

## ***Fiqh al-Maalat* in Uterine Transplantation for Women with Mayer-Rokitansky-Küster-Hauser (MRKH) Syndrome in Malaysia**

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### **Abstract**

Uterine transplantation for women with Mayer-Rokitansky-Küster-Hauser disease (MRKH), a condition characterized by the absence of a uterus, presents a significant medical challenge. In Malaysia, laws and *fatwas* restrict medical interventions for this condition, prohibiting uterine transplantation. To address this issue, this study examines the role of *fiqh al-Maalat* (implications of action) in contemporary medical contexts. Employing a qualitative research method, the study focuses on the theoretical concept of *fiqh al-Maalat* applied in medical contexts, with an emphasis on prioritizing the importance of *maqasid al-Shariah*. Expert interviews were conducted to validate the study, particularly regarding uterine transplantation for MRKH syndrome. The findings underscore the necessity of uterine transplantation due to the increasing prevalence of MRKH syndrome in Malaysia, necessitating the adoption of transplantation methods. Consequently, this study advocates for a reassessment of laws and *fatwas* in alignment with the requirements of *maqasid al-Shariah*, considering the implications of permitting uterine transplantation in Malaysia. Further research is recommended to explore the ethical, legal and religious dimensions of uterine transplantation and to develop guidelines informed by *fiqh al-Maalat* principles.

**Keywords:** *Fiqh al-Maalat*, Uterine Transplantation, Mayer-Rokitansky-Küster-Hauser (MRKH) Syndrome

## Introduction

The field of medicine has now been updated with various contemporary medical methods. The success of various medical methods implemented in Malaysia is seen as capable of helping the community in treating various types of chronic diseases, especially for patients suffering from Mayer-Rokitansky-Küster-Hauser (MRKH) syndrome. This study tries to examine the application of *fiqh al-Maalat* in this issue and generate legal rulings and *fatwas* regarding medical methods that are not contradictory to Islamic principles. The definition of the *fiqh al-Maalat* method here means consideration of what leads to its legal judgment at the time of application, in accordance with Shariah objectives (Al-Hussin, 2009).

Through this study, the application of *fiqh al-Maalat* is employed to establish strong *fatwas* to strengthen and allow the practice of uterine transplantation in Malaysia. This involves the transplantation process, i.e., the removal of the uterus from one woman, which is then implanted into another woman for the purpose of obtaining offspring, especially to assist female patients suffering from MRKH syndrome. Uterine transplantation is an alternative treatment for patients facing issues with uterus formation or those who have undergone hysterectomy (Fageeh et al., 2002). Fageeh et al (2002) conducted a uterine transplantation surgery from a 46-year-old donor to a 26-year-old recipient who had undergone hysterectomy surgery. However, on the 99th day after the transplantation, the uterus had to be removed due to blocked blood vessels, resulting in the demise of the transplanted uterus (Fageeh et al., 2002).

Reproductive organ transplantation is divided into auto transplantation and heterologous transplantation. In auto transplantation, the donor and recipient are the same individual. Heterologous transplantation, on the other hand, involves transplantation between different individuals (Bedaiwy et al., 2008). Among the reproductive organs that have undergone transplantation surgeries are the ovaries, testes, penis, vagina, and uterus. Previous studies have found that reproductive organ donation, specifically for the uterus, hasn't yet reached the level of urgency required, with high risks and low success rates. Additionally, there are several other alternatives that can be used by couples desiring to have children without going through the procedure of childbirth, such as adoption and polygamy. This study will apply the *fiqh al-Maalat* method for the determination of *fatwa* on the issue of uterine transplantation for female patients with MRKH syndrome. Furthermore, the views of medical experts will also be taken into account for the benefit in determining the legal ruling for this issue.

