

## HUMAN ORGAN TRANSPLANTATION FOR FOREIGNERS: BETWEEN RIGHT AND RESTRICTION – A COMPARATIVE STUDY

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### Abstract

Human organ transplantation is considered one of the most complex and high-risk surgical procedures, as it requires a donor to provide one of their organs to save the life of a patient suffering from irreversible damage to a vital organ—where conventional treatment is no longer effective. Given the sensitive nature of these procedures and their impact on the sanctity of the human body, as well as the risks associated with illegal organ trafficking, national legislations have taken the initiative to regulate and restrict such operations from multiple angles. These include defining who is permitted to donate or receive human organs and tissues.

Legislative consensus in many countries has settled on limiting organ donation to citizens of the same state, due to the scarcity of human organs and the priority given to nationals over foreigners in benefiting from them. Nevertheless, driven by humanitarian considerations and therapeutic goals, some legislations have exceptionally allowed foreigners to undergo organ transplantation—provided they have a familial relationship with the national individual, whether donor or recipient.

In this context, and to shed light on the legal aspects of organ transplantation between citizens and foreigners within the framework of private international law, we adopted a comparative approach aimed at reaching optimal legislative outcomes and proposals that strike a balance between humanitarian dimensions and legal regulation.

**Keywords:** Human organs, transplantation, foreigner

### Introduction

Despite the rapid advancement in medical scientific knowledge, there remain chronic and intractable diseases for which science has yet to discover effective treatments or curative medications through conventional pharmaceutical means. These conditions often result in severe dysfunction of bodily systems, destruction of cells, or affliction by a terminal illness that affects one or more vital organs. In such cases, the only viable treatment is surgical intervention to replace the damaged organ with a healthy one—commonly referred to as human organ transplantation.

These procedures presuppose the existence of a patient for whom traditional therapeutic methods have proven ineffective, and whose only hope for recovery lies in receiving a healthy organ to replace the failing one. Medical science has not stood idle in the face of such challenges; rather, it has evolved to enable the transplantation of human organs from one individual to another. Given the high degree of risk involved—touching directly on human life and bodily integrity—legislators in many countries have not left such procedures to personal discretion. Instead, they have enacted legal frameworks that impose specific conditions and regulations governing how these operations are conducted.

Between a donor seeking to save the life of a relative, and a foreign patient searching desperately for a compatible organ to preserve their own life, the law has intervened to define the extent of a foreigner's right to participate in organ transplantation—whether as a donor or recipient of donated organs or tissues.

### Research Problem and Questions

The core problem and guiding questions of this study are as follows:

1. The absence of a clear and precise legal provision in Iraqi law that defines the extent of a foreigner's right to undergo organ transplantation—whether as a donor or

recipient—and the use of vague and imprecise terminology by the Iraqi legislator in this regard.

2. Is it legally permissible to conduct organ transplantation procedures between nationals and foreigners?
3. Is a specific degree of kinship required for a foreigner to be eligible for organ transplantation, or can such procedures be carried out regardless of the degree of familial relation?

### **Research Methodology**

This study adopts a comparative analytical approach by examining the legal texts that regulate human organ transplantation and the extent of foreigners' rights within these frameworks. It also identifies the limitations imposed on such rights and compares them with the laws of other countries—namely Palestine, Egypt, Turkey, and India—in order to determine best practices and highlight legislative gaps and deficiencies in Iraqi law.

### **Research Structure**

The study, titled *"Human Organ Transplantation for Foreigners: Between Right and Restriction – A Comparative Study"*, is divided into two main chapters:

- Chapter One: The legal framework governing human organ transplantation in Iraqi legislation, with an analysis of the provisions related to foreigners' rights.
- Chapter Two: A comparative study of relevant legislation in selected countries, highlighting differences, strengths, and legislative shortcomings.

### **The first topic: the definition of the foreigner.**

The first requirement: the definition of the foreigner in jurisprudential reform.

The second requirement: the definition of the foreigner in the legislative terminology.

### **The second topic: The right of the foreigner to transplant human organs and his restrictions.**

The first demand: The position of the Iraqi legislator on the right of the foreigner to transplant human organs.

The second requirement: the position of comparative legislation on the right of the foreigner to transplant human organs

### **1.1 Definition of a foreigner**

In the past, the distinction between the foreign and the national was based on a realistic social criterion until the beginning of the emergence and crystallization of states in the Middle Ages, after which the legal concept began to take shape in defining the foreign and the national, due to the emergence of nationalities and the division of the world into several different countries and the different legal systems in them.

