

ORGAN DONOR, SALE AND TRANSPLANTATION: THE MORALITY QUESTION.

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Abstract

To say that the technology of Organ Donation and Transplantation (ODT) is entirely bad maybe a very unfair treatment and categorization of the field or subject of organ transplantation. To say so, may amount to being guilty of hasty generalization. The practice may have its positive sides but in this paper, we shall leave that for those who are inclined with the belief to bring its positive aspects into spotlight. Our concern however, is to show that its negative side is alarming as it leads to more crime. This being the case, we shall be looking at the moral dimension of the practice. In doing that, we shall adopt a critical evaluative method of research. Our statement shall be that the wide and wild lust for money more than every other considerations has led to the sale of human parts, escalating costs and even premature death. This is the thingification of human being which is a moral affront in its entirety. Therefore, where all the known pharmaceutical products (except for organ transplantation) has been administered on a sick person and the sickness persist such a person should be allowed to die a natural death. We shall be looking at mutilation and organ transplant – pointing out the organs that can be transplanted, the different types and/or forms of organ transplant, the ways those organs are gotten and then, how ethical and morally sound the practices are. Materials for this research are sourced from books, articles, and internet.

Introduction

To think that a person carries the other's organ to keep living provokes some moral questions like: Is the person carrying the other's organ or prolonged and permanent artificial respiration, artificial kidney, iron-lung, electric stimulation etc, still the real person or a mere artificial assemblage of parts? In nature and divine plane or order, is there any life more important than the other such that one should be sacrificed in favour of the other? Is donating or harvesting of such vital organs of the body for sale not degrading and affront on the integrity of the human body? Is it motivated by the sense of altruism or lure for money? Is there any thorough going altruist? Why being altruistic with what you do not have (for we know that we do not just have body but we are body)? Why even being altruistic at the expense of your own life? Why the commercialization of the human parts which forms the integral component of the individual? Does it not amount to using the individual as a means to an end? What then is the moral status of the sale of human parts? Does it not lead to other more heinous crimes? Will its continuous practice not lead our human race to a jungle – a situation in the Hobbesian natural state of man where only the fittest survive? Is the advancement in medical profession a blessing or a curse to human race? The above reflections and questions motivate this research and will be addressed in our later discussions. However, before we proceed, in order to make this work more scholarly, it's necessary to define the operational concepts here – mutilation and organ transplantation, since it's only fair that one understands the subject of discussion before he/she can engage in any sound and intelligible discussion of the subject in question. Our introduction therefore, will take the form of defining the two operational concepts – mutilation and organ transplantation since the two seems to be inseparable.

Organ Transplantation and Mutilation: Towards a Definition

The technology of organ transplantation emerged in the 1950s. It is the technology of medical treatment of taking organs from the dead and the living and giving them to others. In other words, “when you have an organ transplant, doctors remove an organ from another person and place it in your body. The organ may come from a living donor or a donor who has died. The organs that can be transplanted include heart, intestine, kidney, liver, lung, pancreas¹. Interesting to note is that, “organ transplant maybe auto-graft, hetero-graft, kerotaplastic or homo-graft. Auto-graft is a transfer of tissue, example skin, bone or blood lost through heamorrhage, from

one part of the patient's body to another part; hetero-graft is a transfer of animal tissue to a human body; kerotaplastic is a transfer of a part of a body of a dead person to that of a living person, while homo-graft consist in transferring tissue from one human being to another².

On the other hand, mutilation is a procedure that either temporarily or permanently impairs the natural and complete integrity of the body or its functions. Mutilation could be direct or indirect. It is direct when chosen as an end in itself or as a means to some end. It is indirect when one places a cause whose intended effect is not the destruction of a part of the body but something else, yet destruction of the part of the body follow, not intended, but only permitted as a concomitant side effect³.

The practice of organ transplantation has continued overtime that in the recent time, its shortage and lure for money has launched a terrifying effect on the human race as captured hereunder. The “worldwide shortage of kidneys from cadavers has resulted in illicit organ sales and even kidnapping and murder of children and adults to ‘harvest’ their organs”⁴. The above scenario was evident in Lybia in 2017 when the world witnessed the killing and murdering of immigrants – harvesting their vital parts for money making purpose. This is a case of man's inhumanity to man and therefore, many moralists have continued to ask many hard questions about the ethics of organ transplant. Our effort in this paper is towards the same direction.

