



## Islamic Jurisprudence Study on Organ Transplantation (Transplantation)

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### Abstract

This paper examines the practice of organ transplantation from the perspective of contemporary Islamic jurisprudence. The background of the research is based on advances in medical technology that enable organ transplantation as a solution to organ failure, but also raises ethical and legal issues in Islam. This study uses a library research method by reviewing fatwas, opinions of scholars, and contemporary Islamic jurisprudence references. The research stages begin with collecting literature data, analyzing the opinions of classical and contemporary scholars, and compiling legal conclusions. The results of the study indicate that the majority of scholars permit organ transplantation in emergencies under certain conditions such as not endangering the donor, being carried out voluntarily, and not for commercial purposes. Transplants from corpses and non-Muslims are also permitted if they fulfill the principles of *maqāṣid al-syarī'ah*, especially *hiḍḍ al-nafs* (protecting the soul). Meanwhile, transplants from halal animals are permitted, while those from unclean animals such as pigs are only permitted in emergencies. A strict prohibition is imposed on the sale and purchase of body organs, because it is contrary to the principle of respect for the human body in Islam.

## I. INTRODUCTION

Advances in medical science and technology have significantly improved the quality of human life. One major advancement is the practice of organ transplantation, the transfer of an organ from a donor to a recipient to replace a damaged or failing organ. This technology has saved countless lives and is a crucial solution in modern medicine.

However, these advances have raised new ethical and legal issues, particularly from an Islamic perspective. As a religion that governs all aspects of human life, Islam has strict principles regarding the treatment of the human body, both during life and after death. Issues such as the legality of organ donation, the sale of body parts, the harvesting of organs from corpses, and the use of organs from non-Muslims or animals have become important topics of discussion in contemporary Islamic jurisprudence.

The various opinions of Islamic scholars and fatwas from Islamic institutions such as the Indonesian Ulema Council (MUI) and *Majma' al-*

*Fiqh al-Islāmī* demonstrate the complexity of the law in dealing with the ever-evolving medical reality. Therefore, it is important to conduct an in-depth study that is not only normative, but also considers *maqāṣid al-syarī'ah* such as *hiḍḍ al-nafs* (protecting the soul) and *hiḍḍ al-'ird* (protecting honor). This paper aims to explore the views of Islamic *fiqh* on the practice of organ transplantation.

## II. RESEARCH METHODS

This study employed library research as a data collection technique, compiling various relevant references. This library research method was used to support this research in depth.

Data collection techniques were conducted through document and literature studies, by inventorying and analyzing relevant legal materials to obtain a comprehensive picture of policyholder legal protection. Data analysis used qualitative methods, namely by systematically describing, explaining, and interpreting legal norms and the results of the literature review to then draw conclusions based on applicable legal

principles.

### III. RESULTS AND DISCUSSION

#### 1. Islamic jurisprudence's view on organ transplant practices

Organ transplantation or transplant is the transfer of organs, cells, or tissue from a donor to another person who needs an organ replacement due to organ failure, cell or tissue damage with the aim of restoring the function of the damaged organ, cell or tissue (Sudirman, 2018).

Seen from the perspective of Islamic law, if we study the verses of the Qur'an and the hadiths of the Prophet, we must not endanger ourselves or others.

عَنْ أَبِي سَعِيدٍ سَعْدِ بْنِ مَالِكِ بْنِ سِنَانَ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: (لَا ضَرَرَ وَلَا ضِرَارَ) حَدِيثٌ حَسَنٌ رَوَاهُ ابْنُ مَاجَهَ، وَالِدَارِقُطْنِي وَعَبْدُ الرَّحْمَنِ مُسْتَدْرَأً، وَرَوَاهُ مَالِكٌ فِي الْمَوْطَأِ مُرْسَلًا عَنْ عَمْرِو بْنِ يَحْيَى عَنْ أَبِيهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَسْقَطَ أَبُو سَعِيدٍ، وَلَهُ طُرُقٌ يَقْوَى بَعْضُهَا بَعْضًا

"From Abu Said Sa'ad bin Malik bin Sinan Al Khudry radhiyallahu 'anhu, that Rasulullah shallallahu 'alaihi wa sallam said: "You must not do anything that is dangerous and causes danger to other people." The Hasan hadith was narrated by Ibn Majah, Ad Daruquthni and others with continuous sanad. It was also narrated by Malik in Al Muwatha' from Amr bin Yahya from his father from the Prophet sallallahu 'alaihi wa sallam in a mursal manner because it disproves (does not mention) Abu Sa'id.

