

## An Islamic Perspective on the Dead Donor Rule in the UK

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It has been known for a number of years that the UK Asian community is over-represented on the organ transplant list (17%) and under-represented on the organ donor register (3.3%)(1). In the NHSBT report for 2018-19 only 4% of all deceased organ donors were Asian while this group was responsible for 13% of all deceased transplants. This imbalance between the organ transplant list and organ donor register translates into longer waiting times for Asian patients waiting for an organ transplant. For instance, the average waiting time for an Asian patient for a kidney transplant is 830 days compared to 640 days for white patients (1).

These statistics make a compelling case for the NHSBT to try to increase the organ donation rates amongst Asians and perhaps Muslims in particular. Many Muslim health care professionals working in the NHS including Muslim chaplains as well as some Islamic organisations in conjunction with or with funding from NHSBT have been actively educating and promoting organ donation amongst UK Muslims (2). While the motive of these individuals and organisations may be admirable, on occasions they fail to provide the Muslim public with a complete picture of what the organ donation process actually involves. Many merely present the statistics highlighted above together with blanket statements to the effect that cadaveric organ donation is permissible within Islam or that there is a plurality of opinions on the issue within the Islamic world. Some of these advocates for organ donation place great emphasis on the plurality of opinions amongst the Muslim jurists implying individuals can pick and choose whichever opinion is to their liking. However, the vast majority of Islamic scholars encourage their followers to remain within the confinements of one particular Islamic school of jurisprudence (fiqh or madhhab) rather than picking and choosing rulings from different Islamic school of jurisprudence. Muslim health care professionals imparting information to potential Muslim donors must try to understand the beliefs of potential donors and then provide clear and accurate information in a balanced manner to allow potential donors to make a truly informed decision, in a similar manner to consenting for a major operation, providing details for and against the procedure.

While some Muslim jurists and Islamic fiqh (jurisprudence) academies have given conditional permissibility for organ donation from the dead, one of these conditions is that the donor must be dead from an Islamic perspective. This is the real crux of the debate. The dead donor rule (DDR) takes a centre place in western bioethics for organ donation and it should be even more so in the case of Islamic bioethics. The DDR states that no vital organs should be removed from a donor until the donor is dead and that removal of organs in itself should not be the cause of death of the donor. Islamic definition of death is when the angel of death, referred to as malk-ul-maut, removes the soul, referred to as the ruh, from the body (3). Death in Islam is truly irreversible barring an act of God Himself.

In the UK organs can be donated either after declaration of death by neurological criteria, referred to as donation after brainstem death (DBD), or after declaration of death by cardio-respiratory criteria, referred to as donation after circulatory death (DCD). The criteria for brainstem death in UK was established in the 1976 (4), while the criteria for DCD came much later in 2008 (5) in effort to try to increase the supply of cadaveric organ donation rates to meet the high demands.

If we examine the legal opinions (fataawa, singular fatwa) which have been directed specifically at the UK Sunni Muslim population regarding organ donation we find that there are three such fataawa.

1995 Muslim Law Council fatwa (6).

2000 European Council for Fatwa and Research (ECFR). Decision 2/6 (7).

2019 Organ Donation and Transplantation in Islam, An opinion (fatwa) by Mufti M. Zubair Butt (8).

Regarding brainstem death (DBD) both the ECFR and Mufti M. Zubair Butt fataawa reject the UK criteria for determining death. The ECFR only recognises whole brain death when all functions of the brain have stopped<sup>6</sup> and Mufti M. Zubair Butt even rejects that as not conforming to the definition of Islamic death. The Muslim Law Council fatwa of 1995 is the only one of the three fataawa

which recognises brainstem death as legal death allowing for organ donation. However, the 18-member committee mentioned in the final ruling had no medical experts and the fatwa mentioned no details of the competing arguments for and against brainstem death.

With regards to donation after circulatory death (DCD) the Muslim Law Council committee members would have been oblivious as what this entails as the guidelines were only established in 2008. Both the fataawa of the ECFR and of Mufti M. Zubair Butt require actual irreversibility of the heart which cannot be said to have been achieved after only 5 minutes of asystole as happens in DCD in the UK. In fact, no medical doctor will testify that the heart cannot be restarted after 5 minutes of asystole.

**Fig. 1 showing if the criteria used in DBD and DCD in U.K. satisfy the criteria for an Islamic death according to fataawa issued by Islamic bodies for U.K. Muslims**

	Donation after brainstem death (DBD)	Donation after circulatory death (DCD)
1995 Muslim Law Council fatwa	Yes	No
2000 ECFR fatwa	No	No
Mufti M. Zubair Butt	No	No

If the organ donor is not truly dead from an Islamic perspective, as the fataawa above appear to indicate, then it has serious implications not just for consent, but permissibility of the donation itself and the type of anaesthetic that should be administered to the donor to remove the organs.

It is important that these facts are mentioned to potential donors and family members or a proxy giving consent for organ donation on behalf of their loved ones. Many individuals do not wish to bring up these issues surrounding declaration of death in case it may lead to a refusal to donate but for Muslims truth and transparency should be the starting point rather than worrying about the consequences of telling the whole truth. It would be ethically objectionable if advocates of organ donation choose to selectively present the 1995 Muslim Law Council fatwa and fail to mention the rulings of the other two fataawa. For Muslims it is not just a mere case of legal permissibility to donate organs but perhaps just as importantly what is morally good and what will help them to get to Paradise on the Day of Judgment.

## References

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