**Ensuring Fair and Ethical Legal Protection for Organ Donors in Indonesia: An Islamic Perspective** (14 Bold-Calibri Light)

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**ABSTRACT:** *Organ transplantation, a life-saving medical intervention that significantly improves the quality of life for patients with organ failure, requires a robust legal framework. This framework is crucial to ensure justice, ethical treatment, and the protection of organ donors, particularly within the unique cultural and religious context of Indonesia. While Law No. 17 of 2023 on Health and its implementing regulations provide a legal basis, they do not fully address the comprehensive protection needed for living and deceased donors, including post-donation care, compensation mechanisms, and legal recognition of altruistic contributions. Adopting a normative juridical approach supported by comparative analysis and Islamic legal principles, this article aims to identify regulatory gaps and ethical challenges. The study reveals that the current framework lacks sufficient guarantees of reciprocal justice and does not fully reflect the maqāṣid al-sharī‘ah principles such as ḥifẓ al-nafs (protection of life), ʿadālah (justice), and karāmah insāniyyah (human dignity). The article strongly advocates reforming donor protection policies by integrating national law, international best practices, and Islamic values. It emphasizes the urgency and importance of strengthening legal clarity, ethical oversight, and public education to establish a transplant system that is just, humane, and aligned with both constitutional mandates and religious ethics.* (*12 Italic-Calibri Light*)

Transplantasi organ, sebagai intervensi medis penyelamat jiwa yang secara signifikan meningkatkan kualitas hidup pasien dengan kegagalan organ, memerlukan kerangka hukum yang kokoh. Kerangka ini sangat penting untuk menjamin keadilan, perlakuan yang etis, dan perlindungan terhadap para pendonor organ, khususnya dalam konteks budaya dan religius yang khas di Indonesia. Meskipun Undang-Undang No. 17 Tahun 2023 tentang Kesehatan beserta peraturan pelaksanaannya telah memberikan dasar hukum, regulasi tersebut belum sepenuhnya menjamin perlindungan komprehensif bagi pendonor hidup maupun pendonor yang telah meninggal, termasuk aspek perawatan pascadonasi, mekanisme kompensasi, dan pengakuan hukum terhadap kontribusi altruistik. Dengan mengadopsi pendekatan yuridis normatif yang didukung oleh analisis komparatif dan prinsip-prinsip hukum Islam, artikel ini bertujuan mengidentifikasi kekosongan regulasi serta tantangan etis yang dihadapi. Kajian ini menunjukkan bahwa kerangka hukum yang ada belum memberikan jaminan keadilan timbal balik yang memadai dan belum sepenuhnya mencerminkan prinsip-prinsip *maqāṣid al-sharī‘ah* seperti *ḥifẓ al-nafs* (perlindungan jiwa), *ʿadālah* (keadilan), dan *karāmah insāniyyah* (martabat kemanusiaan). Artikel ini dengan tegas mendorong reformasi kebijakan perlindungan pendonor melalui integrasi antara hukum nasional, praktik terbaik internasional, dan nilai-nilai Islam. Penekanan diberikan pada urgensi penguatan kejelasan hukum, pengawasan etis, dan edukasi publik guna membangun sistem transplantasi organ yang adil, manusiawi, dan sejalan dengan amanat konstitusi serta etika keagamaan. Indonesia-- (12-Calibri Light)

**Keywords:** *Legal protection, Organ donor; Justice, Ethics, Maqāṣid al-sharī‘ah.* *(12 Italic-Calibri Light)*

1. **INTRODUCTION (Calibri Light, 12 BOLD)**

Organ transplantation, a monumental medical advancement, is instrumental in saving lives and improving the quality of life for patients grappling with organ failure (Bakhtiar, Handar Subhandi, Maddussila, 2024). However, the success of transplantation is heavily reliant on the availability of donor organs (Lakkis, 2023). In Indonesia, the demand for organ transplantation is surging, yet the number of organ donors remains severely limited. In 2023, over 172,000 organ transplant procedures were performed globally. Kidney transplantation, the most common type, accounted for about 65% of all transplants, with liver transplants making up approximately 24% (Elflein, 2025). The scarcity of donor organs is a critical issue that needs urgent attention from both medical and legal standpoints (Olawade et al., 2024).

In Indonesia, the need for kidney transplants is escalating, mirroring the rising prevalence of chronic kidney disease due to factors such as diabetes mellitus, hypertension, and unhealthy lifestyles. Data from the 2013 Basic Health Research (Riskesdas) revealed that the prevalence of kidney failure among Indonesians was 0.2%, or 2 per 1,000 people, totaling 499,800 individuals (Budiman, 2013). By 2018, the prevalence of kidney failure had surged to 0.38% or approximately 713,783 people (Kementerian Kesehatan RI, 2018). A survey by the Indonesian Society of Nephrology (Pernefri) found that about 12.5% of the population, or roughly 25 million Indonesians, are experiencing declining kidney function. Kidney failure patients have also significantly increased, from 19,612 cases in 2014 to around 100,000 cases in 2019 (Erpiyana et al., 2024). This data underscores the pressing need for organ transplantation as a life-saving medical intervention.

