

The Body as Gift, Resource or Commodity? Heidegger and the Ethics of Organ Transplantation

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Abstract Three metaphors appear to guide contemporary thinking about organ transplantation. Although the *gift* is the sanctioned metaphor for donating organs, the underlying perspective from the side of the state, authorities and the medical establishment often seems to be that the body shall rather be understood as a *resource*. The acute scarcity of organs, which generates a desperate demand in relation to a group of potential suppliers who are desperate to an equal extent, leads easily to the gift's becoming, in reality, not only a resource, but also a *commodity*. In this paper, the claim is made that a successful explication of the gift metaphor in the case of organ transplantation and a complementary defence of the ethical primacy of the giving of organs need to be grounded in a philosophical anthropology which considers the implications of embodiment in a different and more substantial way than is generally the case in contemporary bioethics. I show that Heidegger's phenomenology offers such an alternative, with the help of which we can understand why body parts could and, indeed, under certain circumstances, should be given to others in need, but yet are neither resources nor properties to be sold. The

phenomenological exploration in question is tied to fundamental questions about what kind of relationship we have to our own bodies, as well as about what kind of relationship we have to each other as human beings sharing the same being-in-the-world as embodied creatures.

Keywords Organ transplantation · Ethics · Phenomenology · Embodiment · Heidegger

Introduction

In this paper I will conduct a phenomenological exploration of the ethics of organ transplantation, primarily with the aid of the philosophy of Martin Heidegger. The exploration in question is tied to fundamental questions about what kind of relationship we have to our own bodies, as well as about what kind of relationship we have to each other as human beings sharing the same being-in-the-world as embodied creatures. The exploration is meant as an antidote to and possibly a remedy for a contemporary bioethics stuck in what Drew Leder fittingly and poignantly calls “a paradigm of disconnection” (Leder 1999). Leder's point is that contemporary organ-transplantation ethics disconnects the person not only from her body but also from other persons sharing the same kind of embodiment (see also Campbell 2009).

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Organ Transplantation and the Three Metaphors

Organ transplantation as a life-saving technique took its first tottering steps in the 1950s. Since then, organ transplantation has expanded exponentially, both in terms of survival rates and the number of people on the waiting lists. Advances in immuno-suppression, prevention of infection and other improvements in medical measures have led to success, but as the technology has improved there has also been an increase in the number of patients who are considered in need of a transplant. The range of conditions for which transplantation is offered has widened, and transplantable organs now include kidney, liver, heart, pancreas and lung. Brain-dead donors can provide all of these organs, while living donation is restricted to kidney and sections of the liver and pancreas. A consequence of this dramatic expansion in life-saving potentiality has been a worldwide demand for organs, far exceeding their current availability from either living or cadaveric sources.

In addition to the transplantation of organs we have also witnessed medical developments related to transfer between bodies of tissues and fluids (often regenerative), which are not strictly organs, such as bone marrow, blood, skin and gametes. We are moving into an era of “tissue economies,” the transfer and circulation of human tissue on a global scale (Waldby and Mitchell 2006). Stem cell research is a related and fascinating field, which will not, however, be dealt with in this paper. “Tissue engineering”—growing (parts of) organs from cells cultivated in the laboratory—might very well turn out to be a technology that makes organ donation superfluous in the future, but we simply are not there yet (Sharp 2007).

There are three metaphors that appear to guide contemporary thinking about organ transplantation as it is increasingly focused and debated. Although the *gift* is the sanctioned metaphor for donating organs, the underlying perspective from the side of the state, authorities and the medical establishment often seems to be that the body shall rather be understood as a *resource*. The recent switch from informed to presumed consent regarding organ donation from brain-dead patients in the laws of many countries is a clear sign of this (Weimar et al. 2008). The gift of your organs when you do not need them any more (when you are dead) is increasingly framed by the state as a

gift you cannot refuse once you have been properly informed about what it means to others (life) and to yourself (no harm, since you are dead). To refuse to donate is considered irrational, assuming that you have been properly informed about the value of the gift in question, and consequently, this is a gift we should *expect* (presume) everyone to agree to. Organs are too precious to be wasted because people do not want to think about their own death before they pass away, or because they are simply irrational or egoistic.

