



THESSISMUN

THESSALONIKI INTERNATIONAL STUDENT
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3rd Committee of the United Nations General Assembly

***Topic Area B: "Preventing and Combating
Trafficking in Human Organs and
Trafficking in Persons for the Purpose of
Organ Removal"***



**UNIVERSITY OF MACEDONIA
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***Topic Area B: Preventing and Combating Trafficking in
Human Organs and Trafficking in Persons for the Purpose of
Organ Removal***

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1. Welcoming letter

Esteemed delegates,

We would like to welcome you all to the Thessaloniki International Student Model United Nations (ThessISMUN) 2019 and, more specifically, to the 3rd Committee of the General Assembly of the United Nations. As Board members, we are delighted to preside this Committee in this year's conference and to, of course, meet you in person and participate with you in the committee sessions, since we are utterly confident that you are capable to negotiate, cooperate, debate and argue diplomatically, in order to achieve the goal of the Committee.

This goal is for all of us to expand our knowledge in matters that baffle the international community, to sensitise ourselves when it comes to humanitarian and social issues, to learn how to be diplomats, and, of course, to enjoy ourselves throughout this whole experience.

This year's Topic Areas are quite interesting, rather thought-provoking and also of very high importance. Therefore, very thorough preparation, attention to detail and accurate understanding of the topics are required.

This Study Guide aims to assist in your preparation for the Committee Sessions for the Topic Area B of the Agenda, *"Preventing and combating trafficking in human organs and trafficking in persons for the purpose of organ removal"*. It is a demanding topic that has only been puzzling the United Nations for the last decades but we also find it captivating and far-reaching. It tackles directly the most basic human rights and it is greatly connected to the gravest criminal acts of the modern era. It also showcases inequality and injustice in the most raw and straightforward way possible.

In this paper you will be able to find the most important aspects and facts about the issue so that you get inspired and begin your own personal research in accordance to where the study guide's main focus is. Keep in mind that all your research shall be agreeable to your country's policy on the matter so that you enable yourselves-as diplomats- to build alliances and defend your positions. We have a matter at hand that is challenging to grasp and debate but what is the point for it to be easy?

In conclusion, you may reach us at any point until the very end of the conference. We are here to provide guidance and support, answer your inquiries, and make further explanations, if needed. Take this chance that you have been given and gain a new experience full of new knowledge, acquaintances, confidence and diplomatic courtesy. Use your time

wisely and be prepared, start your research and understand the world around you step by step.
We cannot wait to yield the floor to you and hear your thesis!

Yours sincerely,
Fotini Zarogianni, **Chair**
Irene Giannopoulou, **Co-Chair**

2. Introduction to the committee

The 3rd Committee of the United Nations General Assembly is one of the six main thematic Committees of the United Nations General Assembly. Along with the other five specialised Committees and the UNGA itself, the 3rd Committee was established in 1945¹.

The 3rd GA Committee is the primary forum for the discussion upon all social, cultural and humanitarian issues, as well as human rights questions, including Special Reports of the Human Rights Council². According to the official UNGA website, the topics that the Committee is allowed to address include the following: *“questions relating to the advancement of women, the protection of children, indigenous issues, the treatment of refugees, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, the right to self-determination, social development questions such as issues related to youth, family, ageing, persons with disabilities, crime prevention, criminal justice, and international drug control”*³.

The Committee operates under the rules of the United Nations General Assembly, which constitute *Chapter IV* of the Charter of the United Nations. Resolutions passed within its context are **not** binding⁴. On the contrary, they constitute a set of **recommendations** for the Member States to ratify and in accordance to which Member States will adjust themselves⁵. In order to be fully aware of possible proposals and recommendations set within the

¹ Isshr.ch. (2018). [online] Available at: https://www.isshr.ch/sites/default/files/article/files/isshr_3rd_com_handbook_eng_web.pdf [Accessed 21 Nov. 2018].

² Un.org. (2018). UN General Assembly - Third Committee - Social, Humanitarian & Cultural. [online] Available at: <http://www.un.org/en/ga/third/> [Accessed 20 Nov. 2018].

³ Ibid.

⁴ Humanrights.ch. (2018). UN General Assembly / Third Committee - humanrights.ch. [online] Available at: <https://www.humanrights.ch/en/standards/un-institutions/ga/> [Accessed 20 Nov. 2018].

⁵ Ibid.

Committee's mandate, we totally advise you to examine past recommendations of the 3rd Committee, that can found in its official website ⁶.

The Office of the High Commissioner for Human Rights (OHCHR) is the main substantive secretariat to the 3rd Committee⁷. The works of the Committee are attended by all 193 sovereign UN Member States, while non-Member States (e.g. Holy See, State of Palestine) or other entities may be granted the "Permanent Observer" status and, thus, attend and participate in the Committee deliberations by holding the rights of a Full Member, apart from the right to vote, to sponsor, and to nominate candidates⁸.

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3. Trafficking in human organs and trafficking in persons for the purpose of organ removal; An Introduction

Organ trafficking is considered to be one of the most brutal criminal acts of the past decades⁹. It underlines the fact that massive developments in medicine and technological advancements, such as saving a life by transplanting organs from a person or cadaver to a patient, unfortunately go hand in hand with organized crime actions that take advantage of the human body and underestimate a person's self-determination.

Before introducing anything else, it should be clear that trafficking in human organs and trafficking in persons for the purpose of organ removal are two separate crimes of a different nature and they shall not be viewed as one¹⁰. Having mentioned that, it should be stated that those two crimes are sometimes, if not most of the times, committed inseparably¹¹. There is a vast scale of criminal actions that are part of organ trafficking- they vary from an illicit kidney removal that occurs after the donor's –or victim's- coercion and exploitation from an agent to even a murder of a victim for the purpose of removing a vital organ, such as the heart. There have not been any murders for the purpose of organ removal that have been officially reported, and therefore this will not be mentioned furthermore as a case to analyze, except the killings of prisoners in China for organ removal which is a topic elaborated in this study guide.

Another important aspect of the matter is that it is of a transnational nature¹². The "players of the game", some of them being the donors, the recipients, the surgeons, the criminal agents, the heads of the criminal organizations and the travel agents, are plenty and

⁶ Ibid, 2.

⁷ Unitar.org. (2018). [online] Available at: https://www.unitar.org/ny/sites/unitar.org/ny/files/UN_PGA_Handbook.pdf [Accessed 21 Nov. 2018].

⁸ Un.org. (2018). About Permanent Observers. [online] Available at: <http://www.un.org/en/sections/member-states/about-permanent-observers/index.html> [Accessed 18 Nov. 2018].

⁹ L.Kalb, S.Negri, The criminal justice response to human organ trafficking and trafficking persons for the purpose of organ removal, JOURNAL OF TRAFFICKING AND HUMAN EXPLOITATION; VOL. 1, NR. 2, 187-210, 2017

¹⁰ Assessment Toolkit for Trafficking in persons for the purpose of organ removal, United Nations Office on Drugs and Crime (UNODC), 2015 pp.17-21

¹¹ Ibid. pp.22

¹² Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings *TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings* (2013) pp.10

hard to track down but, most interestingly, they usually come from and operate in different parts of the world¹³. For instance, the headquarters of a criminal organization may be in Egypt, the agents could be in Syria to gather victims there, and the recipient could be living anywhere around the world. The donor or their organs will travel across the globe to meet the recipient. The money will travel along.

Therefore, the issue under discussion is a great example of the effects of globalization and actually its negative effects, that truly expands all over the world with very few-if any-exceptions and all Member-States are urged to be involved in its solution. It is, in other words, a public health issue that touches everyone in the international community and lives off the incapacities of national health systems, the gap between supply and demand of organs and the lack of appropriate regulatory frameworks¹⁴.

The victims of the crime are the socially vulnerable groups of our time- refugees, children, prisoners and those who live in developing countries, in terrible living circumstances with extremely low incomes.¹⁵ The 3d Committee of the UN General Assembly calls for the protection of those citizens of the world in its mandate¹⁶.

How can the mandate's expectations be reached? How can the problem be solved? Has it been discussed enough and sufficiently for it to be in the right path to be solved? Are all Member-States ready to claim responsibility for letting such unethical actions occur? What can be done both in the near future but also in the long run to prevent the citizens of the world from literally removing parts of their bodies to earn money or even losing their lives or mental and physical well-being?

4. Definitions

4.1 Organ

Two similar definitions for a human organ are the following;

a) *"An organ is a self-contained group of tissues that performs a specific function in the body. The heart, liver and stomach are examples of organs in humans."*¹⁷

b) *"Organ, in biology, is a group of tissues in a living organism that have adapted to perform a specific function. In higher animals, organs are grouped in organ systems; e.g., the esophagus, stomach and liver are organs of the digestive system."*¹⁸

4.2 Organ transplantation

Organ transplantation is a surgical process that requires organs either from a deceased or a living donor, more specifically;

"An organ transplant is a surgical operation in which a failing or damaged organ in the human body is removed and replaced with a functioning one. The donated organ may be from a deceased donor, a living donor, or an animal. In some cases an artificial organ is used. Cadaveric organ donation involves removing organs from a recently deceased donor. Living organ donation involves the donation of one of a paired organ (such as kidneys) or a portion

¹³ Assessment Toolkit for Trafficking in persons for the purpose of organ removal, United Nations Office on Drugs and Crime (UNODC), 2015 pp.24-27

¹⁴ D. A. Budiani-Saberi, F. L. Delmonico, Organ trafficking and transplant tourism: a commentary on the global realities, Am J Transplant, Volume 8(5) (2008), pp. 926.