## Literature Review

### *Fiqh al-Maalat*

*Fiqh al-Maalat* is an Islamic jurisprudential concept that deals with the implications and consequences of human actions, transactions and behavior. It can be translated as the "jurisprudence of transactions" or "jurisprudence of interactions". This branch of Islamic jurisprudence (*fiqh*) focuses on the ethical, legal and social aspects of human conduct in various spheres of life, including commerce, contracts, personal relationships and societal interactions. In essence, *fiqh al-Maalat* provides guidance on how Muslims should conduct themselves in their daily lives, addressing issues related to morality, ethics and legal principles. Scholars in the field of *fiqh al-Maalat* analyze different scenarios and provide legal

and ethical rulings based on Islamic principles found in the Quran and the Sunnah of Prophet Muhammad PBUH. The application of *fiqh al-Maalat* is not limited to a specific time or place but is meant to be adaptable to changing societal conditions and challenges. Scholars use principles derived from the foundational sources of Shariah to derive rulings on contemporary issues, ensuring that Islamic jurisprudence remains relevant and applicable in different contexts.

Perhaps, one of the things that may be overlooked by Islamic scholars, whether among *mujtahids*, *muftis* or religious scholars, is the necessity to consider the consequences resulting from an action. This is crucial because Islam not only focuses on intentions and correct implementation but also takes into account the outcomes that arise from those actions. In reality, it is not impossible for an action that initially appears to be in accordance with Shariah to, in the long run, bring about harm either to the image of Islam or to Muslims themselves.

Similarly, there are things that may initially seem to contain harm (*mafsadah*), but completely prohibiting them could lead to even worse consequences. All of these aspects need to be thoroughly examined by religious scholars. Recognizing this reality, in the 10th century of the Hijrah, al-Shatibi, one of the great scholars in the field of *usul al-Fiqh* (principles of Islamic jurisprudence), also known as the “father” of *maqasid al-Shariah*, wrote a section in his book concerning the importance of considering the consequences of actions for those who intend to issue *fatwas* or apply the law (al-Shatibi, 1997). This is because, in addition to mastering the Quran, Sunnah, and all related knowledge, it is also necessary for *mujtahids* to understand the reality and circumstances of humans at the time. All of this can guide them to “read” the consequences resulting from the implementation of a *fatwa* or law. Otherwise, what they intend to convey may bring about more harm than benefit.

Al-Shatibi’s pivotal role in shaping the understanding of *maqasid al-Shariah* (the objectives of Shariah) is widely acknowledged, earning him recognition as the pioneer in this field, despite earlier mentions of this concept by scholars such as al-Juwayni, al-Ghazali, and Izz Abd al-Salam (Jasser Auda, 2007). Through his seminal work, “Al-Muwafaqat”, al-Shatibi introduced significant reforms to the concept of *maqasid al-Shariah*, notably by emphasizing its role as the cornerstone of legal principles rather than merely spiritual wisdom, as previously portrayed in scholarly literature. Additionally, al-Shatibi elucidated the practical application of *maslahah* by outlining its principles and elucidating its interrelation with other aspects of Islamic jurisprudence (al-Abaidi, 1992).

According to al-Shatibi’s doctrine, it becomes apparent that *maalat* introduces a degree of flexibility in the application of Islamic rulings, prioritizing the realization of *maslahah*, which constitutes the essence of the rule, over strict technical adherence. However, there is a risk of misinterpretation of the *maalat* principle as a means to unjustifiably alter a rule in the guise of *maslahah*, especially concerning obligatory regulations in Islam. Nevertheless, the principle of *maalat* could be misunderstood as a way to justify arbitrarily amending a rule in the name of *maslahah*, particularly mandatory rules in Islam (Ishak, 2018).

The earliest known study in modern research dates back to 1976. Despite the considerable time gap between al-Shatibi’s book, published in the fourteenth century AD, and contemporary studies in the twentieth century, it is believed that there were likely active researchers who addressed the issues of *al-Maalat* effectively in their books or research papers during this time. This gap period, marked by socio-economic and political turmoil coupled with the colonization of the Islamic world, likely resulted in the loss of valuable literature on the subject. Additionally, the lack of scholarly output may also be attributed to

researchers' focus on other areas rather than the jurisprudence of *al-Maalat* (al-Quradaghi et al., 2022).

Meanwhile, al-Quradaghi et al (2022) aims to rekindle interest within the intellectual community regarding the importance of reviving attention to the field of *fiqh al-Maalat*. This objective was achieved by reviewing existing literature on the subject after providing a conceptual framework for understanding the discipline. The paper highlighted the existence of contemporary academic works on *fiqh al-Maalat*, including books, dissertations, theses and articles, originating from various Muslim countries across the eastern, central and western regions of the Islamic world. Additionally, the paper identified a gap in the literature concerning Islamic finance, particularly in relation to *al-Maalat*.

