

Chapter 5

Islamic Normativity Regarding Brain Death *Implications for Organ Donation* Arif Abdul-Hussain

INTRODUCTION

Determining the point of death has important implications in many aspects of human life. The issue of the extraction of bodily organs for the purpose of transplantation is perhaps the most pressing of them for Muslims. Today, medical advancements can maintain the functioning of the vital organs, such as the lungs and heart, in individuals who have irretrievably lost the capacity for awareness and spontaneous respiration. Such a state constitutes death according to the medical and legal wisdom of many countries, and hence organs can be donated at this point even though the heart and lungs are functioning, albeit artificially.¹ This poses a problem for Muslim jurists generally because the current definition of death in Islam is insufficient in providing the precise markers of death warranted by today's medically advanced context. Undoubtedly, it was formulated in and for pretechnological contexts and hence was sufficient and adequate for them, encountering no reason for its reevaluation.

Among Muslims, it is generally understood that death is the separation of the Spirit (*rūh*) or the human soul (*nafs*) from the body. This separation is unmeasurable empirically because it is a metaphysical occurrence. There are physical signs indicative of death *having* occurred, such as the onset of bodily decomposition, but such phenomena are not markers of *when* death occurred, and hence cannot be deemed as constituent elements of its definition. The general Islamic juristic position is that a person is deemed "to be alive" as long as they are breathing and have a pulse, which is in line with the historic and "lay conventional understanding" (*'urf 'āmm*) of the basic signs of life in animals

and humans.² Accordingly, it deems an individual whose brain is permanently inactive but whose heart and lungs are functioning with the aid of medical equipment to be alive.³ Consequently, extracting vital organs at this point for donation would result in certain death and hence constitutes the wrongful taking of a life. This cautious position is justified by “the procedural principle of continuity” (*istiṣhāb*) within the Shari’a legal framework. The principle asserts that in cases of doubt regarding any given situation, state, or ruling in which there was “certitude” prior to the doubt, the “certitude” about the given situation, state, or ruling has precedence over the doubt and must be presumed to be the fact.⁴ Thus, in the aforementioned case of an individual on life support with no or minimal brain activity in which doubt persists as to whether the individual is alive, the principle asserts that life must be presumed, and so organ donation in all such cases is impermissible. There are debates in the jurisprudential (*fiqhī*) discourse about the validity and acceptability of specialized conventional understandings (*‘urf khāṣṣ*), such as the conventional medical understanding in determining the definition of death; however, generally there is skepticism about its probative force (*hujjīyya*) as a source of knowledge in the derivation of Shari’a rulings due to the probable nature of its knowledge.⁵

This chapter offers an understanding of the notions of life, soul (*nafs*), spirit, death (*mawt*), and cessation (*tawaffā*) based on the Qur’an and Shi’i Imami hadith literature, supplemented with the insights of the Muslim philosophers and exegetes. By clarifying these concepts, the chapter asserts that the body, which is a composite of its cells, tissues, and organs, has the potential to continue to function, albeit rudimentarily and with the aid of a ventilator, in spite of the soul of the human having been irrevocably separated from it. To substantiate this, it discusses the different abilities, powers or faculties of the soul, their hierarchical nature, and their respective relationships to the body.⁶ It then examines the notion of “Spirit” and its division into “the higher spirit” and “the bodily spirit”: the former being the cause of the emergence of the intellective faculties of the soul, whereas the latter permeates all matter and animates the material constitutions of living entities, such as unicellular and multicellular organisms, by bestowing each with certain faculties of the soul. The chapter reasons that the seat of the soul of a human is the brain from whence it is aware of, animates and governs the body and its parts. Hence, the absence of all brain activity, which is concomitant with the irrevocable loss of awareness, autonomous animation, and governance of the body and its parts, is indicative of a state of cessation of the connection between the soul and body, that is, it denotes the death of the human. Accordingly, the termination of all brain activity is the physical marker of the separation of the soul from the body.

Based on this, the chapter argues that the death of the human does not necessarily equate to the death of the cells, tissues, and organs of the body. This

is because it associates “the cessation of the connection between the soul and the human body” with the irrevocable cessation of all brain activity and not “the cessation of breath and a pulse,” which allows for the fact that the cells, tissues, and organs of the body can continue to live as a result of mechanically assisted breathing and blood flow, despite the human having died. The implication of this is that organ donation is permissible in all such cases since death has occurred. Accordingly, “brain death”—as defined by the medical convention and wisdom in UK today—cannot be deemed to be the physical marker for the separation of the soul from the body, and hence death. This is because some areas of the brain continue to function despite the individual being declared “brain dead.”⁷ Therefore, organ donation is not permissible in all cases of “brain death” as defined in UK today because at the very least doubt persists as to whether the soul has separated from the body.

In light of this understanding of death, the chapter applies “the principle of continuity” to (a) cases in which the total cessation of all neurological activity in the brain has occurred; and (b) all other states of diminished neurological function albeit severe, such as brain death.⁸ This verifies whether the current medical understanding of the point of death is acceptable from the perspective of the Shari‘a and, consequently, whether it is permissible to retrieve organs for transplantation in cases of brain death.

LIFE

According to Muslim philosophers, an entity is said “to exhibit life” or “be alive” if it displays the basic activities of either plants or animals: in the case of plants, these are motion and production, and with regard to animals and humans, they are motion (*ḥaraka*), production (*jadhb* and *dafʿ*), perception (*idrāk*), and ability (*qudra*).⁹ The basic activities of perception and ability in animals are presupposed in Qur’anic verses mentioning the states of life and death of the human, such as: “. . . you were dead, then He brought you to life, then He will put you to death, and then He will bring you to life (once again) . . .”¹⁰ Here death and life are depicted as two states that come upon a human being successively. What distinguishes the state of life from death is that, in the former, the human has the capacity to perceive via the body and the ability to utilize the body. Accordingly, death is that which deprives a human being (and other animals) of the capacity to perceive via the body and the ability to utilize the body. However, other verses indicate that these two markers of life, although necessary, are not sufficient constituents for the definition of life:

And among His Signs is that you see the earth barren and desolate; but when We send down rain to it, it is stirred to life and yields increase. Truly, He Who

gives life to the (dead) earth can surely give life to (men) who are dead. For He has power over all things.¹¹

This verse states a more basic marker of life common to all living things, that is, to all entities other than inanimate objects. It equates the “life” of the earth with the “the activeness” of the earth. Thus, when the earth is productive, it is said to be alive, and it is described as “dead” when it is unproductive. Accordingly, the mere biological functioning or activeness of an entity is itself a marker of life.

That being said, the Qur’an alludes to an even more basic marker of life than these. It regards existence *qua* existence as conscious and alive, that is, it maintains that all existents have awareness and hence have “life,” including objects usually classified as inanimate, such as rocks and mountains, that do not exhibit any biological function or production aside from internal molecular dynamism: “There is nothing but that it praises Him although you do not comprehend its eulogy.”¹² The philosophers accept that life is an essential property of existence, but they make a distinction between “essential” and “accidental” forms of life.¹³ They assert that the human soul, Spirit or that which bestows the formness of things to matter, has essential life by virtue of its non-bodily, immaterial, and intellective nature, while material objects such as atoms, rocks, stones, and bodies have accidental life.¹⁴ In any case, it can be inferred from the Qur’an that all material forms are alive by virtue of their mere existence; hence, existence and motion are the most basic markers of life. Accordingly, motion must also be included as a constituent of the definition of human life alongside perception, ability, and biological activeness.

In view of this, death is a relative state and hence is to be understood in relativistic terms, since ultimately every entity is alive in and of itself by virtue of its mere existence irrespective of whether its existence is essential or accidental. This understanding of death as a relative state is corroborated by verses such as, “Indeed only those who listen/understand (the believers) shall respond (to the call of guidance); as for the dead (disbelievers), God shall raise them” and “it is a mere reminder and a clear recitation to caution those who are alive.”¹⁵ These verses assert that those who are not guided aright by the admonitions of the revelation and the blessed Prophet are not alive, and so such individuals who reject the signs of God are designated as “dead.” Here, the word “dead” signifies the state of individuals who are not living to the fullness of their human potential, meaning they are not comprehending the signs of God at the rational and intellectual (spiritual) levels of the human soul. Additionally, the verse, “Those they call onto other than Allah . . . are dead not alive . . . ,” asserts that the idols worshipped by the Meccans were “dead” due to their inability to (a) respond to supplicants and (b) to control events to the degree ascribed to them by their devotees.¹⁶

In light of this, the following can be concluded:

1. All beings have awareness and inner dynamism; hence, life is all pervasive.
2. The markers of human life are perception and ability.
3. Death can only be conceived of in relativistic terms.