¹⁵ UN The Commission on Crime Prevention and Criminal Justice Resolution 25/1 *Preventing and combating trafficking in human organs and trafficking in persons for the purpose of organ removal*

¹⁶ General Assembly of the United Nations (Third Committee)

¹⁷ organ; Organ Definition in Biology Dictionary (<https://biologydictionary.net/organ/>)

¹⁸ organ; Organ - Anatomy in Encyclopedia Britannica (<https://www.britannica.com/science/organ-biology>)

of an organ (such as a lobe of the liver or lung). The donor's organ system is still able to function after the donation.”¹⁹

The World Health Organization defines organ transplantation as;

“Organ transplantation is often the only treatment for end state organ failure, such as liver and heart failure. Although end stage renal disease patients can be treated through other renal replacement therapies, kidney transplantation is generally accepted as the best treatment both for quality of life and cost effectiveness. Kidney transplantation is by far the most frequently carried out transplantation globally. The procurement of organs for transplantation involves the removal of organs from the bodies of deceased persons. This removal must follow legal requirements, including the definition of death and consent. Kidney donation by well selected living donors with good health coverage carries negligible risks. This can only be ensured through rigorous selection procedures, careful surgical nephrectomy and follow up of the donor to ensure the optimal management of untoward consequences.”(World Health Organization)²⁰

4.3 Trafficking in human organs, tissues or cells and transplant commercialism (THOTC)

THOTC may be defined as;

“The handling of any human organ, tissue or cell obtained and transacted outside the legal national system for organ transplantation’. The term ‘trafficking in Organs Tissues and Cells (OTC)’ focuses on the trafficking of human body parts deriving from either living or deceased persons (donors). This kind of trafficking has a wide scope: it may occur as buying and selling of organs/tissues from living persons, but also as stealing organs/tissues from deceased persons (at autopsy, in the morgue).²¹

Transplant commercialism is *“a policy or practice in which an organ is treated as a commodity, including by being bought or sold or used for material gain.”²²*

4.4 Trafficking in persons

Trafficking in persons is defined as;

“(a) the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

¹⁹ What is an organ transplantation? Ethics of Organ Transplantation pp.5, Center of Bioethics – University of Minnesota (February 2004) (https://www.ahc.umn.edu/img/assets/26104/Organ_Transplantation.pdf)

²⁰ human organ transplantation; World Health Organization (<https://www.who.int/transplantation/organ/en/>)

²¹ trafficking in human organs, Directorate for External Policies European Parliament (2015) pp.18

(http://www.europarl.europa.eu/RegData/etudes/STUD/2015/549055/EXPO_STU%282015%29549055_EN.pdf)

²² Definitions; Transplant Commercialism, The Declaration of Istanbul on Organ Trafficking and Transplant Tourism (2008) (<http://files.sld.cu/trasplante/files/2010/08/declaracion-estambul.pdf>)

(c) *The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;*

(d) *“Child” shall mean any person under eighteen years of age.”* (Article 3 of the UN Palermo Protocol)²³

4.5 Trafficking in persons for the purpose of organ removal

One could define the previous term as follows;

*“Organ trafficking is the recruitment, transport, transfer, harboring or receipt of living or deceased persons or their organs by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation”*²⁴

4.6 Transplant tourism or travel for transplantation

In accordance with the definition of organ trafficking, transplant tourism is;

*“Travel for transplantation is the movement of organs, donors, recipients or transplant professionals across jurisdictional borders for transplantation purposes. Travel for transplantation becomes transplant tourism if it involves organ trafficking and/or transplant commercialism or if the resources (organs, professionals and transplant centres) devoted to providing transplants to patients from outside a country undermine the country’s ability to provide transplant services for its own population.”*²⁵

4.7 Donor

According to the World Health Organization, a donor is;

*“A deceased or living person from whom at least one solid organ or part of it has been recovered for the purpose of transplantation.”*²⁶

Complementary, a deceased donor is;

“A human being declared, by established medical criteria, to be dead and from whom cells, tissues or organs were recovered for the purpose of transplantation. The possible medical criteria are:

- Deceased Heart Beating Donor (Donor after Brain Death): Is a donor who was declared dead and diagnosed by means of neurological criteria.

*- Deceased Non-Heart Beating Donor (Donor after Cardiac Death) = Non-heart beating donor (NHBD): Is a donor who was declared dead and diagnosed by means of cardio-pulmonary criteria.”*²⁷

²³ Definition of *Trafficking*, The Palermo Protocol art.3 (2006)

(<http://www.kirkleessafeguardingchildren.co.uk/managed/File/Info%20for%20Professionals/2016-01-27%20-%20The%20Palermo%20Protocol%20-%20Definition%20of%20Trafficking.pdf>)

²⁴ Definitions; *Organ Trafficking*, The Declaration of Istanbul on Organ Trafficking and Transplant Tourism (2008) (<http://files.sld.cu/trasplante/files/2010/08/declaracion-estambul.pdf>)

²⁵ Definitions; *Travel for transplantation and transplant tourism*, The Declaration of Istanbul on Organ Trafficking and Transplant Tourism (2008) (<http://files.sld.cu/trasplante/files/2010/08/declaracion-estambul.pdf>)

²⁶ 26. *Donor* Global Glossary of Terms and Definitions on Donation and Transplantation (2009) | WHO (<http://www.who.int/transplantation/activities/GlobalGlossaryonDonationTransplantation.pdf>)

²⁷ 20. *Deceased Donor* Global Glossary of Terms and Definitions on Donation and Transplantation (2009) | WHO

4.8 Recipient

In contrast with a donor, a recipient is defined by the WHO as;
*“The human being into whom allogeneic human cells, tissues or organs were transplanted.”*²⁸

4.9 Supply countries

Organ-exporting or supply countries are those countries *“where organs from local donors are regularly transplanted to foreigners through sale and purchase”*, such as India, Pakistan, China, Nepal, Republic of Moldova, Brazil, Israel, Turkey and others.²⁹

4.10 Demand countries

Organ-importing or demand countries are *“the countries of origin of the patients going overseas to purchase organs for transplantation”*, such as Australia, Canada, Japan, Saudi Arabia the United States of America and others.³⁰

4.11 Waiting list for organ transplants

According to the WHO,
*“The list of candidates registered to receive a human cell, tissue and organ transplant.”*³¹

4.12 Black market

A black market can be described as;

*“Illegal trading of goods that are not allowed to be bought and sold, or that there are not enough of for everyone who wants them.”*³²

4.13 Organized crime and criminal organization

Organized crime is referred as;

*“Organized crime refers to criminal activities which involve large numbers of people and are organized and controlled by a small group.”*³³

and a criminal organization is characterized by the UN Office on Drugs and Crime as;

- *“a group of three or more persons that was not randomly formed;*
- *existing for a period of time;*
- *acting in concert with the aim of committing at least one crime punishable by at least four years' incarceration;*
- *in order to obtain, directly or indirectly, a financial or other material benefit.”*³⁴

²⁸ 59. Recipient Global Glossary of Terms and Definitions on Donation and Transplantation (2009), WHO

²⁹ The organ-exporting countries, Bulletin of the WHO; The state of the international organ trade; a provisional picture based on integration of available information, Yosuke Shimazono (2007-8) (<http://www.who.int/bulletin/volumes/85/12/06-039370/en/>)

³⁰ The organ-importing countries, Bulletin of the WHO; The state of the international organ trade; a provisional picture based on integration of available information, Yosuke Shimazono (2007-8)

³¹ 81. Waiting List (WL) Global Glossary of Terms and Definitions on Donation and Transplantation (2009), WHO

³² black market; The Cambridge Dictionary (<https://dictionary.cambridge.org/dictionary/english/black-market>)

³³ organized crime; definition and meaning Collins Dictionary (<https://www.collinsdictionary.com/dictionary/english/organized-crime>)

³⁴ Transnational Organized Crime, UNODC (<https://www.unodc.org/ropan/en/organized-crime.html>)

5. Historical and Factual background

Organ transplantation is a medical operation that, especially during the past decades, is being performed casually by surgeons worldwide. The most common organ that is being transplanted from either deceased donors or living donors is the kidney³⁵.

Crucial for such successful results after the surgery is the post medical care³⁶, which will be discussed in detail later in this study guide. Transplantations of other organs, such as the liver, the heart, the lungs, the pancreas, the small bowel and others are quite common as well. Living donors may donate, besides a kidney, parts of their lung, their liver or pancreas³⁷. If not, organs are taken for transplantations from cadavers, in accordance with the country's legislation.

5.1 “Opt-out” and “opt-in systems”³⁸

Some countries have obtained legislative frameworks that automatically categorize deceased people as donors, unless there has been a specific request for the contrary³⁹. That is called an *opt-out* system and it has been obtained by countries such as Austria, Chile, Spain and Belgium⁴⁰. Categorizing by default the deceased as donors has proved to result in waiting lists for organ donations to run in a faster pace and that is why the question of obtaining opt-out systems has surfaced⁴¹. Countries that do not have opt-out systems follow the *opt-in* system, in which people have to actively sign up to donate their organs after death, such as Germany, the USA and Greece. There are soft or hard opt-in or opt-out systems.⁴²

5.2 Statistic overview, key characteristics and main questions

According to the Global Observatory of Donation and Transplantation, 135,860 organs were transplanted in 2016 with 89,823 of them being kidneys⁴³. Heart transplantation activities reached the number of 7,626 and liver transplantation activities reached the number of 30,352.⁴⁴

³⁵ Global Observatory of Donation and Transplantation WHO-ONT (<http://www.transplant-observatory.org/>)

³⁶ NHS overview; Kidney Transplant (<https://www.nhs.uk/conditions/kidney-transplant/>)

³⁷ Discovery Health – *Which organs can I donate while I'm living?* (<https://www.sharecare.com/health/organ-transplants-and-health-care/which-organs-donate-while-living>)

³⁸ *Organ donation; is an opt-in or opt-out system better?* by James McIntosh, Medical News Today, September 2014 (<https://www.medicalnewstoday.com/articles/282905.php>)

³⁹ Y. Shimazono, Bulletin of the WHO; The state of the international organ trade; a provisional picture based on integration of available information, 2007-8

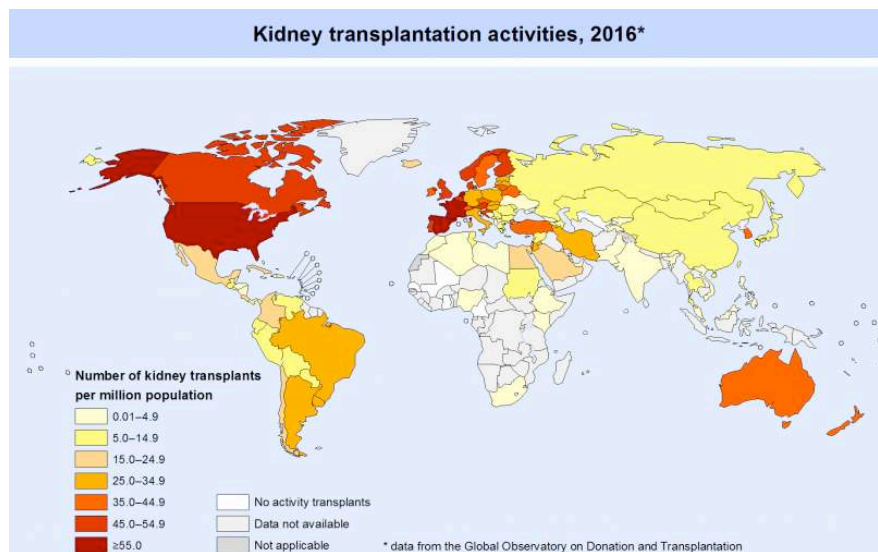
⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Irish Department of Health; Consent for organ donation (<https://health.gov.ie/wp-content/uploads/2014/04/consentoptions.pdf>)

⁴³ Global Observatory of Donation and Transplantation WHO-ONT (<http://www.transplant-observatory.org/>)

⁴⁴ Global Observatory of Donation and Transplantation WHO-ONT (<http://www.transplant-observatory.org/>)



source; Global Observatory on Donation and Transplantation (GODT), WHO-ONT (2016)

The most important and at the same time complex question that arises from this statistic information is; How many of these organs were transplanted in accordance to state legislation and how many of them were the result of international organ trade? Admittedly, activities related to human organ trafficking and the trafficking of persons for the purpose of organ removal include and demand certain characteristics of a rather specific nature that may make it difficult for researchers to identify and tackle the problem⁴⁵.