Amid the escalating demand for organ transplantation, the role of living donors—both related and unrelated—has become increasingly crucial in supporting the national transplantation system (Vanholder et al., 2021). However, behind this medical urgency lie numerous unresolved legal issues, particularly protecting donors' rights. Many donors have not received adequate legal safeguards, including post-donation health care, social security, and the right to complete and accurate information (Shroff, 2009). This situation raises concerns about potential exploitation and violations of human dignity and human rights. Therefore, an urgent need is to formulate a comprehensive legal protection framework for living donors as an integral part of Indonesia's transplantation system.

Such protection is necessary because living donors face physical, psychological, and social risks and long-term consequences. Following the donation procedure, donors are often not provided with long-term health guarantees, psychological support, or sufficient legal protection in the event of complications or future health issues. This disparity in treatment between recipients and donors is a manifest injustice, raising serious concerns over distributive justice and fairness. From a legal perspective, a system that fails to protect donors equitably violates fundamental human rights, particularly the right to health, safety, and equal protection under the law.

Indonesia's legal framework for organ transplantation is governed by several regulations, such as Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024 as its implementing regulation, and Minister of Health Regulation No. 38 of 2016 on implementing Organ Transplantation. However, these regulations primarily emphasize procedural compliance and the prevention of organ trafficking, while the long-term protection of donors remains neither explicitly addressed nor comprehensively regulated. This lack of comprehensive regulation, often referred to as a 'legal vacuum,' presents a significant risk for donors, particularly in the event of post-transplant complications or socio-economic hardship.

Justice is a central ethical concern in organ transplantation, requiring a balanced approach between safeguarding recipients' rights and honoring donors' sacrifice (Kizer et al., 2022). Many countries have adopted reciprocal justice mechanisms, which promote fairness and encourage participation by prioritizing allocation for registered donors. If implemented in Indonesia, these mechanisms could protect donors and boost donation rates, thereby enhancing the fairness and efficiency of the transplantation system.

Legal reform in this domain must also consider Indonesia's cultural and religious context. As a country with the world's largest Muslim population, Islamic values must be integrated into the legal discourse on organ transplantation. Islam views the act of saving a life as a noble deed (*ḥifẓ al-nafs*), one of the core objectives (*maqāṣid*) of Islamic law. Nevertheless, Islam also mandates the protection of human dignity (*karāmah insāniyyah*), bodily integrity, and the prevention of harm (*lā ḍarar wa lā ḍirār*)(Erkoç Baydar, 2024)—principles that should be reflected in national legislation. Organ donation is permissible under Islamic law when it meets criteria such as voluntariness, non-commercialization, and informed consent (Mahmoud, 2022). Hence, ensuring ethical and fair legal protection for donors, including post-donation health care, social security, and the right to complete and accurate information, is a legal necessity and a religious obligation.

This study aims to critically examine the current legal framework governing organ donor protection in Indonesia, identify regulatory gaps, and offer reform strategies based on legal justice, human rights, and Islamic ethics principles. By doing so, the study seeks to develop a holistic legal framework that ensures fair, ethical, and spiritually grounded protection for organ donors—covering medical, social, economic, and religious aspects. In integrating Islamic jurisprudence with contemporary legal principles, Indonesia can build a sustainable transplantation system that is efficient, equitable, and aligned with the values of justice, compassion, and faith. (Calibri Light-12)

1. **METHOD (Calibri Light, 12 BOLD)**

This research is distinguished by its use of a normative juridical method, a systematic approach that analyzes legal norms and principles to ensure fair and ethical legal protection. The method examines statutory laws, government regulations, international instruments, and ethical frameworks related to organ donor. It focuses on Law No. 17 of 2023 on Health and its implementing regulations, as well as comparative transplantation frameworks in countries like Iran, Chile, and Singapore. These countries were selected for their innovative, structured approaches that combine legal clarity, ethical safeguards, and—especially in Iran's case—religious alignment, offering valuable insights for potential adaptation in Indonesia. The research also incorporates a conceptual approach to understanding the underlying theories of legal justice, distributive equity, and medical ethics that influence regulatory policies.

