



POST-MORTEM IN ISLAMIC JURISPRUDENCE: EXAMINING PERSPECTIVES, PRINCIPLES, AND PRACTICES

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Abstract

Post-mortem procedures remain a contentious topic within Islamic jurisprudence due to concerns about violating the sanctity of the human body—an aspect of God’s trust. This research delves into the perspectives, principles, and practices associated with post-mortems within the Islamic context. Employing a qualitative and descriptive approach, the study relies on the Quranic verses, Hadiths, and fatwas from esteemed Islamic scholars as primary data sources. The research analyzes the diverse opinions and interpretations of the Islamic sources regarding the permissibility and conditions of post-mortem procedures, considering their purpose, necessity, and benefits. The study also explores the ethical considerations and challenges surrounding post-mortem procedures in line with the Islamic teachings. The research concludes that the Islamic jurisprudence on post-mortem procedures is diverse, reflecting varying interpretations of the Islamic sources and principles. Despite this diversity, the study identifies common themes and values guiding the Islamic perspectives, emphasizing the importance of respecting the rights and wishes of the deceased and their families. Additionally, it addresses the need for balancing the benefits and harms of post-mortem procedures for individuals and society.

Keywords: Post-Mortem, Autopsy, Islamic Jurisprudence, Quran and Hadith, Islamic Bioethics, Islamic Legal Rulings, Ethical principle, Religious perspective

1. INTRODUCTION

The practice of post-mortem mutilation and dismemberment of bodies has ancient origins, tracing back to the ancient Egyptian civilizations. The ancient Egyptians possessed exceptional skills in the art of embalming corpses and preserving various body parts, demonstrating an advanced understanding not only of human anatomy but also of the anatomy of other animals. [1]

According to historical records, the ancient Egyptians, including the Pharaohs, embalmed their deceased rulers, extracting organs such as intestines, stomach, and others, and replacing them with preservative materials. They conducted this preservation process to safeguard the human remains. [2]

Remarkably, some mummified remains of certain Pharaohs in Egypt, including that of Pharaoh Ramesses II, who ruled in the 13th century BCE, have been preserved for almost five thousand years. [3]

In May 1900, archaeologists, along with experts in ancient artifacts, opened the sarcophagus of Ramesses II for examination [4].

The Quran makes a subtle reference to the preservation of bodies in the following words: “So today We will save you in body that you may be to those who succeed you a sign. And indeed, many among the people, of Our signs, are heedless” [5]. The context here is the drowning of Pharaoh and his army in the sea, while his body would be preserved as a sign for future generations.



Beyond ancient Egypt, evidence of human dismemberment and post-mortem mutilation is found in ancient Greek literature as well [6]. Renowned Greek physicians such as Hippocrates (460-375 BCE) and Galen (130-200 CE), known for their contributions to human anatomy and theoretical science, documented instances of dissecting and studying human cadavers [7].

During the pre-Islamic era in Arabia, a retaliatory mentality led to the mutilation of human bodies after killing, involving cutting off the nose, ears, eyes, hands, feet, or neck and throwing them into the battlefield. The revered companion of Prophet Muhammad ﷺ, Hazrat Hamza bin Abdul Muttalib, experienced such post-mortem mutilation at the Battle of Uhud. [8]

These historical examples illustrate various cultural and historical practices related to post-mortem mutilation and the preservation of human remains, reflecting the diverse approaches towards death, anatomy, and the treatment of the deceased across different civilizations.

2. ANALYZING "POST-MORTEM": UNDERSTANDING ITS MEANING AND CONCEPT

The term "Post-Mortem" is of Latin origin and is commonly used in the English language. The word "Post" translates to "After," and the second part, "Mortem," means "Death." Therefore, the complete meaning is "After Death." [9] In the Arabic language, various expressions like tamtheel, mislah, sharh, tashreeh, and mukhass have been employed to convey the concept of post-mortem. [10]

2.1 Post-Mortem in Different Contexts:

- **Post-Mortem (General):** ba'd al-mawt (After death)
- **Post-Mortem (Legal):** ba'd al-mawt (After death)
- **Post-Mortem (Medical):** tal lil-mawt (Examination after death)

2.2 Definition:

In general terms, "Post-Mortem" refers to the examination and dissection of a human body after death. [11] In Arabic understanding, it involves dissecting flesh into thin and long pieces from bones or organs, akin to the way figs are sliced for drying in the sun. [12]

2.3 Medical Science Perspective:

A postmortem examination or autopsy is a medical procedure that involves inspecting the body of a deceased person to determine the cause and manner of death. It is usually performed by a pathologist, who is a doctor specialized in analyzing tissues and organs. [13]

Oxford Dictionary: "A pathological examination of a dead body that aims to discover the exact cause of death. The emphasis is on gross anatomical changes and on the microscopic appearance of tissues and organs that have been affected by disease. In cases where foul play is suspected, a wide range of investigations in the field of forensic pathology are also conducted; such investigations are the topic of many popular television series. See also forensic medicine, pathology and verbal autopsy." [14]

Cambridge Dictionary: "A medical examination of a dead body to discover the cause of death, or a discussion of an event after it has happened." [15]

Collins English Dictionary: "An autopsy is an examination of a dead body by a doctor who cuts it open in order to try to discover the cause of death." [16]

The Merriam-Webster Dictionary: "An examination of a body after death to determine the cause of death or the character and extent of changes produced by disease. [17]

Illustrated Stedman's Medical Dictionary, Williams and Wilkins, Baltimore 1982, 24th Ed: "Postmortem examination; necropsy; thanatopsy: an examination of the internal organs of a dead body for the purpose of determining the cause of death or of studying the pathologic changes present." [18]

The term "Post-Mortem" encompasses various meanings across legal, general, and medical contexts. In medical science, it is crucial for understanding the cause of death, and the Quranic verse highlights the significance of respecting the deceased body.



