HUMAN ORGAN TRAFFICKING

STATEMENT OF THE PROBLEM

Human organ trafficking is a controversial topic that involves the buying and selling of organs for transplant. A worldwide shortage of legally donated organs for purposes of transplantation has led to an international black-market in which human organs are bought and sold illegally. In developed countries, the demand for organ transplants is rising as the population ages and there are not enough organ donors to meet the growing need. As a result, people in developed countries with extra income to spend on healthcare are turning to impoverished people in developing countries who are so desperate for money that they will offer their organs for sale.

It is estimated that 5-10% of kidney transplants performed annually around the world are the result of human organ trafficking¹. Given the nature of underground organ trafficking, however, reliable data is difficult to gather. Typically, human organ trafficking targets sellers from poor and developing countries. The person who agrees to sell his/her organs is usually poor and illiterate, and may not have a job. When there is no other way to make a living, the idea of selling their organs becomes an attractive way to earn money. If s/he does have a job, the money earned from the sale of the organ far exceeds what they can earn in a few months, and sometimes even an entire year.

International human organ trafficking often involves serious human rights abuses. The international community must find a way to reduce demand for organs from the developed countries and find ways to educate and protect vulnerable populations from being targeted for organ removal.

HISTORY OF THE ISSUE

The first successful organ transplant was a kidney transplant performed in Boston, Massachusetts in 1954². Since then, organ transplantation has developed into a well-established clinical therapy, which saves lives and improves the quality of life for thousands of patients every year. Kidney, liver, heart, and lung transplantations are now used for those patients who are suffering end-stage¹ organ failures. There are many different types of transplants; corneal transplants restore vision, bones are used to repair damage due to trauma or cancer, and pancreas transplantation helps diabetic patients. According to the Global Observatory on Donation and Transplantation³, almost 100,000 patients worldwide receive a solid organ transplant each year.

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¹ End-stage: final stages of disease in which internal organs are completely failing

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The spread of medical transplant technology around the globe has saved many lives but has also created a shortage of organs for transplant. Meanwhile, the success of organ transplantation has led to a sharp increase in the number of patients on waiting lists to receive new organs. In other words, the demand for organs has continued to rise and the supply of available organs is not keeping up. The shortage is due to the fact that the vast majority of organs are taken from people who are fatally injured, such as motorcycle or car accident victims. The number of people needing transplants far outstrips the number of organ donors involved in accidents every year. As a result, it can take years for a patient to get their opportunity for a transplant and most countries do not have enough organs to meet the demand. Many people who would be able to live if they could have an organ transplant will die because of the shortage of organ donors. Tens of thousands of people die every year while waiting for an organ transplant.

Most organs for transplant come from brain dead people who have sustained some kind of fatal injury. Organs are harvested, or removed, from brain dead people who can not survive without being attached to a machine so that other people can be given the gift of life. Organ harvesting must be done while the person is still technically alive (breathing and with a heartbeat) because organs begin to deteriorate immediately upon death. However, it is only legal to use organs from a brain dead person if there is consent, or agreement, from the person.

Countries such as Austria and Norway have a system of donor registry called presumed consent. Presumed consent is an organ donation policy that assumes every citizen is a willing donor unless they opt-out formally by putting it in writing. The main advantage of a system of presumed consent is the very high rate of organ donors—nearly everyone is considered one unless they declare in writing that they do not want their organs harvested in the event of an accident. Singapore was the first country in the world to develop a policy of presumed consent and many European nations followed their example. As a result, certain countries, such as Belgium and Spain, are able to come much closer to meeting their national demand for organ donations.

Other countries have a system of organ donor identification called “opt-in”. In this system, an individual must give explicit permission to have their organs harvested by joining an organ donation registry that identifies them as a donor in the event of an accident. In the United States, for example, citizens must legally declare their status as an organ donor, usually by indicating so on an official form of ID such as a driver’s license. Sometimes, if the person was not a participant in an organ donor registry, a family member such as a husband, wife, parent or child can make the decision to donate their organs upon brain death. It is generally agreed upon that the opt-in system produces less donors and therefore contributes to the organ shortage. Other countries have neither a system of presumed consent nor an opt-in system which results in the “wasting” of almost all available organs in cases of fatal accidents.

