

**Forum:** *Human Rights Council (HRC)*

**Issue:** *Addressing the issue of illicit organ trade*

**Student Officer:** *Kitty Tseng*

**Position:** *Deputy President*

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## Introduction

Once a medical curiosity, organ transplantation is now a common medical intervention for organ failure. According to the World Health Organization, (WHO), more than 90 countries practice organ transplantation, performing more than 127,000 transplants in 2017 with organs from both deceased and living donors. Unfortunately, the discrepancy between patients awaiting transplantation and organ availability remains ubiquitous across the globe. Despite endeavors to boost organ donations, the shortage of organs fueled the development of an illicit organ trade, where organs and tissues are commercialized for the purpose of transplantation. According to the United Nations Global Initiative to Fight Human Trafficking (UN GIFT), organs are harvested illegally in one of three ways: victims give up an organ due to coercion and undue pressure, recipient deceive victims with a dubious offer of money, and physicians remove organs without the victim's consent, often as a means of treating a disease that may or may not be of a legitimate concern.

Today, illicit organ trade continues to ravage victims of vulnerable or impoverished populations. Despite its prohibition by national laws in conjunction with multiple internationally-recognized protocols and conventions, the international organ trade continues to feed upon the increasing demand for organs and rapidly growing world population. As one of the most lucrative commercial industries today, the growing international organ trade the international community has long expressed its concern for. Despite ongoing measures to strengthen laws, protect vulnerable victims, and regulate the growth of the illicit organ trade market, solutions have yet to be found.

## Definition of Key Terms

### Anatomical Gift

An anatomical gift refers to directing all or a part of the human body for the intent of transplantation, research, and education purposes.

### **Informed Consent Policy**

The Informed Consent Policy, also known as the Opt-In Policy, states that organ donation only happens on the basis of an informed consent from the family or a voluntary decision of the potential donor.

### **Living Non-Related Donation (LNRD)**

Living Non-Related Donations are donations of human organs from living donors who are unrelated to the recipient. Iran is the only country who has legalized LNRD kidney donations.

### **Presumed Consent Policy**

The Presumed Consent Policy, otherwise known as the Opt-Out Policy, is an involuntary system whereby individuals will be registered as organ donors unless they explicitly refused to donate their organs before their death. Nonetheless, some countries still require the permission of family members in the event of their death.

### **Transplant Tourism**

Transplant tourism refers to the phenomenon where patients travel across national borders to undergo organ transplantation. In conjunction with the General Agreement of Trade in Service (GATS), it is up to the government's discretion to trade health services as a means of achieving nationwide health improvement policies. Transplant tourism is the most common way of trading organs across borders.

### **Organ Trafficking**

Organ trafficking refers to the harboring of living or deceased persons for their organs by means of threat or force. However, organ trafficking remains a persistent concern for many legislations as it is difficult to regulate due to the extent of worldwide black markets for human organs.

### **Organ Trade**

Organ trade is the acquisition of healthy organs and tissues for the purpose of transplantation. The legal extent of organ commerce, however, varies amongst countries: some countries pursue effective regulations and restrictions, while others ban organ commercialism by legislation.

### **Xenotransplantation**

The development of xenotransplantation— the transplantation of organs, tissues, and cells from one species to another— is driven by the shortage of human organs for transplantation. As xenografts organs from a non-human species are transplanted into a human recipient, subsequent infection and risks are put at stake.

## Background Information

### Different Forms of Trafficking in Organs

‘Trafficking in organs’ encompasses a range of illicit activities with the intent of commercializing human organs used for therapeutic transplantation. As the discrepancy between patients awaiting transplantation and organ availability increases year by year, illicit forms of trafficking in organs continues to ravage countries across the world. Potential sources include live donors, deceased donors, and executed prisoners.

#### *Trafficking in Organs, Tissues, and Cells (OTC)*

Defined as “The handling of any human organ, tissue or cell obtained and transacted outside the legal national system for organ transplantation”, OTC focuses on the procurement of human organs from alive or deceased donors. Whether through buying and selling organs from a living patient or stealing organs from a deceased corpse— normally amidst autopsy or before entering a morgue. This form of trafficking falls in neither the definition present in the UN Palermo Protocol nor the scope of trafficking of persons (THB). However, many argue that the buying and selling in OTC implies an act of gaining profit from human body parts, deeming it illegal under the international convention and respective national transplant legislation, if applicable.

