



## TRANSPLANTATION, RELIGION AND LAW: THE EXPERIENCE OF INTERACTION IN THE ISLAMIC REPUBLIC OF IRAN

SERGEY VYLTSAN<sup>ORCID</sup>

Ph.D. Candidate, The Institute of Legislation and Comparative Law under the Government of the Russian Federation.  
[servyltsan@mail.ru](mailto:servyltsan@mail.ru)

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### ABSTRACT

The present study is devoted to determining the relationship between religious and legal norms in the regulatory framework governing organ transplantation as a method of treating diseases in the Islamic Republic of Iran. It has been established that the set of normative acts regulating this field consists of the fatwas of the Supreme Leaders, as well as laws and subordinate regulatory legal acts. The author concludes that in contemporary Iran, religious norms – by legitimizing transplantation (including from unrelated donors and even from animals) – have been flexibly adapted to the needs of Iranian society. As a result of the study, the author finds that at the present stage in the Islamic Republic of Iran a balance has been achieved between the requirements of religion and legal norms in the regulation of transplantation. This balance has allowed the country to emerge as a world leader in meeting the demand for donor organs.

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The first transplantation surgery performed in Iran dates back to long before the Islamic Revolution of 1979. In 1935, in Tehran, the founder of Iran's modern ophthalmology, Dr. Shams, performed a corneal transplant.<sup>1</sup> The first kidney transplant in Iran was performed in 1968 at Namazi Hospital of Shiraz University of Medical Sciences by Professor Dr. Senadizade.<sup>2</sup> It was not only the first such operation in what would become the Islamic Republic, but also the first in the entire Middle East.

After the Islamic Revolution of 1979, which led to a change in the constitutional order and a comprehensive restructuring of the state apparatus, and against the backdrop of the war with Iraq (1980–1988), the healthcare system of the Islamic Republic of Iran (IRI) faced significant difficulties. Patients with end-stage renal failure were sent abroad. From 1979 to 1985, more than 400 people traveled outside Iran and received kidney transplants at the government's expense.<sup>3</sup> The majority of these patients were operated in the United Kingdom and received kidneys from donors who were their relatives.

In 1988, the IRI adopted a program for kidney transplantation from living unrelated donors. As a result, the number of operations performed increased significantly, and by 1999 the transplant waiting list was completely eliminated.<sup>4</sup>

It is noteworthy that after the 1979 Islamic Revolution, fatwas of the Supreme Leader initially served as the normative basis for kidney transplants in Iran. For example, on April 27, 1979 – even before the Constitution of the IRI came into force – Ayatollah Khomeini issued a fatwa in which he clarified the religious position on organ donation: “If transplantation leads to saving a person from death, then from the standpoint of Shariah there are no obstacles to performing it. Of course, if one can save a human life while guaranteeing the health of the person who gives his kidney, this is permissible and is a good deed. Therefore, if someone

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1 *Ehdacenter.ir*, ‘History of Organ Donation and Transplantation’ (undated) <https://ehdacenter.ir/about-donation/history-of-organ-donation/2759596> accessed 4 September 2025.

2 *Iran Newspaper*, ‘The First Kidney Transplant in Iran’ (26 September 2020) <https://old.irannewspaper.ir/newspaper/item/555669/> accessed 4 September 2025.

3 Ahad J Ghods, ‘The History of Organ Donation and Transplantation in Iran’ (2014) 12 (Suppl 1) *Experimental and Clinical Transplantation* 8.

4 Ahad J Ghods and Shekoufeh Savaj, ‘Iranian Model of Paid and Regulated Living-Unrelated Kidney Donation’ (2006) 1 *Clinical Journal of the American Society of Nephrology* 1136.



who has two kidneys performs this good deed and shows self-sacrifice for the sake of his sick brethren, God will reward him.”

*“If a deceased person has a kidney suitable for transplantation, then with the permission of his closest relatives it is permissible to use it to save another person’s life and transplant it into a patient who lacks a healthy kidney.”<sup>1</sup>*

There is also a fatwa in this field from the second Supreme Leader, Ayatollah Khamenei: “The use of the organs of a deceased person for transplantation to another person in order to save their life or treat a disease faces no obstacles. Making a bequest in this regard is not forbidden, except for those organs whose removal may be considered as mutilation of the body or, by common opinion, as a violation of the dignity of the deceased.”<sup>2</sup>

There is also a fatwa by Khomeini that clarifies the issue of religious purity: “Extracting an organ from a deceased non-Muslim for transplantation is not forbidden. However, the issue of ritual impurity arises due to the fact that the organ belonged to a dead body, and thus it may be an obstacle to performing prayer. But it can be said that if the organ comes to life after transplantation and becomes part of a living person’s body, then it ceases to be considered part of the dead body and is not impure (from a religious point of view). Even if an organ of an animal that is by its nature ‘impure’ is transplanted, once this organ comes to life in a human body, it loses the status of an animal organ and becomes part of the human body.”<sup>3</sup>

This fatwa perfectly illustrates the flexibility of religious norms in cases when an objective necessity makes observing them impossible or difficult. This is particularly evident in the example of the rule that it is permitted to transplant the organs or body parts of an “impure” animal.

