

Human Trafficking from the Islamic Perspective

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Abstract

This study examines human trafficking from the Islamic perspective, exploring its fundamental principles, historical background, ethical considerations, and contemporary challenges. This study utilizes a qualitative approach which employs both doctrinal and socio-legal approaches. The doctrinal approach allows researchers to understand the Islamic principles of exploitation, while the socio-legal approach scrutinizes the application of Islamic rulings in society. The findings reveal the prohibition of seven types of exploitation, as emphasized in Islamic jurisprudence, which includes exploitation in slavery, transactions, labour, sexual activities, human organs, adoption and acts of injustice. Furthermore, this study explores the principle of non-punishment for victims and the types of punishment for the offender. This study emphasizes the need for collective action to combat exploitation, promote justice, and protect the rights and dignity of all individuals. It strongly encourages individuals, communities, religious leaders, policymakers, and international organizations to work together to eradicate exploitation, uphold justice, and safeguard every individual's dignity and rights in alignment with Islamic principles and universal human values.

Keywords: Human Trafficking, Human Rights, Islamic Perspective, Socio-Legal

INTRODUCTION

Human trafficking is rapidly emerging as the fastest-growing criminal sector that traverses across the boundaries of multiple countries. According to the International Labor Organization (ILO), the International Organization for Migration (IOM), and Walk Free, there has been a 12% increase in the number of individuals experiencing trafficking from 2016 to 2021. Today, approximately 27.6 million people around the globe lack the autonomy to determine their own living and working conditions (Polaris, 2022).

Human trafficking has evolved into a highly lucrative criminal industry. The Center for Countering Human Trafficking (2022) reported that criminal networks accrue an estimated annual revenue of approximately USD 150 billion through the trade, abuse, and exploitation of victims. Given this inherent disposition, this crime substantially threatens global security, tarnishing democratic principles and persistently hampering progress toward a stable and harmonious society.

The discussion on human trafficking occurs within various contexts. The multifaceted nature of human trafficking necessitates a comprehensive and multidisciplinary approach to address and combat this global issue. The study aims to explore human trafficking from the Islamic perspective by examining the principles of Islamic jurisprudence, the historical context, and the ethical considerations, while also examining contemporary challenges. An exploration of the Islamic perspective can contribute to the broader discourse on human rights and social justice, raising awareness in Muslim communities by highlighting the importance of protecting vulnerable populations as well as developing strategies that can ensure justice for victims and effectively combat human trafficking within Muslim societies and on a global scale.

As human trafficking constitutes a worldwide concern, the imperative of this study extends beyond mere moral and ethical obligations to encompass critical areas such as human rights, security, and the overall well-being of communities and societies. Thus, addressing this matter is not solely a question of justice but is also necessary for advancing societies worldwide.

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DEFINITION OF HUMAN TRAFFICKING

Human trafficking is defined as ‘the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation’ (Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000).

According to Mulia (2005), the reasons for human trafficking are poverty and unemployment. However, Wyatt (2011) found that poverty is not the main factor that causes human trafficking. The study revealed that human trafficking occurs due to several factors contributing to poverty and various underlying structural issues. These factors include limited access to education, weak law enforcement, food scarcity, and a lack of commitment from the government to eradicate human trafficking. The latter study highlighted the heavier onus of the government to combat human trafficking on a broader scale, rather than blaming the vulnerable individuals who may have been coerced into illegal activity due to their economic circumstances.

Moreover, individuals who have been trafficked should not be treated as criminals as they have been compelled to engage in illegal activities. According to the Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002) developed by the Office of the United Nations High Commissioner for Human Rights, victims of trafficking often find themselves coerced, manipulated, or forced into committing unlawful actions under the control of traffickers. Instead of facing criminal charges, these individuals should be recognized as victims and provided with support, protection, and assistance to escape the cycle of exploitation. This approach is essential to ensure that victims receive the necessary help to recover and reintegrate into society without the added burden of criminalization for actions they were forced into.

HUMAN TRAFFICKING IN ISLAM

Islam strongly condemns the exploitation of vulnerable individuals, which is at the core of human trafficking. While the term ‘human trafficking’ was not explicitly stated in the Islamic texts, the prohibition of this crime is evident in the condemnation of various exploitation that have persisted over generations (Hamid, 2016).

