

Commission on Crime Prevention and Criminal Justice CIMUN

Topic 3: Preventing the trafficking of human organs

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Introduction

The trafficking of human organs has been around since the technology of transplants were developed in the early 1900s. It may be considered one of the most clandestine forms of human trafficking. Organ trafficking has been around for a long time however, it seems to be a growing business which can rob a person of a healthy life. The big gap between the demand and the supply leads vulnerable people to be targeted by con-artists or traffickers tricking them into giving up the organ for no cost or convincing them to sell their organs while not paying its worth.¹

Key Terms

Organ Trafficking: The illegal act of purchasing or selling a human organ for transplant.

Organ Transplant: The act of surgically removing and replacing a failing or damaged organ with a healthy one.

Organ Tourism: The act of travelling to a different country to obtain or sell an organ.

Background Information

It all started in the 16th Century when an Italian surgeon, Gasparo Tagliacozzi, used a patients' skin from their arm to reconstruct noses and ears. Then in the 1900s European doctors tried to save dying patients by transplanting kidneys from different animals such as monkeys. They, however, only survived for a few days after the transplant.² In 1954, the first long term successful kidney transplant took place where a twin brother gave one of his kidneys to his terminally ill brother.³ A few years later, in the 1600s, the world's first successful transplantation of lungs, pancreas and livers took place. In 2010, the first full face transplant was executed successfully by Spanish doctors.⁴

The global shortage for organs is a big problem. The demand of organs exceeds the supply by a lot as not many are willing to donate their organs. Many patients die before they can

¹ "Organ Harvesting, Human Trafficking, and the Black Market." *Decoded Science*, 12 Nov. 2019, www.decodedscience.org/organ-harvesting-human-trafficking-and-the-black-market/.

² "Organ Transplants: A Brief History." *HISTORY*, 21 Feb. 2012, www.history.com/news/organ-transplants-a-brief-history.

³ Jafar, Tazeen. "Organ Trafficking: Global Solutions for a Global Problem." *AJKD*, 2 Nov. 2009, [www.ajkd.org/article/s0272-6386\(09\)01177-9/fulltext](http://www.ajkd.org/article/s0272-6386(09)01177-9/fulltext). Accessed 30 July 2020.

⁴ See reference 3

get the chance to receive a transplant because of the storage for organs. Most of these donors are living or deceased who have been chosen to be donors. Despite the increase in organ failure, the public is still very reluctant to become organ donors. According to the Washington post, in the early 2016, 100,791 people were waiting for a kidney transplant in the United States. In 2014, 17,107 kidney transplants took place. However, 4,761 Americans passed away that year waiting for a kidney transplant.⁵

Organ traffickers usually fall into three different categories. There are traffickers who trick victims, con artists who pay their victims less than they agreed and doctors who remove organs of a victim without their knowledge. There are some who are willing to kill innocent people to be able to get several of the victims' organs. The trafficking usually requires a recruiter, a transporter, nurses/staff from a hospital or clinic, the medical practitioners, and a middleman.⁶ Organ traffickers thrive in the dark, when the only thing that is seen is their devastating medical footprint. The system leaves vulnerable groups, known as 'donors' and first-world recipients, exposed to severe abuse and life-long health problems.⁷ Usually victims of organ trafficking are recruited through brokers who recruit and connect organ suppliers to organ recipients. Recruiters / brokers may come from the same backgrounds or ethnic groups from vulnerable people in order to establish relationships more quickly, making it easier to trick them. The recruiters promise the victims a large amount of money and debt relief, as well as persuade them that the organ is not necessary. Victims hardly ever receive the full payment that they were promised and sometimes never get paid. In many cases, the removal of the organ can worsen their financial situations because of the post-removal healthcare costs.⁸

As patients become impatient waiting for an organs transplant, they resort to organ tourism. Transplant tourists go to a designated location in order to obtain the organ that is not available in their home country from a vulnerable population. The reason why transplant tourism

⁵*The Washington Post*, 7 Dec. 2016, www.washingtonpost.com/news/monkey-cage/wp/2016/12/07/organ-traffickers-lock-up-people-to-harvest-their-kidneys-here-are-the-politics-behind-the-organ-trade/

