Law Development Journal
SINTA 2 Degree No. 0228/DTS/C3/DT.05.00/2026
ISSN: 2747-2604
Volume 8 No. 2, June 2026

Legal Certainty of Kidney Donor Rewards: A Comparative Perspective Between Indonesia and Iran

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Abstract. *This study examines the legal uncertainty surrounding the regulation of donor reward for kidney transplant donors in Indonesia, particularly concerning the distinction between the prohibition of organ commercialization and the provision of donor reward. Although Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024 have recognized donor rewards, both regulations fail to clearly regulate its form, value, and implementation mechanism, thereby creating normative ambiguity and the potential for illegal practices. This research employs a normative juridical method using statutory, conceptual, and comparative law approaches, with Iran serving as the comparative jurisdiction. The findings indicate that Indonesia continues to face a regulatory gap regarding operational arrangements, whereas Iran has implemented a structured donor support system under state supervision, despite ongoing ethical concerns. As a proposed solution, this study introduces the concept of measured reimbursement as a form of non-commercial donor reward through the reimbursement of direct and verifiable expenses, such as transportation costs and loss of income. This concept is expected to provide legal certainty, ensure protection for donors—particularly vulnerable groups—and prevent organ commercialization practices while remaining grounded in the principles of bioethics and social justice.*

Keywords: *Donor Reward; Kidney Transplantation; Legal Certainty; Measured Reimbursement; Organ Non-Commercialization.*

1. Introduction

Kidney transplantation is widely recognized as one of the most effective treatments for patients with end-stage renal disease, as it offers a better quality of life and higher life expectancy compared to other forms of renal replacement therapy.[1] In the context of healthcare services, kidney transplantation is not merely a curative medical procedure but also serves as an instrument for restoring patients' social functioning and productivity. Nevertheless, the implementation of kidney transplantation in Indonesia continues to face fundamental challenges, particularly the limited availability of donors. [2] Consequently, kidney transplantation has not yet developed optimally as a long-term therapeutic option within the national healthcare system.[3]

The scarcity of kidney donors cannot be understood solely as a medical issue or as a consequence of low public awareness.[4] The issue is also closely related to the absence of a robust legal framework capable of providing certainty and protection for donors. In practice, Indonesia's kidney transplantation system remains heavily dependent on living donors who act voluntarily and altruistically. Although this approach is essential for maintaining the principle of organ non-commercialization, it may become problematic when donors are left to bear the economic consequences of donation on their own.

Kidney donors may face considerable financial burdens, including transportation expenses, accommodation costs, medical examinations, and loss of income during the recovery period.[5] These burdens are often overlooked within legal constructions that merely emphasize the voluntary nature of donation. When all financial costs and economic risks are borne personally by the donor, the altruistic principle may ultimately transform into a unilateral burden imposed upon the donor.[6] In this context, donor protection becomes a legal issue that cannot be disregarded.

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[1]Olawade, D. B., et.al., "Transforming Organ Donation and Transplantation: Strategies for Increasing Donor Participation and System Efficiency", *European Journal of Internal Medicine*, 2024.

[2]Muhammad Aswar Basri, "Perdagangan Organ Tubuh Manusia untuk Kebutuhan Medis dalam Konteks Kejahatan Transnasional", *Jurist-Diction*, Vol. 7, No. 4, 2024, hlm. 682–683.

[3]Universitas Indonesia dan Iklan Kompas, "Pengembangan Transplantasi Ginjal sebagai Model Pengembangan Kesehatan", tersedia pada https://ui.kompas.id/baca/pengembangan-transplantasi-ginjal-sebagai-model-pengembangan-kesehatan/, diakses pada 4 Januari 2026.

[4] Olawade, D. B., et.al., Op.Cit.

[5]Adji Suwandono dan Irene Tanoyo, "Transplantasi Organ dan Aspek Etikolegal di Indonesia", *Action Research Literate*, Vol. 8, 2024, hlm. 2552–2559.

[6] Ibid.

The absence of a clear donor reward mechanism also affects legal certainty for all parties involved in kidney transplantation. Donors lack clarity regarding the forms of protection to which they are entitled, while hospitals, healthcare professionals, recipients, and regulators do not possess definitive guidelines concerning the permissible limits of benefits provided to donors. This situation creates room for differing interpretations in practice. As a result, kidney transplantation risks operating within a state of uncertainty between donor protection and the prohibition of organ commercialization.[7]

Normatively, Law Number 17 of 2023 concerning Health explicitly prohibits the commercialization of human organs.[8] This prohibition constitutes an essential legal norm aimed at safeguarding human dignity and preventing the human body from being treated as an object of economic transaction. However, the same law also opens the possibility for granting donor reward to donors or their heirs.[9] This recognition demonstrates that Indonesian law does not merely position donors as voluntary actors, but also acknowledges them as legal subjects deserving protection for their humanitarian contribution.

