

Removing Organs from Anencephalic Infants in Shi'ite Islamic Jurisprudence

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ABSTRACT

Anencephaly is a severe brain disorder that arises due to defects in the neural canal and continues because of the lack of closure at the end of the neural canal. Children with this disorder without cerebral hemispheres of the brain are the front and with a high level of cognitive impairment and understanding. These children are usually blind, deaf and suffering from a lack of consciousness and they do not feel pain. In fact, children with anencephaly are born without a brain at time of birth and they will have Vegetable early life. In Shiite Islamic jurisprudence those of children are largely comparable with who have suffered from brain death. Comparisons between patients with brain death and children with anencephaly showed one fact that children have not brain at all but the brain dead patients has a brain but it dead. So according to argument a fortiori, rules of child encephalitis should include brain dead patients. According to Shi'ite Islamic jurisprudence, experts of Muslim law have allowed to harvest the organs of person with brain death so this rule is enforced for children with Anencephaly. According to the rule of Necessity, even in cases of emergency, permit of parents is not necessary.

KEYWORDS: vegetable life, brain death, anencephaly, necessity, tradition Doctors.

INTRODUCTION

Topics Harvest the organs, including new issues of jurisprudence that has extent a few years by scholars. But its history goes back to the early days of Islam. About 2 century BC physicians have investigated this topic and had completed their studies and are more fully. Removing Brain dead members has largely been studied by scientists in Shiite jurisprudence and its permission has been granted But for the children with anencephaly (no brain child) don't investigate an extensive jurisprudence investigation. Meanwhile, the least since 1980 in some countries in their courts and academic circles exist many opinions. So the investigation of this matter, according to Shiite jurisprudence it seemed. Considering these issues, the authors have in this study. But the most important question of this study is whether the Shiite jurisprudence allow to remove members anencephaly and Give to Needy Baby.

1-History of transplantation

In the second century BC, Chinese surgeons called "Hoatv" and "Pyachyzo" presented some transplanted tissues and organs hypothesis. But because of bad conditions at the time of surgery, it was more like a myth. Topics organs removing had Long history and Mixed Repeated failures.

In 1902, Dr. "Alex Carl" performed Artery bypass and not only he Founded the field of vascular surgery but also Paved the way for the transplantation of other organs such as kidney. In 1954, in us, organ removing was performed successfully in a twin pair. For the first Heart removing did in South Africa time in 1968 by Professor "Barnard". Organs removing have historic background is in Jurisprudence, because of linking Isolated organ s such as fingers, ears of tulips, Even linking Isolated hand was raised from long ago and its Juridical Decree was asked of Imam Ali (AS) and he linked robbers hand after cutting. It was rare in the past, but this was done simply and often was not successful.[1]

Some scholars have argued about this, it clear of above question and were discussed also in early Islam but Due to the lack of progress in medical science didn't consider. Because of this, it is not enough to evaluate and analyze. Yet, Shiite leader Sheikh Tusi in the fourth century AD has moved Imam Shafei's View about this issue: "Anyone who has cut off his ear for retaliation he can regain your hearing health by linking operation. But if he who enters the crime against he could be cut again his ear or not? ShaykhTusi after telling Shafei's View say: According to the consensus, it is rejected.[2]

But the issue of removing from anencephaly has been less Proposed. since 1980 In some countries, , it is considered morally and legally.[3]

2-Anencephaly

Anencephaly is a brain disorder that due to defects in the neural canal is created and occurs among 23 to 26 early Day of pregnancy. For Anencephaly is not forming large part of the brain and skull. Infants with this

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disorder, have high levels of Cognitive impairment. They are usually blind, deaf and there is no level of consciousness for these Infants, They do not feel pain. Although there is brain stem, Brain Function for example Alertness and reflex functions such as breathing and responses to sound or touch does not exist. There is no chance to survive, the only things that can be done to baby's hydration and nutrition. Opening Artificial airway by surgeons is Useless and drug therapy and antibiotic therapy is not effective for them. Anencephaly children are divided into two parts, helo and mero. in helo, Babies aren't a part of the brain and in mero, Babies aren't a all of the brain because of lack of Brain, they survive few hours or days. In a study that was for 174 infants, it was found that most of time that these babies can survive is 37 hours. About 50% of infants lived less than an hour.

Anencephaly prevalence is different among boys and girls. The prevalence of anencephaly is different in different race. It has been reported highly in Asia in compare of other parts. The Prevalence of anencephaly is different from country to country. Due to their limited life; discussions have taken place about giving their organ to needy baby. From 1980, Discussion formed the ethically and legally.[4]

As was stated, these babies have not part of their brain or whole brain. Some these babies have not half his head. As a result; they are born dead or die soon. Then, juridical debate is essential.

3-Relationship Brain death with anencephaly

Death occurs when the human's spirit disappointed from body and thinking and Intellection systems in human disturbed. Contemporary medical say that is the irreversible cessation all of brain parts including the brain stem and cerebral cortex and cerebellum. Due to Irreversible Lesions, Patients with brain death lose activity of the cerebral cortex and brain stem and go to in complete coma. So they do not respond to internal and external stimuli. Patient lacks power of understanding and knowledge. Brain death criteria are as follows:

- A) Patient's don't response to painful stimulation
- B) They lose spontaneous movements in organs
- C) They lose brain stem reflexes and Spontaneous breathing

Specified time require to monitor patients with suspected brain death that during this time the patient's symptoms should remain stable.[5]

Brain-dead patients were explained partly, now I say that Anencephaly is largely comparable with these patients. Anencephalies are divided into several groups that in a sample of baby have no brain. In this group of children, provisions of brain death can be imposed on the children. As stated, all of parts brain in brain death is dead and there is no reflex. The first way, Anencephalies have not reflex because there isn't brain. So, as Shiite jurisprudence permits to remove Brain-dead patient organs, this permit exists about Anencephaly.[6]

4-Juridical survey removing anencephaly's organs

For surveying this topic in the first review must be answered to some question.

