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# The ethics of organ transplantation in the Islamic Republic of Iran

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## Abstract

Organ transplantation services, particularly kidney transplants, have been provided in a fairly large number and good quality in the Islamic Republic of Iran since the 1990, and there are currently more than 25 kidney transplant centers that provide transplant operations. From the ethical and religious point of view, Iran has provided a flexible and relatively regulated environment for organ transplantation, especially regarding the possibility of unrelated living organ donation. This flexibility is mainly related to the role of *ijtihad* in *Shi'a* Islam where new rulings can be extracted by *Shi'a* jurists to facilitate the use of technologies that ordinarily might have been banned by traditional Islamic rulings. The possibility of monetary compensation for unrelated kidney donors in *Shi'a* Iran has helped expand the supply of donated organs, especially of kidneys, to a number almost equal to the demand. The Supreme Leaders in Iran have issued a series of *fatwas* that played a major role in legitimization of compensated organ transplantation from unrelated living donors. The main ethical issue is the large number of donors whose primary motivation is to gain monetary compensation to deal with their financial needs, and the inability of the ethical and legal system to fully regulate the market, to maintain fairness, and enhance altruism as a motivation for organ donation. This issue is also influenced by the economic hardship affecting most people in Iran, and is not merely a consequence of medical legislation to facilitate organ transplantation.

**Keywords:** Iran, Kidney transplants, Medical ethics, Organ transplantation, *Shi'a* Islam.

## Introduction

This paper presents the third part of a research investigation into the three layer structure of bioethical decision-making in the Islamic Republic of Iran, and is based on an analytical review of the religious and ethical system of beliefs as well as the laws and practice of medical care in contemporary Iran (1980~now). The so-called 'three layer structure' refers to the basic ethical concepts, including ethical theories and religious beliefs as the 3<sup>rd</sup> level, the bioethical principles and laws as the 2<sup>nd</sup> level, and the decisions made on bioethical issues in medicine as the 1<sup>st</sup> level.

The area under investigation in this study is organ transplantation, and thus we discuss the bioethical issues of organ transplants in contemporary Iran. Both the first and second reports, as of 2011 and 2012

respectively, provided the background information including the basic religious and ethical beliefs and theories (3<sup>rd</sup> level) of *Shi'a* in the Islamic Republic of Iran; however, issues related to organ transplantation provide an opportunity to revisit the 3<sup>rd</sup> level for a better understanding of its policy implications. Therefore we shall consider the 3<sup>rd</sup> level again but mainly in the perspective of its impact on human organ transplantation, before explaining the 2<sup>nd</sup> level and the 1<sup>st</sup> level of bioethical decision structure in organ transplantation.

## The 3<sup>rd</sup> level (basic ethical concepts, ethical theories and religious beliefs)

The fundamental question at the 3<sup>rd</sup> level is about the underlying ethical philosophy. The ethical thinking of *Shi'a* Islam in Iran is based on prima facie obligations similar to the views of the British philosopher W.D. Ross (1877-1971). Thus, the underlying ethical theory is not purely deontological and actions are not simply classified as right or wrong; there are a number of obligations some of which may be more important than others.

A *shi'a* Muslim is supposed to follow with various actions he is obliged to, on the basis of a proper ranking of obligations. Most obligations may be overridden by a more important obligation, which is basically the concept of prima facie ethics. Most moral obligations are not absolute, as opposed to the Kantian ethics, and exceptions are allowed depending on circumstances. Actions may be judged ethical/unethical based on the circumstances surrounding them and the consequences of actions. Therefore, what a Muslim does depends on both the circumstances and the relative importance of various obligations.

With prima facie way of thinking, there are situations where one may need to take a 'moral risk', just as Ross mentioned in his ethical theory. *Shi'a* Muslims are strongly encouraged to make decisions by 'following' the decree of a clergy (*faqih*) who has completed years of studying and training to attain '*ijtihad*'. A decree in *Shi'a* comes from a '*mujtahed*', a *Shi'a* clergy who has extensively studied the Islamic law of '*shari'a*' and knows how to make the best decision after ranking the various obligations under the circumstances and specifics of a situation.

