
**PRICELESS KIDNEY: THE INEFFECTIVENESS OF ORGAN
TRAFFICKING LEGISLATION**

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INTRODUCTION

“The pound of flesh which I demand of him [i]s dearly bought. ‘Tis mine and I will have it.”¹ This quote from William Shakespeare’s *The Merchant of Venice* describes the historic and practical nature of organ trafficking. Organ trafficking is a global concern that has risen in recent decades.² Human organs are both voluntarily and coercively sold as a black-market commodity for a variety of reasons.

Organ trafficking legislation at the international level is ineffective because it is only prohibited by one treaty—the Council of Europe Convention against Trafficking in Human Organs (“CECTHO”).³ Additionally, only a small amount of reliable scientific data exists regarding the illicit sale of organs because the illegal organ trade operates underground and is difficult to detect. Furthermore, doctor-patient confidentiality impedes the reporting of organ trafficking incidents. Similarly, legislation at the domestic level is ineffective because such laws are not enforced, are ignored by local law enforcement, and generally do not deter organ trafficking.

The first section of this paper will define organ trafficking and describe the process of illegal organ sales. It will explain the roles of origin and destination countries, as well as the significance of middlemen in facilitating the illicit sale of human organs. This section will then provide background on the current treaties, resolutions, and declarations that have been implemented at the international level to eliminate organ trafficking. In conclusion, this section will outline the various motives for organ trafficking.

The second section will discuss the ineffectiveness of international and domestic legislation which attempts to eliminate organ trafficking. This part of the paper will address enforcement of these laws and whether they act as effective deterrents. This section will specifically examine organ trafficking legislation in Singapore, Brazil, Mexico, and China. These four countries have been selected because organ trafficking legislation is ineffective in each of these nations for a different reason: (1) in

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1. WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE*, act 4, sc. 1.

2. Tazeen H. Jafar, *World Kidney Forum Organ Trafficking: Global Solutions for a Global Problem*, 54 AM. J. OF KIDNEY DISEASES 1145, 1145 (2009).

3. See U.N. OFF. ON DRUGS AND CRIME, *Assessment Toolkit: Trafficking in Persons for the Purpose of Organ Removal* 18 (2015), available at https://www.unodc.org/documents/human-trafficking/2015/UNODC_Assessment_Toolkit_TIP_for_the_Purpose_of_Organ_Removal.pdf (last visited Mar. 5, 2019).

Singapore, the laws fail to deter the practice; (2) in Brazil, laws against organ trafficking are ambiguous and are not enforced; (3) in Mexico, cases pertaining to the illicit organ trade are not investigated because of government corruption; and (4) in China, powerful political parties directly profit from the illegal sale of organs.

Furthermore, this section will discuss the laws against organ trafficking, punishments for violating those laws, and each of the four countries' willingness to prosecute organ trafficking cases. It will also examine what these countries' governments are doing to enforce the laws already in place and how they investigate cases of organ trafficking. Additionally, case studies will illustrate the ineffectiveness of organ trafficking legislation. Moreover, this section discusses why organ trafficking legislation at the international and domestic levels is ineffective in investigating and prosecuting organ traffickers and reducing incidents of organ trafficking.

Lastly, the third section will address recommendations for effectively prohibiting organ trafficking. This section will build on the methods of enforcing legislation currently in place, as well as propose ideas to implement more effective legislation, particularly at the international level. This portion of the paper will discuss the following solutions: (1) implementation of international treaties; (2) encouragement of efforts by the United Nations ("U.N.") to eliminate organ trafficking; (3) reduction of the organ donation shortage; (4) creation of an exception for doctor-patient confidentiality; (5) instilling domestic laws that impose harsher sentences for all parties involved in the illegal sale of organs; and (6) making the sale of organs legal.

I. WHAT IS ORGAN TRAFFICKING?

Imagine Liam, a 50-year-old hard working Swedish man who loves his family. Recently he felt nausea and fatigue, noticed a decreased urinary output, and felt sick for weeks. After going to various doctors, he learns he is suffering from kidney failure and needs a kidney transplant. Without a healthy kidney, Liam will die. In Sweden, like other first world nations, organ donation operates through an altruistic system.⁴ This means that individuals unselfishly donate their organs with no corresponding profit motive.⁵ However, through the altruistic system many individuals are not motivated to donate their organs, which results in an

4. SUSANNE LUNDIN, *ORGANS FOR SALE: AN ETHNOGRAPHIC EXAMINATION OF THE INTERNATIONAL ORGAN TRADE* 3 (2015).

5. *Id.*

organ shortage.⁶ If Liam is lucky, he may make it onto a kidney donation waitlist. Yet, even if he does, he could be on that waitlist for years. So, Liam, like thousands of other sick individuals in need of organs, makes the risky decision to go abroad and buy a kidney from someone in Brazil. Liam chose to participate in the organ black-market for a chance at life instead of waiting for his impending death.

Organ trafficking, also known as trafficking in human organs, is:

the recruitment, transport, transfer, harboring or receipt of the organs of a living or deceased person by means of threat, use of force, abduction, fraud, deception, of the abuse of power . . . or of the giving to, or 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 the purpose of transplantation.⁷

Organ trafficking is a serious issue. It is estimated that as of 2011, the illicit organ trade generated illegal profits between 600 million and 1.2 billion U.S. dollars per year.⁸ There are black markets for hearts and lungs, as well as other body parts. However, the markets for those organs are relatively small in comparison to the illegal kidney market.⁹ Kidneys make up the largest portion of illegal organ sales because a donor can survive with just one kidney.¹⁰

Organ trafficking stems from a complicated network involving individuals from many different countries.¹¹ Typically, the global organ economy follows a geographical and societal flow.¹² The origin countries, also known as supply countries, are the states from which the organ comes.¹³ These are normally poor, developing, or underdeveloped countries in Eastern Europe, Asia, South America, the Middle East, and

6. *See id.*

7. Francis L. Delmonico, *Declaration of Istanbul on Organ Trafficking and Transplant Tourism*, 18 INDIAN J. OF NEPHROLOGY 135, 136 (2008).

8. Jeremy Hakeh, *Transnational Crime in the Developing World*, GLOB. FIN. INTEGRITY (Feb. 2011), available at http://www.gfintegrity.org/wp-content/uploads/2014/05/gfi_transnational_crime_high-res.pdf (last visited Mar. 25, 2019).

