

LEX SCRIPTA MAGAZINE OF LAW AND POLICY, VOL-1, ISSUE-1  
ISSN-2583-8725

LEX SCRIPTA MAGAZINE OF LAW AND POLICY  
ISSN- 2583-8725

VOLUME-1 ISSUE-1  
YEAR: 2023

EDITED BY:  
LEX SCRIPTA MAGAZINE OF LAW AND  
POLICY

**LEX SCRIPTA MAGAZINE OF LAW AND POLICY, VOLUME-1: ISSUE-2**

**[COPYRIGHT © 2022 LEX SCRIPTA MAGAZINE OF LAW AND POLICY]**

All Copyrights are reserved with the Authors. But, however, the Authors have granted to the Journal (Lex Scripta Magazine of Law and Policy), an irrevocable, non-exclusive, royalty-free and transferable license to publish, reproduce, store, transmit, display and distribute it in the Journal or books or in any form and all other media, retrieval systems and other formats now or hereafter known.

No part of this publication may be reproduced, stored, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other non- commercial uses permitted by copyright law.

The Editorial Team of Lex Scripta Magazine of Law and Policy Issues holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not necessarily reflect the views of the Editorial Team of Lex Scripta Magazine of Law and Policy.

[© Lex Scripta Magazine of Law and Policy. Any unauthorized use, circulation or reproduction shall attract suitable action under application law.]

## ORGAN DONATION IN INDIA AND GLOBALLY

**AUTHOR: ARPITA KUMARI**

### ABSTRACT

Organ donation is the entire practice of retrieving a human organ from a living or deceased person, who is referred to as Donor, and transplanting it into a recipient. The recipient will be a patient who is suffering from organ failure and who will not survive unless the person receives an organ replacement. The process of recovering the organs is known as Retrieval. Donation of an organ or tissue is to help someone that needs a transplant, to save the person's life. One donor can save up to seven lives and help many more through eye and tissue donation as well.

Twentieth century has given us one of the greatest wonders of medical science, which has saved the lives of many people /patients, which is known as organ donation . The successful recovery of life saving organs is a manifested process that includes a team work of specialists. This article aimed to review the concept of organ donation, legal aspects of organ donors, process of transferring organs by an alive person, the current perspective of India and globally and stand attempted by government authorities to promote awareness about this concept.

*Keywords:* organ, organ donation, donor, recipient, transplant, save life.

### INTRODUCTION

Sharing the spirit of life and give another a new life is said to be divine. The person who is giving their organ has a feel of giving a new life to the fellow human beings. in our Hindu mythology organ donation is considered as an act of deed since past. Like lord Ganesh who has sacrifice their teeth to write Vedas and in respect of Parashuraam.

The organ is defined as the process of retrieving or transferring an organ or part of the body from a live or dead person and then transplanting it into another living person to save them. In simple terms, organ donation is when a person allows their part to be removed, legally , by their consent .It was reported that 25 different organ /tissues can be donated by human beings after checking the psychiatric and medical fitness of donors. The most transplanted organs are kidney, liver, and heart, and cornea are most transplanted tissue. The rate of organ transplantation is increasing day by day in the last two decades and given outstanding result to the human beings globally ,but is challenging to the increasing population of elderly transplant patients with comorbidity.<sup>[1]</sup>

### VARIOUS TYPES OF DONORS

There are four types of donors

1. Living Donation
2. Deceased Donation
3. Tissue Donation
4. Paediatric Donation

#### 1. LIVING DONATION

Living donation occurs when a living or alive person legally with their consent donates an organ for transplantation to another person. The living donor can be family member or relatives and that person

who were emotionally attach with the patients such as friends. They must have to fulfil the medical criteria and undergo comprehensive circumstance before being accepted as suitable donor. living donation includes kidney donation. <sup>1</sup>

## **2. DECEASED DONATION**

Deceased organ donation is the process of transplanting organ, which is possible only at time of donors death. This is the standard practice commonly known as dead donor rule. It requires that the donor to be declared death before transplanting their organ of any life sustaining organs. Deceased organ includes cornea, liver, brain.