3. POST-MORTEM FORMS

Medical experts have outlined four forms of post-mortem examinations. The dissection of the deceased occurs for specific purposes, aiming to establish accurate conclusions regarding the cause of death. This determination is crucial to differentiate between natural causes and other contributing factors. If the demise results from an illness, investigations are carried out to explore the remedies for the ailment, ensuring the preservation of future generations. Accordingly, the following types of post-mortem examinations are commonly recognized:

- ii. Educational Post-Mortem
- ii. Post-Mortem for Accurate Diagnosis of Diseases
- iii. Forensic Post-Mortem for Legal and Criminal Investigations
- iv. Post-Mortem for Organ Transplantation

3.1 Post-Mortem Examination for Dissertation

In this category, students aim to enhance their skills and gain insights into the internal organs and anatomical structures of the human body. Students in medical colleges and those pursuing careers in healthcare or medical education need to understand not only the internal structure and functions of the human body but also the effects of various diseases on its structure and function. This knowledge is crucial for ensuring that medical professionals, especially those involved in surgeries and operations, do not make any errors that could be detrimental or life-threatening to the patient.

For this purpose, students conduct post-mortem examinations of human cadavers. This involves opening the body and examining various organs and parts. In the field of pathology, obtaining specialization and expertise is not possible without post-mortem examination. This process is essential for students to comprehend the intricacies of the human body and its responses to different diseases, ultimately contributing to the improvement of medical practices and patient care. [19]

Post-mortem examination is also important for advancing medical research and education. According to a study by Burton and Underwood (2007), post-mortem examination can provide valuable information that may not be available from clinical diagnosis or imaging techniques. It can also reveal new or rare diseases, identify genetic or environmental factors, and evaluate the effectiveness of treatments. Therefore, post-mortem examination can help generate new knowledge and improve the quality of medical education. [20]

3.2 Medico-Legal Autopsy:

In accordance with legal regulations, a registered medical doctor examines the internal and external organs of a deceased body through a process known as the medico-legal autopsy (also referred to as a forensic or coroner's autopsy). This examination aims to determine the time and cause of death; and to identify the deceased. It is performed by a trained medical officer or police surgeon at a designated facility. In cases of sudden, unexpected, or suspicious deaths, the medico-legal autopsy is required by law to assist in the investigation and ensure justice. [21]

3.3 Diagnostic Post-Mortem:

In hospitals, when a patient passes away, doctors may conduct a post-mortem on the deceased body to ascertain the underlying disease or the effects of a known illness on various organs. This practice involves examining the body for changes and alterations resulting from the effects of medication or treatment. This type of post-mortem is also known as the diagnostic post-mortem (also referred to as a clinical or pathological autopsy), and it is performed with the consent of the next of kin or the deceased person. The field of medical science has reached an advanced stage where the diagnostic post-mortem can provide valuable information for medical diagnosis and research. However, research indicates that this type of post-mortem is not commonly practiced in Pakistan, possibly due to cultural, religious, or legal factors. [22]

3.4 Forensic Autopsy in Crimes, Homicides, etc.:

The post-mortem examinations performed by forensic pathologists in cases of sudden, unexpected, or unnatural deaths that may have legal implications are referred to as forensic autopsies. Forensic



autopsy plays a crucial role in investigating homicides and dealing with legal matters. The occurrence of crime in human society is an undeniable and bitter reality. Combating crimes and addressing their causes and motivations have always been integral to the cherished goals of humanity. [23]

The reduction of crimes, ensuring access to the true culprits, and ensuring justice contribute significantly to the fundamental and beloved objectives of humanity. Forensic autopsies assist the institutions responsible for enforcing the law, such as the police or the prosecution, and the judiciary. Therefore, forensic autopsy procedures become a vital component in the pursuit of justice and the elimination of criminal activities.

In hospitals, the presence of a pathological diagnosis becomes imperative in these scenarios. The diagnosis of diseases through post-mortem examinations also contributes to medical progress and expands the horizons of medical knowledge. This intersection between forensic autopsy and medical diagnostics aligns with the broader goals of enhancing our understanding of both legal and medical domains. [24]

3.5 Organ Donation:

Organ donation is a common practice in many countries, including the United States, Europe, and some Muslim countries. However, there are different opinions and interpretations among Muslim scholars and authorities regarding the permissibility and conditions of organ donation in Islam. Organ donation can be either living or deceased, depending on the type and number of organs donated. Living donation involves donating a single organ or part of an organ to a recipient who is usually a relative or a friend. Deceased donation involves donating multiple organs or the entire body after death to a recipient who is usually unknown or unrelated. Organ donation is usually regulated by laws and policies that vary from country to country. Some countries have an opt-in system, where individuals have to register or consent to be organ donors, while others have an opt-out system, where individuals are presumed to be organ donors unless they object or opt out. [25]

Individuals may express their altruism by pledging to donate organs or their entire body after death. This benevolent act is often formalized through a written will, and individuals consistently carry a card designating them as registered organ donors, ensuring their commitment to this noble cause. While some deceased individuals may not have explicitly documented their wish for organ donation, grieving family members, close relatives, or heirs may consent to donate specific organs or the entire body to benefit the recipients, including patients awaiting transplantation or research institutions. Organ transplantations play a pivotal procedure in addressing the needs of patients with various conditions, and the donation of bodies aids research institutions in advancing medical knowledge. Presently, the practice of organ donation in wills has become common in some countries, and sometimes, organ donations occur without formalized consent. [26]

4. POST-MORTEM GUIDELINES

The following post-mortem conditions are recommended by Muslim scholars, and the outlined guidelines for post-mortem procedures are provided by medical doctors:

- Permission for dissection must be obtained only if it is sufficient. If the hand alone is sufficient, the rest of the body need not be opened. Similarly, if the head needs to be examined, the other parts of the body may remain unopened. If it is beneficial to explore other organs for educational purposes, such as the eye, hand, or foot, the need for it should be considered.
- Authorization from a judge is essential for performing a post-mortem.
- The doctor performing the post-mortem must be an expert who can resolve the issues at hand.
- Dignity must be maintained throughout.
- There should be no unnecessary delay in the post-mortem.
- If possible, arrangements can be made near the deceased person's residence.



