Organ Donation And Islam
### GLOSSARY

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tr>
<td>Allograft</td>
<td>An organ taken from one member of a species and received by a member of that same species, e.g. from one human being to another.</td>
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<td>Asystole</td>
<td>Irreversible cessation of the heart.</td>
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<td>Autograft</td>
<td>An organ or a tissue obtained from the same individual to which it is being transplanted, such as a piece of skin.</td>
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<td>Basic function</td>
<td>A physiological process within the body that does not directly sustain life. Termination of this function does not lead to death.</td>
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<td>Cadaver</td>
<td>Latin for a dead human body.</td>
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<td>Donation after brainstem death (DBD)</td>
<td>The retrieval of an organ after the irreversible death of the brain-stem, which controls breathing. The death is confirmed through neurological criteria.</td>
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<td>Donation after circulatory death (DCD)</td>
<td>The retrieval of a cadaveric organ after the patient’s heart irreversibly stops beating.</td>
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<td>Fatwa</td>
<td>The legal opinion of a Muslim scholar.</td>
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<td>Fiqh</td>
<td>Islamic law.</td>
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<td>Halal</td>
<td>Permissible according to Islamic law.</td>
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<tr>
<td>Haram</td>
<td>Impermissible according to Islamic law.</td>
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<tr>
<td>Organ</td>
<td>A mass of specialized cells and tissues that work together to perform a function in the body.</td>
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<td>Organ donation</td>
<td>The process of giving an organ to someone in need of it, or making a pledge to do so.</td>
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<td>Organ transplant</td>
<td>A surgical operation where the function of a failing or damaged organ in the human body is restored with a new organ.</td>
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<td>Shariah</td>
<td>Islamic law.</td>
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<td>Tissue</td>
<td>A group of cells in the human body performing a common function.</td>
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<tr>
<td>Vital function</td>
<td>A physiological function without which one would die.</td>
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<td>Vital organ</td>
<td>A life-sustaining organ whose removal leads to death.</td>
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<tr>
<td>Xenoqraft</td>
<td>An organ or tissue obtained from a different species, such as por-</td>
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INTRODUCTION

Organ transplantation is an effective therapy for the treatment of irreversible organ damage. The first successful transplant took place in the 1950s¹, and it has since advanced to become an effective and safe cure for many illnesses. It is considerably limited by the number of organs available and has thus been the subject of many national campaigns to increase the number of donors. Between 2010 and 2011, 7,797 people were on the transplant waiting list, whilst only 3,740 transplants occurred². Three people died every day as a consequence of this shortage³.

Organ donation is subject to a great deal of controversy amongst Muslims, and challenges several fundamental beliefs held by the faithful about the human body, including its inviolability and sacred nature⁴. This article reviews the diverse opinions Muslim scholars have expressed about organ donation, and allows lay Muslims to make a more informed choice on the matter.

A CONTEMPORARY ISSUE

The transplantation of human organs, with its complex operations, impressive therapeutic benefits and ability to take organs from the dead to save the living, is a recent phenomenon that could hardly have been predicted or discussed in traditional Islamic legal literature. As a consequence, modern scholars have had to apply the classical Islamic framework of deriving legal rulings from source texts to a new context. Their approach has been to split the topic into two broad strands – cadaveric and living donation, with the latter being further split into autograft, allograft, and xenograft donation.

THE ETHICS OF ORGAN DONATION IN ISLAM

The majority of Muslim scholars agree that organ donation is permissible⁵, though some do reject the practice outright⁶°⁷, particularly those from the Indian subcontinent. Both groups of scholars draw their opinions from valid sources and respect one another’s views, recognising that there is no sin in following either of the two rulings.
THE ETHICAL BASIS AGAINST ORGAN DONATION

Scholars who argue against organ donation raise four main objections to the practice;

- 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 sources⁸.

- 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.

- Donating one’s organs 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.

- When the evidence prohibiting a practice conflicts with evidence supporting its permissibility, caution entails that preference should be given to the ruling of prohibition.

THE ETHICAL BASIS FOR ORGAN DONATION

In contrast to this, scholars supporting organ donation cite four main reasons for doing so;

- 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.

- When confronted by two evils, the lesser of the two takes preference. Prospective death is clearly worse than the problems of organ donation, and thus is a sufficient reason to allow it.
Modern operating techniques to retrieve and implant organs take care to respect the human body and do not violate its sanctity.

