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Collaborative

FOR EVERYONE

# Does Changing the Law Get More Organ Donors?

*What sixty countries' experience really shows*

## 01 · THE BIG QUESTION

### Does changing the law get more organ donors?

Every few years, somewhere in the world, a country debates switching its organ donation law. The argument usually goes the same way: if you change from an opt-in system, where people have to sign up to donate, to an opt-out system, where everyone is treated as a donor unless they have said no, more organs will be available for the thousands of people on transplant waiting lists.

It sounds simple. The evidence, drawn from more than sixty countries, says it isn't.

## 02 · THE THREE MAIN SYSTEMS

### A quick tour of the rulebook

There are three main legal approaches, plus a couple of variations.

**Opt-in** is the default in the United States, Germany, Australia, Japan, and most of sub-Saharan Africa. To become a donor, you have to register your wish in advance, usually by checking a box at the DMV or signing a national registry.

**Opt-out** treats every adult as a donor unless they have actively recorded an objection. Spain, France, Italy, Belgium, England, Wales, and most of Latin America use a version of this approach.

**Mandated choice** asks every adult to record a yes or no, usually when they apply for a driver's license. New Zealand is the clearest example.

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A few countries layer on extras. Israel gives priority on the transplant waiting list to people who have registered as donors. Iran is the only country that pays living kidney donors through a regulated, state-run program. Both sit outside the international mainstream.

## 03 · THE HEADLINE FINDING

# Same law, very different results

Once you compare the actual donation rates across countries, the law alone clearly isn't what's driving the numbers.

Spain has an opt-out law and produced 53.9 deceased donors per million people in 2024, the highest rate in the world. Bulgaria also has an opt-out law and produced 2.5 per million. That is a twenty-fold gap between two countries with essentially the same legal default.

The same is true on the opt-in side. The United States runs an opt-in system and reaches nearly 50 donors per million. Japan also runs an opt-in system and reaches roughly 1. The gap between two countries with the same law is forty-five-fold.

If the law were the main lever, you would expect countries that share a legal model to look more like each other than this. They don't. The variation inside each legal category is much larger than the average difference between categories, and that is the empirical signature of something else doing the real work.

## 04 · WHAT SPAIN ACTUALLY DID

# The story behind the highest rate in the world

Spain is often held up as proof that opt-out works. The full story is more useful.

Spain passed its opt-out law in 1979. For the next ten years, donation rates barely moved. The change began in 1989, when Spain set up a national transplant agency, the Organización Nacional de Trasplantes, and required every hospital in the country to designate a transplant coordinator. These coordinators are usually intensive-care doctors with protected time, training in difficult family conversations, and direct accountability to the national agency for finding potential donors.

That structural overhaul, layered on top of a legal default that had been in place for a decade, is what produced the world-leading numbers. Today, about 85 percent of Spanish families approached about donation agree — the highest rate anywhere.

## 05 · WHAT ALMOST EVERY COUNTRY HAS IN COMMON

## The family conversation

Here is a feature of consent law that gets lost in the public debate: in nearly every country in the world, including most hard opt-out countries, families have the final say. A 2023 Council of Europe survey found that families are routinely consulted in 95 percent of member states, and organs are rarely retrieved over a family's sustained objection, even when the law technically allows it.

The reason is practical. Procuring an organ over a grieving family's protests would cause the kind of public-trust damage that could compromise the whole system. So the bedside conversation — conducted by trained people under conditions of trust — is where donation is actually made or lost. Everything else, including the legal default, is upstream of that moment.

### 06 · ENGLAND'S RECENT EXPERIENCE

## A change without the rest of the change

In 2020, England switched from opt-in to opt-out, a law popularly known as Max and Keira's Law. Five years on, the results have been disappointing. Family consent rates fell from about 68 percent before the switch to about 59 percent in 2024. The total UK donor rate dropped slightly, and the waiting list reached a record high.

The reading from UK commentators is consistent. The law changed, but the supporting investment — more coordinators, more public education, better intensive-care pathways — did not follow at the scale Spain modeled. A legal change without that scaffolding is unlikely to deliver the gains the policy debate promises.

### 07 · WHAT IT MEANS FOR THE REST OF THE WORLD

## For most countries, the law isn't the right argument

For most low- and middle-income countries, the debate about opt-in versus opt-out is largely beside the point. Without brain-death legislation, a national transplant authority, intensive-care capacity to support potential donors through the diagnostic process, and a sustainable way to fund post-transplant medications, no consent law will produce many donors. Nigeria and Kenya — between them holding more people than the European Union's ten biggest donor countries — reported zero deceased donors in 2023 and 2024 despite their opt-in laws. The first task there is structural, not legal.

### 08 · THE BOTTOM LINE

## What the evidence supports

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The international comparison is now pretty settled: the legal architecture of consent is one factor among many, and not the most powerful one. Countries reach the top of the league table under different legal regimes, and countries land at the bottom under different legal regimes too. The variation that matters most comes from organization, clinical practice, and culture.

That doesn't mean the law is irrelevant — a thoughtful default signals public commitment and gives clinicians a starting point at the bedside. But forty years of comparative data point the same way: where countries want more donors, the investment that actually moves the numbers is in coordinators, not in laws.

## **DISCLOSURE**

*This synthesis was prepared with the assistance of generative artificial intelligence. Source materials were limited to open-access peer-reviewed publications, government and registry websites, and other publicly available databases. Every reference cited in this article was independently reviewed, verified against its primary source where available, and curated by the WOD Collaborative. The AI tool was used for drafting, restructuring, and consistency checking; all factual claims, attributions, and editorial decisions remain the responsibility of the WOD Collaborative.*

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