

## Personal Viewpoint

# The Politics of Combating the Organ Trade: Lessons from the Israeli and Pakistani Experience

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**Israel and Pakistan—two major participants in the global organ trade—enacted legislative prohibitions on the trade at roughly the same time. The article highlights three influences that brought about this change of policy in both countries: advocacy by local physicians coupled with media coverage and reinforced by the international medical community. The analysis also explains why the two countries have differed with respect to the enforcement of the organ-trade prohibition. The insights from the Israeli and Pakistani cases will be of use for the transplant community's efforts against organ trafficking.**

**Key words:** Ethics, Israel, legislation, organ trafficking, Pakistan, transplantation

**Received 03 January 2013, revised 10 February 2013 and accepted 28 February 2013**

## Introduction

The trade in human organs—mostly kidneys—has been the subject of growing concern for the international transplant community in recent years. Members of the community have studied the detrimental consequences of organ trafficking and have called for curbing commercially driven transplantations and encouraging altruistic organ donations (1). The clearest expression of this call for action has been the Declaration of Istanbul on Organ Trafficking and Transplant Tourism, adopted by the Transplantation Society (TTS) and the International Society of Nephrology (ISN) in 2008 (2). Yet the efforts to eliminate the organ trade face significant political obstacles, as some governments choose to tolerate this practice. Under pressure from hospitals, physicians and patients who are involved in commercial transplantations, these governments overlook the many concerns that the organ trade raises and even consider it a convenient solution to the shortage of altruistic

donations. To bring these governments to change their policy and eliminate the organ trade, we must understand the political process through which such a policy transformation may come about. This article contributes to such an understanding by examining the experience of Israel and Pakistan: two major participants in the global organ trade that, after years of governmental apathy or even support for the trade, resolved to abolish it.

Beginning in the early 1990s, Israel became a major country of origin of transplant tourists. Facing a severe organ shortage at home, Israeli patients underwent commercial transplantations in various countries worldwide, from Turkey to China to the Philippines. Israel's HMOs—the country's primary providers of health insurance—reimbursed commercially transplanted patients, and thereby facilitated transplant tourism (3). Pakistan's role in the organ trade since the mid-1990s was that of a popular destination of transplant tourism. By 2007, some 2000 commercial transplantations were performed annually in Pakistan, the majority of which—approximately 1500—on foreigners, especially from the Middle East. These transplantations typically took place in private hospitals in Punjab, using organs obtained from impoverished locals (4).

Economically and politically, Israel and Pakistan are vastly different: the former is industrialized and democratic, while the latter is a developing country that has been recently transitioning from military to civilian rule. Yet the two countries are similar in terms of the political dynamic surrounding the organ trade. In both Israel and Pakistan, the absence of transplantation legislation facilitated the involvement of individuals and institutions in organ trafficking and transplant tourism. At roughly the same time, the two countries closed this gap by enacting laws aimed at regulating transplant activity and curbing commercial transactions in organs: Israel's Organ Transplantation Law (2008), and Pakistan's Transplantation of Human Organs and Tissues Ordinance (2007) that became an act of parliament in 2010 (5,6). Most importantly, the transformation of the Israeli and Pakistani transplantation policies stemmed from a similar triangle of influences: (1) advocacy by local physicians and (2) national media coverage, reinforced by (3) efforts of international medical bodies: the Transplantation Society and the World Health Organization (WHO). The following analysis highlights these key similarities, as well as notable differences, between the Israeli and Pakistani experience. It is based on interviews

with some of the key participants in the transplant-related political processes in the two countries, alongside scholarly publications and media reports. The findings with respect to Israel and Pakistan offer lessons to other countries where the organ trade thrives.

### Advocacy by the Local Medical Community

Efforts against illicit trade are often the initiative of *moral entrepreneurs*: groups and individuals in civil society who are committed to the elimination of trade that they consider harmful and repugnant (7). In both Israel and Pakistan, it was local physicians who acted as moral entrepreneurs. They raised governments' awareness of the exploitative nature of the organ trade and its detrimental consequences: the negative effects on both the recipients and the paid donors, the corrupting influence on the healthcare system, and the damage to the country's international reputation. The physicians' demands for action against the organ trade served as primary drivers of the regulatory processes that culminated in the passage of transplant legislation.

