

The Malay Perceptions on Organ Donation

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Abstract: Organ donation has become a demanding need to many patients with serious illnesses. Realizing the importance of organ donation, however, many muslims in particular are still reluctant to participate due to their misconceptions toward this matter. The aim of this article is to examine the Malay perceptions towards organ donation practiced in Malaysia and to analyze it from the islamic perspectives. The Malays are less interested in this subject matter and this make the number of organ donors among them is not satisfying as compared to Chinese and Indians, even though it is increasing from year to year. This lack number of donors is closely related to their own perceptions towards organ donation and transplantation process. The data collected is based on library that includes books of hadiths and fiqh muktabar (venerated) as well as field research that includes interviewing medical staffs and surgeons who are responsible in organ transplant procedure and other related officers. The study also reviewed movies related to organ transplantation. The result of this study shows that the Malays have negative perceptions towards organ donation. However, these perceptions should not be the restraining factor because organ donation and transplantation do not in any way inflicted any harm to the donors or the recipients in terms of religious, community or even medical standpoints.

Key words: Organ transplantation, donors, recipients, ijihad jama'i, regulations, Malaysia

INTRODUCTION

In this era of modern medicine, among the medical treatments to save one's life offered is organ transplantation. Some treatments need organ donation. Organ donation and transplantation did not exist during the time of Prophet Muhammad, Peace Be Upon Him (PBUH). The closest resemblance, if exist, would be replantation or connecting back disconnected body parts into its original place. For instance, the Prophet (PBUH) had once put back the eyeball of one companion named Qatadah bin Nu'man into its original place, after it fell off when he fought in the battle of Badar and that eye functioned even better than before. The Prophet (PBUH) had also once connected back the arm of Mi'waz bin 'Afra' into its place after it was being cut off from the shoulder by the enemy and the arm of Habib bin Yusuf that has been severed in the battle of Badar. These events are some of the miracles (mukjizat) granted to the Prophet (PBUH).

The previous muslim scholars had never debated on the issue of organ donation and transplantation in details; even they never derived any religious rulings regarding this matter. This is an issue that is closely related to the findings of modern science research, in the field of

implanting one's organ into another person's body. Thus, this becomes an issue which falls under the scope of ijihad (reasoning or intellectual effort).

In Malaysia, organ transplantation from a donor to a needy patient has been started since 1975. However, it is found that the numbers of organ donation amongst Muslims has not achieved at satisfactory level yet. Statistics from the Malaysian dialysis and transplant registry revealed that, from overall the after-death organ donors, only 5%are Malays as compared to 57% in the national organ waiting list. The Health ministry realized that this unsatisfactory achievement is caused mainly by the misconceptions among the community especially in the religious aspects regarding organ donation. This is supported by Young Imam Asyraf who is also an organ donor pledge icon who agrees that one of the contributing factors, why the Malays are reluctant to donate their organs is their skeptical and not having confidence with its process.

With regards to that, the Ministry drafted the strategic plan on organ transplantation awareness campaign in 2012. One of the strategies devised under this strategic plan is to tackle public misunderstandings regarding the practice of organ donation. In order to empower the awareness campaign, the government has

prepared various platforms including by establishing collaboration with religious bodies such as the department of Islamic development Malaysia (JAKIM), the institute of Islamic understanding Malaysia (IKIM), Mufti office and the national mosque (<http://www.dermaorgan.gov.my>). The deputy health minister, Datuk Seri Dr Hilmi Yahaya called for the Muslims to give full support and commitment towards this awareness campaign that has been carried out to gain organ donors pledges. As of September 2014, only 23.38 % out of 266,583 pledges came from the Malays. Meanwhile the Chinese community recorded the highest number of pledges with 49.35%, followed by Indians 23.61 % and other races 3.66% (<http://www.astroawani.com/>).

Therefore, there are two critical questions that should be addressed here; firstly, what are the perceptions that caused the Malays to be less interested to donate their organs? Secondly, what are the Islamic views towards those perceptions? The main objective of this article aims at explaining the perceptions of Malaysian Malays that made them less interested in organ donation and to analyze those perceptions according to Islamic point of view that derives evidences from al-Qur'an, al-Sunnah, fiqh or Islamic jurisprudence methods, the opinions of previous Muslim scholars as well as the views from several medical experts in Malaysia. This study will help to promote the spirit of donating organs among the Malays, simultaneously, to support the government campaign to increase organ donors pledges, since the number of patients who need organ transplantation treatment is increasing from year to year.

