

# Organ Trafficking: How Structural Inequality Leads to Individual Exploitation



Human Trafficking Search 2021  
A Project of the O.L. Pathy Family Foundation

Written by Abigail Leonard



## Introduction

“They took my passport and clothes... Then they drugged me. When I was awake, I found myself alone. I was in pain and there was blood on my side coming from a bandage. I had no idea what was happening.”<sup>1</sup>

Hana, an asylum seeker, shared her violent experience with the organ trafficking industry in an interview with Dr. Seán Columb for his work *Trading Life: Organ Trafficking, Illicit Networks, and Exploitation*.<sup>2</sup> Her story represents the extreme of the underground trade in organs in which people's organs are forcibly removed.

While Hana's case of forcible removal is the exception and most individuals who sell their organs have “willingly” agreed to the sale, organ sale as choice is an ongoing debate. Almost always acting out of poverty-induced desperation, selling an organ can appear a worthwhile price for the promise of escaping insurmountable debt, generational poverty, and/or a conflict zone. But how true is the promise of debt relief and climbing out of poverty when selling your organs and can this really be framed as a choice?

For Dawitt, another of Dr. Columb's interviewees, the promise was hollow. As Columb recounts in a 2019 article, Dawitt had fled Eritrea at 13 years old. After being smuggled into Egypt through Sudan, Dawitt faced debt and had difficulty finding employment. At 19, Dawitt met a man who offered him a means of making money—selling his kidney. As Dawitt said, “It was a lot of money. How [could] I say no to \$5,000 when I have nothing and my family needed help?”<sup>3</sup>

Dawitt was promised passage to Europe as payment for the organ removal surgery. However, after two weeks of recovery, Dawitt's broker and his supposed smuggler disappeared. Dawitt was left still in debt and recovering from his kidney removal, further hampering his ability to find employment.<sup>4</sup>

Dawitt's story is reflective of the majority of those who sell their organs. In the face of debt, these individuals agree to sell their organs for financial payment or desperately needed services, as in Dawitt's case. Yet, after the surgery, they are often given far less money than promised, if any or the services they were promised are never delivered. Most organ sellers receive less than 10% of the payment from their organs with the majority of the money going to intermediaries like the broker that facilitated Dawitt's organ sale.<sup>5</sup> Moreover, many people find themselves in

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<sup>1</sup> Seán Columb, “Tracking down Organ Traffickers and Their Victims,” *Thomson Reuters Foundation News*, September 23, 2020, <https://news.trust.org/item/20200923161904-x3ozy/>.

<sup>2</sup> Columb.

<sup>3</sup> Seán Columb, “Organ Trafficking in Egypt: ‘They Locked Me in and Took My Kidney,’” *The Guardian*, February 9, 2019, sec. World news, <https://www.theguardian.com/global-development/2019/feb/09/trafficking-people-smugglers-organs-egypt-mediterranean-refugees-migrants>.

<sup>4</sup> Columb.

<sup>5</sup> Channing May, “Transnational Crime and the Developing World” (Global Financial Integrity, March 2017), 30, [http://www.gfintegrity.org/wp-content/uploads/2017/03/Transnational\\_Crime-final.pdf](http://www.gfintegrity.org/wp-content/uploads/2017/03/Transnational_Crime-final.pdf).

further poverty as their debt is exacerbated by the cost of post-operative health care for medical complications and limited employment opportunities as they recover.

This industry of organ trade has been driven by rising global demand for organ transplants and limited supply by altruistic donations globally. Higher incomes, larger aging populations, and rises in chronic, heart, and vascular disease has created an ever-increasing demand globally for transplantation. According to the World Health Organization's Global Observatory on Donation and Transplantation, only 10% of this global need is being met by donated transplants.<sup>6</sup> This demand has driven a rather lucrative underground economy in organ trafficking.

In 1987, the World Health Organization first defined and suggested the prohibition of organ trafficking, referred to as “transplant commercialism.” They declared a criminal prohibition of any organ trade in which a profit was made. Though an individual donating their organ could be compensated for health care, employment, and housing costs arising from their donation, they, and any intermediaries like brokers, recruiters, or health care professionals, could not make a profit from the donation. The WHO justified its suggested prohibition by referring to the likely exploitation of those who are impoverished or members of vulnerable groups. As the WHO stated, “Payment for cells, tissues and organs is likely to take unfair advantage of the poorest and most vulnerable groups, undermines altruistic donation, and leads to profiteering and human trafficking. Such payment conveys the idea that some persons lack dignity, that they are mere objects to be used by others.”<sup>7</sup>

This suggested prohibition has been taken up by international bodies as well as nation-states. Presently, Iran is the only country in which there is a legal trade in organs, facilitated by the government.

