

Opting for Change: Rethinking Canada's Organ Donation System

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INTRODUCTION

Canada faces a critical shortage of organ donors, with over 200 Canadians passing away while on organ donation wait-lists in 2024.¹ Life-saving organs include kidneys, hearts, and lungs, while tissues such as skin grafts and corneas primarily improve quality of life.¹ In 2024, 3,212 transplants were performed nationwide; 82% were from deceased donors and 18% from living donors, with 51% of living donations coming from relatives.¹

A public opinion poll found that despite 89% of Canadians expressing support for organ donation, only about one-third have formally registered within the opt-in (explicit consent) system.² This gap between expressed willingness and action may reflect structural barriers that could be bridged with policy changes, such as an opt-out (presumed consent) organ donation system.

OPT-IN VS. OPT-OUT SYSTEMS IN CANADA

Under the opt-in model used in most Canadian provinces, individuals must actively register their consent to donate.^{3,4} In contrast, the opt-out model presumes consent for eligible adults unless they formally opt-out.³

In 2021, Nova Scotia (NS) became the first North American jurisdiction to adopt an opt-out model by enacting the Human Organ and Tissue Donation Act (HOTDA).⁵ While NS remains the only Canadian province to have done so, New Brunswick passed legislation in 2023 to move toward an opt-out model, though it has not yet been fully implemented.⁶ Furthermore, Alberta and Manitoba have introduced bills referencing NS's model to explore presumed consent, but they were not passed.⁷ These developments reflect a growing national interest in re-evaluating organ donation frameworks with the shared goal of improving donation rates.



NOVA SCOATIA'S EARLY RESULTS AND REACTIONS

In 2020, the year before the HOTDA, NS's donation rate was 29.9 donors per million population (DPMP), increasing to 55 DPMP by 2024.^{8,9} While this suggests progress, rates were already improving prior to the law enactment; they rose from 16.8 to 26.5 DPMP between 2010 and 2019.¹⁰ Other provinces without opt-out legislation also experienced increases during this period. For instance, Ontario's donation rate rose from 625 to 644 DPMP between 2021 and 2024.⁹ This steady rise points to factors beyond legislation contributing to nationwide improvements in organ donation.⁹

Additionally, clinicians report that pre-existing structural barriers remain unaddressed, such as a lack of standardized donation pathways and inconsistent communication. This is similarly reflected in health professionals who report challenges in dispelling persistent misconceptions such as fears of premature death declaration, body mutilation, or the belief that organ donation has become mandatory.^{11,12} Although families retain final decision-making authority in the opt-out system, public misconceptions that the law removes family input have weakened trust in the system.^{11,12} Therefore, uncertainty persists about how these conversations should proceed, highlighting the need for transparent protocols and further training for healthcare professionals.¹¹

GLOBAL LESSONS FROM OPT-OUT SYSTEMS

International experience shows that opt-out legislation alone rarely drives an increase in organ donation. Countries with opt-out systems average 22.6 deceased DPMP compared to 13.9 in opt-in systems, though the success of opt-out implementation varies widely.⁴

Spain, often cited as the global exemplar for the opt-out system, had reached 47 DPMP in 2017. However, this only occurred a decade after the adoption of presumed consent following substantial investments, demonstrating the importance of system-level reforms.^{3,4}

Conversely, Brazil and Chile saw declines in donation rates after enacting opt-out laws, which may be due to rushed implementation resulting in limited infrastructure and public mistrust.^{3,4} Brazil even repealed its law within a year following public backlash.^{3,4}

Overall, global evidence suggests that presumed consent offers only a moderate statistical advantage of five additional deceased DPMP annually, and even then, its success depends on sustained investment.^{3,4}

ETHICAL AND LEGAL DIMENSIONS OF CONSENT

The ethics behind opt-out systems remain largely debated, given that people are presumed to agree without explicit consent. From a utilitarianism perspective, presumed consent is justified as it maximizes overall societal benefit by increasing organ availability.¹³ However, critics grounded in autonomy and human rights contend that opt-in systems undermine individual rights by assuming consent when none has been explicitly given.¹⁴

In addition, concerns have been raised about the coercive nature of opt-out models. If opting out becomes stigmatized or associated with selfishness, individuals may feel pressured to remain donors.¹⁵ Balancing these perspectives is essential when developing policies for opt-out systems.

CULTURAL AND RELIGIOUS CONSIDERATIONS

Cultural and religious beliefs strongly influence individuals' willingness to participate in organ donation. Most Christian

denominations regard voluntary organ donation as an altruistic act.¹⁶ In contrast, Islam generally prohibits desecration of the human body, emphasizing the sanctity of preserving its integrity both in life and death.¹⁷ In Judaism, burial should occur within 24 hours after death, and any desecration of the body is prohibited as it is considered benefiting from the dead.¹⁸

Among Canadian First Nations communities, many believe that an intact body is necessary to enter the spirit world.¹⁹ In one study, although 83% of Indigenous participants supported organ donation, only 38% were actually willing to donate their organs after death.¹⁹ Yet, just 18.7% reported that their cultural or spiritual beliefs influenced their views on donation.¹⁹

Therefore, in Canada's multicultural and pluralistic context, diverse beliefs complicate any uniform moral framework and raise questions about whether a nationwide opt-out system is viable.

PUBLIC PERCEPTION AND THE PATH FORWARD

Public understanding and trust are crucial for the success of any organ donation system. Misinformation and stigmatization often hinder informed decision-making and lower consent rates.²⁰ Trust in the healthcare system is critical; when individuals perceive the system as transparent, ethical, and respectful of their autonomy, they are more likely to consent to organ donation.²⁰ NS demonstrates the feasibility of an opt-out system in Canada. However, global experience shows that presumed consent succeeds only when paired with strong infrastructure, coordinated systems, and sustained public trust.^{3,4} In Canada's multicultural context, beliefs about bodily integrity and religious practices vary widely, meaning policies must be culturally sensitive and allow individuals to opt-out without stigma. Therefore, Canada faces the opportunity to succeed with an opt-out system, only if implemented alongside comprehensive education, strong healthcare infrastructure, and culturally inclusive policies. By cultivating an informed and confident public, Canada may one day meet the growing demand for organ donations.

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