

BZZ222

Regulation of Medical Tourism: The Sleeping Beauty of International Law

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1. Introduction

How far would you go for your health? This simple question can bring upon a variety of responses. Some people cross borders, even continents to get the medical care they need – or simply want. The extensive flow of information well describes nowadays' world, providing easier access for patients to research their options. However, this freedom also comes with its dangers lurking, underscoring the need for thorough legislation.

The phrase 'medical tourism' – that is the practice of traveling to another country for medical treatment – usually raises questions, as it is not a common concept in everyday life. Therefore, the key purpose of this work, besides providing legal insight and guidance for further international legislation, is to spread awareness on the concept itself. 'Why should there be legislation on an international level concerning a service that is not utilized by most of the population?' – some might ask, and the answer is simple: the key concept of law lies in the protection of human life.

Health is one of the most important human values, and as technology improves, there is going to be more and more eventuality for unexpected outcomes within the framework of healthcare. Even though medical tourism has been around in sorts for centuries and has risen to exceptional popularity in the past few decades, there is yet no specific international law or treaty which directly governs it. Conversely, there are several international legal frameworks, guidelines, and conventions which are, in some of their aspects, relevant to the specific phenomenon this thesis examines. These documents can be taken into consideration in contextual approach, even though they do not directly touch on the topic of medical tourism – that is an ever-evolving field, asking for its own place in international law.

Through further chapters, this thesis will unfold the concept of medical tourism and provide much needed insight into its evolution. Then, ethical and legal perspectives will be taken into consideration, highlighting the individual rights of a patient – balancing then their interests with states. Last, but not least, there will be a discussion about current domestic regulations which vary from one region to another. After understanding the factual legal background, the focus will shift over to international law and the examination of possible future outcomes. By identifying current gaps and obstacles in legal frameworks, a conclusion can be drawn regarding options. International legislation is urgent in favour of both states and patients. Since medical tourism involves health, economy, law and ethics crossing national borders, this

thesis will take its course on a multidisciplinary path compensating for what has not been achieved so far.

2. Methodology and Research Approach

In order to conduct thorough research on the topic, it is important to consider various approaches, as medical tourism is connected to multiple fields, therefore requiring interdisciplinary measures when mapping out the methodology of the study. How can medical tourism be examined, any why is it important to do so?

The research – since it is executed from a legal perspective – relies on traditional legal methodologies, focusing on the collection, organization, analysis, and interpretation of both domestic and international sources. Since medical tourism is yet to be explicitly implemented into legal systems, direct legislative references cannot be found in large quantities, and those that exist need to be analysed and put into context in order to fit the goal of understanding medical tourism. By synthesizing a wide range of academic literature and current statistics alongside relevant legal instruments, the research employs a multidisciplinary approach. Therefore, economic sources and ethical doctrines both need to be taken into account while conducting research, also reflecting on their connections to various healthcare system approaches.

As a starting point, medical tourism must be precisely defined in the context of tourism, since the legal approach requires an on-point definition for the term. Only after understanding its evolution can we start examining the current trends that shape its future egression. Why is it important to understand the intricacies of these trends? As economy – especially when it comes to tourism – reacts to demand, legal cues must be matched to these trends for providing realistic and practical suggestions. Due to challenges related to sensitive data collection and statistical distortions occurring in hospital reports, no primary data collection methods can be utilized – the forementioned approaches, though, allow for a detailed examination of secondary sources. By understanding the ethical dilemmas and implications, there is a strong ground for the legal part of the research. Before highlighting the urgent need for international legislation, a carefully chosen group of states – and a supranational body – present the different approaches to healthcare legislation, highlighting the fact, that domestic legislation alone is not efficient for medical tourism. In this segment, comparative and historical methods can be utilized to identify differences across jurisdictions.

The methodology facilitates an in-depth exploration of the ethical, legal, and economic interplay within medical tourism, ultimately providing actionable recommendations to address the identified gaps in patient protection and regulatory standards, highlighting the issues when it comes to implementation and enforcement. The originality of the research lies in synthesizing ethical, economic, and social insights into a legal framework, therefore culminating in actionable recommendations – which are the product of the multidisciplinary research.

3. The Concept and Evolution of Medical Tourism

There are several terms and definitions regarding medical tourism – or is it health tourism? The question is of course rhetorical, highlighting the fact that such nouns could be intertwined, with either similar or the same meaning. It is important to take these into consideration and provide a clear understanding on the research topic. As the Cambridge Dictionary defines medical tourism: “travel to a foreign country for medical treatment, especially because it is less expensive than in your own country” – health tourism being the British version of the noun.¹ There are, however, other definitions, which can provide more in-depth explanations on the phenomenon. The Yellow Book of the U.S. Centers for Disease Control and Prevention mentions medical tourism in Section 6 stating that it is a “term commonly used to describe international travel for the purpose of receiving medical care.”² As it will be clear later, these definitions are superficial and base their statements on uncertain grounds, leaving out key aspects of medical tourism. Many research articles lack depth when it comes to defining the phenomenon, leaving ground for different interpretations on a topic that should be unambiguous.

The abovementioned definitions give a basic understanding on the topic, however, they are not universal and do not provide enough differentiation between subtypes – which problem the World Tourism Organization (UNWTO) and European Travel Commission (ETC) aimed to solve in their joint study titled *Exploring Health Tourism*.³ It is stated, that health, wellness and medical tourism are growing fields and are becoming more relevant in numerous

¹ “Medical Tourism,” *Cambridge Advanced Learner’s Dictionary & Thesaurus*, Cambridge University Press, <https://dictionary.cambridge.org/dictionary/english/medical-tourism> (accessed August 30, 2024).

² Centers for Disease Control and Prevention, *CDC Yellow Book: Health Information for International Travel*. U.S. Department of Health and Human Services. 2024.

³ World Tourism Organization and European Travel Commission, *Exploring Health Tourism*. UNWTO. 2018.

destinations around the world.⁴ Industry experts, who were part of the study also came to a consensus regarding the urgency to have a simplified and standardized system of definitions.⁵ As shown in previous examples, the terms health tourism, wellness tourism and medical tourism are most often used inter-changeably, however, in the study, a clear and important distinction is made, declaring that health tourism serves as an umbrella term for the subtypes being wellness tourism and medical tourism.⁶ The definitions explained below were adopted as Recommendations at the 22nd Session of the UNWTO General Assembly held in Chengdu, China.⁷ These definitions can be considered as a reliable starting point for further derivations in the field of medical tourism, especially considering that most legal research tend to overlook this intricate issue. The illustration (Figure 1) below summarizes the categories of tourism based on the primary motivator of people partaking in such activities, specifying especially the niches of medical tourism:

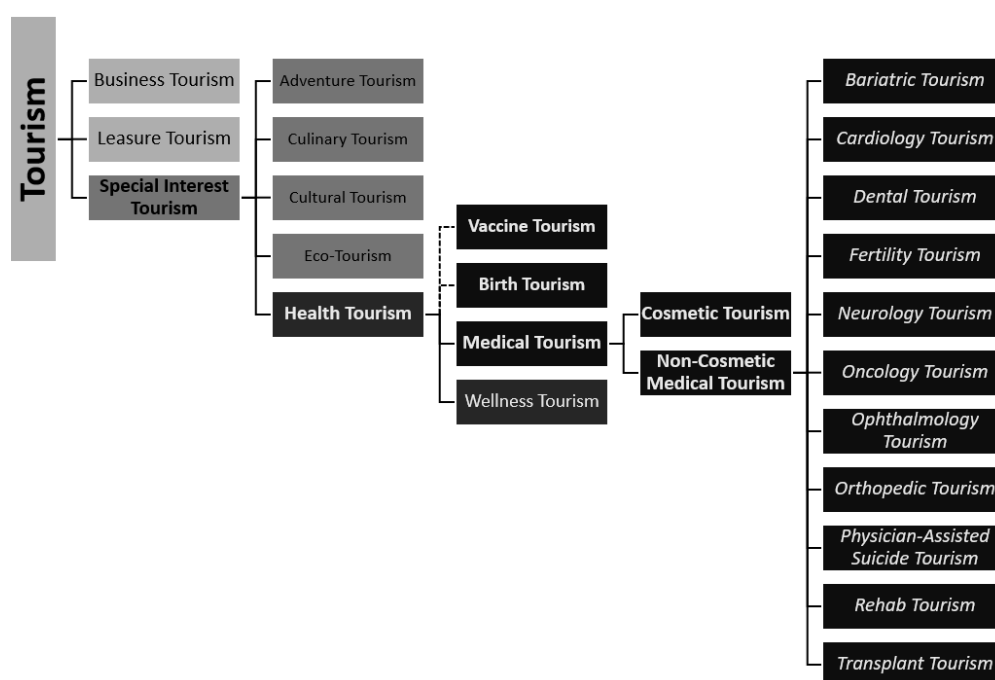


Figure 1. Hierarchy of Tourism Types (Illustration created by the author)

⁴ *Ibid.*, 13.

⁵ *Ibid.*, 49.

⁶ *Ibid.*, 14.

⁷ *Ibid.* 20.

The cohesive structure of hierarchy was derived by the author after thorough research of the tourism sectors. While the terminology reflects those of the UNWTO,⁸ and the CDC⁹ in reflection of some medical tourism sub-types, those were yet to be integrated into a single overarching model. The structure provided by the author delves into tourism, emphasizing the interrelation between health, wellness, and medical tourism. It strives for a new comprehensive structure, while staying coherent and understandable – exploiting a ‘market gap’ in the field.

3.1 Terminology and Definitions

It is a widely accepted fact that health is one of the many sub-sets of wellbeing, which is a broad category itself and too wide to take its stand as ‘wellbeing tourism’ in the taxonomy of health tourism.¹⁰ So what exactly is health tourism? To provide a satisfactory answer, it is important to first have a globally accepted understanding of the definition of health, which can be derived from the Constitution of the World Health Organization: “Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”¹¹ It is also stated, that the “enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,”¹² declaring health as a basic human right – supporting the view, that legislation and remedy is crucial in all fields that can mean harm to it. These elements must be taken into consideration when the goal is a thorough definition, since a lack of connection would mean further obstacles in general understanding.¹³

As mentioned before, health tourism is labelled as an umbrella term for wellness tourism and medical tourism among industry representatives, however, those working with governments tend to see these terms synonymous to each other.¹⁴ This problem tends to arise

⁸ *Glossary of tourism terms*. UNWTO. [Glossary of tourism terms | UNWTO](#) (accessed October 25, 2024)

⁹ Centers for Disease Control and Prevention, *CDC Yellow Book: Health Information for International Travel*. U. S. Department of Health and Human Services. 2024.

¹⁰ World Tourism Organization and European Travel Commission, *Exploring Health Tourism*. UNWTO. 2018. p. 52.

¹¹ *Ibid.*, 53.; World Health Organization, *Constitution of the World Health Organization*. WHO. 1948. <https://www.who.int/about/governance/constitution> (accessed October 11, 2024).

¹² *Ibid.*

¹³ World Tourism Organization and European Travel Commission, *Exploring Health Tourism*. UNWTO. 2018. p. 52.

