



Organ Donation: A Communitarian Approach

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Abstract: Recently, various suggestions have been made to respond to the high and growing shortage of organs by paying for them. Because of the undesirable side effects of such an approach (commodification, injustice, and costs), a communitarian approach should be tried first. A communitarian approach to the problem of organ shortage entails changing the moral culture so that members of society will recognize that donating one's organs, once they are no longer of use to the donor, is the moral (right) thing to do. The approach here requires much greater and deeper efforts than sharing information and making public service announcements. It entails a moral dialogue, in which the public is engaged, leading to a change in what people expect from one another.

Among the devices that could help to change the moral culture are a public statement, endorsed by community members and leaders, that expresses the community sense that donation "is what a good person does," and a community-specific web page that lists those who made the commitment. A change in law so that a person's wishes in the matter are recognized as final and binding is also desired. This position paper deals only with organs of cadavers and not living donors.

I. Organ shortage

- In the year 2000, more than 5,500 Americans died awaiting transplants.¹
- In the U.S., there are currently over 80,000 people awaiting transplants.²
- Between 10,000 and 12,000 people die annually who are considered medically suitable for organ donation, yet only an estimated 6,000 donate.³
- One organ, tissue and eye donor might save the lives of seven and help up to 50 people, and an average of 15 people will die each day without receiving the organs they need.⁴
- In recent years, the cost of transplantation has become significantly lower, and organ transplantation is not only one of the most effective life-saving procedures, it is also cost-effective. For example, one study shows that starting 2.7 years after the time of the transplant, there is a savings of about \$27,000 per year for each patient who had a kidney transplant instead of remaining on dialysis. Besides saving tens of thousands of dollars, a kidney transplant recipient is also spared the pain and inconvenience of ongoing dialysis treatment.⁵

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II. Non-Communitarian approaches

Several approaches to the problem at hand are used by other nations or have been proposed by government officials, medical experts and others in the United States. We very briefly indicate the reasons we either object to them in principle or hold that the communitarian approach should at least be tried first.

A. Conscription

To deal with the great and growing organ shortage, some governments simply harvest organs through programs sometimes referred to as “organ conscription.” China, for instance, harvests organs from executed prisoners. This extremely coercive approach is not even tolerated by many other totalitarian governments.⁶

B. Presumed consent

Some governments presume consent, meaning that unless a person explicitly opts out of the commitment, the state assumes that he or she agrees to donate his or her organs upon death. This approach is followed in varying forms in several European countries.⁷ Individuals can “opt out” of donating their organs by indicating this choice on a passport application, tax return, or other registered document, and their decisions are recorded in a national register. (In Belgium, citizens can register a decision to “opt out” at any Town Hall.)⁸

While “presumed consent” theoretically preserves individual autonomy, it is still quite coercive, or at least high-handed. It becomes an individual’s responsibility to guarantee that the government does not procure his or her body upon death. There is also a risk that imperfections in the government bureaucracy would lead to procurement of organs from people who had actually “opted out.” Finally, some opponents of “presumed consent” argue that even if the system were foolproof, the public would still perceive a violation of their civil liberties, and a backlash against organ donation in general might occur. The British Organ Donor Society (BODY), arguing against presumed consent legislation, cited the 1992 case of French physicians who went against the wishes of the parents of a potential cornea donor under a presumed consent “opt out” law. According to the Society, “The parents took legal action, and French organ donation decreased dramatically over night.”⁹

C. Required response

A policy of “required response” or “mandated choice” would require that all competent individuals record an explicit choice about organ donation. While, as far our research shows, “required response” has not yet been adopted as a policy in the United States or any other country,¹⁰ proponents envision different venues for recording responses. For example, people could be required to indicate their decision on an application for a driver’s licence or state identification card, or a tax return. If one fails to indicate a choice, the application or tax return would not be accepted.¹¹ The American Medical Association, as well as many individual physicians, have endorsed a “required response” or “mandated choice” policy. While this approach respects individual autonomy more than conscription or presumed consent, there is a bit of high-handedness in ordering people to publicly record their choice for or against organ donation. Above all, required response does nothing to convince people that they ought to donate their organs. It merely pressures them to make a decision. The approach may work for those who do not donate simply because they are recalcitrant or reluctant to think about death. At the

same time it may well lead many who resent being forced to make a decision to refuse.

