

# Rethinking Organ Donation in the Philippines: An Examination of the Opt-Out Policy as an Alternative to the Current Opt-In System

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## ABSTRACT

The global shortage of organs for transplantation is a critical public health issue, leading many countries to reassess their organ donation policies. In the Philippines, organ donation rates remain significantly low under the current opt-in system, where individuals must actively declare their consent to donate. This perspective examines the challenges and limitations of the opt-in system in the Philippines, considering cultural, operational, legal, and ethical factors. It also discusses the emergence and effectiveness of the opt-out system, where consent is presumed unless explicitly denied, and evaluates its potential applicability in the Philippine context. Drawing on international experiences and evidence, this paper argues that transitioning to an opt-out system—supported by appropriate legislation, infrastructure enhancements, and culturally sensitive public education—can significantly increase organ donation rates in the Philippines and better address the nation's organ shortage.

*Keywords: Opt-Out, Organ Donation Philippines, technical and operational considerations, legal and ethical considerations, cultural and public education considerations*

## INTRODUCTION

The global organ shortage poses a significant public health challenge, prompting nations worldwide to reassess their organ donation policies critically.<sup>1</sup> In the Philippines, the persistently low organ donation rates under the current opt-in system necessitate a re-evaluation of the nation's approach to organ donation. The opt-in system, established by the Organ Donation Act of 1991 (Republic Act No. 7170), requires individuals to explicitly consent to organ donation, usually through registration as organ donors.<sup>2</sup> This policy, while respecting individual autonomy, has resulted in a limited pool of available organs, leading to severe shortages and preventable deaths.<sup>2,3</sup>

This perspective explores the current organ donation scenario in the Philippines, elucidating the cultural, structural, and operational challenges contributing to the low donation rates under the opt-in system. The paper further examines the potential of the opt-out policy as an alternative, where consent for organ donation is presumed unless an individual explicitly opts out. By drawing on international experiences, the paper aims to propose strategies for effectively transitioning to an opt-out system in the Philippines, arguing that such a transition can significantly enhance organ donation rates and improve health outcomes.

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## CURRENT ORGAN DONATION SCENARIO IN THE PHILIPPINES

### Organ Donation Rates and Trends

Organ donation rates in the Philippines are notably low compared to global standards. According to the International Registry for Organ Donation and Transplantation (IRODaT), the total organ transplantation rate in the Philippines in 2020 was only 0.05 patients per million population, a figure significantly lower than those in countries with more proactive organ donation policies.<sup>3</sup> The Philippine Renal Disease Registry reported that in 2015, only 475 Filipino patients, representing just 3.4% of eligible recipients, received a kidney transplant.<sup>4</sup> Additionally, only 59 liver transplants have been performed in the country since 1988, despite the annual death toll of 5,000 Filipinos from cirrhosis and its complications—conditions that could potentially be treated with a liver transplant.<sup>5</sup> These statistics underscore the inefficacy of the current opt-in system in meeting the nation's organ transplantation needs.

The disparity becomes even more pronounced when these figures are compared with other jurisdictions. Countries with opt-in systems generally have lower organ donation rates. A comparative study across 18 Organisation for Economic Co-operation and Development (OECD) countries found that those with opt-in systems had an average of 15.4 donors per million population, compared to 20.3 per million population in countries with opt-out systems.<sup>6</sup> This trend reflects the broader challenges of the opt-in system, where the burden of registering as a donor may discourage participation.

### Cultural and Structural Challenges

Several cultural factors contribute to the low organ donation rates in the Philippines. The belief in preserving the body's integrity after death is deeply ingrained in Filipino culture, often stemming from religious beliefs and traditional practices.<sup>7,8</sup> This belief discourages organ donation, as many view it as a violation of the body's sanctity. Moreover, the family-centric nature of Filipino society complicates the decision-making process for organ donation. Even when an individual has registered their consent to donate, the final decision often involves extensive family consultation, which can reverse the individual's wishes. This reliance on family decisions is a significant barrier to the success of the opt-in system, as families may refuse donations due to emotional distress or cultural beliefs, even if the deceased had expressed a willingness to donate.<sup>9</sup>

