

LOK SABHA

**THE TRANSPLANTATION OF THE
HUMAN ORGANS BILL, 1993
AS PASSED BY RAJYA SABHA**

REPORT OF THE SELECT COMMITTEE

[Presented on 21 December, 1993]



**LOK SABHA SECRETARIAT
NEW DELHI**

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**SELECT COMMITTEE ON TRANSPLANTATION OF HUMAN ORGANS BILL, 1993
AS PASSED BY RAJYA SABHA**

COMPOSITION OF THE COMMITTEE

Shri Peter G. Marbaniang—Chairman

MEMBERS

2. Dr. Krupasindhu Bhoi
3. Prof. Susanta Chakraborty
4. Shri Sharad Dighe
5. Smt. Saroj Dubey
6. Shri Bhupinder Singh Hooda
7. Shri Khelan Ram Jangde
8. Dr. K.D. Jeswani
9. Shri Dau Dayal Joshi
10. Dr. G.L. Kanaujia
11. Dr. Ravi Mallu
12. Dr. Smt. Padma
13. Dr. Laxminarain Pandey
14. Dr. Vasant Pawar
15. Shri Mullapally Ramachandiran
16. Shri Venkateswara D. Rao
17. Shri Roshan Lal
18. Shri Rajnath Sonkar Shastri
19. Shri Vishwa Nath Shastri
20. Dr. C. Silvera
- *21. Dr. R. Sridharan

SECRETARIAT

1. Shri G.L. Batra — *Additional Secretary*
2. Shri S.C. Gupta — *Joint Secretary*
3. Shri R.K. Chatterjee — *Deputy Secretary*
4. Shri Ram Kumar — *Under Secretary*

LEGISLATIVE COUNSEL

Shri P.C. Roy, Deputy Legislative Counsel

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE

1. Shri R.L. Mishra, Secretary (Health)
2. Shri B.S. Lamba, Joint Secretary
3. Dr. S. Nundy, Professor, A.I.I.M.S.

Appointed w.e.f. 17.12.93 vice Dr. R.K.G. Rajulu resigned.

REPORT OF THE SELECT COMMITTEE ON THE TRANSPLANTATION OF HUMAN ORGANS BILL, 1993 AS PASSED BY RAJYA SABHA

1. The Chairman of the Select Committee to which the Bill viz., the Transplantation of Human Organs Bill-1993 as passed by Rajya Sabha, was referred, having been authorised by the Committee to submit the Report on their behalf, present this Report.

2. The Bill, as passed by Rajya Sabha, was laid on the Table of Lok Sabha on 11 May, 1993. Motion for reference of the Bill to a Select Committee was moved in Lok Sabha by Shri Paban Singh Ghatowar, Deputy Minister in the Ministry of Health and Family Welfare, on 11 December, 1993 and was adopted (Appendix I).

3. The Committee held 5 sittings in all.

4. At their first sitting held on 14 December, 1993, the Committee held general discussion on various provisions of the Bill.

5. The Committee were asked to present their Report to the House by 18 December, 1993. However, the Committee were granted an extension of time for presentation of the Report upto 21 December, 1993.

6. At their sittings on 16 and 17 December, 1993, the Committee held clause-by-clause discussion on the provisions of the Bill on the basis of amendments given notices of by the Members.

7. The Committee considered and adopted the Report at their sitting held on 20 December, 1993.

8. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

Sub-clause (i) of Clause 2 — Definitions

9. The Committee feel that the definition of the term "near relative" as given in the sub-clause is very restrictive as it includes only the spouse, son, daughter, father, mother, brother or sister. They are of the view that the scope of the term "near relative" should be enlarged so as to include son-in-law, father-in-law, mother-in-law and brother-in-law as well. The sub-clause has been amended accordingly.

Insertion of a new part (iii) after Sub-clause (k)(ii) of Clause 2

10. The Bill provides for exemption from the term 'payment' any expenses or loss of earnings incurred by a donor so far as reasonably and directly attributable to his supplying any human organ from his body. The Committee are of the view that the term 'payment' should also specifically exclude the expenses incurred on treatment of the donor before or after removal of his organ. A new part (iii) after part (ii) of sub-clause (k) has accordingly been inserted.

Sub-clause (3) of Clause 1 — Commencement

11. The Bill seeks to confer power upon the Central Government to appoint a date, by notification, for coming into force of the Act in the States of Goa, Himachal Pradesh and Maharashtra and in all the Union Territories. Some members have expressed the view that enforcing the Act within the three States and the Union Territories only would not serve the purpose for which this enactment is being made. The unethical practice of commercial dealings in human organs would continue in other States where the provisions of the Act would not be applicable. The Bill should, therefore, provide for a time-limit of one year within which the Act would come in force in all the States which adopt this Act by passing a resolution in this behalf under clause (1) of article 252 of the Constitution. The representative of the Ministry stated that enactment of such a model legislation would help to create public opinion and generate moral pressure on other States and thereby they would be able to persuade other State Governments to adopt soon a resolution to this effect. The Committee would like the Government to make concerted efforts to see that other States especially the major ones pass resolutions to adopt this Act within a time-frame.

Clause 13 — Appropriate Authority

12. Clause 13 confers power on the Central/State Governments to appoint, by notification, one or more officers as Appropriate Authorities for the purposes of this Act. The Committee are of the opinion that Appropriate Authorities should consist of not less than two officers. This may be kept in view while framing the rules under the Act.

Clause 14 — Registration of Hospitals

13. The Committee find that sub-clause (1) of Clause 14 provides that every hospital engaged in any activity relating to the removal, storage of transplantation of any human organ shall cease to engage in any such activity on the expiry of three months from the date of commencement of this Act unless such hospital has applied for registration and is so registered or till such application is disposed of, whichever is earlier.

14. The Bill does not provide any time-limit for the disposal of the application by the Appropriate Authority. The representative of the Ministry stated that such a time-limit could be provided in the rules to be framed under the Act. The Committee recommend that a time-limit not exceeding 90 days should be provided in the rules for the disposal of the application by the Appropriate Authority after the receipt of an application complete in all respects.

