Legal Examination of the Role of Beneficiaries of Deceased or Brain-Dead Patients under the Human Organ Transplantation Law of 2000

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Abstract:

Background and Objective: The rapid advancement of medical science and technology has led to an increasing public demand for effective treatments for conditions previously considered incurable. In many cases, organ transplantation is the only viable treatment option, necessitating the identification of suitable donors who meet specific criteria for donation and transplantation. Due to the limited availability of transplantable organs from living donors, the procurement of organs from deceased patients and individuals declared brain-dead has become increasingly significant. In 2000, the Iranian legislature took notable steps to address these issues by enacting a law consisting of a single article and three notes, followed by the approval of executive regulations in 2002. This legislation aims to establish a systematic framework for organ removal and transplantation processes.

Materials & Methods: This study employs a descriptive-analytical methodology, supplemented by comprehensive library research and documentary analysis. Data were systematically gathered from relevant scholarly publications, including peer-reviewed articles and academic texts, and subjected to comparative analysis to draw informed conclusions.

Results: The organ transplantation law addressing deceased patients and confirmed brain-dead individuals raises several legal questions regarding organ removal. However, it contains significant ambiguities, particularly about the role of beneficiaries and the legal basis for their rights to grant consent for organ removal.

Conclusion: The findings indicate that obtaining consent from the beneficiaries of deceased patients is essential for organ removal under the 2000 Organ Transplant Law. There is considerable divergence in the interpretation of the nature and basis of these rights. Some perspectives argue that this authority derives from the representation of ownership by the deceased, while others contend that it arises from the beneficiaries' capacity to act in the deceased's best interests. The executive regulations classify beneficiaries as legal heirs, requiring consent only from primary heirs rather than from all heirs. Furthermore, when the need to save another Muslim's life is established, the law permits organ removal without the universal consent of all heirs. Therefore, it can be inferred that the rights of heirs do not originate from ownership or inheritance laws but instead reflect a respect-oriented approach, suggesting that the role of beneficiaries may be predominantly ceremonial.

Keywords: Living Donors, Organ Transplantation, Brain Death, Islam.

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Received: 28/10/2025
Accepted: 11/04/2026

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Background and Objective

An examination of the foundational philosophies across various scientific disciplines reveals a common goal: to enhance human life and promote societal welfare. In this context, the medical field is particularly focused on improving quality of life. Despite significant advancements in medical science, some conditions still lack effective treatments. Nevertheless, the continuous efforts of specialists and researchers in this domain provide optimism for future breakthroughs.

In therapeutic contexts, when the affected organ is irreparable, organ transplantation becomes the only viable alternative.

The success of organ transplantation depends on the effective procurement of suitable organs, requiring that both donors and recipients meet specific criteria within various constraints. A persistent challenge remains the limited availability of organs from living donors.

Although there has been a notable increase in living organ donations and some instances of organ sales, these actions have not adequately met the urgent societal demand, thereby exacerbating the illegal trade in human organs. Consequently, it is essential for the medical profession to collaborate closely with the legal sector to address these complex issues. Recognizing the current societal challenges and the limitations of living organ donations, legislative frameworks have been established to permit organ removal from deceased patients or individuals deemed brain-dead.

In 2000, this legislative process culminated in the ratification of the "Law on Organ Transplantation from Deceased Patients or Those Whose Brain Death Has Been Confirmed," followed by the enactment of executive regulations in 2002.

While this legislation has clarified the legal framework governing organ removal from deceased or brain-dead patients and addressed certain societal needs, significant ambiguities remain concerning the organ transfer process during life, highlighting the necessity for a detailed legal analysis.

A notable ambiguity in the organ transplant law is the designation and authority of the beneficiaries of a deceased patient concerning organ harvesting. The law stipulates that the consent of the deceased's beneficiaries is a prerequisite for organ removal. Since private rights in Iran are based on Islamic jurisprudence, it is essential to examine the relevant legal principles to clarify the rights and responsibilities attributed to these beneficiaries.

2. Research Questions and Hypotheses

2.1.1. Main Question

What is the defined role of the beneficiaries of a deceased or brain-dead patient as specified in the Organ Transplant Law enacted in 2000?

2.1.2. Sub-question

What is the legal basis for the rights of beneficiaries of a deceased individual under the Organ Transplant Law of 2000?