The acute scarcity of organs, which generates a demand in relation to a group of potential suppliers who are desperate to an equal extent (desperately poor), leads easily to the gift's becoming, in reality, not only a resource, but also a *commodity*. This is the third metaphor used in contemporary discourse to frame the ontology of the body in the case of organ transplantation. The transfer of body parts is increasingly organized in the form of a global transplant trafficking scene, which is illegal, but still a reality and option for the rich (the buyers in North America and Western Europe) as well as the poor (the sellers in Asia and Eastern Europe). Poor people, with no or little property, have been selling their labour to the wealthy for a very long time. Now they are also selling parts of their bodies (kidneys) in order to mitigate their misery. That the misery in question is often aggravated rather than mitigated by the transplantations—the medical condition of the sellers is worsened and most of the money ends up in the hands of organ brokers and medical clinics—is the sad, present reality of organ trafficking (Scheper-Hughes 2003).

The Paradox of Organ-transplantation Ethics

The ethics of organ transplantation is tied to the question of what kind of relationship we have to our own bodies. How can it be that a person who is allowed (and, indeed, encouraged) to give parts of her body away is not allowed to sell the same parts to a buyer who is prepared to pay the price? How can I be the owner of something (my body) that I am still not allowed to sell? This is the paradox that haunts contemporary bioethics on this topic. Since the donation of organs is taken to presuppose ownership, how can this ownership rightly be restricted by the

liberal state, especially if the selling in question could be organized in a (legal) manner which would benefit not only the buyers but also the sellers in question (Erin and Harris 2003)?

There are a number of strategies that philosophers have tried to apply to solve this problem, ranging from comparisons with other accepted ownership-right restrictions regarding one's own body and person (prohibitions against slavery, suicide or prostitution), to arguments stressing the bad consequences of organ markets (risks of exploitation of sellers, decreasing numbers of donations, threats to the altruistic society as such) (Campbell 2009). However, all these strategies appear to share one premise: in order to defend the gift metaphor one needs to take for granted that we own our bodies. This premise is deeply ingrained in bioethics as it is practiced today, especially in the US: the liberal heritage with its focus on personal autonomy is a property-based model, which ever since Locke has been founded in the person's ownership of her body (Locke 1980; Nozick 1974). This ethics could be rights based—a person has a fundamental right to decide over her own body, a right which nobody can take away from her—or it could focus rather on autonomy and personal freedom as the guiding principles of bioethics in general (Engelhardt 1996). Notice, however, that it is Locke's philosophy—and not Kant's—that is the source of autonomy-based bioethics. What matters is that the individual makes an autonomous choice in the sense of a choice which is well informed and free from coercion, not that the choice in question is also a morally righteous choice (in line with the laws of practical reason). What is ethically sound to do in a situation is basically up to the individual as long as she does not harm the freedom of others.

The main current of thought supplementing personal autonomy in contemporary bioethics is utilitarianism (e.g. Singer 2002). Utilitarianism can be framed as a major alternative to rights-based ethics—if others could benefit more from my belongings or, indeed, organs, than I do, they should have them, since future utility (happiness, satisfied preferences, a minimum of suffering) for everybody involved is what matters, not what happens to belong to me presently (and this includes my body and life). If liberalism (libertarianism), with its focus on personal autonomy and freedom, is the principle defender of the body as commodity metaphor,

utilitarianism could be viewed as the principle defender of the body as resource metaphor.

Autonomy and utility, as I said, could be looked upon as alternatives in bioethics, but in the literature, they supplement and reinforce each other rather than compete. The main reason for this is that most utilitarians consider the bad consequences of a restrained personal freedom to be too severe to actually foster the general happiness they want to promote. If the individual knows that the state can take her organs away at any point it finds that others would have better use for them (the infamous example of two or more persons being able to live on with the help of the organs retrieved by killing only one person, or, perhaps, the more realistic example of an individual's being picked by the drawing of lots to donate one of her kidneys every time there is another individual who needs a healthy kidney to survive), she would probably live in constant fear (unhappiness) and would try in every way possible to avoid ending up as a donator, which, in turn, would create major hazards in the organizing of happiness. The state in which everybody has to give up ownership of their own body will simply never be the happy state, even though it was supposed to be so on the strength of its clever, utilitarian design. Human psychology is a major obstacle to human happiness from the utilitarian point of view (one could agree to these wise words about the human lot from many other points of views too, of course).

