

# Manipulation of Legal Regulations in Commodification of Organ Transplants: Indonesia Perspective

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## Abstract

Organ transplantation serves as a critical solution for patients in need of organ donors. However, the pressing demand for organs, coupled with donors' economic hardships, has raised concerns about organ transplants being conducted for commercial purposes. This study aims to analyze the legal framework governing organ transplantation and explore the practices observed within society. Using secondary data comprising legislation, scholarly articles, scientific research, and online news reports, this study identifies significant inconsistencies and potential ambiguities within the regulatory framework. Current legal provisions stipulate that organ transplants must be conducted solely for humanitarian purposes and explicitly prohibit commercialization. Yet, government regulations create a loophole by allowing donors to receive awards, which could be exploited for commercial gains. To prevent the commercialization of organ transplants, it is essential to ensure that the relationship between donors and recipients is based on familial or kinship ties.

Such relationships foster the principles of voluntariness and altruism, which are central to ethically sound transplantation practices. Strengthening the legal framework to eliminate ambiguities and promoting public awareness about ethical transplantation practices are imperative steps to uphold the integrity of organ donation and transplantation. This study underscores the importance of aligning regulatory frameworks with ethical principles to address the challenges posed by commercialization while ensuring equitable access to life-saving organ transplants.

**KEYWORDS** *Legal Manipulation, Commodification, Organ Transplants*

## Introduction

Human organ and/or tissue transplantation is a very useful procedure for patients with severe organ disorders.<sup>1</sup> Although organ and/or tissue transplantation has long been known and continues to develop in the medical world, this medical action cannot be done just like that because it still has to pay attention to non-medical aspects, namely religion, law, culture, ethics and morality.<sup>2</sup> It is common knowledge that today's human organ transplants have become more common. The transplanted organs are now not only human kidneys and hearts, but now extend to the liver and other body organs, including ligaments and nerves which are tissues in the human body.<sup>3</sup> In organ and tissue transplantation, usually more are obtained from the patient's family.<sup>4</sup> Special provisions are usually made for donors, such as organ compatibility between donors and patients, donor health, blood type similarity, immunity, and so on as well as reasons why donors must come from close relatives for reasons of humanitarian ethics.<sup>5</sup> The high demand has made trafficking in

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<sup>1</sup> Chen, Fa-Ming, and Xiaohua Liu. "Advancing biomaterials of human origin for tissue engineering." *Progress in Polymer Science* 53 (2016): 86-168.

<sup>2</sup> Handayani, Trini. "Criminal Law Functionalization of Kidney Trafficking for Transplant Purposes." *Jurnal Pembaharuan Hukum* 8, no. 3 (2021): 420-437.

<sup>3</sup> Sari, Ariella Gitta. "Kejahatan Perdagangan Organ Manusia Ditinjau Dari Hukum Positif." *Transparansi Hukum* 4, no. 2 (2021).

<sup>4</sup> Susanto, Agus. "Reformulasi Kebijakan Tentang Transplantasi Organ Ginjal Manusia." *Jurnal Ilmiah Dunia Hukum* 3, no. 2 (2019): 114-131.

<sup>5</sup> Machado, Nora. *Using the bodies of the dead: Legal, ethical and organisational dimensions of organ transplantation*. (London: Routledge, 2019).

human organs on the black market more explosive until now.<sup>6</sup> In this case, not only illegal elements are involved, but it is also possible that hospitals and medical staff are involved in the practice.<sup>7</sup> However, humanity is used as an excuse or basis to disguise the involvement of related elements. Not only individuals are tempted to profit from the sale of human organs, this also causes people to deliberately sell their own organs, because for some people this method is a very easy and fast way to get financial benefits or very large profits.<sup>8</sup>

So far, research on human body transplantation in law, especially in Indonesia, has three study trends. First, a study related to the regulation of the prohibition of organ transplantation with the aim of commercializing both according to positive law and Islamic law.<sup>9</sup> Second, studies related to law enforcement against perpetrators of illegal organ transplants.<sup>10</sup> Third, studies

<sup>6</sup> Bowden, Jacqueline. "Feeling Empty? Organ Trafficking & Trade: The Black Market for Human Organs." *Intercultural Human Rights Law Review* 8, no. 1 (2013): 451-495.

<sup>7</sup> Ronaldo, Reza, Agus Dedi Subagja, and Ade Suparman. "Efektivitas Pelayanan Calon Pekerja Migran Indonesia Pada Layanan Terpadu Satu Atap Dinas Tenaga Kerja Dan Transmigrasi Kabupaten Subang." *The World of Public Administration Journal* 2, no. 2 (2020): 110-125.

<sup>8</sup> Hamzani, Muhammad Nur. "Perdagangan Organ Tubuh Manusia Dalam Perspektif Hukum Pidana." *Journal of Law (Jurnal Ilmu Hukum)* 6, no. 2 (2021): 506-520.

<sup>9</sup> Firmansyah, Yohanes, Yana Sylvana, and Hanna Wijaya. "Transplantasi organ tubuh manusia dalam perspektif hukum positif Indonesia." *Jurnal Medika Hutama* 2, no. 2 Januari (2021): 524-532; Nursanthi, Aji Titin Roswitha. "Transplantasi Organ Tubuh Manusia Dalam Perspektif Hukum Islam." *The Juris* 4, no. 1 (2020): 1-11; Usman, Mohammad. "Transplantasi Organ Tubuh Dalam Pandangan Islam." *Pancawahana: Jurnal Studi Islam* 15, no. 1 (2020): 154-162; Wibisono, Bambang. "Penegakan Hukum Pidana Terhadap Donor Transplantasi Organ Tubuh Manusia Yang Bersifat Komersil Dikaitkan Dengan Hak Seseorang Atas Tubuhnya (The Right of Self-Determination)." *Tunas Medika: Jurnal Kedokteran dan Kesehatan* 6, no. 2 (2020): 65-69; Nisa, Afifatin, and Yuni Safitri. "Transplantasi Organ Tubuh dalam Perpektif Yuridis." *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 6, no. 2 (2022): 455-461; Batubara, Sonya Arini, Monica Agrianti Tanwin, and Yosephine Florentina Anggadinata. "Transplantasi Organ Tubuh Pada Mayat Perspektif Hukum Positif Indonesia." *DIVERSI: Jurnal Hukum* 7, no. 1 (2021): 129-150.

<sup>10</sup> Bunga, Dewi. "Politik Hukum Pidana terhadap Tindakan Transplantasi Organ Tubuh." *Jurnal Advokasi* 7, no. 1 (2017): 38-47; Gani, Ruslan Abdul, and Yudi Armansyah. "Penegakan Hukum Kasus Jual Beli Organ Tubuh di Indonesia." *Fenomena* 8, no. 2 (2016): 159-180; Paminto, Saptaning Ruju. "Dehumanisasi Penjualan Organ Tubuh Manusia Berdasarkan Hukum Positif." *Jurnal Wawasan Yuridika* 1, no. 2 (2017): 174-190; Pasaribu, Mertty, Muhammad Hamdan, and Rafiqoh Lubis. "Perdagangan Organ Tubuh Manusia Untuk Tujuan Transplantasi Dari Perspektif Kebijakan Hukum Pidana di Indonesia." *Jurnal Mahupiki* 2, no. 1 (2014); Saputra, Romi. "Pertanggungjawaban Pidana Terhadap Tindak Pidana Perdagangan Organ

related to legal certainty for organ donors in the implementation of organ transplants.<sup>11</sup> Based on the three trends of the study, no one has examined the limitation of interpretation between humanitarian and commercial purposes which triggers the emergence of manipulation of legal interpretation of organ transplantation.

This study was carried out to examine and describe the manipulation of legal arrangements in the commodification of organ transplantation which was reviewed through three questions, namely (a) does the legal regulation of organ transplantation have clarity in its regulatory norms?, (b), how can humanitarian reasons with dimensions of need be met? deceive law enforcement?, (c) how is the application of the voluntary principle in the implementation of organ transplantation?. The background of this paper is that the legal arrangements related to organ transplantation are regulated in Law No. 36 of 2009 and Government Regulation No. 53 of 2021, which contains inconsistencies and multiple interpretations where organ transplants are only for humanity and are prohibited for commercial purposes, but are given concessions in the form of allowing awards to donors. In addition, the ambiguity of the meaning of humanitarian reasons with dimensions or wrapped in economic reasons makes law enforcers seem to be deceived by commercial organ transplant actors.

Organ transplantation has become a hot issue in the community because it is not only carried out for humanitarian and health purposes but also has economic value for the practice of buying and selling organs. This study focuses on the interpretation of legal arrangements related to organ transplantation and the application of voluntary principles in preventing commercialization. This study is a qualitative research in which data is collected through tracing legal

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Tubuh Manusia Untuk Kepentingan Transplantasi Organ Dalam Hukum Pidana Indonesia." *JOM Fakultas Hukum* 3, no. 2 (2016); Amashya, Kevin, Dina Tsalist Wildana, and Sapti Prihatmini. "Penegakan Hukum Pidana terhadap Tindak Pidana Perdagangan Orang dengan Tujuan Eksploitasi Organ Tubuh Ginjal Melalui Media Sosial Facebook." *Interdisciplinary Journal on Law, Social Sciences and Humanities* 3, no. 1 (2022): 34-56; Jaya, I. Wayan Merta, Anak Agung Sagung Laksmi Dewi, and I. Maoe Hinggu Widyantara. "Akibat Hukum Jual Beli Organ Tubuh Manusia dalam Hukum Positif di Indonesia." *Jurnal Konstruksi Hukum* 2, no. 3 (2021): 661-666; Linanda, Ayu, Iva Yulia Munawarah, and Siti Indah Kurnia Sari. "Transplantasi Organ Tubuh Ginjal Dalam Perspektif Kebijakan Kriminal." *Collegium Studiosum Journal* 3, no. 1 (2020): 64-76.

<sup>11</sup> Christianto, Hwian. "Konsep Hak Seseorang Atas Tubuh Dalam Transplantasi Organ Berdasarkan Nilai Kemanusiaan." *Mimbar Hukum* 23, no. 1 (2011): 19-37; Gani, Ruslan Abdul, and Yudi Armansyah. "Penegakan Hukum Kasus Jual Beli Organ Tubuh di Indonesia." *Fenomena* 8, no. 2 (2016): 159-180.

regulations, reviewing documents and searching online news. An investigation of legal regulations was carried out to see how the regulations in the legislation related to organ transplantation were carried out. The review document was conducted to see other scientific research articles that had previously reviewed related to organ transplantation. Searching online news is done to find information related to facts that have occurred in the public, especially the reasons for organ transplants. This study uses secondary data consisting of primary legal materials in the form of Law No. 36 of 2009 and Government Regulation No. 53 of 2021, secondary legal materials in the form of articles and research that discuss in depth the legal arrangements for organ transplantation in Indonesia as well as tertiary legal materials in the form of online news that reveal facts about organ transplants carried out by the public. Data collection is done by first collecting the legal regulations or regulations governing organ transplantation. Furthermore, a review of articles or research that directly discusses organ transplantation from a legal perspective is carried out. Then do a search on online news that provides information about facts that actually occur in the public, especially the reasons behind the practice of organ transplantation. The data collected was analyzed by interpretation and then the results of the interpretation were described to draw conclusions on the issue of manipulation of legal regulations in the commodification of organ transplants.

