
EMERGING TRENDS ON HUMAN ORGAN TRAFFICKING

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Abstract:

Human Organ Trafficking is a crime that is evident to be an emerging trend in the recent years, it is a despicable crime which involves violation of human rights, as it entails removal of organs from individuals illegally without their consent or through coercion or deception and it is trafficked for transplantation. India being a densely populated country the people faces issues like poverty, illiteracy, poor health leading to shortage of organs, unemployment and also due to corruption in the society, in consequence the crime of organ trafficking prevails. It is not committed solely by a person it requires a group or organization in order to indulge in such a grievous offence and therefore it falls under the organized crime where the motive is to exploit and to gain monetary benefit. In India kidney trafficking is the most prevalent one, and so the prevention of organ trafficking is dealt in the Transplantation of Human Organs Amendment Act (2011) to curb such crimes in the society. Organ trafficking is a massive challenge across the globe, its emphasizes hardship on health of the people and also violates their human rights to address this issue there is a need for international collaborations, governments effort as well as from the medical professionals to demolish the trafficking networks and by combating it through enforcing laws further to promote transparency in healthcare units.

Keywords: Organ Trafficking, Organ Trade, Human Organ Trafficking, Victims, Trafficking in Persons, Exploitation, Commercialization.

1. Introduction:

Human organ trafficking refers to array of illicit activities with regard to organ transplants, this activity includes removal of organs illegally, and selling those organs in the black markets which is also known as Red markets if it deals with the human organs or body parts.¹ It's an illicit trade on a global level which is not widely talked about, though there is consent of the victims in certain cases, yet it is obtained through fraud, deception, or by abuse, it plays an important role being a part of transnational organized crime, organ trafficking is an emerging trend requiring high demand of organs and has low rate of convictions in the law enforcements. The World Health Organizations (WHO) has estimated in the year 2007 that nearly 5-10 % of transplants are done by utilizing from the black markets² the demand for organ transplantation is mainly due scarcity of organs arising due to massive change in lifestyle leading to damage of organs and tissues. Nearly hundreds of nations have strengthened or prohibited the trade in organs through legislative action during the last few decades. In addition, a number of governmental and professional organizations have evolved measures to control organ trafficking and to manage organ transplantation both nationally and internationally. When combined, these efforts offer legal, regulatory, and professional responses to an increasing intricate globalized illicit economy.

2. Definitions of Trafficking:

As per the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime under Article 3 refers to "Trafficking in persons"³ means the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception,⁴ of the abuse of power or of a position of

¹Paula Cornell | Writer & Brand Journalist at Love Justice International (2024) What is organ trafficking?, Love Justice. Available at: <https://www.lovejustice.ngo/blog/what-is-organ-trafficking> (Accessed: 30 September 2024).

² Explainer: Understanding human trafficking for organ removal (no date) United Nations : Office on Drugs and Crime. Available at: https://www.unodc.org/unodc/frontpage/2024/June/explainer_-_understanding-human-trafficking-for-organ-removal.html (Accessed: 30 September 2024).

³ Protocol to prevent, Suppress and Punish Trafficking in Persons Especially Women and children, supplementing the United Nations Convention against Transnational Organized Crime | OHCHR. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons> (Accessed: 30 September 2024).

⁴ Trafficking in persons, forced labour or slavery-like practices: Global Protection Cluster Trafficking in Persons, Forced Labour or Slavery-Like Practices | Global Protection Cluster. Available at: https://globalprotectioncluster.org/index.php/Trafficking_in_Persons (Accessed: 30 September 2024).

vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

As per the BNS section 143 deals trafficking of persons⁵ - The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, beggary or forced removal of organs

The consent of the victim is immaterial in determination of the offence of trafficking

The Transplantation of Human Organs Act 1994 (THOA) regulates the removal of organs, storage and transplantation only for therapeutical purposes and restricts the commercial dealings and provides penalties for such offences, the Transplantation of Human Organs (Amendment) Act 2011 strengthens the THOA act by widening the scope to include other new organs and tissues furthermore increases the punishments.