Autonomy and utility team up not only in different sorts of ways in the books and articles of contemporary bioethics, they also do so in the practice of organ transplantation, as I touched upon above. If the body belongs to each individual, but yet is a potential resource for the welfare of other individuals in need of healthy organs, commodification lurks around the corner for logical as well as practical reasons. If I own it, why should I not be allowed to sell it? And if it is valuable, why should it not be assigned a price along with other valuable things in the world? This logic has, indeed, been spelled out and criticised before by feminist philosophers in the cases of social relations and contracts formed around sexuality (Pateman 1988). At this point I would like to propose that a successful explication of the gift metaphor in the case of organ transplantation and a complementary defence of the ethical primacy of the giving of organs need to be grounded in a philosophical anthropology which

considers the implications of embodiment in a different and more substantial way than is generally the case in contemporary bioethics. If not, the two questions above about the right to sell and buy organs will continue to haunt bioethics, and there will be no good answers. Phenomenology, as I will attempt to show, offers such an alternative, with the help of which we can understand why body parts could and, indeed, under certain circumstances, should be given to others in need, but yet are not resources or properties to be sold. Phenomenology figures in some of the feminist critiques of the contractual model of sexuality too, and, despite the differences between the situations of selling sexual services and selling kidneys, this literature can serve as an inspiration for the phenomenology of organ transplantation in many ways (Diprose 2002).

Persons and Their Organs

Philosophers working in the field of bioethics today often share a rather reductive view of what it means, essentially, to be a person (self): it simply means being a rational agent who strives to maximize one's own preferences (one of these preferences could be the utilitarian maxim of striving to maximize everybody's happiness) in action. The body, in this view, admittedly plays a basic role in the life of a person, but it does so in a rather supplementary way. In order to be able to act out my preferences and choices and take possession of things in the world, I happen to need a body. The body is the most basic thing I need (and own), but it is not really *me*—I am my thoughts, feelings, wants, memories, etc., not my material body. The body could be replaced, as in the famous tele-transportation thought experiments of Derek Parfit (1984). Another way of putting this if you are a reductive materialist is that I am my brain. The brain is thus the only organ that cannot be donated; if you offer your brain to be transplanted into another body, you become a receiver, not a donor, of organs.

It is doubtful if the brain transplanted into a new body would still be the same person as before the operation. As brain scientists have pointed out for quite some time now, what the brain feels and thinks is determined by the way it is *connected* to the rest of the body. This goes not only for feelings, but also for thoughts, since thoughts are indeed made meaningful

by the feelings that precede and feed into them (Damasio 1999). The brain cannot think in the vat, only in the body. What actually *would* happen if we were able to transplant a brain into a new body we simply do not know at this point in history. The practical difficulties of such a brain transplant appear insurmountable at present, but doctors have done things considered 'impossible' before. The heart transplant was certainly considered to be impossible 100 years ago, but was still carried out 60 years later. Maybe the first brain will be transplanted in 2070 or so.

A good guess is that the brain-transplanted person would feel to some extent like the same person he was before the operation. Especially if he has memories of the time preceding the transplant (which, indeed, appears to be necessary if he is even to understand the question we are confronting him with). Maybe he would say that he is the same person as before the operation, but also different in many important ways (consider, for example, the possibility that he was a she before her (his?) brain was transplanted). He would also, I think, say that these ways of being the same but still different are new to him in an important way. To get your brain transplanted into a new body will probably be a different kind of personality change than going through an existential crisis, or maturing as a result of getting to know new people or changing your environment. Maybe puberty, pregnancy and amputee experiences could be helpful when we consider what getting a brain transplant (getting your brain a new body) would be like, but these real-life examples will not get us the whole way.