Organ Transplantation: The Morality Question

In all moral considerations, the question has been: what is good/right and what is bad/wrong. Again, another point of note in moral discussion according to R.R. Kishore, is:

How are we to measure the moral content of a particular act?⁵.

The above questions we would say, led to different ethical theories. Our concern at this point is to locate the morality of sales of body parts for the purpose of organ transplantation. R.R. Kishore argued that :

“morality is always contextual. It depends on how and in what context we interpret values.”⁶

Now, the question R.R. Kishore and his disciples may need to answer is: In what context and value is the thingnification the sale of human parts worthwhile and morally justifiable?

Kishore maintains that,

“when a person sells an organ he or she acts both selfishly, in advantaging him or herself, and altruistically, in contributing to a public good.”⁷

Judging the action of one who involve in the above act as morally wrong, some would argue amounts to judging one who sells bread or water to the hunger or thirsty as morally wrong. However, such judgment as the later seems to me an error in reasoning a case of comparing the incomparables. This is because the two conditions does not equal to one and the same thing. A hard look into the two conditions reveals that the first instance, involves the transaction of an integral part of human person which amounts to using a person as a thing thingnifying a human person. However, in the second instance, the case is entirely different. It involves the selling of a thing – an economic article of and/or for trade to the one in need of it. While the later case is morally justified, the former is not. The above claim echoes the submission of Kant in *The Metaphysical Principles of Virtue*:

To deprive oneself of an integral part or organ (to mutilate oneself), e.g., to give away or sell a tooth so that it can be planted in the jawbone of another person, or to submit oneself to castration in order to gain an easier livelihood as a singer, and so on, belongs to partial self-murder. But this is not the case with the amputation of a dead organ, or one on the verge of mortification and thus harmful to life. Also, it cannot be reckoned a crime against one’s own person to cut off something which is, to be sure, a part, but not an organ of the body, e.g., the hair, although selling one’s hair for gain is not entirely free from blame⁸.

Kant went further to argue: [T]o dispose of oneself as a mere means to some end of one’s own liking is to degrade the humanity in one’s person (homo noumenon), which, after all, was entrusted to man (homo phenomenon) to preserve.⁹

Even in Christian culture, the Bible which is the most reliable literature text in Christian ethics abhors certain treatments on the body. For instance, 1Corinthians 6: 19-20 reads: what? know ye not that your body is the temple of the Holy Ghost which is in you, which ye have of God, and

ye are not your own? For ye are bought with a price: therefore glorify God in your body, and in your spirit, which are God's.¹⁰

Similarly, Leviticus 19: 28 warn: Ye shall not make any cuttings in your flesh for the dead, nor print any marks upon you: I am the Lord.¹¹

All these boils down to the rejection of the treatment of our body as an object. It points to the fact that it's immoral to defile our body in anyway whatsoever.

At this point, let's go straight to the arguments against organ sale and transplantation in details.

Arguments Against Organ Transplantation

As a follow up to the above views against organ transplant but in more detailed manner, let's look at other arguments against organ transplantation such as:

1. the dilution of altruism in society;
2. the risk that the quality of donated organs would decrease;
3. doubts about the voluntariness of those who accept financial incentives for donation, and
4. the treatment of human beings and their parts as commodities.¹²

For want of space and time, we may not be discussing the arguments against the sale of organ and organ transplantation as listed above one after another. Nonetheless, we hope that in the cause of our general discussion of the arguments against the sale and transplantation of organs (lungs, intestine, kidney, heart, pancreas), they will reflect.

To start with, organ transplant and sale even when conceived as an act of altruism is adjudged in this paper as wrong. This is because, history has shown that there is no thorough altruist.