3. Organs Transplantation compared to Trafficking and Trading:

If a person suffering from an organ failure or malfunction, transplantation of organ can be done through a compatible donor, or deceased people or relative’s organs may be used if they have documented their consent for donation. Such process can be considered as legal and ethical. Whereas illegally selling an organ for the purpose of financial profit or buying and selling an organ is considered as organ trafficking.⁶

Organ trafficking is unfamiliar compared to sex trafficking or exploitation for labour etc. Since it is a white collar crime and lacks transparency when dealing with such crimes, it involves immense knowledgeable people from the medical profession therefore tracing the magnitude of the crime is quite complicated, furthermore it occurs in a legitimate network of medical settings along with well-trained and certified professionals.

⁵ India code: Bharatiya Nyaya Sanhita, 2023. Available at: https://www.indiacode.nic.in/handle/123456789/20062?view_type=browse (Accessed: 30 September 2024).

⁶ Goff, P. (2023) Organ trafficking facts, The Exodus Road. Available at: <https://theexodusroad.com/organ-trafficking-facts/> (Accessed: 30 September 2024).

Whereas Organ Trading refers to the commercial exchange of the human organs among one person or another person it takes place outside the established transplantation protocols, it includes organ trafficking, organ harvesting, organ storing, selling of organs and transplant tourism⁷. As per the "Convention on the Council of Europe Regarding the Trafficking of Human Organs," 2015⁸, though the organ trafficking is a part of the organ trade, It can also take place among those who have given their consent, whether or not they are aware of the illegality of such kinds of acts. On the other side, organ trafficking entails coercion, force, or unfair benefit or taking the organs extracted without the donor's legitimate consent Regardless of his knowledge.

4. Causes for Organ Trafficking:

There are various causes to involve in organ trafficking which is an organized crime some of the factors are

- **Economic Causes:** it involves causes like poverty where the vulnerable individuals sell their organs because of their financial reasons, unemployment due to lack of unavailability of jobs driving the people to indulge in illegal acts, due to discrepancies in wealth and healthcare access, due to the enormous demand for organs since there is a long waiting list and shortage of organs.
- **Social Causes:** Social causes such as lack of awareness and education due to which vulnerable people are uninformed about such acts, since there is social inequality due to that the marginalized people are targeted mainly the migrants.
- **Legal and Political Causes⁹:** such as insufficient laws leading to inadequate protection to the victims, officials involving in corruption and scheming in organ trafficking,

⁷ Ijirl. Available at: <https://ijirl.com/wp-content/uploads/2022/09/FACTORS-RESPONSIBLE-FOR-HUMAN-ORGAN-TRADE-IN-INDIA-.pdf> (Accessed: 01 October 2024).

⁸ What is BNS Section 143? (no date) Law4u. Available at: <https://law4u.in/top-answer/321/what-is-bns-section-143#:~:text=BNS%20Section%20143%20criminalizes%20trafficking,police%20officers%20involved%20in%20trafficking.> (Accessed: 30 September 2024).

⁹ An introduction to human trafficking: Vulnerability, impact ... Available at: https://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf (Accessed: 01 October 2024).

inadequate law enforcement causing ineffectiveness while prosecuting the offenders, the conflicts and instability in global level which in turn facilitates to the trafficking.

- **Medical and Healthcare Causes:** like shortage of organs for transplantations, due to the extensive waiting lists, people are opting for illegal transplants, due to the exorbitant costs of healthcare services people look out for illegal and inexpensive choices.
- **Technological Causes:** due to advanced technology in the medical and other fields the demand for organs arises highly, the global connectivity has further increased the communications among the traffickers and has become easy and the social media and the browsers eases the way towards illegal trading of organs.