The fundamental issue arises because the concept of "donor reward" has not yet been operationally defined within positive law. Government Regulation Number 28 of 2024 states that donor reward does not constitute remuneration, while simultaneously allowing the form and/or value of donor reward to be determined by the Minister in coordination with the minister responsible for governmental affairs in the financial sector..[10] This formulation creates normative ambiguity because donor reward is recognized as something that may have both form and value, yet its boundaries in relation to remuneration and commercialization remain undefined. Consequently, the norm concerning donor reward remains vulnerable to differing interpretations.

This ambiguity has the potential to generate two simultaneous risks. On the one hand, the absence of a legitimate legal mechanism may compel donors to continue bearing economic burdens personally, thereby rendering donor protection ineffective. On the other hand, unclear legal boundaries may create opportunities for informal transactions, intermediary involvement, and even black-market organ trading practices.[11] Therefore, the prohibition of organ commercialization must be balanced by a donor reward framework that is clear, measurable, verifiable, and institutionally supervised.

[7] Putusan Pengadilan Negeri Jakarta Pusat Nomor 587/Pid.B/2019/PN.JKT.PST, hlm. 4–6, 20, dan 22.
[8] Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, Pasal 124 ayat (3).
[9] Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, Pasal 133.
[10] Peraturan Pemerintah Nomor 28 Tahun 2024 tentang Peraturan Pelaksanaan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, Pasal 357 ayat (2) dan ayat (6).
[11] Putusan Pengadilan Negeri Jakarta Pusat Nomor 587/Pid.B/2019/PN.JKT.PST, Loc.Cit.

Iran's experience is relevant as a comparative reference because the country has developed a more structured system for providing benefits to kidney donors through state involvement and institutional oversight.[12] The Iranian system demonstrates that donor support mechanisms can be regulated more operationally when supported by clear norms, procedures, and supervisory institutions.[13] Nevertheless, the system continues to raise ethical concerns, particularly regarding the risk of exploitation of economically vulnerable groups. Accordingly, Iran is not presented as a model to be directly adopted, but rather as a comparative reference to illustrate the importance of normative clarity, value limitations, and state supervision.

This article proposes the concept of measured reimbursement as a form of non-commercial donor reward mechanism for kidney donors in Indonesia.[14] Measured reimbursement is understood as the reimbursement of reasonable and verifiable direct expenses that are directly related to the donation process, including transportation costs, accommodation expenses, loss of income during recovery, and post-donation medical follow-up.[15] Under this construction, donor reward is not interpreted as payment for an organ, but rather as a legal protection instrument against the actual burdens experienced by donors.[16] This model is expected to maintain a balance between the principle of non-commercialization and fairness toward donors.

Based on the foregoing discussion, this article formulates two principal issues. First, how do the regulatory constructions governing kidney donor reward differ between Indonesia and Iran, particularly concerning the principle of non-commercialization, the forms of benefits provided, and supervisory mechanisms? Second, how can a measured reimbursement framework be formulated within the Indonesian legal system in order to provide legal certainty and donor protection without violating the principle of organ non-commercialization? In line with these issues, this article aims to analyze the comparative regulatory frameworks of Indonesia and Iran and to formulate a donor reward model based on measured reimbursement in accordance with Indonesian health law.

[12] LIU, C. (2025). Is Kidney Trading the Answer for Kidney Shortage? A Case Study Based on Iran's Experience. *Journal of Nephrology & Endocrinology Research*, 1–3. https://doi.org/10.47363/jone/2025(5)137

[13] Tannaz Moeindarbari and Mehdi Feizi, "Kidneys for Sale: Empirical Evidence from Iran", *Transplant International*, Vol. 35, 10178, 2022.

[14] Peraturan Pemerintah Nomor 28 Tahun 2024, Pasal 357 ayat (2) dan ayat (6).

[15] Frederike Ambagtsheer and Roos Bugter, "The Organization of the Human Organ Trade: A Comparative Crime Script Analysis", *Crime, Law and Social Change*, Vol. 80, 2022, hlm. 4.

[16] Omar Abboud, et.al., Op.Cit., hlm. 3–4.

