

THE ENFORCEMENT OF ORGAN TRANSPLANTATION FROM CORPSE DONORS IN PERSPECTIVE OF THE LAW

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Abstract - Organ transplantation from cadaver donors is a significant medical breakthrough in saving the lives of patients with chronic diseases in Indonesia. Nevertheless, the implementation of organ transplantation still faces various challenges, especially in the legal aspect. This study aims to analyze efforts to implement organ transplantation from cadaver donors in Indonesia, by reviewing existing regulations, challenges faced, and providing recommendations for improving its implementation. Some of the regulations governing organ transplantation in Indonesia include Law Number 36 of 2009 on Health, Government Regulation Number 18 of 1981, and Minister of Health Regulation Number 38 of 2016. Although these regulations have provided a legal framework, their implementation is still constrained by a lack of public awareness, negative stigma towards organ donation, and limited infrastructure. Therefore, comprehensive efforts are needed to improve public education, strengthen regulations and law enforcement, and increase the capacity and competence of medical personnel. The implementation of safe, ethical, and legal organ transplantation from cadaver donors can be a significant solution to address the shortage of organ donors and improve public health in Indonesia.

Keywords: organ transplantation, cadaver donor, legal regulation, public awareness, law enforcement.

INTRODUCTION

In this modern era, organ transplantation has become a life-saving medical breakthrough and improved the quality of life for many people suffering from chronic diseases. However, the shortage of organ donors is still a major obstacle to organ transplantation.

In Indonesia, organ transplantation is a hope for patients with chronic diseases. Organ transplants provide a second chance at life and improve the quality of life for those suffering from kidney failure, heart failure and other organ diseases. However, it is hampered by the shortage of organ donors. This is the main obstacle in the implementation of organ transplantation in Indonesia (Mubasyiroh & Issalillah, 2023).

Only a few organ transplants can be performed each year. This is due to a shortage of organ donors caused by several factors. Some people still do not understand the benefits of organ transplantation and do not have the awareness to become organ donors. In addition, there are still misperceptions and false beliefs that prohibit organ donation in some circles of society.

On the infrastructure factor, many hospitals and health facilities are not yet capable of performing organ transplants. This is further compounded by the existence of incomplete and unequivocal regulations and laws governing organ transplantation. As a result of this shortage of organ donors, many patients are forced to live with chronic diseases and cannot experience the benefits of organ transplantation. This condition is not only detrimental to patients, but also burdensome to the health system as a whole. Therefore, efforts to address the organ donor shortage need to be comprehensive and sustainable. By addressing the shortage of organ donors, organ transplantation can be a real solution to improve public health and provide better life expectancy for many people in Indonesia.

Organ transplantation from cadaver donors offers a potential solution to address this shortage. In Indonesia, organ transplantation from cadaver donors is still not widely practiced due to various factors, including a lack of clear regulations, low public understanding, and limited infrastructure (Adib, 2016).

This study aims to examine efforts to implement organ transplantation from cadaver donors in Indonesia by considering legal aspects. The legal review will focus on the rules and regulations related to organ transplantation from cadaver donors in Indonesia. This includes donor and family consent, legal status of cadaver organs, medical professional liability, and dispute resolution mechanisms.

This study will provide insight into the potential and challenges of implementing organ transplantation from cadaver donors in Indonesia as well as education and socialization materials to improve public understanding of organ transplantation from cadaver donors. Safe, ethical, and legal implementation of organ transplantation from cadaver donors can be a significant solution to address the shortage of organ donors and increase public access to organ transplantation. This will ultimately contribute to improved public health and quality of life for many people in Indonesia.

RESEARCH METHODS

The type of research used in this study is socio-legal research. Socio-legal research combines a legal approach with social analysis to understand how the law on organ transplantation from cadaver donors is applied and perceived in society. This research does not only focus on the text of existing laws and regulations, but also considers the social, cultural and practical contexts that influence the application of the law.

Data collection was conducted on a secondary basis, by gathering information from various literatures, articles, journals, and internet sites related to the research. This secondary data provides a strong theoretical and empirical foundation for understanding the various legal and social aspects associated with organ transplants from cadaver donors. The information obtained includes case studies, policy analysis, and legal literature reviews.

The data collection technique used is library research. Library research involves a series of activities related to library data collection methods, which include the process of reading, recording, and processing relevant research materials. This library research utilizes library sources, both print and digital, to obtain the necessary data.

