

FROM THE PRESS

Revisions planned in organ transplant rules

The union health ministry has now decided to drop a controversial clause from the draft Transplantation of Human Organs Rules, 2012, intended to regulate organ transplants and prevent trafficking in organs. According to this an unrelated donor and recipient must prove they have shared the same kitchen for 10 or more years, and also provide old photographs showing both parties together. The clause has been opposed as irrational by health activists and medical personnel.

Another reason for the move is the Supreme Court's stipulation that the two parties involved in a transplant may not have an employer-employee relationship, as that may involve exploitation. The kitchen-sharing clause could bring in resident employees as possible donors, which would be in breach of the court's order.

The draft requires the proposed donor to be interviewed along with family members to ensure their "awareness about his or her intention to donate an organ, the authenticity of the link between the donor and the recipient and the reasons for donation". The family members' objections to the agreement will also be taken into account. Other possible changes in the draft rules include the addition of a clause requiring both parties to submit their income statements for the past three financial years to avoid any "gross disparity" in the financial standing of the parties. A psychiatric evaluation of the intended donor is also on the cards.

Kounteya Sinha and Pushpa Narayan, Absurd organ donation rule on kitchen-sharing dropped, *The Times of India*, September 6, 2012, Available from: http://articles.timesofindia.indiatimes.com/2012-09-06/india/33648766_1_donor-transplantation-law-ministry

SC rejects plea to spare Samaritans from legal process

India is said to have an average 1,05,000 road accident deaths every year, according to the World Health Organization. The injured are often left to bleed to death as few are ready to brave the red tape and take them to hospital. In a bid to tackle this problem, the Save Life Foundation petitioned the Supreme Court to modify the law and protect those who rush accident victims to hospital. Such individuals are often summoned as witnesses and required to appear repeatedly at police proceedings and in the trial courts. Hearing arguments on this plea, a bench of Justices Chauhan and Swatanter Kumar said witnesses cannot be granted immunity from appearance in court.

The Save Life Foundation had pressed for Samaritans not to be asked to reveal their identities, to be exempted from attending police stations for questioning, from personal civil liability, and to be allowed to give statements from their residence or place of work. To this, the court replied that the legal system cannot afford to give witnesses the discretion to appear or not before a court.

While observing that there was no shortage of laws in the country to protect witnesses, the bench agreed to consider suggestions from the petitioner on how to reduce such harassment. The apex court also emphasised that that the National Highways Authority of India has the responsibility for provision of trauma care facilities along the highways, which it has not fulfilled.

Meanwhile, a central government spokesman has stated that 140 government hospitals along the Golden Quadrilateral, North-South and East-West corridors of the National Highway Development Project have been selected for upgrade as trauma centres. Life support ambulances would be supplied to these centres by the health ministry. Another 160 such hospitals were in the process of being identified along other highways. These would be upgraded during the 12th five year plan.

Dhananjay Mahapatra, Road mishaps: Good Samaritans can't skip witness stand, says SC. *The Times of India*, August 18, 2012. Available from: <http://mobilepaper.timesofindia.com/mobile.aspx?article=yes&pageid=3§id=edid=&dlabel=TOIPU&mydateHid=18-08-2012&pubname=Times+of+India+--+Pune&edname=&articleid=Ar00304&publabel=TOI>

Sibling deaths expose negligence

The sudden deaths in Versova, Mumbai, on July 3-4, of two siblings, Rameez and Rehab Chougale, after suspected pesticide poisoning, have exposed procedural negligence at various levels. While the cause of death is still under investigation, the doctor who certified the first death, that of Rameez, has been summoned by the Maharashtra Council of Homoeopathy to explain why he issued a death certificate for diarrhoea and vomiting, to a patient he had allegedly not treated. Besides this the doctor did not report the matter to the police, a must in unexplained deaths. The police investigating the case have also been exposed for failure to respond promptly to the deaths. Rameez's sister, Rehab, died in hospital with similar symptoms, and though a post mortem and stomach wash

were done in her case, the viscera were not preserved, nor was a histopathology report prepared. The doctors concerned apparently stated that the police had not asked for them. Again, Rameez's body was exhumed two and a half months after his death, but no exhumation was asked for in Rehab's case, though the forensic authorities had asked for it, thus hampering the investigation.