2. Research Methods

This study employs a normative juridical method focusing on the analysis of positive legal norms, legal doctrines, and legal principles relevant to the regulation of kidney transplantation, particularly concerning donor reward and donor protection. This method is applied because the issue under examination arises from normative ambiguity and regulatory gaps within the Indonesian legal system. Accordingly, this research systematically examines statutory regulations, health law concepts, and bioethical principles relating to the prohibition of organ commercialization and donor protection.

The approaches adopted in this study include statutory, conceptual, and comparative approaches. The statutory approach is conducted through an examination of regulations concerning organ transplantation, particularly Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024. The conceptual approach is used to analyze the concepts of donor reward, reimbursement, donor protection, and the principle of non-commercialization from the perspectives of health law and bioethics. Meanwhile, the comparative approach is undertaken by examining Iran's kidney donor regulatory system as a comparative jurisdiction that has established a more structured mechanism. The comparison with Iran is employed functionally to assess how a legal system operationalizes donor benefits through regulatory instruments, institutional arrangements, and supervisory mechanisms, rather than as a model to be directly adopted into the Indonesian legal system.

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024, and other regulations relevant to organ transplantation and donor protection. Secondary legal materials consist of books, scientific journal articles, research findings, and expert opinions related to health law, organ transplantation, bioethics, and donor reward arrangements. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources used to clarify relevant legal terms and concepts.

The collection of legal materials was conducted through library research and analyzed qualitatively using juridical methods with systematic, grammatical, and teleological interpretation. This analysis is directed toward identifying conformity, disharmony, and normative gaps within the regulation of donor reward for kidney transplant donors in Indonesia. This study also utilizes supporting data in the form of interviews with stakeholders, including regulators, professional organizations, and patient organizations, as contextual information. The interviews are used solely as supporting data to enrich the implementation

context rather than as the primary source of analysis. Through these approaches, the study seeks to formulate a regulatory framework for kidney donor reward in the form of measured reimbursement that remains consistent with the principle of organ non-commercialization while ensuring legal certainty and protection for donors.

3. Results and Discussion

3.1. Regulatory Construction of Kidney Donor Rewards in Indonesia

The regulation of organ transplantation in Indonesia has undergone significant development following the enactment of Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024 as its implementing regulation. Both regulations position organ transplantation, including kidney transplantation, as part of healthcare services aimed at curing and restoring patients' conditions. Within this framework, kidney transplantation is viewed not merely as a medical procedure, but also as part of the fulfillment of the right to health for patients suffering from end-stage renal disease.

From a medical perspective, kidney transplantation occupies an important position because it provides greater benefits for patients' quality of life compared to long-term renal replacement therapy.[17] However, transplantation issues cannot be confined solely to clinical aspects. Kidney transplantation also raises legal concerns because it involves the human body, donor actions, medical risks, and the relationship between donors and recipients.[18] Therefore, the law must function not only to regulate medical procedures but also to ensure protection for all parties involved, particularly donors.

The primary foundation of organ transplantation regulation in Indonesia is the prohibition of the commercialization of human organs. Article 124 paragraph (3) of Law Number 17 of 2023 explicitly stipulates that human organs and/or tissues must not be commercialized or traded under any circumstances. This norm reflects the fundamental principle that the human body cannot be positioned as an object of economic transaction. Accordingly, organ transplantation regulation

[17] Ranivoharisoa, É. M., Mioaramalala, S. A., Rasolofo, T., & Randriamarotia, W. F. H. (2026). WCN26-100 ASSESSMENT OF QUALITY OF LIFE IN CHRONIC KIDNEY DISEASE PATIENTS UNDERGOING KIDNEY TRANSPLANTATION IN MADAGASCAR. *Kidney International Reports*, 11(4), 104660–104660. https://doi.org/10.1016/j.ekir.2026.104660

[18] Lestari, K. D. P., & Hartawan, I. G. A. G. U. (2026). Analysis Of Ethical And Legal Issues In Organ Transplantation And Organ Donation In Indonesia. *Jurnal Smart Hukum (JSH)*, 4(3), 275–283. https://doi.org/10.55299/jsh.v4i3.1830

must be placed within the framework of protecting human dignity, human rights, and medical ethics. [19]

The prohibition of commercialization also serves as an instrument to prevent the exploitation of vulnerable groups. In transplantation practices, the relationship between donors and recipients may become imbalanced, particularly when donors experience economic pressure.[20] Consequently, the state must ensure that recipients' need for organs does not evolve into a transactional space that places donors in a vulnerable position. The principle of non-commercialization therefore functions as both an ethical and juridical boundary to prevent human organs from being treated as commodities.