The WHO's concern regarding the organ trade has warrant, as reflected in Dawitt's story. Those who sell their organs are vastly and disproportionately impoverished. The organ trade appears to reflect a regional power disproportion as well. According to Nancy Scheper-Hughes of the now-defunct Organs Watch, organ trafficking generally moves from the Global South to the Global North.<sup>8</sup>

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This report explores how the trade in organs has been framed and what might be concealed by that framing. Specifically, by examining the ability of an individual under financial duress to “consent” to the selling of their organs, this report seeks to look at who—and what—are doing the exploitation in instances of organ trafficking. Though international protocols have focused on

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<sup>6</sup> Global Observatory on Donation and Transplantation, “Organ Donation and Transplantation Activities, Executive Summary 2019” (World Health Organization, April 2021), [http://www.transplant-observatory.org/wp-content/uploads/2021/06/GODT2019-data\\_web\\_updated-June-2021.pdf](http://www.transplant-observatory.org/wp-content/uploads/2021/06/GODT2019-data_web_updated-June-2021.pdf).

<sup>7</sup> “WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation” (World Health Organization, 1987), 5, [https://www.who.int/transplantation/Guiding\\_PrinciplesTransplantation\\_WHA63.22en.pdf](https://www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf).

<sup>8</sup> Nancy Scheper-Hughes, “The Last Commodity: Post-Human Ethics and the Global Traffic in ‘Fresh’ Organs,” in *Global Assemblages* (John Wiley & Sons, Ltd, 2007), 145–67, <https://doi.org/10.1002/9780470696569.ch9>.

individual criminality of those who sell, facilitate the sale of, and buy organs, the report postulates that this approach misses the broader socioeconomic structures that drive the poverty behind organ sellers' decisions, creates disparate amplified by lack of basic public health care access, and contributes to regional power disparity between the Global North and Global South.

### **Defining Organ Trafficking, Organ Trade, and Transplant Tourism**

Recently sparked awareness around the sale and purchase of organs across borders has produced a multitude of competing terms to describe the phenomenon. Understanding these terms and what they include is important to grasping the narrative of the crisis.

“Organ trafficking,” “organ trade,” and “transplant tourism” are often used interchangeably to refer to the transnational sale, legal or not, of organs. However, these terms converge and diverge in their meaning, leading to competing applications of the same terms. To address this confusion in terms, this section provides definitions of the various terms—“organ trafficking,” “organ trade,” and “transplant tourism”—according to relevant legislation.

#### *Organ Trafficking*

On November 15, 2000, the General Assembly of the United Nations adopted the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* which went into effect on December 25, 2003. Under this protocol, the UN defines the crime of trafficking in persons as well as outlining broad commitments by the ratifying states about the prevention of trafficking in persons, the criminalization of such trafficking, and the protection of those identified as victims of trafficking. The Trafficking Protocol (UN TIP Protocol) was one of three protocols, known collectively as the Palermo Protocols, adopted by the UN in order to supplement the 2000 Convention against Transnational Organized Crime.<sup>9</sup>

The UN TIP Protocol defined “trafficking in persons” under Article 3, Section (a), as:

the recruitment, transportation, transfer, harbouring 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.<sup>10</sup>

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<sup>9</sup> UN General Assembly, “United Nations Convention against Transnational Organized Crime and the Protocols Thereto,” Resolution 55/25 § (2000), [//www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html](http://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html).

<sup>10</sup> UN General Assembly, “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime,” Resolution 55/25 § (2000), Art. 3, Sec (a), <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>.

Exploitation is defined as the “exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude *or the removal of organs*” [emphasis added].<sup>11</sup>

The victim’s consent to the exploitation was considered “irrelevant,” by the UN TIP Protocol, if any of the aforementioned means were present. Under the definition of a trafficked person outlined above, the individual’s ability to give consent to the removal and sale of their organs is a hotly contested question. This debate bears marked similarity to debates regarding the consent of individuals who perform sex work. Dr. Seán Columb, Senior Lecturer in Law at the University of Liverpool, has raised questions contrary to the traditional discourse on organ trafficking over the ability of those who sell their organs to give their consent to such trade.<sup>12</sup>

Dr. Columb is a vocal critic of conflating the term “organ trafficking,” to mean both “trafficking in persons for the purpose of organ removal,” and “trafficking of organs.” To this end, “human trafficking for the purpose of organ removal,” or HTPOR, refers to the intended exploitation of persons for organ removal, whereas “trafficking in organs” refers to the illicit trade of organs, but not necessarily of persons.<sup>13</sup> The conflation of the two assumes that all trading in organs is done by exploiting individuals for their organs i.e. that there is no possibility for organ trading, which is not exploitative.

To the frustration of critics like Dr. Columb who, unlike the UN and WHO, argue for the possibility of a non-exploitative organ trade, expanded definitions offered by the international community to clarify the term “organ trafficking” have indeed created further overlap between HTPOR and the illicit trade of organs.