¹⁴ *Ibid.*

regarding ‘wellbeing’ and ‘wellness’ tourism accordingly.¹⁵ The UNWTO’s study stated, that wellness is generally linked to health, quality of life and wellbeing as an active pursuit of activities that lead to a state of holistic health.¹⁶ The main motivation of a wellness tourist is the improvement of one’s existing health and wellbeing. Wellness tourism itself is mainly voluntary, proactive and preventative, with lifestyle-based habits being its centre elements, as opposed to medical tourism, which mostly focuses on reactive and curative processes.¹⁷

What separates medical tourism from wellness tourism is that it is evidence-based, therefore makes use of high-quality clinical research when it comes to making decisions about the care of patients.¹⁸ While wellness tourism concentrates on preventive measures, medical tourism, besides medicine, concentrates on healing, bringing recovery or restoration into the equation as a reactive factor – including the fact, that medical tourists are most often ill.¹⁹ Medical tourism, therefore, usually takes place in purpose-built health care-centres, for whom several accreditation programs are available.²⁰ Most medical tourists rely on private companies or medical concierge services to identify these foreign healthcare facilities, with whom some of them have entered into alliances.²¹

There is an interesting debate, questioning whether ‘medical tourism’ is an adequate term for this phenomenon, as some people would rather refer to it as ‘medical travel’. The two terms coincide regarding most of their characteristics. Even so, medical travel is not about cost-efficiency – it is with the sole purpose of receiving medical treatments.²² The key aspect of medical tourism lies in its nature that is connected to economic and cultural factors, and how

¹⁵ *Ibid.*, 53.

¹⁶ *Ibid.*, 54.

¹⁷ *Ibid.*, 56.

¹⁸ RATNANI, Iqbal – FATIMA, Sahar – ABID, Muhammad Mohsin – SURANI, Zehra – SURANI, Salim: *Evidence-Based Medicine: History, Review, Criticisms, and Pitfalls*. Cureus. 2023. [Evidence-Based Medicine: History, Review, Criticisms, and Pitfalls - PMC \(nih.gov\)](#) (accessed October 11, 2024)

¹⁹ World Tourism Organization and European Travel Commission. *Exploring Health Tourism*. UNWTO. 2018. p. 60.

²⁰ *Ibid.*, 72. For example, Temos International is a Germany based certification company whose work is tailored to hospitals and clinics providing medical tourism and international patient management.

²¹ Centers for Disease Control and Prevention. *CDC Yellow Book: Health Information for International Travel*. U.S. Department of Health and Human Services. 2024.

²² World Tourism Organization and European Travel Commission. *Exploring Health Tourism*. UNWTO. 2018. p. 59.

capitalist consumerism offers a wide range of reasons that drive patients to seek foreign care: be that lower costs, shorter waiting times, or quality care. In case of medical tourism, there is a significant spread between the treatment prices which the country of origin and the destination country offers – financial justification being important.²³ Even though some consider the term offensive to a degree, it efficiently captures the fusion of travel agencies and the health care industry.²⁴

The basic concept and main differentiators of health tourism and its two main sub-sectors have been summarized. The following illustration (Figure 2) includes the recommended definitions adopted by the UNWTO at the 22nd Session of the UNWTO General Assembly:

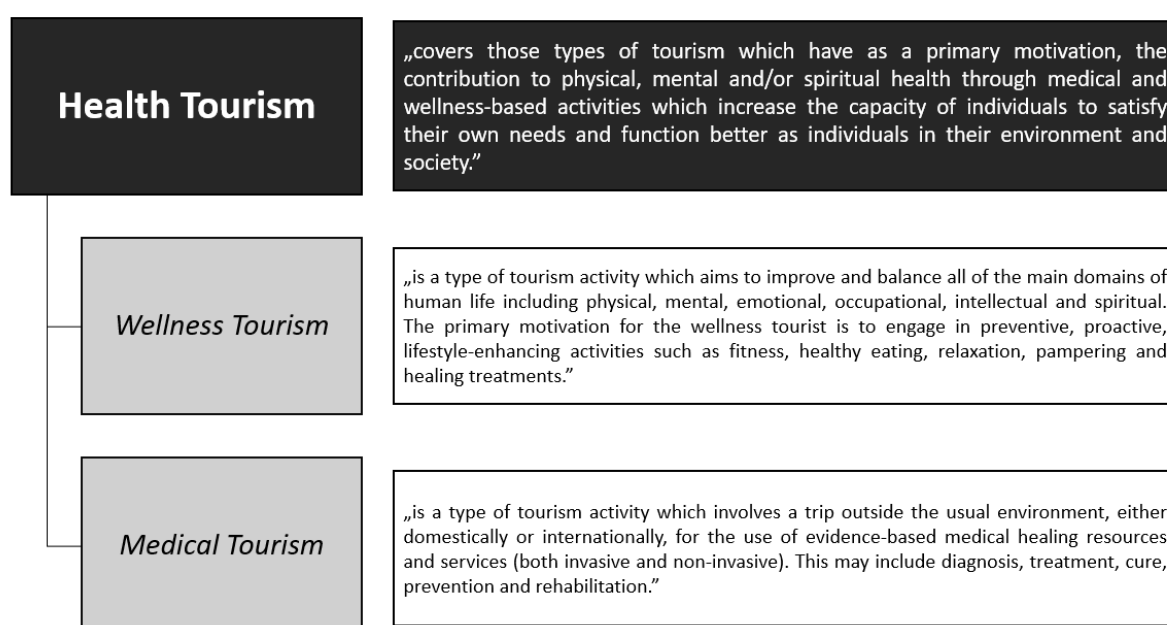


Figure 2. Recommended definitions²⁵ (Illustration created by the author)

²³ TURNER, Leigh: ‘First World Health Care at Third World Prices’: *Globalization, Bioethics and Medical Tourism*. BioSocieties. 2, No. 3. 2007. p. 309.

²⁴ *Ibid.*, 308.

²⁵ World Tourism Organization, 10(I)(a) *Implementation of the general programme of work for 2016-2017, Revision 1 (A/22/10(I)(a) rev.1)*, (WTO General Assembly, 22nd session, Chengdu, China, 2017) p. 16. [World Tourism Organization \(webunwto.s3.eu-west-1.amazonaws.com\)](http://webunwto.s3.eu-west-1.amazonaws.com) (accessed October 11, 2024)

The given definitions are based on the primary motivation of tourists. It is stated that all means of travel might contribute to the wellbeing of tourists, hence the term ‘wellbeing tourism’ is excluded from the taxonomy of health tourism.²⁶

3.2 Evolution and Current Trends

While health tourism has become a rising trend in recent years, it is not at all a new concept, dating back to numerous cultures for centuries. Health tourism in Jordan has been around for more than 3,000 years since the time of the Greeks and Romans, noticeable for its hot springs by the Dead Sea.²⁷ Ancient Romans took advantage of two specific provinces famous for their thermal baths, developing purpose-built facilities for their soldiers: Aquincum and Bath were both crucial locations for early forms of medical tourism.²⁸ Through current years, Jordan has been specifically associated with medical tourism, by the decision to actively promote the sector.²⁹ While globalization and increased price sensitivity resulted in the ‘reverse movement of health travellers,’ meaning the influx from developing to developed countries, it is still more common for medical tourists to visit emerging economies for treatment, especially because of cost-efficiency – which stays the main decisive factor of medical tourists.³⁰ Another important fact to consider, is that people often resort to another nation because it offers treatments which are unavailable, or even illegal in their country of residence. The phenomenon serves as a grand business opportunity for providers and investors: healthcare cities are being constructed across the world, from South America to the Middle East.³¹ Therefore, medical tourism has become a worldwide, multibillion-dollar market that keeps growing as a consequence of the rising globalization of healthcare – being a potential source of foreign revenue.³²

Through generations, health tourism has taken up many forms, transformed by several external factors, which made the structure of it ever so complex. One of the latest trends is quite

²⁶ World Tourism Organization and European Travel Commission. *Exploring Health Tourism*. UNWTO. 2018. p. 65.

²⁷ *Ibid.*, 53.

²⁸ *Ibid.*, 91.

²⁹ *Ibid.*, 53.

³⁰ *Ibid.*, 31.

³¹ *Ibid.*, 32.

³² Centers for Disease Control and Prevention. *CDC Yellow Book: Health Information for International Travel*. U.S. Department of Health and Human Services. 2024.

important to mention: vaccine tourism. It has shed light on how important international healthcare regulation is, and how it could lower the impact of such sudden crises. The distribution of the COVID-19 vaccine and the questionable methods around it has been addressed by researchers.³³ The problem arose because of monetary differences among countries: developed wealthy economies, like the United States, purchased the greatest number of vaccines, while several dozen of states could not afford to provide vaccination for their residents.³⁴ Therefore, it became practice for those who could afford, to travel to another country as a way to receive a vaccine – hence, generating vaccine tourism.³⁵

Based on the different needs of patients, medical tourism itself can be divided into different sectors. It is quite usual, that a country caters to one specific sector and encourages its development over other subtypes, typically keeping patient demand in mind.

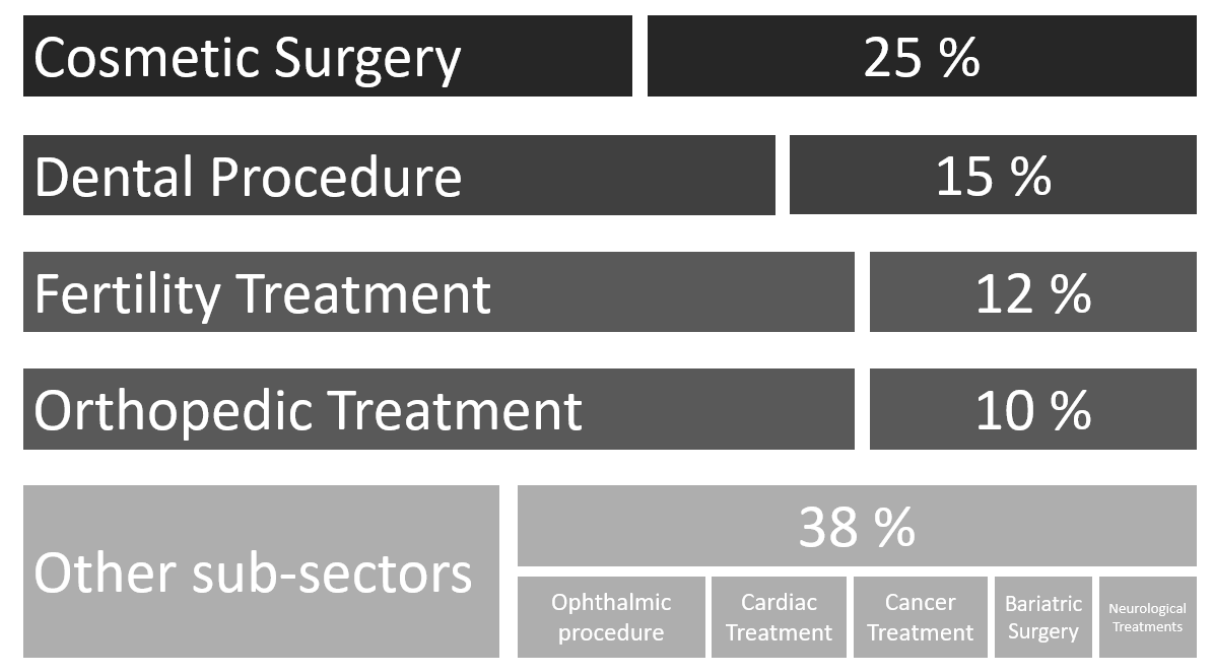


Figure 3. Comparative Popularity of Medical Tourism Sub-Types³⁶ (Illustration created by the author)

³³ MARZEN, Chad G.: *COVID-19 Vaccine Distribution: A Brief Proposal for Future Pandemics*. Wake Forest Journal of Business and Intellectual Property Law. 21, No. 3. 2021. p. 378.