Nevertheless, Indonesian positive law also provides room for granting donor reward to donors or their heirs. Article 133 of Law Number 17 of 2023 states that the central government, regional governments, and/or recipients may provide donor reward to donors or their heirs. This provision demonstrates that the state recognizes the sacrifice, risks, and humanitarian contribution undertaken by donors. In this context, donor reward should be understood as a form of protection and appreciation rather than as payment for the donated organ.

The fundamental problem arises because the term "donor reward" has not yet been operationally formulated within positive law. Law Number 17 of 2023 does not clearly define the form, value, source of funding, procedures, or mechanisms for providing donor reward. This ambiguity continues in Article 357 of Government Regulation Number 28 of 2024. On the one hand, donor reward is declared not to constitute remuneration; on the other hand, its form and/or value may be determined by the Minister after coordination with the minister responsible for governmental affairs in the financial sector.

In addition to Law Number 17 of 2023 and Government Regulation Number 28 of 2024, organ transplantation had previously been regulated under Minister of Health Regulation Number 38 of 2016 concerning the Implementation of Organ Transplantation.[21] However, the regulation primarily focused on procedural aspects, requirements, implementation procedures, and basic protections in

[19] Indriati, R. N., & Fatimah, U. D. (2026). Aspek Hukum Alih Organ Tubuh Secara Sukarela dengan Pemberian Uang Penghargaan dalam Perspektif Undang-Undang Pemberantasan Tindak Pidana Perdagangan Orang. *Audi Et AP Jurnal Penelitian Hukum*, 5(1), 12–18. https://doi.org/10.24967/jaeap.v5i01.4482

[20] Santoso, W. (2026). Human Organ Trafficking as a Health Crime: An Analysis of Indonesian Criminal Law. *Indonesian Journal of Global Health Research*, 8(2), 403–410. https://doi.org/10.37287/ijghr.v8i2.1378

[21] Peraturan Menteri Kesehatan Nomor 38 Tahun 2016 tentang Penyelenggaraan Transplantasi Organ.

organ transplantation services.[22] The Ministerial Regulation did not operationally regulate the form, value, distribution mechanism, or verification process of donor reward.[23] This demonstrates that the regulatory gap concerning donor reward exists not only at the level of statutes and government regulations, but also within technical regulations.

This formulation illustrates a conceptual tension between the principle of non-commercialization and the recognition of donor reward that potentially carries material value. This tension should not necessarily be understood as an absolute contradiction, but rather as the need to establish clear legal boundaries. The law must be capable of distinguishing between legitimate donor reward as a form of donor protection and prohibited remuneration resembling organ transactions.[24] Without such boundaries, the concept of donor reward risks generating multiple interpretations within kidney transplantation practices.

At the implementation level, the regulation of kidney donor reward still lacks an adequate operational foundation. No implementing regulation specifically governs the concrete forms of donor reward, procedures for distribution, verification mechanisms, sources of funding, or supervisory systems. As a result, the donor reward norm remains merely declaratory and cannot yet be uniformly implemented within the healthcare system. This condition creates legal uncertainty for donors, recipients, hospitals, healthcare professionals, and the government as regulator.

The absence of an operational mechanism directly affects the weakness of economic protection for donors. In practice, prospective donors may bear repeated transportation costs to referral hospitals, accommodation expenses, examination costs, loss of income, and post-procedure recovery expenses. If these burdens are not recognized through a legitimate legal mechanism, donors remain in a vulnerable position despite the altruistic nature of their actions. Therefore, the Indonesian legal framework must be directed toward formulating donor reward that is measurable, verifiable, institutionally supervised, and consistent with the principle of organ non-commercialization.

3.2. The Kidney Donor Compensation System in Iran

Unlike Indonesia, which still places the concept of donor reward within a normative framework that has not yet become fully operational, Iran has developed a kidney transplantation system with a more institutionalized

[22] Ibid.
[23] Ibid.
[24] Bakhtiar, H. S., & Bakhtiar, H. S. (2025). The Legal and Ethical Challenges of Human Organ Transplantation. *Jurnal Hukum Dan Etika Kesehatan*, 188–203. https://doi.org/10.30649/jhek.v5i2.269

structure.[25] Since the late 1980s, Iran has implemented a kidney transplantation model based on living unrelated kidney donors.[26] Within this model, benefits provided to living donors are officially recognized and facilitated through the involvement of the state and healthcare institutions.[27] This demonstrates that Iran does not allow living donor transplantation practices to operate solely within private relationships between donors and recipients.

