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# **Islamic Jurisprudence Relating to Life Sustaining Treatment in End of Life Care (Pulling the plug)**

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## Abstract:

The paucity of English-language literature on Islam's perspective on end-of-life care and life-sustaining measures in terminal illness makes caring for dying Muslim patients in the United States of America difficult. Decisions made by scholars of Islamic legislative assemblies, in consultation with medical professionals, are used for treating disease and employing life-sustaining measures in terminally ill patients.<sup>1</sup> Islam lays emphasis on the sanctity of life. The rulings in medical ethics in Islam are largely based upon the legal maxims: (a) harm is to be removed at every cost, if possible (b) necessity overrides prohibition and (c) accept the lesser of the two harms if both cannot be avoided<sup>2</sup>.

## Introduction:

For centuries being alive was equated to one's ability to breathe. Breathing was considered crucial to maintain the hearts functioning and therefore life. In the middle of this century, it was discovered that the brain's energy requirement exceeds that of other organs, in order to maintain its function. If for some reason the brain ceases its activity other organs in the body can still continue to function more or less as long as the blood circulation is intact<sup>3</sup>.

## Definition of Death- Islamic perspective

Death is opposite to life. Scholars have agreed upon death ensuing once the spirit departs the body. The signs include relaxation of the muscles (hands, feet and face) and cessation of breathing. However, there is a difference of opinion regarding the stages, the amount and time in which the spirit leaves the body.

According to Shafi'i scholars death is defined as the leaving of the spirit from the body<sup>4</sup>. Amongst them some describe the amount by which the spirit leaves the body. Sheikh Sulieman Aljamal declares a person to be dead, once the brain ceases to function, even though there may be some function left in the other organs<sup>5</sup>. The soul hence leaves the body in stages with organs subsequently losing function one after the other with the soul eventually exiting from the eyes. Al Ghazali considers death as a change in status whereas the soul, once it departs, is no longer in control of the body<sup>6</sup>. This definition of death is closer in meaning to brain death. There is a difference in opinion about the definition of death amongst contemporary scholars. Sheikh Bakr

<sup>1</sup> <https://yaqeeninstitute.org/maryam-sultan/pulling-the-plug-the-islamic-perspectives-on-end-of-life-care>

<sup>2</sup> <https://imana.org/imana-booklet-medical-ethics/pg:8>

<sup>3</sup> الدكتور محمد سعيد الرهوان، "الأحكام الفقهية المتعلقة بإبقاء و نزع أجهزة الإنعاش الصناعي" ما يحل وما يحرم من الأغذية و الدواء خارج بلاد الإسلام، (ص ٨١٤).

<sup>4</sup> لنووي والمطيعي، المجموع شرح المذهب، مكتبة الإرشاد، جدة (١٠٥٥).

<sup>5</sup> العلامة الشيخ سليمان الجمل، حاشية الجمل على المنهج لشيخ الإسلام زكريا الأنصاري، دار الفكر، بيروت (٣٦٣ظ٦٣).

<sup>6</sup> الغزالي، محمد بن محمد الغزالي أبو حامد، إحياء علوم الدين، دار المعرفة، (٤٩٤٤).

Abe Zayd, who says that the true death is soul having left all the organs<sup>7</sup>, so that the organ is devoid of any function and it can also encompass cell death. Dr. Abdulaziz is also in agreement with him, as he defines death to be the cessation of function of all the organs in the body with subsequent decay and decomposition<sup>8</sup>. The majority of scholars oppose this definition by saying that it contradicts reality as it is possible to preserve the organs and stop it from decaying, in some instances, for thousands of years by mummification, even though the person had died a long time ago<sup>9</sup>. The Qur'an is explicit about Allah's authority to revive the dead (إِنَّا نَحْنُ نُحْيِي الْمَوْتَى) and it is proven that it is impossible to revive a person after they undergo brain death<sup>10</sup>.

Scholars divided life into three types:

- (1) Continuous life: where one is in good health and will die at the appointed time.
- (2) Stable life: where the mind is sound even though physical injury may have occurred e.g. when Omar (A.S) was injured after being stabbed and his death was certain but he was still able to make decisions .
- (3) Slaughtered life<sup>11</sup>: where the pulse is present but there are no signs of a person being aware of self or surrounding and there is lack of voluntary movement, this case has special provisions.

