



Tool 9.19 Trafficking in persons for organ removal

Overview

This tool discusses the trafficking of organs and the trafficking of persons for the purpose of organ removal.

As with trafficking in persons for other exploitative purposes, victims of trafficking for the purpose of organ removal are selected from vulnerable groups (for instance, those who are suffering from extreme poverty) and traffickers are often part of transnational organized crime groups. The commission of this crime can be distinguished from others in terms of the sectors from which traffickers and organ “brokers” derive: doctors and other health-care practitioners, ambulance drivers and mortuary workers are often involved in organ trafficking in addition to the actors involved in other criminal trafficking networks. Furthermore, issues of consent and exploitation related to organ removal are complicated by the fact that often victims will consent to the removal of their organs and will receive the agreed payment for them. However, as is common in situations of trafficking in persons for any exploitative purpose, the provision of the “service” is driven by extreme poverty and abuse of vulnerability.

Steps towards preventing trafficking in persons for the purpose of organ removal

- Thus far, there is inadequate information available about trafficking in persons for the purpose of organ removal. This hails a need for increased data collection and research.
- The crime of trafficking in persons for the purpose of organ removal, intersects with the crime of trafficking of organs. Therefore, there must be greater collaboration and cooperation between actors involved in combating organ-related crimes, such as health organizations and survivor support services, and those involved in combating trafficking in persons, such as criminal justice sectors.
- Law enforcers are at the front line for identifying both trafficking victims and traffickers. Police officers, and customs and border officials should be provided with training that equips them to identify potential and actual victims, and perpetrators of organ trafficking and trafficking for the purpose of organ removal.
- As with all measures which go towards combating trafficking in persons, victim protection and assistance are paramount. Support services for survivors of organ removal should therefore work cooperatively with support services for victims of trafficking.



The key challenge in reducing the demand for illicitly trafficked organs and trafficking in persons for the purpose of organ removal is balancing the interests of organ recipients with those of organ donors.

Reducing demand

Reducing demand for organs necessitates the involvement of a range of actors. Members of the medical and health-care sector must act to ensure that organs are not procured through financial transactions. Tourist operators must ensure that they do not support “transplant tourism”, which exploits economically-desperate people. Tribal, cultural and community leaders must act to make sure that cultural and traditional medical practices are not interpreted in a way that is manifested in interference with people’s bodily integrity.

Fundamental to the need to reduce demand for organs, which fuels their exploitative procurement, is the need to:

- Reduce the health conditions which lead to organ failure
- Increase the supply of organs donated through channels which guard against exploitation by donors who are willing and able to donate their organs

Promising practice

GLOBAL

Resolution WHA57/18 adopted by the Fifty-seventh World Health Assembly

In its resolution WHA57/18, entitled “Human organ and tissue transplantation”, adopted on 22 May 2004, the Fifty-seventh World Health Assembly expressed its concern at “the growing insufficiency of available human material for transplantation to meet patient needs”. It urged Member States to extend “the use of living kidney donations when possible, in addition to donations from deceased donors”. Mindful of the risk this posed to pushing the trade in organs underground, the World Health Assembly also urged Member States to “take measures to protect the poorest and most vulnerable groups from ‘transplant tourism’ and the sale of tissues and organs, including attention to the wider problem of international trafficking in human tissues and organs”.



The full text of the World Health Assembly resolution is available at:
www.who.int/ethics/en/A57_R18-en.pdf



More information on the ethics of organ and tissue transplantation is available from WHO at:
www.who.int/ethics/topics/human_transplant/en/

General Assembly resolution 59/156 on preventing, combating and punishing trafficking in human organs

In its resolution 59/156, adopted on 20 December 2004, the General Assembly, discussing the trafficking of human organs in the context of transnational organized crime:

- Urged Member States to adopt measures to prevent, combat and punish the illicit removal of and trafficking in human organs
- Encouraged Member States to exchange experience in and information on preventing, combating and punishing the illicit removal of and trafficking in human organs
- Requested the Eleventh United Nations Congress on Crime Prevention and Criminal Justice to pay attention to the issue of illicit removal of and trafficking in human organs
- Requested the Secretary-General, in collaboration with the States and organizations concerned and subject to the availability of extrabudgetary resources, to prepare a study on the extent of the phenomenon of trafficking in human organs for submission to the Commission on Crime Prevention and Criminal Justice at its fifteenth session