Within the Iranian legal context, the kidney transplantation system is constructed as part of a healthcare policy involving active state participation. The state plays a role in establishing institutional frameworks, regulating donor and recipient registration processes, and ensuring mechanisms for matching and medical evaluation. Such state involvement is crucial because kidney transplantation concerns the human body, patient safety, and potentially unequal economic relationships. Therefore, transplantation regulation cannot merely be left to the will of the parties involved, but must instead be controlled through clear norms and institutions.

One of the principal characteristics of the Iranian system is the existence of clearer regulation regarding the form and value of benefits provided to donors. This clarity provides certainty concerning the rights and obligations of donors and recipients within the transplantation process.[28] From a legal perspective, donor benefits are not positioned as unrestricted transactions, but rather as regulatory instruments controlled within the system. Consequently, the value of the benefits does not function as a price for organs, but rather as part of a policy design intended to reduce uncertainty and informal practices.

In addition to financial benefits, Iran's kidney transplantation system also requires voluntary consent, medical evaluations, and institutional supervision as essential elements in ensuring the legality and ethical legitimacy of donation practices. Informed consent, medical examinations of donors and recipients, and the involvement of supervisory institutions function as control instruments to ensure that donations are conducted consciously, free from coercion, and legally accountable. In this context, donor consent cannot be positioned merely as an administrative formality, but rather as a substantive requirement inherent in the protection of donors' rights, autonomy, and safety. This framework aligns with the principle of organ non-commercialization as affirmed in the Istanbul

[25] Ali Nobakht Haghighi, et.al., "20 Years Iranian Experience of Organ Donation: Shifting from Compensated Living Unrelated Kidney Transplantation", *Kidney International Reports*, Vol. 10, Elsevier, 2025, hlm. 979–980.
[26] Ibid.
[27] Ibid., hlm. 979.
[28] Vyltsan, S. SHILAP Revista de Lepidopterologíand Law: The Experience of Interaction in the Islamic Republic of Iran. *SHILAP Revista de Lepidopterología*. https://doi.org/10.22091/ijicl.2025.13310.1206

Declaration, which rejects organ transplantation practices for commercial purposes because they contradict the principles of justice, respect for human dignity, and the protection of human rights.[29] Therefore, any form of benefit provided to donors must remain within strict boundaries as a protection mechanism rather than as payment for organs, so as to prevent transplantation practices from shifting into exploitative organ transactions.[30]

The institutional structure within the Iranian system also aims to limit direct transactional relationships between donors and recipients. Through the involvement of the state, healthcare facilities, and civil society organizations, transplantation processes are prevented from becoming economic negotiations between individuals. This model is important because direct relationships between donors and recipients may create unequal bargaining positions, particularly when donors originate from economically vulnerable groups. Accordingly, institutional mediation functions as an instrument to reduce the risk of exploitation and to maintain transplantation practices within ethical boundaries.

Over time, the Iranian system has frequently been considered capable of increasing the number of kidney transplantations and reducing patient waiting lists.[31] This effectiveness does not arise solely from the provision of donor benefits, but also from the combination of regulations, medical infrastructure, institutional arrangements, social legitimacy, and relatively integrated supervision.[32] In other words, the success of the Iranian system cannot be understood merely as the result of financial donor reward. More importantly, it reflects the existence of a legal and institutional design that enables donor benefits to be controlled, recorded, and supervised.

Nevertheless, the Iranian system continues to raise serious ethical concerns, particularly regarding the potential exploitation of low-income groups.[33] Financial incentives may influence an individual's motivation to become a donor due to economic pressure rather than purely altruistic considerations.[34] Furthermore, official mechanisms are not always capable of preventing additional payments outside the formal system.[35] This condition demonstrates

[29] Omar Abboud, et.al., "The Declaration of Istanbul on Organ Trafficking and Transplant Tourism", *The Transplantation Society and International Society of Nephrology*, 2008, hlm. 3–4.

[30] Omar Abboud, et.al., Loc.Cit.

[31] Mahdi Shadnoush, et.al., "Trends in Organ Donation and Transplantation over the Past Eighteen Years in Iran", *Clinical Transplantation: The Journal of Clinical and Translational Research*, Vol. 36, No. 12, 2022, hlm. 1–3.

[32] Ibid., hlm. 3–4.

[33] Tannaz Moeindarbari and Mehdi Feizi, Op.Cit.

[34] Ibid.

