

**XXV**

**TECMUN**

**Jr.**

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Commission on Crime  
Prevention and Criminal  
Justice

“Cuando pones la proa visionaria hacia una estrella y tiendes el ala hacia tal excelsitud inasible, llevas en ti el resorte misterioso de un ideal. Custódiala; si la dejas apagar no se reenciende jamás. Y si ella muere en ti quedarás inerte; frío. Solo vives por esa partícula de ensueño que se sobrepone a lo real y que te hace sentir vivo”.

José Ingenieros, *El hombre mediocre*, Buenos Aires, 1913.

Delegados, embajadores, jueces, ministros, fiscales y compañeros:

Dentro del cosmos de la modernidad, entre las corrientes de la paz y el conflicto, yacen miles de hombres como tú y como yo, hambrientos de cambio, deleitados con la ficción irrisoria de un mañana distinto. Nuestra realidad es fruto de los sueños de los visionarios de antaño y nuestros ideales son las líquidas y abstractas partículas que cristalizarán la realidad de los hombres del futuro. No es hasta que reflexionamos acerca de la naturaleza de este proceso de transición que valoramos las verdaderas implicaciones de nuestras acciones.

No somos más que individuos aislados entre la masa social, sin embargo, no es esta individualidad lo que genera el cambio, por el contrario, las ideas son la fuerza motriz que marca la senda de las revoluciones; son las ideas aquellas que impulsan la materialización del cambio. No obstante, si demeritásemos el valor de la potencia personal, nos encontraríamos con la nada, pues, no existe revolución que haya sido emprendida sin conciencia individual. Es esta suma de unidades lo que empodera la raza humana y nos aproxima a la evolución perpetua.

TECMUN es el crisol que funde las perspectivas personales en una gran razón colectiva. Es aquella entidad viva que congrega a visionarios aislados en una red de sueños, esperanzas y acciones. Hago un llamado categórico hacia todos ustedes, exigiéndoles que jamás dejen morir sus ideales, pues la decadencia del deseo contrae el desgarramiento del cambio, que conducirá a la muerte de nuestro espíritu y, al cabo, a la muerte perpetua e irreversible de nosotros mismos.

Delegados, nosotros hacemos la diferencia. Vivamos con unidad, conciencia e ideales.

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Kevin Zamora González  
Secretario General  
XXV TECMUN Jr.

“El hombre es el único animal que tiene conciencia de que va a morir, pero eso no le hace ser mejor ni más caritativo que el resto de los animales”.

Tennessee Williams

Delegados, embajadores, jueces, ministros, fiscales y compañeros:

Hoy día, no nos sorprende ver u oír malas noticias, saber que los representantes políticos de nuestro país han fallado a sus principios, enterarnos de que dos países se encuentran en conflicto entre sí, no nos preocupa la explotación de recursos, no somos empáticos con nuestro prójimo, nos centramos tanto en nosotros mismos que se nos olvida que podemos ser agentes de cambio.

Hace un año, creía que el amor podría solucionar todos nuestros problemas, al igual que los del mundo, pero, me di cuenta de que no es así. Por mucho que me agrada esa idea, no puedo establecer que sea viable. Tras haber vivido uno de los eventos más devastadores de nuestro país y haber visto que la unión realmente hace la fuerza, supe que lo que nos lleva a generar un cambio es la acción.

Las acciones que podríamos definir como insignificantes tienen un impacto mayor al que realmente creemos que tienen. En ocasiones, la gente me pregunta para qué sirve TECMUN si todo es imaginario, pero, en realidad el cambio no es imaginario. Siempre he visto a TECMUN como una herramienta de concientización más allá de ser uno de los aspectos más relevantes de mi vida. Los tópicos que se discuten en los foros, la información que está dentro de las carpetas, las Organizaciones No Gubernamentales, el público que escucha y los nervios no son imaginarios.

