

## Human Tissue Laws Submission

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Australia needs a comprehensive system of legislation to avoid complicity in forced organ harvesting abroad. The problem of forced organ harvesting is particularly acute in China where prisoners of conscience are killed en masse, systematically, pervasively, for their organs. The victims are primarily practitioners of the spiritually based set of exercises Falun Gong, as well as Uyghurs in large numbers. Tibetans and House Christians are also victims. The abuse has been ongoing since the early 2000s. The evidence of the abuse has been established with certainty, beyond reasonable doubt, by several independent investigations.

For the purpose of the legislation, it is unnecessary to get into the details of this Chinese institutionalized victimization, since the legislation can and should be generic. Nonetheless, this victimization is worth noting because it emphasizes the urgency and importance of legislation in this area, particularly in light of the prolonged delay in Australia in addressing remedies for the abuse.

To be comprehensive, legislation should have these provisions.

### 1) Extra-territoriality

A person who commits an act outside Australia that, if committed in Australia, would be an offence under Australian law related to the trade in organs should be deemed to commit that act in Australia if the person is a citizen or a permanent resident of Australia.

The Australian Law Reform Commission 2025 "Review of Human Tissue Laws Proposals and Questions in the Discussion Paper", in Question 35, asks in part "Should the prohibition on exchanging human tissue for reward have extra-territorial effect?" The answer here to that question is yes.

## 2) Immigration

A permanent resident or a foreign national should be inadmissible for having engaged in conduct outside Australia that would constitute an offence under the human tissue legislation related to the trade in organs.

## 3) Insurance

A health benefit plan, whether public or private, should not be allowed to cover a human organ transplant or post-transplant care unless the organ removal and transplant are carried out under the laws of the foreign country and the provisions of Australian law with regard to the trade in organs are met.

## 4) Sanctions

The Government of Australia should be authorised to impose sanctions on foreign persons whom the Government determines to have knowingly and directly engaged in or facilitated forced organ harvesting or trafficking in persons for purposes of the removal of organs.

## 5) Supply chains

An Australian Government contracting authority, before awarding a public contract to a supplier, should be authorised to disregard any tender if the supplier or a connected person has been, or is, involved in forced organ harvesting, or dealing in any device or equipment or services relating to forced organ harvesting.

## 6) Passports

The Government of Australia, under the authority of the Australian Passport Act 2005, should be allowed to refuse to issue a passport to or revoke a passport of any individual who has been convicted of an offence for purchasing an organ and is subject to imprisonment or supervised release as the result of such conviction if the individual, in the commission of the offence, used a passport or crossed an international border.

#### 7) Country reporting

The Government of Australia, should make public annually an updated report on the organ transplant policies and practices of countries designated by the Government. The report should include an assessment of forced organ harvesting and trafficking in persons for purposes of the removal of organs of the designated countries.

#### 8) Patient reporting

A citizen or permanent resident of Australia who has received a transplant of organs overseas should be required to submit documents describing matters prescribed by decree of the Minister of Health of the Government of Australia to the agency designated by the Minister within 30 days after the return of the person to Australia.

Citizens and permanent residents of Australia who undergo transplantation of an organ abroad should be required to obtain, before the transplantation or at the latest thirty days after it, a certificate attesting to the free donation of the organ and provide it before return to Australia to the national designated authority.

The Australian Law Reform Commission 2025 "Review of Human Tissue Laws Proposals and Questions in the Discussion Paper", in Question 40, asks in part "Should new human tissue

legislation include a mechanism to help make sure that imported tissue has been ethically sourced? If so, should the mechanism be: ... A reporting mechanism similar to that contained in the Modern Slavery Act 2018 (Cth)?"

The reporting obligation in the Modern Slavery Act 2018 (Cth) is imposed on "entities based, or operating, in Australia, which have an annual consolidated revenue of more than \$100 million, to report annually on the risks of modern slavery in their operations and supply chains, and actions to address those risks". The reporting obligation proposed here and below should be independent of revenue of the person or entity reporting. Moreover, the reporting should be, as noted, at the latest thirty days after the transplantation and not at the end of the year.