15. The Select Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
20 December, 1993

PETER G. MARBANIANG
Chairman
Select Committee on Transplantation
of Human Organs Bill, 1993 as passed
by Rajya Sabha

THE TRANSPLANTATION OF HUMAN ORGANS BILL, 1993

ARRANGEMENT OF CLAUSES

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THE TRANSPLANTATION OF HUMAN ORGANS BILL, 1993

A

BILL

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.

WHEREAS it is expedient 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 WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Goa, Himachal Pradesh and Maharashtra to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Transplantation of Human Organs Act, 1993.

Short
title,
application
and
commence-
ment.

5 (2) It applies, in the first instance, to the whole of the States of Goa, Himachal Pradesh and Maharashtra and to all the Union territories and it shall also apply to such other State which adopts this Act by

resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force in the States of Goa, Himachal Pradesh and Maharashtra and in all the Union territories on such date as the Central Government may, by notification, appoint and in any other State which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, means the date on which this Act comes into force in such State or Union territory. 5 10

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "advertisement" includes any form of advertising whether to the public generally or to any section of the public or individually to selected persons;

(b) "Appropriate Authority" means the Appropriate Authority appointed under section 13; 15

(c) "Authorisation Committee" means the committee constituted under clause (a) or clause (b) of sub-section (4) of section 9;

(d) "brain-stem death" means the stage at which all functions of the brain-stem have permanently and irreversibly ceased and is so certified under sub-section (6) of section 3; 20

(e) "deceased person" means a person in whom permanent disappearance of all evidence of life occurs, by reason of brain-stem death or in a cardio-pulmonary sense, at any time after live birth has taken place; 25

(f) "donor" means any person, not less than eighteen years of age, who voluntarily authorises the removal of any of his human organs for therapeutic purposes under sub-section (1) or sub-section (2) of section 3;

(g) "hospital" includes a nursing home, clinic, medical centre, medical or teaching institution for therapeutic purposes and other like institution; 30

(h) "human organ" means any part of a human body consisting of a structured arrangement of tissues which, if wholly removed, cannot be replicated by the body; 35

(i) "near relative" means spouse, son, son-in-law, daughter, father, father-in-law, mother, mother-in-law, brother, brother-in-law, or sister;

(j) "notification" means a notification published in the Official Gazette; 40

(k) "payment" means payment in money or money's worth but does not include any payment for defraying or reimbursing—

(i) the cost of removing, transporting or preserving the human organ to be supplied; or

5 (ii) any expenses or loss of earnings incurred by a person so far as reasonably and directly attributable to his supplying any human organ from his body; or

(iii) any expenses incurred in connection with treatment before or after the transplantation;

10 (l) "prescribed" means prescribed by rules made under this Act;

(m) "recipient" means a person into whom any human organ is, or is proposed to be, transplanted;

102 of
1956.

15 (n) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and who is enrolled on a State Medical Register as defined in clause (k) of that section;

20 (o) "therapeutic purposes" means systematic treatment of any disease or the measures to improve health according to any particular method or modality; and

(p) "transplantation" means the grafting of any human organ from any living person or deceased person to some other living person for therapeutic purposes.

25 CHAPTER II

AUTHORITY FOR THE REMOVAL OF HUMAN ORGANS

3. (1) Any donor may, in such manner and subject to such conditions as may be prescribed, authorise the removal, before his death, of any human organ of his body for therapeutic purposes.

Authority
for remo-
val of
human
organs.

30 (2) If any donor had, in writing and in the presence of two or more witnesses (at least one of whom is a near relative of such person), unequivocally authorised at any time before his death, the removal of any human organ of his body, after his death, for therapeutic purposes, the person lawfully in possession of the dead body of the donor shall, unless
35 he has any reason to believe that the donor had subsequently revoked the authority aforesaid, grant to a registered medical practitioner all reasonable facilities for the removal, for therapeutic purposes, of that human organ from the dead body of the donor.

(3) Where no such authority as is referred to in sub-section (2), was
40 made by any person before his death but no objection was also expressed by such person to any of his human organs being used after his death for therapeutic purposes, the person lawfully in possession of the dead body of such person may, unless he has reason to believe that any near relative

of the deceased person has objection to any of the deceased person, human organs being used for therapeutic purposes, authorise the removal of any human organ of the deceased person for its use for therapeutic purposes.

(4) The authority given under sub-section (1) or sub-section (2) or, 5 as the case may be, sub-section (3) shall be sufficient warrant for the removal, for therapeutic purposes, of the human organ; but no such removal shall be made by any person other than the registered medical practitioner.

(5) Where any human organ is to be removed from the body of a 10 deceased person, the registered medical practitioner shall satisfy himself, before such removal, by a personal examination of the body from which any human organ is to be removed, that life is extinct in such body or, where it appears to be a case of brain-stem death, that such death has been certified under sub-section (6). 15

(6) Where any human organ is to be removed from the body of a person in the event of his brain-stem death, no such removal shall be undertaken unless such death is certified, in such form and in such manner and on satisfaction of such conditions and requirements as may be prescribed, by a Board of medical experts consisting of the following, 20 namely:—

(i) the registered medical practitioner in charge of the hospital in which brain-stem death has occurred;

(ii) an independent registered medical practitioner, being a specialist, to be nominated by the registered medical practitioner 25 specified in clause (i), from the panel of names approved by the Appropriate Authority;

(iii) a neurologist or a neurosurgeon to be nominated by the registered medical practitioner specified in clause (i), from the panel of names approved by the Appropriate Authority; and 30

(iv) the registered medical practitioner treating the person whose brain-stem death has occurred.

(7) Notwithstanding anything contained in sub-section (3), where brain-stem death of any person, less than eighteen years of age, occurs and is certified under sub-section (6), any of the parents of the deceased 35 person may give authority, in such form and in such manner as may be prescribed, for the removal of any human organ from the body of the deceased person.

Removal
of human
organs
not to
be autho-
rised in
certain
cases.

