

A STUDY OF SOCIAL, ETHICAL AND LEGAL ISSUES IN RETRIEVING ORGANS AND TRANSPLANTATION

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Abstract: A Golden Chapter in the Healthcare History is Transplantation of Human Organs and Tissues from One person (Dead/alive) to save another person's life who is on the verge of losing the life and there is no other way except to replace the damaged or non-functional Organ. This Healthcare procedure is in the news from many decades but it gained prominence from 90's only. Many countries including India passed Legislation supporting Organ and Tissue Harvesting, Retrieval and Transplantation is legally allowed. However every country will have their own laws in accordance with the prevailing Local environment of that country. There are two types of Organs and Tissues Harvesting, Retrieval; one is from the dead and the other is living person. For example, a living person can donate one kidney but can live as before throughout the life with One Kidney. Likewise a person can donate part of the Liver to another because in due course of time the Liver will grow as before but not with the Original shape. Transplantation of Bone Marrow is another example for treating Bone Cancer Patients. Likewise skin can be grafted taking it from the Donor and giving it to the Recipient. However, this Organ Transplantation has shown the path of illegal Organ Trafficking taking advantage of ambiguity/interpretation of the existing Legal System. For example, 'near relative' and 'nearest relative' etc., in certain conditions the Traffickers are producing forged and fabricated documents to prove the relationship and the consent for donation and this is due to some Healthcare Professionals and Providers joining hands with Third Parties for monetary gains from the rich and exploiting financial conditions of the poor. It is time that the Government NGO's like Mohan Foundation who are doing the Yeoman Service in educating the public and bringing awareness in them and the importance of Organs and Tissue Donation to save the lives of the persons who are on the brink of death. Though many religions have accepted Organ Donation as a charity but still there are people who believe in religious faiths, community customs and rebirth etc., This article tried to focus on the most relevant factors of Organ harvesting, retrieval and transplantation with reference to Legal system prevailing in India as of now, and about illegal organ trade with the help of Judgment pronounced by the Apex Court and various High Courts in India.

Keywords: Human Organ Donation; Retrieval; Transplantation; Harvesting; NOTTO; ROTTO; SOTTO; Human Organ Tissue and Transplantation Act; Brain Death; Legal Provision; Ethical and Religious beliefs

1. History

While discussing the ethical, social and legal issues that are involved in Organs Retrieval from humans (Dead/Brain Dead/Alive). It is necessary to go deep into the ethical and religious feelings of the people, since universally different religions, casts and creed and their faith, customs and tactics. The faith, customs and beliefs of one religion differs from the other and such one of retrieval of human organs from the body.

Hindu mythology reveals that there are some stories regarding organ donation,

"Lord Shiva was enraged and beheaded Ganesha; and Parvathi was pained beyond grief, ' Ganesha; oho; my son be it that for me', she veiled, and Lord Shiva was moved and transplanted an Elephant's head on to Ganesh and Ganesh became the deity of learning and wisdom"

Another Mythological Story of King Sibi reveals,

"Who donated flush from his thigh equal to weight of a dow, which shows that human parts are donated for a good cause?"

Swamy Lokeshwarananda of the Rama Krishna Mission is reported to have said in a seminar in 1988 that,

"Hindu and Vedic scholars accept the concept of brain death".

The concept of 'giving' or 'donate' is ingrained in Hindu Thought and therefore there seems to be no major religious objection to the act of organ donation.

Though it is not correct to say mythology is not an health care history, many religious texts are filled with the stories belonging to the retrieval & replacement of human/animal organs and the miracle of Saint Cosmos & Saint Damin from Christian mythology described in the “*live of the saints*”, needs a mention for the bizary similarity which has to modern retrieval and transplantation”. It is mentioned that, Saint Cosmos and Damin were called upon to treat a priest affected by Unbearable Wound (Like Cancer) of his leg, and the two Saints went to the nearest graveyard where an Ethiopian had been buried took off his leg and used it to replace the leg of the Priest.

The first known transplantation in the modern history is, a British surgeon by name John Hunter in the late 18th century transplanted successfully a human tooth to a horse's comb and thus made the first known scientific effect in transplantation in animals.

In the early part of 20th century the process of retrieval and transplantation caught the eye of the healthcare fraternity and soon it became a reality. A Russian Surgeon by name Doronoy who successfully retrieved and transplanted a kidney from a cadaver into the patient suffering from Renal failure. Again in 1946 surgeons from Boston successfully retrieved and transplanted the human kidney between two identical twins. In 1963, Liver Retrieval & Transplantation and 1967 Heart Retrieval and Transplantation took place. As the knowledge progresses with new inventions and procedures, now the healthcare professionals are in a position to retrieve and transplant organs that includes, lung, pancreas, intestines, bone marrow, tissues etc., with a good success rate.

World Health Organization now recognized retrieval and transplantation of organs like liver, kidney, and heart as an established procedure. A rough estimate shows that around 50,000 are more transplantations were performed annually.

A French Physician in 1959 first made out the concept of ‘brain death’ that has become a tool in organ retrieval and transplantation therapy. Now it is universally accepted that ‘*brain death*’ as a legal concept for retrieval and transplantation of organs and majority of the countries enacted laws on Organ Retrieval and Transplantation including India. However each country has its own laws regarding declaration of the ‘*brain death*’ and such other circumstances where in permission for organ retrieval and transplantation from Donor to recipient. However except kidney no other organ cannot be transferred from a livein because except kidney no other organ is having two, except part of Liver.

In 1837 the first successful corneal allograft retrieve and transplant was performed. However the first successful human cornea transplant, a kerato plastic operation was performed by Doctor Eduard Zim at Olomouc Eye Clinic, Czech Republic in 1905. In the modern concept of retrieval and transplantation in 1883 a thyroid transplant took place and was performed by a Swiss Surgeon who became a noble laureate by name, Theodor Kocher. In the later years this noble laureate had perfected the removal of excess thyroid tissues in cases of Goiter to an extent that he could remove the organ making the person alive. By 1900 thyroid retrieval and transplantation has become a new therapeutic strategy in organ transplantation. This has proved and accepted by one and all universally that the idea of treating successfully internal diseases by replacing a failed organ through transplantation. By 1954 First ever successful retrieval and transplantation of any organ was done at the Brigham & Women's Hospital in Boston and it was conducted by Dr. Joseph Murray who received noble prize for this work. The other successful stories of organ retrieval and transplantation of skin was performed in First World War by Doctor Herold Dillies at Alder Shot, and in 1962 the first successful replantation of a surved limb and restoring its function are notable ones.

Transplantation of a single Gonad (Testis) from a living donor was carried out by a Russian Surgeon Dr. Wasillvvic in Siberia in 1926 and the first attempted human diseased donor retrieval and transplantation was performed by a Ukranian Surgeon in 1930 without success due to ischemia (an inadequate blood supply to an organ or part of the body, especially the heart muscles). In the first human to human heart retrieval and transplantation which is partially successful (18 days) was conducted by Dr. Christiaan Bernod of South Africa in 3rd December 1967. With the Advent of Cyclosporin changed the scenario of retrieval and transplantation from research to life saving therapy. Though the science has advanced so much the problem that persists still is rejection of foreign part by the native body. In Retrieval & Transplantation, India is not lagging behind and first organ transplant was conducted (Kidney Transplantation) in 1970. The rate of organ donation is meager 0.26% per million compared to other Countries where it is more than 25%.

2. Introduction

The subject matter of Organ Retrieval and Transplantation fall under the ministry of health and family planning, Govt. of India and health is a Central and State subject according to the Constitution of India. Hence though the Central Government passes any act with respect to the Health and Healthcare, every state and union territories have to ratify it and frame their own rules and regulations without surpassing the main Act in accordance with their local conditions.

2.1. Chronology of organ transplants – annexure – I

2.1.1. Definition of Organ Donation, Retrieval and Transplantation

Organ Donation, Retrieval and Transplantation is nothing but removing an organ from the Donor and successfully Transplanting it in Recipient under a surgical procedure wherein the recipient's organ failed and he/she is in need of an organ for survival of recipient.

This surgery/procedure is greatest advancements in modern healthcare procedures that help many persons who last their hope of survival.

2.1.2. What of Organs and tissues that can be retrieved and transplanted

The Organs and tissues that can be retrieved with the consent and confirmation of a donor to unknown recipient who is waiting for an organ for the survival

It is surprising to note that a human body can give life to 25 people by donating 25 different types of organs from the dead.

- Liver
- Kidney
- Pancreas, or Lung
- Intestine
- Liver
- Corneas
- Middle ear,
- Skin
- Bone
- Bone Marrow
- Heart & Heart valves
- Connective tissues and finally
- Vascularized Composite Allografts (transplant of several structures that may include skin, uterus, bone, muscles, blood vessels, nerves and connective tissues)
- Blood transfusion
- Ilets of Langer Hans, Cartilage, hand, face, skin, nerve and tendon.

On 10th May, 2022 a news was mentioned in a journal that “Delhi Surgeon plans world's First Womb Transplant to allow trans women carry a baby” Dr. Narendra Koushik who runs a clinic in Delhi mentioned that “I am very very optimistic about making the Womb Transplant procedure a success” he also mentions his attempt to transplant a Womb into trans woman who was born a man – with the view of making them pregnant. The risky process will involve taking the “Reproductive Organs” from a donor or a dead who has transitioned the other way and had their organs removed. Impregnating Tran's woman requires IVF and C-Section impregnating a Trans woman would be an even more significant achievement and require the use of IVF and C-Section, they do not have a fully functioning Vagina. The procedure cannot connect the woman's uterus to the fallopian tubes, so the operation does not lead to any person becoming pregnant naturally. Fallopian Tubes cannot be transplanted.

2.1.3. Who can donate organ

People of all ages without gender discrimination but not a minor can be potential organ donors. Any person except minors can declare himself/herself that after the demise their organs can be retrieved and transplanted to the needy. On the other hand if any person (male or female) was declared brain dead, according to the local laws and regulations by the Authorisation Committee and Ethics of the particular Healthcare facility, the near relatives who are having legal right to declare can do so by donating the deceased's organs to the needy. In case of minors every country will have their own laws and the organs can be donated by the parent's/guardians with respect to that clause of that country that are prevailing at the time of declaration (Donation).

Any individual (major of either sex) can become a donor while alive by joining himself/herself in “Donor Registry”. A Donor Registry that is available is nothing but giving a legal consent and an expression of interest to become an organ donor. Donor Registry information for any State might be obtained from ...www.donatelife.net” once an individual who enters the name in the registry will be given an organ donor card which the individual has to carry. It is also customary to inform the family members that you are in the Organ donor's registry, if need arises the donor should inform to the family healthcare provider, family legal advisor, and the religious leader. If the donor is a believer in religion. Normally the donor's family will not receive any compensation for donation of any organ. On the other hand receiving any compensation of any form is illegal and attracts illegal organ trade and punishable.

Sometimes people have the notion that Organ Donation will disfigure the deadbody. However this is only a myth because Organ retrieval procedure is done surgically, professionally, by professionals and the body is it was before death except the missing parts internally.

2.1.4. The organizations that have right to manage and distribute from donor to recipient.

There are certain laws in every state or every country and established procedures for organizing, the Retrieval and Transplantation from the Donor to the Recipient and also maintaining a Register of the donors and recipients of different organs and the donors telephone numbers and address

Normally when an organ becomes available the local organ procurement organization sends medical, social and genetical information to the organization who are maintaining the registry of recipients. The information should include. A. blood type, b. Tissue type, C. Organ size, d. Medical Urgency of the patient's illness, e. time spent on the waiting list, f. distance between the donor and recipients.

- Organ Retrieval Banking Organization (ORDO) coordinates the process of Cadaver Organ Donation, i.e. Organ Donation after death and Transplantation.
- There are two ways of donating an Organ: By pledging/offering in writing for Organ Donation when the person is alive and registered her/his name in the registry, this process can be obtained from ORDO free of cost and after death with the consent of legally authorized person of the dead.

3. Ethical Issues

The advancement of Healthcare procedures, especially Organ Retrieval, Harvesting and Transplantations from dead or alive to save another who is on the brink of the death. India consists of multi religion, multi faiths and multi reasonable customs have raised many objections regarding Transplantation of Human Organ from one to another. This has thrown some ethical dilemmas and raised many complex and intervened ethical, moral, legal and social issues. However with the introduction of a specific acts namely Human Organs Transplant Act (HOTA) in 1995 paved the way in performing Cadaver Transplants from brain dead persons.

There are three main ethical issues in Organ Retrieval and Transplantation.

- Medical Integrity

It is pertinent to note that, the patient's and the public must be able to trust their Healthcare Professionals not to sacrifice the interest of one to that of another. The Healthcare Professionals who are in the function of transplantation and retrieval should be very careful without any sympathy or otherwise with the persons involved.

- Scientific validity

The basic biology and technology must be sufficiently assured to offer a probability of beneficial outcome in each and every case.

- Consent

Consent by the parties involved and the information adequately presented should be weighed and understood before going for the process of Retrieval and Transplantation.

- In the case of living Donor Retrieval and Transplantation, some principles of ethics are evolved to suggest that, Retrieval and Transplantation should be within the boundaries of such ethical principles and such criteria is fulfilled. They are

It should be noted that the removal of Organ or Tissue does not impair the Health or functional Integrity of the Donor.

- The recipient should be made to understand the benefit expected and also an acceptable proportion of harm likely to be to the Donor.
- The Donation by the Donor should be free from coercion or any external pressure but given with full consent and knowledge by the Donor.
- The Healthcare professionals should inform and make to understand by the Donor, the nature of procedure and the possible unexpected rare complication during retrieval. This is so because for the donor for follow of Health checkups in future after the procedure till the donor comes to the normal life.
- The views and opinions expressed by the Spouse, the adult children and close relatives shall be taken into account.
- There cannot be any element of commercialization or exploitation in the donation of organ or tissue.