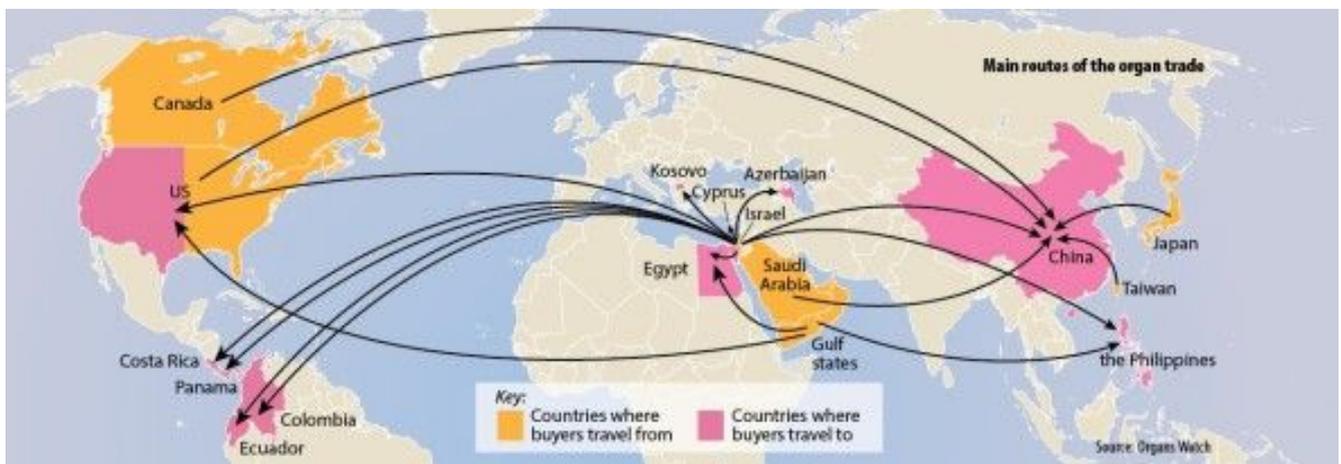
#### *Trafficking in Human Beings for Organ Removal (THB/OR)*

The prohibition of Trafficking in Human Beings for Organ Removal (THB/OR) is included in multiple international documents— the Palermo Protocol, the 2000 UN Convention against Transnational Organized Crime, and the 2005 Council of Europe Convention on Action Against Trafficking in Human Beings. THB/OR is formally defined illegally commercializing humans for the purpose of removing their organs. THB/OR specifically involves establishing multinational networks where desperate victims are forced and coerced into selling an organ. Altogether, THB/OR remains a complex branch of organ trafficking due to the involvement of the medical

transplant community before donation. However, in spite of its present-day universal inclusion and global awareness, THB/OR has only become a global phenomenon over the past century.

### **Transplant Tourism**

Transplant tourism is the most common way to trade organs across national borders. In such case where recipients travel abroad to undergo organ transplantation, they tend to travel for three main reasons— either because their home country is facing an organ depletion, the respective medical facility is inadequate for sustaining successful organ transplantation, or their local legislation imposes limitations and regulations regarding organ selling. On the other hand, such commercialization often involves vulnerable donors among impoverished populations. The increasing use of the internet also plays a major factor in the growth of transplant tourism; websites promote all-inclusive "transplant packages" as a means of attracting patients in desperate need of organs.



**Caption #1: Map indicating the routes of transplant tourism across national borders.**

### **People Involved in Organ Trafficking**

Each organ trafficking case can be different from one another depending on their scales, sizes, and specific details. However, while some could include more or variations of these, each case includes donors, brokers, recipients, and other people involved in the process.

#### **Organ Donors**

Organ donors often share many characteristics, most notably poverty and those relating to it, that brings or forces them into organ trafficking. They are either from developing countries or are part of the population living below the poverty line. Many of them are also illiterate, uneducated, and have little medical knowledge. As a result, organ donors are unaware of the

consequences they will face after selling their organs, an action that many of them have to do because of financial reasons.

