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Fatwa of MUI and Islamic Jurisprudence Council on Stem Cells from The Perspective of Qawaid Fiqhiyyah

Yuli Yasin

Universitas Islam Negeri Syarif Hidayatullah, Jakarta, Indonesia

Sahar

Universitas Islam Internasional Indonesia

Aep Saepulloh

Universitas Islam Negeri Syarif Hidayatullah, Jakarta, Indonesia

Abdelghani Yahyaoui

Abdelmalek Essaadi University Tetouan, Morocco

Email: yuli.yasin@uinjkt.ac.id

Abstract: This article discusses two fatwas issued by Islamic organizations the Indonesian Ulema Council (MUI) and the Islamic Fiqh Council regarding stem cell therapy, with the aim of analyzing the arguments of each council, examining their legal foundations, and assessing the strength of the legal reasoning in each. Stem cell therapy is one of the newest therapeutic approaches being developed in many countries after medical research demonstrated its success in treating chronic diseases such as cancer. However, some Islamic societies do not permit such treatments unless they are officially permitted by Islamic jurists through fatwas. Regarding the use of stem cells, the ruling on their use has not been discussed by the imams of the four madhabs. Therefore, it has become among contemporary medical *fiqh* issues, leading to scholarly disagreement over the ruling on their use. In this study, the researchers relied on a qualitative research approach and utilized documents and secondary sources to analyze Fatwa No. 51, issued by the Indonesian Council of Ulema in 2020, and the Islamic Fiqh Council of the Muslim World League decision in 2003 during its seventeenth session regarding the use of stem cells from the perspective of *qawaid fiqhiyyah* “The original ruling of beneficial things is permissible.” The findings suggest that both councils differed on the original ruling on stem cell therapy, ranging from prohibition to permissibility, depending on the type of substances in which stem cells are considered. However, the permissibility of stem cell therapy serves a predominant benefit, potentially saving patients and helping combat many chronic diseases. This analytical study contributes to enhancing the contemporary jurisprudential understanding of modern medicine and advocates for changes in MUI fatwa that could significantly improve the quality of life by ensuring the use of stem cells without the condition of necessity or *hajah shari’yyah*.

Keywords: Treatment, stem cells, Indonesian Ulema Council, Islamic Fiqh Council

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Abstrak: Artikel ini membahas dua fatwa yang dikeluarkan oleh dua lembaga Islam, Majelis Ulama Indonesia dan Majelis Fikih Islam, tentang terapi stem sel. Tujuannya adalah untuk menganalisis argumen setiap lembaga, memeriksa landasan hukumnya, dan menilai kekuatan penalaran hukum pada masing-masing lembaga. Terapi stem sel merupakan salah satu pengobatan modern yang dikembangkan di banyak negara setelah penelitian medis menunjukkan keberhasilannya dalam mengobati penyakit kronis seperti kanker. Namun, beberapa masyarakat Islam tidak memperbolehkan penggunaan sebuah pengobatan kecuali para ahli fikih secara resmi mengizinkannya melalui fatwa. Dalam konteks pemanfaatan stem sel, hukum tentang stem sel belum disebutkan oleh para imam empat mazhab. Oleh karena itu, hal ini menjadi salah satu isu fikih medis kontemporer yang menyebabkan para ulama berbeda pendapat dalam penetapan hukumnya. Dalam penelitian ini, para peneliti menggunakan pendekatan penelitian kualitatif dengan menggunakan dokumen dan sumber sekunder untuk menganalisis Fatwa Nomor 51 yang diterbitkan oleh Majelis Ulama Indonesia pada tahun 2020 dan keputusan Majelis Fikih Islam tahun 2003 pada sesi ketujuh belas tentang penggunaan stem sel dari perspektif qawa'id fiqhiyyah "Hukum asal bagi segala sesuatu yang bermanfaat ialah boleh." Hasil studi menunjukkan bahwa kedua dewan berbeda pendapat mengenai Asl hukum pengobatan dengan stem sel, antara pendapat yang melarang dan yang membolehkan, berdasarkan pada jenis zat di mana stem sel diambil. Namun, dibolehkannya pengobatan dengan stem sel memberikan manfaat lebih besar yaitu dapat menyelamatkan pasien dan membantu melawan banyak penyakit kronis. Studi analitis ini berkontribusi untuk meningkatkan pemahaman fikih kontemporer tentang masalah kedokteran modern dan mengadvokasi perubahan fatwa MUI yang dapat meningkatkan kualitas hidup dengan memastikan pemanfaatan stem sel tanpa syarat kedaruratan atau hajjah syar'iyah.

Kata Kunci: pengobatan; stem sel; Majelis Ulama Indonesia; Majelis Fiqih Islam

Introduction

Stem cells are one of the most recent medical discoveries in modern medicine. They emerged in the 1960s and are being developed by many countries in an effort to find effective ways to treat diseases that still defy treatment by many doctors. However, their use has raised ethical concerns, as they must be extracted from humans and cannot be replaced by stem cells from other

organisms.¹ Therefore, they have been banned in some countries, such as Germany and South Africa.²

In Islamic societies, particularly in countries where Islam is an integral part of political and social life, the approval of new medical treatments depends on the opinion of Islamic jurists of the existing state. The *ummah* adheres to the Prophet Muhammad PBUH hadith: ‘Seek treatment, O slaves of Allah! For Allah does not create any disease, but He also creates with it the cure, except for old age,’³ which encourages Muslims to find medicine and therapeutics to address what afflicts the human body.⁴ However, this principle is conditional upon Sharia's command to ensure that everything that enters the body is halal and lawful,⁵ including treatments and medicines⁶, as Allah says in the Qur'an (2:172), “O you who have believed, eat from the good things which We have provided for you.” *Tadawi* or treatment is an act of worship bound by Sharia. Therefore, it is essential to select only those from permissible sources for the treatment to be permissible.

There have been successful experiments in using stem cell technology to treat heart patients, including what was conducted by the British-Greek study in 2016, which tracked 11 patients who were injected with stem cells during surgery to open a bypass near tissue scars caused by heart attacks. Results showed that after twenty-four months of following up with those injected patients, there was a 40% reduction in scar size, their heart performance improved by 30%, and an improvement in quality of life appeared by 70%.⁷ Therefore, stem cell therapy has been proven and shown to be highly effective in treating some diseases.

¹ C. R. Towns and D. G. Jones, “Stem Cells, Embryos, and the Environment: A Context for Both Science and Ethics,” *Journal of Medical Ethics* 30, no. 4 (2004), p. 410.

