



## Committee: Social, Cultural & Humanitarian

### Question of: Controlling Organ Trade

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#### Introduction:

Organ transplantation is an effective therapy for end-stage organ failure and is widely practiced around the world. According to the WHO, kidney transplants are carried out in 91 countries. Around 66 000 kidney transplants, 21 000 liver transplants and 6000 heart transplants were performed globally in 2005. The access of patients to organ transplantation, however, varies according to their national situations, and is partly determined by the cost of health care, the level of technical capacity and, most importantly, the availability of organs.

The shortage of organs is virtually a universal problem. The shortage of an indigenous “supply” of organs has led to the development of the international organ trade, where potential recipients travel abroad to obtain organs through commercial transactions. The international organ trade has been recognized as a significant health policy issue in the international community. Despite growing awareness of the issue, the reality of the international organ trade is not well understood due to a paucity of data and also a lack of effort to integrate the available information.

#### The Issue:

The organ trade is one of the modern ways of slavery. In underdeveloped countries, people in extreme situations sell their organs to smugglers in order to come into some money. Those organs are sold once again in richer countries. Therefore, organs of people who have died recently are sold in the “black market”.

More than 120.000 transplants are carried out in the world per year. From that number of transplants, between the 5% and the 10% are illegal.

China is one of the most criticized countries for doing illegal transplantations. Chinese people bring to market the organs of executed people in jail. Although the Chinese government ensures that they do no longer do it, other UN members have many doubts.

The organ trafficking is undoubtedly a very big problem; but not just for the person who donates his organs, also for the person buying them as the transplants are not done in the appropriate conditions. Between the 40% and the 70% of the “transplant tourists” develop several infections. Indeed, between the 20% and the 50% of those who develop infections end up dying.



According to the “Organs Watch”, for an Indian or African kidney 1.000 \$ are paid, for a Philippine kidney 1.300 \$ and for a Moldavian or Rumanian 2.300 \$. However, according to the researchers of the United States, for a pancreas is paid between 100.000 \$ and 130.000 \$, 150.000 \$ for a liver or a lung, 30.000 \$ for a cornea, between 130.000 \$ and 16.000 \$ for a heart and for a liver 62.000 \$.

### Forms of international organ trade

#### Transplant tourism

The most common way to trade organs across national borders is via potential recipients who travel abroad to undergo organ transplantation, commonly referred to as “transplant tourism”

“Transplant tourism” involves not only the purchase and sales of organs, but also other elements relating to the commercialization of organ transplantation. The Internet has often been used to attract foreign patients. Several web sites offer all-inclusive “transplant packages” – the price of a renal transplant package ranges from US\$ 70 000 to 160 000.

#### Other forms of international organ trade

There are other forms of international organ trade that demand attention. In some cases, live donors have reportedly been brought from the Republic of Moldova to the United States of America, or from Nepal to India.

### The organ exporting countries

#### India

India was a commonly known organ-exporting country, where organs from local donors are regularly transplanted to foreigners through sale and purchase. Although the number of foreign recipients seems to have decreased after the enactment of a law banning the organ trade (the Human Organ Transplantation Act of 1994),<sup>10</sup> the underground organ market is still existent and resurging in India.

Some donors are offered between 4,000 and 5,000 euros per kidney. Organs that are illicitly obtained as the ones previously mentioned, are later despatched to potential clients who are ready to pay between 33,000 and 40,000 euros per kidney.

#### China

In China, around 12 000 kidney and liver transplants were performed in 2005. Most of the transplant organs were alleged to have been procured from executed prisoners, a practice which itself is criticized by the international community.

The number of foreign recipients in China is difficult to estimate, but a media report offers circumstantial evidence that over half of the 900 kidney and liver transplants performed in one major transplant centre in 2004 were for non-Chinese citizens from 19 countries.

### Other countries

Other countries where kidneys are reportedly sold include Bolivia, Brazil, Iraq, Israel, the Republic of Moldova, Peru and Turkey. In Colombia, where 69 of 873 organ transplants were performed on foreigners, there is an allegation that organs of deceased donors were used in the organ transplants that were commercially arranged for foreigners. The case of the Islamic Republic of Iran merits a special mention: paid kidney donation is practised legally but there is a strict regulation of the allocation of organs to non-local citizens, thereby restricting the international organ trade. In contrast, the Philippine government is moving towards institutionalization of paid kidney donation and acceptance of foreign patients.