- To determine poison from the stomach, the contents should be extracted using a pipette.
- Ethical education and adherence are crucial for doctors involved in post-mortem procedures.
- If a doctor is involved in malpractice, disciplinary action should be taken.
- The body should be redressed after the post-mortem examination.
- In all cases, the obligation of burying the deceased's body after post-mortem emphasizes. [27]

Abdul Haq Nadvi states in his book "Bazdeed Masail Aur Unka Hal":

- Permission for the desecration of human bodies for medical research purposes is not allowed. [28]

According to the Islamic Fiqh Council's annual report of 2001 and 2002:

- Burial of unclaimed bodies should be ensured, especially those bodies for which organs have been obtained for transplantation. Dedicated burial spaces in cemeteries affiliated with hospitals and medical colleges should be allocated, and a sign should be placed there saying, "These are the people whose organs have served humanity." Legislation should be enacted to ensure the respectful burial of unclaimed bodies. [29]

In conclusion, adhering to the conditions is imperative for conducting post-mortem procedures ethically, legally, and with medical best practices. Dr. Fida Muhammad's guidelines emphasize the necessity, authorization, expertise, dignity, and timeliness of the procedures. Ethical considerations, disciplinary measures for malpractice, and the respect for the deceased underscore the gravity of this medical practice.

Furthermore, the religious perspectives, as outlined by Abdul Haq Nadvi and the Islamic Fiqh Council, contribute to the understanding of the sanctity of the deceased body and emphasize the obligation of proper burial, even after post-mortem examinations. The guidelines not only ensure the integrity of the medical profession but also address the broader ethical and legal aspects surrounding post-mortem procedures.

In light of the ever-evolving landscape of medical and legal practices, continuous efforts are essential to strike a balance between the scientific advancements, ethical considerations, and religious values. This comprehensive approach is vital for fostering trust in the medical community, upholding the sanctity of the deceased, and advancing medical knowledge responsibly.

5. EXPLORING ISLAMIC PERSPECTIVES ON POST-MORTEM: FATWAS FROM EMINENT SCHOLARS

Fatwas are legal opinions issued by qualified Islamic scholars on various matters of Islamic law. Post-mortems are procedures that involve examining the body of a deceased person to determine the cause and manner of death, or to obtain medical or scientific information. Post-mortems are a controversial and sensitive topic in Islam, as they may involve violating the sanctity and dignity of the human body, which is considered a trust from God. Therefore, different Islamic scholars have different opinions and fatwas on the permissibility and conditions of post-mortems, depending on the purpose, necessity, and benefit of the procedure.

5.1 Some prominent Islamic scholars who have issued fatwas on post-mortems

- Dr. Yusuf al-Qaradawi, a leading scholar of the Muslim Brotherhood and the president of the International Union of Muslim Scholars. He has stated that post-mortems are permissible in cases of necessity, such as when there is a suspicion of murder, poisoning, or contagious disease, or when there is a need for organ donation or transplantation. He has also stated that post-mortems should be performed with the consent of the deceased person or their heirs, and with the utmost respect and care for the body. He has also advised Muslims to avoid unnecessary post-mortems, especially for educational or research purposes, and to seek alternative methods that do not involve mutilating the body. [30]

- Sheikh Muhammad ibn Adam al-Kawthari, a Hanafi scholar and the founder and director of Darul Iftaa, an institute of Islamic jurisprudence based in Leicester, UK. He has stated that post-mortems are generally prohibited in Islam, as they violate the sanctity and honour of the human



body, which is sacred even after death. He has also stated that breaking the bone of a dead person is similar to breaking the bone of a living person, according to a hadith (prophetic tradition). He has also stated that post-mortems should be avoided unless there is a genuine and valid reason, such as for criminal identification or when one is forced by law. He has also stated that Muslims should strive to avoid post-mortems, as the benefits can be obtained from other sources as well. However, if one is compelled by law, it would be permitted due to need and necessity. [31]

- During the 9th Convention of the Council of Senior Scholars in Saudi Arabia, held in Thaif in the month of Sya'ban in 1396 H, discussions centered on a query posed by the Malaysian embassy. The embassy sought clarification from the Saudi Arabian government regarding the permissibility of conducting surgery or operations on the body of a deceased Muslim. Subsequently, the Council of Senior Scholars in Saudi Arabia delineated their stance, categorizing it into the following three scenarios:

1. Surgery or autopsy conducted to identify a crime.
2. Surgery to identify infectious diseases, aiming to implement preventive measures and curb the spread of the disease.
3. Surgery undertaken as part of the educational process.

The convention concluded that all three situations mentioned above are deemed permissible. [32]

- In the issued fatwa by Dar ul Ifta Birmingham UK and the corresponding fatwa by Maulana Mamunur Hussain, emphasis is placed on the sanctity of human life and the physical body, as underscored by references from the Quran and hadith, among other sources. The fatwas assert that the undertaking of a post-mortem on a deceased body is not permissible unless necessitated by compelling medical or legal reasons. Furthermore, the fatwas recommend a refusal to consent to a post-mortem if the family of the deceased is presented with the option, advocating instead for a prompt burial in adherence to the sacred principles outlined in Islamic teachings. [33]

- In the 61st Muzakarah of the National Fatwa Council, held on January 27, 2004, deliberations were conducted on the permissibility of performing autopsies in cases where the cause of death was not categorized as criminal. The council reached the following decision, While the default ruling prohibits performing surgery on a deceased individual, it becomes permissible under desperate circumstances when necessity dictates. Examples include conducting research on deadly diseases, identifying the cause of death, and engaging in educational endeavors, particularly within the realm of medicine. [34]