² BioXcellerator, “Why Are Stem Cells Banned in Other Countries?,” BioXcellerator, September 26, 2024, <https://www.bioxcellerator.com/blog/why-are-stem-cells-banned-in-other-countries>.

³ Abu Dawud, *Sunan Abi Dawud*, 3 4 (Beirut - Lebanon: Dar al-Kotob al-Ilmiyah, 1996) hadith number, p. 3855.

⁴ A. Zaenurrosyid, Hidayatus Sholihah, and Nur Hidayatuloh, “The Islamic Philanthropy Model Based on Maslahah Principles for Developing Islamic Campus in Java,” *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (2024), p. 287.

⁵ Amany Lubis, “Al-Shurūṭ Wa-l-Ḍawābiṭ al-Shar‘iyya Li-l-Ghidhā’ al-Ḥalāl: Khibrat Indūnisiyā [The Legal Conditions and Standards for Halal Food: The Experience of Indonesia],” *AHKAM : Jurnal Ilmu Syariah* 17, no. 1 (2017), p. 245-246; Wan Ainaa Mardhiah Wan Zahari et al., “Recycling Ablution Water (Wudu’) Using Membrane Water Treatment: A Study from Fiqh Halal Perspective,” *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022), p. 174.

⁶ Abd Rauf Muhammad Amin et al., “Between Ḍarūrah and Halal Integrity: MUI Fatwas on Harm-Derived Vaccines and Medicines,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (2024), p. 1241; Nispul Khoiri and Adelina Nasution, “MUI Legal Fatwa on Vaccine Halalness in COVID-19 Vaccination Socialization in Medan City, Indonesia,” *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 1 (2022), p. 17.

⁷ Kate Lyons, “Stem Cell Trial Suggests Damaged Heart Tissue Could Be Regenerated,” *The Guardian*, July 24, 2016, sec. Science,

More recent successful cases are the use of stem cells for COVID-19 patients and rare disorders. In an Indonesian medical report, a man with severe COVID-19 symptoms, multi-organ dysfunction, and life-threatening complications received stem cell treatment, after which his clinical symptoms improved, including respiratory function and decreased markers of inflammation.⁸ A child with Prader-Willi syndrome, a rare disorder characterized by muscle weakness, delayed growth, and an insatiable appetite, also underwent stem cell treatment in Indonesia. He received seven months of treatment with umbilical cord tissue extract and showed significant improvements in muscle strength and motor skills, including his ability to walk and run.⁹

Given the importance of treatment with stem cells and their effectiveness in treating diseases as well as being one of the controversial issues, clarifying the ruling on their use in treatment is an urgent and immediate matter that reflects the Sharia's keeping pace with all developments and its assimilation of all discoveries. As a consequence, many researchers have worked on this topic in their previous studies. For instance, Labib wrote about the legality of treatment with stem cells from the perspective of Islamic jurisprudence,¹⁰ and concluded that stem cells are used to treat many diseases, such as cancer, diabetes, and bone fractures. Therefore, their use for therapeutic purposes for patients is legitimate. Other studies find that although stem cells are highly beneficial, their application leaves theological and ethical dilemmas for Muslim scholars.¹¹ Furthermore, Awwad and Bejeawi categorize the processes and types of stem cells that are prohibited and permitted from the perspectives of Islamic and positive law.¹² Shabana adopts a middle-ground approach by bridging the divergent views of Muslim scholars worldwide in response to biomedical issues, particularly due to differing perspectives on treatment versus enhancement. Nevertheless, he

<https://www.theguardian.com/science/2016/jul/24/stem-cell-trial-suggests-damaged-heart-tissue-regenerated>.

⁸ Novi Sukirto et al., "Mesenchymal Stem Cells Therapy in Critical COVID-19 Patient: A Case Report," *Ahmad Dahlan Medical Journal* 3, no. 1 (2022).

⁹ Dinda Rachmawati, "Oki Setiana Dewi's Story About Stem Cell Therapy for Her Child With the Rare Prader-Willi Syndrome," *suara.com*, July 27, 2023, <https://www.suara.com/health/2023/07/27/165000/cerita-oki-setiana-dewi-tentang-terapi-stem-cell-untuk-anaknya-yang-idap-penyakit-langka-sindrom-prader-willi>.

¹⁰ Naglaa Labib, "The legality of treatment with stem cells from the perspective of Islamic jurisprudence," *Faculty of Sharia and Law, Al-Azhar University, Tafhana Al-Ashraf Branch* 017, no. 004 (2015).

¹¹ Fatima Agha Al-Hayani, "Muslim Perspectives on Stem Cell Research and Cloning," *Zygon: Journal of Religion and Science* 43, no. 4 (2008), p. 788.

¹² Ahmed Awwad and Imad Bejeawi, "Legality Extent of Therapeutic Cloning in Islamic Fiqh and Comparative Laws A Comparative Analytical Study," *Journal of Infrastructure, Policy and Development* 8, no. 13 (2024), p. 13.

emphasizes the importance of continuous and careful reassessment in light of the rapid pace of scientific advancement.¹³

However, despite the growing importance of stem cell therapies around the world, this treatment is religiously prohibited in Indonesia. In 2020, the Indonesian Council of Ulema issued a fatwa prohibiting the use of this medical method in Indonesia.¹⁴ The public's position was divided into two camps: those who opposed and those who supported the fatwa. Ramadana and Azman¹⁵ conducted a study to compare the ruling on treatment with embryonic stem cells in Islam and the Indonesian positive law. The Council stipulated that 'Fetuses are a living creature that must be respected, and aborting it is considered an end to its life, so it is forbidden to abort the fetus,' and therefore, killing fetuses to extract embryonic stem cells is forbidden. This opinion was supported by some researchers from Sultan Sharif Ali Islamic University in Brunei Darussalam,¹⁶ who emphasized that using embryonic stem cells for any purpose is haram and is only permissible if there is a need.

On the other hand, a group of researchers from YARSI University¹⁷ asserts that a person must be in good physical and mental health in order to be able to fulfill their religious obligations properly. Therefore, the use of stem cell therapy to maintain health is permissible and does not conflict with Islamic teachings. Sharia promotes the maintenance of health through *Maqāṣid al-Sharī'a*¹⁸, particularly by protecting the soul (*hifz al-nafs*).¹⁹ In Islam, life is respected and must be protected from destruction (death) and harm.²⁰ Thus, a person must provide themselves with the means to maintain life, such as food, drink, and

¹³ Ayman Shabana, "Between Treatment and Enhancement: Islamic Discourses on the Boundaries of Human Genetic Modification," *Journal of Religious Ethics* 50, no. 3 (2022), p. 389.

