Pediatr Nephrol (2002) 17:309–311

OCCASIONAL SURVEY

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Ethics of paid organ donation

Received: 25 October 2001 / Revised: 24 January 2002 / Accepted: 24 January 2002

Abstract As the waiting list of patients requiring organ transplantation grows, there is a subtle but noticeable shift in society towards accepting organs as a commodity which can be paid for. Although nowhere is the organ trade legal, the commerce of organs goes on in different parts of the world, especially in developing countries such as India. This is largely due to societal and governmental failure to implement the existing "transplant laws". It is high time the medical profession ceased being an accomplice to this unscrupulous trade, which exploits the poor, deters altruism retarding the living-related and cadaver transplant programs, commercializes the human body and jeopardizes human dignity.

Keywords Paid organ donation · Altruism · Autonomy · Organ transplantation · Organ trade · Ethics

Introduction

Paid organ donors are the most prevalent source of kidney donors in India at present. Though no official transplant registries exist, it is estimated that more than 60% of kidney donations are paid. Organ donation, specifically paid organ donation, in a developing country such as India raises many ethical and moral issues. It also hampers the development of a viable living-related and cadaver organ donor program. In India, where there are strong family ties, organ donation, especially for children from living relatives, is negatively influenced by the availability of paid donors. India, which is on the threshold of scientific and medical achievements, is a country of many contrasts – the most striking being the stark financial and social inequalities. Because of this, organ donation is often unrelated and paid for despite the legislation banning "Commerce in Transplantation" (Human Organ Transplantation Act, Government of India, 1994), making it a criminal offense. There are instances of alleged removal of organs without the knowledge of the donor and exploitation of the donor by the "middleman" [1]. Also, there have been reports in the medical literature of multiple complications in the recipients, including life threatening infection [2]. By and large, unrelated donors are commercial paid donors. Often the true history of these donors is hidden. Their general health is poorer. Reliable data about these transplants do not exist. Despite the existing problems, there have always been strong proponents of paid organ donation, often raising issues of great concern [3]. The concept of paid organ donation is not limited to India, but is prevalent in many other developing countries. The developed world is also witnessing a tendency towards drifting into the marketing of organs [4, 5].

There is a universal consensus that in living-related organ donation, the benefits of organ donation far outweigh the risk to the donor. There has been adequate evidence to suggest that kidney donation is medically safe [6]. Although there is pain, anxiety and some risk involved with the nephrectomy procedure, the benefits to the recipient and the psychological, spiritual, and emotional advantage to the donor, along with the fact that kidney donation increases self-esteem [7], justify the act of kidney donation. What is more important, is that the donor has made an informed decision, with a clear understanding of the risks and benefits, to donate his/her kidney, based on altruistic motives and not on coercion. Thus, in living-related kidney donation, the principle of non-maleficence is outweighed by other tenets of ethics, namely autonomy and beneficence.

The perspective changes when we talk about selling or vending the organ, considering the organ as a marketable commodity in contrast to giving the organ as a gift. As the waiting list of patients requiring organ transplan-

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tation grows, there is a subtle but noticeable shift in society towards accepting organs as a commodity, which can be paid for. In the next few paragraphs, we discuss arguments for and against paid organ donation.

The issue of altruism and autonomy

It is argued that as altruism has failed to supply enough organs, resulting in many patients waiting for a kidney, the option of paid organ donation should be explored. Maybe the sale of body parts is a necessary social evil and hence our concerns should focus not on some philosophic imperative such as altruism, but on our collective responsibility of maximizing life-saving organ recovery [8].

However, the above argument appears at once as an easy way out with tremendous moral and ethical implications for society. By advocating financial incentives (it is difficult to fix a price), a deliberate conflict is created between altruism and self-interest, reducing freedom to make a gift. The concept that human organs are spare parts that can be bought and sold can adversely influence respect for the human body and human dignity. It puts organ sale in the same category of paid human body transactions as prostitution and slavery [9]. When organs are "thingified", these marketing practices can lead to serious erosion of cherished values in society. This issue has been highlighted in Iran, where the selling of organs is allowed. It has been shown that in almost all instances, the donor-recipient relationship becomes pathological. Fifty-one percent of donors hated the recipients and 82% were unsatisfied with their behavior [10]. Some sections of society may be treated as saleable commodities rather than as human beings. The medical profession compromises its deontological commitments (that all individuals have a value beyond price) by adopting a mainly utilitarian ethic (maximizing the good for the largest number) [11]. The medical profession also has a moral obligation to use its influence to change the cultural behavior of society. For example, if female feticide is the cultural behavior of society, the medical profession, instead of accepting it, should make active efforts to bring about a behavioral change in society. It should be remembered that, once a moral barrier is broken, it is difficult to contain abuses in society, even by regulation or law.

