

CHAPTER I INTRODUCTION

A. The Background

Organ transplantation has existed since the early 1900s, and many medical experts have used this practice ever since. We have witnessed advancements in the technology involved in organ transplantation, which has led to its becoming a viable treatment for thousands of patients worldwide. Thank the scientists and medical doctors for their hard work in finding a solution by providing exemplary service to patients suffering from life-threatening illnesses. Since ancient times, many places such as Egypt and Babylon have conducted much research in the medical field, including studying human anatomy. The Egyptian Pharaoh supported the anatomist experts by allowing them to do an autopsy on a deceased for research. The Pharaoh also gave them a space in the palace library to conduct their study.¹

Organ transplants involve an organ provided by the donor, whether from a living donor or a deceased donor, being transplanted to the patient or the recipient. This means the patient will have to undergo surgery to be able to take the organ needed from the donor and transplant it to the recipient. Organ failure is incurable; once it is damaged, there is no way to cure it except to treat it using hemodialysis as often as three times a week, lasting for three to four hours each time.² As an Associate Professor and Senior Consultant in the Department of Renal Medicine at Singapore General Hospital, Terence Kee explains that kidney dialysis serves as a lifeline for those grappling with the debilitating effects of kidney failure. This intricate medical process acts as an artificial filtration system, meticulously removing waste, excess fluids, and toxic substances from the bloodstream when the kidneys can no longer perform their vital functions. If these harmful materials are allowed to accumulate, they can lead to dire and potentially fatal consequences. For individuals facing end-stage kidney disease or irreversible kidney failure, dialysis

¹ George Sarton, *Hellenistic Science & Culture in the Last Three Centuries*, New York: Dover Publications, Inc., 1993, P. 129-132.

² Admin, *Kidney Dialysis: What You Should Know*, Article: Health Xchange, www.healthxchange.sg, 2024.

is not merely a treatment; it is a crucial means of sustaining life, offering hope in the face of a daunting diagnosis.³

Hemodialysis treatment is not cheap in Singapore, especially if the patient needs it for the rest of their life. Although the cost varies, depending on the patient's situation, the cheapest range is between \$1,500 and \$1,900 monthly before MediSave. MediSave is a program that helps Singaporeans and permanent residents pay medical and hospital bills. It can be used for day surgeries and medically necessary hospitalizations, or MediShield. MediShield is a vital health insurance scheme designed to support significant medical expenses. Administered by the Central Provident Fund (CPF) Board, this fundamental plan helps alleviate the financial burden of hefty hospital bills and specific high-cost outpatient treatments, including life-saving kidney dialysis and chemotherapy for cancer. MediShield embodies a compassionate approach to healthcare, ensuring that individuals receive critical home-based treatment when needed. And it can go up to \$2,500 to \$3,000 per month before MediSave and MediShield in a private dialysis facility. This cost is still considered expensive for low-income families, even though they have numerous charitable organizations that support needy patients in their dialysis centers.⁴ In light of this issue, MUIS emphasized, "Organ failure presents profound challenges for the affected individual and their loved ones. Without the promise of organ replacement, patients often endure a drawn-out and agonizing decline. The failure of a vital organ wreaks havoc on the body, triggering a cascade of additional ailments and escalating hardships for both the patient and their family."⁵

To address this issue, Singapore acted under the Human Organ Transplant Act (HOTA) to give Singaporeans or Permanent Residents the option to follow the mandate, or they can opt out if they are 21 years and above and mentally healthy. Anybody who takes the option of 'opt-out' will face future problems if they happen to be terminally ill and need an organ donor; they will be placed at the bottom of

³ Admin, *Kidney Dialysis: What You Should Know*, Article: Health Xchange, www.healthxchange.sg, 2024.

⁴ Dr. Christopher Leo Cheang Han, *Top 5 Things You Need to Know About Dialysis*, Article: Raffles Medical Group, 2024.

