

Recommendations on the Prohibition, Prevention and Elimination of Organ Trafficking in Asia

Asian Task Force on Organ Trafficking

亞洲器官交易工作小組

گروه کاری آسیایی در مورد قاچاق اعضاء بدن انسان

एशियाई अंग व्यापार विरोधी कार्यबल

Asyanong Task Force Laban Sa Pangangalakal Ng Bahagi Ng Katawa

فريق العمل الآسيوي لدراسة ظاهرة الأتجار بالأعضاء

Gugus Tugas Asia Tentang Perdagangan Organ

臓器売買に関するアジア・タスクフォース

Organ Ticaretine Karşı Asya Özel İşbirliği

اعضاء کی خرید و فروخت پر ایشیائی ٹاسک فورس

Kumpulan Kerja Asian Tentang Penyeludupan Organ

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Foreword

While the gap between demand and supply of organs is widening worldwide, patients have been traveling beyond geographical borders to receive transplants, either because they cannot find a donor at home or because transplant service has not been well established in their home countries. As a result, agents and middlemen have exploited the situation as organ trafficking expands worldwide. The problem of organ trade is not merely a domestic but an international issue. Asia has become notorious as a hub for transplant tourism.

The Asian Task Force on Organ Trafficking has worked to formulate a set of recommendations. It now calls on regional efforts to tackle organ trafficking. The Task Force members met two times during last two years and were sustained by a passionate concern for people who have been exploited as organ providers. The Task Force offers the Recommendations in this Report as its collective view on how to tackle organ trafficking particularly in Asia. Many people have contributed to this Report. We received thoughtful and constructive comments from respondents to our consultation document as well as from the referees of the draft Recommendations.

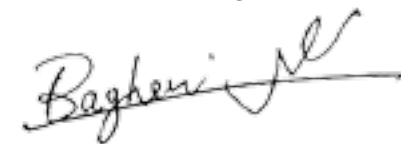
The Task Force hopes that these recommendations will be fully considered and endorsed by Asian governments, health professionals and organizations who are equally committed to the prevention and elimination of organ trafficking.

We wish to thank all members of the Task Force who have committed immense time and effort to this work, far beyond the call of duty.

Chang-fa Lo



Alireza Bagheri



Acknowledgement

The Task Force would like to convey appreciation and thanks to the individual scholars, organizations and government officials who responded to the external consultation and provided valuable insights on issues covered in these recommendations. We would like to thank organizations and individuals who have contributed to this initiative, particularly those who attended the meetings as observers. A list of external reviewers and observers is provided in Appendix II.

In addition, the members of the Task Force would like to thank the Center for Ethics, Law, and Society in Biomedicine & Technology, and also the Asian Center for WTO & International Health Law and Policy, National Taiwan University for their supports.

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

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 Organised 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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- **Professor Daniel Wikler**, *Harvard School of Public Health, Boston, USA*

Executive Summary

■ Introduction

The increasing gap between organ demand and supply for transplantation has been documented worldwide. While this gap is widening, patients in need have been traveling beyond geographical borders to receive transplants, either because of organ shortage at home or because transplant service has not been well established in their home countries. Consequently, agents and middlemen have exploited the situation as organ trafficking expands worldwide. The transplant industry is ethically problematic not only because of individual organ sales but also the establishment of organized international organ trade and trafficking. Although the morality of individual organ sales is still controversial, there is a general consensus on the immorality of organ trafficking, most notably across geographical borders.

Irrespective of the fact that organ trafficking and exploitation of individuals as organ providers are reported worldwide, limited practical measures for tackling the issues have been put into practice. In fact, the mere condemnation could not stop exploitation of the poor as organ providers. Some Asian countries have notoriously become the sources of black market organs and the hub for transplant tourism which serves the patients from wealthier countries.

The Asian Task Force on Organ Trafficking was established to formulate a set of recommendations on how to tackle organ trafficking, particularly in Asia, and now calls on regional efforts to tackle organ trafficking.

