**Organ Commercialism, Trafficking and Transplant Tourism**

1. Dr Muneet Kaur Sahi – author & corresponding author

Programme Manager, MOHAN Foundation, B-284-F Sushant Lok – I, Gurugram-122002 Haryana India e-mail: muneetsahi@mohanfoundation.org contact number +91 9013891114

1. Dr Sunil Shroff Managing Trustee, MOHAN Foundation, 3rd floor, Toshniwal Building, 267, Kilpauk Garden Road, Chennai-600010 Tamil Nadu India e-mail shroff@mohanfoundation.org contact number +91 9840025680
2. Dr Sumana Navin Course Director, MOHAN Foundation, 3rd floor, Toshniwal Building, 267, Kilpauk garden Road, Chennai-600010 Tamil Nadu India e-mail sumana@mohanfoundation.org contact number +91 7708668831
3. Ms. Pallavi Kumar Executive Director, MOHAN Foundation, B-284-F Sushant Lok-I, Gurugram-122002 Haryana India e-mail pallavi@mohanfoundation.org contact number +91 9818806706

**Abstract**

The gap between demand and supply of organs continues to widen worldwide despite all efforts. Organ scarcity has led to transplant commercialism, while solid organ commerce is most prevalent in impoverished countries, commercialisation of body parts such as tissues is prevalent in economically developed countries. A number of international legal instruments and transplant societies define, condemn, and criminalize these practices and have issued statements related to organ commercialism. In contrast, limited attention has been paid to illicit and unethical activities associated with the procurement and clinical use of tissues. In India, The Transplantation of Human Organs (Amendment) Act 2011 has taken multiple measures to combat organ commerce and as a result the number of such instances seems to be on the decline. The fight against unethical organ procurement with the advent of Internet and proliferation of social media can be challenging and requires cooperation of global bodies.

**Introduction**

The gap between demand and supply of organs continues to widen worldwide despite all efforts. Organ scarcity has led to transplant commercialism more so in resource poor countries (1). However equally disturbing is the tissue commercialisation where the demand and supply problem has largely been overcome and internationally there are certain types of tissues that are available in excess of the demand (2). A flourishing organ and tissue commercialism relating to human body parts is not only intrinsically immoral but ethically unacceptable. While one needs to differentiate the terms such as organ trafficking, commercialism and transplant tourism, the underlying essence of unethical organ procurement has always been exploitation of the needy.

International transplant societies and WHO has over the years convened multiple meetings and issued statements related to organ commercialism but no statement includes any mention on tissue commercialisation.

**Declaration of Istanbul**

International key-opinion leaders from the field of transplantation along with WHO have committed themselves to fight organ commercialism and influence countries to adopt ethical principles in this field. The ‘The Declaration of Istanbul’ on ‘Organ Trafficking and Transplant Tourism’ in 2008 was the first step to fight such organ commercialism. It was held from April 30 to May 1, 2008 in Istanbul, Turkey. The Declaration, for the first time, clarified issues of transplant tourism, trafficking and commercialism and provided ethical guidelines for practice in organ donation and transplantation. Since the creation of the declaration, over 100 countries have endorsed the principles. Some nations have subsequently strengthened their laws against commercial organ trade, including Israel, Philippines, Pakistan and India (3).

The Declaration defined Organ trafficking, Transplant Commercialism and Transplant Tourism. Organ trafficking was defined as: “the recruitment, transport, transfer, harbouring or receipt of living or deceased persons or their organs by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation.” “Transplant commercialism is a policy or practice in which an organ is treated as a commodity, including by being bought or sold or used for material gain. Travel for transplantation is the movement of organs, donors, recipients, or transplant professionals across jurisdictional borders for transplantation purposes. Travel for transplantation becomes transplant tourism if it involves organ trafficking and/or transplant commercialism or if the resources (organs, professionals and transplant centres) devoted to providing transplants to patients from outside a country undermine the country’s ability to provide transplant services for its own population” (4).

In 2017 in Rome, 77 key opinion leaders of the international transplant community at the Pontifical Academy of Sciences (PAS), endorsed the statement made by the academy that read as follows:

In accordance with the Resolutions of the United Nations and the World Health Assembly, the 2015 Vatican Summit of mayors from the major cities of the world, the 2014 joint declaration of faith leaders against modern slavery, and the Magisterium of Pope Francis, who in June 2016, at the Judges’ Summit on Human Trafficking and Organized Crime, stated that organ trafficking and human trafficking for the purpose of organ removal are “true crimes against humanity [that] need to be recognized as such by all religious, political and social leaders, and by national and international legislation,” we, the undersigned participants of the Pontifical Academy of Sciences Summit on Organ Trafficking, resolve to combat these crimes against humanity through comprehensive efforts that involve all stakeholders around the world (5).

