

Deceased Organ Donation of Foreign Nationals in India

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Abstract

Inward foreign tourism in India is on the rise and the tourists are equally at risk of fatal road accidents and stroke leading to brain death. This provides an opportunity for organ donation; however, no guidelines are available on how to proceed in such cases. The Transplantation of Human Organs Act 1994 is also silent on this aspect. This paper seeks to lay down recommendations and guidelines for hospitals, healthcare professionals, Transplant Coordinators and the state machinery allocating such organs on how to proceed with such cases. Three such donations by foreign nationals in India were examined and based on the experience of coordinating them, guidelines have been drawn up. It was seen that families agreed readily where the individual had expressed the desire to be an organ donor (by opting the same on the driving licence or coming from a country that follows presumed consent). Effective counselling also encouraged consent in case of no prior wish. However, absence of guidelines and standard protocols creates confusion. In order to increase the donor pool, donations from foreign nationals in India should be streamlined. Also, from a human rights perspective, India needs to enable the choice of organ donation for every person who is declared dead within its territory.

Keywords: Brain death, donor card, driving license, foreign nationals, organ donation, presumed consent, Transplantation of Human Organs Act

INTRODUCTION

The Indian tourism sector in the year 2017 saw the number of foreign tourist arrivals crossing the 10-million mark with the maximum tourist arriving here in the month of December 2017.^[1] The inward foreign tourism year after year is on the increase due to many factors which include flexible government policies, such as easy availability of e-visas to foreign tourists, better flight connectivity to India, and developments in road and rail infrastructure among other reasons.^[2]

While they are visiting India, these tourists are as prone to falling ill and sustaining injuries in road accidents as Indians. Fatal accidents, stroke, or hemorrhage can lead to brain death, and this provides an opportunity for organ donation.

The overall deceased donation rate in India was 0.8 per million population in 2016, and this rate has increased four times since 2012.^[3,4] Over the years, it has been observed that besides Indians, on rare occasions, the death of some foreign nationals has culminated in corneal or organ donation as well. The donations have happened primarily as a result of the

motivation of the family members desiring to honor the wishes of their deceased loved one. However, these donations are far more complex to handle in comparison to donations by Indian citizens. The complexity becomes even more when the next of kin is not available for consent in the country and most of the conversations happen through an interpreter on the phone or through mails or if the relatives wish to take the body back home after the donation for the last rites.

Two nongovernmental organizations (NGOs) working in the deceased donation program since the year 1997^[5] and 2000^[6] in Chennai and Mumbai, respectively, have directly or indirectly been involved with three such donations. While such donations

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are few and far between, we feel that there needs to be clarity among the health-care professionals, hospital administration, transplant coordinators, and the state machinery allocating such organs on how to proceed with such cases. We share our experience with such donations and provide guidelines that can make such donations easier to handle and provide clarity to all concerned.

CASE REPORT

Case 1

On October 28, 1998, a 67-year-old woman from Maryland, USA, who was visiting Chennai as a part of a semester at sea, a floating university – “SS Universe Explorer,” was hit by a Madras Transport Corporation bus and was declared brain dead at a private hospital. Her adult son consented for her organ donation in a private hospital in Chennai.

Case 2

On March 15, 2014, more than 15 years later, another woman from France, almost the same age as the previous donor, was declared brain dead in a private hospital following brain hemorrhage in New Delhi and considered for organ donation. She had come to Delhi along with her husband to visit her son who worked in a multinational company in Gurugram and to travel to Agra and Jaipur.^[7]

Case 3

On March 15, 2019, a 62-year-old Nepalese man had an intracerebral bleed due to a fall and was declared dead at a private hospital in Mumbai. He had been working in Mumbai for many years. His adult son and brother in law were approached for organ donation by the trained counselors, and the family gave consent after a few sessions of counseling when they understood about the positive aspects of organ donation and how multiple lives could be saved.

Case 1

The woman from the USA became the first foreign national organ donor in India way back in 1998.