³⁴ WIEST, Connor A.: *Only the Rich can Afford a Free Vaccine: Healthcare Inequality in a Pandemic*. Syracuse Law Review. 71, No. 5. 2021. p. 98.

³⁵ MARZEN, Chad G.: *COVID-19 Vaccine Distribution: A Brief Proposal for Future Pandemics*. Wake Forest Journal of Business and Intellectual Property Law. 21, No. 3. 2021. p. 381.

³⁶ *Medical Tourism Statistics 2024 By Landscape, Healthcare, Treatments* (Market.us Media) [Medical Tourism Statistics 2024 By Landscape, Healthcare \(market.us\)](#) (accessed October 12, 2024)

The illustration (Figure 3) covers the most utilized medical services by medical tourists. Another sub-sector worth mentioning is physician-assisted suicide, which brings upon a variety of legal and bioethical questions, the service itself being illegal in most countries.³⁷ Similar in nature are transplant procedures that has been addressed by the World Health Organization through the Guiding Principles on Human Cell, Tissue, and Organ Transplantation.³⁸

Medical procedures are usually thoroughly regulated; however, the protection of foreign patients is not emphasized, leaving a lack of possibility for remedy if any complications occur. The main risk for medical tourists arises from disparate hygienic standards, which might lead to infections.³⁹ Non-infectious complications and travel-associated risks might also occur, which can lead to the patient seeking legal advice – but will they be able to obtain legal redress?

4. Ethical Questions and Legal Challenges

When it comes to medical tourism, there is an intricate borderline between legal and ethical matters, which are deeply intertwined. While developed countries tend to have thorough legislation, it is currently difficult to attain legal remedy in developing economies – it might be possible, however, impaired patients are usually left on their own to navigate in a foreign legal environment, that often struggles to protect even its own citizens. On the other hand, while developed countries tend to prioritize foreign patient care and regulation, their citizens often lack basic healthcare insurance and are forced to seek options. Therefore, both sides of the coin come with their own disadvantages which must be addressed. But which of law and ethics will prevail: heads or tails?

4.1 Commercializing Healthcare

Through recent years, there is an ever-growing trend based around beauty and youth, which the health industry is eager to capitalize. The medical tourism market grossed approximately USD 84.92 billion just in 2024, and the size of the market is estimated to reach more than USD 200 billion by 2029 – North America being the largest market currently, with

³⁷ Centers for Disease Control and Prevention. *CDC Yellow Book: Health Information for International Travel*. U.S. Department of Health and Human Services. 2024.

³⁸ World Health Organization. *Guiding Principles on Human Cell, Tissue, and Organ Transplantation*. WHO. 2010.

³⁹ Centers for Disease Control and Prevention. *CDC Yellow Book: Health Information for International Travel*. U.S. Department of Health and Human Services. 2024.

the Asia Pacific being the fastest growing region.⁴⁰ Lots of people, especially women, are drawn into the world of cosmetic surgeries and are willing to take risks to achieve their preferred ideal of perfection. Celebrity culture has a large impact on how a generation perceives the definition of beauty, and cosmetic surgery, in the past twenty years, has become ever so acceptable and accessible to a wide range of socio-economic groups.⁴¹ While cosmetic procedures are one of the most popularized forms of medical tourism, it is important to note, that many people turn to this way of healthcare as a last resort in order to go through a life changing surgery – which their country might have failed to provide for them.

While medical tourism tends to take place through the private health sector, many governments are encouraging such investments awaiting a boost for their economy. Based on statistics, a large group of countries generated between USD 200 million to USD 800 million in health-related international travel receipts just in 2015 – and these numbers keep growing.⁴² The largest earner was the United States with USD 3,600 million.⁴³ It must be noted, that offshore medical procedures sometimes cost one-tenth of what the United States would charge.⁴⁴ Medical tourism has elevated from individual medical facilities to being driven by government agencies and public-private partnerships supported by investors and medical brokerages.⁴⁵ There is an argument proposed by some economists concerning state responsibility for healthcare, since viewing the sector as a marketable commodity can shift leverage.⁴⁶

⁴⁰ Medical Tourism Market Size & Share Analysis – Growth Trends & Forecasts (2024-2029), Mordor Intelligence. [Medical Tourism Market Growth | Industry Analysis, Size & Forecast Report \(mordorintelligence.com\)](https://www.mordorintelligence.com/industry-reports/medical-tourism-market-growth) (accessed October 13, 2024)

⁴¹ World Tourism Organization and European Travel Commission. *Exploring Health Tourism*. UNWTO. 2018. p. 36.

⁴² *Ibid.*, 68. Jordan, France, Hungary, Belgium, Thailand, the Republic of Korea, Costa Rica, Mexico, Czech Republic and India namely.

⁴³ *Ibid.*

⁴⁴ CHUGAN, Pawan Kumar – DHAR, Upinder – BHATT, Shwetang: *Medical Tourism Under Mode II of GATS (WTO): Opportunities, Challenges and Entrepreneurial Strategies in Gujarat* (April 1, 2009). Nirma University Journal of Business and Management Studies. Vol. 3, No. 3 & 4. January-June 2009. p. 4.

⁴⁵ TURNER, Leigh: 'First World Health Care at Third World Prices': *Globalization, Bioethics and Medical Tourism*. BioSocieties. 2. 2007. p. 303.

⁴⁶ VIJAYA, Ramja: *Medical Tourism: Revenue Generation or International Transfer of Healthcare Problems?*. Journal of Economic Issues. 44. 2010. p. 53.

The concept of ‘brain drain’ is not unheard of in medical fields and is quite common regarding medical tourism.⁴⁷ On one hand, doctors often leave the public health sector in favour of private medical tourism destination clinics, creating an enormous fallout in healthcare, as residents are left with a shortage of professionals in most cases. On the other hand, some medical practitioners not only migrate from the public to the private sector but choose to work in another country.⁴⁸ It is not uncommon for tourist destination clinics to advertise their specialists assuring that they received their training in prestigious developed countries.⁴⁹ The development and popularity of medical tourism in countries such as Thailand, Singapore and India serve as an important tactic in reducing the emigration of healthcare professionals.⁵⁰ Even though treating medical tourism can boost a country’s income, it can easily expropriate care resources against the domestic sector, leaving its own citizens perplexed.⁵¹ A possible solution could be the reinvestment of profit gained from medical tourism into public healthcare – justifying the doctrines of equity and the right to healthcare.

At a point, where profit becomes a motivational factor in healthcare, extending collective medical care fails to remain a primary objective.⁵² The main distinction between foreign and domestic healthcare is derived through the income effect,⁵³ however, there are other important factors that must be addressed.⁵⁴ The market share of international patients is not endless, therefore not every emerging destination will come out as winners – leaving governments in false hope, while citizens suffer the damages. It is ethically unjust to rinse public resources into specialized medical centres serving a specific niche, rather than putting

⁴⁷ World Tourism Organization and European Travel Commission. *Exploring Health Tourism*. UNWTO. 2018. Demand of Health Tourism.

⁴⁸ *Ibid.*, 32.

⁴⁹ *Ibid.*

⁵⁰ TURNER, Leigh: ‘First World Health Care at Third World Prices’: *Globalization, Bioethics and Medical Tourism*. BioSocieties. 2. 2007. p. 314.

⁵¹ VIJAYA, Ramja: *Medical Tourism: Revenue Generation or International Transfer of Healthcare Problems?*. Journal of Economic Issues. 44. 2010. p. 57.

⁵² *Ibid.*, 61.

⁵³ Corporate Finance Institute: *Income Effect*. [Income Effect - Definition, Example, Analysis \(corporatefinanceinstitute.com\)](https://www.corporatefinanceinstitute.com/terms/income-effect/) (accessed October 14, 2024) The income effect is referring to change in the demand for a good being a result of change in the income of a consumer.

⁵⁴ VIJAYA, R: *Medical Tourism: Revenue Generation or International Transfer of Healthcare Problems?*. Journal of Economic Issues. 44. 2010. p. 55.

funds into public healthcare, when citizens do not have access to basic social services.⁵⁵ The main problem can be captured through the fact, that economic benefits do not reach the monetarily unfortunate layers of society, those being caught up among elites' widening the health equity gap.⁵⁶ Those states offering universal healthcare treat patients according to need, however, medical tourism takes a toll on this doctrine, emphasising care based upon what one can afford.⁵⁷ It is, therefore, evident, that such questions regarding ethics arise from the junction of economic growth crossing the field of healthcare.

4.2 Patient Rights versus State Wrongs

The economic impact of medical tourism has been thoroughly discussed through the years; however, patients' rights are still not protected enough – making it hard for them to seek recovery if things do not go well.⁵⁸ What procedures do patients seek? Most importantly, the distinction can be made by the legal status of the treatment: some services are legal, while others are illegal in the patient's home country – making them resort to countries which offer the procedure.⁵⁹ On another note, there are treatments illegal in both the home and destination country, but the latter still practically offers it as a consequence of mild enforcement.⁶⁰ The legal environment around medical tourism requires strict regulatory frameworks: health and travel legislation, special visas, liability, patient safety, bioethical law, infections and diseases, and last but not least health insurance.⁶¹

There is a huge concern around efficient information-flow, since patients often take the internet as their main source for research – and might make just an optimal choice instead of a

⁵⁵ TURNER, Leigh: 'First World Health Care at Third World Prices': *Globalization, Bioethics and Medical Tourism*. BioSocieties. 2. 2007. p. 320.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*, 322.

⁵⁸ ASTRUP, Elizabeth: *Passport to Plastics: Cosmetic Surgery Tourism, Medical Malpractice, and the Automatic Establishment of Personal Jurisdiction by Way of the Joint Commission International*, *Indiana Journal of Global Legal Studies*. 27, No. 2. 2020. p. 354.

⁵⁹ COHEN, I. Glenn: *Medical Tourism, Medical Migration, and Global Justice: Implications for Biosecurity in a Globalized World*. *Medical Law Review*. 25, No. 2. Spring, 2017. p. 202.

⁶⁰ *Ibid.* For example, Iran is a key destination when it comes to transplant tourism, that is illegal in most states.

