

## 230086 - When is a person deemed to have died?

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### the question

When determining that a person has died, is what matters death of the brain or of the heart?

### Detailed answer

Firstly:

The brain is composed of three parts:

- The cerebrum, which is the centre of thought, memory and sensations
- The cerebellum, the function of which is to help in maintaining the body's sense of balance
- The brainstem, which is the main control centre for breathing, the heart and the blood circulation.

If the cerebrum or cerebellum dies, which are parts of the brain, the patient is able to live an abnormal life, which is called a vegetative state.

But if the brainstem dies, this is what leads to the end of human life according to doctors. If any of the other major faculties or functions – such as the heart or breathing – stops temporarily, it may be saved and treated, and many patients have been saved, so long as the brainstem is still alive.

But if the brainstem dies, there is no hope of saving it; rather the patient's life has ended, even if other

systems in the body continue to move and function.

See: Majallat Majma' al-Fiqh al-Islami  
(issue 2, vol. 2, p. 440)

Based on that, a number of fiqhi issues arise, one of which is: is a person deemed to have died if only the cerebrum dies, or must there also be heart death?

Is it permissible to remove life support from one whose brain has died, even if his heart is still functioning?

With regard to removing life support from someone whom the doctors have ruled is brain dead, most of the contemporary fuqaha' are of the view that this is permissible, because that equipment should not continue to be used when there is no hope of recovery. Similar statements have been issued by fiqh councils.

Please see the answer to question no.

[115104](#)

Secondly:

With regard to the ruling on his death from a shar'i point of view, contemporary scholars differed concerning death of the brainstem and whether it is regarded as the end of human life. There are two views:

The first view regards brain death, without heart death, as real death, and they do not stipulate that the heart should stop beating in order for the individual to be deemed as having died.

This is what was stated by the Islamic Fiqh Council belonging to the Organisation of the Islamic Conference during its meeting held in Amman in 1986 CE. See: Majallat Majma' al-Fiqh al-Islami (issue 3, vol. 2.809)

It says in their statement:

From a shar'i point of view, the individual is deemed to have died, at which point all the rulings connected to death come into effect, when one of the following two signs develops:

1.  
His heartbeat and breathing cease completely, and the doctors have determined that this cessation cannot be reversed.

2.  
All brain function ceases completely and expert specialist doctors have determined that this cessation cannot be reversed, and the brain has begun to disintegrate.

End quote from Qaraaraat wa Tawseeya  
Majma' al-Fiqh al-Islami (p. 12)

They quoted as evidence for that the fact that if the newborn infant does not cry, he is not regarded as being alive, even if he breathes, urinates or moves. Involuntary movements that occur as a result of brain reflexes are not regarded as a sign of life. This also applies to one whose brain has died; he comes under the same ruling as a newborn infant who does not cry.

But this view may be subject to further discussion, because the cases of newborn infants vary. Moreover, there is doubt as to whether the newborn infant is alive or not, which is different

from the case under discussion here, because in principle the (adult) patient is still alive, and that does not change unless there is certain proof to the contrary.

The second view is that brain death of the individual – without heart death – is not regarded as death; rather the heart must also stop beating in order for it to be deemed that the individual has died.

This is what was established by the Fiqh Council belonging to the Muslim World League in its tenth session, held in Makkah al-Mukarramah in 1408 AH.

It says in their statement:

With regard to the patient who is connected to life-support, that life-support may be removed if all brain functions have ceased completely and a committee of three specialist experts has determined that this cessation of function is irreversible, even if the heartbeat and breathing are still being artificially maintained with the aid of the life-support equipment.

But he cannot be deemed to have died from a shar'i point of view unless the breathing and heartbeat cease completely after the life-support equipment is removed.

End quote from Qaraaraat al-Majma al-Fiqhi al-Islaami li'r-Raabtah (p. 49)

They quoted as evidence for that the story of the people of the Cave, and the verses in which Allah, may He be exalted, says (interpretation of the meaning:

“Therefore

We covered up their (sense of) hearing (causing them, to go in deep sleep) in the Cave for a number of years.

Then We raised them up (from their sleep), that We might test which of the two parties was best at calculating the time period that they had tarried”

[al-Kahf 18:11-12]

“And

you would have thought them awake, while they were asleep. And We turned them on their right and on their left sides”

[al-Kahf 18:18].