5. Organ trafficking in India:

India is a developing hub for medical tourism, being a vast and diverse country consisting of richest as well as the poorest people, despite the advancement in technology and healthcare people still strive to acquire necessary healthcare, the most recurrent and common organ which is trafficked in the organ markets is the Kidneys down the line is livers and corneas, In the existing markets, human tissue, blood plasma, eggs, and embryos are also becoming increasingly prevalent.¹⁰

During the 1980s was the earliest reported instance of organ trade , the patients from the Saudi Arabia had a surge in India for the need of treatment for their kidney failure, the transplants for them was conducted in a private hospital located in Mumbai, the procedures were concealed and the donors were the people experiencing poverty and led to the enrollment of agents to lure the people who are in need of monetary benefit like beggars , migrant workers, people dwelling in slums etc., to lure them with quick cash around 1000 dollars. In addition even advertisements were made in newspapers for safe and pain free removal of kidneys and the trade was immensely lucrative due to the absence of laws during that period¹¹.the transplant tourism also emerged through which five star hospital chains which were emerged by the market

¹⁰ Goff, P. (2023) Organ trafficking facts, The Exodus Road. Available at: <https://theexodusroad.com/organ-trafficking-facts/> (Accessed: 01 October 2024).

¹¹ Organ Transplant Scams in India: How to avoid them and stay safe (2024) Milaap. Available at: <https://pages.milaap.org/2024/07/29/organ-transplant-scams-in-india-how-to-avoid-them-and-stay-safe/#:~:text=This%20inequitable%20system%20forces%20many,and%20livers%E2%80%94involve%20trafficked%20organs> (Accessed: 01 October 2024).

liberalization in 1980s¹², after the strict enactment of The Transplantation of Human Organs Act in the year 1994 restricted and made it hard for foreign recipients anyhow it resulted in NRIs to utilize the kidney market in India through transplant tourism.

There isn't vast data about the sellers and their long term effects and it is hard to trace them, but as per a researcher he emphasizes that the sellers of the organs in most cases the kidney is sold by people dwelling in urban slums and generally women at large have contributed to get rid of their debts, to utilize it for education, medical purposes or for other essential requirements.¹³ Due to the people poverty and debt crises paves way to donating their organs since there is also a shortage and requirement of organs in this phase the medical professional, medical broker and people affected from debt crisis maintain a link or a zone to intensify such sale of organs.

6. The Victims of Organ Trafficking:

The human trafficking victims are the ones who are recruited deceived, harbored, transported, exploited and coerced. the victims of organ trafficking are mostly the people facing financial crises due to poverty and generally prevalent among the migrants, refugees and asylum seeker and are targeted by the traffickers since they have to survive to provide for themselves and their families, they donate or smuggle their organs, as stated by the UNODC the average age of the victim includes men from young to adult around the age of thirty years¹⁴. In most case the donor are employed through online and in person as well, due to the fake and fraud promises or for financial benefits they undergo the surgeries at times they are promised to pay around 10000 dollars but never get paid after the surgery, and forced to sign the consent forms to declare that they possess the consent and related to the patient. Furthermore the victims are also considered as criminals in organ trafficking since they are being paid, though they are profited on the other hand they are exploited by the traffickers.

¹² Trafficking of human organs in India (no date) The Pontifical Academy of Social Sciences. Available at: https://www.pass.va/en/publications/acta/acta_20_pass/abraham.html (Accessed: 01 October 2024).

¹³ Trafficking of human organs in India (no date) The Pontifical Academy of Social Sciences. Available at: https://www.pass.va/en/publications/acta/acta_20_pass/abraham.html (Accessed: 01 October 2024).

¹⁴ Goff, P. (2023) Organ trafficking facts, The Exodus Road. Available at: <https://theexodusroad.com/organ-traffic-facts/> (Accessed: 01 October 2024).