In addition to positive law, this study integrates an Islamic normative approach to align legal recommendations with Indonesia's socio-religious context. It involves an examination of primary Islamic legal sources—the Qur'an, Hadith—and authoritative fatwas. Key Islamic legal principles such as *ḥifẓ al-nafs* (protection of life), *ʿadālah* (justice), *iḥsān* (benevolence), and *karāmah insāniyyah* (human dignity) are used to assess whether the current legal framework sufficiently safeguards donor rights both ethically and spiritually. Legal materials are analyzed qualitatively and descriptively, while the prescriptive aspect of this research is used to offer reform recommendations. These recommendations, with their practical implications, aim to promote a transplant system in Indonesia that is not only legally sound, ethically just, and religiously acceptable, but also feasible and beneficial for all stakeholders. (Calibri Light-12)

**III. RESULT AND DISCUSSION (Calibri Light, 12 BOLD)**

Organ transplantation has emerged as a critical issue in global health law (Gadour, 2025), particularly because it intersects directly with protecting fundamental human rights—most notably the right to life and health. International legal instruments such as the Universal Declaration on Bioethics and Human Rights, emphasize respecting human dignity, bodily integrity, and individual autonomy in biomedical practices, including organ transplantation. The declaration stipulates that medical interventions must be grounded in voluntary and informed consent. Complementing this, the WHO Guiding Principles on Human Cell, Tissue, and Organ Transplantation (2010) outline key ethical standards such as transparency, equity in distribution, and the prohibition of exploitation—particularly among socially or economically vulnerable populations. These instruments provide a normative foundation for states, including Indonesia, to ensure that organ donation systems are rooted in fairness, consent, and protection from abuse.

Legal protection is pivotal in safeguarding individuals from arbitrary practices and exploitation, particularly in contexts involving vulnerable parties (Sutikno et al., 2024). According to Satjipto Rahardjo, the law is not merely a set of rigid norms, but a dynamic tool committed to protecting the weak and marginalized (Rahardjo, 2000). Organ donors often fall into this category due to economic hardships, familial pressures, or lack of information. As such, any ethical transplantation system must be accompanied by a robust legal framework that guarantees dignity, autonomy, and post-donation support. This view resonates with Islamic legal ethics, which also obligate the protection of *al-ḍuʿafāʾ* (the vulnerable) and uphold the sanctity of human life (*ḥifẓ al-nafs*) as a primary objective of the *maqāṣid al-sharī‘ah* (higher objectives of Islamic law).

Justice, both as a legal and moral principle, remains central to the discourse on organ transplantation. John Rawls' theory of justice stresses that individuals must be treated as equals under the law,(Rawls, 1999) a principle extending to the medical context where recipients and donors must be protected from harm and granted legal safeguards. This emphasis on legal justice provides all involved reassurance and a sense of security (El Haque et al., 2023) Beauchamp and Childress, in their framework of Principles of Biomedical Ethics (2013), articulate three core dimensions of justice in health care: distributive, procedural, and compensatory justice (Beauchamp, Tom L., Childress, 2019). In the transplantation context, distributive justice refers to the fair allocation of scarce organs based on medical need rather than socioeconomic status; procedural justice involves transparent and accountable decision-making; and compensatory justice requires that harm or sacrifice—such as that experienced by living donors—be fairly acknowledged through support and restitution.

From an Islamic perspective, these dimensions are reflected in Sharia-based values. Distributive justice aligns with *ʿadālah* (equity), while procedural integrity resonates with *amānah* (trustworthiness) and *shūrā* (consultation). Compensatory justice is compatible with the concept of *taʿwīḍ* (reasonable compensation for harm), which does not violate the prohibition against organ trade but acknowledges the donor's sacrifice. Thus, integrating international ethical norms with Islamic legal principles provides a rich and morally coherent foundation for legal reforms to protect organ donors in Indonesia.

**Legal Framework on Organ Transplantation in Indonesia**

Organ transplantation is a medical procedure with profound humanitarian and ethical value (Rouahna, 2025). It involves the transfer of organs or tissues from a donor to a recipient to treat serious illnesses and restore vital bodily functions. Organs—such as the heart, kidneys, liver, and lungs—comprise tissues that perform specific tasks. In contrast, tissues are cellular structures that can be categorized based on their regenerative capabilities. Some tissues, like skin and blood, can regenerate naturally, while others, such as the heart and brain, cannot. Transplantation serves as an alternative therapy for patients with organ failure and often offers better outcomes than conservative treatments. The source of organs may be either living donors or cadaveric (deceased) donors. In this context, the donation is not only medically significant but also morally commendable (Hansen et al., 2021), particularly when viewed from the lens of Islamic ethics as a form of *ḥifẓ al-nafs*—the protection of life.

The Government of Indonesia has established a robust regulatory framework governing organ transplantation to ensure legal certainty and ethical implementation. Key instruments include Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024, and Minister of Health Regulation No. 38 of 2016. These regulations affirm the state's crucial role in protecting recipients, living donors, and medical personnel. Article 123 of Law No. 17/2023 legally permits organ and tissue transplantation as a recognized treatment to restore health. Furthermore, Article 124 mandates that transplantation must be conducted solely for medical purposes, based on humanitarian considerations, and preceded by the donor's consent or that of their family. This strong governmental oversight provides all involved a sense of reassurance and security.