In 2010, The Transplantation Society (TTS) and the International Society of Nephrology (ISN) created the Declaration of Istanbul Custodian Group (DICG) to disseminate the Declaration and to respond to new challenges in organ trafficking and transplant tourism. Between February 2018 and May 2018, DICG carried out a wide-ranging consultation, open to all interested parties, to update the Declaration in response to clinical, legal and social developments in the field. The results of the consultation process were presented, reviewed, and adopted as set forth in Madrid in July 2018 during the International Congress of TTS (6).

According to the revised Declaration, Organ Trafficking consists of any of the following activities:

(a) removing organs from living or deceased donors without valid consent or authorisation or in exchange for financial gain or comparable advantage to the donor and/or a third person;

(b) any transportation, manipulation, transplantation or other use of such organs;

(c) offering any undue advantage to, or requesting the same by, a healthcare professional, public official, or employee of a private sector entity to facilitate or perform such removal or use;

(d) soliciting or recruiting donors or recipients, where carried out for financial gain or comparable advantage; or

(e) attempting to commit, or aiding or abetting the commission of, any of these acts.

**Ground Realities**

*Organ Trafficking & Commercialism*: For more than two decades, governments around the world have recognised the need to protect poor people from the exploitation inherent in organ sales. Yet, partly as a consequence of the widespread shortage of organs and the increasing ease of internet communication, organ trafficking and travelling to another destination that offers transplant surgery along with the organ donor have become global problems. Poverty, unemployment, and the lack of socioeconomic opportunities are factors that make persons vulnerable to organ and human trafficking for the purpose of organ removal. Very often destitute individuals are victimized in schemes of organ trafficking when induced to sell their organs in a search for a better life. Similarly, desperate are the patients who are willing to pay large amounts and travel to foreign destinations to obtain an organ that may keep them alive, oblivious of the short and long-term health consequences of commercial transplantation. Unscrupulous brokers and health care professionals make organ trafficking possible, disregarding human dignity. The operative procedures are sometimes performed in unauthorized facilities that clandestinely serve overseas tourists who purchase an organ locally. Organ commercialism can also occur at legitimate facilities, in situations where individuals who are willing to sell their organs present themselves to transplant centres as a relative or altruistic friend of the recipient. The media have made an important contribution to public understanding in highlighting the plight of trafficked individuals by publishing their independent investigations of transplant-related crimes and corrupt healthcare professionals and unregulated facilities(7).

*Tissue Commerce*: The use of tissue has grown exponentially over the past few decades due to improvements in the process of procurement, storage, distribution and strict quality checks protocols and it is set to increase in the future (8). However, the main difference from organs is that there is no scarcity of tissues at least in general terms and, when there is a shortage, it is the result of an organisational problem and a lack of will or a failure to allocate human and material resources to ensure tissue procurement.Every year hundreds and thousands of processed tissues are stored in large-scale biobanks and utilised for both therapeutic and research purposes.

Tissue commercialisation flourishes unnoticed and many biobanks are today huge multi-million dollar industry with powerful lobbies. While solid organ commerce is most prevalent in impoverished countries, commercialisation of body parts such as tissues is prevalent in economically developed countries. Most laws prohibit both organs and human [**tissues**](https://www.omicsonline.org/searchresult.php?keyword=tissues) from sale. But once a tissue becomes a “Tissue Product” it escapes such regulation (9). Examples include when surgical patients whose tissues instead of being discarded in operatizing rooms are sometimes shipped to bio-banks or when the deceased donor tissues are removed and the family not kept informed or the informed consent does not mention in any form the intent of such commercial utilisation. Public knowledge about the transfer of human tissue, especially for commercial use, is very limited (10). This highlights that trafficking in tissues involves not only ethical and legal problems but also public health threats. If the tissues procured and distributed have not undergone the strict processes of quality checks then it can be a threat for transmissible infectious or tumoral diseases. The common tissue products that are delivered include - **Bone** screws, Bone putty, **Collagen** products, acellular Dermis (tissue has no cells), injectable **fascia** lata and a range of blood products.

