

Organ Donation in India

Apurva Prabhakar

Chief-Coordinator, Gift Your Organ Foundation, India.

ABSTRACT: *Organ donation in India is not a commonplace topic. In fact majority of the Indian population continues to be unaware about the concept of organ donation. This is proved by the dismal rate of organ donation in India, less than one in a million. Apart from this, despite having a stringent legislation, illegal trade in human organs continues to thrive in India. Legislations cannot solve the problem unless there is more awareness about the benefit of organ donation. Organ donation awareness and the illegal trade in human organs are inter-linked. Awareness about organ donation will make more people sign up to be organ donors, this will go a long way in bridging the demand and supply gap in organs. If the demand-supply gap is bridged, the illegal market can no longer survive. Therefore, first something must be done in order to increase organ donation awareness, only then the issue of illegal organ trade be addressed completely. On the international front countries are employing various strategies to popularize organ donation. India, must take the cue and work towards a society where organ donation is the norm.*

Keywords: *Organ Donation, Organ Swap, Organ Transplantation*

I. INTRODUCTION

Organ donation has been garnering a lot of attention in the contemporaneous times. The growing disparity in the demand and supply of organs warrants the attention it is getting. If the demand and supply gap needs to be bridged, organ donation needs to become the norm. However, in a country like India, organ donation awareness continues to evade majority of the population. In India nearly 500,000 people die every year because of the non-availability of organs. This is a heart-wrenching number given the potential donor pool that could exist, if every person decided to donate his/her organ.

This article is divided into four sections; in the first section it seeks to take an analytical look at the current organ donation legislation in India. The law, passed in the year 1994, addresses organ donation, transplant as well as organ trafficking. The article seeks to understand if the legislation has been successful in preventing organ trafficking and to analyze its contribution in promoting organ donation.

The second section of this article delves into the possible reasons for the low rate of organ donation in India. The third section deals with the international scenario with respect to organ donation. Finally, in conclusion the fourth section deals with the way forward for India insofar as organ donation is concerned.

II. THE TRANSPLANTATION OF HUMAN ORGANS ACT

The primary legislation that deals with organ transplantation and organ trafficking is the Transplantation of Human Organs Act (THOA). Passed in the year 1994, it has been amended several times in order to suit the needs of the organic society.

THOA was passed with the objective of streamlining the transplantation procedure as well as to curb the illegal trade in organs. The purpose for enactment of the Legislation is stated thus: “An Act to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto.” The objective of the Act itself makes it clear that the organs may be removed, stored or transplanted for therapeutic purposes only. [1]

From the time the Act was passed in 1994, till date the Act has been amended so as to provide better protection against illegal organ trade and to make organ transplant as convenient as possible. The most important Amendment was effected in the year 2011. The 2011 Amendment criminalized the illegal trade in human organs by imposing a jail term of up to 10 years and a fine of up to Rs. 1 crore. It was hoped that the stringent punishment imposed by this Amendment would discourage people from indulging in the illegal trade of organs. However, 6 years since the Amendment, it is clear that the stringent punishment has not deterred the illegal trade in human organs. According to a World Health Organization estimate nearly 2000 Indians sell their kidney every year. [2]

This is despite that fact that THOA makes it illegal for any person to sell his organ. In fact THOA allows only near relatives of the person in need of an organ to make a live donation. The donor has to prove his relationship with the recipient to the Authorization Committee. Insofar as live donations are concerned, in case the person in need of an organ does not have a near relative then the donor has to prove to the Authorization

Committee that his donation is purely altruistic, stemming from his/ her affection for the recipient and that there is no financial concern involved. [3]The procedure for live donation is surely long-winded and consumes more time than what one would want in the case of organ transplants. However, the procedure is a must in a country where organ trafficking is rampant. However, despite such safeguards illegal trade in human organs continues to thrive.