In certain situations, Muslims are permitted to utilise their God-given gifts to help others in lawful ways, even if doing so risks their own lives. It is permissible for example to put oneself in danger to save a person in a burning house. Organ donation is another such example.

Muslim scholarship has always stressed that individuals be consistent in the legal positions they adopt⁹. If an individual takes the view of impermissibility, they are required to hold both donating and receiving organs as impermissible. Being selective has been deemed a preference of one’s own desires over the conclusions of authentic scholarship, and is therefore reprehensible from a moral and ethical viewpoint.

The remainder of this article will focus on the conditions placed on organ donation by scholars who agree with the practice.

**GENERAL REQUIREMENTS FOR ORGAN DONATION IN ISLAM**

When an organ is donated or received, the following requirements must be satisfied.

1. **The highest level of respect must be given to the bodies of the donor and the recipient. Islam sanctifies and affords immense dignity to human beings, as is clearly mentioned in the Quran¹⁰. Current practice in the UK would fulfil this requirement¹¹.**

2. **Consent must be given explicitly from a competent donor¹². If the donor is unable to give a decision due to their lack of capacity as defined by the Mental Capacity Act of 2005¹³, then Muslim scholars mention that the permission of the donor’s legal heirs must be sought upon their death¹⁴. If this cannot be obtained, consent may be given by a body responsible for Muslims’ affairs, such as a Muslim chaplain. There must be no compulsion at any stage. This sentiment is echoed in British law through the Human Tissue Act of 2004¹⁵; it is a legal offence to retrieve and use human tissue or organs without appropriate consent.**
3. There is a general consensus in Islamic literature that the relatives of the deceased have the permission to allow an organ to be taken from the body even if there is no will or donor instruction to that effect. They are also afforded the right of objecting to the retrieval of their relative’s organ, even if the deceased had left specific instructions consenting to such a procedure. The Human Tissue Act does not give the next of kin such rights, though standard practice dictates that the procedure would not go ahead if the family veto it.

4. There must be no buying and selling of organs. It carries the risk of coercion, exploitation of the poor, and potentially deprives the donor and recipient of proper aftercare. Human organs are not a commodity for profit and sale.

5. Reproductive glands must not be transplanted because of their ability to pass on the genetic characteristics of the donor. The ruling on transplanting sexual organs that do not pass on genetic characteristics, for example the uterus, is still under research.

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**THE LEGAL POSITION ON RECEIVING ORGANS IN ISLAM**

It is permissible in Islam to receive an organ transplant on the following conditions: that the patient has an organ which has stopped functioning normally; that there is a strong danger that they will lose their life or develop a serious illness if the organ is not replaced through transplantation; and that there is no viable alternative. Furthermore, medical experts should hold the opinion that there is a strong likelihood of a successful transplantation, and that the required organ is available.

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**THE LEGAL POSITION ON DONATING ORGANS IN ISLAM**

**IS LIVING AUTOGRAFT DONATION PERMISSIBLE?**

Autograft donation is widely permitted. The Islamic Fiqh Academy of India concluded in 1989 that ‘it is valid to replace a part of a person’s body with another part of the same person if necessity
so demands. It must be established that the benefits of the operation outweigh its harmful effects and that the purpose is to replace a lost organ, reshape it, restore its function, correct a defect, or remove a malformation which is the source of mental anguish or physical pain.

**IS LIVING AUTOGRRAFT DONATION PERMISSIBLE?**

Allograft donation can be split into three subtypes: the donation of a renewable organ, the donation of a vital organ that performs a vital function, and the donation of an organ that performs a basic function.

Generally, scholars say that it is permissible in Islam for one to donate organs that can be automatically renewed, such as blood and skin. The Islamic Fiqh Academy of Jeddah and the European Council for Fatwa and Research said that an organ ‘may be transplanted from the body of one person to the body of another person, if such an organ is automatically regenerated’. In light of this ruling, bone marrow may be donated.

It is impermissible to donate vital organs that perform life-sustaining functions. The Islamic Fiqh Academy of Jeddah state that it is ‘forbidden to transplant from a living person to another, a vital organ, such as the heart, without which the donor cannot remain alive’. This practice is deemed to be suicide, a serious sin²⁰ for which there is no legal justification. In practice, this bears little significance in the UK where such operations are not carried out²¹.

