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CRITICAL ANALYSIS ON ORGAN TRANSPLANTATION LAWS

~ *Anannya Mohanty*

The origin of organ transplantation in India is in the historic breakthroughs in the art of surgery in ancient India, and the history records the genius of application of the transplant technique in India to the great Indian surgeon Susruta¹. The ability of Susruta to perform his reconstructive surgeries especially nasal surgeries which involved the transfer of the tissues to other parts of the bodies known as donor sites set the basic principles of the tissue transplantation though they are totally different to the current advanced techniques of transplantation of organs². The natural creativity of Indian doctors promoted the ones to come and planted the seeds of learning to perform surgery to heal life and functionality to ailing individuals. However, it was only after the second half of the twentieth century that real organ transplantation in its modern sense came into view and this was supported by developments in such areas as immunology, advances in surgical technique, and an increase in global dissemination of medical knowledge.³

The Indian experience in the modern organ transplantation was a milestone in the world with the first ever successful kidney transplant in the world in 1954 by Dr. Joseph Murray in the USA. This tremendous scientific breakthrough made the Indian medical community attempt such feats. In 1971, in the Christian Medical College, Vellore, the first kidney transplant in India was performed, becoming a new era of Indian medicine and making a contrast to the concepts of immunosuppression, tissue matching, and post-transplant care, which were to be strictly controlled and monitored⁴. At the beginning of next few decades, transplantation was a novel and intermittent procedure due to unavailable resources, poor expertise and the lack of clear legal framework to facilitate and regulate the new profession at the time. With the growing success rate, the demand of transplant organs went up and this created fertile ground to

¹ Sushruta Samhita, ca. 6th Century BCE; Sushruta: The Father of Indian Surgical History, PMC, 2024

² Thieme Connect, 2024; Columbia Plastic Surgery, 2015

³ The Susruta Project, Univ. of Alberta; 9-Point Evolution of Organ Transplantation in India, 2024; (List of Organ Transplant Donors and Recipients, Wikipedia, 2006

⁴ Evolution of Organ Transplantation in India, 2024

perpetrate far too many ethical malpractices, the worst of them being the so-called kidney trade rackets that were popular in the 80s and the 90s⁵. A set of trailblazer cases such as the Tamil Nadu scandal in 1994⁶ brought out the illegal underbelly of the business as organized syndicates invaded the vulnerable groups, who were predominantly the poor and illiterate and coerced them into selling their kidneys illegally⁷. These scandals made it necessary to introduce the statutory the introduction of illegal organ trade, in which the exploitation and health risk were overwhelmingly involved, compelled the country to initiate the national discussion on a large scale.⁸

The public and professional debate was overwhelmed by ethical, medical, and legal issues: How to obtain voluntary and truly informed consent? What to do in order to protect vulnerable groups? What could be done to facilitate selfless organ donation without buy and sell deals? What about the way to express death, especially brain death, in a multicultural society? These questions, and the furious global interest the Indian surrogacy scandals elicited, caused a legislative response, in the form of the Transplantation of Human Organs Act (THOA), 1994⁹. THOA was a landmark legislation that attempted to bring about regulation of organ transplantation in India in the sense that it would bring about regulation of removal, storage, and transplantation of human organs as a treatment option; prohibit commercial trade in human organs; and promote voluntary and altruistic associated donation of human organs¹⁰.

In essence, the Act is subsequently so good in outlining such important terms as recipient, donor, hospital, brain death, and next-of-kin that any ambiguity that had plagued earlier efforts at regulation is practically gone¹¹. The Act came into force over all the Indian Union Territories and those states who accepted its provisions and it was the centre point of reference regarding transplant work of the country. Under the 1994 Act provisions the transplant operation is possible only after due authorization and consent, which under the law, informed and voluntary consent is constitutionalized and thus lies at the centre of the law¹². The law draws a strict line between living and cadaveric (death) donations: living donation may only be done by close relatives parents, siblings, children or spouse except upon special permission, while cadaveric