7. Organ trafficking and their financial gains:

Organ trafficking being a profitable industry it is overshadowed by other most common forms of crimes like labour trafficking or the sex trafficking mainly because of the confidentiality maintained in the industry, the WHO (World health Organization) presumes that India is the foremost exporter of kidneys and has been exported nearly two thousand kidneys every year, mainly to the foreigners.¹⁵ The amount promised to purchase the kidneys is around 1410 to 2909 USD and actually the amount received is 1070 to 1873 USD¹⁶ the buying and selling of kidneys has become a bargaining process, the victim aren't bearing in mind that they are being exploited for the selling of their own organ rather they consider their livelihood and want to be at ease by clearing the debts. Selling their organs doesn't benefit them for a prolonged period to satisfy their economic needs but leads to deterioration in their health status, In addition to the hazards associated with financial difficulty, organ donation occurs. The impoverish ones provide the medical need to the affluent people and intensifies the inequalities in the society.

There are nearly 3 lakh patients in India awaiting for the donors there is an immense gap between the supply and the demand, there are almost 1.5 lakh brain death cases in India yet 1028 organ donations have took place, but 3000 transplantations have been done in the year 2023, proves the gap that nearly 10% of the organ transplants are implemented by the trafficked organs which are sold illegally in the black markets¹⁷. The global financial integrity has estimated that almost ten percent of the organs particularly kidneys are traded and estimates that ten thousand kidneys have been exchanged in the black market.

8. Legal frameworks on organ trafficking:

Globally the commercialization of organ transplants were trying to restrict it along with the World Health Organization, to fight against it among the influencing countries.

¹⁵ Organ Transplant Scams in India: How to avoid them and stay safe (2024b) Milaap. Available at: <https://pages.milaap.org/2024/07/29/organ-transplant-scams-in-india-how-to-avoid-them-and-stay-safe/#:~:text=This%20inequitable%20system%20forces%20many,and%20livers%E2%80%94involve%20trafficked%20organs> (Accessed: 01 October 2024)

¹⁶ Trafficking of human organs in India (no date) The Pontifical Academy of Social Sciences. Available at: https://www.pass.va/en/publications/acta/acta_20_pass/abraham.html (Accessed: 01 October 2024)

¹⁷ Organ Transplant Scams in India: How to avoid them and stay safe (2024b) Milaap. Available at: <https://pages.milaap.org/2024/07/29/organ-transplant-scams-in-india-how-to-avoid-them-and-stay-safe/#:~:text=This%20inequitable%20system%20forces%20many,and%20livers%E2%80%94involve%20trafficked%20organs> (Accessed: 01 October 2024)

The World Medical Associations (WMA):

This association has been progressed by the International Organizations to curb the organ trafficking, the World Medical association furnished the assertion on organs and tissue donations, some of the discussed points were¹⁸:

- The individuals are funded for donating their kidneys in few parts of the world, and such sale is considered as unlawful, the WMA has strongly opposed these sales commercialized in the black markets.
- The WMA ensures that the surgeons should make sure to seek organs and tissues obtained for transplant are as per the provisions of the WMA policies and should refrain if there is suspicion or have procured from an unlawful or unethical practices such acts should be refrained.
- National medical Associations to ensure to work with the governments and institutions to make sure they work appropriately and effectively, the procedure are in place and perform in ethical manner abiding by the protocols on organ donations & transplantation¹⁹.

SAARC:

The South Asian Association for Regional Cooperation, India being its key member, it deals with the regional intergovernmental organizations and the geopolitical union of nations in South Asia, the SAARC strictly prohibits organ trafficking and provides measures to combat such crimes.

The Transplantation of Human Organ Act 1994:

India being a hub for organ trafficking and commercialization over the years the internet and the social media has made such acts to be easily accessible through advertisements and auctions are sited online, the tissue commerce has also massively flourished though there is

¹⁸ Sahi, M.K. et al. (2022) 'Organ commercialism, trafficking and transplant tourism', *Indian Journal of Medical Ethics*, 7(2), pp. 142–149. doi:10.20529/ijme.2021.056.