The brain transplant case is admittedly different from the prospect of getting, not a whole new body (except the brain), but mainly a new limb or organ (a hand, a kidney). Some body parts are not as essential as others to the make-up of a person. This is true not only concerning which organs you could dispense with and still go on living without, but also concerning the cultural, lived aspects of bodily identity. Face transplants, for instance, touch deeply upon matters of identity, although the matters involved are not primarily related to survival, as in the case of a lung or heart transplant. In considering what it means to be a person, embodiment is consequently not to be thought about as a brain (or soul) using different bodily tools to find and make its way around in the environment (though tool is indeed the

etymological root of the word “organ” [Heidegger 1992, 312]). The person (self) does not own its body; it *is* its body as a central part of its being-in-the-world. This is a basic phenomenological premise, most famously explored by Maurice Merleau-Ponty, but actually found already in the middle period of Edmund Husserl’s works, as well as in the early Martin Heidegger, when the philosophers consider the implications of our *Leiblichkeit*, which is the German key word for the topic of the lived body (Welton 1999). These phenomenological contributions to the philosophy of the body were made already, from the 1910s to 1940s, but they are still relevant, not least to psychological, experimental approaches that make use of recent findings about the functions of the brain (Gallagher 2005). I will now make an attempt to work out what such phenomenological explorations could mean for organ transplantation ethics.

Heidegger’s Phenomenology

Heidegger, in his first main work, *Being and Time*, from 1927 (1986), widened the domains of phenomenology. His predecessor Husserl was concerned with epistemology—the theory of knowledge, with an emphasis on the theory of science; whereas Heidegger focused rather on the everyday world of being and understanding. Heidegger’s phenomenology is accordingly what he calls a “fundamental ontology”—investigating different modes of what it means to be, rather than what it means to know. Admittedly, Husserl’s project would certainly include ontological concerns, but the founding ground of his phenomenology is, nevertheless, the intentionality of consciousness—a subject conscious *of* the world rather than acting in it.

As his starting point, Heidegger takes, instead of the subject of knowledge, what he calls *Dasein*, the “being-there” of human existence. This being-there means that we are situated or “thrown” (*geworfen*) into the world that we live in. We are always already *there* (*da*), involved in daily activities. But the term “Da-sein” also signifies that we have a relation to our own existence in asking what it means to *be* there at all (rather than not to exist). *Dasein* is the only being that asks the fundamental ontological question of what it means to be (*die Frage nach dem Sein*). According to Heidegger, when we study our relation-

ship to the world, we should not view the world as a collection of objects outside of consciousness, towards which we are directed by way of the latter. We should instead study the “worldliness” of the world, the way we are *in* the world, giving it meaning through our actions; the world indeed being nothing other than a cultural, intersubjective *meaning-structure*, lived in by us and, ultimately, a mode of ourselves. Human understanding is consequently, for Heidegger, always a being-there in the sense of being-in-the-world (*in-der-Welt-sein*). The hyphens indicate that *Dasein* and world are thought as a unity and not as subject and object. The world is not something external, but is constitutive for the being of *Dasein*.

The concept “worldliness” (*Weltlichkeit*) in *Being and Time* indicates that the structure of the world is built up by the understanding actions, thoughts and feelings of human beings situated in the world and not by any properties that belong to the world in itself as a collection of objects (things, molecules, atoms). Heidegger can therefore write that worldliness essentially is an *existential*—that is, something belonging to *Dasein*, to understanding human beings, and not to the world in itself. The meaning-structures of the world are made up of relations, not between things, but between tools (*Zeuge*). That is, the meaning of phenomena, according to Heidegger, is not primarily dependent upon how things look, but upon how they are being used. This makes the connection between the structure of the world and *Dasein* more lucid. For how could the world itself as something independent of human beings lead us to an understanding of the function of any tool? A tool always refers to its user. We will learn what a hammer is only by using it, never by staring at it (1986, 69).