2.2.1. Main Hypothesis

The law designates beneficiaries as the primary legal heirs whose consent is required for organ removal. However, the provision permitting the preservation of another Muslim's life without the consent of all heirs suggests that the role of beneficiaries may often be largely ceremonial.

2.2.2. Sub-hypothesis

The rights of beneficiaries of the deceased likely arise from established legal frameworks, societal needs, and a recognition of the respect owed to them.

3. Previous Research

A review of the existing literature indicates a notable gap in specialized studies regarding the role of beneficiaries of deceased or brain-dead patients as defined by the Organ Transplant Law. Although numerous publications address organ transplantation and the sale of human organs, there is limited attention to the legal framework surrounding the rights and responsibilities of beneficiaries.

For example, Asghar Farhangi Shojai's book, Transactions of Human Body Organs, focuses on transactions involving bodily organs while the donor is still alive.[1]

Similarly, Sadegh Mir Hosseini's text, Buying, Selling, and Transplanting Organs, investigates the procurement of transplant organs through sales contracts, providing only limited discussion of post-mortem organ sales.[2]

Ahmad Shakouri's article, titled "The Juridical Ruling on Organ Removal from a Brain-Dead Individual," analyzes jurisprudential issues related to the removal of organs from brain-dead patients intended for transplantation.[3]

Abdolrahim Soltani's comparative study, "Organ Transplantation from Brain-Dead Patients in Jurisprudence and Human Rights," examines the intersections between legal frameworks and international human rights law regarding organ transplants from brain-dead individuals.[4]

Mostafa Kafi Qomshaei, in his treatise Sale of Human Organs, focuses on the acquisition of transplant organs through sales during the donor's lifetime.[5]

Furthermore, Dr. Saeed Nazari Tavakoli's book, Organ Transplantation in Islamic Jurisprudence, offers an analysis of the jurisprudential perspective on organ transplantation but does not delve into the specific roles of heirs or the basis of their rights as defined by the 2000 Organ Transplant Law.[6]

Additionally, Hossein Habibi's work, Brain Death and Organ Transplantation from the Perspectives of Jurisprudence and Law, discusses various forms of death and briefly mentions the Organ Transplant Law but does not address the implications for heirs or the foundation of their rights concerning organ removal.[7]

Ismail Agha Babaei's publication, Organ Transplantation from Deceased or Brain-Dead Patients, reviews the legislative framework governing organ transplants but similarly lacks a thorough examination of the roles of heirs and the legitimacy of their rights.[8]

4. General Concepts and Terminology

Before examining the research questions, it is essential to define certain key terms and concepts.

4.1. Beneficiaries: The Patient or Their Heirs

The term "beneficiaries" refers to individuals entitled to inherit from another, often within the context of guardianship roles, typically involving paternal figures. "Heirs" or "inheritors" are those who receive an inheritance.[9]

Legal interpretations frequently emphasize paternal lineage; however, common understanding may also extend to include the deceased's mother as a beneficiary.

Distinguishing between "beneficiaries" and "heirs" is essential. Legally, only the father and paternal grandfather are recognized as guardian heirs, with the grandfather's inheritance contingent upon the father's status. Thus, an individual may be an heir without possessing guardian authority, as exemplified by a spouse's status. Conversely, a paternal grandfather may hold guardian authority without the right to inherit if the father is still alive. Furthermore, a beneficiary may exist independently of legal guardianship, as illustrated by the deceased's mother. Importantly, the Organ Transplant Law of 1379 does not require the consent of all beneficiaries of the deceased.

4.2. Body Parts

In this context, "body parts" specifically refers to organs. According to the Mo'in Dictionary, the term includes limbs and any distinct, identifiable portions of the body that have developed naturally.[9] Medically, it applies exclusively to non-renewable body parts.

Renewable substances such as blood, skin, and hair are not classified as transplantable organs.[10]

4.3. Consent

Legally, consent is defined as a formal declaration of agreement or approval for a specific legal action. Contrary to common misconceptions, consent is typically given prior to the event, whereas prior agreements are considered permissions.[11]

4.4. Brain Death

Medically, brain death is defined as a permanent condition in which the brain and brainstem are completely and irreversibly destroyed, making any possibility of revival impossible.[12]

4.5. Death

Medically, death is characterized by the complete and irreversible cessation of all vital signs.[10]

A comprehensive understanding of death is fundamental to analyzing the current research topic.

