

**ILLEGAL ORGAN TRADING: A COMPARATIVE STUDY IN MALAYSIA,
INDIA AND CHINA**

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The students/authors confirm that the work submitted in their own and that appropriate credit has been given where reference has been made to the work of others.

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ABSTRACT

This research reviews a comparative study on illegal organ trading between Malaysia, China and India. The main focus of this research is to analyze the existing laws in Malaysia, China and India on the issue of illegal organ trading and to propose the reformation of the law in Malaysia regarding illegal organ trading. Data and information were gathered from interviews that had been conducted and from journal, articles, books and websites in the internet related to illegal organ trading.

Firstly, this dissertation looks into the factors contributing to the crime of illegal organ trading in China and India. It also provides some reported cases in both countries pertaining to the issue as well as some suggested solutions. The research also includes scenarios from Malaysia and other countries at large.

In the second part of this report, a discussion on the legal perspective pertaining to the issue of illegal organ trading in the three countries, namely Malaysia, China and India were conducted. This paper lays down some observations obtained from the study of the laws in the three countries such as the *lacunae* of the laws and whether the laws are effective in controlling the crime of illegal organ trading.

The outcomes from the findings we obtained from various interviews conducted with the local organizations are provided in the final part of the report. A conclusion is made and recommendations are proposed based on the findings of the research with the expectation that Malaysia will take precautionary steps and reformations by either amending the existing laws or legislating a specific Act pertaining to illegal organ trading before it occurs in the future.

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CHAPTER ONE

INTRODUCTION

1.0 INTRODUCTION

Organs such as kidneys, heart, liver and lung are vital parts of human body. Without healthy organs, we cannot live as a normal person. Around the globe, millions of people are waiting for organ transplantation every year. However, the demands for organs for transplantation are greater than the supply we have. This could be the result of regulations prohibiting trafficking of human organs where most countries require living donors to be family members, or that the organ must be removed from a dead body.¹ However, there are cases where organs from living non-family members had been traded. China for example, is known for trading organs of executed prisoners for high payments.² India also, is widely known as “a great organ bazaar”.³

International organizations such as the World Medical Association and the World Health Organization regard the sale of human organs as inhumane and unethical.⁴ According to the World Health Organization,

*“The human body and its part cannot be the subject of commercial transactions. Accordingly, giving or receiving payment for organ should be prohibited.”*⁵

¹ “TED Case Study: India Kidney Trade”, available at <http://www1.american.edu/TED/super.htm>, accessed on 5 October 2009.

² “Illegal Human Organ Trade from Executed Prisoners in China”, available at <http://www.zhengjian.org/zi/articles/2006/3/18/36071.html>, accessed on 13 August 2009.

³ “TED Case Study: India Kidney Trade”, available at <http://www1.american.edu/TED/super.htm>, accessed on 5 October 2009.

⁴ “Illegal Human Organ Trade from Executed Prisoners in China”, available at <http://www.zhengjian.org/zi/articles/2006/3/18/36071.html>, accessed on 13 August 2009.

⁵ Ibid