Therefore, “life” is a general predicate of all things metaphysically speaking, despite its generic predication being restricted to biologically functioning entities in everyday parlance. In any case, by virtue of being a general predicate, it cannot be employed as a criterion to distinguish living entities from one another; rather, the criteria have to be based on the differences in quality or degree of life exhibited by entities, or their differing functions, that set them apart from each other. The Muslim philosopher reasons that the different qualities or degrees of life exhibited in the different material entities are in essence the result of the agency animating the material entities and their operations; this is because the material constitutions of entities are only alive accidentally, that is, they do not have “life” in and of themselves. In other words, the thing causing the differing levels of awareness and ability in different entities is the very same thing that bestows those entities with the status of “being alive.” Moreover, since this agency is the cause for the variety of the types of perception, production, and motion exhibited in the different genres of living beings, it must of necessity have awareness in itself (and hence of itself) and of the operations of the body or material constitution that it is animating. This agency is the soul (*nafs*). Ibn Sīnā offers a more detailed exposition of the relation between the soul and matter. He reasons that the active intellect (the last of the detached or immaterial consciousnesses) is the cause of both the souls of organisms and the emanation of their material constituents. Regarding the latter, the active intellect is assisted by the celestial bodies, which also determine the preparations of the material constituents of entities. The active intellect bestows appropriate forms or souls to these material preparations in accordance with the differences in the preparations.¹⁷ The generic functions of the soul of every organism are to animate the organism’s material constitution (or form) causing its motion or growth, to bestow the organism with awareness, and to retain the arrangement of the organism’s material constitution (or form).¹⁸

SOUL

Since all living beings function by virtue of the agency of the soul, and since a hierarchy of fundamentality¹⁹ exists between the four aforementioned

markers of life (i.e., motion, production, perception, and ability), it follows that the souls of entities (such as animals and humans) exhibiting the markers of perception and ability will, of necessity, possess the faculties of the souls of entities (such as plants and minerals) causing the manifestation of the more fundamental markers of life.²⁰

The above understanding is corroborated by a narration of ‘Alī ibn Abī Ṭālib, the first Shi‘i Imam. The following is the relevant part of his reply to a question posed to him by his Companion, Kumayl bin Ziyād, on the nature of soul:

The souls [or faculties of the soul] are . . . the growing vegetative soul [or faculties], the sensually perceiving animal soul [or faculties], the intellective human soul [or faculties]. . . Each one has five strengths. The vegetative soul has the ability to retain [the form of the body as a whole and its parts], absorb and digest [nutrients], repel [waste], and grow. The [existence, subsistence and] operation of this soul is concomitant with the body. The sensual [or perceptive] animal soul has the ability to see, hear, smell, touch, and taste.²¹ The operation of this soul is concomitant with the body. The intellective human soul has the ability to contemplate, remember, [acquire] knowledge, understand, and be alert; this is the closest in resemblance to the souls of the angels. This soul does not have [a bodily] source from whence it originates.²²

Therefore, it is the intellective faculties of the soul in humans that set apart the human being from other organisms. Moreover, there is no locus in the body from whence it originates, whereas the perceptive (animal) and vegetative (plant) faculties of the soul of the human only operate in and via the body for the duration that it is ensouled. The faculties are bestowed to the evolving material constitution of the human organism as and when its material constitution is able to exhibit them: at the onset of human existence, only the vegetative faculties of the soul of the developing embryo are active. This is followed by the activation of the soul’s perceptive faculties and intellective faculties during the fetal stage. The narration refers to the fact that the three types of faculties operate on different aspects of the organism’s existence: the vegetative faculties are responsible for the retention of the organism’s form as a whole and its parts, and its growth; the perceptive faculties of the soul animate the organism’s organs of perception, cognition, and volition; and finally, the intellective faculties of the soul give it the ability to reason.

To understand the nature of these three types of faculties of the soul and their relationships to each other and the body, the notion of “entelechy” is utilized by the philosophers. Ibn Sīnā regards the soul as an entelechy of the body, meaning the soul of an ensouled organism is at once both: (a) the form of its body and inseparable from it; and (b) not the form of the body, immaterial and separable from it. To elucidate, this means the vegetative

faculties and the operations of the perceptive faculties of the soul pertain to the form of its body and are inseparable from it, whereas the intellective faculties and its operations do not belong to the form of the body in essence; rather, they are immaterial and separable from it.²³ According to Ṣadr al-Dīn Shīrāzī (Ṣadrā), the intellective faculties of the soul operate on the body indirectly via its vegetative and perceptive faculties. The implication here is that the soul's vegetative faculties and the operations of its perceptive faculties only exist for the duration the body is ensouled, whereas the soul in itself is immaterial, intellective, and perceptive.²⁴ It should be noted that Ṣadrā regards the immaterial, intellective soul as being essentially perceptive; however, the perceptive faculties of souls whose intellective faculties are not fully actualized are in need of a form—material or otherwise—to operate.²⁵

Therefore, in early fetal development, the vegetative faculties of the soul are already activated at the cellular level of the gamete, and they express the actual ability of the cell, tissues, and body to absorb and metabolize nutrients, and grow. The soul's perceptive faculties are activated at a later stage when the fetal body and brain has grown sufficiently, and they express the body's actual ability to sensually perceive. It should be noted that there is no difference between the souls of animals and humans aside from the fact that the human form allows the soul to manifest its intellective faculties. In other words, all animals have individual souls, like humans, functioning via their vegetative and perceptive faculties.²⁶ In the discussions that follow, the vegetative faculties and the operations of the perceptive faculties of the soul—the existence, manifestation, and activity of which are concomitant with the body—will also be termed as the “bodily faculties of the soul” where appropriate.

Thus far, the following may be concluded:

1. The varying degrees of life observed in diverse entities are the result of the expression of the three types of faculties of the soul.
2. The faculties of the soul have a hierarchical order and, regardless of which of them are activated, the soul is always aware of itself and its functions.
3. The intellective faculties of the soul of humans are distinct from its bodily faculties.

The questions at this point are: How do the intellective faculties of the soul manifest in the human form, and how does the soul ultimately separate from its form? In other words, what causes the soul to emanate its intellective faculties vis-à-vis the human body and what causes the soul of the human to finally separate? The Qur'an asserts that the Spirit (*rūh*) initiates the intellective

faculties of soul within the bodily realm and causes its functions to subsist therein.

SPIRIT AND ENSOULMENT

The Qur'an employs the word "spirit" in several formulations and senses, such as "the holy *spirit*" (*rūḥ al-Quds*) that came to the Lady Mary and assisted the blessed Prophet Jesus, and "the *spirit* is from the command of my Lord, and you have not been given any knowledge [of it] except a little."²⁷ This study is concerned with the Qur'anic verses describing the Spirit as responsible for activating the intellectual faculties of the soul of the human. Consider the verse narrating the ensoulment of the Prophet Adam, "When I have shaped him, and breathed My spirit in him, fall down prostrating to him!", and the verse describing the ensoulment of a bird fashioned by Jesus from clay, "I will create for you out of clay as the likeness of a bird; then I will breathe into it, and it will be a bird, by the leave of God."²⁸ According to such verses, the Spirit-body connection causes the emergence of human and bird souls—isthmuses—that are alive and self-aware, and able to govern and function via the body.²⁹

Regarding the Prophet Adam, ensoulment occurs after his body is fully formed. This is different to the point of ensoulment of the fetus in the womb, which the Qur'an refers to in its description of the processes of fetal development:

And certainly, We did create man from an extract of clay. Then We placed him as a sperm-drop in a firm lodging. Then We made the sperm-drop into a clinging clot, and We made the clot into a lump [of flesh], and We made [of] the lump, bones, and We covered the bones with flesh; then We developed him into another creation. So blessed is Allah, the best of creators. Then indeed, after that, you are to die. Then indeed, on the Day of Resurrection, will you be resurrected.³⁰

According to a narration of the fifth Shi'i Imam, al-Bāqir, the Spirit affects the fetus when the bones are covered with flesh, activating the perceptive faculties of its soul and its potential intellectual faculties, after which it is made into another creature.³¹ This is corroborated by a narration of Imam 'Alī regarding the blood money (*diyya*) liable after the abortion of a fetus; he instructs that full blood money must be paid upon the abortion of a four-month-old fetus (gestational age) in accordance with its gender, since it is a full human being by then.³²

