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“THE TRUE COST OF SELLING YOUR ORGANS ON EGYPT’S ILLEGAL BLACK MARKET”

By: Kimberly Wilkens

I. INTRODUCTION

Abdel-Rahman Abdel-Aziz and his wife, Asmaa, had nothing left to sell.¹ Living in the slums of Cairo, the couple bargained away nearly all of their assets, and when those were gone they sold off their kidneys.² They each were promised $5,400 per organ, but post-surgery the two were left in a taxi “heavily sedated... with just $2,300 tucked into their clothing.”³ Nearly a year later, the couple fell back into an economic hole, except now, their situation was more desperate than before.⁴ The lasting medical effects of selling off their kidneys on Egypt’s notorious black market, without proper follow-up care, left the pair too fragile and weak to move around their apartment, let alone work.⁵

The purpose of this note is to analyze Egypt’s role as a significant player in the international illegal organ trafficking market. First, I will analyze the economic status of Egypt by providing a brief overview of political events in Egypt, spanning roughly the last decade. Additionally, I will develop how these events have shaped Egypt’s unstable economy. Next, I will explore the inner-workings of the organ trade in Egypt, in an effort to understand why Egypt is notably a “hot spot” for the trade. Finally, I will identify domestic Egyptian laws intended to address the issue, domestic laws of other countries addressing the issue, and any prevalent international laws involving the illegal organ trade within Egypt.

In the United States, every ten minutes an individual is added to the national organ transplant waiting list.⁶ Currently, 116,305 people need a lifesaving organ transplant to survive.⁷ In 2017, 28,746 organ transplants were performed.⁸ At the end of the twentieth century, medical breakthroughs made it possible for humans to exchange certain diseased organs for healthy ones, dramatically extending lives through transplantation.⁹ Today, as lifespans lengthen through advancements in the medical field, diseases such as organ failure pose a bigger threat than before.¹⁰ More reliable and available transplantation procedures, coupled with detrimental changes in diet and lifestyle, increase the demand for healthy

² Id.
³ Id.
⁴ Id.
⁵ Id.
⁷ Id.
⁸ Id.
¹⁰ Id.
A demand outweighed by the available supply of legal organ transplantation methods. Subsequently, a worldwide shortage of organs has led to an emerging black market of illegal organ trade. An estimated 10,000 black market operations involving purchased human organs now takes place annually across the globe. In an effort to combat the growing “commodity” of human organs, legislation in areas such as the United States quickly passed to prevent illegal organ sales on emerging black markets.

II. THE RISE OF TRANSPLANT TOURISM.

An international shortage of organs has created an expansive illegal trade, most prominently existing in and between developing nations. Traffickers, or the individuals facilitating the trade, are defying laws intended to curtail their activities and are cashing in on rising international demands. The demand for organs are met by compensated “donors,” many of whom fall victim to the frightening market out of both “desperation and deception.”


Individuals in need of transplants, predominantly westerners, often journey overseas to take advantage of regulatory loopholes in their home country. “The vulnerable “poor” and the desperate “rich” thus come together in black market transactions spurred by advances in technology and perpetuated by lagging international legislation.” Individuals travel to areas where illegal organ trade is booming, such as China, Pakistan and Egypt. Recipients of these illegal organs are assisted by healthcare providers who arrange the procedure and recruit generally impoverished donors. Black markets are especially prevalent in poorer regions largely due to the willingness of live donors, eager to undertake surgical removal of their organs in exchange for a considerable sum of quick cash. For some, the choice to donate live organs is a lesser of two evils. An Egyptian donor stated, “Giving my kidney is...
better than working in furnished apartment," or in other words, working as a prostitute.24 Others, voice that they were tricked into donating their organs, seeking legal remedies to fix their situation.25 Because live donors supply “higher quality” organs than non-living donors, live organs are highly sought after and lucrative.26 Furthermore, most of these donors live in extreme poverty, so the profit is appealing.27 The willingness of those in need of organs, forced to sit idly on long waiting lists, keeps the illegal trade alive.28 For example, in 2016, more than 7,000 candidates in the United States died while waiting idly on national transplant lists.29

In the U.S., the legal organ transplantation process is intricate. The National Organ Transplant Act of 1984 ("NOTA"), established the federal Organ Procurement Transplant Network; NOTA was initially established to address the nation’s critical organ donation shortage and to improve the matching and placement process across the U.S.30 The United Network for Organ Sharing (“UNOS”) is an additional private, nonprofit organization operating under federal contract that matches donors with patients in need.31 There are multiple steps necessary in order to receive a spot on the national organ transplant list.32 An individual in need of an organ must receive a referral from a physician in order to be evaluated by a transplant program as a potential candidate.33 Although there are a handful of transplant centers across the nation, concerns such as the center’s location, compatibility with insurance programs, financial arrangements, and support group availability are often considered an additional hurdle said to prolong the process of gaining a spot on the national list.34 If a transplant team member determines that an individual is suitable as a transplant candidate, they will then add that name to the OPTN database.35 The transplant team will contact the individual in writing after his/her name is listed to let the individual know the date and time that his/her name was added to the national list.36
The OPTN sets policies regulating procedures on how donors are matched and how organs are allocated to patients on the waiting list. Some common factors in the matching process include, but are not limited to, blood type, severity of illness, and the recipient's body size. But once an organ is received not all concerns are eliminated. After an organ transplant is conducted, doctors will continue to monitor the status of the transplanted organ within the recipient's body. Rejection of organs by the body is not uncommon; in some cases the body could see the foreign organ or tissue as an invader and attempt to destroy it. Immunosuppressant, or anti-rejection medications, attempt to prevent the body from rejecting the transplanted organs, but in some occasions fail to work.