[35] Ibid.

that the legalization of donor benefits does not automatically eliminate the risks of black markets or exploitative economic relationships.

For Indonesia, Iran's experience is more appropriately positioned as a comparative reference rather than as a model to be adopted in its entirety. The principal lesson from Iran is not the justification of unrestricted donor reward, but rather the importance of regulatory clarity, value limitations, verification, institutional supervision, and protection for vulnerable donors. In the Indonesian context, this comparison reinforces the need to formulate donor reward more operationally through a measured reimbursement model. Such a model enables donor protection without undermining the fundamental principle of organ non-commercialization.

3.3. Comparison Between Indonesia and Iran

The comparison between Indonesia and Iran demonstrates fundamental differences in the regulatory construction governing donor reward or benefits for kidney donors.[36] Indonesia structures its regulation by positioning the prohibition of organ commercialization as the principal norm, whereas Iran has developed a system of donor benefits for living donors that is officially facilitated and supervised by the state.[37] These differences are reflected not only in the terminology employed, but also in the degree of normative clarity, institutional design, and supervisory mechanisms.

From the perspective of fundamental principles, Indonesia firmly emphasizes that human organs must not be commercialized or traded under any circumstances. This principle is reflected in Law Number 17 of 2023 and Government Regulation Number 28 of 2024. At the same time, Indonesia also recognizes the concept of donor reward for donors, although such donor reward must remain within the framework of non-commercialization. Accordingly, Indonesia's approach may be understood as a restrictive approach intended to safeguard human dignity and prevent donor exploitation.

Conversely, Iran adopts a more open approach toward the provision of benefits for kidney donors, particularly living donors who are not biologically related to recipients. The Iranian system permits officially facilitated financial benefits through cooperation between the government and related institutions. This model was designed to reduce transplantation waiting lists while minimizing the emergence of black-market organ trading. Nevertheless, the approach continues to present ethical risks because financial incentives may disproportionately affect economically vulnerable groups.

[36] Ali Nobakht Haghighi, et.al., Op.Cit., hlm. 979–980.
[37] Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, Pasal 124 ayat (3); Ali Nobakht Haghighi, et.al., Op.Cit., hlm. 979.

From the perspective of regulatory form, Indonesia employs the term "donor reward," which remains general and not yet fully operationally defined. Article 133 of Law Number 17 of 2023 provides room for donor reward, while Article 357 of Government Regulation Number 28 of 2024 states that the form and/or value of such donor reward shall be determined by the Minister. However, no technical regulation has yet clarified the form, value, procedures, or limitations of such donor reward. In contrast, Iran has established a more explicit scheme, including institutional arrangements facilitating the provision of donor benefits.

Another distinction can be observed in the operationalization of norms. Within the Indonesian system, donor reward norms remain at a declaratory level because they have not yet been translated into concrete mechanisms capable of uniform implementation. As a result, donor protection continues to depend largely upon regulatory interpretation and the practices of individual healthcare institutions. Meanwhile, Iran has established a more operational mechanism through the involvement of the state, healthcare institutions, and non-profit organizations.

From the perspective of supervision, Iran demonstrates a more institutionalized character because the process of providing benefits and conducting transplantations involves state oversight and non-profit institutions. In contrast, transplantation supervision in Indonesia continues to rely predominantly upon medical standards, hospitals, and general norms within statutory regulations. The absence of an integrated supervisory system means that donor reward mechanisms still lack adequate control instruments.

Based on the foregoing discussion, the comparison between Indonesia and Iran cannot be simplified into a choice between total prohibition and unrestricted donor reward. Indonesia emphasizes protection through the prohibition of commercialization, yet still requires operational regulation to prevent donor reward from generating multiple interpretations. Iran demonstrates the importance of clear regulations and state supervision, although ethical risks remain. Therefore, Iran's experience is more appropriately regarded as a source of lessons for Indonesia in formulating a donor reward concept that is measurable, verifiable, and consistent with the principle of organ non-commercialization.