D. Commodification

In other nations, various forms of commodification have been introduced in which donors are paid for organs and the recipients pay for them, so that in effect a market in human organs exists. In the United States, organ markets are officially banned: The National Organ Transplant Act (Public Law 98-507) makes it illegal to sell human organs. Violators are subject to fines and imprisonment.¹² However, in recent years, several suggestions have been made to commodify organ donations in the United States, changing both the laws that ban market-based approaches and the taboos that agitate against them. These schemes vary in detail. Most do not entail openly introducing a market, only various kinds of financial incentives for donors. An early financial incentives proposal, published in 1991 in the *Journal of the American Medical Association*, suggested offering \$1000 compensation per donor.¹³ In 1999, the Pennsylvania Department of Health proposed a plan to give \$300 towards funeral costs to families of organ donors, but the plan was never enacted because of fears that it violated federal law. In Congress, one bill was introduced that proposed a \$10,000 tax credit for cadaveric donation, and another offered a \$2,500 tax refund for cadaveric or living donation.¹⁴

The financial incentive approach to increasing rates of organ donation has gained support from several groups and individuals, including some segments of the medical community. The American Medical Association (AMA) has expressed support for limited financial incentives, and the United Network for Organ Sharing and Organ Procurement and Transplantation Network (UNOS/OPTN) have also recently released a statement endorsing study of potential financial incentives for organ donation.¹⁵ (Some proponents of commodification hold that donors should be paid but that organs should not be sold.)

This approach has been criticized on the grounds that any such moves will lead toward an organ market and commodify one more social relation. For many people, an organ market offends their religious and personal beliefs in the sanctity of the body. Many claim that financial incentives for organ donation would change an act of altruism into an act of commerce.¹⁶ Others have expressed concern that a commodification approach could backfire, and turn people off to the act of organ donation. Given the various concerns about “market-based” approaches to organ donation, we should first try an approach that does not involve commodification of organs, and hence does not risk the public costs commodification entails. We thus concede that if non-commercial approaches continue to fail, in order to save lives and reap the other benefits of increased donation rates, some form of financial incentives might be justified. However, before such steps are taken – whose cultural and moral effects will be very difficult to reverse – we urge that a communitarian approach be accorded a full test.

III. A Communitarian approach

A. The basic orientation

The core of this approach entails changing people’s preferences through moral persuasion, community appreciation of good conduct, and gentle chiding of those who do not do what is considered right. The key is converting existing predispositions into active preferences. Polls indicate that as many as 85% of Americans support organ donation, but only about 30% have formally expressed their willingness to donate.¹⁷ These numbers suggest that most people in the

United States, including those who have expressed some unwillingness to donate their organs, could be swayed relatively readily if the moral culture around them changed. It would be much more difficult to change their attitudes if most people were strongly prejudiced against donation.

Unlike presumed consent policies, no coercion is involved because the ultimate decision is left to the individual. Indeed, even when a given act is favored by a community, not all will follow. The goal at hand is to increase organ donation significantly; there is no expectation that everyone will make the commitment. Nor is 100 percent participation necessary to overcome the organ shortage. However for the communitarian approach to work it is essential to appeal not merely to potential donors (and their families) but to their friends, co-workers and other community members—because they are the ones that are to be the agents of the changed moral culture. If this approach is to be effective, “Friends don’t let their friends waste the gift of life” needs to become not a clever slogan of an ad campaign, but part of the culture.

The essence of the communitarian approach is that it seeks to make organ donation an act people engage in because they consider it their social responsibility, something a good person does, akin to volunteering, contributing to a cause, not parking in handicap spaces, recycling, not washing his or her car when there is a water shortage, and so on.

In the United States, a huge volume of social business is done in such a way. Study upon study shows the most important factor in whether people conserve energy,¹⁸ vote,¹⁹ or even pay their taxes,²⁰ is whether they consider it their civic duty, the right thing to do.²¹ Studies of areas that have experienced high crime rates show that once a community shares a set of values and a commitment to promoting those values, the community can draw on the evolving moral culture to significantly reduce drug abuse, teen pregnancy, juvenile delinquency, and even violent crime.²²

It cannot be stressed enough that reference is not to altruism, which critics correctly point out often is insufficient a motive, and to which many appeals to donate organs have already been made, without the desired results. Reference here is to making organ donation part of a one’s sense of moral obligation, something one cannot look in the mirror or face friends, without having lived up to. It reflects a complex combination of an inner sense of what is right and social pressure to do what is right, the core elements of moral culture.