Therefore, the Spirit-fetal dynamic at four months activates the soul's intellectual faculties, thereby affording the status of humanness and personhood to

the fetus. This point marks the transformation of the fetus from a mere living, growing body to a living “human.” The following Qur’anic verses addressing the soul of a human qua its intellective, perceptive, and immaterial essence are quoted here to emphasize the distinctiveness, separateness, and immateriality of the essence of the soul of the human: “O contented soul, return to your Lord . . .,” and “How do you disbelieve in God, seeing you were dead and He gave you life, then He shall make you dead, then He shall give you life, then unto Him you shall be returned?”³³

Both Ibn Sīnā and Ṣadrā assert that the immaterial and intellective soul of a human is distinct from the body and separable from its vegetative and perceptive faculties that manifest during ensoulment, as noted previously. They concur that the intellective faculties of the soul exist as mere potentialities at the onset of their activation in the womb, by virtue of the Spirit-fetal dynamic. After this, these potential intellective faculties are gradually actualized by the experiences of human life in an evolutionary manner, culminating in their complete actualization, whereby the immaterial, intellective soul is finally understood to have been existing independently of the body it is animating.³⁴

In view of the above, it is clear that the fetus has “life” due to (a) the vegetative faculties of the soul enabling it to grow and (b) the perceptive faculties of the soul enabling it to experience sense perceptions prior to the activation of the intellective faculties of the soul. To reiterate, the intellective faculties of the soul are activated vis-à-vis the fetus after the manifestation and operation of its vegetative and perceptive faculties, even though the soul is immaterial in itself and hence intellective essentially.

The main point of the above deliberations is that the intellective and perceptive faculties of the soul are distinct from its bodily faculties (i.e., they are distinct from its “vegetative faculties and the operations of its perceptive faculties”) in terms of both origin and essence: the former (i.e., the intellective and perceptive faculties) are the essential property of the immaterial soul and hence originate from it, whereas the bodily faculties are forms emerging within the material body as a result of the soul’s association with the body. This means the vegetative faculties of the soul only manifest as a result of the soul’s association with matter, whereas the operations of the perceptive faculties of the soul can manifest in both material and nonmaterial forms as a result of the soul’s association with them.³⁵ To reiterate, the intellective and perceptive faculties of the soul are separable from the body and subsist after death; in contrast to this, the vegetative faculties are inextricably connected to the body and cease to function when the soul (with its intellective and perceptive faculties) separates from the body. In light of this distinction, the philosophers classify the *potential* intellective soul as a separate incorporeal substance whose activity is contingent upon form, be it material or otherwise.³⁶

Thus far, the following can be concluded:

1. The Spirit-body connection causes the activation of the intellectual faculties of the soul associated with that body.
2. The intellectual soul of a human has perceptive and vegetative faculties and functions via them.
3. The soul of a human evolves through its body.
4. The soul of a human (i.e., the soul with its intellectual and perceptive faculties) persists beyond its irrevocable separation from the body.
5. The bodily faculties of the soul (i.e., its vegetative faculties and the operations of its perceptive faculties) can manifest in the body prior to the emergence and activity of the soul's intellectual faculties, as in the case of a growing fetus in the early stages of its development.

The next section examines the nature of the relationship between (a) an immaterial, separable soul; (b) its physical body; and (c) the Spirit.

SOUL-SPIRIT RELATIONSHIP

The Spirit is one reality—immaterial and intellectual in and of itself. It is the source of all that is, including the life exhibited in matter and the intellectual and perceptive faculties of the soul.³⁷ For the purposes of understanding, divisions and distinctions of the different modes and functions of the Spirit are made. Hence, Ibn Sīnā distinguishes between “the bodily spirit” and “the nonphysical spirit.”³⁸ Suhrawardī defines the former as “life” and “an ethereal substance flowing through all the limbs.”³⁹ In light of the previous section, “the bodily spirit” manifests as, and is equivalent to (a) the vegetative faculties of the souls/forms of plants and lesser organisms and (b) the vegetative faculties of the souls of animals upon which the operations of their perceptive faculties depend.⁴⁰ “The nonphysical spirit” is, in essence, the same substance as the immaterial, intellectual soul. Ṣadrā elucidates that “the bodily spirit” pertains to the realm of creation, whereas “the higher (nonphysical) spirit” belongs to the realm of “the Command” (*ʿamr*) mentioned in Qur’an 17:85 before. “The bodily spirit” has the potential for motion, growth, sense perception, and is the means by which “the higher spirit” manifests its functions. Ṣadrā states that when “the higher spirit” associates or connects with “the bodily spirit” (in other words, when it associates with souls that have vegetative and perceptive faculties) of material bodies (of fetuses), this conjunction gives rise to individual human souls (or, in other words, it activates the intellectual faculties of the souls of fetuses).⁴¹ Hence, the intellectual soul of the human can be said to be an isthmus between the “the higher spirit” and “the

bodily spirit” of a particular material body. However, it must be reiterated that “the bodily spirit” and “the higher spirit” are essentially one and the same immaterial, intellective substance; in other words, they merely signify the different operations of one and the same reality—the Spirit: the notion of “the bodily spirit” denotes the operation of the Spirit in matter, whereas “the higher spirit” is indicative of the Spirit’s immaterial, intellective essence.

Ṣadrā asserts that prior to the individuation of the human soul by virtue of the “the higher spirit’s” association with “the bodily spirit,” the soul is one undifferentiated entity.⁴² For Ṣadrā (following Suhrawardī), individual souls are temporal in their origination and eternal in their post-mortmic state.⁴³ The fact that the Spirit is the cause of all that is necessitates that there be an inextricable connection between “the higher spirit” and the undifferentiated, immaterial, and intellective human soul, if the two are to be regarded as distinct immaterial entities. Hence, the former—of necessity—is inseparable from the latter, since it is the cause of both the latter and the latter’s individuation. This inextricable connection is obviously the reason why the souls of the deceased are more frequently referred to as “spirits” (*arwāḥ*) rather than “souls” (*nufūs*) in the spiritual literature, and hence in conventional parlance.⁴⁴ In fact, the words “soul” and “spirit” are often used interchangeably by scholars in their works. For instance, Muḥammad Ḥusayn Ṭabāṭabā’ī, the exegete of the Qur’an and philosopher, utilizes them interchangeably in his exegesis of the usage of the word “cessation” (*tawaffā*) in the Qur’an.⁴⁵

According to a narration of the Imam al-Bāqir, the soul ascends to the heavens during sleep while the (bodily) Spirit (or the vegetative and perceptive faculties of the soul) remains within the body, by virtue of the former maintaining its relationship to the latter (and hence to the body by extension), which is akin to the sun and its rays. If death were to occur during sleep (i.e., if total separation of the soul from the body occurred during sleep), then the (bodily) Spirit (would be withdrawn from the body, and it) would “rejoin” the soul; otherwise, the soul would “rejoin” (or “return” to) the (bodily) Spirit in the body.⁴⁶ This narration does not mention the distinction between the human soul and “the higher spirit.” In fact, the human soul is attributed to the Spirit’s role in animating the human material constitution. Therefore, it can be inferred that either they are one and the same reality, or that they share the same essence due to the causal relationship between them, and hence there exists a very intimate, if not an indistinguishable, relationship between them in humans, post-ensoulment.

In light of the above discussions, the expression “the bodily spirit” can refer to either its generic description or its animation of the operations in matter. When employed to refer to the former, it signifies the dynamism and consciousness of Spirit innate in matter, and when employed in the latter sense, it denotes its function of animating the cells, tissues, and organs of

the material constitutions of organisms. Hence, it is generally termed as “the bodily spirit” or “life” when employed to signify the former and “the bodily faculties of the soul” when employed to mean the latter.

Thus far, it can be concluded that:

1. The Spirit is the source of all that is. Its immaterial aspect, which is intellectual and perceptive in and of itself, is termed “the higher spirit,” and its material aspect, which permeates matter and has the potential of bestowing material forms with vegetative faculties, is termed “the bodily spirit.”
2. “The bodily spirit” can refer to (a) bodily life and/or (b) the metabolism of the cells, tissues, and organs of organisms resulting from the activity of the vegetative faculties of their souls. Hence, it can also be employed to refer to the life and metabolism of unicellular and multicellular organisms that do not classify as plants and animals.
3. “The higher spirit” is the essence of the immaterial, intellectual soul of the human and remains distinct from the vegetative faculties and the operations of perceptive faculties of the soul (or “the bodily spirit”) in the body.
4. At four months of gestation, “the higher spirit” activates the intellectual faculties of the soul of the fetus and henceforth is inseparable from it.

