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Islamic Organization For Medical Sciences
Islam and Current Medical Concerns

Summary of The Seminar on HUMAN LIFE: ITS INCEPTION AND END AS VIEWED BY ISLAM

Supervised by
Dr. Abdul Rahman A.Al-Awadi,
President of
Islamic Organization
for Medical Sciences (IOMS)
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In The Name of God,
The Most Compassionate,
The Most Merciful.

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FOREWORD

Dr. Abdul-Rahman Abdulla Al-Awadi

President,
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Kuwait

Praise be to Allah "Who created death and life that he may try which of you is best in deeds". Prayers and peace be upon the noblest of the Messengers, our leader Muhammad (ﷺ), and all of his household and Companions.

Publishing the summary of the symposium on "Human Life: its Inception and End as viewed by Islam" will serve several objectives. Though 15 years have passed since this symposium was held, it is still representing a clear concept of the academic methodology adopted by IOMS for studying such new topics. Since that time, demand on its papers and discussions continued, but meeting all these demands of interested scholars was difficult due to the voluminous size of the Minutes of the sympasium.

IOMS, therefore, decided to summarize both medical and juristic papers as well as the discussions so as to facilitate obtaining them for quick acquaintance; then it will be easy to provide interested scholars with the Minutes of the symposium or with the specific paper requested.

It is hoped that summaries of the papers and discussions will not misrepresent the content. May Allah guide us to do what pleases Him!

INTRODUCTION

Dr. Ahmad R. El-Gindy

Secretary General Assistant,
Islamic Organization for Medical Sciences,
Kuwait

Grateful praises are due to Allah, and our prayers and greetings be to our guide Muhammad (ﷺ) and upon his household and Companions.

There are several reasons behind publishing the summary of the proceedings of IOMS symposium "Human Life: its Inception and End as viewed by Islam", among them are the following:

1 - The full proceedings of the symposium are so bulky and detailed, particularly those pertaining juristic papers, that they may cause difficulty to some scholars.

2 - One of the objectives of the IOMS is to facilitate for non-Muslims an easy access to know the Islamic views through translating these papers into famous world foreign languages, such as English and French. The big size of the juristic studies in particular and their specialized terminology were the main reason behind many translators' refraining from continuing in translating the proceedings of such symposia.

3 - Now, IOMS has its Internet site, [http//www.islamset.com], where one can find lots of information about Islam and Muslims, in addition to health topics, particularly Islamic perspectives on the new medical issues. Viewers of this web page are mostly not searching for full details of the original lengthy papers; rather, they are usually interested in accurate, simple, clear and comprehensive summaries of those papers introducing the new Islamic juristic viewpoints.

IOMS, therefore, found it necessary to summarize the proceedings of this symposium in order to overcome such obstacles.

It is hoped from Allah that these summaries offered here will fulfil the intended objectives. It is also hoped that your welcomed comments and suggestions will be helpful in improving the way of introducing the series of IOMS important works. May Allah guide us all to what pleases Him.

FIRST PART
THE INCEPTION OF HUMAN LIFE AS VIEWED BY ISLAM

A- SUMMARY OF THE MEDICAL PAPERS

Doctors & Professors:

(1) Mohammad A.H. Abu Ridah - Philosophical Approach

(2) Mokhtar Al-Mahdi
(3) Ahmad Shawki Ibrahim
(4) Abdullah Basalamah
(5) Hassan Hathout
- Medical Papers

It seems that there was confusion in approaching the subject. Some speakers took it to mean the wider issue of the life of humanity upon this planet earth, whereas others dealt with the life of the individual. The latter also were divided into two groups. One looks at the life of an individual and at what stage it can be described as human, the other looks at life as life, and when it does begin. It is the latter question that was on the minds of the group who gave the symposium its name.

1- Man's Life on Earth

(Author - Dr. Mohammad Abd Al-Hadi Abu Ridah)

Being a professor of philosophy, it is no wonder that Professor Abu Ridah took the first and wider approach depicting the life of humanity on earth. Before even delving into the religious (particularly Islamic) perspective, he recounts the views of old and modern philosophers on man. Man is the master of the universe and cannot be studied in exclusion of the universe. A question they always presented was whether man was part of the universe or an oncomer from elsewhere. Could he be a product of the earth only with his body whereas his core nature endowed with thinking, choice and will transcends his earthly composition? Is man made to do good or to evil? Does he harbor the same drives of an animal but with an inherent power to control them if he chooses to go beyond animalhood?

One of the blunders of current civilization is that it considers man to be only a matter, a body, an animal, even though he is the head of the animal kingdom. It ignores its suprabiological element that we might call spirit or soul, since it lies beyond the realm of modern science, which cannot see but the tangible and palpable. The writer then proceeds to the three divinely revealed religions of Judaism, Christianity and Islam. They all acknowledge the One, Absolute, Universal Creator that the human intellect can discover by contemplating His creation, for if a book is proof of a writer, creation is proof of a Creator. God endowed man with knowledge, a concept of good and evil, and the power of free choice which is the basis of his