The government encourages voluntary donation as a noble contribution to public health and explicitly prohibits any commercial transaction involving human organs. Article 183 of Law No. 17/2023 criminalizes financial compensation for organ donation, which aligns with Islamic legal opinion (fatwa) prohibiting the commodification of the human body. Nevertheless, the distinction between voluntary and coerced or incentivized donation remains problematic in practice (Indriyanto et al., 2023). Reports of low-income individuals donating organs under economic pressure reveal structural weaknesses in the current system, such as inadequate oversight and enforcement of regulations. These situations not only violate legal principles but also Islamic ethical norms, which strongly oppose exploitation (*istighlāl*) of the weak. The absence of a national data and monitoring system has enabled unregulated practices to persist, underscoring the urgent need for robust oversight through an independent, accountable authority.

A critical gap in Indonesia's transplantation laws is the lack of long-term protection for donors after surgery. Many living donors report complications such as reduced kidney function, infections, or mental health issues (Garcia-Ochoa et al., 2021). However, hospitals or the state have no binding legal requirement to provide continued medical care, psychological support, or financial compensation. Health insurance coverage for donors is not guaranteed, leaving most to bear post-transplant expenses independently. This legal and ethical void undermines the altruistic spirit of donation and exposes donors—often those from vulnerable socio-economic backgrounds—to further hardship. The urgency and importance of this issue cannot be overstated, and Indonesia must adopt policies that ensure long-term health monitoring, lifetime health insurance, and employment protection for donors as a form of social justice (*ʿadālah ijtimāʿiyyah*) and moral obligation (*taklīf sharʿī*).

**Justice and Ethical Principles in Organ Donation**

Organ donation is a vital component of modern healthcare systems and plays a decisive role in saving lives and enhancing the quality of life for patients with terminal organ failure. However, this life-saving practice entails more than just clinical and logistical considerations—it demands a framework rooted in justice and ethics to ensure that transplantation procedures are carried out humanely, transparently, and equitably. The principle of justice must serve as a primary foundation, encompassing distributive and procedural justice (Rahman & Karim, 2022). At its core, the principle of justice must guide every aspect of organ donation, encompassing three key dimensions: distributive, procedural, and corrective justice (Beauchamp, Tom L., Childress, 2019).

Distributive justice refers to the fair and equitable allocation of organs based on objective medical criteria (Qu et al., 2021)—such as urgency, tissue compatibility, and likelihood of success—rather than on social status, financial capability, or personal connections. Procedural justice emphasizes transparent, accountable, and inclusive decision-making processes, ensuring that every patient on a transplant waiting list is treated equally and fairly. If these principles are neglected, the transplant system may devolve into an exploitative market where only the affluent have access to donor organs. At the same time, people with low incomes are excluded or, worse, commodified. Such inequality is not only a violation of legal justice (Rawls, 1999), but also undermines the integrity of the healthcare system and erodes public trust.

Governments and healthcare institutions are thus morally and legally obligated to establish transparent mechanisms for organ allocation, including independent oversight committees, national waiting lists, and audit trails that track allocation decisions. In Islamic ethics, this aligns with the principle of *ʿadālah* (justice), which mandates fairness in distribution and prohibits *ẓulm* (oppression or inequity) (Fazli & Hemat, 2023). The Qur'an affirms, "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice" (QS. An-Nisā': 58), a directive that is deeply applicable to resource allocation in life-saving medical interventions like organ transplantation.

Beyond distributive and procedural fairness, the concept of corrective justice is also vital. Corrective justice refers to efforts to redress or compensate individuals who suffer harm during the transplantation process—particularly donors who may face long-term health or social consequences. In this context, donors who develop medical complications, psychological distress, or loss of livelihood post-donation should be entitled to state-supported remedies such as lifelong medical monitoring, psychological care, and financial or employment protection. This principle resonates with the Islamic concept of *taʿwīḍ,* or rightful compensation for harm endured, which is not considered contrary to the non-commercial spirit of organ donation but rather a form of social protection for the *muḥsinīn* (those who perform good deeds).

The ethical dimension of organ donation must rest on three foundational principles of biomedical ethics: Respect for Autonomy, Non-Maleficence, and Beneficence (Beauchamp, Tom L., Childress, 2019). Respect for autonomy mandates that individuals must have the right to make voluntary and informed decisions about whether or not to donate their organs. This necessitates access to transparent, complete, and unbiased information and protection from coercion, manipulation, or economic pressure. In Islamic jurisprudence, this is reflected in the principle of *ikhtiyār* (free will), where any act of giving—particularly involving the human body—must be based on genuine consent and intent.