⁵ Indian J. Med. Ethics, 2011; Organ Trade in India: Law and Policy, 2005

⁶ Rajagopal v. State of Tamil Nadu, (1994) 6 S.C.C. 632 (India)

⁷ Organ Trade in India: Law and Policy, 2005

⁸ Organ Trade in India: Law and Policy, 2005; THOA, 1994

⁹ Transplantation of Human Organs Act, 1994 (India); Evolution of Organ Transplantation in India, 2024

¹⁰ THOA, 1994 §§ 2-5

¹¹ THOA, 1994 § 2; Bhatt & Joshi Associates, 2025

¹² THOA, 1994 § 3

donation may be made by next-of-kin if permission is given after death. The rigorous procedures involved in the consent acquisition and documentation are precisely aimed to exclude the option of coercion and provide adherence to the rules of ethical standards.¹³

Brain death a term that had no previous cultural or legal history in India was legally defined as a legal term in the Act to facilitate donation of organs of cadavers. The Act also stipulates certification processes of brain death by having the involvement of neurologist, neurosurgeon or in case neither of the two is present the involvement of other qualified persons is available. This was a significant step that brought the Indian law closer to the international clinical practice and enabled a cadaveric donation program that would have otherwise been dwarfed by stringent requirements to determine death¹⁴. Another requirement of the THOA is the accreditation and registration of every hospital which performs any transplant and retrieval procedure. The hospitals must demonstrate the availability of qualified staff, facilities and few guidelines and must be subjected to periodic checking and reporting by Proper Authorities the authorities established under the Act. This does not only give an institutional accountability but also enhances patient security and also centralization of information regarding organ donation and transplantation activity.¹⁵

Disciplinary measures can be given to infractions and the guilty ones can be punished by means of authorized authorities issuing and renewing licenses, inspecting and overseeing hospitals, investigating possible violations, and penalizing wrongdoers. These powers are aided with advisory and authorization committees. The Authorization Committees consider the cases of donation between non-related persons and the relations, motives, paperwork, and the risk of commercial transaction, which is in accordance with the conservative view of the law on the non-related transplantation¹⁶. Technical committees composed of experts are called Advisory Committees and review the technical, legal, and ethical issues and update protocols where necessary. The most important part of THOA is the express and strict penal provision on commercial dealing with organs sale, purchase, or advertisement of human organs is cognizable and non-bailable offence punishable by imprisonment and huge fines. The legislation, in its turn, aims to eliminate economic exploitation of the potential donors and organized trafficking.

¹³ THOA, 1994 §§ 5-7; THOA, 1994 § 2(d) and (e); THOTA, 2011 Amendments; Indian Ministry of Health Guidelines; Bhatt & Joshi Associates, 2025

¹⁴ Transplantation of Human Organs Act, 1994, § 2(d)-(e); Brain death and Organ Donation in India, PMC, 2016

¹⁵ THOTA Amendment Rules, 2011; Kerala State Organ Transplant Organization Guidelines, 2024; Indian Journal of Medical Ethics, 2018; THOA, 1994 §§ 10-12; Ministry of Health and Family Welfare Guidelines, 2014

¹⁶ THOA, 1994 §§ 13-15; Ministry of Health guidelines, 2014

The Central Government has the legislative authority to issue regulations, thus that timely evidence-based revision can be made to close gaps in medical or policy since the law has been renewed in 2014 to allow more transplantation of tissues and also stricter regulatory measures¹⁷.

Particularly interesting is the fact that the method of consent that has initially been implemented by THOA is the opt-in form of consent: organ donation at death is only done when individuals gave explicit consent before death, or when family members consent to it at the time of death. This regime opposes opt-out regimes in most European countries, in which agreement to organ harvesting is assumed unless signed in an objection book¹⁸.