Literature review: A review on the issue of organ transplantation is available in Malaysia in the form of study research that had been presented in Islam and organ transplantation conference organized by IKIM. The presented study works had been compiled into a book to a guide to the public. There are also some books which discuss the issues of organ donation and transplantation such as a book written by Muhammad Na'im Yasin, a lecturer in Islamic studies at Jordan University entitled *Abhath Fiqhiyyah Li Qadaya Tibbiyah* and Muhammad Nur al-Din al-Banjari in *Adillah Tahrim Naqli al-A'da'* Makki (1995). However, the both books only emphasize the Muslim scholars' views especially those who are against those issues by giving some arguments that became the basis of their opposition. In another study, Basri (2004) wrote a book entitled "Pemindahan organ dalam Islam: Pelaksanaannya di Malaysia" (Organ transplantation in Islam: Its implementation in Malaysia). The purpose of the book is to investigate how far the practice of organ donation and transplantation in

Malaysia meet the requirements set by the Muslim scholars who permit this practice. However, the negative perceptions towards organ transplantation among Malays are only discussed superficially without deep analysis.

Some of Malay perceptions have been mentioned and analyzed in the book *Pemindahan Organ Menurut Perspektif Islam* published by the Ministry of Health in collaboration with JAKIM but it is still not enough and could not solve the problems of lack of donors among the Malays because those perceptions still haunt many of them. This is due to the fact that many chronic diseases are in desperate need for organ donation and transplant (Israni *et al.*, 2015).

MATERIALS AND METHODS

The data collected in this research is based on literature research that involves the books of hadith and fiqh muktabar combined with field research that involves interviews with medical officers, surgeons who perform the organ transplantation procedure and other related officers. In addition, some movies related to organ transplantation will be also reviewed.

RESULTS AND DISCUSSION

The definition of organ transplantation: In Malaysia, organ donation is defined as the process of donating body parts or organs from a person for the purpose of transplantation after he or she passed away. Transplantation is a surgery or medical procedure that involves an exchange of malfunctioned organ or tissue with another organ or tissue that are well functions from a certain donor, who is still alive or dead (cadaveric). In this way, the recipient's life would be better and more comfortable. Normally, the life will be safe (Ministry of Health Malaysia, 2001).

Transplantable organs: The organs involved in the transplantation to a patient can be in the form of complete organs such as kidney, heart, liver and other organs as well as in the form of tissue and cell such as cornea, blood, bone marrow and other tissues. Some of these organs have direct connection to the blood circulation such as heart, liver and kidney. Some do not have direct connection with blood circulation such as skin. Some need blood vessels to be functioning well, for instance a damaged cornea.

Organ donation among the Malay community: In Malaysia, Malays is regarded as the majority from the whole population which is recorded the total of 30,097,900

in 2014. The distribution according to ethnics is 15,239,300 for Malays; 6,601,000 for Chinese; 1,995,000 for Indians; 18,846,500 for Bumiputera (native-born citizens); 3,607,200 for other Bumiputera and 260,000 for others (<http://pmr.penerangan.gov.my>).

However, regarding organ donation pledge, the Malay community is far behind as compared to the Chinese and Indians. The Malaysian health minister stated that awareness on organ donation in Malaysia especially among the Malays is still very low. Many of them believe that the organ that has been taken made the deceased body incomplete or imperfect. At the present, there are almost 300,000 Malaysians who have registered or pledged but this figure represents only (1%) from the total of Malaysian population. Nonetheless, the number of new registration increases from year to year. For example, in 2014, the total of registration reached 39,314 people which is the highest figure within the last 5 year. In 2010, only 20,337 pledges were recorded. In 2011, there were 31,084 pledges, in 2012, there were 31,611 pledges and in 2013, there were 27,393 pledges were recorded. In 2014, as much as 13,628 Malays have registered exceeding other ethnic races. Previously, new registrations usually came from the Chinese or the Indians. This shows that the muslims in this country are becoming more open towards the concept of organ donation as a result of continuous campaign and briefing given by the Health Ministry and its cooperative partners such JAKIM and IKIM. It should be highlighted that the national fatwa (Islamic legal decree) that permits organ donation has been issued in the 1970s.

