

Tracing the Trajectory and Response of Islamic Law to Organ Transplantation According to the Scales of Shari'ah

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Abstract

The medical field is gradually beginning to reveal its new breakthroughs related to the discovery of new treatment methods in the form of organ transplantation or the transfer of human organs to save other human organs, which is referred to as transplantation. The urgency of this practice is directed towards individuals who exhibit symptoms of organs detached from normal conditions. The aim of this research is to explore the Islamic legal response to transplantation practices that have not been specifically addressed in the Qur'an. Qualitative research is employed as a method, utilizing a comparative approach to the views of classical and modern scholars in conjunction with the fatwas of religious bodies. The findings of this study demonstrate that the Islamic legal response is very flexible in permitting transplantation practices, thereby making the medical world a bridge for the healing of humanity. This modern treatment method minimizes disparities in the medical field. This article can enrich the literature on organ transplantation by thoroughly analyzing the opinions of classical and contemporary scholars, thus necessitating the drafting of a new fatwa while considering the medical, social, and spiritual dynamics of the Islamic community.

Keywords: Body Organs, Fatwa, Religions Institutions, Transplantation.

Abstrak

Dunia kedokteran secara perlahan mulai menampakkan gebrakan barunya terkait penemuan metode pengobatan baru berupa pencangkokan atau pemindahan organ tubuh manusia demi menyelamatkan organ tubuh manusia lainnya, yang diistilahkan dengan transplantasi. Urgensi praktik ini tertuju kepada seseorang yang memiliki gejala bagian organ tubuh yang terlepas dari kondisi normal. Tujuan penelitian ini menggali respons hukum islam terhadap praktik transplantasi yang belum dijelaskan secara spesifik dalam Al-Qur'an. Penelitian kualitatif dijadikan sebagai metode dengan pendekatan komparatif terhadap pandangan ulama klasik dan modern serta fatwa lembaga keagamaan. Hasil penelitian ini membuktikan respons hukum islam sangat fleksibel dengan membolehkan praktik transplantasi, sehingga dunia medis menjadi jembatan pengobatan untuk penyembuhan manusia. Metode pengobatan modern ini meminimalisir kesenjangan dalam dunia kedokteran. Artikel ini dapat memperkaya literatur tentang transplantasi organ dengan menganalisa secara menyeluruh pendapat ulama klasik dan ulama kontemporer sehingga perlu menyusun fatwa terbaru dengan mempertimbangkan dinamika medis, sosial, dan spiritual umat islam.

Kata Kunci: Fatwa, Lembaga Keagamaan, Organ Tubuh, Transplantasi.

INTRODUCTION

The healing of the human soul through organ transplantation methods has long been popular in meta-medicine. Transplantation is considered one of the best alternatives for modern treatment, as it can save human lives and achieve the preservation of life. Observing the increasingly high demand for organ donors, the number of transplantation practices is surging across the globe, including in Indonesia. Gradually, the issue of organ transplantation gives rise to various new problems, creating a dialectic for both the medical and religious worlds. The rising number of patients in need of transplantation has created a gap between humanitarian values and the permissibility status in implementing the program. As a comparison to the development of science and technological transformation in the medical field, this presents various legal dilemmas. They need to become more applicable and flexible so as not to be constrained by a rigid legal system.¹

The progress of time cannot be stopped, because humans fundamentally always need change to meet their needs. This change occurs naturally alongside the evolving needs of humans, where every era always brings new needs desired by humanity. The revolution of time demands humans to adapt while simultaneously creating new ideas to fulfill life's needs and mental health. In the past, the transfer of organs between humans was considered impossible, but with technological transformation and the support of medical facilities, this program has been successfully realized.²

Human organ transplantation has proven to be successfully implemented. However, in the study of Islamic law, questions arise regarding its *halal* (permissible) status. This debate revolves around medical urgency versus religious teachings, as some scholars deem it forbidden (*haram*) on the grounds that there was no such practice during the time of Prophet Muhammad. If this approach is used as a benchmark, then many modern medical innovations previously unknown in the Prophet's era could also be questioned. Therefore, restricting such thinking risks positioning Islam as if it were hindering the advancement of science and technology. If this reason is used, many modern treatments that did not exist in the Prophet's time would be rejected. Thus, if this mindset is maintained, Islam has the potential to be considered an obstacle to the development of science.³

The factor suggesting that Islam opposes the development of science is very irrelevant, as history shows that Islam highly motivates the advancement of technology and medical methods. The evidence is that manuscripts by Muslim scholars were once a source of inspiration for Western scientists. Organ transplantation as an alternative form of body donation is evolving rapidly and is being successfully performed widely. Organ donation becomes a vital need for some people who are forced to choose between life and

¹ Lujeng Rizkiyah, "Analisis Fatwa MUI No. 13 Tahun 2019 Tentang Transplantasi Organ dan Jaringan Organ Tubuh Dari Orang Hidup Untuk Orang Lain," *Tahkim* 20, no. 1 (2024): 38, <https://doi.org/10.33477/thk.v20i1.2971>.

² Rasta Kurniawati Br Pinem, "Donor Anggota Tubuh (Transplantasi) Menurut Hukum Islam (Upaya Mengidentifikasi Masalah Dan Mencari Dalil-Dalilnya)," *De Laga Lata: Jurnal Ilmu Hukum* 5, no. 1 (2020): 68, 1, <https://doi.org/10.30596/dll.v5i1.3449>.