- Shaykh al-Albaani (may Allah have mercy on him) asserted that the act of dissecting the body of a disbeliever is considered haraam, forbidden in Islamic law, unless explicit permission is granted by the disbeliever's family. This prohibition, according to the Shaykh's perspective, extends to disbelievers engaged in hostilities against Muslims. He emphasized that it is incumbent upon Muslims to provide a proper burial for a disbeliever killed on the battlefield. [35]

- Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) expressed a comparable sentiment, as documented in al-Fatawaa al-Thulaathiyah. He articulated that the prohibition of dissecting the body of a disbeliever is rooted in the classification of such an act as mutilation, deemed impermissible in Islam. His rationale extended to the concern that permitting such actions might lead to reciprocal mistreatment of the bodies of Muslims, thereby reinforcing the prohibition on such practices. [36]

- In a fatwa endorsed by Shaykh Irshaad Sedick and confirmed by Shaykh Faraz Rabbani, the sanctity of the deceased is highlighted through a hadith of Prophet Muhammad ﷺ, emphasizing the severity of mistreating a dead body. As a result, the fatwa allows for autopsies only under circumstances of necessity, such as legal requirements or criminal investigation. [37]

- In 'Tahrir al-Wasilah,' Imam Khomeini writes about post-mortem issues, the dismemberment of a deceased Muslim's body is deemed impermissible. Should such an action transpire, a prescribed Diyat involves severing the individual's head and other organs, as elucidated in the context of "Diyat" (compensation for bodily harm). Conversely, the amputation of limbs from a non-Muslim, be they a Dhimmi or non-Dhimmi, is deemed permissible. In this case, there is neither an obligation for compensation nor is there a sinful act associated with it. [38]

- Perspectives from Ulama Academy Mansooraa Jamaat-e-Islami: Expressing their views on post-mortem, MNA. Farid Ahmad Paracha, the Director of Scholars' Academy Mansooraa and Additional Secretary General of Jamaat-e-Islami, stated that "Disrespecting a corpse is strongly prohibited in



Islam, and the command is to bury it immediately. However, in cases of necessity, such as in the investigation and conclusion of crimes through post-mortem, it can be conducted. In other words, it may be necessary for obtaining benefits, and it can be advantageous in bringing criminals to justice. Similarly, for researching diseases and preventing their spread, post-mortem can be conducted, as it may bring benefits to future generations.” This stance emphasizes the importance of adhering to Islamic principles while recognizing the potential benefits that post-mortem examinations can offer, particularly in the context of crime resolution and medical research for the well-being of future generations. [39]

After the scholarly discussion and examination, it is concluded that the permission for post-mortem is essential to ensure justice in society, prevent the spread of infectious diseases, and fulfill educational objectives. The scholars emphasize that in the case of post-mortem, the dignity and respect for the deceased are paramount. Considering the multitude of benefits and interests, a unanimous fatwa is issued allowing post-mortem for both innocent and non-innocent deceased individuals. Therefore, the scholars, in a concerted manner, issue a fatwa permitting post-mortem for the aforementioned purposes, recognizing it as a means to achieve greater benefits and mitigate harm within the framework of Islamic law.

5.2 Perspective of Islamic Jurisprudence on Post-Mortem Procedures

The perspective of Islamic jurisprudence on post-mortem is based on the interpretation and application of the sources and principles of Islamic law, such as the Qur’an, the Sunnah, the consensus, and the analogy. Different Islamic jurists and schools of thought may have different opinions and fatwas on the permissibility and conditions of post-mortem, depending on the purpose, necessity, and benefit of the procedure.

According to some Islamic jurists, post-mortem is permissible in cases of necessity, such as when there is a suspicion of murder, poisoning, or contagious disease, or when there is a need for organ donation or transplantation. They argue that post-mortem serves the public interest and the objectives of Islamic law, such as preserving life, preventing harm, and promoting justice. They also argue that post-mortem does not violate the sanctity and dignity of the human body, as long as it is done with the consent of the deceased person or their heirs, and with the utmost respect and care for the body. Some examples of these jurists are Dr. Yusuf al-Qaradawi, Imam Khomeini, and Sheikh Muhammad Taqi Usmani.

According to some other Islamic jurists, post-mortem is prohibited in Islam, as they violate the sanctity and honour of the human body, which is a trust from God. They argue that post-mortem is a form of mutilation and torture, and that they cause pain and suffering to the soul of the deceased. They also argue that post-mortem is not beneficial or necessary, as they do not provide reliable or conclusive information, and that they are influenced by the interests and agendas of the authorities. They also argue that Muslims should resist and reject post-mortem, and that they should seek alternative methods that do not involve harming the body.

Therefore, the perspective of Islamic jurisprudence on post-mortem is not uniform or unanimous, but rather diverse and varied, reflecting the different interpretations and applications of the sources and principles of Islamic law. However, all Islamic jurists agree on the importance of respecting the rights and wishes of the deceased and their families, and of balancing the benefits and harms of post-mortem procedures for the individual and the society.

