

8.2 TRAFFICKING IN ORGANS, TISSUES, AND CELLS IS SOMETIMES PART OF HUMAN TRAFFICKING

Interview with Ivana McIlwiane, Police Officer and Scientist in Serbia

I am working as a police officer and as a scientist. With the police, I work for the anti-trafficking unit and I am engaged in overall police work regarding the trafficking of human beings (criminal investigation) and illegal migration, where there is a reemerging connection between smuggling and trafficking in some phases.

I am a medical doctor, as well – therefore my special interest and expertise is in this area.

As an academic, I am currently writing my thesis about the trafficking of organs as one form of trafficking of human beings. Methodologically, this involves a lot of research into official documents (from the EU Council, Organisation for European Economic Co-operation, the police, UN, etc.) to be able to map the routes of human trafficking.

I think we should address this problem in a more structured and more public way in order to take advantage of the existing global political will to address the issue of organ trafficking. The focus of my academic activities is on the global level. Within our police institution, the issues of organ trafficking and the abuse of the legal framework for preserving stem cells as well as in vitro fertilization procedures created a new area for white-collar criminal activity and it is still quite exotic. Currently, we are structuring a small unit to work on it with the approval of our superiors. In this context, we initiated cooperation with the Ministries of Interior and Health and are planning to include the Ministry of Finance.

Q: Within the field of human trafficking, how do you classify organ trafficking and how do you describe it?

Regarding the legal definition, organ trafficking is a part of human trafficking, they are addressed jointly. At the same time, the Republic of Serbia has adopted a *lex specialis* regulating the transplantation of human organs and transplantation of cells and tissues. In Articles 79 and 99, respectively, the sale of organs, tissues, and cells is punishable by law – be it for the person who offers them in exchange for reward, or the person who accepts them.

From my perspective, this is not to the point, since it is part of organized crime and is tied to the hardly controllable legal regulation of transplantation, which stipulates that the person who offers an organ on a commercial basis commits a crime, too. On a practical level, organ trafficking seems to be one visible effect of an economic situation in which desperate people offer their organs for sale. This seems to be similar to some other countries where this phenomenon has been detected. On the other side, one can presume that there are organized rings that mediate the jumping of the transplantation waiting lists as well as the illegal exchange of organs.

Unfortunately, there is no police evidence on this issue in Serbia yet. We also have some information via international channels about people being trafficked for that purpose from Bosnia and Montenegro to Italy – but again no police evidence.

There is a third area, in which organ trafficking is overlapping with war crimes in Kosovo. In September 2012, parts of the statement of a protected witness were made public, in which he stated that he was part of a gang that was killing people, mainly Serbs being abducted from Kosovo to Albania, to extract organs. The witness reported that he was forced to take out the heart of a young guy without anesthesia – and he was not even a doctor. This case will be classified as a war crime. At the moment, colleagues of mine are having a series of meetings with Serbian officials, including the chief prosecutor for war crimes.

A regular organ-trafficking procedure could happen, or will happen, as follows: Two parties meet in a third country and the hospitals perform the act. In that you have different classes: First class is least dangerous for the victim and for the recipient; business class: the standard is a bit lower; economy class: you have two victims – the donor and the recipient, since there is not enough medical expertise on both sides. Therefore, infections happen and both sides end up damaged. My personal stand is that in those cases, we have two victims and acts against humanity have been committed against both. From literature we have documented examples of such problems in Moldova, India, and Pakistan.

Q: Concerning the Balkans, how frequent is organ trafficking?

On the Internet you can find many ads of people offering their kidneys, but only a few ads that state, *kidneys required*. Such ads originate from Serbia, Bosnia, Croatia, and Montenegro.

Q: How are the medical personnel involved?

There must be a couple of rings, which also include medical personnel – but again there is no police evidence yet. No one is making an appointment directly with a doctor; it is more subtle, with talk about “speeding up the process,” and the involved actors have something to gain from it. It is a grey zone: There is the form of jumping the list for money – here we talk of corruption; a second form would be the actual purchasing of an organ; and the third form, the killing of a

person to obtain organs, is perhaps not so common in the region, apart from that case in Kosovo. Montenegro is heavily involved in those practices. Forms one and two exist all over the region, plus the personnel who help with the matching and operations – there is a lot of money involved. Even regarding the second form, they would still represent it as being a humane act, although it is immoral and illegal.