■ The Task Force's Approach and Methodology

The concerns about the possibility of exploitation of poor people as organ providers as well as unethical practices relating to organ trafficking is supported by principles expressed in international declarations and documents. By referring to seven related international documents in this report the Task Force aims to uphold the principles espoused in those relevant international instruments and documents and supports the provisions of those documents for the consideration of ethical issues arising in organ trafficking.

Objectives

The Asian initiative aimed to develop a set of recommendations to guide institutions, health professionals and Asian governments on how to deal with the issue of organ trafficking collectively.

To achieve the objectives, the following methodology has been adopted:

1. The “Asian Task Force on Organ Trafficking” was established by the Center for Ethics, Law, and Society in Biomedicine & Technology (CELS), joint with the Asian Center of WTO and International Health Law and Policy (ACWH), National Taiwan University.
2. The proposed Task Force consists of fourteen independent scholars from Asia and other parts of the world on the invitation of the CELS and the ACWH. The invited scholars were experts from the fields of: medicine, ethics, law, philosophy and social science. This multidisciplinary team brought their

experiences and innovative ideas to the Task Force for developing strategies and recommendations on dealing with organ trafficking in Asia.

3. The Task Force members met twice over the last two years; the first meeting was held on 21-22 July 2007 and the second meeting was held on 26-27 January 2008 in Taipei, Taiwan. The agendas for the meetings were as follows:

The agenda for the first meeting;

- General discussion to reach an agreement on the proposed methodology of the Task Force;
- To report the current situation of organ transplantation and trafficking in Asia;
- To present the global situation of organ trafficking,
- To present a new visionary document on how to tackle the issue of organ trafficking by each member of the Task Force.

The agenda for the Second Meeting:

- To discuss the draft recommendations;
- To present the comments from external reviewers;
- To discuss the communication strategies on how to make the recommendations available to the Asian governments and international organizations;

- To finalize the Recommendations based on comments from the members of the task Force as well as external reviewers.

Between the two meetings the members of the Task Force agreed to work on the following issues;

- The report of the first meeting was prepared by the Task Force secretariat and sent to the members for their comments.
- The secretariat prepared a draft set of the recommendations, based on the visions and views expressed in the first meeting by the members and later the document was circulated among the members,
- The secretariat received comments from the members on the draft recommendations prior to the second meeting,
- An external consultation process initiated whereby the final draft was sent to fifteen scholars as well as some international organizations for their reviews.

TERMS OF REFERENCE

1. To produce a report on the current situation of organ trade and trafficking in Asia;
2. To identify the ethical, social, and legal issues arising from organ trade and trafficking in Asia;
3. To examine various possible and effective ways of national policies, strategies, and laws for increasing organ supply, decreasing organ demand, and fair distribution of organs;
4. To identify alternative solutions to prevent and eliminate organ trafficking;
5. To examine the feasibility of a legally binding treaty on banning organ trade and trafficking across borders in Asia;
6. To formulate a set of recommendations for the Asian governments and relevant international bodies on how to tackle organ trafficking, particularly in Asia;
7. To develop strategies for the implementation of the recommendations.

Asian Task Force on Organ Trafficking

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

(Taipei Recommendations) January 2008

■ 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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President of the Organ Procurement and Transplantation Network (OPTN) Board of Directors

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*Professor of Graduate School of Law, Kyoto University, Kyoto , Japan
Former Chairperson of International Bioethics Committee, UNESCO*

- **Professor Bagher Larijani**

*Professor of Internal Medicine and Endocrinology, Director; Center for Medical Ethics and History of Medicine, Tehran University of Medical Sciences
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Former Director of the Kennedy Institute of Ethics at Georgetown University

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Professor of Population Ethics and Ethics and Population Health of Department of Population and International Health at Harvard University, Boston, USA

Appendix I

Asian Task Force on Organ Trafficking; First Meeting 21-22 July 2007, Taipei

■ Agenda

Opening Remarks

Prof. Chang-Fa Lo

Asian Task Force on Organ Trafficking: Objectives and Method

Dr. Alireza Bagheri

Global Situation of Organs Trafficking

Prof. Nancy Scheper-Hughes

Organ Trafficking: Situation in Asia.

