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## Written Testimony of Anne Zimmerman<sup>1</sup>

### Hearing of the Congressional-Executive Commission on China: Stopping the Crime of Organ Harvesting—What More Must Be Done? March 20, 2024

Thank you for holding today’s hearing to discuss forced organ harvesting. I am pleased to contribute testimony concerning not just state-sanctioned forced organ harvesting, but other crimes in the organ transplantation ecosystem. Law and public policy can create well defined responsibilities and obligations. Law and other public policies should encourage or require individuals and corporations to perform human rights due diligence,<sup>2</sup> mitigate human rights risk, and refrain from complicity that may arise out of medical institution, business, or individual actions.

Sometimes medicine and science, or scientific discovery, are privileged above our common humanity. In the case of forced organ harvesting,<sup>3</sup> the killing of humans for the sake of providing organs for transplant, bad actors are intentionally violating human rights, killing people. Organ trafficking<sup>4</sup> and trafficking in persons for organ removal<sup>5</sup> are forms of criminal exploitation, in the same vein as state-

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<sup>1</sup> Anne Zimmerman, JD, MS, Columbia University; Chair, New York City Bar Association Bioethical Issues Committee; Chair, Innovative Bioethics Forum / Modern Bioethics. This testimony was prepared independently – it is not on behalf of nor does it necessarily represent the views of Columbia University, the New York City Bar Association, or the Innovative Bioethics Forum.

<sup>2</sup> Global Rights Compliance. (2022) Do No Harm: Mitigating Human Rights Risks when Interacting with International Medical Institutions & Professionals in Transplantation Medicine. Legal Advisory Report. 2022, p. 7. <https://globalrightscompliance.com/project/do-no-harm-policy-guidance-and-legal-advisory-report/> (“ Human Rights Due Diligence: The proactive conduct of a medical institution and transplant-associated entity to identify and manage human rights risks and adverse human rights impacts along their entire value and supply chain.”)

<sup>3</sup> Global Rights Compliance, 2022, p. 7. (Forced organ harvesting is “The killing of a person so that their organs may be removed without their free, voluntary and informed consent and transplanted into another person.”)

<sup>4</sup> The Inter-Agency Coordination Group Against Trafficking in Persons (2021). Trafficking in Persons for the Purpose of Organ Removal: Issue Brief.

[https://icat.un.org/sites/g/files/tmzbd1461/files/publications/icat\\_brief\\_tip\\_for\\_or\\_final.pdf](https://icat.un.org/sites/g/files/tmzbd1461/files/publications/icat_brief_tip_for_or_final.pdf). (“Trafficking in organs” covers a range of illicit practices associated with the removal of organs from living or deceased donors including: (i) Removal of organs without free, informed and specific consent; (ii) Removal of organs for financial gain or comparable advantage; (iii) Implantation or other use of illicitly removed organs; (iv) Preparation, preservation, storage, transportation, transfer, receipt, import and export of such illicitly removed organs; v) Illicit solicitation or recruitment of organ donors or recipients; and (vi) Offering and requesting of undue advantages to or by healthcare professionals or officials with a view to performing or facilitating such removal or implantation and other use; (vii) Attempting to commit or aiding or abetting the commission of any of these criminal acts.)

<sup>5</sup> The Inter-Agency Coordination Group Against Trafficking in Persons (2021). (“According to the Trafficking in Persons Protocol, the offence ... involves: (i) The recruitment, transportation, transfer, harbouring or receipt of persons; (ii) Through 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 of benefits to achieve the consent of a person having control over another person<sup>14</sup>; (iii) For the purpose of exploitation through removal of organs.”)

sanctioned forced organ harvesting. All violate the requirements that organ donation be voluntary and consensual.<sup>6</sup> I believe that those testifying in person have laid out the evidence of forced organ harvesting, but I have included some sources in the footnotes as well.<sup>7</sup> Some of the strategies to identify, decrease, and punish forced organ harvesting would also apply to organ trafficking and trafficking in persons for organ removal and this testimony therefore examines them together.<sup>8</sup>

Torture, genocide, crimes against humanity,<sup>9</sup> modern slavery,<sup>10</sup> and exploitation all provide frameworks and context for approaching, suppressing, and punishing forced organ harvesting. Many UN Conventions and international declarations, protocols, and principles apply, for example, the Palermo Protocol<sup>11</sup> to prevent and punish human trafficking and the Declaration of Istanbul on trafficking and transplant tourism.<sup>12</sup> Despite a robust body of international human rights conventions, forced organ harvesting in an authoritarian regime remains stealth and escapes enforcement mechanisms.

