



Submission – Discussion Paper (2025)

Australian Law Reform Commission

Review of Human Tissue Laws (2025)

ETAC Australia

International Coalition to End Transplant Abuse in China

endtransplantabuse.org

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ETAC Australia

1. The International Coalition to End Transplant Abuse in China (**ETAC**) is an independent, non-partisan organisation that is not aligned with any political party, religious or spiritual group, government or any other national or international institution. Our members are from a range of backgrounds, belief systems, religions and ethnicities. We share a common commitment to supporting human rights and ending the heinous crime of forced organ harvesting in the People's Republic of China (**China**), and all associated crimes including torture and other inhuman or degrading treatment or punishment.
2. Forced organ harvesting in China is the systematic, forced and state-sanctioned removal of organs from prisoners, including prisoners of conscience, without the person's consent. Forced organ harvesting is a form of organ trafficking.
3. The ETAC Australian Committee (**ETAC Australia**) was formed in 2016 in response to serious human rights violations in China associated with forced organ harvesting. ETAC Australia comprises lawyers, academics, ethicists, medical professionals and human rights advocates, and is the Australian Committee of the International Coalition to End Transplant Abuse in China (**ETAC**).
4. ETAC provides leadership and expertise on the issue of forced organ harvesting, and promotes and protects human rights by:
 - Undertaking, publishing and disseminating research regarding forced organ harvesting in China;
 - Calling for greater transparency and scrutiny of the transplantation system in China;
 - Promoting public debate regarding human tissue and organ trafficking laws and policy;
 - Raising public awareness regarding the importance of ending the detainment, torture and forced organ harvesting of prisoners of conscience in China;
 - Advocating for actions to reduce and avoid international complicity in China's violations of transplant ethics and human rights law; and
 - Seeking justice for the victims of forced organ harvesting and their families, and demanding accountability for the perpetrators.
5. ETAC Australia provides leadership and expertise on the issue of forced organ harvesting, and promotes and protects human rights by:
 - Advocating for law reform of organ trafficking laws in Australia;
 - Raising awareness of forced organ harvesting as it relates to Australians;
 - Promoting education to prevent and eradicate organ trafficking in Australia;
 - Participating in public inquiries on organ trafficking laws in Australia;
 - Making submissions on organ trafficking laws in Australia;
 - Participating in public inquiries on modern slavery laws in Australia;

- Making submissions on modern slavery laws in Australia; and
 - Advocating for actions to prevent, reduce and avoid complicity in China's violations of transplant ethics and human rights laws.
6. The ETAC Australian Committee members can be viewed [here](#). We note that Professor Ian has abstained from any involvement in the preparation, drafting and review of this submission.
 7. Madeleine Bridgett, PGDL, BPTC, MSW, BSW, and Susie Hughes, Executive Director of ETAC, are the authors of this submission.

Review of Human Tissue Laws – Discussion Paper (2025)

8. ETAC welcomes the opportunity to provide a submission to the Review of Human Tissue Laws – Discussion Paper (2025) (**Discussion Paper**).
9. ETAC has been actively engaged in advocacy and law reform regarding human tissue laws at both the Commonwealth and State levels for many years, especially as they relate to organ trafficking including trading in tissue.
10. As stated in ETAC’s submission to the Issues Paper (2025) (**Issues Paper Submission**), despite the advocacy work we have undertaken over the years, we have seen little change in the laws. Respectfully, the Australian Government has been slow to implement effective laws to deter, prevent and eradicate organ trafficking in Australia. Further, the current laws are not in keeping with international laws on organ trafficking. The nation is lagging behind other countries who are making excellent progress with such law reform as we discussed in our Issues Paper Submission.
11. In our view, much more is needed to deter, prevent and eradicate organ trafficking as the current laws are not adequate in safeguarding our nation from some of the most gregarious and heinous crimes associated with organ trafficking, including serious human rights violations.