⁶ See Reference 1

⁷"Organ Trafficking: The Unseen Form of Human Trafficking." *ACAMS Today*, 31 July 2018, www.acamstoday.org/organ-trafficking-the-unseen-form-of-human-trafficking/. Accessed 30 July 2020

⁸ "Chapter 9: Organ Trafficking – The Cause and Consequence of Human Trafficking: Human Rights Violations." *The Ohio State University Pressbooks – Open Course Materials from Ohio State Instructors*, 3 Aug. 2019, ohiostate.pressbooks.pub/humantrafficking/chapter/chapter-9-organ-trafficking/. Accessed 30 July 2020.

emerges is because the country of destination puts its own resident patient population at a disadvantage. This is caused by the lucrative arrangements being created, demanding priority for the foreign patient.⁹ According to WHO out of the 63 000 kidney transplants that take place worldwide annually, 10% involve payment from people from different countries.¹⁰

Major Countries and Organizations Involved

China

In 1984, China passed a law which allowed executed prisoners organs to be harvested.¹¹ A Chinese tribunal told NBC News that more than 1.5 million detainees in prison camps are being killed for their organs for transplant trade. This transplant trade is worth about \$1 billion a year. Since 2001, there have been many allegations of forced organ harvesting in China. It is believed that victims are being killed on demand due to the Chinese website advertising hearts, lungs, and kidneys as well as being able to book in advance. It was further reported that the extraction of the organs was being performed while the victims were still alive. Survivors from the prison camps have also come forwards saying that they were taken for several examinations to ensure that their organs were healthy and fit for transplant.¹²

Iran

Iran is the only country in the world to have legalized the selling of organs under strict regulations. Buyers and sellers are matched up by a government foundation setting a fixed price for each organ at \$4,600. Since 1993, 30,000 kidney transplants have taken place because of the establishment of this law. The Iranian government believes that the law allows poorer people to make some money in a safe way while saving lives. Since the matching of donors and recipients

⁹ "The Hazards of Transplant Tourism." *American Society of Nephrology*, 1 Feb. 2009, cjasn.asnjournals.org/content/4/2/249.long. Accessed 30 July 2020

¹⁰ "Dilemma over Live-donor Transplantation." *WHO | World Health Organization*, www.who.int/bulletin/volumes/85/1/07-020107/en/. Accessed 30 July 2020.

¹¹ "Ending Abuse of Organ Transplantation in China." *David Kilgour*, www.david-kilgour.com/2010/Aug_19_2010_01.php. Accessed 30 July 2020.

¹² "China Forcefully Harvests Organs from Detainees, Tribunal Concludes." *NBC News*, 18 June 2019, www.nbcnews.com/news/world/china-forcefully-harvests-organs-detainees-tribunal-concludes-n1018646. Accessed 30 July 2020.

was a long process, the sellers took this to their advantage. They were able to cut deals from eager Iranians or foreigners so they could earn up to thousands more than \$4,600.¹³

India

India had not banned the sale of organs until 1994. This made India a hub for organs as the organs were available and cheap. When India passed the Transplantation of Human Organs Act (THOA), it banned all sales of human organs as well as restricting who could donate an organ. It ensured that organs could only be donated by a relative or someone who is “emotionally close” to the patient. This, however, created a big loophole as the patient could claim that they are emotionally attached to the donor even though they do not have the same nationality nor speak the same language as the patient.¹⁴

Relevant UN Resolutions and Reports

WHA (2004)

A resolution by the World Health Assembly (WHA) adopted in 2004 which urges member states to “to extend the use of living kidney donations when possible, in addition to donations from deceased donors”. The resolution furthermore encourages governments “to take measures to protect the poorest and vulnerable groups from ‘transplant tourism’ and the sale of tissues and organs, including attention to the wider problem of international trafficking in human tissues and organs”¹⁵

GA (2017)

General Assembly adopted a resolution in 2017 which ensures “that the removal of human organs from both deceased and living persons, as well as the transplantation of human

¹³ "'Kidney for Sale': Iran Has a Legal Market for the Organs, but the System Doesn't Always Work." *Los Angeles Times*, 15 Oct. 2017, www.latimes.com/world/middleeast/la-fg-iran-kidney-20171015-story.html. Accessed 30 July 2020

¹⁴ Glaser, Sheri. "Formula to Stop the Illegal Organ Trade: Presumed Consent Laws and Mandatory Reporting Requirements for Doctors." *American University Washington College of Law Research*, digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1311&context=hrbrief. Accessed 30 July 2020.

