

Body Donation: Legal Aspects, Procedures and Precautions

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Abstract

After death, the dead body is disposed of by the relatives of the deceased as early as possible. Body donation campaigns & social awareness for the donation of the corpse initiated the process of body donation. Body donation is an act of giving one's body after death for medical research and education and these donated bodies remain a principal teaching tool for medical educators. The Anatomy ACT of 1949 gives guidelines regarding use of dead bodies for educational purposes to be utilized by medical colleges. In the previous era the coroner use to certify the unclaimed dead bodies of the deceased who died of natural diseases and handed them over to the medical colleges for studies and research purposes. Since the coroner act is abolished the guidelines are given through the Anatomy ACT and various circulars of the home department about which awareness is a must among the people working in various medical colleges and hospitals/institutes, where there is a crunch of dead bodies for medical study or research purpose.

Keywords: Body donation, Anatomy act, Coroner Act, Unclaimed Bodies, Medical study, Research

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INTRODUCTION

"I served humanity even after my death" the thought is really of high social and moral value. The near one of the deceased are in an embarrassed condition due to permanent loss of their near and dear one, but they still respect his last wish of donation of his body to a medical institute for educational purposes. Body Donation provides students and researchers with unparalleled opportunities to study the human body and for practicing surgical skills and developing new techniques in various hands on workshops.

There is always scarcity of corpse for medical studies and research purpose & always a demand from medical schools and various research institutions for a properly embalmed & properly preserved corpse for anatomical dissection. In case of brain death when patient is on ventilator the moment of death is decided by a team dealing with diagnosis of brain death where organs can be used for

the transplant as per human organ transplant act 1994, where the concerned get sufficient time to fulfill and complete legal formalities as compared to this when relatives come with the body without required legal documents. The awkward position is faced by staff and medical officers in the medical institute and hospital due to lack of knowledge regarding the procedures. The provisions of the anatomy act and coroners act and the present circulars from home department after abolitions of coroners court gives guidelines regarding the matter which are compiled and discussed here with.

Guidelines for "Whole Body Donation":

The Anatomy ACT was enacted in India in 1949, which has been uniformly adopted in all states of the Republic of India which provides guidelines for the supply of unclaimed bodies of a diseased person and for donation before death by a person of his body or any part thereof after his death to hospital and medical, teaching institutions for therapeutic purposes and for the purpose of medical education and research including anatomical examination and dissection.^(1,2,3)

In Maharashtra, the Anatomy ACT was adopted as Bombay Anatomy ACT 1949. This act was further amended by the state legislative council in 2000.

The Bombay Anatomy Act, 1949: Bombay Act no. XI of 1949 states about following guidelines and provisions