9. Simon Tomlinson, *Inside the Illegal Hospitals Performing Thousands of Black Market Organ Transplants Every Year for \$2000,000 a Time*, DAILY MAIL (Apr. 9, 2015), available at <http://www.dailymail.co.uk/news/article-3031784/Inside-illegal-hospitals-performing-thousands-black-market-organ-transplants-year-200-000-time.html> (last visited Mar. 31, 2019).

10. *Id.*

11. LUNDIN, *supra* note 4, at 6.

12. *Id.*

13. Jacqueline Bowden, *Feeling Empty? Organ Trafficking & Trade: The Black Market for Human Organs*, 8 INTERCULTURAL HUM. RTS. L. REV. 451, 457 (2013).

various nations in Africa.¹⁴ The recipients of the organs are normally located in richer first world countries such as Sweden, Israel, the United States, the United Kingdom, Germany, Australia, and Japan.¹⁵ These are known as destination countries, or demand countries.¹⁶ Most organ transplant surgeries are not conducted in the recipient's country of citizenship for fear of being discovered.¹⁷ The medical operations are often performed in another country, located between the demand and supplier countries.¹⁸ Popular locations for the operation to take place include nations in South East Asia, Latin America, or Eastern Europe.¹⁹

Middlemen, known as recruiters or brokers, are paid individuals who assist with illegal organ sales and play a crucial role in organ trafficking.²⁰ Middlemen usually come from poorer countries and help facilitate the organ buying transaction.²¹ These recruiters identify vulnerable individuals and persuade them to sell their organs.²² They also coordinate the logistics of the illegal organ trade and set the prices for the organ sales.²³ In addition to middlemen, doctors (such as transplant specialists, nephrologists and anesthesiologists) play an important role in the organ trade.²⁴ These doctors perform the illegal organ transplant and receive financial gain for their services.²⁵

14. LUNDIN, *supra* note 4, at 6.

15. *Id.*

16. Bowden, *supra* note 13, at 457.

17. LUNDIN, *supra* note 4, at 6.

18. *Id.*

19. *Id.*

20. *Id.*

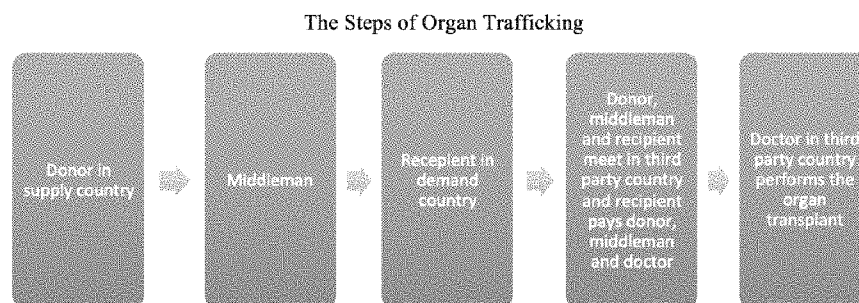
21. Claire Suddath & Alex Altman, *How Does Kidney-Trafficking Work?*, TIME (July 27, 2009), available at <http://content.time.com/time/health/article/0,8599,1912880,00.html> (last visited Apr. 5, 2019).

22. U.N. OFF. ON DRUGS AND CRIME, *supra* note 3, at 28.

23. *Id.*

24. *Id.* at 30.

25. *Id.* at 31.



A. Legal Standard for International Organ Transplants

Organ transplantation is a remarkable medical development which, since its advent in the 1950's, has saved and prolonged the lives of thousands of patients.²⁶ There are globally recognized standards for organ transplants described in the 2010 World Health Organization ("WHO") resolution WHA63.22.²⁷

The WHO resolution discusses guidelines for both deceased and living donors.²⁸ In the case of a deceased organ donor, the donor must consent to the donation or there must be reason to believe that the deceased person would not object to the organ removal.²⁹ Living donors should be "genetically, legally or emotionally related to their recipients (unless such related person does not match well immunologically)."³⁰ Living donors should also give informed and voluntary consent and act willingly and free of any undue influence or coercion.³¹ An important component of the guidelines for living donors is discussed in the WHO resolution. The guidelines state that "organs should be donated freely, without any monetary payment or other reward of monetary value" and "purchasing, or offering to purchase organs for transplantation, or their sale by living persons should be banned."³² The resolution continues to advocate that doctors and other medical professionals should not engage in for-profit

26. *Guiding Principles on Human Cell, Tissue and Organ Transplantation*, WHO, available at http://www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf (last visited Apr. 5, 2019).

27. See Sixty-Third World Health Assembly Res. 63, at 63.22 (May 21, 2010).

28. See generally *id.*

29. *Guiding Principles on Human Cell, Tissue and Organ Transplantation*, *supra* note 26.

30. U.N. OFF. ON DRUGS AND CRIME, *supra* note 3, at 9.

31. *Id.*

32. *Id.* at 9-10.

transplantation procedures.³³ The resolution also suggests that health insurers and other payers should not cover such procedures if the organs are obtained through exploitation or coercion of, or payment to, the donor.³⁴

The WHO is “committed to the principles of human dignity and solidarity which condemns the buying of human body parts for transplantation and the exploitation of the poorest and most vulnerable population.”³⁵ Additionally, the guidelines state that advertising the need or availability of an organ for money must be prohibited.³⁶

B. The Council of Europe Convention Against Trafficking in Human Organs

The CECTHO is the only international treaty that addresses organ trafficking.³⁷ The treaty aspires to prevent and combat organ trafficking by protecting the rights of victims and facilitating cooperation at both the national and international levels.³⁸ The treaty recognizes that organ trafficking “violates human dignity, the right to life and constitutes a serious threat to public health.”³⁹ This international agreement aims to begin the eradication of the illegal sale of organs through the implementation of more domestic legislation that criminalizes organ trafficking.⁴⁰

As required by this treaty, each member state shall,

take the necessary legislative and other measures to establish as a criminal offence under its domestic law, when committed intentionally, the removal of human organs from living or deceased donors where in exchange for the removal of organs, the living donor, or a third party, has been offered or has received a financial gain.⁴¹

The treaty also mandates that signatory nations develop criminal offenses for when a third party is offered or receives financial gain to facilitate in the process of organ removal.⁴² Additionally, this treaty establishes that parties investigate allegations of organ trafficking within their

33. *Id.* at 10.

34. *Id.*

35. World Health Organization, WHA 63.22, at 1 (May 21, 2010).

36. *Guiding Principles on Human Cell, Tissue and Organ Transplantation, supra* note 26, at 6.