## Legal Manipulation

Legal manipulation is a deliberate engineering process of legal arrangements by adding, hiding, omitting, and obscuring every information, reality, and legal fact for certain purposes.<sup>12</sup> Correspondingly, Morrison<sup>13</sup> writes that legal manipulation is carried out to adjust legal arrangements to the wishes of certain parties where manipulation is applied through planting ideas, dogmas, and doctrines in the understanding, attitudes, and beliefs of individuals and groups. Kleit<sup>14</sup> states that legal manipulation is an illegal legal change process to create convenience for certain parties. The occurrence of manipulation in legal arrangements is influenced by several factors such as legal

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<sup>12</sup> Kilovaty, Ido. "Legally Cognizable Manipulation." *Berkeley Technology Law Journal* 34, no. 2 (2019).

<sup>13</sup> Morrison, Fiona, E. Kay M. Tisdall, and Jane EM Callaghan. "Manipulation and domestic abuse in contested contact—Threats to children's participation rights." *Family Court Review* 58, no. 2 (2020): 403-416.

<sup>14</sup> Kleit, Andrew N. "What is market manipulation? Lessons from Barclays and Powhatan." *The Electricity Journal* 32, no. 1 (2019): 1-5.

inconsistencies and economic needs. Furthermore, Greenstein<sup>15</sup> write that legal arrangements can be manipulated due to bias and inconsistent law making and application, especially because they are used to benefit and provide access to powerful groups. Therefore, legal manipulation is related to a structured and systematic context, especially for the benefit of certain parties and often damages the established democratic legal system.

Legal manipulation has become a phenomenon that often occurs in various countries. In Indonesia, not a few laws are manipulated based on objectives that are contrary to the democratic values of society.<sup>16</sup> Kenedi<sup>17</sup> mentions that many cases of legal manipulation are caused by (1) lack of expertise, skills, and morality of law enforcement officers; (2) a system of judicial institutions that have not complied with the principles of justice; and (3) the lack of community participation in practicing legal values so that laws and regulations often experience changes in facts and truth in society. Correspondingly, manipulation of power also occurs in China.<sup>18</sup> Not a few Chinese people manipulate the law to help their distribution process, especially in regulating and trading products to increase their economic benefits.<sup>19</sup> According to Marcotte<sup>20</sup>, Law is an object that is very exciting to be used and manipulated properly by producers and the market. Therefore, in some countries the law is manipulated to obtain economic goals and interests.

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<sup>15</sup> Greenstein, Claire, and Cole J. Harvey. "Trials, lustration, and clean elections: The uneven effects of transitional justice mechanisms on electoral manipulation." *Democratization* 24, no. 6 (2017): 1195-1214.

<sup>16</sup> Aldyan, Arsyad, Adi Sulistiyono, and Pujiyono, "The urgency of law enforcement on economic crimes in stock trading within the stock market (A study in Indonesia)," *International Journal of Advanced Science and Technology*, 2019; Hidayat, Suryadi, Galang Asmara, dan M Ilwan, "Election Monitoring System in Indonesia: Comparative Study Between Simultaneous and Non-Simultaneous Selection and Member of the West Lombok Regency Election Commission (KPU)," *International Journal of Humanities, Religion and Social Science* (2018)

<sup>17</sup> Kenedi, John. "Urgensi Penegakan Hukum dalam Hidup Berbangsa dan Bernegara." *El-Afkar: Jurnal Pemikiran Keislaman Dan Tafsir Hadis* 5, no. 2 (2016): 51-62.

<sup>18</sup> Zhang, Xuehui, et al. "Does environmental law enforcement matter for financial reporting quality?." *The North American Journal of Economics and Finance* 57 (2021): 101445.

<sup>19</sup> Zhang et al.

<sup>20</sup> Roxanne D. Marcotte, "Brand Islam: The Marketing and Commodification of Piety," *Islam and Christian-Muslim Relations* 31, no. 1 (2020): 106–109.

## Commodification

The term commodification according to Fleischer<sup>21</sup> is a form of transformation of goods, services, ideas, and people into a commodity or object that is traded. Quoting from Arjun Appadurai, commodities generally refer to anything that is intended to be 'exchanged' and has an economic value. Furthermore, Appadurai<sup>22</sup> divides commodification into 4 components, namely (1) everything that has value, both exchange value and use value; (2) an assessment of everything that is then agreed upon by the public; (3) the desire for 'desire' which includes the feeling to always have everything; and (4) 'demand' requests that contain elements of need so that not a few people ask and want for their interests. In line with that, Batubara<sup>23</sup> writes that commodification is a discourse on exchange, especially the exchange of interests in order to obtain the maximum benefit from the actors. Therefore, commodification shows the process of how products are framed in three dimensions, namely having use values, exchange values, and prices that are in accordance with market interests.<sup>24</sup>

The commodification process has several impacts on people's lives. First, the commodification process changes the life values used by humans into values that have interests and can be exchanged. Ni'am<sup>25</sup> mention that the commodification process has obscured the human values that exist in society. Second, the product or object becomes inauthentic because there is interference

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<sup>21</sup> Fleischer, Rasmus. "If the song has no price, is it still a commodity?: Rethinking the commodification of digital music." *Culture Unbound* 9, no. 2 (2017): 146-162.

<sup>22</sup> Appadurai, Arjun. "Disjuncture and difference in the global cultural economy." *Theory, Culture & Society* 7, no. 2-3 (1990): 295-310.

<sup>23</sup> Malik, Abdul, and Ariyandi Batubara. "Religion Commodification in Political Activities in Seberang Kota Jambi." *Jurnal Kontekstualita* 29, no. 2 (2014): 101. See also Fakihudin, Rifki. "Formulation of Public Policy Based on Islamic Legal Studies as a Solution in the Contemporary Era." *Contemporary Issues on Interfaith Law and Society* 2, no. 2 (2023): 145-166.

<sup>24</sup> Smessaert, Jacob, Antoine Missemer, and Harold Levrel. "The commodification of nature, a review in social sciences." *Ecological Economics* 172 (2020): 106624; Young, Martin, and Francis Markham. "Tourism, capital, and the commodification of place." *Progress in Human Geography* 44, no. 2 (2020): 276-296; Muslikhin, Muslikhin, et al. "The commodification, spatialization and structuration of social media in the Indonesian cyber media news." *Media and Communication* 9, no. 2 (2021): 110-118.

<sup>25</sup> Ni'am, Lubabun, Stasja Koot, and Joost Jongerden. "Selling captive nature: Lively commodification, elephant encounters, and the production of value in Sumatran ecotourism, Indonesia." *Geoforum* 127 (2021): 162-170.

from industrial interests.<sup>26</sup> Third, not a few of commodifications manipulate to gain profits.<sup>27</sup> Fourth, there is standardization and uniformity of commodified objects. Fifth, commodification has hegemonized a society.<sup>28</sup> In Indonesia, one form of commodification is the trade in body parts through official and unofficial organ transplants.<sup>29</sup> In this context, the body undergoes a transformation process that follows the flow of commodity production and is designed as a product that has economic value and can be commercialized.<sup>30</sup> Accordingly, there is no concern for consumers to buy and obtain human body parts in the market.<sup>31</sup>

## Organ Transplant

Organ transplantation has become an alternative method used for healing diseases in medicine.<sup>32</sup> According to Fishman<sup>33</sup>, organ transplantation is a series of processes and actions taken by doctors to move tools or tissues of human organs, both those originating from the person's own body or other people's bodies to replace the patient's organs or tissues that are not functioning properly. In its development, it is not only the heart that can be transplanted but also the kidneys, liver, lungs and other body tissues such as muscle and

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<sup>26</sup> Norman, Armando H., Andrew J. Russell, and Claudia Merli. "The Quality and Outcomes Framework: Body commodification in UK general practice." *Social Science & Medicine* 170 (2016): 77-86.

<sup>27</sup> Rinehart, Nicholas T. "The man that was a thing: Reconsidering human commodification in slavery." *Journal of Social History* 50, no. 1 (2016): 28-50.

<sup>28</sup> Mardatillah, Annisa, et al. "Riau Malay food culture in Pekanbaru, Riau Indonesia: commodification, authenticity, and sustainability in a global business era." *Journal of Ethnic Foods* 6, no. 1 (2019): 1-10.

<sup>29</sup> Bubandt, Nils. "From head-hunter to organ-thief: verisimilitude, doubt, and plausible worlds in Indonesia and beyond." *Oceania* 87, no. 1 (2017): 38-57.

<sup>30</sup> Soukup, Martin, et al. "The aura of tattoos: The commodification of tradition in Buscalan village, the Philippines." *Asian Journal of Social Science* 49, no. 3 (2021): 153-160.

<sup>31</sup> Brennan, Jason, and Peter Jaworski. "In defense of commodification." *Moral Philosophy and Politics* 2, no. 2 (2015): 357-377.

<sup>32</sup> Zhu, Xuefen, et al. "Changes in health-related quality of life during the first year in lung transplant recipients." *Transplantation Proceedings*. Vol. 53. No. 1. Elsevier, 2021; Bezinover, Dmitri, and Fuat Saner. "Organ transplantation in the modern era." *BMC Anesthesiology* 19 (2019): 1-4.

<sup>33</sup> Green, M. "Introduction: infections in solid organ transplantation." *American Journal of Transplantation* 13 (2013): 3-8.



nervous tissue.<sup>34</sup> In this context, human organs for transplantation come from two sources, the most common being donors who have died and the second source, namely donors who are still alive and can donate all of their organs such as kidneys, liver, and lungs.<sup>35</sup> Furthermore, Ambagstheer<sup>36</sup> stated that the survival of patients who have received organ transplants has increased drastically so that transplantation is an effective way to heal and provide life for patients.

Many people need an organ transplant. In Turkey, the demand for human organs has increased in 2019 where 256.238 individuals are waiting and needing organ transplantation.<sup>37</sup> The increasing need for organ transplants makes some people trade organs illegally and not in accordance with the provisions of the legislation. In Indonesia, not a few people practice buying and selling organs to get money to meet their daily needs. Furthermore, Damayanti<sup>38</sup> mentioned that usually some syndicates offer people who cannot afford to donate their organs with the lure of money. Not only in Indonesia, in the United States a number of companies have obtained freely donated bodies from individuals or their families and distributed them for use in various purposes so that the government began to provide special regulations for the distribution of human organs.<sup>39</sup> Therefore, the need to make human organs a commodity, including being regulated, bought, sold, and used for economic gain.<sup>40</sup>

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<sup>34</sup> Ivanics, Tommy, et al. "Experience with solid organ transplantation in patients with previous immunotherapy treatment is still limited but this is changing: the survey-based view of the global transplant society." *Transplant Immunology* 73 (2022): 101637.

<sup>35</sup> Ambagstheer, Frederike, Damián Zaitch, and Willem Weimar. "The battle for human organs: Organ trafficking and transplant tourism in a global context." *Global Crime* 14, no. 1 (2013): 1-26.

<sup>36</sup> Ambagstheer, Zaitch, dan Weimar.

<sup>37</sup> Soyly, Dilek, Ahmet Özdemir, and Ayşe Soyly. "Does religious attitude affect organ donation and transplantation?." *Transplant immunology* 71 (2022): 101555.

<sup>38</sup> Damayanti, Fitriani Nur. "Paradigma Penegakan Hukum Transplantasi Organ Berbasis Transedental." *Prosiding Seminar Nasional & Call for Papers Hukum Transedental*. 2018.

<sup>39</sup> Champney, Thomas H. "The business of bodies: Ethical perspectives on for-profit body donation companies." *Clinical Anatomy* 29, no. 1 (2016): 25-29.

<sup>40</sup> Columb, Seán. "Excavating the organ trade: an empirical study of organ trading networks in Cairo, Egypt." *British Journal of Criminology* 57, no. 6 (2017): 1301-1321; Vijayalakshmi, Poreddi, et al. "Knowledge, attitude and behaviour of the general population towards organ donation: An Indian perspective." *National Medical Journal of India* 29, no. 5 (2016): 248-250; Danovitch, Gabriel M. "The high cost of organ transplant commercialism." *Kidney International* 85, no. 2 (2014): 248-250.