In the spring of 2008, the Istanbul Summit on Organ Trafficking and Transplant Tourism was held in Turkey at the behest of a resolution from the fifty-seventh World Health Assembly in 2004 that encouraged its member states to act in protection of those vulnerable to “‘transplant tourism’ and the sale of tissues and organs.”<sup>14</sup> The Summit concluded with the creation of the *Declaration of Istanbul on Organ Trafficking and Transplant Tourism*, hereafter the Declaration of Istanbul, which attempted to offer more comprehensive definitions than its predecessor.

Drawing upon the definition offered by UN TIP Protocol, the Declaration of Istanbul defined “organ trafficking” as,

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

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<sup>11</sup> UN General Assembly, Art. 3, Sec (a).

<sup>12</sup> Seán Columb, “Beneath the Organ Trade: A Critical Analysis of the Organ Trafficking Discourse,” *Crime, Law and Social Change* 63, no. 1 (March 1, 2015): 21–47, <https://doi.org/10.1007/s10611-014-9548-0>.

<sup>13</sup> Seán Columb et al., “Re-Conceptualizing the Organ Trade: Separating ‘Trafficking’ from ‘Trade’ and the Implications for Law and Policy,” *Transplant International* 30, no. 2 (2017): 210, <https://doi.org/10.1111/tri.12899>.

<sup>14</sup> Fifty-Seventh World Health Assembly, “Human Organ and Tissue Transplantation,” WHA57.18 § (2004), 57.

the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation.<sup>15</sup>

Notably, this definition provided a more detailed definition of the use of monetary offers as an incentive for exploitation than its counterpart. A central concern of the authors of the Declaration was to highlight how organ trafficking targeted those who were vulnerable, specifically the impoverished, and thus it was necessary for signatories to take action to “protect the poorest and most vulnerable groups.”<sup>16</sup>

The Declaration of Istanbul also provided definitions regarding “transplant commercialism,” and “transplant tourism,” that will be returned to briefly.

Motivated by the same concern for maintaining dignity and equity, the 2014 Council of Europe Convention against Trafficking in Human Organs offered their own definition. The Council interpreted “trafficking in human organs” as the removal of human organs without the “free, informed and specific consent of the living or deceased donor,” “where, in exchange for the removal of organs, the living donor, or a third party, has been offered or has received a financial gain or comparable advantage,” and/or “where in exchange for the removal of organs from a deceased donor, a third party has been offered or has received a financial gain or comparable advantage.”<sup>17</sup> The Council of Europe Convention also included the “use of illicitly removed organs for purposes of implantation or other purposes,” “the illicit solicitation, recruitment, offering and requesting of undue advantages,” “the preparation, preservation, storage, transportation, transfer, receipt, import and export of illicitly removed human organs,” and the “aiding or abetting and attempt” of the aforementioned acts.<sup>18</sup>

By including instances of organ sales that occur with donor’s consent in the language of the definition of “trafficking in organs” as “illicit removal of human organs,” the Council of Europe Convention again calls into question the ability of organ trade to operate legally at all.

### *Organ Trade or Transplant Commercialism*

Organ trade and transplant commercialism are other terms often used interchangeably with organ trafficking. as mentioned previously. International policy and national legislation again aim to provide clarity on these terms and the sale of organs, independent of the person, illegal or legal.

The World Health Organization provided the first definition of transplant commercialism in 1987 in the form of a suggested prohibition. In the *WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation*, they declare that “cells, tissues and organs should only be donated freely, without any monetary payment or other reward of monetary value. Purchasing, or offering to purchase, cells, tissues or organs for transplantation, of their sale by living persons or by the

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<sup>15</sup> International Summit on Transplant Tourism and Organ Trafficking, “The Declaration of Istanbul on Organ Trafficking and Transplant Tourism” (2008), 2.

<sup>16</sup> Fifty-Seventh World Health Assembly, Human organ and tissue transplantation, 57.

<sup>17</sup> Council of Europe, “Convention against Trafficking in Human Organs,” 216 § (2015), Ch. 2, Art. 4, 1(a-c).

<sup>18</sup> Council of Europe, Ch. 2, Art. 5, 7-9.

next of kin for deceased persons, should be banned.”<sup>19</sup> The reason for this suggested prohibition is the anticipated exploitation of vulnerable groups, particularly the impoverished, and the stated likelihood that such trade could lead to “profiteering and human trafficking.” It is worth noting that this appears to differentiate HTPOR from the organ trade, though both are condemned.