This socio-legal research is important because it provides insight into the application of the law of organ transplantation from cadaver donors. By combining legal analysis with a social perspective, this research can reveal the practical challenges faced in implementing the law, as well as identify the social and cultural factors that influence compliance with the regulation. The results of this study are expected to contribute to the development of more effective policies that are sensitive to social contexts, as well as raising public awareness about the importance of organ transplantation from cadaver donors.

RESULTS AND DISCUSSIONS

Public responses or perceptions towards organ transplants from cadaver donors in Indonesia vary and are influenced by a number of factors, including cultural aspects, religion, knowledge about organ transplants, as well as trust in the health system and applicable laws.

Many Indonesians view organ transplantation from a religious perspective. Most Indonesians follow Islam, which has different views on organ donation. Some Islamic scholars and institutions have issued fatwas in favor of organ donation under certain conditions, such as the donor's consent before death and the absence of buying and selling. However, there are also groups that oppose the practice as it violates the honor of the body after death.

Culture plays an important role in attitudes towards organ donation. In some cultures in Indonesia, there is a belief that the body must remain intact after death to achieve a good afterlife. This belief can be an obstacle to the widespread acceptance of organ donation from cadavers.

People's level of knowledge and education about the benefits of organ transplantation and the procedures involved greatly influence their perceptions. People who have a good understanding of the importance of organ donation and the safe process tend to be more supportive of the practice. Lack of clear information and socialization regarding organ donation can lead to mistrust and resistance.

Trust in the integrity and transparency of the health and legal systems also affects people's perceptions. If people believe that transplant procedures are conducted fairly, transparently and in accordance with the law, they are more likely to support organ donation. Conversely, distrust of the health system may raise concerns about misuse or illegal sale of organs.

Some societies consider the ethical and moral aspects of organ donation. Questions about rights to the body after death, permission from the family, and potential exploitation can be factors that influence people's views.

In general, Indonesians' perceptions of organ transplantation from cadaver donors are varied and complex, influenced by a combination of religious factors, culture, knowledge, trust in the health system, and experience and available information. Efforts to increase acceptance of organ donation must involve a holistic approach that includes education, increased transparency of the health system, and sensitivity to cultural and religious values.

Organ transplantation from cadaver donors has been one of the significant medical breakthroughs in saving human lives. In Indonesia, this practice is governed by various legal regulations that aim to ensure its safe, ethical and responsible implementation. Despite the existence of regulations governing organ transplantation, its implementation still faces various challenges, especially in terms of public awareness and law enforcement (Jamali, 2019).

Organ transplantation in Indonesia is regulated by several regulations, including Law Number 36 Year 2009 on Health, Government Regulation Number 18 Year 1981 on Clinical Cadaveric Surgery and Anatomical Cadaveric Surgery and Transplantation of Human Organs and/or Tissues, and Minister of Health Regulation Number 38 Year 2016 on the Implementation of Human Organ and Tissue Transplantation.

Law No. 36/2009 on Health states that organ and/or tissue transplants can be performed for the cure of disease and restoration of health, and must be performed in health care facilities that have been established by the Minister of Health. Article 64 paragraph (2) confirms that organ transplants are prohibited from being commercialized and must be performed on humanitarian grounds. This law regulates the utilization of donor organs, including cadaver organ

transplants. This law stipulates that organ transplants may only be performed by health workers who have the expertise and authority and only in certain health care facilities.

Government Regulation No. 18/1981 regulates in more detail the conduct of cadaver surgery and organ transplantation, including the consent of the donor or donor's family, as well as the prohibition of receiving any material compensation in exchange for the transplant. Government Regulation No. 18/1981 has been revoked by Government Regulation No. 53/2021 on Organ and Tissue Transplantation. This regulation replaces and integrates various aspects regulated in Government Regulation No. 18 of 1981, including the regulation on donor consent, prohibition of material compensation, and regulation of cadaver surgery. As such, Government Regulation No. 18/1981 has played an important role in regulating organ transplantation in Indonesia, particularly in regulating donor consent and the prohibition of material compensation. This regulation has been integrated into more recent and more comprehensive legislation, such as Government Regulation No. 53/2021.

Minister of Health Regulation No. 38/2016 on the Implementation of Organ Transplantation regulates the procedures and technical requirements for organ transplantation, including the registration of donors and recipients, operational standards, and supervision and evaluation of organ transplantation implementation. This regulation regulates the organization of organ transplantation, including cadaver organ transplantation. It stipulates that organ transplants may only be performed in health care facilities that have been designated by the Minister of Health.

Regulation of the Minister of Health of the Republic of Indonesia Number 37 of 2014 on Determination of Death and Utilization of Donor Organs. This regulation governs the determination of death and utilization of donor organs, including cadaver organ transplants. This regulation stipulates that organ transplants may only be performed after the donor has died juridically and medically.