The cessation of spiritual life involves various classifications, each with distinct implications for jurists and medical professionals. Since organ procurement depends on the determination of death, a thorough examination from both legal and medical perspectives is vital.

4.5.1. Death in Jurisprudence

The jurist Al-Daqar defines death as "the separation of the soul from the body,"[13] emphasizing that this process is irreversible.

The late Allameh Tabatabai expands on this by proposing that the soul encapsulates the essence of life, which is intimately connected to consciousness and will.

He contends that the absence of vital signs indicates the complete departure of the soul from the body.[14]

These interpretations raise critical questions regarding the location of the soul and the physiological indicators of death.

Jurists do not possess a unified stance on this issue.

Mulla Sadra asserts the heart's significance as the principal organ,[15] a view corroborated by Fakhr al-Din al-Razi.[16]

The philosopher Ibn Sina posits that the heart serves both as the soul's residence and as the core of vital energy.[17]

Contemporary jurists, particularly Ayatollah Khamenei, present differing perspectives regarding fetal movement and the moment the soul enters the body.

He claims that "the heartbeat of the fetus at two months does not imply the soul's entrance," arguing that it is permissible to terminate the fetus before the soul's entry if the mother's life is at risk.[18]

Consequently, just as the presence of a fetal heartbeat at two months does not confirm the presence of a soul, a heartbeat at the end of life does not necessarily validate its existence.

Thus, it can be concluded that merely ceasing the heart's activity does not confirm the soul's separation from the body, nor does the presence of a heartbeat confirm its presence within it.[19]

4.5.2. Medical Definitions of Death

According to Dr. Goudarzi's authoritative textbook on forensic medicine, death is defined as “the complete and irreversible cessation of vital functions." This process typically begins with heart failure, followed by the death of brain cells, leading to the cessation of respiration and bodily movement. In some cases, however, brain cell death may precede respiratory failure, ultimately resulting in cardiac arrest due to inadequate blood oxygenation. Regardless of the sequence, definitive death is established.[10]

Dr. Goudarzi delineates two critical criteria for the determination of death:

1. The heart must cease functioning irreversibly.

2. Brain cells must perish simultaneously with the cessation of respiratory activity, culminating in cardiac arrest—a condition known as "brain death."

A key question arises: Is brain death equivalent to a state of coma?

The medical community recognizes two distinct types of coma. One type involves profound unconsciousness without damage to the brainstem, allowing the individual to exist in a vegetative state sustained by medical interventions such as fluids, medications, and oxygen. This condition can persist for extended periods, potentially leading either to natural death or a possible return to consciousness. Conversely, brain death represents a permanent condition characterized by the complete and irreversible cessation of all brain and brainstem functions, resulting in a medical consensus that revival is impossible.[10]

Integrating jurisprudence with medical science, it can be asserted that the medical

community regards brain death as equivalent to actual death, even when the heart continues to exhibit some activity. However, a consensus among scholars on this interpretation has not yet been reached.

Historically, prior to advancements in medical science, the concept of brain death was not widely recognized. Consequently, both jurists and society often dismissed it as a definitive indicator of actual death. However, contemporary jurists are increasingly aligning their views with current medical science.

For example, Mohammad Momen states, “A person is considered alive as long as their heart functions naturally, even in the absence of brain activity. However, if the heart ceases to function naturally and medical intervention is required to prevent its cessation, the individual is deemed dead, thereby permitting the transfer of their organs, including vital ones."[20]

4.5.3. Brain Death in Iranian Positive Law

The issue of brain death has been acknowledged in various countries for several decades, with France being the first to formally address it in 1968. The United States is recognized for enacting the first legislation on brain death in 1970.[21]

An examination of the evolution of medical law in these nations, which form the foundation of the Roman-German and Common Law legal systems, reveals a relatively rapid acceptance of brain death and reduced resistance to organ donation and transplantation. This stands in stark contrast to the religious jurisprudential objections and legislative challenges encountered domestically.

A comparative analysis of international documents and conventions concerning human rights indicates that while human life is inherently protected, the determination of death according to medical standards has become widely accepted.

Countries such as Italy, Spain, Portugal, Sweden, and Argentina have similarly acknowledged brain death as actual death and have established relevant regulations.[4]

In Iran, legislative progress has been slow. In 1993, a bill entitled “Permission for Organ Recovery from Brain-Dead Patients” was introduced in the legislature but ultimately failed to pass.