### ***Brokers***

The brokers, who know the organ trafficking process better than anyone else, are usually doctors, surgeons, or organized criminal group leaders. As its name suggests, they are people who connect the organ donors on one end with the organ recipients on the other end. In doing so, they also connect with hospitals and other healthcare facilities on both ends, as well as with government officials and other people involved. Because of the connections and knowledge brokers have, a recipient can come to them, counting on them to find a donor and get the organ illegally trafficked. As a result, the brokers are often the ones responsible for making decisions, negotiating details, and setting prices.

### ***Organ Recipients***

Opposite from organ donors, organ recipients also have characteristics that makes it necessary for them to acquire organs. They come from developed countries and generally have a better economic status as compared to their donors. They also have their own reasons, such as being too far back on the waitlist or being unwilling to ask other for a donation, that makes them unable to legally receive an organ. As a result, organ recipients turn to the black market for the organs required to cure their diseases, thus making them the people who provide demand and money to make business and trafficking continue.

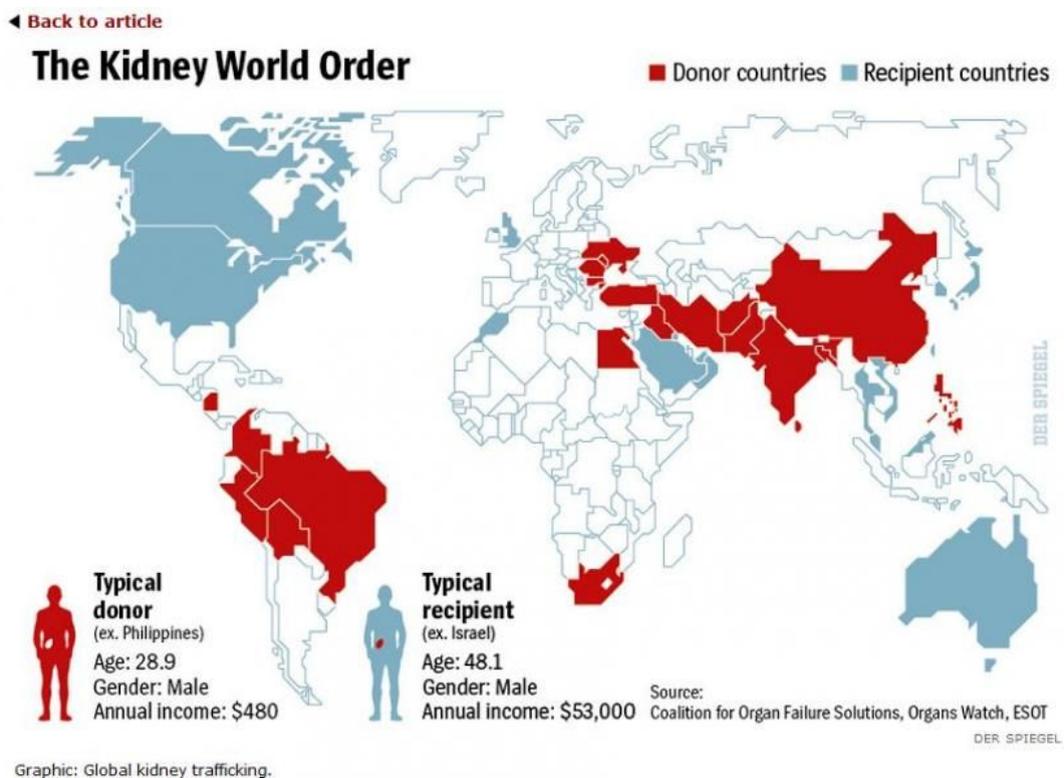
### ***Other People Involved***

While brokers are in the middle of the trafficking process, local recruiters are the ones responsible for actually finding organ donors in communities and slums. Medical workers, including doctors, lab technicians, nurses, and surgeons, are responsible for removing organs from donors and transplanting them into receivers. Some of them do so while getting huge amounts of money from the black market, while other might be completely unaware that their actions are illegal and related to crimes. Drivers, enforcers, interpreters, and minders are also responsible for making contact and communication with both the donor and the recipient during different stages of the process.