The legal process, as well as the physical process of organ donation is lengthy, expensive, and complicated. While supply continues to outweigh demand of organs, the decision of an individual to bypass the legal market completely and participate in black market regimes often comes down to a frank question: life or death?

III. WHY EGYPT? EGYPT'S POLITICAL INSTABILITY PERPETUATES BLACK MARKET TRADE OF ILLEGAL ORGANS.

a. Protests and Political Instability.

In 2011, protests in Egypt ousted the nation's then leader, Hosni Mubarak. The protests generally called for peace, greater freedom, and better economic opportunity throughout Egypt. Mubarak controlled Egypt for more than thirty years. Following the reign of Mubarak, in June of 2012, Mohamed Morsy became Egypt's first democratically elected President. After a year in office, Morsy was ousted in a military coup after great military tension erupted during his short tenure. But Egypt's transition from one oppressive form of government, the Muslim Brotherhood, to the military regimes present today, left Egypt's economy in a fragile state. Due to constant protests and political uprisings, Egypt experienced an overall reduction in tourism, an industry once considered a significant economic lifeline for the economy. In 2014, Egypt's former military chief, Abdel Fattah al-
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Sisi, became president, vowing, among other things, that the nation would witness a total rise on both “internal and external fronts.”

Hopes for a new direction of Egyptian rule under al-Sisi, post Morsy, did not pan out to be the leadership Egyptian protesters so adamantly desired. Today, Egypt is reported to be much more authoritarian under the leadership of al-Sisi than under past leadership. Egypt’s broken governmental structure has led to, among other things, decreased police control and a crumbling economy.

b. Egypt’s Fragile Economy Increases Poverty.

The continual crash of the Egyptian economy has impacted the day-to-day lives of Egyptian’s tremendously. Many Egyptians are in such a state of despair that they buy dollars on the black market. Reduced imports on important products such as sugars and automobile manufacturing have led to major layoffs. The price of many subsidized staples, including, but not limited to, bread, sugar, rice and cooking oil is on the rise. Egyptian’s are struggling to meet their most basic needs, amidst a failing market of job opportunities, and are left with little options for everyday survival. This condition has led impoverished Egyptian’s to participate in black markets industries, including the illegal organ trade. The sale of one’s organs provides individuals with, in most cases, a considerable amount of money, but the cost is seldom worth the risk.

In an effort by the administration to contain anti-government protests, al-Sisi targets human right defenders, civil society groups and Non-Governmental Organizations (“NGO”). Such groups have been systematically summoned by the government for questioning, banned from travel, and had their assets frozen, prohibiting these groups from addressing hard-pressing civilian issues. A new law in Egypt criminalizes the work of many NGO’s and places them under the direct surveillance of the country’s security,

50 Id.
51 Id.
52 Id.
53 Id.
54 See generally Allison Elizabeth Chase, Article: The politics of Lending and Reform: The International Monetary Fund and the Nation of Egypt, 42 Stan. J Int’l L. 193 (discussing that the Egyptian economy is in a state of “persistent crisis”).
55 See Fantz, supra note 43.
56 Id.
58 See Fantz, supra note 43.
59 Id.
61 Id.
62 Id.
decreasing their efforts. Nonetheless, political uprisings continue in Egypt. In 2015, at least twenty people died during events related to the fourth anniversary of the 2011 political uprisings. The government today is regarded as more fractured than before, with no clear line of administrative control.

In addition to stifled political freedom, al-Sisi introduced failed attempts at increasing economic reform: the president slashed fuel subsidies and raised taxes in a failed effort to ease unemployment rates and generate long-term revenues. Several new infrastructure projects, including expansion of the Suez Canal, or an artificial waterway in Egypt connecting the Mediterranean Sea to the Red Sea, intended to generate new jobs in an effort to increase Egypt’s economic self-sufficiency, but as of yet has made little impact.

Today, 30 to 40% of Egyptian’s are living on $2 a day or less. Mark Levine, a professor of Middle East history at the University of California remarks on the current economic status of Egyptian’s: “Millions of [Egyptian] people face financial ruin and even hunger.” In May of 2017, inflation in Egypt rose to 30%, the highest in three decades. After a 12 billion International Monetary Fund bailout to help support al-Sisi’s failed attempts at economic reform, the Egyptian government raised the price of fuel by 55% for the second time in several months, further burdening the population and weakening the Egyptian economy. Added pressure of larger domestic war-like threats in the Sinai peninsula of Egypt, involving armed groups inclusive of affiliates of the Islamic State of Iraq, opened war against the government and security forces.