The selling of human organs is forbidden as unethical in most countries in the world. However, donation of organs is considered a personal choice and a gift from one person to another. Although most organ donations

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2 Brain dead: Irreversible brain damage leading to loss of all functioning in the body
3 Presumed consent: the assumption that you agree
are from brain dead people, healthy living people can also donate certain organs. How and why would a healthy person decide to donate one of their internal organs?

The main organs that are harvested voluntarily from healthy people are the kidneys and the liver. The human body is equipped with two kidneys and we can live long and healthy lives with just one. For example, in a case where a child is in need of a kidney transplant, his mother may volunteer to have her own kidney harvested in order to save his life. If she matches his blood type, then the transplant will most likely be very successful and both mother and son can live long healthy lives with proper medical care.

The human liver has the power to regenerate itself and therefore a half of a liver can be taken from a willing donor and be transplanted to a patient in need. In most countries, live organ donation is completely legal if no one is paid for their organs. However, thousands of people are waiting on donor transplant lists and many of them know they are going to die if they don’t receive a transplant. In their desperation for a donor, people that have money to pay are seeking out living donors who need money so badly that they are actually willing to sell their internal organs to a stranger.

The number of patients waiting for organ transplants is giving rise to a black market for human organs in which organs are bought and sold illegally on an international scale. The illegal trafficking of human organs is likely to continue and increase in frequency because the demand for legally donated organs is not being met. International action is needed to address the problems associated with human organ trafficking because the demand for human organs is likely to continue to grow due to several factors:

- Since the 1970’s, pharmaceuticals have been developed to prevent organ transplants from being rejected by the recipient. As a result, transplants are much safer and more successful, so more people want them.
- Changes in diet and lifestyle are causing significant increases in diseases such as diabetes that lead to organ failure, and thus, the need for transplants.
- Widespread taboos against dismembering the human body, even in the event of a fatal accident or illness, prevent many people from participating in organ donation registries. Cultural taboos prevent countries from enacting policies of presumed consent which help to meet some of the demand for organs. Therefore, organs from brain dead accident victims will continue to be “wasted”.

DISCUSSION OF THE PROBLEM

TRANSPLANT TOURISM

The international community must find ways to address the rise of an international organ black market that puts organ sellers at risk of major human rights violations. Transplant tourism is an international phenomenon in which organ seekers, usually from wealthier nations, travel to developing countries where they receive organ transplants. Trips abroad are typically arranged by a third party, often a health care provider working in the destination country. The price for a kidney transplant is estimated to cost between $70,000 and $100,000 US
dollars. This is a huge sum of money and in countries with weaker economies it is a small fortune! It easy to see how human organ trafficking is an international issue that is driven by the economics of supply and demand.

Patients that go abroad for organ transplants will travel to countries that have less healthcare regulation than their country of origin. In many developing countries, organ registries may not even exist, so no one has the job of regulating the transfer of organs from donor to patient. In a highly regulated health care system, a patient would have to prove that the organ was a donation and not something that was paid for. However, in a less regulated country it may be enough to say that a perfect stranger is a cousin or family friend and the authorities will not investigate further. In some cases, if both buyer and seller come from countries where health care is more regulated, the seller and buyer may agree to travel to a third, less regulated country for the operation.

On the surface, it may seem like transplant tourism is not such a bad idea. After all, if people who are suffering from end-stage organ failure have money to pay and healthy people who need the money give their consent to sell their organs for profit, it seems like a win-win situation. However, when you look at the issue more closely, it becomes clear that the demand for the human organs that originates in the rich, developed world has very grim consequences for the poorest and most vulnerable people living in the developing world. In the following sections we will look at the human rights violations associated with the trade in human organs.

POVERTY AND HUMAN RIGHTS

In order to understand how human rights can be violated when people buy and sell organs, we must first understand how the relationship between organ donor and organ recipient changes when money is involved.
When organs are donated from one living person to another altruistically⁴, it is because the donor cares about and loves the person who is suffering from end stage organ failure. No monetary payment is needed because the “payment” is the reward of helping someone you love survive and thrive.

When organs are sold, however, a shift in power takes place that is quite dramatic. Try to imagine the level of desperation necessary for you to sell a part of your body. People who sell their organs are the most vulnerable people in society. Organ sellers are those who are living in abysmal poverty, with limited access to jobs, education, and many other basic necessities. Often, organ sellers may be the victims of natural disasters and are displaced from their communities. They are often prisoners, the mentally ill, or others with a limited ability to give informed consent¹. They are people who may be illiterate and who may not know their rights or even that human organ trading is illegal in many parts of the world. In other words, they are people who can be taken advantage of very easily.