The conflict between scholars exist because prior to the advent of modern medicine death was declared based upon the apparent signs. Now with the ability to monitor the function of organ systems and medical interventions questions arose around the validity of brain death as the declaration of death. Jurists define life as the combination of input and output—input may be quantified as a patient's awareness of his/her self/environment and reception of ideas. Output is a person's own will, which may be manifested by purposeful action or communication. If both of these components are not present, then the person is not considered to be living a normal human life. There is no division in classical Islam of life into normal human and vegetative/artificial. Hence, a life devoid of either input or output is equated by Muslim jurists to the life of an embryo before it has been given its soul. Rulings of killing do not apply to such a state because it is not a normal human life to begin with.<sup>12</sup>

<sup>7</sup> بكر أبو زيد، فقه النوازل، مؤسسة الرسالة (٢٢٥).

<sup>8</sup> عبد العزيز إسماعيل، الإسلام والطب الحديث، مجلة الأزهر، المجلد السابع، (٦٩١).

<sup>9</sup> ماهر حتوت، الأحكام الشرعية للأعمال الطبية، (١٦٨).

<sup>10</sup> الدكتور محمد سعيد الرهوان، "الأحكام الفقهية المتعلقة بإبقاء و نزع أجهزة الإنعاش الصناعي" ما يحل وما يحرم من الأغذية و الدواء خارج بلاد الإسلام، (ص ٨٢٠).

<sup>11</sup> الانصاري، زكريا بن محمد بن زكريا الأنصاري، زين الدين أبو يحيى السنيني (المتوفى: ٩٢٦هـ)، أسنى المطالب في شرح روض الطالب، دار الكتاب الإسلام، (١١٤-١٢).

<sup>12</sup> <https://yaqeeninstitute.org/maryam-sultan/pulling-the-plug-the-islamic-perspectives-on-end-of-life-care/#ftnt16>

(Al-Haj, Hatem. *The Impact of Medical Advancements on Religious Edicts and Judgship*. [dissertation, Arabic]. Tripoli, Lebanon: al-Jinan University; 2008. p.103)

## Disorders of Consciousness

Consciousness is a state of being awake and aware of one's self and surroundings. A conscious person is aware of things through thoughts and the five senses: sight, hearing, smell, taste, and touch. A person with a DoC has trouble being awake, or being aware, or both<sup>13</sup>.

Disorders of Consciousness is separated into three levels: coma, vegetative state (VS) and minimally conscious state (MCS). Coma is a state of unconsciousness in which the eyes remain closed and there is no response to stimulus. VS is manifested by inability to purposefully interact with others or the environment but there is intermittent eye opening and the presence of sleep wake cycles. MCS is manifested by minimal but definitive evidence of self and environmental awareness. Coma is self-limiting, lasting approximately 4 weeks in those who survive. Afterwards, people may emerge into the VS or MCS. Persistent VS has been defined as lasting more than one month. Permanent VS is defined as lasting more than 3 months in nontraumatic cases and more than 12 months in traumatic cases<sup>14</sup>.

Coma and VS show little evidence of normal, sustainable human life as they are devoid of input and output. Hence, if a patient's coma or VS is deemed irreversible (such as a permanent VS), based on the judgment of three specialty-trained physicians. An MCS is considered a normal, sustainable human life, and this condition is treated as a general medical illness when considering withdrawing life-sustaining measures. An MCS in itself is not considered a condition with a grim prognosis. However, medical conditions that a patient may have in association with the MCS (e.g., a severe antibiotic-resistant infection) may lower the patient's potential for overall recovery and make life-sustaining measures futile. Again, this must be concluded by three qualified physicians, at which point life-sustaining measures may be withdrawn. In cases in which withdrawal of life-sustaining measures is permissible, it is not obligatory to do so. The decision to continue or withdraw life-sustaining measures in these cases should be based on the surrogate/proxy's perception of the patient's wishes. It is critical in DOC that the physician properly educates the patient's surrogate or proxy on the likelihood of emergence and subsequent prognosis based on the available evidence.