accountability. The three religions agree that man enjoyed a life before he came to earth subsequent to committing a sin, but he is under test on this earth before going to a coming life. The three religions state that man had succumbed to temptation by eating from a tree in defiance of God's orders. But then they differ on the story of the original sin. The Judaec-Christian account is that the devil tempted Eve, who tempted Adam, and they were punished by being banished to planet earth in shame and dishonor (especially Eve), passing it to their offspring so that every human being is born in sin, which in the belief of Christian is washable by the blood of Jesus atoning for human sin. According to the Quran, the devil tempted both, they both sinned, repented and were forgiven. That put an end to their sin and after that every human being is born pure. Adam was raised to prophethood and man came to earth on a journey of vicegerency to God and not a journey of punishment. The devil, however, felt so jealous that he appealed to have the chance of following human kind to earth to prove humans are not so trustworthy. God granted the request on the promise that He would provide man with guidance that would immunize him against the devil's temptation, except for those who - with the free will God equipped them with - choose to respond to the devil against God's guidance, bearing the consequences of their individual choices. But man is not perfect and might fall. But the gates of repentance are wide open and God's forgiveness is without limits. And man's life is therefore a continuous exercise of self debate and self control and this is the nobility of humanity and the *Amanah* that only man proposed to carry - not being actually programmed like the animals that merely respond to call or the angels that do good because they do not know what evil is.

The writer then mentions the Spirit, a secret only God knows, and an entity higher than the body including its brain, which are merely instruments used by the spirit. He views that the mere death of the brain does not constitute death, since the spirit might remain attached to the body for some more time, and therefore organ procurement for transplantation should wait until death sets in all organs. He questions whether transplantation should wait until death sets in all organs. He

questions whether transplantation should be allowed merely to prolong any life, or only a life that will establish goodness and serve higher values: As to the fetus, from its inception it is a human being undergoing development, and should not be aborted except for a higher consideration such as saving the life of a sick mother if the continuance of pregnancy threatens it. The prophet's (ﷺ) hadith about ensoulment has no bearing on abortion.

2- The Beginning of Human Life

(Author - Dr. Mokhtar Al-Mahdi).

Dr. Mokhtar Al Mahdi stated that human life started with Adam and Eve, that the life of an individual started as a fertilized ovum, but his concern was at what time does this life qualify to be called human. If life ends with a dead person, then it logically begins with the living person, which he equated with the instillation of the Spirit on one hand and its departure on the other. The fertilized ovum is a stage of life to be called "cellular life". As it undergoes cell division and is implanted in the uterus it becomes "tissue life". As the fertilized ovum may give more than one (twins) life, it cannot be the beginning, or else when did each of them start? Would it be possible to carry on a follow up of the fetus from the fourth week onwards and point out a stage at which to say "now the life has become human?".

The difference between the living and the dead lies in the "functional performance" of organs and tissues, and this we know can continue after death for variable periods, until they all switch off progressively and we say death is now complete. But what we mean by a living person is more than this; he is a "total" integrated being enjoying the function of reception, perception and interaction with the world around. This does not pertain in the early fetus even if its heart and other muscles contract, for they can spontaneously contract even outside the body. This stage is "organ life" but not yet "human life", after acquiring what we might call "psychic life". Now comes the twelve week fetus, and it exhibits a number of significant phenomena. Its movements become complex, harmonious and purposeful. Its respiratory muscles begin to work. It responds by movement to

external stimuli like sound or pushing. And its brain shows the electric waves of a functioning brain. Now the fetus has acquired its conscious being, attained what might be called "brain birth", and its life has become a "human" life. Commenting on the hadith of the prophet (ﷺ) about the three forty day periods the fetus goes through as *'nutfah'*, *'alaqah'* and *'mudghah'*, he reinterpreted the wording of the hadith to suggest that those three periods need not be consecutive but may overlap and total 84 days, i.e.the twelfth week.

3- When Human Life Begins?

(Author - Dr. Ahmad Shawki Ibrahim).

Dr. Ahmad Shawki Ibrahim again mentioned the stages of fetal formation, anatomically upon the Quranic account and chronologically upon the hadith of the three forty day periods. Conceding that the fetus is alive before the Spirit is blown into it, he considers it to be "animal life" that becomes "human" only with blowing of the Spirit. As to the visit of an angel to the fortytwo day fetus to register its gender, life span, sustenance and future happiness or misery, as another hadith tells, he considers this visit to occur within the stage of "animal" life. He also maintains that life ends with brain death even if the heart beats and lungs breathe by artificial means (the machine), for this is also "animal" life.

4- Human Life Inside The Uterus: Its Inception and End

(Author - Dr. Abdullah Basalamah).

Dr. Abdullah Basalamah marks the difference between life as *nutfah, alaqah* and *mudghah* including the angel's visit at 42 days, and life after the second angel blows the Spirit at 120 days, heralding "human" life. In an exercise of logic he maintains that if life ends with the departure of the Spirit from the body, then it must have begun at the entry of the Spirit, at 120th day according to the hadith. At that time the formation of the brain has been completed, for it is the organ capable of receiving that blown Spirit: or Life. Dr. Basalamah then posed two questions: (1) Is the anencephalic new born technically

dead? Can it be willfully aborted even if older than the fourth month of pregnancy? Would it have the right of inheritance if it shows signs of life when aborted? (2) If the brain is normal but the heart of the fetus harbors a gross anomaly that will be incompatible with life after birth, can it be aborted? For a precautionary measure he answered in the negative.

5- The Beginning of Life

(Author - Dr. Hassan Hathout).