¹⁵ "Human organ and tissue transplantation." apps.who.int/gb/ebwha/pdf_files/WHA57/A57_R18-en.pdf. Accessed 30 July 2020.

organs, exclusively take place in centres specifically authorized by the relevant national health authorities and are not performed outside the framework of domestic transplantation systems or in situations where the transplantation is performed in breach of the guiding principles or national transplantation laws or rules”. It furthermore “Encourages Member States to exchange experience in and information on preventing, combating and punishing the illicit removal of and trafficking in human organs and trafficking in persons for the purpose of organ removal, as well as on the protection of victims, as appropriate”.¹⁶

Previous Attempts at Resolving This Issue

The Declaration of Istanbul was written in 2008 by over 150 representatives from 78 different countries in hopes of creating a legal framework for ethical practices of organ transplantation and the purchase of organs. It defines organ trafficking, transplant tourism as well as transplant commercialism. The document also included guidelines for recruitment of living donors, care and reimbursement. 10 years later the Declaration of Istanbul was revisited and now also defines the trafficking of organs for the purpose of organ trafficking and the financial aspects.¹⁷

Possible Solutions

Holding the medical staff accountable

The trafficking of human organs is dependent on the medical staff to work. They are the ones who transport and receive the organ and carry out the transplant. Doctors are required to report suspicious activity yet are blindsided, giving doctors the benefit of the doubt even though they are supposed to ensure the wellbeing of patients. Doctors usually do not lose their medical license if they have failed to report something because the board usually does not do anything

¹⁶ "Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs." *ESubscription to United Nations Documents*, undocs.org/pdf?symbol=en/A/RES/71/322. Accessed 30 July 2020

¹⁷ *Organ Tourism, Organ Trafficking, News and What You Need to Know*, www.declarationofistanbul.org/. Accessed 30 July 2020.

about it. Holding all the medical staff accountable would ensure that organ trafficking would decrease.¹⁸ This could also set new problems which would be far worse than the first set of problems. People without a medical license would start performing the transplants by themselves. This would mean that more lives would be at stake.

Financial compensation

The system in most countries heavily relies on donors giving their organs. Donors have to sacrifice more than most would think. Although the evaluation tests which determine if the person is a good candidate for donation, the surgery and post-surgery care are all covered by the recipient's insurance, there are still some expenses that the donor has to worry about. Lost wages during the donor's recovery, travel expenses, and follow-up expenses are all something the donor might need to cover. Many would be willing to become a living donor but are not able to afford to pay any of the expenses nor lose their income for the weeks they lose due to bedrest.¹⁹ Financial compensation would ensure that people would be able to donate more organs, saving more lives. This benefits the doctors, the patients, who have been waiting years, and the vulnerable population, who are, as a result, targeted less.

Legalizing organ trade

The organ trade brings in millions of dollars every year and profits at the expense off the vulnerable. Opening the free organ trade would make it easier for a country to stimulate their economy. It would be the best way to reduce organ trafficking while still improving the country's financial state. People would be more drawn to donate their organs and would be able benefit financially without taking advantage of the donors. However, WHO believes that paying someone for their organ would be taking advantage of the most vulnerable and poorest as it is considered unethical.²⁰

¹⁸"Trafficking in Human Beings for the Purpose of Organ Removal and the Ethical and Legal Obligations of Healthcare Providers." *PubMed Central (PMC)*, www.ncbi.nlm.nih.gov/pmc/articles/PMC4946496/. Accessed 30 July 2020.

¹⁹ "Living Donation Costs." *Transplant Living*, 7 June 2018, transplantliving.org/financing-a-transplant/living-donation-costs/. Accessed 30 July 2020.

²⁰*WHO | World Health Organization*, www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf. Accessed 30 July 2020.

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WHO | World Health Organization,
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