The prohibition of human trafficking is embedded in the four main sources of Islamic legal principles: the Quran, the Sunnah (Prophet Muhammad’s traditions), the practices of his companions, and the consensus of scholars (*ijma*). These sources collectively underscore Islam's commitment to addressing exploitation and set the foundation for its opposition to human trafficking and related injustices. Abu Hurairah narrated Prophet Muhammad’s (PBUH) saying which translates as:

“Allah said I will be an opponent to three types of people on the Day of Resurrection: One who makes a covenant in My name but proves treacherous; One who sells a free person (as a slave) and eats his price; and One who employs a labourer and takes full work from him but does not pay him for his labour.” (Al-Buhari, 1994)

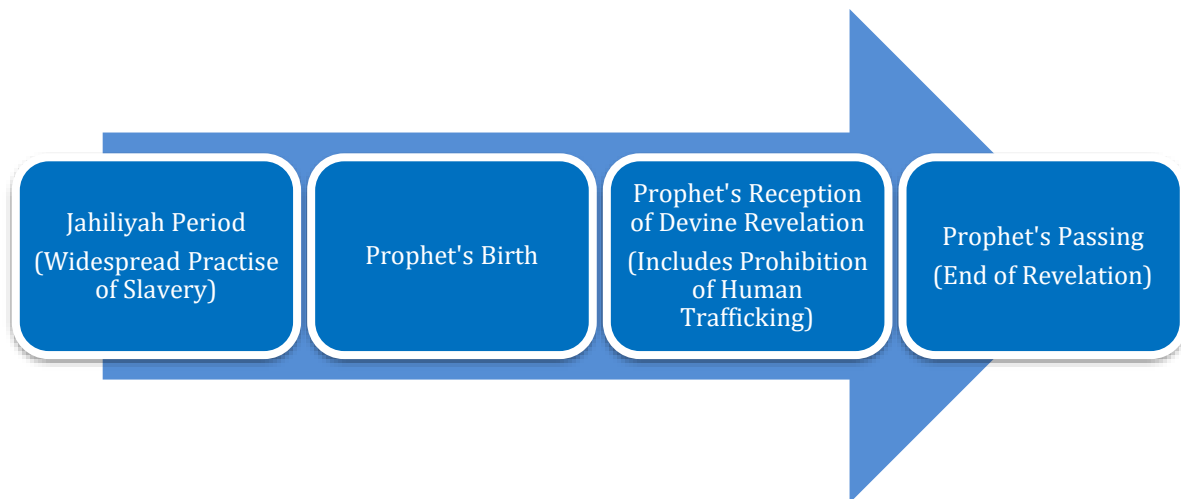


Figure 1. Development of Islamic legal framework (Hamid, 2016).

Figure 1 depicts the historical overview of significant periods and events, highlighting the transition from the age of ignorance (*jahiliyah* period), characterized by the widespread practice of slavery, to the era of Islam, which emphasizes the prohibition of exploitation inherent in human trafficking and the protection of human rights. The teachings of Prophet Muhammad (PBUH) encompassing a timeline span of 20 years, comprehensively addressed all facets of life, including the prohibition of exploitation (Hamka, 2002; Hamid, 2016).

Historically, slavery was a common practice in pre-Islamic societies. This culture was deeply rooted for centuries in many civilizations including the Arab, Roman, Greek, English and French (Nurhayati et al., 2022). The coming of Islam did not immediately abolish slavery, instead, the initial focus of Islam was humanizing it. This can be seen in the various verses of the Quran emphasizing the importance of treating slaves with kindness and fairness, with the aim of eradicating slavery gradually (Hamid, 2016). This approach aligns with Islam's philosophy of gradual societal transformation. Since slavery was deeply entrenched in society, an abrupt abolition was likely to cause disruptions in social and economic systems (Jam et al., 2011). Therefore, a gradual and subtle reformation would promote a more sustainable and balanced approach to change, while fostering harmony, stability and inclusivity within a community.

In the modern legal framework, the main element categorizing human trafficking as a criminal offence is the concept of exploitation. Exploitation refers to the coercive, abusive, and unethical use of individuals for illicit purposes, such as forced labour, sexual exploitation, or involuntary servitude. (United Nations Office on Drugs and Crime, 2010). Islamic law establishes a fundamental prohibition against exploitation and specifies certain types of exploitation parallel to those addressed in the Protocol to Prevent, Suppress and Punish Trafficking in Persons 2000. These include exploitation in slavery, transactions, labour, sexual activities, human organs, adoption and acts of injustice.

METHODOLOGY

This study is qualitative research that employs both doctrinal and socio-legal approaches. Data for this research were obtained through a literature study by reviewing several sources from the translation of the Quran and hadith, books, articles, journals, research reports and legislation. The data from the literature study are used to examine the intersection of Islamic teachings and the prohibition of human trafficking, as well as to analyze the contemporary challenges and potential strategies for combating this issue in accordance with Islamic principles.

Meanwhile, the socio-legal approach is used to scrutinize the application of Islamic rulings in society throughout history until today. This method allows the researchers to understand the application of doctrinal content, especially the implementation of the legal principles that are relevant to the contemporary setting.

FINDINGS AND ANALYSIS

Islam fundamentally opposes slavery due to its contradiction with the natural disposition (*fitrah*) ordained by Allah (Basri, 2012). Subsequently, Islam introduces a gradual approach to address this issue, considering the deeply rooted tradition of slavery over centuries. Prophet Muhammad (PBUH) took measured steps, limiting new slavery, promoting liberation, and advocating humane treatment of existing slaves (Hamid, 2016).

