peace be upon him, orders that

"a man or woman slave should be given to the latter's family as blood money"⁽¹⁵⁾.

Comments On this Tradition

1. This is the first version related by Muslim. Other versions have some additions and differences. In one of the additions it is mentioned that the victim is a woman of the Bani Lahyan clan, and that after the abortion she dies. The blood money for the fetus is imposed on the clan, and the aggressor's husband, Hamal Ibn Al-Nabighah Al-Huthaili exclaims, "How can I be fined for what has neither drank nor eaten, nor uttered a sound nor cried. This is utterly unacceptable". The Prophet, Peace be upon him, denounced this exclamation, which was expressed in rhyme similar to that used by pre-Islamic priests. The differences include that in one version the killing is committed with a rock while in another, with a tent post, Al-Qurtubi says it is probable that both were actually used in striking the victim.
2. Imam Ibn 'Arafah says it makes no difference whether the abortion is a

result of physical or psychological intimidation. If a person forces a pregnant woman to serve a tyrannical master, and she aborts out of apprehension, he has to pay fetus blood money or give something to the same value of one tenth of the blood money that would be due for the mother herself.¹⁶

3. The difference over how developed a miscarried fetus has to be [in order for his family to be entitled to blood money] is similar to the difference over the waiting period and the status of a "child's mother". Every school has its own opinion over this issue. Al-Ubbai defines a fetus as what a woman miscarries and can be recognized as a baby, i.e. a germ-cell or a higher stage. Scholars of the same school do not make it a condition that the fetus must have human form.¹⁷
4. This respect for a fetus before it is born alive, as well as the relative human status allotted to it, is something introduced by Islam. It was unknown in Pre-Islamic societies. That is why the aggressor's husband objects through the medium of impressive rhyme.

A tradition similar to this is related by Al-Bukhari and Muslim quoting Al-Mughirah Ibn Shu'bah, who says:

"Omar asked about the abortion of a woman who drops her fetus as a result of being struck on her belly. He said, Who among you has heard anything said by the Prophet, Peace be upon him, on this point? I did, I said, He asked me, What did you hear? I told him that I had heard the Prophet, Peace be upon him, say that it called for a man or a woman slave as a fine..."¹⁸

This tradition supports and confirms the purport of the previous one in that a human value is given to a fetus equalling ten per cent of the "value" for an already-born human being, whether he is free or bound by slavery.

Conclusion

We can conclude from the texts and *fiqh* scholar views quoted above that a human being is honoured before it is born, even when it is in the first, cellular stage of embryonic life. It is honoured and respected, and although assault against it is not considered an assault against an already born human being, it is regarded as assault against a being that could become human if given the chance. In Islam, a fetus enjoys the same status whether it is in the fourth or the ninth month of gestation. The justification given by those who do not give a miscarried embryo in the first four

months the same status as regards the applicability of rulings is that there is some doubt about its existence and some ambiguity as to its nature, whether it represents a human stage or something discarded by a woman just like any other part of her body that might drop or be removed. I am strongly inclined towards the Maliki point of view and to the opinion that an embryo in the belly of its mother is a living being that enjoys sanctity and is entitled to respect from the moment of its conception until the last of its stages; assault against it is unlawful, unless there is a weighty interest at stake, as when its continuity puts the life of its mother at risk.

Opinions of Fiqh Scholars on Abortion

By way of supporting his argument that no reparation is due in the case of [causing the death of] a fetus, Al-Turi says in “*Sharh Al-Kanz*”:

It is only acceptable as a voluntary contribution, because he [the aggressor] has committed something forbidden. If he offers it in the hope of God's forgiveness, it would be better, and he should pray God for mercy for the great crime he has done.¹⁹

Abu Bakr is quoted to have said that if a woman aborts an early embryo as a result of taking a medicine for that purpose, all that she should do is repent and ask God for forgiveness. But if it is a fetus, she has to pay fetus blood money. A pregnant woman is also prohibited from any action that may hurt her embryo, such as phlebotomy and cupping.

It is mentioned in *Tuhfat Al-Muhtaj*, under a separate heading, that scholars differed on the ruling concerning a person who causes the abortion of a fetus who has not yet reached the spirit breathing stage, which is after the first 120 days, but the tendency is towards prohibition as Ibn Al-'Imad and others advocate. There is no contradiction between this and the permission of *coitus interruptus*, for the difference between them is obvious. Semen, when ejected, is an inanimate object that is not made ready to live, but it is a different case when it settles inside the womb and starts the process of taking human form, which can be known through certain signs. Muslim, in his discussion of cancelling divorce, says this occurs after forty two days following conception. It is unlawful to use any method that would terminate reproduction altogether as many scholars say, and the reasons are obvious.²¹ The book also mentions the ruling of Abu Isshaq Al-Mirwazi that it is lawful to give a pregnant woman a medicine to abort her baby as long as it is still a germ-cell or an embryonic

lump. It adds that Hanafi scholars go too far by saying it is utterly unlawful, and what [Al-Ghazali's] *Ihya'* [*Ulum Al-Din*] says implies absolute prohibition, which, as has been mentioned, is the ruling that makes more sense. The difference between this and *coitus interruptus* is clear.²²

Family Planning

Family planning may follow on of two methods.

The first method is contraception, which can be through the natural method, i.e. preventing the fertilizing semen to get into the woman's uterus or to prevent the ovum from receiving fertilization. Either way, no assault against a human creature, at whatever stage of development, is committed, because it is a most certain fact that man's creation begins only after fertilization.

Husbands and wives may be educated, with the help of the state, to be able to watch themselves and to plan reproduction and life continuity.

The second method is the attempt to spoil conception after it occurs, either through the interference of a physician to remove an embryo in the germ-cell or embryonic lump stage and to scrape the uterus, or through taking drugs and medicines.

I am inclined to the view that this second method is unlawful for the mother, the father who gives permission for it to be followed, and the supervising physician, unless a fetus poses a threat to the mother's life or the physician is certain that some disorder has occurred in the development of the fetus which will cause it to be deformed and/or handicapped.

NOTE

The interest in the West and the industrial world in general in halting reproduction in the Third World and the cries of fear coming from its leaders and mass media raise a number of questions. Why have efforts not been directed towards increasing the productivity of the land? the desalination of water? the transformation of the world from a group of consumer communities to a society of contentment that feels disgusted with squandering? These questions occurred to me while reading an article in *Le Monde* on contraception, which calls for making a certain medicine available to the populations of the Third World. Here is a translated summary together with the French original attached to this paper.

A New Method of Contraception The Tablet of the Future

A team of Swedish and French physicians announced on Friday, November 30, 1984, the initial results of using RU-486 for the purpose of causing early miscarriage.

This substance, which was prepared and developed in France, seems to have reached a stage that confirms the hopes of those who look at it as the first representative of a family of medicines that can be used as contraceptives without difficulty.

After mentioning that the medicine can be used to prevent conception from taking place or to halt its development if it has already occurred, the writer of the article says that experiments have been conducted with monkeys and then, as from 1982, with women. The results, he says, are generally encouraging. These experiments have shown that in 70% of the cases, the medicine can halt the development of an embryo at an early stage without the need for surgical operation. In the cases where it has failed to give the desired results, the reason may be insufficient assimilation of the medicine, which is taken orally, or insufficient absorption by uterine tissues.

The side effects for a woman are very minor. They are almost restricted to very few cases of bleeding.

To reduce the percentage of failure, a group of Swedish physicians have recommended adding an injection to the orally taken medicine. By combining the two, it has been possible to reach a percentage of 100% of effectiveness, even when the medicine is taken seven weeks after the time of conception.

Researchers believe this will prove to be the ideal method for checking feminine fertility, particularly in Third World countries.

The inventors believe the medicine is an ideal way for halting the increasing feminine fertility in the world, because it does not require the presence of a medical staff, which is unavailable in most cases.

Jean Yves Nau
Le Monde, December 1984

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5. *Ibid.*, same volume and page.
6. Dr. Hassan Hatthout's paper.
7. *Nail Al-Awtar*, vol. 9, p. 321.
8. Ibn 'Abdin, vol. 2, p. 604
9. Abd Al-Baqi Al-Zarqani, vol. 8, p. 176.
10. Al-Sharawati and Ibn Qasem Al-'Abadi, vol. 8, p. 241.
11. *Al-Mughni wa Al-Sharh Al-Kabir*, vol. 9, pp. 113-115.
12. Al-Zurqani's Explanation of Khalil's, vol. 8, p. 32.
13. *Al-Mughni wa Al-Sharh Al-Kabir*, vol. 9, pp.113-115.
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THE BEGINNING OF LIFE

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Life is God's dazzling miracle, His cogent argument, the evidence of His power, and the testimony of His wisdom. He begins life from nothing and leads it into nothing. Between the beginning and the end, He changes it from one mode to another, from one stage to another, while it is helpless to move or to halt on its own. He orders it to be, and it is, exactly as he desires it. He manages its affairs, arranges its stages, and divides it into categories, in order to have it sing His praises and stand as a proof that He alone is the living Entity Whose existence was not preceded by void, nor His knowledge by ignorance, nor His power by helplessness, nor is He ever subject to death, defect, or deficiency..

*THERE IS NO GOD BUT HIM, THE LIVING, THE ETERNAL,
NEITHER SLUMBER NOR SLEEP OVERTAKES HIM. HIS IS WHAT
THE HEAVENS AND THE EARTH CONTAIN".*

(S2:V255)

Moreover, God has made human life the major objective of creation. He has ordered the human race to obey and worship Him, having provided them with intellect and reason and with the means to comply with His order.

*BLESSED BE HE WITHIN WHOSE GRASP ALL SOVEREIGNTY IS
AND WHO HAS POWER TO DO EVERYTHING. IT IS HE WHO HAS
CREATED DEATH AND LIFE SO THAT HE MAY PUT YOU TO THE
TEST AND (SHOW) WHICH OF YOU IS BEST IN CONDUCT. HE IS
THE ALMIGHTY THE FORGIVING ONE.*

(S67:V1-2)

For every being other than Him, God has preordained death. This is a sign for creatures indicating that Lordship is His alone and that there is no life similar to His. If He pleases, He will resurrect them and gather them in His Presence, subjugated under His control, with worry and exhaustion on their faces as a sign of submission to Him, the Ever-living, the Master of

all. Those who bear a burden of wrong doing shall end up with complete loss. He rewards those who have followed Him with a decent life, and assigns to His enemies a life which is more bitter than death. Even before their resurrection, those who have followed Him go through death as if they are alive, while for His enemies, life, even after resurrection, is similar to death.

HE WHO COMES BEFORE HIS LORD LOST IN SIN SHALL BE CONSIGNED TO HELL, WHERE HE SHALL NEITHER DIE NOR LIVE. BUT HE WHO COMES BEFORE HIM AS A BELIEVER WHO HAS DONE GOOD DEEDS TO SUCH ARE THE HIGHEST RANKS RESERVED.

Please God, Lord of all human beings, include us among those to whom You are generous in the life which is followed by no death under Your favour and close to You.

THE INCEPTION OF LIFE

As a whole, humanity on this earth began with clay shaped by the Omniscient Creator. It had no life until He breathed of His Spirit into it and said to His angels,

WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE YOURSELVES BEFORE HIM

(S15:V29)

This humanity has been made to go on in a chain, one generation being the offspring of another, through the coupling of male and female. Thus He, Blessed and Most Sublime as He is, causes it to multiply.

HE HAS MADE FOR YOU SPOUSES FROM AMONG YOURSELVES, AND CREATED CATTLE FOR YOU IN COUPLES, SO THAT YOU MAY MULTIPLY. NOTHING CAN BE COMPARED TO HIM. HE ALONE HEARS ALL AND SEES ALL.

God, Great and Sublime is He, repeats the breathing of spirit process with every new human seed.

HE FIRST CREATED MAN FROM CLAY, THEN MADE HIS PROGENY FROM PALTRY FLUID. HE MOULDED HIM AND BREATHED INTO HIM OF HIS SPIRIT. HE GAVE YOU HEARING, SIGHT, AND HEARTS; YET SELDOM YOU ARE THANKFUL

This spirit is God's concern, and He allots a very special position to it. He sends his angel messengers with it and they attach it to the formed clay offspring, so that the clay would be its abode and its vehicle. God devotes

angels of His to watch over it and take care of it. He sets for it its livelihood and ordains its life span during which it has to keep the association with the body. When the hour comes, it does not go by itself to its Lord, but the Compassionate Lord sends a delegation to receive this germ after removing it from its vehicle and separating it from its clay abode. It is kept under His custody, with the work it has performed kept in consideration, until the hour to terminate all human life arrives. Then God brings all these beings back to life and restores each germ to its abode, so that it will receive its reward for both the good and the evil it has done. Nobody finds such a thing too great for the Creator to do except the careless.

THEY SAY, AFTER WE HAVE BEEN LOST INTO THE EARTH, SHALL WE BE (RESTORED TO LIFE) IN A NEW ACT OF CREATION? INDEED THEY DENY THE TRUTH THAT THEY WILL MEET THEIR LORD. SAY, THE ANGEL OF DEATH, WHO IS IN CHARGE OF YOU, WILL GATHER YOU. THEN TO YOUR LORD YOU SHALL ALL RETURN. WOULD THAT YOU COULD SEE THE WRONGDOERS WHEN THEY HANG THEIR HEADS BEFORE THEIR LORD! THEY SAY: LORD, NOW WE SEE AND HEAR.

The Great God utters nothing but the truth.

Between the time a human seed starts and the time it is brought forth as a new creation, there are certain stages during which it has no human form, as the All-Knowing Omniscient God says.

MEN, IF YOU DOUBT THE RESURRECTION, WE FIRST CREATED YOU FROM DUST, THEN FROM A DROP OF SPERM, THEN FROM A GERM-CELL, AND THEN FROM A FORMED AND YET NOT FORMED EMBRYONIC LUMP, SO THAT WE MIGHT MAKE THINGS CLEAR TO YOU.

Zaid Ibn Wahb quotes Abdullah Ibn Mas'oud as saying:

"The Prophet, Peace be upon him, who is inspired, and utters nothing but the truth told us: The creation of each one of you is brought together in the belly of his mother for forty days as drop of sperm. Then in that he is a germ-cell for a similar period. Then in that he is an embryonic lump for a similar period. Then an angel is sent to him and breathes spirit into him. He is ordered to write down four words: his livelihood, life duration, career, and whether he is to be miserable or happy. By God, who is the only deity, a man may follow the behaviour of those bound to hell until he is only a yard or two away from it, but foreordination interferes, and he starts to behave like those bound to paradise, and gets into it. Likewise, a man

may follow the behaviour of those bound to paradise until he is only a yard or two away from it, but foreordination interferes, and he starts to behave like those bound to hell, and gets into it".

(This is Muslim's version,¹ and a similar one is related by Al-Bukhari,² who also relates it in several places).

The story of dispatching an angel and writing down the livelihood, life duration, and misery or happiness is told in many places in the books of the Prophet's Traditions. The tradition is also attributed to a number of Companions other than Ibn Mas'oud. Among these are, Anas Ibn Malek, who is quoted by Al-Bukhari; Sahl Ibn Sa'd and Huthaifa Ibn Usaid, quoted by Muslim; Abdullah Ibn Omar, quoted by Al-Daraqatni alone; 'A'isha, quoted by Ahmad with a chain of narrators to prove its authenticity.; Abu Hurairah, quoted by Muslim; Abdullah Ibn 'Amr, quoted by Al-Tabrani with acceptable chain of narrators; and others quoted by Ibn Hajar in *Fatth Al-Bari*.³

I would like to point out the following differences between the various versions.

First, none of the Companions narrate the tradition in as long a version as that narrated by Ibn Mas'oud as quoted by both Al-Bukhari and Muslim, may God be pleased with them all. The others give shorter versions.

Second, only one of those who quote Ibn Mas'oud, namely Zaid Ibn Wahb, mentions that the breathing of spirit takes place after that period. All other narrators who quote Ibn Mas'oud do mention the writing down of livelihood, life duration, and misery of happiness, but do not mention spirit breathing. The other narrators from among the Prophet's Companions also fail to mention it, except Ibn 'Abbas, in his own words, not attributed to the Prophet. Ibn Hajar attributes it to him but fails to mention where it is related.⁴

Third, among those who quote Ibn Mas'oud, Zaid Ibn Wahb is also the only one who mentions the 40- day period three times. As for other Companion narrators, some quote the phrasing as, "*When forty nights have passed since the drop of sperm...*" Others use "*forty-two nights, "forty-five nights,"*" or "*forty-odd nights*".⁵

Fourth, the Ibn Mas'oud version lists what the angel writes as inclusive; in addition to the breathing-in of spirit, he

“is ordered to write down four words: his livelihood, life duration, career, and whether he is to be miserable or happy”.

Some versions do not include “career” but have “Whether it is male or female,” and do not mention spirit breathing.

Therefore, if we are guided by this tradition in determining the time of spirit breathing, taking human form, and so on, and base rulings on that as the permissibility of abortion for example, we should not, in permitting anything, go more than few days over the forty-day period, so that our ruling would be based on certainty or near certainty.

It may be said that the angel makes two visits, not only one. This claim contradicts what seems to be suggested by the available evidence; it is, though God alone has perfect knowledge, one visit, during which the angel carries out all the orders given to him.

The question now is whether an embryo at this early stage, the first forty days, has some sort of human life, or whether it is merely cellular or vegetation life as called by some of our physician colleagues.

The traditions we have quoted make it clear that it is a mere cellular life where an embryo is about to take human form and is still spiritless.

On this basis, Hanbali scholars state, in some of their works, that “it is lawful to abort a drop of sperm in the first forty days by using an approved medicine”.⁶

Of the Hanafi School, Ibn Nujaim says in *Al-Bahr Al-Ra’eq*⁷ and Ibn Al-Humam in *Fath Al-Qadir*⁸ that “it is lawful to abort a drop of sperm unless the form begins to be distinguishable”. Ibn ‘Abidin says, “If spirit is breathed into it, abortion is unlawful. While there is a controversy among scholars about earlier periods. The breathing is estimated to take place after 120 days”.⁹ He also says:

“It is reprehensible that a pregnant woman should be given something that causes abortion unless for a valid reason. It is permissible for her to be treated for bleeding as long as the embryo is a embryonic lump or a germ-cell and none of its organs is formed”.¹⁰

The Accepted view of the Maliki School is that it is unlawful to abort it in the first forty days. Another version says it is reprehensible.¹¹ According

to Al-Dasuqi, "Al-Lukhami holds that abortion is lawful in the first forty days".¹²

The Shaf'ie scholars who advocate prohibition of abortion before the breathing of spirit are Al-Ghazali and his followers. Al-Qailubi says, "Contrary to what Al-Ghazali says, it is permissible to abort an embryo before spirit is breathed into it".¹³

This question was discussed in sufficient detail at the seminar on Reproduction in Islam, so we should not enlarge further.

I do not understand, when there is all this permission stated so explicitly in the works of scholars of Islamic Legislation, why some physician colleagues insist on being strict over this issue. If our religion allows us some freedom, why should we deny it to ourselves and others? When God Himself says that taking human form occurs at a stage later than that when the embryo is implanted in the inner lining of the uterus, and that the spirit is breathed into it later, and when the same thing is mentioned by the Prophet, Peace be upon him, who gives more details of it-what is the harm in abortion at that early period, particularly when there is some justification?

I am surprised that it has been claimed that if we allow this we will be imitating contemporary western culture.

With deep respect to their point of view, [I do not agree with] some of our colleagues [who] say that once a zygote is implanted in the uterine wall, it is unlawful to end its life. It is strange that the same people find nothing wrong in their ending the lives of millions of cells in plastic surgery and the like.

What we say is that our interest lies with whatever God's Law stipulates. To whoever says that God's Law is wherever the people's interest is, we say that if he is looking after the interest of individuals, families, and nations, let there be a period for avoiding undesired pregnancy, which is something we cannot do without, and do not close a door that admits relief.

In conclusion, I quote a ruling made by the *fatwa*, i.e. religions rulings committee of Kuwait on September 29, 1984. It goes as follows:

(A physician is forbidden to undertake the abortion of a pregnant woman's fetus after the first 120 days from the date of conception, except to save her life from a confirmed risk

posed by the pregnancy.

Abortion, when both husband and wife agree to it, is lawful before the fortieth day from the date of conception.

In the period between the first forty and 120 days, abortion is lawful only in one of the two following cases.

The first is when the continuity of the pregnancy would cause great harm to the mother's health, which is either unbearable or expected to last after birth. The second case is when it is confirmed that the child would be born with a major physical or mental defect or handicap of which there would be no hope of being cured.

Except in cases of emergency, an abortion should be performed in a public hospital. If pregnancy has been going on for over forty days, abortion is performed only after a decision to perform it is taken by a committee of three specialists, one of them at least is a gynecologist/obstetrician. The decision should be endorsed by two Muslim physicians who are well known as men of integrity).

Notes

1. 4, 2036; *Kitab Al-Qadr*, vol. 1.
2. *Faith Al-Bari*, 6, 313.
3. 11, 478 ff.
4. *Faith Al-Bari*, 11, 486.
5. See Muslim's "Sahih" or *Authentic Collection*, Abd Al-Baqi's Edition, 4, 2038; *Kitab Al-Qadr*, vols. 1-5.
6. *Sharh Al-Muntaha*, 1, 115.
7. 8, 233.
8. 2, 495.
9. 5, 239.
10. 5, 276.
11. *Al-Dasuqi*, 2, 267.
12. "Al-Ijhadh" (Abortion), *Al-Mawsu'ah Al-Fiqhiyah (The Fiqh Encyclopedia)*.
13. 4, 160.

THE INCEPTION AND END OF LIFE

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I confess that I hesitated long before accepting to take part in the discussion of this question you had invited me to write on, because dealing with it in the light of the approach followed by the honourable physicians in their papers was something new that needed a search for guidelines in Islamic legislation. Our scholars do not approach the issue the way it is raised before us. We know that research on topics for which the way is not paved by early scholars is a very complex matter. What makes this question more serious in that hurting a human being is, to a Muslim, is totally unacceptable; Islamic Legislation denounces every one that hurts a Muslim, whether alive or dead, and the details are available in Islamic Law and scholars by works on other aspects of Islam.

What has made the idea of writing a little easier is that I regard what I write here as non-conclusive. It is something preliminary, subject to argument, to acceptance or rejection, and even I may change my mind about it. It is a preliminary paper offered to scholars and physicians to discuss then to be evaluated in the light of the dialogue that takes place.

The point and the basis of discussion is determining the inception and end of human life. This requires an examination of the texts which deal with death and life. But before that, we need to know the meaning of "mawt" (death) and "hayah" (life) in Arabic.

The Concepts of Life and Death in Arabic

Life and death are opposites the same way that light and darkness, or coldness and heat, are. Consequently, Arabic dictionaries define each as the antonym of the other. A definition of life says, "Life is the opposite of death, and the living, in everything, are the opposite of the dead".(1) Death is defined as "the opposite of life... Originally, the word 'mawt' in Arabic means tranquility, and everything which is tranquil is 'mayyet'. Thus the

word “mata” (to die) is used for fire, if its ashes cool and no embers are left; for heat and coldness when they subside; for the wind, when it quiets down; and for wine when it stops to ferment. Death describes something with no spirit.(2)

If tranquility is the origin of death in Arabic, motion is the origin of life. In *Lisan Al-'Arab* we have the definition: ‘*Al-Hai*’ (a living being) “is used for every creature that speaks. In the case of plants, it is used for every plant which is supple and which shakes”.(3) Arabs describe everything with a spirit as a living thing.

The Concepts of Life and Death in the Quran and Sunnah

I have referred to the statements, of the Quran and the traditions dealing with death and life and discovered that they are of five types.

The first is the type in which life refers to the type of growth we find in plants. Such statements refer to God’s bringing the earth to life with vegetation after heavy rainfall, as when God says,

GOD SENDS DOWN WATER FROM THE SKY WITH WHICH HE BRINGS TO LIFE THE DEAD EARTH.

(S16:V65)

He also says,

BEHOLD THEN THE TOKENS OF GOD’S MERCY; HOW HE GIVES NEW LIFE TO THE DEAD EARTH.

(S30:V50)

The second type refers to life as that which is realized when spirit is breathed into a human being and to death as the taking away of spirit from that being. I am going to quote many statements which refer to this type of life throughout my paper.

The third type makes faith synonymous with “life” and lack of faith with “death”.

CAN HE WHO WAS DEAD AND WHOM WE GAVE LIFE, AND PROVIDED HIM WITH A LIGHT WITH WHICH HE MAY SEE HIS WAY AMONG PEOPLE BE COMPARED TO A PERSON WHO BLUNDERS ABOUT IN DARKNESS FROM WHICH HE WILL NEVER EMERGE?

(S6:V122)

The great Quran scholar Ibn Kathir says in interpreting this verse:

This is a metaphor God makes to describe a believer who used to be dead, how he is puzzled and at a loss, and how God brings him, i.e. brings his heart, to life through faith. God guides him to have faith and to follow His messengers.(4)

The fourth type uses death to mean the condition a human being is in while asleep. In tradition, the Prophet, Peace be upon him, used to say when he woke up from sleep,

"Praise be to God Who has brought us to life after He has caused our death and to Whom we return at resurrection". (5)

The Quran refers to this same idea more than once:

GOD TAKES AWAY MEN'S SOULS UPON THEIR DEATH, AND THE SOULS OF THE LIVING DURING THEIR SLEEP. THOSE THAT ARE DESTINED TO DIE HE HOLDS WITH HIM AND RESTORES THE OTHERS UNTIL A TIME ORDAINED.

(S39:V42)

In another verse, we read:

IT IS HE THAT MAKES YOU DIE BY NIGHT, AND KNOWS WHAT YOU HAVE DONE BY DAY, AND THEN HE BRINGS YOU BACK TO LIFE EACH DAY IN ORDER THAT A TERM SET (BY HIM) BE FULFILLED.

(S6:V60)

Our scholars call sleep and death minor and major death respectively.(6)

The fifth type is one where the term "life" is used for a special kind of life which martyrs enjoy after they leave this world:

DO NOT THINK OF THOSE WHO WERE KILLED IN THE CAUSE OF GOD AS DEAD. THEY ARE ALIVE! WITH THEIR LORD THEY HAVE THEIR LIVELIHOOD.

(S3:V169)

The Prophet, Peace be upon him, was asked by some of his Companions about the life enjoyed by martyrs and he said:

"Their souls are in the abdomen of green birds. They have lanterns hanging from the Throne. They wander through Paradise as they please, and then return home to those lanterns". (7) (Related by Muslim in his Sahih)

The Living and the Dead in Quranic Terminology

None of the last three meanings listed above is meant by “the living” as used in this part of my paper. On contemplating Quranic statements, I could find none that describes man as having life in the sense expressed in the first type above, even when man is just an embryo expected to grow while spirit is not yet breathed into it. Contemplations of these statements lead us to conclude that an embryo in this case is regarded as lifeless until spirit is breathed into it. This meaning may be implied in God’s saying,

HOW CAN YOU DENY GOD, WHEN HE GAVE YOU LIFE AFTER YOU WERE DEAD. HE WILL CAUSE YOU TO DIE AND THEN BRING YOU TO LIFE, AND TO HIM YOU WILL THEN RETURN.

(S2:V28)

The Quranic text here mentions two deaths and two lives. The True God, Blessed and Sublime is He, tells of the acknowledgement, on the day of resurrection, of these two deaths and two lives by those who in this life deny resurrection:

OUR LORD, YOU CAUSED US TO DIE TWICE AND TO LIVE TWICE. WE ADMIT OUR GUILT. IS THERE NO WAY OUT FOR US?

(S40:V11)

What is meant then by these two death and two lives? Having looked at what interpreters have to say and contemplated the implications of these two texts, it is clear to me that the first death is the condition prior to the breathing of spirit into a fetus, i.e. from the minute an ovum is fertilized by a sperm until the end of its fourth month inside the uterus. The first life is the breathing of spirit into a fetus. The second death is the removal of man’s spirit from his body, and the second life is at the time the Horn is blown and spirits are restored to bodies.

Ibn Jarir Al-Tabari attributes to Qatadah, a leading Quran scholar, such a view. Qatadah’s exact words are:

They were dead in their fathers’ loins; God moulded them and brought them to life. Then He brought them the death which is inevitable. Then again He caused them to live at the resurrection of Doomsday. All these stages make two lives and two deaths.(8)

Ibn Jarir elaborates on this; he says:

As for Qatadah’s explanation that they were dead in the loins

of their fathers, he means they were sperms with no spirits, so they are similar to all inanimate objects that have no spirits. He mentions how God brings them to life: by breathing spirit into them. Causing them to die after that is done by taking away their spirits, and bringing them to life is again by breathing their spirits back into their bodies on the day the Horn is blown and all creatures are resurrected as promised.(9)

Ibn Mas'oud, interprets the processes described when God says,

YOU BRING FORTH THE LIVING FROM THE DEAD AND THE DEAD FROM THE LIVING.

(S3:V27)

By saying, "it is the sperm, which is dead, brought out of a man, who is alive, and a living human being is brought out of it, though it is dead".(10)

Other interpretations of God's saying,

HOW CAN YOU DENY GOD, WHEN HE GAVE YOU LIFE AFTER YOU WERE DEAD...

(S2:V28)

raise certain objections. The claim that the first death is the void that preceded existence is answered that void is not an object that can be described as dead. God says,

WAS NOT THERE A PERIOD OF TIME IN WHICH MAN WAS NOT A THING TO BE THOUGHT OF?

(S76:V1)

Those who do not accept that the condition of a fetus before life is breathed into it is a state of death resort to fardetched interpretation of the verse, such as the claim that the first death was to create those taken out of Adam's loins or that it is the sperm that dies as a result of moving from a man to a woman. Others say about the first life that it is bringing people to life in their graves after they die and before they are resurrected. According to some of these interpretations, the deaths should be three in number, and so should the lives. Thus some of these claims are in conflict with what the verse says.(11) I am almost one hundred per cent positive that Qatadah alone gives the right interpretation.

An Objection answered

It may be said that modern science is now so advanced that it is known that the seed out of which a human being is created, which is a

sperm, is a living, moving being which, when it unites with a woman's ovum, forms a perfect human cell. This cell is alive, and therefore, it starts to divide and to progress towards producing a full human being. So how can I claim that life begins in a fetus only after the fourth month of gestation? and how can I say that prior to that, a fetus is dead?

In reply I say that I am not unaware of that, but that kind of life is not the life meant in the Quranic terminology. That life the objector may mention does not negate that before spirit is breathed into it, a fetus is dead. That life is closer to the life ascribed to plants, and the Quran actually describes vegetation as living, and its life has been confirmed in this age of ours with its scientific progress. Dr. Russell Charles Artis(12) says:

If you examine the end of a tiny frond of the seaweed known as *Ulva* under the objective lens of a microscope, you will behold one of the manifestations of life with the greatest regularity and the most fascinating beauty. Every cell has a wonderful structure. At the end, a frond is only two cell-layer thick, and you can move the cylinder of the microscope up and down until you can see each cell of the two layers separately and realize that it is a unit all by itself. Each cell seems to be able to perform all life functions independently of all other, similar cells.(13)

Undoubtedly, this type of life exists in both animals and human beings, and nourishment and growth are achieved through it, but it does not make an embryo alive in the sense used in Islamic Legislation. I have mentioned that Quranic texts do not ascribe life to a human embryo. Muslim scholars have been aware of what kind of life an embryo has before the breathing of spirit. One of these is Ibn Al-Qayyim, the great scholar, who says in his book *Al-Tabyan Fi Aqsam Al-Qur'an*:

If it is asked whether a fetus has motion and feeling before spirit is breathed into it, the answer is that, like vegetation, it has the life of growth and nourishment. Its growth and nourishment motion is not voluntary. When spirit is breathed into it, the motion of sensing and willing combines with that of growing and feeding.(14)

Pregnant women feel the difference in the fetus's movement before and after spirit is breathed into it. Medically it has also become possible to

monitor the movements of a fetus during the period defined in these statements. Dr. Muhammad Ali Al-Barr says:

At the end of this month [i.e. the fourth month of gestation], the fetus is heard to be making voluntary movements. Expressions of satisfaction and displeasure appear on its face. At the end of this month, the sex of a fetus can be determined, and the features of its personality which distinguish it from the rest of mankind begin to appear. Are these not signs that spirit has been breathed into it?.(15)

When Does Life Begin and When Does It End?

I have already said that the life that makes a being human begins after spirit is breathed into a fetus. Although this is not a visible process that can be watched, its effects are easily perceived, particularly with the scientific progress that makes it possible to monitor the growth, movement, and life of a fetus. But the Prophet, Peace be upon him, with the knowledge given to him by the Omniscient creator of man, tells us the time when life begins in a fetus. In a tradition related by Al-Bukhari and Muslim, Abu Abd Al-Rahman Abdullah Ibn Mas'oud says:

"The Prophet, Peace be upon him, who is inspired and utters nothing but the truth told us: The creation of each one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm. Then for a similar period, he is a germ-cell. Then for a similar period, he is an embryonic lump. Then an angel is sent to him to breath spirit into him..."(16)

Breathing spirit into man is a line that divides two modes of creation. This is mentioned explicitly in the Quran:

WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY: THEN PLACE HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE. THEN WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL, AND WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC LUMP, AND THEN WE CREATE OUT OF THE EMBRYONIC LUMP BONES, AND THEN WE CLOTHE THE BONES WITH FLESH, THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION. BLESSED IS GOD, THE NOBLEST OF CREATORS.

(S23:V12-14)

These verses go into the stages of creating an embryo in its mother's womb. Three stages are mentioned, those of the sperm, germ-cell and

embryonic lump. Then the embryonic lump is made into bones, which are clothed with flesh. In the course of these stages, the human systems are formed and human features emerge, but the fetus lacks the most important factor, without which it cannot be a human being, which is the breathing of spirit. When it is breathed in, the fetus becomes another creature, as the verse says:

*THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION.
BLESSED BE GOD, THE NOBLEST OF CREATORS.*

(S23:V14)

Make an analogy of this and the creation of the father of mankind, Adam, who was created by God out of a fistful of clay. God moulded and formed him, but when spirit was breathed into him, he turned into another creature, different from the original clay.

*AND YOUR LORD SAID TO THE ANGELS, I AM CREATING MAN
FROM CLAY. WHEN I HAVE FASHIONED HIM AND BREATHED OF
MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE
YOURSELVES BEFORE HIM.*

(S38:V72-73)

As for the time when life ends, it is the time when spirit is removed. Every human being has his own preordained life span. When the end comes, he cannot go one hour before or after it. When the time comes, he knows it, and when spirit is removed from him, those around him realize that he is dead. The difference between the living and the dead is common knowledge to rational people; they distinguish it the same way they distinguish the difference between the blind and the seeing, light and darkness, and heat and coldness.

*THE BLIND AND THE SEEING ARE NOT EQUAL, NOR ARE THE
DEPTHS OF DARKNESS AND THE LIGHT, NOR THE COOLING
SHADE AND THE SCORCHING HEAT, AND NEITHER ARE EQUAL
THE LIVING AND THE DEAD.*

(S35:V19-22)

What Is Spirit?

Spirit is a sublime, ethereal, auto-moving mass of light which permeates all organs of the body (17). As a creation, it is the concern of God.

*THEY ASK YOU ABOUT THE SPIRIT. SAY: KNOWLEDGE OF THE
SPIRIT BELONGS TO MY LORD.*

(S17:V85)

Man cannot discover its nature and the truth about it because it is not of the same fabric as anything in the world realized by the senses. It cannot be subjected to laboratory tests or viewed under a microscope. Its effects when it is inside the body, however, are visible, and people can feel it when it depart from the body.

Perception, reason, eye-sight, hearing, and voluntary movement are only realized with the spirit, and when spirit is removed all these are concealed. God created Adam as a body, but he did not benefit from the ears and eyes he had until spirit was breathed into him.

THEN HE FASHIONED HIM AND BREATHED OF HIS SPIRIT INTO HIM.

(S32:V9)

WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE YOURSELVES BEFORE HIM.

(S15:V29)

On the Day of Judgement, when the Horn is blown and spirits are restored to bodies, people come forth alive and with eye-sight.

THEN THE HORN IS SOUNDED AGAIN AND THEY SHALL RISE AND LOOK AROUND.

(S39:V68)

Many philosophers hold the view that spirit is the life enjoyed by the first human cell, rather than something alien to it. Aristotle is of this opinion. Al-Shahristani quotes him as saying that spiritual existence coincides with physical existence; it occurs neither before nor after. (18) Many Muslim scholars, including Al-Mu'tazilah,(19) are influenced by earlier philosophers.

The great Sheikh Ibn Taimiyah explains their view. He says:

Exponents of the unfounded discourse, invented by Al-Jahmiyah and Al-Mu'tazilah, claim that spirit is the life in the body; it is similar to the wind in the body or one of the body's properties... [While] the Companions of the Prophet and their good followers, as well as all Muslim scholars, believe that the spirit which departs from the body is neither one of its parts nor one of its properties.(20)

What made our righteous ancestors opt for that point of view were the

relevant statements in the Quran and *Sunnah*, which indicated that spirit was breathed into a fetus after the fourth month of pregnancy and that it was later removed from the body. God tells us that he has some of his angels in charge of receiving the spirits of human beings.

SAY, THE ANGEL OF DEATH, WHO IS IN CHARGE OF YOU, WILL GATHER YOU.

(S32:V11)

The Quran describes to us the state of dying, when the angels are in the process of removing the spirits of people:

AND SO WHEN IT COMES UP TO THE THROAT, AND YOU ARE THERE HELPLESSLY LOOKING ON-- WE WILL BE NEARER TO HIM THAN YOU, BUT YOU CANNOT SEE US-- SUPPOSING YOU WILL NOT YOURSELVES BE DESTINED TO THE SAME FATE, WHY DO YOU NOT CAUSE THAT (EBBING LIFE) TO RETURN, IF WHAT YOU SAY IS TRUE.

(S56:V83-87)

Al-Qurtubi says, *AND SO WHEN IT COMES UP TO THE THROAT,*

means when the soul or spirit gets there. Although it is not mentioned earlier, the reference is clear (21). The Quran describes the same state in another passage:

NAY, WHEN IT COMES UP AS HIGH AS THE COLLARBONE, AND IT IS SAID, WILL NO ONE SAVE HIM? WHEN HE HIMSELF KNOWS IT IS THE FINAL PARTING AND HIS TWO LEGS TWIST TOGETHER--TO YOUR LORD ON THAT DAY HE SHALL BE DRIVEN.

(S75:V26-30)

Al-Qurtubi says, *NAY, WHEN IT COMES UP AS HIGH AS THE COLLARBONE* means when the soul or spirit gets to the level of the clavicles, the two bones at the bottom of the throat and the top of the chest, which is the place of throat-rattling.(22)

In a third passage, the Quran tells us how angels remove the spirits of the unjust:

COULD YOU BUT SEE WHEN THE WRONGDOERS FIND THEMSELVES IN THE THROES OF DEATH WITH HANDS OUTSTRETCHED, THE ANGELS SAY: 'YIELD UP YOUR SOULS. TODAY YOU SHALL BE PUNISHED WITH THE SUFFERING OF HUMILIATION, FOR YOU HAVE SAID OF GOD WHAT IS UNTRUE AND PERSIST-

TENTLY SCORNED HIS REVELATIONS':

(56:V93)

Ibn Taimiyah cites evidence in plenty that the spirit which departs from the body is something independent of the body itself and the life within the body. An item of evidence is a tradition related by both Al-Bukhari and Muslim in which the Prophet, Peace be upon him, is quoted to have said to his Companions who have overslept and missed prayer time,

"God has plucked out your spirits when He pleased and restored them when He pleased".

Bilal says to the Prophet,

"Messenger of God, my soul was held by Him Who held yours".

Ibn Taimiyah also quotes the Quranic verse:

GOD TAKES AWAY MEN'S SOULS UPON THEIR DEATH, AND THE SOULS OF THE LIVING DURING THEIR SLEEP. THOSE THAT ARE DESTINED TO DIE HE HOLDS WITH HIM AND RESTORES THE OTHERS FOR A TIME ORDAINED.

(S39:V42)

He cites as well a tradition related by both Al-Bukhari and Muslim in their two "Sahih's" which tells us that whenever he went to bed, the Prophet said:

"In Your Name, O Lord, I lie on my side, and by Your will I shall lift myself up. If you retain my soul, forgive it and have mercy on it. If you release it, protect it with what you use to protect your righteous worshippers".

Another item of proof cited by Ibn Taimiyah is a tradition related by Al-Bukhari in his "Sahih".

"As for martyrs, their souls are in the abdomens of green birds. They have lanterns hanging from the Throne. They wander through Paradise as they please, and then return home to those lanterns".

Ibn Taimiyah quotes what has been determined to be authentic, having a credible chain of narrators, and says that

"When a man's spirit is due to be gathered, angels say if this

spirit dwells in a righteous body, 'Come out, righteous soul; you are content and have met with satisfaction'. While, when it dwells in a vile body, it is told, 'Come out, vile soul; you are discontent and have met with anger'.

An authentic tradition listed by Muslim and others say,

"When spirit is gathered, eye-sight follows".

Commenting on these statements, Ibn Taimiyah says:

What is held during sleep is called 'spirit' or 'soul', and the vehicle for ascent to Heaven is called 'spirit' or 'soul'. The word 'soul' is used because it manages the body, and the word 'spirit' [ruh], because of delicacy, for in semantics, 'ruh' implies delicacy.(23)

Sheikh Ibn Taimiyah, points out that "spirit" and "soul" express several meanings other than the one shown above.

'Spirit' is used to mean the air that comes out of the body and the air that goes into it. It is also used to refer to the stream which comes out of the gall bladder in the abdomen and which runs in the veins.

During his lifetime, physicians used the word "spirit" in the latter sense. These are two meanings different from the spirit which departs from the body at death and which is the same thing as the soul. The same [Arabic] word used for soul is used for self, Sheikh Ibn Taimiyah says. There are many instances of this in the Quran, such as when God says,

**BELIEVERS, GUARD YOURSELVES AND YOUR KINDRED
AGAINST A FIRE ...**

(S66:V6)

or when he says,

HE HAS DECREED MERCY FOR HIMSELF.

(S6:V12)

(Although the Arabic word is the same,) "self" here does not mean the same thing as "soul", which is synonymous with "spirit".(24)

Sheikh Ibn Taimiyah refers to the three denotations of the word "soul", mentioned in the Quran: the soul that tempts one to evil, the scolding soul, and the content soul. He points out that these are different modes of the same thing, for human soul is one and the same thing. If it is

dominated by its desires and the effort to fulfill them through vices, it is the soul that tempts one to do evil. If it waivers and blames its owner in order to repent, it is the scolding soul. But if it loves good and hates evil to the extent that this becomes part of its nature, then it is the content soul.(25)

To a question whether a spirit has any quality, Sheikh Ibn Taimiyah answers that,

the question is too generalized. If the questioner is asking whether the properties and conditions of a spirit can be discovered, the answer is that they do fall within the realm of knowledge. If the question is whether it is an object similar to the objects we see around us, the answer is that it is not. It is not of the same nature as water, air, fire, or soil, nor is it of the same structure as animals, plants, or metals. There is nothing similar to it, nor can it be compared to something familiar.

In his answer, Sheikh Ibn Taimiyah goes into the location of the spirit inside the body and points out that it is not restricted to one part of the body but spreads all over it, as this life, which is temporary, does. Life, he adds, is dependent on the spirit; when a body has a spirit in it, it has life, and when the spirit departs, life ends.

What Ibn Taimiyah affirms is that the spirit, which is the soul, has something to do with the heart and the brain, and that the source of reason and sight is the brain, while the source of the will is the heart.(26)

A Summary of What Is Said on the Issue

Having written all this, I can arrive at the following conclusion. In Quranic terminology, a human creature is dead from the time it is merely a drop of sperm until spirit is breathed into it at the end of the fourth month of pregnancy. It stays alive until the spirit is removed from it, when it dies once again. In this terminology, spirit is not a quality of the body; it is something other than the body and resembles nothing of the creatures we know. Life which an embryo has before the breathing-in of spirit or which remains in organs after the spirit is removed from a body is not life in the sense used in Quranic terminology. The fact that a human being is dead is not negated by this kind of life.

How To Confirm That a Body Has No Spirit

How do we confirm that a body has no spirit in it? In the case of an embryo, it has already been pointed out that spirit is breathed into it at the

end of the first four months from the time the ovum is fertilized, as the tradition listed by Al-Bukhari and Muslim indicates.

As for removing a spirit from a human being, there are many cases that are clear to all, where every rational person can tell that a human being is dead. But there are other cases in which an ordinary person, and sometimes a physician or an experienced scientist, cannot tell. In ordinary cases, scholars say, death has obvious signs.

The feet turn limp, the forearms part, the nose falls, the skin of the face expands, the temples cave in, and the testes shrink while the scrotum becomes flabby.(27)

When death is not as clear, scholars say there should be no hurry in getting the corpse ready for burial. Imam Al-Shaf'ie, says:

When someone dies as a result of being struck by thunderbolt, drowning, burning, being scared by a lion, or falling from a mountain or into a well, he should not be made ready [for burial] until his death is ascertained.(28)

On such occasions, Al-Shaf'ie believes, a corpse may be left for one day, or two or three days, until it is feared that it would begin to decompose, in case he may have merely fainted or been dumbfounded, or gall may have ruled his body.(29)

Sheikh Abu Hamed Al-Ghazali says:

What Al-Shaf'ie, says is right. When a person's death is caused by such or similar things, it is not right to get his body ready for burial. It should be left one day, or two or three days, lest he has merely fainted or be in one of the conditions mentioned by Al-Shaf'ie. He should not be buried until death is confirmed.(30)

The Prophet, Peace be upon him, names a sign which is easy to recognize; in a tradition related by Muslim in his "*Sahih*", the Prophet is quoted as saying:

"When a believer dies, his eyes become fixed".(31)

With the progress in science we are more able now than people used to be in the past to decide the cases where there is some doubt whether a person is dead or not.

What Doctors Are Wondering About

As for the case about which physicians are wondering, that of a person whose brain dies while his heart continues to beat and some of his other systems continue to work, it is indeed a serious problem that requires further consideration and investigation. When a person's heart comes to a complete stop, he is undoubtedly dead, even if some of his systems, such as the kidneys, continue to work. If the heart itself continues to work by itself, without the help of devices, the ruling, in my opinion, is the same, but when its work is due to its being attached to certain devices, without which it would stop, that person should be considered dead. There is a question at this point that needs an answer from physicians to make the ruling more definite: is it possible for the heart to continue to work for a few days, hours, or even minutes after the brain has died, or does the death of the brain mean the death of the heart as well? I believe, as I have already mentioned, that death occurs when the spirit departs from the body. While a person can still see, hear, and move, his spirit is still within his body. Once it is removed, his sight, hearing, and motion come to a halt. The spirit is also connected with the heart and the brain. Quranic and Tradition statements indicate that the spirit is in the chest and that it reaches the collarbones as well as the throat. Is it possible for the spirit to depart from the brain and still be connected with the heart? Or is a severing of its link with the brain simultaneous with a severing of its link with the heart? This is a question for specialists to answer. When both heart and brain completely stop, it is a sign that the spirit has been gathered and that life has died, even if other systems of the body still have the same type of life an embryo has before the breathing of spirit into it. (32)

The Ruling on Assault against a Fetus Before Spirit Is Breathed into it

Some physicians and researchers may think that to say an embryo is dead before spirit is breathed into it makes it easier for people to commit an assault against it in the form of abortion. The question has already been discussed at the Seminar on Human Reproduction in Isalm, where it has been revealed that the dominant opinion among scholars of the Hanbali School permits abortion by the use of a legal medicine before the end of the fourth month of embryonic life inside the uterus. Their rationale is that such an embryo is already dead. The Shaf'ie School allows abortion before an embryo takes form, and rules it unlawful after that. It is my belief that both parties misteard the evidence in the subject under discussion.

The question whose answer determines the ruling is whether God permits us to assault an embryo before it takes human form or before spirit breathing. The criterion for a sound ruling is not whether the embryo is dead or whether it has human form; the criterion is whether God permits such an action or not. If we reconsider the statements in the Quran and *Sunnah* on the subject, we will discover that the Prophet, Peace be upon him, ruled against a person who had caused a fetus to abort. The ruling was that that person should pay fetus blood money, which is the equivalent of a value of a male or female slave. In the "*Sahih's*" of both Al-Bukhari and Muslim, Abu Hurairah says the Prophet, Peace be upon him, ruled that

"fetus blood money, which is a male or female slave, should be paid for a fetus of a woman of the Lahyan clan which was caused to be aborted. (33)

Also in the two, "*Sahih's*" Omar Ibn Al-Khattab is said to have consulted some Companions of the Prophet over causing a woman to have abortion. He was told by Al-Mughirah that

"the Prophet, Peace be upon him, ruled that fetus blood money, (in the form of) a male or female slave, should be paid".

Muhammed Ibn Maslamah testified to having witnessed the Prophet make that ruling. (34) The prohibition of causing abortion applies to a father and/or mother the same as anyone else. The parents are allowed to resort to abortion only when necessity calls for it to protect the mother's life after experienced and honest physicians testify to that effect.

The Great Sheikh Ibn Taimiyah, was asked what ruling Islam gives in the case of a man who tells his wife, "Abort the fetus inside you and the sin is mine; I bear its consequences". Ibn Taimiyah replied:

If she does, she has to make atonement by freeing a Muslim slave. If they are unable to do so, they have to fast two consecutive months. The woman also have to pay fetus blood money, (in the form of) a male or female slave, to the fetus's heirs other than the father, who has ordered it to be killed and so is entitled to nothing. (35)

Ibn Taimiyah was also asked about the case of a man who causes, a slave of his to become pregnant, and then used various method, such as

beating her and giving her medications and poisons, until she aborts. The Sheikh said: Muslims unanimously agree that abortion is unlawful. It is a form of burying a child alive, about which God says, ...

WHEN AN INFANT GIRL, BURIED ALIVE, IS ASKED FOR WHAT CRIME SHE WAS SLAIN...

(S81:V8-9)

He also says,

YOU SHALL NOT KILL YOUR CHILDREN FOR FEAR OF WANT.

(S17:V31)

If a person does cause abortion by mistake, as when he strikes a woman unintentionally and she miscarries, he has to pay fetus blood money, (in the form of) a male or female slave, as a tradition of the Prophet, Peace be upon him, specifies and scholars unanimously agree. The majority of scholars, including Malek, Al-Shafie, and Ahmad, say fetus blood money is ten per cent of the blood money that would be due for the mother (if she were killed). This person also has to make atonement for manslaughter, according to the majority of scholars. The atonement is mentioned by God, when He says,

HE THAT ACCIDENTALLY KILLS A BELIEVER MUST FREE ONE MUSLIM SLAVE AND PAY BLOOD MONEY TO THE VICTIM'S FAMILY, UNLESS THEY CHOOSE TO FORGO IT BY WAY OF CHARITY... IF A MAN CANNOT AFFORD TO DO THIS, HE MUST FAST TWO CONSECUTIVE MONTHS.

(S4:V92)

If, however, he causes abortion intentionally, he should be punished in a way that would deter such action. The crime casts a cloud over his faith and righteousness. (36)

To a question on the case of a pregnant woman who intentionally causes herself to abort, either by striking herself or by taking a medicine, Ibn Taimiyah replies:

According to the *Sunnah* of the Prophet, Peace be upon him, and the concurrence of scholars, she has to yield a male or female slave as blood money to the fetus's heirs other than herself. If the father exists, he is entitled to the blood money. If he wants to forgo his right, he can. The fetus blood money due is one tenth of ordinary blood money, or fifty dinars. She also has, according to the majority of scholars, to free a slave. If

none is available for her to free, she has to fast for two consecutive months. If she is not strong enough, she has to feed sixty poor people. (37)

Ibn Rajab, a Hanbali scholar, also discusses the same point; he says:

A group of *fiqh* scholars allow a woman to abort what she is carrying in her belly, unless spirit is breathed into it. They regard such an abortion as similar to *coitus interruptus*. This is a poorly-supported point of view, because an embryo is a baby conceived and may have taken human form, while in the case of *coitus interruptus*, there is no baby involved at all; it is the conception of such a baby that is prevented. Conception may still occur despite *coitus interruptus*, and that happens when God wants the baby created... Our Hanbali colleagues declare that when an embryo turns into a germ-cell, it is unlawful for a woman to abort it because it has already solidified, unlike a drop of sperm, which is not a solidified embryo yet and may not produce a baby. (38)

The Maliki School holds that it is unlawful for parents and others to have a baby aborted. In Al-Dardir's *Explanation* with Al-Dasuqi's *Annotation*, it is said that it is unlawful to flush semen, which has turned into an embryo, out of a womb, even before the fortieth day. Once spirit is breathed into it, abortion is unanimously forbidden. (39)

In a foot note, Al-Dasuqi comments that "this is the official point of view, and it is said that abortion is reprehensible before the fortieth day. (40) By saying "this is the official point of view", he means of the Maliki School of thought, and when he says, "and it is said that abortion is reprehensible", he is using the passive voice to imply that it is the opinion of a small minority of Maliki scholars.

Absolute prohibition is advocated by Ibn Al-Jawzi, of the Hanbali School of thought, (41) and by Al-Ghazali. The latter says:

The beginning of existence is when a sperm falls into a womb, unites with the woman's liquid, and is ready to receive life. To spoil this is a crime. If the sperm has turned into an embryonic lump or a germ-cell, the crime is worse, and it is even worse when spirit is breathed into it and it has full human form.... (42)

Explaining Al-Ghazali's principle, Al-Buti says:

The butt in forbidding abortion according to Al-Ghazali is not

the drop of sperm starting the first stage of acquiring human form; it is rather the full readiness of the drop of sperm to move towards taking such form and turning into a human being. Such readiness becomes full when the man's and the woman's liquids unite, i.e. when their gametes fertilize each other... For that reason, assault against a drop of sperm, in the form of abortion, prevents this life from maturing, in his opinion, and represents an assault against a human being that practically exists. (43)

Violating the Sanctity of the Dead

At the conclusion of this paper, there is one important point which I want to emphasize. It is the inviolability of the dead. In Islam, the dead are accorded great sanctity. That is why Muslims are ordered to wash the bodies of the dead, wrap them in shrouds, perform the prayer for the dead, and bury them. Muslims are forbidden to mutilate corpses, even if they belong to the infidels, or to do the body of a believer what would have hurt him in his life. An authentic tradition states,

“Breaking a bone of the dead is similar to breaking a bone of the living”.

In evaluating the chain of narrators of the tradition, Sheikh Nasser Al-Din Al-Albani says, “It is an authentic tradition related by Abu Dawood, Al-Tirmithi, Ibn Majah, Al-Tahawi, Al-Darqotni, Al-Baihaqi, and Ahmad”. He mentions that in Al-Darqotni's version, the phrase “a crime” follows the word “is”, which makes the tradition read: *“Breaking a bone of the dead is a crime similar to breaking a bone of the living”*. This version is an authentic and confirmed one, according to the research made by Al-Albani. (44) What applies to breaking a dead person's bone also applies to severing one of his limbs, or ravaging or burning his corpse, even when this is requested in his will. (45) Because of this, Ibn Hajar Al-Haitami affirms that doing such a thing is a major sin and explains that he has arrived at this conclusion “when I learned from a tradition that it is the same as breaking a bone of a living person”. (46)

To stress the sanctity of the dead, traditions forbid Muslims to sit on a grave. Prohibition is explicit in a tradition listed in the “*Sahih*” of Muslim, as well as by Abu Dawood, Al-Nisa'i, Al-Tirmithi, and others. (47)

“The Prophet, Peace be upon him, even ordered some of his Companions to take their shoes off when they walk between

graves”.

The tradition to that effect is authentic, listed by Al-Bukhari in the chapter on the “Manners of the Individual,” and by Abu Dawood, Al-Hakem, and others, and declared authentic by Sheikh Naser Al-Din Al-Albani. (48)

An evidence of the sanctity of the dead and the unlawfulness of violating it is the opinion of Hanbali and Maliki scholars that it is unlawful to cut open the belly of a pregnant woman after her death even if the baby is seen to convulse within it. They explain this view by saying, “Such an action is a violation of a confirmed sanctity to save an assumed life...” (49) Although those who allow cutting the belly in such a case, or even consider it an obligation, make more sense, I have only quoted the opinion of those who forbid it to show the extent to which scholars go in stressing the sanctity of the dead.

Notes

1. Ibn Manthur, *Lisan Al-'Arab*, 1, 773.
2. *Ibid.*, 3, 547.
3. *Ibid.*, 1, 773.
4. Ibn Kathir's *Commentary* (on the Quran), 3, 93.
5. Related by Al-Bukhari in the chapter on Prayers, 7, 8, and 16; and by Muslim in the chapter on Glorification (of God), tradition no. 59.
6. See Ibn Kathir, 3, 32.
7. Ibn Kathir, 154 (sic).
8. Ibn Jarir Al-Tabari's *Commentary* (on the Quran), 1, 187.
9. *Ibid.*, 1, 188.
10. Al-Qurtubi's *Commentary* (on the Quran), 4, 56.
11. To find out about these interpretations, see Al-Tabari, 1, 186.
12. A biologist-zoologist, who received his Ph.D. from the University of Minnesota; Professor at the University of Frankfurt, Germany; Member of the Science Academy of Indiana; and author of many biological works.
13. John Clover Mons, *Allah Yatajalla Fi 'Asr Al-'Ilm* (God Reveals Himself in the Age of Science), Dr. Al-Damardash Sarhan, trans., p.73.
14. Dr. Muhammad Ali Al-Barr, *Al-Tabyan Bi-Wasitet Kitab Khalq Al-Insan* p. 189.
15. Al-Barr, *Khalq Al-Insan Bain Al-Tib Wa Al-Qanun*, p. 191.
16. Al-Bukhari's "*Sahih*". See its interpretation, i.e. *Faith Al-Bari*, 11, 477. Also see Ibn Rajab, *Jame' Al-'Ulum Wa Al-Hikam* p. 44.
17. The word spirit is used in the Quran to refer to the inspiration coming from Heaven: (*THUS WE HAVE INSPIRED YOU WITH A SPIRIT OF OUR WILL... Al-Shura*, V52); To Gabriel, Peace be upon him: (*WE SENT HER OUR SPIRIT IN THE SEMBLANCE OF A FULL-GROWN HUMAN BEING... Maryam*, 17); and to Jesus: (*JESUS, THE MESSIAH, SON OF MARY, IS NO MORE THAN GOD'S MESSAGE AND HIS WORD CONVEYED TO MARY AND A SPIRIT FROM HIM... Al-Nisa'*, V171). The

word in this paper is used in the sense mentioned at the beginning. A spirit is alive when attached to a body and dead when detached.

18. Al-Shahristani, *Al-Milal Wa Al-Nihal*, 2, 132.
19. Al-Mu'tazilah is a name for a Muslim religious school which flourished for a brief period before it declined. (Translator's Note).
20. "Risalet Al-'Aql Wa Al-Ruh", *Majmu' et Al-Rasa'el Al-Muniryah*, 2, 21.
21. Al-Qurtubi, 17, 230.
22. *Ibid.*, 19, 111.
23. Ibn Taimiyah, 2, 37.
24. *Ibid.*, 2, 39.
25. *Ibid.*, 2, 41.
26. *Ibid.*, same volume and page.
27. *Al-Majmu': Sharh Al-Muhaththab by Al-Nawawi*, 5, 125.
28. *Ibid.*, same volume and page.
29. *Ibid.*, same volume and page.
30. *Ibid.*, same volume and page.
31. Muslim's "Sahih", chapter on Funerals, tradition no. 9.
32. Physicians today affirm that the death of a brain-stem signifies the death of its owner. This is clearly stated in the papers submitted by the honourable physicians.
33. *Nail Al-Awtar*, 7, 72.
34. *Ibid.*, same volume and page.
35. Ibn Taimiyah's *Collected Rulings*, 34, 159.
36. *Ibid.*, 34, 160.
37. *Ibid.*, 34, 161.
38. Ibn Rajab, p. 46.
39. 2, 237.
40. *Ibid.*, same volume and page.
41. Muradawi, *Al-Insaf*, 1, 386.

42. *Ihya' 'Ulum Al-Din*, 2, 51.
43. Muhammad Sa'id Ramadhān Al-Buti, *Mas'aleṭ Tahdīd Al-Naṣl*, p. 76.
44. See *Irwa' Al-Ghalīl*, 3, 214.
45. *Kashshaf Al-Qīna'*, 2, 127.
46. *Al-Zawajir 'An Iqtiraf Al-Kaba'er*, 1, 165.
47. See *Irwa' Al-Ghalīl*, 3, 207.
48. See *Irwa' Al-Ghalīl*, 3, 211.
49. *Al-Mubde' Fi Sharh Al-Muqne'*, 2, 227. See the same point in Ibn Qudamah, *Al-Mughni*, 2, 551.

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LIFE: ITS INCEPTION

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The question of life and death and what relates to it, such as the questions of spirit and soul, their mortality or immortality, and the denotation of the word human, whether it refers to the spirit alone, the body alone, or the combination of both all these are issues and question that have been subject to studies by our early, righteous scholars and scholastic theologians. Other philosophers and wise men, since the earliest ages, have also paid these topics special attention. Now all these are succeeded by modern science, with its progress that staggers the minds with wonder, having introduced inventions that seem beyond one's wildest imagination. At the hands of modern science and its sophisticated inventions and techniques, the human body has become somewhat like a machine; when a part breaks down, it is replaced with another. Praise be to God, Creator of the universe, Who makes such means available, choosing whoever He pleases from amongst His creatures to introduce it through him, thus confirming what He says:

*WE WILL SHOW THEM OUR SIGNS IN ALL THE REGIONS OF THE
EARTH AND IN THEIR OWN SOULS, UNTIL THEY CLEARLY SEE
THAT THIS IS THE TRUTH. DOES IT NOT SUFFICE THAT GOD IS
WATCHING OVER ALL THINGS?*

(S41:V53)

it will discuss these points now in as much as time allows.

Al-Ruh: Meaning and Denotations

Al-ruh, the Arabic for spirit, is used to mean several things: (1) First, it means the spirit inside a body, which is gathered by God as the time of death.

Second, it refers to Gabriel, Peace be upon him, as in God's statement, ... *AND WE SUPPORTED HIM WITH THE HOLY SPIRIT, (S2-V253)*

meaning Gabriel.

Third, the word is used to mean a great angel who stands in a rank by himself, while other angels stand in another rank. He is in charge of the other angels. God says,

ON THE DAY WHEN THE SPIRIT AND THE ANGELS STAND UP IN THEIR RANKS...

(S78:V38)

It is said that it was this angel the Israelites were asking about when they asked the Prophet, Peace be upon him, about the spirit, which is referred to in the verse:

THEY ASK YOU ABOUT THE SPIRIT. SAY, 'KNOWLEDGE OF THE SPIRIT BELONGS TO MY LORD'.

(S17:V85)

Fourth, the word is used to denote blowing. Thu Al-Rimmaḥ says, referring to a fire he has lighted:

When she came into being, I took care of her while still a child,
In utter darkness, not yet one arm, or even one foot high. I said
to him, 'Lift her to you. Bring her to life With your breath, and
feed her sufficiently. Give her the support of dry, thin sticks. Let
The East Wind help you with her. Cover her with your hands.

For "your breath", the poet uses the same Arabic word for "spirit".

Fifth, the word refers to God's Revelation. It is called "spirit" because it signifies life for people who were ignorant, experiencing the death of faithlessness. God says,

HE LETS THE SPIRIT DESCEND AT HIS BEHEST ON THOSE OF HIS SERVANTS THAT HE CHOOSES.

(S40:V15)

He also says,

THUS WE HAVE INSPIRED YOU WITH A SPIRIT OF OUR WILL.

(S42:V52)

Sixth, Spirit also refers to Jesus, who is called God's Spirit, because Gabriel breathed him into Mariam's (Mary's) uterus. This Spirit is called "God's," because it was breathed in at God's instruction. When God says,

WE BREATHED INTO HER OF OUR SPIRIT, *(S21:V91)*

He means that Gabriel did the actual breathing.

Seventh, God's mercy is also called Spirit. God says,

HE SUPPORTED THEM WITH A SPIRIT OF HIS OWN,

(S58:V22)

i.e. with mercy.

These are a number of meanings for the word "spirit", and it is clear that some of them are quite close as will become more apparent in the course of this paper. The first, fourth, and sixth meanings have some similarity, and they are not completely different from the fifth, which implies a figurative life after a figurative death. Imam Al-Qurtubi says that the Quran is called "Spirit," because it represents a new life after the death represented by ignorance. (2) Some commentators on the Quran believe that the subject of the question referred to in God's saying,

THEY ASK YOU ABOUT THE SPIRIT,

is the Quran, meaning that the Prophet will be asked where has he got the Quran from. By

SAY, KNOWLEDGE OF THE SPIRIT BELONGS TO MY LORD

the Prophet is ordered to say that the Quran is an inimitable thing revealed to him by God, whose concern it is. Thus the answer is appropriate for the question. Most, however, believe the question concerns the spirit that gives life to the body. Some say the Prophet was asked about the nature of the spirit and how it functions in the human body and associates with it, and how it and life are linked together. This is something that only God knows, and that is the reason for the ambiguous answer.

SAY, KNOWLEDGE OF THE SPIRIT BELONGS TO MY LORD,

which signifies that only He, the Creator of the spirit, knows its secret. No human being has that knowledge. Man is thus aware of his inability to know all about himself, although he does know that the spirit exists. With this ignorance of his own nature, it stands to reason that he is incapable of perceiving the true nature of God. If the human mind is helpless to know all about a created object that lives with it, it is certainly more helpless to know the truth about its Creator. (3)

Al-Jurjani distinguishes three types of spirit, to each of which he gives a special name. These are human spirit, animal spirit, and the Greater

Spirit. Human spirit, according to him, is a delicate one of which man is aware, and which is mounted over the animal spirit. Human spirit, which descends from the world of authority, is something which the mind is unable to understand and which may exist in isolation or within the body. Animal spirit is a delicate object that comes out of the heart cavity and spreads into all parts of the body through the blood vessels. (4)

The Soul: (5) Its Meaning, Denotation, and Relation to the Spirit

This word is also used to refer to several things. In some of its references, it is a synonym of spirit, while in others it means the same as self. God says,

*GREET YOUR SOULS, AND ON THE DAY WHEN EVERY SOUL
COMES ARGUING FOR ITSELF...*

It is said that what has no running "soul," does not make water foul. It also means "the above-mentioned" and "punishment". It is used in the latter sense when God says,

GOD WARNS YOU AGAINST HIMSELF,

where the Arabic word for "Himself" is the same as for "His soul," and by which punishment is meant.

The Relation Between Soul and Spirit

The majority of scholars hold that soul and spirit are one and the same thing. Some tradition, *fiqh*, and mystic scholars, however, hold the view that they differ, while other *Sunnah* scholars say that neither the spirit is the soul nor is the soul the spirit, that the soul is the image of a person, and that the soul is only concerned with this world while the spirit is concerned with the Afterlife.

Those who believe that soul and spirit are synonyms cite language usage as evidence. To say "his soul has departed" means "his spirit has departed". Abu Khirash says:

He came out safe, his soul having choked, The only things to
come safe were a sword scabbard and a cloak.

Ibn Al-Qayyem says the spirit which dies and is gathered is one spirit, which is the soul. (6)

Aspects of Difference Between Soul and Spirit

The word "soul" is used to mean one's self as a whole, as already

pointed out with examples. It is also used to signify the spirit alone, as when God says,

O SERENE SOUL, (S89:V27)

YIELD UP YOUR SOULS, (S6:V93)

AND RESTRAINED HIS SOUL FROM FOLLOWING ITS DESIRES,

(S79:V40)

(S12:V52)

MAN'S SOUL IS INCLINED TO EVIL.

The word "spirit" is never used to refer to the body alone, nor to body and soul together. The two terms do not refer to two completely different things, but they differ in usage.

Where the Name Comes from

A spirit is called by that name because the body lives with it, and the soul is called "spirit" because it also brings life. The Arabic word for soul (*nafs*) is either derived from the same root for precious things, because it is precious and highly esteemed, or from the root for breathing, because like the process of breathing, it goes out and comes back into the body very frequently. When someone goes to sleep, his soul departs, and it comes back when he wakes up. When he dies, it departs for good.

The same word for soul is used to refer to blood, because if it drains out of the body, a person dies, which means his soul has departed. So the exist of the blood and the soul coincides. As in the case of the soul, life cannot be without the blood. A poet says:

Our souls spill on the sharp edges of swords,
And only there do they spill out.

A person's soul is said to have emanated, exited, or departed. A spirit is also said to exit or depart. Emanation, however, suggests flowing out in one gush, and the same Arabic root is used to describe a powerful torrent. The Arabic word for "emanate" in this context denotes an involuntary, rather than voluntary, action, suggesting that it is God that makes the soul emanate. (7)

The Spirit's Location Inside the Body

This question is part of the discussion on the denotation of the term "human being," whether it refers to the spirit alone, the body alone, or both at the same time. Al-Razi and others who followed his example say it is a certain object inside the body. They differ, however, on what that object

consists of. One theory is that it is a mixture of the four elements of which the body is composed. Another says it is the blood. A third theory says the object is a delicate spirit formed at the left side of the heart and flowing, through the veins, into all organs of the body. A fourth opinion says it is the spirit that rises from the heart to the brain and make the necessary adjustment to be capable of memorization, grasping ideas, and singing God's praises. Another point of view is that it is an inseparable part of the heart. According to a sixth theory, a human being is an entity different in nature from the tangible body, it is an ethereal, live body of light which moves and which penetrates into the essence of organs the same way water goes through roses, oil through olives, and fire through coal. As long as these organs are receptive of the overflow of this delicate body, it continues its union with them, by virtue of which they have the ability to feel and to move voluntarily. If the organs spoil due to the dominance of the harsher elements and are no longer receptive to the influence of this ethereal body, the spirit departs and moves into the world of spirits. (8) This is the point of view supported by Ibn Al-Qayyem, who says, "It is the correct answer to the question, as suggested by the Quran, the *Sunnah*, the unanimity of the Companions, and the evidence of common sense", which he cites.

Life: Its Meaning, Stages, and Relation to Spirit

One of the manifestations of the dazzling power of God, the Most Sublime, is His creation of life and death, as He Himself asserts:

*BLESSED BE HE WITHIN WHOSE GRASP ALL SOVEREIGNTY IS
AS WELL AS LIFE AND WHO HAS POWER TO DO EVERYTHING.
HE CREATED DEATH AS WELL AS LIFE TO PUT YOU TO A TEST
TO DETERMINE WHICH OF YOU IS BEST IN CONDUCT.*

(S67:V1-2)

"Life" as used in this verse means man's life on earth before his death and his life in the Hereafter when he is resurrected after he dies. Life on earth is a power given to man by God and made by Him the source of reason, knowledge, and work. His life in the Hereafter is also a power given to him by God through resurrection, allowing him immortality. If a person behaves well, his life is made pleasant. If he misbehaves, he is doing himself much harm for it is never God that deals injustice to anyone.

Life on earth, which is the power of reason, knowledge, and work, is the medium to prepare for the Hereafter. On the Day of Judgement, a person who has disobeyed his Lord exclaims,

Perfect life which is completely devoid of blemishes and defects is a quality of God, the Most Sublime. It is a quality defined by scholastic theologians as an old existentialist quality which coincides with His being and which allows Him perfect perception, in the sense that He has the qualities of perception, such as knowing, hearing, seeing, and others, as well as other qualities, such as power and will. (9) Although the quality of life is ascribed to the inevitable as well as the possible, the inevitable aspect is more dominant in the case of God, the Most Great and Sublime. As for the life with which creatures are described, it is an accidental, disturbed life that cannot be without blemishes.

Life and Spirit

Accidental life may occur without a spirit accompanying it. Scholars take two different approaches on this point. The first is followed by scholastic theologians, while the other is the approach of *fiqh* scholars, particularly those who deal in medicine.

Theologians justify their claim that accidental life and spirit do not have to coincide by saying that life may occur without being accompanied by a spirit. They add that God has given life to many inanimate things, such as the trees which greeted the Prophet, Peace be upon him, and the pebbles who sang God's praises in the Prophet's hand.

An example of *fiqh* scholars who have an amount of medical knowledge is Ibn Al-Qayyem, a man regarded as a physician who has been a famous *fiqh* scholar. He follows a certain approach in dealing with the point that life and spirit do not have to coincide. If we translate his words, which we will soon quote, into modern terminology, we may say that the life of a sperm or an ovum is a spiritless life and that when they unite into one cell, that cell still has spiritless life. Spirit is introduced when an angel breathes it in, and it is through this breathing that a fetus acquires a spirit. Ibn Al-Qayyem says:

God, the Sublime, sends an angel who blows into the fetus and that blow introduces spirit into it. The blow is the means by which it acquires a spirit, the same way that intercourse and ejaculation are the means by which it acquires a body, and the same way that nutrition is the means of its growth. The composition of the spirit is the result of the angel's breath, the

same way that the composition of the body is the result of ejecting semen into a womb; one is a heavenly object, the other is an earthly one.

Spirit Breathing: Its Timing and Its Types

Surah statements are explicit in specifying the timing of spirit breathing. In his book *Shifa' Al-Aili*, (12) Imam Ibn Al-Qayyem quotes the various versions of the Prophet's traditions on this point and then arrives at a compromise that eliminates what seems at first glance differences and contradictions. To avoid a lengthy quotation, I will only quote the conclusion of his discussion in which he explains away the seeming differences, as this conclusion is sufficient in itself. He says:

In Ibn Mas'oud's version the foreordination takes place 120 days after the conception of a germ in a uterus. Anas's version defines no particular time, while the version of Huthaifah Ibn Usaid defines the time as forty days, or forty, forty-two, or forty-three nights according to other narrators. ... Many people believe the two versions contradict each other, but, praise be to God, there is actually no contradiction. The angel in charge of a germ writes down what God preordains at the end of the first forty days, while the angel in charge of breathing the spirit in does that at the end of the third forty-day term. When he does the breathing in, he is ordered to write down the livelihood, life span, career, and misery or happiness of the fetus. This is a foreordination different from the first one, recorded by the angel in charge of the germ. That's why the Ibn Mas'oud's version says, 'Then an angel is sent to him and ordered to write down four words'. As for the angel in charge of the germ, he sticks by it and changes it from one condition into another. God foreordains the germ's condition, until it is time for it to take human form, which is during the germ-cell stage. He also foreordains the future of the spirit when attached to the body at the end of the first 120 days.

The Quranic verse in the *Surah* entitled Al-Hajj (verse 5) shows the stages of man's creation:

MEN, IF YOU DOUBT THE RESURRECTION, WE FIRST CREATED YOU FROM DUST, THEN FROM A DROP OF SPERM, THEN FROM A GERM-CELL, AND THEN FROM A FORMED AND YET NOT FORMED EMBRYONIC LUMP, SO THAT WE MIGHT MAKE

THINGS CLEAR TO YOU. WE CAUSE TO REMAIN IN THE WOMB WHICHEVER OF YOU WE PLEASE FOR AN APPOINTED TERM, AND THEN WE BRING YOU OUT AS INFANTS, THAT YOU MAY GROW UP AND REACH YOUR PRIME SOME OF YOU DIE THEN, AND SOME LIVE ON TO THE WORST AGE, WHEN THEY NO LONGER KNOW WHAT THEY USED TO KNOW.

(S22:V5)

The stages of creation described here show God's Power and Wisdom. His Power was also evident in His first human creation, when He created Adam, whom He distinguished with four privileges denied to his offspring. These are (1) that God created him with His own hand, (2) that He breathed into him of His own Spirit, (3) that He made His angels fall prostrate to him, and (4) that He taught him the names of all things.

Ibn Al-Qayyem says:

Breathing requires someone to do it, the act itself, and the thing which is breathed in. That thing is the Spirit, which is ascribed to God, of which the breathing into Adam's clay took place. It was God, the Sublime, who breathed into that clay of His Spirit. Whether the breathing was actually performed by God directly, the same way He fashioned Adam with His hand, or done at His order, as it was in the case of Mariam (Mary), cannot be determined without evidence. The difference between fashioning Adam with His hand and breathing into him of His Spirit is that the Hand is not a creation of His, while the Spirit is, and creation is an action of God.

This is one type of creation, the creation of the first human being, the father of humanity, Adam Peace be upon him. Another type is the creation of Jesus, Peace be upon him. On this point, Ibn Al-Qayyem mentions that

the Spirit sent to Mariam was God's Spirit, which He had chosen for Himself from amongst all spirits, so that it became a father-figure for all its species. Breathing it into her vagina was like a male-female fertilization process, but without the need for intercourse. It was a special spirit, different from all others, and it was not the angel that was charged with breathing into the bellies of pregnant women, for God does place an angel in charge of a uterus, to breathe spirit into a fetus and to write down its livelihood, life span, career, and misery or happiness.

(13)

Truly the power and wisdom of the Creator are evident in creating man through different stages, making the creature go through opposite conditions. The beginning of human creation was dust, from which Adam is created, and which is the source of food items which man feeds upon. The next step is the drop of sperm, the Arabic word for which means something poured or ejected. Next comes the germ-cell, which is a thickened drop of blood, and it is followed by the embryonic-lump, a piece of flesh originally equal to a mouthful, which is formed and yet not formed; perfected, with no blemish or defect in it, and yet unperfected, complete and yet incomplete; or given form and yet formless. It stays in the uterus as long as God wills it to stay, and then comes out, a child, who also goes through stages of growth and development until it turns into a man at the peak of his physical strength and mental power. Some human beings are caught by death while still in their prime, and some are reverted to their initial image, that of the helpless child, with all the mental decline and senility of that age, when man forgets what he has learned and denies what he has well known. These different images that a person assumes, and the opposite conditions through which he goes, are a great evidence of the ability of the Creator to create similar beings. God also tells us about resurrection and retribution, which will be followed by immortal life and either eternal happiness or non-ending affliction and everlasting torture.

***Fiqh* Rulings Resulting from the Inception of Life or the Breathing of Spirit**

Some of these rulings are related to the earlier form of life, before spirit is breathed in, while others concern the human life that begins with spirit breathing. The controversy among *fiqh* scholars over the points I will survey result from the different views they have concerning these two forms of life. Some believe the earlier life should be respected, while others do not share that view, considering that life has to be protected as from the moment spirit is breathed into a fetus. Here are a number of questions.

First, the Question of Coitus Interruptus

Coitus interruptus means removal of the penis after insertion, so that the semen should be ejected outside the vagina, for fear of conception. (14) Those who regard life sacred only after spirit is breathed in rule it to be lawful, which is the opinion of the majority of scholars. It is, however, prohibited by scholars who insist on the sanctity of life before spirit breathing. Such is the opinion of Ibn Hazm, which is also supported by Ibn

Habban of the Shafie School.

Second, Abortion Before Spirit Breathing

This question branches from the first, that of *coitus interruptus*. Al-Hafez Ibn Hajar says:

From the ruling on *coitus interruptus* is derived that on the treatment of a woman to abort an embryo before spirit is breathed into it. Those who advocate prohibition there, i.e. in the case of *coitus interruptus*, find more reason to advocate it here, and those who advocate permission may include this in it or may distinguish this as a more serious action, because in the case of *coitus interruptus*, nothing is taken, while abortion takes place after something is taken for that purpose. (15)

Imam Al-Ghazali is meticulous in his approach on these two questions:

A baby is created when a sperm falls into the uterus, which happens after four steps have taken place: marriage, intercourse, waiting for ejaculation while coitus is in progress, and allowing time for semen to get into the uterus. Some of these steps are more vital than others... This is different from abortion or burying a child alive, where a crime is committed against a being that exists and goes through stages. The beginning of existence is when a sperm falls into a womb, unites with the woman's liquid, and is ready to receive life. To spoil this is a crime. If the sperm has turned into an embryonic-lump or a germ-cell, the crime is worse, and it is even worse when spirit is breathed into it and it has full human form. The worst crime of all is that which is committed against the baby after it separates, alive, from the mother. The reason that makes me say that existence begins when a sperm gets into the womb rather than when it is ejected out of the penis is that a child is not created out of the man's semen alone, but rather from the gametes produced by both spouses together. (16)

It is worth mentioning that a *fiqh* scholar of the seventh century after Hijra discusses the question of the breathing-in of spirit, its time, and the controversy that was going on between *fiqh* scholars and physicians then. He reaches a conclusion that I believe I should quote verbatim because it

makes good sense and agrees with the opinions of physicians in this age of ours with the scientific discoveries and sophisticated equipment that have made it possible to uncover much of what was regarded as metaphysical in the past. He, may God have mercy on him says:

The time it takes for human form to become distinguishable in an embryo and for spirit to be breathed into it is estimated as 120 days, as the Prophet, Peace be upon him, says,

"The creation of one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm". I say, generalizing this estimated period is a literal interpretation of the tradition, but when the Prophet says, 'one of you', he is speaking about a particular case. The estimated period for the breathing of spirit applies in the case of a particular person, rather than in all cases in general. The usage here is similar to that when God says,

SEND ONE OF YOU WITH THIS SILVER COIN OF YOURS ...
(S18:V19)

and

TAKE ONE OF US AS A SUBSTITUTE.

Physicians deny its general application on the basis of experience, the rejection of which would be the same as rejecting established facts. Since the period of gestation up till delivery differs, how can the period it takes for human form to be distinguishable be the same? And since knowledge of what a uterus has inside it is not available, how is it possible to describe it? (17)

Third, Causing a Pregnant Woman to Miscarry

This is the question of a woman receiving a strike on her belly that causes her to miscarry. Fetus blood money is due in such a case if the fetus is dead when it comes out, according to Shafie scholars. Al-Qaffal says that the fetus has to be fully separated from its mother's body, because if it does not, it is regarded as one of her organs. The origin of the ruling is the decision made by the Prophet, Peace be upon him, in the case of two women who fought with each other, one throwing the other with a stone that killed her, together with a fetus in her belly. The case was referred to the Prophet, who ruled that

"the blood money for the fetus is a 'ghurrah', a male or female slave, and the blood money for the dead woman should be

paid by the killer's clan". (18)

In the ruling narrated in this tradition, the word "fetus" is used. Shafie scholars explain it to mean an embryo that has acquired human form, by having a hand, a finger, or something of the sort. Even if none of these things can be distinguished, they add, and experts, i.e. physicians, testify that an obscure human form is perceptible the '*ghurrah*' is still due. *Fiqh* scholars, however, differ over the case when physicians declare that, although there is no obscure form that is still distinguishable, the miscarried object is a human being in the making; apparently, Shafie scholars believe no fetus blood money is due in this case. All agree that if physicians differ on whether the miscarried object is the origin of a human being, no fetus blood money is due.

Fourth, the Question of a Woman Causing Herself to Abort

If the crime of abortion is committed by the mother herself, such as when a pregnant woman takes a medicine causing herself to abort, the ruling still holds; she has to pay fetus blood money, of which she is not entitled to inherit a thing. All scholars agree over this point. The blood money is due because the abortion is the result of her crime, and she inherits no part of it, because a killer does not inherit his victim. (19)

Fifth, the End of a Pregnant Woman's Waiting Period

It is established that the waiting period of a pregnant woman ends when she delivers. This is revealed in the Quran itself, where God says,

AS FOR THOSE WOMEN WHO ARE PREGNANT, THEIR TERM
ENDS WHEN THEY DELIVER.

Fiqh scholars interpret that to mean the delivery of a baby or fetus in which something of a human form is distinguishable. There are five cases to which this applies.

1. What is delivered has clear human form, i.e. a head, hands, and legs. In this case there is no argument that the waiting period comes to an end.
2. What is delivered is a germ-cell or a drop of blood, where it cannot be told whether it is or not a human being in the making. No ruling applies in such a case, because it is not proved to be, nor does it look like, a baby.
3. What is delivered is a lump of flesh where no human form is perceived,

but trustworthy midwives testify that it has an obscure human form. The ruling in this case is like that in the first, because experts say it is a baby.

4. What is delivered is a lump which has no human form, but trustworthy midwives testify that it is the beginning of a human creature. Here scholars differ in opinion. Some, like Ahmad as quoted by Al-Ashram, say the waiting period does not come to an end in this case, while others, such as Al-Hasan and what Al-Shafie School seems to say, take the testimony of experts and believe a waiting period does come to an end in this case.

5. What is delivered is a lump which has no human form, and no midwife testifies that it is the beginning of a human creature. In this case, the waiting period does not end. (20)

It is said that for the waiting period to end, the minimum period of gestation before delivery is eighty days beginning on the last day the husband had had the chance to have intercourse with his wife, on the basis of the tradition:

The creation of each one of you is brought together in the belly of his mother for forty days of his being a drop of sperm, then for a similar period he is a germ-cell, then for a similar period, he is an embryonic-lump....

So the waiting period cannot end before the first eighty days.

No scholar expresses a different opinion on this point except Al-Hasan, who says:

If it is established that there is a pregnancy, a waiting period ends with it, and if the embryo is the victim of assault, fetus blood money is due. As when four months of pregnancy have passed, there is no longer any controversy, because the baby would have full human form.

Notes

1. Ibn Qutaibah, *Ta'wil Mushkal Al-Qur'an*, pp. 270-272; Mufafel Ibn Sulaiman Al-Balakhī, *Al-Ashbah wa Al-Nezha'er fi Al-Qur'an Al-Karīm*, pp. 161-162.
2. Al-Qurtubi's *Commentary on the Quran* vol. 16, pp. 54-55.
3. *Ibid.*, vol. 10, p. 324.
4. *Al-Ta'rifat*, pp. 99-100.
5. The Arabic word "nafs" is often used in the sense of "self", as well. (Translator).
6. Ibn Al-Qayyem, *Al-Ruh*, p. 351.
7. *Ibid.*, p. 348.
8. *Ibid.*, p. 290.
9. Al-Bajuri, *Notation on the text of Al-Sanusiyah*, p. 23.
10. *Ibid.*, same page.
11. Ibn Al-Qayyem, p. 38.
12. Ibn Al-Qayyem, *Shifa' Al-'Alīl*, pp. 38-41.
13. Ibn Al-Qayyem, *Al-Ruh*, p. 250.
14. Ibn Hajar, *Fatth Al-Bari*, vol. 11, pp. 216, 222.
15. *Ibid.*, same page.
16. *Ihya' Ulum Al-Din (Revival of Religious Studies)*, vol. 2, pp. 65-66.
17. Omar Ibn Muhammad Ibn 'Awadh Al-Sanami (d. 696 H.), Chapter 40, *Nisab Al-Itisab*, Dr. Mu'el Yusuf 'Iz Al-Din, ed.
18. *Sharh 'Umdet Al-Ahkam*, vol. 4, p. 325; Ibn Qudamah, *Al-Mughni* vol. 8, pp. 400-403.
19. Ibn Qudamah, vol. 8, p. 405.
20. *Ibid.*, vol. 8, pp. 82-84; Al-Qurtubi, vol. 3, p. 119.
21. Ibn Qudamah, vol. 8, pp. 82-84.

THE BEGINNING OF LIFE

Abd Al-Qader Ibn Muhammad Al-'Amari
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Islamic Law bases a number of stipulations on the life and death of human beings and animals. But on what basis is a person or an animal pronounced alive or dead? The answer is not supplied by the Legislator, Who desires people in every age and every environment to follow His stipulations and instructions within the limits of their abilities and comprehension, and in accordance with their mental inclinations. The reason for this is that if He specifies something contrary to their perceptions, they may react by having doubts and wavering, which may prove hazardous to the Islamic Faith. It is a sign of God's mercy and wisdom that He does not prohibit the minds from thinking and that His law guarantees the interests of people and meets their needs.

Early *fiqh* scholars, may God reward them worked their minds on the problems which were raised for them to decide and which were not covered by Quranic or *Sunnah* texts. None of them believes that others have to follow his opinion, nor does any claim that his is the only correct Islamic ruling that can allow no argument. Sometimes an opinion of theirs is supported by Islamic evidence, and at other times it is not, being an intuitive conclusion based on deduction as well as experience, and representing remarks arrived at by reading the facts in the light of experience.

Therefore, Imam Ibn Taimiyah says that what is said by a Companion, a member of the generation which followed that of the Companions of the Prophet, or an Imam is regarded a point of view when it follows a religious approach, but when the approach is an ordinary or empirical one, or something of that sort of which experts have more knowledge than *fiqh* scholars, his point of view is not regarded as a *fiqh* opinion, one that is subject of controversy, but a worldly matter of which a scholar does not necessarily have sufficient knowledge. Scholars are the successors of prophets, and the Prophet, Peace be upon him, says,

"You know better your worldly affairs, but when it comes to religious affairs, they are my arena". (1)

It is the habit of *fiqh* scholars to consult and follow the opinion of specialists, each in his field, when there is a need to do so. Rulings are based on such opinions. Physicians in particular are often consulted in matters that relate to man. Moreover, *fiqh* scholars do not hold a skilled physician responsible when he makes a well-intentioned error of judgment, while a quack doctor who makes a mistake has to face the consequences of that mistake. *Fiqh* scholars always seek sound opinions which deal with reality. They, for example, base on the testimony of doctors the ruling that any measures taken by a patient who suffers a terrible, usually-fatal disease are invalid.

As for the inception of human life, the Quran speaks of man's creation:

HE HAS MOULDED YOU IN YOUR MOTHERS' WOMBS, A CREATION OUT OF A CREATION, IN THREE-FOLD DARKNESS

(S39:V6)

i.e. by stages. It also says:

WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY; THEN PLACE HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE. THEN WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL, THEN WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC-LUMP. WE THEN CREATE WITH THE EMBRYONIC-LUMP BONES, THEN WE CLOTHE THE BONES WITH FLESH. WE THEN BRING ALL THIS INTO BEING AS A NEW CREATION. BLESSED BE GOD, THE NOBLEST OF CREATORS.

(S23:V11-14)

WE HAVE CREATED MAN OUT OF A DROP OF SPERM INTERMINGLED, SO THAT WE MAY PUT HIM TO THE TEST. WE HAVE MADE HIM A CREATURE ENDOWED WITH HEARING AND SIGHT.

(S76:V2)

MEN, IF YOU DOUBT THE RESURRECTION, WE FIRST CREATED YOU FROM DUST, THEN FROM A DROP OF SPERM, THEN FROM A GERM-CELL, AND THEN FROM A FORMED AND YET NOT FORMED EMBRYONIC LUMP, SO THAT WE MAY MAKE THINGS CLEAR TO YOU. WE CAUSE TO REMAIN IN THE WOMB WHICHEVER OF YOU WE PLEASE FOR AN APPOINTED TERM, AND THEN WE BRING YOU OUT AS INFANTS...

(S22:V4-5)

DOES MAN BELIEVE HE IS TO BE LEFT TO HIMSELF, TO GO ABOUT WITHOUT A PURPOSE? WAS HE NOT A DROP OF SPERM THAT HAD BEEN SPLIT? THEN IT TURNED INTO A GERM-CELL. THEN HE CREATED AND MOULDED IT ...

(S75:V36-38)

RECITE IN THE NAME OF YOUR LORD WHO HAS CREATED. HE HAS CREATED MAN FROM GERM-CELLS.

(S96:V1-2)

We notice that all these verses speak about creation, but they do not discuss (the inception of) life. Yet, an authentic tradition related by Al-Bukhari and Muslim and narrated by Ibn Mas'oud says:

“The creation of each one of you is brought together in the belly of his mother for forty days of his being a drop of sperm, then for a similar period, he is a germ-cell, then for a similar period, he is an embryonic lump. Then an angel is sent to him to breath spirit into him, and is ordered to write down four words: its livelihood, career, life duration, and whether it is to be miserable or happy”.

In another version, the writing down occurs before the breathing in of spirit. Another authentic tradition listed in Muslim's "Sahih" and narrated by Huthaifah Ibn Usaid, the Prophet, Peace be upon him, says:

“An angel comes to the germ after it has been settled in the womb for forty-two nights. He gives it form and creates its hearing, sight, skin, flesh, and bones, and then asks, 'O Lord, is it to be masculine or feminine?' The Lord ordains what He pleases and the angel writes it down. Then he says, 'O Lord, what about its life span?' The Lord says what He pleases and the angel writes it down. Then he says, 'And its livelihood? The Lord ordains what He pleases and the angel writes it down. Then the angel departs with the tablet in his hand. Nothing is ever added to what he is ordered nor taken away”.

The common way of comprehending the tradition narrated by Ibn Mas'oud is that the stages mentioned take 120 days and that spirit is breathed into a fetus after the third forty-day term, which means at the beginning of the fifth month. If, however, we take other traditions into consideration, particularly the one narrated by Huthaifah Ibn Usaid and related by Muslim, we find that they suggest that all the stages of acquiring human form take place within forty-two nights. Yet, the breathing of spirit is

also mentioned. But why can spirit not be breathed in within the first forty days? The repetition of "forty days" would, in this case, be reference to the same term, the first forty days, for the drop of sperm the germ-cell the embryonic lump, and the breathing of spirit. The Arabic word "thumma" (then), as used in the tradition, would be used in the sense of "and" or to suggest an arrangement of the points mentioned rather than chronological arrangement, which is not an unfamiliar usage. In the Quran itself, sometimes "thumma" and at other times "wa" (and) are used to express the same thing. It says, for example,

THE GERM WE MADE A CLOT OF BLOOD, AND THE CLOT A MORSEL. THIS WE FASHIONED INTO BONES ...

while in the Surah entitled Al-Haj, we read:

THEN FROM A GERM-CELL, AND THEN FROM A ... EMBRYONIC LUMP.

which suggests that the time sequence is not intended. To use "thumma" without intending a chronological order is familiar in the usages of Arabic. A poet says:

A person who rules, and then his father has ruled,
Then his grandfather has also ruled earlier ...

Similarly, we find in the Quran,

HE CREATED YOU FROM A SINGLE SOUL, THEN FROM IT HE MADE ITS MATE.

Al-Razi, in interpreting this verse, says:

The same way the word 'thumma' is used to show that one event occurs later than another, it is also used to show why a certain string of words occurs after another, as when someone says, 'I've learned what you did today and then what you had done yesterday,' or 'I gave you something today, but then I gave you more yesterday'.

It is also used in the sense of "and". In the Surah entitled Al-A'raf, we have,

IT IS HE WHO CREATED YOU FROM A SINGLE SOUL, AND FROM IT HE MADE ITS MATE.

while in the Surah entitled Al-Zumur:

HE CREATED YOU FROM A SINGLE SOUL, THEN FROM IT HE MADE ITS MATE.

In interpreting God's saying,

AND THEN WE ENDOWED MOSES WITH THE BOOK,

Al-Qurtubi says that "*thumma*" (then) is used in the sense of "and". This is one valid interpretation. Therefore, the stages of fetal creation all overlap, and we should not take the tradition to mean that spirit is breathed at the end of all these stages, particularly as different versions of the tradition differ over the order of writing down the information and breathing the spirit in; some mention the breathing before the writing while others the other way around. On this point, interpreters say that this is the result of either the narrators transmitting the tradition the way they understood it or of the fact that the arrangement is that of points not of chronological happenings. There is nothing explicit in the tradition that says spirit breathing occurs after four months. The explicit expression occurs in other sayings ascribed to certain Companions, but the validity of their narration is questionable.

In the two "*Sahih*"'s a tradition is related on the authority of Anas who quotes the Prophet, Peace be upon him, as saying:

"God assigns an angel to go to a uterus. He says, 'Lord, it is a drop of sperm. 'Lord, it is a germ-cell;' 'Lord, it is an embryonic lump'. If God decides to bring forth a creation, He says so. The angel asks, 'Lord, is it a male or female? miserable or happy? What is its livelihood? its life duration?' and all this is ordained for it while in its mother's belly".

This supports the tradition narrated by Ibn Mas'oud but has no periods specified. Therefore, chronological arrangement is not intended, as we find in God's saying in the Surah entitled Al-Sajdah,

HE FIRST CREATED MAN FROM CLAY, THEN MADE HIS PROGENY FROM PALTRY FLUID. THEN HE FASHIONED HIM AND BREATHED INTO HIM OF HIS SPIRIT.

Adam is meant by man here, and it is obvious that fashioning him and breathing Spirit into him occurred before making

HIS PROGENY FROM PLATRY FLUID.

What determines the sex of a child is the sperm which fertilizes an ovum, in accordance with God's wish for his gift, whether it should be male or female.

AND THAT HE CREATED THE TWO SEXES, THE MALE AND THE FEMALE, FROM A DROP OF SPERM ALREADY SPILT,

which is a man's sperm. So the angel who asks whether an embryo is to be male or female does so at the very beginning and not in the order in which the question occurs in the tradition narrated by Huithaifah Ibn Usaid. Chronological arrangement is, therefore, not intended, neither in this tradition, nor in the one narrated by Ibn Mas'oud as far as the breathing-in of spirit is concerned.

Thus the inception of human life occurs when a sperm and an ovum unite, while the life of the sperm itself before uniting with the ovum, though confirmed, is not human life, because it does not turn into a human being unless it unites with an ovum. By the same token, an ovum, though alive, is not and does not become a human being before it unites with a sperm.

It is notable that all early scholars claim a fetus does not have real life before the end of the fourth month of pregnancy, which means before spirit is breathed into it. At their time, however, medicine was not as advanced as it is today, nor did they have the equipment of today to monitor an embryo's movement inside the belly. That is why Ibn Al-Qayyem, in his book *Al-Tabyan Fi Ahkam Al-Qur'an* says:

That process of fashioning progresses further and further, until it can be perceived by the senses in a clear, unobscured way, but still spirit is not yet attached to it. It does at the beginning of the fourth forty-day term, as the truthful one has told. There is no way of knowing about this other than through revelation, because there is nothing in nature that calls for it. This is why the most honourable doctors and most intelligent philosophers have been puzzled over it. They say that the only way to know about it is through a wild guess.

The author of *Al-Tibb Al-Kabir* (The Great Medicine), who has followed their conclusions on this subject, working diligently until he has been exhausted, mentions imaginary situations and then says, 'And true knowledge about this belongs to God, the Sublime. No creature can hope to have it.' I say that he who is inspired and tells nothing but the truth, Peace be upon him, has allowed us to have it, through what is authentically related in the Two "Sahih's":

"The creation of each one of you is brought together in the belly of his mother for forty days of his being a drop of sperm, then for a similar period, he is a germ-cell, then for a similar period he is an embryonic lump, then an angel is sent to him to breath spirit into him and is ordered to write down four

words: its livelihood, life duration, career, and whether it is to be miserable or happy”.

I have come across statements made by physicians concerning the difference in the time it takes for a baby to be delivered. I think it is worthwhile to quote these statements. It is said that it takes a certain period of time for an embryo to be created. Then after a period of the same length, it begins to move. After movement, it takes twice as much as the two periods combined for a fetus to separate from the mother's body. If the embryo is fashioned within thirty days, it begins to move at the end of the first sixty days. If we add to the sixty twice as much, we have 180 days, which is six months, at the end of which the fetus separates. If it is created in thirty-five days, it moves within seventy and separates within seven months. If it is created in forty days, it moves within eighty and separates within eight months. If it is created in forty-five days, it moves within ninety and separates within nine months. And so on.

The same person says, “This means it begins to move in less than forty days”, which is definitely wrong. Spirit is attached to a fetus at the end of the third forty-day term, and then it begins to move. It does not move in less than 120 days, and what incidental movement there might be is the result of tissues and humidity. The computation he mentions is not supported by any evidence or series of experiments, for delivery might occur before or after the time he specifies. The only definite thing is that spirit attaches to the fetus only at the end of the third forty-day term. Any movement believed to take place earlier is, if it does occur, not caused by the spirit. But it is only God who has perfect knowledge.

Sheikh Ibn Al-Qayyem also says:

It is said that you assert that the spirit is attached to a fetus at the end of the third forty-day term, that the creation of an embryo in its mother's belly takes forty days, that for a similar period it is a germ-cell, and that then for another forty days it is an embryonic lump, and if you, in addition, show that what physicians have to say does not contradict what is revealed about the subject, how do you then reconcile that with the tradition of Huthaifah Ibn Usaïd listed in Muslim's “*Saïih*” and

quoting the Prophet, Peace be upon him, as saying:

"An angel comes to the germ after it has been settled in the womb for forty to forty-five nights. He asks, 'O Lord, is it to be miserable or happy?' and the answer is entered. He says, 'O Lord, is it to be masculine or feminine?' and the answer is entered. He also enters its career, influence, life duration, and livelihood. Then the record is folded. Nothing is ever added nor taken away".

They would say that they would readily accept it and believe it, allowing no distortion of it, and that it does not contradict their claim. All there is to it is that foreordination is said to take place after the first forty-day term, while the tradition narrated by Ibn Mas'oud suggests that it takes place after the third. Both are correct, being the words of the truthful one, Peace be upon him. This is one foreordination taking place after another. The first occurs when a germ begins to go through the first phase of taking human form, which is the first human stage. No fashioning takes place earlier. The second foreordination occurs when taking form is finished and spirit is breathed in. This reply is better than the one which claims that 'the forty-day term meant in the tradition narrated by Huthaifa is the third'. Such a claim is far removed from the phrasing of the tradition, which does not support it at all. So contemplate this new answer.

If it is said: how would you reconcile the other tradition in Muslim's Sahih which is narrated by 'Amer Ibn Wathilah, who says he heard Abdulla Ibn Mas'oud, may God be pleased with him, say, 'A miserable person is that who has been miserable inside the belly of his mother, and a happy person is that who learns from the example of others. So 'Amer went to a Companion of the Prophet, Peace be upon him, called Huthaifah Ibn Usaid and told him what Ibn Mas'oud had said. He asked Huthaifah, 'How can a man be miserable when he has done nothing?' Huthaifah said:

Do you find that strange. I have heard the Prophet, Peace be upon him, say,

"An angel comes to the germ after it has been settled in the womb for forty-two nights. He gives it form and creates its hearing, sight, skin, flesh, and bones, and then asks, "O Lord, is it to be masculine or feminine?" The Lord ordains what He pleases and the angel writes it down on a tablet he holds in his hand. Nothing is ever added to what he is ordered nor taken away".

In another version, also in the Authentic Collection, i.e. "Sahih", he says:

I have heard the Prophet, Peace be upon him, with these two ears of mine, say,

"A germ settles in the womb for forty nights, then the angel in charge of fashioning it comes to it. He asks, "O Lord, is it to be masculine or feminine? Is it to be normal or abnormal?" Then he says, "O Lord, what about its livelihood, life span, and form?" Then the Lord ordains whether it is to be miserable or happy".

In yet another version it says,

"An angel is in charge of the uterus. If God wants he fashions something with God's permission within forty-odd nights",

and it goes on like the previous version.

They would say that they would readily accept it and believe it, allowing no distortion of it, and that it is in harmony with what physicians unanimously agree upon, i.e. that fashioning and taking human form occurs after the first forty days. If it is said: how then can this be reconciled with the tradition narrated by Ibn Mas'oud, which explicitly specifies that an embryo is a drop of sperm for forty days, a germ-cell for another forty, and then an embryonic lump for yet another forty? It is well-known that neither a germ-cell nor an embryonic lump has a human form, a skin, flesh, or bones. But there is no need to reconcile this tradition with what physicians say. The Prophet, Peace be upon him, is infallible, while they may err. How then about the need to reconcile the tradition Ibn Mas'oud narrates with the above-quoted tradition narrated by Huthaifah? They would say that, praise be to God, there is no contradiction between the two traditions. They both come from the same truthful, infallible source. A group of interpreters think that the fashioning mentioned in the tradition narrated by Huthaifah takes place at the end of the third forty-day term. They say that it is quite frequent to use "then" to establish a sequence. God says,

*DO YOU NOT SEE HOW GOD SENDS WATER FROM THE SKY
AND THEN THE EARTH IS GREEN?
(S22:V63)*

He also says,

THEN WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL,

THEN WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC LUMP, THEN WE CREATE OUT OF THE EMBRYONIC LUMP BONES, THEN WE CLOTHE THE BONES WITH FLESH...

(S23:V12-14)

This is a sequence on the basis of what takes place first, and it does not have to mean that the second item begins after the first is finished.

Another group believe that by the fashioning and taking form mentioned in the tradition narrated by Huthaifah the process of foreordination and learning about it are meant, while in the tradition narrated by Ibn Mas'oud, what is meant is external existence. Correct understanding of the tradition, however, shows that the earliest time this occurs is within the second forty-day term, but there are two types of giving an embryo human form. The first is an undetectable one in the form of ordainment. It is similar to the fashioning of clothes or making a door. First, the places for cutting and joining are marked. The same way is followed by every person who fashions a certain material into a certain shape, particularly if it is of the type we are concerned with; he fashions it and gives it shape little by little, one step after another, not all at once, the same way that can be seen in the fashioning of an ovum.

Such fashioning goes into four stages. One is the conceived design which has not yet been put into practice. The second is the initial, obscure fashioning that cannot be perceived by the senses. The third is fashioning that can be detected by the senses, but it is not yet complete. The fourth is the completed fashioning that lacks nothing but spirit to be breathed into it.