⁶¹ World Tourism Organization and European Travel Commission. *Exploring Health Tourism*. UNWTO. 2018. p. 43.

satisfactory one.⁶² In the following, an imaginary patient's theoretical situation will be outlined – highlighting, from their perspective, how complicated the course of medical tourism is. Now, considering an average patient who wants to travel to a developing country for a cost-efficient procedure: what information do they look for when searching for a destination clinic? They tend to look for quality certification, assuring they will be in great hands – or at least not get scammed. From the several actors of the industry, accreditors play a grand part: the Joint Commission International (JCI) “is recognized as a global leader for health care quality of care and patient safety.”⁶³ When a patient sees JCI qualification on a hospital's website, they feel assured that quality is up-to-date, and the institution has undergone thorough examination by a respected independent organization. However, there are some concerns around the JCI's integrity, since the organization is considered being too close to the healthcare industry which it regulates.⁶⁴

After attaining information, the patient might consider their following options: are they going to pay out of pocket or does their insurance cover the treatment? The chances for the latter are quintessentially low, there are not many cases, where insurance companies risk sending people abroad. The patient might also consider contacting a medical brokerage to plan their trip – it must be mentioned that these facilitators lack accreditation and might operate with conflicts of interest.⁶⁵ The regulation of these facilitators should be an important interest of states, since a number of problems explained below could be avoidable, if facilitators were operating in favour of the customer under legal restrictions.

A growing concern in the healthcare industry is the protection of personal health data. In case of medical tourism, the patient's data is usually transmitted through an online environment. In Europe, the General Data Protection Regulation (GDPR) provides clear

⁶² CHOW, Augustus: *Patients with Passports: Medical Tourism, Law, and Ethics*. Journal of Health & Biomedical Law. 14, No. 1. 2018. p. 247.

⁶³ Joint Commission International. [A Global Leader for Health Care Quality and Patient Safety | Joint Commission International](#) (accessed October 18, 2024)

⁶⁴ CHOW, Augustus: *Patients with Passports: Medical Tourism, Law, and Ethics*. Journal of Health & Biomedical Law. 14, No. 1. 2018. p. 236. The qualification also does not assure outcomes well, which aspect might be overlooked by a patient being a stranger to the system. Even though a procedure can have satisfactory outcomes, there is a risk of infection and disease transmission which should be addressed on international level.

⁶⁵ *Ibid.*, p. 235.; MIRRER-SINGER, Philip: *Medical Malpractice Overseas: The Legal Uncertainty Surrounding Medical Tourism*. Law and Contemporary Problems. 70, No. 2. Spring, 2007. p. 215.

definitions on personal data and thoroughly regulates it.⁶⁶ The GDPR ensures, that European citizens are protected against organizations, with the regulations including applicable penalties and high fines in case of a GDPR violation.⁶⁷ On international level, the WHO has released its “Global strategy on digital health 2020-2025,” in which many concerns regarding digital technologies and the processing of data is addressed.⁶⁸ However, many destination countries are behind with regulations regarding personal data, which can lead to unwanted outcomes. The handling of cross-border medical records might trigger further issues as medical tourism reaches regions where such measures are not adequately regulated yet.⁶⁹

When the patient arrives in their destination country, they often do not realise the impact of becoming subject to foreign jurisdiction. The medical tourist not only commutes between countries, but between jurisdictions too: although the personal jurisdiction of the country of origin accompanies them on their journey, the territorial jurisdiction changes as they cross national borders. The intricacies of jurisdiction are especially important in cases of malpractice claims, and in other areas, such as suicide tourism in which case, if the service is illegal in the country of residence, those helping the patient abroad may even be subject to criminal proceedings. The same could be mentioned on the account of abortion tourism, where a mother seeking treatment abroad might lose her child and then face criminal charges arriving back home.

For medical tourists, there are several uncertainties after they have gone through foreign medical procedure: the forwarding of medical health data to the country of residence, attainment of aftercare and the liability of practitioners in case of malpractice. The imaginary patient has gone through the procedure they paid for, however, there were complications, and they have become impaired. This outcome sounds unfortunate enough, but in a mention-worthy number

⁶⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). [Regulation - 2016/679 - EN - gdpr - EUR-Lex \(europa.eu\)](#) (accessed October 18, 2024)

⁶⁷ *What is GDPR, the EU's new data protection law?* [What is GDPR, the EU's new data protection law? - GDPR.eu](#) (accessed October 18, 2024)

⁶⁸ World Health Organization: *Global strategy on digital health, 2020-2025*. WHO. 2021. [gs4dhdaa2a9f352b0445bafbc79ca799dce4d.pdf \(who.int\)](#) (accessed October 18, 2024)

⁶⁹ HADIYANTINA, S – AYUB, Z. A. – CAHYANDARI, D. – PARAMITHA, A. A. – MOHAMED YUSOFF, Z.: *Transborder data flows: Protection of medical tourist personal data in Malaysia and Indonesia*. Journal of International Studies. 18. 2022. p. 269.

of cases, patients have passed away as a consequence of foreign treatment, or hospital infections. As uncomfortable the topic is, it is important to raise awareness about one of the most problematic parts of medical tourism: malpractice legislation. In an industry, where patients are being scouted by destination hospitals providing cost-efficient care and highlighting their quality features, all the blame cannot be put on the patient who suffered a faulty service. Medical malpractice claims usually face jurisdictional problems: there is no such international body that a patient can turn to, therefore they must navigate through private international law – which fundamentally favours the jurisdiction of the destination country. Considering conflict of law issues, a court would dismiss a lawsuit based on ‘*forum non conveniens*.’⁷⁰ Many factors speak against the plaintiff: the case usually will be heard in the country where the procedure took place, and, even if the court of residence accepts the case, the destination country’s laws are going to govern the dispute.⁷¹

The protection of patient rights and providing clear information and educatory tools for the broad population all play a crucial role in medical tourism. State practices also raise concern regarding whether our world has been for long shifting from rights-based healthcare to a consumer-driven one. Either way, it is both a domestic and international responsibility to elevate patient rights to a state of global recognition and uniform regulation. Collisions must be acknowledged and resolved, while foundations should be laid down for the sake of the individuals in relation to the regulation of the phenomenon.

5. Legal Playground of National Regulations and the International Legal Framework

The space where differing domestic legal innovations and interpretations intersect offers a dynamic environment. Currently, there is no uniform system, and patients and providers are left to navigate without consistent guidance. The examination of national laws – which are dominating the sector – is crucial, since there is a significant variation between how countries interact with the phenomenon of medical tourism. Some countries, where the sector is developing at a sustained pace, are not prioritizing the resolution of legal issues. Exploiting the

⁷⁰ MIRRER-SINGER, Philip: *Medical Malpractice Overseas: The Legal Uncertainty Surrounding Medical Tourism*. Law and Contemporary Problems. 70, No. 2. Spring, 2007. p. 222

⁷¹ SVANTESSON, Dan Jerker B.: *From the Airport to the Surgery to the Courtroom – Private International Law and Medical Tourism*. Commonwealth Law Bulletin. 34, No. 2. June 2008. p. 266.

forementioned economic benefits as soon as possible is at the expense of establishing a ready legal framework. There are several opinions about medical tourism, but it is a fact, that a foreign country accepts foreign patients for the sake of income, not purely out of goodwill. Therefore, it is the task of these countries to eliminate gaps left by their domestic regulations and live up to an international level of standards. While international organizations such as the WHO or the UNWTO have released guidelines and frameworks, they fall short in enforcing binding standards. The problem with the lack of legal binding force comes through clearly in medical malpractice cases, where patients looking for redress usually find themselves with limited options.

5.1 Advancing National and Supranational Regulations

Before addressing the importance of international regulation, it is crucial to provide outlook on how domestic laws provide different solutions to challenges generated by medical tourism. Reflecting on what a country's main priority in context of medical tourism is, helps understanding regulatory measures. By examining a variation of domestic approaches, the identification and cause of regulatory gaps will be more precise. The countries were chosen for specific reasons, as their examples showcase how different state attitudes are towards medical tourism. They also serve as examples for how main forms of medical tourism are managed in various settings. The examination of how birth tourism – with a questionable place among tourism types – has gone through a form of regulative path in the United States provides a stable starting point. Then, Brazilian state attitude shines light on the dark side of medical tourism regarding the exploitation of citizens in the system of domestic healthcare. India, as an emerging medical tourism destination, serves as an example of how investment in the sector competes with domestic healthcare, highlighting the lack of patient rights legislation. The regulative acts of the European Union show how regional frameworks get along with state sovereignty. Then, Switzerland is emphasized for its legislative trials and errors concerning the trending medical tourism sub-sector: suicide tourism. While there is undoubtedly a positive side to the phenomenon, weaknesses need to be exposed so as to shed light on why a unified regulatory environment should be the next steps.

5.1.1 The United States of America

The healthcare system of the United States has been a focus of discussions for a long time. While public opinion states that citizens are mostly satisfied with the healthcare they receive, statistics and the stories of those who are not among the privileged state otherwise.⁷² In 2022, the United States had the highest health spending out of all OECD countries:

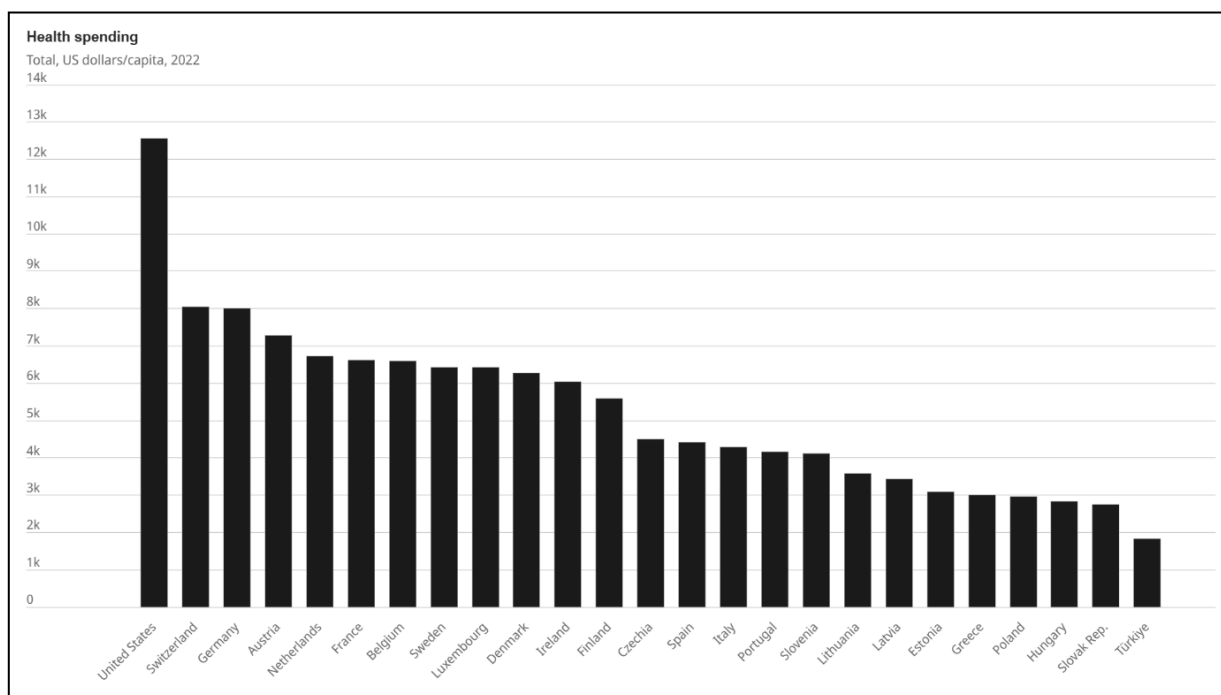


Figure 4. Health Spending in 2022 among OECD countries (Source: OECD Data archive)⁷³

