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UNITED NATIONS GENERAL ASSEMBLY

Topic: ILLEGAL ORGAN TRADE

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Introduction

Once a medical curiosity, now casual operation- organ transplantation is expanding rapidly. Practiced worldwide, to be precise carried out in at least 91 countries according to the World Health Organization (WHO), 66 000 kidneys, 21 000 livers and 6 000 hearts were transplanted in 2005 and the demand increases ever since¹. To be more recent, below is a table from 2013 (as of today being 29th of January, 2014). An active candidate is *a transplant candidate eligible to be considered for organ offers at a given point in time. Some transplant candidates are temporarily classified as "inactive" by their transplant centre because they are medically unsuitable for transplantation or need to complete other eligibility requirements.* From the table below we may observe that there might be a problem, considering the demand is much greater than supply. We may also observe that the demand rose since 2005 and it can be expected to rise continuously.

Transplant Trends	
Waiting list candidates as of today 2:12pm	121,025
Active waiting list candidates as of today 2:12pm	77,108
Transplants January - October 2013	24,132
Donors January - October 2013	11,802

Historically, the first kidney transport ever performed was in 1954. This was followed by transplants of liver, heart, pancreas and lungs. The 1980s were crucial as the cyclosporine was developed in those times, which helped in immunosuppressive strategies (reducing the activity of the immune system). This drug helps the organism to suppress the rejection of the transplanted organ. The development of cyclosporine was a major step for developing the transplantation techniques, leading to increasing popularity of the procedures, which are often life-saving

The availability of organs is a crucial aspect for patients. It is dependent on national situation, as well as health care costs, technical equipment and others. However, the most critical aspect of all is the shortage of organs. There are several reasons for this. Firstly, in many countries, cultural, ethnical and religious views prevent people from donating organs *post-mortem*, which can be hampered also by legal factors. On the other hand, there are developed countries where the rates of deceased organ donation are higher than in other countries, however, the demand is still greater than the supply of the organs. There is of course also a third scenario, and that are live donors, which can donate a kidney or

¹ Bagozzi, Daniela. "WHO proposes global agenda on transplantation." *World Health Organisation*. World Health organisation, 30 Mar 2007. Web. 29 Jan 2014. <<http://www.who.int/mediacentre/news/releases/2007/pr12/en/>>.

² "Transplant trends." *Organ Transport Systems*. Organ Transport Systems, 29 Jan 2014. Web. 29 Jan 2014. <<http://organtransportsystems.com/index.php>>.

a liver.³ However, in many countries, this is illegal. Apart from this, there are other two illegal ways to obtain organs. Firstly, people, or rather victims, can be deceived or forced by traffickers and give up an organ. Secondly, the organ might be taken without their knowing, for instance during an operation. According to the United Nations Global Initiative to Fight Human Trafficking web page, *the vulnerable categories of persons include migrants, especially migrant workers, homeless persons, illiterate persons, etc.*⁴

This leads to the development of the international trade, where patients travel to areas where these organs are obtainable. Although this is considered a matter of health policy, the obscurely scarce data and lacking efforts to synthesize the existing data is alarming. According to a resolution of the World Health Assembly (**WHA57.18**) Member States are called upon to “*take measures to protect the poorest and vulnerable groups from ‘transplant tourism’ and the sale of tissues and organs*“. The poorest often find the option to sell an organ more desirable than living in absolute poverty, and since the prices are rather high- from 3,000\$ to 85,000\$⁵ for a kidney, the poor often welcome this choice.

These problems have been known of for ages, yet even the increasing awareness of the issue seems incapable to provoke an action. The vague and scarce data cause misinformation, which causes inadequate reaction. The aim of this study guide will be to provide sufficient, if not extensive, information on the topic to create a commensurable and ample background to discuss the topic.

Further Donation Statistics

Living Donor Age Breakdown:

- o Ages 18-34: 28.6%
- o Ages 35-49: 42.2%
- o Ages 50-64: 27.5%
- o Age 65+: 1.6%

Living Donor Gender Breakdown:

- o Male: 38.4%
- o Female: 61.6%

³ Worsnop, Richard L.. "Organ Transplants." *CQ Researcher*. CQ Researcher, 11 Aug 1995. Web. 29 Jan 2014. <<http://photo.pds.org:5012/cqresearcher/document.php?id=cqresrre1995081100>

⁴ "Trafficking for Organ Trade." *Global Initiative to Fight Human Trafficking*. Global Initiative to Fight Human Trafficking, n.d. Web. 29 Jan 2014. <<http://www.ungift.org/knowledgehub/en/about/trafficking-for-organ-trade.html>>.