The first stage then is merely conceived, while the other three are material and tangible. This process of fashioning by stages corresponds to the stages of foreordination. The Lord ordained all creatures in general fifty thousand years before the creation of the heavens and earth. At this point, He ordained happiness, misery, careers, livelihoods, and life durations. The second foreordination followed the first and was more specific. It is the foreordination coinciding with the Two Grasps, when the Lord, Blessed and Sublime is He, grasped the happy human beings in His right hand and said, "These belong to Paradise, and they act as Paradise-bound people are supposed to". He grasped the miserable ones with His other hand and said, "These belong to Hell, and they act as Hell-bound people are supposed to". A third foreordination follows and is even more specific; it is the one that takes place when an angel is made to be in charge of an embryo as in the above-quoted tradition narrated by Huthaifah Ibn Usaid. A fourth foreordination still follows. It takes place

when the fetus has been completely fashioned and spirit is breathed into it, as explicitly mentioned in the tradition quoted earlier. This is an indication of how vast the knowledge of the Lord, Blessed and Sublime is He, is and how He fully grasps generalities and specific details. Moreover, the second foreordination corresponds with the conceived fashioning, the third with the second, and the fourth with the third, which is further evidence of the power of the Lord and of the concordance of the ordained and the real. Blessed is God, the Lord of all creatures and the Best of all creators.

Corresponding to the process of foreordination is the writing down of people's destiny in general and the writing down of what is to happen between one *Qadr* Night (Night of Power) and another. Every stage gives details and specifications further than the one before. The pronouncements of the Prophet, Peace be upon him, confirm and explain each other, and they truly describe, rather than contradict, what is actually happening in the world of reality. What he tells us about is not something inconsistent with what is perceived by the mind and the senses, but rather something that the mind and the senses cannot independently perceive. It is something that allows people to know a particular issue related to faith or a religious ruling related to obligations. Perfect knowledge, however, belongs to God alone.

This is what Imam Ibn Al-Qayyem says. Undoubtedly he speaks the truth, so since things are as he says towards the end of the quoted passage, namely that the Prophet, Peace be upon him, tells us what the mind and the senses cannot independently perceive, not what is inconsistent with what is perceived by the mind and the senses, then we have to interpret the traditions of the Prophet in a way that is consistent with what is actual and tangible, because that is how they are meant. Although the text of a tradition is uncontested, its meaning is not necessarily what ancient scholars say it is. Ibn Al-Qayyem goes through the theories of ancient physicians on which organ of the human body is first created. He says:

There are four conflicting theories on this point. One, which has a majority of supporters, says it is the heart. Another, advanced by Hippocrates, holds that it is the brain and the eyes. A third theory, by Muhammad Ibn Zakariya, says it is the liver, while the fourth, advanced by a group of physicians, contends it is the navel.

Those who support the heart theory say that there is no doubt semen has a spiritual force which explains the power a human being has. An embryo's need for spirit, which is the essence of power, is greater than anything else. Therefore, there should be a special centre for the spirit, out of which it flows into all organs. Spiritual essence is then the first thing to come out of the semen, and it gathers at one centre, surrounded on all sides by everything to which it connects itself. For that reason, the centre has to be in the middle, surrounded by all other parts. That middle is the heart.

They add that the perfection of a human body depends on the temperature that allows it to survive, so the organ which supplies this natural energy, which is the heart, has to come first.

They further say that all energy comes from the spirit, which has to have something to which it is attached and which has therefore to precede it, and that is the heart.

They also say that this is more in accordance and in harmony with the wisdom of the Sublime Lord, for the heart is a monarch and the other organs are its troops. If the heart is sound, its troop are the same, and if it is corrupt, they are corrupt as well. The Prophet, Peace be upon him, says something to the same effect in his tradition that says,

"There is a lump in the body which, when sound, makes it all sound, and when spoiled, makes it all spoiled. It is the heart".

It stands to reason that this lump should exist before all other organs, which follow it in existence as they follow it in being sound and in being spoiled.

They also say that anatomists have detected a seed in the midst of a sperm after conception has taken place.

Supporters of the brain theory say, 'We have seen that the head is the first thing that is fashioned of a chick within an egg, and it is a Divine Law that the first part of a baby that comes out into existence is the head'.

Advocates of the liver theory hold that since a sperm needs a nourishing energy that strengthens its essence until it forms

and organs begin to emerge, the first organ to appear is the one that supplies that nourishing energy, which is the liver.

Promoters of the navel theory say that an embryo's need for food intake is stronger than its need for strength or consciousness, and food intake comes through the navel.

Among these, the first theory makes most sense, for the heart--with the status, honour, and location given to it by God--has to be the organ created before all others. God alone, however, has perfect knowledge.

If it is asked whether an embryo moves and feels before spirit is breathed into it, the answer is that it is characterized by the growth and feeding movement familiar in vegetation, and this is not voluntary movement. Once spirit is breathed into it, the movement of feeling and will is added to that of growth and feeding.

It seems that Ibn Al-Qayyem is defining here two types of life for an embryo; one is similar to that of plants, which he terms the growth and feeding movement and which precedes the breathing-in of spirit, and the other is human life that comes after spirit is breathed in. We can consider that the life evident to us is the first. However, whether life is of one type or two, assault against an embryo/fetus is unlawful, whether in the early or the advanced stages of pregnancy. Those who advocate the permissibility of abortion within the first four months cannot use as evidence the surface meaning of the tradition narrated by Ibn Mas'oud, because it does not support their view. They have to look for some other evidence. The most they can find in the surface meaning of that tradition is that spirit is breathed in at the end of the fourth month, but how can this be an evidence that abortion is lawful earlier? Except, perhaps, that they conclude that an embryo has no life in the first four months. But since it is established that it actually is alive, which can be perceived by the senses, how can we permit assault against this life? On the other hand, it is invalid to make an analogy between this and *coitus interruptus*, for the latter takes place before the union of a sperm and an ovum, and we cannot refer to semen in this case as a human being in the making. There is no statement, in the Quran or *Sunnah*, that urges us to protect sperms before they get into the uterus. They are part of semen, which some scholars claim to be impure, while no one says that an embryo in the first four months is impure. Islamic Law calls for the payment of compensation, in the form of a male or female slave or five per cent of the regular blood money, for causing a

miscarriage, whether within the first four months or later. Hanbali scholars say if the miscarriage is caused after the first six months then full blood money must be paid. Ibn Al-Qasem of the Maliki School says, "Whoever intentionally kills a fetus by striking the belly of its mother is liable to retribution".

An embryo has rights established by the Legislator. It enjoys eligibility to rights, though this eligibility is incomplete. It is, for example, entitled to inherit, although this is confirmed only after it is delivered as a living baby. Imam Abu Muhammad Ibn Hazm says:

Could we be sure that it is alive, we would say it is entitled to inherit. But what seems to be pregnancy can be just gases, an embryo may be dead inside the belly, or the belly may swell as a result of a disease. We can make sure that it is alive only by seeing it alive.

Note

1. See the *Collected Rulings*, vol. 29, chapter 9.

THE INCEPTION OF HUMAN LIFE IN LIGHT OF THE QURAN AND THE PROPHET'S SUNNAH

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Before I begin this paper, I want to make some points on which we all agree.

First, God, monopolizes the knowledge of certain things, which He has not revealed to anyone, not even His prophets and messengers. Among these are (a) what every female bears, by how much the wombs may fall short and by how much they increase; (b) knowledge of the spirit and the time for the Hour of Resurrection; (c) the time at which man and all creatures on earth die; and (d) the gains man will make on the morrow.

Second, the rationale for creating man is not something we can find out by ourselves. It is a secret, the knowledge of which is given to us through revelation.

Third, all scholars and thinkers, whether ancient or modern, agree that death is the destruction of spirit and its departure from the body.

Fourth, all *fiqh* scholars agree that a fetus does not inherit and is not inherited unless it gets out of its mother's belly and cries, indicating that it is alive.

Fifth, they also all agree that if a fetus dies after having gone through all the stages of fetal development, then it is washed and shrouded, the prayer for the dead is performed for it, and it is buried.

Sixth, the Quran cannot be subject to experiments and theories based on guesses, but the contrary is true.

Since the information we have concerning human life and the way it ends is insufficient, we have to seek guidance on this subject in the Quran and the Prophet's *Sunnah*, for they supply the most truthful account on the

subject. Therefore, my approach to this subject is a religious one. But first I want to offer a foreword on how to know the truth about man, the soul, the spirit, reason, and the heart.

As for the truth about man, it is something hard to find out, since all particulars concerning his existence are secret to us.

The claim of logicians in defining this phenomenon that man is a talking animal and that this definition is comprehensive as it embraces all the particulars is in fact a convention of theirs, which does distinguish this phenomenon from others, but it neglects certain particulars evident to us. Perhaps there are other particulars which are known to God, Glorious and Sublime is He, and of which we know nothing.

As for soul and spirit, they are said to mean the same thing, but soul is more frequently mentioned in the Quran than spirit.

Scholastic theologians have differed over their being free of matter. Some, including Imam Al-Ghazali, say they are two immaterial essences.

Others say they are two substances that mix within the body the way milk mixes with water, and this opinion is held by a majority of scholars.

Those who claim they are immaterial use as examples the rays of the sun and how they reach the earth or the tie that binds lovers, which may get stronger or weaker.

The second view is that the soul is something other than the spirit, and it is supported by the fact that it is the soul that is usually addressed and that it may incline to good or to evil, while the spirit is never addressed and it is a source of good. This controversy, however, is pointless. A human being cannot be so without a soul and a living spirit. If a human being is devoid of them, he is no longer human. Therefore, duties are imposed on a human being either as a body and soul or on the soul alone.

Examples of duties for both are prayers, fasting, pilgrimage, and all devotional duties. Duties for the soul alone are, for example, belief in and knowledge of God. Retribution in the Hereafter is of the same type as duties in this world, allowing everyone to receive his due share of everlasting bliss or painful suffering.

An example of the reward for both body and soul is the enjoyment of the wide-eyed nymphs of Paradise, its fruits, and other things in which both rejoice.

Reward for the soul is mentioned by God, when he says,

AND IT HAS WHAT SOULS DESIRE AND EYES ENJOY.

Happiness, pleasure, and other things are examples of what gives joy to a soul.

Punishment for both is hellfire, burning in it, and suffering it for ever.

Punishment for the soul alone is the regret over what a person allows to slip away from him in this life:

ALAS! I HAVE WASTED MY CHANCE AND SCOFFED AT GOD'S REVELATIONS!

His vain begging to come back to this life to work and make up for what he has missed, which goes unanswered with the only thing he is told is to stay where he is in hell, is an example of torture for the soul.

Reason is the power of thinking, conception, comprehension, and discrimination. God has given this power to man to honour him and prefer him over all His other creatures.

As for the heart, the reference to it in the Quran is a reference to reason rather than to the muscle that is made of the delicacies in food, according to physicians.

Philosophers of Divinity believe that a soul is non-material. It is the soul that manages, sets standards, and influences the body, making it heat up when a person is angry, blush when he is shy or embarrassed, and turn pale when he is terrified. It is like a legislative power.

According to them, reason is also non-material. It is the power that carries out the arrangements of the soul. It is similar to an executive power.

As for the spirit, they believe it is a delicate vapour-like substance which the soul floods with a power that allows it to go through all parts of the body.

The heart, as they see it, is a substance made of delicacies.

Let us now discuss first human life and then the end of this life.

The Inception of Human Life

The Quran tells us the story of man's creation in several verses such as the ones in the Surahs entitled Al-Mu'minun, Al-Haj, Ghafer, and Al-Sajdah. The clearest passage in specifying all the human stages is that

of Al-Mu'minin, which explains the stages of creation as starting with a drop of sperm, which turns into a germ-cell, which in turn becomes an embryonic lump, and then it shapes into a human skeleton, with arms, legs, eyes, and a head. The bones are next covered with flesh. After that, spirit is breathed in, then when the creature's life runs its course he is made to die. Then he is resurrected. God says:

WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY: THEN
PLACE HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE. THEN
WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL AND
OUT OF THE GERM-CELL WE CREATE AN EMBRYONIC LUMP.
THEN WE CREATE OUT OF THE EMBRYONIC LUMP BONES.
THEN WE CLOTHE THE BONES WITH FLESH, THEN WE BRING
ALL THIS INTO BEING AS A NEW CREATION. BLESSED BE GOD,
THE NOBLEST OF CREATORS.

Explanation of these Verses, and What May Be Concluded

After God shows how Adam is made of an essence of clay, He shows how his progeny, human beings in general, are created, and the stages through which they go in the bellies of their mothers.

The first stage is a sperm ejected into an ovum of a woman and settled in her womb. This sperm is turned into a germ-cell, which goes into the other stages mentioned above.

The fourth stage is that of bringing it forth as "a new creation", by breathing spirit into it, as Ibn 'Abbas and others are quoted to have said. Although the verses do not mention the duration of each of these stages, the usage of the word "then" suggests an interval between the beginning of each stage and the next. This is explained in the famous tradition:

"The creation of each one of you is brought together in the belly of his mother for forty days of his being a drop of sperm, then for a similar period, he is germ-cell, therefore a similar period, he is an embryonic lump then an angel is sent to him to breath spirit into him, and is ordered to write down four words: its livelihood, life duration, career, and whether it is to be miserable or happy".

Some scholars take the phrase "a new creation", i.e. a creation different from the first, to mean that life begins with the breathing in of spirit. Unlike the stages that occur before spirit is breathed in, this creation after the breathing in process has the powers of conception, comprehension, discrimination, and others, which include all the systems characteris-

tic of a human being.

Humanity does not exist before its most important ingredient exists. When one part of a whole gets lost, the whole itself is lost, like when one is deducted from ten; it is no longer ten.

These are proofs that life begins with the breathing in of spirit, i.e. at the moment the breathing in takes place.

Another proof is to be found in the verse of the *Surah* entitled Al-Haj, where God says:

MEN, IF YOU DOUBT THE RESURRECTION, WE FIRST CREATED YOU FROM DUST, THEN FROM A DROP OF SPERM, THEN FROM A GERM-CELL, AND THEN FROM A FORMED AND YET NOT FORMED EMBRYONIC LUMP.

The phrase

FORMED AND YET NOT FORMED

suggests that a fetus has no life before spirit is breathed into it, because it still can be subject to forming or to something else.

A third proof that a human being does not exist before the breathing in is the fact that the components and immunity systems of such a being are not completed. How then can something that does not exist be alive? In his *longer Commentary*, Al-Fakhr Al-Razi goes as far as saying that an embryo in those early stages is an inanimate object. That is why the subject of discussion should be: the Inception of embryonic Life and the End of Human Life, because before the breathing in, it is an embryo rather than a human being.

It may be asked, in the light of there being no life before the breathing in, how an embryo grows and develops like a seed in the soil when sufficiently watered until it develops into a tree that keeps on growing. The answer may be that an embryo's case is different, for it originates with the sperm, which is a living being, that influences its growth and development before spirit is breathed into it.

As for those who claim the life of an embryo begins at the moment of fertilization, they may be taking into account the consideration given to it by the Legislator, Who stipulates certain rulings concerning it as the distribution of a legacy, where an embryo's share is kept until it is born and its sex is determined.

Some scholars say a legacy is divided and the larger share, the share

of a male, is kept for the fetus. If it turns out after delivery to be a male, it is entitled to that share. If it is a female, it takes a female share, and the rest is divided among the other legatees. Other rulings cover abortion, where the case of a fashioned fetus is regarded as more serious than that of an unfashioned embryo. If miscarriage is the result of assault committed by someone against a pregnant woman, he is punished and has, in addition, to pay fetus blood money. The more advanced the stage of fetal development, the more severe the punishment. Another ruling is that a dead fetus is washed, shrouded, and buried, but no prayer is performed for it.

Another yet is that it enjoys an imperfect eligibility to rights. It can receive gifts, charity, and endowments through its guardian, who receives no compensation if he has sufficient income. Other stipulations are made in Islamic *fiqh*, though some of these are subject to controversy among master scholars.

Is It Possible to Reconcile the Two Views on The Inception of Life?

Yes, they may be reconciled by saying that when by life we mean the real life with which a human being, with all his characteristics, becomes complete, then life begins at the time spirit is breathed in. If, however, we mean any type of life, even if it is nominal, then life begins at the time of fertilization.

What makes more sense and is more acceptable is that the word life, when used, refers to full life, which makes a human being what he is. In fact assault against a fetus after spirit breathing is a crime against a fully-formed human being. If it is intentionally committed by someone, he is a murderer and, if all the elements of intentional manslaughter apply, he must be subjected to retribution in kind.

THE INCEPTION OF HUMAN LIFE

Dr. Mustafa Sabri Ardughdu

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The Organization is right in holding a seminar on such innovations as relevant to its field and in making, through a synthesis of the opinions of *fiqh* specialists, the attitude of Islamic Legislation on medical progress known to everybody, especially that it has become possible to transplant from one person to another certain organs, some of which, such as the heart, kidney, or liver for example, are vital.

Knowing the attitude of Islamic Legislation on such innovations is of great importance to faithful Muslim physicians within the framework of their practice in the service of mankind. Such knowledge allows them to know what surgical measures they can perform, whether on a living person or a corpse. For Islamic *fiqh* has certain restrictions concerning some of these grave practices in order to keep them from deviation from the noble objective which justifies their being permitted.

Since *fiqh* is the discipline that studies what is lawful and what is not, or the study of stipulations and rulings, (1) everybody must be aware of what Islamic *fiqh* has to say in order to be reassured. It is a religious obligation for a Muslim to know, in addition to the general rulings that apply to all, like the ones concerning worship, what applies to him in his work, so that his conduct may be in keeping with Islamic regulations and his income be from legitimate sources.

This paper deals with the inception of human life, and its end.

The Inception of Human Life in Islam

I begin this discussion by quoting the Quran when it speaks of the creation of man.

*WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY: THEN
PLACE HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE. THEN
WE CREATE OUT OF THE DROP OF SPERM A GERM-CELL, THEN*

WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC LUMP,
THEN WE CREATE WITHIN THE EMBRYONIC LUMP BONES.
THEN WE CLOTHE THE BONES WITH FLESH, THEN WE BRING
ALL THIS INTO BEING AS A NEW CREATION. BLESSED BE GOD,
THE NOBLEST OF CREATORS.

(S23:V11-4)

WE HAVE CREATED MAN OUT OF A DROP OF SPERM INTER-
INGLED, SO THAT WE MAY PUT HIM TO THE TEST. WE HAVE
MADE HIM A CREATURE ENDOWED WITH HEARING AND SIGHT.

(S76:V3)

MEN, IF YOU DOUBT THE RESURRECTION, WE FIRST CREATED
YOU FROM DUST, THEN FROM A DROP OF SPERM, THEN FROM
A GERM-CELL, AND THEN FROM A FORMED AND YET NOT
FORMED EMBRYONIC LUMP, SO THAT WE MAY MAKE THINGS
CLEAR TO YOU. WE CAUSE TO REMAIN IN THE WOMB
WHICHEVER OF YOU WE PLEASE FOR AN APPOINTED TERM,
AND THEN WE BRING YOU OUT AS INFANTS....

(S22:V5)

WAS HE NOT A DROP OF SPERM THAT HAD BEEN SPILT? THEN
IT TURNED INTO A GERM-CELL. THEN HE WAS CREATED AND
MOULDED....

(S75:V37-38)

These verses outline the stages of the creation of an embryo in its mother's womb. They mention the stages of the drop of sperm, the germ-cell, and the embryonic lump, then bones are created within the embryonic lump and they are clothed with flesh. God says,

WE THEN BRING ALL THIS INTO BEING AS A NEW CREATION.
BLESSED BE GOD, THE NOBLEST OF CREATORS.

There are verses other than these that can be quoted here, but these are quite sufficient. Next we turn to the *Sunnah*.

It is evident that these verses explicitly speak of creation, but they do not refer to life. However, a tradition narrated by Ibn Mas'oud and related by Al-Bukhari and Muslim says:

"The creation of each one of you is brought together in the belly of his mother for forty days of his being a drop of sperm, then for a similar period, he is a germ-cell, then for a similar period, he is an embryonic lump, then an angel is sent to him to breath spirit into him, and is ordered to write down four words: its livelihood, life duration, career, and whether it is to

be miserable or happy..." (2)

This tradition explains others, such as:

"Each one of you is brought together in creation in the belly of his mother as a drop of sperm for forty days, then for forty days he is a germ-cell, then for another forty days he is an embryonic lump, then an angel is sent to him to breath spirit into him". (3)

Scholars do not differ over the breathing in of spirit being within 120 days, which is at the end of the fourth month and the beginning of the fifth, as the traditions quoted above specify. This is taken as a basis for relevant rulings as in the case of conflicting claims for the baby, the stipulation that support for a fetus in the belly of a divorcee is due, after its movement inside her is confirmed. It is said that the rationale for making the waiting period of a widow four months and ten days is that by going into the fifth month without any sign of pregnancy, it is confirmed that uterus is free of conception. (4)

The views of fiqh scholars can be referred to in *fiqh* books. All of them say an embryo has no real life in the first four months, i.e. before spirit is breathed into it, as the obvious meaning of the tradition narrated by Ibn Mas'oud is. Still, medicine in those days was not as advanced as it is today. There was no equipment to monitor the movements of an embryo inside the belly.

With such evidence it is possible to say that a crime against an embryo, in the form of abortion, is unlawful and sinful at any stage of pregnancy, unless there is a legitimate justification, such as a risk to the mother's life. If it is asked whether an embryo before spirit is breathed into it does move and feel, the answer is, as Ibn Al-Qayyem affirms, it seems to move the movement of growth and nourishment, just like vegetation.

Thus it is possible to conclude that there is life before the breathing in of spirit, but it is not of the same type as human life. It is the life of growth and nourishment. Islamic Law imposes a compensation for causing miscarriage, which is called "*ghurrah*" (fetus blood money) by *fiqh* scholars, and which is equal to one twentieth of the blood money due for an already-born person.

Those who claim abortion in the first four months is lawful cannot support their claim with the tradition narrated by Ibn Mas'oud, for it does

not support it. They have to look for something else to support it with. The obvious meaning of the tradition is that spirit is breathed in at the end of the fourth month, but what is their proof that abortion is permissible before spirit is breathed in?

This issue was fully covered in the seminar on Reproduction, where detailed discussion, with which we should be satisfied, was devoted to it. In this context, I want to address a question to our physician brothers. Why do you insist on bringing up this issue? What use is it? Where does this wind that sweeps over our land come from?

We are fully aware that Islamic Law always keeps to itself the purposes of rulings, which are the aim and the secrets which the Legislator sets for every ruling. However, the Law as a whole aims at a general purpose, which is the happiness of individuals and communities, the maintenance of order, and populating the earth with everything that allows life on it to reach the peak of perfection, good, civilization, and refinement. This is what makes Islam a mercy for people.

WE HAVE ONLY SENT YOU AS A MERCY FOR MANKIND.

(S21:V107)

*MEN, AN EXHORTATION HAS COME TO YOU FROM YOUR LORD,
A HEALING MEDICINE FOR WHAT YOU HAVE WITHIN YOUR
CHESTS, A GUIDANCE, AND A MERCY FOR TRUE BELIEVERS.*

(S10:V57)

At the conclusion of my discussion of the inception of human life, I would like to quote this ruling issued by the *fatwa* committee of Kuwait on September 29, 1984. It goes as follows:

A physician is forbidden to undertake the abortion of a pregnant woman's fetus after the first 120 days from the date of conception, except to save her life from a confirmed threat posed by the pregnancy.

Abortion, when both husband and wife agree to it, is lawful before the fortieth day from the date of conception.

In the period between the first forty and 120 days, abortion is lawful only in one of the two following cases:

The first is when the continuity of the pregnancy would cause great harm to the mother's health, which is either unbearable or expected to last after birth. The second case is when it is

confirmed that the child would be born with a major physical or mental defect or handicap of which there would be no hope of being cured.

Except in cases of emergency, an abortion should be performed in a public hospital. If pregnancy has been going on far over forty days, abortion is performed only after a decision to perform it is taken by a committee of three specialists, one of them at least is a gynecologist/obstetrician. The decision should be endorsed by two Muslim, evidently-just physicians.

Notes

1. *Bada'e' Al-Sana'e'*, vol. 1, p. 3.
2. Al-Qurtubi's *Commentary*, vol. 12, p. 7, and Al-Bukhari's "*Sahih*" see its interpretation, *Fat'h Al-Bari*, vol. 11, p. 477.
3. Al-Qurtubi, vol.12, pp. 7-8; Ibn Kathir, vol. 3, pp. 206-207.
4. Al-Qurtubi, vol. 12, p. 8.

**THIRD: DISCUSSION
ON
THE INCEPTION OF HUMAN LIFE**

REPORT ON THE FIRST SESSION

The first session was chaired by His Excellency Dr. Abd Al-Rahman Abdulla Al-'Awadhi, Minister of Public Health and of Planning, Chairman of the Islamic Organization for Medical Sciences. Dr. Mustafa Sabri acted as Assistant Chairman and Dr. Muhammad Al-Jasem as Rapporteur. After opening the session and chairing some of its proceedings, Dr. Abd Al-Rahman Abdulla Al-'Awadhi asked to be excused for pressing reasons and Counsellor Abdullah Al-Issa replaced him as Chairman. Dr. Hassan Hatthout addressed the meeting on the Beginning of Human Life from a medical point of view. He summarized the papers submitted to the Organization's secretariat on this subject and explained his own views.

Medical comments were made, first by the physicians who had submitted papers and then by other attending physicians. Questions on medical points from *fiqh* scholars participating in the seminar followed.

Editors

DISCUSSION

(Dr. Hassan Hatthout's paper can be referred to in the paper section)

Dr. Abd Al-Rahman Abdullah Al-'Awadhi, Chairman

I thank Dr. Hassan Hatthout for this good achievement. Now we have something with which to start the discussion. Before we do, however, I want to repeat that we will allow those who submitted papers no more than five minutes for comments. After that we do not want the discussion to be limited to the four or five physicians with papers but hope that the discussion will be enriched with other opinions made by those to whose opinions we should listen, so that we may better understand our faith.

Before I leave, I give the session chairmanship to Counsellor Abdullah Al-'Issa, and I hope to be able to come back as soon as possible.

Counsellor Abdullah Al-'Issa

We would like the honourable physicians who wish to speak to give us their names so we can begin this session.

Dr. Issam Al-Sherbini

First I would like to take the Chairman's permission to go over the five-minute limit, because I want to voice a different point of view.

I note that we have divided the question into its basic elements and taken first one element, the inception of life, which is a scientifically sound approach. I hope those present will be able to reach agreement on one element after another, if agreement over the question as a whole proves impossible. Discussion, however, will not be full unless we put these elements back together and see if the understanding or agreement we have reached concerning any particular element still makes sense. What I mean by putting the elements back together is that we should get into applicability. All what we hope for in our discussion is to benefit either by an instruction we follow or a conduct we are called upon to observe, or by a ruling which we accept and submit to. The Prophet, Peace be upon him, used to pray asking protection from useless knowledge.

On this basis I raise the question again in the light of three sets of facts.

But let me first thank Dr. Hassan Hatthout for his good presentation and his honesty when he said that it was one life: we should call fetal life by that name and go no further; when he said this life goes through different stages; and when he mentioned that this life was not something tangible and so we could not measure it by the number of cells, by acquiring form, or by what takes place inside a uterus.

The first set is medical or biological, which we all have already heard. It is what we know of the forms or degrees of life. Many people today live with kidneys whose original owners have been dead for a while. In laboratory plates and tubes, successive generations of human cells can be cultivated. Most of us have heard how this method is used to get large areas of skin, which are grafted in patients with extensive burns.

To help get a scientific picture, I would like to mention that in certain animals, such as frogs and mice, which are mammals, it has been possible to plant the nucleus of an ordinary cell, of the intestines for example, into the cytoplasm of an ovum, and it would grow into an animal, identical to the one from which the nucleus was taken. There is no doubt that the union of a sperm and an ovum is the beginning of conception, and Dr. Hassan Hatthout has mentioned that what we have before the union does not grow into a human being. We can even follow this life into its first origin when we know that the genetic code which every cell has must have retained, through the many generations, a part of the first genetic code, that of the cells of Adam and Eve. I will come back to this point, which is the set of medical or biological facts.

The second set of facts is legislative. As Muslims, we seek rulings first in Quranic or Tradition statements. When no statement is available on a certain question, we seek it in the learned opinion of scholars. Two facts are met in this case.

The first is that the Prophet, says, as related by Ibn Majah,

“An infant inherits only when it cries”,

and, as related by Abu Dawood,

“If a new-born baby cries, it inherits”.

The second is the authentic tradition of the Prophet that says two women of Huthail fought, one pushing the other, causing her to fall and to

have a miscarriage. He, Peace be upon him, ruled that

“a male or female slave should be yielded as fetus blood money, which is five per cent of the regular blood money”.

If we accept that the union of an ovum and a sperm is the beginning of human life, then the rulings that concern a human being should apply to a fetus. This means that it should be entitled to inherit and to be inherited as soon as conception takes place. If it is born alive, it receives its share, and if it dies before it is born, its share goes to its legatees. But this is not what the *Sunnah* of the Prophet stipulates or what the tradition says. Also, if it were human, a person who caused it to be aborted should have to pay full blood money or even be subject to retaliation.

From these two legislative facts, we realize that there is a difference between an embryo/fetus and a human being, although we admit that an embryo has the right to live from the moment it is conceived and that whoever threatens this life should be chastised and punished. If this conclusion is correct, a question arises: at what point do we draw the dividing line between a fetus and a human being? Medicine does not offer us a clear dividing line. I am speaking here about the distinction between an embryo formed by the fertilization of an ovum and a human being. Dr. Hassan has explained to us in what he has said today and in what he said in the seminar on Reproduction that the process is a continuous one, where no dividing line can be defined, and we had the same impression from the film we saw then. For this reason *fiqh* scholars have abandoned medicine and sought the dividing line elsewhere.

At this point, we arrive at the third set of facts, God says:

WE FIRST MAKE MAN FROM AN ESSENCE OF CLAY: THEN PLACE HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE. WE THEN CREATE OUT OF THE DROP OF SPERM A GERM-CELL, THEN WE CREATE OUT OF THE GERM-CELL AN EMBRYONIC LUMP, THEN WE CREATE WITHIN THE EMBRYONIC LUMP BONES. THEN WE CLOTHE THE BONES WITH FLESH. THEN WE, BRING ALL THIS INTO BEING AS A NEW CREATION.

(S23:V12-14)

Fiqh scholars feel that there is here a line that may distinguish a fetus from a human being. The distinction is enhanced by the Prophet's tradition:

“The creation of each one of you is brought together in the belly of his mother for forty days of his being a drop of sperm. Then for a similar period, he is a germ-cell. Then for a similar

period, he is an embryonic lump. Then an angel is sent to him and is ordered to write down four words: its livelihood, life duration, career, and whether it is to be miserable or happy. Then he breathes spirit into him...

(Related by Al-Bukhari and Muslim)

Here also they find a line they can draw. Further reassurance that this is a sound opinion is God's saying:

... WHO MAKES MOST EXCELLENT EVERYTHING THAT HE CREATES. HE FIRST BEGINS THE CREATION OF MAN OUT OF CLAY, THEN MAKES HIS PROGENY FROM PALTRY FLUID. HE (THEN) MOULDS HIM AND BREATHES INTO HIM OF HIS SPIRIT.

(S32:V7-9)

Perhaps when God says,

THEN MAKES HIS PROGENY,

which refers to an embryo that has not been fashioned yet, nor spirit has been breathed into him, this supports what has been mentioned earlier, namely that the genetic code of every human being contains, according to our understanding of genetics, part of the first genetic code, which God created for Adam, Peace be upon him. It is perhaps this genetic code, which is transmitted from one generation to another, that defines the various patterns of cell growth and the different characteristics of these cells, including the designation of certain cells to form a testis or an ovary which produces semen or ova. I want to recall here that Mr. Abd Al-Qader Al-'Amari mentions in his paper that the word "*thumma*" (then), when used in Arabic, does not necessarily mean succession or chronological arrangement. But I do not think this statement of his applies in the case of a construction that begins with the words "first begins" later followed by "then":

HE FIRST BEGINS THE CREATION OF MAN OUT OF CLAY, THEN MAKES HIS PROGENY FROM PALTRY FLUID. HE (THEN) MOULDS HIM AND BREATHES INTO HIM OF HIS SPIRIT.

So this third set specifies stages and draws a line at a particular stage. The verses I have quoted from the Surah entitled Al-Sajdah speak of a stage of creation from clay, followed by that of paltry fluid out of which Adam's progeny are created, and then the stage of moulding and spirit breathing.

In the light of these facts, I, a doctor, find myself more comfortable

with the approach followed by *fiqh* scholars to distinguish between the times before and after the breathing of spirit. I follow the guidance of the conclusion reached by those scholars who applied this interpretation in the draft law of medical practice that they prepared. The stipulations of this law are available and well known, and some of you took part in making them.

I conclude by saying that the union of an ovum and a sperm is the beginning of conception. But human life is something else, and the best thing we can say about it, under the guidance of medicine and *fiqh* so far, is that it begins with spirit breathing.

Dr. Ahmad Shawqi Ibrahim

I have a general statement to make, and then I will get into specifics.

The general statement is that if scientists or physicians come up with a new opinion or scientific discovery, it cannot be valid unless it agrees with what the Quran and *Sunnah* say. If it does, it is true. When any discovery or scientific theory contradicts the Quran and *Sunnah*, it has to be untrue, and a time will come when people will realize that they have erred and that the Quran and *Sunnah* are the truth. Embryology is a modern science based on recently confirmed scientific facts. We say things about the nature of a drop of sperm, a germ-cell and an embryonic lump, and we try to define the duration of each, but the truth is what the Prophet, tells us, because it is a revelation of God, Who creates all embryos and knows best what He creates. If science says a germ-cell or a drop of sperm, lasts one week or two for example, that cannot be true, because the Prophet, Peace be upon him, says it lasts "forty days". A day will come when scientists will realize that a drop of sperm a germ, and a lump, each lasts forty days. People's knowledge is extremely limited when compared to the knowledge of God, the Most Glorious. In a tradition of the Prophet, Al-Khadhir is quoted as saying to Moses,

"My and your knowledge in comparison to that of God resembles the amount of water that a bird carries with its beak out of the sea".

(Related in Al-Bukhari's "Sahih", 6, 114)

The inception of life is a metaphysical thing which does not yield itself to our empirical sciences. When something does not yield to these sciences, only one source of knowledge is available to us, and that is the Divine revelation in the Quran and *Sunnah*. If we choose to call the life in the body before spirit is breathed into it animal life, that does not mean the

cells of an embryo are not human cells. Each, beginning with the first cell, is human and has human genetic factors that distinguish human beings. If there is an evolution of creation, that evolution does not contradict the Quran and *Sunnah*. God, the Most Sublime, says,

*WHY DO YOU DECLINE TO CREDIT GOD WITH GREATNESS, AND
HE HAS CREATED YOU IN STAGES?*

(S71:V13-14)

The evolution of creation, which is mentioned in authentic traditions, does not go against the Quran and *Sunnah*, but it is an evolution of each species separately. Evolution scientists err in believing in an origin of species. In other words, they err in defining the cause; they are ignorant of the true basis.

The beginning of human life is not something that concerns the body alone; it concerns the body, soul, and spirit. So all these components have to be studied, because man is not a mere physical form. We should know something about each in order to know when human life begins and when it ends.

A human body is incidental; it consists of cells that live and die. All human cells, with the exception of nervous cells, die and are renewed again and again. The human body itself dies but the secret of life remains in it, which is a proof that the secret of life is not something coincident with the death of the body. I say this in the sense that my own body, for example, will in a year be a different one from the body I have at present. This one will die and be finished, and the secret of life will remain. Therefore, human life is not dependent on the body itself. Cells die and are replenished.

That is one point. As for human soul, scholars differ over it, whether it is a being independent of the body and spirit or the union of body and spirit. There are many differences over this point. Ibn 'Abbas says that soul is not spirit. He says, "A human being has a soul and a spirit, and there is between them something like a sunbeam". Soul supplies us with reason and discrimination, while it is the spirit that allows us to breathe and move. Human soul is a very intricate subject.

Spirit is mentioned in the Quran and *Sunnah* as something breathed into the body, while no similar detail about the soul is given. A spirit stimulates to the good, while a soul influences one to do both good and evil. Spirit is pure good, because it is a concern of God, the Most Sublime, which means that a human spirit and a human soul are two different

things. As far as we know, there are many details concerning this point. Al-Qurtubi, for example, says, "There is much to be said on this subject".

As for the spirit, it has several meanings. In the Quran it is mentioned twenty times. It is used to refer to Gabriel; God says,

*WE SENT OUR SPIRIT TO HER IN THE SEMBLANCE OF A
FULL-GROWN MAN.*

(S19:V17)

It is also used to refer to the Quran, Divine revelation, and the human soul. God says,

*AND YOUR LORD SAID TO THE ANGELS, 'I AM CREATING MAN
FROM CLAY. WHEN I HAVE FASHIONED HIM AND BREATHED OF
MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE
YOURSELVES BEFORE HIM.*

(S38:V71-72)

Spirit means many things, and God combines all these meanings together in the *Surah* entitled Al-Isra',

*THEY ASK YOU ABOUT SPIRIT. SAY: KNOWLEDGE OF THE
SPIRIT BELONG TO MY LORD. LITTLE INDEED IS THE KNOW-
LEDGE YOU ARE GIVEN.*

(S17:V85)

This is what I wanted to point out. As for the rest, it has been explained by Dr. Hassan.

Chairman

We would like physician speakers to go only over the points on which they differ with Dr. Hassan, or which he has not discussed altogether.

Dr. Ahmad Al-Qadhi

I fully agree with Dr. Hassan that the beginning of human life is the moment an ovum is fertilized. What I want to contribute is additional responses to some of the things included in the papers of physicians which Dr. Hassan has not gone into, with the purpose of stressing that conclusion which he has reached. I am weary of arguing against the opinion of someone who is more learned and experienced than myself, but I think honesty calls on me to testify and say what I think.

One of the medical papers speaks about cellular life and says an embryo before spirit is breathed into it is a group of cells. It distinguishes between cellular and human life. It begins by describing the life of cells after the end of life, that is after death, and then uses this as an evidence that cellular life before spirit breathing is not human. I believe the writer has been confused, for the analogy is not valid in this case. When human life ends with the death of the brain stem, if we agree on this point, certain organs, such as the liver, the heart, and muscles, remain alive. We call this cellular life and say this is not human life. This is true, and I have no argument with it. But the group of cells before the breathing in of spirit and after the fertilization of an ovum is something quite different from that cellular life that continues after human life is ended, and at the same time different from the case before fertilization, that is the case of an unfertilized gamete. One proof of the difference is that if we nurture the group of cells after the death of a person, they will continue to live, but they will never produce a human being. Liver cells will remain liver cells, and the same is true for muscle cells and, as Dr. Issam has mentioned, skin cells. Regardless of the amount of nourishment and care they receive, they will never develop into a full human being, and the same thing is true about the cellular life before fertilization. But once an ovum is fertilized, even while it is still one cell, it needs only nourishment and care, and then it is merely a matter of time for it to develop into a human being. Even if the cell, or group of cells, is removed from the mother's body and placed into some other incubating device, whether a natural or artificial womb, all it needs is nourishment and care. For this reason we consider human life to begin with the zygote, and what is left is only a matter of growth and development, for which nourishment and care are needed.

It is confirmed now that something of this sort is possible by planting a zygote into the natural womb of a woman other than the mother, and this zygote grows into a human being. It is not beyond God, nor by His will is it too difficult for doctors, to come up with an artificial womb. Perhaps something of this sort will be introduced in the near future. It is a question of defining the functions of a uterus, and if it is possible to supply them in an artificial device, the artificial womb will be born. The functions of a womb are not as complex as those of a liver, and now we have what we may call artificial liver. So it is merely a matter of nourishment and care.

I cite another example of how human life can exist and only needs nourishment and care. If a fully developed human being, aged ten, twenty, or forty, suffers, as a result of a disease or an accident, a damage of the

cerebral cortex (not the whole brain, only the cortex), he may lose the faculties of feeling, consciousness, comprehension, but will otherwise retain all the remaining aspects of human life, without the need for any artificial equipment. He will have natural, autonomous breathing and heart beats. All he will need is to be fed, either via the mouth or a tube attached to the stomach or some other device. We cannot call such a person a plant with green leaves nor do we call him an animal. If we compare him to a normal human being, then he is an unconscious human being, or a person suffering disease, helplessness, or fractures, but he has human life. Neither conservatives nor liberals can condemn him to death. He is alive without artificial means and only needs us to feed him and take care of him. I do not find much difference between this and a zygote one day after fertilization, for the latter is likewise a human being that needs only nourishment and care to develop.

The same way can be followed in refuting the theory of animal life before spirit is breathed in. If we provide a zygote with nourishment and care, it will not turn one day into an animal; it will only turn into a human being.

I also object to the association of human life with the introduction of spirit. Perhaps in the second session this afternoon there will be other replies from the *fiqh* point of view, but in answer to what some physician papers suggest, I say that we understand a spirit has different qualities. One paper by a *fiqh* scholar mentions seven meanings for the word, and probably there are others. *Fiqh* scholars mention that it is the spirit that provides us with feeling, consciousness, and will. These qualities are not available to an embryo neither in its first nor in its fourth month. Not even in the ninth month. Some of it is acquired only some time after birth. At the beginning, a new born has hearing but not sight. Then sight is acquired. Then, at a later stage, consciousness. There is also the example I have mentioned about the fully developed human being who suffers a disease or damage to the cerebral cortex and loses feeling, consciousness, and will, but he is still a human being.

In another paper by a physician, the possibility of associating human life with the perfection of the brain is suggested. My answer is that neither in the fourth month of fetal life nor in the ninth are the functions of the brain perfected, and I am speaking about the cortex in particular. There is that example of the cortex no longer functioning after a human being is born due to a disease or damage.

Concerning what is mentioned about crying and other activities of the baby without which it does not acquire certain rights, I find no connection between that and the inception of human life. They are mere activities or functions, or they are signs of certain development or growth in a human being, with which it becomes entitled to certain Islamic rights or eligible for some religious duties.

To sum up, I repeat what I have stressed at the beginning, that with these and many other proofs which will be mentioned later, I believe human life begins the first day after fertilization, and what comes after that is growth and development. The growth is physical, mental, and spiritual. Consequently, the timing of the breathing in of spirit as at the end of the fortieth or the one hundred and twentieth day or night, is at least part of that growth and development. On the spiritual level, perhaps the meaning of the spirit introduced within forty or 120 days is mercy, God's mercy, or the inclination to do good, or any of the other meanings without which human life may still be complete.

Professor Mukhtar Al-Mahdi

Before I get to my paper, I want to answer something said by Dr. Ahmad Al-Qadhi concerning the cells of an embryo before spirit is breathed into it and their similarity to the cells of an adult after the spirit has departed. I did not mean to make a comparison with a zygote but rather with the tissues that make the organs. Organs consist of cells and these cells are similar before spirit is breathed in and after the termination of life.

What I am offering now is a new scientific view based on the completion of brain creation, and that is when the brain starts to function in an embryo in the twelfth week after fertilization, which is the beginning of human life. Naturally I do not mean that the brain is fully grown. This brain is the reason for man's existence, and its work is the reason for placing man in charge of the earth. It is for what the brain does that man is brought to account, and with its death man's life comes to an end. I believe the controversy among people over the time at which human life begins results from different definitions of human life or from differences in interpreting the statements of the Quran and *Sunnah*.

I believe that human life means a living person, who consists of form and content. The basic requirements in this definition are feeling, consciousness, and autonomous movement. A human being begins with one cell, which continues to divide, first producing several similar cells,

then they begin to differ. Groups with distinctive shapes and functions start to form. Then it becomes possible to distinguish a head, a torso, and limbs at the end of the fourth week. The end of the sixth week, which is the end of the drop of sperm stage as the traditions of the Prophet indicate, is an important turning point for an embryo as determined in embryology. At the end of this stage the heart beats for the first time and the circulation system begins to function. The embryonic body is no longer nourished through its tissues which absorb food from surrounding liquids. It starts to be nourished through blood, which brings food through the mother's circulatory system. At that point the embryo is twenty-two centimeters long. Also at this stage, i.e. in the sixth week, bone tissue starts to form at tiny growth centres at the location of the mandible, the maxilla, and the clavicles. Other centres follow; in the seventh week, those of the femur, tibia, and fibula appear, and in the eighth week, the centres of the radius and the ulna form, all of which are signs of the embryonic lump stage. Moreover, the ultrasound monitoring systems, sonar, allow us to watch the heart and its first beats during this stage. Although the process of heart systole and diastole, which serves to pump blood into the body, is a sign of life, it is the cellular type of life that is signalled, and not necessarily human life. Auto-contraction is a property of the endocardium, whether the heart is inside or outside the body, and even when it is cut into small pieces. During the eighth week, feeble movements and convulsions begin in the fetal body, and on the ninth week, they spread to the limbs.

Again the beginning of such muscular contractions does not mean the beginning of human life. They are mere reflexes on the cellular level, resulting from the growth of extremity nerves as they get to muscular tissue. This has been confirmed by the culture of cells and tissues. We can cultivate fetal nerve cells and fetal muscle cells separately, but side by side, in tissue culture dishes at a laboratory, and nourish them properly. In an experiment of this sort the nerve cells grow and branch out to reach, through a mysterious power of attraction, the muscular cells, which have in turn been growing and multiplying. When the nerve cells touch the muscle cells, the latter begin to contract regularly, one to three times per second. The force and frequency of this contraction vary with several factors, but the contractions can be seen with the naked eye. They are the result of electric stimuli generated by the nerve cells and spreading through their extremities to the muscle cells. All this represents cellular life. In scores of medical research projects, sonar systems have been used to follow the stages of an embryo, including the earliest ones, and to record every movement that can be seen in full detail. In some of these projects, eleven

different types of embryonic movement, which start one after another with the varying stages of embryonic development, have been recognized. These become more forceful and intricate with the growth of the embryonic body. It seems that such movements are useful for the full growth and nourishment of muscles.

When a fetus gets to the end of the eleventh week and the beginning of the twelfth, a new stage begins, which I believe is the stage of the inception of the human soul. The following things are noticed:

First, the movements of the fetus develop into a complex, harmonious life, and are no longer mere convulsions. New movements include folding and lifting the back, folding the neck, turning the face to either side, moving the hand as if waving, making a fist, kicking the feet, or performing complex movements of the mouth, jaws, lips and tongue, similar to the process of sucking. It is not only that these movements are new in type, but also their timing is important. Constant monitoring of a fetus reveals that there are periods of motion and activity which lasts up to seven and a half minutes each, during which all the movements performed do not change the position of the fetus inside the uterus. Several high jumps follow, and these physical exercises are in turn followed by periods of relaxation, which may be periods of sleep, during which the fetus does not respond to external stimulants. These last up to five minutes each, at the end of which the fetus begins to move again, and so on. In short, this stage is characterized by periods of activity and periods of sleep.

Second, this stage is also characterized by the beginning of other new movements, namely the movements of breathing. We do not mean here that the fetus begins to breathe air, for the lungs do not function during the period of gestation and the oxygen needed by a fetus is transmitted from the blood of the mother to that of the child through the placenta. The breathing movements, however, are actually the same movements that are performed after birth for breathing; the chest muscles and the diaphragm contract in a harmonious, sophisticated way. The unmistakable indication of this development is that the brain stem, which is the generator of the electric stimulations of the chest muscles and the diaphragm, has started to function. These movements can be detected in the fetus at this stage and they stop permanently only when a person dies.

Third, many other works of research have shown that also at this stage, electric signals begin to be noticed. In fact it has been possible to measure and record these signals, made by the brain of the fetus. They show that the meninges and hemispheres have also started to function,

and they allow the making of a fetal electro-encephalogram similar to the one made for the heart.

Fourth, movements with implications different from those of previous ones begin as well. They are not mere cellular convulsions or spinal reflexes. They are movements reacting to sensations derived from the world outside. An example is what happens sometimes when the ultrasound wave system moves on the belly of a pregnant woman. The movement made by the fetus when this happens results from sensations within the brain through which a fetus perceives that something unusual is taking place. This suggests that the fetus is now aware of its surroundings and distinguishes what is familiar and what is not. It is an instinctive awareness, for experience is still a blank.

I believe this fetal stage with the already mentioned phenomena which distinguish it and which show the fetus moving by itself as an entity, sleeping, playing, and jumping, and the brain beginning to function as seen in the breathing movements, the sensations, and the interaction--this stage is described as the birth of the brain, the same way that we call the end of human life, when breathing stops, the stage of the death of the brain. This fetal stage occurs at the end of the twelfth week. The fetus then is nine centimeters long and it weighs forty-five grams, its features are already human.

It is very easy to distinguish this stage even when a woman cannot tell for how long she has been pregnant, for an ultrasound test would reveal the breathing movement and the various other activities of the fetus.

Here I would like to refer to certain verses of the Quran. In the Surah of entitled Al-Mu'minun, the verses already quoted explain the stages of creating a fetus and are the verses of the Quran that give the most detailed account of man's creation. Among traditions of the Prophet, the forty-day tradition is the only source to mention specific periods of time for the stages of pregnancy. Many people believe spirit is breathed into a fetus at the end of the fourth month of gestation or within 120 days. But another tradition says:

*"When a drop of sperm has been alive for forty-two nights,
God sends an angel to it. He fashions it and creates its
hearing, sight, skin, flesh and bones. He says, 'Lord, is it be
male or female? Your Lord ordains what He will, and the angel
writes it down."*

(Narrated by Hutaifah Ibn Usaïd and related by Muslim in his "Sahih")

This tradition, although it mentions a time period of forty-two days, also suggests that other stages of creation coincide with the drop of sperm stage, such as the germ-cell and embryonic lump stages. Moreover flesh and bones are said to exist which is the same thing suggested in the *Surah* entitled Al-Mu'minun and the opinion of certain interpreters. There is nothing either in this or in other traditions that explicitly says the forty-day terms are successive or that spirit breathing occurs within 120 days. The overlapping of the stages is possible. If we take this opinion, the breathing in of spirit occurs before the end of the fourth months.

Dr. Abdullah Basalamah

First, we have one medical subject, or rather two, the beginning of life and the beginning of human life. Human life, as we have heard is a continuation of the life that cells have. But I would like to answer Dr. Ahmad Al-Qadhi in brief. Not every union of a living sperm with an ovum ends in human life. In certain cases, the union results in the growth of a hydatidiform mole inside the uterus which is hazardous to the mother's life and should be removed. So not every inception of life leads to human life, and not every living cell will in the end give us human life. If we look at the way an embryo grows in the uterus, we discover that, anatomically, it goes through many stages. But in the previous seminar we were satisfied, in order to reconcile the many, different stages and the statement in traditions and in *fiqh* explications, that there are three main stages. The first is the cellular stage. Indeed anyone who watches a human embryo in the first few weeks of pregnancy finds that it is similar to any animal embryo inside any womb, with no difference whatsoever, and with no human qualities at all. After that, when the second fashioning begins, which is four to six weeks after conception, a person who looks at any embryo inside a human uterus and embryos inside uteri of other creatures can tell that the first is bound to turn into a human being, for its human form has started to be distinguishable.

We come next to the topic of brain development. It has been scientifically established that, medically, the end of life is the death of the brain. If we endorse this view tomorrow, then, as some *fiqh* scholars say, the brain is the location of the spirit, and we may accept the theory that human life begins with the existence of this organ that will contain the spirit. Although there are not sufficient scientific facts to support it fully, my impression is that the growth and perfection of the brain is the right time for the spirit to be introduced. This impression supports the forty-day term tradition. But let me briefly go back to what I have mentioned at the

beginning, namely, that cellular life is life, and has, I believe, some continuity of the spirit, because we cannot scientifically accept the idea that it is automatic or chemical life. After all, we cannot produce this type of life even if we mix all its chemical ingredients in a laboratory dish. We cannot produce a cell. Therefore, there must be something other than the organic and chemical components in a cell that we cultivate and allow to grow. Is that thing spirit or is it a divine code that the spirit has? We leave this to *fiqh* scholars to answer.

Councillor Abdullah Al-'Issa, Chairman

We would like to remind you that copies of the medical papers have been given to you. Undoubtedly, you have studied them in depth. I remind you that the discussion of these topics will be in the evening session. Therefore, the remainder of this session will be devoted to medical inquiries addressed to physicians. Would all persons who like to ask questions kindly write down their names. The discussion, whether medical or *fiqh*, will be in the evening session as has been planned. Before listening to the questions of *fiqh* scholars to physicians, there are comments by Dr. Ahmad Shawqi Ibrahim and Dr. Abd Al-Aziz Kamel.

Dr. Ahmad Shawqi Ibrahim

First, human life does not begin on the first day of conception, and an embryo is human on the basis of what it will turn into, exactly as the case is with plant. A seed has the potential of a plant, a palm tree, but it is a palm tree only on the basis of what will be.

Another thing: there is an essential rule for the interpretation of texts of the Quran and the Prophet's traditions, which is not to assume they are meant figuratively unless there is something there to suggest that figurative language is used. Otherwise, we will make a great mistake, and our interpretation would be subjective, which is an enormous error. As Abu Bakr said, "Where can I hide from God, what sky would have me under its vault, and what earth would hold me on its surface, if I interpret one letter of the Quran subjectively?" The inception of human life is, as I have said, a metaphysical matter, and the only source of knowledge about it available to us is Divine Revelation. I base what I say on the authentic tradition of the forty-day terms.

Dr. Abd Al-Aziz Kamel

Mr. Chairman. At the opening of the morning session, you laid down a certain system of procedure: a general presentation by a doctor, followed

by additions by his colleagues to complete what he might have missed, and then questions and comments. I believe there is a certain gap which we should try to fill in order to spare ourselves much unnecessary effort. I am only suggesting that after the general presentation and the additions by physicians, we should define the problems that we want to settle by the end of this seminar. On the question of inception, they are saying the first issue is that of the beginning of human life. We have two aspects of the question, a *fiqh* one and a medical one. The doctors have explained the stages or developments from fertilization, from the act, from contemplation, or from whatever. Specific points are arrived at. Later, when *fiqh* scholars speak, they address the same points, so there will be a meeting ground for what doctors explain and what *fiqh* scholars say. At a third stage, we try to establish a bridge between the two. This way we may save much time. Thank you, Mr. Chairman.

Counsellor Abdullah Al-'Isa, Chairman

Thank you, Dr. Abd Al-Aziz Kamel. I would like to say that it is not easy to restrict the topic, and therefore, the evening session, from four to eight, will be the link where these things will be open for discussion and analysis. Now we have no time left to go into even one of the points you are kind enough to suggest. Thank you again.

Now let us listen to the question: *fiqh* scholars want to address to physicians.

Dr. Ahmad Al-Ghandour

By way of thinking aloud, I would like to review the opinions of the five doctors who spoke for three or four minutes each.

First, Dr. Hassan Hatthout said the beginning of human life is the union of a sperm and an ovum. I favour this opinion, for the reasons I will now mention; with due respect to the other points of view. One doctor says human life begins with the breathing in of spirit, a third says it starts on the third month, and a fourth, within forty-two to forty-five days. So we have several opinions. Yet, the Quran and the Prophet's *Sunnah* make this very clear by applying the word "man" to an embryo. God says,

WE HAVE CREATED MAN FROM A DROP OF SPERM.

It then develops from drop of sperm to germ-cell to formed and unformed embryonic lump to other stages of development. Therefore, claims that add to this are in disagreement with what the Quran says. As for the

forty-day term tradition, there are three different versions, two of them listed in the two "Sahifs", the one of the 120 days and the one of the forty-two. Such things, as our Professor Dr. Hassan says, fall into the category of things we believe in as a matter of faith, feeling proud about doing so, and not by subjecting them to experiments. Specialists are the ones who know that a certain sperm has fertilized a certain ovum and a new human life has been started. Yes, it is probably cellular life as mentioned by some, but a sperm with its twenty three genetic chromosomes, or genetic code, has to unite with an ovum, with its own twenty three, in order for human life to begin.

With due respect to Dr. Al-Sherbini, to those who claim that even alone a sperm is a living animal, I say that this life of the sperm or the ovum alone cannot be described as human; the two have to unite. Also with due respect to Dr. Ahmad Al-Qadhi, who quoted a tradition concerning the breathing in of spirit at the end of the first 120 days. I say this is subject to argument, and also to Dr. Mukhtar Mahdi, whom I heard speaking about the conclusion of the twelfth week of gestation, which is the time when the brain is perfected and something is incepted and so on, I still believe, in spite of all these considerations, that the sperm-ovum union is the beginning of human life. The Rulings of Islamic Law take the first day as the basis for many stipulations: the question of the waiting period, the question of delivery, the question of washing and burying a dead fetus without performing the dead prayer for it, the question of fetus blood money, if such and such happens and miscarriage is caused--all these things indicate that the beginning of human life is the time when a sperm unites with an ovum.

Counsellor Abdullah Al-'Issa, Chairman

If you please, we want to have discussion in the evening session, and therefore, we want to focus now on the medical inquiries related to *fiqh* subjects. And now, would the Honourable Sheikh Badr Al-Mutawalli Abd Al-Baset kindly speak.

Sheikh Badr Al-Mutawalli Abd Al-Baset

In fact, Dr. Hassan Hatthout has expressed what I feel and what I have believed for a long time. This seminar is held for the purpose of determining how human life is viewed in Islam, and as viewed in Islam, human life begins, as Dr. Ahmad Al-Ghandour has mentioned, at the moment conception takes place. Once it takes place, many rulings,

covering the waiting period and inheritance, change. I have a comment here on something said by Dr. Al-Sherbini to the effect that a fetus is not entitled to inheritance. The fact is that once it is established that a fetus does exist, it is entitled to inherit, though it does not actually receive its share. There is a difference between being entitled to a share and receiving it. In the first case, the share of inheritance is set aside. As Quran and *Sunnah* scholars say, a fetus enjoys imperfect eligibility. It has certain rights but no duties. It is entitled to receive a share of inheritance and of will, for it is eligible to be mentioned in a will. God says,

**AND THOSE WOMEN WHO ARE PREGNANT, THEIR TERM ENDS
WHEN THEY DELIVER THEIR BURDEN.**

(S65:V4)

When it is medically established beyond doubt that a woman is pregnant, her waiting period is no longer computed in terms of months or number of menstruation periods, but is rather on the basis of delivery, whether it is the waiting period of a widow, a divorcee, or whatever.

Again in the case of a will, if someone leaves in his will something to the embryo of a woman and it turns out that she has not been pregnant at the time the will is made, a child conceived later has no right to that will. If, however, it is confirmed that she has been pregnant, then the will is valid and the embryo is entitled to it on the condition that it is later born alive. Once it is born, it can actually receive its share. As for talk about the death of the brain and what have you, these are things that are very hard to determine, while Islamic matters are very clear: either there is an embryo, and then certain rulings are applicable to it or there is no embryo, and then other rulings apply. Islam has a special way of viewing an embryo. It is given the right to inherit and be willed to but on the condition of being subsequently born alive. The mother's waiting period is different in the case of pregnancy as explained earlier. With the progress of pregnancy, responsibilities constantly increase. Therefore, I say it frankly that I tend to support the opinion that abortion is unlawful once conception is confirmed unless there is a valid reason. As for other things said on this subject, I clear myself before God from saying that abortion is permissible even when no valid reason exists.

Sheikh Abd Al-Qader Al-'Amari

I have noticed that physicians are in disagreement, while they are supposed to first reach an agreement over the questions they want to raise before *fiqh* scholars. It is not right for them to differ. *Fiqh* scholars

cannot be blamed when they disagree over something, but physician should be blamed when they fail to agree, because they have the equipment and sufficient evidence that allow them to decide the question they want to raise before *fiqh* scholars.

On the other hand, I would like everyone to limit himself to his field. A doctor should only look at what he has in front of him. As for getting into the interpretation of traditions and the field of *fiqh*, let doctors bring what they have to *fiqh* scholars and specialists, so that they may find a suitable point of view and reach agreement over it, thus avoiding confusion. For this may confuse *fiqh* scholars themselves. What I want to say, addressing all the physicians, is: when does life in your opinion begin?

Fiqh scholars have been clear in their papers. They give interpretations of the traditions, and, as you are all aware, the versions of traditions have some differences. Certain traditions give details, while others speak in general terms. Some seem to have contradictions before they are reconciled. These matters should be left to specialized scholars so that they may answer the question raised by doctors. For this reason, doctors should have sat together first to discuss things and phrase a unified question, sparing us the confusion that may keep us from reaching a solution.

Dr. Muhammad Na'eem Yasin

In fact, we want first of all to define the subject of the seminar. Indeed Dr. Hassan deserves our gratitude for his presentation, with its polite, objective style. The truth, however, is that he steered the seminar into an area other than the one we are here for. The inception of life was the topic of the first seminar, not this second one. We are here to discuss the inception of human life. As for the beginning of life which produces a human being, it is not what we have come here to discuss. If anyone believes otherwise, let him say so. I do not think anyone disagrees on the point that life begins with the union of a sperm and an ovum. Life begins, but which life? If there is no disagreement over this, why should we bring it up altogether? Let us drop the subject. In the papers I have read, all *fiqh* scholars agree that there is life [in an embryo in its earliest stages], but I want to know when human life, which is characterized by the spirit, begins. It is not right for us to forget about this spirit. It would have made Darwin happy to see the spirit forgotten and regarded as a metaphysical concept that plays no role in man's life. It would not have made him happy to hear the term animal life used for the type of life which is actually animal life or

at least not human life, it would have made Darwin happy to see us give no consideration to the creature called by God, in the Quran, and by our Prophet Muhammad, Peace be upon him, a “spirit” and given certain characteristics, made to have influence on the body, and allowed to have various activities, many specified activities on which many volumes have been written. This is the subject we have come here to discuss. Indeed I do not want to get into details on this subject, in order to spare my colleagues much that can be said. But I want to draw attention to this point: if it is the inception of human life that you are discussing, carry on with your seminar.

The truth is that Dr. Hassan has been precise in defining the topic and those who have spoken after him have been even more Hassanian than he. Dr. Hassan says that it is life, in its absolute sense, that begins with the union of a sperm and an ovum. He does not specify human life, and that is what has caused a turn in the seminar’s approach. He says this should be discussed. There is no harm in discussing it, but I do not believe the discussion should take long. We are in agreement that life does begin, that it has sanctity, that it is unlawful to kill it, that it should be taken into consideration in matters of inheritance, and that if it is aborted any waiting period comes to an end because God says,

AND THOSE WOMEN WHO ARE PREGNANT,

rather than “And women bearing children with spirits”. The waiting period of a woman who has an embryo inside her ends when it is no longer there. The subject we are here to discuss is, in fact, when a human being begins to be human. The spirit should not be wasted just like that and be abandoned on the shelf of metaphysics, without us going into its effects, influence, activity, susceptibility, and many things mentioned in the tradition. This is the point I want to stress, and if I still have a couple of minutes left, I have some questions. Nobody has so far asked any medical questions, so I want to pose some.

First, there is [a question about] the time at which a zygote divides into identical twins, but I think this has already been answered.

Second, when does the brain begin to form and when is it perfected? Dr. Hassan also says they have no definite answer to this question. If there is a definite answer, I would like to hear it again.

Third, has medicine been able to discover the time at which a fetus makes its first voluntary movement? By voluntary I mean a movement initiated by the brain. Or does the brain, as Dr. Al-Qadhi says, play no role

while a baby is in the belly of its mother? In fact I would like to have a definite answer to this question. Then I want to ask for information which I may need in the future. Are heartbeats considered voluntary or involuntary? I mean, does the brain have anything to do with the pulse of the heart or not?

Sheikh Ibrahim Al-Dasouqi

I have three points.

The first point: I assure you that science has in no single theory arrived at a final word that closes the door of further discussion. The issues we are now dealing with are subject to many scientific theories in which no unanimous agreement has been reached over one single point.

The second point: I reaffirm what one of our colleagues has said, that if science disagrees with what God's Book and the *Sunnah* of His Prophet say, then the trusted, truthful source of knowledge is the Book and *Sunnah* and the stipulations of this True Religion. These are all the revelations of God, the Wise, the All-Knowing. Divine revelation admits no inaccuracy. What has not been discovered by science up till today may be discovered tomorrow. In many of the papers I have read, many things are left for future scientific discoveries to find out if possible.

Next, we come to embryonic life about which Dr. Na'eem has spoken. Is the life of an embryo in the first 120 days real life, in the sense that it entails what the life of a human being entails? or is it, as it has been said, cellular life, which is similar to the life of vegetation? I like using here the term "absolute life", so that we may avoid describing it as animal or plant life, but it still has sanctity being the beginning of full human life after spirit is breathed in. Therefore, to cause it damage calls for fetus blood money to be paid, and to assault it is a sinful crime. Man has to respect it.

After all this, I come to something else. A person who looks at an embryo during the first forty days finds it identical with the embryos of all other creatures. This has been stated by one of our colleagues, but we have heard the honourable physicians say that the genetic code comes from the father and the mother or from the sperm and the ovum, each of which carries half of the code which the child will have. If this code transmits the traits of the parents, the characteristics which the embryo may inherit from its father and mother, then we can by no means say that it is in this period identical with other embryos of all creatures, whether animal or otherwise.

Dr. Muhammad Abd Al-Hadi Abu Raidah

I would like to make some questions and at the same time to comment on certain things concerning the acceptance of the obvious meaning of a text [of the Quran or *Sunnah*] when this obvious meaning is not exactly consistent with the facts that we know. There are more than one point.

First, when the term "human life" is used, does the word "human" imply that full, active human life is meant? I do not think so. What is meant is that this life pertains to man, is derived from him, and is actually enjoyed by him. In addition, it is well known that in every germ there is something inherited from Adam, the first human being. Moreover, there are certain natural, biological qualities in a zygote which make it undoubtedly human. The important thing is to say whether a particular being is human or non-human. We are supposed to reconcile what we see in the tangible world of reality and what we understand by reading a certain text. We have been instructed to look at the world around us, make deductions, compare the verses of the Quran with the facts of nature and the words of authentic traditions of the Prophet with what nature offers, and then try to understand, either by taking the literal or the actual meaning. This is why I am asking, and at the same time commenting. In linking together the drop of sperm, germ-cell and embryonic lump, morsel, and then linking them all with the process of a new development every forty days, is the verbal meaning of drop of sperm, germ-cell and embryonic lump intended? Or is this a stage of growth described in the tradition in Quranic terminology, not intended to literally mean that a germ-cell lasts forty days and so does a drop of sperm, which is not what we learn in medicine? Is a drop of sperm given forty days and the same with a germ-cell? What does a germ-cell mean? Is the literal, linguistic denotation meant or another meaning which goes along with the nature of things? After all, God inspired mankind to use certain names for things, and then the Quran introduced new meanings for many words.

Another point is the question of soul and spirit, whether they are the same thing. Dr. Ahmad Shawqi says the soul is such and such and the spirit is so and so. The fact is that in the languages of all civilized nations there is a relationship between the original concepts of things and the concepts which develop later. For example, the concept of "nafs" (soul; self) in Arabic is related to the "nafas" (breath) phenomenon; likewise, the "ruh" (spirit) concept is related to the "rih" (wind) phenomenon. The linguistic origins led to the difference in concept. The question, however

remains: is spirit and soul the same thing or not? The Quran says,

YIELD UP YOUR SOULS,

(S6:V93)

and not "Yield up your spirit". At the same time, does the spirit or soul mean the human functions which are acquired while the creation of a human being is in the stage of development? Does it arise from within, rather than be introduced from without? In fact the period of gestation has at its beginning the elements which develop, take form, or bloom according to the laws God makes in their nature and whether they call for development, formation, or blooming, with their various functions.

If we say that spirit is breathed in, does that mean that a spirit is introduced from outside and breathed in? Or does the angel breathe into something that already exists, thus introducing a new function, so that there may be an agreement, though based on a learned opinion and not definite, between the meaning of religious texts, in the Quran and *Sunnah*, and the findings of science? We have to take a stance of deliberation in order to understand through diligence the meaning of the words and phrases within the context of reality. Our opinion will still be ours, and the words of God or of the Prophet, Peace be upon him, will remain the same. Our knowledge may be renewed with further progress, but we will not find ourselves far from the text and we may understand new findings from a theoretical, as well as a religious, point of view.

At the same time, scientific theories are also numerous. The theory of evolution is not the only one in its field. Perhaps evolution does take place within the first cell itself; God says,

A CREATION OUT OF A CREATION.

Creation goes into stages, we are created in stages, and the world goes through stages. Everything develops within the limits of the ability and properties given to it by God. All I mean to say is that neither through *fiqh*, for example, will we arrive at decisive and conclusive results unless we compare and try to understand the world of reality.

Thank you.

Councillor Abdullah Al-'Issa, Chairman

Thank you all for speaking and listening so well.

Now we adjourn for rest and prayer. The second session will convene at twelve noon.

REPORT ON THE SECOND SESSION

The second session, held at twelve noon, was chaired by His Eminence, Sheikh Muhammad Al-Mukhtiar Al-Salami, Mufti of the Tunisian Republic. Dr. Abdullah Muhammad Abdullah acted as Assistant Chairman and Dr. Ahmad Al-Qadhi, as rapporteur. Dr. Muhammad Na'eem Yasin gave a summary of the *fiqh* point of view concerning the inception of human life and explained his own point of view in detail. The chance was then given to the *fiqh* scholars who had submitted papers to add whatever may have been missed by Dr. Muhammad Na'eem Yasin or to explain in some detail any item relevant to the subject of the inception of human life.

Fiqh discussions followed, and at 2:30 p.m. the session was adjourned.

Editors

Sheikh Muhammad Al-Mukhtar Al-Salami, Chairman

With praise to God and assistance from Him, we go on with the sessions of our meeting. At the opening of this session, I like to recall that Islamic thought produced geniuses who specialized in both *fiqh* and medicine. They were in a position to introduce new theories or to modify old ones. In as far as our subject is concerned, I recall how Imam Al-Maziri, God bless him, discovered that many of the Maliki scholars do not consider to have live an infant who lives only few hours after birth and shows no clear signs of life, even if it feeds once or twice on its mother's milk. This physician *fiqh* scholar said that such a view is by no means acceptable. With his knowledge in both fields he was able to tell that the processes required in breast-sucking cannot be performed by a lifeless body at all.

Today, with the fields of knowledge branching out and multiplying, the government of Kuwait takes the credit for bringing us together. Allow me, at this meeting, to express deep gratitude to the Prince of Kuwait and his venerable government for taking the right initiative of holding the combined meetings of *fiqh* scholars and physicians. I would also like to thank His Excellency the Minister of Health and our friend and colleague Dr. Ahmad Raga'i Al-Gindi for his efforts and good organization of this meeting, which could not have been held without his diligence, which was evident in his correspondence with us. Today we have witnessed more of his efforts, so I express my best regards to him. I might have taken too much of your time, for which I beg your pardon, and now allow me to introduce, in keeping with the plan made by Dr. Ahmad Raga'i, to introduce Dr. Muhammad Na'im Yassin, who will sum up the papers submitted to the Organization Committee, allowing us to listen to the opinions of all scholars. With my gratitude, would Dr. Mohammad Na'im Yassin give his summary.

(Dr. Muhammad Na'im Yassin's presentation is included earlier in the *Fiqh* Paper Section).

Sheikh Muhammad Al-Mukhtar Al-Salami, Chairman

I thank Dr. Muhammad Na'im Yassin for this presentation in which he has incorporated additions and analysis and shed lights over different aspects. Certainly, the papers are thus seen from one point of view, while the authors of these papers may have other points of view, which they would like to present, thus the presentation of Dr. Muhammad Na'im

Yassin would be complemented. Before going on, however, would the honourable Sheikh Badr Al-Mutawalli kindly explain to us in fifteen minutes the method of deducing *fiqh* rulings, for which we will be grateful.

Sheikh Badr Abd Al-Mutawalli Abd Al-Baset

In the Name of God, the Compassionate, the Merciful.

In fact, the task is much too great; I am called upon to explain in fifteen minutes what it took us several years to study and what takes many hours to sum up. But when something cannot be completely attained, that is no reason to give it up altogether. So I will try to get as close as I can.

When a certain case is referred to a *mufti* or religious scholar (and I do not say clergyman because Islam does not approve of the creation of such a category). He is in a situation similar to that of a physician. The most serious and most important step for a physician is the diagnosis of the case. Similarly, for the *mufti*, the most serious step is to place the case in the right category, that is to determine whether it is a devotional matter; a civil, material concern; a family question, one of the affairs covered by personal status; a crime; or something else. Then he goes a step further. If he has decided that the question is a devotional one, he determines whether, it is a matter of fasting, prayer, pilgrimage, alms (Zakah), etc. Then he decides, what type of devotional matter and then what sort of a case it is.

When a physician has diagnosed a case correctly, it is easy for him to decide what treatment should be followed. The same thing is true for a *mufti* or religious scholar. When he has placed the case, particularly a case that concerns something of recent development, in the right category, he moves to the following stage, which is to determine the ruling, or, to use a medical expression, the treatment. For, to us, the treatment is to find the Islamic ruling.

Perhaps I should have mentioned that we should all be aware of the fact that every occurrence, whether serious or trivial, a concern of individuals or communities, is covered by a ruling from God. I believe our brothers are aware that the topics of *fiqh* cover all these matters which have acquired new names. Thus, the second step, after the diagnosis or the determining of the general category, is to decide to what topic of *fiqh* the case belongs.

Now I move to another stage, which is the determination of a ruling, or let me say the prescription of treatment. This calls for certain steps to be

taken. First, search should be made in the Quran to determine whether the case under consideration is covered there. If so, is the Quranic statement general or specific, conditional or unqualified? All this must be determined. If the Quran offers nothing that applies to a specific case, similar search is made in the *Sunnah* of the Prophet to find out whether there is a statement relevant to it and whether this statement is general or specific, unqualified or conditional, superseded or still valid, and so on. There are many matters which are not covered by a Quranic or a *Sunnah* statement. Then one looks whether the Quran and/or *Sunnah* tackle an occurrence similar to the one being considered. If there is a similar one, it should be clear that not all the points of similarity between the original case and the one branching from it lend themselves to analytic justification. Moreover, the justification on which the ruling is based has to be known. The ruling made for a case covered by the Quran and/or *Sunnah* is adapted to a new situation. In this case, all details are taken into consideration and analytically surveyed. Description must be explicit, systematic, consistent, reflective and must have all the other qualities we learn in the study of primary sources.

If no statement is found that covers the case in question or any similar situation, the search is not abandoned. It is still covered by general Islamic rules, which are many, such as, "No harm is admissible to oneself or to others", and "prevention of evil takes precedence over the attainment of benefits". A big problem has to be faced here namely, to define what constitutes a benefit. I would like to mention here that some physicians or other scholars quoted the rule that says: "Whatever is certain to secure a interest, benefit is approved by Divine Legislation". Things are not that simple. What is exactly meant by benefit? Benefits may relate to religion, person, mind, offspring, and property. Of these five types, some are necessities, others are needs, while a third group make for betterment. The difference between these is great. Before we can say something is a necessity, we have to define what is regarded necessary in Islamic Law. Necessities are not the same as needs or betterments. A necessary item is one without which a certain thing cannot be achieved. A need may not be indispensable for the achievement of a particular goal, but its absence causes great difficulty. The third group is that of items which make for betterment. A *fiqh* or religion scholar has to examine the benefits attached to a particular thing and determine whether they are in the category of necessity, need, or betterment. When benefit happen to be in conflict, which is to be given precedence? Of course benefits relating to religion take priority over those relating to person and the latter over those of the

mind. Next come benefits to offspring, which, in turn, take precedence over those relating to property. If a matter of necessity comes into conflict with one of need, of course necessity takes precedence, and so on.

There is one point to which I would like to draw attentions. The benefits we may attain are either ones recognized by Islamic Law, which are fully acceptable and can provide the foundation for our rulings, or confirmed benefits which are made unlawful by the Legislator. For example, God says,

*THEY ASK YOU ABOUT INTOXICANTS AND GAMBLING. SAY:
'THERE IS GREAT HARM IN EACH OF THEM AND ALSO SOME
BENEFIT FOR MANKIND, BUT THE HARM IS GREATER THAN THE
BENEFIT.*

(S2:V279)

Thus it is established that intoxicants and gambling have some benefit; but they are nevertheless, made unlawful. A group of economists may write volumes about the benefits of usury and how many buildings are constructed and corporations founded because of it. All this is fine, but this benefit has been made unlawful in Islam. Thus, a benefit that is recognized by Islamic Law is fine, but no benefit can be taken into consideration when it has been made unlawful. Something may appear to be beneficial, but it includes an evil which outweighs its benefit, or it may be beneficial only in appearance.

There are also those who permit adoption (as practised before Islam and now in the West) and write about its benefits. The harm it causes, however, is greater. The Legislator has made this benefit and interest unlawful. The benefit which is recognized by the supreme legislator is the one which shapes Islamic Law. There are benefits which are neither recognized nor made unlawful. These are called unqualified benefits. In such cases very comprehensive comparisons have to be made, which require careful and accurate study. It is part of God's design for His creation that in this life on earth, good and evil are mixed. Neither absolute good nor absolute evil exists independently. It is greatly regrettable that some people arrive at a conclusion first and then work their brains to find legal justifications. The human brain is ready to come up with justification for anything, as long as the ruling is made according to one's inclinations.

Sympathetic eyes are short-sighted; they see no defects.
While indignant eyes are quick to see shortcomings.

Since it is inevitable for good and evil to mix together in this life, God

has not left us to our devices. He sent us messengers to convey to us promises and warnings from Him. Islamic Law draws landmarks for us, either with definitive statements or with ones that admit interpretations. The latter can be applied in the case of secondary matters and questions of dealings between people. Matters of faith can only be considered on the basis of definitive statements. Questions of the type we are now considering may be ruled on the basis of evidence or statement that admit varying interpretations. The most serious thing that faces a *fiqh* expert is the conflict of good and evil in matters presented to him for ruling. This is where the talent, or scholarly intuition comes into action to determine which has more weight. If the harm factor is greater, the principle applies of "Prevention of evil takes precedence over the attainment of benefits", which is a basic principle of Islamic Law. Whenever we have an issue which has both good and evil, we weigh them against each other. If the element of evil is greater, we rule the issue unlawful, while if the element of good is greater, we rule that the matter is of obligatory or permissible nature.

After the diagnosis of the issue the next step is to prescribe treatment. A *fiqh* scholar should resort to the examination of precedents. The opinions of earlier *fiqh* scholars are considered and used as a guideline. If they unanimously endorse one point of view, that is fine, and we are obliged to follow their opinion. If, however, different views have been advanced on the matter, particularly by scholars of the early period of Islamic history, a *mufiti* has to follow what is more useful to his society, regardless of his own interest or inclination. A *mufiti* who rally respects his work needs to consult specialists over matters that cause him which may not be very clear to him. For example, I cannot give a ruling on an economic question without consulting an economist. When a medical question is referred to me and I am not quite sure whether it is good or evil, it is not right for me, as a *fiqh* scholar, to rely entirely on my own ideas and understanding. I ask for advice.

ASK THE PEOPLE WHO ARE ENDOWED WITH KNOWLEDGE IF
YOU DO NOT KNOW.
(S16:V43)

If there is a certain convention relevant to the question under consideration, we have to consider whether it is a convention cancelled or approved by Islamic Law, or neither cancelled nor approved. A convention which is approved has to be taken into consideration, while if all people follow a certain convention which is disapproved by Islamic Law, this convention is discarded.

Sheikh Muhammad Mukhtar Al-Salami, Chairman

Thanks to the Honourable Sheikh Badr Al-Mutawalli. In fact, he took us back to the tradition of the Prophet, Peace be upon him - the famous tradition narrated by Mu'ath - and explained it to us. I do not say that his explanation has been exhaustive, but it has pointed out what is a primary point that falls within the scope of the study of primary sources and its various branches. His points were very well made. So I thank him again for what he has offered us and for reminding us of the basic principles of arriving at a scholarly ruling.

As he said right at the outset, this is a very wide subject which involves the study of primary sources as a whole. It is by no means a simple matter.

As I said before introducing Sheikh Badr Al-Mutawalli, there is no doubt that the scholars who have submitted *fiqh* papers have certain points to make, which were not covered in the presentation of Dr. Muhammad Na'im Yassin. Would they kindly now offer their comments briefly so that all scholars have a chance to speak.

Sheikh Abd Al-Qader Al-'Amari

I shall begin with what Imam Ibn Hazm says in discussing the Maliki opinion concerning the inheritance a fetus, a miscarried baby, or a newly-born infant is entitled to have. He says, "If we can be sure that it is alive before it is born, we rule that it is entitled to inherit". He relates this statement to the tradition that says,

"If it cries, it inherits".

[Listed by Abu Dawood in the Chapter on Obligation in his *Sunan (Sunnahs)*] Ibn Hazm says that it is established in authentic Traditions that

"Satan pricks every infant when it is born".

(Related by Muslim in the Chapter on Virtues in his authentic collection "*Sahih*") Maliki scholars say, "Unless it cries, an infant does not inherit".

Ibn Hazm says:

This means you are going against the tradition of the Prophet, Peace be upon him, because we see many babies born alive without crying or screaming.

This is quite true. A new-born infant does not necessarily cry, while

the prick by Satan is certain for every new-born baby whether it screams or not. The question of crying is, just as Ibn Hazm says, would not have been mentioned except for the fact that we cannot otherwise tell whether the infant was alive or not while it was still in its mother's belly. Therefore, scholars take the precaution of setting the condition that before an infant receives a share of inheritance, its life has to be confirmed after it is born. All schools agree that the baby cannot receive its share of inheritance before it is born, although, as Sheikh Badr says, it is entitled to this share. The important point in all this is that now life can easily be confirmed. But when this life is made a condition for certain rulings, do we take the fact that the life of a fetus can be confirmed into consideration and let it receive its share while it is still in its mother's belly?

In my opinion, even though we can make sure that it is alive in its mother's belly, we should still follow the opinion of earlier scholars, so we may avoid the different opinions of physicians, when one says a certain embryo is alive, while another says the contrary. That is why we should follow earlier scholars in matters of establishing rights.

May I refer to the tradition of the Prophet, Peace be upon him, which is narrated by Ibn Mas'oud and which says,

"The creation of each one of you is brought together in the belly of his mother for forty days in the form of drop of sperm, then for a similar period, he is a germ-cell, then for another forty days, he is an embryonic lump..."

There is no explicit statement to explain this Tradition. What is offered is a way of understanding it. Since there are other authentic traditions listed by Muslim which say an angel comes and writes down whether the infant is to be miserable or happy, and all this takes place in the first forty days, why cannot we say that the tradition narrated by Ibn Mas'oud speaks about the first forty days only? Arabic does not require that we use the word *thumma* (then) only to mean succession, on the basis of which the three terms add up to 120 days. Since we can interpret the tradition narrated by Ibn Mas'oud, as well as other traditions, in a way that corresponds to reality, why not? We know that *thumma* is not always used to indicate chronological order. In the Quran itself it is used sometimes to mean the mere conjunction usually indicated by *and*. Sometimes it is used as in the poetic lines:

He who rules, and then his father has ruled,
And then, no top of that, his grandfather has also ruled...

Much of the usage made by Arabs supports the statement that *thurma* is not always used to imply chronological order, which, in my opinion, is the case in this tradition, where it is used just as a conjunction. This allows us to reconcile the traditions with what medicine says, namely that an embryo is alive. We do not have to speak about two lives, one with spirit, and the other, I do not know what. When we speak about two lives, we do not speak of reality; we just want to feel pleased with ourselves for agreeing with the tradition, or with its apparent meaning.

Thank you!

Sheikh Muhammad Al-Mukhtar Al-Salami, Chairman

Thanks to Mr. Abd Al-Qader for the points he has raised concerning spirit, life, Ibn Hazm and his arguments with the Maliki school and other schools over basic questions.

Dr. Omar Al-Ashqar

It is my belief that we are not discussing this subject for its own sake, but rather for the rulings involved in it. It is also my belief that many rulings were made in the past without going into this subject. A woman's waiting period, for example, ends when the pregnancy is over, whether an embryo has or has not taken human form, or whether it has or has not completed the first four months of its life. This matter is settled. Again if twenty, or even fifty, physicians testify that a fetus is alive in the eighth month of gestation, and then the baby is still born, it receives no share of inheritance. This matter is also settled.

What is left is the question of whether abortion is lawful when a fetus is beginning to take human form, within or after the first four months. Is it true that this matter is related to fetal life, and to whether life begins when an ovum is fertilized or within four months? Is there a strong connection or is abortion an independent question. I do not believe the two questions are strongly related, since this is a matter of applying certain rules. Has the Legislator given us permission to assault an ovum just fertilized? A forty-day old embryo? An embryo taking human form? A fetus when spirit has been breathed into it? Since we have no such permission, and an explicit, authentic statement clearly indicates that the Prophet, Peace be upon him, considers that assaulting a fetus is a crime that calls for a monetary fine, known in Islamic fiqh as "fetus blood money", I believe there is no strong reason to discuss the matter.

Concerning the other aspect of this question, which is the inception of life, I support what the Honourable Sheikhs, Dr. Muhammad Na'im Yassin and the other researchers in saying that human life begins after, not before, spirit is breathed in. I also agree with the evidence he has cited, and would like to add a point I have mentioned in my paper. When I examined the Quranic statements which speak of death, I noticed that God, Blessed and Most Sublime is He, mentions two lives and two deaths, one of which we know.

*LORD, TWICE YOU HAVE CAUSED US TO DIE, AND TWICE YOU
HAVE GIVEN US LIFE.*

(S40:V11)

*... HE GAVE YOU LIFE WHEN YOU WERE DEAD AND WILL CAUSE
YOU TO DIE AND BRING YOU TO LIFE.*

(S2:V28)

There is, as I have said, one death with which we are familiar, which is the death everybody has to experience, and one life with which we are familiar: this life. We know of the other life, which begins on the Day of Judgement. What remains is the other death; is it the state we are in before we are created? But that is non existence that cannot be described in terms of life.

*HAS NOT BEEN THERE A PERIOD OF TIME DURING WHICH MAN
WAS NOTHING TO BE THOUGHT OF?*

(S76:V1)

That is nonexistence, so where is the second death? Certainly, it is not the time of nonexistence, and also certainly, it is not after spirit is breathed into us. In my belief that state which is called "death" in the Quran is the state of the drop of sperm, the zygote before spirit is breathed into it. That is a state of death in Quranic terminology. This is something we have to define if we can. A clear explanation is needed of the first death in which we do not know the taste of death. The Quran says.

*AND THEY SHALL NOT TASTE DEATH EXCEPT THEIR FIRST
DEATH.*

(S44:V56)

This means there is the death of which we know the taste and the death we have been through but shall not know its taste. What can that be? In my belief it is the death before spirit is breathed in. Even if in medicine a sperm is a living thing and so is a zygote, that is a state of death in Quranic

terminology though it has a special kind of life. When spirit is breathed in, a new type of life, other than the first, is introduced. This is what I wanted to point out.

Sheikh Muhammad Al-Mukhtar Al-Salami, Chairman

I thank Dr. (Al-Ashqar) for his follow-up to prove that spirit is introduced into a human being only after the fourth month of pregnancy. This is clearly a strong trend that has supporters.

Mr. Abd Al-Rahman Abd Al-Khaleq

In fact, I would like to define the points of agreement and disagreement in what brother scholars have said so far, so that, at the end, the point which should be the focus of discussion is well defined.

Those who have spoken all agree that human life, some type of life, begins with fertilization. I recall here an expression used by Dr. Hassan Hatthout in our first seminar last year. He said when an ovum is fertilized what we have is not a human being, but rather a potential human being. This is the first point.

The second point of agreement is that from the moment of fertilization, human life though imperfect, is sacred and enjoys certain rights. That the life of this being, the embryo, is a condition for these rights is also a matter of common agreement.

A third point of agreement is that human life is a mystery kept by God, Blessed and Most Sublime is He. Its nature is unknown to us.

As for the areas of disagreement, we actually differ over one basic thing, which is the interpretation of statements in the Quran and Tradition in the light of the findings of contemporary, physical science. I have noted two tendencies here. One tries to fully isolate these statements of the Quran and Tradition from the scientific view, so that these statements are accepted merely on the basis of belief in a mystery which has no reflection in reality and no clear meaning. In fact, this is the gist of what Dr. Hassan says as I understand it, although he expressed this approach very politely. The inevitable result of accepting what he says, however, is to exclude the Quranic and Tradition statements from having anything to do with this issue, although when one looks at these statements, one finds that their authenticity is beyond any doubt; this is a matter that accepts no argument. They are texts of the Quran and Tradition. Even the traditions are ones that interpret Quranic texts.

Moreover, they are verses and traditions with highly precise import. The reference is here to a particular number. It is well-known that arithmetic reference in language is exclusive. When, for example, the Prophet, Peace be upon him, says,

“The creation of each one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm”,

A theory that differs from this and speaks of thirty nine days is a lie. If we believe that the period meant is thirty-nine days, we are implying that the Prophet, Peace be upon him, does not speak the truth. This is a very grave matter. Actually, I find that the statements of the Quran and Tradition on this issue are not only highly authentic, but they also have a highly precise import. Any attempt to modify them or interpret them to mean something different would lead us not merely into a legislative ambiguity, but into a legislative error.

Another tendency is the attempt to reconcile by interpreting the statements of the Quran and Traditions in the light of the findings of modern science. This is in fact, what I feel Dr. 'Isam Al-Sherbini is trying to do. I like very much the attempt made by Dr. Mukhtar Al-Mahdi to attach human life to the time when the brain begins to function. He has spoken in this regard about the beginning of complex embryonic movements and the response to outside influences which begin when the development of the brain tends towards perfection. The trouble is that we cannot be absolutely certain of this, making it an established theory beyond any doubt. On the basis of what physicians have told us, we still cannot arrive at a decisive, definite theory of which we are absolutely sure, and which tells us at what decisive moment spirit, which is mentioned in both the Quran and Tradition, comes into contact with this body or this potential human being, the fetus.

Until we are capable of arriving at such a theory, we, as Muslims, have to hold tight to the definitive statements, which should not be modified nor interpreted to mean something different just in order to accommodate the scientific knowledge we have. This knowledge, as I see it, is still incapable of fully explaining this point. It is still incomplete. I thank at this point Dr. Ahmad Shawqi Ibrahim for emphasizing this idea concerning Islamic Legislation. In short, the scientific theories we have, as well as scientific theories in general, or not infallible. It is not right at all to set something subject to error against what is infallible. We hold to the

infallible - the words of God, Blessed and Most Sublime is He, and the words of the Prophet, Peace be upon him - until we are offered a conclusive scientific theory. It is not right at all for us to base our judgement in such matters on mere assumptions.

Sheikh Muhammad Al-Mukhtar Al-Salami, Chairman

I thank the speaker for what he was kind enough to say. That an embryo has no human life in the first four months and acquires it afterwards is a point of view which, as I have said earlier, has supporters and opposers.

Now allow me to make a short comment. I did not have any impression that any of us has said the statements of the Quran and Tradition should be excluded from the field of investigation. Nor did any one say that he rejects something said in the Quran on the basis of science, because it is most certain that there is no discrepancy between science and the Quran. When there seems to be a discrepancy, it is between man's interpretation of the Quranic or Tradition statement and science. Here we must say that such statements are understood in harmony with what is proved by science. I believe this is something we agree upon.

The precious lecture with which Dr. Hassan Hatthout opened our morning session was, in truth, highly enjoyable not merely from the scientific point of view, but also for its literary style: its choice of diction and the way scientific concepts are expressed in a sublime literary mode. For all this, I express my thanks and appreciation. Yet, I did not at all get the impression that he said the Quran and *Sunnah* should be kept out of this field. We should, however, interpret the Quran and *Sunnah* in accordance with confirmed, rather than assumed, scientific findings.

Once again, I ask for your pardon for intervening in this manner and giving myself the right to speak, but I know you are too kind to make me feel embarrassed on this account.

Dr. Muhammad Sulaiman Al-Ashqar

I beg the Chairman to allow me to read just four pages. By God's Will, there will be time enough, and our minds will not be confused.

The issue we are discussing has focused on two points.

The first point is the tradition narrated by Ibn Mas'oud, which is in fact

the basis of this conference. Also in the previous conference, most of the conversation and comment focused on this tradition, narrated by Ibn Mas'oud and related by both Al-Bukhari and Muslim as well as others. I want to speak from a purely Tradition - oriented point of view. How I wish I had completed my research on this point in particularly before I submitted my paper to this conference.

The tradition includes various issues.

The first is that it tells of the life span and livelihood being written down, a point on which all versions, narrated by Ibn Mas'oud and other companions amounting to ten in number as listed in *Fatth Al-Bari* agree, so there can be no doubt over this specific point.

The second issue in the tradition is that it tells of the visit paid by an angel to the fetus in its mother's belly, and this is another point on which all versions agree.

The third issue is that the visit occurs after three forty-day terms. It is this particular point over which this version of the tradition differs from many versions narrated by companions other than Ibn Mas'oud, some of which, like that of Abu Usaid Al-Ghifari in which the period is defined as forty days only, are listed by Muslim.

None of the Companions other than Ibn Mas'oud mentions three terms of forty days each. All agree on one forty-day term. What does a Tradition scholar do in such a case? Here we have a discrepancy between versions. In my opinion this cannot be resolved by claiming that two visits are made (by the angel). All the details given in the versions referred to imply it is only one visit.

This discrepancy suggests that one version is correct and faithfully quotes what the Prophet, Peace be upon him, actually said. The other version, though authentic as far as ascription is concerned, has to be taken as having been modified by some of the narrators because of confusion or to be interpreted in a way different from what is suggested by the apparent meaning. Some of the speakers we have listened to, such as Dr. Muhammad Na'im Yassin, said that Al-Bukhari's choice of the three forty-day terms version (to list in his "*Sahih*"), and listing no other, suggests preference of that version. The case, however, can be regarded differently. The fact that there are several narrators and that all, but one, agree on one thing gives their version more weight than that which is narrated by only one person. This is a familiar conclusion which is almost instinctively arrived at, and it is recognized by Quran, *fiqh*, and Tradition

scholars, as well as by all rational people as I imagine. Exception may be made if the one person has some special distinction, which is not the case here. When we realize that in the versions where the ascription is regarded as authentic, among all those who quote Ibn Mas'oud, only one, called Zaid Ibn Wahab, mentions three forty-day terms, while the others have it as only one forty-day period, it is clear that the version of one forty-day period, it is clear that the version of one forty-day term has much stronger support. It is researched and agreed upon by all scholars. Giving it more weight agrees with the opinions of jurists and Tradition scholars expressed when they discuss discrepancy, for they hold that using the greater number of narrators as a means of preference is an accepted principle, particularly when the ascription of two versions is authentic.

If this preference is correct, we have to consider that the breathing of spirit and what is mentioned to coincide with it occur within forty, forty-two, or forty five days, according to different versions, and not within 120 days. Rulings have to be based on the shorter period rather than the four-month period.

It remains for me to point out that the Ibn Mas'oud version of three forty-day term is listed in the two "Sahihs" in two versions. The first says:

"The creation of each one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm, then for a similar period, he is a germ-cell, then for a similar period, he is an embryonic lump, then an angel is sent to him"

This is the version to which everyone who speaks on the subject refers. The second version, however, is also listed in the two "Sahihs", and I beg you pay attention to the phrasing:

"The creation of each one of you is brought together in the belly of his mother for forty days, then he is in that a germ-cell for a similar period, then he is in that an embryonic lump for a similar period".

This discrepancy must have occurred at a stage after the narration of Ibn Mas'oud and cannot be ascribed to him, because he must have used the same phrasing in narrating the tradition.

Now if we closely examine the second version, all difficulties may be resolved. When the phrase "in that" is used, what does it refer to? Let us please pay attention to this, for it implies a reference to something

mentioned before it. I find that no one speaks of the difference between the two versions at all. Perhaps the first version, which mentions three forty-day periods, is more easily understood. The second version is bypassed altogether, though it is listed in both "*Sahihs*". The phrase "in that" can refer to nothing other than the phrase "forty days", which means it is a germ-cell in the first forty days and that the stage of embryonic lump also occurs in the first forty days. In this way, all versions, narrated by Ibn Mas'oud and others, agree, and the one thing that remains is that the second Ibn Mas'oud version offers us an additional advantage which is that the embryo is a drop of sperm, a germ-cell and an embryonic lump for similar periods, which means two weeks each.

The fourth issue mentioned in the version narrated by Ibn Mas'oud, is that spirit is breathed by the angel into the fetus on the same visit. This is a point mentioned in no version other than Ibn Mas'oud's, although Ibn Abbas is also quoted to have mentioned it in his own words.

Now again, I speak from a pure jurist or Tradition scholarship point of view. This may be taken as another discrepancy between versions, and it may give rise to a call to drop Ibn Mas'oud's version, together with the spirit breathing issue, altogether on the basis that other versions do not mention it. But this is not the right approach. We say this is not really a discrepancy; it is merely that some narrators quote more than others. When a narrator gives more details this falls under the category of "Addition by a Reliable Narrator" rather than "Discrepancy". However, an addition by a reliable narrator may lose some of its validity because it is narrated by no one else. Others had equal chance to listen, so how come this is the only person to narrate this part? However, the more common view among scholars is that an addition by a reliable narrator is acceptable and that its content should be observed. Thus, the version that mentions the breathing of spirit during the angel's visit is acceptable and supported by other references in the Quran and Tradition, which is not the case with the three forty-day terms.

I went over this point briefly at the seminar on Reproduction. I have been thinking about it ever since. I have checked the various versions, though not very thoroughly. The whole matter has to be discussed along pure modern scientific lines, so that all versions of the tradition are consulted and compared.

The second point is a comment I want to make on something mentioned by our senior colleague, the Honourable Sheikh Badr Al-Mutawalli. Differences occur and have occurred for a long period of time.

When the opinions of scholars differ, does a student of *fiqh* or of other disciplines has the right to take any opinion? We have been differing over this particular point. But I say now what I said earlier, namely that when there are various opinions, a *fiqh* scholar may follow the one he prefers. The considered scholarly view is that if a student has the ability to discriminate and to read the evidence correctly, he has to choose the better supported view after examining all the evidence, and not on the basis of what suits or unsuits him. While the unlearned and those who imitate and have no knowledge of reading evidence, have to follow the opinion of the scholar whom they believe to be better versed in the Quran and *Sunnah*. We cannot choose haphazardly except in one case, and this is when the evidence seems contradictory and one has no way of giving some evidence more weight. In this case some scholars say the student has to stop short of making a judgement or giving a ruling, while others say he can choose whatever school he desires to follow. To say that he may follow what suits him is wrong. Some scholars of one of the four schools of thought have advanced the view that wine, which is an intoxicant, is permissible to drink! This calls upon us to raise the future generations of *fiqh* scholars and other specialists so that they will be able to read the evidence directly, after going through the opinions of earlier scholars and after being trained properly.

Sheikh Muhammad Mukhtar Al-Salami, Chairman

Thanks to Dr. Muhammad Sulaiman Al-Ashqar, in whose speech we listened to how we choose the better supported among authentic traditions listed in the "*Sahih*" and dealing with this subject. Then he went into another point, the way to weigh the opinions of *fiqh* scholars against each other. This is not something new, and Al-Shatibi, I believe, wrote the best account on it. He says that Islam does not leave a responsible person who is accountable for his choice, to follow his own inclinations. Thus when he makes a choice, he does not consider what serves his interests better, but he chooses the closest to the truth, in his belief, on the basis of God's Book and the *Sunnah* of His Prophet, or of the opinions of scholars. If a person is illiterate or incapable of making an informed opinion, then he is not allowed to make rulings and can only choose the opinion regarded as best supported. This is a question through which every scholar must go.

Sheikh Badr Al-Mutawalli Abd Al-Basset

In fact, since my colleague Mr. Muhammad Al-Ashqar has raised this point an explanation has to be made. When a *fiqh* scholar feels incapable

of making a ruling over a certain issue on the basis of the Book and *Sunnah*, he can weigh the opinions of earlier scholars and choose what seems to be weightier. When the issue is subject to controversy, particularly when the controversy has begun in the very early period of Islamic scholarship, and the evidence and opinions seem of equal weight, the *fiqh* scholar may choose the opinion which best serves his community. His purpose should not be to come up with an opinion all his own to brag about it. When he has no means to prefer one opinion over another, and opinions have been expressed by earlier scholars, particularly those who belonged to the earliest period of Islam - when he is confused by the various opinions and cannot prefer one to another - one of the principles of making a choice is to select what makes things easier for people. Islamic Law says, "Try to make things easier, not harder. Convey happy news to people and do not alienate them". So if the matter is subject to controversy, and a *mufti* has to make a choice, he should, in a case of this sort, choose what is easier for his community. That is what I have always said, which may mean that we are getting closer to each other or moving further apart. It is only God who has perfect knowledge.

The Chairman

We thank Sheikh Badr Al-Mutawalli, and this is an opinion over which we all agree. It is a valid principle of choice, and, praise be to God, we have no disagreement over it.

Dr. Ahmad Shawqi Ibrahim

The tradition narrated by Ibn Mas'oud mentions that the spirit is breathed in within 120 days. The tradition related by Muslim as reported by Abu Al-Tufail, which mentions a forty day period, does not speak of spirit breathing, as we all know. Here is the exact text of the tradition narrated by Abu Al-Tufail on the authority of Huthaifah Ibn Usaid: The Prophet, Peace upon him says:

"An angel comes to the drop of sperm after it has been settled in the womb for forty or forty-five nights. He asks, "O Lord, is it to be miserable or happy?" and the answer is entered. He says, "O Lord, is it to be male or female?" and the answer is entered. He also enters its career, influence, life duration, and livelihood. Then the record is folded. Nothing is ever added nor taken away".

So the spirit is not mentioned in this version (as being introduced) within forty days. It is not mentioned at all. The only place where spirit breathing is mentioned is the version narrated by Ibn Mas'oud.

Sheikh Ibrahim Al-Desouqi

The fact is our colleagues have expanded on this issue we are discussing, but there remain certain questions. When an embryo is miscarried in the period between the germ-cell and the embryonic lump stages, or during one of these stages up to the moment spirit is breathed into it, some colleagues, have said that such a miscarriage can very well be a justification for terminating the mother's waiting period. God's statement that *THE TERM OF WOMEN WITH CHILDREN IS UNTIL THEY DELIVER* has been quoted. There are other rulings that apply in this particular case. It is agreed that many of these rulings do not apply unless a baby cries or screams at birth or shows a sign of life. So miscarriage at that particular stage has a bearing on the waiting period because it proves that the womb has become free of conception. But to confirm life in the case of such a miscarriage, the miscarried embryo has to make a movement which is regarded as a valid sign of life.

When we consult the same works of *fiqh* and *Sunnah*, we find them making distinction between the stages before and after the breathing-in of spirit. The rulings that apply in the latter are different from those applied to the former. Thus if a fetus is caused to be aborted through an act of aggression, full blood money has to be imposed if this occurs after spirit breathing and the fetus is dead when aborted. While if the abortion occurs during the earlier stage, the penalty is reduced to fetus blood money. What we have to agree upon is whether the life of the fetus is settled, after spirit is breathed in, which means all the consequences resulting from it are valid; or that human life only starts after the breathing of spirit when its consequences start to be valid. This is a point concerning the first issue, miscarriage before spirit is breathed in.

Next, this seminar seems to gain more importance in this period of time when we are swept by material currents and empirical thought, which are trying to obliterate all the landmarks of our faith, particularly relating to the world of the imperceptibles. It is true that by our meeting here and assertion of spiritual life and of the fact that the Islamic religion accompanies a human being from the time it is a sperm in the loins of his father through his arrival into existence and until he is buried in the earth, we are showing the whole world that Islam is the true religion of life and

can never be isolated from life. As it sets regulations for man's relationship with himself, with his Lord, and with his fellow men, it also puts his life in order by regulating his relation with other forms of life surrounding him.

What I want our physician colleagues to make absolutely clear is whether life before spirit breathing is regarded as normal life and has all the properties of life after spirit breathing, or it is a special type of life that has human qualities but it is a lower form.

The Chairman

Thanks to His Eminence Sheikh Ibrahim Al-Dasouqi for what he has offered.

In fact he has raised two points.

The first is whether *fiqh* rulings apply to an embryo before and after spirit is breathed in. This is a subject of controversy among *fiqh* scholars. The Shafi'i, [Hanbali], and Hanafi Schools make different stipulations for the stages before and after the end of the first forty days and before and after discernable human form is acquired. The Maliki school, however, says, as it has been verified, once conception is confirmed, all the rules based on it apply right away and up until delivery. No distinction between the first and the ninth months is made. But this is merely a question of informed opinion. If science provides us with new information, we can easily give preponderance to one opinion over the other. In doing so, we would not be introducing something new, but merely giving preference to one of the already established Schools, which are advanced by *fiqh* scholars, all of whom have aimed at the truth, with some of them hitting the mark and some missing. Science brings us new evidence, and allow us to better understand opinions as well as Quranic and Traditions statements.

