

THE USE OF HUMAN LIMBS AND THE DIRECTION OF SHARIAH

¹Hafiz InayatUllah & ²Wajeeh-ud-Din Nouman

¹ Government. Degree College No.1, Dera Ismail Khan (KPK) Pakistan

²Department of Arabic, Islamic Studies & Research GomalUniversityDera Ismail Khan

ABSTRACT

The use of human limbs and its grafting has a long history. The grafting of skin was initiated approximately 1500 years B.C. The grafting of pupil of the eyes and bones commenced in the second half of the nineteenth century. Alex Carrol succeeded in the process of grafting for the whole human body. However, grafting of limbs became a reality when Immunosuppressive Drugs used for preserving limbs from being thrown away were introduced in the market in 1960. Similarly in 1967, Dr Christian Bernard conducted an operation for transplantation of human heart. Then a group of Doctors under Dr Shamooy achieved prominent achievements in that operation. However, the grafting of limbs is an important human and medical issue of the present times. It became clear from Ahadis that the issue of limbs grafting surfaced during the era of our Holy Prophet (P.B.U.H); however its kinds and forms increased with the passage of time.

Keywords: Human Limbs, Grafting

INTRODUCTION

Allah (S.W.T) has bestowed upon us several bounties. All are valuable but the life of man is the most precious and valuable. Allah (S.W.T) has given us different types of organs and we have to use them in useful ways. If we will use them in the wrong way, then we will be punished in Hereafter, because we are not the owner of these organs. That is why we cannot change our organs without any solid reason. Shariah has made compulsion upon us. However, there are some exceptions and discussion in this regard.

The details of the topics for discussion are as follows.

The permission to a human in the use of his limbs (body)

1. The order of Intifa from the corpse.
2. The order of ignoring the aspect of human prestige for the survival of a human.
3. The order of eating flesh of a corpse for Muztar.
4. The order for the usage of own limbs.
5. The order for the usage of human blood.
6. The order for the usage of artificial limbs.
7. The order for the usage of butchered animals.

8. The order for the purchase and sale of human hair and milk.
9. The order for the purchase and sale of limbs.
10. Bunking of limbs
11. The principles of Fiqh

something condemnable despite a sacrificing act because Shariah does not permit its irrational use and neither any one eye is a useless limb because Allah has not created any limb as a useless part, rather creation of every bit is greatly significant. Allah says in Holy

THE EXTANT OF AUTHORIZED USE IN THE HUMAN LIMBS

The whole human body is a trust and every human is answerable in its use to God. God says in the Holy Quran:



(Al-Quran-17:36)

“You will have to answer for your ears, eyes and heart etc.

Therefore, a human can use his body only to the extant, Shariah permits. He is not authorized to use it beyond the limits of Shariah.

For example, Allah has given human being two eyes as He Himself says in Quran:



(Al-Quran 90:8, 9)

“If we had not given him two eyes, a tongue and two lips”

Now if a person gives his one eye out of two to such a person who is blind, he does

Quran:



(Al-Quran 82:7,8)

“He has made you and created you perfectly. He has balanced your personality and has arranged your parts according to his desire”.

Again He says in the Holy Quran:



(Al-Quran 95:4)

“Indeed we have made human in the best way”.

Similarly two kidneys and two eyes does not mean that one is useless rather if one of the two gets damaged or out of order, a human being can lead life by the help of another. Therefore, this concept is totally baseless that any limb is useless and can be given to any other. Therefore, one can expand out of his body only to the extent of remedy or Qisas, (Al-Quran5:45) eye

for eye but the dismemberment of the body parts whether external or internal even with the permission of the donor is illegal and unlawful.

It leads to changing/altering the creation of Allah. Moreover, the dismemberment of a limb from the body without giving the affectee any advantage is termed Muslah and the Holy Prophet (p.b.u.h) has prohibited the cutting off any limb and doing Muslah.(Al-Tabrazi

737)

وَالَّذِينَ يَتَّبِعُونَ

All of the Ulama of the whole Ummah have agreed over the unlawful nature of Muslah. The definition and nature of

وَالَّذِينَ يَتَّبِعُونَ

(Al-Quran 5:31)

“Allah sent a crow which dug the earth for burying another to point out to him as to how to hide the body of his dead brother. Therefore, the process of burying has been attributed to God.