⁵ Carney, Scott. "Why a Kidney (Street Value: \$3,000) Sells for \$85,000." *Wired*. Wired, 05 Aug 2007. Web. 29 Jan 2014. <http://www.wired.com/medtech/health/news/2007/05/india_transplants_prices>.

Living Donor Ethnicity Breakdown:

- o White/Caucasian: 70.1%
- o Black: 11.8%
- o Hispanic: 13.6%
- o Asian: 3.5%

Living donor relationship to recipient:

- o Parent to child: 508
- o Child to parent: 880
- o Identical twin: 12
- o Full sibling: 1,133
- o Half sibling: 61
- o Other relative: 437
- o Spouse or life partner: 711
- o Unrelated anonymous donor: 165⁶

The Response of the United Nations on Illegal Organ Trade

The Protocol on Trafficking⁷

The United Nations have a Protocol to Prevent, Suppress and Punish Trafficking in Persons (the full name of the document is Protocol to Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime). The document starts by declaring its awareness for the need of protection of the abovementioned subjects, and with the fact that the UN is aware of the fact, that the combat against trafficking is ineffective and there is a need for a universal instrument, which would address the matter globally. The document also recalls the ad hoc committee for the *purpose of elaborating a*

⁶ "ORGAN DONATION AND TRANSPLANTATION STATISTICS." *National Kidney Foundation*. National Kidney Foundation, 08 Jan 2014. Web. 29 Jan 2014.
<<http://www.kidney.org/news/newsroom/factsheets/Organ-Donation-and-Transplantation-Stats.cfm>>.

⁷ "PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME ." *United Nations*. United Nations, n.d. Web. 29 Jan 2014.
<http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_traff_eng.pdf>.

comprehensive international convention against transnational organized crime, illegal organ trade included.

The Protocol operative clauses are divided into four groups:

- I. General provisions
- II. Protection of victims of trafficking in persons
- III. Prevention, cooperation and other measures
- IV. Final provisions

General Provisions

The General Provision speaks about the relation with the United Nations convention against transnational organized crime, stating that the documents are to be interpreted as complementary. The following passage states the purpose, to promote cooperation among states and combat trafficking. Afterwards, use of terms is discussed, specifically saying the protocol includes victim of organ trade. Further on, it states that even if the victim gave consent he is still considered a victim if any of the means discussed apply. Then it discusses the scope and lastly, criminalization, where it asks the Member States to adopt legislative (and other) measures to efficiently limit the problem.

Protection of Victims of Trafficking in Persons

In this part of the document assistance to and protection of victims of trafficking in persons is discussed. The identity of victims should be protected and assistance during legal proceedings. Further on, it states:

Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities. The document also stresses the need to take into account age, gender and other needs, providing safe environment and adjusting the legal system of Member States to do so.

Prevention, Cooperation and Other Measures

There are several points highlighted in this section of the document. The need for research, availability of information, communication and the role of media in this case is one of such. Fighting poverty is another, which goes hand in hand with improving education and focusing on the cultural aspects, which could be publicly used to discourage trafficking. Adopting different policies by the government, as well as bringing this to the attention of Non-Governmental organisations (NGOs) as well as the society is another step to help prevention of organ trafficking.

The section also focuses on how law enforcement and immigration agencies should be on alert and that checking travel documents is extremely important. The identity is to be checked with care, as well as integrity and security to prevent manipulation with identity documents. Legitimacy and validity of travel or identity documents can be issued, to prevent criminal transportation. Without appropriate documents, sanctions might be imposed and the countries have the right for *denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with the Protocol*.

For all this, border control and its strengthening must be one of the priorities. The measures, as implied by the Protocol, are not made to be discriminative, but to prevent criminality, even though they might seem unfair. Training, as well as developing profiling means and methods of criminals to be able to detect them are also needed to combat trafficking.

Final Provisions

The final part stresses, that the document shall not affect international humanitarian law and international human rights law in any case and shall be applied in a way that is not discriminatory. If there are any disputes, concerning the interpretation or application of the Protocol, and if it is impossible to settle the matter through negotiation after a certain time period, the competence to settle the argument between different states that are in the argument goes to the International Court of Justice.