The second point, which deals with one of the basic issues, is that Islam by no means allow it to be said that a certain period of man's life, or of man's activity, is not covered by it. There is no human activity which is not covered by a divine ruling. I believe we all agree on this.

In our faith there are rulings for a fetus, rulings for a child until he comes of age, rulings for an adult, rulings for the demented, and in short rulings for man in every stage of his life. Nevertheless, I am not offering an argument and have no right to interfere with arguments. Perhaps I have been hasty, and it is in man's nature to be hasty, so I beg your pardon. Now it is Dr. Yusuf Al-Qaradhawi's turn.

Dr. Yusuf Al-Qaradhawi

We have heard both physicians and *fiqh* scholars speak, though the term “*fiqh* scholars” is used figuratively here. The term “*fiqh* scholar” is a grand title, which used to be given to the highly diligent who had attained a prominent position. We are actually *fiqh* workers. I, for myself, do not pretend to be a *fiqh* scholar. I am merely a *fiqh* worker. I say we have heard many good points from both sides. The meeting of the two sides undoubtedly promises much good, God willing. The best proof of this is the fact that the question under discussion is a controversial one, whether among physicians or among *fiqh* specialists. When either group differs over something, their difference is a sign of mercy from God, because their differences give people a wider margin in such matters.

We believe that when God definitely wants something obligatory from people, and wants unanimous agreement over it, He includes in His revelations definite and precise statements that admit only one interpretation. No doubt can be raised over the authenticity or import of such revealed statements. When, however, He wants His servants to enjoy a wider margin, He reveals in His Book, or inspires His Prophet with, statements that admit more than one meaning and invite more than one interpretation. This is what we find in this case, and it is the reason why early scholars themselves differed on it and we still disagree today. It is true that, as Dr. Omar Al-Ashqar said, the only point of controversy is that of abortion, whether dying the three forty-day terms, if we take the well-known version narrated by Ibn Mas'oud, or in the first forty days, if we follow the other version. This is the only point that has to be settled. There is no disagreement over any other point.

I would like to say that this subject is not covered by any clearly authentic statement of a highly precise import. On this I disagree with Sheikh Abd Al-Rahman Abd Al-Khaleq who claims there are such statements dealing with this issue. Certainly there are Quranic statements, which are of course absolutely authentic, but their import is not so precise. There is also a tradition or a group of traditions. But they are, as Dr. Muhammad Al-Ashqar rightly described somewhat lacking, even as far as the establishment of their authenticity is concerned. Dr. Al-Ashqar did well by going through the various versions, and I wish he did devote himself completely to this pursuit, because it is the focal point of the whole thing. We have actually seen that if we examine the well-known central version of the tradition of “The creation of each one of you is brought together in the belly of his mother....” narrated by Ibn Mas'oud against modern critical

standards, we find it, as the scholars of Tradition Sources or Tradition Terminology would say, an odd version, which is defined as a version narrated by a reliable person, yet it contradicts another version narrated by someone more reliable or by a larger group of narrators, and that is in fact what we have.

What I am getting at is that this issue is not the subject of an absolutely authentic statements. When one such statement is found in the Quran, we discover that its import is not precise; rather, a suggests different possible interpretations. Even the point concerning spirit breathing - what do we mean by spirit breathing? Does it imply that it is lawful to cause the abortion of an embryo before spirit breathing? This is another question, and in this also there are more that one possible interpretation. The point mentioned by Dr. Hassan at the outset, how the Prophet, Peace be upon him, suspended the execution of the Ghamidi woman who deserved stoning and admitted her guilt, asking to be punished. This must have occurred at an early stage of pregnancy, which makes it a proof that an embryo is sacred from the moment of conception. This is a factor that may give more support to a particular opinion.

Another such factor is that, of fetus blood money. In short we have more than one aspect, each is set against the others. This signifies that the subject is still a controversial one, subject to personal preference. I believe that in fact it is better for absolute matters to continue to be absolute, and for those based on assumptions to continue being so, without our trying to upset the established system of rulings and categories. Some people would like to cast doubt over absolute matters and turn them into matters of assumption, and to speak of well-defined issues as causing confusion. They would like to argue over other issues on which the whole nation of Muslims unanimously agree and are well - supported by evidence.

This sort of thing is absolutely unacceptable. Others, on the other hand, want to turn issues based on assumptions into absolute rulings and controversial points into unanimously - accepted ones. This is likewise unacceptable. The system and categories of rulings should remain the same. Therefore further research and more discussion are needed. Perhaps the evening session will make things clearer.

Sheikh Muhammad Mukhtar Al-Salami, Chairman

Thanks to Dr. Al-Qaradhawi for what he has been kind enough to offer, pointing out that this is a controversial issue and will remain so,

which is always the case with issues based on assumptions. Had it not been a case based on assumption, there would have been no controversy over it. Definite matters admit no controversy.

Dr. Hassan Hattihout

To improve is always healthy among people who care for each other, it maintains love. Before any of us comes to a seminar like this, there are certain things that are taken for granted. One of which is definitely that he is a believer. Another is definitely that he is going to meet brother believers. A third is that each of them has acquired a certain amount of faith, even if it is a minimum, and a certain amount of knowledge of what he speaks about, and so on.

I wish my reproof were addressed to my brother Dr. Ahmad Shawqi alone. It would have been easier to address it to the person who says when there is a conflict between science and the Quran, the Quran should be given precedence, believing that we need to be told that. When I said something of this sort, I only did it on the basis that it goes without saying. None of us may countenance that a comparison may be made between science and the Quran. This is a stage we finished with a long time before coming to a seminar like this.

What I said was that it was unfortunate that the two (the Quran and science) use similar terms, to denote things which are totally different. When we, physicians, needed terms to use for the sperm or the zygote, which is called lump and forms eighteen hours after ovulation and continues till the fifth day, or the germ-cell which adheres to the uterine lining for only two days and is then implanted - we should have chosen terms other than drop of sperm, germ-cell and embryonic lump so that there could be no confusion between what the forty-day term tradition says and what physicians use for expression. The usage of these terms by physicians is wrong and it should not have been introduced. We are not making a comparison by saying that a physician calls this an embryonic lump and the Prophet says an embryonic lump last for forty days, so which one should be doubted and which is considered true. This is something that cannot be admitted at all.

We have heard many opinions and ideas and I want to contribute another idea. The writing down by the angel on the 120th day is not the beginning of anything. It is a mere copying from the Preserved Tablet to the angel's record. It does not supply new information, except that an angels' function begins on that day. For the question of whether an

embryo is to be a miserable or happy human being and so on is written in the Preserved Tablet and is not something introduced with the writing of the angel. The angel has a job to do, and on that day he begins to do it. A person is not considered to have been born at the time a birth certificate is made for him; he might have been born a long time earlier. When someone goes to the Population Register office to have a new-born infant entered in the register, at this point an official performs the task of writing down, which, as I see it, is the closest thing to what the angel does. That is why it is said that one of the things he writes in the life span. What if an embryo is miscarried within two months, which means its life span ends before the angel's visit? Does that mean it becomes void or that it has been void? Is it not written down on the Preserved Tablet that this embryo would live for two months, then its embryonic life would end, and all with the knowledge of God and according to His instruction? But this embryo does not live to the stage at which the angel performs his writing task. We have heard the meanings of "spirit". I am most comfortable with the verse which says,

*THEY ASK YOU ABOUT THE SPIRIT. SAY "THE SPIRIT IS MY
LORD'S CONCERN.*

We have heard that for "spirit" there are seven meanings, so why should we restrict ourselves by saying the breathing of spirit is the inception of human qualities in a human being. I believe by saying so, we would be introducing an eighth idea to be added to the seven, which may or may not be true. But we do not have to restrict ourselves like that. It is only God who has perfect knowledge.

Sheikh Muhammad Al-Mukhtar Al-Salami, Chairman

In conclusion, we have listened in this rich session to the opinions of the gentlemen who have been kind enough to express them, and these can be summed up in a few points.

The first point consists of several items, the first of which is agreed upon by all: Certainty about this issue is beyond us, for it is one that admits assumptions and, as the case is with all such issues, invites individual opinion and research. The second item is that it is also certain that an ovum has life. And the third item is that religion is involved in every area of life and has rulings for all issues and all human activities. Life is sacred and should not be the object of aggression. Now, after all these items which are agreed upon, the question is: Which life? It is one of the first points of disagreement. Is life confirmed during, or at the end of, the first

four months? We have differed over this, and the question is still under discussion and will be raised in the next session.

The second point concerns the spirit, whether it may be a subject for human investigation, or is it beyond it and man has no right to investigate the spirit.

The third point is that some of the texts we refer to and consult in our endeavour to arrive at *fiqh* rulings have precise import while others invite various interpretations. Let us then feel reassured; our topic is one that admits various opinions.

A final point concerns spirit breathing and what is meant by the word "breathing". I believe all these are issues that will be brought up in our session tomorrow, God willing.

REPORT ON THE THIRD SESSION

The third session was held at four p.m. It was chaired by Dr. Yusuf Al-Qaradhawi. Dr. Abdulla Basalamah acted as assistant chairman and Dr. Abd Al-Sattar Abu Ghuddah as rapporteur. The session was devoted to *fiqh* discussion with the purpose of arriving at a precise definition of the beginning of human life. Two points of view crystalized, one holding that the inception of life is at the moment of ovum fertilization, while the other saying the beginning is when spirit is breathed in. All were in agreement that from the moment of conception, there is some type of life, which becomes more and more sacred with the passage of time.

A number of issues were raised at this session, such as using a loop and whether it is to be regarded as abortion.

The session was adjourned at 8:30 p.m.

Editors

DISCUSSIONS

Dr. Yusuf Al-Qaradhawi, Chairman

In the Name of God, the Compassionate, the Merciful.

We carry on with these sessions to pursue our topic: Contemporary medical issues in the light of Islamic *fiqh*. In these sessions *fiqh* and medicine specialists meet together. Some of our early scholars, such as Ibn Rushd, could master both fields, but it is very unlikely for a person of our age, the age of minute specialization, to do that. Therefore, we cannot do without combined meetings of *fiqh* scholars and physicians, the same way that *fiqh* scholars hold joint meetings with economists and other specialists, so that these scholars may base their learning on a thorough knowledge of the world of reality. No ruling can be right or correctly formulated unless the scholar who makes it has a good knowledge of reality. As His Eminence, Sheikh Badr said in the morning session, the process of diagnosis is a must.

We are meeting now to determine the issue of the inception of life. I believe in the early morning session we were able to define the purpose of the research made on this subject. The only controversial issue is that of abortion, and specifically abortion during the first 120 days, because I think it has been agreed that after that period, abortion is unlawful. The issue then concerns the first forty days, or rather the first three forty-day terms, that is the first four months, and whether there is a distinction of stages, such as the first forty days, when things could be less strict. We have to define the issue specifically, so that we can narrow the area of disagreement and arrive at an opinion which would be as close to the truth as possible. Absolute opinions over an issue of this sort are very difficult to arrive at, since God has not made in His revelations a statement on it which admits no ambiguity. There is nothing wrong in our disagreeing when we are striving for the truth. Whoever is right in such a pursuit is doubly rewarded, and even when one is wrong, he is still rewarded, by the will of God.

As scheduled, this session will be long, so we are dividing it into two parts. The first is before *maghrib* prayer. Then at five we have a break for

prayer and tea. After that we resume our session, until eight. Tomorrow, God willing, the session on "death after life" begin, and here I would like to wish you all long life characterised by humble obedience to God. I would like everyone to observe the time limit as strictly as possible, so none of us would be unfair to his fellow speakers or take too much of the time we have. Avoiding repetition as much as possible would help. There is no need to go again into matters that have been already settled. Let each of us try to add something to what others have said, or object if he has an objection to make. The important thing for us is to seek evidence first and then form an opinion, not to start with an opinion to defend. Let each of us start from a position of serious interest, with no preconceived idea. Indeed one may change his point of view after listening to others, which is the right thing to do and which should always be our motto. Now we give a chance to whoever wants to talk and later we will follow a certain order. At the moment, anyone may speak, but after the sunset prayer we will have some restrictions. It seems, however, that we will still have to listen to some speakers after the break. For the time being we allow every speaker a maximum of five minutes, and if there is a need, there will be another chance.

Dr. Abd Al-Hafez Hilmi

In the Name of God, the Compassionate, the Merciful.

I do not wish to trespass into others' fields of specialization, to go past the time limit, or go into things covered in the morning session.

The first issue we have is the meaning of life, and some colleagues have suggested that we might benefit from the experience of others who have already studied this subject, and I do not say we should do so to follow others but we may find some useful hints. This is then my first subject, and I will move into few other subjects if time allows.

The meaning and the inception of life were the topic of a dialogue on a very large scale in the United States of America. I particularly refer to an article published in the December 1982 number of science magazine, which is published by the American Academy of Science. Comments on the article were published in the January issue. Let us see what types of problems were raised. The American Congress says there is contemporary and modern scientific evidence pointing out that the greater probability is that actual human life begins with conception. In 1981, the right to live bill was passed, and it contained a more specific statement that life began with conception. There was a dialogue over the meaning of conception

and whether it was the same as fertilization, as you have suggested now, or the process of implanting as we said in the morning. The matter remains open to discussion until we arrive at the truth.

I would like to mention that some comments suggested the question was silly, in the sense that it is very difficult to say that life has a beginning. I hope the difference between the two points is clear. Life, in its general sense, has no beginning. It goes on from one generation to another. Its continuity can be seen in sperm, ova, and morsels, as well as in subsequent generations. But the question, it seems, is that of what I can call individual life. I am not using the word "personal" because that has a certain meaning for psychologists. When I say "individual life", I mean that a certain individual has special traits all of his own and his life begins at a point which we are trying to define and goes on as long as God wishes.

Actually, from a biological point of view, the union of a sperm and an ovum is, as Dr. Hassan kindly pointed out, the beginning. But here we speak of life probabilities. This zygote which has two gametes is a potential human life, for it may or may not settle in the uterus. If it does, the cycle of life begins. Otherwise and there are millions of zygotes that fail to settle - it comes to an end and only God knows what happens to it. This is the most important point. When we take this point, the implication is that every hindrance of that union is a cancellation of a potential life. Whenever there is a sperm and ovum union, the elements of life are there and if God wishes, this life goes on. Whoever hinders it is merely blocking this life from going on. This, I believe, is the biological explanation, the most common one. I am not speaking from a *fiqh* point of view, but rather from a biological one. Let me borrow the nice metaphor used by Dr. Hassan. The zygote that constitutes the beginning of every human being, has a genetic code that carries hereditary traits, which we call genes. To be very brief, though I hope still meaningful, I say that these genes, after certain elements are excluded, are transmitted to the following generation. These are the genes which we all share and which make each of us belong to Adam, Peace be upon him. Otherwise, we would not be related to him. Since the epithet "Son of Adam" applies to everyone of us, so our genes have some of Adam's traits. This is something we all share. Then we have genes that we have received from our ancestors in varying percentages, and that is what makes each of us a unique individual. This is the real miracle of creation: the great similarity that makes all human beings sons and daughters of Adam, and at the same time the individuality that makes every person a unique creature different from all others. I say this is a real miracle.

We move now to creatures that already exist. The genes determine the developments that occur in the course of a creature's life and which affect his growth and his disease potential. All this, biologically speaking, is recorded in the genes. I will come back to this mysterious point shortly. In these genes the time and spot for something to happen are recorded. So in an embryo it is already determined when certain cells start a particular function. No cell, although there are millions of them, is confused with another. The genetic code, with its information, does not multiply, but millions of copies are made and distributed to the cells of a body. Each cell has its instructions and carries them out at a certain time and a certain spot. All this is recorded as scientists nowadays believe.

One thing remains. The way for all these cells to coordinate and to recognize each other at various stages of development is also recorded. A cell multiplies into a great number of cells, but these can still recognize each other. This is not a poetic exaggeration. They do know how to recognize each other and how to communicate. That is what makes a human being an integrated whole, with all his cells interacting according to the instructions recorded in them. Here we have a very important point which has inspired me with certain ideas, on the basis of what I heard and learned from all speakers, particularly what Dr. Hassan and Dr. Muhammad Al-Ashqar have said. In this tradition which is the focus of our discussion and on which many things have been said, the four words the angel writes down suddenly drew my attention. They are livelihood, life span, career, and misery or happiness. None of these is determined by the genes I have talked about. Life, with all its factors, and God knows best, begins and is settled from the moment an ovum and a sperm unite, and it is recorded and actually, though chemically, written by the Will of God, Great and Most Sublime is He. The confusion that was in mind - the important point (and please let me make this clear and I shall skip the rest) is how to reconcile what is dictated (to the angel) and what is written (in the genetic code), which would give many of us, who are worried about this critical point, a clear conscience. What I have discovered, thanks to our dialogue, is that these things are destiny, not life. I want to stress this: they are destiny, not life, and these are two different things.

Dr. 'Isam Al-Sherbini

In the Name of God, the Compassionate, the Merciful.

There is in fact a point I want to bring up, in reply to something raised and in order to avoid any uneasiness in the discussion. It was suggested

that everyone should stick to his field of specialization. I endorse the proposal advanced by Dr. Muhammad Na'im on this point, which is to allow everyone to say whatever he wants on the condition that the final word on every point should be spoken by a specialist, which in fact goes without saying. This is because we believe that neither physician nor *fiqh* scholar is able to cover all aspects of an issue without the exchange of conversation between the two groups. Moreover, we are not physicians only; we are Muslim physicians. As such, we have the right to make sure that our views are valid, and that we understood the rulings correctly if that is possible. If we do not, we should be able to consult *fiqh* scholars. When he is convinced, his faith is strengthened. In this we follow the *Sunnah* of God's Messenger, Peace be upon him. When he told the Companions,

"Support your Muslim brother, whether he is the perpetrator or the victim of injustice",

they asked,

"We support him when he is the victim of injustice, but how can we when he is unjust to other",

and the Prophet explained to them what he meant. Therefore, we should make sure that we understand correctly. When Dr. Al-Ghandour, for example, says a human being is a germ at the beginning because God says,

WE HAVE CREATED MAN OUT OF A DROP OF SPERM INTERMINGLED.

I ask him why he does not follow another verse and say that man begins as clay:

WE FIRST MADE MAN FROM AN ESSENCE OF CLAY?

(S23:V12)

When Dr. Hassan says in an earlier paper that the verses,

YOU SHALL NOT KILL YOUR CHILDREN OUT OF EXTREME POVERTY,

(S6:V15)

YOU SHALL NOT KILL YOUR CHILDREN FOR FEAR OF EXTREME POVERTY,

(S17:V13)

AND THEY SHALL NOT KILL THEIR CHILDREN,

(S60:V12)

apply to abortion, as he understands them, and to no other case, because the word "children" includes both daughters and sons, while the burying-alive practiced by Arabs was of girls only - it is my right to say that the word "children" is used several times in the Quran to mean infants. The Quran calls an embryo a pregnancy, but never an infant or a child. Pregnant women are called "those with pregnancy". If the verses suggest anything, it is that a pregnancy is a pregnancy and an infant is an infant.

Another point is that the fear of error, whether medical or *fiqh* error, should not keep one from searching for an making a ruling. God does not tax us with more than we can bear. If we currently have certain medical information and we use it as a basis for a ruling, and then new medical discoveries are made, all we have to do is change the ruling. It is well known that this subject is not covered by a specific statement and that it should be ruled on the basis of informed human opinion, which, whether it is a medical or a *fiqh* opinion, is subject to change. This fact is derived from the *Sunnah* of the Prophet:

"I am only a human being, and you come to me with your quarrels. Some of you may be more eloquent with their arguments than others, and I may rule in their favour, on the basis of what I hear. When I rule in someone's favour something to which his brother has title, I am actualising giving him a brand of fire. He can take it or leave it".

(Related by Al-Bukhari & Muslim)

The probability of making a mistake in ruling has never been allowed to be an obstacle, because the Prophet, Peace be upon him, by no means denies the right to make a ruling on the basis of such probability. Therefore, I hope no one among us would feel uneasy about taking part in the discussion, or in talking on matters from various fields of specialization, in spite of the probability of making mistakes or later changing one's mind.

Dr. Omar Al-Ashqar

I want to bring us an issue which, I believe, is taken from granted by Islamic jurists and by the majority of us here. Yet, I have felt from some of the things said that there is the possibility it is not unanimously agreed upon by jurists. It is the question of human spirit. The fact that man has spirit is indisputable as far as jurists are concerned. The disagreement is over the day on which the spirit is introduced, which is not the same thing.

The interpretation of Quran and *Sunnah* statements by jurists definitely establish that man has a spirit. Among the Quranic statements is:

YIELD UP YOUR SOULS ...

(S6:V93)

There is also the arrival of angels to collect the soul:

*THOSE THAT ARE DESTINED TO DIE HE HOLDS WITH HIM AND
RELEASES THE OTHERS FOR A TIME ORDAINED.*

(S39:V42)

There is the tradition:

"When spirit is arrested, eye-sight follows".

(Related by Muslim in his "*Sahih*")

There are a great many statements on this - not just one, two, three, five, or ten - all of which are definite in their indication that man has a spirit. On the point of disagreement, the time the spirit is introduced, I think it is all right for us to differ, but those who belong to the main stream of Islamic scholarship never argue about the fact that man has a spirit. The great Sheikh Ibn Taimiyah says that none of the *Sunnah* scholars denies the spirit, but there is a group, one of those that have gone astray, holding a different opinion. The question, however, is not one that can be disputed by any Muslim scholar, and no scholar has claimed that man has no spirit. But on the essence of this spirit we are given no knowledge. Still we feel the presence of spirit, which, as scientists say, is the body's driving power. It is, however, removed from the body, and it is something created. What I am pointing out is that this issue is not subject to controversy within the main stream of Islamic scholarship. I would like any scholar or scientist who has a different opinion on this particular issue to say it, because much depends on this. If man has no spirit, that is a different matter.

Dr. Muhamad Na'im Yasin

In the Name of God, the Compassionate, the Merciful.

One of the arguments used by the scholars who believe the inception of human life coincide with the fertilization of the ovum is the similarity between a zygote and the creature it develops into in the long run. The process of fertilization produces such similarity through the genetic code, such as the similarity of organs and of systems, particularly when we take the condition into which the zygote grows by the time just before spirit is

breathed into it. Since this is the case, these scholars argue, a human being originates at the moment it acquires many of its human qualities. The answer to that, dear colleagues, is that every creature is given by God a trait that distinguishes it from all other creatures. Without this trait, it does not exist. Regardless of how similar in traits, characteristics, and functions creatures may be, it cannot be claimed that they are identical unless they share the same essential trait.

It is my belief that the mistake of Darwin was his failure to believe in the spirit. He only believed in the human body and its tangible elements. Thus, upon detecting some similarity between animals, he linked them to each other and said some evolved from others. But the measure of similarity is the distinctive quality. God has distinguished man with the human spirit and by having it breathed into the human fetus at a particular stage, according to a preordained destiny, of course. The breathing-in is performed by an angel entrusted with the job at a preordained time. This spirit cannot be an imaginary thing that has no effect in human life. Scientists and scholars have written volumes about it, its activity and the way it influences the body.

Actually, this spirit gives the human fetus abilities and qualities that it does not have before the spirit is breathed into it, or it gives the fetus the potential for such abilities and qualities. (By the way, the spirit, as many scholars say, grows, increases, and decreases). Before this potential is acquired, the fetus cannot be described as human, though in external form it resembles a human being. That there is similarity means nothing for there is similarity between many of God's creatures. Perhaps it is part of God's wisdom, manifested in His creation, to make the creation of man go through certain stages. Take Adam, the father of mankind, Peace be upon him. God created him first in the form of dust, and after a while He turned the dust into mud. After another period, He fashioned the preordained human form out of the mud and made it into clay of the ceramic type. When it was time, according to God's will, to make a perfected human being, He breathed of His spirit into the clay image and ordered angels to fall prostrate. Undoubtedly, each of these stages before the breathing of spirit show a certain amount of similarity to the final stage, either in raw material or in apparent form. The same is true about Adam's descendants. If God wills the creation of one, he prepares for it by stages preceeding the act of creation. First, a being called "sperm" is created in the father of the human being to be created, and a being called "ovum" in the matter. Then God allows the second stage, the union of the sperm and ovum to form a zygote, to take place, which, also by the will of God, is the means to start

later stages. In each stage, there is a certain degree of similarity with the human being that will be created in the end. The closer the stage is to the moment of creation, the higher is the degree of similarity. In the sperm there is one step, i.e. the genetic code, already taken towards the creation of that human being. It amounts to one half of the human genetic code. This foreordination of half the hereditary traits in the sperm is a point of similarity, and so is the other half in the ovum. When union occurs, the similarity increases. Thus the process of creation progresses and similarity increases until a fetus arrives at a stage when it moves into a new type of life: human life.

Dr. Ahmad Al-Qadhi

I want to speak of several things; one is a pitfall, another is a rebuttal of a suspicion, and the third is a concept that may lead to an abyss.

First the pitfall. I believe, we cannot scientifically isolate the question of abortion from the definition of the beginning of human life, as some scholars have proposed. I mean at a certain level of scholarship and devotion we may be able to separate the two and say the life of an embryo is sacred from the very day it begins, and abortion cannot be permitted, but the inception of human life, in a certain sense of the phrase, begins after the first four months. But for the general public, and for those who will base their behaviour on the conclusions arrived at in this seminar, the separation is not scientifically possible. Large numbers of people are waiting for this definition of the beginning of human life, and when they find it begins at a certain point, they are going to permit abortion before that point. This is an obvious thing, and I beg the participants in this seminar to appreciate the possible results of the opinion we are going to reach.

Now I come to the rebuttal of suspicion. A remark was made by someone to the effect that insistence on considering the moment of conception the beginning of human life is a result of pure material thinking which admits no consideration of the spirit. The truth is exactly the very opposite. Those who insist that embryonic life is human from the very beginning (and you can use the term "human life", "man's life", or whatever term you like) do so out of their great desire to protect this human being, with its spirit, soul, senses, and all other elements. Because of their great concern, they want to fill any gap that may lead to depriving this being of its value at one stage or another. This precaution and apprehension are the result of the scientific knowledge of what is going on in the world today. Because of the ambiguity in defining the beginning of

human life, souls are caused to perish before, or even after, the fourth month of pregnancy.

My third point is the concept that may drag us to an abyss. It is the linking between human life and the acquisition of spiritual qualities to which many have referred using the terms feeling, consciousness, perception, or will. If we agree that these and others are spiritual qualities and signs that life has been introduced into a human body, we would get ourselves into a dangerous spot and it would not be easy to get out of it. If we take eyesight as one of the functions of the brain and also one of the five senses, we notice that it does not mature until some time after birth. It can by no means be acquired within four months of pregnancy; not even within five or six. Thus we get ourselves into a tight spot, as we also do under certain conditions mentioned this morning. Suppose a person, after being born and reaching adulthood, contracts a disease or a damage caused to the brain, either temporarily or permanently, and this person loses his senses, consciousness, perception, and will, but his heart continues to beat and he goes on breathing. He would be alive and we cannot allow him to be killed just because he has lost his "spiritual traits". This, in fact, occurs in varying degrees during sleep and while under the influence of anesthetics during surgical operations which may last for days or for a short or long period of time. Therefore, we cannot set these qualities as conditions on the basis of which we describe life as being human or non-human. I believe all these "spiritual" qualities, as well as others, and are human qualities. A human being in his full power has all these qualities, but there are human beings who lack a small or large number of them, without turning into something non-human. Perhaps he is exempt from obligations and responsibilities, but he does not lose his humanity. If we compare the case of an adult who has lost consciousness but is still a human being to that of an embryo, we can see the clear similarity.

Without any doubt, we believe in the spirit and its role in human life, but we do not know everything about it. We may know certain things - say three, seven, or eight points - but there are others we do not know including the time and method set for introducing it into the body. These are all details of which we are certain, though we may not know their details, nor do we pretend to know. For fear of uneasiness, and because this is a matter that admits assumption and informed individual opinion, I believe we should take the safest course, as we should on all issues based on assumption. The safest course in this case is to do everything that may protect the human being and reduce the possibility of terminating

this life which we may call human life or the life of an imperfect human being.

Concerning what has been said about the death of the brain stem, many physicians, as well as *fiqh* scholars, agree that the death of the brain stem signifies the death of a human being. The question is, when does the brain stem begin to exist. As I understand the biological form of human beings, the components of the brain stem exist at the beginning, that is in the zygote, the same way the potential of other organs is there, though they have not yet taken their final form nor begun to function. These organs are gradually perfected at different times. Thus, a human being is alive and exists with all the components, of a human being from the very beginning, but it takes periods which vary in length for each to acquire its final shape. Some take six weeks, others three months, and some of the brain functions take up till the end of the first month after birth.

Sheikh Abd Al-Qader Al-'Amari

In the Name of God, the Compassionate, the Merciful.

In do not believe we will be able to settle this question of when life begins on philosophical grounds. But we can arrive at a practical solution. We ask ourselves, for example, whether abortion is lawful or unlawful and whether there is a period during which it is permissible. We can answer such questions whether we say that life is all of one type or that there are two types of life. Regardless of whether it is of one type or two, to assault embryonic or fetal life is unlawful, whether in the early or the advanced stages of pregnancy. Those who say abortion is lawful during the first four months cannot support their argument with the apparent meaning of the tradition narrated by Ibn Mas'oud. They have to look for supporting evidence elsewhere. For the most they may get from the apparent meaning of the tradition is that spirit breathing occurs within four months. But what is the evidence that abortion is lawful before spirit is breathed into a fetus, except, perhaps, the conclusion that there is no life in it before then? Then, when life is confirmed by using our senses and in reality, how can we permit an assault against it?

On the other hand, any analogy between such an abortion and *coitus interruptus* is invalid, for the latter occurs before the union of a sperm and an ovum and does not involve a potential human being. There is no text that sperms should be protected before getting into a uterus. No one says in the first four months an embryo is impure. Islamic Law calls for a compensation, fetus blood money which is five to ten per cent of ordinary

blood money, when a embryo is caused to be aborted during the first four months.

What I am trying to get at is that we can agree on ruling that abortion is unlawful whether within or after the first four months, and whether we agree or disagree over the time at which the spirit is breathed in. We may say this occurs during or after the first four months and will never reach a solution since every party has the evidence and argument which should be maintained.

Sheikh Abd Al-Rahman Abd Al-Khaleq

If you allow me, I have a few ideas, some of which are disorganized. But I am trying to organize my thoughts as much as possible, with God's will.

I believe the area of disagreement is well-defined now, after the morning and the present discussion. It is over the way to interpret the Quranic and *Sunnah* statements on this subject in the light of contemporary scientific findings. It is clear to all by now that there is no point where we all meet as to the time unequivocally meant by the Legislator as the time of spirit breathing and corresponding to modern science. So we have no alternative now but to hold fast to the infallible statements we have, until something else comes up and requires us to reconsider. When I describe the statements of being infallible, I mean they are in meaning. Moreover, they are verified beyond any doubt. The Quranic verses at the end this verse occurs at the beginning, not the end of the *Surah* entitled Al-Haj, or Pilgrimage of the *Surah* entitled Al-Haj or Pilgrimage, are posed as a challenge to unbelievers:

*MEN, IF YOU DOUBT THE RESURRECTION, WE FIRST CREATED
YOU FROM DUST, THEN FROM A DROP OF SPERM, THAN FROM
A GERM-CELL ...*

(S22:V5)

It is well known that in a context of challenge and of proving one's point, ambiguities are of no help. If God, Blessed and Most Sublime is He, wanted to use ambiguous words to prove how wrong unbelievers were in denying Resurrection, there would be nothing miraculous in that. We cannot claim that God's words in this context are not definite in meaning, because that would imply that God addressed unbelievers with a statement not clear to them, which would lead them astray rather than guide them to the truth. In the verse of the *Surah* entitled Al-Noor, or 'Light'

The reference here is actually to the *Surah* entitled 'Al-Muminoon', or "Believers", the address is undoubtedly to believers. God says,

BELIEVERS HAVE CERTAINLY MET WITH SUCCESS.

He also says,

*WE FIRST MADE MAN FROM AN ESSENCE OF CLAY: THEN
PLACED HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE ...*

(S23:V1,12-13)

The verse is certainly meant as information offered to believers. Undoubtedly, God is using common physical details to express metaphysical notions which we do not know, as when He says,

THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION.

Without doubt, it is a creation other than this, one without flesh, bone, or blood, a human creature that perceives and understands and has a divine mystery within it. It is the spirit.

As for the tradition, it is also definitely authentic, at least for those in the main stream of Islamic scholarship, who believe that any tradition related by Al-Bukhari and Muslim is certainly authentic. Dr. Yusuf Al-Qardhawi said this morning this tradition is odd, and it is well-known that odd traditions are considered lacking in authenticity. Tradition scholars define an authentic tradition as one whose chain of narrators goes back all the way to its source, the Prophet, Peace be upon him, without any oddity or invalidity. So if it has some oddity, a tradition is classified as weak, and the same is true if it has some invalidity, that is an ailment which is known to Tradition critics.

The tradition in question is not weak; it is rather an authentic tradition which has certainly been accepted by scholars in the main stream of Islamic scholarship. As for the fact that this tradition is in conflict with other authentic traditions, the research on this point, presented by the Honourable Sheikh Dr. Muhammad Al-Ashqar, has not been completed, and we are not on sure grounds if we try to determine whether it is three forty-day terms that the tradition means or just one, as Dr. Muhammad Al-Ashqar suggests. Had the research been completed, we could have said that Al-Bukhari and Muslim are not infallible and they might have made a mistake. We go along, however, with the majority of scholars in their decision to accept the traditions related by the two Sheikhs, Al-Bukhari and Muslim, until something certain is introduced and justifies our reconsideration. It is also a principle established by the scholars of *fiqh*

sources that when there is conflict between traditions, precedence is given to any tradition related by the two Sheikhs, then to traditions related by Al-Bukhari alone, and then those related by Muslim alone, and so on. They have rules of preponderance. According to these rules, there is no doubt that the tradition narrated by Ibn Mas'oud takes precedence over others that may contradict it or be in conflict with it.

The scholarly difference resulting in this case, however, is very little. The important thing in the tradition and the Quranic verses is, in fact, what relates to faith. The difference is a simple one and concerns whether the prohibition of abortion after spirit is breathed into a fetus is greater than it is before. This is a question over which almost everybody agrees, every additional day that passes with the fetus in the belly of its mother makes it sanctify and its right to live greater. No one at all would say the miscarriage of a zygote one hour after fertilization and the miscarriage of a fetus a few hours before it is due to be born are the same. Certainly in *fiqh* and in pure common sense there is gradation.

Moreover, Islamic Law has stipulations for an embryo/fetus which differ from those that apply to an infant. It has already been mentioned that if an embryo dies inside its mother's belly and is then miscarried, it is entitled to no inheritance. Again, assault against an embryo is not the same as assault against an infant, even when the latter is only one minute or one second old.

When someone attacks a pregnant woman and causes her embryo to abort, Islamic Law imposes blood money for killing the fetus but no retaliation, unless the woman herself dies. Thus an embryo is regarded like property, although it is itself a human soul in essence. The Prophet, Peace be upon him, ruled that fetus blood money, in the form of a male or female slave, should be paid. Thus he set a value for it, as if it is a commodity. While if a male or female infant is killed after its birth, the killer has to be killed in retaliation, unless of course the concerned party forgives the murderer. It is clear then that there is an evident differentiation in Islamic Law between a fetus in its mother's belly and a fully developed human being that has separated from its mother and started its independent life.

So we come back to the point of difference, which is at what time exactly the spirit is breathed in. As for the inception of human life, let us not worry about that now, for the practical difference over it is not serious. I do not believe there is any Muslim scholar who says there is nothing wrong at all with causing a zygote to abort after fertilization. Some say it is

reprehensible - which is the least to be said - up to the end of the fourth month when it becomes unlawful. Thus everybody finds it restricted, but some scholars are stricter in forbidding it than others, making it totally unlawful, while others find it less serious a crime than a abortion after the first four months.

The point now is that when we defend the statements (of the Quran and Tradition), we are defending our faith, rather than taking a side on a practical problem. Why? Because these statements are aimed at demonstrating the power of God, Blessed and Most Sublime is He, and at advancing the belief in the Spirit, which, as Dr. Omar Al-Ashqar has said, is an issue agreed upon by scholars in the main stream of Islamic scholarship, the issue that this is the Divine Mystery that fate, distinguishes man from animal, the issue that God has the fate destiny, livelihood, career, and misery or happiness written down at this moment before birth, though there is some difference over the moment at which the writing takes place or at which the angel breathes the spirit in. The question is then is one of defending the faith, rather than defending a certain action. For the statements are not, as has been suggested, ones that lend themselves to various interpretations; they are very clear in meaning, and I do not know of any scholars who differ over them. The difference between *fiqh* scholars is merely over the practical consequences of this thing, and whether before spirit breathing, it is unlawful or only reprehensible, which does not change the fact that the statements are definite in their meaning. Therefore, I hope we will no longer be too quick, whenever we detect a slight disagreement, to say that a certain verse or a certain tradition lends itself to various interpretations. Not everything that causes disagreement can be described like that. There are acceptable and unacceptable disagreements, and I do not know of any serious one over this issue. The important thing is that the tradition narrated by Ibn Mas'oud is authentic and it is not right at all to take it slightly. Nothing can support such an attitude.

Dr. Yusuf Al-Qaradhwai, Chairman

I thank Sheikh Abd Al-Rahman Abd Al-Khaleq for his clarifications. In fact I do not like to take advantage of being chairman to give myself the right to comment, but since he has mentioned me by name, I like to say that I did not claim in the morning that the tradition narrated by Ibn Mas'oud is an odd one and place it in the category of traditions lacking in authenticity. I said that only in connection with the version mentioning three forty-day terms, which did not mean the tradition itself was. There

are a number of points on which all versions agree. To have versions with different expressions or phrases is something common in traditions and admitted by the scholars of tradition terminology. A tradition may be authentic as a whole except for one word that stands out as an odd one or one over which scholars differ. That was what I said, and I meant it, that this particular version (and not the tradition as a whole) is classified as odd.

Another point is that, as Mr. Abd Al-Rahman has said, we have no serious disagreement, and I would like speakers to address only the points of disagreement, so that we may avoid digression and focus our discussion. Basic doctrines are not subjects of discussion, and the fact is that we did not come here to discuss such things. No one argues about foreordination and the fact that man's livelihood, life duration, and so on are foreordained, and the tradition is basically meant to speak about. We do not disagree over these things. Nor does anyone of the followers of *Sunnah* argue about the fact that every human being has a spirit. Therefore, to avoid lengthy discussion, let us define what we want to arrive at on the points we are differing over.

I also would like that we take into consideration another point raised by Mr. Abd Al-Rahman. There is a difference between saying the tradition is clear in its meaning and saying it has a precise purport. Clarity does not mean precision. The traditions in the two "*Sahih*s" are accepted by the majority of scholars, but there may be some controversy over their precise meaning. Of course if all traditions were precise in meaning, any person who would deny one, would turn unbeliever.

This, however, is not our subject, and we do not want to get into it. We all respect Quranic and *Sunnah* statements and we came here only to use such statements as our starting point. All participants in this seminar, whether medical or *fiqh* specialists, have due respect to all statements to which they refer and in which they seek arbitration.

**SHOULD YOU DISAGREE OVER ANYTHING, REFER IT TO GOD
AND THE MESSENGER, IF YOU TRULY BELIEVE IN GOD AND THE
HEREAFTER.**

(S4:V59)

Now it is time for sunset prayer and those who have asked to speak have not all finished yet. So now we will stop for the prayer and we will be back in half an hour, by God's will.

(THE SESSION RECONVENES)

Dr. Yusuf Al-Qaradhawi, Chairman

We now resume the *fiqh* discussion of the papers submitted and of what was presented by speakers in the morning. Let us go on with those who have their names listed as they have expressed their wish to speak. We have five of them, and later we will try to arrive by the will of God, at a well-defined opinion on this topic which we are discussing.

Dr. Muhammad 'Othman Shabir

It seems that in light of the discussion offered so far, there is unanimous agreement that an embryo in the belly of its mother is a living being. The disagreement is over the life which precedes spirit breathing, whether it is plant, cellular, animal, or just mere life. I suggest that we call this life, which begins when an ovum is fertilized and goes on until spirit is breathed in, human life. The other life, man life, begins with spirit breathing and ends with death. So man has two lives: human life and man life. The first is similar to the life of animals. The living being gets nourished, moves from one stage to another, multiplies, and so on. It is different from the other life, man's life, to which God, Great and Most Sublime is He, refers when He says,

THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION ...

This life distinguishes man from other creatures. It is the life that has consciousness and reason and holds the trust and the service of God. The two terms are derived from the Quran. The verses that discuss man refer to him sometimes explicitly as man and sometimes refer to humanity and use the term "human being". When we use this term we should remember what is related to this animal-like life, namely, nourishment, growth, multiplication, and so on. Quranic verses suggest that. As for man life it begins after spirit breathing:

*WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT
INTO HIM, KNEEL DOWN AND PROSTRATE YOURSELVES BE-
FORE HIM.*

(S15:V29)

God arranged for man to be honoured and asked angels to fall prostrate before him after spirit was breathed into him. Man is honoured and distinguished, by this spirit which God introduces into him, from all other creatures. The same thing is implied when God compares unbelievers to cattle, because they fail to be up to the trust they were given:

*THOSE ARE LIKE CATTLE, INDEED, THEY ARE FARTHER
ASTRAY.*

(S7:V179)

Thus, out of the verses and traditions which mention life, we are made to understand that man has two lives, one beginning with ovum fertilization and the other with spirit breathing. The first is sacred human life, and rulings are made by the Legislator for it, as the honourable scholars have already pointed out, and the second is man life, also sacred and covered by rulings of its own. There is no contradiction in the sanctity of the two types of life.

Dr. Abd Al-Aziz Kamel

Thanks to Dr. Shabir. I only want to comment on something. He says we all agree that an embryo is alive in the first four months of pregnancy, and I say we are *almost* in agreement on that, but we do not fully agree for someone, and I believe it was Dr. Omar Al-Ashqar, did say a human being in that condition is dead:

... YOU WERE DEAD AND HE GAVE YOU LIFE.

(S2:V28)

He explained this verse as meaning by “dead” the condition of being a drop of sperm. He says that a drop of sperm is dead, and since this is the case, he should have said that to abort it was lawful. He, however, does not wish to commit himself to that. So, we have not agreed even over this point, and I merely wanted to draw attention to this fact. As to discussing the basic point, I would not want to discuss now the difference between man and human. This discussion will be later.

Dr. Nejm Abdulla

I have two questions. One is addressed to physicians concerning the breathing of spirit. If we accept, on the basis of what we are told in statements of the Quran and Tradition, that there is such a thing as spirit, but even after I have heard today five papers on the subject, I still wonder

whether there is a scientific medical evidence of any change in the embryo on the 120th day. I believe I have heard no evidence that singles out that day in particular. God says,

*THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION.
BLESSSED BE GOD, THE NOBLEST OF CREATORS.*

That day is also referred to in the tradition of the forty-day terms narrated by Ibn Mas'oud. There is an open invitation here to physicians, Muslim physicians in particular, and all other specialists to investigate that particular day. They may find an evidence in certain things that we have no knowledge of and from which we may benefit, in the medical sciences.

The second question is for *fiqh* scholars. If these scholars differ over certain points, and even over the day on which spirit is breathed in this is not a serious problem. It is their field, their search, and their effort, for which may God reward them on our behalf. The important thing is the point brought up by Omar Al-Ashqar and Yusuf Al-Qaradhawi, which is: when we consider the matter on the basis of the stages before and after spirit breathing, do we have the right to terminate the life of a fetus? This is an important question.

I move from this to other points which are important to us as physicians. It is using contraceptives. These are of two types, one that does no harm to an embryo or to an ovum, such as contraceptive pills, which are taken everyday and which suppress ovulation. But there are other contraceptives, such as the loop, which keep a zygote from settling in the uterus. If we apply the principle that no harm may be caused to anyone, what is the ruling on this, so that we may make it known to people, and continue to have fear of God in what we do, and to help people modify what they do out of ignorance, in order to show that they too fear God. The question is raised for you to answer, and may God reward you.

Dr. Muhammad Al-Mukhtar Al-Salami

I appeal to the Chairman to allow me more than five minutes for one reason; it is one thing to introduce a topic and another thing to take part in the discussion. Our colleague who summed up the papers in the morning had the chance to throw some more light on his point of view, thus making it clearer, while the other points of view were left without being given the same share of attention. For this reason there should be a time for discussion and a time for speeches. So, I hope you agree to this so we may arrive at a system that we can follow to the end.

Dr. Yusuf Al-Qaradawi, Chairman

In fact the system chosen for the seminar is that one person gives a summary of all papers, not his own papers, but the papers submitted by all, using his paper as a starting point. The others discuss this presentation with him, or they add to it or make a follow up. Now it is your turn, Sheikh Muhammad to add something or offer a follow up, and we can allow you two additional minutes. No problem.

Sheikh Muhammad Al-Mukhtar Al-Salami

In spite of my gratitude to all speakers, there are certain points which I want to explain, because scientific objectivity is absolutely necessary. I have heard it said that the life of a fetus becomes more valuable with the passage of time, but to the best of my knowledge and as far as Islamic Law is concerned, it does not make any difference whether a fetus is in the fourth, fifth, sixth, or seventh month of gestation.

The second thing is that we hold fast to the authentic statements which are precise in meaning. By authentic statements we mean the Quran and certain traditions, though in the case of the latter there is some controversy over how definitely authentic they are. All the rest is based on a certain amount of assumption. When they say the traditions related by Al-Bukhari and Muslim in their two "*Sahih's*" are absolutely authentic, this means when they are taken collectively and not when we consider individual cases. Otherwise what we learn would turn upside down, and the traditions based on assumption would turn definitely authentic, and the one which is authentic cannot be a subject for argument. I am sure the other scholars here know better than I do the type of work done by Al-Daraqutni in his study of Al-Bukhari. He criticized many of the narrators accepted by Al-Bukhari, and dropped some, about fifty, as lacking in precision. In the case of Muslim, the number of criticized and dropped narrators is greater. To claim then that this is definitely authentic and precise is not something that any scholar would say; not is it something that can be measured by objective standards or the standards of Tradition science. We have a great number of statements which are based on a certain degree of assumption as far as both meaning and chain of narration are concerned.

Now let me go back to the original source that caused the controversy, namely the tradition narrated by Ibn Mas'oud and listed by Al-Bukhari, and the one of the forty-day terms. In each case, the full text of

the tradition from beginning to end, should be considered; nothing should be overlooked. In this tradition the Prophet, Peace be upon him, goes on to say:

"Then he breathes spirit into it and is ordered to write down four words: its livelihood, life duration, career and whether it is to be miserable or happy. By God, Who is the one and only deity, a man may follow the behaviour of those bound to paradise until there is but an arm's length between him and getting there, but that which has been written overtakes him, and so he starts to behave like those bound to hell, and gets into it. Likewise, a man may follow the behaviour of those bound to hell until there is but an arm's length between him and getting there but that which has been written overtakes him, and so he starts to behave like those bound to paradise, and he gets into it.

(Listed by Al-Bukhari & Muslim)

Thus the way we have listened to it, the tradition, in this final part, focuses on the foreordination which God reveals to the angel at that time. The way it takes effect in the life of a human being is not connected with his birth date or early fetal life. The connection is rather between the human being and what is ordained for him. This may only surface in the last minute of his life. The drift of the tradition does not suggest that the spirit is something that in itself introduces some new development in man's life; the implication is rather that a certain knowledge is acquired by the angel, whose knowledge is limited only to what God allows him to know. This is a matter that is absolutely certain.

GOD ALONE KNOWS THE REALM BEYOND, AND HE REVEALS HIS SECRETS TO NO ONE, UNLESS IT BE TO A MESSENGER WHOM HE HAS BEEN PLEASED TO ELECT THEREFORE.

(S72:V26-27)

This is the second point I wanted to explain concerning this issue.

The third point is that early *fiqh* scholars agree that it is unlawful to assault a fetus after the 120th day and to cause it to abort. A crime against it calls for fetus blood money, which is one tenth of the normal blood money. But there is clear disagreement among scholars over whether this applies only after the first four months or even during these first four months. Some say that the date on which a fetus settles in the uterus is the beginning of human life and consider an assault against it, even if it is

committed by the mother herself, to be covered by the same ruling as an assault committed after the first four months. (When assault against an embryo is prohibited this applies to parents as well as others). Other scholars hold that it is lawful to cause an abortion during the first four months. But those who are of this view are rather confused when it comes to other rulings. Does a woman's waiting period come to an end if she has an abortion after the fortieth day? They differ over this. They also differ over whether blood money is due when an assault causes an embryo's death. All this shows that these scholars, may God reward them, based their rulings on a valid basis, which is the degree of scientific knowledge available to them at the time.

What I am trying to get at is that the question is to determine whether there is no life before the 120th day, or whether spirit and life are one and the same thing. This is indeed the point of difference; there is neither a religious statement nor scientific evidence that supports linking spirit and life to each other.

Dr. Abdulla Basalamah

I want to refer very briefly to four points, most of which relate to questions of science rather than *fiqh*, because my modest knowledge is in the former.

First of all, we study at the School of Medicine that if a mother gets rid of what she has conceived or what she has inside her womb during the first twenty weeks, the action is considered an abortion. The period of gestation is computed as forty weeks beginning on the first day of the last menstruation cycle. In the past we used to say that such an action is an abortion if it takes place during the first twenty-eight weeks. The difference is due to the fact that if a fetus was delivered before the end of the twenty-eighth week, it could not survive, because the medical facilities of today were not available then. The biological aspects of a fetus were not known to us, nor did we know how we could keep it alive. The percentage of survival among fetuses dropped before the end of the twenty-eighth week was no more than five to ten per cent. Four years ago, we changed the definition at the School of Medicine, and instead of twenty-eight weeks we now say twenty weeks. The reason is that now there are some medical centres in the world equipped to save a fetus aborted after the twentieth week of gestation and to allow it to survive through the employment of modern scientific techniques, with an 80% chance of success.

Most biologists today, however, agree that it is very difficult for a fetus

aborted before the end of the twentieth week to survive.

This is a fact I bring to your attention. We may accept the view that life begins at the union of a sperm and ovum or even before, but a fetus cannot have independent life before the end of 120 days or twenty weeks, and this is a fact.

Another fact is the one I mentioned this morning. Not every union of a sperm and ovum produces a human being or human life. It may produce something harmful that has to be removed, and that is clusters of cells that cause harm (mole).

A third point: if we accept that the end of life is when the brain stops to function, we have to take this into consideration when we discuss the beginning of life. A fetus may develop and survive to an advanced stage of pregnancy, while there is a deficiency in the growth of its brain, except for a posterior part of the brain stem. But this is not enough to say the fetus is alive. It is not the type of life that transmits the brain signals that can be recorded as the case is with a human being until he dies.

The fourth point is that I believe human life is there in an ovum even before fertilization takes place. A cell cannot grow by itself. There should be something, perhaps spirit, in it. The major breathing of the spirit, however, occurs after a certain period of time, perhaps 120 days as the tradition suggests. On this basis, human life inside a uterus should be protected from the first day, and the mother, who has to do this protection will be rewarded by God.

Dr. Tawfiq Al-Wa'ii

In fact I am not sure whether we have not been invited to the wrong seminar. I feel this seminar is a repetition. We have covered all these subject in the seminar on Reproduction. All the scholars submitting papers made references to that seminar. I can see now that all the topics we are discussing were discussed in the seminar on Reproduction, and all in detail too. Even the objections, even the distinction between what is a matter of faith and what is not, even the tradition narrated by Ibn Mas'oud and those related by Al-Bukhari - we covered all these things, and decisions were reached. Are we then following the principle that repetition is useful, or are we trying to find out the errors of the previous seminar and to correct them? We discussed how life is sacred, both *fiqh* scholars and physicians talked about it, and Dr. Hassan was kind enough to show us a film that showed the beginnings of life with the first heart beat. We talked

about all these things. I hoped we would skip all these points concerning the beginning, from the time a fetus separates from its mother to the end of life, and devote our effort to the major subject, which is the end of life, on which scholars have interesting opinions. I propose that we refer the points we are discussing now to the previous seminar, read the recommendations of that seminar, and start now where we stopped then. Otherwise we will keep on going in a circle. It was a seminar where it was decided that due to the sanctity of the human life of an embryo, abortion was unlawful after the first forty days of gestation, and there was an almost unanimous agreement on this. A group of scholars said life was sacred from the moment of conception, and not merely from the forty-first day. So we had two points: one agreed upon and the other almost unanimously adopted. So these are topics which we discussed, and no one objects to the decisions we arrived at. So let us then start at the right point so that we may arrive at a conclusion. There is no need to waste the time of participants and researchers in these repetitions, and I, for one, do not wish to take part in such repetition.

Dr. Yusuf Al-Qaradhawi, Chairman

I thank Dr. Tawfiq Al-Wa'ii for this comment. Actually, I had the good fortune to attend one part of the previous seminar, but that part I attended dealt with mixed milk banks. As for the other part, God did not will that I should attend it, so I do not know what took place then.

Nevertheless, in Arabic Grammar, Dr. Tawfiq, we study what is called "Emphasis". So perhaps now some emphasis is desired or may be certain issues or aspects need to be completed. I have no doubt a gathering of honourable scholars like this one will add something or agree on a follow up. Perhaps some have changed their opinions. May be Dr. Hassan, for instance, was too enthusiastic about his point of view last time, but now, two years later, his enthusiasm has cooled down. Perhaps Dr. Isam has a different point of view now. Who knows? Whatever the case is, our effort will hopefully, and by God's will, not be wasted. Now all we have to do is discuss the issue, but I would really like it if we define the points of disagreement.

Dr. Tawfiq Al-Wa'ii

I suggest, Dr. Yusuf, that you should read the previous decisions, which, together with all the papers, are published in book form, so that we may define our subject, and anybody who has objections to those

decisions of the Reproduction seminar may voice his point of view.

Dr. Yusuf Al-Qaradhawi, Chairman

This is something for all those present to decide. Do you think we should take the decisions of the previous seminar, reconsider them, endorse what we will, and discuss the rest.

Dr. Ahmad Al-Ghandour

I would like to thank my colleague Dr. Tawfiq for what he has said. I wish however, to remind him that the previous seminar, which I attended as far as I can remember, had Reproduction in Islam as its subject. Perhaps abortion was a major issue. This seminar, inspite of some similarity in topics, is devoted, or so it is defined, to the subject of the beginning of life. Otherwise we would not have been arguing from nine in the morning about the definition of the beginning and the end of human life. As for the end of human life, it was mentioned in the previous seminar, but only in passing, not as a major subject of discussion. There is nothing wrong at all in planning a seminar and have some repetition in some of its parts, if this is going to be productive and fruitful. As the Honourable Dr. Yusuf Al-Qaradhawi has said, we emphasize, we investigate, and we learn. I actually heard today things about the beginning to human life I had not heard in the previous seminar. I would like to say, Dr. Wa'ii, that, regardless of whether this was or was not mentioned last year or the year before, human life begins with the union of a sperm and an ovum. A zygote has its own dignity and contains the essence of a human being. I disagree with my dear colleague Dr. Shabir who makes a distinction between two types of life: human life and man life. God says,

*SAY, 'I AM ONLY A HUMAN BEING, JUST LIKE YOU. I AM
INSPIRED ...*

(S18:V110)

What is a human being other than man? If as you say we reached agreement or came closer to each other in opinion, let us then agree and investigate thoroughly, so that before we leave this seminar, we will have reached a final decision concerning the inception of human life, and let us drop other details. All of us regard the tradition of the Prophet, Peace be upon him, with due respect and we speak for it. And all of us are ready to protect God's Book and the *Sunnah* of His Prophet. The disagreement does not concern whether the tradition is authentic or whether its meaning is clear or precise, or what other things you may say. Not at all. But we

want to come out with the view that human life begins at the time of fertilization, the moment of conception. If we say human life begins after 120 days, then we would be allowing a woman to use the loop one month after conception. Some schools have certain opinion. The Hanbalis, for example, believe that if both a husband and his wife agree to destroy a germ-cell or an embryonic lump, there is nothing wrong with that as long as it takes place before the end of the of fourth month. We said - our master Sheikh Badr said in that seminar two years ago. (and his words are still ringing in my ears). "Sons, to avoid pitfalls and prevent corruption, let us take the more cautious thing and say abortion is unlawful even within a week from conception".

This is the point I wanted to make. Yet, I would also like to say that there are many rulings in Islamic Law which apply to a fetus after the first four months. We may say it is four months or nine months old, but it is still the origin of man and the being we want to respect and regard as sacred; the being that enjoys imperfect eligibility; the being that inherits and the greater of the two shares (of male and female legatees) is held for it; the being whose mother completes her waiting period by delivering it, whether through abortion or not; the being that is entitled to receive a share in a will, a gift, or an endowment - so from the *fiqh* point of view, it is regarded as a respected human being, even if it is a drop of sperm, a germ-cell or a formed or unformed embryonic lump. God says:

THEN WE BRING ALL THIS INTO BEING AS A NEW CREATION.

(S23-V14)

This new creation is the process of spirit breathing. We all respect this new creation, but that does not keep us from insisting that the inception of human life is in the production of a zygote.

Counsellor Abdullia Al-Issa

Dr. Ahmad has spared me the effort to explain, because the seminar on Reproduction actually discussed several subjects, and abortion was one of them. The subject of this seminar is the end of life, and the end of life has a counterpart, which is the beginning of life. There is nothing wrong in going in some detail into something we discussed then on a limited scale. It does no harm if we arrive at the same recommendations we arrived at in the seminar on Reproduction, which was held two years ago. As some colleagues have said, the papers submitted to this seminar deal with the subject in detail and in depth, offering us more benefit than was offered in the Reproduction seminar. Therefore, this seminar is, by God's

will, achieving something good and is not mere repetition. I hope we have patience with this discussion even if it sounds familiar.

Dr. Ma'moun Al-Haj Ibrahim

In the Name of God, the Compassionate, the Merciful.

Thanks to all the honourable scholars for what they have offered us today. In fact I attended the previous seminar referred to by Dr. Tawfiq and I am attending this one in order to find, as a practicing physician, the answer to two questions. I pray to God I will not leave this hall before getting the answer.

First, I do not worry much about defining when life begins, what it is called, and what type of life it is in the first four months, whether you call it cellular, human, or man life or by any other name, but what I, as a practicing physician, would like to know, is for one thing, the value we set on this life in its various stages.

I will give some instances just by way of example.

If there is a need to terminate a life, what is the view of Islamic Law?

The first instance is the value of a life in a test tube. It is possible now to fertilize a number of ova at a laboratory. Not all the resulting zygotes will be needed. The possibility is now available and when something is foreseen it cannot be far off, so the time may come when such fertilization is performed in Kuwait. We may fertilize twenty ova and use only two or three. What do we do with the rest? Can we destroy them? and if we do, will we be committing a sin? This is one question for which I would like to have a clear answer.

The second thing is that there is a need to do some laboratory research, using such zygotes. Is it then lawful in Islam to destroy these zygotes for research purposes? A third thing is that now we use the I.U.D. (or loop) for contraception, and we all know that this is a device to prevent a zygote from being implanted in the uterine lining, so what is the Islamic stand on that? A fourth point is that we all agree that the life of an embryo in the early stages is of a type lower than that of a fetus after spirit breathing, so if there is a necessity, if for example we medically establish that a fetus suffers some deformity, is it lawful for us to abort it or not? These are questions we need a definite answer for because they affect our work as physicians.

Dr. Yusuf Al-Qaradhawi, Chairman

Thank you, Dr. Ma'moun. This gets us into the field of science, so should we now begin to answer questions like these, or should we give more chance to speakers?

Dr. Muhammad Al-Ashqar

In fact the point raised by Dr. Tawfiq is a basic one, which should have been taken into consideration at the outset, so the twice of participants would not be wasted. I therefore suggest that we limit ourselves to the topic of this seminar, which is the definition of the beginning of life. As for side issues, such as abortion and other scientific things that will be influenced by the definition, we can leave them and consider what we did in the previous seminar sufficient, particularly that as all participants have noted, we paid a lot of attention to these things.

The papers (submitted to this seminar) discuss the question of abortion, for example, only in passing and not as something meant for itself. The subject defined for the seminar is the inception of life, so we should address ourselves to that alone. We have not prepared ourselves for other subjects, nor did the papers bring them up at all. So I think we should regard the decisions of the Reproduction seminar sufficient, and I do not believe fellow scholars are ready to start the search all over and refer to books, references, and the findings of early scholars. Such an effort is bound to be a losing battle.

What we have succeeded in doing last time is enough for us; it is an effort that must not be wasted.

Now I have some simple comments on things said by some speakers. Concerning the verse,

*AND THOSE WHO ARE WITH CHILD, THEIR TERM ENDS WHEN
THEY DELIVER,*

(S65:V4)

Some of the speakers give the impression that they understand this to mean that anything a woman drops terminates her waiting period. Dr. Al-Salami mentioned something of this sort. But a waiting period does not come to an end unless the embryo has taken distinguishable human form even if only experts can distinguish it. But if a woman is out in the wilderness, or at home, and she drops something that no one can tell what it is exactly and has no distinguishable human form, her waiting period has not ended.

Some of the things said also give the impression that atonement should be made whenever an embryo is caused to be miscarried. This also is not true, for here again human form has to be distinguishable. Again with blood money, we have three cases. If an embryo is caused to be aborted and it has not acquired human form, no blood money is due at all. If it is aborted, up to the ninth month of gestation, and it is dead when it drops out, one tenth of the blood money that would be due for killing its mother has to be paid. If it is alive when it aborts and then dies, the full amount of the regular blood money should be paid. As for retaliation, it applies in none of these cases according to the most common view of scholars. Only if it is born alive, and then dies, retaliation applies according to some scholars.

The view to which colleagues seem to have almost yielded is that life is sacred from the very beginning. Well, the degree of sanctity may differ. If a man dies with a dinar in his pocket, for example, and is buried with the money still in his pocket, we may dig the body out, because a dinar is valuable, but this does not mean it is a crime if we leave it there. A pregnant woman has a life inside her, and it may later prove useful to the brothers and sisters of this embryo; it may play a role which calls on us to protect it, but does that mean an action that causes abortion is a great crime at the drop of sperm stage, i.e. the first one? Moreover, as some speakers have mentioned, when there is equally valid evidence to support both sides of a question, we choose what is more useful to people. In some cases, much benefit can be achieved by carrying out an abortion, particularly in the early stages. A woman may want to stop a pregnancy which may damage her health. There are various other situations of which both physicians and *fiqh* scholars are certainly aware. If we close this door tightly, I believe we would be denying many people a form of legitimate relief.

I do not agree with the speaker who has said that a crime against a fetus before it is born is just a crime against property. Such an action is a sin, particularly if the fetus has taken human form. A person who has struck a woman has committed a sin particularly if this leads to her miscarriage. Because of this, Islamic Law does not impose only blood money, but also atonement. Blood money is a financial compensation, while atonement is a punishment, and since it is a prescribed punishment, then the action involved is a crime or a felony. It is not the same as a crime against property, which only has to be restored. No prescribed compensation has to be paid in the case of property; it is rather to be restored, which is similar to the payment of blood money.

For example, the blood money due for a free human being is a thousand gold units, whether the dead person is rich or poor, great or layman. He is a human being, and all human life is equal in value. The same thing is true about a fetus; the same value is set for causing it to abort, and that is the ten percent of the blood money that would be due for its mother. So it is considered a type of human life, but it is not treated as a perfect human being. Some speakers have said that there is an agreement among everyone here that an abortion in the earliest stage is either reprehensible or unlawful. Nobody mentioned that it is permissible, although there are some opinions in Islamic *fiqh* that regard it as such. An example of these is that almost all the books of the Hanbali School with which we are familiar explicitly say that it is lawful to abort a drop of sperm by taking a medicine during the first forty days. This statement appears in many of their books, and some of these books may add that such abortion is reprehensible after the fortieth day and lawful before that. So we have no right to start from the other opinion and close the door although some cases and circumstances call for abortion in the early stages of pregnancy. I believe closing the door firmly would be a very serious thing, and I hope the conference will not head in that direction.

Dr. Yusuf Al-Qaradhawi, Chairman

Thanks to Dr. Muhammad Al-Ashqar. Dr. Al-Ashqar is trying to limit the work of the seminar to the beginning of life, that is, he wants us to be limited to an abstract discussion. If that is what he means, I do not know why he devoted the last part of his speech to the question of abortion, miscarriage, and practical rulings. We cannot bypass practical rulings. We are physicians and *fiqh* scholars here, and all these deal with practical things. These people are not philosophers. As far as I know, the only philosophy specialist here is Dr. Abu Reeda. All others work on practical things.

Dr. Muhammad Al-Ashqar

What I am saying is that, as far as abortion is concerned, we consider what we have already done. As for our topic in this seminar, we define the beginning of life only to make use of the definition in the following discussion (on the end of life) and compare the two things. This is what I conceive should be the topic of this seminar, and our dialogue should be over this point.

Dr. Yusuf Al-Qaradhawi, Chairman

If that is the case, we should not have spent a whole day on this topic:

from early morning till eight o'clock. However, there must have been some benefit in our discussion: explaining things that might have not been sufficiently covered in the previous seminar, or making a follow up on certain points as some participants may have wanted to do. Nevertheless, let us go on listening to those who desire to comment.

Dr. Ibrahim Al-Sayyad

I begin by quoting the verse,

*OUR LORD, YOU CAUSED US TO DIE TWICE AND TO LIVE TWICE.
WE ADMIT OUR GUILT.*

(S40:V1)

to which Dr. Omar Al-Ashqar has referred. There is no doubt that our cycle includes two lives and two deaths, and in this verse, death is mentioned before life, which I take to signify the chronological order. We begin with a state of death then of life, which is this life on earth. Then we will all go through the state of death, by God's will, and this is followed by the state of eternal life. Some people interpret death to mean the separation of spirit and body and interpret life to mean their union. If we were in existence, whether this was at the time when we were required to testify (to the Lordship of God over the universe) and causing to die in the world of micro-organism or at the time mentioned by Dr. Omar, it is not something we can determine. The second stage, however, is this life we are living, which will be followed by the departure of the spirit from the body. The body decompose, but its elements do not vanish. The matter of which they are made remains the same until God, the Most Sublime, reunites the spirit and body on the day of Resurrection. Here, the stage of the second life begins. Thus we will have gone through two stages of life and two stages of death. I want to get to what they call molecular life, as distinguished from physical life, where every cell of the body is in a state of life, while in molecular life, vital functions are discontinued. This, God willing, is the subject of the coming seminar or tomorrow's subject. The brain stem arrives at the end, but certain cells retain their auto-motion and molecular life, though they can by no means reunite the spirit and the body.

In a case of this sort, we can say that the spirit has departed, because there is no way to get this being into the condition of life by reuniting his soul and his body. This molecular life is not life in the true sense, since there is no spirit in the body. All this leads us to the point that spirit leaves the body at a particular stage, which comes before the stage in which

every cell of the body dies.

Let us now refer to the tradition where the Prophet, Peace be upon him, is asked, in reference to the cat incident,

“Are we then rewarded for (what we do for) beasts?”

He says,

“There is reward for kindness to any warm-lived creature”.

(Related by Al-Bukhari and Muslim).

I understand the tradition to mean that we are rewarded for what we do for any living creature, but the tradition does not use the phrase “living creature”. Instead it says “warm-livered”. Perhaps the Prophet is giving here a definition of human life as that in which there is a warm liver, with blood circulation going on. Lower types of life where no such liver exists are not included in the definition of life which is respected in Islam and given the same importance as human life. When the spirit leaves the body, blood circulation stops, the liver turns cold, and the pumping of blood ceases, although muscle cells may continue to live, the qualities of a warm-livered creature no longer applies to this being, which means the spirit has departed.

Now we move to the correlation of the inception and the end of life. In fact the choice of subject, the correlation of beginning and ends, is very smart. We say there is a particular stage at which the living creature is in the belly of its mother and still has no warm liver. I want to make a suggestion that this living creature is one which has not had the spirit breathed into it since it has not yet developed a warm liver. I want once again to say there is a particular stage of development called the explosive stage, which leads to the conclusion — ... Unfortunately I did not participate in the seminar on Reproduction. But Sheikh Abd Al-Majid and I were in a working team in Jeddah with some Canadian and American professors of embryology, in an attempt to give them a detailed account of the verses of the Quran concerning the creation of man and compare it with the detailed account of embryologists.

In fact in Saudi Arabia the forty-two day tradition was taken as a basis. We were not fortunate to have a beautiful exegesis such as the one offered by Dr. Muhammad Al-Ashqar, with this clear insight, which gives great satisfaction. Why would one leave a tradition which specifies a period of forty-two days, which means six weeks exactly? These six weeks are exactly the period it takes for all the stages specified in the tradition to

come to an end. How can I ignore the stages of drop of sperm, germ-cell and embryonic lump? All these end within the six weeks. It is not easy then to forget about the six week tradition and change these stages so that they would last 120 days. The stage of the lump is not forty days, nor is that of the drop of sperm or the germ-cell. In fact, Christian embryologists have proposed to substitute the terminology used in embryology with that of the Quran, because it describes these stages more faithfully. A germ-cell adheres to the uterine lining and looks like a leech, and both meanings are expressed in the Arabic word for clot. A lump has the shape of a morsel; it looks like a piece of meat which has been chewed and then spit out. It has somatic indentation from the time the spinal cord begins to form. So the term used in the Quran is a miracle we cannot ignore. And when this miracle, defined to take six weeks, corresponds to a clear and explicit tradition which defines the same period as being six weeks, or forty-two days, or another, clearer version of the tradition, the one explained by Dr. Muhammad Al-Ashqar, I feel I can do without the interpretation of the version of Ibn Mas'oud, particularly when there is another version which satisfies me and is supported by another authentic tradition.

In reply to the words of Dr. Najm, the stage of the other creation has been interpreted as the explosive stage, where a complete change in the rate and speed of cell growth occurs, together with a complete change in the shape of the living being. The animal shape that cannot be distinguished as human turns into an easily discernible human form. From all this I conclude that the beginning and end of life depends on spirit breathing. This breathing shows us that the human body has a molecular life and a human life. The existence of some cells or lower or molecular types of life does not mean a creature is alive. This definition helps me in determining the time of a human being's death. For in defining the beginning of his life, it is clear that in spite of the existence of living cells, the embryo has not yet formed into a warm-livered human being.

The second point is that I would like to correlate the reality we see, which is the fact that all the stages mentioned in the Quran take no more than six weeks, and the forty-two days tradition, the tradition explained by Dr. Al-Ashqar, and the third stage, that of explosive growth, which is the stage of the new creation which coincides with the breathing of spirit.

Dr. Yusuf Al-Qaradhawi, Chairman

Thank you Dr. Ibrahim. I would like to point out that the tradition that says,

"There is reward for every warm-livered creature",

was not related to a cat, but rather to a dog incident, as related in Al-Bukhari's *Sahih*. The other tradition, that of forty-two days, has a version which says forty and another that says forty-five. So here the definition of time is not very strict, and this is something we should take into consideration.

Dr. Ahmad Al-Qadhi

First, in reply to the question of Dr. Tawfiq Al-Wa'ii, I am honest and truthful when I tell you that I actually hope and pray to God that some of us will be pleased with what logical argument they have heard here today, added to what they heard two years ago, and perhaps we will change, modify, or improve the conclusions of the previous seminar, the one of Reproduction by giving a higher degree of sanctity and protection to an embryo in the first forty days. If we achieve that we will certainly have done much good. Dear brothers, who among you is unfamiliar with the fact that millions of embryos are destroyed every year? In America alone 1.3 million embryos are destroyed annually, and this is not merely a destruction of lives, but of spirit as well, as a large number of these are destroyed after the fourth month or at least after the first forty days. If we open the door for abortion, even during the first forty days, be sure that this forty-day limit will be greatly exceeded, because a pregnant woman is likely to make a mistake in giving the date of her last period, a doctor may miss by one week to a month in defining the beginning of pregnancy, and there is a practical difficulty in protecting a fetus on the last of these forty days. Or we may adopt our previous decision, though I was hoping we would not get to that. It has been agreed that the spirit is breathed in within forty to forty-five days at least. On this we have already agreed.

I had a point to make in answer to one aspect of supporting evidence mentioned in the previous session, which concerns timing. It was said that since the angel did not find out the foreordained destiny, before the time to breath the spirit in, that means that the creature involved was not in existence before that time. I believe this is not necessarily valid and does not have to be observed. We have an example in the matter of sex, which is revealed to the angel only at this time, whether it is on the fortieth or the 120th day, and we know for certain that the sex of an embryo is determined earlier, namely at the time of fertilization. It is determined with God's permission and knowledge, and in accordance with His foreordinnance. It is only that the angel finds out about it later. Similarly, all

hereditary traits, whether good or evil do, by God's will, exist and are settled and do not change, even if the angel knows nothing about them. This is for the evidence concerning timing.

As for choosing the tradition version that says spirit is breathed in within forty or forty-two days, please note that when using one rather than the other in defining human life, we would have a difference of two days of life. It is all right if this compromise would make everyone feel satisfied. We will have won something in the process, because even if we adopt the view that life before spirit breathing has less value than human life, we will give the impression that it still deserves to be protected. While if we leave this seminar without saying anything about the stage before the inception of human life, most of those who hear of our opinion will assume it to be a life that deserves no respect, which will expose it to destruction, as it is now exposed.

Dr. Muhammad Fawzi Faidh Allah

I would like to say briefly, to settle the point of disagreement, that *fiqh* scholars should not differ over the point that an embryo has two types of life. The first begins at the time of conception, and all scholars, with no dissention, regard it with respect. The evidence is that they all rule an embryo can be mentioned in a will, a waiting period ends with its delivery, and so on. The second type of life is a real one which begins when spirit is breathed in, which does not take place till after the human form is fully acquired, as suggested by the various versions of the forty-day tradition related by Muslim in his "*Sahih*". *Fiqh* scholars have noted the difference between the two types; they stipulate, for example, that abortion before the acquisition of human form is "reprehensible for impeccability", because an embryo at that stage, is a human life in the making, while after the acquisition, of human form, they rule that abortion is reprehensible to an extent approaching prohibition, because it is probable that human life has already begun, as suggested by some versions of the forty-day tradition. They all agree that abortion after spirit breathing, or after the first four months, is unlawful, because there is no question that real human life has begun. Although these scholars do not explicitly mention two types of life, they must have taken the difference between them into consideration as evidenced by the branch rulings to which I have referred. The tendency of modern physicians to consider the moment of conception corresponds to *fiqh* scholars' term of acquisition life. Their inclination to prohibit abortion after the acquisition of human form as a general rule is because in

their view real human life begins after human form is fully acquired and spirit is breathed in. Is it then possible for physicians to accept that there is real life which an embryo begins after at least the fortieth day, in addition to their belief in a primary life beginning with conception? It seems that it would be wise to do so, because there is nothing in Islamic Law to suggest that spirit is breathed in at the time of conception. I believe this is the point of disagreement between physicians and *fiqh* scholars.

Dr. Omar Al-Ashqar

It is my impression that there are two groups on each side of physicians and *fiqh* scholars. The issue for both groups is now settled and the evidence is clear. I believe those who say human life begins at conception or fertilization will answer Dr. Ma'moun's question by saying there is no way to permit the destruction of an ovum fertilized in a test tube nor to allow research that experiments with zygotes. All these questions will be prohibited. While those who hold that human life begins with spirit breathing at the end of the fourth month may permit or prohibit these things. I want to take you back to the point I made in the morning. What is the ruling of Islamic Law on this issue? Is it based on being sure about the inception of life? In other words, does Islamic Law correlate this issue with the inception of life? Or does it have a ruling on it which is not related to the views of *fiqh* scholars? In fact I may take the same point against early *fiqh* scholars, namely that they correlate their discussion of the issue to the question of whether or not spirit has been breathed in, whether or not human form has been acquired. Is this a valid approach for our discussion? Or does Islamic Law refuse any assault against offspring, even within one hour of the start of formation. Here I should remind you of what Dr. Al-Qadhi has said on the issue that we cannot separate the issues of the beginning of human life and the prohibition of abortion. But why should we correlate them? I say we can separate them? There is life in early embryonic stages but it is not of the same type as life after spirit is breathed in. Yet, I would not approve assault against it. God, Blessed and Most Sublime is He, does not condone such assault because it is going to be qualified to play a very important role, and that is by turning into a human being. So the two issues may be separated, and if we accept this in our discussion, the issue becomes clear. The two parties have advanced their arguments, so what is the result? Undoubtedly Dr. Ma'moun is asking himself now, "What is the answer to this?" Those who say life begins at the first moment (of creation) hold the view that even a zygote has its sanctity. I recall what Dr. Hassan said in the previous seminar, that we

should take from a woman only one ovum for artificial insemination, Why? Because once they are fertilized, it is unlawful to assault them and discard them with the garbage. This is where the discussion would lead us.

Sheikh Muhammad Al-Mukhtar Al-Salami

To resume my earlier argument, I say we do not here belong to one particular school of thought, which we support over others. We examine Islamic *fiqh* schools with the awareness that in questions which are not totally straightforward, every scholar who makes an effort to arrive at the correct ruling may hit and may miss. The Maliki School of thought, for example, believes that a woman's waiting period ends if she has a miscarriage even in the early days of pregnancy. They have a test to determine whether something that drops out of the uterus is an embryo at one stage or another, or something else. They say hot water should be poured on it. If it does not decompose, it is a cluster of cells the dropping of which is sufficient to terminate the waiting period. If it decomposes with hot water, it is blood. I am not citing this example out of bias for one school of thought, for as I said at the very beginning, we do not side with one particular school, but only to show that there are various schools of thought with differences of opinion.

The second is that I want to remind you of the meaning of the word "thumma" (then), which is used for succession, either chronological or figurative:

He who rules, and then his father has ruled, And then, on top of that, his grandfather has also ruled ...

We move from one stage to another but not chronologically. In grammar, this is called the order of affirmative information by degree.

A third point I want to bring up is a remark made by Dr. Abdulla Basalamah. He says not every union results into a human being; sometimes an ovum and a sperm unite without producing a human creature. Scientific and *fiqh* research, however, does not search for rules which are one hundred per cent true. For every rule there has to be some exceptions. A scientist or scholar investigates the reason of non-conformity but does not forgo the majority of cases because of one exception or two.

I have one more thing. One of the latest things I have read - I do not remember in which French newspaper - concerns a new practice that has recently been introduced. A zygote is now implanted into the uterus of a

female ape. An experiment has failed, but it is said the failure does not cancel the possibility. The failure is only due to some errors made, and another experiment will be made. What do we say about such a zygote, planted into the womb of an ape to grow there? This question ties in with the point made by the professor here that science has rebelled against moral and legislative principles, wherever they came from, instead of being committed to them. It does now whatever it likes, then it asks about the divine ruling. I believe the procedure should be reversed. Such practices involve the confusion of lineage as well as great social and universal corruption. Before they experiment, physicians should seek moral and religious guidance.

Dr. Yusuf Al-Qaradhawi, Chairman

Thank you, Sheikh Muhammad Al-Mukhtar Al-Salami. I wish speakers would be as brief as possible, so we can define the issue and finish with the discussion.

Dr. Hassan Hatthout

When I asked for the chance to speak, it was to comment on something mentioned by Dr. Omar Al-Ashqar. Since I have the chance now, I will take advantage of it, if our subject were covered by statements in the Quran and Tradition), we would not find it necessary to discuss it once again. When I hear God's verse,

AND WHEN YOU ARE EMBRYOS IN YOUR MOTHERS' WOMBES,
(S53:V32)

I know that by these embryos you and I, i.e. human beings, are meant.

Another point is that early *fiqh* scholars differ in their opinions, because each bases his on the medical information available at the time. When it is said that Hanbali scholars unconditionally permit abortion, by the use of a permissible medicine, during the first forty days, the question should arise, why do they choose such a ruling? Most probably because they believe that during these forty days the embryo is not alive and that by their ruling they do not destroy human life. Now medical facts are different, and an opinion based on a medical datum has to be open to modification when the datum is replaced. For example, the verse says,

**AND THOSE WHO ARE WITH CHILD THEIR TERM ENDS WHEN
THEY DELIVER.**

(S65:V4)

This is indisputable and we all believe in it. The question, however, is would we be observing the instruction of the Quranic statement if we get some hot water and pour it on a thing dropped by a pregnant woman to see whether it decomposes, or not? When people of earlier generations did that they were observing the instruction in my opinion, while if we do it, we would be disobeying God's word. We would also disobey it if we get a group of women to examine it and they say this is a potential human being, so she must have miscarried. The rule is the same:

AND THOSE WHO ARE WITH CHILD, THEIR TERM ENDS WHEN THEY DELIVER,

but the way we apply it must differ from one age to another. In this age of ours, I am anxious to hear one of our *fiqh* scholars say that the interpretation of

AND THOSE WHO ARE WITH CHILD, THEIR TERM ENDS WHEN THEY DELIVER,

is that whatever a woman drops should be referred to physicians and examined through a microscope. If it turns out to be an embryo, the waiting period is not over yet, though this should be said by a *fiqh* scholar not a physician. The woman is taken to a maternity hospital to be examined by an ultrasound system, because she may have dropped a twin and another twin is still in her womb. We have the scientific equipment to look inside the uterus and check whether there is another embryo sack in there or the womb is really free of pregnancy.

The medical devices of ten centuries ago have no place in our time. An inventory should be made of all the rulings based on medical data so that they may be reviewed on the basis of the medical knowledge available to us. New rulings would result, and in fifty years, with the further progress of science, new rulings will have to be made once again. A *fiqh* scholar should use the scientific and medical information.

The troubling matter now is that we have a battle of terminology. We all believe in the spirit and in the fact that it is blown into the living fetus at a particular time, let us say the fortieth or 120th day. The thing we disagree about is the insistence on saying that spirit breathing is the beginning of the human quality. Religious statements do not tell us we should restrict ourselves to this definition. As a Muslim physician I say that life begins at the beginning and goes into stages, at one of which spirit is breathed in. I say this because I am Muslim not because I am a physician. I also say that man's life is of two types or two stages: the life of man before spirit

breathing and his life after it. But why should I say that before spirit breathing an embryo is not yet a human being and therefore the human quality is acquired after spirit is breathed in? There is no rule, no statement, no tradition that compels me to use the epithet "human" only after spirit breathing. That is why I say there is a human creature without a spirit breathed into him *EMBRYOS IN YOUR MOTHERS' WOMBES*. This creature is alive, and its life has its own sanctity. If its mother is sentenced to death, execution is postponed. Spirit is breathed in at one stage or another, but it is not what makes a human being human. One honourable colleague has said when the human quality is acquired in full, the human being is ready for obligations to be assigned, and I believe they are assigned when a human being comes of age and not when spirit is breathed in. So why do we restrict ourselves and insist on correlating the human quality with spirit breathing? A human being is human from the very beginning, but this being goes through a stage when spirit is not breathed in and a stage after it when spirit is breathed in. At birth, it is physically imperfect, and obligations are assigned to this being when he comes of age. I suggest, therefore, that, if you agree, we decide that a human being has life that begins when the five conditions I mentioned this morning are all met, with none missing, and I am ready to re-read them to you if you desire it; that during his human life, spirit is breathed into him, and that certain religious rulings become effective with spirit breathing. This creature is born he grows, obligations are assigned to him, he becomes a young man, he grows old, and then he dies.

Dr. Abd Al-Hafez Hilmi

Before I am warned to stop talking, I will use the telegraphic language to make very short comments. There have been some questions asked but have been lost in the drift of the discussion, and perhaps those who have asked them are now wondering about them, so I will try now to answer them in no particular order.

First, the question Dr. Ma'moun has asked raises a number of issues. The point I want to speak about is what should be done with extra laboratory fertilized ova which are not needed. This takes me into two things. The first is to trespass into the field of *fiqh* and say that when something of this sort happens, the only way for these zygotes to survive is to be implanted into wombs. When these ova are produced by the same female, and it is not possible to implant in her uterus more than one ovum or two. It is prohibited to implant any in other wombs. So perhaps here we

have a case of necessity that makes what is prohibited permissible. I am not pronouncing a ruling; I am only expressing what I feel.

The second thing is that this point of Dr. Ma'moun has made me reconsider what I have been advocating. I wanted earlier to say that life must begin with fertilization. But now I may concede a few days, on both juristic and practical grounds, and say what many *fiqh* scholars and biologists have said, namely that it when the zygote is implanted into the uterine lining. Before that there is a probability that the first stage of life has not been realized. It does when this implantation takes place and the embryo begins to grow. Unless it does implant a zygote has life potential but has not yet started to live. I have been thinking things over and telling myself that if the ova were necessary to fertilize, disposing of them is permissible, because they cannot be said to have started to live as they have not been implanted into the uterine lining.

The other point concerns science and what it does. I want to make a very short comment, which is that science in western civilization has been devoid of values from the beginning. They used to say good science is free science. They are now changing their attitude and saying that science and values should go together. For example, a few years ago, I was invited to a closed seminar in Stockholm on values and science, in which twenty persons participated with the purpose of changing the old attitude. Nevertheless, in Islam the separation of science on the one hand and values and religion on the other is entirely out of the question. To us, science is part of the whole Islamic structure and only what is acceptable from the religious point of view is possible in science.

My third comment is very short and concerns the term human. From the biological point of view I cannot admit the distinction between human being and man. It is enough for me to say that from a linguistic point of view, the Quran speaks of an "upright human being". Now, how can this being be upright when I use the term human animal for the being that does not yet have human soul. In fact I do not endorse this usage, with due respect to the great effort made by my honourable colleague.

There has been a simple question about heart beats, whether they are voluntary or involuntary. An honourable *fiqh* scholar has asked about this. I say they are involuntary, although there are now some exercises aiming at getting man to control his heart beat. This is a new field of investigation: the attempt to allow a person to regulate his heart beat. It does not concern us, because it aims at fully-grown adults with full consciousness. Embryo heart beats are involuntary, and perhaps this is

the answer to the question.

Dr. Hassan Hathout

I have a minor correction to make concerning Dr. Abd Al-Hafez's point of view that a zygote cannot grow unless it adheres to a uterus. In fact such growth is possible. Twenty years ago an Italian scientist took a sperm and an ovum, fertilized them, and nurtured the resulting zygote for eleven weeks. But such experiments were abandoned due to instructions from the Church. Now they are re-introduced, though at the other end through the attempts to save a miscarried twenty-eight weeks old fetus, then a twenty-six weeks old one, then a twenty weeks old one and even earlier. Research is being made now to devise an artificial placenta, so that when a three or four-months old fetus is miscarried, it can be connected into this placenta to continue its growth. So life begins with fertilization, and with it also begins one of its main features: growth. This can be achieved without adherence to uterine lining if the necessary conditions are made available.

Dr. Yusuf Al-Qaradhwai, Chairman

Thanks to Dr. Hassan. I want to make a comment on Dr. Abd Al-Hafez's statement about "*uluq*". *Fiqh* scholars do not use the term to mean the same thing as you do, (i.e. adherence to uterine lining). They rather use the term to mean conception, from its first moment.

The fact is we have talked too much and are still moving in a circle and we will not get anywhere by going on like this. So, I will give every speaker only one minute, so we may finish. One minute for every person who has asked to speak. They are five in number.

Dr. Abdulla Muhammad

In fact, Dr. Hassan has spared me the need to say much of what I wanted to say. Perhaps at this seminar the greater share of talk should have been contributed by physicians and the role of *fiqh* scholars should have been to comment by offering rulings for what they heard. What happened, though, was that *fiqh* scholars, kept on talking and physicians kept silent, until some of them gave us a detailed account. I mention in particular Dr. Hassan, although I failed to hear the five conditions he set for confirming the beginning of life. In fact, I cannot arrive at an opinion or make a contribution from the *fiqh* point of view before hearing these five conditions. But I want to say in the few seconds left for me that early *fiqh* scholars unanimously agree, on questions of pregnancy and the *fiqh*

rulings that are based on it, to take the point of view of physicians and specialists, although they express this in their books by referring to midwives and the like. But the final and decisive word in all these issues that concern pregnancy, the waiting period, the abortion of fetuses, and so on is for experts in the field. Regardless of their different schools and preferences, Muslim *fiqh* scholars have many opinions that agree with the findings of physicians. If, an example, I am permitted to quote Ibn Qudamah's *Al-Mughni* concerning the end of the waiting period as a result of delivery, you will see he divides the question into five cases. The first is when a fully-mature baby is delivered. The fourth and fifth cases concern a pregnant woman who drops an embryonic lump, and he says here that the case is for physicians to decide. We also find that *fiqh* scholars, as Ibn Qudamah quotes them, all agree that the earliest time for the waiting period to end as a result of miscarriage is eight days after conception. Only Imam Al-Hasan Al-Basri, who lived in the first century of the Islamic era and is one of the leading figures in the generation following that of the companions of the Prophet, disagrees. He says if the thing dropped is confirmed to be an embryo, the waiting period terminates, and fetus blood money is due if it is aborted as a result of assault.

Dr. Muhammad Na'im Yassin

The fact is that I have a question troubling me, and I cannot relax before I hear physicians answer it. If they do not, I will doubt everything they say. The question concerns a patient at a hospital whose brain is definitely ruled by doctors, to be dead. He is supported by medical devices, and every cell in his body, other than the brain, is alive. In another room an ovum has been fertilized in a test tube, and it is still one cell. In both cases we have living cells, but in the first the brain is dead. Dr. Ahmad Al-Qadhi says the brain stem forms at the time of conception or fertilization, but when I asked other doctors, they denied it categorically. If it is the potential to form that is meant, a sperm has such a potential, so can we say life begins with the sperm. I had hoped that Dr. Al-Sayyad's distinction between two types of life would offer me the answer, but frankly, it is not a convincing answer - that the parts of a human being whose brain is dead cannot receive the spirit, i.e. to have things turn around and to have the person live with a new spirit. Our physician friends say a day will come when it will be possible to transplant (any of) these parts to a body with a living brain and damaged organs. Consequently, if they are placed within the domain of another spirit, they will continue to live. The heart may continue to live. A kidney may continue to live. What is

the difference then? Why do you make this zygote, which is only one cell, much more sacred than a whole human being? I am assuming that our physician friends unanimously agree that a person in a condition such as I have described is looked at as dead and has no sanctity, the same way a zygote, the product of fertilizing an ovum. Now show me the difference so that I may relax. Otherwise, I am afraid in fact that a change in our opinions concerning the end of life may result from this answer.

Dr. Ahmad Al-Qadhi

First, I had something else to say, but I shall first answer this practical question. Yes, in my view, a zygote has a priority of protection over a person who has lost his brain. The reason is, as I have mentioned in my earlier answer, is that a zygote has the components of brain, though not the brain itself. In other words, if the zygote is cared for and nourished long enough, a brain, a full human being, will result. While this body which has everything but a brain can by no means produce a brain nor a full human being, even if it is cared for and nourished for a hundred years. This is the difference which I meant to mention at the beginning when I raised my hand. One of the defined goals of Islamic scholarship (and by the way, I am a teacher) is to lead to practical usefulness, not to be a mental luxury which is used to pass time. To reach that goal, I will try from this day to prevent the destruction of spirits. How can that be achieved? Terminology is not important. I prefer what Dr. Hassan has suggested, but if his opinion is not adopted, we will follow the majority in their opinion - for we believe in mutual advice - that human life begins at some point after fertilization, within forty or 120 days. But then I ask, and press, the participants in this seminar to find another term for the stage before spirit breathing. A spirit has sufficient strength and power to make us call for prohibition of spirit destruction, and I am saying spirit not merely living embryo destruction, because that is what will happen if we fail to find a deterrent term to call that period with. This is a matter left to the Drafting Committee and the other participants.

Sheikh Ibrahim Al-Desouqi

I will not go into the topics which the physicians are talking about. There is, however, one point I have read, it concerns a situation where there is a need to choose between the life of an embryo or that of its mother. Some studies say that both lives are sacred, and by no means the life of the embryo may be destroyed or wasted for the sake of the mother.

Another opinion, which is very popular, is that the life of an embryo is not settled while that of the mother is, and a settled life cannot be sacrificed for one which is not, and that is the embryo's. So it is said that abortion is permissible in this case. I probably endorse this opinion, particularly if the embryo is deformed and would face all kinds of troubles and hardships if it is brought into this world. In this specific case we set no objection against abortion.

Another point is in the *Sunnah*. Traditions, as we have heard speakers point out, imply that the point when embryonic life becomes sacred is the end of the first forty days, though some say it is the breathing-in of spirit at the end of the first 120 days. We have all agreed that an embryo's life is sacred from the moment a zygote forms, or the moment of fertilization. We agree on this. Now all we have to do is to discuss the life of an embryo from fertilization until spirit is breathed in. After it is breathed in, fetal life is sacred and cannot be an aim for an act of assault except for a necessity such as the one I have cited. But also in *Sunnah*, the seriousness of the crime and assault against an embryo before spirit is breathed into it is defined, together with what is expected from it. In spite of all this, I always say when there are more than one text on a certain issue, there is no need to abandon one text for the sake of another when there is the possibility to combine both.

Dr. Yusuf Al-Qaradhawi, Chairman

I would like to thank the honourable Sheikh Ibrahim and to say it is our hope that we will reach agreement concerning the early period of embryonic life which he has mentioned and which is still under discussion. We hope to arrive at an opinion we all agree upon, by God's will.

Dr. Mukhtar Al-Mahdi

We all know what happens when the spirit departs from a human being; it is the end of that being. It seems to me that in this seminar we have spent too much time discussing the period before spirit breathing. If the departure of the spirit has such a great effect on man, breathing it must also have a great effect. Therefore, determining the time when that occurs should have been the target of most of our effort. Here I want to address a question to *fiqh* scholars and hope to get an answer.

The tradition narrated by Ibn Mas'oud has been interpreted in two

ways, one as referring to one forty-day term and another as referring to three. The version related by Muslim of this tradition says:

"The creation of one of you is brought together in the belly of his mother for forty days as a drop of sperm, then he is in that a germ-cell for a similar period ..."

I want to comment on the phrase "in that", by asking whether it is possible that the three forty-day terms overlap so that we end up with two, rather than one or three terms. Is it possible to arrive at such an interpretation.

Dr. Yusuf Al-Qaradhawi, Chairman

Thank you Dr. Al-Mukhtar. I believe it is either one forty-day term or three. No one has suggested they are only two, according to the versions of the tradition.

Dr. Tal'at Al-Qasabi

This is a simple comment concerning a scientific datum offered to complement what Dr. Mamoun has said about the zygote, the outcome of sperm and ovum union, which takes place in the external part of a fallopian tube. A zygote heads after that towards the uterus and forms a germ. Implantation, which is the commonly accepted scientific meaning of conception, occurs next. This is the implantation of a living zygote inside living tissues. Therefore, the scientific concept of life is that it begins with the implantation of the zygote in uterine tissues, or in live tissues whether within or outside the tube.

Sheikh Abd Al-Rahman Abd Al-Khaleq

I would like first to thank our physician friends for their noble defense of life, but I beg them not to regard embryonic life from the moment of fertilization until birth to have all the same degree of sanctity. Islamic Law does not view it that way. I mean that I believe the attempt to make a zygote which have adhered to the uterus have the same rights as a fully-developed fetus should be reconsidered. I would also like to cite some *fiqh* points concerning the rights of an embryo which have not been mentioned. Some scholars say if a fetus is miscarried after spirit breathing, it should be named and should also be buried. Others believe the prayer for the dead should be performed for it as for a person who has died. In these cases, it is treated just like a human being, and I do not think at all

that the same ruling applies to a mere zygote if it is miscarried. It does not receive the same degree of respect. There is no doubt that with such gradation, an embryo is not of the same value in all stages.

Dr. Abd Al-Fattah 'Othman

In fact, I am neither a *fiqh* scholar nor a doctor, and it seems an invitation was addressed to me by mistake. I am a sociology professor at Kuwait University. In fact, I have a small request. I hope this wealth of points of view expressed at the seminar does not go to waste. The question is not one of medicine or *fiqh* scholarship, but rather one of religious behaviour and dealings. As a professor, I should know everything that goes on here. I beg that these things will be published as popular pamphlets and made available to the common reader. The meeting of this elite cannot be just for fun.

Another point is that I notice physicians to be worried and I do not blame them, and notice concern among *fiqh* scholars over the teachings of Islam and I do not blame them either. What would you say to one rule for the whole thing: that necessities make the prohibited permissible?

Dr. Yusuf Al-Qaradhawi, Chairman

I believe that by now the issue has been fully covered and its features are clear. Perhaps some scholars would say it is in fact overcooked. We have in fact points that concern terminology, things that call for experimentation, and points that concern practical things. It is time to define these things. Concerning terminology, what should we call the early stage, whether it is the first forty or 120 days? We want to agree on something concerning this. Is it a stage of life or is it not life? Dr. Hassan, in his first speech this morning, said that it was life, merely life, and there was no need to call it cellular or animal life, or what was suggested by one of our colleagues, Dr. Shabir, human life as distinguished from man life.

In fact I do not know the secret of this distinction between a human being and man. In fact in the Quran the term "human" seems of higher quality than "man". Man is usually censored in the Quran:

**MAN IS INDEED MOST PERSISTENT IN WRONGDOING, STUB-
BORNLY INGRATE.**

(S14:V34)

MAN IS ABOVE ALL ELSE, EXTREMELY CONTENTIOUS.

(S18:V54)

MAN IS EVER SO HASTY.

(S17:V11)

HE IS PRESISTENTLY PRONE TO BE UNJUST AND IGNORANT.

(S33:V72)

We do not know why we should consider man better than a human being. God himself says about Adam:

I AM CREATING A HUMAN BEING FROM CLAY. WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE YOURSELVES BEFORE HIM.

(S38:V71-72)

And, as Dr. Al-Ghandour has quoted,

SAY, 'I AM ONLY A HUMAN BEING, JUST LIKE YOU. I AM INSPIRED ...

(S18:V110)

For this reason we consider (the early embryonic stages) mere life.

I hope Dr. Omar Al-Ashqar will agree to change his mind about considering an embryo dead during these stages, because this may lead to the conclusion that since it is dead, it is all right to cause its abortion as it no longer has sanctity. (So we consider these stages as) stages of life, and his interpretation does not hit the mark. As for the verses,

YOU WERE DEAD AND HE HAS GIVEN YOU LIFE.

(S2:V28)

OUR LORD, YOU HAVE CAUSED US TO DIE TWICE AND TO LIVE TWICE ...

(S4:V11)

they have several interpretations, familiar to those who read Interpretation books.

Do we then agree on this first point? that a certain degree of life begins with fertilization, when an ovum unites with a sperm, or conception, or whatever you would like to call it, and that this life definitely enjoys a certain degree of sanctity, although it is a lower degree than that of later stages? I believe, and I am not inventing things or pretending to know what is hidden, that early *fiqh* scholars used to change their opinions when new information was given to them about conception. Imam Al-Ghazali, for example, says with the mixing of the liquids of a man and a woman - this is

the way he expresses it - there is a potential of life. What would he have said had he known there was actually a real life? Although he does not know it, he says an assault against an embryo becomes more serious with the passage of time while this life continues. Shall we then agree on this point, that there is life from the time of fertilization, and it has a certain degree of sanctity? This is the point concerning which I am hoping we will be able to reach agreement, and I am using the expression "a degree of sanctity" so we may leave some room for excuses and whatever we have to. I wish Dr. Hassan and Dr. Al-Qadhi to have some flexibility in order to allow certain excuses which require certain people to do certain things, such as in the example mentioned by Dr. Ma'moun concerning what to do with zygotes in a laboratory. We have to get rid of them. There are certain things which we may admit under the principle that necessities make the prohibited permissible, or as needs that are sometimes regarded as serious as necessities. If every one accepts this much: that life begins with fertilization though it is lower than life in later stages, it is a life with its own sanctity but not the same degree of sanctity enjoyed by the life after what the tradition describes as the breathing of spirit - shall we then agree on this, thus bringing the various points of view closer to each other and come out with nearly unanimous conclusions? Or we agree that as a whole this is a sacred life, but not as sacred as life after spirit breathing. By no means assault against it is permissible, unless there is some threat to the mother's life or something of that sort. After spirit breathing, however, a fetus becomes a human being with all the sanctity due to such a being, and assault against it is regarded as man slaughter.

Sheikh Al-Mukhtar Al-Salami

Let me interefere here. (I would not like for us) to come up, after this long discussion, with an ambiguous conclusion by saying this life is lower than that, or giving the impression that abortion is lawful for the mother even in the third or the seventh month, and if she is threatened, the fetus should be removed. We should be more specific in distinguishing the two stages.

Dr. Yusuf Al-Qaradhawi, Chairman

What I want to say, Sheikh Mukhtar, is that I could tell from what you said that you were inclined to view the fetus, in all its stages, from its first day to the last day of fetal life, as enjoying a life equal in value and in sanctity, but I see the general tendency of the seminar to be different. *Fiqh* scholars themselves differentiate, and the statements speak of two

stages, so there has to be some distinction. The expression, "then be breathes spirit into it", must have a practical significance and reflection on life. We are making the distinction because it is made in the texts.

Sheikh Badr Al-Mutawali Abd Al-Baset

Abortion is just a manifestation, a special question branching from that of the inception of life, under which a great number of issues are classified. Among these are abortion permissibility, the waiting period, the eligibility to rights, and so on. In short, the beginning of life is a much wider subject than abortion, which is merely one of its subdivisions.

Dr. Abdulla Basalamah

We hope to agree at the conclusion of this session on three main topics. The first is the inception of life, the second is the sanctity of embryos, and the third is the breathing of spirit.

Let us first agree, so we can go on with the topic in tomorrow's session, that the beginning of life is, if that is the tendency, the minute a sperm and an ovum unite. If we decide to agree on this, it will be the conclusion of Part One.

The second topic, the sanctity of embryos, is a very wide subject, and I wish we consider what we have said and the decisions reached at the previous seminar sufficient.

As for spirit breathing, today's discussion has shown that, for us physicians, it is hard to draw the dividing line or the specific time point when spirit is introduced. You, on the other hand, have spoken in detail, explaining the *fiqh* definition of this point. If you do not mind our taking these three points one at a time, we may get somewhere.

Dr. Abd Al-Hafez Hilmi

If you decide to adopt the definition we have heard, it will be a definition that is based on an undefined thing. When we say "particularly after spirit breathing", over which there is no agreement neither among scientists nor among *fiqh* scholars, we are building our definition on something mysterious. I believe we agree over what the Honourable Dr. Yusuf Al-Qaradhawi has just told us, namely how Imam Al-Ghazali says sanctity begins at the beginning. If Imam Al-Ghazali says we can overlook something, we say the same thing, and there is nothing wrong with it.

Dr. Hassan Hatthout

Perhaps we can agree that life begins with fertilization, goes through stages, and is especially honoured when spirit is breathed into it by God's permission, which calls for new legislative stipulations. As for who breathes the spirit in is a mystery. The whole breathing process is a mystery. *Fiqh* scholars say it occurs at the end of the first forty or 120 days.

Counsellor Abdullah Al-'Isa

What Dr. Hassan has been kind to propose is, I believe, good, but let us say "fertilization inside the womb", so we can avoid such a situation as described by Dr. Ma'moun, where fertilization takes place in a laboratory, outside the womb. I believe this type of fertilization has no sanctity at all, and if it is allowed any, many problems will result. For example, if a zygote is preserved for a long period of time, the man who has produced the sperm dies, and, after his death, the zygote is implanted into his wife's womb, many complications will follow. This is why I want this recommendation, which is a good one, to be taken, which is to specify fertilization inside the womb. As to fertilization outside the womb, it should be ruled out. Thank you.

Dr. Yusuf Al-Qaradhawi

I believe Dr. Hassan does not allow using ova for such things to begin with.

Dr. Hassan Hatthout

First, last year we said that fertilization outside the uterus, in a test tube, is lawful when only a man and his wife are involved, while the marriage is valid, and without intrusion from any other party, whether contributing semen, an ovum, or a uterus. This opinion is inclusive and exclusive. Fertilization may take place outside the uterus, but the zygote is implanted into the uterine tube. It may grow until it is born alive and so on. Thus, I believe fertilization may take place anywhere as long as it is within the bond of a legitimate, valid marriage contract.

Dr. Tal'at Al-Qasa bi

I hope the Drafting Committee will take into consideration the point of view concerning I.D.U. contraceptives. An ovum is fertilized but the

contraceptive keeps it from being implanted in the uterine lining. What is the position of Islamic Law on the question asked by Dr. Ma'moun and not answered yet? I hope *fiqh* scholars would answer this question, a sensitive one in our practice. I hope the Drafting Committee would provide the answer.