Much has been written about trafficking in human organs and human trafficking for the purpose of organ removal. Resolutions, Conventions and professional declarations and statements against these crimes have been adopted by the international community and national laws have been enacted or reinforced in many countries to not only prohibit, but also criminalise the trade in human organs.In contrast, limited attention has been paid to illicit and unethical activities associated with the procurement and clinical use of other substances of human origin, such as tissues. This is perhaps because in society there is lesser visibility and familiarity with tissue transplantation compared with organ transplantation, although the latter happens far less frequently. Moreover, there is no international agreement on what represents illicit and unethical activities with human tissues, and there is no consensus on which of these practices should be criminalised. In the light of this it becomes clear that a definition of “Trafficking in Human Tissues” should be agreed upon at international level with the involvement of all the relevant stakeholders (11).

Over the last 25 years the easy mode of communication using the Internet technology and the subsequent growth of social media has meant that there is now an easy communication channel to advertise and a casual search on the Internet with terms like ‘buy kidney’ yields results that can lead a person to brokers or direct sellers. This is even more prevalent on popular social media platforms. There have been instances of auction of the kidney where the price went up to USD 5.7 million on an e-commerce site, however it was noticed in time and was stopped once it came to the notice of the regulators (12).

**Efforts by International organizations**

A number of international legal instruments define, condemn, and criminalize these practices, namely the United Nations Protocol against Trafficking in Persons (Palermo Protocol), the Council of Europe Convention against Trafficking in Human Beings, and the Council of Europe Convention against Trafficking in Human Organs. Most countries in principle support these documents, which assert that the transplant professionals who commit or abet these crimes should be held legally accountable whether the offenses take place domestically or abroad.

The legal instruments of the recent past are an important link to emerging innovative policy to combat social inequality. Trafficking in human beings for the purpose of organ removal and organ trafficking is contrary to the United Nations General Assembly 2030 ‘Agenda for Sustainable Development.’ This is an issue of human rights and social justice because the poor are exploited for their organs and yet not able to receive a transplant if they suffer organ failure. Jeffrey Sachs has written that “Sustainable development argues that economic policy works best when it focuses simultaneously on three big issues: first, promoting economic growth and decent jobs; second, promoting social fairness to women, the poor, and minority groups; and third, promoting environmental sustainability”. Countries in conflict and without domestic stability can become the locations of transplant-related crimes.

Progress has been made by international organisations aligned with the Declaration of Istanbul to curtail organ trafficking. The World Medical Association (WMA) has issued a statement on organ and tissue donation (13). It was adopted by the 63rd WMA General Assembly, Bangkok, Thailand in October 2012 and revised by the 68th WMA General Assembly, Chicago, USA in October 2017. Some key points from the WMA statement include:

* In some parts of the world individuals are paid for donating a kidney, although in virtually all countries the sale of organs is unlawful. The WMA is strongly opposed to a market in organs.
* Transplant surgeons should seek to ensure that the organs and tissues they transplant have been obtained in accordance with the provisions of this policy and should refrain from transplanting organs and tissues that they know, or suspect, have not been procured in a legal and ethical manner.
* National Medical Associations should work with governments and relevant institutions to ensure that appropriate, effective structures and processes are in place to assess the adherence to ethical and clinical protocols of organ donation and transplantation activities.

In 2008, the Recommendations on the Prohibition, Prevention and Elimination of Organ Trafficking in Asia (Taipei Recommendations) resulted from the work of the “Asia Task Force on Organ Trafficking” (14)(established by the National Taiwan University, consisting of fourteen independent expert scholars from the fields of medicine, ethics, law, philosophy and social science scholars from Asia and other parts of the world). Like the Declaration of Istanbul, the Taipei Recommendations are aimed at making practices in organ donation and transplantation ethical and just, including through reducing vulnerability of persons to organ-related crimes.

In spite of all these efforts by international organisations, a number of destinations for transplant tourism remain around the world where appropriate legislation to curtail these crimes and protect the poor and vulnerable do not exist or are poorly enforced. These practices also persist because some countries have failed in their responsibility to meet the need of their citizens to address the issues related to organ transplant and provide resources for development of such a program.