³ Pinem, "Donor Anggota Tubuh," 68.

death. Therefore, both receiving and giving a donation is an action that can be taken according to individual needs.⁴

The increasing number of patients in need of organ transplantation continues to swell, resulting in high consequences. Organ grafting launches a series of questions regarding medical ethics, Islamic law, and current medical procedure policies. Furthermore, the growth of science and technology in the medical field results in legal issues that require greater flexibility and adaptation to this matter. This is proven in the form of technology that has been realized, but also carries the risk of rejection from religion or law. This comparison of opinions is based on the diversity of human culture, ideology, and beliefs, as some have the potential to permit transplantation. Seeing that this issue covers many aspects, a comprehensive discussion is needed, especially regarding the response of Islamic law.⁵

Health is the most important component in life. When in good health, one can peacefully carry out activities and do good deeds to help others. Besides that, humans are inherently complex beings with physical, psychological, social, and spiritual characteristics. Moreover, humans must seek thorough examination and treatment when sick. One of the perfect alternatives for disease prevention and cure in modern healthcare is through organ transplantation. This type of transplantation treatment is not limited to the heart; kidneys, liver, and several other organs can also be transplanted. This procedure involves human tissue, such as muscle and nerve tissue. Therefore, it is important to consider the benefits, safety, and risks involved.⁶

Islam has fundamentally affirmed broad health principles, but does not detail specific treatments. No specific provision regarding drug procedures for certain diseases is found in the Qur'an. Islam encourages respect for technological transformation in the medical world and supports research in the field of medicine. The community at the time came to the Prophet regarding this matter, and the fact is that when he was weak, he did not treat himself, but requested the help of a physician. Allah and His Messenger did not limit the community to specific methods of treatment, so that medical science could continue to develop with the advancement of time. Thus, Islam motivates its followers to continue practicing *ijtihad* (independent reasoning) to create new laws, thereby realizing contemporary *fiqh* (Islamic jurisprudence) aligned with reality.⁷

When various studies on modern medicine are published, they often cause controversy among groups of medical scientists. The implementation of this observation triggers varied responses, both supporting and rejecting. The concept of organ grafting or donation, when a person is declared deceased, is considered permissible (*mubah*) with the qualification that the recipient (the organ recipient) is in a critical condition. Additionally,

⁴ Pinem, "Donor Anggota Tubuh," 68.

⁵ Zhafira Fira and S.Syamsurizal, "Meta Analisis Transplantasi Organ: Tinjauan Perspektif Islam, Hukum Positif dan Etika Kedokteran," *Jurnal Sains dan Kesehatan Darussalam* 3, no. 2 (2023): 58, 2, <https://doi.org/10.56690/jskd.v3i2.109>.

⁶ Fira and S.Syamsurizal, "Meta Analisis Transplantasi Organ," 58.

⁷ Lailatu Rohmah, "Kontekstualisasi Hadis Tentang Transplantasi," *Hikmah: Journal of Islamic Studies* 14, no. 2 (2018): 107, <https://doi.org/10.47466/hikmah.v14i2.109>.

all treatment processes must still be optimally attempted. The policy of transplantation during this emergency status is considered *mubah* because it is based on the *fiqh* rule: “Necessity allows the prohibited” (*Darurat akan membolehkan yang diharamkan*). It is also supported by another *fiqh* rule: “Harm must be removed” (*Bahaya itu harus dihilangkan*). Data shows that organ donation (eyes, kidneys, and heart) from a deceased person is classified as not violating the scope of *shari’ah* with certain criteria considered.⁸

Studies related to organ transplantation from an Islamic perspective have been widely conducted in recent years. Padela and Auda (2020) reviewed the position of the Fiqh Council of North America on organ donation and affirmed that the practice can be permissible as long as it fulfills the principle of *maslahah* (public interest) and does not cause *mudarrat* (harm).⁹ Islam (2021) emphasizes the importance of understanding organ donation from a broader and contextual Qur’anic viewpoint.¹⁰ Ali’s research (2021) also highlights the ongoing debate among Islamic scholars regarding the boundaries of permissibility (*halal*) and prohibition (*haram*) of organ transplantation.¹¹ Meanwhile, the empirical research by Taş et al. (2021) examined the relationship between spiritual beliefs and the willingness of Muslims in Turkey to donate organs, showing that religious factors significantly influence medical decisions.¹² Furthermore, Ismail et al. (2022) analyzed the understanding of the Malaysian Muslim community regarding organ donation activities and found that there is still a knowledge gap related to Islamic law and social awareness of the practice.¹³

The five studies above show that the discourse on organ transplantation in Islam has developed rapidly at the global and regional levels. Nevertheless, there are several gaps that remain unfilled. First, most research is still limited to the context of Middle Eastern and Western countries, while in-depth studies in Indonesia highlighting the *fatwas* (religious edicts) of religious institutions such as the Indonesian Ulema Council (MUI) are still minimal. Second, not much research specifically differentiates the condition of the donor — whether living, comatose, or deceased — and how Islamic law responds to each situation. Third, the issue of interfaith transplantation (between Muslims and non-Muslims) is rarely discussed comprehensively from a contemporary Islamic law perspective. Fourth, most previous research is still normative and conceptual, with not many integrating aspects of positive law, *fiqh*, bioethics, and public policy within the context of the Indonesian healthcare system.

⁸ Muhammad Syahid and Irzak Yuliardi Nugroho, “Transplantasi Dalam Prespektif Ulama’ 4 Madzhab,” *Al-Muqaranah: Jurnal Perbandingan Madzhab* 1, no. 1 (2023): 18.