In India, Medical Practice is largely unregulated and the Medical Councils and organizations have played a passive role on ethical issues thus making it possible for Malpractices. Though it is quite evident that Kidney Racket (Organ Trade) is in the higher side in all the states without any exception and the same is brought to the public by whistle blowers through different forms of media, The Medical Associations and Organisations has not taken any positive steps even in investigation. The main problem of Ethical dilemmas surrounding Organ Retrieval and Transplantation are mainly due to the shortage of available organs that means the

demand is far higher than the supply. One survey estimated that on an average 17 Patients are dying awaiting an Organ, every minute World over.

In this very difficult situation, for a healthcare professional, to approach the bereaved family which is in grief for Organ harvesting from their beloved ones dead body, gives a wrong impression in the minds of the family that there is an evil intention of the healthcare professionals. In case of brain dead the declaration and convincing the family members that the chances of revival of the patients who is declared brain dead is removed or zero and as such if the organs or donated another person life can be saved. Here also the family members will not be convinced and think that the healthcare professionals declared the patient brain dead for their own benefits (monetary or otherwise) from harvesting the organs from the declared dead. Even if the dead has declared previously before death that the organs may be donated after his demise, the family members put an objection raising the issue that in what circumstances the person has taken such decision and is doubtful. At this juncture it is not unjust to mention a news that.

“a lady in Irac is declared Brain dead and the family members did not agree for the Organ harvesting, it is surprising to know that after 27 years the Brain dead became conscious to the surprise of everyone”

The Indian Constitution has given guarantee that all born human beings are having equal right of dignity, it is the duty of every person to act at all times in the best interest of human kind and dignity because every person will have the right-choice, regarding their body health and treatment and their exclusive opinion of death, means everyone is having right of wish on the basis of informed choices, thoughts and decisions free and independently. However a question arose the ambiguity in the Act, the law says the dead person has given consent prior to his/her death, donation of his/her's organ and tissues after his/her demise the Kith and Kin object to it because sentiments will come into play for harvesting the Organs. However when the person before his demise registers his/her wish there cannot be any objection.

3.1. Religious belief

Retrieval and Transplantation of Human Organs from dead or alive has thrown peculiar and complicated religious feelings and moral questions and obligations. The Hindus believe that if a heart is removed from a Cadaver it mean that *“it is now devoid of a soul?”* also Hindu Religion says removal of any Organ from the body which becomes partial, *“in a way affect the process of re-birth”*; because Hindu Religions asserts that in re-birth a soul from a dead can go to the other body only in the full form. They argue if a dead person's heart is removed how a soul can enter in that body and give re-birth.

However, Roman Catholics and Protestants support Organ donation believing that it is god's power to do an act in giving life to other, in the brink of death before disposing of the Cadaver. Hence they support Organ Transplantation.

The Islamic Organization of Medical Sciences, many years back passed a resolution recognizing brain death and presently many Islamic countries are following the same.

However a big Religious group in Japan by name Shinto's, has opposed the ID of brain death according to their faith that is a reason why Medically Advanced countries like Japan was unable to promote Candaveric Transplantations until the Japanese Parliament gave its nod.

Retrieval and Transplantation of Human Organs and Tissues from one human being to another has thrown some complex religious and moral questions, after enactment, consent has become a major factor in Organ Transplantation because they can be procured willfully but not forcefully.

Jewish Law prohibits deriving any benefit from mutilating or delaying the burial of a Corpse.

In India Religious belief is predominant and majority of the religious people discourage Organ donations of the Corpse and it is very difficult for a brief stricken family to understand the concept of Organ donation, than their beloved one has been declared dead to take a decision of permitting an healthcare professional to harvest the Organ for which the dead body is mutilated. Myths and Fears dominate their minds. The very thought of disnumbering the dead body for harvesting Organs of their beloved ones, they will not be inclined for Retrieval of the Organs. Another aspect that comes to their grieved family is the question of rebirth.

All India Institute of Medical Sciences Delhi, constituted Committee of Doctor Chhavi Sawhney and Doctor Bavita Gupta of the Department of Aneasthetia and Senior Resident Doctor Sanjay Lalwani of Forscienic Science Department to study the reasons of negating to donate Organs by the Kith and Kin of the dead. The Committee submitted the report stating that one of the main reasons for not accepting by the Kith and Kin to give consent for the donation of the dead was mostly due to religious superstitions and emotional and religious reasons. The people will think if they donate they will be born without that Organ in the next life (Rebirth). Hence there is need to engage religious leaders to help spread the message of Organ Donation.

4. Human Organ Transplantation with respect to Indian Scenario:

The Present state in India regarding patients with end stage diseases who have no other medical procedures except Transplantation of Organs like Kidney, Heart, Liver, Lungs etc., are dying due to want of donors. However, with the legislation of HOTA which has paved the way in regulating and Retrieval of Human Organs many states have ratified the Act in different periods. As of now the HOTA Act is applicable in all the states and Union Territories but the some changed regulations according to their environmental conditions, this Act legalized “*Brain Death*” and making retrieval of organ permissible after getting the local approved formalities and consent from the Kith and Kin of the Dead. The subsequent amendments made to the Original Act and the related regulations from time to time has made it easy that a non-related live donation of Organs to recipient (neither to not accepted) and in addition provisions are made to make commercialization of Organs/trading an offence and the person who does is liable for prosecution under the laws that are applicable on the day of offence. The Act also enforces on all the Healthcare Facilities who are doing organ Retrieval and Transplantations should get registered themselves from the respective authorities of the States and Union Territories concerned for conducting/performing Organ Retrieval and Transplantation. This authority appointed by the respective State Governments and Union Territories enforce standards, investigate complaints, inspect the respective Healthcare Facilities who have registered with Authority from time to time to monitor their procedures, quality and the registry that they have to maintain. No Healthcare Facility in India can perform Organ Transplantations without registering themselves that means such Healthcare Facilities are under the strict surveillance of an external body having powers to scrutinize and monitor the activities of such Healthcare facilities.

5. Main Provisions of HOT Act including amendments and rules passes from time to time

5.1. Brain Death

To declare any person Brain Dead the following steps are to be strictly followed as per the Act.

- The Healthcare Facility should make a panel of 4 Doctors of which two from the Panel approved by the Government, and all the Four together should declare “Brain Death”, twice in a span of Six hours.
- The Two Doctors in the Panel from the Healthcare Facility are,

The Registered Medical Practitioner Incharge of the Healthcare Facility where Brain Death occurred and Registered Medical Practitioner from the Panel approved by the Appropriate Authority

Neurologist, Neurosurgeon (if both are not available any surgeon or physician and anesthetist or intensive visit, nominated by Medical Administrator, incharge from the Panel of names sent by the Healthcare Facility).

Registered Medical Practitioner treating the above said deceased at the time of Brain dead.

All the information should be recorded on Form 10 of the THO Act.

- The families consent and if the patient is a minor the guardians consent is obtained on Form 8 – which is mandatory.
- It is advisable and necessary that healthy organs retrieved from the Brain dead, after completion of the above formalities should be transplanted at the earliest in the recipient’s body
 - Heart and Lungs are most sensitive and they must be transplanted within Four to Six hours of Retrieval.
 - Liver and Pancreas must be transplanted after Retrieval within Twelve hours.
 - Kidneys must be transplanted after Retrieval within Twenty Four hours.
 - Once the Organs are retrieved from the Brain dead they should be stored at 4 ° C (in a special Preservative Solution stored in an Ice Filled Chamber).
- It is strictly prohibited under the Act no payment should be made to the Donor family and the recipient is not charged for the Organ per Se. All the billing charges that occur from the time of declaration of brain dead the Donor family should not pay any amount to the Healthcare Facility.
- However, in special medico legal cases declaration of a person as Brain dead and to proceed with the Organ Donation a Post Mortem is required. In this Medico Legal cases a representative from the Police Department and a Forensic person for examining and approving the process of Post Mortem.
 - The Act allows retrieval and transplantation of Human Organs and Tissues from the living Donors and Cadavers:
 - Appointment of regulatory and advisory bodies for supervising/monitoring retrieval and transplantation of organs activities and their constitution is defined as
 - The Constituted Appropriate Authority will inspect and grants registration to such Healthcare Facilities for Retrieval and Transplantation who are following required standards rules and regulations. This appropriate Authority conducts regular inspections periodically and examine the quality of process of transplantation, and conduct investigations regarding the complaints received, Breach of provisions of the Act. This Authority empowers Civil Court Laws (CPC), to summon any person, call for documents and even issue Search Warrants in cases where they are applicable.

- Advisory Committee consists of experts in the respective fields who shall advise the appropriate Authority on the matters that have come to them.
- As per the Transplantation of Human Organs (Amendment) Act, 2011 the Authorization Committee consists of 1. Medical Practitioner who will be part of Organ Transplantation Team cannot be a member of this committee under the provisions of Section 9 clause (a) and (b) of Sub Section 4 of the Act, 2. If the Donor and recipient are not Indian Nationals/Citizens, whether near relatives are otherwise, the Authorisation Committee taking into account of all aspects has to reject if the Donor is an Indian and recipient a foreigner unless both are near relatives, 3. If Donor and recipient are not near relatives the Committee should satisfy themselves before clearance that there is no commercial transaction or any future promise of any gain by the recipient to the Donor, 4. Record the regions of Donor wishing to donate his/her organ, 5. Record and establish a link between donor and recipient for the offer, 6. Record the reasons of the donor for such donation, 7. Examine and records and the documentary evidence or the proof that both Donor and recipient lived together, in addition old photographs of the both together, 8. Record and evaluate that there is no middle man or tout, 9. Examine and record with evidence the financial status and the income details of both Donor and Recipient to discourage any commercial/trade dealing, 10. The Donor is not a drug addict, 11. If no near relative is not available any person relate to Donor by Blood or Marriage or any Adult person who is familiar with the Donor and who expressed his wish of donating organ to the person can give evidence with the committee and the same can be recorded before clearance.
- Cases of Swap Donation referred under Sub Section 3 (a) of Section 9 of the Act shall be approved by the Authorization Committee of the Healthcare Facility or District or State in which transplantation is done.
- In case of emergency wherein the recipient is in a critical condition and needs lifesaving organ within a week, he can approach Healthcare Facility Incharge to expedite the evaluation.
- The State or District Level Authorization Committee shall, as notified by the State Government in case of State and by the Union Territory Administration for UT consists of
 - A Medical Practitioner officiating as Chief Medical Officer or equalant post in a major Government Hospital of that District (Chairperson).
 - Two Senior Registered Medical Practitioners chosen from the pool of such Medical Practitioners who are the residents of that particular districts but not part of any Transplantation Team (Member).
 - Two persons (One Woman), of high integrity, social standing and credibility having served in high ranking Government Position (Higher Judiciary, Senior Cader Police Officer, Raider or Professor of approved University/UGC or self-employed professionals of repute such as Lawyers, Chartered Accountants, Doctors, NGO's, Social Worker) (Member).
 - Secretary (Health) or Nominee and Director (Health services) or Nominee from State Government or UT administration (Member).
- Authorized Committee has the power to regulate living Donor Transplantation after in review in case by case and ensures that the living Donor is not exploited for monitory benefits and to prevent commercial trading in Transplantation. All the proceedings are to be video recorded and the decision should be notified within Twenty Four hours. Dissatisfied persons can appeal against their decision to the State or Central Government.
- Medical Board (Brain Death Committee): In this Panel a non-availability of Neurologist etc., the incharge of the Hospital who is a member may certify Brain Death.
 - A living Donor means a near relative or a non-related Donor.
 - Near Relative includes, (Spouse, Children, Grandchildren, Siblings, Parents and Grandparents) needs permission of the incharge Doctor of the Healthcare Facility/Transplant Center to donate the Organ.
 - A non-related Donor needs permission from the Authorization Committee of that particular State or Union Territory to donate Organ.
 - When a near relative living Donor is medically incompatible with the recipients, the pair is permitted to do a swap transplant with another related unmatched Donor/recipient Pair.
 - Authorization for Organ Donation may be given by the person before death, himself/herself or after death by the person who is in legal position of the body of the Brain dead. Normally the incharge Doctor of the healthcare facility with the patients relatives and every person present at that time in ICU whether any prior authorization is there, else authorizations is received from those persons.
 - Any Healthcare Facility having ICU Facility the sufficient manpower, infrastructure and equipment and registered with appropriate authority, maintaining registry of transplantation, such facility is permitted to retrieve the Organs from the Brain dead after taking appropriate Legal formalities. There is a specific provision for retrieval and donation of Organs from Unclaimed bodies which the facilities incharge has to follow.
 - All the expenditure incurred during retrieval of the organ, donor management, reservation and transportation before it reaches the recipient for transplantation should be born by the recipient family, any institution, government, NGO and any society but not by the Donor family.
 - As mentioned above in Medico Legal cases one should follow strictly the procedure before retrieval.
 - Any Healthcare facility who wants to become harvester of Organs should follow the requisite manpower, infrastructure, professional for registration and to be recognized that it is Organ Harvesting Centre.
 - The Act mentions the requisite qualifications and experience of the transplant surgeons and Corneal Tissue Retrieval Technicians.
 - It is mandatory for such registered Healthcare facilities to appoint "Transplant Coordinators" with requisite qualifications and is mandatory.