In Israel, the country's leading transplant surgeons—Professor Jay Lavee and Professor Eytan Mor—urged the Ministry of Health to lead a legislative move against transplant tourism. The two physicians played an important role at the meetings of the Knesset subcommittee that considered the organ transplantation bill. At those meetings and in occasional publications, the physicians argued that the organ trade is unethical and that the Israeli participation in it must stop (8,9). Together with the Israeli Medical Association, they advocated for a transplant law that would encourage altruistic organ donations free from financial incentives.

In Pakistan, it was the Sindh Institute of Urology and Transplantation (SIUT) and its founder and director, Professor Adib Rizvi, that spearheaded the efforts against the organ trade, with support from several of Pakistan's medical associations. SIUT had been advocating for transplant legislation since the early 1990s, but intensified its efforts beginning in 2005, in light of a surging trade and an increasing inflow of transplant tourists. A central element in moral entrepreneurs' advocacy campaigns is the provision of information on the practices that these actors denounce (10). Indeed, the SIUT physicians published studies that identified the dynamic and pernicious consequences of the organ trade: from socio-economic and ethnographic portrayals of the paid donors whose donation did little to alleviate their poverty (11,12) to medical studies documenting the hazards that commercial transplantations pose to both donors and recipients (13,14). The SIUT physicians realized, however, that convincing the government to eliminate the organ trade would also require public outreach to generate societal awareness and pressure. To that end, SIUT employed several means: press conferences, seminars and symposia that brought attention to the

exploitative nature of the organ trade and called for a deceased-donation program; media appearances and op-eds in the press; and recruitment of civil-society allies of high moral stature, such as educators and clergy members. Further support came from the Supreme Court of Pakistan. In 2006, the court called on the federal and provincial authorities to curb the organ trade. The following year, the court ordered that the transplantation ordinance be established, as the government was dragging its feet.

As the above discussion indicates, the campaign of the Pakistani medical community had greater public visibility and involved a broader societal coalition than the efforts of Israel's medical community. Another important distinction concerned the level of agreement within the two communities. The Israeli medical community spoke with one voice: denouncing organ trafficking and transplant tourism and demanding a legislative prohibition. While a small number of Israeli physicians may have facilitated commercial transplantations abroad, they had no political involvement. Contrarily, the Pakistani transplant legislation met resistance from the owners and physicians of the private hospitals involved in the organ trade. Using its financial resources and ties to high-level officials, this lobby sought to amend the 2007 transplantation ordinance and relax the prohibitions on unrelated donation and payment to donors; it also asked the Federal Shariat Court to strike down several provisions of the ordinance for contradicting Sharia. Having failed to achieve either goal, the lobby then used its influence to weaken and obstruct the enforcement of the transplant legislation (15,16).

### The Role of the Media

Media coverage plays an important role in motivating governments to eliminate illicit trade. By giving wide publicity to illegal transactions and their detrimental consequences, the media can bring attention to the issue and put it on the national agenda. Once the lawbreaking is exposed and the perpetrators are identified, governments come under pressure to acknowledge and address the problem.

Indeed, in both Israel and Pakistan media reports raised public awareness of the organ trade and embarrassed government authorities for tolerating this practice. Stories about Israeli transplant tourism appeared in the local press prior to and throughout the process of legislating the transplantation law. In 2000, the popular daily *Yedioth Ahronoth* reported that "every year hundreds [of Israelis] are buying organs abroad for enormous sums of money"; "according to rumors, the transplantations are performed in Turkey, Moldova, Georgia and Estonia; the donors come from Romania, India and the Far East, among others." Another story revealed that dozens of Israelis "are flying each month to China, where they get the organ that will save their lives—straight from the bodies of executed

Chinese criminals" (17,18). Israeli transplant tourism was also exposed by the international press, most notably the *New York Times* (19).