37. U.N. OFF. ON DRUGS AND CRIME, *supra* note 3, at 18.

38. Council of Europe Convention Against Trafficking in Human Organs, Mar. 25, 2015, C.E.T.S. 216 [hereinafter Council of Europe].

39. *Id.*

40. *Id.*

41. *Id.* art. 4(b).

42. *Id.* art. 4(c).

countries.⁴³ The treaty recognizes that in order for organ trafficking cases to be tried in international tribunals, the investigations and prosecution of organ traffickers must begin at the domestic level.⁴⁴

In the domestic sphere, this treaty requires that each party take measures to eliminate organ trafficking.⁴⁵ These measures include spear-heading investigations of organ trafficking and requiring that each party establish equitable access to legal transplantations services.⁴⁶ It is expected that parties communicate with health care professionals in their countries to look for signs that illegal organ transplants were performed, and for medical professionals to report suspected organ trafficking cases to the relevant local authorities.⁴⁷ Additionally, CECTHO mandates that each party take the necessary measures to prohibit the advertising of donors and recipients of human organs for a monetary gain.⁴⁸

The treaty also imposes measures at the international level. It encourages parties to cooperate with each other to prevent trafficking of human organs.⁴⁹ The cooperation takes the form of the procedural requirement of a national contact point for exchange of information relating to organ trafficking.⁵⁰ If the terms of this treaty are violated, signatory nations are subjected to criminal or non-criminal monetary sanctions.⁵¹ Depending on the violation, these sanctions may include temporary disqualification from exercising commercial activity and/or placing the nation under the supervision of the Committee.⁵²

C. The U.N.'s Stance on Organ Trafficking

The U.N. has not passed any treaties, resolutions, or declarations that pertain to organ trafficking. However, the U.N. addressed the issue of trafficking in persons for organ removal.⁵³ This is a different offense than trafficking in organs. In trafficking in persons for organ removal, the object of the crime is the person and the offense is a type of human trafficking.⁵⁴ Conversely, in organ trafficking the object of the crime is the

43. Council of Europe, *supra* note 38, art. 15.

44. *Id.* art. 21.

45. *Id.*

46. *Id.*

47. *Id.* art. 21(2)(a).

48. Council of Europe, *supra* note 38, art. 21(3).

49. *Id.* art. 22(a).

50. *Id.* art. 22(b).

51. *Id.* art. 12(2).

52. *Id.*

53. U.N. OFF. ON DRUGS AND CRIME, *supra* note 3, at 17.

54. *Id.*

organ, not the person being trafficked.⁵⁵ This paper discusses only organ trafficking, which is an issue not yet examined by the U.N.

D. Declaration of Istanbul

From April 30 through May 2, 2008, more than 150 medical professionals, scientists, scholars, government officials, social scientists, and ethicists convened at a summit in Istanbul, Turkey to draft the Declaration of Istanbul on Organ Trafficking and Transplant Tourism, known as the “Declaration of Istanbul.”⁵⁶ The purpose of this declaration was to highlight the unethical practice of organ trafficking and to identify the exploitation of the poor for the sale of their organs.⁵⁷ This global initiative served to implement efforts to eradicate organ trafficking.⁵⁸ As previously stated, the declaration first defined organ trafficking as:

the recruitment, transport, transfer, harboring or receipt of the organs of a living or deceased person by means of threat, use of force, abduction, fraud, deception, of the abuse of power... or of the giving to, or 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 the purpose of transplantation.⁵⁹

The Declaration of Istanbul was an initiative that emphasized the global need to regulate organ trafficking. During the summit, members suggested that efforts to combat organ trafficking must begin at the domestic level. The Declaration of Istanbul proposed the idea of reducing organ shortages. Representatives believed that this could be accomplished by implementing “systems and structure to ensure standardization, transparency and accountability of support for [organ] donation.”⁶⁰ The Declaration also encouraged countries to promote deceased organ donation as another way to increase organ availability and discourage people from participating in the organ black-market.⁶¹ The Declaration of Istanbul is not a binding source of legislation, but it brought attention to the issue of organ trafficking and generated a discussion of ways to eliminate the problem and preserve the nobility of organ donation.⁶²

55. *Id.*

56. *See generally* Delmonico, *supra* note 7.

57. *See* Dr. Raneer Khooshie Lal Panjabi, *The Sum of a Human's Parts: Global Organ Trafficking in the Twenty-First Century*, 28 PACE ENV'T. L. REV. 1, 113 (2010).

58. *Id.*

59. Delmonico, *supra* note 7.

60. *Id.* at 138.

61. *Id.* at 136.

62. *Id.* at 135.

E. Why Organ Trafficking Exists?

There are two main rationales that explain why organ trafficking exists. First, organ donation is incredibly scarce, particularly due to a shortage of organ donors in first world countries. In the United States, 114,000 people a year are on waiting lists for organ donations.⁶³ On average, 22 people die each day waiting for an organ and 8,000 deaths occur each year because organs are not donated.⁶⁴ Similar statistics occur in other western countries as well. The reasoning behind this shortage is that countries such as the United States, Sweden, the United Kingdom, and Israel rely on the altruistic system.⁶⁵ This system relies on the assumption that people will willingly donate their organs.⁶⁶ Therefore, the number of transplants that occur is dependent on citizens' desire to donate in the first place.⁶⁷ This system does not incentivize individuals to donate organs, and this lack of incentive results in an organ shortage.⁶⁸

Second, extreme poverty in the developing world contributes to the prevalence of organ trafficking. For example, organ trafficking is prevalent in the Jalisco territory of Mexico, where the poverty rate is 41 percent.⁶⁹ Kidneys typically sell for \$18,000 U.S. dollars, which can be more money than poor villagers in Mexico make in ten years.⁷⁰ One Jalisco resident explained that extreme poverty makes it difficult to put food on the table for his family.⁷¹ The resident stated that, "[i]t's no good to me to keep both kidneys and remain with my debts."⁷² This is just one example of how extreme poverty impacts individuals by sometimes leading them into organ trafficking.⁷³

63. *Organ, Eye and Tissue Donation Statistics*, DONATE LIFE AMERICA, available at https://www.donatelife.net/statistics/?gclid=Cj0KCQjwp_DPBRZARIsA-GOZYBSJ_V3f2GtQtCJ7c6Egc7u-rlXOtaFRGC-UTibkNavlte99Oe-wOEAsaAqJ_EALw_wcB (last visited Mar. 29, 2019).

