Debate

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An ethical market in human organs

Charles A Erin, John Harris

While people's lives continue to be put at risk by the dearth of organs available for transplantation, we must give urgent consideration to any option that may make up the shortfall. A market in organs from living donors is one such option. The market should be ethically supportable, and have built into it, for example, safeguards against wrongful exploitation. This can be accomplished by establishing a single purchaser system within a confined marketplace.

Statistics can be dehumanising. The following numbers, however, have more impact than most: as of 24th November, during 2002 in the United Kingdom, 667 people have donated organs, 2055 people have received transplants, and *5615 people are still awaiting transplants*.[1] It is difficult to estimate how many people die prematurely for want of donor organs. "In the world as a whole there are an estimated 700 000 patients on dialysis . . . . In India alone 100 000 new patients present with kidney failure each year"[2] (few if any of whom are on dialysis and only 3000 of whom will receive transplants). Almost "three million Americans suffer from congestive heart failure . . . deaths related to this condition are estimated at 250 000 each year . . . 27 000 patients die annually from liver disease . . .. In Western Europe as a whole 40 000 patients await a kidney but only . . . 10 000 kidneys"[2] become available. Nobody knows how many people fail to make it onto the waiting lists and so disappear from the statistics. It is clear that loss of life, due in large measure to shortage of donor organs, is a major crisis, and a major scandal.

At its annual meeting in 1999, the British Medical Association voted overwhelmingly in favour of the UK moving to a system of presumed consent for organ donation,[3] a proposed change in policy that the UK government immediately rejected.[4] What else might we do to increase the supply of donor organs? At its annual meeting in 2002, the American Medical Association voted to encourage studies to determine whether financial incentives could increase the supply of organs from cadavers.[5] In 1998, the International Forum for Transplant Ethics concluded that trade in organs should be regulated rather than banned.[6] In 1994, we made a proposal in which we outlined possibly the only circumstances in which a market in donor organs could be achieved ethically, in a way that minimises the dangers normally envisaged for such a scheme.[7] Now may be an appropriate time to revisit the idea of a market in donor organs.[8] Our focus then, as now, is organs obtained from the living since creating a market in cadaver organs is uneconomic and is more likely to reduce supply than increase it and the chief reason for considering sale of organs is to improve availability.

To meet legitimate ethical and regulatory concerns, any commercial scheme must have built into it safeguards against wrongful exploitation and show concern for the vulnerable, as well as taking into account considerations of justice and equity.

There is a lot of hypocrisy about the ethics of buying and selling organs and indeed other body products and services—for example, surrogacy and gametes. What it usually means is that everyone is paid but the donor. The surgeons and medical team are paid, the transplant coordinator does not go unremunerated, and the recipient receives an important benefit in kind. Only the unfortunate and heroic donor is supposed to put up with the insult of no reward, to add to the injury of the operation.

We would therefore propose a strictly regulated and highly ethical market in live donor organs and tissue. We should note that the risks of live donation are relatively low: "The approximate risks to the donor . . . are a short term morbidity of 20% and mortality, of 0.03% . . .. The long term risks of developing renal failure are less well documented but appear to be no greater than for the normal population."[9] And recent evidence suggests that living donor organ transplantation has an excellent prognosis, better than cadaver organ transplantation.[10] Intuitively, the advantage also seems clear: the donor is very fit and healthy, while cadaver donors may well have been unfit and unhealthy, although this will not be true of many accident victims.

The bare bones of an ethical market would look like this: the market would be confined to a self governing geopolitical area such as a nation state or indeed the European Union. Only citizens resident within the union or state could sell into the system and they and their families would be equally eligible to receive organs. Thus organ vendors would know they were contributing to a system which would benefit them and their families and friends since their chances of receiving an organ in case of need would be increased by the existence of the market. (If this were not the case the main justification for the market would be defeated.) There would be only one purchaser, an agency like the National Health Service (NHS), which would buy all organs and distribute according to some fair conception of medical priority. There would be no direct sales or purchases, no exploitation of low income countries and their populations (no buying in Turkey or India to sell in Harley Street). The organs would be tested for HIV, etc, their provenance known, and there would be strict controls and penalties to prevent abuse.

Prices would have to be high enough to attract people into the marketplace but dialysis, and other alternative care, does not come cheap. Sellers of organs would know they had saved a life and would be reasonably compensated for their

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risk, time, and altruism, which would be undiminished by sale. We do not after all regard medicine as any the less a caring profession because doctors are paid. So long as thousands continue to die for want of donor organs we must urgently consider and implement ways of increasing the supply. A market of the sort outlined above is surely one method worthy of active and urgent consideration.

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Is the sale of body parts wrong?

J Savulescu

In late August 2002, a general practitioner (GP) in London, Dr Bhagat Singh Makkar, 62, was struck off the medical register after he was discovered to have bragged to an undercover journalist about being able to obtain a kidney from a live donor in exchange for a fee. He told the journalist, who posed as the son of a patient with renal failure: "No problem, I can fix that for you. Do you want it done here, do you want it done in Germany or do you want it done in India?" The price he quoted included payment to the donor and "my administration costs". Dr Makkar said he regretted giving "stupid answers" to the journalist. He had been "tired, confused, and upset after a long day dealing with emotional patients".[1]

Deliberation about ethics is often muddied by the personalities involved in a particular issue. Many people are uninspired by Richard Seed or Jack Kevorkian. This contaminates their view about the much broader and important issues such as cloning or euthanasia that Seed and Kevorkian, whom some people might describe as mavericks, have shoved their finger in.

Discussion of the sale of organs is overshadowed by cases of exploitation, murder, and corruption. But there is also a serious ethical issue about whether people should be allowed to sell parts of the body. It applies not only to organs, such as the kidney or parts of the liver, but also to tissues, such as bone marrow, gametes (eggs and sperm) and even genetic material. The usual argument in favour of allowing the sale of organs is that we need to increase supply. In the US, as few as 15% of people who need kidney transplants ever get a kidney. Cadaveric organs will never satisfy the growing demand for organs. Worldwide, hundreds of thousands, if not millions, die while waiting for a transplant.

Those opposed to a market in organs argue that markets reduce altruistic donation and may also threaten the quality of organ supply. They also claim it will exploit those who are forced by poverty to enter such a market.

Charles Erin and John Harris have proposed an "ethical market" in organs (p 000). The market would be confined to a self governing geopolitical area—for example, the UK or Australia. Vendors could sell into the system, from which their family members would stand a chance of benefiting. Only citizens from that area could sell and receive organs. There would be only one purchaser, an agency like the National Health Service (NHS) or Medicare, which would buy all organs and distribute according to some fair conception of medical priority. There would be no direct sales or purchases, no exploitation of low income countries and their populations.[2]

But there seems to me to be a much stronger argument in favour of sale of body parts. People have a right to make a decision to sell a body part. If we should be allowed to sell our labour, why not

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