The full text of the resolution is available at:

www.un.org/Depts/dhl/resguide/r59.htm

Report of the Secretary-General to the Commission on Crime Prevention and Criminal Justice on preventing, combating and punishing trafficking in human organs (E/CN.15/2006/10)

Pursuant to the request contained in General Assembly resolution 59/156 of 20 December 2004, the Secretary-General submitted a report on the extent of the phenomenon to the Commission on Crime Prevention and Criminal Justice at its fifteenth session.

That report provides a preliminary overview of the scope and nature of trafficking in human organs, including global trends and an initial assessment of the degree to which organized criminal groups are involved. Section V of the report discusses the involvement of organized criminal groups in trafficking in human organs, stating that a clear distinction needs to be made between selling organs and trafficking in organs, the latter situation being less common than the former.

A method used by organized criminal groups to obtain organs is luring people abroad with false promises and convincing or forcing them to sell their organs in order to repay their “debts”. Recipients of the organs must pay a much higher price, part of which benefits brokers, surgeons and hospital directors, who have been reported to be involved in the organized criminal network.

Paragraph 81 of the report states that “the extent of the relationship between trafficking in organs and trafficking in persons (and other forms of organized crime) is unclear”. It highlights the link between unemployment, lack of education and poverty, and vulnerability to such crimes, and states that while cases of persons trafficked for the purpose of organ removal are not common, some have been reported.

Paragraph 82 states that there is no conclusive evidence regarding the trafficking of children for the purpose of organ removal, but that many abducted or missing children have subsequently been found dead, their bodies mutilated and certain organs removed. The report notes here that it is medically possible to transplant a child's organ into an adult's body. In subsequent paragraphs the use of organs for use in witchcraft practices is flagged.



The full report is available at:

www.unodc.org/unodc/en/commissions/CCPCJ/session/15.html

REGIONAL

Convention on Human Rights and Biomedicine

Council of Europe, Oviedo, 4.IV.1997

Chapter VI of the Convention concerns organ and tissue removal from living donors for transplantation purposes. Chapter VII prohibits financial gain from disposal of a part of the human body, stating in article 21 that “The human body and its parts shall not, as such, give rise to financial gain”.



The text of the Council of Europe Convention on Human Rights and Biomedicine is available at:

<http://conventions.coe.int/treaty/en/treaties/html/164.htm>

Additional Protocol to the Convention on Human Rights and Biomedicine concerning transplantation of organs and tissues of human origin

Council of Europe, Strasbourg, 24.I.2002

The preamble to the Additional Protocol to the Convention on Human Rights and Biomedicine acknowledges the risks posed to vulnerable persons by the shortage of organs and tissues available to those who demand them. It states that organ and tissue transplantation should take place under conditions protecting the rights and freedoms of donors, potential donors and recipients of organs and tissues, that institutions must be instrumental in ensuring such conditions and that there is a need to protect individual rights and freedoms and to prevent the commercialization of parts of the human body involved in organ and tissue procurement, exchange and allocation activities.

Chapter VI of the Additional Protocol prohibits financial gain. Article 21, paragraph 1, states that the human body and its parts shall not, as such, give rise to a financial gain or comparable advantage. It clarifies, however, that this provision does not prevent payments which do not constitute financial gain, such as compensation of living donors for loss of earnings

or other justified expenses, payment for legitimate medical or technical services rendered and compensation in cases resulting in damage. Article 21, paragraph 2, states that advertising the need for, or availability of, organs or tissues, with a view to offering or seeking financial gain or comparable advantage, shall be prohibited.

Article 22 of the Additional Protocol clearly prohibits the trafficking of organs and tissues.



