

# RECOMMENDATIONS ON THE PROHIBITION, PREVENTION AND ELIMINATION OF ORGAN TRAFFICKING IN ASIA

*[ Taipei Recommendations ]*

January 2008

*Asian Task Force on Organ Trafficking*

## ■ PREAMBLE

We, the members of the Asian Task Force on Organ Trafficking, have convened in light of persistent reports of unethical and unjust practices relating to the transplant of organs in Asia involving citizens of the region as well as those of other parts of the world.

Having listened to the presentations given at the first and the second meeting in Taipei, Taiwan on July 21-22, 2007 and January 26-27, 2008 respectively; and having been informed by the world wide reports on the exploitation of poor and other vulnerable individuals as organ donors, we are convinced that the trafficking of human organs is a continuing and expanding practice and that it appears to have been carried out with impunity.

In specific terms, we believe the practice involves the following detrimental aspects:

- i. The exploitation of poor and other vulnerable individuals who serve as the primary sources of transplantable organs in some countries;
- ii. The failure of health authorities to ensure that all living organ donors are provided with sufficient information about the nature, health significance, risks and consequences of organ removal for transplantation;
- iii. The unjust exposure of living organ donors in some countries to unnecessary or disproportionate risks to their physical and psychological health as a consequence of their involvement in organ transplantation;
- iv. The exploitative use of prisoners as providers of organs for transplantation in some countries;
- v. The retrieval of transplantable organs from executed prisoners;
- vi. The use of deception and/or intimidation to influence living organ providers to make decisions against their better judgment;
- vii. The use of money or other material considerations to coerce individuals into providing organs for transplantation;
- viii. The failure of transplant teams or health facilities to ensure that those who provide organs are provided with proper care before and after surgery;
- ix. The involvement of unscrupulous agents in transplant transactions that promote commercial rather than beneficent or altruistic aspects of organ donation; and
- x. The intentional or unintentional involvement of health care professionals in transplantation practices

which raise questions concerning possible conflicts of interest.

## ■ DEFINITION OF ORGAN TRAFFICKING

Organ trafficking consists of the recruitment, transportation, transfer, harboring or detaining of people for the purpose of organ removal and exploitation. Organ trafficking usually involves a process of using illicit means such as threat, use of force, or other forms of coercion such as abduction, fraud or deception.

Exploitation includes undue influence or the abuse of power to encourage or induce vulnerable people to allow the removal of their organs for transplantation.

Organ trafficking may also include procurement of organs from executed prisoners. Organ trafficking may take place across borders, but it may also be perpetrated illegally within a single national territory.

Organ trafficking should be distinguished from the practice of medical tourism, which involves the legal pursuit and offering of medical care across national borders. Transplant tourism involves the use of another person as the source of an organ. Transplant Tourism often involves criminal or unethical behavior.

Note: The Recommendations of the Asian Task Force on Organ Trafficking refer specifically to the trafficking of human organs. However the Recommendations along with other relevant regulations may also be useful for considerations in trafficking of tissues and cells.

## ■ ETHICAL PRINCIPLES

The concerns about the possibility of unethical practices relating to organ trafficking are supported by ethical principles expressed in international declarations and documents, including the following:

- i) The Universal Declaration on Human Rights of December, 1948;
- ii) The UNESCO Declaration on Bioethics and Human Rights of October, 2005;
- iii) Resolution WHA57.18 on Human Organ and Tissue Transplantation approved by the World Health Assembly of the World Health Organization in May, 2004;
- iv) The World Medical Association Statement on Human Organ Donation and Transplantation adopted by the 52nd WMA General Assembly in Edinburgh, Scotland in October 2000 and revised by the WMA General Assembly in Pilanesberg, South Africa, in October, 2006;
- v) The European Convention on Human Rights and Biomedicine, specifically the Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin, approved by the Council of Europe in Strasbourg in January, 2002;
- vi) The Convention against Transnational Organized Crime adopted by the United Nations in 2000, including the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,” which entered into force in December, 2003 and the “Protocol against the Smuggling of Migrants by Land, Sea and Air,” which entered into force in January, 2004; and
- vii) The Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, May,

2005.

We uphold the principles espoused in these international instruments and documents and we support the provisions of these instruments and documents bearing specifically on organ trafficking.

## ■ RECOMMENDATIONS

In consideration of the principles expressed in the above-mentioned documents, and mindful of the possible consequences of the practices pertaining to organ trade and trafficking in Asia, we, the members of the Asian Task Force on Organ Trafficking, hereby resolve to:

1. Urge relevant organizations and governments to promote greater awareness of the ethical, legal and social issues relating to organ trafficking in Asia through education;
2. Urge the passage of legislation or an international treaty which would be necessary for the effective implementation of international norms that relate to the organ trafficking;
3. Call on all countries to pass legislation clearly defining prohibitions as well as allowable practices pertaining to organ transplantation, including those related to the recovery and donation of organs;
4. Support Asian countries in their commitments to prohibit and prevent organ trafficking and undertake full implementation of the United Nations Convention Against Trans-national Organized Crime and its protocols;
5. Urge Asian countries to rely more on deceased donation (including the use of organ recovery from brain dead and non-heart beating donors) in order to increase supply and to identify alternative solutions in order to decrease organ demand, such as prevention and treatment of organ failure;
6. Urge Asian countries to address the needs of the population who suffer from economic disadvantages in order to prevent organ trafficking;
7. Encourage Asian countries to conduct an inventory of Non-Governmental Organizations and other groups in the region that could be called upon for help;
8. Propose the establishment of reliable infrastructure in the countries of the region to monitor activities pertaining to organ trafficking;
9. Urge Asian countries to achieve national self-sufficiency in order to provide a sufficient number of organs for their residents who need transplantation;
10. Propose to establish registries of transplant recipients and waiting lists, as well as registries of living donors to facilitate the implementation of activities that could serve to prevent and eliminate organ trafficking;
11. Encourage to conduct further studies and exchange of information regarding practices pertaining to organ trafficking and the related socio-cultural, economic and political issues;
12. Urge Asian countries to exchange information and technical expertise relating to prevention and elimination of organ trafficking;

13. Urge all parties involved in organ transplantation to observe transparency and accountability in their related regulations and practices;
14. Call on all countries to adopt a policy which discourages their citizens to travel abroad in order to obtain organs for transplantation;
15. Urge insurance companies to abstain from policies that have the effect of supporting illegal practices in organ transplantation;
16. Urge Asian countries to restrict organ transplantation to recipients with the same nationality as the donors;
17. Encourage all countries to consider a reasonable and socially accepted cost reimbursement as compensation for altruistic living organ donors;
18. Enjoin all parties involved to ensure the physical and psychological health of live organ donors by providing counseling and supports, such as insurance coverage for the long-term follow-up and potential donation related disability, death and job loss;
19. Urge countries to engage in consultations internally and externally with all interested parties regarding these Recommendations. The Asian Task Force is also ready to provide consultation to the interested Asian governments; and
20. Urge all countries, organizations and individuals to bring these Recommendations to the attention of the concerned Ministries of Health, medical associations, and all national and international institutions with functions relevant to organ transplantation.

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