¹⁴ Majelis Ulama Indonesia, "MUI Fatwa Number 51 Of 2020 Regarding The Use of Stem Cells For Treatment Purposes" (Majelis Ulama Indonesia, 2020), <https://mui.or.id/baca/fatwa/penggunaan-stem-cell-sel-punca-untuk-tujuan-pengobatan>.

¹⁵ Nuni Rahmadana and Azman Arsyad, "Treatment of Embryonic Stem Cells: Comparison of Positive Law and Islamic Law," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab*, 2023, p. 373–391.

¹⁶ Hjh Nur Munawwarah Hj Brahim, Nur Nabiilah Hj Ramlli, and Nur Zahirah Azmar, "The Permissibility of Utilising Stem Cells in Biomedical Treatment in ASEAN Countries: Religious Compliance Perspective," *Journal of Halal Science and Technology* 2, no. 2, p. 60–75.

¹⁷ Marisa Riliani et al., "Efforts For Health and Longevity in The Perspectives of Islam and Biomedicine," *Jurnal Ruhul Islam* 2, no. 1 (2024), p. 53–79.

¹⁸ Hidayatullah Hidayatullah and Nasrullah Nasrullah, "Enforcement of Health Law: The Large Scale Social Limitation In Indonesia Viewed of The Theory Of Al-Maqashid Asy-Syar'iyyah," *Syariah: Jurnal Hukum Dan Pemikiran* 20, no. 1 (2020), p. 50-51.

¹⁹ J. M. Muslimin and M. Abdul Kharis, "Istihsan and Istishab in Islamic Legal Reasoning: Towards the Extension of Legal Finding in the Context of Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 20, no. 2 (2020), p. 175.

²⁰ Syafril Wicaksono et al., "Maqashid Sharia Progressive: Anatomical and Transformational of Halal Institutions in UIN KHAS Jember," *El-Mashlahah* 13, no. 2 (2023), p. 110.

medication, and must not abstain from these necessities.²¹ Demanding effective treatment for those suffering from chronic diseases is a right that should be freely accessed.²²

The topic of MUI and its fatwas regarding biomedicine is no longer new in academic discussions and has already produced many findings. Several studies have found that MUI differentiates between the urgency and permissibility of using vaccines and medicines containing porcine gelatin by applying the principle of *darurah* (necessity) only to the use of vaccines.²³ Furthermore, Sholeh argues that the fatwas issued by MUI regarding vaccines are considered quite progressive, as they align with legal formulation standards, medical considerations, and state policies.²⁴ Yasin and Rizky also examined MUI's fatwa on vaccines, whose ruling aligns with those of fatwa councils in the Islamic world.²⁵ This is indicated by the method used by MUI in formulating its fatwas, namely through the application of *usul al-fiqh* and a multidimensional point of view.²⁶ Slightly different from the fatwa issued by the Indonesian Ulama Council (MUI) regarding immunization, which places greater emphasis on the principle of *istislah* or *maslahah mursalah* (public interest or unrestricted benefit).²⁷

Despite the extensive debates on the legal status of stem cells, the position of the Indonesian Ulama Council (MUI) in relation to contemporary biomedical advancements most of which have been limited to the issue of vaccines has largely been overlooked. The discussions have tended to ignore how MUI addresses emerging medical technologies whose urgency remains ambiguous, such as stem cell research, and how its stance diverges from that of international fiqh councils. Previous studies have neglected this aspect; therefore, this paper seeks to fill the gap by focusing on the MUI's fatwa on stem cell therapy by comparing it with

²¹ Muhammad Harfin Zuhdi and Mohamad Abdun Nasir, "Al-Mashlahah and Reinterpretation of Islamic Law in Contemporary Context," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (2024), p. 1822.

²² Ulul Umami and Abdul Ghofur, "Human Rights in Maqāṣid Al-Sharī'ah al-Āmmah: A Perspective of Ibn 'Āshūr," *Al-Ahkam* 32, no. 1 (2022), p. 99.

²³ Amin et al., "Between Ḍarūrah and Halal Integrity," p. 1252; Khoiri and Nasution, "MUI Legal Fatwa on Vaccine Halalness in COVID-19 Vaccination Socialization in Medan City, Indonesia," p. 18.

²⁴ M. Asrorun Ni'am Sholeh, "Towards a Progressive Fatwa: MUI's Response to the COVID-19 Pandemic," *AHKAM : Jurnal Ilmu Syariah* 20, no. 2 (2020), p. 286.

²⁵ Yuli Yasin and Muhammad Zein Rizky, "Receiving the Coronavirus Vaccine while Fasting (a Comparative Study between the Fatwa of the MUI and World Fatwa Councils)," *Al-Zahra : Journal for Islamic and Arabic Studies* 18, no. 2 (2021), p. 246.

²⁶ A. Halil Thahir, "Towards the Multidimensional Ushul Al-Fiqh: A Study of the Integration of Science in the Fatwa of Majelis Ulama Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (2024), p. 691.

²⁷ Husni Mubarrak, "دراسة فتوى مجلس العلماء الإندونيسي عن التحصين والتطعيم: تحليل ومناقشة," *AHKAM : Jurnal Ilmu Syariah* 20, no. 1 (2020), p. 154.

the Islamic Fiqh Council's fatwa, which permits stem cell therapy based on the principle that “the original ruling of beneficial things is permissible.”

This main issue will be decomposed by starting from an overview of stem cells, examining their relevance to the development of Islamic law in the context of biomedical innovation, and analyzing the *dalil* (legal evidence) employed by both the MUI and the International Fiqh Council. Ultimately, this article argues that although MUI still allows some flexibility by invoking certain *fiqhī* principles as justification to permit the use of stem cells in cases of emergency or specific *sharʿī* necessities, it is likely seen as a formality in complement of formulating a fatwa. Rather, the council prioritizes the cautious approach (*iḥtiyāṭ*) as it is characteristic of the Shafiʿi school, which is Indonesia's dominant madhhab. This stance has led MUI to adopt a more restrictive position compared to the International Islamic Fiqh Academy, which is generally more accommodating toward modern medical developments.

This study uses a qualitative method through a literature study on fatwa document. The study primarily addresses the fatwa on stem cell treatment issued by the Indonesian Ulema Council decision in Fatwa No. 51 of 2020²⁸ and the Islamic Fiqh Council decision in 2003,²⁹ discussed by secondary sources to provide depth and context to the discussion. This study significantly advocates for changes in the fatwa that could improve the quality of life by ensuring the use of stem cells is available without the condition of necessity (*hajah shariʿyyah*). In addition, this study can guide Medical Institutions such as hospitals and religious institutions in understanding Islamic law related to stem cell therapy, which can be a reference in medical practice and internal policies. This study also enriches the academic discussion on the theme of Islamic law and bioethics, especially on the treatment that intersects with Islamic law and modern medical science.