وَالَّذِينَ يَتَّبِعُونَ

(Al-Quran 80:21)

Then we have given death and buried him in the grave.

Muslah can be seen in Umda-tulQari. Therefore in the opinion of most Aaima it is unlawful to use another person’s limbs even if the donor permits.

THE ORDER CONCERNING CUTTING OFF LIMBS FROM THE CORPSE

The human beings have been guided from the very beginning to bury the human corpse with proper prestige. Therefore, when Qabeel was in a fix as to what to do with the corpse of Babeel,

وَالَّذِينَ يَتَّبِعُونَ

It becomes clear that it is Divine’s direction and details are being had from sunnah of the Prophet about the burial. In a Hadith, the sanctity of a human corpse has been described thus:

وَالَّذِينَ يَتَّبِعُونَ

“The breaking of a dead person’s bone is like breaking bone of an alive person”.

In another Hadith, it is said that ‘torturing a dead Muslim is same as hurting a living person.

وَمَا كَانَ لِمَنْ يَمُوتُ أَنْ يُعْطَىٰ مِنْهُ شَيْءٌ لِيُحْيِيَ بِهِ بَشَرًا أَمْوَاتًا يُكْفَرُونَ

So it becomes clear that sanctity of a corpse is no less than sanctity of a living person. Therefore, it is not lawful to take any limb out nor mutilation is legal.

In Fatawa-e-Rahimia, it has been declared illegal to graft a dead man’s eye into the body of a living person. (Lajpori)

Shariah prohibits us from benefitting living man by dismembering the body of a dead person.

Naturally, morally and religiously it is a heinous act to mutilate a corpse for the purpose of grafting its limbs into the body of a diseased person.

“For the survival of a person, the sanctity of another cannot be ignored”.

Allam Samar Qandi says:

وَمَا كَانَ لِمَنْ يَمُوتُ أَنْ يُعْطَىٰ مِنْهُ شَيْءٌ لِيُحْيِيَ بِهِ بَشَرًا أَمْوَاتًا يُكْفَرُونَ
● وَمَا كَانَ لِمَنْ يَمُوتُ أَنْ يُعْطَىٰ مِنْهُ شَيْءٌ لِيُحْيِيَ بِهِ بَشَرًا أَمْوَاتًا يُكْفَرُونَ

“If a woman in a family way dies and if she is having a child who is alive and ready to be conceived, in that case the belly of the dead woman may be cut to save the life of a human. The sanctity of a human body may be sacrificed to save life”.

The Fuqha has allowed operation of a dead mother if the foetus is alive. We can give up the sanctity of a corpse to save a living soul.

WHETHER MUZTAR CAN EAT A DEAD

This issue is related with the same principle whether a Muztar can eat corpse of a human being or not. Malkia and Hanabla are of the opinion that he cannot but shawafay and some Ahnaf say that he can. Because a living person has more sanctity than a dead.

وَمَا كَانَ لِمَنْ يَمُوتُ أَنْ يُعْطَىٰ مِنْهُ شَيْءٌ لِيُحْيِيَ بِهِ بَشَرًا أَمْوَاتًا يُكْفَرُونَ

Among Fokaha of Hanabla Abdul Khitab is also of the same opinion.

Imam Qurtabi writes:

وَمَا كَانَ لِمَنْ يَمُوتُ أَنْ يُعْطَىٰ مِنْهُ شَيْءٌ لِيُحْيِيَ بِهِ بَشَرًا أَمْوَاتًا يُكْفَرُونَ
وَمَا كَانَ لِمَنْ يَمُوتُ أَنْ يُعْطَىٰ مِنْهُ شَيْءٌ لِيُحْيِيَ بِهِ بَشَرًا أَمْوَاتًا يُكْفَرُونَ

“When a person have matter of survival and he finds a dead person, (Murdaar) and flash of swine, he may eat Murdaar which is allowed at certain critical situation but he cannot eat hog meat or a dead person in any circumstance. This is the view point of HanafiUlama, but Imam Shafi (R.A) declares eating a dead person’s flash lawful in the critical situation.

