

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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ALTRUISTIC DONATION AND LEGAL BARRIERS: A CASE COMMENT ON ORGAN TRANSPLANTATION IN UVAIS MUHAMMED K.C vs THE STATE OF KERALA

AUTHORED BY - SHILPA.S*



For 20-year-old Uvais Muhammad, time was slipping away. Diagnosed with chronic kidney disease, his only hope for survival was a kidney transplant. But hope alone wasn't enough. Despite finding a willing donor—Chippy, a woman driven by compassion after losing her own brother to the same illness—Uvais found himself trapped in a bureaucratic nightmare. The law that was meant to prevent organ trafficking had instead become a wall between him and life-saving treatment.

*The case of **Uvais Muhammad K.C. v. State of Kerala**¹ is not just a legal battle; it is a story of desperation, resilience, and the fight against an inflexible system. At the heart of the matter lies a crucial question: Should a person's act of kindness be met with suspicion simply because they are not related to the recipient? The Kerala High Court's judgment in this case challenges the rigid approach of organ transplant laws in India, emphasizing that regulations should safeguard lives, not endanger them.*

This comment explores how the judiciary stepped in to uphold the right to life, the delicate balance between preventing organ trade and allowing genuine altruistic donations, and the broader implications of this case for patients in similar situations across India.

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¹ WP (C) NO. 45300 of 2024

FACTUAL BACKGROUND

The first petitioner, Uvais Muhammad, a 20-year-old suffering from chronic kidney disease, urgently requires a kidney transplant. However, none of his close relatives are suitable donors. The second petitioner, Chippy S., an acquaintance, volunteered to donate her kidney out of altruism. Due to statutory restrictions under the Transplantation of Human Organs and Tissues Act, 1994, they sought approval from the competent authority. Their application was initially rejected on the grounds that they needed a certificate of altruism from the District Police Chief. Following judicial intervention, the hospital was directed to forward the application without insisting on the certificate. However, the statutory authorities repeatedly rejected the request, citing concerns about the nature of the donation.

The persistent rejections and procedural hurdles led the petitioners to file the present writ petition, seeking relief against the arbitrary denial of transplant approval. The High Court on account of the urgency and unreasonable orders by the respondent, quashed the orders and directed the respondents to grant approval by the exercise of its jurisdiction under A.226.

SUMMARY OF THE JUDGMENT

The Kerala High Court, headed by Hon'ble Justice C.S. Dias, emphasized the following major principles:

Protection of true altruistic donations: The court emphasized that mere financial problems cannot be the blanket ground for assuming commercial purpose and rejecting organ donation.

preventing commercialization: Although there are legal protections in place to deter the sale of human organs, they should not interfere with appropriate, life-saving donations made with sincere compassion.

Providing timely sanctions: Sensing the urgency of the petitioner's ailment and the serial rejections out of suspicion alone, the court exercised its extraordinary jurisdiction to provide forthwith relief. It directed the respondent Committee to sanction the transplant within a week or, in default, the sanction was to be automatically taken.

Finally, the court quashed the disputed orders (Exhibits P14, P17, and P21), vindicated the donor's altruistic intent and required approval of the transplantation, showing that prompt action was necessary for the petitioner's survival.

AUTHOR'S VIEW

When we look on to the history of the act, the journey began in 1989 when Rajiv Gandhi, the then Indian Prime Minister, asked the Ministry of Health and Family Welfare to investigate why heart and liver transplants were not being performed in the country. This led to the identification of two major issues: the non-recognition of brain-stem death as death under Indian law, and the rampant organ trade prevalent in the country.

To address these issues, a committee was set up under the chairmanship of Dr. L.M Singhvi, which submitted its report in June 1991. The report recommended enacting legislation similar to the UK's Human Organ Transplants Act of 1989, with modifications to suit Indian conditions.

The THOA was eventually enacted in 1994, with the primary objectives of regulating organ donation and transplantation, preventing commercial dealings in human organs, and promoting voluntary organ donation. The Act recognized brain-stem death as a form of death, established authorization and accreditation procedures for hospitals, and prohibited organ trade.