CONSEQUENCES OF SELLING AN ORGAN

Desperately poor and uninformed people may not be aware of the risks associated with organ transplants, including infection and the need for ongoing and expensive treatments that they will not be able to afford. A lack of medical follow-up may lead to sickness and in some cases, death. In addition, poor organ sellers may not be able to continue to work in industries such as farming or construction that require physical strength and exertion, which they are no longer able to do because of the operation. This severely impacts future employment opportunities.

Another tragic consequence of trafficking in human organs is that the sellers do not usually receive the financial compensation they were originally promised by organ brokers. In a study conducted in Pakistan, 93% of sellers indicated that they had agreed to donate their kidneys for financial reasons, but after the donation, 85% of these sellers reported that they were either still in debt or unable to achieve their objective⁵. In cases where organized crime is involved, people are told that a job awaits them in their destination country only to find on arrival that the “job” is to sell an organ. If the individual refuses, they are often threatened with violence or told that their passports have been confiscated and unless they sell their organ, they will not be able to return home. These cases are extremely hard to prove and are not well documented due to the secrecy surrounding criminal groups, but they illuminate the most sinister aspects of illicit human organ trafficking.

If international demand for organ transplants has created a market for human organ trading, who is looking out for the rights of the organ sellers? If organ sellers are mistreated or misled, who can protect them? Impoverished organ sellers can be denied access to appropriate medical care during and after the operation, they can be cheated out of the full payment they were promised for their organs, and they may even be forced into selling their organs against their will. What can the international community do to protect the most vulnerable members of society? What measures can the international community take to meet the demand for human organs so that wealthy people from developed countries do not resort to purchasing the organs of poor people on the black market?

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⁴ *Altruistic*: unselfish concern for the well-being of others

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The extremely lucrative nature of organ transplants combined with the fact that organ selling is illegal in most places has made human organ trafficking an attractive business activity of criminal groups and mafias. These trafficking rings involve many people including medical professionals who are motivated by greed or who are willing to look the other way. Research done on international organ trafficking at The University of California Berkley has discovered several international organ trafficking rings, including the following:

- Israeli patients travel by chartered plane to Turkey where they are matched with Moldovan or Russian kidney sellers and operations are performed by Turkish and Israeli doctors.
- European and American patients travel to Manila, The Phillipines where they receive new kidneys from impoverished local Phillipinos.
- Wealthy Palestinians travel to Iraq to purchase organs from poor Arabs coming from Jordan.
- Organ brokers in Brooklyn, New York arrange for poor Russians to come to some of the best hospitals on the East Coast of the United States to sell kidneys to wealthy Israelis.

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**Case Study: India’s Black Market for Organs Uncovered**

Right outside India’s capital New Delhi lies the suburb of Gurganon, known for business call centers and India’s middle class. But, underneath its prosperous exterior lies one of India’s largest organ trafficking rings. For the last decade, the ring has operated in at least eight Indian states and may have illegally harvested and transplanted over 500 kidneys. Most of kidney donations were made by poor day laborers, who were kidnapped from local market for their kidneys. Many did not consent to giving up their kidneys and were held for days under the watchful eye of armed guards. The victims were either drugged or held at gunpoint during the operation, and very little healthcare was given to them after the operation. They only received about $1,000 for their kidneys, which would sell on the black market for as much as $37,500 to rich Indians or foreigners.

This is not the first organ trafficking ring to be uncovered by police. In 2007, a ring in Southern India was exposed, after taking advantage of poor fishermen who had lost everything in Indian Ocean Tsunami. The Indian government has banned the sale of kidneys, but as long as the need for organ outweighs the amount donated by the deceased and families, the black market will continue to thrive in India, as long as it is illegal to sell human organs.  

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5 **Lucrative:** profitable
SOLUTIONS

One way that has been suggested of protecting the poor and vulnerable from the worst human rights abuses of organ trading is by legalizing the sale of human organs so that it is a regulated industry. Iran is currently the only country in the world in which it is legal to buy and sell human organs. They are currently able to meet their national demand for kidneys, however, the poor and desperate remain the sources of organ harvesting. In the past, India had a policy of permitting the sale of human organs but it was overturned in 1994 following problems including some patients not being paid enough and others unaware that an organ had been harvested. Critics of the legalization of the human organ trade point to the inequality between sellers and buyers and that organ harvesting makes the poor even more vulnerable to future health problems which they do not have the money to treat.