Dr Hassan Hathout argued that if it is a human fetus and if it is alive then it is a human life. He laid down five postulates for the beginning of life: (1) It has to be a clearly observable event, (2) It has to show the cardinal sign of life viz. growth by cell division, (3) If this growth is not interrupted, it will lead to the subsequent phases of life, (4) It has the genetic bag characteristic of the human race and of a single specific individual and (5) It is not preceded by any stage that combines all the previous four. These pertain to the fusion of sperm and egg forming a zygote. Interestingly, this complies with al-Ghazali's (11th century) expression of the male element fusing with the female element. It is now possible in the laboratory to diagnose pregnancy within hours of this fusion. If such a woman per instance is convicted to die for a crime, the execution shall be postponed until birth and lactation since the Shari'ah extends its protection to the fetus even in that early stage.

B- SUMMARY OF JURISPRUDENCE PAPERS

Sheikhs, Doctors and Scholars:

(1) Mohammad Naeem Yassin

(2) Badr Al-Mutawally Abdel Basset

(3) Mohammad Mukhtar Al-Salami

(4) Mohammad Sulaiman Al-Ashqar

(5) Omar Sulaiman Al-Ashqar

(6) Abdallah Mohammad Abdullah

(7) Abdul Qadir Mohammad Al-Emari

(8) Saleh Moussa Sharaf

(9) Mostafa Sabri Ardoglo

The prophet, (ﷺ) said: "VERILY THE CREATION OF EACH ONE OF YOU IS BROUGHT TOGETHER IN HIS MOTHER'S BELLY FOR FORTY DAYS IN THE FORM OF SEED (NUTFAH), THEN HE IS A CLOT OF BLOOD (ALAQAH) FOR A LIKE PERIOD, THEN A MORSEL OF FLESH FOR A LIKE PERIOD, THEN THERE IS SENT TO HIM THE ANGEL WHO BLOWS THE SPIRIT (RUH) INTO HIM AND WHO IS COMMANDED ABOUT FOUR MATTERS: TO WRITE DOWN HIS MEANS OF LIVLIHOOD, HIS LIFE SPAN, HIS ACTIONS AND WHETHER HAPPY OR UNHAPPY" (Bukhari and Muslim: narrated by Abdullah ibn Mas'ud).

This is called the Hadith of the Forties, and we will refer to it as such, since several writers have quoted it.

1- The Inception of Human Life in Light of Statements of Quran and Sunnah

(Author - Dr. Mohammad Naeem Yassin).

Dr. M. Naeem Yassin emphasized the lack of a clear cut text or an exhaustive juridical ruling pin-pointing the beginning of life. He quoted the Hadith of the Forties that al-Qortobi interpreted to denote that the blowing of the Spirit signifies the creation of human life in the fetus. Ibn al-Qayyim stated that there are two lives, the first is like plant life and it is before the blowing of the Spirit; the second is human life instigated by the blowing of the Spirit, producing sensation and willful movement etc. Upon this Hadith, therefore, a juridical opinion formed to consider human life as starting 4 months after the onset of pregnancy. Before that, it was merely biological life. Had human life been formed before that, God would have not delayed the sending of the angel of the mentioned Hadith. This view finds support in the fact that death occurs by the departure of the Spirit from the body, so life must have started by blowing the Spirit into it.

2- The Beginning of Human Life

(Author - Sheikh Badr Al-Mutawally Abdel-Basset).

Sheikh Badr Al-Mutawally Abdel-Basset views that human life begins with the fusion of sperm and egg and the implantation of the

resulting zygote into the womb. Upon this Islam decreed certain rulings such as the *idda* (waiting period) after divorce or widowhood, and those concerning the inheritance of the fetus or bequeath to it if born alive; matters that are unanimously agreed upon. However, the crime of violating the fetus becomes more serious in degree as the pregnancy advances along its various stages.

3- Human Life: its Inception

(Author - Sheikh Mohammad Al-Mukhtar Salami).

Sheikh Mohammad Mukhtar Assalami quoted the Hadith of the Forties. He alluded to the expression "brought together" in the Hadith to be the fusion of sperm and egg into a zygote, which though not a human being, is a potential one containing the genetic material of an individual. Subsequent stages of development then follow in succession until a full human being is born, capable of independent living outside its mother. Until then, the fetus in uterus is neither an animal nor a full human being but something in between. The writings of the scholars indicate that the human being is respectable and honored before its birth even at its early cellular phase. Although violation of the early fetus is not aggression against a full human being, it is still violation of it on its way to be such. This life should be respected and protected all the way from conception to birth. Its violation is unlawful unless for an overriding necessity such as repelling death of the mother or serious illness if pregnancy is continued.

4- The Beginning of Life

(Author - Dr. Mohammad Sulaiman Al-Ashqar).

Dr. Mohammad Sulaiman Al-Ashqar again quoted the Hadith of the Forties. But a question poses itself: does the fetus during the first forty days possess some kind of human life? or is it a cellular or plant life as some say. Dr. Al-Ashqar's interpretation is that the latter is the case, which is the basis of the ruling of the Fatwa Committee of the Ministry of Waqfs on September 29, 1984 viz. "The doctor is prohibited form aborting a pregnant woman who completed 120 days

of pregnancy since implantation, unless to save her from a certain pregnancy-related danger. Abortion is permissible by the mutual consent of husband and wife if the pregnancy has not completed 40 days since implantation. Between 40 and 120 days, abortion is permissible only under two conditions: (1) If continuation of pregnancy entails a grave affliction of the mother that she cannot bear, or that persists after delivery. (2) If the fetus is certainly afflicted with a major incurable malformation or mental retardation. Non-emergency abortion operations should only be performed in a government hospital, and after the first forty days it must be authorized by three specialist doctors of whom at least one is a gynecologist-obstetrician, and their decision is to be endorsed by two unblemished Muslim doctors.