In case of blood donations, the problem is slightly different: Often, people do not know that blood is a commodity and that their blood will be traded on a very badly controlled market. This lack of information is unethical, too.

There is a general lack of ethical approaches to the matter. In Serbia you can find doctors treating terminal cancer cases against good practice, taking money from the relatives, playing on their hopes. I guess in times of war, the yardsticks are modified: You deal with triage and approaches to contain the damage on a daily basis. Thereby, the whole conception concerning the human body has changed. Therefore, people think: Yes, I can live without my kidney and the doctors do not think that this is a critical act. Morals shift during a war. People who are criminals think of themselves as acceptable. This explains as well why, for example, South Africa is such a good territory for illegal transplantations – this is why they do not see the problem.

Q: You mentioned that you have developed a strong interest in the issue of trading in stem cells?

The field of use and procurement of stem cells in Serbia is regulated by legislation adopted in September 2009, and that came into force on January 1, 2010. It regulates the whole field: definitions to medical procedures, relevant bodies, use, transportation, safe-keeping, treatment, and there is a section regarding criminal penalties (art. 99, 100, and 101).

My point is that lack of precise procedures about who can take blood from the umbilical cord and sample tissues, which are both rich in stem cells, facilitates criminal activity. Also it is against the law to advertise the service of taking samples, transporting it to the so called “private banks,” and preserving it there. In Serbia you do not have any bank, so everything is taken abroad and also the state does not require feedback info what has happened to it. Patients pay approx. €2,000 per sample, and yet they do not always receive complete and exact information about the course and costs of possible treatments – therefore it is if nothing else than a fraud.

The most active companies are Cryosave, and there is also a very active German company called Seracell GmbH. On the “market” here in Serbia, there are about eight very active companies and approximately 5,000 samples per year are taken and exported; most of them have the required paperwork, but as I mentioned before, *procedure is not good and there is space for criminal activity*, be it that services are publicly advertising via Internet – something that is against the above-mentioned law.

Regenerative medicine is probably the market where some of the cells end up for commercial use without knowledge of the donors. Interesting is the fact that when the samples are exported, the declared value for customs is only €10 per sample. As we do not have a cell bank in Serbia, the samples are not traced by the state. The whole business is in the hands of so-called private reps of foreign companies, and the doctors who perform the procedure after delivery receive money for it, which again is against the law.

Q: How would you describe the impact of such practices on society and on democracy?

When I see those systems from the impact-side, I think it really undermines democracy because it determines who will live and who will die. The rules that determine this field are international; they have incorporated a human rights perspective and rely on the scientific judgment of the doctor. Those rules are well known and there is no excuse for doctors who deviate in their judgment of choosing candidates for transplantation and for donation. Also, for shipping organs there are strict laws and regulations. If you shift sides in such matters, you go directly against democratic principles and are violating human rights. Corruption in organ transplantation definitely goes against basic democratic principles in all countries involved.

Q: In the future, what should international cooperation look like?

It would be very helpful to streamline regional and international teams. This should include specialized police officers with additional medical knowledge as well as knowledge of the financial flows involved. Close cooperation with prosecutors is essential here, since the medical documentation has its own privacy rules. Such teams would have to collect evidence on very high standards, because any accusation might damage the carriers and even the lives of those involved and might shift the image of a whole profession.

In addition, the revision of all legislation regulating transplantation of organs is vital; loopholes have to be closed. When corrupt medical teams gather to undertake illegal acts, for example on tissue-matching or organ transplantation, they can do so because medical documentation is rarely checked. For example, if the focus is on matching tissue, and it is assumed that the doctor is acting on ethical grounds, the status of alleged relatives is not checked. To stop illegal matching, this status would have to be checked thoroughly.

When I raised the issue of medical documentation in the Ministry of Health, they panicked because they had not been aware of the possible loopholes in the procedure for obtaining the positive identification of the donor and the recipient and in the monitoring of the process. I know how documentation is being done, for example after a tricky and tiring surgery or in cases of death.

When it comes to organized crime, it is certainly interlinked and organ trafficking needs a special unit. Pharmaceutical industries are involved, too, and there are many possibilities one could follow up with a professional team: For example to correlate the documentation of official transplantation with the documentation of anti-resistance medicines provided to hospitals.

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