



Trafficking in Persons for Organ Removal Information Memo

TO: OTIP award recipients; OTIP contractors; and other interested parties

SUBJECT: Trafficking in Persons for Organ Removal (TIP for OR)

ATTACHMENT(S): Appendix A

Background

Trafficking in persons for organ removal (TIP for OR) is a form of exploitation that involves forcing, coercing, or defrauding a person into donating or selling their organs. Criminalized at the international level, this elusive offense occurs at the intersection of human trafficking, organ trafficking, economic mobility, and public health. Accordingly, it is important for direct service providers and healthcare and public health organizations that serve people who are at risk of or experiencing this type of exploitation to understand TIP for OR. This Information Memorandum (IM) will provide information on the nature and scope of the issue and multilateral guidance for prevention and response.

Defining Trafficking in Persons for Organ Removal

Although interrelated, organ trafficking and TIP for OR are distinct issues. TIP for OR is “a form of trafficking in which an individual is exploited for removal of their organ, including by coercion, deception and abuse of a position of vulnerability.”¹ In contrast, organ trafficking refers to “the illicit trade or exchange of organs for financial or other material gain.”² The issue of free, informed, and explicit consent to the donation of a person’s organs is central in potential situations of TIP for OR.³ Traffickers may utilize consent forms to gain the appearance of consent from people they subject to TIP for OR.⁴ However, consent to sell or

¹ U.S. Department of State, *Trafficking in persons for the purpose of organ removal* (2024), https://www.state.gov/wp-content/uploads/2024/08/24-02934-TIP_Factsheet-Forced-Organ-Removal_Accessible-8.22.20224.pdf.

² *Id.*

³ World Health Organization, *Guiding Principles on Human Cell, Tissue and Organ Transplantation of the World Health Organization* (2010) [hereinafter WHO Guiding Principles], Guiding Principle 3 (providing guidance on standards of consent to donation and organ allocation), <https://iris.who.int/bitstream/handle/10665/341814/WHO-HTP-EHT-CPR-2010.01-eng.pdf>; Inter-Agency Coordination Group against Trafficking in Persons, *Trafficking in Persons for the Purpose Of Organ Removal* (2021), Issue 11, at 6 [hereinafter ICAT], icat.un.org/sites/g/files/tmzbd1461/files/publications/icat_brief_tip_for_or_final.pdf.

⁴ ICAT, *supra* note 3 at 6.

donate organs is invalid when the use of deception, fraud, or abuse of a position of vulnerability is used to gain the appearance of consent.⁵ What constitutes illicitly gained consent is a fact-specific, often nuanced analysis, which can make it challenging to determine when organ trafficking becomes TIP for OR.⁶ Examples of potentially invalid consent include when a person signs a consent form under duress, based on fraudulent or misleading information, or without understanding the form's contents.⁷

Drivers and Trends

The full scope of the problem of TIP for OR is unknown. The United Nations Office on Drugs and Crime (UNODC) Global Reports on Trafficking in Persons noted that approximately 300 victims of TIP for OR were detected across multiple countries between 2010 and 2018.⁸

Increasing global demand and shortage of available human organs drives TIP for OR.⁹ More than 150,000 transplants are performed annually worldwide; however, this meets less than 10 percent of the global demand.¹⁰ In 2007, the World Health Organization (WHO) estimated that five to 10 percent of all transplants worldwide used organs obtained from the black market.¹¹ The percentage of organs obtained illegally through the black market may be significantly higher now due to rapidly "growing and aging populations, globalization of unhealthy lifestyles, and increased mobility."¹² According to UNODC, of organs and tissues "obtained from living donors," kidneys are in highest demand, "followed by livers and corneas."¹³ Other illicit forms of trafficking in human organs and tissues include human egg trafficking, skin trafficking, trafficking in human embryos, and blood plasma.¹⁴

⁵ OHCHR, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* (2000) [hereinafter Palermo Protocol], General Assembly resolution 55/25, Art. 3(a), <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>.

⁶ See ICAT, *supra* note 3 at 6.