Egypt is considered a “hotspot” for human organ trafficking. In Egypt, the sale of organs is illegal, but the desperate condition of many leaves individuals with few choices. For years Egypt was without specific legislation criminalizing the organ trade and regulating organ and tissue transplantation, particularly from the deceased to the living. Deceased donation was made possible after long years of theological dispute regarding the definition of “death.” In 2010, Egypt’s higher religious authorities ended the ongoing theological

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63 Id.
65 Id.
66 See Profile, supra note 45.
67 Tahhan, supra note 60.
68 Id.
69 Id.
70 Id.
71 Id.
72 Id.
73 Id.
75 Id.
76 Id.
77 Id.
dispute. Prior, most interpretations of Islamic Sharia Law articulated that the heart must stop beating before someone was declared dead. So an individual who was brain-dead was unable to provide organs for transplantation. As a result of the new medical standards, health ministries have trained medical professionals to diagnose cases of brain-dead patients, and subsequently selected four main hospitals in Egypt for the transplantation operations to take place: The Universities of Cairo, Ain Shams, Mansoura and the Armed Forces. Egyptian physician, Ali Mahrous, head of the Health Ministry’s center for non-governmental health facilities and licenses, stated severe penalties are in force for violators of the nation’s system, in order to prevent non-licensed facilities from undergoing transplantation procedures. Further, hospitals licensed to conduct organ transplantations are inspected periodically “to make sure that the necessary health and legal conditions are met,” said to decrease illegal operations.

In 2010, Egypt legalized live organ donation by passing the Organ Donation Law. Under the law, live donation of organs to family members and others of the same nationality is permitted. Furthermore, the law restricts donation between family members of the fourth degree, or family members consisting of great-grandchildren and first cousins once-removed. In effect, this provision bans foreigners from receiving transplants. Advocates of the new law defend the legislation by stating, “We cannot stop organ trading where the poor sell their organs through dodgy people unless there is a law that criminalizes illegal organ trading.” The law thus establishes a formal organ waiting list and bars financial rewards for organ donations, much like national waiting lists in the U.S. Additionally, doctors caught performing illegal transplants could face up to fifteen years of jail time.

Despite regulatory efforts, not all family members can be medically considered matching donors, and some may be unable to donate due to preexisting health conditions. Therefore, many recipients are unable to utilize legal methods and therefore, find ways to evade the law. For example, falsifying familial relationships to arrange organ transplants is not difficult in Egypt, as officials do not always look thoroughly into paperwork required to
prove kinship. Transplantation from a live donor, conducted under the law’s strict condition that the transplant was carried out in a public hospital, from related donors, costs a hospital roughly $25,000. The state pays roughly $9,600, while the Egyptian Organ Transplant Association contributes another $9,600. For kidney transplants, the state covers the entire cost of the transplant, $3,800.

A black market persists, despite regulation, as the high demand for organs, the considerable cost that goes into donation procedures, and the minimal amount of hospitals and staff trained in the procedure, all perpetuate black market trading. Further, the social component or “public rejection” of legalizing organ donation by the general population has been an emerging obstacle in the way of legal organ donation measures. Or in other words, a general public awareness that organ trafficking exists leaves many in opposition of regulatory laws, for socially speaking such regulation “giv[es] way to fears of the exploitation of the poor as spare body parts for the rich.”

Nevertheless, authorities have been notified of some organ trafficking rings. For example, in 2017, Egyptian officials arrested sixteen individuals characterized as a “gang” of human traffickers in Southern Egypt. The “gang” included a doctor from a local hospital, as well as medical technicians. The “broker” of this “gang” sought out perspective donors, brought those donors to the doctors, and in return received a cut of the overall payment by the individual receiving the organ. In this case, the patient donating the organ received $25,000, the doctor received $10,000, the anesthetic received $5,000, the nurse received $15,000, the technician received $3,000, and the remaining $500 went to the broker.

Additionally, another large arrest that same year occurred. The initial investigation led to an ultimate arrest of more than forty-five individuals, made up of both Egyptians and foreigners. The group was said to be the “largest international network for trading human organs.” Sites for the procedures included private hospitals, health ministries, and health centers, involving both licensed and unlicensed staff members. Based on tips, the “ring” was under surveillance of the Administrative Control Authority

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93 Id.
94 Id.
95 Id.
96 Id.
97 Id.
98 Id.
99 Id.
101 Id.
102 Id.
103 Id.
104 Id.
106 Id.
107 Id.
108 Id.
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("ACA") for months. The ACA, an anti-corruption body, was established in 1964, as an independent organization affiliated with the Prime Minister of Egypt. The ACA is responsible for detecting, as well as fighting corruption in the government, public business sectors, and private sectors. Additionally, the ACA is tasked with ensuring and implementing enforced laws, applied regulations, and systems. Although the ACA has made strides in the war against black market organ trade, the numbers indicate that more must be done.

A recent grant received by the United Nations ("UN") intends to provide direct support for persons trafficked for the removal of their organs in Egypt. The aim of the project is to identify and link 250 donors participating in the trade with both medical and legal assistance, as well as to document each experience for analysis on further project development. Globally, this grant serves as an acknowledgement that the UN is realizing there is still much work that needs to be done within the country to end practices of the illegal organ trade.

