

# ICLR 2

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## ESTHETIC BEAUTY CLINIC SERVICE BASED ON CIVIL LAW, HEALTH LAW AND ISLAMIC LAW ASPECTS

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### Abstract

Science and technology advance makes everything possible and can facilitate human's desire to realize anything on his/her body. One of sciences developing rapidly is medicine and pharmacy in esthetic beauty clinic service field. This research is aimed at studying the esthetic beauty clinic service based on civil law, health law, and Islamic Law aspects. Based on Health Law, a good service of esthetic beauty clinic is the one conforming to the procedure; informed consent, medical record, health facility authorized health worker, and pre- or post-service process. The implementation of service in esthetic beauty clinic, according to Civil Law, should conform to the preconditions of legitimate agreement as governed in the Article 1320 of Civil Law. In relation to Islamic Law, Quran and Hadith do not govern the subject specifically, but based on Surrah An-Nisaa verse 119 human beings are prohibited from changing what Allah has created. Treatment allowed, based on Islamic Law, is the one intended to maintain or to reconstruct, provided that it does not break the principle of Islamic Law, regarding purpose of treatment for emergency reason, self-beautification, or changing what Allah SWT has created.

**Keywords:** beauty clinic, civil law, health law, islamic law

### 1. Introduction

Indonesians' ideal can be brought into reality through sustainable national development in all aspects of life, constituting a series of holistic development. Health development, as an attempt of national development, is directed to achieving awareness, willingness, and ability of living healthily optimally in each of residents. In the attempt of providing law certainty and protection to recipient and provider of healthcare service to support national development, a dynamic legal instrument is required. Therefore, the government has issued Law Number 17 of 2023 about Health (*Undang-Undang [UU] Nomor 17 Tahun 2023 tentang Kesehatan*), Law Number 29 of 2004 about Medical Practice (*UU Nomor 29 Tahun 2004 tentang Praktek Kedokteran*), and Republic of Indonesia's Governmental Regulation Number 36 of 2014 about Health Workers (*Peraturan Pemerintah (PP) RI No.36 Tahun 2014 tentang Tenaga Kesehatan*) and other implementing regulations related to health.

Global beauty trend developing recently and discipline related are medicine and pharmacy in the field of esthetic beauty clinic service. As a discipline related to human life and health, medicine or medical science attempts to make invention and research to improve human beings' quality of life, and the objective of medical science is, among others, to recover an individual's physique and to make it re-function in optimum condition<sup>1</sup>. The cosmetic and toiletries producers face strong challenges and obstacles in their expansion in these emerging markets, which hold strong growth potential in near future. One of the major reasons behind

<sup>1</sup> Leenen dan P.A.F Lamintang, *Pelayanan Kesehatan Dan Hukum* (Bandung: Bandung: Bina Cipta, 1991).

the considerable growth of global beauty industry is the off-shoring of production units to cost effective Asian economies.<sup>2</sup>

The esthetic beauty clinic service gives an individual an opportunity of maintaining, improving and even changing his/her physique and paying more attention to the end result of a service action. In the esthetic beauty clinic service, there is an indication of medical action belonging to esthetic plastic surgery category taken based the consideration of patients' physical or psychological distress. In addition to medical science and basics of surgical science, the esthetic beauty clinic service belonging to esthetic plastic surgery category is equipped with imagining ability (goniometry, stereometry), manual skills (skills) and artistic soul (art)<sup>3</sup>. So, in the esthetic beauty clinic service, an individual's wish to have better appearance will come true, because technology developed in the esthetic beauty clinic service enables an individual to get appearance she/he wishes.

The application of esthetic beauty clinic service in Indonesia is inseparable from norms prevailing within society. Legislations existing today have not governed yet the esthetic beauty clinic service specifically, but it has been governed generally in Law Number 17 of 2023 about Health (*Undang-Undang [UU] Nomor 17 Tahun 2023 tentang Kesehatan*), mentioning, among others, the definition of esthetic beauty clinic service essentially as a series of medical actions taken to recover an individual's physical condition in his/her body condition, including cosmetic and esthetic service, and that the esthetic beauty clinic service can be provided by health workers only who have skill and authority to do so and in certain healthcare facilities, and cannot be in contradiction with norms prevailing within society<sup>4</sup>.

The norm effective in Indonesian society is, among others, religious norm, particularly Islam. Religion is a rule regulating how human beings interact with their fellows, object, nature surrounding, and God the One and Only. Islam religion or called *din* in its original (Arabic) term is defined as the regulation of the relationships between human beings and Allah SWT (vertical relation) and between human beings within society, including themselves, and between human beings and their living environment (horizontal relation). Both relations are in line with Surrah Al-Imran verse 112 stating "*hablum minallah wa hablum minannas*", the components performing and intertwining in Islamic teaching system<sup>5</sup>.

The source of Islamic law consists of Quran, Hadith, and *Ijtihad* of *ulemas*, and all of them are life guidelines for Muslims in living a life with Allah SWT's bless. Holding tightly on the three sources and keeping increasing knowledge, Muslims, as the creatures, will be on the right way and safe.<sup>6</sup> Allah SWT creates human beings as the most perfect creatures because they are equipped with intelligence, mind, soul and body, and five senses well and correctly<sup>7</sup>. In addition, human beings are also equipped with feeling or emotion. As a creature, human beings have conscience and therefore they have love or affection to the fellows, animals, plants, and particularly the Creator. Human beings also can feel resentment at something. Thus, Allah

<sup>2</sup> Aleksandra Łopaciuk and Mirosław Łoboda, *GLOBAL BEAUTY INDUSTRY TRENDS IN THE 21st CENTURY*.

<sup>3</sup> Yeftha Moenadjat, *Hal Yang Perlu Diketahui Oleh Masyarakat Awam Mengenai Bedah Plastik* (Jakarta: Balai Penerbit FKUI, 2001).

<sup>4</sup> Siska Diana Sari, I Gusti Ayu Ketut Rachmi Handayani, and Pujiyono, 'Government and Aesthetic Beauty Clinic's Responsibility in Fulfilling the Citizens' Constitutional Right to the Service of Aesthetic Beauty Clinic in Indonesia', *SHS Web of Conferences*, 54 (2018), 02003 <<https://doi.org/10.1051/shsconf/20185402003>>.

<sup>5</sup> Mohammad Daud Ali, *Pendidikan Agama Islam* (Jakarta: Gramedia Pustaka Utama, 2000).

<sup>6</sup> V. Rispler-Chaim, 'Islamic Medical Ethics in the 20th Century', *Journal of Medical Ethics*, 15.4 (1989), 203–8 <<https://doi.org/10.1136/jme.15.4.203>>.

<sup>7</sup> Mohammad Daud Ali.

SWT has created human beings in as good as possible body, as mentioned in Surrah At-Tin verse (4) meaning: "Indeed, We created humans in the best form". The verse is only a few of numerous perfectness Allah has given to human beings as His creature, and with their ability, human beings are expected to live as well as possible the life granted by Allah SWT. Quran and Hadith do not regulate the esthetic beauty clinic service explicitly, but the translation of Surrah An-Nisaa verse (119) mentions that human beings are prohibited from changing what Allah has created. Ibnu Mas'ud also has ever addressed this by stating: "Allah curses people who make tattoo and ask for tattoo, pluck their eyebrow and stretch their teeth for self-beautification by changing what Allah created. How can you not curse the people cursed by Prophet Muhammad SAW?"<sup>8</sup>

The provision, of course, cannot decide whether or not the esthetic beauty clinic service belongs to the category of changing what Allah has created, and then whether it is allowed or prohibited by Islam. Beauty Aesthetic beauty clinic services must be based on the sources of Islamic law clinic service must also be under Islamic medical ethics. Islamic medical ethics in the 20th century will be characterised based on Egyptian fatawa (legal opinions) issued by famous Muslim scholars and several doctors. Some of the issues discussed by Islamic medical ethics are universal: abortions, organ transplants, artificial insemination, beauty clinic, cosmetic surgery, doctor-patient relations, etc. Such regulation should consider whether or not there has been *ijtihad* of *ulemas* allowing or prohibiting the esthetic beauty clinic service practice, all of which are studied and investigated to result in a *fatwa* later. For that reason, Indonesian Ulema Council (Indonesian: *Majelis Ulama Indonesia*) has never issued a *fatwa* (a formal ruling or interpretation on a point of Islamic law given by a qualified legal scholar [known as a mufti]) governing the service of esthetic beauty clinic<sup>9</sup>. Therefore, there should be a close observation on the discussion about esthetic beauty clinic service based on Islam through studying and increasing knowledge on Islamic teaching to obtain clarity about whether or not the practice of esthetic beauty clinic is allowed, according to Islamic law. Considering the fact aforementioned, the author wants to reveal the problems related to the esthetic beauty clinic service through conducting a study entitled *An Analysis on the Service of Esthetic Beauty Clinic based on health law and Islamic law aspects*.