5- The Inception and End of Life

(Author - Dr. Omar Sulaiman Al-Ashqar).

Dr. Omar Sulaiman Al-Ashqar stated that life begins at 120 days. Before that, although it is a plant-like life, the Quran considers it death: "HOW CAN YOU REJECT THE FAITH IN ALLAH? SEEING THAT YOU WERE WITHOUT LIFE AND HE GAVE YOU LIFE; THEN WILL HE CAUSE YOU TO DIE, AND WILL AGAIN BRING YOU TO LIFE; AND AGAIN TO HIM WILL YOU RETURN" (2:28), speaking of two lives and two deaths. Similarly, the rejectors will say on the day of judgement: "THEY WILL SAY: OUR LORD, TWICE DID YOU MAKE US TO DIE, AND TWICE DID YOU GIVE US LIFE. NOW WE HAVE RECOGNIZED OUR SINS. IS THERE ANY WAY OUT (OF THIS)? (40:11). He maintains that the first "death" is the condition prior to the blowing of the Spirit, the second "death" is when the Spirit leaves the body and the second "life" is resurrection on the Day of Judgement. The Spirit of course is beyond our senses, but the Hadith of the Forties tells us about the timing. The Quran says:

"WE CREATED MAN FROM A QUINTESSENCE OF CLAY, THEN WE MADE THE SPERM INTO A CLOT OF CONGEALED BLOOD; THEN OF THAT CLOT WE MADE A LUMP,

THEN WE MADE BONES OUT OF THAT LUMP, AND CLOTHED THE BONES WITH FLESH: THEN WE DEVELOPED OUT OF IT ANOTHER CREATURE. SO BLESSED BE ALLAH, THE BEST OF CREATORS." (23:12-14).

The life before 120 days is therefore Spiritless, lacking that essence of humanity. Upon this, the Hanbalites permitted abortion before the 120th day, the fetus being then juridically dead.

6- Life: Its Inception

(Author - Dr. Abdallah Muhammad Abdullah).

Also quoting the Hadith of the Forties, Dr. Abdallah Mohammad Abdullah joins the view that life begins at 120 days, before which there is an "existence" getting ready to receive the Spirit. Sinami of the Hanafite school claimed that 120 days is in general (average) since the duration of pregnancy is variable and the knowledge about what is inside the womb is not complete. All are agreed that after 120 days life should be respected, before that, there was a divergence of opinion between jurists.

7- The Beginning of Life

(Author - Sheikh Abdul Qader Al-Emari).

Besides the Hadith of the Forties, Sheikh Abdul Qader Al-Emari quotes another Hadith saying: "At fortytwo days Allah sends an angel to shape the conceptus and fashion its hearing, vision, skin, flesh and bones; then he asks: Lord, is it male or female etc... and records it" (Muslim, after Huzaifah ibn Asseed). This opens the possibility that full creation has happened by 42 days. Sheikh Emari believes that life begins at conception. Before that, although the sperm and ovum are both living, yet separately none of them will ever be a human being. He emphasizes that whether there is one or two phases of life, it should be respected from the beginning. The Hadith of the Forties cannot be used to justify abortion before 120 days except upon the assumption that life begins at blowing of the Spirit, which is a speculation that does not concur with current knowledge.

8- The Inception of Human Life in Light of Quran and the Prophet's (ﷺ) Sunnah

(Author - Sheikh Saleh Moussa Sharaf).

Sheikh Saleh Moussa Sharaf refered to verse 23:12-14 of the Quran mentioning the phases of creation until God develops the fetus into "another creation" (see article no. 5). He also interpreted the Hadith of the Forties as delineating two lives: one after 120 days which is human life, preceded by life but which is not human, although the subject of some juridical rulings.

9- The Inception of Human Life

(Author - Dr. Mustafa Sabri Ardoglo).

Dr. Mostafa Sabri Ardoglo joined the view that real human life begins at 120 days.

C - DISCUSSIONS ON MEDICAL & JURISTIC RESEARCHES

Discussions

The discussions were about a very important point which is:- Is the inoculation of the ovum with spermatozoid considered the beginning of human life? and there were two opinions, as follows:-

The first opinion considered this beginning a kind of life which should be respected, because eventually it will lead to complete human being, consequently an infringement upon it in any of its stages or phases is considered an infringement on the human being, and it is not a cellularity life; as some people call it because finally it will lead to a complete human being.

The second opinion was contradictory; as it said; the result of inoculation is a similar life, like many cellularity life which is not dependable, they quoted the prophetical traditional wise saying: "The boy does not inherit until "*Al-istihalaloh*" "when he comes of age", and the second prophetic traditional wise saying:" If the new born "*Istahala*"; "came to age" he inherits"; this does not mean to legitimize this life and expose it to any harm. But to answer the point of "*Al-Istihlal*"; which means "when he is born alive"; and to "coming to age", as the saying of the forties was a point of long arguments and differences concerning the meaning and the different stages of the creation of the embryo and the "breathing life into.." the stage which differentiates between two lives; the respected cellularity life, and the more respected human life.

A third opinion came up saying that the beginning of human life must be (recognized) by the completion of the brain as it is the center of (direction); (*Takleef*) and (succession); (*Istikhlaf*) in the earth.