⁹ Aasim I. Padela and Jasser Auda, “The Moral Status of Organ Donation and Transplantation Within Islamic Law: The Fiqh Council of North America’s Position,” *Transplantation Direct* 6, no. 3 (2020): e536, <https://doi.org/10.1097/TXD.0000000000000980>.

¹⁰ Tazul Islam, “Organ Donation in Islam: A Search for a Broader Quranic Perspective,” *Religions* 12, no. 8 (2021): 647, <https://doi.org/10.3390/rel12080647>.

¹¹ Jan A. Ali, “Islamic Perspectives on Organ Transplantation: A Continuous Debate,” *Religions* 12, no. 8 (2021): 576, <https://doi.org/10.3390/rel12080576>.

¹² Filiz Taş et al., “The Effect of Islamic Belief and Spiritual Well-Being on Organ Donation in Turkey: A Descriptive-Relational Study,” *Journal of Religion and Health* 61, no. 3 (2022): 2121–40, <https://doi.org/10.1007/s10943-021-01252-3>.

¹³ Islam, “Organ Donation in Islam.”

Based on these research gaps, this study aims to provide a new contribution through a comprehensive analysis of the law of human organ transplantation according to the Islamic perspective, utilizing the approach of *fatwas* from Indonesian religious institutions and the principle of *maqāṣid al-syārī'ah*. This research also explores the law of transplantation from various donor conditions — whether living, comatose, or deceased — and considers interfaith practice as part of the actual social dynamics. Thus, this study is expected to offer scientific novelty in contemporary Islamic law studies, namely the integration between the *fiqh* approach, positive law, institutional *fatwas*, and the value of *maslahah* that is aligned with the reality of modern medical science development.

RESEARCH METHOD

The presented research methodology is a type of qualitative research focusing on library research. The author gathered data sources based on the Qur'an and Hadith, and traced data ranging from primary to secondary sources to achieve a systematic and authentic presentation of information. Primary data material served as the main bridge for this research, such as *fatwas* (religious edicts) from scholars, *fatwas* from religious institutions, and specialized books studying organ transplantation. This was reinforced with secondary data as supplementary material in the form of scientific works such as journals, articles, and relevant websites. The selection of this data was utilized to maintain the stability and authenticity of the data based on the research being examined.

The mechanism for data collection involved the internet, specifically accessing verified websites such as Google Scholar, which provides various scientific works including journals and articles, as well as exploring the field of literature. This data underwent the stage of descriptive analysis. The author adopted deductive analysis to interpret the data systematically. This approach encourages the author to link information so as to formulate valid policy recommendations.

RESULTS AND DISCUSSION

Organ Transplantation

In Indonesian, transplantation is known as *pencangkukan*, while in popular *fiqh* (Islamic jurisprudence) discourse, it is known as *naql a'da' al-Insan*. According to the Oxford dictionary, the term transplantation comes from the word "transplant," which is defined as "to take up one organ from one person, animal, part of the body and put it in to or on to another."¹⁴ Or "Taking an organ from one person, animal, or body part and transferring it to or onto another person or being's body."¹⁵

¹⁴ Romi Saputra, "Pertanggungjawaban Pidana Terhadap Tindak Pidana Perdagangan Organ Tubuh Manusia Untuk Kepentingan Transplantasi Organ Dalam Hukum Pidana Indonesia," *JOM Fakultas Hukum* 3, no. 2 (2016): 9.

¹⁵ Tiara Maharani Enifa Putri et al., "Transplantasi Organ Tubuh Manusia dalam Perspektif Etika Kedokteran dan Agama Islam," *Jurnal Religion: Jurnal Agama, Sosial, dan Budaya* 1, no. 4 (2023): 1187.

Etymologically, transplantation is the transfer of tissue or an organ from its original place to another place (covering a wound without skin with skin tissue from another body part). Meanwhile, terminologically, transplantation includes medical activity that transfers one organ from a person's body or oneself with the aim of prevention for an organ detected as dead. *Fuqaha* (Islamic jurists) state that organ grafting involves taking a human organ while the person is alive or deceased and placing it on another person's organ. It is noted that the donated organ must be guaranteed to still be functionally viable as a potential source of life for the recipient.¹⁶ It is clear that organ grafting is a medical stage performed by transferring an organ entirely or partially from the donor to the recipient. This action is intended to replace a damaged organ with a normal body organ.¹⁷ Commonly transplanted organs include the kidneys, heart, liver, lungs, pancreas, and other organs in the digestive system. Besides organs, transplantation also includes body tissues, such as the cornea, skin, artificial heart valves, nerves, and blood vessels. Organ transplantation plays a significant role in efforts to save lives and improve the quality of life of patients.¹⁸

Observing the correlation regarding genetics between the donor and recipient concerning the transfer of the body organ, transplantation is classified into three types, namely: autotransplantation, homotransplantation, and heterotransplantation.¹⁹ (a) Autotransplantation: This is the donation and reception of an organ from one part of a person's body to another part of their own body. For example, in the case of skin, this stage uses healthy skin tissue to support the healing process of a wound or burn located on a different body part.²⁰ (b) Homotransplantation: This is a transplantation within the same species, such as human to human or animal to animal.²¹ Some examination results show that homotransplantation is unlikely to last long. However, it has positive therapeutic implications, as it helps patients overcome a temporary critical condition. For example, the practice of blood transfusion or bone grafting, which has the potential to regenerate the patient's body renewal. Results of this type cannot react in a short time. There are groupings such as: kidney, liver, lungs, and heart. It must be underlined that the success of organ transplantation requires compatibility between the donor and the recipient.²² (c) Heterotransplantation: This is when the recipient and donor are of different

¹⁶ Mohammad Usman, "Transplantasi Organ Tubuh Dalam Pandangan Islam," *Pancawahana: Jurnal Studi Islam* 15, no. 1 (2020): 155.