The position of India has been a thorn on the flesh of policy circles in the sense that the demand gap is gigantic in nature, and there are problematic issues related to getting families to accept the idea of donating in emotionally desperate situations. Recent policy think tanks and expert committees, including NITI Aayog, have discussed it as an opt-out regime to boost organ donation rates, although, until 2025, the law is rigidly opt-in, as it is culture-sensitive, population-prepared, and respects individual rights¹⁹. The opt-in/opt-out option is actually among state intrusion/autonomy: opt-in plans require the donor to take a pro-active enrollment step in order to maintain autonomy and avoid state intrusion claims, but have a lower cadaveric donation. The opt-out programs are founded on the presumed consent principle, which increases the rates of donations and, however, the respect to body integrity concerns, especially when the levels of personal education and adherence to health care systems are low²⁰. The experience of other countries has also shown that opt-out schemes alone will not achieve higher rates unless they are supported with supplementary measures, such as effective public education, open registry arrangements and family involvement²¹.

With the support of later amendments, THOA has been moving towards easing of donor evaluation, increased accountability, and ethical culture of transplantation²². It has been reformed since 2011 to enable certification procedures of brain death through the extension of the certification specialist team to anesthetists or intensivists, such as in case of the

¹⁷ THOA, 1994 §§18-20; Transplantation of Human Organs and Tissues (Amendment) Act, 2014

¹⁸ THOA, 1994; NITI Aayog Policy Brief, 2021

¹⁹ Press Information Bureau, 2025; New Indian Express, 2025; Organ Donation in India – Challenges and the Way Forward, 2025

²⁰ WHO Guiding Principles, 2010; Organ Transplantation Review, 2024

²¹ NITI Aayog Policy Brief, 2021; Transplantation of Human Organs Act, 1994 (India)

²² Organ Donation Studies, 2023

unavailability of neurologists²³. They also have made mandatory interrogation by transplant coordinators in intensive care units in case of potential donor identification, mandatory registration of tissue banks, stricter case protocols of foreign recipients, and more caution on case of donation of minors or mentally challenged individuals²⁴. Other developments in the last several years have included the creation of National Organ and Tissue Transplant Organization (NOTTO), central and regional organ sharing registries, computerization of the allocation and matching efforts and attempts to create public awareness through education programs and NGO participation.

Despite all this splendid progress, however, the use of THOA in India is intermittent and widely uneven by state as a by-product of the uneven adoption and local legislation²⁵. The country also experiences a massive demand and supply gap with minimum realization of the demand of organs per year. There are still problems in the state of low awareness of the people, religious or cultural taboo, and delays during the procedures that demoralizes possible donors and families. Along with it, an urgent requirement to fully operationalize national and state-level registries, enhance the certification of brain death and remove bureaucracy in the way of organ donation is a pressing need. The self-reforms that India has been trying are all juggled: on the one hand, more or less respectful of the donors, on the other, trying to give an expeditious, fair, and transparent delivery of organs to save the lives of countless people. The legislative paradigm of law found in the Transplantation of Human Organs Act, 1994, and later metamorphic amendments, is a permanent testament to the Indian quest to find the right balance between these sometimes antagonistic duties, taking little but convincing steps towards a modern, moral, and effective organ transplant regime.²⁶ The role that judicial precedents have played in the enactment and enforcement of India organ transplantation act has provided interpretative certainty and procedural safeguard. The years have seen litigation in the High Court and Supreme Court on the most controversial questions in certification of brain death, scope of consent, validity of unassociated organ donation, and how to overcome the exploitation and trafficking to become a statutory compliance issue as well as state and hospital practice, all in the wider constitutional context²⁷. The best-known example of judicial

²³ WHO Guiding Principles, 2010; Organ Transplantation Review, 2024

²⁴ THOTA, 2011; NOTTO Policy, 2024; NOTTO, Ministry of Health, 2025

²⁵ Press Information Bureau, 2025; New Indian Express, 2025

²⁶ Press Information Bureau, 2025; NOTTO Annual Report, 2024; Vision IAS News, 2025; PACE Hospital, 2025; NOTTO, 2025; Indian J. Med. Ethics, 2018

²⁷ Transplantation of Human Organs Act, 1994; Amendments 2011 and 2014

intervention is the June 2024 decision of the Madras High Court²⁸ to allow organ donation between non-relatives on the basis of altruism, rather than the assumed monetary bribe.