Dr. Yusuf Al-Qaradhawi, Chairman

Is this which the doctor is saying something all the doctors here agree on? I am afraid there may be some disagreement even over this.

Dr. Ibrahim Al-Sayyad

I want to distinguish three things. The first is life or spirit breathing, the second is conception, and the third is implantation. I object to Dr. Tal'at's definition of conception as the implantation of a zygote in the uterine lining. A Quranic verse says,

GOD KNOWS WHAT EVERY FEMALE BEARS, AND BY HOW MUCH THE WOMBS MAY FALL SHORT (IN GESTATION) AND BY HOW MUCH THEY MAY INCREASE (THE AVERAGE PERIOD).

(S13:V8)

What is meant by absorption;

AND IT WAS SAID, 'EARTH, SWALLOW UP YOUR WATERS. HEAVEN, CEASE!' THE WATER WAS ABSORBED.

(S11:V44)

Absorption is the process of implantation when a zygote is enveloped by the uterine lining inward, discarding one part of it outwards. Thus, the verse makes the distinction between conception (bearing a child) and absorption or implantation, which is not, and cannot be defined as, the same thing.

The second point is that not every fertilization results in a conception. We have studied that the outcome of conception may be an embryo, but it may be a mole. The products of cell cleavage as a result of conception are of two kinds, one forms the embryo and the other, the placenta, the system that supplies the embryo with nutrition. The cells of the placenta may overpower the embryo and swallow it up, so that there is no embryo. The chorionic villi of the placenta may result into hydatidiform mole or may even give rise to chorionepithelioma. So it is an exaggeration to assume that every fertilization results in conception and equally treat the resulting

product as a living human being into which spirit has been breathed. Since we, the followers of the main stream of Islamic scholarship, agree that spirit breathing does take place, and our disagreement is only over the day when it is breathed in, that does not mean we should cancel it altogether. As Sheikh Abd Al-Rahman Abd Al-Khaleq has pointed out, distinction between levels of life should be made.

The tendency to be strict is not in the interest of *fiqh* at all. Therefore, I want to say that the beginning of life is the breathing of spirit. I refer you back to the verse,

OUR LORD, YOU CAUSED US TO DIE TWICE AND TO LIVE TWICE.

(S40:V11)

What do I do with this verse? Life means the union of body and spirit, and death means the spirit's departure from the body. Over the two lives and two deaths we all disagreed with Dr. Omar, specifically over the first death, whether it is the stage of implantation or of being inside the uterus. All this does not change the definition of life as the union of spirit and body. So the inception of life should be defined at this seminar as the breathing of spirit. Let us then agree on the day on which the spirit is breathed in, whether it is within forty-two or 120 days, and that would be the beginning of life. The stage before that is not life, a zygote is not necessarily a life; it may not produce an embryo, it may implant itself outside the uterus and die after a while. Again I tie this with the final stage, that of some cells that remain alive after the spirit departs for no return. Let us assume, for example, that Dr. Ibrahim Al-Sayyad's spirit departs from his body, and we take his heart, liver, and kidney to Dr. George Abouna to transplant to some other person, not to resurrect Ibrahim Al-Sayyad's body or bring it back to what it was. It is merely a process of patching up. But as a living being, the spirit of this person has departed. I may be swallowed by a whale, and yet George may take parts of my body for another person. I may decompose into gases of which soil is made; I decompose into the soil from which I originally started. Life and the spirit will have come to an end.

Therefore, I sum up once again. Life begins with the breathing of spirit and ends with the departure of spirit, and it makes no difference to me whatsoever that there are living cells in the stage before breathing spirit into the uterus and the stage after its departure from the body at the moment of death. On the other hand, conception is not the zygote's adherence to the uterine wall; they are two different things.

Dr. Hassan Matthout

I think it may be a good idea to skip commenting on what brother Ibrahim has just said. I go back to the topic that was raised, and I wish it was investigated by fellow physicians, particularly obstetricians and gynecologists, to have their say on it and take share in presenting it to *fiqh* scholars. So I will not go into details now, except for the question of I.U.D.'s, because when too many things are said each tends to make us forget the rest. We used to believe that inserting an alien object into a woman's uterus would cause some kind of hurry in the whole reproduction system. Till very recently, we believed that introducing this foreign object known as I.U.D. into a woman's uterus will cause something similar to diarrhoea in the tubes so that when an unfertilized ovum gets out of an ovary and into a tube, it would pass through this tube quickly into the uterus, then into the vagina, and then it would be flushed out before having the chance to be fertilized by a sperm. Now with the progress that has enabled us to detect the secretion of a zygote, which is a sign of a new being in the making, with forty-six chromosomes and so on, we can actually tell that an ovum has been fertilized, that a zygote the first stage of a human being, has formed in the woman's body. There are indications that the introduction of this foreign object, the I.U.D., into the womb does not produce the desired effect of preventing conception, by quickly getting the unfertilized ovum out of the body. We have been able instead to discover the secretions of a zygote, which makes us no longer assume on I.U.D. prevents conception but rather that it is not a contraceptive device, in the sense that a sperm is still capable to unite with the ovum and produce a zygote, but when this zygote leaves the tube, gets into the uterus, and tries to be implanted into its lining, which is known as implantation, it is unable to do so and is forced outside.

This makes things different. An I.U.D. is not really a contraceptive; it allows conception but prevents the conceived embryo from being implanted, the same way a grain of rice is implanted in the soil of a farm. So what is the ruling of Islamic Law concerning the I.U.D. in this light? This device does not directly kill the zygote; it merely keeps it from being implanted.

Before the honourable scholars express a *fiqh* opinion, I have something brief to add. We plant an I.U.D. in cases of necessity, when this necessity calls for contraception. Does such a necessity then justify discarding these living cells, although an I.U.D. is not the only contraceptive device, and there are other techniques which do not involve an assault

against zygotes, but preventing the production of zygotes in the first place? The question is one involving life evaluation and the standards used to measure a necessity.

Dr. Yusuf Al-Qaradhawi Chairman

I refer the question to the Honourable Sheikh Badr.

Sheikh Badr Al-Mutawalli Abd Al-Baset

In point of fact, conception takes place when an ovum is fertilized and settles in the womb. When life begins, it should be protected from anything that may destroy it. We now come to this question of the I.U.D. We have heard that it is a device that stimulates secretion preventing a zygote from going into the process called implantation in the uterus. The fact is that using contraceptives is a case different from that when conception has already taken place and a zygote has been produced. Contraception is less serious than abortion. I have heard that an I.U.D. is only used when it is necessary. Let us define what necessity is. It is the situation where the mother's life is threatened. When there is a threat like this abortion itself is lawful, so it is natural that the matter is less serious when there is no conception. This seems to me to be a question concerning contraceptives. As for the I.U.D., it is not as serious as abortion. It has to be for reasons that are so grave that they are regarded equal to cases of necessity.

It has been established that a zygote is the origin of human life. As Imam Al-Ghazali says, it is dormant life and the origin of active life. The situation when the liquids of a man and a woman mix is similar to that of the eggs of pigeons in the Haram, the Holy Mosque in Makkah. Assault against pigeon eggs there is a crime that calls for atonement. Yet, an egg has no active life, but as the origin of something. It has dormant life which will produce active life. The same thing is true about mixing a man's and a woman's liquids or the union of male and female gametes. It is the origin of life into which the spirit is breathed. So this point has to be brought up. Otherwise, you will start something that can never be stopped. As some of our physician friends have said, women will get rid of every conceived embryo.

Sheikh Al-Mukhtar Al-Salami

It is a question I wish to ask so I may define the issue for myself. Does every fertilized ovum have to implant itself in the uterus or some ova get fertilized but get out of the uterus late. If not every zygote gets implanted,

the matter is easy and simple. *Coitus interruptus* is permitted in Islamic Legislation on the basis that not every sperm fertilizes an ovum. So here is a similar situation. If not every zygote is implanted in the uterus, it is all right for an I.U.D. to ward it off, because it does not really start to live until it adheres to the mother's womb, which one of the physician has expressed as implantation.

Dr. Yusuf Al-Qaradhawi, Chairman

Now what is implied by the words of the Honourable Sheikhs Badr and Al-Mukhtar is that a sacred zygote is one that has adhered to, or implanted itself in, the uterus. Before that it has no sanctity, and it is all right if an I.U.D. gets rid of it.

Dr. Ahmad Al-Qadhi

I have a simple suggestion. We now have two points of view, one is that human life begins with ovum fertilization, and the other, which is the opinion of Dr. Al-Sayyid and a very large number of participants, is that it begins when spirit is breathed in, regardless of the time at which that occurs, whether at the end of forty-two or 120 days. So we have two definite opinions. When scientific opinions are of equal value, the answer is to take vote.

There is, however, a third opinion, which says life begins at the time of implantation. This is not just fertilization, but the implantation you have been kind to mention just now. This, in fact, is the opinion I find satisfactory.

Dr. Abd Al-Hafez Hilmi

As far as time is concerned, and I wish Dr. Hassan to correct me if I am wrong, there is a lapse of three to six or four to six days before a zygote implants itself in the uterus: an average of three days in the tube and three in the uterus, and then it is implanted.

Dr. Omar Al-Ashqar

This is a very grave turn in the discussion. Even in Dr. Hassan's paper and what he said at the seminar on Reproduction, it was mentioned that a zygote has the property of maturing all by itself, and the question is not one of implantation. The whole discussion was based on this. There is a difference between living cells in the human body when man loses his

brain but still has life in him. If a living cell of mine was now discarded into the garbage, it would not be the same as a zygote, which as Dr. Hassan says, has a very different property. Moreover, I remember that it was said this morning that it is not necessary for us here to agree on various issues. When no agreement is reached, we can just list all the different opinions on the subject, and perhaps in another seminar, somewhere else and with different participants, agreement can be arrived at. It is enough for us to show the dimensions of the issue. Here we have now another, a third, opinion. One opinion says life is sacred from the time of fertilization, another says it is from the time of implantation, and a third says sanctity begins with spirit breathing, the time of which has yet to be defined, so we have three tendencies.

Sheikh Abd Al-Qader Al-'Amari

I believe it is possible to find a meeting point for two of these opinions, the one that says life begins with implantation, and that which says with spirit breathing, which we can now define. Traditions other than the one narrated by Ibn Mas'oud say it is breathed during the first forty days. If we combine the one narrated by Ibn Mas'oud with these traditions, we can define the time for spirit breathing and for the inception of life as well. We can say when the zygote is implanted in the uterine lining, the spirit is breathed in and life begins. There is no conflict between this and the texts we have, such as the Ibn Mas'oud or the Huthaifah Ibn Usaïd version. I believe if you study the matter well you will reach this conclusion.

Therefore, I have a point concerning abortion that I would like to make. It concerns the case of deformity referred to by Sheikh Ibrahim Al-Desouqi. We have to consider the cases where there is a possibility of deformity very carefully, because I know that physicians may say a certain fetus would be deformed when born, and then when it is born it turns out to be much better than imagined.

Dr. Hassan Hattthout

A zygote can survive without being implanted. As I have already mentioned, an Italian scientist was successful in making a zygote survive outside the uterus up to the eleventh week. This will be a future achievement if the research is continued. I notice that a great part of the confusion we are in is due to the fact that we have forgotten the five conditions we have set in defining what a living creature is. yet, I cannot repeat these five conditions, because the Chairman has not given me

permission to do so. On the question of I.U.D.'s what seems to me a more valid argument is the following. We used to believe an I.U.D. kept any sperm from uniting with an unfertilized ovum because the latter would hurriedly be flushed out in a condition similar to diarrhoea. We have discovered that this assumption is wrong and that what the I.U.D. actually does is to deprive a zygote, which contains a full genetic code of forty-six chromosomes, of life. Thus the device causes abortion rather than functions as a contraceptive. Because of that it is an unlawful case of early abortion. It is possible now through a test to diagnose conception only eight hours after a sperm and an ovum have united.

A zygote passes through the Fallopian tube towards the uterus in four to five days. It adheres to the uterine lining like a fly on a wall. At this point we call it a germ-cell. On the seventh day it begins to be implanted into the uterine wall. Of course none of us, I think, would claim spirit breathing occurs on the seventh day.

Dr. Yusuf Al-Qaradhawi

Thank you, and I think this is enough. The truth is that if we allow the discussion to go on, it will never come to a stop.

Now, I was hoping to bring points of view closer to each other so we may reach an almost unanimous decision, but it seems some brothers here are not ready to give in, which is their prerogative. Unanimity is not something we have to arrive at. As I said this afternoon, the question is controversial and open to individual points of view. In such cases, it is not possible to arrive at conclusive results, and there is nothing wrong with disagreement. If you wish we can have it on record that there is some disagreement, that the majority believes such and such, while others have argued so and so. Or, if you prefer, we can take a vote, though I do not think there is really a need to do so.

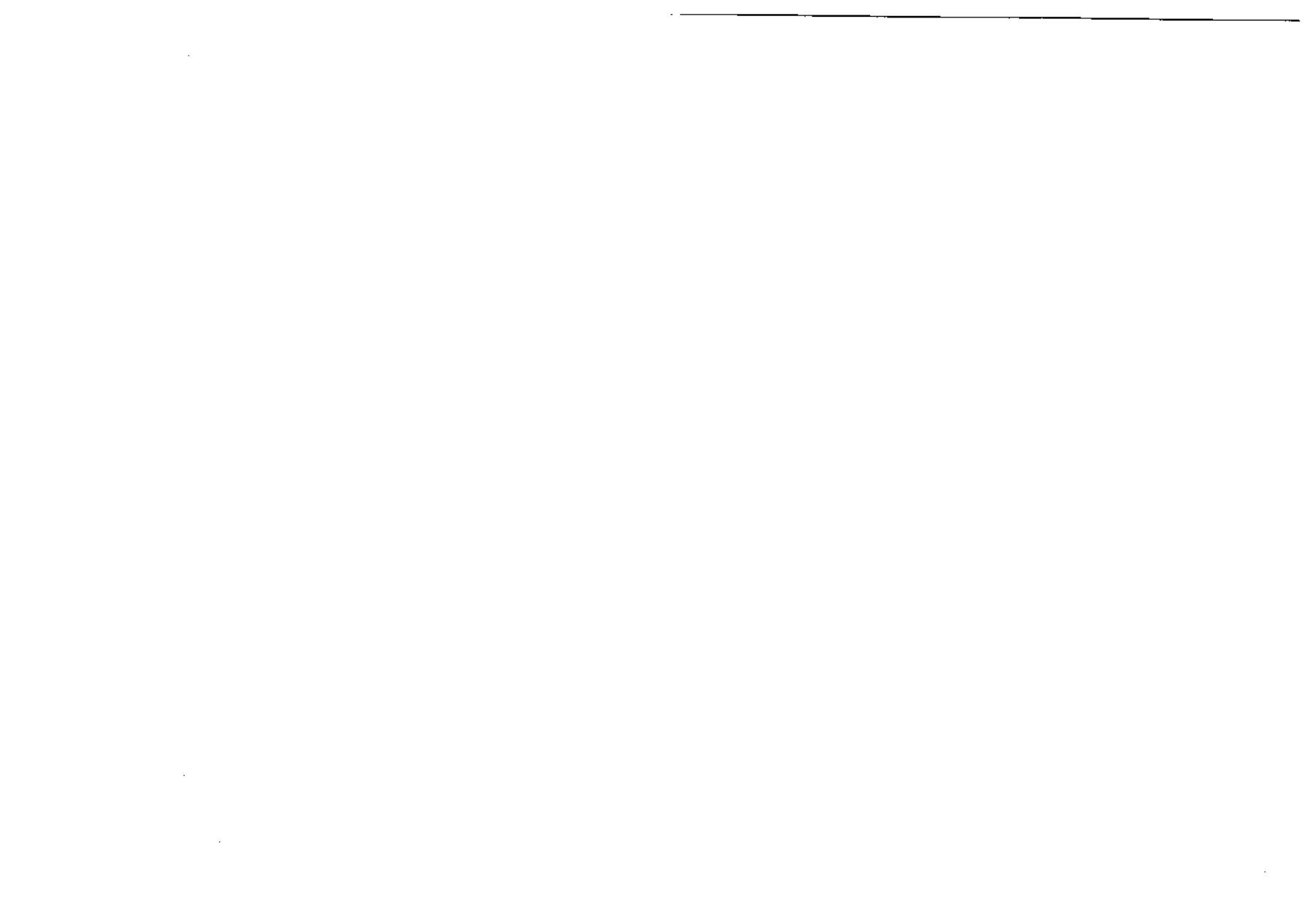
It is clear that the most common view, as *fiqh* scholars would put it, is that life begins with fertilization and that it has sanctity, though this sanctity becomes greater when spirit is later breathed in. This life entails certain well-known rights and rulings in Islamic *fiqh*. Naturally when spirit breathing later occurs, other rulings go into effect, such as the unlawfulness of deliberate abortion except for a necessity, and this is something we all agree on. But what is a necessity? As the Honourable Sheikh Badr has pointed out, a necessity should be defined, because people in this age of ours want to list everything as a necessity, and, they argue, necessities make the prohibited permissible. A necessity is, for example, saving the

mother's life when it is threatened, because an origin cannot be sacrificed for one of its branches. Are deformities included in the category of necessity? And to what extent? Because here again, as Sheikh Abd Al-Qader has said, doctors may say there is a possibility of deformity, but the possibility fails to materialize. This actually happened to me. A friend asked me about a case in America, where it was said that a fetus was exposed to a great deformity of one type or another. Frankly, when I was asked, I inquired how far the pregnancy had been going on, and I was told it was over four months. Of course, if it were under four months, I would have recommended the *fiqh* opinion that allowed abortion, but since it was over four months, I could not find any justification for abortion, especially that when I asked whether the chance of deformity was one hundred per cent and was told it was not, and there was another possibility. So I told the man to trust in God and leave things to Him. I had forgotten the whole thing when a few months later I received a letter from the man, with the photograph of a very cute baby. He said in the letter, "Thank you for saving us from the surgeons' knives".

I say then that on the first part of our subject we have these three opinions. The majority believe that a type of life and a degree of sanctity begin with the zygote, that certain rulings apply, and that when there are various excuses, necessities, or needs, some abortion cases, the I.U.D., or other things of this type are permissible. Others make the beginning a little latter than fertilization, namely at the time of implantation, which Dr. Abd Al-Hafez has spoken about. There is the third opinion that there is no life before spirit breathing. This is the opinion of Dr. Al-Sayyad and a number of participants. Then we have the question of when spirit is breathed in, whether within forty, forty-two, or forty-five days, as various versions of the tradition indicate.

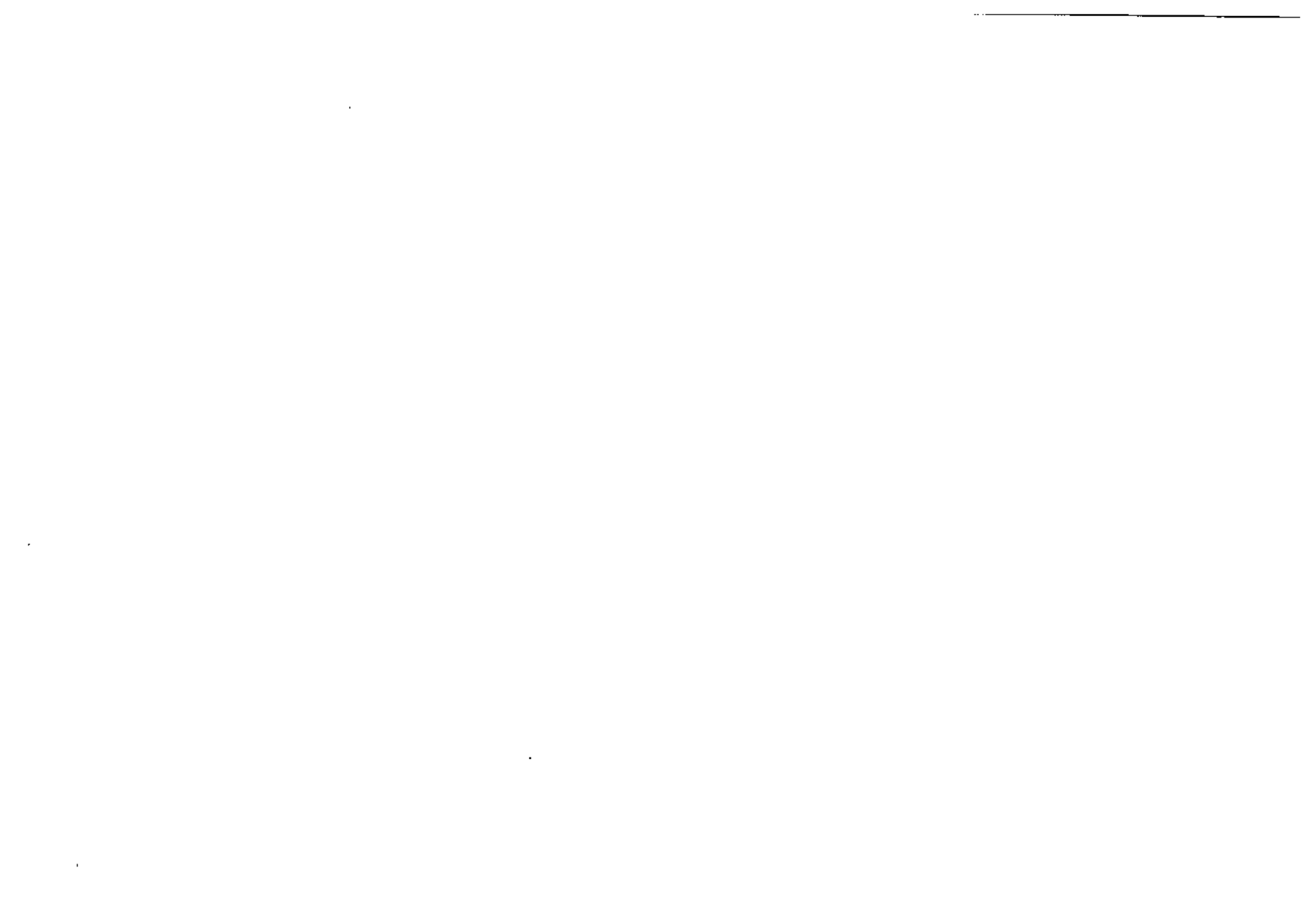


PART TWO
THE END OF HUMAN LIFE AS
VIEWED BY ISLAM



FIRST: MEDICAL PAPERS

- **The End of Human Life**
Dr. Mukhtar Al-Mahdi
- **Life and Death Between Physicians and Fiqh Scholars**
Dr. 'Isam Al-Sherbini
- **The End of Human Life**
Dr. Ahmed Shawqi Ibrahim
- **When Does Life End ?**
Dr. Hassan Hatthout
- **The Heart and Its Relation to Life: Introduction to the Discussion of 'When Life Ends'**
Dr. Ahmed Al-Qadhi



THE END OF HUMAN LIFE

Dr. Mukhtar Al-Mahdi

Chairman, Department of Neurosurgery

Foreword

In the past the question of the end of human life did not raise as much argument and controversy as it does now. The reason is the recent leap forward in science, including medical science. This progress has revealed to us many specific details of life and many of the secrets of death. This has been achieved through using the modern equipment introduced in intensive care departments, including artificial respiratory systems and the systems which monitor specific brain functions and test specific areas in the brain. Through understanding the new findings, it is now possible to define the time at which human life ends with a great deal of precision. The exactness and the significance of this definition is not only because of the stipulations, rulings and laws which depend on it, but also because the joy of hope that a life may be saved is kindled in the midst of bitterness at the thought that life has ended. This is possible now because new scientific horizons in the field of transplanting human organs have been explored, giving new hopes of life when the treatment of some diseases gets to a dead end and indications that the life of a certain patient is about to end can be felt in the air.

What is a Human Being and What Is the Significance of a Living Brain for Him?

All of us easily recall that a human being is a body and a spirit. We will not talk here about the nature of the spirit, because we know nothing about it although we are aware of the influence it has on the body. A static, dead corpse does not differ chemically from a living body at all. Nor do they differ in form or anatomy, not even when tissues are examined under a microscope. In more general terms, there is no material difference between a living body and a corpse. The difference is in functioning.

All the parts of a living body function, and this functioning takes place at various levels: the cells, the organs, and the body as a whole. A single

cell functions and a score of different operations go on inside it. All take place simultaneously, but the cell is aware that it is not on its own in that body, because it deals with other cells within the same organ or in other organs. This dealing follows different ways, but the dealing and the awareness are not of the type that a conscious, rational being experiences. They are rather programmed into the nuclei of these cells on the bands inherited all the way down from Adam, with all the details for what each cell must do and when to do it, so that all the organs may work with coordination and in harmony, each in its own specialization. Some of these cells get renewed continuously. In other words, cells get old and die and new cells replace them. Others are never renewed, but even their components, whether organic or non-organic, continuously change. Even the calcium of bones, hard as it is, is gradually renewed at the rate of once every few months. Yet, the general form remains the same, which is also achieved through the programming. In other words, this human being that we see before us, with his weight which is as high as seventy or eighty kilograms, has a body which is completely though gradually, replaced with a new body, with all its liquid and minerals, every now and then. The old chemicals are lost through the various secretions of the body or are used to renew its nourishment. This is what we may call the repeated resurrection of man during his lifetime.

There is a basic fact we should understand right at the outset: although a human cell represents a life, which is a manifestation of the miracle of creation accomplished by the Creator, Great and Most Sublime is He, but the great majority of the body cells and organs of a human being have their own lives, which are independent of that individual's life. There is no correlation of the life of a cell and that of the individual. To express this more clearly, a person's cells and organs do not share his "spirit" with him. As evidence of this, we can take some cells from the body of a human being to cultivate and study them in a laboratory, and yet these cells do not cease to "live" as a result of being separated from the body. Another example is when a kidney is removed from the body of an individual to be planted in the body of another; it neither loses its life by being removed nor gains a new life from the body into which it is transplanted. If the previous owner dies, it is not affected; its own life continues, and it keeps on performing the same function it is created to perform in the first place and on leading a life which includes growth, demolition, and construction as long as the right nourishment is available to it and regardless of whose body it dwells in.

Is it possible to go back to the question of what a human being is?

This time the answer is that he is a body composed of living cells and organs which are self-stimulated to go on functioning as individual cells and individual organs as long as the material conditions for this life are available. He is, in addition a spirit, which we may call a human "soul" or "self", and with which the personality and individuality of that being is realized.

Where Is the Human Soul Placed in That Structure?

We recognize each other by external appearance, the figure of the body, the features of the face, the colour of the eyes, the complexion, and sometimes finger prints. As for the above-mentioned internal organs and systems, they can all be removed and replaced with the only exception of the brain, as already stated. The heart, lungs, liver, kidneys can each be removed and substituted with other human, or even plastic organs, and yet the human "self" would go on, without any change. Where then does this self lurk?

We may think now that the human soul is located in the brain of a human being, because that is the place where all sensations - hearing, sight, smell, taste, and touch - are received. It is the only place that receives messages from the outer world. It also contains the memory, storage of what is read, heard, seen, etc., and of previous experiences. It is the centre of thinking and creativity. Acquired manners, habits, and values which distinguish every individual are established through it. It is also the centre of inherited instincts and the originator of actions based on the information it receives. We have been able to confirm all this because damage to particular parts of the brain results in the loss of certain abilities which are controlled by these parts. It is with all these abilities that God has placed man on earth as His vicegerent, and he will be brought to account at the end for the way in which he uses them. If a person loses these abilities, he loses responsibility and has no longer to account for his behaviour.

If we look at the brain under the microscope, we find that it consists of millions of neuro-cells, which are similar to small electric batteries. They translate everything - feelings, thoughts, and desires - into electric flashes which are transmitted by tiny insulated wires which end with exceedingly fine extremities, which again translate the flashes into chemical energy, and this in turn alert other cells. Thus the various hearing, sight, and other sensations are received and tasks, whether ideas or actions, are carried out.

We have to notice here that all the sensations received by the brain as well as all the signals it transmits for tasks to be performed are taken note of at a particular part of the brain which is always aware of what is going on. That part is the brain stem, or, to be more specific, it is a particular tissue inside the stem called the reticular tissue. It has great influence on the other parts of the brain. It has been established, through a great volume of research, that this reticular tissue is responsible for man's consciousness, and when a person falls unconscious, for one reason or another, it is usually the result of some injury done to this tissue, like injuries caused by accidents, poisoning, or diseases, including the effects of anesthesia and sleeping, tranquilizer, and hallucinogenic drugs. This tissue is also responsible for man's sleep and waking up, and, as things seem at present, it is, most probably, the seat of the human soul. (See Figure 1).

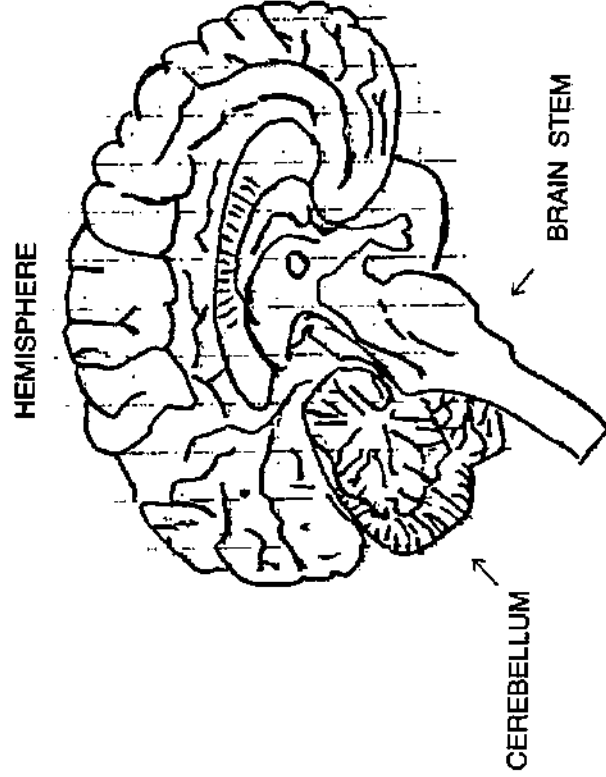


Figure (1)
Vertical Section of the Brain

The Effect of Heart Failure on Other Organs

It is my belief that several levels of life go on simultaneously in the human body. The highest level is human life.

When a heart fails to function once and for all, which is what happens in most cases of death, this is at once followed by loss of consciousness and suspension of respiration, both of which are functions of the brain. The brain can stand a failure in its blood circulation for few seconds only, although its cells continue to live for a few minutes. But they stop to function.

A failure of blood circulation deprives all organs and tissues of the body of the necessary nourishment, which is basically the glucose and oxygen needed to produce energy and keep the cells working. Moreover, the poisonous refuse that results from this process, and which is mostly acid, begins to pile up, because a blood circulation failure in the tissues stops their discharge.

Such chemical changes lead to the death of the cells and organs of which the human body is composed. The period of survival after the failure of circulation and respiration differs from one organ to another, depending on how sensitive the organ is to shortage in nourishment and rate of increase in acidity. Cells of the brain, and particularly of the cortex, for example, cannot stand any shortage of glucose and oxygen for more than about four minutes. Some brain cells can survive a few seconds longer. Next on the list are cells of the liver and kidneys. On the other hand, muscles, bones and skin may survive for several hours after heart failure and suspension of blood circulation. All these times are figured on the basis of normal body temperature.

Dying

It is clear from the above that after the cardiac arrest respiration stops, and clinical diagnosis indicates that a person is dead on the basis of loss of consciousness, feeling, senses, and the ability to move and the halt of pulse and breathing, there is a period of no less than four minutes during which many of his organs are still alive, and some even still functioning, while the others are able to function if the proper environment, i.e. nourishment and refuse disposal, are made available. During these four minutes, brain cells continue to live, and if the person receives aid in the form of heart massage, electric shocks, artificial respiration to supply the blood with oxygen, and other types of stimulating and relieving aids, it is

possible that the heart would resume its work and natural respiration be restored, thus allowing the person to regain consciousness, if the cause of death permits something of this sort to happen. In this way it is possible to save the lives of some patients at this critical stage during which a human being is considered dead by all clinical and medical standards. Actually he is not, because his brain and most of his organs are still alive. We cannot say that in these cases a person who has actually died is restored to life. We can rather call this period of time the period of dying. I believe it is the duty of every physician who is present when someone goes through such a period to make the attempt to save him. If the doctor fails to do so, he is guilty of inadequate treatment.

Cortical Damage

In rare cases, when an attempt is made to save a dying person, the heart and respiratory system may resume their work a few seconds, after the four minutes have passed, but the highly sensitive brain cortex would already be partially or completely damaged, at the time that other parts of the brain, including the brain stem, would continue to function. The damage may result from a sharp drop in blood pressure for a long period of time, even if neither the heart nor the respiratory system come to a halt, because such a drop would mean that the nourishment the brain receives is insufficient. Sometimes this results from a serious, though not fatal, brain injury.

This damage affects the patient in varying degrees which range from simple to full mental derangement to total loss of consciousness, depending on the extent of damage. Such cases have no cure at all, for brain cells are irreplaceable when they die.

In the case of complete unconsciousness, the patient continues to live a life which some erroneously describe as vegetable or cellular life, both of which are expressions that lack scientific accuracy. Perhaps the phrase "body life" is more accurate. Theoretically, a patient may live a whole life span in such a condition, depending on the efficiency of the medical and nursing care provided and the treatment of occasional illness he is exposed to as a result of lying down for such a long period of time.

This patient requires to be fed through a tube connected to the stomach. The food is semi-liquid and well-proportioned. The patient also needs constant skin-care, and the body should be turned every two hours, to avoid bed sores. The discharge of urine and stool should also be taken care of. Such a person breathes naturally, because the brain stem is not

damaged, but this kind of life can go on only inside a hospital and is a financial disaster, not only in the sense that the cost is extremely high, but also because there is no hope that the patient would regain consciousness. I personally witnessed a case of this sort in a hospital in Europe, where the patient continued to live like this for fifteen years. Keeping that patient alive was to show the extraordinary nursing care (available at the hospital) and to show the patient to visiting foreign doctors. Usually such patients die as a result of bed sores or of respiratory infection. Some physicians are deliberately lacks in treating such occasional illness to hasten the death of a patient of this sort.

Death of the Brain (Stem)

As already pointed out, in most cases life ends when the heart stops, which is immediately followed by a halt in respiration and loss of consciousness. Next, the organs begin to die, with the brain going first within few minutes, and so on. There are, however, other cases in which the brain dies first. I hope this will not lead some people to assume that there are different kinds of death, but there are indeed different causes. A liver patient, heart patient, lung patient, or kidney patient may die in the end because one of the vital organs of his body is damaged, which leads to disorder in its vital functions. In most cases, blood circulation slackens, the heart fails and the brain dies as a consequence. This, however, does not mean that direct brain damage does not similarly cause death, which is what happens in severe head injuries in road accidents or as a result of falling from high places. Certain diseases, such as brain hemorrhage and brain tumours also lead to the same result. In these cases, the whole brain, or basically the brain stem, dies. Naturally, the death cycle in this case begins with loss of consciousness and halt of respiration, which means no more oxygen is supplied to the blood. Circulation goes on, but with the shortage of oxygen, carbon dioxide accumulates, and the rest of body organs die gradually. This does not mean that supplying oxygen by artificial respiration would restore to life the brain after it has died. As mentioned earlier, damaged brain cells are irreplaceable. But by resorting to artificial respiration, the organs of the body other than the brain may be kept alive for a period of time ranging from few hours to two weeks, more or less. But that period cannot go on much longer even if we continue to give the patient all the stimulating aids possible. Blood pressure begins to drop, food assimilation processes slow down, body temperature goes down, and finally the heart stops. We can describe this period during which some of the organs of a dead individual can be kept alive as

"organic life" (referring to the remaining body organs).

A well-known example of immediate death is death by hanging, where the upper cervical vertebrae, where the brain stem is located, are pulled off causing an instant death of the brain stem. Without doubt, it was out of wrong conception that the prison physician used in the past to feel the pulse of the convict and allow his body to be pulled down only when the pulse has stopped. The pulse does go on for a few minutes, but the brain stem gets damaged at the first moment of the hanging process, right at the time consciousness is lost and respiration stops. Again if this convict is given, within few minutes, the aid of an artificial respirator, the same things would happen; organic life would go on for a while, one week or more, but this does not mean the hanged person would ever survive, because the human "self" would have gone to no return, and the systems of reception, interaction, and transmission, with which the human soul deals with its environment would be irrevocably destroyed.

To sum up, the death of a human being occurs when the brain stem dies, whether as a result of heart failure for more than few minutes causing a shortage of glucose and oxygen sufficient to damage the brain or by direct injury, which causes the death of the whole brain. What happens to other organs is not important. They may immediately begin to disintegrate and rot or may keep their vitality for a limited period through artificial invigoration devices. The fact I am trying to stress is that when the heart stops to function that does not necessarily mean death; it is rather a stage of dying. Similarly, when the heart continues to function after the brain has died, it does not signify life.

Diagnosis of Death of the Brain

Certain developed countries have agreed upon a definition of brain death and methods of diagnosing it on the basis of certain signs which more than one neurologist have to detect, each on his own, with the conditions that none of them should have any previous acquaintance with the patient, and that at least six hours should pass between one examination and another. The signs include

1. the patient's failure to respond to any form of stimulation by pain (a condition known as profound unconsciousness and the loss of feeling and motion);
2. utter failure of natural respiration, which is tested by keeping the patient off artificial respiration for two full minutes and looking for any

effort for natural breathing;

3. dilation of the eye pupils and their failure to react to light;
4. the disappearance of electric waves transmitted by the brain and detected through electroencephalography.
5. the absence of the vital functions of the brain and brain stem, which can be determined by modern measuring devices; and
6. arrest of the brain blood circulation, which can be measured directly or indirectly.

These tests, and even some of them only, leave no doubt about the question under discussion. The diagnosis is regarded as final and it completely rules out the possibility of unconsciousness resulting from poisoning and the different types of encephalitis.

As for my personal experience in this field, for the past ten years, even when the death of the brain stem is ascertained, we do not disconnect artificial respiration systems or stop using stimulants until the heart comes to a final stop. For one thing, I am waiting for the Islamic legislative ruling on this issue, and on the other hand the equipment is available and the patient's family do not bear any additional expenses. In spite of that, I have not seen one single patient improve or continue to have heart beat for a long period after such diagnosis. If autopsy is performed for such a patient when his heart has stopped, it will be discovered that his brain has completely decomposed, turning into liquid matter inside the skull.

A question may be raised here: if organ transplants are possible, what is the possibility of a brain transplant when someone's brain is damaged? The answer is obvious. The rule is to transplant a living organ, and a living brain is found only in a living person. To remove the brain of such a person for a transplant means to kill him. This is not to mention the technical impossibility of such an operation on the practical level, for it would require the transplant of the brain, the spinal cord, and brain attachments, which include the eyes and nose, as well as disconnecting and re-connecting up to eighty nerves and a similar number of blood vessels, all within a period of no more than four minutes.

If for the sake of argument we suppose such an operation could be performed, most probably it is the body whose brain has died that would be transplanted to the living brain rather than the reverse, because the

human self follows the brain, and when the brain dies the self's life in this world comes to an end. Blessed is He who never dies. Let us recall what God says in the Surah entitled Al-Zumur:

IT IS GOD WHO RECEIVES (MEN'S) SOULS AT THE TIME OF THEIR DEATH, AND DURING THEIR SLEEP, THE SOULS OF THOSE WHO HAVE NOT YET DIED, HE WITHHOLDS THOSE UPON WHOM HE HAS DECREED DEATH, AND LET THE OTHERS GO FREE FOR A TERM SET (BY HIM).

(S39:V42)

Death then is the end of human life and human soul, but not necessarily of other organs and cells of the body, which may live years and years longer if transplanted to other bodies. In the verse above, God describes sleep as death. Sleep is a certain level of life, as the case is with people under the influence of anesthetics. This level is what we have called "body life".

Perhaps I should take the opportunity and list these names, which may be closer to scientific expression and logic than the inaccurate, common phrases, which are used sometimes even in medical books.

First, sober human life is the life characterized by consciousness, feeling, and motion.

Second, body life is the life of sleep. I think it is better not to call it "life in death" because this phrase may cause some confusion because the opposite of its meaning is commonly used. Nevertheless, this life is on without consciousness, feeling, or motion. We have to note that sleep has degrees, and that light sleep has a certain degree of sobriety and of feeling and movement (such as turning from one side to another), which is not true about deep sleep. The same thing applies to cases of anesthesia, temporary unconsciousness whatever its causes are, and permanent unconsciousness as in the case of complete damage of the cerebral cortex.

Third, organic life is the life left in some organs of the body after the death of a person and while life support apparatuses are still attached to him. The brain stem would be dead but the heart continues to function. The word life here does not refer to the person as an individual but to the organs of his body which are still alive, such as the heart, liver, kidneys and so on, except for the brain. This life can go on for a limited period of time, with a maximum of about two weeks. During this period everything (nourishment, demolition, and build up) would be a continuation of what has been going on before the person's death.

Fourth, tissue life is a description of a group of living cells often in culture at laboratories.

Fifth, cellular life refers to single human cells.

In laboratories, certain nutrient media are supplied to one cell or more, placed in glass dishes, for the purpose of nourishment to allow certain laboratory studies.

If we contemplate the beginning of human life, we find that these various degrees or levels of life build up gradually. Life begins with one cell, a zygote. With the cleavage and multiplication of that cell, tissue life begins. Then many organs such as the heart, begin to form, but the spirit is not yet breathed in. This stage then is a stage of organic life. When spirit is breathed into a fetus, body life and sober human life begin to alternate, depending on whether it is asleep or awake.

In the light of what we have arrived at, if we ask, for the third time, what a human being is, the answer will be that a human being is a living brain with a human soul. This living brain is served by a great number of systems, some nourish it, some dispose of its refuse, and some carry it wherever it wishes to go. Through the brain, a human soul controls all organs and all activities of the body.

Next we go back to the question of determining when a person's brain dies, because of the great importance this question has in Islamic Legislation. There are more than one way to do that but the most accurate and reliable is to attach to a patient who has received a serious brain injury the apparatuses of electroencephalography and of measuring brain functions. All these are very sensitive devices that would do the job. When there are indications that the brain is dead, clinical examination is performed by two expert physicians as described above.

The great importance of determining the time of brain death is not only due to its implications in Islamic Legislation but also to its significance for the discipline of human transplants, which requires that the organs be removed while they are alive and their owner is dead, that is during the period of organic life. This is the only scientific alternative to the donation of an organ by a living person, usually a relative. Such donation by the living can only be done in limited cases, which are the cases of duplicate organs, such as the kidney. Moreover, a donor is exposed to surgical risks and the possibility that the he may need in the future the same organ he has donated.

In conclusion, Islamic Law has to make a ruling concerning the cases when human life has ended. In doing this, it should take into consideration the hundreds of patients who die every day because their hearts, livers, or kidneys are damaged, and some of whom could be saved.

LIFE AND DEATH BETWEEN PHYSICIANS AND FIQH SCHOLARS

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Medicine is a fast developing science. Therefore, a physician faces in his work new situations where he has to perform his duty but would like to be guided by his religion and observe the stipulations of its Law.

Our religion is a message from God to man, which was completed when God revealed the Quranic verse which may be rendered in translation as follows:

*THIS DAY I HAVE PERFECTED YOUR RELIGION FOR YOU AND
BESTOWED ON YOU THE FULL MEASURE OF MY BLESSINGS
AND CHOSEN ISLAM AS A RELIGION FOR YOU.*

Consequently, any problem that faces people must have a ruling in Islam, whether in the form of a statement or of an informed individual opinion, and whether the ruling is an obligation, permission, or prohibition.

Still, sometimes it seems to a physician in his practice, as it seems to others, that there is a gap between the rulings of the Law and the new findings in medical practice. This, in my opinion, is due to two things. The first is the attempts that have been going on for over a century to isolate Islamic Law from the main stream of the life of Muslims. These attempts reached a climax with the fall of the Ottoman Caliphate and the domination of Islamic countries, by non-Muslim powers, which led to a situation where the stand of Islamic Law on new issues was not constantly and insistently sought, and the response of *fiqh* scholars was not consistent, comprehensive, or taken for granted. Moreover, the element of practice, together with the experience and enrichment that result from it, was missing.

The second factor is the great discrepancy between the education and different groups of physicians in their religions and upbringing. We can group these physicians into three categories. The first is that of doctors who, out of their strong faith and religious commitment and

education, make a conscientious effort to seek religious guidance and find out the rulings of Islamic Law. In most cases they succeed in their endeavour. I believe these are few and hope their number will increase. Another group has neither the ability nor the interest to make such an effort. The third is that of physicians who make an effort at times and neglect to do so at other times. When they do, they hit or they miss; sometimes they rely on themselves and sometimes ask for the help of people who have better knowledge.

Undoubtedly the efforts of the Islamic Organization for Medical Sciences are an attempt to fill the gap through the two conferences it has held, as well as the seminars held to discuss specific subjects, like the seminar on Reproduction and this seminar. These are efforts that deserve gratitude and appreciation, and stimulate further efforts to continue and intensify the search.

This seminar is on the subject of life and death, or the inception and end of life. As I understand it, it is first of all a dialogue seminar; *fiqh* scholars get informed on some of the things that face and bother physicians, and their point of view on these things, while physicians, in return, receive information on some of the principles *fiqh* scholars follow in arriving at their opinions and deriving their rulings. We listen to each other, because neither of the two sides can do without such a dialogue in the exploration of facts, investigation of points of view, and inquiry into the problems of practice.

I believe the best thing I can contribute to this effort is to tell you some of the issues that face a doctor, and my attempt as a Muslim doctor to find the proper approach I should take concerning them in the light of my professional commitment to save the lives of patients and relieve their pain as much as I can, and of my respect for death, the end of life in its earthly phase. After doing this, I would like to ask you all, *fiqh* scholars and doctors, to give me your opinion and your advice, not on one point in particular, but rather on the approach that should be followed.

Statement Or Opinion?

To start with, I would like to say that I tried, in as much as possible for a Muslim doctor of average general education, to find a specific definition of life and death but could find no Quran or Tradition statement that defines either of the two, the beginning or the end. If it is true that there is no such a statement, then the definition is left for the human effort and experience.

Allusions can be found in chapters such as the one on inheritance. An example of these is the statement of the Prophet, Peace be upon him, that

"If it cries, a new-born infant inherits",

(Related by Abu Dawood)

or

"A new-born infant does not inherit until it cries".

(Related by Ibn Majah)

The *Fiqh Encyclopedia* says:

It is known to be alive when it cries. *Fiqh* scholars disagree over signs other than crying ... because crying can be made only by a living creature, while movement can be made by someone who is not alive ... etc. One ruling reported to have been given by Ahmad says, 'If its life is ascertained by means of a sound, a movement, breast sucking, or something else, it inherits'. To such an infant the same rulings apply as in the case of an infant that cries at birth, and this is the opinion of Al-Nawawi, Al-Awza'ie, Al-Shafie, Abu Hanifah, and his disciples!

It is clear that this opinion is based on human experience in both *fiqh* and medicine.

In the chapter on funerals, one finds that a dead person should be quickly prepared for burial when his death is ascertained. "If there is doubt, the familiar signs of death are taken as criteria, while in the case of sudden death, it is necessary to wait until death is ascertained" (2). When one refers to a modern book of *fiqh*, he finds something like: "Death must be ascertained by doctors or other learned people" (3).

I am not trying to find a *fiqh* ruling, for that is the job of *fiqh* scholars. All that I am saying is that a doctor feels that the ruling is based on human experience, which may develop with the advancement of human knowledge.

The second point I want to make clear concerns the process of death. Death is not a point or a thin line. It is a process which takes a period of time of varying length. Since old times people have always spoken about a person as getting into the stage or the process of death or being in the condition of dying. *Sunnah* books tell what is recommended for a dying

person. Perhaps "intichar", the Arabic word for the process of dying, is taken from the Quran. God says,

OR WERE YOU WITNESSES WHEN DEATH CAME [HADHARA] TO JACOB?

(S2:V133)

He said to his sons ... He also says,

IT IS DECREED FOR YOU THAT WHEN DEATH COMES TO ONE OF YOU, IF HE IS LEAVING ANY PROPERTY, LET IT BE BEQUEATHED TO PARENTS AND THE CLOSEST OF KIN ...

(S2:V180)

Undoubtedly, the two verses are referring to a stage of dying earlier than that during which no repentance is acceptable, as referred to in the Quranic verse:

FORGIVENESS IS NOT FOR THOSE WHO COMMIT EVIL, THEN, WHEN DEATH COMES TO ONE OF THEM, HE SAYS, 'NOW I REPENT'.

(S4:V18)

A tradition of the Prophet, Peace be upon him, states,

"Prompt your dying to say, 'There is no deity but God'. (4)

Another tradition says,

"God accepts repentance from a person as long as he is able to gurgle".

Here is also a reference to two different stages. Medical experience does not teach us any different thing.

The body is a group of cells, organs, and systems. Each performs a function and each has certain needs in order to go on. These include the nourishment, energy, and carefully balanced environment. The cells, organs, and systems are interdependent. A disorder in the function of an organ affects the functioning of other organs in varying degrees, as in the simile of the Prophet, Peace be upon him, where he compares believers to the body of a person,

"If one organ complains, all others share its complaint, suffering sleeplessness and fever".

If the disorder does not stop, one organ goes out of order after another

until death.

Let me cite some examples. Organs and cells must have oxygen, and it is the function of the respiratory system to supply it. If it fails to do so, as in cases of suffocation, drowning, the failure to get air into the lungs due to a paralysis of the breathing muscles or a fracture of a thoracic bone, the predominance of a gas other than oxygen, a disease in the lungs which prevents the transmission of oxygen into the blood, or the influence of some chemical which prevents the blood from transmitting oxygen to tissues - other organs start to fail to do their functions, and the disorder mounts up until the person dies. The period which organs can stand without oxygen before they are completely damaged differs from one to the other.

When the heart fails to pump blood to other organs, the result is the same, whether the cause of the failure is a foreign factor that keeps the heart from functioning, something in the heart muscle itself that makes its contraction useless, or disorder in the heart's electric system, such as ventricular fibrillation which causes each bundle of fibers to contract independently and thus produce no pumping at all. The organs also differ in the length of the period they can stand such disorder before they are damaged. It is commonly believed that if active pumping is not resumed within four minutes, the brain will be damaged beyond repair.

Similarly if a person suffers some hemorrhage causing the organs to receive a supply of blood less than they need, they will be damaged unless the bleeding is stopped and the lost blood is timely replaced.

A failure of the kidneys to perform their function means that the body is no longer able to excrete the waste that has to be disposed of and it is no longer possible to maintain the acid-base balance in body liquids nor the delicate balance of electrolytes and ions in these liquids, all of which is closely connected to the various biological functions of cells and organs. When the kidneys fail, the functions of organs are disrupted, one after the other, till the person dies or the original disorder is corrected in proper time by the use of an artificial kidney for example.

Perhaps you notice the repeated reference to "proper time" in the examples cited above, because unless the functional disorder of an organ is treated before it is too late, the other organs continue to fail, one after the other, until death takes place, even if the original disorder is corrected. The clearest example of this is that of the hemorrhage, which leads to death unless it is stopped before a certain stage. After that stage, death is

certain even if the hemorrhage is stopped and the lost blood replaced. The time referred to as "proper time", varies in length with the difference in the speed with which the original functional disorder develops, because the body automatically attempts to repair any disorder and replace any loss through the means God has made available to it. The proper time also varies in length according to the nature of the disease, or more precisely, the nature of the organ or system suffering disorder before treatment is given. Organs vary in how long they can take a certain disorder before they are completely damaged. It has already been mentioned that the brain cannot survive a failure of the heart for more than four minutes. A halt in respiration causes the heart to fail in less than that. And so on.

The Death of Organs and Human Death

In the light of the above we can understand the Sydney Declaration, made by the World Medical Association in its twenty second convention in Sydney, Australia, in 1968. It says that death on the cellular or tissue level is a gradual process. Tissues differ in the degree to which they can go without oxygen. The important thing is not to determine the death of various organs or cell groups, but rather to determine that the death process has reached a point where it can no longer be halted, regardless of the treatment and resuscitation equipment applied. The life of an organ or a cell group does not necessarily mean that a certain individual is alive (7).

Perhaps this becomes clearer if we remember that the heart continues to beat after a person is hanged, and it is the habit of executioners to record the time the pulse continues after the execution. Another example is the fact that kidneys are flown from America or Europe in order to be planted into a patient in Kuwait for example. It is a living kidney which has belonged to a patient who is already dead and buried when it is implanted. A third example is the possibility of cultivating human cells in a laboratory again and again after they are removed from the body in which they originated.

Specialists are making increasing efforts to keep these organs and cells alive as long as possible, by keeping them for example, under a certain temperature, which may be the freezing point, or by keeping them in a suitable nutrient medium with specific qualities, which may and may not be continuously mixed with oxygen.

How Death Is Determined

Here a number of questions and issues must arise. It is some of these that we are trying to answer in this seminar.

The first is the question of how to determine death. Upon this, a number of religious and legal affairs, which are essential to people, depend.

It is an old question, and people have been through the ages making serious efforts to answer it as accurately as possible and to follow certain procedures which would allow the correction of any error if the definition is inaccurate, or the ascertainment of certain points if there is still some doubt about them.

We may remember some documents with the picture of a monk passing a lit candle close to the face of a person to make sure he is no longer breathing. We may also remember the hospital instructions taught to us as students of medicine that when a doctor attends a patient at his time of death, the doctor has to write down the attempts he has made to save or revive the patient and then write, "To be transferred to the mortuary within two hours".

With the invention of the stethoscope, heartbeat became the focus of attention as the definite sign of life, which stops when the heart no longer beats.

For many patients, death is still determined by one of the traditional signs, such as the halt of the heartbeat and respiration. This is followed when a patient dies at home or in hospital as a result of pathological developments which end in death, or when someone dies anywhere and for any reason before there is a chance to try to save him with modern means of treatment. In such cases, there is no difficulty in determining death, because when few minutes have passed after the halt of heartbeat and respiration the question is settled and doubt turns into certainty.

Brain-Stem Death

The picture, however, has changed a little with the development of human knowledge in the field of medicine and related sciences. One of the most important developments is the possibility of resuming respiration after it has stopped with the aid of artificial respirators, even in cases of fatal injuries. A person who is injured in the head may receive artificial respiration, which allows the heart to go on for several days when the brain

has stopped and even started to disintegrate. This is what gave birth to the idea of determining death by the signs that show the death of the brain or brain-stem death.

The chance to use mechanical respirators on a large scale was made possible during the Korean war (1950-53), when they were used for the injured. Later, they were used to help patients with polio, where respiration muscles get paralyzed, in Denmark in 1952 and the U.S.A. in 1953. After that, intensive care units equipped with respirators began to spread, and the systems were used extensively in cases of head injury in England, and so on.

Experience began to add up, specific data became available, and studies started to be published trying to define clear signs which, when detected, give assurance that the brain stem is dead. A French study was published in 1959, and it was followed in 1968 by the signs set by Harvard University after a joint study made by a committee of physicians, lawyers, and clergymen. Also in 1968, there was the above-mentioned Sydney Declaration. Later, there was a study made by the University of Minnesota, and so on. (10) In one country after another, medical authorities began to issue specific instructions on which physicians can rely in diagnosing brain-stem death.

It is sufficient to refer here to the declaration made in 1976 by the Joint Conference of Royal Colleges of Medicine of the United Kingdom. It sums up and revises earlier studies, and one year after it was issued it was officially adopted by the medical authorities in the United Kingdom as instructions to physicians practicing there. The declaration sets conditions that ought to be met to diagnose brain-stem death. The following are a few examples:

1. The patient should be in a state of deep coma. The possibility of unconsciousness that may partially or fully respond to treatment, such as the effect of tranquilizers or sedatives, or the excessive drop in body temperature, etc. have to be ruled out.
2. The patient should be reliant on artificial respirators due to his inability to breathe on his own.
3. There should be no doubt that the brain is damaged beyond treatment, as a result, for example, of head injury, spontaneous intra-cranial hemorrhage, brain surgery, etc.
4. Clinical examination should reveal signs of brain-stem death, such as

the dilation of eye pupils, their failure to react to light loss of cranial nerve reflexes, and so on.

5. Total lack of response to attempts to stimulate normal respiration.

This is not the place to investigate all these conditions and signs, a list of which is easy to find in appropriate sources. I only want to point out that they are definite signs which have become evident and been gathered and confirmed after studies and revisions which had gone on for many years. It is established now that once the brain stem dies, the other organs will eventually stop to function, one after the other, regardless of how long artificial respiration and other systems continue to work. If, however, these devices are disconnected, the heart would immediately stop.

I would like to draw attention to the fact that the brain stem may be alive in patients who fall into deep coma or are suffering a disease that keeps them from speaking, moving, perceiving, or reacting to attempts at communication. Such cases do not fall under the expression of "brain-stem death" with its specific conditions.

Revision and Examination

Like *figh* scholars, physicians do not give in to an innovation, inspire of the great amount and continuity of research, before they examine and re-examine every single detail. This has been the case with this question of considering brain-stem death as the death of a patient, since a death diagnosis means that artificial systems should be disconnected. To stop artificial respirators means that the heart would stop, so it was necessary to find another way to examine this question.

An investigation was made into the cases in which a diagnosis of brain-stem death was made and yet the artificial systems were not disconnected, for one reason or another. These were over 700 cases and all these patients died although the apparatuses continued to work. In all cases, the heart stopped a few hours to a few days after the death of the brain. The average period was three and a half to four and a half days, and the longest period in which the heart continued to beat was fourteen days. (12)

A study was made in the other direction. It concerned over one thousand cases admitted into hospitals in deep coma resulting from serious head injuries. All of them were alive at the time the study was made, which was three months after the injury. The record of each of them

was checked to answer one specific question, "Is it possible to diagnose a death of the brain in any of these cases?" The team making the study could not discover one single case, even among those of the most serious injuries, that met the conditions for such a diagnosis. (13)

In other words, none of the seven hundred cases in which the death of the brain was diagnosed survived, although artificial equipment continued to work, and in none of the thousand cases which survived could a brain-death diagnosis be made.

When Should Artificial Equipment Be Stopped

Thus when a doctor diagnoses the death of the brain, he has the confidence to have all systems of artificial aid disconnected, knowing that he is not stopping treatment and leaving a patient to die, but rather stopping measures that are useless for a patient who is already dead. (14)

Some researchers have pointed out that we are not dealing here with two concepts of death, one is failure of the brain and the second is failure of the heart and of respiration, but with two groups of evidence and phenomena which lead to the same end, the end that really counts which is the death of the brain stem in all cases, for that is what also happens within minutes, and perhaps seconds, when the heart and respiration come to a final halt. (15)

Perhaps what I have mentioned is sufficient to answer the second question raised, namely, "when should a physician stop artificial equipment?"

As the medical profession has accepted the death of the brain stem as the death of a person only after soul-searching, intellectual search, studies, and reconsideration, a doctor never makes his decision and puts it into practice easily and without reconsideration and psychological conflict.

Human emotions dominate even when the mind is convinced, particularly when the decision is made by the same doctor who has been treating the patient. More than once I have witnessed doctors whose long experience and high qualification are beyond dispute hardly able to stop trying to revive a patient, actually resisting such a stop although death has been ascertained, and only yielding to the reminders and insistence of their colleagues after some effort.

Organ Transplants

Rulings have been made allowing the transplantation of an organ from a living donor to another person under certain conditions. Among the most important is that the transplantation should be necessary to the recipient and does not cause the donor to perish. The question here, however, is about transplanting organs from the dead to the living.

To begin with, we should say there is no doctor with a sound mind, not to say a Muslim doctor, who would think of ending the life of a dying patient in order to transplant one of his organs to another patient who is about to die. A doctor has a professional commitment to save human life from the moment conception is confirmed to the moment death is confirmed. A Muslim, moreover, is aware of God's saying,

NO SOUL IS TO DIE UNLESS GOD PERMITS.

(S3:V145)

He feels the sanctity of human life when God says:

WHOEVER KILLS A HUMAN BEING, EXCEPT AS RETALIATION FOR MURDER OR PUNISHMENT FOR CORRUPTION ON EARTH, SHOULD BE LOOKED UPON AS THOUGH HE HAS KILLED ALL MANKIND ...

(S5:V32)

and in his medical practice, a Muslim doctor is further guided by God's statement in the same verse:

... AND THAT WHOEVER SAVED A HUMAN LIFE SHOULD BE REGARDED AS THOUGH HE HAD SAVED ALL MANKIND.

Saving a soul, from peril is a general term under which all types of treatment, including transplants, fall.

Since rulings permit a living person to donate one of his organs while he is alive, what should prevent him from willing one of his organs to be used after his death? If he does not, is it all right for his guardian to donate it on his behalf? Is it lawful for the ruler or society or the law to take the place of a guardian when a dead person has not willed any donation nor willed against donation?

Some countries have made laws which allow taking organs from the dead, unless they have made a will to the contrary. Other countries do not permit taking a dead person's organs unless he has donated them in his will. Still others set the approval of the guardian as a condition.

As Muslim, where do we stand in the midst of all this? That is what this seminar is expected to answer.

Precaution and Absolution

I will merely mention here the precautions taken by the medical profession to make sure that the decision made that a patient is dead is an accurate decision before any of his organs is taken. Among these are: (16)

1. that clear instructions, with specific conditions, should be satisfied in the diagnosis of death, as explained earlier;
2. that more than one sufficiently - experienced physician should take part in such a diagnosis;
3. that in the cases when organs are expected to be removed from a patient after his death none of the diagnosing physicians referred to in the previous item should have anything to do with the transplantation team that waits for the organs to implant them; and
4. that the conditions and the procedure should be exactly the same whether organs are or are not to be removed.

"It is not true that physicians hasten to disconnect resuscitation systems in order to remove organs which are to be implanted while they are in a better condition. What actually happens is the opposite; namely, when the death of a patient is confirmed, the disconnection of equipment may be delayed to give the guardian a chance to think carefully and takes his time in arriving at the decision to allow the removal of organs, if he is going to agree".

Summary

To sum up, I have discussed the definition of death in the absence of a religious text on the basis of informed human opinion, which combines both *fiqh* and medical knowledge. Death is a process that takes a period of time which may be long or short, the life of an organ or a group of cells does not mean the human being himself is alive, that death is confirmed when the heart and respiration come to a stop or when the brain stem stops functioning in cases where artificial respiration is employed, and there are specific signs and conditions set by the medical profession after years of search and study for diagnosing that a brain stem is dead. It is upon such a diagnosis that the disconnection of equipment depends. I have gone through the lawfulness of removing an organ from a dead body

and wondered where we stood in regards to certain laws that regulate the removal of organs from the dead in various countries.

But what about the rulings that depend on death?

In answer to a question made by some colleagues, I say that I have not discussed the *fiqh* rulings that depend on death, such as inheritance, will, or retaliation, because these are consequences of death and what we are talking about is death itself and how to define it. When the definition is made, the rulings remain as they have always been.

I believe the time allowed me does not give me the chance to talk about fetuses and new-born babies. I am satisfied with referring to the discussions at the Reproduction seminar and the discussions of the committee which was formed and chaired by His Excellency the Kuwaiti Minister of Health and Chairman of this Organization and on which I had the honour to serve. It prepared the articles on abortion of the code of the Professional Practice of Medicine, which was adopted by the Kuwaiti National Assembly after being approved by the *Fatwa* committee.

Notes

1. *Al-Mawsoo'ah Al-Fiqhiyah*, (Fiqh Encyclopedia), Vol. 3, item 112, p. 66.
2. *Mu'jam Al-Fiqh Al-Hanbali*, vol. 1, p. 193.
3. *Fiqh Al-Sunnah*, vol. 4, p. 53.
4. Related by Muslim and others. See *Mukhtasar Sahih Muslim*, 453.
5. Related Al-Tirmithi. See the chapter on Repentance in *Riyadh Al-Salihin*.
6. *Mukhtasar Sahih Muslim*. 1774.
7. *BMJ* 1968, 3, 493-494.
8. Jennet, B 1981, *B. J. Anaesth.*, 53, 1112.
9. *Ibid*.
10. Julius Korein, 1980, *Anaesthesia & Neuro Surgery*, 289 - Mosby Co., Ed. James E. Gathell.
11. *B.M.J.* 1976, 2, 1187-1188.
12. Jennet B, 1981, *B. J. Anaesth.*, 53, 1112; Julius Korein, 1980, *Anaesthesia & Neuro Surgery*.
13. Jennet B et al, 1981, *BMJ*, 282, 533-39.
14. Jennet B, 1981, *B. J. Anaesth.*, 33, 1113.
15. Julius Korein, 1980, *Anaesthesia & Neuro Surgery*.
16. Jennet B, 1981, *B. J. Anaesth.*, 53, 117 (*BMJ* 1976, 2, 1188).

THE END OF HUMAN LIFE

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The creation of man is one of the mysteries of creation and of the nature God has chosen for His creation. To find out the secret of the creation is something which is beyond our empirical sciences. Consequently, the question of the inception and the end of human life is one of the most difficult for us to understand and the farthest from our reach.

It is undoubted that the subject will open the door wide for individual opinion. Yet, any such opinion should be based on the evident truth revealed by God in the Quran and the *Sunnah*. But before discussing the inception and end of human life, we should try to acquaint ourselves with man, who is our subject.

What Is Man?

Dr. Alexis Carrel (d. 1944) says: (1)

The disciplines of anatomy, physiology, chemistry, psychology, sociology, and other sciences have not been able to give us, within their respective fields, definite answers about the nature of man. Man as defined by scientists is very remote from real man, who is a being mysterious to himself, and our inability to solve the mystery will continue forever.

He also says, "Our knowledge of man is still primitive". Ducas says, "Real man? we know nothing of him". But God, Blessed and Most Sublime is He, knows and has always known, and therefore, He defies human beings and answers their inquiries in the Surah entitled Al-Insan (Man) when he says,

WE CREATED MAN.

As we learn from the Divine Revelation in the Quran and *Sunnah*, man is not merely a body; he is also a soul and a spirit, and it is here that scientists quibble over the true nature of man. Physicians define man as a

body composed of cells, subject to illness and recovery, while psychologists see him in terms of conscious and subconscious. All are incapable of really understanding the nature and mysteries of the human soul, and know nothing about the spirit other than what truth the Quran and *Sunnah* tell us.

Since the beginning and end of life are closely connected with the body, soul, spirit, mind, and heart, a researcher dealing with this subject has to investigate each of these human components first in order to be able to understand when human life begins and when it ends.

What About the Life and Death of the Body

Man's body was first created of the mud of the earth, and all its elements are found in the soil. God makes it a germ, a clot of blood, a morsel, bones and flesh respectively, and then breathes spirit into it, which turns it into "another creation", as Ibn 'Abbas, Al-Sha'bi, Abu Al-'Aaliyah, and Al-Dhahhak (2) say. After that, this creature becomes a human being.

The human body is made of cells, which live and die. Each cell has a foreordained life span, at the end of which it dies and is replaced with a new cell. (3) Some researchers say 125 million cells of the human body die every minute and are replaced with new cells. Cells fall off the body the same way dead leaves fall off trees. The atoms of which the body of one of us consists are not his private property. They come to him from various sources, and when they leave the body they go their various ways as well. (4)

The body of a human being dies and lives and dies and lives while he is alive on this earth. So the mystery of life is not dependent on the death or life of the body. (5) This is a fact to which we should pay special attention in our exploration of the inception and end of human life.

What Human Soul Is and When It Lives and Dies

Scholars do not agree over the human soul and whether it is an entity separate from both the body and the spirit or one that results from the union of the two.

It is more probable, in my belief, that human soul is different from human spirit, because the latter is mentioned in the Quran and the *Sunnah* as something breathed into the body, while this is not mentioned of the soul. Again, the soul is charged with good and evil, while the spirit is

absolute good, being a concern of God's. This suggests that the human soul is not the same as the spirit as far as we know.

Imam Abu Hamed Al-Ghazali (d. 505 H.) says about the human soul, (6) "The soul is the origin that combines the bad qualities in man". Al-Baihaqi relates a tradition of the Prophet, Peace be upon him, narrated by Ibn 'Abbas:

"Your worst enemy is the soul inside you".

Imam Ahmad and Al-Tirmithi related a tradition narrated by Fudhalah Ibn 'Uбайд in which the Prophet is quoted as saying,

"A true struggler is the one who struggles with himself".

A man's soul is the secret of life in him. It is his reality and his self. An animal has an animal soul, and a human being may have both an animal and a human soul, as we will demonstrate later.

The human soul is described by various epithets that indicate its different conditions. When it overcomes the tension of curbing down desires, it is a

REASSURED SOUL

If it rebukes man for his negligence in worshipping God, it is called a

REBUKING SOUL,

And when it gives in to the desires of the body, it is called an

EVIL PROMOTING SOUL.

It is mentioned in the Quran 295 times.

The soul is connected to the body and lodges inside it. The Prophet, Peace be upon him, describes it as

"the soul inside you".

But it is not something material. When it unites with the body, man lives, and when it departs, he dies. God says,

O' REASSURED SOUL, GO BACK TO YOUR LORD, WELL PLEASED AND WELL PLEASING.

It is the soul, not the body, that dies or gets killed, because the body lives and dies while the secret of life continues in a person. The body may die in a way that it is no longer fit for the soul and spirit to lodge inside it. But death is the death of the soul. God says in the *Surah* entitled Al-Kahf,

HE SAID, 'HAVE YOU KILLED A RIGHTEOUS SOUL NOT IN RETALIATION FOR ANOTHER?'

In the *Surah* entitled Al-'Imran, God says,

NO SOUL IS TO DIE UNLESS GOD PERMITS. ITS DEATH IS ORDAINED TO TAKE PLACE LATER.

(S3:V145)

He also says in the *Surah* entitled Al-'Ankabut,

EVERY SOUL SHALL BE MADE TO TASTE DEATH.

(S29:V57)

An animal lives and so it has an animal soul, and a human fetus is alive in its mother's belly before spirit is breathed into it, so it also has an animal soul. After spirit breathing, it turns into another creation, a human being with a human spirit, or perhaps its soul acquires human qualities.

So life begins for the soul with the creation of a germ and ends when this soul leaves the body and returns to its creator.

What Human Spirit Is

The word "spirit" occurs in twenty different places in the Quran. It has many meanings.

It is used to refer to Gabriel as in the *Surah* entitled Mariam, where God says,

WE SENT HER OUR SPIRIT WHO APPEARED TO HER IN THE SHAPE OF WELL-MADE HUMAN BEING.

(S19:V17)

It is also used to mean the Quran as in the *Surah* entitled Al-Shura,

WE ALSO REVEALED TO YOU A SPIRIT OF OUR COMMAND.

(S42:V51)

It also means Divine Revelation as in the *Surah* entitled Al-Nahl where He says,

HE SENDS DOWN THE ANGELS WITH THE SPIRIT OF HIS COMMAND TO THOSE OF HIS SERVANTS WHOM HE CHOOSES.

(S16:V2)

Furthermore, the word is used to refer to the human spirit, as in the *Surah*

of entitled Al-Hijr:

AND YOUR LORD SAID TO THE ANGELS, 'I AM CREATING A HUMAN BEING FROM DRY CLAY, FROM TAPERING MUD. WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE YOURSELVES BEFORE HIM.' ALL THE ANGELS FELL PROSTRATE ...

(S15:V29)

Whatever meaning is assigned to the word, spirit is a concern of God's, and only He has full knowledge of it. For this reason, the word is used with all its various implications. (Revelation, Gabriel and human spirit) in the *Surah* entitled Al-Isra', where God says,

THEY ASK YOU ABOUT THE SPIRIT. SAY: 'KNOWLEDGE OF THE SPIRIT BELONGS TO MY LORD. LITTLE INDEED IS THE KNOWLEDGE YOU ARE GIVEN.

(S17:V85)

Imam Abu Hamed Al-Ghazali says:

Spirit is the nicety in a human being that has all the knowledge and perception. It is a wonderful Divine concern, the reality of which is something most minds and brains are unable to understand. (8)

Imam Al-Sha'arani says:

We have not learned that the Prophet, Peace be upon him, said anything about the reality of the spirit, although he was asked about it. So decorum requires that we refrain from talking about it.

And Imam Al-Junaid says:

Spirit is something the knowledge of which God has kept to Himself and no one should seek to find about it more than the fact that it exists.

The spirit can never be subject to empirical sciences. Therefore, it is not covered by any of the disciplines of human knowledge, and the only source to know anything about it is the Divine Revelation in the Quran and the *Sunnah*. Thus we have to take this knowledge we are offered in the Divine Revelation without argument, because our empirical science is incapable of being on the other side in any discussion.

What Is Human Heart? And Does Life End When the Heart Stops Beating?

It is not the heart that beats inside the human chest which is particularly mentioned in the Quran and the *Sunnah*. The word "heart" is rather used to mean awareness and reason. Imam Al-Ghazali says (9) that "heart" is used to mean two things.

The first meaning is the blood-pumping organ located on the left side of the chest and is a concern of physicians. No religious matters are associated with it. Beasts also have hearts, and even a dead man has one, which is a mere lump of flesh.

The heart in its second meaning is the divine spiritual nicety linked to the human body. It is the reality of a human being, and the part of him that perceives, understands and knows; the part which is addressed and which is accountable. The minds of most people have puzzled over the relation between it and the physical heart. The relation is stronger than that between symptoms and bodies, or adjectives and nouns. When we use the word, we may mean this divine nicety, and we may speak of its conditions and features, but we are unable to tell what its true nature is. Perhaps the heart is man's reason and intellect; the word for reason is not mentioned in the Quran, and the word heart refers to it instead.

Al-Sifah Dictionary says that the word 'qalb' (heart) means reason, and God, the Most Sublime, says in the *Surah* entitled Qaf,

SURELY THERE IS IN THIS A REMINDER FOR EVERY PERSON WHO HAS A HEART OR WHO LISTENS AND WITNESSES.

In his *Interpretation*, Al-Qurtubi says:

"Who has a heart" means who has reason to contemplate with, and the heart is used metaphorically to mean reason. But it is also taken to mean who has a soul that can make distinction, so the heart is used to refer to the human soul.

And in *Al-Qarnus Al-Muhit*, Al-Fairuzabadi says:

The *qalb* means the heart, reason, and the essence of everything ... as when God says,

THEY HAVE A DISEASE IN THEIR HEARTS AND GOD HAS ADDED ANOTHER TO IT. THEY SHALL RECEIVE PAINFUL TORTURE FOR THEIR HABIT OF LYING.

Which refers to those who have sick minds and ideas. In the

Surah entitled Al-Shu'ara' God says,

*THE FAITHFUL SPIRIT BROUGHT IT DOWN INTO YOUR HEART,
THAT YOU MAY WARN PEOPLE,*

(S42:V192)

Which means into your awareness, perception, reason, and mind.

God also says:

*OBEY HIM NOT WHOSE HEART WE HAVE LEFT SO AS TO
NEGLECT REMEMBERING US, AND HE THUS FOLLOWS HIS
WHIMS AND IS EXCESSIVE IN HIS PURSUITS.*

(S18:V27)

*GOD GUIDES THE HEARTS OF THOSE WHO BELIEVE IN HIM.
GOD HAS KNOWLEDGE OF EVERYTHING.*

(S64:V10)

*'OUR LORD, DO NOT LET OUR HEARTS GO ASTRAY AFTER YOU
HAVE GUIDED US. GIVE US SOME OF YOUR MERCY, FOR YOU
ARE THE GIVER.*

(S3:V7)

The heart is not only used to mean reason; but also to mean the soul as in Al-Ahzab:

*IF YOU FEAR GOD, DO NOT BE SUBMISSIVE IN YOUR SPEECH,
LEST THE SICK OF HEART SHOULD FEEL ENTICED.*

Sick of heart here means psychologically sick. In Al-Nas, God says,

... WHO WHISPERS IN THE CHESTS OF MEN,

(S114:V4)

meaning the souls of men. In Yunus, God says,

*... AN ADMONITION HAS COME TO YOU FROM YOUR LORD, A
CURE FOR WHAT IS IN THE CHESTS,*

(S10:V56)

i.e. What is in the souls.

In the Surah entitled Al-Haj, when God says:

*HAVE THEY NOT WALKED THROUGH THE LAND? AND HAVE
THEY NOT HEARTS TO REASON WITH OR EARS TO HEAR WITH?
IT IS NOT THE EYES THAT GO BLIND, BUT RATHER THE HEARTS*

INSIDE THE CHESTS DO.

(S22:V45)

"Hearts to reason with means reason with which to perceive and to understand, and "the hearts inside the chests go blind," refers to reason, which is the soul of man.

In explaining this verse, Mojahed says: (10)

Every human being has four eyes, two in his head for matters of this life and two in his heart for matters of the Hereafter. If the eyes in his head are blinded but the eyes in his heart can still see, his blindness brings him no harm. If the eyes in his head can see but those in his heart go blind, his sight is useless to him.

Ibn 'Abbas says:

When the Quranic verse,

*HE WHO IS BLIND IN THIS LIFE IS GOING TO BE IN THE
HEREAFTER MORE BLIND AND LOST*

was first revealed, Ibn Umm Maktum said,

"Messenger of God, here I am blind in this world, so does that mean I will be blind in the Hereafter?"

For this reason God revealed the verse that says,

*IT IS NOT THE EYES THAT GO BLIND, BUT RATHER THE HEARTS
INSIDE THE CHESTS DO.*

This means that he whose heart is blind and cannot be guided to Islam will be in Hellfire in the Hereafter.

Thus the heart in the chest is the nicety that perceives and takes charge in the human soul. In interpreting this verse, Ibn Kathir says, "Real blindness is not loss of eyesight, if the discerning hearts are safe. Eyes cannot get into the essence of matters nor tell what is going on". And Al-Zamakhshari says in explaining the same version: (12)

"Have they not hearts" means have they no reason to comprehend the worship of the one and only God, which should be comprehended, and hear of the Revelation what should be heard. This means that their eyesight is sound and suffers no blindness. The blindness of the heart is a metaphor.

Because the statement asserts something contrary to the common belief by making true blindness a quality of the heart rather than the loss of eyesight, the figurative usage requires being more specific and adding further definition to make it clear that blindness belongs in the heart.

By saying, "the hearts inside the chests", God is further emphasizing the point, and both words "hearts" and "chests" are used metaphorically to refer to the awareness and perception of the human soul. Al-Bukhari relates that the Prophet, Peace be upon him, has said,

"The heart of an old person remains young in two things: love of property and high hope".

It is clear that the word "heart" here means feeling and comprehension.

In his "Sahih", Muslim quotes the Prophet as saying,

"A person can never be admitted into Paradise when he has an iota of pride in his heart", i.e. his soul.

In his "Al-Musnad", Imam Ahmad lists a tradition narrated by Abdullah Ibn Omar in which the Prophet says:

"The hearts are vessels, some of which have better comprehension than others. Men, if you ask God for something ask with confidence that He will respond to you, because God does not respond to a prayer of a person when his heart is not in it".

It is clear from this tradition that the heart is awareness, reason and perception rather than the blood-pumping muscle located in the chest.

Abu Dawood quotes Usamah 'Ibn Zaid as saying:

"The Prophet, Peace be upon him, sent us in a detachment to Al-Hurumat. But they were warned and ran away. We caught up with a man, but as we surrounded him, he said, 'There is no deity but God'. But we struck him to death. I mentioned the episode to the Prophet, Peace be upon him, and he said, 'How will you account on the Day of Judgement for his saying, 'There is no deity but God?' I said, 'Messenger of God, he only said it out of fear of our weapons. He, Peace be upon him, said, 'Did you open his heart up to find out whether he said it for that or not? How will you account on the

*Day of Judgement for his saying, "There is no deity but God?"
He kept repeating that until I began to wish I had embraced
Islam on that day".*

From this we conclude that the heart mentioned in the Quran and *Sunnah*, is awareness, perception, comprehension and reason, and that if the heart stops beating that does not mean the end of reason or perception, nor the end of life. The heart of a person may temporarily stop beating and he continues to live. The heart in this case resumes beating later as a result of one kind of treatment or another.

As for the end of human life, it is the final death of the brain, because the brain is the medium of awareness, reason, thinking, and perception. When man loses these, he is no longer human though he may continue to live, either with or without external aid, with a beating heart and regular breathing. His life then is animal, not human, life.

Man is Distinguished from Other Creators by Holding the Trust

God says:

*WE OFFERED OUR TRUST TO THE HEAVENS, TO THE EARTH,
AND TO THE MOUNTAINS, BUT THEY REFUSED TO BEAR IT AND
WERE AFRAID OF IT. YET MAN TOOK IT UP, FOR INDEED HE IS
UNJUST AND IGNORANT.*

Al-Fakhr Al-Razi says:

The trust is responsibility, which is the order to do what is contrary to one's nature, while the heavens, earth, and mountains remain faithful to their nature.

It is the mind that receives this responsibility, and the mind is located in the brain. For this reason, when the brain is damaged, or when its cells die, man is no longer accountable and he and beasts become equal. Thus he loses his humanity.

We thus find that the mind, the heart, the trust, and the core are all human resources that are closely related to each other. If the brain of a person dies all of them come to an end and only animal life remains in the body. The person is no longer human.

On the evidence of this, the end of human life is the death of the brain even if the heart goes on beating and respiration continues, and even if the life of cells other than brain cells goes on.

The Relation of the Body and the Soul and Spirit

The body is a temporary material framework. The body and the soul together are like a lantern completely ready to be lit, but it does not light by itself, it lights, shines, and fully functions when spirit is breathed into it.

The relation of the body and spirit in wakefulness is not the same as it is during sleep. In wakefulness it is a full relationship, but the link connecting body, spirit, and human soul weakens.

The spirit is awareness and perception and the human soul is the personality of a human being, his comprehension, his ideas, and the mystery of life in him.

In the *Surah* entitled Al-Zumur, God says:

IT IS GOD WHO RECEIVES (MEN'S) SOULS AT THE TIME OF THEIR DEATH, AND DURING THEIR SLEEP, THE SOULS OF THOSE WHO HAVE NOT YET DIED. HE WITHHOLDS THOSE UPON WHOM HE HAS DECREED DEATH, AND LET THE OTHERS GO FREE FOR A TERM SET (BY HIM).

(S39:V4)

So God holds men's souls when they die and when they sleep. The souls of those whose death is imminent, He keeps with Him and does not restore them to their bodies. Awareness and perceptions have already been suspended when the human soul and the spirit have left it.

In the *Sunnah* we come across the prayer the Prophet, Peace be upon him, used to say when he went to bed. It goes:

"Lord, in your name I lay my side and with your help I lift it up. If you retain my soul, have mercy on it, and if you release it, protect it the way you protect the souls of your righteous servants".

In interpreting the verse from Al-Zumar quoted above, Ibn 'Abbas says:

The spirits of the living and the dead meet during sleep and get acquainted as far as God wills then to. When they all want to get back to their bodies, God keeps the spirit of the dead with Him and restores the spirits of the living to their bodies.

Sa'id Ibn Jubair says:

God holds the spirits of the dead after they die and of the living when they fall asleep. They get acquainted as much as God

wills them to. Then He keeps the ones destined to die and releases, i.e. restores, the others.

The Prophet, Peace be upon him, says,

"As you sleep, you die the same way, and as you wake up, you are brought back the same way".

Al-Qurtubi quotes Ibn 'Abbas as saying:

Every son of Adam has a soul and a spirit separated by something similar to a sunbeam. The soul is reason and discrimination, and the spirit is what contains the soul and causes the body to move. When a person sleeps, God holds his soul, but not his spirit.

Al-Qushairi says:

The verse implies that the soul held in both cases is the same. People have disagreed concerning this verse over the soul and the spirit, whether they are one or two things. The more evident possibility is that they are the same thing.

Both Al-Bukhari and Muslim relate on the authority of Abu Hurairah a tradition in which the Prophet, Peace be upon him, says:

"When any of you goes to bed, let him lie on his right side and say, 'Lord, Blessed are You. In your name I lay my side and with your help I lift it up. If you retain my soul, forgive it, and if you release it, protect it the way you protect the souls of your righteous servants."

And when the Prophet woke up, he used to say,

"Praise be to God who brings us back to life after causing us to die, and to whom men go at Resurrection. Praise be to God, who has restored my spirit, gave me a healthy body, and allowed me to utter His name."

Al-Zamakhshari, interpreting the Al-Zumur verse, says:

... That is, God takes away the souls when they fall asleep, which is a comparison of those asleep to the dead in that they are unable to discriminate or take action, and the dead are the same. He retains the souls which are destined to really die, which means He does not restore them, and He releases the

others, those asleep, to go back to their bodies for a time ordained.... It is said that the expression of the souls taken away is used to distinguish living souls, because a living soul stops to breathe when it comes to its end, while a person asleep does breathe.

Ibn Kathir says, "God takes away the souls in major death by sending the keepers to get them out of their bodies. Minor death is sleep".

It is He Who takes away your souls at night and knows what you have committed in the daytime. Then you are restored at daytime for a time ordained. Then it is to Him that you shall return, and He will tell you what you have done. He is the Mighty, Superior to His worshippers. He sends keepers to watch over you. When it is time for one of you to die, our messengers take his soul. They never neglect any detail.

Both the major and the minor deaths are mentioned here.

From all this, we surmise that when human life comes to an end, the spirit is arrested and the soul returns to its Creator. We have already found out that the soul and spirit are awareness, perception, reason, and thinking - all of which are attached to the brain, or, in other words, the brain is their only supplier. The end of life, therefore, is when the brain dies, not when the heart and respiration come to an end. When either of the latter stops, or they both stop, that does not necessarily signify the death of the brain and, consequently, the end of life.

The return of the soul to its Creator and the arrest of the spirit are metaphysical mysteries that cannot be discovered by empirical science. Thus Divine Revelation, in the form of the Quran and the *Sunnah*, is our only source of knowledge about them.

What may be subject to empirical knowledge is the way that is reflected in the body, i.e. the death of the brain. When it is established that the brain is dead, the end of human life is confirmed. If the chest is breathing and the heart is beating, as for example when a respirator is connected to the body, then the body is alive, but that life is definitely animal, not human, life.

As I have already mentioned about the heart and the chest, they mean reason, thinking, and the human soul. They are not just organs in the human body. Heart or chest disease, or a disease of any organ in the body is never the direct reason of the end of human life, though it may well

be the indirect cause. That is because the only direct cause for the end of life is the death of the brain, either due to a disease in the brain itself or the disease of any other organ of the body that leads to brain death.

The Signs of Brain Death

The only knowledge available to us about that is through electroencephalography, which gives definite answers in most cases, though in some, it does not, such as the cases of poisoning by sedatives for example.

What concerns us here is to determine the time when human life ends for the significance the question has in affairs such as inheritance and other things. We can be sure that the end of a human being comes when his brain dies, even if the heart beats and the lungs continue to breath. When a doctor is certain that the brain of a patient is dead, even while the patient is breathing due to the aid of equipment, there is nothing wrong if the doctor pronounces the patient dead.

Notes

1. Alexis Carrel, *The Mystery of Man*
2. Al-Qurtubi's *Commentary*, vol. 12, p. 109.
3. Dr. Ahmad Shawqi Ibrahim, *Sanurihem Ayatina (We shall show them our signs)*.
4. Ahmad Abd Al-Wahab, *Al-'Ulum Al-Thaniyah Al-Hadithah fi Al-Turath Al-Islami*.
5. Wahid Al-Din Khan, *Al-Islam Yatahadu*.
6. Imam Abu Hamed Al-Ghazali, *Ihya' 'Ulum Al-Din* Vol. 3, p. 4.
7. *Ibid.*, same volume and page.
8. *Ibid.*, same volume and page.
9. *Ibid.*, same volume and page.
10. Al-Qurtubi's *Commentary*, Vol. 12, p. 77.
11. Vol. 3, p. 227.
12. Vol. 3, p. 17.

WHEN DOES LIFE END?

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Life and death have been known to humanity since its first existence. Man has always buried his dead, and there is no difference over this between primitive man and twentieth century man, nor between an illiterate community and one which is keeping up with the latest discoveries of medical and non-medical science. In the past, man experienced no puzzlement or hesitation in pronouncing that a certain person was dead. Nor did he get preoccupied with, or allowed himself to worry over, what death precisely meant or which moment was the exact moment when life could be said to have ended and death to have occurred.

It is clear that the death of a person as a person does not mean the death of every single organ, tissue, or cell of his. During a period of time following his death, the muscle of a person would contract if electrically stimulated. If some of his cells are cultured in a proper, nourishing medium, they would multiply. Even if his heart or one of his kidneys is connected to the blood circulation of another individual, it would continue to live, both in appearance and in function, with all what the word "life" implies. There is a time lapse between the moment a human being dies as a whole person and the spreading of death into his various parts and then into the individual cells of each of these parts.

People have always dealt with death on the assumption that it is the end of the life of a person as such and without waiting until every single cell of his is dead. They still do. But with the progress of medical science to the point that an organ can be transplanted from one human being to another, it is only natural, when the transplant involves one of the vital organs without which man cannot live, such as the heart, for an inevitable question to arise. This logical question concerns a person who has just died but his heart, his liver, or either of his lungs has not died yet. Why not cut this person open and remove the organ to implant it into a patient

whose only hope of life is to have his own damaged organ replaced with a healthy one? Islam answers the question in the affirmative on the basis that necessities overrule prohibition. The necessity to save a living person makes permissible the forbidden action of cutting a dead person and removing one of his organs. Also, wherever interest lies, it agrees with God's Law, and the interest in saving a patient who is about to die is quite clear. Detailed rulings, such as the one made by the *Fatwa Committee* at the Kuwaiti Ministry of Religious Endowment on December 31, 1979, have been issued to that effect.

The issue has developed to include situations where the death of a person has not been announced yet, because he still exhibits signs which have traditionally been regarded as signs of life, such as heartbeat, and inhaling and exhaling, but in these situations, the signs are known to be not spontaneous, but prompted by artificial resuscitation equipment connected to the body. As long as blood circulation and respiration continue, it is possible for all other organs of the body to have sufficient nourishment and oxygen to survive. It takes a long or short period of time, before the artificial resuscitation equipment can no longer be of help, and life comes to an end.

As I have mentioned, these are cases in which the persons concerned have not been declared to be dead yet, so why should we refer to them as being so and not as living people? It is because medical science has discovered that what counts when speaking of death is not really whether the heart and respiration stop or not. But first and last, it is the death of the brain, which becomes evident when brain waves stop once and for all. This can be gauged with special equipment. Once brain electric activity completely stops, it is a dead brain and the rest of the body has already started the irrevocable process of death. Regardless of how long artificial resuscitation keeps respiration and blood circulation going, the patient will never be restored to life.

For physicians then, death means the death of the brain, and the moment the brain turns completely inactive, as far as electric waves are concerned, is the scientifically - recognized moment of death. Artificial resuscitation equipment keeps the body, or let us say the corpse, alive for a period of time, so it would not decompose or disintegrate, but it is a period doomed to end soon.

This has led within the medical world to two positions.

The first is that since the electroencephalograph has honestly and without any falsification revealed that the brain is dead, physicians are free, to transplant any of that person's vital organs, such as the heart, to a patient whose similar organ is damaged and who is doomed to die, having no hope other than getting a healthy organ as a replacement. Artificial resuscitation is used to keep the heart alive in the body of its original owner by the time surgical preparations are made and the recipient is summoned and prepared for surgery. These measures take sometime, and without the artificial equipment, the heart would begin to fail and the disintegration that accompanies death would have started making the heart no longer fit for transplantation before the recipient is made ready.

The second position is that since the brain is dead, death has actually occurred. Therefore, unless it is done temporarily for the purpose of transplanting an organ, insistence on continuing artificial resuscitation would, from the practical point of view, be prolonging the process of death, rather than preserving life; distressing members of the dead person's family in vain; wastefully using the artificial resuscitation equipment at very high cost and depriving another patient of using it, although he may need it and, his brain being still alive, he has a chance to be really cured and to resume normal life.

Does a doctor then have the right, when the brain has died, to unplug the resuscitation apparatus and disconnect it, even if the patient's heart is still beating and he continues to breathe? If he does, respiration stops, the heart sooner or later comes to a halt, and burial is hastened.

Naturally, the decision in both cases may be influenced by the will of the deceased and the approval of his family. A good example of such a situation is the first successful heart transplant, performed in South Africa by the surgeon Christian Barnard. A young black couple are having fun, playing ball in a park, when the husband suddenly faints. He is immediately carried to a hospital, and the diagnosis is brain hemorrhage. Treatment fails and the brain dies, but the young heart continues to beat with the aid of artificial resuscitation. As the same time, a Jewish dentist is about to die of heart failure. A doctor explains the situation to the young wife and the mother, who agree to have the dead young man's heart transplanted into the body of the dentist. It is a noble and a crucial decision made under hard and critical circumstances. The heart of a young black is given to a white man in South Africa, which offers the blacks only what feeds their hostility and bitterness.

In medical circles, the controversy over disconnecting the resuscitation apparatus is not a scientific one, because scientifically, death is the death of the brain. Doctors wish to act upon the scientific fact, but they know that they are primarily governed by the dictates of religion and of law.

In divine law and secular law, the heart beat, respiration, nutrition, metabolism and excretion are all indeed signs of life. Does that mean that if a doctor reaches out and puts an end to all these, he is committing aggression against life, which holds him accountable or liable to punishment in the form of either blood money or retaliation?

This is not all. If we regard the moment of death is when the brain dies, even if a person exhibits the aforementioned signs of life (by artificial means) for one or two months after that, then he dies and is buried, which of the two dates is to be recorded as the date of death? On which day does a widow begin her waiting period? Which date is taken as the basis for computing inheritance shares? Can the sons of such a person deprive grand children from inheriting their grandfather if their father died between the two dates on the basis that the father of these children has died earlier, than total death although later than brain death?

These and other considerations show that the subject is more serious than it may seem when considered casually or discussed on purely medical grounds.

First of all, doctors have to place the facts at the disposal of legislators. If it is decided that death means the death of the brain and that the moment the brain dies is regarded as the official moment of death, the decision should take the form of a ruling and should be taken into consideration in deciding questions of accountability, widow waiting period, and inheritance.

It is not right for physicians to keep themselves isolated from legislation, or for legislation to keep ignoring this vital area of public interest.

We are sure that Islamic Law can cope with any new discoveries, come up with legislation on all innovations, and meet public interests, for in the absence of rulings in the Quran and *Sunnah*, the rule is: wherever interested lies, it agrees, with God's law.

THE HEART AND ITS RELATION TO LIFE INTRODUCTION TO THE DISCUSSION OF “WHEN LIFE ENDS”

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The Linguistic Definition of the word “Heart” and What Relates to it

- Heart** : core; reason; essence (*Mukhtar Al-Sifah*)
- a muscular, hollow organ which receives blood carried by the veins and pumps it into arteries. It is located at the left side of the thoracic cavity; the centre, essence, and pure aspect of an object. (*Al-Mu'jam Al-Wasit*)
 - a morsel of the core, tied with strings; the core; reason; essence; the pure aspect or nature of something. (*Lisan Al-'Arab*)
- Essence** : reason (*Mukhtar Al-Sifah*)
- the pure and the best aspect of something; reason (*Al-Mu'jam Al-Wasit*)
 - the pure and the best aspect of something; reason; the thing itself or its reality (*Lisan Al-'Arab*)
- Chest** : the first part of something (*Mukhtar Al-Sifah*)
- the forward part of something; the main part of something; the boss; the part that extends from the lower end of the neck to the cavity of the thorax (*Al-Mu'jam Al-Wasit*)
 - the top of the forward part of something; the part of something that faces you or that overlooks its surroundings; the main part of something (*Lisan Al-'Arab*)

The Outcome of the Linguistic Definition

The word heart has two denotations, the physical and the figurative.

The Anatomical and Functional Description of the Physical Heart

It is a muscular organ, the size of its owner's fist. It is connected to the main arteries and veins and located in the centre of the thoracic cavity in the human (or animal) body. Its main task is to pump the blood and keep it going through blood circulation. Like any other organ of the body, it has its own arteries, which supply it with pure blood, and its own nerves, which are branches of the autonomic nervous system. Although it has its own pace maker, it is affected by the general condition of the body of its owner through the nerves connecting it with the general nerve network of the body.

The Anatomical and Functional Description of the Figurative Heart

It is the essence of man. In it all the qualities that we know of reason, the personality, and the soul are combined. I believe this is the heart referred to in the Quran when the word "heart" or "core" is used (see the guide below). It is the medium of consciousness, thinking and perception. It does not consist of the brain alone; it is rather a unit which combines the brain, the nervous communication system connecting the brain and the various senses, what this network collects and communicates and the reactions to it, and the data stored in this network, whether they are perceived or not - all these things listed above constitute the figurative heart or the core mentioned in the Quran.

The figurative heart has a muscular component and a figurative one. The muscular component is the heart and the nerve network connected to it. The figurative component is the sum of all the sensations, feelings, acquired knowledge, and subsequent emotion, ideas, and comprehension. To give a clearer idea we can compare the figurative heart to a computer, with its hardware and figurative software components. This comparison is just for the sake of making things clearer, but the creation of God has nothing that resembles it in what man makes.

The Heart in the Quran Is the Figurative Heart

The evidence for this is the following.

1. The word "heart" linguistically has either of two meanings, the

physical heart in the thorax and the figurative heart which means core and essence. To determine which of the two options fits what is referred to as “heart” or “core” in the Quran, we have to go through the characteristics of the heart and core given in the Quran and try them against the characteristic of physical heart and figurative heart to see which meet the Quranic description. The one that does is the one meant in the Quran.

2. The characteristics of the heart or core as mentioned in the Quran include the following:

a. The Quranic heart sees:

*IT IS NOT THE EYES THAT GO BLIND, BUT RATHER THE HEARTS
INSIDE THE CHESTS DO.*

(S22:V46)

This quality is not available to the physical heart though it is to the figurative.

b. The Quranic heart hears:

*WE WILL SET A SEAL UPON THEIR HEARTS SO THEY NO
LONGER HEAR.*

(S7:V100)

This quality also is available to the figurative heart, but not the physical.

c. The Quranic heart comprehends:

*... A SEAL WAS SET UPON THEIR HEARTS SO THEY NO LONGER
COMPREHENDED.*

(S63:V3)

*WE CAST VEILS UPON THEIR HEARTS AND THEY DO NO
COMPREHEND IT.*

(S17:V46)

This is one more quality the physical heart does not enjoy, while the figurative does.

d. The Quranic heart feels. It experiences apprehension, terror, doubt, reassurance, awe, and other feelings and sensations:

*TRUE BELIEVERS ARE THOSE WHOSE HEARTS ARE FILLED
WITH AWE AT THE MENTION OF GOD.*

(S8:V2)

... AND HE CAST TERROR INTO THEIR HEARTS.

(S33:V26)

... AND WHOSE HEARTS EXPERIENCE DOUBT. IN THEIR DOUBT, THEY HESITATE.

(S9:V45)

IS IT NOT TIME FOR BELIEVERS TO FEEL AWE IN THEIR HEARTS AT THE MENTION OF GOD?

(S57:V16)

None of these are qualities of the physical heart, but they characterize the figurative one.

e. The Quranic heart feels sick:

THEY HAVE A DISEASE IN THEIR HEARTS AND GOD HAS ADDED ANOTHER TO IT.

(S2:V10)

This quality is available to both physical and figurative hearts.

3. The Quran uses two words in defining the location of the heart in the body. One of these is "within".

NEVER HAS GOD ENDOWED ANY ONE MAN WITH TWO HEARTS WITHIN HIM.

The word refers to the inside of the body without specifically pointing to one of its parts, and thus it is a proper description of the location of both hearts: the physical and the figurative. The other word is chest.

IT IS NOT THE EYES THAT GO BLIND, BUT RATHER, THE HEARTS INSIDE THE CHESTS DO.

The word means two things. The first is the upper part of the body which is surrounded by the thoracic cavity and contains the physical hearts, the lungs, the esophagus, and some other supplements. The second meaning of the chest is the major, essential, top or forward spot or cavity (see the linguistic definition). If we take the second meaning, it also is suitable for both the physical and the figurative hearts. Thus, the Quranic terms used to define the location of the heart do not influence the choice of either heart as the one meant in the Quran.

Explanation of the Expressions “Death of the Heart” and “Death of the Brain”

The death of either the heart or the brain is its complete failure to function and its being unable to live any longer.

Explanation of the Expressions “Heart Ability to Live” and “Brain Ability to Live”

An organ may come to a complete stop but, when certain conditions change, begins to function again. In such a case the organ is described as being able to live or as living, although it has stopped functioning. But if it stops functioning, being irrevocably damaged for whatever reason, it no longer has the ability to live and is actually dead.

To explain the above, I will cite concrete heart and brain examples.

The heart may come to a full halt because it is no longer supplied with oxygen or because the blood that carries oxygen to the heart is cut off, either spontaneously due to some disease or at the hand of a surgeon during open heart surgery. If this happens at normal heart temperature, i.e. without any refrigeration, the heart continues to live or be capable of living for a period of twenty to thirty minutes without serious damage. If oxygen is supplied again to the heart within that period by a resumption of the coronary blood circulation, the heart resumes its functions. If oxygen deprivation goes on, the damage gets more and more serious. When ninety to one hundred minutes (and sometimes less) have passed with oxygen still cut off, the heart loses its ability to live, which means it can no longer be made to resume its work even if blood circulation in the coronary arteries starts again.

But if oxygen is cut off the heart under a low temperature, having been refrigerated down to a certain degree, the heart can stand the anoxia for hours without being damaged or losing its ability to live. It can resume its functions after several hours when the coronary blood circulation is restored and temperature is brought back to normal.

As for the brain, it goes through conditions similar to those of the heart mentioned above, but the brain loses its ability to live within a period of three to five minutes under normal temperature. The period can be extended to several hours if the brain is kept under a certain low temperature or saturated with preservatives. In such a case, it may resume its work after several hours as soon as its temperature is back to

normal and blood circulation, which carries oxygen to it, is resumed.

How a Person is Affected When His Physical Heart Dies

The physical heart may completely fail, either temporarily or permanently, and yet the owner continues to live with his body, reason, emotions, senses, perception, and all other elements of his personality as long as a substitute pump takes care of blood circulation. This substitute may be the physical heart of another person or animal or a completely mechanical pump.

A physical heart may spontaneously stop to function as a result of an ailment like the occlusion of the heart - nourishing coronary arteries and the resulting oxygen cut off, the failure of the conducting system within the heart, the drop or rise of pressure in the heart beyond a certain limit, or other kind of disorder or malfunction. The physical heart may also be made to stop by the supervising physician as in open-heart surgeries, where the surgeon uses special techniques to stop the heart, such as preventing oxygen from getting to the heart, injecting a special solution into the coronary arteries, refrigerating the heart, or using all these methods at the same time. The heart may be made to stop for a few minutes or several hours as the surgery requires.

If the physical heart does stop, whether spontaneously or by being made to, but keeps its ability to live as explained above, it can be restored to its normal condition by various techniques, such as electric shock, resuming oxygen supply, bringing the heart temperature back to normal, connecting a pace maker to the heart muscle, or all these methods combined, depending on the case and what it calls for. But if the physical heart loses its life potential, which means it is dead, a substitute pump that circulates the blood in the body may be used permanently. In other words, the heart is replaced altogether, either by transplanting another heart in its place or by using a mechanic pump to do its work.

There are cases when the physical heart is incapable of performing all its functions, but still has life in it. It is just insufficient to meet the needs of the body. In a case of this sort, the heart may be retained with supportive treatment.

It is clear then that the death of a physical heart does not necessarily mean the death of its owner.

How a Person Is Affected When His Brain Dies

The death of the brain leads by necessity to the death of its owner. The brain may partially stop to function as a result of shock, congestion, or a halt of blood circulation for a period of time, but then it can go back to normal, unless it has completely lost its life or life potential, as explained above. If it has lost the ability to live and all its electric waves stop, it is in a state beyond repair, and man cannot live without it unless a substitute is found. Since at present nothing can substitute for the brain, nor is it expected to find such a substitute in the near or far future, the death of the brain under current conditions necessarily means the death of its owner. Since the brain is the main part of the organic structure of the figurative heart, the latter dies, and no longer functions, when the brain dies.

How a Person Is Affected by the Death of Other Organs

Any other organ may die or be surgically removed and yet the owner continues to live, retaining his reason, power of thinking, awareness, personality, and everything else, either because the organ concerned is one that a person can live without - such as the limbs, parts of the stomach or the intestines, and so on - or because of the availability of replacement, which can carry on the functions of that organ for a long or short period of time.

A Question and an Answer

How can a person be considered dead because of the death of his brain, when his heart is still beating?

The answer is that the fact that a certain organ is still alive or has the potential to live does not mean the owner of that organ is not dead. Hair, for example, continues to grow for twenty-four hours or more after a person dies and is buried without the need for circulating blood.

