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A comparative study of organ transplant in Iran's law

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ABSTRACT

The purpose of the present paper is salary Survey donation and of organ transplant in Iran's law with a comparative study, Critical issue brain death which forms the basis of organ transplant especially about organ donor in transplants like kidney, liver, heart, and ... the has been faced with legal problems, establish legal and lawful and it still is, the main goal of this paper is review and classification the problems and finding appropriate ways for removing them. The main problems include legal problems, legal and regulatory problems, Lack of preparation society for organ donation, security financial resources and government support and individuals charitable and insurance institutions and the lack of precise knowledge topics transplant especially brain death on behalf of scholars and valuable references. about legal questions organ transplant, the issue of human dignity and his respect for the views of the Qur'an and narratives , on human ownership of their own members, organ donation of the person who has been suffered brain death, and jurisprudence and legal opinions about these Topics is a major purpose this paper. Of the issues discussed in this paper reviews and comments, legal Notices standards of practice in non-Muslim countries and Muslim and their adapted with and Shiite religious views, collection of comments, describing and explaining the function of the brain opening and uncertainty for better understanding of the issue of for jurists and clerics. In this study, is used about 30 sources of medical, ethical, religious and legal assistant professors.

Keywords: transplants, organ, brain death, other countries

INTRODUCTION

Is considered as property human body organs? What is type and legal nature of organ donation? Is it sale? Is the Jalh or other legal action? Is there existing laws, legal based on permit organ donation or not?

The purpose of the donation and organ transplantation study is law in the comparative study of law. This research is to answer the following questions about the relationship of humans with their members, and also what kind of relationship parents has with Mitt is the type of relationship and the property owner or other relationship? The human body is it yours? What is the legal nature of organ donation? Do you have sales? Is Jalh or other legal action? Are the current statute, rule-based organ donation is permitted or not? Is raised in this paper consists of three chapters in the first chapter from the perspective of scientists Overview of Organ Transplantation, Organ Transplantation in Iran's history and some common ties to Iran The second chapter deals with the sources of organ transplantation is the organ of a living human, cadaveric organ donors and patients with brain death, providing members of animals, and the members of the is the third chapter of artificial Pros investigated Comparative study of

organ transplantation, including organ transplants legitimacy of legal rulings, primary and secondary government and their relationship with organ transplants, amputations, along with a comparative study of corporate deals [1].

Based on the findings of the Muslim members of the claimant's own organs and one cannot help in their capture, except with the permission and consent of the copyright owner has been given to him by Lord cannot be results of the authority suicide, Interest Receivable operation, the zombie or corpse mutilation Fuquay legitimacy of Islam accept a verdict, but the satisfaction of the member and the member of the body subject to a condition known as wills are dead or alive decimal therefore mutilation of the body only the need to consider the legitimate demands of the Muslims living member of the human body for transplantation to another person is not a legal barrier stopping *Zv cadaver Mitt Muslim man* for the transplant, and the if amputation to wills death of deceased [2]. If the data does not prevent the act from bob wills is obligatory and insurance definite time is assigned. According to the Cabinet decision 75 years, regardless of the direction of the authorities concerned to discuss organ transplantation, is admirable, but the spiritual aspect of the pale faces, and vice versa, increasing material aspects of the members of the prevalence of buying and selling illegal [3].

History: From very ancient times, replacing thought and organ transplantation disabled there is by objects and prosthetics or normal member of the new dead human and this issue proves the works remained of those periods [3]. In museums (Louvre) in Paris there is a container belonging to four centuries BC and shows a disabled with a wooden leg, and at panel painting that is maintained in museums (Prado) in Madrid, is designed scene from the city of Damascus in the third century AD that doctors are being transplantation feet of a dead nigger to body a white skin is dying with a crushed leg. Apparently the transplant was successful and in the Christian world calls Miracle of St. Kasms (saint cosmas) and St. Damien (Damian saint).