Since “the higher spirit” is an immaterial reality transcending the material/form-based dichotomy of subject and object, it defies direct detection by the senses and human instruments. It is only detectable indirectly as the effects of rationality stemming from the intellectual faculties of the soul that are exhibited via the operations of the vegetative and perceptive faculties of the soul in the body. Hence, the only discernible features of the soul within the material/bodily realm are its vegetative and perceptive faculties, and the judgments of theoretical and practical reason/rationality.

The soul of the human initially manifests its vegetative faculties at the gamete, zygote, and fetal stages of the human organism. This is followed by the manifestation of its perceptive faculties when the fetus has grown sufficiently. The soul finally manifests its intellectual faculties around the fourth month of fetal development. The soul exhibits all of its faculties for the duration of its association with the body. Ordinarily, when the soul separates from the body, the brain, heart, and lungs stop functioning, starving the cells, tissues, and organs of oxygen, after which they die, and the slow process of decomposition ensues. However, should the heart and lungs be kept artificially pumping and breathing in spite of the soul having separated from the body, then the cells, tissues, and organs will continue to function in and of themselves by virtue of the operations of the vegetative faculties of

their respective souls/forms. The exhibition of life and metabolism in such cells, tissues, and organs will not be due to the soul of the human, since it has already separated from the body. This issue, including the markers of the separation of the soul of the human from its body, will be discussed more fully in due course.

The next section discusses the nature of “death” in general and the meaning of human bodily death specifically. This will clarify whether “the bodily spirit” that permeates the cells, tissues, and organs of the body can continue to function despite the severance of the “higher” spirit-body connection, and whether the metabolism of the cells, tissues, and organs of the fetus prior to its association with “the higher spirit” can yield insights and justifications regarding the issue. In other words, is it possible for the individual souls/forms of the cells, tissues, and organs of the body—which are other than the soul of the human—to continue to be metabolically active despite the irrevocable separation of the soul of the human from its body? For it is clear that the vegetative, perceptive, and intellective faculties of the soul animate, operate, and control the body as a whole, and its parts—that is, its cells, tissues, and organs—for the duration that the body is ensouled.⁴⁷

DEATH (MAWT)

According to the following Qur’anic verse, “Look then at the signs of Allah’s mercy, how He revives the earth after its death (*mawt*) . . .,” death is the total lack of the anticipated function of an organism in its existential capacity, that is, it is the absence of the functionality of an organism appropriate to its essence whereby its own growth, and its essential relation to other organisms, has ceased.⁴⁸ Regarding the death of the human specifically, the following Qur’anic verse, “. . . you were dead, then He brought you to life, then He will put you to death, and then He will bring you to life (once again) . . .,” is utilizing the words “dead” and “alive” in terms of the exhibition of the bodily functionality of the soul of a human.⁴⁹ Hence, the death of a human is the absence of the exhibition of bodily functionality appropriate to the essence of the soul of the human. This lack of bodily functionality appropriate to the soul is due to the lack of the soul’s association, connection, and hence participation with the body. Therefore, the death of the human is the lack of bodily functionality appropriate to the soul as a result of the soul’s lack of participation with the body. This definition of death—which is applicable to all organisms, including humans—admits what is routinely carried out in scientific laboratories and hospitals all over the world today: the simultaneity of (a) the death, or absence of functionality appropriate to the essence, of an organism (such as an animal or human); and (b) the life, or presence

of functionality appropriate to the essence of its cells, tissues, and organs induced by artificial means.

Therefore, the definition of death consists of two notions, the first being the marker and effect of the second:

1. The marker and effect of the death of an organism, such as in a human, is the irrevocable absence of the functionality of its material constitution appropriate to its essence.
2. This marker and effect of the death of an organism is caused by the lack of its soul's participation with its material constitution.

Both the lack of bodily functionality appropriate to the human's essence and the absence of the soul's participation with the body have to be absolute in order for death to be pronounced. This applies to both types of death alluded to in the Qur'an: temporary and permanent. Hence, the definition of the "temporary" death of a human has the two aforementioned notions plus the qualification of "for a temporary period"; in other words, temporary death is the absolute cessation of bodily functionality appropriate to the human's essence and the total absence of the soul's participation with the body *for a temporary period*. The following Qur'anic verse refers to an instance of the occurrence of "temporary" death: "Have you not considered those who left their dwellings in fear of death, and they were in their thousands? Allah said to them die, then He brought them to life."⁵⁰

The notion of temporary death needs to be distinguished from "the *suspension* of bodily functionality appropriate to the human's essence due to the partial absence/connection of the soul's participation with the body," as in sleep. The Qur'an alludes to the people of the cave, who were induced into states of prolonged, deep sleep, as alive: "When the youths sought refuge within the cave saying, 'Our Lord, grant us mercy from Yourself, and shape for us a right course in our affair'; thus We sealed their ears for a number of years within the cave."⁵¹ They awoke from this deep sleep state after 300 years, which was followed by another period of deep sleep for nine years. During both periods of sleep, they are said to have changed their positions, a characteristic of sleep, and would appear to onlookers to be alive.⁵²

Šadrā uses the analogy of a ship and the wind that sails it to explain the relationship between the body and Spirit during life and death: the Spirit is akin to the wind, and the body to the ship. If the wind ceases to blow, the ship becomes motionless. Similarly, when the Spirit separates from the body, the functioning of the latter ceases. He states that natural death occurs when the soul completes its journey via the body and consequently forces the body to shut down in order to escape it, just as the forceful wind causes

the ship to wreck. In contrast, premature death occurs when the body—after suffering from ailments not treated adequately—fails to function, whereby there is no host for the soul of the human to abide in. In both these cases (of natural and premature death), Ṣadrā is presupposing the contingency of “the higher spirit’s” activation of the intellectual faculties of the soul on the sound functionality of “the bodily spirit” (or the bodily faculties of the soul) in the body.⁵³ To reiterate for clarity, natural death ensues as a result of the intellectual faculties of the soul being actualized and completing the soul’s journey whereby it begins separating from the body, forcing the vegetative—and hence the operations of the perceptive—faculties of the soul (or “the bodily spirit”) to cease operating. However, in premature death, “the bodily spirit” (or the vegetative faculties of the soul) is unable to operate in and heal the damaged or defective material constitution of the human; hence it begins to cease operating, forcing the soul of the human to separate from the body.⁵⁴ In both these cases (of natural and premature death), “the death of the human” ensues as a result of the cessation of the functionality of the vegetative—and hence the operations of the perceptive—faculties of the soul, whereby the metabolic activity of the cells, tissues, and organs of the body ceases. These deliberations on death by Ṣadrā are consistent with his assertion (previously discussed) that the functionality of “the higher spirit” (or the intellectual faculties of the soul) is contingent upon the proper functionality of “the bodily spirit” (or the bodily faculties of the soul).

However, despite the soul (with its intellectual and perceptive faculties) having separated from the body, causing the cessation of the operation of its vegetative and perceptive faculties therein, the fact that all matter is infused with Spirit (since its emanation is from Spirit) allows for the possibility that the vegetative/metabolic operations of the cells, tissues, and organs of the body continue to function independently of the separated soul should the conditions conducive to their functioning persist. In other words, despite the human having died due to the separation of the soul from the body, it does not preclude the possibility for the cells, tissues, and organs of that body to continue to be metabolically active—provided they are kept oxygenated and supplied with glucose—due to the innate presence of “the bodily spirit” in matter, and its potential to animate them.⁵⁵ It will be recalled that the expression “the bodily spirit” can be employed in two senses. When utilized with respect to the cells, tissues, and organs of a body whose soul has separated, it refers to the “Spirit innate matter” and not “the operations of the vegetative and perceptive faculties of the soul in the body”; this is because the faculties of the soul have ceased to operate due to its separation from the body. Hence, the expression “the bodily spirit,” when not associated with a particular soul, refers to the functionality of the Spirit innate in all matter.