4. (1) No facilities shall be granted under sub-section (2) of section 3 and no authority shall be given under sub-section (3) of that section 40 for the removal of any human organ from the body of a deceased person, if the person required to grant such facilities, or empowered to give such authority, has reason to believe that an inquest may be required to be held in relation to such body in pursuance of the provisions of any law for the time being in force.

(2) No authority for the removal of any human organ from the body of a deceased person shall be given by a person to whom such body has been entrusted solely for the purpose of internment, cremation or other disposal.

- 5 5. (i) In the case of a dead body lying in a hospital or prison and not claimed by any of the near relatives of the deceased person within forty-eight hours from the time of the death of the concerned person, the authority for the removal of any human organ from the dead body which so remains unclaimed may be given, in the prescribed form, by the
10 person in charge, for the time being, of the management or control of the hospital or prison, or by an employee of such hospital or prison, authorised in this behalf by the person in charge of the management or control thereof.

Authority for removal of human organs in case of unclaimed bodies in hospital or prison.

- (2) No authority shall be given under sub-section (1) if the person
15 empowered to give such authority has reason to believe that any near relative of the deceased person is likely to claim the dead body even though such near relative has not come forward to claim the body of the deceased person within the time specified in sub-section (1).

6. Where the body of a person has been sent for postmortem examination—
20 nation—

(a) for medico-legal purposes by reason of the death of such person having been caused by accident or any other unnatural cause; or

(b) for pathological purposes,

- 25 the person competent under this Act to give authority for the removal of any human organ from such dead body may, if he has reason to believe that such human organ will not be required for the purpose for which such body has been sent for postmortem examination, authorise the removal, for therapeutic purposes, of that human organ of the deceased person provided that he is satisfied that the deceased person had not expressed, before his death, any objection to any of his human organs being
30 used, for therapeutic purposes after his death or, where he had granted an authority for the use of any of his human organs for therapeutic purposes after his death, such authority had not been revoked by him before his death.

Authority for removal of human organs from bodies sent for post-mortem examination for medico-legal or pathological purposes.

- 35 7. After the removal of any human organ from the body of any person, the registered medical practitioner shall take such steps for the preservation of the human organ so removed as may be prescribed.

Preservation of human organs.

8. (1) Nothing in the foregoing provisions of this Act shall be
40 construed as rendering unlawful any dealing with the body or with any part of the body of a deceased person if such dealing would have been lawful if this Act had not been passed.

Savings.

- (2) Neither the grant of any facility or authority for the removal of any human organ from the body of a deceased person in accordance with the provisions of this Act nor the removal of any human organ
45 from the body of a deceased person in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Indian Penal Code.

Restrictions
on removal
and
transplan-
tation of
human
organs.

9. (1) Save as otherwise provided in sub-section (3), no human organ removed from the body of a donor before his death shall be transplanted into a recipient unless the donor is a near relative of the recipient.

(2) Where any donor authorises the removal of any of his human organs after his death under sub-section (2) of section 3 or any person competent or empowered to give authority for the removal of any human organ from the body of any deceased person authorises such removal, the human organ may be removed and transplanted into the body of any recipient who may be in need of such human organ.

(3) If any donor authorises the removal of any of his human organs before his death under sub-section (1) of section 3 for transplantation into the body of such recipient, not being a near relative, as is specified by the donor by reason of affection or attachment towards the recipient or for any other special reasons, such human organ shall not be removed and transplanted without the prior approval of the Authorisation Committee. 10 15

(4) (a) The Central Government shall constitute, by notification, one or more Authorisation Committees consisting of such members as may be nominated by the Central Government on such terms and conditions as may be specified in the notification for each of the Union territories for the purposes of this section. 20

(b) The State Government shall constitute, by notification, one or more Authorisation Committees consisting of such members as may be nominated by the State Government on such terms and conditions as may be specified in the notification for the purposes of this section. 25

(5) On an application jointly made, in such form and in such manner as may be prescribed, by the donor and the recipient, the Authorisation Committee shall, after holding an inquiry and after satisfying itself that the applicants have complied with all the requirements of this Act and the rules made thereunder, grant to the applicants approval for the removal and transplantation of the human organ. 30

(6) If, after the inquiry and after giving an opportunity to the applicants of being heard, the Authorisation Committee is satisfied that the applicants have not complied with the requirements of this Act and the rules made thereunder, it shall, for reasons to be recorded in writing, reject the application for approval. 35

CHAPTER III

REGULATION OF HOSPITALS

Regula-
tion of
hospitals
conducting
the remo-
val, storage
or trans-
plantation
of human
organs.

10. (1) On and from the commencement of this Act,—

(a) no hospital, unless registered under this Act, shall conduct, or associate with, or help in, the removal, storage or transplantation of any human organ; 40

(b) no medical practitioner or any other person shall conduct, or cause to be conducted, or aid in conducting by himself or through any other person, any activity relating to the removal, storage or trans- 45

plantation of any human organ at a place other than a place registered under this Act; and

(c) no place including a hospital registered under sub-section (1) of section 15 shall be used or cause to be used by any person for the removal, storage or transplantation of any human organ except for therapeutic purposes.

(2) Notwithstanding anything contained in sub-section (1), the eyes or the ears may be removed at any place from the dead body of any donor, for therapeutic purposes, by a registered medical practitioner.

10 *Explanation.*—For the purposes of this sub-section, “ears” include ear drums and ear bones.

11. No donor and no person empowered to give authority for the removal of any human organ shall authorise the removal of any human organ for any purpose other than therapeutic purposes.

Prohibition of removal or transplantation of human organs for any purpose other than therapeutic purposes.

15 12. No registered medical practitioner shall undertake the removal or transplantation of any human organ unless he has explained, in such manner as may be prescribed, all possible effects, complications and hazards connected with the removal and transplantation to the donor and the recipient respectively.

Explaining effects, etc., to donor and recipient.

20 CHAPTER IV

APPROPRIATE AUTHORITY

13. (1) The Central Government shall appoint, by notification, one or more officers as Appropriate Authorities for each of the Union territories for the purposes of this Act.