Narrated by Ibn Majah (2341), Ahmad in Al Musnad (1/313), Abu Ya'la in his Musnad (4/397), Ath Thabrani in Al Kabir (11086) from the hadith of Ibn 'Abbas radhiyallahu 'anhuma and narrated from the hadith of Abu Sa'id Al Khudri radhiyallahu 'anhu by Al Hakim in Al Mustadrak (2/66), Ad Daruquthni in Sunannya (3/77), Al Baihaqi in Al Kubra (6/69). It was also narrated by Malik in his Muwatha' in mursal (2/745).

Regarding organ donation, the Indonesian Ulema Council (MUI) agrees that humans do not own their organs. "Basically, a person does not

have the right to donate their body parts to another person, as they are not the true owner of their organs. However, for the sake of helping others, it is permitted and can be carried out according to a will," reads one MUI fatwa.

According to the general consensus, organ transplantation from a living donor is haram due to the potential harm it causes (Ainul Yaqin, 2023). Scholars, in their fatwas, also state that it is haram for a living person to donate corneas or other organs to another person. Meanwhile, Sheikh Al-Buthi stated that organ transplantation from living people is permissible if it is believed or suspected that organ donation will not result in death for the donor, will not have a bad impact on him, and his life will be fine and normal as usual.

According to Sheikh Yusuf Qardhawi, removing organs from a deceased person does not violate Islamic law, which mandates respect. Respecting the body means preserving it and not harming it, while operating on it (removing the necessary organs) is done like operating on a living person with full attention and respect, not by harming the body's honor (Mashuri, 2023).

In this case, Islamic scholars agree that only deceased individuals are permitted to donate their organs, and that a will permits donation. The Islamic scholars' consensus permits donation of corneas to others, with the intention of "tabarru," meaning voluntary and non-commercial (Kompasiana). It can be concluded that there are many differing opinions on this issue.

1. Healthy donors. This type of donation refers to the donation of body parts to anyone in need while the donor is still alive. This type of donation is permissible because Allah SWT permits forgiveness or pardon for both qisash and diyat. However, this type of donation is permitted under certain conditions. Namely, the donation must not result in the donor's death. For example, donating one's heart, spleen, or lungs could result in the donor's death. However, humans are not permitted to kill themselves or allow others to kill them, even willingly.

2. The donor is in a coma or is expected to die soon. This type of organ harvesting requires life-sustaining equipment, such as a special ventilator. The device will be removed after the organ harvest is complete, which Islamic law prohibits, as one hadith states:

عَنْ أَبِي سَعِيدٍ سَعْدُ بْنُ سِنَانِ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَا ضَرَرَ وَلَا ضِرَارَ حَدِيثٌ حَسَنٌ رَوَاهُ ابْنُ مَاجَةَ وَالْبَارِقِيُّ وَغَيْرُهُمَا مُسْتَدًّا، وَرَوَاهُ مَالِكٌ فِي الْمَوْطَأِ مُرْسَلًا عَنْ عَمْرِو بْنِ يَحْيَى عَنْ أَبِيهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَسْقَطَ أَبُو سَعِيدٍ وَلَهُ طَرُقٌ يَقْوَى بَعْضُهَا بَعْضًا

From Abu Sa'id, Sa'ad bin Malik bin Sinan Al Khudri radhiyallahu anhu, indeed the Messenger of Allah Shallallahu 'alaihi wa Sallam has said: "Do not harm and harm each other". (Narrated by Ibn Majah, Daraquthni and others, hasan Hadith. This hadith was also narrated by Imam Malik in Al Muwaththa as a mursal Hadith from Amr bin Yahya from his father from the Prophet Shallallahu 'alaihi wa Sallam without mentioning Abu Sa'id. This hadith has several paths that strengthen each other) [Ibn Majah no. 2341, Daruquthni no. 4/228, Imam Malik (Muwaththo 2/746)]. Namely the explanation that we should not harm others for our own benefit, because such actions are forbidden for any reason even for a noble purpose.

3. The donor is deceased. This type is ideal because, medically, the donor is only required to await the determination of when the donor is considered medically and legally dead (Dinny, 2025). According to Islamic law, some permit it, while others prohibit it. The permitting process depends on the following conditions:

- recipient (organ recipient) is in an emergency situation that can threaten him after undergoing various long treatment efforts.
- Transplantation or grafting will not cause more serious consequences or complications.
- It has been approved by the guardian or family of the victim with the intention of helping, not selling.

## 2. Trading Organs for Donation

Regarding the sale of human organs, scholars have differing opinions. This difference of opinion among scholars on this matter is based on their perspectives on the extent of benefit and harm from the sale of human organs and the vital nature of the organs being traded.