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<sup>6</sup> WHO Guiding Principles on Human Cell, Tissue, and Organ Transplantation, May 2010, <https://apps.who.int/iris/bitstream/handle/10665/341814/WHO-HTP-EHT-CPR-2010.01-eng.pdf?sequence=1>; World Health Assembly Resolution 57.18, Human organ and tissue transplantation, May 22, 2004, [http://www.who.int/gb/ebwha/pdf\\_files/WHA57/A57\\_R18-en.pdf](http://www.who.int/gb/ebwha/pdf_files/WHA57/A57_R18-en.pdf); International Summit on Transplant Tourism and Organ Trafficking (2008). The Declaration of Istanbul on Organ Trafficking and Transplant Tourism. *Clinical Journal of the American Society of Nephrology*. 3(5), 1227–1231. <https://doi.org/10.2215/CJN.03320708>

<sup>7</sup> See The Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China, p. 416-417. [https://chinatribunal.com/wpcontent/uploads/2020/03/ChinaTribunal\\_JUDGMENT\\_1stMarch\\_2020.pdf](https://chinatribunal.com/wpcontent/uploads/2020/03/ChinaTribunal_JUDGMENT_1stMarch_2020.pdf); DAFOH Special Report, 2022. <https://epochpage.com/wp-content/uploads/sites/3/2022/12/DAFOH-SpecialReport-2022.pdf>; Do No Harm: Mitigating Human Rights Risks when Interacting with International Medical Institutions & Professionals in Transplantation Medicine, Global Rights Compliance, Legal Advisory Report, April 2022, <https://globalrightscpliance.com/project/do-no-harm-policy-guidance-and-legal-advisory-report/>; Gonzalez, J., Garijo, I., & Sanchez, A. (2020), Organ Trafficking and Migration: A Bibliometric Analysis of an Untold Story, *International Journal of Environmental Research and Public Health*, 17(9), 3204, <https://doi.org/10.3390/ijerph17093204> (illegal organ transplants generate \$1.5 billion annually.)

<sup>8</sup> Examining the three phenomena together leads to workable recommendations because laws and policies can impact demand for organs, supply of the equipment and training/knowledge/skill development, and the research ecosystem of international collaborations.

<sup>9</sup> The Universal Declaration of Human Rights (UDHR), (1948), adopted by the United Nations General Assembly (Article 5 states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” and Article 7 states that “all are equal before the law and are entitled without any discrimination to equal protection of the law.”); UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1, Dec. 10, 1984, 1465 U.N.T.S. 85; UN Convention on the Prevention and Punishment of the Crime of Genocide, Office on Genocide Prevention and the Responsibility to Protect, Genocide. <https://www.un.org/en/genocideprevention/genocide.shtml>.

<sup>10</sup> Stammers, T. (2022). Chapter 2: Organ trafficking: a neglected aspect of modern slavery. In *Modern Slavery and Human Trafficking*. Bristol, UK: Policy Press. <https://doi.org/10.51952/9781447363668.ch002>

<sup>11</sup> United Nations, Human Rights Office of the High Commissioner, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted November 2000, Article 3, (the Palermo Protocol), <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-traffickingpersons>.

<sup>12</sup> “Transplant tourism” generally refers to traveling to undergo an organ transplant where the organ is procured through the commercial organ trade or other nonconsensual means and includes all aspects of commercialization. Shimazono, Y. (2007). The state of the international organ trade: a provisional picture based on integration of

The United States that could take action to address forced organ harvesting, organ trafficking, and trafficking in humans for organ removal elsewhere. A failure to act may allow forced organ harvesting and related crimes to continue. The market for human organs is global and includes a network of participants. Consumers of transplants who engage in transplant tourism or who pay for organs for transplant in their home country are generally wealthy or middle-income. To isolate any one country leads to ignoring the nature of the broader underground market, supply chains, researchers, and people seeking organ transplants. I contextualize forced organ harvesting, human trafficking for the removal of organs, and organ trafficking in the ecosystem of business, research, money-making, and exploitation, a system in which wrongdoers could be oblivious and even think they are participating in something good – medical research or saving lives. Corruption and an inability of the international community to stifle corruption are at the root of many ethical breaches in organ transplant. Combatting crimes in organ transplant will require international law and diplomacy as well as strong legal frameworks in countries where residents may be complicit due to travelling for organ transplants, providing goods and services used by wrongdoers providing transplants, and training professionals or engaging in research collaborations with wrongdoers and countries harboring them.

## Corruption and exploitation

Corruption can range from bribery to murder. Corruption includes structural deficits that allow for violence that targets the poor or the disenfranchised. An organ transplant generally requires paperwork and approvals at various levels: institutional, professional association, and government. Bribery and kickbacks in obtaining paperwork to travel, getting law enforcement to ignore crimes, and pushing paperwork that leads transplant doctors to believe that the organ they are transplanting was sourced legitimately are just a few of the ways corruption provides a backdrop for crimes in organ transplant. In state-sanctioned forced organ harvesting, as in the other organ-related crimes, whistleblowers are suppressed. At various points in the organ transplant ecosystem, the “illegal hides among the legal.”<sup>13</sup>

Organ markets include many people beyond the victims<sup>14</sup> and purchasers. There are people paid to ignore the source of organs, paid to kidnap people for their organs, and paid to look for potential organ sellers in the world’s poorest neighborhoods. Even when forced organ harvesting is state-sanctioned, there is a network of agents advertising and finding international patients, setting the prices, and providing equipment and medications. Whether or not they are victims of authoritarian regimes, victims are “invariably poor, uneducated, and disenfranchised.”<sup>15</sup> One study of Egypt and Bangladesh found that corruption in the form of kickbacks and payoffs is implicated at all stages of the organ trade. It is highly

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available information, *Bulletin of the World Health Organization*. 2007 Dec; 85(12): 955–962.  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2636295/>.