In Islam, the call for the liberation of human dignity and the condemnation of all forms of exploitation is based on the fundamental principle of Monotheism (*tauhid*). This doctrine promotes the liberation of human beings from all forms of enslavement, including fellow humans, to servitude and submission to God alone (Basri, 2012). This principle of *tauhid* gradually frees human beings from any social status and endorses each person to be treated equally without discrimination. Under this principle, human beings are considered equal in the eyes of God. Hence, any form of discrimination or exploitation against humanity is against the teachings of Islam. This research will discuss 7 types of exploitations that are prohibited in Islam.

a) Exploitation in Slavery

Slavery was a prevalent custom in the era preceding Islam. Freamon (1998) reported that Islam took a gradual approach to abolish this practice. This is to avoid significant hardship among the people while ensuring a more sustainable and harmonious societal transformation within a society. Hamid (2016) The Prophet Muhammad (PBUH) took several approaches to address slavery during that time, among them are:

Firstly, establishing laws that led to the liberation of slaves. Certain offences under Islamic law warrant the choice of freeing a slave as a form of punishment. This implies that rather than facing conventional punitive measures, individuals who committed these offences may have the option to free a slave as a means of atonement. This restorative justice approach promotes humanitarian values, encouraging the offender to release a slave as a way of showing remorse, while also restoring the slave's fundamental right to freedom as a human being. For example, options for freeing a slave were given in the punishment for *Kafarah* (having sexual intercourse with a wife in the daytime during Ramadhan), *Kafarah Zihar* (wrongful testimony of oath) and the crime of *qisas* involving cases of unintentional killing of a Muslim as stated in the Quran 4: 91 (Hamid, 2016).

Secondly, advocating the good treatment of slaves by emphasizing the kindness of God towards Muslims. The teachings of Islam continuously encourage Muslims to exhibit compassion, treat slaves humanely, and ultimately grant them freedom (Hamid, 2016). Islam acknowledges the act of freeing a slave as a righteous act of a believer as stated in the Quran 2: 177, translated as:

“Righteousness is not that you turn your faces toward the east or the west, but righteousness is one who believes in Allah, the Last Day, the Angels, the Book, and the Prophets and gives wealth, in spite of love for it, to relatives, orphans, the needy, the traveller, those who ask (for help), and for **freeing slaves**; establishes prayer and gives zakah; fulfil their promise when they promise; and (those who) are patient in poverty and hardship and during battle. Those are the ones who have been true, and it is those who are the righteous.”

Abu Huraira (Mawdudi, 2007) also reported two hadiths from the Prophet (PBUH):

“There are three people whose prayer Allah will not accept. One of them is he who enslaves a freeman.”

“Allah will save all the parts of his body from hell as he has freed the body parts of the slave.”

The above texts from the Quran and the sayings of the Prophet (PBUH) emphasize the importance of humane treatment and liberation of individuals within the Islamic framework. This indicates that Islam values the dignity and well-being of all individuals, including those in servitude, and freeing a slave is regarded as one of the righteous treatments that will save a person from hellfire in the hereafter.

Thirdly, encouraging Muslims to arrange a marriage for their slaves. This can be seen from the Prophet's (PBUH) act of freeing Zaid bin Harithah and subsequently adopting him and arranging his marriage to a noblewoman (Hamid, 2016). Facilitating the marriage of a slave is a subtle approach to help them integrate and foster a sense of belonging within the community. It provides a stable familial environment for the slaves, offering emotional support and companionship that contribute to their psychological well-being and promote a sense of purpose. The Prophet's (PBUH) exemplary act of adopting his slave and arranging his marriage to a noblewoman shows his adherence to the principle of kindness, justice and equality regardless of one's status.

Islam prohibits slavery and has taken a multifaceted approach to abolish it through legal measures, ethical considerations, and practical examples from the life of Prophet Muhammad (PBUH). These approaches are evidence of Islam's commitment to the principles of fairness, mercy, and safeguarding of human dignity.

b) Exploitation in Transaction

In the modern world today, the exploitation of transactions is rampant. These transactions, described as unfair and dishonest transactions, are the fundamental reason for the prohibition of human trafficking. Many trafficking victims have been deceived with promises of a better life, only to have their choices and freedom taken away. They were offered various job opportunities along with the allure of lucrative income. However, the reality often starkly contradicts these promises, leaving victims disillusioned and unrewarded (Hamid, 2016).

In this context, Islam strictly prohibits any form of dishonesty in transactions. Engaging in such practices is considered fraudulent and is subject to punishment in the hereafter. This is in line with the hadith of Prophet Muhammad (PBUH):

“He who swindles is not one of us” (Sahih Muslim, Book 10).

Additionally, Abdullah Ibn Mas'ud reported another hadith of the Prophet (PBUH):

“No servant of Allah who makes unlawful wealth can give it away in alms and expect it to be received; nor even can he leave it behind his back without it pushing him forward into hellfire. Verily Allah does not blot our one evil by another; rather He blots out evil with good so wickedness cannot blot out wickedness.”