The court here expressly annulled the rejection of approval by the Authorization Committee, and ordered its approval without qualification, and with the express suggestion that lifesaving transplants must never be refused in the name of procedural rigidity or discrimination in the name of class. The case acknowledged actual consent and will of the donors, and it has paved the way to compassionate review to hasten transplants in emergency cases. It also demonstrated how the application of judicial monitoring would enable the consistent interpretation and implementation of the Transplantation of Human Organs and Tissues Act (THOTA) and also provide a consistent and sensitive approach rather than a suspiciously and time consuming one.²⁹

The judicial system on the interpretation of brain death has also reinforced the legal system through the Supreme Court rulings on the definition of brain death. To counter the clans of radical uncertainty over the constitutionality and enforceability of brain death certification, the Supreme Court has made numerous reiterations over the sovereignty of Parliament: irretrievable brain-stem inactivity was discovered to be legal death transplantable, as stated in Section 2(d) and 2(e) of THOTA³⁰. The Court distinguished the ethical issues representing petitioners (e.g. on the allegations of wrong certification or discrimination against poor patients) and the purpose of the legislation and ordered the medical negligence to be addressed separately and requested parliamentary reforms, rather than courts³¹. Remarkably, the Court in a case in Court came out in support of verification of brain death by a hospital, where the Court held that the hospital strictly followed the provisions of the statute and it was not guilty of the accusations of improper harvesting³². Article 21 on the right to life and health has also been intervened by high courts with the observation that early access to organ transplants is constitutional right. The Court sought sensible measures like segregated registration of future transplant-needs, and constituting the role of THOTA in regulating regulatory to constitutional protection and renewing patient welfare over bureaucratic reluctance.³³

²⁸ Just Rights for Children Alliance & Ors. v. State of Tamil Nadu & Ors., (2024) 2024 INSC 716 (India); Dr. S. Ganapathy v. Union of India, (2025) [India] (Sup. Ct. Sept. 8)

²⁹ *Supra* note 28

³⁰ Supreme Court of India, 2015; Indian Journal of Medical Ethics, 2018

³¹ Bhatt & Joshi Associates, 2025

³² Dr S Ganapathy v. Union of India, W.P.(C) No. 2449/2021, (Ker. H.C., Feb. 10 2025)

³³ Common Cause v. Union of India, (2018) 5 S.C.C. 1 (India)

In public interest litigation, the Supreme Court ordered the Centre to seek status reports of states to iron out discrepancies in implementation and testing gender imbalances: the Court reported an upsurge in female donors but greater levels of male recipients, this is a matter that has deep social and regulatory origins. By refining statutory procedure authorizations, record-keeping, auditing and by simultaneously making itself adaptive and humane, judicial review has put the State and hospital administrators in a closer relationship; lest it should be accused of undue hardship on patients and their families. Courts regularly face problems related to consent: what is considered to be a real altruistic and forced donation, the protection of vulnerable groups, and the limitation of commercial organ trafficking. Judicial oversight has become instrumental in preventing trafficking and in promoting more distributive, fast transplantation of the law³⁴.

Ethical and Societal Issues.

Ethics of organ transplantation is as abundant as it is powerful and are typically centered on consent, commodification, exploitation, fair allocation, religious practice and social trust. The concept of informed consent as a prerequisite is unsound: the decision to donate an organ to a loved one made by relatives on behalf of a deceased is most often rather emotional, not to mention that in most dwarf hospitals, there is also a lack of professionalism³⁵.