¹⁷ Aji Titin Roswitha Nursanthy, "Transplantasi Organ Tubuh Manusia Dalam Perspektif Hukum Islam," *The Juris* 4, no. 1 (2020): 4, 1, <https://doi.org/10.56301/juris.v4i1.87>.

¹⁸ Rahma Nur Aulia and Rachmad Risqy Kurniawan, "Hukum Transaksi Transpalasi Organ," *Rizquna : Jurnal Hukum dan Ekonomi Syariah* 2, no. 1 (2023): 6, <https://doi.org/10.56480/rizquna.v2i1/901>.

¹⁹ Yusriadi and Zulhamdi, "Transplantasi Organ Tubuh Menurut Perspektif Hukum Islam," *Syarah: Jurnal Hukum Islam & Ekonomi* 11, no. 2 (2022): 698, <https://doi.org/10.47766/syarah.v11i2.698>.

²⁰ Rizal Fadli, "Ini Organ Tubuh Manusia yang Bisa Didonorkan dan Prosedurnya," halodoc, Agustus 2023, <https://www.halodoc.com/artikel/ini-organ-tubuh-manusia-yang-bisa-didonorkan-dan-prosedurnya>.

²¹ Amin Ramly, "Transplantasi Organ Tubuh sebagai Pengganti Hukuman Qhisas dalam Hukum Islam (Studi Terhadap Delik Pelukaan Mata)," *SASI* 25, no. 2 (2019): 148, <https://doi.org/10.47268/sasi.v25i2.218>.

²² Abul Fadl Mohsin Ebrahim, *Kloning, Eutanasia, Transfusi Darah, Transplantasi Organ, dan Eksperiment Pada Hewan* (Serambi, 2007), 16.

species, such as a human organ and an animal organ. This grafting was once recorded as a failure by California Lorne Linda at the University Medical Center, which also contributed to the observation of Baby Fae's heart against the heart of a baboon (a type of monkey of the genus *Papio*) from Asia and Africa. In line with this, experiments began to be explored in England, where the initial form of grafting focused on a pig kidney into a goat and finally into a human.²³

Transformation of Organ Transplantation

Since thousands of years BCE, scientists have identified the root causes of health problems and designed relevant therapeutic approaches. This effort has progressed in tandem with the development of medical skills and technological advances in the medical field, which have undergone a significant transformation up to the modern era. One form of this progress is the birth of organ transplantation practice. The development of science and technology in this context is inseparable from the fundamental needs of humans as beings with physical limitations. Therefore, science is developed as an instrument to restore biological body functions, support the continuity of life, and realize human roles and responsibilities in daily life.²⁴

Egypt is noted as the birthplace of transplantation, dating back around 2000 years before the Prophet Jesus was sent, where a manuscript related to this new medical practice was accidentally discovered. The trial began to develop in India and was advanced by a Hindu surgeon. The surgeon began to optimally simulate organ grafting, such as treating a prisoner's nose, then transplanting a portion of skin and fatty tissue taken from under his arm.²⁵ Over time, in 1863, Paul Bert, a French surgical specialist, successfully presented allograft (organ grafting originating from the same species but with different genetics), but it was consistently rejected by the recipient, except for autograft or autotransplantation (transplantation of body tissue within the same human). Organ transfers such as blood, bone, and skin have been developed since the pre-anesthesia era and were introduced by John Hunter as the initiator of experimental surgery. Meanwhile, Zirm successfully observed the practice of transplantation in 1905, but it was surrounded by dynamics, as organ transplantation at that time required extremely difficult vascular grafting.²⁶

During the time of Prophet Muhammad, a similar practice was recorded, such as plastic surgery using an artificial body part.²⁷ As narrated in *Sunan Abu Dawud* concerning the story of a companion named Arfajah bin As'ad, from Abdurrohman bin Tharfaf from his grandfather, he said:

²³ Ebrahim, *Kloning, Eutanasia*, 17.

²⁴ Rosmini et al., "Transplantasi Organ Tubuh Perspektif Fikih Kontemporer," *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam* 9, no. 1 (2022): 46, <https://doi.org/10.24252/al-qadau.v9i1.26698>.

²⁵ Lia Laquna Jamali, "Transplantasi Organ Tubuh Manusia Perspektif Al-Qur'an," *Diya Al-Afkar: Jurnal Studi al-Quran dan al-Hadis* 7, no. 1 (2019): 115, <https://doi.org/10.24235/diyaafkar.v7i01.4531>.

²⁶ Rosmini et al., "Transplantasi Organ Tubuh," 47.

²⁷ Shuhail and Muhammad Azhar, "Transplantasi Organ Tubuh Manusia dari Seorang yang Menderita Mati Otak Menurut Pandangan Hukum Islam," *Al Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan* 18, no. 1 (2024): 648, <https://doi.org/10.35931/aq.v18i1.3024>.

