A COMPARISON BETWEEN BRAIN DEATH AND UNSTABLE LIFE:
SHI’ITE PERSEPCTIVE

ABSTRACT

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This paper endeavors first to define life and death on the basis of Islamic theology and its acceptance of spirit as the source of life and then to analyze stable and unstable life in Islamic jurisprudence. It then proceeds to delineate the criteria of life in juridical texts and compares them with existing definition of brain death. By studying the criteria for stable and unstable life and comparing them with the symptoms of brain death the paper underscores the existence of substantial difference between them. In the case of unstable life the body loses the capacity to connect with the spirit; whereas, in the case of brain death, despite the loss of all brain functions, because of the improvements in resuscitatory and supportive measures that can restore life as judged by the traditional standards of persistent respiration and continuing heart beat the body is still able to connect to the spirit. The variation between these two sets of criteria is the cause for the differences in the Islamic juridical decisions and legal decisions derived on the basis of medical jurisprudence operative in the law. A person suffering from brain death is considered alive in such legal matters as inheritance, last will of testament, faith, marriage and crime and is connected the living people; whereas a person who is in the state of unstable life is regarded dead in all these matters.

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