It is a fact that in every gift or donation some kind of expectation is involved, though it may not be a material consideration. In the case of live organ donors the organ is donated to a particular person who, in fact, may not be the neediest or the most deserving bearing in mind the seriousness of illness; period of waiting; age; family circumstance; capability to afford post-transplantation therapy, and other criteria. This means that the act of donation is tainted with consideration of personal relationship, choice, and preference. In other words, the donation is not a

candid act of altruism or human solidarity, but rather is motivated by the desire to save the life of a near and dear one, which may, at times, be to secure one's own comfort and future. Such urges and motives also constitute considerations other than altruism since they aimed at pleasure and fulfillment. Even a donation made to a stranger is not without considerations of possible benefit. Such cases maybe motivated by the desire to discharge a religious duty; to correct a wrong done in the past; to gain mental or moral satisfaction; or to be seen as a good samaritan.¹³

The above view is well articulated and an eloquent proof of our claim that there is no thorough altruist and so, believing in organ transplant on the basis of altruism or even that its sale will lead to the dilution of altruism in the society is stamped out. Our position here is therefore, that of socrates during his last days when his friend Crito made plans for him to escape the Athenian government. Hear socrates in parts: If i've lived and protected by the Athenian law, now that the same law demand my death, it will be unfair and unjust for me to escape. Of course, if one has lived under the love and protection of nature and Divine order, and if all known pharmaceutical products (except for organ transplantation), has been administered, all to no avail, "the alternative to transplantation is death".¹⁴ For it is unnatural and against Divine order to do otherwise and anything otherwise amounts to unfair and unjust treatment on nature and Divine order. And, we wish to guide you that this is not a case of assisted enthanasia.

We advocate the above view because characteristic features of death reveals that it is: inevitable, fearful, painful, inescapable, emminence, and inexorable. And, the categorization of whether it is good or bad death does not remove or add anything neither do the form or age at which it comes matters-accident, sickness, or at young or old age.

In agreement with the above points, Ijezie maintains that:

disproportionate means of treatment like prolonged and permanent artificial respiration, artificial kidney, iron-lung, electric stimulation etc are considered morally not permissible especially when they offer no reasonable hope of benefit to the patient and also when they do not achieve the complete well-being of the patient but keeps the patient in a vegetative or artificial living. Such treatments only prolong the process of dying and so are not required. Hence, withdrawing futile or disproportionate means of treatments or even denying them to a patient is morally permissible. This method is not another form of assisted suicide or Euthanasia because allowing dying (natural death) is not the same as making or assisting a person to die.¹⁵

Furthermore, those who favour organ sale and transplant and therefore faults the argument against it based on the fact that it betrays human dignity example R.R Kishore is of the view that:

Essentially speaking, human dignity is an expression of the human content of the Homo sapiens. It is an expression of the properties or virtues due to which a human creature is known as a human being. These are the characteristic or attributes that are unique to the human race and not possessed by any other living form... These virtues, known in vedic thought as dharma, are ten in number – namely, love, trust, righteousness, compassion, tolerance, fairness, forgiveness, beneficence, sacrifice and concern for the weak. With these human virtues in mind, any act done to save the life of a human being or to liberate him from suffering cannot be construed as contrary to human dignity.¹⁶

It seems to me and of course to anyone with objective sense of human dignity that there is something fundamentally and obviously wrong with the above argument by Kishore. Both the premises and the conclusion is faulty. Firstly, humans existed before having or possessing the listed virtues. Therefore, limiting human dignity to the above listed virtues and concluding that with these virtues in mind, any act done to save the life of a human being or to liberate him from suffering cannot be construed as contrary to human dignity is hereby judged as wrong in its wholesomeness. In classical moral, ethical, legal, and political discussion the concept of dignity expresses the idea that a being has the right to be valued and respected, and to be treated ethically.¹⁷

What the above seek to show is that a being (human being in this respect) whether or not possess: love, trust, righteousness, compassion, tolerance, fairness, forgiveness, beneficence, sacrifice and concern for the weak has the right to be valued and respected, and to be treated ethically. In otherwords, human dignity resides in his/her beingness not in his/her characteristic content.

Accordingly, scripture makes it clear that each and every person is made in the image and likeness of God. This radical claim is the source of our belief in the inherent and inviolable dignity of the human person.¹⁸

The above view shows that man is not only corporeal but a psychophysical being and it's his psychophysical unity that defines his being and consequently, his dignity.