From a structural perspective, the Philippines lacks the necessary infrastructure to support an effective organ donation and transplantation program. The country has only 28 transplant centers, with the majority concentrated in Metro Manila, leaving many regions underserved.<sup>10</sup> The shortage of trained transplant surgeons further exacerbates this issue, with only 41 actively practicing specialists available to perform these critical procedures.<sup>10</sup> This inadequate infrastructure not

only limits the capacity to perform organ transplants but also restricts public access to information and resources needed to make informed decisions about organ donation.

### Legal and Ethical Considerations

While established, the legal framework governing organ donation in the Philippines presents challenges that contribute to the low donation rates. The Organ Donation Act of 1991 provides the legal basis for the opt-in system but does not adequately address the complexities of organ donation in the modern context. For example, the Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208) addresses human trafficking, including organ trafficking. Still, it is vague in distinguishing between legitimate donations and trafficking, potentially discouraging individuals from donating due to fears of legal repercussions.<sup>11</sup> Former DOH Secretary Enrique Ona noted that such legal ambiguities might dissuade potential donors, particularly in a context where legal literacy is limited.<sup>12</sup>

Ethically, the opt-in system is designed to respect individual autonomy by requiring explicit consent for organ donation. However, the low public awareness and pervasive myths about organ donation hinder the effectiveness of this approach. Research indicates that only 17% of Filipinos are aware of the concept of deceased organ donation, and even fewer are willing to become donors.<sup>13</sup> Misconceptions about organ donation, such as the belief that doctors might not try as hard to save a donor's life, further contribute to the reluctance to donate.<sup>14</sup> These challenges highlight the need for a more robust public education campaign to improve understanding and acceptance of organ donation in the Philippines.

## THE EMERGENCE AND EFFECTIVENESS OF THE OPT-OUT SYSTEM

### Historical Context and Rationale

The opt-out system, or presumed consent, emerged as a policy alternative to the opt-in system in response to the global organ shortage. The concept of presumed consent has been considered since the early 20th century but gained significant traction in the latter half of the century as more countries sought to increase their organ donation rates. In an opt-out system, all individuals are considered potential organ donors unless they explicitly opt out, thereby simplifying the process of becoming a donor and expanding the donor pool.<sup>15</sup>

The opt-out system was introduced in various countries as a solution to the limitations of the opt-in system. For example, Spain, which transitioned to an opt-out system in the late 20<sup>th</sup> century, now boasts one of the highest organ donation rates globally, with 47 donors per million population.<sup>16</sup> Similarly, Belgium implemented an opt-out policy and saw a significant increase in kidney donations, from 10.9 to 41.3 donors per million population within three years.<sup>17</sup> Austria's experience is also noteworthy, as the country saw an increase in donors per million population from 4.6 to 27.2 over a five-

year period following adopting an opt-out system.<sup>17</sup> These examples demonstrate the effectiveness of the opt-out system in addressing organ shortages and increasing donation rates.

### Strengths and Weaknesses of the Opt-Out System

The primary strength of the opt-out system is its ability to increase the number of available organs for transplantation significantly. By presuming consent, the system reduces the need for individuals to take proactive steps to register as donors, thereby expanding the donor pool. Additionally, the opt-out system can streamline the organ retrieval process by reducing the reliance on immediate family consultation in cases where the deceased has not opted out.<sup>18</sup>

However, the opt-out system is not without its challenges. A significant ethical concern is the potential for presumed consent to infringe on individual autonomy. If individuals are unaware of their right to opt out, they may unknowingly become organ donors, raising questions about the ethical validity of presumed consent.<sup>19</sup> Public awareness is, therefore, crucial to the success of an opt-out system. Countries that have successfully implemented this policy have done so alongside extensive public information campaigns to ensure that citizens are fully informed about their rights and the implications of presumed consent.<sup>20</sup>