The guideline further clarifies that the “prohibition on sale or purchase of cells, tissues and organs does not preclude reimbursing reasonable and verifiable expenses incurred by the donor, including loss of income, or paying the costs of recovering, processing, preserving and supplying human cells, tissues or organs for transplantation.”<sup>20</sup> This clarification is provided in order to allow the compensation to be used to prevent the disincentive to donating organs because of health and financial costs. To this end, the trade of organs for *profit* is encouraged to be prohibited, but the exchange of donated organs for comparable “tokens of gratitude” is not.<sup>21</sup>

The Declaration of Istanbul in 2008 offered another definition of transplant commercialism. The authors define transplant commercialism as a “policy or practice in which an organ is treated as a commodity, including by being bought or sold or used for material gain.”<sup>22</sup>

In the revised Declaration of Istanbul released in 2018, this definition was removed. In fact, the phrases “organ trade” and “transplant commercialism” are entirely omitted from the most recent version of the Declaration. However, a section on the necessity of financial neutrality, as stated in the WHO Guidelines, on the part of both donor and buyer was added.<sup>23</sup>

The organ trade has been criminalized and/or prohibited in all countries except Iran. In the United States, the passing of *The National Organ Transplant Act* in 1984 made it unlawful to “knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation.”<sup>24</sup> “Valuable consideration” was defined in similar terms to the WHO Guidelines as payments to offset the costs of removal, transportation, housing, or lost income, but do not allow profit to be made from the “donation” of the organ.<sup>25</sup>

### *Transplant Tourism*

The 2008 Declaration of Istanbul is clear to distinguish between “travel for transplantation” and “transplant tourism.” Travel for transplantation is defined as “the movement of organs, donor, recipients, or transplant professionals across jurisdictional borders for transplantation

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<sup>19</sup> “WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation,” 5.

<sup>20</sup> “WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation,” 5.

<sup>21</sup> “WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation,” 5.

<sup>22</sup> International Summit on Transplant Tourism and Organ Trafficking, *The Declaration of Istanbul on Organ Trafficking and Transplant Tourism*, 2008, 2.

<sup>23</sup> International Summit on Transplant Tourism and Organ Trafficking, “The Declaration of Istanbul on Organ Trafficking and Transplant Tourism” (2018), 3.

<sup>24</sup> “Prohibition of Organ Purchases,” Pub. L. No. 274e, 42, (a), accessed October 26, 2021, <https://www.law.cornell.edu/uscode/text/42/274e>.

<sup>25</sup> Prohibition of organ purchases, (c)(2).

purposes.”<sup>26</sup> This travel, the Declaration holds, becomes transplant tourism when organ trafficking and/or transplant commercialism is involved, or in the instance that transplant resources such as the organs themselves, healthcare professionals, or transplant centers, are used for transplant patients from outside the jurisdiction in such a way that it “undermine(s) the country’s ability to provide transplant services for its own population.”<sup>27</sup>

In the revised 2018 Declaration of Istanbul, these definitions are changed, and a more moralistic tone is added in the discussion of transplant tourism. The revised definition of “travel for transplantation,” is simplified to “movement of persons across jurisdictional borders for transplantation purposes,” which, notably, omits the movement of organs. This form of travel is said to become “transplant tourism” when it involves HTPOR or “trafficking in human organs.” Moreover, “transplant tourism” is specifically referred to as “unethical,” in the revised Declaration.

However, countries have different legal distinctions for transplant tourism. Iran, the only state in which organ trade is legal, transplant tourism is limited to trade within its own populace. Foreigners cannot purchase organs and trade is only allowed between those of the same nationality.<sup>28</sup>

## **The Reality of Organ Transplants and Trafficking**

### *Organ Transplants*

Over the past decades, higher incomes, increases in chronic, heart, and vascular diseases, larger aging populations, and an ever-globalizing world have led to a significant worldwide demand for organ transplantation. According to statistics from the World Health Organization’s Global Observatory on Donation and Transplantation, in 2019 there were just under 154,000 solid<sup>29</sup> organ transplants. However, this accounted for only 10% of the global need for organ transplants.<sup>30</sup> A majority of these transplants, 100,097 of them, were for kidneys, the organ in greatest demand worldwide.

This rise in the need for organs for transplant is comparable to that seen in the United States and Western Europe. As of October 1, 2021, there were more than 106,000 individuals in the United States on the organ transplant waiting list. The vast majority of these candidates, roughly 90,000, are waiting for a kidney. The next most common organs in demand for those on the waiting list

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<sup>26</sup> International Summit on Transplant Tourism and Organ Trafficking, The Declaration of Istanbul on Organ Trafficking and Transplant Tourism, 2008, 2.

<sup>27</sup> International Summit on Transplant Tourism and Organ Trafficking, 2.

<sup>28</sup> Anne Griffin, “Kidneys on Demand,” *BMJ: British Medical Journal* 334, no. 7592 (March 10, 2007): 502, <https://doi.org/10.1136/bmj.39141.493148.94>.

<sup>29</sup> A solid organ is an internal organ, which is not hollow or liquid. This includes organs like kidneys, livers, hearts, lungs, and pancreases and excludes organs in the gastrointestinal tract or blood.