Further, in 2010, the Transplantation of Human Organs and Tissues Act was established in Egypt, making it a criminal offense to buy or sell an organ. But despite the legislative prohibition and an oversight committee in Egypt charged with enforcing the strict provisions of the Act, commercial transplants still persist in Egypt.

As stated, regulatory efforts have been a step in attempting to address the prevalent issue of organ trading, but more needs to be done. After the Organ Donation Act was implemented across Egypt, more than 100 allegedly illegal facilities carrying out the procedure were shut down. This is said to have reduced the overall number of crimes related to organ trafficking by more than 80%. Yet, due to the political unrest in Egypt over the last decade, the reliability of such statistical reporting is questionable. Political unrest has made it virtually impossible to determine with accuracy the number of organ trades existing within the country. Further, organ trafficking victims do not often report the crimes to officials for fear of criminalizing themselves as commercial donors. Currently, there are no existing protective measures set to ensure that victims who reveal their participation are not prosecuted for selling their organs, deterring them from coming forward.

109 Id.
111 Id.
112 Id.
114 Id.
115 See generally id.
116 Columb, supra note 74.
117 Id.
118 Id.
119 Id.
120 Id.
121 Id.
122 Id.
Many Sudanese migrants enter Egypt to take advantage of the existing illegal organ trading market. The 1976 Wadi El Nil Treaty granted Sudanese nationals the ability to formally enter Egypt without a visa. But due to the large influx of Sudanese migrants after this grant, there was a reevaluation of that relationship. The United Nations High Commissioner for Refugees states the total number of refugees, asylum seekers and stateless people, or people of concern, within the country exists at around 250,000. Many Sudanese immigrants migrate into Egypt, remain undocumented, and participate in the illegal organ trafficking market. Concernedly, many of these undocumented migrants are not protected by any existing laws, and therefore, have little bargaining powers and prove perfect “victims” to this illegal market.

IV. OVERVIEW OF VARIOUS COUNTRIES LAWS TO SERVE AS HELPFUL TOOLS TO APPROACH FIXING EGYPT’S BROKEN SYSTEM.

As previously noted, Egypt isn’t the only country that has fallen victim to the organ trade. This section will examine human organ regulations, both current and past, existing in the United States, Singapore, China, and the Philippines to illustrate how other nations address the issue of human organ transplants both domestically and internationally.


Currently, the United States operates under an opt-in organ donation policy. The field of organ donation and transplantation remains one of the most regulated areas of U.S. Health Care. In the United States, state and federal legislation has been implemented in hopes of providing a “safe and equitable system for allocation, distribution, and transplantation of donated organs.” Under current U.S. law, citizens “opt-in” to become an organ donor through a national registry. The decision to become an organ donor is noted on a citizen’s driver’s license. But due to the country’s national shortage of organs, alternative methods of organ donation have been explored, proposed by legislatures, and

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123 Id.
124 Colomb, supra note 74.
125 Id.
126 Karasapan, supra note 124.
127 Id.
128 Id.
131 Id.
132 Id.
133 Leins, supra note 129.
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continually denied. Most often, opposition arises over concerns of potential religious conflict. For example, Orthodox Jewish beliefs, similar to those of Sharia Egyptian's, articulate that an individual is not dead until his/her brain stops.


Generally, the opt-out, or presumed consent method is a system where citizens must explicitly indicate and register their objections to be deemed a legal non-donor. In Singapore, if a citizen does not opt-out of the system, they will be automatically considered as a donor upon death. Singapore enacted the Human Organ Transplant Act, ("HOTA") in 1987. When the Act was first introduced, it involved only the donation and transplantation of kidneys. In 2004, HOTA expanded to include the transplantation of hearts, livers, and corneas.

Once a Singapore citizen reaches the age of twenty-one, all Singaporeans and permanent residents who are not mentally disordered in any way are covered under the Act. The Act incentivizes compliance as those who choose to remain under HOTA, and opt-in to presume consent, have a higher priority in receiving an organ if they need a transplant in future. On the other hand, an individual who opts-out will receive lower priority for organs, particularly the organs which they opted out of donating.

If an individual chooses to opt-out, they must return the HOTA opt-out form. Individuals may choose to opt-out generally, or opt-out of transplantation of specified organs. The form is available on the HOTA website, with a suggested “five minute” fill out time. The form is a two-sided postcard that is pre-addressed, containing an inquiry of information to be filled out such as the individuals name, sex, race, and NRIC number, or national registration identity card, which is comparable to a social security number.

134 Id.
135 Id.
138 Id.
139 Id.
140 Id.
141 Id.
142 What is HOTA all about?, SINGAPORE GOVERNMENT (July 20, 2017), https://www.gov.sg/factually/content/what-is-hota-all-about.
143 Id.
144 Id.
146 Id.
147 Id.
information is easily accessible at liveon.sg, which is Singapore's HOTA website, equipped with a convenient link to the site's social media Facebook page. Should an individual change his/her mind about opting out, he/she can complete the “Withdrawal of objection to Organ Removal under Section 11(1).”

