

Organ Donation Law in India, Living Will & Lawyers' Role

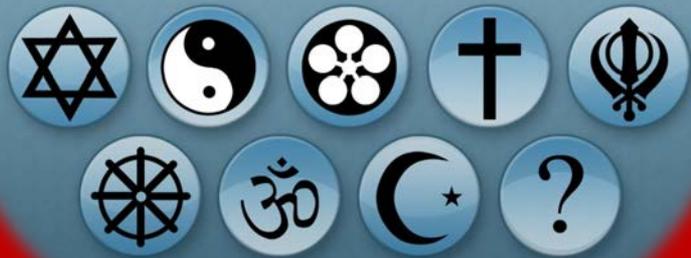
Speaker: Advocate Prashant Ajmera



One India One Law

— The Voice of Organ Donors & Recipients —





is too big to fit into one Reli

Let us Pray that
no one needs
organ and all are
healthy
But...



500,000

People waiting for an organ in India

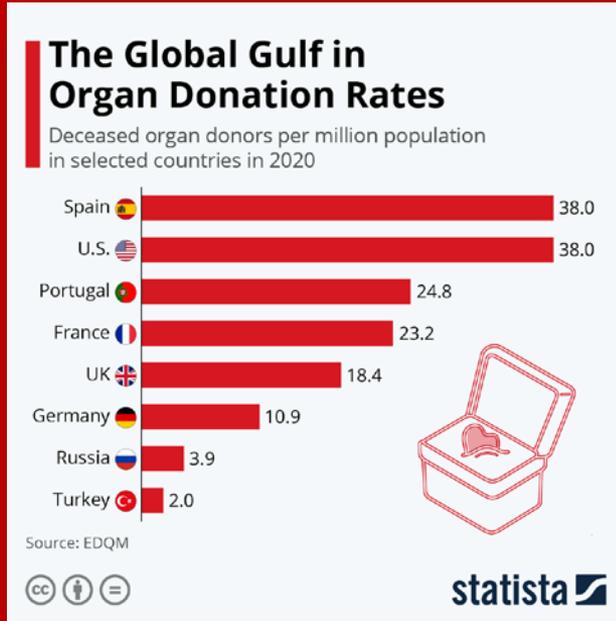
20

People die everyday for lack of an organ in India

Only 16,041

Organ donations in 2022 in India

Global Deceased Organ Donation Rate



● **Spain 38.0**
Highest Organ Donation

● **India 0.9 Now**
Low Organ Donation

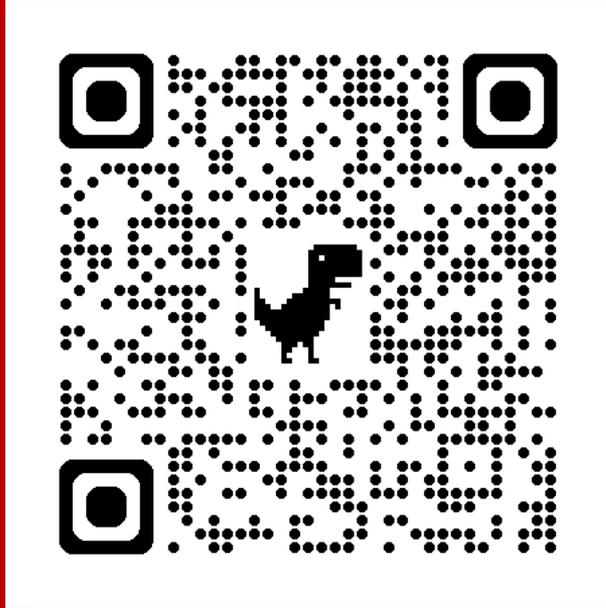
● **India 65.0 Needed**
Required Rate

Deceased Organ Donation per Million Population



Organs & Tissues that can be donated

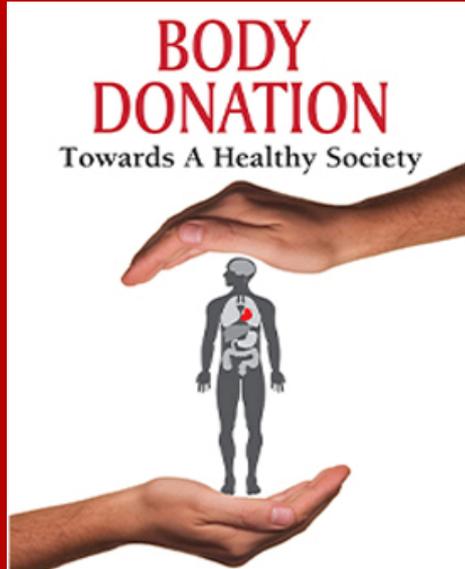
One person can save upto eight lives by donating his/her organs and many more by donating tissues



How to pledge for organ donation?