## Key Issues

### Shortage of Organ Donors

The shortage of organ donors adds a new dimension to the cruel growth of the illicit organ trade. The vast bulk of donors come from Southern Asian countries, such as Brazil, India, and the Philippines, while others come from Latin American countries, including Brazil, Bolivia, and Peru. However, according to the United Nations Organ Sharing (UNOS), an average of twenty people die amidst the anticipation for an organ transplantation. In 2017, there are estimated to be more than 120,000 people actively awaiting an organ transplant. This ubiquitous discrepancy between supply and demand is largely attributed to two main barriers to donation. One, misconceptions surrounding signing up as donors; and two, distrust in the medical community. Religion also creates a separate barrier to donation, as many religions promote the idea of maintaining body integrity after one's death.



**Caption #1:** Map indicating all countries engaged in the illicit organ trade market for kidneys.

### Corruption and Lack of Control

Without the role corruption plays, organ trade— especially those across borders— would be significantly more difficult. Corruption happens on a variety of scales across government officials throughout the process, from custom officials to health authorities and to police officers. Similarly, medical workers also seek money by removing their patients' organs either with or without their full

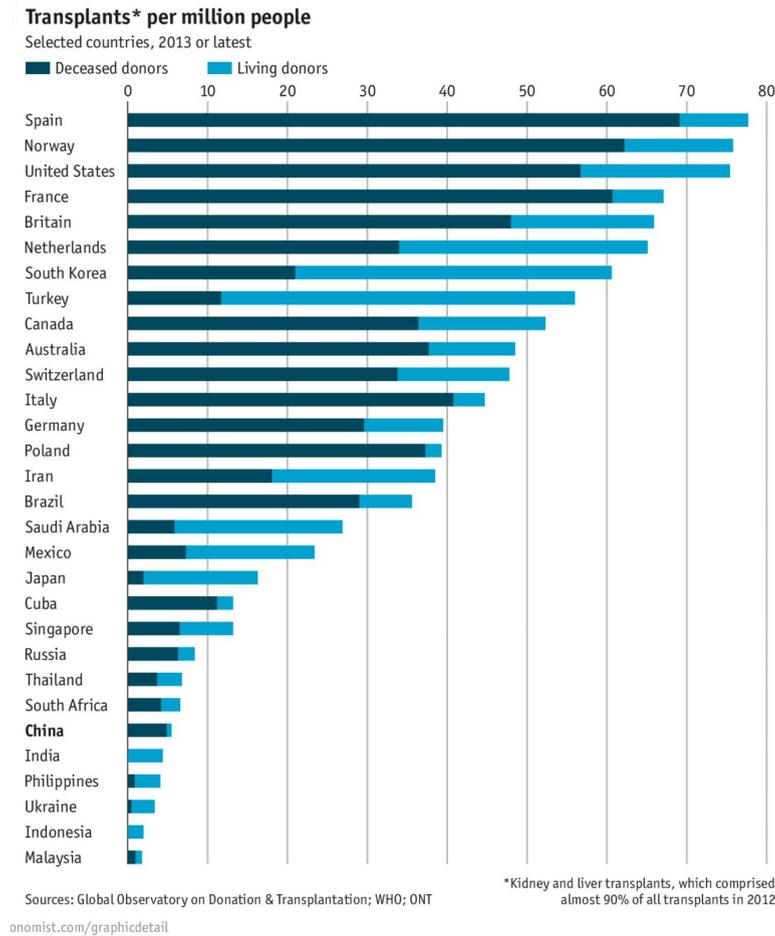
consent or knowledge of the reason behind doing so. Together, corruption on multiple levels also close tie into the lack of control over the organ trafficking industry. The government, healthcare facilities, and law enforcements, which should all be responsible for preventing trafficking through the black market, are instead fueling its growth and worsening the situation.

### **Increases in Diseases**

Illegal organ trafficking mainly happens because of two reasons– the lack of supply of legally donated organs and the rise of demand caused by increases in diseases. For certain diseases, such as those that cause the heart, kidney, and liver, and lung to be significantly damaged or no longer function, an organ transplant is often the only cure. As a result, because of changing diets, environments and health managements, failed or unhealthy organs need to be replaced by new, healthy ones acquired through illegal means as legal ones are not enough.