In 2008, to draw attention to HOTA, the Singapore’s Ministry of Health (“MOH”) introduced the “Live On” campaign. This campaign was aimed at “raising societal consciousness and acceptance of organ donation (under HOTA) as an acceptable and generous act of goodness.” The campaign “Live On” hosts a multitude of events, including an annual “Wellness Carnival.” The 2017 carnival was promoted as a “fun, and family-friendly” event to learn about wellness and organ donation. The event was sponsored by the MOH, with partners including the Health Promotion Board of Singapore, NKF Singapore, SingHealth Transplant, National University Hospital and more. After the event, the organizers wrote a personal note to participants, exemplifying not only the nation’s passion towards the cause, but also towards creating a society where organ donation is socially accepted even at a young age:

A very heartfelt Thank You to those who had joined us at the Wellness Carnival. We hope that you had enjoyed the carnival as much as we did.

More importantly, we hope that it had given you insights on health, wellness, staying active, and on organ donation and transplantation. Remember to continue clocking that 10,000 steps, and remember the hearts that you’ve folded to represent your pledge towards a caring society.

Organ donation represents the outpouring of love from one to another (or several others). Likewise, one’s support for organ donation should also be communicated so that this passion continues to Live On in our community.

In Singapore, recovery of deceased organs requires an evaluation of stringent clinical criteria: the deceased must be certified brain dead before retrieval or organs can proceed. Brain death is diagnosed only when there is catastrophic, irreversible brain injury. Irreversible brain injury occurs when blood flow and oxygen delivery to the brain ceases irreversibly and all brain functions are lost. The neurological criteria for diagnosing brain death in Singapore is based on current medical evidence and knowledge, similar to those adopted by other countries as U.S., Australia, and the U.K. Once this process occurs,
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the individual is recognized as deceased, both medically and legally.\textsuperscript{161} In order for organ donation, two independent doctors who are not involved in the care of the patient must certify brain death.\textsuperscript{162} Those doctors are accredited to certify brain death and considered specialists by receiving specific advanced training.\textsuperscript{163}

But the training of doctors involved in the process is not centered strictly on science. The hospital and healthcare team are trained to empathize with family members who have lost their loved ones.\textsuperscript{164} In situations where a family member of the deceased has expressed concerns over donation, healthcare professionals inclusive of transplant coordinators, social workers, and medical team members, are trained to clarify any related issues, explain the legal requirements under HOTA, the process involved, as well as provide emotional support and active counseling to the family.\textsuperscript{165}

In addition, Singapore has enacted the Medical Therapy Education and Research Act.\textsuperscript{166} This is an opt-in scheme where people can pledge to donate their organs and tissues (lung, bone, skin, heart valves, etc.) for the purposes of transplantation, education, or research after they pass away.\textsuperscript{167}

Overall, the efforts of the MOH under HOTA enabled close to 2,000 deceased transplants between 2004 and 2015.\textsuperscript{168} Additionally, between 2004 and 2015, there were 478 living donor organ transplants.\textsuperscript{169} Following the launch of the MOH’s “Live On” campaign in 2008, there was an increase in cases of transplantation from an average of 174 cases in 2004 to 220 cases in 2007.\textsuperscript{170}

c. China: From Illegal Harvest to Strict Criminalization.

Chinese officials have enacted various legislation with intention to curtail the country’s black market regime. In 2007 China, passed a law prohibiting transplant tourism by making it a criminal offense to provide transplant surgeries to foreigners.\textsuperscript{171} Any hospital or doctor going against the law faces punishment and potential loss of their ability to carry out transplants.\textsuperscript{172}

\textsuperscript{161} Id.
\textsuperscript{162} Id.
\textsuperscript{163} Id.
\textsuperscript{164} Id.
\textsuperscript{165} Id.
\textsuperscript{166} Id.
\textsuperscript{167} Id.
\textsuperscript{168} Id.
\textsuperscript{169} Id.
\textsuperscript{170} Id.
\textsuperscript{172} Id.
For a period of time, China harvested organs from executed prisoners. Because the country struggled to meet the demand of necessary organ donors through voluntary channels, the country made the decision to harvest from its prisoners. As such, death row inmates long served as a key source of transplant donors in China. In 2006, Chinese authorities admitted the country must reduce its reliance on organs from prisoners. Chinese authorities reportedly put more prisoners to death every year than the rest of the world combined, an estimated 2,400 people in 2013. Yet, a lot of controversy surrounded the practice.

In 2006, the situation gained international concern and the Coalition to Investigate the Persecution of Falun Gong ("CIPFG") in China was established in the United States, with offices to assist in Canada. The Falun Gong is a spiritual group in China, recognized for receiving the longest sentences and worst treatment in Chinese prison, due to their unconventional beliefs. Reportedly, tens of thousands of Falun Gong members have been arbitrarily detained and regarded as "cult-like followers engaged in anti-China political activities." This international, non-governmental organization asked former Canadian Secretary of State, David Kilgour, and human rights lawyer, David Matas, to investigate allegations of organ harvesting particularly from Falun Gong practitioners detained in China. The purpose of the CIPFG was to "expose the true situation that Falun Gong practitioners have been persecuted in mainland China, and stop the persecution." Further, "to hold accountable those participants who have planned and implemented the inhuman killings for committing crimes against humanity according to international criminal law." In 2012, the practice of harvesting from prisoners was formally declared to over by Chinese officials as the country altered its focus on revamping a new voluntary organ donation system.