Also muslims in the Timurid era for the first time were able to transplant again nose detached someone and followed by the West learned plastic Surgery of the Muslims. In the sixteenth century simple operation transplantation of human skin was performed and transplant operation and members cultivation as new was started of the second half present century on day December 26, 1952 with transplant kidney mother to her child [4]. Of course the for the first time in the history the kidney transplant instead taking kidney of a dead body, was taken of body Gilbert Rnar - Marius Rnar –mother until to rescue her son that is lost kidney his in accident, be transplanted to him. Transplant is done successfully and patient gets up from his place after forgiveness twelve days of operation, to the walking will and happiness, But due to hidden phenomenon (rebound) on January 27, dies being convulsions. Seventeen people because backlash transplant die one after another, to the on December 23, 1954 surgeon Doctors to disease was lost his kidneys, get transplant kidney twin brother that real twins there were and an Oocyte in this case, because the patient's tissues and tissue were not alien with transplanted organ, the kidney transplant faces successfully. Also then several Kidney transplant be done successfully of one ovule twins until in January 1959 surgeons they attempted to kidney transplant twins two oocyte and after transplant operations to stop rejection phenomenon, receiver transplantation placed exposed to radiation (Telecobalt) That was successful results obtained and not returned transplanted kidney [5].

After the through cobalt irradiation an important step was obtained in Progress favorable results in link scientific Founders began to study on the homology and dissonance groups there are among humans and through years for more problems solution found organ transplantation and protect member connective before transplanted and grouping tissue between splicer and receiver and prepare the receiver before and after transplant and fight pharmaceutical against rejection phenomenon, nowadays organ transplant in compliance with the above do in the high level of success [6]. After kidney transplantation for the first time third In the December 1967 the first heart transplant is person to person by doctor Christiaan Barnard, But the first human heart transplant, after eighteen days dies in progress infectious diseases. The surgeon do not be discouraged and immediately to work and the second in January 1968 for the second time transplants human heart to another man the transplant encounters successfully. Thus anonymous Surgeon has been courage and is replaced the heart have an influence in the past and excites of public opinion the heart knew manifestation of life [7]. The current definition of medical knowledge of death, that death knows attributable to cell death higher centers of the brain and brain knows the top of the heart, proves and virtually shows that heart the pieces of meat shape firry, that there is within rack breast a pump not more and its duty is pumping blood and getting it to all members and parts human body. Subsequently operations organ transplants progress has quickly, in addition kidney, heart, Also success is pancreas transplantation, liver and lung to the nowadays progress organ transplantation reached the point where the bone marrow transplant done on fetal is unborn yet.

Organ transplantation in Iran: Many years have passed since the was performed the first organ transplant in Iran - that was a corneal transplant - and now with transplantation Kidney, heart, bone marrow, liver, etc., has opened a new horizon against those who they had no hope of survival [8]. The first kidney transplant in Iran was performed in Shiraz by his doctor Sanadyzadh in 1347. In total before the Islamic Revolution performed 50 cases kidney transplant in Iran. After the Revolution until 1363 after this year a total of 28 cases, gradually increased number of centers kidney transplant and in 1368 to 12 sites and now 18 centers are doing kidney transplant and of the year 1363 yet has been more than case 4000 kidney transplantation in Iran. The first bone marrow transplants in 1369 and so far more than 1000 cases have been linked to the, It shows a growing trend. Also liver transplant several Iran conducted in recent years heart Transplant special importance findings, also in recent years activity has increased central Bank of the Islamic Republic. Section II: organ transplantation in the legislative process also unfold issues and legal Issues transplantation is needed to of significant amplitude [9].

