Trafficking of Human Organs in India

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INTRODUCTION

India is a land of diversity and richness; but also a land of contradictions. India has some of the richest people and the poorest. In India we have scientific, software, engineering brains and on the other hand illiteracy abounds. Today, India is a steadily growing hub of medical tourism and yet a vast majority of Indians have limited access to essential healthcare. In spite of all the financial and technological advances, even today children die of diarrhea and pneumonia in some parts of my country; young adults die of malaria and tuberculosis; and young mothers face childbirth in fear of death. My country, India, is a land of diversity, richness and contradictions.

The Indian tradition has several pathways to salvation, the Njanamarga (way of knowledge), the Karmamarga (way of action) and the Bhakthimarga (way of devotion). I do not belong much to the Njanamarga, since I am neither an academician nor a trained researcher. I am more of an activist priest, more into karmamarga, with a little bit of Bhakthi, devotion, which keeps me connected with God. I am not an expert in human trafficking or organ trafficking. My area of interest is to promote ‘Humanized, Affordable, Rational Care’ (what I call as ‘HARC’), especially through the Catholic Healthcare Network in some parts of my country. Therefore, in preparing this paper, I have depended heavily on others who have worked in this field, especially the Berkeley experts. I stand here with much gratitude to Prof Nancy Scheper-Hughes, who provided me with a lot of the materials for this paper.

ORGAN TRAFFICKING IN INDIA

Organ Traffickers in India

Dr Lawrence Cohen has done extensive studies[1] in India regarding organ trafficking. He has interviewed kidney donors, transplantation doctors, and government officials from different parts of India. His study was mostly centered on the four major cities of India – Chennai, Bangalore, Delhi and Mumbai – where transplantation surgeries were happening. According to Dr Cohen, there appears to be a nexus between Medicine, Politics, Industry and the Kidney scandals. However, most of this cannot be substantiated. Some of the leading transplant surgeons whom Dr Cohen met consider organ selling as a win-win situation in the particular context of India. Even though there are indications that some of the Doctors and the members of the Authorization Committees could very well be aware of organ selling, it is very difficult to generate evidence regarding their involvement. Dr Cohen's interviews also brought out indications that the political allies of patients and physicians pressurize Committees to grant approvals. Doctors also accused each other, suggesting that some of them could be involved in procuring organs.

The Victims of Organ Trafficking in India

According to Dr Cohen, there is not much data regarding the long-term effects on the kidney sellers and their families. Many of the surgeons of the abovementioned cities confirmed that it was difficult to get such data since it was almost impossible to trace the kidney sellers after the procedure is over. However, the reality is that fact-finding teams and journalists have succeeded in locating kidney sellers. Kidney sellers in India come from urban slums as well as from drought-prone farming districts near the cities where transplant surgeries take place.[2] Dr Cohen’s interviews with social workers, journalists and 30 kidney sellers in Ayanavaram, one of the slums in Chennai, led him to the following observations:

- In the urban slums, kidney sellers are largely women.
- People sell their kidneys in order to get out of debt, but eventually fall back into the debt cycle.
- Most of the money they receive by selling kidneys goes into paying off their debts.
- The rest of the money is used for marriage, medical costs, legal fees and education of their children.
- In many cases, the husbands finish off the money by drinking.
- Almost all of them had no bank accounts and approached local moneylenders when they were in need.

“Kidney zones emerge through interactions between surgical entrepreneurs, persons facing extraordinary debt, and medical brokers. As a region becomes known to brokers as a kidney zone, their search for new sellers intensifies”. Thus the decision to sell a kidney is not just because of a natural state of poverty, but also linked to a debt crisis as well as the availability of a kidney market.[3]