The relations between the different tools are explicated as an “in order to” (*um zu*) (1986, 68). The tools in this way relate to each other; their meanings are determined by their places within the totality of relevance. One uses a hammer in order to nail the palings, in order to raise the walls, in order to build the house, in order to make shelter from the rain, etc. (1986, 84ff.). One need not pay attention to these different levels of subgoals at all times. Indeed, some of the subgoals are never explicitly attended to, but are revealed only in a theoretical analysis of the activity. Heidegger stresses that this way of being-in-the-world is not only a *Dasein*, but also a *Mitdasein*, a being and working together with others in the

activities that one pursues (1986, 117ff.). One rarely builds a house alone, and if one does, one does this in a world in which one relates to other human beings in countless direct and indirect ways.

The being-in-the-world, the “worldliness” of human existence, is conceptualized by Heidegger by stressing several different aspects of this existence. Since these aspects belong to the only being that truly exists—*Dasein*—and not to things, they are called “existentials” (*Existenzialien*). Human beings *exist*: that is, they have a relation to their own being, and they are open to the world as a possibility for themselves. This openness to the totality of tools is a pattern not only of action but also of thinking, feeling and talking. These three modes of being, however, must be conceived of not as attributes of a subject—qualities of a thing—but as a meaning pattern that binds human being and the being of the world together. They must likewise articulate a being that is not merely contemplative but *acts* in the world, as the tool pattern makes obvious. The three main existentials which Heidegger chooses in *Being and Time* for the purpose of making sense of our being-in-the-world are understanding (*Verstehen*), attunement (*Befindlichkeit*), and discourse (*Rede*).

Heidegger and the Lived Body

Allow me now to quote a very old Heidegger philosophizing with his doctor friend Medard Boss in 1972:

Everything that we refer to as our lived body (unsere Leiblichkeit), including the most minute muscle fibre and the most imperceptible hormone molecule, belongs essentially to our mode of existence. This body is consequently *not* to be understood as lifeless matter, but is part of that domain that cannot be objectified or seen, a being able to encounter significance, which our entire being-there (Da-sein) consists in. This lived body (dieses Leibliche) forms itself in a way appropriate for using the lifeless and living material objects that it encounters. In contrast to a tool (Werkzeug), however, the living domains of existence cannot be released from the human being. They cannot be stored separately in a tool-box. Rather they remain pervaded by human being, kept in a human being, belonging

to a human being, as long as he or she lives (Heidegger 1994, 293).

The quotation inevitably provokes thoughts about organ transplantation. While this medical technology was admittedly in its infancy in 1972, the “organ tool box” had already become a reality by then. However, this was a landmark that Heidegger was apparently not up to date with at this point.

That “the body is pervaded (*durchwaltet*) by human being (*Mensch-sein*),” as Heidegger says, means that the body understands and inhabits the world. Heidegger expresses this in his late talks to Boss and to the latter’s medical students through the neologism *Das Leiben des Leibes*: human existence is a “boding forth” in the meaning-structures of the world (1994, 113). This is not a new thought for Heidegger, but something that he had pointed out as early as 1924 in his lectures on Aristotle (2002, 191–208). The meaning-structures of the world, as we have seen also from the perspective of *Being and Time*, are not restricted to what can be grasped by language or consciousness, but are tied rather to practical contexts of relevance, to “tools” (*Zeuge*) (1986, 68). Nevertheless, Heidegger does not analyse the body as a set of tools, or as a part of the meaning-structure of the world, in *Being and Time* (He does this to some extent 2 years later in his 1929–30 lecture course on *The Fundamental Concepts of Metaphysics* [1992, 311 ff.]). The body becomes fairly invisible in this famous book by Heidegger, merely an implicit part of the spatiality of *Dasein*’s being-in-the-world and not an existential pattern in its own right (1986, 104ff.). This is true not only about the first section of *Being and Time* but also about the second, in which Heidegger directly addresses the themes of time and death (*Endlichkeit*), which are undoubtedly deeply tied to our embodiment.

Heidegger’s reasons for downplaying the significance of the lived body in *Being and Time* probably has much to do with fear of his project’s being identified with a philosophical anthropology or philosophy of life, not proceeding from the fundamental question of Being, which is his main topic in the book. As we have seen, however, the question of the body, like the question of Being, is a question which was with Heidegger from the beginning and which he never was able to leave behind. As a matter of fact, I think this *must* be the case for every

phenomenologist taking Husserl's credo seriously: "Back to the things themselves." This is exactly why phenomenology could be of importance in contemporary bioethics: its methods will not allow the philosopher to forget or smuggle our fundamental embodiment away, since it takes its starting point in everyday *experience* (and this experience will be bodily) (Svenaues 2006). Heidegger's phenomenology is a good example of this and therefore I have taken it as my starting point in this paper, but I believe similar attempts could be developed from the perspective of Husserlian phenomenology, or out of the heterogeneous French tradition (Merleau-Ponty, Sartre).

