

Medical Issues

Introduction

Because of the scientific and technological advancements in the West, the Muslims travelling to these countries seeking treatment are increasing, just as the Muslim residents in these parts of the world need medical treatment.

General Rules

358. It is not permissible to perform autopsy on the body of a dead Muslim for the sake of education and other purposes. It is only permissible, if the life of another Muslim depends on it—even if it is sometime in the future.

359. It is permissible to transplant an organ from an animal (including dogs and pigs) to a human being; the transplanted organ will be considered as an organ of the recipient; all rules will apply to it. So *salat* will be permissible with it by considering it ritually pure (*tahir*) after it becomes part of the human body and its cells become rejuvenated. (See the question–answer section below.)

360. It is not permissible for a doctor to switch off the medical apparatus providing a Muslim patient with oxygen, even if he is brain dead, i.e. in vegetative state. This is because the human life in Islam is sacrosanct.

The doctor should not give in to the demand of the patient or his family-members for stopping medical aid. If the doctor pulls out the plug and the Muslim patient dies because of it, he will be considered killer.

361. It is not permissible for a medical student to look at the private parts of anyone during his or her training for that profession, unless he would be repelling serious harm from a Muslim in the process—even if it is sometime in the future— .

362. It is not obligatory on a Muslim to investigate whether or not the medicine [given to him] consists of forbidden ingredients, even if the process of reading a result is easy for him.

Question and Answers

352. **Question:** The serious harm of narcotic drugs to the user or society in general (whether from being addicted to them or other [sociatal, familial, and ethical] reems) is well known. Therefore, the doctors and health care professionals are strongly opposing the misuse of drugs and the laws governing the society is also strongly against it. So, what is the view of the noble *shari‘a* on this matter?

Answer: By considering the serious harm of narcotic drugs, it is forbidden to use them due to the great damage they cause. Based on obligatory precaution, it is compulsory to refrain from using them in any way [even if there is no harm], except for medical purposes and the like; in the latter case, it can be used only to the extent of need. And Allah knows the best.

353. **Question:** Medical literature states that **smoking** is the main cause for heart and cancer diseases, and it also shortens the life span of the smoker. So, what is the rule on smoking concerning (a) the beginner, (b) the compulsive smoker, and (c) the passive smoker? In the third case, the medical experts say that the smoke also harms a person sitting besides a smoker. What would be, the ruling if he considers passive smoking to be of considerable harm?

Answer:

a. Smoking becomes haram for the beginner if it entails serious harm, even at the future, regardless of whether that serious harm is certain, most probable, or just probable so much so that sensible people would demand caution. However, with the protection from serious harm (for example, by smoking less frequently), there is no problem in it.

b. If continuing to smoke will cause serious harm to the compulsive smoker —as explained above— it is necessary for him to refrain from it unless the harm in quitting is similar, greater than to the harm in continuing, or the great difficulty that he will face in quitting is such that it cannot be normally tolerated.

c. The same rule as explained in (a) for the beginner, applies in this case also.

354. **Question:** Some people believe that a brain-dead person is a dead person, even if the heart has not yet stopped and that it will definitely stop after that. This is what the doctors say. Is a person who has been pronounced brain-dead be considered dead, even if his heart is still working?

Answer: The criterion in applying the term “dead” in so far as the application of religious laws goes is the common perception of people, in the sense that they would call him “dead”. And this is not proven in the situation mentioned in the question.

355. **Question:** The medical profession demands that the doctor checks his female patients carefully; and since getting undressed for medical checkup is common in some European countries, is it permissible to engage in medical practice here in such circumstances?

Answer: It is permissible, if one refrains from forbidden looking and touching, except where the check up of the patient requires them.

356. **Question:** Sometimes the practising physician feels that he has to uncover certain parts, other than the private parts, of the female patient [for examination]. Is it permissible for him to uncover her body in the following circumstances:

- d. When a female physician is available, yet costly?
- e. When the patient is not in danger, although she is sick regardless?
- f. What is the rule if the part that the physician has to examine is a private part?

Answer:

- a. If visiting a female physician is possible, it is not permissible [for a female patient to uncover her body for a male physician], unless the cost is so much that it will hurt her financial situation.
- b. It is permissible, if not visiting that male physician will harm [her health-wise] or put her in a serious inconvenience that is not normally tolerated.
- c. The rule is the same as explained above; and in both the cases, he must only uncover the parts that need examining. And if it is possible to treat the case without looking directly at the parts that are *haram* to look at (for example, if he can see through a monitor or a mirror), that should be the course of action, based on precaution.

357. **Question:** Some experts of genetic engineering claim that they can improve the human race by altering the genes in the following ways:

- g. Removing the ugliness of the face;
- h. Replacing it with beautiful characteristics;
- i. By both of the above.

Is it permissible for the scientists to engage in these kinds of activities? Is it permissible for a Muslim to allow the doctors to alter his genes?

Answer: If there are no side effects, then, in principle, there is no problem in it.

358. **Question:** Pharmaceutical companies in the West run tests on the drugs they manufacture before selling them in the market. Is it permissible for a doctor to use a drug on his patient —without the knowledge of the patient— before its testing period is over thinking that that particular drug would cure the disease?