Appropriate Authority.

25 (2) The State Government shall appoint, by notification, one or more officers as Appropriate Authorities for the purposes of this Act.

(3) The Appropriate Authority shall perform the following functions, namely:—

30 (i) to grant registration under sub-section (1) of section 15 or renew registration under sub-section (3) of that section;

(ii) to suspend or cancel registration under sub-section (2) of section 16;

35 (iii) to enforce such standards, as may be prescribed, for hospitals engaged in the removal, storage or transplantation of any human organ;

(iv) to investigate any complaint of breach of any of the provisions of this Act or any of the rules made thereunder and take appropriate action;

(v) to inspect hospitals periodically for examination of the quality of transplantation and the follow-up medical care to persons who have undergone transplantation and persons from whom organs are removed, and

(vi) to undertake such other measures as may be prescribed. 5

CHAPTER V

REGISTRATION OF HOSPITALS

Registration of hospitals engaged in removal, storage or transplantation of human organs.

14. (1) No hospital shall commence any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes after the commencement of this Act unless such hospital is duly registered under this Act: 10

Provided that every hospital engaged, either partly or exclusively, in any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement: 15

Provided further that every hospital engaged in any activity relating to the removal, storage or transplantation of any human organ shall cease to engage in any such activity on the expiry of three months from the date of commencement of this Act unless such hospital has applied for registration and is so registered or till such application is disposed of, whichever is earlier. 20

(2) Every application for registration under sub-section (1) shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed. 25

(3) No hospital shall be registered under this Act unless the Appropriate Authority is satisfied that such hospital is in a position to provide such specialised services and facilities, possess such skilled man-power and equipments and maintain such standards as may be prescribed.

Certificate of registration.

15. (1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder, grant to the hospital a certificate of registration in such form, for such period and subject to such conditions as may be prescribed. 30

(2) If, after the inquiry and after giving an opportunity to the applicant of being heard, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act and the rules made thereunder, it shall, for reasons to be recorded in writing, reject the application for registration. 35

(3) Every certificate of registration shall be renewed in such manner and on payment of such fees as may be prescribed. 40

Suspension or cancellation of registration.

16. (1) The Appropriate Authority may, *suo moto* or on complaint, issue a notice to any hospital to show cause why its registration under this Act should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the hospital, the Appropriate Authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder, 45

it may, without prejudice to any criminal action that it may take against such hospital, suspend its registration for such period as it may think fit or cancel its registration:

5 Provided that where the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any hospital without issuing any notice.

10 17. Any person aggrieved by an order of the Authorisation Committee rejecting an application for approval under sub-section (6) of section 9, or any hospital aggrieved by an order of the Appropriate Authority rejecting an application for registration under sub-section (2) of section 15 or an order of suspension or cancellation of registration under sub-section (2) of section 16, may, within thirty days from the date of the receipt of the order, prefer an appeal, in such manner
15 as may be prescribed, against such order to—

Appeals.

(i) the Central Government where the appeal is against the order of the Authorisation Committee constituted under clause (a) of sub-section (4) of section 9 or against the order of the Appropriate Authority appointed under sub-section (1) of section 13; or

20 (ii) the State Government, where the appeal is against the order of the Authorisation Committee constituted under clause (b) of sub-section (4) of section 9 or against the order of the Appropriate Authority appointed under sub-section (2) of section 13.

CHAPTER VI

25

OFFENCES AND PENALTIES

18. (1) Any person who renders his services to or at any hospital and who, for purposes of transplantation, conducts, associates with, or helps in any manner in, the removal of any human organ without authority, shall be punishable with imprisonment for a term which may
30 extend to five years and with fine which may extend to ten thousand rupees.

Punish-
ment for
removal
of human
organ
without
authority.

(2) Where any person convicted under sub-section (1) is a registered medical practitioner, his name shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary
35 action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

19. Whoever—

40 (a) makes or receives any payment for the supply of, or for an offer to supply, any human organ;

(b) seeks to find a person willing to supply for payment any human organ;

(c) offers to supply any human organ for payment;

45 (d) initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human organ;

Punish-
ment
for com-
mercial
dealings
in human
organs.

(e) takes part in the management or control of a body of persons, whether a society, firm or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or

(f) publishes or distributes or causes to be published or distributed any advertisement,— 5

(a) inviting persons to supply for payment of any human organ;

(b) offering to supply any human organ for payment; or

(c) indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d), 10

shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and shall be liable to fine which shall not be less than ten thousand rupees but may extend to twenty thousand rupees: 15

Provided that the court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years and a fine less than ten thousand rupees.

Punish-
ment
for con-
traven-
tion of
any
other pro-
vision of
this Act.

20. Whoever contravenes any provision of this Act or any rule made, 20
or any condition of the registration granted, thereunder for which no punishment is separately provided in this Act, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees.

Offences
by com-
panies.

21. (1) Where any offence, punishable under this Act, has been 25
committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 30

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

(2) Notwithstanding anything contained in sub-section (1), where 35
any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be 40
guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

22. (1) No court shall take cognizance of an offence under this Act except on a complaint made by—

Cognizance
of offences.

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or the State Government or, as the case may be, the Appropriate Authority; or

(b) a person who has given notice of not less than sixty days, in such manner as may be prescribed, to the Appropriate Authority concerned, of the alleged offence and of his intention to make a complaint to the court.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

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

CHAPTER VII

MISCELLANEOUS

23. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

Protec-
tion
of action
taken in
good
faith.