About 2 million people in China need transplants each year, but there are only 20,000 operations annually due to the national shortage of necessary organs. Because some hospitals are eager for cash, they turn over their organs to high paying foreigners in need of...
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organs, over their own citizens.\footnote{187} The new law addressed this problem by giving local citizens priority of legal organs over foreigners.\footnote{188} According to the Chinese Health Ministry, “Priority in our country’s organ transplants must be given to meet the needs of Chinese citizens, including permanent residents from Hong Kong, Macao and Taiwan.”\footnote{189} Since July of 2007, the commercial sale of human organs in China has been banned.\footnote{190} Hospitals now require consent of donors and restrict the number of hospitals allowed to perform transplant operations.\footnote{191}

From roughly 2007 to 2016, the Chinese authorities formed joint task forces and cracked down on 32 illegal intermediaries, investigated 18 medical institutions, prosecuted, convicted, and imprisoned 174 people including fifty medical personnel, and eradicated 14 black market dens, referring to a “zero tolerance” action to any behaviors violating organ transplantation regulations and laws.\footnote{192} Admittedly, officials know there is more work that needs to be done regarding the issue of human organ trading and believe the “key for resolving the issue is legislation and law enforcement.”\footnote{193}

d. Philippines: Cracking Down on Legal Organ Transplants.

The sale of human organs in the Philippines has always been illegal.\footnote{194} However, kidney transplants have become a lucrative “underground business” and Filipino hospitals cash in by falsely classify kidney sales as acceptable donations to evade the law.\footnote{195} Therefore, in 2008, the country enacted legislation to ban kidney transplants to foreigners.\footnote{196} Foreigners who violated the ban, inclusive of any middlemen, can face jail time up to 20 years and fines up to $40,000.\footnote{197} The ban was intended to protect poor Filipinos, for many, like poor Egyptians, fall victim to the trade because of their desperate situation.\footnote{198} The health secretary of the Philippines stated, “The poor always end up as the ones being abused […] the sale of one’s body parts is condemnable and ethically improper. We have to stop it.”\footnote{199}
But conjuring efforts to stop the practice has proved challenging. Many critics reference the country’s general inadequacy of laws as the reason for the delay.\textsuperscript{200} The Philippine Organ Donation Act of 1991 only covers brain dead donors and does not include acceptance and management of living donors.\textsuperscript{201} Furthermore, the country’s law against human trafficking (R.A. 9208), or the Philippine Anti-Trafficking Against Human Act, defines human trafficking as:

Recruitment, transport, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation by the removal of organs, tissues or cells for transplantation.\textsuperscript{202}

Critics further argue the way organ trafficking is defined within the Act is problematic, for it states that the mere sale of organs is not enough activity to be considered a violation of the country’s law.\textsuperscript{203} Because other elements of the crime, including force, fraud, deceit and coercion/intimidation must be present to initiate a claim, it often presents a great obstacle for an individual with intentions to file a claim.\textsuperscript{204} Although a person may be deceived, abused, etc., after agreeing to engage in the practice of illegal donation, if it can be shown that the individual willingly agreed to give their organ, there exists no standing for an investigation to be conducted.\textsuperscript{205}

The Philippines now mandates hospitals to require potential donors to submit identification papers such as birth certificates to crack down on unscrupulous activity, when previously all that was required was a laboratory test to determine eligibility.\textsuperscript{206} The country also created the Philippine Network for Organ Donation and Transplantation, or the country’s implementing body for organ donation and transplantation system within the country.\textsuperscript{207} The network is tasked with monitoring the compliance of transplant facilities with policies set forth by the country’s law.\textsuperscript{208} The network is comprised of the National Human Organ Preservation Effort, which contains three registries with data coming from different transplant facilities, including: (1) a registry of all kidney transplants performed in the country; (2) a registry of all placed, living non-related donors, and those waiting to be placed; and (3) a registry of all patients seeking kidney transplantation.\textsuperscript{209}

\textsuperscript{200} Gemma Bagayaua, \textit{Organ trade continues despite ban on transplantation}, ABS CBN NEWS (Mar. 8, 2009), http://news.abs-cbn.com/special-report/03/08/09/organ-trade-continues-despite-ban-transplantation-

\textsuperscript{201} Id.

\textsuperscript{202} Id.

\textsuperscript{203} Id.

\textsuperscript{204} Id.

\textsuperscript{205} Id.

\textsuperscript{206} Id.

\textsuperscript{207} Id.

\textsuperscript{208} Id.

\textsuperscript{209} Id.
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e. International Initiatives as Guiding Principles.

1. WHO

The issue of organ trafficking has been an ongoing concern of the World Health Organization (WHO) for three decades. In May of 2010, the WHO created a World Health Assembly Resolution in May of 2010. This resolution updated the guiding international principles on Human Organ Transplantation. An update on the principles was based on an overall awareness of the "growing magnitude and utility of human cell, tissue and organ transplantation and a wide range of conditions in low resource as well as high-resource countries." The resolution also urged member states, and where appropriate regional economic international organizations, to implement WHO guiding principles on human cell, tissue, and organ transplantation in the formulation and enforcement of their own policies, laws and legislation regarding human cell, tissue and organ donation and transplantation where appropriate.