Muhammad bin Ibrahim At-Tuwaijiri explicitly forbade the sale of human organs. He argued that selling organs could harm a person's physical health. Here's a quote:

حكم بيع أعضاء الإنسان: لا يجوز بيع العضو أو الجزء من الإنسان قبل الموت أو بعده، وإذا لم يحصل عليه المضطر إلا بثمن جاز الدفع للضرورة، وحرم على الآخذ. وإن وهب العضو أو الجزء بعد الموت لأي مضطر، وأعطى مكافأة عليها قبل الموت جاز له أخذها. ولا يجوز للإنسان حال الحياة أن يبيع أو يهب عضواً من أعضائه لغيره؛ لما في ذلك من إفساد البدن، وتعطيله عن القيام بما فرض الله عليه، وتصرفه في ملك الغير بغير إذنه.

"The law on selling human organs: it is not permissible to sell an organ or any part of a human body, whether during life or after death. If there is no element of compulsion, except for a certain price, he may hand it over in an emergency. But he is forbidden to accept the money. If someone donates his organs after he dies due to an urgent need, and he receives a reward for his gift while he is alive, he may accept the reward. A person may not sell or donate his organs while he is alive to another person. Because this practice can damage his body and can neglect his religious obligations. A person may not utilize (sell, donate, and other contracts) the property of another person without the owner's permission.

As the facts on the ground indicate, organ trafficking is becoming increasingly prevalent. Organs are traded by the kilo like meat, expensive but in high demand. As a means of curing diseases, transplantation has become a highly sought-after alternative treatment. This has led to the proliferation of organ trafficking, despite the limited availability of donors and the increasing demand.

Regarding the human organ trade, scholars have differing opinions regarding the sale of human organs. This difference of opinion among scholars regarding this case is based on their perspectives on the extent of the benefits and

harms of the sale of human organs and how vital the organs being traded are. Muhammad bin Ibrahim At-Tuwaijiri clearly forbade the sale of human organs. According to him, selling organs can damage the human body (Syafiq, 2025). Similarly, Yusuf Qardawy also stated the same opinion that using organs in exchange for a sum of money to the donor is merely a reward without any prior provisions or conditions, so the law is permissible.

That buying and selling human organs is something that is prohibited by the Islamic religion or is haram and is also prohibited by the laws of the Republic of Indonesia, although some Islamic scholars permit human organ transplantation but not selling them as explained previously.

### 3. Organ Transplantation From Cadavers

A corpse transplant if the donor makes a will and signs a donor card, if the donor has not signed it before he dies then it is handed over to his heirs, it is certain that it can save other people. The organ that is to be donated should be transferred after it is determined by medical procedures that the organ donor has died and the organ that is to be donated can also be from a person in a traffic accident whose identity is unknown but this can be done with the approval of a judge. However, a judge does not have the power to transplant or use some of the body organs of someone who has died to someone who needs them because of respect and oppression for the corpse.

Organs or body tissue taken from a person (donor) to be transplanted with the aim of replacing another person's non-functioning organs are divided into two parts, namely:

- a. Organs taken from living donors, including skin, kidneys, blood, bone marrow
- b. Organs taken from dead donors (corpses) include the heart, liver, kidneys, corneas, lungs, pancreas (Soekidjo).

Islamic jurisprudence strictly forbids the desecration of a corpse. This prohibition is solely to preserve the dignity of the deceased. However, in emergencies or urgent needs, scholars differ. Some scholars permit it, while others prohibit it.

Meanwhile, Shafi'i scholars permit someone in an emergency to eat a human corpse as long as no other food is available. This is because the dignity of the living is prioritized over the dignity of the deceased (Abu Yazid).

Not only the Shafi'i school, but the majority of scholars permit the consumption of corpse organs in emergency situations. This permissibility is granted solely to preserve the human soul and honor (*hifdhu an-Nafs*). Based on this reasoning, transplantation can also be compared to this case. Because transplantation is also performed for the purpose of *hifdhu an-Nafs*. The permissibility of transplantation with corpse organs is further strengthened by Ibn Hajar's statement in *Fathul al-Jawād*, which states:

وبقي ما لم يوجد صالح فيحمل جواز الجبر بعظم الادي الميت كما يجوز للمضطر اكل الميتة وان لم يخش الا مبيح التيمم وجزم المداغي الجواز حيث قال: فان لم يصلح الا عظم الادي قدم نحو الحريين كما المرتد ثم الذي ثم السلم

Meaning: The problem that remains is, if there is nothing suitable then it is possible to patch up with the bones of a dead person, as is the ability for someone who is very forced to eat carrion, as stipulated by al-Mudābighi who stated: if there is nothing suitable except the bones of a dead person, then priority is given to (using the bones of) infidels such as apostates, then dhimmis, and finally Muslims.