Sections	Provisions and guidelines given :
Section 2 – Definitions	<ol style="list-style-type: none"> 1) Approved Institute means a hospital or a medical or teaching institution approved by the state government for all of the purposes of this ACT. 2) Authorized officer means an officer authorized to act under section 5. 3) Near Relative means any of the following relatives of the deceased namely – wife, husband, parent ,son, daughter, brother and sister and includes any other person who is related to the deceased (a) by lineal or collateral consanguinity within three degrees in lineal relationship or collateral consanguinity or (b) by marriage. 4) “Unclaimed Body” means the body of a deceased person who has no near relative or whose body has not been claimed by any of his near relatives within such period as may be described.
Section 4	Power of the state government to authorize officers to act under the sections of this ACT.
Section 5	<p>Section 5 gives guidelines for using Unclaimed dead bodies for therapeutic purpose, for medical education and research including anatomical examination and dissection.</p> <ol style="list-style-type: none"> 1) Where a person under treatment at a hospital whether established by or vesting in or maintained by state government or local authority dies in such a hospital and his body is unclaimed, the authorities in charge of such hospital shall with the least practicable delay report to the authorized officer, who shall hand over the body to the approved institution for medical purposes and anatomical examination and dissection. 2) When a person dies in prison or any other place and if his body is unclaimed the authorities in charge of such a prison or place shall with the least practicable delay, report the fact to the authorized officer who shall hand over the body to the approved institution for aforesaid purposes. 3) Any person who dies in a public place and doesn't have permanent place of residence, and if his body is unclaimed the authorized officer should take possession of the body and hand it over to the authorities of the approved institute for aforesaid purpose. 4) When there is a doubt regarding cause of death, or for any other reason, authorized officer shall forward the unclaimed bodies to the police officer referred to in section 174 of the Code of Criminal Procedure, 1898. .
Section 5A	If any Doubt or dispute arises as to whether a person claiming the body of a deceased person under Section 5 is a near relative of the deceased or not, the matter shall be referred to Executive Magistrate and body to be preserved until decision.
Section 5B	<p>For the donation of dead bodies or any part of the diseased person to be used for therapeutic purposes, medical research and research with anatomical study and dissection requires –</p> <ol style="list-style-type: none"> 1) Will of the person, either in writing at any time or orally in the presence of two or more witnesses during his last illness. 2) Authorization Letter from the near relative who are lawfully in possession of the body of the diseased person for the purpose of the ACT. 3) Certificate stating cause and manner of death signed by a registered medical practitioner who attended to such a person during illness where of he died , or if no such practitioner attended such a person during the illness , then a registered medical practitioner who shall be called in after the death of such a person to view his body and who shall state the manner and cause of death according to the best of his knowledge and belief , but shall not be concerned in dealing with the body for any of the purposes aforesaid after removal. Such a certificate shall be delivered together with the Body to the authorities' in charge of an approved institution receiving the same for any of the purposes aforesaid. 4) If the person lawfully in possession of such a body has a reason to believe that an inquest or post mortem examination of such body may be required to be held, the authority for the removal of the body or any part thereof shall not be given under this section except with the consent of the authority empowered to hold an inquest or order a post – mortem under such a law.
Section 5C	No authority for the removal of the body or any part thereof when body is entrusted to another only for interment or cremation.
Section 5D	Authority to remove the body or any part thereof when body is lying in an approved institution.
Section 5E	The authority in charge of the approved institution shall demand and receive together with the body – a certificate stating the cause of death, Relative's consent letter, No- Objection Letter for the purposes of this ACT.
Section 5F	Notice of the places where the body will be dealt with for all/any of the purposes of this ACT.
Section 6	Penalty for obstructing any authority of an approved institute or an authorized officer from handing over, taking possession of removing or using such a dead body for all purposes of the ACT.
Section 7	Duties of the Servants of the Police, Public Health Departments to assist the authorities, authorized under this ACT in the discharge of their duties.
Section 8	Protection of the persons acting under this act.
Section 9	Officers authorized to act, under this ACT shall be deemed to be public servants.
Section 10	The state government may by notification, in the Official Gazette make the rules for carrying out this ACT and period within which near relatives shall claim the body of the diseased person.
Section 10a	Nothing in this ACT prohibits post- mortem examination whenever required or directed under any law.
Section 10b	Nothing in this ACT can be constructed for unlawful dealing with the Body or its parts.

The Punjab Anatomy ACT 1963 makes provision for supply of Bodies of Diseased Person to Hospitals and Medical Teaching Institutions. Mysore Anatomy ACT, later amended as a Karnataka Anatomy ACT 1998 by Karnataka State defined unclaimed bodies as the Body of a person who dies in a hospital, prison or public place to which members of the public have access, and which has not been claimed by any person interested within such time as may be prescribed.^(5,6,7)

In Case of Inquest:

Section 5B (5) states that "If a person lawfully in possession of body has reason to believe that an inquest or a post mortem examination of such body may be required to be held in accordance with the provisions of any law for the time being enforced, the authority for the removal of the body or any part thereof shall not be given under this section EXCEPT with the consent of the authority empowered to hold an inquest or order a post mortem under such law."

Section 5E states about approved institution to receive with the body, certificate of death etc., maintaining the register and reporting to the authorities. Section 10A states Act not to prohibit post mortem examination.

Transport & Guarding of Dead Bodies:

Hospital administration manual vol. I (revised) chapter 12, 12.21 and 12.22 gives guidelines for transport and guarding of dead bodies, concerning with medico legal matters. Adequate care should be taken for proper honor to the deceased.

Transfer of Power of Coroners:

As per notification of Home Department, No. EXM-0799/Mumbai / CR-317- whereas the coroner Act "87" (IV) of 1871 in the state of Maharashtra (Brihan Mumbai) has been repealed and the Government of Maharashtra considers it expedient to appoint executive magistrates and sub divisional magistrates in Mumbai City and Mumbai Sub urban districts for the purpose of section 174, 176, Cr Pc 1973. All these power and all other powers enabling in it Assistant Commissioner of Police and Deputy Commissioner of Police in Mumbai city, Mumbai suburban districts to be the executive magistrate, Sub divisional magistrate, respectively.