It is clear review all or most of the legal issues organ transplantation is beyond the scope of this article. So to summarize, report the legalization process will be taken:

1. The legislation was silent about organ transplantation and did not foresee certain criteria. Date 25/03/1373 bill was presented to parliament with single article titled "Bill to allow member transplant dead body in specific cases". Text of the bill reads: single Article: use of their bodies those that died and or have been death of certain brain for transplant body of patients requiring are allowed in case conditions obtainable. In the year 74th after plan the bill in the open session of parliament and rejection and defense representatives, early polling was performed with uprising; but for differences in counting was polling the written and the total 210 votes 86 people compliant and 112 votes opposing and 9 votes was abstained. The result did not vote this bill. Thus so far law organ transplantation not approved in parliament.

2. In Law Islamic punishment is seen cases that in certain circumstances, doctor who is separated member does not know ensure the offender; among article 59 section two: each type of surgery and or legitimate medical. That be performed with the consent of the person or parents and or supervisors or their legal representatives and observance technical standards and scientific and state. In urgent cases not necessary consent. In this regard, we can present to materials 60, 295, 319, 322, 216.

3. The Guardian Council date 06/09/1379 project Organ Transplant patients died of brain death according to some references and supreme Leader's fatwa the problem was the following ways:

- A) In the case of patients who died a disassembled be considered mutilation and humiliation is unlawful.
- B) In the case of brain death if removal of member be effective in his dying is unlawful.

Definition of Death: As we know death is events that man in your life frequently it experiences about others, the fact so much it is clear to us that do not have the least doubt about it but sometimes its definition so will be difficult that determine the boundary between lives and makes it impossible. The death, we examined from different viewpoints and medical jurisprudence.

Chapter Two: The legal status of organ transplantation in Islamic countries: The first section of Egypt rule No. 103 approved in 1962. That was substituted law No. 274 of 1959, permitting transplant's eyes. This rule that is about establishment eye bank institute, harvest eye has permitted of the following persons:

- A. Eyes persons who donate the charitable or advised by letter.
- B. Eyes can be interpreted based on announce physician.
- C. Eyes persons who victims are the crash.
- D. The eyes convicted to death.
- E. The eyes individuals unknown.

Second paragraph Syria

Law August 23, 1972 Syria permitting the general approach is to organ transplantation. According to Article 1 the law in the head and in the hospital, who shall be appointed by the Minister of Health, can would link each member of the part of a member deems necessary. Like eye and vessels of a patient's body. The third section Islamic Republic of Iran for now the transplantation use members of brain death in our community has taken religious figure. Hence, the sixth parliament in order to legalize of Hazrat Imam Legal Decisions and supreme leader and

other Grand Ayatollahs, Brain Death Plan and organ transplants patients have died [10]. Again placed on its agenda with amendments and in open session Wednesday dated 1379/01/17 it generalities entitled (Law of transplant patients or patients who died of brain death is certain.) approved comprising one single article and three clauses. Text mentioned Law of that date 1379/04/21 necessary for of implemented. It is as follows:

Single Article: Hospital equipped to transplantation members, after written permission by ministry of Health and Medical Education can use of healthy members of patients who died or patients who of brain death is obvious, according to experienced experts to bet patient wills or dead supervisor consent to transplant patients his life continues depends on the organ transplant or above members.

Note 1: The diagnosis of brain death is done by experienced experts in the hospital is equipped with state universities the experts are appointed with the verdict minister of Health and Medical Education to four years.

Note 2 team members Brain Death Diagnosis should not be members of the transplant teams.

Note 3: Doctors team member for injuries inflicted on the dead are not eligible for insurance.