Despite its reputation for quality, the country faces accessibility issues among the under- or uninsured citizens. Even Americans with proper healthcare insurance plans are often facing huge financial issues after a hospital visit. While there are federal Medicare and joint federal and state Medicaid, obtaining eligibility for these health insurances is difficult, and regulation regarding services can differ from state to state with limitations.⁷⁴ Many employers are collaborating with insurance companies, that are often encouraging patients to travel for cost-

⁷² EMANUEL, Ezekiel J. – GUDBRANSON, Emily – VAN PARYS, Jessica – GORTZ, Mette – HELGELAND, Jon – SKINNER, Jonathan: *Comparing Health Outcomes of Privileged US Citizens With Those of Average Residents of Other Developed Countries*. JAMA Internal Medicine. 181, No. 3. March 2021. p. 340.; *More Americans Delaying Medical Treatment Due to Cost*. GALLUP. [More Americans Delaying Medical Treatment Due to Cost](#) (accessed October 26, 2024)

⁷³ *Health Spending*. OECD. [Health spending | OECD](#) (accessed October 26, 2024)

⁷⁴ *Medicare and Medicaid*. U.S. Department of Health and Human Services. [FAQs Category: Medicare and Medicaid | HHS.gov](#) (accessed October 26, 2024)

efficient care. The National Center for Health Statistics states, that in 2023, 64.4 percent of people younger than the age of 65 were under private insurance, while 9.1 percent of the same demographic were uninsured – that means 24.7 million people.⁷⁵

There are, however, many people who see an opportunity for themselves in the United States. As the first section of the Fourteenth Amendment declares: “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”⁷⁶ Therefore, federal law is based on *jus soli*, meaning citizenship is connected to being born in the territories of the United States. Taking advantage of this loophole, thousands of pregnant women travelled to the United States every year for the sole purpose of giving birth there.⁷⁷ Birth tourism is a growing trend among East Asian countries, and there was a trend of Taiwanese mothers-to-be arranging trips to the United States just before their due date by attaining travel visas.⁷⁸

The question is, where does birth tourism stand in the hierarchy of tourism types? As it was illustrated in Figure 1, birth tourism is associated with health tourism – however, research is not clear on exactly how this connection is made. The interpretation of the author, based on processed data, is that birth tourism can be connected to both health and medical tourism, especially considering its long-term effects. Birth tourism can be defined as “travel to another country with the purpose of giving birth in that country.”⁷⁹ It is also often motivated by attaining citizenship or medical care which is considered better than that of the residential country.⁸⁰ The essence of the phenomenon is that a child with dual citizenship can receive quality public education in the United States, and in case a medical problem would arise, they can make use of the Taiwanese public healthcare system in exchange for a reinstatement fee – which is still

⁷⁵ *Health Insurance Coverage*. CDC National Center for Health Statistics. [FastStats - Health Insurance Coverage](#) (accessed October 26, 2024)

⁷⁶ U.S. Constitution, amendment XIV, Section 1. Constitution Annotated (Analysis and Interpretation of the U.S. Constitution). [U.S. Constitution - Fourteenth Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress](#) (accessed October 26, 2024)

⁷⁷ GRANT, Tyler: *Made in America: Medical Tourism and Birth Tourism Leading to a Larger Base of Transient Citizenship*. Virginia Journal of Social Policy & the Law. 22, No. 1. 2015. p. 160.

⁷⁸ *Ibid.*, 161.

⁷⁹ BARRETT, Jon F. R.: *Birth Tourism – An Opinion*. Journal of Obstetrics and Gynaecology Canada. Vol. 46, Issue 6. 2023. p. 385.

⁸⁰ *Ibid.*

cheaper, than getting medical care in the U.S.⁸¹ While this phenomenon is *de jure* legal, there are quite many *de facto* questionable areas to it: Taiwanese citizens returning abroad for the sake of cheap medical procedures do so at the expense of domestic taxpayers, while the public education of the aforementioned children in the United States puts a burden on U.S. taxpayers.⁸² In 2012, the United States adopted a visa waiver program with Taiwan, making it possible for Taiwanese citizens to travel to the United States for a maximum of 90 days without obtaining a visa – for tourism or business reasons.⁸³ The policies adopted by the United States in 2015 resulted in birth tourism being more accessible, as a B visa was granted for those giving birth besides those who sought medical treatment.⁸⁴ On a federal level, there was, for long, no action against birth tourism, so states had to resort to other measures if they wished to reduce the amount of so called ‘anchor babies’ in their jurisdictional areas.⁸⁵ Taiwan has also started to advertise itself as a cost-efficient quality medical tourism destination in the 2010s, as the influx of medical tourists comes hand-in-hand with economic growth.⁸⁶ While there is still no specific policy prohibiting pregnant women to enter the United States, their entry is on the discretion of the admitting U.S. Customs and Border Protection Officer.⁸⁷ A change of rules in 2020, however, made taking advantage of birth tourism rather difficult, as it ruled out the purpose of giving birth from the entitled causes of attaining a visitor visa.⁸⁸

While such nations tend to focus on foreign patient care awaiting capital, neglecting local healthcare often leads to citizens turning to countries which seek them as medical

⁸¹ *Ibid.*, 174.

⁸² *Ibid.*

⁸³ *Visa Waiver Program*. U.S. Department of State – Bureau of Consular Affairs. [Visa Waiver Program](#) (accessed October 26, 2024)

⁸⁴ PORTMAN, Rob: *Birth Tourism in the United States*. Committee on Homeland Security and Governmental Affairs, United States Senate. 2020. p. 2. B visas in the United States are visitor visas, divided into travel for business or tourism purposes. Medical tourism specifically belongs to the B-2 visa group for tourism activities.

⁸⁵ GRANT, Tyler: *Made in America: Medical Tourism and Birth Tourism Leading to a Larger Base of Transient Citizenship*. Virginia Journal of Social Policy & the Law. 22, No. 1. 2015. p. 164. „Anchor babies” are those, who were born to undocumented parents and are “used” to attain citizenship for the parents in the long run.

⁸⁶ *Ibid.*, 161.

⁸⁷ *Can I visit the United States while pregnant?*. U.S. Customs and Border Protection. [Can I visit the United States while pregnant?](#) (accessed October 28, 2024)

⁸⁸ PORTMAN, Rob: *Birth Tourism in the United States*. Committee on Homeland Security and Governmental Affairs, United States Senate. 2020. p. 2.

tourists.⁸⁹ In case of the United States and Taiwan, there was an interesting exchange through birth tourism which recently gained the attention of U.S. authorities.

5.1.2 Brazil

There are many sub-sectors of medical tourism and most partaking countries tend to specialize in a specific procedure. Brazil is no different, as it is predominantly famous for its plastic surgery ‘industry.’ Why does Brazil stand out from others? The answer can be found in the cultural background being the main moving force behind – which can be contextualized well with a common phrase among people:

“*Não tem feio, só tem pobre*” – *There are no ugly people, only poor people.*⁹⁰

Brazil has a long history around the normalization of plastic surgery, especially after the rise of the ‘right to beauty’ approach. In the 1960s several clinics providing reconstructive procedures were founded for medical students as educational facilities.⁹¹ However, these clinics now mostly cater to aesthetic demands, offering surgical procedures, which were thoroughly experimented in the public sector, to their patients paying for private care.⁹² While Brazil’s healthcare system is burdened with underfunding and resource shortages, public hospital floors are crowded by citizens awaiting their ‘free’ plastic surgery. The public healthcare system of Brazil covers reconstructive surgeries. These regulations are, however, inconsistent, serving as an opportunity for practitioners to write off aesthetic procedures as reconstructive.

To Brazilian national pride, plastic surgery is of great importance: this is where a nation’s cultural imprint connects to the global phenomenon of medical tourism. Plastic surgeons consider themselves ‘artists,’ who are being influenced by both art and science, justifying their experimental procedures on lower-class residents.⁹³ As Brazilian practitioners do not face many institutional and legal barriers, their creativity can flourish through endless

⁸⁹ *Can I visit the United States while pregnant?*. U.S. Customs and Border Protection. [Can I visit the United States while pregnant?](#) (accessed October 28, 2024)

⁹⁰ JARRÍN, Alvaro E.: *The Biopolitics of Beauty – Cosmetic Citizenship and Affective Capital in Brazil*. University of California Press. 2017. p. 1. A common phrase among Brazilian people.

⁹¹ JARRÍN, Alvaro E.: *The Right to Beauty: Cosmetic Citizenship and Medical Modernity in Brazil*. Exchange, Department of Anthropology, University of Chicago. [EXCHANGE](#) (accessed October 26, 2024)

⁹² *Ibid.*

⁹³ *Ibid.*

clinical trials, without the burden of consent forms or attention to patient rights.⁹⁴ Therefore, foreign plastic surgeons are eager to attend conferences and hear from the pioneers of Brazil.⁹⁵ The ‘right to beauty,’⁹⁶ which is brought to life by plastic surgeons is weighed down by both ethical and legal questions. As a popular Brazilian saying goes:

“*A Beleza abre portas*” – *Beauty opens doors*.⁹⁷

However, to what extent can the cultural self-image generated by aesthetic interventions divert attention from the accountability of a system that is fundamentally flawed? Though foreign patients who seek cheap private clinics to attain beauty for themselves can travel back home, Brazilian residents are kept being used as experimental subjects – is there a legal step in a country where one of the foundations of the economy is standing on regulatory loopholes? How can patient rights apply to foreign patients, if they are not enforced when it comes to the country’s own citizens?

5.1.3 India

As much as domestic healthcare is a problem when it comes to the Brazilian system, similar problems arise when it comes to India – however, the cultural settings and the demeanour of the government towards medical tourism offer quite the different lookout. The core of medical tourism in developing countries is none other than public-private partnerships and foreign direct investments.⁹⁸ There are also international trade agreements which encourage cross-border traffic between states, such as the General Agreement on Trade in Services (GATS).⁹⁹ The Indian medical tourism sector primarily advertises itself for Western patients who are looking for cost-efficient medical care – and these people do tend to look for cost-

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ JARRÍN, Alvaro E.: *The Biopolitics of Beauty – Cosmetic Citizenship and Affective Capital in Brazil*. University of California Press. 2017. p. 6.

⁹⁷ JARRÍN, Alvaro E.: *The Right to Beauty: Cosmetic Citizenship and Medical Modernity in Brazil*. Exchange, Department of Anthropology, University of Chicago. [EXCHANGE](#) (accessed October 26, 2024) Another common saying among Brazilian people.

⁹⁸ TURNER, Leigh: ‘First World Health Care at Third World Prices’: *Globalization, Bioethics and Medical Tourism*. BioSocieties. 2, 2007. p. 303

⁹⁹ General Agreement on Trade in Services. WTO. 1995. Article 1 2. [26-gats.wpf](#) (accessed October 28, 2024)

efficient procedures there. This mutual interest has led to the rise of foreign investment in the country.