⁵ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, Singapore: Office of the Mufti Strategic Unit, 2007, P. 35.

the list. HOTA has affirmed, "Anyone aged 18 and above, regardless of nationality, can make the profound decision to pledge as an organ, tissue, and/or whole-body donor for transplantation, therapeutic intervention, and educational or research endeavors after death." Among the invaluable gifts that can be donated under MTERA are vital organs and tissues such as lungs, trachea, pancreas, heart valves, iliac vessels, and skin. Pledgers are often given the unique opportunity to specify which organs they want to contribute, allowing for a personal touch in their generous act. By becoming a pledger in Singapore, an individual's altruism is not just recognized; it holds the potential to save lives and propel groundbreaking research that could lead to life-saving medical advancements for countless others. The kindness of such individuals can resonate far beyond their lifetime, truly making a difference in the world.⁶

MUIS stated that there are two types of donations, live and cadaveric, and they are allowed in Islam. According to Yusuf Qaradhawi, donating an organ is an act of worship and an invaluable gift for the receiver. According to MUIS, such a gift or donation will help the patient and save his life.⁷ Discussing organ donation and transplantation, it is mentioned in Islamic scripture that violating the corpse is not allowed (*haram*) due to the same condition as violating a living person. A deceased deserves to be treated respectfully as much as a living individual. Prophet Muhammad (ﷺ) explained,

كَسْرُ عَظْمِ الْمَيِّتِ كَكَسْرِهِ حَيًّا

Meaning:

"Breaking the bones of a corpse is similar to breaking the bones of someone alive" (*Sahih Ibn Majah*).⁸

The violation here can be interpreted as the act of surgery, which involves opening the stomach or some part of the body in a way that may violate the sanctity of the disease.

⁶ Admin, *Organ Donation*, Article: Ministry of Health Singapore, www.moh.gov.sg, 2024.

⁷ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 39.

⁸ Kutub at-Tis'ah online application, *Sunan Ibn Majah*, no. 1605 or no. 1616 version Maktabatu al-Ma'arif Riyadh, last access October 6, 2024.

According to The Islamic Religious Council of Singapore (MUIS), this hadith refers to a violation or act on the body that is not permissible in Islam, which happened and was practiced in the pre-Islamic era: mutilating the corpse of those who died in the battles. MUIS claimed that Islamic law allows performing operations on corpses in circumstances like, for example, post-mortem cesarean to save the baby's life due to the mother stopping breathing. Another example is to take something out of the deceased's stomach before burial, such as gold or diamonds.⁹

Yusuf Qaradhawi asserts that the act of removing a body part from a corpse does not infringe upon the sacredness attributed to the deceased. He emphasizes that the body's integrity remains intact, untouched by disrespect. The procedures conducted on the lifeless form are approached with the same level of care, precision, and reverence as those performed on the living. Thus, there is no valid rationale to consider this action dishonoring the departed's memory. Yusuf Qaradhawi further explains that donating organs after death is an act of worship if we do it with the right intention; besides, if the deceased did not donate the organs, they will be damaged in a matter of days in the grave. Therefore, why not donate it to others who will benefit from it? The deceased will earn high rewards, too, if he has the right intention.¹⁰ MUIS emphasizes the importance of respecting human dignity in the treatment of corpses, highlighting that surgical teams must conduct operations with a high degree of responsibility. The Ministry of Health of Singapore (MOH) also ensures that the transplantation process adheres to strict ethical guidelines and is subject to thorough oversight.¹¹

Although many Islamic scholars permit transplantation, not many people, especially the Muslim community, are willing to donate their organs, and this is becoming the cause of the organ shortage. The shortage of organs is a worldwide problem, including in Singapore. A few factors can be used to address this problem, especially for those living in different countries. First, not many people can afford

⁹ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 56.

¹⁰ Dr. Yusuf Qaradhawi, *Kumpulan Fatwa Yusuf Qaradhawi*, Translator: Zulfahmi Lubis M.Ag, Kuala Lumpur: BS Print (M) Sdn. Bhd, 2012, P.245-246.