As for the point of inheritance at "*Al-Istihlal*"; the Jurisprudents explained it by: the inheritance must be, when pregnancy is confirmed; i.e. when the sperm is merged with the ovum; as it came in the Holy Qur'an: "FOR THOSE WHO CARRY (LIFE WITHIN THEIR WOMBS), THEIR PERIOD IS UNTIL THEY DELIVER THEIR BURDENS" (Divorce: v.4).

This opinion was backed by the fact that human life is not only

the complete human life, but it is the life associated with the human being; and it is in, and for him..

It was seen that this topic is still argumentative and there is no unanimity reached from either the medical or the jurisprudence points of view.

Summary

1- There is no definitive text, so the matter is open to consideration.

2- The Spirit is something beyond our knowledge.

The following views were reiterated:

a - Life begins at conception but becomes human and hence respectable at 120 days.

b - Life is to be respected from conception (some said implantation) onwards and is a human life; along its development the Spirit is blown.

c - Life begins at 120 days .

d - A doctor claimed that not every fertilization leads to a human being, citing molar pregnancy. He was answered that the judgement is based on the overwhelming majority.

e - A doctor claimed the life begins at 3 months when the brain and nervous functions develop. The 3 periods of the Hadith of the Forties must therefore be overlapping.

SECOND PART
THE END OF HUMAN LIFE AS VIEWED BY ISLAM

A- SUMMARY OF MEDICAL PAPERS

Doctors:

- **Hassan Hathout**
- **Mokhtar Al-Mahdi**
- **Eisam Al-Sherbeiny**
- **Ahmed Shawki Ibrahim**
- **Ahmed El-Kadi**

1- When does Life End?

(Author - Dr. Hassan Hathout).

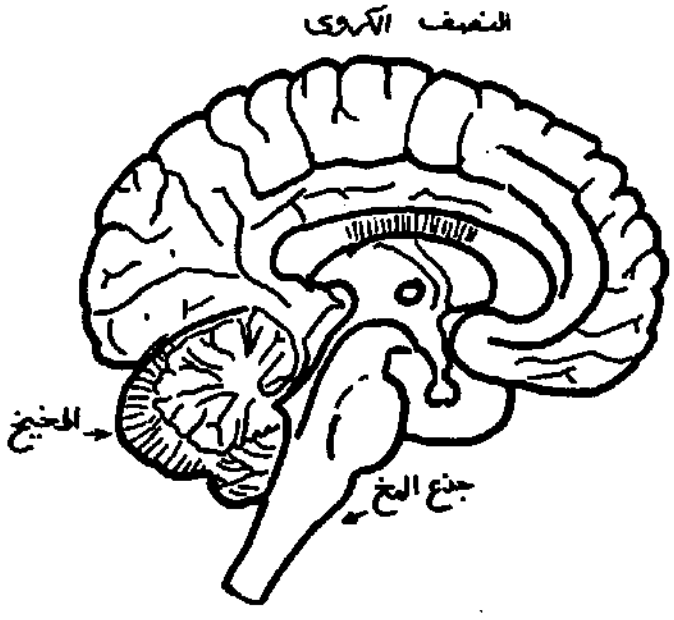
Death is as old as life, and man always recognized and buried his dead. Our case is not to diagnose death, but to define the moment it occurs, in view of several medical and juridical implications. Death proceeds in stages, beginning with a moment before which a person is considered living and after which is considered dead. Following this, and at various paces, body organs, tissues and cells take a variable time to die. For instance, a kidney from a dead person, if timely taken before it dies, will continue to live and function when connected with the circulation inside a recipient's body. If done too late, after "organ death", it will not function, although if little bits of it is taken and put in tissue culture then it shows cellular growth by multiplication, provided this is done before "cellular death" has set in.

This window of time between death of the person as a whole and death of his individual organs, is very important when there is need to procure a vital organ such as the heart for transplantation. What is precisely needed is to get a living heart from a dead person, not sooner than the death of the donor but not later than the period of time for which the heart remains alive. Such a critical period, however, can be prolonged by artificial means, connecting the person to a machine that inflates and deflates the lungs with air, yielding oxygen to the blood circulation that carries it to various organs including the heart which remains alive and continues to pump blood maintaining the organs of the body that had not already died.

2- The End of Human Life

(Author - Dr. Mokhtar Al-Mahdi).

Dr Mokhtar Al-Mahdi stated that man is practically a living brain whose function is to receive, comprehend and respond to messages from within and outside of the body. All other body organs and their functions are meant only to protect and serve the brain, which is the



قطاع طولى بالمخ

house of the self. A hard strong skull is its safe, and afferent nervous system brings messages from the environment through the five senses and from the inside of the body, and an efferent nervous system controls the body functions and responds through a kinetic system to the variables of the outside world. The brain therefore is the master whose subjects serve him so that it can serve them.

Dr Mahdi describes two mechanisms through which death may occur. The first primarily afflicts the heart, and when it ceases to pump the circulation the organs are deprived of oxygen and after a while they will die at a pace defined by their tolerance to oxygen deprivation. The brain is the most sensitive and it can stand only four minutes of anoxia. If the heart in this period can be revived and circulation restored the brain will recover completely. Further delay would be followed by less complete recovery i.e. a remaining deficit in brain function, but a longer delay will lead to brain death with no prospect of recovery. The aforementioned deficit of brain function might be minor taking the form of some sensory or motor loss, or severe going up to coma that persists even to the rest of the person's life for many years. Such a patient remains alive even in deep coma as long as the part of the brain called the brain stem is still alive. This is the part where the centers of the vital functions of the heart beating and breathing reside. If the brain stem has died, then it is all over, since dead nervous tissue can never be revived. Such a person will never regain the heart and breathing functions even though they can be maintained artifically for a period of time. A dead brain stem means a dead person.