64. *Id.*

65. LUNDIN, *supra* note 4, at 3.

66. *Id.*

67. *Id.*

68. *Id.*

69. Edward Fox, *Desperation, Lack of Donors Drives Organ Trafficking in Latin America*, INSIGHT CRIME (July 12, 2012), available at <http://www.insight-crime.org/news-analysis/desperation-lack-of-donors-drives-organ-trafficking-in-latin-america> (last visited Mar. 30, 2019).

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

II. ATTEMPTS TO PROHIBIT ORGAN TRAFFICKING ARE NOT SUCCESSFUL

Despite international initiatives such as the CECTHO, the Declaration of Istanbul, and WHO resolutions, organ trafficking persists. The primary reason for the continuance of organ trafficking is that this illegal business operates at the domestic level.⁷⁴ Unfortunately, countries around the world fail to pursue investigations and are not enforcing national laws relating to organ trafficking. Additionally, other barriers confront domestic governments from eradicating organ trafficking. Issues such as collecting reliable data about organ trafficking incidents and the reluctance of medical professionals to report suspected organ trafficking cases also impede attempts to prohibit the illicit sale of organs.⁷⁵

A. Issues with Collecting Reliable Organ Trafficking Data

International organizations such as the U.N., the Organization for Security and Co-operation in Europe, and the Council of Europe find it difficult to collect reliable data on organ trafficking.⁷⁶ From 2007 to 2013, only 100 cases of organ trafficking were reported worldwide.⁷⁷ This number is estimated to be much lower than the actual number of organ trafficking cases that occurred.⁷⁸ The lack of reliable scientific data is typical for organized crimes like organ trafficking.

Adequate proof of committed crimes can either be given by the victims or by the criminals themselves.⁷⁹ Organ trafficking, like drug dealing, is a type of crime where the victim (buyer) and criminals (the donor, middleman and doctors performing the transplant) are both benefiting.⁸⁰ The organ donor is getting paid to give up an organ and the recipient receives an organ that will likely save his or her life. Middlemen benefit because they get paid to transport the organ between the supplier and the recipient. Additionally, the medical professionals performing the illegal transplant get paid to perform the operation. Therefore, none of the parties involved in the criminal transaction have an interest to disclose the illicit organ sale because everyone is benefiting in the short term.⁸¹ Since

74. See U.N. OFF. ON DRUGS AND CRIME, *supra* note 3, at 12.

75. *Id.* at 13.

76. *Id.* at 12.

77. *Id.*

78. See *id.*

79. Silke Meyer, *Trafficking in Human Organ in Europe A Myth or an Actual Threat?*, 14 EUR. J. CRIME CRIM. L. & CRIM. JUST. 208, 213 (2006).

80. See *id.* at 225.

81. *Id.*

no one involved in organ trafficking has a motive to report the crime to local authorities, the sale of organs operates invisibly which makes detection even more difficult.⁸²

Furthermore, there is a lack of reliable statistics because organ trafficking is a complex business that operates underground, thereby making it hard to verify.⁸³ In many cases, neither the donor nor the recipient are aware that they are violating organ transplantation legislation.⁸⁴ This ignorance of the law occurs because the transplant operations usually take place in a semi-legal business setting like a private hospital, or in a developing country where legislation prohibiting the sale of organs is either nonexistent or unenforced.⁸⁵

Many times, it is a challenge for law enforcement to differentiate between legal and non-legal organ transplants, compounding on the difficulty of detecting organ trafficking. The signs of organ trafficking are hard to identify because the nature of illegal transplants is similar to a legal organ transplant operation. For example, both legal and criminal organ transplants occur in hospitals where licensed physicians perform the operations.⁸⁶ Also, since most organ donors are paid in cash, it is nearly impossible to track the financial transaction for the purchase of the organ.⁸⁷ The shortage of reliable scientific data occurs because law enforcement simply cannot identify organ trafficking crimes and participants in organ trafficking receive mutual benefits and are unlikely to report the organ sale.

B. Problem of Doctor-Patient Confidentiality

Adherence to doctor-patient confidentiality also thwarts efforts to prohibit organ trafficking. There is an international consensus that a patient's medical records and communication with his or her physician is confidential information.⁸⁸ Doctors are required to keep their visits with patients and information about a patient's medical conditions confidential unless the patient gives permission to release their medical records. If a patient did confide in a doctor that he or she received an illegal organ transplant, the patient would likely not authorize that information to be disclosed. Therefore, the physician is bound by doctor-patient

82. *Id.*

83. *See id.* at 213.

84. Meyer, *supra* note 79, at 214.

85. *Id.* at 215.

86. *Id.*

87. *See id.*

88. *Patients' Rights*, WHO, available at <http://www.who.int/genomics/public/patientrights/en/> (last visited Mar. 29, 2019).

confidentiality not to release the information about the organ transplant. Organ trafficking legislation conflicts with medical regulations that advocate for the right of medical confidentiality and the inaccessibility of medical records.⁸⁹ These rules on doctor-patient confidentiality prohibit physicians from disclosing organ trafficking incidents. The adherence to confidentiality makes medical professionals reluctant to report cases of organ trafficking because doctors are afraid to lose their licenses or be sanctioned by medical boards.⁹⁰

Like physicians who treat patients who participated in organ trafficking, medical professionals who perform illegal organ transplants also have no incentive to report the organ trafficking to law enforcement or other local authorities. Health care providers in developing countries receive large sums of money to perform illicit organ transplant surgeries.⁹¹ These doctors get paid more money than they typically make practicing medicine in their home countries. One surgeon in Mexicali, Mexico received \$200,000 U.S. dollars to perform an illegal kidney transplant.⁹² This is an offer that most physicians will not turn down, and thus monetary gain encourages the continuance of organ trafficking. Physicians who perform the illegal surgeries and those who treat patients who participated in organ trafficking are reluctant to report the trafficking to law enforcement or to national and international health organizations. These doctors are either making a huge financial profit from being involved in the criminal activity, or they are too afraid to report suspected organ trafficking for fear of breaching doctor-patient confidentiality. This is just one more reason why legislation prohibiting organ trafficking is unsuccessful.

C. Organ Trafficking at the Domestic Level

Thus far this paper has examined efforts at the international level to prohibit organ trafficking. It has addressed how lack of scientifically reliable statistics and pushback from doctors cause international initiatives to be ineffective in combating organ trafficking. The discussion will now shift to analyzing domestic legislation attempting to eliminate organ trafficking in various supply countries, specifically in Singapore, Brazil, Mexico, and China.