<https://notto.abdm.gov.in/>

Register on Government Of India website with Aadhar card



How to pledge for body donation?

Governed by
Anatomy Act 1959 and the state level
Regulation and notification

Contact nearest medical college in
your state anatomy department
And ask for form to donate body

Organ Donation

Awareness v/s Education



Awareness

1. Awareness – awareness
2. Pledge
3. Accident
4. Brian dead
5. Grief counseling
6. Family should agree
7. Organ Donation
8. Working for 15% of the problem



Education

1. An educational workshop training on organ donation
2. Answer all their questions
3. Let them make informed decision way before death
4. More Organ Donation
5. Almost every one can donate Eye, Skin and Body

Awareness informs and alerts
people to an issue

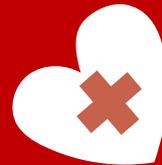
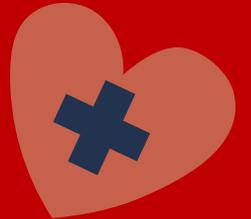
v/s

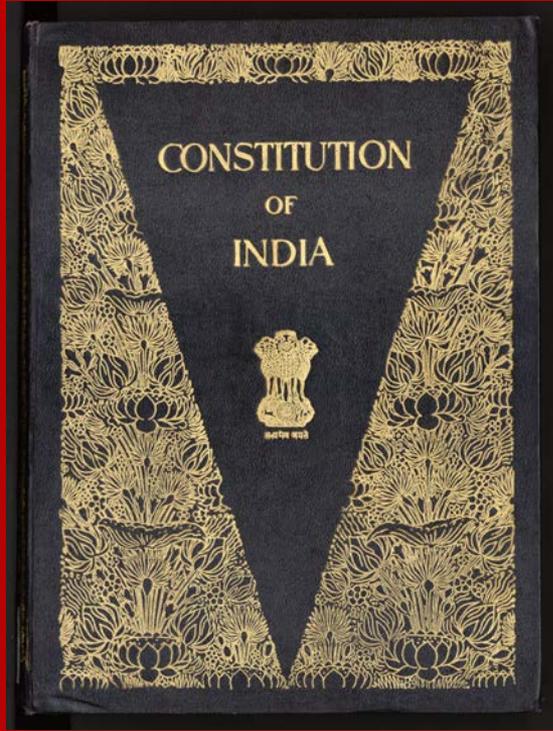
Education equips them with
the deeper understanding
and skills needed to act
knowledgeably and
effectively.

02

ORGAN DONATION LAW

Indian Act & Rules Governing
Organ Donation & Transplant



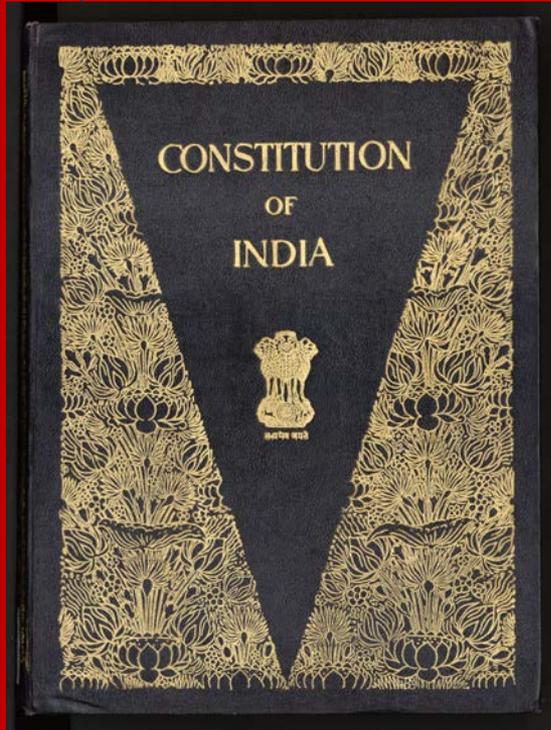


Art. 21:

Protection of Life and
Personal Liberty

**Fundamental Right
under the constitution**

No person shall be deprived of his life
or personal liberty except according
to procedure established by law.