Family involvement remains a critical component of the opt-out system. In many countries with presumed consent laws, families are still consulted before organ retrieval, and their objections can override the presumed consent of the deceased. This highlights the importance of culturally sensitive approaches that respect the role of the family in the decision-making process.<sup>21</sup> Additionally, the transition to an opt-out system requires significant legal and infrastructural changes, including developing clear guidelines for healthcare providers and establishing robust mechanisms for registering and tracking opt-out decisions.<sup>22</sup>

## THE CASE FOR TRANSITIONING TO AN OPT-OUT SYSTEM IN THE PHILIPPINES

### Technical and Operational Considerations

Transitioning to an opt-out system in the Philippines can address the current opt-in system's challenges. Still, substantial changes will be required to the country's healthcare infrastructure. The scarcity of transplant centers and trained medical professionals is a significant barrier that must be overcome to support an effective organ donation program. Strengthening the healthcare system's capacity to handle organ donation and transplantation is essential. This would involve investing in new facilities, enhancing existing ones, and implementing continuous medical education programs to equip healthcare workers with the necessary skills and knowledge.<sup>23</sup>

The experience of Spain and Wales underscores the importance of infrastructure and training in the success of an opt-out system. Spain's organ donation program, recognized as

one of the most successful globally, attributes its achievements largely to sustained investment in healthcare infrastructure and continuous professional development for medical staff.<sup>23</sup> Similarly, Wales saw positive outcomes after implementing an opt-out system, supported by comprehensive education programs that enabled healthcare workers to effectively engage with families about organ donation.<sup>24</sup> These examples suggest that similar strategies could be adapted to the Philippine context to ensure the success of an opt-out system.

### Legal and Ethical Considerations

The transition to an opt-out system in the Philippines would require significant legal reforms. New legislation would need to be enacted to define clearly the rights of individuals and the responsibilities of healthcare providers. This legislation should address potential ethical concerns, such as ensuring that individuals are fully informed about their right to opt out and that family members are appropriately involved in the decision-making process. Legal safeguards would be necessary to protect against coercion and ensure that the system operates transparently and ethically.<sup>19</sup>

The proposed Organ and Tissue Donation Act of 2019 (Senate Bill No. 87) introduced by former Senator Richard J. Gordon, and the similar House Bill No. 7099 by Hon. Keith Micah D.L. Tan, aim to establish an opt-out system in the Philippines.<sup>25</sup> These bills emphasize the creation of Organ and Tissue Retrieval Organizations (OTROs) under the Department of Health (DOH) in collaboration with the Philippine Network for Organ Sharing (PhilNOS), which would coordinate the equitable distribution of organs and tissues. The legislation also proposes that dissent from organ donation be recorded in a centralized registry, ensuring that individuals who do not wish to participate can easily opt-out.

### Cultural and Public Education Considerations

Public education campaigns would be critical to the success of an opt-out system in the Philippines. These campaigns should be culturally sensitive and designed to address the specific concerns and beliefs surrounding organ donation in Filipino society. Given the strong influence of family in Filipino culture, public education efforts should emphasize the importance of discussing organ donation wishes with family members to ensure that these wishes are respected in the event of death.

Public education campaigns have played a crucial role in increasing awareness and understanding of the policy in countries where the opt-out system has been successfully implemented. For instance, the United Kingdom's transition to an opt-out system was supported by a nationwide campaign that informed the public about the new law and encouraged individuals to discuss their organ donation preferences with their families.<sup>26</sup> Similar efforts would be necessary for the Philippines to ensure that the population is fully informed about the implications of presumed consent and their right to opt-out.

## CONCLUSION

The transition to an opt-out organ donation system in the Philippines has the potential to significantly increase organ donation rates, addressing the current shortage of available organs for transplantation. However, this shift cannot be viewed as a standalone solution. It must be accompanied by comprehensive strategies that include strengthening healthcare infrastructure, enacting supportive legislation, and implementing culturally sensitive public education campaigns. By considering the technical, operational, legal, and ethical factors in this transition, the Philippines can develop a robust organ donation system that respects individual autonomy while maximizing the potential for saving lives through increased organ transplantation.

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