89. Meyer, *supra* note 79, at 225.

90. U.N. OFF. ON DRUGS AND CRIME, *supra* note 3, at 13.

91. Fox, *supra* note 69.

92. *Id.*

1. Singapore

Singapore recognizes organ trafficking as a crime.⁹³ In Singapore, the sale of human organs and blood is prohibited by the Human Organ Transplant Act.⁹⁴ The Act states that a person who is guilty of trading in organs and blood “shall be liable on conviction to a fine not exceeding \$10,000 [Singapore dollars (approximately \$7,500 U.S. dollars)] or to imprisonment for a term not exceeding twelve months or to both.”⁹⁵ The case *Wang Chin v. Public Prosecutor* represented the first time in Singapore’s history that an individual was prosecuted for violating the Human Organ Transplant Act.⁹⁶ In that case, Mr. Wang Chin Sing was a middleman who escorted an organ donor to Singapore for transplant surgery.⁹⁷ Mr. Wang Chin Sing was paid \$300,000 Singapore dollars (approximately \$235,000 U.S. dollars) to facilitate this illegal organ transplant.⁹⁸ After being caught by Singaporean authorities, Mr. Wang Chin Sing was imprisoned for 14 months.⁹⁹

Another example of a violation of the Human Organ Transplant Act occurred in *Public Prosecutor v. S.D.*, which followed *Wang Chin v. Public Prosecutor* and involved the same actors.¹⁰⁰ In that case, S.D., an organ seller and donor, was convicted for violating the Human Organ Transplant Act by entering an arrangement to supply a kidney to an Indonesian recipient.¹⁰¹ S.D. was sentenced to two weeks imprisonment and fined \$1,000 Singapore dollars (approximately \$750 U.S. dollars).¹⁰²

While enforcement of this legislation is a step forward to eradicate organ trafficking, the sentences given in these two cases are insufficient deterrents to prevent individuals from engaging in the illegal sale of organs. In Wang Chin Sing’s case, 14 months in jail is minimal when compared to the \$300,000 Singapore dollars that he received for being a part

93. Human Organ Transplant Act 1987, c. 131 A, § 14(1), (2005) (Sing.), available at <https://sso.agc.gov.sg/Act/HOTA1987?ValidDate=20150921> (last visited Apr. 10, 2019).

94. *Id.* § 14(1).

95. *Id.* § 14(2).

96. *Wang Chin Sing v Public Prosecutor*, UNODC SHERLOC (2008), available at https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrime-type/sgp/2008/wang_chin_sing_v_public_prosecutor.html?lng=en&tmpl=sherloc (last visited Apr. 10, 2019).

97. *Id.*

98. *Id.*

99. *Id.* (The 14 Month Sentence was an aggravated sentence because Mr. Wang Chin Sing also violated the Oaths and Declarations Act).

100. *Id.*

101. See *Wang Chin Sing v Public Prosecutor*, *supra* note 96.

102. *Id.*

of the organ trafficking crime. Furthermore, S.D.'s sentence of two weeks in jail and a penalty of \$1,000 Singapore dollars is disproportionate to the lucrative benefits of participating in the illicit organ trade.

Mr. Wang Chin Sing and S.D. were not effectively penalized for participating in organ trafficking—their minimal sentences will not deter other Singaporeans from doing the same.¹⁰³ The limited action by Singapore's government sends a message that encourages continued participation in organ trafficking because the punishment for the crime is insignificant. In performing a cost benefit analysis, a person who desperately needs money or who desperately needs an organ to survive will risk a couple thousand Singapore dollars and a couple of weeks, months, or years in jail to reap the benefits from the sale of organs. The ineffectiveness of domestic laws like the Human Organ Transplant Act contribute to the unsuccessful national attempts to eradicate organ trafficking.

2. *Brazil*

In Brazil, organ trafficking is a criminal offense punishable by up to eight years in prison.¹⁰⁴ If coercion occurs, the individuals involved are more likely to receive the maximum eight-year prison sentence.¹⁰⁵ If the donor dies during the illegal organ transplant, the prison sentence becomes longer, with involved parties receiving prison sentences of up to 20 years.¹⁰⁶

Although Brazil's sentences are much longer than Singapore's, one reason Brazilian laws still lack effectiveness is that they fail to specify who should take responsibility for the criminal act of organ trafficking.¹⁰⁷ The laws are vague and ambiguous.¹⁰⁸ For example, if the donor dies during the illicit organ transplant surgery, is it the recipient, the middleman, the physician performing the operation, or all three who are eligible for the maximum 20 year sentence? The Brazilian legislation is also unclear on what types of organ trafficking convictions are to receive three year sentences versus which convictions get eight year sentences.¹⁰⁹ The

103. See Charles Lim Aeng Cheng, *Life and Death: A Decade of Biomedical Law Making 2000-2010*, 22 SING. ACAD. OF L. J., 850, 867 (2010).

104. See generally Mario Osava, *Brazil: Poor Sell Organs to Trans-Atlantic Trafficking Ring*, INTER PRESS SERV. (Feb. 23, 2004), available at <http://www.ip-snews.net/2004/02/brazil-poor-sell-organs-to-trans-atlantic-trafficking-ring/> (last visited Apr. 10, 2019).

105. *Id.*

106. *Id.*

107. Bowden, *supra* note 13, at 457.

108. See *id.*

109. See Osava, *supra* note 104.

codified laws also fail to explain mitigating factors that could reduce sentences for organ trafficking convictions.¹¹⁰

Another reason that organ trafficking legislation in Brazil is ineffective is due to the dire poverty in the country that continues to encourage the illicit organ trade.¹¹¹ Throughout Brazil, especially in the slums of Rio de Janeiro, people live in extreme poverty.¹¹² Brazilians living in these poor areas experience homelessness and starvation.¹¹³ Participating in organ trafficking is seen as a viable option to make money to help alleviate this poverty.¹¹⁴ To poor Brazilian laborers, like Alerty Jose da Silva, selling a kidney to an international organ trafficking middleman is an opportunity of a lifetime.¹¹⁵ Mr. da Silva received \$6,000 U.S. dollars for selling his kidney, which is more than a decades' worth of wages as a laborer.¹¹⁶ Two middlemen escorted Mr. da Silva to South Africa where the operation was performed and the kidney was transplanted into an American from Brooklyn, New York.¹¹⁷ Traveling to South Africa to sell his kidney was a life changing opportunity for Mr. da Silva—one that enabled him to make a large amount of money to provide for his family.¹¹⁸ Since Brazilian laws prohibiting organ trafficking are ambiguous and unenforced, Mr. da Silva was not prosecuted and ultimately profited from the illegal organ sale.¹¹⁹ Dire poverty and lack of enforcement of organ trafficking legislation explain why such laws are ineffective at the domestic level in Brazil.¹²⁰

3. Mexico

In Mexico, organ trafficking is illegal.¹²¹ However, the Mexican government does not prioritize investigating possible organ trafficking cases.¹²² As of 2012, the Mexican government had received 36 reports

110. *See generally id.*

111. *See* Larry Rohter, *The Organ Trade: A Global Black Market; Tracking the Sale of Kidney on a Path of Poverty and Hope*, N.Y. TIMES (Feb. 23, 2004), available at <https://www.nytimes.com/2004/05/23/world/organ-trade-global-black-market-tracking-sale-kidney-path-poverty-hope.html> (last visited Apr. 1, 2019).