Finding ways to reduce the demand for organ transplants is another strategy for minimizing the spread of illegal human organ trafficking. The growing need for organ transplants can be indirectly linked to diet and lifestyle changes in the developed world that include high sugar and fat diets and limited physical activity. In addition, some critics believe that organs are “wasted” because countries have poor systems of organ harvesting in cases where patients are brain dead due to accidents.

Finally, there has been no international effort to educate potential victims and likely targets of human organ trafficking of the risks involved. Many organ sellers do not have all of the facts on the risks and dangers involved in organ selling and therefore can not make an informed decision.

PAST INTERNATIONAL ACTIONS

The principle of prohibiting financial gain from the human body or its parts was first established in a legally binding instrument in Article 21 of the 1997 Council of Europe Convention on Human Rights and Biomedicine [CETS No. 164]: “The human body and its parts shall not, as such, give rise to financial gain.” The principle was reaffirmed in the 2002 Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin [CETS No. 186]: “Organ and tissue trafficking shall be prohibited.” This principle is important in order to not jeopardize the organ donation system, which is based on altruism, the basis of organ transplantation, from both living and deceased donors.

Although many major statements and international instruments refer to the trafficking of organs, tissues, and cells, there is, however, no single definition that has reached international consensus. For example, the World Health Organization issued guidelines in 1991 to avoid the exploitation of organ donors. While 192 countries endorsed the document, the guidelines are not binding and the recommendations have been widely ignored. No international agreements exist in regards to organ transplantation outside of the country.

INTERNATIONAL AGREEMENTS

Protocol to Prevent, Suppress, and Punish Trafficking in Persons

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In an effort to prevent organized crime, such as human organ trafficking rings, the UN drafted a Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children. The protocol was adopted and entered into force in 2003, and has been signed by 117 countries. The protocol calls for ratifying states to introduce national trafficking legislation.

Istanbul Declaration on Organ Trafficking and Transplant Tourism

In 2008, The Transplantation Society and the International Society of Nephrology hosted the Istanbul Summit to address the unethical practice of organ trafficking that has become a global problem. The summit was an extension of the World Health Assembly 2004 resolution, which objected to organ trafficking and transplant tourism. The resulting Istanbul Declaration on Organ Trafficking and Transplant Tourism emphasized the prohibition of organ trafficking because the act exploits the poor and vulnerable, and therefore violates the principles of equity and justice for human dignity. Although the Declaration was signed by 92 organizations, it is not a legally binding document.

RECOMMENDATION FOR FORMULATING A RESOLUTION

Many countries still lack a definition of and laws against human organ trafficking. While some do have such legislation, the laws are not binding and those individuals facilitating underground operations are not punished. In addition, the demand for organs for transplantation is expected to increase in the near future, especially in the case of kidney transplants. It is projected that the number of patients with diabetes mellitus will double from the year 2000 to 2030, especially in developing countries. Delegates should consider ways to address the impact of this finding and the following when creating draft resolutions:

- Long term and short term strategies to reduce the demand for live donor organs in the developed world
- Ways to punish medical professionals involved in live donor organ transplants involving vulnerable people
- Ways to educate vulnerable populations about the dangers of the organ trade
- Ways to facilitate data collection efforts on trafficking on organs, tissues, and cells, and separated by gender to see if the problem impacts women and men differently
- Strategies to ensure awareness among the general public that selling organs and receiving such organs is illegal

QUESTIONS TO CONSIDER

- Has your country signed international documents banning human organ trafficking?
- Does your country have populations vulnerable to trafficking?
- Is there a cultural, religious, or socio-economic taboo against organ donation?
- Is there a long waiting list for organs in your country?
- What is the percentage of citizens in your country that has signed donor cards?
- Does your government have a system of presumed consent or an opt-in system?
END NOTES AND PHOTO CREDITS

5 Ibid.
8 http://en.wikipedia.org/wiki/Organ_trade#Illegal_organ_trading
12 The Declaration of Istanbul on Organ Trafficking and Transplant Tourism. Available at: http://www.declarationofistanbul.org/