The question that arises then is; despite having strong laws in place, why does the illegal trade in human organs still exist. There is a two-part answer to this question; one, the letter of law can do nothing to stop a crime unless there is a good enforcement mechanism. The enforcement of THOA needs to be streamlined and be made effective. There must be active vigilantes in order to stop organ trafficking at the ground level. Apart from this, the other reason is demand-supply gap. Organ donation awareness is still elusive in India. Despite the population (and the significantly huge potential donor pool) the number of organ donors in India is *less than one in a million*. [4] This is a disheartening number given the population in India. As long as there is growing gap between the demand for organs and its supply, illegal trade in human organs is bound to thrive. First, a legislation needs to be put in place to popularize the idea of organ donation. Make people aware of the concept and bust the myths surrounding organ donation. That is the only step that will ensure people sign up to be organ donors. If the demand supply gap is bridged, the illegal market will automatically cease to exist.

Apart from this, the other feature added by the 2011 Amendment to the THOA is making the swapping of vital organs legal. This means that if a donor's organ does not match the relative but matches another recipients and vice-versa the organs may be swapped. This is a major step in addressing the issue of organ shortage as most donors are rejected as they organ is not medically compatible with the recipient. For instance, in the United States 625 paired donations took place only in the year 2016. [5]. Allowing organ swapping was indeed a laudable move.

The importance of THOA in dealing with organ transplants and streamlining the procedure for conducting the transplant and in trying to control the illegal trade in human organs cannot be denied. However, only effective implementation of the law will ensure that it fulfills the purpose for which it was enacted. Apart from that there needs to be a defined process for popularizing the concept of organ donation. As noted above, in India less than one in a million donate their organs, a part of this dismal number may be attributed to the fact that most people continue to remain unaware of organ donation; they harbor misconceptions of the supposed ill-effects of organ donation. First widespread awareness campaigns must be conducted to bust the myths surrounding organ donation. This will help in encouraging people to become organ donors, thereby reducing the demand supply disparity.

III. LESS THAN ONE IN A MILLION

As has already been noted India has a long way to go in terms of the rate of organ donation. However what are the reasons for such a low rate of organ donation in India? The reasons are many; one primary reason is ignorance. Organ donation is not a widely discussed topic. Majority of the population has no understanding of the concept of organ donation. They are probably made aware of it only when one of family members are critical, in which case, in most instances their grief would not allow them to make a practical decision. To avoid this scenario, organ donation must be widely publicized. People must be made to think about it. Reaching out to people and making them understand about organ donation will go a long way improving the rate of organ donation.

Another reason for the low rate of organ donation may be because of the myths surrounding organ donation. Most people harbor the myth that organ donation might disfigure the body. As common as this misconception is it is untrue in its entirety. Organ donation causes no disfigurement to the body whatsoever. After organs have been harvested the body of the deceased is returned to the family member in with complete dignity and respect. There is no disfigurement whatsoever. [6]

Another common misconception that people have is that some religions do not permit organ donation. However the fact remains that most major religions permit organ donation and in fact consider it to be a humanitarian act of giving.

These are just some of the reasons people refrain from being organ donors. Whatever the reason, there is just one solution; increase awareness about organ donation. Make people understand the real nature and process of organ transplantation. Educate people about organ donation and help them overcome the myths that have been harbored for years.

IV. INTERNATIONAL SCENARIO

There is no country in the world that has succeeded in eliminating deaths due to organ shortage. However, what some countries have succeeded in doing is improving the rate of organ donation and thus improving the overall rate of organ transplants. For instance in Spain, France, Austria and Belgium have a system of implied consent. This means that every person born in that country is automatically registered as an

organ donor. However, if a person so wishes, he or she may choose to opt out of being an organ donor by registering their choice in the National Registry. This is a laudable move as because of implied consent people are forced to think about organ donation.