- All Non-Governmental Organization (NGO's), Registered Societies and Trusts who are in the field of Organ or Tissue Retrieval, storage, transportation etc., have to register with appropriate authority; any above said organization acting/functioning in the above functions without registration are liable for prosecution and block listing the organizations.
- The Act envisages the Central Government to establish a National Human Organ and Tissues Removal and Storage Network (NOTTO) and Regional Organ and Tissue Transplant Organisation (ROTO) and State Organ and Tissue Transplant Organization (SOTTO) Website: www.notto.nic.in

5.2. NOTTO

National Network Division of NOTTO could function as a centre for All India Activities and coordination and networking of procurements and distribution of Organs and Tissues and maintains a registry in which donations and transplantations of Organs and Tissues are maintained. It also looks after the facilitate Organ Transplantation and Tissues safely and the shortest possible time. The other functions are

- Laydown, Policy guidelines and protocols for various functions
- Maintaining network with all the regional and State Level Organisations
- Collection and publication of Donor recipient details in the Country
- Creation of awareness among public for Organ Donations
- Coordinating the functions of procurement and allocation of Organs and Tissues from various sources
- Distribution of information in collection regarding Organs and Tissues from the concerned Healthcare Facilities, Organisations and Individuals
- Monitoring the activities in all the States, Regions and Union Territories with respect to Organs and Tissues Retrieval and Transplantation
- Assisting the States and Union Territories in data management, Organ Transplant Surveillance and Organ Transplant and Organ Donor registry
- Assistant on the Legal and Non Legal aspects of Donation and Transplantation and
- Imparting training and coordinating training programmes for various workers in this arena.

5.3. ROTTO

Regional Organ and Tissue Transplant Organisation covers

- Maharashtra, Gujarat, Goa, Ut's of DNH, Daman, Diu, MP and Chattisgarh
- Tamilnadu, Kerala, Telangana, Andhra, Karnataka, Pondicherry, A&N Islands, Lakshadweep
- West Bengal, Jharkand, Sikkim, Bihar, Orrissa
- Punjab, Haryana, HP, J&K, Chandigarh, Rajasthan, Uttar Pradesh and Uttarakhand
- Assam, Meghalaya, Arunachala Pradesh, Manipur, Nagaland, Mizoram, Tripura having centres at Mumbai, Chennai, Kolkata, Chandigarh and Gowhati respectively.

5.4. SOTTO

State Organ and Tissue Transplant Organization. It is envisaged to establish one SOTTO in each State till 16.07.2020, 12 SOTTO's have been sanctioned

- Government Medical College, Thiruvananthapuram, Kerala
- Sawai Man Singh Medical College (SMS), Jaipur, Rajasthan
- Mahatma Gandhi Medical College (MGMC), Indore, Madhya Pradesh
- Goa Medical College (GMC), Bambolim, Goa
- Government Medical College (GMC), Jammu, J & K
- Pandit Bhagwat Dayal Sharma PGIMS, Rohtak, Haryana
- Sriram Chand Bhanj Medical College (SCB), Cuttack, Odisha
- Institute of Kidney Diseases and Research Centre (IKDRC), Ahmedabad, Gujarat 9) Sanjay Gandhi Post Graduate Institute of Medical Sciences (SGPGIMS), Lucknow, UP
- Indira Gandhi Institute of Medical Sciences (IGIMS), Patna, Bihar
- Government Medical College, Patiala, Punjab
- RIMS : Rajendra Institute of Medical Sciences

Ranchi 5 ROTTOs are also SOTTOs for the States where they are located NOTTO is SOTTO for Delhi Broad Functions of SOTTO are

- Coordinate for Implementation all schemes under NOTP in consultation with State Government
- Maintain State wise Waiting list of patients
- Networking and State level registry

- Co-ordination from organ and tissue procurement, matching, allocation, transportation, storage and transplantation
- Coordinate for BSD certification and retrieval teams
- Dissemination of information to hospitals, organizations & individuals
- IEC Activities
- Training and CMEs within the State 10

Grant in Aid provided to each SOTTO.

- The Central Government maintain registry of the Donors and the Recipients of Human Organs and Tissues.
- Any person/organization retrieving organs, making or receiving payments for supplying human organs or contravening any other provisions of the Act or liable for stringent punishment in order to serve as a deterrent for such illegal activities.

Requirements of Healthcare Facilities for Registration as OTC

The OTC shall have the bed strength of a minimum hundred beds with the following departments

5.4.1. Common Requirement for all OTCs

- Biochemistry/ Microbiology /Pathology/ Hematology
- Radiology with Ultrasound Doppler, Fluoroscopy, X ray
- Anesthesia
- Operation theatre /Intensive care department

5.4.2. Specific Additional Requirement for OTCs specializing in transplantation of particular organs

For transplantation of Kidney

- Nephrology
- Urology
- Dialysis

For transplantation of Heart

- Cardiothoracic Surgery
- Cardiology
- Blood Bank
- Dialysis
- Cardiac ICU with Echocardiogram
- Cath laboratory

For transplantation of Liver

- Surgical Gastroenterology/Hepatobiliary and Liver Transplant/
- Transplant surgery
- Anesthesia
- Blood Bank with facilities to Provide Screened blood and blood products (FFP, Platelets, Cryoprecipitate)
- Dialysis
- Endoscopy

5.5. Equipment requirement of OTC

The departments specified above shall be equipped with diagnostic and surgical facilities as per the norms established by MCI or as prescribed by the AACT from time to time.

5.6. Professional Staffing requirement of OTC

The Organ Transplantation Centre shall mandatorily have the following specialists, apart from the required supporting staff

5.6.1. Kidney transplantation

M.Ch(Urology) or M.S (Gen)Surgery with three years' post M.S. training in a hospital in India or abroad registered for kidney transplantations and having attended to adequate number of renal transplantations as an active member of team.

5.6.2. Transplantation of Liver & other abdominal organs

M.Ch/DNB (Surgical Gastro-enterology) or M.S./DNB (Gen) Surgery with 3 years' post MS /DNB training in Hepatopancreatobiliary and Liver /Pancreas transplant unit in a hospital in India or abroad registered for organ transplantations and having attended to adequate number of Liver /Pancreas transplantations as an active member of team.

5.6.3. Cardiac, Pulmonary, Cardio-Pulmonary Transplantation

M.Ch. (Cardio- thoracic and vascular surgery) or equivalent qualification in India or abroad with atleast 3 years' experience as an active member of the team performing an adequate number of open heart operations per year and well-versed with Coronary by-pass surgery and Heart valve surgery.

5.6.4. Support staff

- Surgical staff
- Cardiology staff
- Nursing staff
- Transplant Coordinator

5.6.5. Non-Transplantation Organ Harvesting Centre (NTOHC):

The primary purpose of establishing the Non-Transplantation Organ Harvesting Centre (NTOHC) is to create the facilities for retrieval of organs in a network of hospital with the appropriate authority of exercising all the functions relating to organ harvesting, when there is willingness among the relatives to donate the organs of a deceased person and thereby increase the number of organs available for transplantation. The NTOHC is a hospital which has been authorized by the competent authority to declare brain-death in respect of a person admitted to their hospital following the prescribed procedure, to perform the procedures relating to the removal of the donated organs and to store and arrange to transport them for the purpose of transplantation for therapeutic purposes in an authorized Organ Transplantation Centre (OTC).

5.6.6. Registration of hospitals as NTOHC

The following procedure is prescribed for registration of Hospitals as NTOHC:

- The AACT shall be the authority competent to register hospitals as NTOHCs
- The hospitals desirous to register themselves as NTOHC shall apply to the AACT in the prescribed format accompanied by a fee of Rs. 1000.
- On receipt of the application from a hospital, the AACT shall cause inspection of the hospital by a team of specialists to satisfy itself that the requirements for permitting establishment of NTOHC, specified in Paras 9.3 and 9.4 exist in the applicant hospital.
- On satisfaction of the adequacy of the applicant-hospital with reference to the requirements, the AACT may register the hospital as NTOHC for a period of 5 years.
- The AACT may renew the registration from time to time, each time for a period of 5 years, subject to the hospital paying a renewal fee of Rs.1000/- and subject to the continued conformance to the requirements under Paras 9.3 and 9.3.

5.6.7. Infrastructure requirements for NTOHC

The following infrastructure shall be available in the hospital applying for registration as NTOHC:

- A minimum bed strength of 100 beds;
- Operation theatre conforming to the specifications to be notified by the AACT.
- Intensive Care Unit conforming to the specifications to be notified by the AACT.
- Own ambulance
- A room earmarked for grief counselor
- Blood bank or facilities to acquire blood products from recognized blood banks

5.6.8. Manpower requirement

The following manpower shall be available in the hospital applying for registration as NTOHC:

- Medical Superintendent
- Neuro Surgeon (MCh Neurosurgery with 3 years of experience) on call
- Neurologist (DM (Neuro) with 3 years of experience) on call
- General Surgeon
- Supporting Staff:
 - 3 Staff Nurses (qualified in specialty nursing)

- 3 Technicians (qualified to operate equipment specified)
- Greif counselor/ Donor coordinator

(IV, q & r, are the extract from the “Government of Andhra Pradesh, Abstract, Health, Medical and Family Welfare (M-I) Department – G.O.Ms. No. 184 dated 16.08.2020.

5.6.9. Evolution of Organ Transplantation and Tissue Act:

- Legal Framework of the Act.
- LM Sindhi Committee Report
- Passing of Transplantation of Human Organs Act 1994.
- Framing of the Rules of the Act, 1995
- Amendment to the existing Rules, 2008
- Transplantation of Human Organs (Amendment) Act, 2011
- Transplantation of Human Organs and Tissues Rules, 2014 (Framed) (See Annexure – III)

5.6.10. Effects of Transplantation Act:

- Organ Trade and Trafficking
- Factors that facilitated Organ Trade in the country
- Huge gap between demand and supply of human organs
- Some of the Healthcare Professional’s unwanted intentions for gains
- Poverty, Unemployment, Exploitation of the Poor and the downtrodden for Organ Donations
- Small Percentage of Cadaver Organ Donations making it no reliance on live donations
- Religious cultural emotional constrains in Organ Donation
- Lack of awareness (See Annexure – IV)

5.6.11. Drawbacks of the Act:

- Ambiguity regarding affection and attachment
- Prohibition of Advertising for Organ Donation in any form
- Waiting period for harvesting Organs from Unclaimed dead in Healthcare facilities and prison
- Definition of death is most inconsistent
- Judicial Intervention is the cumbersome procedure
- No emergency provisions
- Unclaimed Dead bodies having no near and dear, harvesting Organs in such situations is a very long procedure (See Annexure – V)
- Abuse of Law – Prosecution of violaters
- Producing Fake documents to establish Donor recipient relationship (See Annexure – VI)
- Procedure obtaining consent
- Different consent systems in India
- Issues related to Organ trade
- Effects of commercial/trade of living donors
- Due to high cost of transplantation, benefit to the rich by exploiting the poor
- Harm to Altruism (See Annexure – VII)

6. Legal Issues – Indian Legal System – Pros and Cons

Transplantation of Human Organ Act (THO) was passed in India 1994 to streamline Organ donation and Transplantation Activities broadly speaking this Act has given an opening to accept Brain Dead is a form of death and made the Sale of Organs punishable offence with the acceptance of Brain Death it became possible to not only undertake Kidney Transplantations but also other solid Organ Transplantations or Transplants like Liver, Heart, Lungs and Pancreas. Though this Legislation was passed Kidney’s Scandals are reported in the Indian Media. In majority of the cases, the Culprits are floating in the Laws to their advantage. The Government has passed Seven Special orders and these orders are expected to streamline the activity of deceased Donors and help increase their numbers.

The Indian Constitution gives everybody right to live with dignity of his/her own will without disturbing others will, the legislature has enacted many laws in particular in Healthcare.

6.1. Following are the some of the laws that attract health and healthcare

- Drugs and Cosmetics Act, 1940

- The Prevention of food Adulteration Act, 1954
- The Medical Termination of Pregnancy Act, 1971
- Maternity Benefit Act 1961
- Insecticides act 1968
- Narcotic Drugs and Psychotropic substances Acts and Rules 1985
- The Prenatal Diagnostic Techniques Act 1994
- Food safety and Standards (Contaminants, Toxins and Residues) Regulations, 2011
- Food Safety and Standards (Prohibition and Restriction on sales) Regulations, 2011

6.2. Property rights in the human body

It is interesting to know that every human has a 'property' in his/her own 'person', No other is having any rights over other human body this phenomena has gained importance due to the advancement of Organ and Tissue Retrieval and Transplantation and the developments in the fields of Bio-technology. Bio-technology have created a new use of body tissues, as it was previously thought body tissues after removal, of no use but the present transplantation process has made it possible to reuse the body tissues that are removed from the dead. This phenomena has gained commercial value due to the increased use of the tissues through Bio-technology to treat a wide range of illnesses and injuries. The increase in the number of possible uses of a body parts and tissues necessitated reconsideration of the Legal nature of the human body; because as mentioned above the utility of parts of the human body like tissues and other Organs and their commercial demand, a need arose for a Uniform Law that can provide possessory rights in the body and allows a degree of commercialization and compensation depending upon on the nature and utility of the Organ or Tissue that is being used medically and scientifically. This was discussed in "Dequesne Law Review" Titled "Property Rights in the Human Body: The Commercialization of Organ Transplantation and Biotechnology" at length.

Some of the glimpses are mentioned below from the Law Review:

- A Property is unitary – It is a bundle of rights and these rights include right to possess, right to exclude, right to use, right to dispose, right to enjoy fruits or profits and the right to destroy.
- Many oppose recognition of Property right in the body on the basis that, Human body lacks an essential attribute of property – "namely right to sell".
- Though many course have held there cannot be any property right in a dead body in commercial sense; some quotes held that, the next of Kin possess "a quasy – property – right" in the remains is also mentioned in the review that,
- Section 868 of the restatement of torts provides that, "the right of control over a dead body doe snot fit well into the category of property because a body cannot ordinarily be sold or transferred, has no utility and can be used only for the purpose of internment or cremation"
- While society shunts the Idea of selling body organs, it has accepted the Sale of Blood, Sperm, Hair and other renewable bodily fluids and tissues. However in India selling of these products for commercial gains are prohibited by law though it is prevalant. At this point many argue that the Sale of blood was "just the beginning of the slippery slope toward the commodification of the body"
- The issue of Property rights of a man's sperm does not arise in India because this kind of transfer is not allowed by Law.
- There is no statutory provision to recognize property rights in the body; there are some constitutionally protected property rights in the body. These right actually prevailing in the gust, it in nacent subject in India, it is time for the legislature to think about seriously on the subject of property rights of the Human body, in the changed Healthcare scenario and large gap between demand and supply of body organs and tissues.