Today, until 31st March 2015, a total of 521 people have donated organs or tissues after their departure. This figure is increasing and in 2014, the Ministry recorded the highest number of donations, which were 56 people. However, this figure definitely cannot fulfill the number of patients waiting for organs which is almost 20,000 people. This has caused some members of patients' families have to make sacrifice and become organ donors when they are still alive to be donated to these patients. In the case of the deceased one, there should be no issue regarding improper funeral management because the procedure of organ removal from the deceased is done thoroughly and in most respectful manner just like alive person. The deceased body will also be returned to his or her family as soon as possible after the procedure for the purpose of last tribute and funeral management (<http://www.dermaorgan.gov.my>).

The perception of malay community on organ donations:

There are numerous perceptions that arise amongst the Malay community in Malaysia that has caused them to be

less interested to pledge as organ donors. Some of the reasons which have been revealed by the national transplant resource center headquartered in Kuala Lumpur hospital, the medical welfare department, university hospital, Kuala Lumpur and Anesthesiologi department of Nur Zahirah hospital, Kuala Terengganu are:

- It is not permissible to derive benefits from human organs
- It is haram (strictly forbidden) to inflict pain or harm upon the deceased
- An organ is a trust that has to be taken care of
- Donating organ creates a family relation between the donor and the donation recipient
- Scholars forbid organ donation and transplantation
- Donating organ is equal to committing suicide
- The donor will have incomplete organs during the day of judgement
- Adopting the attitude of "it is better to stay away from organ donation"
- Donating organs will not necessarily save a patient's life
- Donating organs may inflict harm on the donor's health and well-being
- The Muslims are prohibited from receiving organ donations from non-Muslims
- The Muslims are prohibited from donating organs to non-Muslims

Analysis on the malay perceptions towards organ donations:

All of the above perceptions among the Malays need to be analyzed and presented with answers in order to avoid confusions among the Muslims.

It is not permissible to derive benefits from human organs:

The notion that it is not permissible to derive benefits from human organ is inaccurate because it only applies in normal (non-emergency) situation but not during the time of darurat (emergency) whereas the situation for the organ donation and transplantation involves an emergency situation. Allah SWT commands:

He has only forbidden to you dead animals, blood, the flesh of swine and that which has been dedicated to other than Allah. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful

The above verse makes an exception under an emergency situation, on things that are normally haram to

be taken or used. A patient that requires organ transplantation actually falls under the state of *darurah*, because his or her life is under the death threat from illnesses such as kidney failure, liver malfunction and others. Because those situations are considered as *darurah*, they fall under the general scope of exceptions as mentioned in the above verse hence it is permissible to undergo an organ transplantation procedure. Besides that the *fiqh* method states that: A *darurah* state makes things that are *haram* permissible.

The above method based on *istinbat* (the process of deriving Islamic rulings) apparently provides leniency to the people who face harm or danger, in order to remove that harm, even by means of using or taking other harms. The first method explained that a person who faces a *darurah* situation is given a leniency to take or use something that is considered *haram* according to *syara'* (Islamic laws). The second method explained that a person who faces difficulty which he cannot endure because of its prolonged nature, should be given a tolerance to allow him to remove that difficulty.

Some scholars from *al-Shafi'i madhhab* (school of thought) such as *al-Nawawi*, *Qalyubi* and *'Umayrah*, based on *sahih* (authentic) opinions, allow for a desperate person, to cut some of his own flesh such as thigh and other parts to be eaten, in order to save his life. However it is permissible strictly under the situation whereby it is not possible to eliminate harm by eating animal or human carcasses and under the fear of other harmful effects from doing so, whether this fear is equal or worse than not cutting that body part. Since, damaging some of bodily organs are permissible, if it is clear and certain can help saving other body parts such as in the case of cutting one's hand that has been infected with infectious disease and *et cetera*.