As Heidegger remarks in the late seminars from Zollikon quoted above, our body tools are not like the other tools we use. They are "pervaded by human being," or, indeed, pervaded by *Dasein's* being-in-the-world, as Heidegger more often puts it. Even so, it is tempting to consider, for instance, our hands as a sort of basic tools. The hands are, undoubtedly, "at hand" (*zuhanden*), used to do things, and they are related to other "outer" tools in the "totalities of relevance" making up the being-in-the-world analysed in *Being and Time* (1986, 83ff.). It does not seem to be a good *phenomenological* strategy to separate body parts and parts of the outer world ontologically by way of biological criteria, arguing simply that the body is alive but the tools of the world are not (Svenaues 2001, 96–99). A prosthesis, a wheelchair, or a blind stick could become parts of embodiment, rather than being outer tools. And many outer tools of the world are actually alive, since Heidegger intends the concept of tool to span every phenomenon (plants, animals) brought within human understanding and doing (1986, 70–71).

Nevertheless, there is an important difference between the hammer—to use Heidegger's own example (1986, 69)—and the hand, which is made obvious at the point when these tools break down. If the hammer breaks, the breakdown will lead to a stop in activity during which we try to fix it or find a new one (this breakdown also opens up important possibilities for phenomenological analysis: we are now able to view the hammer *as hammer*, since we are no longer absorbed in the practical activity in question [1986, 73]). In contrast to this, if the wrist or a finger is broken in our hammering away, the activity will not only come to an end, it will do so in intense *pain*. We *feel* our bodies and what happens to them, and we do

so most intensely when they no longer function properly—as is the case, for example, when we need new organs. Jean-Luc Nancy and Francisco Varela analyse, out of their own experiences, this frightening feeling of one's own organs (heart and liver respectively) not serving silently and well the lives of their "owners" anymore (Nancy 2000, Varela 2001). They also describe and reflect upon the situation of being transplanted and living with an organ offered by a stranger, who is now dead.

Organs are different from limbs in that their tool-likeness is less obvious. They do perform functions which bring them into a net of relevance (the heart pumps blood to bring oxygen and nutrients to the brain, which in turn performs its many different functions to serve the functions of other organs), but this functional pattern is not a pattern of action, as is the case when we use the hands to strike nails with the hammer. Heidegger says some important things about this in his comparison of animals and human beings in *The Fundamental Concepts of Metaphysics*, as I hinted at above, but his analysis of the being of organs in the realm of embodiment is far from complete (1992, 311ff., regarding the recessive being of our visceral life, see also Leder 1990, 36ff.).

Heidegger on Body and Attunement

Let us come back to Heidegger's statement that the body and its organs are "pervaded by human being," or, to be more exact, the *Dasein* of human being, with all its ontological significance and commitments. And allow me to relate this statement to the pain experience characteristic of the broken-hand example above. Another way of putting the *Dasein*-pervadedness (*durchwalten*) of the body is to say that the body is the central node of *Dasein's* attunement (*Gestimmtsein*) when it finds itself in the world (*Befindlichkeit*) (1986, 134ff.). In *Being and Time* Heidegger never relates the existential (fundamental category of human being) of attunement to our lived body. I have discussed the reasons for this omission above. However, he does so three years earlier in his lecture course on *The Fundamental Concepts of Aristotelian Philosophy* (Heidegger 2002, 191–208). Paragraph 18 about *pathos* (feeling) in this lecture course is clearly the beginning of the two famous paragraphs 30 and 40 in *Being and Time* about fear and anxiety (this is evident

not only from the content of the texts but also from the footnote on page 140 in the latter work). In his interpretations of Aristotle's *Rhetoric*, *Metaphysics*, *Nicomachean Ethics*, and *De Anima* Heidegger not only says that human being is always attuned (the concept of *Befindlichkeit* is used already in the lecture course [e.g. Heidegger 2002, 195ff.]) in the manner of a being-together-in-the-world, which is not to be captured by any psychology that reduces feelings to qualities of a subject, he does this in a way that stresses the central importance of our embodiment for how this attunement is *structured*. We do not only happen to have bodies, which is an impression you might sometimes get in reading *Being and Time*; our attunement is *anchored* in our bodily being (the translations below are my own):