### **1.2 Definition of a foreigner in jurisprudential terminology**

An alien has been defined as "any person who has no national nationality, whether or not he has the nationality of another State<sup>1</sup> or at all", and the majority of scholars of private international law have defined a foreigner in a given State as "one who does not have a nationality of a State and does not have national status, whether<sup>2</sup> or not he is a national of another State and whether he is a resident of its territory or not". The foreigner was also defined as "one who does not hold national nationality, i.e. one who does not meet the

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<sup>1</sup>Mr. Safaa Youssef Hussein Al-Tamimi, *The Legal Status of the Foreigner in the State of Residence*, First Edition, Modern Book Foundation, Beirut, 2019, p. 22.

<sup>2</sup>Dr. Abbas Al-Aboudi, *Explanation of the Provisions of the Iraqi Nationality Law No. 26 of 2006 and the Homeland and the Center of Foreigners*, Dar Al-Sanhouri, Beirut, 2015, p. 262.

conditions required to enjoy the nationality of a State", or "a person who is not a national"<sup>1</sup>, and therefore a person who has the nationality of a particular State is a national for it, while foreigners are those who possess the nationality of another State or may not hold the nationality of any State, which is called statelessness, and that the majority of States do not define the concept of foreigner in their legislation, but are limited to a statement The definition of the concept of nationalism is therefore in a positive way, while the identification of a foreigner is in a negative way<sup>2</sup>, and the foreigner is either an absolute foreigner, a stateless person, because he does not hold the nationality of any State, which means that his legal status is different from other foreigners who hold the nationality of a particular State who are not residents of its territory, and who are national in relation to their own States, but are foreigners in relation to the State in which they reside, which is called foreigners in<sup>3</sup>relative termsAccording to some jurisprudence, an alien is considered to be a foreigner of a special type, because he does not belong to any State, which obliges the State in which he is located to treat him differently from his treatment of relative aliens of known nationalities<sup>4</sup>.

From the above, it is clear that what distinguishes a foreigner from a national in a country is his enjoyment of the nationality of that State, and the person is called a national in relation to the State of which he is a citizen and a foreigner in the case of other States, even if he resides in its territory.

### 1.3 Definition of Foreigner in Legislative Terminology

In the Iraqi Nationality Law No. 43 of 1963, which was repealed, the Iraqi legislator defined a foreigner as a "non-Iraqi"<sup>5</sup>, in contrast to the Iraqi Nationality Law No. 26 of 2006 in force, which did not address the definition of a foreigner, but rather indicated who is a national by stipulating that an Iraqi is a "person who enjoys Iraqi nationality".<sup>6</sup> In which the national status is alien in relation to that State<sup>7</sup>, as defined by the Iraqi legislator in the Aliens' Residence Law No. 118 of 1978, which was repealed, as "any person who does not enjoy Iraqi nationality"<sup>8</sup>, as well as the definition of a foreigner in the Iraqi Aliens Residence Law No. 76 of 2017, which is in force, as "any person who does not hold the nationality of the Republic of Iraq".<sup>9</sup>As for the position of the comparative laws under discussion regarding the definition of foreigner, the Turkish legislator also stated the definition of a foreigner in the Turkish Foreigners and International Protection Law No. (6458) of 2013, which is in force, as "a person who does not have a connection with the Republic of Turkey through

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<sup>1</sup> Dr. Hafiza Al-Sayyid Haddad, *Al-Mu'mawla fi Nationality and the Status of Foreigners*, Al-Halabi Human Rights Publications, Beirut, 2003, p. 379.

<sup>2</sup>Dr. Muhammad Jalal Hassan Al-Mazuri, *Private International Law in Nationality, Domicile and the Status of Foreigners*, First Edition, Yadkar Library, Iraq, Sulaimaniyah, 1440 A.H., 2018, p. 222.

<sup>3</sup>Dr. Hassan Ali Kazem Nassif Al-Majma, *Private International Law, A Comparative Study*, Modern Arab Bureau, Cairo, 2022, p. 210.

<sup>4</sup>Mr. Safaa Yousef Hussein Al-Tamimi, previous source, p. 22.

<sup>5</sup> See: Article (1/2) of the Iraqi Nationality Law No. (43) of 1963, which was repealed.

<sup>6</sup> See: Article (1/B) of the Iraqi Nationality Law No. (26) of 2006 in force.