In addition to marking “Yes” on her driving license, she had also made a “living will,” where she clearly stated that after her death, she would like to be an organ donor. In the will, she said that she realized that death is as much a part of life as birth, maturity, and growing old and she emphasized the need for making the decision to donate her organs.

Her kidneys went to a 44-year-old woman, and her corneas brought back sight to two people. The heart valves were also used.

In October 1999, a program was organized in Chennai by a NGO to felicitate the organ donors, and the donor’s son and his wife flew to be part of the function and shared their story with the audience.^[8]

Case 2

The woman from France became the first foreign national organ donor in New Delhi.

Her husband and adult son, when approached by the transplant counselor, consented for organ donation.

The embassy and the office of Director General of Health Services (DGHS) were informed about the death and the wish of the family to proceed to organ donation. Information was also given to the nearest police station by the hospital. Organ donation took place, and both her kidneys and liver were transplanted to patients awaiting transplants. One of the kidneys went to an army soldier at the Army Hospital Research and Referral.

In a thank you letter sent to the husband, who only spoke French, responded as follows: “*I was much moved reading your words and their inference. It was sad that I could not communicate with you but the expressions in your look and the sensitivity in your eyes always said it all. When our friends come over to the house I show them the pictures of our travels to India and the exceptionally framed photo presented by the foundation with both of you and that was a special moment and will always be treasured*” (translated).^[9]

Case 3

The man from Nepal became the first foreign national organ donor in Mumbai.^[10]

When the hospital approached the appropriate authority of the state for advice as to how to proceed with accepting organ donation from a foreign national, the hospital was advised: (a) to obtain a No Objection from local police station, it being a medicolegal case involving a foreigner; (b) to send an E-mail communication to Embassy of Nepal, giving all the details of person being certified brain stem death and his family’s willingness to donate the organs for transplantation; and (c) to send an E-mail communication to State Appropriate Authority of Maharashtra for Transplants asking their permission to proceed with the donation of organs.

The wife, who was in Nepal, though could not be present physically to sign the consent form, had provided with her verbal consent, and this was recorded.

Both the kidneys were retrieved and transplanted to those on the waiting list. The liver and heart were found unsuitable for transplant.

DISCUSSION

Coordinating donations from foreigners is undoubtedly a bigger challenge as compared to deceased donation from Indians. In these cases, besides the consent from the family, there are other logistics involved, and multiple permissions are required that can make the process prolonged and time-consuming.^[11]

In the case of the donation of the woman from Maryland, her son who carried out his mother’s wishes said, “*In the USA, and in particular in the state of Maryland, when one becomes a licensed driver; one of the questions on the application is “Would you like to be an organ donor?” One would then need*

to just check the ‘Yes’ or ‘No’ box.” He shared that his mother had checked the “Yes” box and so in her license in bold letters under the word “Donor” it said Yes.^[12]

The Transplantation of Human Organs (THO) Act, 1994^[13] and the Transplantation of Human Organs and Tissues Act 2011 (Amendment)^[14] provide clear guidelines for live donation and transplantation in case of foreign nationals but have no section when it comes to deceased organ donation from foreign nationals.

In the absence of defined guidelines, as of now, the same processes that are followed in case of Indian nationals that are declared brain dead are being followed for foreign nationals.

If the deceased person had explicitly expressed their wish to be a donor and the family is willing to steadfastly support this decision, like in the first two cases, it gives greater confidence to the transplant coordinator and the hospital where death has taken place to take forward the donation process.

The interactions with the embassy officials in case of Nepali donor showed that there were significant opportunities to improve the process for organ donation guidelines both in the country of origin of the foreigner and among the foreign embassies in India, as they had no idea either of the donation process or the requirement for any document from their side.