To make the discussion of problem and interpretation easier, the author formulate the problem of research as follows: How is the esthetic beauty clinic service based on civil law, health law, and Islamic law aspects

## 2. Method

This research employs an empirical qualitative method. The author collected the primary data through observation study and interviewing the owners, managers, physicians, beauticians, nurses, pharmacists, users, and government institutions related to the operation of esthetic beauty clinic. Meanwhile, the secondary data was collected through library study on law, primary, secondary, and tertiary law materials. The research was taken place in ten cities in Indonesia: Central Jakarta, South Jakarta, Karawang, Bandung, Semarang, Surakarta, Madiun, Surabaya, Sleman and Yogyakarta. The data analysis was conducted using evaluative

<sup>8</sup> (HR. Bukhari and Muslim).

<sup>9</sup> Result of interview with Prof. Dr. H. Hasanuddin AF, the Secretar of Fatwa Commission of *Majelis Ulama Indonesia* (MUI).



analysis with Lawrence Friedman's legal system theory<sup>10</sup>.

### 3. Trend Beauty Global

The tendency to beauty is an intrinsic and natural desire and quest of every human being. According to the history, surgery to improve one's looks existed in Alexandria and in ancient Rome<sup>11</sup>. The constant reference to beauty ideals in all facets of contemporary culture, including work, sex, and religion as well as the constant exposure to images of "beautiful" women, which are ubiquitous in the mass media as the ideal, make a search for a categorical view a necessity<sup>12</sup>. Today women are very much different than earlier time those women because most of them are working and their career nowadays same level as men. Therefore, they are really giving emphasis to appearance, health, and pleasant personality. They are constantly looking to improve what they have or give themselves a whole new look start from the root of the hair to the tip of their toes<sup>13</sup>. They drop by the nearest hair salon and spa to be pampered by stylists and beauticians to style their hair, massage their body, and get the manicure and pedicure treatment even using lots of cash, and an hour in a beauty clinic or salon every month. It's no that business remains one of the rapidly growing industries today. The successful that business is one that offers excellent service, use quality products, and provide an enjoyable atmosphere at an acceptable price. According to industry insiders, the growing popularity of day spas account for the increase in sales on the hair and salon industry<sup>14</sup>.

SDG's consist of 17 goals and 169 targets including technical, institutional problems, and policy change necessary to improve sustainable development<sup>15</sup>. Several aspects related to this dissertation topic are mentioned in the point 3.9 of SDGs "By 2030, substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination ". The regulation is also related to the point 3.D of SDGs "Strengthen the capacity of all countries, in particular developing countries, for early warning, risk reduction and management of national and global health risks" essentially appealing the states to take effective measures immediately to reduce poverty rate due to chemical poisoning and to reinforce the capacity of all states, particularly developing states, for early warning, risk mitigation, and risk management of national and global health. The correlation with the esthetic beauty clinic service lies on its service that should conform to the standardized medical service, particularly service procedure, executive staff, and use of chemicals hazardous to health and potential risk to patients either nationally or globally.

Beauty clinic law is a branch of legislation that governs the operation and practices of beauty clinics. This legislation ensures that beauty clinics adhere to certain standards and guidelines in order to protect the health and safety of their clients. The sources provided highlight the importance of beauty clinics in meeting the evolving needs of consumers who

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<sup>10</sup> L.M.Friedman, *The Legal System : A Social Science Perspective* (New York: Russel Sage Foundation, 1975).

<sup>11</sup> Hamid Reza Salehi, *Legal Aspects of Cosmetic and Plastic Surgery* <<http://www.ijashss.com>>.

<sup>12</sup> Abdulgafar Olawale Fahm, "'Everything Has Beauty but Not Everyone Sees It': An Islamic Alternative to Assessing Beauty", *Journal of Intercultural Communication Research*, 49.3 (2020), 211–26 <<https://doi.org/10.1080/27475759.2020.1736601>>.

<sup>13</sup> Germano Vera Cruz, 'Cultural Study of Facial Beauty Cross-Cultural Study of Facial Beauty', *Journal of Psychology in Africa* Cross, *Journal Of Psychology in Africa*, 23.1 (2013), 87–90.

<sup>14</sup> Ramzi S. Musharafieh, Shara S. Atiyeh, Mohamed Kadry, Shady N. Hayek, *Aesthetic Surgery and Religion: Islamic Law Perspective* (Springer Science, Business Media, LLC 2007, 2007).

<sup>15</sup> Eric A. Friedman and Lawrence O. Gostin, 'The United Nations Sustainable Development Goals: Achieving the Vision of Global Health with Justice', *The Georgetown Public Policy Review*, 2016, 6.

strive to improve themselves physically and aesthetically. As the beauty industry continues to grow and expand, it is essential for beauty clinics to provide the best possible service quality. This can be achieved by conducting thorough research and prioritizing clinics based on their service quality and customer satisfaction. The sources also emphasize the role of beauty clinics in providing a space for urban citizens to relax, release stress and body treatment. The growth of the beauty industry, including spa services, has been fueled by advancements in technology and the increasing need for physical and mental therapy.

### 3.1. Esthetic Beauty Clinic Service

Article 1 Number 1 of the Republic of Indonesia's Minister of Health Regulation Number 9 of 2014 about Clinic mentions that "Clinic is a healthcare service facility organizing individual health service that provides primary and/or specialistic medical services, organized by more than one type of health workers and led by a medical personnel<sup>16</sup>".

Article 2 clause (1) the Republic of Indonesia's Minister of Health Regulation Number 9 of 2014 about Clinic divides clinic into two: Primary (*Klinik Pratama*) and Principal Clinic (*Klinik Utama*). The esthetic beauty clinic is one of ambulatory healthcare service facilities (private or group physician practices) by providing medical services such as consultation, examination, medication, and medical treatment, to deal with varying beauty-related conditions (esthetical appearance) of an individual, held by medical personnel according to their skill and authority<sup>17</sup>. Esthetic beauty clinic is divided into types, as follows:<sup>18</sup>

- a. Primary (*Pratama*)-type beauty clinic, is an esthetic beauty facility providing limited medical treatment service held by a physician/a dentist with a physician having esthetic competency being the responsible one technically.
- b. Principal (*Utama*)-type beauty clinic is an esthetic beauty facility providing limited medical treatment service and non-anesthesia invasive medical (operative) treatment performed by a physician/a dentist / a specialist/ an orthodontist according his/her skill and authority, with a physician being the responsible one technically.
- c. Specialist Beauty Clinic is a beauty clinic providing limited medical treatment service performed by a doctor plus/ dentist plus with at least a doctor plus being the responsible one<sup>19</sup>. Specialist beauty clinic is a beauty clinic facility providing limited and invasive (operative) medical treatment service without narcosis, performed by a specialist/an orthodontist with at least doctor plus being the responsible one. This clinic consists of primary and principal types.

The provider (owner) of beauty clinic can be individual<sup>20</sup> or corporate (limited corporation, foundation or cooperatives). Every beauty clinic and specialist beauty clinic has an individual responsible technically and medically with at least physician (plus) education background. Beauty clinic should install name plate containing at least its name, category/type and license number. Beauty clinic should obligatorily help implement

<sup>16</sup> *Peraturan Menteri Kesehatan Republik Indonesia*.

<sup>17</sup> Direktorat Jendral Bina Pelayanan Medik Kementerian Kesehatan RI, *Pedoman Penyelenggaraan Klinik Kecantikan Estetika*, Kementerian Kesehatan RI, Jakarta, 2007, p. 6.