This section also discusses the signature, ratification, acceptance, approval and accession and when it should enter into force. The document is written in all UN languages (English, Russian, Chinese, French, Spanish, Arabic) and can be denounced after a year after receiving a written notification. The document can be amended after 5 years of its ratification, though a 2/3 majority is needed for that. Further on, regional economic integration organizations can vote, unless their member States exercise theirs and vice versa.

This has been just a basic summary of what the document speaks about. You can find the whole document on trafficking here:

http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf .

The document concerns all forms of trafficking, not only organ trade, however, it is one of the greatest instruments the United Nations created to tackle the problem and has to be kept in mind. Here is an analysis of the actions described in the document

<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1492&context=hrbrief> . Further on, the benefits and limitations of the protocol will be analysed later on in the study guide too.

World Health Organization

The World Health Organization (WHO) have spent considerable amount of time trying to tackle the problems of illegal organ trade. Apart from the above mentioned, the World Health Assembly (WHA; the decision making body of WHO) resolution **WHA63.22** states in its perambulatory clauses that it is needed to be *sensitive to the need for post-transplantation surveillance of adverse events and reactions associated with the donation, including long-term follow up of the living donor, processing and transplantation of human cells, tissues and organs as such and for international exchange of such data to optimize the safety and efficacy of transplantation.*

The problem should be dealt with, according to the operative clauses of the resolution in several ways. A major step would be *to promote the development of systems for the altruistic voluntary non-remunerated donation of cells, tissues and organs as such, and increase public awareness and understanding of the benefits as a result of the voluntary non-remunerated provision of cells, tissues and organs as such from deceased and living donors, in contrast to the physical, psychological and social risks to individuals and communities caused by trafficking in material of human origin and transplant tourism.* The aim is also to oppose financial gain and encouraging health-care professionals to inform authorities in case they have knowledge of such actions. A system of transparent allocation of organs is promoted, along with a hope for public support and voluntary donations. Improving safety for donations and highlighting the need for the best professionals is another step.

Strengthening national and international cooperation to provide oversight of donations is also stressed, as well as *maximizing donation from deceased donors and to protecting the health and welfare of living donors with appropriate health-care services and long-term follow up.* Collaboration in collecting data and safety, quality, efficacy, epidemiology and ethics should be prioritized, as well as encouraging a global implementation of *consistent coding systems for human cells, tissues and organs as such in order to facilitate national and international traceability of materials of human origin for transplantation.*

The resolution also asks the Director-General to spread the new resolution as widely as possible and provide support to Member States and NGOs in implementing it. Another request is to collect as much data as possible and grant Member States access to this information. The resolution also asks the Director-General to provide technical support to Member States, *suitable and traceable coding systems for, donation and transplantation of human cells, tissues or organs*, and to report to the WHA at least every four years.

For further reading, below are links to significant WHA resolutions, from which are the above quotations:

http://apps.who.int/gb/ebwha/pdf_files/WHA63/A63_R22-en.pdf (quoted in Italics in the section above)

<http://apps.who.int/medicinedocs/documents/s15558e/s15558e.pdf>

<http://www.who.int/transplantation/en/WHA40.13.pdf>

http://www.who.int/transplantation/en/A57_R18-en.pdf

And other information on the position of WHO and the UN on the matter:

http://www.who.int/ethics/topics/transplantation_guiding_principles/en/index.html

<http://www.who.int/transplantation/en/>

Analysis of the Problem

Nevertheless, the illegal organ trade is on the rise. There have been numerous declarations and resolutions on the topic- from those mentioned above by the United Nations, to the Declaration of Istanbul, and many, many others. All these documents condemn illegal organ trade and sketch what aims it wants to pursue, but they do not draft the measures to be taken to achieve their goals. Let's look at some of the problems.

Poverty

Poverty, as discussed, is a great incentive to sell ones organs. Here are some countries known to have problems with illegal organ trade, due to poverty:

- Pakistan
- India
- Iraq

- Egypt
- Kosovo
- Mozambique
- Israel/Palestine
- Moldova
- China
- Bangladesh
- ... and many others.⁸

Most official documents recognize the problems of poverty in relation to organ trade, but do not propose solutions. The problems are that first of all, people will rather sell a kidney, which they technically might not need than starve or be unable to afford the basic goods and services needed for their survival. Secondly, there is no one in control of both the donors and the traffickers. The traffickers might abuse the rights of the donors- pay them less, don't pay them at all, etc.- or simply lure them under false pretences to give up an organ unknowingly. Also, there is no one to inform the donors on what their actions will mean, to give them medical assistance or defend their rights.