112. *See generally id.*

113. *See id.*

114. *See id.*

115. *Id.*

116. Rohter, *supra* note 111.

117. *Id.*

118. *Id.*

119. *See id.*

120. *See id.*

121. *See* Fox, *supra* note 69.

122. *See id.*

of organ trafficking in the preceding six years.¹²³ Of those 36 reports of suspicious organ trafficking activity, Mexico's Attorney General's Office only opened a preliminary investigation into four.¹²⁴ Therefore, Mexico's Attorney General's Office is not addressing the issue of organ trafficking because it is not prioritizing it as a crime.¹²⁵

Mexican law enforcement officials have turned a blind eye to organ trafficking.¹²⁶ Local law enforcement officials are reluctant to investigate reports of organ trafficking because law enforcement officers in Mexico are involved in the organ trafficking process.¹²⁷ Law enforcement and government officials participate in organ trafficking by either serving as middlemen or by recruiting donors.¹²⁸ In exchange for recruiting organ donors, law enforcement officials receive cash.¹²⁹ Due to law enforcement's relationship with trafficking, there is no incentive for law enforcement—particularly the Mexican Attorney General's Office—to investigate reports of possible organ trafficking. Further, this helps explain why the Mexican government is not making organ trafficking a priority, which in turn contributes to the pervasive nature of this crime in Mexico.¹³⁰

4. *China*

Organ trafficking in The Republic of China used to be legal.¹³¹ In 1984, the Chinese government passed the “Temporary Rules Concerning the Utilization of Corpses of Organs from Corpses of Executed Criminals in Order” which allows the removal and sale of organs from Chinese prisoners.¹³² These organs from living and deceased prisoners are sold to foreign buyers.¹³³ The profits made from selling these organs go directly to the Chinese government.¹³⁴ Uniquely, the Chinese government encourages and directly benefits from organ trafficking.¹³⁵

123. *Id.*

124. *Id.*

125. *See id.*

126. *Mexico Missing: Links to Organ Trafficking*, CHANNEL 4 NEWS (Jan. 12, 2010), available at <http://www.channel4.com/news/articles/world/americas/mexico+missing+links+to+organ+trafficking/3497537.html> (last visited Apr. 1, 2019).

127. *See id.*

128. *See id.*

129. *Id.*

130. *See id.*

131. Bowden, *supra* note 13, at 458.

132. *Id.* at 459.

133. *See id.* at 458.

134. *See id.*

135. *See id.*

Chinese behavior sparked international controversy when the country was condemned by the U.N. and the Vatican.¹³⁶ In 2006, after facing decades of criticism for the legal sale of prisoners' organs, China passed the provision on the "Administration of Entry and Exit of Cadavers and Treatment of Cadavers" in attempt to prohibit organ trafficking.¹³⁷ This law prohibits selling organs of dead individuals, including prisoners, in China.¹³⁸

Despite the legislation prohibiting organ trafficking in China, organ trafficking, particularly among prisoners, continues to exist and the Communist Party of China continues to facilitate the illicit sale of prisoner organs.¹³⁹ Domestic efforts in China to prohibit organ trafficking are unsuccessful because the Chinese government enables organ trafficking to continue.¹⁴⁰

III. THE WAY FORWARD: MAKING ORGAN TRAFFICKING LEGISLATION EFFECTIVE

For organ trafficking legislation to become effective, increased effort at the international level must be made to eliminate the illegal sale of organs. Currently, the only binding piece of international legislation regarding organ trafficking is the CECTHO.¹⁴¹ This one treaty, with only a regional presence, is not enough to make organ trafficking legislation effective worldwide.

International organizations that focus on global crime and human rights—such as the U.N. and WHO—must encourage Member States to implement organ trafficking legislation. Presently, the U.N. has addressed the issue of trafficking in persons for organ removal, but not organ trafficking.¹⁴² The U.N. should focus on creating effective organ trafficking legislation. Not only is establishing effective organ trafficking

136. Stephanie Kirchgaessner, *China May Still Be Using Executed Prisoners' Organs, Official Admits*, THE GUARDIAN (Feb. 7, 2017), available at <https://www.theguardian.com/world/2017/feb/07/china-still-using-executed-prisoners-organs-transplants-vatican> (last visited Mar. 31, 2019).

137. See *Provisions on the Administration of Entry and Exit of Cadavers and Treatment of Cadavers*, LAW INFO CHINA (2006), available at <http://www.law-infochina.com/display.aspx?lib=law&id=5362&CGid=> (last visited Mar. 27, 2019).

138. See *id.*

139. Benedict Rogers, *Organ Harvesting in China*, THE DIPLOMAT (June 29, 2016), available at <https://thediplomat.com/2016/06/organ-harvesting-in-china/> (last visited Apr. 27, 2019).

140. See *id.*

141. U.N. OFF. ON DRUGS AND CRIME, *supra* note 3, at 18.

142. *Id.* at 17.

legislation the next logical step after addressing trafficking in persons for organ removal, but it encompasses many other U.N. areas of interest. As discussed throughout this paper, one of the main reasons for organ trafficking is dire poverty. Individuals living at or below the poverty line in the developing world are lured into the illegal organ trade because of the lucrative monetary benefits they receive.

One of the sustainable development goals of the U.N. is to eradicate poverty.¹⁴³ Eliminating poverty, particularly in developing countries like Mexico and Brazil, will reduce organ trafficking. Also, closely linked to poverty is the issue of economic development. The U.N., through its Economic and Social Council, focuses directly on economic development.¹⁴⁴ Efforts to increase lawful economic development are related to outlawing organ trafficking. If there are additional employment opportunities for individuals in the slums of Rio de Janeiro or in the poor villages of Singapore, then individuals will be less likely to engage in organ trafficking. Since organ trafficking is closely linked to poverty and decreased economic development, creating legislation that prohibits organ trafficking is in line with the organization's other goals.