Bylaws executive the Law by ministry of Health treatment and medical Education and representative Judiciary coordination with medical Council of Islamic Republic of Iran and foundation of specific diseases within three months from the date of notification of this Act preparation and will approved the board ministers. Above the Law including single Article and Tuesday notes, at open session Wednesday dated April seventeenth one thousand three hundred and seventy-nine approval of the Islamic Consultative assembly and approval of the Guardian council at respite provided has not been filed in principle ninety-fourth constitution. It is hoped that Islamic Consultative Assembly at approval details of law above mentioned according to the point that problem harvest member of the brain dead in order to transplant to Muslim patients and save their lives is of issues case objective medical Council and related to the whole country and matter of government. and social aspects of the is preferred on the personal side, its personal or private, with legislation tagged with time and place in this regard, provide esteem cause and proud Nation of Islam promotion and improvement of medical in and raising famous Islamic government and the nature of in World and the problems the suffering of patients [11]. Also judiciary Law Office in theory its advisory the No. 1557 / 7-25/6/1376- has been commented: "According to the criteria of Article 287 BC. CE. Or member discontinued it is owned by the same person the discontinued him and can be will transplant it to himself or another. "Of this theory can be inferred that judiciary law office also typical relationship to property has accepted between human and body organs.

The third paragraph of Luxembourg: Also in this country transplanted tissues and organs of individuals living and dead, has been accepted in terms of legal and legislation of this country in Section 2 law approved on 25 November 1982 requires that donor live should freely and as writing, your satisfaction ,to announce for harvest member. According to same law, harvest member of minor bodies recipients only if the is allowed not only his legal representative but a minors if be able to diagnosis are satisfied three-member committee to do this. Also to harvest a member of body minors' death is necessary consent his legal representative. However, if the minors dies at the time of his life to be announced his opposition with this work, is necessary to be considered to his will.

Section IV of Norway: Also the country with the approval law organ transplantation in 1973, to perform organ transplants of the living and the dead, has given legal in order to prevent of the justice and legal problems in the future, living donors will be required to written consent.

Section V of Sweden: Also Sweden with the approval law action transplantation (Law No. 190 Years 1975) the legitimating organ and tissue Transplantation surgery of the living and dead, in Article 4 of this Law declares that: surgery on a living donor organ in order to donated organ harvesting and Transplantation patients who need it should be with donor consent.

Other Countries: Recently Ecuador lawmakers have passed a bill that organ donation to link automatically seeks time of death, unless person specifically is another testament in this case. Agency France Pressed of the approval of this law it is reported with 124 votes in favor against 111 votes against. Based on the bill people who have chosen the lack of organ donation, should not be discriminated against because and cannot be publicly their decided. Except for the above mentioned adopted based on the same another rule in Egypt. Based on announce United Nations hundreds of impoverished Egyptians because able to buy food or to pay their debts are present selling his liver and kidney. In this context sometime ago Egypt parliament in an effort to combat illicit trafficking Members and tourism

due to it's the overwhelming majority approved the bill legalizing organ donation in this country. Under the new law was banned buying, Selling and Trading Members transplant surgery between an Egyptian and foreign except if the parties couple. Also the Law the transplant be performed Egyptian Public Hospitals financing are by the government. Based on the new law a three-member board under the supervision of the Ministry of Health in Egypt should with experiments verify that is dead donors really or not and stated that removal of Members before to confirm the board of the patient's death considered first degree murder.

DISCUSSION AND CONCLUSION

Of total content that was expressed, found that always medical Science is aborting every day we are seeing the development and expansion in many aspects Medical and certainly the enhancements and evolution of new techniques in biomedical unlike classic methods that only did the relationship between patient and physician to explore new dimensions and requires rules and Regulations commensurate with needs of communities. In review the issue of organ transplantation in developed countries we saw ace with scientific advances legislative bodies engaged to organizing rules and regulations Commensurate with the enhancements and has little effect on it comments churches and Christian Clergymen since the Christian Clergymen views is related to moral Philosophy maybe be effective in public Communities or legislature. In Islamic countries that rules and their regulations it is derived from the common law with the argument that recognized principles Islamic law legitimate knows all laws which are not prohibited necessarily organ transplant that is indicate legitimate failure and should be considered is recognized like anything else legitimate. This view is based on the decision Islamic University of Al-Azhar, Egypt in 1977 AD and decree group of great scholars of Saudi Arabia in 1981. Popular jurisprudents views have been considered by lawmakers in Islamic countries and emanating from the jurisprudents views rules regarding organ transplant in these countries. In Iran there is no law that prescribe transplant to Members and court Judge is encountered with problem on the run and jurists Decree legalizing and organ transplant bill passed will help in a lot of trouble and will provide field for security practitioners in task.