Table 1. Comparison of the Regulatory Construction of Kidney Donor Reward in Indonesia and Iran

Aspect	Indonesia	Iran	Implications for Indonesia
Regulatory Basis	Law Number 17 of 2023 and Government Regulation Number 28 of 2024 recognize donor reward but do not regulate	A living donor reward system has been institutionalized through state-facilitated transplantation policies	Indonesia requires implementing regulations that operationalize donor reward clearly.

	its form and mechanisms in detail.	supported by organ transplantation regulations.	
Main Principle	Emphasizes the prohibition of organ commercialization and the protection of human dignity.	Accommodates donor reward within a framework of state supervision.	Donor reward in Indonesia must remain within the framework of non-commercialization.
Form of Benefits	Uses the term " donor reward," but it remains unclear whether it refers to moral, social, or measurable material benefits.	Recognizes official financial donor reward adaptable to economic conditions.	An operational definition of measured reimbursement as a form of non-commercial donor reward is necessary.
Distribution Mechanism	No technical mechanism exists regarding claims, verification, and distribution of donor reward.	Donor reward is distributed through a system involving the state and related institutions.	Donor reward distribution must occur through official institutions rather than directly between donors and recipients.
Supervision	Relies primarily on hospitals and lacks an integrated supervisory system.	Involves the state, healthcare facilities, and non-profit organizations.	A national registry, audits, reporting mechanisms, and supervision by independent institutions are required.
Main Risks	Normative ambiguity, multiple interpretations, and the potential for informal donor reward through intermediaries.	Potential economic exploitation and additional unofficial payments outside formal regulations.	Indonesia requires a balanced model that protects donors without opening opportunities for organ trading.
Relevant Model	Not yet operational.	Structured, but not fully adaptable.	Measured reimbursement may serve as an adaptive model for Indonesia.

The table demonstrates that the principal difference between Indonesia and Iran lies in the degree of normative operationalization. Indonesia already possesses a legal foundation recognizing donor reward, yet lacks clear technical mechanisms. Conversely, Iran has established a more structured system, although ethical risks remain unresolved. Therefore, Indonesia requires a regulatory model that does not replicate the Iranian system entirely, but rather adopts lessons concerning regulatory clarity, institutional arrangements, and supervision.

3.4. Measured Reimbursement as a Regulatory Model in Indonesia

The principal problem within the regulation of kidney donor reward in Indonesia lies in the absence of clear boundaries between donor reward, reimbursement, and commercialization. Positive law prohibits the sale and purchase of organs, while simultaneously recognizing the possibility of providing donor reward to donors. These two norms should not necessarily be viewed as contradictory. The prohibition of commercialization aims to prevent human organs from being treated as commodities, whereas donor reward aims to provide protection for donors against the consequences arising from donation.

The absence of an operational definition causes donor reward to remain within a realm of interpretative ambiguity. In practice, donor reward may be interpreted

too narrowly as merely moral appreciation without material value, or conversely too broadly as unrestricted financial payment. Both interpretations are problematic. The former disregards the actual burdens borne by donors, while the latter risks creating opportunities for disguised organ trading.

Measured reimbursement may serve as a middle-ground solution to this issue. This concept positions donor reward not as payment for organs, but rather as reimbursement for reasonable, proven, and donation-related direct expenses. On this basis, the reimbursed object is not the donated kidney itself, but rather the actual expenses incurred because donors undergo medical examinations, procedures, recovery, and post-donation follow-up care.

Substantively, measured reimbursement may encompass several expense components. First, donors' transportation costs for medical examinations, procedures, and post-donation follow-up visits. Second, reasonable accommodation expenses if donors must temporarily stay near healthcare facilities. Third, verifiable loss of income during examination and recovery periods. Fourth, medical follow-up expenses directly related to the donation process. All such components must remain limited to actual, reasonable, and verifiable costs.

The primary characteristics of measured reimbursement are measurability and verifiability. Every claim must be supported by evidence, such as travel documents, accommodation receipts, employment certificates, government-established cost standards, or medical documents demonstrating the relationship between expenses and the donation process. Through this mechanism, donor reward is not granted based upon informal agreements between donors and recipients, but rather through transparent and auditable procedures.

Furthermore, reimbursement must not be provided directly from recipients to donors. Direct payment risks creating transactional relationships resembling organ trading. Therefore, reimbursement distribution should occur through official institutions managed or supervised by the state, such as transplantation referral hospitals, the National Transplantation Committee, or specially designated governmental institutions. This institutional model is important to sever direct economic relationships between donors and recipients and to prevent intermediary involvement.

From a regulatory perspective, the most realistic instrument for regulating measured reimbursement is a Minister of Health Regulation. This aligns with the mandate of Government Regulation Number 28 of 2024, which states that the form and/or value of donor reward shall be determined by the Minister after coordination with the minister responsible for governmental affairs in the

financial sector. Accordingly, a Minister of Health Regulation would not create a new norm contradicting the prohibition of commercialization, but rather operationalize the donor reward norm already recognized within positive law.