In accordance with the above view, Leon R. Kass M.D writes:

Against our dominant philosophical outlooks of reductive corporealism (that knows not the soul) and person-body dualism (that deprecates the body), I advance the position of psychophysical unity, a position that holds that a human being is largely, if not wholly, self-identical with his enlivened body. Looking up to the body and meditating on its upright posture and on the human arm and hand, face and mouth, and the direction of our motion (with the help of Erwin Straus's famous essay on "The Upright Posture), I argue for the body's intrinsic dignity:

The dumb human body, rightly attended to, shows all the marks of, and creates all the conditions for, our rationality and our special way of being-in-the-world. Our bodies demonstrate, albeit silently, that we are more than just a complex version of our animal ancestors, and, conversely, that we are also more than an enlarged brain, a consciousness somehow grafted onto or trapped within a blind mechanism that knows only survival. The body-form as a whole impresses on us its inner powers of thought and action. Mind and hand, gait and gaze, breath and tongue, foot and mouth-all are part of a single package, suffused with the presence of intelligence. We are rational (i.e, thinking) animals, down to and up from the very tips of our toes. No wonder, then, that even a corpse still shows the marks of our humanity.¹⁹

He continues:And, of course, it shows too the marks of our particular incarnation of humanity, with our individual and unique identity.²⁰

Kass poured his heart here and we are tempted to not only agree with him but to add that his view is as touching as it is captivating. He maintains that all our make ups whether body, mind or soul which constitutes our psychophysical unity shows the marks of our humanity and as such defines our human dignity. For him therefore, using our body as spare parts for any reason whatsoever is perhaps an affront on our body and personal dignity and is no less morally wrong.

In Nigeria Igbo part of Africa, to alter any part of the human body-living save for the dead is regarded as morally wrong and gallantly contested against. This is because, on one hand, they believe in the sanctity of the human life and on the other hand, they believe that all life belong to the supreme deity God (Chineke) who created all in His image and likeness.

Again, they believe that communion and communication are possible between the living and the dead since the deads are believed to have double abode-the spiritual and the physical and any bad treatment on any of the dead would unavoidably spell doom on the living. In agreement

with the above, Ugwu and Emeka argue that: death is not the final end of man. It is only a transition from the physical world to the spirit world, and the deceased is only making a journey from this earth to another as seen in the funeral arrangements and burial. The corpse is thoroughly washed and laid in state in very good costly clothes in preparation for the journey. It is believed that the deceased is being made ready and fit for the next world. He moves on to join the company of the departed, and the only major change is the decay of the physical body, the spirit moves on to another state of existence.²¹

In the same vein, Kass opines:

For in the navel are one's forebears, in the genitalia our descendants. These reminders of perishability are also reminders of perpetuation; if we understand their meaning, we are even able to transform the necessary and shameful into the free and noble... [the body, rightly considered,] reminds us of our debt and our duties to those who have gone before, [teaches us] that we are not our own, source, neither in body nor in mind. Our dignity [finally] consists not in denying but in thoughtfully acknowledging and elevating the necessity of our embodiment, rightly regarding it as a gift to be cherished and respected. Through ceremonious treatment of mortal remains and through respectful attention to our living body, and its inherent worth, we stand rightly when we stand reverently before the body, both living and death.²²

The above account reveals that certain treatments on the body is nearly universal taboo. Certain treatments on the body-living or dead is a defilement of the body and an affront to and against the body.

The Igbos of the Eastern Nigeria in Africa as seen above and maybe with other parts of the world, believe that:

Decent burial-or other ceremonial treatment-of the mortal remains of ancestors and kin pays honor to both personal identity and generational indebtedness, written as it were, into the body itself. How these matters are carried out will vary from culture to culture, but no culture ignores them – and some cultures are more self-consciously sensitive to these things than others”.²³

In the light of this, one need to know that, although,

"...the fundamental dynamism of human life implies a process of continual breaking down and building up, an expenditure and restoration of energy, an attrition and repair of the cellular system...The common consent of mankind

clearly recognizes the fact that a man is not expected to sustain his life at all costs. The ultimate dissolution of the substance is likewise a part of nature²⁴.

From the above, we learnt that though the fundamental dynamism of human physiology results in the process of continual break down and remaking or building up of the anatomical structures of the human person, man is not justified to sustain his life at all costs. This is because: the breaking down, the attrition and dissolution of the cellular systems are on their own part of the workings of nature.