⁷ *Id.*

⁸ See UNODC, *Global Report on Trafficking in Persons 2018*, at 30-31, https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf; UNODC, *Global Report on Trafficking in Persons 2016*, at 31, https://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf; see also UNODC, *Global Report on Trafficking in Persons 2014*, at 68, https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf.

⁹ ICAT, *supra* note 3 at 2; World Medical Association, *Statement on Measures for the Prevention and Fight against Transplant-related Crimes* (2020) [hereinafter WMA], <https://www.wma.net/policies-post/wma-statement-on-measures-for-the-prevention-and-fight-against-transplant-related-crimes/>.

¹⁰ UNODC, *Toolkit on the Investigation and Prosecution of Trafficking in Persons for Organ Removal* (2022) [hereinafter UNODC Toolkit 2022], https://www.unodc.org/res/human-trafficking/glo-act2/tip-for-or-toolkit/Module_1.pdf; WMA, *supra* note 9.

¹¹ UNODC, *Explainer: Understanding Human Trafficking for Organ Removal* (2024) [hereinafter UNODC Explainer], www.unodc.org/unodc/frontpage/2024/June/explainer_-understanding-human-trafficking-for-organ-removal.html.

¹² *Id.*

¹³ UNODC Toolkit 2022, *supra* note 10.

¹⁴ *Id.*

Organized criminal groups engaged in TIP for OR use fraud—online and in person—to recruit people to donate or sell their organs. A well-documented tactic of traffickers is to claim that kidneys grow back after being removed, that the person has a third and/or extra kidney, or that a person does not need two kidneys.¹⁵ Moreover, traffickers often pay minimal sums for organs that they sell on the black market for significantly more, or they promise recruits \$500 to \$10,000 for their organs, which the organ donor may never receive. Another way traffickers defraud recruits is by promising medical care after surgery that is never provided.¹⁶ Since organ trafficking is an illicit trade, if the trafficker does not pay the promised fee there are few if any avenues for people who have experienced TIP for OR to seek legal remedy or full payment from their traffickers.¹⁷

Research has found most people who experience TIP for OR are men in their thirties who have been recruited to sell their organs,¹⁸ with two thirds of reported cases of TIP for OR involving men.¹⁹ Some risk factors for experiencing TIP for OR include lack of formal education, unemployment, and poverty, among other factors.²⁰ Recruits may sell their organs for many reasons, including to alleviate poverty, fund a dowry, or obtain the resources necessary to migrate.²¹ Organized criminal groups seek out migrants to traffic for OR.²²

The Crime of Trafficking in Persons for Organ Removal

The crime of TIP for OR is internationally recognized in the Palermo Protocol but is not criminalized in every country, including the United States. As of 2024, only 16 convictions involving the illicit sale of human organs have been reported to UNODC, which is fewer than

¹⁵ UNODC, *Assessment Toolkit: Trafficking in Persons for Organ Removal* (2015) [hereinafter UNODC Toolkit 2015], at 28, https://www.unodc.org/documents/human-trafficking/2015/UNODC_Assessment_Toolkit_TIP_for_the_Purpose_of_Organ_Removal.pdf; UNODC Toolkit 2022, *supra* note 10.

¹⁶ See Demneri, E., *For Sale: The Pervasive Organ Trade in Asia* (2024), Harvard International Review, <https://hir.harvard.edu/for-sale-the-pervasive-organ-trade-in-asia/>. CBS News, *Black Market Kidney Broker, Levy Izhak Rosenbaum, Released from Prison* (2014), <https://www.cbsnews.com/newyork/news/black-market-kidney-broker-levy-izhak-rosenbaum-released-from-prison/>.

¹⁷ See UNODC Toolkit 2015, *supra* note 15; see also *State v. Netcare Kwa-Zulu Limited* and *J.A. vs. State of Israel*, UNODC Human Trafficking Case Law Database, www.unodc.org/cld.

¹⁸ Delmonico, F., *A Report of the Amsterdam Forum On the Care of the Live Kidney Donor: Data and Medical Guidelines* (2005), *Transplantation* vol. 79, S53-66, <https://pubmed.ncbi.nlm.nih.gov/15785361/>; UNODC Toolkit 2022, *supra* note 9.

¹⁹ UNODC Explainer, *supra* note 11.