According to the Preamble of the 1994, the objectives of the 1994 Act are as follows:

- *Regulation of Organ and Tissue Transplantation:* To provide a legal framework for the procedures involved in the removal, storage, and transplantation of human organs and tissues, ensuring that these activities are conducted for therapeutic purposes.
- *Prevention of Commercial Dealings:* A crucial aspect is to prevent commercial dealings in human organs and tissues. It aims to curb any form of illegal trade or exploitation related to organ and tissue transplantation

The 1994 Act ensures that the process of organ and tissue transplantation is carried out in an ethical and legally compliant manner, safeguarding the rights and welfare of both donors and recipients. In *Amarsingh Bhatia & Anr v Sri ganga ram hospital & ors*², Delhi High Court was of the opinion that:

‘..... In enacting the legislation, Parliament has borne in mind two principles of public interest. First, there is a need to allow transplantation as an instrument of saving lives. Transplantation has an important element in the protection of public health. Second, there was a need to ensure that trafficking in human organs does not take place by exploiting

² W.P.(C)3590/2020

poverty, illiteracy and ignorance of a large section of Indian Society. In its regulatory provisions, the Act seeks to bring about a balance between the two competing principles.....’

Hence, it is very clear that the intention of the legislature is to allow transplantation as an instrument of saving lives and to ensure that trafficking does not take place by exploiting poverty, illiteracy and ignorance of a large section of Indian society.

When we look on to certain provisions we can notice certain flaws in the act. for example, Section 9 of the Act deals with various restrictions on the removal and transplantation of organs and tissues. As per Section 9(1), a human organ cannot be removed from the body of a donor before his death and transplanted onto a recipient unless they are near relatives. An exception to this provision is provided in Section 9(3), where a person can donate his organ to a person who is not a near relative for the reason of affection or attachment towards the recipient or for any other special reasons with the prior approval of the Authorisation Committee.

But Section 9(3) does not provide any clarity on what *constitutes ‘affection’ or ‘attachment’*. Poor and vulnerable people are lured into selling their organs for cash and are given the label of donating the organs due to reasons of affection or attachment.

The phrase **‘for any other special reasons’** is also extremely wide and vague. Whether there is a special reason or not is left to be decided by the Authorisation Committee without any established guidelines on what can or cannot be included under the ‘special reasons’. Section 9 being a major provision of the Act that tries to prevent the commodification of human organs and tissues, there needs to be more clarity on the provision. Though it is difficult to provide a clear definition for ‘affection’ or ‘attachment’, there needs to be clarity on what constitutes enough affection and attachment to donate one’s organ to the other.

Therefore it is important to address the concerns of people who do not have a near relative or do not have a matching donor even if they have one, by allowing organ donations from friends or distant family.

Hence it is clear that by not defining affection or attachment, it leaves with unchecked discretion to authorisation committee to accept or reject donations.

Here, the rejection of the petition by the district level authorization committee and the state government was based on **mere suspicion and speculation** rather than concrete evidence. The reasons that they provided for rejection are:

- Commercial transactions cannot be ruled out.
- The donor is financially vulnerable.
- No proof of long-standing relationship between donor and recipient
- The donor's background makes **her likely** to be financially motivated

Therefore, we can say that the committee failed to conduct a proper financial assessment as required under rule 7 (3) (vii) of the 2014 rules.

Also, Financial hardship alone does not mean a donation is commercial; there must be actual proof of money exchange, which was absent here. This was held in similar cases like:

In *Kuldeep Singh v. State of Tamil Nadu*³, the Supreme Court ruled that the Authorization Committee must ensure genuine intent but should not mechanically reject applications based on suspicion alone.

In *C. Seshadri v. State of Telangana*⁴, the Andhra Pradesh High Court held that **economic disparity alone is not enough to reject a transplant request.**

In *M.C. Abdul Rahman and others v. State of Kerala*⁵, the court observed that depriving a person of a voluntary donation and holding besmirching such sacrifice on the basis of a doubt about involvement of monetary consideration is inhuman.

In *Amarsingh Bhatia & Anr v Sri ganga ram hospital & ors*⁶, the court held that the Authorisation Committee as well as the appellate body must endeavour to ensure that while exploitation must be prevented and commercialization dealing in human organ is prohibited, yet bona fide applicants may not be viewed in a suspicious manner since the TOHO Act, 1994 itself permits not only the donors from within the family but also permits non-relative donors. In *Radhakrishnan Pillai v. Sajeer R*⁷, the court held that the main duty of the Committee is to see that there are no commercial dealings in human organs. It is the subjective satisfaction of

³ (2005) 11 SCC 122

⁴ 2018 ALT 5 637

⁵ WP(C).No. 15822 of 2017 (C)

⁶ Supra note 1

⁷ [W.P. (C) 16216 of 2021, decision dated 27th August, 2021]

the Committee. A pragmatic approach is necessary from the side of the Committee. Rule 23(2) of Rule 2014 says that, the committee shall use its discretion judiciously and pragmatically while taking decisions. The intention of the legislature while enacting the Act 1994 is only to prevent commercial dealing in human organs. If there is no evidence for the same, the Authorisation Committee should take a human approach. If there is no evidence to show that there is no commercial dealing, pragmatism should overtake technicalities, because a man is on death bed. The decisions of the Authorisation Committee should inspire people to donate their organs to needy people.