¹¹ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 57.

organ transplants, especially those who live in low-income countries where 50 percent of the citizens have no access to basic healthcare, which means that their poor situation has led to a rise in the number of individuals who suffer from end-stage renal disease. Secondly, the high demand for organ donation does not match the number of organ donors, meaning the supply is limited. The dwindling of organ donors could be caused by a few factors, such as culture, which has never happened before, and it is something new, so it may take time to educate them. Another factor that might contribute to the lack of organ donors is religious beliefs.¹² At this point, MUIS works side by side with the government to educate the Muslim community and build awareness on how vital organ donors and transplantation are for those who are in their end-of-life stage. In addition, MUIS provided hard copy guidebooks to facilitate the Muslim community. The book explains the importance of organ donors and organ transplantation, including Islamic rulings.¹³

Based on the vast number of patients who are waiting to receive organ donations, MUIS, as an Islamic Religious Council, has many functions. One of them is to serve the Muslim community responsibly and set its guidelines about organ donations or organ transplantation as early as 1973. MUIS functions are advising the president about Islamic matters, serving the Muslim community, promoting Islamic activities, administering zakah and wakaf, managing pilgrimage affairs, providing halal certifications, regulating the halal industry, developing governance policy manuals, ensuring financial management, and developing the Singapore Muslim identity. However, there have been some changes due to human development. The first fatwa in 1973, MUIS stated, "A pledge in the form of a will, to donate one's kidneys to a kidney patient is not permissible." This fatwa is based on one of the hadiths: one does not own one's body. Therefore, he has no right to donate any of his organs. Besides, there is not much information on how severe kidney failure is, and the technology and medical advances are not convincing.¹⁴

The Hadith below explained about the status of ownership of the body,

¹² Phay Shi Hui Claire, *Tackling the Organ Shortage Crisis*, Article: Raffles Institution, Singapore, 2024.

¹³ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 35.

¹⁴ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 42.

كُلُّ سَلَامَةٍ مِنَ النَّاسِ عَلَيْهِ صَدَقَةٌ كُلَّ يَوْمٍ تَطْلُعُ فِيهِ الشَّمْسُ يَعْدِلُ بَيْنَ النَّاسِ صَدَقَةٌ

Meaning:

"There is a Sadaqa to be given for every joint of the human body, and for every day on which the sun rises, there is a reward of a Sadaqa (i.e., charitable gift) for the one who establishes justice among people." (Sahih Bukhari: 2508)¹⁵

Yusuf Qaradhawi explained that although the human body is a gift from Allah, every human was entrusted with using their body, similar to the usage of the wealth which initially belonged to Allah.¹⁶ Allah the Almighty said, "And give them out of the wealth which Allah has given you." (24:33)¹⁷ Yusuf Qaradhawi further said that if humans are permitted to donate some of their wealth for the good cause of others, so do human organs.¹⁸

The fatwa from 1973 that forbids organ donation was later reviewed again in 1986, stating that organ transplantation is allowed due to its necessity to save human lives. MUIS uses the *daleel* from *Qawaid al-Fiqhiyyah* to support their argument, "Exigencies (*darurah*) change the forbidden into permissible." In 1995, there was an addition to an allowance for organ transplantation, which included corneas to alleviate the suffering of eye patients. A few more additions were made in 2003-2004, allowing the donation of the heart and liver. These fatwas are made based on the common consensus (*jumhur*) of contemporary scholars and the International Fiqh Council.¹⁹

Although the International Fiqh Council is in one direction in allowing organ donation, not all Islamic scholars agree with them, especially in the field of organ donation and transplantation. Organ donation and transplantation are contemporary; they need to be understood comprehensively, including studying the

¹⁵ Kutub at-Tis'ah online application, *Sahih al-Bukhari*, no. 2508 or no. 2707 version Fathul Bari, last accessed October 6, 2024.

¹⁶ Dr. Yusuf Qaradhawi, *Kumpulan Fatwa Yusuf Qaradhawi*, P. 239.

¹⁷ Yayasan Restu, *The Holy Qur'an Text and Translation*, Selangor: Printed by Times Offset (M) Sdn. Bhd, 2008, P. 354.

¹⁸ Dr. Yusuf Qaradhawi, *Kumpulan Fatwa Yusuf Qaradhawi*, P. 239.