The Nature of Stem Cells

Stem cells are undifferentiated cells that are present in the embryonic, fetal, and adult stages of life and give rise to differentiated cells that are building blocks of tissue and organs.³⁰ The major characteristics of stem cells are: (a) self-renewal (the ability to extensively proliferate), (b) clonality (usually arising from a single cell), and (c) potency (the ability to differentiate into different cell types)³¹ One of the functions of these cells is to repair damaged body cells continually.

²⁸ Majelis Ulama Indonesia, “MUI Fatwa Number 51 Of 2020 Regarding The Use of Stem Cells For Treatment Purposes.”

²⁹ The Islamic Fiqh Council, “Decisions of The Islamic Fiqh Council in Mecca (1997-2004)” (Mecca, 2004), p. 373–75.

³⁰ George Kolios and Yuben Moodley, “Introduction to Stem Cells and Regenerative Medicine,” *Respiration* 85, no. 1 (2012), p. 3–10.

³¹ Muhammad Al-Khayyath, Ali Mishʿal, and Ahmad Kanʿan, *Fiqh Al-Thabīb* (Beirut: Dar Ibn Hazm, 2008), p. 279.

They are also able to remain in their basic state or specialize to become more complex cells, such as bone or muscle cells.³²

These cells have the capacity to give rise to all types of cells and tissues such as the heart, liver, and kidney, which makes them capable of treating such incurable illnesses like diseases that affect the nervous system, including paralysis, heart disease, and others.³³ However, despite the therapeutic benefits of using stem cells, treatment with them is fraught with risks, as they can be used for commercial purposes and sold on black markets at low prices, which is regarded as an insult to human dignity and an attack on its sanctity. Besides, it can face immune rejection from the human body because they do not belong to the body. Likewise, it still encounters religious and moral debate and objection, especially if it is extracted by killing innocent human fetuses.³⁴

Stem Cell Types and Their Sharia Ruling

1- Somatic Stem Cells (SSCs)

These cells are also called adult stem cells, which are stem cells taken from the tissue of an organism after it has passed the embryonic stage of its life or when it is mature. These cells are considered undifferentiated, but they are found in completely differentiated and specialized tissues.³⁵ They are characterized by being able to renew and reproduce, but they are scarce and their number shrinks with the increase of human age. These cells are found in children and adults and are also found in umbilical cord blood and the placenta.

Contemporary Muslim scholars have agreed on the legality of adult stem cells taken from umbilical cord blood, the placenta, children, and adults, provided with their permission, and that no harm of any kind occurs. In this context, Khalafallah³⁶ saw that no legal impediments prohibit the process of extracting adult stem cells obtained from humans if they do not pose harm to the life of the donor of these cells, but the use of these cells must achieve the desired benefit to sick people who are in need of urgent cell transplantation to treat deadly diseases.

³² Abdullah Al-Tayyar, Abdullah Al-Mutlaq, and Muhammad Al-Musa, *Al-Fiqh Al-Muyassar*, 2nd ed., vol. 12 (Riyad: Madar Al-Watan, 2012), p. 91.

³³ Ali M. Ibrahim A., "Al-Nuṭaf al-Bashariyyah Wa Ḥukm Istikhdāmuhā Fī Al-ʿilāj Bil-khalāyā al-Jidhʿiyyah: Dirāsah Fiqhiyyah Muqāranah (Human Sperm and The Rule of Using It in Stem-Cell Therapy: A Comparative Jurisprudential Study)," *Faculty of Sharia and Law, Al-Azhar University, Assiut Branch* 27 (2015), p. 340–513.

³⁴ Qasim Zaki, *Al-Wirāthah al-Taṭbīqiyyah (Applied Genetics)* (Egypt: Minia University, 2016), p. 24.

³⁵ Khaled Alzairy, *Al-Khaliyya al-Jidhʿiyyah (Stem Cell)*, 348 (Kuwait: Alam Almarifah, 2008), p. 51.

³⁶ Shaʿban Khalafallah, *Al-ʿilāj Bil-khalāyā al-Jidhʿiyyah (Thawrah Fī al-Ṭibb al-Ḥadīth) (Stem Cell Therapy (A Revolution in Modern Medicine))* (Beirut - Lebanon: Dar Al-kotob Al-ilmiyah, 2011), p. 166.

In line with doctors' and specialists' opinions in this field, taking advantage of cord blood and the placenta has many benefits and few harms, because it preserves lives and does not cause damage, unlike what happens in an intentional abortion. Benefiting from it will have no side effects and is the least expensive, which saves money, considering that the placenta and the umbilical cord will eventually get damaged and lost.³⁷ Al-Fadl adds: "Umbilical cord blood contains blood-producing stem cells, and thereby, it can be used to cure blood and immune system diseases with better results than treating them with bone marrow transplants. Apart from that, it was found that it contains other stem cells that, through biotechnology, can be transformed into other cells, such as nerve cells, liver cells, and pancreatic cells, and can therefore be used to treat many chronic diseases such as diabetes, Parkinson's, Alzheimer's, etc."³⁸

2- Embryonic Stem Cells (ESCs)

Cells that are able to divide and reproduce to form different types of specialized cells.³⁹ These cells are derived from four or five human embryos that can be obtained from surplus embryos from artificial insemination, aborted embryos, and therapeutic cloning.

Surplus stem cells from fertilized eggs

Scholars have different views regarding the ruling of surplus fertilized eggs. The difference between those who say it is permissible or not is determined by the degree to which the fertilized egg is considered an embryo or not. It should be noted that the problem also lies in the disagreement among scholars regarding In Vitro Fertilization (IVF) between those who prohibit and permit it. Reasonably, we cannot talk about the position of scholars who prohibit benefiting from treatment with IVF as a source.

Those who said that surplus fertilized eggs are fetus scientifically, such as Basalama, al-Abadi, and al-Ghazali, believed that it is not permissible to benefit from surplus fertilized eggs; Because once the sperm fertilizes the egg, it turns it into a human being, so killing this fertilized egg at any stage of its life is considered a crime of killing human.⁴⁰ These Scholars view that the verse (17: 70) implies that growing a zygote or fertilized egg to the blastopore stage to obtain

³⁷ Abdul Ghani Yahyawī, *Al-Tadāwī Bil-Khalāyā al-Jidh'īyyah: Ru'yah Maqāṣidiyyah (Stem Cell Treatment: An Approach Based on The Philosophy of Islamic Law)* (London: Al-Furqan Islamic Heritage Foundation, 2016), p. 127.