The term ‘transplant tourism’

12. ETAC would like to correct a point raised in our Issues Paper Submission at paragraphs 16 to 24. Whilst we maintain the submissions we made about the difficulties with the use of this term, we note that it is a term used and defined in The Declaration of Istanbul on Organ Trafficking and Transplant Tourism.
13. The Declaration of Istanbul on Organ Trafficking and Transplant Tourism under ‘Definitions’ defines ‘Travel for transplantation’ referencing transplant tourism as follows:

Travel for transplantation is the movement of organs, donors, recipients, or transplant professionals across jurisdictional borders for transplantation purposes. Travel for transplantation becomes **transplant tourism** if it involves organ trafficking and/or transplant commercialism or if the resources (organs, professionals, and transplant centers) devoted to providing transplants to patients from outside a country undermine the country’s ability to provide transplant services for its own population.

14. In this way, it can, and often is, a term used universally, notwithstanding the issues we raise in our Issues Paper Submission.

Discussion Paper Questions

15. ETAC refers to and repeats the submissions made in our Issues Paper Submission about the urgent need for law reform regarding the concerning lacuna in the law regarding organ trafficking laws including trading in tissue laws as this is raised in the Discussion Paper.
16. ETAC also refers to and repeats the submissions made in our Issues Paper Submission about the urgent need for mandatory reporting of all overseas transplants as this is raised in the Discussion Paper.

National legislative framework (Proposal 1)

17. ETAC supports proposals to implement a national legislative framework to increase and maintain national consistency and enable flexibility for future changes regarding human tissue laws.

National Regulator (Proposal 2 & Proposal 3)

18. ETAC supports the proposal for a National Regulator to assist in maintaining consistency and flexibility, however any proposed substantive law reform should remain with the legislature in keeping with checks and balances within a democratic society.

Human rights framework (Question 1)

19. ETAC supports adopting a human rights framework as part of the objects of any uniform legislation as organ trafficking raises serious human rights issues as we discuss in our Issues Paper Submission.

Additional safeguard regarding consent (Question 10)

20. ETAC agrees with Proposal 14. However, an additional safeguard should be included to address ethical risks in contexts where voluntariness may be compromised. New human tissue legislation should explicitly prohibit the removal or use of organs or tissue from prisoners for transplantation or other purposes. Even where consent may be expressed, imprisonment creates a heightened risk of coercion, undue influence, or perceived pressure, and an explicit legislative prohibition would provide clarity, strengthen public confidence, and align with widely accepted ethical standards regarding vulnerable populations.
21. In our view, prisoners cannot give free and informed consent.

Improving access to data (Question 42)

22. ETAC refers to and repeats the submissions made in our Issues Paper Submission about the urgent need for a comprehensive and transparent data collection repository recording the numbers of

Australians travelling overseas for an organ transplant, whether it be for a lawful or unlawful organ transplant.

23. In addition to data held by donation agencies, tissue banks, manufacturers, distributors, and sponsors, a critical gap is the absence of reliable data on Australians who travel overseas to receive transplants and who then return to Australia requiring follow-up care. This data should be acquired through a mandatory reporting mechanism for relevant medical professionals and health services to ensure consistent and reliable information is captured when patients present for post-transplant care in Australia. Reporting should occur in a de-identified and privacy-protective way and capture information such as the type of organ or tissue transplanted, the country where the transplant occurred, the approximate timing of the procedure, and any post-transplant complications or longer-term health outcomes. This information would enable governments and health services to better understand the extent of transplant tourism, identify hotspot countries, monitor outcomes for returning patients, and assess the downstream impact on the Australian health system, including complications, infection risks, and ongoing treatment needs. It would also support evidence-based policy development and strengthen Australia's capacity to respond to unethical organ sourcing and trafficking-related risks through improved monitoring and trend analysis.

Extraterritorial application of organ trafficking laws (Question 35)

24. ETAC supports giving extraterritorial effect to organ trafficking laws, especially as Australian's engaging in trading in tissue conduct usually occurs overseas which is deeply hidden and secretive and therefore difficult to prosecute. Amendments to the **Criminal Code Act 1995 (Cth)** are needed to provide a clear offence with extra-territorial operation however extra-territorial operation should also be addressed in the development of any **proposed human tissue legislation**, to ensure the prohibition is reflected coherently across the broader regulatory scheme and complements criminal enforcement.