# Legal Regulation of Organ Transplantation in Various Countries

## A. United States

In the United States, the regulation of organ transplantation involves a sophisticated blend of federal laws, regulatory bodies, ethical guidelines, and state legislation. This framework ensures that organ donation and transplantation are conducted ethically, fairly, and safely. The National Organ Transplant Act (NOTA) of 1984 provides the fundamental legal framework for organ transplantation in the U.S.<sup>41</sup> Enacted to address the severe shortage of organs and to prevent the commercialisation of body parts, NOTA prohibits the purchase and sale of human organs.<sup>42</sup> It sets penalties for such activities and established the Organ Procurement and Transplantation Network (OPTN).<sup>43</sup> This body ensures the ethical allocation and distribution of organs, reinforcing the integrity of the transplantation system and helping to maintain public trust in the process. The Organ Procurement and Transplantation Network (OPTN), managed by the United Network for Organ Sharing (UNOS) under a federal contract, is responsible for maintaining a national registry for organ matching and allocation.<sup>44</sup> UNOS ensures that the distribution of organs is conducted fairly and equitably, based on medical criteria and urgency rather than financial or social status. This approach upholds the principles of justice and impartiality in the critical area of organ transplantation. The Health Resources and Services Administration (HRSA) plays a critical role in overseeing the functionality of the Organ Procurement and Transplantation Network (OPTN), ensuring it adheres to federal policies while enhancing the

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<sup>41</sup> Leppke, Susan, et al. "Scientific Registry of Transplant Recipients: collecting, analyzing, and reporting data on transplantation in the United States." *Transplantation Reviews* 27, no. 2 (2013): 50-56.

<sup>42</sup> Williams, Kristy Lynn, Marisa Finley, and J. James Rohack. "Just Say No to NOTA: Why the Prohibition of Compensation for Human Transplant Organs in NOTA Should Be Repealed and a Regulated Market for Cadaver Organs Instituted." *American Journal of Law and Medicine* 40, no. 4 (2014): 275-329.

<sup>43</sup> McDiarmid, S. V., T. L. Pruett, and W. K. Graham. "The oversight of solid organ transplantation in the United States." *American Journal of Transplantation* 8, no. 4 (2008): 739-744.

<sup>44</sup> Gentry, Sommer E., and Dorry L. Segev. "Restructuring the Organ Procurement and Transplantation Network contract to achieve policy coherence and infrastructure excellence." *American Journal of Transplantation* 19, no. 6 (2019): 1622-1627.

effectiveness and efficiency of organ procurement and transplantation.<sup>45</sup> HRSA is tasked with the certification of Organ Procurement Organizations (OPOs), which are instrumental in the donation of organs across the United States. This oversight is vital for maintaining the integrity and reliability of the organ donation system, ensuring that OPOs meet stringent performance standards to maximize the availability and quality of organs for transplant.

Additionally, state legislation plays a complementary role to federal regulations, addressing the specifics of organ donation within each jurisdiction. This includes establishing protocols for confirming death such as criteria for brain death setting up donor registries, and promoting awareness and education about organ donation. A significant aspect of state involvement is the integration of organ donor registration within the driver's licensing process. This strategy significantly enhances the visibility and accessibility of organ donation, making it easier for individuals to register as donors. Such legislative measures at the state level ensure a robust framework that supports the federal system, promoting a cohesive and efficient network for organ donation and transplantation that ultimately saves more lives and improves outcomes for recipients across the country.

## B. United Kingdom

In the United Kingdom, the legal framework governing organ transplantation is primarily set out in the Human Tissue Act 2004 for England, Wales, and Northern Ireland, and the Human Tissue (Scotland) Act 2006 for Scotland. These acts were implemented to ensure that human organs and tissues are used safely and ethically for transplantation, research, and teaching purposes. The key regulator under these acts is the Human Tissue Authority (HTA), which oversees the removal, storage, use, and disposal of human organs and tissues. The HTA ensures that specific consent is obtained for organ donation, except in Wales, where an opt-out system was introduced by the

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<sup>45</sup> Quintini, Cristiano, et al. "Implementing an innovated preservation technology: the American society of transplant surgeons' (ASTS) standards committee white paper on ex situ liver machine perfusion." *American Journal of Transplantation* 18, no. 8 (2018): 1865-1874.

Human Transplantation (Wales) Act 2013.<sup>46</sup> Under this system, all adults are presumed to consent to organ donation unless they have explicitly opted out.<sup>47</sup>

The legal framework in the UK focuses on consent as the cornerstone of lawful organ and tissue donation.<sup>48</sup> The regulations require that clear and informed consent is obtained, either from the donor before death or from the next of kin after death.<sup>49</sup> The HTA provides guidelines and codes of practice that detail the procedures for obtaining consent, ensuring ethical compliance across medical facilities. The UK also actively participates in international organ exchange programs, adhering to guidelines that prevent organ trafficking and ensure the ethical procurement of organs. The NHS Blood and Transplant (NHSBT) is responsible for the national transplant database and organ matches, prioritizing patients based on medical need, compatibility, and waiting time.

## C. New Zealand

In New Zealand, organ transplantation is governed by various laws and regulations aimed at ensuring ethical practices, safeguarding the rights of donors and recipients, and maintaining the safety and quality of transplantation procedures. The key legislation and regulatory bodies involved in organ transplantation in New Zealand include the Human Tissue Act 2008 and the Ministry of Health. The Human Tissue Act 2008 sets out the legal framework for the removal, use, and storage of human tissue, including organs, for transplantation, research, and therapeutic purposes.<sup>50</sup> The Act establishes principles for consent, the protection of donors' rights, and the regulation of transplantation activities. Under the Human Tissue Act, explicit consent is required from individuals before their organs or tissues can be removed for transplantation purposes. This consent can be given either during the

<sup>46</sup> The Human Tissue Authority, "Legislation," 2024. <https://www.hta.gov.uk/guidance-professionals/hta-legislation>.

<sup>47</sup> Page, Nicholas, Gary Higgs, and Mitchel Langford. "An exploratory analysis of spatial variations in organ donation registration rates in Wales prior to the implementation of the Human Transplantation (Wales) Act 2013." *Health & Place* 52 (2018): 18-24.

<sup>48</sup> Consolo, Henrietta K., and Stephen J. Wigmore. "Ethical and legal issues associated with organ donation and transplantation." *Surgery* 32, no. 7 (2014): 333-337.

<sup>49</sup> McHanwell, Stephen, et al. "The legal and ethical framework governing Body Donation in Europe: A review of current practice and recommendations for good practice." *European Journal of anatomy* 12, no. 1 (2008): 1-24.

<sup>50</sup> Douglas, Thomas M., and Nicholas M. Douglas. "Absence of significant dissent should be sufficient for deceased donor organ procurement in New Zealand." *Australian and New Zealand Journal of Public Health* 33, no. 5 (2009): 449-454.

individual's lifetime or by their next of kin after death. The Act also provides guidelines for the determination of death and the procedures for organ removal and transplantation. Additionally, the Act prohibits the commercial trade of human organs and tissues, ensuring that transplantation activities are conducted on an ethical basis and without financial exploitation.

The Ministry of Health plays a crucial role in regulating organ transplantation in New Zealand. It establishes national policies, guidelines, and standards for transplantation services and oversees the implementation of these regulations by healthcare providers. The Ministry of Health works closely with District Health Boards (DHBs) and transplant centers across the country to ensure compliance with legal requirements and to monitor the quality and safety of transplantation procedures. It also collaborates with organizations involved in organ donation and transplantation, such as the New Zealand Blood Service and the Organ Donation New Zealand (ODNZ) agency. ODNZ is responsible for promoting organ donation and coordinating donation activities nationwide. It works to raise awareness about the importance of organ donation, facilitate the registration of donors, and support healthcare providers in identifying and approaching potential donors and their families. ODNZ also maintains the national organ donor registry, which records individuals' consent to donate their organs and tissues after death. This registry enables healthcare providers to quickly identify potential donors and ensure that their wishes regarding organ donation are respected.<sup>51</sup>

## D. South Korea

In South Korea, organ transplantation is regulated by comprehensive legal frameworks and governmental bodies aimed at ensuring ethical practices, protecting the rights of donors and recipients, and maintaining the safety and quality of transplantation procedures. The key legislation and regulatory bodies involved in organ transplantation in South Korea include the Bioethics and Safety Act, the Korean Network for Organ Sharing (KONOS), and the Ministry of Health and Welfare.<sup>52</sup> The Bioethics and Safety Act, enacted in 2005, provides the legal framework for various aspects of biomedicine, including organ transplantation, stem cell research, and genetic testing. This

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<sup>51</sup> Coombs, Maureen, and Martin Woods. "Organ Donation Practices and End-of-life Care: Unusual Bedfellows or Comfortable Companions?." *Bioethics Beyond Altruism: Donating and Transforming Human Biological Materials* (2017): 239-263.

<sup>52</sup> Lee, Mi-Sung, et al. "Safety of donation from brain-dead organ donors with central nervous system tumors: analysis of transplantation outcomes in Korea." *Transplantation* 104, no. 3 (2020): 460-466.

act governs the principles of informed consent, patient confidentiality, and the protection of human rights in medical research and practice. Under the Bioethics and Safety Act, explicit consent is required from individuals or their legal representatives for organ donation, whether the donation is made during the individual's lifetime or after death. The act also prohibits the sale and commercial trade of organs, ensuring that transplantation activities are conducted on an ethical basis and without financial exploitation.

Korean Network for Organ Sharing (KONOS), KONOS was established in 2000 as a governmental organization responsible for managing organ transplantation and donation activities in South Korea. KONOS oversees the allocation and distribution of organs, maintains a national waiting list for transplantation, and coordinates efforts to increase organ donation rates. KONOS operates a centralized system for organ allocation based on medical urgency, compatibility, and fairness. This system aims to ensure equitable access to transplantation services and to prioritize patients with the greatest medical need.<sup>53</sup> The Ministry of Health and Welfare plays a central role in regulating and overseeing organ transplantation in South Korea. It formulates national policies, guidelines, and standards for transplantation services and ensures compliance with legal requirements by healthcare providers and transplant centers. The Ministry of Health and Welfare works closely with KONOS and other relevant agencies to monitor the quality and safety of transplantation procedures, enforce regulations, and address emerging issues in organ transplantation.

## Inconsistency & Multiple Interpretations of Organ Transplant Law

Legal arrangements related to organ transplantation in Indonesia are regulated in Law No. 36 of 2009 and Government Regulation No. 53 of 2021. To know clearly the legal arrangements related to organ transplantation, it can be seen in the table:

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<sup>53</sup> Ahn, Curie, et al. "Improving self-sufficiency in organ transplantation in Korea." *Korean Journal of Transplantation* 35, no. 3 (2021): 137-142; Song, S. H., et al. "Impact of Korea Network for Organ Sharing Expanded Donor Criteria on Delayed Graft Function in Kidney Transplantation: A Single-Center Experience." *Transplantation Proceedings*. Vol. 50. No. 8. Elsevier, 2018; Yeo, Hye Ju, et al. "Current status and future of lung donation in Korea." *Journal of Korean Medical Science* 32, no. 12 (2017): 1953-1958.