³⁸ Husam Al-Fadl, "Bunūk Dam Al-Habel al-Sirrī Wa al-'Itibarāt al-Khalqīyyah (Cord Blood Banking and Congenital Considerations)," vol. 3 (Medical Issues Conference, Saudi Arabia: Imam Muhammad bin Saud University, 2010), 237.

³⁹ Al Swailem and Al Hujeli, *Al-Khalāyā al-Jidhriyya (Stem Cells)*, p. 7.

⁴⁰ Ismail Marhaba, *Al-Bunūk al-Ṭibbiyyah al-Bashariyyah Wa Ahkāmuhā al-Fiqhiyyah* (Dammam -Saudi Arabia: Dar Ibn al-Jawzi, 2008), p. 554.

stem cells and making the body a place for cutting and experimenting violates human dignity.

While the majority of contemporary scholars believed it was permissible to grow leftover zygotes from IVF operations and benefit from their stem cells. These cells do not take the same ruling as a fetus in its mother's womb, and it is not considered a fetus in the legal sense unless it is returned to the mother's womb. Among those who held this opinion were Naeem Yassin, al-Ashqar, and the Islamic Jurisprudence Council of the Muslim World League. The Qur'an verse (23:13) emphasized that Allah created humans in a place of safety, and this place is where the man's sperm settles in the woman's womb. God described it as secure because He prepared for the sperm a place to settle in it with utmost safety and security until it reached a certain stage for which He made a place for it.⁴¹ Since these eggs surplus from IVF will end in extinction, it is better to make use of their stem cells in a way that benefits people within the limits of Islamic law.

Stem cells from miscarriages

Contemporary jurists have permitted deriving stem cells from miscarriages that occur spontaneously without external intervention or occur for a therapeutic reason⁴², but they debated in the ruling on stem cells from intentionally aborted fetuses, as their opinions varied between what was before and after the breath of the soul.

The soul is breathed into the fetus after the first four months of its formation. If the intentional abortion happens before the soul is breathed, al-Ghazali saw that it is a crime or an act of *jinayah* against something that has been conceived. Because when the sperm enters the ovaries, mixes with the ovum, and acquires the potential of life, its removal would be a sin.⁴³ Therefore, intentionally aborting the fetus before breathing the soul in order to obtain stem cells from it is forbidden, or Haram. However, in the context of Indonesia, official fatwas indicate that women have the right to abortion in cases of necessity, such as serious medical conditions or pregnancy resulting from rape.⁴⁴

If the abortion occurs after the soul is breathed into it, the jurists have unanimously agreed that intentional abortion after the soul is breathed into it is

⁴¹ Muhammad Al-Tabari, *Tafsir al-Tabari*, vol. 3 (Beirut: Muassasah al-risalah, 1994), p. 16.

⁴² Ali Abduh Ali, "Aḥkām al-'ilāj bi al-khalāyā al-jidh' aiyyah fī al-fiqh al-islāmī: dirāsah fiqhīyyah muqāranah (Provisions of Stem Cell Therapy in Islamic Jurisprudence: Comparative Jurisprudence Study)," *Faculty of Sharia and Law, Al-Azhar University, Tafhana Al-Ashraf Branch* 19, no. 6 (2017), p. 3969–4044.

⁴³ Al-Ghazali, *Iḥyā' 'Ulūm Al-Dīn (The Revival of the Religious Sciences)*, vol. 2 (Beirut - Lebanon: Dar Ibn Hazm, 2005), p. 51.

⁴⁴ Faquiddin Abdul Kodir et al., "Maqāṣid Cum-Mubāḍalah Methodology of KUPI: Centering Women's Experiences in Islamic Law for Gender-Just Fiqh," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (2024), p. 534.

forbidden, because the fetus at this stage has the full sanctity of the soul established, and aborting it is considered the killing of a human being.⁴⁵ The Messenger - peace be upon him - made judgement for women who miscarry on purpose to pay blood money in the form of a male or female slave of the best quality.⁴⁶ On this basis, the sanctity of the fetus is established from the time of its formation as a clot in the womb. The term fetus includes the stage of the sperm-drop, the clinging clot, the lump of flesh, and after the breath of the soul. The Messenger - peace be upon him - did not specify it with a specific characteristic or a stage. Therefore, it is forbidden to intentionally abort the fetus at any stage of its creation to obtain its stem cells.

Stem Cells from cCloning

First of all, the “cloning” we mean in this discussion is of the therapeutic cause. Whereas Reproductive Cloning is used to produce a copy of a living organism to create one or more clones outside the natural reproductive process, in which the cell will be implanted later in the mother’s uterus.⁴⁷ Accordingly, the difference can be concluded that therapeutic cloning is done for treatment means, while reproductive cloning aims for the reproduction of human beings. The latter is forbidden because its damages are great for humanity and only bring negative effects. Therefore, the legal ruling of therapeutic cloning was appended to the general judgment of cloning. Although it has many benefits, prohibiting it results in the loss of these benefits.

Contemporary Muslim scholars differ widely in their judgment about this topic. The Jordanian Islamic Medical Sciences Association has argued that it is permissible to clone human somatic cells and genes and then transfer them to humans to treat some diseases, on the condition that this procedure does not cause harm to the donor of the cells. Furthermore, the European Council for Fatwa and Research emphasizes the verse (2: 185) “*Allah intends ease for you, not hardship*” and adds to the condition that the operation does not lead to the destruction of a forty-day-old fetus. Islam seeks ease and alleviation, not hardship, and obtaining stem cells from therapeutic cloning makes it easier for doctors to find a cure for many deadly diseases, heal patients from epidemics and diseases, and alleviate their suffering. Prohibiting this method makes it difficult for doctors to search for treatments and medicines, and in the worst case, cause permanent harm to humans. However, reasoning with this verse has encountered resistance because

⁴⁵ Ibn Taymiyya, *Majmū‘ Al-Fatāwā (A Great Compilation of Fatwa)* (Medina - Saudi Arabia: King Fahd Complex for the Printing of the Holy Quran, 2004), p. 160.

⁴⁶ Ali Ibn battal, *Sharh Ṣaḥīḥ Al-Bukhārī Li Ibn Baṭāl* (Riyad: Maktabah Al-Rashd, 2003), p. 552.