2. Pontifical Academy of Sciences

The Pontifical Academy of Sciences Summit on Human Organ Trafficking held on February 7-8 of 2017, illustrating Pope Francis' commitment to the eradication of human organ trafficking, or what he views as a newfound form of "slavery." The specific objective of the Summit on Organ Trafficking and Transplant Tourism includes: (1) a desire to obtain a "description of the widespread extent of transplant tourism and organ trafficking (testimony given by attendees from countries with transplant services currently throughout the world); (2) to prepare a statement referable to the Pontifical Academy Summit that would be signed by the participants and distributed worldwide; (3) engage a group of stakeholders (government officials, prosecutors, investigators, justices, and journalists), among other things." The hope of the Summit was to create a top-down and bottom-up movement in society, to raise awareness of the extension and seriousness of the modern challenges of human organ trafficking and "lay the groundwork for moral and appropriate solutions based on human dignity, freedom, justice and peace."

The results of the Summit, in accordance with the Resolutions of the United Nations and the World Health Assembly, the 2015 Vatican Summit of Mayors from major cities around the world, the 2014 Joint Declaration of faith leaders against modern slavery, and the

210 WHA63/2010/REC/1 (May 17-21, 2010).
211 Id.
212 Id.
213 Id.
214 Id.
216 Id.
217 Id.
Magisterium of Pope Francis, who in June 2016, at the Judge’s Summit on Human Trafficking and Organized Crime, stated that organ trafficking and human trafficking for the purpose of organ removal are “true crimes against humanity [that] need to be recognized as such by all religious, political and social leaders, and by national and international legislation.” The summit supports a “number of international legal instruments” that “define, condemn, and criminalize these practices, namely the United Nations Protocol against Trafficking in Persons (Palermo protocol), the Council of Europe Convention against Trafficking in Human Beings, and the Council of Europe Convention against Trafficking in Human Organs.” But, the legal instruments supported were notably important links to emerging innovative policy to combat social inequality.

V. SOLUTION: PROPOSAL OF STATUTE: “STRATEGY TO OPPOSE ILLEGAL HUMAN ORGAN TRAFFICKING IN EGYPT.”

Egypt remains a major player in the illegal human organ trade. Critics argue that current punitive laws criminalizing participation in the trade serve more harm than good by further pushing organ trafficking endeavors underground. Because enforcement of a criminal punishment is generally a re-active solution to the problem, applied only when a black market “ring” is brought to authorities attention- a situation that seldom occurs- such re-active measures insufficiently tackle the trade. Therefore, this note proposes the enactment of a comprehensive statute entitled: “Strategy to Oppose Illegal Human Organ Trafficking in Egypt.” The statute was crafted with guidance from the WHO guiding principles and the Pontifical Academy of Sciences Summit on Human Organ Trafficking.

The broad goal of this statute is to ban the commercial exchange of organs by limiting transplantation to situations of only life-saving benefit to the recipient, with no harm to the living donor. This is accomplished by ensuring the legality of procedures in an effort to stop the problem of illegal falsification of familial relations. By ensuring hospital and medical center’s strictly to necessary documentation and consent forms, like the methods seen in the Philippine’s, the legal process can be promoted and authorities can crack down on any unscrupulous activity that may take place. This statute also incorporates proactive measures to target vulnerable groups and expose them to the dark realities of the trade, in an effort to stop participation before it starts.

Additionally, the statute proposes preventative methods that are tailored to Egypt’s unique position as an international player in the illegal organ transplant market. Such efforts include the implementation of legal safeguards to promote individuals, victims and
participants alike to come forward and disclose any information of illegal activity. Because individuals fear coming forward for both reasons of retaliation and prosecution, the statute maintains the anonymity of anyone who comes forward with information and eliminates an individual from facing criminal prosecution. The U.S. National Library of Medicine National Institutes of Health identifies this as an issue in combating organ trafficking internationally and suggests that law enforcement agencies and judiciaries must acknowledge this fear, as this statute does, stating that individuals involved in the trade "may risk criminal liability for the sale of an organ and possibly also for other criminal offenses directly linked to their experience as a trafficked person, such as the use of forged or altered documents, illegal border crossings or participation in a criminal organization." Opponents may argue that this is too lenient of a proposal and such considerations should not be acknowledged. Instead adopting a view that all who participate in the trade, perhaps with the exception of victims, must be liable for their illegal participation. This note takes the position that other individuals involved in the ring may too be coerced into the scheme, similar to victims. In order to tackle the devastating problem, all efforts must be utilized to ensure any and all tips are reported to the authorities. Therefore, any and all obstacles that may prohibit one from coming forward must be eliminated.

Lastly, this note proposes the creation of community out-reach programs facilitated by hospitals and medical centers in an effort to increase awareness of the trade, target potential participations, and dispel the realities of these commercial donations. Such realities include stories of "survivors" like Abdel-Rahman Abdel-Aziz and his wife, Asmaa. Abdel-Rahman Abdel-Aziz himself stated, "If anyone made clear to me the danger, I wouldn’t have done it." Opponents may argue such efforts would be a waste of resources. Nevertheless, if individuals are considering the trade and learn the "truth," this may stop them from participating altogether.

