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## Review Article

# Enhancing Vietnam's Criminal Law Responses to Increasingly Sophisticated Human Organ Trafficking Practices

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## Abstract

**Introduction:** Human organ trafficking has grown increasingly sophisticated, yet Vietnam's legal framework has not fully adapted to this evolving landscape. Aim: This study therefore aims to assess the effectiveness of Vietnam's current criminal-law provisions and to identify the gaps that emerge when these provisions are compared with international standards. **Methods:** Using a qualitative case-study design, the research integrates doctrinal legal analysis with a thematic comparison of global instruments, including UNODC guidance and the Council of Europe Convention. **Results:** The results reveal three central findings. First, Vietnam's Criminal Code lacks a standalone offence for organ-removal trafficking, creating definitional ambiguity that complicates prosecution. Second, the legal framework does not adequately address digital recruitment, medical-sector accountability, or cross-border cooperation – all of which are essential components highlighted in international models. Third, structural barriers such as limited investigative capacity, weak victim protections, and inconsistent interagency coordination further constrain enforcement in practice. **Conclusion:** Overall, these findings indicate that Vietnam must refine its statutory definitions, strengthen institutional mechanisms, and adopt victim-centered reforms to meet emerging global standards. The study concludes that aligning Vietnam's legal and operational systems with international best practices is crucial for addressing increasingly complex organ-trafficking networks.

## 1. Introduction

The global escalation of human organ trafficking has evolved into a highly organized, technologically sophisticated criminal enterprise, drawing increasing concern from researchers, policymakers, and international institutions.<sup>1</sup> Rather than constituting isolated incidents of illicit organ sales, contemporary trafficking in persons for organ removal (TIP for

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OR) increasingly operates through structured criminal networks that combine recruitment, financial brokerage, medical facilitation, and cross-border coordination. Despite being significantly underreported, trafficking in persons for organ removal (TIP for OR) is now understood to involve complex networks that operate across borders, exploit vulnerable groups, and rely heavily on digital tools to conceal their activities.<sup>2</sup>

International bodies such as the Inter-Agency Coordination Group against Trafficking in Persons<sup>3</sup> and the Council of Europe<sup>4</sup> have cautioned that the clandestine nature of this crime presents distinct doctrinal, investigative, and prosecutorial challenges, particularly in jurisdictions that lack precise legal definitions and specialized enforcement mechanisms. A growing body of scholarship has attempted to capture the organization and operational patterns of organ-trafficking networks. Existing studies demonstrate that offenders depend on transnational supply chains, falsified medical records, intermediary brokers, and encrypted digital communication, including platforms on the dark web.<sup>5</sup> Comparative research in Europe<sup>6</sup> and the Balkans<sup>7</sup> further illustrates that weak statutory language, fragmented legal provisions, and inadequate victim-protection frameworks continue to obstruct effective enforcement.<sup>8</sup> However, much of this literature remains primarily descriptive and has devoted limited attention to how domestic criminal-law provisions function in practice when applied to organ-removal cases. At the same time, global transplantation governance – though increasingly standardized – struggles to respond to the fluid boundaries between “trade,” “trafficking,” and “deceptive recruitment,” making legal classification and prosecution more difficult.<sup>9</sup>

Vietnam faces similar yet distinct challenges. Low organ-donation rates, socio-cultural beliefs surrounding post-mortem integrity, and persistent misconceptions about bodily wholeness contribute to an environment in which illicit exchanges may flourish.<sup>10</sup> Although the 2015 Criminal Code<sup>11</sup> criminalizes human trafficking, its general provisions were not designed with the specific operational features of organ-removal trafficking in mind, such as digital recruitment channels, transnational brokerage, or medically orchestrated exploitation.<sup>12</sup> Moreover, investigative limitations and inconsistent interpretation of trafficking provisions have resulted in evidentiary gaps and, at times, wrongful

convictions.<sup>13</sup> International frameworks – from the Council of Europe Convention<sup>4</sup> to recent UN and U.S. policy guidance<sup>14</sup> – offer valuable models for criminalization, reporting obligations, and victim-centered protections.<sup>14</sup> Yet Vietnam has not fully aligned its laws with these standards.<sup>10</sup> Existing domestic scholarship largely describes organ trafficking but seldom evaluates the shortcomings of Vietnam’s legal provisions or proposes targeted reforms.<sup>12</sup> This study addresses that gap by moving beyond descriptive comparison and offering a doctrinally focused assessment of how Vietnam’s trafficking provisions interact with contemporary organ-trafficking practices. Drawing on comparative international models, crime-script analyses, and doctrinal legal assessment methods,<sup>15</sup> the study proposes a set of reforms tailored to Vietnam’s contemporary crime landscape. Its central contribution lies in illustrating how current trafficking practices – especially digital brokerage, cross-border coordination, and covert medical facilitation – interact with existing legal provisions. In doing so, the article offers an evidence-based framework to strengthen Vietnam’s criminal law, enhance enforcement capacity, and support alignment with global anti-trafficking standards. To guide this inquiry and clarify the scope of analysis, the study focuses on two central research questions that address both the effectiveness of Vietnam’s legal framework and its alignment with global standards as follows:

