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The Last Moment of Life from the Perspective of Jurisprudence and Forensic Medicine

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ABSTRACT

Death and life, from various perspectives, are regarded as serious and fundamental concepts for human beings. Medicine, jurisprudence, and law also treat this subject with great seriousness, since numerous juridical and legal consequences are contingent upon human life and death. Accordingly, resolving potential problems and disputes that arise in this domain—whether between members of society on the one hand, and physicians, the government, and other social actors on the other—has led jurists and legal scholars to closely examine these issues. On this basis, the present study seeks to analyze the concept of the last moment of life from the perspectives of jurisprudence and forensic medicine. The research method is interpretive–analytical, and data are analyzed through note-taking and interpretation of the collected information. The findings indicate that, from the physician's perspective, when considering the last moment of a person's life, a return to life is deemed impossible; therefore, a definitive ruling of homicide is issued, and the individual who placed the victim in the state of the last moment of life is identified as the killer. However, from the jurist's perspective, based on juridical rulings and subsequent considerations (after certainty is achieved regarding the complete departure of the soul from the body), the last moment of life is not regarded as certainty-producing. Consequently, the application of definitive juridical and legal rulings of homicide is not considered permissible until certainty is attained regarding the complete departure of the soul from the body.

Keywords: *last moment of life; stable life; unstable life; homicide; jurisprudence; forensic medicine.*

Introduction

Death and life are two fundamental concepts in human existence and in nature. These two concepts have been examined and discussed in various ways in philosophy, literature, and science. From a biological perspective, death is the result of the cessation of the body's biological functions. It should be noted that death and life, like other customary matters, are subject to common understanding; there are no distinct concepts such as “Islamic death” or “Islamic life,” and Islam has endorsed customary understanding in this regard. Nevertheless, at times the determination of death can be difficult even for physicians (1). In the past, physicians did not consider cardiac arrest and cessation of respiration as the end of life; today, this theory is no longer widely accepted, since such conditions may arise under particular circumstances—such as hypothermia or excessive drug consumption—in which



recovery may still be possible. Explaining the concept of “life and death,” like explaining the meaning of existence and nonexistence, is both simple and difficult at the same time. At first glance, understanding these concepts seems easy for the general public; however, grasping their true nature is extremely difficult and perhaps impossible. Most lexicographers have introduced life and death as two opposing concepts and have explained each through reference to its opposite. Accordingly, the lexical meaning of life is “being alive and possessing sensation and movement,” and the meaning of death is the absence of life, dying, and the loss of sensation and movement.

Some scholars have identified types or stages of life and death, within which life is divided into stable life and unstable life. Naturally, the issue of life and death has been addressed in various chapters of jurisprudence, such as inheritance, wills, retaliation, and slaughter, where explanations are provided regarding stable and unstable life and death. Unstable life refers to a stage of human life that is moving toward nonexistence and, in other words, a state of dying (2). In other words, unstable life refers to the condition of a person who is in the last moment of life; although such a person has not yet reached definitive death—meaning the complete cessation of brain, cardiac, and respiratory activity—return to stable life is nevertheless impossible, similar to the condition of brain death (3).

Jurists unanimously, following the Qur'an, define definitive death as *tawaffi*, meaning the complete departure of the soul from the body, and they believe that issuing a death certificate requires certainty regarding the departure of the soul from the body. Determining the occurrence of definitive death, like determining other factual matters, is not the responsibility of the jurist but rather that of common understanding (4).

The issue of resuscitating brain-dead patients is one of the important topics in medical law and Islamic jurisprudence. This issue has been considered from human, social, and legal dimensions, and it has also been addressed in the jurisprudence and laws of the Islamic Republic of Iran. In fact, the last moment of life is a condition in which a person is undergoing the separation of the soul from the body and is in the final moments of life. Accordingly, the legislator has regarded the specific condition in which a person is losing the last moment of life as being outside definitive death and definitive life, and has not considered an offense against such a person as murder, but rather as an offense against the dead (5).

Given the importance of defining the concept of the last moment of life or unstable life, this issue can play a fundamental role in determining the outcome of life in the crime of homicide; because determining the boundary between life and death is of great importance in assessing the degree of responsibility, the type of crime, and the criminal response. Therefore, it is necessary in this study to examine the last moment of life from the perspectives of jurisprudence and forensic medicine.