Those who favor commodification draw on those social sciences, especially neoclassical economics, that tend to assume that people’s preferences (or tastes) are fixed. Hence, if individuals do not do something on their own, such as donating organs, they must be “incentivized” to do so with money to buy the things they do want. Financial incentives, the argument goes, make people willing to do things they are asked to do, but which they would rather not (say work harder). The social sciences we draw on here presume that preferences can be altered so that people become willing to do things they were reluctant to engage in before, not because they are compensated, but because they have come to truly believe that these things are right. The process is obvious in education. Children acquire preferences from their parents, teachers, places of worship, and schools. However, the process of changing preferences does not stop with adulthood. When one refers to “leaders” one refers to people who are able to change the preferences of their followers.

At the core of such an approach are processes that provide not merely or even mainly information, but those that deal in persuasion. In places where the proper moral culture already exists, and people have the predisposition to donate organs but do not act on it for one reason or another, persuasion (or the moral voice of the members of their respective communities)

merely works to move them to act on their preferences. Fortunately, it seems that most Americans do not have principled objections to organ donation (some who are religious do). Indeed, in the 1993 Gallup poll, of the people who were disinclined to give formal permission for the donation of their organs, 47% cited “no reason/don’t know/haven’t given it much thought” as the reason for their disinclination.²³ For the rest, persuasion might allow them to form a new moral commitment.

B. Ways and means

1. Cultural dialogues

A community is not merely a social entity whose members are bound by a web of criss-crossing affective bonds but also one in which members share a set of core values, a moral culture. This raises the question: where do these values emanate from? And are they justifiable? Are they good? A common sociological answer is that values are handed down from generation to generation, via socialization, and in this sense are traditional. However, tradition is clearly not the only source of values.

New value formulations are often initiated by one person, such as a rebelling clergy member (Martin Luther), public leader (Rachel Carson), or social philosopher (Martin Buber). However, for values to acquire greater social significance, they must be embraced by a considerable number of people. For members of a community to integrate new values into their moral culture, these values must undergo a process I refer to as a “moral dialogue.”²⁴

Moral dialogues are social processes that involve not merely facts and logic, reasoning and rational exchanges, but also intensive discussions of the values of those engaged in these dialogues. To illustrate, over recent decades, the American society has had such dialogues on matters such as our obligations to the environment, to marriage partners (specifically about the immorality of adultery), about proper race relations (especially about affirmative action), relations between men and women, and, more recently, about gay marriage and the death penalty.

Dialogues such as these are often complex, messy, without a clear starting point or end. Nevertheless, many advance to a point that they result in extensive (although never universal) changes in the values endorsed and upheld by members of the society. The American society’s values regarding many of the subjects listed above, from commitments to the environment to relationships among people of different social categories (such as race and gender), have changed significantly over the last decades.

To significantly change the moral culture surrounding organ donation, we must have a full-blown moral dialogue about the fact that many people neglect to give what correctly has been called a gift of life – that is, neglect to donate their organs when they are no longer of any use to them. There is no sure way to initiate such moral dialogue. Among those who can do so are the typical opinion makers, clergy, elected officials, figures in the media, and so on. But only if a significant number of these leaders, more or less simultaneously, first commit themselves to donate organs, and then to challenging others to follow their example, the needed dialogues may be triggered. Publication of dramatic cases – of specific children suffering and dying because of organ shortage – may also help. Interviews with people on the street, asking whether they endorsed their donor card and what it would take for them to come forward, can be of service, too. While it must be reiterated that there is no guaranteed way to initiate such a dialogue, it is clear that much more is entailed than a few speeches by community leaders, sermons by select clergy, and public service announcements. Mailing informational materials or sending e-mails will have at best a tiny effect.