قُطِعَ أَنفُهُ يَوْمَ الْكُلَّابِ فَاتَّخَذَ أَنفًا مِنْ وَرِقٍ فَأَنْتَنَ عَلَيْهِ فَأَمْرَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَاتَّخَذَ أَنفًا مِنْ ذَهَبٍ

“His nose was cut off on the day of the Battle of Al-Kilab. He then made a false nose from silver, but his nose became festering. The Prophet, peace and blessings be upon him, then commanded him (to make a nose from gold), until he made a nose from gold.”

Alexis Carrel, a French surgical specialist born on June 28, 1873, and who passed away in 1944, is known as the initiator of organ transplantation technique development. In 1902, he successfully demonstrated the technique of blood vessel anastomosis, which became a critical foundation for the implementation of modern organ transplantation. One of Carrel's contributions as a surgeon was performing the connection of blood vessels, thereby allowing the transplanted tissue or organ to connect effectively with the recipient's circulatory system.²⁸ This innovation spurred progress in modern medicine. Moreover, Carrel actively developed a series of methods to keep organs alive outside the body, an achievement that led him to win the Nobel Prize in Medicine in 1912. In 1913, Alexis Carrel successfully performed an optimal intra-species kidney transplant from one cat to another.

The initial success of tissue transplantation began in 1897 by John Murphy, who successfully connected blood vessels in animals. After a wait of more than a century, precisely in 1954, Dr. Joseph Murray and Dr. David Hume successfully tested the first human kidney transplant at Brigham Hospital, Boston. This procedure saved the life of Richard Herrick with a kidney donation from his twin brother, Ronald Herrick. Since then, kidney transplantation has saved more than 400,000 lives worldwide. Generally, kidneys are obtained from deceased donors, but one-third come from living donors. In 1962, Murray and Hume completed another kidney transplant from a deceased donor. Similar successes were recorded in the first lung transplant by Dr. James Hardy at the University of Mississippi Medical Center (1967), as well as the first liver transplant by Dr. Thomas Starzl at the University of Colorado, Denver.²⁹

In the early 1950s, the orthotopic heart transplantation procedure was successfully tested on a dog. In preparation for the first human heart transplant, Prof. Christiaan N. Barnard, along with his surgical team, performed a series of orthotopic transplants on animals, as well as a kidney transplant procedure on a female patient known as Mrs. Black. A historical milestone was then created on December 3, 1967, when Barnard and his team from South Africa successfully realized the first human heart transplant. Denise Darvall, 24, was the donor, whose heart was transplanted because she suffered brain death due to a traffic accident, and it was transplanted to Louis Washkansky (54). Post-operation, Washkansky survived for 18 days before finally dying due to a lung infection that caused hypoxia to the newly transplanted heart. About a month later, on January 2, 1968, utilizing the next opportunity, Barnard grafted a heart onto Dr. Philip Blaiberg, a dental specialist from Cape Town.³⁰

²⁸ Rosmini et al., “Transplantasi Organ Tubuh,” 47–48.

²⁹ Rosmini et al., “Transplantasi Organ Tubuh,” 49.

³⁰ Jamali, “Transplantasi Organ,” 116.

Blaiberg eventually recovered after post-operative treatment and was allowed to leave the hospital in stable condition, enabling him to resume life with near-normal cardiovascular function. Therefore, Barnard took the initiative to document the results of his experiment in the form of notes on his patient's recovery, stating, "The will and courage of Dr. Philip Blaiberg truly support the heart transplantation program as a realistic alternative for future patients indicated with end-stage heart disease." Barnard's achievement stemmed from the research of John Gibbon and his wife, who repeatedly analyzed the heart-lung machine. The device was inherited by Walter Lillehai and Jhon Kirklin, who revised the performance of the previous tool so that it can be operated by medical personnel to this day.³¹

Looking at the early stages of organ grafting practice, more focus was placed on the kidney organ. By the end of 1960, successful transplants of other vital organs, such as the liver, heart, and pancreas, were achieved from deceased donors. In 1963, a team led by Dr. James Hardy from the University of Mississippi successfully performed the first human lung transplant from a brain-dead donor, after previously conducting more than 400 similar trials on a dog. The recipient was a patient diagnosed with bronchial carcinoma, who later died 18 days after the operation.³² In Indonesia, the number of kidney transplant procedures shows a statistical increase in the last decade. This procedure has been realized in the largest healthcare centers throughout Indonesia. Based on data compiled between 2014 and 2018, a total of 629 kidney transplant procedures were recorded in 12 health centers. From this accumulated data, 245 cases had complete data that met the criteria for further analysis. Although the growth rate of kidney transplants experienced fluctuations, there has been continuous progress since 2011, marked by the establishment of the National Transplantation Committee and support through the National Health Insurance (JKN) program for kidney transplantation services. This fact reflects the potential effort to overcome the challenges of organ transplantation in Indonesia.³³

The Perspective of the Four *Mazhab* on Organ Transplantation

Neither the Qur'an nor the Hadith provides an explicit explanation directly discussing the ruling on organ grafting. This issue falls within the scope of *ijtihad* (independent legal reasoning) for scholars, which consequently gives rise to differences of opinion among the scholars themselves. Classical *fiqh* scholars generally agreed to permit the joining of human body parts as long as no other alternative was found. Meanwhile, contemporary *fiqh* scholars hold diverse views regarding the permissibility of human organ transplantation, both from an ethical and Islamic law perspective. This endeavor will review the perspectives of several classical and contemporary scholars on

³¹ Jamali, "Transplantasi Organ," 116.

³² Putri et al., "Transplantasi Organ Tubuh," 1188.