The transnational aspect of the phenomenon, the unknown and difficult to understand modus operandi of the criminal networks involved, the lack of known experiences of organ sellers, buyers and doctors, the criminal involvement of transplant professionals-such as doc. Yusuf Ercin Sonmez, or commonly known as “Dr. Frankenstein”⁴⁶-, the corruption of hospitals, the manipulation of medical insurers and the very technical nature of certain processes from medical professionals are a few aspects that co-create a mosaic of complexity that demands thorough research, that has yet to reach a safely reliable point⁴⁷.

Documentation started becoming more consistent and detailed just in the 1980s and even more specific and in the field during the 2000s⁴⁸. Some of the first accounts of organ purchases during the ‘80s were identified because there were patients in the Gulf States (USA) that urgently needed medical follow-up care after receiving kidney transplants in India⁴⁹. The past 15 years were the most intense ones when it comes to NGO overviews and reports from a variety of sources. By analyzing media reports, academic research and human rights investigations the information is still rather scarce.

The World Health Organization estimated in 2007 that 5-10% of organ transplants were illegal, that 10% of kidney transplants, more specifically, were a result of transplant tourism and that “every sixty minutes an organ is sold in the black market”.⁵⁰ Information

⁴⁵ Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings “TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings” (2013) pp.10

⁴⁶ P. Lewis, *The doctor at the heart of Kosovo’s organ scandal*, The Guardian (2010) (<https://www.theguardian.com/world/2010/dec/17/kosovo-medicus-organ-clinic>)

⁴⁷ see reference 45

⁴⁸ see reference 45

⁴⁹ Trafficking in Human Organs, Directorate for External Policies European Parliament (2015) pp.11-13

⁵⁰ see reference 39

also shows that 5.000 people sell an organ illegally each year⁵¹. In 2011, the profits of organ trade were estimated from 600 million up to 1.2 billion USD per year⁵². One of the most characteristic examples of the expansion of organ trade worldwide is the “Kidney Village”, the village of Hokshe in Nepal⁵³, where approximately 70 out of the 300 residents have sold their kidney to the black market.

The great gap between the supply and the demand of organs in most waiting lists globally has given a huge push to the black market to spread its dynamic in organ trade as well⁵⁴. The need for organs is quite large, since it has been officially reported that 20 people die each day due to organ shortage and every 10 minutes another person is added to a waiting list for organ transplantation⁵⁵. *“When something isn’t freely available, a black market exists [...] someone will keep living and someone else will earn more cash than they would earn in a year or two of village labor.”*⁵⁶

The first realization that one could make when analyzing information on human trafficking for organ removal and organ trade is that the people involved in removing organs from others and selling them in order to profit take advantage of the most vulnerable and financially deprived people⁵⁷. Poorness and its exploitation is a vital aspect of human organ trafficking⁵⁸. According to a UN Report in 2006, *“the general trend is for the routes of organ trafficking to lead from South to North, from poor to rich- mostly targeting the poor and the vulnerable members of the population.”*⁵⁹

Also, the phenomenon of organ buying and selling is undoubtedly a globally growing situation that has been rapidly expanding for the past 10-15 years, involving both developed and developing countries and every continent⁶⁰. What does Canada and Somalia have in common? It is highly possible that a Canadian citizen has the very same kidney that a Somali refugee may once have had.

6. Discussion of the topic, analysis of the subtopics and recent developments

In this section of the study guide the main aspects of the topic are presented but with more detailed and thorough information, statistics and facts. Since this is the most elaborated part of this present text, most points to be addressed are to be found below.

⁵¹ The Transplantation Society (TTS), Meeting for the President-Elect of TTS (2011)

⁵² Y. Shimazono, Bulletin of the WHO; The state of the international organ trade; a provisional picture based on integration of available information, 2007-8

⁵³ *Nepal’s impoverished kidney village; where organs come cheap*, Francis Wade, TIME Magazine 2014

⁵⁴ see reference 45

⁵⁵ Ibid.

⁵⁶ *Tales from the Organ Trade* (2013) directed by Ric Esther Bienstock

⁵⁷ Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings “TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings” (2013) pp.18

⁵⁸ The Declaration of Istanbul on Organ Trafficking and Transplant Tourism Principles no.6 (2008)

⁵⁹ Preventing, combating and punishing trafficking in human organs, Report of the Secretary General UN Economic and Social Council, paragraph 8 pp.4 (2006)

⁶⁰ Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings “TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings” (2013) pp.18

6.1 The transnational nature of the issue and transplant tourism

As mentioned previously, transplant tourism occurs when human organs are viewed as commodities that travel around the world to serve the buyer. In order to buy an organ there has to be someone that sells such “commodity” and another person who is willing to remove this certain body part⁶¹. Evidently, when human organs become commercialized and require monetary payment, the altruistic nature of medical operations, especially organ transplantations, fails⁶².

The demand for organs that the altruistic systems fail to fulfill is met only with the coexistence of a black market for human organs. The point when a state cannot fulfill the need for organ transplants for its own population is the point where trafficking in persons for the purpose of organ removal and organ trade are connected and transplant tourism via illegal transactions occurs. Transplant tourism is a deeply rooted phenomenon and will be maintained as long as the waiting lists for organ transplants are long and insufficient⁶³.

In other words, people who need urgent medical attention due to either end stages of chronic diseases which lead to multiple organ failure or when they have damaged internal organs, travel to a foreign country to have an organ transplantation. If they follow such path, there are no waiting lists⁶⁴ and they can rely on the lack of strict legislative policies⁶⁵ in certain countries when it comes to organ donation, such as India or Kosovo⁶⁶.

But why is it so evident that transplant tourism and organ trade as a whole are of a transnational nature? Briefly, organ collectors (either referred to as brokers or agents) travel around the world or communicate with people in other countries in order to find suppliers (or donors or victims)⁶⁷. Then, the suppliers travel to another country to get surgery.⁶⁸ At the same time, recipients (or buyers) travel to the country that the operation will take place to meet the supplier –whom they have never met or seen before, most probably⁶⁹. Surgeons travel to this country to perform the transplant as well⁷⁰ (this scheme is better explained in the “Organized criminal networks and the profiles of the people involved” section).

The money the recipient is willing to pay the broker who may or may not pay the supplier and the money that the doctor will get have the same journey as the people involved⁷¹. All of the above requires the communication of the people in the same network that work for the same project but may operate in different parts of the globe so that they collect all the pieces of the puzzle⁷².

It is known for a fact, despite the scarcity of information on the matter, that such incidents have been reported in all continents and in many countries of different profiles⁷³. In short, countries may be separated in three categories- organ-exporting countries (India, Nepal, China, Pakistan, Philippines, Republic of Moldova, Brazil, Turkey, Peru, Iraq, Egypt, Iran

⁶¹ Trafficking in organs in Europe (2003)

⁶² Ibid and personal addition

⁶³ Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings “TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings” (2013) pp.22-23

⁶⁴ United Network for Organ Sharing (US) <https://unos.org/>

⁶⁵ Sean Columb, Excavating the organ trade; An empirical study of trading networks in Cairo, Egypt, 2017-18

⁶⁶ N. Scheper-Hughes, The Global Traffic in Human Organs, Current Anthropology, vol.44,no.2, 2000

⁶⁷ UNODC Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ see reference 65 pp.24

⁷¹ see reference 68

⁷² Ibid.

⁷³ Ibid.

and others), organ-importing countries (USA, Israel⁷⁴, Australia⁷⁵, Canada, Japan, Oman, Saudi Arabia, South Africa and others) and countries in which operations take place (Cyprus, Kosovo, India, South Africa, Ukraine and others)⁷⁶.

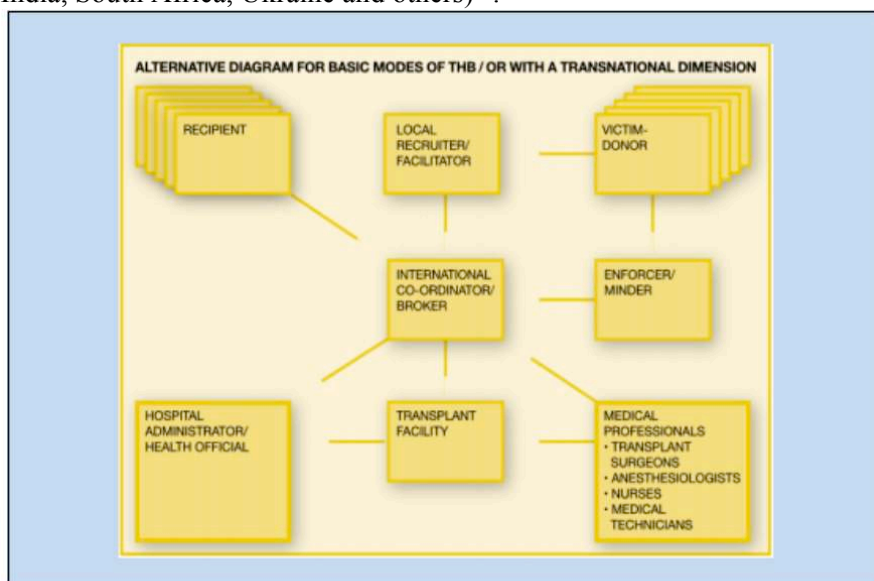
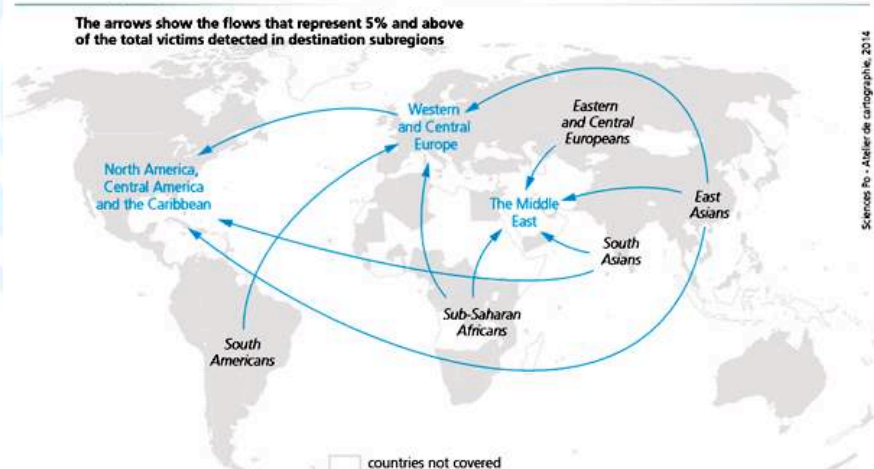


