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Organ donation - rules and regulations

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The transplantation of an organ starting with one body then onto the next is known as the organ relocate. The individual who gives the organ is known as the benefactor while the person who gets is known as the beneficiary. Organ relocate is finished to supplant the beneficiary's harmed organ with the functioning organ of the contributor so the beneficiary could work regularly.

Organ Transplantation is a boon to medical industry as it has helped in saving the lives of those who would have died otherwise. There is a great need for human organs for transplantation. In fact, the need far exceeds the supply of transplantable organs. This disparity has led to the formulation of various legislations, attempting to regulate the scarce resources (transplantable human organs) and to help establish an equitable system to allocate the organs where they can do the most good.

Legally, organ donation can take place from living, genetically-related individuals; from living, unrelated individuals in special circumstances where no unauthorized payment is made to the donor; or from cadavers. Live donation of a single kidney was the first done in 1954, but live donation of parts of other organs is a relatively recent innovation in the 1990s.

To date the major source of organs and tissues in the West has been from cadaveric donors. Living tissue deteriorates rapidly when it loses its blood supply, and organs need to be cooled and transported for implantation into the recipient within a limited number of hours. Short transfer time, entailing removal of organs from beating heart' donors, was made possible by the acceptance of brain stem death' as death.

Worldwide, the demand for organs is growing, as the supply of organs and tissues for transplantation has not kept pace with demand. In the UK only approximately 900 individuals become organ donors each year, while over 6000 people are waiting for suitable organs. In the US much the same situation exists, with 70 000 presently on the waiting list and only approximately 5500 cadaveric donors per year.

WHO has now approved organ transplantation as a well established therapy.

A Harvard Medical School committee made a historic proposal in 1968, recommending the criteria of death based on brain activity. In 1976 the Royal College of the UK published a comprehensive code for determination of 'Brain Death'. Now most countries, including India in 1994, redefine death as cessation of brain stem activity and organs can legally be removed after brain death.

In a bid to understand various organ donation policies prevailing in other countries of the world a team of experts headed by R.K.Srivastava, the Director General of Health Services made a visit to all the major countries and noted that most of the countries have adopted the presumed consent method, where the person who is brain dead is considered to have agreed to donate the organs. In other cases, family of the donor holds the right to give the consent.

To attempt to overcome the uncontrollable trade in organs the Indian parliament passed a bill in 1994, in keeping with the WHO guiding principles, prohibiting commercial dealings. There are restrictions for removal and retrieval of human organs and also regulations of hospitals involved to ensure transparency by all concerned. The aim of the Transplantation of Human Organs Act is to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs.

The passing of Transplantation of Human Organ Act heralded a new era in Indian medicine. This legislation was written on similar lines as the UK Transplant Act. The essence of this legislation was threefold:

1. To accept brain death as also a definition of death.
2. To stop commercial dealing in organs
3. To define the first relative (father, mother, brother, sister, son, daughter and wife) who could donate organs without permission from the government.

Organ transplant law does not allow exchange of money between the donor and the recipient. According to the Act, the unrelated donor has to file an affidavit in the court of a magistrate stating that the organ is being donated out of affection. After which the donor has to undergo number of tests before the actual transplant takes place. The Authorization Committee set up for the purpose ensures that all the documents required under the act have been supplied. If it is

found that the money has been exchanged in the process then both the recipient as well as the donor are considered as prime offenders under the law.

In various surveys conducted, it has been seen that 72% of the population were willing to donate eyes, but less than 50% were willing to consider solid organ donation. 74% of Hindus, 72% Christians, 58% Muslims were willing to consider organ donation; however the concept of brain death was new to most of the people surveyed. An audit of 159 brain death patients showed that 30 or 19% of the relatives donated of the organs of their loved ones.

In the last 6 years 35 hospitals in the country from various regions have undertaken cadaver transplants. Chennai has done the maximum number of cadaver transplants in the country. However most of them lacked motivated medical or social workers who could be trained to speak to the relatives in brain death situations. In event of the donor not being a first relative an approval had to be obtained by a government appointed authorization committee in each state of the country.