### **Poverty and Underdevelopment**

As organ trafficking is an activity that involves countries from across the globe, its participants can often be connected back to the issues of poverty and underdevelopment. In the majority of cases, the organ donor is a low-income person coming from a developing country while the organ recipient is a high-income person coming from a developed country. In order to earn money for education, food, and other basic goods and services, people would often sell their organs, such as the kidney that they might consider as unneeded. Especially in undeveloped societies, selling organs quickly causes a thriving black market industry because people are willing to participate simply because of the need for money.



**Caption #1: Graph indicating the number of donations made per million people by each nation.**

## Major Parties Involved and Their Views

### Iran

Iran, the only country legalizing living non-related donation (LNRD) of a kidney, established a structured transplant network regulated by the Iranian Ministry of Health and the Iranian government. As monetary rewards funded by the government incentivize Iranians to donate, a third-party association—the Dialysis and Transplant Patients Association—acts as a mediator between the donor and the recipient, responsible for arrangements and tests for compatibility. While some nations doubt the efficiency and consistency of Iran’s network, others believe the “Iranian model” is the ultimate solution to kidney shortages.

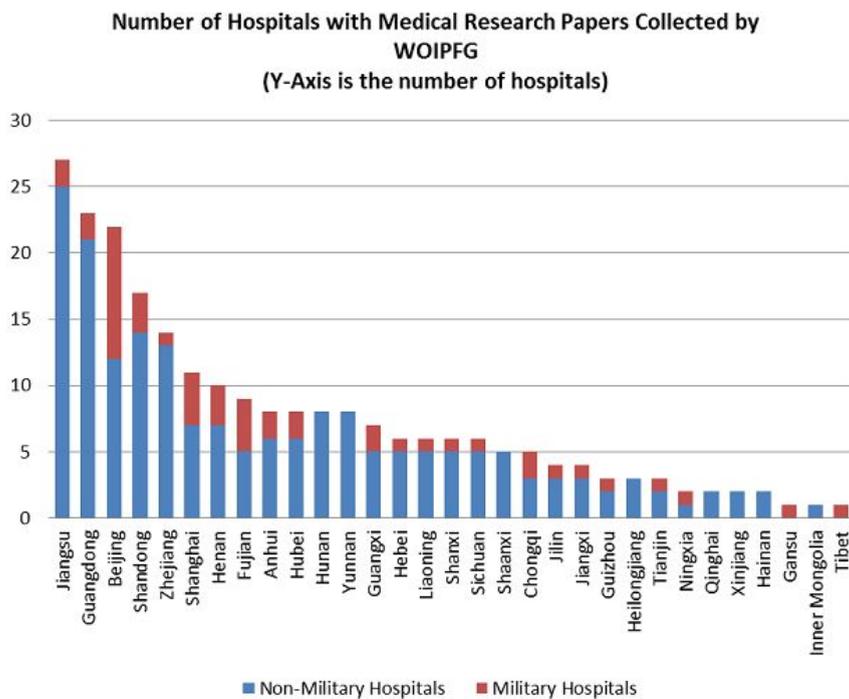
### Japan

Japan has one of the lowest organ donation rates, with an average of 0.7 per million. The 1997 Organ Transplant Law, legalizing organ donation only from "brain dead" patients, limits the number of patients and type of organ that can be donated. As it adopts an informed consent system, the reluctance

for donors stems from three challenges— religious concerns, restrictive laws, and cultural barriers that prevent understanding.

## China

China has one of the largest illicit organ trade programs in the world. Despite establishing an organ donation network in 2013, an overwhelming majority of China’s organs derive from executed prisoners. Hence, the international community has raised concerns of the government committing human rights atrocities, one of the most well-known instances being charges of organ harvesting from Falun Gong practitioners. On average, 60,000 to 100,000 organs are transplanted each year in Chinese hospitals, proving its abundance of organ sources for both domestic and foreign recipients.



**Caption #1: Graph indicating the number of hospitals with medical research papers collected by the World Organization to Investigate the Persecution of Falun Gong (WOIPFG) of each province.**

## Australia

Australia adopts an informed consent organ donation system, requiring the patient’s consent to become a donor. However, less than 1% hospital deaths are compatible, resulting in an average of 1,600 people on the waiting list at any time. Amidst the government’s pursuit of measures to combat human organ trafficking, Australian law does not encompass transplant tourism. Despite the overwhelming number of Australians traveling to illegal organ markets in China, India, and Pakistan for donors, the current Australian legislation cannot condemn transplant tourism.