It is haram to inflict pain or harm upon the deceased:

Causing pain upon the people who are dead is forbidden in Islam. Yet the definition of pain here is subject to cutting bones and others under non-emergency situation. In the hadith narrated by *Ummu al-Mu'minin 'Aishah (RA)* from The Prophet (SAW), he said:

The sin of breaking the bones of the people who are dead is equal to breaking the bones of the people who are still alive

The above hadith described that human has honor, whether when he is alive or dead and this honor should not be violated. There is no question that an act of allowing a doctor to cut any body organs to be given to another person is considered as violating one's honor

which is forbidden through *qat'i* (certain) arguments ('Abd al-Rahim al-Sukri, n.d). Besides, it is also harmful to the corpse.

Organ donation and transplantation does not involve the activities of breaking bones, abusing or mutilation of the corpse, as what was commonly practiced during the age of Arab *jahiliyyah* (ignorance) who normally mutilate the enemy corpse in the battle. The donor's organ is well kept with honor and will never be broken, abuse or mutilated.

The act of mutilating and chopping enemies' corpses that is forbidden by the Prophet (SAW) covers all abusive activities such as poking eyes out ripping off stomach, severing body parts and others, whether it is done to execute the law of *qisas* (the right of a murder victim's nearest relative or *Wali* (legal guardian) to, if the court approves, take the life of the killer) or as a revenge act. Mutilation is an act of revenge upon humans, to serve as a lesson to others.

The above hadith actually forbids inflicting pain on corpse, without any purpose or for the purpose of revenge or violating the deceased honor. If cutting off bones brings about *maslahah* (benefits for public interest), then it is not wrong to do so, even if it involves the bones of people who are still alive. *'Urwah bin al-Zubir* has once infected with some kind of disease on his foot. The doctors advised him to amputate his leg and he agreed with that proposition. Scholars have since a long time ago, reached an agreement to allow surgeries such as open abdominal surgery, amputating and connecting back body parts and *et cetera*, provided that it can bring benefits to the people. Some scholars suggested that the ban on breaking bones applies only when it is done without purpose. For reasonable purposes, it is not a sin to do so.

Nevertheless, leaving a patient with organ failure to die in vain without finding for the organs that may help him to live a normal life as others is detrimental. When two different harms collided, permitting some small harm is allowed in order to prevent greater harm (the lesser of the two evils concept) because the *fiqh* method has explained: When two harms collided, the priority is to prevent the greater harm by doing smaller harm.

An organ is a trust that has to be taken care of: All human organs is a trust and humans are required to look after them until the day they die. Any organs on our body should never be exposed to any harm or destruction. Humans do not own their physical bodies, on the contrary, Allah SWT alone who owns human bodies.

However, organ donation does not oppose the concept of humans do not own their bodies; only Allah owns them, because they can use their bodies to do good and actions that can bring benefits to the society both in this world and thereafter. According to Sheikh 'Atiyyah Saqr, the prohibitions to use human organs and bodies to contribute to something beneficial does not have a strong argument to hold on to (Saqr, 1994). Truly not only human bodies belong to Allah SWT, the whole universe, the earth, the sky and the stars too and indeed every single thing that exists in this universe belongs to Allah. Humans only use these creatures within the limits of greater good and only within a limited scope. Allah SWT commanded:

“Do you not see that Allah has made subservient to you all that is on earth

Allah SWT commanded:

“And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful

Humans have power and rights upon themselves and they have desires related to them, even though those desires are limited by certain boundaries which is as long as the desires do not cause troubles or damages. A human body, though it is a responsibility from Allah SWT, Allah has given the rights to the owner to gain benefits and use it for greater good. Because of that, donating certain organs, to the people who are sick and by doing so does not cause any harm for the donor, is allowed (Jad al-Haq, T.th) for such donation brings forth a huge benefit to society.

When facing an emergency situation, a person can use his organs to contribute to the public's greater good. This act is not considered as overriding Allah S.W.T rights as the owner, because it involves transferring what belongs to Allah from one person to another. If it is not being done, then one of Allah's belonging (the second human) will die. Moreover, in emergency situation, human rights sometimes need to be prioritized over Allah's rights.