<sup>18</sup> *Ibid.*, p. 14.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

governmental program in healthcare service to the people. Advertisement made by beauty clinic cannot be in contradiction with norms and legislation enacted within society.

The products provided in esthetic beauty clinic consist of:

a. Service as a Product of Esthetic Beauty Clinic

Service, according to Article 1 Number 5 of Law on Consumer protection, is defined very simply as a service in the form of job or achievement provided to the people to be used by consumers<sup>21</sup>.

Indonesian big dictionary defines service in varying ways, one of which is good deed useful and valuable to others, deed or act of providing anything needed by others; service; activity, convenience, or benefit that can be sold to others (consumers) who use or enjoy it<sup>22</sup>.

b. Drug as a Product of Esthetic Beauty Clinic

Drug, according to Article 1 Number 8 <sup>1</sup> of Law Number 36 of 2009 about Health, is<sup>23</sup>:

“material or combined materials, including biological product used to influence or to investigate physiological system or pathological condition in the attempt of diagnosing, preventing, curing, recovering, improving health, and as contraception for human beings”. Drug is a material or combined materials intended to diagnose, prevent, reduce, remove, and cure disease or symptom of disease, lesion or physical or mental disorder in both human and animal, and likewise to beautify human body or body part<sup>24</sup>.

Although drug can cure some diseases, many people are still suffering from drug poisoning. Therefore, it can be said that drug can act as both medicine and poison. Drug can be medicine if it is used properly in treating a disease at appropriate dose and time. So, if drug is misused in a treatment or at excessive doses, it will result in poisoning but if it is used at small dose, it would not be able to cure a disease.

The esthetic beauty clinic can have a pharmacy facility used to store drugs and disposable medical material necessary in the attempt of implementing beauty/esthetic medical service.

c. Cosmetics as a Product of Esthetic Beauty Clinic

<sup>2</sup> Cosmetics is one of pharmaceuticals preparation, with the vigorous cosmetic advertising in print media, electronic media or the internet, communities are faced with cosmetics and beauty clinics advertising, which mostly are offering for skin care, especially for women to get their skin whiter and brighter<sup>25</sup>. Article 1 Clause (1) of the Head of Indonesian Food and Drug Authority's Decree Number Hk.00.05.4.1745 concerning Cosmetics states that “Cosmetics are materials or preparations intended to be used on external parts of human body (epidermis, hair, nail, lip, and external part of genital organ) or tooth and oral mucous, particularly to clean, perfume, change appearance and or improve body odor or protect or keep body in good

<sup>21</sup> Article 1 Number 5 of Law Number 8 of 1999 about Consumer Protection.

<sup>22</sup> <https://kbbi.kemdikbud.go.id/entri/jasa> [accessed 20 July 2023].

<sup>23</sup> Article 1 Number 8 of Health Law

<sup>24</sup> <http://repository.usu.ac.id/.../3/Chapter%20II.pdf>, [accessed on 21 November 2023].

<sup>25</sup> Rahami, 'Beauty Clinic Services and Using of Cosmetic for Beauty Clinic Attendees at Jakarta, Indonesia', *International Journal of Sciences: Basic and Applied Research (IJSBAR) International Journal of Sciences: Basic and Applied Research*, 13.2 (2014), 77–87  
<<http://gssrr.org/index.php?journal=JournalOfBasicAndApplied>>.

condition". To ensure safety and efficacy, cosmetic products are regulated and controlled worldwide.<sup>26</sup>

The RI Minister of Health's Regulation Number 445/MenKes/Permenkes/1998 defines cosmetics as follows:

"Cosmetics<sup>27</sup> are preparation or combined materials ready to use on external parts of body (epidermis, hair, nail, lip, and external part of genital organ) or tooth and oral cavity to clean, perfume, change appearance, keep body in good condition or improve body odor but not to treat or cure a disease."

*The word cosmetic, kosme'tikos, means "skilled in adornment." Kosmein means "arrange," or "adorn." Kosmos means "order." It also means "to make for beauty, especially of the complexion, or beautifying,"; it also means "done or made for the sake of appearance," or "correcting defects especially of the face." More than that it is "decorative," or "ornamental."1 For many centuries, cosmetics were made to serve beauty, elaborate it, or promote it. Beauty was only one aspect of the Greek word "komes," which means harmony<sup>28</sup>.*

Cosmetics are divided into two classes by its material, use, and product evaluation purpose:<sup>29</sup>

a. Class-I Cosmetics are:

- 1) Cosmetics used for babies;
- 2) Cosmetics used around eyes, mouth cavity, and other mucous;
- 3) Cosmetics containing materials with content and labeling requirement;
- 4) Cosmetics with uncommon materials and function, and unknown safety and benefit.

b. Class-II Cosmetics is the one not belonging to class I

### 3.2. The Esthetic Beauty Clinic Service based on Health Law

Considering the result of observation conducted by the author, the standard operating procedure enacted in the service of esthetic beauty clinic is as follows:

a. Patients come to the Clinic

In their first visit for treatment, the patient should first register in customer service division and having been the members they can register for doing treatment and or buying the clinic's products.

b. Physician Consultation

In this stage, the patients will be interviewed about their face or body problem, and then the picture will be taken on the problematic part of body to be compared before and after treatment. The physician consultation time is often very limited and if the patients do not question actively or convey their grievance about their face/body, the consultation will end. Shortly, consultation time is intended to use time efficiently because of so many patients in queue, moreover on the weekend. The output of physician consultation is

<sup>26</sup> Mariana Ferreira and others, 'Overview of Cosmetic Regulatory Frameworks around the World', *Cosmetics* (MDPI, 2022) <<https://doi.org/10.3390/cosmetics9040072>>.

<sup>27</sup> <https://www.sciencedirect.com/science/article/pii/S0733863509000503>.

<sup>28</sup> Oumeish Youssef Oumeish, 'The Cultural and Philosophical Concepts of Cosmetics in Beauty and Art Through The Medical History of Mankind, Clinics in Dermatology', 2001, 375–86.

<sup>29</sup> Peraturan Menteri Kesehatan RI No.445/MenKes/Permenkes/1998



recommendation of treatment and/or drug and product in accordance with the patients' condition and need.

Another data found shows that not all patients pass through the consultation stage when they buy the treatment products only. The author thinks that it is not allowed, because the products of beauty clinics should be used under physician's supervision and monitoring to find out the patients' condition.

The physician serving as a consultant is a general practitioner and the one the patients treatment. This breaks the authority and competency of medical personnel when the medical treatment performed does not conform to the competency and the rule enacted, at least the physician having attended training held by educational institution specified by the Minister of Education should do so. The recruitment of general practitioners for beauty clinic is found widely on newspaper; generally the providers of beauty clinic assign these general practitioners in the subsidiaries of esthetic beauty clinic both inside and outside headquarter. The limited number of dermatologist providing consultation and treatment service in esthetic beauty clinic is specifically urgent to improve the service given to the patients.

c. Queue to wait for treatment

In this stage, the patients wait for their turn for treatment and or, the waiting time is approximately one hour in crowded time.

The result of research on all esthetic beauty clinics studied shows the presence of additional service in this stage, providing snack (food and beverage) for free to prevent the patients from feeling bored during queuing.

d. Queue to wait for drugs and or products prescribed by physician.

In this stage, after the treatment, the patients will queue to buy drugs and or products recommended by the physician. Drug and/or product services are provided clearly by special personnel on pharmacy division, but some clinics also provide its drugs and products in customer service division. Based on the guidelines of esthetic beauty clinic organization, the esthetic beauty clinic should obligatorily have pharmacists authorized to manage and to explain drug and cosmetic products in the esthetic beauty clinics<sup>30</sup>.

e. Going home and self-treatment at home

In this stage, patients carry out self-treatment using esthetic beauty clinic's products including drugs and or treatment products commonly in the form of soap, freshener, day cream, night cream, eye cream, neck cream, serum, body lotion, and other cosmetic products as prescribed.

The finding of research shows that some drugs and products of beauty clinics are indicated containing hazardous materials such as steroid, mercury and hydroquinone. Furthermore, some products have no license from Indonesian Food and Drug Authority (Indonesian: *Badan Pengawas Obat dan Makanan* or BPOM) and mixed beauty cream (*krım racikan*).