<sup>13</sup> Steiner, P. (2017). Chapter 3: Secrecy and frontiers in illegal organ transplantation, in *The Architecture of Illegal Markets: Towards an Economic Sociology of Illegality in the Economy*, ed. by Beckert, J. and Dewey, M. UK: Oxford University Press.

<sup>14</sup> The term “victim” applies to those from whom organs have been nonconsensually removed, forcibly removed, removed in exchange for consideration in the form of money or items of monetary value, removed under invalid consent such as that given under duress, coercion, threat of harm, and promise of financial gain.

<sup>15</sup> Columb, S. and Moniruzzaman, M. (2024). The state of the organ trade: Narratives of corruption in Egypt and Bangladesh. *Trends in Organized Crime*. <https://doi.org/10.1007/s12117-024-09524-6>; Lee, E. (2020) Poverty in Xinjiang, China. <https://borgenproject.org/poverty-in-xinjiang-china/> (Uyghurs experience poverty despite significant poverty alleviation in Xinjiang.)

profitable to provide organ transplants to tourists or wealthy residents and citizens – the market for illegal organ transplants generates an estimated at \$1.5 billion annually.<sup>16</sup> In China alone, a much higher number is estimated based on evidence including the increase in the number of transplants, the biometric testing of swaths of the population, and the high numbers of otherwise unaccounted for disappearances of prisoners of conscience and Uyghurs.<sup>17</sup> Forced organ harvesting has the same profit motive as human trafficking for the removal of organs and organ trafficking. In the context of forced organ harvesting, trafficking in humans for organ removal, and organ trafficking in Africa's northern corridor, shared with access to the Middle East,<sup>18</sup> the United Nations Office on Drugs and Crime notes the relationship to corruption and the increasing sophistication of the brokers, advertisers, and smugglers.<sup>19</sup> The criminal networks include translators, providers of medical screening tools for matching organs to recipients, purveyors of falsified or illegally obtained medical licenses, and creators of fraudulent documentation of organ legitimacy.<sup>20</sup>

Examples of cases investigated by national authorities show that traffickers may operate over prolonged periods of time with high numbers of victims, before being caught. One case showed that one trafficking group conducted up to 500 kidney operations in different private homes and hospitals over a period of seven years. In another case, traffickers organized the pairing of donors with recipients in an advanced logistical operation involving language interpretation for foreigners arriving at local hospitals, medical screenings for ensuring compatibility between donor and recipient, medical procedures, and postsurgery treatment.<sup>21</sup>

Officials accept bribes in exchange for which they provide official government documentation like passports and visas. Travel can appear to be for a legitimate purpose. In some cases, organ sellers pretend to be relatives of the patient. They say they are providing organs altruistically when they are in fact very poor people selling organs to strangers, and sometimes traveling with the patient to do so. In countries where donation must be altruistic and from a relative, there is evidence that embassy officials

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<sup>16</sup> Gonzalez, J., Garijo, I., & Sanchez, A. (2020), Organ Trafficking and Migration: A Bibliometric Analysis of an Untold Story, *International Journal of Environmental Research and Public Health*, 17(9), 3204, <https://doi.org/10.3390/ijerph17093204>

<sup>17</sup> Coalition to End Transplant Abuse in China. China's \$\$\$-Billion Murder for Organs Industry - Explainer [Updated] <https://www.youtube.com/watch?v=u2bUusvh3c0>

<sup>18</sup>United Nations Office on Drugs and Crime (UNODC). Global Report on Trafficking in Persons (2018). [https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP\\_2018\\_BOOK\\_web\\_small.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf) (there were 100 confirmed incidents of human trafficking for organ removal from 2014-2017 and over 700 incidents from 2004 to 2017; both numbers are likely underestimates.); See Taye, B., Atnafu, A., Endalew, Y. W., & Beyene, S. D. (2023). Organ Trafficking in Africa: Pragmatist Ethical Reconsiderations. *Contemporary Pragmatism* 20, 169-195. [https://brill.com/view/journals/copr/20/3/article-p169\\_001.xml](https://brill.com/view/journals/copr/20/3/article-p169_001.xml)

<sup>19</sup> UNDOC, 2018, p. 30.

<sup>20</sup> UNDOC, 2018, p. 30 (noting that while some surgeons are knowingly complicit others are duped.)

<sup>21</sup> UNDOC, 2018, p. 30, citing European Parliament, 2015, Trafficking in Human Organs, United Nations, General Assembly, 2017, Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs, A/RES/71/322, preamble, p. 8 and *State v. Netcare Kwa-Zulu Limited*, United Office on Drugs and Crime, Case Law Data Base (SHERLOC), [https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/zaf/2010/state\\_v.\\_netcare\\_kwa-zulu\\_limited.html](https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/zaf/2010/state_v._netcare_kwa-zulu_limited.html); See Farrer, S. (2020). Why Illegal Trafficking in Organs is Growing Fast but Few Are Talking About It. *Financial Crime News*. <https://thefinancialcrimenews.com/why-illegal-trafficking-in-organs-is-growing-fastbut-few-are-talking-about-itby-steve-farrer/>

provide papers falsifying country of origin and age.<sup>22</sup> Additionally, some victims who are arrested are forced to bribe officials for their release. The criminal enforcement mechanisms and the corruption in the criminal systems target poor sellers rather than wealthy people purchasing transplants. Law enforcement approaches to identify and punish the people and entities in organ markets rarely succeed due to corruption. In Bangladesh, doctors are nearly completely protected from criminal charges despite knowingly harvesting organs illegally and transplanting illegally obtained organs. They are absolved of the need to confirm the identity of the “donor”. In countries with higher level corruption, there is some evidence that criminal codes do not prevent the trade or the atrocities associated with the market in human organs.<sup>23</sup>