Organs that perform a basic function, which would not normally kill the donor when removed, can be either permissible or impermissible to donate. If the organ is singular, one is not allowed to donate it in full because its removal would cause an essential function to cease, regardless of whether it be an organ that is congenitally unique (such as the tongue or the pancreas) or one that has become one of a kind (like a patient who has lost an eye)²².

Donating a portion of a singular organ, like a lobe of the liver, is permissible on the condition that the donor’s health is not placed at risk and the likelihood of a successful transplant is high. If the organ forms one of a pair, such as a kidney, then it is permissible to donate should it save the life of the recipient and not result in permanent damage to the donor.
Solid organ xenograft transplantation is currently not performed, though the use of specific animal tissues to replace their malfunctioning human equivalent is common (e.g. using a pig’s heart valve to replace a damaged human heart valve). Many Muslim scholars say that xenografts are permitted in Islam if they come from permissible animals and if the animal is slaughtered according to Islamic standards. Even if these two conditions are not fulfilled, the Islamic Fiqh Academy of India holds it permissible to retrieve and use xenografts if there is no alternative and if the person’s life is in danger or their organ is at risk of being completely damaged.

Is living xenograft donation permissible?

In the UK, cadaveric organ donation takes two forms: donation after circulatory death (DCD) and donation after brainstem death (DBD). In DCDs, organs are retrieved following asystole. This is the traditional definition of death which is accepted by all Muslim scholars. In DBDs, retrieval begins when the function of the donor’s brainstem is permanently lost, leaving him or her irreversibly unconsciousness and incapable of breathing independently.

British law accepts this as a definition of death and generally Muslim scholars have agreed. In both cases, organs are retrieved only after an independent clinical confirmation of death.

Many Muslim scholars agree with the permissibility of cadaveric organ donation, including the Islamic Fiqh Council of Jeddah, the European Council for Fatwa and Research, the UK Shariah Council, the National Fatwa Council of Malaysia, the Islamic Medical Association of North America, the Islamic Religious Council of Singapore, and the Fatwa Committee of Kuwait, and al-Azhar Academy of Egypt.

The conditions for this permissibility are that the transplantation either keeps the beneficiary alive or restores a basic function, and that consent be given first.

Some scholars however deem cadaveric donation to be impermissible. The Islamic Fiqh Academy of India in 1988 said: ‘If someone expressed his wish that after his death, his organs may be used for transplantation purposes, [then] it cannot be considered as Wasiyah [a will]
according to Shariah and is invalid...’. The Islamic Religious Council of Singapore in 1973 also held this view because one does not own one’s body. However, the fatwa was revised in 1986 to be in harmony with the position adopted by many other Fiqh councils. This was based on the legal maxim in Islamic jurisprudence that necessities change the forbidden into the permissible; in this case the dire need for organ donors and the paucity of available organs were sufficient reasons to allow cadaveric donation.

ORGAN TRANSFER BETWEEN A MUSLIM AND NON-MUSLIM

The allocation process for donated organs within Britain does not discriminate on the basis of religion. All donations need to be made unconditionally. Specific requests for organs to go to family members or close friends are facilitated as much as possible, though clinical need ultimately takes precedence.

Muslim scholars have in their discourse addressed the issue of organ transfer between Muslims and non-Muslims, and by extension, the use of organ banks. Some hold it to be permissible to donate and receive organs from non-Muslims, whilst other disagree. Both views are valid.

CONCLUSION

Organ donation is a complex topic encompassing a variety of legal scenarios, and therefore is not subject to one blanket ruling within Islam. Every case must be considered individually, and a combination of medical and Islamic scholarship is required.

There are two broad scholarly views on the subject – those who hold it to be permissible, given the fulfilment of specific criteria, and those who deem it entirely impermissible in every circumstance. Both viewpoints are valid, backed by supporting evidence and may be followed without fear of sin. Muslims are obliged to both respect each view and be consistent in following the one they choose. The majority of modern day scholars support the view of permissibility.
We ask Allah Almighty to bring greater understanding to us all. To Him we all belong and to Him we will all return.

And Allah knows best.

**AREAS OF FURTHER RESEARCH**

- Porcine valve transplantation.
- Reproductive organs transplantation.
- Voluntary compensation of organ donors.

A summary of the views of Muslim scholars towards organ donation:
References


8. Sahih Muslim. 2/82.