## Definition of death in Medicine

Traditionally death was considered as the loss of capacity to breathe and the cessation of heart pumping blood. However as medical technology developed, a gap started to form between the traditional cardiopulmonary standard and the concept of death<sup>15</sup>. With the use of artificial means to sustain cardiopulmonary function the concept of brain death becomes necessary. Modern

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<sup>13</sup> <https://www.aan.com/Guidelines/Home/GetGuidelineContent/930>

<sup>14</sup> <https://now.aapmr.org/disorders-of-consciousness/#references>

<sup>15</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5570697/>

medicine has established that brain death leading to the cessation of nerve centers is the criterion for human death<sup>16</sup>.

### Brain death

Brain death is defined by permanent absence of brainstem and brain function<sup>17</sup>. The American Academy of Neurology guidelines for brain death determination include two separate neurologic exams performed by trained physicians in the absence of reversible causes of cognitive depression (e.g., hypotension, hypothermia, electrolyte abnormalities, intoxicants). The evaluation necessitates an absolute lack of responsiveness, including too painful stimuli, an absence of brainstem reflexes, and an absence of respiratory drive. Ancillary tests, including electroencephalogram (EEG), cerebral angiography, transcranial doppler ultrasonography, and cerebral scintigraphy may be used to confirm brain death. In its statement regarding the permissibility of withdrawing life-sustaining measures in a person deemed brain-dead, the Islamic Fiqh Assembly of the Muslim World League decided in 1987:

*It is permissible to turn off the life support systems of a patient whose brain has completely stopped functioning on condition that a committee of three specialized expert doctors decides that the cessation is final and irrecoverable. Such permissibility is valid even if the heart and respiratory systems are still functioning mechanically due to the life support systems. However, the legal judgment of death is not declared until it is assured that the heart and respirations have fully stopped after turning off all the life support systems.*

This declaration does not equate brain death with death, but rather states that death can only be declared upon the cessation of vasomotor and respiratory functions, regardless of whether those are being artificially sustained. Furthermore, it raises a stipulation that is generally not ascertained during the routine brain death evaluation: that a brain-dead patient's *whole* brain has stopped functioning. The standard brain death exam that physicians perform typically evaluates specifically for brain stem function, which is considered representative of the viability of the rest of the brain. The special testing mentioned above, such as EEG to ascertain the presence of meaningful brain function and vascular studies of the brain to evaluate for adequate blood flow that is compatible with life, would provide more information on the condition of the whole brain than the brain death exam alone, and may be requested by the Muslim patient's family<sup>18</sup>.

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<sup>16</sup> هذا هو التعريف الذي قرره الدكتور ماهر حتوت، الأحكام الشرعية للأعمال الطبية، وكان تقريره مبنيًا على مجموعة من المراجع الطبية التي ذكرها، منها ديمارييه، الطب الشرعي، بروكسيل ١٩٦٧، ص ٦٣٩، وبروتيمر، معيار موت المخ، مجلة الصحافة الطبية، فرنسا ١٩٥٩، العدد ٣٠، ص ٨٧.

<sup>17</sup> د. حاتم الحاج، أثر تطور المعارف الطبية (٢٥٥)

<sup>18</sup> <https://yaqeeninstitute.org/maryam-sultan/pulling-the-plug-the-islamic-perspectives-on-end-of-life-care/#ftnt18>

### **Specifications of the team authorized to report brain death<sup>19</sup>**

- (1) The team consists of at least two specialists who are experienced in the diagnosis of brain death, and it is recommended to consult a third specialist in neurological diseases when needed.
- (2) At least one of the doctors should be specialized in neurology, neurosurgery, or intensive care.

In order to avoid any suspicion or special interest that may affect the decision, the following are excluded from the team's services:

- (1) None of the organ transplant team.
- (2) Any member of the injured family.
- (3) Any other individual who has a particular interest in declaring the death of the injured person, such as having a legacy or a will.
- (4) Anyone who is accused by the injured person's family of professional misconduct toward the injured person.