1-4:Coming into losses

In the Shia tradition highly expresses "no Loss "that it has many practical applications in all chapters of jurisprudence. It means that harm must be denied. In other words, every sentence is decreed by Islam, if it has loss for Muslims or their property this judgment removes pursuant to rule" no Loss ".

In the issue of organ harvesting from living human to other human, the first sentence is" very person is dominated his body". This rule say a person possess rights removing his organs and he can give to other person. But this possess cause losses for donor person. Therefore, the rule" no Loss "eliminates possess rights removing organs. In the Shia tradition the rule" no Loss "dominant on rule of" very person is dominated his body". So if we prove that removing anencephaly's organs has not lose Shia tradition permit gather anencephaly's organs. Losses were forbid in Islam relate to healthy and living person, as we explained, anencephaly Like brain death. So they aren't living person and are Vegetable life. As a result, lose doesn't exist In the case of anencephaly.[7]

2-4:Respecting Muslims body

Muslim man has tall standing, his body and property is respected. No one has the right to flaw his dignity. According to Islam, disrespect and insulting to the faithful is prohibited. It similar to war with God's judgment. As faithful is respected in our lifetimes, after death they maintain respect. Muslim dead like his living. With death, his reverence doesn't remove and his body to be buried with reverence and respect, and without the slightest insult and disrespect. Prophet of Islam says: breaking dead faithful Bone is equal breaking live faithful Bone or person had question about someone had cu dead man's head. He said: God putdied Muslims as he lived. So if you do something about the dead person you must pay blood money.[8]

But in Islam there rule of emergency. According to this rule, when Subject is between dead Muslims and live Muslim we must select live Muslim and in this condition, Respecting to dead Muslims doesn't exist. Because saving live Muslim is more important. When there are some babies in the Islamic society that they die because of lack safety organ, we can remove organs of Anencephaly and give to needy babies. In these circumstances, due to emergency, respecting for dead bodies to be removed. As we explained previously, in Shiite jurisprudence Anencephaly is dead.

3-4:Traditions of Imams

For Inheritances topic,Shiite imams have stated many narratives.These narratives state difference between live baby and dead baby.Owner of the vasayel book in section oflegacy expressed thatMoving, screaming and crying are signs of live baby,this causation is entitled to inherit.

Another narrative was state Abdullah bin Sinan, he said: baby hasn't inheritance unlessbaby cry and his voice is heard.IbnAoun quotes from the Imam (AS) that he heard about the baby:Baby does not inherit from dyeh (Ransom) unlessbaby cry and his voice is heard.Imam Sadiq (AS) said about baby:If baby move he can inherit.[9]

From attitude of all the narrations we find that the signs of a child's life are:Crying, screaming and moving. These signs show Brain is live.If the brain is disabled baby hasn't power to scream and cry and move. Although he has the heart rate.None of these narrations has mentioned lightly that the heart rate is life's sign. Whereas doctors believed that the heart rate is a sign of life in this time.

In fact, the most important part of the jurisprudence sources that implies Anencephaly are dead, is exist these abundant habits. We said about General Characteristic's anencephaly that these babies do not cry, scream and move. So in the Shi'a jurisprudence, these babies are dead. Then jurisprudence is allowed to remove their organs and transfer to needy baby.[10]

4-4:Referencing jurisprudence to custom

This topic is debatable another side. In this case we have to refer custom? If response is positive, which one custom? Specific or common custom?

Ayatollah Nouri Hamadani have expressed: if someone doesn't have brain waves is indicative of death or if someone doesn't have heart Waves? Faghih duty to find the provisions of the sacred religion of Islam from The Quran and Hadith but object recognition is not duty of Faghih, doctors must recognize it.

We can't refer to common custom (people's View) about Anencephaly is not possible recourse to common sense because common custom does not respond to precisely to it .So we should refer to specific custom and View of physicians is Important. Doctors treat currently baby with anencephaly are dead. Because of View of physicians, Removal of Anencephaly organ is allowable.[11]

5-4:Argument to rule of Tazahom

This rule says that if one topic is important and another topic is very important Muslims must act task that is very important. Rule of Tazahom express: we permit to remove the heart or lungs or liver of baby with anencephaly. Removal of organs is obligatory and Muslims have duty to this act. Because they have duty to survive another person .when they see someone that he is patient and another person that he is dead. They must help to patient. While there is anencephaly and needy baby to anencephaly's organ, rule of Tazahom express: we permit to remove anencephaly's organs.[12]

Conclusion

Anencephalic children generally have no brain but the persons with death brain have brain but it is dead. So in Shiite Islamic jurisprudence, brain death sentences set to Anencephaly. Some jurists have allowed to removing organs and others are disagreed to this issue .Opponents express removing organs cause loss to donor : in addition to, the donor is live. But searching in Shiite Islamic jurisprudence shows that Anencephalic infants are dead.

The narratives of Anencephaly Is a lot and measures such as moving, crying at time of birth are signs of living. All of them aren't existing in Anencephaly. So in Shiite jurisprudence Anencephalic infants are dead. Also the discussion of the custom, Specific custom of physicians say that these babies are dead. Referring to Rule of Tazahm allow the removal of these babies' organs and donated to needy babies. So Shiite Islamic jurisprudence allow removing these babies' organs.

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