<sup>30</sup> Global Observatory on Donation and Transplantation, “Organ Donation and Transplantation Activities, Executive Summary 2019.”



in the U.S. are livers, hearts, and kidneys/pancreases.<sup>31</sup> From January to August 2021, just over 28,216 transplants were performed in the United States according to the Organ Procurement and Transplantation Network.<sup>32</sup> Of these transplants, 23,771 were performed utilizing organs from deceased donors. This proportion of organ transplants from deceased to living donors has remained stable over the past five years with a majority of organ donations coming from the deceased.<sup>33</sup>

In the United States there is considerable variability in the median wait time for candidates on the organ transplant waiting list depending on their status as determined by the United Network for Organ Sharing. For example, according to data reported by the Organ Procurement and Transplantation Network from 2011 to 2014, for deceased donor transplants, the median wait time for Heart Status 1A was 87 days whereas for Heart Status 2, it was 726 days.<sup>34</sup>

Eurotransplant, a non-profit international organization operating in the Netherlands, Belgium, Luxembourg, Germany, Austria, Slovenia, Croatia, and Hungary, oversees the allocation and cross-border exchange of deceased donor organs within these countries. As of 2020, there were 10,440 candidates on the active waiting list for kidney transplants, 1,421 for liver transplants, and 1,089 for heart transplants.<sup>35</sup> Comparatively, there were 2,839 deceased donor kidneys, 1,466 deceased donor livers, and 586 deceased donor hearts used for transplant in 2020.<sup>36</sup>

Data outside of the Global North is scarce and disparate. Further research should be done in order to have an accurate picture of the organ donation supply and demand in states beyond the United States and Europe.

### *Organ Trafficking*

In the UN's most recent *Global Report on Trafficking in Persons*, 1% of identified men victims of trafficking in persons were reported as having been trafficked for organ removal. Moreover, the 2020 Report showed an increase in identified victims of organ trafficking from 25 in 2017 to more than 40 in 2018. Cases of HTPOR reported during the data collection were particularly evident in North Africa and the Middle East, South and Southeast Asia, Central America, and Europe.

Organ trafficking is a lucrative underground economy. In 2017, the American think tank Global Financial Integrity (GFI) estimated that the annual value of the organ trafficking industry was \$840 million to \$1.7 billion.<sup>37</sup> GFI, in a report entitled *Transnational Crime and the Developing*

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<sup>31</sup> Organ Procurement and Transplantation Network, "National Data," October 1, 2021, <https://optn.transplant.hrsa.gov/data/>.

<sup>32</sup> Organ Procurement and Transplantation Network.

<sup>33</sup> Organ Procurement and Transplantation Network.

<sup>34</sup> Organ Procurement and Transplantation Network.

<sup>35</sup> Eurotransplant, "Yearly Statistics Overview," 2020.

<sup>36</sup> Eurotransplant.

<sup>37</sup> May, "Transnational Crime and the Developing World," 29.

*World*, estimated this value was based on sales for around 12,000 illegal transplants per year of the five most in demand organs, kidney, liver, heart, lung, and pancreas.<sup>38</sup>

Yet, those from whom these organs come, consensually or not, as stated previously, often receive only a fraction of the profit from the sale. According to GFI, for illicit kidney sales, sellers typically receive less than 10% of the payment from the organs' recipients. Instead, intermediaries such as brokers and scouts appear to receive a majority of the payment from such sales.<sup>39</sup>

This payment also varies greatly based on the seller's nationality and the location of the transplantation. As can be seen in the below chart from GFI's report, generally sellers of kidneys from the Global South had payment ranges considerably lower than their counterparts in the Global North. For instance, sellers of kidneys from the United States and Israel were paid at a relatively high range of \$20,000-\$30,000 and \$10,000-\$25,000, respectively. However, sellers of kidneys from Nepal were paid at the low range of \$200-\$900.

**Table K. Prices Paid to Kidney Vendors Around the World**

Vendor Country	Price Low	Price High	Vendor Country	Price Low	Price High
Bangladesh	\$2,000	\$3,000	Lebanon	\$3,000	\$7,000
Belarus	\$8,000	\$10,000	Moldova	\$2,500	\$3,000
Brazil	\$3,000	\$10,000	Nepal	\$200	\$900
Cambodia		\$3,000	Nicaragua		\$5,000
China	\$3,500	\$15,000	Pakistan	\$1,300	\$2,100
Colombia	\$1,000	\$3,000	Peru	\$5,000	\$12,000
Costa Rica	\$5,500	\$6,000	Philippines	\$1,000	\$2,500
Egypt		\$2,000	Romania	\$2,700	\$6,000
India	\$1,000	\$6,000	Syria		\$3,000
Indonesia	\$5,000	\$23,000	Turkey	\$7,500	\$10,000
Iraq		\$1,000	United States	\$20,000	\$30,000
Israel	\$10,000	\$25,000	Viet Nam		\$2,400
Japan		\$16,000	Yemen	\$5,000	\$7,000
Jordan	\$500	\$5,000			

Source: *Transnational Crime and the Developing World*, March 2017. Global Financial Integrity.