¹⁹ Sahi, M.K. et al. (2022) 'Organ commercialism, trafficking and transplant tourism', *Indian Journal of Medical Ethics*, 7(2), pp. 142–149. doi:10.20529/ijme.2021.056.

no scarcity in tissues, it is prohibited under the Transplantation of Human Organ Act 1994 amended in 2011 has provided punishments for the unauthorized transplantation of tissues and organs and supplying and procuring for such commercialization's however the public aren't much aware about it, it's threat to public health , the amendment has provide for the authorization of a committee possessing power similar to the civil court, the penalties have increased such has for removal of organs without authority is enhanced to 10 years, in 1994 Act it was 5 years. Likewise with penalties increased from 10,000 enhanced to 20 lakhs in the amendment, and for commercial dealings on organs and falsification of documents imprisonment of 5 years enhanced to 10 years, and penalties ranges to 20 lakhs. There are 12 various forms for living donations and the transplantation and then money shouldn't be exchanged for donation, it has to be purely informed consent and allows foreigner to avail organs from India if they are near relations, they can also bring foreign donor as well for transplants²⁰.

Due to cost effective transplants in India many foreigners utilize the transplant mechanisms in India, yet the huge hospital chains consists of marketing personnel's to advertise to the doctors and inducement is provided to such marketers it has been brought to light using the laws and are punished for such acts.

Other Legislations:

The organ trafficking is considered as a violation of human right, it violates right to health under **Article 21**²¹ under the **Indian Constitution** and **DPSP Article 38,39,42,43 and 47**²² provides that the state has obligation to ensure the effective realization of public health²³. And it breaches the right to be protected against exploitation under Article 23, which forbids the practice of human trafficking, forced labor, and so on. in the **BNS**²⁴ Organ trafficking is dealt under **section 143** under the context of trafficking in persons and providing punishment from rigorous imprisonment to life imprisonment along with penalties, though many reports are

²⁰Sahi, M.K. et al. (2022) 'Organ commercialism, trafficking and transplant tourism', Indian Journal of Medical Ethics, 7(2), pp. 142–149. doi:10.20529/ijme.2021.056.

²¹ Constitution of India. Available at: https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf (Accessed: 02 October 2024).

²² Constitution of India, 1950.

²³ <https://www.drishtias.com/daily-updates/daily-news-analysis/right-to-health-3>

²⁴ India code: Bharatiya Nyaya Sanhita, 2023. Available at: https://www.indiacode.nic.in/handle/123456789/20062?view_type=browse (Accessed: 30 September 2024).

made but only few are arrested to due lack of evidences and conspiracy in the field hence cooperation and vigilance is needed in the administration of organ trade and trafficking.

Government of India scheme: National Transplant Scheme, The National Organ and Tissue Transplant Institute (NOTTO)²⁵ is a national level institution set up by the Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, and is located in the Institute of Pathology (ICMR) Building at Safdarjung Hospital, which is located in New Delhi. It has two divisions National Human Organ and Tissue Removal and Storage Network National Biomaterial Centre, National Human Organ and Tissue Removal and Storage Network. This was authorized under the Transplantation of Human Organs (Amendment) Act 2011. The network would be developed first in Delhi and then eventually broadened to include other regions and states of the country. Thus, this section of the NOTTO is the nodal networking agency for Delhi and will network for procurement, allocation, and distribution of organs.

9. Example Cases on Organ Trade and Trafficking:

There are numerous cases which violates the human rights were reported, due to enormous cases in the economy the violation of organ trade was analyzed, about its nature, how it works and about the process of victimization, yet their identities were not revealed and unable to find its authenticity of the donors and the medical practitioners involved in it, many countries try to combat against it and have taken effective measures to prevent organ trafficking, some of the cases are listed below;

Rosenbaum Network of Human Trafficking

The FBI in an operation namely Big Rig uncovered this case , the corrupt workers in the Jewish committee located in New Jersey were targeted , these people involved in the business from 1999 and came to light by the FBI agencies in the year 2008²⁶. The moment when suspect turned as an informant, hence the FBI team initiated by impersonating and asking for help to Rosenbaum for a kidney transplant and to arrange a donor and paid a sum of 160,000 dollars as advance for the procedure, by sending it to a non-profitable account in Brooklyn,

²⁵ About Us NOTTO. Available at: <https://notto.mohfw.gov.in/about-us.htm> (Accessed: 02 October 2024).