**TABLE 1. legal arrangements related to organ transplantation**

Regulation	Contents	Core rules
Law No. 36 of 2009, Article 64	<p>(1) Healing of diseases and restoration of health can be carried out through organ and/or tissue transplantation, implants of drugs and/or medical devices, plastic and reconstructive surgery, and the use of stem cells.</p> <p>(2) Transplantation of organs and/or body tissues as referred to in paragraph (1) is carried out only for humanitarian purposes and is prohibited from being commercialized.</p> <p>(3) Organs and/or body tissues are prohibited from being traded for any reason.</p>	Organ transplants are for humanitarian purposes only and are prohibited for commercial purposes
Government Regulation No. 53 of 2021, Article 3	<p>(1) Organ and/or Tissue Transplantation is carried out only for humanitarian purposes and is prohibited from being commercialized.</p> <p>(2) Organs and/or body tissues as referred to in paragraph (1) are obtained from donors on a voluntary basis.</p> <p>(3) Organs and/or body tissues as referred to in paragraph (1) are prohibited from being traded for any reason.</p>	Organ transplants are for humanitarian purposes only and are prohibited for commercial purposes
Government Regulation No. 53 of 2021, Article 26	<p>(1) Every Donor, in Organ Transplantation, can receive an award for not being able to perform activities or work optimally during the Transplantation process and health recovery.</p> <p>(2) The award as referred to in paragraph (1) is not a reward, is not a sale and purchase, and is only for</p>	Donors can get rewards from the organ transplant process

Regulation	Contents	Core rules
	humanitarian purposes, and is not commercialized.	

Source: Authors' analysis

The points of regulation are said to be inconsistent and have multiple interpretations, namely the provisions in Law No. 36 of 2009 related to organ transplantation, it is prohibited to be commercialized but in Government Regulation No. 53 of 2021 opens up opportunities for awards that have conflicting or inconsistent meanings. Limiting the meaning of this award in the Indonesian public can be multi-interpreted, especially culturally the Indonesian public is different, so that it can trigger the meaning of the award in different contexts. In addition, multiple interpretations of the limits of the meaning of humanitarian goals that do not have standard restrictions so that humanitarian goals can also be interpreted followed by other reasons such as to meet the needs of life due to economic limitations (poverty) is a humanitarian reason for organ transplantation for humanitarian purposes which leads to economic transactions and commercial, especially in the regulation of Government Regulation No. 53 of 2021 also provides that the term “award” can be construed as an indirect commercial effort or action.

We can see this in some of the cases below which become a real picture due to the inconsistency and multiple interpretations of these settings, it can be seen in the following table:

**TABLE 2. Real picture due to the inconsistency and multiple interpretations**

Sample case	Information	Source
People are willing to sell for the sake of getting economic value	A mother of one child has accumulated debts so that she is forced to pay debts and is willing to sell her kidney to pay off her debt.	<a href="https://megapolitan.kompas.com/read/2022/01/22/06383811/demi-bayar-utang-rp-1-miliar-ibu-hamil-rela-jual-ginjal?page=all">https://megapolitan.kompas.com/read/2022/01/22/06383811/demi-bayar-utang-rp-1-miliar-ibu-hamil-rela-jual-ginjal?page=all</a>
The price of each organ of the body is very economic	<p>The price of organs can be described as follows:</p> <ul style="list-style-type: none"> <li>• A heart with the number one quality will be rewarded with US\$ 1 million (Rp. 14 billion).</li> <li>• Each kidney is worth about \$262,000 (Rp. 3.6 billion).</li> </ul>	<a href="https://www.cnbcindonesia.com/news/20201117155530-4-202488/fenomena-jual-organ-hati-bernilai-rp-14-m-ginjal-rp-25-m/3">https://www.cnbcindonesia.com/news/20201117155530-4-202488/fenomena-jual-organ-hati-bernilai-rp-14-m-ginjal-rp-25-m/3</a>



Sample case	Information	Source
	<ul style="list-style-type: none"> <li>Human skin is valued at US\$ 10/inch, Stomach is valued at US\$ 500 (Rp. 7 million)</li> <li>Eyeballs are valued at US\$ 1,500 (Rp. 21 million).</li> <li>Lungs are around US\$ 300,000 or up to Rp. 4.2 billion.</li> <li>Heart and Cornea for US\$ 100,000 or Rp. 1.4 billion.</li> </ul>	
The need for organs is very high due to the limited availability of donors.	The limited number of donors makes the waiting list for organ transplants increase and drives high demand, thus driving economic value to emerge.	<a href="https://news.unair.ac.id/2017/04/11/peminat-transplantasi-meningkat-namun-terkendala-donor-organ/">https://news.unair.ac.id/2017/04/11/peminat-transplantasi-meningkat-namun-terkendala-donor-organ/</a>

Source: Authors' analysis

From the description of the table, it can be said that the economic conditions, economic value and the limited availability of organs or donors trigger the emergence of transplant actions that are prohibited by law but the law itself forms these conditions so that the clarity of legal arrangements related to organ transplantation is prone to be misinterpreted.

The economic conditions, economic value, and limited availability of organs or donors can indeed contribute to the emergence of transplant actions that are prohibited by law.<sup>54</sup> These factors create a complex environment in which the legality and clarity of legal arrangements related to organ transplantation are susceptible to misinterpretation.<sup>55</sup> One of the primary factors influencing the occurrence of prohibited transplant actions is the economic conditions individuals find themselves in financial hardships, poverty, and limited access to resources can push individuals to seek alternative means to improve their economic situation.<sup>56</sup> In this context, the economic

<sup>54</sup> Ambagtsheer, Frederike, and Willem Weimar. "A criminological perspective: why prohibition of organ trade is not effective and how the Declaration of Istanbul can move forward." *American Journal of Transplantation* 12, no. 3 (2012): 571-575.

<sup>55</sup> Columb, Seán. "Beneath the organ trade: A critical analysis of the organ trafficking discourse." *Crime, Law and Social Change* 63 (2015): 21-47.

<sup>56</sup> Vanholder, Raymond, et al. "Organ donation and transplantation: a multi-stakeholder call to action." *Nature Reviews Nephrology* 17, no. 8 (2021): 554-568; Beard, T.

value attached to organs becomes a tempting prospect for those who are desperate for financial relief. The potential monetary gain from engaging in illegal organ transplantation can overshadow the ethical and legal considerations, leading individuals to disregard the prohibitions set forth by the law.<sup>57</sup>

Additionally, the limited availability of organs and donors exacerbates the challenges surrounding organ transplantation. The demand for organs far exceeds the supply, creating an environment where individuals may resort to illicit means to obtain an organ. The scarcity of organs intensifies competition and creates a lucrative black market where organs are bought and sold illegally. This not only undermines the principles of fairness and equity but also perpetuates the illegal practices that are prohibited by the law.

Moreover, the legal arrangements related to organ transplantation may inadvertently contribute to the misinterpretation of the law. The complexity of the legal framework, coupled with the ever-evolving nature of medical advancements and societal attitudes, can create loopholes and ambiguities that are open to interpretation. These uncertainties can be exploited by individuals seeking to justify their actions or find ways to circumvent the law. The lack of clarity in legal arrangements related to organ transplantation further complicates the issue. When laws and regulations fail to provide explicit guidelines and address potential loopholes, it becomes challenging for law enforcement authorities to effectively enforce the prohibitions and prevent prohibited transplant actions. Ambiguities in the law can lead to differing interpretations and inconsistent enforcement practices, ultimately undermining the effectiveness of legal measures.

## **Human Reasons with the Dimension of Economic Need are a Way to Trick the Law**

Humane reasons are a mandatory requirement for organ transplantation, but these reasons are misused to abolish the legal prohibition on the practice of organ transplantation. In a condition of urgency or in a limited economic sense, it encourages a person to donate an organ to meet their daily needs. Humanitarian reasons serve as a crucial and necessary requirement for organ

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Randolph, David L. Kaserman, and Rigmar Osterkamp. *The Global Organ Shortage: Economic Causes, Human Consequences, Policy Responses*. Stanford University Press, 2013.

<sup>57</sup> Dworkin, Gerald, and Ian Kennedy. "Human tissue: rights in the body and its parts." *Rights and Resources*. (London: Routledge, 2018), pp. 405-433.

transplantation, ensuring that the practice remains focused on saving lives and promoting the well-being of individuals.<sup>58</sup> However, it is important to acknowledge that there can be instances where these reasons are exploited to circumvent legal prohibitions on organ transplantation. In situations of urgency or economic constraints, individuals may be compelled to donate organs as a means to fulfill their daily needs, leading to ethical dilemmas and potential abuses.

The concept of humanitarian reasons in organ transplantation is rooted in the belief that individuals should have access to life-saving treatments and interventions.<sup>59</sup> It recognizes the intrinsic value of human life and upholds the principle of beneficence, emphasizing the need to alleviate suffering and promote health and well-being.<sup>60</sup> Humanitarian reasons legitimize organ transplantation when it is performed with the genuine intent of saving a life or improving the health outcomes of individuals in need.<sup>61</sup>

However, the misuse of humanitarian reasons can occur when individuals exploit the urgency or economic constraints they face to justify organ donation.<sup>62</sup> In desperate situations, individuals may feel compelled to donate an organ to meet their immediate needs, such as securing financial resources or addressing pressing economic concerns. This exploitation of humanitarian reasons blurs the boundaries between genuine altruism and self-interest, potentially compromising the principles and ethics that should underpin organ transplantation.

The implications of this misuse are profound. It challenges the integrity of the organ transplantation system and undermines the trust that society places

<sup>58</sup> Liverman, Catharyn T., Sarah Domnitz, and James F. Childress, eds. *Opportunities for Organ Donor Intervention Research: Saving Lives by Improving the Quality and Quantity of Organs for Transplantation*. (Washington DC: The National Academic Press, 2018).

<sup>59</sup> Wilczek-Rużyczka, Ewa, et al. "Influence of empathy, beliefs, attitudes, and demographic variables on willingness to donate organs." *Transplantation Proceedings*. Vol. 46. No. 8. Elsevier, 2014; Seth, Avnish Kumar, et al. "Organ donation after circulatory determination of death in India: A joint position paper." *Indian Journal of Transplantation* 16, no. 1 (2022): 26-41.

<sup>60</sup> Blinderman, Craig. "Palliative care, public health and justice: setting priorities in resource poor countries." *Developing World Bioethics* 9, no. 3 (2009): 105-110.

<sup>61</sup> Sever, Mehmet Sukru, et al. "Ethical and medical dilemmas in paid living kidney donor transplantation." *Transplantation Reviews* 36, no. 4 (2022): 100726..

<sup>62</sup> Yanto, Oksidelfa, et al. "The Yuridical Study of the Positive Law Challenges in Indonesia (Case of Phenomena Gratification on Trading Human Organ Body Crime)." *INCEESS 2020: Proceedings of the 1st International Conference on Economics Engineering and Social Science, InCEESS 2020, 17-18 July, Bekasi, Indonesia*. European Alliance for Innovation, 2021.

in it. When individuals donate organs primarily to fulfill personal needs rather than for genuine humanitarian reasons, the ethical foundations of the practice are eroded. This can lead to a range of ethical and legal issues, including the potential for organ trafficking, coercion, and the exploitation of vulnerable individuals.<sup>63</sup> To address this challenge, it is crucial to strengthen the legal and regulatory frameworks governing organ transplantation. Clear guidelines and stringent oversight mechanisms should be established to ensure that the practice is conducted ethically, transparently, and with a genuine focus on humanitarian reasons. This includes comprehensive evaluation processes to assess the motivations and intentions of both donors and recipients, ensuring that organ transplantation is driven by genuine concern for the well-being of others.

In addition, public awareness and education campaigns are essential to foster a better understanding of organ transplantation and its ethical implications.<sup>64</sup> These campaigns should emphasize the importance of genuine humanitarian reasons and discourage the exploitation of the practice for personal gain. By raising awareness and promoting ethical conduct, society can work towards preventing the misuse of humanitarian reasons in organ transplantation.