Figure 1: Building on the diagram provided by Shimazono (see figure 2), the OSCE presents this alternative diagram that focuses on the central participants from a law enforcement perspective.⁴⁵

source; UNODC Assessment Toolkit on Trafficking in persons for the purpose of organ removal

MAP 6: Main destination areas of transregional trafficking flows (in blue) and their significant origins, 2010-2012



Source: UNODC.

Note: The boundaries shown on this map do not imply official endorsement or acceptance by the United Nations. Dashed lines represent undetermined boundaries. The dotted line represents approximately the Line of Control in Jammu and Kashmir agreed upon by India and Pakistan. The final status of Jammu and Kashmir has not yet been agreed upon by the parties. The final boundary between the Sudan and South Sudan has not yet been determined.

⁷⁴ V. Shidlo, Organ Trafficking; The Construction of a Social Problem in Israel, 2003

⁷⁵ Organ Trafficking and Organ Transplant Tourism, Joint Standing Committee on Foreign Affairs, Defense and Trade, Law Council of Australia, 2017

⁷⁶ Y. Shimazono, Bulletin of the WHO; The state of the international organ trade; a provisional picture based on integration of available information, 2007-8

6.2 Protecting live donors from coercion, abuse, exploitation, fraud and physical harm and the matter of consent

When discussing about international organ trafficking one should not only focus on counteracting illegal activities and pin-pointing criminal networks. That is of course necessary, but since the issue is a matter that directly affects basic human needs and human rights, the protection of the donors-or more realistically, victims- from coercion, physical or mental abuse and fraud must be of an utterly high importance⁷⁷.

One should bear in mind that information about personal experiences and stories of organ removal from people that have undergone such processes are few and scarce⁷⁸. Apparently, people that have had organs removed (most likely a kidney, since living donors are being referenced) are most likely to never open up and speak about their experience and its consequences⁷⁹. There is a large stigma towards victims of organ trafficking, either because they have been exploited or because they themselves may feel guilty of surpassing the ethical context of donating an organ without monetary payment⁸⁰. Some groups are accompanied with social discrimination in any case, even if they are victims of organ trafficking or not- especially in developing countries where the protection of social vulnerability is not often in the spotlight⁸¹.

Also, law enforcement, doctors or state departments may be very well aware of organ trade operating in a country but due to the corruption of a certain country they may not publish reports or information that could be used by the international community to work on the matter⁸². (note; check the table on page 47 of the OSCE's Paper that you may find several times in the references and bibliography to see the "*Sample victim accounts gathered during research into actual reported cases in the OSCE region*" for your further understanding).

When victims are forced to participate in a criminal act, they lose all chances to express themselves freely and flee the situation⁸³. Trafficking in persons for the purpose of organ removal is a heinous crime that evidently, vulgarly and repeatedly underestimates basic human rights⁸⁴. Recruiting, transporting, transferring and harboring victims for organ removal requires the violation of; the right to non-discrimination, equality before the law and equal protection from the law⁸⁵, the right to life, liberty and security⁸⁶, the right to be free from slavery, servitude and forced labor⁸⁷, the right to freedom from torture or cruel, inhuman or degrading treatment or punishment⁸⁸, the right to health⁸⁹, the right to participation and access to information⁹⁰, the right to an adequate standard of living⁹¹, the right to food⁹², the right to

⁷⁷ Andrijasevic, R. (2014). The Figure of the Trafficked Victim: Gender, Rights and Representation. In M. Evans (Ed.), *The SAGE Handbook of Feminist Theory* (pp. 359-373). SAGE Publications Ltd., University of Bristol

⁷⁸ see reference 45

⁷⁹ R.Rheeder, A global bioethical perspective on organ trafficking; Discrimination, stigmatization and the vulnerable, 2017

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Nancy Scheper-Hughes, *The Global Traffic in Human Organs*, *Current Anthropology*, vol. 41, no.2, April 2000

⁸³ Ibid.

⁸⁴ see reference 45

⁸⁵ Universal Declaration of Human Rights (UDHR), Articles 2,6,8
(http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf)

⁸⁶ Universal Declaration of Human Rights, Articles 3,9

⁸⁷ Universal Declaration of Human Rights, Articles 4

⁸⁸ Universal Declaration of Human Rights, Article 5

⁸⁹ Universal Declaration of Human Rights, Article 25

⁹⁰ International Covenant of Civil and Political Rights (ICCPR), Article 25
(<https://treaties.un.org/doc/publication/unt/volume%20999/volume-999-i-14668-english.pdf>)

⁹¹ Universal Declaration of Human Rights, Articles 22,25

⁹² International Covenant of Economic, Social and Cultural Rights (ICESCR), Articles 2,11,23
(<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>)

justice and access of effective remedy and the right to seek asylum and to be protected from torture and inhuman or degrading treatment^{93,94}.

The suppliers of organs are victimized by the agents or middlemen or brokers that follow the orders of the criminal organization they participate in⁹⁵. Live donors must be thoroughly informed of the possible risks of organ transplantation, the benefits that may arise and the consequences of the whole process⁹⁶. This information should be transferred by people that are in the right and just position to transfer such information in the most detailed but at the same time understandable fashion⁹⁷. They shall not be benefiting from this communication with the donor since that may mean that they would hide certain aspects of the process or change important parts of it to deceive the person that will be operated⁹⁸. The donor should also be a person that is legally competent and capable of understanding and they shall be deciding whether they want to continue to the operation willingly and free from any harmful influence⁹⁹.

Additionally, it is imperative to mention the matter of consent¹⁰⁰. Consent is one of the most essential requirements for a medical intervention in a person's body, especially when it comes to removing an organ¹⁰¹. Consent is needed both when it comes to living or deceased donors¹⁰². However, the way it may be given varies according to a country's legislation¹⁰³. What is evident worldwide though is that when someone has been threatened and exploited via force, coercion, abduction, fraud and deception, abuse of power, vulnerability of a certain position or monetary transactions, the procedure is not a consensual one by any means¹⁰⁴. Superficial consent is utterly irrelevant when the aforementioned have occurred and when value of life and freedom are underestimated¹⁰⁵. In some cases, consent must be expressed in written form or before an official point of contact¹⁰⁶.

6.3 Preventing the removal of organs between vulnerable groups

In the World Health Organization's "Guiding Principles on Human Cell, Tissue and Organ Transplantation" it is clearly stated that the decision to remove an organ must be an honest, well-informed choice, which *"requires full, objective, and locally relevant information and excludes vulnerable persons who are incapable of fulfilling the requirements for voluntary and knowledgeable consent"*¹⁰⁷.

In Article 3 of the Trafficking in Persons Protocol¹⁰⁸ indicates that the *'mere existence of proven vulnerability is not sufficient to support a prosecution that alleges the*

⁹³ Convention against Torture (CAT) – OHCHR, Article 12,13,14
(<https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>)

⁹⁴ Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings "TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings" (2013) pp.45-48

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal, UNODC, 2015, pp.15
(https://www.unodc.org/documents/human-trafficking/2015/UNODC_Assessment_Toolkit_TIP_for_the_Purpose_of_Organ_Removal.pdf)

⁹⁸ see reference 93

⁹⁹ see reference 96

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ World Health Organization, Guiding Principles on human cell, tissue and organ transplantation

*abuse of a position of vulnerability as the means by which a specific 'act' was undertaken. In such cases both the existence of vulnerability and the abuse of that vulnerability must be established by credible evidence.' [...] 'The existence of vulnerability is best assessed on a case-by-case basis, taking into consideration the personal, situational or circumstantial situation of the alleged victim'*¹⁰⁸. This means that a vulnerable person's situation may be easily hidden and their consent may be effortlessly forged by those who operate depending on carefully scripted cover-up stories and corruption¹⁰⁹.

6.3. 1 Impoverished people

This world is full of injustice and inequalities that are more evident through financial differences. International crime takes advantage of people's poverty. Unfortunately, in the crimes of international human organ trade and trafficking persons for the purpose of organ removal, the source for the organs are the indigent, the poor, the vulnerable and the persons who want them are the rich and wealthy who are able to pay 100.000 US dollars for a kidney¹¹⁰.

When a farmer that lives in a dent in a village in Nepal and makes less than 5 USD per one or two weeks is promised to make the money that they would make in one or two years of labor at once, it is highly possible that they will accept¹¹¹. They are tricked into thinking that they are helping a person to live and that they are contributing to an act of solidarity¹¹². However, they are not informed about the ethical and altruistic nature that such donations must have¹¹³. They are also being deceived, since most of the times they are given a lot less money than promised- if not at all¹¹⁴. This way, they are still living in severe poverty and are also left with one kidney, for instance, which puts their health in danger if not taken constant care of¹¹⁵. When health issues occur after the operation, victims suffer in pain and they are not able to work, especially labor jobs, which means that they are left unemployed and desperate for the rest of their lives¹¹⁶. Usually, the profile of impoverished donors is males around 20-40 years old in developing countries that are willing to aid their families and this is one of the few chances they have to do so¹¹⁷.

¹⁰⁸ The Palermo Protocol art.3 (2006)

¹⁰⁹ personal addition as a result of reading the Palermo Protocol

¹¹⁰ CCPCJ, Resolution 25/1, Preventing and combating trafficking in human organs and trafficking persons for the purpose of organ removal

¹¹¹ personal addition

¹¹² Q&A: Organ Trafficking in Nepal, Al Jazeera article, 2016

¹¹³ Ibid.