²⁶ Scheper-Hughes, N. (2017) 'Kidney pirates: How to end human trafficking in organs for illegal transplants', *Journal of Trafficking and Human Exploitation*, 1(2), pp. 259–269. doi:10.7590/245227717x15090911046629.

Rosenbaum teamed up with his associates in Israel to identify a suitable donor, in the year 2011 Rosenbaum was convicted and pleaded guilty for the offence violating the law in US and for commercializing human organ sale²⁷, the exchanged illegal evidences were seized and he was sentenced in prison for 30 months and it was difficult to charge him under human trafficking since the prosecution was unable to find the seller during the prosecution and hence very less punishments were inflicted.

NET CARE Case

There was a newspaper advertisement in South Africa referring to kidney donation and money will be offered for such donations, the donors were granted consent without testing their medical history, the donors were monitored and later reached in an Eastern European Airport by one of the accomplice, the offenders misled the victims claiming that they are doctor and are not aware of the risks and promised the victims to compensate \$7000 but the victims were not paid after the treatment, in one such case 2 victims received half of the amount but it was taken back by the offenders and never received it back subsequently they were not given medical treatment in their respective countries as well and were threatened not to report it to the police, later through the evidences collected by people who lost their kidney during their flight to another country, the Netcare Chief Executive Officer and 8 more people consisting of organ transplant specialists, transplant exchanges, nephrologists and translators were arrested in 2003²⁸, the Netcare offenders pleaded guilty for 102 crimes committed by them in 2010 conducted various unlawful transplants, frauds and violence's and were punished the company with fine of \$4 million, in the course of transaction the charges against the company was dismissed.

Medicus Case:

In Kosovo, particularly in the city of Pristina, a medical facility is known as the center for illegal organ trade, The Medicus facility in Pristina, Kosovo, is the hub of the illegal organ trade. The Immigration Service started investigating the incident in 2008, assuming that some Foreigners have arrived to the country with cardiac problems. The kidney of a patient

²⁷ Sharma, S. (2023) 'Legislative Framework against Organ Trafficking In India', *International Journal of Recent Research Aspects*, 10(2), pp. 11–19.

²⁸ S African Hospital Group pleads guilty in organ scandal (2010) BBC News. Available at: <https://www.bbc.com/news/world-africa-11725536> (Accessed: 02 October 2024).

was discovered to be in poor health was assessed at Medicus Hospital. Where charges are to be paid. After obtaining the information, the police searched the hospital. Investigations determined that the illegal networks for trading of organs was established in 2000 by medical facility owners who approached Turkish authorities²⁹. When cases were transferred to Kosovo, EULEX took charge of the prosecution. Kosovo politicians are also accused of involvement, complicating the criminal investigation³⁰. The clinic's proprietor was found guilty for offering illegal medical services, trafficking individuals, and other crimes. Other accusations, including abuse of workplace, physical violence, deception, and document fabrication, were dismissed. The sentence entails almost 8 years in prison and a fine of 10,000 euros³¹. The Medicus research found that effective decision-making for trafficking victims requires prompt investigation, arrest, and collection of all relevant materials and records. The examination of the anaesthesiologist's procedure was crucial in this case.

Gurgaon Case:

An organization was set up by the police in Uttar Pradesh and Haryana and targeted the kidney scam group headed by Amit Kumar, the clinics which were used for such scams were private homes and guest houses, the buyers were from various countries like UK, USA, and Greece etc. Dr. Amit and his allies deceived the donors they have done nearly 600 transplants, for each transplants earned profits around 2.5 million but the donor were provided with only fifty thousand to one lakh, Authorities discovered that the police were sheltering 5,000 beneficiaries. Dr. Amit, his brother, and several others were lately detained for unlawful human organ transplantation, and they had previously been convicted thrice. But he got out on bail. Dr. Amit and his brother were taken captive near Nepal in 2008. The Federal Bureau of inquiry inquired on February 8, 2008. Dr. Amit was accused under IPC sections 326, 420, 380, and 120B³² with illegal acquisition, use of hazardous weapons, excessive punishment, fraud, causing damage, organ transplantation, and trafficking. In 2013, Amit was accused in four further cases by the CBI court. Another defendant, who appeared in court in 2008, was