- a. How effective are Vietnam’s current laws against organ trafficking?
- b. What gaps appear when Vietnam’s laws are compared with international standards?

## 2. Methods

This study adopts a qualitative case-study design to examine how Vietnam’s current criminal-law provisions address the growing sophistication of human organ-trafficking practices. Vietnam was selected as a single-case study because it represents a transitional legal system confronting emerging organ-trafficking risks while increasingly engaging with international anti-trafficking norms, making it suitable for in-depth doctrinal analysis rather than statistical generalization. The primary aim is to analyze the effectiveness of existing statutory frameworks and identify gaps that hinder investigation, prosecution, and victim protection. To achieve this, the research integrates doctrinal legal analysis with thematic examination of international guidelines, judicial interpretations, and comparative

statutory models. Data were drawn from the 2015 Vietnam Criminal Code,<sup>11</sup> government circulars, selectively available court decisions, and official reports, alongside international instruments and scholarly literature. Legal sources were included where they directly addressed trafficking offences, exploitation, medical regulation, digital facilitation, or victim protection; materials lacking a clear nexus to these issues were excluded. These sources were selected because they collectively illustrate how legal norms operate in practice and how they diverge from emerging global standards. The material was coded thematically, enabling the identification of recurring legal limitations, structural inconsistencies, and enforcement challenges. Thematic coding was conducted through an iterative process, beginning with core analytical categories, such as offence definition, consent and exploitation, intermediary liability, digital recruitment, medical-sector accountability, and cross-border cooperation, which were refined as analysis progressed. Moreover, cross-jurisdictional comparisons with European and regional frameworks provided additional insight into the relative strengths and weaknesses of Vietnam's current approach. Comparative jurisdictions were selected based on functional relevance, particularly where legal frameworks offered detailed offence structures or enforcement mechanisms addressing trafficking for organ removal. Finally, the analysis followed an iterative process, allowing new themes to emerge as the data were examined. Methodological limitations are acknowledged: the study does not rely on a comprehensive empirical dataset of Vietnamese court judgments due to limited public accessibility, nor does it seek to quantify enforcement outcomes. This approach ensured that the findings reflect both the formal legal architecture and the practical realities of combating organ trafficking in Vietnam.

### 3. Results and discussion

#### Evaluating Vietnam's criminal-law responses to emerging patterns of human organ trafficking activities

Vietnam has taken notable steps to strengthen its legal framework on human trafficking, yet its response to organ-removal trafficking remains only partially aligned with the complexity of this evolving crime type. The findings of this study indicate that although the 2015 Criminal Code<sup>11</sup> provides a workable foundation, its effectiveness is constrained by both doctrinal ambiguity and institutional capacity limits. These challenges emerge most clearly in the

absence of a dedicated offence definition, the limited capacity to address digital and transnational operations, and the practical constraints facing investigators and prosecutors. To begin with, Vietnam's handling of organ trafficking is embedded in the general trafficking provisions of Articles 150, 151 and 154 of the 2015 Criminal Code.<sup>11</sup> These articles prohibit coercion, deception, or exploitation for various unlawful purposes, but they do not explicitly define trafficking for organ removal as a standalone offence. As a result, organ-removal cases must be subsumed under broader trafficking categories, requiring prosecutors to infer organ-specific exploitation from general statutory elements. In contrast, the Council of Europe Convention<sup>6</sup> sets out a detailed structure that captures each stage of the illicit organ-removal process, including recruitment, medical involvement, transportation, and financial inducement.<sup>8</sup> The UNODC toolkit similarly stresses that clear legal definitions are vital for harmonizing enforcement, guiding prosecutorial decisions, and enabling cross-border cooperation.<sup>2</sup> Without comparable statutory specificity, Vietnamese courts are afforded wide interpretive discretion, increasing variability across jurisdictions and weakening legal certainty.