On the face of it, the act of selling an organ may seem justifiable on the principle of autonomy. However, it should be noted that human autonomy has limitations. This is because "no man is an island entire of itself; every man is a piece of the continent, a part of the main". The act of selling should be considered as arising out of narcissism – too much self-focussing rather than mere execution of autonomy.

It is usually the poor who donate and poverty is perhaps the most significant factor in making a person vulnerable to coercion [12].

Since the consent for kidney sale can be considered to be under coercion, it cannot be accepted as a valid consent.

Can and should paid organ donation be regulated?

It has been suggested that the concerns relating to malfunction of the organ trade, such as exploitation by middlemen or brokers, may be addressed organizationally through a centralized coordinated organ bank or "National Commission for Kidney Purchase – NCKP" [7].

Rewarded gifting or compensation (tax rebates, burial grants, future medical coverage, tuition subsidies for children) to the donors has been suggested. Although paid organ donation in an ideal situation (i.e. without exploitation, with justice to everyone and transparent) may be acceptable, we have reservations as to whether the regulation and implementation of regulatory law on this subject is a possibility at all in a developing country such as India. In many developing countries, including India, a great degree of societal and governmental dysfunction exists. Rampant corruption colors almost every monetary transaction. Vigilance against wrong and unjust practices in relation to the existent laws is grossly inadequate. Sufficient legal resources, checks, controls and balances for such a system to keep it from getting on the slippery slope of commercialism do not exist. The boundaries between pure compensation and incentives for organ donation with potential for inducement, manipulation, coercion and exploitation will be difficult to define and monitor in developing countries. Only the rich who can afford to buy kidneys will derive benefits, thus violating the principle of justice. Organ donation will be practiced with a neglect of beliefs, sentiments and emotions. It will be practiced in backstreet clinics without adequate facilities for postoperative care [13]. This practice will only enhance high morbidity and mortality among recipients who have bought living-unrelated donor kidneys [14]. The slippery slope of commercialism is no ethical illusion but a recurrent reality in India.

Cadaver organ transplantation is in its infancy in the developing world, and, legalizing paid organ donation will kill the cadaver program without any increase in the number of transplants [15, 16].

Also, paid organ donation should not be looked upon as a measure of alleviating the poverty of individuals. There are 3.5 billion poor people worldwide and there are better ways to address poverty issues, which include providing fresh drinking water, adequate sewage facilities, and immunization programs.

Are the issues different in the developed world?

We feel it is logical to think that universalistic ethics promoting human life and dignity transcend time, space, national boundaries and boundaries of social circumstances. The differences in expression of fundamental ethical principles merely reflect inequities in resources between first and third world countries. Complex modes of moral reasoning and considerations of ethics of rights, as well as social responsibilities, everywhere should guide the practice of modern medicine everywhere. The regulatory

forces may be considered to be better developed in the developed world, making regulated sale of organs an achievable proposition. It is suggested though, that the principle of minimizing ethical risk should be pursued, wherein, promotion of living-related donor programs, cadaver programs and xenotransplantation should be explored to the fullest extent before embarking on commercialization of transplantation. The business nature of organ donation and neglect of altruism will alter the attitudes of society towards medical professionals, with the development of suspicion and loss of respect. This may be considered an unhealthy trend.

Conclusions

The question of organ shortage and the problem of patients awaiting the availability of organs will continue to exist. Offering paid organ donation as a solution to this problem raises many ethical and moral issues. WHO guidelines issued in 1989 clearly state that "commercialization of human organs and tissues should be prevented, if necessary by penal sanctions. National and International measures should be adopted to prevent the utilization of organs and tissues obtained through the exploitation of the economic needs of the donor or their relatives". As of now, no regulatory body has endorsed paid organ donation. The organ trade is likely to take unfair advantage of poor people and poor countries. Paid organ donation will exploit the poor, commercialize the human body, deter altruism, and retard the progress of living-related, cadaver and animal organ donor programs. In a society that acknowledges gift giving and resource sharing, there is no place for organ marketing. "Even if it is banned, it will go on anyway" is a very inadequate reason to support it. It is high time that health professionals stop turning a blind eye, becoming accomplices to the unscrupulous and illegal organ trade. It is our plea that the medical community, ethicists, etc., address the issue in its totality before they think of legalizing the organ trade.

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