The above highlights the repercussions of engaging in dishonest dealings in the worldly life and the hereafter. Qardhawi (1997) further elaborates that good intentions do not excuse bad actions, based on the Islamic legal principle '*Niat hasanah la tubrir al-Haram,*' which essentially means that while an action may commence with good intentions, any illicit elements within it render the entire endeavor invalid.

In the context of human trafficking, the intention to address issues like labour demands, poverty reduction, economic crises, conflicts, instability, and displacement does not legitimize trafficking activities. Furthermore, engaging in illicit activities, such as prostitution, to support families is unlawful, especially in the case of human trafficking, where individuals are deceived into unfair and dishonest transactions (Hamid, 2016). Therefore, Islam prohibits all exploitation of transactions, regardless of their good intentions to uphold the principles of justice, fairness and ethical conduct.

c) Exploitation in Labour

Exploitation in labour normally takes place in the form of forced labour. Forced labour involves individuals who are compelled to work under duress, often subjected to excessive demands, extended working hours and additional tasks without adequate payment. In Islam, exploitation in labour is unequivocally prohibited (Zulfiqar, 2007).

The main issue concerning labour exploitation is the inadequate or absent remuneration provided by employers (United Nations Office on Drugs and Crime, 2010). Islamic principles aim to strike a balance between the interests of both employers and workers by emphasizing the importance of a fair and transparent contract between the parties, and the obligation to fulfil the contract as a legal and religious obligation towards God. These principles are evident in various Quranic verses and the practices of Prophet Muhammad (PBUH), applying universally to both men and women, as stated in the Quran 4:32, which means:

“... to men allotted what they earn, and to women what they earn.”

In a hadith reported by Ibn Maaajah, 2:817 translated as:

“Give the hired man his wish before his sweat dries.”

The fundamental principles of keeping promises, honouring contracts, and ensuring timely payment underscore Islam's commitment to ethical and religious labour obligations. These principles, guided by the Quranic verses and the traditions of the Prophet (PBUH), provide a framework for addressing labour that aligns with the principles of justice, fairness, and the well-being of both employers and workers.

As stated in the Qur'an 7: 85 which means:

“So fulfil the measure and weight and do not deprive people of their due and cause not corruption upon the earth after its reformation. That is better for you if you should be believers.”

Islam values the concept of contract. It extends beyond a mere legal instrument for personal needs between the parties involved, yet it holds a sacred status as it constitutes a covenant with God. This principle is exemplified in the Quran 5:1, which translates as:

“O you who believe! Fulfil the obligations.”

The imposition of a contract is to avoid any infliction of harm, whether intentional or unintentional. This includes harsh or forced labour as indicated in the Quran 22:78:

“He has chosen you and has not laid upon you in religion any hardship.”

This sentiment is restated in the Quran 2:185 which means:

“Allah desires for you ease. He desires not hardship for you.”

Islam emphasizes the importance of a clear and transparent contract to prevent any form of hardship. Islam outlines four key principles in a labour contract. Firstly, employers must honour their contractual obligations. This aligns with the Quran 16:91 which states upon translation:

“And fulfil the covenant of Allah when you have taken it, (O believers), and do not break oaths after their confirmation while you have made Allah, over you, a witness. Indeed, Allah knows what you do.”

Secondly, Islam advocates that wages must be paid upon the completion of the agreed contract. Thirdly, it emphasizes clarifying compensation prior to agreements, and finally, transparent communication of the compensation amount for labour. The Prophet (PBUH) stated that:

“If you are employing a worker, you have to tell him how much he will be compensated for his labour.”

In many cases of exploitation in labour, often one or more frequently, several of these principles are violated (United Nations Office on Drugs and Crime, 2010). This leads to harmful forms of labour, which are strictly prohibited in Islam. Hence, Islam provides a clear set of guidelines as a reference to follow in achieving fairness and justice, while preventing exploitation in labour.

d) Sexual Exploitation

During the *Jabilliyah* period, women endured severe exploitation, including female infanticide, coerced prostitution initiated by their parents and sexually inherited by their fathers. Women were treated as commodities, bought, sold and transferred among individuals. They were often regarded as tools for sexual satisfaction and domestic chores (Zulfiqar, 2007).

The coming of Islam brought about a profound change in the perception of women. Islam abolished the practice of burying daughters alive and mandated that husbands provide protection and treat their wives with respect, thus granting women a new identity and significance (Hamid, 2016).

Prostitution is a form of sexual exploitation and is strictly prohibited in Islam and is regarded as a major sin, akin to adultery. Prophet Muhammad (PBUH) also forbade any financial gain from prostitution due to its unlawful nature, with stricter condemnation when individuals are coerced or deceived into such activities (United Nations Office on Drugs and Crime, 2010). Several Quranic revelations address this issue, including the Quran 17: 32, which states:

“Nor come nigh to adultery; for it is shameful (deed) and an evil, opening the road to either evil.”

