



The **DECLARATION** of **ISTANBUL**
on **ORGAN TRAFFICKING** and **TRANSPLANT TOURISM**



Committee Secretary
Joint Standing Committee on Foreign Affairs, Defence and Trade
PO Box 6021
Parliament House
Canberra ACT 2600
Australia

August 3, 2017

Dear Secretary,

As co-chairs of the Declaration of Istanbul Custodian Group (DICG) we were delighted to note the launch of the Australian Parliamentary Inquiry into Human Organ Trafficking and Organ Transplant Tourism.

The Declaration of Istanbul on Organ Trafficking and Transplant Tourism (“the Declaration”) was developed in 2008 in response to growing international concern about markets in human organs for transplantation. The Declaration comprises a set of principles and proposals which are intended to provide guidance and inspiration for policy makers and health professionals in addressing organ trafficking, transplant tourism and commercialism, and promoting ethical practice in donation and transplantation. The DICG is an international, interdisciplinary professional group dedicated to “promoting, implementing and upholding the Declaration”. The DICG is supported by and works in collaboration with its two parent organizations, the International Society of Nephrology and The Transplantation Society.

The harms of organ trafficking and transplant “tourism” must be addressed

In 2007, the World Health Organization estimated that up to 10% of solid organ transplants performed worldwide each year involved organ trafficking or transplant tourism. Such practices exploit the poorest and most vulnerable people, who are forced to sell one of their kidneys or part of their liver in order to make ends meet. In some cases, so-called organ “sellers” are victims of human trafficking. Several studies in countries such as Egypt, India, Iran, Colombia, the Philippines, Pakistan, and Bangladesh show that those who sell an organ usually suffer significant and enduring physical, psychological, financial and social harm. Furthermore, in some countries organs have been procured after death without the valid consent of donors or their families, for example in China where executed prisoners were the major source of organs for transplantation until recently. In other countries, organs obtained from deceased donors have been allocated to wealthy foreign patients rather than poorer domestic patients.

Where organ trafficking occurs, it is the wealthy who obtain transplants, as organs are not allocated according to medical need, but rather ability to pay. Often, the buyers are foreigners from countries such as the United States, Israel, the United Kingdom, Saudi Arabia, Canada and Australia. Those transplant “tourists” also risk serious harm as a result of buying a trafficked organ. Rates of mortality and serious complications, including infection with HIV, tuberculosis and hepatitis, are much higher in transplant tourists than in patients who obtain a transplant legally in a country like Australia.



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In the last decade, significant progress has been made in combatting organ trafficking and transplant tourism in several countries. However, illegal organ markets are emerging in new locations, for example in parts of Asia where new transplant programs are developing, and some markets are re-emerging in former organ trafficking “hot spots”. Organ traffickers are using new strategies to exploit legal loopholes and vulnerabilities in healthcare programs which aim to detect and hence prevent attempted organ trafficking.

Recommendation regarding the application of extraterritorial jurisdiction to Australian law governing organ trafficking

The application of extraterritorial jurisdiction to existing Australian laws governing transplant-related crimes such as trade in organs or human trafficking for organ removal could assist in deterring Australians from traveling abroad to commit these crimes in countries where the risk of criminal prosecution may be low. It could also assist in the investigation and prosecution of crimes involving Australians who may act as brokers for transplant tourism or organ trafficking, when it is unclear where the criminal activity may have taken place, for example, if an Australian seeks to recruit an organ seller over the internet. Irrespective of whether investigations lead to criminal prosecution of Australians, they may assist in the collection of information about mechanisms and outcomes of organ trafficking which could lead to development of more effective prevention strategies.

Furthermore, the application of extraterritorial jurisdiction has an important symbolic value. It indicates that practices which are considered ethically unacceptable within Australia, such as the sale and purchase of human organs from the poor and vulnerable, are no less unacceptable when these take place in another country. Extraterritorial jurisdiction would reinforce Australia’s commitment to preventing and addressing the harmful consequences of Australian involvement in transplant tourism and organ trafficking around the world.

Recommendation regarding Australia’s possible accession to the Council of Europe Convention against Trafficking in Human Organs

The Council of Europe Convention against Trafficking in Human Organs is a valuable new instrument that will assist countries in combatting organ trafficking at local, regional and international levels. It provides a comprehensive definition of organ trafficking which encompasses a variety of practices that may occur when organs are unethically procured or allocated for transplantation. One of the challenges for countries seeking to address organ trafficking is that it may be difficult to prosecute individuals who contribute to and profit from organ trafficking and transplant tourism using existing laws prohibiting trade in organs, if these individuals are not directly involved in sale or purchase of organs. It may also be difficult to prosecute cases using existing laws governing human trafficking, as it can be difficult to conclusively prove that those who sell an organ have been exploited or coerced.

The Convention seeks to protect the victims of transplant-related crimes, while holding to account those responsible for these crimes. In addition, countries that accede to the Convention make a commitment to preventing crimes and gathering information that will help to address the causes of organ trafficking.



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The DICG recommends that Australia accede to the Council of Europe Convention, so that Australia may more effectively collaborate with other countries in combatting organ trafficking within the Asian Pacific region and internationally. Australia has an outstanding record of leadership at the regional and international levels in transplantation medicine and science, as well as the promotion of ethical practice and policy in this field. We hope the Australian government will also instigate and provide support for new initiatives to address organ trafficking within the Asian Pacific region. Research is needed to quantify the scale of organ trafficking and transplant tourism, to determine factors which underpin these phenomena and to establish an evidence base for strategies to address them. Organ trafficking and transplant tourism are increasingly influenced by the dynamics of migration, regional conflicts, and the globalization of healthcare services. Resolving the issues depends upon international collaboration, multidisciplinary work, and partnerships between health professionals, governments and civil society. The DICG would be pleased to contribute to any initiatives taken by the Australian government in the future.

Yours sincerely,

Elmi Muller

Dominique Martin

Co-chairs, DICG Executive Committee