Poverty and oppression are a common thread in jurisdictions with higher rates of corruption. Oppressed religious and ethnic groups are vulnerable to forced organ harvesting. In China, evidence indicates that Uyghurs and Falun Gong practitioners are victims of forced organ harvesting.<sup>24</sup> Uyghurs perform forced unpaid labor and suffer deprivation – they do not have the paperwork necessary to move freely within China. They are often detained against their will and moved to isolated areas where they work for little to no pay in egregious working conditions.<sup>25</sup> In other regions, outside of China, migrants are especially vulnerable. Migrants cannot always access government protection from crime. *People residing in countries where they do not have the full protection of local law are at risk.* For example, Sudanese refugees seeking asylum in Egypt have been victims of forced organ harvesting.<sup>26</sup> In the process of migration, people risk being kidnapped and trafficked. Like Uyghurs and Falun Gong practitioners, there are many minority groups at elevated risk due to their inability to access legal protection. Corruption impacts the poorest or most outcast members of any society. When a jurisdiction’s legal apparatus does not protect members of a group, those members are at high risk of exploitation. Bribery is five times as prevalent in low-income countries and people often must pay off an official to receive public goods and services like health care, education, and the protection and safety of law enforcement.<sup>27</sup> Bribery and payoffs are part of the exploitative organ transplant ecosystem.

Corruption and poverty coexist with a lack of education. The poorly educated are more vulnerable not only because of their lack of opportunity, but also because a lack of basic scientific knowledge may lead

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<sup>22</sup> Columb and Moniruzzaman, 2024. (for example, Egypt and Bangladesh.)

<sup>23</sup> Taye, B., Atnafu, A., Endalew, Y. W., & Beyene, S. D. (2023). Organ Trafficking in Africa: Pragmatist Ethical Reconsiderations. *Contemporary Pragmatism* 20, 169-195. [https://brill.com/view/journals/copr/20/3/article-p169\\_001.xml](https://brill.com/view/journals/copr/20/3/article-p169_001.xml)

<sup>24</sup> Global Rights Compliance (2022). Do No Harm: Mitigating Human Rights Risks when Interacting with International Medical Institutions & Professionals in Transplantation Medicine, Global Rights Compliance, Legal Advisory Report. <https://globalrightscompliance.com/project/do-no-harm-policy-guidance-and-legal-advisory-report/>

<sup>25</sup> Against Their Will: The Situation in Xinjiang. Bureau of International Labor Relations. US Government. <https://www.dol.gov/agencies/ilab/against-their-will-the-situation-in-xinjiang>

<sup>26</sup> Coalition for Organ Failure Solutions (2011). Evidence-based Findings on African Victims of Organ Trafficking in Egypt. <https://cofs.org/home/wp-content/uploads/2012/06/REPORT-Sud-Victims-of-OT-in-Egypt-NEW-COVER-16-Jan-20124.pdf>

<sup>27</sup> Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. United Nations Department of Economic and Social Affairs, Statistics Division. <https://unstats.un.org/sdgs/report/2021/goal-16/> (Sustainable Development Goals)

them to going along with selling their organs. Some organ brokers even convince people that having two kidneys is abnormal and that they would be better off with just one.<sup>28</sup>

The corruption in China is unique. There is corruption at all levels despite President Xi Jinping's purported crackdown. China is an outlier in that corruption there correlates with economic gain rather than interfering with it.<sup>29</sup> Private-public partnerships often require resources from public officials who stand to benefit from using their position for personal gain. In the forced organ harvesting context, the government approval means there is no gatekeeper or protective government oversight. There may be no need to bribe an official as officials have allegedly implemented and carried out the crime of forced organ harvesting. The crackdown on lower-level corruption allows higher level control that disregards human rights. Anticorruption initiatives exist to instill trust in the one-party system and to "preserve the credibility of the Communist Party."<sup>30</sup> Rooting out low-level corruption could maintain or even exacerbate human rights violations.

The organ transplants themselves do not always take place in the country where organs have been wrongfully harvested or where the victim resides. Just about a year ago, in the UK, a wealthy couple paid a poor person from Lagos to fly to the UK and "donate" his kidney. The doctors in the UK questioned whether the person was truly an altruistic donor and revealed the scheme.<sup>31</sup> The couple was convicted under the UK's Modern Slavery Act.<sup>32</sup> In the United States, people and organizations have exploited poor people for organs in violation of the prohibition on paying for organs here.<sup>33</sup> While it appears that illegal transplants rarely occur in the United States, the web of seemingly legitimate businesses and universities involved or at risk of being unknowingly involved is part of the global network<sup>34</sup> and in some cases US businesses and people may be complicit, ethically if not legally as well.

