

**DE JURE NEXUS LAW JOURNAL**

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**AN ANATOMISATION OF HUMAN TRAFFICKING: EMPHASIS ON  
ORGAN TRAFFICKING**

**Introduction**

India is a country of diversity and prosperity; although a country of contradictions. India has the highest number of rich and poor. In India, we have scientific, software, engineering brains, and illiteracy. Today, India is a steadily growing hub of medical tourism and many Indians do not have the necessary access to health care. Despite all the monetary and technological advances these days in some parts of our country children are dying due to diarrhea and respiratory illness; Adolescents die of protozoal infection and tuberculosis, and young mothers face vaginal births with death anxiety. Our country, India, is a country of diversity, prosperity, and contradictions. Organ trafficking is possibly one of the foremost concealed forms of human trafficking.

Organ transplantation is one of the lesser-known forms of trafficking mostly because there is a lack of reliable information and knowledge over it. Globally, many countries under the Asian region and other countries have implemented the proper legislations against the Trafficking of Humans for Organ Transplantation. Also, the Medical professionals, human rights associations, Non-governmental organizations, and other international organizations have some knowledge and awareness over this crime.

## **Definitions**

### **Organ**

In biology, associate degree organ may be a assortment of tissues that structurally type a purposeful unit specialised to perform a specific operate. Your heart, kidneys, and lungs area unit samples of organs. The organ is that the name we have a tendency to provide to purposeful parts within the body and very often they're additionally physically distinct like your kidneys, your liver, and your heart. Those area unit all outlined by a form and a location in your body and that they also are outlined by a function. Your abdomen and your alimentary tract area unit each organs and that they method food. Your lungs also are organs and that they exchange gas and CO2. And your heart is another organ that is essentially a pump.<sup>1</sup>

### **Organ supplier**

A person who supplies the organ.

### **Organ recipient**

A person who receives an organ transplant is the organ recipient, and also known as a patient.

### **Organ donor**

A person who donates one or several organs, whether the donation occurs during the lifetime or after death.<sup>2</sup>

### **Organ transplantation**

A method supposed to revive sure functions of the anatomy by transferring the organ from a donor to a recipient.<sup>3</sup>

### **Trafficked person**

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<sup>1</sup> Lawrence C. Brody, Ph.D. National Human Genome Research Institute, NIH, <https://www.genome.gov/genetics-glossary/Organ>

<sup>2</sup> Meshelemiah, J.C.A., & Lynch, R.E. (2019). The cause and consequence of human trafficking: Human rights violations. Columbus, Ohio: The Ohio State University Pressbook

<sup>3</sup> Ibid

Victim of trafficking; any natural person who has been subjected to trafficking in persons/humans.

### **Meaning and reasons behind human trafficking**

Human trafficking is that the recent most happening crime at the international level. This contemporary crime is spreading its wings terribly apace in every part of the country. And human trafficking is accomplished by the way of coercion, force, or fraud to get another person to provide a labour i.e. for the purpose of forced labour, debt bondages, or for commercial sex act are considered as human trafficking, in the other aspects, humans are also trafficked for their organs. And the main root causes for human trafficking are homelessness or people experiencing poverty, people who lack in education or lack of job, undocumented immigrants and stateless people. The trafficker takes an action, then applies the means of force, coercion or fraud for the gain by compelling the victim to get involved in the above said acts. Here's the main purposes of human trafficking, are; forced prostitution, forced labour/slavery, forced begging, forced criminality, domestic slavery, forced marriage, forced organ removal, and forced drug trafficking. And the common reasons behind the human trafficking are to escape poverty, to improve their lives, to support their families, to get the job, and in the other case the traffickers lend some money as an advance for their wants and needs.

The definition of transplantation of human beings for removal of organs consists of three key elements are; an action being recruitment, transportation, transfer, harbouring or receipt of persons; a means by which that action is achieved: threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or abuse of a position of vulnerability, and the giving or receiving of payments or benefits to achieve consent of a person having a control over another person; a purpose of the intended action or means of exploitation.<sup>4</sup>

### **Reasons behind trafficking in persons for organs**

A worldwide shortage of organs has driven the industry, relying on poor populations to be donors and wealthy communities or foreigners to be recipients. Trafficking in persons for the causes of organ removal is not a new thing that happens. Over the years, the crime has received

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<sup>4</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UNC against Transnational Organized Crime, United Nations Office on Drug and Crime. Vienna. Treaty Series, vol. 2237 (2000).

important attention from media, Non-governmental organizations, academe and additionally from international and regional actors like the special recorder on trafficking in persons, especially in women and children.<sup>5</sup> Organ Trafficking is the process of using coercion, exploitation, forgery to steal or illegally purchasing or selling of organs for some wealth or benefits. India has been a leading country in this field in the region of the Asian subcontinent. Organ trafficking is a less lucrative form of human trafficking among human traffickers due to the lucrative global trade, complex, and often stolen nature. Sex, labour, and organ trafficking are considered human trafficking by public policy leaders and general awareness campaigns. However, due to high demand and low rates of law enforcement, organized smuggling has an important place with high organized crime groups. Organ traffickers benefit in the shadows, but only perceive their destructive medical footprint. It is open to a lifetime of vulnerable populations, also known as “donors” and first world beneficiaries, also known as “recipients” with serious exploitation and health consequences.<sup>6</sup>

### **Standards operating donation and transplantation**

Organ failure is one of the primary problems surrounding organ transplantation, which are due to severe shortages of available organs and distribution of available organs. The number of people in need of organs continues to grow.