The utmost focus on monetarily profitable foreign patients tends to divert resources away from domestic healthcare, emphasising inequalities in the current system. Although there were examples for government-hospital agreements, they failed to improve healthcare access. The basis of these agreements was the following: the government would provide land and capital, whereas the hospital would ensure, that a certain percent of its capacity would be available for low-income patients incoming from public hospitals.¹⁰⁰ Another considerable factor is that the majority of businesses in the health tourism industry is owned by foreign investors, thereby revenues flow to these overseas stakeholders.¹⁰¹ Accounting to these profit leakages, the chance for the awaited economic trickle-down effect to happen is low.¹⁰² As a result of the influx of private investments, the government is distancing itself from healthcare, contributing to increasing social disparity and a growing healthcare gap – not only between residents and foreign patients but also among its own citizens from different financial backgrounds. Many developing economies lack legal policies to ensure that government resources are reallocated in accordance with health equity.¹⁰³

The "National Strategy and Roadmap for Medical and Wellness Tourism" by the Ministry of Tourism sets some goals towards India becoming a hotspot for medical and wellness tourism.¹⁰⁴ The work elaborates on a possible accreditation service for dental clinics across the country which attract foreign traffic.¹⁰⁵ There are no direct policies connected to medical tourism, however, the regulation on medical visas is worked out.¹⁰⁶ This also displays that

¹⁰⁰ CHEN, Y. Y. Brandon – FLOOD, Colleen M.: *Medical Tourism's Impact on Health Care Equity and Access in Low-and-Middle Income Countries: Making the Case for Regulation*. Journal of Law, Medicine and Ethics. 41, No. 1. p. 295.

¹⁰¹ *Ibid.*, 296.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*, 291.

¹⁰⁴ *National Strategy and Roadmap for Medical and Wellness Tourism – an Initiative towards Aatmanirbhar Bharat*. Ministry of Tourism, Government of India. 2022. [*National Strategy and Roadmap for Medical and Wellness Tourism.pdf](#) (accessed October 28, 2024)

¹⁰⁵ *Ibid.*, 27.

¹⁰⁶ KISHORE, Jugal: *Concept Note on Preparation of Standard Operating Procedure for Medical Tourism in India*. Indian Medical Association. [Indian Medical Association](#) (accessed October 28, 2024); E-Visa Application Process. Government of India. [e-Visa](#) (accessed October 28, 2024)

although India provides the practical tools for the realization of medical tourism, the appropriate legal background and patient rights are not considered – neither on foreign nor domestic ends. For making investment attractive in the region, there are special zoning laws and lower corporate taxes – which also only offer solutions on the practical side of medical tourism.¹⁰⁷ The Indian industry sees countries, such as the forementioned United States, as nations with several un- or underinsured individuals whose despair can guide them overseas.¹⁰⁸

Another huge concern in the field of medical tourism is the spread of antibiotic-resistant bacteria. The spreading of NDM-1, specifically, has become a global health problem as it is resistant to last-resort treatments.¹⁰⁹ The United States' Centers for Disease Control and Prevention has concluded, that those cases found in the country were from patients who received medical care in India recently.¹¹⁰ The bacteria spreads through the transfer of patients – highlighting the fact, that even if India has achieved a point of quality care, it still cannot be considered entirely safe.¹¹¹

The problem with India's healthcare can be traced back to its dual medical system, which is regulated rather practically, than humanely: because medical tourism asks for specialization, the field of medicine lacks general practitioners. If healthcare policies are based around investments, who will ensure the safety of both foreign patients and the country's residents? The cost of attracting medical tourists comes at compromising safety standards and abandoning domestic care.

5.1.4 European Union

The regulatory measures of the European Union regarding healthcare across member states are important to consider in order to understand the connection between legal regulation

¹⁰⁷ TURNER, Leigh: *'First World Health Care at Third World Prices': Globalization, Bioethics and Medical Tourism*. BioSocieties. 2. 2007. p. 313.

¹⁰⁸ *Ibid.*, 316.

¹⁰⁹ FOMDA, Bashir Ahmad – KHAN, Asiya – ZAHOR, Danish: *NDM-1 (New Delhi metallo beta lactamase-1) producing Gram-negative bacilli: Emergence & clinical implications*. Indian Journal of Medical Research. 140, No. 5. 2014. p. 672 [NDM-1 \(New Delhi metallo beta lactamase-1\) producing Gram-negative bacilli: Emergence & clinical implications - PMC](#) (accessed October 28, 2024)

¹¹⁰ HILL, Tamara L.: *The Spread of Antibiotic-Resistant Bacteria through Medical Tourism and Transmission Prevention under the International Health Regulations*. Chicago Journal of International Law. 12, No. 1. 2011. p. 286.

¹¹¹ *Ibid.*, 287.

and patient migration. The first foundations of intra-EU patient movement were Regulation (EC) No. 883/2004¹¹² and Regulation (EC) No. 987/2009¹¹³ on the coordination of social security systems. The freedom of movement, which allows the citizens of European Union member states to cross borders freely, inherently led to the need of establishing a regulatory framework which governs healthcare. Due to growing mobility, European Court of Justice rulings started to appear regarding patient mobility,¹¹⁴ paving the way for an EU-wide regulatory work. Directive 2011/24/EU on Cross-Border Healthcare was adopted by the European Parliament, and member states had around two years to “bring into force the laws, regulations and administrative provisions necessary to comply”¹¹⁵ with it. Cross-border healthcare refers to healthcare, that is “provided or prescribed in a Member State other than the Member State of affiliation.”¹¹⁶ The Directive summarizes the responsibilities of both the member state of treatment, and affiliation, while ruling member states to designate national contact points – making responsibilities and information-flow clear.¹¹⁷ The main advantage of the Directive lies in that it addresses the reimbursement of costs for healthcare abroad, providing clarity for European citizens.¹¹⁸ The objective of the Regulations is to guarantee the freedom of movement, meanwhile, the Directive guarantees the free provision of services.¹¹⁹

¹¹² Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland). EUR-Lex. [Regulation - 883/2004 - EN - EUR-Lex](#) (accessed October 26, 2024)

¹¹³ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland). EUR-Lex. [Regulation - 987/2009 - EN - EUR-Lex](#) (accessed October 26, 2024)

¹¹⁴ C-120/95 – Decker v Caisse de maladie des employés privés. InfoCuria, 1998 I-01831. [CURIA - List of results](#) (accessed October 26, 2024). Free movement of goods – Articles 30 and 36 of the EC Treaty – Reimbursement of medical expenses incurred in another Member State – Prior authorization of the competent institution – Purchase of spectacles.

¹¹⁵ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare. EUR-Lex, Document 02011L0024-20140101. [EUR-Lex - 02011L0024-20140101 - EN - EUR-Lex](#) (accessed October 26, 2024)

¹¹⁶ *Ibid.*, Chapter I, Article 3 (e)

¹¹⁷ *Ibid.*, Chapter II

¹¹⁸ HOXHA, Enkela – HOBDAI, Valbona: *Legislative Perspectives and Sociomedical Implications of Medical Tourism in Europe: A Comprehensive Review*. International Comparative Jurisprudence. 9, No. 2. 2023. p. 230.

¹¹⁹ FINOTELLI, Claudia: *Cross-border Healthcare in the EU: Welfare Burden or Market Opportunity? Evidence from the Spanish Experience*. Journal of Common Market Studies. 59, No. 3. 2021. p. 609.

While the Directive offers a general set of guidelines which were to be implemented by member states, it is a fact, that each of them has their own laws governing healthcare, patient rights, and the quality of care – which complement EU legislation. Nevertheless, the European Court of Human Rights and the Court of Justice of the European Union both play primary roles when shaping the legal territory around Europe.¹²⁰ Medical tourism has been subject of many cases, both courts serving as an arch between legal principles and the practical implications connected to the phenomenon of medical tourism.¹²¹ The Directive undoubtedly contributes to the unified legislation of medical tourism in the European Union; however, there are some aspects in which it is lacking. Legal certainty and patient protection could be enhanced through adopting a common approach to choice of law when it comes to medical contracts.¹²² Another challenge would be the recognition of foreign judgements in medical tourism judgemental cases, since enforcement across borders is intricate and complicated.¹²³

Quite some EU member states, and their procedures are popular among medical tourists, however, it is necessary to mention those states that are more inclined towards restrictions. A specific example can be Spain, which country shone light upon the fact, that some foreign European citizens tend to take advantage of the opportunities provided by the Directive on Cross-Border Healthcare. The non-labour-motivated influx to the country by intra-EU retirees and cross-border patients have taken a toll on Spain in the past years.¹²⁴ A report by the Spanish Court of Auditors concluded, that EU citizens' misuse of the European Healthcare Card allows non-Spanish citizens to enjoy privileges in their country of residence without renouncing cost-free healthcare in Spain.¹²⁵ Meanwhile, the private health sector of Spain welcomes medical

¹²⁰ HOXHA, Enkela – HOBDAI, Valbona: *Legislative Perspectives and Sociomedical Implications of Medical Tourism in Europe: A Comprehensive Review*. International Comparative Jurisprudence. 9, No. 2. 2023. p. 230.

¹²¹ *Ibid.*; C-268/13 – Elena Petru v Casa Județeană de Asigurări de Sănătate Sibiu and Casa Națională de Asigurări de Sănătate. EUR-Lex, Document 62013CJ0268. [EUR-Lex - 62013CJ0268 - EN - EUR-Lex](#) (accessed October 26, 2024) Reference for a preliminary ruling — Social security — Article 22(2), second subparagraph, of Regulation (EEC) No 1408/71 — Health insurance — Hospital treatment provided in another Member State — Prior authorisation refused — Lack of medication and basic medical supplies and infrastructure.

¹²² HOXHA, Enkela – HOBDAI, Valbona: *Legislative Perspectives and Sociomedical Implications of Medical Tourism in Europe: A Comprehensive Review*. International Comparative Jurisprudence. 9, No. 2. 2023. p. 232.

¹²³ *Ibid.*

¹²⁴ FINOTELLI, Claudia: *Cross-border Healthcare in the EU: Welfare Burden or Market Opportunity? Evidence from the Spanish Experience*. Journal of Common Market Studies. 59, No. 3. 2021. p. 609.

¹²⁵ *Ibid.*, 614.

tourists: through the creation of Spaincares, the country has committed to be a part of the international medical tourism market.¹²⁶

It is an interesting fact that while some member states diligently join the international medical tourism market, they prefer to keep non-paying patients outside their jurisdiction – thereby presenting a distorted picture towards the dream of a common European identity and solidarity.