Less than perfect knowledge, imprecise definition of death itself (especially brain death), and lack of medical communication may make the consent compelled and uninformed. Living and cadaveric transplantation is a two-fold problem. Motivating cadaver donation was among the significant aims of THOTA, yet cultural and religious outrage, under-reporting of brain-stem death and overall ignorance among the population limit donation, and encourages reliance on living donors, who are susceptible to manipulation or even trafficking due to their economically undesirable status.³⁶ The frequent shortage of organs will result in long waiting lists, whereas compatibility and urgency can create concerns about equity and trust. The level of commercialization and trafficking remains on a large scale even though it is heavily prohibited by law³⁷. The basis of organ trafficking is the inequality of the socioeconomic status, when the middlemen force vulnerable citizens to engage in unlawful trade by deceiving or defrauding them. The Indian law has been affected by global standards like the Palermo Protocol and WHO

³⁴ Hinduja Hospital, Legal and Ethical Aspects of Organ Donation in India, Hinduja Hospital Blog (n.d.)

³⁵ Legal and Ethical Perspectives on Organ Donation, The Academic Journal (2025)

³⁶ Ramesh Kumar et al., Ethical and Legal Issues in Organ Transplantation in India, Indian J. Nephrol. (2014)

³⁷ The Amikus Qriac, Organ Trafficking in India: A Legal and Ethical Analysis, Amikus Qriac Blog (2023)

guidelines, but due to low enforcement and cross-border collaboration, the illegal business and the practice of transplant tourism continue. Such networks are maintained by economic hardship and sometimes the withdrawal of consent is motivated by suspicions that are provoked by fears of scandals³⁸.

There is also the aspect of religious teaching and the views on bodily integrity, brain death and the ability to donate organs after death differ significantly among the diverse population of India of different religions. Some groups are religious and do not support cadaveric donation and some support it as charity. Such mindsets, de-mystification of donation and desocialized stigma that is placed on donors and recipients must be crossed through NGO campaigns and public awareness campaigns. The stigma of organ donation is two-fold because, on the one hand, recipients will tend to arouse an emotion of sympathy and envy, whereas, on the contrary, donors (and especially living-unrelated donors) will be subjected to suspicion of giving donations under pressure or payment, which may affect the social acceptance even after successful transplants. NGOs are of great significance in promoting open and ethical practices and education to the people on realities and legal set ups.³⁹

Compliance and Regulatory Problems.

The regulatory framework in India, though with a broad scope, is normally diluted by endemic systemic issues. The illicit trafficking of organs, especially when it comes to the disadvantaged economically sidelined groups, continues to be perpetuated by the lack of strong controls, corruption, and the lack of enforcement. Middlemen, unscrupulous physicians and forged records can elude prosecution in a jail term of up to ten years and a penalty of twenty lakh rupee under the fear of being convicted as criminals.

The culture of compliance in hospitals is occasionally instigated by the threats of legal and professional punishment leading to the development of defensive, risk-aversion behavior to block or deny appropriate transplants to marginal candidates. The possible areas of civil and criminal liability to the healthcare providers are faulty screening, recordkeeping, or commercial transactions, professional sanction and loss of licensure. The hospitals are blacklisted or their

³⁸ T. K. Joshi, Organ Commercialism, Trafficking and Transplant Tourism, *Indian J. Med. Ethics* (2016)

³⁹ Vidhi Centre for Legal Policy, *Organ Transplantation in India: A Legal and Ethical Report* (2017); *Transplantation of Human Organs (Amendment) Act, 2011*, India.gov.in (2011); NOTTO, *Guidelines for Organ and Tissue Transplantation (Approved 2021)*, Ministry of Health & Family Welfare (2021),

license is permanently terminated due to repeated offenses, and compliance burdens are piled with no particular assurance of weeding bad apples⁴⁰.