The conditions are as follows:

- 1) Must have the consent of the parents or guardian or the deceased's will.
- 2) Only if it is truly necessary and emergency.
- 3) If it is not an emergency and the need is not urgent or pressing, then appropriate compensation must be given to the donor's heirs (without transactions and sales contracts).

The Indonesian Ulema Council also issued a fatwa on June 29, 1987, that it is permissible to take the heart valve of a deceased person for the benefit of a living person in the condition that there is no other better choice than the deceased person's heart organ, provided there is permission from the person concerned (through a will while alive or permission from the heirs). The MUI fatwa was issued after hearing a direct explanation from Dr. Tarmizihakim, head of the

cardiac surgery unit of the "Harapan Kita" Heart Hospital regarding the technicalities of taking the heart valve of a deceased person and matters related to it in the MUI courtroom on May 16, 1987.

#### **4. Transplanting Organs from Infidels on Muslims**

Transplanting organs from a non-Muslim to a Muslim is not inherently forbidden. Transplants in emergency situations, whether from a non-Muslim to a Muslim or vice versa, are permissible, provided they do not endanger the donor. Because human organs are not identified as Islamic or non-Muslim, they are merely tools for humans to use in accordance with their beliefs and worldview.

If a body organ is transferred from a non-believer to a Muslim, then it becomes part of the Muslim's being and becomes a tool for him to carry out his mission in life, as commanded by Allah SWT. This is the same as Muslims taking the weapons of infidels. And use it to rebuke *fi sabilillah*. In fact, all the organs in the body of a non-believer are essentially Muslim (submissive and surrendered to Allah). Because the organs of the body are creatures of Allah, where these objects glorify and prostrate to Allah SWT, it's just that we don't understand how they glorify.

A person's belief in Islam or disbelief has no effect on their bodily organs, including their heart. Indeed, the Quran frequently mentions the term "heart," which is often classified as healthy and sick, faith and doubt, dead and alive.

However, what is actually meant here is not a tangible organ (perceived by the senses), nor is it something that falls within the purview of specialist doctors and anatomists. The reason is that there is no difference between believers and non-believers, or between the devout and the sinners.

#### **5. Animal Organ Transplantation into Humans**

Transplantation of tissue or organs taken from individual animals (Abdullah, 2018).

- a. Transplantation of tissue or organs taken from animals that are not unclean or halal.

If the organ to be transplanted comes from the body of an animal that is not unclean or halal, such as livestock (cows, buffalos, goats and so on) or other non-impure animals, then in this case there is no prohibition, it is even permissible and is included in the category of medicine which we were ordered by the Prophet to look for (Ahmad Sarwat). Muslim World League Fiqh Academy, Mecca, Saudi Arabia, Indian Islamic Fiqh Academy at its first seminar in New Delhi in March 1989 and the late Sheikh Jad al-Haqq 'Ali Jad al-Haqq, former rector of al-Azhar University supported the above opinion.

- b. Transplantation of tissue or organs taken from unclean or unclean animals. Talking about unclean animals is definitely more synonymous with dogs or pigs, but there is another type of unclean animal that is perhaps often forgotten, namely carcasses or animals that are slaughtered without mentioning the name of Allah. So, unclean or haram animals can be categorized into three types, namely dogs, pigs and carrion. Unclean animals are unclean to eat and when they are said to be unclean it means they are also unclean to touch, because touching something that is unclean can make the part of the body that touches it become unclean. So it can be concluded that transplantation with unclean animal organs is not permissible or haram because it will affect the purity of the recipient's body. However, this haram law does not apply to people who are faced with an emergency. People who are forced to do something prohibited will not sin. If being forced to eat unclean food in an emergency is permissible, then transplanting unclean animal organs in an emergency is also permissible. This opinion has been put forward by Jalaluddin al-Mahalli in his book, which means: If a person experiences a broken bone and to connect it requires an unclean bone, because there is no pure bone, then

it is permissible, and there is no need to remove the bone if afterwards a pure bone is found. However, transplantation with ordinary carcass organs must be prioritized, whether carcasses come from animals whose meat can be eaten or not. If they are not suitable or cannot be found, then switch to dog organs. If dog organs are also not suitable, then the last choice is pork.

#### **IV. CONCLUSION AND SUGGESTIONS**

##### **A. Conclusion**

There are many differing opinions and perspectives on this matter. The Islamic Fiqh Council (OIC) permits organ transplantation in emergency situations, from both living and dead individuals, under certain conditions. Meanwhile, the Indonesian Ulema Council (MUI), through fatwa No. 13 of 1979 and subsequent fatwas, permits organ transplantation provided the donor provides voluntary consent, and not for commercial purposes.