Parece que estamos en un mundo donde la adversidad nos rodea e intenta detener nuestra capacidad para ser grandes. Creo yo, que, si todos nos enfrentáramos a ella, la historia se contaría de una manera muy diferente. Quiero terminar este mensaje diciéndoles que hagan el cambio y creo profundamente en cada uno de ustedes.

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Yael Ruiz Morales

Subsecretaria General del Consejo Económico y Social

XXV TECMUN Jr.

“Freedom is what you do with what's been done to you”- Sartre, P

Delegates,

Throughout the years we have been told an infinity of thoughts and expectations; success, acknowledgment, to become that more.

Nevertheless, what do we truly expect of ourselves as individuals? Since in the long trail of the path leading to the construction of a solid society the possibility of losing oneself as an individual for the sake of self-interest over others becomes more present. I trust that as we are humans with the awareness that we are part of a society, which has a shared historical memory, has the firm notion of how necessary it is to ensure collective guarantees as well as human dignity. However, the same search should not mean a loss of self-worth and longings for a better world starting with oneself. Yes, become that more from your own conviction; do not allow silence invade those injustices that have become custom.

Martin Luther King Jr used to say "We have learned to fly like birds, to swim like fish; but we have not learned the simple art of living as brothers. "

Sometimes it is difficult to cede, however, we do not have to close to that idea when we have witnessed the wonderful results that collective help, which starts with oneself, brings with it. Let's embrace the plurality, the environment, the mutual support, and knowledge. Enrich yourself, keep reading and collecting information.

Appreciate, value and embrace your history, culture, and society. Protect human dignity, be the determining factors of a change. Refute corruption and fear the silence. Become what you admire and yearn for.

Delegates, I dare to say that seeing all of you here participating gives me hope. No matter how minimal it may look. Because your words expressed here actually transcend. Act, express, do not forget that your words Kahlo, F. (1958) "runs through all space."

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Daniela Denisse Juárez Resendiz

President of the Commission on Crime Prevention and Criminal Justice

XXV TECMUN Jr.

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# Outline of the Commission on Crime Prevention and Criminal Justice

The Commission on Crime Prevention and Criminal Justice (CCPCJ) was created by the resolution 1992/1 of the Economic and Social Council, in answer to the request of the General Assembly resolution 46/152. This commission is the main policy making body in the United Nations in the field of crime prevention and criminal justice. The faculties of the CCPCJ allows it to improve the international action to fight national and transnational crime, and to improve the efficiency and fairness of the criminal justice administration system. Also since 2006, this commission is able to work as a governing body of the United Nations Office on Drugs and Crime, and to approve the budget of the United Nations Crime Prevention and Criminal Justice Fund. It also transmits declarations of the United Nations Crime Congress to the General Assembly, this commission takes action upon the decision of the congress, through concrete action in its resolutions.

# Topic A

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The improvement of the transparency in trials within countries with a common law system

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*By: Daniela Denisse Juárez Resendiz*

## ***Introduction***

“These men ask for just the same thing, fairness, and fairness only. This, so far as in my power, they, and all others, shall have.” (Lincoln.A.,n.d.). The fairness between citizens is elemental for our development as a society, be treated equally no matter any physical or ideological difference an individual may have or prefer. This search for fairness has always been an objective for humanity, in order to progress and to make any process easier and better. But during the way, we, as a species and as different communities, face challenges we need to overcome in order to progress.

There are various types of legal systems around the world, each one created with the aim of maintain order and impartiality among the citizens. However, some of the trials based on the Common Law system, can be affected by different conditions like stereotypes, subjectivity or circumstantial situations during a trial. Thus, in courts with common law systems, it does not matter if it is a civil or criminal case; the outcome of it is registered and archived. What is alarming is that if a mistake is committed during a trial, this error will legally be taken as a fact in the future, affecting other cases that may present a similar situation. In other words, a future case can be influenced by a factor that jeopardizes and affects the fairness of it causing a common mistake.

## ***Law legal systems***

The two primary law systems that are used by the different countries in the globe are the common law and civil law. Nevertheless, there are different sorts of systems attached to different frameworks and necessities of the countries.