The principle of non-maleficence—"not harm"—requires that all reasonable steps be taken to minimize risk to donors (Dalle Ave et al., 2020). This includes thorough medical screening, psychological evaluations, and follow-up care to ensure long-term donor safety and well-being. In Islam, the principle of *lā* *ḍarar wa lā ḍirār* (no harm and no reciprocating harm) forms the legal maxim that reinforces this standard of medical ethics. The third principle, beneficence, obliges healthcare providers to act in the patient's and the donor's best interest by ensuring that the outcome of the transplantation process brings about significant and measurable benefits without unjust costs to others (Raza & Neuberger, 2022).

When these ethical principles are upheld—supported by justice in distribution, procedure, and compensation—organ donation becomes a medically effective practice and a reflection of human dignity, compassion, and social responsibility (Bunnik, 2023). In Islamic thought, organ donation is viewed as a noble act (*ṣadaqah jariyah*) as long as it respects the sanctity of the human body, adheres to ethical procedures, and does not lead to harm or exploitation. Integrating universal bioethical principles with Islamic moral values offers a comprehensive framework for developing Indonesia's fair, trustworthy, and spiritually aligned organ transplantation system.

**Comparative Analysis: Legal Protection for Organ Donors Abroad**

Organ donation is an integral component of contemporary healthcare systems, offering hope and extended life to patients suffering from terminal organ failure. Nevertheless, organ transplantation systems' effectiveness, fairness, and sustainability are heavily influenced by the degree of legal protection extended to donors. The comparative analysis of donor protection models in Iran, Chile, and Singapore reveals significant variations in how jurisdictions embed justice, ethics, and social values into their legal frameworks. While contextually rooted, these countries offer distinct regulatory architectures that converge on a common normative goal: ensuring that organ donors are treated with dignity, protected from exploitation, and encouraged through ethically sound mechanisms. For Indonesia—where organ donation is both a medical need and a religiously sensitive issue—these models provide critical lessons.

Iran's transplantation framework, often termed the Iranian Model of Living Kidney Donation, exemplifies how Islamic law and positive legal norms can be harmonized to address donor shortages while upholding human dignity. The system is notable for its legal recognition of compensation for living unrelated kidney donors, a policy managed under the strict supervision of the Iranian Patients Kidney Foundation (IPKF)(Mahdavi-Mazdeh, 2012). This foundation ensures transparency, matches donors and recipients fairly, and excludes intermediaries, preventing black-market practices. Compensation is agreed upon privately but monitored by the state, and post-donation benefits—including a financial reward, health insurance, and military exemption—are provided through the Charity Foundation for Special Diseases (CFSD) (Ghahramani, 2016). From the perspective of Islamic jurisprudence, this model aligns with the principle of *ḥifẓ al-nafs* (protection of life) and *ʿadālah* (justice), ensuring that the act of giving is safeguarded against economic coercion and rewarded appropriately without violating the prohibition on organ trade (*bai 'al-a‘ḍā'*).

Furthermore, Iran's approach to deceased donation is rooted in Islamic legal doctrines. If a deceased donor has not given prior consent, restitution (*diyat*) may be provided to the family, reflecting the value of compensatory justice in Islamic criminal and civil law (Tober, 2007). This practice mirrors the *maqāṣid al-sharī‘ah* framework, wherein all medical interventions must preserve the sanctity of human life, bodily integrity, and social justice. As a result, the Iranian model is not only functional in addressing medical needs but also theologically and ethically coherent, making it particularly relevant and reassuring to Indonesia's context as a Muslim-majority nation.

In contrast, Chile adopts a solidarity-driven presumed consent (opt-out) model with embedded priority allocation rules. Under the 2013 reform to its Organ Donor Law, all citizens are automatically considered organ donors unless they explicitly opt-out (Zúñiga-Fajuri, 2015). Additionally, registered donors are given priority in organ allocation—those who agree to donate receive preferential access should they later require a transplant. This system is based on reciprocal justice, a concept that ensures fairness by rewarding those who contribute to the system. It encourages public participation through a fair return mechanism. The model reflects the procedural and distributive justice notion articulated by Rawls,(Rawls, 1999) who emphasizes the fairness of processes and the equitable distribution of scarce resources. Critics argue that reciprocity incentives might dilute altruistic motivations, but proponents such as Kolber suggest that these incentives foster a broader moral engagement by linking benefit with contribution (Kolber, 2003).