²⁰ UNODC Toolkit 2015, *supra* note 15 at 6.

²¹ Shrestha, B. et al., *Why do people sell their kidneys? A thematic synthesis of qualitative evidence* (2024), *PLOS Global Public Health* vol. 4(3) e0003015, <https://journals.plos.org/globalpublichealth/article?id=10.1371/journal.pgph.0003015>; Gonzalez, J. et al., *Organ Trafficking and Migration: A Bibliometric Analysis of an Untold Story* (2020), *International Journal of Environmental Research and Public Health*, <https://pmc.ncbi.nlm.nih.gov/articles/PMC7246946/>.

²² UNODC Explainer, *supra* note 11; Council of Europe & United Nations, *Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs*, at 60, <https://rm.coe.int/16805ad1bb>.

expected based on global estimates of the scale of the issue.²³ The Organization for Security and Co-operation in Europe (OSCE) reported an additional eight cases.²⁴ Globally in 2024, there have only been six formally reported convictions of TIP for OR.²⁵ However, some regional bodies and States parties to the Palermo Protocol have enacted and implement anti-human trafficking frameworks that target the crime of TIP for OR.²⁶

International Law

TIP for OR is a crime under international law. Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) defines trafficking in persons as:

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, 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 or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.²⁷

Article 3(a) states that “exploitation” includes “the removal of organs.”²⁸

Regional Frameworks

For some countries, regional agreements provide additional legal infrastructure for responding to TIP for OR. One regional framework that prohibits TIP for OR is the Council of Europe Convention against Trafficking in Human Organs (CoE Convention).²⁹ This convention is a notable and standard-setting legal framework, requiring States Parties to criminalize illicit removal of human organs, protect the rights of victims, and facilitate national and international cooperation on the issue.³⁰ The CoE Convention defines “illicit removal of human organs” to encompass the removal of organs from living or deceased donors:

²³ UNODC, SHERLOC Case Law Database [hereinafter SHERLOC], <https://www.unodc.org>; Organ Trafficking Research, *Law Enforcement*, <https://www.organtraffickingresearch.org/lawenforcement/>.

²⁴ OSCE, *Trafficking in human beings for the purpose of organ removal in the OSCE region: analysis and findings*. Organisation for Security and Co-operation in Europe (2013) [hereinafter OSCE Analysis & Findings], <https://www.osce.org/secretariat/103393>; Law Enforcement, *supra* note 23.

²⁵ SHERLOC, *supra* note 23; OSCE Analysis & Findings, *supra* note 24; Law Enforcement, *supra* note 23.

²⁶ See Council of Europe, *Convention against Trafficking in Human Organs* (2015) [hereinafter CoE Convention], Art. 4, [²⁷ Palermo Protocol, *supra* note 5.](https://eucrim.eu/articles/council-europe-convention-against-trafficking-human-organs/#:~:text=The%20situations%20criminalized%20under%20this,deceased%20donor%20(Art%3A%204.1; see also European Union and Council of Europe Directive 36/2011, Art. 2(3), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0036; ASEAN, Convention Against Trafficking in Persons, Especially Women and Children (2015) [hereinafter ASEAN Convention], Art. 2(a) https://www.asean.org/wp-content/uploads/2015/12/ACTIP.pdf.</p></div><div data-bbox=)

²⁸ *Id.*

²⁹ CoE Convention, *supra* note 27; see also Directive 36/2011, *supra* note 27.

³⁰ CoE Convention, *supra* note 27; see also CoE, *Convention on Action against Trafficking in Human Beings*, Art. 4(a) <https://rm.coe.int/168008371d>; ICAT, *supra* note 3.