## A Medical Issue

I wanted to touch on three groups who may inadvertently or even purposely engage in exploitation or simply ignore it or avoid looking into it. They are doctors and healthcare practitioners, corporations, and people seeking organ transplants. Forced organ harvesting, human trafficking for the purpose of organ removal, and organ trafficking are medical issues. Medical associations have not taken responsibility or action, nor have they condemned the acts in the strong language one might expect of murder and exploitation.

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<sup>28</sup> UNDOC, 2018, p. 30.

<sup>29</sup> Huang, Y. (2015). The Truth About Chinese Corruption. Carnegie Endowment for International Peace. <https://carnegieendowment.org/2015/05/29/truth-about-chinese-corruption-pub-60265>

<sup>30</sup> Huang, Y., 2015.

<sup>31</sup> ITV News. Senior Nigerian politician and wife guilty of organ harvesting plot in London.

<https://www.youtube.com/watch?v=kCuREUXF-co>

<sup>32</sup> Modern Slavery Act 2015 c-30. House of Parliament, UK.

<https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

<sup>33</sup> Witt, E. (2009). How Did Organ Trafficking Scheme Stay Hidden? *ProPublica*.

<https://www.propublica.org/article/how-did-organ-trafficking-scheme-go-unnoticed-810>

<sup>34</sup> Farrer, S. (2020). Why Illegal Trafficking in Organs is Growing Fast but Few Are Talking About It. *Financial Crime News*. <https://thefinancialcrimenews.com/why-illegal-trafficking-in-organs-is-growing-fast-but-few-are-talking-about-it-by-steve-farrer/> (see chart depicting the ecosystem of the underground market organ transplant.)

## Medical Side

Hospital systems collaborate in research, train physicians, and benefit from producing published research and implementing improved techniques. Academics can be dog-eat-dog and collaborations with biotech can incentivize those in medicine to prove the effectiveness of new techniques, products, and procedures. And in medicine, for the sake of patients, there are strong incentives to develop new techniques that allow organs to last longer prior to transplantation, allow for transporting them further, and lead to better acceptance of organs post-transplant. With new developments in perfusion technology, more organs can go to more people in need of them. People wishing to collaborate on research and clinical trials often justify their participation as potentially helping the sick. This medical idea – curing disease – a great goal, can cloud out some fundamental characteristics of principled medical research. Medical organizations like the American Medical Association (AMA) should do more to prevent unethical research collaborations. The AMA’s statement on forced organ harvesting is not as strong as that of the Association of American Physicians and Surgeons.<sup>35</sup> Various professional societies in

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<sup>35</sup> AAPS (2023) AAPS Position Statement on Forced Organ Harvesting. <https://aapsonline.org/aaps-position-statement-on-forced-organ-harvesting/> (“There is overwhelming evidence that by the authority of the Chinese Communist Party, which holds absolute power in China, members of the Chinese Communist Party have arrested Falun Gong practitioners, Uyghurs, Christians and others in China, incarcerated them, done medical testing without consent for the purpose of matching their organs with transplant recipients, and removed their organs for transplantation, killing them in the process of doing so, engaging in “transplant tourism” for money. Chinese nationals who are physicians and students, coerced or indoctrinated, approved by the Chinese Communist Party to leave the country, have been admitted to US colleges, universities and medical schools and internship/residency programs, where they are taught science, absorb medical knowledge, and learn to perform procedures:

The Association of American Physicians and Surgeons condemns imprisonment for religious practices, dissent, and ethnic background.

The Association of American Physicians and Surgeons condemns any and all forms of forced organ harvesting. The United States government and American physicians should refuse to condone, enable, facilitate, or participate in forced organ harvesting, as by: Educating or Training personnel from a totalitarian country like communist China, or any other country, in skills that might be used for forced organ harvesting or referring patients to programs that use forced organ harvesting or participating in their care.”); American Medical Association (2021) Forced Organ Harvesting for Transplantation D-370.982. (“1. Our AMA: (a) continues to engage the Chinese Medical Association and the transplant community in the People’s Republic of China through support of relevant activities of the World Medical Association; and (b) endorses the goals of the World Health Organization Task Force on Donation and Transplantation of Human Organs and Tissues and other international efforts for oversight of organ procurement and transplantation. 2. Our AMA: (a) will continue to engage the Chinese Medical Association and the transplant community in the People’s Republic of China (PRC) through promotion and support of relevant activities and policies of the World Medical Association that relate to organ transplantation; (b) will, through its membership in the World Medical Association, continue to call for the PRC’s compliance with internationally recognized organ transplantation standards, such as those of the World Health Organization, and for the PRC to make available externally verifiable data on organ transplantation; and (c) condemns the retrieval of organs for transplantation without the informed consent of the donor.”)

the transplant and medical fields appear hesitant to take a strong stance. Others do take a stand.<sup>36</sup> And academic journals must do more to vet the research they publish.<sup>37</sup>

Academic medical centers should engage in serious due diligence prior to holding educational training events and seminars. An investigation revealed that Oxford University held “dozens of courses” over three years attended by doctors accused of forced organ harvesting in China.<sup>38</sup> There were concerns over fifteen medics who took part in the sessions in 2023. Wayne Jordash of Global Rights Compliance said, “Oxford University’s Centre for Evidence in Transplantation has a clear international legal responsibility that, at a minimum, obliges them to ask the difficult questions about the known risks in the field of organ transplantation in China. If those questions have not been asked, nor answered, satisfactorily by the relevant Chinese institutions, then Oxford University’s Centre for Evidence in Transplantation will have violated its international legal obligations.”<sup>39</sup> In the United States, there has not been a universal vetting of research and educational collaborations that may pose the same risks as the infractions at Oxford University.