Chile's approach is particularly effective in reinforcing social solidarity, as it communicates that participation in life-saving programs is a shared social responsibility. Organ allocation is treated as a public good, yet access is conditional upon civic contribution. While donation rates have not increased dramatically, countries with similar systems—France, Belgium, and Austria—have reported 25–30% higher than those using opt-in systems (Abadie & Gay, 2006). From a legal-theoretical standpoint, this model reflects the principle of utilitarian public welfare, where individual autonomy is preserved through opt-out options while maximizing social benefit remains a priority. This balance between personal rights and collective good is convincingly demonstrated in the Chilean model, which parallels the Islamic legal concept of *maslahah ʿāmmah* (public interest), wherein the community's welfare can justify state policy, provided individual dignity is not violated.

Singapore presents a high-efficiency legal system grounded in reciprocal justice and moral clarity. The Human Organ Transplant Act (HOTA), enacted in 1987, establishes a presumed consent framework with a strict rule: those who opt out of donation lose their priority in organ allocation (Iyer, 1987). The primary objective of implementing this system is to increase public participation in organ donation programs, especially amid limited organ supplies (Etheredge, 2021). However, concerns arise that if organ supply becomes sufficient due to the opt-out system, the priority rule might no longer be effective in deterring "free rider" behavior—those who wish to receive organs but are unwilling to donate. Nevertheless, combining the opt-out system and the priority principle in Singapore has proven quite successful in boosting donation rates from living and deceased donors (Chandler, 2005). The priority principal acts as a moral signal and strong incentive for the public: refusing to be a donor directly reduces one's chance of receiving an organ in the future. This is viewed as a form of reciprocal justice, emphasizing that anyone who wishes to benefit from the organ transplantation system must also be willing to contribute.

The increase in donor numbers in Singapore following the implementation of this system indicates that the policy is effective in raising public awareness. Although the impact of the priority rule cannot be entirely separated from the overall effect of the opt-out system, initial results show a positive trend. Pragmatically, the public has begun to understand that the willingness to donate is part of community members' moral and social responsibility.

Furthermore, this legal system provides a transparent and fair allocation process, as priority status is determined by an individual's contribution to the system. In other words, those who declare their willingness to donate are prioritized as recipients when organs become available. This principle is grounded in efficiency considerations and the value of distributive justice—those scarce resources, such as organs for transplantation, should be given to those who are also willing to give (Vanholder et al., 2021). This concept has also gained moral support from the broader public, who believe it is unfair for someone to receive an organ while refusing to become a donor. Therefore, the willingness to donate in return for organ eligibility is regarded as a reasonable moral condition within a fair and sustainable organ transplantation system.

The prioritization principle in Singapore reflects what legal theorists call reciprocal legal obligations, where access to state benefits is contingent upon participation. This not only reinforces fairness but also minimizes manipulation of the system. From the standpoint of Islamic ethics, this resonates with the principle of *takāful ijtimāʿī* (mutual social responsibility) and *amānah* (trust), where rights are intertwined with duties, and collective welfare depends on individual moral contribution. Moreover, this model demonstrates a state's responsibility to administer public resources equitably, a role that is particularly secure in the Singaporean model and consistent with *siyāsah sharʿiyyah* (Islamic governance).

Though distinct in form, these three models share a foundational commitment to upholding justice, transparency, and protecting donors' rights. Iran institutionalizes donor compensation within a religious-ethical framework; Chile promotes solidarity and fairness through conditional priority; and Singapore enforces reciprocal legal justice to ensure system integrity. Each offers functional paradigms for Indonesia, particularly in designing a system that is not only functional and ethical but also socially and theologically legitimate.

For Indonesia, the lessons are clear. A sustainable transplantation system must be supported by law that affirms voluntariness, prohibits commercial exploitation, ensures long-term donor welfare, and integrates moral incentives that reflect the nation's cultural and religious identity. This includes adopting the moral reciprocity of Singapore's policy, the legal-ethical oversight seen in Iran, and the civic-based solidarity promoted by Chile. The incorporation of *maqāṣid al-sharī‘ah*—especially *ḥifẓ al-nafs, ʿadālah*, and *karāmah insāniyyah* (human dignity)—into Indonesia's regulatory design will ensure that legal protections for organ donors are not merely procedural but also serve as instruments of justice, compassion, and national commitment to human welfare. (Calibri Light-12)

1. **CONCLUSION (Calibri Light, 12 BOLD)**

Legal protection for organ donors in Indonesia is a fundamental necessity for ensuring that organ transplantation is carried out in a manner that is just, ethical, and respectful of human dignity. Although Indonesia has adopted a regulatory framework—such as Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024, and Minister of Health Regulation No. 38 of 2016—these instruments are still limited in addressing the long-term needs of donors, particularly in the areas of post-transplant health care, psychological support, and legal compensation. The current regulations prioritize procedural compliance and trafficking prevention, but they fail to position donors as rights-holders whose welfare must be protected throughout and beyond the donation process.