The deaths are suspected to have occurred as a result of pest control being carried out by an unqualified, unlicensed operator in the family's apartment. According to the Indian Pest Control Association, the city's population is being regularly sprayed with possibly toxic chemicals by around 1,000 such illegal operators. Its spokesman explained that aluminium phosphide an extremely toxic gas found in the body of Rehab, is considered safe only for fumigation of foodgrains. This and dichlorvos are frequently used for residential premises where they are extremely unsafe. Further, under the Insecticides Act 1968, only science or agriculture graduates who have completed a government approved 15-day training in pest control at a government-approved institute are licensed to work as pest control technicians, and the license has to be renewed regularly. Many of these regulations are observed more often in the breach all over the metropolis. Hence, the situation in the rest of the country can only be imagined.

Vinod Kumar Menon, Your pest control guy could kill you, *Mid-day.com*, July 15, 2012. Mumbai Mirror Bureau, Pest control caused mysterious deaths of blogger, her brother, *Mumbai Mirror*, July 7, 2012. Available from: <http://www.mumbaimirror.com/article/2/20120707201207022505347e7fd1677/Pest-control-caused-mysterious-deaths-of-blogger-her-brother.html>Lata Mishra, Jyoti Shelar, Forensic panel asks why Rehab's body was not exhumed. *Mumbai Mirror*, September 19, 2012. Available from: <http://www.mumbaimirror.com/printarticle.aspx?page=comments&action=translate§id=15&contentid=201209192012091902052779530200e00&subsite=>

Inmate assaulted at mental health shelter

Satnam Singh Mann, a law student suffering paranoid schizophrenia, was the victim of a brutal assault, allegedly part of a system of "ragging" at the Peroorakada Mental Health Centre in Trivandrum district. Satnam was found to have 77 injuries all over his body. Press reports say that in a blatant human rights violation, the wardens at the centre encourage older inmates to attack fresh inmates, especially those supposed to be violent. How severe the attack is allowed to get is said to be determined by the degree of violence of the newcomers. Those with aggressive tendencies are "taught a lesson" in the beginning to keep them docile later. Reports say these violent assaults on patients are common at the centre and most often such cruelties on patients, sent there for care and safety are swept under the carpet. The practice is said to be carried out mostly by contractual wardens with political clout,

Meanwhile, the police are exploring how Satnam got to the centre, so far from his home. Apparently, he had visited the

Matha Amritanandmayi Mutt in nearby Karunagapally, and got into trouble with the authorities, who are said to have tried to subdue him. From there he was sent to the Peroorkada centre.

A probe by the district collector has recommended action against seven staffers of the centre, including two doctors. It has also suggested an investigation by the National Human Rights Commission into the functioning of the centre.

Parakram Rautela, Satnam's mysterious death. *The Times of India*, August 12, 2012. Available from: [http://www.asianage.com/india/wardens-spur-mentally-](http://articles.timesofindia.indiatimes.com/2012-08-12/special-report/33167167_1_mental-health-unconditional-love-police-station Gilvester Assary, Wardens spur mentally challenged inmates to duel, enjoy cruel joke. <i>The Asian Age</i>, August 8, 2012, Available from: <a href=)

Scamming the poor and the government

In April 2008, the central government scheme for health insurance for the poorest sections of the population, the Rashtriya Swasthya Bima Yojana (RSBY), came into operation. It entitles families below the poverty line to cashless treatment for up to Rs 30,000 a year. A network of doctors operating through private hospitals in Chattisgarh, which were recognised under the RSBY, took advantage of this insurance scheme to exploit not only the government, but more importantly, the innocent beneficiaries of the scheme. These doctors conducted sonographies on women enrolled under the RSBY who complained of minor gynaecological problems, and advised hysterectomies. They justified this by claiming there was a substantial risk of cancer. The women consented in order to avoid a major illness, and as they did not have to pay out-of-pocket expenses. More than 6,000 such unnecessary surgeries are said to have been performed in the region. The scam was first revealed in Dongitarai, Hasda, and Manikchori villages of Abhanpur block near the capital, Raipur. The Chattisgarh Medical Association has since suspended the licences of nine doctors and several nursing homes.

A government inquiry exposed the fact that no endometrial biopsy, mandatory prior to a hysterectomy, was conducted in these cases, and hysterectomies were carried out indiscriminately on women of varied ages, while such procedures are normally restricted to women in the late 40s reporting symptoms indicating cancer. Besides, some of the concerned hospitals lacked the basic facilities for such surgeries to be carried out.