Quran 24: 33, which means:

“But force not your maids to prostitution when they desire chastity in order that ye may make gain in the goods of this life.”

The verse explicitly narrates that taking earnings from the sexual exploitation of women in a state of slavery is prohibited. However, the divine admonishment against exploiting free individuals is even more stringent. This principle is established in the jurisprudential principles of Islamic law, as stipulated:

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This above principle signifies that ‘a free person is not under the authority of anyone.’ Hence, deceiving a person into sexual exploitation and gaining monetary benefit is clearly condemned in Islam (Zulfiqar, 2007).

Nevertheless, Islam introduces exceptions for individuals engaged in prostitution under coercion, absolving them from punishment. When the element of force is involved, Islam does not hold the prostitute criminally responsible. This exception differs from the general rule concerning adultery, where Islam prescribes a punishment of 100 lashes for unmarried individuals found guilty of fornication as indicated in the Quran 24: 2, translated as:

“...but if anyone compels them, yet, after such compulsion, is God, Oft-forgiving, Most Merciful (to them).”

The verse above offers protection to vulnerable individuals, particularly marginalized women in society. Additionally, it strictly prohibits the exploitation of women for worldly gains, with the revealed Quranic verse aimed at abolishing prevalent practices of trafficking women for sexual exploitation in Arabian society at the time (Zulfiqar, 2007).

Today, human trafficking for sexual exploitation falls under the broader category of exploitation according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons 2000. Forced prostitution is a prevalent form of sexual exploitation endured by trafficking victims, particularly women and girls. Often, they are deceived with false promises of jobs like waitresses or saleswomen, only to be coerced into prostitution or subjected to other types of sexual exploitation.

In many Muslim countries including Malaysia, Saudi Arabia, and Indonesia, the prohibition of prostitution is not only grounded in Islamic principles, but it is also entrenched in the respective legal systems. Consequently, any form of sexual exploitation for commercial gain is also prohibited (Hamid, 2016). The collective commitment underlines the significance of protecting the dignity and rights of individuals, in line with the principles of justice upheld by Islam.

e) Exploitation of Human Organs

The prohibition against the exploitation of human organs in Islam is a matter of debate, with some arguing that human organs are an individual’s property, implying the right to sell one’s own organs. However, Islamic law holds a different perspective on the concept of ownership. It stipulates that Allah is the exclusive owner of all property, including the human body and its organs. Humans are considered guardians (*Khalifah*) of these assets in this world, and upon death, the soul and body are returned to Allah. This contrasts with the Western

perspective, which asserts that individuals have complete ownership rights over everything, including their bodies (Hobbes, 1909).

In Islam, the human body and its organs are not commodities that can be bought or sold as they are not subject to commercial transactions (United Nations Office on Drugs and Crime, 2010). The reason for prohibition is to preserve human dignity and honour as reinforced in the Quran 17:70, which emphasizes the sanctity of human life.

“We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with (definite) preference.”

Furthermore, it is emphasized that Allah alone is the ultimate possessor of everything in the entire universe, as mentioned in the Quran 3: 109:

“To God belongs all that is in the heavens and on earth.”

In voluntary exploitation, where a victim willingly considers selling their organs to alleviate poverty, Islam addresses this issue under the principle that 'harm is not eliminated by harm.' This principle underscores the idea that it is impermissible to counteract harm by inflicting another form of harm that is equal or greater in magnitude. In organ exploitation, removing an organ would result in significant harm to the donor's body, surpassing the level of poverty, distress, or need that the individual is experiencing. From a medical perspective, this could lead to substantial harm, potentially causing unforeseen health complications or malfunctioning of the removed organ (Hamid, 2016).

Islam imposes limitations on the donation of human organs, requiring that such donations not endanger the donor's life or cause bodily harm and must be based on full and informed consent (United Nations Office on Drugs and Crime, 2010). Consequently, any transaction is considered null and void if the consent is obtained through deception, misinformation, coercion, or any other violation of Islamic law, akin to the principles applied in cases of human trafficking activities.

Regarding organ transplants, various decisions have emerged from Islamic seminars and conferences. The 1998 International Conference of Islamic Jurisprudence emphasized the Islamic stance against transactions in human organs. In the second Fiqh seminar held by the Academy in collaboration with the Institute of Objective Studies (Islamic Fiqh Academy, 1989), the following decisions were reached:

- 1) Replacing a part of a person's body with another part of the same person is permissible if necessity dictates.
- 2) The sale of one's organs is prohibited and considered *Haram*.
- 3) In cases where a patient's organ has stopped functioning and there is a high risk of losing life without transplantation, and no other option is available except for human organs, and medical experts are confident that transplantation could save the patient's life and the required organs are available, transplantation of human organs is permissible under desperate and unavoidable circumstances with the aim of preserving the patient's life.
- 4) If a medically confirmed healthy person is certain that they can function with one kidney and there is no other option to save the life of an ailing relative, then donating one kidney without charging any fee is permissible.