Answer: It is necessary to inform the patient about the situation and seek his consent on using the drug on him, except when he is sure that the drug would not cause side effects and that the doubt is only about its benefit [or otherwise].

359. **Question:** In certain cases, some governmental agencies demand that autopsy be performed on the body of the deceased to establish the cause of death. When is it permissible to agree to their demand and when is it not?

Answer: No heir of a deceased Muslim is allowed to give consent for autopsy to be carried out on the body of the deceased for the purpose mentioned above and other similar purposes; and it is necessary for him to prevent the autopsy if possible. Of course, if another important factor comes into play that is of equal or more importance than this basic rule, it is permissible.

360. **Question:** Is donating an organ by a living person to another living person (for example, a kidney) or by a dead person, by virtue of his will, to a living person permissible? Would the ruling be different, if it were from a Muslim to a non-Muslim or vice versa? Is the ruling confinable to certain organs to the exclusion of others?

Answer: As far as donating an organ by a living person to another person is concerned, there is no problem in it if it does not entail a serious harm to the donor. (For example, donating one kidney by a person who has another healthy kidney.)

As far as removing an organ from a deceased (as directed in his will) for the purpose of transplanting it into a living person is concerned, there is no problem in it so long as:

- j. The deceased was not a Muslim or someone who is considered a Muslim.
- k. Or the life of a Muslim depended on such transplantation.

Apart from these two cases, there is a problem in enforcing the will [of the deceased] and in allowing the removal of the organ. However, if the will had been made [by the deceased], there will be no indemnity on the person removing the organ from the dead body.

361. **Question:** If an organ of an atheist is transplanted in a Muslim's body, would it be considered ritually pure (*tahir*) when it is considered, after transplantation, as part of the Muslim's body?

Answer: An organ extracted from the body is ritually impure (*najis*) irrespective of whether it came from a Muslim or a non-Muslim. And when it becomes, by rejuvenation, part of a Muslim's body or of someone who is considered a Muslim, it becomes *tahir*.

362. **Question:** Insulin used for treatment of diabetics is sometimes extracted from the pancreas of pigs. Can we use it?

Answer: There is no problem in injecting insulin in the muscles, veins or under the skin.

363. **Question:** Is it permissible to transplant the liver of pig in a human's body?

Answer: It is permissible to transplant pig's liver into the body of a human being. And Allah knows the best.

364. **Question:** Is the process of test-tube babies allowed? In the sense that the wife's ovum and the husband's sperm are extracted to be fertilized outside the body, and then placed in the womb [of the wife].

Answer: In principle, it is allowed.

365. **Question:** There are certain hereditary diseases that are transferred from parents to children and pose a danger to their lives in the future. Modern science has acquired the means of preventing some of such diseases by fertilizing the woman's ovum in a test tube and examining the genes to eliminate the problematic ones. Then it is returned to the woman's womb. The remaining genes [i.e., ova] are destroyed. Is this religiously permissible?

Answer: In principle, there is no problem in it.

366. **Question:** In the process of fertilization in a lab, more than one ovum is fertilized at a time. Secured in the knowledge that implanting all fertilized ova in the mother's womb will endanger her life. Is it permissible for us to use only one fertilized ovum and destroy the remaining ones?

Answer: It is not obligatory to implant all the fertilized ova in a test tube into the womb. Therefore, it is permissible to use one ovum and destroy the remaining ones.

367. **Question:** Is it permissible to engage in embellishing the face and the body [of another person]?

Answer: It is permissible, provided that one refrains from looking and touching what is *haram* to look at or touch.

AIDS

AIDS or Acquired Immune Deficiency Syndrome is a disease that has afflicted, based on 1996 data, eight million people worldwide and there are about twenty-two million who carry the AIDS virus. The latest data show that one and a half million people have died of AIDS in the year 1996 only, bringing the total number of those who died of the disease to six million! This was announced by World Health Organization on the International Aids Day on 1 December 1996.

Doctors have identified the following ways in which AIDS is transmitted:

- a. Sexual intercourse between members of the same sex or the opposite sex [in which one member is already afflicted]. This represents the most dangerous and widespread method of the spread of AIDS. The chance of transmission through this method is 80%.
- b. Through blood vessels: by transfusion; by injection (especially in the case of drug addicts); by open wounds; and organ transplantation, and even through surgery if the instruments are not properly sterilized.
- c. The fetus can be afflicted while in the womb or at the time of birth if the mother is already afflicted with AIDS.

The data indicate that this disease has affected all countries and that no nation is immune against it; and that the majority of the victims are male. Diseases that had been eradicated have again started reappearing because of the AIDS epidemic (e.g., pulmonary tuberculosis).

Against this background, we presented the following questions to his eminence, Ayatullah Sistani:

368. Question: What is the rule concerning isolating an AIDS patient? Is it obligatory on him to isolate himself? Is it obligatory on his family to isolate him [from the public]?