The regulatory framework for cosmetic procedures aims to ensure the safety and well-being of individuals seeking beauty treatments. This framework includes guidelines and regulations that set standards for hygiene, sanitation, equipment safety, and the qualifications and expertise of beauty practitioners<sup>31</sup>. The implementation of these regulations is overseen by regulatory bodies such as the Ministry of Health or the respective health departments in each country. Beauty clinic law plays a vital role in protecting consumers and ensuring that beauty clinics adhere to high standards of safety and quality. By following beauty clinic laws and regulations, beauty clinics can provide a safe and professional environment for clients to receive cosmetic procedures. Importance of Legal

<sup>30</sup> <https://doi.org/10.2991/aebmr.k.200513.110>.

<sup>31</sup> <https://www.emerald.com/insight/content/doi/10.1108/14777270710725364/full/html>.

Compliance in Beauty Clinics Legal compliance in beauty clinics is of utmost importance as it ensures the safety and well-being of clients. It also helps maintain the reputation and credibility of the beauty clinic, as well as prevents legal issues and potential penalties<sup>32</sup>. Compliance with beauty clinic laws also helps build trust and confidence among clients, as they know that the clinic is operating within legal boundaries. By adhering to beauty clinic laws, practitioners can provide assurance of their competence and commitment to the health and safety of their clients<sup>33</sup>.

### 3.3. The Service of Esthetic Beauty Clinic based on Civil Law

The relationship between beauty clinics and consumers results from an agreement (Indonesian: *perikatan*). Agreement is a legally binding arrangement between parties as to a course of action. An agreement, according to Article 1233 of Civil Law, can result from both covenant and Law. In an agreement resulting from a covenant, the parties intentionally agree to bind to each other; in the agreement, the parties have rights and obligations to meet. The first party is entitled to demand something from the second, and the second should obligatorily meet the demand, and vice versa. The object of agreement is performance; in this case performance is something demanded.

An agreement, according to Article 1313 of Civil Code, is an action in which one or more individuals involve one or more other individuals. The elements of an agreement, according to Article 1313, are:

- a. At least two parties (subjects);
- b. Consensus between the parties;
- c. Object in the form of thing;
- d. Material goal (regarding wealth or property)
- e. Certain form, spoken or written.

The conditions of a valid agreement are confirmed in Article 1320 of Civil Law stating that an agreement is considered valid if:

- a. It is entered into based on the parties' consensus;
- b. It is made by those competent in acting in law;
- c. It has obvious object of agreement; and
- d. It is based on rightful clause.

The patients of beauty clinic are those asking for help and therefore have relatively weak position compared with physician as the organizer of beauty clinic. To reduce the weakness, the principle of *informed consent* is recognized, the consumers' right to allow for medical procedure. Informed consent is regulated in the Republic of Indonesia Minister of Health's Regulation Number 585/ Men.Kes/Per/IX/1989 about the Approval of Medical Procedure. The approval of medical procedure (informed consent) in this provision is an approval given by the consumers of healthcare service or their family based on the explanation about medical procedure to do to the consumers. The purpose of informed consent is to enable consumers to

<sup>32</sup> \* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2890136/> .

<sup>33</sup> \* <https://doi.org/10.2991/aebmr.k.200513.110> .

obtain adequate information to decide the therapy to be carried out. Basically, therapeutic agreement should be preceded with informed consent.

The regulation of esthetic beauty clinics in Indonesia has been governed specifically so far in the guidelines of beauty clinics released by the Ministry of Health and regional regulation applied in each of municipalities/regencies<sup>34</sup>. The issuance of Regional Regulation governing the organization of esthetic beauty clinic is based on the Republic of Indonesia Ministry of Health's Regulation Number 9 of 2014 about Clinics. Meanwhile, based on the author's study, the Regulation has not governed holistically yet the organization of clinics, particularly esthetic beauty clinics, related to medical procedure allowed, equipment, drug, and condition and provision of authorized health workers, non-medical executive staff (beautician and esthetician), standardized informed consent model, rule about the physician training institution authorized to issue certificate, medical equipment used and holistic legal protection before, during, and after treatment and product use.

Patients or consumers of healthcare service, viewed from their position, are weak and helpless<sup>35</sup>. The service of esthetic beauty clinic should obligatorily obey and observe everything related to product service and healthcare service in the esthetic beauty clinics, particularly authorized health workers, drugs and chemicals as well as equipment used and agreement and informed consent provided by the esthetic beauty clinics<sup>36</sup>. The new treatment concept that is currently considered ideal is patient-centered medicine, which is developing alongside the concepts of personalized medicine and tailored therapeutics. The main objective of patient-centered medicine is to improve health outcomes of individual patients in everyday clinical practice, taking into account the patient's objectives, preferences, values as well as the available economic resources<sup>37</sup>.

#### 3.4. The Service of Esthetic Beauty Clinic based on Islamic Law

Theoretically, one of legal sources, particularly materially, can be obtained from sociological aspect. Therefore, Islamic law is the one can be the source of law sociologically in Indonesia, recalling that in reality the phenomena of Indonesians' life are colored much by the people's varying actions and behaviors based on the provision of Islamic law, and moreover most Indonesians are Islam adherents. Important to understanding and practices of religious rituals, as well as the responses of urban middle-class Muslim women towards commodified goods and services, consumerism behavior, and communal piety. The use of cosmetics and beauty treatments has become one of the most glaring public expressions that has concurrently influenced the way urban middle-class Muslim women perceive themselves, beauty, and piety. The understanding and practices of beauty and piety are becoming increasingly complex in urban areas. The *halāl* lifestyle has played an important role in strengthening Islamic identity in contemporary Indonesia<sup>38</sup>.

In Islamic Law, any procedure carried out in esthetic beauty clinic is allowed as long as it is for treatment and medication purposes. Otherwise, if the procedure is carried out not for

<sup>34</sup> <https://doi.org/https://doi.org/10.33846/aijmu30102>.

<sup>35</sup> <https://doi.org/https://doi.org/10.24269/ls.v4i1.2661>.

<sup>36</sup> <https://doi.org/https://doi.org/10.2991/aebmr.k.200226.037>.

<sup>37</sup> José A. Sacristán, 'Patient-Centered Medicine and Patient-Oriented Research: Improving Health Outcomes for Individual Patients', *BMC Medical Informatics and Decision Making*, 13.1 (2013) <<https://doi.org/10.1186/1472-6947-13-6>>.

<sup>38</sup> Yanwar Pribadi and Muhammad Adlin Sila, 'INTERTWINING BEAUTY AND PIETY: Cosmetics, Beauty Treatments, and Halāl Lifestyle in Urban Indonesia', *Ulumuna*, 27.1 (2023), 33–64 <<https://doi.org/10.20414/ujis.v27i1.588>>.



medication purpose, emergency, and achieving more advantages than disadvantages (*mudharat*), it will not be allowed. The services of esthetic beauty clinic carried out based on the wish to beauty ourselves is forbidden (*haram*), as it has changed human body organ from the normal one through changing what Allah SWT has created<sup>39</sup>. Besides procedure, cosmetics halal is an important factor in beauty clinic, religiosity has not sufficiently strengthened the influence of the halal label and celebrity endorser on the decision to purchase halal cosmetic products. In order to increase knowledge of Muslim halal in purchasing decisions for halal cosmetic products, the role of halal guarantee institutions and cosmetic manufacturers is needed in optimizing halal certification both from the content and production process. Business actors must increase awareness of the halalness of a product that can convince and encourage Muslim consumers, especially the millennial generation, to make decisions to purchase halal cosmetic products<sup>40</sup>. The concept of beauty for Indonesian Muslim women is a social and cultural construction that not only exists within the indigenous/local Indonesian context but also is influenced by the (Middle) Eastern Islamic world and the global (Western) standards. The East-West relationship seems to be pivotal in constructing Muslim beauty standards in Indonesia. The rule in Islam is that individuals should be satisfied with the way Allah has created them. Islam welcomes, however, the practice of the practice of beauty medical or beauty treatment as long as it is done for the benefit of patients. Even if it clearly considers "changing the creation of Allah" as unlawful, Islamic law is ambiguous regarding cosmetic surgery. Its objection to the practice of beauty medical or beauty treatment surgery is not absolute. It is rather an objection to emergency, exaggeration and extremism. It has been mentioned that "Allah is beautiful and loves beauty"<sup>41</sup>. The other factors that are important in Islamic principles and attract customers in beauty clinics are the services, treatments and privacy of spaces; segregation between men and women<sup>42</sup>.