The other mechanism by which death may set in, starts at the other end; the brain. A traumatic accident involving the head might lead to infliction of the brain. Recovery, complete or incomplete (from minor deficit up to coma) might ensue, but if the brain stem has been affected to a degree causing its death, then this is a death warrant on circulation, respiration and - in due course - the other organs, tissues and cells of the body as occurs in natural death. Artificial animation of organs does not mean the person is alive. The machine may be switched off or a vital organ taken without the charge of aggression on a living person.

3. Life and death between the physicians and the jurists

(Author - Dr. Eisam Al-Sherbeiny)

In his paper, Dr. Eisam Al-Sherbeiny, showed that death is a second; (it happens in a second), but it is a process, and there are many causes that lead to death, but the most important thing is to confirm that the process of death has reached a stop point, whatever means of treatment or resuscitation, and the existence of an organ or a group of organs or cells; alive, this does not mean that the human being is still alive.

In this, Dr. Eisam Al-Sherbeiny referred to the scientific efforts exerted in confirming the death of the stem of the brain, since the Korean war started in 1950, till the bilateral declaration of the Queen's Medical Colleges, in Britain, declared in 1976 the conditions and tests that must be available in order to make the diagnosis of the brain's stem a certain diagnosis, without any doubt.

He also referred to the conditions that must be provided for diagnosing the death of the stem of the brain as:-

1 - The patient has to be dependent of artificial respiration, because of the cessation of voluntary respiration.

2 - The patient has to be in a deep coma, and all means of full or partial treatment like sedatives, hypnotics, or tranquilizers or hypothermia... have been excluded.

3 - There must be no doubt in the impairment of the brain that is irrevocable by treatment (like head injury, or encephalorrhage either voluntary or following an operation in the brain ... etc).

4 - The clinical examination confirms symptoms of the death of the stem of the brain like the widening of the pupil of the eye permanently, and not to be affected by light, as well as the non-reflexive effects in the cranial nerves... and so on.

5 - The absence of responses to any trials to revive the voluntary respiration.

He also mentioned that the physicians have reviewed and examined these terms on thousands of cases to confirm their viability and to be sure of their decision.

Then he talked about the necessity of the presence of the needs of confirming this decision by the medical board to be certain of their right decision that the patient is dead before deciding his death.

4- The End of Human Life

(Author - Dr. Ahmed Shawki Ibrahim).

Dr Ahmed Shawki Ibrahim took a juridical and philosophical approach differentiating Spirit, soul and life, and differentiating the heart as a muscular circulatory pump from the allegorical heart mentioned in the Quran and Sunna. He notes that the brain is the seat of the mind, and the mind is the seat of eligibility. Therefore the total death of the brain means the end of "human" life, even if the organic ("animal" in his words) life continues for some time. The departure of the Spirit and its return to its Creator belong to the realm of the unseen, manifested in the body by brain death.

5- The Heart and its relation to to Life

(Author - Dr. Ahmed El-Kadi).

Dr. Ahmed El-Kadi discussed the organic muscular heart versus the Quranic figurative heart that the Quran associates with vision, hearing, understanding, fear, tranquility, illness etc. Like the other speakers he explained the death of the heart and the death of the brain.

The juridical term "The Movement of the Slain" was invoked to denote that a person might be in a fatal condition even though still showing signs of life. If an aggressor stabs a victim so that the victim's bowel was extruded outside the abdomen, this was considered in old Fiqh books to be a fatal injury. So much so that if a second aggressor finishes off the victim (still moving) say by cutting off his neck, the charge of murder would still be addressed to the firsrt aggressor who dealt the fatal injury. The medical side pointed out that a stab causing extrusion of the bowel does not qualify in our modern surgical capabilities to be considered fatal for it can be successfully treated. The real fatal status in our current knowledge is death of the brain including its stem.

B- SUMMARY OF JURISPRUDENCE PAPERS

Sheikhs, Doctors and Scholars:

(1) Abdallah Mohammad Abdullah

(2) Mohammad Naeem Yassin

(3) Mohammad Sulaiman Al-Ashqar

(4) Badr Al-Mutawally Abdel Basset

(5) Mohammad Mokhtar Al-Salami

(6) Tawfiq Al-Waai

(7) Abdul Qader Al-Emari

(8) Saleh Moussa Sharaf

(9) Mostafa Sabri Ardoglo

1- The End of Human Life

(Author - Dr. Abdallah Mohammad Abdullah).

Death is the opposite of life and cannot be together in one individual. Some scholars opine that both body and Spirit die, while others believe that the Spirit continues to live, evidenced by the Hadiths referring to the happiness or chastisement of Spirits after death until the day of judgement. The signs of death are common knowledge, including stoppage of breathing, gazing of the eyes, separation of the lips and dropping of the feet etc. Juridical rulings concerning death include those of inheritance, the waiting period for the widow, punishment of a first aggressor who dealt the fatal injury or the second who finished off the victim, the preparation for burial and the question of organ procurement for transplantation.