Such a Ministerial Regulation should contain several principal elements. First, a definition of measured reimbursement as a form of non-commercial donor reward in the form of reasonable and verifiable reimbursement for direct expenses. Second, a limited specification of reimbursable expenses. Third, value limitations or standardized cost thresholds to prevent disproportionate treatment. Fourth, procedures for claim submission and verification. Fifth, distribution mechanisms through official institutions. Sixth, systems for audits, reporting, and sanctions for violations.

The regulation should also be complemented by a national donor and recipient registry. This registry would function to record donation processes, donor status, consent documentation, reimbursement claims, payments made, and post-donation medical follow-up. Through an integrated data system, the state would be able to supervise transplantation processes more transparently. A national registry is also essential to prevent informal practices, unrecorded payments, and intermediary involvement in donor recruitment.

From the perspective of legal certainty, measured reimbursement provides benefits for all parties. Donors obtain clarity regarding their right to reasonable reimbursement. Recipients understand the permissible limits of donor reward. Hospitals and healthcare professionals gain clear guidelines for conducting transplantations. Regulators also acquire a basis for supervision and enforcement against violations. In this context, the concept of donor reward no longer remains an abstract norm, but instead becomes a legal mechanism capable of accountable implementation.

Measured reimbursement also strengthens the principle of organ non-commercialization. Through the existence of a lawful mechanism for reimbursing legitimate expenses, donors and recipients no longer need to seek informal arrangements outside the legal system. The state may reduce incentives for black-market activities because donor protection needs have already been formally accommodated. Therefore, reimbursement does not weaken the prohibition against organ trading, but rather serves as an instrument to reinforce that prohibition through realistic protective mechanisms.

Normatively, measured reimbursement may be formulated as donor reward for kidney donors in the form of reimbursement for reasonable, proven, and directly donation-related expenses arising from medical examinations, procedures, recovery, and post-donation follow-up care. Such reimbursement must not be interpreted as payment for organs and must not occur directly between donors

and recipients. Any form of benefit that cannot be verified, is provided directly in cash, or involves intermediaries should be classified as a violation of the principle of organ non-commercialization.

With such a design, measured reimbursement may become a more appropriate donor reward model for Indonesia. This model does not replicate the Iranian system in its entirety, but rather adopts lessons concerning the importance of regulatory clarity and state supervision. Indonesia would thus maintain the prohibition of organ commercialization while simultaneously providing more concrete protection for donors. Therefore, measured reimbursement deserves to serve as the foundation for implementing regulations within Indonesia's health law system.

4. Conclusion

This study concludes that the regulation of kidney donor reward within Indonesian law continues to create legal uncertainty. Law Number 17 of 2023 concerning Health explicitly prohibits organ commercialization, while simultaneously providing room for donor reward to be granted to donors. This provision is further regulated under Government Regulation Number 28 of 2024; however, it still lacks clarity regarding the form, value, limitations, and implementation mechanisms of such donor reward. Consequently, donor reward remains at a normative level and has not yet been supported by operational instruments capable of clearly distinguishing it from commercially oriented payment or organ-related transactions. The comparison with Iran demonstrates that the country has developed a more structured system for providing benefits to kidney donors through state involvement, institutional supervision, and more operational mechanisms. Although the Iranian system cannot be directly adopted because it continues to contain ethical risks and the potential exploitation of vulnerable groups, the Iranian experience illustrates the importance of normative clarity, value limitations, verification mechanisms, and state supervision in regulating donor benefits. Therefore, the principal difference between Indonesia and Iran lies in the level of normative operationalization: Indonesia remains largely declaratory, whereas Iran has adopted a more implementation-oriented approach. As a response to this regulatory gap, this study proposes the concept of measured reimbursement as a non-commercial donor reward mechanism for kidney donors. This concept is not intended as payment for organs, but rather as reimbursement for reasonable and verifiable direct expenses, such as transportation costs, accommodation expenses, loss of income during recovery, and donation-related medical follow-up. Under this construction, measured reimbursement remains consistent with the principle of organ non-commercialization while simultaneously providing legal certainty, legal protection, and fairness for donors. Based on these conclusions, the government should immediately formulate implementing regulations concerning

kidney donor reward in the form of measured reimbursement, particularly through a Minister of Health Regulation. Such regulation should include definitions, categories of reimbursable expenses, value standards, claim procedures, document verification mechanisms, payment distribution through official institutions, a national donor and recipient registry, periodic audits, and prohibitions against direct payments and broker involvement. Through such a framework, donor reward may function as an instrument of legal protection without transforming human organs into commercial objects.

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