The famous MalkiFaqihIbn-e-Arabi has also cited with the Shawafay, i.e he can eat it if he hopes to survive.

THE USE OF ONES OWN LIMBS


If a human being can do grafting of one’s own amputated limbs or not? There is disagreement among Foqaha in this matter. Tarafaini.e Imam Abu Hanifa (R.A) and Imam Muhammad (R.A) does


AllamaQasani Says:

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Imam Abu Hanifa (R.A) and Imam Muhammad (R.A) declare the fixing of fallen tooth as unlawful (.....) but Imam Abu Yusuf (R.A) says that there is no

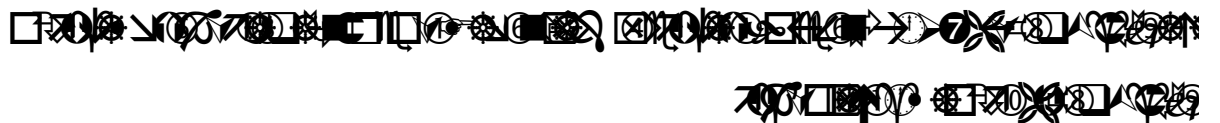
not consider it lawful because they think that the amputated part of a body should be buried and its use again should be avoided. But Imam Abu Yusuf (R.A) considers it lawful because it is his own part and there is no degradation in the use of one’s own part of body.


Therefore, bearing on the opinion of Fatwa Imam Abu Yousuf (R.A), most of the Foqaha have declared it lawful.


The cut away part of a human body from a living person becomes murdaar but not for the same person whose limb it is.

problem in the fixture of one’s own tooth. Most of the Ulama have given Fatwa on the saying of Imam Abu Yusuf (R.A).

In badai, AllamaQasani says:



it is an insult of a human being to use him dismembered part whereas a human being is respectable with all his parts. However, if his own limb has been separated or has been medically amputated that is not an insult of a human being. So it is clear the grafting of one’s own limb has no problem and it grants health to human body save

him form serious defect and there is no matter of purchase and sale.

THE USE OF HUMAN BLOOD

The use of one’s blood is lawful for another human being and fatwa has been given in this regards. As in Alamgiri, it has been said:



It is lawful for the seriously ill to take urine or blood as a medicine. However it should have been advised by a Muslim expert physician and there should have been no other remedy for the disease. If the doctor has said that by the use of above mentioned things a person can get quick cure. So in the opinion of certain Ulamaa there is lawful, but other say that if there is no other mean of cure than blood and urine may be used.

It becomes clear from the above text that when any other medicine is not useful and an expert doctor declares that a person life can be saved by the same blood, than the use of blood is lawful.

The use of blood and any other unlawful things can be used as a medicine, however, its use is permitted only in case of extreme need and it should be used only to the extent satisfying the need. Its use for the improvement of health, beautification of body is not allowed. Moreover, the purchases of blood should be avoided, however, if its procurement is impossible than it can be purchased.



The use of forbidden things is lawful if a person has surety of treatment and there is no other medicine for cure.

THE USE OF ARTIFICIAL LIMBS

It has been states in a Hadith where ArfajaIbneSaad says:



“That my nose was cut off on the day of Kalab, during the days of ignorance. I affixed a nose made of silver which created foul smell. The Holy Prophet (S.A.W) orders me to get a nose made of gold.

From this Hadith, it becomes crystal clear that the use of artificial limb is lawful.

Moreover, it is also legal for the purpose of beautification of human body. It point out the fact if artificial limb are used to fulfill a need, that use will be for better but these can be used for look as well. However, these limbs must be made of pure and pious spices and mixture must not contain anything impure. For example, everything of swine is forbidden.