### The organ-importing countries

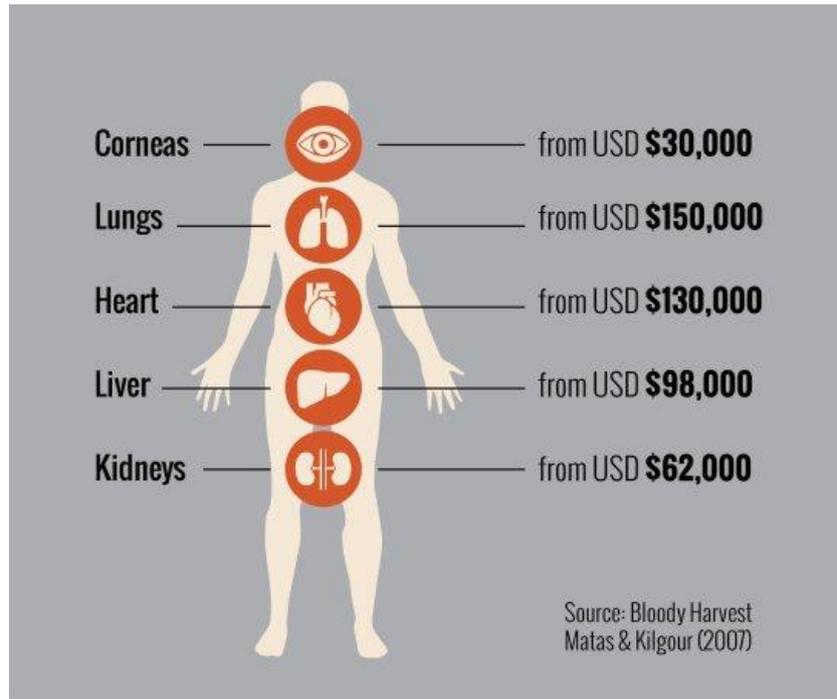
The term “organ-importing countries” is used here to refer to the countries of origin of the patients going overseas to purchase organs for transplantation. A report by Organs Watch, a US-based organisation, identified Australia, Canada, Israel, Japan, Oman, Saudi Arabia and the USA as major organ-importing countries.

### Consequences and effects

In several instances, newspaper articles have reported the deaths of patients who went abroad for overseas commercial transplants; the abuse, fraud and coercion of paid kidney donors are also frequently reported. These reports have raised serious concerns about the consequences of the international organ trade, both for recipients and donors.

In some studies, mostly those based on small data sets, patient survival and graft survival rates are considerably lower than the internationally accepted standard; in other studies, they are shown to be comparable with local results.

Many of these studies, nonetheless, report a heightened frequency of medical complications, including the transmission of HIV and the hepatitis B and C viruses. Moreover, one study from the United Kingdom reports that patients who had been suspended from the local transplant list for medical reasons were operated on abroad. These factors seem to indicate the existence of substandard medical practices. Given the desperate desire of the patients to undergo organ transplantation, their risk of being exploited should not be underestimated.



## Key Events

Event/Date	Explanation
Declaration of Istanbul on Organ Trafficking and Transplant Tourism	This declaration, which builds on the principles of the Universal Declaration of Human Rights, was passed in April 2008 at the Summit in Istanbul, Turkey, convened by the Transplantation Society and International Society of Nephrology. The declaration states that all forms of transplant commercialism, which target the vulnerable, should be prohibited, including transplant tourism and organ trafficking.
EU Action on Trafficking in Human Beings	Trafficking in human beings is specifically prohibited by Article 5 of the Charter of Fundamental Rights of the European Union. The political commitment at EU level to address the problem of trafficking in human beings is

	<p>reflected in the large number of initiatives, measures and funding programmes established in the area both within the EU and third countries as early as in the 1990s.</p> <p>A major step forward recently was the adoption of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. The Directive adopted a comprehensive, integrated approach that focuses on human rights and on the victims and is gender-specific. It was expected to have considerable impact, once fully transposed by the Member States by 6 April 2013. It not only focuses on law enforcement but also aims to prevent crime and ensure that victims of trafficking are given an opportunity to recover and to reintegrate into society.</p>
<p>Organ Donation Breakthrough Collaborative</p>	<p>Started in the United States and has since moved to Australia and Canada. It is a measure to enhance the donor pool in well-resourced countries to meet their own needs to act as a strong deterrent to the proliferation of unregulated transplant enterprise in impoverished nations.</p>
<p>November 2010, trafficking in persons for the removal of organs</p>	<p>In November 2010, under the authority of the South African National Director of Public Prosecution, Netcare Kwa-Zulu Limited entered into an agreement whereby it pleaded guilty to 102 counts related to charges stemming from having allowed its ‘employees and facilities to be used to conduct illegal kidney transplant operations’. Charged along with this private company which was, in fact, the St Augustine’s Hospital, located in Durban, South Africa, were the parent company, Netcare, its CEO, Richard Friedland, and eight others: four transplant doctors, a nephrologist, two transplant administrative coordinators, and a translator. The admission of guilt relates to 109 illegal kidney transplant operations which took place between June 2001 and November 2003 within a scheme whereby Israeli citizens in need of kidney transplants would be brought to South Africa</p>
<p>March 2014, Mexico cartel member held in organ theft case</p>	<p>An alleged member of the Knights Templar cartel was arrested for being suspicious of kidnapping children to harvest their organs. It was thought that he was part of the cartel’s organ-trafficking ring. This is how it worked:</p>

	they would kidnap children and take them to homes fitted with medical equipment where they were killed and their organs removed.
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## Previous Attempts to Solve the Issue

### India

The 10th January 2017, India launched a campaign in order to fight against organ trafficking. The Indian authorities have set in motion some measures to remind doctors from this country so ask families of dead patients to donate organs to fight against lack of organs and organ trade.