(2) No suit or other legal proceeding shall lie against the Central or the State Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

24. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power to
make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which and the conditions subject to which any donor may authorise removal, before his death, of any human organ of his body under sub-section (1) of section 3;

(b) the form and the manner in which a brain-stem death is to be certified and the conditions and requirements which are to be satisfied for that purpose under sub-section (6) of section 3;

(c) the form and the manner in which any of the parents may give authority, in the case of brain-stem death of a minor, for the removal of any human organ under sub-section (7) of section 3;

(d) the form in which authority for the removal of any human organ from an unclaimed dead body may be given by the person in charge of

the management or control of the hospital or prison, under sub-section (1) of section 5;

(e) the steps to be taken for the preservation of the human organ removed from the body of any person, under section 7;

(f) the form and the manner in which an application may be jointly made by the donor and the recipient under sub-section (5) of section 9;

(g) the manner in which all possible effects, complications and hazards connected with the removal and transplantation is to be explained by the registered medical practitioner to the donor and the recipient under section 12;

10

(h) the standards as are to be enforced by the Appropriate Authority for hospitals engaged in the removal, storage or transplantation of any human organ under clause (iii) of sub-section (3) of section 13;

(i) the other measures as the Appropriate Authority shall undertake in performing its functions under clause (vi) of sub-section (3) of section 15 13;

(j) the form and the manner in which an application for registration shall be made and the fee which shall be accompanied, under sub-section (2) of section 14;

(k) the specialised services and the facilities to be provided, 20 skilled manpower and the equipments to be possessed and the standards to be maintained by a hospital for registration. under sub-section (3) of section 14;

(l) the form in which, the period for which and the conditions subject to which certificate of registration is to be granted to a hos- 25 pital, under sub-section (1) of section 15;

(m) the manner in which and the fee on payment of which certificate of registration is to be renewed under sub-section (3) of section 15;

(n) the manner in which an appeal may be preferred under section 17;

30

(o) the manner in which a person is required to give notice to the Appropriate Authority of the alleged offence and of his intention to make a complaint to the court, under clause (b) of sub-section (1) of section 22; and

(p) any other matter which is required to be, or may be pres- 35 cribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session 40 immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity 45 of anything previously done under that rule.

28 of 1982.
29 of 1982.

25. (1) The Ear Drums and Ear Bones (Authority for Use for Therapeutic Purposes) Act, 1982 and the Eyes (Authority for Use for Therapeutic Purposes) Act, 1982 are hereby repealed.

**Repeal
and
savings.**

(2) The repeal shall, however, not affect the previous operation of the
5 Acts so repealed or anything duly done or suffered thereunder.

APPENDIX I

[Vide para 2 of the Report]

Motion in Lok Sabha for reference of the Bill to the Select Committee

“That the Bill to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealing in human organs and for matters connected therewith or incidental thereto, as passed by Rajya Sabha be referred to a Select Committee consisting of 21 members, namely:—

- (1) Dr. Krupasindhu Bhoi
- (2) Prof. Susanta Chakraborty
- (3) Shri Sharad Dighe
- (4) Smt. Saroj Dubey
- (5) Shri Bhupinder Singh Hooda
- (6) Shri Khelan Ram Jangde
- (7) Dr. K.D. Jeswani
- (8) Shri Dau Dayal Joshi
- (9) Dr. G.L. Kanaujia
- (10) Dr. Ravi Mallu
- (11) Shri Peter G. Marbaniang
- (12) Dr. Smt. Padma
- (13) Dr. Laxminarain Pandey
- (14) Dr. Vasant Pawar
- (15) Dr. R.K.G. Rajulu
- (16) Shri Mullappally Ramachandran
- (17) Shri Venkateswara D. Rao
- (18) Shri Roshan Lal
- (19) Shri Rajnath Sonker Shastri
- (20) Shri Vishwa Nath Shastri
- (21) Dr. C. Silvera

with instructions to report by the 18th December, 1993.”

APPENDIX II

MINUTES OF THE SITTINGS OF THE SELECT COMMITTEE ON THE TRANSPLANTATION OF HUMAN ORGANS BILL, 1993

I

First Sitting

14.12.1993

The Committee met on Tuesday, 14 December, 1993 from 15.00 hours to 17.00 hours.

PRESENT

Shri Pater G. Marbaniang—*Chairman*

MEMBERS

2. Dr. Krupasindhu Bhoi
3. Prof. Susanta Chakraborty
4. Shri Sharad Dighe
5. Dr. K.D. Jeswani
6. Shri Dau Dayal Joshi
7. Dr. G.L. Kanaujia
8. Dr. Ravi Mallu
9. Dr. Laxminarain Pandey
10. Dr. Vasant Pawar
11. Shri Mullapally Ramachandran
12. Shri Vishwa Nath Shastri
13. Dr. C. Silvera

SECRETARIAT

| | |
|----------------------|-------------------------------|
| Shri G.L. Batra | — <i>Additional Secretary</i> |
| Shri R.K. Chatterjee | — <i>Deputy Secretary</i> |
| Shri Ram Kumar | — <i>Under Secretary</i> |

REPRESENTATIVES OF MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

- (1) Shri R.L. Misra, Secretary (Health)
- (2) Shri B.S. Lamba, Joint Secretary
- (3) Dr. S. Nundy, Professor, A.I.I.M.S.

REPRESENTATIVE OF MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri P.C. Roy, Deputy Legislative Counsel

2. At the outset, the Chairman welcomed the members of the committee and referred to the importance and urgency of the proposed legislation and the task assigned to the Committee. He informed the members that as per motion adopted in the House, the Committee had been asked to present the Report in a limited period *i.e.* by 18 December, 1993.

3. The Committee held a general discussion on the provisions of the Bill.

4. The Committee then adjourned to meet again on Wednesday, 15 December, 1993 at 15.00 hours.

II
Second Sitting
15.12.1993

The Committee met on Wednesday, 15 December, 1993 from 15.00 hours to 16.30 hours.

