

Contact: Law Office of MonaLisa Wallace  
[press@monalisawallace.com](mailto:press@monalisawallace.com)

FOR IMMEDIATE RELEASE

US ATTORNEY GENERAL URGED TO CRIMINALLY PROSECUTE HUMAN EGG  
TRAFFICKING

On October 19, 2015, a complaint against the commercial egg industry was made by California attorney, MonaLisa Wallace to the Criminal Division of the US Department of Justice. The complaint alleges that the National Organ Transplant Act (NOTA) of 1984 prohibits compensation for human eggs because NOTA defines surgical harvesting of human organs as only legal when donated. Case law is cited from a 2012 9<sup>th</sup> Circuit Decision clarifying that according to NOTA, compensating people for surgical harvesting of their bone marrow using a similar method used in human egg harvesting is a crime punishable by up to five years in prison.

**42 U.S. Code § 274e - Prohibition of organ purchases (a) Prohibition**  
**It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce. The preceding sentence does not apply with respect to human organ paired donation.**

“It is long overdue to recognize that women’s organs are also human organs, if ovaries are human organs then NOTA says surgically harvesting human tissue from them is a crime,” says Wallace. Commenting on the recent federal class-action suit questioning compensation guidelines for human eggs as price-fixing, Wallace claims: “the legal doctrine of unclean hands means criminal business activity cannot seek business assistance from the courts.”

Ovaries are human organs, and their removal carries the same risks as other surgical procedures involving anesthesia, in addition to risky hormone injections. Yet college students are being invited to violate the NOTA law by advertisements promising as much as \$50,000 for their eggs. “The issue of advertising compensation to young women for surgical removal of their eggs merits serious investigation by the US Attorney General,” says Terry O’Neill, president of the National Organization for Women. The sale of human eggs may be part of an \$80 million industry ([Lindsay Kamakahi v American Society for Reproductive Medicine](#)), but as demonstrated by businesses such as Napster, prolific business activity can be halted overnight if determined to be illegal. This makes egg trafficking a risky business for investors, not to mention the women undergoing the egg removal procedure.

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## WHEN WILL ILLEGAL EGG TRAFFICKING BE PROSECUTED?

Loretta Lynch, US Attorney General  
Assistant Attorney General Leslie R. Caldwell  
Criminal Division  
U.S. Department of Justice  
Office on Violence Against Women (OVW)  
145 N Street, NE, Suite 10W.121  
Washington, D.C. 20530  
(202)307-6026; [press@usdoj.gov](mailto:press@usdoj.gov)

October 19, 2015

Dear US Attorney General, Loretta Lynch and Assistant Attorney General Leslie R. Caldwell,

It is long overdue for the US Department of Justice to defend women against the illegal egg trafficking industry by enforcing the National Organ Transplant Act (NOTA) of 1984. NOTA defines surgical harvesting of human organs as only legal when donated. Compensating people for surgical harvesting of their organs is a crime punishable by up to five years in prison. Attached to this letter is one out of a large landscape of advertisements to compensate in violation of NOTA.

**42 U.S. Code § 274e - Prohibition of organ purchases (a) Prohibition**  
**It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce. The preceding sentence does not apply with respect to human organ paired donation.**

Ovaries are human organs, and their removal carries the same risks as other surgical procedures involving anesthesia, in addition to risky hormone injections. Yet college students are being invited to violate the NOTA law by advertisements promising as much as \$50,000 for their eggs. The sale of human eggs may be part of an alleged \$80 million industry ([Lindsay Kamakahi v American Society for Reproductive Medicine](#)), but as demonstrated by businesses such as Napster, prolific business activity can be halted overnight if determined to be illegal. This makes egg trafficking a risky business for investors, not to mention the women undergoing the egg removal procedure. For these reasons I am confident that the ban against commercial human egg harvesting would prevail in court. Prosecution of criminal egg traffickers is long overdue.