Notwithstanding, the exploration of *fiqh al-Maalat* as a principle warrants further elaboration, especially in terms of defining its parameters. This concept offers a balanced perspective bridging revelation and reality, as well as Islamic jurisprudence and *maqasid al-Shariah*. By adopting this principle, *maslahah* is viewed through the lens of practical application, beyond mere textual analysis of Islamic sources. Hence, Ishak (2018a) in his study proposes avenues for future research to employ *fiqh al-Maalat* concept across diverse domains of Islamic jurisprudence, including Islamic finance, Islamic criminal law and Islamic family law.

However, the researcher found that there are several studies that are significantly related to this study, namely the implementation of *fiqh al-Maalat*, the method of issuing *fatwas* and the level of necessity for uterus transplantation in women who don't have a uterus. In the writing entitled "Maalat al-Af'aal wa Atharuha fi Taghhyir al-Ahkam", the understanding of the implications of an action and its effects on the responsible individual's actions, as well as its relation to the changes in applicable laws, is explained (Al-Dhahab, 1994). The main focus of this writing is on the intention of the responsible individual, evaluated through *al-Maalat*, *al-Af'aal*, and its connection to *taklifi* laws. It examines the effects of these legal changes, determining whether they bring about benefits (*maslahah*) or harm (*mafsadah*) to the law. Additionally, this study offers a specific contribution by discussing the understanding of the principles of *fiqh al-Maalat* and their relation to *usuliyyah* principles, as well as the application of these principles.

To establish a *fatwa* on a matter involving contemporary issues, various approaches and *fiqh* methods are employed by jurists to determine an appropriate *fatwa* that is readily accepted by the Muslim community. Many articles focus on discussing *fiqh* principles. *Fatwas* serve as a solution to resolve misunderstandings and complexities faced by the Islamic community in the current context regarding emerging issues involving individual and societal problems (Abdullah, 2004). Meanwhile, through the writing entitled "Application of Fiqh Methods on Perlis State Fatwa", it was found that not all *fatwas* issued in Perlis consider the principles in law issuance, and most *fatwas* issued don't clearly state the *fiqh* principles used (Aziz, 2018). Additionally, a piece of writing titled "Al-Halal wa al-Haram fi al-Islam" discusses contemporary issues involving the Muslim community, specifically. The study found that in matters involving *halal* and *haram*, the main element of caution (*ihtiyat*) should be obligatory to avoid falling into forbidden elements. Therefore, *fiqh* principles are the main elements in determining the law for establishing a matter, especially in current contemporary issues that do not have clear texts to elucidate them (al-Qardhawi, 1978).

There are many writings and studies that elucidate the issue of the necessity of uterine transplantation for women. The majority elaborate by examining the level of need for uterine transplantation in Malaysia. Uterine donation in Malaysia is seen as a necessity for the

community to have offspring. However, the law cannot be decided solely by considering the need for offspring; it must encompass considerations of textual evidence, objectives, and the level of need, as discussed in the writing “Konsep dan Pendekatan Wasatiyah dalam Pengeluaran Fatwa: Satu Kajian Awal” (Rosele & Rahman, 2019). Through past studies, it can be understood that the need for uterine transplantation is viewed in terms of urgent necessity (*darurah*).

Through the writings and past studies mentioned above, it can be understood that the method of issuing *fatwas* is based on *fiqh* principles to produce contemporary *fatwas*. For the issue examined in this study, several studies and writings referenced by the researcher can help elucidate this issue by considering the level of need for adaptation to bring about benefits in the issues under study.