<sup>7</sup> Mr. Safaa Yousef Hussein Al-Tamimi, previous source, p. 23.

<sup>8</sup> See: Article (1/5) of the Foreigners' Residence Law No. (118) of 1978, which was repealed in Iraq.

<sup>9</sup> See: Article (1/2) of the Foreigners' Residence Law No. (76) of 2017 in force in Iraq.

citizenship"<sup>1</sup>, as the Egyptian legislator referred to as "a foreigner in Law No. (89) of 1960 amended by Law No. (88) of 2005 on the entry and residence of foreigners in and out of the territory of the Arab Republic of Egypt, which is in force, as A foreigner under this Act is a foreigner who is not a citizen of the Arab Republic of Egypt."<sup>2</sup> The Indian legislature has also defined a foreigner as "a person who is not an Indian citizen"<sup>3</sup>

From the above, it is clear that both the Iraqi legislator and the comparative laws under discussion have agreed in their definition of a foreigner as anyone who does not hold or does not enjoy the nationality of the country in which he resides, but who holds the nationality of another country or may be stateless, i.e., does not hold the nationality of any country.

## **2. The right of a foreigner to transplant and restrict human organs**

After explaining in the first section the definition of a foreigner in jurisprudential terminology, and the position of the Iraqi legislator on defining what is meant by a foreigner, as well as the position of the comparative laws under discussion, we have devoted this topic to explaining the right of the foreigner to transplant human organs, i.e., in the sense of whether it is possible to carry out the removal, transfer and transplantation of human organs and tissues from the national to the foreigner or vice versa. In other words, is it possible for the donor to have the nationality of a country to which the recipient does not belong or vice versa? The position of the Iraqi legislator and the comparative laws under discussion on this subject is based on two demands, as follows:

### **2.1 The position of the Iraqi legislator on the right of the foreigner to transplant human organs**

The Iraqi legislature stipulated in the Law on Human Organ Transplantation and Prevention of Trafficking in Human Organ Transplantation with respect to the right of a foreigner to perform organ and tissue transplantation operations as follows: "Priority shall be given in the transfer of organs from Iraqi neighbourhoods to Iraqis, and organs may be transferred to non-Iraqis if they are relatives of the donor".<sup>4</sup>

In the text of the preceding article, it is noted that the Iraqi legislature has given priority in the process of transplantation and transplantation of human organs between neighborhoods to Iraqis, that is, if the person donating the organ or human tissue is an Iraqi national, then the recipient of that organ or tissue must also be Iraqi, and regardless of whether their Iraqi nationality is original or acquired, it has allowed the exception of transplanting a human organ into the body of a foreign recipient, provided that this is the case. It is worth noting that the Iraqi legislator has used the term "priority" and may interpret that it is not required to perform the process of organ transplantation from the body of the Iraqi donor to a foreign recipient to be exclusively related to him, but only gave priority to the Iraqi recipient, i.e., if the foreigner receiving the human organ does not have an Iraqi competitor over the same organ donated by a person. The condition of priority will not be met, and the recipient foreigner will have the right to transplant that organ into his body.

From the foregoing, it is clear that the Iraqi legislature has given the right to a foreigner to perform a transplant of a human organ from an Iraqi donor in two cases, the first

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<sup>1</sup> See: Article (3/paragraph e) of the Turkish Foreigners and International Protection Law No. (6458) of 2013 in force.

<sup>2</sup> See: Article (1) of Law No. 89 of 1960 as amended by Law No. 88 of 2005 on the entry and residence of foreigners into and out of the territory of the Arab Republic of Egypt.

<sup>3</sup> See: Article 2/A of the Indian Foreigners Act No. 31 of 1946.

<sup>4</sup> See: Article (23/1) of the Iraqi Law on Transplantation and Prevention of Human Organ Trafficking No. (11) of 2016.

of which is coupled with the non-fulfillment of the priority condition, i.e., the absence of an Iraqi person in need of that organ donated by another Iraqi, and the second is the fulfillment of the condition of kinship between him and the Iraqi donor.<sup>1</sup> That is, even without Condition of kinship.