Again, it maybe interestingly argued that life is precious and should be preserved. And, it is the ultimate duty of health professionals to help preserve the lives of patients. Be that as it may, it is interesting too to note the fact that, "...no one is obliged to use extraordinary and very difficult means to preserve his life"²⁵. In other words, "...man is obliged to take the ordinary means to preserve his life, but is not obliged to use extraordinary means..."²⁶. Bearing in mind that,

"just as the life of the individual advances and develops in complexity and perfection according to its natural potentialities, so, in the divine plan, a civilization or a culture develops. Thus what is extraordinary in one stage of cultural or scientific development, maybe quite ordinary in another,"²⁷

It becomes necessary not to limit ordinary means of preserving lives to only but "...proper diet and exercise and relaxation and sleep and all natural aids, which by its constitution the body needs to keep well"²⁸. Being conscious of the historical context wherein we write, it is necessary to add blood transfusion, removal of a decaying teeth etc which restore and replenish themselves soon after their removal as ordinary means of preserving life while the donation and transplantation of major organs of the body like heart, lung, kidney, liver etc which does not replace themselves unless their likes are made in the artificial forms are here regarded as extraordinary means of preserving of life. There are called major transplant and so, one is not obliged to take part in them mainly because of the risk, the dehumanizing effect, and cost of such treatment.

"Other forms of extra-ordinary or, as it is used today, disproportionate means of treatment like prolonged and permanent artificial respiration, artificial kidney, iron-lung, electric stimulation etc are considered morally

not permissible especially when they offer no reasonable hope of benefit to the patient and also when they do not achieve the complete well-being of the patient but keeps the patient in a vegetative or artificial living”²⁹.

In agreement with the above view, the declaration of the Vatican Congregation for the Doctrine of the Faith on May 5, 1980 read:

“It is also permissible to make do with the normal means that medicine can offer. Therefore one cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a risk or is burdensome. Such a refusal is not the equivalent of suicide. On the contrary, it should be considered as an acceptance of the human condition, or a wish to avoid the application of a medical procedure disproportionate to the results that can be expected, or a desire not to impose excessive expense on the family or the community”³⁰.

The above has always been the case with disproportionate means of treatments. The approach to treatment keeps the patient in a vegetative or artificial living. Again, to think that a person carries the other's organ to keep living provokes some moral questions as we have pointed out early in this paper. Such moral questions are: (1) Is the person carrying the other's organ or prolonged and permanent artificial respiration, artificial kidney, iron-lung, electric stimulation etc, still the real person or a mere artificial assemblage of parts? To grant that such a person is still the real person would amount to arguing that when palm wine is mixed with dry gin, the palm wine still retain its originality, (2) In nature and divine plane or order, is there any life more important than the other such that one should be sacrificed in favour of the other? (3) Is donating or harvesting of such vital organs of the body for sale not degrading and affront on the integrity of the human body? (4) Does it not amount to using the individual as a means to an end? (5) What then is the moral status of the sale of human parts? (6) Does it not lead to other more heinous crimes? (7) Will its continuous practice not lead our human race to a jungle – a situation in the Hobbesian natural state of man where only the fittest survive? (8) Is the advancement in medical profession a blessing or a curse to human race? Some of these questions have been answered in our earlier discussions and we hope that other ones not addressed before now will be attended to as we continue in our intellectual journey in this paper.

“The argument for permitting a market in cadaver body parts is that respect for personal autonomy allows those who wish to do so to sell their organs after death. Individuals should be free to decide how to dispose off their bodies and their parts, whether they choose burial, cremation, or donation or sale for medical purposes³¹.

Interestingly,

“this rationale does not seem persuasive and may even destroy the environment in which personal autonomy can flourish. Allowing the sale of the human body reduces people to objects. Offering compensation towards life insurance, cash rebates, estate tax discounts, or payment for funerals contingent upon a favourable decision about the disposition of cadaver remains indicates that medicine and the law are willing to turn the body into a commodity to allow more transplants to be performed. The message conveyed is that it is permissible, even desirable, to treat the body as an object of sale and profit; this is not likely to nurture mutual respect or esteem amongst the public and the professions, further diminishing the prospects for the exercise of autonomy”³².