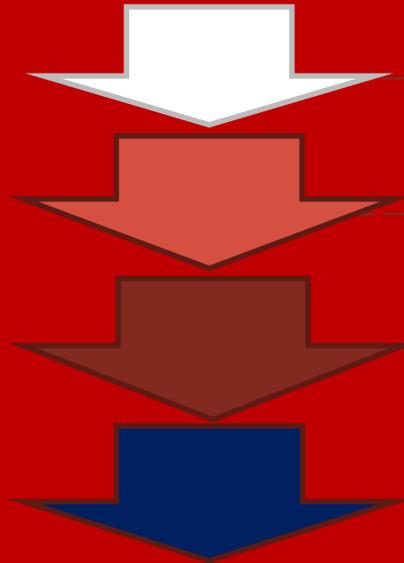


Art. 21: Right to Life

Central v State Authority for health

Article 246: Central Government has no authority to make Law, Rules & Regulation in respect of health matter.

Indian Constitution -> Act -> Rules -> Notification



• **Constitution** Article 21 - Right to Life

*The Transplantation of
Human Organs & Tissues Act
1994*

• **Act**

• **Rules**

*The Transplantation of
Human Organs & Tissues
Rules 2014*

• **Notification**

Central & State

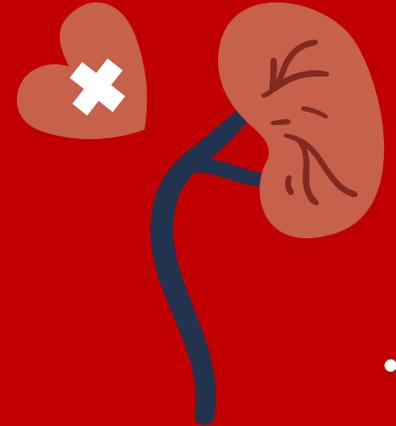


The Transplantation of Human Organs & Tissues Act 1994



TRANSPLANTATION OF HUMAN ORGAN & TISSUE ACT 1994 (AMD 2011)

Rules made in 1995 and amended in 2014



OBJECT -1

Enacted to provide a proper system for removal, storage and transplantation of human organs & tissues for therapeutic purposes



OBJECT -2

Enacted to prevent commercial dealings in human organs



REGULATING AUTHORITIES IN INDIA

Under Central Ministry of Health
3 LEVELS



National & State Functions

Three functions

**License &
Regulate**

**Hospital &
Retrival center**

Approval, lincence &
renewel – **Central**

**Aproval of Live
Donation**

**Authorisation
Com mitee**

Approval or rejection of
live donation – **State**

**Maintain
Cadaver List**

State Level

Maintain waiting list as
per organ – **State**

ORGAN DONATION & TRANSPLANT

LIVE

Only possible between close relatives and non related can donate provided it is out of love and affection

85%

CADAVER

1. Organ Allocated by SOTTO as per the waiting list and emergency of the patient

15%

The Transplantation of Human Organs & Tissues Rules 2014



ORGAN DONATION & TRANSPLANT PROCESS

LIVE DONATION

1. Contact licensed hospital with live donor
2. Undergo necessary tests
3. Provide identity, prove relationship to donor & make an application for transplant in prescribed forms and provide supporting documents
4. Hospital and/or State Authorisation Committee gives approval or refusal for transplant
5. Upon approval, transplant operation is conducted

ORGAN DONATION & TRANSPLANT PROCESS

CADAVER

1. Register with licensed hospital
2. Hospital will register patient with SOTTO according to type of organ and blood group
3. Organ allocated as per organ match and number on waiting list
4. Wait list – State -> Regional -> National -> Foreign nationals



Problem & Challenges -1



1.	Center v State jurisdiction
2.	1994 to 2014 – Decentralize
3.	2014 to present – Centralized – One nation – One Policy
4.	Domicile v Resident Terms
5.	No procedural manuals / Training / Legal expert to assist in the interpretation to Authorization committee members, medical and para medical professionals and Transplant coordinators
6.	Every state and hospital have made different interpretation
7.	From 2014 onwards – Public v Private hospitals clash
8.	No National portal for organ wait list
9.	Transplant Coordinators Roles and Duty – Medical, Physiological and Legal
10.	FORMS – Does not collect detail information of donor and recipient
11.	Medical Professionals try to interpreted law and no lawyers appointed or consulted