## From the Global South to the Global North

The flow of organs through populations from the Global South to the Global North is indicative of the concerns offered by the WHO in 1987 and the Declaration of Istanbul in 2008.

Victim-donors, to use the term employed by Faith Tunde-Yara, LLM of the University of Cape Town, are predominantly from countries of the Global South with high rates of poverty.

<sup>38</sup> May, 29.

<sup>39</sup> May, 30.

Victim-donors are often driven to act out of financial desperation. As Dr. Yosuke Shimazono of Osaka University concluded in his review of the relevant studies of victim-donors, the “underlying motivation of most paid kidney donors is poverty.”<sup>40</sup> In a 2002 study by Madhav Goyal et al of 305 paid kidney victim-donors in India, 71% reported that they were below the poverty line.<sup>41</sup> Studies of paid kidney victim-donors Pakistan and Egypt have shown similar financial motivations.<sup>42</sup>

Vulnerable populations, particularly the impoverished, are central targets for exploitation by organ trafficking brokers. Moreover, conflict zones are also sites exploited by traffickers. The concentration of victims of HTPOR in North Africa and the Middle East as reported in the *Global Report on Trafficking in Persons* can be linked to the rise in forced migration and displacement. Media reports have shown that migrants travelling through North Africa to Europe, often fleeing conflict, have been coerced into selling kidneys by smugglers in order to pay for their travel.<sup>43</sup> Moreover, Head of the Department of Forensic Medicine at Damascus and Chief of the General Authority for Forensic Medicine, Hussein Nofal, estimated in 2016 that 18,000 Syrians have sold their organs during the war. Another Syrian official, the Attorney General of Rural Damascus, Ahmad al-Sayyed, expected there were at least 20,000 such cases since the beginning of the war.<sup>44</sup> The promise of quick cash for organ sales has been found to be a compelling incentive for those desperate for money to rebuild their life or attempt to relocate elsewhere.<sup>45</sup>

On the other side of the organ trade (and the world), buyers are often wealthy residents of the Global North. As Nancy Scheper-Hughes of the University of Berkeley finds in her work, “The Last Commodity: Post-Human Ethics and the Global Traffic in ‘Fresh’ Organs,” the organ trade through transplant tourism and transplant commercialism often moves from the Global South to the Global North. Wealthy patients from the Global North are typically the primary buyers of

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<sup>40</sup> Yosuke Shimazono, “The State of the International Organ Trade: A Provisional Picture Based on Integration of Available Information,” *Bulletin of the World Health Organization* 85, no. 12 (December 1, 2007): 958, <https://doi.org/10.2471/BLT.06.039370>.

<sup>41</sup> Madhav Goyal et al., “Economic and Health Consequences of Selling a Kidney in India,” *JAMA* 288, no. 13 (October 2, 2002): 1589–93, <https://doi.org/10.1001/jama.288.13.1589>.

<sup>42</sup> Syed Ali Anwar Naqvi et al., “A Socioeconomic Survey of Kidney Vendors in Pakistan,” *Transplant International* 20, no. 11 (2007): 934–39, <https://doi.org/10.1111/j.1432-2277.2007.00529.x>; Debra Budiani-Saberi and Amr Mostafa, “Care for Commercial Living Donors: The Experience of an NGO’s Outreach in Egypt,” *Transplant International* 24, no. 4 (2011): 317–23, <https://doi.org/10.1111/j.1432-2277.2010.01189.x>.

<sup>43</sup> Josephine Mckenna, “Migrants Who Cannot Pay Are Being Sold for Organs, Smuggler Tells Italian Authorities,” *The Telegraph*, July 4, 2016, <https://www.telegraph.co.uk/news/2016/07/04/migrants-who-cannot-pay-are-being-sold-for-organs-smuggler-tells/>; Barbie Latza Nadeau, “Italy’s Gruesome Migrant Organ Transplant Murders,” *The Daily Beast*, July 6, 2016, sec. world, <https://www.thedailybeast.com/articles/2016/07/06/italy-s-gruesome-migrant-organ-transplant-murders>.

<sup>44</sup> Ahmad Hai Hamdo and Syrian Independent Media Group, “The Underbelly of Syria’s War: A Thriving Trade in Human Organs,” *UPI*, May 12, 2016, [https://www.upi.com/Top\\_News/World-News/2016/05/12/The-underbelly-of-Syrias-war-a-thriving-trade-in-human-organs/5301462896201/](https://www.upi.com/Top_News/World-News/2016/05/12/The-underbelly-of-Syrias-war-a-thriving-trade-in-human-organs/5301462896201/).