The following is the summary of the main points of this section:

1. The cessation of the operation of “the bodily spirit” connected to the soul of a human (i.e., the absence of the operations of the vegetative and perceptive faculties of the soul) results in the death of the body—or the cessation of metabolic activity in its cells, tissues, and organs—and hence the separation of the soul from the body.
2. However, since all matter is infused with Spirit, it is possible for the Spirit—innate in the material constitution of the cells, tissues, and organs of the body whose soul has separated—to cause its cells, tissues, and organs to continue to be metabolically active as long as the conditions necessary for their functioning persist (i.e., as long as they are kept supplied with oxygen and glucose).⁵⁶
3. Therefore, the death of a human (or animal) does not necessarily have to result in the death of the cells, tissues, and organs of the body of that human.
4. Hence, it is logically and theoretically possible for a human to be pronounced dead while the cells, tissues, and organs of the body are metabolically active/alive due to mechanical assistance.

The next section endeavors to clarify this further. It will analyze the Qur’anic notion of *tawaffā* (cessation) in light of another of its notions—*mawt* (death).

CESSATION (TAWAFFĀ)

The Qur’an makes a distinction between “bodily death,” *mawt* in Arabic, and “the cessation of the activity of the faculties of the soul in the body,” *tawaffā*, in several verses, such as:

1. Allah ceases (*yatawaffā*) the souls (*anfūs*) at death (*mawt*) and the ones that have not died during their sleep. Thus, He retains the ones upon whom death has come to pass and sends back the others till an appointed time.⁵⁷
2. Say: the angel of death (*mawt*), who has been appointed over you, shall cease you (*yatawaffā*).⁵⁸
3. He is dominant over His servants and sends over you guardians until, when death (*mawt*) comes to one of you, then our messengers cease him (*tawaffat-hu*).⁵⁹

The distinction is clear: “cessation” pertains to the soul, and “death” and “sleep” to the body, that is, “the cessation of activity or functionality of the

faculties” is a state of the soul, whereas “death” and “sleep” are states of the body. Thus, it is the body that experiences “death,” which results in the “cessation” of the activity of the soul in the body, and hence its separation from the body. The blessed Prophet has described the connection between the two states of the body thus: “Sleep is the sister of death.”⁶⁰

Since “cessation” is common to “sleep” and “death,” its definition must be applicable to both. Hence, it is “the lack of conscious participation of the soul with and via the body,” resulting in the absence of the bodily functionality appropriate to the essence of the soul of a human. In other words, for the duration that these bodily states persist, the soul of the human has neither active discretion over the body nor active awareness characteristic of the body in the waking state. The important point to note here is that the occurrence of “cessation” is not restricted to bodily death, rather it is also a phenomenon occurring while the body is alive, such as during sleep.

Muḥammad Ḥusayn Ṭabāṭabā’ī states that the word *tawaffā* (the root letters of which are *wa fa ya*) denotes the retention of a thing upon its completion.⁶¹ Hence, with respect to the soul of a human, it signifies the retention of the soul upon its completion, which corresponds with Ṣadrā’s understanding of natural death as the consequence of the completion of the evolutionary motion of the soul via the body.⁶² However, considering that *tawaffā* also occurs for the duration of the sleep state, it must denote a more basic meaning encapsulating both (the sleep and death states of the body), which is *restraining the intellective and perceptive faculties of the soul from operating in the body resulting in the cessation of bodily functionality appropriate to the essence of the human*. Therefore, *tawaffā* is the cessation of the functionality of the intellective and perceptive faculties of the soul in the body. Hence, death (*mawt*), which is the complete cessation of the soul’s participation with the body, in addition to the cessation of the functionality of the soul’s intellective and perceptive faculties during the sleep state, includes the cessation of the functionality of the vegetative faculties of the soul in the body.

The cause of “the cessation of the functionality of all the faculties of the soul in the body” according to a narration of the sixth Shi’i Imam, al-Ṣādiq, is the severance of the Spirit-body connection. It states that the Spirit vacates the body *totally* at death and *partially* during sleep.⁶³ Here, the “partial” vacation of the Spirit signifies (i) the continued operation of the vegetative faculties of the soul (or “the bodily spirit” connected to the soul) in the body; and (ii) the absence of the operation of its intellective and perceptive faculties (which, as will be recalled, were and remain activated by virtue of “the higher spirit’s” association and connection with the soul) during the sleep state. The “total” vacation of the Spirit signifies the absence of the operation of both elements of the Spirit associated with the soul of a human—its “higher” and “bodily” aspects—within the body.⁶⁴ The partial vacation of the Spirit

during sleep is akin to the state of the fetus prior to the activation of its soul's perceptive and intellective faculties: in both cases, *only* the soul's vegetative faculties are operating—facilitating (a) the retention of the organism's form, (b) the absorption and digestion of nutrients, (c) the processing of wastes and toxins, and (d) the organism's growth.⁶⁵

Therefore, the cessation of the Spirit-body connection is the cause of both “partial” and “total” absence of the functionality of the soul in the body; the “partial” is caused by the cessation of the functionality of just the “higher” aspect of the Spirit-body connection in the body, whereas the “total” is caused by the cessation of the functionality of both the “higher” and “bodily” aspects of the Spirit-body connection in the body. This analysis stands true regardless of one's view of the nature of the soul and its relationship to the Spirit, that is, it holds true regardless of whether the soul is viewed as a particular facet of the Spirit or as a separate entity inextricably connected with the Spirit.⁶⁶

The causality between bodily death and “total” cessation means the former inevitably results in the latter, with the exceptions of those examples of “temporary” death cited in the Qur'anic verses.⁶⁷ In contrast to this, the cessation occurring for the duration of the sleep state is “partial” and not “total.” Therefore, cessation can occur without bodily death as in sleep, and hence does not necessitate prior bodily death for its occurrence, as stated in the Qur'anic verses.⁶⁸ Based on this, it would seem that the general rule is that: (a) “partial” cessation does not necessitate bodily death, whereas (b) “total” cessation does result in the death of the body.

However, in relaying the story of the blessed Prophet Jesus, the Qur'an indicates that even “total” cessation does not necessarily have to result in the death of the body. It states that “total” cessation of the faculties of the soul of the Prophet Jesus occurred without resulting in the death of the body: “They did not kill him and neither did they crucify him,” and “When God said: O Jesus! I shall cease you (*mutawaffi*) and raise you to Me.”⁶⁹ The commonly held belief among exegetes is that the Prophet Jesus did not experience a natural death and yet “total” cessation did occur, after which his body was taken to the heavens.⁷⁰ This phenomenon can be understood in light of the aforementioned notions discussed in this chapter. The phenomenon of the body of the Prophet Jesus being alive despite the “total” cessation of the functionality of all the faculties of his soul in his body means that the “bodily” aspect of the Spirit innate in matter (and independent of his soul) continued to animate the vegetative faculties of the souls/forms of the cells, tissues, and organs of his body and hence their metabolism. Moreover, such independent functioning of the Spirit innate in matter is corroborated today in hospitals and laboratories throughout the world, wherein cells, tissues, and organs are routinely separated from both living and deceased bodies,

after which their metabolic functions continue to operate independently of their host bodies.

The following is the summary of the main points of this section:

1. The “total cessation” of the operations of all the faculties of the soul in the body does not of necessity always cause bodily death. Hence, it is possible to keep its cells, tissues, and organs alive independently of the soul.
2. For the duration of the sleep state, there is “partial cessation” of the operations of the faculties of the soul in the body, which is akin to the state of the fetus prior to the activation of its soul’s perceptive and intellectual faculties. In both, *only* “the bodily spirit” connected to the soul, or the soul’s vegetative faculties, is operating.

Also, in light of the preceding section, it can be asserted that:

- The inability of the vegetative faculties of the soul to function and heal the fatal damage sustained by the body is the eventual cause of “total cessation” of the operations of all the faculties of the soul in the body.

Therefore, “total cessation” is caused by bodily death resulting from the cessation of the operations of the vegetative faculties of the soul; however, the contrary does not necessarily follow, that is, bodily death is not of necessity caused by “total cessation.” In other words, “total cessation” necessarily follows bodily death; however, bodily death does not of necessity follow “total cessation.” This *prima facie* seems contradictory. The next section demonstrates the necessity of a locus in the body from whence the soul of the human operates, resolving this apparent conflict; thereby, it accounts for what is a common occurrence in all hospitals today: the cells, tissues, and organs of the patients’ bodies are functioning despite the operations of all the faculties of their souls having “totally ceased.”