Furthermore, addressing the underlying socio-economic factors that contribute to the misuse of humanitarian reasons is vital. This involves implementing measures to alleviate poverty, provide adequate social safety nets, and ensure access to basic needs and healthcare for all individuals. By addressing the root causes of economic desperation, society can help mitigate the pressures that may drive individuals to exploit humanitarian reasons in organ transplantation. The following are some examples of cases that describe a person doing organ donation for humanitarian purposes but also involving reasons for need, which can be seen in the following table:

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<sup>63</sup> Zimmerman, Cathy, Mazeda Hossain, and Charlotte Watts. "Human trafficking and health: A conceptual model to inform policy, intervention and research." *Social Science & Medicine* 73, no. 2 (2011): 327-335. See also Prakoso, Abdul Rahman, and Putri Ayu Nurmalinda. "Legal Policy on Human Trafficking Crimes." *Indonesian Journal of Criminal Law Studies* 3, no. 2 (2018): 133-146; Ramadhan, Riki, and Satria Unggul Wicakaksana Prakasa. "Political Economic Analysis of the Protection of Migrant Workers Victims of Human Trafficking Crimes." *Law Research Review Quarterly* 10, no. 2 (2024): 478-510.

<sup>64</sup> Lewis, Amy, et al. "Organ donation in the US and Europe: The supply vs demand imbalance." *Transplantation Reviews* 35, no. 2 (2021): 100585; Dardavessis, Theodore, et al. "Knowledge, attitudes and proposals of medical students concerning transplantations in Greece." *International Journal of Preventive Medicine* 2, no. 3 (2011): 164.

**TABLE 3. Cases organ donation**

Reason	Source
In debt business Rp. 1 billion	<a href="https://megapolitan.kompas.com/read/2022/01/22/06383811/demi-bayar-utang-rp-1-miliar-ibu-hamil-rela-jual-ginjal?page=all">https://megapolitan.kompas.com/read/2022/01/22/06383811/demi-bayar-utang-rp-1-miliar-ibu-hamil-rela-jual-ginjal?page=all</a>
Be besieged by online loan bills	<a href="https://www.kompas.tv/article/247148/kisah-para-penjual-ginjal-bayar-utang-nikah-beli-gadget-hingga-terlilit-pinjol?page=all">https://www.kompas.tv/article/247148/kisah-para-penjual-ginjal-bayar-utang-nikah-beli-gadget-hingga-terlilit-pinjol?page=all</a>
To redeem a daughter's diploma	<a href="https://www.liputan6.com/news/read/623084/alasan-sugiyanto-jual-ginjal-demi-tebus-ijazah-anak">https://www.liputan6.com/news/read/623084/alasan-sugiyanto-jual-ginjal-demi-tebus-ijazah-anak</a>
For child medical expenses	<a href="https://www.gatra.com/news-469677-kesehatan-demi-pengobatan-anak-rahmat-tawarkan-ginjal.html">https://www.gatra.com/news-469677-kesehatan-demi-pengobatan-anak-rahmat-tawarkan-ginjal.html</a>
	<a href="https://www.merdeka.com/peristiwa/ibu-di-tulungagung-mau-jual-ginjal-demi-biaya-pengobatan-anak-di-rs.html">https://www.merdeka.com/peristiwa/ibu-di-tulungagung-mau-jual-ginjal-demi-biaya-pengobatan-anak-di-rs.html</a>

Source: Authors' analysis

Based on the table, it is illustrated that the urgency of needs such as to pay debts, to redeem diplomas and medical expenses for children or families are the reasons that underlie donors wanting to carry out organ transplants. The reasons for this need, according to donors, are the foundation of humanitarian goals and a way to trick the prohibition of organ transplants for commercial purposes. This also opens up opportunities for irresponsible people to trade human organs which are considered to be more profitable.<sup>65</sup> Human organ trafficking is unavoidable because it is aimed at meeting the needs of those who desperately need healthy organs to replace their organs that are no longer functioning properly.<sup>66</sup>

<sup>65</sup> DeBellis, Gabriela Curras. *Eradicating Human Trafficking: Culture, Law and Policy*. Vol. 11. (Leiden: Brill, 2021).

<sup>66</sup> Fox, Renée C. *Spare parts: Organ replacement in American society*. (London: Routledge, 2017).

## A. Donor Voluntary Principle

The principle of volunteering from donors is basically the main principle in the implementation of organ transplantation which is an effort to prevent commercial actions in organ transplantation. The voluntary principle that is most easily found in the implementation of organ transplantation is when the donor and recipient have a kinship relationship. The principle of volunteering is the cornerstone of organ transplantation and serves as a fundamental safeguard against commercialization in the field.<sup>67</sup> This principle ensures that organ donations are based on the free will and altruistic intentions of the donors, rather than driven by financial gain or coercion.<sup>68</sup> While voluntary organ donation can occur in various contexts, it is most commonly observed in cases where the donor and recipient share a kinship relationship.

The bond between family members forms a natural foundation for voluntary organ donation. Parents, children, siblings, and other close relatives often exhibit a strong sense of duty and responsibility towards one another.<sup>69</sup> When a family member is in need of an organ transplant, the voluntary principle comes into play as family members willingly step forward to offer their organs. This kinship-based donation reflects the inherent desire to protect and care for loved ones, even at the cost of personal sacrifice. The strong emotional connection and shared history within these familial relationships create a compelling motivation for voluntary organ donation.

The voluntary principle in kinship-based organ transplantation extends beyond immediate family members. Extended family, such as aunts, uncles, and cousins, may also choose to donate their organs voluntarily when a relative is in need. This exemplifies the altruistic nature of familial relationships, where individuals willingly undergo the organ transplant procedure to save the life of

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<sup>67</sup> Espitalie, Mariane, and Subrata Saha. "Ethical and current issues with organ transplants in developed and developing countries." *Ethics in Biology, Engineering and Medicine: An International Journal* 5, no. 4 (2014).

<sup>68</sup> World Health Organization. "WHO guiding principles on human cell, tissue and organ transplantation." *Transplant Journal of Australasia* 19, no. 2 (2010): 26-30; Snelling, Paul C. "Challenging the moral status of blood donation." *Health Care Analysis* 22 (2014): 340-365.

<sup>69</sup> Agerskov, Hanne, et al. "Parents' experiences of donation to their child before kidney transplantation: a qualitative study." *Journal of Clinical Nursing* 28, no. 9-10 (2019): 1482-1490; Ralph, Angelique F., et al. "Donor and recipient views on their relationship in living kidney donation: thematic synthesis of qualitative studies." *American Journal of Kidney Diseases* 69, no. 5 (2017): 602-616.

a family member, even if the bond is not as close as that of immediate family. It is important to note that voluntary organ donation within the context of kinship relationships should still be guided by ethical and legal considerations. Transplant centers and medical professionals play a crucial role in ensuring that the donation process adheres to established guidelines and safeguards. Comprehensive evaluations, including medical assessments and psychological counseling, are conducted to ensure the safety and well-being of both the donor and recipient. Informed consent from all parties involved is also a fundamental requirement to uphold the principles of autonomy and respect for individual decision-making.

While kinship-based organ donation exemplifies the principle of volunteering, it is not the only context where this principle applies. Voluntary organ donation can also occur between individuals who have emotional closeness or meaningful relationships, such as close friends. These relationships are characterized by mutual care, trust, and shared experiences, and can lead to voluntary organ donation based on a deep sense of friendship and solidarity.<sup>70</sup>

The principle of volunteering is integral to organ transplantation as it safeguards against commercialization and ensures that donations are driven by altruistic motives.<sup>71</sup> Kinship-based organ transplantation exemplifies this principle, as family members willingly donate their organs to save the lives of their loved ones. However, it is important to maintain ethical and legal guidelines throughout the donation process to protect the well-being and autonomy of all parties involved. By upholding the principle of volunteering, society can promote a culture of organ donation rooted in compassion, selflessness, and the collective goal of improving lives.<sup>72</sup>

On the basis of kinship, We can take the example of the first case, namely the initials SW<sup>73</sup> in 2007 who received a voluntary liver donor from his own

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<sup>70</sup> Agerskov, Hanne, Helle C. Thiesson, and Birthe D. Pedersen. "Siblings of children with chronic kidney disease: A qualitative study of everyday life experiences." *Journal of Renal Care* 47, no. 4 (2021): 242-249.

<sup>71</sup> Mchale, Jean V. "Organ Transplantation, the Criminal Law, and the Health Tourist: A Case for Extraterritorial Jurisdiction?." *Cambridge Quarterly of Healthcare Ethics* 22, no. 1 (2013): 64-76.

<sup>72</sup> Cronin, Antonia J., and Refik Gökmen. "The Ethics of Living Donation." *Living Kidney Donation: A Practical Guide*. (Cham: Springer International Publishing, 2022), pp. 51-68.

<sup>73</sup> Astuti, Lutfi Dwi Puji, and Tasya Paramitha, "Kisah Haru Pengusaha Terima Donor Hati dari Anak", *VIVA News*, September 22, 2015. Online at <https://www.viva.co.id/gaya-hidup/kuliner/677069-kisah-haru-pengusaha-terima-donor-hati-dari-anak>

biological child, namely the initials F because the initials SW was declared a patient with Hepatitis C and liver disease. After undergoing a series of examinations, it was stated that the initial F was more suitable to be a donor than other relatives.

The second case is the initials FS<sup>74</sup> who voluntarily donates his organ in the form of a kidney to his friend's brother who suffers from kidney failure. Initials FS made preparations for 10 months for the kidney donor process. According to Initials FS, before the kidney donor was carried out, there was the most crucial stage, namely the pre-test in the form of an advocacy test which contained several questions including the legality of the organ before the organ transplant was fully implemented. Based on these two examples, it is illustrated that the voluntary principle in organ transplantation can be realized purely when the donor and recipient have a kinship relationship. With this kinship foundation, it will prevent the commercialization of organ transplants.

## B. Unclear Legal Arrangements

In the concept of law, a legal norm must have a clear meaning to avoid ambiguity or multiple interpretations of the norm.<sup>75</sup> Obscurity arises due to the use of non-standard legal words or language. Legal language is the language of laws and regulations designed to uphold order and justice in order to defend the public interest and private interests in society.<sup>76</sup> However, because the legal language is part of modern Indonesia, it must be clear, monocentric and meet the aesthetic requirements of the Indonesian language.<sup>77</sup>

Legal language serves as a tool for maintaining order and justice in society, protecting both public and private interests.<sup>78</sup> However, when legal language is not standardized or employs non-standard legal terms, obscurity can arise,

<sup>74</sup> Tawakal, Cesar Uji, and Rosiana Chozanah. "Demi Kemanusiaan, Wanita Ini Rela Mendonorkan Ginjalnya untuk Kakak Seorang Teman", *Suara Online*, November 21, 2021. Online at <https://www.suara.com/health/2021/11/24/055500/demi-kemanusiaan-wanita-ini-rela-mendonorkan-ginjalnya-untuk-kakak-seorang-teman>

<sup>75</sup> Riana, Rati, and Muhammad Junaidi. "Konstitusionalisasi pembentukan peraturan perundang-undangan melalui penggunaan bahasa Indonesia baku." *Jurnal Legislasi Indonesia* 15, no. 4 (2018): 275-283.