## India

India has a flourishing illegal organ market, stemming from its social norms and wide economic gap. As most victims of the illegal market are impoverished populations, donors often view selling an organ as a means of obtaining money— whether it is to pay off debts, legal fees, or education. Despite enacting the Transplantation of Human Organs Act (THOA) to limit commercial dealings of organs, illegal marketers take advantage of the loopholes present in the act to sustain the market, such as the idea of donating for affection.

## Philippine

The Philippines often is seen as the international hub for illegal trafficking in human organs from living donors. Despite its recognition of the UN Declaration on Organ Trafficking and Transplant Tourism in 2008, the illegal market still flourishes as thousands of individuals travel to the Philippines in search for organs. Despite President Macapagal-Arroyo attempted to eradicate transplant tourism by issuing a total ban on foreigners in 2008, the underground market remains largely unaffected.

## Timeline of Relevant Resolutions, Treaties and Events

Date	Description of event
1968	<p><b>United States Enacts Uniform Anatomical Gift Act</b></p> <p>The Uniform Anatomical Gift Act (UAGA) allows all adults above the age of 18 to become an organ donor at their wish. It also sets framework for the circumstances in which an anatomical gift can be made.</p>
1998	<p><b>Iran Legalizes Organ Commerce</b></p> <p>In the year 1988, Iran established a structured network regulated by the Iranian Ministry of Health and the Iranian government that would legalize all forms of living non-related donation (LNRD) of a kidney. In 1999, Iran successfully eliminated the shortage of kidneys for the intent of transplantation.</p>
1988-1995	<p><b>Alder Hey Organs Scandal</b></p> <p>The Alder Hey organ scandal marks a 7-year span in which the Alder Hey Children's Hospital had illegally removed and procured thousands of dead babies for their organs without the consent of the relatives.</p>
15 November 2004	<p><b>UK Parliament Passes Human Tissue Act</b></p>

The Human Tissue Act— applied to England, Wales, and Northern Ireland— permits anonymous organ donations and condemns the commercialization of organs for the purpose of transplantation.

### **Surgeon Charged For Killing Patient to Obtain Organs**

January 2006

As 26-year-old Ruben approached his death, Dr. Hootan C. Roozrokh switched his life-support off— an act viewed as hastening the death of the patient for the purpose of obtaining his organs. Despite being cleared of all his charges Dr. Roozokh exemplifies the first instance of such case being brought to trial.

### **Accusations Against Falun Gong Practitioners**

2006

Imprisoned Falun Gong practitioners and other Chinese prisoners of conscience are reported to be executed with the intention of procuring organs for the purpose of commercialization. Such reports were first submitted by human rights lawyer David Matas and Former Canadian Secretary of State David Kilgour.

## **Relevant UN Treaties and Events**

- National Organ Transplant Act, 19 October 1984
- Guiding Principles on Human Organ Transplantation, 1991
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, 12 December 2000
- Additional Protocol to the European Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin, 2002
- Declaration of Istanbul, 1 May 2008
- Guiding Principles on Human Cell, Tissue and Organ Transplantation, May 2010