As it has been repeatedly said in Holy Quran:

﴿لَا يَحِلُّ لَكُمُ الْبَيْضُ مِنَ الدَّجَانِ وَلَا الدَّجَانُ مِنَ الْبَيْضِ وَلَا الْخَنَازِيرُ وَلَا الْخَنَازِيرُ مِنَ الْبَيْضِ﴾

(Al-Quran 2:173)

Indeed Allah has termed the flesh and blood of Murdaar and swine and an animal slaughtered in the name of god or goddess or any other being except Allah as unlawful (Haram) but if a person is on the verge of death and he has no other remedy, he can save his life by eating. Taking of those forbidden things should be only the extant of satisfying his need. In surah-e-Anaam, Allah Says:

﴿لَا يَحِلُّ لَكُمُ الْبَيْضُ مِنَ الدَّجَانِ وَلَا الدَّجَانُ مِنَ الْبَيْضِ وَلَا الْخَنَازِيرُ وَلَا الْخَنَازِيرُ مِنَ الْبَيْضِ﴾

A part from swine, the use of hair, nails, foot, teeth etc is lawful of all animals, i.e. those parts which contain no blood. These can be used for fulfillment of need and for beautification as well.

However, in a critical situation, the use of blood, flesh, fat of all lawful and unlawful for eating animals is allowed. The critical condition is that when a person is on the verge of death or his that body part is on the stage of withering, and then artificial limb made of any substance can be used. But the use of that artificial should be advised by a competent Muslim expert physician.

(Al-quran 6:119)

“The forbidden things have been pointed out to you clearly but if you find yourself compelled you can use those”

THE USE OF SLAUGHTERD ANIMALS LIMBS

Fatawa-e-Alamgiri quotes Imam Muhammad (R.A) saying that curing dieses with the bone is allowed if the animal is slaughter according prescribed method of Shariah. The bone of goat, cow,

camel, horse or any other animal is allowed except swine or a human being. The use of swine or human’s bone is not liked which is explained later on.

Shami has quoted Imam Karkhi (R.A) who says that the front teeth of a human being can be replaced with the goat’s teeth. The use of the limbs of slaughtered animals is allowed but to cut a part of a living animal for usage is unlawful because that part is impious. However, it can be used in the body of the same animal form which it has been removed.

It has been narrated in a Hadith:



“The serving of an animal’s limb fall in the category of Murdaar”

Due to grafting, a human body will remain impious for the whole life which violates many instructions and order of the Shariah concerning impurity and purity. Imam Shafi (R.A) considers it compulsory to serve the impious grafting per force.



As human beings are venerable, so it is not valid to dismember any part of his body including hair for the purpose of sale, purchase or to be used. As a human is not

“THE USE OF HUMAN HAIR AND MILK, THEIR SALE AND PURCHASES”

It has been declared “Haram” on the part of a woman to knead or weave the hair of another woman with her own for the enhancement of her beauty.

In the age of the Holy Prophet (S.A.W) the infidel or pagan woman used to weave the hair of other woman, but the Holy Prophet (S.A.W) forbade the Muslim woman to do so, and even cursed the woman who insisted on adoption the practice.



However, it is valid to use other hair leaving human’s if otherwise suitable.

Foqaha has forbidden the sale and purchase of hair (human) as it is beneath human dignity. The books of Fiqh are replete with such text.

a useful commodity. His any part cannot be degraded. In Mabsoot, it is stated that



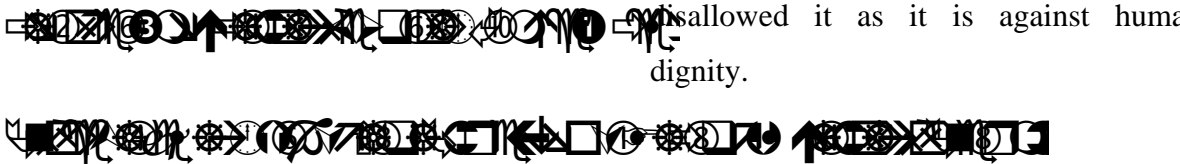
“Indeed due to his dignity, it is not allowed “Intiqate” (to cut) his hair”.