The text of the Additional Protocol can be found at:
<http://conventions.coe.int/treaty/en/treaties/html/186.htm>

Initiative of the Hellenic Republic with a view to adopting a Council Framework Decision concerning the prevention and control of trafficking in human organs and tissues

Council of the European Union, 2003/C 100/13

In February 2003, Greece proposed the adoption by the Council of the European Union of a framework decision on the prevention and control of trafficking in human organs and tissues. This proposal was formulated on the basis of articles 29, 31 (e) and 34 (2) (b) of the Treaty on European Union, emphasizing cooperation to prevent organized crime. The Initiative of the Hellenic Republic with a view to adopting a Council Framework Decision concerning the prevention and control of trafficking in human organs and tissues states at the outset that

Trafficking in human organs and tissues is a form of trafficking in human beings, which comprises serious violations of fundamental human rights and, in particular, of human dignity and physical integrity. Such trafficking is an area of activity of organized criminal groups who often have recourse to inadmissible practices such as the abuse of vulnerable persons and the use of violence and threats. In addition, it gives rise to serious risks to public health and infringes on the right of citizens to equal access to health services. Finally, it undermines citizens' confidence in the legitimate transplantation system.

This initiative goes further than the Trafficking in Persons Protocol, which does not include the removal of tissues, such as skin, bones, cartilage, ligaments and corneas. The initiative also fills gaps left by the lack of reference to trafficking in human organs and tissues in Council Framework Decision 2002/629/JHA on combating trafficking in human beings, adopted in 2002.

The European Parliament approved the Initiative of the Hellenic Republic, with some amendments, in a legislative resolution of 23 October 2003.



Both the original initiative of the Hellenic Republic and the amended text approved by the European Parliament are available at:
www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2003-0457+0+DOC+XML+V0//EN&language=LV

Recommended resources

ORGANIZATIONS

Organs Watch

Launched in 1999 at the University of California, Berkeley, in the United States, Organs Watch is an independent documentation centre focusing on organ-related issues. Organs Watch follows up global rumours concerning organs, issues reports to the media and medical societies, and investigates individual complaints and allegations. Organs Watch brings together anthropologists, human rights activists, physicians and social medicine specialists to explore the social and economic dimensions of organ transplantation, focusing on the human rights implications of the desperate, worldwide, search for organs. The Organs Watch website allows access to extensive research and a range of publications.



The Organs Watch website address is:
<http://sunsite.berkeley.edu/biotech/organswatch/>

Coalition for Organ-Failure Solutions

The Coalition for Organ-Failure Solutions is an international health and human rights organization committed to ending the exploitation of vulnerable people as a source of organ and tissue supplies. The Coalition combines prevention, policy advocacy and survivor support.

In its policy reform efforts, the coalition seeks to improve alternative organ supplies for patients in need and to protect individuals from exploitative practices of commercialized organ donation. The Coalition also carries out targeted awareness-raising campaigns and calls to action, engages decision makers and key stakeholders in its mission and carries out grassroots advocacy with potential commercial living donors.



For more information on the work of the Coalition for Organ-Failure Solutions, visit:
www.cofs.org

Initiative on Global Organ Trafficking

The Initiative on Global Organ Trafficking is a movement dedicated to combating the exploitative trafficking of human organs. It provides a range of information and materials about organ trafficking, intending to serve as a clearing house of information about illicit

organ trade. The Initiative also conducts research into transplant trafficking and aims to raise awareness of the issue.



The Initiative on Global Organ Trafficking can be found at:
www.organtrafficking.org/index.html

REPORTS

Coercion in the Kidney Trade? A background study on trafficking in human organs worldwide

In 2004, the German Agency for Technical Cooperation (GTZ) published a background study on trafficking in organs.



This report can be found at:
www.gtz.de/traffickinginwomen

Trafficking in organs in Europe

Council of Europe, doc. 9822, 3 June 2003, Report of the Social, Health and Family Affairs Committee of the Parliamentary Assembly

This 2003 report discusses the issues involved in the supply and demand of organs in Europe, and the ethical issues involved. It also makes recommendations for Member States to combat the transnational organized crime of organ trafficking.



This report can be found at:
<http://assembly.coe.int/documents/workingdocs/doc03/edoc9822.htm>

Human organ trafficking resources



A collection of reports and articles relating to trafficking in human organs can be found at:
www.vachss.com/help_text/organ_trafficking.html