## **3. TISSUE DONATION**

Tissue donation includes skin, bone, heart; this type of donation takes place when the donors declared as death. It is also important because it protect the patients from skin burns or any type of skin or bone diseases so, this type of transplantation occurs.<sup>2</sup>

## **3. PEDIATRIC DONATION**

Paediatric translation differs slightly from other organ donation because organ size is different so, it is critical to be successful transplant, children often response better to child sized organ.it is difficult to find the same size of organ for children.<sup>3</sup>

## **ORGAN TRANSPLANTATION IN INDIA**

Since the 1970s organ transplantation has been conducted in India which is a kidney transplant. India has made a few strides forward since but a lot more need to be done. Until then no country will able to collect. Organ transplantation is a proven remedy for nearly five years in India treating patients with severe organ failure. However, the deceased organ donation rate in India is very low (0.26 per million population), a low rate that contributes in part to 500,000 deaths per year due to the lack of available organs. Kerala, one of the South Indian states with 35 million people, claims to have some of the best health statistics in the country, in fact some are similar to high income countries, with a donation rate of organs of 1.03 per million of the population. demographic. Although this rate is four times higher than the national rate, it is still lower than that of neighbouring Tamil Nadu, which has the highest organ donation rate in the country (1.9 per million inhabitants). Worryingly, deceased donor transplant data from the Kerala Network for Organ Sharing (KNOS) shows a sharp drop in donations over the past year. In 2015, 218 major organs were donated from 72 decedents , compared to 29 major organ donations from only 8 decedents in 2018, demonstrating the major limitations of existing deceased organ donation programs at the government level. Lack of or neglect of brain death declarations in many state hospitals has been identified as one of the leading causes of delayed or missed organ donation. The Government of Kerala, in close collaboration with the Spanish Institute of Donation and Transplantation, has recently offered a transplant supply management training program for professionals (mainly neurologists and anaesthesiologists) across the country. The training program includes the best way to determine brain death and obtain family consent for organ removal and transplantation. In addition, the government is currently planning to introduce a new position of transplant coordinator in every hospital in the state to facilitate the donation of organs from the deceased. Declarations of brain death in Kerala are made by a committee of medical experts, comprising two doctors from outside the hospital who treat brain-dead patients and one who must work in a government agency. Additionally, there is now a provision to videotape pane tests

---

<sup>1</sup> (2023, Jan 10), UNOS. <https://unos.org/news/2022-organ-transplants-again-set-annual-records/>

<sup>2</sup> (2023, Jan 10), UNOS. <https://unos.org/news/2022-organ-transplants-again-set-annual-records/>

<sup>3</sup> UNOS. <https://unos.org/news/2022-organ-transplants-again-set-annual-records/> visited on (2023, Jan 10).

performed to assess and diagnose brain death. These medical governance measures will ensure the transparency of the process and, ultimately, resolve any misunderstandings among the population regarding organ donation in the health care system. In addition to these efforts, another major area of intervention to increase organ donation rates is the fight against religious and superstitious beliefs regarding organ donation. It should be noted that no religious law prohibits their followers from donating organs and tissues, so they generally have a positive attitude towards organ donation. In 2012, the MOHAN Foundation organized a "unique" multi-religious gathering called "Sant Sangma", where religious leaders agreed that organ donation is the most important form of donation. However, lack of education and awareness about organ donation, especially religious ordinances, was found to be a strong negative predictor in many cases. Therefore, national authorities should support research programs that investigate important factors affecting organ donation in the general population and provide community-based interventions. It is also expected to explore the possibility of bringing together non-profit, community and faith-based organizations in Kerala under a common platform to facilitate organ donation. Experts attending the International Conference on Mixed Methods Research (ICMMR 2019) at Mahatma Gandhi University in Kerala, India, discussed the role of community-based participatory research approaches in answering these questions. Better research on beliefs and superstitions in communities, using appropriate designs, will lead to better policies and universal health education programs.<sup>4</sup>

#### **FACTOR AFFECTING ORGAN DONATION IN INDIA & GLOBALLY**

UNO has generated a list of potential recipients based on the factor of

➤ **Blood Donation**

There are many types of blood in different human beings. this is difficult to find the same types of blood to donate to the patients. sometimes it happens that blood bank also have no blood so that the patients died from suffering.

➤ **Organ Size**

There are different types of people in this world and their size or height is also different sometime it happens that the organ size of the donors is also different so it cannot fulfil the needs of patients. It is difficult to find the same size organs donors.