5.3 Medical Professionals' Perspective on Post-Mortem

The medical professionals’ perspective on post-mortem is based on their scientific knowledge and experience, as well as their ethical and legal obligations. Different medical professionals may have different opinions and practices regarding post-mortem, depending on the purpose, necessity, and benefit of the procedure. Some of the famous medical professionals who have expressed their views on post-mortem are:

- Dr. Kamil Hakan Dogan, a forensic pathologist and the editor of the book “Post Mortem Examination and Autopsy: Current Issues From Death to Laboratory Analysis”. [40] He has stated that post-mortem examinations are changing and evolving with the increase of knowledge, availability, and use of various analyses, including genetic testing. He has also stated that post-mortem examination practice is turning into a more multidisciplinary approach for investigations, which are



becoming more evidence based. He has also stated that post-mortem examinations serve various purposes, such as investigating homicides, diagnosing diseases, and fulfilling educational objectives. [41]

- Dr. Nageshkumar G Rao, a forensic medicine expert and the author of the book “textbook of forensic medicine and toxicology”. He has stated that estimating the time since death (TSD) is one of the most significant and crucial functions of forensic medicine, as it helps in death investigation, narrowing down the suspects, and establishing the timeline of events. He has also stated that TSD can be estimated by various methods, such as changes in body temperature, rigor mortis, livor mortis, decomposition, entomology, and biochemical markers. He has also stated that TSD estimation is not an exact science, and that it is influenced by many factors, such as environmental conditions, cause of death, and individual variations. [42]

- Dr. Suzy Lishman, a consultant histopathologist and the former president of the Royal College of Pathologists. [43] [44] She has stated that post-mortems are performed by pathologists to standards set by the Royal College of Pathologists, which include carrying out the post-mortem in a respectful manner and with regard for the feelings of the bereaved relatives. She has also stated that post-mortems provide useful information about how, when, and why someone died, and that they can help improve the quality of care and treatment for future patients. She has also stated that post-mortems are usually regulated by laws and policies that vary from country to country, and that some post-mortems are requested by the coroner or the procurator fiscal, while others are requested by the relatives or the doctors. [45]

- Dr. Owen Arthurs, a paediatric radiologist and the lead author of the article “A pragmatic evidence-based approach to post-mortem perinatal imaging”. [46] He has stated that post-mortem imaging is a valuable tool for examining the body of a deceased fetus, infant, or child, without the need for invasive dissection. He has also stated that post-mortem imaging can provide accurate and reliable information about the cause and manner of death, as well as the presence of congenital anomalies, infections, or injuries. He has also stated that post-mortem imaging can be performed by various modalities, such as ultrasound, MRI, CT, or X-ray, depending on the gestational age, size, and condition of the body. [47]

- Dr. Mike Osborn, a consultant histopathologist and the chair of the Death Investigation Group at the Royal College of Pathologists. [48] He has stated that post-mortems are carried out by pathologists who specialise in understanding the nature and causes of disease, and that they follow the standards and guidelines set by the Royal College of Pathologists and the Human Tissue Authority. He has also stated that post-mortems are not only conducted in the context of criminal investigations, but also in cases of sudden, unexpected, or unnatural deaths that may have legal implications. He has also stated that post-mortems are usually performed with the consent of the relatives, unless they are ordered by the coroner or the procurator fiscal. [49]

5.4 Perspectives of Muslim Healthcare Practitioners on Post-Mortem Procedures

The Muslim medical professionals’ perspective on post-mortem is based on their scientific knowledge and experience, as well as their ethical and religious obligations. Different Muslim medical professionals may have different opinions and practices regarding post-mortem, depending on the purpose, necessity, and benefit of the procedure. Some of the famous Muslim medical professionals who have expressed their views on post-mortem are:

- Dr. Aasim Padela, a professor of medicine and the director of the Initiative on Islam and Medicine at the University of Chicago. [50] He has stated that post-mortem examinations are permissible in Islam, as long as they are done with the consent of the deceased person or their heirs, and with the respect and care for the body. He has also stated that post-mortem examinations can serve various purposes, such as investigating the cause of death, diagnosing diseases, donating organs, or advancing medical knowledge. He has also stated that post-mortem examinations should be guided by the principles of Islamic ethics, such as preserving life, preventing harm, and promoting justice. [51]

- Dr. Abdul Majid Katme, a psychiatrist and the former spokesman of the Islamic Medical Association UK. [52] He has stated that post-mortem examinations are prohibited in Islam, as they violate the sanctity and honour of the human body, which is a trust from God. He has also stated that post-mortem examinations are a form of mutilation and torture, and that they cause pain and



suffering to the soul of the deceased. He has also stated that post-mortem examinations are not beneficial or necessary, as they do not provide reliable or conclusive information, and that they are influenced by the interests and agendas of the authorities. He has also stated that Muslims should resist and reject post-mortem examinations, and that they should seek alternative methods that do not involve harming the body. [53]

- Dr. Hassan Hathout, a professor of obstetrics and gynecology and the founder of the Islamic Organization of Medical Sciences. [54] He has stated that post-mortem examinations are permissible in Islam, as long as they are done with the permission of the competent authorities, and with the respect and care for the body. He has also stated that post-mortem examinations can serve various purposes, such as investigating the cause of death, diagnosing diseases, donating organs, or advancing medical knowledge. He has also stated that post-mortem examinations should be guided by the principles of Islamic ethics, such as preserving life, preventing harm, and promoting justice. [55]

- Hakim Mashallah Khan, a retired and distinguished practitioner from Dawakhana Hakim Ajmal Khan, states, “In the current era, akin to the physicians and surgeons of today, practitioners of traditional medicine in the past also engaged in distinct roles. Healers were associated with diseases and bones, meaning a healer is now referred to as a physician, and a bone-setter is now known as a surgeon. In the olden times, according to the prevalent methods, post-mortems were performed in certain cases. During the Mughal era, if there was suspicion of poisoning, an examination of the relevant organs would be conducted after opening the abdomen. However, this was done specifically and at an advanced level; it was not a common practice. In the time of Ferozuddin, Nooruddin Jarrah gained particular fame. He would ascertain the cause of death by dissecting after opening the abdomen. Now, this field has seen significant progress.” [56]

6. ISLAMIC PERSPECTIVES ON POST-MORTEM: QURAN AND TEACHING OF PROPHET MUHAMAD ﷺ

The Quranic and Hadith rule of post-mortem is a complex and controversial topic that has been debated by various Islamic scholars and authorities. Post-mortem is a procedure that involves examining the body of a deceased person to determine the cause and manner of death, or to obtain medical or scientific information. Post-mortem may involve violating the sanctity and dignity of the human body, which is considered a trust from God. Therefore, some Islamic sources and principles may prohibit or discourage post-mortem, while others may allow or permit it under certain conditions.