### ***Mayer-Rokitansky-Küster-Hauser (MRKH)***

Mayer-Rokitansky-Küster-Hauser (MRKH) syndrome, often simply referred to as MRKH, is a congenital disorder that primarily affects the reproductive system in females. Women with MRKH syndrome are born with underdeveloped or absent reproductive organs, including the uterus and upper part of the vagina. While external genitalia and other secondary sexual characteristics typically develop normally, the absence or incomplete development of the internal reproductive organs can lead to difficulties with menstruation and fertility (MedlinePlus, 2024). The condition is named after the physicians who first described it; August Franz Joseph Karl Mayer, Carl Freiherr von Rokitansky, Hermann Küster and Ludwig Hauser. MRKH syndrome is considered a rare condition, and its exact cause is not always clear. It is often diagnosed during adolescence when girls do not undergo menstruation, and the syndrome can have significant psychological and emotional impacts on affected individuals. Treatment options for MRKH syndrome may include psychological support, counseling, and in some cases, surgical interventions to create or reconstruct the vaginal canal. Assisted reproductive technologies such as In Vitro Fertilization (IVF) can also be considered for those seeking to have biological children (Herlin et al., 2020).

There are two variations of MRKH syndrome. In MRKH Type 1, there's a lack of development in the uterus, cervix and upper vagina. Similarly, MRKH Type 2 also exhibits underdevelopment in these areas, along with additional variances in the kidneys, spine and occasionally the ears and heart. For instance, individuals with MRKH Type 2 might have abnormalities like a solitary kidney or a kidney positioned unusually, such as in the pelvis. Additionally, they may experience conditions like scoliosis.

MRKH syndrome is typically diagnosed around ages 14-15 when individuals fail to commence menstruation despite otherwise normal puberty. Diagnosis involves a thorough medical history, physical examination, pelvic imaging (e.g., ultrasound or MRI), assessment of puberty hormones through bloodwork, and genetic testing to confirm the presence of female sex chromosomes. Screening for associated conditions like kidney, spinal, and occasionally auditory issues is also conducted to determine the specific type of MRKH syndrome. For individuals seeking to address the anatomical impact of MRKH syndrome, vaginal lengthening may be pursued through MRKH dilation therapy, which involves using dilators or engaging in coital dilation. Surgical options are available for those who are unable to achieve dilation through therapy, with techniques varying based on the surgeon's expertise and the individual's preferences. Some individuals may opt not to undergo vaginal lengthening, and such procedures should only be pursued when the individual feels ready and consents to them. Various options exist for family planning, including adoption, surrogacy, In Vitro

Fertilization (IVF) and participation in uterine transplantation clinical trials. Routine gynecological care, including Human Papilloma Virus (HPV) vaccination and Sexually Transmitted Disease (STD) testing, is recommended. While individuals with MRKH syndrome are not screened for cervical cancer due to the absence of a cervix, they are advised to receive the HPV vaccination (Cincinnati Children's, 2024). For those experiencing abdominal pain, over-the-counter medications like ibuprofen may offer relief, while hormone therapy can help manage consistent cramping. Psychosocial support, encompassing sexual health counseling, grief counseling, and family support, can be beneficial for individuals with MRKH syndrome (Cincinnati Children's, 2024).

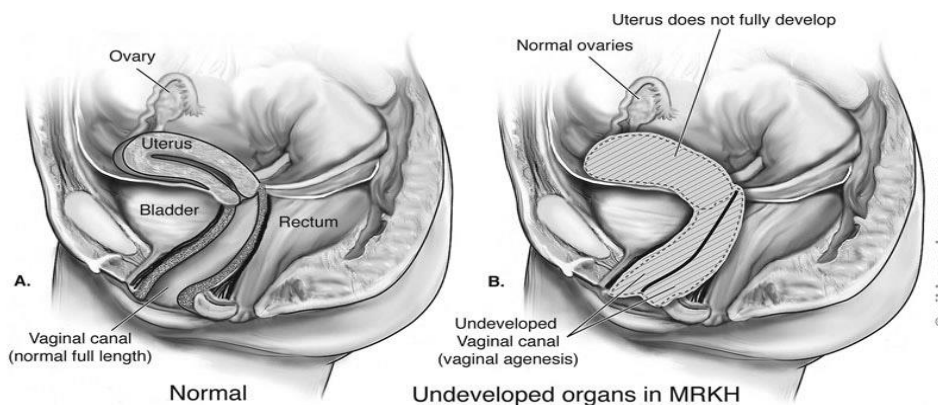


Figure 1: Mayer-Rokitansky-Küster-Hauser Syndrome

### Research Methodology

This study utilizes a qualitative approach, examining the concept of *fiqh al-Maalat* theory by applying *fiqh al-Maalat* methods to determine the laws and fatwas related to issues involving uterine transplantation for women with MRKH syndrome, who are born without a uterus. In this study, the researcher employs data collection methods, gathering data from sources such as the Quran, hadith collections, contemporary jurists' writings, as well as relevant theses, journals and articles. All of this data is obtained from libraries and online sources. Furthermore, to strengthen the study on this issue, the researcher also employs field research methods, conducting interviews with a medical expert to gain a deeper understanding of the MRKH syndrome issues.