¹⁹ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 42-43.

scientific facts of the matter. Discussions about organ donation and transplantation have been a hot topic since the 1950s. Most Islamic scholars permit this practice due to necessity; some scholars argue this practice should be encouraged according to Islamic teaching. Conversely, some small groups of Islamic scholars prohibit this practice through their fatwas. The proponents of *fiqh* scholars (*fuqaha*) and the opponents of organ donation and transplantation have stated their views based on the Qur'an and Sunnah, so their arguments are equally strong. Some of those scholars who forbid organ donation and transplantation, such as Sheikh Muhammad Metwally El-Shaarawy, Abd al-Aziz ibn Baz, and Sheikh Muhammad Nuruddin Marbu al-Banjari al-Makki, and a few others, were not in agreement with the idea of organ donations and transplantations. Their reason are varied and based on the literal hadith text, with strong arguments they can present.²⁰

In forbidding organ donation or transplantation, Sheikh Muhammad Metwally El-Shaarawy (1911-1998) argues that humans do not own their bodies and cannot sell or donate them. Abd al-Aziz ibn Baz (1910-1999).²¹ More specifically, he forbids organ donation from the deceased due to violating the sanctity of the deceased. So, he uses the *daleel* in the Hadith, "Breaking the bones of a dead person is the same as breaking them while he is alive." Sheikh Muhammad Nuruddin Marbu al-Banjari al-Makki uses a different approach. Instead of using the *daleel* from the Hadith, he uses the Holy Qur'an to support his fatwa.²² He uses Surah Baqarah, chapter two, verse 195, as follows,

وَأَنْفِقُوا فِي سَبِيلِ اللَّهِ وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ

Meaning:

“And spend in the causes of Allah but throw not yourselves into ruin with your hand; and do good, for Allah loves the doers of good.”²³

²⁰ Makmor Tumin and Khaled Tafran, *Islam and the Organ Shortage in Malaysia: A Critical Analysis*, Kuala Lumpur: University of Malaya Press, 2018, P. 21-22.

²¹ Sheikh Abd al-Aziz ibn Baz was the Grand Mufti of Saudi Arabia from 1993 until he died in 1999.

²² Makmor Tumin and Khaled Tafran, *Islam and the Organ Shortage in Malaysia: A Critical Analysis*, P. 20-23.

²³ Yayasan Restu, *The Holy Qur'an Text and Translation*, P. 30.

Sheikh al-Maki's perspective is elaborated upon in the intricate examination of Malaysia's legislative framework, specifically within the provisions of Act Number 130, known as the "Human Tissue Act," established in 1974. This vital piece of legislation was designed to govern the ethical use of human body parts by deceased individuals, facilitating their application in therapeutic processes and advancing the fields of medical education and research.²⁴ The thoughtful enactment of this law is overseen by the esteemed Seri Paduka Baginda Yang di-Pertuan Agong, with the guidance and counsel of the members of Dewan Negara and Dewan Rakyat, who serve as formal advisers in the parliamentary process. Below, a concise summary of the contents of this significant enactment is presented.

1. Title and Effective Date.

This Act shall be referred to by its designated short title, and it will come into effect on a specified date as outlined in its provisions.

2. Therapeutic Removal of Body Parts.

This section addresses the medical practices involving extracting specific anatomical parts from individuals for treatment and healing. It encompasses the guidelines and ethical considerations that medical professionals must adhere to when carrying out such procedures.

3. Utilization of Extracted Body Parts.

The Act also addresses the subsequent use of these removed body parts, detailing the circumstances under which they may be employed for further medical interventions, research, or educational purposes. It ensures that all processes comply with established legal and ethical standards.

4. Management of Deceased Patients' Bodies.

In cases where an individual has passed away in a medical facility, this section outlines the protocols for the care and handling of their remains, ensuring that respect and dignity are upheld throughout the process.

5. Preliminary Legal Compliance.

²⁴ The law was set on January 1st, 1975, P.U. (B) 619/1974.