*Image 1. Prodavinci. Law systems*

The Common law system was created during the middle age by Great Britain. It evolved from three English courts over the twelfth and thirteenth century: The king's bench, the exchequer, and common pleas. The aforementioned courts adopted jurisdiction over matters previously decided by local courts. This is understood as Oxford Dictionary (2017) "The part of English law that is derived from custom and judicial precedent rather than statutes."

The common law system is said to be the right created by decisions taken by courts, from which emerged two bodies of norms; common law, and equity. It is characterized by being based on jurisprudence rather than on laws. For this system what is most important are the decisions, then the law, after this comes the custom, and at the end the doctrine. Thus, the outcome of a judge is considered not only for the result of that instance. Also, it will be considered in future similar cases. The purpose of this method is to improve the fairness through experience in the different situations that similar cases may present. Once a court has taken a decision, this becomes binding, unless a higher tribunal decides otherwise. This system is supposed to have the possibility to correct any mistake that could have been made by the previous court. Most of the countries enhancing this system were former English colonies or protectorates. Nowadays countries like United States of America, Canada, Australia, England, etc. Perform this law system.

Even though this system is regulated by jurisdiction some of the countries ruled with this legal system also have the statutory law. Which is settled down by legislation, usually established in the constitution or an official document, depending on the country; this could be translated into laws or amendments. The statutory law works as a base for the development of the common law, inasmuch as principles are stated in order to be enforced in any court.

The Civil Law legal system, also called "Roman Law" is said to be a well organized system that favors cooperation, and order. Based on a logical structure developed from Roman law and reflected in the structure of the codes. Likewise, is the most used in the world, predominating in Europe and in areas colonized by France, Germany, Portugal, and Spain.

This is a codified system of law generally based on a constitution, which basic rights and duties are presented in a clear way.

It uses the statutory law instead of the common law; this means that the judges only enforce the law which is established in an official document, with a determine punishment or outcome. These laws are codified, which means that they are grouped in related situations to make sense of the principles considered for the already determined result. Judges in civil law systems are more leaned to follow precedents that have been built up to assist in the interpretation of statutory codes. Notwithstanding, administrative law is usually less codified and administrative court judges tend to behave more like common law judges.

Even though this division is not fundamental for the development of the topic, is important to take into account the possible influence of the religious and secular systems on the implantation of an specific system of law.

For example, the Religious Law system is typically unchanging and absolute due to the fact it is based on the will of a deity, interpreted by the prophets. There are two main types of religious law, which are Halakha in Judaism, and Sharia in Islam. In some cases these are proposed simply as individual moral guidance, whereas in other cases they are proposed and may be used as the source for a country's legal system. Namely, the Sharia means “The clear, path to water” and it is used as the Islam's legal system. It is practiced in countries like Nigeria, Saudi Arabia, Libya, etc. It is based both on the Koran (Islam official text) and on the fatwas (rulings of scholars.) Offences or crimes are divided into two sections; hadd and tazir crimes. The had offences are defined as serious crimes, which include theft, and adultery. The last one can carry the punishment of penalty of death by stoning. However, not all Muslim countries enforce such punishments for had offences, and even some polls suggests attitudes of Muslims to gruff penalties for such offences vary; Tariq Ramadan, a Muslim thinker in Europe, has called for a moratorium on corporal punishment, stoning and the death penalty in the Muslim law. Ramadan states that the conditions under which such penalties would be legal are almost impossible to even think of in today's world.

On the other hand, the Secular system is affected by the people's will, more focused on the human behavior and the necessity of change depending on the situation. There are also systems that enhance both religious and secular systems, as an example of this but to avoid

any problem between them, each one of them serves a different purpose, for example, the religious part is dedicated to the weddings and family issues, and the secular body takes care of commercial law.

