

Legislative Framework against Organ Trafficking In India

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Abstract: The legislative framework against organ trafficking in India has become an imperative issue in recent years due to the increasing incidence of illegal organ trade within the country. This abstract explores the legislative measures adopted by India to combat organ trafficking, focusing on the key laws, regulations, and initiatives introduced to address this grave concern. It examines the legal provisions pertaining to organ transplantation, the prohibition of organ trade, and the protection of vulnerable individuals from exploitation. The analysis also includes an assessment of the effectiveness of the legislative framework, highlighting the challenges and potential areas for improvement. By understanding the existing laws and their implementation, this abstract aims to contribute to the ongoing discourse on organ trafficking and inform policymakers, lawmakers, and stakeholders about the crucial legislative steps required to combat this heinous crime in India.

Keywords: Legislative Framework, Organ Trafficking, India

I. Introduction

People used for organ transplants are victims of serious crimes. Basically even against the workers, it is the survivors of the less experienced part of the economy who sometimes research and admire. However, criminalization of organ trafficking exists in all major regions of the world and in many civil and criminal law regulations that concern people. Therefore, men, women and young men and women whose bodies have been exhumed at home and abroad are recognized as survivors of direct crime solely on the basis of body, mind and money.[1]

The State should ensure full recognition of their rights, as well as assistance and protection, as survivors of crimes and serious violations of personal freedom. But so far almost no organization has provided comprehensive, short, medium or long-term assistance, including justice and compensation for these victims, and there will be survivors of the harvest.

Constitution of India

The Constitution of India is the first recognized document and aims to provide the framework for the protection of human rights, inform the political and legal system, the role and interests of all people and public protection. The bill was announced on 26 November.

It came into force in 1949 and was enacted by the Constitutional Convention on January 26, 1950.[2] This Act repeals the Government of India Act of 1935

[3] and transforms it into the Republic of India.

This document provides basic rights that ensure certain rights of citizens, including victims of property removal, listed in Chapters 12

to 35 of Chapter III and equipped with -

1. Right to Justice ((Articles 14 – 18)

The right justice makes everyone equal. rights regardless of religion, gender, race, ethnicity or place of birth. It guarantees equal employment in civil rights and discrimination based on race, religion etc.prevents state discrimination in employment-

based employment matters, including deletion of names during this time.

2. Freedom Act (Articles 19 – 22)

The Constitution of India guarantees the fundamental freedoms of the citizens. The right to freedom of expression includes many rights such as the right to information, the right to communicate, the right to assemble unarmed, and the right to live anywhere in the country.

3. Direct opposition to economic exploitation (Articles 23 – 24)

This freedom refers to the prohibition of human trafficking and other forms of immorality.

It also takes into account the prohibition of children on the production line, so the law prohibits children under 14 from working in dangerous situations.

3. Right to Constitutional Remedy ((Articles 32 – 35)

The Constitution provides a remedy in case another person violates a fundamental right. Public authorities cannot violate or review human rights. When these rights are violated, the injured party can be sued in court. Citizens can easily sue to the Supreme Court, which can write their important rights.

Sections 23, 29, 39 of our Constitution of India teach and regulate the assembly of the vulnerable, especially citizens. Basically,

Article III of the Indian Constitution. and IV. Recognizes the subject of business by clauses, individuals or organizations.

L.M. Singhvi Commission Report

“To conceptualize this legislation, a committee of medical and legal experts (headed by Dr. L.M. Singhvi) was set up. The terms of reference of this committee were to clarify: (a) the concept and definition of brain death; (b) the need to enact separate legislation to recognize brain death and the legal, medical, and social implications of such legislation; (c) the safeguards that must be adopted to prevent the misuse of the concept of brain death; and (d) the manner in which the concept of brain death should be utilized to facilitate the availability of human organs

for transplantation.” The cabinet approved the report in October 1991. In this report, the Committee suggested that India pass primary and subordinate laws similar to the UK's legislation on transplant,[4] with suitable changes. This legislation would clarify "death" as "brain-stem death" and authorize and accredit hospitals with the competent staff, equipment, and facilities for organ transplantation. before death, a person should be allowed to sign a written authorization for the removal of certain organs. Medical care for donors should encourage living organ donation. The committee also suggested criminalizing the sale of human organs.[5]

II. Judicial decisions and steps taken by the Government of India

Many cases of court-ordered human rights violations have been reported. Part of this study examines several human trafficking cases in which the economic situation of organ trade was identified after a careful analysis of the organ trade violation and its nature, the way it works, the impact and victimization of the harvesting group. Donors and their supporters continue to commit all kinds of crimes. In some cases there is conflicting information, making it difficult to verify their authenticity.

However, the events outlined below will demonstrate the interests of the offenders, the uses and consequences that victims subsequently experience. In addition, it has been tried to show the measures taken by the countries in the fight against human smuggling.