Bioethics often privileges access to health care over restraint. This is an area where restraint is necessary. I suspect there is consensus on that – that my colleagues broadly condemn organ trafficking, forced organ harvesting, and human trafficking for organ removal.<sup>40</sup> The bioethics field often operates inside the halls of medicine – bioethicists sit on IRB boards and hospital ethics committees, are involved in medical research collaborations, have roles in medical education, and work in the biotech and pharmaceutical industries. They should have a duty to ensure their organizations engage in human rights due diligence.

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<sup>36</sup> International Summit on Transplant Tourism and Organ Trafficking (2008). The Declaration of Istanbul on Organ Trafficking and Transplant Tourism. *Clinical Journal of the American Society of Nephrology*. 3(5), 1227–1231. <https://doi.org/10.2215/CJN.03320708> Footnote states, “The Council of the American Society of Nephrology (ASN) unanimously endorses The Declaration of Istanbul on Organ Trafficking and Transplant Tourism. ASN stands with The Transplantation Society, the International Society of Nephrology, and other organizations in condemning these practices.”)

<sup>37</sup> See Rogers, W., Robertson, M., Ballantyne, A., et al. (2019). Compliance with ethical standards in the reporting of donor sources and ethics review in peer-reviewed publications involving organ transplantation in China: a scoping review. *British Medical Journal*. Vol. 9(2). <https://bmjopen.bmj.com/content/9/2/e024473>; Wilson, C. (2019) 15 studies retracted due to fears they used Chinese prisoners' organs. *New Scientist*.

<https://www.newscientist.com/article/15-15-studies-retracted-due-to-fears-they-used-chinese-prisoners-organs/>

<sup>38</sup> Bodkin, H. (2024). Oxford University held training sessions attended by Chinese doctors accused of harvesting organs. *Telegraph*. <https://www.telegraph.co.uk/news/2024/03/09/oxford-university-training-chinese-accused-organ-harvesters/>

<sup>39</sup> Bodkin, H., 2024.

<sup>40</sup> The New York City Bar Association Bioethical Issues Committee, International Human Rights Committee, and Asian Affairs Committees (2023). Human Organ Supply: Report on Ethical Considerations and Breaches in Organ Harvesting Practices. New York City Bar Association. <https://s3.amazonaws.com/documents.nycbar.org/files/20221145-OrganHarvestingEthics.pdf> (There are mixed views on organ markets with some justifying them based on the good to the person receiving the organ transplant and the financial gain to the organ seller. The relevant committees of the New York City Bar Association vehemently condemn organ sales as described in the report. Major human rights organizations condemn organ markets as exploitative and dangerous. The World Health Organization requires donation to be voluntary, “without any monetary payment or other reward of monetary value.”)

## Equipment and drugs

Corporations sell technology, drugs, and machinery used for diagnostics, collection of biometric data used to match, preparation for and recovery from organ transplant, surgery, and medical complications of transplant. Again, there is a profit-driven ecosystem. Countries that host transplant tourism order products on the global market – some use parts from a variety of countries; some are directly sold by American companies. From DNA sequencing to lung perfusion equipment, companies make money globally. The law should explain human rights due diligence, require reporting when goods are sold to countries where forced organ harvesting, organ trafficking, or human trafficking for organ removal take place. The corporate requirement should explain complicity. Having one's own corporate human rights due diligence policy is a start – the US has examples in which failing to follow one's own policy may be a violation of the law.

## Patients

People seeking organ transplants should be held accountable. The United States should not tolerate its residents and citizens going to other countries for organ transplants that violate United Nations conventions, WHO Guiding Principles, and human rights. In the United States organ donation must be voluntary and the purchase and sale of organs are prohibited, although it is permissible to pay for some expenses of live donors.<sup>41</sup> Those seeking transplants in the global medical tourism industry may be tempted by China's ability to find a match quickly. As long as China has this ability, we must question its supply. Local laws can deter travel to countries that violate ethical standards for organ transplants. Texas recently adopted a law to bar those who seek organ transplant in China from access to insurance reimbursement.<sup>42</sup> People seeking an organ transplant should not be able to claim ignorance. They too should engage in some due diligence. Organ transplant is not like other medical care – human organs are special, unlike other medical treatments, and the risk of exploitation is high. "The ban on paying for organs should apply to all individuals, including transplant recipients who attempt to circumvent domestic regulations by travelling to states where prohibitions on commercialization are not fully or properly enforced."<sup>43</sup> Forced organ harvesting relies on patients in need.

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<sup>41</sup> National Organ Transplant Act (1984.) Public Law 98-507, 42 USC § 273, § 274. (Section 301 prohibits the exchange of organs for transplantation for valuable consideration); *See also* National Conference of Commissioners on Uniform State Laws. Revised Uniform Anatomical Gifts Act.