Prof. Leonardo De Castro

Traveling Overseas for Organs and the Professional Regulatory Endeavour in Taiwan.

Associate Prof. Daniel Fu-Chang Tsai

Kidney Trade in Pakistan: Current Status and Proposed Measures for Control.

Prof. Farhat Moazam

Situation in China and the Appropriate Measures to Address the Issue of Organ Trafficking.

Associate Prof. Rui-Peng Lei

The Current Situation and Measures to Tackle the Issue of Organ Trafficking in India.

Dr. Sudhir Gupta

General Discussion on the Proposed Methodology of the Working Group

The Moral Responsibility to Ban Organ Trafficking

Prof. Robert Veatch

Organ Trafficking in a Global Struggle with Kidney Disease: Perspectives from Ethics and Population Health

Prof. Daniel Wikler

How Professional and Organizational Regulations Can Help to Prevent Organ Trafficking

Prof. Francis Delmonico

Organ Trafficking in Europ.

Prof. Michael A. Bos

The Feasibility of a Regional Agreement to Ban Organ Trafficking across Borders.

Prof. Ryuichi Ida

Closing Session

Working Towards Outlining the Draft Recommendations (group discussion)

Wrap-up, Prof. Leonardo De Castro, Philippines

Closing: Setting the Scene for the Next Meeting, Prof. Lo, Taiwan

Asian Task Force on Organ Trafficking; Second Meeting

26-27, January 2008

■ **Agenda**

Opening Remarks

Prof. Chang-Fa Lo

Draft Recommendations: How We Got Here

Dr. Alireza Bagheri

A Practical Definition of Organ Trafficking

Prof. Robert Veatch

Possibility of Regional Organ-Sharing Program

Prof. Leonardo De Castro

How to Mobilize NGOs and Governments Against Organ Trafficking

Prof. Nancy Scheper-Hughes

What Can the Task Force Recommendations Offer to the Global Fight Against Organ Trafficking

Prof. Francis Delmonico

How East and West Can Collaborate on Preventing Trafficking of Human Organ

Prof. Daniel Wikler

Europe- Asia Partnership in Battling Organ Trafficking

Prof. Michael A. Bos

General Discussion on the Draft Recommendations

The Task Force Recommendations: Is It Possible to Become Part of the National Legislations

Prof. Ryuichi Ida

Pakistan's Organ and Tissue Transplantation Ordinance 2007: An Update

Prof. Farhat Moazam

Strategies for Implementing the Asian Task Force Recommendations in Taiwan

Associate Prof. Daniel Fu-Chang Tsai

Asian Task Force recommendations: Indian perspective and strategies

Dr. Sudhir Gupta

How Iranian Government Can Endorse the Task Force Recommendations

Prof. Bagher Larijani

How China Can Endorse the Task Force Recommendations.

Associate Prof. Rui-Peng Lei

General Discussion on the Draft Recommendations

Closing Session :

Next Step: Communication Plan (General Discussion)

Wrap-up, Dr. Alireza Bagheri, Iran

Closing Remarks: Prof. Lo, Taiwan

Appendix II

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President, Middle East Society for Organ Transplantation

Chairman, Organ Transplant Center, Kuwait, Vice President, Kuwait Transplant Society, Kuwait

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- **Dr. Zheng Wei**

President of the Transplantation Society of Taiwan

- **Prof. Terence Hua Tai**

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- **Dr. Chien-chang Wu**

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- **Associate Prof. Kuei-tien Chou**

Chief of the Division of Service and Advisory of the Center for Ethics, Law and Society in Biomedicine and Technology, National Taiwan University

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