The primary reason for this failure was the insufficient societal acceptance of the concept of brain death. This situation underscores the pivotal role of scholars and medical experts; had they effectively communicated the scientific principles and clarified the associated legal implications, media coverage could have influenced public perception toward accepting brain death. Such a shift might have better prepared lawmakers to consider and approve the proposed legislation.

As the demand for organ transplants increased, coupled with moral pressure from the public, lawmakers eventually addressed the issue. This culminated in the proposal titled “Law on Organ Transplantation from Deceased Patients or Patients Whose Brain Death is Certain,” which was presented and subsequently approved on April 6, 2000. The Guardian Council did not express an opinion within the constitutional timeframe specified by Article 94 of the Constitution, thus enabling the statute to take effect.

The absence of a formal opinion from the Guardian Council prevented any conflicts between the legislature and the Council. Consequently, there was no need for the Expediency Discernment Council to intervene, as its role is to mediate disputes between these two bodies. In essence, the lack of a statement from the Guardian Council did not indicate a conflict requiring resolution.

Considering the imperative of preserving the life of another Muslim, religious teachings and esteemed jurisprudential sources maintain that this duty surpasses all others. The Constitution reinforces this principle by emphasizing the protection of individuals' physical integrity through various provisions. Furthermore, jurisprudence and criminal law distinguish between Muslims and non-Muslims in the calculation of blood money (Diyah).

The removal and transplantation of organs are permissible only when a medical team determines that failing to proceed with

the transplant would result in an imminent risk of death. According to Note 1 of the Organ Transplantation Law, the determination of death is entrusted to specialists, and the procedure is executed by a qualified medical team.

Consequently, it is reasonable to conclude that the evaluation of the necessity and parameters surrounding transplantation should also fall within the purview of certified medical professionals.[1]

5. The Role and Basis of Heir Rights in the Organ Transplantation Law Approved in 2000

A comprehensive analysis of the Organ Transplantation Law, enacted in 1999, reveals that the Iranian legislature specifies the conditions under which the removal of organs from deceased or brain-dead patients for transplantation is permissible:

1- The explicit will of the deceased individual. 2- The consent of the guardians of the deceased patient. 3- The necessity of organ transfer and transplantation to save another individual's life.[3]

An examination of jurisprudential sources, particularly inquiries directed to religious authorities, emphasizes that the principal condition for authorizing organ removal and transplantation is the essential principle of preserving and safeguarding the life of a Muslim individual. This critical condition permits the removal of organs even in the absence of a will or when obtaining consent from guardians or heirs is impractical. In cases where obtaining such consent may result in delays that threaten the viability of the organ, proceeding without the guardians' consent is considered justifiable. Consequently, there is a viewpoint supporting the removal and transplantation of organs without the endorsement of the deceased's guardians.[22]

The principle of necessity, in the context of saving the life of another Muslim individual, is fundamental and regarded as paramount based on religious teachings and esteemed jurisprudential sources. Furthermore, the Iranian Constitution underscores the protection of individuals' physical integrity in several articles. In both jurisprudence and criminal law, there exists a differential calculation of blood money (diya) applicable to Muslim and non-Muslim individuals, reflecting this prioritization.

Moreover, organ removal and transplantation are sanctioned solely when a qualified medical team determines that failure to transplant the organ poses an imminent risk of death. According to Note 1 of the Organ Transplantation Law, the determination of death is the responsibility of qualified experts. Given that the transplantation procedure is conducted by a specialized medical team, it is reasonable to assert that the assessment of the necessity for transplantation and its related parameters should also be informed by the expertise of these specialized physicians.

It is vital to acknowledge that the law enacted in 2000, rooted in juristic sources and inquiries, stipulates that the primary condition for organ removal is to preserve the life of another Muslim. Despite this, statistics indicate that a significant number of organ transfer requests involve kidney patients, many of whom remain on waitlists for organs from deceased or brain-dead donors due to their inability to afford organs from living donors.[2]

As previously mentioned, the transfer of organs and body parts may occur either during an individual's lifetime—through means such as sale, donation, or will—or posthumously, as determined by the conditions outlined in the 2000 Organ Transplantation Law concerning deceased or brain-dead patients.

In the latter case, a critical requirement for organ removal is obtaining consent from the deceased's heirs, necessitating further clarification.

Donation is the preferred method for organ transfer, and this practice has been increasingly promoted. In recent years, many individuals have chosen to register as organ donors while alive, indicating their willingness to support posthumous donation.