Problem & Challenges -2



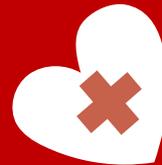
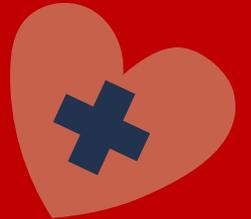
11.	Government schemes / Yojana / Train discount not made aware to patients
12.	No system established or USED for verification of documents for Indian citizen
13.	Very poor system for verifying foreign donor and recipient relationship & documents
14.	Form 21 –NOC and confirmation of relationship from embassy / consulate
15.	Living donor face most difficulties in proving relationship
16.	Rule 14 – verification of domicile / resident by Tehsildar or any other appropriate authority
17.	Rule 18 - All documents asked including DNA test in all cases for living donation
18.	NOC asked from husband / spouse when donating to her relative
19.	No mention of OCI Card Holder Living in India or Abroad
20.	State to state different allocation system and points system
21.	No development of National Portal under section 32

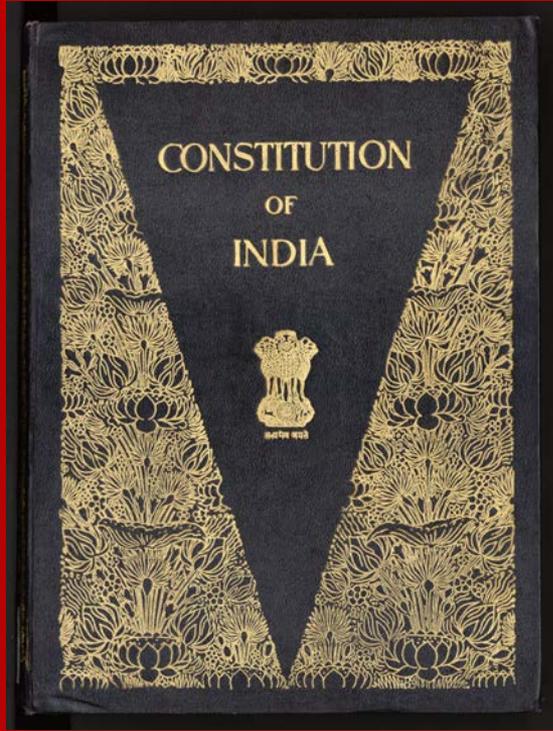


02

LIVING WILL IN INDIA

Fundamental Right and Legal
Precedent on Living Will in India





Art. 21:

Protection of life and
personal liberty

Fundamental Right under constitution

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or personal liberty except according
to procedure established by law.

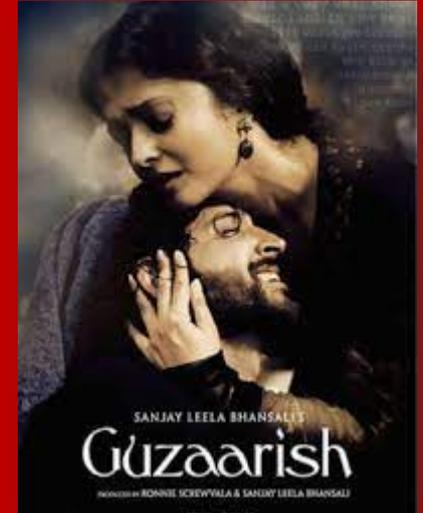
Two Supreme Court Judgments



1. Passive Euthanasia in India.

Aruna Ramchandra Shanbaug vs Union of India & Ors (2011)

Recognize Passive Euthanasia in India



2. Right Do Die with Dignity

Common Cause (A Regd. Society) vs Union Of India on
(9 March, 2018)

Recognize Right to Die with Dignity as a Fundamental Right



Old and New Supreme Court Directive

2023

2018

	NOW	EARLIER
Living will	An attestation by a notary or a Gazetted officer to be sufficient for a living will	It was necessary that a judicial magistrate attest or countersign a living will
Access to the living will	Living will a part of national health record which can be accessed by Indian hospitals	Living will was kept in the custody of the district court concerned
Primary board to examine patient's condition	Three doctors, including treating physician and two other doctors with five years of experience in the specialty, will comprise the primary board of doctors	Primary board of doctors needs at least four experts from general medicine, cardiology, neurology, nephrology, psychiatry or oncology with overall standing of at least 20 years
Time taken to decide	Primary/secondary board to decide within 48 hours on withdrawal of further treatment	The 2018 judgment did not specify any outer limit on withdrawal of treatment
Secondary board	Hospital must immediately constitute a secondary board of medical experts	The district collector had to constitute the second board of medical experts

Living Will - 1

Scope of the Right:

When to apply ?