The expressions above are two poles apart in relation to the treatment of the body. The former locates personal autonomy as the basis for individuals to decide how to dispose off their bodies and their parts, whether they choose burial, cremation, or donation or sale for medical purpose. However, there is no reason to think that those who still on personal autonomy choose burial will not fall prey to the opposite camps who are body mongers for lure of money. On this ground, the later view faults the former on two count charge:

Firstly, the rationale does not seem persuasive and as well as presents an atmosphere not fitting for personal autonomy to thrive. Secondly, selling of human body and parts is Ipso facto an objectification of the human person, this will reduce the mutual respect and esteem amongst the public and as well as reduce the prospects for the exercise of autonomy. Also,... when the dead are treated as things, the dignity and moral standing of the living, and thus, their autonomy, are imperiled”³³. In other words,

“the possibility of realizing a profit from the organs of the dead could provide an incentive for murder or for doing less than we might to save lives. Again, an organ market presents a metaphysical threat in that it demeans our bodies to the status of articles to trade.”³⁴

There is no reason therefore to think that a dead person becomes an “it” and should be used as such. Since we hear people say – He died yesterday (referring to the death of the principle of life in him (i.e.) the spiritual) but he will be buried in two months time (referring to the body), it bespeaks that man is a psychophysical being and so, the death of the principle of life in him should not be an indices to demean the physical (body) which still shares a structural relation with the living members of the human race. To do that is against the dignity of the human body and it is judged morally wrong in that context. In line with the expressions above, it is pertinent to pointedly say that although obviously not accepted by all, many religious tradition... vigorously oppose any position which permits the body to be seen as property owned by the individual rather than as a gift from God, and will object to treatment of the body as an object to be sold”³⁵. This is the position of the Christian religion as we have pointedly shown in the Christian religious literature – The Holy Bible. Even the African traditional religion see such treatment of the body as an object as a taboo that must be avoided. In consonance with this view, A.L. Caplan et al argue that,

“calls for markets, compensation, bounties, or rewards should be rejected because they pose risks to personal autonomy and fairness. They convert donors into sources, human beings into products, thus undermining the foundational values requisite for respect for others and for self-esteem”³⁶

No level of illness should force man to think of the other as a life saving object or product. Any such consideration robs man of his dignity and self-worth. Unfortunately, that is the issue on ground with organ sale. With organ sale, Daniel E. Wikler argued, that, “there are the desperately poor whose organs now have monetary value, and who are vulnerable to exploitation in a growing industry known as “transplant tourism”³⁷. This speaks about the commercialization of the human parts which has reduced man to an article of trade – a mere product. This is rebellion against nature and divine order. Although sale of organ for transplant saves lives as Samuel Kerstein argued:

“organ transplantation saves lives. People with end-stage kidney disease who receive a transplant tend to live much longer than those who undergo dialysis. A kidney from a living donor will last for 12 to 20 years, on average, compared to eight to 12 years for a kidney from a deceased donor”³⁸.

However, be that as it may, our concern is the justification for such practices. What is the morality behind mortifying the one to save the other? How morally sound is the sale of human parts as products? The integrity of the human body should never be subject of trade. And so,

“any financial incentive to organ procurement, even though governmentally regulated, must be avoided, as it dangerously undermines human dignity by promoting the gloomy overlapping of human being and marketing³⁹

Kerstein further argued that “selling a body part does not necessarily mean a person is for sale”.⁴⁰ This position is wrong and cannot pass for an answer to the rationale behind the commercialization of the human parts or its moral justification. Maybe, Kerstein need to prove to us that his kidney, heart, liver, pancreas, lung and other parts are not him and when these parts are separately sold off he will still exist as a person. Arguing that will lead him to what Gilbert Ryle called the category mistake - a situation where:

A foreigner visiting Oxford or Cambridge for the first time is shown a number of colleges, libraries, playing fields, museums, scientific departments and administrative offices. He then asks “But where is the University? I have seen where the members of the Colleges live, where the Registrar works, where the scientists experiment and the rest. But I have not yet seen the University in which reside and work the members of your University.” It has then to be explained to him that the University is not another collateral institution, some ulterior counterpart to the colleges, laboratories and offices which he has seen. The University is just the way in which all that he has already seen is organized. When they are seen and when their coordination is understood, the University has been seen⁴¹.

