

*F. Ambagtsheer, W. Weimar (Eds.)*

# Trafficking in Human Beings for the Purpose of Organ Removal *Results and Recommendations*





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## Results and Recommendations



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# Consortium

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# Foreword

Nancy Scheper-Hughes

*Organs Watch, University of California, United States of America*

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When, in the early 1990's I began a multisided medical anthropological field research project in the transplant units, blood clinics, dialysis centers, prisons, kidney motels, safe houses, and refugee centers where underground transplants were negotiated and cobbled together by brokers for patients willing to travel to parts unknown for a back door transplant from invisible living suppliers in the global South, there was only one scientific article on the topic. That article was concerned only with the risks for the foreign recipients of South Asian kidneys. There were no concepts, categories, legal or philosophical language to identify what was going on. Consequently, the existence of human trafficking for the purpose of organ removal for illicit transplants was denied. Even as late as 2009, the joint United Nations/Council of Europe on 'Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs' never once referred in the text of the document to human trafficking but rather to 'organ trafficking', thus unintentionally erasing the trafficked kidney sellers from any consideration or discussion. The problem was solid organs, not people, that were being trafficked and in a sense, sold.

While this sematic problem still exists, as it did in the Rosenbaum case discussed in this book, the dedicated and collaborative work of the EU-funded HOTT project will make it much more difficult for medical professionals, police, prosecutors and judges to ignore the vast scholarly and scientific literature on the topic, and the hard evidence produced in the first prosecutions of international organized crime syndicates pretending to be merely facilitating medical tourism rather than the illicit networks of human trafficking for human kidney sellers that they are.

The extensive bibliography, original reports on the extent and consequences of human trafficking to procure organs and the case study reports and summaries, required considerable archival and field research to identify the networks, the investigations, indictments, and prosecutions of surgeons, nephrologists, transplant brokers, kidney hunters, mobile patients/kidney recipients, and trafficked kidney providers. The complexity of these international illicit networks explains their resilience. The obstacles include differences in legal jurisdictions, incompatible laws, and the immunity of complicit transplant surgeons. The first, and most successful of the prosecutions of an international human trafficking syndicate for the procurement of paid organ sellers was in Brazil in 2004, a key link in the Netcare case in South Africa described here. The Brazilian police sting, Operation Bisturi (scalpel) led to the indictment of twenty five participants, eleven of whom were eventually tried and found guilty of human trafficking of recruited kidney sellers from the slums of Recife. They were convicted for the recruitment, handling, medical pre-screening and transport of the men to private Netcare clinics in Durban and Johannesburg where their kidneys were removed and transplanted into the bodies of international patients, mostly from Israel. The case was handled efficiently by the Brazilian court's precise application of the 2000 Palermo Convention. The chief of the syndicate, Gedalya (Gaddy) Tauber, of Israel, and his Brazilian partner, Ivan Bonifácio da Silva, both retired military police officers, were given stiff sentences along with several other intermediaries that included a distinguished, middle aged woman lawyer, who hid the money in her private bank safe at the Recife branch of City Bank. One of the convicted was a kidney seller who joined the scheme

and became a ruthless and dangerous kidney hunter, and the alleged head of a local death squad. Only the Brazilian doctor who conducted the blood tests escaped conviction. However, the presence of the suspects – perpetrators, intermediaries, and victims – in court room caught the attention of the ferocious Brazilian media. It was a major scandal in which Brazil was the victim and the nation was outraged that their citizens had been preyed upon and used by international transplant trafficking networks. This prosecution led to other investigations and prosecutions of domestic trafficking in humans for organs.