### **Life sustaining Measures**

Artificial nutrition and hydration (enteral or tube feeding) is a means of providing nutritional support when a patient is unable to eat or drink. This intervention can be temporary or prolonged depending upon the underlying medical condition. Complications of enteral feeding include increased risk of infections, electrolyte imbalances and mechanical blockage. The decision to initiate the treatment depends upon the personal goals of care and whether the benefit of the treatment outweighs the harm from forgoing the intervention. In conditions where the patient is not terminally ill, obtaining nutrition by enteral means is encouraged otherwise the patient would starve which is not permissible in Islam. Muslim jurists view enteral feeding as a form of medical treatment if it helps towards extending life and preserving bodily strength. In conditions where there is no hope for meaningful recovery, as determined by a physician, the potential harm from such interventions may outweigh the potential benefits and may thus prolong suffering. Regardless of the incurable or debilitating nature of a disease, it is never Islamically appropriate to take one's own life or to take a patient's life in hopes of saving him/her from suffering.

### **Scholarly opinion about withdrawing ventilator support (breathing machine) from patients with brain death:**

Contemporary scholars of jurisprudence have different opinions regarding withdrawing mechanical ventilation.

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<sup>19</sup> الدكتور محمد سعيد الرهوان، "الأحكام الفقهية المتعلقة بإبقاء ونزع أجهزة الإنعاش الصناعي" ما يحل وما يحرم من الأغذية والدواء خارج بلاد الإسلام، (ص ٨٣٧).

There is a group of scholars that equate brain death to actual death and apply all the death rulings in such circumstances. They believe that when the brain stem, heart and lungs cease to function the person is considered dead, regardless of the artificial means by which their heart and lung functions are sustained. This opinion is adopted by many Maleki, Hanbali, and Shafi'i scholars such as: Mohamed Naim Yaseen<sup>20</sup>, Ahmed Sharafuddin<sup>21</sup>, Mohamed Mokhtar Alsolami<sup>22</sup>, Omar Soliman Alashkar<sup>23</sup>, Maher Hathot<sup>24</sup>, Abdullah bin Soliman bn Maneiae<sup>25</sup>, and the Islamic Fiqh Academy of the Organization of the Islamic Conference (OIC)<sup>26</sup>.

Another group of scholars don't consider brain death as actual death and they don't apply the death rulings in such circumstances. Despite the fact that most of them agree in discontinuing ventilator support in cases where patients are terminally ill and there is no meaningful recovery, and it is not obligatory to seek treatment in this condition, they consider that the man is in the stage before death "الإحتضار" as long as the cells in the body are still alive. They don't regard a person being dead unless there is death at the cellular level i.e cell decomposition. Some Shafi'i and Hanbali scholars holding this opinion include Jad Alhaq Ali Jad Alhaq<sup>27</sup>, Tawfiq Alwaei<sup>28</sup>, Mohamed Said Ramdan Albouty<sup>29</sup>, Badr Metwali Abdulbaset<sup>30</sup>, Bakr Abuzayd<sup>31</sup>, Abdullah Albassam<sup>32</sup>, Mohamed bn Mohamed Alshenqeity<sup>33</sup>, and the Council of the Islamic Fiqh Academy of the Association<sup>34</sup>. Some of the scholars such as Dr. Tawfiq Al Waei, Dr. Abdulfattah Idris and Dr. Ali Mohamed Ahmed are against the removal of ventilator support from someone who has been declared brain dead<sup>35</sup>.

