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Orient XXI

The dilemmas of organ donation in Muslim countries

Most Arab countries now have organ transplant programs within their public health systems [Getty]

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 **Tags:** Organ donation, Islam, World Health Organization

Living or dead, the human body belongs to God and no-one may mutilate it, or remove any organs for commercial gain.

With this dichotomy in mind, Islamic academics have discussed at length the religious prohibitions and requirements necessary to carry out life-saving organ transplants.

Professor Aziz El-Matri, president and founder of the [Tunisian Society for Telemedicine](#) discussed these issues in an interview with *The New Arab's* partner organisation, [Orient XXI](#).

Orient XXI. — In Muslim countries, is it legal to remove organs from a person, living or dead? How do doctors specialising in transplants get around various prohibitions?

Aziz El-Matri - Islam holds the human body to be sacred: it is an inalienable property and a Muslim is duty-bound to preserve its integrity. But there is also an obligation to preserve life, even if this means infringing certain restrictions.

Thus the principle of necessity takes precedence over the prohibitions. It became a matter of consensus among Muslim jurisconsults, of whatever persuasion, that organ transplants should be allowed.

The [first fatwa](#) was pronounced by the Grand Mufti of Kuwait in 1979. This was considered permissive enough to serve as a model for scholars in other countries of the region.

This fatwa was followed by a [consensual decision taken at a meeting](#) of the Scientific Council of the Islamic Fiqh Academy in Jeddah in August 1988.

Since then, several legal experts have issued fatwas authorising organ transplants, insisting on the notion of voluntary donation and excluding commercialisation.

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However, there is a disagreement over the removal of organs from a cadaveric donor, despite the International Islamic Jurist Council's decision to recognise the reality of brain death.

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more kidney transplants while there are not enough organs available.

International bodies consider that the number of organs (kidneys) on offer in the world represents only 10 percent of actual needs. It is this imbalance between supply and demand that has brought about the development of organ trade.

In countries where no laws exist or are not enforced, poor populations have become a potential reservoir of organs. In order to counteract this tendency and fight against commercialisation, the World Health Organisation (WHO) laid down [guiding principles](#), which have been revised several times.

An international committee drew up a code of conduct which led to the Amsterdam Declaration in February 2004 and the Lisbon Declaration in 2006. Subsequently, in May 2008, the WHO joined with two international scientific bodies, The Transplantation Society (TTS) and the International Society of Nephrology (ISN) to organise a meeting of representatives of 78 countries in Istanbul.

Out of this summit came the [Declaration of Istanbul on Organ Trafficking and Transplant Tourism](#) which states that these practices violate the principles of equity, justice and respect for human dignity and should be prohibited.

In our region, the organ trade is religiously illicit and is officially outlawed in all Arab-Muslim countries. However, the reality is a different matter.

Some countries tolerate a blatantly illegal trade; others have introduced measures which allow for a degree of flexibility.



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In Iran and Saudi Arabia, the law allows a "rewarded legal gift for living renal donors," which jeopardises the principle of non-paid donation.

In Saudi Arabia, one is allowed to give advantages in kind or in cash to living donors or the family of a deceased donor – often these are foreigners residing in the country.

This might take the form of direct or indirect payment for the transportation and burial of the donor's mortal remains or the remuneration of family members - plus a certain cash compensation.

In Iran, a living donor who is unrelated to the recipient is considered a benefactor of the community at large and is officially compensated by the State (the amount is fixed and public).

Besides which, the recipient's family or an association supporting him/her are allowed to contribute a "reward" negotiated between the parties.

This system allows for every kind of abuse, although we cannot deny that since it was established the number of voluntary living donors has risen considerably, making it possible to treat pathologies much sooner.

Contrary to all other countries where there are long waiting lists for recipient patients, Iran has donor waiting lists.

This pragmatic measure has the advantage of the problem of chronic kidney deficiency in a country with limited means, but it raises an ethical problem and a real dilemma for healthcare professionals.

Israel is another country in the region which has long tolerated the transplant trade.

Following Egyptian President Anwar El-Sadat's visit in November 1977, Israeli officials took advantage of the opening of diplomatic ties with Egypt and the absence of any clear legislation to enable their nationals to receive kidney transplants purchased from unrelated foreign donors, such as poverty-stricken inhabitants of neighboring countries.

It appears that these operations were reimbursed by private health insurance companies and sometimes by public systems. Officials in charge of the Istanbul Declaration sent a warning note to Israeli authorities.

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“ No Arab country has adopted a long-term organ transplant strategy ”



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To my knowledge, there is no more organ trading in those countries than in the rest of the region. But the rate of transplantation, in the best case scenario, is around ten transplants for a million inhabitants per year, far below the number of patients on the waiting lists.

The actual yearly number of new cases is around 1000 per million inhabitants. Iran is the only country with a program adapted to its situation and the means at its disposal to allow treatment as soon as end-stage failure is reached.

No Arab country has adopted a long-term organ transplant strategy.

O. X. — *What about Tunisia?*

A. M. — Nephrology, the treatment of kidney disease, is a relatively recent creation, it did not become independent of internal medicine until the nineteen sixties, when the first European

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Urological and nephrological teams performed a first transplant from a related donor, then another from a cadaveric donor. At the time there was no explicit law.

We took as our reference a schematic legislative decree dating from 1952 which authorized organ removal for diagnostic or therapeutic purposes in view of a corneal transplant.

It was vague enough to be freely interpreted. It was not until much later, in 1991, that a specific law was passed for organ removal and transplantation from a voluntary living donor, related or unrelated, or a deceased donor.

At first our medico-surgical team confined itself to removals from living donors biologically related to the recipient, but after February 2000 removals were extended to persons "emotionally related" - in other words, to the husbands and wives of patients.

This is an edited translation of an article originally published by our partners *Orient XXI*.



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