Meanwhile, the consideration of Islamic legal perspective concerning the services provided in esthetic beauty clinic is based on the followings:

a. Objective of Medication

The procedure taken for treating and medicating a patients is allowed. It is confirmed with the decree issued, among others, by Islam Jurisprudence (Fiqh) Academic Council of Muslim World League, Makkah, in its 8<sup>th</sup> work meeting in 1405 Hijriyah or 1985 AD, stipulated that, according to sharia, taking an individual's part of body to be transplanted into the same body is allowed, for example taking some of skin or bone to be moved to other part of the same body<sup>43</sup>.

The Islam Jurisprudence (Fiqh) Academy Council of OKI, Jeddah, Saudi Arabia, in its 4<sup>th</sup> work meeting in 1408 Hijriyah or 1988 AD stipulated that, according to sharia, transplanting organ from one part onto other part of same body is allowed, provided that the advantage obtained from this procedure is surely more than the adverse effect resulting. In addition, it

<sup>39</sup> <https://www.sciencedirect.com/science/article/pii/S1877042812031916> m .

<sup>40</sup> Juliana Juliana and others, 'Halal Cosmetics In The Eyes Of Millennial Muslims: Factor Analysis Of Halal Labels And Celebrity Endorsers', *Jurnal Ekonomi Dan Bisnis Islam (Journal of Islamic Economics and Business)*, 8.2 (2022), 318–33 <<https://doi.org/10.20473/jebis.v8i2.40598>>.

<sup>41</sup> Shara S. Atiyeh, Mohamed Kadry, Shady N. Hayek.

<sup>42</sup> Zarina Ali and Norishahaini Mohamed Ishak Yaman, 'Beauty Treatment and Spa Design from Islamic Perspective', *ACE-Bs 2012 Bangkok ASEAN Conference on Environment-Behaviour Studies, Bangkok, Thailand*, *Procedia - Social and Behavioral Sciences* (Bangkok, Thailand, July 2012), 492–501.

<sup>43</sup> Abu Fadl Mohsin Ebrahim, 'Kloning, Eutanasia, Tranfusi Darah, Transplantasi Organ, Dan Eksperimen Pada Hewan (Telaah Fiqih Dan Bioteka Islam)', in *The Fiqh Academy, Developing A Religious Law In Modern Times* (India: The Islamic Foundation, 2001), p. 178.



also stipulated that this procedure may be implemented to replace a lost organ, to repair the damaged one, or to remove the defect constituting the source of psychological and physical illnesses<sup>44</sup>.

To achieve the objective of medication, In Islamic law some rule should be complied with, that the medication should be carried out by the competent or skillful one.

b. Emergency Reason

Fiqh (Islam jurisprudence) considers mankind's interest (*mashalih*) consisting of five: religion (*al-din*), soul (*al-naf*), family (*al-nasl*), mind (*al-aql*), and property (*al-mal*)<sup>45</sup>. In other words, certain actions motivated by compulsion (*al-dharurah*) in the attempt of protecting one of these interests conditionally can be justified<sup>46</sup>.

What is called urgent interest (*al-Mashalahah al-dharuriyyah*) is restricted by general principle of *fiqh*, as follows:

- 1) Something that can lead to forbidden things is *haram* (forbidden)<sup>47</sup>;
- 2) An individual is forced to choose one between 2 (two) bad things;  
therefore, she should choose the one with less badness to prevent more badness from occurring<sup>48</sup>;
- 1) Something *halal* (rightful) for a certain reason will no longer be *halal* if the *halal* reason no longer exists<sup>49</sup>;
- 2) Using various options for things for which no provision (*fiqh*) governs<sup>50</sup>.

Actually, what is called *dharurat* (emergency) is a matter will perish or will nearly perish if it is not carried out. The book entitled *Asybah wan Nazhair* states:

"emergency (*darurat*) can justify prohibition without reducing it. The word *darurat* means that if the maximum limit has been achieved, for example if an individual does not eat something forbidden he/she will die or almost die. In this case, he is allowed to eat the forbidden food"<sup>51</sup>.

Indian Fiqh Academy, in its first seminar on *Fiqh* in Delhi in March 1989, stated that replacing one part of an individual's body with another part based on urgent need is justified<sup>52</sup>.

A book entitled *Dalilul Falihin* Juz 4 page 494<sup>53</sup> and a book entitled *Is' adurrafiq* Juz 2 page 123<sup>54</sup> state that "if a woman does it for medication purpose or due to tooth defect or damage, it is allowed".

<sup>44</sup> *Ibid.*, p. 97, as cited in Organization of Islamic Conference's Islamic Fiqh Academy, *Resolutions and Recommendations*, (Jeddah: Mathabi' Syarikat Dar al-'Ilm li al-Thiba'ah wa al-Nashr, 1406-1409H/1985-1989M), p. 52.

<sup>45</sup> *Ibid.*, p. 42., as cited in Muhammad Abu Zahrah, *Ushal al-Fiqh*, (Kairo: Dar al-Fikr al-Arabi, n.d.), p. 220.

<sup>46</sup> *Ibid.*, p. 41.

<sup>47</sup> *Ibid.*, p. 42, as cited in Muhammad Abu Zahrah, *Op. Cit.*, p. 228.

<sup>48</sup> *Ibid.*, p. 42, as cited Muhammad Abu Zahrah, *Op. Cit.*, p. 301.

<sup>49</sup> *Ibid.*, as cited in Al-Hafizh Masri, *Animals in Islam*, (Petersfield: The Athene Trust, 1998), p. 19.

<sup>50</sup> Ahkamul Fuqaha, *Solusi Problematika Aktual Hukum Islam Keputusan Muuktamar, Munas, Dan Konbes Nahdatul Ulama (1926-1999)* (Surabaya: LTN NU Jawa Timur dan Diatama, 2004).

<sup>51</sup> NN, *Asybah wan Nazhair*, Juz 3 p.89.

<sup>52</sup> Ebrahim.

<sup>53</sup> Ahkamul Fuqaha.

<sup>54</sup> *Ibid.*, p. 368.

c. Self-Beautification Attempt

Allah SWT does not like something redundant, including self-beautification attempt. It is as mentioned in Surrah Al'Araf verses (31) and (32), meaning that:

"O Children of Adam! Take your adornment (by wearing your clean clothes), while praying and going round (the Tawaf of ) the Ka'bah<sup>55</sup>, and eat and drink but waste not by extravagance<sup>56</sup>, certainly He (Allah) likes not Al-Musrifun (those who waste by extravagance)."

"Say (O Muhammad ﷺ): "Who has forbidden the adoration with clothes given by Allah, which He has produced for his slaves, and At-Taiyibat [all kinds of Halal (lawful) things] of food?" Say: "They are, in the life of this world, for those who believe, (and) exclusively for them (believers) on the Day of Resurrection (the disbelievers will not share them). Thus, We explain the *Ayat* (Islamic laws) in detail for people who have knowledge".

Self-beautification attempt is intended to deceive others, to show-off (*riya*), and for immorality purpose. Therefore, it is forbidden by Islamic Law, as mentioned in Surrah An Nisaa verse (142), meaning

"Surely the hypocrites try to deceive Allah, whereas, in fact, He has reverted their deception to them<sup>57</sup>. And when they stand up for Salah they stand reluctantly, merely to be seen<sup>58</sup> by people (*riya*) and do not remember Allah but a little"<sup>59</sup>.

d. Changing What Allah SWT has created

Allah SWT does not like human changing what He has created, even He curse the human doing so. It is mentioned in Surrah An Nisaa verses (118) and (119) that underlie the legal foundation in the Quran concerning the prohibition from changing what Allah has created, translated into:

"Allah did curse him, but he said: "I will take of Thy servants a portion Marked off<sup>60</sup>. And I will mislead them, and I will create in them false desires; I will order them to slit the ears of cattle<sup>61</sup>, and to deface the (fair) nature created by Allah. Whoever, forsaking Allah, takes satan for a friend, hath of a surety suffered a loss that is manifest".