¹¹⁴ Q&A: Organ Trafficking in Nepal, Al Jazeera article, 2016

(<https://www.aljazeera.com/indepth/features/2016/09/qa-organ-trafficking-nepal-16091111556734.html>)

¹¹⁵ R.Rheeder, A global bioethical perspective on organ trafficking: Discrimination, stigmatization and the vulnerable, 2017

¹¹⁶ Ibid.

¹¹⁷ see reference 43

Table 4. Consequences of paid kidney donation in Egypt, India and the Islamic Republic of Iran

First author	Budiani ⁴³	Goyal ⁴⁴	Zargooshi ⁴⁷
Location	Egypt (N = 142)	India (N = 305)	Iran (N = 300)
Sex	95% male 5% female	29% male 71% female	71% male 29% female
Economic status	Not applicable	• 60% of female and 95% of male worked as labourers or street vendors • 71% were below the poverty line	• 27% unemployed • 42% part-time employed • 13% full-time employed
Effects on health	• 78% reported deterioration in their health status	• 86% reported deterioration in their health status	• 58% reported negative effects on their health status • 60% reported negative effects on their physical activities
Effects on economic / financial status	• 78% spent the money within 5 months of their donation • 73% reported a weakened ability to perform labour-intensive jobs	• Decline in average family income • 96% of donors sold their kidneys to pay off debts and 75% were still in debt at the time of the survey	• Somewhat (20%) to very (66%) negative effects • 65% reported negative effects on their employment status

source; Bulletin of the WHO, Yosuke Shimazono, December 2007

6.3.2 Children

Any person under the age of 18 is considered a child by international law¹¹⁸. When it comes to trafficking in children, for the purpose of organ removal specifically, consenting to an organ transplant is even more insignificant and it is pointless to even refer to it as a possible justification of the act¹¹⁹. According to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography¹²⁰, it is enough for a situation to be considered as child trafficking if the underage victim is being recruited, transferred, transported, harbored or received¹²¹.

The bigger picture does not have to include deception, force or abuse of a position of vulnerability. Of course, when it comes to trafficking for the purpose of organ removal, it is most likely that the latter are included, making such exploitation an even more horrific criminal act. During a UN press interview, it was mentioned that 18,000 Syrian children were victims of organ harvesting in Turkish hospitals, where they were being treated for minor injuries- that has yet to be completely confirmed¹²².

6.3.3 Refugees

One of the most vulnerable groups of the international scene that really does experience the effects of conflict and international dispute, are refugees¹²³. Unfortunately, refugees do fall under the category of the victims of international organ trade, due to the situation that they are found into. Brokers and criminal groups in general that focus on organ trade defend their actions by saying that “simply” taking an organ from someone that is

¹¹⁸ The Palermo Protocol, Article 3 (2006)

¹¹⁹ United Nations Convention on the Rights of the Child (1989)

¹²⁰ UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002) (<https://www.ohchr.org/en/professionalinterest/pages/opscrc.aspx>)

¹²¹ see references 117, 118 and 119

¹²² UN press interview (2014) <https://www.youtube.com/watch?v=RJteT03PrGI>

¹²³ Campana, P. and Varese, F. (2016), ‘Exploitation in Human Trafficking and Smuggling’, European Journal on Criminal Policy and Research, pp.11

fleeing war is a very minimum act in comparison to what they have experienced in a warzone¹²⁴.

For instance, according to a BBC report, a broker in Beirut, Lebanon, states that *"I do exploit people"* and that *"many could easily have died at home in Syria, and that giving up an organ is nothing in comparison to the horrors they have already experienced"*¹²⁵. *"I'm exploiting them,"* he says, *"and they're benefitting."* Refugees that become victims of organ trafficking and have non-vital organs removed (such as a kidney or even an eye) accept such offers because they are aiming to a better life in a country where there is no conflict¹²⁶. If they do not have the means to afford going to a safe country, some of them are willing to do anything to provide for themselves and their families, even if this means one less organ and lower quality of health¹²⁷.

There are a lot of Syrian, Somalian, Eritrean and Sudanese refugees who are trying to get to Europe but they do not have the money to do so and hence, they sell an organ and that pays for their transfer to a European country¹²⁸. They take advantage of "middle" countries, such as Egypt¹²⁹, and their loose legal framework and controlling of such criminal incidents¹³⁰. In a report presented in the European Parliament in 2012 it was stated that African refugees were exploited and were found dead in the Senai desert with their organs missing by corrupt Egyptian doctors¹³¹.

6.3.4 Prisoners

Another group that may easily be exploited are prisoners¹³². Organ removal from prisoners is not a crime that is expanded throughout the world, meaning that there haven't been reports of it in many countries¹³³. It is, however, part of the construction of the aforementioned transnational nature of international organ trafficking¹³⁴. A large number of reports of organ harvesting have been published about the People's Republic of China¹³⁵, making the country become one of the most important case studies when it comes to research of organ harvesting from imprisoned people¹³⁶.

¹²⁴ Ibid.

¹²⁵ A. Forsyth, Meeting an organ trafficker who prays on Syrian refugees, 2017, BBC News

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Excavating the Organ Trade; An empirical study of organ trading networks in Cairo, Egypt, Sean Columb, 2017, The British Journal of Criminology, Oxford Academic (<https://academic.oup.com/bjc/article/57/6/1301/2623947>)

¹²⁹ Ibid.

¹³⁰ Campbell Fraser in a conference at the Chinese Embassy in Rome (2017) (<https://www.youtube.com/watch?v=flhSY0evT0o&t=30s>)

¹³¹ Bauer at the European Parliament (2012) (https://www.youtube.com/watch?v=_Okw-T6JAWM)

¹³² Organ Harvesting in China, Directorate for Internal Policies, European Parliament (2016)

¹³³ addition of the writer derived from research

¹³⁴ see reference 131

¹³⁵ Harvested Alive- 10 Years of Investigations dir. by Jun Li (2017)

https://www.imdb.com/title/tt9033120/?ref_=fn_al_tt_1

¹³⁶ Organ Harvesting in China, Directorate for Internal Policies, European Parliament (2016)

6.4 Substandard medical services and medical complications

One can easily realize that when a medical operation is committed illegally and in secrecy it cannot be of high quality¹³⁷. That has been proven through the surgeries suppliers or victims have had, that have caused a number of irregularities in their health¹³⁸.

In cases that death is not necessary to remove a (vital) organ from someone, still, death may not be avoided¹³⁹. There have been numerous incidents in which victims that underwent surgery could not make it through¹⁴⁰. More specifically, due to the substandard medical services anesthesiologists, surgeons, nephrologists (when it comes to kidney malfunctions and transplants), nurses and other medical staff provide, many medical complications are caused pre-operation, during the operation and post-operation¹⁴¹. Viruses are transmitted to the suppliers due to low quality hospitals, such as the HIV virus or hepatitis B or C¹⁴². Serious diseases may be caused, like AIDS, hypertension, chronic renal disease, diabetes and others¹⁴³.

It should also be mentioned that the medical personnel, from the doctors to the staff, completely underestimate the altruistic and ethical nature organ donation ought to have when committing illegal transplants in hospitals that are not authorized¹⁴⁴. When, in other words, they remove organs from people that have been exploited and have not had the required treatment before going into the surgery room¹⁴⁵.

The actors of health care services are unreliable¹⁴⁶. In detail, hospitals do not necessarily have to be places where illegal operations are performed but in some cases, like in the South African Nectare case¹⁴⁷, they act as the brokers themselves- the suppliers are aware of the illegal medical activity the hospital engages in and they approach the facility. Also, the laboratories that examine urine and blood tests both from the supplier and the recipient to check if they are matching to commit together in, usually a kidney, transplant quite often forge the results and announce “a matching pair” when in reality it is not¹⁴⁸. That may not only cause a failed organ transplant and leave the recipient with the same problems as before the operation but also put the supplier’s life in danger¹⁴⁹.

Finally, the brokers or, in other words, the middlemen seek the success of the deal between the supplier and the recipient by misleading hospital personnel who are unaware of illicit undertakings¹⁵⁰. They come up with carefully scripted cover-up stories to convince that the donation is a purely voluntary act¹⁵¹. They also forge legal documents that prove that the transplantation is between relatives, when in reality the supplier and the recipient have never met each other, and they live in completely different environments and under contradictory circumstances¹⁵².

¹³⁷ Trafficking in Human Organs, Policy Department, European Parliament, 2015 pp.26

¹³⁸ Trafficking in Human Organs, Policy Department, European Parliament, 2015 pp.26

¹³⁹ UNODC Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ see reference 45 pp.53

¹⁴⁴ Caplan, A. L. (2013), ‘It Is Not Morally Acceptable to Buy and Sell Organs for Human Transplantation’, Contemporary Debates in Bioethics

¹⁴⁵ Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal, UNODC (2015) pp.29-32

¹⁴⁶ see references 143 and 144

¹⁴⁷ Allain, J. (2011), ‘Trafficking of Persons for the Removal of Organs and the Admission of Guilt of a South African Hospital -- The State v. Netcare Kwa-Zulu (Pty) Limited’, Medical Law Review

¹⁴⁸ see references 143, 144 and 146

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid. and see reference 45

¹⁵² Ibid.

6.5 The need for physical and mental follow-up care for donors and the consequences of its absence

From the aforementioned it is obvious that the victims or donors are not treated the way a patient is meant to be taken care of. Post surgery follow-up care is vital for the patient's well-being and -when it comes to organ removal- also survival¹⁵³. The victims of criminal networks that are tricked into giving an organ are never sufficiently informed about the consequences such operations usually cause and that there may not be any post medical care¹⁵⁴.

An organ removal, especially when it comes to kidney donations, is presented to them as a medical intervention of great simplicity that shall not be problematic to their health by any means¹⁵⁵. However, *"trafficking for the purpose of organ removal entails life-long health consequences for victims"*¹⁵⁶.

Year by year, donors that have not received the required aftermath care, experience a deterioration of their health and are forced to adjust to a lower quality of life¹⁵⁷. More specifically, they become weaker, feel dizzy, experience pain and suffer from seizures¹⁵⁸. That does not allow them to intensively work labor jobs¹⁵⁹. Victims of organ trade, as mentioned previously, are low class workers and the inability to perform labor jobs is catastrophic for their daily lives and most of the times leads them to an even worse point than the one that they were before agreeing to an organ removal¹⁶⁰. Their levels of self-sufficiency decrease constantly¹⁶¹.