Attempts to legalize organ trade

Organ trade is at the moment illegal in all countries, apart from Iran.

Background on legality of organ trade

Iran

In Iran, it is legal to sell kidneys for profit. The market, as well as well being of the patients and the donors is regulated by the Charity Association for the Support of Kidney Patients (CASKP) and the Charity Foundation for Special Diseases (CFSD) and the government. The average price paid for donating a kidney is about \$1 200, though it varies. However, it is estimated that 70% of donors are considered poor among the Iranian society.⁹

⁸ "8 Countries Where Human Organs Are Harvested." *News Pick*. News Pick, 10 Jun 2008. Web. 29 Jan 2014. <<http://news.upickreviews.com/8-countries-where-human-organs-are-harvested>>.

⁹ Hippen, Benjamin E. "Organ Sales and Moral Travails: Lessons from the Living Kidney Vendor Program in Iran". *Cato Institute: Policy Analysis*.

Philippines

The sale of organ was legal in Philippines too until 2008, when it was banned. Before, for about \$25 000, a kidney could be transplanted.¹⁰

China

In China, organs are often collected from executed prisoners (who must sign agreements). The Human Right watch estimated this to be approximately 90%¹¹ of the organ supply in China. However, there is still shortage of organs in China and with all the critique of other nations on their policies, China stopped exporting organs, creating an increase of about 40% on global prices.¹²

India

In India, organ trade was legal until 1994, when a Transplantation of Human Organs Act was passed. Before this, India was a popular destination for kidney transplants, however, ethical issues aroused and the donors were often fooled. They might have not even known the operation has taken place, or they were promised a greater amount of money than they received, or perhaps some other problems. Nevertheless, after the above-mentioned document passed, organ trade is illegal in India too and only an emotionally close person can donate a kidney to a patient now.¹³

Taking into consideration all these attempts of different countries to legalize organ trade, we have to consider what the lesser evil is and which solves the problem more effectively. On the one hand, with illegal organ trade, there is often shortage of organs (and remember that this might ultimately lead to death) and organ trafficking, while on the other hand, with legal organ trade, the donors might be lied and their rights abused, leading to certain ethical dilemmas.

Prosecution of Traffickers

The problem with traffickers slightly differs from the previous. While there are no substantial methods proposed as solutions of the previous problems, there are plentiful methods drafted to prevent trafficking, and the methods seem strict enough. However, implementation of such measures might be problematic for many countries, especially the developing ones. Capacity building is necessary, as well as education of the capacities. However, in poverty-ridden areas and areas with unstable governments with conflicts this might be problematic to deal with.

¹⁰ Turner, Leigh (2009). "Commercial Organ Transplantation in the Philippines". *Cambridge Quarterly of Healthcare Ethics* **18** (2): 192–196. doi:10.1017/S0963180109090318

¹¹ "China issues human organ transplant rules in attempt to clean up industry". *International Herald Tribune*. April 7, 2007. Retrieved 2008-05-01

¹² Watts, Jonathan (2007). "China Introduces New Rules to Deter Human Organ Trade". *The Lancet* **369** (9577): 1917–1918. doi:10.1016/S0140-6736(07)60897-6

¹³ Handwerk, Brian. "Organ Shortage Fuels Illicit Trade in Human Parts." *National Geographic*. National Geographic, 16 Jan 2004. Web. 29 Jan 2014. <http://news.nationalgeographic.com/news/2004/01/0116_040116_EXPLorgantraffic.html>.

Availability of Information and Education

There are several problems with lack of information and education. We have to consider several aspects here. These are education of the enforcement agencies, education of the people who might be drawn into donating an organ, education of medical staff that might be drawn into trafficking and then the public. The problem is that the generally, the illegal organ trade is not spoken off that much. Although the public is aware of the existing problem, the magnitude of it is hardly ever considered. Moreover, the medical staff that help traffickers and the people who 'donate' an organ are unaware of the practices of the traffickers, and might be also fooled. Furthermore, the medical staff might often be drawn to take an organ of the victim while performing other operation, and the victim does not even realize they took an organ from them.