This ambiguity also complicates victim identification. Many individuals who undergo organ removal do not initially perceive themselves as victims, especially when the transaction is framed as voluntary or financially necessary. Yet international guidance emphasizes that consent obtained through economic desperation, misinformation, or fraudulent medical representations still constitutes exploitation.<sup>16</sup> Studies in Vietnam confirm that socio-economic vulnerabilities and cultural attitudes toward bodily integrity often obscure the exploitative nature of the act.<sup>17</sup> In the absence of explicit statutory recognition of vulnerability-based exploitation or deceptive inducement, prosecutors may struggle to establish trafficking elements even where exploitation is substantively present. A second issue concerns the mismatch between Vietnam's legal provisions and the sophisticated digital methods increasingly used in organ trafficking. Global evidence demonstrates that trafficking networks rely on encrypted communication channels, anonymous social-media postings, and clandestine digital marketplaces to recruit and coordinate arrangements with potential donors.<sup>18</sup> Several international bodies have encouraged States to incorporate digital-

recruitment and online-facilitation offences into their anti-trafficking frameworks.<sup>14</sup> Although the 2015 Criminal Code<sup>11</sup> contains general cybercrime provisions, these are primarily designed to address data-related or financial harms rather than human exploitation. As a result, investigators may be unable to authenticate online evidence or pursue digital-trail investigations across borders, particularly when communication platforms or data servers are located abroad.

The medical sector presents another area of vulnerability. International transplantation-ethics literature consistently highlights the role of hospitals and clinicians in detecting forged documents, cross-checking donor relationships, and reporting suspicious transplantation patterns.<sup>16</sup> Some jurisdictions impose mandatory reporting duties, backed by administrative or criminal liability for failure to act. Vietnam currently relies on professional guidance rather than statutory obligation, leaving potential gaps in oversight. This creates opportunities for traffickers to exploit administrative weaknesses by presenting falsified medical histories or using private clinics with limited regulatory scrutiny.<sup>13</sup> Finally, the study identifies a series of enforcement challenges that weaken the practical application of the law. Investigators often lack specialized training in interpreting medical evidence, identifying forged documentation, or reconstructing complex trafficking chains. These constraints mirror patterns observed in other countries confronting intricate organ-removal schemes.<sup>19</sup> Moreover, victims may be reluctant to cooperate due to stigma, fear of prosecution, or social pressure, which reduces opportunities for obtaining testimony. Cross-provincial coordination also remains inconsistent. Because organ-trafficking cases commonly span multiple locations, the absence of a specialized task force or centralized investigative framework leads to fragmented information-sharing and uneven case progression.<sup>10</sup> Overall, these findings indicate that Vietnam possesses a functional legal baseline but lacks the statutory clarity, digital responsiveness, medical-sector accountability, and interregional coordination needed to confront increasingly sophisticated organ-trafficking operations.

#### Comparing Vietnam's legal framework with international standards on preventing organ-removal trafficking

A comparative examination of Vietnam's legal framework against international standards reveals

several areas where domestic provisions fall short of global best practices. These gaps affect not only doctrinal clarity but also the ability of enforcement agencies to identify victims, regulate medical actors, pursue digital evidence, and cooperate across borders.<sup>13</sup> When viewed collectively, they underscore why Vietnam's current provisions struggle to keep pace with the dynamic structure of modern organ trafficking.<sup>20</sup> One of the clearest divergences lies in the absence of a standalone offence targeting trafficking for organ removal. International instruments – including the Council of Europe Convention and guidance from UNODC – emphasize the need for precise legal definitions to ensure consistency in prosecution and to reduce interpretive uncertainty.<sup>4</sup> These frameworks articulate detailed offence elements: illicit removal, medical participation, recruitment, transportation, and financial arrangements. Comparative studies show that jurisdictions adopting these definitions achieve more consistent legal outcomes.<sup>7</sup> While interpretive expansion of general trafficking provisions may be theoretically possible, reliance on broad clauses places excessive discretionary burdens on prosecutors and courts, increasing the risk of uneven application.<sup>12</sup> Closely related is the treatment of consent and exploitation. UNODC<sup>2</sup> and ICAT<sup>3</sup> stress that consent acquired through poverty, manipulation, or misinformation does not negate exploitation. International crime-script analyses demonstrate that traffickers routinely exploit financial desperation, medical misinformation, and fabricated urgency to induce organ removal.<sup>21</sup> While the 2015 Vietnam Criminal Code<sup>11</sup> recognizes coercion and deception generally, it does not explicitly identify the nuanced forms of inducement common in organ-removal trafficking. This omission allows exploitative schemes to be framed as “voluntary transactions,” a strategy that undermines prosecution and has been documented in multiple jurisdictions.<sup>9</sup>

A significant comparative gap also exists in relation to the medical sector. International standards increasingly require hospitals and transplant professionals to verify donor-recipient compatibility, scrutinize documentation, and report suspicious activities. The Council of Europe Convention even introduces liability for negligent failure to report.<sup>4</sup> In contrast, Vietnam does not impose mandatory reporting duties or establish clear accountability mechanisms for medical actors. This

stands in tension with global transplantation-ethics recommendations highlighting the central role of clinicians in preventing illicit removals.<sup>21</sup> Because traffickers frequently rely on complicit or inattentive medical intermediaries, this gap is particularly consequential.