Recently, in Malta a new law was enacted by which organ donation ceased to be a family decision. According to the new law organ donation is purely an individual decision. Also, the Organ Donation Registry has replaced the Donor Card system. According to statistics, since the enactment of the new law 2584 people have signed up as organ donors. [7]

In the United States organ swapping is making headway and helping in increasing the number of people whose lives are saved by organ transplantation. Usually the problem with organ donation is finding an organ donor who is medically compatible with the recipient. Organ swapping helps solve this problem by swapping incompatible donors and making compatible pairs. In the year 2016 alone, 625 paired donations took place in the US; this is the highest number ever recorded by the transplantation network. [8]

Two Senators in Nevada recently introduced a Bill in the Senate. If passed, this Bill will mandate organ donation to be taught in the schools in Nevada. [9] This is indeed a very practical move as knowledge about organ donation is best disseminated at the school level.

Internationally, a lot is being done to promote the cause of organ donation; hopefully it will soon become a global movement garnering international scrutiny.

V. CONCLUSION

Organ donation and transplantation is a topic that deserves a lot more attention than it is currently getting. As already mentioned, in India nearly 500,000 people die every year because of the non-availability of organs. So many of these deaths can be prevented if only people are made more aware about organ donation. Before addressing the illegal trafficking in human organs the Government must first address the dissemination of knowledge about organ donation. As one thing leads to another, if organ donation becomes the norm and every person donates his/her organs the demand and supply gap would be bridged, if the demand supply gap is bridged the illegal market will cease to thrive because there is no longer a demand for organs.

This paper aimed at bringing out the current scenario with respect to organ donation in India. In comparison with other countries India is still lagging behind in terms of all that can be done insofar as organ donation is concerned. Just enacting a Legislation will not serve the purpose, in order to uphold the spirit of law, its enforcement must be ensured.

On the international front, different countries are adopting a myriad of mechanisms to popularize the cause of organ donation. It is time India takes the cue and adopts some measures to further the cause of organ donation. First, a modus operandi must be put in place; it must clearly set out the objective to be achieved and the means by which it can be achieved. A concrete and clear law that addresses the root of the problem is the need of the hour. Organ donation even in the 21st century continues to be a global problem. Universal action in the form of a global solution is required. Nations must collaborate to solve the problem before it becomes a crisis.

REFERENCES

- [1]. The Transplantation of Human Organs Act, 1994, <http://notto.nic.in/WriteReadData/Portal/images/THOA-ACT-1994.pdf>
- [2]. AshwaqMasoodi, Why Organ Trafficking Thrives in India, <http://www.livemint.com/Politics/pxj4YasmivrvAhanv6OOCJ/Why-organ-trafficking-thrives-in-India.html>.
- [3]. The Transplantation of Human Organs Act, 1994, <http://notto.nic.in/WriteReadData/Portal/images/THOA-ACT-1994.pdf>
- [4]. About Organ Donation, <http://timesofindia.indiatimes.com/aboutorgandonation.cms>
- [5]. Naseem S Miller, Central Floridans Part of 8 Person Kidney Exchange, <http://www.theledger.com/news/20170212/central-floridans-part-of-8-person-kidney-exchange/1>
- [6]. Health and Senior services, Myths and Misconceptions, <http://health.mo.gov/living/organdonor/myths.php#myth3>
- [7]. Tim Diacono, 2584 people sign up as organ donors since enactment of new law, http://www.maltatoday.com.mt/lifestyle/health/74248/2584_sign_up_as_organ_donors_since_enactment_of_new_law#.WKPuqyN962w
- [8]. Naseem S Miller, Central Floridans Part of 8-Person Kidney Exchange, <http://www.theledger.com/news/20170212/central-floridans-part-of-8-person-kidney-exchange/1>
- [9]. Sandra Chereb, Law Would Require Organ Donation to be Taught in Nevada Schools, <http://www.reviewjournal.com/news/politics-and-government/nevada/law-would-require-organ-donation-be-taught-nevada-schools>