The evidence here is the fact that Allah, may He be glorified, says “Then We raised them up” that is, We woke them up. These verses clearly indicate that mere loss of sensation and consciousness on its own is not regarded as sufficient evidence to rule that the individual is dead, as is indicated by this verse.

Because certainty cannot be removed by uncertainty or doubts, and in this controversial case, the issue that we are certain of is that the patient is still alive, as he was originally, and because his heart is still beating and there is some doubt as to whether he has died, because his brain is dead – then in this case we must still regard that of which we are certain as being valid.

Originally the patient was alive, so we stick to this original principle until we are certain that that is no longer

the case.

The real meaning of death according to the fuqaha' is the departure of the soul from the body, and the reality of its departure is the separation of the soul from all parts of the body, so that no part or faculty any longer has any life in it.

Shaykh Bakr Abu Zayd said: it is not appropriate to announce a person's death just because his heart stopped beating, because there is still some uncertainty. Similarly, it is not appropriate to announce his death on the basis of brain death when the heart is still beating and he is still breathing with mechanical aid.

Similarly cessation of the heartbeat does not mark real death; rather it is one of its signs, because it is very possible for the heart to stop and then come back to life by means of resuscitation or without taking any measures.

By the same token it may also be said that brain death is a sign of death, but it is not complete death, because there have been many cases and instances in which the doctors stated that brain death had occurred, then the patient came back to life. Therefore reference should be made to what has been stated by the scholars and fuqaha' about the reality of death, which is the departure of the soul from the body. al-Ghazali made an important statement defining that when he described death as "all parts of the body becoming devoid of the soul", i.e., when there is no longer any part of the body that is engaged with the soul. And Allah knows best.

End quote from Fiqh an-Nawaazil

(1/232)

Perhaps what is more likely to be correct

- and Allah knows best - is the view that a person cannot be deemed to have died unless we are certain of that because the heartbeat and breathing have stopped completely. Even though cessation of the patient's brain function is one of the strong indicators of his death, there are shar'i issues that are connected to the confirmation of his death, such as the division of his estate, remarriage of his wife if she so wishes, and so on. Therefore it is not permissible to deem him to be dead except on the basis of certainty.

So he cannot be deemed to have died

because of cessation of breathing or heartbeat, or the death of the brainstem when there are any other signs, visible or invisible, that could be indicative of there being some life left in him.

As it is the case that death is the

departure of the soul from the body, this cannot be determined by tangible means, because the soul is not tangible. But there are signs of its departure from the body at death on the basis of which the fuqaha' determined that the one in whom those signs appear has died. These signs include the following: the heart stops working, breathing ceases, the limbs and sinews go limp, all movement in the body ceases, the colour of the body changes, the eyes stare fixedly, the eye does not flinch when it is touched, some sinking occurs at the temples, the nose tilts, the lips open and the facial skin slackens. These signs do not appear in comatose patients who may be described as being clinically dead.

There is still life in their bodies, in

the sense that some of their bodily systems are still functioning, such as the heart, kidneys and so on.

This view was favoured by most of the

contemporary fuqaha' and scholars, including Shaykh Bakr Abu Zayd, Shaykh

'Abdullah al-Bassaam (may Allah have mercy on him) and Shaykh Muhammad al-Mukhtaar ash-Shinqeeti in his essay Ahkaam al-Jiraahah at-Tibbiyyah.

See: Fiqh an-Nawaazil by Shaykh

Bakr Abu Zayd (1/232); Ahkaam al-Jiraahah at-Tibbiyyah by Shaykh Muhammad al-Mukhtaar ash-Shinqeeti, p. 325; Majallat al-Majma' al-Fiqh al-Islami li Munazzamat al-Mu'tamar al-Islami (issue 3, vol. 2, p. 545)

Based on that:

1.

It is not correct to base on this diagnosis (brain death) any of the rulings having to do with death from a shar'i point of view

2.

It does not make it permissible to remove the patient's vital organs – according to those who think that it is permissible to do that in the case of the dead, as opposed to the living.

For more information, please see:

Al-Mawsoo'ah at-Tibbiyyah al-Fiqhiyyah  
wa'n-Nawaazil al-Mu'aasirah  
(2/36-61)

Al-Masaa'il at-Tibbiyyah al-Mustajiddah  
(2/11) by Dr Muhammad ibn 'Abd al-Jawaad an-Natshah

And Allah knows best.