More difficult to adjudicate are the cases where the buyers, sellers, brokers, and surgeons are from the same nation although branching out to other diasporic sites. In these instances we enter the ethical gray zone described by Primo Levi where perpetrators and victims, government officials and ordinary by-standers are partially complicit but feel helpless to extract themselves from a traffic in ‘goods’ (a healthy organ) rather than a traffic in ‘bads’ (illicit drugs and guns). The criminals could operate freely within the international legal lacuna that protected them. Moreover, human trafficking for organ procurement is often seen even by police, prosecutors, federal agents and judges as essentially a victimless crime. The judge in the Rosenbaum Sentencing based on a plea bargain, that it was a ‘sorry story’, but one in which, she said, ‘buyers and sellers both got something out of the deal’. What had been revealed in this first US prosecution of what the court described as three cases of illicit brokering and payment for an organ was not even the tip of the iceberg. The language of THBOR was not available to the federal prosecutors nor did US laws on human trafficking include those that are trafficked to provide ‘spare’ kidneys. The new term, THBOR though awkward, has given long overdue recognition of the real crime that is at stake here. Because most of the damages take place elsewhere and out of sight of the police and the courts that handle these cases, THBOR remained invisible. The complexity and the tragedy is that this form of human trafficking can save or enhance some lives at the expense of other disposable lives, sub-citizens in the global world.

There are many excellent recommendations in this book, but the political will to apply them cannot be assumed. Trafficking in human beings for the purpose of organ removal is unlike other forms of human trafficking, even though the same international traffickers may also be involved in drug, small arms, and sex trafficking. Human trafficking in fresh organs is small, complicated, expensive and highly lucrative. But unlike other forms of human trafficking the good news is that it can be eradicated. The traffic is dependent on hospitals, nurses, doctors and surgeons. Without their complicity, knowingly or not, the traffic in humans for their fresh organs cannot exist. This report is the first to highlight the role and responsibilities of the medical transplant surgeons. We are dealing with a medical-surgical crime and it should be treated as such.

Among the recommendations are that all persons who forfeit an organ (usually a kidney) for money within an organized international crime network are ipso facto victims, even if the person agreed to it. Another is that surgeons should be held responsible for removing and/or implanting a kidney from a trafficked person. We ask that surgeons and doctors cooperate with law enforcement and not to hide behind doctor-patient confidentiality when crimes may have been committed. Surgeons and nephrologists should inform their patients who are planning to travel abroad for an illicit transplant of the medical, ethical, and legal consequences. We ask that customs officials be required to ask those coming and leaving a country to declare whether they are traveling for the purpose of a transplant, which may or may not be legal.

Prosecutions make a difference. They establish a precedent. They reveal the hidden scars and harms to the buyers and sellers of transplant organs; they educate medical professionals as well as the broader public to the risks and dangers of transplant trafficking. Successful prosecutions that shut down illegal operations in one country, tax the ingenuity and resources of the illicit interna-

tional brokers. In some instances the traffickers 'retire' from the 'organs trade' altogether, paving the way for new human trafficking schemes that are even more mobile and brutal.

Beyond criminalization there are other solutions. One is to educate patients about the limitations of transplant surgery, which like dialysis, is an imperfect solution. Battle cries around 'organs scarcity' have promoted human trafficking in poor people as a reserve of 'spare' kidneys. Of course, we need more and better science and biotechnology, stem cell research, and 3-D print kidneys, but we also need a better understanding of environmental degradation and global warming on environmental diseases like type 2 diabetes that is linked to food deserts, droughts, and water pollution. Only recently have there been scientific studies linking rural agricultural laborers with higher than expected rates of kidney disease.

Finally, the beautiful art and practice of organ transplantation should be protected from any association with illegal border crossings, nasty broker-enforcers, squalid kidney motels, and human trafficking. While there is a dignity in making risky choices to save or improve a life, there are other options that have not been fully utilized in sharing organs, none of which are 'spare', but can be shared within a new vision of a 'body commons', based on friendship, solidarity and conviviality. It is my hope that the HOTT project will inspire much needed research in stem cells, in environmental medicine and in reinvigorating a social medicine that understands medical transplantation as the most social and the most fragile of all forms of medical rescue and life-saving.

September 2, 2015

A handwritten signature in black ink, appearing to read 'Nancy Scheper-Hughes', with a stylized flourish at the end.

Nancy Scheper-Hughes is Chancellor's Professor of Anthropology, Chair of the Doctoral Program in Medical Anthropology, and Director, Organs Watch, at the University of California, Berkeley.