To fulfill the ethical requirements of justice, organ donors must be treated as legal subjects entitled to complete protection—medically, socially, and legally. A system rooted in reciprocal justice must be developed, whereby those who contribute altruistically to saving lives are guaranteed fairness in return. Comparative experiences from countries such as Iran, Chile, and Singapore show that integrating mechanisms such as regulated compensation, opt-out systems with prioritization, and transparent oversight can increase participation while safeguarding donor rights. When aligned with Indonesian values and legal traditions, these models provide a roadmap for reforming national policies to ensure equity, transparency, and institutional accountability.

From an Islamic legal perspective, organ donation is permissible and encouraged when conducted with respect for life (*ḥifẓ al-nafs*), justice (*ʿadālah*), and the protection of bodily integrity (*ḥurmat al-jasad*). These values demand that donation be voluntary, informed, and exploitation-free. Therefore, reforming Indonesia's transplant framework must rely on positive legal developments and be guided by *maqāṣid al-sharī‘ah* as a moral compass. By harmonizing statutory law with Islamic ethics, Indonesia can develop a transplantation system that is effective in medical terms, fair, socially responsible, and spiritually sound—thus strengthening public trust and upholding the sanctity of both donor and recipient. (Calibri Light-12)

1. **REFERENCES (Calibri Light, 12 Bold)**
2. Abadie, A., & Gay, S. (2006). The impact of presumed consent legislation on cadaveric organ donation: A cross-country study. *Journal of Health Economics, 25*(4), 599–620. <https://doi.org/10.1016/j.jhealeco.2006.01.003>
3. Bakhtiar, H. S., & Maddussila, S. A. (2024). Manipulation of Legal Regulations in Commodification of Organ Transplants: Indonesia Perspective. *Journal of Indonesian Legal Studies, 9*(2), 1067–1106. <https://doi.org/10.15294/jils.v9i2.19157>
4. Beauchamp, Tom L., Childress, J. F. (2019). *Principles of Biomedical Ethics*. Oxford University Press.
5. Budiman, B. (2013). Riset Kesehatan Dasar Dalam Angka. In *Badan Penelitian dan Pengembangan Kesehatan Kementerian Kesehatan RI*.
6. Bunnik, E. M. (2023). Ethics of allocation of donor organs. *Current Opinion in Organ Transplantation, 28*(3), 192–196. <https://doi.org/10.1097/MOT.0000000000001058>
7. Chandler, J. A. (2005). Priority Systems in the Allocation of Organs for Transplant : Should we reward those who have previously agreed to donate ? Forthcoming ( 2005 ) 13 Health Law Journal pp . Assistant Professor Faculty of Law , University of Ottawa Introduction Organ transp. *Health Law Journal*, *13*, 244–246.
8. Dalle Ave, A. L., Sulmasy, D. P., & Bernat, J. L. (2020). The ethical obligation of the dead donor rule. *Medicine, Health Care and Philosophy, 23*(1), 43–50. <https://doi.org/10.1007/s11019-019-09904-8>
9. Elflein, J. (2025). *Global number of organ transplantations 2023*. Statista.Com. https://www.statista.com/statistics/398645/global-estimation-of-organ-transplantations/#:~:text=The kidney is the most,can be challenging and complex.&text=Kidney transplantation%2C or renal transplantation,better access to such procedures.&text=Organs ca
10. El Haque, I. T. P., Sarsintorini, Suparno, & Noor, A. (2023). Ensuring the Health and Safety of Indonesian School Children: Legal Protections in Snack Consumption. *Qubahan Academic Journal, 3*(4), 206–218. <https://doi.org/10.48161/issn.2709-8206>
11. Erkoç Baydar, T. (2024). Human Dignity from an Islamic Perspective: Concepts and Theoretical Base. *Mission Studies, 41*(3), 348–360. <https://doi.org/10.1163/15733831-12341987>
12. Erpiyana, R., Djamaludin, D., & Andoko, A. (2024). Perbandingan Kualitas Tidur Pasien Gagal Ginjal Kronik. *Malahayati Nursing Journal, 6*(5), 2024–2035. <https://doi.org/10.33024/mnj.v6i5.11070>
13. Etheredge, H. R. (2021). Assessing global organ donation policies: Opt-in vs opt-out. *Risk Management and Healthcare Policy, 14*, 1985–1998. <https://doi.org/10.2147/RMHP.S270234>