All actions related to the provisions of this Act must be conducted by legal and ethical guidelines before its enactment, ensuring a proper foundation for the methods and practices it delineates.²⁵

The Majelis Ugama Islam Singapura (MUIS) plays a significant role in the public sphere, particularly within the Muslim community in Singapore. They emphasize that the human body is a precious gift from Allah, and it is our responsibility to take good care of it. This means avoiding any form of self-harm or actions that could harm our bodies.

MUIS highlights that activities such as buying or selling organs for monetary gain are examples of self-harm. Instead, they advocate for the idea of organ donation, especially in the context of helping those in need. When a person passes away, their organs can potentially save the lives of others.

MUIS assures that this act of organ donation aligns with the belief that we do not own our bodies. Instead, it is consistent with the principle of utilizing the blessings bestowed upon us by Allah in the most beneficial manner.²⁶

Although opponents and proponents use the same hadiths, they have different views about deciding whether to allow or forbid the transplant. After all, saving human life should come before anything else if possible. Allah the Almighty said,

مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا
النَّاسَ جَمِيعًا

Meaning:

“Whoever kills a person without the latter being guilty of killing another or of doing evil on land, then his action is as if he had killed all humanity. And whoever saves one life is like he had saved all humanity.” (Al-Ma’idah 5:32)²⁷

²⁵ Makmor Tumin and Khaled Tafran, *Islam and the Organ Shortage in Malaysia: A Critical Analysis*, P. 105-107.

²⁶ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 58.

²⁷ Agama RI kementrian, *Syaamil Al-Qur’an Miracle the Reference*, Bandung: Kiaracandong, 2011, P. 113.

The verse of the Holy Qur'an above clearly underlines the importance of saving human life as if it saves the whole of humanity. In this case, the majority of Islamic scholars who permit organ donation and transplantation have more substantial arguments. Besides, none of us wants to be terminally ill, and if there is a way to get a cure, we should seek a cure. Prophet Muhammad (ﷺ) said,

لِكُلِّ دَاءٍ دَوَاءٌ فَإِذَا أُصِيبَ دَوَاءُ الدَّاءِ بَرَأَ بِإِذْنِ اللَّهِ عَزَّ وَجَلَّ

Meaning:

“There is a remedy for every malady, and when the remedy is applied to the disease, it is cured with the permission of Allah, the Exalted and Glorious.”
(Sahih Muslim: 4084)²⁸

Physical illnesses have attacked humans ever since Adam was created to be the leader of the creatures Allah had ever made. Satan managed to tempt Adam and Eve out of paradise out of jealousy. They both were sent down to earth, where they had to dwell between each other until the day of judgment. Adam was separated from Eve, which was very painful for both. Their hearts fill with regrets, and they face all the hardships of living on earth from then on.²⁹ The history of organ donation goes back far before Christ. Some ancient countries, such as Egypt, China, Greece, Rome, and India, also believed in the concept of body transfer in their mythology. One of their tales is about organ transplants performed by their Gods. God used organs from a cadaver or a dead body or related to a dead body or a dying body. As a healing method. And animals.³⁰

Islam, as a religion of *tawhid*, believed that this kind of performance was done by the arch of angel Jibreel (a.s) or Gabriel under the instruction of Allah the Almighty towards young Muhammad (ﷺ) by opening his chest and taking out his heart to purify it and put it back in his chest. Some historians said he was four years old when this incident occurred. Anas ibn Malik (r.a) narrated: When the Prophet

²⁸ Kutub at-tis'ah online application, *Shahih Muslim*, no. 4084 or no. 2204 version Syarh Shahih Muslim, last accessed October 6, 2024.

²⁹ Ibn Katheer, *Stories of the Prophets*, Translated by Husain Maqbool, Riyadh: International Islamic Publishing House, 2011, P. 19-21.

³⁰ National Library of Medicine, *The History of Organ Transplantation*, Article: ncbi.nlm.nih.gov, October 15, 2024.