[file:///C:/Users/annes/Downloads/UAGA\\_Final\\_Aug09.pdf](file:///C:/Users/annes/Downloads/UAGA_Final_Aug09.pdf) ((a) Except as otherwise provided in subsection (b), a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a [[felony] and upon conviction is subject to a fine not exceeding [\$50,000] or imprisonment not exceeding [five] years, or both][class[ ] felony].); Donor Alliance. Organ and Soft Tissue Can You Sell Organs in the United States? <https://www.donoralliance.org/newsroom/donation-essentials/can-you-sell-organs/>

<sup>42</sup> Relating to health benefit plan coverage of a transplant of an organ that originated from or is transplanted in a country known to have participated in forced organ harvesting. Texas SB1040 (2023-2024; passed June in 2023)) 88th Legislature. <https://legiscan.com/TX/text/SB1040/id/2819559>

<sup>43</sup> UNDOC Toolkit on the Investigation and Prosecution of Trafficking in Persons for Organ Removal, Module 2: International Legal Framework, p.8. [https://www.unodc.org/res/human-trafficking/glo-act2/tip-for-or-toolkit/Module\\_2.pdf](https://www.unodc.org/res/human-trafficking/glo-act2/tip-for-or-toolkit/Module_2.pdf)

## Solutions

One important task to consider when looking to end forced organ harvesting (state-sanctioned and not), organ trafficking, and trafficking in humans for organ removal is identifying which people and entities are appropriate subjects of international and local laws. Put more plainly, *which people and parts can the US Congress, individual states, and the international community legitimately and democratically control?* Criminal laws in high-corruption countries are inadequate. However, US law can impact countries with state-sanctioned forced organ harvesting or where crimes in organ transplant are ignored. The Department of Justice should add organ removal in its definitions and policies concerning human trafficking.<sup>44</sup> Policies and laws should disrupt access to equipment and training, prohibit publication of research performed unethically, and prevent customers from purchases of organs and organ transplants that involve unethically sourced organs, and thereby impact the organ transplant ecosystem regardless of country.

The United States Trafficking Victims Protection Act of 2000<sup>45</sup> is effectively a modern slavery law. Additionally, the United States has approaches like banning products that are created with child labor or other unethical, unpaid labor,<sup>46</sup> for example, the Uyghur Forced Labor Prevention Act. New York State has a proposed bill also directed at supply chains of imports. It is arguably easier to prevent imports than control exports, but some human rights due diligence and reporting requirements could help significantly.

### Legal solutions

The room for reform is apparent in three areas:

#### Supply chain

Laws should require human rights due diligence, outline reporting requirements, and include an enforcement mechanism. Disengagement should be required when products have a high likelihood of use in the context of forced organ harvesting, organ trafficking, or trafficking in persons for organ removal. Complicity and continued engagement should be penalized if due diligence reveals high risk. Corporations also should be aware of their potential complicity under international law.

#### Academic medical centers, hospitals, research centers, etc.

As medical associations have not uniformly adopted strong stances on collaborations, laws should create straightforward reporting requirements and set forth conditions for disengagement. Proof that training, collaboration, or consultation would not be used for criminal or unethical organ transplants should be required when there is a high risk of complicity. Human rights due diligence should be required. Organ

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<sup>44</sup>Maginn, S. (2023). Organ Trafficking Facts. *The Exodus Road*. <https://theexodusroad.com/organ-trafficking-facts/#>

<sup>45</sup> Pub. L. 106-386, as amended, (TVPA).

<sup>46</sup> <https://www.walkfree.org/global-slavery-index/country-studies/united-states/#> (see Title 19 – Customs Duties, Chapter 4 – U.S. Tariff Act of 1930; Bureau of International Labor Affairs (2022). List of Goods Produced by Child Labor or Forced Labor, United States Department of Labor <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods-print>; Blinken, J. (2022). ‘Implementation of the Uyghur Forced Labor Prevention Act’, United States Department of State, 21 June. <https://www.state.gov/implementation-of-the-uyghur-forced-labor-prevention-act/> (act created a rebuttable presumption that goods are prohibited); H.R.6279 Business Supply Chain Transparency on Trafficking and Slavery Act of 2020 (introduced but not voted on/not enacted.)

transplant data resulting from forced organ harvesting, organ trafficking, or trafficking in persons for organ removal should not be published by academic journals.

### Patients

The degree of control over patients seeking medical care elsewhere is unclear. An explicit law defining complicity would clarify patient responsibility. There is a moral obligation regardless of law. Additionally, like the law in Texas, there should be federal law with restrictions on insurers reimbursing people who have received transplants abroad of organs obtained by forced organ harvesting, organ trafficking, or trafficking in persons for organ removal.

US law should fill any gaps and clarify expectations. Other countries have adopted laws to identify and curb complicity.<sup>47</sup> International human rights law applies and may already dictate complicity.<sup>48</sup> I urge the US Senate to pass the Stop Forced Organ Harvesting Act.<sup>49</sup> It passed the House of Representatives 412 to 2 last March and would provide tools like sanctions, visa revocation, and reporting requirements.