The initiative “Poochna Mat Bhoolo”, which means “do not forget asking”, will affect over 300.000 doctor which will receive text messages as a reminder. According to data from the Government, over 200.000 people are in the waiting list for Fe a, transplantations all over the country and around 300.000 are waiting for a liver.

“Families do not remember of donating organs when their relatives die or by the time they do it, it is too late. That is why we are remembering doctors to speak to them right after their relatives die” said the President of the Doctors Association of India, Kumar Aggarwal.

### International Organ Trafficking Crisis: Solutions Addressing the Heart do the Matter

Countries have implemented legislative regimes to address organ trafficking. While most regimes prohibit organ trafficking, countries differ in their approaches to enforcement, which fall into two fundamental categories. Some aim to eliminate the cause of organ trafficking by reducing the organ shortage; others seek to eliminate the effects by targeting associated criminal activities.

#### a) Attempt to Reduce the Organ shortage

Domestic solutions to reduce organ shortages include procurement systems based on various methods of consent and incentivising donation.

#### b) Eradicating the Effects of the Organ Shortage

Rather than addressing the roots of the shortage, some countries have implemented a variety of laws to address organ trafficking itself. Most have imposed bans on organ commercialisation, with varying degrees of success.

Countries that are organ trafficking hubs have more recently implemented bans in an attempt to eradicate underground markets. Pakistan, Egypt, Colombia, and the Philippines have all banned organ commercialisation with little success. In Colombia, strict confidentiality impedes the discovery of illicit transactions.<sup>175</sup> Brokers circumvent the ban on foreign donations by obtaining short-term marriages between recipients and vendors, and transporting Colombian organs for transplantation in

neighbouring countries.. Also, many countries have attempted to quell organ trafficking by restricting transplant classes. For example, India's 1994 transplantation legislation sought to discourage transplant tourism by banning live- organ donations between unrelated individuals. In 2008, the Indian Parliament passed revised legislation that imposed harsher penalties for violations and tightened oversight of the transplant process.

Sanctions for engaging in OTC trafficking vary across jurisdictions.<sup>187</sup> Imprisonment ranges from two years to twenty years, with some countries withdrawing professional licenses and imposing fines.<sup>188</sup> Most impose harsher sentences in cases involving aggravating circumstances such as "death of or severe injuries to the victim, use of coercion, kidnapping, acting in an organized manner, and the age of the victim."<sup>189</sup> Some impose liability on brokers and health professionals, while others hold organ recipients liable as well.

Australia, has made valuable progress in recent years with the creation of the Organ and Tissue Authority and the work of the Donate Life Network, and the introduction of legislation criminalising organ trafficking. The Australian Organ and Tissue Donation and Transplantation Authority, also known as the Organ and Tissue Authority (OTA), works in partnership with the DonateLife Network (DLN), States and Territories, the donation and transplantation clinical sectors, eye and tissue banks and the community to implement the national reform program.

#### UK Human organ transplant Act

The UK Human Tissue Act 2004,<sup>1</sup> designed to regulate all activity involving human tissue, organs, or bodies, was introduced in the House of Commons in December 2003, received Royal Assent on 15 November 2004,<sup>2</sup> and has been partially implemented by Commencement Orders from April 2005. The new act, repeals and replaces the Human Tissue Act 1961, the Anatomy Act 1984, and the Human Organ Transplants Act 1989. The act is correspondingly dominated by regulation of postmortem examinations and retention of human tissue, with consistent emphasis on the need for fully informed consent. Compliance with these requirements is now mandatory with the threat of up to three years' imprisonment and/or fines for any deviation.

### Possible Solutions

The WHO and supporters of the Declaration of Istanbul believe the best solution involves:

- Developing better systems of deceased organ donation
- Encouraging altruistic living kidney donation
- Preventing needs for transplantation by treating diseases that lead to organ failure such as diabetes and hepatitis
- Implementing laws that prohibit organ trading and trafficking
- International cooperation in the formulation of organ procurement guidelines on suitability, safety, and ethics



## Bibliography

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2813140/>

<https://www.reuters.com/article/india-trafficking-organs-idUSL5N1F00IC>

[https://www.ajkd.org/article/S0272-6386\(09\)01177-9/pdf](https://www.ajkd.org/article/S0272-6386(09)01177-9/pdf)

<https://theconversation.com/action-to-stop-thriving-global-organ-trade-must-start-at-home-7333>

<http://www.who.int/bulletin/volumes/85/12/06-039370/en/>