⁴⁷ Odile Robert, *Cloning and Genetically Modified Organism*, trans. Zainah Dahibi, LAROUSSE edition (Riyad: King Fahad National Library, 2015), 94.

there is no difficulty in leaving it, but rather, stem cells can be obtained from sources other than therapeutic cloning.

There has been no clear evidence of the prohibition of using stem cells through therapeutic cloning, but rather the prohibition fell on what was for reproduction. Unless there is evidence that prohibits this act, there should be no legitimate objection to benefiting from it, and the ruling will remain permissible based on the maxim that “the original rule of something is its permissibility until proven that it is prohibited.” Cloning stem cells has benefits for humanity and preserves dignity and life from decay. Hence, it is permissible according to Islamic law.

The Original Rule (*Aṣl Hukum*): Between the Indonesian Ulema Council and the Islamic Fiqh Council

Indonesian Ulema Council (MUI) Fatwa on Stem Cell Therapy

MUI is an independent Islamic scholars' body composed of a group of Muslim scholars and leaders of Indonesian Islamic associations. The council was established in 1976, with the aim of uniting Indonesian Muslims and achieving their interests.⁴⁸ They mainly undertake the role of issuing fatwas to the Indonesian Islamic community regarding contemporary jurisprudential, social, and economic issues.⁴⁹ For fatwas on health and medicine, they had three typologies: Qur'an and hadith texts, *tarjih* (selecting the strongest opinion from Islamic scholars), and *ijtihad* (developing new independent legal reasoning).⁵⁰

In 2020,⁵¹ The Indonesian Ulema Council issued a fatwa regarding the issue of stem cell therapy No. 51, in which it stated that:

“The original principle of using human stem cells for any need is Haram or forbidden.”

and *“Using human stem cells is permissible, if there is a legitimate need for the following purposes: treating diseases, damaged or deformed cells and organs, or for medical research.”*

⁴⁸ Johari Johari et al., “Istiḥsān Method and Its Relevance to Islamic Law Reform: Content Analysis of Fatwa of Majelis Ulama Indonesia on Corneal Transplant,” *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (2023), p. 5.

⁴⁹ Abd Rauf Muhammad Amin et al., “Problematic Fatwa: An In-Depth Sociological Investigation of MUI's Fatwa on Supporting Palestine's Struggle,” *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (2024), p. 238; Mashuri Mashuri, Iffatin Nur, and Muhammad Ngizzul Muttaqin, “Maqāṣid Sharī'ah Flexibility to Overcome COVID-19 in Indonesia: From Government Policies to Fatwā of Council of Indonesian Ulema (MUI), Nahdlatul Ulama (NU), and Muhammadiyah,” *De Jure: Jurnal Hukum Dan Syar'iah* 13, no. 2 (2021), p. 243.

⁵⁰ Ali Sodikin, “Religion and Science: Analysing Medical Fatwas of the Majelis Ulama Indonesia (2010–2021),” *Journal of Islamic Law* 6, no. 1 (2025), p. 3.

⁵¹ Majelis Ulama Indonesia, “MUI Fatwa Number 51 Of 2020 Regarding The Use of Stem Cells For Treatment Purposes.”

If one of these reasons was met, then it is permissible to use stem cells from medically justified abortion or from eggs surplus from IVF, or the umbilical cord and placenta, or from children or adults, after obtaining written permission from the donor or guardian.

The council referred to the Qur'an and Sunnah for their fatwa and also employed some legal maxims of Islamic law such as *al-mashaqqah tajlibu al-taysir* (difficulty necessitates ease), *al-hajah qad tanzil manzilah al-darurah* (necessity possibly falls under the category of desperate need), *al-amr bil-shay biwasailih* (commands on something means commands on its means), *al-asl fi al-ashya al-nafiah al-ibaha wa fi al-ashya al-darrah al-hurma* (the original ruling of beneficial things is permissible, while for harmful things it is prohibited). These are general rules regarding permissibility for providing facilitation, removing harm, and taking into account their need. The Council also cited rules of harm and necessity, such as *al-darar yuzāl* (harm must be eliminated), *al-darar yudfa biqadr al-imkan* (harm is to be repelled to the extent possible), and *wa ma ubiha li-darura yuqaddar biqadariha* (that which is permitted due to a necessity is only permitted to the extent of the necessity). Regarding forbidden and impure sources, they derived the fatwa from former scholars such as al-Nawawi and al-Sharbini from the Shafi' school, and al-Dardir from the Maliki school.

The Islamic Fiqh Council Fatwa on Stem Cell Therapy

One of the most prominent Arab *fiqh* councils from which most contemporary fatwas have been derived. It is the Saudi version of the *fiqh* councils distributed across most of the Islamic world. This council is affiliated with the 'Muslim World League', and was established on November 12, 1971, in Mecca.⁵² The council is considered to be the legal and jurisprudential aspects of the League, tasked with researching issues faced by Muslims in the present day based on Islamic law with evidence from the Qur'an and Sunnah, and using a traditional, conservative methodology.⁵³

In 2003,⁵⁴ The Islamic Fiqh Council decided in its seventeenth session that:

"It is permissible to obtain, grow, and use stem cells for treatment or to conduct permissible scientific research, only if their source is permissible, such as children and adults - with their consent or from their guardians and no harm would occur -, from the placenta or umbilical cord, from the

⁵² Abdallah At-Turki, *The Muslim World League, Facts and Figures* (Mecca: MWL Press, 2002), p. 111.

⁵³ Suleman Akoridis Modi, "The Islamic Fiqh Council of the Muslim World League," *Politikologija Religije = Politics and Religion = Politologie Des Religions* 16, no. 1 (2022), p. 111–123.

⁵⁴ The Islamic Fiqh Council, "Decisions of The Islamic Fiqh Council in Mecca (1997-2004)" (Mecca, 2004), p. 373–375.

fetus aborted spontaneously or for a therapeutic reason, and from leftover zygotes from IVF projects.”

and “It is not permissible if their source is forbidden, such as a fetus deliberately aborted without a medical reason permitted by Sharia, from intentional insemination by non-spouses between a donor egg and a donor sperm, or from therapeutic cloning.”