The author of this Article view that presently when the Kith and Kin is having quasy Property rights on the dead body to cremate or dispose of the dead body according to religious customs and formalities without the knowledge of the dead, is it not right to pass certain laws so that the dead before demise will have a right to dispose of the body at his/her Will and Voley. As it is rightly point out in the Duquesne Law Review in the concluding remarks the author fully agrees that "the current Law regarding compensation for body organs and tissues is based upon a tradition of common Law and principles which cannot be adequately applied to the Human body". The Law needs to be changed to allow compensation for organs and tissues in order to increase the supply of much needed organs for transplantation. Hence the present system of Law regulating or prohibiting compensation for Organ and Tissue donations must be amended in order to allow a governmentally regulated system. The legislature in India must address this issue and provide a system of compensation before organ and tissue donors realize that their charity is properly consumed (courtesy of Article written by "Danielle M. Wagner" for reproducing parts of the Article).

6.3. Sections That Attract Penal Provisions for Unlawful Acts:

6.3.1. Section 3 (2) of the Act

This Section stipulates that the person in Lawful possession of the Dead body of the Donor who had given consent during his/her life time as acquired by the Law for removal of Organs after demise, the possessor of the body has to give consent accordingly,

unless he/she has reason to believe that the deceased has revoked consent during his/her life time. However in real practice the power under section 3(2) is not be used and the doctors insist on obtaining consent either from the person who is holding the body or from the relatives. This Clause in the Section is a stumbling block and if any person acts against this will be liable for penal action and punishment under Law for not following the provisions properly.

6.3.2. Section 2 (d) & 2 (e)

It defines “Brain Stem Death” and “Decased Person”. Brain Stem death means the “stage at which all functions of the Brain-Stem have permanently and irreversibly ceased and is so certified under Sub Section (6) of Section (3)” and deceased person means “a person in who permanent disappearance of all evidence of life occurs, by reason of Brain-Stem death or in a Cardio-pulmonary sense, at any time after live Birth has taken place”, the act permitted any person above the age of 18 can consent before death and this consent should be in writing before two witnesses. Here, in the case of minors giving a fabricated and forged date of birth the touts are making an illegal trade.

6.3.3. Section 3(3) of the Act

This Section deals with the cases of adult deceased who have not expressed any formal wish or consent before death. In such circumstances, the nearest relative or person in Lawful possession of the dead has the authority to give consent for harvesting and donating the Organs. Here the ambiguity is the meaning of the term “near relative” used in Section 3(3) of THOTA should be different from the definition as given in the Section 2 (1) and read with Section 9 (1) and Section 3 (1A) (i)(ii). The reason being if a person is staying away from his/her family and/or does not have close bonds with his/her “near relatives” before his/her death. In that case his/her close associates or friends who are with him/her for considerably long period before his/her death can be contacted to seek Organ donation. In my knowledge this kind of ambiguity i.e. when the person is detached from the family and somebody known close to him/her can give consent is very vague and difficult to accept because there always to be misgivings/misapprehensions when the concerned officials decides such particular closeness. The other ambiguity being, when the Brain dead person is in the ICU before declaration under section 3 (1A) (i) (ii) where near relatives are not present from some reason or other the Act should include the “nearest relative”, hierarchy to identify the person closest to the disease.

6.3.4. Section 9 of the THOTA Act, 1994

It stipulates that Organ Donor should be closely related to the recipient. In this regard malpractices occurs and unrelated families of the Donors and Recipients for material gains fabricate, faked documents to prove the relationship. If this malpractice or faked documents are challenged in a court of law, then the Donor and the Recipient and the families can be prosecuted if the documents proved are fabricated. Though Section 9 do something good to curb the illegal Organ Trade cannot eliminate fully because the Clause hidden in the Section 9 “Facilitate Reasonable Degree of provision so that the ESOF Class Patients can also derive benefits”, gets misused.

Section 9 (3) Clause is most flouted. It is surprising to note after passing of THOTA Law in 1994, the Law has been more flouted than followed. The “affection” clause in Section 9 (3) is the gateway for the maximum number of transplants in the country unlawfully. Many of the cases in this regard, though has been turned down by the Authorization Commission having scented financial transactions still this kind of trade is flourishing.

When the Proposed Donor or the Recipient are Foreigners, a Senior Embassy Official of that country of origin has to certify the relationship between the Donor and Recipient in form 21 and in case if that country is not having Embassy in India, the Certificate of relations between Donor and Recipient shall be issued by the Government of that Country. In this case a fair amount of caution should be taken and any lapses found thereafter, attracts penal action according to the Law on the erring personal.

No Human Organ or Tissues or both shall be removed from the body of a minor before his/her death for the purpose of Transplantation except in the manner as many prescribed (The Gazette of India extraordinary).

No Human Organs or Tissues or both shall be removed from the body of a mentally challenged person before his/her death for the purpose of transplantations.

6.3.5. Section 14 (IV) of THOTA Act

It says that those hospitals who are not registered and engaged in Organ harvesting Transplantation, Retrieval and such other related activities can be punished and also the facilities having no ICU if conduct the procedures above said are also punishable under Section 14. The Registration of Healthcare facilities for Organ procedures should be accredited by National Accreditation Board for Laboratories (NABL).

6.3.6. Section 18 of this Act

It mentions that any person/professional who is responsible for the removal of Human Organ/Tissue with no authority of doing so can be punished with imprisonment which can extend to 10 Years and a fine up to 20 Lacs in addition his/her name will be intimated

to State Medical Council through AA to take appropriate action including suspension of the name from the registry for 3 years for the first offence and the same is continued the name will be removed permanently.

In section 18 of the principal Act,

- In sub-section (1), for the words “five years and with fine which may extend to ten thousand rupees”, the words “ten years and with fine which may extend to twenty lakh rupees” shall be substituted;
- In sub-section (2), for the words “two years”, the words “three years” shall be substituted.
- after Sub-section (2), the following sub-section shall be inserted, namely:

“(3) Any person who renders his services to or at any hospital and who conducts, or associates with or helps in any manner in the removal of human without authority, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to five lakh rupees.”

6.3.7. Section 19 of the Act

It mentions that any person involved himself/herself in the commercial dealing of human organs such person can be punished not less than 5 years of imprisonment and upto a maximum of 10 years and a fine not less than 20 Lacs and upto 1 Crore.

After Section 19 of the Principal Act,

- after clause (f), the following clause shall be inserted namely:

“(g) abets in the preparation or submission of false documents including giving false affidavits to establish that the donor is making the donation of the human organs, as a near relative or by reason of affection or attachment towards the recipient”;

- for the words “two years but which may extend to seven years and shall be liable to fine which shall not be less than ten thousand rupees but may extend to twenty thousand rupees”, the words “five years but which may extend to ten years and shall be liable to fine which shall not be less than twenty lakh rupees but may extend to one crore rupees” shall be substituted;

After section 19 of the Principal Act, the following section shall be inserted, namely:

“19A, Whoever

- makes or receives any payment for the supply of, or for an offer to supply, any human tissue; or
- seeks to find person willing to supply for payment and human tissue; or
- offers to supply any human tissue for payment; or
- initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human tissue; or
- takes part in the management or control of a body of persons, whether a society, firm or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or
- publishes or distributes or causes to be published or distributed any advertisement—
 - inviting persons to supply for payment of any human tissue; or
 - offering to supply any human tissue for payment; or
 - indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d); or
- abets in the preparation or submission of false documents including giving false affidavits to establish that the donor is making the donation of the human tissues as a near relative or by reason of affection or attachment towards the recipient,
- Shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and shall be liable to fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees”
- Section 19 (f) of Transplantation of Human Organ and Tissue Act, 1994 prohibits any advertisement for offerings or inviting people to supply organs for cash. The Section reads as follows:

“Whoever publishes or distributes or causes to be published or distributed any advertisement, -- (a) inviting persons to supply for payment of any human organ; (b) offering to supply any human organ for payment; or (c) indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d), shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and shall be liable to fine which shall not be less than twenty lakh rupees but may extend to one crore rupees.”

The issue in this regard is, the Section does not prohibit advertisements seeking or offering organs and tissues and if they are not for commercial gains. Taking advantage of the ambiguity the advertisers may make advertisement without commercial outlook can make gains after the advertisements. Hence it is necessary in my view that the provision in this section should made it clear that any advertisement on human organs and tissues should be prohibited to curb the illegal trade activities.

Some of the High Courts have allowed such advertisements in India without any commercial arrangement. The Kerala High Court has been permitting such publications “by orders looking into the provisions of the Transplantation of Human Organs and Tissues Act, 1994” finding that such publication is not prohibited by law as long as it does not invite ‘supply for payment or ‘offer such supply’ or ‘indicate willingness to initiate or negotiate any arrangement’

Wayback while Justice Krishna Iyer was a officiating Judge in Supreme Court he use to mention that “the mind of the Legislature is important than verbatim of the Act”

6.3.8. Section 20 of the Act

Which is General Punishment Clause says that, any person/facility/professional violates any other provisions that are not mentioned above of this act, he/she can be punished for a term up to 5 years and fine of not exceeding 20 Lacs or both.

However this Act needs more teeth to curb this menace of Illegal Organ Trade and Trafficking by exploiting the poor for the gains of the rich and also in encouraging touts and unethical Healthcare professionals and providers then only this racket of illegal Organ Trade can be minimized if not eliminated. Of the Organs, Kidney is the dominant Organ in this Trade because the touts are convincing the economically weaker sections that if they donate One Kidney for some monetary gains they can live happily with one kidney in their life time and at the same time they can improve the lifestyle with monetary gains. Poor people/downtrodden were having no knowledge of health are getting attracted by the sweet words of the touts and falling prey to them. Even after 3 decades and number of amendments the government is not in a position to curb this illegal trade. It is earnestly suggested that the government of India, State and Union Territories should frame stringent rules by way of imprisonment and heavy fines or both to eradicate this social evil.

7. Offences and penalties

7.1. The Telangana transplantation of human organs act, 1995 (ACT NO. 24 OF 1995)

- Any person who renders his/her services to or at any hospital and who, for purposes of transplantation, conducts, associates with or helps in any manner in, the removal of any human organ without authority, shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.
- Where any person convicted under sub-section (1) is registered medical practitioner, his/her name shall be reported by the Appropriate Authority to the State Medical Council for taking necessary action including the suspension of his/her name from the register of the Council for a period of two years for the first offence and removal for the subsequent offence.

Whoever,-

- makes or receives any payment for the supply of, or for an offer to supply, any human organ;
- seeks to find a person willing to supply for payment any human organ;
- offers to supply any human organ for payment;
- initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human organ;
- takes part in the management or control of a body of persons, whether a society, firm or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or
- publishes or distributes or causes to be published or distributed any advertisement,-
- inviting persons to supply for payment of any human organ;
- offering to supply any human organ for payment; or
- indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d) shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and shall be liable to fine which shall not be less than ten thousand rupees; but may extend to twenty thousand rupees:
- Provided that the court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years and a fine less than ten thousand rupees or both.

Whoever contravenes any provision of this Act or any rule made, or any condition of the registration granted there-under for which no punishment is separately provided in this Act shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees.

Where any offence, punishable under this Act, has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he/she proves that the offence was committed without his/her knowledge or that he/she had exercised all due diligence to prevent the commission of such offence.

- Notwithstanding anything contained in sub-section

where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

- Explanation

For the purposes of this section, “company” means anybody corporate and includes a firm or other association of individuals; and “director” in relation to a firm, means a partner in the firm.

No Court shall take cognizance of an offence under this Act except on a complaint made by, the Appropriate Authority concerned, or any officer authorised in this behalf by the Government or, as the case may be, the Appropriate Authority; or a person who has given notice of not less than thirty days, in such manner, as may be prescribed, to the Appropriate Authority concerned, of the alleged offence and of his intention to make a complaint to the court.

No court other than of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

Where a complaint has been made under clause (b) of sub-section (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person

However, No Suit, Prosecution or other Legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

No Suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

The details of the offences and penalties under this Act in flouting the Laws are given in Annexure

Following are the some of the decided cases pertaining to various high courts and apex courts regarding organ retrieval, transplantation and donation

Transplantation of Human Organ Act, 1994 (Central Act 1994 of 1994) (herein after refer to as “the Act”), the Petitioner Hospitals ---- regulate the removal and transplantation of Human organs and prevents Commercial dealings in Human Organs by providing severe punishments (Madras High Court)

- Post Mortem & Organ Donation/Retrieval: In all the Medico Legal Cases, the bodies sent to Government Hospitals for Post Mortem by the Police only, since the Post Mortem Doctors work for 9 to 4 and Saturday 9 to 1 and Sunday being a holiday. The admitted fact is any request for Post Mortem should be received One hour before the closure of the time; the request only considered next day. In this regard, a PIL is filed regarding delay in conducting Post Mortem in Delhi and a bench consisting of Justice G. Rohini and Justice R.S. Endlaw directed the City Government and the Delhi Police why the Post Mortem is not conducted as stipulated in Medico Legal Cases. After lot of arguments on both sides the Bench has come to a conclusion delay in Post Mortem will affect the Organ Donation activity. In this regard, another division bench of JJ S. Rajeswaran and P.N. Prakash of Tamilnadu High Court said, “The IPC had enough provisions to prosecute a Doctor, the legislature also bring in an amendment to the definition of Public Servant found in Section 21 of IPC and Section 2© of the Prevention of Corruption Act, 1998 by including Doctors who performing autopsy at the request of Police Officer, so that they could be prosecuted” they also endorsed in their judgment that autopsies of Private Hospitals by Private Doctors can boost the Cadaver Organ Donation. The chances of Private Doctors are becoming amendable to influence and issue bogus Post Mortem Certificates can be curtailed by Video Graphic the whole autopsy procedure and at the same time Private Doctors can also be made liable.
- The arrest of persons involved in transplants done in Indraprastha Apollo Hospitals, Delhi and Hiranandani Hospital, Mumbai on the basis of a fake documents depicts the sad story of how unscrupulous people in Medical field are having their way and they have made it an industry. The Committee that was appointed to look into the matter, noted that, there were no medical reports, evidence of consent or even evidence of basic medical infrastructure. This occurred because taking advantage of the Act, wherein unrelated Donors and recipients are there, the Clause “out of affection and attachment” is used by fabricating the documents.