Government Regulation of the Republic of Indonesia Number 53 of 2021 concerning Organ and Tissue Transplantation. This regulation regulates organ and tissue transplantation, including cadaver organ transplantation. This regulation stipulates that organ transplants may only be performed by health workers who have the expertise and authority and only in certain health care facilities. This regulation aims to ensure security, safety, voluntariness, usefulness, and justice in organ and tissue transplantation services for both donors and recipients. Organ and tissue transplants are carried out only for humanitarian purposes and are prohibited from being commercialized. Organs and body tissues are also prohibited from being traded for any reason. Organ transplants may only be performed by health workers who have the expertise and authority and are only performed in certain health care facilities. This regulation is an implementation of the mandate of Article 65 Paragraph (3) of Law Number 36 of 2009 on Health. The law has stipulated that the cure of disease and the restoration of health can be done, among others, by organ and tissue transplantation.

This legal analysis highlights that arrangements related to organ donation must be based on the principle of permission, namely that the utilization of donor organs must have previously obtained permission from the donor or his family. This analysis also emphasizes that organ transplants must be carried out with good ethics and in accordance with applicable laws and regulations, including Law No. 36/2009 on Health and Law No. 21/2007 on the Eradication of Human Trafficking.

Organ transplants must be carried out with reference to the principles of health law, namely patient safety, medical ethics, and respect for human rights (Christiawan, 2003). Transplants from cadaver donors require valid consent from the donor before death or from the next of kin after death. This is in line with the principle of consent for medical treatment as stipulated in the Minister of Health Regulation No. 290/MENKES/PER/III/2008.

Indonesian law emphasizes the importance of protecting the rights of donors and recipients in the transplant process. The deceased donor or their family must be fully informed about the transplant process and its consequences. In addition, recipients have the right to obtain suitable organs without going through an illegal commercialization process. This regulation aims to prevent unethical exploitation and trafficking of organs.

Law enforcement in the implementation of organ transplantation from cadaver donors involves various parties, including the government, hospitals, and health workers. The government, through the Ministry of Health, is responsible for supervising and evaluating the implementation of organ transplants, ensuring that all procedures comply with established standards. Hospitals must have a transplant committee to oversee each stage of the transplant process.

Although regulations have been established, the main challenges in enforcing organ transplant laws in Indonesia are the lack of public awareness about the importance of organ donation and the negative stigma against organ donation from corpses. In addition, there is still a legal vacuum in terms of regulating non-material compensation for donor families, which can lead to diverse interpretations and potential violations of the law (Notoatmodjo, 2010).

There are several recommendations to improve the implementation of organ transplantation from cadaver donors. Public education about the importance of organ donation, procedures, and benefits needs to be improved through public campaigns, education programs in schools, and socialization by the government and non-governmental organizations. Higher public awareness will encourage more individuals to register as organ donors.

The government needs to strengthen regulations related to organ transplantation, including arrangements for non-material compensation for donor families, and clarify sanctions for lawbreakers. Firm and consistent law enforcement will provide a deterrent effect for violators and ensure compliance with existing regulations.

Training and certification for medical personnel involved in the organ transplant process must be continuously improved to ensure the quality and safety of transplant procedures. Hospitals also need to improve facilities and infrastructure to support safe and effective organ transplantation.

Cadaver organ transplantation is a complex and high-risk medical procedure. Therefore, patients who need an organ transplant should consult a doctor to obtain complete and accurate information about the procedure. With various regulations governing cadaver organ transplants, Indonesia has taken steps to regulate and ensure that organ transplants are carried out with good ethics and in accordance with applicable laws and regulations.

CONCLUSIONS

Organ transplantation from cadaver donors in Indonesia is governed by various legal regulations that aim to ensure its safe, ethical and responsible implementation. Although regulations have been established, implementation still faces challenges, especially in terms of public awareness and law enforcement. This legal analysis highlights the importance of donor or family consent, protection of donor and recipient rights, and monitoring and evaluation by the authorities.

Existing regulations provide a good foundation for organ transplantation, but challenges remain in law enforcement and public awareness. With improved education, strengthened regulations, increased capacity of medical personnel, and closer collaboration, Indonesia can ensure that organ transplants are performed safely, ethically, and responsibly, providing substantial benefits to patients in need.

It is thus advisable to strengthen non-material compensation arrangements for donor families and stiffen sanctions for violators of the law. There are efforts to increase the capacity and competence of medical personnel through training and certification, as well as improving facilities and infrastructure in hospitals. Establishment of a national network for organ donors and increased cooperation between related parties.

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