Digital-crime responsiveness is another area where Vietnam's legal system diverges from international norms. Transnational trafficking networks increasingly rely on encrypted platforms, social-media outreach, and dark-web communication to recruit donors and coordinate their operations.<sup>5</sup> International guidance encourages States to adopt digital-facilitation offences and streamlined digital-evidence procedures.<sup>14</sup> Vietnam's legislation does criminalize certain online misconduct, but it does not explicitly connect digital-solicitation activities with organ-removal trafficking. Consequently, investigators may lack a clear statutory basis to pursue digital leads or request international data access. This challenge mirrors difficulties faced in other jurisdictions where cybercrime procedures have not fully integrated with trafficking frameworks.<sup>17</sup>

Victim protection also diverges from global expectations. International conventions stress non-criminalization, trauma-informed care, and long-term psychosocial support.<sup>4</sup> Vietnam's current system does not provide explicit statutory guarantees shielding victims from prosecution for participating in illegal organ-selling arrangements. Research shows that fear of punishment, stigma, and familial pressures often discourage victims from reporting exploitation.<sup>10</sup> Comparative jurisdictions that adopt clear non-punishment clauses report higher disclosure rates and more successful investigations.<sup>9</sup> Finally, comparative analysis demonstrates notable shortcomings in cross-border cooperation. Organ trafficking operates across jurisdictions, involving international brokers, foreign clinics, and complex financial channels.<sup>18</sup> Although Vietnam participates in regional anti-trafficking collaborations, its legal framework lacks specialized mechanisms for rapid information sharing, joint operations, or transplant-tourism detection. European reports similarly show that weak cross-border procedures can allow traffickers to exploit legal asymmetries.<sup>6</sup> Without tailored cross-jurisdictional mechanisms, Vietnam remains vulnerable to transnational networks that can easily shift operations between countries. Thus, aligning domestic provisions with international best

practices would significantly improve detection, investigation, and victim protection.

#### Examining structural barriers and identifying reform priorities in Vietnam's anti-organ trafficking system

Beyond doctrinal gaps, Vietnam's response to organ-removal trafficking is constrained by deeper structural challenges that limit the practical enforcement of existing laws. These obstacles – operational, socio-cultural, and institutional – shape how cases are identified, investigated, and prosecuted.<sup>17</sup> Understanding these structural barriers is essential because even well-crafted legislation cannot function effectively without adequate institutional capacity, cross-sectoral cooperation, and victim-centered protections. A first major barrier concerns the operational limitations faced by investigators.<sup>5</sup> Organ trafficking is inherently difficult to detect, as illicit removals often occur in private clinics, informal medical facilities, or across national borders, leaving few visible indicators. International research shows that traffickers deliberately exploit these discreet environments to avoid detection.<sup>20</sup> Investigators in Vietnam, like those in many developing jurisdictions, often lack specialized training in analyzing medical documentation, detecting falsified patient histories, or interpreting transplant-related evidence. Comparative studies have similarly described how limited forensic capacity and inadequate medical-legal expertise undermine enforcement efforts.<sup>16</sup>

Compounding these challenges is the rapid evolution of digital platforms used for recruitment and communication. Trafficking networks increasingly rely on encrypted messaging, disposable online identities, and hidden digital marketplaces.<sup>20</sup> UNODC<sup>2</sup> and U.S. federal guidance<sup>14</sup> highlight that digital tools have become indispensable components of contemporary organ-trafficking operations. However, Vietnamese investigators do not consistently have access to advanced digital-forensic tools or streamlined procedures for obtaining cross-border data.<sup>12</sup> In many cases, foreign platforms do not respond to domestic data requests, creating substantial evidentiary gaps. Without procedural integration between cybercrime enforcement and trafficking investigations, digital trails often remain unexplored. A second structural barrier arises from socio-cultural dynamics that shape victim behavior.<sup>19</sup> Many victims do not initially recognize themselves as exploited, especially when the organ removal is connected to economic hardship, family obligations,

or misleading promises of medical safety. Cultural attitudes surrounding bodily integrity, honour, and community perception further discourage disclosure.<sup>10</sup> International research similarly notes that victims may prefer silence to avoid stigma or legal consequences, especially when they are unsure whether their actions are themselves punishable.<sup>1</sup> Vietnam's legal framework does not include explicit non-criminalization protections for organ-trafficking victims, reinforcing the fear of prosecution. This lack of victim-centered safeguards undermines reporting and leaves law enforcement with limited firsthand information.