Case law reinforces this disconnect between human egg trafficking and the law. In the nine states under the jurisdiction of the Ninth Circuit, [Flynn v. Holder](#) (United States Court of Appeals for the Ninth Circuit 684 F.3d 852 (9th Cir. 2012)) made

clear that the surgical procurement of human organ tissue for compensation remains a crime, excluding blood or plasma, which are removed via transfusion. The exemption for bone marrow only applies if using a new method of harvesting the tissue using a procedure closer to blood transfusion rather than surgery. Surgical removal of bone marrow for compensation remains criminal. Yet a similar surgical procedure is currently being used for egg harvesting. Just as bone marrow is human tissue harvested from a human organ, eggs are human tissue harvested from ovaries which are also human organs. Moreover, egg removal is riskier than the surgical removal of bone marrow for a variety of reasons. Weeks prior to the surgery, women must submit to a series of hormone injections which shock the ovaries into stimulating the maturation of dozens of eggs instead of the normal one or two. The risks of these hormone injections alone include: stroke, death, ovarian hyperstimulation syndrome (OVSS), fluid imbalances and respiratory distress. Once hyperstimulated with an unnatural cluster of eggs in the ovaries, the woman must then undergo surgery under anesthesia. Like any surgery, risks include adverse reaction to anesthesia, infection, organ damage and even death.

It is precisely these kinds of risks that provide the ethical underpinning discouraging exploitation induced by the sale of human organs. Sadly, these negative health consequences are not the only risks associated with human organ trafficking; the social impact of egg trafficking has generated much human tragedy. Searching online news for “human organ black market” is a scary journey. This “Eggsploration”—as exposed by the Jennifer Lahl film—has resulted in substantial harm to young women and continues to be underreported, poorly tracked and insufficiently regulated. Horror stories about the medical tourism industry for the in vitro fertilization and surrogacy business have emerged out of countries such as India and Thailand. Women of child-bearing age are now finding themselves human trafficked for another form of sexual exploitation.

What can be done? Some say we need to pass new laws. I say we can prosecute using the laws we already have—just enforce the NOTA law as reiterated in the recent Flynn v. Holder decision. Unlike blood, plasma, or even sperm, egg harvesting requires surgery, making its compensation illegal.

Ms. Lynch, you have the power to enforce NOTA and its ban of surgically harvested human organs for commercial purposes. We don't need new laws, we need to enforce the law we already have. NOTA bans all surgical harvesting of human organs for commercial purposes, even organs only found in women. Most international law on this issue agrees with NOTA. It is time to protect healthy young women from financial predation to submit to surgery. It is time to prosecute the criminal violation of NOTA by the commercial egg trafficking industry.

Very Truly,  
MonaLisa Wallace Esq.  
MonaLisaWallace.com

email@monalisawallace.com  
Greenfeminist on Twitter/Facebook/Instagram

Additional Resources:

MoveOn.org Petition: [http://petitions.moveon.org/sign/urge-doj-to-enforce-nota?source=c.em.cp&r\\_by=14425095](http://petitions.moveon.org/sign/urge-doj-to-enforce-nota?source=c.em.cp&r_by=14425095)

United States Department of Justice,  
US Attorney General **Loretta Lynch**  
Assistant Attorney General **Leslie R. Caldwell**  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Department of Justice Main Switchboard - 202-514-2000  
Department Comment Line - 202-353-1555  
<http://www.justice.gov/contact-us>  
[Criminal.Division@usdoj.gov](mailto:Criminal.Division@usdoj.gov)

Terry O'Neill, President  
National Organization for Women Now.org  
president@now.org

National Organ Transplant Act  
<https://history.nih.gov/research/downloads/PL98-507.pdf>

Flynn v. Holder 2012 9th Circuit Decision  
<http://cdn.ca9.uscourts.gov/datastore/opinions/2011/12/01/10-55643.pdf>

*Lindsay Kamakahi v American Society for Reproductive Medicine*, class action complaint, case no. 3:11-CV-1781 (N D Cal, filed April 12, 2011).

Eggsploitation Film by Jennifer Lahl  
[www.Eggsploitation.com](http://www.Eggsploitation.com)

The Perfect Donor Film by Diane Tober  
[www.PerfectDonorMovie.com](http://www.PerfectDonorMovie.com)

Putting a Price on the Human Egg, Wall Street Journal  
<http://www.wsj.com/articles/putting-a-price-on-a-human-egg-1437952456>

Interview with Diane Tober on Women's Magazine with Global Val Friday 09-October-2015 on [www.MutinyRadio.fm](http://www.MutinyRadio.fm)

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