In Case of Unnatural Deaths:

As per special Police Notice Para no.41/99 dated 28-7-1999, in case of suspected unnatural death inquest followed by a post mortem examination is a must and inquiry officer should complete the inquiry and submit the report to ACP / DCP and after the post mortem is over the body should be handed over

to claimant by the police together with certificate in form -IV. i.e. there is no objection to the disposal of the body. Receipt of the claimant should be obtained in form V. The certificate should be a signature of inquiry police officer along with date, time and stamp of police station.

Disposal of Unclaimed Dead Bodies:

The Coroner of Mumbai was earlier "authorized officer" U/s. 5 of the Bombay Anatomy Act, 1949 and he passed the orders for the disposal of unclaimed dead bodies, with the repeal of the Coroner Act, the ACP of the Division will now exercise these powers in the same manner and permit the unclaimed dead bodies for therapeutic purpose and anatomical examination as per section 5 of Bombay Anatomy Act, 1949.

Registration of Birth and Death:

By Maharashtra Birth & Death registration act 1976, every Birth and Death is to be registered with the registrar of Birth & Death intimation officer, Nagar Vikas and Public Health Department.

After reviewing the above legal provisions and guidelines, we are considering the necessity & importance of the matter of fact about donation of dead body following guidelines can be prepared for the staff members dealing with such cases and instructions to the relatives of the deceased.

Instructions / Guidelines to the Staff Member:

- 1) Explain to the relatives about legal formalities. Apart from body donation form, a written instruction pamphlet in local language for the relatives is to be prepared explaining the details about the requirement, legal procedures, documents required along with body and purpose & use of the body in medical education and research is to be explained.
- 2) Only those dead bodies to be accepted in which there is Cause of Death (COD) certificate by a Registered Medical Practitioner (RMP) is issued. Along with death certificate, relatives consent letter and no objection letter from local police station for the purpose along with signature of the witnesses. In case where there is No Objection Certificate, the staff member should inform to the local police station about the death.
- 3) An official Identity Card in the form of voter card, aadhaar card etc. of the diseased and accompanying person should be verified and kept.
- 4) The manner of death must be natural.
- 5) The dead body should not be autopsied.
- 6) The dead body should have been brought within 24 hours from the time of death.

- 7) For making the Body Donation procedure easy, availability of will form at your respective institute is necessary and give a donor card with a registration number to the person registered for Body Donation Program, which should mention contact number of the department so that relatives can inform to department regarding death.
- 8) Body badly damaged in an accident, medico-legal case or any other form of unnatural death, having an infection like active TB, Hepatitis B, Gas Gangrene, and AIDS etc. should not be accepted as they are a serious health hazards to medical students and the staff handling them.
- 9) After full utilization, remains may be scientifically disposed.
- 10) A word of appreciation and gratitude / thankfulness towards the attitude of the relatives for donating the body of their relative should be done and Appreciation Certificate is to be issued by the department or institute immediately after donation which relatives can submit to the municipal corporation for obtaining the death certificate.
- 11) Good counseling should be done in complicated cases.
- 12) Detailed postal address, landline or mobile numbers must be recorded in the local register. (A copy of Body donation form / Will form, Donor card has been attached.)

In Case of Unnatural Deaths:

- 1) Ideally, unnatural deaths in which inquest has been carried out and Post Mortem is conducted, the body is not ideal for anatomical dissection, hence should not be accepted.
- 2) If relatives still insist for the body donation following documents should be meticulously maintained -
 - i. Provisional cause of death.
 - ii. Post mortem report (if available)
 - iii. Form no. IV from concerned police station (a copy of which is attached here with sample.)
 - iv. Form no. V (a sample copy of which is attached herewith)
 - v. No objection certificate form a senior P.I. of concerned police station, counter signed by zonal ACP for accepting the body for purpose mentioned in the ACT.
 - vi. Relatives written requisition and no objection with a statement that they will take all legal responsibility if any arises in future.
 - vii. All above documents should be submitted to HOD/ Dean / Superintendent in such cases and along with their written approval, then only such bodies shall be accepted.