Above all, such a campaign must not be top-down (e.g. run by the government instead of community leaders and associations). And persons who are to be persuaded need to be informed how to proceed and have numerous occasions to act (as compared to only when they renew their driver's licenses every few years). There ought to be ready ways to make it visible to the community who has lived up to the new mores, and by implication, who has not yet stepped forward, so the community processes that undergird the new culture can do their work. This is essential because the communitarian approach here advocated views people as members of social groups (if not necessarily full-fledged communities), with mutual bonds and influence on one another, rather than free-standing individuals who make such decisions on their own.

In the following pages we make some suggestions of specific measures that might be taken to trigger and focus and nurture the said dialogue and lock in the results. They all presume to be part of a nationwide moral dialogue, assisting it, but by themselves cannot ensure that it will occur or lead to the desired results.

2. Mobilization devices: new form

Particularly needed is a whole new donation sign-up form, which would include a community statement advocating organ donation. The essence of this text is to reactivate within potential donors their moral preference at a moment of decision. The text seeks to be persuasive. It would be something like the following:

First, thank you for considering a matter of great importance and value: giving the gift of life by donating your organs once they are no longer of any use to you. Each year, thousands of children and adults suffer needlessly and many die because not enough organs are available. Others remain or go blind, stay fettered to machines at great suffering and public cost, suffer greatly, merely because not enough organs are donated. Saving a life is of the highest moral order; there is no greater moral duty than helping avert a death or great human suffering when one can do so readily and without costs or risk to self.

We are sure you agree that the decent, upstanding thing to do is to reach out to others when less is asked of you than making a donation of money or time, which many – surely including you – so generously give when they are able to. If you have religious reasons not to proceed, we can respect these commitments. Otherwise, please do join us in endorsing this statement, and have it properly witnessed by anyone who is over the age of 18. We plan to let one and all know of your good act; however, if you wish to remain anonymous please mark the box below provided for this purpose. Kindly tell one and all that today you did good and encourage them to do likewise.

The nature of our approach stands out when one compares our donor form to the standard donor cards. Those cards include no moral arguments and merely provide a chance to make a donation to those who are so inclined. Closer to what is needed are brochures that sometimes accompany donor cards. For example, brochures produced by the American Medical Association and by the Department of Health and Human Services as part of its "Donate Life" initiative include statements such as "live & then give," "there is nothing simpler than becoming an organ donor – and nothing more important" and several other phrases to this effect. The appeals do not bring into the picture the expectations of one's fellow community members (which we

suggest matter greatly to people) and are relatively “cool” in tone. Indeed, most of the remaining text is informational. The information in both brochures is valuable because it is reassuring (e.g. you will not receive less aggressive medical care if you sign up to be an organ donor) and should be provided, but it should not take the place of a strong moral appeal. The best evidence that existing cards and brochures need to be revamped is that they have not worked to increase donation anywhere near the needed level. It is time to try something more evocative.

3. Mobilization devices: new presence

Currently, opportunities to sign up for donation come mainly when one applies for a driver’s license or renews it. Arrangements vary from state to state, but often information about organ donation is merely posted on the wall at the Department of Motor Vehicles. Opportunities to commit to donating one’s organs are few and far between, with next to none for non-drivers. We suggest that the said form be handed out in each doctor’s office, clinic, and hospital, together with other forms that one fills out during such visits. This would greatly multiply the number of occasions one is reminded of the need to donate and the value of doing so. While it is true that in this way thousands of forms may have to be handed out before a new donor is found, it should be recalled that the communitarian approach seeks to persuade all the members of the community of the vital importance of donation— whether or not they can or will donate— in order to change the moral culture. Hence these forms are not “wasted” even if they are often read by non-donors.

4. Mobilization devices: an electronic “book of donors”

Once a person has agreed to give the gift of life, his or her name (and the community from which he or she hails) would be posted in an electronic “book of donors,” which would be maintained by a not-for-profit organization or a government agency. (Those who prefer not to be publicly listed would be allowed to have their names omitted from the public “book of donors,” and their status would be recorded in a separate data bank, akin to unlisted telephone numbers, and accessible only to organ transplantation teams.) This book of donors would serve a dual purpose. First, it would accord community recognition to those who donate. Second, it would put mild social pressure on those who have not yet stepped forward. (The list would also serve as an additional resource for medical personnel, allowing them to determine without delay or effort whether a dying person is a donor or not.)

Names listed in the book of donors would be organized by community within each state. For instance, one could select Pennsylvania, and then select a community from a list of all the towns and cities in Pennsylvania.