With regard to the extent of the right of a foreigner to be bequeathed to donation of human organs by a national before his death, the Iraqi legislature has made an absolute provision with regard to the will for the donation of human organs and has not stipulated that it should be confined among Iraqis, by stating that "every person who is fully competent may recommend to a clerk in accordance with the law the removal of one or more of his or her body for transplantation into the body of another living person in accordance with the provisions of the Islamic Shariah".<sup>2</sup> He is recommended to donate human organs and be a relative of the donor<sup>3</sup>

## **2.2 The Position of Comparative Legislation on the Right of a Foreigner to Transplant Human Organs**

As for the position of the comparative laws under consideration, the Turkish legislature has authorized the procedure of human organ transplants for foreigners, provided that the condition of kinship between the donor and the recipient up to the fourth degree is met, or between the spouses, provided that at least two years have passed since their marriage<sup>4</sup>.

As for the position of the Egyptian legislator, it was more precise and clear in the extent of the foreigner's right to transplant human organs or not, as it stipulated that "transplantation from Egyptians to foreigners is prohibited"<sup>5</sup>, and through the foregoing text, it is not permissible for anyone who holds Egyptian nationality, whether his nationality is original or acquired, to donate an organ or human tissue to a foreigner, and it is limited to Egyptians<sup>6</sup>, i.e., both the donor of the organ or human tissue and the recipient of that organ Egyptian nationality.

It should be noted that the Egyptian legislator used the term "prohibits" clearly and explicitly, in contrast to the position of the Iraqi legislator, who used the term "priority", which has a kind of flexibility, but the Egyptian legislator did not prohibit the transplantation and transfer of organs between Egyptians and foreigners absolutely, but made an exception to it by stipulating that "transplantation ... Except for spouses, if one of them is Egyptian and the other is a foreigner, provided that at least three years have passed since such marriage, and

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<sup>1</sup> See: Article 23/2 of the Iraqi Law on the Transplantation of Human Organs and the Prevention of Trafficking in Human Organs.

<sup>2</sup> See: Article 12/1 of the Iraqi Law on Human Organ Transplantation and Prevention of Trafficking.

<sup>3</sup> See: Article 23/1 of the Iraqi Law on Human Organ Transplantation and Prevention of Trafficking.

<sup>4</sup> See: Article (2) of the Turkish Law on Organ and Tissue Removal, Storage, Transplantation and Transplantation No. 2238 of 1979 in force.

<sup>5</sup> See: Article (3) of the Egyptian Law Regulating Human Organ Transplantation No. (5) of 2010 in force.

<sup>6</sup> Dr. Heidi Issa Hassan Ali Hassan, Organ Transplantation from the Perspective of Private International Law (Center for Foreigners-Legislative Competence), a comparative analysis study, research published in the Journal of Law and Economics issued by the Faculty of Law at Cairo University, Issue Ninety-Three, 2020 A.D. / 1414 A.H., p. 564.



with a notarized contract as prescribed by law for the authentication of marriage contracts, it is permissible to transplant between children of an Egyptian mother and a foreign father and between all of them, and between foreigners of the same nationality at the request of the State to which the donor and the recipient belong and as determined by the Executive Regulations of this Law."<sup>1</sup>

From the foregoing, it should be noted that the Egyptian legislature has authorized an exception to the prohibition of agriculture between Egyptians and foreigners, if one of the spouses is Egyptian and the other is a foreigner, provided that three years have passed since their marriage, so that sham marriage does not have a role in trafficking in human organs<sup>2</sup> They were from an Egyptian mother and a foreign father<sup>3</sup>.

The Egyptian legislator addressed the case of donation between brothers and sisters if they are from an Egyptian father and a foreign mother in Article 3 of the Executive Bylaws of Law No. (5) of 2010 on the Regulation of Human Organ Transplantation, by stipulating that "it is permissible to transfer between children from an Egyptian mother and a foreign father or vice versa, between all of them, provided that the age of the son transferred from him is not less than (18) years old and the consent of the three parties", which are: The father, the mother, and the donor son.

The Egyptian legislature also stipulates that it is possible to carry out transplants and transplants of human organs among foreigners residing in Egypt, provided that they are of the same nationality, i.e., that both the donor and the recipient hold the same foreign nationality, and at the request of the State to which they belong, i.e., the foreign State to which the parties to the operation belong is entitled to accept or reject the procedure of performing a human organ transplant for its nationals in Egypt<sup>4</sup>It is noted that the Iraqi legislature has not addressed this issue. Except for the exceptions mentioned, it is not permissible to perform a transplant of human organs from an Egyptian to a foreigner or vice versa, and this is confirmed by the Egyptian legislator by stipulating that "Subject to the provisions of Articles (2) and (3) of this Law, it is not permissible to transfer any organ or part of an organ or tissue from the body of a living human being for transplantation into the body of another human being unless it is by way of donation among relatives of Egyptians, and it is permissible to donate to non-relatives if the patient is in the The transplant is urgently needed and with the approval of the Special Committee for this purpose."<sup>5</sup>