In organ transplantation, the transplantation of healthy organs into the persons whose own organs have failed. The main causes for transplantation of human organ are due to accident, genetically disorder, and the habits of the person. When any of the organ has failed, they may need to undergo the organ transplant. Also, this might occur in case of illness or the injury. The basic process of transplanting an organ is transplanted with the help of doctors by removing the organ from another person and place it in your body as an alternative to which was non-functioning. Organ may donate to the recipient from the donors, donors are of two types and they are living and deceased donor. Eye, heart, kidney, intestine, lung, liver and pancreas can be transplanted as the organs.

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<sup>5</sup> United Nations General Assembly, ‘A/68/256. 68<sup>th</sup> Session, Trafficking in persons, Especially Women and Children, Report of the Special Rapporteur on Trafficking in persons, [www.ohchr.org/Documents/Issues/Trafficking/A-68-English.pdf](http://www.ohchr.org/Documents/Issues/Trafficking/A-68-English.pdf)

<sup>6</sup>AML Challenges, June - August 2018, ORGAN TRAFFICKING: THE UNSEEN FORM OF HUMAN TRAFFICKING, <https://www.acamstoday.org/organ-trafficking-the-unseen-form-of-human-trafficking/> (last visited Apr 20, 2021).

The recipient has to wait for a long time, for an organ transplant. Every year people die while waiting for an organ transplant, because there is a shortage of organ donors. For example ten minutes is a very short span of time, in that ten minutes there will be five members in a country shall be added to the organ transplant waiting list.

As with trafficking in persons for alternative exploitative functions, victims of trafficking for the purpose of organ removal square measure selected from vulnerable teams for instance, people who square measure suffering from extreme poverty and traffickers square measure usually a part of multinational groups. The commission of this crime are often distinguished from others in terms of the sectors from that traffickers and organ “brokers” derive: doctors and alternative health care practitioners, car drivers, ambulance drivers and mortuary workers unit typically involved in organ trafficking additionally to the actors involved in different criminal trafficking networks. Moreover, issues of consent and exploitation associated with organ removal square measure sophisticated by the actual fact that usually victims can consent to the removal of their organs and can receive the united payment for them. However, as is common in things of trafficking in persons for any exploitative purpose, the provision of the “service” is driven by extreme poorness and abuse of vulnerability.

### **International key standards for the donors**

In case of donation of organs from the living donor:

- The living donors shall provide voluntary consent and have to provide the required information.
- There must be a prohibition in advertising the need of the organs as a view of offering or seeking the payment for the organs of donors.
- The living donors ought to act accordingly and freed from any undue influence or coercion and want to be told of the probable risks, advantages and consequences of the donation utterly and understandably.
- The requirement to confirm skilled care of donors and well-organized follow up.
- The requirement to strictly apply and monitor criteria for donor choice and to allocate organs supported clinical criteria and moral norms, not monetary considerations.
- Organs shall not be off from minor and lawfully incompetent donors, except once such is allowed beneath national law for narrowly outlined cases.

- Organs ought to solely be given freely, with none of the financial payment or another reward of price except for the compensation of reasonable and verifiable expenses incurred by the donor, like loss of the income.

In case of donation of organs from the deceased donor:

- There shall be the need for the consent or lack of objection from the deceased donor.
- The necessity to avoid a conflict of interest of physicians by prohibiting that physicians of the agency verify the death of a possible donor would be concerned in removing Associate in nursing organ from that donor or within the care of supposed recipient.
- The necessity to develop conducting the deceased donor programmes.

### **Overview of persons involved**

The overview of the persons involved during trafficking the persons for the purpose of removal of organ is absolutely different from the other forms of trafficking in persons, organ cannot be removed without the medical professional as there is an involvement of medical intervention. As with human trafficking for other exploitative purposes includes recruiters and brokers, medical professionals, and the actors in the health care and other sectors are hospitals, other health service providers, health insurances, and additional possible actors and facilitators.<sup>7</sup> As it has been stated earlier that to carry out an organ transplantation there is a requirement of broker and highly skilled medical professionals.<sup>8</sup> It is also common for potential organ suppliers to directly approach medical facilities, known for their involvement in the illegal transplantation business.<sup>9</sup> The hospitals might act as the broker and provide the grant of stay to the recipient and suppliers both. Also, it's common for the potential organ suppliers to approach the medical facilities on face, by knowing their engagement within the misbr transplantation business.<sup>10</sup>

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<sup>7</sup> Caplan A, Dominguez-Gil B, Matesanz R, Prior C. Trafficking in organs, tissues and cells and trafficking in human beings for the removal of organs. Joint Council of Europe/UNs study: Directorate General of Human Rights and Legal Affairs Council of Europe 2009.