Such “positive” lists, which register only those who have acted and do not name those who have not, are very common and quite effective. They are used for people who make donations to the charity of their choice, or who support the theater or opera, hospital, college and so on. (Indeed, often even the level of one’s donation is listed). In the past these were posted on walls or printed. Putting them on a web page is merely adapting to the technology of the times.

The suggested honor roll of donors should not be confused with existing data banks whose access is limited to health care personnel and are closed to the media and public, and do not aggregate people by the communities. Listing by community is needed to help activate and nurture the essential social processes.

C. New law: one’s word is one’s family bond

Current laws do not make sufficiently clear that if a donor has made a written commitment

and it has been properly witnessed, medical personnel are fully entitled to proceed with harvesting the organs. In addition, currently, medical staff often feel that because the donor is dead, the ones from whom they need to gain consent are the family members. However, the minutes immediately before a potential organ donor's death are a particularly poor time to approach family members, who are in a state of grief, and often do not agree with one another. Harried personnel hence are often tempted to avoid asking, or, if they do ask for permission to proceed, are prevented from proceeding by family members. A law that would make the decision of the donor final and not contestable, as in a bill recently passed in the Minnesota legislature, would make it easier to proceed.²⁵ We propose that all states enact a new law that would make an individual's signed organ donor form or card a binding commitment.

Another reason medical staff are reluctant to act without family consent, whatever the legalities, is the fear of adverse publicity which would result if a grieving family turned to the media to complain about the treatment of their loved ones. Asking donors to discuss the matter with family (as many programs already do) is of merit. It also provides one more reason that those who need to be persuaded are not merely potential donors but the community at large.

D. Making it easier: changes in medical procedures

1. Non-beating heart donors

Because of advances in medical technology, a person may be brain dead, but his heart and lungs kept working with the help of machines to ensure preservation of his organs for donation. The fact of a beating heart makes it particularly difficult for family members to accept that their loved one has died. New studies show that at least as far as kidneys are concerned, harvesting can be completed effectively even after the heart has stopped beating for a while.²⁶ If this finding can be generalized to other organs, then we could make parting much easier for the families by waiting until an individual's heart has stopped before proceeding with the harvesting of the organs.

2. Witnesses for signed donor forms

Currently, many states allow potential organ donors to indicate their commitment by signing an organ donor card in the presence of two witnesses. However, in efforts to make organ donation more feasible, a few states have recently taken action to reduce or eliminate the witnesses required for individuals to make advanced directives indicating their commitment to becoming organ donors.²⁷ We would further propose that only one witness be required for a person to make a written commitment to be an organ donor.

E. Define organs

There are reports that in the United States there is already a market in human parts such as skin and some glands.²⁸ Indeed, there have been several reports of burn victims whose surgeries were delayed because the needed skin was not available from the local tissue bank – it had been sold to plastic surgeons for cosmetic purposes.²⁹ We expect that people would be less inclined to sign donor forms if they were aware of these partial markets, and families would not want to consent to organ donation for a husband, wife, son or daughter, only to find out later that some of the person's parts were sold and someone else made a profit. As we see it, in the best of all worlds, all trade in human parts would cease and be effectively banned. If this is not possible, then for donation purposes, "organs" should be defined, from here on, as including hearts, lungs, kidneys, livers, corneas and a few other organs, but not skin and glands nor possibly some other items.

IV. Communitarian ethics

The approach outlined here fits well within the framework of responsive or new communitarians, as distinct from authoritarian communitarians (or East Asian communitarians).³⁰ The responsive communitarian seeks a careful balance between autonomy and the common good; the authoritarian communitarian is inclined to assume that the common good should trump individual rights. The first approach leads one to the suggested policy of persuasion and promotion of cultural change, the second to presumed consent or conscription. The main difference between the responsive communitarian approach and libertarian approach is that the responsive communitarian grants more weight to the common good and relies first and foremost on the moral culture rather than on the market, on persuasion rather than on financial incentives.