Pakistan's media was even more outspoken and critical than Israel's in its reporting about the organ trade. Newspaper and television coverage revealed how a "kidney mafia" obtained organs from poor and vulnerable individuals, to the benefit of rich foreigners who had come to Pakistan for transplantation. The media coverage took specific aim at the role of the government, whose failed poverty-alleviation programs left individuals no choice but to sell their kidneys, and whose failure to enact a transplant law and later to enforce it allowed the organ trade to thrive. It was also noted that reports of Pakistan's "flourishing kidney market" had appeared in the international press, tarnishing the country's reputation (20,21).

The media pressure reinforced the demands of the local physicians and made policymakers more attentive to their concerns. Further reinforcement came from the international medical community.

### The International Medical Community

The commercial trade in organs came on the WHO's agenda in the late 1980s, leading to the establishment of the Guiding Principles on Human Organ Transplantation in 1991. In 2004, the issue reappeared on the organization's agenda, leading to a call on member states to "protect the poorest and vulnerable groups from 'transplant tourism' and the sale of tissues and organs" (22). Following that call, the WHO established collaborative relations with the TTS as a source of expert advice and a means to influence transplant professionals. The TTS—together with the ISN—established the Declaration of Istanbul in 2008 (2). Two years later, the WHO adopted a set of revised guiding principles on transplantation, consistent with the Declaration.

How has this international activity affected the political dynamic in Israel and Pakistan? First, it is important to note that the post-2004 international efforts were not the primary triggers of the national legislative processes in the two countries. The Israeli government had submitted the organ transplantation bill in 2003; an attempt to pass a transplant law in Pakistan had already taken place in the early 1990s. Yet the efforts of the international medical community influenced the two countries' domestic scene in important ways. One influence was through peer pressure. Both the Israeli and Pakistani physicians faced criticism in international medical conferences for their countries' buying or selling of organs, respectively. In their discussions with officials, the physicians used this criticism as leverage: they urged that the organ trade be curbed so as to rehabilitate their countries' reputation. More broadly, the global efforts against the organ trade served as catalysts of the domestic political processes by supporting and reinforcing the

demands of the local physicians. The WHO guidelines and the Declaration of Istanbul demonstrated that the organ trade is not merely a local issue, but a matter of concern for the international community. These documents further indicated the existence of a worldwide consensus against this practice—a consensus from which Israel and Pakistan were deviating. For government officials, the desire to conform to widely held international norms and redeem the national reputation served as a motivation for action.

In fact, representatives of the international medical community had presence in the domestic debates over the organ trade. Professor Francis Delmonico, one of the leaders of the TTS and a WHO consultant on organ donation and transplantation, played an important role in bringing Israel's health authorities to the realization that their country should not be "complicit in acts that the enlightened world considers unethical and immoral" (23). There was also concern that Israel's support of transplant tourism might ultimately trigger countermeasures by the WHO. In Pakistan, SIUT-hosted conferences, with participation of WHO and TTS representatives, conveyed the international concern about and consensus against organ trafficking. The local physicians used the international norms to enhance the moral force of their claims, noting that as a member of the WHO, Pakistan was obligated to follow the organization's guidelines. They also pointed out that representatives from Pakistan and other Muslim countries had participated in drafting the Declaration of Istanbul. These arguments resonated with the Federal Shariat Court, which cited the WHO principles among the reasons for dismissing the petition against the transplant ordinance (15).

In short, the international norms against the organ trade played an important role in the domestic political processes in both Israel and Pakistan. These norms delegitimized the position of the trade's proponents, bolstered the local physicians' demand for elimination of the organ trade, and made government officials more attentive to these demands.

### Consequences of the Policy Change

At approximately the same time and motivated by similar influences, Israel and Pakistan enacted transplantation laws that prohibited organ trafficking and transplant tourism. The Israeli transplant law also included a set of measures aimed at encouraging *legitimate* deceased and living donation (24). Yet in terms of the legislative effects, the two countries diverged. The Israeli law indeed curbed outgoing transplant tourism. Under threat of criminal sanctions, the HMOs stopped funding overseas transplantations when the altruistic motivation of the donor could not be verified—these were, in fact, the majority of cases. Consequently, the number of Israeli transplant tourists dropped precipitously: from at least 155 in 2006, prior to the 2008 transplant law, to 35 in 2011. Yet in Pakistan, the effectiveness of the

prohibition was less clear-cut. The 2007 ordinance had an immediate chilling effect on the organ trade, significantly lowering the number of commercial transplantations and reducing the inflow of foreign patients. Yet shortly after the ordinance became an act of parliament in 2010, the trade regained momentum, as health and law-enforcement authorities did little to enforce the legislation. While smaller than its pre-2007 level, the resurgent trade brought the SIUT-led coalition to resume its pressure in demand of enforcement (25). The media joined these demands, arguing that the “organ mafia [is] being hand in glove” with the authorities and calling on the latter to exercise “[s]tricter vigilance, including that of foreigners flying in for ‘transplant tourism’ and unscrupulous doctors and middlemen involved in the trade” (16,26).