The *Aṣl* (Original Hukm) of Stem Cell Therapy

“The original (*Aṣl*) ruling of beneficial things is permissible.” This principle of the *qawaid fihiyyah* is well-known and commonly used by jurists such as al-Suyuti in *al-Ashbah wa'l-Naza'ir*, al-Hamawi in *Ghammuz 'Uyun al-Basair*, and Ibn al-Mulqin in *al-Ashbah wa'l-Naza'ir*.⁵⁵ It may also be expressed in other terms, such as “*al-Aṣl fī al-Ashyā' al-Hill*,” as al-Zarkashi mentioned in *al-Manthūr fī al-Qawā'id al-Fiqhiyyah*⁵⁶, and “*al-Aṣl fī al-Manāfi' al-Idhn wa-fī al-Maḍārr al-Man'*,” which means that the original principle regarding benefits is permission, and regarding harms, prohibition, as al-Razi mentioned in *al-Mahsul*.⁵⁷

The principle holds a significant place in legislation, as evidenced by its mention not only by jurists in their books but also by scholars of the principles of jurisprudence, such as al-Razi, al-Zarkashi, and al-Shirazi.⁵⁸ The Quran supports this principle in verses (2:29) and (7:32). The basic principle regarding all beneficial things is that they are permissible, except for what Shari'ah has prohibited, and God will denounce those who prohibit adornment and good provisions.⁵⁹

There are some points of agreement and conflict between the fatwas of Indonesian Ulema Council and the Islamic Fiqh Council, in which we conclude that the two groups disagree in interpreting the ruling; The Indonesian Ulema Council concluded that the basic principle in using stem cells for any purpose is prohibition or *Haram*, some special cases were excluded from the ruling including for a legitimate need. Meanwhile, the Islamic Fiqh Council decided that “it is

⁵⁵ al-Suyuti, *Al-Ashbah Wa Al-Nazair Fi Qawa'id Wa Furu' Fiqh Al-Shafi'iyah* (Dar Al-Hadith, 2013), p. 160; Ahmad Muhammad Al-Hamawi, *Ghamz 'Uyūn al-Baṣā'ir Sharḥ al-Ashbāh wa-l-Nazā'ir* (Dar Al Kotob Al Ilmiyah, 1985), p. 223; 'Umar ibn 'Alī Ibn Mulaqqin, *Al-Ashbāh Wa-l-Nazā'ir Fī Qawā'id al-Fiqh* (Saudi Arabia: Dar Ibn al-Qayyim, 2010), p. 40.

⁵⁶ Badr ad-Din Mohammed az-Zarkashi, *Al-Manthūr Fī al-Qawā'id al-Fiqhiyya*, 2 (Ministry of Awqaf and Islamic Affairs of Kuwait, 1958), p. 71.

⁵⁷ Muhammad ibn Zakariyya al-Razi, *Al-Maḥṣūl*, 6 (Ar-Risalah Foundation, 1997), p.97.

⁵⁸ al-Razi, p. 97; Badr ad-Din Mohammed az-Zarkashi, *Al-Baḥr al-Muḥīṭ Fī Uṣūl al-Fiqh*, 8 (Dar Al-Kutubi, 1994), p. 8; Abu Ishaq Ibrahim al-Shirazi, *Al-Tabṣīrah Fī Uṣūl al-Fiqh* (Demaskus: Dar Al Fikr, 1980), p. 535.

⁵⁹ al-Suyuti, *Al-Ashbah Wa Al-Nazair Fi Qawa'id Wa Furu' Fiqh Al-Shafi'iyah*, p. 60; Abu al-Muzfir Mansur as-Sam'ani, *Qawā'it Al-Adilla Fī al-Uṣūl*, 2 (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 1999), p. 49.

permissible to obtain stem cells, grow, and use them for therapy or for permissible scientific research...” However, they agree on the permissible and forbidden sources of stem cells and the reasons for extracting stem cells.

The reason for disagreement between the Indonesian Ulema Council and the Islamic Fiqh Council in terms of the basic ruling of stem cells is their difference in whether stem cells are pure or impure substances, because stem cells are part of the human body tissues. It is taken from bone marrow, body tissues, blood, placenta, and umbilical cord. The Indonesian Ulema Council believes that stem cells are impure substances, whether those cells are from body tissues other than blood, or from blood drawn with a needle. Thus, the original rule regarding the use of stem cells for any purpose is prohibition.

As for the Islamic Fiqh Council, they decided that stem cells taken from blood and non-blood sources are pure and beneficial substances, and therefore, the basic rule of using stem cells is permissibility.⁶⁰ The ruling on cells from body tissues other than blood is a branch of the ruling on cells detached from the human body. Jurists differed on this ruling into two opinions. The majority of scholars, including the Hanafī, Maliki, Shafī‘ī, and Hanbali, reasoned that what has been isolated from a human body is pure. Some of the Malikis, Shafī‘ī, and Hanbali scholars consider those cells an impure substance. The majority inferred that humans are honored by Allah SWT in this verse (17: 70), “*Indeed, We have honored the children of Adam*”, and this requires a ruling of purity, alive or dead, in whole or in parts. Likewise, with authentic hadith from al-Dāraqūṭni and al-Hākim, narrated by Ibn ‘Abbās, he said: The Messenger of Allah PBUH said: “The Muslim does not become impure, alive or dead”.⁶¹ This hadith clearly states that a person is neither impure in whole nor in parts, alive nor dead.

Those who believe in its impurity refer to the difference between their state in full and in parts. ‘The sanctity and purity are for the whole body, but for parts, there is neither sanctity nor purity. Because the funeral prayer is not performed over it, and it is not necessary to judge the whole of it as being pure.’⁶² However, this opinion was debated as the difference is not accepted, because their evidence is independent of texts, analogies, and reasoning. The ruling on a person’s parts and organs is the same as the ruling on his entire body, whether the separation is done during his life or after his death, because the entire body consists of parts, and the parts are inseparable from it. If purity was decided on the whole body, then the ruling of parts is pure as well. Thus, it is clear that the majority of scholars’ opinions prevail.

⁶⁰ Al Ghamdi, “Al-‘ilāj Bil-khalāyā al-Jidh‘iyyah: Dirasah Fiqhiyyah (Stem Cell Therapy: A Jurisprudential Study)”, p. 272.

⁶¹ Al Ghamdi, p. 178.

⁶² Al Ghamdi, “Al-‘ilāj Bil-khalāyā al-Jidh‘iyyah: Dirasah Fiqhiyyah (Stem Cell Therapy: A Jurisprudential Study)”, p. 179.

The ruling on blood cells withdrawn with a needle is based on the ruling on blood separated from its site. Jurists have agreed by consensus that if the blood is detached from its site, it is impure.⁶³ However, some contemporary scholars argued that blood drawn by an injection is pure because it is taken for medical purposes and is not harmful, but rather very beneficial. In addition, it is not considered impure because it is not used as food or drink.⁶⁴ Hence, stem cells, whether taken from blood or other sources, are pure.