2- The End of Human Life in the Light of the Opinions of Muslim Scholars and Medical Findings

(Author - Dr. Mohammad Naeem Yassin).

Dr. Mohammad Naeem Yassin said that the lack of a definitive juridical text leaves the matter in the domain of the medical profession upon knowledge available at the time. However, some Islamic juridical rules should be taken into consideration:

1 - The human being is both Spirit and a body that houses it during life.. either alone is not a human being.

2 - Human life ends with the opposite of that which started it. Since it began with the Spirit entering the fetus, it ends with departure of the Spirit from the body.

3 - The Spirit is an unknown beyond knowledge and science "from the order of my Lord" as the Quran says.

4 - During life the body is the instrument of the Spirit as it enjoys perception and volition etc. If this situation stops, it is death.

5 - Evidence of perception and voluntary movement signify that the Spirit is still in the body. Cessation of these means that the Spirit is gone. Involuntary movements are merely expressions of residual biologic life not associated with the Spirit. Dr. Yassin reiterated

the rulings concerning death as mentioned by the previous speaker.

3- The End of Life

(Author - Dr. Mohammad Sulaiman Al-Ashqar).

Dr. Mohammad Sulaiman Al-Ashqar maintained that life ends as the angel of death secures the complete separation of the Spirit and its body. The prophet (ﷺ) identified a sign thereof viz. the gaze of the eye, saying: "When the Spirit is taken the vision follows it" (Muslim), and "If you attend your deceased, close their eyes, for vision follows the Spirit" (Ahmad). The jurists described other bodily signs (see before), and their writings suggest that death does not occur until all signs of life disappear. Although the moment of death signifies important juridical rulings, the writings of jurists fail to pin-point it. Scientific advances made it possible to mimic life by artificial means: but if the brain dies during the process, would the person be living or dead? A group of doctors consulted the Fatwa Committee at the Ministry of Waqfs, Kuwait: "In case of certainty of the diagnosis of brain death, following which all body organs would have died but for artificial resuscitation maintaining respiration, heart etc. for a period of time, is it allright if the Muslim doctor stops this process that delays the death of the organs and delays the burial of the body?" The Fatwa, dated 14 December 1981, stated: "If the doctors are certain that this patient cannot be cured and that he would not live more than a few days under animation, and another patient presents who is more needy of the procedure, the machine should be detached to serve the needy more promising patient. If, however, there is hope in cure, the machine should remain attached. Seeming hopeless cases are left for the discretion of the doctor. The person should not be declared dead on the basis of brain death if there is respiration and heart beat even artificially maintained. Therefore it is impermissible to take an organ of his for transplantation or storage especially if such organ is vital like heart or lungs. Nor would he be subject to the rulings of death e.g. inheritance, widow's waiting period and execution of his will until real death with cessation of all bodily functions occurs".

Yet the Committee's subsequent Fatwa on September 29, 1994 seems to be less decisive. "Death should not be declared until the cessation of all signs of life including breathing, heart beat and movement, and nothing remains of any external or internal signs of life. The norm is life, a certainty that cannot be denied by suspicion. This is the preliminary conclusion of the Committee, and it recommends that the issue deserves more joint discussion between doctors and jurists." Of course a preliminary decision would be amenable to review as more facts appear.

4- The End of Human Life as viewed by Islam

(Author - Sheikh Badr Al-Mutawally Abdel Basset).

Sheikh Badr Al-Mutawally Abdel Basset maintains that if life that remains after the brain death falls under the category of "The Life of the Slain" specified in the Islamic jurisprudence i.e. involuntary and not voluntary movement, then such an individual cannot inherit a legal heritor, because a condition of inheritance is the certainty of the life of the inheritor after the heritor died. Such an individual's life is indeed doubtful, and doubt cannot supercede certainty. But also this person cannot be inherited, because his life now is not a certainty. The procedures done at death such as washing, shrouding cannot be done. The "waiting period" of his wife will be computed until he is completely (all systems) dead.

5- When Does Life End?

(Author - Sheikh Mohammad Al-Mokhtar Salami).

Shaikh Mohammad Mokhtar Al-Salami said the human life is in two categories: Circumstantial and absolute.

a - In the first, the vital systems viz. the heart and the brain stem have irreversibly stopped. If they are still functioning, then this function may be natural or artificial by life support measures. Would the latter case be considered death? He is inclined to the view that if the vital systems are alive then the individual is alive,

but if one of them is dead, then he is considered dead, because apparent life in him is not true life.

b - In the second case, we have to consider that medical science is progressive, and that if today it can maintain the cardio-respiratory function, may be in the future it will do the same to the brain stem.

6- The Truth About Death and Life in the Quran and the Stipulations of Islamic Law

(Author - Dr. Tawfiq Al-Waai).

Dr. Tawfiq Al-Waai spoke on "The reality of death and life in the Quran and the juridical rulings". He reiterated the physical evidence of death mentioned by old scholars. The jurists also defined "unstable life" as that just preceding the departure of the Spirit; and it is "respectable life" until the Spirit goes. What if during that period the doctor removes resuscitation machines and nutritional tubings? The answer is that if this is done without necessity, then it is murder (by effecting its cause) and deserves punishment. If, however, there is only one machine and another patient presents who can be cured if attached to it, then it is permissible to remove the machine from the hopeless case to the curable one. The Fatwa Committee at the Ministry of Awqaf (Kuwait) on December 4, 1981 permitted this latter position.