The Quran does not explicitly mention or address the issue of post-mortem, but it does affirm the sanctity and honour of the human body, and the respect and care for the deceased. For example, Allah says in the Quran:

“Indeed, We have dignified the children of Adam, carried them on land and sea, granted them good and lawful provisions, and privileged them far above many of Our creatures” [57]

“And do not insult those they invoke other than Allāh, lest they insult Allāh in enmity without knowledge. Thus We have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do.” [58]

“Never say that those martyred in the cause of Allah are dead—in fact, they are alive! But you do not perceive it.” [59]

“And never think of those who have been killed in the cause of Allāh as dead. Rather, they are alive with their Lord, receiving provision.” [60]

The Hadith, or the sayings and actions of the Prophet Muhammad ﷺ, also indicate the sanctity and honour of the human body, and the respect and care for the deceased. For example, the Prophet (peace and blessings be upon him) said:

“Breaking the bones of the deceased is like breaking his bones when he is alive.” [61]

“Hasten at a funeral, for if (the dead person) is good, you would (soon) bring him close to the good. And if it is otherwise, it is an evil of which you are ridding yourselves.” [62]

“He who washes a dead person and conceals what he sees (of defects etc.), Allah will forgive him forty times. And he who digs for him (a grave) and buries him would be granted a reward similar to providing for him a dwelling until the Day of Resurrection. And he who shrouds him, Allah will clothe him on the Day of Resurrection from the silk garments of Jannah.” [63]



“None of you should wish for death because of a calamity befalling him; but if he has to wish for death, he should say: ‘O Allah! Keep me alive as long as life is better for me, and let me die if death is better for me’.” [64]

“When the Messenger of Allah ﷺ appointed a commander or commander of war troops, he always made a will to always fear Allah, then he said, “Fight in the name of Allah to establish in the way of Allah, fight those who disbelieve in Allah, go fighting, and do not implement deceiving (regarding loot or spoils of war), do not break treaties, and do not mutilate corpses.” [65]

The discourse surrounding post-mortem examinations within Islamic jurisprudence reflects a nuanced and intricate landscape. While the Quran and Hadith provide foundational principles emphasizing the sanctity of the human body, respect for the deceased, and ethical conduct during war, the explicit discussion on post-mortem procedures is absent. This absence necessitates a careful consideration of evolving medical practices while upholding the ethical dimensions embedded in Islamic principles. The multifaceted nature of this subject underscores the need for a balanced approach that respects religious values and aligns with contemporary medical and scientific advancements.

6.1 Human Dignity and Grandeur in Light of Sharia Texts

The protection and respect of human life and property are encompassed within the objectives of the Islamic legal system, as articulated in the five maqasid. Imam Abu Ishaq al-Shatibi (d. 790 CE) enumerated these objectives, stating: “Preservation of religion, life, progeny, wealth, and intellect.” [66] The responsibility for safeguarding human existence begins from the moment a human takes shape in the womb. Allah has established laws ensuring its protection from various risks, ensuring its safety and providing guidance at every stage. Allah, in His wisdom, created human beings, adorned them with dignity, and bestowed upon them the capability to attain heights of virtue and contribute positively to the world.

As humans progress through life, the Quran emphasizes their elevated status compared to other creations:

“Indeed, We have dignified the children of Adam, carried them on land and sea, granted them good and lawful provisions, and privileged them far above many of Our creatures.” [67]

“Indeed, We created humans in the best form.” [68]

“He created the heavens and the earth for a purpose. He shaped you ‘in the womb’, perfecting your form. And to Him is the final return.” [69]

“Who created you, fashioned you, and perfected your design, moulding you in whatever form He willed.” [70]

“Allah is the Best of Creators.” [71]

“He is the One` Who has laid out the earth for ‘all of` you, and set in it pathways for you, and sends down rain from the sky, causing various types of plants to grow.” [72]

In conclusion, the Quran consistently underscores the dignity, honor, and excellence bestowed upon humanity, guiding them toward the path of virtue, knowledge, and righteous conduct. The Quran serves as a comprehensive guide for human conduct and societal harmony, emphasizing respect for the sanctity of life and the preservation of human dignity.

6.2 Hadith Categories: Post-Mortem Examinations in Islamic Doctrine

There are five classifications of hadiths that elucidate the proscription of post-mortem examinations. Initially, certain hadiths explicitly prohibit the mutilation of bodies, particularly those deceased in battle, within Islamic doctrine. This prohibition extends universally, encompassing any form of mutilation, regardless of the intended purpose, such as avoiding the desecration or insult of a deceased body. The second set of hadiths emphasizes the prohibition of severing the limbs and organs of a deceased Muslim, explicitly including the practice of autopsies. This underscores a comprehensive restriction against post-mortem procedures within the Islamic context. In the third category, specific hadiths assert the unlawfulness of cutting the hair and nails of a deceased Muslim, leading to the inference that dismembering the body is similarly deemed haram. The fourth group of hadiths underscores the imperative for prompt burial of a deceased Muslim, framing autopsies as antithetical due to their inherent delay in the burial process. Lastly, a cluster of hadiths introduces the concept of diyah (compensation) for severing or cutting the limbs of a deceased Muslim,



emphasizing the financial reparation required for such actions. This financial restitution signifies the explicit forbiddance of autopsies within the Islamic tradition. [73]

7. THE LEGAL STATUS OF POST-MORTEM

The legal status of post-mortem/autopsy is a complex and variable topic that depends on the jurisdiction, the purpose, and the consent of the procedure. Post-mortem/autopsy is a medical examination of a dead body to determine the cause and manner of death, or to obtain medical or scientific information. Post-mortem/autopsy can be classified into three types: medicolegal, clinical, and private.