The obstacles to the increase in cadaveric donations are common under-reporting of brain-stem death, lack of effective and uniform certification processes, haphazard application of THOTA amendments, and hostility to families and religious faiths. The disconnected permission systems at transplant continue to be time consuming, with microscopic scrutiny by Authorization Committees, though inconsistency in enforcement and availability of resources can slow and hinder timely and equitable approvals. Differences in the states are also a significant issue as the Supreme Court noted, which requires composite information on the adoption and implementation of THOTA and its amendments, and required compliance with center-suggested guidelines including those that are issued by the National Organ and Tissue Transplant Organization (NOTTO). The non-transparent patient registration, unclear heterogeneous databases, and central reporting do not support honest activity implementation and suffocation of the legitimate control. The medical malpractice or corruption like that in preterm or incorrect certification of brain death or misallocating or stealing the recovered organs are indicators that a very hard audit, greater openness and enforcement with bias are needed. The lack of information that is centralized and publicly accessible and unified ways of reporting and locating organs permits circumvention of regulations and misuse of power. Broadly speaking, judicial review has contributed to the protection of the law, promoted more human and efficient transplantation, and helped to combat trafficking and exploitation. Ethical concerns remain deeply embedded within the Indian society, and they are further compounded by the least regulation failures and lack of enforcement within the society will be crucial in achieving the promise of the law in saving lives. The last few years have been characterized by massive legislative and policy changes in the organ transplant industry of India, in terms of strengthening transparency, procedural ease, and ethics. The greatest was the amendment of the Transplantation of Human Organs Act (THOA) in 2011 that led to the Transplantation of Human Organs and Tissues Act (THOTA)⁴¹.

⁴⁰ Journal of the Association of Physicians of India, Organ Transplantation Practices, JAPI, Vol. 73 (2024); P. Sharma et al., Organ Donation in India: Challenges and Future Perspectives, *Indian J. Nephrol.* (2018); Ethical Challenges in Organ Donation, *ScienceDirect* (2022); Transplantation of Human Organs and Tissues Act, 1994, India Code (1994)

⁴¹ Ministry of Health & Family Welfare, Transplantation of Human Organs and Tissues Act and Rules, NOTTO (n.d.); ORGAN India, Organ Transplant Laws Made Easy, ORGAN India (n.d.); Directorate General of Health Services, Transplantation Guidelines Document (n.d.); Kerala State Organ and Tissue Transplant Organization, Brain Death and Organ Donation, KSOTTO (n.d.); Ramesh Kumar et al., Ethical and Legal Issues in Organ Transplantation in India, *Indian J. Nephrol.* (2014);

The amendment incorporated such protection of human tissues as skin, cornea, heart valve, tendons, bone marrow and improved institutional mechanisms that were very vital to the system. Among the major reforms are introduction of mandatory transplant coordinators in every registered center, registration and recognition of the retrieval centers, augmenting punishment on breach of anti-commercialization provisions and standardization of certification of brain death forms across states. A definition of a near relative has been extended into grandparents and grandchildren with more autonomy in live donations. New rules drove transplant coordinators over logistic boundaries and moral restraint in order to be able to make liaison between the retrieval centers, the donor families, and the treating physicians, which are not only necessary in full consent processes, but also necessary in counseling during bereavement. The guidelines of THOTA 2014 harmonized the cadaveric donation procedure with the certification by a panel of four doctors leading to uniformity and thoroughness in the diagnosis of brain death. Selection was to be done too in case there was no neurologist or neurosurgeon among approved surgeons, physicians, or anesthetists. All these have played a significant role in the removal of red tape in organ harvesting as well as bringing greater transparency in the manner of procedures, especially in the intensive care units.⁴²

The establishment and active participation of the National Organ and Tissue Transplant Organization (NOTTO) introduced the most important changes in its operations. Ministry of Health and Family Welfare, as a parent organization of Directorate General of Health Services, would make sure that procurement, distribution and registration of organs are carried out effectively and fairly at national level through the help of NOTTO. NOTTO is the policy holder on the national level, maintains an open national register, is linked with the regional and state networks (ROTTTO and SOTTO), and offers public education programs to increase the level of awareness and trust to the system. Some of the initial advisory steps involved prioritizing the transplant of women and relatives of deceased donors first as this would lead to more equity and inclusion. The state-to-state coordination and organ-sharing protocols of NOTTO have begun to ensure making matching and allocation process more transparent and auditable although the regional variations remain.⁴³

Directorate General of Health Services, National Organ and Tissue Transplant Organization (NOTTO) (n.d.)