The Beneficiaries of Organ Trafficking in India

According to Dr Cohen,[4] in the 1980s information was available to international networks of nephrologists that viable kidney transplantation was available in India, using kidneys from unrelated local sellers. The kidney buyers came from Europe, the Middle East, Japan, North America, Southeast Asia, and Australasia in order to benefit from the ‘kidney bazaar’ (market) in India. Interviews with Nephrologists and Surgeons from Chennai and Bangalore revealed 4 trans-national circuits of business collaboration and patient referral, linking India to the UK, North America, Russia and the Indian Ocean circuit (Middle East Asia, South East Asia and North Africa), in the early 1990s. According to a UAE surgeon, ‘Bombay kidneys’ were cheaper and less safe than ‘Madras kidneys’. After 1994, the strict implementation of the Transplantation of Human Organs Act (THOA), made it difficult for foreign recipients. This resulted in another phenomenon where Non Resident Indians (NRIs) would become kidney buyers from the Indian Kidney market – called appropriately the “biologization of diasporic return”. These new buyers are NRIs and their aging parents, who had migrated to the western countries in the 1960s-80s. Many of them are facing higher rates of organ failure than the general population, due to lifestyle diseases. The involvement of a five-star hospital chain in India has been highlighted in this ‘transplant tourism’. This chain of hospitals emerged from the market liberalization of the 1980s in India, and has branches or franchises in several Indian cities and abroad.

Interactions of experts with kidney recipients from India revealed that not only the sellers but also the buyers are at risk. Having spent a large amount of money on buying a kidney and the transplant procedure, many of them are not able to sustain the long-term immunosuppressant therapy which is necessary to prevent rejection of the transplant by the recipients’ body. Often they underestimate the long-term costs and their monthly income cannot sustain these unanticipated expenses, which results in kidney failure. In addition to this, there is also the problem of the younger generation of Nephrologists going ahead with transplantation surgeries without doing sufficient tissue factor matches. This again results in the need to take immunosuppressant therapy for longer periods. It is also observed that in the long run, more than the kidney buyer (in addition to the brokers, the doctors and the transplant centers), the drug companies benefit substantially from the whole process.[5]

Financial Aspect of Organ Trafficking

A study[6] was conducted on 305 kidney sellers from Chennai in 2002, of which 71% were females and the average age was 35 years. In the case of 47 participants, both spouses had sold their kidneys. Middlemen were involved in the selling of kidneys in 70% of the cases. 96% of them sold their kidney to pay off debts that came from food, household expenses, rent, medical expenses and marriage expenses. The amount promised for selling a kidney averaged 1,410 USD (range: 450-6,280 USD), while the amount actually received averaged 1,070 USD (range: 450-2,660 USD). Of the 292 participants who sold a kidney to pay off debts, 216 (74%) still had debts at the time of the survey. “We found widespread evidence of the sale of kidneys by poor people in India despite a legal ban on such sales. In a 1-month period, we were easily able to identify and interview more than 300 individuals who had sold a kidney. Selling a kidney did not lead to a long-term economic benefit for the seller and was associated with a decline in health status”.

Farhat Moazam and others did a study[7] in Pakistan on 32 kidney sellers (vendors). Thirty of them sold their kidney to pay off debts to their Zamindars (landowners). Results were:
- Average debt of the vendor before selling the kidney was Rs 130,000 (2,364 USD).
  o Range: Rs 45,000 (818 USD) to Rs 200,000 (3,636 USD).
- Average money promised for the kidney was Rs 160,000 (2,909 USD).
  o Range: Rs 80,000 (1,455 USD) to 175,000 (3,182 USD).
- Average money received after selling kidney was Rs 103,000 (1,873 USD).
  o Range: Rs 70,000 (1,273 USD) to 155,000 (2,818 USD).
- Average money paid to middlemen ranged from Rs 8,000 (145 USD) to 20,000 (364 USD).
What Happens to the Victims?

According to Moazam, all the 32 kidney vendors studied complained of pain, spasms and pricking related to their well-healed surgical scar. Many of them complained of tiredness, weakness, dizziness, inability to work and so on. They also complained of something called ‘half man syndrome’, a feeling of incompleteness, emptiness in abdomen and lack of sexual potency, with fear and anxiety about the remaining kidney. Fifty percent of them showed a high level of anxiety, hopelessness, insomnia, crying spells, loss of appetite and loss of peace. Some of them had feelings of regret, shame and resentment towards the hospital, doctors and the kidney recipient. Of the 32 only 3 of them returned to the hospital for follow up.[8] Interviews with the wives of the male vendors also confirmed the abovementioned vague symptoms of their husbands. The team also observed a phenomenon called ‘vicarious kidney anxiety’ among the healthy zamindars. The psychosomatic symptoms of the vendors seemed to have seeped into their employers. The community at large, who were not vendors, also seemed to be upset and angry about this whole phenomenon of organ trade.[9]