A. Reducing the Shortage of Organ Donors

An additional solution to creating effective legislation on organ trafficking is to eliminate the shortage of organ donors. In first world countries like the United States and the United Kingdom, organ recipients are placed on waitlists for years. Tens of thousands die annually, creating a sense of desperateness among waitlist recipients that fuels the practice of organ trafficking.¹⁴⁵ If waitlists are shortened, recipients would be less incentivized to engage in the illegal organ trade.

One method of reducing wait times for organs would be awareness-raising campaigns that promote organ donation.¹⁴⁶ These campaigns would highlight the improved medical technology that is used during organ transplant surgeries.¹⁴⁷ Campaigns could explain the high survival

143. See generally *Goal 1: End Poverty in All Its Forms Everywhere*, U.N., available at <http://www.un.org/sustainabledevelopment/poverty/> (last visited Mar. 27, 2019).

144. See generally *ECOSOC Brings People and Issues Together to Promote Collective Action for a Sustainable World*, U.N., available at <https://www.un.org/ecosoc/en/home> (last visited Mar. 27, 2019).

145. See Part I.E, *supra*.

146. Meyer, *supra* note 79, at 226.

147. *Id.*

statistics for living organ donors and explain the decreased risks of organ donation.¹⁴⁸

Furthermore, another option to increase organ donations is for more countries to adopt the presumed consent system.¹⁴⁹ Presumed consent is “a regulation where organs can be removed from a deceased person unless he or she objected during his or her lifetime.”¹⁵⁰ This method would allow any healthy deceased person’s organs to be used for donation, unless the decedent explicitly stated in writing that he or she did not consent to organ donation.¹⁵¹

Currently, most organ destination countries—including Germany, Denmark, the United Kingdom, and the United States—have organ donation systems that operate under the expressed consent system.¹⁵² This approach to organ donations requires that an “organ[] can only be removed from deceased persons if they have expressed their consent while still alive.”¹⁵³ The expressed consent system of organ donation does not reduce the organ recipient waitlist because most individuals do not say anything about posthumous organ donation while they are alive.¹⁵⁴ Therefore, the presumed consent approach is the best option to encourage organ donation and reduce organ trafficking.

B. Organ Trafficking Exception to Doctor-Patient Confidentiality

An additional solution to the organ trafficking concern is to create an organ trafficking exception for doctor-patient confidentiality. As discussed earlier in this paper, one reason that organ trafficking legislation lacks effectiveness is because many cases of organ trafficking are not reported. Failure to report these cases to law enforcement stems from doctor-patient confidentiality forbidding a physician from disclosing a patient’s personal information communicated to the doctor. Therefore, if a patient tells the doctor that he or she had an illegal organ transplant, the doctor is prohibited from reporting that information.

However, a solution to making organ trafficking legislation more effective is to include a provision that releases medical providers from doctor-patient confidentiality when they know or reasonably suspect that the patient participated in organ trafficking. For instance, if the patient

148. *Id.*

149. *Id.*

150. *Id.*

151. Meyer, *supra* note 79, at 226.

152. *Id.*

153. *Id.*

154. *Id.*

told the doctor they had an illegal organ transplant surgery, the doctor must report that information. A physician would reasonably know if a patient had an illegal organ transplant surgery by seeing scars that are not healing well, or observing that a healthy patient lost an organ. Discovering that a sick patient who was unable to get an organ transplant suddenly received one would also be a warning sign that organ trafficking occurred. If a transplant is not included in the patient's medical records, it is a clear sign that he or she underwent an illegal transplant operation.

An exception to doctor-patient confidentiality would enable law enforcement officials to investigate organ trafficking cases. As stated previously, organ trafficking offenses are usually not reported to law enforcement because of the mutual benefit between parties, which creates no incentive for the parties to report organ trafficking offenders.¹⁵⁵ Doctors that treat patients weeks or even months after they have participated in the illegal organ surgery are in the best position to know if organ trafficking occurred. This exception in the form of provision in international treaties or U.N. resolutions will enable organ trafficking legislation to be effective at both the international and domestic levels.

C. Need for Laws that Deter and Are Enforced by Local Governments

Countries like Singapore criminalize organ trafficking, but their laws fail to deter the crime. Being imprisoned for two weeks, or at most 12 months, does not dissuade individuals from engaging in organ trafficking;¹⁵⁶ neither does a minimal fine when the benefits of such a scheme can generate hundreds of thousands of dollars.¹⁵⁷ The risk of getting caught and receiving a maximum sentence of 12 months imprisonment and a minimal fine is likely worth the lucrative financial benefits of becoming involved in organ trafficking for those who are most desperate.¹⁵⁸

At the international level, once binding legislation is created the International Court of Justice ("ICJ")¹⁵⁹ would maintain the discretion to levy strong penalties for all participants in organ trafficking. These punishments could be long prison sentences (ranging from 15 to 25 years) and large fines. Besides receiving lengthy prison sentences and fines,

155. *Id.* at 213.

156. Human Organ Transplant Act, Cap. 131A (2012) § 14(2) (Sing.).

157. Aeng Cheng, *supra* note 103, at 866.

158. *See* Part II.C(1), *supra*.

159. The ICJ is the court of the United Nations that has authority to hear legal disputes between countries and hears "requests for advisory opinions on legal questions referred to it by United Nations organs and specialized agencies." *How the Court Works*, INT'L COURT OF JUSTICE, available at <https://www.icj-cij.org/en/how-the-court-works> (last visited Apr. 27, 2019).

doctors who participate in organ trafficking should also have their medical licenses revoked. It is essential that laws at both the international and domestic levels clearly indicate that they apply to all parties involved, including, but not limited to, the donor, the recipient, the middleman, physicians, and other medical personnel involved in the operation.

At the domestic level, laws need to be enforced, act as effective deterrents, and apply to all parties involved in the organ trafficking transaction. Legislation, like the laws in Brazil, act as deterrents but lack enforcement because of the ambiguous language.¹⁶⁰ Instead, countries must implement laws that deter criminal behavior, allow for law enforcement compliance, and are written clearly by stating which parties the organ trafficking offense applies to. Additionally, the U.N. should mandate that countries release data annually to the public on the number of reports of organ trafficking and the number of individuals convicted of organ trafficking. Releasing these statistics will spread awareness of the global presence of organ trafficking while also serving as a deterrent to members of the public. The U.N. should track this data because organ trafficking is an international issue with parties from many different countries acting in concert together.