Theoretical Framework

Life

An individual's life begins with being born alive and attaining an existence independent from the mother's body, and continues until the end of life, which is irreversible brain death. The beginning and origin of life lie in fertilization, which forms in the mother's womb and gives rise to embryonic life; this refers to the stages of development of a living being from the moment of fertilization until birth. This period is considered one of the most important stages in the life of a living being. In the Holy Qur'an, the word “life” has been used seventy-six times, and this concept of life encompasses all living beings. In five Qur'anic verses, the term *ḥayy* (living) is also attributed to God. The word life has been used in several ways in the Qur'an, some of which correspond to its lexical meaning, such as *maḥyāya*

("my life"), *ahyā* ("the living"), and *yastahyūn* ("they kept alive"). At times, the word is also used metaphorically, such as attributing life to dead land, by which the growth of plants from the earth is intended (6).

The Concept of Life in Medical Science

In medical science, the concept of life refers to the state of biological activities of organisms that indicates the proper functioning of bodily organs and vital processes. These processes include respiration, circulation, digestion, energy production, and cellular interactions. In medicine, life not only refers to the continuation of the body's physiological activities, but also depends on the patient's clinical condition and the body's ability to maintain internal balance (homeostasis) and respond to environmental stimuli.

Defining life from a medical perspective may become more complex under specific conditions, such as critical states or brain death. In such situations, physicians use specific criteria to determine the state of life or death, particularly in cases where brain activity or the function of other organs has been severely impaired.

Scientific Examination of the Soul and the Debate on Life and Death

From the perspective of the medical field and the general meaning attributed to life, life has been defined as the "existence of sensation, movement, and vital actions in the body," which conveys a comprehensive meaning. Death, in turn, has been defined as the "complete and irreversible cessation of sensation, movement, and vital actions throughout the body," which usually occurs either through cardiac failure and the death of brain cells—resulting in the absence of any sensation or movement in the limbs and consequently the cessation of respiration—or conversely through the death of brain tissue and respiratory arrest, leading to oxygen deprivation in the blood and subsequent cardiac failure. In both cases, definitive and real death occurs (7). Life signifies existence and the activity of living, and encompasses various dimensions. In biology, it refers to the study of living organisms, growth and development, metabolic processes, and interactions among species. In philosophy, questions such as "What is the purpose of life?" and "How can life be made meaningful?" are raised. In psychology, human experiences and emotions in life—from joy to sorrow—and the ways of confronting life's challenges are addressed. Death, however, signifies the end of life. According to existential philosophy, the views of thinkers such as Heidegger and Sartre on the relationship between life and death and its impact on human existence emphasize that reflections on the meaning of death shape the meaning of life. According to the theories of these two prominent twentieth-century philosophers, each offered a distinct and profound perspective on the relationship between life and death. Overall, both philosophers regard this relationship as central to understanding human existence and meaning in life (8).

Heidegger emphasizes the importance of time in understanding life. He believes that human life acquires meaning within the framework of time, and that each person must live within their own specific temporality. Because humans are aware of time and are concerned about the future and death, they live in a distinctive manner. One of Heidegger's key concepts is "authentic life." He maintains that in order to achieve an authentic life, one must become aware of one's existential conditions and confront the fear of death. This awareness leads individuals to examine their values and choices more seriously. Heidegger emphasizes the relationship between death and life and believes that awareness of death helps us experience life in a more meaningful way. According to him, a person must confront their own death in order to shape an authentic life (9).

Sartre, in contrast to Heidegger, views human life as oriented toward human birth. He believes that each individual is responsible for their own choices, and that these choices give meaning to life. Death, in his view, is a

boundary that allows individuals to regard their choices as more significant. He interprets the importance of human life primarily in terms of the right to choose and the rules that lie before individuals (9).