²⁹ Sharma, S. (2023) 'Legislative Framework against Organ Trafficking In India ', International Journal of Recent Research Aspects, 10(2), pp. 11–19

³⁰ Nielsen, J. et al. (2023) 'Social network analysis of Illicit Organ Trading Networks: The medicus case', Trends in Organized Crime [Preprint]. doi:10.1007/s12117-023-09513-1.

³¹ Die Morina, B.I. (2018) Kosovo convicts two in organ-trading trial, Balkan Insight. Available at: <https://balkaninsight.com/2018/05/24/kosovo-organ-trafficking-medicus-trial-verdict-05-24-2018/> (Accessed: 02 October 2024).

³² Indian Penal Code, 1860.

convicted for a lack of evidence. Both were sentenced to seven years in prison and fine of rupees sixty lakhs³³, alleging India's involvement in transplantation of organs. Individuals emerge to various regions across India to receive kidney transplants from the inhabitants. There were no particular charges filed against the employees here, the legal proceeding against Amit is been pending here for years. But he emphasized the right to life³⁴. Those convicted under the Human Transplantation Act 1994 are regarded to have breached several laws of the International Criminal Court and ruined the whole purpose of the Transplantation Act by harsh treatment, deception and torture, or physical. Intimidation by various means.

Donor Card Scam

Surya was in an adverse crisis in February 2020. After losing her husband's job and being unable to make a living owing to an accident, she thought about trading her kidney to cover the ₹5 lakh debt. Though she was aware that trading organs is illegal in India, necessity drove her to post her mobile number on a Facebook group. However couple of days later, she got a call from Dr. Sandy, who claimed to be from a medical centre in Ghaziabad. He offered her ₹1 crore for her kidney, but only after she deposited ₹8,000 for a donor card. As it happens, Surya discovered the MOHAN Foundation, a non-profit organization that promotes legal Organ donation³⁵. They assured her that donor cards are entirely free, enabling her recognize she was about to be scammed.

The Hidden Trade of Kidney Rackets:

In the month of April 2017, Jaideep Sharma, was a 23 years MBA student in Pune, was worried by the unexplained disappearance of his friend who just talked about the donation of kidneys. Concerned for his friend's safety, Jaideep decided to resolve matters in his own hands and

³³ Ajay Sura / PTI / Updated: Mar 22, 2013 (2013) Gurgaon Kidney Scam: Two doctors get 7 Years' jail: Gurgaon news - times of India, The Times of India. Available at: <https://timesofindia.indiatimes.com/city/gurgaon/gurgaon-kidney-scam-two-doctors-get-7-years-jail/articleshow/19129441.cms> (Accessed: 02 October 2024).

³⁴ Sharma, S. (2023) 'Legislative Framework against Organ Trafficking In India ', International Journal of Recent Research Aspects, 10(2), pp. 11–19

³⁵ TIMESOFINDIA.COM / Jul 9, 2023 (2023) Scammers pretending to be doctors try conning Indian woman of Rs 1 crore in exchange of her kidney - times of India, The Times of India. Available at: <https://timesofindia.indiatimes.com/etimes/trending/scammers-pretending-to-be-doctors-try-conning-indian-woman-of-rs-1-crore-in-exchange-of-her-kidney/articleshow/101613178.cms> (Accessed: 02 October 2024).

joined a kidney trafficking organization by impersonating as a potential donor³⁶. Jaideep carefully orchestrated an undercover mission in collaboration with the media reporter and the Delhi Police Crime Branch. He approached the smugglers, who rendered him ₹4 lakh for his kidney.

The traffickers altered his appearance, changed his identity, and created forged documents to establish his relationship with the family who needed his kidney³⁷. They even went so far as to edit pictures from the family to incorporate him.