The application of the legal maxim to the issue of stem cell therapy is clear: the principle states that the original ruling on anything beneficial is permissibility, unless there is evidence from Islamic law prohibiting it. Obtaining stem cells is a beneficial act and poses no harm that would change its original ruling from permissible to forbidden.

Moreover, stem cell therapy is considered one of the types of treatment discovered by modern medicine for addressing many incurable diseases that cannot be treated using traditional medical methods. It can be said that stem cells are a form of treatment for and from the human body, as these cells are produced by the human body.⁶⁵ In addition, the original ruling on seeking medical treatment is that it is legally sanctioned, as indicated by both the Qur'an and the authentic Sunnah—both in word and deed and due to the preservation of life, which is one of the fundamental objectives (*maqāṣid kulliyah*) of Islamic legislation.

Furthermore, this treatment brings about great benefits, as previously explained. These benefits outweigh the potential harms, and the legal maxim states that when the benefits outweigh the harms, the predominant benefit takes precedence over the harms.⁶⁶ This is because the foundation of Islamic law is to realize benefits to the extent possible and to ensure that none are missed. If it is possible to realize all of them, they should all be achieved; but if they conflict and only some can be attained at the expense of others, then the most complete, important, and urgently sought by the Lawgiver should be given priority.⁶⁷ This aligns with the prevailing opinion of the Islamic Fiqh Council on this issue. This paper agrees with Al-Hayani's view that the legal principles established by earlier scholars based on considerations of equality and public interest in providing solutions should serve as the foundation for decisions made by contemporary

⁶³ Ibn Hazm, *Marātib Al-Ijma' Fī al-'Ibādāt Wa al-Mu'āmalāt Wa al-'Itiqādāt* (Beirut: Dar Al Afaq Al Jadidah, 1998), p. 175.

⁶⁴ Nasimi, p. 16.

⁶⁵ Iman al-Yihyay, "Stem Cell Therapy under UAE Law: A Comparative Study in Islamic Jurisprudence," *UAEU Law Journal* 2020, no. 84 (2021), p. 358.

⁶⁶ 'Izz al-Din Abd al-Salam, *Al-Qawa'id al-Kubra*, 1 (Cairo: Maktabat al-Kulliyat al-Azhariyya, 1991), p. 60.

⁶⁷ Ibn Qayyim al-Jawziyya Muhammad ibn Abi Bakral-Hanbali, *Miftāḥ Dār Al-Sa'āda Wa-Manshūr Wilāyat al-'Ilm Wa-l-irāda*, 2 (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 1991), p. 905.

Muslim scholars to advance biomedical development⁶⁸, rather than reflecting rigidity or inflexibility.

Sholeh's claim that MUI's fatwas are progressive⁶⁹ appears to be not entirely relevant, and even tends to contradict reality. In the case of stem cells, MUI's stance actually shows a conservative tendency. Although the principles of *fiqh* provide argumentative room to permit their use, this is not reflected in the substance of MUI's fatwa. Instead of using these principles to pave the way for the utilization of biomedical technology, MUI continues to emphasize its prohibition. This contrasts with the approach of several international *fiqh* councils, which are more responsive and contextual. In this context, MUI's use of *fiqh* principles seems to serve merely as formal legitimacy, without any substantive impact on the direction of its rulings.

Furthermore, MUI's fatwa declaring stem cells as haram seems to stem from the spirit of preserving the sanctity of Islamic law by rejecting any form of exploitation of human biological elements, despite the fact that the context of necessity could be considered. However, in the case of vaccines, MUI adopts a more flexible stance by emphasizing the principle of *darurah* (necessity) as the basis for permissibility.⁷⁰ This dual stance suggests that MUI's decisions are not solely shaped by methodological consistency but also by external pressures. In reality, MUI appears to have become entangled in the influence of state bureaucracy, the demands of modern scientific knowledge, and societal pressures, as described by Alexander Caeiro in his concept of "sociotechnical imaginaries."⁷¹

Conclusion

After careful consideration of the issue of stem cells and their use for treatment, and comparing the fatwas of the Indonesian Ulema Council and the Islamic Fiqh Council. It can be concluded that stem cells are a group of cells that have the full ability to transform into any type of cell in the body and can be derived from different sources of somatic and embryonic stem cells. The Indonesian Council of Ulema has decided that treatment with stem cells is prohibited except for a legitimate need, providing evidence that stem cells are impure substances, so treatment with them is forbidden except for a legitimate need. In stating the ruling, the Council relied on the rule *sadd al-*

⁶⁸ Al-Hayani, "Muslim Perspectives on Stem Cell Research and Cloning," p. 794.

⁶⁹ Sholeh, "Towards a Progressive Fatwa," p. 286.

⁷⁰ Amin et al., "Between *Darūrah* and Halal Integrity," p. 1252; Khoiri and Nasution, "MUI Legal Fatwa on Vaccine Halalness in COVID-19 Vaccination Socialization in Medan City, Indonesia," p. 18.

⁷¹ Alexandre Caeiro, "The Legal Politics of Islamic Bioethics: Drunk Driving and the Reconfiguration of Privacy in the Modern Gulf," *British Journal of Middle Eastern Studies*, n.d., p. 3.

dharā'i (preventing pretexts), taking precautions, and studying its consequences in order to prevent harm and avoid corruption. The fatwa attempted to balance the benefits and harms of treatment with stem cells. With this position, the Indonesian Ulema Council differed with the consensus of contemporary scholars who saw the legality of treatment with somatic stem cells, reasoning that stem cells are pure and beneficial substances and that the basic principle of beneficial things is their permissibility. Therefore, it is permissible to use them for treatment within the limits of Sharia controls. We believe that the most preponderant opinion is what the Islamic Fiqh Council has decided, which is the permissibility of stem cells. The Indonesian Ulema Council's decision is contradictory to what is best and beneficial for Indonesian society and to the maxim rule "The original ruling of beneficial things is permissible." If the proven medical benefits outweigh the potential harms, and the use of stem cells is consistent with ethical standards and Sharia controls, then there is no objection to their use in treatment. We suggest that the council reconsider its fatwa so that Indonesian society can be reassured about treating their patients with stem cells if their source is permissible, in order to build health policies that are regulated by Sharia and take into account the interests of society. Ensuring the development of Islamic jurisprudence in Indonesia is essential to keep pace with the challenges of contemporary biomedicine. By examining fatwas and attempting to expand the concept of necessity and legitimate interest in controversial medical issues, this analytical study will contribute to strengthening contemporary *ijtihad* on emerging and complex medical issues, thereby presenting a model of moderate and contemporary *ijtihad*.

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