The so-called “bodily states” (*Leibzustände*) in anxiety, joy and similar are no accompanying experiences (*Begleiterscheinungen*), but belong to the characteristic way of being (*Sein des Seienden*) of human being (Heidegger 2002, 198).

To the extent to which *noesis* (thinking) is the uttermost possibility for the being of human being, the entirety of being of human being is so constituted that it must be grasped as the *bodily* (*leibmässige*) *being-in-the-world* of human being (Heidegger 2002, 199).

Consequently, it is not only a matter of what has happened to us (in the world), when we end up in such and such a *pathe*, but the *genesis* of the *pathe* is also given through our embodiment (*Leiblichkeit*). Even more clearly, the *genesis* of the *pathe* shows itself in the fact that from time to time we get anxious (*in Furcht geraten*) without encountering anything fearsome, in the manner that the anxiousness rises in ourselves, in the way that the possibility of fear and anxiety is given with our way of being. That shows, however, that in fact the embodiment is co-constitutive (*mitspricht*) in the *genesis* of the *pathe* (Heidegger 2002, 203).

Why this long detour through the (less well-known) work of Heidegger to point to this rather obvious fact? The co-constitutiveness of the body, the way I belong to it, rather than it belonging to me, has been analysed by other phenomenologists in a more direct and detailed way (e.g. Zaner 1981, 52). However, other

aspects of Heidegger's phenomenology make it possible to conceptualize and understand our bodily being from a far more “connective” point of view than is generally the case in contemporary bioethics—to return to the point made by Leder, which I touched upon in the beginning of this paper (1999).

Concluding Thoughts on Phenomenology and Organ Transplantation Ethics

We are attuned *together* in the world; we share the same situations and activities in being tuned in to each other's projects in various ways. Think of having a good conversation face to face with somebody in which you share an important topic, think about dancing or making love, or think about coming into a room with people where the atmosphere is “charged” with anger and frustration. Attunement puts us into the world of others (Heidegger calls this disclosedness and transcendence) and it is thus a centrifugal *movement* (“emotion” means to be moved). Attunement, however, also has a centripetal aspect in that it can bring us *back* to our own embodiment, which is then experienced as heavy or light, painful or joyful, etc. Anxiety is the favourite example for Heidegger of how this *burden* of being might be revealed (1986, 184ff.), but life is intersected by all sorts of different attunements (moods), which render life *significant*, mattering to human beings, in different ways (Heidegger 1986, 137) (On this point the Heideggerian analysis of the attuned significance of our understanding could actually be supported by more recent findings in brain science [Damasio 1999]). Heidegger's analysis of attunement thus brings out how intersubjectivity has logical priority to the being of the subject, as well as how this attuned intersubjectivity has an embodied basis.

If the body is the central node-point of our being-together-in-the-world, which we have been surrendered to ever since the beginning of our lives, then the body is not only what separates us from other people—only I can feel my pain—it is also what *connects* us to them. I am attuned not only by things that happen to or in my body, but also by my being-together-with-others-in-the-world. Actually, it is almost impossible *not* to be distressed in the face of the other's pain. I do not feel his very pain, but I feel *with* him and sense an immediate urge to do something about the pain in

question. This is also the starting point for the ethics of organ transplantation: we are faced (more or less directly) with the suffering of other people who are in need of something, which we are also able in some cases to give them. We are not able, are not urged, to give them this (our organs) because we own our bodies, but because we share (are connected by) the same being-in-the-world, which is also a bodily way of being. We have once grown out of other bodies (the womb of the mother) and from birth we are marked by this togetherness of bodies, which makes us vibrate with other people in differently attuned ways. Actually, had Heidegger paid sufficient attention to birth as a constitutive part of human existence, he might not have ended up with the firm conviction that we cannot die together, only alone (1986, 263).