According to the act, the **burden of proof** is upon the applicant to prove that the transplantation procedure is voluntary or altruistic. As per the facts of the case, the donor, Chippy, had a genuine emotional reason for donating her kidney:

- She had lost her younger brother to kidney failure at the age of 19. She saw Uvais, a 20-year-old suffering from the same disease, as a surrogate for her brother
- She repeatedly stated that her decision was purely altruistic and not for financial gain.
- The police inquiry also confirmed her claim.

Despite this, the Authorization Committee ignored the donor's testimony and police findings and continued to suspect financial involvement without proof.

From all these findings, we can say that the transplantation procedure complies with the provisions of the Transplantation of Human Organs and Tissue Act 1994 and its rules, 2014

When we look on to right to life aspect, **this was the fourth time the petitioners are before the court** after repeated rejections by the Authorization Committee, therefore, **delay** in cases where the life of the patient is dependent upon undergoing an organ transplant, often leads to grave consequences such as loss of life so, we can say that here there is a clear cut violation of fundamental right to life under article 21 of the constitution.\

The **Supreme Court has repeatedly interpreted "life" to mean not just mere existence but a life of dignity, which includes access to medical treatment**. It is evident from the *Francis Coralie Mullin v the administrator, Union territory case*⁸

The **Authorization Committee rejected the transplant partly due to the donor's financial status**, implying that **a poor person could not donate altruistically**. Therefore, **assuming all poor donors as financially motivated is an affront to human dignity**

⁸ 1981 AIR 746

In Soubiya v. District Level Authorisation Committee for Transplantation of Human Organs, Ernakulam⁹ the Court held that there is no presumption that a person in financial requirement would only act for monetary gain, which is an affront to the dignity of an individual and is against the constitutional imperatives.

Also in Parmanand Katara v. Union of India¹⁰, the Supreme Court held that “the state has a duty to preserve life and cannot deny emergency medical treatment.”

The Supreme Court in Association of Medical Super Speciality Aspirants & Residents v. Union of India¹¹ held that right to health is fundamental to the right to life under Article 21 of the Constitution of India. The right to life extends beyond mere survival to include living with dignity, encompassing basic necessities like nutrition, clothing, shelter, and the freedom to express, move, and interact. Every act that undermines human dignity amounts to a partial deprivation of the right to life. Such restrictions must align with a reasonable, fair, and just legal procedure that upholds other fundamental rights. To truly live is to live with dignity.

The Supreme Court of India has repeatedly held that the right to life under Article 21 includes the right to health and access to life-saving treatment. In this case, Uvais Muhammad, suffering from chronic kidney disease, faces imminent health risks. Denying a genuine altruistic donation without sufficient grounds deprives him of a chance to survive, infringing upon his **right to life**.

While the **state has a legitimate interest in preventing commercial organ trade**, it must **balance regulation with the fundamental right to life**. In this case, the **denial of transplant approval**, despite clear evidence of altruistic intent, **violates Article 21** by **unreasonably depriving the petitioner of access to life-saving medical treatment**. The **High Court’s intervention was justified** to prevent arbitrary state action from infringing upon fundamental rights.

CONCLUSION

The procedure of transplant in this situation is in line with the spirit of the Transplantation of Human Organs and Tissues Act, 1994 (THOTA) and its 2014 rules, which govern organ

⁹ 2023 (6) KHC 293

¹⁰ 1989 AIR 2039

¹¹ (2019) 12 S.C.R. 1011

donation to avoid commercialization. The petitioners had adhered to the statutory procedure, and the donor herself had voluntarily declared her altruistic intent. But the stringent procedural conditions and the consistent rejection by the authorities, even after judicial intervention, suggest a strict interpretation of the law that could deprive people access to life-saving transplants.

The withholding of clearance by the approval committee, albeit intended to curtail commercial trade in organs, infringed upon the right to life guaranteed to the petitioner by Article 21. A state responsibility for organ transplant regulation needs to be weighed against one's constitutional right to health and treatment to preserve life. The instant case presented a situation in which arbitrary and unreasonable procedural steps deprived the petitioner of life-ensuring care justifying the interference by the High Court. Therefore, whereas the law tries to preserve moral organ donation, its application should not lead to denial of basic rights on grounds of excessive bureaucracy.