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- <sup>20</sup> محمد نعيم ياسين، أبحاث فقهية في قضايا طبية معاصرة، دار النفائس، عمان، الطبعة الثالثة، (٢٦).
- <sup>21</sup> ندى محمد نعيم الدقر، موت الدماغ بين الطب والإسلام، دار الفكر المعاصر-دار الفكر، بيروت-دمشق ١٤٢٤هـ. (٦٧).
- <sup>22</sup> محمد المختار السلامي، الطب في ضوء الإيمان، دار الغرب الإسلامي، بيروت: لبنان، (٤٣-٥٣).
- <sup>23</sup> عمر سليمان الأشقر، "بحث بدء الحياة ونهايتها" ضمن أبحاث كتاب "دراسات فقهية في قضايا طبية معاصرة"، دار النفائس، عمان، (١٠٥).
- <sup>24</sup> ماهر حتوت، الأحكام الشرعية للأعمال الطبية، (١٦٨).
- <sup>25</sup> فهد الذبياني، نزع الأجهزة عن المتوفين دماغيا جازر دون موافقة ذويهم، مقال بجريدة عكاظ السعودية، لعدد: ٣٤٠٢، الأحد ٢٠١١١١٠١٤٣١هـ.
- <sup>26</sup> في دورته المنعقدة بعمان ١٩٨٦ م، ١٤٠٦هـ.
- <sup>27</sup> ندى محمد نعيم الدقر، موت الدماغ بين الطب وللإسلام، (١٥٥).
- <sup>28</sup> المنظمة الإسلامية للعلوم الطبية، الحياة الإنسانية بدايتها ونهايتها في المفهوم الإسلامي، ثبت الندوة المنعقدة برعاية المنظمة الإسلامية للعلوم الطبية، بالكويت، سنة ١٤٠٥هـ، الكويت: المنظمة الإسلامية للعلوم الطبية، ١٤٠٥هـ. ص ٤٦١.
- <sup>29</sup> ندى محمد نعيم الدقر، موت الدماغ بين الطب والإسلام، ص ١٥٨.
- <sup>30</sup> الحياة الإنسانية بدايتها ونهايتها في المفهوم الإسلامي، ص ٤٤٥.
- <sup>31</sup> محمد بن محمد المختار الشنقيطي، أحكام الجراحة الطبية والآثار المترتبة عليها، جائزة المدينة، الطبعة الثالثة، المدينة المنورة (٣٤٤).
- <sup>32</sup> المرجع السابق، (٣٤٤).
- <sup>33</sup> المرجع السابق، (٣٥٢).
- <sup>34</sup> في دورته ١٩٨٧ م العاشر بمكة المكرمة ١٤٠٨هـ.
- <sup>35</sup> حقيقة الموت والحياة في القرآن والأحكام الشرعية ص ٤٨٠، معيار تحقق الوفاة ص ٢١٣.



## Special provisions for the slaughtered life

Under these criteria certain death rulings are applied towards the brain-dead person. In the symposium of human life<sup>36</sup> sponsored by the Islamic Organization for Medical Science in Kuwait, which ended in Rabi Al Akhir 1405<sup>h</sup>, the decision was made by scholars such as Dr. Mohamed Soliman Alashkar that life sustaining measures can be terminated in a brain dead person and organs can be used for donation even though the heart has not stopped beating, but the provisions of inheritance and calculation of Edda will be applied after the heart completely ceases its function<sup>37</sup>. Dr. Abdullah bin Soliman bin El Manaei, member of the Senior Scholars Committee in Saudi Arabia, also agrees with this opinion. He has stated that brain death does not entail edda or division of inheritance<sup>38</sup>.

## Evidence supporting brain death as actual death:

1. A person's life ends when the body loses the ability to interact and communicate with the soul<sup>39</sup> as is the case in a person who is declared brain dead.
2. The lung and heart can continue to function in a person who is brain dead due to life support. Once the life support is withdrawn the human body as a person ceases to exist<sup>40</sup>. Life support is not a means of living a purposeful life. A living being is one whose body is able to sustain organ function without the help of artificial means. As such when the life sustaining measures are withdrawn it is not equivalent to terminating life<sup>41</sup>.
3. If the physicians have determined that there is no hope of meaningful recovery in a patient with damage to the brain stem, then seeking treatment is disliked. Treatment is recommended if there is a chance of meaningful recovery<sup>42</sup>.
4. A spinal reflex is an involuntary stereotyped pattern of response brought about by a sensory stimulus. These reflexes involve the spinal cord only and do not require consciousness<sup>43</sup>.
5. Using life sustaining measures as a mean to prolonging life which is futile is in contradiction to the sunnah of our prophet Mohammed (P.B.U.H) who has advised against delaying the funeral. General medical consensus regarding cases of brain death do not

<sup>36</sup> الحياة الإنسانية بدايتها ونهايتها في المفهوم الإسلامي، ص ٤٢٩.

<sup>37</sup> محمد سليمان الأشقر، أبحاث اجتهادية في الفقه الطبي، مؤسسة الرسالة، بيروت: لبنان ١٤٢٢، (٨٩).

<sup>38</sup> فهد الذبياني، نزع الأجهزة عن المتوفين دماغيا جازز دون موافقة ذويهم، مقال بجريدة عكاظ السعودية، لعدد: ٣٤٠٢، الأحد ٢٠١١/١١/١٤ هـ.