Additionally, Jabatan Agama Islam Malaysia (JAKIM) in its 1st Muzakarah (Conference) of the Fatwa Committee of the National Council for Religious Affairs Malaysia (Portal Rasmi Fatwa Kebangsaan Malaysia, 1970) has indicated that eye and heart transplants from a deceased person to a living person are permissible in Islam. JAKIM further emphasized that such transplants should occur without compromising human dignity and must not involve business transactions. The transplantation process must exclusively proceed with the consent and voluntary donation of the donor. The following factors should also be taken into consideration:

- 1) The situation is extremely urgent, where the recipient's life depends on the success of the transplant surgery and the surgery is predicted to succeed.
- 2) In the case of a heart transplant, the donor's death must be established before the transplant takes place.
- 3) Precautions must be taken to prevent any form of harm to humans or involvement in the trafficking of human organs.
- 4) Permission must be obtained from the donor in natural death situations; or from the deceased's family or next-of-kin in cases of accidental death, prior to any transplantation.

Tharien (1996) reported that Muslims, Christians, and Hindus generally endorse the concept of organ donation as an act of giving. On the other hand, Judaism prohibits benefiting from mutilating a corpse or delaying its burial. However, this prohibition can be set aside to save a life through organ transplants.

In Islam, the view on organ donation aligns with the principle of saving a life, a concept that takes precedence over other considerations. While the faith emphasizes the sanctity and respect for the human body, there is a recognition that the act of saving a life can supersede certain restrictions in exceptional circumstances. This reflects the humanitarian values inherent in Islam, emphasizing the importance of compassion, altruism, and the preservation of life.

f) Exploitation in Adoption

In modern times, many countries have legalized adoption, either domestically or internationally. Islam recognizes adoption that adheres to Islamic regulations. The non-Islamic regulations on adoption grant the complete and autonomous rights of the adoptive parents or the adopted child over each other ((United Nations Office on Drugs and Crime, 2010). This differs from the Islamic regulations that forbid the attribution of lineage to anyone other than the biological parents as articulated in the Quran 33:4-5, which means:

“...nor has He made your adopted sons of your sons. Such is only your manner of speech by your mouth. But God tells you the truth, and He shows the right way. Call them by (the names of their fathers). That is justice in the sight of God...”

The revelation of this verse pertains to the adoption of Prophet Muhammad (PBUH) on Zaid bin Harithah. Before the revelation, Zaid was known as Zaid bin Muhammad. This revelation made it impermissible for an individual to attribute their lineage to anyone other than their biological father (Hamid, 2016).

In the context of adoption, Islam introduces the concept of *kafala*, which involves providing support and care for specific orphaned or abandoned children until they reach adulthood (Hamid, 2016). The concept of *kafala* maintains all rules that apply between blood relatives. This includes the idea that an adopted son remains in a non-*Mabram* relationship with the adopted family and therefore, can marry the daughter of his adopted parents. However, he could become a *mabram* to the family if he is breastfed by the adopted mother, in accordance with the guidelines established by the 96th Discourse of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia in October 2011 (Portal Rasmi Fatwa Kebangsaan Malaysia, 2011).

As a result, the adopted child is not entitled to the family name of the guardian or inheritance through adoption. In Islam, the right of inheritance is based on the maternal connection as stated in the Quran 8: 75:

“Those related to my blood are more entitled to inherit from each other in the book of Allah.”

The wisdom behind the concept of *kafala* is to preserve the genuine lineage and heritage of the biological family and its descendants while ensuring rightful entitlements of inheritance (Mattar, 2002). Islam advocates for alternative arrangements such as guardianship and kinship ties, guaranteeing the protection and care of children in need while upholding the integrity of familial relationships and heritage.

Middle Eastern countries have set good examples of implementing the *kafala* system, which adheres to Islamic principles and differs from the foster care systems in other countries (International Social Service Kafala or Analogous Institution., ND; Official Website on International Adoption, ND). Under the *kafala* system,

children can be placed under the guardianship of a foster family. This approach has successfully prevented the illegal trade of infants for unlawful purposes through unauthorized adoption processes (Mattar, 2002).

The Islamic stance on adoption serves as a protective measure to prevent the exploitation and potential mistreatment of children within adoptive arrangements. By emphasizing the preservation of a child's true lineage and biological heritage, Islam aims to maintain the integrity of familial connections and safeguard the child's identity. This approach helps combat adoption exploitation by ensuring that children are not subjected to false identities or the risk of being treated as commodities. Instead, Islam encourages alternative arrangements, such as guardianship and kinship ties, which prioritize the well-being and protection of children while upholding their inherent rights and dignity.

g) Acts of Injustice

In Islam, the prohibition of acts of injustice is paramount, reflecting the fundamental principles of equity, compassion, and righteousness. The religion emphasizes the significance of upholding justice in every aspect of life, advocating for the fair treatment of all individuals, regardless of their social status or background. Islamic teachings underscore the importance of refraining from any form of oppression, exploitation, or discrimination, emphasizing the need to promote harmony, peace, and mutual respect within society as stipulated in the Charter of Medina (Hamid, 2016).