- a) where the removal is performed without the free, informed and specific consent of the living or deceased donor, or, in the case of the deceased donor, without the removal being authorised under its domestic law
- b) where, in exchange for the removal of organs, the living donor, or a third party, has been offered or has received a financial gain or comparable advantage;
- c) where in exchange for the removal of organs from a deceased donor, a third party has been offered or has received a financial gain or comparable advantage.³¹

The CoE Convention for the Protection of Human Rights and Dignity of Human Beings with regard to the Application of Biology and Medicine provides an additional component to the CoE's legal framework, which states that, "the human body and its parts shall not, as such, give rise to financial gain."³² The CoE Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin, adopted in 2001, extended its provisions to including a prohibition on the practice of organ trafficking.³³ That protocol further explains that the practice of organ trafficking infringes on human rights, exploits vulnerable persons, and undermines public trust in the transplant system. Another notable regional framework is the Association of Southeast Asian Nations' (ASEAN) in 2015 Convention Against Trafficking in Persons, Especially Women and Children (ASEAN Convention).³⁴ Article 2(a) of the ASEAN Convention adopts the same definition of trafficking in persons as Article 3(a) of the Palermo Protocol.³⁵ The ASEAN Convention is binding on member states of the ASEAN unless the member state files a formal withdrawal from the ASEAN Convention.³⁶ The ASEAN Convention in this case requires member states of the ASEAN to "adopt legislative and other measures as may be necessary to establish criminal offences the conduct set forth in Article 2 of [the ASEAN Convention], when committed intentionally."³⁷

³¹ CoE Convention, *supra* note 27.

³² CoE Convention for the Protection of Human Rights and Dignity of Human Beings with regard to the Application of Biology and Medicine (1997), Art. 21, <https://rm.coe.int/168007cf98>; *see also* CoE, *Guide on prohibition of financial gain* (2018), <https://rm.coe.int/guide-financial-gain/16807bfc9a>.

³³ *See* CoE, *Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin* (2001), Art. 22, <https://rm.coe.int/1680081562>; ICAT, *supra* note 3.

³⁴ ASEAN Convention, *supra* note 27.

³⁵ *Id.*

³⁶ *See id.* at Article 30; ASEAN-Australia Counter Trafficking, *Trafficking Victim Protection in ASEAN* (2024), <https://www.aseanact.org/resources/trafficking-victim-protection-in-asean/#:~:text=The%20ASEAN%20Convention%20against%20Trafficking,of%2C%20and%20support%20provided%20to.>

³⁷ ASEAN Convention, *supra* note 27.

National Laws

According to the [Global Compendium - Human Trafficking Laws](#), at least 32 countries prohibit trafficking in persons for organ removal.³⁸ Since the Palermo Protocol sets minimum standards for national laws, some States Party have chosen to add removal of tissues, cells, or fluids to their human trafficking laws, even though human tissues are not specifically mentioned in the international definition of exploitation.³⁹

Legal Framework in the United States

At this time, there are no federal or state laws in the United States that criminalize TIP for OR. The Trafficking Victims Protection Act of 2000 and its reauthorizations recognize and define two forms of human trafficking: sex trafficking and labor trafficking.⁴⁰ However, the trafficking of organs is prohibited under 42 U.S. Code § 274e as Prohibition of Organ Purchases.⁴¹

(a) Prohibition

It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce. The preceding sentence does not apply with respect to human organ paired donation.

(1) The term “human organ” means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the Secretary of Health and Human Services by regulation.

Organ trafficking has been prosecuted in the United States, and it is possible that the organ donors involved had experienced TIP for OR,⁴² but without an offense of TIP for OR, law enforcement and prosecutors are limited in how they can investigate and prosecute the crime.

³⁸ See Ragas Online, *Global Compendium - Human Trafficking Laws* (accessed Dec. 5, 2024), <https://ragas.online/human-trafficking-laws/> (reporting that 32 of the 34 countries listed have a domestic law prohibiting trafficking in persons for organ removal, including: Cameroon, Eswatini, Ethiopia, Gambia, Ghana, Liberia, Mauritius, Namibia, Brazil, Australia, Fiji, Hong Kong, Marshall Islands, New Zealand, Philippines, Singapore, Taiwan, Vanuatu, Austria, Belgium, Bulgaria, France, Germany, Italy, Netherlands, Russia, Spain, United Kingdom, Morocco, and Mexico).

³⁹ UNODC Toolkit 2022, *supra* note 10 at 8.

⁴⁰ Trafficking Victims Protection Act of 2000 (TVPA), 22 U.S.C. § 7102(11)(A)-(B), <https://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter78&edition=prelim>.