Based on the above, we propose to the Iraqi legislator to include his paragraph in Article (23) of the Law on Human Organ Transplantation and Prevention of Trafficking No. (11) of 2016, according to which human organ donation operations among foreigners in Iraq are regulated if they are of the same nationality based on the consent of the country to which they belong and according to the following:

"Donations may be made among foreigners of the same nationality upon the consent of the State to which both the donor and the recipient belong."

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<sup>1</sup> See: Article (2) of the Egyptian Law Regulating Human Organ Transplantation.

<sup>2</sup> Dr. Heidi Issa Hassan Ali Hassan, op. cit., p. 576.

<sup>3</sup> Dr. Bashir Saad Zaghloul, Criminal Protection in the Field of Human Organ Transplantation, An Analytical Study in the Light of the Legislation of Egypt, Kuwait and Qatar, Research Published in the Journal of Law Issued by the Scientific Publishing Council at Kuwait University, Vol. (41), No. (2), 2017, p. 77.

<sup>4</sup> Dr. Heidi Issa Hassan Ali Hassan, op. cit., pp. 581-582.

<sup>5</sup> See: Article (4) of the Egyptian Law Regulating Human Organ Transplantation.

With regard to the position of the Indian legislature, it also stipulated that the condition of kinship between both the donor and the recipient should be met, but provided that a donation to an alien could be made by an Indian citizen subject to the approval of the Licensing Committee and that the alien must be a close relative<sup>1</sup>. They mean "husband, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson or great-granddaughter".<sup>2</sup>

As for the position of the Palestinian legislator, it was contrary to the position of the Iraqi legislator and the comparative laws in question, it did not grant the right to a foreigner to perform transplants of human organs, and it did not include any exception that grants the right to a foreigner to perform transplants and transplants of human organs, by stipulating that "no organ, part of an organ or tissue from the body of a living human being may be transferred for transplantation into the body of another human being unless it is by way of donation among relatives of Palestinians." An exception may be made to donate to non-relatives if the patient is in urgent need of transplantation in accordance with the rules and procedures established by the Executive Regulations of this Decree by law."<sup>3</sup>

It is clear from the text of the preceding article that the Palestinian legislator has limited itself to performing transplants of human organs and tissues among Palestinian relatives, whether their nationality is original or acquired, but it has not specified the degree of kinship between the recipient and the donor.

Based on the above, we propose to the Iraqi legislator to amend Article Twenty-Three and add a new paragraph according to the following:

First: The transplantation of organs between neighborhoods shall be from Iraqis, with the exception that organs may be transferred to non-Iraqis if they are related to the donor up to the fourth degree.

Second: It is permissible to transfer organs from non-Iraqi to Iraqi if he is a relative of the donor up to the fourth degree.

Third: The Minister of Health shall issue instructions to regulate organ transplants from foreign donors.

The reason for this proposal is that the Iraqi legislator did not specify the degree of kinship between the Iraqi donor and the foreign recipient of the human organ, while the proposal to add the second paragraph is due to the fact that the Iraqi legislator dealt with the case of the Iraqi donation of an organ or human tissue to a non-Iraqi, i.e., the donor is Iraqi and the recipient is a foreigner, by stipulating that "organs may be transferred to non-Iraqis" and did not address the situation in which the organ donor is a foreigner and the recipient of that organ is Iraqi.

As for the possibility of bequeathing the human organs of a foreigner, the position of Turkish and Indian law has been stated<sup>5</sup>. Consistent with the position of the Iraqi

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<sup>1</sup> See: Article 9/1 of the Indian Organ and Human Tissue Transplantation Act No. 42 of 1994.

<sup>2</sup> See: Article 18/A of the Definitions in the Indian Organ and Human Tissue Transplantation Act.

<sup>3</sup> See: Article 22 of the Palestinian Law No. 6 of 2017 Regulating Human Organ Transplantation and Transplantation.

<sup>4</sup> See: Article 14 of the Turkish Law on Organ and Tissue Removal, Storage, Transplantation and Transplantation.

