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The Hague Recommendations: Improving Nonlegislative Responses to Trafficking in Human Beings for the Purpose of Organ Removal

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Abstract: Over the years, the trade in human organs has become an object of international concern. Since the 1980s, antiorgan trade initiatives have mainly involved the strengthening of legislative responses. Little attention however is given to nonlegislative responses by law enforcement authorities. The HOTT project is a European Union-funded research project titled “trafficking in human beings for the purpose of organ removal.” Its objectives are to increase knowledge, raise awareness, and improve the nonlegislative response to the crime. Its consortium organized a “Writers’ Conference” in The Hague, The Netherlands at Europol’s Headquarters where a group of 40 experts, consisting of transplant professionals, law enforcement officials, and policy makers, formulated recommendations to improve nonlegislative responses. These recommendations, presented hereafter, address the ethical and legal obligations of health care providers, the protection of persons trafficked for the purpose of organ removal, strengthening cross-border collaboration in criminal cases, and stimulating partnerships between transplant professionals and law enforcement. These recommendations offer ways in which transplant professionals can contribute to improving the nonlegislative response to trafficking in human beings for the purpose of organ removal.

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Over the years, the trade in human organs has become an object of international concern. Although first regarded as an organ theft rumour, the trade is nowadays portrayed as a growing, lucrative form of organized crime that exploits vulnerable donors worldwide.^{1,2} Despite its prohibition, the World Health Organization estimated in 2007 that 5% to 10% of the approximately 60 000 kidney transplants performed annually around the globe occur via organ trade.³

Since the 1980s, antiorgan trade initiatives have mainly involved the strengthening of legislative responses. Governments, international organizations, and transplantation societies have pursued the establishment of new laws against organ trade, or tightened existing ones.^{4,5} The latest example is the Council of Europe Convention against Trafficking in Organs which criminalizes all commercial dealings in organs.⁶

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Although a strong legislative response is a starting point, it is not enough to combat the trade. On the contrary, demand-driven crimes are rather resilient to strict sentencing. Criminalization of demand-driven acts is known to herald unintended effects including an increase of violence, disorder, corruption, exploitation, and displacement to other regions.⁷ The organ trade combat requires a reflective and thoughtful nonlegislative response that is cognizant of its underlying problems.

The HOTT project (2012-2015) is a European Union-funded international research project that addresses an exploitative form of organ trade: “trafficking in human beings for the purpose of organ removal.” The project is coordinated by Erasmus MC in collaboration with Lund University, the Bulgarian Center for Bioethics, and the Academic Society for the Research of Religions and Ideologies, together with over 10 associate partners. It is the first international, European Union (EU)-funded interdisciplinary research project that aims to increase knowledge, raise awareness and improve the nonlegislative response to trafficking in human beings for organ removal.

We initiated the project for various reasons. First of all, we found that although information and knowledge exists about the crime, this information is not synthesized or shared among researchers, transplant professionals, law enforcement authorities, and other stakeholders. Furthermore, there is no awareness of the crime, especially among law enforcement authorities. Trafficking in humans for organ removal is not on the “enforcement agenda.” The lack of multinational partnerships hampers an effective response to the crime.

We started our research by describing the state of knowledge on trafficking in human beings for the purpose of organ removal based on the scholarly research. The project’s literature

review, based on a search of 5 databases and a screening of over 10 000 records, presents 243 references on the ethics, causes, and the actors involved in the trade (the network): recipients, suppliers (donors), brokers, transplant professionals, hospitals, service providers, translators, and corrupt law enforcement officials. Each chapter describes the roles of these participants, for instance, how brokers recruit patients and donors, how much profit is made, where patients travel to and from and if and to what extent organ sales constitute trafficking in humans. Each chapter ends with a description of the gaps in the literature. The authors conclude that, “the scholarly research in this area is not well developed.”⁸

To acquire more knowledge about the demand side of the trade, we conducted interviews with 22 patients from Sweden, The Netherlands, and Macedonia/Kosovo who purchased kidney transplants abroad. To date, this is the largest group of patients that has been interviewed on this issue. The patients provided information about the transplant costs, what/whom they paid, why they went and how their transplants were facilitated. They however shared little information about whether their donors were paid and/or exploited. This makes it difficult to determine the potential illegal nature of their transplants. This study revealed that interviewing patients is an insufficient method to find out how their transplantations were facilitated.⁹ Thus, we organized case study research to acquire information about the modus operandi of organ trade networks.

The last study was a study of convicted cases in South Africa, Kosovo, Israel and the United States. Holding 37 interviews with 49 persons (conducted mostly by police officers and prosecutors), we aimed to find out how police and prosecution discovered each case, how they performed their investigations, what the modus operandi of the actors were, under what laws/charges the prosecutions took place, what successes and obstacles police and prosecution encountered, and what the judgment in each case was. This study revealed, among others, the sophisticated and subtle methods that organ trafficking networks use to recruit patients and donors, as well as the difficulties that police and prosecutors experience in uncovering and convicting these networks.¹⁰

To share our findings and raise awareness among transplant professionals, law enforcement authorities, nongovernmental organizations, policy makers, representatives of governments, international organizations, and others, we organized a 2-day event hosted by Europol at its Headquarters in November 2014 in The Hague, The Netherlands. At this symposium, which was attended by more than 230 participants from 35 countries, the researchers presented their results and police and prosecutors shared their experiences with uncovering organ trafficking networks.

One day before the symposium, 40 experts were invited to participate in the project's Writers' Conference to formulate recommendations to improve the nonlegislative response. Convening in 4 groups, each group developed recommendations that are presented in the underlying issue: the ethical and legal obligations of health care providers,¹¹ the protection of persons trafficked for the purpose of organ removal,¹² strengthening cross-border collaboration in criminal cases,¹³ and stimulating partnerships between transplant professionals and law enforcement.¹⁴ Each set of recommendations represents the group's views and some contain overlap in content. Recognizing that prosecuted cases represent only the tip of the iceberg and that

the response of law enforcement agencies to organ trading is almost “entirely reactive,” the experts emphasize, among others, the need for transplant professionals to collaborate more closely with law enforcement. In particular, the transplant community can help improve the nonlegislative response by reporting organ trafficking networks to law enforcement authorities.

Finally, together with the Central Division of the Dutch National Police, we developed a list of indicators for transplant professionals, law enforcement, and victim support workers. The indicators support data collection and identification of trafficking in human for organ removal. They identify the legitimate and illegitimate service providers for each step in the criminal process: recruitment, transport, entrance, documents, housing, transplant, aftercare, and finance.¹⁵

Until now, only 11 convictions involving organ trade/trafficking have taken place worldwide. What is needed is a recognition among stakeholders—including the transplant community—to strengthen not only the legislative response but also the nonlegislative responses (disruption, investigation, and prosecution) to the crime. The recommendations and indicators presented in this issue offer ways in which transplant professionals can contribute to improving such responses.

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