



Ethics Bites

Organ Transplants

David Edmonds

This is *Ethics Bites*, with me David Edmonds.

Nigel Warburton

And me Nigel Warburton.

David

Ethics Bites is a series of interviews on applied ethics, produced in association with The Open University.

Nigel

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In Britain, every year several hundred people die for lack of an organ donor. Janet Radcliffe Richards, of the Uehiro Centre for Practical Ethics, has proposed a radical solution. Some people need money - other people need kidneys; so why not allow people to sell their kidneys? The practice goes on illegally anyway – for instance there are several poor villages in Pakistan where nearly half the residents have only one kidney, having sold the other. But what are we to make of her idea? Are there moral grounds for that practice being outlawed?

David

Janet Radcliffe Richards, welcome to *Ethics Bites*.

Janet Radcliffe Richards

Thank you.

David

Now the topic we're going to discuss today is the ethics of selling organs. Why has this issue come up?

Janet

It's come up because there's a huge shortage of organs for transplant. A lot of people die while they're on the waiting list. There are other people who are never put on waiting lists, because everybody knows they'll never get an organ. And of course there are enormous parts of the world where there is no dialysis; so it's the only hope for anyone who has end state renal failure.

David

And one proposal is that people ought to be able to sell their organs.

Janet

That's one proposal. I should say at the outset that it's not a particularly important proposal compared with some of the others that are made for getting organs. But this was an interesting one because it was discovered that it was happening. And it was inevitable. As soon as you've got the possibility of live organ transplants – as soon as some people are dying for want of an organ and other people want the money for selling, you're going to get a market developing. So it wasn't a matter of people making a decision about whether it should happen or not, it just happened. And then there was a great clamp down.

David

Now there are some obvious objections to it. It would seem that you'd end up with very poor people desperate for money, selling these organs to presumably quite wealthy people. It looks like a form of exploitation.

Janet

Well you're likely to get this relative difference of income. Note, it's not necessary. Somebody could just decide they wanted to retire, and offer their organs to millionaires for enormous amounts of money. But obviously if you decide to sell then you want the money more than you want the organ. Now of course there is the possibility of exploitation – but you have to remember that even in an exploitative relationship the person who's badly off is doing better than they otherwise would. It's still a contract. So the question is how you stop exploitation.

There's no point, if you're trying to protect the exploited person, from just stopping what he regards as his best option. The person who enters into an exploitative relationship is getting something out of it. What we want to say is they should be getting more out of it. So that means you need to control the exchange: you need to have a minimum wage, or something like that. And you can't do that as long as it's illegal. So making it illegal just drives it underground to a black market. It means you can't protect the people involved. If you try to ban the whole procedure because you want to stop the exploiters, then you're getting at the exploiters but you're not benefiting the exploited.

David

But suppose you did legalize this trade. You'd have to be pretty desperate to want to sell one of your kidneys. Do these people have a real choice?

Janet

Well it depends what you mean by a real choice. If they've got a particular range of choices open to them, and the kidney selling is the one they regard as best, if you take away the best choice they have and leave them with an even worse choice you aren't helping them. The only way you can help them is to give them more choices so that they don't need to sell their organs. But then if they don't need to sell their organs you don't need to make laws to prevent them from selling their organs. As long as there are people whose best option is selling organs you are harming them by making it illegal.

David

If you think it's ok for there to be a market in organs, do you think that anybody should have the right to sell any part of their body? Do you think indeed they could sell their whole body: could they sell themselves into slavery?

Janet

In each of these cases if somebody decides that they are better off selling something the burden of proof is on you, if you want to protect them, to show why it would be better to have a rule preventing them from doing it. Now, there might be some contexts in which that was true: for instance you can probably defend a rule about slavery by saying it is better simply not to allow slavery at all. But notice in this context we're not asking whether a living person should be allowed to transfer their kidney to another living person, you're specifically asking about selling. In the case of slavery we've decided that it's so bad that you can't give yourself into slavery either. We are allowed to give organs. We're encouraged to give organs. The transplant surgeons are now so satisfied with it's being safe for the giver that they're encouraging live donations. So the question we're asking is not whether live donation is bad, it's why the selling is bad. And the selling means that it's better for the giver because they're getting something out of it.

David

Well let me try this on you then. That in the selling, there's something undignified about it. Let me offer you an analogy. If there was an incredibly rich Englishman who liked the pavement being cleaned in front of him when he walked down the high street in north London where we are now - and he paid poor Indians to clean the pavement with a toothbrush, everywhere he walked. And they agreed to this contract. It was good for them. They were being paid for it. It was a voluntary contract. But there's something undignified, is there not, about that exchange.

In the same way that there's something undignified about a rich person buying the organs off a poor person.

Janet

You have to remember that these so-called rich persons aren't always very rich themselves. They're simply dying and using whatever money they've got to try to save their lives. There's something very nasty indeed about the person who wants the pavement cleaned with toothbrushes because his whole aim is degradation. That's what he's getting his kicks out of. But somebody who desperately needs a kidney and is willing to pay perhaps all he has for somebody else's kidney, is not trying to degrade the other person. So you would have to say the other person was degraded whether the degrader intended it or not: now would you say it was degrading if you were very poor to sell a kidney with a safe operation? Is it degrading? It would be an interesting question how much you would be willing to sell an organ for. My guess off the top of my head is that you wouldn't like anybody to know about it but if you could do it secretly you would have your price.

David

No amount of money would persuade me to clean the pavement of an extremely wealthy person whether or not his intention was to humiliate me or not, because I would find it undignified.