### Discussion and Findings

#### **Definition of Fatwa and Fiqh Al-Ma'alat and Their Connection in The Process of Issuing a Fatwa**

*Fatwa* originates from the word "fata" (فتى) which means "a young person who is strong and intelligent in explaining any complexities of various issues that arise" (Ibn al-Manzur, 1990). In simpler terms, *fatwa* is a response or legal answer to questions asked, as well as an explanation of Islamic law. In the Malaysian context, a *fatwa* is not considered binding law until it is promulgated. It serves as legal clarification when an event occurs. Islam also mandates its followers to seek knowledge from those who are knowledgeable when they find that the ruling on a matter is unclear, as commanded by Allah SWT "So ask those who possess knowledge if you do not know" (Quran, 16:43).

Meanwhile, the term *maalat* (مآلات) is the plural form of the word *ma'al* (مآل), also referred to as *al* (رجوع - يرجع - مرجعا) which means 'a place of return,' akin to the word *marja'* (رجوع - يرجع - مرجعا) (Ibn al-Manzur, 1990). The use of the word *maal* in *fiqh al-Maalat* implies a place of return and

also signifies outcome or implication. *Fiqh al-Maalat*, as explained by Imam al-Shatibi based on the concept of *fiqh al-Maalat* (al-Shatibi, 1997):

النظر في مآلات الأفعال

Meaning: Looking at the consequences of actions

Al-Shatibi (1997) elaborates more clearly on this concept, stating that the consideration of *ma'alat* or implications of actions is based on the objectives according to Shariah (*maqasid al-Shariah*). It assesses whether the action aims to impose a penalty on an act from the accountable person with courage or reluctance to impose punishment, only after considering what is implied by the action. This evaluation determines whether the action is valid according to Shariah to reject harm (*mafsadah*) or to obtain benefit (*maslahah*), despite having implications different from its purpose. It may be that the action is not valid according to Shariah because of the harm it causes or the benefit it yields, but it has different implications (al-Shatibi, 1997).

In the process of issuing a *fatwa*, it will be examined and determined by considering the prevalence of benefits in every issue being addressed. This is to ensure that the *fatwa* decision is correct and comprehensive to meet the welfare of the questioner (*mustafti*). Furthermore, the outcomes of any *fatwa* should also be considered, namely the effects that lead to goodness and prevent harm, so that the established *fatwa* can benefit society. Therefore, the process of issuing *fatwas* through detailed research and discussion, while taking into account the welfare and *maqasid al-Shariah*, serves as a catalyst for societal acceptance of a given *fatwa*.

### ***The Need for Implementing Fiqh al-Maalat in Contemporary Medicine***

Medicine refers to the healing process related to medical treatment efforts. Meanwhile, the term “contemporary” refers to the present time. Contemporary medicine encompasses modern medical methods based on various treatment and medical techniques aimed at treating and maintaining public health (Kamus Dewan, 2002). It represents new alternatives introduced by medical practitioners, including the use of substances in medications and novel methods for treating chronic diseases.

The implementation of *fiqh al-Maalat* in contemporary medicine is based on the needs and priorities determined by the principle of *maqasid al-Shariah*. The necessity of *fiqh al-Maalat* is also assessed to preserve vital aspects of human life, particularly the preservation of life itself. Given the current necessity for contemporary medicine, there is a demand for contemporary *fiqh* knowledge that evaluates the level of necessity and examines the implications that will benefit society. Thus, *fiqh al-Maalat*, which conceptualizes assessing the implications of an action, is suitable for application in contemporary medical issues.