<sup>39</sup> الشنقيطي، أحكام الجراحة، (٣٥٢).

<sup>40</sup> ينظر مفهوم وفاة الإنسان من الناحية العلمية ومقارنته بالمفهوم الشرعي ص ٢٦٤، ٢٦٧-٢٧٠، تشخيص موت ساق المخ ص ٥٤٩، نهاية الحياة الإنسانية ص ٥٦٠.

<sup>41</sup> قضايا فقهية معاصرة ص ١٢٨، نهاية الحياة ص ٤٨٦، موت الدماغ بين الطب والإسلام ص ٢١٦.

<sup>42</sup> مناقشات ندوة الحياة الإنسانية بدايتها ونهايتها في المفهوم الإسلامي ص ٥٢٤، موت الدماغ بين الطب والإسلام ص ٢١٧، فقه النوازل (٢٣٤١١).

<sup>43</sup> ينظر التعريف العلمي الطبي للموت ص ٤٥٧-٤٥٨، نهاية الحياة الإنسانية ص ٥٦٢-٥٦٤، مقال بعنوان " Functions of the Spinal Cord: "What You Need to Know" بموقع spinal.cord.com نشر بتاريخ ٢٠١١/١٧/٢٠.



portend a favorable prognosis. Keeping a person alive by such means is akin to having meat placed in a refrigerator<sup>44</sup>.

### Evidence prohibiting withdrawal of ventilator support from patients with brain death:

1. According to these rulings a person is considered dead only after the heart stops beating i.e.: a death certificate cannot be issued unless the heart completely ceases to function<sup>45</sup>.
2. Brain death is not an indication of life coming to an end as some scholars consider breathing and movement of the chest to be signs of life<sup>46</sup>. They employ the legal maxim 'certainty is not overruled by doubt'. As such they claim the certainty of a person who is brain dead, to be alive because they are breathing with their hearts still beating<sup>47</sup>.
  - Regarding the first and second statements, a physician, after performing a standard examination determines the permanent stopping of brain and brainstem function. Brain death is therefore not a doubt but a strong probability<sup>48</sup>.
3. Scholars use the Ayat from Surah AlKahf (9-12).

أَمْ حَسِبْتُمْ أَنَّ أَصْحَابَ الْكَهْفِ وَالرَّقِيمِ كَانُوا مِنْ آيَاتِنَا عَجَبًا (9) إِذْ أَوَى الْفِتْيَةُ إِلَى الْكَهْفِ فَقَالُوا رَبَّنَا آتِنَا مِنْ لَدُنْكَ رَحْمَةً وَهَيِّئْ لَنَا مِنْ أَمْرِنَا رَشَدًا (10) فَضَرَبْنَا عَلَى آذَانِهِمْ فِي الْكَهْفِ سِنِينَ عَدَدًا (11) ثُمَّ بَعَثْنَاهُمْ لِنَعْلَمَ أَيُّ الْجَرْبِيِّنَ أَحْسَنُ لِمَا لُبُّوا أَمَدًا (12)

In this instance, parallels are drawn between the people of the cave and a person who is brain dead. As mentioned in Surah Al Kahf the people of the cave were unaware of their surroundings but stayed alive for more than 309 years. This is presented as an evidence for patients who are brain dead are not really dead because their condition is similar to the people in the cave as they too are not aware of their surroundings<sup>49</sup>.

<sup>44</sup> هذا تعليق الدكتور عبد الله بن سليمان بن منيع ردا على البيان الذي أصدرته جمعية القلب السعودية حول الجواز الشرعي لسحب الأجهزة من المتوفين دماغيا. راجع: فهد الذبياني، نزع الأجهزة من المتوفين دماغيا جازر دون موافقة ذويهم، مقال بجريدة عكاظ السعودية، لعدد ٣٤٠٢، الأحد ١٤٣١/١١/٠٢ هـ.

<sup>45</sup> ماهر حتوت، الأحكام الشرعية للأعمال الطبية، (١٦٨).