Answer: It is not obligatory on him to isolate himself just as it is not obligatory on others to do so. Indeed, it is not permissible to prevent him from frequenting public places like *masjid*, etc, as long as there is no danger of infecting the others with the virus. It is, however, obligatory for him as well as others to be careful in situations where there exists certainty or probability of infecting others.

369. Question: What is the rule on intentionally infecting others with the AIDS virus?

Answer: This is not allowed. If it leads —even after the passage of time— to the death of the person who has been infected, then the heirs of the deceased have the right of retribution from the person responsible for causing to demand the infecting, provided that the latter was aware that that infection could lead to death; but if he was ignorant of that effect, or unaware of it, at that time, only indemnity (blood money) and penalty would apply.

370. Question: Is it permissible for a person infected with AIDS to marry a person who is free from it?

Answer: Yes; but it is not permissible for him or her to mislead the other party by deliberately presenting himself or herself as free from AIDS at the time of proposing while they are not. Similarly, it is not permissible for him or her to become intimate in a way that would infect the other partner.

However, if there is only a probability of infection and no certainty, then it is not obligatory for him or her to refrain from intimacy, provided that there is agreement on it.

371. Question: What is the ruling on marriage between two people who are carriers of the AIDS virus?

Answer: There is no problem in it. However, if sexual relation between them is bound to worsen the disease to a serious level, it is necessary for them to refrain from it.

372. **Question:** What is the ruling on the sexual relations of an AIDS patient? Is it permissible for a non-infected person to refuse sexual relation with their spouse because sexual intercourse is one of the main ways of transmitting the virus?

Answer: It is permissible for a non-infected wife not to make herself available to her infected husband for intimacy that could lead to infection by the virus. It is indeed obligatory on her to prevent him from such intimacy.

If it is possible to lessen the chances of infection to a level that is insignificant —for example, 2%— by using condom, etc, it is permissible for her to be intimate with her husband. In such a case, it is, based on precaution, not permissible for her to refuse [intimate relations with her husband].

This clarifies also the case of a husband who is not a carrier of the virus and wife who is: it is not permissible for him to have sexual relations with her in accordance with what sensible people perceive as considerable risk— of being infected by the virus. In such a case, the wife's right to have sexual relations [at least once] every four months is suspended, except when it becomes possible to adopt methods that would properly prevent infection with the virus.

373. **Question:** What is the ruling concerning the right of the non-infected spouse in seeking separation?

Answer: If deception was involved in the marriage, in the sense that the husband or the wife concealed the fact that they had AIDS at the time of proposing, engagement, so much that the marriage contract ('aqd) was recited based on that understanding, the deceived party has the right of annulment.

However, if the wife or her representative did not say anything about the issue of the disease and the husband assumed that she is free from it, the silence does not count as deception and, it therefore, does not yield the right of annulment.

If there was no deception or the disease flared up after the marriage, the non-infected husband has the right to divorcing his infected wife. Does the non-infected wife have the right to ask for divorce from her infected husband on the grounds that she is being deprived of her conjugal rights?

There are two views [on this]; precaution should not be ruled out in this case. Of course, if her husband abandons her completely and she becomes like a suspended woman [neither married nor unmarried], it is permissible for her to take her case to the religious judge¹ to force her husband to choose one of two courses: either end the abandonment or divorce her.

374. **Question:** What is the ruling on the divorce of a woman whose husband is AIDS patient?

Answer: It has already been mentioned above.

375. **Question:** What is the ruling on abortion for a pregnant woman who is infected with AIDS?

Answer: It is not permissible, more so after the soul has entered the fetus. Of course, if continuation of the pregnancy poses a danger to the mother, it is permissible for her to abort it before the entering of the soul in the fetus, but not after it.

376. **Question:** What is the ruling on the custody of an infected mother with regard to her non-infected baby and also on breast-feeding?

Answer: She does not lose the right of custody of her baby; but she must adopt sufficient methods to ensure that the virus does not infect the baby. If it is probable —a considerable probability— that the virus may be transmitted through breast-feeding, it is necessary for her to refrain from it.\

377. **Question:** What is the virus on considering AIDS as terminal illness?

Answer: Since this disease lasts long, what can be classified as terminal is its last stage only which is closer to death than is brought about by the disruption and complete destruction of the immune system or the occurrence of fatal nervous breakdown.

378. **Question:** When a person is diagnosed as having AIDS, is it permissible for the doctor or is it obligatory on him to inform the patient's relatives, especially their spouse?

Answer: It is permissible to inform them, if the patient or his guardian gives consent. It is obligatory if the survival —for a longer time span— of the patient depends on it. It is similarly obligatory, if he knows that by not informing them, the virus would infect them for not taking necessary precautions. And Allah knows the best.

379. **Question:** If a Muslim knows that he contracted AIDS, is it permissible on him to engage in sexual relations with his wife? Is it obligatory for him to inform his wife about it?

Answer: If he knows that the virus can infect her through sexual relations, it is not permissible for him at all. Similarly [it is obligatory on him to refrain from sex] if there exists a considerable level of likelihood [of infection], except in the case where the wife knows about it and agrees to it.

1. Translator's Note: "Religious judge" means the mujtahid or someone authorized by him in judicial matters.

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