The physical heart may similarly continue to function out of the body, being detached from its owner, for many hours if proper nourishment and the right temperature are provided. The owner may meanwhile be dead and buried. The same thing is true about many organs of the body. Therefore, the life of an organ cannot be taken as a sign of the life or death of its owner.

Another Question and Answer

Although at present nothing can fully substitute, for the brain and

carry on its functions, one of these functions has an alternative: a respirator can operate the respiratory system, thus supplying the physical heart and other organs with oxygen and allowing them to maintain their ability to live, at least for a period of time. Why then cannot a respirator be used indefinitely, as long as some of these organs continue to live? The answer is the following:

1. While some organs of the body are kept alive in the above-mentioned method, there would be a complete absence of motion, reason, emotion, consciousness, and all aspects of personality. Consequently, all that is left of a person is an incubator to nourish the remaining organs. This vessel is not much different from the laboratory artificial equipment which is connected to a heart or a kidney, which is completely detached from the body, to nourish it and keep it alive.
2. It has already been mentioned that the survival of some organs does not necessarily mean the life of their owner.
3. Such an arrangement cannot be continued indefinitely. The case gradually deteriorates until the physical heart and other organs stop, in spite of all the equipment.
4. On the grounds of religious ethics, the human body is sacred and intervention in its affairs should be allowed only when some benefit or improvement is expected. When the brain is dead, no benefit or improvement is expected from the intervention with equipment, and therefore, this kind of intervention is not justified. In other words, the rule is not to interfere, unless recovery or improvement is anticipated, which is not the case when the brain dies.

Summary

The discussion above is an introduction to the attempt to answer the question concerning which organ the heart or the brain, can be regarded as indicator of life in the body so that when that organ dies, the death of the person involved is decided.

It used to be thought that this indicator is the physical heart. A person used to be considered alive as long as his heart kept beating. When the heart of a person stopped, he was considered dead.

The information given in this brief and simplified introduction shows that the brain, as a specific organ, or the figurative heart, as a composite unit of which the brain is the main physical part, comes before the physical

heart because it does indicate the life of its owner. When the brain of a person dies, the person can be looked at as dead regardless of the state of the physical heart.

Translator's Note

The definitions given by the author are of the Arabic words *qalb*, *lub*, and *sadr* which are translated here as heart, essence and chest respectively. Other words, such as *fu'ad* (translated as core) are used in the definition. Since these are definitions of Arabic words as given in Arabic dictionaries, it should be clear that translation can only hope to give an approximate idea of what the author is presenting. It should also be clear that the English words given as equivalents of Arabic ones do not convey the exact sense of their Arabic counterparts.

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THE END OF HUMAN LIFE

Dr. Abdullah Muhammad Abdulllah
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Death: Its Meaning and Relevant Rulings

Theologians, as well as *fiqh* scholars, define death as the quality of existence opposite to life, signifying the loss of the power of feeling, growth, and reasoning. An animal body cannot be devoid of or have, both qualities at the same time. (1) The definition of death as a state of existence opposite to life is the view of the followers of *Sunnah*. For the Mu'tazilah, it is the lack of life in something that has life potential, for death is cutting the means of life off a living being. Many scholars have chosen this definition. (2) Al-Maziri, of the Maliki School, says death is a symptom opposite to life. Scholars continue to debate whether the spirit dies with the body or it is the body alone that dies. There are two opinions. A group of scholars say the spirit experiences death because it is a soul and every soul gets a taste of death. Moreover, God says,

*EVERYTHING ON IT IS MORTAL, BUT FOREVER WILL REMAIN
YOUR LORD'S FACE, FULL OF MAJESTY AND GLORY.*

Others say spirit do not die for they are created to survive; the bodies alone die. They cite as evidence the traditions which speak of the bliss and the torture of spirits after departure from the bodies, until they are restored there. If spirits die, they can experience neither bliss nor torture.

A group of scholars in an attempt to reconcile the two opinions and to combine the evidence of both, say the death of souls is their departure from their bodies and does not mean their annihilation. In this sense they survive, after leaving their bodies, in bliss or in torture.

Ibn Al-Qayyem holds that a spirit has five types of attachment to the body, to each of which a different set of rulings applies. The first is attachment to the body of a fetus in the belly of its mother. The second is attachment to it after birth. The third type of attachment is that during sleep, where they are attached in one sense and separated in another. The fourth is attachment to the body during the "transitory interval"

following death, for although the spirit departs from the body, the separation of the two is not total or final. The fifth type of attachment is that which takes place the day bodies are resurrected. This type is the fullest, because it is an attachment that keeps the body from sleeping, dying and decomposition.

Signs of Death

Death has clear signs which laymen know. Among these are that the person stops breathing, his eyes are fixed, his lips part and cannot be made to close, his feet dangle and cannot be made to stand erect. (3) Scholars also list signs indicating the approach of death when a person is in the state of dying.

Death in Modern Medicine

Physicians define death as the termination of human or animal life as the respiration, blood circulation, and nervous systems come to a stop.

Doctors also give signs that occur after death. One of these is that, as a result of the arrest of blood circulation, changes occur such as the pallor of the body, post-mortem cyanosis, and cessation of breathing. Moreover, the nervous system fails to control the body and its muscles, which leads to corpora limpness. The main component of the nervous system is the brain, which guides the thinking and attention of a living person and his control of his senses and motion. A change in the eyes takes place. The corpse loses its temperature, which is vital to life. This is followed by the stages of cadaver stiffness, decay, and saponification respectively. Then the body turns into a skeleton. (4)

Physicians say that the body as a unit dies first, that is respiration and heartbeat come to a halt. As for tissues, they die gradually, in a staggered way. This is known as cellular or molecular death. It is said that some muscular tissues respond to post-mortem electric stimulations in the form of contraction. It is also said that spermatogenesis in the testis from the primary cells continues for some time, a process which takes several hours. Liver cells, on the other hand, continue to store sugar and convert it to glycogen several hours after death, before they are exhausted and die. (5)

This phenomenon which physicians call molecular death is described by *fiqh* scholars as the effects of normal heat which go on after the spirit has left the body (6) in the form of certain reactions which continue under the influence of that heat, but soon die out.

Rulings Dependent on Death

Under this sub-title, three issues are discussed: inheritance, the waiting period, and assault.

The First Issue: Inheritance

Inheritance has certain conditions. Among them are the following.

First, the legator should be actually dead, or ruled or assumed to be dead. Actual death is well-known and it is described above. To rule a person to be dead takes place also when someone is lost or has disappeared, with no information received about him and no way to find out whether he is alive or dead. His case is brought before a judge, who, under certain conditions which need not be mentioned here, may rule that the person is dead. Assumption of death takes place in cases such as that of a pregnant woman struck on the belly by someone, resulting in the miscarriage of a dead fetus. The fetus itself is in this case a legator although it is possible that it had died before the stroke.

Second, the legatee must be actually alive or assumed to be so at the time of the legator's death. Actual life can easily be recognized, while assumed life applies to cases such as a fetus in the belly of its mother at the time its father dies, even if it is still a germ-cell or an embryonic lump and has not yet started to live. (7).

Inheritance in the Case of Someone Who Has Reached the Stage of Involuntary movement like a "Slaughtered" person, as a Result of a Crime

In their works, Shafie scholars mention that when a person has reached the stage of involuntary movement which is termed as the "slaughtered" person's movement stage, at which one no longer sees, speaks, or voluntarily moves, as a result of an assault committed against him, he is regarded as dead, and it is lawful to prepare him for burial and to bury him. His wife may marry if her waiting period ends, as when she delivers right after he gets into that stage. He does not inherit a person who dies after he (the first person) has reached that stage of the slaughtered and his own property is apportioned to be inherited before he finally dies. (8)

Maliki scholars, on the other hand, have two different opinions concerning a person in the "slaughtered" stage. One holds he may inherit and be inherited, while the other that he may not do either. (9)

The Second Issue: the Waiting Period

A widow's waiting period is due from the time her husband actually dies or is ruled to be dead, both of which cases have already been explained. The expression "ruled dead" refers to an absent person who is pronounced dead by a judge in accordance with the conditions set for such cases. One question remains. It concerns a person who has reached the "slaughtered" person's movement stage, being the victim of a crime. Shafie scholars hold the opinion pointed out above, including that his wife may marry if her waiting period ends with child birth.

The Crime Committed Against the Mortally Injured

Fiqh scholars stipulate that if a person hasten the death of another who has been mortally injured by a third person, retaliation applies only to the original criminal. (10) This is the way Khalil Al-Khurashi, of the Maliki School, expresses it. The great scholar Al-Adawi explains this is his *Annotation* by saying:

Abu Al-Hasan refers to these things by saying, "If a person hastens the death of another who has been mortally injured by someone else, it is said the first criminal should be killed in retaliation and he neither inherits nor is inherited. Another view-point is that the second criminal should be killed in retaliation and he inherits and is inherited. A third opinion, which is the best, is that the first criminal is subject to retaliation and he inherits and is inherited. Abu Zaid has heard it expressed that the second is killed in retaliation and the only thing the first one is subjected to is suitable punishment because he has left the victim alive and he inherits and is inherited. He goes on to say, "If it was said that both should be killed in retaliation because both took part in the murder, there would be some justification for that point of view". (11)

Shafie scholars believe when a person causes another to reach the "slaughtered" person's movement stage so that he has no sight, utterance, or voluntary movement left in him, and then he is attacked by another criminal, the first is the murderer, because he has caused the victim to arrive at the stage of inevitable death, where he is ruled to be dead without any qualification. The second is chastised for violating the sanctity of the dead. Al-Shabramalsi, in his *footnote*, comments on the expression "he is ruled to be dead without any qualification" that it means

he can be prepared for burial and it is lawful for anyone to marry his widow if her waiting period ends as when she delivers after his reaching that stage. He does not, Al-Shabramalsi adds, inherit someone who dies after his arrival at such a stage. Al-Shabramalsi goes on to say, "But it is not in analogy with this to have his legacy divided before he finally dies". (12) A person who takes poison and gets to the same stage is subject to the same rulings. (13)

The Difference Between a Person Who Reaches the "Slaughtered" person's movement Stage as a Result of an Illness and One Who Reaches It as a Result of a Crime

Scholars differentiate between the two cases. They stipulate that a person may reach the "slaughtered person's movement" stage, as explained above, (14) through natural, rather than criminal, events, such as an illness or something of this sort. Imam Al-Nawawi says if a criminal kills a patient, even if the latter is dying and his life has reached the "slaughtered person's movement" stage, the killer is subject to retaliation. In explaining this, he says, "It is because such a person still has a chance to live, which is not true about a person who arrives at that stage as a result of a crime". The great scholar 'Umairah says in his *Footnote*:

The Imam adds that even if he is in the throes of death, showing the signs of dying and breathing differently, a patient is not ruled to be dead and his killer must be subject to retaliation, even if his crime is thought to be similar to one of cutting off a person's limbs. A patient in the throes of death is differentiated from a victim of assault in the same condition. The wife of a patient cannot begin her waiting period, nor does that waiting period end if she delivers a baby. The expenses of preparing him for burial are not yet due, and he may not be prepared for burial, the prayer for the dead may not be performed for him, he may not be buried, and his property may not be given to his legatees, which is not the case with the mortally wounded. (15)

The outcome of all this is that when a person reaches the "slaughtered person's movement" stage as a result of a crime against him or of his committing suicide by taking some poison, even if he has not yet died, it is lawful to use his organs and to stop artificial life support connected to him. This, however, does not apply to someone who arrives at the same stage through natural events, such as illness. It is unlawful to

use any of his organs before he actually dies. The former is considered dead from the practical viewpoint, which is not true about the latter.

Scholars stipulate that it is lawful to use the bones of a dead person for purposes of treatment and even to eat his flesh when necessity calls for that, as when someone has nothing to eat other than the flesh of the dead of something of the same sort. (16) A recent ruling was made by the Religious Rulings Committee of Al-Azhar and was published in volume 20, the Sha'ban 1368 H. issue [of *Al-Azhar Magazine*]. Here is the question and the answer.

The question:

It is my honour to ask you to make clear God's ruling on these two questions because of their importance. We have been puzzling over them here in Tunisia.

1. Blood transfusion to a Muslim patient who needs it from a non-Muslim.
2. Using part of the eye of a dead person to restore the sight of a living one.

The answer:

Praise be to God, the Lord of creation, and Peace and Blessings upon the master of all messengers and on his kin, his Companions, and their benevolent followers until Doomsday.

The committee has considered this request for a ruling and points out that God says in his Honoured Book.

HE HAS FORBIDDEN TO YOU ONLY CARRION, BLOOD, THE FLESH OF SWINE, AND THAT OVER WHICH ANY NAME OTHER THAN GOD'S HAS BEEN INVOKED BUT IF ONE IS DRIVEN BY NECESSITY, NEITHER COVETING IT, NOR EXCEEDING HIS IMMEDIATE NEED, HE COMMITS NO SIN.

In another verse, He says,

HE WHO IS CONSTRAINED BY EXTREME HUNGER TO EAT OF WHAT IS FORBIDDEN, NOT INTENDING TO COMMIT SIN, WILL FIND ALLAH MUCH FORGIVING, MERCIFUL.

In yet another verse, He says,

HE HAS LISTED TO YOU IN DETAIL WHAT HE HAS FORBIDDEN YOU TO EAT UNLESS YOU ARE COMPELLED TO DO SO.

These verses imply that if the recovery or the life of a patient or an injured person depends on transferring blood to him from another person, no permitted treatment being good as an alternative, it is perfectly permissible to transfer blood to him, from another person, even if he is non-Muslim. Likewise, if the health of an organ of the body and its ability to perform the function God has created it for depend on it, it is lawful to transfer blood to a person. If recovery itself does not depend on blood transfusion but can be hastened by it, Shafie writings indicate that such a transfusion is lawful, which opinion is also supported by some Hanafi scholars. Chapter XVIII of *Al-Karahiyah Min Al-Fatawa Al-Hindiyyah* says: "A sick person may drink blood or urine or eat carrion for the sake of treatment if a Muslim doctor tells him that will make him recover and there is no permissible alternative. If the doctor says it hastens recovery, there are two different opinions on the question".

As for the second question, many late Shafie scholars allow using a bone of a dead person to fix a broken bone of a living one, if nothing else can serve the purpose. In analogy, the Committee believes it is permissible to transplant a part of the eye of a dead person to a living one to correct his eyesight if such correction, which restores the eye to the condition God created it in, depends on it.

This is the judgment of the Committee, and it is God Who guides people to the right path.

Abd Al-Majid Salim, Chairman,
Religions Rulings, Committee.

Notes

1. Al-Khurashi Ali Khalil, vol. 2, p. 113, *Al-Durr Al-Mukhtar*, vol. 2, p. 189.
2. Al-Bajuri's footnote, p. 29; *Al-Durr Al-Mukhtar*, vol. 2, p. 189.
3. Al-Khurashi Ali Khalil, vol. 2, p. 122.
4. *Al-Tib Al-Shar'i*, vol. 1, p. 285.
5. *Ibid*, same page.
6. *Nihayet Al-Muhtaj*, vol. 2, p. 429.
7. *Sharh Al-Rajyah*, p. 44.
8. *Nihayet Al-Muhtaj*, vol. 7, p. 250.
9. Al-Khurashi Ali Khalil, vol. 8, p. 7.
10. *Ibid*, same page.
11. *Ibid*, same page.
12. *Nihayet Al-Muhtaj*, vol. 7, p. 250.
13. *Minhaj Al-Talibiyah*, vol. 4, pp. 103, 104; see the text, the explanation, and the annotation.
14. This condition is differentiated from either stable life or continuing life. The "slaughtered person's movement" stage has already been explained. Stable life is one characterized by voluntary motion and the survival of the patient is regarded as the greater probability. Continued life is that which goes on until murder, or something similar, occurs. (*Nihayet Al-Muhtaj*, vol. 8, pp. 109, 110).
15. *Minhaj Al-Talibiyah*, vol. 4, pp. 130, 104.
16. Al-Khurashi Ali Khalil, vol. 2, p. 145; *Nihayet Al-Muhtaj*, vol. 2, p. 20.

THE END OF HUMAN LIFE IN THE LIGHT OF THE OPINIONS OF MUSLIM SCHOLARS AND MEDICAL FINDINGS

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Foreword

Undoubtedly the attempt to determine the moment at which man's life on earth comes to an end in a way that is considered precise from the point of view of Islamic Law is more difficult than trying to find out the time at which life begins. On the second question, we have found an authentic tradition of the Prophet from which we can begin our investigation and on which we can base our notes and the conclusions at which we arrive on the basis of other statements. On this question, however, there is no statement, either in the Quran or *Sunnah*, which can be taken as a starting point.

In the absence of such statements on the subject, and since it is a question that concerns the condition of man, one of the creatures of God, Most Powerful and Sublime is He, and is dependent on observation, experimentation, and diagnosis, we find ourselves compelled to admit that the decisive role in this question, i.e. when life ends, should be conceded to the specialists whose job is to observe this creature, namely to doctors. They are the ones who are familiar with the critical aspect and the dividing line of the question under consideration.

Had it been not for the text that deals with the first question, the inception of human life, the situation would have been the same as it is with this one.

This concession does not cancel the role that scholars of Islamic Law have to play, side by side with their Muslim physician brothers, who are seeking to observe the stipulations of their true Religion while they

practice their profession. The role of Islamic Law scholars comes before and after that of specialists. To start with, they give their physician brothers a clear idea of the general principles, conditions, and restrictions which a Muslim should observe when he is practicing his profession, whatever his discipline may be. Afterwards, they take the findings arrived at by physicians in their papers and observations and build on them in determining relevant rulings. All this is restricted to subjects which are not covered by decisive statements, as in the case of this subject we are investigating.

The Starting Point

Because, as already mentioned, no statement exists to serve as a starting point for our search for the time at which man's life ends, the starting point will be some of the principles arrived at in the previous search, the one for the beginning of human life.

The First Principle

Man's life ends with an occurrence the opposite of that with which it begins. If it begins, as we have decided in our previous investigation, when the attachment of a created object called by God and His Prophet, (Peace be upon him), Spirit to the body takes place in accordance with God's will and ordinance, the end of this life occurs when that created object departs from the body to which it has been attached.

The Second Principle

The spirit is an object created by God, the Most Sublime, and man may investigate it to study its characteristics, properties, activities, effects on the body and ways of being affected by it, the time of attachment to it, and the time of departure from it.

The first principle is a logical conclusion. It originates in the rule of cause and effect, which, by God's will, governs this universe and the activities of everything in it. According to this rule, everything is made by the Great Creator to depend on a particular reason or cause and to exist only when that cause is available. Since God has made the beginning of life depends on a cause which is the union of body and spirit, the end of this life must occur when they separate.

The consequence of this is that all discussion should have started at this point, the spirit's departure from the body, and I believe every

researcher is convinced of this, except that some writers have evaded that out of their belief that the spirit is a mystery, the knowledge of which God has kept from His creatures, and should, therefore, by no means be included in any investigation. For this reason, they have been compelled to look for other starting points which have no relation to the spirit.

The reason behind this reluctance to start at the logical point in the search for the time at which human life ends is one which many Muslim scholars, known for being meticulous in observing Quranic statements and the instructions of the Prophet, do not support. This is due to the fact that those evaders base their behaviour on a statement which does not definitely suggest that the spirit is included in the list of mysteries which a Muslim should not get into. The statement is God's saying,

THEY ASK YOU ABOUT THE SPIRIT. SAY: 'KNOWLEDGE OF THE NATURE OF THE SPIRIT BELONGS TO MY LORD. LITTLE INDEED IS THE KNOWLEDGE YOU ARE GIVEN.'

Another motive to avoid the subject of spirit is that the Prophet, (Peace be upon him) himself avoided going into the subject he was asked about further than God has ordered him to.

My discussion of "The Inception of Human Life" has already outlined how scholars have interpreted this verse and the attitude of the Prophet, (Peace be upon him). The outcome of all this, is that this Quranic statement does not give sufficient reason to assume that the spirit is a mystery closed to human investigation, which should not even get near to it.

It is not necessary for me to repeat here what I have already proved there, where reference can be made to it and the sources from, which it is derived. Let me mention one more time that many scholars discuss the spirit, have written whole volumes about it, and speak about its properties, activity, and influence on the human body, as well as the effect of the body on it and other things, without being afraid of going against the Quranic statement, in spite of their strong religious belief and their meticulousness in observing the stipulations and the guidance of the Quran and the Prophet. Some of them go as far as to declare that the spirit is neither a mystery nor unlawful to explore. Even those who do interpret the Quranic statement to mean the human spirit and to forbid getting into it further than what the statement suggests say that what is meant is discussing the nature and essence of the spirit, but not other aspects, the discussion of which may help us in this effort of ours to determine the end of human life.

What proves the correctness of the approach of those scholars who do discuss the spirit and go into many of its aspects in detail is that they refer, in what they say about it to statements chosen from God's Book and the *Sunnah* of His messenger, (Peace be upon him). From such statements they derive the idea that the spirit is created, not infinite; the time at which it gets into the human body; and may of its conditions. This shows that the spirit on which the Prophet was ordered to say nothing other than that

KNOWLEDGE OF ITS NATURE BELONGS TO MY LORD,

is not the human spirit. It also shows that the phrase does not forbid every kind of discussion of the spirit, but rather the investigation of its nature. Unless we understand it this way, we would be unintentionally implying that various statements of the Quran and *Sunnah* contradict each other. May God protect us from mistaking His words or the words of His Prophet, Peace be upon him. Had the Prophet taken the words

BELONGS TO MY LORD

to mean that discussion of the spirit should not go beyond this divine reply, he would have observed his Lord's instruction and would not have revealed in his tradition anything that gave further details. We find, however, that the Prophet tells us many things about the spirit, such as the beginning of its attachment to the body; the way it makes friends and acquaintances or enemies and antagonists; the way it departs from the body of a believer and from the body of an infidel; and other things - which supports what I have said.

Using the Two Principles Above to Explore of the End of Human Life

Once we accept the two principles above, we can use them to utilize the findings of Muslim scholars when they examine the Quran and *Sunnah* statement dealing with the spirit, and the conclusions of specialists, i.e. physicians, based on observing human life in reality. We utilize these findings and conclusions to arrive at the most likely definition of the end of human life and use that as a basis for necessary rulings, in the following manner.

First: The Role Performed by Scholars of Islamic Law

By examining many statements, Muslim scholars have been able to arrive at a certain conception of the spirit, which, by the permission of the Lord, Blessed and Most Sublime is He, is breathed into the human body.

The most important feature of this conception are the following.

A. The spirit is a created object which God originates in the body. He wants to create as a human being. This is indicated by the words of Ibn Qayyem Al-Jawziyah:

God, Blessed is He, sends an angel to the body to breathe one breath into it. A spirit is made for it through that breath, which is the means of introducing this spirit into the body, the same way that copulation and ejaculation are the means of creating the body, and nourishment is the means of growth. The matter from which the spirit is made is the angel's breath, and that from which the body is made is the liquid ejaculated into the womb. The former is a divine matter, the latter is earthly... The angel is a father of the spirit, while dust is a father of the body!

B. One of the most important functions of the spirit is learning and perception. That is how it is defined by those scholars who define it. Al-Jurjani defines the human soul as "that nicety of the human creature which knows and perceives and which is superimposed on the animal spirit derived from the world of ordinance. Human reason is incapable of understanding its nature. That spirit may, exist separately or be attached to the body". (2)

Abu Hamed Al-Ghazali gives a definition which is not much different. "The spirit", he says, "is that aspect of man which acquires knowledge and experiences the sufferings of sorrow and the joys of happiness". (3)

According to this conception of its function, it is the spirit that grasps the various meanings that can be grasped, for it is the spirit that learns the various branches of knowledge, grasp their analytical findings, and deduces details from generalities, generalities from details, and so on. It is also the spirit that experiences the various emotions of pain, joy, happiness, and sorrow; and it is the spirit that is pleased and displeased, enjoys and feels miserable, happy or angry, hopes and despairs, loves and hates, knows and denies, etc.

Some scholars say one type of the experiences of the spirit takes place through the various organs and systems of the body, while another type is independent of the body, such as experiencing the pairs of sorrow, grief, and melancholy, and the joys of happiness and pleasure. The reaction of the spirit to such experiences does not require the employment

of any organ of the body. The spirit takes care of it all by itself. (4)

C. Scholars believe the spirit influences the human body. One of its most important effects is voluntary movement. Every voluntary activity performed by man is an effect of the spirit. Every human artifact in this world is a result of the effect the spirit has on the body, for human bodies are the machinery and the troops of spirits. (5)

This implies that Muslim scholars believe that compulsory motion, concerning which an individual has no choice, is not one of the spirit's effects. Since spontaneous movement cannot come from inanimate objects, even if it is compulsory, there is no alternative but to admit that every compulsory movement spontaneously performed by the human body, i.e. without the intervention of an outside factor, indicates some type of life. Perhaps this is the life which God, Most Powerful and Sublime is He, creates in the human body before spirit is breathed into it. This life may remain in some organs of the body after the departure of the spirit. It is the life called by some physicians "cellular life" and compared by Muslim scholars to vegetation life, as mentioned earlier. What is suggested by their conception of the spirit's function, as explained above, is that the compulsory movement resulting from this kind of life does not indicate the existence of the spirit.

D. Although Muslim scholars do not define the moment when the spirit departs from the human body, those among them, who discuss the question have clearly promoted a rule to determine the time the spirit departs from the body. When this rule is combined with modern medical findings its effectiveness soon become be evident. These scholars affirm that the spirit remains attached to the human body as long as it is fit to serve the spirit, carry out its instructions, and show its effects, and that God, the Almighty and Most Sublime, has ordained that the spirit should leave this temporary lodging, the human body, when it is no longer able to perform these functions.

Here is Ibn Qayyem Al-Jawziyah defining the spirit as an object different in substance from this tangible body. It is of a luminous, high, light, living, and moving nature. It gets into the essence of organs and penetrates them the same way roses are penetrated by water, olives by oil, and coal by fire. As long as these organs are fit to receive the effects on them of this delicate object, it remains intertwined with them and benefits them with these effects in the form of feeling and voluntary

motion. If these organs spoil, due to the predominance of dense humours and are no longer receptive to those effects, the spirit departs from the body and removes itself to the world of spirits.

He adds later:

This is the right thing to say on this issue. Nothing else is true and all other claims are false. It is suggested by the Book, the *Sunnah*, the consensus of Companions, and the evidence available to the mind and instincts.

To support this approach in defining the spirit, he cites 116 items of evidence derived from the Quran, the *Sunnah* and common sense. He follows that by giving rebuttal to twenty-two items of doubt raised by people who oppose this view. (6) Those who have adopted Ibn Al-Qayyem's approach concerning the spirit include the scholar who explains "*Al-Aqeedah Al-Tahawiyah*" and Sheikh Mahmud Al-Subki.

This approach has great similarity to Abu Hamed Al-Ghazali's explanation of death and the role of the spirit in it. He says:

The meaning of the spirit's departure from the body is that it no longer controls the body, which stops obeying it. The organs are vehicles for the spirit. It strikes with the hands, hears with the ears, sees with the eyes, and learns the truth about things by itself. The failure of the body with death is parallel to the chronic failure of its organs because one of its humours spoils, or to a crisis suffered by the nerves and preventing the spirit from getting to them, which makes the knowing, rational, and perceptive spirit available to, and in control of, some organs, and resisted by others. Death is when all organs resist the spirit. All the organs are machinery used by the spirit. Death means the spirit no longer controls the body, which is no longer a vehicle for it. As chronic failure of the hand means it is no longer in use, death is the chronic failure of all organs ... (8)

The conclusion we arrive at from the writings of these scholars is that man's life on this earth ends when the body is no longer capable of serving and reacting to the spirit. The implication of this conclusion is that if science can determine the moment when the body becomes irrevocably incapable of performing all its voluntary functions, the answer is found to the question of when human life ends.

E. This is the idea of a group of Muslim scholars concerning the signs of the spirit's departure from the human body. They did not conduct their search because they felt the need to conclude *fiqh* rulings that govern human behaviour related to the end of life, but rather because they needed to find out the truth about man from the Islamic statements and facts available to them. What is then the attitude of *fiqh* scholars who devoted their energies to the task of finding practical rulings? Do they not come across practical needs and realistic situations which make it imperative for them to clearly and definitely state their point of view.

The truth is that it is one of the most difficult tasks to deduce the opinion of *fiqh* scholars on this question. It seems that most of the real issues they came across in this regards did not require them to investigate the end of human life with accuracy and precision. They were satisfied with the general image which suggests the end and which includes within it the actual end and a period of time that follows it. This is the image familiar to most people, whether learned or illiterate. *Fiqh* scholars based their rulings on this image of death, whether these rulings concerned washing, shrouding, performing the prayer for the dead, and burying a dead person; related to the rights he enjoyed before death, such as carrying out his will and dividing his legacy; and covered the obligations of his widow, such as going into a waiting period. The difference in outcome between basing such rulings on the actual instant of death or on a time period which includes that instant and few more hours is minimal.

Although this is the case with most of the issues dependent on the end of human life, *fiqh* scholars deal with a particular issue which compels them to investigate the exact time at which death occurs, set the greater likelihood, and base rulings on it, in their concern for justice in assigning grave responsibilities, an error in which may result in destroying lives without justification and allowing criminal souls to go free without just punishment. This issue is joint murder by succession. This refers to a crime committed by a person against another, leaving the victim in critical condition. Then another criminal attacks the same victim, hastening his death. Which of the two criminals is to be regarded as a murderer who deserves the punishment of retaliation?

In answering this question and determining who is the murderer in such cases, *fiqh* scholars are almost unanimous in adopting a rule the essence of which is to consider the condition the victim gets into as a result of the first action and before the second is committed against him. If

he has reached a condition where he has irrevocably lost all senses (eyesight, utterance, and others) and all voluntary movement, the person who has committed the first action is the murderer who should be subject to retaliation. The person who has committed the second action, whatever it is, is chastised but is not punished by retaliation. While if the first action does not cause the victim to lose all senses and voluntary movements, the second culprit is the murderer who deserves the punishment of retaliation. To make things clearer, some passages are quoted from *fiqh* scholars below.

Badr Al-Din Al-Zarkashi says:

Stable life is when the spirit, and with it voluntary, not merely involuntary, movement is in the body, as the case of a human being whose intestines are spilled out by a criminal or a beast of prey. No retaliation is carried out against such a criminal, if a human being is stabbed by another and the victim's death is confirmed within an hour or a day, retaliation in this case is the due punishment of the criminal, because the victim's life is stable and he is able to move voluntarily at the time of the crime. That is why the recommendation of Omar Ibn Al-Khattab, May god have mercy on him, is followed, but not if the intestines of the victim are exposed, because respiratory tract is damaged and movement is no longer voluntary.

As for life in the "slaughtered person's movement" stage, it is that which has no eyesight, utterance, or voluntary movement... (9)

Al-Ramli says:

If he [the criminal] gets the victim to the stage of "slaughtered person's movement" so that he no longer has eyesight, the ability to talk, or voluntary motion, which, when stable, is accompanied by consciousness, and it is determined that he will die within a day or a few days, and then he is attacked by another criminal, the first is the murderer, because it is he who led the victim to the state of dying in which he is regarded as dead in every respect. The second criminal is chastised for violating the sanctity of the dead.

Al-Shabramalsi says:

The apparent reason for their general ruling that the second [criminal] has no responsibility is that it makes no difference

whether the action of the first is intentional, semi-intentional, or accidental, and it even does not matter whether the first is responsible or not, for it is the same if a lion causes the victim to get to that stage then a person kills him. The ruling concerning stable life also applies when there is doubt over whether a person is dead or not.

Al-Ramli adds, "When there is doubt whether a victim has reached unstable life, the case is referred to two experts of integrity". (10)

The opinion of *fiqh* scholars on this question suggests that they consider the loss of the senses and voluntary movement a sign which makes the likelihood greater that the victim has reached the stage of death, and that the involuntary movement witnessed in the victim is not sufficient to make the likelihood that the spirit is still in the body greater, if this movement is not accompanied by any sensation or voluntary movement. Otherwise, scholars would consider the second criminal deserving the death punishment, because his fatal assault would have been committed against a body with a spirit. Perhaps in arriving at this conclusion, *fiqh* scholars are influenced by the scholars of the first group, such as Ibn Al-Qayyem and Al-Ghazali, who affirmed that the spirit leaves the body of its owner the moment the body becomes incapable of reacting to the spirit with any form of sensation or voluntary action.

Scholarly objectivity requires that, in giving an account of the opinion of scholars on this issue, we should refer to a point that could serve as a rebuttal for or cast doubt on the validity of what we have concluded from their statement on the case of joint murder by succession. This point is that if a victim arrives at this stage of unstable life due to illness, and not to a crime or the assault of an animal of prey, and is attacked by a criminal in this state, even if the victim is in the stage of dying, the majority of scholars believe this culprit deserves the punishment of retaliation. Al-Zarkashi goes as far as to say, "Even if a patient is in the throes of death, the shade of which is discernible, he is not ruled to be dead, and his murderer deserves the punishment of retaliation ..." (11)

Al-Zarkashi distinguishes between one crime committed after another and a situation of this sort by saying that in the latter case, there is no other reason to attribute the death of the victim to, while in the former, there is. (12)

It seems that the distinction between the two cases made by Al-Zarkashi does not influence the difference in ruling, and that is

suggested by what he himself, as well as other Shafie scholars, says that, as already quoted, if the first action is committed by an animal of prey which exposes and spills out the victim's intestines, no person who commits another action against the victim later is indicated for murder, whatever the action is. Attribution the first action to a wild animal does not differ in outcome from attributing it to an incident caused by Divine Will, which leads to the same result, such as the collapse of a wall upon the victim, for example, or any similar thing.

The reasonable criterion for making a distinction between the two cases is the possibility of determining that a victim has reached the stage of unstable life and it is certain that this stage will not return to stable life once again. The signs of dying in the days of those scholars were not sufficiently definite to allow them to determine a greater likelihood, let alone be sure, as it is clear from the fact that there were many cases in which people were described as being in their last breath, then they survived until God willed them to die.

If this is the real criterion of distinction between the two cases, it does not affect our above-mentioned interpretation of the attitude of *fiqh* scholars concerning the question of determining the time of death in the matter of joint murder by succession; on the contrary, it gives it more support.

A Summary of the Conception of Islamic Law Scholars Concerning the Spirit and its Relation to the Body

The account given above concerning the role played by Muslim scholars in regards to the spirit and its relation to the human body can be summed up as follows. They believe:

- that man is a body and a spirit. It is not human with only one of the two elements;
- that the body is the lodging of the spirit on this earth as long as man's ordained life goes on;
- that knowledge, awareness, and voluntary action are the most important functions of the spirit,
- that the function of the body, with all its organs and systems, is to serve the spirit and react to its instruction, and to serve no other function during the lifetime of the person concerned.

- that ... spirit performs some of its functions through the body and some others independently;
- that the human body does not carry out any voluntary activity in this world without instruction from the spirit and everything it does is done under the influence of the spirit God has deposited inside it,
- that death means the spirit's departure from the body and it occurs to a person when his body can no longer react to the spirit's instruction;
- that any type of sensation, awareness, or voluntary motion is a sign that the spirit is still inside the body, and the total absence of indications of these things is a sign that the spirit has left the body; and that mere involuntary movement means nothing other than that the body has some life, unaccompanied by the spirit, left in it.

Second: The Role of Specialists

That is the role of Muslim Scholars and the outcome of their efforts to define the meaning of life and death. The role of specialists, as it looks in an overview, is that they focus their studies on the living human body and that they have made a serious praiseworthy achievement in the effort to keep the body alive and aiding it to carry on with its function. They have uncovered many facts about the human body that have remained mysteries for long; they have learned much about its organs and systems, their relation to each other, their interdependence, and the function and significance of each.

One of their most important contributions is that they have discovered how the body performs many of its functions, such as sensations, perceptions, motion, and so on, and have described with great precision the inner processes by means of which each function is performed, what happens inside the body when we see, hear, or feel pain. They describe each process step by step, from beginning to end.

One of their most significant discoveries is finding out the organ that serves, among the various organs and systems of the body, as absolute ruler. That organ is the brain, whose health is essential for the ability of every other organ to perform its functions. Specialists tell us that no voluntary action is performed by any organ unless it is originated by some activity carried out in the brain. The brain, they say, is the origin of all things. A partial damage of the brain results in the disability or damage of certain organs and/or systems. Total brain failure is a certain cause for the

disability of the rest of the human body to perform any of its voluntary functions.

Specialists also say that, with the use of modern equipment, they are capable of diagnosing the condition of this leading organ, determining the extent of its ability to perform its activities and finding out the nature of any disability it has, whether it is temporary or permanent, curable or incurable. By doing this, they are able to determine the condition of a human body and the extent to which it is capable of carrying out its voluntary actions.

Another of their most important achievements is their ability to keep the primary or cellular life of human organs going, while such organs are separated from the body, the brain, and the spirit attached to the body, and also to transplant such organs from one body to another.

Third: The Outcome of Combining the Two Roles

Upon considering the conclusions of Muslim scholars and of medical specialists it is most probable that there is no contradiction between them and that their roles complement each other in regards to the search for an answer to the question of when human life ends.

True, it is possible for a hasty researcher who looks only at the surface of things and fails to explore them in depth to assume that there is some contradiction between the two groups in their conceptions of the end of human life. He may assume that Islamic Law scholars attribute to the spirit activities and functions which seem to a great extent the same as what specialists have discovered to be functions and actions of the brain. He may also assume that Muslim scholars give the name "spirit" to a material organ which can be subject to tests, dissection, and observation as far as physicians are concerned, at the same time that these scholars affirm that the spirit cannot be a material body, and that this mistake is the result of the fact that the times in which these scholars lived were not witness to the progress in medicine as we have now.

This, in my belief, is a superficial look, essentially based on the dominance of material interpretation, which is extended to cover all phenomena, tangible or intangible. Materialist thinkers study only what is corporeal and admit only the results of material research. When they wish to explain a behaviour performed by man, they monitor what happens to the material parts of the body when this behaviour is performed and note all tangible developments, actions, and reactions of the various organs of

the body. When they arrive at the original essential activity that can be measured by their equipment, they attribute to the organ which carries out this original activity the behaviour performed by that person.

Thus when they discovered that the brain is the organ which reacts in various way to every action carried out by man, they attributed to it all human behaviour, whether it is material or not. In fact, they may be right in explaining the material processes that take place inside the body when a person does something. This is their field and they know it better than anyone else.

The thing which cannot be sanctioned is their attributing the final results, which is human behaviour in its final forms, to that material organ where all material reactions before a certain behaviour is performed originate, because all the voluntary actions of man has an immaterial element, the element of will. The laws of nature and the traditions of the universe suggest that material objects can never produce abstracts. They can only produce material objects like themselves. There must be an immaterial creature, created by God as rational, inside the human body, taking advantage of all the physical processes which the organs of the body carry out under its own influence, the outcome of which accumulates in the brain. It is this immaterial creature which is responsible for any human action in its final form.

It is hard to believe that mere movements performed by organs and reflected, in its total outcome, in the leading organ, the brain, can produce a feeling of pain, pleasure, joy, reassurance, or other states attainable by man.

It is true that the brain and the other organs of the body differ from inanimate, material equipment in that the former consists of living cells which grow, develop and die. But their life is not a rational one; it is the same type of life an embryo has before spirit is breathed into it. It is the same type of life a beating heart has while it is removed from the human body and kept alive under certain conditions.

A simple reasoning process would show the error of the final interpretation upheld by materialist scientists who refer every voluntary human action to the brain and stop there. The reasoning goes as follows.

If the brain is responsible for every voluntary action of the body organs, is its own action voluntary or involuntary? In other words, when the brain sends out instructions to the organs, receives the results of

executing these instructions, analyses these results, and issues the final outcome in the light of the analysis, are these various processes of the brain voluntary or involuntary?

It can by no means be said that these are necessary, involuntary activities, because such a claim is contrary to common sense and leads to the further claim that everything a human being does is involuntary just like all activities done by the cells of a living plant or of a living kidney detached from the body of its owner!

While it is admitted that the processes of the brain are voluntary, there is no way by which they can be attributed to the material, tangible cells of the brain, for the above-mentioned fact that abstract and immaterial things cannot be produced by material ones without the intervention of another source of a special nature which makes it different from material objects. This means, there is no way out of admitting the existence of a rational, living, non-material, and intangible creature that stands behind every rational activity carried out by the brain.

In pointing out the relation of the spirit to the body in general and the brain in particular in the light of what we have learned of the conception of Muslim scholars, which is rooted in many Quranic and *Sunnah* statements, and of the scientific conclusions arrived at by medical specialists in explaining the activities of body organs, what seems most likely is that the living human body, with the brain and other organs, is an intricate complex of vital apparatuses which are interwoven in a miraculous way, placed by the Great Creator in the service of a rational creature breathed by God into that intricate complex and known in Quran and *Sunnah* terminology as the spirit. It also seems most likely that this spirit controls that living body in this life on earth through the brain, which, operated by it and reacting to its instruction, moves the other organs of the body, sending to them, or through them, the messages which the spirit wants to be sent, and receiving through them anything the spirit wants to be received, which allows the spirit to go through what accumulates in the brain and draw conclusions and take decisions in the form of human behaviour. Furthermore, it seems most likely that when the brain suffers partial damage, it is partially disabled to react to the spirit's instruction and the disability is reflected on some organs in the form of a partial disability to act, while if the damage is full, due to what our early scholars called alien humours, which are malfunctions, ailments, and accidents the details of which are known to specialists, the brain fails completely to respond to the spirit's will, and all other organs accordingly fail. If the failure was

irrevocable and there is no hope to check it, the spirit, by God's will, departs from the body and is arrested by the angel of death, who takes it on a new trip about which we know nothing other than what our Lord has taught us through His chosen prophet, peace be upon him, the details of which are not necessary in this paper.

If medical specialists can tell with certainty the time at which the brain is completely disabled to carry out any activity, due to the termination of its cellular life, and is entirely beyond treatment, there is no reason to deny the death of a human being who reaches this condition.

This is the outcome of the interaction of the roles of scholars of Islamic Law and medical scientists as given in detail above. This outcome can be summed in the following table that juxta poses the conclusions of the two parties.

Islamic Law Scholars	Medical Scientists	Result
1. It is the spirit that perceives all perceptions	The processes of sensing and perceiving take place in the human brain.	The spirit perceives all percepts through the brain.
2. It is the spirit that controls the body in all its voluntary movements.	The brain controls all other body organs in their voluntary movements.	The spirit controls the organs through the brain.
3. Sensations and voluntary movements are the signs that the spirit is attached to the body.	Sensations and voluntary movement are the signs that the brain is healthy.	The health of the brain is a sign that the spirit is attached to the body.
4. The irrevocable absence of sensations and voluntary movement is the sign that the spirit has departed from the body.	The total and irrevocable absence of sensations and voluntary movement is the sign of brain death.	The irrevocable death of the brain is the sign that the spirit has departed from the body.

Islamic Law Scholars	Medical Scientists	Result
5. Involuntary movement does not indicate the spirit's attachment to the body.	Involuntary movement does not indicate that the brain is completely, or even partially, healthy.	Involuntary movement does not indicate whether a person is alive or dead.
6. The spirit does not unite with the body on earth before the end of the fourth month after an embryo is created.	Many organs can be detached from the body and still the lives of their cells can go on.	The life of body cells is not the same as the life of the spirit. The two may or may not coincide.

How Valid That Results Is?

I cannot claim that this outcome, with its definition of the end of human life, is definite and absolutely certain, and that it allows no other view. It is rather a result based on the greater likelihood. Although some of its premises are definite, others are assumptions; there may be an element of doubt concerning the ability of modern science, with its findings, to determine the final failure of the brain. As it is clear from what is mentioned above, the brain is one, albeit the chief, of the body organs, not the spirit itself. There is no evidence, either in religion or in science, that the spirit lodges in it rather than somewhere else. Moreover, brain failure results from certain ailments, and every ailment, known or to be known in the future, whether a treatment for it has been discovered or not yet, is curable as the Prophet, tells us:

"God has created no malady without creating a cure for it". (13)

The day may come when science progresses several times as much as it has done so far and it discovers that the signs which physicians today define as indications of the death of the brain are not decisive and that, in spite of these signs, the brain can be treated. Or a day may come when scientists are able to transplant a living brain to a person whose own brain has completely damaged. This possibility cannot be refuted by what one of the doctors says, that it is definitely unlawful in Islam to try a living brain transplantation because the owner of the brain must be alive and to

transplant his brain means to kill him. We can imagine, for example, a case where the living brain belongs to a person condemned to death and where execution is done with the sword, as the case is in certain countries. Since it is now possible, as some physicians have pointed out, to keep the brain alive for several hours by refrigeration, after which it is supposed to resume its life, the possibility of transplantation can still be conceived by commonsense and from the Islamic viewpoint. If such a possibility does materialize, it means the spirit can be made to remain in the body through replacing the brain of its owner with another. (14)

Can Practical Rulings Be Based on This Result?

Muslim scholars agree that practical rulings may be based on what, on the basis of signs indications and clues, is considered the greater likelihood. Scholars of the Fundamentals of Religion have mentioned that. (15)

On this basis, it is possible to base what practical rulings are needed on the result we have reached in defining the end of human life. It can be used, for example, to identify the murderer in a joint murder by succession or to determine the stand of Islam on the question of human transplantations.

However, every time this result is used as the basis for a new practical decision, all the conditions necessary to prevent its exploitation and to avoid error in it have to be met. The decision that a human life has ended should be made by a committee of qualified and honest specialists, it should be unanimous, the transplantation should be agreed to by the owner of the dead brain during his lifetime without changing his mind before his death. It should also be approved by the members of his family after his death. There should be no other scientifically - available alternative that leads to the same result.

A person may wonder how serious decisions, such as that of heart transplantation, can be based on what is thought to be most likely, when a mistake in that decision means the destruction of a life.

The answer to such an objection is that a great deal of the facts of life can only be known by assuming what is most likely and not by being certain beyond any doubt. To limit rulings to things which are absolutely certain would cause a disruption of many vital interests. Many rulings of Islamic Law are based on the greater probability, and some of these are very grave rulings an error in the making of which is bound to cause

innocent souls to perish. One of these is giving a judge no alternative in making his decisions in cases involving major punishments, including retaliation, but to follow the legal methods of conviction. A judge, for example, has to sentence a married adulterer to death by stoning when four witnesses of integrity testify against him and to sentence a murderer to death in retaliation when two such witnesses testify to have witnessed the crime. Yet, the possibility that the witnesses, regardless of how high their caliber may seem, are lying cannot be ruled out, nor can the possibility of the judge making a mistake in such serious cases be denied by anybody. Such a mistake would lead, as evident, to the destruction of innocent lives. Yet, no one claims decisions can only be taken when absolute certainty is established. All scholars agree a decision has to be arrived at when a greater probability is established through legitimate means.

There are, however, cases in reality when considering the likelihood that death has taken place approaches certainty at a time when some of the dead person's organs have not yet lost the ability to be brought back to life and consequently can be useful to someone close to death. An example is a person whose head has been cut off his body and one whose brain has splashed all over the place as a result of an accident, and yet physicians are able to get to his heart while it can still be used. Would it not be an evident exaggeration to try to rule such a use unlawful? Again when a person is sentenced to death by hanging or by the sword and his heart continues to beat after the execution, what rule in Islamic law could prevent physicians from using that heart to save the life of another person when all the conditions and restrictions listed above are observed?

A Summary and an Example from Real Life

On the basis of the discussion above, it is most likely to me that a beating heart, or a kidney or another organ of the human body with cells still living other than the brain, is not in itself an evidence of the existence or non-existence of the spirit, because these organs may have living cells whether the spirit is there or not. The existence or non-existence of the spirit depends on whether the brain is alive. To those who may disagree I give the following example which can very well occur in real life.

A person is sentenced to death by the sword. He has a son whose heart is damaged as physicians have confirmed beyond any doubt. The only hope of survival for the son (by God's will), is to have his heart replaced with a healthy one. In his will, the father leaves his heart, after his

execution, to his son. As soon as the sentence is executed and the head rolls off the body, physicians take the body and keep it, with the heart and other organs in it, functioning with the equipment they have, supplying it with what is necessary to keep cellular life going. The heart, with the help of this equipment, continues to beat. In such a case, is it unlawful in religion to transplant that beating heart to the invalid son, whose own heart is about to stop? Can anyone claim that the spirit is still lodging in the body of the father, the cells of which have been kept alive with God's aid and the efforts of physicians?

I do not believe anyone would claim that the spirit continues to exist in a headless body, regardless of the life of its cells. As for transplanting some organs of that body, some people may hold to the view that it is unlawful on the basis of the sanctity of the dead in God's Law. But the sanctity of the dead cannot be greater than that of the living, and many scholars have ruled it lawful to transplant organs of living persons, such as kidneys, with their consent. Undoubtedly a living person's need for his kidney, and even for one of his fingernails, is greater than the need of a headless body for the heart inside it.

I can almost hear some of my honourable colleagues saying that the example I have cited is a special case of brain death, because the brain in this case is gone to no return because the head is severed off the body, while in other cases the brain remains in the head which is still attached to the body. The answer is that the difference does not influence the ruling; it is not a more serious difference than that between person who dies with a heart attack and another who burns to death, his body completely turning into ashes. Both persons are dead, with no flicker of hope to revive. Likewise, there is no difference between a brain severed from the body and another whose cells are diagnosed by specialists to have all died. (16)

The only actual difference is in the fact that death in the first case is evident to every beholder while in the other case it is clear only to specialists. But this difference does not affect the ruling one way or another, because the failure of a layman to perceive a certain thing in reality does not negate such reality. Such things are for specialists to decide. This is a general rule. When a person endowed with eyesight testifies to something that can only be perceived with the eyes and a blind man testifies to the contrary, is it not on the first person's testimony that a decision is based? If decisions and rulings had to rely on the perception of facts by all people, many of these rulings would have to be suspended.

Without any doubt, knowledge of the brain and its conditions, as far as its health and maladies, and life and death, are concerned, is a secular, rather than religious or metaphysical, affair. The Chosen Apostle, Peace be upon him, orders us to consult, in our worldly affairs, specialists of integrity. Thus, when we have among us Muslim Scientists of medicine whose qualification and truthfulness are above suspicion, we have to base our rulings on their opinions.

It may be said to me, "Why do you not stick to this rule in your view of the inception of human life? Do most doctors, Who are the specialists here, not entertain an opinion contrary to yours?" The answer is that on that question there is statement contained in a tradition of the Prophet with which I have supported myself and on the basis of which I have interpreted the facts. This is the obligation of every Muslim, whatever his field of specialization is. I have not contradicted doctors on points which belong to their field; all I have done is to explain the facts they have given on the basis of Islamic Law and to disagree with them on what does not belong to their field, when some of them have tried to interpret the facts they have discovered in a way contrary to a religious fact which is told to us by the Prophet, Peace be upon him.

Finally, someone may argue that the example I have cited has another difference, which is that a man sentenced to death enjoys no sanctity. This is another difference that has no significance and has no effect on the ruling mentioned above, because when a person is sentenced to death that does not mean he is also sentenced to have his heart removed from his chest. That would go beyond the punishment, and, if done without permission or for no legitimate purpose, it would be unlawful mutilation. That, in any case, is just one example, and reality offers us many other examples, particularly in this age when the hazards to human life have greatly increased as exemplified by the victims of car, air, train, and other accidents and by the great number of war casualties.

Notes and References

1. *Al-Ruh* (Beirut, 1402 H., 1982 A.D.), p. 199.
2. Al-Ta'rifat (Al-Halabi Publication, 1357 H., 1938 A.D.), p. 99.
3. Abu Hamed Al-Ghazali, *Ihaya' 'Ulum Al-Din*, vol. 4 (Beirut: Dar Al-Ma'rifa), p. 494.
4. *Ibid.*, same volume and same page; *Al-Ruh*, pp. 286, 287.
5. *Al-Ruh*, pp. 242, 285; *Sharh Al-'Aqidah Al-Tahawiyah*, Third Edition, p. 381.
6. *Al-Ruh*, p. 242-290.
7. *Sharh Al-'Aqidah Al-Tahawiyah*, p. 381 - Mahmoud Al-Subki, *Al-Din Al-Khales*, vol. 7 (1368 H.), p. 186.
8. *Ihya' 'Ulum Al-Din*, vol. 4, p. 494.
9. Badr Al-Din Al-Zarkashi, *Al-Manthur fi Al-Qawa'ed*; vol. 2, First Edition (Kuwait: Ministry of Endowment Publications, 1402H., 1982 A.D.), pp. 105 off.
10. See these quotes in *Nihayat Al-Muhtaj* and Al-Shabramalisi's footnote on it, vol. 7, pp. 15, 16. For closely related views, also see Abu Ishaq Al-Shirazi, *Al-Muhaththab*, vol. 2 (Egypt: 'Isa Al-Babi Al-Halabi's Press), pp. 147, 175; 'Ala' Al-Din Abu Al-Hasan Ali Ibn Sulaiman Al-Mardawi, *Al-Insaf fi Ma'rifat Al-Rajih Min Al-Khilaf 'Ala Mathhab Al-Imam Ahmad*, ed. Muhammad Hamed Al-Faqi, First Edition, Vol. 9 (1377 H., 1957 A.D.), pp. 451, 452; Sheikh Muhammad Abu Zahrah, *Al-Jarimah* (Dar Al-Fikr Al-'Arabi), p. 404; Ibn Nujaim, *Al-Bahr Al-Ra'eq*; *Sharh Kanz Al-Daqa'iq*, Second Edition, vol. 8 (Beirut: Dar Al-Ma'rifa); p. 335; Al-Shafi', *Al-'Um*, vol. 2, Illustrated Edition (Bulaq Press, 1321 H.), pp. 20, 21.
11. *Al-Manthur fi Al-Qawa'ed*, vol. 2, p. 106.
12. *Ibid.*
13. Related by Al-Bukhari in the Chapter on Medicine in his "*Sahih*" *Collection*.
14. If this did happen, there should be no reason to fear that ideas and responsibilities would transfer from one human being to another, because, as it has been concluded, the brain is not the spirit; it is the main vehicle of the spirit in the body. In that it is almost the same as

the heart, but the brain is more important.

15. See Abu Hamed Al-Ghazali, *Al-Mankhul Min Taliqat Al-Usul*, (Damascus: Dar Al-Fikr, 1400 H., 1980 A.D.), pp. 327 ff.
16. Many of the physicians attending the seminar on Human Life: Its Inception and End as Viewed by Islam have confirmed this, while none has denied it.

THE END OF LIFE

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Human life began with a breath of air and will end with a breath of air, so Blessed is God, the Eternal, the Omnipotent, it began with a breath of air into the body of Adam and will end with a breath Israfil blows into the Trumpet which leaves,

*ALL THOSE IN THE HEAVENS AND ON EARTH THUNDER
STRICKEN,*

i.e. they die instantly. The period of dying and suffering the agonies of any person may go through could be comparatively long. Muhammad himself, (Peace be upon him) said,

"Lord, help me to bear the agony of death".

Human life ends with the measures taken by the Angel of Death and God's messengers which amount to bringing about the complete separation between the spirit and the clay that has served as its lodging and vehicle by holding the spirit and getting it back to its Lord, as it is a concern of His.

LITTLE INDEED IS THE KNOWLEDGE YOU ARE GIVEN.

While the spirit, following that, dwells either in ease, refreshment, and a blissful paradise or in a dwelling of lava and broiling hellfire, the formed mass of clay, which has served as residence for that guest, begins to disintegrate little by little, after the dweller's departure, to turn back into the dust as it once was and to be assimilated by the soil in which it originated.

No power, knowledge, or wisdom would be able to bring together what has been separated by God.

*IF YOU THINK THAT YOU ARE NOT TRULY DEPENDENT ON US,
CAN YOU NOT CAUSE THAT (EBBING LIFE) TO RETURN, IF
WHAT YOU CLAIM IS TRUE?*

The Prophet, Peace be upon him, mentions visible signs of this separation. Umm Salamah quotes the Prophet as saying,

"If the spirit is arrested, eyesight follows".

(Related by Muslim)

As related by Ahmad in *Al-Musnad*, Shaddad Ibn Aws quotes the Prophet as saying,

"If you attend members of your family when death comes to them, close their eyes, because eyesight follows the spirit. Say kind things; what the family members of a dead person say is seconded".

Fiqh scholars list other signs they have arrived at through their learning and through human experience: "The legs drop down, the jaws separate, the nose becomes crooked, facial skin becomes flabby, and temples collapse". (1)

To pronounce a man dead all signs of life in him must disappear. This is mentioned when the crying of an infant is pointed out as a condition for inheritance. It is said that

It has to have stable life when it separates from its mother. If it dies after that, its share goes to its heirs. According to Hanbali and Shafie scholars, it is known to have stable life if it cries, sneezes, yawns, sucks the breast, breathes for a long time, or exhibits some other signs of life such as a major movement or something of the sort. If its life is not stable, as when it only makes a slight movement or a convulsion or breathes slightly, it does not inherit, because this does not indicate a stable life, for it is probable that this life is similar to the "slaughtered person's movement" stage or a movement resulting from relaxing after being in a tight place or straightening up after being twisted. (2)

In '*Sharh Al-Sirajiyah*'; some of the signs of stable life listed are "making a sound, sneezing, crying, laughing, or moving an organ".

Suppose you have a sheep that gets injured and is about to die and you slaughter it before it does, it is lawful to eat its meat if you know you have slaughtered it while it still has stable life, and if you slaughter it while it is dead, you cannot eat its meat. It is said that "a woman was herding sheep, and one of them was injured, so she slew it. The Prophet, (Peace be upon him) said, 'Eat it!'" Imam Ahmad Ibn Hanbal says, "If it moves its tail and squints its eye, and blood flows, I hope, by God's will, there is nothing wrong with eating it". Sheikh Al-Muwaffaq says, "Whether it gets

to a stage at which it is expected to survive or to die, if it is slaughtered while it still has stable life, it is lawful to eat, because the relevant Quranic verse and traditions are of general natures". (3)

Although very grave affairs depend on determining the moment of death, I could not find in the books of *fiqh* I referred to anything that determines it beyond what is cited above. Among the things which depend on it are:

- determining the beginning and the end of the waiting period of a dead man's widow, and also the validity of her marriage to another after his death may also depend on it;
- inheritance, for two brothers or relatives may die within a short time of each other and the inheritance of the thousands or millions of one by the heirs of the other may depend on determining the time of death;
- Wills, for a person may leave something to another who dies during this period of uncertainty, so it is hard to tell whether anything is due to (his heirs) or not;
- washing the dead person and performing the Prayer of the Dead for him, for if a person still has resuscitation equipment connected to his body, his heart is still beating, and he continues to breathe, and the prayer is performed for him at such a time, would that prayer be valid on the ground that he is dead, or would it be invalid on the ground that he is alive?
- the question of whether disconnecting the respirator connected to a person is depriving a human soul of the means of survival or nothing more than turning off the tap watering a tree, when it may be wiser to save that water; and
- the question of whether removing the heart, kidneys, or eyes of a person is a crime or murder, and the surgeon's heart, kidney, or eye has to be removed in retaliation, or it is something done to a dead person, whose heart is already in heaven, and the permission given by his family to remove such an organ should be sufficient to shake the consciences of human beings such as the whites of South Africa, if they do have consciences.

The question of a person's death is not the same as whether a fetus is dead or alive when it is born. For a fetus, the general rule is to assume no life in it until its life is confirmed, while for a person whose life has been confirmed, the general rule is that he is alive until his death is confirmed,

for in general everything is assumed to continue as it is and certainty is not negated by something doubtful.

When the human heart, the dynamo of the human body, is damaged, death must follow: "If it degenerates, the whole body degenerates".

The struggle of medical science against death has made wonderful achievement. Resuscitation equipment plays, a role appreciated by everybody in keeping hundreds of thousands alive and saving hundreds of thousands of families from losing their bread winners. Medical attempts to make use of the heart of a person whose death is confirmed to save another life are also appreciated by all.

The life and beat of the heart as well as breathing used to be accepted as evidence of life and of the existence of the spirit, but resuscitation equipment can take the place of the heart and natural respiration for few hours or few days. If the brain is dead meanwhile, is the person involved alive or dead during these few hours or days?

That is the period subject to doubt.

The problems mentioned above come as a burden placed by medical progress on the shoulders of *fiqh* scholars. Because our physician brother's want to be among those who "save all mankind", they are anxious for their practice to be within the bounds of Islamic Law, committing nothing sinful and nothing that calls for rebate or incurs a fine.

In its session of Safar 18, 1402H. (December 14, 1981 A.D.), the Religious Rulings Committee at the Kuwaiti Ministry of Endowment looked into a question addressed to it by Dr. Ra'd Abd Al-Wahab Shaker, an Assistant Professor of Medicine at Kuwait University, and Dr. Abd Al-Rahman Al-Sumait, Internist at Al-Sabah Hospital. The question was:

When death of the brain is ascertained, which means that all brain functions have stopped and that the other organs of the body will instantly die without the equipment to resuscitate the respiration system, the heart, and other systems, which may postpone the death of the other organs for few more days only - is it lawful in such a case for a Muslim doctor to go ahead and put an end to this artificial condition, which delays the failure of other body organs for few days and delays the dead person's burial?

The committee gave the following ruling:

If physicians are absolutely certain such a patient is beyond

treatment and can only survive few more days with the equipment attached to his body, and another patient needs this equipment more badly, the equipment should be disconnected and applied to the other patient.

If, however, there is no need to disconnect it, it must be kept if there is the slightest chance the patient may be cured.

If there is no hope whatsoever, the decision is left to the doctor; if he wishes, he keeps the equipment; otherwise, he removes it. A person cannot be considered dead when his brain has died as long as his respiration and circulation systems are alive, even if that life continues through mechanical aid.

Therefore, it is unlawful to remove any organ of such a person, particularly if it is a vital organ such as the heart and lungs, to implant it into another person or keep it for an emergency. Moreover, the rulings concerning the dead - such as inheritance laws, the waiting period of his wife, and carrying out his will - do not apply until his actual death when all his systems fail.

We say this, aware that guidance comes from God. God's Peace and Blessings be upon our Prophet Muhammad and his kin and Companions.

But after being positive in this ruling, the Committee itself rendered it questionable when, on September 29, 1984, it issued the following ruling in response to a similar question.

A person cannot be pronounced dead unless all signs of life, including motion, respiration and pulse, come to a final stop. He cannot be pronounced dead if respiration or pulse stops alone or if the brain dies, while there is still some external or internal sign which is commonly taken as a sign of life. The rule is to assume a person alive, and this rule cannot be cancelled by mere suspicion; certainty can never be superceded on the basis of mere suspicion. This is the preliminary conclusion of the Committee, which believes the question warrants joint investigation by doctors and *fiqh* scholars. It is God Who has perfect knowledge.

Thus, the same people who had made the former ruling were no

longer positive and ruled that a person may be pronounced dead only when all body systems failed, saying this was their preliminary conclusion.

Now certain facts, not available then, have become evident. Still, for further explanation, certain questions require answers.

First, is it believed that a day may come when science will be capable of restoring the electric activity of the brain or of transplanting the brain stem from one body to another? Is it possible that our current inability is what makes us claim that death is in fact the death of the brain, rather than the heart?

Second, I would like to inquire about such tales people pass on like that of a person who dies and is buried, then by accident noise is heard from the tomb, which is dug up only to reveal the person alive, or to show that he has changed his position and died again. Is there any scientific truth in such tales? Does the heart remain still throughout the period during which the patient remains unconscious, which may last several hours?

In the cases of death by heart attack or thunderbolt, or out of horror, or as a result of falling or something of that sort which may cause sudden death, *fiqh* scholars recommend waiting, as a precaution, until the signs familiar in other cases, such as the legs dropping or the temples collapsing, etc., to make sure that death has actually occurred. (4)

ibn 'Abdin says, "Most of those who die of heart failure are actually buried alive, because actual death is hard to detect except by the most knowledgeable of physicians". (5)

Is all this true? and if it is, how can it be reconciled with the claim of physicians that when the heart fails, the brain will certainly die within no more than five minutes?

Third, our physician friends say death is definitely confirmed when the electric system of the brain fails and that such a failure is quite easy to monitor. How can they explain then that British and other scientific authorities set other tests as a condition and require that all these tests be made. Is it possible to conclude that there still remains some doubt about death even when brain electricity fails?

Fourth, to place the problem within the right perspective, is it believed that a day may come when human organ transplants are completely replaced by artificial or animal organs? We have recently heard that a

doctor has transplanted an ape's heart to a human child. Does success in this field mean that there will no longer be a need to desecrate patients, who are claimed by some to be alive, and to remove their hearts?

Fifth, if we take the opinion that a man is not considered actually dead until the heart, as well as the brain, fails, does that mean that heart transplantations must, from the religious point of view, be stopped once and for all? And does that also apply to other, single vital organs? Furthermore, if a scholar rules that heart transplantation is lawful and, at the same time, rules that a human being is alive as long as his heart is functioning and even if his brain is dead, does that mean that medically these rulings contradict each other?

Sixth, what legislation has been made in other countries concerning this issue?

A Return to Islamic Fiqh

Let us go back to our great Islamic *fiqh* to search for a light that can get us out of our present confusion.

We discover that our early scholars discuss something similar to what we are talking about. Hanafi scholars list three cases of murdering a person who is already in a state approaching death.

The first case is that of a person injured by another by having his belly slit open or something of the same sort and the victim approaches death but still has stable life, and then a third person cuts the victim's throat. The murderer is the second criminal, not the first. "Stable life" means a condition where a person is expected to live on for at least a day or a part of a day.

The second case is that of a person who cuts the throat of another, but not completely, and then a third person comes along, before the spirit of the victim has departed, and again cuts the victim's throat. The second criminal is not punished by retaliation, but the first one is, because the victim is not expected to survive the first crime and what is left in him is only the convulsion of death and the reflexes of the "slaughtered". The second criminal here attacks someone who is practically dead, so no retaliation is ruled in his case.

The third case is that of a patient who is dying, but not as a consequence of a crime. The only things left in him are reflexes of the "slaughtered". If he is murdered while in that stage, Hanafi scholars

disagree over the case. Some say the criminal should be killed in retaliation even if he is aware, before committing his crime, that the patient is not expected to survive. Ibn 'Abdin finds this the right opinion. Other scholars say if it is established that the victim would not have survived in any case, no death sentence can be pronounced against the killer, because the victim is virtually dead.

Ibn Qudamah, of the Hanbali School, mentions the first two cases, (6) and the same is true in *Kasfshaf Al-Qina'*. (7) Shafie scholars also list the three cases and give the same opinion, that the criminal should be killed in retaliation, in the third case.

The difference between the first and the second cases is clear enough. As for the difference between the second and the third, Ibn 'Abdin says:

Perhaps the difference between this and a dying person is that in the case of dying, death is not absolutely certain. A patient may arrive at a stage similar to that of dying, he may even be believed to have died and the procedure followed when somebody dies is started, and yet the patient revives and lives long after. This is contrary to the case of someone whose belly is slit open and his intestines are torn or someone whose throat is cut and has reached the 'slaughtered' stage, for his death is certain. But if he has sufficient life to go on living for a day, this life is legally valid, and the murderer is the second criminal. If, however, the victim is going through the convulsions of death due to the cut [received from the first criminal], he is not considered alive to start with. Virtually, he is dead, and therefore, the murderer is the first. This is how things seem to me, so think about it.

Shafie scholars make the same distinction. According to Al-Nawawi and *Al-Muhalla*.

If a man gets him [the victim] to the "slain" stage so that he no longer has eyesight, the ability to talk, or voluntary motion, and then he is attacked by another criminal, the first is the murderer, and the second is chastised for violating the sanctity of the dead.

Al-Nawawi adds:

If a person kills a patient who is dying, being in the 'slaughtered' stage, the killer is subject to retaliation, because

such a person still has a chance to live, which is not true about a person who arrives at that stage as a result of assault. (8)

It is also said, "His property [i.e. that of the patient who is dying] does not go to his inheritors, in contradictions to a person dying as a result of injury".

This distinction between a person who still has stable life and one who only has the convulsions of dying left in him is a clear one. The first is a living person to whom the rules covering the living apply, while the second is "virtually dead", as Hanafi and Hanbali scholars describe him, or "dead", according to the Shafie. The rule in the latter's case is that he does not inherit a relative of his who dies during that person, and if someone strikes this dying person and instantly kills him, the murderer is still the first criminal, while the second is chastised for desecration. Sometimes, when desecration is not intended, no chastisement is required.

I beg that we scrutinize and contemplate the following facts in the true manner called for by Ibn 'Abdin, may God give him His mercy.

First, this injured victim who only has the convulsion of dying left in him, and whom the scholars, I have quoted agree on regarding as dead, or virtually dead, has a heart which is still beating and organs that still move. Yet, he is not looked upon as a living person, nor do the rulings of the living apply to him. This is due to the certainty that this person is about to die, that he has already passed the point of no return, and that no life worth consideration is left in him.

Second, a person who has reached the dying stage, and only the convulsions of dying are left in him, is regarded as a living person. Scholars give a clear justification of this, which is the lack of certainty. They say, "because his death is not certain", as Hanafi scholars express it, or, in the words of Shafie scholars, "because such a person still has a chance to live".

Thus, it seems that the criterion in the case of a person who has only the convulsions of dying left in him is certainty or uncertainty. The basis of certainty may be evident to everybody, as in the case of a person whose throat is cut or whose intestines are spilled out, and may be detectable only by skilled physicians, who are sure of it, as in the case of a person whose brain has died.

This is what I like to offer to this conference to be considered and

discussed, not to be taken as a ruling or recommended to be followed by any person. If this venerable conference endorses it and Muslims scholars agree to follow it, there will be two more points that must be settled.

The first point is whether a patient in such a condition should be described as “actually dead” or, as Hanafi scholars say, virtually dead? I suggest using the second expression, which means the person is treated as dead on as far as disconnecting resuscitation equipment and removing organs from him, but not in the matters of inheritance and the like. (9)

The second point concerns the precautions regarding experience, trustworthiness, and honesty which should be taken to guarantee that no undisciplined transgressions are committed.

Notes

1. *Al-Mughni*, 2, 452.
2. *Al-'Athib Al-Fa'edh fi Al-Fara'edh*, 3, 91.
3. *Al-Mughni*, 8, 538.
4. *Ibid*, 2, 452.
5. 1, 572.
6. *Al-Mughni*, 7, 684.
7. 5, 516.
8. *Sharh Al-Minhaj*, 4, 103.
9. This means he is not inherited until his heart stops, so he will be actually dead. The same thing applies to his widow's waiting period and similar things.

A GLANCE AT THE IBN MAS'OU'D TRADITION

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In the Name of God, the Compassionate, the Merciful commenting on the tradition narrated by Ibn Mas'oud and related by Al-Bukhari and Muslim, I would like to speak from a pure Tradition and Theology point of view. How I wish I had finished the research undertaken in the paper submitted to this conference, particularly on this point, because it is, more or less, the basis of everything said in the conference on the question of the inception of life. As mentioned above, the tradition is listed in both *Sahih's*. It covers various issues.

The first issue is that the life span and the livelihood of an embryo are written down. All the versions, quoting Ibn Mas'oud, as well as other Companions of the Prophet who are as many as ten in *Fatth Al-Bari*, agree on this point, and therefore, there is no doubt about it.

The second issue is that of the visit paid by the angel, which is mentioned in the tradition. Here again all versions agree.

The third issue is that the visit takes place after three forty-day terms. On this particular point, the version narrated by Ibn Mas'oud differs from many other versions narrated by other Companions of the Prophet, some of which are related by Muslim, such as the version of Abu Usaid Al-Ghafari, which gives the period as forty days only. None of the companion narrators, other than Ibn Mas'oud, quotes the Prophet as speaking of three forty-day terms; they all agree in quoting him as mentioning only forty or forty-odd days.

What does a scholar of Tradition do in a case like this?

This is something in the nature of conflicting versions. In my opinion, the solution is not to say there are two angel visits; the details given in the various version suggest only one visit. It is, therefore, some type of contradiction. One of the versions is the correct one that really quotes what the Prophet must have said, while the other, although its ascription suggests it is authentic, should be taken as having been edited by some

narrator under some illusion or should be interpreted as meaning something other than what it seems to mean.

Some Tradition scholars speaking on this subject say that Al-Bukhari's choice of the three forty-day terms and his failure to list any other is a type of preponderance. But the subject can be looked at from a different point of view. The great number of narrators who agree on the same phrasing gives their version more weight than the one narrated by only one person. When we further take into consideration, that out of the narrators who quote Ibn Mas'oud and whose ascription is authentic, only one, Zaid Ibn Wahb, mentions three forty-day stages, we are inclined to give more weight to the version that mentions only one forty-day period, since it is authentic and all narrators, but one, agree on it.

This approach of determining preponderance is the one recommended by theologians and Tradition Scholars, as they discuss the question of conflict. They say giving a certain version more weight on the basis of the large number of narrators is a basic principle, especially when the two conflicting versions are authentically ascribed. The three forty-day terms version, in this case, is looked upon as an odd one.

If this method of determining preponderance is correct, we have to consider the breathing of spirit and the other things that take place with it as occurring within forty, forty-two or forty-five, but not 120 days (after conception). Rulings have to be based on this, not on the four month, timing.

We can follow an approach that reconciles the two versions, for in the cases of conflict, reconciling is better than determining preponderance.

I would like to mention that, in the two *Sahih*s the tradition narrated by Ibn Mas'oud itself has two versions. The first goes:

"The creation of each one of you is brought together in the belly of his mother for forty days in the form of a drop of sperm, then for a similar period, he is a germ-cell, then for a similar period he is an embryonic lump. Then an angel is sent to him .."

The second version, and I would like you to pay attention to the phrasing, says

"The creation of each one of you is brought together in the belly of his mother for forty days, then he is in that a germ-cell for a similar period, then he is in that an embryonic lump for a

similar period".

This discrepancy must have occurred after Ibn Mas'oud, and cannot be ascribed to him.

If we scrutinize the second version, all difficulties may be resolved, for in the way it is phrased, what does the phrase "in that" refer to?

I find that no one speaks of the difference between the two versions. Perhaps the first version is more readily understood, and everyone takes it to refer to three forty-day periods, but the second version is bypassed altogether.

The phrase "in that" can refer to nothing other than the phrase "forty days", which means it is a germ-cell in the first forty days and that the stage of embryonic lump also occurs in the first forty days. In this way, all versions, narrated by Ibn Mas'oud and by others, agree, and no conflict remains.

The two approaches lead to the same end. If we admit that there is a conflict and determine preponderance, the period has to be forty days only. Similarly, if we reconcile the various versions, the period has to be forty days.

The fourth point mentioned in the version narrated by Ibn Mas'oud is that spirit is breathed by the angel into the fetus on the same visit. This is a point mentioned in no version other than Ibn Mas'oud's, but Ibn 'Abbas quotes the Ibn Mas'oud version.

Here again I am speaking from a pure jurist and Tradition scholarship point of view. This may be taken as another discrepancy between versions. But I say this is not discrepancy at all; it is merely that some narrators quote more than others; Ibn Mas'oud is adding a detail mentioned by no other narrator. This falls under the category of "Addition by a Reliable Narrator" rather than "Discrepancy".

Although an addition by a reliable narrator may lose some of its validity because it is narrated by no one else. Others had equal chance to hear, so how come this is the only person to narrate this part?

However, the more common view among scholars is that an addition by a reliable narrator is acceptable and that its content should be observed. Thus, the version that mentions the breathing of spirit during the angel's visit is acceptable and supported by other references in the Quran and Tradition, which is not the case with the question of the three forty-day terms.

I went over this point briefly at the seminar on Reproduction. I have been thinking about it ever since. I have checked many version. I hope this conclusion I have reached will clear the whole thing and reconcile the versions, making it confirmed for us that the angel's visit occurs after only forty days.

The whole matter, however, has to be discussed further. All versions in the books of Tradition, with both content and ascription, should be meticulously compiled and then investigated according to the principles set by specialists. A conclusive opinion may then be reached.

THE END OF HUMAN LIFE AS VIEWED BY ISLAM

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I have gone over what our physician brothers have written, and I find them almost unanimously assert that human life ends when the brain stops functioning. On this they base an extremely serious ruling, which is the lawfulness of using the organs of a person whose brain has died to implant them into another person, even if some of that person's other vital systems, such as digestion, respiration, and circulation systems, are still functioning, whether naturally or with the aid of man-made equipment.

Before I state my own opinion, I would like to ask the doctors about two things. The first is: if the respiration system dies, would it still function with the aid of modern equipment? The other thing is: does the body of a dead person have factors of disintegration and of building at the same time, or only factors of destruction?

In the light of the answer, this serious issue becomes clearer. If the answer to the first question is that if human systems really die, they do not respond to modern equipment, death must be considered to be the death of these systems also, and not the heart alone. If these human systems do not respond unless they are alive, how can it be said that death occurs when the brain alone fails?

As for the second question, when the brain fails and other human systems continue to function with the help of modern equipment, the factors of destruction and of building go on in the human body, and this is an evidence of life. How then can it be said that the failure of the brain alone is considered death when the body continues in a state of destruction and building?

Islam bases many rulings on the end of human life. These include the necessity to wash, enshroud, and bury a dead person, and the classification of his wife's waiting period as that of a widow, unless she is

pregnant. Also based on it are the rulings concerning inheritance and will. Therefore, it is absolutely necessary to define, in a legally-acceptable way, the time of actual death which can be taken as the basis to apply these rulings.

On referring to *fiqh* major works it becomes evident that *fiqh* scholars are almost in consensus that if a person slits the belly of another without spilling his entrails out, then a third person finishes off, i.e. slays, the victim, the second criminal not the first, deserves death in retaliation, because a person may survive, even when his belly is cut open, unless the entrails, such as the intestines, stomach, liver, and so on, are cut off.

If, however, a person slits open the belly of another spilling the entrails out, then a third person finishes the victim off while he is still alive, it is the first criminal who receives the death penalty, while the other is chastised, because whatever life is left after the entrails are spilled out is not stable life, but human dignity requires that such a person should be spared any act of assault.

Fiqh scholars also rule that when two persons are killed at the same time, neither inherits the other, even if the convulsions of one go on longer than those of the other. Scholars set the condition for a living person to receive a share of inheritance that his life should be above that of the "slaughtered" (dying) stage.

Thus I can say that, for some rulings such as inheritance, human life is regarded as having ended when the cause of death occurs. But does it make sense to wash and enshroud a person whose brain has died and allow his wife to marry while he is still breathing and being nourished with the aid of equipment.

An incident took place which almost cancels the theory that the failure of the brain alone is death. On the fifth page of its September 30, 1984, issue, *Al-Ahram* daily published the following story, which I quote verbatim:

A Mother in a Coma Delivers a Fully-developed Baby

A strange delivery case has aroused the interest of scientists all over the world. It is the case of Inja Litalo, 33, of Finland, who delivered her fourth child while she was in a complete coma, which had started two months and a half earlier, when she suffered a brain hemorrhage. The strange thing is that the mother died two days after giving birth to her son Marco. Dr.

Gorma Hekinin, the doctor who treated the woman affirms this is an extremely rare case. The mother received artificial respiration, intravenous feeding, and a weekly blood transfusion for ten weeks.

What puzzles physicians is how the baby managed to develop naturally and fully under these circumstances. It even was quite healthy and had normal weight at birth. The father says he believes the birth of his son Marco is nothing short of a miracle. He adds that he lost hope of the fetus's survival when the mother went into coma, but God's care was beyond all expectation. Doctors regularly monitored the fetus's condition through ultrasound equipment. In the thirty second week, the physicians felt they had to operate to deliver the baby, but they left the final decision to the father, who immediately agreed. The Birth of Marco had a consoling effect on the family, somehow compensating for the painful shock of the mother's death. Marco has three brothers whose ages are between five and eleven years.

We do not know what will happen in the future. Perhaps God, Blessed and Most Sublime is He, will inspire some researchers to discover a means to restore life to the brain after it stops, the same way. He has inspired physicians to transplant kidneys, hearts, and other organs.

Some scholars have ruled that it is lawful to make use of some of the organs of a dead person to save the life of a living one, but that can only be after the death of the person from whom a vital organ, without which a person cannot survive, is removed from him. The organ can be kept through modern scientific methods to be used later. I do not believe any scholar would rule it lawful to remove the heart of someone who still has some degree of life, regardless how small it is, to implant it in someone else's body.

What should be clear is that all *fiqh* scholars are in consensus that even when someone is in his last breath, having been the victim of no crime, and then someone comes along and kills him, the killer receives the death penalty in retaliation if the crime is intentional and has to pay blood money if it is accidental.

After consulting *fiqh* reference books, I feel much easier when, on an issue like this, the more precautions position is taken, a position based on the rule that what is certain cannot be cancelled by mere suspicion. On the basis of this rule, if life after brain failure is the same as the "slaughtered

person's movement" stage, a person in such a condition does not inherit any other person, because it is a condition of inheritance that the inheritor's life at the time the inherited person dies is confirmed, while the life of a person in the condition described here is subject to doubt, and doubt does not cancel what is certain. On the other hand, a person's property is not handed down to his heirs while he is still in this stage, not before his death is confirmed, because it is an established fact that he has been alive, but now under this condition, it is doubted whether he is alive, and doubt does not cancel what has been established with certainty. Similarly, the usual procedures followed when someone dies, such as washing, enshrouding and burying the dead, should be withheld. As for his wife, I would be more satisfied with the opinion that her waiting period should begin only after his death is confirmed that is when none of his vital systems is suspected of being still alive.

Note

It was mentioned in the paper of one of our physician brothers that "wherever there is an interest, that is where God's law is". This statement requires explanation. Praying for God's guidance, I say the interests recognized in Islamic Law are five, those of the faith itself, the person in himself/herself, the mind, offspring, and property. Some interests are necessary, that is without it the thing it is supposed to serve is lost. Others are needs, in the sense that the loss does not take place, but much hardship is caused if it is not observed. Others are matters of improvement. When there is a conflict of interests, that of the faith has priority over that of the person, which in turn comes before that of the mind. Interests of offspring and of property follow in that order. On the other hand, what is necessary comes before what is needed, which in turn has priority over what brings improvement.

Moreover, interests in Islamic Law fall into three categories: those that are legally recognized, those that are abolished, and those upon which the Legislator has given no opinion, neither recognition, nor abolishment.

The interests abolished by the Legislator are such as the interest in alcoholic drinks and in gambling. God, Blessed and Most Sublime is He, says:

THEY ASK YOU ABOUT WINE AND GAMBLING, SAYS, 'THEY INVOLVE GREAT SIN AND HAVE BENEFITS FOR PEOPLE, BUT THE SIN IS GREATER THAN THE BENEFITS'.

Another example is usury. In old days usurers used to claim that "Trade is

the same as usury". But god has abolished what interest there may be in usury; he says:

*AND WHATEVER USURY YOU LET YOURSELVES INTO TO MAKE
YOUR MONEY GROW IN THE PROPERTIES OF OTHERS WILL
NOT GROW BY GOD'S COMPUTATION.*

A third example is adoption which is yet another interest abolished by God, Who says,

*NOR HAS HE EVER MADE YOUR ADOPTED SONS TRULY YOUR
SONS; THESE ARE BUT FIGURES OF SPEECH YOU UTTER WITH
YOUR MOUTHS.*

Every interest abolished by the Legislator is one that we can base no rulings on. Such interests are vain, though we may fancy them.

As for the interest on which nothing is said, neither endorsement nor abolishment by the Legislator, and which are known as free interests, they require a lengthy discussion, and specialists have to be consulted concerning them.

After this explanation, it should be clear that the statement used by some, that "wherever there is an interest, that is where God's Law is", concerns interests which are in harmony with God's Law, which are not abolished, and which are not mere fancies. In old days, it was said:

*A sympathetic eye is too myopic to see shortcomings, while an
indignant eye uncovers all defects.*

It should be clear that we should not rule first and then look for justifications and reasons, especially that the human mind is not incapable of finding such excuses when they serve one's purposes and whims.

This is what I think in regards to this serious topic, on which I am afraid we are dazzled by its novelty.

WHEN DOES LIFE END?

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The end of life takes two forms, the circumstantial and the absolute.

The circumstantial end is when the essential systems come to a final stop, with which science, with its abilities and level, is incapable of restoring them to normal functioning. The essential systems are the heart, which feeds all the systems of a human being, and the brain stem, which is the regulator and the control tower of the body. When feeding stops or control fails in a final manner, death occurs.

The two systems may be functioning naturally, which raises no problems, and might be functioning under unnatural circumstance, as when equipment take over the functions of the part that has failed. Is a human being to be regarded as a living person, with all the rulings of the living applicable to him, as long as there is some life in him, even if it is just cellular or mechanical life?

Khalil Ibn Isshaq says, "A miscarried fetus is not alive unless it cries, even if it moves, urinates, or sucks". This establishes sound as the criterion of life. Al-Lukhami lists in detail the recognized signs of life:

Motion, breast sucking, and sneezing are controversial. Malik says they are not sufficient to rule a new-born as a living creature. Ibn Habib adds, 'and if it survives for a day, breathing, opening its eyes, and making a movement which makes a sound, even if it is indistinct'. Isma'e'l says, 'Any movement it makes is the same as its movement inside the belly, insufficient to rule that it is alive'. Abd Al-Wahhab adds, 'A murdered person may move'. Al-maziri rejects this and says, 'There is no reason to deny sucking as a sign of life, because we know for certain that it is impossible for a dead person to suck out of habit. Sucking is not one of the actions that can be either spontaneous or voluntary. As Ibn Almajshun says, sneezing can be the effect of wind and urine can result

from muscle relaxation, but sucking can only be done intentionally. To consider it a doubtful sign of life entails the undermining of essential principles. The right thing is what Ibn Wahab and others say; namely, that sucking is of the same significance as crying at birth'. (1)

Commenting on this discussion, Al-Muwaq says:

Refer to this discussion by the Imam. After Omer, God have mercy on him, had been stabbed, he was regarded as virtually dead. Had a person he was entitled to inherit died, Omar would not receive his share of inheritance, and had another person killed Omar, the killer would not receive the death penalty, even if Omar could still speak and assign duties. There is a difference, however, between a miscarried calf, although such a calf might live, and a patient whose survival is despaired of. Unlike the calf; the patient is regarded as a living person, and *zakah* has to be paid on her behalf. (2)

I have quoted this passage in full to show that scholars disagree on the time at which life can be looked at as having ended and, consequently, rulings that apply to the living are no longer applicable. We have seen how it is considered to be confirmed only with sound, which is a brain - associated activity. If the brain is inactive, giving no orders and monitoring no feedback signals, the person involved is not alive. Therefore, it is believed that sneezing, urinating and breast sucking do not indicate life. Al-Maziri, however, realizes that breast sucking is a voluntary action, which means the brain has to act for a being to suck, which is not a spontaneous action, but rather a voluntary one, performed only when the brain is active.

Yet, for Al-Muwaq even brain activity is not condemned to die soon. If something happens to the body that normally leads to the destruction of mental power and brain activity, the person involved is regarded as virtually dead. He is not entitled to inherit any other person.

My Point of View

After going through the disagreement of scholars over whether a person's life is considered to have ended, and whether he should be looked at as dead, when the life left in him is not life in the full sense, like that of a person whose vital parts have stopped or another whose blood circulation goes on only because of the aid of artificial systems, I find that it

is not right to consider such a person dead, and I find more satisfaction in the view that as long as his essential systems are alive, a person is alive and all the rulings that apply to the living apply to him.

What makes me favour this opinion is that last year I read a report in a newspaper concerning an American girl who had lived with the help of resuscitation equipment for three years. Her parents asked doctors to put an end to her constant suffering by having the equipment disconnected. After a court decision was made and the doctor agreed to remove the equipment, the surprise came when the girl continued to live without the aid of artificial systems. Furthermore, a few years ago, a patient whose heart stopped was considered as having died, but with the progress of surgery, a heart that stops is no longer an indication of its owner's death. Open heart surgery, in fact, requires that the heart be brought to a stop.

As for the absolute form, I strongly believe that it is not possible to give a conclusive definition of death, because science is in a state of creative development. If it can today make the heart resume its beating with regularity, what keeps it from being able some day in the future of making the brain-stem regain its power and resume its role, particularly now that computers have been introduced into the field of medicine, making it easier for surgeons to perform the most intricate and sophisticated operations and achieving amazing success? Therefore, to come up with a conclusive definition of death would be a completely unacceptable offense against the future.

How to Phrase the Question

On the basis of what has been said so far, it would be better to phrase the question not in a way to define death and the criteria of determining it, but rather to ask whether it is lawful in Islam to transplant living organs to patients whose lives are in danger unless such a transplant is made while the transplanted organ is still alive and before it cells are damaged.

Setting legal regulations for organ transplantation does not depend on determining life and death but rather on two other things.

First: The Necessity of Doing What God Forbids

A person in a state of necessity is that who has two alternatives and no more: certain death or taking what is unlawful. The Quran is explicit in permitting a Muslim to do something unlawful to save his life; God says,

... HE HAS ALREADY TOLD YOU IN DETAIL WHAT IS FORBIDDEN TO YOU UNLESS YOU ARE FORCED TO HAVE IT.

(S6:V118)

He also says,

BUT WHOEVER IS FORCED, WITH NO INTENTION OF VIOLATION OR TRANSGRESSION, COMMITS NO SIN.

(S2:V173)

Fiqh scholars stipulate that a person in a state of necessity must save his life by taking what is ordinarily forbidden. They disagree, however, on details such as purchases, and carrying what is forbidden to eat later, and other things, of which the following are to us of special importance.

Is Medication Like Food?

Ibn Taimiyah says:

Taking something forbidden as medication is not the same as a constrained person eating the flesh of dead cattle, for in the latter case the purpose is certainly achieved by such an action and there is no substitute. Eating this flesh is an obligation. When one is forced to eat it and refrains from doing so until he dies, he goes to Hell. In the former case, recovery is not certain, and the medicine cannot be the only alternative. God cures His creatures with various means. The majority of scholars do not consider medical treatment an obligation of a patient. Analogy between the two cases is not valid. (3)

Sheikh Muhammad Al-Taher Ibn 'Ashur says:

One of the things they disagree on is whether the necessity of medical treatment is analogous to the necessity of eating. Some say that forbidden things should not be taken as medical treatment, nothing that God has prohibited, such as alcoholic drinks. This is the view of Malik and the majority of scholars. But still people find it a difficult question, since the purpose in both cases is saving one's life. In my opinion, the purpose is not achieved by such a means; knowledge of the properties of medicines is limited to what has been actually tried, while it is only assumed that all are useful. Many are the mistakes in medicine properties, of which patients have been victims. Al-Fakhr quotes some scholars as ruling that it is lawful to take

as a medication something normally prohibited. My conviction is that when trustworthy physicians believe there is a great probability that taking a prohibited medicine will be useful in treating a serious medicine and that this is the only medicine for that, or when such usefulness is proven by experience, it is lawful to take the medicine on the basis of analogy to eating what is forbidden under constraint. Otherwise, it is not. (4)

Note

When one follows the opinions of *fiqh* scholars, he realizes that their disagreement is caused by the difference in the degree of a *fiqh* scholar's trust in what a physician prescribes, for, in those days, medicine had not ascertained the usefulness of many drugs, the diagnosis of illnesses, or the usefulness of a certain medicine to a certain patient or for a certain malady, as the reasoning of Ibn Taimiyah suggests: "In the former case, recovery is not certain, and the medicine cannot be the only alternative". Therefore, the more confidence of the usefulness of a medicine is acquired by experience, the less troubled one feels about the lawfulness of taking that medicine, even if it contains prohibited ingredients.

Eating Carrion

If a person is forced to eat of carrion, it is lawful for him to do so. There is no disagreement on that, because it is stipulated in the Quran. *Fiqh* scholars, however, disagree on certain points.

The first is whether it is lawful for a constrained person to eat the flesh of a dead human being.

Khalil says, "In cases of necessity, it is lawful to have enough to stay alive, except human flesh and wine".

Explaining this point, Al-Zarqani says, "Khalil's exception of human beings, whether Muslim or infidel corresponds with the opinion commonly held by scholars as expressed in the chapters on funerals". Al-Zarqani goes on:

The rule is that it is unlawful even when a person is constrained, but there is the question of whether the reason for prohibition is piety, which is the commonly accepted view, or avoiding harm, because it is said that when a human corpse rots, it becomes poisonous. That is the view of Ibn 'Amran Al-Jurafte. He adds that it is lawful to eat, and the prohibition

before that applies to eating parts of one's own body, such as his arm or leg. It is not going too far to allow a person to eat parts of his body to keep himself alive, because scholars consider it obligatory to amputate an arm bit by a snake before poison reaches the rest of the body, if there is hope for the person to live. (5)

Ahmad's opinion, as explained in *Al-Mughni* is as follows.

If a constrained person finds nothing else (to eat), he is not allowed to eat parts of his own body. Some followers of Al-Shafie say it is lawful because a person is allowed to save the whole by amputating a part, as when a limb is afflicted with gangrenous stomatitis.

We believe that eating of his own body may cause a person to die and make him a self-killer. Survival by eating one's own parts is not certain, while amputation in the case of gangrenous stomatitis is done for fear of death due the disease in that limb, so it is lawful to sever it and avoid the hazard of keeping it. The same way a person is allowed to kill a bird of prey circling above him, but he is not allowed to kill such a bird to eat it.

If the only thing available to a person is a human being whose life is legally protected, it is unanimous that killing such a being or damaging any of his organs, whether he is a Muslim or an infidel, is unlawful, because the two are equal, so one cannot save himself by causing the other to perish. There is no disagreement over this. If the person is an outlaw, as a belligerent man or a renegade, Al-Qadhi says it is lawful to kill him and eat his flesh, because killing such a person is permitted. Al-Shafie's followers hold the same view, saying such a person has no sanctity, so he is the same as a beast. If such a person is found dead, it is lawful to eat his flesh (under constraint) because it is permissible to eat it after he is killed, so it is the same when he is dead. While when a person whose life is protected is found dead, it is not permissible to eat his flesh (under constraint), according to followers of our school.

Shafie and some Hanafi scholars, however, say it is lawful and even recommended, because the life of a living person is more valuable than the sanctity of a corpse. Al-Shafie's opinion is mentioned by Al-Haithami in *Al-Tuhfah*.

A person under constraint is allowed, and even obliged, to eat the flesh of a dead person whose life was protected, if no other corpse, even an unidentified one, is available, because the life of the living has more value than the sanctity of the dead. If the corpse belongs to a Prophet, eating its flesh is definitely unlawful. The same is true when the corpse belongs to a Muslim and the constrained person is a *Thimmi* (free non-Muslim). It seems they are saying that when the two persons are equal in being Muslims and in that their lives are protected, the sanctity of the dead is waived. But even when it is lawful to eat it, it should not be cooked. The scholar who explains Al-Athra'ie qualifies the permission by restricting it to what can be eaten without being cooked.

A constrained person may, and even must, kill an outlawed person, such as a renegade, a belligerent man, a married adulterer, an enemy soldier, a Muslim who has stopped praying (if conditions apply), and a person who has incurred the penalty of retaliation, even without taking permission from the ruler, in a case of necessity, but not a *Thimmi* or a person who has sought asylum, because their lives are legally protected, nor a boy or a woman of a belligerent tribe, because it is unlawful to kill either. I believe it makes more sense to allow killing such a boy or a woman. The same thing is true about a hermaphrodite, an imbecile, and the like, whose lives are not protected, though it is only God who has perfect knowledge. The prohibition of killing such persons applies to victorious troops in battle, and consequently no atonement is due in their cases. (6)

Out of these three passages we can conclude the following:

A. Concerning Eating the Flesh of the Dead

In Malik's school, eating the flesh of the human dead in cases of necessity is controversial. The common view is that it is unlawful, while the more valid is that it is permissible. In Ahmad's school, it is lawful when the dead person's life is not legally protected, and even when it is, it makes more sense to rule such eating lawful. Al-Shafie's school finds it lawful to eat the flesh of the dead unless the person under constraint is a *Thimmi* and the dead person is Muslim.

B. Killing a Living Person to Eat His Flesh

Malik's school finds it unlawful. In Ahmad's school, a person under constraint cannot kill a person whose life is protected to eat his flesh, but may kill a person whose life is not, for the same purpose. Al-Shafi'i's school believes a constrained person has to kill a belligerent person, a Muslim who has committed what is punished with the death penalty, a Muslim who has committed what is punished with the death penalty, or even a person who belongs to a belligerent tribe but his life is ordinarily protected, such as a boy or a woman.

C. Eating Some of One's Own Parts

Malik's opinion is that it is most probably lawful, Ahmad's school gives more weight to the view that it is unlawful, and Al-Shafi'i finds it lawful.

Conclusions

On the basis of the above, transplanting organs from one human being to another when both of them continue to live after the transplantation is permissible. Even in Ahmad's school, prohibition of making use of one's own organs is based on the fear that it may lead to death. Thus when we are confident the procedure is safe, there is no reason to prevent transplantations.

According to the author of *Al-Tuhfat*, it is lawful to eat all the parts of a person sentenced to die or a person whose life is not legally protected when one is constrained. If eating human flesh is permitted to save a life, it should also be permitted to use a human organ to save a life through the procedure of transplantation.

Moreover, on the basis that the family members of a dead person may waive their right to blood money, if a person is living only with the aid of resuscitation equipment, it is lawful to use some of his organs to save the life of another person.

Second: Altruism as the Second Factor in Setting Legal Regulation

Al-Zarkashi says:

Our Imam says in the chapter on "The onslaught of the Mighty" that there is no disagreement over the encouragement of altruism, even when it leads to the altruistic person's death. It is regarded as a quality of the pious. When a person is constrained and starving, and has something to barely keep himself alive, but he prefers a companion of his, who is also starving, over himself, it is good behaviour. The same thing is

true of all altruistic actions with which a life is saved. The Imam's father says in a chapter on *Tayammum* (dry ablution), that if a person wants to prefer someone over himself with what he has, hoping to save the other person's life, he may do so even if he risks death. (7)

While preparing this paper, I came across the following news item in the Bulletin of the Saudi Press Agency:

The Armed Forces Hospital in Riyadh hosts the second International Middle East Conference on Organ Transplantation from the 25th to the 27th of the current Rabie Al-Awwal, corresponding to December 3-5, 1984.

On the following page the Bulletin says:

The team urges citizens to donate their kidneys to be used after their death, pointing out that this donation is a religious duty, not merely a patriotic one. The team refers to decision number 99 by the Committee of Senior scholars, dated 6.11.1402 H., and decision no. 4/29221 of the Saudi Cabinet, both of which permit donations of organs. (8)

I will do my best to get a copy of the ruling made by the highly esteemed Saudi Committee of Senior Scholars to which the news item quoted above refers. Meanwhile I urge journalists to be precise in their reports and not to let sentiments influence their writings. The difference is vast indeed between claiming that donation of kidneys is a religious duty and adding that donation of organs has been permitted. To say it is a religious duty implies that failure to donate is a sin of omission, while saying that something is permitted implies that it is optional; one may do it or leave it.

I conclude this paper - which is written in a hurry due to the fact that I received the invitation to take part in the seminar only late in November - by stressing that this is a question of opinion on which no scholar or researcher can hope to be certain. It would be great if better coordination and exchange of information were achieved by the various institutions of the Islamic world. Whenever a certain department or committee studies a certain question, the results should be publicized in the proper quarters so that the benefit would be more widespread.

God is aware of everyone's intent. Peace and God's Mercy and Blessings to all of you.

Notes

1. Al-Zarqani, Vol. 2, p. 112.
2. Al-Mawaq's Explanation of Khalil's, Vol. 2, p. 250.
3. *Al-Fatawi (Rulings)*, Vol. 24, pp. 266 ff.
4. *Al-Tahrir wa Al-Tanwir*, Vol. 2, p. 121.
5. Al-Zarqani, Vol. 3, p. 28.
6. *Al-Mughni*, Vol. 8, pp. 601-602.
7. *Qaw'ed Al-Zarkashi*, Vol. 1, p. 211.
8. Saudi Press Agency, The Tunis Office, no. 11, 21.3.1405 H., pp. 5-6.

THE TRUTH ABOUT DEATH AND LIFE IN THE QURAN AND THE STIPULATIONS OF ISLAMIC LAW

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First of all, we should realize that life and death are controlled by God, as He Himself says:

IT IS HE WHO HAS CREATED DEATH AND LIFE TO TEST YOU AND ESTABLISH WHOSE WORK IS BEST.

As life is one of God's mysteries, so is death. Each is ordained and comes at a set time. The words "life" and "death" may be given varied meanings, and both Arabic and Quranic connotations have sufficient room to accommodate the varieties.

It is known that life and death are opposites. Thus, if we define life, whatever the definition fails to include would be dead. Likewise, if we define death, everything is alive which is not covered by the definition.

Definition of Death

When we try to define "death", we find that this cluster of letters denotes the absence of vitality from an object, whether animal or plant. Referring to garlic, the Prophet, Peace be upon him, says,

"Whoever eats of this foul plant should stay away from our prayer site, unless he has caused it to die by cooking it".

Thus the word originally means the absence of growing vitality. It may also mean the absence of sensory or psychological power.

As mentioned above, the word has various meanings. It is used to refer, among other things, to:

1. Stifliness. Every still thing is said to be dead. For example, to say that a fire has died means its ashes are cold and none of its embers is left,

and to say that a wind has died down means it has quieted and is now still.

2. Sleep. The word death is sometimes used to mean sleep. A well-known prayer says, "Praise be to God Who brings us back to life after causing us to die, and to Whom men go at Ressurrection".
3. The absence of growing vitality. This applies to both animals and plants. God says:

*BEHOLD THEN THE SIGNS OF GOD'S MERCY, HOW HE BRINGS
THE EARTH BACK TO LIFE AFTER IT HAS DIED.*

(S30:V50)

And:

*HE BRINGS THE LIVING OUT OF THE DEAD AND BRINGS THE
DEAD OUT OF THE LIVING, AND HE BRINGS THE EARTH BACK
TO LIFE AFTER IT HAS DIED. THAT IS HOW YOU SHALL BE
BROUGHT BACK.*

(S30:V19)

4. The absence of sensory power. God says (quoting Mary),

*I WISH I HAD DIED BEFORE ALL THIS AND PASSED INTO
OBLIVION.*

(S19:V23)

5. Ignorance. The word death is used for ignorance, as when God says:

*OR CAN A DEAD PERSON WHOM WE HAVE BROUGHT BACK TO
LIFE AND GIVEN A LIGHT WITH WHICH TO WALK AMONG MEN
BE THE SAME AS SOMEONE BLUNDERING ABOUT IN THE
DARKNESS? ..*

(S6:V122)

A poet says:

*It is not the person who has died and come to rest who is dead.
The truly dead are the living dead!
The truly dead are those who live in humiliation,
Worried and with limited resources.*

6. The process of dying. God says,
OR WERE YOU WITNESSES WHEN DEATH CAME TO JACOB?
(S2:V133)

7. What is going to take place. God says,

TRULY, YOU ARE BOUND TO DIE AND THEY ARE INDEED BOUND TO DIE,

"and"

EVERY ONE ON IT IS MORTAL.

8. Loss of life. Death is also used to refer to the loss of life and departure of the spirit from the human body. God says,

AND THE AGONY OF DEATH IS HERE. THIS IS WHAT YOU HAVE BEEN TRYING TO AVOID,

(S50:V19)

and,

WHEREVER YOU BE, DEATH WILL GET TO YOU, EVEN IF YOU ARE IN HIGH TOWERS. (1)

(S4:V78)

The Spirit

The Arabic word for spirit has several connotations and meanings. Some of these are the following.

1. It is used for Gabriel, as when God says,

THE FAITHFUL SPIRIT BROUGHT IT DOWN INTO YOUR HEART THAT YOU MIGHT BE ONE OF THOSE WHO WARN MANKIND.

(S42:V193-194)

2. Revelation is also called a spirit; God says,

THUS WE HAVE INSPIRED YOU WITH A SPIRIT OF OUR WILL.

(S42:V52)

3. It is also used to mean the mysterious thing God introduced into Adam's body. God says,

WHEN I HAVE BREATHED OF MY SPIRIT INTO HIM ...

Similarly, it means the divine nicety God introduces into every human being, to which He refers when He says,

THEY ASK YOU ABOUT THE SPIRIT. SAY: KNOWLEDGE OF THE NATURE OF THE SPIRIT BELONGS TO MY LORD. LITTLE INDEED IS THE KNOWLEDGE YOU ARE GIVEN.

(S17:V85)

If we desire to throw some light on this divine nicety, we find several definitions of it. It is sufficient, however, to quote the definition endorsed by scholars. It says:

The spirit is a luminous, high, living, and mobile object which differs in its nature from this physical body and penetrates it the same way roses are penetrated by water, olives by oil, and coal by fire. It is not subject to decomposition, change, separation, or rupture. When the physical body is ready to receive it, it gives that body life and all that comes with life. It is what God refers to when He says,

WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM ...