Janet

Even if your children were starving, your daughter was dying of leukaemia in a country with no national health system which was the case with one of the original organ sellers when the scandal first broke in Britain.

David

Under those circumstances I would do it. I would accept the money. And in exchange I would lose some dignity.

Janet

I think that's probably true. And you would certainly lose some dignity if you were cleaning the pavement with a toothbrush. I think there is a loss of dignity involved. And it should be said that I dislike the idea of organ selling as much as anybody else. The reason I got involved in this subject was not that I thought that people ought to be selling their organs. It was because when the subject originally came up there was an extraordinary unanimity in the opposition to it and not a single one of the arguments worked. My worry at the moment is that we desperately need organs, some people desperately need money, there is going to be an exchange, and I would rather it were a legal exchange which we can control than a black market exchange that we can't.

David

Why not have a system whereby people can give their organs free of charge in the way that you and I can donate our blood. Wouldn't a system based on altruism be preferable to one based on an exchange of money?

Janet

Certainly it would be preferable, though you have to notice that kidneys don't regenerate in the way blood does. If we got enough altruistic kidneys, then there would be no need for a law saying you must not sell them. Conversely as long as there is a reason for having a law it means there aren't enough kidneys coming from altruism. Now if you can persuade enough people to give their kidneys, that's absolutely fine: it would be delightful. Though it is interesting that with living kidney donation people are very suspicious of altruists who come off the street and say I'm willing to give my kidney to anybody. They're usually treated as if they were mentally suspect in some way.

David

Which shows that people think that you're giving up something of great value. Because people don't have suspicion of those giving blood.

Janet

Indeed. Yes. I think that's true. There's no doubt that in going through an operation which is not pleasant you're giving something of great value. It's true that it isn't that significant because the existing kidney will take over shortly the full function of the previous two. So you're not going to have a long term loss, but you certainly have the unpleasantness of an operation.

David

I can imagine some people arguing that if you have a market for kidneys, the supply of kidneys rather than increasing would actually diminish because people were so disgusted by the commodification of organs.

Janet

Well that might possibly happen. But look at the situation we're in now. We know that people are dying for lack of kidneys. We know that other people are desperate to get money. So that gives us a strong presumption in favour of allowing this market. Now if you're going to come in with an argument which says you'll do more harm than good, to start with we need evidence; we need you to go and look for this evidence and possibly set up trials to find out whether it did happen. And then if it did happen, rather than just say let us prevent all the good by trying to stop the bad, you would say let us try to devise ways to keep both at once.

Maybe there are some kinds of markets we could have that would not stop this. Methodologically, it's very suspicious when people have an idea about some harm that might happen and use that as an argument to prevent a good.

David

I don't know if I'm typical, but I have a visceral response against a market in organs. And I assume I am typical. And I wonder why you think that is. Why would people find it so repugnant?

Janet

Well I find it repugnant too. And my provisional hypothesis about this is that if you give an organ you're giving something which is absolutely specific and nothing else will do. If your friend is dying for lack of a kidney, your kidney is the only thing that can save him; money can't save him. Whereas if you give a kidney for money, you're only giving that because you've nothing else to give. You're right down at the bottom of the heap. And I suspect that's where the lack of dignity comes from. It shows that you're desperate. And I think it's very similar to people doing really unpleasant jobs, like the untouchables in India. You're degraded through having to do these things. But once again the question is can you justify the prohibition. If these people are degrading themselves because it's their best option, you aren't helping them by prohibiting it. The only way to help a degraded person is to give them better options.

David

And what's so intriguing about that is that there's no damage to giving a kidney apart from the 3 hour operation or however long it takes, whereas working in a toilet in a Delhi railway station is a horrible job which might last a lifetime.

Janet

Exactly, and this is very interesting. As soon as this was heard of in the West we banned it outright. There are many worse things going on in different parts of the world with poor people and we don't ban them outright. If we're saying here's my visceral response, let's get this nasty thing banned, who are we helping? Us. Because we no longer have to suffer this nasty response.

It seems to me that if we who are rich and healthy are saying to the people who are dying for lack of organs and the people who are so poor they need the money that they're not allowed to make their exchange, what we're doing is pushing the unpleasantness out of sight to benefit ourselves. I think that's actually what's happening. It may feel like a moral response, but a bit of thought shows that it isn't; it's selfish.

David

Well something else might be happening. If we feel so strongly about it; if this Yuk factor is so overwhelming, perhaps you should go back and think more deeply about your theory and reflect that this yuk factor must have more to it than just an instinctive response?

Janet

Well that's the kind of response that a lot of people make. If we have this strong feeling should we not take this as moral bedrock? Now that being so, it's very interesting that these people have this feeling of moral bedrock, but they still try to justify it in other terms – saying we don't want exploitation, we don't want commodification, we don't want this and that.

Let's suppose we regard this as moral bedrock, then what are you going to say about the importance of saving life, what are you going to say about the importance of allowing individual freedom to two people to make an exchange that doesn't harm anybody else, what are you going to say about taking away the best option of the badly off. Now the arguments as I've put them forward show that you have to say that this visceral response is morally more important than any of these other things. Because what we're doing is not saying that this visceral response is unimportant, we're saying that it's in conflict with lots of other visceral responses that we have, about the importance of freedom and saving lives and making the badly off better off, and if they're in conflict one of them has to go.

David

Janet Radcliffe Richards, thank you very much.

Janet

Thank you

David

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