³³ Putri et al., "Transplantasi Organ Tubuh," 1189.

this matter. One such opinion is that of Imam al-Nawawi, a classical scholar from the 6th century Hijriyah, in his work *Minhaj al-Talibin*.³⁴

“if someone attaches their bone with an impure material because no pure material is available, then it is permissible. However, if a pure material is available but they join it with an impure material, it must be removed if it does not cause harm.”

Zakariya Al-Anshari, a classical scholar from the 9th era, in his work *Fathu al-Wahhab Sharh Manhaj al-Tullab*, a summary of Imam al-Nawawi's *Minhaj al-Talibin*, states:

“If someone attempts to join their bone out of necessity with an impure bone because there is no other suitable bone. Then, that is permitted, and their prayer is accepted with that impure bone. Unless, in that joining, there is no element of need, or there is another pure bone besides the human bone, then the impure bone must be removed, even if it has already been covered by flesh. With the condition that the process of removing the impure bone does not cause harm or threaten death.”³⁵

Based on this, Zakariya al-Anshari and Imam Nawawi established the status of permissibility for transplantation practice involving the use of impure bones under duress (*darurat*). If a pure bone is later found, which was then joined with an impure bone, the impure bone must be removed, even if it is covered by flesh. This is conditional upon the process of removing the previously impure bone not causing harm or leading to death.

The first opinion is from contemporary scholars like Hasan Al-Syazali, Abdus Salam Abdurrohim, and Abdurrahman al-Adawi, who disagree with the classical *fiqh* scholars, stating: “Prohibiting the grafting of human organs, whether for compensation or donation, even in a state of emergency.” Likewise, Syekh Muhammad Mutawalli Asy-Sya’rawi's opinion is: “Prohibiting all forms of taking or trading human organs, whether alive or dead, based on the principle that every human being has no right to exchange their body, whether alive or dead.” Both views conclude that transplantation is forbidden (*haram*), both in the context of trade or donation, even in emergency situations. This view stems from the logic that the human body should not be exchanged, whether the person is alive or deceased.³⁶

The second opinion is from Yusuf Qardhawi, who states: “It is permissible if the person handling the organ gives a sum of money to the donor without preconditions and not previously arranged, solely for the purpose of a gift, present, or help.” This view is also expressed by Muhammad Ro’fat Usman: “With the condition that one is able to maintain the dignity and honor of the human being and does not harm the individual being grafted.”³⁷

³⁴ Nelvi Zariah, “Transplantasi Organ Tubuh Manusia Menurut Perspektif Hukum Islam,” Skripsi, Sekolah Tinggi Agama Islam Negeri Padangsidimpuan, 2010, 22.

³⁵ Zariah, “Transplantasi Organ Tubuh,” 23.

³⁶ Zariah, “Transplantasi Organ Tubuh,” 23–24.

³⁷ Zariah, “Transplantasi Organ Tubuh,” 24.

The majority of classical scholars responded that organ transplantation is permitted in an emergency condition, when there are no other safer medical options. However, the ruling can change to *haram* if the transplantation procedure causes harm, either to the donor or the organ recipient. Opinions from the four *mazhab* include: Ibnu Nujaim and Ibnu Abidin from the Hanafi *mazhab*, Ibnu Qudamah from the Hanbali *mazhab*, and Imam Nawawi from the Syafi'i *mazhab*. First, Ibnu Nujaim and Ibnu Abidin from the Hanafi *mazhab* argue that a human organ that is still alive should not be used for the recovery (treatment) of another human, basing their opinion on the *fiqh* maxim:

الضرر لا يزال يمثله

“Harm cannot be removed by similar harm.”

This poses a challenge to transplantation from a person sentenced to death, such as those facing punishment for *zina* (adultery), *qisas* (retaliation), or *murtad* (apostasy). Furthermore, scholars from the Hanafi and Maliki *mazhab*s also responded that even after the person has been sentenced to death, their body parts are still forbidden for treatment, even in a state of compulsion.³⁸

The majority of scholars from the Syafi'i and Hanbali *mazhab*s responded to organ transplantation as follows:

1. The Ruling on Transplantation in Normal (Healthy) Conditions

Grafting from a person who is still alive is forbidden (*haram*). As per the word of Allah in *Qs. Al-Baqarah: 195*:

وَأَنفَقُوا فِي سَبِيلِ اللَّهِ وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّقْلِيقَةِ وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ

“And spend [in the way] of Allah and do not throw [yourselves] with your [own] hands into destruction, but do good. Indeed, Allah loves the doers of good.”

Qs. Al-Baqarah: 195 advises all human beings to be careful in all matters and to think carefully about the risks before taking action.³⁹ For example, if someone wants to donate their organ to a person in need due to an economic crisis. Then, this behavior is decisively forbidden, because the human body is solely the property of Allah, and it is not advisable to use it commercially. Allah's creation is given organs to be used in the best possible way.⁴⁰

Revisiting the point that a person who donates their organ while still alive and healthy still faces risks. Thus, it is not possible that Allah created eyes or kidneys in pairs without having a wisdom and utility for a human being. If the kidney donor is no longer able to utilize their remaining organ, the impact will hinder their recovery. This is related to removing a disease from the organ recipient but creating a new

³⁸ Syahid and Nugroho, “Transplantasi,” 19.

³⁹ Haswir, “Hukum Mendonorkan dan Mentransplantasikan Anggota Tubuh Dalam Islam,” *Al-Fikra : Jurnal Ilmiah Keislaman* 10, no. 2 (2011): 282, 2, <https://doi.org/10.24014/af.v10i2.3844>.