It remains in the body as long as the body is fit to accommodate it, that is when nothing takes place that prevents its penetration of the body, such as dense humours, damage, or decay. When something of that sort happens, death takes place because the body is fit no longer.

This is the opinion of Ibn Sina, Al-Fakhr Al-Razi, Ibn Al-Qayyem, and the majority of scholars.

Thus it is the spirit that gives life to the body, which in turn makes a human being what he is, a moving creature to whom rulings apply. Without a body which is fit, there can be no spirit and no life.

There can be no human being without both spirit and life; God says,

WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM, KNEEL DOWN AND PROSTRATE YOURSELVES BEFORE HIM.

He ordered the angels to prostrate themselves before Adam only when the creation of the latter's body and soul had been completed.

The Human Body

Al-Fakhr Al-Razi defines a human being by saying, "A human being is a body that can be described and that is formed by the mixture of various humours in certain proportions". He is thus defining man by the tangible body which Al-Razi can see before his eyes and can feel. He calls it the earthly body, which is the same as calling it today the organic body.

Al-Razi elaborates on the definition by saying:

The body which is dominated by earthliness is the dense and solid organs, such as bone, cartilage, nerve, tendon, legament, fat, flesh, skin, and blood ... No sane person claims that a human being is something other than this body. Nor does any sane person claim that the body is a particular organ alone. (2)

The Relation of the Body and Spirit to the Human Being

Al-Mu'tazilah scholars state that a human being is a particular body that must be characterized by life, knowledge, and power. Life, they say, is a temporary condition of the body, and therefore the spirit is also a temporary condition. Thus they think of the spirit not as something distinct from the body with independent entity. According to them a human being is a particular body characterized as mentioned above and distinguished from all other animals by the shape of his body, organs and parts, and by the power of discrimination and reasoning that he has.

Followers of *Al-Sunnah*, on the other hand, say that a human being consists of a body and a spirit that dwells in the body as long as it is fit to accommodate the spirit. When the body is no longer fit, it loses its spirit.

The two views agree in that a human being has a body that is distinguished from that of an animal by having sense, reason, knowledge, ability, and other superior qualities. They disagree over the spirit. Al-Mu'tazilah scholars see it as a temporary condition of the body that cannot be separated from it, the two being a single, undivided thing. Meanwhile, *Sunnah* followers regard them as

two distinct objects, as suggested by God's saying,

EVERY SOUL WILL HAVE A TASTE OF DEATH,

which is an evidence that a soul does not die with the body. To taste something, a creature has to be alive at the time of tasting, and the meaning implied is that every soul will taste the death of the body. This shows that a soul is not the same as the body and does not die with it. It also draws our attention to the fact that the inevitability of death applies to physical life alone. (3)

Another evidence is God's saying,

WHEN I HAVE FASHIONED HIM AND BREATHED OF MY SPIRIT INTO HIM ...

which shows that the body is not the same as the spirit breathed into it.

Reference to Man as Body and as Spirit

The Quran refers to man as only a body, pointing out that this body is not immortal. An example is God's statement which refers to the Prophets, Peace be upon them,

*WE HAVE NOT MADE THEM AS A BODY THAT REQUIRES NO
FOOD, NOR ARE THEY IMMORTAL.*

God's Wisdom required that His messengers be human beings who received Revelation. They were always men with bodies, and God did not create them as having bodies that needed no nourishment. To feed is one of the characteristics of a body, and having a body is one of the characteristics of a human being. Thus, Prophets are not immortal on this earth.

The Quran also refers to man as a spirit or a soul. God says,
AND WHEN YOU KILLED A SOUL AND QUARRELLED OVER IT ...

and

*BY THE SOUL AND HE WHO HAS MOULDED IT AND INSPIRED IT
WITH KNOWLEDGE OF SIN AND PIETY ...*

(S91:V7-8)

This Quranic reference to man at times as a body and at other times as a soul shows that both are essential components, each of which is sufficient to denote man.

Death in the Quran

Death is mentioned in the Quran with its various meanings mentioned above. What concerns us here, out of all those meanings, is the Quranic reference to, and description of, human death and of the condition of man after death. Invariably, the Quran emphasizes the death of the body and follows the mention of death with an epithet of the dead body, whether the spirit is mentioned in the same context or not.

For example, in describing those who disobey God, the Quran says,

IT TOOK ONLY ONE SHOUT AND THEY FELL DOWN LIFELESS.

(S36:V29)

Lifelessness means the stillness of the body and the absence of motion, breathing, and any other sign of physical life. In another verse we find:

*YOU MAY SEE THOSE PEOPLE LYING DEAD, AS IF THEY WERE
HOLLOW PALM TRUNKS.*

(S69:V7)

And again,

*WE LET DOWN UPON THEM, ON A DAY OF INCESSANT
MISFORTUNE, A HOWLING WIND WHICH FLUCKED PEOPLE AS
IF THEY WERE UPROOTED TRUNKS OF PALM TREES.*

(S54:V20)

Thus the Quran describes the bodies of those who have perished as dead, with no motion, having decomposed, with only the skeletons remaining, as if they were the hollow, uprooted trunks of palm trees.

The Quran offers another image of death in which life, motion, breathing, and feeling all come to a stop. God says,

*HOW MANY GENERATIONS BEFORE THEM WE HAVE CAUSED
TO PERISH. DO YOU FEEL ANY OF THEM TO BE ALIVE OR HEAR
AS MUCH AS A WHISPER FROM THEM?*

(S19:V98)

No life, no movement, no whisper, no pulse, and no breath is there; only lifelessness and disintegration. The verse gives an image of the end of life with all its meanings, implications, and connotations.

The Quran, in other verses, refers to human death and to people witnessing this final departure, stressing two points. One of these is not evident to people; it is only known to God. The other is evident and known to all human beings and is the sign that distinguishes death from life. God says,

*AND SO WHEN IT GETS TO THE THROAT, AND YOU ARE THERE
WATCHING--WE WILL BE NEARER TO HIM THAN YOU, BUT YOU
CANNOT SEE US ..*

People do not see the spirit departing even while they are surrounding a dying person. How then do they recognize death? They recognize it through the physical signs mentioned in the following verse:

*MAY, WHEN IT GETS BETWEEN THE CLAVICLES, AND IT IS SAID,
'WILL NO ONE SAVE HIM?' WHEN HE KNOWS IT IS THE FINAL
PARTING AND HIS TWO LEGS TWIST TOGETHER--TO YOUR
LORD ON THAT DAY HE SHALL BE DRIVEN.*

One commentator says, "It cools down, it dies, and its temperature drops". (4) Another, Al-Fakhr Al-Razi, says, "The legs of the dying person get stiff and stick to each other, no longer capable of movement". (5)

Death of the Heart

The Quran mentions in certain verses that it is a sign of death when the heart stops. God says,

*THE EDIFICE THEY HAVE CONSTRUCTED SHALL ALWAYS
BRING DOUBT INTO THEIR HEARTS, UNTIL THEIR HEARTS ARE
CUT INTO PIECES.*

(S9:V110)

The Quranic Miracle of Causing Life and Death

The Quran always draws attention to the dazzling miracle represented by the creation of man, who is moulded in the best possible form. In the Surah entitled Al-Mu'minin, God says:

*WE FIRST MADE MAN FROM AN ESSENCE OF CLAY: THEN
PLACED HIM, A DROP OF SPERM, IN A SAFE ENCLOSURE.
THEN WE CREATED OUT OF THE DROP OF SPERM A GERM-
CELL, AND THEN WE CREATED OUT OF THE GERM-CELL AN
EMBRYONIC LUMP, AND THEN WE CREATED WITHIN THE
EMBRYONIC LUMP BONES, AND THEN WE CLOTHED THE
BONES WITH FLESH, AND THEN WE BRING ALL THIS INTO
BEING AS A NEW CREATION. BLESSED BE GOD, THE NOBLEST
OF CREATORS. THEN, AFTER ALL THIS, YOU SHALL CERTAINLY
DIE, AND THEN ON THE DAY OF RESURRECTION, YOU SHALL
BE BROUGHT BACK TO LIFE.*

(S23:V12-16)

This wonderfully-created body will decompose, lie lifeless, and then completely disappear. But God will bring it back to life on the Day of Resurrection.

Causing a human being to die and to come to life, however, is limited to the body, which becomes lifeless, disappears altogether, and is then brought back to life by God, Most High and Sublime is He, on the Day of Resurrection. This is certainly clear in several verses of the Quran, such as:

*WHAT! WHEN WE DIE AND TURN INTO DUST AND BONES, ARE
WE GOING TO BE BROUGHT BACK TO LIFE?*

(S37:V16) and (S23:V82)

WHAT! WHEN WE DIE AND TURN INTO DUST AND BONES, ARE WE GOING TO BE BROUGHT TO JUDGEMENT?

(S37:V53)

AND THEY USED TO SAY, WHAT! WHEN WE DIE AND TURN INTO DUST AND BONES, ARE WE GOING TO BE BROUGHT BACK TO LIFE?

(S56:V47)

HE CITED AN EXAMPLE FOR US, FORGETTING HIS OWN CREATION; HE SAID, WHO CAN BRING BONES TO LIFE WHEN THEY HAVE TURNED INTO DUST? SAY, HE WHO FIRST MOULDED THEM CAN BRING THEM BACK TO LIFE. HE HAS KNOWLEDGE OF ALL CREATION.

(S36:V79)

Whether it is cellular or mobile, the life of the human body is therefore an evidence of the excellence of the Creator and the greatness of His work. While this life which is called cellular goes on, the kidney continues to function, which is a miracle; the heart continues to beat, which is also a miracle; and the liver, the spleen, the intestines, and all other systems of the body continue to function, which is the utmost miracle. Are these functioning systems the work of man or the creation of a Creator? Even though physicians are supplying the body with some of the nourishment and stimulation it requires, this does not in itself cause life to continue. Nor can man cancel life or cause death to be everlasting.

Quranic Stories Illustrate the Difference Between a Dead Body and a Living One

In its stories that concern life and death, the Quran follows the same general pattern it observes in speaking of life and death as caused by God. It points out the difference between a man who dies and is then brought back to life and another who regains consciousness after falling unconscious. The only difference seems to be that the body disintegrates in death, but not in unconsciousness.

To give examples of the Quranic stories dealing with the death and life of the human body, two stories will be referred to. The first is that of the man who passed through a ghost village, and the second is the story of Ibrahim (Abraham), Peace be upon him, and his prayer to God to let him see the dead being brought back to life.

The first is called by some commentators "The Story of 'Uzair, (Ezra). God says:

OR LIKE THE ONE WHO, AS HE PASSED BY A DESOLATE VILLAGE, ALL IN RUINS, SAID, 'HOW CAN GOD BRING THIS BACK TO LIFE AFTER ITS DEATH?' THEREUPON GOD CAUSED HIM TO DIE AND THEN, AFTER ONE HUNDRED YEARS, BROUGHT HIM BACK TO LIFE. GOD ASKED HIM, 'HOW LONG HAVE YOU STAYED AWAY?' A DAY, HE SAID, OR LESS THAN A DAY. MAY, YOU HAVE BEEN AWAY FOR A HUNDRED YEARS. NOW LOOK AT YOUR FOOD AND DRINK; THEY HAVE NOT SPOILED. LOOK AT YOUR DONKEY. WE ARE GOING TO MAKE OF YOU A SIGN FOR ALL MANKIND. WITNESS THE BONES OF YOUR DONKEY, HOW WE RAISE THEM AND CLOTHE THEM WITH FLESH. WHEN IT HAD ALL BEEN CLEAR TO HIM, HE EXCLAIMED, I KNOW THAT GOD HAS THE POWER TO DO EVERYTHING.

(S2:V259)

Commenting on this story, Ibn Kathir says:

God brings him back to life, beginning with his eyes, so he can see how life is brought back into his body and what God does when creating life into a lifeless body. Then God draws his attention to his donkey being brought to life. He witnesses how the bones come together and how flesh begins to clothe them.

Al-Fakhr Al-Razi says:

The bone pieces begin to join each other, and each organ is fixed as appropriate. Every rib is fixed to other ribs, and each arm is in its proper place. Then comes the head, the nerves, and the veins. Flesh, then skin, clothes them. Hair grows on the skin. The body is breathed into, and suddenly it is alive.

The second story is that of Ibrahim being shown how the dead are brought to life. He prays to God:

MY LORD, SHOW ME HOW YOU BRING THE DEAD TO LIFE! GOD REPLIES, DO YOU NOT BELIEVE YET? YES, SAYS IBRAHIM, BUT FOR MY HEART TO BE REASSURED! AND HE SAYS, THEN TAKE FOUR BIRDS, DRAW THEM TO YOU, CUT THEM INTO PIECES, AND PLACE EACH PIECE ON A MOUNTAIN TOP. THEN CALL THEM, AND THEY SHALL SWIFTLY COME TO YOU!

One commentator says:

Ibrahim, Peace be upon him, cut the bodies of the four birds into pieces, then scattered them on the tops of four mountains. He held the heads in his hand and called the birds. The scattered pieces joined together, and the bodies came swiftly to him, each knowing to which of the heads Ibrahim was

holding it belonged. Ibrahim then said, I know how mighty and wise God is.

We know from this that body life is a life stressed in the Quran as the miracle of creation and an evidence of God's omnipotence.

Let man ask himself, if body life is not to be called life, what then it should be called. If the brain has life that influences the rest of the body, the same thing is true about other organs of the body, such as the heart, lungs, liver, intestines, and many others, without which man's life cannot go on. Why should one organ alone be the focus of attention? Why should other organs be neglected? and why should life and death be attributed to that organ alone?

The Quran Does Not See a Suspension of Feeling as Death

Suspension of feeling does no signify loss of life, unless perhaps one is speaking figuratively. No sane man would say about a sleeping person that he is dead. Nor is a lunatic or a person with imperfect responsibility and liability, such as an indiscriminating boy, described as lifeless. No one claims that any of these should be treated as a dead person under any conditions, unless, God forbid, we are going to claim that it is now man that controls life and death.

That is why the Quran tells us the story of a long unconsciousness, one that lasted three hundred years. Yet the body was still fit when consciousness returned to it after that long time. The Quran does not call that lack of consciousness death, although it would have been very easy and acceptable to do so. Some look at the incident as a miracle of keeping the body alive all that time. The miracle is related in the following story.

God says:

DID YOU THINK THE PEOPLE OF THE CAVE AND AL-RAQIM WERE A WONDEROUS SIGN OF OURS? THE YOUTHS TOOK REFUGE IN A CAVE AND SAID, LORD, GIVE US OF THE MERCY YOU HAVE, AND GUIDE US IN THIS AFFAIR OF OURS. WE SEALED THEIR EARS INSIDE THE CAVE FOR MANY YEARS, AND THEN BROUGHT THEM BACK TO LIFE TO FIND OUT WHO WAS BEST ABLE TO TELL THE LENGTH OF THEIR STAY.

Commentators and scholars unanimously agree that the expression "brought them back to life" here means "awakened them", because their bodies were alive. The evidence that their bodies retained their life is what God says later:

YOU CAN SEE THE SUN AS IT RISES DECLINE TO THE RIGHT OF THEIR CAVE AND AS IT SETS PASS THEM ON THE LEFT, KEEPING THEM IN AN ISLAND WITHIN ... WE TURNED THEM ABOUT TO THE RIGHT AND TO THE LEFT, WITH THEIR DOG STRETCHING ITS FRONT LEGS AT THE ENTRANCE. HAD YOU BUT LOOKED AT THEM, YOU WOULD HAVE TURNED AWAY AND FLED IN TERROR.

Difference Between Death and Life

When one looks at the two stories, those of 'Uzair and of the people of the Cave, even for just a quick glance, he notices several things, including the following.

1. The Quran, referring to the people of the Cave, uses the expression

WE SEALED THEIR EARS,

rather than "We caused them to die", or "We brought death unto them", for example. Death is not mentioned in this story at all, because what happens in this case is mere unconsciousness, while life goes on. That is why the Quran keeps reminding us that the bodies are sound and have not decomposed, that even their hair continued to grow throughout this period which the Quran mentions in this case as

THREE HUNDRED AND NINE YEARS.

Apart from hair, whatever usually grows, such as their nails and so on, have been growing. This is referred to, in the story, by the statement,

HAD YOU BUT LOOKED AT THEM, YOU WOULD HAVE TURNED AWAY AND FLED IN TERROR.

The terror would result from the length of their hair, nails, beards, and so on, which changes appearances and, when it goes beyond what is conventional and familiar, causes fear.

In 'Uzair's story, however, the body disintegrates and disappears. Death is mentioned explicitly, and so is resurrection, when bones and pieces are joined together. The story says,

THEREUPON GOD CAUSED HIM TO DIE AND THEN, AFTER ONE HUNDRED YEARS, BROUGHT HIM BACK TO LIFE,

and goes on until it says,

WITNESS THE BONES OF YOUR DONKEY, HOW WE RAISE THEM AND CLOTHE THEM WITH FLESH.

2. The Quran makes a point of telling us how a body is preserved when the brain is gone, so that the body would not be damaged and life would not be lost, until the fate ordained by God goes into effect. Then the person involved wakes up (or conscious life is restored to him). Preservation is achieved through two things, appropriate heat and continuous turning around of the bodies.

It is as if the story were thus teaching a lesson of advanced nursing, pointing out that a human being can go on living without mental powers for a long time as long as the care taken of him is appropriate. Anomalous conditions should be treated, tube feeding should be regular, the skin should be continuously taken care of and the patient should be turned around or his position should be changed regularly every two hours to prevent skin ulceration, and disposal of urine and stool should be taken proper care of. If all this is done with the proper attention, a person may live until he is sixty.

As mentioned above, the story in the Quran stressed warmth and the turning around of the bodies. As for nourishment, the people of the Cave are given divine food which God provides. With such food, there is neither urination nor bowel movement. What remains to be done is the turning around and the heat, to which God refers when he says,

*YOU CAN SEE THE SUN AS IT RISES DECLINE TO THE RIGHT OF
THEIR CAVE AND AS IT SETS PASS THEM ON THE LEFT,
KEEPING THEM IN AN ISLAND WITHIN, WHICH TAKES CARE OF
HEAT,*

and,

WE TURN THEM ABOUT TO THE RIGHT AND TO THE LEFT,
which is proper nursing.

Thus the story of the Cave People is the story of unconsciousness that goes on for three hundred years. The Quran does not call it death, but refers to its termination as awakening, because the nature of the human body did not change through decomposition. The situation is different from that in the story of 'Uzair, to which the Quran refers as death and resurrection.

Why then should we call a person who has lost consciousness for a few days a dead person, while the Quran declines to use the term for people who lose it for 309 years?

Life and Death as Viewed by Muslim Fiqh Scholars

Fiqh scholars speak of death and life in several chapters of their *fiqh* volumes, such as those on Funerals, Inheritance, Crime, *Jihad* or Martyrdom, and other subjects that relate to the dead.

They discuss, for example, how to determine life and death and when human life begins, because of the consequent rights, such as the right to inherit. The Prophet, Peace be upon him, says,

"If a new-born infant cries, it inherits." (6)

He also says,

"No prayer for the dead is performed for it and it neither inherits nor is inherited, unless it cries". (7)

Therefore, *fiqh* scholars have felt themselves called upon to define life and death by referring to the signs of life which can be detected in the body of a new-born infant and in its motion, stillness, and the sounds it makes, as will be discussed below, for the only way to recognize life is through its signs. God says:

AND WHEN WE ORDAINED FOR HIM TO DIE, THE ONLY THING THAT BETRAYED HIS DEATH TO THEM WAS A WORM EATING AWAY HIS STAFF. WHEN HIS CORPSE FELL DOWN, IT WAS CLEAR TO THE JINN THAT HAD THEY HAD KNOWLEDGE OF WHAT WAS TO COME, THEY WOULD NOT HAVE CONTINUED IN THEIR HUMILIATING SERVITUDE.

(S34:V14)

Signs of Life

Fiqh scholars speak of various signs of life, such as crying (or the sound that comes out of the body of an infant at birth), sneezing, breathing, and movement, whether it is slight or lasts for a long period of time, such as the movements of the heart or the body, or of respiration. In this context, two types of signs concern us. These are:

Respiration

Scholars of the Hanafi, Shafie, and Hanbali Schools (8) say breathing is the same as movement in determining the life of a person because respiration means life. It is a natural movement of the chest, accompanied by natural heartbeat. All of this shows that the person who is breathing is alive.

Movement

Scholars of the various schools agree that movement is a sign of life. Some, however, only recognize movement that takes a long period of time, one minute or longer, while others accept any body movement as a sign. Two points are implied here. The first is that it is the body which is involved in determining life and death, because it is the body that moves. The second is that scholars accept any movement or, in some cases, movement that lasts one minute or more, as a sign of life. Could there be then a movement that betrays life better than the movement of the heart, the pumping of blood into arteries, respiration and chest movement, and the functioning of other organs, including the liver, kidneys, intestines, and so on? That is why *fiqh* scholars never recognize the mind or awareness as the source of life, for how can that be determined in the case of a new-born infant?

Fiqh Scholars on the End of Life

Fiqh scholars speak of the end of human life and what should be done to get a dead person ready for burial and to bury him after performing what is needed before burial, such as lavation, shrouding, the Prayer for the Dead, and so on. For burial always immediately follows death in correspondence with God's saying,

THEN HE CAUSES HIM TO DIE AND BE PUT IN HIS GRAVE.

Scholars say, "This applies if a person's death is ascertained, the signs of which are that he stops breathing and his lips part". Others add other signs, like "the temples collapsing, the nose getting crooked, the nerves and legs dropping down, facial skin turning flabby, and the testes contracting upwards with the scrotum dangling down". (9)

In addition to these signs, certain conditions are set down. In *Rwadhah Al-Talibin* (vol. 2, p. 98), Al-Nawawi says:

If there is suspicion of something unnatural about the death of a person, or if there is the possibility that it is a temporary failure, or if his face reveals signs of terror or something similar suggesting the possibility that he has fainted or that he is in a coma, or the like, [his burial] must be postponed until death is ascertained through the change of odour or something of that sort.

So after listing signs of death, *fiqh* scholars pay special attention to precautions against pronouncing a person dead before the body has

irrevocably lost its life, all types of life. They set it as a condition that death should be ascertained beyond any doubt. When there is the slightest doubt, the corpse is kept until its odour changes and no doubt remains. This has been the unanimous view of scholars since the early days of Islam.

When the body is still alive, the chest is rising and falling, breathing is going on, the heart is beating, glands are functioning, and everything other than the brain is still living, it would be very odd to hear someone say the person concerned, who is lying down while all this active life is going on inside him, is dead. It is something no *fiqh* scholar or even doctor has so far claimed, and that is a sign of respect of life, man, and humanity, unless the pronouncement is meant to signify the future condition of such a person after a certain period of time.

Islamic rulings are always based on certainty rather than suspicion, particularly when such an issue is involved. For example, for a person who has been missing while travelling, fighting in a war, or engaged in some other activity to be considered dead and for relevant rulings to apply in his case, a certain period of time, defined by scholars, has to pass, so that his death may be ascertained or deemed as most probable, on the basis of what is common among people to be a reasonable period to assume a person unlikely to be alive. When this period is over, the person is pronounced dead. His wife begins her waiting period, his property is divided, condolences are accepted by his family, and so on.

Islamic Law and the Dignity of the Human Soul

In many passages of the Quran and *Sunnah*, Islamic Law stipulates the sanctity of the human soul and exalts its stature. God says:

WE HAVE HONOURED ADAM'S CHILDREN AND TRANSPORTED THEM OVER LAND AND SEA. WE HAVE PROVIDED THEM WITH MANY DELICIOUS THINGS AND EXALTED THEM OVER MANY OF OUR CREATURES.

(S17-V70)

Islamic Law emphatically forbids assault against the human soul when nothing that calls for retaliation has been committed. God says:

... WHOEVER KILLS A HUMAN BEING, EXCEPT AS A RETALIATION FOR MURDER OR PUNISHMENT FOR CORRUPTION ON EARTH, IT SHALL BE AS THOUGH HE HAD KILLED ALL MANKIND; AND THAT WHOEVER SAVES A HUMAN LIFE IT SHALL BE AS

THOUGH HE HAD SAVED ALL MANKIND.

(S5:V32)

Deterrent punishment is stipulated when someone dares to commit such a crime. Not only his sin is doubled and he is promised to receive painful torture and to be in Hell through eternity, in accordance with God's statement that,

WHOEVER DELIBERATELY KILLS A BELIEVER, HIS PUNISHMENT IS HELL WHERE HE SHALL ABIDE PERMANENTLY. GOD WILL BE ANGRY, WITH HIM, AND CURSE HIM, AND PREPARE FOR HIM WOEFUL SUFFERING.

(S4:V93)

but deterring punishment on earth is also stipulated in his case. Although it differs on the basis of whether the murder is intentional or accidental, the punishment is severe in each of these cases. Moreover, retaliation or blood money is added to that punishment. All of this is to protect the human soul and the dignity, sanctity, and rights it enjoys.

It should be mentioned in this context that Muslim *fiqh* scholars all agree that a human fetus has sanctity once spirit is breathed into it, because destroying it means destroying a human soul with no justification. Some scholars go as far as saying it is unlawful to destroy a zygote, or even a sperm, even before spirit breathing, because it represents the seed of a human being endowed with sanctity and dignity.

I would therefore like to draw attention to the following.

1. Since the logic of our Islamic Law, as seen through the statements of our scholars, goes as pointed out above, does it not make more sense to protect the life of a person when this life is still evident and characterized by vitality, and when the person continues to breathe and to grow?
2. There are still many secrets concerning man, and his life and death are still highly mysterious, although some of the secrets have been uncovered by science. Still, every day there is something new introduced that serves human life. Therefore, it is a highly risky thing to pronounce a person dead or alive without making sure and being certain.
3. One of the recognized principles of legal evidence is assumption of continuity, which is to assume something to continue as it has been unless a decisive evidence to the contrary is established. When

someone has known a certain person to be alive, he assumes that person to be still alive and behaves accordingly, until a decisive evidence of death is introduced. When someone knows a woman to be the wife of a certain person, he testifies to the marriage unless an evidence that it has been terminated is established. Now when the body of a person is alive, continues to take nourishment and to urinate, has shown no change and indeed continues to grow, where is the legal evidence that this human life has come to an end? How can this person be pronounced dead when a well-known legal principle says, "The natural thing is for what has been to go on until a change is proved to have taken place," and another says, "What is known to be certain cannot be cancelled on the basis of what is suspected"? And how can certainty be claimed when the pulse of the body goes on, when human life is filled with mysteries, and when what is discovered one day is proved to be mistaken the following day, while what seems impossible today is probably one of tomorrow's common things?

Legal Rulings Concerning a Person Who No Longer Enjoys Rational Life

A person may lose rationality. In this case, he is regarded as irresponsible, like a child throughout his infancy or a lunatic, whatever his age is. Both of these lack "reason" so they bear no liability of commission and their words and deeds have no legal consequences. The Prophet, (Peace be upon him) says,

"Three are temporarily not responsible: a sleeping person until he wakes up, an afflicted person until he is cured, and a child until he grows up".

This is an authentic tradition, related in this wording by Abu Dawood quoting 'A'ishah. He also relates it quoting Ali and Umar with the phrasing,

"a lunatic until he is cured and a sleeping person until he sobers".

Again he quotes them as saying,

"a lunatic until he comes to his senses"

and

"a boy until his puberty".

So a lunatic is not expected to pray, fast, or go on pilgrimage, and if he does any of these things, they are of no consequence. Nor does he have to make up for missed prayers and days of fasting after he is cured.

Rulings in matter other than worship also apply to such a person. No contracts he makes or actions he takes are valid. All the responsibility assigned to a lunatic or a child, in case he commits a crime against a human soul or against property, is a financial, rather than physical, one. If, for example, he kills a person or destroys the property of others, he has to pay blood money for the slaughtered person and make up for destroyed property. But no retaliation applies in his case. This explains the statement of scholars that "An intentional act by a child or a lunatic is accidental". In the absence of reason, no planning can be made and, therefore, there can be no intention".

Although duties of commission are waived in the case of a non-responsible person, his full rights are preserved. He may receive gifts and is entitled to inherit and be inherited upon his death, and to receive support. On the other hand, he has to bear certain financial duties, such as providing, out of his property, for his wife and children and meeting other responsibilities, such as compensation for destroying the property of others. So he has rights and duties, the same ones to which a person is liable from the moment of his birth. Every person, in his infancy and age of indiscrimination and after reaching the stage of puberty and beginning to discriminate, whether he is mentally healthy or not, whatever his condition is and whatever stage of life he is going through, has full legal competence for certain rights and duties. This applies to a person as a human being, whether this being is male or female, fetus or born, child or adult, rational or irrational, sane or insane, healthy or invalid. It is a competence based on a natural human quality, so what makes a being competent is the fact that he is human, or, to make things clearer, the basis of one's competence is his physical, rather than mental, life. As long as he has a living body, he is fully competent for those rights and duties.

Thus it is physical, not mental, life which is taken into consideration in such cases. As already pointed out, mental life is considered when it comes to duties of commission, most of which concern worship and the religious duties of a person towards his Lord. How can some people then claim that physical life has no value and no sanctity, thus opposing the followers of the Book and the *Sunnah* and the unanimous view of Muslims?

Unstable Life

As define by *fiqh* scholars, unstable life is the moments right before the body becomes lifeless; it is what people call the process of spirit

departure. To this life certain rulings, concerning the lawfulness and unlawfulness of slaughtering an animal apply, but also in the case of human beings, there are rulings used as a basis to determine what action has been decisive in ending a human life, when more than one action are committed, in order to assign punishment to the real criminal, and to determine as well the nature of the crime and extent of punishment due, when only one action is committed.

It is worthwhile to mention how *fiqh* scholars declare that one may not ignore this unstable life, nor may death be announced before all forms of life end, which can be ascertained when the body turns stiff and still forever.

The question now concerns the aggression committed by a physician against a person in such condition in the form of removing resuscitation equipment or terminating intravenous feeding. How is such action to be regarded? I say that if it is committed with no proper justification, the ruling is clear. It is indirect manslaughter, the punishment for which is well-known.

If, however, a hospital has only one set of equipment and there is a person who is certain to recover with the use of the equipment, I say first of all that officials must acquire the equipment in sufficient numbers. They sin if they fail to do so, because such an acquisition is a necessity. If the hospital cannot afford it, or if additional equipment is not available, it is all right to discontinue using the available equipment for a patient when it is certain that using it is in vain and to apply it to another patient whose life can be saved with it. This, in my view, is similar to causing a sick woman, to whom pregnancy is hazardous, to abort her child in order to save her life. In both cases an uncertain life is sacrificed to save one which is certain to survive.

On December 12, 1981, the Religious Rulings Committee at the Kuwaiti Ministry of Endowments ruled that it is permissible to discontinue using such equipment for a patient whose life is certain to end shortly in order to save the life of a person who is certain to survive with the equipment.

Organ Transplantation

Scholars have ruled that it is lawful to transplant organs from an animal to a human being without any conditions and from a human being to another under certain conditions.

When the donor is a living person, the conditions are:

1. The donor of the organ must be a sane, rational adult who can judge things properly and is aware of his best interests.
2. There must be no risk to the donor's life.
3. The operation must be a necessary one, such as the case of a human being whose survival depends on such a transplant.
4. There should be no alternatives, or the alternatives should be such that they do not yield the desired result.

As for transplanting organs from a dead person to a living one whose life is threatened, there is nothing wrong with it. God, Blessed and Most Sublime is He, says:

... WHOEVER KILLS A HUMAN BEING, EXCEPT AS A RETALIATION FOR MURDER OR PUNISHMENT FOR CORRUPTION ON EARTH, IT SHALL BE AS THOUGH HE HAD KILLED ALL MANKIND; AND THAT WHOEVER SAVES A HUMAN LIFE IT SHALL BE AS THOUGH HE HAD SAVED ALL MANKIND.

Moreover, this is a form of support to the desparate, a support which is obligatory when someone's life is threatened. There is no violation of the sanctity of the dead in such a case, because the preponderant interest in saving a person who is close to death takes priority. Asking the dead person's family for permission is a merely conciliatory gesture which aims at keeping them satisfied and avoiding trouble. Actually, however, they do not have the right to give or keep parts of their relative's body.

As I see it, there is no need to keep the body of a dying person alive in order to remove certain parts. Organs removed from a corpse right after death are refrigerated, preserved, and transported from one country to another without suffering any damage. What then is the justification of keeping a person alive, then sentencing him to death, in order to remove a "spare part" from his body when there is no pressing need?

Furthermore, what guarantees are there against violations aimed at creating a business out of purchasing and marketing organs, similar to the violations in certain countries, where corpses or organs of the dead are sold to medical students and others without any control or impediment? Such violations cannot be allowed in any self-respecting society, not to say a Muslim society in which the dead have their own sanctity as the living, an evidence of which is a tradition narrated by 'A'ishah, may God bless her soul, and related in Al-Muwatta' and by Al-Tirmithi, with an

authentic chain of reporters, saying,

"Breaking a bone of a dead believer is similar to breathing it while he is still alive".

It is implicit that the breaking mentioned here is that which is committed as an aggression, as a slight, without justification, or just out of indifference. When there is a necessity or a benefit expected from such an action, then, as I have already mentioned, it is all right.

The Consequences of Proclaiming a Person's Death

When someone dies, certain religious and earthly consequences follow. Among these are:

1. that certain contracts made by the dead person are regarded as valid, while others, such as silent partnerships and the like, become void;
2. that any will made by him, up to a maximum limit defined by him or by Islamic Law, becomes effective, and its amount is taken out of his property and added to that of the person mentioned in the will;
3. that his property is no longer his, for it now belongs to his legal heirs;
4. that his debts have to be paid, whether they are due or not;
5. that the effects of death on securities and promissory notes go into effect;
6. that the support he had to pay to certain people is no longer due;
7. that his marriage comes to an end, his wife begins her waiting period, and the deferred part of his wife's dowry is due;
8. that whatever objects he is entrusted with for safekeeping must be given back to their owners;
9. that a successor must be appointed if the dead person is a caliph, imam, or judge;
10. that certain governors are removed from office if the dead person is a ruler; and
11. that any truce he has signed becomes void and any treaties he has concluded are reconsidered.

These are examples of the earthly consequences of proclaiming the death of a person. There are other, religious consequences: things that

have to be done and rulings that must be followed. Among these are the following.

1. The dead person has to be washed and buried in accordance with the injunction not to delay burial when death is ascertained.
2. The Prayer for the Dead should be performed, as it is due to take place before burial. Now should the Prayer be performed as soon as the brain of a person is pronounced dead, or should the other parts of his body be waited for to die? And how about washing and burial? Or will there be no Prayer and no burial since the body is going to be cut apart and donated to various patients as some physicians suggest?
3. Condolences are extended. Should these condolences be expressed and accepted after burial or before it while the patient still lies on his hospital bed?

And do the aforementioned earthly rulings go into effect as soon as the brain is said to be dead or after the rest of the body dies? Does the dead person's wife begin her waiting period, is his property divided, and should part of it be retained to cover the expenses of shrouding and burial?

All these questions are waiting for answers.

Additional Questions

1. Scientists have been able to find a substitute for the brain that controls blood circulation and the respiration, and digestive systems and keeps the body fit and alive. This substitute is the resuscitation equipment. Why then do they consider a person dead while the substitute continues to function?
2. Those who claim that a person dies with the death of his brain focus on loss of consciousness, but this is not an evidence of death. Otherwise, the lunatic, people who have fainted, and the paralysed are all dead, which no sane person has so far claimed.
3. What do physicians say about a person whose heart fails, his breathing halts, and he stops moving, then his heart starts beating again as a result of massaging or electric shock? Is he, in their convention, a person who has died and come back to life? Or are such things irrelevant in determining life and death, the only relevant thing being the brain? What do doctors say about those who die and those who died in the past without having their brain waves measured. Were

they buried alive, or are there more than one type of death, one type when the measuring apparatus is available and another when it is not?

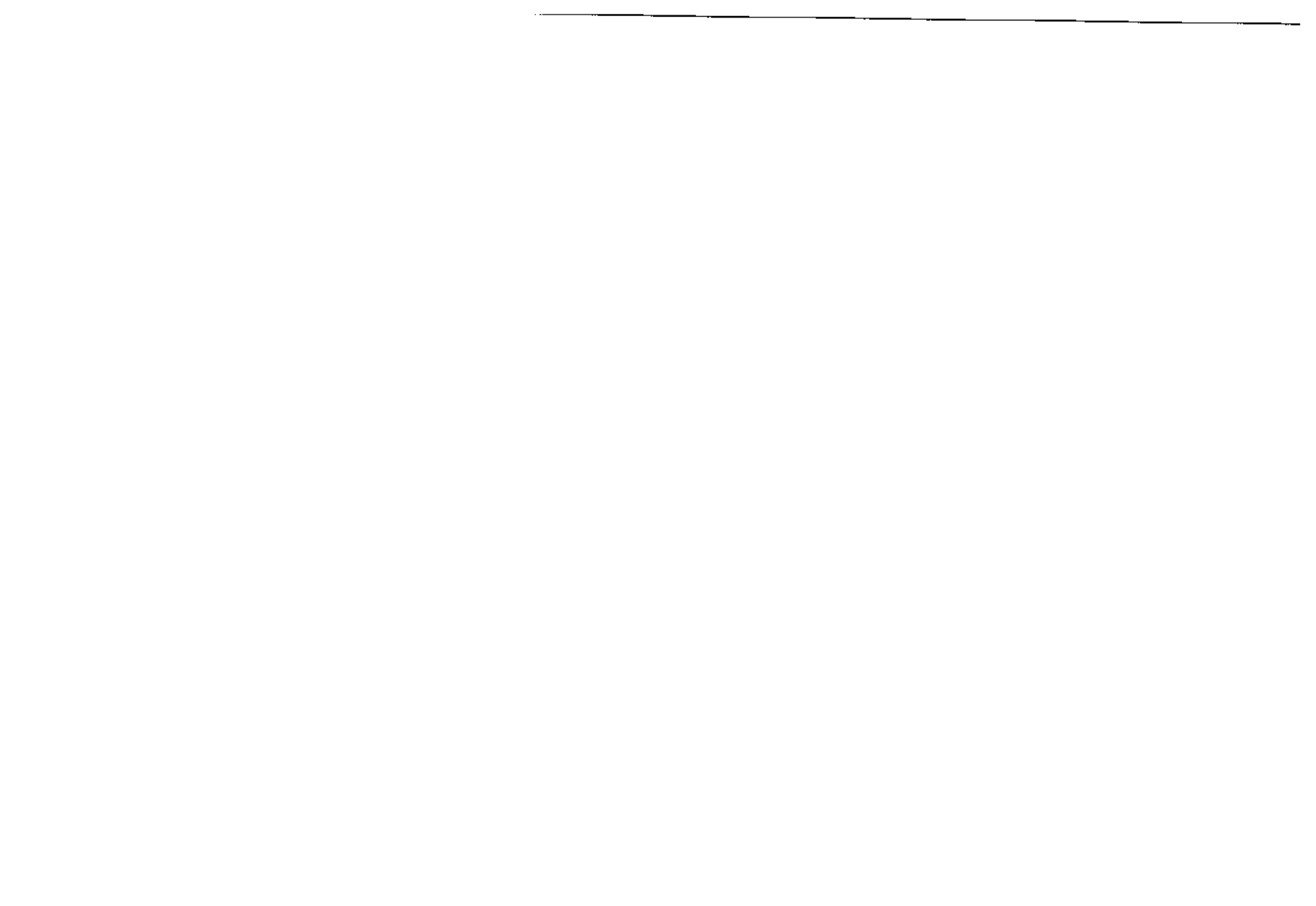
4. Some nations have deviated to the extent of considering a human being in his old age a burden that should be better disposed of, by placing him either in an asylum or a home for the aged, since he is regarded as no longer effective or useful. Is this idea going to be generalized and developed to include everyone who is disabled or has lost his strength?

If such things are taking place in nations where materialism is dominant, we, praise be to God, still hold tight to the teachings of our great religion, which exalts man, whether he is strong or weak. The Prophet, Peace be upon him, utters the truth when he says,

"Would you have been given your livelihood or supported, had it not been for the weak among you?"

Notes

1. See that under the proper item in *Lisan Al-'Arab, Maqayis Al-Lughah*, and Abu Al-Hilal Al-Askari, *Basa'er Thawi Al-Tamyiz wa Al-Furuq fi Al-Lughah*.
2. Al-Fakhr Al-Razi's *Commentary*, 21, 43-44.
3. *Ibid.*, 9, 125.
4. Al-Mawardi, 4, 362.
5. Al-Fakhr Al-Razi, 30, 232.
6. Related by Abu Dawood.
7. Related by Al-Tirmithi and Ibn Majah.
8. *Al-Mabsut*, 16, 114; *Al-Jamal*, 2, 191; *Sharh Al-Rawdh*, 3, 19; *Al-Khrash*, 2, 46; *Al-Insaf*, 7, 331.
9. See *Al-Fatawa Al-Hindiyah*, 1, 154; Khalil's *Mukhtassar*, 1, 37; *Muntaha Al-Iradat*, 1, 323; *Rawdhat Al-Talibin*, 2, 98; Ibn 'Abdin (Al-Halabi's Edition), 1, 189.



THE END OF LIFE

Abd Al-Qader Ibn Muhammad Al-'Amarī
Judge, First Court of Islamic Law, Qatar

Death

Undoubtedly natural death is gradual. First the cells die, then the tissues, and then vital organs and systems. This is followed by the failure of the whole body. There is however, unnatural death. If a person's arch of the aorta is cut off, he dies. That is why God, Most Powerful and Sublime is He, says:

HAD HE INVENTED LIES ABOUT US, WE WOULD HAVE SEIZED HIM BY HIS RIGHT HAND AND WOULD HAVE CUT OFF THE ARCH OF HIS AORTA. NONE OF YOU COULD HAVE BEEN ABLE TO PROTECT HIM.

(S69:V44-47)

It is said that

the arch of the aorta is the ligament of the heart. It is a vein that goes across the back and is linked to the heart. If it is cut off, a person loses all his strength and dies.

Ibn Taimiyah says:

The verse does not mean that God would cut off that particular vein, but rather than when a person invents lies against Him, God causes him to die, as if He is cutting his arch of the aorta off. Similar to that is what the Prophet, (Peace be upon him) says:

"The effect of that meal at Khaibar still recurs inside me. That was the time my abdominal aorta was cut off".

It is said that the abdominal aorta is a vein connected to the heart. If it is cut off, a person dies. As if the Prophet means to say that that was the time of his being poisoned, as if he were killed by having his aorta cut off.

On the sign of death, when a person dies after a disease, *fiqh* scholars say that the legs drop down and cannot stand erect, the nose becomes crooked, facial skin turns flabby, the shoulders get dislocated and are no longer joined to the arms, and the testes contract upwards and the scrotum dangles down. Scholars add that when doubt exists or there is the possibility of a temporary heart failure, there having been no illness earlier, or when the signs of terror or the like are evident, [Burial] has to be postponed until certainty, through the change of odour or some other means, is reached.

One scholar says, "Death may be ascertained by feeling the vein between the heel and the hamstring or by feeling a vein in the rectum". Another says:

One of the signs of death is that body motion comes to a stop, a person's colour changes, and his breathing halts. Therefore, the death of a pregnant woman is ascertained by placing a scale or something similar on her navel. As long as the scale moves, the woman is alive. This is valid when she is known to be pregnant either through her statement to that effect or the statement of a person who is not suspected of lying.

Of course, scholars speak of such signs because, at their time, they did not have the means to be absolutely sure and the equipment available today were not known to them.

Actually we cannot draw a line which separates life and death. In the past, physicians said the dividing line was the failure of the heart, and now they say it is the death of the brain. But how do we know that science will not discover the means to revive a patient and activate the brain as it has done with the heart?

Therefore, I suggest that we refrain from recognizing any legal end of life and proclaiming the death of a person unless there are clear signs of the type defined by scholars. On these signs we may base the application of legal rulings, including inheritance, termination of a widow's waiting period, and so forth. As for the medical discovery that the actual death of a person coincides with the death of his brain, we can look at a person whose brain is dead as a hopeless case, and his doctor does not have to keep the equipment which prolong the stage of dying in vain attached to him. *Fiqh* scholars say that a dying person is virtually dead. Therefore, it is all right for the doctor to disconnect such equipment, because life which depends on artificial equipment is not real life.

To base legal rulings on clear factors that can be recognized by the majority of ordinary people makes more sense than to base them on things known only to specialists or to a limited number of people. For this reason, I believe that to adhere to what *fiqh* scholars say concerning the question of fetus inheritance would spare us many problems that may result if we base the question on a physician's diagnosis concerning the life of a fetus. The same thing applies to the evident signs of death, which I suggest we adhere to.

THE END OF MAN'S LIFE

Sheikh Saleh Mousa Sharaf

Member of the Islamic Research Academy,
Al-Azhar University

Imam Al-Ghazali and others define death as the departure of the spirit, that is its leaving the body after having dwelled in it. This departure may have many causes. As the common saying goes, "Causes vary, but death is the same". Among these causes are murder, heart diseases, the breaking down of brain systems, and other fatal occurrences.

If any of the causes that have been known and tested occurs to someone, it is impossible for him to survive. That is why Imam Al-Ghazali, in an attempt to reconcile the claims of those who believe a murdered person dies at the time ordained for him and those who advocate the contrary, says:

Death has many causes, such as murder and other things, including fatal diseases, so when such causes combine together in a slain person, his death comes at the time ordained for him, because even if he is not killed, he would die all the same. When, however, murder is the only cause, the body being healthy, his death comes earlier than the time ordained for it, and the penalty should therefore be doubled.

That is why some commentators, discussing the story of Musa (Moses) (Peace be upon him) says that when he spurs a man causing his life to end, Musa has no intention to kill the man. The latter is afflicted with fatal diseases. This is the reason that makes it important when an accident happens to someone and he dies to call for a coroner to find out whether it is the accident that has caused that person's death or there have been other causes in addition to the accident.

Now we come to the question of whether the breaking down of brain systems has to combine with any cause of death or whether one of the other causes is sufficient by itself. On the basis of experience, the latter is true--for to slay a person, for example, means to damage blood vessels

that carry the blood to the various parts of the body--unless it is said that such an act causes the breaking down of brain systems by cutting off their blood supply.

Yet, life may continue for quite a while with the breaking down of brain systems. A patient may go into a long-lasting coma, while all his other systems continue to function well. This is what happened to a woman in Finland; she went into a deep coma for a long period of time, then she died as soon as she had delivered a fully-developed baby. If the breaking away of some brain systems is sufficient to end a person's life, the woman would have died much earlier.

Another question remains. How can we say a person is dead, even when there are some causes of death, such as brain damage or heart or liver failure, while the body of that person is going into convulsions? In fact in some animals and birds, such convulsions, sometimes even flights, are familiar, but they do not seem in harmony with death, which causes the body to be still.

The answer to that is that the convulsions result from the slowness of the process of spirit departure, which is resisted by each organ of the body. It is also said that the convulsions are a lingering effect of the life that has been in the body prior to the act of slaying. In such a case, caution calls on us to wait until the slain creature has quieted down and death is ascertained before putting into effect the legal rulings subsequent to death.

When someone is mortally wounded and his body is in convulsion, and someone comes along and ends the dying person's life, the wound has to be considered. If it is fatal, as when both jugular veins are cut off, the person who has committed the second act of killing is not regarded as a murderer, though he has sinned and should be chastised to discourage people from committing any aggression against the dying, on the pretext of putting them to rest, for example. The dead enjoy dignity and sanctity. If the wound, however, is not fatal, the second assailant is considered a murderer who, like the first, deserves to be killed in retaliation.

We come to the claim that brain damage is the only cause of death and that life goes on in the rest of the body. The person who has made the claim used as evidence the fact that the heart of a dead person continues to live when transplanted to the body of another person, whose own heart is damaged. This, he says, is because life remains in all body organs.

Seeking guidance from God, I reply that, first, death and life are two

opposites, so how can they possibly exist in the same person at the same time?

Second, the Quran itself shows that such a theory is false. God, who utters only the truth, says:

IT IS GOD WHO RECEIVES (MEN) SOULS AT THE TIME OF THEIR DEATH, AND DURING THEIR SLEEP, THE SOULS OF THOSE WHO HAVE NOT YET DIED. HE WITHHOLDS THOSE UPON WHOM HE HAS DECREED DEATH, AND LET THE OTHERS GO FREE FOR A TERM SET (BY HIM).

(S39:V42)

The phrase,

HE WITHHOLDS THOSE UPON WHOM HE HAS DECREED DEATH,

is an evidence that all parts of the body die, because the soul is the abode of life, consciousness, and awareness, and when it is held by God, life is cut off all parts of the body.

Third, when attending a dying patient, one realizes how the spirit gradually departs, and how the organ from which it has departed moves no longer and becomes ice-cold.

As to the evidence of transplanting organs to a living body, actually it is this living body that supplies the implanted organ with new life after it has di. It is a case similar to that of a seed that one plants in the soil but fails to water. It dies. Yet, if one begins to water it, it is brought back to life. If a heart is transplanted from one human corpse to another, does it live? Of course it does not.

Concerning transplanting an organ from a corpse into the body of a person whose life is threatened, scholars have allowed that on the condition that the death of the organ's original owner is ascertained and that the members of his family approve the procedure. A dead person has sanctity and his body may not be deformed. The Prophet, Peace be upon him, forbids the disfiguration of the corpses of Islam's enemies. The corpses of Muslims better deserve to be protected. This, however, is a case of necessity, where the living have priority over the dead, and that is why it is allowed by Islamic Law if all the family members of the dead person agree.

It is from God, Most Powerful and Sublime is He, that one receives guidance.

THE INCEPTION AND END OF LIFE

Dr. Omar Sulaiman Al-Ashqar
College of Islamic Law and Islamic Studies
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Because it is not easy to separate Dr. Al-Ashqar's paper into two sections, one dealing with the inception of life and one with its end, we decided to publish the whole paper in Part One, which deals with the Beginning of Human Life. Readers can refer to that part to find out this scholar's view of the end of life.

Editors

THE END OF HUMAN LIFE

Dr. Mostafa Sabri Ardughdu

Mermara College of Divinities, Istanbul

A human body has cells, and its organs perform certain functions. A disruption in the function of any organ affects the performance of other organs in varying degrees. If an organ fails altogether, but is expected to resume its functions under new conditions, this means the organ still has the ability to live, or that it is alive but is in a state of suspension. This leads us to the question of whether physicians may or may not transplant an organ from a person who has completely died and whose death has been ascertained. Is it lawful for us to transplant organs from one person to another? Does a person have the right to will some of his organs to be used after his death? Does Islamic Law allow tampering with organs and bodies under any circumstances?

Another aspect of the question is that doctors say a heart stops to function altogether when it is no longer supplied with oxygen or with blood. If oxygen supplies are resumed within 20-30 minutes, the heart starts functioning again. If oxygen supplies are not resumed, the heart is gradually damaged. Within 90-100 minutes, it loses its ability to live.

The same thing is true of the brain, except that the brain loses the ability to live within four minutes. When the brain is in the process of dying and has arrived at the stage of no return, no resuscitation effort or blood circulation can help. In such a case, it is possible to transplant organs from one human being to another. Such a procedure may be regarded as a form of rescue to a person in distress, and it is a Muslim's duty to rescue someone who is about to perish:

... *WHOEVER SAVES A HUMAN LIFE, IT SHALL BE AS THOUGH
HE HAD SAVED ALL MANKIND.*

(S5:V32)

Fiqh scholars, however, agree that only in a state of war, assault against human life, even under conditions of necessity, is lawful. Moreover, we cannot sanction the removal of an organ, such as an eye or

the heart, of a person who is approaching death to give it to another under the claim that it is a case of necessity or an act of human compassion. The parts of a person's body are not his own property. On the other hand, it is impossible to make certain that a particular patient is going to die, because only God knows what the future hides.

That is why many world physicians describe heart transplantations as violations of ethics and values as they realize an often unguaranteed benefit for a person at the expense of the interest and the life of another. If a just and trustworthy Muslim doctor, however, is certain that the person whose heart or eye are to be removed is going to die soon and has no doubt about that whatsoever, it is lawful to transplant the organ to another person who badly needs it. The living have priority over the dead, Islamic Law urges us to pursue our interests and recommends acts that bring benefit to others, and situations of necessary permit what is otherwise prohibited. Such a transplantation saves the life of a heart patient or restores eyesight to a person who has lost it, both of which are acts that bring great blessing and are legally recommended. Similarly, dissection is permitted when it is done for education purposes, to determine the cause of death, or to prove a criminal's guilt. This is in harmony with the view of Maliki, Shafie, and Hanafi scholars who permit cutting the belly of a dead person open to retrieve money that he has swallowed and that belongs to someone else, if the amount is worth the trouble and cannot be covered by the dead man's property.

Fiqh scholars discuss the end of human life and the things that should follow death to prepare a person for burial, shroud him, perform the Prayer for the Dead, and the like. They say:

This applies if a person's death is ascertained, the signs of which are that he stops breathing, his eyes become dull, his lips part and cannot close, and his legs drop down unable to stand erect. (1)

What makes it certain that a person has died is that his body becomes still, never to move again. A legal principle says, "What is known to be certain cannot be cancelled on the basis of what is suspected," and another says, "The natural thing is for what has been to go on until a change is proved to have taken place." And how can a doctor then claim to be certain when the pulse of the body goes on, and when what is established as true one day is proved to be mistaken the following day?

There are other facts in addition to these. A dead person has sanctity. Islam forbids us to deform the body of the dead, even those of infidels. We

are also forbidden from doing any harm to the body of a dead believer. An authentic tradition related by Abu Dawood, Al-Tirmithi, Ibn Majah, Al-Tahawi, Al-Daraqotni, Al-Baihaqi, and Ahmad says,

“Breaking a bone of a dead person is similar to breaking it while he is still alive”.

The version related by Al-Daraqotni adds,

“and as sinful”. (2)

In one of the books written by Hanbali scholars, we find, “It is unlawful to cut off any of a dead person’s limbs, or destroy or burn his body, even if he himself has willed it”. (3)

Therefore, we cannot consider a life to have legally ended and regard a person as dead unless one of the signs of death mentioned by scholars in *fiqh* volumes is evident. It is on the basis of such a sign that the property of a dead person is inherited, the waiting period of his widow is calculated, and other legal rulings are applied.

Some of our colleagues will argue that an interest is involved here and “wherever there is an interest, it is admitted by Divine Legislation”. But the interests recognized by Islamic Law are five: religious, soul, psychological, offspring, and financial interests. Moreover, interests fall into three categories: those recognized by Islamic Law, those made unlawful by the Legislator, and those which are neither recognized nor made unlawful but are simply not discussed. All the participants in this seminar are aware of all these. I only wish to add one final word on the subject. The interests made unlawful by the Legislator cannot be used as a basis of a ruling. To come up with any opinion that opposes a legal ruling is one of the temptations a person is exposed to by the whims of his soul.

Peace and God’s Mercy to you all.

Notes

1. Khalil’s *Mukhtasar*, vol. 1, p. 33; *Rawdhat Al-Talibin*, vol. 98; *Al-Fatawa Al-Hindiyah*, vol. 1, p. 154; Ibn ‘Abdin, vol. 1, p. 189.
2. *Irwa’ Al-Ghâliil*, vol. 3, p. 214.
3. *Kashf Al-Qina’*, vol. 3, p. 127.

**DISCUSSIONS
ON
THE END OF HUMAN LIFE**

REPORT ON THE FOURTH SESSION

His Excellency Dr. Abd Al-Rahman Abdulla Al-'Awadhi chaired this session, which was held at 9 a.m. Dr. Muhammad Al-Ashqar acted as assistant chairman, replacing Dr. Omar Al-Ashqar. Dr. Mukhtar Al-Mahdi acted as secretary.

Dr. Mahdi gave a gist of the medical view of the end of human life (i.e. death), and this was followed by additions made by the doctors who had submitted papers. Inquiries were made by the audience, whether *fiqh* scholars or others, concerning the medical aspects of the question.

Dr. Abd Al-Rahman Abdulla Al-'Awadhi had to leave the session before its conclusion for another meeting he had, and Dr. Sadad Sabri chaired the rest of the session, which was convened at twelve noon.

Editors

Dr. Abd Al-Rahman Al-'Awadhi, Chairman

Today we begin our second meeting, and I would like to thank all participants in the discussions of yesterday, which I have heard about. I would also like to apologize for not being able to attend with you yesterday, due to the problems a person who is burdened with the task of being a cabinet member has to face when there is some political or parliamentary dialogue or something of that sort. I also wish I could stay with you one more hour today, but I have to leave at about 10:30 or quarter to eleven, for which again I am sorry. I leave you although I long to attend these sessions with you and listen to what goes on. However, the media are covering the meetings, and, if God grants me life, I will sit down and listen to everything.

I was particularly happy yesterday to hear the reactions of physicians, many of whom said they indeed felt to be much behind *fiqh* scholars. This made me happy because I believe it to be true. A doctor is taught and trained to look into the minute details or everything, but often this way of looking at things makes one forget the general, comprehensive, and all-embracing view, which is how Islam looks at matters. Naturally different opinions result when the perspective differs, and the starting point of a Muslim, or, to be more specific, a person with high Islamic education and training is completely different from that of a doctor, with his medical education and training. Regardless of how imaginative and far-sighted a physician is, basically his point of view is analytical; he looks at the cell, the chromosome, molecules, and all such things. And there lies the problem, because however we try, it is almost impossible for us to make a person abandon the things that have become a second nature to him, one of which, in the case of doctors, is this extremely analytical viewpoint. Unfortunately, they frequently forget comprehensive truths and generalities. They forget, for example, that any operation they perform to abort or to deliver a handicapped child, or something similar, will bring an infant that will be a new member of society, which means there are many arrangements and reactions involved.

Therefore, I am actually happy. What I have heard shows we are following the Islamic track. In fact, Islam is a collection of very advanced, very perceptive, far-reaching, and greatly comprehensive theories, which are able to embrace, at a pitch-dark age, all branches of science and to allow science to advance. It is my conviction that the Islamic view is very far from all the theories with which we are familiar. It is a more progressive, more revolutionary theory. Unfortunately, however, our concept of

theories has been very limited. Now we are trying to broaden it. I am very happy because this is exactly what I have expected and looked for. From the very beginning, when I started to think that this approach is basic in the Islamic medical practice, I realized how Islam's point of view is so comprehensive that no scientist, who is devoted to investigation and analysis, can have it in full. But when a Muslim starts at the same starting point, the whole attitude and the whole background are different. This is what makes me very happy. I hope, by God's will, that we will go on like this and that physicians will not take it that they are defeated by *fiqh* scholars. It is my belief, however, that *fiqh* scholars have more profound knowledge and greater imagination, although this is a very new concept. I had some discussions with a number of participants and I could feel that. Again what makes me very happy is that I believe Islam will always be able to prove itself superior to all theories. This is the foundation that we should be very proud of. Yet, our knowledge of our own religion is extremely poor. We should look at the history of this religion and see how it has been able to create new societies and a new civilization, which is by no means an easy achievement.

I repeat once more that I am actually happy and hope this spirit will continue, by God's will. I also hope that today we will cover the other aspect of our topic, which is the end of life. Naturally it is a more difficult and more painful and sorrowful aspect. In addition, it is much harder to arrive at decisions here than it was on the beginning of life. Still, we have to find out what our religion tells us and what it teaches us, and how the concepts of our practice may be developed by our religious ones. I believe in practical things. This is the basis, and without this general concept, I do not believe we can achieve any progress. Some of you might see things differently, but this is my point of view. I am a man who believes that when he sees things within certain limits he should mention these and let them be discussed. Of course you know many things better.

I hope, by God's will, that we will be successful in arriving at a general understanding of the whole question. Let us begin our discussion by calling upon Dr. Mukhtar Al-Mahdi to give us a summary of the question of the end of life. Of course, as we have agreed, those who have submitted papers have the right to voice their opinions if Dr. Al-Mahdi fails to mention them or favours one particular view. General discussion will follow.

(Dr. Al-Mahdi's presentation is published with the Medical Papers.)

Dr. Abd Al-Rahman Al-'Awadhi, Chairman

Thanks to Dr. Mukhtar for this presentation and I hope he has been able to go through the points of view of all contributors on the subject. I notice that certain adjectives are used by Dr. Mukhtar to distinguish between natural life and organic life. There is a very wide distance between these lives, and we want to try to make it shorter and to find out at what point we meet. Now, I will give those who have contributed papers no more than five minutes each, and I will be strict on this.

Dr. Ahmad Shawqi Ibrahim

A human being is not merely a body; he is also a soul and a spirit. We may learn something about the body, but of the true nature of the soul and the spirit we know nothing. The only reference available on them is what is told in Divine Revelation (The Book and the *Sunnah*), from which we have to take information and accept it without argument. Our empirical sciences are incapable of being the other side in any discussion. Our role is limited to the task of trying to understand correctly the passages that deal with the subject.

There is the question of whether life ends when a heart stops beating.

It is not the heart that beats inside the human chest which is mentioned in the Quran and *Sunnah*. The word "heart" is rather used to mean awareness and reason. Imam Al-Ghazali, in *Ihya' Ulum Al-Din*, says that the word "heart" is used to mean two things. The first thing meant is the blood-pumping organ located on the left side of the chest, and it is a concern of physicians. No religious matters are associated with it. Beasts also have such hearts, and even a dead man has one. It is a mere lump of flesh.

The heart, in its second meaning is the divine spiritual nicety linked to the human body. It is the reality of a human being, and the part of him that perceives, understands, and knows; the part which is addressed and which is accountable. The minds of most people, Al-Ghazali adds, have puzzled over the relation between it and the physical heart. They are related the same way symptoms and bodies, and adjectives and nouns are related. But when we use the word, we mean this divine nicety, and we may speak of its conditions and features, but we are unable to tell what its true nature is. Perhaps the heart is man's reason and intellect; the word for reason is mentioned in the Quran, and the word "heart" refers to it instead, so "heart" is synonymous with "reason". God says,

**SURELY THERE IS IN THIS A REMINDER FOR EVERY PERSON
WHO HAS A HEART AND WHO LISTENS AND WITNESSES.**

(S50:V37)

Al-Qurtubi says in his Interpretation:

'Who has a heart' means who has reason to contemplate with, and the heart is used metaphorically to mean reason. But it is also taken to mean who has a soul that can make distinction. So the heart is used to refer to the human soul.

God also says,

**OUR LORD, DO NOT LET OUR HEARTS GO ASTRAY AFTER YOU
HAVE GUIDED US. GIVE US SOME OF YOUR MERCY, FOR YOU
ARE THE GIVER.**

(S3:V8)

Here also the word heart is used to mean reason.

The word for chest is also used to refer to the soul, as in:

... **WHO WHISPERS IN THE CHESTS OF MEN,**

(S114:V5)

meaning to the souls of people. There are many other verses. In a verse in the Sura of Al-Haj, where the words for both heart and chest are used at the same time, God says:

**HAVE THEY NOT WALKED THROUGH THE LAND? AND HAVE
THEY NOT HEARTS TO REASON WITH OR EARS TO HEAR WITH?
IT IS NOT THE EYES THAT GO BLIND, BUT RATHER THE HEARTS
INSIDE CHESTS DO.**

(S22:V46)

"Hearts to reason with" means reason with which to perceive and understand.

Ibn 'Abbas says:

**"When God's verse, 'HE WHO IS BLIND IN THIS LIFE IS GOING
TO BE IN THE HEREAFTER MORE BLIND AND LOST', (S17:V72)
was first revealed, Ibn Um Maktum said, 'Apostle of God,
here I am, blind in this world, so does that mean I will be blind
in the Hereafter?' For this reason God revealed the verse that
says, IT IS NOT THE EYES THAT GO BLIND, BUT RATHER THE
HEARTS INSIDE CHESTS DO. This means that he whose heart**

is blind and cannot be guided to Islam will be in Hellfire in the Hereafter”.

The Prophet, Peace be upon him, says, “A person can never be admitted into Paradise when he has an iota of pride in his heart”, i.e. his soul.

There is another point. It is clear that the “heart” mentioned in the Quran and *Sunnah* is awareness, reason, intellect, and perception. But when the heart stops beating that does not signify an end of reason or perception, nor an end of life. The heart of a person may temporarily stop beating, yet he continues to live. The heart later resumes beating as a result of one kind of treatment or another.

As for the end of human life, it is the final death of the brain itself, because the brain is the medium of awareness, reason, thinking, and perception. I fully agree with Imam Al-Ghazali’s opinion concerning the heart; he says reason is related to the physical heart in a way which is beyond our comprehension and our empirical sciences, proving God’s declaration: ‘LITTLE INDEED IS THE KNOWLEDGE YOU ARE GIVEN’. (S17:v85) What I feel satisfied with is that the end of human life is the death of the brain and the failure of the heart simultaneously. No person is to be considered dead unless his heart also stops, because this heart is, as mentioned above, related to reason in a way which is unknown to us and is beyond the scope of our empirical sciences. If a patient’s brain has died completely, but he is still aided with resuscitation equipment, which is making it possible for the heart to go on beating, this patient should be looked upon as a living human being who deserves our respect because he is human and because of the life he still has. But it is all right for the doctor to discontinue resuscitation when he is sure the brain is irrevocably dead. When the resuscitation equipment is removed, the heart and respiration come to a halt, and it is only then that human life ends.

Dr. 'Isam Al-Sherbini

Before I speak on the subject, I would like to settle accounts with the chair, if you allow me. With your permission, concerning the five-minute limit, the topic under discussion is new to both physicians and *fiqh* scholars, and therefore needs much clarification and elaboration, so allow me more time and I promise not to repeat myself. I will only clarify what has been summarized and stress what lacks sufficient explanation. But before that I ask for two or three additional minutes to make general observations about this seminar.

Actually I want to repeat what I said at the opening of my remarks yesterday. Namely, that theory should not be divorced from practice or else it would be fragmentary. Many aspects of our discussion would sound like saying, *DO NOT GO INTO PRAYERS* and stopping at that point. I hope we will not do again what we did yesterday. After a session that lasted over ten hours, we were reluctant to devote few minutes to a practical question which we daily confront as physicians and which concerns all people and every household. I am referring to Dr. Ma'mun's question about using an intra-uterine device (IUD). After the discussion of established conception, we were faced with a question about an ovum which, though fertilized, failed to remain inside the uterus and to implant itself into its wall, but was summarily driven out. What also worries me is to see two inconsistent attitudes taken at the same time; when we raise a question of practice, we are told that the seminar is committed to the topic of the Inception and End of Human Life. Nevertheless, a fellow physician, Dr. Ahmad Al-Qadhi I believe, calls upon the seminar to come up with a strongly-worded, clearly-phrased recommendation concerning abortion, because there are 700,000 such cases in America. I urge doctors in general, and those who have chosen the title of this seminar in particular, and I invoke their religious feelings, their consciences, and their integrity, to fear God, avoid extremes, not to force *fiqh* scholars into a narrow space and then ask them to come up with a ruling, and not to be too occupied with their medical concerns and too zealous about their religion to remember the benign spirit of Islamic Law, which makes most of its stipulations, as we have been taught by our *fiqh* scholars, simple, clear, and easy to understand, in most cases, by both specialist and laymen.

Next, I come to the subject of death, and on this, I am like the bedouin who said to the Prophet, Peace be upon him, "*To be sure I am good neither at your, nor at Mu'ath's, drone*". I am not going to delve into the spirit, nor the soul, nor any of these things. I will rather define the questions to be raised. When does a person die, i.e. when do I pronounce him dead? When do I remove the equipment? When do I cut him open and remove an organ? This is the issue. As for the questions of what human life is and what spirit and soul are, I hope we will not get too busy with them and forget the questions of application.

Let me say here that so far, most people still die the same way we are used to. Sometimes a patient, at a hospital, is killed by a familiar disease. As usual, the end comes when his heart and respiration stop. I fill the necessary forms and say this person is dead. If I am uncertain, I wait a few

minutes or more, in accordance with the instructions which I actually was given while I was still a student thirty years ago. I give orders for him to be moved to the ward of the dead within two hours. Such things still go on. Most cases are like that: persons who die at hospitals or at home, persons whose brains die and there is no time to use the resuscitation equipment in their cases. Such are the majority of cases. But there is a current problem that Islamic *fiqh* has to face. As we have been told by scholars in their papers, there is no text that deals with it explicitly, so it is subject to medical opinion, on the basis of which a *fiqh* opinion is to be developed.

Dr. Mukhtar has explained the meaning of brain stem death. I would like to add here that physicians have not easily accepted this way of defining death, that is connecting it with the death of the brain stem. It took them many years, beginning with the introduction of resuscitation equipment on a large scale in the Korean War in the fifties and the cases of polio in Denmark and America. Doctors realized that the brain, and I mean specifically the brain stem, may begin to get damaged while the heart is still functioning when artificial resuscitation is employed. The process took years of research in France, Italy, America, and England and various committees, such as these committees of ours, of physicians, jurists, and clergymen were set up. Then definitions began to be made and revised. Perhaps one of the most recent, and I mention this one because it sums up and revises earlier efforts, is the definition made by the Conference of Royal British Medical Colleges for Surgeons, Gynecologists, and Internists. With this definition they listed a number of specific rules and conditions, which have been mentioned by Dr. Mukhtar and we have no time to go into in detail. This explanation, however, is necessary lest *fiqh* scholars think that doctors are indifferent. In fact, they may be more meticulous than *fiqh* scholars themselves in admitting innovative practices and theories, even when these are backed by a lot of detailed research.

Dr. Mukhtar has mentioned that a patient whose brain stem has died is in a coma, and a doctor has to rule out all the possible causes of coma that are curable, such as taking drugs and hypothermia in countries where it does get very cold. There should be no doubt about the damage to the brain that leads to death in this way. In other words, when we are not sure what has caused the coma, our diagnosis cannot be brain stem death.

This means that physicians believe now that when the brain stem of a person dies, he dies regardless of how long artificial resuscitation systems can keep the organs of his body alive. After this medical concept has been

arrived at, researchers have pointed out that there are not several concepts of death; there is only this one concept for various signs. When the heart dies or fails, or respiration or blood circulation stops, man dies when his brain stem does, because when the heart or respiration stops, the brain stem dies. When, on the other hand, death begins with the brain stem, the heart and respiration follow. Yet in all cases, the concept of death is the same; it is the death of the brain stem.

I have mentioned that doctors were reluctant to accept this at first. What have they done to prove the theory? It is not a theory that lends itself to experimentation because it requires that resuscitation equipment be removed. I would like to remind you that the problem we are discussing is that of a patient aided by a respirator because he cannot breathe naturally. Doctors have tested his ability to breathe and discovered that he cannot. It is known that his brain has suffered fatal damage, and he is comatose. Laboratory tests have been made and the results examined by a specialist of no less experience than Dr. Mukhtar. What can be done to test the theory that the patient will die in any case, whether the resuscitation equipment are removed or kept or whether his brain is dead or alive.

On the one hand, all cases where brain stem death had been diagnosed by physicians and yet respirators were kept were compiled, as mentioned in Dr. Mukhtar's paper. A soft-hearted physician like Dr. Mukhtar when he was treating (famous Egyptian singer) Um Kulthum, a country where the law forbade the removal of respirators in such cases, or some other reason stood against disconnecting the respiration equipment after brain stem death had been diagnosed. The medical committee that undertook this study in England compiled 700, or to be precise 734, cases of this sort. These were examined to find out whether any of these patients lived. It was discovered that not in a single one of these cases, where brain stem death had been diagnosed, the patient survived. Since we are speaking of cases, I would like to ask Dr. Mukhtar if the late Um Kulthum continued to breathe several weeks after the death of her brain stem was diagnosed. The outcome of this study is that when the brain stem is diagnosed as dead, organs die. The heart in particular dies after a period that ranges between a few hours and a few days, with an average of three days and a half. In some cases of child patients, the heart continued to beat for fourteen days. The five week figure is new to me, but the organ is bound to die in spite of the aid of equipment, because we are dealing with a patient whom we describe as medically dead.

Now we look at things again, but from a different point of view. Is it possible to observe these specific conditions and yet diagnose the brain stem as dead when it is not. 1,200 cases were compiled of patients admitted into hospitals in a state of deep coma resulting from head injuries. The patients in these cases were alive after three months, which was the period the study took. The files were gone through to find out whether it was possible for the brain stem to be diagnosed as dead in any of these cases. Not one single case was found where brain stem death could have been diagnosed if the conditions made for such a diagnosis were observed.

So both sides of the issue were tested to find out whether it was possible for a patient in whom the brain stem was diagnosed as dead to revive and whether in the cases where the brain stem was not diagnosed as dead it could have been possible to make a mistake and diagnose it as dead. These were two of the methods followed by doctors to test this theory, the theory of the death of the brain stem. Precautions have to be taken so that no physician would rashly make such a diagnosis. This is why conditions have been set down and become official instructions in some countries. So among the precautions is to have clear instructions setting specific conditions that have to be met when death is diagnosed. Such conditions were set down in a statement by the physician federation, that is the Conference of the Royal Medical Colleges of Britain, in 1976. A year later, the British Ministry of Health adopted them as official instructions to be followed in hospitals.

We do not have to go over these conditions, but clear and specific instructions have to be made by the medical authorities at the Ministry of Health or at a particular hospital. When a diagnosis of death is made, it should be made by more than one doctor with sufficient experience. Of course Dr. Mukhtar has mentioned some of these conditions. Every ministry or medical authority has to set conditions. In the cases where an organ or more are to be transplanted, none of the doctors who make the death diagnosis as mentioned earlier should have anything to do with the team of doctors involved in the transplantation. But the conditions I have mentioned at the beginning of this paragraph are the same whether or not a transplantation is going to be made.

One more point. When death is diagnosed, the diagnosis does not have a retroactive force. That is, we do not assume the patient to have been dead the minute he was admitted into hospital, but rather from the time a doctor diagnoses with certainty that death has occurred. It is then

that the fiqh rulings specified by scholars go into effect. But not with a retroactive force. As long as we have doubts, the patient is alive, and only when death is ascertained he is dead.

The Chairman

Thank you.

Dr. Mukhtar Al-Mahdi

The question mentioned by Dr. Isam concerning the number of weeks after the death of the brain which I have mentioned, the fact is that we did not make all the tests that absolutely ascertain the death of the brain stem, because we were not planning to follow them anyhow. Therefore, perhaps a longer period than was actually needed was set down because it was not properly computed. The reason why we do not currently disconnect resuscitation equipment is that we are waiting for the legal ruling that will come out of this seminar.

Dr. Ahmad Al-Qadhi

I fully agree with what Dr. Mukhtar has mentioned as an organic explanation of death and the role the brain plays in it, and I would like to thank him for the way he presented the subject. One of the advantages of death is that it brings most doctors together. I will postpone the notes I want to make, which are written and you have them, till the next session, because they are closer to the topic of that session. I will, therefore, take advantage of the few minutes Dr. Hassan and I are entitled to, to raise a question which kept me from sleeping early this morning, for it might help in phrasing the recommendations of this seminar, whether they concern the sessions of yesterday or of today. I stayed up last night, planning to catch one or two hours of sleep after the Fajr (Dawn) Prayer, but this question occurred to me and kept me from sleeping. I will phrase it to you the way a layman would put it, because layman language might be more logical than the language of specialists. The question was inspired by what I heard yesterday when some of us cast doubts concerning the life and the human nature of an embryo during the first few weeks or months of its life or existence, or perhaps I should say its non-life or non-existence! Let us suppose a female patient, who is pregnant, comes to me, or let us suppose the pregnant lady is my wife, and someone asks me a sophisticated question about the species of the embryo. I do not mean its sex, whether male or female, but its species, whether it is a human,

animal, or plant embryo. I describe the question as sophisticated because the common thing is for a person to assume, when he sees a pregnant lady, that the embryo is human. But perhaps I am asked this question in my capacity as a Muslim medical scientist who has come here from America. It is a problem. If I support the theory of vegetation life, I should say this is the embryo of a palm tree or a corn or sugar-cane stalk. If I am a supporter of the animal life theory, I should say it is the embryo of a dog, cat, camel, elephant or giraffe, or it is the embryo of an animal which has not yet been classified by scientists. If I say it is an animal embryo, he may think the innocent lady has been raped by an animal which got her with an animal child, and if I say it is a plant embryo, most probably he will doubt my words and my sanity. He may call the police or the Department of Mental Illness at the Sabah Hospital. So suppose that, to safeguard the lady's reputation and avoid any doubts of my mental powers, I answer that it is a human embryo.

Then more trouble comes; he asks me another question, whether the embryo is alive or dead. This is also a problem. If I say it is dead, the questioner must have learned from his mother, grandmother, and the women in his neighbourhood that when an embryo dies--and "dies" means that he has been alive--it is miscarried. Which means the lady bleeds and with the blood the dead embryo is flushed out. It is customary for a healthy womb to get rid of a dead embryo, so in order not to create any problem between the questioner and his mother, his grandmother, and the women in his neighbourhood. I assure him that the embryo is alive.

It is God's blessing which gives me the good fortune that he does not ask me a third question, which is what I call the life of that embryo. He does not ask because he still retains some of that natural logic which man has from the time he is born. He has put things together and concluded that since the embryo is a human embryo and it is alive, its life must be human life or embryonic human life. I say it is my good fortune he does not ask me because I do not know how to answer him. I knew the answer before coming to this seminar to simply be "embryonic human life", but after yesterday's sessions and until the findings of the seminar are set down, I really do not know what to say. I want to be honest and do not care to have an opinion different from that of the majority. I respect the exchange of counsel and the opinion of scientists and experts as we heard them yesterday.

Therefore, I address my brothers and sisters at this seminar, asking them to phrase the terms in a way that layman can understand. What I

mean is that I give up on scientists, but at least let the phrasing be understood by laymen. In asking this, I am not addressing your intellects, but your consciences, hoping that God will lead you to where the benefit to your fetuses lie.

Dr. Abdulla Basalamah

Mr. Chairman, I have donated three minutes and am now entitled to two. I will try to be as brief as possible. In fact, in our effort today to define the end of life, we want, as Dr. Al-Sherbini was kind to say, to achieve something. What we want to come up with is, first, what legal obligations are consequent to the end of life; second, when may respirators be removed; and third, when may an organ be transplanted from one person to another.

Therefore, the answer to the question concerning the end of human life has to be clear, so we can act properly, or refrain from action, in these matters. If we say the end of life coincides with the death of the brain, this would take us back, at least from a philosophic point of view, to the beginning of human life to say that life begins when brain creation begins. This also takes us, I believe, to some of the questions raised by Dr. Ahmad, and the issue should be settled on a foundation of scientific facts in a way that meets his requirements and expresses what he has in mind. For if an embryo is seen by the naked eye within the first few days or weeks, I, you, or any scientist whatsoever, cannot distinguish it from any other embryo in any animal womb, unless it is examined under microscopes or assumed, for the sake of argument, to be a human extension. Inside, the embryo is human, but externally, it does not differ from other embryos. It is something that has life. Is it alive or dead? It is alive, because life is there in the earlier sperm and in the ovum, not to mention the zygote. Then it has a life. Does it have a spirit? Here I pause with you. If I am the one to answer, I would say yes, because I imagine the spirit to exist in every cell and not to be dependent on the brain alone. If it seems that the spirit is in the brain stem or the brain itself, that does not negate the fact that life also exists in the cells of the heart, the cells of the liver, and all other cells. The evidence is what we mentioned yesterday; these cells cannot be born spontaneously. They pose a mystery as long as they live. I believe final death occurs when all life stops in every system, as evidenced in the fact that when God wishes the heart to die after the death of the brain, he inflicts ulcers upon the body of the patient. God's will is fulfilled, perhaps in stages after the death of the brain, but I believe that

death occurs with the death of all the cells of the body that can display signs.

Thank you.

Now let me add one remark just to set the record straight without getting into technical details. The question of soul, spirit, body, life, and death came out as a result of what the lecturer had mentioned and what colleagues had said in comment. All these are highly intricate questions and are not mere empirical ones. They have great spiritual depths. The point, however, is that I would like to note that the questions of soul, spirit, and mind all reflect on real life and have real significance. They are not empirical questions, but we know about them by the clues we have, though perhaps not everybody may recognize them. The point is that the lecturer wants to define the location of the soul and the centre of awareness to be the brain stem. Another objects and says they lie in the heart. Others opt for other places. The point is that the existence of the soul itself as an independent substance, with its own entity, is a problem. Its nature is a problem. Its location is a problem. Its relationship with the body is a problem. If we suppose it is located in the brain, the heart, or any other place in the body, we have to worry about its exact location and the point at which it and the body come into contact. In fact there are many opinions, but we all know of the existence of the soul or the spirit by their special functions which we can detect, the same way we know that life is going on by its functions. Still, the question is not within the scope of our perception, and the opinions are very great in number. To get into them would distract us from our important topic. It is sufficient that we make the distinction between the body as a tool, or perhaps part of the body (i.e. the brain), and that thing which we are so far incapable of perceiving, although, through logical inference, we can conceive that between the human body and what we call the spirit (which together form a unique combination) is some kind of special relationship that affects the depths of each of them and allows them to communicate and employ one another. This can only be possible by a type of correlation that is deeper than meets the eye.

Dr. Abd Al-Rahman Al-'Awadhi, Chairman

I would like to listen to more discussion, but I would like first to raise a point. Whenever this subject is discussed, physicians handle two aspects with which they are daily faced. Their first starting point is their relationship to the patients they are treating. Another starting point is the legal

involvement. We believe that this aspect, that is man-made law, should be based on what is agreed upon and on the religious stipulations based on that. Often, we are controlled by the man-made laws we have. Yet, we have met because we have to arrive at a clear idea of what Islam dictates to us in the form of a concept of this life.

Let me give you a simple example. A woman once came to us asking to be transformed into a man. I am citing this example so that all of you would get the picture. This woman, who was strikingly feminine (and who was the subject of reports in the Kuwaiti Press), went to a doctor. He began to turn her into a man by a combination of different procedures. He gave her hormones and made for her a penis of sorts. He removed her ovaries in order to make the physical penis with hormonal stimulation. I learned of the matter and discussed it with officials in the country where it took place from the legal point of view. Here we have a person who changes the creation to another in a particular way, though the change is artificial and cannot be really done. She will continue to be a woman but will bear no children. Now we come to the legal aspect. How should this doctor be looked at? Should religious teachings be invoked? and should we say to the doctor that he has no right to tamper with God's creation? Or can he get protection from the law and claim that a person is free to do what he likes with his body, and the woman involved wants her body to be changed?

What we are discussing is not far from that question. What should have one point clear. As physicians, we should come up with a definition and explain it to the honourable *fiqh* scholars, saying, this is death, whether we want this death to be complete, or, as the doctor said, death of the self. He spoke of the life of the self and organic life, and between these two we should be able to find death. It is not our job as doctors to tackle philosophical questions. We merely make things clear, highlight the facts. Then we ask *fiqh* scholars for rulings, and it is their responsibility; they will account for it, because they have more learning in *fiqh* than we do. Moreover, if doctors or scholars make a mistake in deciding when to remove the equipment, God will ask them to account for it. It is the doctor who is the direct medium in disconnecting the equipment, or, as some say, in killing the patient. After what Dr. Ahmad Shawqi has said, we should be cautious. When the brain is damaged, the patient is dead, and it is all right to remove the respirator. Now, when the *fiqh* scholar gives his opinion, when he says for example this fetus is such and such, we can proceed and make a law. In other words, a physician is brought to account on the basis of man-made law, rather than the real concept of death according to

religion. So what I want now is a definition, if we all accept the same concept. The same thing applies to Dr. Ahmad Al-Qadhi. We want to know what the ruling is on this religious question. Then we can change all laws to make them in accordance with the ruling. This is because man-made laws follow the religious rulings that we adopt.

I hope this is clear, and I will try to join you in the afternoon, by God's will. But I believe the starting point is clear for us, physicians. I hope we will not go back to the old question and resume the discussion of cells and of manslaughter.

I do not wish to study the spirit as if it were a scientific phenomenon; I leave such a question to *fiqh* scholars to express the matter more clearly and say that this, in his opinion, or according to common knowledge or to the teachings of Islam, is the spirit.

I also hope we will reach a conclusion. Unless we do, we will always suffer a type of intellectual confusion as well as a troubled conscience everyday. And in such a situation, it is the cabinet member who bears the responsibility. Even if I give an order, as suggested by Dr. 'Isam, establishing a system to determine life and death, the person who will be brought to account, if not here then in the Hereafter, is the person who heads the staff that establishes the system and who gives orders for this and that to be done. Therefore, I hope I will have confidence, when I take such a wide-embracing decision, that it is made in accordance with the teachings of our religion as interpreted by *fiqh* scholars, who are more versed than us in such matters. I leave you now, and perhaps you will have more freedom in your discussion. I thank you all.

Dr. Sadad Sabri, Chairman

I have now a request from Dr. Hassan to speak, but I in fact have a question that might complicate things further. I have been on a case which has to be mentioned in a discussion such as this. We had a patient who suffered a fracture. We performed an open heart surgery, and right after it she seemed to have died. We applied the resuscitation equipment twice, and she revived. But after the operation, she continued to be unconscious for three months, after which the director persuaded me to stop everything and let her die, because, he said, she was finished. I made a suggestion. I said that I had heard about experiments conducted with animals by giving them doses of cortisone. And since we had a good supply, I suggested that we try it with her and things would not be worse than they were. We did. We gave her thirty times as much as the normal dose was. In three

hours, she woke up, and soon she was discharged and went home. This makes me seriously question the cases in which we pronounce the patient to be dead. Is he really dead? Thank you.

Dr. Hassan Hatthout

In reference to your story, it is clear that the brain stem had not died. But there is another point. In the light of our experience yesterday and to employ the time of this seminar of ours wisely and come out with fruitful results, by God's will, I would like the discussion to be divided into specifically defined stages. I propose that, first, we avoid any general or detailed discussion of the nature of death, because we know nothing about it and we do not need to know. So let us not waste our time with it. Second, the question under discussion is the diagnosis of death; what the conditions are that allow a doctor to diagnose a patient to be dead. Third, are these conditions medical in nature or something else. I believe they are medical. Even in old days, *fiqh* scholars recommended using a mirror which is placed under the nose, to discover whether there was any breathing, or to feel the chest or the pulse to find out if the heart was still beating. These are medical measures. If we agree that the measures have to be medical, perhaps it is better, in recognition of specialization, to ask the doctors to explain them to *fiqh* scholars. The medical methods of yesterday have undergone development as a result of scientific progress. There are additional conditions which physicians want to set down as sufficient for a diagnosis of death. But it is the religion scholars who will come up with a ruling. Physicians, however, want to make sure that *fiqh* scholars have comprehended the medical aspect of the question, so that we all should feel confident that the ruling is the outcome of good understanding of the medical question.

I therefore propose two rounds of discussion. First, *fiqh* scholars should address questions to doctors until they feel confident they have fully grasped the picture. Second, I suggest that one of the honourable religion scholars should then explain before us the merely medical aspect of the question, so that we can make sure the raw material has been received in full. If his account calls for additional medical explanation or for some correction, we do that. Yes, it is a test. What we are undertaking is a ruling, so if we are fully certain, with this real and tangible evidence, that *fiqh* scholars have grasped the medical facts, we are then at their command in whatever they rule.

Dr. Ahmad Al-Ghandour

Now, after I have heard Dr. Mukhtar say that it has been medically established that when the brain stem is damaged, human life comes to an end, heard Dr. Ahmad Shawqi Ibrahim say that motion and life have to stop in both the heart and the brain, and heard Dr. Basalimah say that all movement should come to an end, what I want to say to doctors is that undoubtedly we cherish their ideas, their opinion, and their medical knowledge, but we are extending our hands to join theirs in the effort to protect patients from harm and so on. The question is, as Dr. Hassan says, if a death certificate is to be made, should it be dated as from the day the brain comes to a halt or the time the spirit departs from all parts of the body? Second, when the patient is a man, does his widow's wailing period begin on the date of brain damage or at the time the heart stops and the spirit departs? Third, does inheritance become effective on the day the brain fails or the day the heart stops beating? Is it all right to shroud a person whose death has not been ascertained?

For the doctors to say that, with the evidence they have, brain damage is sufficient (for death to occur) is understandable, and we agree with them. But who knows? God may do something. Since the heart is still beating, and the spirit continues to depart from one part after another, till it leaves its dwelling altogether, why do we not make this gentle tenant the criterion? As I remember having heard, Dr. Mukhtar says it is a matter of three days (between the death of the brain stem and the heart coming to a halt), so why not wait four days before removing the resuscitation equipment? Who knows, perhaps by this we would be protecting a human life, which belongs neither to doctors nor *fiqh* scholars. It is the property of the Creator of physicians and scholars.

In fact, there are *fiqh* consequences for this. So it is not possible for any person, whether physician or *fiqh* scholar, or any law to claim that a person's life has ended while his body is still moving, even if that is the result of the feeding he is receiving. We have not forgotten the story of the Finnish woman whose brain, as newspapers reported, did not function for two and a half months. Then she gave birth to a fully developed baby, with normal weight and so on and so forth. When you say it still can be fed, this means the body still has the spirit, or that the spirit has not departed from the whole body. It has departed from the brain and is in the process of full departure. Yet, you are still unwilling to wait even these few days. This is why the Law says a physician who is responsible for something of this sort is to be punished. Analogous situations exist in Islamic *Fiqh*, but to spare

the time there is no need to cite them here. So I conclude to allow my colleagues and my teachers in the fields of *fiqh*, medicine and law the chance to speak.

Dr. Mukhtiar Al-Mahdi

I will begin by commenting on what Dr. Ahmad Al-Qadhi has said about not being able to sleep last night. I had the same trouble, and therefore I sat up thinking. I ended by writing down some terms, which I will read to you now, hoping they will be taken into consideration in the seminar's recommendations. I also hope we will all endorse them.

Sheikh Badr Al-Mutawalli Abd Al-Baset

In the Name of God, the Compassionate, the Merciful.

To tell you the truth, this is one of the most serious questions I have had to deal with in my life, though I was asked for a ruling on a great number of questions. This is because a proclamation of death entails many, many things. I am wondering, and I believe we are still at the stage of wondering, whether recently-invented equipment can bring life back to a heart that has really died.

Another question: Can a dead body accommodate the process of demolition and construction? I believe you have read the press reports of the Finnish woman. In fact, I have brought a paper with me, and what it says is similar to what Dr. Al-Ghandour has mentioned. I do not wish to add to that. We have also read in the paper about the American woman or girl who was for months aided by resuscitation equipment, until her father agreed to have them removed. But when they were removed, she continued to live. That was at a time when all were in agreement that the brain stem had died and she had been pronounced dead as a result. Yet, when artificial aid was discontinued, life went on. Is it then possible for a body to continue the processes of building and destroying after it has died, as the case of the Finnish woman suggests? Of course, it is a very amazing thing that she continued her pregnancy and delivered a baby. Now in this situation, if someone attacks the patient intentionally, should he receive the penalty of retaliation or not? So there are rulings to be based on the situation.

Another issue is that of two persons who are hanged on the same scaffold, but the pulse continues in one longer than the other. If they are related, which inherits the other? We have found the legal rule that applies

in such cases. I would also like to mention that the rule is to assume things to continue as they are. When a person's life has been ascertained, I cannot proclaim its end as long as any sign of its continuity remains. At the same time I would like the respectable physicians to examine the possibility of pronouncing the death of a person in whose body the process of building and destroying continues. This is a very important matter.

Dr. Abd Al-Aziz Kamel

I actually have three specific questions in mind, and I am hoping to get specific answers for them. While raising these three questions, I would like to say that perhaps it would be much better to completely separate the legal and the medical aspects. Sometimes we are influenced by legal aspects to the extent that they have reflections on purely scientific thinking. My questions do not concern any legal or *fiqh* aspects. They are purely medical.

The first is whether death is medically regarded as a process or as occurring at a specific moment?

The second question, if it is a process, when does it begin, with the damage of the brain stem? and when does it end, with the heart stopping?

Dr. Yusuf Al-Qaradhawi

Dr. Hassan Hathout has suggested a pattern to follow in discussing this intricate question. It is a pattern that I find appropriate provided that we agree on certain points.

Among these is, first, that we should be aware of the fact that this question is not even discussed from the language point of view. In linguistic works, we find that life is defined as the opposite of death. If we check the word death, we find that it is likewise defined as the opposite of life. The implication is that it is assumed every body knows these things. But in both language studies and Islamic Law, the question is left alone. Whom is it left to? Who defines the meaning of life and of death? It used to be left to convention. Now, are physicians today the party to define the meaning, that is the party that represents convention? Physicians themselves should answer this question.

But it is a question that should be settled in order for what Dr. Hassan has proposed to be acceptable, because it might be said that it is not necessary for a doctor to determine whether a patient has died. Some one

may object that Islamic Law is for common people, not for the educated, the illiterate, or city dwellers alone. It is for the educated and the illiterate; for settled population and nomads; for Al-Ghazali, Ibn Sina, and any person in any country estate anywhere in Asia or Africa. Therefore, rulings must be based on things that can be recognized by people. This is what we find in Islamic Law; it bases many rulings on tangible signs:

“Fast when you see (the new moon), and stop fasting when you see it again”. (1)

Timings are set as the time the sun begins to decline, sunrise, sunset, the point at which a shadow becomes twice the size of an object, and such things, all of which can be determined by ordinary people.

So again, is this a question that should be referred to doctors alone, so that no one is considered to be dead unless a doctor rules that his brain stem has died? Or can an ordinary person in some Asian or African village tell that? But how can he tell that the brain stem has died? This is something that needs to be settled.

Another point: why should we insist that death is the death of the brain stem? As I see it, it is for two reasons. One is to decide whether it is lawful to transplant organs from one person to another, particularly organs, such as the heart and liver, without which one cannot live. The other reason is to decide about removing artificial respiration equipment. This means the issue is greatly exaggerated, as I see it, and is influenced by man-made laws. Islamic Law handles things differently. None of our colleagues who have submitted papers discusses this point. They all seem to take it for granted that treatment with such equipment is a religious duty and an inevitable practice. It is a point that needs to be studied. I have started a paper on it but have not had sufficient time to finish it. The greater tendency among Islamic Law scholars, particularly those of the Hanbali and Shafi'e Schools, is that medical treatment is neither a duty nor an obligation, and I have collected many quotations to that effect. Imam Muhammad says it is better not to receive treatment. In the section on Dependence on God of his book *Ihya' Ulum Al-Din*, Imam Al-Ghazali has a whole chapter to answer the claims of those who say that in all cases it is better to avoid medical treatment. This implies that he believes treatment is sometimes better. Thus, the question is that of which is better. Though many *fiqh* scholars sanction medical treatment, the claim that it is an obligation requires decisive evidence.

Naturally, I do not myself adopt the opinion that treatment is merely

permissible; I believe it is probably an obligation when recovery is certain or very likely. But when it is neither certain nor even probable that a patient would recover if he took a certain medicine, how can taking it be an obligation? How can it be an obligation to keep resuscitation equipment working for weeks and even months in the case of a patient whose recovery is hopeless and the only thing it does is to torture him, if he has any feeling left, and his family and to cost them incredible amounts of money? I say, and probably Sheikh Badr and other scholars agree with me, that it is unlawful to waste all these efforts and this money in a case like this. If the equipment is disconnected, no Islamic Law is violated and no obligation is neglected.

Dr. Abd Al-Aziz Kamel has referred to something of this sort in asking you to keep your thoughts free from the influence of man-made laws and the like. We are certainly influenced by certain ideas and we base our judgement on them, claiming that resuscitation equipment is a must and turning the issue of this equipment into a most serious one, though, in my opinion, it is not a problem at all as far as Islamic Law is concerned.

I stop at this point to allow others the chance to speak. Thank you, and Peace and God's Mercy and Blessings to you.

Dr. Sadad Sabri, Chairman

Thank you, Dr. Yusuf. In fact the subject raised by Dr. Yusuf is a very important one and, I think, will change the course of our discussion. There are questions that have been repeatedly asked by *fiqh* scholars, and I believe it is necessary for a physician to answer before we go on. Therefore, I ask Dr. Mukhtar to kindly explain certain terms before the discussion continues.

Dr. Mukhtar Al-Mahdi

Here I am back with terminology, because an explanation of terms makes what we are talking about clearer. If we accept that life has levels, let us agree to the following. Conscious human life is what we all have. Body life is the life one has while he is asleep or anesthetized, under the influence of poison, suffering brain injury or death of the meninges, or in a coma. This life is real and while it goes on, there is still a spirit in the body. The third level is organic life, which occurs when the brain stem has died and some organ continue to live. For that life to go on, artificial respiration has to be supplied. Next comes a type of life called tissue or cellular life, which we can find only at a laboratory where tissues or cells are cultivated. This is only in the case of a normal human being. If we take an embryo, to

answer the question of Dr. Ahmad Al-Qadhi, things begin in reverse. Embryonic life begins as cellular, and this is followed by tissue than organic life, and, after spirit is breathed in, by body and conscious human life. These are the terms, and I hope, if you accept them, they will lead to agreement.

Dr. Ma'moun Al-Haj

First, let me thank Dr. Yusuf Al-Qaradhawi, who, I truly believe, has saved me the trouble of getting into detail on this issue. I have found many answers in what he has said, because the question, allow me to remind you, is a practical one. I am a Muslim, practicing physician, and, for a doctor, the practical aspect of the question of the end of life is whether to stop artificial respiration or not. Once it is stopped, one can wait for the heart to stop before any organs are removed. From the practical point of view, waiting creates no problem for physicians.

Another point I want to bring up is that, as Dr. Ahmad Al-Qadhi has mentioned about himself, I was also troubled by what took place at the seminar yesterday concerning the beginning of life. Let us take what Dr. Mukhtar said to be certain, that is death, from the scientific point of view at least, coincides with the death of the brain stem. I remember the last point he mentioned in his paper is that death is determined, as far as the doctor is concerned, when the death of the brain stem is confirmed by electroencephalography. When this occurs, and this is something Dr. Mukhtar mentioned, the spirit or the soul has already departed.

Yesterday also, Dr. Mukhtar insisted, when discussing whether the forty-day stages mentioned in the tradition narrated by Ibn Mas'oud are one, two, or three in number--he supported a theory that says they amount to eighty days. I wondered after leaving the session what Dr. Mukhtar had in mind. I connect this now with his answer to a question this morning to the effect that the brain is fully developed by the eleventh or twelfth week. Perhaps Dr. Mukhtar believes that the introduction of the spirit into the body coincides with the completion of brain development. In fact, I have a small favour to ask Dr. Mukhtar. I want him to kindly explain this point and tell us candidly whether that is what he meant by what he said both yesterday and today, that scientifically the location of life, the soul, or the spirit is the brain stem. As we learned yesterday from Dr. Muhammad Na'eem, we, according to Ibn Al-Qayyem, are not forbidden to discuss the spirit and what is meant in the verse that forbids it is not the human spirit but rather the angel who rises on Doomsday. Yes, I would like Dr.

Mukhtar, if the Chairman allows, to explain in some detail what he meant by his references yesterday.

Dr. Mukhtar Al-Mahdi

The implication in the paper yesterday was what you think it to be. Scientifically at least, we speak of the departure of the spirit as coinciding with brain stem death. So the opposite should, or at least might, be true, which means the birth of the brain coincides with the breathing of the spirit. This idea is the thesis of a paper I have written, in which I refer to a lot of research work undertaken in various countries of the world. The purpose of the paper is to study the embryonic nervous system in the early days of gestation and determine when the brain begins to function fully. I have discovered that this occurs in the twelfth week. During that week, a fetus begins to breathe, begins to sleep and wake up, and acquires a human appearance that distinguishes it from the fetus of any other species.

A Participant

I would like to suggest, in brief, that to facilitate the discussion we should keep the questions of the beginning of life and of its end separate. Dr. Mukhtar himself shows they are independent of each other. He says, on the end of life, that a human being whose brain stem is not alive has no life himself, and in the process of death he has reached the point of no return. The male gamete, on the other hand, has no brain stem and yet has a whole future to live through. Kindly keep the two separate because there is no similarity between them.

Dr. Ahmad Al-Qadhi

I would like to answer some of the questions raised. I begin, though, before answering these questions, by reassuring *fiqh* scholars that the death of the brain stem, on which I agree with Dr. Mukhtar, coincides with the failure of the heart as mentioned in the Quran, because what is meant is heart in its figurative sense, as my modest paper in your hands explains. This figurative heart--which sees, hears, comprehends, suspects, doubts, and feels certain--has a material component and a spiritual one. As in a computer, where the electric system is the material aspect or the hardware, this is represented by the brain and the network of nerves attached to it. The spiritual part, which resembles computer software, is the group of conscious and subconscious feelings, sensations, and ideas

stored in it. Thus, when the brain stem stops of itself, the heart of which we are told in the Quran stops. There is no contradiction here.

As for the muscular, beating heart, it is completely out of the picture. This interpretation is based on the figurative meaning of the word *qalb* (heart) in Arabic as explained in dictionaries, and on the anatomical meaning as we understand it, which fully corresponds to the meaning suggested by various Quran passages, which are definite in their denotation. Therefore, we need not get ourselves confused over the time difference between the death of the brain stem and that of the heart. They take place simultaneously if we correctly interpret the meaning of *qalb* as used in the Quran.

Let me now begin answering the questions. There was a question on whether it is possible to bring a person whose heart has died back to life. The answer is yes, by replacing the heart either by a natural or an artificial one, which is actually practiced.

To the question concerning whether it is possible to make a heart that has died function and move again by using modern equipment, the answer is that the heart stops beating sometimes without being dead. If it is dead, it cannot be revived. Sometimes the heart stops pumping and seems to be dead, but it is not. That is why we should distinguish between a heart that comes to a halt and another that dies. In the first case, the heart may still be able to live and, if so, it can be aided to function again.

One more question concerns the woman who delivered a child while her brain stem was dead, whether she had a spirit. I imagine the answer is that she did not. She was merely used as an incubator for the fetus inside her. The fetus itself had a spirit, but the mother's body did not.

Sheikh Badr Al-Mutawalli Abd Al-Baset

Was the body that bore the baby dead?

Dr. Ahmad Al-Qadhi

Yes.

Sheikh Badr Al-Mutawalli Abd Al-Baset

Does a dead body permit building and demolition?

Dr. Ahmad Al-Qadhi

God gets the living out of the dead and the dead out of the living.

Sheikh Badr Al-Mutawalli Abd Al-Baset

What we know is that when someone dies, a demolition process begins, but there is no construction. Here we have a woman where the two things are going on. This is a sign of life. It is sufficient for me to suspect that life is still going on. It is enough to make me rule the person to be alive and refrain from applying the rulings for the dead. The fact that you have doubts is enough. It is a most serious question. It involves inheritance. If someone kills a person whose brain stem is dead but his heart is still beating, do we kill the killer in retaliation? As a *fiqh* scholars, I say he should be killed, because the person had life when the act was committed.

It is said that if a person slays another or tears his belly open and spills all his entrails out, as *fiqh* scholars put it, and then a third person comes along and ends the victim's life, the first criminal is killed in retaliation, while the other is chastised. He is chastised because the victim still has human life at the time of the second crime. The question is not that simple; this human life is ordained by God, and no one, including the person himself, has the right to get rid of it. It is a most serious question, and God is my witness. Define things precisely.

You may say I am just an old man, but I have come across many things, and nothing that I have come across is more intricate than this problem. You seem to unanimously agree that death is the death of the brain stem. This means taking a person who is still moving and everything and burying him. It is a most serious thing.

Dr. Tawfiq Al-Wa'ii

The truth is that we wanted to ask questions and you said we were welcome to ask, but you keep us from asking the real questions. We want to know whether conscious life is the life of awareness or of motion. If it is the life of motion, a person whose brain stem has died keeps on moving. If it is the life of awareness, at the end of which we rule a person dead, then we have to say idiots and lunatics are dead, because they have no life of awareness; they only move.

As Sheikh Badr says, a great many things depend on this question, one of which is conflict with convention, people's convention, and with the legal procedures followed at the time of death, as well as the transactions and conditions subsequent to it. I mention these things so that contracts are made accordingly. The procedures include that the dead person's will has to be executed, his property is no longer his, what is due of his debts

has to be paid, the effects of death on securities and promissory notes are applied, the support money paid by him while alive is no longer due, his marriage is terminated, the waiting period of his widow begins, whatever objects he is entrusted with for safekeeping must be given back, a caliph or a ruler must be chosen to succeed a dead one, certain governors are removed from office, any truce the dead person has signed becomes void and any treaties he has concluded are reconsidered. These are some examples. Next we come to religious procedures, such as washing the dead person, burying him, performing the Prayer for the Dead, and accepting condolences. All these are Islamic procedures that require things to be clear, so a *fiqh* scholar may be confident and reassured.