In the same spirit with the one demonstrated above, we may need to ask Kerstein: Can there be a person different from his constitutive components? To affirm this will amount to saying that when the hands, legs, eyes, tissues and organs are all removed and sold off there will still be a person different from these removed parts. This is not true. To sale one's body part is in a sense to sale oneself. On this ground, Iroegbu et al writes:

Common language says: I have a (Healthy) body, a (fine) mind and (clean) soul. Beneath each of these questions and answers from common assumption, there is a lingering assumption: There is an 'I' a somebody or

something that is there and that then has a body, mind or soul. This would however create an irredeemable dualism. Who is it that has the body? What can one call that substance on which the body, mind or soul rests?⁴².

They argued further that,

"The solution to this ambivalence is to accept that we do not just have, rather we are the body, mind and soul in question. There is no other being underlying ours that possesses what we are. We are the being we are. We are the body, mind and soul. I am my body, mind and soul all at once. Though a bit difficult to comprehend ontologically, the reality of being our body, mind, soul solves the problem of dualism of personality"⁴³.

On this premise therefore, such argument as presented by Kerstein becomes a weak and unreasonable one to stand for an answer as to the reason for the sale of human body parts. Therefore, a person's body part is the person and its removal has a lot of implications for the person and the human family. According to recent research, Bangladeshi kidney sellers

"suffered from grave sadness, hopelessness, and crying spells, and experienced social stigma, shame, and isolation for selling their body parts...A study in Chennai, India found that over 85 percent of sellers reported a decline in health after kidney removal and that 80 percent would not recommend that others in similar circumstances sell a kidney"⁴⁴

Undoubtedly, the above present explicitly the harm and social stigmatization vendors encounter in the practice of selling their parts. Vendors would have some long standing emotional or psychological damage as pointed out above because of the breaks in body integrity. In line with the stated view, it has been pointedly shown that,

" In the present global hodgepodge of transplant tourism, thousands of patients-from the united states, Isreal, Saudi Arabia, and other prosperous nations-get the kidneys they need...But their donors (some of them exploited by organized crime) frequently get the short and sharp end of the stick"⁴⁵.

Furthermore, Luc Noel cited,

One survey of kidney donors in Pakistan's for-profit market, where two-thirds of the operations are performed on foreigners. The survey showed that almost 70 percent of donors were slaves or bonded laborers; 90 percent were illiterate; 88 percent had no improvement in economic status from the donation; 98 percent reported a

subsequent decline in health, including chronic pain from large incisions⁴⁶.

From here, we are inclined to ask: If the physicians and others who involved with medical research and practice are concerned with such values as:

1. To conserve life
2. To alleviate suffering
3. To promote health
4. To maximise physical wellbeing integrally, then, what is the morality behind the use of disproportionate or extraordinary means such as organ transplantation that causes decline in health including chronic pain and other social stigmatization to people who involve in such practice? Is the advance in medical profession a curse to health and life or a blessing to it? How do we substantiate the assertion of Michael Monge that, "the medical profession is always at the service of life"⁴⁷. If this expression is true of and/or about medical profession, then,

“Life is to be the target of all who practice medicine. Their work is not death but life. Their preoccupation is with disease and not with the natural state of the human person manipulating it unduly. Their concern is to promote health and not to diminish, not for some at the cost of innocent others⁴⁸”.

Here, it is deduced that any undue manipulation of the natural state of the human person and ,of course which diminish health rather than promoting it, is against the values to which physicians and others involved with medical research and practice are concerned. It then becomes contradictory to talk of organ donor, and sale for transportation -a means which when used to preserve life, causes suffering, diminish or leads to decline in health and worst still, it is, "...for some at the cost of innocent others⁴⁹". This, of course, is a materialistic view of the human person and is morally impermissible. In a similar tone, Pope John Paul stated,

“the body cannot be treated as merely physical or biologic entity, nor can its organs and tissues ever be used as items for sale or exchange. Such a reductive materialistic conception would lead to a merely instrumental use of the body, and therefore of the person”⁵⁰.