The public attitude survey indicated a positive attitude of the people towards eye donation. After this survey a simple protocol was devised It was suggested that 'Eyes' should be requested for first and only if the relatives were willing other organs requested. The Eye donation activists of the country are already lobbying for a "required request law" in event of a death in a hospital. This is likely to be soon passed by the parliament and be enacted as a law. This same law can be extended for solid organs in a brain death situation. If this is done it can give the required boost to the program and make it obligatory for the hospitals staff to ask for organs.

A major center Sri Ramachandra Research Medical College And Research Center, undertaking cadaver transplants in the last 6 years has had a brain death conversion rate of 19% (30/159). In this institution the ICU staff have been sensitized to the issue of brain death and organ donation.

The number of fatal road traffic accidents every year in India is constantly rising and averages at about 8,500 per year. At any given time there are 8 to 10 brain dead patients in different ICU's in any major city of the country. There is hence potentially a huge pool of brain death donors available in India.

The unrelated activity is due to loop holes in the present THO Act as under the Sub Clause (3), Clause 9 of Chapter II it states: "If any donor authorizes the removal of any of his human organs

before his death under sub-section (1) of section 3 for transplantation into the body of such recipient, not being a near relative as is specified by the donor, by reason of affection or attachment towards the recipient or for any other special reasons, such human organ shall not be removed and transplanted without the prior approval of the Authorization Committee".

In so far as the Act is concerned, the following amendments have been proposed:

- i) To empower Union Territories, specially Government of NCT of Delhi to have their own appropriate authority instead of DGHS and /or Additional DG (Hospitals).
- ii) To make the punishments under the Act harsh and cognizable for the illegal transplantation activities to deter the offenders from committing this crime.
- iii) To provide for registration of the centers for removal of organs from the cadavers and brain stem dead patients for harvesting of organs instead of registration of centers for transplantations only.

However, the Chief Justice of India K.G. Balakrishnan feels that there is no need to amend the Human Organ Transplantation Act, as the present law is sufficient to serve the cause, and they just need to be implemented properly. The comment came at a time when the health ministry was considering to bring a change in the law to curb illegal organ transplants. Experts have said that nearly 15 percent of adults in urban India are diabetic and 40 percent of them are likely to develop kidney problems, and every year over 150,000 new patients require dialysis or kidney transplant.

Therefore, in order to promote donation of organs, the government has planned to give incentives to the donor's family like lifelong free medical check-up and care in the hospital where the organ donation took place. Besides, a customized life insurance policy of Rs 2 lakh for three years with one-time premium to be paid by the recipient in case of mortality and preferred status in organ transplant waiting list if the next-of-kin of a brain-dead donor requires a transplant in future.

To promote more brain death cadaver donation some changes are needed in Human Organ Transplantation Act such as intimation of Brain death to relatives, procedures in law to make it compulsory for the ICU staff to suggest for organ donation and request their permission for the same. In medico-legal cases-it should be made possible to under take 'post mortem' at the same

time as the ' Organ retrieval' surgery. Shifting patient from one hospital for Organ donation to another for post mortem makes relatives very emotionally traumatized and delays the process of handing over the body.

It would be extremely fruitful if Grand parents are included in the near related category and if we accept the policy of presumed consent, i.e. every person dying of brain death should be presumed to have wished for organ donation until a written refusal is made by the family.

Most importantly, there is a need to spread awareness at every level. Surprisingly, Nurses and Medical students also do not know about the Act. That means that they need to be educated more about the Act, along with the rest of the population. It has been seen that the willingness to donate organs is directly proportional to the level of education, which needs to be increased.

No other field of medicine has raised so many ethical, moral, legal and social issues as has organ transplantation. At present the very term transplant is likely to conjure up an image of shady and dangerous dealings in India. If we wish to improve upon the current situation, the first step is total transparency on the part of the medical profession and open, public, debate on this and related issues. Medical professionals must set ethical guidelines and take action against violators. Representatives of the common people must be included on the committees that will oversee these operations.

We must restore organ transplantation to where it really belongs - not as an example of all that is unethical and commercial but as a modern medical advance permitting one human being to make the gift of life to another.

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