This is not the place to go through Heidegger's detailed and sophisticated analysis of death, finitude and temporality in *Being and Time*, but allow me to suggest that organ donation might be the perfect example of dying (and avoiding dying) *together* with other people. The "gift of life" is a gift we can give, not because we own our bodies and are able to negotiate contracts with other body-owners. It is a gift of something we have ourselves been given. Not necessarily by any God, but by our parents and by their parents, and so on. All people are related by these genealogical tables, which go back for thousands, and even millions, of years. This does not mean that we always have to love and like each other, but it means that we are allowed, and indeed should be encouraged, to give away (parts of) our bodies in situations in which we do not need them ourselves to go on living (because we are already dead, or because we can live on without the organ in question). To donate an organ is to give *back*. This has nothing to do with property rights, but is a matter of a basic bodily being-together-in-the-world.

A phenomenological ethics of a generosity, which precedes any contractual arrangement between subjects, has been attempted before, notably by Jacques Derrida (1995). Such phenomenological analyses have, however, not, to my knowledge, been related to the situation and ethics of organ transplantation. An exception is Nancy (2000), but this short piece on the experience of going through a heart transplantation merely develops some basic characteristics of the twofold intrusion experienced in first having a malfunctioning heart and then being given a new

heart that originally belonged to a stranger. Nancy's article is an important starting point, but it does not provide an *ethics* of organ transplantation. Nevertheless, I think the work by phenomenologists such as Derrida, Nancy, or, indeed, Emmanuel Levinas could be crucial in developing a phenomenological ethics of organ transplantation. And so could perhaps Heidegger's philosophy of modern technology, which I have not been dealing with in this paper (Heidegger 1954). If the emphasis of my analysis here has been the critique of the body-as-commodity idea by aid of a phenomenology of interconnected embodiment, Heidegger's analysis of the impact of modern technology opens up the avenue for a sustained critique of the body-as-resource metaphor. If not only rivers, mountains and forests, but also parts of the human body, become "a standing-reserve," (*Bestand*) for the production of energy and building material in the first case, for the production of health and enhancement of human beings in the second, we are, indeed, facing the threat of an objectification of nature, which might conceal its original way of showing itself to us. The trouble with Heidegger's analysis in the case of modern medical technologies, such as organ transplantation, is that (human) bodies behave in ways that can be painful and fearful to their bearers, and which we would be able to escape or, at least, mitigate by help of the technologies in question (Svenaeus 2006). An analysis of the risks of a "resourcification" of the body brought about by modern medical technology would have to be balanced by an analysis stressing the significance of the technology in bringing health and saving lives.

My attempt above to develop a phenomenological framework in which to place the ethics of organ transplantation is far from complete and the theses put forward may not be directly applicable to the writing of ethical codes or guidelines. Many questions about the implications of a phenomenology of the embodied, interconnected self for bioethics in the case of organ transplantation (as well as in other fields of bioethics) have been left unanswered in this paper. They concern the exact responsibilities embodied bonds put on individuals in different situations. Do I have the same obligations to all human beings in need? Are the obligations stronger in cases of people I connect to in my everyday life and meet face to face, than in cases of people far away whom I hear of or watch on television?

As becomes obvious in Heidegger's phenomenology, embodiment is the mark, not only of interconnectedness (birth), but also of finitude (death), and this perspective also deserves to be brought into the bioethical discussion. One could argue that one of the main problems of contemporary techno-medicine and bioethics is that they fail to accept the limitedness and finiteness of human life, and that this failure is, indeed, as Simon Critchley writes in his recent book *Infinitely Demanding: Ethics of Commitment, Politics of Resistance*, "the cause of much tragedy" (Critchley 2007, 1). Once again, and last: the phenomenological ethics to guide organ transplantation certainly remain to be worked out in detail. Nevertheless, I hope to have shown that phenomenology is a viable alternative in searching for philosophical theories to guide bioethics that are more comprehensive than the standard liberal and utilitarian approaches.

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