CONNECTION BETWEEN DEATH AND CESSATION

The conjoining of the notions of “death” and “cessation” in the aforementioned Qur’anic verses is indicative of a correlation between the two.⁷¹ When analyzed in light of the distinctions of the Spirit and their relationships to the faculties of the soul of a human, it is understood that the phenomenon of death entails the body be deprived—usually in a gradual manner—of the vegetative faculties of (or “the bodily spirit” connected with) the soul. The “total cessation” of the activity of its vegetative faculties in the body results

in the inability of the intellective and perceptive faculties of (or “the higher spirit” connected with) the soul to operate via the body. This is because the vegetative faculties (or “the bodily spirit”) collectively constitute the isthmus between them, as discussed. The sequence of the cessation of the faculties of the soul during natural death is corroborated by Imam ‘Alī’s description of the process: the cessation of function begins with the limbs, culminating in the cessation of the activity of the senses of sight and hearing, after which the body is “dead.”⁷² Thus, the soul’s loss of conscious control over the limbs marks the onset of the waning of its faculties, particularly the perceptive faculties responsible for volitional movement. The termination of sight and hearing is a marker of death or the “total” cessation of the operations of all the soul’s faculties in the body. Hence, this has to be the point of the “total” cessation of the functionality of the soul’s vegetative faculties in the body, for they collectively constitute the isthmus between the body and the immaterial, intellective soul.

In terms of human physiology, the moment of the cessation of sight and hearing is marked by the absence of consciousness and brain function. Therefore, brain inactivity marks the point of death.⁷³ From the perspective of the soul and the functionality of its faculties, the moment of the “total” absence of activity of the cells in the brain is indicative of the absence of the operations of the soul’s vegetative faculties therein. Furthermore, since both the voluntary and involuntary operations of the body, such as respiration and the pumping of the heart, are contingent on the functionality of the brain,⁷⁴ and since the activity of the brain cells is indicative of the activity of the soul’s vegetative faculties in those cells, then the voluntary and involuntary operations of the body are contingent on the activity of the soul’s vegetative faculties in the brain cells. This means the activity of the soul’s vegetative faculties in the brain is the isthmus between the body and the immaterial, perceptive, and intellective soul. Hence, the autonomous activity of the brain cells indicates the activity of the soul’s vegetative faculties therein, and hence the connection between the body and the immaterial, intellective soul. Conversely, the absence of all activity in the brain cells indicates the “total” cessation of the soul’s vegetative faculties therein, and hence the irrevocable separation between the body and the immaterial, intellective soul.⁷⁵

In view of this and the previous sections of this chapter, it is possible to understand: (a) the phenomenon of the functionality of a body with no brain activity on life support; and (b) the phenomenon of the functionality of bodily parts separated from a host body that is exhibiting the functionality of all the faculties of its soul or, in other words, the separation of cells, tissues, or organs of the body of a person who is alive, that is, whose perceptive and intellective faculties are operative. In the case of a body with no brain activity on life support, the vegetative activity of the brain cells has ceased, which

means that the isthmus between the immaterial, intellectual soul and its body does not exist, and hence the person has died; the metabolic activity in the remainder of the cells, tissues, and organs is indicative of the Spirit innate in matter animating the activity of the vegetative faculties of the souls/forms of those cells, tissues, and organs; hence, they are able to metabolize the artificial supply of oxygen and glucose (and have the potential be donated to others). In the case of a person whose donated organs or severed limbs continue to be metabolically active in a laboratory independently of the body, the vegetative/metabolic activity of the brain cells has not ceased, which means that the isthmus between the immaterial, intellectual soul and its body exists, and hence the person is alive; the metabolically active cells and tissues of the organs or severed limbs are indicative of “the bodily spirit” innate in matter animating the vegetative faculties of the souls/forms of their cells and tissues, and hence they are able to metabolize the artificial supply of oxygen and glucose. In the event that the separated limbs and organs are successfully transplanted into other recipients, the governance and regulation of their metabolic activity is assumed by the souls of the recipients.

Thus, the functionality of all the soul’s faculties in the body necessitates the sound functionality of the brain, for it is the isthmus between them. Today, the vegetative activity of the brain cells is discernible by scanners detecting the neurological activity in the brain. Additionally, the degree of neurological activity measured indicates the extent of the functionality of the voluntary and involuntary operations of the body. Hence, the detection of neurological activity in the brain by such scanners is a marker for the activity of the soul’s vegetative faculties in the brain, whereas the extent of this activity is a marker of the degree to which the faculties of the soul are operating in the body. Accordingly:

- a) “full” neurological activity in the brain is (i) the marker for the functionality of the soul’s vegetative faculties in the brain cells and (ii) the marker for the functionality of all the soul’s faculties in the body;
- b) “total” absence of neurological activity in the brain is (i) the marker for the absence of the functionality of soul’s vegetative faculties in the brain cells, and (ii) the marker for the “total” cessation of the activity of the soul’s perceptive and intellectual faculties in the body, and hence death; and,
- c) “partial” neurological activity in the brain can be the marker for the functionality of (i) the soul’s vegetative faculties in some or all the brain cells, (ii) the soul’s vegetative faculties throughout the body or parts of it, and (iii) either some or none of the operations of the soul’s perceptive and intellectual faculties in the body; this is corroborated by brain scans exhibiting reduced neurological activity, such as the brain scans of

people in the sleep state during which only the soul's vegetative faculties are active in the brain and body.

The following is the summary of the main points of this section:

1. The vegetative/metabolic activity of the brain cells is the isthmus between the immaterial, intellective soul and its body.
2. The vegetative/metabolic activity of the brain cells is logically prior to the activity of the soul's vegetative, perceptive, and intellective faculties in the rest of the body.
3. The absence or total cessation of the vegetative/metabolic activity of the brain cells results in the "total" cessation of the activity of the faculties of the immaterial, intellective soul in the body, and hence death.
4. The functioning of the cells, tissues, and organs of a body with no brain activity is indicative of the Spirit innate in matter animating the vegetative faculties of the souls/forms of those cells, tissues, and organs whereby they are able to metabolize the artificial supply of oxygen and glucose.
5. The vegetative activity of the brain cells is measurable by scanners.
6. Therefore, the absence of neurological activity in the scanners marks the point of death in humans.⁷⁶

The conclusion of this section is that the marker of human death is *the irrevocable cessation of all neurological activity in the brain* and as such, it is measurable. The next section delineates the applications of "the juristic procedural principle of continuity" to patients on life support: (a) with some degree of neurological activity in the brain; and (b) with no neurological activity in the brain, in light of the aforementioned deliberations on the marker of death and "total" cessation.

PROCEDURAL PRINCIPLE OF CONTINUITY (*ISTIṢḤĀB*)

The principle is based on the following maxim of the sixth Shi'i Imam, al-Ṣādiq: [The state of] "surety" [about a given situation, ruling or condition] cannot be undermined by [a subsequent state of] "doubt" [about that same situation, ruling or condition].⁷⁷ The principle extends to all cases in which there is "surety" about the status of a subject prior to the occurrence of "doubt" regarding that status.⁷⁸ For instance, in the case of "doubt" as to whether a comatose person exhibiting signs of life is alive, the principle instructs that the person must be assumed to be "alive." This is because there was "surety" of life prior to the occurrence of the "doubt."

The principle has three components that must be satisfied for its application to be deemed accurate and valid:

1. The existence of an initial state of “surety” about the status of the subject.
2. The existence of a subsequent state of “doubt” about the status of that same subject.
3. A common subject (*mawḍūʿ*), that is, the subject must be the same in both the states of “surety” and “doubt.”⁷⁹

In view of the deliberations of the previous sections, the application of “the principle of continuity” is justified with respect to all cases in which patients exhibit any degree of neurological activity in the brain, which includes all “brain-dead” patients. This is because they satisfy the components of the principle:

1. Initially, there was “surety” of life.
2. Subsequently, there is “doubt” as to whether life persists because there remains some neurological activity in the brain of the patient.
3. The states of “surety” and “doubt” vis-à-vis life pertain to the same individual.

Therefore, all patients exhibiting any degree of neurological activity in the brain are to be considered as alive. This includes comatose patients and patients suspected of having incurred brain death (as defined in UK), that is, all “brain-dead” patients.