In the author’s view, a striking example of flexibility in the interpretation of religious norms under objective necessity is a fatwa concerning the permissibility of a male surgeon performing plastic surgery if the procedure entails physical contact between unrelated individuals that is forbidden by Sharia. Thus, Ayatollah Khamenei formulated the following rule: “Plastic surgery is not considered treatment for a disease, therefore forbidden gazing and touching are not allowed in it, except in cases when the surgery is performed to treat burns and similar conditions, and the doctor is forced to touch and look in order to carry out the necessary procedures.”<sup>4</sup>

Thus, the fatwa on the one hand does not ban plastic surgery, but it points to the superfluous nature of plastic surgery as a means of altering a person’s appearance for subjective aesthetic reasons. For such purposes, the religious rules of interaction between men and women must not be violated. However, if plastic surgery – involving a formal violation of the religious

1 *Imam Khomeini*, ‘Imam Khomeini’s Recommendation of Organ Transplant’ (24 September 2019) <http://www.imam-khomeini.ir/fa/n22273/> accessed 8 September 2025.

2 *Setare.com*, ‘The Religious Ruling on Organ Transplantation from a Dead or Living Person’ (1 May 2022) <https://setare.com/fa/news/17770/> accessed 8 September 2025.

3 *IFSM*, ‘Organ Donation Laws in Iran’ (24 May 2023) <https://www.ifsm.ir/news/58685/> accessed 8 September 2025.

4 *Hawzah News*, ‘The Religious Ruling on Transplanting Animal Organs to Humans’ (19 June 2019) <https://www.hawzahnews.com/news/494751/> accessed 12 September 2025.



rules of physical contact between men and women – is required due to trauma or disease that led to disfigurement, then those circumstances, by analogy with the criminal law concept of “circumstances excluding the criminality of an act,” become circumstances that exclude the haram (religiously forbidden) nature of the act.

At present, the legal foundation for performing transplant surgeries consists of the Constitution of the IRI and the “Islamic Penal Code.” Article 29 of the Constitution enshrines the right of every Iranian citizen to proper medical care at the state’s expense.<sup>1</sup> Clause 6 of Article 158 of the Islamic Penal Code stipulates that a surgical or other medical intervention is permissible if performed with the consent of the patient or their guardians, custodians, or legal representatives, and in compliance with technical and scientific rules and state directives.<sup>2</sup> Therefore, performing transplantations outside of medical institutions that have a special license is considered a crime against human health.

Medical organizations where kidney transplants are performed must obtain a license from the Ministry of Health and Medical Education (the Ministry). The requirements for such centers are set forth in the Ministry’s Order “On Requirements for Kidney Transplant Centers in Iran.”<sup>3</sup> These requirements are categorized under several headings: medical personnel, equipment, and performance outcomes. The staff must include at least one transplant surgeon and one nephrologist, and mid-level medical personnel are required to obtain a certificate of professional training from one of the kidney transplant training centers.

Centers are forbidden from performing operations on foreign nationals, except in special cases authorized by the Ministry. Such cases are situations in which an Iranian citizen who is a donor provides an organ to a foreign relative.<sup>4</sup> Given the extremely large number of Afghan citizens in Iran (approximately 6.1 million),<sup>5</sup> exceptions are also provided for them: both the donor and the recipient are allowed to have only Afghan citizenship, and the operation must be performed in Iran.

The Ministry’s Order sets target performance indicators for kidney transplant centers. Each such center must perform no fewer than 25 operations per year, and the resulting graft survival rate must be at least 80%, while the recipient survival rate must be at least 90%. Moreover, a minimum of 20% of transplants must be performed using organs from donors diagnosed with brain death. If a center does not achieve the target indicators, the Ministry revokes its license based on the inspection results.

Part of the legal framework for transplantation is also the Law “On the Transplantation of Organs of Deceased Persons and Persons with a Confirmed Diagnosis of Brain Death”<sup>6</sup>

1 Constitution of the Islamic Republic of Iran (Iran) art 29, [https://www.lu.ac.ir/uploads/123456\\_20436.pdf](https://www.lu.ac.ir/uploads/123456_20436.pdf) accessed 8 September 2025.

2 Islamic Penal Code (Iran) art 158, [https://www.lu.ac.ir/uploads/123456\\_20436.pdf](https://www.lu.ac.ir/uploads/123456_20436.pdf) accessed 8 September 2025.

3 *Ministry of Health and Medical Education (Treatment Sector)*, ‘Executive Directive on the Requirements for Establishing Kidney Transplant Centers in Iran’ (4 September 2021) <https://treatment.tums.ac.ir/uploads/196/> accessed 8 September 2025.

4 *Iranian Students’ News Agency (ISNA)*, ‘Conditions for Organ Transplantation for Foreign Nationals in Iran’ (28 July 2020) <https://www.isna.ir/news/99050604342/> accessed 8 September 2025.

