

Organ, blood donation acts of great merit

Published in: New Straits Times, Friday 24 Feb 2017

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Source : <http://www.nst.com.my/news/2017/02/215001/organ-blood-donation-acts-great-merit>

The permissibility in Islam of organ and tissue transplant and blood donation is supposed to be a settled issue here in Malaysia and elsewhere in the Muslim world, yet questions keep arising on whether this is also permissible between Muslims and non-Muslims.

The answer is in the affirmative, but there is room perhaps for greater awareness. Organ transplant has been the subject of numerous permissive fatwa in Malaysia since the 1960s. Perlis was the first to issue such a fatwa in 1965, the National Fatwa Council in 1970, Sarawak in 1996, Selangor in 2000, Johor in 2001 and Penang 2009.

Whereas the earlier fatwa mentioned particular organs such as eye, kidney and heart transplants from cadaveric donors to living recipients, Selangor, Johor and Penang issued comprehensive fatwa that did not specify a particular organ but spelled out a number of conditions the donor and recipient must fulfil before a transplant can take place. Included among these are: the living donor gives permission; it is an absolute necessity; qualified doctors supervise the process; it has a high degree of success, and it has no commercial features.

Selangor was the first to mention: "It is permissible for Muslims to donate organs to non-Muslims," and Penang ruled: "It is permissible to transplant organs and tissues from a Muslim donor to a non-Muslim recipient and vice versa."

Sheikh Yusuf al-Qaradawi's 1995 fatwa concurred on the permissibility in Islam of organ donations to non-Muslims, and on the prohibition of organ trading, adding further that legal guardians were allowed to donate organs of their deceased family member who had not instructed otherwise, and "it is permissible for Muslims to receive organs from nonMuslims".

This is because faith resides in the soul of the human person, not in his organs or blood. All else would perish in the course of time except for the soul which survives to the end of time and the Day of Resurrection.

The Kuwait Council of Fatwa further expanded the scope in its 1979 ruling that "organ transplant from the deceased person is permissible, with or without the deceased's consent", if it is the only way to save life in emergency situations. The Jeddah-based Fiqh Academy of Saudi Arabia's 1988 ruling also permitted "organs from a deceased person to be transplanted to a living person if saving the latter's life depends on it, provided that consent is obtained from the cadaveric donor, or from the deceased person's guardian, failing which the head of the Muslim community may grant consent.

Most of these fatwa refer to evidence from Syariah sources. There is no explicit ruling in any of the sources regarding organ transplant, hence, all the fatwa partake

in *ijtihad* (juristic reasoning) and they mention necessity (*darurah*), *maqasid* (higher purposes) of *Syariah*, human welfare (*maslahah*), and a few Islamic legal maxims.

In a Quranic verse most have quoted, God Most High declares in unqualified language: “We have bestowed dignity on the children of Adam” (17:70). Dignity (*karamah*) as such is an expression of God’s grace, and a proven right therefore of every human being, regardless of colour, race and creed. It is not earned by meritorious conduct, knowledge or faith. The implication being, of course, that Muslims and non-Muslims stand on an equal footing in the eyes of the Creator without distinction or discrimination.

Questions are asked as to the criterion of this grace: is it the physical eminence of human beings as ones God created “in the best of moulds” (Q 95:4), or their spiritual eminence as per Divine affirmation that “I breathed into him (Adam) of My spirit” (38:72), or faith in Islam? None of these is the answer it seems.

Ibn ‘Abbas, the renowned Companion of the Prophet, commented so long ago that God Almighty honoured humankind by endowing them with the faculty of reason. This is, then, the criterion of their distinction as the “most noble of God’s creation” (*ashraf al-makhluqat*).

Most of the fatwa also quoted the Islamic legal maxim that “necessity makes the unlawful lawful”, which is a rehash, in turn, of the Quran that, “One who is compelled by necessity without wilful disobedience or transgression incurs no sin”. (2:173) Protection of life is one of the cardinal *maqasid* of *Syariah* that must be protected at all cost.

Quoted also is God’s illustrious promise of great rewards to one who preserves human life, it would be “as if he has saved the whole of humankind”. (5:32) And, its opposite in the same verse that: “One who intentionally slays another without a just cause, “it would be as if he has slayed the whole of humankind”.

Given the safeguards and carefully regulated features of organ transplant and blood transfusion in Malaysia and generally, pledging an organ or giving blood that would save life is surely one of the greatest acts of religious merit. The need is all the more pressing in view, regrettably, of so much war and violence and loss of innocent lives in our time.

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