7- The End of Life

(Author - Abdul Qader Al-Emari).

Abdul Qader Al-Emari said that natural death is a gradual process, starting with death of the cells, then tissues, then organs and vital systems and then the whole body ceases to function. However, there is also unnatural death, caused by cutting the caroid artery. He reiterated the signs of death described by old jurists (some also recommend the feeling of the posterior tibial artery above the ankle, or another at the anus). Doctors always said that cessation of the heart is the dividing line between life and death, but now they tell us

that this line is brain death: who then can tell whether in the future the brain could be resuscitated like the heart? The features spelt out by the jurists (laxity of the feet, deviation of nose, indrawing of the cheeks, redundancy of facial skin, dislocation of arms at shoulder, upper retraction of testicle) should be confirmed in order to diagnose death. The medical conclusion that brain death is death, in fact signifies that hope in life is lost. Under this situation the doctor is permitted to remove resuscitation and not prolong the process of death, for the jurists decided that a person who is about to die has the same status as a dead person. Artificial life, on the machine, is not true life.

8- The End of Human Life

(Author - Sheikh Saleh Moussa Sharaf).

The paper entitled "The end of human life" by Sheikh Saleh Moussa Sharaf is deemed beyond the socpe of this summary.

9- The End of Human Life

(Author - Mostafa Sabri Ardoglo).

Under the same title Dr Mustafa Sabri Ardoglo also insisted on the signs of death mentioned by the old scholars as necessary for the diagnosis.

C- DISCUSSIONS ON MEDICAL & JURISTIC RESEARCHES

There is no textual definition of death, therefore it is open to thinking. This would be the domain of the medical profession, and jurists have to base their ruling upon what the doctors submit to them. Doctors therefore bear the responsibility.

The diagnostic signs of death laid down by the old jurists were based upon their observations and medical knowledge at their time. They are therefore neither sacred nor final, open to change as medical knowledge changes.

Four main views emerged from the discussion:

(1 The majority of doctors and some of the jurists: Life ends with the death of the brain stem (not only the brain) which controls the vital cardio-respiratory function, undoubtedly followed by death of the rest of the body. The central issue here is the exactitude and certainty of the diagnosis. A jurist supported this view saying that death, being the departure of the Spirit, is evidenced by complete absence of responsiveness of body to Spirit by perception or voluntary movement.. but involuntary movements mean only a residuum of biological life. The doctors have discovered that the pivotal organ for life is the brain stem, and can diagnose its irreversible death, which is tantamount to death. A jurist countered by saying that the diagnosis of death should depend on features everyone can perceive, even without sophisticated medical knowledge and technology.

(2) Some jurists: Death means brain stem death plus the cessation of vital functions (cardio-respiratory). If the latter are still working, death cannot be diagnosed.

(3) Some jurists and one doctor: Life does not end with brain death but with the death of all systems, tissues and cells.

(4) One jurist: Death is the total departure of the Spirit. If this departure is only partial (part of the Spirit gone and part remains), the person is alive and not dead. Since it is known that complete departure of the Spirit is followed by departure of eye sight, then loss of vision is a sure diagnosis of death. This view was challenged because it is inconceivable to say that part of the

Spirit has departed, and because blindness can occur due to other reasons such as thrombosis of the arteries supplying the visual center in the brain while the patient is still alive.

On the other hand, all participating jurists were agreed upon the following two points:

1 - If death of the brain stem is medically confirmed, life support may be disconnected. It is not juridically required to prolong this mechanical life and with it the ordeal of the family or the (economic) burden on society... and in cases of limited resources, the denial of life-support equipment to a more deserving promising case.

2 - When the brain stem dies, the individual is considered to have departed from life and becomes subject to some of the rulings of death. Other rulings such as ritual washing, shrouding and burial are to be suspended until the body organs like heart, brain etc. have died. Only then can he be inherited, and his widow would begin her juridical "waiting period" (which is 4 months and 10 days before she can remarry. If pregnant, the waiting period is the whole duration of pregnancy).

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, 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 in 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 individual in particular, 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 an 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 reviewed. 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 bout 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.

RESOLUTIONS OF THE ISLAMIC JURISPRUDENCE ACADEMY CONCERNING THE RESUSCITATION APPARATUSES

In the Name of Allah, Most Gracious, Most Merciful

The Islamic Jurisprudence Academy

Thanks are due to the most Almighty Lord, prayers and peace be upon our master Mohammed the seal of prophets, his family and friends.

Resolution Number (5) D 3/7/86.
Concerning the resuscitation apparatuses.

The Council of the Islamic Jurisprudence Academy held its third Conference in Amman, the capital of the Jordanian Hashimite Kingdom from 8 to 13 Safar Hijra / 11 to 16 October 1986. A.D.

Following the discussions of all the issues raised around the resuscitation apparatuses, and after listening to the detailed explanations of the specialized physicians, The Council came to the following conclusions:-

Legitimately, the person is considered dead, and all the legitimate consequences of death are to be applied on him/her, in one of the following two conditions:-

1- If his heart and respiration stopped completely and the physicians decided that this cessation is ultimately irrevocable.

2- If all the functions of his brain became completely dysfunctional, and both the specialists and experts decided that this dysfunctioning is ultimately irrevocable, and his brain began to decay.

In this case, it is permissible to stop the resuscitation apparatuses applied to him/her, even if some organs, like the heart, are still automatically functioning with the help of the equipment applied.

And the Lord is knowledgeable.

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