Let us then get into this, and let physicians limit their answers to the things they are asked about. Let them not ask each other questions, but rather answer the specific questions addressed to them, in order for *fiqh* scholars to come up with a ruling on the subject and tackle whatever other problems they are required to. As you are expected to provide certain things, *fiqh* scholars are expected to do the same. That is why they ask questions such as how prayer can be performed for a person and how he can be buried, while he is still at the hospital and his pulse is still beating. They ask when condolences can be extended. They compare the situation with that of a missing person, who is regarded as dead only when there is very strong evidence to that effect. His wife waits for four years after news of him are no longer received. Only when he is strongly believed never to come back, she is looked upon as a widow and condolences are accepted.

These are things that need to be explained, because on their basis, certain *fiqh* rulings go into effect.

Dr. Muhammad Al-Ashqar

I support what Dr. Abd Al-Aziz Kamel has said; we should not influence physicians by impressing on them that many legal rulings will be based on their decision. Let us then consider the question on purely medical grounds, and on the basis of that we can arrive at legal rulings. In anticipation, many colleagues have already begun to discuss the legal Islamic aspect. We have time. We want now to have a clear understanding of the medical aspect, so we can arrive at a ruling according to what we hear and comprehend.

For myself, I have a number of questions, all of which I have written and have heard no answer yet.

One of these is whether it is possible to be able to restore the brain's electric activity in the future, even if it is a very far future. Do physicians believe it is possible? In the past we used to think that once the heart stopped, it could never be brought back to life. But now it is possible. Is it possible that one day the brain stem will be made to resume functioning.

Another point is that Dr. Mukhtar has mentioned that when the heart stops and the brain receives no blood for four minutes, it stops or dies; its death begins within four minutes. Famous cases of heart failure have been known since days of old. A person may seem to have died, and he is pronounced dead on the evidence of external signs and after it is discovered, by listening for his heartbeat, that his heart has stopped beating. Hours pass. And then after he is washed and buried, he rises again. Is there a medical explanation for these things, or are they mere illusion. We have not heard an answer to this.

As for the conditions mentioned in the papers of some physicians--I mean the fact that in Britain they set down many conditions, other than monitoring the brain, to determine the death of a person, why should there be such conditions if electro-encephalographic evidence is sufficient to determine death? As physicians have given us the impression, such a diagnosis is almost one hundred per cent certain, so what is it that they are afraid of? On the other hand, as some *fiqh* scholars have pointed out, which should be clear to everyone, pronouncing a person dead entails many affairs and transactions, while to delay that until all the systems of the body stop would mean, I imagine, the prevention of organ transplantation and a very wide outlet would be closed up.

One last word. Would you explain whether in other countries, such as America and Britain, removal of equipment is forbidden by law? We read certain reports in the press. In fact this very week, on Saturday I believe, Al-Siyasah newspaper reported that a man was hospitalized and continued to live with the aid of equipment, but his son wanted it removed, so he had to get a court order for its removal.

We would appreciate it if more light is cast on these points, if that is possible.

Sheikh Abd Al-Rahman Abd Al-Khaliq

We still have not arrived at a decisive answer to the first issue raised before this seminar, namely determining the exact moment of death. We have heard three points of view from physicians: that a person dies with

the death of his brain stem, that the heart must also stop, and that it has to be ascertained that all body cells are dead.

So the first point which should be the topic of discussion, and for which no definite answer has been provided, is the time at which a doctor can pronounce a person dead, when the death of that person is to be medically certified. Since all other rulings depend on this question, I hope we will first arrive at an answer for it.

Next, I want to raise a point for the future, the point of determining a person's death. So far the tendency of the discussion is to offer two extremes, one of which is to indefinitely continue the treatment of a person who is receiving the aid of respirators until it is absolutely certain that he is dead and there is no hope whatsoever of his revival. The other opinion is that as soon as someone shows signs of death, he is pronounced dead. But we should avoid extremes.

Undoubtedly the judgement of a physician is not the same as that of a layman, for God says,

GOD DOES NOT IMPOSE ON A SOUL MORE THAN IT CAN TAKE.

(S2:V286)

A layman in a village is not expected to base his judgement, when there is no hospital and no physician around, on more than the obvious signs. But it goes without saying that a doctor at a hospital should not be satisfied with the obvious alone, and must make absolutely sure that the patient lying down in front of him is actually dead and has no hope of coming back to life.

A friend once asked me a very difficult question. He called me on the phone from the United States and told me that his brother, also in America, had been hit by a car and lost consciousness and doctors had said his brain was dead. The patient was at the time receiving artificial aid, and every additional day at the hospital meant a great additional cost. The caller said he could not afford the cost and keep his brother under treatment indefinitely and, at the same time, could not move him to Kuwait to receive artificial aid there. He said he wanted a prompt answer, and please remember that he was calling from America. He said that since he was the guardian of the patient, the doctors were urging him to make a decision and to sign a statement permitting them to remove the equipment. The caller went on to say that he in turn was referring the question to me and demanding a verdict, and that he would do as I told

him; he would either borrow enough money to keep the respirators, and this would go on indefinitely, or would sign a release allowing the doctors to remove them.

This is why we should look at all aspects of the question, avoid extremes, and consider all the possibilities. I said I was raising this point for the future because it is supposed to be discussed in the afternoon. Now, however, we sincerely hope for a clear and definite answer from physicians. When do you reach the medical conclusion that life has ended? I hope we would avoid discussing anything else until this question is settled.

Dr. Abd Al-Hafez Hilmi

Many things come to one's mind, but I will try to concentrate on one point only. I am not going to talk shop, either as a doctor or as a *fiqh* scholar, but will try to offer simple biological information, which might help the distinguished scholars to understand the terms being used, which might be incomprehensible. Probably not all terms, nor all relationships between them, are clearly comprehended, so if I may, I will take few minutes to explain these relationships, especially that some of the talk was about consciousness and some about life, and so on. I would like, if I may, to explain the picture as much as possible in few minutes. First, let us take two examples, the heart and the lungs, which differ in the thing I will talk about. Addressing the distinguished *fiqh* scholars, I say that the heart, the organ I am now talking about and leaving aside all others, has a system of its own that regulates its beat. This is the first point. But this organ, like any other in the body, undoubtedly requires nourishment and air, that is oxygen. So if blood circulation stops, or blood supplies fail to reach it for any reason, the heart suffers thirst and hunger and stops doing its job. For this reason it has an electric system to help it and regulate its beat.

Now let us move a little up the ladder to the position of the Assistant Manager, that might interfere with the spontaneous beat and give instruction for it, if need arises, to go faster or to slow up. This is done by the brain stem you have been hearing of.

If we draw a picture for the brain like this, the brain stem should itself have a stem to connect it with the spinal cord, which runs all the way down the body. At this particular point, there is a centre that controls the heartbeat and makes it go faster or slower. A living, conscious person's heart thus responds to varying conditions.

The third level is the General Manager, and that is what we call the brain cortex. It is the cortex that allow us to call a being human, because it is the centre of real consciousness, real perception, reasoning, and the storing of information. In other words the specialists that supervises these connecting operations of thinking and perceiving, which makes a human being what he is, is the cortex, which holds the position of General Manager. The reticular part of the brain stem has the job of allowing the General Manager to sleep or waking it up, which is the condition of wakefulness rather than consciousness. In other words, the brain stem may call upon the brain to function during the day or allow it to sleep by keeping outside effects from reaching it. This distinction between wakefulness and sleep is not the same as consciousness and unconsciousness, as might occur to *fiqh* scholars. The latter concerns the heart. For even if the heart is removed but supplied with nourishment, the system it has will allow it to beat, but it will be a monotonous beat that responds to nothing out of the ordinary. This, with your permission, is a clear idea of this relationship.

When we come to the lungs and the whole respiration system, we find a different situation. The lungs are supervised by no Assistant Manager, except for some simple regulations. They breathe through ordinary, involuntary muscular movement. That is how we breathe. But as we all know, a person can take a deep breath or exhale strongly. So the will partially controls the process of breathing, and there is a centre for that also in the brain stem. The lungs themselves, however, have no control system of their own, and in this they differ from the heart.

Next we come to the cortex, and let us assume that each of these levels we are speaking about can be isolated, as it actually is in some experiments with animals and when a human being has an accident. Although it is the General Manager, the cortex gets destroyed; if it is not supplied with nourishment, it starves to death within about four minutes, as the distinguished doctors have pointed out. Still, if it dies, the Assistant Managers continue their work, but without the higher supervision of consciousness, which is the specialty of the higher centers of the cortex.

I want to clarify things for scholars as much as possible, because that may help them in making a decision concerning such cases. A human being who has functioning organs may be a thinking, perceptive person, who stores information and responds to stimulations. Of course if the brain stem stops functioning, the General Manager immediately follows,

because it is the Assistant Managers that control respiration and blood circulation, supplying the body, and of course that also means the brain, including the cortex, with nourishment and whatever it also needs to go on living.

So when we speak of the brain in this dialogue, we are speaking of at least two things, the brain cortex and the brain stem. We heard something concerning the stem, and that was of utmost physiological importance. The focus of speakers has been the system that controls all activities. This is why the death of the stem is of so much importance, not because it is the highest authority, but because it controls all these movements.

What I am saying is that we do not know what life is, but we know its signs and its systems, and we know how they work. I hope I have been able in this way to make the exchange between the two sides easier to follow.

Dr. Hassan Hatthout

I believe what Dr. Yusuf Al-Qaradhawi has said puts together a number of fragments and miscellaneous items and can be used as a basis for our discussion. I believe a physician's aim is the recovery of his patient, curing him from disease, protection his life, and restoring his health. So, if we base things on what Dr. Yusuf has said, when the doctor believes that the treatment does not offer a reasonable hope of recovery, he is free to abandon it. In the case of the death of the brain stem, the physician has no reasonable hope for the recovery of his patient, and therefore, he is at liberty to disconnect the equipment. If, however, it is disconnected and the heart keeps beating, or both the heart and the respiration system continue to function, this would be a sign of life, which is natural, independent of artificial equipment. I do not believe any doctor would sign a certificate of death for such a patient, recommend his burial, or take him to an operation room to have his chest cut open and his heart removed. Now we have to face the case of death when it starts with the cortex, then moves to the brain stem, then to the heart and lungs. Here there are no signs of life left. But by this time, the chance to use the patient's heart or liver is lost, for they are useless unless death has been very recent. If a long time passes after death, they spoil and can no longer be of value.

As doctors see it, with the death of the brain stem, there is no hope of a patient's return to life, not to mention recovery. So what is the ruling concerning this interval after the death of the brain stem during which the

heart can, through artificial equipment, be kept beating. It is the interval that allows the patient's organs to be used. If the heart or another organ is not to be transplanted, every doctor, with no exception, would wait until the heart and lungs stop.

The problem is now well-defined. The brain stem is dead and the heart and lungs are moving through the aid of artificial media. Do we get permission to make use of them or not? If it were not for that, we would turn the electricity off and wait for the heart and lungs to stop. But when an organ is needed, what should be done? Science does not offer an answer to this question, and every case has to be taken by itself and decided upon. People like us all over the world hold meetings like ours and they are still scratching their heads.

Sheikh Muhammad Al-Mukhtar Al-Salami, Chairman

In my modest study of the history of Islamic *fiqh*, I have realized that scientists link death to what is familiar at their time, considering certain occurrences to be causes of death, because of the inability of medicine at the time to restore a person to life after such occurrences, which they call "death agents". If a man stabbed another and spilled his entrails out, that was a death agent, because there was no hope for the victim to recover. A few years ago, if the heart stopped, that was a sign that life had ended. Every *fiqh* scholar gives a confident ruling on the basis of the cases in which medicine says it is helpless to make life continue and to stop the progressive disintegration of the body, whether it begins in the bones or somewhere else. So *fiqh* scholars adopt what doctors say.

Yet, scholars also rule in certain cases that a person is dead if something that suggests his death has occurred. An example is when a person is missing; they rule that he is dead even if he really is not.

From this I conclude that the death of a person is determined on the basis of assuming that there is no hope of his being alive. Once hope of a man's return to life is given up, he is considered to be dead.

Therefore, we need to take a clear position or make a clear definition on the basis of what medicine has arrived at so far. We do not claim that this position will be final for *fiqh* or for human judgement, because medicine might in the future advance further and become able to restore life to the brain stem in the first few moments of its death. I am not suggesting that medicine will be able to give the brain stem a new life, but that scientific knowledge and experience, or the scientific ability of

mankind, which has been more limited earlier, may become capable of executing certain natural laws that God, Glorious and Sublime is He, has ordained for His creatures, after these laws have been hidden from man for centuries. This would not be the first case of its kind.

Thus the question addressed to doctors, and I would like the answer to be clear, is whether, when the death of the brain stem takes place, there is any hope whatsoever. This is one point, and on the basis of the answer, *fiqh* rulings are going to be decided.

Another point is that the doctors should not have misled us by the way they introduced the subject, linking organ transplantation to death. The question of transplantation should have been raised for *fiqh* scholars to give a ruling, and we may or may not have asked them about death. Scholars, within the limits of their general education at the time, have already discussed the question of transplantation from one living person to another. So that is the question. We can follow a new approach in discussing it, but our subject is not the question of when a patient should be buried. We unanimously say no man can be buried before his heart and everything else stop. Even the question of inheritance is a subject of controversy, whether when a death agent occurs to a person, he is regarded as having died and his property is considered to be due to his inheritors. I mean some scholars have raised the question using Omar Ibn Al-Khattab, may God bless his soul, as an example. They say that if one of Omar's family members died after Omar had received the fatal blow, Omar would not have inherited that person. Others believe he would. So it is a matter of opinion.

What interests me in all this is one point. We discuss the question of transplantation by itself, and then we tackle the other questions that doctors are interested in one at a time. To each we give the ruling that is in harmony with Islamic Law.

Dr. Ibrahim Al-Sayyad

First let me tell my Professor, Sheikh Badr, that there is something called tissue culture. This means that I can prepare a physiological solution which allows cells to multiply, and I cultivate a cell in it. The cell multiplies. Such cells are alive in the sense explained by Dr. Mukhtar, i.e. they have cellular or molecular, but not spiritual, life. On this basis we can say about that (Finnish) mother that she did not have full human life, but merely functioned as a tissue culture to supply her fetus with nourishment.

And I say to my Professor, Dr. Abd Al-Aziz Kamel, that death is not a process; it occurs at one particular moment, which is the moment the spirit departs. I will bypass Dr. Hassan's injunction and read what the Prophet, Peace be upon him, says about death. According to Muslim, the Prophet, Peace be upon him, finding Abu Salamah's eyes open, close the lids and said, "*When the spirit goes, eyesight follows*". Commentators take the last phrase to mean that the eyes look at the spirit as it departs. I will try to look at this tradition from the point of view of a physician. This person has died, and all his muscles have completely relaxed. The Prophet, Peace be upon him, comes in and finds the man's eyes open, so he closes them. I say then that death is the death of the brain stem.

I want to add to what my Professor, Dr. Abd Al-Hafez has said that the brain stem is called the lower or inferior stages, while the higher stages or centres are in the cortex. The word "inferior" does not reflect on the stem's importance for life. On the contrary, though the higher centre is the one that distinguishes man from animals by the human talents God has given him, it is the lower stages or centres which are the minimum required for life to go on. Therefore, in answer to the question of my Professor Sheikh Tawfiq of whether a lunatic should be considered dead, I say he should not, because even if he has lost the superior centre, the cortex, he still retains the minimum, the brain stem, which is the decisive criterion in distinguishing life from death.

I like what Dr. Mukhtar has said, describing the brain stem as the centre of awareness of, and interaction with, the outside world, and this, the ability to interact with the outside world, defines whether a person is dead or alive, whether the outside world is outside the brain and inside the body, or outside the body altogether. And once again I quote the Prophet, Peace be upon him, when he says:

"Whoever likes to meet God, God likes to meet him, and whoever hates to meet God, God hates to meet him. 'A'ishah, or some other wife of his, said, 'But all of us hate death'. That's not it,' he replied. 'But when a believer is brought the tidings of God's satisfaction and favour, there is nothing dearer to him than what he has ahead of him, so he likes to meet God and God likes to meet him. While when death approaches an infidel, he hears the tidings of God's scourge and punishment. Therefore, there is nothing more hateful to him than what he has ahead of him, so he hates to meet God and God hates to meet him'. (2)

I want to conclude from this tradition that there is a moment of no return, the moment when one leaves behind earthly sensations and begins a new stage, an awareness of the Hereafter. I define this moment for Dr. Abd Al-Aziz Kamel as that of the departure of the spirit, when a person looks towards another world, which makes him aware of the imminent meeting with his Lord, Who will be either satisfied or dissatisfied, and that person feels either content or sorry. At that moment his human feelings and his interaction with life on this earth come to an end. This is defined as the moment of death, which Dr. Mukhtar has defined as the moment when links with this earthly world end, whether this world is represented by parts of a person's body or by the outside world. It is the moment of the death of the brain stem and the departure of the spirit from the body.

And I still call for a recommendation that adopts what Dr. Mukhtar has asked for, which is to recognize the great difference between human life and cellular life at the level of cells, tissues and independent organs, for all these are nothing but tissue cultures when the spirit has departed from the body at that defined moment, the moment of the death of the brain stem.

Dr. Sadad Sabri, Chairman

Dear brothers, let us adjourn now, for the noon prayer. By God's will, the session will reconvene at 12:30.

Thank you.

Notes

1. Listed by Al-Bukhari and Muslim (*Al-Lu'lu' wa al-Marjan*, #656).
2. Listed by Al-Bukhari and Muslim.

REPORT ON THE FIFTH SESSION

The fifth session, held at 12:30 p.m., was chaired by Dr. Abd Al-Aziz Kamel. Dr. Ahmad Al-Ghandour acted as Assistant Chairman and Dr. 'Adel Al-Tawhid as secretary. Dr. Abdulla Muhammad Abdulla undertook to present the *fiqh* point of view on the subject as submitted to the seminar. This was followed by comments and additions by *fiqh* scholars of points not included in Dr. Abdulla Muhammad Abdulla's presentation.

The rest of the session was devoted to *fiqh* discussions, with Dr. Muhammad Na'eem Yassin offering a comparative study of the spirit as viewed by *fiqh* scholars and by physicians.

The session was adjourned at 2:30 p.m.

Editors

DISCUSSION

Dr. Abd Al-Aziz Kamel, Chairman

Before we begin to go through the issues left and resume the dialogue, I would like to inform you that I have been told by my friends Dr. Ahmad Raga'i Al-Gindi and Dr. Tawfiq Al-Wa'ii that the Honourable Sheikh Saleh Musa Sharaf, member of the Board of Prominent Scholars, the Academy of Islamic Research, and the Al-Azhar University Council, and Professor of Postgraduate Studies at the same university, who was planning to present to you his paper, a copy of which each of you has, has died by the will of God, Glorious and Sublime is He. We pray God to take him into his great mercy and vast Heavens. His Honour Sheikh Saleh Musa Sharaf lived a long life devoted to learning and to the service of Al-Azhar and Islam in general in more than one area. C'est la vie; we discuss life and death, and here is an example of the end of life.

As to the agenda of today's session, I propose that Dr. Hassan should answer the questions raised by Dr. Al-Ashqar and Dr. Yusuf Al-Qaradhawi. After that, Dr. Abdulla Muhammad Abdulla would give a presentation on the topic of the End of Human Life. This can be followed by the comments of the authors of the papers submitted, either by adding to what has been said or by expressing a particular point of view not included in the presentation.

Next we will listen to questions on the end of life basically addressed by doctors to *fiqh* scholars. If you allow me, I would like to say that in fact we are not only two teams, physicians and scholars, here; we are three groups. The third group is that of people who are neither *fiqh* scholars nor doctors; they represent the general public or society at large. I myself belong to that group, and to that group the outcome of all these studies will apply. If this group has anything to say, it is that the phrasing (of recommendations) should be comprehensible by an ordinary person. We might reach, in our dialogue, a level of our own, but the phrasing has to be made in a way that makes it easy to apply.

To achieve that, I have summed up all our work in six phrases and no more, of which you are supposed to choose two. Three phrases concern the beginning (of life), and three concern the end. The ones related to the beginning are “fertilization”, “implantation”, and “consciousness”. Those that concern the end are “the brain stem,” “the heart”, not in the figurative, but rather in the physical, sense; and “the rest of body organs”. These are the six words, and on behalf of common people, I beg the specialists, both scientists and scholars, to choose two that are medically preponderant. Then we can base *fiqh* and legal stipulations on them.

Let us remember that now we are in the second half or the last third of our seminar, and we should intensify our efforts in order to reach the conclusion we all desire to reach.

Now, would Dr. Hassan Hatthout kindly answer the questions raised by Professor Al-Ashqar and Dr. Yusuf Al-Qaradhawi!

Dr. Hassan Hatthout

I would like to have the questions one by one. I might not answer every question, but rather ask others to help. Now what is the first question. Would Professor Al-Ashqar kindly phrase it, since it is his question.

Dr. Muhammad Al-Ashqar

Dr. Yusuf Al-Qaradhawi can go ahead with his specific questions.

Dr. Yusuf Al-Qaradhawi

The fact is that I have raised some questions, which are not addressed to doctors alone. I based them on the pattern Dr. Hassan has suggested for us to follow in our discussion. Since we do not have definite texts on the question of life and death and since Islamic Law has left the question unanswered, not out of forgetfulness, but for a wise reason of its own and out of mercy for us, in order for us to follow convention or the knowledge available to people, this means that we have an implicit permission to find out for ourselves what life and death and their signs are. I wanted us to agree on definitions. Then again, since this is the case, is the recognition of life and death something to be left to doctors alone or to ordinary people as well? It is known that Islamic Law bases its rulings on things that are within the sphere to common knowledge, as the case is with fasting, the end of fasting, and other things. As Al-Shatibi says, it is

“an illiterate Law,” with which he means it is within the reach of all people. This was the problem.

Another problem is that I truly wanted to finish with the discussion of resuscitation and its equipment, because it took a lot of time and thinking, while I do not see how it poses a problem at the level of Islamic Law. I do not wish to repeat what I already said, but we can then limit our discussion to the subject of organ transplantation. When it is limited to this subject, we can define the topic of discussion and the points of disagreement. If doctors agree that the question of resuscitation poses no problem, the discussion, as I see it, will focus on transplantation, and specifically those of single organs without each of which man cannot survive, which means the heart, the liver, and the like.

That is what I want to say. I believe Dr. Hassan has already made a comment of some kind on this, and we can now give it full consideration.

Dr. Hassan Hatthout

When the brain stem of a patient stops, doctors consider that the patient has withdrawn from life and reached the point of no return, having no hope of coming back to life. The problem is that this may happen while there are still some of the signs conventionally recognized as sign of life, such as continuing heartbeat. For doctors, what is relevant concerning life is not the heart. A person's heart may literally be pulled out, and if a machine is made to replace it, the person goes on living. Again, the heart of a person who has died may be removed and planted into the body of someone else, who is still alive, and that heart will go on living, in spite of the fact that its original owner is dead and buried.

As for who is it that should determine whether a certain person has died or not, this is left for convention, which leaves it to doctors. In many countries, such as Kuwait for example, no dead person is buried unless a doctor signs a death certificate for him. Do not imagine that electro-encephalographs have to be resorted to in every case and so on and so forth. Such things occur under special circumstances, but perhaps these special circumstances are the topic of our discussion today.

I hope I have answered.

Dr. Abd Al-Aziz Kamel, Chairman

Thank you, Dr. Hassan. Would Dr. Muhammad Al-Ashqar kindly ask his questions?

Dr. Muhammad Al-Ashqar

The first question concerns determining the size of the problem. Is it believed that the day may come when science will be able to restore the brain's electric activity or will make brain stem transplantations possible?

Dr. Hassan Hatthout

We cannot rule this out. Science cannot be definite over such a question, and experience has taught us that the reality of today is the dreams of yesterday, so the dreams of today may prove to be the reality of tomorrow. Science cannot draw a line and say we cannot go beyond this line, as many developments occur in man's life as he himself introduces. The medical knowledge or convention of a certain age may change in another, and the future is no exception. Yes, perhaps the day will come, in the near or far future, when science can save the life of a person even after what is known today as the death of the brain stem. But this is not the case in this age of ours.

Dr. Muhammad Al-Ashqar

The second question is about death of heart failure. People tell stories of how a person came back to life after he had been buried. What is the medical explanation? Do such stories suggest that the brain may survive longer than four minutes (after the heart has stopped), which is the time mentioned in Dr. Mukhtar's presentation?

Dr. Hassan Hatthout

To answer the question I should explain that when the heart stops, this means that blood, with the oxygen it carries, no longer reaches the organs of the body, one of which is the brain. The cerebral cortex can go without oxygen for only four minutes. The cases of people who are buried after they are assumed to be dead, and then it is proved that they are alive, are most probably cases of error in diagnosis. Perhaps the heart of a person seemed to have stopped to someone who felt his pulse at the wrist or the pulse of neck arteries, or put his ear to the patient's chest. Sometimes, human senses are incapable of detecting weak pulsation. Perhaps if a cardiograph were made for such a patient, it would be clear that he was alive. But such tests cannot be made for every patient. Until recently, we did not allow a patient to be moved to the morgue until two hours after his death to be extra certain. The more precise the diagnostic

method, the smaller the probability of burying a man while he is still alive. But the probability is still there.

Dr. Muhammad Al-Ashqar

The third question: some physicians here, in the papers, and in earlier meetings have mentioned that when his brain electric impulses are no longer detected, it is certain that a patient has died. What then is the meaning of the other conditions set by British authorities to confirm death? Do they mean doubt about the method? What do they mean? Why is the electro-encephalograph insufficient?

Dr. Hassan Hatthout

They are in the spirit of, YES, *BUT IN ORDER FOR MY HEART TO BE REASSURED.* (S2:V260) Some people would like to be two hundred per cent sure, rather than merely one hundred, especially that no final conclusion has been reached. Seminars like this are still being held in Britain, Europe, and America, but still they have not reached anything. So perhaps the conditions are to get more reassurance that the stillness of the electric impulses of the brain stem is the closest, fullest, and greatest relevant fact to enable us to say that someone is dead.

Dr. 'Isam Al-Sherbini

I want to make things clearer, if you allow me. The absence of brain electric activity is not necessary for a diagnosis of the death of the brain stem. In the greater number of cases it is possible to diagnose brain stem death through the conditions which I have partially mentioned as in the statement of the Conference of British Medical Colleges. Moreover, stillness of electric impulses can take place in the brain without the brain stem being dead, as in the cases of comas resulting from sedative drugs. Thus the death of the brain stem is diagnosed only according to a set of conditions, one of which may be this, in order to be absolutely sure, as Dr. Hassan says, and after ruling out other possibilities.

Dr. Hassan Hatthout

There are suspect causes that have to be ruled out before we conclude that the brain stem has actually died.

Dr. Mukhtar Al-Mahdi

I would like to repeat something I have mentioned in my presentation this morning. There are certain cases that cannot be included in what we are talking about now. We are talking about the death of the brain stem in the cases of head injury and brain hemorrhage. But cases of poisoning or brain inflammation do not meet these conditions at all.

Dr. Abd Al-Aziz Kamel, Chairman

Now we come to Dr. Abdulla Muhammad Abdulla, so let him kindly make his presentation.

(Dr. Abdulla's presentation is included with the *figh* paper of Part Two.)

Dr. Abd Al-Aziz Kamel, Chairman

Thank you, Dr. Abdulla Muhammad. The scholars who have submitted papers are the Honourable Sheikh Badr Al-Mutawalli Abd Al-Baset, Dr. Muhammad Al-Ashqar, Sheikh Abd Al-Qader Al-'Amari, Dr. Omar Al-Ashqar, Dr. Tawfiq Al-Wa'ii, Sheikh Muhammad Al-Mukhtar Al-Salami, and Dr. Mustafa Sabri. Would they kindly, and in the order I have mentioned, make any addition that they think Dr. Abdulla has failed to mention.

Sheikh Badr Al-Mutawalli Abd Al-Baset

In fact, the Honourable Dr. Abdulla Muhammad raised many points, but the question remains at the front line, which is whether a person is considered to have died as soon as his brain dies, even when other systems continue to work, or not. This is something that none of our colleagues answers. Most of what I have read of the papers of our dear physicians affirms that real death occurs with the death of the brain stem, but today I have heard something very satisfactory spoken by Dr. Ahmad Shawqi Ibrahim, who says that if the brain is the seat of reason, it is also connected to the heart. Therefore, we have to make sure that both have died. This makes things more definite. We have to remember that the life of a person is established and we cannot rule that something which is already established has ended when there is any doubt, and here there are doubts rather than only one, which made the Physicians' Society of England come up with conditions other than the death of the brain stem. When there are such doubts, how can I pronounce a person dead (when

only his brain stem has died)? If I do, a great many stipulations go into effect, some of which have been pointed out by Dr. Abdulla Muhammad. Many of these relate to the person himself, while others concern other people.

Because of all this, I want our dear doctors to be very specific and tell us whether any person at all (whose brain stem has died) can be considered dead. I have asked a question, which is whether when the heart has really died, there is any means to revive it. This is then the question. If it is hopeless, things are different. If the situation is that the heart responds to the stimulation of equipment because there are some traces of life left in it and the equipment comes to revive and give strength to this feeble life, is it possible then to consider a person dead when this feeble life is still there? This is a very serious problem. This person's life is a certainty, so he cannot be ruled to be dead without equal certainty.

Now let me get into details. A man is ruled dead only on the basis of certainty; otherwise his property does not go to his inheritors. I support my colleagues Sheikh Al-Salami in saying that had one of the relatives of Omar died (after he had received the fatal blow), he would not have inherited the dead person. This is correct, because Omar's life at that point was not better than what is called the life of "the slain". Undoubtedly he would not inherit anybody, even though he was still alive.

As for his wife beginning her waiting period, I truly have doubts about this. I cannot bring myself to say that the wife of a person can go into her waiting period while he still breathes and receives nourishment, and while processes of building and destruction are still going on in his body. But I can say that his wife's waiting period comes to an end if she delivers a baby during that critical time.

I believe this whole thing should be the subject of a meticulous and detailed study. What I feel inclined to, in fact, is that a person's death occurs when his major systems--such as the digestive, circulation, and respiration systems--come to a stop. When they do, everything is finished. Of course, when they do, the brain stem also breaks down. This is the comment I want to make.

As for what Dr. Yusuf Al-Qaradhawi said concerning resuscitation equipment, the issue is very simple. Using the equipment is not necessary, particularly when there is another patient who has some hope, even a very slight hope, of benefiting from this equipment. In such a case I can go as far as to say it is unlawful to use it for a hopeless case. However,

if no one needs the equipment, you can keep it or remove it. It is the same, and this is not a serious problem. The most serious thing is to make haste to turn a dubiously dead person into a refrigerator into which physicians reach and take out organs to implant them into other patients. Human life has dignity. After death you can make all the haste you want; you can remove the heart before it spoils; you can do all the things you have planned to do and give any organs to other patients. But as long as a patient still has life and has a heart that actually beats, I, as a Muslim, can never allow that heart to be removed and given to somebody else. However, it is God, Glorious and Sublime is He, Who has perfect knowledge.

Dr. Muhammad Al-Ashqar

I do not have any additions to what my colleagues have mentioned, except as regards the question of seeking medical treatment, raised by Dr. Abdulla Muhammad. There are texts which almost explicitly urge Muslims to seek such treatment. The Prophet, Peace be upon him, orders us to do so, and he himself received treatment. He says,

“Seek treatment, for God has made a medicine for every ailment”.

Even a beginner knows that this is something either obligatory or recommended. As for what has been said to the effect that in certain cases receiving treatment is unlawful, I believe that this is an idea that has intruded into Islamic *fiqh* through mysticism, and does not belong in authentic *fiqh*. Man should seek treatment; it is at least recommended that he should, and this, in fact, allows some room for the removal of resuscitation equipment.

There is a question I would like to ask. But before I do, let me comment on what Dr. Yusuf Al-Qaradhawi has said to the effect that seeking medical treatment is not an obligation and that the permissibility of removing resuscitation equipment is based on the fact that medical treatment is not an obligation. I support Sheikh Al-Ashqar in saying that treatment is an obligation. There are authentic traditions which order us to seek treatment, and taken in general, treatment is an obligation.

Removal of the equipment, however, is not abandoning a treatment for the equipment is not a treatment. It is a method of prolonging the illness, as doctors have explained. If continuing treatment with the aid of this equipment gives some hope of saving the patient, then it should be

continued. But as long as there is no hope, using the equipment cannot be viewed as treatment.

Here I have a question for the distinguished physicians. When the brain stem dies and there is no resuscitation equipment to apply to a patient, does his body continue to move? If not, we can include it with the signs listed by physicians. Thank you.

Dr. Omar Al-Ashqar

I want to stress a point which I have raised more than once. Scholars say that life ends when the spirit is arrested which, as Imam Ghazali says, occurs when it departs from the body. This deduction of Islamic Law is based on Quranic verses and traditions of the Prophet. It is a right deduction. Doctors say life ends with the death of the brain stem, and what I want to emphasize is that the spirit is not the brain stem. A spirit is arrested, and the spirits of martyrs are "in the abdomens of green birds" in paradise, according to an authentic tradition. A spirit, not a brain stem, enjoys blessings and favours and suffers torture.

Is there any connection between the life of a human being and the existence of spirit in him? Is it possible for a connection between the spirit and the rest of body organs to continue after the brain stem has died, or are all connections severed as when a person is beheaded? It is something we cannot tell. The spirit's existence is dependent on the head's existence, and if the head is cut off, the spirit has to depart. If there is a similar correlation between the brain stem and the spirit, we can say that a person dies when his brain stem dies. If there is no correlation, and the spirit retains some kind of connection with the rest of the body, then a person whose brain stem has died may still be alive and, in this case, if we commit any violence against him, we would be committing it against a living person.

Dr. Tawfiq Al-Wa'ii

My colleagues have discussed many points which I would have liked to raise myself. Now, however, I would like to say that death has certain signs, and *fiqh* scholars discuss these signs. They speak of breathing and movement, as some colleagues have already explained. Scholars do not stop at this; they go on to say that death occurs when the body no longer moves. Some of them take a deep breath, and others heartbeat, as movements, so this covers respiration and body movement.

Scholars of the Hanafi, Sahii'e, and Hanbali Schools say breathing is the same as movement in determining the life of a person, because

respiration means life. It is a natural movement of the chest, accompanied by natural heartbeat. What I would like to point out is that these scholars want to make sure that the body is dead or that its life has come to an end. If there is suspicion of something unnatural about the death of a person, if there is the possibility that it is a temporary failure, or if his face reveals signs of terror or something similar suggesting the possibility that he has fainted, is in a coma, or the like, (his burial) must be postponed until death is ascertained through the change of odour or something of that sort.

Actually, the Quran suggests this; i.e. that when it comes to death, we are unable to see the spirit as it departs, but we can see signs of its departure. Many verses of the Quran mention this, such as:

*AND SO WHEN IT GETS TO THE THROAT, AND YOU ARE THERE
WATCHING--WE WILL BE NEARER TO HIM THAN YOU, BUT YOU
CANNOT SEE US...*

(S56:V63)

In another verse, signs of that are given:

*HIS TWO LEGS TWIST TOGETHER--TO YOUR LORD ON THAT
DAY HE SHALL BE DRIVEN. HE USED NEITHER TO BELIEVE NOR
TO PRAY.*

(S75:V29)

Scholars say, commenting on this verse, namely on the two legs twisting together, that this is a sign that life has ended once and for all.

There is no life left after any of these signs mentioned by former speakers here. I just want to add few things. I want to say that the death of the brain stem should be regarded as a strong indication that the stage of dying has started. But we do not regard a person as being dead until his body naturally becomes still after the death of the brain. If a physician wants to certify the death of a patient, let him first remove the equipment. If the patient naturally dies, as Dr. Hassan has said, his death can be proclaimed, and we can then make haste to remove the organs we are allowed to, under the conditions we all know. If the patient continues to live, and this is an opinion endorsed by Dr. Hassan, this is a life we cannot violate or commit violence against. Nor can he be pronounced dead, until the body turns completely still, after the removal of equipment.

Sheikh Muhammad Al-Mukhtiar Al-Salami

I have some points to add, which have not been mentioned in the

general summary. The question I first ask is about life's end. I have divided this into two things. The first is the absolute confirmation that the life of a person has ended and cannot return to his body. (?) But such an absolute confirmation is not possible, because science is advancing further and it is yielding new results every day.

The second thing is a confirmation based on the knowledge that is so far available to us, which can be made when a person's systems come to a final stop, and there is no possibility that medical science, as it now stands, will restore them so that they may resume their function. The basic systems are the heart, in its capacity as a supplier of nourishment for all systems of the human body, and the brain stem, as the organizer and the control tower for all these systems. If nourishment stops or the control tower collapses, death occurs.

When these two systems are working spontaneously, there is no problem. Other systems might function artificially. That is the heart or some other system might move in response to electric stimulation. We would like to take note of what earlier scholars say concerning the movement of some systems or organs which is not dictated by the brain. They, or some of them to be more precise, believe that if a movement is not the result of an order from the brain it does not indicate life. If, for example, some faces are discharged involuntarily, they are not a sign of life, but should be regarded as the result of relaxation in the sphincter. For a very long time, *fiqh* scholars have been linking brain activity and instruction to the body with the movement of various systems and considering this to be life. When a movement is not carried out by instruction of the brain, some scholars do not regard it as an indication of life.

Another point I want to add concerns the question of transplants. Early scholars have discussed something rather similar, which is whether when man is in constraint he may eat some of his parts.

Is it lawful for a person in constraint to eat the flesh of another living person? With great candour *fiqh* scholars discuss such questions. They say that a person may eat some of his own parts to survive. As for the flesh of another human being, there are two cases, that of a person whose life is protected by Islamic Law and that of a person whose life is not. By the latter we mean someone who is legally condemned to die. It is lawful to eat the flesh of such a person. Imam Al-Shafi'i goes as far as to say it is even an obligation to kill a person like this and eat some of his flesh. The same

is true about other persons whose lives are not protected as viewed by Muslims, such as the members of a belligerent tribe. This is on the one hand.

On the other hand, Imam Al-Zarkashi says in his Rules, and let me read the general rule in full:

Our Imam says in the chapter on "The Onslaught of the Mighty" that there is no disagreement over the encouragement of altruism, even when it leads to the altruistic person's death. It is regarded as a quality of the pious. When a person is constrained and starving, and has something to barely keep himself alive, but he prefers a companion of his, who is also starving, over himself, it is good behaviour. The same thing is true of all altruistic actions with which life is saved. He also says in a chapter on *Tayammun* (ablution with clean sand), which is one of his subtitles, that if a person wants to prefer someone over himself with what he has, hoping to save the other person's life, he may do so even if he risks death.

Thus the question of organ transplantation in the case of a dying person, that is the removal of some of his organs, is not a practice which is absolutely certain to be unlawful. It is an issue open to considered opinions, although giving an opinion on such a question is, as Sheikh Badr Al-Mutawali has been kind enough to say, one of the most serious things at which the heart of a *fiqh* scholar cannot but tremble.

Dr. Mustafa Sabri

The reverend scholars have covered the subject, but I would like to ask two questions:

1. Does a person have the right to will, during his life, his organs to be used after his death? and
2. Does Islamic Law allow organs of the body to be tampered with under any conditions?

Dr. Muhammad Ma'een Yassin

Mr. Chairman, if you allow me, I am truly convinced by your manner in chairing this session that you give a person the right to speak on the points over which he has some objection, and I mean all such points, without setting a time limit.

Dr. Abd Al-Aziz Kamel, Chairman

As for time, I believe we have established a tradition for ourselves, Dr. Na'eem. With your permission, is it an addition of something new, which has not been mentioned by former speakers, that you want to make, or is it an expression of an opinion all your own?

Dr. Muhammad Na'eem Yassin

What would you say if I tell you both.

Dr. Abd Al-Aziz Kamel, Chairman

Go ahead.

Dr. Muhammad Na'eem Yassin

Before I give my view on this issue, I want to say that God is my witness, and I want you to witness as well, that I have been under a lot of pressure, which is not less than the pressure I have noticed many colleagues and professors suffering from. It is an emotional pressure urging me to endorse the commonly accepted view that it is the heart, the heart pulse, and the breathing that runs through arteries which are the signs of life. Believe me, I have made an outline for a paper based on this point of view and started to look for evidence for this sentiment of mine. But moving through the evidence, one item leading me to another, I have found myself on a different track, one with which my emotions cannot be satisfied, but it is satisfactory to my mind. With due apology to my emotions, I have arrived at the opinion that you find in my paper, by God's will. Believe me when I say, and repeat, that had a trench been dug for me, similar to that of the People of the Trench, and I was placed in its burning fire, I could not, at the outset, bear the mere thought of saying that there was nothing wrong with removing the heart of someone, while that heart continued to beat. But this is where the evidence has led me, and, dear brothers, I cannot ignore that evidence just because it has led me there.

The decisive role in this matter is for physicians to play; an Islamic jurist gets the facts from physicians and gives the legal position or the Islamic ruling. Now all Muslim unanimously agree that human life ends when the spirit departs from the body. So the best starting point in my opinion is to find out the concept Islamic scholars have of the spirit, its function, and its relationship to the body. We will keep this concept at one side until we can place alongside it the concept of trustworthy Muslim

physicians of how a human being performs his distinctive functions in this life. What are then the qualities of the spirit as viewed by Muslims? And how does man perform his functions in this life according to physicians and what role does the brain play in that? Next, we compare and contrast the legal and the medical concepts and, by God's will, we will arrive at a specific conclusion on the subject. This is then the method of study (I follow).

I do not want to explain to you what Muslim physicians and scholars say about the spirit, but I will give you a summary. Each word of this summary is preceded by ten pages of evidence. The gist of what Muslim scholars say about the spirit and how it is related to the human body is that, as they conceive it, a human being is a body and a spirit, and he is not human with only one of the two elements. They believe the body is the dwelling of the spirit on this earth, as long as a person's foreordained life goes on. According to them, knowledge, consciousness, feeling, and making choices are the most important functions of the spirit. As for the body, with all the organs and systems it has, its function is to serve the spirit and respond to its instruction. The body has no other functions during the life of a person. The spirit performs some of its functions through the body and others without it. On the other hand, the body initiates no activity on its own. All voluntary actions in this earthly life are the results of the spirit's influence through the properties given to it by God, Glorious and Sublime is He. Death is, and I would like you to underline this statement, the departure of spirit from the body. A separation takes place when the body is no longer able to respond to the spirit.

According to Muslim scholars, when does the spirit leave the body? They say it does when the body can no longer respond to its instruction. As long as there is any type of feeling, consciousness, or voluntary movement, this is a sign that the spirit is still in the body, while the complete absence of these indications is a sign that it has departed. Involuntary movements mean nothing other than the fact that some remains of absolute life, which Dr. Hassan Hatthout described in the previous seminar, are still there.

Next we come to the picture arrived at by Muslim scholars, and if any of you doubts anything I quote in relation to that picture, here are ten pages of evidence prior to it. But I want to spare your time. If (at any point) you ask me for the evidence, I will quote it to you. Now, I am not a doctor to tell what doctors have done, but I have read their papers and learned things from personal contacts with them. They play the role of Muslim

scientists, with their opinions concerning the meaning of life and death. It is not for me to go into details explaining what specialists have said, but I can give you a general idea. In their concern with the living human body and their efforts to protect it and enable it to go on functioning, they have played a role that deserves high esteem.

They have unveiled, as far as the human body is concerned, what has been hidden for many ages. They have come to know its organs, systems, the patterns they follow, their relation to each other, their interdependence, the function each has, and the importance of that function. One of the most important aspects of the role played by physicians is that they have discovered the style with which the body performs many of its functions, such as feeling, perception, motion, and so on. They describe, with great precision, the internal processes of each of these functions. They describe what happens, step by step, when we see, smell, or feel pain from beginning to end.

One of their most important discoveries is finding out the organ which, among the various organs and systems of the body, plays the role of leader and ruler, whose sound health is a condition that enables each other organ to function. That is the brain. They tell us, and of course my physician friends will correct me if I say anything wrong, that every voluntary action performed by an organ is initiated by a certain activity of the brain, which is the origin of every single action. Any partial damage of the brain is reflected in the disability of certain organs and systems. If it fails altogether, this will certainly cause the failure of all other systems to perform their voluntary functions. Doctors also say that, with modern equipment, they are capable of diagnosing the condition of this major organ, determining the extent of its ability to go on with its activities, defining the nature of any failure in it, and determining whether this failure is temporary or not, curable or not. In doing so, they define the condition of the human body and the extent of its ability to perform voluntary activities. One of their most important achievements has been their ability to keep the basic life of human organs, that which some have called "cellular life", in isolation from the spirit, the body itself, and the brain, and to transplant such organs from one body to another.

Such is the role of doctors. Let us take it, together with that of Muslim scholars, and mix them together. What result will we have?

In fact, I have here a summary of this mixing process. The details take two pages and a half and the summary half a page. You can open the

book you have and correct any of my conclusions, and we can adopt the resulting form. I have made a table comparing the opinions of Muslim scholars concerning the spirit and those of medical scientists concerning human physiology. This table is a summary, but the discussion in the paper gives a much clearer picture, so I do not know (which I should read). It is up to the Chairman. Some of the distinguished scholars and colleagues ask me to read the table on page 31 (of my paper) first. So let us read it together.

Fiqh Scholars	Medical Scientists	Conclusion
1. It is the spirit that perceives all percepts.	The processes of sensing and perceiving take place in the human brain.	The spirit perceives all percepts through the brain.
2. It is the spirit that controls the body in all its voluntary movements.	The brain controls all other body organs in their voluntary movements.	The spirit controls the organs through the brain.
3. Sensations and voluntary movements are the signs that the spirit is attached to the body. Dr. Abdulla Muhammad and Dr. Basalamah have given examples.	Sensations and voluntary movement are the signs that the brain is healthy.	The healthiness of the brain is a sign that the spirit is attached to the body.
4. The irrevocable absence of sensations and voluntary movement is the sign that the spirit has departed from the body.	The total and irrevocable absence of sensations and voluntary movement is the sign of brain death.	The irrevocable death of the brain is the sign that the spirit has departed from the body.

Fiqh Scholars	Medical Scientists	Conclusion
<p>5. Involuntary movement does not indicate the spirit's attachment to the body. This is what Sheikh Al-Salamî also says.</p>	<p>Involuntary movement does not indicate that the brain is completely, or even partially, healthy. I asked yesterday whether heart movement is voluntary and was told it was not.</p>	<p>Involuntary movement does not indicate whether a person is alive or dead.</p>

Item No. 6 has been cancelled, because you are not going to agree over the beginning of human life.

The final conclusion I arrive at is on page 30. It is underlined. It is the most probable explanation of the spirit's relationship with the body in general and the brain in particular, in the light of the views of Muslim scholars that I have been able to find and which have their roots in many texts of the Quran and Tradition.

One of the scientific conclusions arrived at by specialists, in the attempt to explain the activities of body organs, is that, most probably, a living human body is an intricate complex of organic instruments, interlocked in a miraculous way, and placed by the Creator in the service of a rational creation breathed by Him into that organic complex and known as spirit. This spirit, the conclusion goes on, controls the living body on this earth through the brain, which works when the spirit makes it work, responds to the spirit's instructions, and in turn moves the other organs of the body, transmitting to them what the spirit wants to be transmitted and receiving what it wants to be received. The spirit reads the messages received in the brain and makes conclusions and decisions in the form of human behaviour.

When the brain suffers partial damage, it is partially disabled to respond to the spirit's orders, and this disability reflects on some organs and takes the form of a partial disability to act. When the brain is completely damaged, due to what Muslim scholars call alien humours affecting it, which begins with diseases and occurrences which are well known to specialists, it becomes totally helpless to respond to the will of

the spirit, and all organs are disabled with it. If the disability is irrevocable, the spirit departs from the body, according to Muslim scholars, and embarks on a journey of which we know nothing other than what our Lord has told us through the Chosen Apostle, Peace be upon him. There is no room here to go into details of that.

I ask scholars here to let physicians bear the responsibility if they can and determine the time of death, which we cannot do.

I have an example that I want to cite, and I hope you will bear with me, though I may bother you and take much of your time.

A person, sentenced to death in Saudi Arabia, lies in jail. He has a son whose heart is damaged as physicians have confirmed beyond any doubt. The only hope of survival for the son is to have his heart replaced with a healthy one. In his will, the father leaves his heart, after his execution, to his son. As soon as the sentence is executed and the head rolls off the body, physicians take the body and keep it, with the heart and other organs in it, functioning, with the equipment they have, supplying it with whatever is necessary to keep cellular life going. In such a case, is it unlawful in religion to transplant that beating heart to the invalid son, whose own heart is about to stop? Can anyone claim that the spirit is still lodging in the body of the father, the cells of which have been kept alive with the efforts of physicians? Does Islamic Law regard the doctor who takes that body away from the equipment that maintain the life of its cells as a criminal?

Please bear with me dear brothers and sisters. If you agree with me, you will find yourselves, by God's will, arriving at the same conclusion I have reached.

I do not believe anyone would claim that the spirit continues to exist in a headless body, regardless of the life of its cells. As for transplanting some organs of that body, some people might hold to the view that it is unlawful on the basis of the sanctity of the dead in God's Law. But that sanctity is ordained as the right of a person which he can give up. He may give permission, while he is alive, for the removal of those organs. Whatever the case is, the sanctity of the dead cannot be greater than that of the living, and many scholars have ruled it lawful to transplant organs of living persons, such as kidneys, with their consent. Undoubtedly a living person's need for his kidney, or even for one of his fingernails, is greater than the need of a headless body for the heart inside it.

I can almost hear some of my honourable colleagues, some *fiqh* scholars that is, saying that the example I have cited is different from the cases of brain stem death, because the brain in this case is gone to no return, being severed off the body, while in the cases we are discussing at this seminar the brain is supposed to remain inside the head, which is still attached to the body. Well, if they say that, I will ask for a ruling that permits transplantation of the heart from a headless body.

Take another example. A person has died with heart failure and another has burned to death and his body has turned into ashes. Both are dead, with no flicker of hope to revive, and there is no difference between them. Likewise, there is no difference between a brain severed from the body and another whose cells are diagnosed by specialists to have all died. The only actual difference is in the fact that death in the first case is evident to every beholder, while in the other case it is clear only to specialists.

But this difference does not affect the ruling one way or another, because the failure of a layman to perceive a certain thing in reality does not negate such reality. Such things are for specialists to decide. This is a general rule. When a person endowed with eyesight testifies to something that can only be perceived with the eyes and a blind man testifies to the contrary, is it not on the first person's testimony that a decision is based? If decisions and rulings had to rely on the perception of facts by all people, many of these rulings would have to be suspended.

Finally, someone may argue that the example I have cited has another difference, which is that a man sentenced to death enjoys no sanctity because he is outlawed. This is another difference that has no significance and has no effect on the ruling mentioned above, because when a person is sentenced to death that does not mean he is also sentenced to have his heart removed from his chest. That would go beyond the punishment, and, if done without permission or for no legitimate purpose, it would be unlawful mutilation. That, in any case, is just one example, and reality offers us many other examples, particularly in this age when the hazards to human life have greatly increased, as suggested by the victims of car, air, train, and other accidents and by the great number of war casualties.

Now an image occurs to me. Imagine if a Muslim army in the battlefield has a fully-equipped medical team that can, for example, remove kidneys and hearts, preserve them, and implant them into soldiers

that need them. These examples are just to illustrate the principle involved, and I am afraid someone might dwell on one minor difference or another.

I pray for you all to be well rewarded for listening to what I had to say. If it is wrong, it is, by God's will, well-intended. Let me remind you of the statement of the Prophet, Peace be upon him, that

"If an arbiter tries and is right, he is doubly rewarded, and if he is wrong, (he is still rewarded)".

Do not be harsher than that. If I am wrong, I am still rewarded by God, and should not be blamed by you at all. And if I am right, it is God, Glorious and Sublime is He, Who will reward me. I assure you the only reason that made me do this is that I felt many colleagues had not read my paper. Otherwise, I would not be standing before you.

Dr. Abd Al-Aziz Kamel, Chairman

I thank Dr. Muhammad Na'eem Yassin for the great effort he made in preparing this, for his zeal and conviction in what he has said, and for his summarizing all what he wants to say in the table he has given to you. I almost look at this table as the agenda for the final sessions.

I do not want to tax you by adding more; I have certain items which I can postpone till the session of the late afternoon. We still have a paper submitted by Dr. Abd Al-Fattah 'Othman, "A Psychological and Social View of Life and Death", and a commentary by Mr. Muhammad Fu'ad Tawfiq. These are two topics of special interest, because, as I mentioned earlier, we are three groups, rather than two, and these topics represent a point of view other than that of physicians and *fiqh* scholars. They represent society and the law. With their permission, they can speak at the opening of the next session. Now we stop at this point, and the dialogue will be resumed later this afternoon, by God's will.

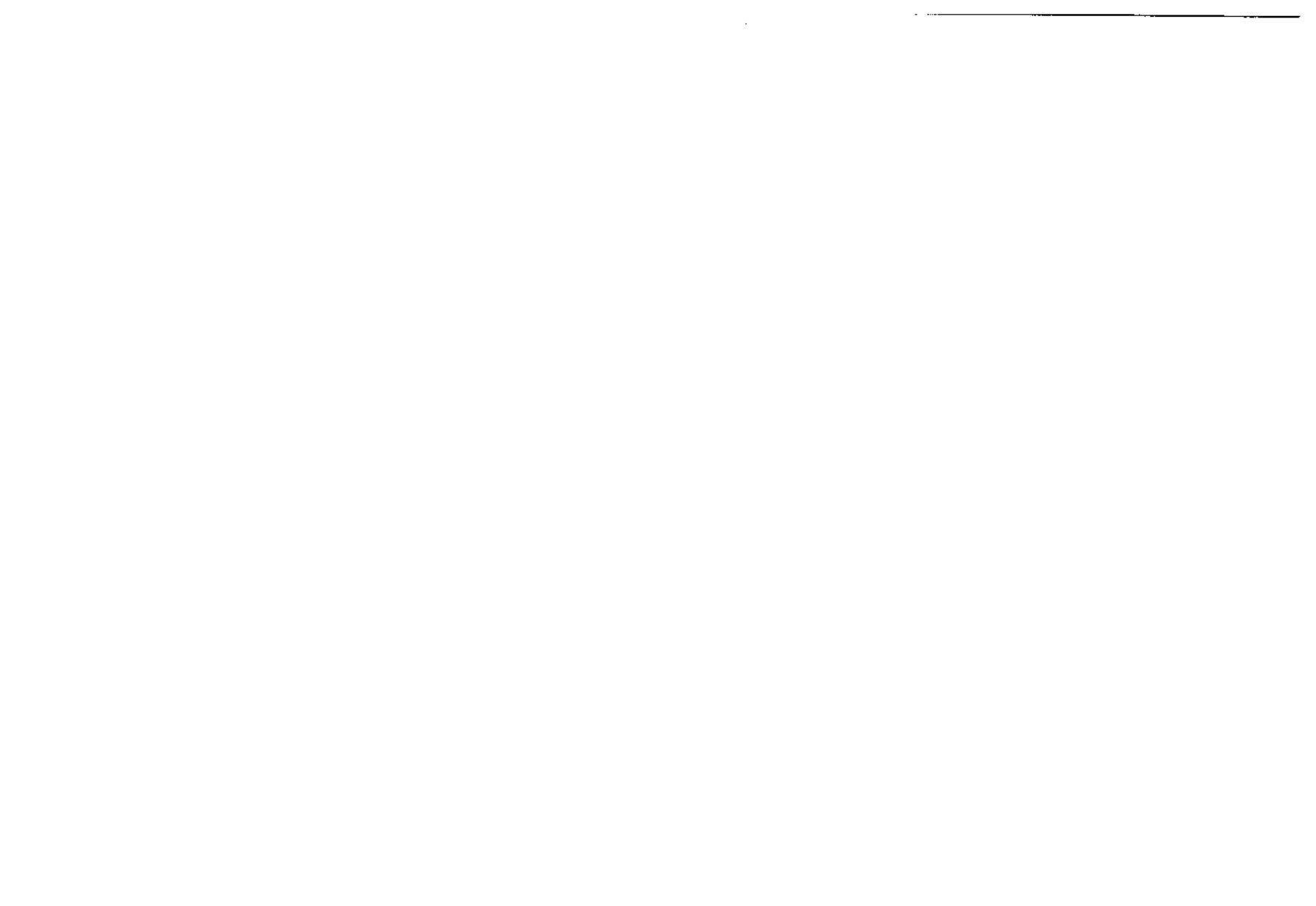
Thank you all for being here, listening, presenting your points of view, and taking part in the dialogue.

REPORT ON THE SIXTH SESSION

The sixth session, held at 4:00 p.m., was chaired by Dr. Khaled Al-Mathkour. Dr. Yunus Al-Muftu acted as Assistant Chairman and Dr. Ali Al-Saif as secretary. The whole session was devoted to *fiqh* discussions aimed at defining the end of human life as viewed by Islamic Law and the attitude of this Law towards the removal of resuscitation equipment under various circumstances.

The session was adjourned at 8:30 p.m.

Editors



DISCUSSION

Dr. Khaled Al-Mathkour, Chairman

I was here at the conclusion of the previous session, and upon hearing what went on, I told myself that my task would be tough. That is why I begin with a prayer to God to help and facilitate.

You will listen to Dr. Abd Al-Fatih 'Othman presenting a Psychological View. He belongs to "the general public".

Now if there are questions that the scholars would like to address to physicians before we begin our discussion of this subject, the end of life--if there are questions or requests for explanation of certain points, kindly have your names written down. I mean questions by scholars to doctors. Next, physicians will make the explanation requested by scholars. Now if there is any scholar with a question, let him go ahead.

Dr. Muhammad Shabir

We heard in the morning session that the death of the brain stem does not necessarily indicate death. I would like to make sure of this point, particularly from Dr. Hassan.

Also I would like to know how long the heart continues to beat after the death of the brain stem and the removal of resuscitation equipment.

Dr. Hassan Hatthout

I refer these questions to Dr. Mukhtar, who should be the one to answer.

Dr. Mukhtar Al-Mahdi

I believe the extensive research of the last few years has unquestionably revealed that the death of a person's brain stem is his definite death. As for the period through which the heart continues to beat when

equipment is removed, it is three to four minutes. An example is death by hanging, which is an instant death of the brain stem.

Dr. Omar Al-Ashqar

I want to repeat the second question which Dr. Muhammad Al-Ashqar asked and received no answer for. When the brain stem of a person dies, we regard him as dead even while the equipment is working. If we stop this equipment and the heart comes to a final stop, can we still use it in the usual manner? If so, for how long after it has stopped can it still be used? One hour? Two? Five? Six?

Dr. Mukhtar Al-Mahdi

One of the general principles of organ transplantation surgery is to remove such organs without causing any damage due to oxygen or nourishment deprivation. It is always better to do this while blood circulation is going on. If it is done some time after blood circulation has stopped, the organ would be damaged and not fit to be implanted.

Dr. Omar Al-Ashqar

Even if it is taken five or ten minutes after circulation stops?

Dr. Salah Al-Dadah

When blood circulation stops in a patient whose blood pressure is normal, as the result of a sudden heart failure, the possibility of removing an organ to be implanted into another patient is limited to a period of only fifteen to twenty minutes. I believe the time is not sufficient to arrange for the removal of the organ so that another person may benefit from it, because the dead patient has to be treated exactly as a living one in as far as sterilization and other surgical preparation are concerned. Therefore the time element is of great importance, because cells begin to disintegrate, in which case there is no use in removing any organ.

Dr. Ibrahim Al-Sayyad

Because I have served on the Committee for Kidney Transplantation and my task was to educate people about this subject, I have asked Dr. George Abuna to give me a specific answer concerning how long each organ lives after death and how long it has the chance to be transplanted. The answer in the case of kidneys is one to two hours. This takes us into

something else. Organs differ in their ability to withstand the shortage of oxygen, depending on tissue properties. The most delicate and sensitive to the lack of oxygen is the brain, and the cortex in particular. In an army, the last to fall is the flag bearer, and the flag bearer of the brain is the brain stem, which falls last.

Thus when we say the brain stem has died, it means everything above it, from the cortex down, has died, because the stem is the toughest part of the brain; hence our generalization that the death of the brain stem means the death of all other parts of the brain, because, as I have said, it is the strongest and has the greatest endurance. Still, nervous tissues are more sensitive than other tissues. Bones and cartilages continue to live for a long period of time; muscles, for a shorter period. The heart is made of a muscular tissue and of nerves that control the tissue. These are the nerves of spontaneous motion, about which Dr. Muhammad Na'eem Yassin has asked. They give the heart this spontaneous, involuntary contraction property. They die before the muscle itself. The heart muscle itself, that is the muscular fibers, continues to live even after the sensitive ganglion has disintegrated. So tissues differ from each other as to their ability to survive the lack of oxygen. But all this life is of the organic type and, to add to what Dr. Muhammad Na'eem Yassin has said, cannot be regarded as life with spirit. Therefore, I suggest that we take Dr. Yassin's paper as a starting point and base on it what would make us, physicians, satisfied and allow us to feel that *fiqh* scholars have comprehended what we would like them to.

Dr. Tawfiq Al-Wa'ii

I would like to ask whether in the life of systems and organs after the death of the brain stem cell replacement continues. We know that cells die and are replaced with new ones. I mean is there any destruction and construction in that life or does that stop?

Dr. Ahmad Al-Qadhi

The amount of destruction and construction differs from one tissue to another, and some metabolism in the form of destruction and construction takes place in some tissues, but not in others.

It should be clear that using artificial equipment to keep blood circulation going means artificial respiration. Without the brain stem controlling the contraction and relaxation of arteries, they are less effective

than they are when the body is in its normal condition. That is why blood circulation usually stops within few days inspite of the equipment. Still, during that period, some destruction and construction continues with some cells. For example, even without the use of equipment, hair continues to grow for a full day after death. Some other tissues repair themselves as long as blood circulation continues, but not to the same extent as during normal human life.

A Participant

We heard one of the physicians, perhaps Dr. Mukhtar, say in the morning that some bodies received clinical treatment and survived, in such a condition, for fifteen years, with destruction and construction going on. Does that mean that the process of destruction and construction continues when equipment is used after the death of the brain stem?

Dr. Ahmad Al-Qadhi

Destruction and construction on a limited scale in certain tissues.

Counsellor Abdulla Al-'Issa

I would like to ask a question if I am allowed. It is well known that a human corpse begins to rot after a period of time, depending on weather conditions, particularly if no resuscitation equipment is used and the corpse is not refrigerated. My question concerns the brain stem, and the brain in general, under normal conditions. In the case of normal death where no equipment is used, when does the brain begin to rot? And when equipment is used, does it rot at all, or does it retain its vitality as a leader?

Dr. 'Isam Al-Sherbini

I would like first to answer the question of Dr. Tawfiq. In all our papers we say that the coma condition is not the same as the death of the brain stem. A person may be alive by medical standards, with his brain stem alive, but suffers from a coma. All we say is that one of the conditions for diagnosing the death of the brain stem is that the patient should be in a coma. This is one point. Another point concerns the tissues that continue to live. Some *fiqh* scholars have understood Dr. Hassan to mean that physicians have not yet come to a final conclusion concerning the death of the brain stem, and that the question is still being investigated in America, England, and Germany. This is not how I understand what he has said,

and Dr. Hassan may correct me. What I and other doctors know is that medicine has reached the conclusion that death is determined by the death of the brain stem. I have mentioned that one of the most recent studies is that of the Conference of British Royal Colleges in 1976, which issued a statement defining the signs of brain stem death and how it can be diagnosed even without using the electro-encephalograph, and so on. One year later, this statement became the official instructions of the British medical authorities corresponding to the Ministry of Health here.

Concerning the death of tissues, in 1968, the World Medical Association stated that death on the cellular or tissue level is a gradual process. Tissues differ in the extent of endurance of oxygen shortage. It is not important to determine the death of various organs or cell groups; what is important is to determine that the death process has reached a point where it can no longer be stopped, whatever resuscitation equipment is used. The life of an organ or a cell group does not necessarily mean that the creature it belongs to is alive. The concept of the death of the brain stem being the sign of death originated when respirators and other resuscitation equipment were used with injured people and it was discovered that the brain began to decompose while the heart was still beating.

Dr. Mukhtar Al-Mahdi

Concerning when the brain putrefies and whether using the equipment makes any difference, what putrefaction means is the growth of bacteria cells, putrefaction bacteria, which, when death occurs, takes place in the intestine, because that is where this type of bacteria exists. The brain has no such bacteria, so it does not rot; it disintegrates. This disintegration begins the moment the brain dies and has nothing to do with using the equipment.

I recall here many cases where autopsy was performed, and even though this was only a little after the heart had stopped, when the skull was opened, it was discovered that the brain had completely disintegrated and turned into a liquid, which resembled milk.

Sheikh Badr Al-Mutawalli Abd Al-Baset

I have heard a question asked by my dear son Dr. Omar Al-Ashqar and have heard no candid answer. It is a very important question, and rulings will be based on the answer. The question concerns the period of time during which the heart can still be used after it has stopped.

Dr. Khaled Al-Mathkour, Chairman

Let us listen to Sheikh Abd Al-Rahman's question, and then we will have a clear answer.

Sheikh Abd Al-Rahman Abd Al-Khaliq

My question on this subject is: how do doctors determine the death of the brain stem? that is, what is the method they use to decide that the brain stem of a certain patient has died? Another point: is this something that can be subject to disagreement, or would all doctors agree with absolute certainty?

Dr. Khaled Al-Mathkour, Chairman

Now we have two questions. One concerns the period of time after the heart stops and the other is about the death of the brain stem.

Dr. Ibrahim Al-Sayyad

Concerning the question of how long the heart remains useable after it has died, the period depends on the condition of a person that has led to the death of his brain stem. If sudden heart failure has occurred and the blood pressure has been normal, it is a different matter than if death is sudden and occurs after a drop of pressure from normal to zero. While pressure is dropping, blood and oxygen supplies to the heart muscle become short, and a damage already begins in that muscle. So in such a case, the heart cannot be used.

If death is sudden, however, it might take fifteen to twenty minutes in the case of the heart. For a kidney, it is one hour, depending on the efficiency of the medical team that takes care of the organ. It is not an easy operation.

Counsellor Abdulla Al-'Issa

We understand then that there are two cases. In the case of heart failure, the heart is no good. I mean, it is useable in the case of heart failure when blood pressure is normal, one hundred twenty by eighty. But when blood circulation gradually falters down, when blood pressure falls down inspite of giving the patient medicines that should keep it up, when it falls down from 120 to 100 to ninety to eighty to seventy to zero, that heart cannot be implanted into any person.

Sheikh Badr Al-Mutawalli Abd Al-Baset

With your permission, there is a legal principle that says a certainty cannot be cancelled by suspicion, so I hope you can give us something certain to base confident rulings on it. A certainty cannot be cancelled by suspicion, and this is a most serious business. I have already told you, and I am now seventy-seven and have been faced with many questions some of which are very intricate and involve a great number of issues, I have never faced as much difficulty as I am facing with this question.

Dr. Khaled Al-Mathkour, Chairman

There is something that requires explanation, and perhaps Dr. Al-Qadhi can answer both questions. The first is whether it is possible for the heart or for another organ, which takes under normal conditions twenty minutes before it is damaged, for example, to be taken during this twenty minute period and placed in solutions or kept in some other way that would make the period longer. We have been told by physicians that such a treatment by solutions or by low temperature is possible, which means the organ can still be used. The period may be extended to several days. So this treatment has to be taken into consideration when talking about such a period. The period may be extended with such treatment from one hour to two. If the other patient needs more time, solutions or low temperature may help. Please explain this point.

Dr. Ahmad Al-Qadhi

At best, the heart may survive and remain useable for twenty to thirty minutes, and this is the maximum in normal temperature. Of course the closer it gets to that maximum, the lower is the probability that it will resume its normal function. Now let us go through the things that have to be done in these twenty to thirty minutes to show that it is an extremely short period.

First, it will take five minutes inside the body itself between the death of the brain stem and the gradual drop in pressure until the heart stops. Under the best conditions, at least one, two, or three minutes are needed for permission to be granted, and so on. Then there is an operation to be made to remove the heart, and it is not a simple operation, because the heart is not removed by butchering, but rather by precise surgical procedure. Dr. Salah has mentioned that it is an intricate operation. Removing the heart to implant it to someone else must be done with

extreme care and precision, though I myself served on a team that took care of implanting, rather than removing a heart. Unless great care is taken, the heart will be useless. This surgery takes over thirty minutes, sometimes much longer, for after the heart stops, the method of refrigeration or artificial blood circulation has to be employed in order to keep heart pressure before it is removed. Otherwise the chance would be lost. This is what most often happens when the brain stem dies or when a patient with a brain injury is admitted into a hospital. The heart stops either on the way to hospital or as soon as the patient arrives at the emergency ward. Resuscitation begins right away, and the heart resumes its beat. Thus the process of artificial treatment or artificial respiration begins. Whether the heart stops first and then the equipment is used, which is now for the purpose of keeping the heart not to save the patient's life, or the process of taking care of the heart is begun before it stops to keep it alive and take advantage of these few minutes, what happens in the two cases is almost exactly the same.

Counselor Abdulla Al-'Issa

I have a question which may make things clear. Was there any case where the heart had stopped and yet it was transplanted to another patient and functioned properly.

Dr. Ahmad Al-Qadhi

Yes, that is what I have said. There have been many cases of this sort. But the heart stops in such cases for only a few seconds during the resuscitation process itself. There is, however, no alternative but to use the resuscitation equipment with the dead patient's body.

If what you are driving at is that I should wait after removing the equipment until the heart stops and everybody is satisfied that the patient is dead before I cut the chest open, that may work, but the risk is much greater.

Counselor Abdulla al-'Issa

I meant to ask whether there have actually been such cases where a heart, that had already stopped was transplanted to another body, whether it stopped at the hospital or in a car accident on the road. Have there been cases of this sort?

Dr. Ahmad Al-Qadhi

Yes, there have been, but the risk that the heart is no longer useful is greater. I mean it is if we allow the heart to stop first, and usually it stops only after pressure has been dropping for a period of time. This period of waiting for the heart to stop before resuscitation equipment is used cuts down the chances of the heart being useable. It is all a relative matter, and the chance is never one hundred per cent. The more haste we make, the higher the chance is that the heart can be used. Now when the surgery involved is a major one, such as a heart transplantation, and a patient's life depends on it, it is recommended that the heart to be used should be given the best chance to function soundly and properly. Therefore, any chance that is wasted by this delay of a few minutes might mark the difference between a sound heart and a half-sound or completely useless one. Because of that, the delay is not recommended.

Dr. Khaled Al-Mathkour, Chairman

It is now Dr. Hassan's turn to speak. We are hoping to finish with the point we have started with, so we would like to hear any questions by physicians or *fiqh* scholars. We want to get this over with so we can begin the discussion over the subject of the lecture.

Dr. Hassan Hatthout

We are facing one of two things. We either use artificial resuscitation equipment to keep the heart healthy till the last moment when it will be removed to be implanted into the other body, and thus allow the best chance for it to work, or the other alternative is to turn the equipment off and let blood pressure gradually drop down, so that between the time the equipment is turned off and the heart stops, the heart loses about ninety per cent of its ability to live.

Dr. Khaled Al-Mathkour, Chairman

I hope the answer to the question which was originally raised by Dr. Omar Al-Ashqar and later commented on by Sheikh Badr is now clear to scholars, so that they can base their rulings on it. Is it clear?

Dr. Omar Al-Ashqar

From Dr. Al-Qadhi's answer, I understand that if the heart stops, that is if the brain stem stops and the heart stops in consequence, the heart

can be kept alive by using resuscitation equipment. If it is done in a hurry, blood circulation can be resumed and the heart revived. Am I right?

Dr. Ahmad Al-Qadhi

Yes, to some extent, as long as we hurry in getting the heart to beat again. The shorter the period in which blood pressure gradually drops down, the longer that the heart can be kept functioning. It is a relative matter, and as Dr. Hassan has mentioned, the heart's efficiency might be reduced up to ninety per cent.

The question of waiting for the heart longer than necessary is a difficult one. It might take five minutes for its efficiency to drop down fifty to ninety per cent. It might take ten minutes. It differs from one heart to another and depends on its condition before death, whether it was a completely healthy heart or one that has suffered some damage.

Dr. Khaled Al-Mathkour, Chairman

if this answer is clear and convincing, let us move to something else.

Sheikh Badr Al-Mutawalli Abd Al-Baset

Until now our dear doctors have not agreed, and I urge them to reach agreement and come up with one opinion so that we might not base our rulings on false facts.

Dr. 'Isam Al-Sherbini

Does Dr. Al-Qadhi know of any operation which has followed the procedure imagined by the distinguished scholars as possible, which is to turn the equipment off and wait for the heart to stop before we transplant it to another patient? Would such a surgery be successful, and to what extent? This is exactly what the scholars are asking about. I do not believe an operation can be made this way, so is it possible or not?

Dr. Ahmad Al-Qadhi

No such operation has been performed.

Sheikh Badr Al-Mutawalli Abd Al-Baset

There is a difference between whether it has been done or not and whether it is possible or not.

Dr. Ahmad Al-Qadhi

To be honest, theoretically it might be possible, but practically it is impossible, because of the difficulty of turning these conditions we are assuming into reality. Theoretically it might work; practically it does not.

Dr. 'Isam Al-Sherbini

Even theoretically it does not work. Why? Because when I cut open the chest of a patient, I should have done my best to get the best heart possible, hoping it will work. This is not the same as transplanting kidneys, bones, or teeth. This is a surgery that involves the removal of a patient's heart, and if this heart is not replaced, he will die. So I must try to get him the best heart possible. Otherwise, it is better not to cut the chest open and remove the heart that is already there.

Dr. Khaled Al-Mathkour, Chairman

Let us now open the discussion, by God's will.

Sheikh Abd Al-Rahman Abd Al-Khaliq

The question I have asked has not been answered yet. It is about the death of the brain stem. Do doctors agree in diagnosing the death of a certain patient's brain stem? Is it a matter over which there is general agreement? Is it absolutely certain? Or is it also a matter of assumption? How do doctors in the first place determine that such a patient has died? Is it by his failure to react to electric waves or by the failure of his senses?

Dr. 'Isam Al-Sherbini

I have mentioned earlier today that the indications sought for the diagnosis of brain stem death are now well established, and that in England, in particular, a statement was issued in 1976 by the Conference of Royal Colleges, and definite instructions have been issued on the subject by the Department of Health. These indications are sufficient, in the great majority of cases, to diagnose the death of the brain stem without the need for an electro-encephalograph or other means of confirmation. The basic conditions are that the patient should be in a deep coma; that he should be dependent on artificial respiration according to a set of conditions and, therefore, incapable of responding; that there should be a clear cause of brain stem death evident to the doctor, such as a head injury, a brain hemorrhage, or something of the sort (and I mean by this

that other causes of coma that might be curable, as cases of hypothermia or drug poisoning or sedatives, and so on, are ruled out); the failure of a person to respond to the stimulants that signal the life of the brain stem, such as the cranial nerves and the dilation of pupils; and other conditions. They are well-defined and when one coincides with another, the death of the brain stem is confirmed, even when we do not know the cause of brain injury. If we suspect that tranquilizers have been taken, we wait and give the body sufficient time to discharge them.

All these things can be clinically confirmed. Few cases are left where the doctor, unaware of any clear cause of injury, still entertains some doubt. In such a case an electro-encephalograph can be used several times and x-rays can be made of the sort done here. We inject a certain dye into a vein, when it runs through the veins, we make the x-ray. If the dye fails to arrive into the brain within thirty seconds, it is definitely confirmed that the brain is dead. So confirmation through clinical diagnosis is possible. In very few cases, laboratory confirmation is needed.

Sheikh Badr Al-Mutawalli Abd Al-Baset

One small point still needs explanation. Is it possible that part or most of the brain stem dies, and still there is some part, some veins for example, left? I ask this question because there has been a case of this sort that I have been asked about.

Dr. 'Isam Al-Sherbini

The case you are referring to, sir, the things mentioned by other scholars, and the case of the patient who woke up after his death was diagnosed are all mistaken. I have mentioned the committee set up in England to investigate such cases (I mentioned the figure in the morning as seven hundred cases) after the press had brought up such things. All cases were traced, and the committee could not find one item of what the papers had published to be true. What happens is that someone may ask about a patient at a hospital and a doctor or a nurse may tell him the patient has such and such. The story gets to the papers and is reported in various ways. People may imagine that a certain patient, admitted into hospital, is probably going to die, or an enthusiastic doctor may ask a patient's family members whether they would like to donate some of his organs in case he dies, and they assume that the patient's brain stem has already died. Later, the patient recovers. Not a single case of those mentioned in the papers was a case of the death of the brain stem.

I would like to say that doctors are, by their makeup, usually afraid of death and none of them likes to diagnose the death of a patient at all. I can cite cases here in Kuwait in each of which the patient died and his death was known to everybody, yet doctors were not convinced that they should stop the resuscitation process, until someone, with cool nerves, would arrive into the country and assure them the patient had been dead for such a period of time, and recommend that they should turn the equipment off. There have been no cases where doctors were in a hurry. As for the case in South Africa, that was a case of manslaughter and had nothing to do with medicine.

Dr. Khaled Al-Mathkour, Chairman

Mr. Muhammad Fu'ad Tawfiq has been waiting to make his comment since the previous session, but the time was short, so would he kindly go ahead now.

Mr. Muhammad Fu'ad Tawfiq

Mr. Chairman, I have asked for permission to talk on the basis of what Dr. Abd Al-Aziz Kamel said in his opening remarks as chairman of the previous session. He said we were not merely two groups, physicians and *fiqh* scholars. There is a third group that represented the Islamic community, which is anxiously waiting for the outcome of this meeting of scholars and physicians. We can refer to that group as "the concerned party". I myself have special interest, since I work in the field of the law at a government agency concerned with this, namely the Ministry of Public Health.

Allow me to begin by congratulating Dr. Muhammad Na'eem for the valid scholarly conclusions he has arrived at. On the basis of those conclusions, and after we listened in the morning session to the fact that Islamic Law did not define specific conditions concerning the end of life, I say that all of us know that all man-made laws and dominant conventions give a doctor (or a medic in a village where there are no doctors) the right to determine when death occurs.

When a doctor does that, he applies the rules agreed upon by doctors in general. He does not consult *fiqh* scholars on that point, but is rather checked by his own judgement and his conscience. He mobilizes all his medical knowledge when he makes the decision and writes a death certificate.

If the conditions agreed upon by physicians for the diagnosis of death used to be based, among other things, on the death of the heart, it has now been established, in a most definite way and after extensive experimentation and research with which they are quite satisfied, that death coincides with the death of the brain stem, not with that of the heart.

I wonder whether physicians have sought permission before reaching agreement over the conditions they now follow when they decide that a certain life has ended. The answer is certainly in the negative. In most non-Islamic countries, doctors follow the scientific finding that the end of life coincides with the death of the brain stem, while Muslim doctors refuse to make the decision alone without consulting this elite group of scholars, who are gathered here in this blessed seminar, by God's will and aid and in His service. What I want to say is that since the decision concerning death has always been for physicians to make, in which each of them relies first and last on his scientific knowledge, and since science has developed and arrived at a fact supported by experimentation, devoid of any personal interest, it is my conviction that the esteemed scholars will tell doctors to go ahead with what they are convinced of, for it is their concern. But scholars may ask these physicians to reach an agreement, as they did earlier, over the criteria by which they can make certain that death, according to the findings of science, has actually occurred. Let one of the conditions be that the decision should be made by a group of experienced Muslim specialists who are known for their piety.

Dr. Na'eem has given you the example of a person who is sentenced to death and who wills his heart to be transplanted to his son, in order to save the latter's life. I will give you another example, that of a man who receives no death sentence, but asks in his will that his kidney be transplanted to his son, who will die without such a transplant. Now let us imagine that this person is injured in an accident with the result that his brain stem dies. Resuscitation equipment is used but the death of the brain stem is confirmed. Do we say to doctors to forget about science and to wait until the last cell in the body of that patient dies? Then the whole thing is over, the man is buried, and the son is deprived of the kidney his father left him in his will. A few days, or may be months, later, the son follows the father. The latter asks, "Why did they fail to give you my kidney, when you have more right to it than the tomb?" "I don't know, father", answers the son. "You should ask scholars and doctors".

I pray for God's guidance, and Peace and God's Mercy to you.

Dr. Khaled Al-Mathkour, Chairman

Thank you, Mr. Tawfiq. Now the question is addressed to both physicians and scholars.

Sheikh Badr Al-Mutawalli Abd Al-Baset

I want to explain something before doctors answer. Please, this is a most serious business. First, none of the scholars has said that we should wait until the body is completely decomposed. Scholars do not say that, son; they say convince us that the patient is dead and that all major systems in his body have come to an end. As for cases when the major systems are still functioning, I say that the life of a person is a certain thing, so we cannot say it has ended without certainty. Otherwise rulings cannot go into effect. What scholars are saying is that death should be ascertained before using an organ of a dead person if it is possible to use it. If nothing is useable let the other patient die as the first one did. Rhetoric has no place with scholars, who have to make sure so that every ruling they make would be based on a certainty. Now there is no certainty; there is confusion among physicians. And I say it very frankly; I cannot assume things. A certain thing is negated only by another certainty. I am giving you a principle of Islamic Law that has to be followed. So, please realize that this is an extremely serious question. We have never said every part of the body must die. Not at all. Hair continues to live, and so do bones, and yet no scholar claims that a person is alive just because of that.

Dr. Abdulla Basalamah

Mr. Chairman, let me draw attention to something. We have wasted a lot of effort and given much thought to the subject of transplanting a heart from one person to another. This is something that should have been done several years ago, because now this kind of operation, in its common form, is about to become obsolete. Sooner or later, the artificial heart would take its place. We should not chase--with our religious, scholarly, philosophical, and medical efforts--modern ideas and scientific inventions that are in fashion for a while and then fade away. The pioneers of this operation, heart transplantation, are now having second thoughts about whether they should have started such a surgery in the first place. I am talking of heart transplants. As for transplanting organs that exist in pairs, such as kidneys, a religious ruling has been made about them already, and I do not believe there is any disagreement concerning them.

The other subject, that of turning the equipment off in every case in which brain stem death has been confirmed, is one connected with the original principle that medical treatment should be sought. The traditions to that effect are ones I feel much more comfortable with than the idea of renouncing medical treatment.

It is the duty of physicians to take care of a patient until the last minute possible or the last cell alive. After that, things are left to God. I am afraid that if we give in a little on the question of removing the equipment in cases of this sort, the equipment might not be used altogether, and certain risks are involved in this for which we would indirectly be responsible.

Now on the question of the spirit, we have almost agreed that even a cell has life. Let us say that the spirit is actually located in the brain stem, as Dr. Na'eem has concluded, what about the cells that continue to live after the death of the brain stem? Do they have part of the spirit, or what?

Dr. Muhammad Na'eem Yasin

The truth is that my paper does not say the spirit is located in the brain stem. What I say is that the basic system on which the spirit relies in regulating all involuntary actions and in giving instructions is the brain, with its stem and cortex. As to the spirit's location, nature, and life span, I agree with all Muslim scholars that it is not something tangible, nor does it have a material entity. It has certain properties, in which we believe the same way we believe that an angel is watching us and moving with us wherever we go. But that is a different matter. In fact, it does not necessarily follow that if the spirit departs with the death of the brain stem it has to be located in that stem. Perhaps it is all over the body, but when the brain stem dies, one way or another, the spirit leaves the body, with God's permission, and is received by the Angel of Death. I did not want to speak of this, but I am offering a correction.

Another point is that the discussion of *fiqh* scholars is going now in the right direction, which is to search for the alternative. I make it a condition in my paper, and I wish I could have read the whole thing to you, that for a transplantation to be performed there should be no other alternative. Otherwise it is unlawful, because since we regard as dead a person whose brain stem has died, he has sanctity. The sanctity of a dead person in Islam is not a slight matter. It cannot be violated except in cases of extreme necessity. Such a necessity is duly evaluated. When an artificial heart is available, when we can make use of a heart a few minutes after it

has spontaneously stopped, there is no longer a necessity. If Dr. Al-Qadhi's theory is that now it is not possible to use such a heart, science may someday achieve greater speed, with computers running and microscopic instruments available, the work of ten minutes may be achieved in one, or even in one second. We hear of greatly advanced computers, so it is not hard to imagine that one day a computer will perform the surgery. Theoretically, it is possible to use the heart of an animal. Again theoretically, it is not beyond human reason, though it is conventionally impossible, to think of a brain transplant replacing another brain. If what one of the doctors has mentioned, to the effect that the brain can be refrigerated for three to four hours, after which it can be revived. So it is possible. Everything is possible in theory, though many things are practically impossible. The heart of an ape can be used for example. All these are alternatives, and one of the most important conditions for transplant operations is the inavailability of any alternative, because, as I have said, the sanctity of the dead can be violated only in a case of necessity. The condition that there should be no alternative is the excuse by which some colleagues have been trying to avoid facing the question.

Turning the equipment is lawful because it falls under the heading of treatment. A principle is established in this regard; if a medicine does not help, it is not right to order it. But when we think of this realistically, for those who believe that before the equipment is turned off the patient continues to live, and when it is turned off the heart stops, what is the real effect of disconnecting the equipment? The effectiveness of a medicine, dear colleagues, is judged by the effect it has, and the effect of something is discovered when it is absent. The value of things is discovered by contrast. Therefore, to know its effect, this equipment, which you describe as treatment, should be turned off. Does cutting it off, in your opinion, mean that the patient would move from life to death? What medicine is greater than that on which life depends? Life does not come in fractions, though you say this is partial life, weak life, or moribund life. If a person who suffers the worst case of illness possible is murdered, the murderer has to be killed in retaliation.

Dr. 'Isam Al-Sherbini

I think it is necessary to answer some questions, so I shall do that in a quick summary.

To Dr. Shebir I say that I believe there are scientific, widely recognized signs and symptoms according to which the death of the brain

stem is diagnosed. Once it is diagnosed, no argument is made whatsoever. I have mentioned many of these and there is no need to go into details.

As for Sheikh Tawfiq, concerning how long an organ can be preserved and the means to prolong such a period, this is usually determined after it is decided whether the organ could serve as a transplant or not. If it is good, it can be preserved, but the first concern is how good it is to be transplanted to a patient. I mean if an organ is damaged, it would not serve as a transplant, even if it is preserved. I cannot begin to refrigerate a man's kidney or organ while he is aided by resuscitation equipment and alive, as some of us seem to think.

Dr. Tawfiq Al-Wa'ii

Useability, doctor, is determined before an organ is removed.

Dr. 'Isam Al-Sherbini

That is useability under the conditions mentioned earlier, namely that a person's blood pressure should be stable, blood circulation normal, and supplies of oxygen and nourishment regular, and so on.

The patient I am concerned with is receiving the aid of a respirator, but he is a person whose death has been ascertained through a diagnosis of the brain stem. What I would like to know is the attitude of Islamic Law and *fiqh* concerning the removal of equipment, which is not a medical treatment at all.

Now if the decision is made and the organ is removed and preserved, the period varies from one organ to another. For the pancreas, for example, it is twelve hours. For the heart, such and such hours, and when refrigerated to four degrees centigrade, it is such and such. A kidney can be kept for seventy six hours. The chances of transplant success is well-known to be fifty to sixty per cent. The seventy six hours is the period of preservation by refrigeration of a kidney taken from a dead person, in America for example, whose brain stem has died, and within this period it can be implanted into another patient.

But I am not concerned with the efficiency of tissue pressure. What concerns me is when I can interfere and remove an organ so that another patient can benefit from it.

Concerning Sheikh Tawfiq's question, namely why, since the patient

is going to die, not preserve the heart inside the body and thus allow the patient to live longer? The answer is that such a thing cannot be done and is impractical.

As for Mr. Al-Ashqar's opinion about the patient receiving artificial resuscitation who suffers a heart failure, then the heart is massaged to function again, since the patient is aided by equipment in the first place, it means he has already suffered a heart failure, so his heart is not good (for a transplant).

Dr. Khaled Al-Mathkour, Chairman

Thank you, Dr. 'Isam. Let us now have a break for the Maghreb (sunset) prayer, and we shall be back in thirty minutes, God willing.

Sheikh Badr Al-Mutawali Abd Al-Baset

I believe after it has been made clear that there is no pressing need or necessity for heart transplants, because there is the alternative of the artificial heart, the question now is simple, so kindly let us not waste any more time with it. There are more important questions, the questions of burial, inheritance, the waiting period, etc. Let us look into them.

Dr. Khaled Al-Mathkour, Chairman

Now we are discussing two points. The first is turning off the equipment when the brain stem of a person is definitely dead. The second point is transplanting organs from such a person. That is the practical fruit we are expecting of this whole discussion. Now we will go through the list of those who have asked to speak.

Dr. Najm Abdulla

I want to give my opinion from two different ends, and I have a special purpose in doing that. I will begin with the following point.

Concerning the brain stem, doctors have no disagreement; medically its death means the death of a human being. But, and this point number one, we have no need to transplant hearts at the present time, because, for one thing, this kind of operation has not been introduced into our countries, and, for another, its chances of success are small. Moreover, it is only done in few advanced and sophisticated centres in the world. So the subject does not concern us much.

On the other hand, since hearts are not needed, there is nothing wrong with waiting for death to gradually happen while the equipment is turned on. This usually takes no more than few days. I mean even with the equipment on, the heart is going to stop. This is according to the report (we have heard), and I make an exception in the case of children, for as the report says, it takes them fourteen days (for the heart to stop). If we follow this principle, there is actually no need for transplanting organs. Even financially, the cost is not great, because the equipment is operated automatically. Things will come to a natural end, and there is no need for differences between scholars and scientists.

To go back to the other end, the consensus of doctors that the death of the brain stem is indeed the natural death, or the medical death, of a human being, this in fact has to be handled from a particular point of view, which is to be strict in dealing with this question, lest things be interpreted differently from how they are intended. When we seek the opinion of scholars, we are told this is something for physicians to determine. But there have to be certain principles, and these, and I thank God for that, have been mentioned today.

I would like to emphasize two of these principles. The first concerns diagnosing the death of the brain stem, which is a very important thing, and there should be no ambiguity about it. Two things have been mentioned concerning this diagnosis. The first has been mentioned by Dr. Mukhtar in his presentation as consisting of five basic points, which are clearly listed in his paper, so there is no need for repetition. Similarly, Dr. 'Isam Al-Sherbini mentioned some of these points. If we take these points and make sure they all apply to the patient being examined, we will never be in disagreement, because we are certain then that the brain stem has died.

The second principle has also been mentioned. It is that a committee of doctors should be set up with the task of making sure these points really apply, because this is something we need to be strict about in order to avoid indifference in the future. The issue concerns the lives of people, so if we accept the fact that scholars have left it to physicians, it has to be perfectly clear to the latter as well and to be based on sound principles, and I have mentioned two here. This is a rule that has one exception.

Personally, I have some experience with this sort of thing and some experience with pediatrics. I worked in pediatrics in Dubai for four years, and we used to face many problems. One of these was the shortage of

infant resuscitation equipment. I am speaking about newly-born children, one-day or even few moments old infants. When an infant that has just been born meets the conditions, that is if it cries right away and is in good health, there is no reason to worry about it, because it is expected to survive. But the trouble with resuscitation to such small infants is that the chances of recovery are not very high and they suffer poor health. As I have mentioned, many are the problems we used to face. One of these is an incident I am going to mention. It involved a doctor who worked with us. She was fully convinced that an infant, who had been alive at birth, was dead. She took all the precautions usually taken with infant patients, and after working hard for half an hour, she concluded that the infant was dead. She informed its family, who took it to bury it, but suddenly the infant revived.

This is not an imagined miracle, but a real incident that actually took place. The doctor was fired because of it, on the basis that she did not have sufficient knowledge to handle her job. That is why we should be strict on such issues, and children are an exception to the rule I have mentioned.

I have prepared nothing for this conference, nor do I still work with children. But the recommendation I propose is that the participants at this seminar should consult pediatricians concerning the best way to diagnose death in the case of newly-born babies. I believe the rule I have mentioned now, which was also mentioned this morning, concerning the committee... Thank you.

Dr. Omar Al-Ashqar

I want to give a brief account of the way I understand this question so far, whether in connection to the beginning or to the end of life.

It is my belief that a preliminary life begins with ovum fertilization, and then another type of life begins when spirit is breathed in and goes on until this spirit is arrested. Life after the departure of the spirit is similar to that before spirit breathing. This is the simple picture I can say that I have concluded after the discussion, dialogue, and investigation.

If that is how things truly are, that is if there is a life similar to that which precedes the breathing of spirit, this answers the question of how there can be life after brain death when physicians are telling us that man dies with the death of his brain stem. There can be life similar to the preliminary one. So if there is a firm consensus of doctors over the death

of the brain stem being the death of a human being, and none of them disagrees, and since there are certain signs of life similar to the life before spirit is breathed in, we rule that such a person is dead, but as we have said that a zygote has a degree of sanctity, the same should apply to this life after the death of the brain stem. It has sanctity in the sense that no violence should be committed against it except in cases of necessity or of need. Controls, of the type mentioned by some colleagues, have to be set down.

Another issue is based on this one, which is whether to turn the equipment off. Undoubtedly, if we say that what occurs is death, the equipment should be turned off. It stands to reason; why should it be kept when the patient is dead? In other words, if we accept what doctors say and what science has determined, there is no reason to keep the equipment on.

In conclusion, I would like to raise the same question I have addressed to Dr. Al-Qadhi and received no answer for it yet. The way I understand what he has said is that when the heart fails, it is possible to make it beat again by turning the equipment on once more. Do I understand this correctly or not?

Dr. Khaled Al-Mathkour, Chairman

Dr. Al-Qadhi will speak, God willing, after Dr. Muhammad Al-Ashqar.

Dr. Muhammad Al-Ashqar

So far, *fiqh* scholars have disagreed over when death occurs, whether it coincides with the death of the brain stem or with that of the major systems as the Honourable Sheikh Badr puts it. What early *fiqh* scholars say about the subject is almost in full agreement with the view of the Honourable Sheikh Badr. I myself endorse the same opinion, but eventually I believe I will be inclined to the more realistic approach of Dr. Muhammad Na'eem Yassin.

As for physicians, some say that death occurs when the major systems of the body stop to function. Others, and they are the majority, say it occurs with the death of the brain stem. But as regards this statement of theirs that death coincides with the death of the brain stem, and the fact that they state, or imply as far as I understand, that after the death of the brain stem, there is no hope of recovery, which means the case is completely hopeless--is that what death is? Some say the whole

thing is metaphysical, and with the discrepancies between their statements, we may have the chance to get in at some point and influence the practical outcome of this discussion.

When we refer to the works of early *fiqh* scholars, we find that they all agree that a person may be regarded as alive and yet killing him is not regarded as murder, that is not as a crime against a living person. How can that be when the person is alive? All works of *fiqh* agree on this point, and I am not saying this to fish compliments for them from Dr. Abd Al-Rahman Al-'Awadhi or anyone else. But Islamic *fiqh*, praise be to God, has been ahead of all modern technology. If two persons commit violence against the same victim successively—that is the crime of manslaughter is committed against a person and he arrives at what is known as the life of “the slain”, and then another criminal attacks the same victim, the second criminal is not regarded as having committed a crime against a living person, because, though he is alive, the victim is virtually dead. The only punishment the second criminal receives is that due for violence against a dead person.

Let me read this point from a book, from which I have photocopied this, so that you will listen to the original word by word, expressed candidly, and so that it will be taken for what it is worth. This quote is from Al-Nawawi and the commentary of Al-Muhalla, whose intellect has been described as infallible. This is an example of the praise he receives. At any rate, this is a question on which scholars of the Shafi'i, Hanafi, and Hanbali Schools agree, though I am not aware of the opinion of Maliki scholars.

Al-Nawawi says in the Book on Retaliation:

If a man is killed by another, that is if a criminal brings him to the stage of “the slain”, so that he no longer sees, speaks, or moves voluntarily, which is the stage of settled life in which consciousness is retained but it is certainly known that the victim will die within one day or few days, rather than constant life, which means if he is left on his own, he will survive, and then another commits a crime against the same victim, the first is a murderer, because he has driven the victim to the stage of death, and so he is regarded the same as the definitely dead. The other is chastised for violating the sanctity of a dead person. An example of this is when a person is cut into two halves, with his entrails in the upper half. For even if he speaks in a comprehensible manner, as when he asks for

water (i.e. saying, "Give me water to drink!"), this is not regarded as a premeditated speech, and therefore, he is not regarded as living, but as virtually dead.

Another case is that of an invalid, who takes a turn to the worse, so much that some people say that he is dead, while a medical expert may deny that. Let me then finish what the Shafi'e scholars say on this subject. They say that if a person in such a condition is killed, the criminal is a murderer. This is different from the first case, where the first culprit is the murderer, while the second is only guilty of a minor crime. It is so, because in the second case, there is no clear cause to attribute death to (other than the crime). Doctors, however, say that it is possible to determine whether a person has actually died or not in the first case, so what is the ruling? We say that even if a person's spirit is in him, like when he receives a blow on his abdomen or he is cut in half, but he still can talk, he is regarded as if he were dead. Ibn Hajar says, "in his case, it is lawful to get him ready for burial and to bury him". He is asked to reconsider, but he goes on to say:

It is lawful to let his widow get married if her waiting period has ended, as when she delivers a baby while he is in such a condition. On the other hand, he has no right to inherit any of his relatives who dies after he has reached this condition, nor does any game that falls into his hand while he is like that belong to him, and so on.

So Ibn Hajar finds nothing wrong with applying these rules. I say here he is ruling that an alive person should be looked at as dead and a crime against him should not be seen as a crime.

This should be particularly true when we see no signs of spirit and can detect no movement in the person concerned. All there is this equipment, which we can remove. So he should be looked at as dead, even if we rule that he is not. Let us say he stays alive until the last system in his body stops. But still, a crime that ends his life is not a murder, removing the equipment is not a murder, and removing his heart is not a murder.

Dr. Khaled Al-Mathkour, Chairman

May God well reward you. Now it is the turn of Dr. Ahmad Al-Qadhi, who has asked for a chance to speak. I hope he will include in what he says an answer for the question of Dr. Omar Al-Ashqar.

Dr. Ahmad Al-Qadhi

I have six points and I will, God willing, go through them quickly.

The first is about the decision and recommendations of seminars like this. They are not limited to Kuwait, or even to the Middle East alone; they are for the whole world. So what has been mentioned there being no heart transplant surgery here in Kuwait is neither important nor valid.

The second point concerns the extent of success this surgery has and the availability of alternatives. There are no alternatives. So far artificial hearts have not proved successful. No animal or human being could survive with one for a full year. These are just experiments and none has lasted long. In contrast, the percentage of success of the surgery of natural heart transplants is getting higher and higher. Now most patients live over a year, sometimes several years, and progress is going on.

Third, the hearts available for transplantation are extremely limited in number, and if we accept the theoretical supposition that a heart can be used after waiting for it to come to a natural stop following the death of the brain stem, the hearts available will grow even less. They will be one tenth of what is available now, if they do not disappear altogether. This would be a real crisis.

I repeat what I have said earlier in order to answer Dr. Omar Al-Ashqar's question of whether when the heart stops it is possible to make it beat again. If it is the heart that stops first, as a result of a stroke or a failure, i.e. when the brain stem is not dead, it is possible, in one half of such cases, or less, to make the heart beat once more. In other cases, however, when the brain stem dies first and the heart is allowed to stop on its own within few minutes, the probability is very slim, though in theory it is possible. Perhaps this needs more than just a resumption of respiration. It may require using an artificial heart. But connecting this apparatus alone takes more than ten to fifteen minutes. Consequently, in the long run, such a heart cannot be used. So it is important to distinguish between a heart that stops by itself without the brain being dead, and a heart that stops on its own because we allow it, a few minutes after the patient dies, to stop.

The fourth point concerns the comparison made by Dr. Omar between embryonic life before the breathing of spirit and organic life after its departure. The comparison is invalid, and the only similarity between the two is that in both cases there is no spirit in the body, but the big difference between them is that embryonic life before spirit breathing is, if

sufficient care and nourishment are provided, on its way to become a perfect human being. Organic life after spirit departure, on the other hand, will never lead to a human being, perfect or imperfect, but is rather heading towards extinction.

The fifth point is that some of our *fiqh* scholars seem to be confused as suggested by their expressions. They apparently believe that after the death of the brain stem, the body turns into what we can call "a lifeless corpse," with all the signs of death mentioned by early scholars, including discontinuity of breathing; the end of the ability to feel, reason, learn, comprehend, and make choices; the dropping down of the legs, the dislocation of the hands; the crookedness of the nose; the collapsing of temples; and the movement coming to a standstill. This does not happen at all when the heart stops while the brain stem continues to live. It is something that we practically experience with some patients on a pace maker when the batteries of an electric pump have to be changed under local anaesthesia. This happens once every few years. We do not allow it to take long, perhaps no more than one minute. During that period, the patient continues to talk, move, breath, and so on. Undoubtedly, when the brain stem dies and its functions come to an end, all the signs of death I have mentioned--movement coming to a halt, etc.--can be detected. But this, I repeat, does not happen when the heart stops while the brain stem continues to function.

The sixth point is the question of whether the death of the brain stem can be compared to cutting the brain off. This is exactly what it is when the brain stem dies, whether the patient is or is not receiving the aid of artificial respiration. It is precisely the same as when, for surgical purposes, veins and arteries are tied and the brain is cut off or disconnected from the rest of the body. Organs will live on, or artificial organic life continues, with the aid of equipment, as it is. Whether the brain is disconnected or not, organs are kept alive, and thus the condition of these organs is exactly the same as that of the body of a person beheaded with a sword, as in the example of Dr. Na'ëem Yasin.

Dr. Tawfiq Al-Wa'il

Now that everyone of our colleagues has voiced his opinion on the subject, let us remember that the Quran speaks about life and death. It says for example, *LET US DIE ...* and *'WHEN WE ... TURN INTO DUST AND BONES, ARE WE GOING TO BE BROUGHT BACK TO LIFE?'* It uses the term "cause to die" to express the end of life in the body. Describing the way

rebels against God meet their doom, it says,

IT TOOK ONLY ONE SHOUT AND THEY FELL DOWN LIFELESS.

(S36:V29)

Lifeness is the stillness of the body, which no longer moves, breathes, or betrays any sign of physical life. And here it uses the same image as in the Sura of Al-Haqqah:

WE LET DOWN UPON THEM, ON A DAY OF INCESSANT MISFORTUNE, A HOWLING WIND WHICH PLUCKED PEOPLE AS IF THEY WERE UPROOTED TRUNKS OF PALM TREES.

(S54:V19-20).

Speaking about the departure of spirit, the Quran says,

AND SO WHEN IT GETS TO THE THROAT, AND YOU ARE THERE WATCHING--WE WILL BE NEARER TO HIM THAN YOU, BUT YOU CANNOT SEE US ...

(S56:V83-84).

So people can see neither death nor the spirit as it departs. They see, however, signs of these occurrences. The Quran says:

NAY, WHEN IT GETS BETWEEN THE CLAVICLES, AND IT IS SAID, 'WILL NO ONE SAVE HIM?' WHEN HE KNOWS IT IS THE FINAL PARTING AND HIS TWO LEGS TWIST TOGETHER--TO YOUR LORD ON THAT DAY HE SHALL BE DRIVEN.

(S75:V25-30)

Concerning Prophet Sulaiman (Solomon), it says,

AND WHEN WE ORDAINED FOR HIM TO DIE, THE ONLY THING THAT BETRAYED HIS DEATH TO THEM IS A WORM EATING AWAY HIS STAFF.

(S34:V14).

This was the sign of his death.

The Quran tells two stories where it is clear that the miracle of creation is in the body, which I do not want to get into in order to save time. The first story is that of 'Uzair:

OR LIKE THE ONE WHO, AS HE PASSED BY A DESOLATE VILLAGE, ALL IN RUINS, SAID, 'HOW CAN GOD BRING THIS BACK TO LIFE AFTER ITS DEATH?' THEREUPON GOD CAUSED HIM TO DIE ... ONE HUNDRED YEARS ...

Here causing him to die means that his blood and his whole body are made to disintegrate.

THEREUPON GOD CAUSED HIM TO DIE AND THEN, AFTER ONE HUNDRED YEARS, BROUGHT HIM BACK TO LIFE. GOD ASKED HIM, 'HOW LONG HAVE YOU STAYED AWAY?' 'A DAY, HE SAID, OR LESS THAN A DAY'. 'NAY, YOU HAVE BEEN AWAY FOR A HUNDRED YEARS'.

Then comes a description of the process of bringing him back to life.

'NOW LOOK AT YOUR FOOD AND DRINK; THEY HAVE NOT SPOILED. LOOK AT YOUR DONKEY. WE ARE GOING TO MAKE OF YOU A SIGN FOR ALL MANKIND. WITNESS THE BONES OF YOUR DONKEY, HOW WE RAISE THEM AND CLOTHE THEM WITH FLESH'. WHEN IT HAD ALL BEEN CLEAR TO HIM, HE EXCLAIMED, 'I KNOW THAT GOD HAS THE POWER TO DO EVERYTHING'.