PRESENT

Shri Peter G. Marbaniang—Chairman

MEMBERS

2. Dr. Krupasindhu Bhoi
3. Prof. Susanta Chakraborty
4. Shri Sharad Dighe
5. Dr. K.D. Jeswani
6. Shri Dau Dayal Joshi
7. Dr. Ravi Mallu
8. Dr. Laxminarain Pandey
9. Dr. Vasant Pawar
10. Shri Mullapally Ramachandran
11. Shri Vishwa Nath Shastri
12. Dr. C. Silvera

SECRETARIAT

Shri S.C. Gupta — Joint Secretary
Shri R.K. Chatterjee — Deputy Secretary
Shri Ram Kumar — Under Secretary

REPRESENTATIVES OF MINISTRY OF HEALTH AND FAMILY WELFARE
(DEPARTMENT OF HEALTH)

1. Shri R.L. Misra, Secretary (Health)
2. Dr. S. Nundy, Professor, A.I.I.M.S.

REPRESENTATIVE OF MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(LEGISLATIVE DEPARTMENT)

Shri P.C. Roy, Deputy Legislative Counsel

2. The Committee deliberated upon the future programme of work. The Committee considered the question of seeking extension of time for presentation of the Report to the House by the stipulated date, the 18 December, 1993. The Committee deliberated on the matter and felt that since the Committee were yet to take up the clause-by-clause consideration of the Bill, besides completing other stages of the Bill, it would not be possible for the Committee to present their Report to the House by the stipulated date *i.e.* 18 December, 1993.

3. The Committee, therefore, decided to seek extension of time for presentation of their Report to the House upto 22 December, 1993.

4. Thereafter the Chairman announced a tentative schedule of completion of various works relating to various stages of the examination of the Bill as under:—

- | | |
|---|------------------------------|
| (i) notices of amendments from Members | — upto 11 A.M. on 16.12.1993 |
| (ii) Clause-by-Clause consideration of the Bill | — 16.12.93 & 17.12.1993 |
| (iii) Consideration and adoption of | — 20.12.1993 |
| (iv) Minute of Dissent, if any | — upto 12 P.M. on 21.12.1993 |
| (v) Presentation of Report to the House | — 22.12.1993 |

The Committee then adjourned to meet again at 15.00 hours on Thursday, 16 December, 1993.

III
Third Sitting
16.12.1993

The Committee met on Thursday, 16 December, 1993 from 15.00 hours to 17.00 hours

PRESENT

Shri Peter G. Marbaniang —*Chairman*

MEMBERS

2. Dr. Krupasindhu Bhoi
3. Prof. Susanta Chakraborty
4. Smt. Saroj Dubey
5. Shri Dau Dayal Joshi
6. Dr. G.L. Kanaujia
7. Dr. Laxminarain Pandey
8. Dr. Vasant Pawar
9. Dr. C. Silvera

Secretariat

Shri S. C. Gupta —*Joint Secretary*
Shri R.K. Chatterjee —*Deputy Secretary*
Shri Ram Kumar —*Under Secretary*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

Shri R.L. Mishra, Secretary (Health)
Dr. S. Nundy, Professor, A.I.I.M.S.

**REPRESENTATIVE OF MINISTRY OF LAW, JUSTICE AND
COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)**

Shri P.C. Roy, Deputy Legislative Counsel

2. Shri Paban Singh Ghatowar, Deputy Minister in the Ministry of Health and Family Welfare, who was not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee then took up for consideration of clause 1(3) regarding commencement of the Act and found that the Bill conferred power upon the Central Government to appoint a date, by notification, for coming into force of the Act in the States of Goa, Himachal Pradesh and Maharashtra and in all the Union Territories. Some members expressed the view that enforcing the Act within the three States and the Union Territories only would not serve the purpose for which this enactment was being made. The unethical practice of commercial dealings in human organs would continue in other States where the provisions of the Act would not be applicable. The Committee desired the Government to make concerted efforts to see that other States especially the major ones pass resolutions to adopt this Act within a time-frame.

4. The Committee then took up for consideration of Clause 2(i) relating to the term "near relative" and the relevant amendments moved thereto. The discussion was not concluded.

5. The Committee thereafter took up for consideration of Clause 5(i) regarding authority for removal of human organs in case of unclaimed bodies in hospital or prison. The Clause was adopted without any amendment.

6. The Committee then adjourned to meet again on Friday, 17 December, 1993.

IV

Fourth Sitting

17-12-1993

The Committee met on Friday, 17 December, 1993 from 15.00 hours to 17.00 hours.

PRESENT

Shri Peter G. Marbaniang—*Chairman*

MEMBERS

2. Smt. Saroj Dubey
3. Shri Dau Dayal Joshi
4. Dr. G.L. Kanaujia
5. Dr. Laxminarain Pandey
6. Shri Roshan Lal
7. Dr. C. Silvera

SECRETARIAT

Shri S.C. Gupta—*Joint Secretary*

Shri R.K. Chatterjee—*Deputy Secretary*

Shri Ram Kumar—*Under Secretary*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

Shri R.L. Misra, Secretary (Health)

Shri B.S. Lamba, Joint Secretary

Dr. S. Nundy, Professor, A.I.I.M.S.

REPRESENTATIVE OF MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri P.C. Roy, Deputy Legislative Counsel

2. The Committee resumed further clause-by-clause consideration of the Bill.
3. *Clause 2:* The following amendments were accepted:—
 - (i) Page 2, *for* lines 36-37, *substitute*—
'(i) "near relative" means spouse, son, son-in-law, daughter, father, father-in-law, mother, mother-in-law, brother, brother-in-law or sister;'
 - (ii) Page 3, *after* lines 7, *insert*—
"(iii) any expenses incurred in connection with treatment before or after the transplantation."

The clause, as amended, was adopted.

4. The Committee found that sub-clause (1) of Clause 14 provided that every hospital engaged in any activity relating to the removal, storage or transplantation of any human organ should cease to engage in any such activity on the expiry of three months from the date of commencement of that Act unless such hospital had applied for registration and was so registered or till such application was disposed of, whichever was earlier.

5. The Committee noted that the Bill did not provide any time-limit for the disposal of the application by the Appropriate Authority. However, the representative of the Ministry stated that such a time-limit could be provided in the rules to be framed under the Act. The Committee recommended that a reasonable maximum time-limit should be provided in the rules for the disposal of the application by the Appropriate Authority after the receipt of an application complete in all respects.

6. The amendments received from the Members which were considered but not accepted by the Committee or were withdrawn by the Members are given in the Annexure.

