

Debate

Paying organ donors

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Author's abstract

Following an earlier paper in the journal in which Evans argued that it was commercial exploitation, not mere payment, that was morally objectionable about certain sorts of organ donation, this paper looks at the moral issues when commercial exploitation is eliminated from systems of paid organ donation. It argues that there are no conclusive moral arguments against such schemes for non-exploitative paid kidney donation.

In the March, 1989 issue of the *Journal of Medical Ethics* Martyn Evans argues for the extension of possible organ donors to those not genetically related to the recipient. As he states: 'There is already a scarcity of available organs for transplantation. This scarcity is made unnecessarily worse by any unnecessary restriction...' (1). He points out that the reasons usually cited for prohibiting non-related donors do not, in fact, support a prohibitive division based solely on that factor. For example, he comments, with great insight, that potential donors who *are* related, rather than those who are not, are the ones particularly vulnerable to very great 'psychological and emotional pressure' (2). With all this I agree.

He also argues that the 'risk of trafficking' associated with non-related donors can and should be tackled, rather than its being seen as an outright barrier to non-related donors. He refers to 'the moral evil in trafficking' (2) and locates that evil in the 'profit-directed commercial arrangements' which, he claims, 'would certainly lead to exploitation of the financially vulnerable' (2). (It has been reported in a Canadian newspaper that a West German already has such a scheme running in France and West Germany, paying Turks living in poverty about US \$3,500 to donate a kidney which is then sold to a recipient – not in Turkey – for between US \$26,000 to US \$52,000.) If this report is true, then it does indeed count as exploitation of the financially vulnerable and can be morally condemned on that basis. But this in itself has nothing to do with the fact that the profit involved donating organs. The

moral objection to exploitation would stand if, for example, people living in poverty sold a family possession, perhaps an old artefact, which was then bought for a pittance by an entrepreneur who then resold the item for a vastly increased price. That is to say, it is a moral danger inherent in any system with entrepreneurial profit-making.

Since I believe Evans is right in advocating greater availability of donors *other things being equal*, I wish to look at a situation where this kind of 'profit-directed commercial arrangement' is removed and investigate the moral status of what remains. Suppose an organisation which sees itself as a charity collects freely donated money which is then used to pay individuals for blood donations, bone-marrow donations, and kidney donations. The blood, bone-marrow, and organs are then given, without charge, to suitable recipients selected by a non-related medical association. Our focus is particularly on the kidney donations. To remove the more obvious forms and causes of exploitation, let us further suppose that: no one is approached as being a potential donor; there is no 'pressure'-advertising of the arrangement; any person approaching the organisation is fully informed of the procedures involved and of the risks (including possible future health risks if, for example, the remaining kidney fails); the person is also carefully examined for possible medical concerns which would make the donation a more than usual risk to the donor; after these arrangements, the person is required to wait for an extended period before making a final decision (perhaps even a year); the recipient of the organ is to be selected, if possible, from those in need in the donor's own country and without regard to ethnic, religious, etc, distinction; the money paid to the donor is significant without, however, being so huge as to tempt a person to 'do anything' for it. (The basic logical point of the last factor I hope is clear, even though actual figures would be inappropriate here.) The question is what, if anything, is morally objectionable about such an arrangement, given that there is no commercial profit-making?

The distinction between an arrangement involving commercial profit-making and its involving only payment to the donor is not, I think, explicit in Evans's paper. But the kind of situation described above needs

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explicit examination since we do not reach any moral conclusion about it under the heading of 'profit-directed commercial arrangement'. And if the situation described seems very unlikely, then all I can say is that it is more likely to be advocated than the outright commercial profit-making schemes, which have, however, been taken seriously enough to be the topic of possible legislation in some countries. And which – if some reports are true – are actually functioning in some places. Sooner or later the kind of situation I describe will be in fact advocated (3) – if it hasn't been already – since, in practice, money is already paid for some medical donations in some places (for example, sometimes for blood donations in the USA).

I think the main objection to such arrangements as the above will be that even if the amount of money isn't huge, it is nonetheless an 'inducement' if not an outright 'financial pressure'. Now, as Evans argues, since organ donation always involves some clinical risk, it is 'essential that donation be entirely free, informed and voluntary' (4). In the situation described above some would argue that although the donor's decision may be fully informed, it will not be entirely free and voluntary.