5.1.5 Switzerland

The question of personal autonomy and the case of euthanasia have been in the centre of attention for a long time. The phenomenon of ‘suicide tourism’ has been lingering in the air through the 2000s, and Switzerland serves as a great example regarding the legal and ethical surroundings around physician-assisted suicide. Article 114 of the Swiss Criminal Code includes that “any person who for commendable motives, and in particular out of compassion for the victim, causes the death of a person at that person’s own genuine and insistent request shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.”¹²⁷ Therefore, active euthanasia is, and has always been illegal in Switzerland. There has been attempts by the Federal Council to legalize euthanasia, with a debate lasting ten years, however, in 2011 the process was terminated due to unsuccessful trials.¹²⁸

Article 115 of the Swiss Criminal Code states, that “any person who for selfish motives incites or assists another to commit or attempt to commit suicide shall, if that other person thereafter commits or attempts to commit suicide, be liable to a custodial sentence not exceeding five years or to a monetary penalty.”¹²⁹ Similar legal framing exists in many countries’ domestic criminal law; however, in Swiss law, the differentiator is that one’s motive must be selfish. In short, the Swiss legal system allows for physician-assisted suicide, in the strict case, that assistants’ motives are not selfish. This, however, raises some further questions: how unselfish the pursuits of an association are, which provides its services strictly in exchange for financial benefits, and which advertises itself on an international level to groups from whom

¹²⁶ *Ibid.*, 617.

¹²⁷ *Ibid.*, Article 114 – Homicide at the request of the victim

¹²⁸ *Assisted Suicide in Switzerland*. Alliance Vita. 2023. [Assisted suicide in Switzerland - Alliance VITA](#) (accessed October 27, 2024)

¹²⁹ Swiss Criminal Code (SCC) of 21 December 1937. Federal Law. [SR 311.0 - Swiss Criminal Code of 21 December 1937 | Fedlex](#) (accessed October 27, 2024) Article 115 – Inciting and assisting suicide

the service is not available at their country of residence. The current discussion is with regards to the – lack of – legal regulation, and how it affects the international market of ‘suicide tourism:’ hence, it is of no purpose, to prove whether the practice of assisted suicide itself is right or wrong. Elaborating on how the assisted suicide ‘market’ of Switzerland works, can provide satisfactory information on how the absence of proper in-depth legislation can put strains on a service, in which more and more people are interested.

In Switzerland, it is not state authorities, but associations tied to private law who manage assisted suicide – they are the bodies who lead practices, since the act of assisted suicide is by law not considered as a medical act.¹³⁰ These associations include: Dignitas, Exit, and Pegasos.¹³¹ With the exception of Exit, both mentioned organizations accept foreign citizens. Suicide tourism started off with Dignitas offering access for non-residents in the 1990s.¹³² There is, however, still no law specifically governing assisted suicide, the only basepoints are the guidelines of the Swiss Academy of Medical Sciences.¹³³ The Academy’s medical-ethical guidelines titled “Management of dying and death”¹³⁴ tend to be considered by authorities in the absence of regulations, even though they are of no legal nature.¹³⁵ There is also the question of how the personal jurisdiction of the residential country would affect a suicide tourist – and their companions – in Switzerland. An Australian study mentions that domestic policies should state circumstances in which helping someone travel abroad for assisted suicide would be ground for prosecution.¹³⁶ While criminal law usually does not have extra-territorial

¹³⁰ *Ibid.* Therefore, physicians can refuse a patients request. Individual autonomy stands on both the patients’ and caregivers’ side.

¹³¹ Dignitas – To live with dignity-to die with dignity. [Who is DIGNITAS](#) (accessed October 27, 2024); Exit. [EXIT - Deutsche Schweiz](#) (accessed October 27, 2024); Pegasos Swiss Association. [Pegasos Swiss Association](#) (accessed October 27, 2024)

¹³² SPERLING, Daniel: „*People aren’t happy to see refugees coming to Switzerland. They don’t like assisted suicide for foreigners*”: Organizations’ perspectives regarding the right-to-die and suicide tourism. *Death Studies*. 2024.

¹³³ Schweizerische Akademie fer Medizinischen Wissenschaften (SAMW). [SAMW](#) (accessed October 27, 2024)

¹³⁴ Swiss Academy of Medical Sciences: *Management of dying and death*. SAMS. 2022.

¹³⁵ *Assisted Suicide in Switzerland*. Alliance Vita. 2023. [Assisted suicide in Switzerland - Alliance VITA](#) (accessed October 27, 2024)

¹³⁶ AL-ALOSI, Hadeel: *A Time to Fly and a Time to Die: Suicide Tourism and Assisted Dying in Australia Considered*. *Marquette Benefits & Social Welfare Law Review*. 17, No. 2. 2016. p. 283.

application, the preparations for travel most of the time are carried out in the country of residence.¹³⁷

The ever-growing demand for suicide tourism could collide with the lack of regulation, which may impact bioethical and legal standards around the world – thereby, calling for international attention to create a uniform legal framework. Even though Switzerland has implemented a progressive model in practice, the legal background of assisted suicide does not speak for itself, especially considering the number of foreign citizens who make use of it.

5.2 Importance of International Law

The discussion on various domestic practices consequentially leads to the question, whether international legal measures should be part of medical tourism regulation. To understand the actual role of international law, it is important to see through the intricate system of international frameworks and what they currently offer. Medical tourism can be derived from two basic rights, that are, in its context, intertwined. The Universal Declaration of Human Rights states in Article 13, that “everyone has the right to leave any country, including his own, and to return to his country,” thereby establishing the right to freedom of movement.¹³⁸ In Article 25, it declares, in context, the right to healthcare: “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”¹³⁹ The right to security in the event of sickness can also be interpreted as a key doctrine when looking at medical tourism from a human rights legal perspective. The direct declaration of the right to healthcare can be found in the Constitution of the World Health Organization, expressing “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”¹⁴⁰ Another worthy mention is the ICESCR in which states “recognize the right of everyone to the enjoyment of the highest

¹³⁷ *Ibid.*, 262.

¹³⁸ UN General Assembly, Resolution 217A (III), Universal Declaration of Human Rights, A/RES/217(III) (December 10, 1948). Article 13 2.

¹³⁹ *Ibid.*, Article 25. 1.

¹⁴⁰ Constitution of the World Health Organization. WHO. 1946.

attainable standard of physical and mental health.”¹⁴¹ Therefore, medical tourism is not just an economic issue, but also a fundamental rights issue – both in domestic and international settings, as the forementioned rights imply that individuals shall be able to seek healthcare across borders, while being treated with regards to safety and attention to ethical measures. At the same time, all countries are responsible for the domestic healthcare of their own residents – underlining that balance between the two sectors should be achieved.

Since all domestic healthcare policies offer a bright palette of varieties, it is easy for universal patient rights to be disregarded based on the ground of a state’s sovereignty regarding the regulation of healthcare services. Since the basis of medical tourism legalisation stands primarily on economic grounds, it is essential to look at the World Trade Organization’s (WTO) General Agreement on Trade in Services (GATS), which created a “credible and reliable system of international trade rules.”¹⁴²

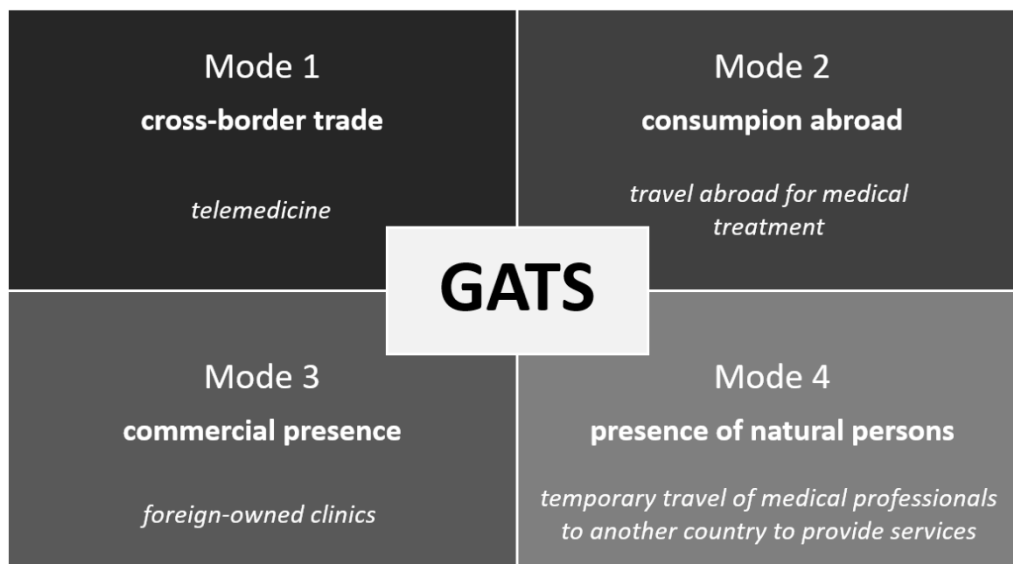


Figure 5. Medical tourism in accordance with GATS Modes 1-4¹⁴³ (Illustration created by the author)

Medical tourism would generally fall into the category of GATS Mode 2, as residents of one member state would travel to another to consume healthcare services. The practice of GATS Mode 3 can be applied for foreign direct investments: as it was mentioned before, India tends to encourage foreign suppliers to invest there. The Agreement does not directly regulate medical

¹⁴¹ UN General Assembly, International Covenant on Economic, Social, and Cultural Rights. (December 16, 1966). Article 12 1.

¹⁴² The General Agreement on Trade in Services (GATS): objectives, coverage and disciplines. World Trade Organization. [WTO | Services - The GATS: objectives, coverage and disciplines](#) (accessed October 29, 2024)

¹⁴³ General Agreement on Trade in Services. WTO. 1995. Article 1 2. [26-gats.wpf](#) (accessed October 29, 2024)

tourism but provides a legal environment where its products can be traded. Therefore, it does not regulate the safety of patients, it simply creates space for economic relations as a multilateral framework.¹⁴⁴

Another possibility occurring for the trade of healthcare services are bi-lateral agreements, where states can skip the GATS framework and customize the agreement to their needs. International law is often unclear on a multi-lateral level in these regards, but bi-lateral agreements open doors for states to specify responsibilities in case malpractice happens.¹⁴⁵ A direct contract between countries provides much more possibility for in-depth regulation, although, in practice there are not many positive examples yet.¹⁴⁶

It can be addressed, that the most crucial problem in the sector of medical tourism is enforceability on a legal level. Patients are most of the time not informed of their rights and obligations, and if anything were to go wrong, their options are fabricated to be limited. There are voluntary guidelines addressing quality and safety concerns, while aiming for transparency, but they are not legally binding. The ISO 22525:2020 standard was made exactly for this matter, listing requirements for healthcare providers, facilitators, and the rights and duties of the medical tourist.¹⁴⁷ However, standards are voluntary, so these works would only step to a mandatory level, if regulatory authorities made them a part of legislation.¹⁴⁸ While its commitment to patient oriented care is outstanding, ISO 22525:2020 stays a non-binding act. The Istanbul Declaration from 2008 also relies on voluntary compliance, despite its important takes on organ trafficking and transplant tourism – urging authorities to stand up against the exploitation of vulnerable individuals.¹⁴⁹ The gap between non-binding works and enforceable regulations indicates an outstanding challenge for researchers and authorities dealing with medical tourism.