14. Fazli, F., & Hemat, T. (2023). Organ Donation and Transplantation and Their Ethics in the Light of Islamic Shariah. *European Journal of Philosophy, Culture and Religion, 7*(1), 56–63. <https://doi.org/10.47672/ejpcr.1481>
15. Gadour, E. (2025). Lesson learnt from 60 years of liver transplantation. *World Journal of Transplantation, 15*(1), 1–24. <https://doi.org/10.5500/wjt.v15.i1.93253>
16. Garcia-Ochoa, C., et al. (2021). Impact of Perioperative Complications on Living Kidney Donor Health. *Canadian Journal of Kidney Health and Disease, 8*. <https://doi.org/10.1177/20543581211037429>
17. Ghahramani, N. (2016). Paid Living Donation and Growth of Deceased Donor Programs. *Transplantation, 100*(6), 1165–1169. <https://doi.org/10.1097/TP.0000000000001164>
18. Hansen, S. L., Pfaller, L., & Schicktanz, S. (2021). Public health promotion strategies in Germany. *Bioethics, 35*(2), 161–172. <https://doi.org/10.1111/bioe.12774>
19. Indriyanto, D., Tedjosaputro, L., Tumangkar, T., & Noor, A. (2023). Understanding Human Organ Trading. *Qubahan Academic Journal, 3*(4), 206–218. <https://doi.org/10.48161/qaj.v3n3a155>
20. Iyer, T. K. K. (1987). Kidneys For Transplant - “Opting Out” Law In Singapore. Forensic Science International, 35(December 1986), 131–140.
21. Kementerian Kesehatan RI. (2018). Laporan Riskesdas 2018 Nasional.pdf. In Lembaga Penerbit Balitbangkes (p. hal 156). [https://repository.badankebijakan.kemkes.go.id/id/eprint/3514/1/Laporan Riskesdas 2018 Nasional.pdf](https://repository.badankebijakan.kemkes.go.id/id/eprint/3514/1/Laporan%20Riskesdas%202018%20Nasional.pdf)
22. Kizer, K. W., English, R. A., & Hackmann, M. (2022). Realizing the Promise of Equity in the Organ Transplantation System
23. Kolber, A. J. (2003). A Matter of Priority: Transplanting Organs Preferentially to Registered Donors. Rutgers Law Review, 55, 671.
24. Lakkis, F. G. (2023). The successes and challenges of organ transplantation. *Open Access Government, 40*(1), 28–29. <https://doi.org/10.56367/oag-040-11001>
25. Mahdavi-Mazdeh, M. (2012). The Iranian model of living renal transplantation. *Kidney International, 82*(6), 627–634. <https://doi.org/10.1038/ki.2012.219>
26. Mahmoud, A. (2022). Chapman University Digital Commons Islamic Bioethics : National Regulations and Guidelines of Human Stem Cell Research in the Muslim World Islamic Bioethics : National Regulations and Guidelines of Human Stem Cell Research in the Muslim World.
27. National Academies of Sciences, Engineering, and Medicine. 2022. Realizing the promise of equity in the organ transplantation system. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26364>
28. Olawade, D. B., et al. (2024). Transforming organ donation and transplantation. *European Journal of Internal Medicine, 133*, 14–24. <https://doi.org/10.1016/j.ejim.2024.11.010>
29. Qu, Z., et al. (2021). Systematic review on donor estimations. *Transplantation Reviews, 35*(4). <https://doi.org/10.1016/j.trre.2021.100638>
30. Rahardjo, S. (2000). *Ilmu Hukum*. PT. Citra Aditya Bhakti.
31. Rawls, J. (1999). A Theory of Justice. The Belknap Press of Harvard University Press.
32. Raza, F., & Neuberger, J. (2022). Consent in organ transplantation. *BMC Medical Ethics, 23*(1), 1–10. <https://doi.org/10.1186/s12910-022-00791-y>
33. Rouahna, N. (2025). The controls of the Human Organs Removal and Transplantation Under the Algerian Health Code صﺧﻠﻣ Introduction : Revue Des Sciences Humaines, June, 55–72.
34. Shroff, S. (2009). Legal and ethical aspects of organ donation. *Indian Journal of Urology, 25*(3), 348–355. <https://doi.org/10.4103/0970-1591.56203>
35. Sutikno, E., Irianto, S., Kusumaningrum, A. E., & Noor, A. (2024). Improving Legal Protection for People with Mental Illness. *Pakistan Journal of Life and Social Sciences, 22*(2), 7478–7486. <https://doi.org/10.57239/PJLSS-2024-22.2.00563>
36. Tober, D. M. (2007). Organ sale in Iran. *Body and Society, 13*(3), 151–170. <https://doi.org/10.1177/1357034X07082257>  
    Vanholder, R., et al. (2021). Organ donation and transplantation. *Nature Reviews Nephrology, 17*(8), 554–568. <https://doi.org/10.1038/s41581-021-00425-3>
37. Zúñiga-Fajuri, A. (2015). Presumed consent and allocation priority: Chile. *Bulletin of the World Health Organization, 93*(3), 199–202. <https://doi.org/10.2471/BLT.14.139535>