- Limited to passive euthanasia (withholding or withdrawing life-support systems).

Why?

- Ensures individuals are not subjected to unnecessary suffering during terminal illness or vegetative states.

Ethical and Social Importance:

- Balances medical intervention with respect for individual autonomy.
- Upholds human dignity in end-of-life scenarios.
- Aligns with global practices and human rights standards.



Living Will -2



Feature of Living Will:

Feature of Living Will

- Specifies refusal or withdrawal of life-prolonging treatments in terminal conditions.
- Includes directives for medical interventions (e.g., ventilators, artificial nutrition).
- Must be voluntary and made with sound mental capacity.



Living Will -3



Additional Points of Living Will:

Specific Treatment Preferences:

- Clearly outline which treatments are acceptable and which are not (e.g., use of ventilators, feeding tubes, or resuscitation efforts).

Healthcare Proxy Appointment:

- Designate a trusted individual to make healthcare decisions on your behalf if you are unable to do so.

Preferred Care Setting:

- Specify preferences for receiving care, such as at home, in a hospital, or in a hospice facility.





Living Will -4

Additional Points of Living Will:

Pain Management Preferences:	<ul style="list-style-type: none">• Include directives about the use of pain-relief medications, even if they may hasten death.
Organ Donation Wishes:	<ul style="list-style-type: none">• Indicate whether you wish to donate organs or tissues after death.
Religious or Cultural Considerations:	<ul style="list-style-type: none">• Include any specific rituals or practices that should be observed.
Emergency Contact Information:	<ul style="list-style-type: none">• Provide details of individuals to be notified in case of critical medical decisions.

Maharashtra's Pioneering Role

- Maharashtra was the **first state** in India to implement rules for **Living Wills** after the Supreme Court's directive.
- Introduced a structured framework to ensure adherence to guidelines.
- Promotes awareness about patient rights and advance healthcare planning.

Mumbai Custodian List

बृहन्मुंबई महानगरपालिका

सार्वजनिक आरोग्य विभाग
एच.ओ / 017654 / आर-१ दिनांक ०८.१०.२०२४

Custodian नियुक्तीबाबत

मा. सर्वोच्च न्यायालयाने रिट याचिका २१५/२००५ मधील मंकीर्ण अवैदन (Misc Application) क्र. १६९९/२०१९ च्या संदर्भात दिलेल्या निकावातील मादशंक सूचना नुसार, बृहन्मुंबई महानगरपालिका क्षेत्रामध्ये "Right to die with dignity of citizens" नुसार संबंधितांकडून Advance Medical Directives निष्कारणे व पुढील नियोजनाकरिता जतन करणेकामी, खालील अधिकारी यांचे Custodian म्हणून नेमणूक करण्यात आली अमुन अश्या प्रकारची Advance Medical Directives निष्कारण्यास अगोदरच मुरी केले आहे.