Through the implementation of *fiqh al-Maalat*, the primary objective is to achieve benefits. This aligns with the concept of *fiqh al-Maalat*, which prioritizes benefits in contemporary medicine, aiming to facilitate healing and advance medical methods intended to improve public health and contribute to the development of contemporary medicine in Malaysia. Additionally, in applying this method in contemporary medicine, it must adhere to Islamic law to prevent deviation from the original benefit in the concept of medicine (Zahalan et al., 2019). If such deviation occurs, the implementation of this method in contemporary medicine needs reassessment regarding its necessity.

The emergence of various new technologies in medicine aims to reduce the prevalence of chronic diseases among the public. However, the implementation of these technologies must also align with the principles of Islamic law, prioritizing the application of elements of *fiqh* knowledge,

including *fiqh al-Maalat*, and the principles of *maqasid al-Shariah* to avoid straying from Islamic legal principles and to aid in contemporary legal research and *fatwa* issuance.

Therefore, by applying *fiqh al-Maalat* in the implementation of contemporary medicine, it can produce laws and *fatwas* that prioritize the welfare of Muslims. Applying *fiqh al-Maalat* in contemporary medicine does not mean legitimizing everything that is normally prohibited. Rather, it is a step toward treating society from dangerous diseases threatening lives, as recommended by Islamic law, which advocates providing benefits to society and preventing obvious harm.

### ***The Establishment of Medical Fatwas Requiring the Application of Fiqh al-Maalat***

The application of *fiqh al-Maalat* is also one of the elements that can be used in determining a *fatwa*. To accommodate current realities in the establishment of a law, the application of contemporary jurisprudence is also necessary to further adjust the determination of a law to current circumstances. Therefore, among the contemporary *fiqh* that can be applied in determining medical *fatwas* through this study is *fiqh al-Maalat*, which functions to examine the effects of implementing treatment methods on patients. However, not all determinations of *fatwas* in medical issues require the application of *fiqh al-Maalat*. It only involves some issues that require jurists to exercise *ijtihad* using the application of *fiqh al-Maalat* to assist in determining a law for certain specific *fatwas*. This is because it encompasses the following issues:

1. Issues leading to the issuance of such *fatwas* have never occurred before. This occurs due to changes in time and current situations. For example, a *fatwa* regarding Human Immunodeficiency Virus (HIV) screening tests as a new requirement for prospective couples. This requirement has never been established before but is mandated based on the principle of safeguarding the institution of marriage.
2. Issues decided through these *fatwas* relate to the changing needs of society. For instance, a *fatwa* regarding the obligation to receive the COVID-19 vaccine as a new requirement for congregants who wish to pray congregationally in mosques. This requirement has never been established before, but today it is mandated to prevent the spread of the epidemic and to safeguard the welfare of the community.
3. Current issues that have been ruled by *fatwas* have been discussed by jurists before, but their rulings need to be re-evaluated to remain relevant to current realities. For example, a *fatwa* regarding plastic surgery, which was originally not permitted by Shariah because it alters the original creation. However, today it needs to be reassessed based on current circumstances that necessitate it.
4. *Fatwas* issued in line with the advancement of science and technology. The emergence of various new discoveries in the field of science and technology has influenced societal life systems to advance forward. Indirectly, it also affects the development of Islamic law. For example, *fatwas* regarding the In-Vitro Fertilization (IVF) method. IVF is a treatment sanctioned by Shariah for married couples requiring fertility treatment. This method is a new discovery in the medical world that aids married couples in seeking offspring.

Through all the aforementioned issues, the application of *fiqh al-Maalat* is utilized to facilitate the establishment of *fatwas* in contemporary medical issues. This is because the concept of *fiqh al-Maalat* is to prevent actions that may cause harm. Additionally, the implementation of *fiqh al-Maalat* in contemporary medical issues should align with the demands of *maqasid al-Shariah* to adjust it to current realities (Zahalan et al., 2019). Meanwhile, in determining a contemporary *fatwa*, the established *fatwa* should be based on current realities and the effects obtained from



the implementation of such methods. This is to ensure it does not contradict *maqasid al-Shariah*, which aims to preserve religion, life, intellect, progeny and wealth.