The kind of case this objection refers to is one where the person reaches the decision to be a donor in response to the fact that money is being paid. That is to say, if there were no money, then, if asked, the person would not be a donor, but upon hearing about the money, he, so to speak, *changes his mind* about this implicit former decision. The conclusion is that this decision to be a donor is not entirely free and voluntary.

Now I think there is financial pressure when the potential donor is in poverty. And perhaps it may be argued that this alone is sufficient for banning all paid-for donations. But then, in consistency, the same reasoning should be applied to related donors: since *some* of them are open to heavy psychological and emotional pressure (for example, perhaps by being the submissive and 'guilt'-ridden offspring of an extremely domineering and now ailing parent), then all donations from relatives should be forbidden. This course is not advocated in connection with related donors. Rather, the difficult task of distinguishing between truly vulnerable relatives and those not vulnerable is undertaken. This would point to our attempting the analogous task in the case of paid-for donations, namely, the task of distinguishing between the truly financially vulnerable and those not so. If it is argued that this will result in rejecting some people as potential donors precisely because they desperately need the money and that this is cruel, then the point is that *if* priority is given to the donor's decision being entirely unpressured, then this is indeed an unfortunate but unavoidable consequence, and since unavoidable, not cruel. But equally – in the case of related donors – if the same priority holds there, then an unavoidable consequence will be rejecting some people as potential

donors because, for example, they feel desperately 'guilt'-ridden about their relative's illness and 'need' to be a donor. If a genuinely free decision is not possible there, then the person would not be accepted as a donor. With respect to this one issue – such rejections – it is to be hoped they would be undertaken with great sensitivity and with attempts to offer genuine help with respect to the person's financial/psychological situation.

But what if the potential donor is not financially vulnerable in this way? Does that mean that it is then a morally acceptable arrangement? Let us suppose that the person believes that organ donation is a laudable act and finds nothing repugnant about it, and that he is not in real financial need (ie, is not vulnerable to financial pressure). Perhaps he sees the act of a non-related donor as being 'above and beyond the call of duty', but sees the money as making it worthwhile.

Why is the fact that the money plays a crucial role in his changing his decision taken to indicate that his second decision is not entirely free? He changes his mind for a reason, and the reason here is the receiving of the money. But it will perhaps be argued that the reason is 'external' to him in some way, not like, for example, his changing his views about the moral acceptability of organ donations as such. But is there a contrast here? When we change our views, do we not often do so because we have heard *from someone else* facts or lines of reasoning that lead us to question our position? Is this not equally 'external' to us? In both cases actions of others play a role. The crucial logical point, however, is that to say that the actions of other people play a role in a person's decision does not in itself establish that the role is coercive or pressuring.

The potential donor will probably be acting mainly in self-interest if the money plays a crucial role, but again, that doesn't establish that the decision isn't entirely free and unpressured. From the donor's perspective, he may learn about this arrangement, and freely decide that it's worth his while to participate. I don't think one can here sustain an objection based on a claim that the person's decision is 'not entirely free'.

What is true is that the donor-collecting organisation introduces a new factor in the potential decision-making data of the potential donor. This is rather different from saying that the person's decision is not entirely free. And if this is regarded as not morally acceptable, then the question is, why? Perhaps it seems that in this situation the responsibility for the donor's decision is really that of the people who offered the crucial money, and not the donor's. But that, I think, is to confuse the notion of one's actions being *relevant* to a decision, with the different notion of being *morally responsible* for a decision. One person's actions may be crucially relevant to someone else's decision (in that the decision would have been different if the first person's actions had been different) without, however, the first person being morally responsible for the other person's decision. One person may even hope for a certain decision from another person without, however, being

morally responsible for it. Given that the person described is not vulnerable to financial *pressure*, the organisation is not morally responsible for the person's decision any more than someone advertising employment (in the same unpressured situation) is responsible for someone's deciding to apply. A person may refuse to drive people where they want to go until money is offered to him as a taxi-driver (which in some places may involve considerable risk). Even though the offer of money is crucially relevant to the person's decision, the responsibility for the decision is still his.