Addressing the pertinent questions and ambiguities surrounding organ removal and transplantation is essential for

understanding the rights of the deceased's heirs. Key considerations include whether human body parts can be regarded as part of the inheritance and whether the legal relationship between the heirs and the deceased's body parts aligns with existing inheritance laws.

Can heirs relinquish their rights in accordance with Articles 958 and 959 of the Civil Code?

Are these rights founded on legislation, or do heirs have the authority to manage the deceased's body parts simply by virtue of their status as legal heirs?

Providing definitive answers to these inquiries is crucial for advancing the research topic.

Before delving into these matters, it is important to determine who must grant consent for the extraction of organs from deceased or brain-dead patients under the Organ Transplantation Law of 2000.

5.1. Determining Heirs

A review of the Organ Transplantation Law and its executive regulations reveals that the heirs recognized in this context differ from those defined under the Civil Code and inheritance laws. Article 7 of the Executive Regulations specifies that the heirs required to consent to organ removal are the legally recognized adult heirs authorized to provide such consent.

Therefore, minor heirs are not considered individuals whose consent is required.

The Civil Code stipulates that the age of heirs, whether minors or adults, does not affect their legal rights or inheritance.

It is noteworthy that heirs do not automatically assume the role of guardians of the deceased. For example, although a husband and wife may be recognized as heirs, the law does not designate them as guardians of the deceased.[23]

It is essential to distinguish between the roles of heirs as representatives of the deceased, the role of guardians, and the respective rights and obligations associated with each. Heirs, acting in their representative capacity, inherit all rights and obligations attributable to their ancestor. Consequently, heirs are responsible for all duties and rights defined by law or contractual agreements enacted by the deceased. For instance, any authority and ownership the deceased held over their property are transferred to the heirs. Moreover, if the deceased had entered into contractual agreements, the heirs are obligated to fulfill those commitments. However, it is crucial to note that personal rights and obligations—such as those related to marriage or commitments requiring the individual's direct involvement—are excluded from this principle.

Furthermore, the legal definitions of guardians of the deceased differ from those of representatives in the context of organ transplantation law. As previously mentioned, under this law and its associated regulations, obtaining the consent of all heirs, who act as representatives of the deceased, is not mandatory.

Additionally, it is essential to clarify the distinction between the authority of guardians of the deceased and the rights conferred upon heirs in their representative capacity. The authority granted to guardians to consent to the removal of organs from the deceased's body is derived from a position of respect, which fundamentally contrasts with the authority heirs possess over the deceased's property. This distinction serves to uphold human dignity and preserve the sanctity of the deceased's physical remains.

Moreover, the Organ Transplantation Law, enacted in 1379 (2000), explicitly states that the consent of all heirs is not a prerequisite for the removal and transplantation of organs, thereby providing a clearer interpretation of the guardians' rights concerning the deceased.

In addressing the issue of the basis for guardians' rights and whether their authority to consent to organ removal arises from their representative capacity as heirs or from a specific legal basis, it can be argued that this authority is rooted in the urgent need to save another Muslim's life. If this right was based solely on the representative capacity of the ancestor, it would apply to all heirs, including minors, rather than being limited

to those heirs who are legally recognized as adults.

In conclusion, according to the relevant rules and regulations governing inheritance and estates, all heirs—regardless of age—serve as representatives of the deceased. In cases where heirs are minors, a guardian is appointed to manage their affairs if no designated guardian exists.[24]

Regarding whether the heirs of the deceased can forgo or relinquish their rights under Articles 958 and 959, it can be stated that these rights are legislatively grounded and aim to uphold the dignity of the deceased's heirs. In cases where heirs are unavailable and there is an urgent need to save another Muslim's life, the extraction of an organ from the deceased for transplantation is considered permissible. Heirs explicitly retain the right to refuse consent for organ extraction; practically, if they do not approve the donation of transplantable organs, the extraction will not occur.

Determining whether the legal relationship between heirs and the deceased's organs follows the same principles as inheritance requires an evaluation of the organs' value. It is essential to note that only the financial rights and obligations of the deceased are considered part of the inheritance.