Possible Solutions of the Problem

There are several solutions we can consider to battle the problems with illegal organ trade. Firstly, appropriate laws could be synced with the existing Protocols and principles of the United Nations. These laws aprioristically need to concern the help victims of traffickers should receive. Health centres should be available to all, just as any other services or goods the victim might need. For this, good law enforcement agencies and judiciary system is needed, for there to be people to take care of the well-being of the victims. These laws should also be enforced against anyone involved.

The Assembly must also consider what donation of organs can be considered legal, whether to adopt informed consent laws to increase legal supply, and what shall be considered illegal. Whatever the decision, Member States are obliged to look after the rights of the donors to not be abused. This is another aspect where law enforcement agencies as well as health care centres play a role, which brings us to improving the efficiency of these agencies. Sufficient training and orientation, as well as education, should be provided for officials. These officials should be controlled, to increase the safety of the donors.

Education is necessary. Improving the awareness of vulnerable sections is vital. For this, assistance of already existing NGO's might be requested and/or supported. Both financial help and capacity building might be helpful. Also, public awareness posters and display boards could be created, and medical centres might be requested to have them. Further on, bringing the matter to mass media and increasing awareness of the problem might stir a reaction of the public, creating incentive for any governmental or non-governmental organizations to act.

Combating poverty is another step forward. Poverty leads to many problems and is very difficult to deal with. Mediatisation of the problem might be useful, however, international cooperation and

foreign investment can be of great assistance. This foreign investment can be used to increase capacity building, improve training and education and of course, help decrease the poverty.

Finance, however, can be also used to improve research on the matter. The use of mechanical organs is starting to grab the attention of the public more and more. This might perhaps be an expensive option and does not immediately solve the issue raised; however, it is an interesting option to consider.

Closing Remarks

Dear delegates,

We hope this study guide provides you with a sufficient base for your research of the subject. However, we strongly advise you to do your own research, since study guides only provides a small introduction into the mater. If convenient, contacting embassies of your countries can also be somewhat beneficial. Please remember that study guides aim to be unbiased, and your countries might have somewhat different views on some points, especially in the last part of the study guide.

Nevertheless, on the behalf of the whole ZAMUN organizing team, we would like to express the joy of the vision of meeting you all. Hope you have a lovely experience and fruitful debates.

Further Reading

(Please note that these sources also include all sources used to write the study guide)

www.un.org / United Nations official web page

<http://www.un.org/en/ga/> / General Assembly of the United Nations

<http://www.unos.org/> / United Nations for Organ Sharing web page

<http://www.ungift.org/knowledgehub/en/about/trafficking-for-organ-trade.html> / United Nations Global Initiative to Fight Human Trafficking web page

<http://news.upickreviews.com/8-countries-where-human-organs-are-harvested> /list of countries with illegal organ trade problems (partially due to poverty)

http://ec.europa.eu/anti-trafficking/EU+Projects/2008_165-055;jsessionid=pyJqSwHQzR3XbypkycbnpScqpCVXBtQXr7phDYybKCDfh89JBh6X!-1012942345 / Implementation of the Protocol

<http://lastradainternational.org/?main=documentation&document=1248> / Implementation of the Protocol

http://www.scielosp.org/scielo.php?pid=S0042-96862007001200017&script=sci_arttext&tlng=es / Organ trade study

<http://www.kidney.org/news/newsroom/factsheets/Organ-Donation-and-Transplantation-Stats.cfm> / Organ transplantation and donation statistics

<http://www.wcl.american.edu/hrbrief/12/2glaser.pdf?rd=1> / Presumed Consent Laws and Mandatory Reporting Requirements for Doctors

<http://organharvestinvestigation.net/> / Organ Harvesting in China

Interesting Articles about organ trade

<http://www.wsws.org/en/articles/2012/07/orga-j14.html> /organ trade boom

<http://www.telegraph.co.uk/health/healthnews/9294082/Illegal-organ-trade-on-the-rise-say-world-health-experts.html> /organ trade on rise

<http://www.theguardian.com/world/2012/may/27/kidney-trade-illegal-operations-who> /kidney trade boom

<http://www.livescience.com/19237-illegal-kidney-organ-trade.html> / interviews with kidney donors for illegal trade