The action of changing What Allah SWT has created was also cursed by Prophet Muhammad SAW, in his following says:

- a. *Rasulullah* cursed the people who file their teeth to look beautiful and change What Allah SWT has created (Shahih Bukhari Muslim)<sup>62</sup>

<sup>55</sup> Meaning that each of people will do shalat an thawaf around Ka'bah or other worships.

<sup>56</sup> Meaning never doing anything surpassing the limit needed by body and never passing through the border of halal food.

<sup>57</sup> Meaning that Allah leaved them in the recognition of being believers; therefore, they are served just like the Mu'min (believers) are served. Therefore, Allah has provided the hell for them as the reply to their deception.

<sup>58</sup> *Riya* is to do good deed not to get Allah's blessing but to get popularity or praise from others.

<sup>59</sup> Meaning that they do worship occasionally, in front of others.

<sup>60</sup> In each of human beings there are provision for good and for evil, satan will use the provision for evil to harm human beings.

<sup>61</sup> In *Jahiliyah* Arabian belief, animals to be sacrificed to idols must have their ears cut off first and these animals could no longer be ridden or used, and must be released.

<sup>62</sup> Akmal Haji Muhammad Zain, *Halal Dan Haram* (Kuala Lumpur: Al-Hidayah) p.187.

Muhammad SAW forbade stretching teeth<sup>63</sup>, plucking eyebrows<sup>64</sup> and <sup>65</sup>

experts in Islamic law) express their opinion about changing what Allah has

in his books. In Al-Quran stated as follows:

at-Thabari berkata, Hadith from Ibnu Ma'sud is a guide concerning the  
n changing What Allah has created by adding or reducing..." Even to his saying  
l what he said will come to pass, that people who are created with more fingers  
may not cut or remove or remove them, because that includes changing the  
n SWT. Unless the additional members are painful, there is no sin in removing  
; to Abu Ja'far and others".

unir, it is stated that:<sup>69</sup>

me said, "Truly I will take certain portion of Your servants. It means that I will  
ants part of what has been determined and declared, even though they are  
w Satan's steps and accept his temptations"... Until devil said "And truly I will  
hange, then they will change what Allah SWT has created in the term of form  
as: castrating male slaves, gouging out their eyes, cutting off their ears, making  
aching their hair (wearing hairpieces)". Indeed, women who commit this act  
adultery. In the past, when the number of camels reached a thousand, the  
one eye of the male camel. Included into this definition of verse are men  
omen and women behaving like men. It is because *takhanuts* represents men

ad zain, *Halal Dan Haram* (Kuala Lumpur: Al-Hidayah, 2004) p.187.

Hamid, *Awas Ini Larangan Allah* (Semarang: CV. Cahaya Indah, 1994).p. 100.

rom making the teeth sparse is mentioned in the books of ulemas, as follows:

*Tafsir*, surah 59 verse (4) and *Kitabul Libaas*, chapters 82, 84, 85, and 87;

*Libaas*, chapter 120;

*tabul Tarajjul*, chapter 5;

*Zinah*, chapters 24, 26, and 27;

*tabun Nikah*, chapter 52;

*kitabul Isti'dzan*, chapter 19;

pp. 434, 443, and 454.

rom plucking eyebrow is mentioned in the books of ulemas, as follows:

*at Tafsir*, surrah 5 chapter 9, and *Kitabun Nikah*, chapters 6 and 8;

*n Nikah*, hadith 11 and 12;

*Nikah*, chapter 4;

*Syi'ir*, hadith 4;

Sa'ad, Juz 3, Part *Tabun Nikah*, Section 1 p. 288;

p. 385, 390, 420, 432, and 450; Juz 2 p. 173; Juz 3 p. 378, and 382; Juz 5 p. 18.

rom castrating genital organ isn mentioned in the books of ulemas as follows:

*at Thibb*, chapter 36, *Kitabul Libaas*, chapter 86;

*tabul Libaas*, chapter 8;

*Zinah*, chapters 20 and 27;

*tabul Isti'dzaan*, chapter 20;

. 319 and 339; Juz 4 chapters 134 and 135; Juz 6 pp. 250 and 257;

Hadith 390, 401, and 1825;

*Libaas*, Hadith 119 and 120.

huri, *Masalah Keagamaan (Hasil Mukhtamar Dan Munas Ulama Nahdlatul Ulama*

*ni Dengan Ketigapuluh/2000)*, (Jakarta: Qultum Media, 2004).

"Prophet:  
castrating genit

Prophet (c  
created as follo

a. In tafsir al-Qur

Abu Ja'fa  
prohibition from  
Iyadl said: "Anc  
or more limbs,  
creation of Allal  
them, according

b. In tafsir al-M

Satan at ti  
make Your serv  
those who follo  
order them to cl  
or nature, such a  
tattoos, and att  
are committing  
Arabs blinded  
behaving like w

<sup>63</sup> Syaikh Muhamm

<sup>64</sup> Zeid Husein Al-F

<sup>65</sup> The prohibition f

a Bukhari, *Kitabi*

b Muslim, *Kitabu*

c Abu Dawud, *Ki*

d Nasa'i, *Kitabuz*

e Ibnu Majah, *Ki*

f Ad-Daraarim *K*

g Ahmad, Juz 1, p

<sup>66</sup>The prohibition fi

a Bukhari, *Kitabu*

b Muslim, *Kitabu*

c Nasa'i, *Kitabun*

d Malik, *Kitabus*

e Thabaqot Ibnu

f Ahmad, Juz 1 p

<sup>67</sup>The prohibition fi

a Bukhari, *Kitabu*

b Abu Dawud, *Ki*

c Nasa'i, *Kitabuz*

d Ad-Daarimi, *Ki*

e Ahmad, Juz 2 p

f Ath-Thayalisi, l

g Muslim, *Kitabu*

<sup>68</sup> Abdul Aziz Masy

*Kesatu/1926 Sampa*

<sup>69</sup> *Ibid.*

resembling women and *sabaq* represents women resembling men. Meanwhile, the generality of pronunciation prohibit castration in *mutlah* manner. However, the fiqh expert give leniency to animals because of necessity, so that it is allowed in small animals eaten for their meat and is not allowed in others.

c. In the book of *al-Jam'li Ahkam Al-Qur'an*, it is mentioned that:<sup>70</sup>

Prophet Muhammad SAW said, "Al-Mutarajilat, the women resembling men are also cursed..." Even a sentence in this book states, "Therefore, men may not resemble women and vice versa, in dressing and behaving. If they do so, it means that they relieve what Allah SWT has created from its origin place; it means changing what Allah SWT has created. Whereas, Allah is all-wise. Therefore, the noble way (*syara'*) demands men for maintaining his masculinity and courage, and become luxurious and weak person".

d. The book of *Dalilul Falihin* mentions that:<sup>71</sup>

And the curse (as aforementioned in the hadith) shows that what is said belongs to big sin, as suggested by Rasulullah SAW. In cursing the women who attaching their hair with hairpiece Rasulullah called "Women who change what Allah has created".

e. In the book of *Fathul Bari*, Al Hafidz Ubnu Hajar review the hadith as follows:<sup>72</sup>

Al-Khatibi said, "The hardest threat has come against these, because in this case there are deception and swindle. If in this case there is something relieved, it will be the bridge to the allowance of other matters related to various deception. In addition, there is a change in the form of creation". For that reason, in hadith narrated by Ibnu Ma'sud, Rasulullah called them, "... people who change what Allah SWT has created... *Wallahu a'lam* (only God does know)"

f. The book of *Mauhibah* mentions:<sup>73</sup>

"It was narrated by Ibnu Umar radiallohu anhu in *marfu'* manner, "Allah cursed women having their hair attached with hairpiece, people who make tatoo and who have their body tattooed..." Even Rasulullah said: "An Allah SWT cursed people who sharpen teeth for beauty purpose and change what Allah SWT has created". Al-Alqami said, "That is a common characteristic for the people who shave their face, sharpen their teeth, and attach their hair with hairpiece". Al-Hafni said "All of these but *bercelak* (wearing kohl or eyeliner or *celak*) are forbidden (*haram*). It is because wearing kohl (*celak*) is sunnah by religion, although in wearing kohl there is a change in what Allah SWT has created, as an individual was born without wearing kohl".

g. Book of *al-Asybah wa al-Nadha'ir* mentions that:<sup>74</sup>

"And, among others, an individual is not allowed to cut his penis and two testicles, as harming is not allowed by doubt. It has been suggested by Abu al-Fatbi".

h. Tafsir *al-Thabari* states that:<sup>75</sup>

Abu Ja'far Ath Thabari said hadith narrated by Ibnu Ma'sud is a *dalil* (law) suggesting that it is not allowed to change women, with addition or reduction ... and even Syeh Iyadl said,

<sup>70</sup> *Ibid.*, p. 7.