(S2:V259)

The second story, very briefly, is that of the People of the Cave. Here the Quran does not speak about death; it rather says, *WE SEALED THEIR EARS ...* This is because they do not actually die. They merely lose consciousness, as if their spirits were temporarily taken away, and their bodies were left on their own. But these were bodies that continued to grow. That is why the expression used is *WE SEALED THEIR EARS ...* rather than *WE CAUSED THEM TO DIE* or "We brought death unto them," for example. The Quran is very precise about this, and the story has no mention of death whatsoever. What happens here is mere unconsciousness, but life continues. That is why the Quran makes it a point to draw our attention to the fact that the body is in good health and does not decompose, and that their hair, nails, and everything else keep on growing. It is even specific about the long period they spend in this condition, setting it as three hundred and nine years, and this is so we will make no mistake about the length of the period. Then it implicitly shows us that their bodies continued to grow:

HAD YOU BUT LOOKED AT THEM, YOU WOULD HAVE TURNED AWAY AND FLED IN TERROR.

That is because of the length of their hair, beards, nails, and so on, according to the interpretations of scholars.

In fact, the Quran even mentions clinical care during this period:

WE TURNED THEM ABOUT TO THE RIGHT AND TO THE LEFT, WITH THEIR DOG STRETCHING ITS FRONT LEGS AT THE

ENTRANCE. HAD YOU BUT LOOKED AT THEM, YOU WOULD HAVE TURNED AWAY AND FLED IN TERROR.

Again, the Quran never mentions death in narrating this story; it rather says, *WE SEALED THEIR EARS INSIDE THE CAVE FOR MANY YEARS.*

The first story is one of death and actual decomposition, and when that story of death is narrated, the decomposition is mentioned, and it is pointed out that the body is completely finished. But when the Quran narrates the story of unconsciousness, it says, *WE SEALED THEIR EARS ...* rather than speaking about causing them to die for three hundred years, and it is three hundred years, not three or fifteen days or things of this sort.

So in fact when we come to the bottom of it, we find that the Quran speaks about life and its concept, about death, and even about the resurrection of the body. Otherwise, we might have concluded that it is not the bodies that are resurrected. But when the Quran speaks about the resurrection of bodies after death:

UNBELIEVERS CLAIM THEY WILL NOT BE RESURRECTED. SAY, YES, BY MY LORD, YOU WILL MOST CERTAINLY BE.

(S64:V7)

What is that resurrection? It is spiritual and physical. No Muslim claims at all that it is only spiritual, for both types take place.

Dr. Khaled Al-Mathkour, Chairman

Dr. Tawfiq, what is all this citing of evidence leading to in regards to the subject under discussion?

Dr. Tawfiq Al-Wa'ii

We conclude that physical life has sanctity and no one should be pronounced dead while his body is still alive. Early scholars are very clear on this point when they make it clear that a person is dead when the signs of life, which are feeling, moving, and breathing, can no longer be seen in him. They even say that when there is any doubt, burial is delayed until the odour of the person concerned changes, thus confirming his death. These are physical signs. In fact, there is a point raised by Dr. Omar Al-Ashqat. He says that Dr. Hassan has said that life before spirit is breathed in should be respected for its own sake. So now we are asking him to respect this type of life. Whatever they want to call it, that occurs at the end of human life.

Dr. Muhammad Shabir

Death as viewed by Islam means moving from this earth to the isthmus, and from there to the Hereafter. True death, according to early scholars of *fiqh* and other disciplines, is the total departure of the spirit from the body. This means if a spirit only partially departs, its owner cannot be looked at as dead; he is alive. Therefore, it is unlawful when spirit is in the process of departing to end the life of a person who is regarded as a hopeless case. The departure of spirit is one of the mysteries hidden by God, Glorious and Sublime is He, from man. As for spirit departure prior to Doomsday, it has major signs. Among these, as mentioned in the Quran is the agony of death.

COULD YOU BUT SEE WRONGDOERS WHEN DEATH OVER-
WHELMS THEM! WITH HANDS OUTSTRETCHED, THE ANGELS
SAY: 'YIELD UP YOUR SOULS ...'

(S6:193)

Another is the rattle in the chest as the spirit arrives at the throat.

AND SO WHEN IT GETS TO THE THROAT, AND YOU ARE THERE
WATCHING ...

A third sign is arriving at the clavicles, which is also described in the Quran.

A sign that indicates that the spirit has departed is that mentioned in a tradition of the Prophet, Peace be upon him: "*When spirit departs, eyesight follows*". Judge 'Ayyadh says, in interpreting this tradition:

Perhaps the angel in charge of the death process appears to the dying person, who looks at him askance, not turning his eyes until the spirit has departed and with it all other powers have vanished. Eyesight, as well as hearing, is gone.

Al-Nawawi says sight is not lost with the departure of spirit. As to the meaning of the tradition, he says, "*As the spirit leaves the body, eyesight follows it to discover where it is heading*". Al-Sayuti comments on what Al-Nawawi says, saying:

After contemplating the question for thirty years, it seems to me that the answer is one of two things. The first is that eyesight follows the spirit as it departs from most of the body and while it still remains in the head and the eyes. When most, not all, of it has departed through the mouth, the eyes look at

the part that has departed. It is said that the spirit has the same shape as the body and its organs. When the rest leaves the head and the eyes, eyesight stops. Thus, when the Prophet says 'departs', he means 'starts to depart' but not completely departed.

The second way to answer is that the body has some connection with the spirit even when the latter has departed from it, which allows it to see, hear, learn things, and greet back.

From all this we conclude that when eyesight and hearing are lost, that is a sign of death. So if it is certain that when the brain stem dies, eyesight is lost, this is an evidence that the spirit of the patient has left his body. This may allow us to settle the question by having a means to ascertain the death of a person, which is set by all *fiqh* scholars as a condition for preparing him for burial and burying him. To ascertain death means to ascertain that the spirit has left the body, and to do that we check the sign of its departure, which, as I have mentioned, is the loss of sight as pointed out by the Prophet's tradition. Thus if loss of sight follows the death of the brain, that is an evidence that the spirit has left the body.

Dr. Ibrahim Al-Sayyad

The topic of this seminar is Human Life: Its Inception and End, and how I wish we could have dealt with this subject without the pressure of a gynecologist when it comes to the inception of life and without the pressure of a transplant surgeon when it comes to the end of life. Our discussion would have been more objective.

I want to repeat that the inception of life occurs when spirit is breathed in. There is no doubt about that, either from the medical or from the legal Islamic point of view. Likewise, the end of life occurs when spirit departs, and again there is no doubt about that, either from the medical or from the legal Islamic point of view. Dr. Na'eem has shown that the sign of spirit departure from the body is that the brain stem stops functioning.

In reply to Dr. Shabir, sight is totally a brain function, including the nervous part and the muscles that allow the eye to move. The brain stem is the flag bearer; it is the last to fall down. It is the nervous centre that endures the most, so when it falls down, all the nervous centres above it, all the way up to the cortex, would have fallen down, and this is equally true about a person who is beheaded, with his head and brain rolling

down, away from the body, and a person whose neck is squeezed to death. Execution, in fact, is the destruction of the brain stem. Thus, the brain stem is the decisive part of the brain, and eyesight is a brain function.

I beg to differ with Dr. Shabir over the question of death by installment. The spirit is not a bird flying out of the brain to freedom, landing in the heart where it plays for a little while, then getting further down to the kidneys, and again running away from the kidneys, and finally settling in fingernails, to leave the body only after several attempts. As I have already told my Professor, Dr. Abd Al-Aziz Kamel, death comes in a flash and not as a process that takes a period of time. That flash is the moment of spirit departure.

To make things clearer to *fiqh* scholars, I recall how when we were first-year students in the school of medicine, the school used to get us dogs, take out their hearts and lungs, attach these to an apparatus known as the heart-and-lung preparation, and discard the bodies of the dogs. The instrument used to operate the heart and lungs to show us how they worked. Can I say that there is life in such a heart? Yes, there is life, but is it life with spirit, as such a life is described in the Quran? No! We have to accept what Dr. Na'eem Yassin has said, for, among *fiqh* scholars, he comes the closest to the position of physicians. I expected that by now we would have met, but it seems the gap between the two sides is still wide, and the conference might end without our reaching an agreement. I have said that I do not want to divide life into perfect and imperfect; the division already exists. I have mentioned "cell culture" and "tissue culture". A kidney cell is cultivated, it multiplies, and a full kidney tissue is formed. Does it have spirit? No, the spirit is what gives the body that special quality that allows reason and the brain control the rest of organs. That is what spirit is.

I say to my brother Dr. Tawfiq, do not cite miracles as a counter evidence; the miracle of three hundred years does not go along with our medical concepts. Every human cell is created with the ability to multiply a certain number of times; after that, it completely loses the ability to multiply. That explains the statement of the Prophet, Peace be upon him, "except for one disease: *old age*". We can protect man from all kinds of diseases, but he will eventually die, without being ill, of old age. The cells will stop. The cells of each living creature have a certain number of times of cleavage. The tortoise, which lives one hundred years, has cells that divide ninety times each. A human cell multiplies forty to fifty times.

Do not cite miracles to me; they are not the norm. Come with me to grips with the idea of cell culture and tissue culture. We can cultivate tissues and we can keep organs which are removed out of their bodies alive for a period of time. Is that spirit? No, it is not. Then let us find an answer. Life begins with the breathing of spirit and ends with the arrest of spirit. At what time is spirit removed? When the control of a central system over the rest of the body comes to an end. As for kidneys, half the people of the world have dead kidneys, and they live by kidney dialysis. If their natural kidneys are removed and discarded, that will affect them in no way.

Dr. Abd Al-Aziz Kamel

Thank you, Mr. Chairman. The time you and all of us have left to arrive at a conclusion is no more than one and a half hours.

Dr. Khaled Al-Mathkour, Chairman

Until eight, by God's will. You started a new tradition in the previous session by allowing each speaker ten minutes.

Dr. Abd Al-Aziz Kamel

I am not speaking about individual speakers, but rather about the general outcome of this seminar. I believe it is time we move from the stage of dialogue to that of focus and summary. I believe we have been tilling the land in more than one direction.

Dr. Khaled Al-Mathkour, Chairman

Allow me, Dr. Kamel. I am hoping that the speakers will come up with something new, not raised by anyone before, out of which we will benefit, God willing.

Dr. Abd Al-Aziz Kamel

That is why in the previous session I have tried to sum up things for myself in six phrases and to ask my colleagues to choose two of them. Now I sum up the thing in one line, which I hope is clear. I have drawn a line and placed six points on it, three on the right side and three on the left. The first three concern the inception of human life, and we should choose one out of the three, and the other three, on the right side, represent the end of life, and again we choose one. They are numbered as follows: (1) fertilization, (2) implantation, and (3) nerve sensations. We choose one out

of the three. These are followed by the stages of birth, youth, old age, etc. until we come to the other three which are, to avoid repetition of numbers, (4) the death of the brain stem, (5) heart failure, and (6) the failure of the rest of the body.

All our dialogue is circling around these six items, and although now our attention is focused on the last three, we will be expected, before the end of this session, to choose one of the first three as well.

Now I move to something more specific. It seems that for our physician friends it is certain beyond any doubt that the death of the brain stem of a person means that that person is now in the stage of no return at the gate of death. I asked some doctors whether by using equipment, it is hoped that the patient might regain something, and they answered that there is no hope when it is certain that the brain stem has died. The whole thing is just an attempt. I asked whether it was a medical or psychological attempt, and I was told the two aspects mix together. I asked whether it is possible to bring someone back to life after the death of his brain stem, and they unanimously answered in the negative.

Thus it is clear that medical death coincides with the death of the brain stem. Next there are the problems related to legal and religious aspects. No legal action can be taken before the heart dies, together with the rest of the body. Nor can any religious duty be performed before the whole body is dead. We are then expected to come up with a clear decision to the effect that we endorse this medical statement, which is not made haphazardly but after careful international studies, that the death of the brain stem is the beginning of irrevocable human death. After that, we can get into the legal and religious consequences of this medical opinion. I do not believe you will be able to cover all the legal and religious rulings in this seminar, but it is sufficient to define the stages (of death) and say that the legal and religious aspect will follow, and it can be later studied in some kind of forum.

As for the beginning of human life, you are coming back to it in a little while. In this session we have to make a choice: fertilization, implantation, or nerve sensations. If I have something to say about this, I believe it is safer to begin (prohibition of abortion) from the moment of fertilization; it is the point at which medicine, the law, and religious considerations all meet. This is the summary I wanted to present to you. Thank you, Mr. Chairman.

Dr. Khaled Al-Mathkour, Chairman

I have already summed up the same points which Dr. Abd Al-Aziz Kamel has kindly made, but before I read that to you, I would like to give the chance to speak to those who have asked for it.

Dr. Hassan Hatthout

To be religious is to offer advice. I suggest that we avoid angry exchanges, which make one more susceptible to error. An angry person is like a drunk person. To get angry means to need more time, to heat up, and to let all our effort go in vain.

I have heard many of the clinical signs of death mentioned by early scholars, and I would like to say that these signs should be medically revised. Let me give an example. Loss of eyesight is not necessarily a sign of death. Sight may be lost as a result of a blood clot in the arteries feeding the sight centre in the brain without leading to the patient's death. This is a medical fact.

Another medical point is that early scholars list a series of clinical medical signs for the stage of "the slain", which means the stage at which a patient's case becomes hopeless and he is regarded as virtually dead. Even these signs have to be revised by doctors. It was believed that when someone is struck in his belly with the result that his entrails are spilled out his recovery is hopeless and consequently he has reached the stage of "the slain". Nowadays such a person may, by God's will, live after a surgery. So all these signs should be revised by doctors.

Doctors are all in consensus that the death of the brain stem is at least equal to arrival at the stage of "the slain", which means that a patient whose brain stem dies should be looked at as dead according to the rules of Islamic Law. Violence against him should not be looked at as murdering a living person.

Dr. Abdulla Muhammad Abdulla

In the definition early scholars give to death, they say it and life are two opposites that can never meet. Nobody claims that a person can be alive and dead at any moment. They make an exception of only one case, that of the stage of "the slain", whether one arrives at it by being a victim of a crime or by taking poison. This is the only exception they make to the rule that life and death do not meet. In explaining this, they give an

example of the case of a man who is cut into two halves, whether the entrails remain with the upper half or not, which is an exception to the rule, because one cannot live without that upper half and, at the same time, cannot live with it alone. The same exception is given to the case of a person who takes deadly poison and the probability of his survival is considered extremely slim. As for a person who arrives at the same stage through illness or something of that sort, he is regarded as alive. He cannot be buried nor do any ruling concerning the dead go into effect in his case. No one had uttered an opinion contrary to this until our dear friend Dr. Muhammad Na'eem Yassin did that this morning. Of course, his opinion has its own validity, but I say it is the only one that disagrees with what *fiqh* references say.

Dr. 'Isam Al-Sherbini

Actually Dr. Hassan has pointed out even more than I want to say. It is time that physicians ask *fiqh* scholars, "Where have you got the signs of death you use as a criteria to rule whether a person is dead or not?" We have all agreed, at the beginning of our discussion, that there is no passage of the Quran and no tradition that deals explicitly with the subject, and I say this with all due respect to the quotations cited by Dr. Tawfiq, but they are not definite or decisive. What I am getting at is that all these signs come from human experience, the experience of patients and physicians. Al-Sayuti's thirty year deliberation over the subject falls in the category of human experience. Now human experience has changed, and specialists affirm that death is the death of the brain stem.

What I mean to say is that this diagnosis made by physicians is something that *fiqh* scholars have almost no choice but to accept, as far as the occurrence, and not the rulings, of death is concerned. As to rulings, scholars are free to do what they want. But the experience on which earlier rulings were based has changed, and therefore, the rulings themselves should change in consequence. The death of the brain stem has been described by Dr. Abd Al-Aziz as the beginning of the stage of irrevocability. I would like to say that it is a confirmation of death based on human experience. The life that remains in cells or organs is exactly like that of a kidney removed from a patient: blood circulation stops, the heart stops, and the kidney is removed half an hour later and given the chance to live and to go on living. Or it is like the life of cells we cultivate. The life of the body, or the remaining organs of the body after the brain stem dies is similar to such life.

What we want then is to base rulings on this medical fact, and let me tell the Honourable Sheikh Badr that it is a certainty and not a suspected medical fact that death is the death of the brain stem. We have to come to a decision on this regardless of the question of organ transplants. I mentioned this morning that one of the conditions set by the concerned authorities in various countries was that the criteria of diagnosing the death of the brain stem should be the same regardless of whether some organs would be removed for grafting or not. It is the same thing being diagnosed, so on differences are allowed. This case that I am talking about, the diagnosis of the death of the brain stem without the need to remove organs for grafting is one that physicians in every hospital that has an intensive care unit come across.

Sheikh Muhammad Al-Mukhtar Al-Salami

I strongly believe that the field of *fiqh* scholars is the field of legal stipulations and rulings and that they should not go beyond that. The job of a *fiqh* scholar is to point out a certain ruling, whether it is an assigned or a circumstantial one. For other things, they have to refer to specialists to get the facts, as known to the latter, and come up with a ruling appropriate to that fact. It is not expected of a *fiqh* scholar to turn into something else, nor is it accepted of him to go beyond his field to draw a dividing line between life and death. What early scholars did was to base their opinions on contacts and experiences appropriate to their situation, knowledge, and the scientific progress achieved in their age.

Today, on this subject and others, specialists in the proper field, be it economics, medicine, or any other human activity or concern, have to be consulted, so that they may give a true picture of the issue involved. Sometimes we have to ask about every detail. When the picture is given to us we should not accuse these specialists of being mistaken or of failing in their duty; we should rather make the ruling according to the facts given to us. In economic matters, economists give us the full picture of a certain economic operation, and we examine the situation and arrive at a legal ruling, declaring the operation either lawful or unlawful. The same thing applies here, and we should not exceed our limits.

Sheikh Badr Al-Mutawalli Abd Al-Baset

In fact we have not gone beyond our limits and interfered in the specialization of physicians. But there are points in what physicians have mentioned that need clarifications so that "I may be reassured in my

heart". One point is whether it is possible for a dead body to carry out the process of destruction and construction. This is the question.

Of course the body is receiving the aid of equipment, apparatuses, and so on. Major systems--the respiration system, blood circulation, the nourishment system--continue to function, as we have heard from physicians. Thus we are asking in order to be reassured at heart, because the life of a person is a certainty, and I cannot rule that this life has ended without equal certainty. Certainty can be cancelled only by another certainty. As long as there is the slightest suspicion that some remainder of life still exists, (I cannot make such a ruling). And I would like to correct things for Dr. Abd Al-Aziz Kamel: we have not said the whole body must die; what I am saying is that although the brain stem dies, the major systems--the respiration system, blood circulation, the nourishment system--continue to function, and it is difficult to rule that someone is dead because of the death of his brain stem while he still takes food, regardless of what method is used to feed him, and while processes of destruction and construction still go on in his body. These are very strong signs of life. No, I would not dream of interfering in the job of physicians; all I am saying, my friends, is that I still have doubt, so help me to get it off my head, to feel reassured, and to rule that the rulings of the dead apply to this person whom you say is dead. Then I can confidently allow him to be washed, shrouded, buried, inherited, and so on, for the rulings that apply are a great many. I have ruled out the question of heart removal because some physicians have mentioned the artificial alternative. It is our right as Muslim and as *fiqh* scholars, expected to come up with rulings, to make certain that a particular person is actually dead. But to say he is really dead at the same time that his body breathes and moves, whether the movement is voluntary or spontaneous, and while the process of destruction and construction is still going on, I believe that till now I am not convinced. I have to be reassured, so when I make a ruling I do that with awareness of what is involved. I am not interfering in your job. Just tell me such a person is dead. In the past you said a person was dead when his heart stopped, but you have changed your mind.

My brother Sheikh Muhammad Al-Ashqar has raised a question. Is there a possibility, even in theory, that a time will come when medicine can interfere to bring the brain stem back to life? I have heard that it is theoretically possible and science does not rule it out. As science until recently used to regard the failure of the heart as a definite sign of life, and then crossed that off, let us cross off this thing as well. The question

involves a life that has been a certainty, so I only rule that it has ended on the basis of another certainty. This is a principle of Islamic Law: certainty is not cancelled by suspicion, and I am sticking to this principle.

Sheikh Ibrahim Al-Dasouqi

I have been keeping silent since morning. I do not deny that yesterday we, or at least I personally, received great benefit. The discussion modified a conviction deeply rooted in my mind, and perhaps some schools of *fiqh* support this view of mine, so I will speak about it.

First of all, I used to believe life began 120 days after conception. Now we are certain, after the tests pointed out to us and the information made available by our physician friends, may God well reward them, that life begins when a zygote is implanted, or even when a sperm and an ovum unite. At one of these two points life begins, and perhaps I support the idea that it begins with sperm and ovum union, allowing a margin in order to be religiously safe. Perhaps I will raise some of the points resulting from this.

When we discussed the question of the IUD and our friend Dr. Ma'moun explained its effect, how it does not allow zygotes to implant themselves in the uterine lining, it was clear this was a case of early abortion, because it had been established that, after being fertilized by a sperm, a zygote has settled life. We therefore say that an IUD is a device that aborts a living being.

Next we come to embryonic life during the first three or four months. This life is settled according to the standards set in Islamic Law. Although Hanbali Scholars, or other leading scholars, say abortion during that period is permissible, now that we know that there is actual life throughout that time, and with the stipulation of Islamic Law that aggression against a living creature, or an established life is involved in such an action, we have no choice but to forbid it. As for life after spirit is breathed in, it has all the time been known to exist.

We now come to something else, the end of life. It is true we have learned new things from doctors who have told us about the brain stem and other things and said life ends with that, but I would like to say that in the early days of Islam there was no equipment and yet we have not learned that in those days a man was buried and then turned out to be alive. Even if something of this sort did happen, the man would have been buried on the basis of signs they used to rely on to make sure that life has completely ended. Now that we have practical means to help us be more

certain, we can say that death occurs when the spirit departs from the body and a person no longer moves, which can be established by using special equipment, or we can even wait to make sure by the change of the patient's odour. Thus, we would not be neglecting what modern scientific equipment can tell us and, at the same time, we would be applying the signs used by earlier people to determine whether a person is alive or dead and to apply the proper rulings in his case.

Dr. Muhammad Na'eem Yassin

In order for you to understand my presentation, I refer you to the paper of Dr. Muhammad Al-Ashqar, who mentions disagreement over the subject. As for the point raised by Dr. Abdulla, I have not said at all that I disagree with what scholars say on the life of "the slain". Actually, I have said that I do not regard the question as important; and Ibn 'Abdin mentions the Hanafi point of view concerning this subject.

Dr. Abd Al-Hafez Hillimi

I was trying to overcome the urge to speak, but the Honourable Sheikh Badr has been kind enough to ask a question the answer to which, he says, would give satisfaction to his heart and mind. I shall try, in a style I hope to be simplified, to answer a certain point he makes, namely that of destruction and construction. These words have been repeated many times by many colleagues, and I believe the subject is exaggerated out of proportion. The process of destruction and construction is sometimes, that is at a particular stage, a chemical process. This is something known to the distinguished physicians and has nothing to do with our issue. Whether there is destruction and construction, or in other words cell renewal, has, I repeat, nothing to do with our subject in general.

The Honourable Sheikh Badr also wants to know whether it is possible for the heart, after what is described as confirmation of death, to resume its life. I will use the following analogy, with the obvious difference. A human being is an integrated whole. I am not speaking of the heart, nor the lungs, nor any such other thing. All these are parts, and I am speaking of the whole human being. I have said it is a comparison with a difference or with differences, but I want to give you the example of a car, which may be perfect in appearance and may run very fast, but suddenly it stops. This breakdown may be something that can be fixed, by replacing a part that is damaged or repairing it, or by connecting something from outside to help the engine run, but in this case it would not run on its own and make the

trip. So it is the human being as a whole whom physicians and specialist, using the standards and instruments of this age, are judging to be irrevocably dead (with the death of the brain stem).

What happens is that the set of functions which allow this person to be described as dead have come to a stop. Physicians diagnose the brain stem as the part that controls the major functions: the pulse, respiration, etc. This is their criterion. Whether the heart can beat and whatever the instrument that makes it do so is a secondary question and can be discussed in a different context, under the heading of transplants or something else. I believe what I have said may explain the whole idea.

Dr. 'Isam Al-Sherbini

I will make an attempt to reassure Sheikh Badr. Of course we address what we say to him because he is the cornerstone of the *fiqh* party. Noble sir, you want to feel reassured. First of all the process of destruction and construction, if I understand correctly what you mean, is, as Dr. Hilmi has said, a matter of chemical reactions which can take place even in cultivated cells. We take a cell and cultivate it in a dish and it multiplies. (?) This has nothing to do with life and death. For us, death is a complete process. Some disorder occurs in one organ, and unless it is checked and corrected, the other organs start to fall one after the other, until we get to a final, decisive stage. As for what you mention about the heart and lungs, we used to say that a person's life ended when his heart stopped, and you accepted that. You did not object on the grounds that a heart could come back to life. We therefore find it strange that now that we say death is the death of the brain stem, you say we have to wait because this brain might be discovered to be alive.

Allow me to make this point. We can isolate the heart of a living person and use a pump to make it work for two or three hours. Thus the removal of the heart does not cause its death, and when the heart beats in isolation, that does not mean the lungs continue to live. Similarly, a person in the situation we are concerned with breathes through a pump supplying him with air. A similar situation takes place in open heart surgery. Blood is drawn outside the body and passed through tissue saturated with oxygen, and thus we can do without the lungs for one, two, or three hours. What I mean is that when the heart, or any other organ, continues to work after death, this does not mean the person concerned is alive. On the other hand, it is possible to let such an organ die, and yet the person's life continues. Does this make your heart reassured?

Dr. Khaled Al-Mathkour, Chairman

What the Honourable Sheikh has meant by asking the question is that the death of the brain stem should not be regarded as sufficient, but for reassurance the failure of major body systems should be added to it before legal Islamic rulings, such as the waiting period and so on, are applied. The question is that the systems, after the brain stem dies, keep on working for a period that might take a short or a long time, like how some machines that operate by electricity keep running for a while after the electric current is turned off, until they stop on their own. This is the meaning of what Dr. 'Isam has just said.

Dr. Yusuf Al-Qaradhawi

In fact I would have preferred to remain a listener, for silence is a virtue. But there are certain things that call for commentary.

First, some colleagues have made some comments concerning my earlier remark about the question of artificial resuscitation and my account of what early scholars say about treatment and whether it is obligatory or not. Perhaps now some of you have doubts about it, so let me tell you it is most certain that Hanbali and Shafi'i scholars say seeking treatment and medication is not an obligation. Imam Ahmad is even quoted as saying that it is better not to seek treatment. Imam Ahmad is not a mysticist; he is the leading Imam of the followers of *Sunnah*. This is where the well-known tradition concerning the seventy-thousand who will get into heaven without the need to account for their deeds originates. The reason cited in the tradition is that

“they do not get cauterized, own slaves, or believe in evil omens, and they yield their fate to God”.

There is no need to get into the details of this. None of the Hanbali scholars, other than Ibn Al-Jawzi says seeking medical treatment in an obligation.

I do not myself adopt this position; I believe it is an obligation to seek treatment if recovery is certain or preponderant. Even if it is not, seeking treatment is probably recommended or at least lawful. We cannot say it is an obligation in every case. Some of us go around with several ailments, without seeking treatment for them, because they do not suffer much pain or are afraid of treatment, of doctors, of surgery, etc. I wanted to mention this, especially that Mr. Muhammad Al-Ashqar, who is interested himself in

Hanbali *fiqh*, has said that perhaps this is the opinion of a mysticist. Had he referred to the book of *Al-Furu'*, *Al-Insaf fi Al-Jana'iz*, *Sharh Al-Ghayah*, or some other Hanbali book, he would have found this explained very clearly and derived from the pioneer of the School himself. I do not want to take a long time discussing this, but I have mentioned the facts, because they solve half of our current problem.

Another thing concerns the points made by Dr. Abd Al-Aziz Kamel. In fact yesterday we had a session about the beginning of life. The majority of us were inclined to the opinion that life was to be respected from the first day of pregnancy, some of us said from the time of implantation, some said after the forty-day terms, and some said after spirit breathing. We differed, but we did not choose the beginning of nerve sensation as an option. The disagreement was whether spirit was breathed in within forty or 120 days. We want to avoid repeating ourselves because Dr. Abd Al-Aziz was not with us yesterday.

A third point is our current question, the question of death, and an important issue relevant to it raised by the Honourable Sheikh Muhammad Al-Mukhtar Al-Salami, which is that *fiqh* scholars take the facts and base their judgement on them. The job of *fiqh* is to determine what is lawful, what is unlawful, what is permissible, what is recommended, and what is a duty.

Islamic Law rulings are based on the confirmation of certain things in which the Law is interested. It says that when life is confirmed, such and such things go into effect; when a person reaches puberty, such and such things apply to him; and when it is dawn, it is time for prayer. Sometimes the Law gives hints. For example it says that a boy reaches puberty when he begins to have wet dreams. If he does not have them, there is a disagreement among scholars on whether the growth of hair in certain areas or age should be the alternative criterion, and if the latter, what the right age is. There is disagreement over this point because the Law does not draw a dividing line.

Another example is that of true dawn. We know that in Europe, determining what dawn is, what 'Isha' (evening) is, and what red twilight is now a very big problem, and search for answers continues. This is a question which people other than *fiqh* scholars can get into. Later, *fiqh* scholars and astronomers may arrive at a joint decision. Similarly, on this subject of ours, *fiqh* scholars mention certain signs of life following the example of others who have experience and know such signs. The Law

does not say something decisive about the subject, but there are certain things that can be taken as hints, though they are far from being inclusive, exclusive, decisive, and definite.

Therefore I believe this thing remains in the area of condonation, the area mentioned in the tradition which says,

"What God allows in His Book is lawful, what He forbids is unlawful, and what He says nothing about is condoned. So take advantage of his condonation, because God could not have forgotten anything. "Your Lord is not forgetful"."

This is an authentic tradition narrated by Salman. So this is the area of condonation, which God leaves undecided out of mercy for us. We can fill it through analogy, through choosing what seems better or nicer, through consulting dominant traditions or seeking the advice of experts, and so on, so far as we do not violate any religious objectives or interests, or go against any clear-cut texts of the Quran and *Sunnah*.

I have not arrived at an opinion ... I praise God, I do not usually form a conviction and then come up with evidence. I mean I do not arrive at an opinion first and then force evidence and drag texts to support it. I form an opinion only after hearing and seeing, and that is why sometimes, after reading some studies, I change my opinion. I would like to tell you frankly that after what I have heard of the dialogue, I cannot make up my mind, because, as the Honourable Sheikh Badr, says, this is a very serious issue. Still, I am inclined to accept that death is the death of the brain stem, and I would not say that a person whose body continues to get nourishment and whose blood circulation goes on after his brain stem has died is alive. He is dead, but his body is alive. The person, as a rational creature, as a human individual, is dead, I believe, though the corpse remains. Is this corpse the person himself? I believe it is hard to say the person concerned is alive.

I say this as an attempt to narrow the gap and to give a point of view, although it is hard for someone like us to make up one's mind on such an issue. *Fiqh* scholars are generally conservative, regardless of the innovators among them. We are afraid of new things.

Dr. Khaled Al-Mathkour, Chairman

In fact, the question seems to be somewhat clearer now. We might not agree over it, and when the subject of the seminar was proposed it was

said to be a very difficult issue and that it would generate hot argument without getting to a clear and decisive conclusion. We said it is enough to raise the subject, discuss it, and by God's will set a foundation that would narrow the gap between conflicting points of view.

I do not know whether anything new can be added to what has already been said, anything of benefit that would allow the current points of view to draw even closer to each other. Anything of this sort is welcome. I do not want things to be repeated nor to be said in answer to some remark that has been made and discussed. Let us only add new things or express new opinions, so that we may arrive at a conclusion, which, God willing, may be of benefit.

Dr. Ahmad Al-Qadhi

Let me clarify something that might have been the source of confusion for the Honourable Sheikh Badr. I refer to the chest movement when a respirator is connected to a dead corpse. The respiration system does not move after the death of the brain stem; it is the respirator that moves it. To prove this, and make things clearer, even when we wait several hours for the odour of the corpse to change, which proves that it is dead, and then we somehow connect a respirator to the thoracic cavity and let it pump air in and out, and body will move. The movement then is one of a dead corpse resulting from the pumping of air in and out of it. It is exactly the same as when we attach a balloon to an air pump and pump air in and out. The balloon will move, though it is dead. The movement in fact belongs to the pump.

Perhaps it is our imprecision that caused confusion. We, physicians, might have expressed ourselves incorrectly by saying that a patient was kept alive by the aid of equipment. The truth is that he is dead in spite of the aid of equipment. It is the chest movement that must have created the confusion, but what is actually moving is the respirator, rather than the respiratory system.

Sheikh Abd Al-Qader Al-'Amarī

I have noticed through the discussion of this subject that all the physicians here are in consensus. I do not detect disagreement between them as the case was with the first issue we discussed. This is an evidence that this verdict of theirs is valid and based on experience and thorough knowledge.

As it is known, *fiqh* scholars do not rely in deciding such issues on a verse of the Quran or a tradition. Actual change of opinion has occurred in relation to issues of this sort. The maximum period of gestation, for example, is discussed by early scholars, but after listening to doctors, and after scientific progress, modern *fiqh* scholars have endorsed the opinion of doctors and abandoned that of early scholars. Hanafi scholars set the maximum as two years, while Shafi'ies and Hanbalis set it as four, both of which are incorrect. Modern scholars have been receptive to the findings of medicine in this matter. Therefore, with the consensus of opinion among doctors, I second what Sheikh Yusuf has said to the effect that we should rely on their opinion in this matter. But since it is a difficult and intricate problem, let us examine all its details.

Dr. Muhammad Al-Ashqar

Now a death diagnosis has medical, *fiqh*, and legal consequences. The medical consequences are actually the most pressing ones. They are summed up in two things: organ transplants and removal of equipment. As for organ transplants, I do not know how my fellow scholars feel, but personally I am convinced one hundred per cent that when a person has been the victim of a fatal accident, when there is no doubt that it is fatal, as when the brain scatters here and there or the neck is cut through or something else of that sort happens, it is all right to take parts of his body, of course only in cases of necessity and when all conditions are met.

I am also convinced that taking such organs from the victims of accidents, who are clearly recognized as a legitimate source in our *fiqh* references, is enough for purposes of transplantation. Unfortunately this is something which as yet has not been introduced in Muslim countries, or at least here in Kuwait and neighbouring countries. What prevents its introduction? Does any scholar say that violence against such a person is similar to violence against the living? I repeat that it is sufficient to focus on the victims of clearly fatal accidents as a source. Another possible source is the victims of accidents whose results are uncertain and of fatal diseases.

The question of turning the equipment off comes next, and on this I second the opinion of the Honourable Dr. Yusuf, who says the question is not that serious, and such an action is not an aggression against a person while he is alive, for the person involved is sooner or later going to die. So the equipment may be disconnected, and this seems to be quite clear, praise be to God.

One more point. It is an answer to Dr. 'Isam's question of whether when early *fiqh* scholars determined the signs of death they did that on the basis of human experience. We have said so once and again, but when signs of life and signs of death can be seen at the same time in the same body, which are given more weight? Of course, and without any doubt, the signs of life come first. To give an example, a patient with hemiplegia may be said, to explain what this disease is, to be half living and half dead, but we can never claim he is dead. He is not.

Dr. Abdulla Muhammad Abdulla

I want to speak very briefly about two items. The first is that raised by Dr. Yusuf Al-Qaradhawi concerning seeking medical treatment. I have copied four paragraphs that do not exceed two lines (each) concerning the attitudes of various schools.

For Imam Ahmad, "treatment is condoned but refraining from seeking it is a superior course". In another version, "treatment is permissible but refraining from seeking it is better". In the view of the Shafi'i School, "seeking treatment is better than doing without it". This Shafi'i point of view is expressed by Al-Nawawi in the *Commentary* on Muslim and in *Jumhur Al-Salaf wa 'Aamat Al-Khalaf*. Ibn Al-Jawzi entertains the same view. The School of Abu Hanifah views treatment as strongly recommended, almost an obligation. Malik finds that seeking it and leaving it are equally acceptable; he says, "It is all right to seek treatment and all right to leave it". This is a summary of the opinions of early scholars on treatment.

The second item is a few words I want to whisper into the ears of physicians, quoting an early scholar. In his book *Al-Madkhal*, Ibn Al-Haj says many things about the medical ethics and the proprieties of conduct for physicians. I have here two lines of what this scholar said, and I want to address it to physicians as I ask the question of whether they are absolutely certain when they say that death is the death of the brain stem, whether this is their final opinion that allows no revision, or whether with the scientific criteria available today they do not have definite signs for this death of the brain stem.

Imam Ibn Al-Haj says, as one of the many rules of physician conduct he cites:

When a physician does not know what the ailment is, or does know it but does not know of any medicine for it, he should not write a prescription of a tonic or something else.

This means he either diagnoses the disease correctly and knows what it exactly is and how it should be treated, or he does not.

Dr. Khaled Al-Mathkour, Chairman

I cannot keep anybody from speaking and we still have some time left. But the majority feel inclined towards a conclusion that narrows the gap between the various viewpoints, because the subject seems to have received sufficient discussion.

Dr. 'Isam Al-Sherbini

I have one more question. But I ask it, however, and because it will take us into a different area, I heard my neighbour Dr. Mukhtar Al-Mahdi phrase a question, and so that he will not have to ask for a turn to speak when I finish, I shall ask it on his behalf and then ask my question. Dr. Al-Mahdi wonders whether a person into whom the heart of another is implanted has one life or two. This is his question and I ask you kindly to wait a little before you answer.

My question is this. Suppose tomorrow, next week, or next month, after it has been made clear at this seminar that there are two *fiqh* opinions on the question we are discussing, one advocated by Sheikh Badr, Sheikh Tawfiq, and others, and the other is promoted by Dr. Yusuf, and I believe Sheikh Al-Mukhtar as well--suppose, with your permission, a law is made in Kuwait considering the death of a person to be the death of his brain stem. Let this be the law regulating the practice of medicine, for example. Now we have learned from you that this would be a choice made by the state of a *fiqh* opinion on a controversial matter. Suppose that is what the law says, and I have a patient whose brain stem I diagnose to be dead, would I be a murderer or a criminal if I turn the equipment off? Would the family of the patient have the right to demand blood money from me or even my death in retaliation?

Sheikh Badr Al-Mutawalli Abd Al-Baset

First, concerning your turning off the equipment, go ahead and turn it off, sir. This is a very simple matter, and it is settled. Disconnect the equipment, particularly if additional expenses are involved, or if there is someone who has a greater need for the equipment.

The trouble concerns other rulings. I cannot say the patient may be washed, shrouded, and buried while he still breathes. Nor can I let his wife

marry someone else. As for the fact that he can inherit no one, while he is in such a stage, it is because of the principle set by leading scholars that for inheritance to be legitimate, both the death of the inherited and the life of the inheritor have to be confirmed. The life of a patient of the type we are talking about is questionable. That is why I say in my paper that if his life is similar to the life of "the slain", it cannot be taken into account and he is not entitled to inherit anyone. I believe this point is clear. The patient certainly has some life, but it is questionable. Concerning the fact that he cannot be inherited, it is because his death has to be confirmed. If you tell me that with the death of his brain stem he should be looked at as dead, I will use that as a basis to change the ruling and let him be inherited. But how can I do that when there are strong indications (that he is still alive)?

That is why I do not accept Dr. Abd Al-Aziz Kamel's statement that we are saying the whole body must die. No, that is not what I believe. I say the death of the brain stem must be accompanied with the breakdown of major systems, the life of which gives me a very strong type of suspicion that the patient is still alive. But when the brain stem, as well as the major systems, die, the problem would be settled and all things made clear.

What is involved is a life that has been certified, so I cannot rule that it has ended without equal certainty. Certainty is never cancelled by doubt. As long as there is the slightest doubt, I can wait until the body begins to decompose and to have a clear smell, but how can I confirm death while breathing continues and the process of destruction and construction goes on.

Dr. Khaled Al-Mathkour, Chairman

Dr. 'Isam Al-Sherbini said if a law is passed in Kuwait in the future, for example, saying that death is that of the brain stem, since this is a matter of controversy, what happens then?

Sheikh Badr Al-Mutawalli Abd Al-Baset

What happens is that they follow the instructions of the state. I, on my part, would refrain, on religious grounds, from giving my opinion on the subject, which is the duty of a *fiqh* scholar when he arrives at a studied opinion on a certain issue. There is room in such a matter for considered personal opinion, and I would not force mine on anybody, though I stick to it myself. On this particular issue, I definitely have a considered personal opinion, though I cannot claim to have similar opinions on other subjects.

When I am convinced that there is doubt about a certain issue and when I do not feel comfortable with it, I lose the right to make a *fatwa* on it. Others have to follow what the state says.

Counsellor Abdulla Al-'Issa

As we are drawing close to the end of this session, and now that everybody has expressed his point of view, we would like to narrow the gap between the medical and the *fiqh* points of view, so that we may make the work of the Drafting Committee easier. Therefore, I would like to give you what I believe to be a summary of the general tendencies. If there are others that I fail to mention, we would like to hear them.

I believe that medical area bears only two tendencies. One is unanimously agreed upon by all physicians, and this is that the death of the brain stem is the end of human life. The second agrees with the first but adds that resuscitation equipment should be kept on until the basic systems of the body come to a stop. Among the supporters of this tendency is Dr. Ahmad Shawqj and Dr. Abdulla Basalamah.

Fiqh scholars also follow two tendencies. The first finds that the end of life is when the basic systems come to a standstill. The second, when medicine confirms the death of the brain stem, which means the spirit has departed and life has ended.

I would like for any other opinions that do not conform with these two medical and two *fiqh* tendencies to surface. Let us hear them, and thank you.

Dr. Khaled Al-Mathkour, Chairman

If you allow me, I too have written something close to what Counsellor Abdulla Al-'Issa has given us on this subject.

As we have said concerning the beginning of human life that from the first moment of fertilization a respected life is created and that this life gains more and more importance the further it progresses until spirit is breathed in and a human being emerges inside the uterus, after which aggression against this being becomes more serious, likewise, we should say that with the death of his brain stem, a person's life breaks down, but if his basic systems, such as the heart and lungs, continue to function, there is still some type of respected life similar to that at the beginning.

If you agree to be satisfied with this point, regardless of the tendencies, then, with the fact that there is still respected life, *fiqh* scholars do not have to worry about legal consequences, such as washing, shrouding, and burying the patient and asking his wife to start her waiting period, until his major systems come to an end. It is then that legal consequences go into effect. So this common denominator may narrow the gap of disagreement, by God's will.

It seems this proposal is acceptable. Now, if there is something new, as my colleague Counsellor Abdulla Al-'Issa said, let us add it to the recommendations, or if there is anything not mentioned yet and might add something new, let us have it so that it will be recorded in the minutes. We have only half an hour left, so we can allow every speaker two minutes.

Dr. Abd Al-Hafez Hilmi

To narrow the gap of disagreement and help the Drafting Committee, I believe the facts should be presented as follows: "The clear signs of death still include the cessation of heart pulse and respiration inspite of resuscitation attempts". I believe physicians will agree with me that the usual medical procedures will continue and that the cases where the death of the brain stem has to be diagnosed are not everyday cases and do not include all patients. They are resorted to when there is doubt.

Disagreement has stemmed from the situation where the lungs are functioning and the heart is beating, and yet the person involved has lost the quality that makes him a human being and his life as such has ended, as Mr. Chairman has been kind to point out. There remains the matter of burial and its consequences, which the Honourable Sheikh Badr says that, of course, they cannot take place before resuscitation equipment is disconnected, so that the patient would not be buried while one of his systems is still functioning.

The two positions are actually close to each other. The pulse and the lungs of a patient stop, in spite of the sincere efforts to save him. He is then dead according to the criteria of traditional medicine as well as the criteria of convention and of Islamic Law. Now connect another set of equipment for a different purpose this time, not to save the patient but to remove his heart.

Dr. Omar Al-Ashqar

In the first minute allowed to me I say that if we accept what the

Chairman has said and what I have mentioned right at the beginning, namely that man goes through two types of life, much of the problem is solved.

Another point is that I want to stress the opinion of the Honourable Sheikh Badr that the decisive point of the whole issue is whether man has spirit or not. If we follow jurist reasoning, to cut off the hand of a person, he does not die, because his spirit remains. Again if one of his eyes is plucked or one of his legs is amputated, his spirit remains. Physicians say the heart of a person may be removed for half an hour or an hour. Does his spirit remain in his body? Now we get to the brain. If the brain stem is removed, does the spirit remain? So according to jurist standards of reasoning, this is the decisive criterion. I say since this is how things stand, let us arrive at a ruling so the issue does not remain unsettled. If the brain stem of a person dies, he dies. We have to say it.

Sheikh Muhammad Al-Mukhtar Al-Salami

What we have arrived at must be closely examined.

First, we have agreed that it is lawful to stop the mechanical life. It is not obligatory to keep it going by the help of equipment. This is settled.

The second thing that we agree on is that when the brain stem of a person dies, he is not inherited by others (until his other major systems stop). We agree to make this a legal ruling, and there is consensus on this point.

The third thing, which is also agreed upon, is that such a person cannot be buried until all his systems--including the heart, brain, kidneys, and other systems that completely die--come to a stop. That means the basic systems. This is also settled. He cannot be washed or buried, and his wife does not begin her waiting period until death is finalized.

One point is left. If a person is still receiving the aid of equipment, is it lawful to transplant his heart to another person? This is the point where we have disagreed, and it should not be left to be settled by analogy with the waiting period or on the basis that death has taken place.

Dr. Hassan Hatthout

I will share the two minutes with Sheikh Badr so he may answer me. If a person is a victim of a crime or an accident and he gets to the stage of "the slain", though his heart continues to beat and he might even rave

incomprehensibly and breathe, what stand do you take? Do you apply to him the rulings applicable to the living or those applicable to the dead?

Sheikh Badr Al-Mutawali Abd Al-Baset

The ones that apply to the dead, but I do not allow him to inherit anybody, nor do I consider a crime against him at this point one that calls for retaliation, but rather for chastisement.

Dr. Hassan Hatthout

Do we transplant his heart to someone else?

Sheikh Badr Al-Mutawali Abd Al-Baset

No!

Dr. Hassan Hatthout

Then let us suggest to the Chairman that the phrasing of recommendations should be that some of the rulings that apply to the dead apply to such persons, while the rest are postponed.

Sheikh Badr Al-Mutawali Abd Al-Baset

All right!

Dr. Abd Al-Aziz Kamel

This is a question that must be raised. If we agree that death is the death of the brain stem, the legal, rather than medical, question is when, that is at what date, a death certificate should be issued? The whole legal and religious aspect of the matter will be based on the answer to this question, so the seminar, I believe, will have to face it. If not, people will say that we have studied the subject and decided that the patient is medically dead but failed to answer the question of when the death certificate is to be dated. I hope we will not overlook this point.

Counsellor Muhammad Fu'ad Tawfiq

The fact is that the participants have focused on heart transplantation, which we have agreed to forget about altogether. Our problem is the kidney. Is it all right to transplant a kidney under such circumstances? The Honourable Dr. Muhammad Al-Ashqar has asked what it is that prevents

us from removing the kidneys of accident victims. Now I am asking again, if an accident occurs and the brain stem dies, can we remove the victim's kidneys? The heart is a single organ, while a person has two kidneys. Is it then lawful to remove one?

Sheikh Badr Al-Mutawalli Abd Al-Baset

The question of the kidney is simple.

Counsellor Muhammad Fu'ad Tawfiq

It is this subject in fact that has made us call for the convention of this seminar.

Dr. Khaled Al-Mathkour, Chairman

I believe we are now at the conclusion of this session, by God's will. Of course suggestions and recommendations are going to be drafted, and members of the Drafting Committee are invited to meet when this session is adjourned, right here, by God's will.

Dr. Ahmad Al-Qadhi

I suggest, for the sake of precision, to modify the form you have been kind enough to propose. If major organs or systems have to be mentioned, let us say "when the brain stem dies, which includes a cessation of spontaneous respiration", although that goes without saying, because it is implied in the death of the brain stem. Yet, if you insist, as a measure of precaution, to mention major systems, which are basically the respiratory system, without which there can be no life, let us use the phrasing I am suggesting.

Dr. Khaled Al-Mathkour, Chairman

The Drafting Committee invites everyone who has a suggestion concerning draft recommendations to submit it in writing, so that all suggestions can be taken into consideration and combined in one draft, by God's will. The last speaker will be Dr. Mahmoud Al-Bouz.

Dr. Mahmoud Al-Bouz

In fact it is very important that you reach a clear decision on the question of whether death depends on the life or death of the brain stem, because everything rests on that decision. First of all, the suffering

members of the patient's family should know that resuscitation equipment may be turned off. Second, the guarantee is that a committee of physicians, not just a single physician, should confirm the death of the brain stem. In such a case it is certain that resuscitation equipment can be disconnected, which means that other parts of the body will die immediately, as soon as the equipment is turned off. The oxygen supply is cut off, so blood circulation stops and everything else stops with it. The patient is left in his bed for two hours as the common practice is, and then he is pronounced dead and a death certificate is issued accordingly. I believe that on his issue, your decision should be of utmost clarity, because this is a question in which not only the people of Kuwait are interested, but also the people of the whole Arab and Muslim World, and the world at large as well.

Dr. Khaled Al-Mathkour, Chairman

This suggestion, or these suggested guarantees, should be submitted to the Drafting Committee. Who knows, perhaps God will grant us confidence in what we have arrived at in this session and this seminar as a whole.

This blessed meeting aims to serve God, Glorious and Sublime is He, and His Law. I hope all of us will be included in God's Mercy and rewarded by Him for coming here, meeting, and discussing things. I hope God will add this to our credit on the day when property and children are useless except to those who meet God with pure hearts. Glorious are You, God, and praise be to you. We testify that there is no deity other than You. We pray for your forgiveness and repent for our sins.

I thank you all for being such good listeners, and I pray to God for success for all of us.

The meeting tomorrow for the recommendations draft will be held at twelve here in this room by God's will.

Dr. 'Isam Al-Sherbini

Will there be a chance to discuss the recommendations and suggest some changes?

Dr. Khaled Al-Mathkour, Chairman

The meeting is for only one hour, from twelve to one.

Dr. 'Isam Al-Sherbini

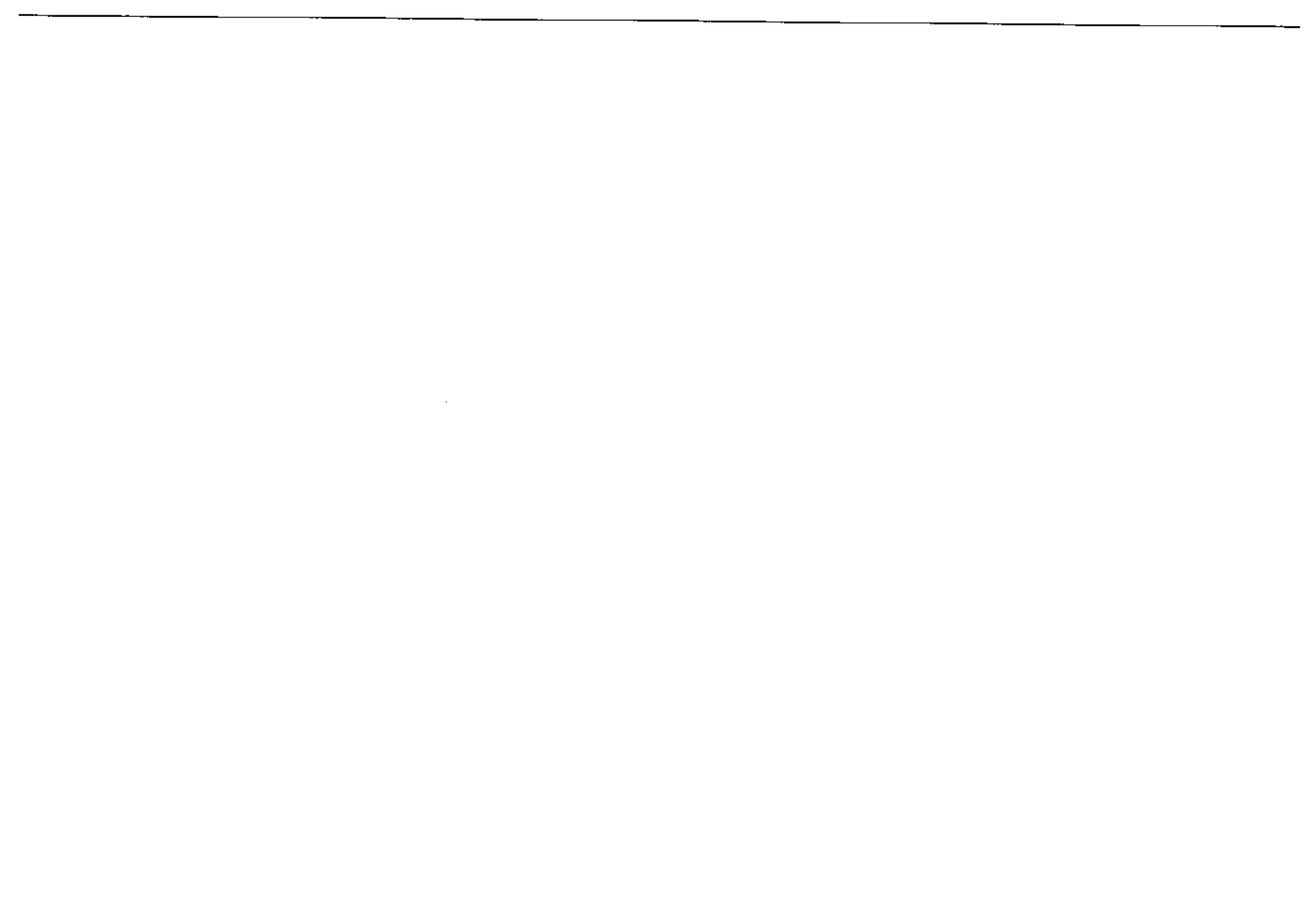
If we cannot discuss them and propose changes, why should there be a meeting?

Dr. Khaled Al-Mathkour, Chairman

If there is some objection or if everybody is convinced an essential point has to be modified, (there will be a chance for that), but if it is a matter of preferences or minute details, of course these will remain as they are, by God's will.

May God well reward you.

**PART THREE
RECOMMENDATIONS AND
DISCUSSION**



REPORT ON THE SEVENTH SESSION

The seventh session was held at twelve noon, Thursday, and was chaired by His Excellency Dr. Abd Al-Rahman Abdulla Al-Awadhi, with Counsellor Abdulla Al-'Issa acting as secretary. Draft recommendations were read. These had been prepared by a committee composed of

Dr. Abd Al-Rahman Al-Awadhi

Dr. Abd Al-Sattar Abu Ghuddah

Counsellor Abdulla Al-'Issa

Dr. Ahmad Al-Qadhi

Dr. Yusuf Al-Qaradhawi

Dr. Muhammad Sulaiman Al-Ashqar

Dr. Khaled Al-Mathkur

Dr. 'Isam Al-Sherbini

Dr. Hassan Hatthout

Dr. Ahmad Raga'i Al-Gindy

Each recommendation was discussed separately.

Later, the Honourable Sheikh Muhammad Al-Mukhtar Al-Salami was kind enough to speak on behalf of the participants, thanking the government of Kuwait and those in charge of the seminar.

The seminar was concluded at 3:00 p.m.

Editors

DISCUSSION ON THE RECOMMENDATIONS

(The draft recommendations were read by Counsellor Abdulla Al-Issa.)

(The final draft of the recommendations follows these discussions.)

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Of course these are the draft recommendations we have arrived at. Do you, Sheikh Badr, or any other participant, have any reservations?

Sheikh Badr Al-Mutawalli Abd Al-Baset

Concerning the phrase "until the heart comes to a stop", the heart alone is not sufficient. All major systems should come to a stop after the death of the brain stem.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

For example?

Sheikh Badr Al-Mutawalli Abd Al-Baset

Blood circulation, all of it. The digestive system and the whole circulation system.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Dear Sheikh Badr, it is not possible for them to go on. When the heart stops, everything comes to a stop.

Sheikh Badr Al-Mutawalli Abd Al-Baset

If it is implied that all systems stop when the heart stops, inference has to be made. I prefer an explicit mention of the major systems coming to a stop. The digestive system, the circulatory system, the respiratory system, and so on. It is agreed that when the heart stops, the whole body comes to a halt, but I prefer the precaution of saying, "till the major systems come to a stop", and you know which are the major systems.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

The blood circulatory system is connected to the heart.

Sheikh Badr Al-Mutawalli Abd Al-Baset

There is the respiratory system. If it is a fact that all major systems stops with the heart, (I have) no objection. But if it is possible for the heart to stop while some major systems continue to function, then I am telling you there are still some signs of life.

Dr. 'Isam Al-Sherbini

All agree that all systems stop when the heart does.

Sheikh Badr Al-Mutawalli Abd Al-Baset

Friends, you will have to account for this, because on the basis of what you say patients are going to be washed, shrouded, and buried.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

With gratitude to the drafting committee, all what is required is a very simple addition in the preamble, rather than changing the phrasing here.

Sheikh Badr Al-Mutawalli Abd Al-Baset

What I really want is that no one is looked upon as dead until the body is lifeless. In other words, until the major systems have stopped.

Dr. Ahmad Shawql Ibrahim

This can be settled by a tradition of the Prophet, Peace be upon him, in which he says,

"Surely there is a lump of flesh in the body. When this lump is

healthy, the whole body is likewise healthy, and when it is spoiled, the whole body is spoiled. This lump is the heart".

If the heart stops, everything comes to an end.

Dr. Hassan Hatthout

If we consider that the major systems which are involved in the death process are the heart, respiration, and the brain, when we say the brain stem is dead, this, by medical definition, means respiration has stopped, even if the heart still beats. Thus when we say the heart has stopped, this means that the brain, the heart, and respiration have all stopped, and when the heart stops, everything follows.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Come on, everybody! I do not think there is any objection to adding "the major systems". This addition is a burden placed by *fiqh* scholars on the shoulders of physicians.

Dr. Ahmad Shawqj Ibrahim

The Prophet's tradition does not speak about the heart in its figurative sense, but rather the organic heart; the Prophet, Peace be upon him, pointed to his chest and said, "here".

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Let us agree to have it as "the major systems". Let us hear the opinion of physicians.

Dr. Hassan Hatthout

It is possible to say "until the heart has stopped and the major systems have consequently stopped.

Dr. Ibrahim Al-Sayyad

There is only one major system, which is the brain system. When it dies, everything else is nothing but a group of tissues like the cultures made outside the human body. We have agreed, Sheikh Badr, that death occurs when the spirit departs from the body. The clue to its departure is the failure of the body to respond to sensory simulations. Thus the

departure of the spirit takes the form of the death of the brain stem. There are no other major systems.

Sheikh Badr Al-Mutawalli Abd Al-Baset

What Dr. Hassan says is the kind of talk that I feel satisfied with.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I think we all agree now to say "the heart and other major systems stop". Is there any other comment concerning the preamble?

A Participant

I suggest the addition of only one phrase to the preamble, because actually this rich dialogue between *fiqh* scholars and scientists has resulted not only in an Islamic legal opinion, but rules for medical practice as well. So I suggest the phrasing of "the outcome of medical opinion, Islamic legal opinion, and medical practice", because here we have guidelines that allow doctors to work with a clear conscience in many areas.

Dr. Hassan Hattouth

There is no objection to the phrase "so that any Islamic legal opinion and any rules of medical practice would be based on sufficient understanding".

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I hope this phrasing is acceptable. I mean the idea. We will leave it to the Committee to phrase it properly. The important thing is the main points.

Dr. Ahmad Al-Qadhi

I believe that Dr. Ibrahim Al-Sayyad has perhaps failed to express himself clearly, but it is linguistically wrong to add "and the major systems". If we means that the respiratory system should stop after the heart stops, which is what Sheikh Badr means, this would suggest that we are raving when we speak of the death of the brain stem, because by practical and linguistic definition, the death of the brain stem means that respiration has stopped. If the phrasing suggests that respiration is going on, this implies the brain is not dead, which in turn means the patient is still

alive and we cannot remove the equipment. This linguistic contradiction cannot be allowed in the phrasing of the recommendation, because it implies that we sanction killing a living person. If we are honest in diagnosing the death of the brain stem, there is no respiration left. Therefore, the suggested phrasing is self-contradictory.

Sheikh Badr Al-Mutawalli Abd Al-Baset

We just want to make sure after there have been signs of life evident. The life of a person is a certainty, and I cannot rule it to have ended without equal certainty. Certainty cannot be cancelled by suspicion.

Dr. 'Isam Al-Sherbini

Your Honour, I would not say the brain stem is dead before I remove the balloon and make sure the patient is not breathing naturally. This is one of the steps taken in diagnosing the death of the brain stem. Only when this test is made, I can say the brain stem is dead.

Sheikh Badr Al-Mutawalli Abd Al-Baset

It is just to be more certain and allow no room for doubt.

Do not take it as if we were two teams opposing each other. On the contrary, we are trying to make sure. As I have told you, life is a certainty and cannot be ruled as having ended without equal certainty. Certainty is not cancelled by suspicion. As long as I have a sign of life, whatever it is, (there is some suspicion).

A Participant

If you allow me, your Excellency. After the modification introduced by Dr. Hassan, there is no more room for dividing the rulings. Now the phrasing says that death occurs when all systems, including the heart, stop, so we can longer divide the rulings into two sets.

Sheikh Badr Al-Mutawalli Abd Al-Baset

At one point, our physician colleagues have said that for a period after the death of the brain, some systems continue to work. If you please, my memory is as good as anyone else's, for which I thank and praise God. We are suggesting that during this period, the same rulings of the "life of the slain" should be applied, because there is still some motion.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Your Honour, the final phrasing now says that with the death of the brain stem respiration stops (or the death of the brain stem with the consequence that respiration stops) and then the heart stops. If all three major systems stop, all rulings related to death apply, and there is no room for dividing them into two groups as suggested.

Sheikh Badr Al-Mutawali Abd Al-Baset

When respiration ends, the whole thing is over. The period over which we are arguing is that during which some signs of life continue after the death of the brain. Now with the modification, the contradiction is no longer there. Now the phrasing says that death occurs when all major systems come to a stop. In any case, if for a period of time some signs of life continue after the brain dies, the rulings of the "life of the slain" are applied.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I believe that perhaps because we have emphasized the heart, some *fiqh* scholars have asked for this modification, which now says that "the major systems come to a stop". Perhaps mentioning one before the other is much better and may satisfy everyone of us, so we say "until the major systems come to a stop".

Dr. 'Isam Al-Sherbini

Dr. Abd Al-Rahman, there is nothing wrong with the phrasing, but some participants have forgotten how it is, so would you kindly have someone read it again.

Dr. Abd Al-Rahman Al-Awadhi (reading article 5 of the recommendations)

Five: On the basis of this presentation by doctors, *fiqh* scholars are inclined to the view that when it is ascertained that a human being has reached the stage of brain stem death, he is considered to have withdrawn from life, and certain rulings of the dead are applicable to him, in analogy, though with the evident difference, with what *fiqh* books say about an injured person who has reached the stage known as that of the "slain".

As for the remaining rulings that concern the dead, the participant *fiqh* scholars prefer their postponement until all major systems of the body come to a stop.

All are now in agreement, and there is no more disagreement. To make you absolutely sure, I will read again:

As for the remaining rulings that concern the dead, the participant *fiqh* scholars prefer their postponement until all major systems of the body come to a stop.

Sheikh Badr Al-Mutawalli Abd Al-Baset

God be praised. We have no objection. After this let the sixth article be read, and we agree to that. So there is no disagreement, and we can conclude the subject.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Are there any modifications required in the preamble, which lays the foundation and offers a combination of medical and Islamic legal rules?

Counsellor Abdulla Al-'Issa

There is some ambiguity in the phrasing now. I take it to mean that the medical death of the brain stem entails certain rulings, which means the heart may be removed. That is how I understand it. But I do not believe *fiqh* scholars have endorsed that. I do not think Sheikh Badr in particular endorses it.

Sheikh Badr Al-Mutawalli Abd Al-Baset

It says "certain rulings". But every case has to be examined by itself. Let it be clear that this principle has to be applied; every case has to be reviewed, because every case has its special features.

Counsellor Abdulla Al-'Issa

Let us now turn to the first topic of our seminar, the beginning of life, as covered by the recommendations.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Concerning our choice of "the body" instead of "the uterus", the

reason is that there are cases in which an embryo settles outside the uterus, but still inside the belly.

So we approve the preamble? I will read it again.

Dr. Ibrahim Al-Sayyad

Dr. 'Awadhi, I have an objection. God says,

GOD KNOWS WHAT EVERY FEMALE BEARS, HOW WOMBS CONTRACT, AND HOW THEY EXPAND. EVERYTHING, FOR HIM, HAS A MEASURE.

(S13:V8)

Three definitions are involved here, the definitions of conception, of contraction or the process when the embryo implants itself in the uterine lining, and of the expansion and growth of the womb as a major process that takes place during pregnancy. The definition of conception here is that it coincides with the implanting. Even if the conception takes place in one of the horns, it is still conception. As for the production of a zygote, or what is called a mixed germ, it is not conception. If it is produced in a test tube, it is a tissue culture that has no sanctity and to which no pregnancy rulings, of those mentioned in the Quran, apply.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Dr. Ibrahim, you are going to lead us into a long discussion. I believe on such points, we have tried to observe Islamic stipulations. Our idea of conception is the one familiar to everybody. As Sheikh Badr has said, (?) we do not say "womb" but rather "belly" because of the possibility of conception outside a woman's womb but still inside her body. As for the other point, I believe test-tube conception, and whether it has sanctity or not, is quite different from what we are discussing. In one year or two, an artificial placenta may be produced, and unfortunately babies may develop outside wombs. We will have to pass a ruling on that when it happens.

For the present, our ruling is limited to the medical and *fiqh* information available to all of us. While the other point, whether if a fetus is removed from a uterus and allowed to grow outside it still has sanctity, is a point we are not going to discuss now; we want to avoid discussing such a topic. What we are discussing now is the embryo inside a woman's belly. The *fiqh* definition of womb may differ from the medical one, but this is also a point we do not want to go into now.

Dr. Ibrahim Al-Sayyad

Legally, human life begins with the breathing of spirit.

Dr. Ahmad Al-Qadhi

The process of implanting is covered by the phrase “settled pregnancy”, Dr. Ibrahim

Sheikh Muhammad Al-Mukhtar Al-Salami

Some physicians have raised the question of the IUD, which causes a zygote to be discharged. We say a zygote has sanctity, so here we have to settle on either one of two possible solutions. Either we say the sanctity of a zygote begins on the day it takes root inside the uterus, and in this case it is lawful for a woman to have an IUD, or we say sanctity and life begin as soon as an ovum is fertilized, which makes it unlawful to use such a device. The question then has legal implications, and it should be settled, so that doctors would be confident when they implant a device of this sort.

Sheikh Badr Al-Mutawali Abd Al-Baset

Dr. Ma'moun, if I remember correctly, has raised the question of an ovum which is fertilized outside the uterus. Infact, this is a point of no significance and can be ignored. But how about a zygote removed out of a woman's body, placed in a test tube, and later discarded? This is an ovum which has been fertilized inside a woman's body and then transplanted to a test tube. So what do you say?

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Is this meant to take us back to the issue of test-tube babies? If so, I believe we do not want to get into that. Now, would Sheikh Muhammad discuss the question of IUDs, and if there is a need, we will refer it to the Drafting Committee. Does a zygote have sanctity? We have said it has it only after it is settled. This is the point we want to discuss to answer the question. This is the same subject as test-tube babies.

A Participant

We have said sanctity begins on the date the zygote settles in a woman's body.

Sheikh Ibrahim Al-Dasouqi

If you allow me, Mr. Chairman. This is a subject I took up with Dr. Hassan upon hearing that life began as soon as an ovum united with a sperm. When an IUD is placed inside the uterus, it causes the zygote to be discharged and not to implant itself in the uterine lining. So I told Dr. Hassan this was an early abortion. If doctors see it the same way, an IUD should be regarded as a medium of abortion. But this abortion does not occur one month after conception; it occurs right at the beginning. If this is not the case, what do doctors think?

Dr. Hassan Hatthout

The process of drafting the recommendations was really the closest thing to a difficult birth. We cannot claim that we arrived at an inclusive, exclusive form, but we were anxious to write down only what we had agreed upon and keep out what we had not.

Because of this, certain things remain obscure. We do not say anything about them because the Committee could not reach a way of expression upon which all members agree. I believe the draft you have before you now represents as much as we could agree upon. There are many other things, not mentioned here, upon which we disagree.

As for the first point, that of IUDs, it is my conviction that an individual being begins with the zygote, that is a zygote is a potential human being. I also believe that aggression against this zygote should not be allowed. This view, however, was not received with unanimous agreement. Some of us, for example, still believe, with the Hanbali School, that if a married couple agree to have an embryo aborted before spirit is breathed into it, they may. This is a question upon which there are many points of view. We bypassed the things we could not reach agreement on. The only positive step we were able to take was to set down the most we could inspire of all that disagreement. We could not take one more step forward.

On the first day, I mentioned that a battle was currently raging in Britain. A committee known as the Warrock Committee has been set up, and the Parliament is considering the following issue. With in vitro fertilization there are always extra zygotes, which some scientists want experiment with to find out what happens to an early human embryo under certain natural and pharmaceutical conditions, how does it respond, how deformities develop, how drugs affect an early embryo, and so on. England is at present holding its breath in anticipation of the verdict,

whether such experiments are to be considered legitimate.

The battle is between two sides. One is an extremely liberal, atheist party that recognizes no restrictions and demands that experimentation with zygotes be permitted during the first two weeks of their lives. Why two weeks? Because the nervous system forms within fourteen days, and before that an embryo feels no pain. The conservative side says such experimentation leads to the destruction of life and should be banned, not because the victim does or does not feel pain, but because life should not be destroyed.

I take it as a scientific truth of which I am strongly convinced that the first potential of a living individual is a zygote. Before it, no such individual exists. After it is produced, it grows, develops, takes form, receives the spirit breathed into it, goes on until the time for delivery, is born, grows up, and then dies, and so on. Therefore, it is my conviction that if it is proved that an IUD represents an aggression against zygotes, it has to be prohibited.

We used to believe that the way an IUD worked was by rushing unfertilized ova out of the body before they have the chance to be fertilized. That is why we had it implanted inside patients. Now we have information that almost proves that what an IUD actually does is to flush zygotes out, depriving them of the chance to continue the lives they have begun. So I believe it should be declared unlawful.

Dr. Ma'moun Al-Haj Ibrahim

I believe honesty calls on me to add to the explanation offered by my professor, Dr. Hassan. The real problem is not that of experimentation. In European countries, when the test-tube baby procedure is resorted to, the number of ova collected is higher than the number needed. About 15-20 are collected. When attempts are made to fertilize these ova, usually half of them are fertilized. Now, the largest number that can be restored to the uterus to hopefully start a pregnancy is three. The big question is what should be done with the remaining zygotes.

The Catholic Church in particular says a zygote is a life that should not be tampered with. What are scientists to do? At present, they leave these zygotes in test tubes. The longest that a zygote has lived so far, and I checked this up this morning, is eight to nine days. I believe a zygote has no ability to live unless it is implanted.

Sheikh Muhammad Al-Mukhtar Al-Salami

There is a question that should be asked, if physicians do not mind. If a woman flushes her womb with something, like a disinfectant solution, would that destroy the ovum or not?

A Participant Physician

Such flushing, if carried out after sexual intercourse, gets rid of sperms, but the liquid does not get to the ovum itself.

Sheikh Muhammad Al-Mukhtar Al-Salami

So is this flushing with a solution that prevents a zygote from being produced similar to what an IUD does or is it different? I tend to accept the theory that the life of the zygote is the life that has the potential to develop, but this is only when it has been implanted.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I believe this will lead us into another endless discussion. I believe Dr. Hassan was with us when the Drafting Committee decided that only settled conception had sanctity. We may not be one hundred per cent right, but this is the *fiqh* evidence available now and the evidence of the Quran verses we are aware of. They all suggest that settled life is the thing to consider.

Sheikh Abd Al-Rahman Abd Al-Khaliq

First let me thank God, Glorious and Sublime is He, that the results we have arrive at, though they may seem few, are, by God's will, a step forward. But there are some questions left unanswered, and I would like to draw attention to them to avoid having them interpreted by each one according to his fancy.

Article 5 of the recommendations on the subject of the End of Life says that *fiqh* scholars believe that when a person's death is ascertained through the death of the brain stem, certain rulings that apply at death apply to him. I truly see this as an unanswered question, though it is a serious one. As Dr. Hassan says this is the minimum we have all agreed upon, but I believe that something must be done to mention these rulings in detail, thus preventing people from interpreting the statement the way that meets everyone's wishes. This is one point.

Another point is that I believe the seminar should not have been concluded before settling the decisive question of determining the moment of death. In fact I see this as a question with which *fiqh* scholars have nothing to do at all. The answer to the question is for doctors to supply, and it is they who shoulder the responsibility of providing an honest answer. This question is none of our business. It is for them to say whether a certain person is dead, and they account only to God. Neither our experience nor our specialization allow us more than to be witnesses to what they say.

This is the way Islamic rulings are made. As long as a person is an expert, it is for him to provide an answer. It is for women, for example, to decide the question of whether a girl has menstruated or not. It is not for me to make sure myself that a woman has menstruated or has delivered. It is not something we can ascertain. It is for this reason that I say this serious question should have been settled, and the seminar should not have been concluded until it is settled once and for all.

Still, I want to make it clear that in my opinion this question is a responsibility that physicians have to shoulder, since they witness what happens and have certain knowledge about it. It is up to them. But I have a favour to ask, and that is for another meeting, of whatever type, to be held in order to decide which *fiqh* rulings that apply to the dead should apply in the case of a person whose brain stem has died. Do not leave the question unanswered to be interpreted according to whim.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I believe this is included in the recommendation; we say the rulings that apply are the same that apply to an injured person when he arrives at the stage of "the slain". As for the rest, we say the seminar recommends that another detailed study be undertaken to determine which rulings apply immediately and which are to be postponed. I believe this is right, and it will be easy to arrange, God willing. We are in agreement now. I would like, however, to stress the point that, even with the *fiqh* point of view, it is not easy to convince doctors. Conviction in the end is a personal thing, and it is not easy for a person to take the decision of removing the equipment, even when it is legal to do so. Even if there is an injunction in some cases, he will still hesitate in certain matters. This would also take us into personal matters. I say that there is unanimous agreement on the view that it is lawful to turn the equipment off, and the decision is in the long run left to the committee and the doctor.

As to what you recommend, this will certainly take place if God wills. We cannot be satisfied with this end, and we have to reach some agreement on the point. This wonderful dialogue has to be carried to its natural conclusion, so that physicians would reach intellectual and psychological satisfaction, and so do *fiqh* scholars. Now even the words we use have many connotations which differ from one person to another. I hope this approach sets an example, and, by God's will, we will have another seminar in the near future to discuss this subject.

Dr. 'Onaizi Al-Onaizi

This is to answer Dr. Ma'moun. We either talk privately, or if there is time, I will take only one minute to answer concerning extra zygotes. First of all there is a question about the lawfulness of the whole procedure. But if a husband and a wife agree to follow it and so on, a case of necessity develops. The physician undertaking the attempt cannot go on unless more than one ovum are fertilized, and this is certain. If we agree then that it is a necessity, this would be the second step.

The third step is that at worst we can take this to be of the same nature as abortion. In my view, it is an inevitable abortion, or else the zygotes will have to be implanted into wombs were they do not belong, which is unlawful. Thus, necessity calls for destroying them. Moreover, we have agreed to take implanting as the criterion. I believe this view is satisfactory, but it is only God who has perfect knowledge.

Dr. Najm Abdulla

What I have wished for, in fact, is for something like this reply to be the main decision (reached at this seminar), because the purpose of this benign and blessed seminar is to come up with recommendations that can be applied in practice. As Dr. Ma'moun and Dr. Hassan say, we are practicing this profession, and so we come in direct contact with such situations. Now, when I recommend the IUD to a patient, can I do that with a clear conscience?

This reply is highly satisfactory, and I am pleased with it. But we want this to be made into a recommendation by *fiqh* scholars, to give it weight and give us confidence. Certainly if this is one of the necessary things that a physician needs to do in his practice, there is no harm in it. This is one thing.

Another point is that Dr. Hassan Hatthout says he personally does not believe an IUD should be used, because now things have changed and it

is clear the device kills zygotes. Let us ask ourselves how many ova are there in a woman's ovaries? Millions upon millions. If they are that many and yet only few remain, this means that if we allow a patient to use some type of contraception (and let us suppose for argument sake that this woman actually cannot take contraceptive pills, which would be of course the best thing but we still have other alternatives, and let us also suppose she needs some contraceptive device because she needs the time to raise her children or there are medical or other reasons), this would be a murder that should be avoided, if we apply Dr. Hassan's principle. Thus he is turning this into a problem all over again. Therefore, we really need the opinion of *fiqh* scholars, and we need it to be clear and candid. Either "do" or "do not". If we follow this opinion, and let us suppose it is "do", we practice in confidence. If it is "do not", we only resort to such a thing in extreme necessity.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Generally speaking, Dr. Najm, this point is clear in the recommendations, all of which are based on general consensus. We wrote an introductory sentence, then explained the process of fertilization, pointing out that it is the first step in embryonic life. Then we said that from the moment a zygote settles in a woman's body (a point on which there is some disagreement), it acquires a unanimously recognized sanctity. So rest assured about this point that at that particular time rulings become applicable. Dr. Hassan has his own point of view, and for two hours we discussed this with him until we reached this consensus of *fiqh* scholars which you see now before you.

Dr. Yusuf Al-Qaradhawi

I want Dr. Najm to be reassured that almost all the *fiqh* scholars present here are in agreement that unless it settles, a zygote has no sanctity. The only scholar I know to disagree is the Honourable Sheikh Ibrahim Al-Dasouqi. On this basis, it is all right for physicians to prescribe an IUD, which is certainly recommended only when it is needed, and needs are given due consideration in Islamic Law. We believe a zygote has sanctity, but sanctity does not mean prohibition, and therefore, when the need arises, we allow an IUD to be employed. After all, the zygote that enjoys sanctity is the one described in the Quran as *A LIVING GERM IN A SAFE ENCLOSURE*. (S23:V13). Unless it is in such an enclosure, it enjoys no sanctity. I hope Dr. Hassan and Dr. Al-Qadhi will not press us further, because for three days now they have been pressing us with their point of view. We have given in to some extent, so let them give in a little as well.

Dr. Muhammad Al-Ashqar

Most certainly, what Dr. Qaradhawi has just said is very important, and should be incorporated in the recommendations, where it should be attributed to *fiqh* scholars rather than to doctors. I suggest to have it included in the recommendations.

Dr. Abduulla Najm

If you allow me, Mr. Chairman, the fact is that what *fiqh* scholars are saying is something that has been common since the days of the Companions, and nobody is contesting it. Whether *coitus interruptus* or abortion is lawful or not is not what I am talking about. What I am talking about is what has been raised now by Dr. Hassan and Dr. Ma'moun concerning the extra zygotes in Europe and whether they may be experimented with. This is something that no *fiqh* scholar has raised or discussed. This potential human being, is it all right to experiment with it as apes and rats are experimented with? Neither the *Fiqh* Academy nor any single scholar has discussed this, and I was truly surprised to hear that even Catholic clergymen have banned this on religious grounds. I hope you will give this subject sufficient time or postpone it to be discussed in the future.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I believe we will have to discuss it in the future. It is not possible to discuss it now.

Dr. Hassan Hatthout

We wrote down that we had agreed upon: a zygote which settled in a woman's body acquired sanctity. We had not agreed about the status of a zygote before it settled, so we did not write it down. Let us therefore be satisfied with what we can agree upon, because we will differ again if we bring up the period before a zygote is implanted, and I strongly encourage the idea of discussing this subject, provided that sufficient time be allotted to it, by God's will.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I believe then that the text of the recommendation as we have it now is sufficient:

Two: From the moment a zygote settles inside a woman's body, it acquires a unanimously recognized sanctity, and a number of legal stipulations, known to all scholars, apply to it.

This is the first form of sanctity. Now the second:

When it arrives at the spirit-breathing stage, the time of which is subject to controversy, being either forty or 120 days, the fetus acquires greater sanctity, as all scholars agree, and additional legal stipulations apply to it.

So far things are going well, so let everybody feel reassured. I hope, dear sirs, that we have set down what we have agreed upon.

A Participant

Will there be, by God's will, a follow-up for this seminar, to discuss an important topic related to it? The topic is making use of the organs of a person who is pronounced dead and setting legal controls according to which these organs are to be used, as well as the question of whether when a person has donated his organs before his death his guardians are entitled to withhold permission to have anything done with his corpse. It would be easier to devote a special seminar to them, which is what I hope for.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

This topic, Mr. Muhammad, is the subject of several decisions that have already been made. There is hope for a committee to be set up for that purpose. At the Organization, we have been putting together these decisions which we have received from all Islamic countries, so you can be quite sure that what you suggest will take place; if God wills, a special seminar will be held for that purpose.

I hope we all accept this part and that we may assume we have finished.

Counsellor Abdulla Al-Issa

If you have no objection, we shall withdraw to add an article to encourage such seminars, as well as the cooperation between physicians, *fiqh* scholars, and Islamic organizations and bodies.

Thank you.

A SPEECH

Sheikh Muhammad Al-Mukhtar Al-Salami

In the Name of God, the Compassionate, the Merciful. To Him we address our praise, and for the gift He has been so kind to give us, our tongues and hearts express gratitude to His Sublime Majesty. We pray for peace and blessings for our master Muhammad, the last of God's apostles, whose message is a guidance and mercy to mankind, embracing the good of both this world and the Hereafter.

Your Excellency Dr. Abd Al-Rahman Al-Awadhi, Minister of Health, Honourable scientists and scholars.

Allow me to address, on your behalf, to His Highness the Prince of Kuwait, may God protect him, and to his esteemed, well-guided cabinet, our gratitude for, and appreciation of their kindness, and to those in charge of setting up this convention our praise for the excellent preparation and organization and for the cheerfulness with which we have been met and which gives the seminar a spirit of great friendliness for which they deserve credit.

The series of impressions upon us for the last three days is, and I do not exaggerate, one of the best, dearest, and brightest upon our hearts. This is because:

First, His Excellency the Minister of Health has stated that every intellectual, jurist, and scientific endeavour should be subjected to God's Law, while that eternal Law should by no means be subordinated to thought that is modified every day, whims that change every minute, or emotions that rapidly swell and cool down. This approach in making major choices, followed by a government official, is the approach I acclaim and strongly believe to be a bright lighthouse, or it is not limited to our search for the beginning and end of life, but rather goes beyond it, into the future, when any similar medical question arises, and beyond the field of medicine itself to every other field that is influenced by human effort.

Second, this wonderful meeting has brought together an elite of *fiqh* scholars and physicians, people with high education and penetrating intellects, to discuss the inception and end of life. Not for a single moment, praise be to God, has it abandoned its goal, because the discussion has been, first of all, candid and devoid of any hypocrisy, and though opinions differed, all streams poured into the same canal of right and good. Second, medical professors have made an effort, which I hope God will reward, to explain (medical facts) with clarity and precision, and with a language which at times achieved a high level of lucidity and artistic beauty. At no moment of this meeting could be detected a trace of fanaticism or an attempt at imposing a certain point of view or at abandoning the ideals of human interactions, which are part of Islamic Law. *Fiqh* scholars have explored the hidden aspects of the subject, so that their questions and inquiries, with their wide range and meticulousness, and with the intelligence and awareness they reveal, show, in turn, the influence of the Islamic method of intellectual training, which calls for precision, caution, piety, and courage in arriving at rulings once the picture is clear and doubts are cast away. It is this that the Prophet, Peace be upon him, refers to when he says,

"I leave you on the White Road, where night and day are the same".

These efforts have been fruitful in discussing the question of Human Life, its Inception and End; and Islamic point of view has been uncovered in relation to several issues branching from the major question, which issues used to pose a dilemma for Muslim physicians, and leave them hesitant whether to go ahead or to refrain.

This has been clear in the points raised by the distinguished physicians in questions related to the early stages of man's creation and the many ways in which science has rebelled against the laws of humanity. It has also been clear in relation to the forms of aid extended to man, so that a doctor may be confident that he is following the instruction, and realizing the wisdom, of his Lord.

THAT WHOEVER KILLED A HUMAN BEING, EXCEPT AS RETALIATION FOR MURDER OR PUNISHMENT FOR CORRUPTION ON EARTH, SHOULD BE LOOKED UPON AS THOUGH HE HAD KILLED ALL MANKIND; AND THAT WHOEVER SAVED A HUMAN LIFE SHOULD BE LOOKED UPON AS THOUGH HE HAD SAVED ALL MANKIND.

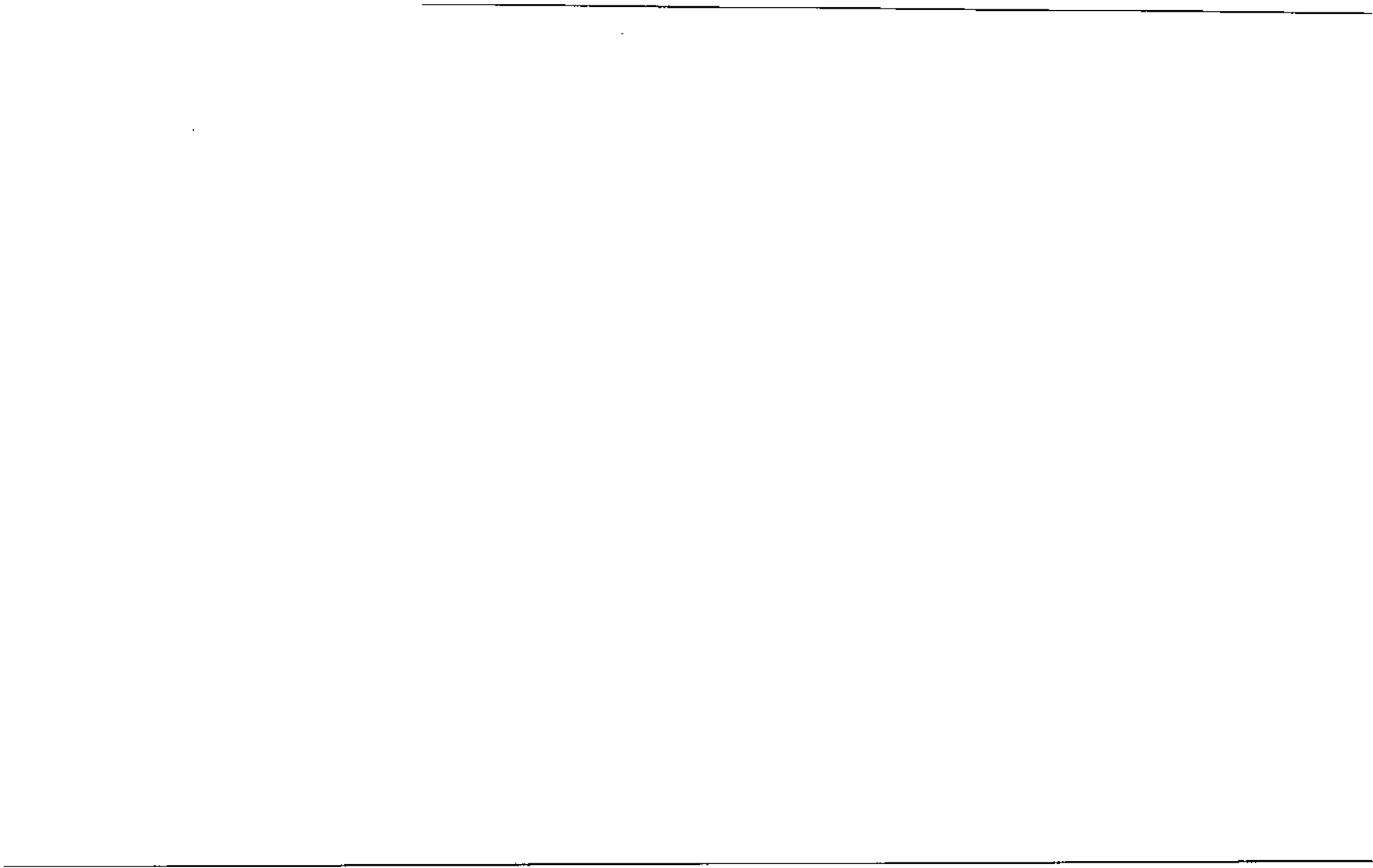
The outcome of this meeting will be felt beyond the Kuwaiti borders,

everywhere in the Islamic World and by all who believe in human ideals, which find no way of expression as clear and perfect as the Islamic one. Thus, with the yield of this blessed meeting, Kuwait will be making, by God's will, another contribution to the Islamic nation and to all nations of the world. The success of this meeting will encourage statesmen and government authorities in Islamic countries to place the problems of the Islamic world, as well as its medical, economic, social, and intellectual affairs on the correct scale that never varies or goes off balance, namely the scale of Islamic Law. *DOES HE NOT KNOW WHAT HE HAS CREATED? HE IS KIND AND ALL-KNOWING.*

The success of the seminar is a practical invitation to all specialists and to all Islamic jurists to meet together and combine efforts, with the aim of pleasing God, by flying high His banner and highlighting His stipulations. *IT IS HE WHO HAS SENT HIS APOSTLE WITH GUIDANCE AND WITH THE TRUE RELIGION, TO MAKE IT TRIUMPH OVER ALL OTHER RELIGIONS.*

In conclusion, I pray to God to keep Kuwait safe and secure, and allow it to continue its progress; to bring together the hearts of all Muslims so that they would hold tight to God's sturdy rope; and to reward everyone who has contributed to this meeting, by guiding them and allowing them to hold to the truth, and by doubling their recompense. The first and final decision is His.

Peace and God's Mercy and Blessings be on you.



A LETTER

Prof. Dr. George Mansur Abuna
Kuwait

Dear Dr. Ahmad Al-Gindi:

First, I would like to express my many thanks to the Islamic Organization for Medical Sciences for inviting me to this important seminar, in which I have learned a lot from the distinguished scholars of *fiqh* and religion, as well as from some of my physician colleagues.

Second, I regret that I was unable to attend yesterday's session; I had to stay at the hospital to prepare a small child for an emergency bone marrow transplantation surgery that will take place in the next few days.

A number of important points concerning the question of the end of life have become clear to me, and I would like to share them with you and the Drafting Committee.

First, both physicians and *fiqh* scholars agree that man is a living being with a spirit or a soul that distinguishes him from animals and plants. When spirit departs, he is no longer a human being. They have also agreed that, without a brain, man is not a complete human being.

Second, physicians and *fiqh* scholars disagree, due to the lack of evidence available to our human comprehension as to the location of that spirit and the moment at which it leaves the body, i.e. the moment of death.

Four years ago, the answer to the latter question was simple; man's death occurred when his heart stopped and, at the same time, his brain stopped functioning. There was no room for argument. But now, due to the advances in medicine and biological sciences, it is possible to supply the heart, the lungs, and other organs with nourishment through artificial means, for a maximum of two weeks, even when the brain has died and, in my view, the human being himself, as we know him, has also died.

Unfortunately, these developments have created differences over the time of death, because of the differences over what death itself is. Is it the failure of the heart, as in the old medical definition? Or is it, as in the new definition, the failure of the brain to go on functioning, which causes the other organs to stop functioning as well, unless artificial help is provided? The difference in setting the time of death might be as much as two weeks, according to the different definitions.

Before the seminar and the distinguished scholars arrive at an opinion, I hope they will take into consideration the following points:

First, medical and scientific progress has made it possible to explain many previously unexplainable things related to death. This progress has proved that man can do without a heart, lungs, or almost every other organ, either temporarily or permanently, without any effect on his life as a human being, but he can do without a brain for no longer than four minutes. So the brain is the essential part. Examples:

1. The heart stops to function for several hours during open heart surgeries, but as long as the brain in sound, a person lives normally after the operation and the heart beats again.
2. Heart, kidney and other organ transplantation from one person to another take place every day, but no such thing can be done with the brain.
3. There is a person, namely William Shrowers (?), who is living now a normal life without a heart, for his natural heart has been replaced with a plastic heart or pump.

Therefore whether there is heartbeat or not is not sufficient at present to diagnose death.

Second, Scientific progress has made it possible to diagnose death (that is the death of the brain stem) with great precision. It is also possible to give a correct opinion of whether there is any hope for the recovery of a patient who is living with the aid of artificial equipment when his brain has stopped functioning. Such a diagnosis is a medical and scientific job.

Third, we have to take into consideration that having a person receive the aid of such artificial means for a long period of time, when there is no hope for his recovery, results in prolonging his and his family's torture and increasing the economic burden shouldered by society. It may also prevent extending this medical treatment to another patient who has a hope of recovery.

Fourth, due to recent medical developments, it is possible to save some patients' lives by transplanting organs to them from dead people. This is a benevolent act which is recommended by all religions and has a great benefit for society. Many single organs have to be removed from a dead person's body within few minutes after death, which means to agree to stop artificial aid that nourishes a patient whose recovery is hopeless after the death of his brain stem as established by certified medical evidence. Therefore I propose the two following points, hoping the Drafting Committee will accept them.

1. Diagnosing death is a medical matter that should be left to the physicians supervising a certain case, who have to use all modern scientific methods in making such a diagnosis.
2. It is permissible for all artificial equipment and other treatment to be stopped if it is established by the doctors on an official committee of three or four members, appointed by the Minister of Health at every hospital, that the patient receiving this artificial equipment treatment is beyond recovery (as mentioned by Sheikh Yusuf Al-Qarad'hawi yesterday).

In conclusion, I believe a recommendation of this sort will make the questions of life and death much easier for believing physicians and will also be a service to Arab Society in general.

Peace and God's Mercy and Blessings to you.

Professor George Mansur Abuna

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THE DISCUSSION RESUMED

Dr. Abd Al-Rahman Al-Awadhi, Chairman

On your behalf, I would like to thank the Honourable Sheikh Muhammad Al-Mukhtar Al-Salarni for his kind sentiment and spirit.

Is there any one who would like to ask a question before expressing our thanks.

Dr. Ahmad Al-Qadhi

In loyalty to God and to gain His satisfaction, I have a suggestion, which I hope the participants at the seminar will accept. It is to be content with the first three recommendations that concern the beginning of life and omit the fourth, because we do not have to include it. I see some contradiction with the second recommendation. The fourth item says that we endorse or reaffirm the rulings on abortion arrive at by the Seminar of Abortion, or rather of Reproduction, and I find a bit of contradiction with the second item, which affirms the respect due to settled pregnancy. We have compromised on this point and allowed the word "respect" to be used instead of "sanctity". In the outcome or the recommendations of the former seminar, that on Reproduction, there is an opinion expressed that allows the destruction of a settled embryo within the first forty days, which, I believe, is in contradiction with this "respect". I am not advocating that we cancel the outcome of the Reproduction seminar, but to at least say nothing about it. We do not have to volunteer to reaffirm it and endorse the contradiction it has with the respect of settled pregnancy that we have agreed upon. As I see it, the word "respect" is the minimum acceptable, so let us say nothing about what contradicts this minimum in the recommendations of the seminar on Reproduction. That is, we evade to cancel what we have earlier said, but we do not volunteer to endorse it and remind people of it, hoping that it will be forgotten.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

We can cast votes on this. We follow the proposal if there is consensus. I believe our Islamic system is one of consensus, and things

have to be unanimously accepted, or else they cannot be adopted.

Sheikh Muhammad Al-Mukhtar Al-Salami

In fact I second the suggestion of the honourable Dr. Al-Qadhi, because actually I have refrained from objection out of a feeling of embarrassment, because I know what happened in the previous seminar.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Whatever you want. You remember what we said at the time the fourth recommendation on the beginning of life was discussed.

Dr. Ahmad Al-Qadhi

I would like to add something. If we come to the possibility of losing hundreds of thousands, and perhaps millions, of embryos which are aborted during the first forty days, I believe there is no room for feelings of embarrassment or for gestures of courtesy. Not even good manners come before a question of life and death. Therefore, let us adopt the proposal if that is the tendency among participants. Perhaps eighty or ninety per cent support it, and this can be taken as a consensus or agreement or dominant trend. Under no circumstances we can expect one hundred per cent of any group of people to agree on something, whether right or wrong.

It is true that embarrassment and courtesy sometimes prevent a person from speaking his mind. But it is a true that we shoulder. I and may other doctors see with our eyes how hundreds of thousands of embryos, are lost in the first forty days, and even some with spirit.

Dr. Ahmad Shawqi Ibrahim

None are with spirit, and I object. None are with spirit. Fear God.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

Now if you have no objection, there are three things upon which we have agreed. We say that after spirit is breathed into a fetus, it acquires greater sanctity and additional legal stipulations apply to it. We add that some of these are mentioned in the outcome of the seminar on Reproduction. Some colleagues say they have not attended that seminar and would not like to reaffirm its findings. They want us to drop this point. I believe perhaps there are here some of the participants of the earlier seminar who have agreed to its recommendations.

Would someone read the recommendations from the book on the seminar of Reproduction!

(The recommendation is read at this point. It is as follows.)

The seminar concludes that an embryo is a living organism from the moment of conception, and its life is to be respected in all its stages, especially after spirit is breathed in. Aggression against it, in the form of abortion, is unlawful except in cases of maximum necessity. Some participants, however, disagree and believe abortion before the fortieth day, particularly when there is an excuse, is lawful.

(Reproduction in Islam, the Arabic version, p. 351)

Dr. 'Isam Al-Sherbini

Instead of saying that we endorse the views of the earlier committee, we just refer to that committee or we take note of its views.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

I second what Dr. Sherbini is suggesting.

Dr. Khaled Al-Mathkur

I would like to say that after the concluding speech, which Sheikh Al-Mukhtar Al-Salami has been kind to make, we were hoping the meeting would be adjourned and we would have no further discussion to revise a recommendation we spent over four hours to phrase and finish. Why should we come here and have to go through further discussion and listen to a request for vote to be taken, while Dr. Ahmad Al-Qadhi, as well as Dr. Hassan Hatthout, are on the Drafting Committee? I say let us be satisfied with what has been achieved with God's permission. If there are other things, they can be discussed in future seminars, God willing.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

If the argument is over the phrase "which this seminar endorses", we can omit it, so that the item would read, "among the most important of which are the rulings on abortion in item seven of the recommendations". And if you like, we should have further seminars to explore other fields.

But I hope we come not to differ, because that would keep us from agreement, and Islam requires us, in any case, to observe its rulings only

in as much as we understand them.

Sheikh Badr Al-Mutawalli Abd Al-Baset

Your Excellency, difference of opinion never spoils friendly relations.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

There is no doubt about that.

Sheikh Badr Al-Mutawalli Abd Al-Baset

In fact we may disagree, and people who are better than us disagreed before us, but as long as differences are based on considered opinions with their evidence and systems, the disagreement may be a vehicle of mercy.

Dr. Abd Al-Rahman Al-Awadhi, Chairman

We were not disagreeing. But the seminar is held so that we agree on specific things, so I hope we keep to that and finish, as the kind Dr. (Mathkur) has said. I hope we will not start the discussion all over again, and we will omit the phrase "which this seminar endorses", and only say, "the rulings on abortion as mentioned in the seminar on Reproduction", so whoever wants to may take those as a guidance, while other can have their reservations. I hope we all agree to this.

In any case, at the conclusion of this seminar, I would like to add nothing to what Sheikh Muhammad Al-Mukhtar Al-Salami has been kind enough to say, for I believe he has expressed what we all feel, and the true things he has mentioned express the strong faith in the heart of everyone in this room. I pray for guidance, and I promise you the Islamic Organization will try to stick to this approach, to bring points of view closer to each other, and to bring together distinguished scholars from various fields and schools of thought, in order for us to arrive at a clear perception of our religious affairs, by God's will. Whatever the circumstances are, we should never accept any alternative to the rulings of our Law, and I would like to reassure you that here in Kuwait, we believe in this.

I wish you all great success, and I thank you for your participation. I hope all our future meetings will be held in this spirit of love and friendship, and Peace and God's Mercy and Blessings to all of you.

RECOMMENDATIONS

RECOMMENDATIONS

In the Name of God, the Compassionate, the Merciful.

With God's help and guidance, the Islamic Organization for Medical Sciences, in collaboration with the Ministry of Health in Kuwait, held the second of its series of seminars on Islam and Contemporary Medical Questions under the title of "Human Life: Its Inception and End as Viewed by Islam" on Rabi' Al-Awal 24-26, 1405 H. (January 15-17, 1985 A.D.) in the Kuwait Hilton, Kuwait.

The seminar was a response to a feeling of the general public that contemporary problems have become too intricate to be encompassed by individual scholars working independently and that the efforts of specialized-Muslim scientists have to be mobilized and combined with those of *fiqh* scholars, so that any Islamic legal opinion would be based on sufficient understanding of the subject involved.

An elite group of *fiqh* scholars, physicians, jurists, and specialists in humanities were invited to the seminar. The first day was devoted to a discussion of the question of the beginning of human life, and the second to a discussion of its end. On the morning of the third day, the Drafting Committee met to phrase the outcome of the discussion.

After going through the reports of what had gone on at the seminar, the memoranda submitted by session secretaries, and the written suggestions extended by a number of participants, the Committee approved the following.

First: The Inception of Life

One: The inception of life occurs with the union of a sperm and an ovum, forming a zygote which carries the full genetic code of the human race in general and of the particular individual, who is different from all others throughout the ages. The zygote begins a process of cleavage that

yields a growing and developing embryo, which progresses through the stages of gestation towards birth.

Two: From the moment a zygote settles inside a woman's body, it deserves a unanimously recognized degree of respect, and a number of legal stipulations, known to all scholars, apply to it.

Three: When it arrives at the spirit-breathing stage, the time of which is subject to controversy, being either forty or 120 days, the fetus acquires greater sanctity, as all scholars agree, and additional legal stipulations apply to it.

Four: Among the most important of these stipulations are those that govern abortion as pointed out in article seven of the recommendations of the seminar on "Reproduction in Islam".

Second: The End of Life

One: The seminar realizes that in the majority of cases, there is no difficulty in recognizing the occurrence of death through conventional signs or as a result of external medical observation which notes the absence of the signs that distinguish the living from the dead.

Two: The seminar has reached the conclusion that there are few cases--which are usually under careful and comprehensive medical observation at hospitals, specialized medical centres, and intensive care units--that have particular importance because there is an urgent need to diagnose them as cases of death, although the body still shows signs which have been always accepted as signs of life, whether these signs are naturally displayed by some organs of the body or result from resuscitation equipment applied to the patient.

Three: The seminar has discussed the signs of death listed by *fiqh* reference works and discovered that, in the absence of a Quran or Tradition text which explicitly defines death, these opinions reflect the medical knowledge available at the time of writing. Because the diagnosis and the signs of death have always been a medical matter, on the basis of which *fiqh* scholars make legal rulings, Participant physicians presented the current medical view concerning the occurrence of death.

Four: From the presentations of physicians, it is clear that the decisive factor for them in proclaiming the death of a patient is the lifelessness of the area of the brain that is responsible for vital body

functions, which they express as death of the brain stem. A diagnosis of brain stem death has clear conditions which rule out certain suspicious cases, and physicians are capable of coming up with a confident diagnosis of brain stem death about which they have no doubts.

Any other vital organ or function, such as the heart or respiration, may temporarily stop, but as long as the brain stem is alive, it can be revived. The lives of a number of patients are saved this way. When, however, the brain stem itself has died, there is no hope of saving the patient, for his life has come to an end, even if other systems of the body continue to move or to function. Undoubtedly, with the death of the brain stem, these systems are eventually going to stop and be lifeless.

Five: On the basis of this presentation by doctors, *fiqh* scholars are inclined to the view that when it is ascertained that a human being has reached the stage of brain stem death, he is considered to have withdrawn from life, and certain rulings of the dead are applicable to him, in analogy, though with the evident difference, with what *fiqh* books say about an injured person who has reached the stage known as that of the "slain".

As for the remaining rulings that concern the dead, the participant *fiqh* scholars prefer their postponement until all major systems of the body come to a stop.

It is hereby recommended that an additional, detailed study should be made to determine which rulings for the dead apply immediately and which should be delayed.

Six: On basis of the above, it has been agreed that when the death of the brain stem is certified by a report of a committee of medical specialists, it is lawful to remove resuscitation equipment.

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