5.2. The Value of Human Organs

A comprehensive discussion of the valuation and ownership of human organs necessitates an examination of arguments from both proponents and opponents—a complex topic that deserves its own dedicated platform. In summary, human organs possess characteristics consistent with assets: they provide financial benefits, fulfill human necessities, and are often associated with monetary compensation.[24]

However, their value remains latent; while an organ is part of a living body, it cannot be incorporated into contracts such as sales or gifts.[25]

While scholars have predominantly opposed classifying deceased organs as assets—citing regulations concerning human remains and upholding the sanctity of human dignity—one cannot overlook the pressing social needs and the considerable value of organ transplantation from deceased or brain-dead individuals in the context of saving lives. The Organ Transplantation Law, enacted in 1999, was established within this context.[6]

Although Islamic law maintains the sanctity of the human body even after death—thereby prohibiting its classification as an asset and forbidding any violation of bodily integrity during life or posthumously, as enshrined in Article 22 of the Constitution and relevant criminal laws—social necessities, in accordance with the principle of "Necessities permit prohibited acts," have led to the allowance of organ extraction from deceased or brain-dead patients. Such practices have been affirmed as compatible with both Sharia and constitutional law, indicating that these actions do not constitute a violation of the deceased's bodily integrity.

An important consideration is that, while recognizing the value of human organs, the organs of deceased individuals are not subject to inheritance. The rules governing the inheritance of other assets of a deceased person do not apply to their organs. For example, one principle in inheritance law states that male heirs receive twice the share of female heirs, but this rule does not apply to human organs.

Thus, when discussing whether the legal relationship between heirs and the organs of a deceased individual conforms to the principles of inheritance, the answer is unequivocally negative.

This conclusion can be further elaborated as follows:

First, the executive regulations of the Organ Transplantation Law stipulate that the extraction of an organ from a deceased individual requires the consent of only the legally recognized adult heirs, not all heirs. If the relationship between the heirs and the deceased person's organs were one of succession, consent from all heirs, not just the primary legal heirs, would be necessary.

Second, the rules and stipulations of inheritance applicable to other assets do not

govern human organs or the agreements related to their extraction from deceased individuals.[7]

The rights of a deceased person's legal heirs to procure body parts for organ transplantation are not rooted in inheritance principles or estate division laws. Heirs cannot treat the deceased's body parts as part of the estate subject to inheritance rules; rather, this right has a distinct legal basis. Contemporary jurists have asserted that if it becomes necessary to save the life of another Muslim and the heirs cannot be contacted for consent, their agreement is not obligatory. Therefore, obtaining this consent may be regarded as a ceremonial courtesy rather than an essential requirement for organ removal and transplantation.

It is also critical to note that, due to the exclusion of a deceased individual's body parts from the estate and the respect owed to the deceased, heirs can only consent to the extraction of body parts suitable for transplantation. The extraction of any body parts deemed non-viable for transplantation is considered a violation of the deceased's body and is explicitly prohibited by both Sharia law and legal regulations.[5]

Discussion and Conclusion

The scarcity of organs from living donors, alongside the elevated costs associated with organ transplantation and the increasing demand for organ transplants, prompted the Iranian legislature to recognize brain death as actual death, aligning with legal practices observed in various countries. This transition led to the enactment of the law governing the transplantation of organs from deceased individuals or those classified as brain dead in 2000, followed by the formulation of executive regulations in 2002.

While this law addresses several pertinent issues, it contains ambiguities, such as determining who may grant permission for organ removal when the deceased cannot be identified. Nonetheless, under the law, organ extraction from deceased patients or those confirmed as brain dead is permissible under the following conditions: 1) the necessity to save another person's life; 2) the deceased's expressed wishes; and 3) the consent of the deceased's legal heirs.

Article 7 of the executive regulations defines legal heirs as adult heirs, whose consent is considered sufficient for the removal of organs from the deceased.

Jurists emphasize the fundamental nature of the necessity to save another individual's life when appraising conditions for organ removal. Certain experts maintain that if saving the life of another Muslim depends on the removal and transplantation of a deceased person's organ—and if obtaining consent from the heirs is not possible—then the heirs' consent is deemed unnecessary, thereby permitting organ removal and transplantation to save a life.

The legislator's focus on requiring consent solely from adult heirs, rather than from all heirs, in the organ transplantation law and its executive regulations raises questions about the role of the deceased's heirs and the basis of their right to consent regarding organ removal.

Upon analyzing this legislative approach, it becomes evident that the urgency surrounding organ removal and transplantation from deceased individuals necessitates timely action. Waiting for minor heirs to reach adulthood to obtain consent is impractical if the time frame for organ viability has already elapsed.