⁴¹ 42 U.S. Code § 274e - Prohibition of Organ Purchases, <https://uscode.house.gov/view.xhtml?req=granuleid:USC-1999-title42-section274e&num=0&edition=1999#:~:text=It%20shall%20be%20unlawful%20for,the%20transfer%20affects%20in,terstate%20commerce>.

⁴² See Porter, D. & Johnson, C., *First case of organ trafficking in U.S.?*, NBC News, <https://www.nbcnews.com/id/wbna32132371> (reporting the trafficker allegedly “carried a gun, and when a potential organ seller would get cold feet, [he] would use his finger to simulate firing a gun at the person’s head”).

A bill passed by the House of Representatives and introduced in the Senate called the “Stop Forced Organ Harvesting Act of 2023”⁴³ would codify a definition of trafficking in persons for the purposes of organ removal, provide for the imposition of sanctions on persons involved in “forced organ harvesting or trafficking in persons for purposes of the removal of organs,” and authorize the Department of State to revoke passports of persons “convicted of certain crimes related to organ trafficking.”⁴⁴ This bill would not create a legal framework to prohibit, investigate, or prosecute TIP for OR.⁴⁵ However, one of the primary listed purposes behind this bill is “to hold accountable persons implicated, including members of the Chinese Communist Party, in forced organ harvesting and trafficking in persons for purposes of the removal of organs.”⁴⁶

Related Issues

Commercial surrogacy, trafficking in tissues and cells, and selling of human remains potentially present risks related to TIP for OR.⁴⁷ However, there is not a legal framework that clearly defines and links these issues to TIP for OR; accordingly, there is a need for further dialogue and research by the community of practice. The legal discourse surrounding human trafficking for commercial surrogacy touches on labor trafficking, child trafficking, human trafficking for adoption, and TIP for OR.⁴⁸ Although gestational surrogacy does involve the use of human organs and products, this complex issue does not fall neatly into the legal framework of TIP for OR. Moreover, the selling of human remains is a “grey market” that is only explicitly prohibited in the states of New Hampshire and Massachusetts.⁴⁹ The selling of cadavers and human remains gained attention with the 2023 Harvard morgue scandal, where multiple people were indicted for stealing and selling body parts from Harvard Medical School’s morgue.⁵⁰ When body parts come from cadavers rather than a live organ donor, the issue overlaps with but is likely not TIP for OR.

⁴³ Stop Forced Organ Harvesting Act of 2023, H.R. 1154, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/senate-bill/761/text>.

⁴⁴ *Id.*

⁴⁵ *See id.*

⁴⁶ *Id.* at Sec. 2(4).

⁴⁷ *See* Human Rights Council, *Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material* (2018), A/HRC/37/60, <https://www.ohchr.org/en/documents/thematic-reports/ahrc3760-report-special-rapporteur-sale-and-sexual-exploitation-children>.

⁴⁸ Hyder-Rahman, N., *Commercial Gestational Surrogacy: Unravelling the threads between reproductive tourism and child trafficking* (2021), *Anti-Trafficking Review*, issue 16, at 123-143, <https://doi.org/10.14197/atr.201221168>; OHCHR, *Surrogacy and the Sale of Children* (2018), <https://www.ohchr.org/en/special-procedures/sr-sale-of-children/surrogacy-and-sale-children>.

⁴⁹ NH Rev Stat § 227-C:8-a (2023), <https://www.gencourt.state.nh.us/ras/html/XIX/227-C/227-C-8-a.htm>; Mass. Ann. Laws ch. 272, § 72 (LexisNexis, Lexis Advance through Chapter 200 of the 2024 Legislative Session of the 193rd General Court), <https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter272/Section72>.

⁵⁰ Stoll, S. & Kath, R., *Harvard’s Morgue Scandal Is Part of ‘a Much Larger Story’ in Trading Human Remains* (2023), NBC Boston, <https://www.nbcboston.com/investigations/harvards-morgue-scandal-is-part-of-a-much-larger-story-in-trading-human-remains/3136374/>; U.S. Attorney’s Office for the Middle District of Pennsylvania, *Six Charged with Trafficking in Stolen Human Remains* (2023), <https://www.justice.gov/usao-mdpa/pr/six-charged-trafficking-stolen-human-remains>.