The role of the family for the responsive communitarian is more complex. A community would start from the assumption that members of a family are not merely a group of individuals who trade with one another, but rather that they are bound by bonds of affection and commitment. Hence, in principle, even personal decisions should normally be shared with members of the family. However if this approach is followed strictly, it would require a potential organ donor to discuss with family members his or her potential death, a subject many people are reluctant to address. Moreover, differences among family members might further compromise the likelihood that families will consent to organ donation. A reasonable middle way is for a donor to first make his or her commitment, and as the occasion arises, explain to family members the reasons he or she made the gift of life. If the family cannot be won over, the donor should be able—if he or she is so inclined—to revoke his or her registration at set times, say twice a year. (If donors can revoke their commitment at any time, those in charge of planning health care would face great difficulties as they will be unable to reliably predict how many organs will be salvageable, who may need dialysis, etc.). Basically, we take this position not because autonomy should trump family, but because of the great common good served by donation at no harm to the donor.

V. Existing drives compared to Communitarian mobilization

There are numerous programs in place that seek to foster organ donation. Most if not all are beneficial, but these have not sufficed. Some are largely cognitive; they provide information (for instance, information booths at health fairs, which individuals may approach and find out how and where to sign up to donate an organ) but neither seek nor provide persuasion. Those that do seek to appeal to people's moral commitments often take the form of formal communications (e.g. posters on the wall in Departments of Motor Vehicles) or public service announcements on the radio. In 1998, the AMA began its "Live & Then Give" campaign, which encourages locally based donor awareness programs by providing videos, brochures, other educational materials and donor cards for physicians to distribute to their patients.³¹ However, there is no evidence that the typically harried physicians actually hand out these forms and have the time or inclination to discuss them with patients, or, above all, seek to encourage them to endorse these cards. All these efforts have their place but have a very limited effect on rates of organ donation because they work from the top down and do not mobilize the community as a whole.

Other existing programs move in the right direction. For instance, Secretary of Health and

Human Services Tommy Thompson has introduced the “Workplace Partnership for Life,” which calls on employers to promote organ donation by their employees.³² This program could be effective in places of work in which the employees constitute a community and their employer is considered a credible leader of the community in matters that do not concern work. This, though, is very rarely the case. Comparing employers to clergy and community leaders highlights the point.

The Department of Health and Human Services, as well as certain members of Congress, have also proposed awarding a medal to recognize families for consenting to donations.³³ Proponents of this initiative see the medal as a way of honoring and publicly acknowledging organ donors, and also as a non-financial incentive. Others, though, have voiced criticism of the organ donation medal, and the approach it represents. For instance, bioethicist Arthur Caplan believes that the new [medal] plan “will not work.” He states, “[Giving medals to families of organ donors] makes donation an act of heroism. It isn’t. Acting as an organ donor is something that everyone should simply be expected to do because it is the right, the humane and the decent thing to do with your body when you die.”³⁴

Colorado’s donor registry works with religious groups to promote organ donation: The Donor Awareness Council’s Religious Advisory Committee supplies newsletter bulletins, sample sermons, educational materials and speakers. It also conducts awareness programs such as the National Donor Sabbath.³⁵

Another initiative is the “First family pledge,” started by the American Society of Transplant Surgeons, in which families sign a document, posted on the Internet, publicly expressing their support for organ donation and readiness to be organ donors. There has also been a “First Family Pledge Congress” that drew young transplant recipients from around the country, who gathered in Washington to thank members of Congress for their support of the campaign. Started in 1998, the campaign has mostly emphasized the commitments made by public officials and state leaders.³⁶

VI. Next Step: Experiment in One Community

Starting a moral dialogue with a national scope, however desirable, is often very difficult. One of the best ways to proceed is to demonstrate that the suggested approach works. It would hence serve well if the communitarian approach were first introduced within one or a few communities. These would be best communities in which there are relatively strong social bonds rather than ones in which these have frayed or never formed; communities that do not have strong values opposing organ donations, such as those of some religious groups; and one in which a very broad array of leaders and media are willing to work together to launch the kind of drive we hold will work.

¹ Ed Lovern, “HHS launches bid for organ donations,” *Modern Healthcare*, 23 April 2001, 21.

² Organ Procurement and Transplant Network (OPTN) National Waiting List, as of 2 August 2002. Available: http://www.unos.org/frame_Default.asp?Category=Newsdata. Accessed 8 August 2002.

³ Center for Organ Recovery and Education (CORE), “It’s a Fact,” 2002. Available: www.core.org/itsafact.htm. Accessed 7 August 2002.