**Indian Scene**

India has often been a hot spot for organ commerce and exploitation of the poor for organs such as kidneys and more recently for part of the liver. The recent 2011 amendments of the law and the Transplantation of Human Organs & Tissues Rules, 2014 regulations have provided more powers to the authorisation committee giving them the powers of a civil court It has put the onus to stop organ commerce more on the treating doctors and hospitals. The penalties in the law have been enhanced considerably in comparison to the 1994 law as depicted in Table 1(15). One example of how the power was used was the arrests of all concerned in the Hiranandani kidney case, Mumbai in 2016. For the first time not only the brokers but also the designated kidney donor, recipient, transplant coordinator, surgeon and the Chief Executive Officer of the hospital were arrested and subsequently it was followed by suspension of the license of the hospital (16). The extreme action also resulted in the tragic death of the recipient, and the donor who was locked up had to be rescued by a non-governmental organization (NGO) (17). The transplant community stopped organ transplants in Mumbai for a short duration in protest against such extreme action (18). However, it did send out a very strong message to the Indian transplant community.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Offence | Imprisonment | | Fine | |
|  | THOA 1994 | THO (Amendment) Act, 2011 | THOA 1994 | THO (Amendment) Act, 2011 |
| Removal of organs without authority | 5 years | 10 years | INR 10,000 | INR 20 lakhs  USD 40,000 |
| Removal of organs without authority by RMP | 1st offence: de-registration for 2 years | 1st offence: de-registration for 3 years | 2nd offence: permanent de-registration | 2nd offence: permanent de-registration |
| Commercial dealing in organs, falsification of documents | 2-7 years | 5-10 years | INR 10-20,000 | INR 20 lakhs – 1 Crore  USD 40,000 - 150,000 |
| Any violation of THOA | 3 years | 5 years | INR 5000 | INR 20 lakhs  USD 40,000 |

**Table 1** – **Offences & Penalties** – Transplantation of Human Organs Act (THOA) 1994 & Transplantation of Human Organs (Amendment) Act, 2011

The THOA law of 2011 along with Rules from 2014 has tried to plug all the areas of the THO Act 1994 that was resulting in organ commerce. No other similar law in any other country has addressed and defined so many provisions to prevent organ commerce. Despite this there have been occasionally unscrupulous elements over the years who have found ways to exploit the law and the systems. There are 12 different consent forms for living donation and transplantation in the Rules to cover the various provisions (Table 2). All procedures are very minutely detailed. Most authorisation committees of both government and private hospitals require video recording of the donor and recipient interviews where they pledge that no money or money’s worth has been exchanged for the purpose of organ donation and that organ donation is purely out of affection or attachment.

|  |  |  |  |
| --- | --- | --- | --- |
| Form No | Purpose | Who handles | Responsibility |
| Form 1 | Consent - Near relative | Transplant Coordinator | Notary Public/Donor/Hospital |
| Form 2 | Consent - Spouse | Transplant Coordinator | Notary Public/Donor/Hospital |
| Form 3 | Consent - Other than near relative (Unrelated donor) | Transplant Coordinator | Notary Public/Donor/Hospital |
| Form 4 | Medical Fitness | Transplant Coordinator | RMP/Hospital |
| Form 5 | Genetic Relation | Transplant Coordinator/Hospital | Genetic Molecular Lab Head/Hospital |
| Form 6 | Spousal Donation | Competent Authority/AC, Transplant Coordinator | Competent Authority/Authorisation Committee (AC) of the hospital/district/state in case of foreigners |
| Form 11 | Joint application - Donor & recipient | Transplant Coordinator | RMP/Donor/Recipient Hospital |
| Form 18 | Swap Donation - For other than near relative donor – approval certificate also required for Swap donation | Authorisation Committee & Transplant Coordinator | Authorisation Committee/Hospital |
| Form 19 | Authorisation Approval Certificate - For near relative donor – approval certificate required | Competent Authority & Transplant Coordinator | Competent Authority |
| Form 20 | Part 1 Domicile - Application for verification of Domicile | Tehsildar & recipient & donor family | Family, Tehsildar & Authorisation Committee |
| Form 20 | Pat 2 Domicile - Domicile Certificate | Tehsildar & recipient & donor family | Family, Tehsildar & Authorisation Committee |
| Form 21 | Foreign Donor - Certificate of relationship for foreign donor & NOC from Embassy | Transplant Coordinator & Embassy | Embassy, Donor, Hospital |

**Table 2** – Consent Forms for Living Organ Transplantation in Indian Law

The consent form itself from the donor is like an affidavit where again the donor signs after reading the following clauses –