(ﷺ) was playing with children, Jibreel (a.s) came and made the Prophet unconscious, opened his chest, and took out the heart. He removed a portion sticking to it and said, "That was a part of Shaytan sticking to you." He kept the heart in a gold plate and washed it with *Zamzam* water. After that, he joined the heart and restored it to its place. The youngsters witnessed this and came running to his foster mother, Haleema, and said, "Muhammad has been murdered." They all rushed the Prophet and found a change in his color. (Sahih Muslim). Anas ibn Malik (r.a) reports: "I saw signs of stitches on the Prophet's (pbuh) chest." ³¹ (Sahih Muslim)

The same incident happened again when Prophet Muhammad was heading for *Isra'*. The Angel of Arch Jibreel (a.s) revisited the Prophet (ﷺ) in Makkah to open his chest and repeat the same steps from his first experience as a young boy.³² Every Muslim believes this event is actual and strongly supported by the Qur'an and the Sunnah. A little doubt in a Muslim's heart may cause his faith to be cancelled, and he needs to repeat his shahadah.

The heart opening performed by Gabriel (Jibreel) is similar to modern-day surgery. The advancement of modern-day surgery played a significant role in performing the same kind of job as Jibreel, medically called 'open heart surgery.' The advancement of medical equipment offered an excellent opportunity to save the lives of thousands of patients worldwide, i.e., organ transplantation. If we look back to Prophet Muhammad's (ﷺ) time, the al-Kilab Expedition, also known as the Expedition of Dahhak al-Kilabi, against the Banu Kilab tribe, took place in August 630 AD, 9AH, 2nd month, of the Islamic Calendar. The war that resulted in one of the Prophet's Companions suffering from an injury that caused the loss of some part of his nose. He then sought advice from the Prophet (ﷺ),

³¹ As-Shaikh Ar-Rahman Mubarakpuri, *Ar-Raheeq Al-Makhtoom*, India: Nurul Huda, 3013, P. 101.

³² Kutub at-Tis'ah onlone application, *Saheeh Bukhari*, no. 336 or no. 349 version Fathul Bari, last accessed October 7, 2024.

حَدَّثَنَا مُوسَى بْنُ إِسْمَاعِيلَ وَمُحَمَّدُ بْنُ عَبْدِ اللَّهِ الْخُزَاعِيُّ الْمَعْنَى قَالَا حَدَّثَنَا أَبُو الْأَشْهَبِ عَنْ عَبْدِ الرَّحْمَنِ بْنِ طَرْفَةَ أَنَّ جَدَّهُ عَرَفَجَةَ بْنَ أَسْعَدَ قَطَعَ أَنْفَهُ يَوْمَ الْكُلابِ فَاتَّخَذَ أَنْفًا مِنْ وَرِقٍ فَأَنْتَنَ عَلَيْهِ فَأَمَرَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَاتَّخَذَ أَنْفًا مِنْ ذَهَبٍ

Meaning:

Musa ibn Isma'il and Muhammad ibn Abdullah Al Khuza'i both said Abu Al Asyhab from Abdurrahman ibn Tharafah told us that his grandfather Arfajah ibn As'ad had his nose cut off during the Al Kilab war. Then he made a fake nose out of silver, which became rotten. The Prophet (ﷺ) then ordered him to make a nose out of gold until he made a nose out of gold. (Sunan Abu Dawud-Hasan)³³

The Prophet (ﷺ) ordered him (Arfajah ibn As'ad) to replace his silver nose with a gold nose to avoid the rotten part getting worse. The word 'order' here is a positive command from the Prophet (ﷺ) that he must do it. In this case, the act of saving human lives is done directly by our Prophet (ﷺ), which is considered as Sunnah or an example that we should follow. Imagine if the Prophet (ﷺ) did not say anything about it; maybe Arfajah ibn As'ad could have died because of infection. So, it should align with *Qawaidh al-Fiqhiyyah's* statement that 'Anything harmful must be removed.'³⁴

The connection between the olden day surgery is still in a primitive stage; if there is such a thing as today's advancement in surgery, for sure, our Prophet (ﷺ) will be commanding everybody to proceed with the cure available to prevent it from getting worse, and even more to save human lives. Today, we are blessed with vast advancements that help to make our lives easier. If the majority of Islamic scholars in the past forbade the practice of organ donation and transplantation, maybe it was the right decision at that time. The disapproval was due to the lack of evidence of

³³ Kutub at-tis'ah online application, *Sunan Abu Dawud*, no. 3696 or no. 4232, 4233, 4234 version Baitul Afkar Ad Daulah, last access October 6, 2024.