4. Lifeline of Ohio, "Statistics." Available: <http://www.lifelineofohio.org/media/story.cfm>. Accessed 8 August 2002; U. S. Department of Health and Human Services, *Donate Life* (brochure). Available: <http://www.organdonor.gov/TissueDonorBrochureNewCard.pdf>. Accessed 8 August 2002.

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One-year survival rates for organ transplant recipients:

Liver	80 percent
Cadaveric Kidney	95 percent
Heart-lung	65 percent
Pancreas	79 percent
Lung	65 percent
Small Intestine	70 percent
Heart	85 percent
Multiviscera	70 percent

("It's a Fact," Center for Organ Recovery and Education, 2002. Available: www.core.org/itsafact.htm. Accessed 7 August 2002.) Study on cost of kidney transplantation was conducted by University of Maryland researchers, and published in the journal *Transplantation*. (*University of Maryland Medical News*, May 1999. Available: <http://www.umm.edu/news/releases/kidcost.html>. Accessed 7 August 2002.)

6. Craig S. Smith, "China Resists Efforts to Make Donation of Organs Feasible," *New York Times*, 5 December 2001, sec. A., 1.

7. Presumed consent policies have had varying levels of success. While they have resulted in significant increases in organ donation rates in Austria, Belgium, France and Spain, other countries that have presumed consent laws (Switzerland, Greece, Italy) have organ donation rates that are lower than those of many "voluntary consent" countries (Bonnie S. Guy and Alicia Aldridge, "Marketing Organ Donation Around the Globe," *Marketing Health Services* [Winter 2001]: 31). See also Robert M. Veatch, "The Myth of Presumed Consent: Ethical Problems in Organ Procurement Strategies," *Transplantation Proceedings* 27 (April 1995, No. 2): 1888-1892.

8 I. Kennedy, et. al, "The case for 'presumed consent' in organ donation," *Lancet* 351, 9116 (30 May 1998): 1651.

9"British Group Opposes 'Presumed Consent Opt Out'," 15 February 1999 (Organ Transplant Association, *Consent 1999*). Available at <http://organtx.org/consent1999.htm>. Accessed 08/08/2002.

10 Dustin Ballard, "To take without permission? Presumed consent for organ harvest in the ER (NBC)," *The American Journal of Bioethics* (On-line edition), 23 March 2000. Available at http://bioethics.net/er_bioethics.php?task=view&articleID=41. Accessed 08/08/2002.

The AMA supports pursuing the "mandated choice" or "required response" approach, but notes that such an approach would need an accompanying awareness campaign to be effective. (www.ama-assn.org). (American Medical Association, "Mandated Choice and Presumed Consent for Cadaveric Organ Donation," *Current Opinions of the Council on Ethical and Judicial Affairs*, E-2.155 [On-line]. Available at http://www.ama-assn.org/apps/pf_online/pf_online?f_n=browse&doc=policyfiles/CEJA/E-2.155.HTM&&s_t=&st_p=&nth=1&prev_pol=policyfiles/CEJA/E-1.02.HTM&nxt_pol=policyfiles/CEJA/E-2.01.HTM&. Accessed 8 August 2002.)

11 Aaron Spital, "Mandated Choice for Organ Donation: Time to Give It a Try." *MD Annals of Internal Medicine*, 125 (1 July 1996): 66-69.

12 U. S. Department of Health and Human Services, *Organ Donation: Donate Life*, "Frequently Asked Questions." Available at <http://www.organdonor.gov/faq.html>. Accessed 08/08/2002.

¹³ David L. Kaserman and Andy H. Barnett, *The U.S. Organ Procurement System: A Prescription for Reform* (Washington, D.C.: The AEI Press, 2002), 51.

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¹⁵ American Medical Association, “Financial Incentives for Organ Donation,” *Current Opinions of the Council on Ethical and Judicial Affairs*, E-2.15 (On-line). Available at http://www.ama-assn.org/apps/pf_online/pf_online?f_n=resultLink&doc=policyfiles/CEJA/E-2.15.HTM&s_t=financial+incentives&catg=AMA/CEJA&&nth=1&&st_p=0&nth=1& Accessed 08/09/2002; United Network for Organ Sharing. OPTN/UNOS news release, 28 June 2002. Available at www.optn.org. Accessed 08/09/2002.