Victim assistance structures are also underdeveloped. International standards emphasize trauma-informed support, medical care, and psychological counseling as essential elements of anti-trafficking systems.<sup>4</sup> Yet Vietnam lacks specialized services for individuals harmed by organ removal, leaving victims to navigate medical and emotional consequences without formal support. This contributes to under-reporting and limits the State's ability to gather valuable evidence. A third barrier concerns the fragmented nature of interagency coordination.<sup>9</sup> Organ trafficking spans multiple domains: law enforcement, hospital administration, border control, and social services. However, Vietnam does not operate a dedicated multi-agency task force focused specifically on organ-removal crimes. This gap contrasts with international best practices advocating integrated investigative teams and mandatory communication protocols.<sup>16,21</sup> Without structured coordination, cases progress in a piecemeal manner, with agencies operating in parallel rather than in partnership. For example, health authorities may detect anomalies in transplant documentation but lack clear channels to report concerns to law enforcement.

Cross-border coordination is similarly limited. Organ-trafficking networks frequently rely on international brokers and transplant facilities abroad.<sup>20,22,23</sup> Yet Vietnam lacks specialized mutual-assistance agreements or rapid-response protocols tailored to organ trafficking. Comparative studies show that countries without such mechanisms struggle to trace victims or perpetrators across borders, leading to case attrition.<sup>6</sup> Accordingly, reform priorities should extend beyond statutory amendment to include institutional strengthening, specialized training, and enhanced international cooperation. Vietnam would benefit from clarifying

statutory definitions to reduce interpretive uncertainty and align with global standards.<sup>13</sup> Strengthening digital-forensics capacity, enhancing medical-sector accountability, and establishing mandatory reporting obligations are also essential. Equally important are victim-centered reforms, including confidential reporting channels and explicit non-punishment guarantees. Finally, developing a national multi-agency task force and enhancing cross-border cooperation would significantly improve Vietnam's ability to detect and dismantle sophisticated organ-trafficking networks.<sup>12</sup> Ultimately, addressing organ trafficking requires a holistic strategy that integrates legal refinement with institutional strengthening.<sup>24,25</sup> By improving coordination, enhancing investigative capacity, and adopting victim-centered protections, Vietnam can build a more resilient and effective framework for combating organ-removal trafficking.

#### 4. Conclusion

This study examined the adequacy of Vietnam's criminal-law framework in addressing the increasingly sophisticated nature of human organ trafficking. Although Vietnam has established a foundational set of provisions within the 2015 Criminal Code, the analysis shows that these provisions remain only partially responsive to the contemporary realities of organ-removal trafficking. Organ trafficking today operates through multilayered networks that use deception, digital recruitment, transnational brokerage, and, at times, complicit medical intermediaries.

Consequently, a legal framework grounded in broad human-trafficking clauses is insufficient to capture the full complexity of these activities. The findings indicate three central limitations. First, the absence of a standalone offence definition for organ-removal trafficking creates interpretive gaps that hinder consistent prosecution. Without explicit statutory elements, enforcement authorities must infer organ-specific exploitation from general trafficking provisions, increasing evidentiary burdens and judicial discretion. Second, the legal framework does not fully address the technological and cross-border features that now characterize organ trafficking.

The lack of tailored provisions on digital solicitation, medical-sector reporting obligations, and structured international cooperation leaves enforcement efforts fragmented and reactive rather than preventive. Third, the study highlights structural

barriers – such as limited investigative expertise, uneven institutional coordination, and insufficient victim protections – that further weaken practical implementation. So, these findings suggest that legal reform must be paired with institutional modernization.

Vietnam would benefit from clarifying statutory definitions, strengthening digital-forensic and medical-legal capacities, introducing mandatory hospital reporting mechanisms, and adopting explicit non-criminalization protections for victims of organ trafficking. Equally important is the development of integrated multi-agency investigative structures capable of coordinating across provinces and borders. Ultimately, enhancing Vietnam's response to organ trafficking requires a holistic approach that aligns legal clarity, institutional capability, and victim-centered protections.

By adopting reforms informed by international best practices and adapted to its domestic context, Vietnam can strengthen the effectiveness, coherence, and legitimacy of its efforts to combat this complex form of transnational exploitation.

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