Ward	Name of M.O.H.	Mobile	Office No.	Email
A	Dr. Praful Yadav	9820902590	22607000	moha.phd@mcm.gov.in
B	Dr. Reshma Sable	8104942905	23736622	mohb.phd@mcm.gov.in
C	Dr. Pradeep Kashale	9930326092	22014022	mohc.phd@mcm.gov.in
D	Dr. Prajakta Amberkar	9920759820	23865201	mohd.phd@mcm.gov.in
E	Dr. Madhav Swami	9975136721	23081471	mohc02.phd@mcm.gov.in
F/S	Dr. Satish Badgire	9920759819	24134560	mohfs.phd@mcm.gov.in
F/N	Dr. Rahul Salunkhe	7666999800	24024353	mohfn.phd@mcm.gov.in
G/S	Dr. Virendra Mohite	9920759822	24305031	mohgs.phd@mcm.gov.in
G/N	Dr. Balasaheb Kawale	7303721711	24397800	mohgn.phd@mcm.gov.in
H/E	Dr. Pramod Patil	9224245979	26138900	mohhe.phd@mcm.gov.in
H/W	Dr. Nilesh Palve	9920759835	26422311	mohhw.phd@mcm.gov.in
K/E	Dr. Mahendra Khandade	9870518182	26840103/04	mohke.phd@mcm.gov.in
K/W	Dr. Vaishali Khade	9892613954	26237932	mohkw.phd@mcm.gov.in
P/S	Dr. Ajit Pampatwar	9967439356	28721186	mohps.phd@mcm.gov.in
P/N	Dr. Nitish Thakur	9920917275	28823266	mohpn.phd@mcm.gov.in
P/E				
L	Dr. Shailendra Gujar	9004882818	26503057	mohlward@gmail.com
M/E	Dr. Sanjay Phunde	9820991811	25502271/72	mohme.phd@mcm.gov.in
M/W	Dr. Pooja Desai	7738892533	25225000	mohmw.phd@mcm.gov.in
N	Dr. Ravindra Hange	9222195129	25010161/65	mohn.phd@mcm.gov.in
S	Dr. Kalpesh Bhalerao	9870513100	25947571	mohs.phd@mcm.gov.in
T	Dr. Kashinath Jadhav	9869512190	25645289/ 94	mohst.phd@mcm.gov.in
R/S	Dr. Deepa Jadhav	9004042736	28056000	mohrs.phd@mcm.gov.in
R/C	Dr. Rashmi Shirgaonkar	9987876426	28946000	mohrcentral.mcm@gmail.com
R/N	Dr. Sunila Pawar	9920973770	28936000	mohrn.phd@mcm.gov.in

खालील प्रमाणे, केंद्रीय स्तरावर, जन्म-मृत्यू नोंदणी संबंधित वरिष्ठ अधिकारी म्हणून Chief Custodian यांची नियुक्ती करण्यात येत आहे.

कार्यालयाचा पत्ता- सार्वजनिक आरोग्य विभाग, एफ-दक्षिण विभाग कार्यालय, 3 रा मजला, परेल, मुं-12

Chief Custodian	हद्द	संपर्क क्रमांक
डॉ बर्पा पुरी	उप-कार्यकारी आरोग्य अधिकारी	9920759805
डॉ मुरंग उच्चाले	महा. आरोग्य अधिकारी	9082797255

सद्यस्थिती मध्ये, बृहन्मुंबई महानगरपालिके हद्दीतील नागरिकांकडून Advance Medical Directives निष्कारणे करिता मनपाच्या संकेतस्थळावर, संगणकीय प्रणाली तयार करण्याची कामे प्रगती पथावर आहेत. महितीसाठी प्रसारित.

कार्यकारी आरोग्य अधिकारी

GOA

Justice M. S. Sonak, who serves on the Goa Bench of the Bombay High Court, became the first person in Goa to register a “Living Will”



Feb. 2025

Karnataka



**KARNATAKA IMPLEMENTS
'RIGHT TO DIE WITH DIGNITY'
POLICY FOR TERMINALLY ILL PATIENTS**

Government of India

Feb. 2025

Z-28015/8/2025-SAS-II (FTS-8316160)

भारत सरकार/Government of India

स्वास्थ्य और परिवार कल्याण मंत्रालय/Ministry of Health & Family Welfare

स्वास्थ्य सेवा महानिदेशालय/Directorate General of Health Services

(सचिवालय सहायता अनुभाग-II/Secretariat Assistance Section-II)

Nirman Bhawan, New Delhi

Date: 19th February, 2025

To,

Shri Prashant Ajmera,
206, elite Business park, Opp. ShapathHexa,
Near Kargil Cross Road, Sola,
Ahmedabad, Gujarat-380060.

Subject: Urgent appeal for nationwide implementation of the Supreme Court judgement on Advance Medical directives (Living Will) - reg.

Sir,

I am directed to refer to your letter No. Nil dated 3th February 2025 addressed to Hon'ble Minister (HFW) received in Section on dated 17.02.2025 on the above-mentioned subject and to state the following:

In the case of Common Cause vs. Union of India (2018), the Hon'ble Supreme Court allowed terminally ill patients to execute "living wills" to refuse medical treatment. To implement effectively this process, the Directorate General of Health Services (Dte.GHS) formulated a committee comprising experts on critical care from different parts of the nation. The committee subsequently submitted Draft Guidelines. The guidelines were made accessible on the ministry's website and publicized through national newspapers. The opinions and feedback received from the public and medical professionals were then incorporated into revisions of the draft. Once approved, it will be finalized.