Recommendations

In the past 25 years, the international community has developed several interconnected and complementary sets of recommendations on addressing TIP for OR. This section of the IM will discuss the evolution of TIP for OR guidance from its modern origins to present day. Two documents are foundational to subsequent TIP for OR guidance, commonly referenced by the reports and resolutions outlined in this section:

- First, the 2010 [WHO Guiding Principles on Human Cell, Tissue, and Organ Transplantation](#) (WHO Guiding Principles) outline approaches to increase ethical organ donation in member states to meet the growing demand for organ transplants; the rationale being that increasing the availability of ethical organ and tissue donation will drive down the demand that fuels the illicit organ trafficking trade.⁵¹
- Second, the 2008 [Declaration of Istanbul on Organ Trafficking and Transplant Tourism](#) (Declaration of Istanbul),⁵² developed by scientific and medical bodies from 78 countries, builds on the WHO Guiding Principles to provide “guidance for policymakers and health professionals working in organ donation and transplantation.”⁵³ The declaration states “trafficking in persons for the purpose of organ removal should be prohibited and criminalized.”⁵⁴

Human Beings for the Purpose of Organ Removal Project

The first major set of recommendations specific to TIP for OR was issued in 2016 by the [Human Beings for the Purpose of Organ Removal Project](#) (HOTT project), a European Union-funded research project on “[c]ombating trafficking in persons for the purpose of organ removal.” The HOTT Project’s report, titled [Protection of Human Beings Trafficked for the Purpose of Organ Removal Recommendations](#) made specific recommendations for five key groups.⁵⁵ The report recommended:

- **Anti-trafficking NGOs** train their staff to identify and assist victims of TIP for OR; carry out awareness campaigns to prevent TIP for OR; and provide support services for survivors, including “long-term medical follow-up” and help “accessing the health care system in order identify, report, and manage any negative consequences that may result from illegal donation.”

⁵¹ WHO, *Human Organ and Tissue Transplantation* (2010), Sixty-Third World Health Assembly, https://apps.who.int/gb/ebwha/pdf_files/WHA63/A63_R22-en.pdf; see also WHO Guiding Principles, *supra* note 3.

⁵² Declaration of Istanbul Custodian Group, *FAQs*, <https://www.declarationofistanbul.org/>.

⁵³ See The Declaration of Istanbul on Organ Trafficking and Transplant Tourism (2008), https://www.declarationofistanbul.org/images/documents/doi_2008_English.pdf; see also Martin, D. et al., A new edition of the Declaration of Istanbul: updated guidance to combat organ trafficking and transplant tourism worldwide, *Kidney International*, vol. 95, Issue 4, at 757 – 759, <https://pubmed.ncbi.nlm.nih.gov/30904066/>; ICAT, *supra* note 3 at 5.

⁵⁴ *Id.* at 4.

⁵⁵ Pascalev, A. et al, *Protection of Human Beings Trafficked for the Purpose of Organ Removal: Recommendations* (2016), Transplantation Direct, <https://pubmed.ncbi.nlm.nih.gov/27500252/>.

States develop public awareness campaigns to prevent TIP for OR; reduce demand for kidneys “through campaigns to promote a healthy lifestyle” and improved organ donation programs; address drivers of TIP for OR, including poverty; penalize “medical facilities used to carry out [TIP for OR];” train governmental officials on identifying and responding to TIP for OR; ensure survivors have information on relevant proceedings and access to a full range of services, including legal assistance and immigration protection; and partner with NGOs to develop programs for training, education and research to improve survivor assistance.

- **Law Enforcement Agencies and the Judiciary** not rely on survivor cooperation to prosecute TIP for OR; protect survivors from prosecution for their involvement in illegal organ donation; and regularly train judges and prosecutors on TIP for OR.
- **Health Professionals** train in identification of and response to TIP for OR, refrain from participating in or facilitating TIP for OR, “inform patients who might be considering the use of illicit means to obtain an organ about the exploitative nature of [TIP for OR]” and “the likely poor health outcomes for the recipient and donor,” and implement transparent, interdisciplinary processes and safeguards at transplant centers, including appointing dedicated donor advocates.