The general fiqh method stated that, when two beneficial things came across, the priority should be given to the thing with bigger benefits and when two harmful things came across, the priority should be given on doing the smaller harm in order to avoid the bigger harm that has worse consequences. The use of human organs is also covered under this method..

Donating organ creates a family relations between the donor and the donation recipient: Marriage prohibition due to breastfeeding relationship (siblings with the same nursing mother) is not a suitable to be deduced on the

issue of organ donation and transplantation. The reason being is the ban on marriage due to milk relationship, applies when the nursing period happens within the age of 2 year for the nursed party. This is what has been decided by the scholars. Amongst them are 'Umar bin al-Khattab, ibn 'Abbas, ibn Mas'ud, Abu Hurayrah, ibn 'Umar, Sa'd bin Musayyab, al-Sha'bi, ibn Shabramah, Ishaq bin Rahawayh, Abu 'Ubayd and ibn al-Munzir. From amongst the scholars of the four school of thoughts include ibn Humam *et al.* (1970) and Zaydan (1886) from Hanafi sect, Qurtubi (1986), Ulaysh (1957) from Maliki sect, al-Sharbini (n.d) and Sharqawi (1997) from al-Shafi'i sect and lastly al-Mardawi (n.d), ibn Muflih (n.d) and from Hanbali sect. Amongst the reasons submitted by them are. Allah SWT commanded:

“Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing” [period]

Sayyiduna 'Umar R.A. had once said:

There is no nursing relationship (the ban on marriage due to suckling) except for those being done before the age of two

Rasulullah (SAW) said in a hadith narrated through Ummu Salamah RA:

There is no suckling except those that involves engorged breasts, before (the age of) weaning (Tirmidhi, 1981)

The above verse and hadiths clearly stated that the suckling period that creates mahram relationship thus causes the ban on marriage is two years. Based on this explanation, it is clear that the weaning age that cause the ban on marriage due to suckling relationship is within the age of two years and cannot be more that that. This means if the suckling takes place over the age of two, there is no issue of marriage prohibition due to suckling relationship.

Muslim scholars prohibit organ donation and transplantation: The claim that Islamic scholars forbid organ transplantation is not true. Islamic scholars in Malaysia allow such action with strict rules as outlined in the above title of organ donation rulings in Malaysia (Jabatan, 2011). Other than that, there are many Islamic scholars and Islamic organizations all around the Islamic world who allow organ donation in order to save patients' lives. Amongst them are from individuals; al-Qaradawi, Jad al-Haq 'Ali Jad al-Haq, Muhammad Sayyid Tantawi (1408H), Ahmad 'Umar Hashim (1407H), 'Abd Allah al-Mashd (1408), Abu Sari' 'Abd al-Hadi (1409H), Husayn

Mi'wad (1406H), Hasanayn Muhammad Makhlu'f (T.th), Hasan (1991), Khatib (1982) and 'Abd al-Latif al-Subki (Bayyumi, 1985).

Besides that, the islamic muktamar (conference) that allows organ transplantation are the international islamic conference taken place in Malaysia in 1969, the 3rd International Conference of the Islamic Jurisprudence Experts (OIC) in 1986, the 4th international conference of the islamic jurisprudence experts (OIC) in 1988 and the 6th international conference of the islamic jurisprudence experts in 1990 (Yasin, 1996).

From Islamic organizations the support came from islamic high council of al-Jaza'ir in 1972, Fatwa high council of the Kingdom of Jordan in Ulaysh (1977), the council of senior scholars of the kingdom of Saudi Arabia in 1978, the ministry of Waqf Kuwait in 1980, the council of senior scholars of the kingdom of Saudi Arabia in 1980, the Fatwa of muslim world league in 1985, Fiqh academy under Rabitah al-Alam al-Islamiyy during the 8th conference in 1985, Syariah Islamiah research institute which is located in cape town, South Africa in 1994, the shura islamic council which is located in West cape town, South Africa in 1994, the Muslim Jurisdiction Council (MJC) centered in cape town in 1994, scholars organization (Kawazulu-Natal) a Muslim theology organization, South Africa in 1994, the South African Scholars Council in 1994 as well as the Singapore Islamic Council (MUIS). The aforementioned rulings represent the majority voices of the Muslims whereby even though it is not compulsory to adopt their opinions, at least we can be at peace to follow those rulings.