Under the theocratic system of *Shi'a* in Iran, during the occultation of the 12<sup>th</sup> Imam, the Supreme Leader may rule over the nation and can rightfully interpret the Islamic law (*shari'a*). Therefore almost all religious, ethical, political and other decisions in the Islamic Republic of Iran ultimately depend on the interpretations of the Supreme Leader from Islam. The decrees made by the Supreme Leader over all affairs are considered as a legitimate source for decision-making by all authorities in the Islamic Republic of Iran.

On the positive side, because actions may be judged as ethical or unethical based on the circumstances surrounding them, there is some form of 'flexibility, meaning that religious decrees need not

be very rigid and can take a unique situation resulting from new technologies into consideration to form new rulings compatible with modern needs, including those used in organ transplantation. However, on the negative side, when this flexibility extends to the extremes, it may seem to merge with ethical relativism. In the case of organ transplantation from unrelated kidney donors who are compensated with money, 'saving the life' of a recipient is considered of more significance compared with the ethical question of whether the 'willing donor' was financially coerced to donate an organ. In this situation, the 'consequence' of having 'a life saved' is deemed more important than the 'action' of paying for a human organ.

### **The 2<sup>nd</sup> level (biomedical principles and laws in Islam and *Shi'a* Iran)**

We need to first examine the basic Islamic principles that are well recognized by the majority of Islamic thinkers, and then examine the modifications made to them in *Shi'a* Iran based on its use of 'dynamic' and 'flexible' ruling through *ijtihad*.

The most basic law underlying the ethics of organ transplantation in Islam is the 'principle of no harm' (*la zara*). This means that no transplantation would be permitted if it is known to cause harm to the donor; thus transplantation of heart as well as liver from a living donor would not be permitted at all as it leads to death and/or serious harm. However, this prohibition can be sidestepped in the 'context' of kidney transplantation for example, where there is negligible harm to the donor while the life of the recipient can be saved. This is in fact the logic based on which organ transplantation has been permitted by clerics of Islam.

The greater significance of saving a life can be implied from the following Quranic verse: *Quran (5:35)*: "... and one who gives life to a person, is as he gives life to all mankind".

However, most Islamic jurists find it unacceptable to receive monetary compensation for a human organ, even for organ transplantation to save another person's life, because there are limits on human's ownership over his/her body, God being the true owner, and it is not up to a person to treat his/her body as a commodity for financial gain.

Nevertheless, in *shi'a* Iran *fatwas* issued by the former leader, Khomeini in 1988, and later by the current leader, Khamenei in 2000, have allowed a considerable level of flexibility for organ transplantation in Iran. The widely publicized *fatwas* are related to the acceptance of brain death as termination of life, and permissibility of organ removal from brain dead individuals for transplantation. These *fatwas* became the basis of an Act called the 'Act of Organ Transplantation and Brain Death' that was approved by the Iranian Parliament in 2000, formed into executive laws by the Ministry of Health in 2001, and finally passed by the Cabinet Council in 2002 (Zahedi, 2009).

Accordingly, the Professional Codes of Organ Transplantation was issued by the Iranian Academy of Medical Sciences on February 2008 which states (Zahedi, 2009): "Since protecting the lives of human

*beings is the most fundamental moral principal, the ethics committee of the Academy of Medical Sciences (IRI) declares that kidney donation from living related and unrelated volunteers is generally acceptable, and the exchange of money as a reward of gratitude or a gift for compensation is not considered unethical and should not discourage this noble act, provided that:*

1- *The donor is truly willing to donate a kidney in his/her right mind, free from coercion.*

2- *The donor undergoes complete medical check-up and psychological evaluation and is found fit for the operation.*

3- *There should be no medical contraindication for the operation.*

4- *Donor should be able to get long term medical attention after donation.*

5- *The medical team should have no role in the process of donation.*

6- *Donor and recipient should be from the same nationality; tourist transplantation is forbidden.*

7- *No one under the age of 18 and over 45 is accepted for donation.*

8- *A national committee assigned by the ministry of Health and Medical Education with the cooperation of Iranian Transplantation Society will regulate and supervise the renal transplantation centers nationwide."*

Iran follows an 'opt-in' system where the patient or the patient's family must consent to the donation of the organs. The cadaveric donations have been kept altruistic and no monetary rewards have been paid to the families of donors, except for a few cases where funeral expenses were paid (Zahedi, 2009).