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# Introduction

*Frederike Ambagtsheer & Willem Weimar*

*Erasmus MC University Hospital Rotterdam, The Netherlands*

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In 2010 we participated in an expert meeting, organized by the United Nations Office on Drugs and Crime (UNODC), about the incidence of trafficking in human beings for organ removal (THBOR). At this meeting, three issues became evident:

First, researchers that study THBOR have strong knowledge and information about the crime, but this information is hardly shared amongst them. Doctors also do not share information about THBOR. Second, there are no partnerships between researchers, transplant doctors and law enforcement. Third, there is no awareness of the crime amongst law enforcement. THBOR is not on the 'enforcement agenda' of these authorities. The lack of multinational partnerships hampers an effective, non-legislative response to THBOR.

To us, it was clear that an international research project that would bridge the gap between the medical- and law enforcement realms was needed to address these issues. When in 2011 the Directorate General 'Home Affairs' of the European Commission called for proposals to address new forms of human trafficking, including organ removal, we immediately responded with a project proposal that had three key objectives: to increase knowledge and information about THBOR, to raise awareness among target groups and to improve the non-legislative response.

Fifteen organizations participated in the application to help fulfil these objectives. These included the co-beneficiaries: Lund University, the Bulgarian Center for Bioethics, The Academic Society for the Research of Religions and a large number of associated partners: Eurotransplant, Europol, UNODC, the Dutch National Police Services, University of St. Cyril and Methodius, Organs Watch and the European Society for Organ Transplantation.

Our proposal was accepted and one year later, in November 2012, it became the first EU-funded project to address this form of crime.

Since then, we have conducted evidence-based research from approx. ten countries, the results of which are presented in this book. The book starts with a comprehensive literature review of THBOR (Chapter I). This chapter is followed by an empirical interview study on patients who purchased kidney transplants abroad (chapter II), a study of prosecuted criminal cases (Chapter III), recommendations to improve non-legislative responses to the crime (Chapter IV) and finally, indicators for law enforcement, transplant professionals and victim support workers to identify the crime (Chapter V).

This work would not have been possible without the dedication and enthusiasm of our project partners, whom we thank for their contributions. We also thank the Prevention of and Fight against Crime Programme of the European Commission – Directorate General Home Affairs for financially supporting this project.

With this book we hope to have laid a groundwork that enables the continuing of much-needed research on the crime, as well as foundation for target groups to start collaborating more closely and effectively.

All persons involved in the research of THBOR, as well as its combat, should read it.

September 4, 2015



Frederike Ambagtsheer



Willem Weimar

Coordinators of the HOTT Project

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# I

## Trafficking in Human Beings for the Purpose of Organ Removal: A Comprehensive Literature Review

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# 1 Introduction

*Frederike Ambagtsheer, Willem Weimar, Assya Pascalev, Susanne Lundin,  
Martin Gunnarson, Ingela Byström & Jessica de Jong*

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## 1.1 Background

Trafficking in human beings for the purpose of organ removal (THBOR) is prohibited worldwide, yet a growing number of reports indicate its increase across the globe. Many countries in and outside the European Union (EU) have implemented proper legislation against THBOR. However, information regarding the incidence of THBOR and the non-legislative response to it is practically non-existent and unavailable to judicial and law enforcement authorities in the EU member states. Transplant professionals, human rights NGOs and international organizations also have little knowledge and awareness of the crime [1]. This knowledge gap hampers the development of a structured and effective action to this repugnant form of human trafficking, which brings physical and psychological harms to vulnerable individuals.

## 1.2 Objectives

The HOTT project has four objectives aimed at addressing the knowledge gaps and improving the non-legislative response to THBOR. These objectives are:

- to increase knowledge about THBOR,
- to raise awareness among target groups,
- to organize an expert meeting where organ trafficking experts and competent authorities can express their views on project results,
- to provide recommendations to improve the non-legislative response.

This report contributes to the first objective: to gather information and increase knowledge about THBOR. It does so by describing the state-of-the-art of literature on the ethical aspects, causes and the actors involved in THBOR.

## 1.3 Research questions

This review follows the structure of our research questions.

### **Research questions**

#### *Question 1:*

What are the ethical aspects and causes of trafficking in human beings for the purpose of organ removal?

#### *Question 2:*

- a) What is the existing information on the incidence and nature of trafficking in human beings for the purpose of organ removal?
- b) What knowledge do we have from existing research regarding the role and modus operandi of the actors involved; i.e., recipients, suppliers, brokers, transplant professionals and other facilitators?