Stable Life

Stable life is the natural state of an individual's living condition in which a person is capable of performing their functions, the soul has the ability to govern the body, and the heart and brain are executing their functions. Even if a person suffers from a fatal and incurable disease that will eventually lead to death over a relatively long period, they may still presently possess a natural life, and this condition may continue for a considerable time. For this reason, jurisprudential and legal texts have identified signs such as remaining alive for at least one day, voluntary movement, perception, and speech as indicators of stable life (10). The Assembly of Juristic Language defines life and death as follows: "Life is the establishment of the soul within the body, and it is of two types: stable life, in which the soul is settled within the body, and unstable life, in which the soul is in motion and close to departing from the body, such as the life of a slaughtered animal immediately after slaughter and before the complete departure of the soul from the body. What is meant by stable life is a life characterized by stability and continuity" (11).

Stable Life in Islamic Jurisprudence

Stable life in Islamic jurisprudence is a concept that refers to a specific state of human existence after birth and prior to death. In general, the concepts of life in Islamic jurisprudence are examined in various forms; however, "stable life" refers to a living and enduring state in which an individual's rights and obligations are fully recognizable and enforceable. In Islamic jurisprudence, a fetus that has not yet reached the stage of birth is not considered a living person in the full juridical sense. Stable life encompasses individuals who have reached the age of reason and are capable of understanding, choosing, and acting in accordance with religious and ethical commands (10).

From the perspective of human rights doctrine, the right to life of a living human being is a fundamental and supreme right that is non-derogable even in states of emergency. It is also emphasized that the right to life constitutes the foundation of all human rights and, as the highest right, represents the origin of rights and a non-transferable entitlement of the utmost importance. Within jurisprudential doctrine, even governments are obliged to adhere to all reasonable measures to ensure the enjoyment of legal rights and to protect individuals' rights against unlawful acts. It is within the framework of this right that human existence and being alive acquire meaning (12).

Unstable Life

Unstable life, or what is also referred to as precarious life in Islamic jurisprudence, denotes conditions of existence in which a person or being is not fully recognized as a living entity possessing complete legal rights. This concept applies to situations in which life appears temporary and unstable, and refers to conditions in which a person may be subjected to specific circumstances that remove them from a state of stable and complete life (13). In Islamic jurisprudence, the concepts of life and death are fundamental and are intertwined with spiritual, ethical, and legal dimensions. Understanding these concepts is essential for comprehending how to deal with life events, moral conduct, and the afterlife.

Some jurists, in responding to this issue, have attempted to equate brain death with what is referred to in Islamic jurisprudential and legal texts as unstable life, and to extend the rulings applicable to unstable life to brain-dead

individuals. They have thus considered what is described as unstable life in jurisprudential texts to be equivalent to what is termed brain death in medical literature (14).

However, despite extensive research, ambiguity in this area persists. Some legal scholars classify brain death within the domain of stable life, while others place it within unstable life; yet it appears that brain death does not fall within either category. Brain death constitutes definitive death, and there is, in fact, no remaining life in the affected individual that could be subject to classification within stable or unstable life. In defining unstable life, it has been described as a condition in which an individual is placed in a situation where, due to bodily injuries and the resulting physical condition, the continuation of life is no longer possible. Attention must be paid to a fundamental principle, namely the absence of the rational soul, which is considered the criterion of life. Other scholars have also regarded brain death as falling within the domain of stable life and have excluded individuals with brain death from the scope of unstable life and definitive death (13).

The Last Moment of Life

The concept of the “last moment of life” in Islamic jurisprudence primarily relates to discussions surrounding end-of-life issues, medical ethics, and the determination of death. According to definitions in Islamic jurisprudence, the “final signs of life” (*‘alāmāt al-ḥayāt al-ākhirah*) refer to indicators that are regarded as evidence of a person being alive and that, under Islamic law, can play a fundamental role in determining the moment of death. This concept is particularly significant in medical ethics, the treatment of the dying, and the rights associated with the living and the dead. For this purpose, certain indicators have been identified. The indicators of life commonly recognized in Islamic jurisprudence include heartbeat, natural respiration, responsiveness to stimuli, and reflexive actions such as movement in response to pain or verbal commands, all of which signify that a person is alive. In Islamic law, these criteria distinguish life from death, and this determination is made through the cessation of heartbeat and blood circulation, as well as the cessation of respiration (12).

Brain Death

Brain death is a medical and legal diagnosis that signifies the complete and irreversible loss of all brain functions. It is one of the criteria used to define human death alongside the cessation of circulatory and respiratory functions. Brain death is characterized by irreversibility and is considered permanent and irreparable (15). There is no potential for the recovery of brain function. An individual exhibiting these signs must meet specific clinical criteria for the diagnosis of brain death, such as the absence of responsiveness to stimuli, including the lack of purposeful movements.