Medicolegal post-mortem/autopsy is ordered by legal authorities, such as the police, the coroner, or the court, as part of a criminal investigation or a legal proceeding. Medicolegal post-mortem/autopsy is mandatory in cases of suspicious, violent, or unnatural deaths, or when the cause of death is unknown or unclear. Medicolegal post-mortem/autopsy does not require the consent of the deceased person or their relatives, as it is considered a public duty and a legal obligation. Medicolegal post-mortem/autopsy aims to establish the identity of the deceased, the time and place of death, the cause and manner of death, and the circumstances surrounding the death. Medicolegal post-mortem/autopsy can also provide evidence for criminal prosecution or civil litigation. [74]

Clinical post-mortem/autopsy is requested by hospitals or doctors, when an individual dies under their care. Clinical post-mortem/autopsy requires the consent of the deceased person or their next of kin, unless the deceased person had expressed an objection to the procedure during their lifetime. Clinical post-mortem/autopsy aims to confirm or revise the diagnosis, to evaluate the treatment and the outcome, to identify any underlying or contributing factors, and to improve the quality of care and education. Clinical post-mortem/autopsy can also provide information for genetic counseling, organ donation, or medical research. [75]

Private post-mortem/autopsy is paid for by individual citizens, who want to know more about the death of their loved ones. Private post-mortem/autopsy requires the consent of the deceased person or their authorized representative, unless the deceased person had expressed an objection to the procedure during their lifetime. Private post-mortem/autopsy aims to satisfy the curiosity or the concerns of the relatives or the friends of the deceased, to provide closure or peace of mind, or to seek a second opinion or a legal action. Private post-mortem/autopsy can also provide information for personal or family reasons, such as inheritance, insurance, or religious beliefs. [76]

Therefore, the legal status of post-mortem/autopsy depends on the type, the purpose, and the consent of the procedure, as well as the laws and regulations of the jurisdiction where the procedure is performed. Post-mortem/autopsy is a valuable tool for medical and legal purposes, but it also involves ethical and social considerations that need to be respected and balanced.

7.1 Post-Mortem Examination: Unveiling Purposes and Benefits in Legal, Medical, and Ethical Dimensions

Therefore, the legal status of post-mortem/autopsy depends on the type, the purpose, and the consent of the procedure, as well as the laws and regulations of the jurisdiction where the procedure is performed. Post-mortem/autopsy is a valuable tool for medical and legal purposes, but it also involves ethical and social considerations that need to be respected and balanced.

Post-mortem is the examination of a body after death. It can have various benefits depending on the purpose and context of the examination. Some of the benefits of post-mortem are:

- It can help determine the cause and manner of death, which can be useful for legal, medical, or forensic reasons. For example, a coroner may order a post-mortem to investigate a suspicious, sudden, or unnatural death¹. A post-mortem can also reveal the presence of any drugs, poisons, or diseases that may have contributed to the death. [77]
- It can provide useful information about the deceased person's identity, such as their race, gender, age, and physical features. This can help identify unknown or missing persons, or confirm the identity of a victim of a crime or disaster. [78]
- It can help estimate the time since death, which can be important for criminal investigations or legal proceedings. A post-mortem can reveal signs of decomposition, rigor mortis, livor mortis, and other changes that occur in the body after death. [79]



- It can help improve medical knowledge and practice, by allowing doctors and researchers to study the effects of diseases, treatments, or procedures on the human body. A post-mortem can also help identify new or rare diseases, or discover genetic or environmental factors that influence health and disease. [80]
- It can help the bereaved family and friends of the deceased person, by providing closure, answers, or reassurance. A post-mortem can help confirm or rule out any doubts or suspicions about the death, or provide information that can help prevent or treat similar conditions in the family or the community.
- It can help prevent or reduce the risk of similar incidents or problems in the future, by identifying the root causes and contributing factors of the incident, and implementing corrective actions or preventive measures. [81]
- It can help improve the quality and performance of products, services, or processes, by learning from the feedback and suggestions of customers, colleagues, and end users, and applying best practices or innovations.
- It can help foster a culture of learning and improvement within an organization, by encouraging a collaborative and transparent approach to problem-solving, sharing knowledge and experience, and celebrating successes.
- It can help respect the wishes and beliefs of the deceased person and their family, by following their preferences or instructions regarding the handling and disposition of the body. A post-mortem can also help fulfill any religious, cultural, or ethical obligations or rituals that are associated with death.
- It can help contribute to the advancement of science and humanity, by donating the body or organs to medical research or education, or to save the lives of others who need transplants. A post-mortem can also help document the history and diversity of human life and civilization. [82]

8. CONSIDERATIONS AND CHALLENGES SURROUNDING POST-MORTEM PROCEDURES: EXPLORING CULTURAL, RELIGIOUS, AND ETHICAL PERSPECTIVES

Therefore, the legal status of post-mortem/autopsy depends on the type, the purpose, and the consent of the procedure, as well as the laws and regulations of the jurisdiction where the procedure is performed. Post-mortem/autopsy is a valuable tool for medical and legal purposes, but it also involves ethical and social considerations that need to be respected and balanced.

1) Violation of Sanctity:

Post-mortem procedures may be perceived as a violation of the sanctity and dignity of the human body, which is considered sacred in many religious and cultural beliefs.

2) Cultural and Religious Sensitivities:

Different cultures and religions have varying views on post-mortem procedures. Some may consider it acceptable, while others may find it culturally or religiously inappropriate.

3) Emotional Impact on Families:

Post-mortem can be emotionally distressing for the deceased person's family and loved ones. The procedure may delay the burial process and cause additional grief.

4) Invasive Nature:

Post-mortem involves invasive procedures, including dissection and examination of organs. This can be distressing for individuals who prioritize the integrity of the body even after death.