This is issued with the approval of the competent authority.

Yours faithfully,


(Dr. Manas Pratim Roy)
ADG, Dte.GHS

Copy to: PSO to DGHS

Benefits of a Living Will



1

Respects patient autonomy and dignity.

2

Reduces family conflicts and emotional stress.

3

Assists doctors in making ethical decisions.

4

Ensures compliance with the individual's wishes.



Challenges in Implementation:

Lack of Awareness:

- Limited public knowledge about Living Wills. 

Cultural Concerns:

- Stigma surrounding end-of-life decisions.

Administrative Challenges:

- Ensuring uniform implementation across states.





Role for Lawyers



ORGAN DONATION LAW:

1. Legal Framework guidance
2. Eligibility and documentation in living donation
3. Authorization committee support
4. Ethical Advocacy & Education
5. Writ Petitions and legal challenge

LIVING WILL:

1. Drafting living will
2. Registration & Safekeeping
3. Family dispute resolution
4. Public awareness

THOTA and Lawyers Role to save lives

**Authorisation
committee**

State / District
Hospital Level

To save Lives

Every one can donate
Organs & Body

Medical Matters

Only for doctors
Lawyer's has no role

**Lawyers can save
lives**

With Legal expertise
In live donations



One India One Law

— The Voice of Organ Donors & Recipients —

03

OneIndiaOneLaw.org

The only legal portal in India on
Organ Donation Law & Rules



Home About Stories Voice Action Legal Volunteers Resources [Contact](#)

Prime Minister of India Mr. Narendra Modi on Organ Donation and Domicile certificate - Mann Ki Baat

मार्च, 2023



“ MANN KI

मुझे संतोष है कि अंगदान को आसान बनाने और

मन की बात

Copy link

One India One Law

Privacy - Terms

LEGAL ACTIONS IN HC & PIL IN SC



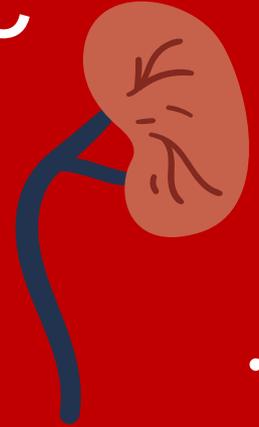
DOMICILE

1. Writ petition in the High Court of Gujarat
2. PIL in Supreme Court of India
3. Removal of - Domicile certificate, 65 yr age cap & removal of registration fees for cadaver transplant
4. Noted by PM of India



NOC

1. No NOC from foreign government for live transplant
2. Gujarat Governemnt gave approval for live transplant without NOC from foreign government



Resources on organ Donation

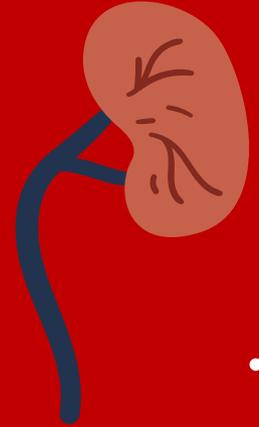


Resources

1. Case law
2. Stories
3. Act & Rules 2014
4. Government organization
5. NGO
6. Reports
7. Books Movies
8. Journals
9. Our Presentation
10. Video

Pro Bono

1. Advice TC, Doctors, Hospitals on legal and documents
2. On Panel of SOTTO Karnataka
3. Intent to raise funds for Organ Transplantation
4. Train the Trainers



Future Plans...