The differing effectiveness of the two countries’ organ-trade prohibitions had several possible causes. First, Israeli transplant tourism presented a relatively simple law-enforcement challenge, as the illegal transplant activity took place *outside* Israel’s boundaries. In Pakistan, by contrast, the illegal transplantations were performed locally, and thus involved a larger volume of criminal activity and more profit-deriving stakeholders than in Israel. Curbing Israeli transplant tourism required a cut-off of the HMO funding—a policy that was easy to implement and enforce; furthermore, as *public* entities, the HMOs were relatively easy to monitor. By contrast, enforcing the prohibition in Pakistan required more extensive policing efforts *vis-à-vis* *private* hospitals. A second, and perhaps more crucial, distinction between the two countries concerned the influence of the actors involved in the organ trade. The Israeli prohibition did not face significant counterforces capable of undermining it. As HMO officials derived no *personal* benefit from financing transplant tourism, they accepted and complied with the criminal prohibition on such funding. Representatives of the Israeli kidney patients strongly opposed that prohibition, but lacked the political clout to prevent it from coming into force. By contrast, the counterforces in Pakistan—the physicians and hospital owners involved in the organ trade—had strong incentives to challenge the trade prohibition and undermine its enforcement, alongside the political connections and financial resources to achieve that goal. A third explanation for Israel’s vigorous enforcement of the funding prohibition is the deep concern for the country’s international reputation. Israeli officials feared that continued funding of transplant tourism would “undermine [Israel’s] status as a member of equal rights and values in the international community” (23). In Pakistan, concerns for the country’s reputation contributed to the establishment of a prohibition, but were not strong enough to motivate strict enforcement.

## Conclusion

Fundamentally different countries on many fronts, Israel and Pakistan have shown significant similarity in the timing

and causes of their decision to prohibit organ trafficking. These countries’ transplant laws are, in fact, part of a broader *international policy diffusion* (27): additional countries, from Colombia to the Philippines to Malaysia to Japan, have similarly taken steps to curb the organ trade and/or encourage legitimate organ donations (28). This article suggests that the spread of ethical donation and transplantation policies stems from a *combination of domestic and international influences*. Domestically, a unified medical community can exert pressure on the government, especially with support from the media and other societal or governmental allies (such as the courts). Yet the domestic demands must be complemented by significant involvement of the international medical community. The WHO and TTS can do much to strengthen and support the domestic anti-trafficking forces by identifying the negative effects of the organ trade and highlighting the blow to the reputation of countries that tolerate this practice.

The Pakistani case, however, shows that governments might pass a law prohibiting the organ trade while doing little to enforce it. A similar problem of insufficient enforcement has been evident in Egypt in the aftermath of the 2011 revolution (29). In other areas of illicit trade, such as drugs and sex trafficking, it is the United States that has coerced reluctant governments to enforce prohibitions. In the area of human rights, criticism from international nongovernmental organizations (INGOs) has brought governments to improve their behavior (30). Pressure from the United States, INGOs and other international actors may therefore motivate governments to enforce the organ-trafficking ban. At the same time, domestic public opinion should be mobilized to demand enforcement.

Within a relatively short time period, the international transplant community has made remarkable advances in bringing governments to tackle the organ trade. Through a combination of domestic and international efforts, further progress could be within reach.

## Acknowledgments

I thank Jay Lavee and Farhat Moazam for their comments and advice. This study has benefited from funding provided by the European Union’s Seventh Framework Programme.

## Disclosure

The author of this manuscript has no conflicts of interest to disclose as described by the *American Journal of Transplantation*.

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