The majority of Islamic scholars and fatwa institutions prohibit the sale of organs, whether from living people or corpses. In Islam, the human body is not the sole property of an individual, but rather a trust from Allah SWT. Therefore, humans have no right to sell their body parts as merchandise. Commodifying the human body contradicts the *maqāṣid al-syarī'ah* (Islamic principles), particularly the protection of the soul (*ḥifẓ al-naḥs*) and the protection of honor (*ḥifẓ al-'ird*). If permitted, this practice is feared to encourage the exploitation of the poor, who sell organs out of economic pressure, not out of free will.

It is permissible to take the heart valve of a deceased person for the benefit of a living person in the event that there is no other better option than the deceased person's heart organ, provided there is permission from the person concerned (via a will while alive or permission from the heirs).

Organ transplantation from non-Muslims to Muslims is permissible, subject to certain conditions. The Islamic Fiqh Council (OIC) has

stated that there is no legal difference between Muslim and non-Muslim donors in organ transplantation, as long as the procedure is carried out legally and ethically. Fatwas from Al-Azhar and Dar al-Ifta' in Egypt also state that there is no Islamic prohibition on receiving organs from non-Muslims, as organs do not carry any influence on faith.

Transplanting animal organs to humans (xenotransplantation) in the view of contemporary Islamic Jurisprudence is basically permissible, especially in emergency conditions and if no other alternative is found that is more in accordance with sharia. The use of organs from halal animals such as cows or goats is more easily accepted, while the use of organs from unclean animals such as pigs is only permissible if it is absolutely necessary to save life and after going through a process of purification or substance transformation (*istihālah*) that removes its unclean nature. Principles such as emergency (*adh-dharurāt tubīḥ al-maḥzūrāt*) and *maqāṣid al-syarī'ah* (protecting the soul) form the basis of this ability, as long as the process does not violate Islamic ethics and sharia law.

##### **B. Suggestion**

Based on the conclusions that have been outlined, there are several suggestions that can be put forward to strengthen the application and development of Islamic legal studies related to organ transplantation.

First, efforts are needed to harmonize and strengthen public understanding of the differing views of Islamic scholars and fatwa bodies regarding organ transplantation. The differences of opinion emerging from the *Majma' al-Fiqh al-Islāmī* (OIC), the Indonesian Ulema Council (MUI), and other international fatwa bodies should be understood as a rich treasure trove of Islamic jurisprudence. Therefore, systematic dissemination of fatwas and contemporary fiqh studies are necessary to enable the public to understand the sharia-compliant limits of organ transplantation.

Second, healthcare institutions and medical personnel involved in organ transplantation are

advised to carry out medical procedures in accordance with Sharia principles, particularly regarding donor consent, the prohibition of organ commercialization, and the protection of human dignity. Every transplant process should be based on the principles of voluntariness, transparency, and humanitarian objectives, so as not to conflict with the maqāṣid al-Shari'ah, particularly regarding the protection of human life and dignity.

Third, the government and policymakers are advised to develop more comprehensive and stringent regulations regarding organ transplantation, including a ban on the sale and purchase of organs and prevention of exploitative practices against vulnerable groups. These regulations need to be aligned with religious values, medical ethics, and human rights principles to provide legal certainty and maximum protection for organ donors and recipients.

Fourth, in the context of organ harvesting from a corpse, a clear consent mechanism is needed, through a will or permission from the heirs. This is crucial to maintain the dignity of the deceased and ensure that the medical procedure is legally and ethically legitimate, both from a sharia and positive legal perspective.

Fifth, regarding interfaith organ transplants and the use of animal organs (xenotransplantation), it is recommended that these practices be undertaken with extreme caution and only in emergency situations. Ongoing jurisprudence and medical studies are needed to ensure that these procedures truly fulfill the principle of benefit, do not cause greater harm, and remain within the bounds of Islamic law.

Sixth, academics and future researchers are advised to expand interdisciplinary studies on organ transplantation to include perspectives from Islamic jurisprudence (fiqh), medical ethics, positive law, and sociology. Empirical research on the social, economic, and psychological impacts of organ transplantation is also crucial for enriching scientific discourse and providing a basis for formulating future fatwas and policies.

With the synergy between religious scholars, medical personnel, academics, and the government, it is hoped that organ transplant practices can be carried out ethically, responsibly, and in accordance with sharia principles, so that the main goal of preserving human life can be achieved without ignoring the values of humanity and social justice.

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