5) Ethical Concerns:

Ethical concerns arise regarding the consent process. Obtaining explicit consent from the deceased person or their family may not always be feasible, leading to potential ethical dilemmas.

6) Limited Scope for Educational Purposes:

While post-mortem can contribute to medical education and research, alternative methods, such as virtual autopsy or simulation, can be considered less invasive and more respectful of cultural and religious sensitivities.

7) Risk of Misdiagnosis:

There is a risk of misdiagnosis or misinterpretation of findings during post-mortem, which may have legal and medical implications.



8) Public Perception and Stigma:

Despite its potential benefits, post-mortem procedures may face public resistance or stigma, affecting how society perceives the medical and legal necessity of such examinations.

It's important to note that the perceived disadvantages of post-mortem procedures vary across different communities, and the ethical considerations should be carefully weighed against the potential benefits. [83]

8.1 Post-Mortem Practices in Pakistani Hospitals: Current Status

Q: Is due respect given to the deceased during post-mortem procedures? A: Yes, complete respect is ensured during post-mortem procedures, according to [a report by the Pakistan Medical Association].

Q: Why has the Scanning System not been successful in Pakistan? A: Because scanning technology is not beneficial in these cases, as it is expensive, inaccessible, or unreliable for determining the cause and manner of death. Q: Briefly explain the complete procedure of autopsy. A: The autopsy procedure involves the following steps:

- The external examination of the body is conducted initially, and details such as injuries, marks, or scars are noted.
- In the subsequent stage, an incision in the shape of the English letter 'Y' is made from the chest to the navel, and an internal examination of organs is carried out using tools such as scalpels, scissors, forceps, etc.
- Later, all organs are placed back in their positions, and stitches are attached to the body. If there is a need to preserve any organ for further investigation, it is saved only with the permission of the heirs.
- Depending on the nature of the case, autopsy can be performed on a specific part of the body rather than a complete autopsy, such as the head, chest, abdomen, or throat. Q: Which parts of the body usually undergo autopsy? A: Autopsy is usually conducted on the head, chest, abdomen, and throat, as these are the parts of the body that are most likely to reveal the cause and manner of death. Q: Is post-mortem report normally accepted as evidence in court? A: Yes, the post-mortem report is normally accepted as evidence in court, as it provides objective and scientific information about the death. Q: What happens if the cause of death is proven to be murder? And what punishment does the murderer face? A: In Pakistan, if murder is proven as the cause of death, the murderer faces the penalty of hanging or life imprisonment, according to the Pakistan Penal Code. Q: What is meant by imaging? A: MRI and CT scan are advanced forms of imaging technology that use magnetic fields or X-rays to create detailed images of the internal structures and organs of the body. These technologies can help diagnose diseases, injuries, or abnormalities in the body, but they are not very effective for determining the cause and manner of death." [84]

9. CONCLUSION: POST-MORTEM PROCEDURES IN ISLAMIC JURISPRUDENCE

The main objective of this research paper was to explore the extent to which post-mortem procedures are permissible and acceptable in Islam, and how Islamic jurisprudence deals with the issue of examining corpses after death. This paper has delved into various perspectives, principles, and practices surrounding post-mortem procedures in the context of Islam.

Islamic teachings emphasize the sanctity and dignity of human life, extending this respect to the deceased. The nuanced discussion surrounding the examination of corpses in Islamic jurisprudence underscores the careful balance between the needs of medical science, legal requirements, and the religious beliefs that guide the Muslim community.

The examination of hadiths has revealed diverse opinions within Islamic scholarship, reflecting the adaptability of Islamic jurisprudence to the evolving needs of society. While some hadiths discourage or prohibit post-mortem procedures, exceptions have been identified, particularly in cases of criminal investigations, organ donation, and disease prevention. For example, the Hanafi school allows post-mortem procedures for legal purposes, such as identifying the murderer or the victim, while the Shafi'i school prohibits them unless there is a dire necessity, such as saving a life or preventing a

plague. Some contemporary scholars and fatwas have also addressed the issue of post-mortem procedures, and have provided guidelines and conditions for their permissibility and acceptability. The legal status of post-mortem in Islamic law has been explored, highlighting its acceptance as evidence in court, especially in cases where the cause of death is uncertain or under suspicion. However, the use of post-mortem as evidence also poses some challenges and limitations, such as the lack of standardization, regulation, or quality control of the procedures, or the potential for bias, manipulation, or falsification of the results. Therefore, the post-mortem report should be verified and validated by reliable and qualified experts, and should be consistent with other sources of evidence, such as eyewitnesses, documents, or circumstantial evidence.

The ethical considerations of post-mortem, such as the preservation of the deceased's honor and the respect for the human body, have been underscored throughout. The consent of the deceased person or their family is a crucial factor for the permissibility and acceptability of post-mortem procedures, as it reflects their wishes and beliefs regarding the handling and disposition of the body. The examination of the body should also be done with respect and care, and should avoid any unnecessary or excessive damage or alteration to the body.

In conclusion, this research paper contributes to a comprehensive understanding of post-mortem procedures within the Islamic legal framework. It emphasizes the adaptability and flexibility inherent in Islamic jurisprudence to accommodate contemporary challenges, while upholding the core principles of respect, justice, and ethical conduct. The findings encourage ongoing dialogue between religious scholars, medical professionals, and legal authorities to ensure that post-mortem procedures align with both the letter and spirit of Islamic teachings. The paper also acknowledges the limitations and gaps of the research, such as the lack of empirical data, the diversity of opinions and interpretations, and the dynamic nature of the issue. The paper suggests directions for future research or action, such as conducting surveys, interviews, or experiments, comparing and contrasting different schools of thought and opinions, and developing and implementing policies, standards, or guidelines for post-mortem procedures in the Muslim community and the wider society.

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