<sup>76</sup> Sulistyowati, Sulistyowati. *Alternatif Penegakan Hukum Pidana Berbasis Nilai Keadilan* (Yogyakarta: Deepublish, 2020)

<sup>77</sup> Matanggui, Junaiyah H. *Bahasa Indonesia untuk Bidang Hukum dan Peraturan Perundang-Undangan* (Jakarta: Bhuana Ilmu Populer, 2022)

<sup>78</sup> Pitkin, Hanna Fenichel. "Justice on relating private and public." *Hannah Arendt*. (London: Routledge, 2017), pp. 89-114.



leading to difficulties in interpreting and applying the law. To prevent such issues, legal norms must be formulated with precision and clarity, leaving little room for multiple interpretations.

In the specific context of organ transplantation, the ambiguity of norms can result from the expansion of regulations or the inclusion of exceptions that were previously absolute prohibitions or requirements. For example, while commercial purposes may have been strictly prohibited in the past, interpretations related to humanitarian purposes may not be clearly distinguished, creating confusion and uncertainty. Additionally, there may be provisions in place for the recognition and regulation of organ donations, further complicating the norm-setting process.

To address these challenges, it is crucial for legal authorities and policymakers to revise and refine legal arrangements pertaining to organ transplantation.<sup>79</sup> This can be achieved by conducting thorough research and analysis to identify areas of ambiguity and inconsistencies. Through comprehensive review and consultation with relevant stakeholders, such as medical professionals, ethicists, and legal experts, the language and provisions within the legal texts can be clarified.

One approach to enhancing clarity is to define and differentiate between various purposes of organ transplantation explicitly. By clearly distinguishing between commercial purposes and those motivated by humanitarian concerns, the potential for multiple interpretations can be minimized. Additionally, establishing comprehensive guidelines and regulations for organ donation, including the process of awarding donated organs, can help ensure transparency and fairness in the allocation of organs.

In the context of legal arrangements related to organ transplantation, there are inconsistencies and multiple interpretations due to the ambiguity of norms or unclear legal language in these arrangements. This ambiguity of norms arises because of the expansion of a regulation or the existence of exceptions that previously were orders or prohibitions such as prohibitions for commercial purposes, but interpretations related to humanitarian purposes do not appear to be clearly different at the same time as there are arrangements for awarding the donation of organs. Finally, it makes the setting of the norm unclear.

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<sup>79</sup> Weiss, M. J., et al. "International Donation and Transplantation Legislative and Policy Forum: Methods and Purpose." *Transplantation Direct* 9, no. 5 (2023): e1351-e1351.

## Obstacles in Law Enforcement

The humanitarian reason with the dimension of need becomes a way to open the veil of organ transplantation which is carried out as a form of deception from law enforcement efforts against the prohibition of organ transplantation other than humanitarian purposes.<sup>80</sup> In addition, law enforcement officers will find it difficult to disclose the condition of the organ transplant event, whether it is in the category of humanitarian reasons or if there is an indication of a commercial purpose.<sup>81</sup> Furthermore, in cases where individuals engage in organ transplantation, they may argue that they meet certain criteria that are crucial for humanity. They may claim that under specific circumstances, such as the inability to meet basic daily needs or urgent economic contexts, organ transplantation is necessary for their survival. By linking the urgency of their needs to humanitarian reasons, they blur the lines between genuine humanitarian motives and personal interests.

The challenges faced by law enforcement officers in uncovering the true motives behind such actions significantly hinder law enforcement efforts. Gathering sufficient evidence to establish illegal motives or goals becomes a daunting task, impeding the ability of law enforcement to take necessary actions to prevent and penalize violations of the prohibition on organ transplantation for non-humanitarian purposes. To address these challenges, it is crucial for authorities to enhance the clarity and precision of legal norms governing organ transplantation. Clear definitions and distinctions must be established to determine what qualifies as valid humanitarian reasons and what does not. This

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<sup>80</sup> Yousaf, Farhan Navid, and Bandana Purkayastha. "Social world of organ transplantation, trafficking, and policies." *Journal of Public Health Policy* 37 (2016): 190-199; Mayntz, Renate. "Illegal markets." *The architecture of illegal markets: Towards an economic sociology of illegality in the economy* 37 (2017); Gawronska, Sylwia. "Illicit organ removal in Nepal: An analysis of recent case law and the adequacy of human trafficking and transplantation frameworks." *Journal of Human Trafficking* 9, no. 4 (2023): 546-567; Nunnink, Leo, and Chelsea Wallace-Dixon. "The impact of organ donation on coronial processes and forensic investigation: a literature review." *Journal of Forensic and Legal Medicine* 71 (2020): 101940.

<sup>81</sup> Patittingi, Farida, et al. "Health and law: Euthanasia in Indonesian legal perspective." *Enfermeria Clinica* 30 (2020): 492-495; Bakhtiar, Handar Subhandi, Muhammad Basri, dan Wahyu Nurdiansyah, "Medicolegal service procedure (Visum ET Repertum) during the covid-19 pandemic," *Journal of Medical Pharmaceutical and Allied Sciences* 10, no. 5 (2021): 3713-3717; Bakhtiar, Handar Subhandi, et al. "The essence of autopsy in the criminal investigation process." *International Journal of Scientific & Technology Research* 8, no. 10 (2019): 9-16.

can help reduce ambiguity and provide law enforcement officers with clearer guidelines to tackle these issues.

Furthermore, raising public awareness and education about legitimate organ transplantation practices and the importance of avoiding legal violations are essential. By improving public understanding of the legal implications associated with illegal organ transplantation, the potential for violations can be minimized. In this regard, close collaboration between legal authorities, relevant stakeholders, such as medical professionals, ethics experts, and legal scholars, becomes paramount.<sup>82</sup> In-depth discussions and consultations can aid in developing effective strategies to address organ transplantation violations and ensure appropriate law enforcement actions are taken.

The difficulties experienced by law enforcement officers lead to the ineffectiveness of the law enforcement process due to the difficulty of proving the motives or goals of the perpetrators to carry out transplant actions that appear to be for humanitarian reasons but are wrapped in urgency of need. With the urgency of needs such as for daily food or the context of economic urgency, making a person feel in a certain category of conditions that are meaningful for humanity, the sustainability of life becomes an illustration of the meaning of humanitarian reasons with dimensions of need.

## Donor Status

Organ Transplantation involves the donor as the person who donates the organ and the recipient as the recipient of the organ donor.<sup>83</sup> The relationship between donor and recipient has a direct influence on the process of organ transplantation. In cases where the donor and recipient share a direct relationship, such as being family members (e.g., parents, children, siblings) or relatives, the decision to donate and undergo the transplant procedure can be based on a voluntary basis. The emotional bond and sense of duty within these familial relationships often serve as strong motivations for organ donation.<sup>84</sup>

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<sup>82</sup> Ambagtsheer, Frederike, Damián Zaitch, and Willem Weimar. "The battle for human organs: Organ trafficking and transplant tourism in a global context." *Global Crime* 14, no. 1 (2013): 1-26.

<sup>83</sup> Nunnink, Leo, et al. "Does organ donation impact on forensic outcomes? A review of coronial outcomes and criminal trial proceedings." *Journal of Forensic and Legal Medicine* 68 (2019): 101860.

<sup>84</sup> Lin, Ya-Ping, et al. "Understanding family dynamics in adult-to-adult living donor liver transplantation decision-making in Taiwan: Motivation, communication, and ambivalence." *American Journal of Transplantation* 21, no. 3 (2021): 1068-1079; Ralph,

Parents may donate organs to their children, siblings may donate to each other, or other family members may step forward to help a loved one in need. The voluntary nature of these donations reflects the willingness to save the life of a family member and uphold the value of kinship.

Similarly, individuals who have emotional closeness with the recipient, such as close friends or companions, may choose to donate their organs voluntarily. These relationships are characterized by a deep bond and a sense of shared experiences and support. Friends may perceive the act of organ donation as an opportunity to demonstrate their loyalty and commitment to the well-being of the recipient. Voluntary organ donation in these cases often emerges as an act of selflessness and friendship, driven by the desire to help and save a loved one.

However, organ transplantation is not limited to relationships based on familial or emotional ties. There are instances where individuals willingly donate their organs to anyone in need, even if there is no pre-existing relationship. This form of voluntary donation, known as non-directed or altruistic donation, is based on the donor's personal decision to help those in need without any conditions or expectations. These individuals recognize the scarcity of organs and the critical need for transplantation, and they selflessly offer their organs to any recipient who requires them. Altruistic donors play a vital role in addressing the shortage of organs and providing hope to those awaiting transplantation.

It is important to note that regardless of the relationship between the donor and recipient, organ transplantation must adhere to strict ethical and legal frameworks. In many jurisdictions, there are regulations and guidelines in place to ensure that the donation process is conducted transparently, with informed consent from all parties involved. Medical professionals and transplant centers play a crucial role in evaluating the compatibility and suitability of the donor-recipient pair, as well as providing comprehensive information and support throughout the process. In addition to the voluntary nature of organ donation, it is imperative to emphasize the importance of promoting organ donation awareness and education. Public campaigns can help dispel myths and misconceptions surrounding organ transplantation, educate individuals about the benefits of donation, and encourage them to register as organ donors. By fostering a culture of organ donation and addressing concerns or reservations, more individuals may be motivated to voluntarily donate their

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Angelique, et al. "Family perspectives on deceased organ donation: thematic synthesis of qualitative studies." *American Journal of Transplantation* 14, no. 4 (2014): 923-935.

organs, thereby saving lives and alleviating the burden on organ transplant waiting lists. The relationship between the donor and recipient is a significant factor in organ transplantation. Whether based on familial ties, emotional closeness, or voluntary altruism, the voluntary nature of organ donation reflects the willingness to save and improve the lives of others. However, it is essential to ensure that the donation process adheres to ethical and legal frameworks, with informed consent and comprehensive evaluations. By promoting awareness and education, society can foster a culture of organ donation and increase the number of voluntary donors, ultimately enhancing the prospects for successful transplantation and the well-being of individuals in need.

## Conclusion

This study shows that the regulation of organ transplantation is proven to have inconsistencies or multiple interpretations, this can be seen from the regulation of the organ transplant law only for humanity and commercialization is prohibited. In addition, the limits of interpretation of humanitarian goals are not clearly defined so that they are very slightly different from the meaning of humanity in terms of economic needs. To prevent the emergence of commercial transplants, it is important that the donor-recipient relationship element is kinship or kinship that encourages the realization of transplantation based on the principle of volunteerism. This study recommends that the regulation of organ transplantation is expected to provide concrete limits on the meaning of humanitarian goals and the concept of prohibiting commercial purposes and the government is expected to be able to provide facilities related to organ transplantation that facilitate access for both donors and patients and with these facilities provide legal certainty and protection for all parties involved in the implementation of organ transplantation. This study is limited to the object of regulatory review and only shows the current condition of online news, which means that there are still many cases of organ transplants carried out outside of humanitarian purposes that are not detected by law enforcement which trigger the free commercialization of organs.

## References

Agerskov, Hanne, et al. "Parents' experiences of donation to their child before kidney transplantation: a qualitative study." *Journal of Clinical Nursing* 28, no. 9-10 (2019): 1482-1490.