³⁴ Ahmad Sabiq bin Abdul Lathif Abu Yusuf, *Kaidah-Kaidah Praktis Memahami Fiqih Islami*, Gresik: Yayasan al-Furqan al-Islami, 2016, P. 84.

success provided by the medical experts. Besides, the medical field was less advanced compared with today's technology. At least, MUIS explained this in the book about organ transplantation issues.³⁵

However, this argument is ongoing until today, and the solution is to search all the hadith relating to this matter and combine them as well as study the *sabab al-wurud*, which may lead to a more precise answer for those keen on studying the hadith science.³⁶

B. Problem Formulation

Based on the background explained briefly above, the researcher wanted to discuss more "The Contradictive Fatwas in Addressing Organ Donation and Transplantation, and the Hadith," which raised a few questions below as a formulation:

1. What have organ donation and transplantation been in the history of humanity?
2. What was the selected Hadith that resulted in different opinions in issuing the fatwa?
3. Why are the fatwas contradictory if they're based on the same Hadith?

C. Research Purposes

After deciding on the formulation above, the research purposes then emerged, which are:

1. To know the history of organ donation and transplantation from early humanity.
2. To know the hadith that the Islamic scholars selected and to figure out why the same hadith can result in different opinions in issuing the fatwa.
3. To find a possible answer to why the same hadith results in different fatwas.

³⁵ Islamic Religious Council of Singapore, *Organ Transplant in Islam*, P. 42.

³⁶ Makmor Tumin and Khaled Tafran, *Islam and the Organ Shortage in Malaysia: A Critical Analysis*, P. 19-20.

D. Research Benefits

This research aims to benefit others, such as students or the general public, who are keen to learn more about organ donation and transplantation and might be curious about the hadith used to support the fatwa. Therefore, may this research be proper academically and practically, especially in the science of hadith and Islamic law?

1. Academic usefulness.

The results of this research will hopefully play an important role in adding more scientific insight into Islamic literature and libraries and spreading Islamic knowledge, especially in discussing the ruling of organ donation and transplantation in Islam. The immense hope is that this research will enlighten many to find a more precise answer in deciding what to do if they need to do similar research or face difficulties. Therefore, Islam is always available to regulate all aspects of life and social reality.

2. Practical usefulness.

Practically, this research aims to contribute to the Muslim community by providing more precise answers in addressing the issue of organ donation and transplantation based on the Qur'an and Hadith.

E. Theoretical Framework

Hadith and fatwa are two inseparable components that have specific roles in supporting each other. Hadith is the second source of Islam after the Qur'an and is essential in producing a fatwa. Islamic scholars, or the mufti, issue the fatwa and cannot issue it without the *daleel* from the Qur'an, Sunnah, or Hadith. Hadith is a collection of verbalizations or narrations about the Prophet Muhammad (ﷺ) and the primary source of Islamic law.

Although the collection of the Hadith from the Prophet (ﷺ) went through strict selection and has its classification in the strength level such as *sahih*, *hasan*, *da'if*, etc., somehow, many Islamic scholars are not on the same page as other scholars in

interpreting the permissibility of the Hadith, an example is the Hadith, which is used in allowing to donate an organ and transplant it to somebody else. Some scholars forbid this practice, although most permit it for specific reasons.

Based on the topic of this thesis, "The Contradictive Fatwas in Addressing Organ Donation and Transplantation Based on the Same Hadith," the researcher will gather up the group of scholars that prohibit and the opposite groups that permit the practice of organ donation and transplantation followed by gathering all the Hadiths and observing the Hadith to determine its level (*sahih, hasan, da'if*, etc.) including the narrators, through *takhrij al-Hadith*. Through *takhrij al-Hadith*, the connectivity of the chain (*sanad*) and the quality of the narrators can be determined. *Takhrij al-Hadith* is the only way to determine the authenticity and quality of the Hadith. The *takhrij al-Hadith* will also determine the condition of the narrators, such as *dabt, thiqah, adl*, etc.