Iran is the only Islamic country that not only allows monetary compensation of living unrelated donors but also partially funds the payments to the donor. The justification of *shi'a* scholars would be based on the 'levels/ranks' of ethical value that were mentioned in the first report (Ghotbi, 2012); they include *wajeb*, *mostahab*, *mobah*, *makruh* and *haram*. Donating an organ is highly *mostahab* (better done but still not obligatory), so it is not wrong to pay/allow a gift or reward as it is a highly desired 'public good' that needs to be promoted by the state. Also, donating an organ incurs some pain and inconvenience on the donor though it does not seriously harm the health of 'well-selected' donors. The associated pain and inconvenience can be compensated by a reward, while cadaveric donation does not incur such problems and therefore need not be financially rewarded.

Although transplant tourism has been largely controlled by laws which require the donor and recipient to be compatriot, there have been many cases of Iranians who later became US citizens but having kept their Iranian passports, they travelled to Iran to get a kidney transplant (Ghods, 2005).

### **The 1<sup>st</sup> level (the practice of organ transplantation in Iran)**

The Islamic Republic of Iran legalized the donation of kidneys from living unrelated donors in 1988. A system was created by the government to fund and regulate

the transplantation process through a third party called 'Association of Dialysis and Transplant Patients'. Donors would receive a gift of 10,000,000 Rial (equal to about USD 2,500~2,000 in 1990's and early 2000's, respectively) from the association, plus in many cases another agreed upon sum of money directly from the recipient's family which in average was about two times the formal amount.

In 2006, the formal pay was increased to 50,000,000 Rial to make up for the severe inflation in Iran; the value of Iranian currency has decreased from about 4,000 Rial for USD 1 in late 1990's to about 30,000 Rial for USD 1 in recent times. This has caused donors to expect a much larger amount of compensation from the recipient of the kidney because the governmental funds did not increase at the same scale. Recipients may be paid between 100,000,000 to 400,000,000 Rial (3,300 to 13,300 USD) depending on the size of demand versus supply as well as the ability to pay (by recipient) versus the need for money (by potential donors).

Because the kidney transplant system only relies on ABO compatibility (not HLA matching), it is easy for potential donors to advertise their kidney to potential recipients with just a phone number and their blood group written next to it; many photographs have been surfaced and widely shown on the Internet of such graffiti on the walls near the site of the "Transplant Association". The transplant centers have continued with their policy of only requiring ABO compatibility citing their own studies which show no statistically significant improvement when HLA compatibility was checked; this has facilitated the advertising of kidneys for sale by potential donors, as mentioned before.

The donors are supposedly under the coverage of governmental health insurance for life, but because of the nature of the insurance and the wide gap between formal fees and the private sector, this coverage may not be complete. It is worth noting that some experts have already suggested that a reward of about USD90,000 would be a fair compensation considering the required checkups and possible expenses to the donors of kidneys in the US (Matas, 2003). Apparently the important issue for these experts has been the 'fairness' of compensation, rather than the basic issue of whether monetary compensation for human organs is ethically defensible or not.

## **Discussion**

A large number of people are being affected by chronic diseases such as chronic renal failure, which leaves them with few options to survive other than dialysis and an organ transplant from another human. The demand for human organs is much larger than the supply that can be provided through cadaver organs plus brain dead individuals who have consented to organ removal. One of the consequences of monetary compensation of donors is saving the lives of more people, but we should not ignore other social consequences such as the use of human body as a monetary asset and its being targeted for raising money by individuals in need who may not necessarily

be the donors. It would be very difficult to assure a lack of coercion especially in situations that economy is bad, loans are piling up, and there are few other options to raise revenue. This situation is already happening in Iran and the recent economic pressures have only aggravated it.