The Impact of the Transplantation of Human Organs Act (THOA) in India

According to Cohen,[10] scandals of trickery and unfair payment to kidney sellers tarnished the reputation of many of the five-star hospitals in India and resulted in the passing of the Transplantation of Human Organs Act (THOA) in 1994. The enforcement structure of THOA was through the ‘Authorization Committees’ that determined whether the potential donor was a parent, child, sibling, spouse, or had proven ties of love to the recipient. “Most committee members were senior physicians and health bureaucrats, many of whom privately expressed to me the conviction that poor sellers should be allowed to supplement the bodies of persons with life-threatening renal failure as it was a win-win situation. Committees went through cycles of laxity and strictness: each new scandal leading to months of careful refusals of likely sellers faking the bureaucratic equivalent of love, followed by relaxation of the ban until the next scandal”. Moreover, family members, clinicians and brokers found ways of getting kidney sellers who could convince the committee their love for the recipients.

THOA (1994) has drastically reduced organ trade in India. However, the Coalition for Organ-Failure Solutions India (COFS) has identified 1,500 victims of organ trafficking in Chennai and Erode in Tamil Nadu and considers this number as just the tip of an iceberg considering the thriving kidney market in Chennai, Kolkata and Bangalore. None of the victims had information about the risks associated with the procedure, did not receive the full amount that was promised and did not want to lose their kidney. Among the buyers, some of them were foreigners.[11]

Renal Failure and Accessibility to Treatment in India

Dr Vijay Kher, a senior Nephrologist from India, in his paper[12] discusses the problem of accessibility to treatment for the vast majority of the poor people suffering from End-Stage Renal Disease (ESRD) in the country. While the rich focus on long-term survival and quality of life, the poor are worried about short-term survival and access to treatment. While accurate data is unavailable, the estimated incidence of ESRD in India is 100 per million people. With over 1,000 million people in the country, approximately 1 million people develop ESRD every year, of which only 10% reach a nephrologist. After being on dialysis for about 2-3 months, only 17-23% of them undergo transplantation. The rest of the patients undergo hemodialysis, most of them accepting charity, selling property, jewelry or by taking loans. The majority of the people in India live in rural areas where there are no nephrologists, dialysis units or transplant centers.

India has about 100 renal transplant centers, of which 75% are with the private sector which has prohibitive costs. Every year about 2,500-3,000 renal transplants are done in India, of which only 100 are of cadaveric origin. About 50-60% of the kidneys for transplant come from unrelated living donors. The cost of the procedure varies from 1,500 USD in Government Hospitals to 7,000 USD in Private Hospitals and the cost for immunosuppressants is about 3,000 USD per year, usually required for 2 years. According to Dr Kher:

- Diabetes and hypertension are the major risk factors of renal failure. Early detection and treatment of both can reduce the incidence of renal failure and is more cost effective.
- Currently in India, deceased organ donation is only 10%.
  - Healthcare workers as well as the general public need to be educated on this.
  - Media, religious leaders and educational institutions need to be involved.
  - The Indian Society of Nephrology can be a significant partner in this process.
- Regarding legalizing organ sales in India, Dr Kher highlights the following problems:
  - The law-implementing institutions are not yet strong enough.
o Laws are in a state of flux.
o The number of patients grossly outnumber the number of transplants.
o Distribution of wealth is skewed with massive wealth and massive poverty.
o Petty and major corruption exists at all levels.

Ethical Dilemmas and Challenges

According to Dr Cohen,[13] given the complex scenario in India, the so-called ‘ethical’ organ trade may help
the organ brokers and debt brokers, rather than helping the poor sellers.

According to Moazam,[14] most of the organ vendors are poor and helpless and do not follow the principle
of autonomy over their bodies in selling their kidneys. They sell kidneys due to other pressures, particularly
financial pressures. Poor people who live in the kidney-selling zones often consider their kidneys as a
commodity, sometimes as the only valuable possession they have in order to redeem them from their debts. In
such situations often doctors are considered as agents of kidney trafficking. During their study, the doctors in
the team had several experience of poor people approaching them and asking whether they could help them
in selling their kidneys.