7. The Committee then adjourned to meet again at 15.00 hours on Monday, 20 December, 1993.

ANNEXURE
LOK SABHA SECRETARIAT
(Committee Branch-II)

**SELECT COMMITTEE ON THE TRANSPLANTATION OF THE HUMAN ORGANS
 BILL, 1993 AS PASSED BY RAJYA SABHA**

*List of Amendments received from the Members of the Committee which were considered and not
 accepted by the Committee at their sitting held on 17 December, 1993*

(Vide para 6 of the Minutes)

| S. No. | Name of Member and text of amendment | Clause No. |
|---------------------------|--|------------|
| SHRI SHARAD DIGHE: | | |
| 1. | Page 2, for lines 3-10 substitute— (3) It shall come into force after one year or on the day on which all the other States adopt this Act by Resolution passed in that behalf under clause (1) of article 252 of the Constitution whichever is earlier. | 1 |
| 2. | Page 2, for lines 36-37, substitute— (1) "near relative" means— (I) his natural parents and his children (II) his brothers and sisters of the whole or half blood (i.e. any child of either of his natural parents.) (III) the brothers and sisters of the whole or half blood of either of his natural parents (i.e. his aunts and uncles.) (IV) the natural children of his brothers and sisters of the whole and half blood (i.e. nephews and nieces) or of the brothers and sisters of the whole or half blood or either of his natural parents (i.e. first cousins) Explanation: Use of the male pronoun above should be taken to imply a member of either sex." | 2 |
| 3. | DR. K. D. JESWANI: Page 2, for lines 36-37 substitute "near relative" means spouse plus genetically related persons to:— "(a) his natural parents and his children; (b) his brothers and sisters of the whole or half blood (i.e. any child of either of his natural parents); (c) the brothers and sisters of the whole or half blood of either of his natural parents (i.e. his aunts and uncles); (d) the natural children of his brothers and sisters of the whole and half blood (i.e. nephews and nieces) or of the brothers and sisters of the whole or half blood of either of his natural parents (i.e. first cousins)." | 2 |
| 4. | DR. LAXMINARAIN PANDEY: DR. K. D. JESWANI: Page 2, for lines 36 and 37, substitute (i) "'near relatives" means spouse, son, son-in-law, daughter, daughter-in-law, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister or sister-in-law.' | 2 |

| S. No. | Name of Member and text of amendment | Clause No. |
|--|---|-------------|
| | DR. LAXMINARAIN PANDEY: | |
| 5. | Page 2, line 27,— <i>After the word "voluntarily" add the words "or due to some specific reasons."</i> | 2 |
| | DR. K. D. JESWANI: | |
| 6. | Page 3, line 27,— <i>after the words "human organ" add the words "except ear drums and cornea."</i> | 3 |
| | DR. LAXMINARAIN PANDEY: | |
| | DR. K. D. JESWANI: | |
| 7. | Page 5, lines 7,— <i>for "forty-eight hours" substitute "twenty-four hours."</i> | 5 |
| | DR. LAXMINARAIN PANDEY: | |
| 8. | Page 1, for "THE TRANSPLANTATION OF HUMAN ORGANS BILL, 1993" substitute "THE TRANSPLANTATION OF HUMAN ORGANS AND TISSUES BILL, 1993." | Short Title |
| <p style="text-align: center;">TRANSPLANTATION OF HUMAN ORGANS BILL, 1993, AS PASSED BY RAJYA SABHA NOTICES OF AMENDMENTS UNDER RULE 301</p> | | |

| S. No. | Name of Member and Text of Amendment | Clause No. |
|--------|---|------------|
| | SHRI GIRDHARI LAL BHARGAVA: | |
| 1. | Page 2, line 32, — <i>add at the end—</i> <i>"registered under the Transplantation of Human Organs Act, 1993,"</i> | 2 |
| 2. | Page 3, lines 25 and 26, — <i>omit "in such manner and subject to such conditions as may be prescribed,"</i> | 3 |
| 3. | Page 9, line 13,— <i>for "thirty days" substitute "sixty days"</i> | 17 |
| 4. | Page 9, line 13,— <i>for "five years" substitute "seven years"</i> | 18 |
| 5. | Page 9, line 36,— <i>for "two years" substitute "three years"</i> | 18 |
| | <i>General Suggestions</i> | |
| | DR. LAXMINARAIN PANDEY: | |
| 10. | Page 5, <i>"Provision should also be made in Sections 5 and 6 of the Act that a death certificate should be verified by a Neurologist, Neuro-Surgeon and by an expert of an Intensive Care Unit. Similary R.M.P. doctor is not enough to remove any organ as it require special training to do this specific job."</i> | 5 and 6 |

**ANALYSIS OF PROPOSED LEGISLATION ON TRANSPLANTATION OF HUMAN ORGANS
AS INTRODUCED IN RAJYA SABHA ON 20 AUGUST, 1992
AS RECEIVED FROM DR. LAXMINARAIN PANDEY, M.P.**

PREAMBLE AND CHAPTER I

1. The Bill should be called "The Transplantation of Human Organs and Tissues—1993" instead of "The Transplantation of Human Organs—1993". Clarification—Islet cell transplantation or partial pancreatic Transplant/Liver lobe Transplant in fact fall in the category of tissue Transplantation while total pancreas and total liver Transplant is actually Organ Transplant.

2. In the list of near relatives spouse is included along with son, daughter, father, mother, brother or sister.

Near relatives should ideally mean only genetically related persons other may be called emotionally related and spouse falls in the later category.

3. Reimbursement of the cost of removing, transporting or preserving human organs to be supplied or any expense or loss or earnings incurred by a person so far as reasonably and directly attributable to his supplying any human organ from his body are acceptable, will not be included as payment and not be considered as part of trade. This is ambiguous particularly the loss of earnings because of numerous hospital visits and admissions and post operative convalescing period of the donor will vary from a few thousands to a few lacs depending on the economic status of the donor. This clause does leave room for money transaction.