<sup>71</sup> *Ibid.*, p. 8.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*, p. 9.

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*, p. 10.



"Based on what is mentioned by the author that the people created with additional finger or body part are not permitted to cut or remove it, as it is categorized into changing what Allah SWT has created. However, if the additional body parts are painful, they may be removed. It is in line with argument expressed by Abu Ja'far and others".

i. The book of *Fathul Bari* states that:<sup>76</sup>

At Thabari said, "Women are not allowed to change what has been created for them, by either adding or reducing, for beauty purpose not for their husband;" and he even said, "All of these belong to prohibition from changing what Allah SWT has created." He said that, "This prohibition does not apply to something hazardous and painful, for example the people having more teeth or finger that is painful".

j. Book of *Nughnil Muhtaj* states:<sup>77</sup>

"An independent person who can take care of him/her self freely, reach maturity (*baligh*) and intelligent, although he/she is weak, as suggested by al-Baghawi, al-Mawardi, etc., is allowed to cut off or remove lumps like goiter protruding between skin and flesh and creating shrinking and loosing part. He/she is allowed to remove it by him/her self or has other to do so because he/she aims to remove it. However, if it is dangerous to cut off the lump is, and leaving it is not dangerous or removing it will be more dangerous than leaving it, removing it is not allowed, based on the opinion of 2 (two) or one expert." Allah SWT said, "Never put you all onto destruction". If leaving the lumps will be more dangerous or if removing and or leaving it will give the same output, according to the right argument, removing it is allowed in the first representation and in the second representation according to the strong argument, as mentioned in the book of al-Raudlah.

He/she may remove the non-hazardous lump as it is an anomaly by expecting safety and removing the lump; although Imam Bulqini did not have same opinion about whether or not cutting is allowed, it is the same. He said, "If a physician said: 'If it is not cut off it will lead to dead, it should be cut off'. The obligation to reject dangerous things is possibly *sunnah*. The argument stating that it is *sunnah* is stronger. Similar to lump either aforementioned and to come is porous limb. Mushanif said "it is allowed to burn and to cut off it due to necessity".

k. Book of *Fathul Bari* states:<sup>78</sup>

"Ustman bin Jarir told us, from Mansur, from Ibrahim, from Alqamah from Abdullah, that "Allah has cursed women who make tattoo, shave their face (e.g. eyebrow and eyelash) and sharpen their teeth for self-beautification purpose through changing what Allah has created". "Why did not I curse the one who has been cursed by Rasulullah SAW; and it is also mentioned in Allah SWT's Book". Whatever Rasulullah brought to you, take it. And whatever he prohibits, keep away from it. The sentence "Those sharpening their teeth for self-beautification purpose" can be interpreted that the action condemned is the one intended to self-beautification. If the action (procedure) taken is indeed desirable, for example for medication, it is allowed".

l. Book of *Mauhibah* states:<sup>79</sup>

The book of al-Mauhibah addresses *Taflij al-Asnan* meaning sharpening or straightening teeth for self-beautification purpose is forbidden. This Book even states "However sharpening

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<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*, p. 11.

<sup>78</sup> *Ibid.*, p. 13.

<sup>79</sup> *Ibid.*, p. 15.

teeth to remove 'blot (defect), for example sharpening the crooked or turning-inward teeth is not forbidden as it is not intended to beautify the condition".

m. Tafsir *Baidhawi* states:<sup>80</sup>

Allah SWT said, "And I told them (to change what Allah SWT has created) and they actually did so" from face shape, body shape to characteristic. Included into this are gouging out the eyes of animal, castrating the slaves, making tattoo, changing gender, etc. In al-Syams wa al-Qamar, using body part and irreversible strength to achieve perfection is (categorized into) changing Allah SWT's *fitrah* (nature), Islam.

n. Tafsir *Showi* states:<sup>81</sup>

Allah SWT said, "Then, they will actually change what Allah SWT has created", through changing what Allah has created including changing body shape through making tattoo and changing the shape of hair using *wig*. It is in line a hadith stating: "Allah SWT cursed the people who make tattoo and have their body tattooed and who produce wig and have others to produce *wig*."

o. Book of *Khazin* states:<sup>82</sup>

Allah SWT says, "And I told them (to change what Allah SWT has created) and they actually changed it", Ibn Abas said, Allah SWT's religion. Changing Allah SWT's religion is to make halal what is haram and make haram what is halal. Changing Allah's creation is to change the original form as Allah SWT has created originally. The change possibly includes the change of conditions related to a creature's innate condition, such as making tattoo and attaching hair with wig.

p. Book of *Husnus Syair fi Ahkami man Tayabbaha bil Ghair* states:<sup>83</sup>

And the message or meaning behind cursing the people resembling others (men resembling women, and vice versa) is that the people have removed or changed something that has been established by the Most Wise One. Therefore, Rasulullah expressed his argument about cursing women who attach their hair with wig in his saying: "The women who change what Allah SWT has created".

Imam al-Adzra'i has discussed this topic in the book of al-Tawassuth and then said, the message behind the action of cursing is that Allah SWT has created certain shapes and distinguished the shapes (so that there are varying shapes), in genuine and perfect condition. Therefore, whoever wanting to change Allah SWT's creation and revoke His-message and condition, he/she will be cursed.

The prohibition from changing Allah SWT's creation **applies** to those helping the implementation, for example physician doing the procedure **in the service of** corresponding **esthetic beauty clinic**. The prohibition **is** mentioned in the Prophet Muhammad SAW's saying, as follows:

a. Hadith of Prophet Muhammad SAW (HR Bukhari) and other 6 (six) hadith expert from Ibnu Ma'sud and the hadith is *sahih* (valid), stating as follows:

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<sup>80</sup> Ahkamul Fuquha, p.353.

<sup>81</sup> *Ibid.*, p. 354.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid.*, p. 359.

"Allah SWT cursed the women who make tattoo, have their body tattooed, shaving their face, having their face shaved, and sharpening their teeth; all of which are carried out to change what Allah SWT has created.

b. Prophet Muhammad SAW said:

"Allah SWT denounces or curses people combined a woman's hair with other women's to make it long apparently, and He also cursed the women whose hairs are cut off for that purpose"<sup>84</sup>

c. It was narrated from Bukhari from Ibnu Ma'sud. Rasulullah SAW said :

"Allah SWT cursed women tattooing themselves and those making tattoo, women having their teeth pulled out and therefore making their teeth sparse, those changing what Allah SWT has created...."

The procedure of service in esthetic beauty clinic cannot be categorized into emergency situation or something very urgent (*al-hajjat*), as mentioned in the rules of *fiqhiyyah*, "what is allowed because of emergency should be measured based on the measure of emergency"<sup>85</sup>. Thus, it cannot be decided spontaneously whether or not a condition is emergency, it should be measured first. Lastly, regarding Muslim halal in purchasing decisions for halal cosmetic products in beauty clinics, the role of halal guarantee institutions and cosmetic manufacturers is needed in optimizing halal certification both from the content and production process. the actors beauty Business industry must increase awareness of the halalness of a product that can convince and encourage Muslim consumers, especially the millennial generation, to make decisions to purchase halal cosmetic products<sup>86</sup>.