<sup>5</sup> See: Section 3 of the Indian Human Organ and Tissue Transplantation Act.

legislator, contrary to Egyptian law, which limited the donation of human organs to Egyptians only<sup>1</sup>

It should be recalled that the European Convention on Human Organ Transplantation<sup>2</sup> emphasized that there should be no discrimination in the conduct of human organ transplants between recipients and donors on the basis of race, sex, religion, age or health status, which was also confirmed by the Istanbul Declaration on Organ Trafficking and Transplant Tourism of 2008.

It should be noted that some States allow the transplantation of human organs to foreigners, without restriction, since in Spain the legislature stipulates<sup>3</sup> that the distribution of organs is carried out according to medical criteria and clinical priority only, and not on the basis of nationality, so that foreigners residing or even visitors can be on a waiting list if they are in medical need.

In Italy, the legislature provided for the establishment of a national system for the distribution of organs, based on equality and non-discrimination, and there was no requirement of nationality, but priority determined by medical standards and the state of emergency, noting that the conditions and procedures for the expression of will in relation to the donation of organs and tissues after death should be determined by foreigners lawfully residing in the national territory as well as by foreigners applying for nationality<sup>4</sup>. This provision affirms that foreigners who are legally resident in Italy or who apply for Italian citizenship have the right to express their will regarding organ donation in the same way as Italian citizens.

## Conclusion

Praise be to Allah, and peace and blessings be upon the Messenger of Allah Muhammad (peace and blessings of Allah be upon him), we have completed this research in which we dealt with the status of the foreigner from the transplantation of human organs, starting with the definition of the human organ, what is meant by the transplantation of human organs, what is meant by the foreigner and the extent of the foreigner's right to perform this type of operation, and the restrictions on this right, and we have reached a set of results and suggestions as follows:

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<sup>1</sup>It reads: "For the necessity of preserving the life of a living person, curing him of a serious illness or completing a vital deficiency in his body, it is permissible to transplant an organ or part of an organ or tissue of the body of a dead person among Egyptians, if the deceased had so bequeathed so before his death by a notarized will, or proved in any official document..." See: Article (8) of the Egyptian Law Regulating Human Organ Transplantation.

<sup>2</sup> It is an international document aimed at regulating human organ transplantation in Europe, adopted by the Council of Europe in 1989.

<sup>3</sup>See: Spanish Law on Organ Transplantation No. 30 of 1979 and Royal Decree No. 1723 of 2012.

<sup>4</sup>See: Article 5/3 of the Italian Law on the Acquisition and Transplantation of Organs and Tissues No. 91 of 1999.



1. What distinguishes a foreigner from a national in a country is his enjoyment of the nationality of that country, and a person is called a national in relation to the country of which he holds nationality and a foreigner in relation to other countries, even if he resides in its territory.
2. The majority of national legislation regulating transplantation and transplanted human organs, including the Iraqi legislator in the Law on Transplantation and Prevention of Human Organ Trafficking No. (11) of 2016 in force, agrees with the right of nationals to perform this type of operation, as human organs represent a rare resource and the national is more entitled to it than the foreigner. With the exception of the Palestinian legislator, which did not grant the right to a foreigner to perform human organ transplants, whether he is a donor or a recipient, there are other pieces of legislation that go not to discriminate between donors and recipients on the basis of nationality.
3. The national legislation regulating the transplantation of human organs, including Iraqi law, permits the donation of human organs after death to a foreigner by drafting his will to do so, with the exception of the Egyptian legislator, who did not grant the right to do so to the foreigner and limited it to Egyptians only.

#### **Second: Proposals:**

1. We propose to the Iraqi legislator to amend Article 23 of the Human Organ Transplantation and Prevention of Trafficking Law No. (11) of 2016 and add a new paragraph according to the following: First: The transfer of organs between living beings shall be from Iraqis, with the exception that organs may be transferred to a non-Iraqi if he is a relative of the donor up to the fourth degree, second: Organs may be transferred from a non-Iraqi to an Iraqi if he is a relative of the donor up to the fourth degree, and thirdly: The Minister of Health issues instructions to regulate organ transplants from foreign donors.
2. We propose to the Iraqi legislator to include a new paragraph in Article 23 of the Law on Human Organ Transplantation and Prevention of Trafficking No. (11) of 2016, according to which human organ donation operations among foreigners in Iraq shall be regulated if they are of the same nationality based on the consent of the country to which they belong, and according to the following: "Donation among foreigners of one nationality may be based on the consent of the country to which both the donor and the recipient belong."

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