### ***The Common Law in use.***

“Common Law, in Great Britain and the United States, the unwritten law, the law that receives its binding force from immemorial usage and universal reception, in distinction from the written or statute law. That body of rules, principles and customs which have been received from our ancestors, and by which courts have been governed in their judicial decisions. The evidence of this law is to be found in the reports of those decisions, and the records of the courts. Some of these rules may have originated in edicts or statutes which are now lost, or in the terms and conditions of particular grants or charters; but it is most probable that many of them originated in judicial decisions founded on natural justice...” (Webster, N. 1828)

Nowadays, the United States of America (except for Louisiana), Canada, and England are the most representative countries performing the Common Law System.

The judicial process is arranged to ensure that judges are even-handed. They hear from both parties through highly structured procedures. But there's a price to be paid for that even-handedness, which is that judges have less information. The use of the common law cannot be generalized as a consequence of the modification of the system, adapted to the country necessities and how they decided to change it to their legal system. The main principles of the common law, however, are mostly the same within the countries with this system. The use of this scheme in the countries has left a mark of the benefits and problems that the application of the Common Law implies. One of the problems of the Common Law system according to different citizens is the power the judge has on the court due to the possible arbitrary behavior of a judge during a court and the lack of measures to prevent this. The judges are a fundamental part when talking about a Common law court, as they need, among other things, to interpret the previous cases within a similar situation, and then, after taking into account all the information collected during the court, establish the outcome of the case.

It result as problem due to this is that the judge could have an arbitrary decision in the case. Therefore this could affect the outcome negatively, affecting not only the particular case but also establishing that case outcome as binding, impacting further similar cases. Even though the case could be taken to a higher court in the event of a mistake, this process could take some time, instead of enhancing and implementing measures that ensure the efficiency and fairness a case in court deserves.

Determination of common law for a particular case is a process that begins with research analysis, location of previous relevant cases, extraction of statements and sentences passed in order to finally determine the common law applicable. Decisions of higher courts rule over lower courts and earlier cases. Statutory laws are already written and need just to be applied to a specific case. Common law is being developed on an everyday basis without causing any fractionalization of society or creating any expense to the state. Statutory laws are developed by government of a state or nation and these are organized and codified into law codes. They cover all areas regulated by statutory laws exclusively as well as those areas where common law is not applicable.

### ***Lack of transparency***

“Law and the Limits of Reason,” just published by Oxford University Press. is a critic based on the dominant role played by courts in the American lawmaking process.

“The notion that judges are better trained and better equipped to achieve socially desirable results through development of common law is simply wrong. He argues that legislators, less insulated from the public and more diverse in makeup, do a better job of it.”(Vermeule, n.d.)

However, common law system court decisions are rarely met without debate. People on both sides of the aisle may disagree with a judge, which can over in violence. Although the fundamentals of the Common law judicial system are focused on the concept of innocent until proven guilty through trial by jury and due process, the judges may not always fulfil correctly that.

### *Cases*

The case of an afroamerican couple, which was bereft of a fair trial by a white jury that told racist jokes. The couple, Derrick Powell and Eugenia had sued their insurance company to cover losses from a traffic collision with an underinsured motorist. After the trial ended in May 1992, a juror, Karen Dowding, told the couple's lawyer that she was distressed by comments made during eight hours of deliberations.

The jurors frequently used racial epithets to describe the couple and joked that the plaintiff's children probably were drug dealers, Ms. Dowding said.

The Powells sued for \$235,000 based on medical expenses and lost wages. The jury awarded them \$10,600, not including \$10,000 received from the other motorist's insurance.

"To allow such behavior in the jury room would erode public confidence in the equity of our system of justice," the appeal court said. "The fact that it happened deprived the litigant of a fair trial."

## *Guiding Questions*

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- 1.- What implications has the diversity of different types of legal systems around the world?
- 2.- How does the culture affects on the development and implementation of a legal system?
- 3.- Why is doubted the ability of this system to be transparent?

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## *Glossary*

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### **A**

**Amendments:** the process of altering or amending a law or document (such as a constitution) by parliamentary or constitutional procedure.