The Quran and the teachings of Prophet Muhammad (PBUH) consistently emphasize the imperative of justice, enjoining believers as one *ummah* (Article 2, Charter of Medina) to stand firmly for truth and fairness, and to shun all forms of injustice and mistreatment (Article 13, Charter of Medina). This profound emphasis on justice forms the cornerstone of Islamic ethics, guiding adherents to demonstrate integrity and benevolence in their interactions and dealings with others (Hamid, 2016).

This is supported by historical events such as the last sermon of Prophet Muhammad (PBUH) in his farewell pilgrimage, emphasizing the well-being, equality, and freedom of every individual (International Islamic University Malaysia, ND).

“All mankind is from Adam and Eve; an Arab has no superiority over a non-Arab nor a non-Arab has any superiority over an Arab; also, a white has no superiority over a black nor does a black have any superiority over a white except by piety and good action. Learn that every Muslim is a brother to every Muslim and that the Muslims constitute one brotherhood. Nothing shall be legitimate to a Muslim which belongs to a fellow Muslim unless it was given freely and willingly.”

Regarding the rights of women, the Prophet (PBUH) said:

“O People it is true that you have certain rights concerning your women, but they also have rights over you. Remember that you have taken them as your wives only under Allah’s trust and with His permission. If they abide by your right, then the right to be fed and clothed in kindness belongs to them. Treat your women well and be kind to them; they are your partners and committed helpers. Moreover, it is your right that they do not make friends with anyone you disapprove of, as well as never to be unchaste.”

Furthermore, in a hadith narrated by Imam Muslim, translated as:

"O My servants, I have made oppression unlawful for Myself, and I have also made it unlawful among you. So do not oppress one another."

This hadith indirectly criticizes oppressive actions as they result in injustice, which harms both the perpetrator and others. In Islam, any action that leads to harm is forbidden, as emphasized in another hadith.

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The principle of ‘no injury and no inflicting of injury’ explains that the exploitation of humans is not permissible due to the harm it causes to others and the damage it inflicts on one’s dignity (Mulia, 2007).

The condemnation of exploitation in all its forms serves as evidence of the religion's dedication to justice, compassion and the preservation of human dignity, as emphasized in the Islamic faith. The prohibition of various exploitative practices, including those concerning slavery, transactions, labour, sexual activities, human organs, adoption, and acts of injustice, falls within the categories of human trafficking, under the international perspective.

The Principle of Non-Punishment of Victims

The principle of non-punishment of victims is closely related to protecting victims' rights. Islamic law acknowledges this principle, particularly in cases of victims of crimes like trafficking for sexual exploitation (Hamid, 2016). This is in accordance with the Quran 24:33:

“But force not your maids to prostitution when they desire chastity But if anyone compels them, yet, after such compulsion, is Allah, Oft-Forgiving, Most Merciful (to them).”

This aligns with the International Guideline of the Recommended Principles and Guidelines on Human Trafficking, which states that victims of trafficking should not be subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons (United Nations Office on Drugs and Crime, 2010).

Punishment for Human Trafficking

Ta'zir are offences for punishments that are not prescribed in the Quran or the Sunnah. Offences under *ta'zir* are left to the discretion of the ruler who is in charge of maintaining public order, public safety and public tranquility. Since it is not defined explicitly in the Quran or Sunnah, human trafficking may be classified as a *ta'zir* offence, and the Governments of Muslim countries have the discretion to determine penalties for this crime, which should align with the gravity of the crime (United Nations Office on Drugs and Crime, 2010).

Human trafficking is undoubtedly a clear violation of the right to personal security, one of Islamic law's five objectives, known as *Maqasid Sbariah* (Nurhayati et al., 2022). It threatens human security and constitutes a crime against the State. Therefore, the Governments in Muslim countries should seriously consider enacting legislation to combat human trafficking. Such legislation would fulfil their corresponding obligations under both Islamic legal tradition and international law, as outlined by the United Nations Office on Drugs and Crime (2010).

Sukirno et al. (2018) hold a different perspective, suggesting that punishments for human traffickers should include *hudud* (fixed punishment), *qisas* (retaliation), and *ta'zir* (discretionary punishment), depending on the consequences of the crime for the victim.

The prohibition of exploitation in Islam aligns with international law on human trafficking. This alignment is supported by the adoption of numerous international human rights instruments in Muslim countries, as well as some Muslim constitutions and national legislations. Addressing human trafficking necessitates a comprehensive approach that combines legal measures, social support systems and awareness campaigns. Islamic governments, organizations and scholars around the world have condemned human trafficking and emphasized the need to protect and uphold the rights of victims. Islamic teachings underscore the importance of working together as a global community to eradicate this heinous crime and ensure justice for the oppressed.