- Agerskov, Hanne, Helle C. Thiesson, and Birthe D. Pedersen. "Siblings of children with chronic kidney disease: A qualitative study of everyday life experiences." *Journal of Renal Care* 47, no. 4 (2021): 242-249.
- Ahn, Curie, et al. "Improving self-sufficiency in organ transplantation in Korea." *Korean Journal of Transplantation* 35, no. 3 (2021): 137-142.
- Aldyan, Arsyad, Adi Sulistiyono, and Pujiyono, "The urgency of law enforcement on economic crimes in stock trading within the stock market (A study in Indonesia)," *International Journal of Advanced Science and Technology*, 2019.
- Amashya, Kevin, Dina Tsalist Wildana, and Sapti Prihatmini. "Penegakan Hukum Pidana terhadap Tindak Pidana Perdagangan Orang dengan Tujuan Eksploitasi Organ Tubuh Ginjal Melalui Media Sosial Facebook." *Interdisciplinary Journal on Law, Social Sciences and Humanities* 3, no. 1 (2022): 34-56.
- Ambagtsheer, Frederike, and Willem Weimar. "A criminological perspective: why prohibition of organ trade is not effective and how the Declaration of Istanbul can move forward." *American Journal of Transplantation* 12, no. 3 (2012): 571-575.
- Ambagtsheer, Frederike, Damián Zaitch, and Willem Weimar. "The battle for human organs: Organ trafficking and transplant tourism in a global context." *Global Crime* 14, no. 1 (2013): 1-26.
- Appadurai, Arjun. "Disjuncture and difference in the global cultural economy." *Theory, Culture & Society* 7, no. 2-3 (1990): 295-310.
- Astuti, Lutfi Dwi Puji, and Tasya Paramitha, "Kisah Haru Pengusaha Terima Donor Hati dari Anak", *VIVA News*, September 22, 2015. Online at <https://www.viva.co.id/gaya-hidup/kuliner/677069-kisah-haru-pengusaha-terima-donor-hati-dari-anak>
- Bakhtiar, Handar Subhandi, et al. "The essence of autopsy in the criminal investigation process." *International Journal of Scientific & Technology Research* 8, no. 10 (2019): 9-16.
- Bakhtiar, Handar Subhandi, Muhammad Basri, dan Wahyu Nurdiansyah, "Medicolegal service procedure (Visum ET Repertum) during the covid-19 pandemic," *Journal of Medical Pharmaceutical and Allied Sciences* 10, no. 5 (2021): 3713-3717.
- Batubara, Sonya Arini, Monica Agrianti Tanwin, and Yosephine Florentina Anggadinata. "Transplantasi Organ Tubuh Pada Mayat Perspektif Hukum Positif Indonesia." *DIVERSI: Jurnal Hukum* 7, no. 1 (2021): 129-150.

- Beard, T. Randolph, David L. Kaserman, and Rigmar Osterkamp. *The Global Organ Shortage: Economic Causes, Human Consequences, Policy Responses*. Stanford University Press, 2013.
- Bezinover, Dmitri, and Fuat Saner. "Organ transplantation in the modern era." *BMC Anesthesiology* 19 (2019): 1-4.
- Blinderman, Craig. "Palliative care, public health and justice: setting priorities in resource poor countries." *Developing World Bioethics* 9, no. 3 (2009): 105-110.
- Bowden, Jacqueline. "Feeling Empty? Organ Trafficking & Trade: The Black Market for Human Organs." *Intercultural Human Rights Law Review* 8, no. 1 (2013): 451-495.
- Brennan, Jason, and Peter Jaworski. "In defense of commodification." *Moral Philosophy and Politics* 2, no. 2 (2015): 357-377.
- Bubandt, Nils. "From head-hunter to organ-thief: verisimilitude, doubt, and plausible worlds in Indonesia and beyond." *Oceania* 87, no. 1 (2017): 38-57.
- Bunga, Dewi. "Politik Hukum Pidana terhadap Tindakan Transplantasi Organ Tubuh." *Jurnal Advokasi* 7, no. 1 (2017): 38-47.
- Champney, Thomas H. "The business of bodies: Ethical perspectives on for-profit body donation companies." *Clinical Anatomy* 29, no. 1 (2016): 25-29.
- Chen, Fa-Ming, and Xiaohua Liu. "Advancing biomaterials of human origin for tissue engineering." *Progress in Polymer Science* 53 (2016): 86-168.
- Christianto, Hwian. "Konsep Hak Seseorang Atas Tubuh Dalam Transplantasi Organ Berdasarkan Nilai Kemanusiaan." *Mimbar Hukum* 23, no. 1 (2011): 19-37.
- Columb, Seán. "Beneath the organ trade: A critical analysis of the organ trafficking discourse." *Crime, Law and Social Change* 63 (2015): 21-47.
- Columb, Seán. "Excavating the organ trade: an empirical study of organ trading networks in Cairo, Egypt." *British Journal of Criminology* 57, no. 6 (2017): 1301-1321.
- Consolo, Henrietta K., and Stephen J. Wigmore. "Ethical and legal issues associated with organ donation and transplantation." *Surgery* 32, no. 7 (2014): 333-337.
- Coombs, Maureen, and Martin Woods. "Organ Donation Practices and End-of-life Care: Unusual Bedfellows or Comfortable Companions?." *Bioethics Beyond Altruism: Donating and Transforming Human Biological Materials* (2017): 239-263.

- Cronin, Antonia J., and Refik Gökmen. "The Ethics of Living Donation." *Living Kidney Donation: A Practical Guide*. (Cham: Springer International Publishing, 2022), pp. 51-68.
- Damayanti, Fitriani Nur. "Paradigma Penegakan Hukum Transplantasi Organ Berbasis Transedental." *Prosiding Seminar Nasional & Call for Papers Hukum Transedental*. 2018.
- Danovitch, Gabriel M. "The high cost of organ transplant commercialism." *Kidney International* 85, no. 2 (2014): 248-250.
- Dardavessis, Theodore, et al. "Knowledge, attitudes and proposals of medical students concerning transplantations in Greece." *International Journal of Preventive Medicine* 2, no. 3 (2011): 164.
- DeBellis, Gabriela Curras. *Eradicating Human Trafficking: Culture, Law and Policy*. Vol. 11. (Leiden: Brill, 2021).
- Douglas, Thomas M., and Nicholas M. Douglas. "Absence of significant dissent should be sufficient for deceased donor organ procurement in New Zealand." *Australian and New Zealand Journal of Public Health* 33, no. 5 (2009): 449-454.
- Dworkin, Gerald, and Ian Kennedy. "Human tissue: rights in the body and its parts." *Rights and Resources*. (London: Routledge, 2018), pp. 405-433.
- Espitalie, Mariane, and Subrata Saha. "Ethical and current issues with organ transplants in developed and developing countries." *Ethics in Biology, Engineering and Medicine: An International Journal* 5, no. 4 (2014).
- Fakihudin, Rifki. "Formulation of Public Policy Based on Islamic Legal Studies as a Solution in the Contemporary Era." *Contemporary Issues on Interfaith Law and Society* 2, no. 2 (2023): 145-166.
- Firmansyah, Yohanes, Yana Sylvana, and Hanna Wijaya. "Transplantasi organ tubuh manusia dalam perspektif hukum positif Indonesia." *Jurnal Medika Hutama* 2, no. 2 Januari (2021): 524-532.
- Fleischer, Rasmus. "If the song has no price, is it still a commodity?: Rethinking the commodification of digital music." *Culture Unbound* 9, no. 2 (2017): 146-162.
- Fox, Renée C. *Spare parts: Organ replacement in American society*. (London: Routledge, 2017).
- Gani, Ruslan Abdul, and Yudi Armansyah. "Penegakan Hukum Kasus Jual Beli Organ Tubuh di Indonesia." *Fenomena* 8, no. 2 (2016): 159-180.
- Gawronska, Sylwia. "Illicit organ removal in Nepal: An analysis of recent case law and the adequacy of human trafficking and transplantation frameworks." *Journal of Human Trafficking* 9, no. 4 (2023): 546-567.



- Gentry, Sommer E., and Dorry L. Segev. "Restructuring the Organ Procurement and Transplantation Network contract to achieve policy coherence and infrastructure excellence." *American Journal of Transplantation* 19, no. 6 (2019): 1622-1627.
- Green, M. "Introduction: infections in solid organ transplantation." *American Journal of Transplantation* 13 (2013): 3-8.
- Greenstein, Claire, and Cole J. Harvey. "Trials, lustration, and clean elections: The uneven effects of transitional justice mechanisms on electoral manipulation." *Democratization* 24, no. 6 (2017): 1195-1214.
- Hamzani, Muhammad Nur. "Perdagangan Organ Tubuh Manusia Dalam Perspektif Hukum Pidana." *Journal of Law (Jurnal Ilmu Hukum)* 6, no. 2 (2021): 506-520.
- Handayani, Trini. "Criminal Law Functionalization of Kidney Trafficking for Transplant Purposes." *Jurnal Pembaharuan Hukum* 8, no. 3 (2021): 420-437.
- Hidayat, Suryadi, Galang Asmara, dan M Ilwan, "Election Monitoring System in Indonesia: Comparative Study Between Simultaneous and Non-Simultaneous Selection and Member of the West Lombok Regency Election Commission (KPU)," *International Journal of Humanities, Religion and Social Science* (2018)
- Ivanics, Tommy, et al. "Experience with solid organ transplantation in patients with previous immunotherapy treatment is still limited but this is changing: the survey-based view of the global transplant society." *Transplant Immunology* 73 (2022): 101637.
- Jaya, I. Wayan Merta, Anak Agung Sagung Laksmi Dewi, and I. Maoe Hinggu Widyantara. "Akibat Hukum Jual Beli Organ Tubuh Manusia dalam Hukum Positif di Indonesia." *Jurnal Konstruksi Hukum* 2, no. 3 (2021): 661-666.
- Kenedi, John. "Urgensi Penegakan Hukum dalam Hidup Berbangsa dan Bernegara." *El-Afkar: Jurnal Pemikiran Keislaman Dan Tafsir Hadis* 5, no. 2 (2016): 51-62.
- Kilovaty, Ido. "Legally Cognizable Manipulation." *Berkeley Technology Law Journal* 34, no. 2 (2019).
- Kleit, Andrew N. "What is market manipulation? Lessons from Barclays and Powhatan." *The Electricity Journal* 32, no. 1 (2019): 1-5.
- Lee, Mi-Sung, et al. "Safety of donation from brain-dead organ donors with central nervous system tumors: analysis of transplantation outcomes in Korea." *Transplantation* 104, no. 3 (2020): 460-466.

- Leppke, Susan, et al. "Scientific Registry of Transplant Recipients: collecting, analyzing, and reporting data on transplantation in the United States." *Transplantation Reviews* 27, no. 2 (2013): 50-56.
- Lewis, Amy, et al. "Organ donation in the US and Europe: The supply vs demand imbalance." *Transplantation Reviews* 35, no. 2 (2021): 100585.
- Lin, Ya-Ping, et al. "Understanding family dynamics in adult-to-adult living donor liver transplantation decision-making in Taiwan: Motivation, communication, and ambivalence." *American Journal of Transplantation* 21, no. 3 (2021): 1068-1079.
- Linanda, Ayu, Iva Yulia Munawarah, and Siti Indah Kurnia Sari. "Transplantasi Organ Tubuh Ginjal Dalam Perspektif Kebijakan Kriminal." *Collegium Studiosum Journal* 3, no. 1 (2020): 64-76.
- Liverman, Catharyn T., Sarah Domnitz, and James F. Childress, eds. *Opportunities for Organ Donor Intervention Research: Saving Lives by Improving the Quality and Quantity of Organs for Transplantation*. (Washington DC: The National Academic Press, 2018).
- Machado, Nora. *Using the bodies of the dead: Legal, ethical and organisational dimensions of organ transplantation*. (London: Routledge, 2019).
- Malik, Abdul, and Ariyandi Batubara. "Religion Commodification in Political Activities in Seberang Kota Jambi." *Jurnal Kontekstualita* 29, no. 2 (2014): 101.
- Mardatillah, Annisa, et al. "Riau Malay food culture in Pekanbaru, Riau Indonesia: commodification, authenticity, and sustainability in a global business era." *Journal of Ethnic Foods* 6, no. 1 (2019): 1-10.
- Matanggui, Junaiyah H. *Bahasa Indonesia untuk Bidang Hukum dan Peraturan Perundang-Undangan* (Jakarta: Bhuana Ilmu Populer, 2022)
- Mayntz, Renate. "Illegal markets." *The architecture of illegal markets: Towards an economic sociology of illegality in the economy* 37 (2017).
- McDiarmid, S. V., T. L. Pruett, and W. K. Graham. "The oversight of solid organ transplantation in the United States." *American Journal of Transplantation* 8, no. 4 (2008): 739-744.
- Mchale, Jean V. "Organ Transplantation, the Criminal Law, and the Health Tourist: A Case for Extraterritorial Jurisdiction?." *Cambridge Quarterly of Healthcare Ethics* 22, no. 1 (2013): 64-76.
- McHanwell, Stephen, et al. "The legal and ethical framework governing Body Donation in Europe: A review of current practice and recommendations for good practice." *European Journal of anatomy* 12, no. 1 (2008): 1-24.