Oversight Bodies implement “strict requirements for the accreditation of organ procurement and transplant centers;” conduct regular inspections, issue standards to enhance safety, transparency, and accountability; develop “a centralized system for organ traceability;” and establish “a central living organ donor registry and a reporting and management system for serious adverse events and reactions.”

Inter-Agency Coordination Group against Trafficking in Persons

In 2021, the Inter-Agency Coordination Group against Trafficking in Persons (ICAT), a UN forum to coordinate the international response to trafficking in persons, published a report titled [Trafficking in Persons for the Purpose of Organ Removal](#).⁵⁶ The report recommended “States and all relevant stakeholders involved in tackling TIP for OR:”

- “Ensure comprehensive anti-trafficking laws that prohibit all forms of trafficking persons, including for the purpose of organ removal,”⁵⁷ “[i]dentify and prosecute all actors who knowingly engage in TIP for OR,”⁵⁸ and “[p]romote cross-border cooperation for cases of TIP for OR.”⁵⁹
- “Ensure a human rights-based, victim-centered and trauma-informed approach when dealing with victims of TIP for OR in the context of criminal proceedings”⁶⁰ and “that

⁵⁶ ICAT, *supra* note 3 at 5.

⁵⁷ *Id.* at 8.

⁵⁸ *Id.* at 10.

⁵⁹ *Id.* at 9.

⁶⁰ *Id.*

victims of TIP for OR are not punished for illegal conduct”⁶¹ and “are granted access to compensation and other remedies.”⁶²

- “Undertake data collection to assess the extent and severity of the phenomenon of TIP for OR”⁶³ and “[e]nsure that TIP for OR is given appropriate attention within anti-trafficking programmes and policies.”⁶⁴
- “Strengthen prevention and awareness efforts,”⁶⁵ “[d]evelop clear frameworks for healthcare and other professionals,”⁶⁶ and “[d]eliver specialized training on TIP for OR to relevant actors.”⁶⁷
- “Ensure that victims of TIP for OR are provided with appropriate and urgent healthcare.”⁶⁸
- “Provide for deceased organ donation,”⁶⁹ “[a]dopt ethical and transparent regulations,”⁷⁰ “[e]stablish national transplant registries,”⁷¹ “ensure recording of all donations and transplantation procedures,”⁷² and “[e]stablish criteria for the authorization by official bodies of medical facilities to perform donations and transplantations.”⁷³

United Nations General Assembly

The following year, the UN General Assembly passed [Resolution 77/236](#) on “Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs.”⁷⁴ Resolution 77/236 echoed many of the recommendations from the HOTT Project and ICAT, calling on Member states to:

- Criminalize and prosecute TIP for OR;
- Strengthen international coordination to respond to TIP for OR;
- Implement the WHO Guiding Principles
- Strengthen lawful live and deceased organ donation processes and safeguards;

⁶¹ *Id.* at 10.

⁶² *Id.*

⁶³ *Id.* at 9.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 8.

⁷⁰ *Id.* at 9.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ United Nations General Assembly, *Strengthening and Promoting Effective Measures and International Cooperation on Organ Donation and Transplantation to Prevent and Combat Trafficking in Person for the Purpose of Organ Removal and Trafficking in Human Organs* (2022), <https://documents.un.org/doc/undoc/gen/n22/765/46/pdf/n2276546.pdf>.

- Provide training and technical assistance on identifying and responding to TIP for OR for relevant government officials and healthcare professionals;
- Develop guidance, resources, and reporting mechanism for healthcare professionals in collaboration with stakeholders in the healthcare sector;
- Implement the non-punishment principle for survivors;
- Ensure access to information, support services, compensation, and other remedies for survivors;
- Prevent TIP for OR by supporting NGOs serving groups at risk; and improve data collection.

Resolution 77/236 also urged Member States to ensure that “insurance providers do not reimburse the costs of transplant procedures that have occurred in the context of [TIP for OR].”