➤ **Legal And Ethical Issues**

Various factors have been noted that in organ transplantation such as consent, financial support to the donor and his or her family, and equitable distribution of donated organs . 19 in Indian law, Chapter 11(3) section 9 states that untied living donations have a high potential to abuse .this is the main reason why kidney trafficking is still prevalent in India.

➤ **Financial Issues**

Another obstacle is the financial capacity of poor beneficiaries. we regularly look to social media, newspaper and roadside billboard asking to help needy patients in need of organ transplants. In India, most transplant are obtained through social donations rather than government funding.

#### **RANK OF INDIA IN ORGAN DONATION AS PER GLOBAL**

According to preliminary data from the United Network for Organ Sharing (UNOS), 42,887 organ transplants will be performed in the United States in 2022, a 3.7% increase from 2021 and a new annual

---

<sup>4</sup> Cleveland Clinic, <https://my.clevelandclinic.org/health/articles/11750-organ-donation-and-transplantation>.

record. Under federal contract. Also in the first year, more than 25,000 kidney transplants were performed in the United States. The total is 25,498, an increase of 3.4% from 2021. Additionally, liver (9,528), heart (4,111) and lung (2,692) transplants set annual records. "One million transplants have been performed nationwide this year, and we are thrilled to mark accelerated progress towards the next million," said Congressman Jerry McCauley, MD.H., Chairman of the UNOS Council. <sup>5</sup>—We thank all living and deceased organ donors, as well as loved ones of deceased donors, who made a vital donation. We also salute all the clinicians and professionals involved in organ donation and transplantation who work tirelessly to get as many transplants as possible —We also had to recommit to meeting the ongoing needs, I said Dr. Macaulay. "Many are still eagerly awaiting lifesaving transplants. We must continue to increase our ability to provide them with this important opportunity by ensuring that as many donated organs as possible are utilized. Remains Donation Trends National 2022 people became deceased organ donors, marking the 12th consecutive record year for deceased donations and a 7.5% increase from 2021. As medical criteria for deceased organ donation based on favourable clinical experience develop, more and more donors come from less traditional eligibility categories. There will be 4,776 circulatory deaths (DDC donors) rather than brain deaths in 2022, an increase of nearly 14% from 2021. There were 5,789 deceased donors aged 50 or older, the first time that more than 5,000 donors belonged to this age group in one year. There has been an increase in fundraising in many places across the country. Of the 57 organ procurement organizations (OPOs)\*, 42 (73.6%) is an increase from the 2021 total. Two-thirds of OPOs (38 total) in 2022 set an all-time record for donor recovery in one year. Living Donation Trends a total of 6,466 people will be living organ donors in 2022, slightly less than in 2021. Living organ donation has changed significantly in recent years, reflecting various trends in need transplantation and the circumstances in which living donation is an option. After the all-time high of 7,389 in 2019, 2020 fell to 5,726 due to the impact of the COVID-19 pandemic. While most living donors provide a kidney for the transplant, an increasing number donate part of their liver. In 2022, there will be 603 living donor liver transplant cases, a record for the year, an increase of almost 6% from 2021.

India is now ranked third in the world only after USA and CHINA as per the data available on the global observatory on donation and transplantation.

## CONCLUSION

Organ donation and transplantation offer new avenues for scientific progress and socially progressive thought. The current review shows that organ donation in India remains in limbo due to factors such as lack of awareness among medical professionals and the general public, religious and organizational issues, and legal and ethical concerns. In India, due to the high number of fatal road accidents, the potential for donations from deceased persons is huge and the reserve is not yet tapped. Few hospitals and specialized NGOs in the country have indicated that deceased donation is a viable option.

From this research I found that Indians had already evolved with laws, which they followed many centuries back. Manu Smriti and Ramayana are not only religious books but a book with full of knowledge. The study which we are acquiring, our ancestors had already discovered, not only about how to rule society but laws which society has to follow for peaceful life which we even follow today to reduce crime and ultimately peaceful life.

---

<sup>5</sup> Lalitha Mohan, T Thanga Panneer Selvam, "Perspective on organ donation in India: A comprehensive review", *The Journal of Community Health Management* 7 (3): 73-76 (2020).