<sup>45</sup> Ulrike Putz, “Organ Trade Thrives Among Desperate Syrian Refugees in Lebanon,” *Der Spiegel*, November 12, 2013, sec. International, <https://www.spiegel.de/international/world/organ-trade-thrives-among-desperate-syrian-refugees-in-lebanon-a-933228.html>.

illicit organs for transplantation.<sup>46</sup> Scheper-Hughes is particularly critical of Israel in this work, referring to them as a “pariah in the international transplant world.”<sup>47</sup> Israel's role in the organ trade industry has changed since a 2008 law, which prohibits organ trafficking along with transplant tourism and provides financial reimbursement for operation-related costs as well as medical incentives to those who would donate.<sup>48</sup> Nonetheless, the pattern that Scheper-Hughes identified is still reflected in the movement of organs from countries including Brazil, Peru, Moldova, Afghanistan, India, and the Philippines to countries including the United States, Canada, the United Kingdom, Saudi Arabia, and Australia.

## MOVEMENT OF DONOR KIDNEYS AROUND THE WORLD



Source: Coalition for Organ Failure Solutions, Organs Watch, European Society for Organ Transplantation

This movement in illicit organs echoes greater power dynamics between the Global North and Global South. Body parts from Black, Indigenous, and People of Color from the Global South are often purchased as commodities— usually at great cost, medically and later monetarily for the victim-donors—for use by White middle to high income individuals of the Global North. Due to a long-standing history of economic and political exploitation, countries from which the organ commodities originate are rife with grinding poverty. Victim-donors find themselves with little to no recourse to ameliorate generations of accumulated debt and impoverishment, and are left with few options. The possibility of quick relief in the form of relatively large payment for a

<sup>46</sup> Scheper-Hughes, “The Last Commodity.”

<sup>47</sup> Scheper-Hughes.

<sup>48</sup> Amnon Meranda, “Knesset Approves Organ Donation Law,” *Ynetnews*, March 25, 2008, <https://www.ynetnews.com/articles/0,7340,L-3523461,00.html>.

kidney or liver is a tempting offer. However, like many historic and contemporary exchanges between the Global North and Global South, comes with significant unseen costs to the exploited victim-donor.

### **Post-Operation Healthcare Inequality of Victim-Donors**

Most victim-donors anticipate that selling an organ will alleviate and perhaps eliminate the burden of poverty. However, for most that undergo such a removal, there are significant health and economic consequences that often leave victim-donors in an even more precarious position post-operation.

Victim-donors are rarely provided with necessary post-operative care. Certain medical complications from organ removal like “infection, chronic pain, fatigue, and [in cases of kidney removal,] impaired function of the remaining kidney are common,” according to GFI.<sup>49</sup> Paying for medical care to address these complications becomes even more difficult when victim-donors are unable to be employed in labor-intensive work post-operation. As shown by the experience of Manzoor in the Dateline 2007 documentary, *The Cruellest Cut – Pakistan’s Kidney Mafia*, some victim-donors go further into debt than before the operation in order to obtain medical care for these complications.

In Shimazono’s review, he found that there was a notable pattern of either limited or negative lasting economic benefit for victim-donors as well as reported health deterioration.<sup>50</sup> There was a reported deterioration in the health status of 78% of victim-donors in a 2007 study of 142 individuals in Egypt led by Debra Budiani and of 86% of those included in Goyal et al’s study.<sup>51</sup> Moreover, in Budiani’s study, 78% of victim-donors reported having spent the payment from the organ sale within 5 months of receiving it and, unfortunately, 73% reported that they had a more difficult time in labor-intensive work.<sup>52</sup> A similar trend was seen in Goyal et al’s study as they found that there was not only an average decline in family income, but also that 75% of victim-donors were still in debt after having sold their kidneys.<sup>53</sup> In Leigh Turner’s study of the organ trade in the Philippines, he found a similar struggle for victim-donors to find employment opportunities due to limitations for physical labor.<sup>54</sup>

Even in Iran, the one country in which organ trade is legal, there have been similar negative health outcomes for those who sell their organs. Over 70% of those selling kidneys in Iran are impoverished—a statistic reflecting the global disproportion of impoverished individuals who

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<sup>49</sup> May, “Transnational Crime and the Developing World,” 32.

<sup>50</sup> Shimazono, “The State of the International Organ Trade,” 958.<sup>y</sup>

<sup>51</sup> Debra Budiani, “Consequences of Living Kidney Donors in Egypt” (10th Congress of the Middle East Society for Organ Transplantation, Kuwait, November 26, 2006); Goyal et al., “Economic and Health Consequences of Selling a Kidney in India.”

<sup>52</sup> Budiani, “Consequences of Living Kidney Donors in Egypt.”