I solemnly affirm and declare that Sections 2, 9, and 19 of the Transplantation of Human Organs Act, 1994 have been explained to me and I confirm that: -

1. I understand the nature of criminal offences referred to in the sections.
2. No payment of money or money’s worth as referred to in the sections of the Act has been made to me or will be made to me or any other person.
3. I am giving the consent and authorization to remove my \_\_\_ (organ) of my own free will without any undue pressure, inducement, influence or allurement.
4. I have been given a full explanation of the nature of the medical procedure involved and the risks involved for me in the removal of my \_\_\_ (organ). That explanation was given by \_\_\_ (name of registered medical practitioner).
5. I understand the nature of that medical procedure and of the risks to me as explained by that practitioner.
6. I understand that I may withdraw my consent to the removal of that organ at any time before the operation takes place.
7. I state that particulars filled by me in the form are true and correct to my knowledge and nothing material has been concealed by me.

Finally, the form is required to be signed by a Notary. The procedure of living donation is explained in the Flow Chart I.

Besides THOA, organ commerce also is covered in The Indian Penal Code (IPC) which is the official criminal code of India. It is a comprehensive code intended to cover all substantive aspects of criminal law. The Indian Penal Code in its Chapter XVI covers Offences Affecting Life and includes ‘forced removal of organs’ as a crime of exploitation. Organ removal has been included in the Section 370 of IPC that reads ‘Trafficking of person states that physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.’ India ratified the UN Protocol in 2011 and added “exploitation” to include physical exploitation and included the removal of organs in this category and this was added in the IPC (19). These offences of trafficking are punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine. And when a public servant (like a doctor in case of organs) is involved in the trafficking of any person then, such public servant shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life and shall also be liable to fine (20).

Despite these measures there have been instances of organ sale and to completely wipe out this trade vigilance and cooperation is required from the transplant community in India to clean up the system. A transplant coordinator needs to be trained on how to scrutinise the papers and find possible discrepancies when a well fabricated seemingly watertight case is occasionally presented to the hospitals and slips through the system only to later receive a complaint of exploitation from the donor or his family member.

**Both recipient and donor are medically fit and the legal work-up is completed**

**Recipient advised and counseled for organ transplant by the treating doctor**

**Recipient identifies the donor**

**Recipient and donor referred to the Transplant Coordinator**

**If Authorization Committee approves**

**If Authorization Committee rejects**

**Abandon the transplant**

**Proceed with the transplant**

**DNA matches**

**DNA mismatches**

**Inform the transplant team & reject the donor**

**Inform transplant team & suggest DNA test**

**For Swap Donation**

**Form 3,4,11 & 18**

**Indian Donor**

**Near related – Form 1,4,5,11 &19**

**Spousal – Form 2,4,6 & 11**

**Other than near related – Form 3,4,11,18 & 20**

**Foreign Donor**

**Near related – Form 1,4,5,11,18 & 21**

**Spousal – Form 2,4,11,6/18 & 21**

**Other than near related – Form 3,4,11,18,21**

**Transplant coordinator interrogates the recipient, donor and verifies the documents**

**Proceed with medical & legal work-up**

**Flow chart I**: Living Donation Procedure

The 2011 transplant lawprohibits a foreigner from getting an organ from an Indian donor and hence prevents any foreigner travelling to India for this purpose. However it does not prevent transplants of  foreigner who can bring their own organ donor along with an undertaking from their embassy that there is no commercial intent. These foreigners have to go through the same government committees as an Indian pair and if the documents do not match and they claim a relationship or if there is a suspicion - a DNA testing is done to look for genetic evidence of relationship. Due to the lack of transplant program in many developing countries and cost advantage of India, many patients do travel to India for such transplants. Despite all the systems that are in place a few paid donors have escaped undetected due to various reasons including language barriers and having come with the authorisation from their embassy regarding relationship certification. There have been also instances where some large hospital chains have employed their marketing personnel to advertise their services among local doctors and some inducement may have been offered as patient referral fees. This unethical practice has been a point of discussion in international meetings and such practices if brought to the light with evidence are punishable offences as per the Indian Law.

India is one of the key member states of The South Asian Association for Regional Cooperation (SAARC), which is a regional intergovernmental organization and geopolitical union of nations in South Asia. The other member states include Afghanistan, Bangladesh, Bhutan, Nepal, the Maldives, Pakistan and Sri Lanka. SAARC comprises 3% of the world's area, 21% of the world's population and 4.21% of the global economy, as of 2019 (21). SAARC has been taking measures to combat organ trafficking for the last 30 years; however, it continues to surface at regular intervals, as reported in the media. The porosity of the borders between these countries also makes the regulatory framework difficult to overcome migrants who sell their organs.