### **B**

**Binding:** The act of fastening, securing.

### **D**

**Doctrine:** A particular principle, position, or policy taught, such as of a religion or government.

### **F**

**Framework:** a skeletal structure designed to support something.

### **J**

**Jeopardizes:** to put in jeopardy; cause danger, risk, or peril to; imperil.

**Jurisprudence:** A system or body of law. The course of court decisions as distinguished from legislation and doctrine.

**Jurisdiction:** The power, right, or authority to interpret and apply the law.

## **L**

**Legislation:** The act of making or creating laws. Law or a body of laws created

## **O**

**Outcome:** Final product or end result; consequence; issue.

## **Topic B**

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Measures to reduce organ traffic within countries in ways of development

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*By: Daniela Denisse Juárez Resendiz*

### ***Organ traffic defined***

Organ traffic is a form of human trafficking, which has the only purpose of organ removal. However, they are not classified as the same crime. Thus, the individual is exploited for bodily organs. Organ traffic is considered as one of the most serious human rights violations on the modern world, that brings worrying high profits to traffickers, which usually belongs to organized crime organizations. Also it is a widespread form of crime in which organs are illegally obtained.

According to the declaration of Istanbul on Organ Trafficking and Transplant Tourism organ traffic is defined as

“the recruitment, transport, transfer, harbouring, or receipt of living or deceased persons or their organs by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation.”(2010).

Trafficking in persons for organ removal is a crime where the exploitation of an individual is the central aspect; a combination of three elements: action, means and purpose has to apply in order for the crime to be executed. The definition is precise and uniform, and the framework widely used. Organ traffic is a crime where the organ and its use are the central elements (illegally removed organs from either living or deceased persons are entered into the regular legal transplant system).

### ***Introduction***

Trafficking in persons for the purpose of organ removal is not a new phenomenon. The first reports of organ traffic date from 1980's. They concerned the sale of kidneys in India because of the poverty surrounding the country. The first report appeared in the Lancet, and revealed that 131 kidney patients from the United Arab Emirates and Oman had travelled to Bombay, India together with their doctors, and were transplanted there with kidneys from

local paid donors. The authors were not so much concerned about the commercialism, but more about the fact that many of the recipients had postoperative complications. Coteries who act mainly as brokers and linking buyers, usually originate from the western world and the Middle East being the seller's people from impoverished communities willing to sell their organ in hope of achieving some financial security; in the majority of the cases sellers will not receive their payment.

Over the years, the crime has received significant attention from media, NGOs, and from international and regional actors, such as the Coalition for Organ Failure Solutions (COFS). There are professional, ethical and legal regulations that govern the procurement of deceased donor organs and that state the conditions under which such organs are allocated. For example, deceased donation can take place from donors after brain death or after circulatory death.

Despite strategies to enlarge the donor organ pool, organ scarcity developed into a worldwide problem. Furthermore, “transplantation is becoming a victim of its own success, with demand for organs far outpacing supply”(Ambagtsheer, 2011).

According to the European Commission, in 2007, there were 65,000 patients waiting for a kidney transplant in the European Union; 25,000 transplants took place annually, 120,000 patients were on kidney dialysis. This resulted in a waiting time of 3-5 years, with a mortality rate of up to 30%. In the United States, according to the United States Department for Health and Human Services, there were in January 6 of 2014 120,999 candidates waiting for organs (77,073 of whom were active waiting list candidates), but only 10,587 donors were registered. Thereby, under these circumstances of organ scarcity, some despairing patients may search for new strategies to obtain organs illegally, outside legal transplantation frameworks.

With an increased demand for organs comes the increased possibility of profitability. Fuelling the desire of some people to trade and sell organs. As a result, a black market coexists to indulge the demand that altruistic systems fail to fulfil. Thus, an illegal market has taken possession taking advantage of the desperation of people requiring an organ. Organs watch, an NGO that tracks illegal organ sales has estimated that up to 20 000

kidneys alone are sold worldwide each year on the black market where they can fetch a price around \$150, 000.

The prospects of large profits are creating unfortunate incentives, with patients willing to pay up to \$200,000 for a kidney. According to the World Health Organization (WHO) 76 percent of organs sold were kidneys, reflecting the growing demand secondary to complications of high blood pressure and diabetes.