- Morrison, Fiona, E. Kay M. Tisdall, and Jane EM Callaghan. "Manipulation and domestic abuse in contested contact—Threats to children's participation rights." *Family Court Review* 58, no. 2 (2020): 403-416.
- Muslikhin, Muslikhin, et al. "The commodification, spatialization and structuration of social media in the Indonesian cyber media news." *Media and Communication* 9, no. 2 (2021): 110-118.
- Ni'am, Lubabun, Stasja Koot, and Joost Jongerden. "Selling captive nature: Lively commodification, elephant encounters, and the production of value in Sumatran ecotourism, Indonesia." *Geoforum* 127 (2021): 162-170.
- Nisa, Afifatin, and Yuni Safitri. "Transplantasi Organ Tubuh dalam Perpektif Yuridis." *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 6, no. 2 (2022): 455-461.
- Norman, Armando H., Andrew J. Russell, and Claudia Merli. "The Quality and Outcomes Framework: Body commodification in UK general practice." *Social Science & Medicine* 170 (2016): 77-86.
- Nunnink, Leo, and Chelsea Wallace-Dixon. "The impact of organ donation on coronial processes and forensic investigation: a literature review." *Journal of Forensic and Legal Medicine* 71 (2020): 101940.
- Nunnink, Leo, et al. "Does organ donation impact on forensic outcomes? A review of coronial outcomes and criminal trial proceedings." *Journal of Forensic and Legal Medicine* 68 (2019): 101860.
- Nursanthy, Aji Titin Roswitha. "Transplantasi Organ Tubuh Manusia Dalam Perspektif Hukum Islam." *The Juris* 4, no. 1 (2020): 1-11.
- Page, Nicholas, Gary Higgs, and Mitchel Langford. "An exploratory analysis of spatial variations in organ donation registration rates in Wales prior to the implementation of the Human Transplantation (Wales) Act 2013." *Health & Place* 52 (2018): 18-24.
- Paminto, Saptaning Ruju. "Dehumanisasi Penjualan Organ Tubuh Manusia Berdasarkan Hukum Positif." *Jurnal Wawasan Yuridika* 1, no. 2 (2017): 174-190.
- Pasaribu, Mertty, Muhammad Hamdan, and Rafiqoh Lubis. "Perdagangan Organ Tubuh Manusia Untuk Tujuan Transplantasi Dari Perspektif Kebijakan Hukum Pidana di Indonesia." *Jurnal Mahupiki* 2, no. 1 (2014).
- Patittingi, Farida, et al. "Health and law: Euthanasia in Indonesian legal perspective." *Enfermeria Clinica* 30 (2020): 492-495.
- Pitkin, Hanna Fenichel. "Justice on relating private and public." *Hannah Arendt*. (London: Routledge, 2017), pp. 89-114.

- Prakoso, Abdul Rahman, and Putri Ayu Nurmalinda. "Legal Policy on Human Trafficking Crimes." *Indonesian Journal of Criminal Law Studies* 3, no. 2 (2018): 133-146.
- Quintini, Cristiano, et al. "Implementing an innovated preservation technology: the American society of transplant surgeons' (ASTS) standards committee white paper on ex situ liver machine perfusion." *American Journal of Transplantation* 18, no. 8 (2018): 1865-1874.
- Ralph, Angelique F., et al. "Donor and recipient views on their relationship in living kidney donation: thematic synthesis of qualitative studies." *American Journal of Kidney Diseases* 69, no. 5 (2017): 602-616.
- Ralph, Angelique, et al. "Family perspectives on deceased organ donation: thematic synthesis of qualitative studies." *American Journal of Transplantation* 14, no. 4 (2014): 923-935.
- Ramadhan, Riki, and Satria Unggul Wicakaksana Prakasa. "Political Economic Analysis of the Protection of Migrant Workers Victims of Human Trafficking Crimes." *Law Research Review Quarterly* 10, no. 2 (2024): 478-510.
- Riana, Rati, and Muhammad Junaidi. "Konstitusionalisasi pembentukan peraturan perundang-undangan melalui penggunaan bahasa Indonesia baku." *Jurnal Legislasi Indonesia* 15, no. 4 (2018): 275-283.
- Rinehart, Nicholas T. "The man that was a thing: Reconsidering human commodification in slavery." *Journal of Social History* 50, no. 1 (2016): 28-50.
- Ronaldo, Reza, Agus Dedi Subagja, and Ade Suparman. "Efektivitas Pelayanan Calon Pekerja Migran Indonesia Pada Layanan Terpadu Satu Atap Dinas Tenaga Kerja Dan Transmigrasi Kabupaten Subang." *The World of Public Administration Journal* 2, no. 2 (2020): 110-125.
- Roxanne D. Marcotte, "Brand Islam: The Marketing and Commodification of Piety," *Islam and Christian-Muslim Relations* 31, no. 1 (2020): 106–109.
- Saputra, Romi. "Pertanggungjawaban Pidana Terhadap Tindak Pidana Perdagangan Organ Tubuh Manusia Untuk Kepentingan Transplantasi Organ Dalam Hukum Pidana Indonesia." *JOM Fakultas Hukum* 3, no. 2 (2016).
- Sari, Ariella Gitta. "Kejahatan Perdagangan Organ Manusia Ditinjau Dari Hukum Positif." *Transparansi Hukum* 4, no. 2 (2021).
- Seth, Avnish Kumar, et al. "Organ donation after circulatory determination of death in India: A joint position paper." *Indian Journal of Transplantation* 16, no. 1 (2022): 26-41.

- Sever, Mehmet Sukru, et al. "Ethical and medical dilemmas in paid living kidney donor transplantation." *Transplantation Reviews* 36, no. 4 (2022): 100726..
- Smessaert, Jacob, Antoine Missemer, and Harold Levrel. "The commodification of nature, a review in social sciences." *Ecological Economics* 172 (2020): 106624.
- Snelling, Paul C. "Challenging the moral status of blood donation." *Health Care Analysis* 22 (2014): 340-365.
- Song, S. H., et al. "Impact of Korea Network for Organ Sharing Expanded Donor Criteria on Delayed Graft Function in Kidney Transplantation: A Single-Center Experience." *Transplantation Proceedings*. Vol. 50. No. 8. Elsevier, 2018.
- Soukup, Martin, et al. "The aura of tattoos: The commodification of tradition in Buscalan village, the Philippines." *Asian Journal of Social Science* 49, no. 3 (2021): 153-160.
- Soylu, Dilek, Ahmet Özdemir, and Ayşe Soylu. "Does religious attitude affect organ donation and transplantation?." *Transplant immunology* 71 (2022): 101555.
- Sulistiyowati, Sulistiyowati. *Alternatif Penegakan Hukum Pidana Berbasis Nilai Keadilan* (Yogyakarta: Deepublish, 2020)
- Susanto, Agus. "Reformulasi Kebijakan Tentang Transplantasi Organ Ginjal Manusia." *Jurnal Ilmiah Dunia Hukum* 3, no. 2 (2019): 114-131.
- Tawakal, Cesar Uji, and Rosiana Chozanah. "Demi Kemanusiaan, Wanita Ini Rela Mendonorkan Ginjalnya untuk Kakak Seorang Teman", *Suara Online*, November 21, 2021. Online at <https://www.suara.com/health/2021/11/24/055500/demi-kemanusiaan-wanita-ini-rela-mendonorkan-ginjalnya-untuk-kakak-seorang-teman>
- The Human Tissue Authority, "Legislation," 2024. <https://www.hta.gov.uk/guidance-professionals/hta-legislation>.
- Usman, Mohammad. "Transplantasi Organ Tubuh Dalam Pandangan Islam." *Pancawahana: Jurnal Studi Islam* 15, no. 1 (2020): 154-162.
- Vanholder, Raymond, et al. "Organ donation and transplantation: a multi-stakeholder call to action." *Nature Reviews Nephrology* 17, no. 8 (2021): 554-568.
- Vijayalakshmi, Poreddi, et al. "Knowledge, attitude and behaviour of the general population towards organ donation: An Indian perspective." *National Medical Journal of India* 29, no. 5 (2016).

- Weiss, M. J., et al. "International Donation and Transplantation Legislative and Policy Forum: Methods and Purpose." *Transplantation Direct* 9, no. 5 (2023): e1351-e1351.
- Wibisono, Bambang. "Penegakan Hukum Pidana Terhadap Donor Transplantasi Organ Tubuh Manusia Yang Bersifat Komersil Dikaitkan Dengan Hak Seseorang Atas Tubuhnya (The Right of Self-Determination)." *Tunas Medika: Jurnal Kedokteran dan Kesehatan* 6, no. 2 (2020): 65-69.
- Wilczek-Rużyczka, Ewa, et al. "Influence of empathy, beliefs, attitudes, and demographic variables on willingness to donate organs." *Transplantation Proceedings*. Vol. 46. No. 8. Elsevier, 2014.
- Williams, Kristy Lynn, Marisa Finley, and J. James Rohack. "Just Say No to NOTA: Why the Prohibition of Compensation for Human Transplant Organs in NOTA Should Be Repealed and a Regulated Market for Cadaver Organs Instituted." *American Journal of Law and Medicine* 40, no. 4 (2014): 275-329.
- World Health Organization. "WHO guiding principles on human cell, tissue and organ transplantation." *Transplant Journal of Australasia* 19, no. 2 (2010): 26-30.
- Yanto, Oksidelfa, et al. "The Yuridical Study of the Positive Law Challenges in Indonesia (Case of Phenomena Gratification on Trading Human Organ Body Crime)." *INCEESS 2020: Proceedings of the 1st International Conference on Economics Engineering and Social Science, InCEESS 2020, 17-18 July, Bekasi, Indonesia*. European Alliance for Innovation, 2021.
- Yeo, Hye Ju, et al. "Current status and future of lung donation in Korea." *Journal of Korean Medical Science* 32, no. 12 (2017): 1953-1958.
- Young, Martin, and Francis Markham. "Tourism, capital, and the commodification of place." *Progress in Human Geography* 44, no. 2 (2020): 276-296.
- Yousaf, Farhan Navid, and Bandana Purkayastha. "Social world of organ transplantation, trafficking, and policies." *Journal of Public Health Policy* 37 (2016): 190-199.
- Zhang, Xuehui, et al. "Does environmental law enforcement matter for financial reporting quality?." *The North American Journal of Economics and Finance* 57 (2021): 101445.
- Zhu, Xuefen, et al. "Changes in health-related quality of life during the first year in lung transplant recipients." *Transplantation Proceedings*. Vol. 53. No. 1. Elsevier, 2021.

Zimmerman, Cathy, Mazeda Hossain, and Charlotte Watts. "Human trafficking and health: A conceptual model to inform policy, intervention and research." *Social Science & Medicine* 73, no. 2 (2011): 327-335.

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