Reports say a similar scam was hatched in Samastipur district, Bihar, in which even unmarried girls were not spared. Enquiries are said to have revealed that around 15,000 such unnecessary surgeries have been performed in the state. Here the twist is that in some cases, no surgeries were performed at all, with bogus claims having been filed. Over Rs 12 crore is supposed to have been claimed by the doctors over one year in the district alone. This could just be the tip of the iceberg, with many more such crimes expected to surface. Cashless medical care for the

poor, which the scheme was meant to facilitate, will now just be much harder for those most in need to access, with compulsory safeguards having to be introduced.

Deepak Tiwari, Medical rip-off. *The Week*, August 11, 2012. Available from: [@](http://week.manoramaonline.com/cgi-bin/MMOnline.dll/portal/ep/theWeekSectionView.do?tabId=13&programId=10350679&BV_ID=@) Giridhar Jha, Bihar's womb thieves: Private hospitals accused of carrying out unnecessary operations to claim back insurance money, *Mail Online India*, July 29, 2012. Available from: <http://www.dailymail.co.uk/indiahome/indianews/article-2180676/Bihars-womb-thieves-Private-hospitals-accused-carrying-unnecessary-operations-claim-insurance-money.html#ixzz25ymUlopN>

Namibian verdict upholds patient autonomy

The Namibian high court has ruled in favour of three women who complained that they had been sterilised without valid informed consent, while undergoing caesarean section surgeries. The women had also complained that they were selected as they are HIV positive, an argument which the judge did not accept. This is in the context of a recent outcry in many regions of Africa, especially in Kenya, Swaziland and South Africa, against the alleged government practice of sterilising HIV-positive women. The sterilisations on the three complainants were carried out between 2005 and 2007.

The mothers aged between 22 and 47 years, had undergone c-section deliveries to avoid transmission of HIV to their children, and the sterilisations were carried out at the same time. The judge criticised the "consent process" in which the women were given the forms just before going under surgery, and were dealt with by attendants who did not speak their language, Oshiwambo. Terms like "BTL" or bilateral tubal ligation, were used which meant nothing to the patients. One woman had actually been in labour for four days when she was made to consent. She was given the impression that she had to sign the form before the c-section could be performed.

Though the verdict did not cover the point of selective sterilisation of HIV-positive patients, legal circles welcomed it as the judge established that there had been a shift from medical paternalism to patient autonomy. A spokeswoman for the Namibian Women's Health Network said that her organisation had 16 similar cases pending, and had recorded dozens more while conducting research, and that the case has implications for several countries. She expressed the hope that the Ministry of Health would "review its policies, providing information circulars on sexual and reproductive health to women in public hospitals so that we don't see such cases brought up again."

Alex Duval Smith, Namibia court rules HIV-positive women sterilised without consent, *guardian.co.uk*, July 30, 2012 Available from: http://article.wn.com/view/2012/07/30/Namibia_court_rules_HIVpositive_women_sterilised_without_con/ Anonymous, Namibia: Partial victory for HIV-positive sterilized women, *IRIN News*, July 30, 2012 Available from: http://article.wn.com/view/2012/07/30/NAMIBIA_Partial_victory_for_HIVpositive_sterilized_women/

Recurring malaise

Private college managements awaiting accreditation have apparently become more inventive in their efforts to get recognition. Now they are hiring private event management companies to handle the supply of bogus equipment, staffers and even patients on inspection days. After the arrest of Ketan Desai of the Medical Council of India (MCI), for corruption, many had hoped for a substantial clean-up after a fresh committee was appointed to head the MCI. In fact, the MCI did institute reforms such as a new assessment system of medical colleges, by which three assessors are randomly selected from an appropriate database to inspect a medical college. If any of them declined, another name would be selected randomly from the computer. However, the colleges to be inspected are informed a week in advance. This notice period gives the colleges the opportunity hire bogus staff, machines and even patients. The process is now facilitated by the professional event organisers.

As a further precaution, MCI has asked colleges to provide a video of the entire inspection. However, "many assessors have complained that the video clip given to them by the college does not match what they had recorded on the spot," according to Srinivas Manthan, head of the assessment cell. Purshotam Lal, a member of the MCI board has suggested appointing outside agencies like the Quality Council of India to ensure transparency and accountability. KK Talwar, the MCI chairman, puts his faith in the Common Entrance Test which the MCI has fought to introduce. Adoption of this test has been stalled for now, but he has expressed the hope that it will be passed in 2013.

Gunjan Sharma, It's show time, *The Week*, July 30, 2012, Available from: [@](http://www.manoramaonline.com/cgi-bin/mmonline.dll/portal/ep/theWeekContent.do?programId=1073754900&tabId=13&contentId=12114079&BV_ID=@)

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