If there is an objection to the organ-collecting arrangement described, then I think it needs to be refocused. With the restrictions described, the decision to donate is free, so far as I can see, and the responsibility for the decision is the potential donor's. And *ex hypothesi* there is no entrepreneur making a profit.

There is one non-moral, practical argument that may be raised against such an arrangement. It may be argued that if money is paid, then except for donors especially committed to the recipient (for example, usually close relatives or friends of the recipient), all donors will begin to expect to be paid and, with those few exceptions, voluntary donations will cease. Then if at some future time the organisation ceases to receive money, this will end the vast majority of organ donations. Now the parallel of this practical argument is, I think, relevant and important with respect to *blood* donors. In countries where blood donors are never paid, there is nonetheless a good number of volunteers and an increased response in times of crisis, etc. Beginning to pay for blood donations may well begin to undermine the willingness to give blood without payment (as has been argued in connection with the USA). Then one is trapped into a financial commitment which may not be sustainable. But the significant difference between blood donations and organ donations is the sheer magnitude of what is involved. To donate an organ involves major surgery with some genuine risk, and the one kidney is not, of course, renewable, thus leaving the donor open to some increased risk in the future. (Also an organ donor will lose income while undergoing and recovering from surgery.) As a matter of empirical fact it is not clear that thousands of people will offer to be non-related organ donors from altruistic motives alone, whereas that is precisely what happens in the case of blood donations. (It is not even clear how many in fact *could* be organ donors without payment.) So it is doubtful that there is a great number of willing, non-related potential organ-donors who will give without payment (at least, until payment begins to be offered). That is to say, it is not clear that there is a significant number of organs which, if legislation permits, are obtainable without paying the non-related donor, which, however, will be obtainable only with a constant supply of money once the organisations such as the one described begin to

function. If this is true, then there may be practical reasons for not paying for blood donations, which, however, perhaps do not apply to organ donations. (With respect to this issue, it is difficult to say where bone-marrow donations fall, but they have been undertaken by non-related donors without payment in a number of countries. I do not know how well this meets the needs.)

As to remaining *moral* issues, there are perhaps two possibilities to explore: that the reluctance to permit the arrangement described earlier is to do with the fact that the donor's decision intimately involves the person's body; or, secondly, that there is a reluctance to elicit an act, morally acceptable – even laudable – in itself, if the motive is self-interest and not altruism. In either case, the issues to be explored are not those of pressured decision-making nor those of financial exploitation.

Finally, part of the moral assessment, if paid, carefully controlled, non-commercial voluntary donation is not found to be morally wrong, must concern itself with the benefits that such non-commercial organ provision can be anticipated to provide. Among these are improvements in the life expectancy of recipients, and minimisation of medical risks of the donors that would result from such non-commercial medically-oriented arrangements, for example by thorough bacteriological and virological screening, routine and thorough medical assessment of donors and recipients, the negative effect of such legitimated schemes on commercial entrepreneurial schemes, and, who knows, the elimination of the current worldwide deficit in available organs for transplant.

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References

- (1) Evans M. Organ donations should not be restricted to relatives. *Journal of medical ethics* 1989; 15:17–20.
- (2) See reference (1): 19.
- (3) Since writing the first version of this paper the existence of just such a scheme has been brought to my attention – see Sells R. Ethics and priorities of organ procurement and allocation. *Transplantation proceedings* 1989; 21: 1391–1394. In this paper Sells describes the arrangements at the Guest Hospital in Madras, India, in which a programme of paid organ donation and transplantation is organised by the hospital, overseen by a panel of lawyers and jurors, and in which donors are paid £1000 sterling, are hospitalised for two weeks following nephrectomy, and are given three years free medical insurance. Recipients are those best matched to the available organs, but who have no relatives suitable for donation, and who would otherwise die from renal failure.
- (4) See reference (1): 18. From contextual clues, it would seem that 'voluntary' here has the usual meaning of 'not pressured or coerced, etc', rather than the less usual meaning of 'not paid for' (as in 'volunteer work').