The absence of brainstem reflexes, including the lack of blinking, pupillary response to light, or response to pain, is another criterion. In addition, the apnea test is used to confirm that the patient is unable to breathe independently.

In the past, death was defined as the complete and irreversible cessation of cardiac and respiratory functions, since irreversible respiratory failure necessarily led to irreversible loss of brain function. However, today, with advances in medical science and the availability of resuscitation equipment and intensive care technologies, the cessation or failure of the cardiopulmonary system is not always an irreversible condition (16).

The diagnosis of brain death involves complex ethical issues surrounding end-of-life decisions, patient consent, and the rights of families. Understanding brain death is critically important for healthcare providers, families, and ethics professionals, as it encompasses significant medical, ethical, and legal dimensions.

Brain Death and the Last Moment of Life

It appears that the process of brain death and the condition of a person in whom some signs of life still remain are fundamentally different. This is because if an individual exhibits certain signs of life, even if the body is no longer capable of sustaining continued life, it is not possible to regard that person as dead. In contrast, in brain death, the body's capacity for survival persists through blood circulation and oxygen exchange—either spontaneously in cases of cerebral cessation or through resuscitative interventions in cases of brainstem failure—since what human life fundamentally depends upon is the delivery of blood and oxygen to bodily tissues. This function, which is ordinarily performed by the body's own organs such as the heart and lungs, can also be carried out by artificial organs, such as mechanical hearts, or by natural organs supported by external devices, such as connection to a ventilator (16). For patients with brain death, the development of cardiopulmonary resuscitation (CPR) methods in medical science has created clinical and legal challenges for physicians in declaring death.

According to medical criteria and the legal definition of death, death is uniformly determined as the irreversible cessation of certain specific biological functions: either circulatory and respiratory functions under the first criterion, or all brain functions under the second criterion. However, the “cessation of functions” carries two distinct meanings. On the one hand, it may refer to the cessation of spontaneous function, that is, the stopping of an organ's autonomous activity. On the other hand, it may refer to the cessation of both spontaneous and artificially supported functions. This inconsistency may arise from the conceptual assumptions underlying the whole-brain concept of death, which claims that (1) life requires the organism's spontaneous integration, and (2) the integration of the organism requires spontaneous brain function (or that of a part thereof). Both claims are currently considered inaccurate in modern medical contexts. That is, either a circulatory–respiratory criterion under a broad interpretation of “function,” which includes both spontaneous and artificial functions, or a single brain-based criterion under a narrow interpretation of “function,” limited to spontaneous brain activity, has been proposed, with no other acceptable alternative identified. If the first criterion is chosen, brain death would no longer be considered equivalent to human death. If the second criterion is selected, death would be declared after the irreversible cessation of spontaneous brain function in two different medical situations: irreversible cessation of circulatory and respiratory functions, which subsequently leads to irreversible cessation of spontaneous brain activity; or irreversible cessation of spontaneous brain functions while circulatory and respiratory functions are artificially maintained. This solution does not disrupt current medical practice but requires a new scientific and philosophical justification that differs from the traditional whole-brain rationale (17).

With respect to considering brain death as a form of unstable life, greater reflection is required given the subtleties associated with unstable life. Jurists have applied some rulings of the dead and some rulings of the living to such individuals. In many jurisdictions, brain death has been accepted as a definitive criterion of death. By contrast, the last moment of life specifically refers to the moment immediately preceding the cessation of respiratory function. This is often regarded as part of the dying process but does not, in itself, indicate brain death. In cases where brain activity may still be present and there remains a possibility of improvement or deterioration, an individual may take their final breath while still alive. This typically occurs in terminally ill patients who exhibit signs of impending death, such as irregular breathing patterns or episodes of apnea. Brain death, however, is defined as the complete and irreversible loss of all brain activity, whereas the last moment of life represents the final respiratory effort prior to death and does not constitute a legal definition of death. The last breath signifies a critical moment in the dying

process, while brain death represents an irreversible condition indicating that the individual has died according to medical and legal definitions. Nevertheless, the criteria for diagnosing and distinguishing between these two states require further consideration, and the potential expansion or limitation of these criteria, as well as their broad or narrow interpretation, remains open to critical examination (10).