10. Suggestions:

Preventing organ trafficking is a multi-faceted effort that addresses the problem at many levels. First and foremost, legislation has to be strengthened; governments must produce strict laws that would stipulate organ trafficking as an offense of high gravity, strictly punish the offenders, and at the same time protect victims and encourage whistle blowers. Public awareness campaigns are necessary in the sense that they are important in informing communities about the dangers and ethical issues surrounding organ black market trade, thereby killing the myths while setting up a culture for voluntary and altruistic donation of organs.

Organ donation needs to be actively promoted with systems that should be set in place transparently with the prospects so that they get a feeling of being informed and comfortable with their decision-making. This would be possible through outreach efforts that speak to the many lifesaving experiences achievable through legal donations. International cooperation is also important because organ trafficking cuts across borders. Countries should assist one another to draft treaties and collate efforts in many initiatives, utilizing organizations like Interpol and WHO to increase the resources and intelligence gathering and dissemination in fighting this crime.

³⁶ Sunny, S. (2017) Kidney racket: All about the scam busted at Delhi's Batra Hospital, Hindustan Times. Available at: <https://www.hindustantimes.com/delhi-news/kidney-racket-all-you-need-to-know-about-the-scam-busted-at-delhi-s-batra-hospital/story-1izebU2bRo8hA2laW2PJVM.html> (Accessed: 02 October 2024).

³⁷ Organ Transplant Scams in India: How to avoid them and stay safe (2024) Milaap. Available at: <https://pages.milaap.org/2024/07/29/organ-transplant-scams-in-india-how-to-avoid-them-and-stay-safe/#:~:text=This%20inequitable%20system%20forces%20many,and%20livers%E2%80%94involve%20trafficked%20organs> (Accessed: 02 October 2024).

Checking and regulating the transplant centres is important, strong oversight mechanisms will ensure that they are within ethical standards. Authorities will be in a position to spot suspicious activities quickly. Being able to assist victims of trafficking is also very important, medical attention, psychological counselling, and legal representation can set lives back and recover from such experiences. Training health care professionals in recognizing signs of trafficking and to be aware of ethical considerations of practices that they are involved with establishes a watchful culture in health care.

Organ trafficking trends and demographics must be better researched, as this would help shape interventions toward focusing the most critical issues. Grassroots movements empower community members to fight trafficking and encourage ethical organ donation practice within their spheres of influence. Last but not least, using technology is, in fact an effective tool in enhancing the aspect of prevention, high-level tracking systems are to be deployed to bring transparency in organ donations and transplantation to avoid fraudulent activities at each step. This will make up for the complete response to organ trafficking, and vulnerable populations will then be saved as well, as this will bring a responsible culture of organ donation in place.

11. Conclusion:

Organ traffic is one of the heinous crimes which is prevalent worldwide, furthermore there is no separate legislation to deal with organ trafficking, it involves practices like organ trade and commercialisation as well. Organ trafficking certainly it deals with legal and human rights challenges which are dreadful, thus the practices like commercialisation of organs victimise the vulnerable ones as a result the black markets may proliferate, besides this may create a gap between the authorised medical organisations and the people due to diminishing faith and from the fear of being exploited.

There is an enormous lacuna in the availability of organs and for the ones in need of organs, due to the various factors like unemployment, poverty, lack of awareness etc. which leads the victims to fall into the traps of organ trafficking without considering its long term health effects and risks it possess,

Though there is THOTA act to prevent organ trafficking still due to the prevalence of enormous concealed cases which exists, creates a need for separate legislation, hence to curb and curtail organ trafficking there is a need for separate legislation, the laws has to be

strengthened globally as well as in India, and should enhance the cooperation among the nations and ethical organ transplantation practices has to be followed, consequently awareness has to be raised among the people about the scams and risks involved in the process. Moreover powerful investigating and assisting systems, should be developed, to track the illicit trafficking further to prevent and to aid the victims of organ trafficking and to ensure them access to fair and equitable transplants and medical care.