Although it is illegal to trade kidneys in most countries in the world, it is a common underground practice at least in a number of countries like Russia, Turkey and South Africa (Major, 2008). Apparently, the legal and ethically approved sources of kidney for transplant, including cadaveric donors, brain dead donors, and living related donors are not enough to meet the high demand. An especially disturbing phenomenon is the practice of 'transplant tourism' whereby rich recipients travel to a developing country where they may buy an organ, such as a kidney, from a living unrelated donor.

A kidney transplant does not significantly harm the donor even in long-term, but is associated with some risk and suffering such as those associated with bleeding, anesthesia, not having an extra kidney for possible injuries in the future, etc. Provision of life-time governmental health insurance to donors helps reduce the associated risks but does not fully eliminate them. To allow monetary compensation to cover for the pain and suffering of the donors and the small extra risk has been supported by some experts but they recommend that the level of monetary compensation should be fair enough; a few experts have suggested a figure of about USD 90,000. The amount of money that Iranian donors negotiate for is in a far smaller range of about USD 3,000~10,000 but still mainly depends on the ability of the recipient to pay, and the negotiation leverage of the donor based on unstable and ever-changing economic conditions in Iran, as well as the size of the 'supply' in the matching ABO blood group.

Tens of thousands of people in Iran have been able to follow a normal life without reliance on dialysis after receiving a kidney from an unrelated living donor. A significantly larger number of lives, those of kidney recipients, have been saved as compared with the physical harm to donors of kidneys. An ethical consequentialist may find this fact convincing enough. However, there are other 'social' consequences, for instance through a devaluation of the 'sanctity' of human body over financial needs of the donors or their families, as well as the 'deontological' issue of allowing people to sell their body organs for financial gain. The latter is a special concern in Islam and the main reason why transplantation from unrelated kidney donors is banned in all Muslim countries except for Iran.

Having said that, it cannot be denied that the flexible attitude of the Iranian government towards the use of unrelated donors may have avoided from more unethical practices such as underground clinics run by illegal human organ traffickers. Patients needing a transplant may have largely benefited from a practical solution to their 'life or death' situation, and the donors may have also been able to use the reward in a positive way without suffering from serious bodily harm; it is also hoped that in the future there will be better

solutions, as the number of cadaveric and brain dead donations increase; currently they are only about 10% of the total number of transplants. However, we cannot deny the probability that donors and recipients, as well as surgeons and the whole transplantation system might have made different decisions if they were better informed about the ethical nature of such transactions and discussed their implications for society at large in more detail. I would argue for discussions to reassess and revise the system to help keep it in line with the morals of the society and the sanctity of 'everybody's life.

The experience of Iran with kidney transplantation so far may be interesting to other nations, whether *Sunni* or *Shi'a*, Muslim or non-Muslim. I would like to recommend long-term follow-ups of both donors and recipients of kidneys to gather more reliable information about the consequences of this system in long-term. It is unfortunate that many of the papers published by Iranian surgeons involved in the transplantation system appear to deny the disadvantages of the current system and attempt to only focus on its advantages for the recipients in terms of life years saved. Fairness of the system, the long-term quality of life of both donors and recipients, as well as the willingness of the donors to recommend such a procedure to their beloved relatives, family and friends could be further investigated in Iran.

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### References

- 1- Akrami S.M., Osati Z., Zahedi F., and Raza M. 2004. Brain Death: Recent Ethical and Religious Considerations in Iran. *Transplantation Proceedings* 36:2883–2887.
- 2- Bagheri [Alireza](#). 2006. Compensated Kidney Donation: An Ethical Review of the Iranian Model. *Kennedy Institute of Ethics Journal* 16(3): 269-282.
- 3- Bhan Anant, Majd Mina, and Adejumo Adebayo. 2006. Informed Consent in International Research: Perspectives from India, Iran and Nigeria. *Medical Ethics* 3(1):36-41.
- 4- Clarke Morgan. 2006. Shiite perspectives on kinship and new reproductive technologies. *ISIM Review* 17:26-27.
- 5- Clarke Morgan. Islam and new kinship, reproductive technology and the *Shariah* in Lebanon. Berghahn Books, 2009.
- 6- Einollahi Behzad. 2008. Cadaveric Kidney Transplantation in Iran: Behind the Middle Eastern Countries? *Iranian Journal of Kidney Diseases* 2(2): 55-56.
- 7- Ghods Ahad J. 2004. Changing Ethics in Renal Transplantation: Presentation of Iran Model. *Transplantation Proceedings* 36:11-13.
- 8- Ghods Ahad J. and Mahdavi Mitra. 2007. Organ Transplantation in Iran. *Saudi Journal of Kidney Diseases and Transplantation* 18(4): 648-655.
- 9- Ghods Ahad J. and Nasrollahzadeh D. 2005. Transplant tourism and the Iranian model of renal