Similar text is shown in “Hidaya”



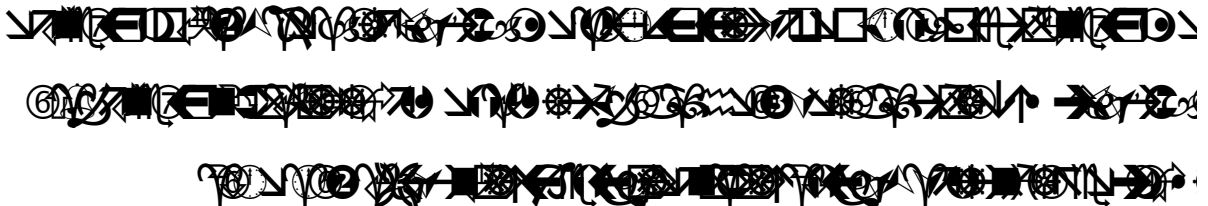
AllamShami (R.A) has also forbidden the sale and purchase of human nail like hair. Foqaha has allowed the use of a woman’s milk to be used as medicine.

There is no problem if a man takes a woman’s milk as a medicine. But in the matter of sale and purchase of human milk, Foqaha have disagreed. Ahnaaf has disallowed it as it is against human dignity.



The sale of human milk is not valid, as milk is also a part of human body and a human is dignified with all his part. He/she is not (.....)

However, Imam Shafi (R.A) allows it. AllamaSurkhasi (R.A) states:



“The sale of woman’s milk is not allowed in any case and there is no penalty on the person who wastes it. Imam Shafi (R.A) says that its sale is allowed and one who wastes it will be penalized. As it is a pure drink like milk of other animals. It provides diet to the people so its sale is allowed like other foods. So it is clear that the milk is (.....) property and in Shariah,

the price of anything and its becoming (.....) is due to its severable nature (.....) Although, there is disagreement among the Foqaha-e-Hanabla, but the famous representative of Hanabli and DabistanFiqh Imam Ibn-e-Qadama (R.A) prefers to term the sale of human milk as valid.

SALE AND PURCHASE OF LIMBS

In the books of Fiqh and Fatawa, the sale and purchase of human limbs has been declared as unlawful and invalid keeping

in view the dignity of humans. The sale and purchase of both living and dead body limbs are prohibited

“A human is as venerable after his death as he is while alive. Therefore, the use of his limbs as medicine is illegal and unlawful”

In case of Muztar, who has been allowed even to eat the forbidden thing, the Foqaha has written:

• “If a Muztar finds nothing to eat and he is in danger of losing his life and somebody asks him to serve his limb to eat, it will not be valid for him, nor is he allowed to cut his own limb to eat.

“To break the bone of a dead is the same as breaking an alive person’s bone”.

“If a Muztar finds nothing to eat and he is in danger of losing his life and somebody asks him to serve his limb to eat, it will not be valid for him, nor is he allowed to cut his own limb to eat.

“To torture a dead is not less than torture a living person”

Foqaha has written that it is not allowed in Shariah to kill a person in anticipation of the fact that if he does not kill a person he himself will be killed.

The main reason behind this is that the parts of body are sacred trust bestowed upon humans from Allah (S.W.T), and the sale will be disobedience of the orders of AllaH (S.W.T)

In this connection the Foqaha present the explanation of the Holy Quran and

Moreover, Fatwah in favourof sale will degrade human dignity. The humans in order to avoid hunger and to satisfy their lust will start sale of limbs. It will promote trade of human limbs and the poor will not be able to live a peaceful life. No man made law can prevent this disaster.

Sunnah:

(Al-Quran 17:70)

“We have accorded dignity to human being”.

BANKING OF LIMBS

Banking of limbs is a medical need which is direly and in large amount needed in times of war and earthquakes etc. in those times, it is not possible to provide such a

large amount of limbs through donation. Therefore, the banking of limbs, if possible, is permissible so that these may be provided easily in needy hours. A limb if direly needed can be purchased but the donor should not sell his limbs.

The donation of limbs during a person’s life time is permissible if the needy person is also present. But in case of “Will” that after one’s death, his part or parts of body be donated is not valid as the needy person is not there.

having no heirs and if he has heirs, than the written consent of the heirs should be there.

CONCLUSION

Therefore, in life both Muslim and non-muslim can donate provided there should no use of force or compulsion. But after death, only non-muslim’s limbs can be had if he/she donates willingly in case of

If validity or non-validity is combined in any case, then the non-validity is given preference. This principle is almost Muslim and there is evidence in abundance. For example, there is Hadith-e-Sahi in Muslim Sharif:

This principle is also explained through the following saying of Shah WaliUllah (R.A):

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