Rulings Related to Unstable Life

According to the opinions of jurists, if an individual commits an act that places a person in the legal status of being dead, and another person subsequently causes the person's death to become definitive, the jurists consider the first individual to be the killer. This is because the second individual has committed an offense against someone whose life, in the juristic sense, was unstable, and whose condition is treated as that of a dead person. On this basis, Article 372 of the Islamic Penal Code provides that if an injury inflicted by the first person places the victim in the status of being legally dead, leaving only the last moment of life, and another person then performs an act that ends the victim's life, the first person is subject to retaliation (*qiṣāṣ*), while the second person must pay the blood money for an offense against a corpse.

The establishment of a Do Not Resuscitate (DNR) order constitutes an important legal step for individuals who wish to express their preferences regarding resuscitation in cases of cardiac arrest or respiratory failure. When a DNR order is issued, medical personnel are instructed not to perform cardiopulmonary resuscitation (CPR) if the patient's heart stops beating. Islamic teachings acknowledge the quality of life and the concept of suffering. If a medical condition results in no prospect of recovery or a life characterized by severe and prolonged suffering, the appropriate approach may differ from strict life-preserving measures. Islamic jurisprudence recognizes individuals' autonomy in making decisions about their medical care, including the right to refuse treatment. Islam teaches that life and death are ultimately in the hands of God, and it is important to distinguish between "death" as determined by medical standards and "life" as the presence of consciousness and health. While medical intervention to preserve life is encouraged, Islamic jurisprudence accepts that aggressive interventions may not always be appropriate, particularly when they result in prolonged suffering without hope of recovery (18).

Conclusion

It is true that the right to life and living is regarded as one of the fundamental and basic rights of every human being, and great importance is attached to it in international communities, such that this right cannot be taken away from any individual. However, situations arise in which these rules are no longer capable of providing a definitive judgment concerning survival and the continuation of life, and adherence to such principles becomes unavoidable. The condition of unstable life is one of the situations in which it is no longer possible to proceed on the basis of these rules or to invoke the right to life and the rights associated with it, because the individual does not possess real life in its conventional and established sense. An examination of jurisprudential texts shows that in certain situations a person's condition lies between definitive life and definitive death, which is technically referred to as unstable life. In order to identify this condition, various methods and criteria have been proposed, and reliance on customary understanding is required. Based on these interpretations, if an act is committed against a person who is in a state of unstable life and this act leads to definitive death, it does not constitute homicide, and the perpetrator is only required to pay blood money for an offense against a dead person. Given that cardiopulmonary arrest is also

considered one of the instances of unstable life, and that in such a condition the individual is practically treated as legally dead, cardiopulmonary arrest can likewise be regarded as falling within the scope of unstable life.

From a jurisprudential and legal perspective, a condition exists between definitive (stable) life and definitive death that is referred to as unstable life. The criterion for diagnosing unstable life is the individual's placement in a condition in which death overtakes the body within a short period of time, and customary understanding, based on the observable effects, considers the person in such a state to be legally dead. From the perspective of Islam, any action directed toward suicide is prohibited; therefore, euthanasia—if considered intentional killing—will be affected in its legal ruling by the type of life involved. Accordingly, it is important to recognize that ending the life of a human being, whether stable or unstable, for any reason whatsoever, even out of compassion, is prohibited, and the mere consent of the person killed cannot legitimize such an act. Moreover, although retaliation and blood money are both considered private rights and may be waived, the prohibition itself constitutes a legal ruling, and legal rulings are not subject to waiver. A physician, by focusing on the last moment of a person's life, considers a return to life to be impossible and therefore issues a definitive judgment of homicide, identifying the person who placed the individual in the state of the last moment of life as the killer. In contrast, a jurist, by focusing on subsequent rulings and issues—after certainty has been achieved regarding the complete departure of the soul from the body—does not regard the last moment of life as certainty-producing. Consequently, the application of definitive jurisprudential and legal rulings of homicide is not considered permissible until certainty is attained regarding the complete departure of the soul from the body.

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Authors' Contributions

All authors equally contributed to this study.

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The authors of this article declared no conflict of interest.

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Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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