According to Dr Kher, some of the ethical issues Nephrologists in India face are:
· Is it appropriate to initiate treatment when the patient does not have sufficient resources and would probably
discontinue treatment and die after depleting the available minimum resources of the family leaving the dear
ones in debt?
· In the context of massive poverty and economic inequalities, how can they differentiate between ‘emotionally
related kidney donors’ and ‘paid unrelated kidney sellers’ and exploitation by middlemen?

INSIGHTS TOWARDS DEVELOPING A WAY FORWARD IN INDIA

The Pakistan Experience

According to Moazam,[15] Pakistan’s struggle against organ trafficking is not yet over. Success so far can be
attributed to a concerted effort by Healthcare Professionals, Medical Associations, the Judiciary, the media,
Civil Society, international transplant societies, the WHO and the Istanbul Declaration group against organ
trade. Further success depends upon the effective implementation of the law, as well as the availability of
sufficient organs through live and deceased organ donation programs. There need to be organized strategies
to educate and enable participation of healthcare professionals as well as the general public regarding the
importance of organ donation, being sensitive to religious and cultural beliefs and practices. It has to be
projected as a social responsibility rather than just a ‘medical issue’.

Since organ trade and trafficking is a transnational issue, international collaboration is needed to eliminate it.
Affluent countries will have to sensitize and encourage their citizens, including healthcare professionals, to
respect the law against organ trade and trafficking, and foster altruistic living and deceased donation. While
highlighting the importance of live and deceased donor programs, she discusses the importance of ‘sharing
the burden’. Sharing the burden involves not only considering the rights of the patients, but also a responsibility
to the impoverished and vulnerable sellers. It also involves the responsibilities of the healthcare professionals
as well as that of nations to one another.

The Anti-Human Trafficking Interventions of the Government of India

The Ministry of Home Affairs (MHA), Government of India, has come up with several guidelines and instructions
to deal with the problem of human trafficking, including trafficking for organ trade. The Office Memorandum[16]
released in 2009 by the MHA has included human trafficking for illegal organ removal as one of the
concerns. While respecting the autonomy of the State Governments in dealing with crimes that happen in their
territory, this document also provides several guidelines and support systems for State Governments. These
guidelines deal with the implementation of existing laws, capacity building of state machinery, investigation and
prosecution of perpetrators, rescue and rehabilitation of victims, and prevention of trafficking. The document
also encourages State Governments to involve Non Governmental Organizations (NGOs) wherever possible,
especially regarding prevention, rescue and rehabilitation. The ministry has also instituted awards[17] for State
Governments, police officers and NGOs for outstanding work done in the anti-human trafficking field in order
to encourage sustained action. The Ministry of Home Affairs has published a list of nodal anti-human trafficking
officers in all the States and Union Territories of India.

A joint initiative[18] taken up by the Ministry of Home Affairs, Government of India, and the United Nations
Office on Drugs and Crime (UNODC), has worked on an effective model called the Anti-Human Trafficking
Unit (AHTU). The AHTU is supposed to strengthen the District Police Headquarters with equipment and tools, institutional coordination mechanism, and Standard Operating Procedures (SOPs) in order to tackle all aspects of human trafficking, including prevention, rescue, rehabilitation and reintegration.[19] The AHTUs will also "help to enhance cooperation between law enforcement agencies, concerned government departments and NGOs who have the expertise and capacity to assist trafficked victims by institutionalizing this cooperation".[20]

The Potential of the Catholic Church in India

After the Government of India, one of the largest organized networks in India is that of the Catholic Church. The Catholic Church in India has 168 dioceses, reaching almost every part of the country. The four major apostolates the Church is involved in India are Education, Social Work, Healthcare and Pastoral Care. The strength of the Church in India also includes the Conference of Religious of India (CRI),[21] a network of 822 major superiors from 334 congregations representing 115,587 professed full-timers contributing to one of the 4 apostolates, based in the abovementioned Dioceses. The social work network of the Catholic Church in India works with about 2.5 million Self Help Groups. The Catholic Education[22] network has about 15,000 schools, 654 colleges, and 15 higher education centers in India. The Health Care network of the Catholic Church in India includes the Catholic Health Association of India (CHAI), with a membership of about 3,500 institutions all over the country, caring for more than 21 million sick people every year; the Sister Doctors Forum of India (SDFI) with more than 1,000 Sister Doctors; the Catholic Nurses Guild of India (CNGI) with about 50,000 nurses; and the countless Catholic lay professionals. The immense resources of the Church can be mobilized to deal with the problem of human trafficking, including organ trafficking. Given the potential of the Church in India, she can also be a powerful partner to the government of India in building a better society.

