

JBIMA Editorial

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Assalamo Alaikom

It has been proven that patients undergoing long term dialysis with chronic renal failure have worse survival rates than those with kidney cancer. This is why the medical community considers transplants to be crucial in treating patients who are on dialysis whenever possible.

The issue of organ donation in general still remains an incredibly important one which attracts a lot of discussion amongst medics, ethicists, healthcare policymakers and wider society but it stimulates particularly lively debate within the Muslim community. We at JBIMA have welcomed these discussions and continue to facilitate them whilst encouraging more participation within what is currently a politically hot topic. Within this issue of the journal, you will find articles addressing this issue and its challenges.

Organ donation is an essential therapeutic tool in the treatment of irreversible organ damage. The very first transplant took place in 1954, when Ronald Herrick donated a kidney to his twin brother who was dying from renal failure. Ever since then, the process of organ donation has been refined, debated, and developed to the stage we see today. Three people die every day as a consequence of this shortage.

It is known that the number of people from the British Muslim community waiting for kidney transplants in the UK is far greater proportionately than their representation in the UK's population. This underlines a vital need for the Muslim community to engage with the issue as it is one that is directly relevant to us. The concept is viewed as controversial by some and there are those who disagree with it.

Scholars who argue against organ donation raise three main objections to the practice. Their first objection is that the human body has been honoured and made sacred by God, irrespective of whether it is dead or alive. It is unlawful to deform it in any way, regardless of how extreme the need may be. Cutting the human body to retrieve organs amounts to mutilation and deformation, and is therefore prohibited in Islamic sources. Their second objection is that the human body is a trust from God and not something we can claim ownership of. It is therefore inappropriate for one to decide

to donate their body parts.

Their third objection is that donating one's organs actually harms the donor, contradicting a key principle in Islamic law which states that it is unlawful for individuals to inflict harm upon themselves or others.

In contrast to this, scholars supporting organ donation cite four main reasons for doing so. Their first reason is that they state that an important maxim in Muslim legal theory states that 'necessity makes prohibitions lawful'. The necessity for organ donation is demonstrated by the number of lives it saves every year. Therefore, the prohibition on organ donation is lifted. They also state that when confronted by two evils, the lesser of the two takes preference. The prospect of death is clearly worse than the problems of organ donation, and thus is a sufficient reason to allow it. Another reason that some scholars support the concept is that they state that modern operating techniques to retrieve and transplant organs take care to respect the human body and do not violate its sanctity. Furthermore, organ transplantation has been closely regulated in the UK by the Human Tissue Authority to ensure good and ethical practice. Ultimately, they state that in certain situations, Muslims are permitted to utilise their God-given gifts to help others in lawful ways. Some jurists and scholars have gone even further and considered organ donation to be an ongoing charity (Sadaqa Jariya) as "protection of life" is considered one of the five purposes of Islam (Maqased Al-Sharia). Allah (swt) mentioned in the Holy Qur'an (5:32): "and who saved the life of one, it shall be as if he had saved the life of all mankind".

Since the 1970s, many Muslim organizations outside the UK (i.e. Islamic fiqh academy in Jeddah, Organisation of Islamic Conference, Organisation of Medical Sciences, Al-Azhar in Egypt and others in Malaysia, Iran and elsewhere) have all issued fatwas supporting organ donation. The European Council for Fatwa and Research (ECFR) has followed their lead and various Islamic Institutions in the UK were happy with the rulings although there has been a level of historical reservation and conservatism within scholars from the Indian sub-continent towards organ donation for many reasons (some stated above). That being said, many scholars and Islamic organisations in the UK who originate from the Indian Subcontinent have been recently revisiting their opinions and fatwas and considering organ donation in a more positive light.

It is extremely important to get the Muslim community on board and improve their engagement with the issue. This can be done by facilitating discussions and hosting workshops and seminars on the issue to educate the community including our local imams. I'm proud that the British Islamic Medical Association (BIMA) has done this over the last few months and proved that public engagement with this topic will improve the informed process. On a few occasions, there was a positive shift of almost 60% of those who were sceptical before the seminar towards being in favour of organ donation after the seminar.

It is good to see more discussion within Muslim scholars in the UK taking place, and very recently a new opinion has been published by the Institute of Islamic Jurisprudence in Bradford which demonstrates a positive shift from the Ulamaa and Scholars to address this medical issue which has been a challenge for decades.

It is worth considering the challenges presumed consent will bring in the very near future as it will be law from April 2020 onwards. This new law states that one is presumed to be an organ donor unless stated otherwise and creates an opt-out system. This is a significant development and highlights how important it is for the British Muslim community to engage and properly understand organ donation with such rapid legal developments taking place.

Some European countries including Spain, Belgium and France have their own opt-out systems for organ donation and this has recently become law in Wales in 2015. The system has been a success and has saved many lives. Despite the presumed consent in Wales, the opt-out system provides the deceased's next of kin the right to refuse organ donation if he/she argues that the deceased had stated so at some point. This has given the deceased's relatives the satisfaction that there is no ambiguity with regards to the decision, enabling them to fulfil the deceased's wishes and goes some way in allaying their concerns. More needs to be discussed on the concept of presumed consent in particular within the Muslim community to ensure all concerns are addressed.

Organ donation is just an example of what will face our Muslim scholars with the advancement of medicine and discussions happening in the field of medical ethics. It is ethically and morally problematic for our Muslim community to be lenient in receiving organs but in refusing to donate. There is a great need to show how our Fiqh has developed and how we desperately need our scholars to adopt the ijtihaad to keep up with the fast changes and challenges in the field of medical ethics. The challenges of complex biomedical ethics are developing at a rapid pace; our Muslim scholars must keep up to ensure that our fiqh is providing answers to these challenges. This issue highlights the need for a collective council approach which brings together medics and scholars.

Yours truly,

Editor in Chief

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