World Health Assembly

Responsive to Resolution 77/236’s recommendation to strengthen international coordination, the Seventy-Seventh World Health Assembly approved [Resolution A77.4](#) on “Increasing availability, ethical access and oversight of transplantation of human cells, tissues, and organs.”⁷⁵ The resolution urged member states to:

- “take measures to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs and to protect victims and survivors of these crimes by strengthening legislative frameworks, enforcing clinical protocols for the psychosocial evaluation of prospective living donors, engaging health care professionals, governments and other stakeholders in reporting suspected or confirmed cases of trafficking to law enforcement agencies, promoting international cooperation, and collecting data and conducting research on the trends in both crimes.”⁷⁶
- “continue and strengthen cooperation with United Nations agencies, including [UNODC], inter-agency mechanisms, Member State ministries and other relevant stakeholders to improve country, regional and global capacity to respond to identified cases of trafficking in persons for the purpose of organ removal.”⁷⁷

UNODC Working Group on Trafficking in Persons

Most recently, in July 2024, the [UNODC Working Group on Trafficking in Persons](#) adopted two [recommendations](#) on TIP for OR presented for consideration by the Conference of the Parties

⁷⁵ WHO, *Increasing Availability, Ethical Access and Oversight of Transplantation of Human Cells, Tissues, and Organs*, World Health Organization (2024), Seventy-Seventh World Health Assembly, https://apps.who.int/gb/ebwha/pdf_files/WHA77/A77_R4-en.pdf.

⁷⁶ *Id.* at 4.

⁷⁷ *Id.* at 5.

to the UN Convention against Transnational Organized Crime on strengthening coordination to prevent, counter, and raise awareness of TIP for OR.⁷⁸

- “States parties are encouraged to strengthen international cooperation and national coordination in accordance with their respective international obligations and domestic laws, including through spontaneous information exchange, mutual legal assistance, extradition, law enforcement cooperation, technical assistance and capacity-building, to effectively prevent and counter trafficking in persons for the purpose of organ removal.”⁷⁹
- “States parties, in order to prevent trafficking in persons for the purpose of organ removal, are encouraged to promote awareness-raising campaigns in cooperation with relevant stakeholders, such as [UNODC], [WHO], related non-governmental organizations and private sector entities, to increase public knowledge on legal and illegal human organ, tissue and cell donation, as well as the dangers of illicit transplantations.”⁸⁰

These recommendations mark the most robust recommendations on TIP for OR the working group has adopted since its inception in 2009.⁸¹

Conclusion

TIP for OR is not well documented, investigated, or prosecuted globally. Like other forms of trafficking in persons, TIP for OR happens behind closed doors and is difficult to quantify. The Palermo Protocol is a treaty that criminalizes TIP for OR at the international level. In contrast, the United States does not, currently, include the purpose of organ removal under the TVPA or criminalize TIP for OR by federal statute. Therefore, no TIP for OR case has been prosecuted as a trafficking case domestically. The three main recommendations from international collaborations between stakeholders and medical professionals, for combatting TIP for OR domestically are: codifying the prohibition of TIP for OR, improving national infrastructure to increase ethical donation of organs, and creating protective measures for victims of TIP for OR.

/s/
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⁷⁸UNODC, *Report on the Meeting of the Working Group on Trafficking in Persons Held in Vienna on 8 and 9 July 2024*, Conference of the Parties to the United Nations Convention against Transnational Organized Crime, https://www.unodc.org/documents/treaties/WG_TIP_2024/5/CTOC_COP_WG.4_2024_5_E.pdf.

⁷⁹ *Id.* at 2.

⁸⁰ *Id.*

⁸¹ See UNODC, *Trafficking in Persons: Compendium and Thematic Index of Recommendations, Resolutions and Decisions*, https://www.unodc.org/documents/treaties/compendia_working_groups_2024/Trafficking_in_Persons_E_eBook.pdf.

Appendix I: Glossary of Terms

BFD	Bona fide determination
DHS	U.S. Department of Homeland Security
HHS	U.S. Department of Health and Human Services
OTIP	Office on Trafficking in Persons
RFA	Request for Assistance
RFC	Request for Certification
TVPRA	Trafficking Victims Protection Reauthorization Act
USCIS	U.S. Citizenship and Immigration Services