The Indian tourism sector is on the rise with better connectivity and easier visa regimen and foreign nationals arriving into India with intent to work, for medical treatment or for travel and recreation is growing at the rate of 14% per annum. In 2017, 10.03 million foreigners visited India, and this will go up to 30.5 million by the year 2028. By 2020, international tourists will generate a revenue of over US\$9 billion.^[15]

The top five countries that send tourists to India include Bangladesh, the USA, the UK, Canada, and Australia, as in Table 1.^[16]

Table 1: Top 10 source countries for foreign tourist arrivals in India in 2017

Rank in 2017	Source country	FTAs	Percentage share in
1	Bangladesh	2,156,557	21.49
2	United States	1,376,919	13.72
3	United Kingdom	986,296	9.83
4	Canada	335,439	3.34
5	Australia	324,243	3.23
6	Malaysia	322,126	3.21
7	Sri Lanka	303,590	3.03
8	Russian Federation	278,904	2.78
9	Germany	269,389	2.68
10	France	249,620	2.49
	Total top 10 countries	6,603,074	65.80
	Others	3,432,729	34.20
	Grand Total	10,035,803	100.00

Source: Bureau of Immigration, Government of India. FTAs: Foreign tourist arrivals

Increasingly, we will be faced with such situations where a foreign national is declared brain dead. It is hence imperative that proper guidelines should be drawn up for such cases and the same needs to be published on the National Organ and Tissue Transplant Organization (NOTTO) website (www.notto.gov.in) to give clarity and direction to those that are involved in this work.

From a human rights perspective, it is important that every person no matter where he/she dies has the right to donate his/her organs.

Recommendations

The three examples given here are the only known cases of organ donation by foreign nationals in the country. Both the women were aware of organ donation and had expressed their wish to be donors after their death, whereas in the case of the Nepalese donor, family responded positively to counseling on donation.

The same, however, may not be true in other such cases of foreign nationals.

The author recommends the following steps when there is a foreign national as a deceased donor in a hospital:

1. Certify the brain stem death as per the procedure laid down in Form 8 (1995) or Form 10 (2014) of the act
2. Document the family’s consent in Form 8 (Transplantation of Human Organs and Tissues Rules, 2014) or Form 6 (THO Rules, 1995). Make sure they understand the process and are resolute in their decision. If the family in such cases is unsure or divided in their decision, then it is advisable not to proceed
3. If the family member does not speak or understand English, ensure that there is an interpreter available during family discussions. Be slow when you speak and describe the event that led to brain death and possible organ donation. Use simple language that is easily understood. Be empathetic toward the family and show sensitivity for the difficult situation they are in
4. In certain cases, the family member/s may not be available in India. Ensure communication facility is available including Skype and making an overseas call. In such cases, some embassy official should be available to be a part of this conversation and the same should be recorded. In case no family member can be contacted, the case would need to be abandoned, as in India, informed consent is required for any surgical procedure from the patient or next of kin
5. In every case of foreign nationals, inform the concerned embassy of the intent of the family to donate along with the necessary paperwork such as brain death certificate and consent forms. It is advisable to bring them on board with the donation process. Make sure that mobile numbers of more than one official are available and take permission to be able to call them at odd hours
6. To obtain a No Objection from local police station, as a case involves a foreign national

7. To send an E-mail communication to State Appropriate Authority of the State asking their permission to proceed with the donation of organs
8. Postmortem formalities in medicolegal cases need to be taken care of, and if a family member is not available, it is important to request a staff from embassy to be available during the postmortem
9. Inform the local deceased organ distribution authority as soon as possible and send a copy of all communication with police, embassy, and State Appropriate Authority, so that donated organs can be distributed as per the allocation policy
10. There may be a requirement for funeral to be arranged either locally or the body may have to be transferred to the country of origin. Appropriate arrangements would be required for the same
11. A letter of appreciation should be sent to the family, and a record of the case history should be made available for future requirements
12. After donation, the body may require prolonged storage in the mortuary until other family members arrive and formalities related to transfer of the mortal remains are being completed. Such arrangements should be made in advance
13. All the paperwork may require to be done keeping in mind that the family abroad may require it for settling various requirements. The language of such paperwork should preferably be in English.

Procedure to be followed for transfer of body to the home country

After organ donation, there may be a requirement to transfer the body to the home country as it was in the third case. Transporting bodies to another country is never easy and requires a thorough knowledge of the subject. The cost of transporting a dead body by plane includes the total weight of the body and the distance you need to travel. All the airlines that have cargo services transport dead body. Many families have had traumatic experiences in such transportation.^[17] The outline of such a procedure for transferring the body to the home country

is illustrated in Figure 1. All the formalities and documentation shown need to be completed. All these documents should be in English with at least 6 photocopies of each.