As the Past President of the Nephrology, Urology & Transplantation Society of SAARC region for the years 2013-2017 (22) one of the authors was a signatory in the PAS Summit on Organ Trafficking held at Malta in June 2017. In this summit on human trafficking, the British Asian Trust (BAT) was a prominent sponsor who has involvement in Commonwealth countries such as India, Pakistan, Bangladesh, Sri Lanka, and Nepal. It would seem to be the appropriate agency to gain the attention of the governments of these countries to address the problem of human trafficking. Organ trafficking is not only a "true crime against humanity" (as stated by Pope Francis, head of the Catholic Church and sovereign of the Vatican City State), but also a deterrent to the development of an alternative solution to organ shortage such as development of a successful deceased donor transplantation program in India.

The data from the National crime bureau has shown a fall in the Registered cases under THOA 1994 and have been made publicly available by The National Crime Record Bureau only after 2014 (23, 24).

* In the year 2015, a total of 15 cases were registered under the THOA 1994.
* In the year 2016, a total of 7 cases were registered under THOA 1994

In the past 10 years this program has shown growth and resulted in not only kidney but other organs like liver, heart and lungs to be transplanted. Patients often turn to the illicit organ market when they feel there is no back-up, but a robust deceased donation program can help combat the organ trade. In addition, trust in a nation’s deceased organ donation system builds public revulsion to organ trafficking (25). MOHAN Foundation an NGO in India that works for the cause of deceased donation for the past 23 years has a MoU with National Health Service Blood & Transplant of the UK with the objective of improving the organ donation rate in both countries and developing best practices in the field of organ donation and transplantation. It is working towards formation of a representative forum of commonwealth countries so that they can work closely with other organisations such as BAT and the concerned governments to help with the development of local expertise for transplants and frame the right laws and regulations to stop organ commerce. It is also one of the endorsing organisations for the Declaration of Istanbul which requires it to rigorously apply the ethical principles of the Declaration in their policies, practice and activities. It has also officially translated the declaration document in Hindi so that it is readily available for Indian stakeholders (26).

The regulatory transplant bodies in the THOA includes two government bodies - an authorisation committee and an appropriate authority. The authorisation committee maybe at state or hospital level (competent authority). Competent authority gives permission for near-related transplants only. Authorisation committee decides on the relationship between donor and recipient whereas the appropriate authority is the one that regulates the licensing procedures for hospitals and doctors. It is also supposed to work as an oversight body to monitor transplants in the state and provide the checks and balances. This body functions under the director of health services of the state and day to day affairs is dealt by a lower division officer who is not in a position to take decisions. This body only gets into action when there is some wrongdoing. What is required is a separate body that can work under the director, which can function independently as a regulatory affairs body and as an oversight committee. This body can also track transplant outcomes in both short and long term and link up with the national registry. The formation of State Organ and Tissue Transplant Organization (SOTTO) and Regional Organ and Tissue Transplant Organization (ROTTO) should have been given the mandate to have a such a body function from their office. Currently the SOTTO and ROTTO are concerned with only deceased organ donation.

Tissue banking in India has been brought under the ambit of the Transplantation of Human Organs and Tissues (THOTA) law in 2011 (27). As far as tissue donation is concerned it is mainly corneas that are utilised in large numbers and home procurement forms the bulk of such donations. Other tissue donations such as skin, bones, fascia and others are very limited with less than half a dozen such biobanks in the country. The National Organ & Tissue Transplant Organisation (NOTTO) was provided the mandate to establish a centralised national facility and it is in the process of establishing it. There are currently 370 functional eye banks (28) and the government incentivises NGOs and societies for facilitating eye donation though a cash award of Rs 2000/- per pair of eyes for each donation (29). The eye donation rate in India currently is around 29 per million population (PMP). There have been no commercial scandals related to tissue banking or distribution in India.