However, while the strength of the Catholic network includes numbers, reputation, experience and a pan-India presence, the biggest weaknesses are working in isolation, duplication of resources, and sometimes even subtle competition within the network itself. As a result, even organizations and NGOs that are much smaller than the Catholic Church are able to project themselves at various forums and generate mileage. In this context, there is a growing awareness that there needs to be much more collaboration within the Church, at the National, Regional, as well as grass-root levels.

The MOHAN Foundation

MOHAN is an acronym for Multi-Organ Harvesting Aid Network and was established in Tamil Nadu, India, in 1997. The MOHAN Foundation[23] is the brainchild of a group of practicing medical professionals and their friends to promote ‘Organ Donation’. To achieve this objective, it works as a support group for Patients, Physicians and the Public. The following have been the objectives of MOHAN Foundation:

- Creating public awareness.
- Motivating families of brain dead patients to donate organs.
- Training professionals, especially Transplant Coordinators, in facilitating organ donation.
- Liaising with Central and State Governments to pass favorable legislation.
- Networking with other organ-procuring organizations in the country.
- Raising resources to promote organ donation efficiently.

One of their several campaigns is to include the ‘clause of organ donation on the driving license’. With 80,000 deaths on the road and almost 40,000 of them being brain death annually, this inclusion in the driving license can save many lives. The MOHAN Foundation succeeded in convincing the Government of India to have Transplant Coordinators as a mandatory requirement, in order to get a license for Transplant hospitals. The Foundation conducts Transplant Coordinator Training Programs, which involves training social workers, medical and paramedical staff in counseling families of ‘brain dead’ patients to donate organs, and coordinating the entire process of organ donation, retrieval and transplantation. The course also succeeded in creating a strong network amongst the coordinators, which is helping in taking the organ donation movement forward as a whole.[24] The MOHAN Foundation has also formed a support group which is open to kidney failure patients, kidney transplant patients, kidney donors, relatives of the patients or any individual who wishes to help kidney failure or transplant patients.[25]

Fr Chiramel, the Organ Donation Activist Priest from Kerala, India

Fr Davis Chiramel,[26] a Catholic priest from the Archdiocese of Thrissur, India, is the Chairman of the Kidney Federation of India.[27] According to him, organ selling and buying is still going on in Kerala. Brokers know how to do the necessary legal documentation to ensure that organ selling and buying is documented as ‘altruistic donation’. Fr Chiramel receives frequent calls and emails from different parts of India as well as outside the
country asking for information about kidney donors or sellers. Because of the problems of anonymity, fear, social stigma, and guilt, it is very challenging to identify the victims of organ trafficking and assist them in their rehabilitation.

It is in this context that Fr Chiramel is promoting organ donation, following the Gospel principle of ‘defeating evil with good’. His own act of donation of one of his kidneys to a Hindu, Mr Gopinathan, on September 30, 2009, with whom he had no blood relations, happened in such a context. Mr Gopinathan was dying of kidney failure, had no money for his treatment and wanted to commit suicide. A committee was formed under the leadership of Fr Chiramel, who was Parish Priest of St Xavier’s Church, Vadanapally. At that point in time, in order to save the life of Mr Gopinathan, the committee raised about 1.2 million rupees (21,818 USD) for the transplantation process and made all arrangements. However, Fr Chiramel realized that the kidney for the procedure was going to come from an agent from one of the neighbouring states of Kerala, and raised objections of the ethics of selling and buying kidneys. This situation inspired Fr Chiramel to donate his own kidney to save the life of a stranger, and to prevent the exploitation of a poor kidney seller. Fr Chiramel donated his kidney in order to defeat organ trafficking in a positive way. The surgery conducted on Fr Chiramel was the inauguration of the Kidney Federation of India, by the symbolic cutting and removal of his kidney. “When there is sufficient supply of organs, organ trafficking will come down”, says Fr Chiramel. Through the intervention of the Federation, live and deceased donors have increased in the past three years in Kerala. The supply of organs is reducing the need for trafficking. From his experience so far, Fr Chiramel puts forth the following recommendations to counter the evil of organ trafficking:

- Projecting organ donation as a glorious act can foster more organ donations which, in turn, will decrease organ trafficking.
- Doctors – especially those who are involved in transplantation – should be sensitized to prevent organ trafficking and to foster live and deceased organ donation.
- Organ donation can be fostered through two major networks in India, the Government as well as the Church. The Bishops, Major Superiors, priests, other religious leaders, secular and political leaders can play a major role in fostering organ donation.
- The enforcers of the law have to be encouraged and supported to prevent organ selling and buying.
- Foster healthy lifestyles to prevent organ failures.
- The sinful dimension of organ trade has to be highlighted among the Catholic network, especially the doctors.
- In addition, the general public can also be sensitized on organ theft.

Fr Chiramel firmly believes that if a communication comes from the Pope highlighting the magnitude of the problem of organ trafficking, and the value of saving lives through organ donation, the Church and society may take more interest in preventing the evil of organ trafficking by fostering organ donation.

SUMMARY

The vast majority of the poor people suffering from end-stage renal disease (ESRD) in India do not have access to treatment. Early detection and treatment of diabetes and hypertension can reduce the incidence of renal failure and is more cost effective in a country like India.

Even though the ‘Transplantation of Human Organs Act’ (THOA), 1994, has considerably reduced organ trafficking in India, it is still happening in a subtle way. Indebtedness to moneylenders and availability of the organ market is pushing poor people to sell their organs, especially kidneys. In the long run, more than the kidney buyer, the main beneficiaries of the kidney trade are the brokers, the doctors, the transplant centers, and the drug companies. Organ trafficking is happening mostly through ‘five-star’ hospitals in the name of transplant tourism. Even though the government has enacted the law (THOA) and implementing mechanism, those in the kidney market find loopholes to sustain the market. Further success depends upon the effective implementation of the law as well as the availability of sufficient organs through live and deceased organ donation programs. There need to be organized strategies to educate healthcare professionals as well as the general public regarding the importance of organ donation. Media, religious leaders and educational institutions need to be involved, and the Indian Society of Nephrology can be a significant partner in this process.

With 80,000 deaths on the road annually, and almost 40,000 of them being brain dead, the inclusion of the ‘clause of organ donation in the driving license’ can save many lives. Establishing support groups for patients
with kidney failure and kidney transplant, and for kidney donors, relatives of patients and other well-wishers, can be of much help.

Legalizing organ sales in India will not work due to the lack of strong law-implementing institutions, skewed distribution of wealth with massive riches and massive poverty, too many patients needing transplants, and corruption existing at all levels. It will only help the organ brokers and debt brokers, rather than helping the poor sellers. Moreover, most of the organ vendors are poor and helpless, in that they do not follow the principle of autonomy over their bodies in selling their kidneys. Poor people who live in kidney-selling zones often consider their kidneys as a commodity, sometimes as the only valuable possession they have in order to redeem them from their debts. In such situations often doctors are considered as agents of kidney trafficking.

The Anti-Human Trafficking Units (AHTU) initiated by the Government of India need to be activated and strengthened. Since organ trade and trafficking is a transnational issue, international collaboration is needed to eliminate it. Affluent countries will have to sensitize and encourage their citizens, including healthcare professionals, to respect the law against organ trade and trafficking and foster altruistic living and deceased donation.

Given the potential of the Church in India, she can also be a powerful ally to the Government of India in building a better society. A communication from the Pope highlighting the magnitude of the problem of organ trafficking and the value of saving lives through organ donation, can motivate the Church in India to work towards preventing the evil of human trafficking, including organ trafficking.

FOOTNOTES

[18] Comprehensive Scheme for Establishment of integrated AHTUs and ToT, Ministry of Home Affairs, Government of India, North Block, New Delhi.


[22] Accurate data not available according to the Education Secretary of the CBCI.


[26] From my personal interaction with Fr Chiramel on Feb 16-17, 2015, at Bangalore.