### Decreasing demand

One of the goals of the Declaration of Istanbul on Organ Trafficking and Transplant Tourism is that each country become self-sufficient, balancing its supply and demand of organs. Poor health is causing increased demand for organs. We should also improve the health of our population and the global population. For example, forty-two percent of adults in the United States are obese, a condition that increases the risk of chronic kidney disease and heart disease. The need for organs arises in many ways. Organ health is a public health issue. From kidneys to hearts and even eyes, many health problems could be prevented or reduced, reducing the demand for organ transplants. Even the UN Office on Drugs and Crime notes that improving population health is an important strategy to combat crimes involving organ transplants.<sup>50</sup> Whether state-sanctioned forced organ harvesting or an individual selling an organ to a wealthy foreigner, demand for organs is at the crux of the financially motivated exploitation.

### Raising awareness

Global Rights Compliance created a short video that summarizes some of its lengthy reports on business and legal obligations relating to organ transplants. The video introduces the crimes and human rights abuses in China and provides some background. Sharing it would improve public awareness in the United States. Awareness often leads to change. It could improve public support of US laws like the Stop Forced Organ Harvesting Act. Awareness also may contribute to public pressure on medical centers, corporations, and individuals to do the right thing, eliminating the need for laws.

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<sup>47</sup> Global Rights Compliance (2022). Do No Harm: Mitigating Human Rights Risks when Interacting with International Medical Institutions & Professionals in Transplantation Medicine, Global Rights Compliance, Legal Advisory Report. <https://globalrightscompliance.com/project/do-no-harm-policy-guidance-and-legal-advisory-report/>. (Global Rights Compliance notes that Belgium, France (passed law on human rights due diligence in the value supply chain), United Kingdom, Canada, Australia, and New Zealand have legal approaches, resolutions, and pending laws. p. 45.)

<sup>48</sup> Global Rights Compliance, 2022.

<sup>49</sup> Stop Forced Organ Harvesting Act of 2023. S 761. (2023-24) <https://www.congress.gov/bill/118th-congress/senate-bill/761/text>

<sup>50</sup> UNODC (2008). Toolkit to Combat Trafficking in Persons. <https://www.unodc.org/documents/human-trafficking/HT-toolkit-en.pdf>

Additionally, the UN Department of Drugs and Crime has a toolkit outlining the crime of trafficking in persons for organ removal.<sup>51</sup> The toolkit explains every aspect of the ecosystem, from finding sellers to transplantation. Some of the red flags for trafficking touch on transplant tourists and are relevant to identifying and criminalizing state-sanctioned forced organ harvesting.

Countries where corruption is less common and not expected in the common course of attaining identification, health care, education, or the full protection of the law should take active legal measures to protect the globally unprotected. Falun Gong practitioners and members of various ethnic groups including Uyghurs cannot seek any legal recourse inside corrupt systems. They protest nearly daily in New York to draw attention to their treatment by China's government. They want the help of the international community.

### Setting an example

In the United States where we do not have an authoritarian regime and the law does protect civil liberties, we should remain vigilant in preventing involvement in the illegal organ trade and all violations of human rights. Migrants in other countries are at known risk – organ crimes could happen here. Helping people seeking asylum obtain all the paperwork necessary to work and live freely in the United States would protect them here. The United States does have human trafficking, often in the form of sex trafficking, and often victimizing immigrants.<sup>52</sup> As more people join our communities, immigration reform and other legislation, especially that addressing poverty, should ensure that all people here have legal protection and the ability to enforce their human rights and report violations.<sup>53</sup> Our commitment to freedom of the press, religion, speech, and equal rights sets us apart from authoritarian governments, nondemocracies, and places where individuals or groups are deemed not worthy of legal protection.

Companies doing business in the United States must create human rights policies and take the abuses in transplantation medicine seriously. Whether a company makes biometric tests or lung perfusion equipment, there is an important ethical duty to identify the end-users of exports and know whether products could end up in the hands of those performing forced organ harvesting or transplanting organs from victims of exploitation into wealthy tourists. Rather than eliminating collaborations or disincentivizing global businesses from providing equipment to legitimate medical facilities and people, the human rights obligation should begin with due diligence and continue based on what unfolds.

Renewing the commitment to democracy, trustworthy medicine, anti-authoritarianism, and respect for human rights is essential. In the global ecosystem of transplant crime, every country should take strong steps to ensure respect for human rights at home and abroad. The United States has an opportunity to lead by example, beginning with the Stop Forced Organ Harvesting Act.

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<sup>51</sup> UNDOC Toolkit on the Investigation and Prosecution of Trafficking in Persons for Organ Removal.

<https://www.unodc.org/unodc/en/human-trafficking/glo-act2/tip-for-or-toolkit.html>

<sup>52</sup> Bisram, J. (2024). Migrants in New York City shelters falling victim to human trafficking. *CBS News*.

<https://www.cbsnews.com/newyork/news/nyc-migrants-asylum-seekers-human-trafficking-sex-trafficking/>; Human Trafficking Data Collection Activities, 2023 (2023). US Department of Justice, Bureau of Justice Statistics. <https://bjs.ojp.gov/document/htdca23.pdf>

<sup>53</sup> Transparency International (2023). Corruption Perceptions Index. <https://www.transparency.org/en/cpi/2022> (US is down from a score of 76 in 2015. Corruption in the United States may be on the rise. While it is difficult to assess, the United States ranks 24<sup>th</sup> with a score of 69 on the Corruption Perceptions Index. 100 is very clean and 0 is highly corrupt.)