There are many concerns surrounding the growth of the black market; in the majority of situations, people selling their organs represent groups living in vulnerable situations. In countries like Pakistan, China, India, etc. A person sells a kidney for \$5, 000, while those in charge of managing the transaction make substantial profits.

In 2011, it was estimated that the illegal organ traffic produced earnings between the 600 million dollars and 1.2 billion dollars per year. This represents a significant menace to the security of a country.

### ***Organ Traffic in Asia.***

Because of the high percentage of extreme poverty in some countries of Asia, it has become the principal target of *brokers* (organ traffickers) to develop. Therefore, many countries in South Asia and Southeast Asia have been considered key places for the development of organ traffic; such as Bangladesh, Philippines, Nepal, and India. Because of the aforementioned the selling of different organs, mostly kidneys, has become a way to earn a short-term living in this countries.

A report made by the Indian government Planning Commission in 2014 estimated that at least 29.5% of the total population was living below the poverty line, which was \$2.40 per day during 2011 and 2012. Also, Monir Moniruzzaman, an anthropologist, made a research within Michigan State University. It shows that 78% of Bangladesh's citizens are living within two dollars per day but the average offer of one kidney is about \$1,400. This amount of money represents a huge temptation to those who desperately need financial support. However, at the same time, the brokers have various excuses for not paying the promised amount of money so that they could maximize their own profits.

The most common commodities in the organ trade are kidneys and livers. Unregulated transplantations also cause disease by using unhygienic equipment, and sometimes even cause death among both donors and recipients.

Because of the percentage of people who live in extreme poverty is relatively high in those areas, thus selling kidneys has become a way to earn a short-term living. The few studies related with the social, medical, and psychological effects of nephrectomy on kidney sellers in India, Iran, and the Philippines are unambiguous. Organ sellers experience health issues, unemployment, family problems, depression, and social isolation.

Despite the attempts made in Iran to regulate an official system of kidney selling, the results are alarming. Organ Watch, an NGO, reported that ironies kidney sellers are recruited from the slums by wealthy kidney activists. They are paid a pittance for their body part. The same report shows that after the sale (which is legal there) is realized, the sellers feel shame, and resentment.

### ***Organ traffic in America***

Latin America is increasing the measures to combat organ traffic through a group of states recently agreeing on minimum penalties for the criminals. However, so long as a gap exists between waiting list candidates and donors, along with an endemic level of poverty in the region, the opportunity will continue for organized crime to profit from the trade.

At a meeting, which was celebrated in 2012, of judicial officials from Central America and the Dominican Republic. Countries like Brazil, Mexico, Colombia, Peru, and Bolivia are among the nations where organ trafficking has become a major underground business as demand for these body parts rises in the United States, which has become the largest supplier and market for the trade.

The real scarcity is not of organs but of transplant patients of sufficient means to pay for them. In Brazil there is a superabundance of poor people willing to sell an organ of their body for a pittance. And, while *high-quality* organs and tissues are scarce, there are plenty of what Dr. S, director of an eye bank in São Paulo, referred to as usable *leftovers*. In interviews

in 1997 and 1998, he complained of a U.S.-based program which routinely sent surplus corneas to his center. "Obviously," he said, "these are not the best corneas. The Americans will only send us what they have already rejected for themselves."

In Cape Town, Mrs. R, the director of her country's largest eye bank (an independent foundation), normally keeps a dozen or more "post-dated" cadaver eyes in her organization's refrigerator.

In the interior of Northeast Brazil, in response to a kidney market that emerged in the late 1970s, ordinary people began to view their matched organs as redundancies. Brazilian newspapers carried ads like this one published in the *Diario de Pernambuco* in 1981: "I am willing to sell any organ of my body that is not vital to my survival and that could help save another person's life in exchange for an amount of money that will allow me to feed my family." The man who placed this ad to a peripheral suburb of Recife. Miguel Correia de Oliveira, age 30, married, and with 5 children.