The theoretical framework in this research will be explained through the scheme below;

1. The Background.

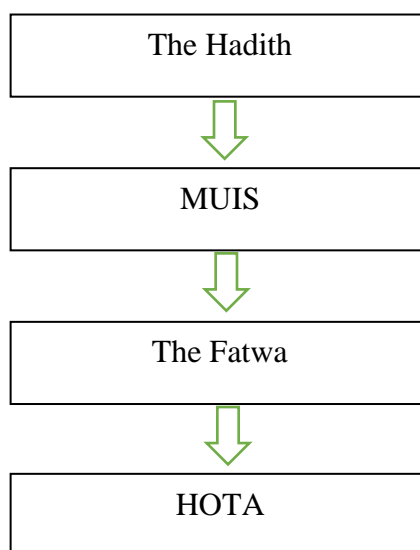
The background will discuss the History of organ transplantation, the urgency, the Hadith, and the fatwas.

2. The Urgency.

The urgency will discuss the situation and condition of the patient who faces life-threatening illnesses, including the waiting period to get a donation, the supply of organs, and the success rate of the transplantation procedure.

3. The Hadith.

The Hadith will be discussed below,



F. Operational Definition

An operational definition is essential to explain any definition that might need further explanation to avoid misunderstanding. Based on the title of this research, the researcher will explain a few operational definitions below:

1. Contradictive.

According to the Oxford Dictionary, "contradict" means a statement or piece of evidence that differs from another. The word "contradiction" also implies a lack of agreement between facts, opinions, actions, etc.³⁷ Contradictory means something is inconsistent, incompatible, or opposed to something else. For example, you might describe a person's actions as contradictory if they oppose each other. This word is relevant to mention because Islamic scholars release different fatwas in addressing the issue of organ donation and transplantation.

2. Addressing.

Addressing this means finding the right solution to the organ donation and transplantation arguments. There are many ways to address these problems, such as gathering all the required resources, having the same point

³⁷ A S Hornby, *Oxford Advanced Learners Dictionary of Current English*, New York: University Press, Seventh Edition, 2005, P. 332.

of discussion, and combining all the fatwas from many Islamic scholars or organizations, whether proposed or opposed. The next step should be more detailed, such as scrutinizing every document, making a few notes, highlighting its importance, and analyzing it before putting it together in the thesis. By doing it this way, a more explicit discussion and conclusion should not be hard to achieve.

3. Hadith.

a) Breaking bones.

Breaking bones mentioned in the hadith below: Prophet Muhammad (ﷺ) said,

كَسْرُ عَظْمِ الْمَيِّتِ كَكَسْرِهِ حَيًّا

Meaning:

"Breaking the bones of a corpse is similar to breaking the bones of someone alive" (Sahih Ibn Majah).³⁸

Islamic scholars heavily discuss the word "Breaking Bones" when determining whether or not to proceed.

b) Ownership

The Hadith below explained about the status of ownership of the body,

كُلُّ سُلَامَى مِنَ النَّاسِ عَلَيْهِ صَدَقَةٌ كُلَّ يَوْمٍ تَطْلُعُ فِيهِ الشَّمْسُ يَعْدِلُ بَيْنَ النَّاسِ صَدَقَةٌ

Meaning:

"There is a Sadaqa to be given for every joint of the human body, and for every day on which the sun rises, there is a reward of a Sadaqa (i.e., charitable gift) for the one who establishes justice among people." (Sahih Bukhari: 2508)³⁹

³⁸ Kutub at-Tis'ah online application, *Sunan Ibn Majah*, no. 1605 or no. 1616 version Maktabatu al-Ma'arif Riyadh, last access October 6, 2024.

³⁹ Kutub at-Tis'ah online application, *Sahih al-Bukhari*, no. 2508 or no. 2707 version Fathul Bari, last accessed October 6, 2024.