5 *Etemadonline.com*, ‘Afghans in Iran’ (7 April 2025) <https://www.etemadonline.com/706655/> accessed 8 September 2025.

6 Law on Organ Transplantation of Deceased Patients or Patients Whose Brain Death is Certain (Islamic Republic of Iran) art 1 <https://rc.majlis.ir/fa/law/show/93297> accessed 8 September 2025.



dated April 5, 2000. According to this law, hospitals licensed by the Ministry to perform transplants may use healthy organs of deceased patients or patients with a diagnosis of brain death (established by experts), provided there is voluntary consent given during the patient's lifetime or consent of their legal representative (relatives) following the patient's death. Removed organs may only be used for transplant in patients whose survival depends on the transplantation of an organ or organs.

Experts authorized to certify brain death are appointed by the Ministry. The diagnosis can only be made in state university hospitals equipped with the necessary equipment. Moreover, the experts who establish the diagnosis cannot be part of the transplant team.

In accordance with the Resolution of the Cabinet of Ministers of Iran "On the Implementation of the Law 'On the Transplantation of Organs of Deceased Persons and Persons with a Confirmed Diagnosis of Brain Death'"<sup>1</sup> dated May 15, 2002, "brain death" is defined as the complete and irreversible cessation of all functions of the brain, namely the cerebral cortex, subcortical structures, and brain stem. The confirmation of this diagnosis is carried out by four physicians: a neurologist, a neurosurgeon, an internist, and an anesthesiologist. Each physician conducts a separate independent examination of the patient, fills out a special form, signs it, and certifies it with a seal. If they are unanimous, the patient's brain death is deemed established.

After brain death is established, further actions are taken if the patient had left a will or with the consent of their legal representative. The legal representatives of the deceased are considered to be the adult legal heirs, who can give consent for the removal of organs for transplantation. Consent must be obtained from all the heirs.

A will can be expressed in either written or oral form. As a general rule it must be written; however, in extraordinary circumstances such as a severe sudden illness or wartime, a patient may declare their will orally in the presence of two competent witnesses. After circumstances normalize, however, such an oral will must be solemnized in writing.

If the original will is not available, then if the legal heirs confirm that the deceased indeed bequeathed their organs for transplantation, a protocol is drawn up in a form established by the Ministry.

The requirements for living donors are regulated by the Ministry's Order "On Kidney Transplantation from a Living Donor."<sup>2</sup> According to this act, a living donor is defined as a person who voluntarily agrees to donate one of their kidneys to a patient in need of a transplant. Moreover, a kidney may be donated to either a relative or a person who is not related to the recipient. The act provides for a situation of so-called paired donation. In this scenario, two donors wish to donate kidneys to their ill relatives, and if the donors' tissues are found incompatible for transplantation to their respective relatives but suitable for an unrelated recipient, an exchange takes place.

A unified registry of kidney donors and recipients is being created. Its formation is carried

1 Bylaw of the Law on Organ Transplantation of Deceased Patients or Patients Whose Brain Death is Certain (Islamic Republic of Iran) <https://rc.majlis.ir/fa/law/show/121984> accessed 8 September 2025.

2 *Peyvand115.ir*, 'Executive Directive for Kidney Transplantation from Living Donors' (undated) <http://peyvand115.ir/> accessed 8 September 2025.



out by authorized medical organizations. These organizations are tasked with a wide range of duties, from registering donor data in the Ministry's system, informing candidates about the donation process and providing them with the necessary educational materials on kidney transplantation, to conducting donor–recipient tissue compatibility tests and planning the surgical program. The medical organization is also obligated, at the stage of obtaining the prospective donor's voluntary informed consent, to assess their mental and psychological state, study their motivation, and check for any socio-economic problems the donor may have, in order to prevent the donation from being coerced. For the established donation system in Iran, a fundamental norm is the one formulated in a fatwa by Supreme Leader Ali Khamenei: "From a religious point of view, the donor is permitted to receive money for the donated organ."<sup>1</sup> The Iranian state pays a kidney donor up to 1,100,000,000 rials, depending on the donor's domicile.<sup>2</sup>

Based on the above, the following conclusions can be drawn. The regulation of modern medical technologies in Iran, such as transplantation, demonstrates a high degree of adaptability of religious norms to the objective requirements of contemporary society and scientific–technological progress, since religious norms in the form of fatwas of the Supreme Leaders permit the use of the products of scientific progress to help the population.

The possibility of a healthy Iranian voluntarily donating a kidney to someone who is not a relative, as well as the guaranteed monetary compensation to donors by the state – these two aspects underlie Iran's kidney transplant system, which has proven its effectiveness in that the population's needs for kidney transplant treatment have been fully met for over two decades. Given the rather long-term and quite successful application of organ transplantation technologies, it can be asserted that in the Islamic Republic of Iran a balance has been found between the requirements of religion, legal norms, and the conduct of high-tech medical procedures.

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