***Implementation of Fiqh al-Ma'alat Regarding the Necessity Level of Uterine Transplantation for Women with Mayer-Rokitansky-Küster-Hauser (MRKH) Syndrome***

The uterus is the largest organ in the female reproductive system. It is located between the bladder in front and the rectum behind. The uterus functions as the place where the foetus grows during pregnancy (Noor, 2008). Every normal woman is born with a complete uterus. However, there are women who are born without a uterus, a condition known in medicine as Mayer-Rokitansky-Küster-Hauser (MRKH) syndrome (Burina et al., 2012). Based on medical studies, one in 4500 women experience MRKH syndrome. Women with MRKH syndrome typically experience primary amenorrhea problems Noor (2008), but still exhibit normal secondary sexual characteristics with external genitalia (Morcel et al., 2012).

In this study, the researcher chose to examine the perspective of implementing *fiqh al-Maalat* regarding the necessity level of uterine transplantation for women with MRKH syndrome to enable them to conceive and continue their lineage. However, all assessments and considerations must be primarily focused on the laws related to the uterine transplantation method. To strengthen the study on this issue, a Reproductive Medicine Specialist and Obstetrics and Gynaecology Consultant from Vistana Fertility Centre were interviewed to obtain an explanation of this condition. According to this consultant, this method is a new medical procedure and is still not permitted in Malaysia. This is due to the lack of experts in uterine transplantation because it is not an easy procedure like heart surgery, kidney transplantation and so on. Additionally, medical cases requiring uterine transplantation have never been performed in Malaysia. Due to these factors, there is no expertise in uterine transplantation, and this method has also been prohibited by the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia (Jabatan Kemajuan Islam Malaysia, 2024).

However, considering the increasing number of women in Malaysia suffering from MRKH syndrome, the ruling on uterine transplantation should be reconsidered by the National Fatwa Council. According to Dr. Nur Azurah Abdul Ghani, Head of the Obstetrics and Gynaecology Department at Hospital Canselori Tuanku Mukhriz Universiti Kebangsaan Malaysia (UKM), the main reason for allowing uterine transplantation is based on current conditions, as many women are coming forward to share about the disease syndrome because they want to start families and have offspring of their own (MyMetro, 2024). If uterine transplantation is permitted in Malaysia, it will have significant implications for those with MRKH syndrome.

For individuals with MRKH syndrome and no uterus, the chance of pregnancy is slim as all fertility treatment procedures involve the main female reproductive organ, the uterus. All fertility treatment procedures introduced today, including In-Vitro Fertilization (IVF), major surgical methods (laparotomy), Intrauterine Insemination (IUI) techniques, Human Chorionic Gonadotropin (HCG) injections, and Clomid hormone medications, are introduced by Obstetrics and Gynaecology experts as treatment methods for married couples facing fertility problems. All fertility treatment methods mentioned above cannot be used for those with MRKH syndrome due to the absence of the main female reproductive organ, the uterus.

***The Need from The Perspective and Implications of Uterine Transplantation for Those Without a Uterus***

Modern medical methods that can help this group include undergoing uterine transplantation from another individual. The issue of organ donation, especially female reproductive organs

(uterus), involves Islamic law or Shariah, which requires comprehensive views and answers to arising questions. This discussion begins by consulting medical experts and contemporary jurists in determining the law regarding this issue.

Furthermore, the issue of MRKH syndrome is rarely encountered in Malaysia, resulting in limited discussions about this disease, so much so that this group itself is unaware that they have MRKH syndrome. Therefore, in this study, the issue of uterine transplantation is viewed from the perspective of implementing *fiqh al-Ma'alat* to examine the effects that will arise if uterine transplantation is performed on this group. Among the implications that bring benefits if uterine transplantation surgery is performed on this group are:

1. Uterine transplantation can bring new life to MRKH couples to have their offspring.
2. Avoiding being victimized by some men who consider this group the best choice for unprotected sexual activities because they can't get pregnant (MyMetro, 2024).
3. Uterine transplantation also makes this group desiring to start families.
4. Uterine transplantation is seen as an effort that provides opportunities for this group to fulfil the natural disposition of having offspring, besides allowing women to experience pregnancy and childbirth.

The main factor the researcher chose MRKH syndrome to implement uterine transplantation requirements is because more and more individuals in Malaysia are suffering from this syndrome, making it impossible for them to have offspring unless they undergo uterine transplantation. The Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia's 106th Meeting, held on October 21-22, 2014, discussed the Law of Uterine Donation and Transplantation and decided that the law of donation and uterine transplantation is not mandatory because its necessity has not reached an emergency level (Jabatan Kemajuan Islam Malaysia, 2024).