⁴⁰ Syahid and Nugroho, “Transplantasi,” 20.

disease for the donor. This is forbidden because it has been explained in the previous *fiqh* maxim:

الضرر لا يزال يمثّل

“Harm cannot be removed by similar harm.”

2. The Ruling on Human Organ Transplantation (Coma Condition)

The implementation of organ transplantation from a donor who is in a coma condition is still considered impermissible (*haram*), even if it is medically predicted that the patient's life will not be long. This action is deemed to potentially accelerate death and is considered a form of interference with Allah's decree; in medical ethics discussions, it can be termed as a form of euthanasia. Morally, the removal of organs from an individual who is in a critical phase (dying) is considered unethical. Conversely, the medical stage must focus on healing efforts, even if the medical prognosis states that the possibility of recovery is very small. This is based on the reality that in some cases, comatose patients may show signs of recovery, even if the chances are very limited from a medical perspective.⁴¹

3. The Ruling on Human Organ Transplantation (Deceased Condition)

The removal of organs such as the heart, kidney, and eyes is permissible (*mubah*), as *shari'a* allows it with agreed-upon considerations. Among them: First, the recipient is in an emergency situation that requires the donation, and if it is not carried out, their life will be threatened. The basis for this reference is the *fiqh* maxim:⁴²

اضرورات تبيح المحظورات

“Necessity allows the prohibited.”

Second, the transplantation must be according to the needs of the recipient. It is necessary to ensure that the transplantation does not trigger a more dangerous disease than the one previously suffered. It is also mandatory to obtain permission from the heirs. This aligns with the *Fatwa* of the Indonesian Ulema Council (MUI), issued on January 29, 1987, which states that when no other medical alternative is available, the removal of a heart organ from a deceased person for the purpose of saving another person's life is permissible according to *shari'a*. However, this action can only be carried out with the condition of consent from the person concerned through a will made during their lifetime, as well as consent from the family or heirs.⁴³

4. The Ruling on Organ Grafting from a Non-Muslim

⁴¹ Syahid and Nugroho, “Transplantasi,” 20.

⁴² H. Muhammad Syarif Dibaj, “Hukum Transplantasi Dalam Perspektif Fiqh,” *Tarbawi* 4, no. 1 (2017): 13, 01, <https://doi.org/10.62748/tarbawi.v4i01.13>.

⁴³ Syahid and Nugroho, “Transplantasi,” 21.

Organ transplantation from a non-Muslim to a Muslim is not prohibited in principle in *shari'a*. This is because human organs do not possess a religious identity. The organ is considered a biological part, and its function depends on who uses it. When the organ of a non-Muslim is grafted into the body of a Muslim, the organ becomes part of the recipient's body and functions as a means to live life according to the teachings of Islam.⁴⁴

Yusuf Qardhawi, in his book "Contemporary *Fatwas*," explains that donating organs is viewed as a form of *sadaqah* (charity). This donation is permissible for both Muslims and non-Muslims, but it is not permissible to prioritize a *kafir harbi* (unbeliever who is hostile to Muslims) and an open apostate (*murtad*). According to him, donating organs to someone who clearly leaves the religion (*murtad*) is not justified, because *shari'a* considers an apostate a traitor deserving of the death penalty. Thus, giving them life support is considered contradictory to Islamic teachings.⁴⁵

If both a Muslim and a non-Muslim require a donor, the priority must be given to the Muslim.⁴⁶ This is in accordance with the word of Allah in *Q.S At-Taubah*: 71:

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلَيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيَقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَمُطْعِمُونَ اللَّهُ وَرَسُولُهُ أُولَئِكَ سَيِّرْ حَمْمَهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ

"The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those—Allah will have mercy upon them. Indeed, Allah is Exalted in Might and Wise."

As a result, donating to a Muslim who is obedient to their religion is prioritized over a *fasiq* (sinner) who neglects their obligations to *shari'a*. The role of donating to an obedient Muslim makes the donor participate in supporting the recipient's obedience to Allah and provides benefit to fellow creations. Meanwhile, the opposite is true for a person far from piety (committing *maksiat*), who potentially uses Allah's blessing only to commit sin and cause harm to others.⁴⁷

Furthermore, Qardhawi states that if the recipient is a relative or neighbor of the donor, they should be prioritized to receive the donation over others.⁴⁸ This is considering that neighbors have a strong bond, while relatives have an even greater bond, as per the word of Allah in *Q.S Al-Anfal*: 75:

⁴⁴ Syahid and Nugroho, "Transplantasi," 23.

⁴⁵ Miftah H. Yusufpati, "Boleh Mendonorkan Organ Tubuh kepada Non-Muslim, tapi Tidak Boleh kepada Kafir Harbi," SINDONews Kalam, January 12, 2022, <https://kalam.sindonews.com/read/654405/69/boleh-mendonorkan-organ-tubuh-kepada-non-muslim-tapi-tidak-boleh-kepada-kafir-harbi-1641956512>.

⁴⁶ Muhammad Nur Iqbal and Dhiawuddin Tanjung, "Hukum Pencangkokan Organ Tubuh Perspektif Hukum Islam," *Landraad: Jurnal Syariah & Hukum Bisnis* 2, no. 2 (2023): 98, 2.

⁴⁷ H. Yusufpati, "Boleh Mendonorkan Organ Tubuh."

⁴⁸ H. Yusufpati, "Boleh Mendonorkan Organ Tubuh."