Inevitably, this physical health state goes hand in hand with mental disorders due to the high level of anxiety and depression victims experience after realizing that they have been exploited and that the absence of follow up care caused them insufficiencies that will haunt them till the very end¹⁶². There is a great need of psychological counseling, at least¹⁶³. Solutions for the victims' participation in economic and social activities that will aid them to have a decent quality of life are to be found¹⁶⁴.

6.6 Organized criminal networks and the profiles of the people involved

As stated by the United Nations Office on Drugs and Crime, *"the organized crime is considered to be a changing and flexible phenomenon. Many of the benefits of globalization such as easier and faster communication, movement of finances and international travel, have also created opportunities for transnational organized criminal groups to flourish, diversify and expand their activities. Traditional, territorial-based criminal groups have evolved or have been partially replaced by smaller and more flexible networks with branches across several jurisdictions. In the course of an investigation, victims, suspects, organized criminal*

¹⁵³ UN Commission on Crime Prevention and Criminal Justice Resolution 25/1 *Preventing and combating trafficking in human organs and trafficking in persons for the purpose of organ removal* | perambulatory clauses

¹⁵⁴ see reference 45 pp.53

¹⁵⁵ see reference 45

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Living with one kidney, Kidney Research UK (<https://www.kidneyresearchuk.org/health-information/living-with-one-kidney>)

¹⁶² Pascalev, Yankov et.al, Protection of Human Beings Trafficked for the purpose of Organ Removal: Recommendations, Transplantation Direct, 2016 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4946495/>

¹⁶³ Ibid.

¹⁶⁴ Ibid.

groups and proceeds of crime may be located in many States. Moreover, organized crime affects all States, whether as countries of supply, transit or demand."¹⁶⁵

International organ trade and trafficking in persons for the purpose of organ removal are a significant form of transnational organized crime¹⁶⁶. Identifying and tracking down the modus operandi of criminal networks associated with organ or human being trafficking for organ harboring is a process of great complexity¹⁶⁷.

However, mainly through the analysis of academic research and media reports, transnational organ trade could be characterized as "*well-organized and extremely mobile*"¹⁶⁸. A number of actors operating in coordination allow criminal networks to become successful¹⁶⁹. One role within the network completes the other and each step follows the previous one organically¹⁷⁰. In order for a criminal network to be "successful", there has to be coercion, fraud and exploitation against marginalized and vulnerable groups of the international community that are desperate to alleviate their poverty and accept to having an organ removed (note that such incidents are reported in relation to kidney removal)¹⁷¹. Then, the recipient in desperate need of an organ transplant is connected with the supplier via the network and finally, with the participation of travel agents, private hotels, private hospitals and medical professionals, the supplier and recipient travel to the country where the operation will take place and "exchange" the fulfillment of their needs- money for the first and extension of livelihood for the second¹⁷². It should be once again stated that the victims don't always get the fee they were promised by the brokers¹⁷³. Moreover, a characteristic of contemporary criminal groups is that there is not a clear division of tasks and responsibilities for each member¹⁷⁴. There are different roles, of course, but sometimes there is an overlap of responsibilities. Furthermore, some members have multiple roles in the group¹⁷⁵.

The participants of the organized criminal networks in organ trade are;

- a. **The international coordinators/brokers**, who are the establishers of the network and are the ones who decide upon strategic agreements¹⁷⁶. Otherwise referred to as "middlemen", they are the ones who are in immediate contact with the recipient and negotiate the recipient's payments to the network¹⁷⁷. Those payments will later be distributed to the members of the network (brokers, recruiters), to the medical professionals and *maybe* to the supplier¹⁷⁸.

¹⁶⁵ Organized crime, UNODC (<https://www.unodc.org/unodc/en/organized-crime/intro.html>)

¹⁶⁶ UN Convention against Transnational Organized Crime and the Protocols Thereto, UNODC, 2004

¹⁶⁷ Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings "TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings" (2013) pp.27

¹⁶⁸ Ibid.

¹⁶⁹ UNODC Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal

¹⁷⁰ Bruinsma, G. and Bernasco, W. (2004), 'Criminal Groups and Transnational Illegal Markets', Crime, Law and Social Change

¹⁷¹ *Preventing and combating trafficking of human organs and trafficking in persons for the purpose of organ removal*, Resolution 25/1, CCPCJ, 2016

¹⁷³ S. Pokharel, Nepal's Organ Trail; How traffickers steal kidneys, CNN, 2015

(<https://edition.cnn.com/2014/06/26/world/asia/freedom-project-nepals-organ-trail/index.html>)

¹⁷⁴ see reference 168

¹⁷⁵ Analyzing the Business Model of Trafficking in Human Beings to Better Prevent the Crime, OSCE, UN.GIFT (2010)

¹⁷⁶ see reference 168

¹⁷⁷ Trafficking in Organs in Europe, Social, Health and Family Affairs Committee, Parliamentary Assembly, 2003

¹⁷⁸ Declaration of Istanbul on Organ Trafficking and Transplant Tourism, para.6, 2008

- b. **The local recruiters**, who are assigned the task of finding victims¹⁷⁹. They persuade them that by giving an organ they will fix their financial and social problems¹⁸⁰. In order to do so, they hide information about the whole process and make sure that the supplier or victim will stick to the decision of “donating” until the operation takes place, while always counting on the desperate need of a better life the victims have¹⁸¹. Usually, they are nationals of the country in which they “harbor” in¹⁸². Interestingly enough, findings have shown that a large number of recruiters were once victims of organ trafficking themselves¹⁸³. They can also be easily replaceable¹⁸⁴.
- c. **The medical professionals**, who may be surgeons, anesthesiologists and nephrologists¹⁸⁵. They originate from different countries¹⁸⁶. To aid the doctors, the involvement of nurses and other medical staff is mandatory¹⁸⁷. They ignore the altruistic and ethical character that organ transplantation must have¹⁸⁸. They overlook the scripted cover-up stories that the suppliers elaborately say with the help of the recruiters in order to move on to the transplant (they usually state that they are family members of the recipient¹⁸⁹ and that they are not receiving any monetary payment¹⁹⁰). The surgeons continue with the operation and usually make large sums of money and gain publicity in their sector¹⁹¹. Doctors that have been questioned about disregarding the ethical and altruistic nature of medicine have denied doing so¹⁹².
- d. **The medical facilities** in which the transplant takes place have a principal role in the whole project¹⁹³. Medical facilities are also the places where the supplier and recipient get matched via blood and urine tests¹⁹⁴. The administrative staff of these facilities are involved in the publishing of illicit licenses and authorizations- such as, licensing medical personnel, licensing for the specific purpose of the organ transplant, licensing of the medical facilities and approving the organ transplants¹⁹⁵.

Additionally, there are also the enforcers, the minders, the drivers and the translators who are responsible of more minor tasks that are, at the same time, rather necessary for the whole process¹⁹⁶. All of these actors negotiate and cooperate across borders, they bring people

¹⁷⁹ see reference 45

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid.

¹⁸³ Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings “TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF ORGAN REMOVAL IN THE OSCE REGION: Analysis and Findings” (2013) pp.30

¹⁸⁴ UNODC Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal pp.40-45

¹⁸⁵ see references 182 and 183

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Guiding Principle 7, WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation

¹⁸⁹ Guiding Principle 3, WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation

¹⁹⁰ Guiding Principle 5, WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation

¹⁹¹ see references 182 and 183

¹⁹² Doctors banned from brokering transplants, The China Post, 2006

¹⁹³ K. Connolly, Mass donor organ fraud shakes Germany, The Guardian, 2013

¹⁹⁴ See reference 190

¹⁹⁵ see reference 94

¹⁹⁶ Ibid.

together who live miles away from each other¹⁹⁷ in the most “binding” way possible- the one gives their organ to the other.

Consequently, one needs to underline the fact that there are small regional operations, medium sub-regional operations and large trans-regional operations that participate in organ trafficking and trafficking in persons for the purpose of organ removal¹⁹⁸.

It is clear that the more transnational organized crime becomes, the distribution of people and their organs throughout the world becomes more and more severe and difficult to hunt down¹⁹⁹. There is a great demand of international cooperation in order to trace the footprints of the organ trade in all of these countries it operates in²⁰⁰. Reports and information²⁰¹ about all of the actors in criminal networks and detailed understanding of their exact activity have not yet reached the hands of the ones that are going to alleviate them²⁰². It is a matter of the globalized and post-modern era that requires new and advanced means in order for it to belong in the past²⁰³.

According to the United Nations’ Office on Drugs and Crimes, *“If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means. If the enemies of progress and human rights seek to exploit the openness and opportunities of globalization for their purposes, then we must exploit those very same factors to defend human rights and defeat the forces of crime, corruption and trafficking in human beings”*.²⁰⁴

¹⁹⁷ UN Convention against Transnational Organized Crime and the Protocols Thereto, UNODC, 2004

¹⁹⁸ UNODC Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal pp.40-45

¹⁹⁹ General Assembly adopts text including on human organ trafficking prevention, GA Plenary 96th Meeting (2017) <https://www.un.org/press/en/2017/ga11938.doc.htm>

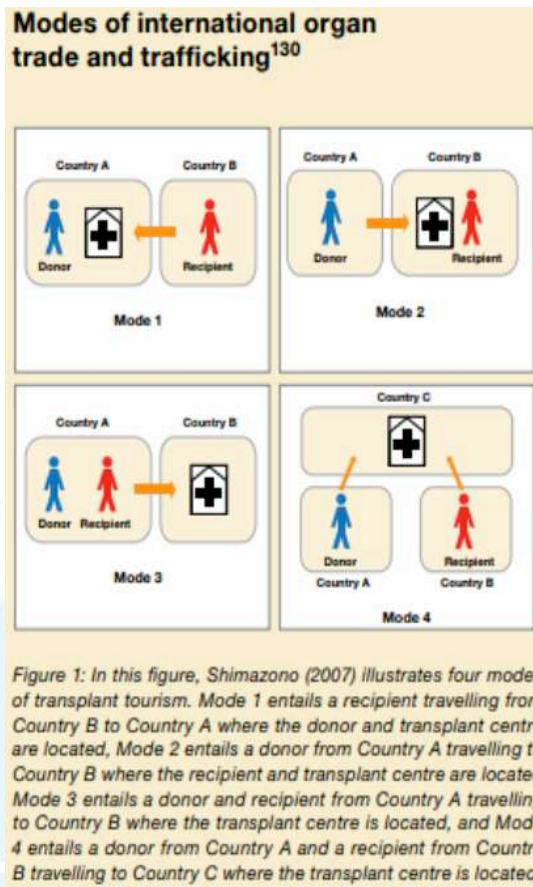
²⁰⁰ Preventing, combating and punishing trafficking in human organs, Resolution 2004/22, ECOSOC

²⁰¹ J.Bindel, Organ Trafficking; A deadly trade, The Guardian, 2013

²⁰² see reference 198

²⁰³ Ibid.