DISCUSSION

The consensus among contemporary Muslim scholars is that human trafficking is unequivocally prohibited in Islam due to its infringement on the fundamental rights and dignity of human beings. A concentrated effort is necessary to eradicate human trafficking and it requires collective action and mutual support from all walks of life. The concept of '*al Ta'awun 'ala al Birr*' signifies the urgency for cooperation and contribution in promoting goodness and righteousness. By fostering a culture of mutual support and solidarity, communities can collectively address the root causes of human trafficking, including poverty, lack of education, and social vulnerabilities. Individuals, communities, agencies and government can work together to build a more just and

compassionate society, free from exploitation and oppression through concerted efforts and a shared commitment to uphold human dignity.

In the context of recommendations to combat human trafficking, at the macro level, strong collaboration at the international level and effective coordination between the governmental agencies at the national level is necessary to create legislative reforms. These measures include the development and enforcement of comprehensive legal frameworks, the establishment of specialized law enforcement units, and the implementation of international agreements and conventions aimed at eradicating human trafficking. Additionally, fostering global partnerships and alliances to exchange information, resources, and best practices is crucial to create a unified approach to address this global issue. In addition, addressing human trafficking issues requires structural and cultural strategies. Structural steps involve creating appropriate legal instruments and consistently enforcing them, while addressing underlying factors contributing to trafficking. Governments must formulate policies, programs, and activities, and allocate budgets to prevent and manage human trafficking issues. On the other hand, cultural approaches include anti-trafficking advocacy, promoting mutual support in alleviating poverty and education, under the concept of '*al Ta'awun 'ala al Birr*' (Basri, 2012). However, a significant challenge lies in the readiness of the systems to effectively combat human trafficking comprehensively, including prevention, protection, recovery, deportation, and reintegration of victims. Addressing the issue requires well-structured, measurable, and collaborative efforts involving cross-sectoral cooperation between governmental bodies, particularly law enforcement, and the community, as highlighted by Sudrajat (2018).

At the micro level, recommendations entail community-based and grassroots initiatives focusing on local interventions, awareness campaigns, and support systems for victims. Families and organizations play a pivotal role in raising awareness and empowering communities. This involves empowering communities through education, training, and advocacy programs that promote awareness about the dangers of human trafficking and the protection of human rights - creating safe spaces for victims, providing access to healthcare, legal aid, and psychological support, and facilitating their reintegration into society. Moreover, promoting economic opportunities, particularly for vulnerable groups, and advocating for gender equality and women's empowerment are essential steps to prevent human trafficking and protect at-risk communities.

For victims of human trafficking, a study suggested that they should be categorized as *al-mustadb'afin* in Islam, which refers to the oppressed. This term is used to describe those who are weakened by imbalanced systems and structures within society. *Al-mustadb'afin* are eligible to receive *zakat*, which is a form of almsgiving in Islam. This categorization includes slaves (*riqab*) and those burdened with debt (*garimin*), both of which are mentioned in the Quran as categories eligible for receiving *zakat*. Many trafficking victims come from impoverished families and belong to lower economic classes, making them inherently qualified to receive *zakat*. The study also suggested considering *zakat* for funding anti-trafficking programs as a practical approach. *Zakat* could be allocated to financially support comprehensive initiatives aimed at combatting trafficking. With this financial aid, communities can more effectively implement comprehensive systems for preventing trafficking (Basri, 2012).

Eradicating human trafficking is not only a religious duty, but a responsibility that requires everyone's commitment and perseverance from individuals, communities, policymakers, and international organizations to work side-by-side in upholding justice, and safeguarding the dignity and rights of every individual, in alignment with both Islamic principles and universal human values.

CONCLUSION

The issue of human trafficking is a multifaceted problem that goes beyond geographical, cultural, and religious boundaries. Understanding Islam's position on various aspects of human trafficking is crucial to raise awareness of the issue and finding effective solutions. This study aimed to explore the Islamic perspective on human trafficking by examining Islamic teachings, historical context, and ethical considerations. The study highlighted consistent efforts within Islamic principles to prohibit exploitation, emphasizing the humane treatment of individuals. These principles include the prohibition of exploitation in slavery, transactions, labour, sexual

exploitation, trading human organs, adoption, and acts of injustice. The research discussed the non-punishment of victims and the use of *ta'zir* punishment for human trafficking, where Governments of Muslim countries can determine penalties adequate with the gravity of the crime. The proposed use of *zakat* (charitable almsgiving) for victims categorized as *al-mustadh'afin* (oppressed) and using *zakat* to support anti-trafficking efforts should be revisited. The concept of '*al-Ta'awun 'ala al-Birr*' urges contribution from everyone for societal welfare and justice. Additionally, addressing trafficking requires concentrated efforts at the macro (government and international) and micro (community and grassroots) levels. The study emphasized the need for a comprehensive and collaborative effort involving governments, international organizations, agencies, communities, and individuals to combat human trafficking. By aligning actions with ethical and religious values, society can work towards eradicating trafficking and restoring the dignity and rights of all individuals, regardless of their background or circumstances.

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