



Jurisprudential–Legal Analysis of the Effects of Brain Death on the Marital Relationship: A Case Study of Its Legal Consequences¹

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Introduction

Medical advances and life-support equipment have raised new questions about traditional understandings of life and death. Brain death is a major issue. It is a condition in which the functions of the brain and brainstem cease irreversibly, while some vital bodily functions continue with the assistance of medical equipment. In Islamic jurisprudence and law, this condition may also affect family law, particularly marriage. The main problem of this study is to determine what effect the brain death of one spouse has on the continuation or dissolution of marriage and, under different jurisprudential foundations, what legal consequences follow from it. The purpose is to clarify its jurisprudential nature and legal consequences for marriage, especially annulment, divorce, marital consummation status, and inheritance. The central question is whether brain death terminates marriage or whether the marital relationship remains until definitive death. The study also asks what consequences arise from the three approaches that regard the person as alive, dead, or in a third state.

Literature Review

Previous studies on brain death have focused mainly on death, medical diagnostic criteria, organ transplantation, and rulings concerning deceased persons. Some jurisprudential works have also presented different views concerning whether a brain-dead person should be considered alive or dead. Nevertheless, its consequences for

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marriage have received less systematic attention. This study addresses this gap by examining jurisprudential views concerning marriage and distinguishing the consequences of each foundation.

Research Method & Framework

This research is fundamental in purpose and descriptive–analytical and argumentative in method, and it was conducted through library research. Data were collected from sources of Imami jurisprudence, works of contemporary jurists, legal sources, and texts related to brain death, and examined analytically. The framework is based on three views concerning brain death: the theory of life, the theory of death, and the theory of a third state, or unstable life. Each view was examined separately for the affected husband and wife. Data collection relied on written sources, while analysis used jurisprudential inference, comparison of evidence, and application of rulings.

Research Findings

The findings show that brain death may be described as “unstable worldly organic life,” because although consciousness, speech, and voluntary movement have ceased, some organs continue functioning with technological support. Under the theory of life, brain death by itself does not cause dissolution or termination of marriage, and the marital bond remains valid. However, if the husband’s condition continues for a long period and places the wife in severe hardship, she may invoke principles such as the negation of hardship and the negation of harm, or reasoning derived from the jurisprudential rules concerning insanity, and request divorce from the competent religious authority or, where applicable, annulment. If continuation of marital life deprives the wife of her marital rights or creates serious difficulty in meeting ordinary marital needs, protecting her rights may therefore be justified.

Regarding marital consummation status, a distinction must be made between a case in which sexual intercourse occurred before brain death and a case in which it did not occur. Concerning the husband, annulment on the ground of insanity depends on jurisprudential conditions relating to the time when the defect arose and the time of intercourse. Under the theory of death, if brain death is considered actual death, consequences of death, including termination of marriage and inheritance, may arise. Other consequences, such as restrictions or permissions concerning marriage with certain relatives by affinity, may also become relevant, although proponents of this view have approached practical application cautiously. Under the third-state theory, brain death is neither established life nor complete death; therefore, dissolution of marriage and inheritance cannot readily be established. Comparison of the three views indicates that the theory of life provides greater coherence in explaining the consequences of brain death for marriage.

These findings show that the issue cannot be reduced to the opposition between “alive” and “dead.” Determining marital status requires attention to life, jurisprudential evidence, and the spouse’s rights. Thus, equipment-supported cardiac activity alone cannot terminate marriage, and a medical declaration of brain death cannot establish the consequences of death without a corresponding jurisprudential foundation.



Conclusion & Discussion

The study concludes that, under the examined jurisprudential foundations, brain death does not automatically dissolve marriage. Acceptance of the theory of life offers a more appropriate way to reconcile family stability with protection of the spouse's rights. Under this approach, marriage continues until a religious and legal ground for dissolution occurs. Nevertheless, if the condition persists and causes severe hardship or deprivation of fundamental marital rights, the wife may use available jurisprudential and legal mechanisms to seek separation. Conversely, although the theory of death permits consequences such as inheritance, it creates extensive implications for family relations and therefore requires greater precision in practical application. The third-state theory also ultimately tends toward preserving certain consequences of life. Therefore, the principal conclusion is to strengthen the theory of life and recognize continuation of marriage until a valid religious ground for dissolution is established, while ensuring that the spouse of a brain-dead person receives adequate legal and jurisprudential protection.

Keywords: Brain death; legal death; marital dissolution; annulment; marital relationship; life–death continuum