**Recommendations of PAS Summit on Organ Trafficking**

The following recommendations from the PAS Summit on Organ Trafficking are proposed to national, regional and municipal governments, ministries of health, to the judiciary, to the leaders of the major religions, to professional medical organizations, and to the general public for implementation around the world:

1. That all nations and all cultures recognize human trafficking for the purpose of organ removal and organ trafficking, which include the use of organs from executed prisoners and payments to donors or the next of kin of deceased donors, as crimes that should be condemned worldwide and legally prosecuted at the national and international level.
2. That religious leaders encourage ethical organ donation and condemn human trafficking for the purpose of organ removal and organ trafficking.
3. That nations provide the resources to achieve self-sufficiency in organ donation at a national level—with regional cooperation as appropriate—by reducing the need for transplants through preventive measures and improving access to national transplant programs in an ethical and regulated manner.
4. That governments establish a legal framework that provides an explicit basis for the prevention and prosecution of transplant-related crimes, and protects the victims, regardless of the location where the crimes may have been committed, for example by becoming a Party to the Council of Europe Convention against Organ Trafficking.
5. That healthcare professionals perform an ethical and medical review of donors and recipients that takes account of their short- and long-term outcomes.
6. That governments establish registries of all organ procurement and transplants performed within their jurisdiction as well as all transplants involving their citizens and residents performed in another jurisdiction, and share appropriate data with international databanks.
7. That governments develop a legal framework for healthcare and other professionals to communicate information about suspected cases of transplant-related crimes, while respecting their professional obligations to patients.
8. That responsible authorities, with the support of the justice system, investigate transplants that are suspected of involving a crime committed within their jurisdiction or committed by their citizens or residents in another jurisdiction.
9. That responsible authorities, insurance providers, and charities not cover the costs of transplant procedures that involve human trafficking for the purpose of organ removal or organ trafficking.
10. That healthcare professional organizations involved in transplantation promote among their members awareness of, and compliance with, legal instruments and international guidelines against organ trafficking and human trafficking for the purpose of organ removal.
11. That the World Health Organization, the Council of Europe, United Nations agencies, including the United Nations Office on Drugs and Crime, and other international bodies cooperate in enabling a comprehensive collection of information on transplant-related crimes, to yield a clearer understanding of their nature and scope and of the organization of the criminal networks involved.

The PAS may bring the plight of these countries to the attention of the BAT to gain an ally and help transplant professionals to curtail organ trafficking through the engagement of politicians and administrators in various SAARC countries .

Currently, the word used for patients travelling for transplants abroad, be it with a commercial intent where they present with their own ‘local donor’ vis a vis where there is genuine relationship between a foreign donor and recipient is all referred to as ‘transplant tourism.’ The word transplant tourism is derived from the word medical tourism which is defined by CDC (30) as follows -"Medical tourism" refers to traveling to another country for medical care. Some people travel for care because treatment is cheaper in another country. Others may be immigrants to the United States who prefer to return to their home country for health care. Still others may travel to receive a procedure or therapy not available in the United States. The most common procedures that people undergo on medical tourism trips include cosmetic surgery, dentistry, and heart surgery. The international bodies need to differentiate the two purposes of travel to an overseas destination to avoid confusion in understanding of these terminologies. While transplant tourism should be reserved like medical tourism to patients who come from abroad for transplants and ‘transplant travel for organ commerce’ should be used where there is a commercial intent.

**Conclusion**

Organ trafficking is a crime against humanity and this has been well elaborated by various bodies including the UN Sustainable Development Goals, the UN Palermo Protocol on Human Trafficking, the Resolutions of the World Health Assembly (2004 and 2010), the Council of Europe Convention against Trafficking in Human Beings, the Council of Europe Convention against Trafficking in Human Organs, the Madrid Resolution on Organ Donation and Transplantation, and the Declaration of Istanbul, and as a result of the data on organ trafficking presented at the PAS Summit on Organ Trafficking. The international transplant community has been aware of the menace of tissue commerce but has concentrated most of its efforts on curbing organ commerce. While organ commerce flourishes in developing countries, tissue commerce has been happening in developed countries.

The Indian law in its second amendment in 2011 with Rules in 2014 has brought in many changes to overcome the problem of organ commerce and exploitation and recent reports shows decrease in organ commerce in the country. Each country that regularly witness such activity requires a strong, separate and an independent oversight committee with powers to help in combating these illicit and immoral practices that lead to human exploitation. The term transplant tourism needs further clarification and perhaps should be redefined.

The advent of Internet and proliferation of social media platforms with easy access to communication and information has made the fight against organ commerce even more challenging and local vigilance bodies in each country that are linked together through a global watchdogs can network together and keep a tab of these activities and help the regulatory bodies in each country to curb this ever-growing menace.

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