- transplantation program: ethical considerations. *Experimental and Clinical Transplantation* 3(2):351-4.
- 10- Ghods Ahad J. and Savaj Shekoufeh. 2006. Iranian Model of Paid and Regulated Living-Unrelated Kidney Donation. *Clinical Journal of the American Society of Nephrology* 1:1136 –1145.
  - 11- Ghotbi Nader. 2012. Bioethics in the Islamic Republic of Iran. *Eubios Journal of Asian and International Bioethics* 22(2):69-75.
  - 12- Griffin Anne. 2007. Iranian Organ Donation. *BMJ* 334:502-505.
  - 13- Kamal M. Mostafa. 2008. Ethical Issues of Organ Transplantation in Islam. *Teachers Association Journal* 21(1): 97-103.
  - 14- Larijani B., Zahedi F., and Taheri E. 2004. Ethical and legal aspects of organ transplantation in Iran. *Transplantation Proceedings* 36 (5): 1241-1244.
  - 15- Larijani B., Zahedi F. and Taheri E. 2006. Deceased and Living Organ Donation in Iran (letter to the editor). *American Journal of Transplantation* 6:1493.
  - 16- [Malakoutian T.](#), [Hakemi M.S.](#), [Nassiri A.A.](#), [Rambod M.](#), [Haghighi A.N.](#), [Broumand B.](#), [Fazel I.](#) 2007. Socioeconomic Status of Iranian Living Unrelated Kidney Donors: A Multicenter Study. *Transplantation Proceedings Organ donation* 39(4): 824–825.
  - 17- Matas A. J. and Schnitzler M. 2003. Payment for living donor (vendor) kidneys: a cost-effectiveness analysis. *American Journal of Transplantation* 4:216-221.
  - 18- Rathor M.Y., Abdul Rani M.F., Mohamad Shah A.S.B., Bin Leman W.I., et al. 2011. The Principle of Autonomy as Related to Personal Decision Making Concerning Health and Research from an 'Islamic Viewpoint'. *Journal of the Islamic Medical Association of North America* 43:27-34.
  - 19- Rupert W. L. Major. 2008. Paying kidney donors: time to follow Iran? *McGill Journal of Medicine* 11(1):67-69.
  - 20- Sachedina Abdulaziz. Islamic biomedical ethics, principles and applications. Oxford, 2009.
  - 21- Tober Diane M. 2007. Kidneys and Controversies in the Islamic Republic of Iran: The Case of Organ Sale. *Body & Society* (SAGE Publications) 13(3):151–170.
  - 22- Zahedi F., Fazel I. and Larijani B. 2009. An Overview of Organ Transplantation in Iran over Three Decades: With Special Focus on Renal Transplantation. *Iranian Journal of Public Health* 38(Suppl. 1):138-149.
  - 23- Zahedi F., Parsapoor A., Mohaghegh-Dolatabadi M., Jafarian A., Kazemeini S.M. and Larijani B. 2008. The National Ethical Guideline of Transplantation Research in Iran. *Iranian Journal of Public Health* 37(1):18-21.

## Bioethics in Thailand: Perspective from Past to Present and Unsolved Problems

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Since the 13<sup>th</sup> century, during the Sukhothai Period, traditional and herbal medicines were used by monks and village healers to take care of the sick in Thailand. Not until the modernization period in late 19<sup>th</sup> century,