CHAPTER—II

4. Chapter II section 3 has provisions for "opting in" and "opting out" consent which is a strong point of the bill.

5. Inclusion of Brain Stem Death as final death is the latest concept and will certainly increase the supply of good quality donor organs.

6. Bill must specify in its main body the requisite qualifications and experiences of all medical personnel e.g., Neurologist, Neuro-surgeons and ICU experts should certify death. Only specially qualified and trained Surgeons should be permitted to retrieve the organs and to transplant the organs—Word Registered Medical Practitioner as used in the Bill is not sufficient. Section 5(1) relates to unclaimed bodies lying in a hospital premises for 48 hours after death is redundant unless the deceased is only brain dead and is on respirator. Most organs for a non-heart beating cadaver after 48 hours will be rendered useless for the purpose of therapeutic transplantation.

7. Idea of Authorisation Committee is good but this may be uniformly applicable to all living related transplantations so as to free the doctors of responsibility of determining the donor recipient relationship.

Or else since hospitals are going to be registered and authorised for the purpose—this responsibility may assigned to the hospital administration who in turn will be an appropriate authority appointed by the Government.

CHAPTER—III

8. In Chapter III section (2) authorisation for removal of organs from dead body should be allowed for purpose of Medical Research and Education besides therapeutic use.

9. Section 12 of Chapter III must prescribe an uniform protocol for informed consent for all hospitals covered by this Act.

10. There seems to be an overdose of Government role why cannot all the power and authority included in this chapter be given to Medical Council of India and other professional bodies.

As a matter of fact the whole chapter is not required and the existing rules applicable to all other modality in the practice of medicine should be applicable here also. Why a separate clauses for Transplantation and for argument sake why not such rules for Dialysis treatment, Treatment of cancer patients of cardiac surgery. There are theoretical possibilities of malpractice in these specialities also. For example dialysis offered for 2 hours when it should have been for 4 hours but the charges made are same not halved coronary bypass surgery performed where it could have been avoided. There can be numerous such theoretical possibilities.

CHAPTER—IV

Offences and Penalties

11. Onus should be on the hospital to inform the Doctor whether the hospital has authority to conduct such procedures or not. Doctors should not be held responsible for operating in such a hospital because donor organ removal from dead body may be an emergency procedure and doctor may be under tremendous pressure to do a fine and quick job and will not be expected to confirm the eligibility of the hospital.

12. Doctor should be out of purview of this provision and should not be expected to investigate and identify the donor recipient relationship. This should be the responsibility of the recipient and his or her family and the donor to declare their relationship and they only should be answerable for any breach. An appropriate declaration attested or signed by a legally acceptable authority may be made mandatory for all living donor transplantations.

The legislation with suitable amendments once enacted will help and protect the interests of Donors Recipients Hospitals and Doctors alike.

1. Unrelated donor is a reality and cannot be worked away. Government must see to it that there is no trade, no middleman and donor's health is guaranteed.

2. Government must gear up machinery to educate public at large so that people come forward voluntarily to donate their organs after death.

DONOR CARD was LAUNCHED by Dr. Shanker Dayal Sharma, Vice-President of India on 5th January, 1992 and was issued by the Transplantation Society of India. Government should legalise this Card.

~~CHAPTER IV~~

Fifth Sitting

20-12-1993

The Committee met on Monday, 20 December, 1993 from 15.00 hours to 16.30 hours.

PRESENT

Shri Peter G. Marbaniang—*Chairman*

MEMBERS

2. Dr. Krupasindhu Bhoi
3. Prof. Susanta Chakraborty
4. Shri Sharad Dighe
5. Smt. Saroj Dubey
6. Shri Bhupinder Singh Hooda
7. Dr. K.D. Jeswani
8. Dr. G.L. Kanaujia
9. Dr. Ravi Mallu
10. Dr. Laxminarain Pandey
11. Dr. Vasant Pawar
12. Dr. R. Sridharan

SECRETARIAT

Shri S.C. Gupta—*Joint Secretary*

Shri R.K. Chatterjee—*Deputy Secretary*

Shri Ram Kumar—*Under Secretary*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

Shri R.L. Misra, Secretary (Health)

Shri B.S. Lamba, Joint Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri P.C. Roy, Deputy Legislative Counsel.

2. The Committee considered and adopted the Bill, as amended.

3. The Committee thereafter considered and adopted the draft report subject to the following modifications:—

“(i) Add the following new para 12 in the Report—

‘*Clause 13—Appropriate Authority*

‘Clause 13 confers power on the Central/State Governments to appoint, by notification, one or more officers as Appropriate Authorities for the purposes of this Act. The Committee are of the opinion that Appropriate Authorities should consist of not less than two officers. This may be kept in view while framing the rules under the Act.’

(ii) In para 13 (after inserted para 12) of the report *Clause 14—*

for the words ‘a reasonable maximum time-limit’

substitute the words ‘a time-limit not exceeding 90 days’

(iii) for Paragraph Nos. 12, 13 and 14

substitute Paragraph Nos. 13, 14 and 15”

4. The Committee authorised the Legislative Counsel to carry out certain minor corrections of a drafting nature.

5. The Chairman drew the attention of the Members to the provisions contained in Direction 87 of the Directions by the Speaker regarding Minutes of Dissent and announced that the Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 10.00 hours on 21 December, 1993.

6. The Committee also authorised the Chairman and, in his absence, Dr. Vasant Pawar to present the Report to the House on Tuesday, 21 December, 1993.

7. The Committee placed on record their appreciation for the cooperation and assistance rendered by the officers of the Ministry of Health and Family Welfare and the Legislative Counsel of the Ministry of Law, Justice and Company Affairs.

8. The Committee also placed on record their appreciation and thanks to the officers and staff of the Lok Sabha Secretariat for the diligent help and valuable assistance rendered by them to the Committee in all matters.

9. The members of the Committee also placed on record their high appreciation and thanks to the Chairman for very ably and impartially conducting the proceedings of the Committee and guiding their deliberations at various stages of the Bill.

10. The Committee then adjourned.

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