However, this *fatwa* decision should be reconsidered based on the current situation, as many women are born without a uterus and vagina, causing failure to conceive. Various uterine transplantation methods that can be performed include selecting donors from among those with blood relations to avoid confusion of lineage in a family institution. In determining the law on this issue, the necessity level of uterine transplantation should be prioritized by referring to the original intention of having offspring based on the basic *fiqh* principle al-Nadwi (2000), which is:

الأمر بمقاصدها

Meaning: Every matter is judged by its intention.

The necessity level for implementing uterine transplantation on this group should be given due consideration according to the changes of a time as long as it does not contradict Islamic law. Moreover, it is seen as capable of helping this group. The implementation of this issue can also be seen through the *fiqh* method (al-Zarqa, 1968):

ما ثبت بزمان يحكم ببقائه ما لم يقدّم الدليل على خلافه

Meaning: What is established at a time is judged to remain, as long as there is no evidence to the contrary.

Through the above *fiqh* method, it can be understood that changes and progress, especially in contemporary medical fields, can influence a law based on changes in time to help society, especially for this group to have offspring.

Furthermore, the approach from the aspect of *maqasid al-Shariah* also becomes a major aspect in determining the law for uterine transplantation treatment methods for those with MRKH syndrome. Through *maqasid al-Shariah*, the importance of preserving lineage (*hifz al-Nasl*)

is also among the crucial elements emphasized by the principles of *maqasid al-Shariah* in achieving the well-being of life. Therefore, the law for uterine transplantation treatment methods for those with this syndrome is seen as a necessity to maintain the well-being of life by providing opportunities for this group to preserve their lineage by having offspring of their own.

The study of *fiqh al-Maalat* in uterine transplantation for women with Mayer-Rokitansky-Küster-Hauser (MRKH) syndrome in Malaysia encompasses many-sided considerations spanning legal, ethical, religious and practical dimensions. Delving into this domain reveals a complex interplay of Islamic jurisprudence, medical ethics, and societal perceptions. Through rigorous investigation, key findings emerge, shedding light on various aspects of this issue. Understanding and acceptance of *fiqh al-Maalat* principles among Islamic jurists and medical practitioners is pivotal, with assessments revealing nuanced perspectives on concepts like *maslahah* and *darurah*. Additionally, legal and ethical dilemmas are explored, analysing *fatwas*, ethical guidelines and community perceptions to navigate the ethical terrain of organ transplantation. Understanding how uterine transplantation aligns with the broader objectives of Shariah, such as lineage preservation and health promotion, offers insights into its religious legitimacy. Moreover, insights into the *fatwa* issuance process, practical implementation challenges and comparative analyses with other countries provide comprehensive perspectives for guiding future policies and practices. Ultimately, this study contributes valuable insights and recommendations for navigating the ethical, legal, and religious complexities of uterine transplantation in Malaysia, ensuring alignment with *fiqh al-Maalat* principles while promoting the well-being of individuals and communities.

### **Conclusion**

In conclusion, the exploration of *fiqh al-Maalat* in the context of uterus transplantation for women with Mayer-Rokitansky-Küster-Hauser (MRKH) Syndrome in Malaysia sheds light on the intricate intersection of Islamic jurisprudence and contemporary medical dilemmas. Through an examination of the implications and consequences of these medical interventions, it becomes evident that the application of *fiqh al-Maalat* serves as a crucial framework for navigating complex ethical and legal considerations.

This study underscores the importance of considering not only the immediate outcomes of medical procedures but also their broader societal and religious ramifications. By aligning with the principles of *maqasid al-Shariah*, *fatwa* decisions on uterus transplantation reflect a careful balance between preserving individual health and upholding the greater good of society. Furthermore, the involvement of Fatwa Committees in assessing the benefits and harms associated with these medical advancements highlights the commitment to ensuring that religious rulings are rooted in Shariah principles and the welfare of the community. As Malaysia grapples with the challenges posed by MRKH Syndrome and the complexities of modern medical interventions, the application of *fiqh al-Maalat* offers a nuanced approach to addressing these issues while remaining faithful to Islamic ethics and values.

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