²⁰⁴ Sean Columb, Excavating the organ trade; An empirical study of trading networks in Cairo, Egypt, 2017-18



source; Shimazono for WHO (2007)

7. Case Studies

In sections 7.1 and 7.2 two of the most important case studies on the topic are presented. The first one took place in Europe and the second one in Asia, helping you to understand the differences and the similarities of the matter in different parts of the world and thus comprehend its transnational nature.

7.1 The Medicus Clinic

The Medicus Clinic case is considered to be the largest prosecuted case in the field of illicit organ transplantations to date²⁰⁵. The clinic is located in Pristina, Kosovo²⁰⁶. The Republic of Kosovo is the second poorest country in Europe with high percentages of impoverished citizens who are unemployed and live under horrible circumstances²⁰⁷.

In 2008, there was an inexplicably large number of arrivals in Pristina, which was noticed by immigration authorities. The supposed reason of the arrivals was the treatment of heart diseases with invitations signed by the Medicus Clinic, which-oddly enough- is not specialized in heart malfunctions²⁰⁸. In addition, a 23 year old man collapsed in front of

²⁰⁵ UNODC Assessment Toolkit on Trafficking in Persons for the Purpose of Organ Removal pp.32

²⁰⁶ E. Albaran, D. Santos, L. Salamaca, The "Medicus Case"; Organ Trafficking Network in Kosovo, The Global Observatory of Transnational Criminal Networks, No.14, 2017

²⁰⁷ Kosovo, CIA World Factbook (<https://www.cia.gov/library/publications/the-world-factbook/geos/kv.html>)

²⁰⁸ Trafficking in Human Organs, Policy Department, European Parliament, 2015 pp.38

authorities at the airport of Pristina in November of 2008 before boarding. Investigators raised his shirt and found a fresh scar in his abdomen²⁰⁹.

After this incident, the Medicus Clinic was suspected for participating in criminal networks that organized illicit kidney removals and transplantations; investigations were intensively initiated. During authority examinations, three men with letters from the clinic in their baggage were arrested at the airport²¹⁰. The first was an Israeli man (Moshe Harel) who was a broker committing an organ transplantation crime²¹¹. The second was a Turkish man who was the organ supplier and the third one was the brother of the recipient. It was evident, after his questioning, that the supplier was in an extremely poor health condition and he confessed in having his kidney removed²¹².

After this confession, local police raided Medicus Clinic and found out that the recipient of the kidney removed from the Turkish man was present there²¹³. The arrest of the director and the owner of the clinic followed up. The documents in the computers were now in the hands of the local police²¹⁴. The United Nations Interim Administration Mission in Kosovo (UNMIK) started to carry out the investigations from that point after²¹⁵.

It was discovered that in 2005 the owner of the Medicus Clinic, an urologist called Lutfi Dervishi²¹⁶, had contacted Turkey and started setting up a criminal network specialized in illicit organ transplantations²¹⁷. For this to be possible, a Turkish doctor, Yusuf Sonmez²¹⁸ was illegally granted a license to perform operations in Pristina by the Ministry of Health in 2008²¹⁹. It should be noted that Kosovo health law prohibits organ transplants²²⁰. He was allegedly flying to Kosovo frequently and had performed around 3,000 organ transplants between unrelated suppliers and recipients²²¹.

Confirming the transnational nature of such criminal acts, there were at least 24 foreign kidney suppliers recruited in 2008²²². Their countries of origin were Israel, Russia, Ukraine, Kazakhstan and Belarus²²³. One supplier testified that he got involved in kidney donation after seeing related advertisements in Russia²²⁴. On the other side of the spectrum, the recipients who were the matches of the suppliers originated from Ukraine, Israel, Poland, Turkey, Canada and Germany²²⁵. It was mandatory for the suppliers to sign a contract that reassured that the donation of their kidney is purely voluntary and altruistic and that their kidney is being donated to a relative or a stranger, without payment²²⁶.

²⁰⁹ Ibid.

²¹⁰ see reference 127

²¹¹ Moshe Harel, Interpol (<https://www.interpol.int/notice/search/wanted/2010-39875>)

²¹² see reference 128

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ United Nations Mission in Kosovo (UNMIK) (<https://unmik.unmissions.org/>)

²¹⁶ Agence France-Presse in Pristina, Two Kosovan doctors jailed for selling harvested kidneys, The Guardian, May 2018

²¹⁷ see reference 128

²¹⁸ see reference 39

²¹⁹ see reference 127

²²⁰ Republic of Kosovo, Law No.04/L-125

(<https://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Health.pdf>)

²²¹ see reference 127

²²² see references 127, 128, 130

²²³ Ibid.

²²⁴ A. Burkov, Russia's Unknown, Unwilling Organ Donors, The Moscow Times, 2014

²²⁵ see references 127, 128, 130

²²⁶ Ibid.

They were given very little time to examine the contract²²⁷. Also, the rehabilitation of the donors after the removal of their kidneys lasted only 4-5 days and they were sent back to their countries²²⁸. The promised payment of the suppliers was 30,000 USD but, apparently, only some suppliers received part of this monetary amount and others received no money whatsoever. On the other hand, the recipients had to pay around 108, 000 USD to have a kidney transplanted. They were escorted to Pristina via Istanbul and had to pay in advance or in cash at their arrival at the clinic²²⁹.

“The victims were transported by means of threat or use of force or other forms of coercion, by fraud or deception, by the abuse of power or use of the donor victims positions of vulnerability, or by giving or receiving of payments or benefits to achieve the consent of those persons for the removal of their organs (kidneys), for the purpose of the exploitation of the donor victims”, states the lead prosecutor of the Medicus Clinic case²³⁰. The Special Prosecution Office charged seven persons for participating in the illicit kidney transplantations in Pristina in 2010.

One of these seven was a government official who was charged of trafficking in persons, participation in organized crime, unlawful exercise of medical activity, abusing official position or authority, grievous bodily harm, fraud and falsifying of official documents²³¹. Subsequently, in April 2013, five of the seven who were accused were convicted²³². One of them was Lutfi Dervishi, the clinic owner, who was sentenced up to eight years in prison and was charged a 10,000 EUR fine. He was found guilty of unlawful medical practice. Sonmez and Harel were acquitted but since 2010 they have been subjects of an International Wanted Notice of Interpol. Finally, in 2012, Harel was arrested in Israel and was accused of various organ trafficking acts. Medicus Clinic shut down after this scandal²³³.



Lutfi Dervishi



Moshe Harel



Yusuf Sonmez

7.2 Organ trafficking in People's Republic of China

China is the Mecca of illicit organ transplantations in all of Asia and the second country worldwide in the field²³⁴. Transplantations in the country have begun since the 1960s²³⁵.

²²⁷ Inhuman treatment of people and illicit trafficking of human organs in Kosovo, Committee on Legal Affairs and Human Rights, Parliamentary Assembly

(https://assembly.coe.int/CommitteeDocs/2010/20101218_ajdoc462010provamended.pdf)

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid. and E. Peci, Kosovo Prosecutor Demands New Organ-Trafficking Charges, Balkan Transitional Justice, March 2013 (<http://www.balkaninsight.com/en/article/indictment-to-be-extended-in-organ-trafficking-medicus-case>)

²³¹ see reference 130

²³² Medicus; Five guilty in Kosovo human organ trade case, BBC News, April 2013

²³³ see reference 130

²³⁴ Organ Harvesting in China, Economic and Scientific Policy, Policy Department, European Parliament, 2016 ([http://www.europarl.europa.eu/RegData/etudes/STUD/2016/542201/IPOL_STU\(2016\)542201_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/542201/IPOL_STU(2016)542201_EN.pdf))

²³⁵ J. Huang, Y. Mao, M. Mills, Government Policy and Organ Transplantation in China, The Lancet, vol.372, issue 9564, December 2008 ([https://www.thelancet.com/article/S0140-6736\(08\)61359-8/abstract](https://www.thelancet.com/article/S0140-6736(08)61359-8/abstract))

There was no organ donation system in the country before 2010. It is estimated that, before 2010, there were 120,000 organs transplanted in China but at the same time only 130 deceased organ donations²³⁶. According to the World Health Organization, there were 12,000 kidney and liver transplants in 2005²³⁷.

Where were all these organs taken from if not from deceased patients who agreed on donating? The answer is from inmates in state prisons²³⁸. Statements of Chinese doctors and prison guards have proved that *“the Chinese state systematically takes kidneys, corneas, liver tissue and heart valves from executed prisoners”*²³⁹. The Human Rights Asia report of 1995 and Amnesty International confirm that organs are harvested from 2,000 prisoners per year, a number which grows in accordance with the demand of organs²⁴⁰.

The number of inmate executions in 1996 was 4,367²⁴¹. Organ removing from executed prisoners without their consent was legal from 1984 to 2015²⁴². The fact that organ harvesting from prisoners was banned in 2015 does not mean that the situation will come to an end, analysts say. There is a great absence of prisoners' rights, the arbitrary power of prison authorities, the lack of access to medical care and lawyers, the lack of investigative power in cases of abuse and general widespread corruption in Chinese prisons- this situation indicates that organ harvesting is still a reality²⁴³.

There are three ways that organs may be extracted from prisoners;

- Prisoners may be sentenced to death and then executed. This situation has been going on in China for years but it was admitted by the Chinese state just in 2005. Supposedly, death-row prisoners are allowed to “voluntarily” donate their organs after death. That is against international ethical standards but Chinese officials state that prisoners are citizens too and that law shall not deprive them from their right to donate their organs. This showcases that after 2015, the exploitation of prisoners via organ harvesting has put on the mask of “voluntary citizen donations” and is still going strong²⁴⁴.
- Prisoners may be sentenced to death but have their organs harvested before death. This gruesome practice has been going for many decades in China. There are reports from the 1970s during which military officials wanted high quality organs. In order for high quality organs to get transplanted they need to be extracted from a living organism. Doctors have testified that they had to extract livers and kidneys from still-living bodies²⁴⁵.
- Prisoners of conscience that have not consented in any donations have their organs removed. Particularly, religious minorities, such as Falun Gong²⁴⁶, Tibetan Buddhists and Uighur Muslims are the main targets of the heinous organ removals²⁴⁷.