<sup>46</sup> حقيقة الموت والحياة د. الواعي، من بحوث ندوة الحياة الإنسانية، ثبت الندوة ٤٧٤، وقد أشار إلى المصادر الفقهية التي قررت الحكم المذكور، ومنها الإنصاف وفيه جزم العلامة المرادوي-رحمه الله -بأن اعتبار التنفس دليلا على الحياة هو المذهب، ونقل عن صاحب الترغيب قوله: "إن قامت بينة على أن الجنين تنفس أو تحرك أو عطس فهو حي" هـ. الإنصاف للمرادوي ٣٣٠١٧.

<sup>47</sup> أحكام الجراحة الطبية ص ٣٤٧، فقه النوازل (٢٣٢١١)، نهاية الحياة الإنسانية في نظر الإسلام ص ٤٤٨، معيار تحقيق الوفاة ص ١٠٢.

<sup>48</sup> الدكتور محمد سعيد الرهوان، "الأحكام الفقهية المتعلقة بإبقاء ونزع أجهزة الإنعاش الصناعي" ما يحل وما يحرم من الأغذية و الدواء خارج بلاد الإسلام، (ص ٨٤٩).

<sup>49</sup> ينظر حقيقة الموت والحياة ص ٤٧١-٤٧٣، أحكام الجراحة الطبية ص ٣٤٦-٣٤٧، موت الدماغ د. عبد الله الطريقي ص ٣٨، بحوث فقهية معاصرة د. محمد بن عبد الغفار الشريف (١٨٠١٢).

- There is no comparison because the people of the cave slept normally, who prior to this event did not appear to be in a state of illness. This was a miracle from Allah (S.W.T) who awakened them after a prolonged slumber<sup>50</sup>.
  - The analogy between brain death and the people of the cave is ill conceived as the people of the cave slept with intact brain function, unlike a patient who is brain dead who does not have a normal functioning brain.
  - A patient who is brain dead has permanently lost his/her awareness of the surrounding due to underlying brain injury, unlike the people of the cave who lost their sense of surroundings because they were in a state of deep slumber and when they woke up they had regained full consciousness.
4. Preservation of life, which is in consideration of public interest, is one of the objectives of Shariah and it is classified as a necessity. A patient who is brain dead is not able to return to normal functioning life <sup>51</sup>.
- protecting life as a necessity, which is one of the objectives of the shariah, means the protection of the ones who are actually living and does not encompass the ones who are not. A patient who is brain dead is already dead<sup>52</sup>, so this evidence does not satisfy this objective.
5. Withdrawal of ventilator support is a type of mercy killing<sup>53</sup>.
- A patient who is brain dead does live or function like a regular person. They are unaware of self and their surroundings and lack the sense of pain<sup>54</sup>.

## Concluding Remarks

Life sustaining treatments can play a vital role in saving lives however this intervention can also unnecessarily prolong life and can cause suffering in specific conditions. The goal of Islamic jurisprudence is to minimize harm, the decision to initiate life sustaining measures can vary from obligatory to disliked given individual circumstances whereas the decision to withdraw may not be as straightforward. According to the majority of the scholars and the evidences that have been mentioned, it seems that the use of life sustaining treatment in cases of brain death, where there is no hope for meaningful recovery, keeping patients alive is not a necessity of Shariah but it in fact prolongs the dying process. This can lead to undue pain and suffering of the patient's surrogate or proxy and instills false hope. Life sustaining interventions in such cases can also divert resources away from those who could benefit from it.

<sup>50</sup> موت الدماغ ص ٣٨.

<sup>51</sup> ينظر فقه النوازل (٢٣٢١١)، حقيقة الموت والحياة ص ٤٧٧، أحكام الجراحة الطبية ص ٣٤٨.

<sup>52</sup> موت الدماغ ص ٤٠، الموت الدماغي وتكييفه الشرعي ص ٢٠٠.

<sup>53</sup> عبد الوهاب حومد، المسئولية الطبية الجزائية، مجلة الحقوق والشريعة، يونيو ١٩٨١، (١٧٦).

<sup>54</sup> الدكتور محمد سعيد الرهوان، "الأحكام الفقهية المتعلقة بإبقاء ونزع أجهزة الإنعاش الصناعي" ما يحل وما يحرم من الأغذية والدواء خارج بلاد الإسلام، (ص ٨٤٩).