Information/ Guidelines to Relatives:

- 1) The legal Indian citizen of Age 18 or and above can donate the Body. If it were known that the deceased had wanted to make a bequeathal of their body, but never got around to filing the paper work during their life time, the gift (donation) could be made by their relatives after his/her death. (Unregistered.)
- 2) People willing to donate their body after death must discuss about their wish with their immediate family, doctors, and other relevant people before making the decision.
- 3) After that, one may get oneself registered in the **'Body Donation Program'** by sending the duly filled "Body Donation Form" to the nearest medical institute or hospital. Also they can avail a 'donor card' and 'will form' which is available at these institutes, and hence inform about the same to your relatives and family about your wish to be a body donor and ensure that even they understand the procedure about Body Donation.
- 4) Family members may not be allowed to see the body three days post donation as it isn't possible to show the body post donation and hand over the remains thereof. Hair/Nails can be collected at the time of Donation itself if desired by the Family for any religious rituals.
- 5) You can collect an appreciation certificate from the department or institute to obtain the death certificate from the municipal corporation.
- 6) Eyes can be donated within 8 hours post death.

Conclusion

Voluntary donation of the body is not much different from donation of Organs like eyes, kidney, liver, heart or simply blood but it's only the bent of mind which is needed and decision of an individual to donate his /her body can be a vital contribution towards the understanding and advancement of medical science. However, handling the emotions & agitation of relatives of the deceased donor of the body is extremely sensitive work, at the same time the legal formalities have to be fulfilled so that there should not be any legal complications in the future. A Medical officer in charge of the medical college and hospitals plays an extremely important role with this regard and must be aware of the procedure & legal formalities of body donation.

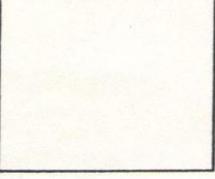
Information can be displayed on notice boards of medical institutes and hospitals regarding body donation program and the list of documents for the same, so as to avoid any delay in accepting dead bodies due to lack of documents.

Doctors play a major role in awareness regarding Body Donation and boosting the Body Donation Program by counseling people in severe

diseased conditions. Non- governmental Organization's play a vital role in raising awareness regarding Body Donation by organizing Body Donation Camps where they give people forms for Body and Eye Donation with proper Instructions. They submit the forms to medical colleges and

institutes where Body Donation Committees have been formed. The medical colleges send them a Donor Card which can be brought in post death after which a letter of thanks and appreciation certificate will be provided.

<p>Will Form For Donation Of Human Bodies For The Medical Education, Research And Scientific Purposes</p> <p>Body Donation Will</p> <p>(Declaration of Bequest) (To whom it may concern)</p> <p>I, _____ son/daughter/wife of _____ resident of _____, Hereby make this as my last will regarding the disposal of my dead body after my death, It is wished that my MORTAL REMAINS (Body after death) be made available to the Department of Anatomy, _____ Medical college, to be used in whatsoever way it shall be deemed most beneficial for the advancement of medical education and research.</p> <p>I have expressed my desire of donating my dead body after my death to my next of kins and other members of my family and they have no objection to such donation of my dead body after my death for the said cause.</p> <p style="text-align: right;">Dated: _____ Signature of Donor</p> <p>The following information will be of considerable value:- NAME IN FULL : _____ FATHER'S / HUSBAND'S NAME: _____ DATE OF BIRTH: _____ AGE _____ YEARS _____ MONTHS _____ Occupation: _____ Permanent Address: _____</p> <p>Witness :</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> 1. Signature Name Relationship Address </td> <td style="width: 50%; border: none;"> 2. Signature Name Relationship Address </td> </tr> </table>		1. Signature Name Relationship Address	2. Signature Name Relationship Address
1. Signature Name Relationship Address	2. Signature Name Relationship Address		
<p>DEPARTMENT OF ANATOMY _____ MEDICAL COLLEGE.</p> <p style="text-align: right;">Donor No: _____</p> <p>Certified that Sh./Smt./Kum..... has bequeathed his/her body to Department of Anatomy after death for scientific research & teaching purpose.</p> <p>Date.....</p> <p>Phone no.: _____</p>	<p>BODY DONOR POCKET CARD</p> <p>Donor No : _____</p> <p>Kindly inform to the Anatomy Department immediately on my demise and help them to fulfill my last desire.</p> <p>Thank you</p> <p style="text-align: right;">Signature of the Donor</p> <p>Date.....</p> <p>Contact No of Department : _____</p>		