Donating organ is equal to committing suicide: Suicide does not exist in the issue of organ donation and transplantation, because among the requirements for a living donor is he must be healthy and the transplantation is not life threatening to him. If the transplantation surgery is believed to be life threatening to the donor, then the doctors will not allow for such procedure. The same rule applies to the donation recipient, if it is life threatening then it will not be done. For that reason, it is not appropriate to say that the person who is ready to donate organ as deliberately putting himself in trouble. The existence of harm towards cadaveric donor is hard to digest by rational thinking. But even if it exists, it is considerably very small as compared to the benefits received by a patient that needs organ transplantation. In organ transplantation, priority is given for a cadaveric donor than an alive donor.

Al-Bar (the advisor at King Abd Aziz Hospital in Jeddah) stated that the person who pledged for organ donation must be in good health condition and the

removal of the organ does not inflict any major risks towards himself and other people with whom he is responsible for. The possibility of minor harm to happen is normally unavoidable and this harm could happen to human even under normal circumstances. This minor harm can be tolerated by both the donor and the donation recipient. The doctors will not suggest for organ donation, if by doing so will inflict major harm to the donor's wellbeing and to the people that depend on him.

In organ donation and transplantation, cadaveric donor is given the priority because the existence of harm does not occur. The people who are dead cannot feel any pain from organ removal whereas the alive patient will continue to be in pain if left without treatment. Verse 195 from surah al-Baqarah which is the basis for scholars who forbid organ donation and transplantation, also serve as the basis for scholars who permits it because leaving a patient to die without proper treatments is same as putting oneself into doom. In the concept of all Muslims are considered as one entity, if one of the organs is sick, then the others will feel the pain too. Other than that, taking care of the well-being of the people who are alive is more important than the people who are dead (Din and Salam, 1980).

The donor will have incomplete organs during the day of judgement: Every muslim believes that Judgement day will surely happen. When that happens, everything on this earth will crumble and turned to dust. Nothing is left including human bodies. Only Allah SWT who live forever. When humans are resurrected on the day of judgement in the Mahsyar Plain, they will be resurrected according to their deeds in this world. If a person has a lot of good deeds, then he will be brought back to life in a better and more honorable condition. If he did a lot of bad things, then he will be resurrected in a worse and despicable manner. Therefore as a Muslim who believes, there should be no issue whether we will be resurrected with incomplete organs whatsoever because we believe that everything will turn into dust on the first trumpet blow by Israfil before we all being resurrected by Allah SWT to be gathered and judged on the Mahsyar plain (Jabatan, 2011). The fact that Allah has the mighty power to bring people back to live after everything is destroyed is mentioned in His commandment: Say, "He will give them life who produced them the first time; and He is, of all creation, Knowing".

Allah SWT has the power to revive all organs that are being donated and they will serve as a witness towards their original owners as well as the donation recipients who receive them. If a human in his lifetime can serve as

a witness for a few individuals involving a few events, then it is not impossible for humans' organs too, to serve as a witness to both parties.

The next actions rely solely on the new owner of the organ and the previous owner has no connections to the actions anymore. A person will meet Allah during the day of judgement not only with the newly acquired organ but with complete body parts, as a person who is responsible for his own actions during his lifetime. This is the same for a person who lost an organ from his body. This loss does not affect his circumstances. He will still be questioned based on his position as a human and not based on that missing organ. A person will not be responsible for things that he does not do. Allah S.W.T commanded: Actions will be [judged] only according to the conscious intentions (which prompted them) Adopting the Attitude Of "It Is Better to Stay Away From Organ Donation".

Refusing organ donation and transplantation based on the reason of being more careful cannot be accepted. The issue of organ donation and transplantation is an issue of khilafiyah (differences on petty religious issues) as mentioned before. The refusal on khilafiyah related matters for the reason of holding on to more careful opinions is more appropriate when it involves individual matters but inappropriate when it involves the public interest.