- In another case in Gurgoan Kidney Racket case, a Senior Police Officer confessed that when a person by name Kumar was arrested he did this with a group of Surgeons and Anesthetists for conducting Kidney Transplants at a nursing home in Mumbai which he had no license nor registration for conducting Transplantation Operations, the same person came out on bail every time and between 1994 and 2008 he is to do the same business. A Government appointed Committee concluded that as many as 450 Kidney Transplants on foreign patients had been done in the same Nursing home with a span of Four years.
- In January 2016 Police arrested a man by name Prajapathi, hailing from Ahmadabad in an Organ Trade (having Links in Sri Lanka). Whenever arrested he in coming out on bail and doing the same business.
- Any person aggrieved with Authorization Committee can make an appeal to the State Government within Thirty days of the issue of the order. In, B.L. Nagaraj and others vs Kantha and others, the prospective recipient filed a writ petition before Karnataka High court against Apex Court Order which rejected the Organ Donation by the sister-in-law of the Recipient on the Ground that “near relatives were not considered Donors”, the High Court while allowing the Petition held:

“There is no provision in the Act which prohibits the person who is not a ‘near relative’ by definition, from donating his kidney merely because the ‘near relative’ have not been considered as donors by the family for kidney transplantation. The Committee has misdirected itself in this regard while refusing permission to the petitioners.”

“The Committee would ascertain from the second petitioner whether she would be donating the kidney out of ‘affection and attachment’. The donors relationship with the recipient, period of acquaintance and the degree of association, reciprocity of feelings, gratitude and other human bonds are perhaps soe of the factors which would sustain ‘affection and attachment’ between two individuals. The committee has to ensure that the human organ does not become an article of commerce. The main thrust of the act is against commercial dealings in human organs.”

- The Apex Court in the case of Kuldeep Singh and other vs State of Tamilnadu and others observed that “where a person wanted to donate One Kidney to another out of love and affection, stated that the object of the Act is crystal clear that it intends to prevent commercial dealings in human organs, the Authorisation Committee is required to satisfy that the actual purpose of donor authorizing the organ removal is because of ‘affection and attachment’ towards the recipient or for any other special reason and that special reason should in no way encompass commercial element”.

The Apex Court also made some observations and suggestions.

- The existence of special reasons regarding ‘affection and attachment’ by the Donor with the Recipient should be recorded with relevant documentary evidence by the Apex Court.
- The records should explain relationship if any, period of acquaintance, degree of association, reciprocity of feelings, gratitude and similar human factors and bonds.
- The Court also held that it would be desirable to require the Donor and Recipient to do the financial details and vocations, to rule out commercial dealings in Human Organ Donation.
- The Apex Court also suggested to the Government that “it would be appropriate for the Legislature to amend the rules and Form-I so that requirement for disclosing income and vocations for a minimum of three years financial years from the date of donation to the back” would help the Authorisation Committee to assess if any financial involvement.

8. The other decided cases are referred to as Annexures by various High Courts and the Apex Court

- (2013 decided cases ----- See Annexure - II).
- (2014 decided cases ----- See Annexure - III)
- (2015 decided cases ----- See Annexure - IV)
- (2020 decided cases ----- See Annexure - V)
- (2021 decided cases ----- See Annexure - VI)
- (2022 decided cases ----- See Annexure – VII)
- Legal Forms for Organ Donation: Annexure – VIII
 - Form 5 (Rule 4 (2) (a)
 - Form 6 (Rule 4 (2) (b)
 - Form 8 4 (2) (a) and (b)
 - Form 9 Rule 4 (3) (b)

9. Flow Charts

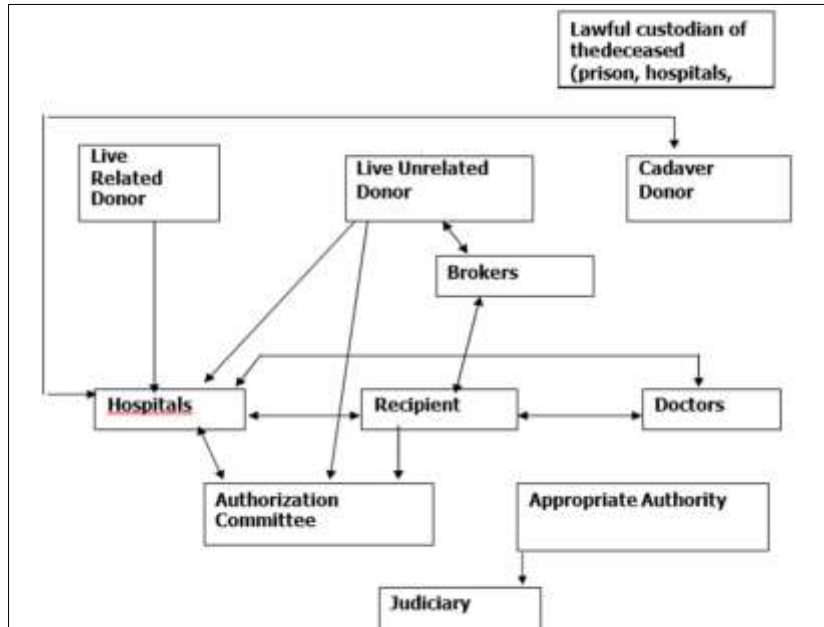
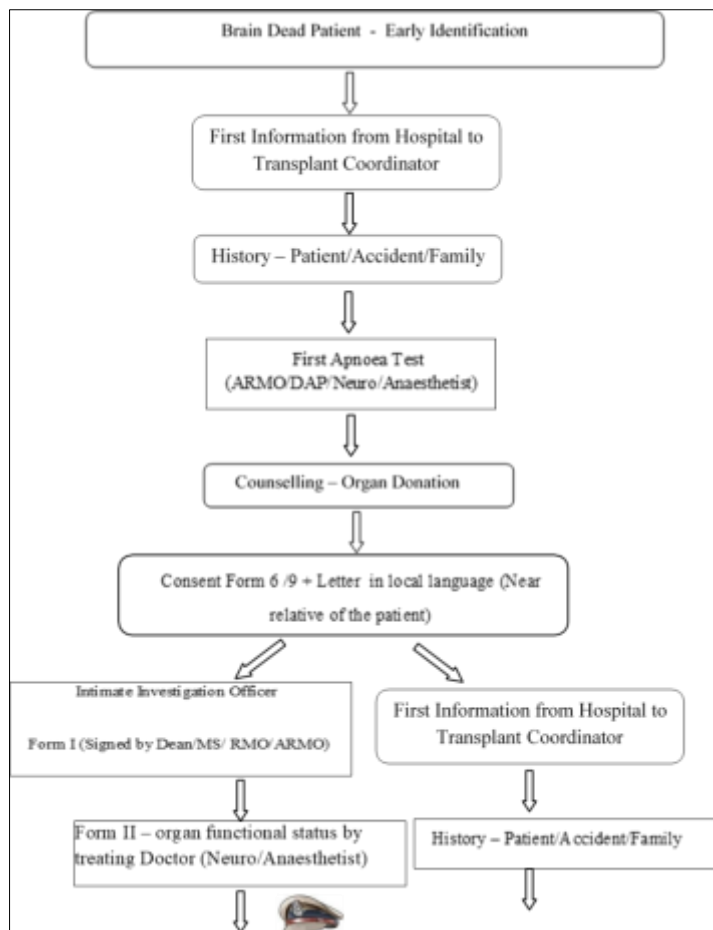


Figure 1 Charting showing donation of Organ



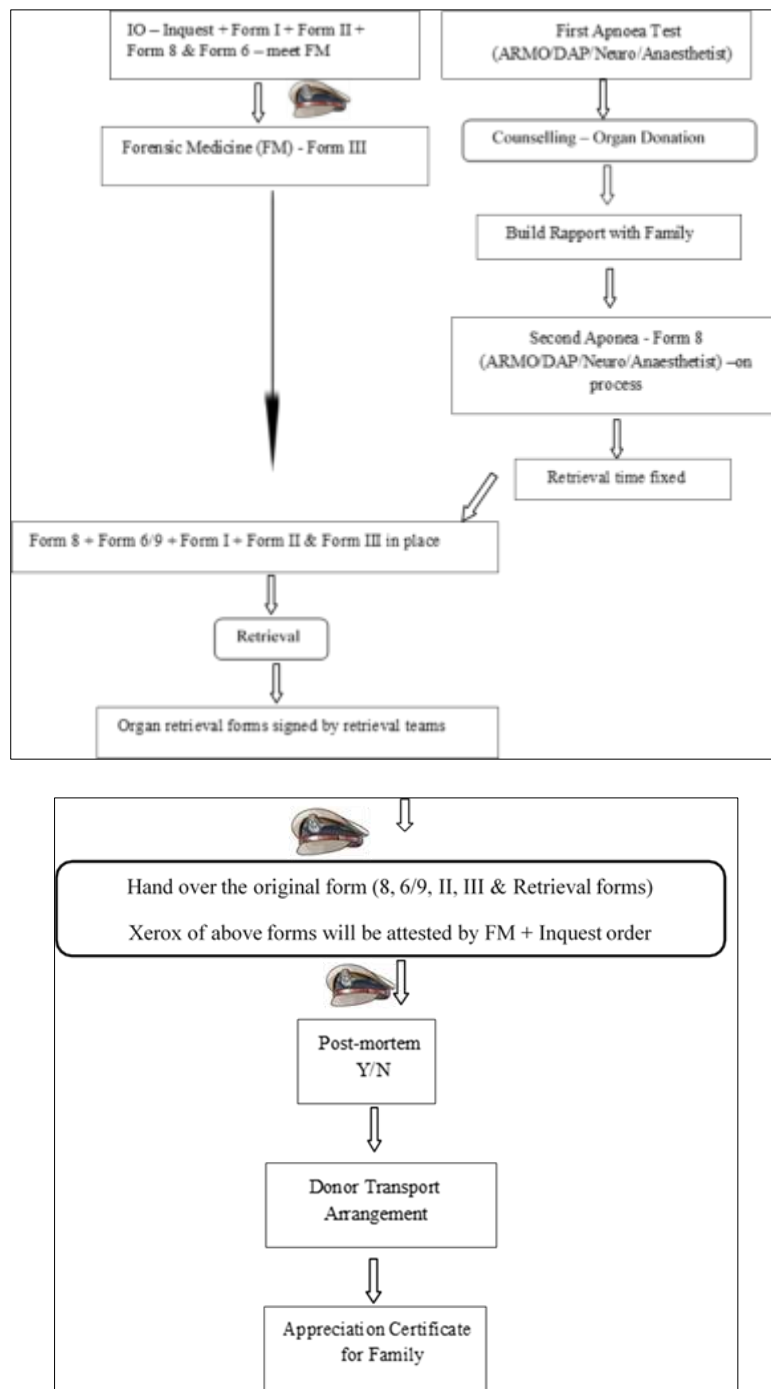


Figure 2 Flow Chart of Organ Donation

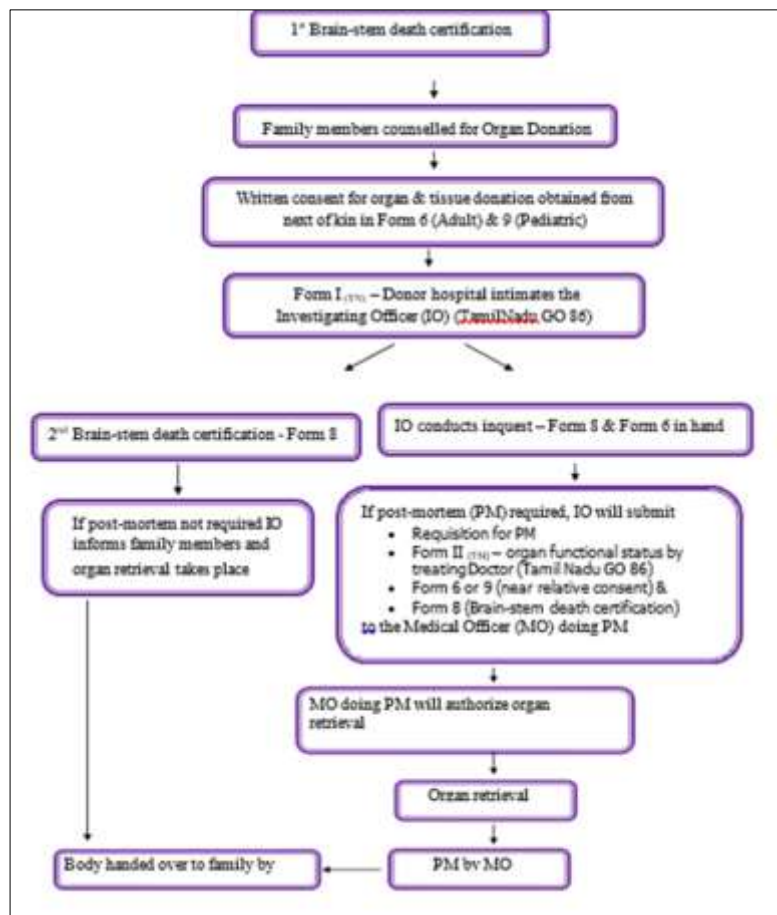


Figure 3 Deceased Organ Donation – Medico-Legal Case – Flow chart

10. ORGAN DONATION CRITERIA:

Table II

CRITERIA	YES	NO
(1) Death due to infections/presence of the following diseases at the time of death :		
i. T B – Tuberculosis		
ii. HIV – AIDS		
iii. Hepatitis – B & Hepatitis – C		
iv. Septicemia (severe infection).		
(2) Post mortem body.		
(3) After donation of organ (Kidney, Liver, Heart).		
(4) Edema of body/ body parts(hands, feet, stomach).		
(5) Bed sore/ non healing ulcer/gangrene.		
(6) History of uncontrolled diabetes.		
(7) Death due to cirrhosis of liver.		
(8) Death due to cancer.		
(9) Death due to Medico legal case eg: Road traffic accident, Burns, Suicide, Homicide, suspicious etc.		
(10) Death due to renal failure.		
(11) Any sign of petrefaction/decomposition		

a. Distension of abdomen after death		
b. Foul smell from body		
c. Discoloration of the Body.		