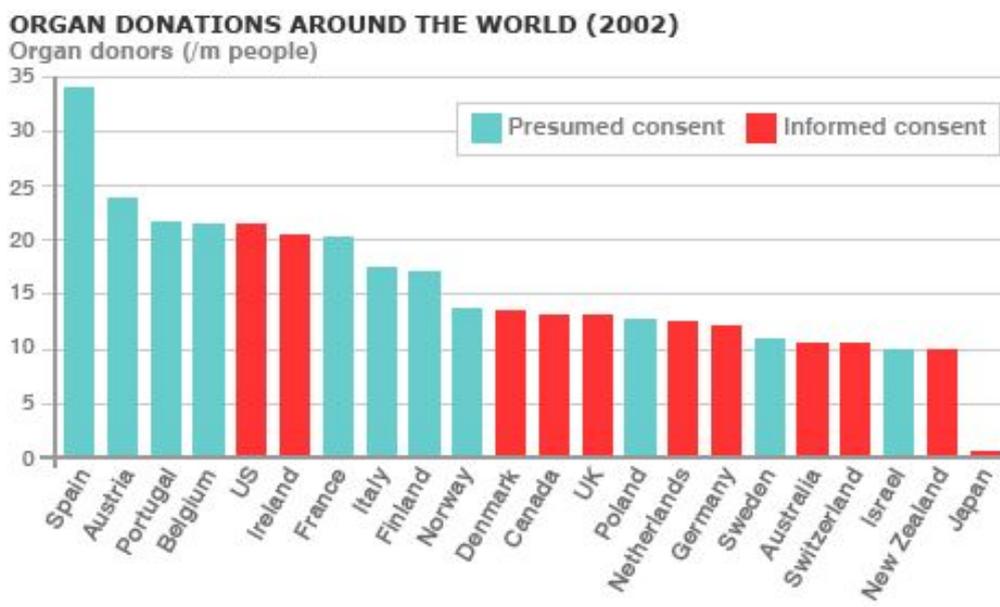
## **Evaluation of Previous Attempts to Resolve the Issue**

The United Nations has made numerous attempts to address the growth and continuation of an illicit organ trade market. However, such efforts often lack means of implementation in member states. Resolutions such as the Resolution 5/2 (A/62/53) call for member states to “prevent and combat the trafficking of persons for the purpose of organ removal”, yet requires each legislation to come up with their own solutions and laws to achieve such purpose. Hence, illicit organ trade booms due to the lack of action on many nations’ parts.

The Declaration of Istanbul addresses unethical organ commercialization and condemns transplant activities that involve an economic transaction. As it is currently endorsed by over 100 nations, its clear definitions for organ trafficking, transplant commercialism, and transplant tourism resolves ambiguities and grey areas where member nations often take advantage of. The declaration also encompasses proposals to ensure the financial and health wellbeing of donors after organ donation, program implementations for countries to prevent organ failures as a means of reducing the need for transplantation, and authorizing monetary reimbursements after donating an organ. As it extends a significant influence on signatory nations, countries such as China, Philippines, and Pakistan have taken action since the passing of the declaration.

## Possible Solutions

Numerous measures have been proposed to regulate the growth of the illicit organ trade market and maximize the number of legally-procured organs around the globe. Organ procurement policies—such as presumed consent and informed consent policies— have been of benefit to countries facing organ donation shortages. With legal procurement methods, such laws better the distribution of healthy organs among the medical community and alleviate the widespread reliance on illicit organ trade markets. However, general ethical considerations that come with legal policies focus on the donor's competence, voluntary decision, and extent of knowledge. Irrespective of the relationship between the donor and the recipient, it is vital for governments to adopt measures safeguarding the donor to make a thoughtful decision with adequate information under an environment free of coercion and pressure.



***Caption #1: Graph indicating the relationship between organ procurement policies and number of donors.***

Sufficient enforcement mechanisms and are also vital for eradicating the illicit organ trade market. To better assist the responsible surgeon or physician in carrying out their necessary duties, the government and medical community should be obliged to provide guidelines and regulations of their actions as means of ensuring the wellbeing of both the recipient and the donor after transplantation. Moreover, regulatory authorities of each nation should play the role of enforcement. Member nations can consider establishing or increasing punitive measures on unethical organ recruiters and brokers. In addition to individual member nations, working together with organizations such as the Medical Association or the United Nations Office on Drugs and Crime not only benefits the sharing of information, but also eases the challenge of arresting criminals. Reforming local legislations is also necessary to encompass all forms of illegal organ removal: trafficking in persons for the purpose of organ removal, the illicit removal and commercialisation of organs from both living and deceased persons, and transplant tourism. The international community may also consider working with stakeholders such as the European Union to initiate studies as a means of ensuring the quality of domestic legislations.

To combat the root causes of organ trafficking, it is vital for member nations to address issues revolving poverty. By minimizing the chance of incentivising vulnerable donors to commercialize their organs, the black market will cease to grow as its demand in LEDCs decrease. Other measures, such as minimizing misconceptions through education, establishing data-collecting systems for transplant tourists, holding the health professional accountable, and enforcing a legal framework for transplantation can be considered to eradicate the illicit organ trade market.

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