وَالَّذِينَ آمَنُوا مِنْ بَعْدِ وَهَا جَرُوا وَجَاهُدُوا مَعَكُمْ فَوُلَئِكَ مِنْكُمْ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَى بِعِصْمٍ فِي كِتَابِ اللَّهِ
إِنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلَيْهِ

“And those who believed after [that] and emigrated and fought alongside you—they are of you. But those of [the same] blood relationship are more entitled to [inheritance] in the decree of Allah. Indeed, Allah is Knowing of all things.”

The Perspective of the Indonesian Ulema Council (MUI) on Organ Transplantation

The foundation of the Indonesian Ulema Council (MUI) in formulating its *fatwas* (religious edicts) includes the following: First, every ruling must be based on the Qur'an and Hadith and must not contradict the public interest (*kemaslahatan umat*). Second, the content of the *fatwa* is prohibited from conflicting with *ijma'* (consensus), sound *qiyas* (analogical reasoning), and other legal principles such as *istihsan* (juristic preference), *maslahah mursalah* (unrestricted public interest), and *saddu al-dzariah* (blocking the means to evil). Third, the Indonesian Ulema Council (MUI) strictly scrutinizes its *fatwas* before ratification.⁴⁹

The response of the Indonesian Ulema Council (MUI) is that organs or body tissues are forbidden to be commercialized because the human body is not the property of the individual.⁵⁰ This is in accordance with the word of Allah in the Qur'an, as follows:

لَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعَدْوَانِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

“And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty.” (QS. al-Maidah : 2)

وَمَنْ أَحْيَهَا فَكَانَ أَحْيَا النَّاسَ جِمِيعًا

“And whoever saves a life - it is just as if he had saved all mankind.” (QS. al-Maidah : 32)

The Indonesian Ulema Council (MUI) concludes that the transfer of organs without a *shari'a*-justified reason is forbidden (*haram*). As for the *shari'a* reasons that support the practice of organ transplantation, they must meet the following specifications: First, there must be an urgent need and it must be *shari'a*-justified. Second, the type of organ given to another person must not affect the life or survival of the donor in the future. Third, there must be no other medical option to cure the recipient's disease besides organ transplantation. Fourth, it must be guided by the principle of mutual help (*tabarru*) and be free from the element of trade. Fifth, there must be consent from the prospective recipient.⁵¹

⁴⁹ Panji Adam, *Fatwa-Fatwa Ekonomi Syariah: Konsep, Metodologi & Implementasinya Pada Lembaga Keuangan Syariah*, 1st ed. (Amzah, 2022), 146.

⁵⁰ “Fatwa Majelis Ulama Indonesia Nomor : 13 Tahun 2019 Tentang Transplantasi Organ Dan/Atau Jaringan Tubuh Dari Pendonor Hidup Untuk Orang Lain,” March 8, 2019, 2–3.

⁵¹ Dhanar Zulfikar Ali, “Hukum Pemberian Kompensasi Kepada Pendonor Organ Tubuh Manusia (Studi Perbandingan Antara Peraturan Menteri Kesehatan No.38 Tahun 2016, Fatwa Majelis Ulama Indonesia, dan Dar al-Ifta' al-Misriyyah),” Skripsi, Universitas Islam Negeri Syarif Hidayatullah, 2020, 35–36.

A Hadith of the Prophet narrated by Imam Ahmad, *Ashab Sunan*, and Tirmidhi states: “Seek treatment, for Allah has not sent down a disease except that He has also sent down its cure, except for one disease, which is senility.” This Hadith identifies that seeking treatment is obligatory for every sick person, regardless of the type of disease, except for old age. Thus, transplantation to remove disease is permissible (*mubah*) as long as it does not violate the boundaries of *shari'a*.⁵²

On the other hand, there is a Hadith narrated by Imam Nasai, Ibn Majah, and Hakim which states: “Indeed, Allah does not send down a disease except that He also sends down a cure for healing, so seek treatment.” The content of this Hadith is that the Messenger of Allah stated there is a cure for disease, and if the cure is correct, the disease will be cured by the permission of Allah.⁵³

Drawing a thread from the previous descriptions, the Indonesian Ulema Council (MUI) is highly consistent regarding the ruling that organ transplantation is only permitted on the basis of mutual help. Moreover, it is forbidden (*haram*) to commercialize body organs post-transplant surgery merely for profit.

CONCLUSION

Reviewing the grafting of body organs under the balance of *Shari'a* sufficiently includes various viewpoints of scholars. Scholars from the Syafi'i and Hanbali *mazhab*s tend to be more flexible in permitting organ transplantation, while scholars from the Hanafi and Maliki *mazhab*s are more stringent in restricting it. The main factor influencing this comparison is the understanding of the concept of *maslahah* (public interest/benefit). Therefore, considering the aspects of public benefit, humanitarian values, and saving lives becomes the foundation or reference point for modern medical practice today. The MUI (Indonesian Ulema Council) firmly asserts that organ transplantation is allowed during an emergency provided it meets specific conditions. Islamic law maintains that the human body is not the absolute property of the individual, but rather a trust (*amanah*) from Allah that must be carefully preserved. Thus, this study demonstrates the certainty of a ruling that organ transplantation can be accepted as long as it aligns with the balance of *Shari'a*. *Maslahah* serves as the primary basis for weighing the permissibility of this practice, thereby consistently considering humanitarian aspects and caution in its operation.

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⁵² Pinem, “Donor Anggota Tubuh,” 72.

⁵³ Pinem, “Donor Anggota Tubuh,” 72.

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