TABLE SHOWING PENAL PROVISIONS AND PUNISHMENTS FOR THE OFFENCES IN ORGAN DONATION:

Provision	Offence	Punishment (Before amendment)	After amendment
S. 18(1)	Renders services, conducts or helps	Imprisonment	Imprisonment
and 18(2)	in the removal of any human organ without authority.	upto 5 years and fine upto Rs. 10,000. (In case of a registered medical practitioner, removal of his name from the Council's register for a period of 2 years for the first offence and permanently for the subsequent offence.)	upto 10 years and fine upto Rs. 25,000. (Removal of name of a RMP from the register for a period of 3 years for the first offence and permanently for subsequent offence)
S. 18(3) (New provision)	Renders services, conducts, associates or helps in the removal of human tissues without authority.		Imprisonment upto three years and fine upto Rs. 5 Lakhs
S. 19 (a) to (f)	a) makes/receives any payment for the supply or an offer to supply any human organ; seeks to find person willing to supply any human organ for cash; offers to supply any human organ for payment; initiates or negotiates any arrangement involving the making	Imprisonment of 2 to 7 years and fine of Rs. 10,000 to 20,000.	Imprisonment of 5 to 10 years and fine of Rs. 20 Lakhs to 1 Crore.
S. 19(g) (New provision)	of any payment for the supply of, or for an offer to supply, any human organ; takes part in the management of a body of persons, whose activities consist of or include the initiation or negotiation of any arrangement as mentioned above; publishes/distributes/causes to be published/distributed any advertisement: inviting persons to supply or offering to supply any human organ for cash, or indicating that the advertiser is willing to initiate or negotiate any arrangement. Abets in the preparation or submission of false documents to establish that the donation is between near relatives or by reason of affection or attachment.		
S.19A (New provision)	makes/receives any payment for the supply or for an offer to supply any human tissue seeks to find person willing to supply human tissue for payment offers to supply any human tissue for payment initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human tissue		Imprisonment upto 3 years and fine of 5 Lakhs to 25 Lakhs.
	takes part in the management of a body of persons, whose activities consist of or include the initiation or negotiation of any arrangement as mentioned above publishes/distributes/causes to be published/distributed any advertisement: inviting persons to supply or offering to supply any human tissue for cash, or indicating that the advertiser is willing to initiate or negotiate any arrangement. Abets in the preparation or submission of false documents to establish that the donation of human		

	tissues is between near relatives or by reason of affection or attachment.		
S. 20	Acting in contravention to any provision of the Act or Rules, or any condition of the registration granted, for which no punishment is separately provided.	Imprisonment upto 3 years or fine upto Rs.5000.	Imprisonment upto 5 years and fine upto 25 Lakhs.

11. Following are the views of the prominent Healthcare Professionals of Organs Harvesting Retrieval and Transplantation from various Healthcare Facilities

For the 1st time in India and only 2nd time in the World an Organ Recipient also donated an Organ. A news Item has come on 14th January, 2017 in Times of India, as follows:

“One woman in Pune was declared Brain dead and her liver was transplanted to save another Patient’s life. While incredibly noble, this by itself is not out of the ordinary; as Organ transplants regularly take place across the World, what makes this particular case unusual is that the woman in question herself had received a kidney two years ago through a transplant thus making this the 1st time such an operation has successfully being conducted in India and the 2nd time he has been conducted across the world”

This section quotes some of the interesting comments we got from the doctors:

“Health is a state subject in India. The problem with this model is that some states implement processes vigorously, while others do not. In the field of deceased organ donation Tamil Nadu has the most evolved program with excellent results. There is some state driven activity in Kerala, Karnataka and Maharashtra while in other states it is NGO/individual driven or there is no organ donation at all. The key to organ donation is increasing awareness at all levels. Organs are a national resource and allotment has to be a fair and transparent process”

- Dr. Avnish Seth, Gastroenterologist (Transplant Head), Fortis Memorial Research Institute, Gurgaon Director, Fortis Organ Retrieval & Transplantation (FORT)

“Relatives of potential brain-dead donors are reluctant to donate because they do not believe that the patient is dead. This is due to ignorance and lack of trust in doctors”

- Dr. Prakash Khanduri, Professor at St. Stephens Hospital, Delhi

“Firstly, the concept of organ donation largely is cultural. It has a distinct connection with the cultural perceptions of charity and donation. For example, to people in the Jain community, donating blood or organs or a body is highly acceptable and is not at odds with their religious beliefs. Secondly, it is difficult to declare brain death in India and then talk about organ donation, as the common perception would be that the brain death was declared by the hospital to acquire the organ and make money. Thirdly, it is difficult to communicate and discuss the issue about donation to the family of the deceased because there is a fear of how they might respond to it”

- Dr. Tanmay Pandya, Consultant, DM Nephrology, Primus Super Specialty Hospital

“More work on the awareness front is required. Incentives should be given for organ donation, such as preference to be given to people with an organ donation pledge when requiring an organ”

- Dr. Aman Gupta, Consultant Urology and Kidney Transplant, Fortis VasantKunj, Delhi

Posters which say “Donate Organs and Save Lives” should be put up at burial places, cremation grounds. The Social and Health Ministries should be involved and appropriate action plan should be prepared for the message to be disseminated through Television and other media”

- Dr. S.C. Tiwari, Fortis, VasantKunj, Delhi

“There must be a centrally organized program. India should be divided among different zones with each zone having a Central/Zonal office that could coordinate with the hospitals falling under its ambit”

- Dr. P. B. Singh, Director, Institute of Urological Science, Max Super Specialty Hospital, Delhi.

“There is poor infrastructure with regards to deceased organ transplantation in our country, without any centralized system. Poor transportation facilities for accident patients in the extremely congested cities, lack of awareness amongst the people and lack of

trust in the fairness of medical system for deceased organ donation are major obstacles to development of deceased donor transplant in our country”

- Dr. Vijay Kher, Chairman, Division of Nephrology and Renal Transplant Medicine, Medanta - The Medicity, Gurgaon
“Going by past experience in some pockets of India, it takes 8-10 years of concentrated efforts by a dedicated team (NGO or Govt.) for organ donation, before we can expect a change in the society”
- Dr. Ravi Mohanka, Senior Consultant Hepato-biliary and Transplant Surgeon, Medanta - The Medicity, Gurgaon

12. Conclusion

Organs and Tissues Harvesting, Retrieval and Transplantation is the success of modern Medical Science to some ailments where there is no other procedures except Transplantation. After passing of the Human Organ and Tissue Transplantation Act, 1995 the Healthcare scenario has changed a lot in India Healthcare services, however the legislation of this Act is for a good cause, it also generated lot of illegal activities such as healthcare malpractices illegal Organ Trade, Kidnapping's for the purpose of Organ Trade, Exploitation of innocent people and downtrodden taking advantage of their economic conditions. To curb this to certain extent the Government of India, from time to time amended the Act and framed rules thereon. Recognition of Brain-Stem-Death as death under Section 2 (d) and 2 (e) of Act declares Brain Death of deceased person at which all the functions of the Brain Stem have permanently and irreversible ceased and if so certified under Sub Section (6) of Section 3 of the Act Organ and Tissue Harvesting can be done from the Brain dead with consent of Kith and Kin. However, the same Act envisages 'near relative', 'nearest relative' taking advantage of such ambiguity there, this illegal Organ Trade is flourishing by submitting Forgery and Fabricated documents of the relationship with the conveyance of Healthcare Professionals and other Stake holders. Many at times the Whistle Blowers of the Press and Media bringing out stories of illegal Organ Trade, since the Act is not having any teeth to punish the Culprit even the arrested Culprits are coming out on bail and doing the same criminal acts as before their target is illiterate poor and downtrodden who are in dire need of money and alluring them one Kidney is sufficient of One's life and the person can safely part with other Kidney for a lump sum money. Though the Government has taken steps and passed Laws the outcome is not as accepted. The main functions of Organ Trafficking consists of

- Removing Organ from living or deceased Donors without valid consent or authorization or in exchange for financial gain or comparable advantage to the Donor and/or a third person,
- Any Transplantation, Manipulation, transplantation or other use of such Organs or
- Offering any undue advantage to or requesting the same by, a Healthcare Professional, Public Official, or Employee of Private Sector entity to facilitate or perform of such removal or use or
- Soliciting or recruiting Donors or Recipients, where carried out for financial gain or comparable advantage or
- Attempting to commit, or aiding or abetting the commission of, any of these acts.

This illegal Trade is due to large gap between demand and supply of organs. This gap is the root cause for the flourishing of Organ Trade. In addition there is an nexus between Healthcare Professional and Third Parties in conveyance with Healthcare Providers this illegal trade is flourishing. The present legal system which has no teeth is not sufficient to eradicate this Organ Trafficking. Though no specific religion stands against Organ Donation and even some religions have recognized Organ Donation as a charity but still there are some misconceptions. This is the time for the Governments of India, State and Union Territories, NGO's like Mohan foundation, who are doing yeomen service in educating, harvesting, retrieving and recognizing and choosing right needy for transplantation (recipient), still the message of donation of Organ and the impact on Social Welfare should be escalated through public awareness programs.

13. Annexure – I

13.1. Chronology of Organ Transplants

- 1869: First skin autograft-transplantation by Carl Bunger, who documented the first modern successful skin graft on a person. Bunger repaired a person's nose destroyed by syphilis by grafting flesh from the inner thigh to the nose, in a method reminiscent of the Sushruta.
- 1905: First successful cornea transplant by Eduard Zirm (Czech Republic)
- 1908: First skin allograft-transplantation of skin from a donor to a recipient (Switzerland)
- 1950: First successful kidney transplant by Dr. Richard H. Lawler (Chicago, U.S.A.) [126]
- 1954: First living related kidney transplant (identical twins) (U.S.A.) [127]
- 1954: Brazil's first successful corneal transplant, the first liver (Brazil)
- 1955: First heart valve allograft into descending aorta (Canada)
- 1963: First successful lung transplant by James D. Hardy with patient living 18 days (U.S.A.)
- 1964: James D. Hardy attempts heart transplant using chimpanzee heart (U.S.A)

- 1964: Human patient lived nine months with chimpanzee kidneys, twelve other human patients only lived one to two months, Keith Reemtsma and team (New Orleans, U.S.A.)
- 1965: Australia's first successful (living) kidney transplant (Queen Elizabeth Hospital, SA, Australia)
- 1966: First successful pancreas transplant by Richard Lillehei and William Kelly (Minnesota, U.S.A.)
- 1967: First successful liver transplant by Thomas Starzl (Denver, U.S.A.)
- 1967: First successful heart transplant by Christian Barnard (Cape Town, South Africa)
- 1981: First successful heart/lung transplant by Bruce Reitz (Stanford, U.S.A.)
- 1983: First successful lung lobe transplant by Joel Cooper at the Toronto General Hospital (Toronto, Canada)
- 1984: First successful double organ transplant by Thomas Starzl and Henry T. Bahnson (Pittsburgh, U.S.A.)
- 1986: First successful double-lung transplant (Ann Harrison) by Joel Cooper at the Toronto General Hospital (Toronto, Canada)
- 1990: First successful adult segmental living-related liver transplant by Mehmet Haberal[128] (Ankara, Turkey)
- 1992: First successful combined liver-kidney transplantation from a living-related donor by Mehmet Haberal[128] (Ankara, Turkey)
- 1995: First successful laparoscopic live-donor nephrectomy by Lloyd Ratner and Louis Kavoussi (Baltimore, U.S.A.)
- 1997: First successful allogeneic vascularized transplantation of a fresh and perfused human knee joint by Gunther O. Hofmann
- 1997: Illinois' first living donor kidney-pancreas transplant and first robotic living donor pancreatectomy in the U.S.A. University of Illinois Medical Center
- 1998: First successful live-donor partial pancreas transplant by David Sutherland (Minnesota, U.S.A.)
- 1998: First successful hand transplant by Dr. Jean-Michel Dubernard (Lyon, France)
- 1998: United States' first adult-to-adult living donor liver transplant University of Illinois Medical Center
- 1999: First successful tissue engineered bladder transplanted by Anthony Atala (Boston Children's Hospital, U.S.A.)
- 2000: First robotic donor nephrectomy for a living-donor kidney transplant in the world University of Illinois Medical Center
- 2004: First liver and small bowel transplants from same living donor into same recipient in the world University of Illinois Medical Center
- 2005: First successful ovarian transplant by Dr. P. N. Mhatre (Wadia Hospital, Mumbai, India)
- 2005: First successful partial face transplant (France)
- 2005: First robotic hepatectomy in the United States University of Illinois Medical Center
- 2006: Illinois' first paired donation for ABO incompatible kidney transplant University of Illinois Medical Center
- 2006: First jaw transplant to combine donor jaw with bone marrow from the patient, by Eric M. Genden (Mount Sinai Hospital, New York City, U.S.A.)
- 2006: First successful human penis transplant (later reversed after 15 days due to 44-year-old recipient's wife's psychological rejection) (Guangzhou, China)[129][130]
- 2008: First successful complete full double arm transplant by Edgar Biemer, Christoph Höhnke and Manfred Stangl (Technical University of Munich, Germany)
- 2008: First baby born from transplanted ovary. The transplant was carried out by Dr Sherman Silber at the Infertility Centre of St Louis in Missouri. The donor is her twin sister.[131]
- 2008: First transplant of a human windpipe using a patient's own stem cells, by Paolo Macchiarini (Barcelona, Spain)
- 2008: First successful transplantation of near total area (80%) of face, (including palate, nose, cheeks, and eyelid) by Maria Siemionow (Cleveland Clinic, U.S.A.)
- 2009: Worlds' first robotic kidney transplant in an obese patient University of Illinois Medical Center
- 2010: First full facial transplant by Dr. Joan Pere Barret and team (Hospital Universitari Vall d'Hebron on 26 July 2010, in Barcelona, Spain)
- 2011: First double leg transplant by Dr. Cavadas and team (Valencia's Hospital, La Fe, Spain)
- 2012: First Robotic Alloparathyroid transplant. University of Illinois Chicago
- 2013: First successful entire face transplantation as an urgent life-saving surgery at Maria Skłodowska-Curie Institute of Oncology branch in Gliwice, Poland.[132]
- 2014: First successful uterine transplant resulting in live birth (Sweden)
- 2014: First successful penis transplant. (South Africa) [133]
- 2014: First neonatal organ transplant. (U.K.) [134]
- 2018: Skin gun invented, which takes a small amount of healthy skin to be grown in a lab, then is sprayed onto burnt skin. This way skin will heal in days instead months, and will not leave a scar.

