

Ten Issues at Hand in the Fatwas of Organ Donations

Jasser Auda

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The following is a comprehensive summary of the issues at hand when it comes to the fatwas related to organ donation. This summary is based on a wide survey of the fatwas and research, which I found published in various Fiqh Councils decisions, theses on Islamic law, and academic research. The debates and points of differences amongst scholars and researchers in Islamic law and ethics revolve around the following ten questions.

1. What is the general Islamic stance on organ transplantation?

Most individual scholars and national and international fatwa councils allow organ transplantation in principle. A few individual scholars and a couple fatwa councils disagreed. All of the fatwas that allow transplantation and/or donation include various conditions related to the donor, recipient and the organs themselves. There are different opinions about the detailed conditions, but there is a consensus on the prohibition of “selling” organs and/or “harming” the donor or the recipient.

2. Is there a difference in fatwa between organ transplantation and organ donation?

All the fatwas that allowed transplantation allowed donation as well. However, the organ donation fatwas include additional conditions related to the donor and his/her condition.

3. Is there a difference in fatwa between a living donor and a deceased donor?

All the fatwas made a difference between a living and a deceased donor based on the definition of death, thus not allowing extracting organs from a deceased person before his/her “death”. They also agreed that a living donor should not lose a vital or non-renewable organ.

4. What is the acceptable definition of death from the Islamic point of view?

There are different opinions based on the different definitions of death. “Brain death” is the most controversial due to its contradiction with the concept of spirit as mentioned in the Quran and Prophetic traditions.

5. Are there particular organs that are prohibited to donate?

There is a consensus on the prohibition of donating organs related to fertility and progeny. There is a consensus on the prohibition of donating a vital organ from a living donor.

6. Can the donor's benefit materially from the donation?

There is a consensus on the prohibition of "selling" organs, as well as the prohibition of receiving other "benefits" or "gifts" in return of the donation.

7. What is the impact of the economic side of the fatwa on the fatwa?

Most fatwas do not discuss the economic impact of the transplantation and donation operations. Some researchers expressed concern about the "transplantation tourism" that is becoming a reality in some third world countries, and about some oil-rich countries where donors are almost all from the "migrant workers" category and recipients are almost all from the "citizens" category.

8. What is the impact of the psychological side effects of organ transplantation on the fatwa?

Mainstream fatwas have not discussed any psychological impact of organ transplantation. Some researchers are calling for considering this impact in the fatwas, given the increasing numbers of stress-related and depression cases as outcomes of these operations.

9. Is there a permission to take others' organs without their consent?

Some fatwas give a permission to take organs from "deceased people who have no families". Other fatwas allow such permission only from the family of a deceased. Most other fatwas object to all these permissions and require the consent of the donor him or herself.

10. Is donation a matter of fatwa or individual choice?

Some researchers call for the decision to be up to the individual after explaining to him/her the different views and opinions in the Islamic jurisprudence. Some others call for this whole area to be "fatwa free", and leave it up to the conscious decision of individuals after providing them with enough information.

Finally, it might be a good idea for the outcome of the seminar to recommend further research in the American context, in order to give specific answers to the above ten questions for the American Muslim community.