¹⁴⁴ HELBE, Matthias: *Trade and Health in FTAs: Focus Health Services*. Research for Health Department, World Health Organization. 2022. [An Asian Century and Health](#) (accessed October 29, 2024)

¹⁴⁵ SMITH, Richard – ÁLVAREZ, Melisa Martínez – CHANDA, Rupa: *Medical Tourism: A review of the literature and analysis of a role for bi-lateral trade*. Health Policy. 103, No. 2-3. 2011. 276-282.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Tourism and related services – Medical Tourism – Service requirements*. ISO 22525. First edition, 2020. [ISO-22525-2020.pdf](#) (accessed October 29, 2024)

¹⁴⁸ Consumers and Standards: Partnership for a Better World. Standards in our world. International Organization for Standardization. [COPOLCO](#) (accessed October 29, 2024)

¹⁴⁹ The Declaration of Istanbul on Organ Trafficking and Transplant Tourism. Transplantation Society and International Society of Nephrology. 2008. [The Declaration](#) (accessed October 29, 2024)

5.3 Where to go? Addressing Possible Outcomes

Prioritizing the economic benefits of medical tourism against domestic social care does not comply with the declaration, that “governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.”¹⁵⁰ Are states now basically prioritizing the health of foreign citizens? Even though medical tourism is mostly a profit driven sector, in most cases, the residents of the destination country do not enjoy any benefits incoming from these investments. So, who does the profit benefit exactly? The problem with medical tourism stems from the fact that it is handled like other means of markets, however, in this case, this market is one which includes real human beings – making it inhumane to regulate medical tourism only from an economic standpoint. Prioritizing investment policies and the movement of ‘goods’ will never clear the hazy environment around patient rights and liability concerns. Therefore, there should be a perspective shift, considering the medical tourist as being the subject of the overly economic equation, instead of being an object of it. The conversation on this matter should start by realizing the deficiencies of current regulation, and through reflection, mapping out different possibilities for future improvement.

5.3.1 Gaps and Obstacles in the Current Legal Framework

The thorough research of studies, regulations and influences in the medical tourism industry have resulted in the realization of a complex set of problem statements. It is crucial to identify these gaps and obstacles, since understanding their connection to each other is essential for further advances in recommendation-making. The following hierarchy-chart – interpreted by the author following her profound study of the field – summarizes each point that currently influences the development of medical tourism:

¹⁵⁰ Constitution of the World Health Organization. WHO. 1946.

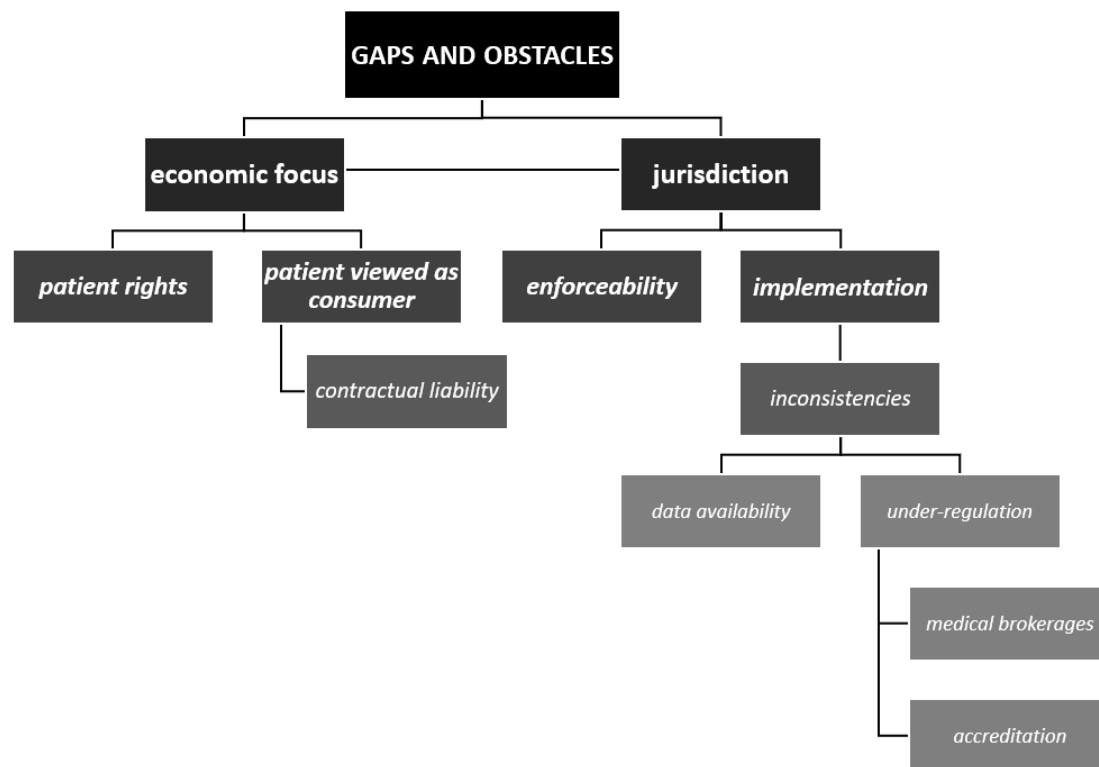


Figure 6. The hierarchy of the main objectives influencing medical tourism (Illustration created by the author)

The recognized objectives are mapped out in a way, that their interconnectedness and influence on each other are clear and offer guidance for further discussion.

The main obstacle regarding international legislation is the dominance of economic perspectives around the phenomenon – hence making issues arising for the medical tourist secondary. As a result, current regulations prioritize investments and tourism accessibility over healthcare standards. Derived from this fact, the lack of attention given to patient rights becomes clear, as authorities are focused on legislation from a different point of view. From a business point of view, the patient is nothing more than a consumer: thereby supporting the theories arising in relation to contractual liability. Although, if a patient is considered a consumer, shouldn't they be entitled to consumer protection?

This economic aspect takes the human factor out of the equation and views it as a stagnant factor in an investment process. Initially, this can be attributed to the capitalist development progress of a new emerging sector, however, medical tourism is clearly under-regulated compared to the years it has been present – and the number of foreign patients fallen victim to unsuccessful treatments left with no reconciliation. Though domestic laws tend to offer a variety of regulatory attempts, there are issues like disease transmission across borders, which can only be solved on an international level.

While the sovereignty of states must be protected, the issue of jurisdictional uncertainties placing the foreign patient in a vulnerable position is not negligible. Private international law regulations linked with the contractual nature of medical tourism place little attention on universal patient rights, since these are formatted for sectors with other priorities. Even though there are international guidelines and healthcare standards waiting for their turn to be recognised, they are not of much use lacking binding force. The problem of enforceability and implementational challenges come hand in hand, highlighting the urgent need for universal international regulation. Inconsistencies across states can also be traced back to implementation gaps, which result in the under-regulated nature of medical tourism – both from patient rights and institutional standpoints. Medical brokerages lack legislative background, which is a significant concern, as they operate as for-profit entities under private law. Accreditation companies also have a huge impact on medical tourists' choices and preferences; however, the independence of their qualification processes can be questionable.

The mentioned network of interconnected obstacles emphasizes the urgency for a coherent, patient-oriented regulation in medical tourism on an international level. The currently available amount of data and research is not comprehensive enough to embrace the full complexity of the phenomenon. Furthermore, statistics provided by clinics taking part in medical tourism might also be inaccurate – underscoring, yet again, the need for action.

5.3.2. Future Directions

After taking into consideration the factors which influence medical tourism and reflecting on how such problems affect both foreign and domestic patients, it is necessary to account for possible directions that could benefit the field in the future. There are measures that are easier to implement, while some would take time and leniency on part of the states to develop correctly. Progressively building from practical consumer-focused solutions toward transformative changes. The most noticeable gaps in medical tourism occur in connection to patient protection and regulatory standards, which need to be fine-tuned.

As a starting point, there are some characteristics of the existing economic framework which could be leveraged. By framing patients as costumers, it would be possible to provide them with immediate protections without abrupt regulatory shifts. A guideline for uniform contracts in medical tourism for consumer protection would align well with established laws. Therefore, patients could still enjoy enhanced rights within the current economic-driven legislative model of medical tourism.

One of the most important steps would be the establishment of a strictly independent global accreditation network, for both practicing clinics and medical brokerages wanting to pursue business. These accreditation standards would need to be tailored to contribute to patient safety. The credibility of these services is essential, as a patient's decision-making process is already considered a preparatory act of medical tourism, hence it should be paid attention. There is a growing need for consistent quality standards across providers, as quality care can be approached from different perspectives, resulting in distinct notions.

Possibly, the most overlooked fault when it comes to regulation, is the lack of authorities that can be contacted with medical malpractice claims. As foreign patients' malpractice claims are usually destined to get lost in the maze of jurisdictional issues, there should be room for alternative dispute resolution on an international level. Incorporating malpractice claims into the system of international courts would be ideal and could serve as a long-term goal. However, in the meantime, alternative dispute resolution would help addressing cross-border malpractice claims, while also being more feasible to implement into state practices.

There are innovative ideas which could already be implemented into the current framework, but it is also worthy to mention overarching ideas, that would transform how healthcare is viewed in international settings. For example, a standardized insurance policy system for healthcare professionals partaking in medical tourism would complement the forementioned dispute resolution system – helping both providers and patients in covering costs if malpractice occurs. Even though state reluctance would likely prevent it in the near future, an international constitution on patient rights also proves itself to be an interesting idea, when the goal is to eventually address patient rights in a comprehensive way.

These recommendations, covering a wide range of options, emphasize the importance of patient-oriented approaches in shaping the future of medical tourism. Some kind of solution is always available, but it requires willpower and foresight for it to be realized.

6. Conclusion

Different elements of medical tourism are carefully built on each other brick-by-brick, emphasising the need for a strong, durable basis. Through previous chapters, these different building blocks were thoroughly discussed and presented to shed light on the importance of this topic.

In a field, where even settling on general definitions is a challenge, much more attention should be given to research and the collection of statistical data. The thesis summarized existing terminology and contributed to the terminological contextualization of tourism. After making a clear distinction between different sectors, understanding medical tourism's place in its environment, the research delved into ethical issues and legal challenges, connecting theory and practice. Can the commercialization of healthcare really be justified? Seems like a rhetorical question, however, the current economic focus of medical tourism legislation and the exploitation of vulnerable patients are food for thought.

There are, of course, many positives to medical tourism, which information is available on medical brokerages' websites and in foreign clinics' reviews. Research, however, usually states otherwise. The emerging amount of medical malpractice cases and the transmission of diseases across borders asks for attention. Moreover, the governmental support of medical tourism over domestic healthcare raises further concerns over the right to health. The course of the thesis included different domestic approaches to healthcare from both domestic and international standpoints to show the correlation between how different healthcare systems work. By examining these intricacies, the overview of the international legal ground could be understood even more clearly.

Incorporating the morals learned from the topics mentioned before, the opportunity was taken to speak up about current deficiencies appearing in healthcare regulation. Hereupon, suggestions for future development in the medical tourism industry were provided as a result of interdisciplinary research.

The medical tourism sector needs further research, collaboration between fields, and dedication to establish standards that prioritize ethical healthcare. This thesis has carefully examined various factors of the phenomenon, which lead to the realization of currently evolving effects and provided territory for further advancement. The current state of medical tourism calls for international law to step up for human rights, pointing out much deeper issues which should be considered.

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