14. Annexure - II

Santosh Hospitals Private ... vs State Human Rights Commission, on 13 March, 2003

regulate the removal and transplantation of human organs and prevents commercial dealings in human organs by providing severe punishments ... Act, namely the Transplantation of Human Organs Act, 1994, human organs cannot be removed from any donor before his death

- Madras High Court

Cites 13 - Cited by 2 - Full Document

- Dr. Rajinder Singh vs The State on 24 December, 2009

Human Organ Act, 1994 (herein after shall refer to as the Act) stands attracted in the alleged act of signing ... Human Organ Act, 1994 (herein after shall refer to as the Act) stands attracted in the alleged act of signing.

- Delhi District Court

Cites 9 - Cited by 0 - Full Document

5 Whether it is to be circulated to ... vs By This Writ-Application In the ... on 11 August, 2014

Transplantation of Human Organs Rules, 1995, has framed rules called the "Transplantation of Human Organs and Tissues Rules, 2014". "MINISTRY ... Human Organs Act, 1994; (b) "cadaver(s)", "organ(s)" and "tissue(s)" means human cadaver(s), human organ

- Gujarat High Court

Cites 9 - Cited by 0 - Full Document

Ayishamol V vs The State Of Kerala on 10 March, 2021

Nephrologist and Transplant Physician" 14. Section 9 of the Transplantation of Human Organs and Tissues Act, 1994 deals with ... human organ. 15. In exercise of the powers conferred by Section 24 of the Transplantation of Human Organs Act

- Kerala High Court

Cites 30 - Cited by 0 - Full Document

Parveen Kumar Sareen vs The State (Govt of N.C.T Of Delhi) on 19 January, 2012

Alleged date of surgery in January 2006, Transplantation of Human Organs Act, 1994 did not apply to the State ... such the Transplantation of Human Organs Act 1994 was made applicable to the State of Jharkhand on or after

- Delhi District Court

Cites 17 - Cited by 0 - Full Document

Nagendra Mohan Patnaik and Ors. vs The Government Of A.P. Rep. By Its ... on 12 November, 1996

Practice of transplantation of human organs, the Government of India have enacted the Transplantation of Human Organs Act ... transplantation of human organs for therapeutic purpose; (2) for the prevention of commercial dealings on human organs. 'Human organ.

- Andhra High Court

Cites 27 - Cited by 1 - Full Document

Santhosh Hospitals vs State Human Rights on 8 July, 2005

Appellant Vs. 1. The Appropriate Authority Human Organ Transplantation Act, 1994, Office of the Director of Medical and Rural Health ... which the respondents were 1).The Appropriate Authority, Human Organ Transplantation Act, 1994 and 2).The Chairman, Authorisation Committee

- Madras High Court

Cites 17 - Cited by 0 - Full Document

Shri Hitesh Kishorechand ... vs The State Of Maharashtra on 13 August, 2008

removal of human organ for the purpose of transplantation and other pertaining to removal of human organ without authority ... purpose of transplantation and that too without authority. The provisions contained in the Transplantation of Human Organs Act , 1994, basically

- Bombay High Court

Cites 8 - Cited by 0 - Full Document

- Dr. Shyam Sundar Prasad vs State Of Bihar (Now Jharkhand) on 14 September, 2006

Sections 18 , 19 and 20 of the Transplantation of the Human Organs Act is pending, convicted the appellant under Sections ... Sections 18 , 19 and 20 of the Transplantation of the Human Organs Act, 1994 against Deepak Kumar Jaiswal, Lalia (Shyam

Jharkhand High Court

Cites 19 - Cited by 0 - Full Document

Kiranlal vs State Of Kerala on 16 August, 2011

State Level Authorisation Committee for Renal Transplantation under the Transplantation of Human Organs Act , 1994 ('Act' in short) and Transplantation ... kidney transplantation is essential to save the patient. Transplantation of human organs is governed by the aforesaid Act/Rules

- Kerala High Court

Kidney Racket: FIR Registered Against Pune's Ruby Hall Clinic Management, Doctors, Patient and Kidney Donors (12th May 2022)

The accused persons have been booked for offences under Section 420 (Cheating), 465 (Punishment for Forgery), 468 (Forgery for purpose of cheating) 471 (using forged document as genuine), 12 B (Criminal Conspiracy), 34 (Common intention) of the Indian Penal Code (IPC) and Section 10 (Regulation of Hospitals conducting the removal, storage or transplantation of human organs), 19 (a) (b) (c) (Punishment for Commercial dealings in Human Organs) and 20 (Punishment for contravention of any other provisions) of the Transplantation of Human organ and tissue Act 1994.

15. Annexure - III

- Dr. Ganesan vs State

Petitioner is that all the matter pertaining to transplantation of human organ is necessarily referred to the committee formed thereunder ... investigate and enquire into the matter pertaining to Transplantation of Human Organs and in fact, the TOHO and Tissues

- Madras High Court

Cites 63 - Cited by 0 - Full Document

State Of U.P.Thru. D.M.,Etah vs Dr.Rajeev Kulshreshtha on 3 November, 2015

Transplantation of Human Organs Act , 1994, P.S. Kotwali Nagar, District Etah. 2. The brief facts of the case ... taken from an authorized Blood Bank under Transplantation of Human Organs Act , 1994 which is also an offence. Hence

- Allahabad High Court

Cites 15 - Cited by 0 - Full Document

Master Siddhant Vikram Pal vs The Authorization Committee on 21 June, 2013 removal of human organs for transplantation requires prior approval of the Authorization Committee. The present cases are covered ...

pragmatically in all such cases where the patient requires immediate transplantation of the human organ. If along with the application

- Bombay High Court

Cites 8 - Cited by 0 - Full Document

State Of Gujarat vs Rajendrasinh @ Raju @ on 22 March, 2013 under Section 19 of the Transplantation of Human Organs Act, 1994. The case of the prosecution, in brief, is that ... donation of human organs for monetary considerations, which is an offence under the Transplantation of Human Organs Act , 1994 (hereinafter

- Gujarat High Court

Cites 8 - Cited by 0 - Full Document

Pawan Anand & Anr. vs Director General Of Health ... on 1 October, 2012 respect of which, permission is sought under the Transplantation of Human Organs and Tissues Act, 1994 (in short the Transplantation ... circumstances, obtaining in each case. 7.1. While section 9(3) of the Transplantation Act, permits donation by a person other

- Delhi High Court

Cites 7 - Cited by 0 - Full Document

Rajinder Kumar vs State Of Punjab And Ors. on 22 February, 2005 donated her one kidney. However, the aforesaid transplantation of the organ was not successful and, therefore, the petitioner was medically ... requirement of the Transplantation of Human Organs Act , 1994 (hereinafter referred to as the Act"), in case the donor

- Punjab-Haryana High Court

Cites 4 - Cited by 0 - Full Document

Crime No. 3744/2014 Of ... vs Rajesh A.R. afraid of the "human organ transplant racket'. Without going into the merits of the case, it is to be held ... involved or whether, it was only an individual transplantation of human organ voluntarily done by the de facto complainant with

- Kerala High Court

Cites 3 - Cited by 0 - Full Document

P.Nagaraj Prabhu vs The Director Of Medical Education on 17 May, 2013

Rule 6-F (a) to (j) of the Transplantation of Human Organs Rules, 1995, in and by which, the Authorisation ... about a healthy balance between the need for transplantation of human organs and tissues in order to save lives

- Madras High Court

Cites 2 - Cited by 0 - Full Document

Mrs. Indu Behera vs Unknown on 16 April, 2013 India. 5. The Act does not prohibit the transplantation of organs from unrelated donors. In fact Rule ... poor or woman. Organ transplantation without one's independent consent is to be stopped. In this case, since the Authorisation

- Orissa High Court

Cites 1 - Cited by 0 - Full Document

Dharnanathbai vs State on 16 January, 2012 case of present petitioner pursuant to application preferred by him under the provisions of Transplantation of Human Organs and Tissues ... case of present petitioner pursuant to application preferred by him under the provisions of Transplantation of Human Organs and Tissues

- Gujarat High Court

Cites 2 - Cited by 0 - Z

16. Annexure - IV

5 Whether It is To be circulated To ... vs By This Writ-Application In The ... on 11 August, 2014 transplantation of human organ from "near relative" and Section 9(3) of the Act is regarding transplantation of human organ ... organ transplantation team for carrying out transplantation operation shall not be a competent authority of the transplant hospital

- Gujarat High Court

Cites 9 - Cited by 0 - Full Document

Mrs. N. Ratnakumari vs Unknown on 24 July, 2014 hospital, kidney transplantation operation was carried out in accordance with Andhra Pradesh Transplantation of Human Organs Act , 1995 (hereinafter ... Transplantation of Human Organs Rules, 1995 (hereinafter "1995 Rules") nor the Transplantation of Human Organs (Amendment) Act , 2011 (hereinafter

- Orissa High Court

Cites 55 - Cited by 0 - Full Document

M/S Fortis Hospital Ltd vs The Principal Secretary on 25 November, 2014

Kidney Transplantation. ZCKK is the regulating agency for transplantation of cadaver organs in Karnataka; whenever a cadaver organ is available ... organ' and not to 'organs'. He has pointed out by referring to the definition of the term 'human organ' contained

- Karnataka High Court

Cites 2 - Cited by 0 - Full Document

In The High Court Of Jammu And ... vs State Of J&K & Ors on 11 December, 2014 kidney transplantation. The committee as such rejects the donor for the transplantation in the instant case. The aforesaid decision ... modality. In the instant case, it is nobody's case that the organ would not be used for therapeutic

- Jammu & Kashmir High Court - Srinagar Bench

Cites 5 - Cited by 0 - Full Document

Syed Arifa & Anr vs State Of J&K; & Ors. on 11 December, 2014 kidney transplantation. The committee as such rejects the donor for the transplantation in the instant case." The aforesaid decision ... modality. In the instant case, it is nobody's case that the organ would not be used for therapeutic

- Jammu & Kashmir High Court - Srinagar Bench

Cites 6 - Cited by 0 - Full Document

Rajiv Chanana vs Dy. Director, Directorate Of ... on 19 September, 2014 Section 18 / 19 of the Transplantation of Human Organs Act, 1994. The investigation with respect to the alleged offences ... case (case no. 7/2008) for offences under various provisions of the IPC and Transplantation of Human Organs

- Delhi High Court

Cites 18 - Cited by 0 - Full Document

Dr Ramcharan Thiagarajan Facs vs Medical Council Of India on 3 April, 2014

Surgery. He is also said to be a Multi-organ Transplant Surgeon and was working as a consultant with ... contended that consent of a patient undergoing organ transplantation is not the mere signature on a form

- Karnataka High Court

Cites 39 - Cited by 1 - Full Document

Abhishek Anand Pandey vs State Of Punjab on 24 July, 2014 prepared false and forged documents, in order to transplant human organs, leaving the innocent persons in lurch. Therefore, taking into ... persuading and facilitating the organ transplantation, which was not legally permissible. Keeping in view the said fact and the involvement

- Punjab-Haryana High Court

Cites 6 - Cited by 0 - Full Document

- Dr. Raj Singh Tewatia vs State Of Haryana on 27 January, 2014

Jindal, DAG, Haryana. **** SURINDER GUPTA, J. (ORAL) Heard. The case bearing FIR No.30 dated 15.03.2013 was initially registered ... Section 34 IPC and Section 18 of the Transplantation of Human Organs Act, 1994 (in short

- Punjab-Haryana High Court

Cites 4 - Cited by 0 - Full Document

Reliance General Insurance ... vs Raj Kumar S/O Sh. Balwan, Resident ... on 12 March, 2014 referred to where the respondent was diagnosed as a case of dengue. The perusal of the documents show that ... Major organ transplant, Stroke, Aorta graft surgery, Paralysis and Primary Pulmonary Arterial Hypertension. 14. In the instant case the actual

State Consumer Disputes Redressal Commission

Cites 1 - Cited by 0 - Full Document

17. Annexure - V

Union of India vs Ashok Kumar Sharma on 28 August, 2020

Supreme Court of India Union of India vs Ashok Kumar Sharma on 28 August, 2020

- Supreme Court of India

Cites 217 - Cited by 0 - Full Document

Vivek Kumar vs The State Of Bihar And Ors on 6 March, 2020 agreed to donate his kidney for transplantation. The transplantation of human organs and tissues is governed by the Transplantation ... organs (permissible between near relatives only)." Rule 19 of the Rules reads as under:- "19. Procedure in case of transplant