Due to situations like the aforementioned, the Coalition for Organ-Failure Solutions is planning a traffic hotline with emphasis in Latin America. With the main purpose of taking calls from victims, so they can be linked to specialists and appropriate authorities.

### *Cases*

Antonio Medina, 23, a paperless Central American migrant moving through Mexico to the US, says he knows a fellow traveller who witnessed organ trafficking, after he and his wife were captured by a criminal gang. He was travelling with his wife and they (broker's) took both of them," Medina told Al Jazeera during an interview in Mexico. "They put them in separate rooms. He heard his wife screaming. After he went in and saw her on a table with her chest wide open and without her heart or kidney." Antonio was rescued by Mexican soldiers. However, claims about organ traffic business are not easy to verify.

Kavre, a tiny district close to Kathmandu, is considered a key place of the black market organ trade in Nepal. "The district has developed an unfortunate reputation as the

*kidney bank of Nepal.*” Pariyar, a seller of cattle milk and seasonal farmer. He is poor and uneducated, his only possessions are two cows, a house, and a small plot of land. “He was on a site in 2000 when a foreman approached him with a dubious offer: if he let doctors cut out a “hunk of meat” from his body, he would be given 30 lakhs -- about \$30,000.

What he was not told was that the piece of meat was actually his kidney.

“The foreman told me that the meat will grow back,” Pariyar said.

“Then I thought, ‘If the meat will regrow again, and I get about \$30,000, why not?’”

Pariyar was sent home only with 20,000 Nepali rupees. Less than one percent of the agreed amount with the promise that he would have the rest later. After he came back to Nepal he went to the doctor. There he found out he was missing a kidney. Pariyar is now sick and getting worse by the day. He has a urinary problem and constant severe back pain.

### ***Instruments of International law***

The international community has been paying attention to this crime by different means; the United Nations is active through debates, and by setting standards regarding traffic in persons for the removal of organs. Particularly through the World Health Organization (WHO), which has published a series of resolutions and guidelines on the subject. The most recent is the WHO Guiding principles on human cell, tissue and organ transplantation. It was endorsed in 2010 by the sixty-third World Health Assembly in its resolution 63.22.

Meanwhile, The Declaration of Istanbul on Organ Trafficking and Transplant Tourism was adopted at an international summit on transplant tourism and organ trafficking convoked by the Transplantation Society and the International Society of Nephrology in Istanbul, Turkey, from 30 April to 2 May 2008. The declaration has exercised significant influence over responses at the national, regional and international levels. It states in its principle 6 that “organ trafficking and transplant tourism violate the principles of equity, justice and respect for human dignity and should be prohibited”. It goes on to affirm that transplant commercialism should be prohibited because it “targets impoverished and otherwise vulnerable donors [and] leads inexorably to inequity and injustice”.

However, the most significant treaty is The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It includes organ traffic as a form of exploitation associated with trafficking. Other features of the definition that link transplantation-associated exploitation are the acknowledgement of consent as being irrelevant when any of it requires States parties, in article 5, to criminalize trafficking in persons for organ removal as defined in article 3.

The Trafficking in Persons Protocol is the first international legal instrument that gives a definition of trafficking in persons for the purpose of organ removal. According to article 3 of the Trafficking in Persons Protocol: Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Trafficking in persons for organ removal is also defined and prohibited in other international/regional instruments.

## *Guiding Questions*

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- 1.- What implications has the diversity of different types of legal systems around the world?
- 2.- How does the culture affects on the development and implementation of a legal system?
- 3.- Why is doubted the ability of this system to be transparent?

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## *Glossary*

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### **D**

**Donors:** One that gives, donates, or presents something

**Deceased:** No longer living; especially recently dead.

### **E**

**Ethical:** Conforming to accepted standards of conduct.

### **P**

**Postoperative:** relating to, occurring in, or being the period following a surgical operation.

### **R**

**Regulations:** A rule or order issued by an executive authority or regulatory agency of a government and having the force of law.