Another method of implementing effective organ trafficking legislation is to eliminate government corruption. In Mexico, one of the major obstacles of investigating and prosecuting possible organ trafficking cases is the corruption of law enforcement officers, many of whom are involved in covering up the offenses.¹⁶¹ Domestic legislation must be reformed in Mexico, criminalizing the acts of government officials who become involved or receive bribes for remaining silent in regard to suspected organ trafficking behavior. This legislation should apply to all government officials, including police officers, detectives, lawyers, and other government employees. If government employees are enabling organ traffickers, then the illicit organ trade will persist. Change must occur by penalizing enablers who, in many countries, are government officers.

In addition to creating and implementing laws that forbid government employees from participating in organ trafficking, there also needs to be an international law created by the U.N. that prohibits political parties from profiting from the illegal organ trade. As discussed previously, organ trafficking in China stems from the Communist Party, a powerful political organization that profits from the illegal sale of organs.¹⁶² A solution to organ trafficking in China is promulgation of laws that

160. Bowden, *supra* note 13, at 457.

161. *See* Part II.C(3), *supra*.

162. *See* Part II.C(4), *supra*.

prohibit government officials, government organizations, or political parties from engaging in and profiting from organ trafficking.

D. Make the Sale of Organs Legal

A highly controversial solution to completely eliminate organ trafficking is to make the sale of human organs legal. Many scholars have proposed this idea, but currently this practice only exists in Iran.¹⁶³ If the international community made the sale of organs legal, organ transplantations could be regulated by official transplantation centers.¹⁶⁴ Lists of recipients of the organs would still function on a need-based priority.¹⁶⁵ The argument in favor of legalizing the sale of organs is that with a financial incentive, more living individuals will be motivated to serve as donors.¹⁶⁶ An increase in donors will eliminate the long waitlist for organs. The legalization of selling organs eliminates the issue of organ trafficking because organ trafficking will be lawful, and therefore regulated effectively.

Another argument in support of the legalization of organ trafficking is that selling reproducible parts of the human body is already legal.¹⁶⁷ In many countries, the sale of semen, blood, DNA, or bone marrow is allowed for financial benefit.¹⁶⁸ Proponents of legalizing the sale of organs argue that if these bodily substances are permitted to be sold for monetary gain, and therefore so to should organs.¹⁶⁹ Opponents of legalizing the organ market believe this presents an ethical conflict, because the nature of organ donation is supposed to be altruistic.¹⁷⁰ They argue that the sale of organs impugns human dignity and should not be tolerated in a moral society.¹⁷¹ The concern is that the sale of organs portrays human beings and their body parts as commodities.¹⁷² If humans are viewed as commodities, altruist organ donations will decrease, leading to individual corruption which will adversely affect human society.

One example of a modification to a law legalizing the sale of organs is placing restrictions on who can buy organs. A common proposition is

163. I. Glenn Cohen, *Regulating the Organ Market: Normative Foundations for Market Regulation*, 77 L. & CONTEMP. PROBS. 71, 82 (2014).

164. Meyer, *supra* note 79, at 226-27.

165. *Id.* at 227.

166. *Id.*

167. *Id.*

168. *Id.*

169. Meyer, *supra* note 79, at 227.

170. *Id.* at 229.

171. *Id.* at 228.

172. Cohen, *supra* note 163, at 74.

that only the government can buy organs, which is how the Iranian organ market works.¹⁷³ Under this approach, once the government purchases organs from individuals, it distributes organs to recipients free of charge.¹⁷⁴ The government would disperse the organs to individuals based on their need, their health condition, and whether the organs physiologically matched the individuals.¹⁷⁵ Additionally, the government could impose some other requirements to distinguish buyers, such as mandating that sellers have a gross taxable income below a certain amount to exclude low income sellers.¹⁷⁶ The government being the sole organ buyer allows for greater regulation of the organ market. Proposing organ regulation by allowing the lawful sale of organs is a controversial solution, but one that does successfully eradicate organ trafficking.

CONCLUSION

Organ trafficking is a global concern that stems from desperation and dire poverty. Individuals in first world countries on long waitlists in desperation of an organ transplant will participate in illegal organ transactions. Just like there are people determined to find healthy organs as their only chance of survival, there are individuals on the other end of the spectrum as well. These individuals are desperate for money and will do anything to ensure their own survival, including selling their healthy organs.

The problem is that current legislation at the international and domestic levels prohibiting organ trafficking is ineffective. On the international stage, there has only been one binding law, the CECTHO, which outlaws organ trafficking. There must be more legislation on the international stage to combat this purely global issue. Global initiatives to combat organ trafficking that are illustrated through WHO resolutions or through conventions such as the Declaration of Istanbul are international efforts to raise awareness of the issue of organ trafficking; however, these are non-binding documents. Additionally, doctor-patient confidentiality and lack of reliable statistics on organ trafficking also contribute to the difficulty in eliminating the illegal organ market.

At the domestic level, legislation prohibiting organ trafficking is ineffective. In Singapore, the laws are not deterrents; in Brazil, the legislation is ambiguous and not enforced; in Mexico, there is corruption of law enforcement officers that impedes on organ trafficking

173. *Id.* at 82.

174. *Id.*

175. *Id.*

176. *Id.*

investigations; in China, the political parties encourage and profit from the illicit organ trade.

There are many recommendations to creating effective organ trafficking legislation at both the international and domestic levels. At the international level, there need to be more treaties and binding legislation from organizations like the U.N. This legislation should include organ trafficking exceptions to doctor-patient confidentiality agreements, because physicians are in the best position to report cases of suspected organ trafficking activity. Additionally, reducing waitlist times for organ recipients is another recommendation to combat organ trafficking. By organizing awareness campaigns and promoting the presumed consent system to organ donations, individuals in need of organs will be able to get their organs through donation instead of monetary purchase.

At the domestic level, there need to be laws that clearly articulate what parties are responsible for organ trafficking offenses and that contain prison sentences serving as deterrents. Domestic laws must penalize government employees and members of political parties who engage in or profit from organ trafficking.

A final solution to the organ trafficking problem is to make the sale of organs legal. There is a great deal of controversy surrounding this proposition, and many believe that the regulation and compensation of the sale of organs will lead to a deterioration in altruistic and moral values. Organ trafficking is an international issue involving parties from many different countries acting in concert together. With effective legislation at both the international and domestic level, organ trafficking can not only be reduced, but overtime can be eliminated entirely.