1. Conduct Legal Workshops
2. Develop Procedural & Training Manuals for TC, medical and Para medical professionals and Authorisation committee members
3. **Establish Global legal frame work**



04

RAG-BOD-INDIA

ROTARY ACTION GROUP
BLOOD & ORGAN DONATION, INDIA CHAPTER

Rotary



ROTARY ACTION GROUP FOR
BLOOD AND ORGAN
DONATION

RAG AND IT'S MISSION

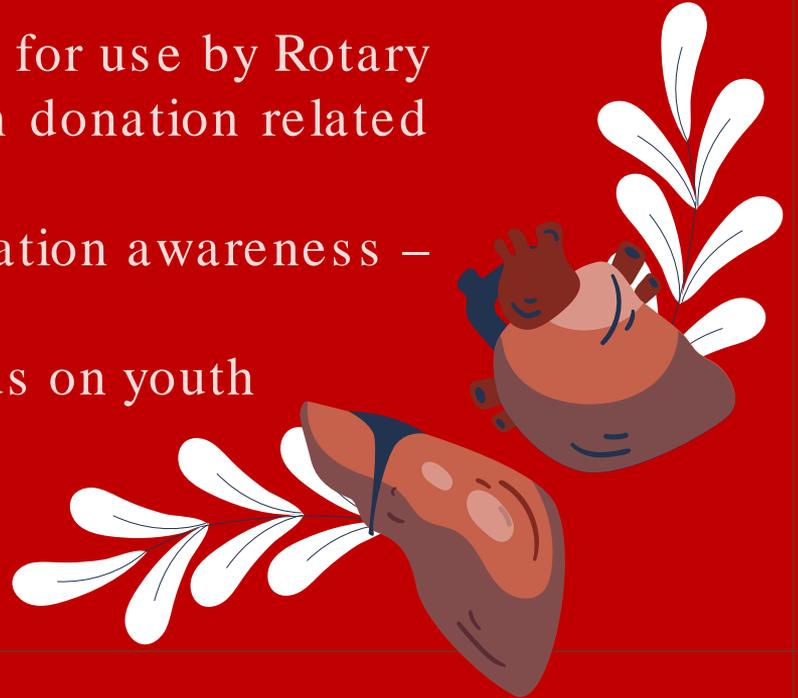
Rotary Action Groups are independent, Rotary-affiliated groups made up of people from around the world who are experts in a particular field

Action groups offer their technical expertise and support to help clubs plan and implement projects to increase their impact, one of Rotary's strategic priorities.



RAG BOD – INDIA CHAPTER

1. Unite and bring all Rotary and non-Rotary individuals and entities under one umbrella for organ donation awareness and advocacy
2. Create a central pool of resources for use by Rotary clubs & Rotary Districts for organ donation related projects
3. Conduct workshops on organ donation awareness –
 - Train the Trainers
 - Create ambassadors for OD, focus on youth



RAG BOD – INDIA & RC RESOURCES



BOOK

A Rotarian's Guide to
Organ Donation



ART WORK

Ready art work for
awareness



CHATBOT

Ready CHATBOT in nine
regional languages



GLOBAL GRANT

For LIFT UP project -
Grant for kidney
transplant



SEMINARS

Facilities for seminars &
webinars



SUPPORT

Support to Rotary Clubs &
Districts Across India

Prashant Ajmera – Advocate

Personal:

- Indian immigration lawyer, NRI, and Canadian citizen since 1997.
- 30+ years of experience in immigration law including EB5 investor visa for USA Green Card
- Author of two books and advised 15,000+ children interested in foreign education and settlement planning.

Rotary:

- Member of Rotary Club Ahmedabad Metro and served as President in 2016-17.
- Four-time served as Rotary International Convention Chair for District 3054.
- Board member of Rotary Action Group - Blood and Organ Donation – India Chapter .
- His legal work on organ donation was featured in *Rotary News International* edition as a cover story

Organ Donation:

- Gained extensive knowledge of organ donation laws in India following a personal legal experience with his wife, related to her organ transplant and the domicile certificate requirement
- Actively advocates for organ donation LEGAL awareness using his portal **OneIndiaOneLaw.org**.
- Invited by the NOTTO, to provide input on reforming organ donation laws in India at the *Chintan Shivir* in August 2024.
- SOTTO Karnataka Panel Member of Advisory Committee



Scan code to
donate organ
on NOTTO site

- Need Adhar card



**Join
Rotary India
Organ Donation
W A Group**

Scan QR code



One India One Law
— The Voice of Organ Donors & Recipients —

Join Rotary
OneIndiaOnelaw.org
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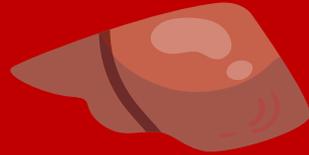


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By:
Rtn. Prashant Ajmera
Advocate

Rotary Club Ahmedabad Metro RID 3055



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info@OneIndiaOneLaw.org

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