	नाव :- _____		
	पत्ता :- _____		
	फोन :- _____		
	दिनांक :- _____		
<p>प्रति, विभाग प्रमुख शरीर रचना शास्त्र विभाग, ग्रॅन्ट वैद्यकीय महाविद्यालय, सर ज. जी. समूह रुग्णालय, मुंबई - ४०० ००८.</p>			
<p>विषय : मरणोत्तर देहदान करण्याचे इच्छापत्र...</p>			
<p>महोदय/महोदया, माझ्या मृत्यूनंतर माझे संपूर्ण शरीर वैद्यकीय शिक्षणासाठी दान करण्याची माझी इच्छा आहे. तसेच मी मृत्यूनंतर नेत्रदान सुद्धा करू इच्छितो. तसे मी नेत्रपेढीला कळवित आहे. धन्यवाद !</p>			
<p>आपला विश्वासू सही -</p>			
<p>जवळच्या नातेवाईकाचे देहदान करण्याबाबत आक्षेप नसल्याचे प्रमाणपत्र</p>			
<p>श्री./श्रीम. _____</p>			
<p>वय वर्ष _____ यांच्या मृत्यूनंतर देहदान वैद्यकीय शिक्षणासाठी, शरीर रचना शास्त्र विभाग, ग्रॅन्ट वैद्यकीय महाविद्यालय, सर ज. जी. समूह रुग्णालय, मुंबई - ८ या संस्थेला दान करण्यास आमचा कोणताही आक्षेप नाही.</p>			
नाव	देहदान कर्त्याशी नाते	दूरध्वनी क्र.	सही
१) _____	_____	_____	_____
२) _____	_____	_____	_____
३) _____	_____	_____	_____
<p>सुचना : जवळचे नातेवाईक म्हणजे आई-वडील, भाऊ-बहीण, मुलगा-मुलगी किंवा इतर वरीलपैकी कोणीही डॉक्टर, मित्र परंतु जबाबदार व्यक्ती.</p>			
मराठीतच बोला ! मराठीत लिहा !		मराठीतच बोला ! मराठीत लिहा !	

प्रपत्र ४

प्रेताची विल्हेवाट लावण्यासाठी द्यावयाचे ना-हरकत प्रमाणपत्र

जावक क्रमांक / २००

वरिष्ठ पोलीस निरीक्षक
पोलीस ठाणे, मुंबई.

दिनांक

ज्याअर्थी श्री./श्रीमती/कुमारी वय

..... राहणार

..... हे दिनांक रोजी मरण पावलेले आहेत व त्यांच्या मृत्यूच्या

कारणाबाबत सखोल चौकशी सुरू आहे व प्रेताची मरणोत्तर तपासणी झालेली आहे/झालेली नाही व सदर इसमाच्या प्रेताची विल्हेवाट

लावण्याकरिता आमची कोणतीही हरकत नाही; त्याअर्थी हे पत्र श्री./श्रीमती/कुमारी

..... वय राहणार

यांना प्रेताची विल्हेवाट लावण्यासाठी देण्यात येत आहे.

(ठाणे अमलदार)

पोलीस ठाणे, मुंबई

वेळ :

ठिकाण :

दिनांक :

मुद्रा

प्रपत्र ५

प्रेत ताब्यात घेऊ इच्छिणाऱ्या व्यक्तीकडून लिहून घ्यावयाची पावती

ठिकाण :
दिनांक :

पावती लिहून घेणारा
(पोलीस अंमलदार या नावा/हुदा व
नेमणुकीचे पोलीस ठाणे लिहावे.)

पावती लिहून घेणारा
(ज्या व्यक्तीला प्रेत ताब्यात घ्यावयाचे आहे
त्या व्यक्तीचे नाव, वय व पत्ता लिहावा.)

पोलीस ठाणेकडील अ.मू.नं. भा.द.प्र.सं. क्र.लम १७४ मधील मयत नामे
..... राहणार

याचेवर पोरट-मार्टम होऊन सदरचे प्रेत हे माझे ताब्यात पुढील अंत्यविधीसाठी मिळालेले आहे. सदरचे मयत हे माझे
..... होते. सदर प्रेताचावत माझी काहीएक तक्रार नाही. सदर प्रेतावरील पोरट-मार्टम होऊन
प्रेत माझे ताब्यात मिळालेले आहे.

(टापे अमलदार)
पोलीस ठाणे मुद्रां

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