According to al-Qaradawi, when it involves individual actions, it is better for a person to adhere to more careful opinions and adopting the attitude of warak (abstinence), indeed he can even abandon things that is probably will not cause harm, in order to avoid things that can inflict harm. However, for matters related to the public interests, it is better to adopt the attitude of simplifying things instead of complicating things, without crossing the limits of firm arguments and fixed methods. In this time, circumstances require that we hold on to opinions which are easier and show more mercy towards the people. Furthermore, being too cautious and careful (ihtiyat) in every matter and putting aside other easier and more tolerable aspect, sometimes makes Islamic rulings to be a group of rules which is too extreme. This is against the tolerancy nature of Islam. The method that should be taken is the one that is mediocre. Allah SWT commanded: "And whoever saves one, it is as if he had saved mankind entirely".

This verse is general in nature, covering all kinds of efforts to save one's life from disaster including donating an organ to a relative in order to save him from harm or to reinstate his eyesight (Shawkani, 1995). Rasulullah SAW encouraged all Muslims to do things that can benefit others, as long as it does not cause major harm upon

them. The Prophet SAW. said in a hadith narrated through Jabir bin 'Abd Allah RA: If anyone of you can provide benefits to his brother then he must do so (Muslim, 2004).

The effort to eliminate harm for a Muslim who has kidney failure, for instance, by donating one of the kidneys to him, is an honorable act and the donor will be rewarded for showing mercy to the earth's inhabitants. Because of that he deserves compassion by the sky inhabitants.

Donating organs will not necessarily save a patient's life:

The use of human organs in the past, did not guaranteed to be beneficial but nowadays it is on the contrary. It clearly can be beneficial and able to save patients' lives. This is agreed by the medical experts. For example Aizai Awang Abd Rahman (a Cardiologist at IJN) explained that functioning ability for a newly transplanted heart is between 80-85% in the first year, 60-65% after the next 5 year and 40-45% after the next 10 year.

In deciding a cure for a patient, it does not necessarily be a total recovery. On the other hand, it is enough to have a strong believe by the medical experts that the patient can be cured. This is the opinion that has been decided by the Islamic scholars. 'Abd al-Karim Zaydan for example, suggested that the presence of strong confidence by the medical experts, that a patient may recover from his illness with the consumption of some medicines, is adequate to be taken as a basis to form rulings related to furuq (differences of opinions) and muamalah matters (commercial and civil acts or dealings under Islamic law) (Zaydan, 1986).

He also reasoned based on the opinion suggested by al-Sarakhsi who suggested that when there is no way to be sure on a certain matter then we must consider based on opinions which are more prominent (ghalib) (Sarakhsi, 1986). This explanation means that the use of medicines to treat patients is among neither the things that is still not precisely known nor certain to cure and this is a normal phenomenon for medicines. Rarely can a medicine be known for sure to be able to cure an illness for a patient. However, the existence of a strong belief that the medicine can cure a disease is enough to be used to prevent harmful effects caused by the disease (Zaydan, 1986).

This elaborated justification by 'Abd al-Karim Zaydan is also seconded by al-Qaradawi. According to him, holding on to a strong opinion is allowed in matters where different opinions existed, because syarak established many rulings based on strong beliefs. The opinions rejected by syarak are the ones that clearly wrong and inaccurate.

Donating organs may inflict harm on the donor's health and well-being: This is not an issue because among the prerequisites for organ donation is the donor has received the views and counsel by the medical expert that such donation will not inflict harm upon himself and as a matter of fact will succeed and benefit the patient. If such donation can cause major harm, then it is not legit (Yasin, 1996). Similarly, if such donation expires, the rights of other people who depend on the donor such as his wife, children, parents and others it is against the fiqh method: A harm should not be removed by another harm that is equal in nature or worse in nature.

One of the requirements is the donor must be in a healthy state. So do the organs to be donated. If during the time the surgery to be initiated, it is found that the donor is not well, then the surgery will be postponed. The reason being is transplantation surgery under such state, may be life threatening to both the donor and the donation recipient, because the probability to get infected with a disease cannot be avoided for the donation recipients (Qutni, 1966).