However, this position may be challenged on the grounds that the rights afforded to heirs should not differentiate between adult and minor heirs. If the rationale for excluding minor heirs is their legal incapacity and lack of understanding, the consent of their legal representative or a court-appointed guardian should be obtained to adequately protect the legal rights of minor heirs.

In light of existing laws, enacted regulations, and prevailing views among contemporary jurists, it can be concluded that human body parts possess intrinsic value; however, they are not considered part of inheritance or subject to the legal principles governing other assets of the deceased.

Consequently, the relationship between heirs and the deceased's body parts does not correspond to that of representatives of an owner in matters of inheritance. Specifically:

The legislature has determined that the consent of adult heirs is sufficient for organ removal from a deceased person's body, rather than requiring consent from all heirs. If the legislature had intended for heirs to act as

representatives, similar to estate matters, it would have mandated consent from all heirs.

Moreover, according to the perspectives of some jurists, including Grand Ayatollah Khamenei, obtaining the heirs' consent is considered unnecessary when the necessity to save another Muslim's life is unequivocally established and the heirs are unavailable. This situation raises further questions regarding the status of the heirs in such contexts.

In addressing the central and subsidiary questions of this research and evaluating the study's hypotheses, it can be affirmed that obtaining consent from the guardians of a deceased patient, as articulated in laws governing organ transplantation from deceased or brain-dead patients, is not a fundamental requirement. The rights of heirs are legally grounded and do not derive from principles of ownership substitution in inheritance matters. This right exists out of respect for the guardians of the deceased and is limited to organs suitable for transplantation. Jurists maintain that when saving the life of another Muslim is deemed imperative, the consent of the heirs is not obligatory, effectively rendering the role of the guardians of the deceased or brain-dead patient largely ceremonial.

Suggestions

In light of the absence of enacted laws concerning organ transfer during a person's lifetime, as well as the ambiguities in the laws governing organ transplantation from deceased patients or those confirmed brain dead, several recommendations are proposed:

1- Medical Advocacy: Medical professionals should clarify the complexities surrounding brain death and organ transplantation to support the development of clear and explicit laws for the legislative body.

2- Collaborative Analysis: The legal community, in conjunction with medical specialists and contemporary jurists, should assess the social necessities and increasing demand for organ transplants. They should analyze the legal implications of organ removal and transplantation, clarify the roles and rights of heirs and guardians of the deceased, and propose legislative amendments to resolve existing ambiguities.

3- Legislative Alignment: The legislature should incorporate insights from medical and legal experts while considering societal needs, aiming to enact comprehensive laws that clearly delineate the processes for transferring human organs both during life and post-mortem. Additionally, the laws should clarify the legal relationship between individuals and their body parts, as well as define the nature and scope of rights held by guardians and heirs concerning the deceased’s organs. This approach would help mitigate existing ambiguities and prevent conflicting interpretations among legal scholars, jurists, and medical professionals regarding organ transplantation.

4- Media Engagement: The media plays a critical role in fostering cultural understanding and shaping public discourse. Given that organ donation is the most effective method for facilitating transplantation, and recognizing that challenges in accessing guardians may hinder organ transfers, promoting living organ donation through mechanisms such as donor cards or wills could help prevent the loss of viable organs. The media can collaborate with medical and legal experts to develop educational programs aimed at cultivating a culture of organ donation. This collaboration would address the needs of patients requiring transplants, clarify the processes for organ extraction from deceased individuals, and establish the limits of guardians' authority in fulfilling the deceased's wishes regarding organ donation.

References:

1. Farhangi Shojaei, A. (2017). Moamele-ye Aza-ye Badan-e Ensan [Trade of Human Body Organs]. Qanun Yar Publications, p. 98 ff.
2. Mirhosseini, S. (2015). Kharid o Foroush-e Aza-ye Badan-e Ensan [Buying and Selling Human Organs]. Elmi va Farhangi Publications, p. 301.
3. Shakouri, A. (2024). Hokm-e Feqhi-ye Bardasht-e Ozv az Fard-e Mobtala be Marg-e Maghzi [Jurisprudential Ruling on Organ Removal from Brain-dead Person]. Noor Specialized Club, No. 71, pp. 10-11.
4. Soleimani, A. (2024). Peyvand-e Aza-ye Mobtalaian be Marg-e Maghzi dar Feqh va Hoquq-e Bashar [Organ Transplantation of Brain-dead Patients in Jurisprudence and Human Rights]. Noor Specialized Journals Club, Vol. 19, Spring–Summer, pp. 121–138.
5. Kafi Qomshe'i, M. (2012). Bey'-e Aza-ye Badan-e Ensan [Sale of Human Organs]. 1st ed. Tehran: Jangal & Javdaneh.
6. Nazari Tavakoli, S. (2002). Peyvand-e Aza dar Feqh-e Eslami [Organ Transplantation in Islamic Jurisprudence]. 1st ed. Mashhad: Astan Qods Razavi Publishing.
7. Habibi, H. (2001). Marg-e Maghzi va Peyvand-e Aza az Didgah-e Feqh va Hoquq [Brain Death and Organ Transplantation from the Viewpoint of Jurisprudence and Law]. 1st ed. Qom: Boostan-e Ketab.
8. Aghababaei, E. (2006). Peyvand-e Aza az Bimaran-e Fot-shodeh va Marg-e Maghzi (Barrasi-ye Feqhi va Hoquqi) [Organ Transplantation from Deceased and Brain-dead Patients: A Jurisprudential and Legal Study]. 1st ed. Qom: Islamic Propagation Office Press.
9. Moein, M. (2001). Farhang-e Farsi [Persian Dictionary], Vol. 2. Tehran: Amir Kabir Publications.
10. Goodarzi, F. (2011). Pezeshki-ye Qanouni [Forensic Medicine]. 10th ed. Tehran: Einstein Publications.
11. Jafari Langaroudi, M. J. (2003). Terminology-ye Hoquq [Legal Terminology]. 9th ed. Tehran: Ganj-e Danesh.
12. A'rabi, B. (2010). An Soye Eghma ya Marg-e Maghzi [Beyond Coma or Brain Death]. Tehran: Fars Publishing.
13. Al-Daqr, N. M. N. (1997). Mawt al-Dimagh bayn al-Tibb wa al-Islam [Brain Death between Medicine and Islam]. Vol. 1. Damascus: Dar al-Fikr.
14. Tabataba'i, S. M. H. (2011). Al-Mizan fi Tafsir al-Qur'an, Vol. 12. Qom: Esma'ilian Publications.
15. Sadr al-Muta'allihin (Mulla Sadra), M. b. Ibrahim. (1375 A.H.). Al-Hikmah al-Muta'aliyah fi al-Asfar al-'Aqliyyah al-Arba'ah, Vol. 9. Qom: Mostafavi Publications.
16. Razi, Fakhr al-Din M. b. 'Umar. (1407 A.H.). Al-Matalib al-'Aliyah min al-'Ilm al-Ilahi, Vol. 7. Beirut: Dar al-Kitab al-'Azizi.
17. Avicenna (Ibn Sina). (1413 A.H.). Al-Qanun fi al-Tibb. Beirut: 'Izz al-Din Institute.
18. Khamenei, S. A. (1995). Ajwibat al-Istifta'at, Vol. 1. Dar al-Naba lil-Nashr wa al-Tawzi'.
19. Saanei, Y. (2009). Estefta'at-e Qazayi, Vol. 2, 3rd ed. Qom: Partow-e Khorshid.
20. Momen, M. (1415 A.H.). Kalimāt Jadidah fi Masā'il Jadidah, Vol. 1. Qom: Islamic Publishing Institute.
21. Al-Barr, M. A. (1994). Al-Mawqif al-Fiqhi wa al-Akhlaqi min Qadiyyat Zar' al-A 'da' [The Jurisprudential and Ethical Position on Organ Transplantation]. 1st ed. Damascus: Dar al-Qalam.
22. Rouhani, S. M. S. (1999). Estefta'at-e Qazaiyyeh, Vol. 1. Sepahr Legal Institute for International Lawyers.
23. Novin, P. (2003). Hoquq-e Madani 8: Erth va Akhz be Shofe'eh [Civil Law 8: Inheritance and Pre-emption]. 2nd ed. Tehran: Ganj-e Danesh.
24. Katouzian, N. (2009). Amval va Malekiyat [Property and Ownership]. 2nd ed. Tehran: Dadgostar Publications.
25. Shahidi, M. (2008). Tashkil-e Gharardadha va Ta'ahhodat [Formation of Contracts and Obligations]. Vol. 1.