John Paul as seen here is of the view that the human person is not and should not be seen just as a mere physical entity but as a composite of both the physical and the spiritual. He rightly pointed out that any such conception of the human person as a mere physical entity would lead to a merely instrumental use of the body, and of course the person. Such idea or conception of the human person is therefore wrong and should be dismissed as morally impermissible because the human person is an end and should not be used as a means to further ends. Hence, he argued, "any procedure, which tends to commercialize human organs or to consider them as items of exchange or trade must be considered morally unacceptable"⁵¹. It is interesting to note that,

“Payment for tissues and organs is likely to take unfair advantage of the poorest and most vulnerable groups,... The legal sale of human organs can create an idea that some people lack dignity, and are objects to be used for the benefit of others (World Health Organization). This includes the sale of organs by next of kin who would stand to benefit from the death of relatives. Buying and selling human body parts can be equated to slavery (klitzman). The chance of harm to fundamental human rights is a risk that may not be worth taking”⁵².

All the points raised here are incontestably the implications of the sale of human body parts. The necessary consequence of the above is that it will lead to a beastly human society which in the final analysis will be detrimental to the members of the human family. At this point, a case in South Africa comes to the mind.

In September 2010, a south African hospital pleaded guilty to charges stemming from having allowed its employees to conduct over a hundred illegal kidney transplant operations between June 2001 and November 2003⁵³. In addition to this hospital, the parent company (Netcare), its CEOs, five transplant physicians, two transplant administrative coordinators and a translator were charged for the illegal kidney transplants. Charges against the hospital and its staff included fraud, forgery, uttering, assault and breaches under the Human Tissue Act and the Prevention of Organized Crime Act⁵⁴. A month later in Kosovo, indictments were filed against six physicians and a former senior-level representative of the Ministry of Health. They are among others accused of trafficking in human beings for the purpose of organ removal. The trial of this case (also known as the Medicus Clinic case) is now before the District Court of Pristina⁵⁵.

These cases justify our view point that organ donor and sale even when regulated will lead to a beastly society for man. This is because, there is no reason to think that other similar crimes than the cited cases have not been committed and will not be committed without the organ regulatory body knowing of it. It is on this premise that it has been logically and meaningfully argued by Delmonico that, " Even in a regulated, government-run version of transplant tourism, "unethical realities" lead to exploitation of the poor and the vulnerable ⁵⁶. In the same spirit with Delmonico, Nir Eyal, argued that, "dignity harm"(an insult and/or injury to the dignity of a person) results from exploiting the economically vulnerable-a harm that unfairly spreads out and compromises every member of the same group ⁵⁷. Against these ugly postures that characterize organ donor and sale, there is a need at this point to bring into sharp focus the undeniable fact that,

“One feature of life ...is that it is often received and not taken by the one who possesses it. The fact of being received confers on the possessor of life a responsibility. Life has a duty to it. This is the duty of preserving that life until its term, i.e. its natural end. It is also the duty of making good use of my life⁵⁸.

Our point of emphasis from this expression is on "the duty of preserving that life until its term, i.e. its natural end" and "also the duty of making good use of my life. Firstly, it is rational to argue from here that one is not obliged or justified to as a way of preserving life use extraordinary means of treatments which are detrimental to others to utter life's natural end. In other words, the duty one owe to life is to preserve it until its natural end not a duty to stop its natural end. Therefore, when the natural end of life is inevitable, it becomes questionable and morally wrong to use extraordinary means to keep it. Secondly, the donation and sale of our body parts for transplantation in no way amount to" the duty of making good use of our life". It is rather, a misuse of our life and against the duty we owe to life. With this in mind, it becomes imperative to grant the truth that organ donor and sale is morally unacceptable.

CONCLUSION

From our evaluations sofar, one can easily deduce the obvious fact that such inhuman treatment on the body as in the case of organ sale and transplantation is not only an affront on the body but it is also unnatural, against divine order and therefore, incontestably morally wrong.

Our submission therefore, is that in a case where all the known pharmaceutical products (except for organ transplantation) has been administered on a sick person and the sickness persist, such a person should be allowed to die a natural death. This is because, in the Hedeggarian sense, man is a being onto death. In otherwords, man grows each day of his life towards death. The only way to stop death, therefore, maybe to stop growing not through and/or by organ transplant. Unfortunately, this is quiet impossible and funnily enough, everybody wishes to grow by the day.

IJSER

End Notes

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