The doctors who treat the donor will put their best effort by taking all the necessary cautions and steps in order to save the donor's life. Questions related to organ and tissue donation will be discussed with the deceased heir upon confirmation of death. The organ and tissue transplantation procedure is done under clean and sterile environment. The procedure is performed in hospital's operating theater by experienced surgeons. The acquisition of organ and tissue from a donor will not cause any physical deformities. The whole process of transplantation surgery is done honorably and with all due care as in other normal surgeries ([Http://www.hkl.gov.my/content/ntrc.htm](http://www.hkl.gov.my/content/ntrc.htm)).

The muslims are prohibited from receiving organ donations from the non-muslims: Syara' does not ban the transfer of organs from the non-muslims to the muslims. The reason being is human organs cannot be said as muslim or non-muslim in nature, on the contrary the organs act as tools for humans to fulfil the requirements of aqidah (creed) and manhaj (methodology) to live. When an organ is transferred from a non-Muslim into a Muslim, then it becomes part of the Muslim's body that can be used to fulfil his responsibilities as commanded by Allah SWT.

Indeed, al-Qaradawi ruled that all body parts of a non-muslim is muslim. According to him, the thing that is meant to be Islam or not is not the physical parts (the transplanted part), rather it is the spirit of the human. Therefore, there is no ban according to Syara' for the Muslims to gain benefits from donated organs of the non-muslims.

The muslims are forbidden to donate organs for non-muslims: In the Malaysian context, the donor cannot decide who can and who cannot receive his organ. The organ will be transferred into the most suitable person with the highest chance for transplantation success. In the Malaysian context too, the non-Muslims are considered as kafir dzimmi which is those who pledge their allegiance to the country and they deserve protection, assistance and saved when in difficulties or pain. This includes saving lives through organ transplantation. Therefore in Malaysian context, there is no issue whether it is permissible or not to donate to the non-Muslim because it is compulsory to help them when they are facing difficulties. This matter is explained through al-Quran verse below:

"Allah does not forbid you from those who do not fight you because of religion and do not expel you from your homes-from being righteous toward them and acting justly toward them. Indeed, Allah loves those who act justly

Rasulullah (SAW) also reminded us that the Muslims should be the ones who give more and help others more. It is also stated in the below hadith narrated by Imam Bukhari from Abdullah bin 'Umar (RA):

Rasulullah (SAW) decreed when he was on the mimbar (pulpit) speaking about sadaqah (charity), to abstain from asking others for some financial help and about begging from others, saying "The upper hand is better than the lower hand. The upper hand is that of the giver and the lower (hand) is that of the beggar"

CONCLUSION

It can be concluded that the Muslims specifically the Malay community still have negative perception towards organ donation and transplantation, which is the reason why they are less interested to pledge as organ donors. Truthfully, one should not feel scared to donate organ, because what he does is considered part of good deeds and pious act towards other people who needs help. The negative perceptions that arise among the Malays as mentioned above, is not true.

On other hand, from the islamic point of view, it is permissible to gain benefits from human organs under the state of emergency, hence organ donation and transplantation is allowed because it involves an emergency situation. Organ is a trust that must be taken care of, but it is not wrong to donate to a patient in need as long as it is done within the procedures which are compliant to syariah and does not involve the whole

organs. This falls into charity donation category whereby there will be continuous rewards for the people who had done it.

Some of the earlier muslim scholars allow to cut open the abdomen of a corpse who swallowed some diamonds when he was alive that belonged to somebody else and the owner claimed back his precious stones to be returned. Moreover, some scholars also allow cutting the stomach of a woman who died yet there is a strong belief that the baby in her stomach is safe with a high chance to live. It is haram to inflict pain upon the deceased under normal circumstances when there is no reason to do so or under non-emergency situations. But when encountering a situation which is not normal or can cause bigger harm, it is compulsory to eliminate that harm by doing smaller harm. Furthermore, when bumped into the need to save the life of a living patient and the need to respect the dead, then preserving the life of a living person should be prioritized.

Donating organ does not whatsoever creates a mahram relationship between the donor and the donation recipient because the qiyas (taking an established ruling from Islamic Law and applying it to a new case, in virtue of the fact that the new case shares the same essential reason for which the original ruling was applied) that there exist a suckling relationship between the donor and donation recipient, is inaccurate because suckling that creates marriage ban is the one that is done before the age of two years old. It is recommended that Malay society should avoid negative perception towards organ donation and accept the government initiative in increasing the number of organ donor.

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