- Patna High Court - Orders

Cites 0 - Cited by 0 - Full Document

• P. Sankar vs The Authorisation Committee ... on 16 October, 2020 required under the Transplantation of Human Organs and Tissues Act, 1994 pertaining to the case of the first petitioner ... that the Authorisation Committee (Transplantation) is scheduled to have its meeting on 21.10.2020 and the case of the petitioners

- Madras High Court

Cites 1 - Cited by 0 - Full Document

Kanchan Ramkrushana Nanaware vs The State Of Maharashtra on 4 November, 2020 wait-listed for the purpose of transplantation of organs and, in case of the Applicant, heart and lungs, a protocol ... several tests so as to ascertain the feasibility of transplantation and this would require a constant monitoring over the patient

- Bombay High Court

Cites 0 - Cited by 0 - Full Document

WP(C)/36242/2020 on 22 December, 2020 Certificate of Registration granted under Transplantation of Human Organs Rules, 1995, the words "related transplantation only" stands deleted from ... terms of the Transplantation of Human Organs and Tissues Act, 1994 and Transplantation of Human Organs Rules

- Orissa High Court

Cites 0 - Cited by 0 - Full Document

Roohi Khan & Another vs State Of U.P. Through Prin. Secy. ... on 19 February, 2020 Transplantation of Human Organs and Tissues Act, 1994 (hereinafter referred to as 'the Act of 1994'). It is a case ... exist in the present case. As per Rules of the Transplantation of Human Organs Rules, 2014 framed under

- Allahabad High Court

Cites 5 - Cited by 0 - Full Document

WP(C)/10246/2020 on 6 May, 2020 Certificate of Registration granted under Transplantation of Human Organs Rules, 1995, the words "related transplantation only" stands deleted from ... terms of the Transplantation of Human Organs and Tissues Act, 1994 and Transplantation of Human Organs Rules

- Orissa High Court

Cites 0 - Cited by 0 - Full Document

WP(C)/8827/2020 on 11 May, 2020

Certificate of Registration granted under Transplantation of Human Organs Rules, 1995, the words "related transplantation only" stands deleted from ... terms of the Transplantation of Human Organs and Tissues Act, 1994 and Transplantation of Human Organs Rules

- Orissa High Court

Cites 0 - Cited by 0 - Full Document

WP(C)/11217/2020 on 5 June, 2020 under the Transplantation of Human Organ Rules, 1995 they are only authorized to recommend cases of related transplantation only. Learned ... Transplantation of Human Organs and Tissues Act, 1994 and the Transplantation of Human Organs Rules, 1995. In view

- Orissa High Court

Cites 0 - Cited by 0 - Full Document

WP(C)/28163/2020 on 24 November, 2020

Certificate of Registration granted under Transplantation of Human Organs Rules, 1995, the words "related transplantation only" stands deleted from ... terms of the Transplantation of Human Organs and Tissues Act, 1994 and Transplantation of Human Organs Rules

- Orissa High Court

Cites 0 - Cited by 0 - Full Document

18. Annexure – VI

Shambhu Nath @ Shambhoo Nath vs The State Of Bihar on 26 February, 2021

Transplantation of Human Organ Act, 1994 and Clause 6FC(111) of Transplantation of Human Organ Rules, 1995. We thus told ... case of a living person authorizes removal of his organ during his life time for being transplanted into the body

- Patna High Court

Cites 10 - Cited by 0 - Full Document

Ayishamol V vs The State Of Kerala on 10 March, 2021 complied with the transplantation of Human Organs and Tissues Act 1994 and the transplantation of Human Organs and Tissues Rule ... Chief Consultant Nephrologist and Transplant Physician" 14. Section 9 of the Transplantation of Human Organs and Tissues

- Kerala High Court

Cites 30 - Cited by 0 - Full Document

S.Syed Ibrahim vs The Authorisation Committee ... on 27 April, 2021

case of transplant other than near relatives:- Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors. 11. The 1st petitioner

- Madras High Court

Cites 1 - Cited by 0 - Full Document

S.Syed Ibrahim vs The Authorisation Committee ... on 27 February, 2021

Case of transplant other than near relatives:- Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors. 11. The 1st petitioner

- Madras High Court

Cites 1 - Cited by 0 - Full Document

S.Syed Ibrahim vs The Authorisation Committee ... on 27 February, 2021

Case of transplant other than near relatives:- Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors. 11. The 1st petitioner

- Madras High Court

Cites 1 - Cited by 0 - Full Document

T.Divya.... 1St vs The Authorisation Committee ... on 16 March, 2021

case of transplant other than near relatives:- Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors

- Madras High Court

Cites 1 - Cited by 0 - Full Document

S.Ramamoorthi vs State Of Tamil Nadu on 25 February, 2021

Case of transplant other than near relatives:- Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors. 10. The petitioner is seeking

- Madras High Court

Cites 1 - Cited by 0 - Full Document

P.Damayanthi 1St vs The Authorisation Committee ... on 25 February, 2021

Case of transplant other than near relatives:- Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors. 11. The 1st petitioner

- Madras High Court

Cites 1 - Cited by 0 - Full Document

F.Irfanudeen.... 1St vs The Authorisation Committee ... on 25 February, 2021

Case of transplant other than near relatives: - Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors. 11. The 1st petitioner

- Madras High Court

Cites 1 - Cited by 0 - Full Document

R Anbanandhan 1St vs The Authorisation Committee ... on 25 February, 2021

case of transplant other than near relatives:- Where the proposed transplant is between other than near relatives and all cases ... Level Authorisation Committee can grant permission for Organ transplantation in the case of unrelated donors. 11. The 1st petitioner

- Madras High Court

19. Annexure – VII

- Dr. R. Chandrashekara vs State Of Karnataka on 4 January, 2022

DIRECTOR GASTRO ENTROLOGY SCIENCES & ORGAN TRANSPLANTATION INSTITUTE VICTORIA HOSPITAL COMPOUND FORT, BENGALURU-560 002 ... RESPONDENTS (BY SRI. S. RAJASHEKARA ... organs of the donors of trauma accident and it requires special centre to handle the organs transplants

- Karnataka High Court

Cites 1 - Cited by 0 - Full Document

Dillip Kumar Nayak vs State Of Odisha & Ors on 17 March, 2022

Registration granted under Transplantation of Human Organs Rules, 1995, the words "related transplantation only" stand deleted from ... terms of the Transplantation of Human Organs and Tissues Act, 1994 and Transplantation of Human Organs Rules

- Orissa High Court

Cites 0 - Cited by 0 - Full Document

Grant Medical Foundations Ruby ... vs State Of Maharashtra Thr. ... on 20 April, 2022

Present case, transplant was done only after receiving approval from the Regional Authorisation Committee for organ transplant. He submits that

- Bombay High Court

Cites 0 - Cited by 0 - Full Document

Minor Vishvaadharshan Allu vs The Secretary to Government on 25 February, 2022 liver transplantation, which is required on emergency basis. 3. Under Section 9 of the Transplantation of Human Organs and Tissues ... Transplantation of Human Organs and Tissues Act, 1994, reads as follows: "9.Restriction on removal and transplantation of [human organs

- Madras High Court

Cites 3 - Cited by 0 - Full Document

Meena Devi vs The State of Madhya Pradesh on 15 February, 2022

Mandate of Section 9 of the Transplantation of Human Organs and Tissues Act, 1994 (for short hereinafter referred ... such approval can be passed. 4. The Transplantation of Human Organs Rules, 1995 (for short hereinafter referred

- Madhya Pradesh High Court

Cites 2 - Cited by 0 - Full Document

Karupannan Balu Swamy Kumar vs State Of Telangana on 18 January, 2022

Sections 18 and 19 of Transplantation of Human Organs and Tissues Act, 1994 and Section 8 of the Criminal ... Amendment) Act, 2013. 2. The case of prosecution is that Accused No.1 is the son of the de facto

- Telangana High Court

Cites 8 - Cited by 0 - Full Document

M.A.Sheriff,Cumbum,Theni Dist. vs Apollo Hospital Specialty & 2 ... on 28 February, 2022

State Consumer Disputes Redressal Commission M.A.Sheriff,Cumbum,Theni Dist. vs Apollo Hospital Specialty State Consumer Disputes Redressal Commission

Cites 3 - Cited by 0 - Full Document

Chanda Rani Akhouri . vs M.S.Methusethupathi . on 20 April, 2022

Being contemplated under the provisions of the Transplantation of Human Organs and Tissues Act, 1994 (hereinafter ... transplant of the patient have conducted more than 900-1000 renal transplants with good results, but there are cases where

- Supreme Court of India

Cites 6 - Cited by 0 - Full Document

Hari Sankaran vs Serious Fraud Investigation ... on 19 April, 2022

Similar is the situation in the present case. In the instant case, despite charge-sheet having been filed, no cognizance ... context of the Transplantation of Human Organs Act 1994, held in clear terms that only because the Court itself took

- Bombay High Court

Cites 37 - Cited by 0 - Full Document

The State Of Madhya Pradesh vs Hallu @ Imrat Singh Lodhi on 12 May, 2022

Dismissed. 6.1 It is further lamentable that in a case like this, the State instead of punishing its own employees ... MPSSLSA shall donate this amount to the Permanent Artificial Organ Transplantation Centre, Netaji Subhash Chandra Bose Medical College, and Jabalpur

- Madhya Pradesh High Court

Cites 5 - Cited by 0 - Full Document

20. Annexure- IX

20.1. FORMS

The transplantation of human organs act, 1994 (Central Act 42 Of 1994)

20.2. FORM -5

[(See rule 4(2) (a)]

I S/o, D/o, W/o aged resident of in the presence of persons mentioned below hereby unequivocally authorise the removal of my organ/organs, namely, from my body after my death for therapeutic purposes.

Dated.....

Signature of the Donor

1. Shri/Smt./Km..... S/o, D/o, W/o
..... aged resident of
.....

(Signature)

2. Shri/Smt./Km.....
..... age resident of..... is a near relative to the donor
as.....

Dated.....

20.3. FORM -6

[(See rule 4(2) (b)]

I.....s/o,d/o,w/o.....aged..... resident
of.....having lawful possession of the dead body
Sri/Smt/km.....s/o,d/o,w/o.....aged.....of.....
.....having} known that the

deceased has not expressed any objection to his/her organ/organs being removed for therapeutic purposes after his/her death and also having reasons to believe that no near relative of the said deceased person has objection to any of his/her organs being used for therapeutic purposes authorize removal of his/her body organs,namely.....

Dated..... Signature

Place Person in lawful possession of the dead body

Address.....

20.4. FORM - 8

[(See rule 4(3) (a) and (b)]

We the following members of the Board of medical experts after careful personal examination hereby certify that Shri/Smt/Km.....aged about. Son of/wife daughter of.....resident ofis dead on account of permanent and irreversible cessation of all function of the brain stem. The test carried out by us and the findings therein are recorded in the brain stem death Certificates annexed hereto.

Dated..... Signature.....

- R.M.P Incharge of the Hospital in which brain-stem death has occurred.
• R.M.P. nominated from the panel of names approved by the Appropriate Authority
• Neurologist / Neuro Surgeon nominated from the panel of names approved by Appropriate Authority.
• R.M.P. treating the aforesaid deceased person BRAIN STEM DEATH CERTIFICATE

20.5. PATIENT DETAILS

1. Name of the Patient Mr/Ms. S.O./D.O./W.O.

Mr. Sex..... Age

2. Home Address

.....

3. Hospital Number

.....

4. Name and Address of next of kin or

person responsible for the patient (if none

exists, this must be specified)

.....

.....

5. Has the patient or next of kin agreed.....

to any transplant ?

6. In this a police Case? Yes.....No.....

(A) PRE-CONDITIONS:

Diagnosis : Did the patient suffer from any illness or accident that led to irreversible brain damage? Specify details

.....

.....

Date and time of accident/onset of illness

Date and onset of no-responsible coma

Finding of Board of Medical Experts : (i) The following reversible causes of coma have been excluded:

Intoxication (Alcohol)Depressant Drugs

Relaxants (Neuromuscular blocking agents)

First Medical Examination Second Medical Examination

1st 2nd 1st 2ndPrimary hypothermia

Hypovolemic shock

Metabolic or endocrine disorders

Tests for absent of brain stem functions

- Coma
- Cessation of spontaneous breathing.
- Pupillary Size
- Pupillary light reflexes
- Doll's head eyes movement
- Corneal reflexes (Both Sizes)
- Motor response in any cranial nerve distribution, any responses to simulation of face limb
- of trunk
- Gag reflex,
- Cough (Tracheal)
- Eye movements on caloric testing bilaterally

- Apnoea tests as specified
- Were any respiratory movements seen?

Date and Time of first testing

Date and Time of second testing

This to certify that the patient has been carefully examined twice after an interval of about six hours and on the basis of findings recorded above, Mr/Mrs. is declared brain-stem dead.

- Medical Administrator Incharge of the hospital
- Authorised Specialist
- Neurologist/ Neuro Surgeon
- Medical officer treating patient.

NB. I. The minimum time interval between the first testing and second testing will be six hours.

II. No.2 and No.3 will be co-opted by the administrator incharge of the hospital from the panel of experts approved by the appropriate authority.

20.6. FORM 9

(See rule 4(3) (b))

I, Mr/Mrs.....son of / wife of.....resident of.....

hereby authorise removal of the organ/organs namely.....for therapeutic purposes from the dead body of my son/daughter . Mr/Ms.....aged.....whose brain stem death has been duly certified in accordance with the law

Signature.....

Name.....

Place.....

Date.....

Compliance with ethical standards

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Disclosure of conflict of interest

There is no conflict of interest

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