NET CARE Case

In this case, the newspaper advertised and asked for kidney donation and the money was paid.[6] Section 51 Criminal Code Section 105(1) 1977. granted consent without disclosing sufficient medical history of the victim. Donors are asked to stay at home for a period of time to prevent the detainees from leaving and are monitored before being transferred to the country's main airport. They were taken from the airport to the Eastern European country by an accomplice of the suspect. Misled by claiming that the defendants were doctors and unaware of the risks of the treatment, the victims initially promised \$7,000 in compensation but did not receive the money.

In one example, the two victims each received half of the total promised amount; however, the suspect later took the money and never gave it back[7]. Both victims received nothing, one donor received \$500 and the other \$3,500. However, the remaining 7 dollars was not given to but. When the defendant was taken to the suspect's house, he owed food and rent.

In addition, they do not receive medical treatment when they return to their countries. They were warned that if they reported their actions to the police, they would be arrested for their crimes. In addition, a defendant battered the victim after demanding payment. Some have had their kidneys removed after flying to another country.[8]

According to the collected evidence, Netcare CEO and 8 more people were arrested in 2003, including 4 organ transplant specialists, 1 nephrologist, 2 transplant exchanges and 1 translator. Israel, Romania and Brazil.

Evidence also shows that five youths were offered money in exchange for a kidney donation.[9]

Netcare pleaded guilty to 102 crimes in 2010, including using its employees and facilities to perform illegal kidney transplants, fraud, fraud and physical violence. [10] South Africa's state attorney general is meeting with the province. The settlement resulted in a \$3.8 million judgment against the company and a \$4 million fine.

As part of the transaction, charges against Netcare Limited and its manager were dismissed. [11]

Medicus Case

The Medicus facility in Pristina, Kosovo is the center of the illegal organ trade. The Immigration Service first investigated the situation in 2008, suspecting that some foreigners had come to the country due to heart problems. The kidney of a kidney patient who was found to be in poor health was taken at Medicus Hospital. Where fees are to be paid. Upon receiving the news, the police searched the hospital.

The investigation revealed that the organ trading network was set up in 2000 when the owners of medical facilities contacted the Turks to set up an illegal network. Organ donors from various countries such as Israel, Ukraine, Belarus, Turkey, Moldova, Kazakhstan and Russia, organ recipients from various countries such as Germany, Canada, Israel, Poland and the United States. The nationalities of the nine recipients and five senders are unknown. [12]

EULEX is responsible for the prosecution when the case is transferred to Kosovo. [EULEX] Kosovo politicians are also suspected of involvement, which complicates the investigation.[13]

The owner of the clinic was also found guilty of providing illegal medical treatment and was convicted of human trafficking and crimes.[14] Other charges such as abuse of office, grievous bodily harm, fraud and falsification of documents were dismissed. This penalty includes more than eight years in prison and a fine of 10,000 euros.[15] [16]

The Medicus investigation showed that the key to effective decision-making for drug trafficking victims is rapid investigation and arrest, as well as the recovery of all materials and appropriate papers. The review of the anesthesiologist's surgery was decisive in this case.

ROSENBAUM Human Trafficking Network

This human trafficking case was uncovered by an FBI operation called Bid Rig, which targets corrupt workers in the Jewish community in New Jersey for tax evasion and money laundering.

The business began in 1999, but FBI agents did not discover the group until 2008, when a suspect became an informant. [17]

An FBI agent approached Rosenbaum asking him to help arrange a kidney transplant for his relative. Rabbi Rosenbaum promised to find a suitable "donor". Clients paid \$160,000 for the procedure. The FBI sent the first money to a bank account of a nonprofit in Brooklyn. The full indictment revealed that Rosenbaum had been involved in the organ business since 2001.

As for the blood/tissue competition, he teamed up with friends in Israel to find a suitable supplier. Potential "donors" are monitored during pre-transplant testing.

In 2011, Rosenbaum pleaded guilty to violating US law prohibiting the commercial sale of human organs [18] and once conspiring to violate US law.

Illegal evidence was seized from the exchange, and Rosenbaum was eventually sentenced to 30 months in prison.

Rosenbaum could not be charged or convicted of human trafficking as the prosecution was unable to identify the seller at the time and Rosenbaum pleaded guilty. Because of these legal issues, the penalties are relatively small compared to organ trafficking. [19]

GURGAON CASE

U.P. and Haryana Police set up an organization for kidney crimes in Gurgaon. Kidney scam works from the personal address and guest address of Amit Kumar, the head of the network.