So far the above it can be concluded that:

- Existence judicial decree not a viable solution only in the field of organ transplantation and should be legal the Judicial decree.
- The legal vacuum organ transplant is something tangible and complications of its most of complications and consequences approval law.
- In the organ transplant law (1373) despite the most of Representatives emphasized the need to regulate organ transplants opponents feared more complications bill especially not provide an accurate definition of brain death and no problem about theological and scientific nature of the case in the event that parliament similar legislation has passed in the trepidation more could there be like adoption of Article 268 BC. M. A that anyone who has seen him murder has allowed forgiveness killer of retribution.
- Another argument for the legalization of opposition members this is approval such legal is because allowed hand doctors and abuse of the law. It must be said now hundreds cases organ transplant in the country is done annual and its domain is added day to day, so should be thought because if there is no legal in this case complications and consequences its negative will spread more background abuse.
- It seems that this important in different communities be found as one primary and approval law commensurate with each issue comprehensive and important in the community is necessary so there is a need to be filled this vacuum.
- Proposed bill should be a bill comprehensive and barrier that all the necessary conditions among definition of organ transplant the definition of brain death, commission diagnose brain death, members of mentioned Commission, granted in terms of members, member admission requirements, transplantation accomplish centers, our rate per member, is forecast sponsorship implementation and penalty in order to misuse the of the Law and formation organ transplants center or organ transplant Bank be considered as one of the institutions dependent to government and be predicted in the law.
- It seems for preparation draft such bill is necessary commission be formed consisting of Jurisprudents, Jurists, Judges and legal practitioners and considering various aspects of organ transplantation efforts do to drafting of the to prepare it for approval.

It should also be stated that:

First: Mutilated body of a Muslim man alive for transplantation to other human does not legal impediment .
Provided that:

- Complete Domestic have organ donor.
- From other sources cannot provide.
- Do not cut it cause of death or the sink itself (the disability) of the members.
- With the permission of the donor and be rational.

Second: Mutilation the dead bodies of Muslim for other human organ transplantation, if the one dead will be before death and allow amputation not only no obstacle it is necessary on wills dead and atonement both are not entitled the secant and if lack of testamentary this would be permissible provided that just a Muslim's life is dependent according to the rule the principle is on be permitted. But it is obligatory however secant should give atonement and if the mutilation of corpse be performed to order or permission Islamic ruling that command or permits specifies its atonement.

Third: It's not a death immediately that happen at one point but a process that starts from one point and ends at another point and the boundaries of life and death the point is cycle and the death that human according to science and facilities today not able to prevent of continuing trend and return it to initial state health and this frustration has been hundred percent and to determine scientific theory experts and this frustration and time separation of the soul from the body time demonstration death verdicts is like Baptism, Shrouds Burial and share twig and not before it. Based on person with brain death irreversible considered dead and amputation sentences of body such dead is function amputation sentences of corpse about second and third paragraph of the recently enacted transplant patients who died or patients it is obvious their brain death while the patients their brain death according to experts be sure to recognizes dead transplantation dead are allowed to bet the patient will or agree parents dead for transplant patients who continuation their lives may depend on the organ transplantation or the above members.

Fourth: Artificial Organ Transplant is no obstacle according to get healthy and permit the use of members is obtained through simulation function sentence simulation is legally general and also transplant member of animal is not faced with legal obstacle. About being carrion member of amputated human or animal or being unclean it can be said after the member of amputated or animal have been transplanted to the human body and in the flows will human life Member of is Muslim person and it can be praying.

Fifth: Buying and selling of human Member of no legal impediment however, it is recommended that granted to member of be performed the gift for allow amputation of body or the dedicated until both for patients be resolved and both beneficence be performed against beneficence.

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