⁴² *Supra* note 40

⁴³ AcqIAS, National Organ and Tissue Transplant Organization (NOTTO) – Daily News Analysis (n.d.); ORGAN India, Government Agencies, ORGAN India (n.d.),

Hospitals now must establish efficient, easily available redressal channels at the grievances redressal level so as to appeal decisions by the committees or place complaints over any suspected ethical misconducts by the patients and their families. Higher openness has been augmented by judicial requirements of twenty-four-hour audits, public disclosure and tighter monitoring of procurement of donations to implantation as there are discrepancies in consistent compliance and technological adoption across all states. Socio-Legal Implications and Criticisms Their broader implication has reverberated throughout the health system in nearly all its dimensions, including international duties, equity, and trustworthiness of the populace. The rights to health, dignity and protection against exploitation have been adhered to in the provisions as required by WHO Guiding Principles and the Declaration of Istanbul. Essential social rifts are of particular concern to commodification and donor exploitation. Critics believe that most living illiterate and poor donors are at risk of being pressured and poorly taken care of after transplants in spite of the high anti-commercialization laws because of deep socio-economic inequalities. The infamous cases of trafficking and abuse-of-purpose concerning Section 5 use so as to harvest organs out of the dead bodies have cast ethical doubts on the interests of hospitals versus those of families, bringing negative publicity to the practices of transplantation and necessitating more regulation and technological precautions to trace and record the process and commodify it. International appeal to a rights approach: it is considered that the act of organ donation is an act of altruism within the current legal and ethical boundaries that involve less risk of taking advantage of the weak parties. The legal goal, however, is clear, and modalities of compensation, insuring, and equitable allocation are the areas of dispute⁴⁴.

Suggestions and Wishes to Reform In the future, some reforms are suggested to make the legal and regulatory environment leaner and to resolve the weaknesses in effectiveness, transparency, and ethical safeguards:

- Normalize brain death across the various states, so that there is mandatory auditing of the procedures and regular retraining of the certifying physicians, in order to bring some uniformity and prevent malpractices.

⁴⁴ Public Awareness and Attitudes Toward Organ Donation in India, PMC (2023); Government of Haryana, Organ Transplantation Acts, Haryana Health Department (n.d.); Indian Journal of Medical Ethics, Organ Transplant and Presumed Consent: Towards an Opt-Out System (2016); Donate Life, History of Organ Donation (n.d.); Donate Life, The First Organ and Tissue Transplants (n.d.); United Network for Organ Sharing, History of Transplantation, UNOS (n.d.)

- Their education and contact with the public: overpower religious scruples and myths, between city and village residents by culturally sensitive communication and witness to families and recipients of donation.
- Eligibility to living unrelated donation should be expanded by providing strict pre-transplant assessment, documentation, and video-taped consent interviews to remove force or financial incentive.
- Enhance the incentives that are given to living donors such as full post-donation medical follow-up, life insurance, and loss of wages to international best practice.
- Increase international collaboration to combat trafficking and exchanges information across governments and enforcing internationally according to world standards.
- Annually have all SOTTOs and ROTTOs audited and publicly reported, which will be centrally verified by NOTTO to identify any anomalies as well as to achieve fair distribution.
- Have judicial control and evidence-based scrutiny to have similarity in definitions, guard rights and suggest amendments to suit the changing society and technology.

The dignity, consent and justice-focused rights approach will play a key role in realizing the life-saving potential of THOTA and establishing a system of donation and transplantation that is acceptable to all parties, responsive to emerging problems and is integrated with the constitutional and international commitments of human rights in India.

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