¹⁶ Edward W. Nelson, et. al., *Financial Incentives for Organ Donation: A Report of the UNOS Ethics Committee Payment Subcommittee* (June 1993). Available: http://www.unos.org/Resources/bioethics_whitepapers_finance.htm. Accessed 12 August 2002.

¹⁷. Survey prepared by the Gallup Organization, Inc. for the Partnership for Organ Donation and Harvard School of Public Health, March 25-26, 1993. Available: http://www.transweb.org/reference/articles/gallup_survey/gallup_index.html. Accessed 8 August 2002.

¹⁸ Paul C. Stern and Elliot Aronson, eds., *Energy Use: The Human Dimension* (New York: W. H. Freeman and Company, 1984), 72-73.

¹⁹ Brian Barry, *Sociologists, Economists and Democracy* (Chicago: University of Chicago Press, 1978), 17.

²⁰ Alan Lewis, *The Psychology of Taxation* (New York: St. Martin's Press, 1982), 238.

²¹. “Social influence” is an important factor in a wide variety of community behaviors: Teenage pregnancy rates (George A. Akerlof, Janet L. Yellen and Michael L. Katz, “An Analysis of Out-of-Wedlock Childbearing in the United States,” *Q. J. of Economics* 111 [1996]: 277-318), voting (Larry M. Bartels, “Expectations and Preferences in Presidential Nominating Campaigns,” *American Political Science Rev.* 79 [1985]: 804-15), and, on a lighter note, choosing which movies to go and see (Robert Frank and Philip J. Cook, *The Winner Takes All Society* [New York: Free Press, 1995]; Gary S. Becker, “A Note on Restaurant Pricing and Other Social Influences on Price,” *J. Of Political Economy* 99 [1991]: 1109-16). All cited in Tracy L. Meares and Dan M. Kahan, “Law and (Norms of) Order in the Inner City,” *Law & Society Review* 32 (1998): 813.

²² Meares and Kahan, 812.

²³ Partnership for Organ Donation/Harvard School of Public Health, March 25-26, 1993.

²⁴ For further discussion of moral dialogues, see Amitai Etzioni, *The New Golden Rule* (New York: Basic Books, 1996), 85-159.

²⁵ State of Minnesota, *Journal of the House*, 4th Engrossment, 82nd sess., 19 April 2002. Other states, notably Virginia and Indiana, have also passed legislation to eliminate the requirement of family consent when someone has already made an official, written commitment to donate their organs upon death.

²⁶ J. Michael Cecka, “Donors Without a Heartbeat,” *New England Journal of Medicine* 347, 4 (25 July 2002): 281-283.

²⁷ U. S. Department of Health and Human Services, *Analysis of State Actions Regarding Donor Registries*. Prepared by The Lewin Group, Inc. for the Office of the Assistant Secretary for Planning and Evaluation (4 January 2000). Available: <http://aspe.hhs.gov/health/orgdonor/>

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²⁸ Tom Mashberg, "Med examiner's office has secret body-parts deal," *Boston Herald*, 20 May 2002, 1.

²⁹ William Heisel, Mark Katches and Liz Kowalczyk, "The Body Brokers - Part 2: Skin Merchants," *lifeissues.net*, 17 April 2000. Available: http://www.lifeissues.net/writers/kat/org_01bodybrokerspart2.html. Accessed 8 August 2002.

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³¹ American Medical Association, *Live & Then Give* (brochure). Available: www.ama-assn.org. Accessed 9 August 2002.

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³³ Ibid.

³⁴ Virginia Baskerville, "Government Launches Broad Donor Initiative," *Transplant News Network*, 1 May 2001. Available: <http://www.centerspan.org/tnn/0105011.htm>. Accessed 8 August 2002.

³⁵ Colorado Donor Awareness Council, "Religious Advisory Committee of the Donor Awareness Council." Available: http://www.donor-awareness.org/rac_home.htm. Accessed 9 August 2002.

³⁶ First Family Pledge Campaign, "Congressional Resolution Backs Family Pledge Approach to Donation" (press release). Available: http://www.familypledge.org/whatsnew/congressional_resolution.htm. Accessed 9 August 2002.