However, “the principle of continuity” is not applicable to cases of bodies with no brain activity whatsoever. In all such cases, there is no “doubt” as to whether patients are alive, for there is no neurological activity to “cause” any doubt. Thus, “component two” of the principle is absent in every case in which there is a body with no brain activity because the “surety” of death—and not “doubt”—follows the “surety” of life. Therefore, “the principle of continuity” is not applicable to cases of bodies with no brain activity. It should be noted that semantically, the implicative meaning (*mafḥūm*) of “the absence of any doubt as to whether the patient is alive” is “certainty of the patient’s death,” and since the absence of neurological activity results in the former which signifies the latter, then the absence of neurological activity in the brain gives rise to “certainty” of the occurrence of death.

Finally, “the principle of continuity” is applicable to cases of brainstem death or “brain death” (as defined in UK) due to discernible neurological brain activity in all such cases, causing “doubt” as to whether there is life. Hence, brainstem death and/or “brain death” in and of themselves are not

markers of death. Of course, this is subject to change should it be *proven beyond doubt* that either brainstem function, or only the functioning of specific areas of the brain, is necessary for the capacity for consciousness. If either is proven, then it would be the marker for the connection of the soul to its body, and its “total” inactivity would *definitively* mark death, removing it from the remit of “the principle of continuity.”

CONCLUSION

The apprehensions of Muslim jurists vis-à-vis organ extraction from donors with either no brain activity, or “brain-dead” donors who have some brain activity, stem from their definition of death. Since such bodies on life support with either no brain activity, or that are “brain dead,” breathe, and have a pulse—the absence of which constitute the markers of death in the historic and conventional definition of death—it is natural for Muslim jurists to apply “the procedural principle of continuity” to all such cases, concluding that life must be assumed in all cases of doubt.

By utilizing the notions of the “bodily” and “higher” Spirit in light of their relationships to the body and soul of a human, and by understanding the Qur’anic notions of “death” and “cessation,” this chapter demonstrates that there is a necessary relationship between “the irrevocable cessation of all neurological activity in the brain” and “the death of a human” or “the irrevocable separation of the soul from its body.” It explains the potential within cells, tissues, and organs of the body of a dead human to continue to be metabolically active by the notion of “the Spirit innate in matter.” Insofar as there is no brain activity in all such cases, there is no doubt as to whether death has occurred, and so “the procedural principle of continuity” cannot be applied. Therefore, organ retrieval from such bodies on life support with no brain activity does not constitute murder because the human has already died, that is, the soul has irrevocably separated from the body.

That being said, it must be emphasized that death can only be pronounced if there is irretrievable loss of activity of the whole brain. Accordingly, instances of brainstem death and/or “brain death” fall within the scope of “the procedural principle of continuity” due to the lack of clarity regarding whether brainstem function and/or other specific parts of the brain are the markers for the connection between the soul and its body. Consequently, patients with brainstem death and/or “brain death” must be assumed to be alive, and so the retrieval of their organs is not permitted.

In conclusion, organ retrieval from bodies on life support with no brain activity cannot be declared to be impermissible on the grounds that the

removal of organs leads to death. Therefore, organ retrieval from bodies on life support with no brain activity is permissible for all intents and purposes.

NOTES

1. See 'Brain Death', NHS, page last reviewed 1 April 2019, <https://www.nhs.uk/conditions/brain-death/>.

2. See Andrew C. Miller, 'Opinions on the Legitimacy of Brain Death Among Sunni and Shi'a Scholars', *Journal of Religion and Health* 55, no. 2 (2016): 395–397.

3. For instance, see question and answer 22 in <https://www.sistani.org/english/qa/01249/>.

4. See Muḥammad Riḍā Muzaffar, *Uṣūl al-fiqh* (Qom: Intishārāt Ismā'īliyāt, 2004), Vol. 4, 219–222.

5. Muzaffar, *Uṣūl al-fiqh*, Vol. 3, 16–17.

6. The soul of a human has three types of abilities/powers/faculties: (a) the “vegetative” faculties enable the body to process nutrients, grow, and reproduce; (b) the “perceptive” faculties animate the sense organs of the body, enable cognition of the sense data, and bestow volition to the organism; and (c) the “intellective” faculties give the human organism the ability to contemplate, remember, acquire knowledge, and understand. The vegetative faculties are also known as “the plant soul” because the souls/forms of plants bestow the same operations to the material constitution of plants. The perceptive faculties are also known as “the animal soul” because the souls of animals bestow the same operations to the material constitution of animals in addition to the vegetative faculties. See Shams C. Inati, *Ibn Sina's Remarks and Admonitions: Physics and Metaphysics: An Analysis and Annotated Translation* (New York: Columbia University Press, 2014), 13–19.

7. It should be noted that in the United States, “brain death” is defined as the total cessation of all brain activity including the brainstem. However, the usage of the phrases “brain death” and “brain dead” in this chapter refers to the meanings as defined and understood in UK.

8. As stated previously, “the principle of continuity” asserts that in cases of doubt regarding any given situation, state, or ruling in which there was “certitude” prior to the doubt, the “certitude” about the given situation, state, or ruling has precedence over the doubt and must be presumed to be the fact.

9. See Arif Abdul Hussain, 'Ensoulment and the Prohibition of Abortion in Islam', *Islam and Christian-Muslim Relations* 16, no. 3 (2005): 241–242. “Ability” (*qudra*) refers to the fact that there is potential to utilize the body.

10. Qur'an 2:28.

11. Qur'an 41:39.

12. Qur'an 17:44.

13. That is, all existents are “alive”; however, the “essential” forms have life in and of themselves, whereas the “accidental” forms have life by virtue of association and connection with an “essential” form.

14. See Ṣadrā, *The Wisdom of the Throne: An Introduction to the Philosophy of Mulla Sadra*, trans. James Winston Morris (Princeton, NJ: Princeton University Press, 1981), 164; and Fazlur Rahman, *The Philosophy of Mullā Ṣadrā* (Albany, NY: State University of New York Press, 1975), 199. Note that “intellective” has the connotation of being “self-intellective,” that is, “self-conscious” or “self-aware.”

15. See Qur’an 6:36 and 36:69–70.

16. Qur’an 16:20–21.

17. Inati, *Ibn Sina’s Remarks and Admonitions*, 39.

18. Inati, *Ibn Sina’s Remarks and Admonitions*, 15–16.

19. The phrase “a hierarchy of fundamentality” refers to the fact that each of the markers of life is in a hierarchy in respect of the “basic-ness” of each. The most basic marker of life in this world is motion, followed by production, then perception, and finally ability. This means that the lesser basic or fundamental markers (of perception and ability) cannot exhibit themselves without the more basic or fundamental markers (of motion and production) existing.

20. Inati, *Ibn Sina’s Remarks and Admonitions*, 13.

21. In addition to animating the organs of sense perceptions, the philosophers also attribute the operations of cognition and volition in humans to the animal soul. See note 8.

22. Muḥsin Fayḍ Kāshānī, *‘Ayn al-Yaqīn* (Qom: Anwār al-Hudā’, 2007), Vol. 2, 254.

23. Kāshānī, *‘Ayn al-Yaqīn*, Vol. 2, 196.

24. Kāshānī, *‘Ayn al-Yaqīn*, Vol. 2, 197.

25. See Kāshānī, *‘Ayn al-Yaqīn*, Vol. 2, 200–202.

26. Kāshānī, *‘Ayn al-Yaqīn*, Vol. 2, 200–202.

27. See Qur’an 19:17–21, 2:87 and 253, 5:110 and 17:85.

28. See Qur’an 15:29, 38:72 and 3:49.

29. The word “isthmus” is employed to refer to the soul of an entity to emphasize its ontological position as that which lies between the entity’s material constitution and the Spirit, and hence it is that which simultaneously separates and unites them.

30. Qur’an 23:12–16.

31. This is a paraphrasing of a few narrations of the fifth Imam in Muḥsin Fayḍ Kāshānī, *al-Ṣāfi fī Tafsīr al-Qur’ān* (Tehran: Dār al-Kutub al-Islāmīyya, 1998), Vol. 3, 116–117 and 173.

32. Hāshim bin Sulaymān Bahrānī, *Al-Burhān fī Tafsīr al-Qur’ān* (Beirut: Al-Mu’assassa al-‘Ālāmī li-l-Maṭbū‘āt, n.d.), Vol. 5, 335–336. It should be noted that the four-month-old limit and criterion in the narration is the gestational age.