<sup>8</sup> Scheper-Hughes N. Mr Tati's holiday and Joao's safari – seeing the world through transplant tourism. *Body and Society*. 2011; 17(2-3):55-92.

<sup>9</sup> Meyer S. Trafficking in Human Organs in Europe: A Myth or an Actual Threat? *European journal of crime, Criminal Law & Criminal Justice*. 2006; 14(2):208-29.

<sup>10</sup> Mendoza RL. Kidney black markets and legal transplants: Are they opposite sides of the same coin? *Health policy*. 2010; 23(11): 1925-9.

Other facilitators are; hospitals, service providers, Translators, law enforcement officials, gaps in the literature. As the illegal organ transplantation mostly takes place in the private hospitals.<sup>11</sup> Criminal liability shall be imposed if hospitals or any of its employees are deliberately involved in trafficking of organs from humans.<sup>12</sup> Service providers does the job of matching of organs by testing the blood tissues and cells of the donors through the agencies themselves. As matching agencies and brokers are often closely related or, on occasions, one and the same<sup>13</sup>, Muraleedharan and Mendoza both report a conflict of interest among these service providers as they derive their income from transplants and associated medical procedures.<sup>14</sup> As recipient and supplier often originate from the different countries and travel halfway around the world for transplantation<sup>15</sup> translators are at times necessary in facilitating the organ trade.<sup>16</sup> As several suppliers cross national borders to sell their organs in another country, organ trade networks are typically suspected to possess glorious connections to official authorities so as to facilitate the movement of people across borders.<sup>17</sup> The gaps in the literature will usually not offer elaborated data regarding the precise role and actions of hospitals, service suppliers, translators and administration inside the organ trade business. This makes it troublesome to see however these facilitators operate and if their participation in the transplantation of human beings for organs are acutely aware or unconscious, thus if criminal liability is established. The facilitators mentioned higher than square measure self-addressed with in the literature relating to trafficking of human beings for organ removal, but it's vital to notice that there may even be different facilitators, that we have a tendency to do not understand from the literature.

### **Recommendations and Suggestions**

The transplantation community shall develop the standards of the guidelines to conduct and control over the transplantation, by regulating exemplary care for the donors and this thereby

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<sup>11</sup>Jafar TH. Organ Trafficking: Global solutions for a Global Problem. *Am J Kidney Dis.* 2009; 54(6): 1145-57.

<sup>12</sup> Bilgel F. *The Law and Economics of Organ Procurement.* Rotterdam: Rotterdam; 2011.

<sup>13</sup> Muraleedharan VR, Jan S, Ram Prasad S. The trade in human organs in Tamil Nadu: the anatomy of regulatory failure. *Health Econ Policy Law.* 2006; 1 (Pt 1): 41-57.

<sup>14</sup> Mendoza RL. Transplant Management from a Vendor's Perspective. *Journal of Health Management.* 2012; 14(1):67-74.

<sup>15</sup>Moniruzzaman M. "Living Cadavers" in Bangladesh: Bioviolence in the Juman Organ Bazaar. *Med Anthropol Q.* 2012; 26(1): 69-91.

<sup>16</sup> Shimazono Y. The state of the international organ trade: A provisional picture based on integration of available information. *Bull WHO.* 2007; 85 (12): 955-62.

<sup>17</sup> UNDOC. Preventing, combating and punishing trafficking in human organs, Report of Secretary-General. Vienna UNDOC Commission on Crime Prevention and Criminal Justice (CCPCJ) 2006.

prevents and curtailing the organ related crimes, as well trafficking of humans/persons for removal of organs.

States ought to take measures to alleviate the factors that create individuals at risk of trafficking, like economic condition, underdevelopment and lack of equal opportunity. As financial condition appears to be a prevailing feature of trafficking in persons for the aim of organ removal, it must be self-addressed through sustainable and empowering poverty-alleviation programmes targeted at communities that are prone to being recruited as donors.

Measures undertaken to stop trafficking in persons for organ removal should conjointly address the demand for on an irregular basis procured organs. This would require states to push, for e.g., healthy modus vivendi to cut back demand caused by organ failure.

As a preventive measure there shall be an awareness on the risks of trafficking humans for removal of organ. The governments, hospitals or transplant centres, international organizations and the non-governmental organizations shall volunteer and undertake the awareness by taking initiatives to exploitation by the traffickers as potential donors. As well the Medias could play a role by the way of raising awareness of the organ related crimes with the evidence-based report on trafficking of humans for removal of organ.

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