<sup>53</sup> <https://pubmed.ncbi.nlm.nih.gov/12350189/>

<sup>54</sup> Leigh Turner, “Commercial Organ Transplantation in the Philippines,” *Cambridge Quarterly of Healthcare Ethics* 18, no. 2 (April 2009): 192–96, <https://doi.org/10.1017/S0963180109090318>.

are victim-donors.<sup>55</sup> Those selling their organs in Iran are incentivized by federal tax credit compensation, financial payments from the purchaser of the organ, and supposed free health insurance.<sup>56</sup> Though Iran's system has addressed the demand for organs, particularly kidneys, those that sell their organs still face negative health outcomes. According to a study by Javaad Zargooshi of 300 paid donors in Iran, 58% reported negative health effects and 65% reported negative employment status effects after their organ removal.<sup>57</sup>

Thus, globalized poverty, which has already positioned these victim-donors to be prime targets for exploitation, reifies their disempowered position by forcing them to go further into debt seeking proper medical care. Whereas their wealthy Global North counterparts might seek out accessible and comprehensive post-operative care, victim-donors are often left to fend for themselves in systems with expensive and lacking healthcare.

### **Consenting under Financial Duress**

This report returns to the question of consent brought forth in the earlier sections. Can the decision to sell an organ under duress of extreme poverty be seen as consensual? Is selling a kidney a voluntary choice if there appears to be no other alternative to freeing oneself from insurmountable debt or attempting to break the generational cycle of poverty?<sup>58</sup>

In his work entitled, "Beneath the organ trade: a critical analysis of the organ trafficking discourse," Dr. Columb poses a similar question. However, he argues that legal definitions of organ trafficking, which hinge on the notion of "consent," ignore the role of larger structural conditions in crafting poverty, which pressures individuals to sell their organs. To quote Dr. Columb, "Organ sellers are not exploited because they sell their organs. They are exploited because of conscious choices at the global level to invest in transplantation facilities rather than basic public health."<sup>59</sup>

When asking whether victim-donors can consent, it matters how exploitation is framed. The wording of international policies focuses on the individual criminality of identifiable "bad guys," placing blame squarely on the intermediaries who facilitate the trade and donors who choose to buy. Their exploitation of the desperate circumstances of impoverished individuals driven to sell their organs bears the full burden of blame in such situations.

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<sup>55</sup> Benjamin E Hippen, "Organ Sales and Moral Travails: Lessons from the Living Kidney Vendor Program in Iran," *CATO Policy Analysis* 614 (n.d.): 7.

<sup>56</sup> Rupert WL Major, "Paying Kidney Donors: Time to Follow Iran?," *McGill Journal of Medicine : MJM* 11, no. 1 (January 2008): 67–69.

<sup>57</sup> J. Zargooshi, "Iranian Kidney Donors: Motivations and Relations with Recipients," *The Journal of Urology* 165, no. 2 (February 2001): 386–92, <https://doi.org/10.1097/00005392-200102000-00008>.

<sup>58</sup> This debate does not focus on the extreme cases of organ trafficking in which there is evidently no agency on the part of the victim-donor as in the forced removal of organs for political or genocidal reasons as has been seen in China with the Uyghur Muslim and Falun Gong populations and in Kosovo against ethnic minorities during the Kosovo War by the Liberation Army.

<sup>59</sup> Seán Columb, "Beneath the Organ Trade: A Critical Analysis of the Organ Trafficking Discourse," *Crime, Law and Social Change* 63, no. 1 (March 1, 2015): 36, <https://doi.org/10.1007/s10611-014-9548-0>.

However, this framing clouds the picture of responsibility and criminality. In narrowly focusing on the individual criminality of some persons trafficking in organs—often themselves driven to act by poverty in the case of intermediaries and never-ending waiting lists in the case of buyers, only certain symptoms of organ trafficking are addressed. Beneath these individual actors are broader socioeconomic structures which have created the very poverty and inequity in power and health care that facilitate such exploitation. The deep roots of the organ trafficking industry, specifically poverty, regional power disparity, and public health care inaccess, are left unaddressed by this narrative. Without addressing these deep roots, the organ trade will continue to exploit the impoverished and the vulnerable, as recipients pursuing legal donation continue to die on seemingly endless waiting lists.

## **Conclusion**

This report has interrogated the power dynamics underlying the organ trade and how these dynamics have failed to have been addressed by focusing on individual criminality. Instead of centering on the exploitation by individuals, as the international protocols do, this report brings into conversation how structural exploitation facilitates and perpetuates organ trafficking, which targets the impoverished and the vulnerable. In short, this report argues that addressing individual criminality alone will not eradicate the problem of coercive or exploitative organ trading. In order to dig out the deep roots of organ trafficking, focus must widen to broader socioeconomic structures which drive poverty, inequitable public health care access, and the ongoing regional power disparity between the Global North and South.

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