²³⁶ see reference 156

²³⁷ Y. Shimazono, Bulletin of the WHO; The state of the international organ trade; a provisional picture based on integration of available information, 2007-8

²³⁸ Nancy Scheper-Hughes, The Global Traffic in Human Organs, Current Anthropology, vol. 41, no.2, April 2000

²³⁹ Ibid.

²⁴⁰ see reference 156

²⁴¹ see reference 160

²⁴² see reference 156

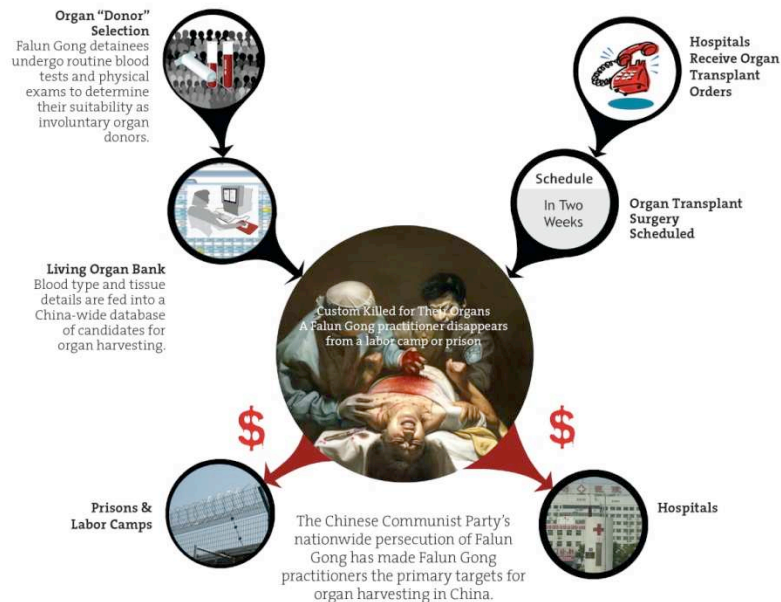
²⁴³ Ibid.

²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ E. Ochab, Organ Harvesting in China and the many Questions to be Answered, Forbes, October 2018 (<https://www.forbes.com/sites/ewelinaochab/2018/10/16/organ-harvesting-in-china-and-the-many-questions/#2c67f9614542>)

Organ Harvesting



source: The International Coalition to End Organ Pillaging in China

Who are the recipients of the organs harvested from executed Chinese prisoners? Some of the organs are meant for politically distinguished Chinese. Other organs are sold to patients in Hong Kong, Singapore, Taiwan, Japan and other Asian countries, who are willing to pay around 30,000 USD for an organ²⁴⁸.

In 1997, a Japanese broker confessed in participating in an organ harvesting network. All of his clients returned to Japan with new healthy kidneys taken from prisoners in China²⁴⁹. People in need of organ transplants who cannot afford to go to the West to have the (illicit) operations go to China and have a prisoner's organ transplanted in their bodies²⁵⁰.

Organ harvesting in Chinese prisons has been called "body theft", it is a bioethical scandal, a horrendous crime, an evident violation of human rights, a violation of international medical ethics and an act of dehumanization of prisoners²⁵¹. There is a need of political and legal reform²⁵². The international community ought to focus on the matter and cooperate with the Chinese state to put an end to this criminal situation.

²⁴⁷ see reference 156

²⁴⁸ see reference 160

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ T. Piccone, China's Long Game on Human Rights at the United Nations, Foreign Policy, Brookings, September 2018 (https://www.brookings.edu/wp-content/uploads/2018/09/FP_20181009_china_human_rights.pdf)

²⁵² F. Delmonico, J. Chapman et.al, Open Letter to Xi Jinping, President of the People's Republic of China; China's Fight Against Corruption in Organ Transplantation, Transplantation, vol.97, issue 8, pp.795-6, April 2014 (https://journals.lww.com/transplantjournal/FullText/2014/04270/Open_Letter_to_Xi_Jinping,_President_of_the.3.aspx)

8. Legal Framework

For an ameliorated understanding of trafficking in persons, trafficking in organs and organ removal the following legal papers are being presented.

- ECOSOC Resolution 2004/22 *Preventing and combating trafficking in human organs*²⁵³
- UN Commission on Crime Prevention and Criminal Justice Resolution 25/1 *Preventing and combating trafficking in human organs and trafficking in persons for the purpose of organ removal* (2016)²⁵⁴
- United Nations Protocol to prevent, suppress and punish trafficking in persons, especially women and children (2000)²⁵⁵
- World Health Organization | Guiding Principles on human cell, tissue and organ transplantation (2010)²⁵⁶
- United Nations General Assembly | Global Plan on combating trafficking in persons (2017)²⁵⁷
- World Health Organization Resolution WHA57.18 (2004) *Human organ and tissue transplantation*²⁵⁸
- The human organs and tissue transplantation Act of 1994, India²⁵⁹
- Declaration of Istanbul on organ trafficking and transplant tourism (2008)²⁶⁰
- Consensus Statement of the Amsterdam Forum on the care of the living donor (2004)²⁶¹
- Council of Europe Convention against trafficking in human organs (2015)²⁶²
- United Nations General Assembly | Resolution S-21/2 *Key actions for the further implementation of the Programme of Action of the International Conference on Population and Development* (1999)²⁶³
- United Nations Convention on the Rights of the Child (1989)²⁶⁴

²⁵³ un.org (2004), Documents [online] Available at; <http://www.un.org/en/ecosoc/docs/2004/resolution%202004-22.pdf>

²⁵⁴ unodc.org (2016), Treaties [online] Available at; https://www.unodc.org/unodc/en/commissions/CCPCJ/Resolutions_Decisions/Resolutions_2010-2019.html

²⁵⁵ osce.org (2000), Documents by the OSCE decision-making bodies [online] Available at; <https://www.osce.org/odihr/19223?download=true>

²⁵⁶ who.int (2010), Documents [online] Available at; https://www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf

²⁵⁷ un.org (2017), Documents [online] Available at; <https://www.un.org/pga/72/wp-content/uploads/sites/51/2017/09/Global-Plan-of-Action-to-Combat-Trafficking.compressed.pdf>

²⁵⁸ who.int (2004), Documents [online] Available at; <https://www.who.int/transplantation/wha/en/>

²⁵⁹ health.bih.nic.in (1994), Rules [online] Available at; <http://www.health.bih.nic.in/Rules/THOA-1994.pdf>

²⁶⁰ declarationofistanbul.org (2008), [online] Available at; <http://www.declarationofistanbul.org/>

²⁶¹ who.int (2004), Publications [online] Available at; <https://www.who.int/transplantation/publications/ConsensusStatementShort.pdf>

²⁶² edqm.eu (2015), Documents [online] Available at; https://www.edqm.eu/sites/default/files/convention-trafficking_human_organs-march2015.pdf

²⁶³ un.org (1999), Documents [online] Available at; <http://www.un.org/documents/ga/res/21sp/a21spr02.htm>

- United Nations Convention against transnational organized crime and the Protocols Thereto United Nations Office on Drugs and Crime (2004)²⁶⁵

9. Conclusion

Trafficking in human organs and trafficking in persons for the purpose of organ removal are not just two regular crimes for those who are to prevent and combat them. More intricately and precisely, they constitute of a general situation that describes the last decades. The more advanced human rights protection is, the more elaborated the means to violate it are going to be. Selling human organs and trafficking in persons to harvest their organs is a scheme of rather high complexity, brutality and dispersion.

What is utterly intriguing about it is that no one could ever be certain that they are never to get affected by it. Anyone could be in desperate need for either an organ or money. Survival is one of the main instincts of human beings and as we live in a more globalized and complicated world, the word “survival” acquires new meanings and means. This fusion of people from different countries, classes, social backgrounds, age, gender and so on, that globalization both creates and calls for is manifested via organized crime and its illicit activities. We live in an era where an illegal kidney transplant is what shall bring people together. Organized crime is becoming more and more global and that constitutes of a possible threat for each and everyone on this planet.

An illicit organ transplant could be the reason for a life to be destroyed. It may result in terrible health conditions, inability to work, social stigma, further desperation and mental disorders. It usually scars the already “scarred” of this world and their families. It shatters villages and societies and it enhances the differences between international citizens.

There is a long way to go in order for the United Nations and other international actors to say that the matter is being combated. Organ trade is now targeted by those who aspire to prevent it but, evidently enough, it is still unhampered. There is an urgent call for further investigations and research, for the protection and follow-up care of those already struck by the crime, for the punishment of criminals, for the tackling of criminal organizations, for the enhancement of legal frameworks and maybe then, consequently, international organ trade will come to an end.

10. Points to be addressed

1. How can the commercialization and purchase of human organs be tackled and instead how can altruistic and ethical means of organ donating become the only means of giving and receiving an organ?
2. How may the problem of organ shortage get solved?
3. What are the ways to raise awareness among target groups and prevent their further exploitation?

²⁶⁴ ohchr.org (1989), Documents [online] Available at:
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

²⁶⁵ unodc.org (2004), Treaties [online] Available at:
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4. How can the protection of the victims be ensured?
5. How can follow-up medical care (physical, mental) of the suppliers be ensured?
6. By what means may the participation of victims in the economic and social sphere be ensured after an organ removal?
7. In what ways may victims that cannot work due to medical malfunctions after illegal organ transplants live decently?
8. How can the liability of legal persons (i.e. hospitals, doctors) be established?
9. In what way may organ removal from children be combated?
10. In what way may organ removal from refugees be combated?
11. In what way may organ removal from prisoners be combated?
12. How will organized criminal networks be targeted and how will their illicit actions end?
13. In what ways legal frameworks on organ trade and trafficking in persons for organ removal be updated and enhanced?
14. How could the strengthening of local, regional and international cooperation be achieved?
15. How can the United Nations counteract trafficking in human organs and trafficking in persons for the purpose of organ removal?

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Declaration of Istanbul on Organ Trafficking and Transplant Tourism, para.6, 2008
declarationofistanbul.org (2008), [online] Available at;
<http://www.declarationofistanbul.org/>

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(<http://www.kirkleessafeguardingchildren.co.uk/managed/File/Info%20for%20Professionals/2016-01-27%20-%20The%20Palermo%20Protocol%20-%20Definition%20of%20Trafficking.pdf>)

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