Imported tissue and ethical sourcing (Question 40)

25. Yes. New human tissue legislation should include a mechanism to help ensure that imported tissue has been ethically sourced. The most effective approach would be to adopt both a prohibition on the importation into Australia of human tissue obtained without the donor's consent, or in exchange for reward or profit, and a reporting framework similar to the Modern Slavery Act 2018 (Cth) to promote transparency, accountability, and due diligence in tissue supply chains. However, penalties should apply for failure to comply with such proposed legislation. Also, any legislation should have extraterritorial application.

Mandatory reporting and inspections (Questions 43 and 44)

26. Mandatory reporting should be adopted. In particular, mandatory reporting is essential to ensure consistent collection of data relating to Australians who undergo transplants overseas and present

for follow-up care in Australia, including the type of organ or tissue, the country where the transplant occurred, timing, and health outcomes and complications on return. Voluntary reporting is unlikely to produce consistent, complete, or reliable data, whereas mandatory reporting is necessary to establish an accurate evidence base for policy development, demand planning, and monitoring transplant tourism trends and associated risks.

27. Yes. If mandatory reporting is implemented, the National Regulator (or alternative body) should have the power to conduct mandatory inspections of relevant records to support compliance, data integrity, and effective oversight. Any inspection powers should be subject to appropriate safeguards, including privacy protections and clear limits on scope and use of the information collected.

Are other reforms urgent? (Question 47)

28. Yes. As outlined in ETAC's earlier responses, urgent reform is needed to expressly address organ trafficking, strengthen extra-territorial application of the law to capture conduct in organ trafficking, in particular unethical overseas transplants and unethical organ sourcing, and implement stronger import controls and mandatory reporting mechanisms to improve oversight and accountability.

Timeframe

29. There should be no further delay in amending organ trafficking laws so that the laws capture conduct which occurs overseas and conduct involving trafficking in organs per se, in addition to the existing laws which only captures trafficking in persons for the purpose of organ removal.
30. There should be no further delay in introducing mandatory reporting by health professionals for all overseas transplants.
31. There should be no further delay in establishing a comprehensive and transparent central repository of data of all overseas transplants for the reason we outline in our Issues Paper Submission.

Urgent Recommendations

32. ETAC recommends urgent reform to strengthen Australia's human tissue and organ trafficking framework, including by implementing the following priority measures:
33. First, strengthen organ trafficking offences by expressly criminalising organ trafficking (including trading in tissue) as a separate offence, not limited to trafficking in persons for the purpose of organ removal, and ensure offences capture the full range of conduct involved in transplant tourism and unethical organ sourcing.

34. Second, introduce comprehensive extra-territorial application of the law so that Australians and Australian-based entities are accountable for prohibited conduct occurring overseas, including involvement in the supply, facilitation, receipt, or use of unlawfully or unethically sourced organs or tissue.
35. Third, introduce mandatory reporting of overseas transplants by relevant health professionals and services, supported by appropriate inspection and compliance powers for the National Regulator (or alternative body), with strong privacy safeguards.
36. Fourth, create a central, transparent repository of de-identified data on overseas transplantation involving Australians, including destination country, organ type, timing, and post-transplant outcomes, to inform demand planning, policy development, and health system impacts.
37. Fifth, implement safeguards to ensure imported tissue has been ethically sourced, including both a prohibition on importing tissue obtained without consent or for reward or profit, and supply chain reporting requirements modelled on the Modern Slavery Act 2018 (Cth).
38. Sixth, include an explicit safeguard for vulnerable populations by prohibiting removal or use of organs or tissue from prisoners for transplantation or other purposes, to reduce the risk of coercion and ensure ethical integrity.
39. Seventh, ETAC reiterates the urgent need for law reform as discussed in Issues Paper Submission and support the implementation of the recommendations made in the Compassion not Commerce Report.
40. Thank you for the opportunity to participate in what we see as a vital inquiry to ensure that there are safeguards for all Australians and for those living overseas who are so often exploited and harmed as a result of organ trafficking.

If you wish to discuss this submission further, please do not hesitate to contact Susie Hughes, Executive Director, ETAC, at [REDACTED]