Based on this study on the service of esthetic clinic, in fact there are some medical procedures taken changing Allah's creation, for example, whitening injection or infusion, and rhinoplasty using implant. Thus, an action of changing Allah SWT's creation has occurred, while the action has been cursed by Allah SWT and Prophet Muhammad SAW. It makes such services or procedures taken by physician to the patients in esthetic beauty clinic are forbidden in Islamic law. The action can be said in contradiction with Islamic sharia, as it has broken the provision of Quran, Surrah An Nisaa verse (119) and hadiths of Prophet Muhammad SAW concerning the prohibition from changing Allah SWT's creation.

#### 4. Conclusion

Based on health law, the good service of esthetic beauty clinic is the one corresponding to the procedure; Informed Consent, medical record, healthcare facilities, authorized health workers, and pre-and post-service processes. The implementation of service in esthetic beauty clinics, according to Civil Law, should comply with the conditions of legitimate or valid agreement as governed in Article 1320 of Civil Code. In relation to Islamic Law, Quran and Hadith did not govern this topic specifically, but based on Surrah An-Nisaa verse (119) human beings are prohibited from changing Allah's creation. Treatment allowed based on the Islamic law is the one intended to maintain and to reconstruct, provided that it does not break the principle of Islamic law, concerning the problems of medication purpose, emergency reason, self-beautification, and changing Allah SWT.

<sup>84</sup> Ali Akbar, *Etika Kedokteran Dalam Islam* (Jakarta: Pustaka Antara, 1988).

<sup>85</sup> Al Qarafi, 'Al Furuq', in *Nazar Bakry, Fiqh Dan Ushul Fiqh* (Jakarta: PT. Raja Grafindo Perkasa, 1994), p. 121.

<sup>86</sup> Juliana and others.

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## References

- Abdul Aziz Masyhuri, *Masalah Keagamaan (Hasil Mukhtamar Dan Munas Ulama Nahdlatul Ulama Kesatu/1926 Sampai Dengan Ketigapuluh/2000)*, (Jakarta: Qultum Media, 2004)
- Ahkamul Fuquha, *Solusi Problematika Aktual Hukum Islam Keputusan Muuktamar, Munas, Dan Konbes Nahdlatul Ulama (1926-1999)* (Surabaya: LTN NU Jawa Timur dan Diatama, 2004)
- Akmal Haji Muhammad Zain, *Halal Dan Haram* (Kuala Lumpur: Al-Hidayah)
- Ali Akbar, *Etika Kedokteran Dalam Islam* (Jakarta: Pustaka Antara, 1988)
- Bishara S. Atiyeh, Mohamed Kadry, Shady Hayek, Ramzi S. Musharafieh, *Aesthetic Surgery and Religion: Islamic Law Perspective* (Springer Science, Business Media, LLC 2007, 2007)
- Cruz, Germano Vera, 'Cultural Study of Facial Beauty Cross-Cultural Study of Facial Beauty, Journal of Psychology in Africa Cross', *Journal Of Psychology in Africa*, 23.1 (2013), 87-90
- Diana Sari, Siska, I Gusti Ayu Ketut Rachmi Handayani, and Pujiyono, 'Government and Aesthetic Beauty Clinic's Responsibility in Fulfilling the Citizens' Constitutional Right to the Service of Aesthetic Beauty Clinic in Indonesia', *SHS Web of Conferences*, 54 (2018), 02003 <<https://doi.org/10.1051/shsconf/20185402003>>
- Ebrahim, Abu Fadl Mohsin, 'Kloning, Eutanasia, Tranfusi Darah, Transplantasi Organ, Dan Eksperimen Pada Hewan (Telaah Fiqih Dan Bioteka Islam)', in *The Fiqh Academy, Developing A Religious Law In Modern Times* (India: The Islamic Foundation, 2001), p. 178
- Eric A. Friedman and Lawrence O. Gostin, 'The United Nations Sustainable Development Goals: Achieving the Vision of Global Health with Justice', *The Georgetown Public Policy Review*, 2016, 6
- Fahm, Abdulgafar Olawale, "Everything Has Beauty but Not Everyone Sees It": An Islamic Alternative to Assessing Beauty', *Journal of Intercultural Communication Research*, 49.3 (2020), 211-26 <<https://doi.org/10.1080/17475759.2020.1736601>>
- Ferreira, Mariana, Ana Matos, Ana Couras, Joana Marto, and Helena Ribeiro, 'Overview of Cosmetic Regulatory Frameworks around the World', *Cosmetics* (MDPI, 2022) <<https://doi.org/10.3390/cosmetics9040072>>
- Juliana, Juliana, Aliya Nabila Azzahra, Rida Rosida, A. Jajang W. Mahri, Indra Fajar Alamsyah, and Udin Saripudin, 'Halal Cosmetics In The Eyes Of Millennial Muslims: Factor Analysis Of Halal Labels And Celebrity Endorsers', *Jurnal Ekonomi Dan Bisnis Islam (Journal of Islamic Economics and Business)*, 8.2 (2022), 318-33 <<https://doi.org/10.20473/jebis.v8i2.40598>>
- L.M.Friedman, *The Legal System : A Social Science Perspective* (New York: Russel Sage Foundation, 1975)



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Leenen dan P.A.F Lamintang, *Pelayanan Kesehatan Dan Hukum* (Bandung: Bandung: Bina Cipta, 1991)

Łopaciuk, Aleksandra, and Mirosław Łoboda, *GLOBAL BEAUTY INDUSTRY TRENDS IN THE 21st CENTURY*

Mohammad Daud Ali, *Pendidikan Agama Islam* (Jakarta: Gramedia Pustaka Utama, 2000)

'No' <<https://doi.org/https://doi.org/10.2991/aebmr.k.200226.037>>

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Oumeish Youssef Oumeish, 'The Cultural and Philosophical Concepts of Cosmetics in Beauty and Art Through The Medical History of Mankind, Clinics in Dermatology', 2001, 375-86

*Peraturan Menteri Kesehatan Republik Indonesia*

Pribadi, Yanwar, and Muhammad Adlin Sila, 'INTERTWINING BEAUTY AND PIETY: Cosmetics, Beauty Treatments, and Halāl Lifestyle in Urban Indonesia', *Ullumuna*, 27.1 (2023), 33-64 <<https://doi.org/10.20414/ujis.v27i1.588>>

Al Qarafi, 'Al Furuq', in *Nazar Bakry, Fiqh Dan Ushul Fiqh* (Jakarta: PT. Raja Grafindo Perkasa, 1994), p. 121

Raharni, 'Beauty Clinic Services and Using of Cosmetic for Beauty Clinic Attendees at Jakarta, Indonesia', *International Journal of Sciences: Basic and Applied Research (IJSBAR)* *International Journal of Sciences: Basic and Applied Research*, 13.2 (2014), 77-87 <<http://gssrr.org/index.php?journal=JournalOfBasicAndApplied>>

Rispler-Chaim, V., 'Islamic Medical Ethics in the 20th Century', *Journal of Medical Ethics*, 15.4 (1989), 203-8 <<https://doi.org/10.1136/jme.15.4.203>>

Sacristán, José A., 'Patient-Centered Medicine and Patient-Oriented Research: Improving Health Outcomes for Individual Patients', *BMC Medical Informatics and Decision Making*, 13.1 (2013) <<https://doi.org/10.1186/1472-6947-13-6>>

Salehi, Hamid Reza, *Legal Aspects of Cosmetic and Plastic Surgery* <<http://www.ijashss.com>>

Syaikh Muhammad zain, *Halal Dan Haram* (Kuala Lumpur: Al-Hidayah, 2004)

Yaman, Zarina Alias and Morishahaini Mohamed Ishak, 'Beauty Treatment and Spa Design from Islamic Perspective, AcE-Bs 2012 Bangkok ASEAN Conference on Environment-Behaviour Studies, Bangkok, Thailand', *Procedia - Social and Behavioral Sciences* (Bangkok, Thailand, July 2012), 492-501

Yefta Moenadjat, *Hal Yang Perlu Diketahui Oleh Masyarakat Awam Mengenai Bedah Plastik* (Jakarta: Balai Penerbit FKUI, 2001)

Zeid Husein Al-Hamid, *Awaz Ini Larangan Allah* (Semarang: CV. Cahaya Indah, 1994)

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