33. See Qur’an 89:27–28 and 2:28.

34. See Rahman, *The Philosophy of Mullā Ṣadrā*, 196–206; and Inati, *Ibn Sina’s Remarks and Admonitions*, 17–21.

35. This is evinced by the Qur’an declaring the souls of martyrs to be alive and attributing both perception and function to them: “And say not of those slain in God’s way, ‘They are dead’; they are alive, but you do not perceive!” (Q.2:154); and “Do not reckon those who are killed in the way of Allah as dead, rather they are alive and being sustained with their Lord. They are in a state of joy with what Allah has given to

them of His grace, and they are giving glad tidings to those who are yet to join them” (Q.3:170). It can be surmised that the soul of the martyr is perceiving, functioning, communicating, and being sustained via a form that is nonmaterial and not via their slain and buried material body. The issue of the soul of the martyr will be investigated afresh and thoroughly in a separate treatise on the operations of the faculties of the soul and consciousness in the post-mortmic state.

36. See Rahman, *The Philosophy of Mullā Ṣadrā*, 196–206; and Inati, *Ibn Sina’s Remarks and Admonitions*, 17–21.

37. For information on Spirit qua Absolute Being, see Abu Ela Affifi, *The Mystical Philosophy of Muḥyid Dīn-ibn al-‘Arabī* (Cambridge: Cambridge University Press, 1939), 1–5; and Ṣadrā Shīrāzī, *Spiritual Psychology: The Fourth Intellectual Journey in Transcendent Philosophy*, trans. Latimah-Parvin Peerwani (London: ICAS, 2008), 269–278.

38. This bipartite division can be gleaned from Henry Corbin, *Avicenna and the Visionary Recital* (Princeton, NJ: Princeton University Press, 1990), 46–56.

39. Corbin, *Avicenna and the Visionary Recital*, 53–54.

40. The expression “lesser organism” refers to all unicellular and multicellular organisms that do not classify as plants and animals. Also, it should be noted that the operations of the soul’s perceptive faculties depend on the sound functioning of the cells and tissues of the organs of sense perception, and that the latter’s functionality is by virtue of the soul’s vegetative faculties.

41. Ṣadrā, *Spiritual Psychology*, 21, 124–125, 132, 269–278, and 602.

42. Here, Ṣadrā means individual human beings have not existed as individuated forms or souls prior to their existence in the corporeal realm of generation and decay. However, there is no contradiction between the simultaneous existence of: (a) the one undifferentiated soul, (b) its individuated nonmaterial forms/souls manifested in other realms such as the realm of spirits or souls (*‘ālam al-arwāḥ*), and (c) the individuated nonmaterial forms’/souls’ manifestation in this corporeal realm. In other words, it is possible for the simultaneous existence of three entities: the material form of a soul in this world, the nonmaterial form of that soul in the realm of spirits, and the reality of the one undifferentiated soul. For information on the one undifferentiated soul prior to individuation, see Ṣadrā, *The Wisdom of the Throne*, 140–141.

43. See Rahman, *The Philosophy of Mullā Ṣadrā*, 197 and 199. The expression “post-mortmic state” is the author’s neologism signifying “the state of the soul after death/its separation from the body.”

44. For instance, see supplication 60 in ‘Alī Zayn al-‘Ābidīn Ibn al-Husayn, *The Psalms of Islam*, trans. William C. Chittick (London: Muhammadi Trust, 1988), 218.

45. See Muḥammad Ḥusayn Ṭabāṭabā’ī, *Al-Mīzān fī Tafsīr al-Qur’ān* (Beirut: Mu’assassa al-‘Alamī li-l-Maṭbū‘āt, 1997), Vol. 17, 269–270.

46. Ṭabāṭabā’ī, *Al-Mīzān fī Tafsīr al-Qur’ān*, Vol. 17, 277.

47. It should be noted that there is a congruence between the trajectory of the physical development of the form of the human being in the womb and the trajectory of the gradual emergence of the faculties of the soul and Spirit in matter: the zygote has the potential to become a fully developed human being physically, the actualization

of which is contingent upon external existential circumstances; and the soul of the zygote, which bestows the zygote with its vegetative faculties, has the potential to manifest the perceptive and intellectual faculties of the Spirit, the actualization of which is contingent upon and corresponds to the physical development of the body and brain of the fetus.

48. Qur'an 30:50.
49. Qur'an 2:28.
50. Qur'an 2:243.
51. Qur'an 18:10–11.
52. See Qur'an 18:18 and 25.
53. Şadrā, *Spiritual Psychology*, 388–390.
54. Şadrā, *Spiritual Psychology*, 384–387.
55. Note the phrase “the bodily spirit” denotes certain functions of the Spirit in matter. See pages 100–109 in this chapter.
56. Note the word “Spirit” is capitalized due to its divine, infinite, and eternal nature.
57. Qur'an 39:42.
58. Qur'an 32:11.
59. Qur'an 6:61.
60. See narration 18 in *bāb* 43 ('*anwā' al-nawm wa mā yaḥtasibu min-ha . . .*) in *abwāb ādāb al-sahar wa al-nawm wa ahwālī-himā* in *kitāb al-'Ishra wa al-ādāb wa al-sunan* in Muḥammad Bāqir Majlisī, *Bihār al-Anwār* (Qom: Mu'assassa Ihyā' al-Kutub al-Islāmiyya, 2009), Vol. 16, 543.
61. Ṭabāṭabā'ī, *Al-Mīzān fī Tafsīr al-Qur'ān*, Vol. 17, 269.
62. See Ṭabāṭabā'ī, *Al-Mīzān fī Tafsīr al-Qur'ān*, Vol. 17, 269; and Şadrā, *Spiritual Psychology*, 388–390.
63. Abdulaziz Sachedina, *Islamic Biomedical Ethics: Principles and Application* (New York: Oxford University Press, 2009), 157.
64. Nāşir Makārim Şhīrāzī, *al-Amthal fī Tafsīr Kitāb Allāh al-Munzal* (Beirut: Mu'assassa al-'Alamī li-l-Maṭbū'āt, 2013), Vol. 11, 470–475.
65. It should be noted that the analogy being given is merely to explain the functionality of the vegetative faculties of the soul during the phenomenon of sleep; it has no bearing or implication on the issue of abortion or any other related issues for that matter. All such issues require in-depth analysis and independent investigation to the current one.
66. For more information on the nature of the relationship between the Spirit and soul, see the preceding section titled “Soul-Spirit Relationship.”
67. For instance, see Qur'an 2:243. For exposition of temporary death, refer to page 112, earlier in this chapter.
68. See Qur'an 39:42 and 18:10–11, 18 and 25.
69. See Qur'an 4:157 and 3:55.
70. Şhīrāzī, *al-Amthal fī Tafsīr*, Vol. 2, 243–244.
71. See Qur'an 39:42, 32:11, and 6:61.
72. See sermon 109, titled '*al-Qiyāma*', in Sharīf Rāḍī, *Nahj al-Balāghā* (Qom: Dār al-Thaqalayn, 1998), 164.

73. Dale Gardiner, Sam Shemie, Alex Manara and Helen Opdam, 'International Perspective on the Diagnosis of Death', *British Journal of Anaesthesia* 108, no. suppl. 1 (2012): i14.

74. Paul Rea, *Clinical Anatomy of the Cranial Nerves* (London: Academic Press, 2014), viii–xx and xxv.

75. Another indication that brain function is the isthmus for the connection/separation between the immaterial soul and its body is the fact that a human can be kept alive—that is, perceptive and intellectual—by mechanical assistance at the exclusion of all of their limbs and most, if not all, of their organs with the exception of the brain. Conversely, if a person is decapitated, then the vegetative, perceptive, and intellectual faculties of the soul do not manifest in that person's body even if its cells, tissues, and other organs are kept alive by mechanical assistance soon after the dismemberment.

76. This is according to the reasoning of the chapter thus far. It will address the notions of "brain death" and "brainstem death," and whether they can be considered as markers for the death of the human being from an Islamic perspective in the next section.

77. Muḥammad Bāqir Ṣadr, *Durūs fi 'Ilm al-Uṣūl* (Qom: Markaz al-Abḥāth wa al-Dirāsāt al-Takhaṣṣuṣiyya li-l-Shahīd al-Ṣadr, 2005), Vol. 1, 152.

78. See Muẓaffar, *Uṣūl al-fiqh*, Vol. 4, 219–222.

79. For information on the three components, see Muẓaffar, *Uṣūl al-fiqh*, Vol. 4, 222–223.

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