1. Drafted Sections:
   (a) General Definitions:
      (i) "organ" means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof;
      (ii) "donor" means the individual removing their organ;
      (iii) "broker" means the individual responsible for recruiting the donor;
      (iv) "recipient" means the individual receiving the organ;
      (v) "medical professionals" means doctors, such as surgeons, as well as nursing staff and other medical staff;
      (vi) "medical centers" shall include any licensed setting where organ transplantation procedures are conducted;

227 Columb, supra note 74.
229 ASSOCIATED PRESS, supra note 1.
230 Id.
231 Id.
(vii) "trafficking" means the recruitment, transfer, harboring, or receipt of a person, either living or deceased, for the purpose of removing one or more of the person's organs, by means of coercion, abduction, deceit;

(viii) "coercion" means threats of serious harm to or physical restraint against any person, or the abuse, or threatened abuse, of the legal process;

(ix) "abduction" means the action or instance of forcibly taking someone against their will;

(x) "deceit" means the action or instance of promising an individual something in exchange for their organs and failing to deliver that promise.

2. Prohibition of Commercial Dealing in Human Material for Transplantation:
   (a) An individual commits an offense if:
       (i) He/she gives or receives a reward for the supply of, or for an offer to, supply an organ;
       (ii) He/she seeks to find a person willing to supply an organ;
       (iii) He/she offers to supply an organ;
       (iv) He/she initiates or negotiates any arrangement involving an organ;
       (v) He/she takes part in the management or control of the body of persons involved in activities or intended to be involved in activities related to the arrangement of the commercial sale of an organ;
       (vi) He/she knowingly publishes or distributes an advertisement inviting persons to supply, or offering to supply an organ;
       (vii) He/she indicating that an advertiser is willing to initiate or negotiate an arrangement for the supply of an organ.
   (b) An individual is guilty of an offense outlined in subsection (a) shall be liable:
       (i) Imprisonment for a term with a minimum sentencing of 5 years; or
       (ii) To a minimum fine of $30,000; or,
       (iii) Both.

3. Non-criminalization of Individuals Who Expose Organ Trafficking:
   (a) An individual who comes forward to authorities to expose organ trafficking procedures will not be subject to criminal punishment and/or prosecution;
   (b) An individual who comes forward will remain anonymous;
   (c) This section extends, but is not limited to:
       (i) Victims;
       (ii) Brokers;
       (iii) Recipients;
       (iv) Donors;
       (v) Medical Personnel.

4. Restriction of Transplants:
   (a) An individual commits an offense if:
       (i) He/she removes any organ from a person intending for that organ to be used in the purpose of commercial transplantation; and,
       (ii) When he/she removes the organ, knows, or reasonably expects to know, the organ is to be used in a commercial transplantation.

5. License Requirement:
   (a) An individual shall only participate in an activity to which this section applies under the authority of a license granted for the purpose of this section;
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(b) This section applies to the following activities:
   (i) Carrying-out of an anatomical examination;
   (ii) The removal of an organ from the body of a deceased person;
   (iii) The removal of an organ from the body of a living person.

6. Hospital and Medical Center Requirements:
   (a) Hospitals and Medical Centers shall only permit organ transplantation for the purpose of life-saving conditions;
   (b) Hospitals and Medical Centers shall be required to provide counselling to potential donor and family to ensure free and fully informed consent;
   (c) Hospitals and Medical Centers shall be mandated to keep signed consent form from each donor;
   (d) Hospitals and Medical Centers shall only permit licensed medical personnel to conduct the procedure;
   (e) Hospitals and Medical Centers shall be required to ensure all personnel are suitable persons to participate in the carrying-on of the licensed activity;
   (f) Hospitals and Medical Centers shall be required to ensure that suitable practices are used in the course of carrying on the activity;
   (g) Hospitals and Medical Centers shall be required to ensure the conditions associated with the licensee are complied with;
   (h) Hospitals and Medical Centers shall be required to partake in community outreach educational and awareness initiatives to identify individuals who are vulnerable to exploitation by traffickers.

VI. CONCLUSION

As medical advancements continue and lifespans lengthen, diseases such as organ failure pose a bigger threat than before. The international supply of donated organs fail to meet the ever-growing demand. Desperate for an organ, individuals bypass the legal market and thus, transplant tourism thrives. The black market trade persists and poverty stricken Egyptians, like Abdel-Rahman Abdel-Aziz and his wife, Asmaa, become the helpless victims.

As previously stated, punitive measures aimed at tackling the issue of organ trafficking fall short in truly combating the trade. Therefore, this note suggests pro-active measures focused on prevention efforts must be implemented and enforced. By dispelling the "truth" of the trade, or the notion that one may "give up" more than just their kidney when participating in illegal organ donation, this note takes the position that an individual will think twice before going under the knife.

232 Ainley, supra note 9.
233 Id.
234 Campbell & Davison, supra note 14.
235 ASSOCIATED PRESS, supra note 1.