Format of death certificate

The death certificate must have the following information to be acceptable universally:

- Name of the deceased person as spelled in the passport
- Age as in the passport
- Gender
- Name of father or husband as in the passport
- Place of death (current residence)
- Cause of death
- If there was a known terminal disease mention that also
- Name and signature of the doctor
- Registration number and seal of the doctor.

No objection certificate from the police for transportation of the dead body

After getting the death certificate, one needs to visit the concerned police station and inform them about the requirement of a No Objection Certificate from the police mainly to transport the dead body in a cargo flight.

They may request several documents and ask questions related to the death. This is essential to confirm the cause of the death and to establish that no crime was involved.

It is important to carry all the documents such as ID proof, address proof (both local and native) medical reports, discharge summary, and death certificate.

Embalming certificate

It is important to obtain an embalming certificate that states that the body does not provide any hazard and safe for transport by air. This can only be obtained after getting the police clearance certificate.

Body embalming is done mainly to avoid the decomposition of the body by removing the body fluids and replacing them with chemicals. This is done in all the government hospitals and medical colleges. The body is then packed and sealed in a coffin box.

Coffin certificate

After the final inspection, a coffin certificate is provided and it is only after this certificate is obtained that the dead body can be transported on a cargo plane. It is important that the coffin is booked as “Cargo.”

It is essential that one person travels along with the body in the cargo unless an external agency is handling the case. One will need to reach the cargo terminal of the airport at least 6–8 h in advance of the flight to finish all the required formalities. Moreover, once the formalities are completed, a PNR number will be issued.

The ordeal does not end here, as the waiting to receive the coffin from the cargo terminal once the destination is reached can be prolonged. This painful process comes to an end when the receipt is produced to collect the coffin.

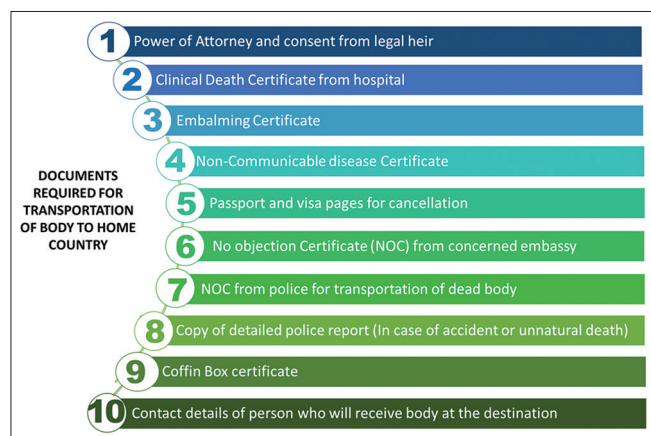


Figure 1: Documents required for transportation of body to home country

CONCLUSION

With the increase in organ donation rate in India, there are likely to be increasing instances of foreigners becoming organ donors. Guidelines need to be created by State or NOTTO to include donations by foreign nationals. This will give greater clarity and confidence to the hospitals to approach such families to give them the option for organ donation. By doing so, we will increase the donor pool and ensure that every family, no matter what citizenship, has the opportunity to make a choice regarding organ donation of their loved one.

The process for transporting a body abroad requires a thorough knowledge of all the formalities and procedures involved. The same has been clearly described for the benefit of the hospital administrator and transplant coordinator of the hospital. It is the moral obligation of the hospital to provide complete support to the family member who wishes to take the body back to the home country after organ donation.

From a human rights perspective, India needs to enable the choice of organ donation for every person who is declared dead within its territory.

Declaration of patient consent

The Deceased Patient's Attendant's Consent has been taken for participation in the study and for publication of clinical details and images. Patients' Attendants Understand that the names, initials would not be published, and all standard protocols will be followed to conceal their identity.

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Conflicts of interest

There are no conflicts of interest.

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