#### 9) Hospital reporting

After receiving organ transplants outside the territory of Australia, patients undergoing transplant follow-up in a domestic hospital should be required to provide written information on the transplanted organ category, country, hospital and physician to the hospital to the Government of Australia competent authority.

#### 10) Combined patient and doctor reporting

Every doctor should be required to report to the Government of Australia designated authority the identity of any person who has undergone a transplantation that the doctor has examined. The designated authority should be required to report to the Australian Federal Police any person who has reasonable grounds to believe has been involved in a financial transaction with a view to obtaining a human body organ.

#### 11) Nurse reporting

Where a nurse has reasonable suspicion that one or more of the legislated transplant offences may have been committed, the nurse should be required, as soon as reasonably practicable, to supply to the relevant Government of Australia authority such specified information as is known by the nurse.

The Australian Law Reform Commission 2025 "Review of Human Tissue Laws Proposals and Questions in the Discussion Paper", in Question 43, asks "In relation to Question 42, how should the data be reported? For example, should there be:

- a. voluntary reporting?
- b. mandatory reporting?"

The answer for all the reporting addressed here, reporting should be mandatory.

## 12) Aggregate public reporting

The Minister of Health of the Government of Australia should be required to cause a report to be prepared within one month after the end of each calendar year on:

- (a) the number of persons who have received an organ transplant outside the country within the last years;
- (b) the location of the medical facilities at which transplants were received , including the number of times each place was accessed.

## 13) Examination of medical records

An agency designated by the Minister of Health of the Government of Australia should be authorised to examine the medical records maintained by any medical centre relating to organ removal and transplants and obtain any pertinent information they require.

The Australian Law Reform Commission 2025 "Review of Human Tissue Laws Proposals and Questions in the Discussion Paper", in Question 44, asks "In relation to Question 43, if you support mandatory reporting, should the National Regulator (or alternative) have the power to conduct mandatory inspections of records?" The answer here to that question is yes.

#### 14) Brokering

Permanent residents and nationals who broker organ transplants or the provision and acquisition of organs outside of Australia not provided or acquired free of charge should be subject to imprisonment and fine. Australian nationals and permanent residents committing this offence outside Australia should be dealt with according to Australian law regardless of whether the offence is punishable or not under the law of the area where the act is committed.

#### 15) Advertising

Persons who advertise insider or outside Australia organ transplants or the provision and acquisition of organs outside of Australia should be subject to imprisonment and fine. Persons committing this offence outside Australia should be dealt with according to Australian law regardless of whether the offence is punishable or not under the law of the area where the act is committed.

The Australian Law Reform Commission 2025 "Review of Human Tissue Laws Proposals and Questions in the Discussion Paper", in Question 39, asks "If a prohibition on advertising is imposed in accordance with Proposal 45, should this prohibition have extra-territorial effect?" The answer here to that question is yes.

#### 16) Financial transactions

Every national and permanent resident of Australia should be considered to have committed an offence who, outside of Australia, obtains or participates in or facilitates the obtaining of an organ from the body of another person for the purposes of having that organ transplanted into their body or the body of another person, knowing that it was obtained for consideration or being reckless as to whether or not it was obtained for consideration.

#### 17) Trafficking

It should be prohibited outside of Australia for Australian nationals and permanent residents to trade, sell, purchase, or procure, or handle organs or parts of organs removed from a living person, organise or promote trips or advertise aimed at trafficking in organs.

#### 18) Professional licensing

Professional certificates of medical personnel found to be in serious violation of the prohibition against brokering outside Australia should be revocable.

#### 19) A Convention

The Government of Australia should be authorised to sign and ratify the Council of Europe Convention against Trafficking in Human Organs.

#### 20) Bodies exhibits

It should be forbidden for legal or business natural persons to preserve, embalm or expose the body of a deceased, including preserved or embalmed, without the specific consent of the deceased for the body to be used in this way, whether these acts occur inside or outside

Australia.

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