The best clinics are in private homes, while the guest house serves as a place for beneficiaries and vendors until a match is found. Sellers who opt for kidney deals are usually unassisted workers and unemployed in the city, while kidney buyers are from different countries such as the USA, UK, Canada, Saudi Arabia and Greece. [20]

Professionals often lure shippers to the bottom of the bastion. After a while, they asked for a kidney donation for Rs 30,000 and those who involuntarily refused to have the surgery had their kidneys removed. Studies show that Dr. Amit and his associates have performed 500-600 kidney transplants in nine years. Beneficiaries receive Rs 1.5 million to Rs 2.5 million for a kidney, while donors receive Rs 50,000 to Rs 11.

Three of them were treated when authorities realized that the police were protecting 5,000 beneficiaries. The investigation also led by Dr. Amit, his brother, and others were recently arrested for illegal human organ transplants and have been arrested three times before. However, he was released on bail. Dr Amit and his brother were arrested near Nepal in 2008.

The Federal Bureau of Investigation launched an investigation on February 8, 2008. Dr. Amit was charged under IPC 326, 420, 380 and 120B for illegal purchase, use of dangerous weapons, unreasonable punishment, fraud and causing injury and organ transplant and organ trafficking. [21] In 2013, Amit was charged in four other cases in the CBI court.

Another defendant, who appeared in court in 2008, was also convicted for lack of evidence. Both were sentenced to seven years in prison and a fine of Rs 60 on the grounds that India is a country involved in organ transplants. People travel to parts of India to get kidney transplants from local people. [22] No specific charges were brought against the staff here, Dr. The case against Amit has been sitting here for years. But he focused on the right to life. Those convicted under the Human Transplantation Act 1994 are deemed to have violated various provisions of the International Criminal Court and undermined the entire concept of the Transplantation Act by double

treatment, false statement and torture, or physical threats by various means, and violating the law. all relatives.

VISHAL JEET V. Association of India [23]

A public interest petition has been filed under Article 32 of the Constitution [24] At the lawyer's request, specific instructions were sought to investigate areas of sexual harassment and rape against women through the bridge of legal supervision, to rescue and assist sex trafficking victims. with appropriate training in a variety of medical, residential, housing and educational services.[25]

Petition shows that poor parents sold their teenage daughters and children in the hope that, because of their poverty, they would be used only for manual labor or housework.

GAURAV JAIN V. Association of India [26]

This case concerns one of the worst crimes in history, prostitution prevalent in Indian society.

The current document does not explicitly discuss the details. Instead, he asked how Indian society treated child prostitutes. [27]

RAJ BAHADUR Vs.W.B. The State [28]

In this case that occurred in 1953, the court explained the concept of trafficking in human beings by clarifying the meaning of trafficking in human beings.

It means treating women, men and children as commodities and selling them for immorality and otherwise disposing of them.

BANDHUA MUKTI MORCHA V. Association of India [29]

Court clarified the provision of medical facilities for labor victims and directed authorities to Nature's provision of medical assistance to displaced workers under this Act. serious violation of their fundamental rights. The court's decision was based on the outcome of a case involving a debt bondage victim.

PUCL V. T. N. [30]

The court ordered ALJ to quit her job to work on behalf of the victims with care, compassion and empathy.

In addition, the court ordered judges to abide by debt bondage rules.

MC Mehta - Union of India [31]

The court said that the only real solution to the social problem of child labor is education. Lack of access to education is one of the driving forces behind the prevalence of child labour. The court ruled that children under the age of 14 should receive education to support their health and development.

Government of India Initiative

National Transplant Scheme

Government of India is implementing the National Transplant Scheme to plan fertility and implement the practice under THOA 1994 to increase organ donation. The Prime Minister emphasized the importance of organ donation in the MANN KI BAAT program launched in October and November 2015. This encouraged organ donation in the country. The National Transplant Program aims to provide

life changing access to our nation's poorest people through organ

donation. Tissue banks are established nationwide under

NOTP.

This tissue bank is called Biomaterials Center and was established by NOTTO in New Delhi. While in the area, a similar bank was set up at ROTTO in Chennai. The main purpose of the NOTP campaign is to promote organ transplants, living and cadaver donations by citizens across the country. [32]

The provisions of NOTP are as follows:

A. Establishment of SOTTO in all states and territories

B. Establishment of transplant centers and providing financial assistance for Clinical Extraction

C. Assists Medical Transplants by Physicians and Physicists.

D. Provide adequate training for medical personnel such as surgeons and shift managers.

E. Immunosuppression drugs for patients who become debilitated after changing activities.

III. Other Laws

A. Prevention of Injustice Act 1956

Offenses Amendment Act 2013 Sections 370 and 370A of the IPC deal with the abuse and abuse of children and torture, including forms of sexual exploitation, sex work or forced sexual exploitation.

B. **POCSO, 2012** is a rare law to protect young people from harassment and exploitation. It provides an overview of different types of sexual harassment, including sexual and non-sexual violence. Section

C. Child Marriage Prohibition Act, 1976 Section

D. Child Labor Prohibition and Control Act, 1986

E. Child Labor Prohibition Act, 1976.

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